

SAAKNOMMER: CC 482/85

DELMAS

1986-02-19

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRUGEL

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

KONTRAKTEURS:

LUBBE OPNAMES

(IN CAMERA GETUIE NR. 9)

VOLUME 27

(Bladsye 1267 - 1300)

THULO RONALD KOAHO: d.s.s. (Through Interpreter - In Camera)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Right was he there for the purposes of reporting? -- That is so.

What happened at the meeting? To report on what happened at the meeting? -- That is so.

To whom was he to report? -- To the broadcasting.

To the broadcasting. Was he making any notes? -- No.

Is he an accredited reporter of the Broadcasting Corporation? -- That is so.

Do you know of any reason why he did not join members(10) of his profession in front of the meeting where they were making notes? -- I think that question can only be answered by him and not me.

No but you were in his company. Did you ask him if he was there in his capacity as a reporter, why he wanted to be in the company of two police officers from the security police and did not take his proper place where he could make notes, in front with the other journalists? -- I did not find that necessary.

To ask him? -- Yes. (20)

When did you meet him? -- The Saturday.

Did you make arrangements to meet in order to go specifically to this meeting? -- That is so.

Did you know him from before, were you friends, or was this just a chance thing? -- We know each other for long before.

For long before. Was he to file a report with the security police? -- No.

Did he file any report with the security police? -- No.

Did he see the report that you submitted on the Monday morning? -- No. (30)

Where did you meet before you came to the meeting on the Sunday?/....

Sunday? -- Do you mean the day before the day of the meeting or when?

No where did you meet him on the Sunday before you went to the meeting? -- At his residence.

Where? -- At Escom.

At Escom.--In Zone 14.

Did you go in the same car? -- Yes in my car.

Do you know whether he reported on this meeting on the radio? -- That I do not know.

Well did you ask him whether he was going to try and (10) have this meeting reported on the radio? -- Yes at the time when we were on our way to the meeting.

After the meeting did he tell you whether he found it a particularly significant meeting which was worthy of reporting in his opinion? -- No that we did not discuss.

Did you ever try and find out whether he did file a report on this meeting? -- No.

Do you know when he was approached for the first time in order to make a statement? -- No.

Did you see him shortly before or shortly after you made (20) your statement in October? -- I did see him before making my statement because we meet over the weekends.

Oh so you meet regularly? -- Especially over the weekends.

Yes. Did you discuss with him before October, when you made your statement, that it may be necessary for him to make a statement? -- No.

Did you keep the fact that you were asked to make a statement, or that you made a statement, a secret from him? -- No.

Well why did you not mention it to him and remind him (30) of the fact that this meeting you had been to you had been asked/.....

asked to make a statement about? -- Well it did not happen that we met during that period.

I thought that you met regularly during weekends? -- That is so.

Have you been seeing him regularly since October when you made your statement? -- No we were busy on work and therefore there was no time for us to meet.

Well when did your friendship, or your regular weekend visits, stop? -- After 3 September, then we had no time because we were working almost every weekend. (10)

Oh are you saying that you have not seen him at all since 3 September during weekends? -- Not up to date. We did not see each other for weekends as usual after 3 September for a certain period and then thereafter we met again.

Yes, when did you start meeting again? -- In December.

In December did you ask him whether he had either been called upon to give, to make a statement or not? -- No.

When did you for the first time realise that he may be a witness in this case? -- That is when Major Kruger enquired about his residence. (20)

When did Major Kruger enquire about his residence? -- It was in October.

Before or after you made your statement? -- Before.

Yes, and who got in touch with him in order that the question of the possibility of a statement from him may be discussed? -- I do not know who.

Not you? -- No.

Well did not Captain Kruger ask you to tell your friend to come in in order see whether he can support the State's case? -- No. (30)

Now have you been seeing each other regularly since  
December/.....

December 1984 up to date? -- That is so.

Yes. And did he ever tell you that he had been asked to come and give evidence in this case? -- That is so.

When did he tell you that for the first time? -- I cannot remember the date.

Well in relation to December 1984? Long after that or very recently? -- It was long after we started meeting that he told me.

That he made a statement or that he was coming to give evidence? -- That he told me that he was going to give (10) evidence.

Right. Had you mentioned his name in your report? -- The report for my office?

Yes. -- No.

How did Captain Kruger come to know to come and ask you about his address if you had not mentioned his name in the report? -- He asked if we knew of any people who were in that meeting.

When were you first asked for the first time, first asked to say if you knew any of the people at the meeting? -- That (20) is during the time when we were making statements.

In October? -- That is so.

Did you leave the meeting together with the person from the Corporation? -- That is so.

Was he shocked with the statements made by accused no. 16 and the other people that had agreed with him? -- No that I do not know but it did not appear like that to me.

He did not appear shocked? -- That is so.

The meeting did not have the same effect on him as it had on you? -- That is so. (30)

Did it not occur to you at the time to both mention his name/....

name and possibly even take him to the police station right away to make a statement in order that there may be an independent record of what accused no. 16 and others said?

-- No.

I thought that I had done it but possibly not, but I just want to put to you that on this banner the only words that were there were the words which I have put to you and not the words "Away with Councillors"? -- They were there.

And insofar as you say that the people were excited, insofar that you mean that that may mean that they were (10) particularly concerned with what was being discussed, in that sense they were excited, but not in the sense of being riotous or disorderly or in any other way. Do you agree with that? -- No.

Do you agree that the hymn, sometimes referred to as the National Anthem but Nkosi Sikelele e Africa has a religious tempo and a soothing effect on people? -- On listening to that, yes.

And would you agree that when the people left the meeting, as you were watching them from the police station, they (20) left the meeting at peace with themselves? -- That is so, they walked away normally.

