

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA  
(TRANSVAALSE PROVINSIALE AFDELING)

Ass. 2

SAAKNOMMER: CC 482/85

DELMAS

1986-03-19

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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COURT RESUMES ON 19 MARCH 1986.

SIMON PHOKOJOE MOFOKENG: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Had you been a councillor before the November 1983 elections Mr Mofokeng? -- No.

Would you agree that fourteen of the councillors elected at the end of November had been councillors before? -- Although I do not know how many in number there are some of those who were councillors prior to that.

Yes. And those who held important positions, like in the trade committee, were they the senior councillors that had (10) been councillors before? -- They were mixed.

Yes. I do not want to go through all the detail with you but I am going to ask you a general question which I am going to ask you to listen to carefully so that I can save time. At the budget meeting did you or any other councillor raise the question that other sources of revenue should be looked into for the projects to avoid increasing the rent? -- I did not hear anybody raising that.

Thank you. In relation to the projects that you spoke about did anyone suggest that in view of the unfavourable (20) economic circumstances and high unemployment that some of the projects could wait? -- No it was not raised by anyone.

Did anyone suggest that the valuable assets of the Board, of the twelve liquor outlets in Lekoa should remain in Lekoa's jurisdiction to finance any of the projects? -- Yes I heard that being mentioned.

At the Council meeting? -- Yes at a Council meeting.

Who mentioned it? -- From Mr Mpondo.

Did Mr Mpondo suggest that they should go to the Council? -- He said, he suggested that these outlets must not be sold (30) to private people.

But/. ...

But was that rejected? -- By the Development Board, yes.

I see. Did you know that tenders were out for the bottle-stores? -- Not at the time when we were discussing that, I was not aware as to whether there was anybody who had offered a tender for any of the liquor outlets.

COURT: No but afterwards? -- Yes I did hear about that when a meeting was held in Kunutsi Hall, which is in Sebokeng. That is where a meeting was held with the people from the Orange Free State and the people from the Vaal.

MR BIZOS: What do you mean the people from, the councillors(10) or people generally? -- By the people from the Free State I mean the councillors from the Free State.

Was that in order to decide who should take the bottle-stores? Or who should tender for the bottlestores? -- This is in the, this is the meeting where we were told that the liquor outlets, namely the bottlestores, are the property and are falling under the Administration Board and not to the Council and therefore we as a Council have no say about them.

Yes. -- Only the Board can dispose of them.

Did you know that your fellow councillors were tender- (20) ing for them? -- No I did not come to know that except that I heard a rumour that some people are tendering for the outlets.

Did you yourself not make any attempt to take any part in this? -- No not at all.

COURT: What is your occupation now? -- From 3 September I am out of employment.

Why? -- At my place of employment when I went back again after this day it was discovered that I was a member of the councillors and therefore they cannot take me back in employment. (30)

MR BIZOS: Did anyone, did you or anyone raise at the Council, or/... ..

or at any public meeting the undesirability of these outlets having finished up in the hands of certain councillors? -- I did not hear about that being mentioned in any meeting except perhaps when it may have taken place during the meeting of the outlets people because they were now keeping to themselves in considering their own things about the outlets.

Oh I see. You mean you were left out of that circle?  
-- That is true. We people without moneys were not included there because we would do nothing about the bottlestores.

Did it create any bitterness in your community that (10) the councillors with the money managed to get the biggest slice, if not the whole cake? -- I heard about that, that the community was having a grievance about that, that the liquor outlets, namely bottlestores, were given to the councillors.

Was there any reason why you did not raise this at the budget meeting, why were the bottlestores not left or not done in the way in which it was done in the East Rand for instance? For the benefit of the people as a whole? -- It was because it was explained to us by Mr Ganz in the following manner that if the liquor outlets are being sold to private (20) people the government is going to subsidise whatever amount or money was being received in the place of the bottlestores, that will be substituted by a subsidy from the government to the community.

COURT: So the revenue which previously was earned by the bottlestores would be replaced by the government? -- Yes that the government was going to subsidise that revenue.

MR BIZOS: Was there any indication as to how much that would be Mr Mofokeng? -- No no indication was given.

Well did not you or someone else at the budget meeting (30) say well why must we put up the rent, how much is the subsidy from/.....

from the liquor, from the government, how much is the subsidy in lieu of the liquor profits going to be? -- What I asked there is could one have a rent structure that is from the beginning when this was introduced, that one can see that and study that. Up to now we have not received that. I wanted to see the rent structure myself.

COURT: You mean how the rent is set, put together? -- What I mean is I wanted a rent structure prior to the increased rent, to see from that as to what was happening, how they worked it out in order to be able to justify whatever is (10) justifiable by this rent increase.

MR BIZOS: And you say that was never given to you? -- Not yet, up to now I have not received it.

And can we say Councillor Mofokeng that if you as a councillor did not know it the people as a whole must have known very much less? -- Yes I understand that but now the position is this is a very short time during which these things are to happen and I quite appreciate that the community would not be well informed about that, though I quite agree with the community that they are entitled to know some of these (20) things.

Is Sharpeville a comparatively old township? Compared to Sebokeng? -- That is so.

And has it been electrified some time ago? -- Some areas yes, have been electrified.

COURT: Not the whole of Sharpeville? -- What I mean is up to until the year 1983 not the whole of Sharpeville was electrified but since then in 1983 the township was in whole electrified.

In the year 1983? -- In 1983 yes. (30)

MR BIZOS: By June 1984 it was all electrified? -- Yes.

And/.....

And since 1977 rent had been increased every year? -- It was being increased during that period though I am not in a position to say whether it was increased each and every year. But we were faced with that difficulty of the increased rents.

Regularly if not every year? -- Yes it was being increased.

And did that create dissatisfaction and in some instance resentment even before August 1984? -- That is true. We were not happy at all.

Were any steps taken to your knowledge prior to 5 August 1984 when a meeting, or some meetings were held, prior to (10) that were any meetings ever held to explain to the people this is how the structure of the rent is and this is why it is necessary? Are you aware of any such meetings prior to 5 August? -- I was still a new member in the Council. I was not experienced at all as to what was happening within the Council. Therefore I was sort of in most cases playing a wait and see what is happening in order to gather the necessary experience and therefore this was being pushed fast.

What was being pushed fast? -- What I mean is the question put to me is rather pushed fast in between because I (20) had not opportunity to get whatever experience I referred to to be gathered by myself in the Council in order to go and address the community about what is in fact happening within the Council and what are the structures within the Council and the procedure to be followed in certain respects.

I understand that. I would like to ask you in your experience as an ordinary resident before you were elected on the Council.

COURT: That is then before November 1983?

MR BIZOS: Before November 1983 and you were just a resident and there were these periodic increases. Were any explanation given/.....

given about the structure of the rent? -- No, no meeting was held whatsoever anywhere.

COURT: That is now by the Community Councillors? -- Yes.

MR BIZOS: Would you say that there is a strong feeling of communal democracy in your community? I will explain that. I will try. Do people feel that they should be consulted about the matters that affect them in the community? -- That is so.

And are there structures on the factory floor, in the various Blocks, when even outside Council structures, generally speaking do people expect reports to come back to them as (10) to what is happening and why it is happening? -- That is so, in fact what I did is I invited the community in my ward and informed them.

But you yourself did not know the structures? -- That is my evidence. In fact what I am saying that I informed the people about, that is the community, is I informed them about the demands etcetera, excluding the structure which thing I was not informed about therefore I could not have addressed them on that. And in my address to them I informed them that I do not know what the structure is. Right up to now they (20) are quite aware of the fact that I have no knowledge whatsoever pertaining to the structure.

COURT: Tell me Councillor when you had your election meetings did you make certain promises as to what you would bring about to improve the living conditions in your ward? -- May I answer that question differently, not direct as the question it is being put to me?

Yes. -- What happened is we first formed a group or a wing within the community, that is from the poor, with a Chairman at which it was discussed and agreed upon that it (30) will have to go deep into the whole thing in order to investigate what/.....

what is happening in fact within this community. Then the people who were members of this wing which was investigating the poor people elected us to go and investigate what is happening within this structure. In fact when I was elected it was not that I was being elected by the people to take part in the Community Councillors. It was recommended by my group of the poor people that they are going to vote for me with a view of getting me within the Community Council or the Council in order to go and investigate on their behalf and make a report back to them about the structures of the Council, (10) as to what is happening within the Council. And therefore that is how I was elected as a person representing a ward.

Yes. -- Otherwise I was still busy investigating before I could ascertain anything which was of value to my people who elected me. Then the unrest broke out.

Now other councillors, let us put it bluntly, had they made election promises to the electorate and was there pressure on them to fulfil those promises? -- I did not attend their meetings because we are in fact at different areas. Therefore I did not attend their meetings. (20)

Yes, thank you.

MR BIZOS: Let me try and clarify some of the things that you told us Mr Mofokeng. Did I understand you correctly that what you call a "wing" was a sort of the beginnings of a party? -- It was in fact a party.

Yes. What was its name? -- Bafutsana Party.

Do you mind telling us what Bafutsana means? -- It depends on the context in which it is used. It may mean a sufferer, a poor person, a needy person, a person with a lot of problems which needs attention to be solved and this person is not (30) in a position to solve the problems physically or in a way of approaching/.....



approaching someone.

Yes that is very descriptive, thank you. Now was one of the complaints that your party had the regular increases in the rent? -- Because of what was happening during that time, that no explanations were made to the community about the increased rents my party was interested in finding reasons to justify the increased rents as to whether there were any genuine reasons to accept for these increased rents.

I have a not on your party's main manifesto so to speak. Tell me whether it is correct. No increase of rentals without proper explanation? -- That is correct. (10)

Put an end to favouritism and corruption on the Council? -- That is so.

Opposition to the closing of the community halls to the community for community purposes? -- That is so.

And did your party accuse the councillors of always making promises, regularly increasing the rent and not doing anything about it? Not doing anything about fulfilling their promises? -- That is so.

Were you the only member of your party that was elected?(20) -- No I am not the only one, there are others.

How many of you were there of this party? -- Eight of us.  
COURT: And did any one of you eight vote against the increase of rent? -- Nobody voted against the rent by putting up the hand and saying no I disagree with the increase of the rent.

MR BIZOS: Was there any reason for that, that you did not keep your election promise so to speak? -- As I have already said there were demands for certain things which demands were to be met by the Council.

COURT: Demands being projects? -- Being projects yes in (30) this case. And one could see and there was evidence that there/.....

there were such projects to be started. In view of that no one objected to the increase of the rent because really for the projects to be started money was needed.

MR BIZOS: So as far as the eight councillors of your party at any rate the community would be able to say that you promised no increase of rentals but that promise was broken? --

COURT: Well that is not entirely correct because their manifesto was no increase of rentals without proper explanations. That is what you read out to the Court.

MR BIZOS: Yes but he has said that no information was given. (10)

COURT: He says there were demands of projects, for projects that the Council had to fulfil and there was evidence that the projects had to be started and therefore money was needed.

