

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

As s

SAAKNOMMER: CC 482/85

DELMAS

1987-06-04

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSOR : MNR. W.F. KRUGEL

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

KONTRAKTEURS:

LUBBE OPNAMES

VOLUME 230

(Bladsye 12 191 - 12 245)

COURT RESUMES ON 4 JUNE 1987.

COURT : Mr Moselane, before we start there is something that I have to raise with you, that occurred to me yesterday. and I do that before you affirm that you are going to speak the truth. You will have noticed that yesterday when you refused to take the oath I was somewhat surprised. The reason was that I was - I had never come across an Anglican who refused to take the oath. I had a look at your previous applications, the first one is the application for bail which you made to the full Court in June 1985, 21 June (10) 1985, you took the oath. "Hereby make oath and say" in the normal form and in the end it is certified that you know and understand the contents of the affidavit, which was signed and sworn. The same we find in the application for my recusal where you made an affidavit under oath in March 1987 and the same we find in the application for bail which has not come before the Court yet, but of which I have the papers which you signed on 19 January 1987. Could you please clarify the position to me?

MR MOSELANE : Yes, I can explain that. The position is (20) this. Whenever we signed the documents in respect of a different application, you find that I am all by myself in that and the person who then has to put down in writing my affirming to what I have been saying to be the truth, does not put it in the way that I affirmed it, but he puts it as if I took the oath. I only affirmed.

COURT : But these documents were all drawn by your attorney?

MR MOSELANE : That is true. They are quite aware of the fact that I do not take the oath, I only affirm to tell the truth. (30)

COURT/...

COURT : Very well, take the affirmation, let us proceed.

TEBOGO GEOFFREY MOSELANE, affirms to speak the truth

MR BIZOS : My Lord, we omitted to ask Your Lordship yesterday to grant leave to accused no. 5 for whom an appointment has been made with a doctor, it has been made some time ago. I do not remember whether Your Lordship granted leave or not, but apparently the police have made arrangements subject to Your Lordship's approval.

COURT : When is he leaving?

MR BIZOS : The police are ready to take him now. (10)

COURT : Yes.

MR BIZOS : The other is that we could not help noticing that the interpreter who has been assisting our Learned Friends in relation to the documents, we could not help seeing him in the corridor ... (Court intervenes)

COURT : Not my court interpreter?

MR BIZOS : Not Your Lordship's court interpreter, another interpreter. There is a transcript in the language as used on the tape and I do not know whether Your Lordship wants to see it as an exhibit or not. (20)

COURT : Well, I have taken in V31 subject to proof. Should I take further matters subject to proof? I do not think so. Until you have agreed on it, not.

MR BIZOS : I will make copies available for My Learned Friend so that his task can be assisted without Your Lordship receiving it and if there is proof required or agreement, we will deal with it at that stage.

COURT : Then reverting to the matter first raised by me, I think this requires an explanation from the part of your attorneys, because since 1985 now the attorneys have known (30)

that/...

that this witness does not take the oath and yet time and again it is stipulated that he has taken the oath. So, the documents are incorrect.

MR BIZOS : Your Lordship is with respect correct. It may well be that this last bit is considered - should not be but sometimes is considered a formality in the typing out. The typist has many affidavits to type and care should have been taken, but I will raise the matter with the attorneys and I will convey Your Lordship's remarks to them that greater care should be taken in relation to it and also, may I say in (10) mitigation that very often these affidavits have got to be signed hurriedly either at the prison or in the corridor of the court.

COURT : I do not think that is an excuse for sloppiness.

MR BIZOS : It is not an excuse, but it is some sort of an explanation.

FURTHER EXAMINATION BY MR BIZOS : You will recall that we dealt with the meeting of 12 August 1984, Reverend Moselane?
-- That is so.

Before we go any further, I would just like to ask (20) you one question in relation to the matter raised by His Lordship, that His Lordship has not had any Anglican affirming. Is there a difference between ordinary Anglicans and ordained priests in this regard? -- Yes, there is a difference.

I understood the position to be, My Lord, that the oath that is taken when you are confirmed as a man of the cloth, that is sufficient for the rest of ... (Court intervenes)

COURT : It covers everything?

MR BIZOS : For the future. I also happen to know that this is the position in my church. I had an archimandrite giving (30) evidence/...

evidence in mitigation for a young child who also actually asked the magistrate whether he could be excused from taking the oath. We take the oath quite readily.

What did you do after the meeting of the 12th? -- I was concerned about the members of my congregation who were faced with this problem and I was trying to find a solution as to how to help them in respect of this what they were experiencing. As a result of which then I thought I must get in touch with people who have some experience in order to be able to find some means of assisting my people. (10)

COURT : That is now after the meeting? -- Yes, that is after the meeting.

MR BIZOS : And to whom did you turn? -- I went to Johannesburg and had a talk with Sisi Buthelezi. It is Mrs Sisi Buthelezi. She is an attorney.

Was she at the time in practice on her own or was she in a firm? -- She was working for a firm.

Do you remember the name of the firm? -- Not quite, but if my memory serves me well, it had to do with - the name of the firm was Bowan and Gilfan or something in that line. (20)

Did you tell her what the problem was? It is Bowman, Gilfillan and Blacklock. -- Yes, I had a discussion with her.

What did you tell her? -- What I said to her was that the increased rent, has created some problems to my congregation. I then asked from her for something which could be done, if possible, in order to prevent the increase on rent. I also told her that we had a meeting the previous Sunday, which was the 12th. I further made it clear to her that the people are in trouble there and therefore we were of the opinion (30)

that/...

that we write a petition in order to prevent this rental being put into effect. We also discussed the question of people being evicted from houses as a result of their having failed to pay their rent, as to what can be the solution. Her advice on that was that we must see to it that we write a petition which petition will be used to petition the authorities not to put this rent into effect and secondly, what we discussed was the research on law to find out if there was anything that could be done in respect of that. I am not quoting her verbatim. I am just giving the Court(10) the gist of what was discussed between me and this person. She then in that made mention of the Court interdict. Now, I am not a person who knows the law. I am a layman as far as the law is concerned. That is in fact the gist of what was discussed and what she explained to me.

That is the one person that you turned to.

COURT : Just a moment. By court interdict, did you understand a stopping by the court of the increase in rent? -- No, not in that way. What I understood was, in respect of the people who were to be evicted from houses as a result of (20) their failure to pay the rent, that this interdict was going to be applied in respect of those who were to be evicted. That is what I understood it to be. What I understood in fact was that this was then the solution by going to court with this what she termed a court interdict.

MR BIZOS :

Did she mention to you whether she knew anything about the law on this subject of increased rentals or not at your first interview with her? -- She said she was going to do some research on that.

Did you know Mrs Buthelezi before this date? -- Yes, I(30)

knew/...

knew her.

Did you turn to anyone else after the meeting of the 12th? -- Yes, I did.

To whom? -- I went to see Mr Manthata because I was in Johannesburg during the course of that week, those few days.

Did you know him before this date? -- Yes, I had known him for some.

And where was he working? -- He was employed by the South African Council of Churches.

In what capacity? -- In the capacity as a field worker.(10)

What was your impression after you left Mrs Buthelezi? Was she going to work for nothing? -- That is not what I expected that she was going to do that for nothing.

And did your Anti-rent Committee of three have lots of money? -- No, we did not have money.

COURT : But did she not tell you this require a deposit of so much? -- No, because of the fact that she was not at that time being given any instructions to take over the work on our behalf. We did not discuss that.

MR BIZOS : Who was the general secretary of the South (20) African Council of Churches at that time? -- Bishop Tutu was.

And who was your bishop at the time? -- Bishop Timothy Bathen was my bishop.

Did you know whether or not the South African Council of Churches assisted people financially that had to go to court to exercise their rights such as they were or may have been? -- Yes, I had that knowledge.

You went to see Mr Manthata, accused no. 16 whom you knew from before. What was your discussion with him? -- I had gone to see him because of my knowledge that he has got some (30) experience/...

experience pertaining to people's problems in the residential areas and again because of my knowledge of his having been a member of the Soweto Committee, I took it that he is a person who can give a hand in giving ideas about what could be done pertaining to this problem affecting the residents.

COURT : Which Soweto Committee? We have two committees. One is the Committee of Ten and the other one is your Action Committee? -- He was a member of the Committee of Ten.

MR BIZOS : Just for clarification, I do not know whether it came out yesterday or not, when the Committee of Ten were released from detention, what happened to your Action (10) Committee?

COURT : It was disbanded.

MR BIZOS : Where did you see Mr Manthata? -- At Khotso House.

COURT : Is that his place of work? -- Yes, that is his place of work.