Thank you My Lord, I have no further questions.

RE-EXAMINATION BY MR HANEKOM: No questions.

NO FURTHER QUESTIONS.

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MNR HANEKOM: Edele die volgende getuie moet ek, het ek instruksies om aansoek te doen dat sy getuienis in camera gelewer word.

HOF: In terme van die Wet word gelas dat hierdie aansoek (30) in camera aangehoor word. Die Pers sal die Hofsaal verlaat.

The/.....

The press is to leave the court.

MNR HANEKOM: Edele die getuie is die een wat nou al ter sprake gekom het in die getuienis van die vorige getuie. Hy getuig oor dieselfde vergadering. Hy is van beroep 'n joernalis vir radio en televisie-diens en hy woon tans nog in Gebied 14, Sebokeng. Hy deel my mee dat hy enersyds vrees vir intimidasie en vrees vir sy lewe indien hy sou getuienis gee vir die Staat. Hy sê hy het rede om te vermoed dat hy daarna in gevaar sal wees en andersyds sê hy dat hy dink ook of hy, hy het 'n baie sterk vermoede hy sal leed aangedoen (10) word in sy beroep as, hy is 'n bekende politieke kommentator in die Swartgemeenskap en dat hy nie sy werk in daardie hoedanigheid onbevange sou kan doen as dit bekend word dat hy hier getuienis gegee het nie. Edele met u verlof sal ek hom roep om self ....

HOF: Wat is sy naam?

MNR HANEKOM: Dit is IC.9.

HOF: Is dit die feite wat u wil hê hy moet aan my voorlê?

MNR HANEKOM: Dit sal wees, hy sal dalk net 'n bietjie daarop uitbrei maar dit sal die feite wees. (20)

COURT: Are there any aspects Mr Bizos that you would like me to take up with him? I am going to change the procedure. It has become too long drawn, this enquiry. If there is anything you want me to take up with him tell me now and I will take it up with him.

MR BIZOS: On the facts My Lord, on the facts I would request Your Lordship to put to him that if he in fact is a journalist and has the high political profile that Our Learned Friend refers to, that it is important that he should speak openly. I am assuming that Your Lordship does not want me to (30) address Your Lordship now as to why Your Lordship should

not/....

not apply the rule at that ....

COURT: I want facts that you want drawn from him in order to be able to put the full picture before the Court.

MR BIZOS: Yes My Lord. The fact that his political profile in a State, well in an institution which is in the eyes of some identified with the State, is known, the fact that he lives there cannot, whether Your Lordship makes an enquiry as to whether he himself is not anxious to speak publicly about what happened publicly, and whether he considers his position any different to any other person that comes into(10) the witness box. If I understood the position correctly, that because he has this political commentator's job he wants to give his evidence behind closed doors. One would have thought that the very opposite would be required, that he should speak out in relation to anything that he may have heard. And we would like confirmation that he was there in his professional capacity.

COURT: Well when he gives evidence you can ask him that.

MR BIZOS: No, but My Lord ....

COURT: He is going to give evidence in any event. (20)

MR BIZOS: That is so. No but on the question of whether Your Lordship should exercise the discretion or not, whether Your Lordship is going to extend this protection to reporters, to reporters or not may be a relevant fact. And may I submit, with respect, that I do know, I naturally accept Your Lordship's ruling that Your Lordship will not allow me to ask the witness any questions. I would like to inform Your Lordship that I am in touch with counsel in similar cases where I think without exception counsel have been asked to, been given an opportunity to enquire into this and I submit (30) with respect that that view, or that procedure is the correct procedure/.....



procedure. It may well be, and I do it with deference with respect, that preventing us to examine the witness on which the jurisdictional facts are to be established may be, with respect, irregular because a decision is made which affects the proceedings and it cannot be said that we have been given a proper hearing if we are not allowed to ask questions in relation to the facts that are to be established or not established and I would ask Your Lordship, with respect, to reconsider Your Lordship's provisional ruling that I should not be allowed to ask any questions. (10)

COURT: Yes, I will hear the witness. Yes, what is your name? -- IC.9.

Yes, now before you take the oath I would like to ask you a couple of questions. I understand that you want these proceedings to be held in camera? -- That is so.

What are your reasons? -- My first reason here is, which is a major reason of course. We are being threatened here that should we, if we give evidence for the State we are going to be killed. Another reason is that you find a life is always in danger if you have given evidence on behalf (20) of the State. Thirdly is the kind of work I am doing wants me amongst the people and the organisations and if I were to be seen amongst them again I will be in danger.

Are these your three reasons? -- Yes.

Now firstly were you at this meeting, that is the meeting in August, I think 19 August 1984, in a professional capacity? -- That is so.

As a reporter for the SABC? -- That is so.

And the question arises whether it is not important that a person with the high political profile like you, reporting (30) on political events, should give evidence in public. -- I quite/.....

quite agree on other countries and with other people yes. But not amongst us, the Black people. We experience a lot of other things because we live in the townships after having done so.

You say that you are being threatened if you give evidence for the State. Have you any personal experience of this?

-- No not because I had given evidence before but because of the kind of work I am doing.

Now the kind of work you are doing is reporting on events at political meetings? -- Not only that. For (10) instance by revealing certain facts which we do not agree with. In the sense that say for instance one reports about a certain fact which was raised in a meeting of an organisation and we have a feeling that this is not the correct way then you put your own comments on that, but on the comment you give then you are sort of being put in danger.

Yes, now if for example you would testify that Mr X incited somebody to violence, towards violence against the State, would that in any way detrimentally affect you? -- I know for a fact the Department, or the organisation which (20) I am working for, which is the Broadcasting Corporation, in most cases it does not agree with the views of other organisations pertaining to politics. As such they are not in favour of certain ideas which then I am referring to now as comments, if one would comment on that.