MR BIZOS: His evidence previously was that there was no explanation to him.

COURT: Of the structure Mr Bizos, of the structure of the rents.

MR BIZOS: My Lord, there were no meetings at all. This has been his evidence.

COURT: Now we are getting mixed up. We are not dealing (20) with the explanation to the community, we are dealing with the question whether the eight councillors on the Council were satisfied with the explanation for the increase of rent.

MR BIZOS: That was not my question My Lord.

COURT: Then I misunderstood you Mr Bizos, will you put it again.

MR BIZOS: Yes, as far as the people were concerned that your manifesto was that there was to be no increase in rentals without proper explanations that promise was not kept? -- We kept to that. (30)

Well do you recall whether there were any resignations  
in/.....

in Sharpeville in the ward committee, in any particular ward committee? -- Yes Mokati's ward.

Yes.

COURT: Could you just explain to me, is a ward committee a committee of your particular party or is it a committee of residents not affiliated to a party? -- Those people were members of the party working with Mr Mokati, serving as committee members.

Yes, how many resigned? -- I cannot remember now how many there were, people who worked with him and those who re- (10)  
signed.

MR BIZOS: Was there wide publicity about these resignations?  
-- Yes I even heard of it myself.

Yes. And was it published in the newspapers? -- I heard so, yes.

And was the statement being made in the community, and certainly in the newspapers, along these lines? The members resigned because of the rent increase and they said that they had not been informed of it by the Council before the residents meeting a few weeks ago? This was published, I am (20)  
suggesting to the witness, on 22 August. We felt that this was against Bafutsana Party principles as we had promised the people that there would be no increment of rentals until the recovery of the economy as a lot are unemployed because of escalating retrenchments. Does that accord with the general discussion in your community after the rental increase was announced? -- Yes that was the general feeling from the community there though not the whole community because this happened in the ward where Mokati was the councillor.

Yes. Now judging by the fact that your party, did (30)  
your party take part in an election for the first time in

November/.....

November 1983? -- Yes that is so, that was the first time.

Did you consider the eight representatives that you did succeed in getting as a success? -- Well yes that was the feeling that we succeeded in getting these eight elected.

How many candidates did you put up in all? -- I am not quite certain but we were not 39.

Not 39. Oh you did not put up in every ward? -- No we could not, we could not make it to have a candidate in each and every ward.

Well in those eight wards and in the other wards where (10) this election campaign was going on would a perception have been created in your community that once you got eight councillors in things would change? I mean change for the better as far as the poor are concerned? -- It was still a problem because whenever we had to vote the other people would then be more than us in voting and then win the votes.

Would you agree that the public perception after November 1983, the public perception was that the old guard was back in power so to speak? -- No that is not what they were saying.

What were they saying? -- From what I heard from the (20) community it was a difficult situation for them as well because now what they were worried about is we got only eight seats in the Council and should there be any votes how are we going to win the votes being only eight.

Well let me rephrase the question. The people that had been on the Council before, and their party, was it back in power so to speak? -- That is so.

COURT: Did the other councillors that did not belong to your party, did they all belong to the same party? -- No they were different. (30)

MR BIZOS: There was a division, was there not, between the Mahlatsis/. ...

Mahlatsis and Mr Majela? -- I do not know about that division except that I know about their parties which were different parties. Whether they had their own personal differences that I cannot tell.

Right. Now you see I want to suggest to you that these projects could at least have waited in the bad economic climate that you spoke about in your election campaign? -- I do not agree, the reason being that if there is some difference between the people in a meeting about a certain point for which they are to vote it will depend on the majority vote (10) as to whether we follow that decision or not. That is now in other words what I am saying is according to the demands in their wards which justified certain projects. Say a person was to say my ward needs this and this project must just go on and you find that there are more people with such applications to the committee and the Board decides well, the meeting decides well if that be the case let us go on.

COURT: Now could I just get clarity. Did you have certain projects for your ward which you proposed to the Council?

-- Yes for instance in saying I need a high mast light at a (20) certain point of the township which is known as the S area where people are being killed almost every day, that place must be lit.

And what else did you propose? -- A cripple care premises was one of my demands that they must have, or a structure must be put up in order to look in the interest of the cripples at stand no. 777.

Yes, anything else? -- Again a reconditioning of a street leading from Moyedi Higher Primary School to the shopping centre. Those were the things that I wanted done in my (30) ward.

Yes./ . . .

Yes. Now it is suggested to you that these projects could have waited in the bad economic climate. What is your answer?

-- That is why I suspended the other projects and remained only with the high mast light which was creating a problem and which I felt was urgently needed.

MR BIZOS: Yes.

COURT: So did the councillors demand more than they eventually got? -- Well that is possible in other wards that they felt some of the things were urgent to them and those are the things they need. (10)

MR BIZOS: Were you mindful that things had to be trimmed down because of this bad financial situation? -- Yes that is why I suspended the rest and only requested the light.

The one light for safety reasons. You also said that you felt that however you may have felt others felt differently and you would be outvoted. Did I understand you correctly?  
-- That is so.

Did you feel, did you and members of your party feel that as a minority you could not achieve much by voting against the proposal? -- No that is not so. (20)

But in any event Mr Mofokeng do you know that fourteen percent of the people had taken part in the election to elect the Council as a whole?

COURT: Just before we get to that, that is a different angle. Did you at the meeting of the Council where these projects were discussed get the impression that the projects of other councillors were also scaled down or were you the only person whose projects were scaled down? -- No with all the councillors, all the wards, the demands were reduced, that means the projects were reduced. (30)

MR BIZOS: But let me just take one example that you gave in  
your/.....

your evidence-in-chief. About the cemetery. Sharpeville has got a cemetery has it not? -- That graveyard was closed, it was no longer being used. We were using Evaton graveyard in the vicinity of Sebokeng.

Do you recall that it was closed in the 1970's when there was talk that Sharpeville could not remain where it is and that it was going to be moved? -- That is true

Yes. That was during the days when great uncertainty was created in the community that it was going to be moved?

-- That is so. (10)

And the reason given for closing it is that they did not want people to bury their dead at a place where they were not going to live any more? -- That is how we were made to understand.

But by 1984 nobody was talking of moving Sharpeville any more? -- That is so.

And the only thing that the cemetery needed was for the gates to be opened and arrangements to be made to be used? -- No it was not a question of unlocking the gates only for this to be put in operation again because the section known(20) as Vuguzenzele in the graveyard was already full. Therefore it was a question of acquiring more space on the other side for burials to be held there.

Do you not agree that there is lots more room in the cemetery? -- No if there is still a room for burial on that yard then I do not know about it.

Well do you not know that for apparent security reasons since September 1984 when people are to be buried at whose funeral lots of people may go they are buried in this cemetery? When it is convenient? -- In September 1984 it (30) was after we had discussions about the additional ground

which/.....

which was to be added on the existing graveyard in order to accommodate other graves. That is why there is now a space for further burials.

And do you agree that the decision to increase the rental was on 29 June? -- I cannot remember the exact date.

Did you personally take part in the debate before the vote to increase the rent by R5,90 and R5,50? -- The day when these decisions were taken I arrived late at this meeting.

So you did not take part in the debate? -- On arrival there a move was already taken, therefore everything was complete(10) pertaining to rent.

COURT: But now was the budget not debated over a number of days? -- The Executive, which is the higher authority there, are the people who were discussing the budget.

MR BIZOS: So it was only presented to the Council as a whole on the day on which you came late and voted at the end? -- This day when I arrived late at this meeting this budget was brought to the Council and it was discussed earlier before I came but on arrival there every decision was taken. Therefore it was no longer rediscussed. (20)

What time was the meeting supposed to start for which you were late? -- At three.

In the afternoon? -- Yes.

And what time did you arrive? -- I only arrived at about 17h30.

And what time was the vote taken? -- I do not know because I only arrived there at 17h30.

But was the vote taken before you arrived there? -- That is before I arrived.

Oh I see. So you really did not have an opportunity (30) of voting against the rent because you were not there? --

I/.....



I say I did take part in the vote because I am one of the members and in fact the Community Council or the Council which took a vote therefore I am bound by their voting there. I consider myself to have taken part in the votings though I was not there physically.

I see.

COURT: But now when did you put your project before the Council then? -- What happened is we first brought in our projects which were forwarded to the Treasurer who in turn had to work out the projects as to how much we need and then (10) he would return them back to us and then later after rechecking that we rejected his recommendations and it is only there-- after that this meeting I refer to, that is the meeting to which I arrived late, was held. In other words they knew already what my projects were at the time of taking the decision.

But was the cost of the various projects discussed by the Council? -- Yes a meeting was held where all these projects were discussed in their different areas.

And was it discussed that this would entail an increase of rent? -- Yes after a report from the Treasurer in which (20) report the Treasurer was putting down everything that will be required and after having worked out something we then discussed that the rents will have to be increased in order to meet that.

And were you present at that meeting? -- Yes I was present in a meeting where rent was discussed.

And di you agree with the conclusion that rents would have to be increased? -- Yes I did.

And is that why you feel bound by the eventual decision of the Council? -- Yes. (30)

MR BIZOS: When did you for the first time hear that the  
increase/.....

increase would be R5,90? -- It was in a meeting, a report back meeting from the Town Treasurer that we discussed that.

When did you hear that either the proposal or the decision was to be R5,90? -- In that same meeting, that is where some of the projects were put off. Then we had a balance of money which was remaining in order to be used, as to how much money was required. As a result of which then a decision was taken about the increased rent, as to how much was to be increased on the present rent.

During this period of time between the two meetings, (10) the one when the projects were discussed and the amount was discussed, and the final decision which we know to be 29 June, what was that period of time? That is the Treasurer's report back meeting and 29 June, what was that period of time? -- I did not count what period lapsed after the meeting of the report back by the Treasurer and before the meeting which was the final meeting.

Was it weeks or months, or days? -- I do not think it took days because the last meeting we had there was a special meeting as to what decisions are to be taken on these (20) projects.

COURT: When you say you do not think it took days was it more than days, more than a week? -- It can be about two weeks, I am not quite certain.

MR BIZOS: Did anybody during that period suggest that this is now an important matter, we must call meetings of the people to explain to them? Between these two meetings? -- Not knowing about the others but I called the people in my ward and convened a meeting about that with them.

COURT: Is that now a meeting before that final meeting (30) where you came late at the Council? -- When I talk about the last/.....

last meeting pertaining to the rent increase is the meeting in which I came late, that is the meeting I am talking about.

That is correct. Now the question is did you before that meeting in which you came late go to your ward and call a meeting with the people in your ward to explain the rent increase? -- Yes, because I called my five members of the committee and informed them about the results of the projects we wanted to start there, that on applying for the projects we were given only one project, that is the putting up of the high mast light. (10)

MR BIZOS: Did you call a public meeting? -- No I did not call a public meeting.

Other than this meeting on the 5th, that you say was the 5th, that we know to be 5 August, was any meeting called in your ward or in any other ward with your constituency to explain the rent? -- No not at all, no public meeting.

