

Evidence heard in NYLSTROOM
on TUESDAY, the 29th
SEPTEMBER, 1953

Before the Committee of the
LAND TENURE BOARD

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ERRATA:

Page 225 missing - (pages incorrectly numbered).

EVIDENCE RECORDED and TYPED by:

THE STELLA BEYLEVELD TYPING AGENCY,
67A, Fox Street,
Opposite Stock Exchange,
Phone: 33-7531
Home : 35-4809
JOHANNESBURG.

MR. MINTY: Mr. Joubert, your counsel has said that he wants to get the Indians out of the town. I take it that that is the opinion of your Council? Is that correct? --- Dit is die afleiding wat daar is, volgens daardie gebiede, Meneer die Voorsitter.

Now, that means that your Council wants to see that Indians should go out of trade? Is that correct? --- Dat my Raad wil sien dat hulle uit die handel raak - is dit die vraag?

No, the position is that your Council, by getting rid of Indians from town will see that the Indians cannot trade in this town. Is that correct? --- Nee, dit is nie die idee nie, Meneer die Voorsitter.

But isn't the idea that the Indians should get out of town - that means they must get out with their businesses? --- Ja, die Raad wil nie ... die Raad se besluit is dat geen woning of besigheid binne die blanke gebied gelaat sal word nie.

Now, that also means that whatever properties they own in the town, must be sold to Europeans? --- Ja, dit sal korrek wees.

At whatever price the Europeans can pay for it? --- Wat is die vraag, Meneer die Voorsitter?

That the Indians must sell the properties to the Europeans at whatever price they can fetch for it? --- Ja, dit sal seker in die loop van sake wees.

That means the idea underlying the whole application by a Council is to see that the European section

--- should ---

should be enriched in trade at the expense of the Indians? --- Meneer die Voorsitter, ek het gister gesê die persoon wat by die Indiër of blanke koop, sal altyd daar koop. Dit is nie 'n saak wat ek kan beantwoord nie.

But doesn't it stand to reason, isn't it logical, that once the Indians get out of the towns, their businesses will be conducted by the Europeans? It's logical, isn't it? --- As die Indiërs hier... as hulle in die dorp bly sal hulle natuurlik ...

(Interposing): Arising out of the application?
--- Ja.

It is logical that the Indians should be ruined?
--- Nee, dit is nie vir my om te antwoord nie, Meneer die Voorsitter.

It is not? --- Dit is nie vir my om dit te antwoord nie.

I see, you don't want to answer that? --- (No reply).

Now, Mr. Joubert, you know that once the Indians have to go out of town, and you said it this morning, that they'll have to duplicate their residences, Mosques and school by building buildings in the area that you set aside for them? Is that correct? --- Ja, dit sal die posisie wees, Meneer die Voorsitter.

Now, who will have to provide for the money for the Mosques, and the schools - I suppose the Indians?
--- Ek glo so.

Yes. And your Council does not care where the

Indians will get that money from? They are not concerned with them at all? Is that correct? --- Nee, my Raad het nie daaroor enige besluit of bespreking gehad nie.

You have not taken any decision, but it stands to reason, that where the Indians put up a school or Mosque at the new places, your Council is not concerned with it? --- Meneer die Voorsitter, my Raad het besluit, en ek is maar net daar as Stadsklerk om besluite ...

Shall I put it to you this way? Will your Council provide the money for the setting up of a Mosque or a school in this proposed area? --- Nee, daaroor is nie besluit nie.

Of course not. Then it means this: That Indians must provide money to put up their houses their Mosques and schools? --- Ja, dit sal daarop uitwerk, Meneer die Voorsitter.

And if the Indians cannot find money then they must go without it? Is that correct? --- Dit is van selfsprekend.

DR. VAN BILJON: Mr. Minty, but those buildings won't be confiscated by the Municipality, I take it? Surely, you will get your money back again?

MR. MINTY: At least, for the schools, Sir, we are not getting any money at all. Who's going to pay for the Mosque? It's going to be left there as a monument, Sir, according to this witness. In other words, where will the Indians find money to put up another Mosque at the proposed place? (TO WITNESS): Anyhow, your

Council is not concerned whether the Indians have a Mosque in the new premises, or not? That is not the concern of your Council? Consequently, in this removal from this area, presently occupied by them to the proposed area, and in that consequence, if the Indians are ruined, your Council is not concerned with that either? --- (No answer).

Is that correct? --- My Raad het nie^{iets} oorweeg in verband met die uitroei, soos u dit daar noem nie, Meneer, dit is net 'n besluit wat my Raad geneem het.

