

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

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DELMAS

1986-01-31

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

13

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 13

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HOF HERVAT OP 31 JANUARIE 1986.

LESEBANE JOHN MASENYA, nog onder eed (Deur tolk)

HOF : Ek wil u net 'n paar vrae vra ter opheldering. U het gister vir ons vertel wat het die verskillende van die beskuldigdes gesê en onder andere dat van hulle gesê het dat die huur te hoog is en dat ander van die beskuldigdes die mense aangespoor het om daadwerklik op te tree. Nou wil ek weet, dié wat gesê het dat die huur te hoog is, het hulle ook gesê wat daaromtrent gedoen moet word of het hulle net gekla oor die huur wat te hoog is? -- Hulle het gesê hulle moet byme-(10)kaar kom byddie Roomse Kerk, Small Farms, sodat hulle saam kan gaan daarvandaan om na verskillende wonings te gaan van die raadslede. Die doel daarvan was om navrae te gaan doen by die raadslede aangaande die huurgeld, wat die rede is hoekom die huurgeld so verhoog is. Daarvandaan sal hulle dan na die hoofkwartiere gaan te Houtkop. Dit wil sê na die seniors toe ter ondersoek van die huurgeld.

Ons het nou in die algemeen gepraat. Sou die optog plaasvind op die 3de - kom ons noem dit nou nie optog nie, die besoek aan die huise van die raadslede en aan Houtkop, sou (20) dit plaasvind op 3 September of op 'n ander dag? -- Ja, dit was so gereël gewees dat dit op 3 September sou plaasvind.

Het al die beskuldigdes wat u nou vir my gesê het, dit gesê, al die beskuldigdes wie se name u gister genoem het? -- Ja, dit is so.

U het ook gister melding gemaak dat van die beskuldigdes voorgestaan het, met ander woorde, gepropageer het, geweld aan die hand gedoen het. Watter van die beskuldigdes het geweld aan die hand gedoen? -- Ja.

Verstaan u die vraag? -- Ja, ek verstaan die vraag. (30)

Gee vir my die nommers, asseblief? -- Beskuldigdes nrs. 17,

8 en 5.

Net om duidelikheid te hê. Sal beskuldigde nr. 17 opstaan en nr. 8 en nr. 5. Is dit die persone? -- Ja, dit is die persone.

HERONDERVRAGING DEUR MNR. JACOBS (vervolg) : Kan jy vir ons sê, op daardie tydstip toe vir jou gesê is, toe jy 'n vraag gevra het in die vergadering, jy is 'n raadslid en jy moet doodgemaak word, wat was die reaksie van die gehoor op daardie stadium? -- Hulle het baie hardop geskreeu en gesê dat ek moet sit. (10)

Het hulle enigiets verder geskreeu en gesê? -- Nee, niks verder was by gesê nie.

... / CROSS-EXAMINATION

CROSS-EXAMINATION BY MR BIZOS: We have already heard that you are an interpreter in court. -- That is so.

And were you and are you still the Chairman of the Lahotla Court? -- I am not a Chairman. I am an interpreter where I am employed.

No were you not involved with the Lahotla Court before 26 August 1984? -- I do not know which Lahotla you are talking about. Unless you put it in detail what kind of Lahotla you are talking about.

The Lahotla court that sat on Sunday mornings in your (10) ward? -- I do not know that one.

Are you denying that you were ever a member of a Lahotla court? -- This Lahotla what does it mean? What is the name or what is the thing or organisation called Lahotla.

COURT: Could you just explain to the witness what is a Lahotla and what is a court in your sense.

MR BIZOS: Yes. The people there refer to it as a kangaroo court but I do not want to use that expression at this stage. Does that give you any indication? -- Not at all, it does not give me any indication. I do not know that. (20)

Just in order to avoid any misunderstanding have you sat on Sunday mornings in order to settle disputes between members of the community? -- Well during the year 1983, that is if the defence is talking about the Community Council I used to be a member of the Community Council Lahotla. In fact I was just helping them.

Yes. And did you preside in your ward in the Community Council's Lahotla? -- I was only helping, I was just a helper.

I may have to return to this but the only question I want to ask you about now is was Warrant Officer Mohage of (30) the security police also a member of that Lahotla? -- Yes.

And/.....

And are you and Warrant Officer Mohage of the security police close friends? -- We are not friends but I happen to know him quite well because of the kind of work we are doing.

Yes. And are you seen in his company from time to time?
-- No.

Do you say that you have never walked around your zone, the zone that you were living in prior to September 1983, that you were not walking around with Warrant Officer Mohage? September 1984. -- During?

Before September 1984? -- During the time when I was (10) helping the Lahotla, that is the Councillors Lahotla, Mohage was also there. We used to meet there.

Yes and did you walk and drive around together? -- Yes we did, especially after the meetings that we would go with one of the Councillors to help people in their problems or with their problems.

Yes. And did you from time to time drive to work and from work together? -- Yes at times, not many times.

Yes. Would I be correct in saying that the people living in your zone and the zones around it would generally know (20) that you were a friend or associate with Warrant Officer Mohage of the Security Police? -- Let me put it this way, yes they do know that. They come around there times after the meetings, that is seeing me in his company.

And would it be correct to say that Warrant Officer Mohage enjoys a high profile as a security police officer? -- That is so.

And I am not going to ask you on the correctness of what I am going to put or not, whether it is the truth or not, I am merely going to ask you whether what I am going to put to you (30) is being said by the people in your area. Does Warrant Officer

Mohage/.....

Mohage enjoy the reputation of trying to recruit informers from the community for the security police? -- That I will not know.

And do you know whether among the people that live there he is viewed with suspicion as are the people who publicly associate with him? -- I will not know that one.