Right. Let us come to the meeting of the 5th. Was a document already circulated to the people announcing the rent increase before the meeting of the 5th? -- If my memory serves me well just before this meeting of the 5th there was already a circular or a note circulating in the community explaining to the community about the increased rent and giving further details as follows, that if people agreed with the increased rent they had to sign on that particular document which was circulating at a certain portion which was indicated there for people who agree with the increment or if they did not agree with the increment as a form of a petition there was a place where they were to sign to indicate their disapproval and then again still return that circular to the authorities which had issued it. (20) (30)

You are sure that such a document circulated in great numbers/.....

numbers? -- As far as I remember there were such circulars.

And were they widely circulated before the meeting of the 5th? -- Yes.

And who were they issued by? -- That was the decision which was taken and as a result of which then I say the officials, that is the people in the employment of the Council, were the people to issue those circulars on which the Council had decided. That means the Town Clerk's section was the section to deal with that.

Oh I see. Do I understand you correctly that before (10) the meeting of the 5th you understood that the Council would sort of hold a type of referendum as to whether people were for or against the increase? -- That is as far as I can remember, if my memory serves me well.

Could you please, just in case, to avoid any misunderstanding I show you AAQ(19). Is that the document or a different type of document that was circulated? -- I am now a bit confused. I do not know whether this is the document I am talking about but now what I am saying is there was quite a big number of documents which were circulating in different (20) zones to inform the community about what was to happen to rent and the decision which was taken by the Council pertaining to rent increases. I am therefore not in a position to say with certainty whether this is the one or there were others as well except to say a good number was circulated.

MNR HANEKOM: Edele ek dink wat ook die getuie miskien mag mislei. Ek sien, dit het tot ons aandag gekom, op die agterkant van hierdie bewysstuk heel onder aan word verwys na Aanhangsel A wat nie deel van hierdie bewysstuk vorm nie.

HOF: Dit mag of mag nie die geval wees nie maar daar is (30) geen aanduiding dat Aanhangsel A 'n soort referendum bevat nie.

MNR HANEKOM: /.....

MNR HANEKOM: Nee Edele ek wil net onder die Hof se aandag bring dat hierdie dokument klaarblylik nie volledig is nie in die vorm waarin dit uitgereik is nie.

HOF: Ja, goed. Yes Mr Bizos?

MR BIZOS: My Lord I think I did see Annexure A to this document but it certainly does not give anybody a choice.

COURT: Well Annexure A is not part of the original that is before Court.

MR BIZOS: That is so My Lord.

COURT: Now if you can I would like you to attempt to find(10) it at some stage.

MR BIZOS: Yes I was, I think it is, I did see it. Yes I think that this is it. They were given to me as separate documents but I noticed that there is an Annexure A to this. I have got copies. Perhaps it could be shown to the witness. It is really an analysis rather than ....

COURT: Well for the sake of completeness could you have this duplicated.

MR BIZOS: Yes, perhaps it should be shown to the witness.

COURT: You are now shown these two documents together, (20) AAQ(19) and a document headed "Annexure A, House Rentals 1984-1985 Town Council of Lekoa". Will you have another look at this document.

C152 MR BIZOS: Did you ever see this additional document before?

COURT: Are we sure that this Annexure A was annexed to that document?

MR BIZOS: I am almost certain, because I found them in the same file but they were separate documents, this is why, they were not pinned together when I got them but it appears to be. It is certainly germane to AAQ(19). -- I saw this kind of (30) a document in my minutes.

In/. ...

In your minutes? -- Yes.

Now what I want to ask you is this ....

COURT: Now let us just give it a number. I am not entirely happy that I call this AAQ(19)(b) and the other one AAQ(19)(a) if we are not certain that it is the Annexure A to which AAQ(19) refers.

MR BIZOS: Could we leave it in abeyance and I will be able to give Your Lordship an assurance in due course?

COURT: How long will I have to wait because it is now an exhibit. After tea? (10)

MR BIZOS: Well My Lord Mr Sutherland, whose area of responsibility this is I do not see him here yet. I think he is the only one that will be able to give me an assurance. But we will do it as soon as possible.

COURT: Well I will leave it to counsel on both sides to clear this matter up and in the meantime we keep them together. And will you have the necessary copies made please?

MR BIZOS: As Your Lordship pleases. What I want to ask you is this, if there was such a yes or no document it would mean, would it not, that there was no finality as to whether(20) the rent would be increased or not? -- That is what I remember to have been the contents of the circular which was sent around circulating in the community, that the community must say yes or no and should the community fail to respond to those questions after a certain period it will be considered that the community does not object to anything.

Are you sure that such a document was circulated after the date that you decided to increase the rents? -- It was not a final decision on that because a final decision was taken on the 29th. This was prior the 29th. (30)

COURT: So are you saying that there was advance notice of the final/.....

final decision which was taken on 29 June to the community giving them an opportunity to say yes or no to the rent increase? -- That is exactly what I am saying. Now the only difference was in these notices it was not mentioned that this will have to be discussed on the 29th.

MR BIZOS: You see we have had a number of councillors giving evidence about this and nobody else has mentioned this document. -- But that is true, there were certain documents which were sent out to the public or community prior to this one referred to here was issued to the public. (10)

COURT: This one being AAQ(19)? -- AAQ(19).

MR BIZOS: Because I am going to put to you that not only has no other councillor referred to it and none of the accused who live in the Lekoa Town Council area know of any such document? -- If that be a case then it is a miracle because there were papers or documents which were sent out informing the community about what was expected of them prior to this one, EXHIBIT AAQ(19) was issued.

Perhaps you can tell us was there a report back to the Council how many people had voted yes and how many people (20) had voted no? -- No one responded to that.

No one responded? -- Nix.

COURT: Now just a moment. Are you saying that there was no report at all or are you saying that there was a report that no one responded? -- There was just no report about it, whether people did sign to say yes or no or whether people did divulge their feelings about the whole thing, there was no such report.

MR BIZOS: Tell me, I want to ask you are you saying that there was a decision to send out such papers or are you saying that you actually saw such papers distributed to (30) the community, that you saw the actual papers among members

of/.....

of your community? -- There was a decision taken about informing the community in that fashion.

So does that mean that you yourself did not see any such paper? -- That is true. All I know a decision was taken.

Oh I see. But you yourself did not receive such a yes or no paper? -- I received it.

Do you know of anyone else who received it? -- No I did not make enquiries from other people.

Did not your committee ask you how they should vote? As individuals, not as a committee? -- They were satisfied (10) about receiving those circulars.

No did they ask you how they should vote? -- No that we did not discuss.

Did you personally ever raise at the Council meeting or with the officials what was the result of this, you know in order to be guided to come to the correct conclusion yourself as to how to vote? -- It was not necessary for me to do that because there was a closing date for those documents which were circulating as to by when are they to be received back.

COURT: No you do not understand the question of counsel. (20) Counsel says after this closing date did you at any stage raise at the Council the question what was the result of this yes/no vote? -- No I did not enquire about that.

COURT ADJOURNS FOR TEA. COURT RESUMES.

SIMON PHOKOJOE MOFOKENG: d.s.s. (Through Interpreter)

MR BIZOS: We are sorry for the delay My Lord. It was necessitated because of a number of telephone calls that had to be made in relation to the application for bail.

COURT: If we add up all the ten minutes we start late during the course of this trial we may add another two weeks it (30) seems.

MR BIZOS: /.....



MR BIZOS: We will try and avoid it, but these telephone calls were, they are discussions with My Learned Friend Mr Jacobs.

COURT: What is the position now on the bail application?

MR BIZOS: We have been promised to have the affidavits by 15h00 this afternoon or so soon thereafter as they become available and we will make a decision what reply, if any, and the probabilities are that the matter will be ripe for hearing tomorrow we understand.

MNR JACOBS: Ek mag vir die Hof sê ons het natuurlik (10) probleme met tik en al daardie goed. Ons kon nie hier laat tik nie want the tikster hier wat ons gewoonlik help is besig om hersienings te tik toe moet ons nou rond stuur en tik en dan moet die polisie na die plekke toe gaan waar dit getik word om die goed te maak. Maar ons sal sekerlik dit vandag kry. Ek dink die laaste is hulle mee besig.

COURT: Thank you.

FURTHER CROSS-EXAMINATION BY MR BIZOS: Did you fill in your yes or no paper? -- No what happened is this, in my evidence I said that was a decision taken in this meeting that such(20) a document must be prepared and be circulated to the public. Unfortunately the document which was sent out to the community was not in the fashion in which it was discussed as to how it should read, that a person must just sign yes or no. Instead this circular was only informing the people about the decision taken which decision was giving them a certain period during which they should draw a petition, failing which would mean that the decision will be accepted as a resolution and therefore everything will be accepted on face value.

Is the document that you are now referring to the (30) document that we showed you earlier, AAQ(19)? -- No before this/.....

this one.

Before this one. I see. So there was no yes/no document?  
-- No there was none.

Is that what you ascertained during the adjournment? --  
In view of the fact that this happened long ago I here and there  
recollect later some of the things that transpired and as to  
when it was to take place. Therefore that is why I remember  
this now.

You see you remember this yes/no document very well  
before the adjournment. What happened to make you not (10)  
remember about it during the adjournment? Or after the ad-  
journment? -- Nothing in particular happened which made me to  
remember what I have remembered now and forget about that  
document really. In fact what I am saying is this happened  
some time ago and as time goes on while giving evidence there  
are certain things that I still remember or which occur in my  
mind to recall a certain point.

Did you or any other councillor at any stage raise at a  
Council meeting, or elsewhere, that the decision to send out  
some type of document was not carried out and a different (20)  
type of document was sent? -- I did not raise that question.

Or anyone else? -- Not that I heard of.

Well did it come to your notice during July or the  
beginning of August that there was general dissatisfaction by  
the community in relation to the rent increase? -- I only  
came to know about the dissatisfaction after the meeting of  
the 5th which was held.

My Lord if this is a convenient stage, I have an assurance  
that it is the document that was annexed to AAQ(19). Shall  
we just pin it to the document and not call it any other (30)  
number or .....

COURT:/.....

COURT: Yes, I will have it pinned to the document AAQ(19) at the moment has a 2 on top of it. I will number that 1 and then this will be AAQ(19)(2).

MR BIZOS: As Your Lordship pleases.

COURT: And we will pin it together.

MR BIZOS: Thank you My Lord.

COURT: Where is the original? You have given me a copy.

MR BIZOS: We always had only copies My Lord. Well it may be a duplicate original, there may be a duplicate original like the other one, would Your Lordship prefer this one? I (10) think that this is probably the cyclastyled(?) copy.

COURT: Yes, thank you.

MR BIZOS: Now the, what dissatisfaction did you hear about at the meeting of the 5th?

COURT: After the meeting of the 5th?

MR BIZOS: No at, I think he said....

COURT: No he said after, only after the meeting of the 5th.