Well, what would you consider? You would think that the Indians would be ruined by getting out of their present premises and going into the new premises? Is that your personal opinion? --- Nee, Meneer.

You can't answer that? --- No.

Now, Mr. Joubert, can you remember some time ago in 1952, your Council received a circular from the Land Tenure Advisory Board or the Town Planning Committee of Pretoria, giving details of the Group Area Act. That circular was circularised to all the Municipalities. Did your Council receive it? --- Ja, ons het.

Did you write a letter in consequence of that circular? --- Ja.

Did you get a reply to that? --- Nee. Ons

--- het ---

het die sirkulêre gekry en daarop het my Raad 'n deputasie afgestuur na Pretoria-toe om die saak te bespreek.

Just an application? You sent an application thereafter? --- Ja.

Now, Mr. Joubert, did you not yesterday tell this committee that you received no papers or correspondence from the Advisory Board. Did you say that yesterday? --- Ek weet nie of ek daarvan melding gemaak het.

May I remind you that you were specially asked for any particulars from Pretoria and you said that you received nothing? --- Meneer die Voorsitter, dan mag ek miskien die vraag verkeerd verstaan het. Ons het die sirkulêre gekry.

Now, did Mr. Hienstra come over to see your Council, before or after you received that circular? --- Nadat ons die sirkulêre gekry het...

When you received that circular ... can you first show me the circular. Have you got it here? --- Ja, ek glo dit is hier, Meneer. Ja, ek het dit hier.

Can you give it to me just for perusal?

CHAIRMAN: But they sent you a copy, Mr. Minty?

MR. MINTY: That was in Carolina. (Peruses) It sets out in detail what the Group Areas Act means and how you should proceed with it. --- Ja, dit sê hoe 'n mens te werke moet gaan.

--- MR. MINTY: So ----

MR. MINTY: So by reading the circulars, your Council, or rather yourself, knew actually what the Group Areas was and what it contains. After reading the circular. Because it gives practically everything. --- Ja, ons het dit gelees.

Well, can you advance any reason as to what was the necessity for calling Mr. Hiemstra to give you instructions on the Group Areas Act when you already knew from the circular what it meant? --- My Raad het besluit om die advokaat uit te nooi, Meneer die Voorsitter.

Was it intentional or did Mr. Hiemstra specifically ask you that certain acts should be done in connection with your application, as to how you should proceed? --- Ek verstaan nie die vraag mooi nie, Meneer die Voorsitter.

Did Mr. Hiemstra advise you as to how to proceed with your application and where you should ask that Indians should be put for Group Areas purposes? --- Die Advokaat het ons ingelig hoe om te werke te gaan om die geskikte gebiede - die het ons toe reeds gehad - ons het reeds toe die advokaat hier kom. As gevolg van daardie het ons alreeds ons kaart klaar gehad.

MR. HIEMSTRA: Mr. Chairman, if the gentlemen opposite are very anxious to hear what I said I am prepared to tell the committee what I said. It would be much quicker to get it from me if you will allow that, Mr. Chairman?

---CHAIRMAN: I ---

CHAIRMAN: I don't know whether that will help us.

MR. HIEMSTRA: I think I am quite entitled to claim professional privilege, but I have no secrets. I was asked to come and address a meeting of the Burgerlike Vereniging which I did in this hall and I also addressed the Town Council and I explained the whole Group Areas Act from the beginning to the end in so far as it is necessary for a layman to understand it - not only the Group Area aspect but the whole system of control, and I said that any area could be selected as a group area and I also said that it has been my experience that the Group Areas Board prefers to have buffer zones between the various racial groups and I said that for that reason it might probably not be acceptable to have an Indian area in the middle of the town. That is all that I told them.

MR. MINTY: Now, we have it from Mr. Hiemstra that it was on his advice that it is essential that a buffer zone be created between the Indians and Europeans. Now, is that the reason why you set aside an area as you did in your application outside the town? --- Ons het daardie plan reeds opgestel gehad as gevolg van die sirkulêre.

When Mr. Hiemstra came was it ready? --- Toe het ons hom klaar gehad.

When did Mr. Hiemstra come? On what date? --- Ons het die advokaat toe als vertel waar ons

ons gebiede wil hê. Wat was die vraag nou, Meneer die Voorsitter?

What was the date when Mr. Hiemstra came to see you? --- It was somewhere in July.

Now, you will remember in May, 1952, you called on the Indian committee to come and interview the Council? Do you remember that, that was in May, 1952? --- Dit is korrek, Meneer die Voorsitter.