You will not know. Now I want to, before dealing with your evidence in detail I want to come towards the end of your evidence Mr Masenya. You told us that you saw a cardboard box poster on the body of the late Mr Caesar Motjeane?

-- That is so.

(10)

And you gave His Lordship the words that appeared on that box. I will repeat them to get absolute clarity, "Assassinate the sell-out. Assinamale, away with rents"? -- That is so.

And in case His Lordship and the other members of the Court what assinamale means does it mean "we have no money".

-- That is so.

Yes. Now, and you yourself are you able to give His Lordship and the Learned Assessors an absolute assurance that those were the words on that cardboard poster? -- Those are the words I saw there. I am sure of that.

(20)

Yes. And are you sure that it Mr Caesar Motjeane's body? Although you did not know him did you get information from members of the family or whoever people that were around and are you sure that it was Mr Caesar Motjeane's body? -- From what I heard that is how I came to know. And there is no other way I could have said it is not correct because I did not know him personally, that is even if by seeing him.

Now can you give us some idea of the size of this placard please? -- It was about the size of that bag on the chair in front of the accused's dock.

(30)

Its longer side I would say is about 40 centimetres or

40/.....

40 to 50 centimetres.

COURT: 50 by 40 centimetres.

MR BIZOS: I will accept that My Lord, thank you. Yes. And were the words "Assassinate the sell-out" the words that were written right on top? -- That is how I observed it.

And how, what was the size of the letters "Assassinate the sell-out", what was the size of the letters? -- About three-quarters of an inch in size.

And the words "Assinamale", how big were they? -- About the same size. (10)

Three quarters of an inch is about as much as I am indicating now? -- Yes.

And "Away with rents", how big were the letters? -- About the same size as well.

So all three "Assassinate the sell out", "Assinamale" and "Away with rents" were written with the same size letters? -- That is how I observed it.

Yes. And you know this must have been a terrible scene that one cannot forget? -- That is so.

And having regard to your most unfortunate experience (20) on the 26th at the Catholic Church and small farms you must have interpreted this placard that somebody must have been carrying it before his death? -- I did not see that.

Yes but did you interpret it to mean, look "Assassinate the sell out", that this really must have been held up by the people who attacked him? That is the meaning it must have conveyed to you? -- I found that placard there.

Yes. -- On top of the dead body there.

And this, I am sorry, are you finished? -- Yes.

And this must have confirmed, because it was really (30) the same sort of inciting language, "Assassinate the sell-out", because/.....

because it was the same sort of language that you had heard at the meeting of the 26th? -- Yes there, in fact it added to what I heard before on the 26th with the words "sell out".

Yes. So this became imbedded in your mind because you not only heard "kill the sell-outs" at the meeting of the 26th, you also saw it written in black and white in three quarter of an inch letters on the body of one of the most unfortunate deceased Mr Caesar Motjeane. I am going to put to you Mr Masenya that your evidence is a fabrication. -- I have told you the truth about all what I have said in this court. (10)

Please have a look at the photograph, for which we are indebted, to ascertain the truth.

COURT: What photograph are you showing the witness?

MR BIZOS: A photograph published in a newspaper shortly after the event which ...

COURT: Which newspaper?

MR BIZOS: City Press.

COURT: The date?

MR BIZOS: 9 September 1984. Is that the scene that you saw?

-- It looks like the scene I saw. (20)

Yes, please have a look at the placard. -- Yes.

What does it say? -- The writing there is incomplete.

What does it -- I can read the Assina awe, "the", "Rand", "h-i-k-e, s-i-k." The last letter of the h-i-k it looks like an e, it may be an e.

Do the words "Assassinate the sell-out" appear on that placard? -- No they are not there.

Would you pass it to His Lordship and the Learned Assessors please. -- Just a minute. I would like to add something here.

It is possible that the words are there. This placard here (30) is folded, that is why the writing there is half. It shows half/.....

half of the writing.

Please pass it to His Lordship.

COURT: But is this placard not folded Mr Bizos?

MR BIZOS: My Lord this is why I asked the witness where "Assassinate the sell-out" was in the same size and on top and Your Lordship will see that there is a small fold right on top. The letters are completely different to what the witness told

COURT: That is not what I am asking you. Is this not folded?

MR BIZOS: Slightly, right on top, as if the.... (10)

COURT: No not slightly, it would appear as if it is folded in its whole length. Will you take it back. From top to bottom.

MR BIZOS: I submit with the greatest respect that the photograph is clear, that what appears on it is right on top "Assina" and the portion of the m in the same size. And then "Away with rent hikes" and that the words are clearly made out and there is nothing on it which would indicate that "Assassinate the sell out" was written in the manner which has been described by the witness. (20)

COURT: Well you can address us on that later Mr Bizos. Would you like to hand in the photograph and the record can speak for itself.

MR BIZOS: Yes, as Your Lordship pleases.

COURT: What number shall we allot to it, we have a lot of numbers waiting. Mnr Jacobs wat is die volgende nommer wat ons moet toeken.

MNR JACOBS: Die volgende nommer is AAN.

COURT: Ekskuus wat is die nommer.

MNR JACOBS: Kan ek net heeltemal seker maak. Dit is AAN (30)

COURT: AAN. Net voordat ons verder gaan gaan u nou aan alles

wat/.....

wat nog kom, ek weet nie wat nog alles kom nie, letters toeker?

MNR JACOBS: Dis reg.

HOF: Nie nommers nie?

MNR JACOBS: Daar fisiese bewysstukke met 'n paar nommers, maar nie veel nie.

HOF: Goed, ons maak dit maar AAN.

MR BIZOS: May I mark it My Lord.

COURT: Yes please. AAN, and I think you should just hand in that particular page and not the whole newspaper.

MR BIZOS: As Your Lordship pleases. (10)

COURT: What page is it?