MR BIZOS : We have heard of a number of organisations that occupied portions of Khotso House. Where are the headquarters of your diocese? -- This is on the second floor of Khotso House.

And is that from where the business of the Church of (20) the Province in the Transvaal is conducted, the circular business of the church? -- Yes.

COURT : The diocese is that Transvaal? -- Yes, the Southern Transvaal Region is there. They are there too. There is one in Pretoria.

MR BIZOS : Did you report to Mr Manthata what had happened on the 12th? -- Yes, I did.

Did you report to him whether or not there was going to be another meeting held? -- Yes, I informed him.

Did you inform him about your visit to Mrs Buthelezi (30)

and/...

and the possibility of taking legal action? -- No, I should have explained this. I first went to Mr Tom Manthata. It is only after having been to him that I went to Mrs Buthelezi.

Had you discussed with him the possibility of the legal action before going to Mrs Buthelezi? -- Yes, we discussed that. In fact, that is one of the advices he gave me.

Was Mr Manthata sympathetic to the problem that you discussed? -- Yes, he showed some sympathy on that.

ASSESSOR (MR KRUGEL) : Does that mean that he actually advised you to go and see Mrs Buthelezi? -- No, what I am(10) saying is this. In his advice he said it would be advisable if we could see somebody who is in fact involved with the carrying out of the law, a lawyer in other words. In that, while we were talking, mention was made of Mrs Sheana Duncan who is known to me and a member of our church or is employed by the Black Sash.

COURT : Is she also an attorney? -- No, she is not.

MR BIZOS : Did you know whether or not she had any practical experience in seeking relief through the courts for people who were in difficulties? -- Yes. (20)

Did she have that experience? -- Yes, she had that experience.

When you say she was employed by the Black Sash, do you know whether she was employed or whether she was an office bearer of that? --I know her to be one of the people in charge of the Black Sash. Whether they are being paid, that I do not know.

Did you in your discussion with Mr Manthata, invite him to your next meeting? -- Yes, I did.

Did you invite him because he was a member of any (30)
particular/...

particular organisation, because of his work or because he was your friend or for a number of reasons? What was your motivation to invite Mr Manthata to come to your next meeting? -- I invited him because of his having the necessary experience as to how to talk to elderly people because the people in my congregation are elderly people who were concerned about this problem and for one to be able to communicate such without being misunderstood, you need some experience. So, therefore I invited him and secondly, the people I had to do with there were not wealthy people. I was not inviting(10) him because of his being a member of any organisation, but as a Christian. Another reason why I invited a person of his age and calibre is because I did not want this meeting at my church to be addressed by youth who may in fact do their own things without having taken a proper consideration of this meeting and I wanted him to use his experience which experience he acquired in Soweto.

Do you know whether the Committee of Ten or the Soweto Civic Association from time to time took up community problems with the courts and others or shall I say to the courts?(20) -- Yes, I had that knowledge.

COURT : I still have not got clarity on this Committee of Ten, Soweto Civic Association relationship. Is the one exactly the other or did the one follow the other? -- As I have already indicated to the Court, I do not have the experience in both these organisations to be able to tell His Lordship whether they differ or not and if they differ what the difference is. All I can tell is that they both have to do with the community and therefore I can call them community organisations, that is how much I can tell the Court. (30)

Well/...

Well, did they exist at the same time? -- Well, according to my knowledge, the first one to have been in existence was the Committee of Ten and later I came to know about the existence of the Soweto Civic Association.

At that time, did the Committee of Ten still exist? -- They are still in existence up to now, both of them.

Both? -- That is according to my knowledge at the time of my apprehension in 1984. They both still existed.

Was Mr Manthata a member of the one or the other or of both? -- To me he was a member to both, but I do not want(10) to commit myself and say it is definitely like that. I think it will be for him to be able to elaborate on that and explain to His Lordship what his relationship was with both the organisations.

MR BIZOS : Just for clarification purposes. I just want to confirm something. If my memory serves me correctly the Committee of Ten was elected and block as the committee of the VCA when it was formed.

COURT : Of the SCA?

MR BIZOS : Of the Soweto Civic Association. I think that -(20) they are known by both names for historical and other reasons. Do you know whether the Committee of Ten became the Committee of the Soweto Civic Association or not? -- I cannot say that is the position. I do not have a good knowledge to say that.

You told us that there were newspaper people at your meeting of the 12th. Was publicity given to the fact that the meeting was held and what the concerns were and what the resolutions were? -- Yes.

My instruction has been confirmed in relation to it.(30)

I/...

I merely mention it because it is a matter which puts aside any confusion. In fact they took the initial steps for the Soweto Civic Association to be formed and the meeting ...

(Court intervenes)

COURT : So, they were a steering committee?

MR BIZOS : A steering committee but the meeting elected them in mass to continue as a committee of their association.

Did you invite anybody to come to your meeting of the 19th other than Mr Manthata, accused no. 16? -- No,. I did not invite anybody else. (10)

Did you see Mr Hlomoka, accused no. 2 after the meeting of the 12th and before the meeting of - the day of the meeting of the 19th? -- It was long last that I had seen him. I only saw him again the morning of the 19th, that is the day of the meeting at my place of residence.

Did you know Mr Baleka, accused no. 1, before the 19th? -- No, I did not know him.

Did you know anything about AZANYO before the 19th? -- No, except from reading about reports in the newspaper about its existence. Otherwise I did not know a thing about that. (20)

Before the meeting of the 19th, during that week, was there a meeting called between members of the Lekoa Town Council and the clergy? -- Yes. This was per invitation by the Lekoa Town Council that they wanted to hold a meeting with the church leaders, namely the clergymen in that area.

Did you attend that meeting? -- Yes, I got the invitation and therefore I attended the meeting.

Please tell us what you say happened at this meeting?

COURT : Have we got the date of the meeting?

MR BIZOS : 16th. Could I assist Your Lordship, the (30)
evidence/...

evidence of Mr Mahlatsi on this appears at pages 3 108. That is the first reference that I have. It is thereabout. -- That is true. The meeting was held on the 16th.

It actually starts at 3 107.

COURT : And the volume is?

MR BIZOS : It looks as if it is 59. We will just make absolutely sure. It is 59 and the exhibits concerned with it are AAT14 and AAT16. What happened at this meeting? -- This meeting was held in Sharpeville Hall attended by a number of ministers and a number of councillors. I estimate the (10) people there to have been about twenty ministers of religion and approximately thirty councillors. I arrived at this meeting in the company of Reverend Malumbaso of the Presbyterian Church in Africa. On arrival there I noticed that the meeting was being chaired by Mr Mahlatsi. Of the people present there from the councillors, Dhlamini, the late, was also present there assisting Mr Mahlatsi who was chairing the meeting. The other members of the council present there were not known to me. I remember Father Patrick of the Roman Catholic Church having been present. Reverend Molubatsi of (20) the Baptist Church was also present. Reverend Morake was also present. I just forget what the name of his church is but it is also in Sharpeville. This meeting was opened by a prayer which was by one of the councillors. I do not know that this councillor's name is. What surprised me at this meeting was that there was no agenda pertaining to the meeting there. Secondly, there were newsmen there outside who later got into the meeting and took seats at the back. The chairman, Mr Mahlatsi, got up and he made a speech as a result of which then I also got up with a view of asking (30)

a/...

a question as a result of the speech made by the chair person, namely Mr Mahlatsi. My question was do I understand this to be the procedure that we have just been invited to attend this meeting and here we are attending a meeting, we do not have an agenda. That means we do not know what is it that is to be discussed at this meeting held here. That I said under the impression that it was going to remind him - for him to apologise and say this is the agenda, I apologise for having not informed you, so that at least we know, even though it is not a written agenda, that we are discuss-(10) sing this issue or these are the issues to be discussed at this meeting. Secondly, what I had in mind was that there were certain things that we were going to reveal as clergymen at this meeting. Especially about the increased rent which was in fact being discussed within the townships by the residents at the time, on which he responded by saying "I will first give a speech or say what I am saying at this meeting now. After having finished that, you are also going to say what do you want to say or talk, whatever." On which Reverend Malumbaso also said "But I do not agree that we (20) are to work in that fashion. It would be advisable that we are informed as to what is to be discussed here, so that we must know what this meeting is about, which resulted in Mr Mahlatsi saying then before we get into that, meaning that before he divulges the information about what the agenda was going to be and what are the other matters to be discussed, he is requesting that the newsmen must leave the meeting. As a result of which there was a dissatisfaction from the clergymen including myself in which it was made clear to the councillors that this was not the correct thing to do,(30) because/...

