

SAAKNOMMER: CC 482/85

DELMAS

1986-03-14

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRÜGEL

PROF. W.A. JOUBERT

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

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KONTRAKTEURS:

LUBBE OPNAMES  
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VOLUME 47

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COURT RESUMES ON 14 MARCH 1986.

JOHN HLOPHEKILE MGCINA: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: May I place on record My Lord that accused no. 9 is still absent and we ask that the proceedings...

COURT: Is he still hospitalised?

MR BIZOS: He is still hospitalised My Lord. His wife was here yesterday and was told at which hospital he was. We expect a report from her during the course of the day.

COURT: It is so noted. (10)

MR BIZOS: Mr Mgcina we are still dealing with the election of 29 November 1983. -- Yes.

Now would it be correct to say that even before the polling booth opened on the 29th there was a large crowd of people gathered?

COURT: Could you just give me the date again?

MR BIZOS: 29 November 1983. -- I know at 07h00 when I arrived there I found people waiting.

Now there were three polling stations? -- Yes that is so.

Could you please tell us whether yours was at the (20) clinic, at the Methodist church or somewhere else, which was your polling booth that you went to? -- It was in the hall.

In the hall. Would it be correct to say that by the time you arrived there were almost a thousand people there? -- No.

Well how many would you say there were? -- At that time approximately fifty.

Well do you say that the crowd never got to the hundreds, many hundreds?

COURT: When he arrived or later?

MR BIZOS: Later. -- It was increased. (30)

Was it increased to hundreds? -- Yes.

Would/.....

Would you say that these hundreds of people identified themselves with the people who were calling on them not to vote? -- Not they did not identify themselves with those.

Is it not correct that during the morning, when we talk about the morning say from 08h00 to about 11h00, there were hundreds of people there? -- I am not going to know what time it was but towards 11h00 or just before 11h00 people were in hundreds there.

Now would you say that the hundreds of people there were the victims of intimidation or did they make common cause (10) with the people who were calling for a no vote? -- They were taking part or forming part of the people who were saying no vote.

So they were really, people were turning up to the polling booth or polling station in order to show that they were prepared to come there but they were not prepared to vote? -- Those who were going to take part in the voting were being chased away.

Well I am going to put to you that the people who turned up turned up in order to register their protest against the (20) election? -- No I do not agree with that.

Alright. Would you agree that if people are intimidated with their houses being burnt they were not likely to remain near the polling booth? If someone is intimidated he just goes away? -- What happening is people were coming and once a person has been chased away that person will not come back, instead other people would come.

No what I am saying is that the very large group of people at the polling booth did not become part of that group as a result of any intimidation? -- I do not know whether (30) those who were intimidated joined the people who were saying  
no/....

no vote. What I know is that those who I know of who were intimidated went back home.

Tell me, you as a successful candidate might not have wanted to do anything about an invalid election. Did any of your opponents take up the question that this was not a free and fair election? The two unsuccessful candidates?

COURT: Are you putting it on the basis that there was an irregularity in the procedure?

MR BIZOS: Well on the basis that voters were not allowed to come to vote. (10)

COURT: I see. Yes? -- I do not know whether they did anything about that. I did not come to know about that.

MR BIZOS: Is it correct that the clinic and the hall are approximately fifty metres apart, where the two polling stations were? -- I am not in a position to tell because I do not know how far is fifty metres.

Well five times the size of this court, more or less.

COURT: Half a rugby field or a soccer field.

MR BIZOS: Half a rugby field or a football field? -- No that cannot be the distance. (20)

Well are they within sight of each other? -- Unless you take a position where you will be in line with the other point then you can see it. Just from direct this point to that point you cannot see it, the view is obscured.

But if people are moving about the one is within, the place is within the sight, the one place is within the sight of the other? -- Yes. For instance when you are standing at the shopping centre you can see.

Yes. And would you agree that there were approximately twenty policemen at the clinic? -- I cannot testify on that (30) because I cannot see that point from where I was.

And/.....

And would you also agree that there were not only three policemen but about twenty at the hall? -- No I do not agree with you on that because the police at the hall were only three. The other police would just come there in passing.

Well was there not a contingent of policemen of about, well how large would you say that the contingent of policemen that came in passing? -- Because I did not count I am not in a position to tell the Court as to how many were there.

Was there not a group of over twenty? -- I would not say because they were passing there in a van. (10)

You see the other thing that, do you recall that this election was the first ever election in the country under this new dispensation, the urban Authorities Act, or more commonly known as the Koornhof Bills?

COURT: Was it the Black Local Authorities Act, or am I wrong?

MR BIZOS: Yes, one of the three Acts was known as that.

COURT: Well was not this, the election under this Act?

MR BIZOS: Yes it was the first, the Act was passed in about June or July and this was the first election in the country under the new dispensation so to speak. Do you agree with (20) that, that this was the first election under a new dispensation?

COURT: And that this area had the first election, is that what you mean?

MR BIZOS: Yes the Vaal Triangle, Lekoa was the first election in the country. -- Yes.

And it was because of its importance the whole of the Lekoa area was teeming with police, in vans, in vehicles, with dogs? Patrolling? -- No that I will not know.

Yes. I have been corrected by the accused who have (30) a more global knowledge that it was not the only one, there were/.....

were elections elsewhere as well but this was the first elections that were held, it was not the only one in the country on that day. Now would you agree that because of its apparent importance to the authorities there was a heavy police presence? -- I would not say, because I saw only three policemen. Whether they were many or not that I did not see.

Now you see because I am going to suggest to you that it would have been foolhardy in the extreme for any small group of people to tell anybody that his house would be burned if he voted. -- It was said to many people that they were going (10) to be set alight or burnt, that is the reason why people feared.

Do you know of any single person that complained that he was prevented from performing his or her democratic duty?

-- Yes at some stage I went to the shopping centre where I found a lot of people there sayin to me they do want to go and vote but they are scared of going there.

Did any one of them make a complaint to the policemen that were there, either the three that you say were there or the twenty that we say that were there, or to anyone else?

-- I did not see anyone going to the policemen, not knowing (20) of course during the times when I was inside what was happening outside.

What is the nearest that you ever got to this group of chanting men and women, what is the nearest that you ever got to them? -- Approximately from the witness stand to that door right at the back of the court.

COURT: Twenty metres, fifteen metres.

MR BIZOS: About twenty metres.

COURT: Twenty metres.

MR BIZOS: Were any threats made against you? -- Not about (30) votes, not that day, nothing was said to me.

Did/.....

Did you with your own ears hear anybody saying to any person walking towards the polling station "Don't go and vote, if you vote we will burn your house"? Did you yourself hear anybody say that? -- Yes.

You heard it? -- Yes.

And did you see the voter turning away? -- Yes.

And these were people in your ward? -- Yes.

People that you would as a politician in the ordinary course of events recognise? -- Yes.

So you knew then who were the people who were being (10) intimidated? -- I only recognised that person as someone I know and who lives at a certain place which is known to me. The only thing I do not know what the name of that person is.

Well knowing where they live and seeing them intimidated would have been enough to go and get half a dozen of those people to make affidavits that they were intimidated? -- It did not occur to me that I could do that.