Yes I do not entirely understand you. Who is not in favour, the SABC or the organisations? -- The organisations are very much against us, meaning the SABC.

And should you testify against any of those organisations which you have not mentioned yet what would happen? -- Even (30) though one cannot say exactly direct now what is going to happen/.....

happen but it is a known fact what can be expected from a person or about a person who has given evidence against a certain organisation in a case.

What would happen? -- It has already happened on many occasions that people are being killed and people are being burnt.

Which organisation? -- I am not going to pin myself down and say it is this organisation but what happens is this, you go to sleep the previous night, the following morning you are being attacked by certain people and they tell (10) you they are from a certain organisation and that is what is happening.

Yes thank you, you may stand down.

HOF: Wil u byvoeg mnr Hanekom, by u betoog?

MNR HANEKOM: Ek het niks by te voeg nie.

COURT: Yes Mr Bizos?

MR BIZOS: My Lord one of the matters which I would suggest, with respect, before the witness goes away is whether he expresses his views as a political commentator freely and whether it is against these organisations and still lives (20) under the conditions which he describes.

COURT: How do you mean "freely"?

MR BIZOS: Well My Lord that he freely expresses his political opinions on the SABC and whether or not those are political opinions are expressed against certain of the organisations that he has referred to but has not named, but that despite that he lives in the area where he lives and nothing has happened to him.

COURT: Anything else?

MR BIZOS: At the moment I have nothing ... (30)

COURT: Well I cannot go on, I must now ask him and get it over/.....

over with, I will call him back.

MR BIZOS: Well My Lord this is the difficulty.

COURT: No I am now holding an enquiry not a trial, and I have decided henceforth this will be an enquiry.

MR BIZOS: As Your Lordship pleases. I think with respect that one of the factors to be enquired into is whether he expresses these views openly and fearlessly and whether he still lives in that community and whether anything has happened to him for expressing those views.

COURT: Yes, all the witness back. (10)

MR BIZOS: And My Lord possibly, does he suppress the facts that he hears at these meetings for fear, does he not publish them?

COURT: Openly and fearlessly?

MR BIZOS: Openly and fearlessly as part of his job. If he hears incitement is he not going to report it? Does he compromise himself in the performance of his duty?

COURT: There is one more question to be asked to you and that is do you in your work on political matters express your views fearlessly and openly on the SABC? -- There (20) the position is different altogether. You are not the only one who comes with those views. For instance that they must say so and so gave this view.

They do not give it as your view? -- They do not give it as a view of a particular person.

It is given as the view of the SABC? -- Of the SABC, and secondly there you are not giving sort of a view where you will be seen by people as to who that so and so is or who the people are.

So you are not a commentator on television on political(30) matters? -- Not at all.

I/....

I see. Or on the radio with your name mentioned on political matters? -- Not at all.

You are merely one who gathers information for the SABC? -- That is so.

Yes thank you, you may stand down. Yes Mr Bizos?

MR BIZOS: With the limited facts that have been placed before Your Lordship by this witness and one of them which I did suggest but was not asked of the witness was whether he would omit to report facts which he heard at a meeting, I submit with the greatest respect that we are at a disadvantage but we will try our best in view of Your Lordship's ruling. But we want to submit that within the guidelines in your Lordship's judgment this man's position is a much weaker position in relation to the application by the State than when the application was made for the witness Masenya, if I remember his name correctly. He too attended a meeting and Your Lordship ruled that he should give his evidence in open court. Insofar as the evidence of the last witness may be a guide, which I submit it will be, as to what this witness is likely to say it is not materially different from the witness Masenya. There are additional factors, in our respectful submission, why this witness should give evidence in open court. He is a person who expresses political views or helps to formulate political views, he was there in his professional capacity and one would really think that the administration of justice has come to a sorry end if a reporter at a meeting, when he hears that the commission of an offence has taken place in the presence of 1000 people that he should say that he does not want to give evidence in public. There is no evidence that anything happened, or is likely to happen to a person like Masenya. We submit that this is an

a/.....

a fortiori case and that Your Lordship will oblige the witness to give evidence in open court.

COURT ADJOURNS UNTIL 13h45.

IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

CASE NO. CC 482/85DELMAS

1986-02-19

THE STATE

versus

PATRICK MABUYA BALEKA & 21 OTHERS

(10)

J U D G M E N T

VAN DIJKHORST, J.: I have considered the question whether the proposed witness is to give his evidence in camera and my ruling is that the evidence is to be in camera, that my previous ruling applies and that it is in no way to be mentioned by the press that he is a reporter or that he works for the SABC. As far as the record is concerned my Assessors and I have considered the aspect of the name of the witnesses who give evidence in camera and this was also (20) tentatively discussed with counsel and it seems advisable that they should be given numbers rather than names, on the record. This witness will then be known as in camera witness no. 9 and appropriate steps will be taken to erase the names of the previous witnesses from the record, so far. We will take steps to have the master copy corrected and counsel are to see to it that their copies are properly blotted out.

It should further be stated that the witnesses who have already given evidence in camera will henceforth be referred to by their numbers of appearance. The names (30)

can/.....

can be got from me and the numbers will correlate with the names. I would further like to place on record that Advocates Mailer and Morane, who are appearing in a treason trial in Natal, have approached me in Chambers and that I have lifted the embargo on the record insofar as Volume 5 page 250, Volume 9 page 456 to 469 and Volume 10 page 510 to 515 are concerned provided that the name of the witness be blotted out. That is in camera witness no. 6. That embargo was lifted solely for the purpose of the trial they are in at the moment in Pietermaritzburg. (10)

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IN CAMERA WITNESS NUMBER 9, d.s.s. (Through interpreter)

COURT : You are informed that I have ruled that this evidence will be given in camera and that the press is in no way to indicate that you are a reporter or where you work. Please write your name on a piece of paper.