MR BIZOS: It is on page 4.

COURT: Page 4 of the City Press?

MR BIZOS: Yes.

COURT: Of 9 September 1984.

MR BIZOS: Of 9 September 1984. Now let me just see, do you agree that the size of the letters, if we compare them with the size of the body, do not bear any resemblance to the description that you gave of three quarters of an inch? -- I quite agree with that. On this document here EXHIBIT AAN which (20) is dated 9 September that is correct, but if it was a document of 3 September I would have given him a different answer altogether. I would have answered this differently but because this is for the 9th and not the 3rd that is why I answer it in this fashion.

Well let me see if I understand what you are saying. You are saying that the photograph that is there must have been taken of the body and the placard on it by the photographer some time nearer to the 9th and that it was a sort of staged photograph? Is that what you want to suggest to His Lord- (30) ship? -- That is how I take it.

I see. So are we then to tell His Lordship this, that that is not the placard that you saw? -- I take it that way, yes.

So that placard, the placard that you see on that photograph is so different to the placard that you saw that it cannot possibly be the same? -- In reply to your question when this photo was put in front of me I said it looks like that of Caesar. Further again what I am going to say again is with Caesar's body when I saw the placard this was on his back, on his shoulder blades I would put it. (10)

COURT: And where is this placard on the photograph? -- This one is further down to the buttocks.

MR BIZOS: You know you have given as a reason why it must be a different placard the fact that it was published on the 9th? -- And from the way I see it, and the position in which it is. It is quite clear that it was taken some days after 3 September.

Do you know that City Press is a weekly newspaper? -- Yes I know.

You know. And please give us the time more or less when you say that you visited the place where you saw Caesar's (20) body, Mr Caesar Motjeane's body? -- Approximately 09h30.

On the morning of the 3rd? -- Yes on 3 September.

And were members of his family around? -- I will not know that.

Were there people around who told you who it was and that they appeared to be showing respect for the dead? -- There were people there. How I came to know that this person was Caesar it is when they were talking to themselves there. I just happened to be within the hearing distance when I heard them saying this was Caesar. (30)

Yes. And was there a lament from people nearby? -- Yes, from/.....

from the people who were there.

Yes. And they were showing proper respect to the dead?

-- Yes.

Yes. We will come back to this question because there is certain further information which I will put to you which will show that that in fact was the placard beyond any doubt. But let us go on. Tell me when did you first sign a statement in connection with the events that you have described? -- I cannot remember the date, I was at work. They picked me up at work. (10)

How long after the 3rd? -- It was some time, some few months.

Some few months. Right 3 September, can you tell us how many months afterwards that you made the statement? -- If I have to think back it is about seven months.

Seven months after 3 September you made a written statement? -- Yes I think so.

That would have been about Easter time 1985? -- After Easter holidays.

In 1985. And to whom did you make this first written (20) statement that you made about these events, to whom did you make it? -- I do not know the name of that person to whom I made this statement.

And you are absolutely certain that you did not make any written statement whatsoever until the Easter holidays? -- Yes. I am quite certain. Because I only made one statement.

Yes. Did you regularly see your friend Warrant Officer Mohage between 26 August and the Easter holidays of 1985?

COURT: Firstly he has not said that it is his friend, he said it is an acquaintance. He may have been regarded as his (30) friend by other people.

MR BIZOS: Right, I will cut out the,...

COURT: Just say Warrant Officer Mohage.

MR BIZOS: Yes, did you see Warrant Officer Mohage regularly between 26 July and the Easter holidays? -- I used to see Mohage from far. I would like to explain it this way. I last had a meeting with him when I left the Lahotla of the Community Councillors.

Did you ever mention to Warrant Officer Mohage your experiences of 26 August at Small Farms Catholic Church? -- Up to now while I am standing here I have not mentioned a thing (10) about what happened there to Mohage.

Did you not yourself take any initiative in going to the police to tell them what had happened on the 26 August? -- No.

No is the answer. Right. Now why did you not go to the police immediately after the 26th if what you say was said there had in fact been said, why did you not immediately go to the police? -- If that was happening to me alone as a person and not something having to do with the community maybe I would have gone to the police. But seeing that is pertaining to (20) the community it does not really push me to go to the police.

I see. So you felt that there was no personal danger for yourself to induce you to go to the police? -- If there was any danger it was going to be a danger for the whole community, including myself, that is why I did not go to the police.

So nothing that happened in your presence on 26 August induced you to have any fear at all? -- Nothing except those that I have mentioned here, the incidents which I said I reported at work.

Yes. To whom did you report it at work? -- To my chief. (30)

Is that the magistrate or the chief interpreter? -- The magistrate./.....

magistrate.

Yes. Did you go and have a chat with the magistrate about what happened? -- I told the magistrate about the threats that I was receiving.

Yes. Did the magistrate advise you to go to the police? -- No he did not give me that advice.

I see. And did you go to the magistrate some time after the 26th or did you go to the magistrate immediately after the 26th? -- Some few days after the 26th.

Some few days. You did not feel any immediate danger (10) after this meeting of the 26th, you left it for a few days until it was convenient for the magistrate at any rate, or possibly for you to discuss it with him? -- I have already said that the danger which could have occurred there was not my personal one but for the community, and that is why then I did not do it as soon as possible to tell the magistrate.

I see. -- Until the time when I was being threatened, it is only then that I decided that I better let him know about it.

Were you threatened after the meeting of the 26th? -- (20) That is so.

So you reported to the magistrate the threats that were made to you after the meeting of the 26th? -- Yes that I told him about the threats.

Yes. We do not want detail but just for the sake of clarity this was nowhere near the meeting at Small Farms on the 26th, they were private threats after the meeting of the 26th? -- That I will not know, whether the threats were associated with the event in Small Farms or not.