Would you concede the right of a group outside a polling station to gather and sing in Sotho "Hare voute, hare voute" in rhythm and to a beat? -- That means they are not taking part (20) in the voting.

Yes. Would you concede the right to a group in your ward that were opposed to the system under which you sought to be elected to gather at the polling station and sing "Don't vote, don't vote," do it in unison and in tune or to a beat or whatever the case may be? -- A person has all the right to decide whether he or she takes part in voting or not and whoever decides that I am not taking any part in the voting that is a right to that person.

Well it is not an answer to the question but I will (30) proceed to the next one. Were the group that was at the polling/.....

polling station singing "Hare voute, hare voute"? -- Singing what song? I do not understand Sotho.

COURT: Yes it is put to you that they were singing the words "Hare voute, hare voute". -- No they were not sung.

MR BIZOS: Well I am going to put to you that that was what was in fact being sung and particularly, that that was being sung and not Mr Mandela and Mr Thambo.

COURT: Now just a moment let us get clarity. Are you putting it that this was sung at the hall at his polling booth? Because I am not concerned about others at the moment. (10)

MR BIZOS: Yes as Your Lordship pleases, that that was the theme song of the group. -- That is not so.

Well I am going to put to you that they said it, they sang it in Sotho and they sang it in English "Don't vote, don't vote", "Hare voute, hare voute". I do not know the tune or the beat but I am putting to you that that is what was being sung. -- I did not hear that kind of song where I was.

And you as sure about the song that was being sung as you told us that the UDF poster was there? -- Yes.

And as sure as you are that the people there were wearing (20) VCA T-shirts on 29 November 1983.

COURT: At the polling station?

MR BIZOS: No My Lord I have it wrong.

COURT: Are you talking about 29 August 1984?

MR BIZOS: No My Lord.

COURT: Or November 1983?

MR BIZOS: No My Lord let me clarify it because I have been corrected by My Learned Friend Mr Tip. At any of your election meetings did you see any VCA T-shirts?

COURT: Just before the witness answers this question have (30) you finished now this aspect of the election?

MR BIZOS:/.....

MR BIZOS: No My Lord.

COURT: Because it seems to me you are going off on a tangent now.

MR BIZOS: No My Lord, as to how the people were dressed.

COURT: Yes but you are now dealing with entirely different aspects.

MR BIZOS: No, my ....

COURT: Because the dress of the VCA and the UDF T-shirts was at any entirely different occasion. You are entitled to go off on all sorts of tangents but it makes it very diffi-(10) cult for me to read my notes.

MR BIZOS: As Your Lordship pleases. I thought wrongly that the witness' evidence was that there were VCA shirts among these young people on 29 November. I have been corrected that there was no specific evidence but there was evidence of an earlier date at an election meeting.

COURT: Yes, now can we complete this aspect if it suits you?

MR BIZOS: As Your Lordship pleases. Yes I realise the convenience and I will keep to it, it was because of a misapprehension. I did not intend going off the point. Now (20) do you recall that in addition to the police presence police trucks came onto the scene from time to time?-- A van yes, I did not see a truck.

Yes. How many policemen were there in the van? -- I did not count.

I am sorry I did not hear that? -- I did not count.

Ten, twenty, thirty? -- I did not count the number of the policemen in the van. All I saw was a van with police inside. What the number was I did not know.

And did they drive, did they circle the area where this(30) group was? -- What happened is they would just come there at

my/.....

my polling station and stop for a short while and then pass and then another one would come, also stop for a short while and pass, just like that.

In order to see that peace reigned at your polling station and then go on to the next one? -- But what was happening there, each time when the police came or approached the polling station then these people would leave.

Did you see any evidence whether the police sort of would on one occasion cordon off the place that these people were gathered and singing? (10)

COURT: With the people inside, sort of roping in the group, or when the people had fled?

MR BIZOS: No My Lord keeping, cordoning them off and pushing them back further away ....

COURT: From the polling station?

MR BIZOS: From the polling station. -- No I did not see the police doing that because what happened is each time the police arrived then they left.

Now what did you, your fellow candidates, the electoral officer, the policemen that were near the polling station, (20) how did you feel about the presence of this chanting crowd? -- My attitude was it was not my duty to react on anything there. The police were there, they were to see to it that they performed their duties.

Did you see that at one stage the police took exception to the fact that they were standing all the time at the polling station? -- That they, who? The police or the group?

The group. -- I did not see whether the police took any exception of the presence of the group there because I did not pay a particular attention on that. (30)

Was Hlanyane, and not accused no. 13, a person named

Hlanyane/.....

Hlanyane, another person named Hlanyane, a sort of leader or playing a prominent part in this group?

COURT: Now the Hlanyane you are referring to is the one already mentioned?

MR BIZOS: Is the one already mentioned?

ASSESSOR (MR KRÜGEL): The one called the son of Hlanyane?

MR BIZOS: The son of Hlanyane. -- I do not know whether he was playing any leading part. What I know is he was present there.

Yes, it is Sello Benjamin Hlanyane. (10)

COURT: Is it Hlanyane or Shanyane?

MR BIZOS: It is as spelt on the indictment, it is the same name as that of accused no., Hlanyane. It is no secret My Lord, it is a brother of accused no. 15. You know him to be the brother of the person before the Court?

COURT: No. 15 stand up please. -- No I do not know that.

MR BIZOS: Well I am sorry My Lord, brother in the extended sense. Apparently, I have just been corrected. I was told it was brother but it is apparently a cousin.

ASSESSOR (MR KRÜGEL): A relation. (20)

MR BIZOS: A brother in the extended family sense, a cousin I think more appropriately.

ASSESSOR (MR KRÜGEL): Could we just please get clarity on this. Your answer to the last questio was no but it was a a double barrelled one. Do you know whether the leader of the songs in this group was this Hlanyane? -- I do not know whether he was the leader of the singing.

MR BIZOS: Well, but was he playing a prominent role? -- Because of my not knowing about that I am not in a position to dispute it. (30)

Now do you recall whether the police took up the attitude that/.....

that they should not be singing near the polling station and whether the crowd, and more particularly those taking a prominent part, said, were taking up the attitude no this is a peaceful protest and we have got the right to do this near the polling station? -- I would not know that because I did not see it.

Well did you see members of the police force sometimes going to speak to the apparent leaders of this group? -- No I did not see that.

Did you see whether, as a result of the one of these (10) arguments, Hlanyane was arrested? -- No I did not see him being arrested.

Did you hear whether he was arrested in the immediate vicinity of the one or other polling booth, because they really, the group was between the two polling booths? -- No.

Did you hear that he had been arrested? -- No I did not hear that.

Did you know whether, as a result of an arrest of Hlanyane, the group started moving around the township? -- I do not know whether there was a group which decided to move around (20) the whole township but the people I am talking about were present there until it started raining.

Was there a period at which there was no group at all outside your polling station? -- Not that I noticed because of the fact that at some stages I was inside the hall.

Do you not recall that after a while and because of the police presence at the polling booth this group moved around? -- No what happened is this, each time the police arrived at the polling station the group I am referring to which was there would just move away some distance from the polling (30) station. Immediately the police leaves then they would come back./.....

back.