Now, at that time, Mr. Hiemstra had already been to see you, before that? I understand that you made mention of Mr. Hiemstra at that meeting in May, 1952? --- Ek kan nie dink dat die advokaat hier was voor dat... ons het eers met die Indiër-gemeenskap gesels en vir hulle gesê wat die Raad van plan is om te doen.

That was in May 1952. I have your letter here? --- Ja, Mei.

Now, before that, I think if I am correct, you mentioned to the Indian people that Mr. Hiemstra had seen you on this point. Now that indicates that Mr. Hiemstra had seen you before you wrote that letter to the Indian people? --- Dit mag moontlik wees. Ek is nie honderd persent... die datums sal nou nie meer presies wees nie.

Did Mr. Hiemstra come once or twice to see you? --- Ek meen die advokaat was twee keer hier.

Now, when did you prepare the C. 1. proposal? --- Die het op die planne gekom van die beplannings kommissie waar daardie C. 1. is en toe het die Raad sy.... o, C.1?

---MR. MINTY: Yes, ---

MR. MINTY: Yes, C. 1. --- Net na ons met die Indiër gemeenskap oor die sake gesels het het die Raad oorgegaan om te besluit oor die gebiede.

That was in May 1952? --- Dit was in 1952.

That was C.1. Then C.1. was already ready when you saw the Indian people in May 1952? --- Nee, ons het net met hulle oor die moontlike gebiede gesels.

But the plan was already ...? --- Ek kan my nie herinner of die plan al klaar was.

And at that time did you see Mr. Hiemstra for the first time when C.1. was...? --- (Interposing) Ja, die advokaat was hier by ons gewees.

And can you say at what time was C.6. proposed? --- Dit was onlangs - met die laaste/skrywe, n maand of twee, drie terug. Toe het ons ons voorstel teruggetrek.

Now, C. 6. - what date was that proposed? --- Op n vergadering van Julie 27 1953. Op die vergadering het die Raad besluit om C.1. terug te trek ten gunste van C.6.

So, it means this, that when Mr. Hiemstra came, C.1. was ready ... or was it ready? --- Dit was in orde/^{die sake,}- ons was op die terreine ook.

And when Mr. Hiemstra came for the second time you changed it to C. 6? --- Ja, dit is reg.

On the request of Mr. Hiemstra? --- C.6? Dit is moontlik. Dit is moontlik dat die advokaat

die voorstel gedoen het.

You see, I still cannot understand C.1 and C.6. They are not very far apart and there seem to be certain European houses near C.6. - not very far. --- There is just the Railway line between.

Now, is it the intention of your Council to remove those Europeans who are near C.6 in order to create a buffer line? --- Nee, dit is nie die Raad se voorneming nie.

No. No sacrifice for the Europeans at all. Now, Mr. Joubert, about this mosque. You said that you were going to leave it there. You are aware - you have been here for thirty years - you know that the Indians, - the Muslims generally - pray five times a day? Do you know that? --- Ja. Ek is nie bewus hoeveel keer nie - maar ek weet...

Yes, you have heard about that? --- Nee, ek het nie geweet dat hulle vyf keer op n dag...

(Interposing) How many times a day do they go to the mosque? --- Nee, ek weet glad nie. Ek weet hulle hou diens, maar hoeveel of hoe dikwels die...

Once a day? --- Nee, ek het glad nie n idee nie.

Once a week? Anyway you won't be able to deny if I say that they have to pray five times a day. You won't be able to deny that? --- Nee, ek sal dit nie betwis nie.

Now, if you keep this mosque as a monument there, empty, would it not hurt the susceptibilities, the religious feelings of the Muslim people? --- Dit hang af - ek weet nie, Meneer die Voorsitter.

--- Supposing ---

Supposing a church belonging to Christianity were to be closed and certain people following that church were to be prohibited would their feelings be hurt? That you would certainly know? --- Ja, in n mate moet mens dit toegee.

So similarly the religious feelings of the Muslim people will be hurt? It stands to reason, doesn't it? --- Dit is moontlik, Meneer.

Now, who gave you this information regarding the case at Carolina? Where did you get that? About that mosque at Carolina? --- Ek het dit in die Transvaler gesien. Daar was n uittreksel in die...

(Interposing) Now, lastly, Mr. Joubert, you have already given the Indian people a good character in that they are law-abiding, there is no friction, there is no police report against them and generally they are decent people. You have said so before, and you also said that in order to separate the races it would be quite feasible if the one section of the people were to be kept say on one side of the town and the other on the other side of the town. You already said that? --- Ja.