MR BIZOS: Only after the meeting, I am sorry I thought he said at the meeting. What dissatisfaction did you hear about after the meeting of the 5th? -- Well I saw some papers (20) on which it was written "Asinamale".

Yes. Right. You have been shown that paper? -- Those are the papers we received and some we picked up from the streets.

Are those papers such as were shown to you by the prosecutor during your evidence-in-chief? -- Yes those are the documents.

And insofar as you tried to describe them, to describe their contents and your description is a little different are you satisfied that those were the documents, they were not (30) different documents to those? -- Yes I am satisfied.

Yes/.....

Yes. Now at the meeting of the 5th did you tell the people that a decision was final or that it was provisional? -- At this meeting on the 5th Mr Dhlamini addressed the meeting. He even made mention to the people that if there was any dissatisfaction then the people must come forward and indicate the fact that they were not satisfied.

The question was was it carried across to the people that it was final or provisional? -- A decision was taken before the 29th. When we were at this meeting on the 5th, that is before these documents were sent out to circulate in the (10) community. The witness is referring to EXHIBIT AAQ(19)(1) as marked by the Court.

Listen to the question.

COURT: I think he has difficulty with the terms provisional and final. May I explain it?

MR BIZOS: As Your Lordship pleases.

COURT: Was it put to you by Mr Dhlamini at this meeting on the 5th that this decision which had been taken on the rent would go ahead but that the people could do something about it by complaining or was it stated that we want to hear (20) from you first and then we will decide whether to go ahead or not? -- No, no he did not say that.

MR BIZOS: I will leave it My Lord. Were there complaints by the people that the councillors were not doing their duty properly?

COURT: At the meeting of the 5th or later?

MR BIZOS: At the meeting of the 5th.

COURT: At the meeting of the 5th.-- No there was no such a complaint.

MR BIZOS: Was there any suggestion that a loan would be (30) raised by the Council? -- No there was no such mention there, except/.. ....

except for the question by Mr Mqema who wanted to know if there was no other source from where money could be found in order to meet the demands.

At the Council meetings was there no decision to apply for a loan in order to do the projects? -- No.

At none of the budget meetings that you attended was the question of a loan raised? -- I did not hear that point being raised.

Did anyone to your knowledge during August express his dissatisfaction about the rental by way of petition? (10)

COURT: Any member of the public?

MR BIZOS: Any member of the public. -- No I did not see that.

Did it come to your notice that thousands of people were gathering on the Saturdays and on the Sundays at public mass meetings protesting against the rent? -- I only came to know about that in existence when I saw the notice which was inviting people to attend a meeting on a Sunday at two, that there was such meetings being held. Otherwise prior to that I had no knowledge at all because the kind of job I was doing as a driver I was most of the time going out of town on country(20) and would only be back on Saturdays and by the time I am back home then it will mean I am tired. I have to spend the Sunday indoors. So therefore that is how I missed a lot of the things that were happening.

Yes. Well you did not appear to miss the two pamphlets that were issued? -- Yes I did see them.

Did you get a report as to how many people attended the meeting of the 12th and what they had spoken about? -- I did not come to know as to how many people attended this meeting on the 12th. What the discussion was about in that meeting(30) I knew because of this pamphlet written Asinamale which to me  
was/.....

was an indication that this was a grievance pertaining to rent.

Yes. Well as a public representative did you not take the trouble to discuss it with your fellow councillors, with your party executive committee, with your neighbours? -- My feeling was that people were going to come to me as their leader to come and mention what their grievances are pertaining to this. Then we would discuss it until we come to a solution as to what is to be done.

Did not any one of the people in your ward tell you that on the 12th and on the 19th and on the 25th and the 26th, (10) the 26th, there were between 800 and 1500 people gathered voicing strong objection to the rent? -- I did not hear about that. As I have already explained that most of the time I was not home because of the kind of work I was doing at the time.

So you did not really, do you now agree that you did not have your finger on the pulse of your people at that time? -- In my ward there was no question of a misunderstanding at all.

Do you suggest that none of the people in your ward went to these meetings? -- There are those who attended these (20) meetings but the majority was in good terms with me from that ward.

Well I want to deal with the call on Father Moselane, accused no. 3, to the offices of the Community Council. Do you know that some twenty-four hours notice was given by Mr Ganz to Father Moselane to come and meet Mr Mahlatsi the next day at the offices, do you know about it? -- I do not know about the notice as such being issued but I am aware of the fact that he was invited to the office.

And are you able to admit or deny that he said he could(30) not come the next day and that the matter would have to be arranged/.....

arranged on another date?

COURT: Would have to be arranged later?

MR BIZOS: That a meeting should be arranged later? -- No I was not told about that.

In any event the, are you able to admit or deny that the message was sent on the 20th of August?

ASSESSOR (MR KRÜGEL): Which message?

MR BIZOS: The message inviting Father Moselane. -- I cannot deny that because I do not know for which date was he invited.

May I just correct myself My Lord, it looks as if (10) the message was sent on the 19th for the 20th. -- No I was not informed about that.

But in any event on 23 August 1984 a meeting did take place.

COURT: That is now between Mr Ganz and no. 3 or no. 3 and the Mayor?

MR BIZOS: No, it was made more general. A meeting between councillors and priests took place. -- Yes I was present in that meeting.

And were there approximately fifteen priests and app- (20) roximately ten councillors? -- I did not count.

More or less that way? -- Well they were quite many, that is the priests.

COURT: Are we speaking of clergymen or of priests? In the Anglican Church it is a priest and in the Catholic Church it is a priest but in the reformed churches they are clergymen. Now are we only limiting it to priests?

MR BIZOS: No, no, clergymen My Lord. Who presided at this meeting, do you remember? -- If I still remember well the Mayor is the person who was addressing the priests. (30)

Well who was the Mayor at the time? -- E.C. Mahlatsi  
was/.....

was the Mayor.

Are you sure about that, are you sure that it was the Mayor that presided at this meeting and not the late Mr Dhlamini? -- No, Mahlatsi himself was the speaker there.

Do you know whether or not there had been a previous meeting of councillors and clergymen? -- No, I do not know of a meeting.

Do you know whether a meeting had been called for the 16th? -- Now I do not understand, what kind of a meeting are you talking about on the 16th? (10)

Between clergymen and councillors. -- Yes there was a meeting called between the clergymen and the council.

Were you just at one meeting or at more than one meeting? -- I was present at one meeting only.

Well if you say that Mr Mahlatsi presided are you sure that you were at the meeting of the 16th or the 23rd? -- If I were to pin myself down on dates I am not in a position to tell the Court what date it was, but what I am going to tell the Court is I am referring to the meeting which was held in Sharpeville one evening, that is the meeting I am saying (20) was chaired by Mahlatsi.

Well I am going to put to you that at the meeting at which Father Moselane, accused no. 3, was the following happened:

COURT: Just a moment. Do you know whether accused no. 3 was at the meeting at which you were? -- Yes he was sitting next to the Roman Catholic Church priest.

MR BIZOS: What I am putting My Lord is that we were not at the meeting of the 16th but were at the meeting of the 23rd at which Mr Dhlamini presided. (30)

COURT: Did he sit next to the Roman Catholic priest?

MR BIZOS:/.....



MR BIZOS: That is new and I have no ....

COURT: Well you could always get instructions so we know what we are talking about.

MR BIZOS: Yes, there can be no doubt, accused no. 3 was only at one meeting. -- No the meeting I attended where this accused was present was chaired by Mahlatsi and not Dhlamini.

In relation to the detail that he was sitting next to the FATHER of the Catholic Church you are right, he says yes he was sitting next to him. Alright. Do you recall that the, we will call him the Chairman of the meeting to avoid (10) confusion. Do you recall that the Chairman of the meeting said that the Council had invited the clergy in the hope of fostering a working relationship with the churches? -- Yes that is what he said.

Yes. And in order to, did he say that the Council in order to show its good will to the clergymen was handing out invitations to a performance of a choir which was visiting South Africa from overseas? -- No that one I did not hear.

You did not? -- No I did not hear that one.

You see, and even this gesture was not a very good (20) start. Do you recall one or other of the clergymen asking who is paying the expenses of this choir to come here from overseas? -- I did not hear that one, it may be that my hearing was not good at that stage. That that was said, therefore I did not hear that.

You are not able to deny that that happened? -- What I am saying it is possible that this was said, the only thing is that I did not hear that being mentioned at that meeting that day.

And the answer was given that it was partly the Council (30) and partly a source that did not want to be disclosed? --

No/... .

No not that day, I did not hear a choir being mentioned or being discussed.

Do you recall whether there were pressmen outside wanting to come into the meeting between the councillors and the clergymen? -- They were inside where this meeting was held and they were told to go out.

Was there agreement about that between the clergy on the one hand and the councillors on the other? -- No no questions were asked whether there was an agreement or not.

But do you not recall one or other of the clergymen, (10) and more particularly accused no. 3, saying that there should be no secrets from the community and what had to be discussed the community must know about? -- I remember him saying that. That is what he said in fact.

And was he supported by the other clergymen who wanted the people of the press to hear what was being discussed? -- I did not hear the others supporting him orally. What I heard being said was by himself, that is accused no. 3, that these people should not go out, meaning the press people.

In what context did he say it other than the one that (20) I am suggesting to you?

COURT: Yes he says he said it in the context that the press should not go out.

MR BIZOS: No but did he, oh I am sorry My Lord. Did he give any reason as to why the press should not go out? -- Exactly as it was put by the defence that his reason was there are no secrets to be kept from the public, this is a public matter therefore the public must know about it.

My Lord may I indicate that I have a note which seems to suggest that I got some of the dates that I gave Your Lord- (30) ship wrong but I will clear it up during the lunch hour, and  
not/.....

no worry about it, just carry on with what happened at the meeting where the witness apparently was. Now was there an agenda? -- No I did not have any agenda.

Yes. Well did not one or other of the clergymen say you have issued a document inviting all clergymen here, what is the agenda, what is it that we have to discuss? -- I did not hear that being asked from the clergymen.

Do you recall any dissatisfaction from any clergyman saying well you may have things to discuss, we may have things to discuss, can we please draw up some sort of agenda, what(10) we are going to discuss? -- No that I did not hear either.

Is it possible that it was said but you did not hear it or you have forgotten about it because of the passage of time? -- No I have not forgotten about it, I did not hear that being mentioned, not at all.

Do you then recall that the Chairman made a speech? In which he said that the Council was dissatisfied with the church's involvement in politics? -- That is exactly what was discussed there.

Yes. And he said that the Council will concern it- (20) self with civic matters and political issues in the township and the church, and that the church and its clergymen must confine themselves to the spiritual needs of the people? -- No that I did not hear being mentioned by the person.

Do you not remember Mr Dhlamini saying that politics is our business, it is not your business?

COURT: Let us just leave Mr Dhlamini out of it.

MR BIZOS: The Chairman, I am sorry. Do you not recall the Chairman saying politics is our business not your business.

-- No I did not hear him saying that. (30)

Well did you hear him say that there was information  
that/.....

that meetings were being held in the churches at which people were protesting against the rent increase. -- I heard him saying that.