Now what, were you present or could you see the moment when the police used teargas? -- I did not see it being used or applied or ignited but all I can say is I heard the shot.

Do you know where the crowd was when teargas was used?

-- No.

COURT: Can you give me an idea? Was it in the morning or the afternoon? -- It was in the afternoon.

Late? -- No after 12h00, that is what I mean in the afternoon. (10)

Between 12h00 and 13h00? -- Yes.

MR BIZOS: Would it be correct to say that after the teargas was used the group never again formed as a group outside the hall polling station? -- I do not know, the reason being that immediately thereafter I went inside and remained inside for the rest of the time because the teargas was affecting my eyes.

So you never again came out until the polling station closed? -- Yes.

COURT: So anybody coming to vote after 13h00 would have (20) to brave the teargas? -- That is so.

MR BIZOS: How long did it take the teargas to be blown away? -- I do not know how long it took because at that time it was already raining.

Well I would have thought that the rain would have dissolved the teargas even quicker? -- Well I do not know whether rain can affect the effect of the teargas.

And for how long did the polling booth remain open? -- Until at eight.

In the evening? -- Yes. (30)

And you told us that you cannot deny that there was no group/.....

group outside the hall polling station between 12h00 and 13h00, well no group outside the polling station at the hall after 13h00? -- I say I would not know whether there was any group because immediately after the firing of the teargas I did not go out any more.

Let us just come to the meeting, any meetings that you had preparatory to this election. Are you sure that you held meetings before this election? -- Yes.

How many do you say you held? -- Two.

When ? -- I cannot remember the exact dates, it was (10) in a week, during a week some time.

Was it the same week? -- No. If my memory serves me well it was just a week before the week of the elections.

Did you not hold any meetings in October? -- Which October? Before the election? -- I did.

Yes. How many meetings do you say you held in October? -- Two.

Let us deal with the first one. Do you remember the date of that one as you have told us? -- No I cannot remember.

Where did you get 16 October from that you gave us in (20) your evidence-in-chief? -- Yes I did make mention of that. I had just forgotten about that, that I mentioned the date. I will tell you it is because since the happening of what took place there, namely the burning of my house and the other things I have a tendency of forgetting certain things.

Because you see I am going to, well let me ask you this first.

COURT: Can I just ask a question. What is your age? -- I am now fifty.

MR BIZOS: Except for any statement that you may have made (30) in relation to the burning of your house or any damage to your house/.....

house when did you for the first time make a statement to the police in relation to the happenings of the election in November 1983 and the pre-election meetings, when did you make a statement for the first time? -- I did not make a statement.

Well when did you make a statement about these events that you spoke about relating to the election and the meetings, when did you make a statement for the first time ever? -- After the burning of my house and my belongings.

Yes but did you in that statement deal with what happened during the elections? -- Do you mean the day when I was (10) making that statement?

Yes. I am not, when you made a statement about the burning of your house did you make mention of all these things that are supposed to have happened before the election and on the day of the election and the meetings that you had after the election? -- Yes I did.

Would that be shortly after the burning of your house?  
-- Yes.

You are sure of that? -- Yes.

Because you see I am going to put to you that none of (20) these things that you have mentioned were incorporated in the indictment. I do not suppose that you will be able to explain why?

COURT: Well is that entirely fair because he has not connected any of the accused with these happenings.

MR BIZOS: Well it is not only that but I am merely drawing attention to it. I am not ....

COURT: Well you can draw the Court's attention to it, I do not think this will take you any further.

MR BIZOS: As Your Lordship pleases. You see because I am (30) going to put to you that there was certainly no meeting on

16 October which was attended by Thuso Marobe, by Hlanyane or by Mboke.

ASSESSOR (MR KRÜGEL): Please repeat the names?

MR BIZOS: He mentioned them as Thuso Marobe, Hlanyane, Mboke ....

COURT: Mboke, M-b-o-k-e?

MR BIZOS: That is how I noted it in his evidence-in-chief, and others he said. But then he said not no. 15.

COURT: Now are you limiting your statement to the 16th of October because in his evidence-in-chief he said "about the(10) 16th of October".

MR BIZOS: Yes our case is ....

COURT: Or are you saying there was no meetig at all that he held where these three people were present?

MR BIZOS: Where these three people were present. -- The people I am talking about were present on the 29th. Tha is the people whose names were just read to me by the defence, namely Thuso and the others.

29 August 1984, that is three or four days before the troubles on 3 September, is that what you are referring to? (20)  
-- It is the point, that is where I allege they were present.

Oh I see. And insofar as you might have said that they were at an election meeting before the election was held was that evidence incorrect? -- In my evidence I said that day of the elections there were people who were distributing pamphlets and I did not make mention of anybody's name in that.

I see. Well you know I am going to put to you tha you have ce into this witness box to support the State's case.

COURT: That is obvious Mr Bizoš. That is why witnesses are called. (30)

MR BIZOS: Yes, on a point that did not occur, and deposed to facts/....

facts which did not occur? Now let me just put to you how wrong you are now and you were in your evidence-in-chief and how wrong the State case is that you try to support. You put these three people at a pre-election meeting and you gave specific evidence which could only be relevant at a pre-election meeting. Do you recall that? -- Prior to the elections, I did not make mention of anybody's name.

Well not only did you make mention of their name, I am sorry did you want to say something? -- I did not make mention of anybody's name during the meetings that I held prior to (10) the elections.

No but you did, and this is what you put into their mouths, apparently wrongly. That they told the peace loving people that came to hear you speak as an aspirant councillor to go away and not come and listen to your lies. -- I said it was said. I did not say specific who said that.

No you did say that. You said that they said it. What do you say to that?

COURT: It was not said that these particular people said so. It was said that a group of people entered of which these (20) three were members and that the group of people said this.

MR BIZOS: No My Lord, I submit that in the context these were the people who said this, and others, that they ....

COURT: I am not so sure. I think it referred to the whole group that said that but these, the people were specifically mentioned yes.

MR BIZOS: As being at the meeting?

COURT: Well as being at the meeting and as being part of the group

MR BIZOS: As being part of the group who said this. (30)

COURT: As being part of the group that said that.

MR BIZOS:/.....

MR BIZOS: That said this. Well I will amend that. You see your evidence was that these three people were there, they were part of the group that said that people must go away and they must not listen to your lies? -- When I was giving evidence about that group I only said a group of people. I did not make mention of a specific person's name.

COURT: Mr Mgcina you can take it from me that you mentioned three names as part of the group, the one was Thuso Marobe, the second one is Hlanyane and then it was asked whether it was no. 15 and he was asked to stand up and you said it (10) was not him and then the third one was Mbuke and you told us that the names of the others you did not know. -- Oh well that is alright, yes.

MR BIZOS: Well you see but it is not alright because you come into the witness box and on the points that we can check your evidence it turns out to be wrong. -- Yes I understand that.

Now you see let me just give you another example. You see I am going to put to you that you are preoccupied by UDF and VCA T-shirts in support of the State's case that nothing happens with the UDF doing it. (20)

MNR HANEKOM: Elele ek dink nie dis regverdig om die stelling te maak nie. Ek dink nie hierdie getuie weet eers wat is die Staat se saak.