ONDERVRAGING DEUR MNR. HANEKOM : Het u op 19 Augustus 1984 'n byeenkoms bygewoon in die St. Cyprian Anglikaanse Kerk in Sharpeville? -- Dit is so.

Het u enige van die beskuldigdes by die byeenkoms gesien?  
-- Ja, dit is so. (10)

Noem hulle, asseblief?

HOF : U moet net versigtig wees. Ons beskuldigdes is nie almal hier nie. Sekeres van hulle is afwesig en wys die persoon uit, dan kan hy opstaan, dan kan ons hoor wat sy nommer is.  
-- Die man heel voor op die hoek daar.

Aan die linkerkant. Staan op, asseblief. Mnr. Baleka, beskuldigde nr. 1. -- Die tweede een wat daar langs hom sit.

Mnr. Hlomoka, beskuldigde nr. 2. -- Die derde een.

Mnr. Moselane, beskuldigde nr. 3. -- (Getuie wys verdere persoon uit) (20)

Beskuldigde nr. 16.

MNR. HANEKOM : Daar is gister deur myself en My Geleerde Vriend 'n getuie - 'n beskuldigde aan u getoon buite die hof. Is dit reg? -- Dit is so.

Dit was beskuldigde nr. 4, More? -- Ja, dit is so.

HOF : Wat sê u van daardie beskuldigde? -- Hy was ook teenwoordig in daardie vergadering.

Beskuldigde nr. 4. Hy is nie tans teenwoordig nie.

MNR. HANEKOM : Het enige van die beskuldigdes wat u nou uitgewys het by daardie byeenkoms opgetree as sprekers? -- Ja. (30)

Wie van hulle? -- Beskuldigdes nrs. 1, en 2, beskuldigde

... / nr. 3

nr. 3 was die voorsitter, asook beskuldigde nr. 16 wat 'n toespraak daar gemaak het. Die een wat ek gister gesien het was ook daar voor gewees. Hy het ook daar opgetree soos 'n voorsitter.

HCF : Beskuldigde nr. 4.

MNR. HANEKOM : Was daar binne-in die kerkgebou enige baniere?  
-- Wat gebeur het, is, die kerkgebou was gesluit gewees. Toe dit oopgesluit was, met die inkoms van ons binne-in die kerk was daar toe 'n banier opgesit.

Kan u onthou wat die bewoording van die banier was? --(10)  
Ja, ek kan onthou.

Wat was dit? -- Heel bo was dit geskryf "Asinamale."  
Net onder dit was geskryf "Away with councillors." Na dit was geskryf "No more rent hikes."

Ek kom nou terug na die sprekers toe. Wat was die hoof-trekke van beskuldigde nr. 16, mnr. Manthata se toespraak? -- Beskuldigde nr. 16 was voorgestel as die hoofspreker van daardie vergadering. Na hy voorgestel was, het hy na vore gekom, waar hy die teken gegee het van Amandla. (Getuie demonstreer)

HOF : Regter vuus skuins in die lug. (20)

MNR. HANEKOM : Ja? -- Die gehoor het toe daarop geantwoord. Hy het toe voortgegaan met sy toespraak deur te sê dit is nou lank wat die mense onderdruk word, deurdat hulle hoë gelde betaal, wat eintlik nie gesien kan word wat daardie gelde voor gebruik word nie. Dit word gedoen deur gebruik te maak van (die woord gebruik is dubbelsinnig) "councillors", naamlik raadslede.

HCF : Laat ek dit net duidelikheid kry. Wat sê die getuie? Hy sê deurdat hulle hoë gelde betaal wat nie kan gesien word waarvoor dit gebruik word nie en verder? -- Om die gelde (30) te vorder word raadslede gebruik. Hy het toe verder gesê die

tyd het nou gekom dat mense hulle krag moet wys. Krag is een ding wat hulle het. Hulle weet nie hoe om dit te gebruik nie of hulle kan dit nie gebruik nie. Hy het verder gesê die mense laat dit toe dat hulle hierdie hoë gelde betaal, sonder dat hulle (die mense) hulle krag gebruik. Hy het toe verder gesê dat hierdie mense wat dit doen, is nie deur die jeugdige mense gekies nie. Hulle word gekies deur die ou mense aan wie hulle (die mense wat gekies word) kledingstukke of komberse gee sowel as kos. Op hierdie stadium het hy 'n stukkie papier uit sy sak uitgehaal. (Getuie dui aan) Hy het dit so hoog (10) gehou en toe terwyl hy dit so hoog gehou het, gevra van die gehoor of hulle weet wat dit is, verwysende na hierdie stukkie papier. Hy het toe verder gesê hierdie stukkie papier is nou die geld wat die mense moet betaal. Toe sê hy verder aan die mense al wat hulle moet doen met hierdie stukkie papier is om dit op te skeur. Hy het toe daardie stukkie papier wat hy gehad het, opgeskeur en toe opgefroemel en neergegooi. Toe hy dit gedoen het, het die mense hardop geskreeu. Daar was twee vroumense wat daar op die platform gestaan het of by die platform was. Toe hy dit gedoen het, het die vroumense (20) Amandla geskreeu. Op daardie stadium was die mense se gevoelens so opgesweep gewees. Toe die gehoor nou weer begin luister het, het beskuldigde nr. 16 verder gegaan met sy toespraak.