And did he say that the churches should not be used for that purpose? -- Yes that is what he said, that politics are not to be discussed in churches or church buildings are not to be used for politics.

Yes. And did he say that if the church buildings were used to discuss politics the leasehold rights that the churches had over this property would be cancelled? -- No. That was (10) not said.

Well what did the Chairman say? Did he just express his dissatisfaction? Did he not say what would happen if the will of the Council was not heeded? -- No this day in question I am referring to, that is when Mahlatsi was addressing the meeting with the clergymen it was in fact that the Council was canvassing for peace between the clergymen and the Council to an extent that he even invited them to say let us work together. If there is anything on which you people are not satisfied or not clear about the doors are open at any (20) time for discussions.

Yes. Did not the Chairman say what would happen if the clergymen did not heed the wishes of the Council? -- No he did not.

Now do you recall whether Father Moselane responded to the speech of the Chairman of the meeting? -- Yes he did respond to that by taking the floor and have something to say.

Do you recall that Father Moselane said that his views as to what the function of a clergyman in the community was was quite different. -- No I did not hear that one. (30)

Did you hear him say that whatever the Chairman may  
have/.....

have meant by politics he as a priest regarded the quality or lack of quality of life of his congregation and the people as a whole as a matter which concerned him? -- Whether this was in reply to the question of this man having said politics must be left to them or not I am not in a position to tell the Court except to say I heard him saying that whenever there is anything dissatisfaction in his congregation or the community where he feels he can be of assistance he will always take part in assisting in whatever way he can.

Yes. Do you recall whether the Methodist Church (10) was used in November 1983 for elections to the Council?

COURT: Which church building?

MR BIZOS: Methodist.

COURT: Where?

MR BIZOS: Bophelong. -- No I do not know about that.

Well do you not recall Father Moselane saying that when it suited the Council to have an election at the Methodist Church, using church property for political purposes was fine? But when it was used to protest the increase of rents then the Council disapproved of it and wanted to stop it? -- No that (20) I did not hear.

Did you hear him say that churches generally, and his church in particular, concerned themselves with the plight of the poor? -- Yes I quite agree with that, those are his words.

And that if his congregation and other people wanted to gather in his church in order to discuss the increase in rent he would allow it to happen whether it pleased the Council or not? -- That I did not hear but what I can mention which was very important to me was we were happy that he came forward and that he was of assistance to the poor (30) people and he in fact took the trouble of assisting in all

respects/.....

respects to those people.

Do you recall whether other clergymen spoke? -- Yes they did.

And generally speaking did they hold the same view as that of Father Moselane? -- No they were in support of what was being alleged by the Council, that no political meetings are to be held in the church buildings.

All the other clergymen were of that view? -- There we had priests from the Zion churches who in fact were saying are happy to have met with the Council this day in order to (10) air their grievances, namely for instance that they have been long trying to find sites to put up their church's structures on the sites and they have been waiting for quite a long time but now that they have met the council they are happy, except for those who had earlier, who I mentioned earlier, who remarked about the question of meetings being held in church buildings.

Well if we leave out the Church of Zion on this question as to whether churches should be used or not do you agree that there was general agreement by the other clergymen? (20) -- I do not know what their view was, whether they were in support of what accused no. 3 had said or not, except for one person who in fact took the floor, that is Reverend Molevatsi who was supporting the Council in what the Council was alleging. The others were just quiet. Therefore I am not in a position to tell what their view was of the whole thing.

Well I am going to put to you that there was general agreement with accused no. 3's view and the net result was that there was a threat that the leases would be cancelled?

-- No that I did not hear. (30)

You/....

You did not hear it. But despite that do you agree that the meeting finished up with the Chairman asking Father Moselane to give the final prayer and benediction over the meeting? -- Yes it was closed by a Minister.

COURT: Which one? -- Moselane.

MR BIZOS: Yes. Can you remember, besides yourself and the Chairman, which other councillors were present? -- Dhlamini was present, Paul Mahlatsi, E.S. Mofokeng, Sekobane.

Anyone else that you can remember? -- We were more than that, I cannot remember who the others were. (10)

Do you know Mr Mokheme? M-o-k-h-e-m-e? -- Yes I do.

Is he a well known person in Council circles? -- Yes.

And he has identified himself regularly with the Council? -- Yes because he was once a councillor before.

Himself, yes. Did you know that he regularly attended the meetings held at the Anglican Church in Sharpeville?

ASSESSOR (MR KRÜGEL): The church meetings or the meetings of the ....

MR BIZOS: The meetings held at the church.

COURT: The political meetings, not the religious meetings?(20)

MR BIZOS: The political meetings held at the church? -- No I do not know whether he attended those.

Now leaving aside what you might say was said at this meeting of councillors and clergymen in fact do you know of any community hall under the jurisdiction of the Council having been made available for a political or trade union meeting? -- Yes in most cases they used the one in the vicinity of the office.

Now which meeting, which political meeting do you say took place in that hall? -- I was not referring to political meetings, I was referring to the trade unions holding meetings/..... (30)

meetings.

Which trade union? -- I am not quite certain of the full name of this but it was known to me as EMSA.

When did that meeting take place? -- During the year 1984 meetings were held there, in fact they used to hold parties as well.

COURT: Now these offices are these the offices at Houtkop? -- No in Sharpeville there is a small size of a hall there.

What is the name of that hall? -- I am not sure of the name it is just referred to as a small size of the hall (10) because there is a bigger one in another area.

MR BIZOS: Just repeat the name.

COURT: Small size of a hall.

MR BIZOS: No, no, the name of the trade union My Lord. -- I am not saying this is the name of the trade union. I am saying the trade union which used to be there had to do with EMSA.

Are you sure that you are not referring to the hall being hired to the Electrical Manufacturers of South Africa, which is a firm which may have given a party for its employees? I am corrected, it is Electrode Manufacturers of South (20) Africa. Except for this EMSA can you give us any other political organisation or trade union organisation that used the community halls? -- No nobody approached me about that, that is in request to make use of that hall. This day in question I am talking about that is the day which I say this hall was used by a trade union I only heard from somebody who was telling me that the people busy in that hall are the people from a trade union.

C153

Is that the firm EMSA where Mr Mokoena, Piet Mokoena, was a public relations officer? -- Yes he was employed there. (30)

And is that the meeting that you are referring to? --

That/.....



That I heard about which was being held there.

Well I am going to put to you what the evidence has been up to now is that the Council would not allow people to use halls for political meetings and generally not for trade union meetings. -- I do not know about that, even at a meeting or meetings that I attended I have never heard that being mentioned that the trade unions are not allowed to use the community halls.

COURT: Let us just get away from trade unions, other public meetings of a political nature? -- There was never a talk (10) about people who were not to be permitted to make use of the hall.

MR BIZOS: I am going to put to you that that was the general policy and that except on two occasions in 1983 when two trade union were actually allowed to have their meetings in a community hall there was a general refusal, excuses, refusal? -- No there is never every any time where I supported that kind of a decision that trade unions are not to be allowed to hold meetings in any of the communal halls.

What do you say to His Lordship's question about (20) political meetings, never mind trade unions? -- I am being clear on that as well that there is nowhere where I supported a suggestion or decision being taken about refusal to political or trade unions meetings being held in any of the halls.

Where did you get the idea from that you could not go to the meetings at St Cyprian's? -- What is St Cyprian's?

I am sorry, the Anglican Church at Sharpeville? -- As I have already explained that there was already a talk that I should not go there, I dare not go there because I will be injured, I then did not go there. (30)

When did you hear that? -- You know you can hear while  
people/.....

people are talking to one another, to themselves there around even at work, just you know in passing you hear people making mention of things.

Was it before or after you attended the meeting with Father Moselane? -- I only came to hear about this after the 5th. Prior to that there were no such talks, meaning even during the meetings which we had with the clergymen there was not such a talk either which I knew about.

Yes but the meeting with Father Moselane was after the 5th and after meetings had been held at his church? -- (10)  
That is my evidence that prior to the meeting with the clergymen by the Council there were no such talks.

But there had been meetings at the church advertised? -- Talks which frightened me were only made mention of after the 5th. It was then for the first time I came to know about some talks which were a threat to me.

COURT: Was it between the 5th and the meeting with the clergymen or was it after the meeting with the clergymen? -- From the 5th up until the 3rd, during that period, I came to be aware of these talks which were threatening to me. (20)

MR BIZOS: What I am going to put to you is that if there had been any such talk, if there had been any such talk, either before the 16th or before the 23rd, whenever the meeting with the clergymen might have been that you attended did any councillor ask Father Moselane at the meeting but why, you invite everybody there, why can we not come and listen? -- No I did not ask him.

Alright, let me just ask you one question going back to the question of the meetings in halls, in community halls. Your party, the Bafutasana party, did it have many of its (30) meetings in tents during the election? -- Only once we had a tent/.....

tent to use for a meeting in Zone 3. Otherwise prior to that we did not make use of any tent.

Or any hall? -- It was difficult for us to acquire the services of the hall.

Why, you were a party with almost 39 candidates, why was it difficult to get a hall? -- During that period it was very difficult because we were getting letters or notes informing us from the Development Board that no meetings are to be held in the community halls.

But what about your opposing parties, did they not have (10) meetings in the community halls? -- Well I was not aware of their meetings being held.

Do I understand your evidence correctly that your party made applications to the Development Board for the community halls to be used for your electoral campaign and permission was never granted? -- Yes permission was refused for quite a long time.

It was never granted? -- It was never granted until the day of the elections when the halls were opened to be used for the elections. (20)

As polling booths? -- Yes.

COURT: Did anybody else get the hall for use for political purposes before that election? -- No.

MR BIZOS: On the 5th of August do you know whether everybody held meetings in all the wards or do you not know? -- The resolution was that meetings are to be held at different wards.

Do you know whether they were in fact held? -- Yes meetings were held.

In all the wards? -- Except Bophelong. (30)

How do you know that one was not held at Bophelong?

-- From/.....

-- From hearsay, I heard about that.

From whom, just anybody or the councillors of Bophelong?

-- From the people of Bophelong.

COURT: Did you not hear it in the Council itself? -- No I did not ask them.

MR BIZOS: Was there any special reason why the meeting of the 29th was arranged to take place at Bophelong? -- To me I just told myself well it is possibly because of what I heard from those people who were saying that no meeting was held on the 5th, therefore that is why a meeting is to be held on the (10) 29th.

I see yes. But now that was not your constituency? -- No not mine.

And what was the reason given to you as to why you should go some ten kilometres away from your constituency to go and address or attend a meeting of the people of Bophelong? -- What I came to know was the day before the meeting of the 29th there was a meeting held by the community of Bophelong where they wanted their councillors to be present and the councillors were not present as a result of which then the (20) councillors the following day announced that a meeting was going to be held that day, meaning the following day, at 17h00 and therefore it was made known to the people, that is the community, that they should attend that meeting and we were then invited to accompany them to this particular meeting, that was the reason given to me.