Now, is the Council to prepared to amend your plan accordingly? --- Ek weet nie wat hulle sal besluit nie, Meneer die Voorsitter.

In any case, you think personally that it would be a separation if a buffer zone to be put up right in the town between the Indian and European section? That would be a feasible separation? I am not

--- speaking ---

speaking of outside the town - right in the heart of the town? --- Ja, maar ek is net hier namens die Raad en nie om my opinies te gee nie.

MR. LOWEN: Sir, before my learned friend Mr. Dison begins, I quite forgot, I asked before the tea adjournment, I think, for a certain contract which the witness was going to bring. The contract was in regard to the Government school. Has the witness brought it now? May I have a look at it?

MR. HIEMSTRA: Mr. Chairman, I have the contract here and it provides....

DR. LOWEN: (Interposing) May I see it? I want to cross-examine on it.

MR. HIEMSTRA: Yes, I know. Why I did not hand it over now is this, that my learned friend wants to cross-examine a complete layman on legal implications and that is entirely unfair.

DR. LOWEN: I object to that, Sir.

MR. HIEMSTRA: I will give you the opportunity...

DR. LOWEN: (Interposing) I object to it. My learned friend interrupted me. He suggests that I would do something completely unfair - to cross-examine the man, a layman - on law. There is no indication that I am going to do it. I don't know where my learned friend gets it from. And I object to it. I would like to see the contract.

MR. HIEMSTRA: You can see the contract - I have said so before. The contract provides for a termination of the lease only in two instances:

--- firstly ---

firstly where the lessee...

DR. LOWEN: (Interposing) I object to this, Sir. I object to this. It is a question of evidence, not of an address by my learned friend. I want to see the contract.

THE CHAIRMAN: Doctor, you will get that in a minute.

DR. LOWEN: Sir, I object and I would like to note my objection. I had asked for the document. Before I even had the opportunity to look at it my learned friend makes conjectures about my future attitude and he tries to give some evidence which he can only give in the witness box and I object to any of his remarks on the meaning of this contract until I cross-examine. He can re-examine the witness, that is a procedure for this committee and not anything new invented by my learned friend.

CHAIRMAN: Dr. Lowen, he is not giving evidence, he is explaining the document. I want to know from him why it should or should not be handed over. I am just hearing him and then I will decide.

DR. LOWEN: Sir, there was no objection raised to my seeing this contract and my learned friend has no locus standi to make this speech at this stage.

CHAIRMAN: But he is explaining, Doctor, and I will hear him.

MR. HIEMSTRA: I will hand the contract over

immediately but I will lead up to the point why I want to make this statement. It does not provide for the termination of the lease by the Council during the currency of the lease. It makes provision for a termination of the lease only in two cases: firstly, where the school becomes dormant, where there are no more children to justify the existence of the school and secondly where the lessee fails to pay the rent. If the Town Council should decide to terminate that lease on its own accord or decides not to renew it, for that eventuality there is no provision in the contract and I know that my learned friend will ask the witness - "well now, you told us this morning there would be compensation", and he would not be able to give the reply which lies in the Common Law, namely that if there is no provision for a termination of the lease by the Council one-sidedly, or a refusal to renew, that in that case there would be on the grounds of enrichment, a Common Law claim against the Council and that is the only reason why I give this now because the witness probably would not have known that and would not have been able to say it.

DR. LOWEN: Sir, I again voice my protest against this completely irregular procedure. I have never heard of this before. I regret that my learned friend takes refuge in these means which are not legal means. May I now see the contract.

CHAIRMAN: Doctor Lowen, you can now have the contract and after Mr. Dison has finished you can

examine on that contract.

MR. DISON: Mr. Joubert, has your Council ever considered having separate group areas for Indian, separate in the sense that one would be for residence and one would be for trade? --- Meneer die Voorsitter die uitleg wat my Raad daar op C. 6. het meen my Raad dat die strate naaste aan die spoorweg en aan die groot hoof-pad, Nylstroom - Pietersburg, dit sal die besigheidsdeel wees, die res sal woon-erwe wees.

But that is just one group area. Your Council didn't consider making a group area in town for trading purposes and another one somewhere else for residential? --- Nee.

Why not, Mr. Joubert? ---- Nee, ek weet nie, Meneer die Voorsitter.

Is it because the Council is not interested in the Indians' trade? Is that the reason? --- My Raad het nie besluit op aparte gebiede.

We have heard that for nearly two days. You told us that the reason it was necessary to have a group area for Indians a mile or more out of the town was because of the necessity of separation. Is that right? --- Ja, dit het die advokaat vir ons meegedeel.