No that was not the question. They were not anywhere (30) near either the 26th or at the hall? -- No.

Did/.....

Did anyone threaten to hit you whilst you were at the meeting of the 26th? -- Except when I was instructed and ruled that I must sit down. There were no other threats and no other reason whatsoever.

Yes but if I understood your evidence in answer to Mr Jacobs, the Prosecutor, this morning he asked you specifically whether there was anything said or done after you were told to sit down and you said "Niks verder nie".

MNR JACOBS: U Edele as ek reg onthou was my stelling gewees aan hom nadat hy gedreig was hy sal dood gemaak word deur (10) 'n persoon en daarna of hy deur die gehoor enigiets verder gesê was.

MR BIZOS: With the greatest respect that was not the question and I am, with respect, surprised that that is put that way in the presence of the witness. What was the reaction, they said I must sit down. Anything else, "Niks verder gesê nie". Right at the end of the evidence-in-chief My Lord.

COURT: Is that now before he left to follow the woman going out?

MR BIZOS: No My Lord this morning, I am talking about this (20) morning, after Your Lordship asked questions, My Learned Friend asked questions on this issue only.

COURT: But that was dealt with previously as well was it not?

MR BIZOS: It was dealt with previously.

COURT: The previous evidence was "Terwyl ek nog staan was daar deur 'n sekere vrou gesê ek moet sit want ek is een van die Raaslede, ek sal dood gemaak word."

MR BIZOS: No this is correct My Lord, I was wrong because My Learned Friend has just pointed out, I did not hear it, I did not hear My Learned Friend's question but I was wrong even (30) in relation to this morning according to Mr Tip and I apologise.

COURT:/.....

COURT: Yes please go ahead.

MR BIZOS: But now if there were threats, if there were threats at the meeting against you personally how could you have left them alone? Done nothing about it? -- How leave them alone?

No, you know what I want to put to you is this please tell us precisely what the threat was against you?

COURT: That is now the threat which caused him to make a report to the magistrate?

MR BIZOS: No My Lord.

COURT: Not that threat? (10)

MR BIZOS: No not that threat, the threat made to him at the meeting. -- That is the one which I have already mentioned in my evidence, about the woman who said I must sit down because I am one of the Councillors, otherwise I am going to get killed.

Yes. Right. And you sat down? -- Then I was ruled to sit down.

Yes. -- Then I sat down.

And for how long did you stay? -- Some five or six minutes.

Five or six minutes. And who was speaking during those (20) five or six minutes that you were sitting down? -- At the time when I was seated there the speaker was the person who was putting questions about the children and the stop order as it were concerning rent payments.

COURT: That is now a person speaking from the floor? -- Yes a person speaking from the floor, from those who were in fact there to listen.

MR BIZOS: Now whatever was said after you were stopped from speaking did not induce you to go out right away? -- I wanted to take a seat there and be seated for some time and leave (30) at a time when it was convenient for me to do so and in fact

normal/.....

normal because there were people who were going in and out the hall, so I wanted to take my opportunity of leaving normally.

So we can take it that that, if that threat was made it did not induce you to get out of the way as soon as possible for fear of your life? -- I could have left but I did not want to leave the place as if I am now running away on leaving the room.

Yes. -- Because I took it that if I were to leave that room as if I am running away then I am going to endanger myself or cause danger to myself. (10)

Yes. But now let me remind you what you might have said.

COURT: What he might have said or could have said?

MR BIZOS: No what he said My Lord.

COURT: Said in court?

MR BIZOS: No, no not in court, at the meeting.

COURT: Yes.

MR BIZOS: Did you start off by saying "I am also speaking as a resident of Zone 7"? -- That is when I was introducing myself to the community there.

Yes. -- Why because when one gets up there to ask a (20) question or say anything you first have to introduce yourself to the people attending the meeting there, that is the community in that hall.

Right. And did you say "I fully agree with the previous speakers in condemning the new rental increase of R5,90"? -- Those are not my words.

Well I want to put to you that those are your words and that you then said "I also want to say something about the Councillors" and the moment you mentioned the word "Councillors" a Mrs Maria Dlamini stood up and appealed to the (30) Chair about you. Did that happen, I know you do not know the name/.....

name but is that how it happened?

COURT: What do you mean by "appealing to the chair about you"?

MR BIZOS: About the fact that you were speaking.

COURT: I see.

MR BIZOS: Is that how it happened? -- In my evidence I said I got up there and asked a question. What is being put to me now here is not what I said, those are not my words in short.

You have told us that those are not your words but let us try and agree on at least a portion of the happenings. Very shortly after you got up to speak did a woman raise a point (10) of order, an objection so to speak? -- She just emerged from amongst the people there in the meeting and said the following words, referring to me that I am one of the Councillors, I am supposed to be killed.

You are one of the Councillors who is supposed to be killed. Now you are sure that that is what she said? -- That is what I heard.

Now listen carefully what I am going to put to you. This woman, so that we cannot have any difficulty with identification could you describe her for us please? The woman (20) that said you may be killed, the woman that interrupted. -- She is light in complexion, thickset.

Approximate age? -- I estimate her to be about 35.

May I just have a, I just want a moment in order to see that we are talking about the right person. Yes it would appear, although she will make claim that she is a bit younger but we do not have to worry about that, it would appear that the description corresponds with Mrs Dlamini. Alright. Now do you recall that she said to the Chairman that you the speaker had to first dissociate yourself with the Councillors (30) -- That one I do not know of.

Well/.....

Well is it possible that Mrs Dlamini said that without you remembering it? -- I say she just emerged from where she was in the community, that is among the people who were in the hall, and said that I am one of the Councillors, I must be killed.

Just killed? -- That is what I heard.

Not hit? -- I say that is what I heard.

You did not hear hit? -- I did not hear that.