because people outside the community know that we are having a meeting with the councillors. We, as leaders, of the community and the councillors being the leaders of the community as well, are supposed to be open with whatever we are going to discuss and therefore the feeling was that it is wrong to have the newsmen out, because there are certain things that will have to be mentioned, which things will have to be known to the community, on which then the chairman, Mr Mahlatsi, said "Let the news people wait outside until we come to an agreement, that is the clergymen and the (10) council, on certain things that we are going to discuss. We are then later, namely the clergymen and the council, going to make a joint statement through which then we will be informing the community by giving the statement to the newsmen." We accepted that suggestion by him under the impression that that was going to happen. He carried on with his speech. We all sat there listening to what he was saying. The first thing he mentioned there was that he wanted the church, meaning the people belonging to different congregations, to work together with the council. That is co-operate with (20) them, saying that because he was putting across the message to us that we, the people in charge of the church buildings, must not allow our church buildings to be used for holding political meetings by organisations. That was the co-operation he was asking for. He further said that the political organisations can make use of the halls as venues for meetings. He then further said that another thing he wanted us to co-operate or work together with the council about was that we, the church people, must invite the councillors to our church services which are held. From my assessment at the (30) time/...

time of his making this speech, he was not really making a speech, but he was just bullying the meeting there. That I say because of the tone in which he said we must only use the church buildings for Christian matters and not for political organisations. The tone in that justified what I say he was bullying. In the same tone he indicated that we must invite councillors. The tone in which he was putting that across was in a way indicating as if we do not have, as members of our congregations, members of the council. That is members who are in fact forming part of our congregation who are (10) serving at the same time in the council. That resulted in my getting up and asking him a question. The question was that he must explain what is it that he is referring to when talking about politics, saying if there was an agreement that per agreement the councillors are to make use of our church buildings, is that not politics? Why I asked this question was because of the knowledge I had about what was happening in 1983 during the elections of the councils. In Bophelong a church building of the Wesleyan, which is Methodist Church, was used for that purpose. That was what (20) I mentioned to him and what I mentioned there was what I experienced and the other priests were also saying "We, as priests ..." (Court intervenes)

COURT : May I interrupt here. We have clergy and priests. Were only the priests saying this or were only the clergy saying this?-- By that I meant clergymen. In that I meant we, as clergymen and our Christianity does not mean that we are now to separate or divide the people. It was further made clear to him that the church itself, the first call to the church is the worshipping and therefore it is meant for (30) worshipping/...

worshipping which is the most important part of it and secondly, the church has got to do and duties towards the community. Therefore when we give our church buildings to be used by the community, that is in fact what the church owes to the community and therefore it is meant for the community and therefore, we, as clergymen, are not in a position to distinguish and say what the church is owing to the community which community is entitled to is politics or has got to do with politics or not, because this is in fact accepted as what it is owed to the community by the church and the (10) people who are the followers of Christianity are entitled to that. I even made an example by saying that Christ said "Go forth into the world and make all people my followers." Besides that that was said by the clergymen in general, I further made mention of the following, that what I know with our Church of Province, there was an agreement that we shall allow the community to make use of our church buildings whenever this became necessary for the community to do so. As I said yesterday that I went to the launch of the VCA where in my speech I said the church ... (Court intervenes) (20)

COURT : Let us just get clarity now. Mr Bizos, keep it to this particular meeting. I am not interested at the moment in the founding of the VCA.

MR BIZOS : Did you say this at the meeting or are you repeating to His Lordship what you have already said? Did you mention the VCA at the meeting? -- No, I did not mention that at this meeting. I was just making a reference.

You were arguing the case.

COURT : Not necessarily, you have got able counsel. -- I am sorry. (30)

MR BIZOS/...

MR BIZOS : What I want to ask you is this. Finish up with what was said? What did you say at the meeting and what did the other clergymen say? -- After having made clear to the meeting that we were not satisfied about the question of the agenda and having made clear to the meeting what our feeling was and having told the meeting our dissatisfactions, then this meeting was declared closed.

COURT : Could I just get clarity now. The last bit that I wrote was that you told the meeting that the Church of the Province had an agreement to allow the community to use the(10) church buildings. Was that the last that you said or did you say something else or did somebody else say something else? -- The other clergymen also supported that, because the NG Kerk in Bophelong was also of the same opinion, the NG Kerk in Boipatong also, the AME Church also supported that. In general one would say the churches in South Africa, from what I understood there, were prepared to allow their church buildings to be used as venues for whatever.

Was that the end of the meeting? -- After all that was said, the chairman then said "Thank you, let us close the (20) meeting" and then there was a prayer and the meeting was close.

MR BIZOS : Did anyone at this meeting try to discuss or raise the question of rent? -- Yes, I remember that.

Did anyone raise the question? -- Yes, from the clergymen.

Was discussion allowed on it? -- Yes, on that the chairman, Mr Mahlatsi, said the pensioners with that kind of a problem can go to the welfare organisations, meaning the social workers can attend to their problem, which was his direct answer when this question was raised without discussion. (30)

Was/...

Was this the first time that the use of the churches for political meetings was raised there in the Vaal or in Lekoa as far as you know or had it been raised before? -- This was the first meeting I attended where this was being discussed, but otherwise it was not the first time that this was made known.

Was there any mention at any stage as to what might happen if the churches continue to be used for political meetings? -- Yes, what was said was that the leasehold permits for those churches which are still being used are(10) going to be withdrawn.

COURT : Who said that? -- Mr Mahlatsi.

At this meeting? -- Yes, at this meeting.

MR BIZOS : Was this the only meeting where this was mentioned or was it said before? -- In a meeting, yes, but otherwise, prior to this meeting, notices were being sent out which contained the same kind of explanation where it was said that leasehold permits are going to be withdrawn.

You told us that the Church of the Province had adopted a policy to allow its church buildings to be used by (20) political organisations? -- Yes, there was such an agreement.

COURT : When you say an agreement, between whom and whom? -- By that I mean it was decided at a synod.

MR BIZOS : So, it was a resolution rather than an agreement? -- Yes.

You told us that Mr Mahlatsi had said that at the end of the meeting a joint statement would be issued to the press. Did that come about? -- No, it did not. They left there following one another. They in fact left us inside the hall. We, the clergymen, remained behind. (30)

Other/...

Other than Mr Mahlatsi, did anyone else speak? --

COURT : On the side of the councillors?

MR BIZOS : On the side of the councillors? -- No, nobody else.

What was the late Mr Dhlamini's role at the meeting? --
The position is that both were seated at the table, which table I took was the chairman's table, but Dhlamini did not utter a word. Everything was said by Mahlatsi. I do not know whether to call him the chairman or a person who was just sitting next to the chairman of the chairman, but Mahlatsi, (10)
doing the talking.

In the absence of any joint statement, did you and other clergymen there present discuss whether anything should be done or said to the press people that had been excluded from the meeting? -- Yes.

What did you decide to do? -- It was agreed by the clergymen that we will have to meet and discuss and make known our problems and therefore having agreed on that, we shall have to write a letter informing Mahlatsi about what we have decided and what our perception is about what is happening (20) and then thereafter that will be made known to the press and thereafter we then told the press that we will going to let them know.

What do you say to the suggested impression that Mr Mahlatsi's evidence may make that this was an attempt to offer a hand of friendship by Mr Mahlatsi and members of the council to the clergymen in the Vaal in order to co-operate and solve the community's problems? -- No, I do not agree with that, because if that was the purpose, he was supposed to have allowed us to mention what we wanted to say at this (30)
meeting/...

meeting, so that he can hear what our views are in this meeting. Especially when we wanted to talk to him about the agenda. That was one thing he was supposed to have allowed if that was the feeling, so that by the time we start discussing that, we would know exactly what it is about that we are to discuss in this meeting and again, if that was the feeling, he was not going to put it the way he was doing things and the tone in which he was sort of instructing us how to go about our own things at our own places.

What do you say to the suggestion that you were alone (10) in really raising objections to the way he was doing things? -- No, that is not true. I have mentioned some of the clergy-men who had something to say at this meeting.

In asking for an agenda did you intend to torpedo the meeting or to make the meeting fail? -- That is not so. That is not my personality. I do not go about doing things which will cost a retrogression of whatever is planned.

What do you say to the suggestion that it was you who actually stayed behind and called a couple of others to stay behind? -- No, that is not true. It was suggested by (20) Mr Mahlatsi that we are going to remain there and make a joint statement after the meeting had closed. So, we therefore waited for them to come down from the platform where they were during the course of the meeting, but instead they left the hall, leaving us behind in the hall. All I said to the clergymen there after they had left us was that how about arranging a day when to meet in order to discuss this, because it is already late for us to be staying and discussing further. Reverend Mogoebob then suggested that we meet at his place and he gave us the date, which was accepted. He is from the (30)

NG/...