That is what you say too, isn't it? That is what your Council says? --- Ja, dit is as gevolg van die inligting wat ons het dat dit moet

---- apart ----

apart wees.

What sort of separation are you thinking of? Residential, for one thing, aren't you? You are thinking of residential separation, are you not? --- Dit is albei. Die gebied wat ons voorstel sal vir woon en besigheid wees.

What do you call separation for business? What do you mean by that? --- Die erwe aan die hoofweg, die naaste aan die hoofpaal en hoofstraat - die, beskou my Raad, sal besigheids-erwe kan wees en die res sal dan die woon-erwe wees.

I am not talking about the group area which is proposed. I am talking about your Council's reasons for making a group area so far out of town. You say that the reason is because you want separation and you can't get separation in town. Is that right? Do I understand your evidence correctly? Is that your evidence? --- Die Raad het besluit dat daar moet voldoende apartheid wees in aparte gebiede.

Yes, yes, we understand that. But I want to know, is it necessary to have both residential and business separation in the town? I don't think you understand me. --- Ek verstaan nie die vraag nie Meneer.

Well, let us put it like this, Mr. Joubert. You say that the Indians have got to be out of the town because you want apartheid, is that right? --- Dit is ons voorstel.

--- Now ---

Now, what do you mean by apartheid? What do you mean by that? --- Dat daar duidelike skeiding is tussen die verskillende groepe.

You don't want the white people and the Indians to live near one another, isn't that correct? --- Nee, die voorstel is....

(Interposing) Now, don't talk about the plans for the moment. Talk about the reason. I am asking about the reason for putting the Indians more than a mile out of town. What is the reason? --- Volgens my Raad is dit die enigste geskikte gebied. Die Raad het dit so goed gevind.

What I want to do is that I want to go a little further into the answer you gave my learned friend Dr. Lowen. He asked you many times why your Council didn't make group areas in the town for the Indians. Why is it necessary to make it right out of the town, and you said that you wanted separation between the whites and the Indians. I just want to examine that a little further. That is all I want to know. Those are the only questions I am going to ask you but please answer them otherwise it will take a long time. What do you mean by that, what separation do you mean? That can only be done out of the town? --- Nee, my Raad het so op daardie gebied besluit.

Look, don't keep on repeating the same answer. We are not talking about what your Council decided. I asked you one question only, - the reason why.

The reason why the area has to be right out of town. Now, what is the reason? You said that it is because you want separation. And I just want to know a little more about that. Now, please answer? --- My Raad het gevind dat dit die geskikte gebied sal wees om die een groep te plaas. Hulle het nie ander redes aangegee waarom dit daar moet wees nie.

We know your Council decided that that would be suitable for the Indians. You told us and told us and told us. What I am asking you about is the reason for it, the reason why the Indians have to be so far out of town? Can't you answer that? Don't you know? --- Ek het die rede gegee, Meneer die Voorsitter.

of

Because/ the reason Mr. Hiemstra gave, because Mr. Hiemstra told your Council so, is that why? --- Hy het advies gegee wat ons moet doen, ja.

You don't want the whites and the Indians to have anything to do with one another, is that correct? Is that the policy of your Council? --- Die beleid van my Raad is net om apartheid te weeg te bring, Meneer.

That apartheid is in everything, isn't it? You don't want the white people to live anywhere near the Indians, is that correct? --- Daar moet n duidelike skeidslyn wees - dit het my Raad gesê.

And I suppose your Council also doesn't want white people to do business with the Indians either?

--- Dit ---

--- Dit staan enige persoon vry waar hy sy besigheid doen, Meneer.

Well, if that is the case then why couldn't your Council have arranged to have had trading group areas in the town and residential group areas out of the town? --- Dit is hulle besluit, Meneer. Waarom hulle dit nie gedoen het nie, is hulle besluit.

It was never even considered then? --- Nee, dit was glad nie gekonsidereer nie.

DR. LOWEN: Mr. Joubert, I asked you whether in case of the establishment of a group area outside town the Indian community would lose the present Government school and would lose its buildings, and you, not having the contract at your disposal, said, that as far as you could remember, the contract provided for compensation to be paid by the Municipality. Is that correct? --- Dit was my eerlike opinie gewees.

It was your honest opinion and then you were asked to get the contract. You obtained the contract and I have this contract now. --- Dit is hy.

Did you ask, whilst you were still in the witness box, Mr. Hiemstra to intervene before you give evidence for your protection? --- Nee.