COURT: Yes Mr Bizos I think you could leave that comment for argument, then one can use hyperbole if you want to. But let us just stick to the facts.

MR BIZOS: As Your Lordship pleases. Now please describe a VCA T-shirt? -- A white in colour with a black circle on the chest, that is in front of the T-shirt.

COURT: A black? A black saddle. (30)

ASSESSOR (MR KRÜGEL): Circle. -- Circle.

COURT:/.....

COURT: Yes? -- And in the circle is written "VCA".

MR BIZOS: Well this was not some makeshift job that somebody had done with a cokey pen, it was a properly printed T-shirt I take it? -- I did not pay a particular attention as to see whether it was printed or not. All I can say was the writing which was there is what I have described.

And it was not only one shirt, there were many shirts with the circle and "VCA"? -- I did not pay attention as to whether they were many or not. All I am saying is I saw the one who was approaching in the company of the others. (10)

How many VCA shirts did you see in all? -- I did not count.

Were there many, a dozen, two dozen, three dozen? -- No.

How many? -- I do not know how many were there because only the group which was distributing the papers came. Therefore I cannot tell how many were there.

COURT: Came to the front or what? -- Yes they came to the front, to the audience which was right at the front.

MR BIZOS: And did all the VCA's look the same size and the same type of letter and the same, precise copies? -- Some were clad in their private clothes, some with the VCA T-shirts as (20) described, some with UDF T-shirts. I did not count as to how many were there.

No I am talking about the VCA T-shirts, were they uniform? -- To me they were identical. All I am not able to tell is how many were there.

And was it the ordinary T-shirt with short sleeves, tight fitting sleeves? -- I did not pay attention whether they were tight fitting sleeves. All I can say they were short sleeves.

You see because I am going to put to you that the VCA had its inaugural meeting on 9 October. (30)

COURT: Of 1983.

MR BIZOS: /.....

MR BIZOS: of 1983. That there were no VCA shirts then or thereafter. And you must only have seen VCA shirts in your imagination. -- No it was not in my imagination.

COURT ADJOURNS FOR TEA. COURT RESUMES.

JOHN HLOPHEKILE MGCINA: d.s.s.

COURT: Are we still on VCA shirts or are we going on to UDF shirts now?

MR BIZOS: I think we will leave the UDF shirts My Lord. Mr Tip has gone on record as saying that the State case is on UDF shirts and the defence case is on Sowetan reports. (10)

COURT: I have not had any shirts yet to hand back. Speaking of shirts, Mr Hanekom if there are shirts should they not be placed before Court at some stage so that the witnesses can identify them and we can talk about the particular item?

MR HANEKOM: Yes My Lord, we intend doing that.

MR BIZOS: Yes I am sure that one of my clients will provide a UDF shirt My Lord, VCA shirts we say do not exist.

COURT: On loan I take it.

MR BIZOS: As Your Lordship pleases. This first election meeting that you speak about, you told us that Morabe, (20) Hlanyane and Mboke were not there, were not recognised by you, is that so of what you called the second election meeting as well? Pre-election meeting?

COURT: You mean the second pre-election meeting, is the question they were there or not there?

MR BIZOS: Do you now say that they were not there?

COURT: Those three people?

MR BIZOS: Those three people. -- I did not see whether they were there or not.

Yes. Now what I am going to put to you in relation to (30) the first meeting that none of your ward members that we had been/.....

been able to find out know anything about such a meeting. --  
There was such a meeting.

There was. And how many people do you say were present,  
at the first meeting? -- There were many.

Well how many do you say? -- I cannot remember the number  
but I will say there were many because the hall was full.

Well let us now deal with the second meeting. Let us  
deal with what you called the second meeting which we do  
say that it did take place.

COURT: It could not have taken place as a second meeting (10)  
if you dispute the first one.

MR BIZOS: Yes, no but the events, the events square up to a  
certain extent. The meeting at which placards were produced.  
Would you agree that approximately only twenty to thirty people  
turned up for that meeting?-- No I do not agree.

But that there were also a similar number, if not a bit  
bigger, about forty youths that came and stood outside the hall?  
-- There were people standing outside. Some of the people were  
inside.

Yes well would you say that the people inside were twenty (20)  
to thirty?

COURT: Now are we talking about the youths or are we talking  
about the audience?

MR BIZOS: The audience.

COURT: Excepting the youths?

MR BIZOS: Excepting the youths. What I am putting My Lord  
that twenty to thirty people in the hall, twenty to people in  
the hall.

COURT: Excluding youths?

MR BIZOS: Excluding youths. (30)

COURT: Or with youths?

MR BIZOS: /.....

MR BIZOS: Excluding youths. -- Do you mean people inside the hall?

Yes. -- There could be about fifty, while the others were still arriving.

COURT: Fifteen or fifty? -- Fifty.

MR BIZOS: Did they go into the hall or did they come there to gather for the meeting and did they remain outside the hall? -- They were being stopped from getting inside and even those who were inside were also driven out.

Well let us see whether we can, whether you described (10) it entirely correctly. Are there five entrances and exits to this hall? -- Yes.

Right. And were there small groups of youths at each one of the entrances? -- No not on each of the five but at each of the three doors or exits which were open.

Yes. And did these young people have placards which said "Don't vote", "Don't vote" on some of the placards and on the others "Councillors no use to us"? -- I did not read those because they had them under their armpits.

Well there is not much point in a poster if you hold (20) it under your armpits. -- What I mean is I could not read what was written on the posters.

Did you not read anything on any posters at any stage at this meeting? -- No.

Well did you not read any document of whatever nature at this meeting? -- No not at all.

No poster and no pamphlet? -- No.

And how were the people clad at this second meeting, the young people? -- In their private clothes.

Did you not see any UDF or VCA shirts at this meeting? (30) -- No.

Now/.....

Now how many people do you say turned up in all, excluding the youths? -- I would not say how many of the people attended this meeting because some of them turned back from outside.

Well how many people would you say there would have been at the meeting from what you saw approaching the vicinity of the hall, how many people? -- According to my estimation?

Yes. -- About two hundred.

Now these youths were not armed in any way were they? -- That is so.

The only thing they had with them was folded posters (10) under their arms? -- That is right.

And how many would you say that there were in all? -- I am not in a position to say how many there were because some were outside and some were inside.

Yes. And if I were to put to you that there were an equal number of prospective members of the audience, between twenty and thirty, and a similar number or slightly greater number of youths would you agree with that? -- That they were equal in number with the people who were audience in the meeting?

Yes. (20)

COURT: There is two questions. The one is they were roughly equal with the audience in the meeting, the other was they were twenty to thirty? -- Well it is possible that they may have been equal to the number of the people who were attending the meeting.

MR BIZOS: Well how many youngsters do you say there were? -- About ninety to hundred.

Well I have put to you how many there were. Now you know this person Hlanyane well do you not? -- Yes I do, quite well.

Yes. (30)

ASSESSOR (MR KRÜGEL): Which Hlanyane now, the other one?