NG Kerk Bophelong.

And did you meet? -- Yes, we met.

And was a letter addressed to the mayor of the Lekoa Town Council? -- Yes.

Is that EXHIBIT AAT16? -- Yes.

Whose handwriting is it? -- Reverend Mogoobo.

Did you send a copy of it to the press? -- Yes.

ASSESSOR (MR KRUGEL) : You in the sense of you yourself or you in the sense of we?

MR BIZOS : Who gave it to the press? -- We did, but I am(10) the one who took it to them. Mogoobo then delivered the other one to Mahlatsi.

This meeting was on the 16th? -- Yes.

Did anything happen to your home on that evening? -- Yes.

What? -- It was late at night when I woke up as a result of the stones which were hitting the window-panes of my bedroom window, which panes were broken as a result of that.

Did you report that matter to the police? -- Yes, I did.

You do not know who was responsible for that? -- Up (20) until this moment while I am standing here I do not know of any person who was arrested or discovered to have been the cause of that.

What preparations were made -what other preparations were made for the meeting of Sunday, the 19th? --It was already mentioned at the previous meeting that there was going to be a meeting on the 19th and there were no other preparations made, that is for the meeting of the 19th except that we just organised how this meeting was going to be carried on.

Did you not issue any pamphlets for more people to (30)

come/...

come? -- No, we did not.

Did you not contact any political organisation to send representatives to your meeting? -- No.

On the morning of the 19th, was there a church service? Yes, that is so.

What time did your church service finish more or less on the 19th? -- At about 13h00 we finished.

What did you do after the service was finished? -- I went home and after some time the church building was closed because later after some time the keys were brought to me (10) at home.

ASSESSOR (MR KRUGEL) : That is now 13h00 in the afternoon and not 01h00 in the morning? -- Yes.

MR BIZOS : What usually happens at your home after a service? -- People do come to me at home to see me about certain things which may be that they want me to give help to the members of the congregation.

Do they only come and see you or do they come and see Mrs Moselane as well? -- Well, it happens in that way as well.

Is there a Mothers' Union in your church? -- Yes, there (20) is.

Union not in the ordinary trade union sense? -- No, not a trade union. It is a union for women who are members of the Church of Province.

Is there a fair amount of activity in your house after a service? -- Yes, quite a number of people come to my house.

Are light refreshments served? -- On Sundays there are too many to be served on refreshments.

Among those too many people that came to your house after the service, were you there and did accused no. 16, (30)

Mr Manthata/,...

Mr Manthata arrive? -- On arrival at home from the service, I found him already there.

Was he accompanied by anyone? -- On arrival there I found him the accompany of two other strange people.

Were they with him? -- Yes, according to the introduction they were with him. They came together.

And were there any other people there when you arrived or did they arrive after you came back from the service? -- What happened is, on arrival there for the first time initially I found accused no. 16 and the two. After having met, I (10) passed on to my study where I was seeing the members of my congregation. After having finished that I returned to my sitting-room where I found that there were other people who arrived while I was in the study.

Who were they? -- I found Peter Hlubi there, Nozipo Myeza. We were the people who were there in that lounge.

Did anyone else come? -- Yes.

Who? -- Accused no. 2, Mr Oupa Hlomoka.

You told us before you had not seen him for some time?

-- Yes. (20)

For how long more less have you not seen him? -- Five or more months.

Did anyone else arrive to join this group in the lounge?

-- I cannot remember another person. No, I am sorry. Lazarus More arrived.

Is that the erstwhile accused no. 4? -- Yes, that is the person.

Did you know him? -- Yes, I knew him.

As what? -- I had seen him and met him in fact the day when I had gone to the Orange Vaal offices for the printing(30)

of/...

of a pamphlet which pamphlet was advertising the meeting of the 12th and he was in fact known to me as a boyfriend to a Sunday-school teacher of my parish in Bophelong.

Is that the young woman that he eventually married in this court-room? -- That is the one.

How long did you spend with this group of people in the lounge of your house? -- It was for a short time, not more than five minutes, about five minutes.

Did you caucus what was going to happen at this meeting or who was going to speak or who was going to be seen? --(10) No, no caucus was held there. What happened is on my return into the lounge from the study, the first thing I enquired was whether some introductions were made, on which they answered, yes, there were introductions made and then not long thereafter, that is after the response, I then said we can leave and then we left. It was already known that Peter Hlubi was going to be the chairman of the meeting. This was known between myself, Nozipo Myeza and Hlubi himself and therefore I made mention of the fact that he, Hlubi, the chairman, will have to introduce a speaker, Mr Manthata. (20)

And did the group that was going to the meeting leave your house? -- Yes.

WITNESS STANDS DOWN.

COURT ADJOURNS. COURT RESUMES.

TEBOGO GEOFFREY MOSELANE, affirms further

FURTHER EXAMINATION BY MR BIZOS : You left the house and did you walk over to the house? -- Yes, that is so.

You have seen the recently handed in photograph of showing your house and the church? -- Yes, I did.

Is that EXHIBIT CA14? -- That is so. (30)

Whilst/...

Whilst you were walking along from your house to the church, did you notice anything? -- Yes, I did.

What did you notice? -- What I noticed was, we met two vehicles just outside my yard where I live.

Just for the sake of clarity. In some quarters yard means the back of the house, but I understand it other people use it differently. What do you mean? -- By that I mean just outside the area which is fenced in front of my house.

COURT : Where is the front of your house looking at the photograph? Is it to the opposite side to where the washing(10) is hanging? -- Yes.

So, actually the front of your house faces that open space that is criss-crossed by roads? --Yes.

MR BIZOS : What sort of vehicles were they? -- A Ford Cortina and a Colt Galant.

Was there anything to indicate to whom they belonged? -- Yes.

What was it? -- The beige in colour Colt Galant had a long aerial at the back which was indicating or an aerial which was indicating to be a police vehicle. The same (20) applies to the blue one which was a Ford Cortina. It also had an aerial.

Did that lead to any remark or discussion? -- Yes, it led to that.

Who said what? -- Nozipo passed the following remark saying "Here they are, they are passing."

Was that the end of it or did any ... (Court intervenes)

COURT : Could I just get clarity. Were they moving from the direction of the police station or from a different direction? --From the direction they came, I became aware (30)

of/...

of them when they were taking a turn to the right, which indicated to me that they were from the direction of the church.

Could you just orientate me on this photograph. Starting at the top, right at the top off the photograph, the police station is cited? -- If you look right at the top of this photograph, that whitish structure there, passing that, you will find the police station.

If you approach the photograph anti-clockwise, we start on the left-hand side, we see a big church with a black (10) roof. What is that? -- That is the building of the NG Kerk.

And its rectory next to it? -- Yes, to the left of the church building.

Coming a bit to the right, the smallish building, which stands virtually between your house and the NG Kerk L-shaped, what is that building? -- That is the Presbyterian Church in Africa.

Then nearer to us and next to your church, there is a big building which looks like a very big church. Which is that? -- That is the Wesleyan Church. Methodist. (20)

Right at the corner at the bottom right-hand, what church is that? -- That one is the Bantu Methodist Church (Donkey).

Why is it called Donkey? -- I do not know.

And is there a post-office to be seen on this photograph? -- No, it is not on the photograph.

MR BIZOS : We were at the stage when Miss Nozipo Myeza said, pointed to the cars and said something about them. Did anyone take her remark up? -- Yes, there was a talk about that.

Who said what? -- What was said there, although I (30)
cannot/...

cannot remember exactly by whom, is that as you can see that Colt Galant with tinted windows, the idea is that they want to record our meeting.

Did you have any personal experience about the recording of meetings? -- No, I just heard people talking about that. I did not have a personal experience.

As a result of what was said, did you believe whether or not your meeting was going to be recorded by the police? -- I just accepted well, it could happen that it be recorded.

Was it a matter of great concern to you that what was (10) said at your meeting was going to be recorded or not? -- No.

When you got to the church, was it open or not? -- It was closed.

Who had the keys? -- I had the keys.

What time did you arrive at the church? -- It was at about 14h00 or 14h15, somewhere around there.

Were there people around the church? -- Yes, there were.

How many more or less? -- Some hundred. About hundred or two hundred, somewhere there.

When you opened the door, did you go in first or did (20) some people go in first? -- I opened the door, then some other people walked in.

Did you go in after them? -- Yes, with the group of people in whose company I was.

Who were the people that came in with you actually? Can you recall? -- Yes, I can.

Who were they? -- It was myself, who was in fact leading the group in whose company I was, because I was supposed to have opened. We were not walking in a line, following one another, but the next person in the group was accused no. 16, (30)

Mr Manthata/...