You did not hear it. And you never told anybody that this woman said that you must be hit? -- I told her outside, that (10) is when I followed her out.

We are going to come to your following her out.

COURT: Just a moment. Did you tell her outside that she had spoken of hit? -- I questioned her on the statement that she made, that why does she say she knows me, I am a Councillor and I must be killed.

Yes thank you.

MR BIZOS: So you never mentioned to anybody that you should be hit, you never mentioned to anybody that anyone said at the meeting that you should be hit? -- Except at my place of (20) employment, at work.

But that related to another incident after the meeting? -- About the meeting or at the meeting I did not say anything to anybody about hitting.

Right. Now when you were interrupted by Mrs Dlamini was Mr Vilakazai, accused no. 10, was he there?

COURT: Inside the meeting or outside?

MR BIZOS: No at the meeting.

COURT: At the meeting.

MR BIZOS: At the meeting when he was interrupted. -- I (30) cannot remember.

You/....

You cannot remember. But you know him well do you not?
-- He is a person who is known to me but I did not see him
and I am not going to dispute it, it is possible that he was
present there.

But now was he not present and did he not do something at
the time that you were being interrupted? -- I did not see that.

Well are you saying that he was not there and did not do
anything or are you saying that something might have happened
in which accused no. 10 was involved and you do not remember
it? -- I say I did not see him. If he was putting it to me (10)
that he was there in answer to that I am saying I am not in a
position to dispute that.

Yes. -- Or am I going to be in a position to testify
about something that I did not see.

Do you know which zone he comes from? -- Who is that?

No. 10, Mr Vilakaz? -- No I do not know.

Do you know which zone Mr Matlole, accused no. 17, comes
from? -- Yes I do.

Which zone? -- Zone 7.

And would you be able to admit or deny that Mr Vilakazi, (20)
accused no. 10, is from zone 3? -- I hear you putting it that
way, I cannot dispute that.

You cannot dispute that. Did you know that the purpose
of this meeting was a joint meeting between zone 7 and 3 in
order to discuss the increased rentals? -- I do not know.

Surely you are not going to tell His Lordship that you took
the trouble to go to a meeting on a Sunday without knowing its
purpose?

COURT: There are two things involved in that statement you put,
the one is the joint meeting of 7 and 3 and the other one is (30)
the purpose to discuss the increased rentals.

MR BIZOS:/.....

MR BIZOS: I am sorry My Lord.

COURT: Now which one are you cross-examining him about?

MR BIZOS: I am sorry My Lord, now did you know that the meeting was for the purposes of discussing the increase in rent? -- I only heard that about the rentals in the meeting. When I left going to this meeting I did not know what the purpose was of the meeting.

Well why did you bother to go to it? -- I saw the residents there, passing, going to this meeting.

Well did you not ask one of them "What is the meeting (10) that you are going to" before you took the trouble of going to it yourself? -- I went there to hear at the meeting as to what is this meeting about.

But it may have been on a subject matter in which you had no interest whatsoever? -- Well I was going to hear that.

COURT: Does this take us much further Mr Bizos?

MR BIZOS: No.

COURT: It is not disputed that he was there.

MR BIZOS: No this is correct My Lord, but the reason for his presence, what we say he said may be of some importance. (20) Now when you got there did you get there before the meeting started? -- When I got there it had not started yet but just at the time when I arrived it then started.

Right. Do you recall how the Chairman came to be the Chairman of that meeting? -- I do not know.

Well can you not recall that it was announced? -- I cannot remember.

That as people from both zone 3 and zone 7 were there it would not be right to have a Chairman either from the one zone or the other and that the meeting should indicate a neutral (30) Chairman, do you recall that? -- I cannot remember that.

Yes, /....

Yes, but you are not in a position to deny it? -- No I cannot.

Yes. Do you recall, do you recall that at the time you were interrupted whether or not accused no. 10, Mr Vilakazi, helped the Chairman out, helped the Chairman out, helped him, assisted him in the performance of his duties? --

COURT: Just a moment about this question. When is the witness alleged to have interrupted, he says he asked a question?

MR BIZOS: No to have been interrupted in his question.

COURT: When he was interrupted? (10)

MR BIZOS: When he was interrupted.

COURT: It was put that accused no. 10 helped the Chairman out in what sense?

MR BIZOS: Helped the Chairman out in calling upon giving the witness a hearing.

COURT: I see.

MR BIZOS: Do you recall that? -- My answer to that question was I did not see Mr Vilakazi there and I am not in a position to dispute what he is saying but as a person there I did not see him. Therefore what you are now putting to me I am not (20) in a position to dispute because I did not see that happen.

Was accused no. 6 there? Mr Mokoena, was he there? -- I do not know.

Do you know Mr Mokoena? -- No.

Did he take any part there in the proceedings? -- I say I do not know Mr Mokoena.

Do you recall whether there was any announcement that a completely impartial Chairman had been appointed for the meeting, that is Mr Mokoena, that is accused no. 6, but that he had not turned up? -- I cannot recall that. (30)

You cannot recall that. And I have to ask for His Lordship apology, /.....

apology, I got one detail wrong, that it was in his absence that accused no. 8 filled in as a Chairman even though he was from one of the zones? -- That I will not know.

You will not. I am sorry for that mistake in relation to accused no. 8 but I thought I would take the first opportunity to correct it. Now would you agree from what you know of accused no. 10, Mr Vilakazi, that he is a man of some experience in public affairs? -- I will not know that.

You will not know that. Now did you get up at that meeting more than once in order to speak, yourself? -- I got up and (10) asked this first question, that is pertaining to the children as I have already said. When I was stopped it was when I was getting up again.

Well is your answer that you did get up more than once to speak? -- That is so.