MR BIZOS:/.....

MR BIZOS: The cousin.

COURT: Hlanyane, the son of Hlanyane.

MR BIZOS: Did you not see him there? Because he is going to tell His Lordship, if need be, that he was there. -- Even if he was there I did not see him this day in question.

And I am going to put to you that there were no threats to the crowd. -- I say there was.

And that there was no singing. -- I say there was.

And that the meeting did not take place because it was an obvious flop? -- That is true no meeting took place because (10) people were turned away.

And also I am going to put to you that this meeting of yours, this meeting of yours was not in fact advertised by loudspeaker, to the knowledge of numerous of your ward members. -- It was.

You see there is really a fundamental difference between you and the case that I am putting to you. You would like to think that the thirty-two or thirty-three votes that you got were as low as they were because people were kept away from the polls. -- That is so. (20)

And that I suppose you feel that if the people did not demonstrate by bringing slogans the vote might have been much higher? -- Yes if people were not turned away my votes would be higher than what they are.

COURT: Tell me, this was not the first election in which you participated? -- Yes.

Did you have a previous election in the same ward where you stood as a candidate? -- Yes.

That was for the Community Council? -- Yes.

How did the votes you got there compare with the votes (30) you got in this instance? -- They were quite high. If my memory/.....

memory serves me well it was four hundred and some odd.

MR BIZOS: When was that, in 1977? -- Yes.

How many candidates were there in 1977? -- Do you mean from all the wards or do you mean in my ward?

In your ward? -- We were two.

But you see you were not the only one that had a low poll.

COURT: Yes, could I just complete this Mr Bizos?

MR BIZOS: As Your Lordship pleases.

COURT: The other candidate in 1977, about how many votes did he get according to your recollection? -- About seventy-five.(10)

Was there at that time any agitation about not going to vote? -- No there was not.

Yes, thank you.

MR BIZOS: Between 1977 and 1983 did the disillusionment of the people increase or decrease with the work done by your Council? -- I would not say.

C142 You could not say. Now let us see some of the reasons of the disillusion, and I want to promise My Lord that I will not traverse the whole ground.

COURT: Do I have to get out the exhibit? (20)

MR BIZOS: AAQ(11) My Lord, oh no I will not put it again, I will not put Professor van der Walt's, you see was there not a perception that the Council on which you had been since 1977 was a body that did not look after the interests of the people? -- No I never heard of it.

Did you never hear of any complaints of corruption? -- No.

Did you never hear any complaints of self-enrichment? -- No.

Did you never hear any, did you never hear of any com- (30)  
plaints of unlawful locking out of people from their homes?

-- It/.....

-- It did happen that people came to me about houses which had been locked by the superintendant on which then I would go and talk to the superintendant about it that he must unlock the house because the people are going to pay the rent.

Did you never hear any complaints that you were mere puppets? -- No I did not.

COURT: Accusations that you were mere puppets?

MR BIZOS: Did you hear any accusations that you were mere puppets? -- That I heard about now that we are now a Town Council. (10)

Is this, when you say now do you mean post-1984? -- That is so.

You never ever heard the accusation before that? -- No.

Tell me were you a member of the trade committee of the Council? -- Do you mean under the auspices of the Town Council or the Community Council?

The Community Council. -- No.

Did you ever hear complaints that you had to pay two or three thousand Rand in order to get a licence? -- No.

Did you hear any complaints that specific councillors (20) had taken large bribes? -- No.

Do you consider yourself a well informed public representative of your people? -- I will say so yes, that I am well informed about my people because whatever they do not understand they have to approach me in order to inform me about certain things.

Well there has been evidence about some of the complaints of your people, that you do not know about. We will not take it any further. What is your occupation Mr Mgcina? -- At the present moment I am not employed. I left employment. (30)

What was your occupation during the beginning of 1984?

-- I/.....

-- I was a welder.

A welder. A wage earner? -- Do you mean earning from the firm?

COURT: Were you self employed or did you work for somebody else? -- I was employed by a firm.

MR BIZOS: Tell me as soon as you were elected by these thirty-two or thirty-three votes did you successfully tender for a liquor outlet for R756 309?

COURT: You are making it very difficult. Let us just say as soon as you were elected did you tender for a liquor outlet (10) and then we take it one step further.

MR BIZOS: As Your Lordship pleases. -- That is so.

And was your tender successful? -- Yes it was.

Now did you have three quarter of a million Rand? -- I did not have it, I asked for a loan.

And what security were you able to furnish for three quarter of a million having worked as a welder all your life? -- I had an insurance police which I was paying for and the firm for which I worked prior to my resigning was paying me quite a lot of money in rating, R5,70 per hour. (20)

Yes, that is a good wage, about R200 a week? -- Well I had some overtime as well, added to that.

Tell me Mr Councillor Mgcina, this Lenthana(?) Company of which you are apparently the leading light.

COURT: Well has he said that he is the leading light in the company? He is a member of the company.

MR BIZOS: Yes well can you, have you seen the document AAQ(11)? Have you seen this document before Councillor Mgcina? -- Yes I have seen this document.

When did you see it for the first time? -- During last (30) week.

Where/.....

Where did you see it for the first time? -- It was sent with the view that we are going to discuss this on Monday.

Yes.

COURT: Did you discuss it on Monday? -- No I was not present, I was here.

MR BIZOS: But now your name is given under the name Lenthana Company, J. Mgcina, in relation to this transaction of three quarters of a million Rand in respect of the liquor facility in Zone 11? -- That is true.

COURT: Just before we get bogged down what is your standard(10) of schooling, of education? -- Standard five.

MR BIZOS: How much experience have you had in running liquor outlets? -- No experience at all. I still have to go for a training.

Why does your name appear there in relation to Zone 11? Is there any special reason why your name appears under the name of the company? -- It is because I am a member of this company.

COURT: Did you have a meeting of this company and decide that you would tender for the various liquor outlets? -- Yes a (20) meeting was held.

And was it decided that the liquor outlet would be the company's liquor outlet should you be successful? -- Do I understand His Lordship to mean that it will not be issued in the name of a particular person but in the name of the company?

Well let us leave the issuing of the licence aside, that may cause difficulties. Tha the owner of the business would be the tompany and oot that particular person? -- The company was going to be the owner.

Now did you discuss who would hold the liquor licence, (30) which person would hold what liquor licence? -- We had not

come/.....

come to that point to be discussed because we were still awaiting to see whether we are successful. Immediately thereafter then we were going to hold another meeting.

Who sent in the forms? Did you send in the necessary tender forms or did somebody else do that? -- Each and every person was sending forms for a particular place on which he tenders.

And did you send in for which one? -- This one in Zone 11.

And did you mention that a company was involved or did you only say that you personally were involved? -- Pertaining (10) to this place?

Yes. -- I tendered on my behalf for Zone 11.

But now how does it come about that the company's name is also set out on these papers next to your name? -- The agreement is this that each and every person was going to apply for a particular liquor outlet but this person would apply as an individual under the name of the company.

So the name of the company was mentioned? -- Yes it was.

Yes, thank you.