MNR. HANEKOM : Net voordat u aangaan, het net die twee vrouens Amandla geskreeu? -- Net nadat hy gepraat het oor hierdie stukkie papier wat hy later opgeskeur en verfrommel het, het die twee vroumense Amandla geskreeu met die teken (soos aangedui word met die arm hoog in die lug met 'n vuist) en die gehoor het toe daarop geantwoord deur te sê Awethu.

Gaan voort, asseblief? -- Hy gaan toe verder aan met (30) sy toespraak deur te sê die manier waarop die mense hulle

... / krag

krag moet gebruik, weet hulle hoe. Hy het verder gesê dit is lank dat hulle met die raadslede of die "councillors" praat dat hulle (die raadslede) die werk moet los en hulle weier. Hy het toe verder gesê as hulle so weier om die werk te los van die raadslede, sal hulle verplig moet word om dit te los. Met dit, toe hy dit gesê het, het hy sy gevoel uitgedruk, want later het hy toe gesê dat as hierdie mense weier om die werk te los, dit wil sê die werk van die raadslede, moet hulle gedood word. Hulle moet met klippe bestook word en aan die brand gesteek word. Hy het toe verder gesê hy sien nie wat(10) is dit wat die mense van Sharpeville dan kry of voordeel kry van die geld wat hulle betaal nie. Hy het toe verder gesê dat toe hy hier in Sharpeville ingekom het, het hy net stof gesien. Daar is nie strate nie. Hy sê toe verder dat die mense hulle krag moet gebruik, dat hulle nie by die winkels van die raadslede moet koop nie, ook nie brandstof koop van die mense se garages nie en verder gesê dat hulle niks moet doen wat eintlik te doen het in die sin van profyt met die raadsledennie, want hulle (die raadslede) het hoegenaamd geen profyt of doel vir die gemeenskap nie. Dit alles, dit wil (20) sê wat hy alreeds genoem het, sal dan as bewys gebruik word vir die krag wat die gemeenskap het. Dit was die toespraak van hom.

Wat was die reaksie van die gehoor toe hy gesê het die raadslede moet gedood word en met klippe bestook word en verbrand word? -- U sal verstaan, hier is nou mense wat staan met probleme. Hulle voel daar is iets wat nie reg is wat aangaan wat hulle betref nie en hier kom 'n persoon met hierdie tipe voorstel. Hierdie mense se gevoelens was so hoog gewees dat hulle eintlik die aanvaarding daarvan getoon het. (30)

HOF : Het hulle gesê "Hoor, hoor" of het hulle gesê "Ons stem

... / saam

saam" of het hulle niks gesê nie? Waaraan het u die aanvaarding gesien? -- As gevolg van die optrede van die gehoor daar, naamlik dat van hulle die teken gegee het wat ek nou net aan die Hof gedemonstreer het, dit is die teken van Amandla, het van hulle gewys of getoon dat hulle so bly was deur die woorde gebesig dat ek vir die Hof kan sê daar was maar mense wat dit aanvaar het, soos hy dit gestel het.

MNR. HANEKOM : U het gesê beskuldigde nr. 1 was ook 'n spreker? Baleka? -- Ja.

Vertel asseblief vir die Hof waarom sy toespraak (10) gegaan het? -- Beskuldigde nr. 1 was omtrent die derde spreker in die vergadering. Toe hy opgegaan het na die platform toe, het hy voorgekom, volgens my, dat hy ook met sy hoë gevoelens daarheen gaan.

Hoekom sê u dit? -- Ek sê so, want die eerste ding wat hy daar op die verhoog gedoen het, was deur die resitasie van "Afrika, Afrika, kom terug na my toe" op te sê. Na hy klaar was het hy ook sy hand opgelig met die teken van Amandla.

Kan u nog die hele gedig wat hy opgesê het onthou of nie? -- Al kan ek miskien dit doen, sal dit net hier en daar wees, (20) want dit bestaan eintlik uit drie lyne en hierdie gedig is so goed bekend aan die mense wat betrokke is in die politieke sirkels.

HOF : Is dit 'n soort politieke gedig? -- Ja.

Vir watter faksie is dit 'n gedig? -- Dit het meer te doen met Afrika se mense, die mense wat baklei vir hulle vryheidstelling.

MNR. HANEKOM : Gaan voort met die toespraak, asseblief? -- Moet ek die gedig eers aanhaal of moet ek verder gaan?

HOF : U was gevra oor die inhoud van die gedig. Wil u dit (30) hê?

MNR. HANEKOM : Ja, asseblief? -- "Afrika, Afrika, kom terug na my. Ek is u, u is ek. U is ek en ek is u." Dit is die bewoording soos ek dit verstaan het.

HCF : Behalwe by hierdie geleentheid, by watter soort geleentheid het u al hierdie gedig gehoor? -- Ek het al verskeie vergaderings bygewoon in uitvoering van my pligte in die diens. Ek het dit verskeie kere in hierdie vergaderings gehoor, vernaam by plekke soos die jeugorganisasies wat betrokke is in 'n sekere soort politiek.

MNR. HANEKOM : Kan u voorbeelde noem van die spesifieke (10) organisasies? -- Azanian Youth Congress byvoorbeeld, COSAS en nog ander. Daar is so baie van hulle dat 'n mens nie alles kan noem nie.

Gee die toespraak van beskuldigde nr. 1 weer? -- Na die gehoor nou geantwoord het op dit wat hy gesê het Amandla en die gehoor gesê het Awethu, na die gedig ook, het hy toe gesê hy is van die Transkei af. In die Transkei was hy deur Matanzima onderdruk. Matanzima en sy broers geniet dit alhier in die Transkei en onderdruk die gemeenskap. Hy is toe weg van die Transkei af na die Rand toe. Met sy aankoms by die (20) Rand het hy persone gevind soos Mahlatsi en Shabalala wat die mense onderdruk.