Mr Manthata, Nozipo Myeza and Peter Hlubi, Oupa Hlomoka, accused no. 2.

What happened to the erstwhile accused no. 4? -- On our way heading for the church at some stage he went back home. He ran back home.

His home or your home? -- To my house.

What was the reaction of the people that had taken their seats before you came in, when you came into the church? -- People were taking sitting positions when I came in. (10)

If anybody tried to give His Lordship an impression that you walked in almost in triumphant march and that the crowd stood up and said "Amandla", what would you say to that? -- That is not true. We did not move into that hall in the fashion it is being described and no "Amandla" was shouted there.

Were did you go to in the church? -- We went up to the front on the platform which is just in front of the altar.

Who is we? -- Myself, Peter Hlubi, Nozipo Myeza and Mr Manthata, accused no. 2.

What about accused no. 2? -- He took a seat amongst (20) the audience.

This slightly elevated area in front of the altar, were there any chairs on it or any seating places? -- Yes, there was a small in size table and some chairs on this platform.

Who sat at the table? -- Myself and Peter Hlubi.

And Nozipo and Mr Manthata? -- Nozipo Myeza took a seat right behind us, who were at the table and accused no. 16 was seated more to my right.

Did you notice where Mr Hlomoka, accused no. 2, was seated? -- He was seated amongst the audience as I was facing (30) them/...

them, more to my right. (I am sorry, the witness said to my right but indicated with his left-hand. Now, what he says is by indicating to the left he meant that this person was seated more to his left.)

Did the erstwhile accused no. 4 come and take a seat?
-- On arrival there he handed over the cigarettes to Hlubi and then took a seat on the platform on one of the chairs there.

By the time the meeting really got on its way, was accused no. 4 the only person sitting there and was not (10) concerned with the arrangement of the meeting or were there others?

COURT : How do you mean? There is a crowd of people there.

MR BIZOS : The elevated part.

COURT : On the platform?

MR BIZOS : On the platform. Was accused no. 4 alone on that platform or were there other people there as well?

ASSESSOR (MR KRUGEL) : Who did not have to do with the arrangements?

MR BIZOS : Who had nothing to do with the arrangements? (20)

-- Although he came a bit later, there were other people already who had taken seats on the platform and he also found a seat there.

Did people continue coming in and how many people were there in your church eventually? -- At the end of the meeting I estimated the people present there to have been a thousand plus in number.

How many people does your church take?

COURT : Seated?

MR BIZOS : Seated? -- Eight hundred. (30)

And/...

And were all the seats taken up? -- Yes, it was full.
The seats were all taken.

Were there any banners or posters in your church on the 19th? -- In connection with this meeting there was only one banner.

What was that banner? -- It was a piece of cloth which I estimate in size to have been 3 x 2 written in black and red letters and what was written there was "Ha rena Tjelete" in one colour and "Asina mali" in the other colour.

ASSESSOR (MR KRUGEL) : 2 metres by 3 metres or feet? -- (10)
Feet.

COURT : Actually it is one yard by two-thirds of a yard. Is that what you mean? -- Yes, we can say so. That is my estimation.

MR BIZOS : We saw a banner on EXHIBIT 40, is that the same banner? -- That is the one I am talking about.

COURT : This banner, had it been there previously on the 12th? -- No, it was not there on the 12th.

So, this is the first meeting where it was? -- Yes, that is the first meeting. (20)

Was there another banner on the 12th? -- No.

MR BIZOS : Were there banners in your church saying "Away with councillors"? -- No.

Or a banner or banners "No more rent hikes"? -- No.

Do you know when this banner was put up in the church? -- The meeting had started but not long after the meeting was started was this banner put up.

By whom? -- By Mokgema and Nozipo.

We have seen it where it was on the 26th. Was that the position it was at on the 19th? -- No. (30)

How/...

How did this meeting start? Sorry, where was the banner at the meeting of the 19th? -- On the pulpit.

Do you recall when Nozipo made this banner, because you told us earlier on that Nozipo made this banner. Do you recall when Nozipo made it? -- I do not quite remember whether she brought it along after having been made or what the situation is.

COURT : Do you remember that she brought it along? -- Yes.

MR BIZOS : I want to ask you in view of His Lordship's question, do you remember for certain whether it was or was not(10) there on the 12th? -- Not quite. I will tell you, all I can say is that we had a meeting on the 12th, the 19th and the meetings thereafter and in fact during some meetings there was a banner. Which one exactly did not have a banner or had the banner, I cannot really remember.

But you do remember saying to His Lordship that it was Nozipo's work? -- Yes.

How did the meeting of the 19th open? -- There was first some singing of a hymn.

Which hymn is that? -- Reya boka morena. (20)

Was there any other song or hymn sang during this meeting? -- At the end of the meeting there was some singing, yes.

Which song was sung then? -- Nkosi Sikilele e Afrika.

Other than those two songs or hymns, were there any other songs sang at that meeting? -- No, there were no others which were sung.

Would you regard either of them on any of the definitions offered to His Lordship as freedom songs? -- The two of them to me, it depends on how one gives an interpretation to the songs. You can see them as freedom songs. (30)

The/...

The words of "Reya boka morena" have been translated and appear on EXHIBIT V31? -- Yes.

COURT : Why do you say you can see them as freedom songs?

-- Because both of them make mention of "boloko", which means to free and therefore we are to be freed which is a freedom from God.

Is this the hymn which is set out on V31 the first hymn? That is the transcript of the sound-track of the meeting of 26 August? I do not seem to see the word "free" in that transcript? -- May I have a look at it? Where the (10) translation is "We are saved by the mercy", that is the freedom I am referring to.

That is not the sense in which we have used freedom songs so far? -- One must give it a proper interpretation in the sense that if one says "boloko", this means to be saved. In order to be saved from something which is in fact entangling you, you are being freed from that. Therefore, that is why I attach the meaning of freedom to that.

So, if you are singing about the release from sin in a religious sense, that is a freedom song, according to you?(20) -- Yes.

MR BIZOS : And Nkosi Sikilele e Afrika? -- That also is talking about freedom which is "boloko".

I see that in the translation, in the hymn there is a reference that the yoke must be light?

COURT : Does that help you? It is half a freedom? A lighter bondage.

MR BIZOS : Any way, you say that in a sense they are in the way you understand them, even though they are hymns, there is an element for a call for freedom in? -- Yes. (30)

Incidentally/...

Incidentally, in various translations of the New Testament in the various hymns, is the Lord called the liberator or not? -- Yes, at the end of our prayer we talk about our Saviour, Jesus Christ, like the Hebrews who are talking about their liberator, who freed them from their problems or their difficulties in which they were put. In fact there is a lot of reference one can make. I can even say the whole of the Bible does make mention of freedom.

COURT : I thought it was freedom from sin that Christ died for? -- Yes, sins form part of our being human. (10)

MR BIZOS : Did you open the meeting yourself? -- Yes, by prayer.

Was it an impromptu prayer or did you read any particular prayer? -- This was a prayer from our Prayer Book.

In view of the interpretation that at least one of the witnesses placed on your prayer, do you recall what portion of your Prayer Book you used for this purpose? -- Yes, I do recall.

Is the Prayer Book in court? -- Yes, it is, but I just know it from my memory. (20)

COURT : What is the official name of the Book? -- A Book of Common Prayer.

Of your church or all churches? -- Of our church.

Of the Church of the Province? -- The Church of the Province. Then it is also written here South Africa Holy Bible Oxford. That is what is written at the back. I was reading from page 245.

MR BIZOS : Is that book also available in Tswana? -- Yes, it is. What I can say is, I do not know, I doubt it that the pages correspond. (30)

COURT/...

COURT : Did you read from the Tswana edition? -- From the Tswana edition.

MR BIZOS : Will you read it in English so that we have the benefit of the translation? -- "Prevent us, O Lord, in all our doings with Thy most gracious favour and further us with Thy continual help and, that in all our works begun and continued and ended in Thee, we may glorify Thy Holy Name and finally by Thy mercy, obtain everlasting life through Jesus Christ, Our Lord, AMEN."

After having read that, did you refer to any portion(10) of the Bible? -- Yes, I did.

Do you recall what portion of the Bible you read out? -- The Old Testament Exodus Chapter 3.

Do you remember the verse? -- I am not quite certain about the verse, whether it is 17 or 13.

Have you got the Old Testament there? -- Yes, I do.

Will you please read into the record the verse that you read? -- Exodus Chapter 3 verse 13 "And Moses said unto God 'Behold when I come unto the children of Israel and shall say unto them the God of your fathers has sent me unto you(20) and they shall say to me What is his name? What shall I say unto them?'" I made reference to verse 13 and 17. Last time when I gave instructions about verse 17 only, whereas in fact I had made reference to both.