You did not ask Mr. Hiemstra for your protection? --- Nee, ek het die advokaat die kontrak gegee.

You gave your counsel, or the Council's counsel

the contract and out of his own free will and motion he intervened before you had the chance of asking. Did you tell him you were afraid that I would put legal questions to you? --- Nee.

You were not afraid of that, and you were not under the impression that I would try to trick you with any legal questions, which is far from me. Now, Mr. Joubert do you admit - I only know that you made a mistake - do you admit that this contract says the exact opposite as far as compensation is concerned from what you thought it would say? --- Ja, dit is korrek.

You read this contract, now, meanwhile? --- Ja.

And it is not as difficult as Mr. Hiemstra made it, you understand that quite clearly? It is in plain English? --- Ja, ek verstaan dit, daar is nie kompensasie nie.

There was no reason - and I didn't understand the legal reasons - no reason to explain anything as to the legal effect of this contract. You clearly understand the contract? --- Ja.

Will you now confirm for the record that the following - and I shall deal with my learned friend's argument which I say now is completely unjustified in law - I shall read now for the record the important clauses. First of all this contract was entered into on the 30th of March, 1935 between Mr. Botha on behalf of the Town Council of Nylstroom and three

gentlemen on behalf of the Indian community of Nylstroom. Is that correct? --- Ja, Meneer.

It provides for the lease of the ground on which the school stands for a monthly rental of £1. 0. 0. and then it contains the following clauses with regard to forfeiture of any buildings erected on the grounds - Clause 5: "In the event of the rent of £1. 0. 0. not being paid within fourteen days of its falling due, the lessors shall by letter addressed to P. O. Box 6, Nylstroom, call upon the lessees for payment and if such rent shall not be paid within fourteen days of the date of such letter the lessors shall be entitled to cancel this lease forthwith and whatever improvements have been made on the said land shall become the property of the lessors without the latter being liable to compensate the lessees therefore." Now, Mr. Joubert, that is quite clear, that applies only to the case in which the rent is not paid? ---- Ja.

There, if the rent of one pound is not paid, the property is forfeited for the Council? --- As hulle die ooreenkoms nie voldoen nie.

CHAIRMAN: Dr. Lowen, just a minute. Something was mentioned yesterday about £2.0.0. Is there another lease for the ground or ?

DR. LOWEN:
(Interposing) Later on there was an addition of other ground for the Teachers' buildings and that brought it up to two pounds.

Now that was the first, rather harsh forfeiture

clause- we are not concerned with that. Now then, Clause 7 I want to read and this shows the spirit of the contract - "Should the said school building not be completed within twelve months from the signing of this lease the lease shall automatically lapse, and such improvements as the lessees may already have made on the said land shall become the property of the lessors without the latter being liable to compensate the lessees therefore." Clear, too? If you don't complete the building the lot goes again to the Town Council? ---- Dit is korrek, Meneer die Voorsitter.

Now, I come to the clause which is really relevant and which nobody can possibly misunderstand with legal implications or without. Clause 8: "The lessees shall not have the right to use the said piece of land or the buildings to be erected thereon for any other but educational purposes and" - now please listen - "should for some reason or other it so happen that the said school becomes dormant and it become necessary to close it down.." Let us stop there. Do you agree with me that if the Indians have to move out there the school would become dormant and the school would have to close down? --- Yes.

Now, what happens then? I continue reading. "And it remaining so closed for a period of not less than six months, then this lease shall automatically lapse and the improvements on the said piece of land shall become the property of the

---- lessors ----

lessors without the latter," - the lessors - "being liable to compensate the lessees therefore." It is quite clear even to you with a non-legal mind. That means that the Council gets the building and doesn't pay one single penny for it? --- Ja, dit is duidelik daarso.

Well, I don't know what your Counsel talked about when he talked about the law but to you as a lay-man and to me as a lawyer, it is perfectly clear that that is the actual position, isn't it? --- Ja, Meneer die Voorsitter, nou dat dit so afgelees is.

CHAIRMAN: Is there another lease about the teachers' quarters?

DR. LOWEN: Sir, I am going to check that. I didn't want to go into all these papers.

CHAIRMAN: (To witness) Is dit dieselfde kontrak? --- Nee, daar is twee, Meneer die Voorsitter, daar is een vir die skool en een vir die woning.

DR. LOWEN: Sir, shouldn't I carefully, not to detain you now, study this carefully...

CHAIRMAN: (Interposing) I understand the witness says there is another contract.

DR. LOWEN: Yes, I see, but I have now to find out whether this second contract is the additional contract or is a consolidating contract or what the position is.