MR BIZOS: Were you informed that your tender was successful (20) for Zone 11? -- Yes I was.

When were you informed that your tender was successful? -- I cannot remember the date because I was notified by a piece of a note which was sent.

Was this during 1984? -- No.

When? -- During last year.

1985? We are now in 1986, the beginning of 1986. -- No it was late 1984.

Late 1984. Shortly after your election?

COURT: Is that correct? (30)

MR BIZOS: I am sorry My Lord, I am sorry I also got confused.

About/.....

About what, months or almost a year after your election? -- It was about to be a year after my election.

Right. Now did you put any money into this company? -- No not as yet.

So did you, were you going to own this Zone 11 bottlestore all on your own or was the company going to own it and you were going to have a small share in the company? -- If it was successful it is going to be the business of the company of which I am a shareholder.

COURT: Could I just get clarity there. Do you know the (10) difference between a partnership and a company? -- A company and what?

A partnership and a company. -- I know there is a difference between the two. I am not conversant with it as to what the difference is.

MR BIZOS: I just want to go over this quickly, or as quickly as I possibly can. You told us that a Mr Mahlatsi is involved in the company in relation to Zone 11, the Zone 11 outlet? -- Yes because of his being involved with the company.

Yes, and in Kwaggasfontein is it the same company? (20) Where Tsolo is the name mentioned? -- Yes that is correct.

So Mr Mahlatsi has an interest in that as well? -- Yes.

And in Boiphatong it is the same company and the name of Mr Mpondo is given so Mr Mahlatsi has an interest in that as well? -- Yes.

And in Zandela ... -- I am also there.

COURT: We are talking about Mahlatsi the Mayor?

MR BIZOS: Well we will ask which Mahlatsi My Lord.

COURT: There are lots of Mahlatsis.

MR BIZOS: Yes I will determine which Mahlatsi. And in (30) Zandela where Mr Maseko's name is given Mr Mahlatsi is also involved?/.....

involved? -- Yes including myself.

And in Sharpeville Mr Mahlatsi is also involved? -- Yes.

You see really Councillor Mgcina without knowing Mr Mahlatsi's involvement in this company it would appear from this document that out of the twelve, I am sorry, out of the twenty-five licences that were to be transferred twelve were to be given to the members of the Mahlatsi family.

COURT: In whole or in part?

MR BIZOS: No that was in whole My Lord.

COURT: In whole.

(10)

MR BIZOS: In whole. But now to those twelve must be added that the Mahlatsi family has an interest in an additional seven through the Lenthana company.

COURT: Eight.

MR BIZOS: Thank you My Lord, I may have missed one. -- Do you mean the Mahlatsis?

Yes I think that is the correct way of putting it, the Mahlatsis. -- Yes.

So that the Mathlatsis would be interested in, as far as we know thusfar, in twenty out of the twenty-five liquor out-(20) lets that are appearing on AAQ(11)? -- Yes I understand that.

Now there was a suggestion by one of your colleague councillors previously that the Mathlatsis actually wanted all of them. Do you know anything about that? -- No.

I see. Now tell me this Mahlatsi is the Mayor, Councillor Mahlatsi is the Mayor? -- Yes.

The two Mahlatsi brothers that are also referred to in AAQ(11) are his cousins? -- No I do not know about any relationship between them. I just accept it as their being Mahlatsis and therefore Mahlatsi is one.

(30)

Well we have evidence that they are cousins. Were you  
as/.....

as a councillor, were you as a councillor, or any of your fellow councillors prior to September 1984 concerned about the unfortunate public perception that may be created by assets of an apparent value of over twenty-two million Rand being taken over in the main by members of the Council? -- Nobody ever raised that.

Well now that I have put it to you this way do you concede that the people in your community might have got the perception that there was self enrichment? -- Well it was a justified perception. (10)

I do not want there to be any misunderstanding. Do you understand what you have said? -- I understood the question to be that a perception from the community would be that we are enriching ourselves. What I am saying in my answer is it was justified for the people to have that perception.

Well did that not worry your Council Councillor Mgcina?  
-- Do you mean pertaining to that?

Yes, that you should be regarded as people lining your own pockets as a result of holding public office? -- It would not be like that because even the shebeeners would get shares(20) in this.

COURT: How do you mean? How would they get shares? -- It is because of what was said to us by the Development Board, namely we were to invite the shebeen keepers, after having been successful that they also must come into business and be or become shareholders because they were the people in fact who will be promoting this kind of business. Again it was added to that not only the shebeen keepers but also the members of the association of the shebeen keepers, must be informed about this.

MR BIZOS: Tell me were these would be beneficiaries informed(30) about this windfall that would befall them? -- Though I am not well/.....

well informed about this we were told by the Development Board that they were going to hold a meeting with the association.

So is your, tell me is your evidence now that you were really acting as trustees for the shebeen keepers?

COURT: That is a bit difficult to understand. What do you mean by acting as trustees?

MR BIZOS: Well for a company about to be formed. Perhaps I should explain that.

COURT: No do not, please do not.

MR BIZOS: As Your Lordship pleases. (10)

COURT: Was the idea Mr Mgcina, as you understood it, that these shebeen keepers or of the shebeen keepers would be shareholders in the Lenthana company? -- Yes.

MR BIZOS: I see. Were they told about it? Were the shebeen keepers told about it, because we have a public statement by one of their number complaining bitterly about the licences having been granted to councillor? -- That was in the hands of the Development Board to notify them and then get us together.

COURT: Was, let me just get clarity. This question of taking in the shebeen keepers as shareholders did that arise after (20) the allocation of the licences to you and after a public outcry? -- That is when they were saying that these outlets are going to be sold.

That is before the tender? -- Yes the day when we were all invited to a meeting, inclusive the shebeen keepers, and the community.

Were you told by the Board at that meeting that it is better that you all club together to buy these businesses? -- Yes.

MR BIZOS: Well you know, but this may be an interesting (30) explanation but what about all the businesses that were awarded to/.....

to councillors on their own right? The Mahlatsis, Mokoena, and others whose names appear on here? -- Well I do not know about that, maybe they are going to form a company after having given the licence.

Now were you on the Council for many years under Mr Majela? -- Yes.

Now you said that you never heard anything about any corruption or any conviction for corruption? -- What I meant is prior to 1984 I did not know about that. I only came to know about this when this was being discussed or was set (10) down in court.

But you know your colleague Councillor Mokoena told us that these allegations were common knowledge in the Vaal Triangle long before the matter came to court. -- I do not know. What I believe is if any of the councillors knew about that he would not just have left it at that, he would have taken a step.

Oh you say that Mr Mokoena's knowledge of these facts was special, it was not generally known? -- I would not say that. What I am saying is there was no meeting in which such was (20) discussed, that is being a Council meeting.

I am sure that the corruption of which apparently Mr Majela was responsible for would not be discussed at the Council at which he was Mayor. -- I understand that but I do not agree. Even if Majela was holding a high portfolio in this Council it was for that other councillor who came to know about that, or who had evidence, to bring whoever was alleging that paid money to him to the Council and report that to other members for the other members to take steps about what was happening. (30)

Were you a member of Mr Majela's party? -- No.