COURT : You have now read 13 to us? -- Yes.

MR BIZOS : Read 17, please? -- Verse 17 : "And I have said I will bring you up out of the affliction of Egypt, unto the land of the Canaanites and the Hittites and the Amorites and the Perizzites and the Hivites and the Jebusites, unto a land flowing with milk and honey." (30)

Did/...

Did you expand on that at all? -- Yes, I did.

What did you say? -- What I said was the God of Hebrews promised those people there in Hebrew to free them. That is when Moses asked now "When I go to the children of Israel, what do I tell them, who sent me?" On which God said "Tell them I am the one who sent you in the name of God." I then proceeded to verse 17 saying He says, He, the God, will free them from their difficulties they are having. On this then I said this was an example about the children of Israel when they were in difficulties, their making a call to (10) God. The belief that they have is the belief we are supposed to have to believe in God, that He, God, is also capable of freeing us, because we are oppressed, which oppression God can free us from and God can hear the calls of those who are calling on Him and God is our Saviour and when we believe in Him, we can get our freedom. That is how I remember expanding on that.

I just want to ask you this question. Do you personally feel that you are oppressed in South Africa? -- Yes.

Is this a view - have you any reason to believe whether (20) your congregation shares your view in this regard? -- Yes.

And are prayers for deliverance from oppression something unusual in your church? -- It is a usual thing to pray for freedom.

Did you say anything after you had delivered this prayer? -- Yes.

What did you say?

COURT : Before the reading of the scripture?

MR BIZOS : After the reading of the scripture and the prayer did you say anything? (30)

COURT/...

COURT : The prayer was first. It was first the prayer and then the scripture, if I understand it correctly.

MR BIZOS : After the prayer and the scripture, did you say anything else?

ASSESSOR (MR KRUGEL) : But have we not been through that just now?

COURT : He elaborated on the reading of the scripture.

MR BIZOS : I am sorry, perhaps I should make it clear. Leaving side the prayer and the scripture, did you say anything ... (Court intervenes) (10)

COURT : Coming down to more Mandaean things?

MR BIZOS : More Mandaean business, the business of the meeting, if you forgive me for trying to separate the two? -- I did not say anything after the preaching.-

What do you say to the evidence that you said that there were going to be a number of speakers? -- I never said that.

What do you say that you related the anecdote of the old woman approaching you at this meeting at the beginning? Can you recall whether you said that or not? -- I do not quite remember whether I made mention of that at this meeting on (20) the 19th. What I can remember certainly is that at the previous meeting I made mention of that. Whether I did say something about that in this meeting, that I cannot recall. That means now with reference to this time that is being referred to here that I had something to say.

COURT : Now I am not clear. Did you refer to this old lady at all during this particular meeting? -- Not directly about her. I did not make reference to her directly, but I made an example about her.

MR BIZOS : Was that at the beginning or later on? -- (30)

In/...

In answer to what had been said by a speaker at this meeting, me and accused no. 2 were the people who had something to say to what this person was saying and to that I explained the purpose of the meeting as to why this meeting was held and made mention of what was said by the old woman, not necessarily mentioning the old woman, but mentioning the statement she made.

Let us go back to the stage after you had finished your reference to the Bible and the explanation. Did you continue to be in charge of the meeting or did someone take over? (10)
-- The chairing of the meeting was taken over by somebody else.

Who? -- Peter Hlubi.

What did he do when he took over? -- He read two resolutions of the previous meeting which was held on the 12th to this meeting.

Which resolutions did he read? -- Namely that the increase on rent should not be paid, instead let there be payment made on the rent which was being paid prior to the increasing amount. The second resolution was the call on the councillors (20) that they were being asked to resign.

When he read these resolutions to the audience, how did the audience react? -- The response from the audience was yes, it is so. In other words, approving of the resolutions.

Were there more people at the meeting of the 19th than had been at the meeting of the 12th? -- Yes, compared to the previous meeting on the 12th, the attendance on the 19th was high.

Could you see whether any substantial number of people who were there on the 19th had been to the meeting of the (30)

12th/....

12th? -- Yes, they were there.

And as far as the age group of the audience is concerned, was there any material difference between the type of audience that you had on the 12th than the type of audience that you had on the 19th? -- Agewise the elderly people were more in number than the youth.

We have seen the audience at the meeting of the 26th on EXHIBIT 40, the video. Was there any material difference in the composition of the audience on the 12th, the 19th and the 26th? -- No, the grown-up people were always in the (10) majority at these meetings.

Whilst we are dealing with this, the people who were there on the 26th, were they a complete new lot of people or were they the people who have also been to the meeting of the 19th and the 12th generally? I am not speaking of everyone? -- Yes, that is so.

Just to make it absolutely clear, you told His Lordship there were about two hundred people at the meeting of the 12th, there were more on the 19th and there was a substantial number on the 26th. Were there people that you - looking (20) at them, who appeared to you to have been at one meeting and not on the other or did it appear that they had been at all three meetings by the 26th? -- In answer to that I will say in the first place on the 12th the attendance was not high, but the majority of those who were present at the meeting of the 12th were also present at the meeting of the 19th and in fact the attendance was higher than the attendance of the 12th that is on the 19th and on the 26th the attendance of the people who were present at the meetings of the 12th and the 19th, was also in the majority present at the meeting(30)

of/...

of the 26th and which was composed of elderly people.

After Hlubi mentioned these two resolutions, what did he do? -- Hlubi then introduced our invited speaker namely Mr Manthata.

Did he complete his introduction? -- No, he did not.

Why not? -- Because of his lack of the knowledge about Mr Manthata except to mention his name, as a result then I had to come to his assistance in introducing him further than that.

Accused no. 5 is back, My Lord. (10)

COURT : It is recorded.

MR BIZOS : What did you say which Mr Hlubi did not know about? -- That Mr Manthata is a committed Christian and that he is employed by the South African Council of Churches as a field worker and also the fact that he was a member of the Soweto Civic Association. That is how I introduced him.

What was the audience's reaction to this introduction? -- They clapped hands.

Did they do anything else? -- I do not quite remember, except that a few of the audience shouted "Amandla", but (20) that is not something which lasted for a long time.

Did you consider this shout of "Amandla" by a few people as a slogan of any particular organisation? -- No.

Although you took over to complete the introduction of Mr Manthata for Mr Hlubi, did you continue presiding on the meeting or who was the chairman of the meeting? -- Peter Hlubi continued to be the chairman.

Throughout the meeting? -- Yes.

What do you say to the evidence of one of the State witnesses that accused no. 4 was the chairman of this (30) meeting/...

meeting, the erstwhile accused no. 4, Lazarus More? -- That is not true.

Did accused no. 16 speak? -- Yes, he did.

Did he have anything in his hand when he started speaking? -- Yes, he had something.

What did he have? -- The notice which was sent by the town council of Lekoa to the residents of Sharpeville wherein they were informed about the increase on rent.

COURT : Had he got it from you? -- Yes.

MR BIZOS : When did he get it? -- When I found him in (10) my house after the church service that day, it is then that I gave it to him.

Before accused no. 16 started speaking, do you know whether or not there were any police officers in the audience? -- Yes, I do.

How did your knowledge come about? -- One of them was known to me and the other one was introduced to me in the sense that I was told about that person.

Let us deal with the one that you knew. Who was it? -- Mr Mokgema a member of the South African Police Uniform(20) branch.

How did you know him? -- He does not live far from me.

I take it he was not there in uniform? -- No, he was not in uniform.

Who told you about the presence of the other one? -- Oupa Hlomoka, accused no. 2, told me about it.

How did he tell you about it? -- Just before the meeting started, while I was standing with Peter Hlubi, he made a note, that is accused no. 2, which he himself brought to me.

What did the note say? -- The note was a policeman by (30) the/...

the name of Sergeant Koaho is present here.

Did you do anything with that note? -- I showed that note to Mr Manthata.

Did he react in any way to it? -- No, he did. He did not do anything as a result of that.

Was there anything in the note, as far as you remember as to what section of the South African Police Sergeant Koaho was serving in? -- Yes, it was written security branch.

Did you hear everything that Mr Manthata, accused no. 16, said? -- Yes, I heard everything of what he said. (10)

Did he start his speech by raising his fist and saying either "Amandla" or "Matla"? -- No, he did not do that.

Did Mr Manthata, accused no. 16, call for the death of councillors or the use of any violence against the councillors at this meeting? -- No, he never uttered such words.

Do you recall for how long Mr Manthata spoke? -- Yes, between 30 and 40 minutes.

Was his speech translated from any particular language to another? -- Yes, from Sotho to Xhosa.