Oh. Now would you please tell us when the threat was made, after your first standing up at the meeting or after the second standing up at the meeting? -- It is when I was up for the second time.

Now what was, what do you say you said on the first (20) occasion? Said or asked? -- I asked the question about parents, that is the mother or a father with children and if they were not to pay their rent and they get into trouble by getting arrested, what is going to happen to their children.

Right. Please tell us completely what was said in relation to that? -- In reply to that it was said that Vaal Civic Association will look after the children and furthermore if such parents were being arrested then the Vaal Civic Association will arrange to get those people a defence.

C45 May I stop you there for a moment before we go any (30) further? Is it an offence in the Vaal Triangle not to pay your rent?/....

rent? -- Those in authority take it like that. Because those in authority, that is now the people running the township, are expecting every resident to be paying rent.

And is the consequence of the non-payment of rental arrest? -- The law will take steps and the step is to take that person to the courts of trial.

And what is the punishment for not paying your rent according to your experience? -- I have not yet come across such an experience.

Yes. You see because I am going to suggest to you that (10) if you said what is going to happen to people who do not pay their rent and get arrested, what will happen to their children, that would have been nonsense to the community because people do not get arrested for not paying rent. Is that not so? -- I think from what I have said to this Court that people do get arrested for having failed to pay their rent is correct because in Vereeniging, that is at the courts, about some three weeks ago peoples names were put on a notice board that these people were summoned for court pertaining to the rent affairs. (20)

Yes. But there is a difference between surely being summoned to court for a rent affair and you telling the people who are supposed to know what is happening to them that they will be put in prison and their children will go in need if they do not pay their rent? -- I would like to put it properly, with due respect. Our Black people do not know about summonses. Like for instance now when the defence now gives the difference between a person getting arrested and a person who is being summoned. With us, the Blacks, for them to understand we use the very word I used, that is the arrest. For instance say (30) a person is issued with a traffic ticket and he approaches you/.....

. you that person will say to you "I am arrested".

Yes but I can understand the differences in terminology in different languages but would the audience have taken you seriously if you told them that they would go to prison and their children would go, would want if they did not pay their rent? Would the audience have taken you seriously? -- They have accepted that because there was an answer to my question.

Yes. -- Which was should they get arrested the Vaal Civic Association will cater for the children.

Right. -- And again those who are arrested the Vaal (10) Civic Association will provide defence. That is why then I say they accepted my question and they in fact understood what my question was.

You see the reason why I am putting this to you is the following: You did speak and not ask questions, you did speak against a motion which was put that there should be, that there should be a march to the Lekoa Town Council offices, or the administration offices, on 3 September? Do you recall that, did you speak against that? -- No.

No. You see because I am going to put to you that (20) what you said about arrests was that if this march takes place people will be arrested and then what will happen to their children? -- I asked only the question, the last one now referred to, or I never uttered those words, I did not say that.

Well let us take it step by step. Was there a motion moved in your presence that there should be march on the 3rd? -- The last I knew that was the discussion.

Yes. So a motion was moved in your presence. Were you in favour of such motion or were you against it? -- I had nothing to say except that I just came there to get this (30) report which I would then take home to go and tell my wife about.

Maybe/.....

Maybe after having discussed the issue with my wife it is then that I would have maybe taken a stand or a decision about it.

I see. But as you sat there and before you had the benefit of consultation with your wife how did you feel about this proposal that there should be a march on the 3rd? -- It had taken me up.

You were against it? -- By that I mean I agreed with that, that is why I say it had taken me up.

Oh I see, so you agreed with the motion that there should be a march on the 3rd? -- Yes at the time there. (10)

At the time there. Now was the motion, was the motion to take a march to, or have a march up to the Lekoa Town Council right at the beginning or in the middle or towards the end of the period that you were at the meeting? -- Just in the middle of the whole meeting.

Of the whole meeting. And was the motion moved before both the occasions on which you took the floor? -- That is so.

Right. Now, and the motion to have a march to Lekoa was in the context of showing disagreement with the R5,90 increase that was going to become effective on 1 September? -- That (20) is so.

COURT: Was it R5,90 or R5,96?

MR BIZOS: Ninety-six, I am sorry My Lord. I am indebted to Your Lordship. The accused tell me that it is 90, but I cannot contradict Your Lordship on that.

COURT: No, we heard 96 before, that is why I mentioned it.

MR BIZOS: From me My Lord?

COURT: Yes.

MR BIZOS: Well then I may have been wrong the first time.

COURT: Well let us have it from the witness, is it R5,90 (30) or R5,96 as you remember it? -- If my memory serves me well

it/.....

it is R5,90.

MR BIZOS: I am sorry My Lord, it may have been a typing error in one of the instructions. R5,90.

COURT: And the increase was to be on 1 September?

MR BIZOS: The increase was to be on 1 September. But now now that you have told us that, now that you have told us that it would appear that you were concerned about the increase of R5,90 yourself? -- No.

But then why would you have been in favour that the people in your ward and your fellow citizens should take a march, (10) participate in a march? -- If the community is not happy about certain things and the manner in which they are being run I felt it was correct for them to come together and then take a step of going to talk to the people who are in authority in doing things in that area. That is why I said I agreed.

Did you think that perhaps if the people exercised their democratic right that you have now mentioned, that there may be trouble? -- Not at all.

So you yourself did not anticipate any trouble? -- No.

And is that the spirit in which you left the meeting? (20) That there was nothing to worry about in relation to this march? -- I have explained already as to how I left the meeting and what the reason was that I left.

That you left the meeting on the basis that if there was going to be that march, that you had nothing to worry about, that there was nothing that anybody had to worry about? -- In other words I said when the whole thing started I was taken up in the sense that I was in favour of it. That is why I say if there is something which does not satisfy the community it is a right of the community to come together in order to (30) go and put it right with those in authority about what their

dissatisfaction/.....

dissatisfaction is.