Wie is Mahlatsi en Shabalala? -- Mahlatsi is die burgemeester van Lekoa en Shabalala is die burgemeester van Soweto.

Gaan voort, asseblief. Hy sê toe verder hy is daarheen gestuur deur die jeug van Soweto om die mense van Lekoa te kom ( die woord gebruik is dubbelsinnig) onderskraag aangaande hulle betrokkenheid by hierdie voorval van die "rent". Hy sê toe verder die jeug weet hoe om te baklei, maar as hulle besig is om te baklei, wat dan moet gebeur is, dat die ouers moet (30) hulle (die jeug) volg. Hy sê toe Mahlatsi of Mahlatsi-hulle

takes the adjournment. You have mentioned five accused. Do you remember, 1, 2, 3, 16 and the absent person? Do you recall that? -- Yes, I do.

And as far as the accused go, you have given us the contents of the speech of accused no. 1 and the gentleman at the back, accused no. 16? -- That is so.

Does that mean that according to you the other accused that you pointed out did not make a speech? -- I never said so.

Well, you say that they made a speech? -- That is so.

So that we can facilitate your examination tomorrow, (10) would you please tell us what the other accused said according to you?

COURT : Are you going to interrupt the witness when he tells you the story? If you are going to do so, I will take the adjournment now.

MR BIZOS : I will not interrupt him, but I would like to know what his version is. I would be indebted to Your Lordship if we could have it.

COURT : I have no difficulty, but I have - I was afraid that you would tackle him after each statement? (20)

MR BIZOS : No, I will not. I will deal with him as if I was leading him in chief.

COURT : Very nice.

MR BIZOS : Would you please tell us, you have dealt with accused no. 1. What do you say accused no. 2 said? -- On occupying the floor, that is accused no. 2 he said people must not buy from the shops owned by the councillors. They must not make use in transport of their taxi's. They must spread the word about the things which were discussed there, for instance the rent and then he said there is nothing more that he can say, (30) because the gentleman, accused no. 16, has now said practically  
... / everything

everything which was supposed to have been said. That is all.

Let us take Father Moselane, accused no. 3? -- The reverend opened this meeting by a prayer. The first thing that happened is when he came in, there was a hymn sung "Rea hoboka morena". I do not really know what to say in what chapter or what - or where in the Bible exactly was he reading, but he confirmed the oppression by the Egyptians oppressing the Israelites. He then further said "The reason why we are here in this meeting is about the increasing of rents." He further said that they had meetings with the councillors and further (10) said that those meetings were not fruitful, but he is not going to talk much about the rent today, because there is a guest who is coming to talk about that. Then he further made a report about the oppression of the people by this 99 year lease which has now been newly again reformed, whereas the people were paying before for 30 years for the ownership of a house. He further said that he, accused no. 3, was approached by a certain lady and this woman approached him saying if I have to pay this increased rent, I would not be able - I would not afford even to take my children to school or even to cater(20) for them foodwise. Then he said now today here, what is going to be discussed in the increased rents. That was his speech.

Do you remember the young man that we showed you yesterday. Did he say anything at all? -- He did not say anything, although he was seated right at the front. To me he appeared to be a chairman in a way because he was in front there. I would rather label him as a co-chairman, because they were two.

Who was the other one? -- A certain gentleman I pointed out in some photo or some album.

Would it be Mr Peter Hlube? Do you remember the name?(30)  
-- Well, it can be him.

... / Because



Because the evidence will be that he was the chairman of this meeting. Could you give us a description of the woman that spoke? -- A thick set woman. In height she was about the height of the interpreter.

COURT : What is your height, Mr Interpreter?

INTERPRETER : It is five foot six.

MR BIZOS : Between your complexion and the interpreter's complexion where ... -- She was about my complexion.

A lighter complexion than that of the interpreter? -- Yes, that is so. (10)

Would you describe her as stoutish? -- Yes. She was not stout, though I would not say she was stout, but she was just heavier.

I am not suggesting that she had my proportions, but she was stout? -- Yes.

Can you recall her age? -- It is very difficult to give an estimation of a woman's age, especially a woman with that proportion or that kind of description.

Did you read any newspaper reports after this meeting? -- Every morning that is part of my duty. (20)

And did you read a newspaper report in the Rand Daily Mail and the newspaper report in the Sowetan in relation to this meeting that you had covered? -- Yes, I did.

Would you say that the reports in those papers accurately reflected what happened at the meeting or not? -- According to them they have reported what they understood happening there and again, that is if they were there. I was talking about what I saw happening while being there.

Assume for one moment that your colleagues were there, but tell me this, do you say that the reports were an accurate or an accurate overall reflection of the meeting? (30)

... / There

-- There are certain facts on which I differ with them in those reports.

And were you say that they were very important omissions in those reports? -- Well, I do not know what you mean by very important, but what I am saying is, certain things are not contained in those reports.

WITNESS STANDS DOWN.

COURT ADJOURNS UNTIL 20 FEBRUARY 1986.

het die huurgeld verhoog en verwag dat die mense dit moet betaal en wat hy dan vir die mense, die gemeenskap, daar wil sê is, dat hy (Mahlatsi) moet daardie huurgeld betaal, want hy weet, as die mense nie die huurgeld betaal nie, hulle (dit wil sê Mahlatsi-hulle) sal hulle honde stuur om die mense uit die huise uit te sit. Toe hy dit gesê het, het die gehoor toe geululeer. Die gehoor het toe 'n groot geraas daar begin maak en 'n mens kon nie uitmaak wat hulle eintlik sê nie. Die mense, dit wil sê die gehoor, was op hierdie stadium so opgesweep dat as iemand met iets anders daar begin het of (10) begin praat het, kon enige ding gebeur het. Hy gaan toe voort. Hy het gesê die jeug moet bymekaar kom in hierdie gevegte van hulle, naamlik die "struggle" en hierdie ding baklei van die misdryf van hulle mense (die getuie gebruik sy eie woord om dit te verduidelik) om dit te "exploit", want hierdie "exploitation" is baie tussen die gemeenskap. Dit word gebesig deur die raadslede tussen die gemeenskap. Na hy dit gesê het, het hy gaan sit.