By whom was that translation done? -- A certain man (20) whose name I cannot recall.

Was he a person who had been pre-arranged as an interpreter or did he volunteer to do the translating? -- He just emerged from the audience and volunteered.

This piece of paper or any piece of paper in the possession of Mr Manthata, accused no. 16, during his speech, was it torn up by him, thrown to the ground? -- He did not do that.

Or did he say that the piece of paper that he was carrying should be burnt? -- No, he did not say that. (30)

Do/...

Do you recall what was in broad outlines the speech of accused no. 16? -- Yes, I do.

Please tell us. -- Briefly he was talking about the powers of voting and the promises made by the councillors which promises were not kept by the councillors and he then said people must have a strong belief in God and must have a trust in other people in the sense that it is a trust in the organisations which are assisting people. In that he was making reference to welfare organisations. He also made mention of the fact that if the community is not satisfied (10) about the councillors, they have the right to call them and talk to them and if there is no agreement which is being reached between them and the councillors, then the people can call on them to resign or alternatively, they can during the next elections elect different people. He also made mention of the fact and the manner in which parents are failing to exercise control over their children. He further said because of the rent increase, the parents would not have enough to provide food and clothes for their children, as a result of which then there is going to be a lack of discipline on (20) the children. He also made mention of the fact that should it happen that the employers, namely the firms, are being requested to deduct from the pay-pockets of the employees in order to pay the rent, that is unlawful. That is how I remember the theme of his speech.

Do you recall whether, when speaking about the votes, he made any reference to any pensioners? -- Yes.

What do you recall him saying about that? -- He was talking about the increase on the White pensioners' pockets which was in fact done after what had been said by Lapa (30)

Munnik/...

Munnik, which was those who are pensioners within the White community can make a living on R20,00 only. What he said was, as a result of this remark by Munnik, the National Party lost a number of seats, that is in votes, to the PFP. That what he mentioned there was in fact what I also read about in the newspaper.

WITNESS STANDS DOWN.

COURT ADJOURNS.

COURT RESUMES.

PAGE 12 234 - JUDGMENT SENT FOR REVISION

IN THE SUPREME COURT OF SOUTH AFRICA(TRANSVAAL PROVINCIAL DIVISION)

DELMAS

1987-06-04

THE STATE

versus

PATRICK MABUYA BALEKA AND 21 OTHERS

RULING ON LIFTING OF EMBARGO ON THE EVIDENCEOF WITNESS IC.22

VAN DIJKHORST, R. : I was seen by Advocate Beckerling and (10) Advocate Pretorius, the defence counsel in S v ASHWELL ZWANE AND SEVEN OTHERS which is at present being heard by GROSSKOPF, J. in Johannesburg. They saw me in connection with the lifting of the embargo which I have placed on the evidence of the witness IC.22.

The embargo on that witness's evidence, that is the evidence of IC.22, is hereby lifted. This means that Volume 120 of the evidence may be made available. It is to be available only for the two defence counsel in that case and for Advocate Du Toit and for Advocate Van Zyl for the (20) State and for the eyes of the Court.

TEBOGO GEOFFREY MOSELANE, affirms further

FURTHER EXAMINATION BY MR BIZOS : Reverend Moselane, His Lordship took the adjournment at the stage when you told us that Mr Manthata, accused no. 16, had given the example of the statement made by Minister Munnik and the lost of votes to another political party. Did Mr Manthata relate this story or Minister Munnik to any of the matters that were being discussed at the meeting? -- Yes.

What did he say about that? -- What he said was, the Whites, because of their power of voting, are in a position(10) to use that power of voting in order to create some changes on certain matters. This he said in relation to the Blacks who had the powers of voting only for these councillors, which vote does not have the necessary power because even though it is there, it is not in a position to bring about a change according to the feeling of the people, saying that because of the employment of the powers of voting, the Whites were in a position to bring about a change which in fact justified their getting a higher pay on pension, whereas with the Blacks it is just a power for the local votes, which does not have(20) any influence to the political issues of the country.

You told us that there was a resolution read out by Mr Hlubi calling on the councillors to resign when the meeting started. Did Mr Manthata or accused no. 16, refer to that resolution at all, or to the councillors? -- Yes, when he said is when he was saying that if the people, that is the community, is dissatisfied with the services rendered by the councillors, the people have the right to call on the councillors in view of that to resign. That is what I understood him to be saying at the time of his speech. (30)

Did/...

Did he call on people to become members of any organisation? -- No, he did not do that.

Did he say anything to borrow a phrase from the counsel for the State about unity? -- Yes, he did make mention of unity.

He did not call for people to join any organisations but he did mention unity? --That is so.

What did he say about unity? -- He said unity is seen to be there when people are united in making a certain call which call is meant for a certain purpose. In that what he (10) meant was according to my understanding that if a person is experiencing a problem, which problem this person takes to be his or her problem alone, by uniting with other people, that person may find that he or she has come to meet with organisations pertaining to that.

ASSESSOR (MR KRUGEL) : Do you mean, he means by uniting with other people who have the same particular problem? -- Not exactly like that, but what I am driving at is, that they can unite for instance with identical problems and then therefore make a call or represent themselves to the (20) organisations which can be in a position to offer assistance in order to have their problems solved.

COURT : Is that what he said or is that what you understood? -- That is what I understood from his speech.

MR BIZOS : Did he mention the type of organisation? -- I cannot quite remember, but when I understood him to be talking about welfare organisations, I understood that to mean that he is talking about organisations which offer help of some kind.

While Mr Manthata, accused no. 16, was speaking, were (30)
there/...

there any newspaper people at the meeting? -- Yes, there were.

Can you recall how many there were? -- Those who were known to me, I remember only two.

Were they in a position where they could be seen by Mr Manthata? -- Yes.

Were they just sitting there or were they making notes? -- They were making notes in their note-books.

How did Mr Manthata finish off his speech? -- At the end of his speech he uttered this word "Matla". (10)

And was there a response to it? -- The response to that was "Bokamoso Kejwaroma".

Was there undue excitement of the audience as a result of Mr Manthata's speech?

COURT : Do you mean by undue excitement not earned by the further of the speech.

MR BIZOS : It is ambiguous. Other than this exclamation, was there any other untoward behaviour by anyone in the audience as a result of this? -- No, there was none.

Can you recall who spoke next? -- Yes, Patrick Baleka, (20) accused no. 1.

Was he an invited speaker? -- No, he was not invited.

How did it come about that he spoke? -- What happened there is, I saw him emerging from the audience, coming forward to speak to Peter Hlubi. After the talk between the two of them I was approached by Peter Hlubi to find out from me if he, Peter Hlubi, could allow accused no. 1 to speak at this meeting, because he had some words or a short speech to make to the meeting.

Did you express an opinion to Mr Hlubi about that? -- (30)

Yes/...

Yes, I said well, it is alright, I do not see anything wrong in that, let him speak.

Did Peter Hlubi then say anything to the audience about accused no. 1, Mr Baleka? -- Yes, Peter Hlubi introduced him, accused no. 1, by this name to the audience and further introduced accused no. 1 as a member of AZANYO, that he, accused no. 1, is from AZANYO.

Did he speak? -- Yes, he did.

Did he start his speech with a recitation of a poem called "Africa, Africa"? -- No, he did not do that. (10)

What do you say to the evidence led by the State witness or witnesses that accused no. 1 was introduced by the erstwhile accused no. 4? -- No, that is not so.

Do you recall what accused no. 1 said? -- Yes, I did.

What did he say? -- He was talking about the manner in which the sales tax is affecting the people's living and he also made mention of the fact about the tax which is being paid, saying that that also reduces the income of the people.

COURT : Is that now income tax? -- Yes. He also made mention of the increased rent, that that has a bearing on the people's income. (20)

MR BIZOS : Anything else? -- That is what I still can recall was said by him.

Could you please tell His Lordship whether accused no. 1 said anything about that he and others are ready to fight if they, whoever they may be, want us to fight? Was there anything about that in his speech? -- He never mentioned that.

Do you recall whether he said anything about SRC's? -- No.

COURT : Do you mean you do not recall it or he did not say (30)

so/...

so? -- I cannot remember him saying that. In fact he did not utter those words.

Did he say words to the affect that Mahlatsi increased the rent, let Mahlatsi pay the rent? -- I cannot recall him saying that.

Can you recall whether he said anything about the - Mahlatsi sent in his dogs to evict people? -- No, he never said that.

What language did accused no. 1 speak in? -- Xhosa.

Is that a language generally spoken in your community(10) or parish of Sharpeville? -- Yes, but the Xhosa spoken by accused no. 1 was pure Xhosa which did not mix with any other language, therefore it was not easy to understand his Xhosa.