What I am going to put to you in order to try and round this point off is that your speech, and not question, was directed against the motion for the march to take place? And that the argument you used was that if people take part in the march they will be arrested for taking part in the march and that their children will suffer? What do you say to that? -- I never gave a speech there, except for the question I asked.

Do you recall specifically who answered your question? (10)

-- No I cannot remember.

COURT ADJOURNS FOR TEA. COURT RESUMES.

LESEBANE JOHN MASENYA: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Now do you recall that a person from the audience, as soon as you asked the question or the speech about what is going to happen to the children, do you remember someone getting up and saying that "We Black people have a common problem"? -- I cannot remember that.

But you cannot deny that it happened? -- I cannot.

And that because we have a common problem we must stand together? -- I cannot remember that nor am I in a position to deny that. (20)

And that we are all concerned about our children? -- I cannot remember.

Nor can you deny it? -- Nor can I deny that, yes.

And that nobody wants to see anybody's children suffer. -- I cannot remember that.

And you cannot deny it? -- No I cannot deny it.

But the suffering of our children will be even worse if we allow our rent to be increased by R3,60 and we do nothing about it? (30)

COURT:/.....

COURT: Are we now at R3,60?

MR BIZOS: I will have to, I have a blockage about that. R5,90 is it? -- I cannot remember that nor can I deny it.

And that we earnestly hope that no one is arrested.

-- I cannot remember that, nor can I deny that either.

And that if there are people who are arrested we African people have a tradition of helping each other. -- I cannot remember that and I cannot deny it.

And do you recall that immediately after that speaker accused no. 17, Mr Same Matlole, stood up as a result of (10) your speech

COURT: I am sorry what is, no. 17?

MR BIZOS: Got up to speak after...

COURT: He got up to speak?

MR BIZOS: To speak after this person from the audience had made the speech that I related. Now do you recall

COURT: What is the answer?

MR BIZOS: that he got up? -- I cannot remember that. Nor can I deny it.

Do you recall, well not recall, do you know that (20) accused no. 17 is fond of giving Biblical examples? -- I do not know that.

Well was there a short prayer at the beginning of the meeting? -- Yes there was.

Did accused no. 17, Mr Matlole, deliver the short prayer? -- That is so.

And was not an appeal for guidance to the people to come to the correct decision in a peaceful manner? -- Yes that is so, that was in his prayer.

And appealed for guidance in his prayer that correct (30) decisions should be taken in this meeting after proper discussion?

In/.....

In order that the rent problem that was facing the people should be solved? -- I cannot remember the exact words in his prayer.

But was it to that effect? -- I cannot remember that.

Well would you have been very surprised if the prayer was anything else in that situation, that a church complex and a meeting is started off with a prayer? -- There is nothing strange in that, in fact it is not surprising. I am a man who attends meetings, I am a leader of the Lebowa people. I therefore attend their meetings, meetings that we hold there (10) is always a prayer so therefore there was nothing strange in a prayer of this meeting.

Yes. Now let us come back to accused no. 17's response to you after this prayer. Do you recall that he said that we have problems but we will not solve them if we are cowards? -- I cannot remember.

Can you recall that he made the Biblical allusion to the assistance that Gideon received from his people?

COURT: Gideon receive the assistance from?

MR BIZOS: From his people. -- I cannot remember. (20)

Well can you not remember as to whether accused no. 17 spoke of cowards at all? -- I cannot remember that and I am not in a position to deny that, if ever he said it.

Yes. Nor are you in a position to deny that this was a response to your question or speech? -- I said I cannot remember.

Yes. Do you recall whether he went on and said that people must not be cowards and they must take part in the march on 3 September because in that way the authorities will be shown that the people were united and that they were all going to suffer as a result of this increase? (30)

COURT: Just a moment. We have this difficulty that the last portion/.....

portion of your sentence is drowned out by the Interpreter who starts interpreting and then your voice drops Mr Bizos. So we will have to have a better rapport between yourself and the interpreter.

MR BIZOS: I think that they should take part in the march of the 3rd to show that the authorities that they were all adversely affected.

COURT: Suffered together I think you said.

MR BIZOS: They suffered together.

COURT: What is the answer? -- I cannot remember. (10)

MR BIZOS: And you cannot remember whether this was in response to your question or speech, when you first spoke? -- I said I did not make a speech except for asking a question.

I am sorry to have introduced it in the alternative, let me do it on your basis. You cannot deny that this unknown person and accused no. 17 responded in the manner in which I have described as a result of your question? -- I do not remember it that way though I cannot deny it.

But now you see because I am going to suggest to you that your evidence that in answer to your question someone said (20) that the V.C.A., the Vaal Civic Association, was going to look after them is completely incorrect, that that was not said. -- That is so.

Now I do not want to take an unfair advantage because it may give the wrong impression in the record, that is so, are you agreeing with the proposition or are you disagreeing with the proposition? -- In my saying that is so I mean it was said that the Vaal Civic Association will help.

Well did anyone ask but, did anyone ask where is, has it got money, how much has the Vaal Civic Association got for (30) all these people, did anyone ask? -- I did not hear anybody asking/.....

asking that.

Did you hear anybody from the platform saying that? --
In connection with money?

Yes that the V.C.A. would pay, did anyone from the platform say it, or the ... -- There was no mention made about paying or whatever was being paid for except that it was said V.C.A. is going to help.

Did anybody say, anybody that might have said that say what position he held on the V.C.A.? -- No.

Right. I now want to turn to the other occasion when you (10) spoke or asked a question, when was that? -- After we were given the opportunity of asking questions.

Was that later? -- Yes.

How much later and how long before you left? -- It was still during the meeting there, while the meeting was on. I left after some few minutes, which is about five to six minutes.