Het daar by die vergadering ook 'n vrou as spreker opgetree? -- Ja, maar ek sien haar nie hier nie en ek weet ook (20) nie wat haar naam is nie.

Wat het sy gesê? -- Hierdie vroumens, wat sal ek sê, het gelyk soos 'n persoon wat net bereid is om te baklei, want in haar toespraak het sy gesê "Durf ek jou sien in 'n winkel van 'n raadslid ingaan, durf ek jou sien petrol koop van 'n raadslid se garage, of ek sien jou koop, al is dit wat, by 'n besigheidsplek wat aan 'n raadslid behoort, gaan ons jou brand, Ons gaan jou met klippe aanval. Ons sal julle doodmaak." Kortliks was dit die toespraak van hierdie vroumens.

Nog iets? -- Toe sy dit gesê het, was daar 'n deurmekaar- (30) spul. Mense het geskreeu en gefluit dat jy nie kan weet wat

... / is

is nou aan die gang nie, dat jy nie kan volg presies wat gebeur nie.

Het u self by die vergadering gebly enduit of is u weg voor die vergadering oor was? -- As gevolg van die optrede van die gehoor in daardie vergadering het dit vir my duidelik geword dat dit nou die einde is van hierdie vergadering, maar ek het nie gewag om te sien of daar gebid gaan word by die afsluiting van hierdie vergadering of nie. Ek is toe uit en weg.

CROSS-EXAMINATION BY MR BIZOS : You were described by My (10) Learned Friend, Mr Hanekom, as a well-known political commentator? Is that correct? -- To some extent yes, but not completely.

Let us take is, what is correct? You are not a well-known political commentator or are you not a complete political commentator? Which of the two is partly correct? -- My reply to that question can be that I am known amongst the people where I live as to what I do in sort of bringing up my feelings concerning politics.

Are you a political commentator or not? -- Within the (20) scope of my duties.

Subject to His Lordship's concurrence, I am going to suggest to you that we do not want political comment, but merely factual answers to questions, and not your conclusions from what you heard people say, but what happened? -- That is exactly the point. That is why I am here. I am here to tell this Court about what I heard being said there and not my own comments or my own feelings of what was happening there.

When were you first told that you may be a witness in this case? -- Towards the end of 1985. (30)

Does that mean more than almost eighteen months after

... / the

the event? -- It is possible, yes.

We know that it is August and you say it was towards the end of 1985? 8 August 1984 towards the end of 1985. That is approximately eighteen months, sixteen months? -- That is true.

Had you not made any note or any statement before that? -- I was fetched somewhere around the end of October 1984 to go and make a statement at the police station in Vereeniging. That is relating to the fact that I was present at this meeting. (10)

Were you not told in October 1984 that you might be a witness? -- Not at the time. When I was there, all I was told was that there are certain things which are to be clarified about the meeting I attended.

Who called you to the police station in October 1984? -- Major Kruger.

Where did he fetch you from? -- From my residence.

Are you a particularly good friend of the previous witness? -- Who is the previous witness, if you can mention the name?

Surely you know who the previous witness was, do you (20) not? -- I do not know. People are coming in here and I do not see them. I am not suppose to come and sit here and see them.

Did you not see any of your friends in the passage? -- I saw five members of the police outside here in the passage and I know them from Sebokeng.

Was Sergeant Koaho among them? -- He was there.

Is he a friend of yours? -- Well, he is a person I know.

Is he a friend of yours? -- We know each other.

Do you draw a distinction between knowing someone and someone being your friend? -- The position is this, I may (30) know you there as so and so - a person whom I call a friend,

... / is

is a person who is most of the time or all the time with me. Otherwise, knowing a person from far, that person is not a friend to you. You just know that person.

Was your relationship with Sergeant Koaho such that you only just saw him around? You did spend time with him? -- We do meet with him at different times at different places.

Is he or is he not your friend? -- He is not my friend.

Did you spend time with him during weekends during 1984? -- Just the day before this meeting in question, that is the previous day, me and him, that is the previous witness (10) now in this case, were at a friend's place. That is an inspector of schools who is a friend to me and also a friend to him.

Do you remember what my question was?-- Yes, quite well.

What was it? -- The question was whether we met in 1984.

Just once or over the period of 1984 on a regular basis?

-- You did not give me a period to be specific and say from January to December or April or June to December, whatever the case may be.

I am so glad that you are so careful. (20)

COURT : Do not comment on the witness and give me your gladness or sadness. Just ask him questions.

MR BIZOS : During the first half of 1984 up to August, were you meeting Sergeant Koaho on a regular basis, yes or no? -- I came to know him for the time during June 1984.

How many times did you see him from June 1984 to 19 August? -- For the very first time we met with him was at this friend's place. That is the friend that I have just mentioned. That was the first time we met with him. That is formerly being together. (30)

Do you remember what my question was? -- Yes, I do.

... / What

What was it? -- How many times have we met from that day to December.

How many occasions did you meet from that day to 19 August? How many occasions? Just give me the number of occasions? -- I have answered to that question by saying we met once.

Once only? -- Once only.