Did you ask but if the people of Bophelong want to speak to their councillors what do you want me there for? -- No I did not ask that.

Well were you approached individually or were you (30) gathered together in council when you were asked to attend the/. ...

the meeting of Bophelong on the 29th?-- I was alone where I was when being approached by Mokoena and requesting me to accompany him to his meeting which was being held there, namely the meeting of the 29th.

How many councillors in all turned up for the meeting of the 29th? -- I do not know in number what to say how many were they.

Would you say twenty or more? -- I do not know because while I was outside there there were other few councillors with me where I was watching my car. (10)

But surely you did not go to this meeting for the purposes of watching your car? -- I did not go inside the hall, I was outside at my car.

Yes. No but when you were approached what was the purpose of your presence, what was the reason for it? -- I did not ask for a reason as to why he requested me to be present at this meeting. It was just as usually mentioned to me by him that I will be at such and such a place holding a meeting. Are you going to be there. I said well if that be the case yes I will see to it that I am there. (20)

When were you approached, was it on the same day of the meeting? -- That same day of the meeting I was approached by him on my way passing a place called Veekor, driving in a truck to my place of employment.

Now at what time would you say that you arrived at this hall on the 29th? -- It was quite late because people were already in the hall. It was just beginning to be dark or dusk when I arrived there from work.

Before taking that up I want to put to you, in relation to the use of these halls that the so-called Lekoa Peoples (30) Party of Mr Esau Mahlatsi actually used the halls in Zone

14 and in Residencia. -- I am not quite certain whether that happened during the time of the Council or that happened during the time of the elections or just prior to the elections. I am not certain of that.

I am going to put to you that it was prior to the elections as an election meeting. -- We did not attend his meetings during that period.

And for the sake of completeness like yourselves the Mahlasedi Party, M-a-h-l-a-s-e-d-i, was also refused permission to use the halls. -- Yes we were being refused (10) permission to use the hall, that is my party and the Mahlasedi Party.

COURT ADJOURNS UNTIL 14h00.

COURT RESUMES AT 14h00.

SIMON PHOKOJOE MOFOKENG: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Let us please try and speed it up by listening to the question and trying to give a direct answer. If I were to suggest to you that the meeting of the 29th was really a meeting at which the councillors as a body wanted to show their strength, their strength and the strength of the police what do you say about that? -- No that is not what I understood it to be.

And that it was probably arranged as a result of the (10) numerous reports of the well attended meetings of protest during August? That the meeting of the 29th was a response to the well attended meetings? -- Which is this meeting you are talking about of the 29th?

The one where you were looking after your car? -- No that was not discussed.

Yes. And although you told His Lordship about that you could not see how many policemen there were there was there a heavy presence of policemen, numerous policemen in different types of vehicles? -- I met the police on their way in. From(20) the look of things it was as if some people summoned the police.

Even before you got to the meeting?

COURT: No, no, when they were coming in. Not when he was coming in. On their way in. Not my way in their way in.

MR BIZOS: Well let me put it this way were you still going to the meeting when you saw the police going to the meeting? -- No when I came there there was no policemen.

At all? -- I did not see a policeman at all.

Either at the door or in the vicinity or anywhere? -- No I did not see a policeman there. (30)

No teargas, no, the police did not make their presence felt/.....

felt at all before you went away? -- I did not see them doing anything to make people aware of their presence.

At the time that the lights went off did you not see any policemen or call to policemen or reaction as a result of anything done by the police? -- No I did not because I was busy getting away from the scene when I noticed that.

You cannot tell us how long the meeting went on inside? -- No.

Or for how long it lasted? -- When I came there it was late. (10)

Oh you came late for that meeting as well? -- Yes, there was already a lot of people there, that was why I had to stand outside.

COURT: Was the meeting, had the meeting already started or was the hall just full but the meeting had not started? -- The meeting had started already because when I enquired whether the people were there I was told yes they were there, the meeting has started and I remained outside.

MR BIZOS: For how long did you remain outside before the lights went off? -- It was not long. (20)

Well fifteen minutes, half an hour? -- Oh no I did not check on the time as to what time it was.

Yes. You see I am going to put to you that the two meetings that are known of, that is 5 August and 29 August, the councillors had come to the meetings with an accomplished fact, do you agree with that? -- Accomplished fact on what?

On the increase of the rents? -- If my memory serves me well the resolution was already out by then.

Yes. And the people at the meeting of the 5th at any rate, that you should know about, pertinent questions were (30) asked as to why the accomplished fact was announced before  
any/.....



any proper consultation? -- That is exactly what I am saying. Which thing I heard from the people of Bophelong. Those who are employed at the same place where I am employed, when they were saying they were not told about anything pertaining to these increased rents.

COURT: Counsel is actually speaking about the meeting of the 5th and not the last meeting. -- I think I was answering on that that people questioned this that why do these people come with a fact which was already decided upon without having consulted them. (10)

MR BIZOS: Are you saying that that was said at the meeting of the 5th or are you still confining yourself to what you heard at your place of work? -- This reply to the question is what I heard from my place of employment, from the people of Bophelong, that on the 5th they were not told what was happening and in fact no meeting was held or a discussion with them pertaining to the rent.

I am sorry that in trying to take a short cut I confused the issue even more in your mind. At the meeting, your meeting of the 5th, at your meeting of the 5th. (20)

COURT: In your ward.

MR BIZOS: In your ward. Did the people at that meeting say why do you come to us with an accomplished fact? -- On the 5th all the wards were brought together in that particular meeting and to me no such question was asked.

Was any such question asked at the meeting? Not of you but generally, at the Sharpeville meeting of the 5th? -- No there was no such a question.

Would it be correct to say that the meeting of the 5th was a short meeting? At Sharpeville? -- No it was not a short meeting, it was a long one. (30)

Did/....

Did some people walk about because they were not satisfied with the manner in which the questions were being dealt with?

-- No I do not know. I cannot say whether people were leaving because of that kind of a treatment but I did see people leaving the meeting as if they were going to toilets.

Yes well we do not worry about that.

COURT: We have had that in court as well.

MR BIZOS: What about these twenty people of your fellow councillor who resigned in protest? Were they at the meeting? Were any of them at the meeting? Of the 5th? -- Do you mean(10) the meeting which was held in Sharpeville?

Yes. -- But nobody had resigned in Sharpeville.

Oh was that from another place, the twenty ...

COURT: No, no, you yourself put it to the witness that your report only dates from 21 August, of the resignation.

MR BIZOS: Of the resignation.

COURT: So it is improbable that they had already resigned on the 5th.

MR BIZOS: No I accept that, but that was not the intention of the question. I may have expressed myself, were the (20) people that eventually resigned from Sharpeville? -- Who, people?

No not councillors, the twenty people on the committee of one of the councillors?

COURT: No but did twenty people resign? We have not had that. We have had that some people resigned from the committee.

MR BIZOS: I thought it was twenty My Lord.

COURT: No you never put twenty and he did not agree to twenty. Some people resigned from the committee of a councillor.

MR BIZOS: Do you remember that you told us that some people(30) resigned from the committee of a councillor in protest? -- In

reply/.....

reply to a question I said I came to know about some people who had resigned in Mr Mokati's(?) ward.

Is he from Sharpeville? -- Yes.

Now were none of those people at the meeting of the 5th?

-- I did not see them.

Well do you recall how many people resigned? -- No I do not know.

So you say if there were resignations later that month of politically involved people in Council politics they did not feel strongly enough to turn up to the meeting of the (10) 5th?

MNR HANEKOM: Edele, ek dink nie die getuie kan op daardie vraag antwoord nie.

COURT: In any event the possibility is that by the 5th they had not changed their minds yet.

MR BIZOS: Yes.

COURT: They only changed on the 21st. Why debate it?

MR BIZOS: As Your Lordship pleases. I am going to put to you that at the meeting of the 5th public disapproval was (20) expressed both of the councillors and of the proposed increase? -- Well I did not hear about that.

You did not hear about it. Alright. Now tell me were there two candidates for the position of Mayor, at the end of 1983? -- When, in 1983?

After the election? 1983 or beginning of 1984, were there two candidates? -- Well within the Council there was a friction about a certain position.

The Mayor's position? -- Yes that is before any Mayor has taken that portfolio. (30)

Yes. Now who were the two pretenders or candidates for this/.....

this position? -- If I remember well Piet Mokoena and Ananias Sekobane.

What about Mr Mahlatsi, was he not a candidate? -- He was also a candidate.

And Mr Majela? -- No he declined.

He declined. Very well.

ASSESSOR (MR KRÜGEL): That surname please? -- Şekobane.

MR BIZOS: Now your party, did it decide to throw its weight behind any particular person? -- Yes we were in the background to assist Mokoena. (10)

All of you or only some of you? -- All of us, the eight.

Did you have any discussions with Mr Mahlatsi before the vote? -- No.

COURT: Are we interested in the internal politics of the Council?

MR BIZOS: Well it goes a bit further My Lord. I am not asking you whether it is true or false but merely what the people's perception was. Was the people's perception that despite election promises Mr Mahlatsi had promised favours to certain councillors in order to become Mayor? -- I do (20) not know because he might have known that we will not agree with that.

COURT: No that is not the question. The question is whether the people in general thought that Mahlatsi, having made promises during his election that he would not do that, promised favours to certain councillors to become a Mayor, be Mayor? -- No that I do not know.

MR BIZOS: How many of the newly elected councillors in November 1983 changed their occupations after their election? Well let me put it more directly. How many of them went into (30) business that were not in business before? -- Piet Mokoena

is/.....

is one of them. I do not know whether there is another one who has left employment now.

Well we will get other figures from people who know. Would you agree that during August 1984 the public image of the council and the councillors was very poor? -- I would not say so because I was in good terms with my people in the ward.

Was it an accident that on such an important matter such as the budget there was not one dissenting vote? -- As I have already said during the meetings of the budget each and every councillor would come with his problems and difficulties (10) which were to be taken into consideration for a project for that particular ward.

Let me put it to you more directly. Was not the public perception created that despite your differences before the election you somehow patched them up and became chummy friends co-operating with each other on the council after your election? -- That is what we were saying.

I see yes. And did Mr Mahlatsi's efforts at reconciliation contribute to this general chumminess? -- No he did not do that. (20)

Tell me would you agree that the Mathlatsi family is a rich family? -- Yes they do have money.

Yes, lots of shops and lots of motor cars? -- I do not know about motor cars but what I know is they do have money.

They do have money. You were elected as a representative of the poor? -- Yes.

Was there any one occasion on which you voted against any proposal made by Mr Mahlatsi's party, Mr Mahlatsi's group, in the Council? -- No not during this period that we were there, that we had something to do was there an occasion where we (30) had to oppose one another.

COURT:/....

COURT: Was there a period that you were there that you did not have anything to do? -- What was important there was to bring in order what the people required in the township.

Yes I did not entirely understand your previous answer. I understand that the Council functioned before 3 September 1984. Was there a period after 3 September 1984 that the Council did not function? -- No. There is no such a time or period.