Is/.....

Is Mr Majela, despite his conviction by a Regional Magistrate, still a member of your Council? -- Yes he is.

Did you or any other member of your Council move that he should be, that he should resign or that he should be suspended in view of his conviction? -- We have not discussed that in a meeting. In the first place we are to wait for the outcome of the case and after the finalisation of the case then we will have facts as to how the case was disposed of. It is only then that we can discuss it.

Do you know that he was convicted by a Regional Magistrate and sentenced to a term of imprisonment? -- Yes I am aware of that. (10)

Right. Do you, did you hear that he made a public statement, both himself and through his counsel, that corruption was endemic in the Vaal Triangle but that he is being used as a scapegoat?

COURT: Public statement in court giving evidence?

MR BIZOS: In giving evidence and counsel in mitigation I believe.

COURT: Yes, so actually he gave evidence. That is better, not a public statement, that might mean something else. (20)

MR BIZOS: Yes as Your Lordship pleases, in evidence. -- No I never heard of that.

You see, tell me Councillor Mgcina when the question of these liquor licences arose did you know that it was a particularly profitable business contributing to the coffers of the Board? -- Yes.

Did you know that millions of Rand were made as profit which augmented the funds of the Board? -- The only fact I was not aware of was whether they make millions of Rand in profit. (30)  
What I knew was that some of the profit from these outlets is being/.....

being used for certain requirements in the township.

Yes you are quite right. And that it is not just small sums, they are very large sums? Did anyone on your Council, as a Council, when you became or were about to become successors to the Board say "Gentlemen we must continue drawing the revenue from these twelve outlets in our area of jurisdiction for the benefit of the population"? -- We had not yet come to that point in discussions.

Yes but you had come to a point in discussion which precluded you from discussing it? (10)

COURT: Is that entirely correct?

MR BIZOS: Well because you had ....

COURT: You had come to a point in discussion which precluded them from discussing it?

MR BIZOS: Yes, well you had, I am sorry I will amend it. You had made a decision to try and get them for yourselves, therefore you could not have discussed it? -- Prior to these outlets being put for sale there was a discussion about that, that the outlets must not be sold, they rather work as they are and the owners of the outlets, namely the Board, refused and said no (20) we want to sell these outlets. That is how it came to be put up for sale.

Why could not you as a councillor move that our Council buys them from the Board rather than we as individual councillors or members of a private company? Or public company, whatever it may be? -- We did make mention of that and suggested it to the Development Board who in turn said the law does not allow that, that these outlets be sold to the Council. The law says that the outlets must be sold to private people.

Is that within the spirit of private enterprise? -- (30)  
Yes.

And/.....

And was it an accident that a private enterprise was confined to members of the Council?

COURT: Well that is not entirely correct Mr Bizos and where does it bring us? That is a very good argument at the end of the case.

MR BIZOS: As Your Lordship pleases. Now tell me would you agree, and please believe me that I am not offering it as any form of justification but would you agree that the four councillors that were killed within the area of the Lekoa Town Council were members of the trading committee? -- Yes. (10)

And the fifth councillor who was a councillor in Evaton, which is just outside your jurisdiction, was also a leading member of the trade committee? -- Well I do not know about the one in Evaton.

Would you agree that this trading committee was very unpopular by people who were, in their opinion, the people's opinion, thwarted in their attempts to establish themselves as business people in Sebokeng and elsewhere? -- I would not know about their being unpopular, as to what were the reasons.

Did you not hear allegations against them that unless (20) you paid three thousand Rand you could not get a licence?

COURT: No, there are two aspects. Are you saying that you do not know why they were unpopular or are you saying that you do not know that they were unpopular? -- I do not know whether they were unpopular.

MR BIZOS: You had never heard a word of criticism against any one of them? -- No.

Right. Did you hold any meetings in your ward between 30 November when you were elected as a councillor to 5 August when you say you called a meeting? 5 August 1984? -- Is (30) that 30 or 3 November?

30 November. -- I had a meeting yes.

Where did you have such a meeting? -- I cannot remember the exact date but what I can say is I did hold a meeting before September.

Just listen to the dates please, 30 November when you were elected, to 5 August 1984? Did you hold any meeting? If so when and where? -- I had no meeting which was held by me except for this one.

This one, which, 5 August? -- Yes.

You are sure about that, you have not forgotten about (10) it? -- We did have a meeting as a Council, together, moving from one place to another holding different meetings. I cannot remember the date on which that meeting was held in my ward.

Well was it shortly after your election? -- Shortly after my election, approximately three to four months after that.

But that meeting was certainly before there was any suggestion of an increase in the rent? -- I believe so yes, that it is prior in fact to any suggestion about that.

Now you had been a member of the Council ever since the council system had come into operation in 1977?-- Yes. (20)

Do you agree that there was a rent increase every year, or almost every year? -- Yes.

Do you agree that your people complained bitterly that they heard about the rent increases either by notice or when they went to pay their rent? -- No we used to hold meetings with them whenever rent was increased, we would call them together to explain that.

After the event or before the event? -- We used to hold meetings and explain to the community about the suggestion that rent would be increased because of the requirements prior (30) to it being increased.

Well/.....

Well was there in 1984 a departure from the procedure? According to you? That in 1984 you did not hold meetings before the increase? Before the announcement of the increase if you like? -- Do you mean invite them to a meeting to be told about the suggestion of the increment of the rent?

Yes. -- No no meeting was called.

Are you saying that it happened on every other occasion but not in 1984? -- Yes we used to call them and inform the people.

Well I am going to ..... (10)

COURT: No could I just get clarity then. Are you saying that prior to 1984 even before the decision to increase the rent had been taken you held meetings with the community? -- Yes we were calling meetings to talk to the community about certain things that we wanted to draw their attention to and mention that certain things that we need to put on as projects will need money and therefore it will be necessary for the rent to be increased in order to cover that expense.

MR BIZOS: And are you going to tell His Lordship that prior to 1984 for those projects the community, or those who were (20) present at your meetings, agreed that that should be done? -- Yes.

And you would also have discussed the amount of the proposed increase with them? -- No not at that stage. We did not tell them as to what the increase was going to be, the reason being that we first had to go and look into the budget.

Is it correct that the rent increases in the past were justified on the basis of projects that had to be started or completed? -- Yes.

Well but the streets were still unlit, the houses (30) were still flooding on a couple of streets? -- Yes but the thing/.....

thing was people would do a certain portion of work at a certain area during a certain period. So which means then that is tantamount to saying on another year then the project will be taken further in doing a certain area.

If you believe that you are correct that that was the procedure in 1984 can you offer any reason to His Lordship why, at your meeting of 29 June, according to EXHIBIT AAQ(19), a decision was taken before any meeting was held to discuss with the people the proposed increase?

COURT: Now why should he explain this to you? (10)

MR BIZOS: No My Lord I am merely putting it before him as evidence that the decision was taken on 29 June. The question that I will ask him to explain is why no meeting was held before 29 June in accordance with the previous practice.