How many occasions did you meet Sergenat Koaho between 19 August and October when you were asked to make a statement? -- After that date mentioned by the defence, until we met again with this man, was in January of the following year, (10) because since that date, we were busy, I was also busy with my other things and we did not meet.

Did you not meet with the sergeant at all between 19 August and October when you went to make a statement? -- We have met in this fashion that we just greeted each other.

Other than the statement that you made in October, had you before that date written down anything at any time in relation to what was said at the meeting of the 19th? -- That is so.

COURT : What does that answer mean? Does the answer mean (20) that you had written notes or that you did not have written notes? -- I had written notes.

MR BIZOS : Where are they? -- After some time our notes are being destroyed.

Were the notes available in October? -- Yes, the notes were available, because I had used them. In the news I have written pertaining to this meeting of the 19th.

Were any news broadcast in relation to this meeting? -- No.

Is your news report available? -- We keep them only (30) for a period of six months and thereafter they are being

... / destroyed

destroyed.

Was your news report available at the time that you made your statement? -- Yes, it was still available.

Filed away or did you take it out? -- It was filed.

Did you take it out in order to refresh your memory before you made your statement? -- I had my own notes. That is the original notes.

Were are those notes?-- I have already said that we destroy them.them.

Let me see if I understand that. You say you had your (10) original notes at the time that you made your statement? -- But the question was did I have a look at my notes.

The question I am asking you now is, did you have your original notes available at the time? -- I still had them available, not with me at the time when I was making the statement.

Did you tell Captain Kruger that you had notes which you made at the time still available? -- No, he did not ask for that.

And did you make your statement independently of the (20) notes that you had? -- That is so, because I could still remember everything that I had written in those notes.

Were these notes that you made at the meeting? -- Those were the notes that I made at the meeting.

Whilst you were sitting there and the speakers were speaking, you were making notes? -- That is true.

Whilst you were sitting next to Sergeant Koaho? -- No, I was not sitting next to him. There were other people between us.

But you were clearly making notes for everybody to (30) see? -- I was not making the notes for the people to see

... / them



them. I was making the notes because of my duty I had to do.

Were you making notes in a manner in which colleagues are making notes here for their own purposes, but you can see their making notes? -- Tell me, have you ever been in a church full of people in a number of a thousand and it being a small church? It was so full that a person could not even move his foot from the floor and still expect that you could see someone writing notes?

The people immediately around you, could they see that you were making notes? -- Quite well, yes. (10)

And tell me this, please, where were you sitting in the hall? -- On the fourth chair from the front.

COURT : Is it a chair or a row? -- It is a bench similar to the accused's bench.

Is it a bench or a pew? -- No, it is an ordinary bench like the accused's bench there.

The fourth bench from the front? -- Yes.

MR BIZOS : Not towards the back? -- Not at all. I went in there first.

You did not go in the company of the Sergeant? -- When (20) we got in there, we parted company, in the sense that he took a different direction to go and take a seat there. I could just see that he was sitting somewhere in front of me.

You were in the fourth row from the front and he was how many rows from the front? -- (The word used by the witness is ambiguous, in the sense that it may mean a person being in front in the sense that he went in in that row before me and therefore he took a seat further on from me or front meaning right in front of me.)

COURT : As the witness to explain. -- By front I mean in (30) that row, in that bench, he went through first, I then followed.

... / There

There were five people between me and him, while on the bench. That is the front I am talking about, not necessarily meaning that he was right in front of me facing the chairman or whatever the case may be.

MR BIZOS : Let us get absolute clarity. There was a row and you were sitting in the same row as he, but he was more into the row because he got there first. Is that what you are saying.

COURT : Because he went in first.

MR BIZOS : Because he went in first? And this was four (10) rows from the front? Is that right? -- That is right.

You did not by any chance notice any of your newspaper colleagues there making notes just as you were? -- No, I did not even see a single one of the people known to me.

At no stage during that meeting did you see a newspaper man there? -- No.

Did you come together to the meeting in the same motor-car as the sergeant or did you come independently as a reporter? -- We came together.

When you decided that there was this "lawaaai", I think (20) it is a good word, I cannot think of the equivalent in English, did you go out on your own or did you go out together with the sergeant? -- On his way out, he had to pass in front of me. In passing he touched me and I immediately followed him out.

And did you go out together? -- Yes, we went out together. We did not go out alone, there were other people going out as well.

And where did you go with the sergeant or alone? Where did you go? -- I got into his car, because he was giving me a lift. (30)

Where did he go? -- We went to Sharpeville police station.

... / And

And you did then go home? -- After that, yes, we went home.

To whose home? -- He took me as far as my residence and then he drove past me to his residence.

Did you know that the sergeant was a sergeant in the security police? -- All I know is, he is a policeman.

When you made a statement, you say that you still had your notes. At home or at work? -- My notebook was at work.

And who destroyed it? You or someone else? -- Once it is full, you destroy it yourself. (10)

What sort of book was this? -- It is an ordinary notebook similar to this note-book for the press.

A spiral quarter folio? -- It was a smaller one than this one.

When did you in fact destroy it? -- Long after this meeting. I believe it was somewhere in May, March or April. We destroy a lot of documents at the same time. That is why I cannot remember exactly when.

Was the purpose of your making a statement given to you in October 1985? -- All what was said to me was I am there to(20) clarify certain things pertaining to this meeting.

But was the statement not taken from you and the oath administered to you? -- I was fetched again for the second time. That is when I had to take the oath and make a statement.

Oh, I see. So, in October you did not make a statement? -- It was made. When I went there for the first time, it was just to go and clarify certain things.

During what month did you sign under oath your statement? as distinct from clarification? -- To sign a statement was towards November. (30)

I want to get one or two things clear, before His Lordship

... / takes