What did you ask or say on the second occasion? -- I wanted to ask but I was interrupted before I asked anything.

So did you not get any word out at all? -- It is before I uttered a word. (20)

Just by the way you were not there alone were you, your brother Setsube Peter Masenya was also at the meeting was he not? -- I saw him there.

Yes. Did you not come together? -- I met him there.

Did you leave together? -- I cannot remember. I left alone.

You are on good terms with your brother? -- I am in good terms with all my brothers.

Did he go to the police station with you to make a statement? -- No he did not go with me. I did not go to the police (30) station I was fetched.

Yes, /.....

Yes, alright. Did you know whether he has, whether he was fetched or whether he went to make a statement on the events of 26 August? -- I do not know.

Do you see your brother regularly? -- We last met in December. We used to see each other frequently until December.

Where is your brother now? -- I do not know about his whereabouts now.

Did you mention to the police that your story could be, when your statement was made that your story could be supported by no less a person than your brother? -- No. (18)

Why not? -- I did not think that fit to mention to the police.

Come Mr Masenya you are a person who is a leader of the Lebowa people, who is a court interpreter, who is a participant in the Lahotla in your ward an aspirant Councillor, surely you would have wanted the truth to come out? With clear and satisfactory evidence and as soon as possible? -- You know when you are not telling the truth it is then that you want a witness and when you feel like I felt, that I was telling the truth, then I did not deem it fit for a witness. (20)

I see, and you as a court interpreter have much experience, have you not, in witnesses being called and hearing judgments for the magistrate, speaking about people being corroborated by witnesses, you hear all that the whole time? -- Yes there is such.

Yes. You see because I am going to suggest to you that whatever reservations you might have had between the 26th and the 3rd about going to the police or giving the names of witnesses, for a public man in your position if you were telling the truth and you had such vital information you would have (30) gone immediately and would have said the reason for the holocaust

on/.....

on the 3rd in the Vaal Triangle was the sort of meeting that I attended on the 26th, if what you say happened there in fact happened? -- I did not go to the police station, not at all.

Yes. Now tell me what time of the day did you leave the Catholic Church complex on that day, what time? -- I cannot remember what time it was.

Was it getting dark already? -- No, it was still light.

Was it dusk? -- No, it was still light.

Now if this sort of threat was made against you and (10) your life and you were hounded out of the meeting which you have described did you not consider it a useful precaution to say to your brother Setsube, "Setsube let us go home" so that at least you would have the benefit of your brother accompanying you for your protection? -- You know while I was still in the meeting there I did not even see where he was seated amongst the audience. Was it that I wanted to call him to come along me I would have called him at a stage when I left but because I did not see him I did not see him, and at the time when I left, leaving the place altogether, most of the (20) people remained behind and it was still light.

Are you telling His Lordship that you actually left when the meeting broke up? -- I left the meeting while it was still on, that is when I left.

What did you mean that when you left the meeting most of the people remained behind, what did you mean by that? -- What I mean is they were stilled in the meeting, in other words that means the meeting was not yet off.

But why "most"? -- What I am saying is that because there were still quite a big number of people in the meeting and (30) furthermore the few that had come out were not many.

You/.....

You see because I am going to suggest to you that you actually stayed until almost the end of the meeting but that you walked out when the resolution was being formally put as to whether or not a march should take place on the 3rd, and that was your way of dissociating yourself with the march right at the end? -- When I left the meeting was still on. After I have heard about that talk of march.

So what was, what was the thing that really made you say "I will not have anything more to do with this meeting", what was the spark that really made you get up and go? -- I said (10) while I was outside there I heard some signing, as a result I went up to the doorway and from where I got a fright and then left.

We will come to that, the sunshield that gave you a fright, and the singing, in due course. But now I want to come to a question that was asked by His Lordship this morning and the answer that you gave to it. Do you recall that His Lordship asked you which of the persons before His Lordship, which of the accused, spoke of violence? Now I would like you to please tell us, take your time and listen to the question (20) carefully, firstly try and give us the list of persons before the Court that spoke and if you can in their order in which they spoke.

COURT: Of violence or not of violence? All who spoke or only those who spoke advocating violence?

MR BIZOS: No I would like all that spoke, all the accused that spoke please. Who spoke at the meeting of the 26th, all the accused who spoke at the meeting. -- Accused 5.

Please stand up so that we do not have, was he the first person to speak? Now try and do it, if you can in the order (30) in which they spoke. Or if it is easier for you then you can tell/.....

tell us which and then we can talk about the order. Would you like to start again and tell us in the order in which they spoke who spoke? -- Accused 8.

Right the first person to speak among the accused was no. 8, yes? Then? -- Accused no. 17.

Then accused no. 17, yes. Yes and? -- Then a woman who is not here.

Right, okay, we will just note that, but then the next accused. -- Then another woman.

Then another woman. -- Thereafter accused no. 5. (10)

No, 5, yes? -- During the questioning time then there was a male speaker who put some questions.

Yes? -- I was the next one on questioning.

The witness, yes? -- After asking the questions, after I had questioned and got a reply from my questions.

Yes, questions replied, yes? -- There were other speakers as well.

Other speakers. -- From the audience.

Right, and you cannot identify any other of the accused?

-- No. (20)

Right, so you have mentioned three of the accused that spoke and you told us their numbers. -- That is so.

Now would you please tell us which of the accused said that the Councillors must be killed, which of the accused said that there must be violence?

COURT: Just a moment, that is two questions. Violence can mean killing or not killing.

MR BIZOS: As Your Lordship pleases.

COURT: What do you want to put?

MR BIZOS: Violence. (30)

COURT: Violence, spoke in favour of violence?

MR BIZOS:/.....

DELMAS TREASON TRIAL 1985-1989

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