MR. JOUBERT: Nee, Meneer die Voorsitter, dit is aparte ooreenkomste. U sal vind daar is drie.

Die een ooreenkoms handel oor die grond.

DR. LOWEN: Sir, I would rather like to compare the areas of the plan and all this, and couldn't I do this after lunch?

CHAIRMAN: Yes. Ons sal nou verdaag tot kwart oor twee. The Board is adjourned until 2.15 p.m.

RESUMED AT 2.15 p.m.

DR. LOWEN: Mr. Joubert, I have checked again your file which you kindly gave me. Just see whether you can confirm the first contract - that is the one dated the 30th of March, 1935. That contract refers to the grounds on which the actual school building was erected. The second contract is dated the 27th of April, 1944, and that contract refers to the ground on which the Teachers' Quarters are erected? --- Ja, Meneer die Voorsitter.

And both contracts have identical conditions and in both contracts it is provided that should it become impossible to go on with the school then the lease shall automatically lapse and improvements of the lands should fall to the Lessor without any compensation. That is in both contracts. --- Dit sal korrek wees, Meneer die Voorsitter.

And just one last thing, the first contract was for nine years and eleven months? --- Dit is reg Meneer die Voorsitter.

That was, of course, in order to avoid the

--- provisions ---

provisions with regard to a lease in longum tempus - a lease over ten years. ---- Ja, Meneer die Voorsitter.

And since the expiry of the nine years and eleven months of the first contract the lease is continued under the same conditions, the same rent and so on and so on. --- Die huur word nog altyd betaal.

And every month you get the rent in respect of the two properties? --- Korrek.

And I understand rent has been paid in advance for several years? --- Dit sal korrek wees.

Thank you very much. (To Chairman) Now, Sir, with regard to these contracts I wish to say there appears/^{absolutely}nothing complicated at all. The position seems to be that there is no right of compensation in case of loss of the school by way of the group area and the Group Areas Act, so any reference to any Common Law and so on as I said before is completely out of place

VOORSITTER: Ds. Horak, het u miskien enige vrae? ---- Nee, Meneer die Voorsitter.

Ds. Marthinssen? --- Nee.

Is daar iemand wat enige vrae wil hê namens die N.G. Kerk? Mnr. Swanepoel? ---- Meneer die Voorsitter, om die waarheid te sê ek het nie vrae nie, ek wil net toespreek.

Die Gereformeerde Kerk? Is daar iemand wat

enige vrae wil stel namens die Gereformeerde Kerk aan die Stadsklerk? ---- Nee.

Did Susterssvereniging? Mnr. Uys, het u enige vrae aan die Stadsklerk in verband met sy getuienis wat afgelê is? --- Nee, Meneer die Voorsitter.

Have you any questions, Mr. Shall? ---- Yes.

CHAIRMAN: First of all in what capacity are you appearing? --- I appear as a representative of the Springbok Legion.

Yes, but in what capacity? Do you hold any office? --- I am no office holder, being a member of the Congress of Democrats.

Have you got authority from the Springbok Legion? --- No, I haven't got it here, I assumed that they had sent it on to you.

I haven't got it and under those circumstances you will not be able to... I will not be able to hear you. You are just a member and unless you are an office-bearer and you have authority to authorise you to appear then I can't hear you.

Meneer Wessels, het jy enige vrae?

MNR. WESSELS: Ja, Meneer die Voorsitter. Mnr. Joubert daar word voorgehou dat die Indiërs baie jare reeds die besighede in Nylstroom het en dat die blankes later alleen in die besigheidlyn begeef het. Sou u dan nie sê dat in daardie omstandighede het die Indiërs 'n voorsprong gehad op die blankes?

--- Ja, in daardie geval sal ek sê hulle het die voorsprong gehad.

As u die getalle neem van Indiërs op Nylstroom en u neem die getalle van die blankes dan/^{hoe}is die verhouding met betrekking tot die lisensies wat hulle het? --- In verhouding het die Indiërs meer lisensies as die blanke.

Kan u ons syfers gee? Daar is 13 Indiër lisensies en daar is - hoeveel Indiërs? --- Ja, die syfer wat ek gister gegee het, Meneer die Voorsitter, dit was persele. Ek het uitgehaal gisteraand die verskillende lisensies wat op datum - alle lisensies wat toegereik is - daar is party persele wat twee en drie tot vier lisensies het - dit is onder die Lisensie-kontrole Ordinansie. Die getal van blank /^{is} op datum 1947, Indiërs: 34.