COURT: No, no, you misunderstood him. He said at no meeting prior to an increase of rent did we discuss the increase of rent in specific terms. At those meetings we discussed projects and when people discussed projects they were told well that would entail an increase of rent and then later on they were informed of the increase of rent. (20)

MR BIZOS: Yes, but his evidence was that during 1984 there was no discussion at any meeting in relation to the proposed increase of rent.

COURT: You can ask him on this.

MR BIZOS: You recall that you told us that during 1984 you did not hold any meetings at which you discussed the proposed increase of rent? -- Yes I do.

Yes. And you said that prior to 5 August there was no such talk? -- Yes.

When you came to the meeting of 5 August had members of (30) your ward received AAQ(19)? -- No.

Had/.....

Had there not been newspaper publicity and had some of the people not already received a notice that R5,90 would be the increase coming into effect on 1 September? -- No.

At the meeting of 5 ... -- I cannot remember in fact.

You cannot remember? -- I cannot remember but what I know for a fact is this notice was not sent out before we met with the community.

Well do you recall whether there was newspaper publicity to the effect that a decision had been taken to increase the rent by R5,90 before you held the meeting of 5 August? -- (10)  
Well from the newspaper I will not know.

COURT: Tell me were your meetings in the Community Council and your meetings of the Town Council open to the public to come and listen? -- Yes.

And did the press attend? -- Yes.

MR BIZOS: Do you, did you in fact holding a meeting on the 5th? -- Yes I did.

Where? -- At the hall.

How many people do you say were present? -- There were many people. (20)

How many would you say were present? -- I cannot say exactly what number but they were in the hundreds.

Let me just ask you something else. In relation to Bophelong were members of your ward, when they tried to pay their rent in August, told that they had to pay a R50 deposit for electricity? -- Yes they did come to me about that.

And did that raise a furore? -- No except that when my people came to me to complain about that I just decided look I will take this complaint to the Council. I even approached the superintendant there to say he must wait about this thing (30) of demanding the deposit until we discuss it with the Council.

COURT: /....

COURT: As this a deposit for new installations or was it a deposit on existing accounts, running accounts for electricity? -- It was demanded for the existing house with electricity. In fact that is why I agreed with the people from my ward that they are not supposed to pay it, because I did not agree with that idea.

MR BIZOS: Now do you mean to say that without prior notice to you as a member of the Council, without giving you an opportunity to explain anything to the people in your ward, without any public notice, people went up to pay their rent and they(10) said "You pay another R50 deposit or else"? -- That is so.

COURT: Was there not a resolution by the Council that in future a deposit would have to be paid on existing running accounts? -- There was a discussion pertaining to houses which were being installed with electricity, not the old houses in which electricity was already there.

MR BIZOS: Now there were in fact no new houses being put up in Bophelong because one of the complaints was that they wanted to get rid of it anyway? -- One of the complaints was?

That they wanted to get rid of it because they wanted (20) to make a road.

COURT: Yes, but now there are now two questions. The one is they wanted to get rid of the whole of Bophelong, the other one is there were no new houses installed and in fact the witness was speaking about the meeting of the Lekoa Town Council which has a much wider area than Bophelong.

MR BIZOS: Yes. I think My Lord that our instructions are that this was special to Bophelong. This is what I have put to him.

COURT: Well we can clear it up.

MR BIZOS: The R50. We have not had any information in (30) relation to Sebokeng.

COURT:/.....

COURT: Was this charge of R50 particular to Bophelong? -- Not for Bophelong only.

MR BIZOS: Well it may be My Lord but we only have had information about Bophelong. But now let us just take it slowly. Are there or were there any new houses being built in Bophelong? -- No.

Not. And were, did all the houses in Bophelong have electricity? -- Yes.

So therefore as far as Bophelong was concerned there could not be any differentiation between new houses and old houses (10) in relation to electricity? -- That is correct, all the houses were electrified so therefore that question did not arise.

Yes. Now could we have this from you, it came as complete news to you when members of your ward came to you and asked you for an explanation as to why they were being asked to pay an additional R50 and if they did not do so they would be ejected? -- Yes it came to me as a surprise because people in Bophelong was long having electricity there.

Now did you have to explain to people that you knew nothing about it? -- Yes I explained. (20)

Did that help to reinforce the perception of some people that you were really a figurehead? -- Yes that helped.

Yes.

COURT: It helped to do what? -- That people must not take it bad that they are being compelled to pay for electricity deposits in old houses.

You must make your questions a bit easier to understand Mr Bizos.

MR BIZOS: As Your Lordship pleases, although I think that I have, with respect, been very well served by the interpreter. (30) But I will try it again. You were being called puppets by at least/.....

least a substantial portion of the community? -- That I came to hear during 1984.

Yes. Would you agree that if members of your ward come to you with a situation where they have had to pay, R50 was demanded and you said you knew nothing about it, that that would help that belief that you were really a person without any real power? -- That is what people said.

Yes. Despite the change of the system in November 1983 in the minds of your constituency, your ward, Bophelong and Sebokeng, did the people really realise any difference between (10) the old type of Council and the new type of Council? -- Well they had not come to me to tell that they do not see any difference between the two.

Did you yourself feel any different as a councillor between the old system and the new system? -- Well according to my judgment there was a difference.

COURT: What was the difference? -- The difference in the two was according to the new system we were given the right and powers to change whatever is existing to what will suit us.

MR BIZOS: When you say "us" I suppose you mean you and the (20) people you represent? -- Yes.

But to the women that went to pay their rent in the beginning of August in Bophelong and they were told they would be ejected if they did not pay R50 in August the difference could not have been realised? -- No it would not have been realised by them.

Would you agree that 1984 was a difficult year in the economic circumstances of your constituency? -- Yes.

Did you recommend that any rent increase should not take place in 1984 in view of this difficulty financial climate (30) that your community was living in? -- We used to meet with  
the/.....

the councillors to discuss that because even this rent question was not yet approved.

Was not approved when? -- It was supposed to have gone to the government for the government approval.

What happened to your original powers? -- Whenever we are taking a decision to a change of anything that must be made known to the government as to what our decision was and how are we going to do it.

And it could not be put into effect until it was approved?  
-- Yes. (10)

And that was your perception of your function as a councillor during 1984? -- Yes.

Were you a councillor whilst Mr George Thabe was Mayor?  
-- Yes.

Did you hear him announce publicly that he was no longer prepared to be anybody's puppet?

COURT: When he was still the Mayor or when he had lost the election?

MR BIZOS: When he resigned.

COURT: Was he not voted into office again? (20)

MR BIZOS: No it was not, he did not lose an election My Lord.

COURT: Did he not lose the election for Mayor, the mayoral election?

MR BIZOS: It may be, there is some suggestion in one of the exhibits.

COURT: Then the grapes got sour.

MR BIZOS: Well it may be My Lord but perhaps, did you, were you a member of the Council when Mr Thabe said that? -- I did not hear him making mention of puppets. All I know is that he resigned. (30)

Was that the same Mr George Thabe that is a member of  
your/.....

your company that has now got an interest in these bottlestores?

-- Yes.

COURT: Tell me do you read the newspapers? -- Yes sometimes.

Sports pages? -- Yes.

COURT ADJOURNS UNTIL 17 MARCH 1986.