MR BIZOS: Let me give you an example of what I mean. Trading licences are a very very valuable asset in a township are (10) they not? -- That is so.

I take it that you were not on the trading committee? -- No I am not included there.

But do the, did the recommendations of the trade committee have to come to the full Council? -- I have never seen them.

Never seen them. Did you or any of your fellow councillors ever raise at the Council meeting the question that too many licences are being issued to councillors and their extended family and not enough to ordinary people? -- The only person who acquired some business while I was in the Council (20) is Piet Mokoena, that is his acquiring a bottlestore.

Were there no other licences ... -- And a beer hall.

Were there no licences granted during January 1984 to August 1984? -- Not that I know of. I will tell you what the procedure is. The trading licences committee does their own thing one side which has got nothing to do with the Council itself, that is the functions of the Council in full swing. Therefore I have no idea what is happening that side or whether licences are being issued or not.

Were you never informed that the trading committee is (30) merely a sub-committee of the Council and the Council can  
override/.. ..

override its decisions? -- I have not yet come across such a regulation or where it is explained.

I see. In your election campaign did you and your fellow party candidates accuse the Council of corruption?

COURT: The Council or the councillors?

MR BIZOS: Councillors, I am sorry My Lord. -- That is so.

Did you believe that to be true? -- Yes, that is why we wanted to see ourselves in the Council in order to verify whether this was true or not.

What corruption did you accuse the councillors of that(10) you believed to be true? -- Because of the people who were alleging that councillors got themselves shops through corruption and acquired some businesses and houses through corruption and therefore we wanted to ascertain that while being in the Council.

What other corruption did you accuse them of? -- These are the only ones I know about which were being made, mentioned by the community.

What about allowing policemen to go and lock up peoples houses who were in arrear with their rents? (20)

COURT: Is that corruption or is it maladministration?

MR BIZOS: Alright, did you accuse them of any other maladministration or other sins? -- I do not follow that question.

Alright, let me give you the examples. Did you accuse them of allowing houses to be locked up when people were in arrear with the rent? -- Since I was elected in my ward no house was locked for that.

COURT: No, no. Councillor he is not asking you that. Counsel is asking in your election campaign in November 1983 did you accuse councillors of allowing peoples houses to be locked (30) up for arrear rental? -- Yes we used to see that and we

applied/.....

applied that as well.

MR BIZOS: You applied that as well. And then also if somebody was in arrears and he was ejected that the new tenant had to pay the arrears? -- Yes we used that as well.

Even whilst you were a councillor? -- No not at the present moment while I am a councillor. There is no house which is being locked.

Oh I see, I beg your pardon. You say, when you say "we used that as well" you mean in the election campaign or whilst you were a councillor? I am not clear. (10)

COURT: It was ammunition.

MR BIZOS: Ammunition. -- Yes that is, those were the words we were using in canvassing for the votes.

Did you believe them to be true? -- That is why I said earlier that I had to be inside and see from inside, because I believed it but I wanted to ascertain certain things.

Well the audience that you were speaking to would have known whether it is true or not from its own experience, would it not? -- Yes.

Now did you feel that the councillors, that is at the (20) time that you were campaigning, that the past councillors were arrogant and did not properly consult the people? -- That was my view.

Yes. Was Mr Dhlamini a councillor before you were elected? -- Yes.

Was Mr Khodisang(?) a councillor before you were elected? -- Yes.

Was Miss Sekobane a councillor before you were elected? -- Yes she was

And was Mr Mokati a councillor before you were elected? (30) -- Who is that, I do not know Mokati.

M-o-k-a-t-i/. ...



M-o-k-a-t-i, was he a councillor? -- Mokati was never a Community Council member. The people referred to just now were former members of the Community Council.

And also councillors in the new Council, except for Mokati? -- No Mokati is also a councillor.

Yes. Were the other, the four persons whose names I read, were they councillors in the old Council? -- Yes.

And are these the people that you accused, believing it to be true, of autocratic power, behaving in an autocratic fashion? -- Yes. (10)

Now did your view of them change after you were elected? -- Where, in the Council?

In the Council, out of the Council, generally as a view of someone else. You thought that they were autocratic and they did not, they are not proper public representatives. Did your view of them change after you were elected? -- Well at the table I discovered that what is being discussed there satisfies me.

Well when, did you appear with these four persons at the meeting of the 5th? -- Yes. (20)

Let me read to you what I suggest to you some of them said at that meeting. Do you remember Khotasang saying the following: "Let us tell it to them straight out. We, the councillors are responsible for the rent increase." Do you recall that? -- I did not, I am confusing the positions now. I do not know whether to call him a speaker or a chairman of that meeting but I did not hear him saying those words in that position where he was, whether he was a speaker or a chairman.

Well do you remember him saying something like that? -- No I cannot remember. (30)

Are you not able to deny that that is what he said? --

He/.....

He may have said it but I missed to hear that, I do not know.

Yes. And he went on "It is not the Administration Board, it is us"? Do you recall that? -- No I do not recall him saying that.

You are not able to deny that he said it? -- It can be that he said it but I did not hear Khodesang uttering those words.

"We have been given new powers, we are now the people that make the decisions"? -- No I did not hear him saying that.

COURT: Did you hear him speak? -- I heard him giving (10)  
Dhlamini the opportunity of addressing the audience and then thereafter he spoke when he was closing the meeting.

So was he the Chairman? -- He maybe was a Chairman because at some stage while seated there at some distance he gave Dhlamini, who was also a distance far from him, some opportunity to address the audience.

MR BIZOS: Anyway let us just see if I can get you to remember some of the things he said. "We should tell them the truth and the people can do what they want to do"? Do you recall that? -- Yes, yes at the end of the whole thing. That is (20)  
when he was summing up in order to close the meeting.

Yes. And he closed, you say that he closed the meeting. Is he a person who finishes up whenever he speaks with the exclamation "Praise the Lord"? -- Yes.

COURT: To put on record counsel lifted both his hands.

MR BIZOS: Was not that in response to the unfriendly reception by the people of the rent increase? -- No he was just indicating that everything was done in peace and therefore we were leaving in peace.

But what was the reference to the people doing whatever (30)  
they wanted to do? -- That in my understanding was that let  
the/.....

the people, that is the community, be given the opportunity of doing whatever they wish must be done for them, for instance by bringing forward their complaints when they want lights or any other improvement, let it be done in that fashion. And it must be brought to the notice of the people.

Now I want to give you the last words of Mr Dhlamini when he spoke. Did he say either "I" or "We now have all the powers to tie and untie"? -- That I do not understand now what is he tying up.

Yes. Well I have an instruction in brackets which (10) means to either increase or decrease the rent as we think fit, in the context.

ASSESSOR (MR KRÜGEL): If this man is taken to say "Praise the Lord" at the end of his speech would that not be a Biblical expression that he uses, to tie, the power to tie and untie?

MR BIZOS: It is another speaker, first of all it is a Mr Dhlamini My Lord.

ASSESSOR (MR KRÜGEL): Oh, I am sorry.

MR BIZOS: But it may well be that ....

ASSESSOR (MR KRÜGEL): The power to tie and untie, it (20) sounds very Biblical.

MR BIZOS: I have not come across it but then of course I do not purport to, yes. Do you not remember Mr Dhlamini saying "Now they have the power to tie and untie"? -- I remember those words, he uttered those words.

He uttered those words. Now I want you to, put to you the context in which he used those words. -- Somebody in the audience before Mr Khodesang and Mr Dhlamini spoke suggested that you councillors there on the platform are puppets and their response was "No we are the people who take the (30) decisions." -- No I did not hear those words being uttered

in/.....

in that meeting, that is puppets being used there.

Or doing the bidding of the Administration Board? -- No no such words were uttered in this meeting.

Well do you recall Mr Dhlamini, before speaking about tying and untying, that it was the policy to uplift the township or the townships and sooner or later people must not be surprised if the rent goes up even to R100 per month? -- I heard this word being uttered that the standard of the township will have to be lifted and now the question of R100 per month for rentals, that I did not hear. (10)

You see I am going to put to you that these words were uttered and there were gasps in the audience. -- No I did not hear those words being uttered and when we left there it was in peace. Nobody looked shocked.

Do you recall whether Sekobane said the following: "Our husbands and sons end up in the beer halls"? -- No I did not hear Sekobane saying that.

And that there should not be complaints about the increase? -- No I did not hear that.

COURT: Sorry we missed something, there should not be (20) complaints about the?

MR BIZOS: The rent because our husbands and sons spend the money in the beer halls. -- No I did not hear that one.

COURT: When you talk about the standard of the township will have to be uplifted what exactly was meant by that? -- To add a building structure on the existing building of the clinic and to tar a certain street and the installation of the high mast lights.

MR BIZOS: Now do you recall that it was the turn of Mokati to speak? -- Yes I do. (30)

Do you recall whether Mr Mokati got an opportunity to  
speak/... ..

Speak? -- Mokati did not get the opportunity of addressing there.

Yes, let me remind you why not. You recall that a woman from Pelindaba stood up? -- Yes.

And saying to Mokati "Hey Mokati you have got no right to come and speak here"? -- Yes.

You sold my granddaughter's house? -- Yes.

And that there was general support from the meeting for this woman's point of view that she should not, that Mokati should not speak? -- No no such words were uttered.

COURT: Just a moment now. What was not uttered? -- That (10) the people stood up and supported this allegation by this woman about Mokati, that Mokati must not talk or address the meeting.

Yes but why did Mokati not speak in the end? -- Because this woman was in a fighting mood.

MR BIZOS: My Lord may I correct myself, I read without my glasses, it is not granddaughter's it is grandmother's house.

COURT: Well put it to the witness again.

MR BIZOS: That the accusation was that her grandmother's house had been sold by Mokati. -- Well I am not sure of the facts (20) there My Lord. All I know was this woman was accusing Mokati for having sold a house which had to do with this woman.

COURT: But I do not understand it. How could Mokati sell somebody else's house? -- Nor did I understand that, as to what was the argument about.

MR BIZOS: Well you would have had no difficulty in understanding it whilst you were campaigning for election? Let me explain to you what happens and you tell us whether this is not what you were saying in your election campaign? If somebody is in arrear and it does not matter if they have been in the (30) house for twenty years and have made improvements the house

is/.....

is repossessed and the councillor, as a go between, sees to it that the house is allocated to someone else? With a strong suspicion that money passes to the councillor? That is what was meant by "selling my grandmother's house". -- Are you saying that I am the one who said that?

No what I am saying is that you would have said in your election campaign that the councillors are selling grandmother's houses to others for their own benefit. -- Yes that is what they were doing.

Yes.

(10)

COURT: Very well, now I understand what was meant. How long are you going to be Mr Bizos?

MR BIZOS: I still have to cover the events of the 3rd.

COURT: I have some difficulty, you see tomorrow it seems we will be busy with something else. I do not want this witness to sit around here waiting.

MR BIZOS: I can try and finish, if Your Lordship gives me...

COURT: Before midnight?