Was it interpreted? -- Yes, it was.

COURT : Into which language? -- Into Sotho.

MR BIZOS : How good is your Xhosa? -- I do speak Xhosa and I do read it but not well. I would rather say I do not understand good Xhosa. Nor do I speak good Xhosa. (The Xhosa described by the witness is the township Xhosa.)

Which accused no. 1, Mr Baleka, was not speaking? --(20)
That is so.

Could you assess the competence of the interpreter in Xhosa? -- The interpreter indicated that he or she was experiencing some difficulty in interpreting.

I do not understand the he or she. Is it just for the sake of completeness to satisfy feminine or do you not know whether it was a man or a woman? -- (My Lord, that was used by me because the witness used just generally the person.)

Was it a man or a woman that translated? -- It was a male person. (30)

Was/...

Was there any eruption or any untoward behaviour at the end of accused no. 1's speech? -- Nothing out of the ordinary happened.

Do you recall who the next speaker was? -- I remember somebody saying something. That was a suggestion, not a speech.

Who was that? -- Mr Oupa Hlomoka, accused no. 2.

How did he come to begin on the floor? -- He raised his hand from where he was seated.

And who responded to this? -- Peter Hlubi, the chairman, (10) responded to that.

What did either accused no. 1, Mr Hlomoka, or Mr Hlubi say? -- Peter Hlubi introduced accused no. 2, Mr Hlomoka, as Mr Hlomoka who is known to him, who is from AZAPO.

What do you say to the evidence by the State witness or witnesses that the erstwhile accused no. 4 introduced accused no. 2? -- I disagree with that, because Hlubi was the chairman. Accused no. 4 was never a chairman there.

Did the erstwhile accused no. 4, Mr Lazarus More, say anything at this meeting? -- Not at all. (20)

Then you say that Mr Hlomoka, accused no. 2 made a proposal? -- Yes.

What was his suggestion? -- He suggested that the proposal which has been made, that being that the businesses of the councillors are to be boycotted, should be accepted by the house, which is the meeting as a resolution of this meeting. What I am saying is that that was his suggestion that the councillors' businesses, namely the shops belonging to the councillors be boycotted.

Why? Did he say why that was to happen? -- He did not (30) explain/...

explain as to why that was to happen. There were already two suggestions which were made at the previous meetings. One of them was that there was going to be a call on the councillors to resign.

And the other? -- The second one was about the petition.

COURT : Is that what accused no. 2 said?

MR BIZOS : No.

COURT : But now you are walking back in history. -- I am sorry I made a mistake there. The other one was that the increase on rent should not be paid, instead the actual rent (10) which was there prior to this increase should be paid.

MR BIZOS : You say those two proposals were made and it was in that context that Mr Hlomcka made the suggestion ... (Mnr. Jacobs kom tussenbei)

MNR. JACOBS : Hy het nooit gesê dit is in daardie konteks nie. Dit is wat mnr. Bizos nou aanlas dat dit in daardie konteks was.

MR BIZOS : The answer to the question was why was ... (Court intervenes)

COURT : The question was why, did he explain it and the (20) answer was he did not explain why that was to happen.

MR BIZOS : Yes, but then he said but it was said that there were these two resolutions which were mentioned previously in the meeting.

COURT : It was not said. The witness said so. There were two suggestions.

MR BIZOS : There were two suggestions. I submit that I am entitled to put two and two together, that that is the reason why the witness has found it necessary to mention those two, but any way, I will try and ... (Court intervenes) (30)

COURT/...

COURT : I think you can leave it to the witness to put the two and two together.

MR BIZOS : I think he has, but in any event, I will leave it at that. What happened to the proposal that was made by Mr Hlomoka, accused no. 2? -- This was accepted by clapping of the hands. It was also accepted orally by saying yes, let it be like that.

Other than agreeing to the resolution, did people do anything else, other than clapping of hands and saying yes?

-- Not that I can still remember. (10)

Did anybody exclaim or sing "Siyaya, Siyaya"? -- Nobody ever mentioned or uttered that word.

Did anybody sing the song "Siyaya, Siyaya" at this meeting at any stage? -- Nobody ever sung that song.

What do you say to the allegation that Nozipo Myeza spoke at this meeting of the 19th? -- She did not utter even one word at this meeting.

What do you say to the opinion expressed by Sergeant Koaho and IC.9 that as a result of the speeches or the utterances of accused nos. 16, 1 and 2, that the people were (20) ready to fight? -- That is not true. Because we were discussing the rent issue, it was something of importance that was being discussed at this meeting. If the speeches made by accused nos. 1, 16 and 2 were to be given the interpretation as put by Koaho, then accused no. 2 would not have suggested the boycotting of their businesses, because at the time it would have meant that the people were already in the fighting mood and there was no point in suggesting that.

There is just - I want you to please turn to page 8 of EXHIBIT V31. The top line, the words of an unidentified (30)

female/...

female voice which says "We spoke well last week" and then goes to complain about what the children did thereafter. You were present at the meeting of the 26th? -- Yes, I was present.

What did you understand that speech to refer to when she said "We spoke well last week"? -- I understood her to mean that the resolutions which were taken during the previous meeting were the proper resolutions.

Was she referring to the previous meeting? -- Yes, because she was present. (10)

What do you say that shortly before the meeting ended there was an incident around the place where Koaho, IC.9 and one Letsele was sitting and for that reason they left early because they felt threatened? What do you say about that? -- In the first place, these three people were not known to me and secondly, from where I was seated, nothing appeared to me to be a threatening situation at this meeting. From the position where I was seated, I had a full view of what was happening amongst the audience. I could see people leaving the meeting, going out, may be for the purpose of going to smoke (20) and coming back again, but a person who left because of a threatening situation from that meeting, that did not happen and if that ever happened there, I would have intervened in one way or another by reprimanding whoever was involved in that or having gone to those people to assess what was happening and again, the audience there was made up out of grown-up people in the majority.

Whilst we are dealing with the meeting, what do you say to the allegation that accused no. 1 came in to the meeting at the beginning with you as part of the entourage entering (30) the/...

the meeting? -- No, that is not true. He was never at my residence. I was seeing him for the first time when he was coming to request for a chance to speak.

Do you recall when we were showing EXHIBIT 40 to His Lordship that there was a young man there was uncombed hair, that had something to say partly in English and partly in another language. Do you know that person's name? -- Yes, I know that person's name.

What is his name? -- Albert Botha.

Was he at the meeting of the 19th? -- Yes, he was. (10)

Is this the first time that you saw him or had you seen him before? -- I was not seeing him for the first time then. I had seen him before.

Where had you seen him before? -- At the same church building, while there was a meeting going on.

Which meeting was that? -- It was during the meeting which was convened by AZAPO when they were campaigning against the election, which is the anti-election campaign of 1983.

What happened in relation to Mr Botha at that meeting?

COURT : That is now at the previous AZAPO meeting? (20)

MR BIZOS : At the previous AZAPO meeting, yes. -- I remember him being chased away from that meeting.

By whom? -- By the members of AZAPO.

Was Mr Hlomoka, accused no. 2, amongst them? -- All I can say about accused no. 2 is that I know he was at that meeting. Whether he was part of the people who chased that man away or not, that I cannot say, except to say that I know this person was chased away.

Do you remember why he was chased away from that AZAPO meeting? -- Yes, that was as a result of his words he used(30)

or/...

or uttered at this meeting. It was not pleasing.

What did he say? -- His utterances were that people must not sit down there while in fact the residential area is on fire or words to the effect that it was burning.

Did he suggest what ought to be done? That is now about AZAPO? -- No, he did not say what he thinks ought to be done, but the AZAPO members are the people who reacted as a result of his utterances.

COURT : Are we interested? This is so far back.

MR BIZOS : What did Mr Botha do on the meeting of the 19th(10) who had been previously ejected? -- He was saying, say there were people who decided to go and pay this rent that we have agreed upon and resolution that it is not being paid, that is the increase on rent, what is to be done about those people.

Did anybody answer him? -- Yes, he was answered.

Who answered him? -- Mr Hlomoka and myself.

What was the effect of your answers? What did you say? -- Hlomoka said that it must be made clear and in fact emphasised to the people to understand and to be made aware of the resolutions of the meeting about this issue and he (20) even further said because of the majority of the people who could not come to this meeting and therefore this must be discussed with them as well, on which in answer I said, we all know why this meeting was convened here. It was because of the members of my parish who are not well up-to-do financially we will have to talk to the people in order to make it clear to them as to why this meeting resolved on this. All I can add to this is, he was not chased away from this meeting.

WITNESS STANDS DOWN.

COURT ADJOURNS UNTIL 5 JUNE 1987.