MR BIZOS: No I will try and finish by not later than half past, I will try and finish before that

(20)

COURT: Yes Mr Bizos.

MR BIZOS: Now do you agree that as a result of this woman speaking in this way Mokati did not have an opportunity to speak?

MNR JACOBS: Edele mag ek net vir die Hof met vergunning net iets vra. Sal ons Vrydag moet reël vir getuies, die getuie byvoorbeeld en die ander. Ons wil net 'n graag 'n leiding hê daar want ons het 'n bietjie, 'n probleem want as 'n mens nie kom sit nie.

HOF: Nee u moet reël vir getuies vir Vrydag. -- In answer (30)

to the question My Lord the reason why I say Mokati did not speak/.....

speaking it is because of what had happened between Mokati and that woman who was accusing Mokati and alleging that Mokati did what was being said there and as a result one would rather say Mokati did not have the opportunity of addressing because then there was a disruption, nobody was listening to whatever Mokati was trying to say.

MR BIZOS: Yes. And the meeting broke up? -- No.

Well are you suggesting that the Chairman restored order after that? -- Yes the Chairman was still in a position to control the meeting in saying that "Look this meeting is (10) convened there for different wards. This is not Mokati's ward meeting. If there are any accusations you people want to talk about to Mokati you must go to Mokati's ward in a meeting which has been convened by him to go and discuss it there.

Did the people that agreed with this woman accept this ruling or did they continue booing the Chairman? -- Well I will say they accepted it because when we left there there was no commotion, it was just a normal walk out of a door.

Immediately afterwards? -- Yes. Yes immediately after (20) stopping this misunderstanding.

The hall emptied? -- Yes we left the hall and then in fact we left the hall and went home.

Was it planned that the meeting should finish that way? -- No it was not but what happened is the Chairman called the people to order, the meeting was closed in a proper way with a prayer and then they left.

He did not perhaps ask Mr Mokati to deliver the prayer? -- No I cannot quite remember because it is long back you know.

Because you see I am going to put to you that even (30) on the portions of the detail that you have admitted your description/....

description of this meeting of the 5th in your evidence-in-chief as a meeting at which there were no objections and no complaints and the people were happy about the increased rent, except for two innocuous questions, was not a correct description of the meeting. -- There was no problem at this meeting pertaining to rent. These people started their own thing which was out of context of the meeting, which had nothing to do therefore with the meeting.

Well I am going to put to you that some of the things you admitted to have been said by Mr Dhlamini and Mr Khodesang could only have been consistent with strong objections about the rent? -- My understanding of the speech by these people was no one was pointing a finger at himself saying "I am the boss". Otherwise I understood it to be that all what was being conveyed to the people is that let there be peace. (10)

Well did somebody suggest that there should be war? -- No I did not hear that.

Now let us turn to Saturday the 1st please. You purported to give the contents of a document before it was shown to you and then a pamphlet was shown to you which you found on 1 September, do you recall that? AAN(15)(v). -- Yes I do. (20)

Now, I do not think it is necessary to show it. You purported to give the words of the pamphlet before it was shown to you. -- Yes it was on that it was written "Asinamale".

Well you see because you said that they must come on the 3rd to get resolutions passed about, sorry they must come on the 2nd to get resolutions passed. There is no such thing on the document. Do you accept that so that we can get on? -- The document I am referring to of the 1st, on a Saturday, does contain that. (30)

ASSESSOR (MR KRÜGEL): This is not the right document, this one/.....



one refers to 12 August.

MR BIZOS: Well that is the one that he was shown immediately after his spoke of a resolution.

COURT: Was he not shown that document for size purposes only?

MR BIZOS: Oh, is that what the, well have you seen this document that you say you saw on the 1st, have you seen it again? -- No I have not seen it.

You have never seen it again during consultation with counsel for the State? -- There is a pamphlet indicating that on a Monday nobody is going to work and places will be (10) closed, then final decisions are going to be taken or resolutions are going to be taken.

You have not seen the document? -- If my memory serves me well somewhere where somebody was working on documents I did see a document similar to that one.

Anyway we have not but perhaps it will come up. You also told us that you saw a paper that said that they were coming to fetch you on the Monday. Do you recall that? -- Yes.

Did you ever see that document again or did you keep it or anything like that? -- Well at the present moment it (20) is not available because everything was burned out.

You have not seen it again? -- No.

When did you see this document for the first time you say? -- It was on Sunday evening.

Tell me was it typed or handwritten? -- It was typed.

And was it just a small piece of paper? -- Yes, as indicated, a strip paper.

Without the name of any organisation or any person on it? -- No it was not written.

And you do not know whether this was generally thrown (30) around or whether it was specially put at your place? -- No

I/... ..

I do not know because I found it in my letter box.

Did you connect that with the anonymous telephone calls that you were getting? -- Yes I took it in the same light.

COURT: That is a different thing. Did you regard it as a joke or just as a nuisance or did you think that it emanated from the anonymous caller? -- My view of that was I will just have to play a wait and see what is happening after this document.

MR BIZOS: Can you give us a date when the Clerk of the house, of the, the Town Clerk said that there was nothing wrong with the meetings that were being held at the churches? -- I (10) cannot remember the date, it is long ago.

Was it shortly before the meeting of the 29th? -- I cannot quite remember on that because it was towards September.

It was towards September. -- I think so yes because it is long ago that this happened.

Thank you.

HERONDERVRAGING DEUR MNR. HANEKOM : U het gesê op die vergadering van 5 Augustus 1984 het mnr. Dhlamini gesê "We have the power to tie and the power to untie." -- Ja.

In watter konteks is dit gesê? -- In die konteks dat (20) indien daar enige besware of probleme is wat opgelos moet word, ons in staat sal wees om dit uit weg te ruim.

In kruisverhoor het u gesê toe u terug is na u werksplek toe by Cargo Carriers na 3 September se onluste, het hulle uitgevind dat u 'n raadslid was en hulle het u nie weer in diens geneem nie? -- Ja, dit is so.

Kan u net aan die Hof verduidelik wat was die verband tussen die feit dat u 'n raadslid was en die feit u nie weer in diens geneem is nie? -- Dit was as gevolg van die optrede deur die werkskomitee van Cargo wat die werkgewers daar (30) genader het en gesê het indien ek teruggeneem word in die

... / diens

diens van Cargo, gaan hulle almal bedank en die firma los. Dit was op grond daarvan dat hulle my nie weer in diens geneem het nie.

ASSESSOR(MNR. KRÜGEL) : Raadslid Mofokeng, u sê u het raadslid Dhlamini se uitlating verstaan in die konteks dat hy sê die Raad sal die probleme wat daar is dan oplos? -- Ja.

U het ook gesê dat nadat u op die Raad gekies is, was u tevrede dat wat rondom die tafel bespreek is, dat u dit kon ondersteun? -- Ja.

Hoekom het u besluit dat dit u tevrede stel, dat dit (10) u bevredig? -- Omdat ek oorreed was dat dit wat hulle van praat wat benodig word deur die gemeenskap, is presies waaroor ekself ook oor gekla het as benodigdhede vir die gemeenskap en toe dit bespreek word daar, was ek toe oorreed dat die mense van die regte dinge praat.

Was u met ander woorde tevrede dat die mense hulle werk behoorlik doen? -- Ja, ek was tevrede gewees.

Is u vandag nog daarmee tevrede? -- Ja, ek is nog tevrede.  
HOF : Hoe oud is u? -- 40.

Watter opleiding het u ondergaan? -- St. 3. (20)

En daarna, wat se werk het u gedoen? -- Ek was toe 'n voertuigbestuurder by Cargo.

En u kan nie weer werk kry nie? -- Ja, ek kan nie ander werk kry nie. Al werk wat ek kry is by die plotte om te gaan melk.

Dit is nie eintlik u rigting nie? -- Dit is korrek, want ek was 'n voertuigbestuurder by Cargo. Ek was tevrede daar.

Het u persoonlik enige voordeel gekry uit die feit dat u 'n raadslid geword het? -- Nee.

GEEN VERDERE VRAE.

(30)

- - - - -

... / HOF

HOF : Is dit dan nou seker dat ons môre betoog sal hê oor die borgaansoek?

MNR. JACOBS : Ek wil juis verlof vir die Hof vra om die goed - ek het hulle uiteindelik gekry om op te handig. In die eerste instansie wil ek verskoning vra vir die tikwerk. U sal sien dit is nie deur persone getik wat ondervinding het van hoe hof tipe goed getik is nie en met die druk kon ek dit nie terugstuur en sê tik oor en maak reg nie. Die tweede is, ek heg aan, want hier word verwys na die saak van 'n Natalse klagstaat, ek weet nie of die Hof dit wil sien nie. Vir die (10) gerief van die Hof het ek dit hier bygesit, want ons antwoord daarop, op die bewerings wat gemaak word deur die verdediging. Dan het ek hier pamflette wat ek gaan gebruik. Ek het die oorspronklikes by die verklaring ingesit. Dan het ek ook betoogshoofde wat ek opgetrek het aangeheg hierby ook vir gerief van die Hof. Ek het ook al hierdie goed vir My Geleerde Vriend gegee.

HOF : Baie dankie.

MNR. JACOBS : So, dan kan ons seker môre argument aanhoor.

COURT : Mr Bizos, will you be in a position to argue tomorrow(20) morning?

MR BIZOS : We have just received these.

COURT : I know that. I have this difficulty, that if you are not in a position to argue tomorrow morning, I would like to continue with the hearing of evidence. So, I do not want to be in a position to tomorrow morning that I am told we cannot go on and then there are no witnesses available for us to go on with. Are the chances good that we will continue?

MR BIZOS : From what I have seen from the affidavits, they are, I believe, of a generalised nature and the probabilities (30) are that we will be able - I am actually looking at the heads

... / of

of argument at the moment - to continue, but the final decision in relation to what affidavits have to be filed in reply, ex abundanti cautela, could I ask the State to have a short witness. We will certainly I think reach it tomorrow, but it may be that we may require a little time to put finishing touches early tomorrow morning to the affidavits that we may file, but we are anxious to continue tomorrow. .

K155

COURT : Could we do it on this basis that you will let the State know if a witness is required by this afternoon say at 18h00 and then they can take some steps and they can give (10) you a telephone number, to get somebody available.

MR BIZOS : It may not be 18h00, it may be shortly thereafter or some time during the course of the evening.

COURT : Will you arrange that amongst yourselves so that I do not find myself in a position tomorrow that I do not hear arguments and I do not have a witness?

MR BIZOS : We will try and avoid that.

MNR. JACOBS : Ek mag net meld, mnr. Fick het alreeds vir die getuies gaan reël omdat hulle van ander plekke af kom dat hulle nie mōre moet kom nie. (20)

HOF : Ek het dit so begryp, want ek was so gevra in die hof, maar laat ons net seker maak daaromtrent dat as daar een moet kom, ons miskien in elk geval een beskikbaar het.

MNR. JACOBS : Goed.

HOF VERDAAG TOT 20 MAART 1986.

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