Nou, 37 lisensies, en wat is hulle getalle? --- 198.

Dit is omtrent... 'n lisensie vir elke ses persone? --- Ja.

En die blankes? --- 2,082.
Omtrent 40 blankes vir elke...

So die verhouding daar is nie proporsioneel? --- Nee.

Daar is aan u voorgestel dat die persone, die blanke persone wat met die Indiërs handel dryf nie sou wil gaan na een van die voorgestelde gebiede C.6 of C.7 nie. Kan ek dit aan u so stel dat

--- party ---

party van die blankes wat handel dryf met die Indiërs taanlik beskroom is dat 'n ander moet sien dat hulle met hulle handel dryf. Is daar sulke persone? --- Ek sou nie kan sê nie, Meneer die Voorsitter.

Indien dit so sou wees dan sou u nie dink dat/^{die}verskuiwing van die besighede/^{daar}aan daardie persone 'n beter geleentheid sal bied om hulle handel te dryf sonder dat hulle opgemerk is? --- Dit sal aan hulle 'n beter geleentheid bied as hulle skroom is vir so 'n ding - om daar te gaan koop.

Nou, die voorstelle aan u dat die besighede van die Indiërs so ver sou verwyder wees dat dit onbekombaar is - die blanke gebied soos hy lê vandag, sal ek reg wees as ek sê dat party van die blankes vandag net so ver van die Indiër besigheid verwyder is as wat die persone wat hier in die sentraal van die dorp bly sal wees van die besigheid by sê C.6? --- Ja, dit sal die geval wees, Meneer.

Dan het ons gehoor dat 'n baie groot persentasie van die Indiër se klandisie is blankes, en die blankes wat besigheid met die mense doen is nie gekonsentreer in hierdie dorp alleen nie. Hulle is buite aan die plaas? --- Ja, dit is heeltemal moontlik, Meneer die Voorsitter.

Sou dit dan so 'n baie groot... of baie verwag van 'n persoon wat reeds 30 myl gery het na die dorp toe om sy besigheid te kom doen as hy dan nog 'n/^{ekstra}duisend tree verder gaan? --- Ek glo nie

dit sal nog enigsins iets maak nie.

As 'n man 'n rekening het by 'n Indiër winkel vir baie jare sou dit hom dan afsku om dan hierdie ekstra myl verder te gaan? --- Nee, Meneer die Voorsitter, ek glo nie.

Nou, weet u hoe dikwels die treine oor daardie spoor loop? --- Is dit na Vaalwater, Meneer die Voorsitter?

Ja, Vaalwater spoor. Die passassierstreine? My inligting is dit is maar drie keer 'n week? --- Ek glo dit is heeltemal moontlik, so ver ek my kan voorstaan, is dit omtrent.

En my inligting is in verband met die goedere treine dat daar die meeste een op 'n dag is? --- Ook maar moontlik, maar ek is nie heeltemal positief nie wat die posisie is nie.

Nou, die voorstelle van die vreeslike rivier wat u het kom my meer voor as 'n storm water sloot? --- Ja, dit is nie eintlik 'n rivier nie, dit is maar 'n spruit hoewel hy word genoem die Klein Nyl.

En daardie brug waaroor ons gery het gister, die bedien die blankes van die anderkant van die spruit? --- Ja, Meneer die Voorsitter.

In die dorp? --- Dit is korrek.

Het u baie klagtes van daardie persone gekry dat hulle deur die spruit verbied word of afgesny word van die dorp? --- Nee, Meneer die Voorsitter. As hy daar oorloop dan gaan die publiek net by die brug

oor, die skool-kindertjies loop iedere dag daar van die spoorlyn - selfs anderkant van Genaad aan.

Terwyl ons van die skool praat, waar is die skool geleë? --- Die skool is hier as u uitry Pretoria-toe.

Uitry Pretoria-toe? --- Ja, op linker hand, agter die Garage.

Terwyl u daarvan praat, hoe ver - wat is die verhouding tussen die distansies wat die Indiër kinders sal moet loop as hulle skool verwyder word na een van hierdie voorgestelde gebiede - wat maar C.6.? Wat is die verhouding sê - die distansie wat hulle sal moet loop in verhouding met die distansie wat die blanke kinders van daar oorkant moet loop na hulle skool? --- Dit is van die bestaande Indiër skool?

Ja. --- Ek glo dat die Indiër kinders sal sowat 'n myl ekstra moet loop.

'n Myl verder? --- Ja.

Watter distansie loop die blanke kinders, daar van anderkant af? --- Meneer die Voorsitter, ek skat daar $2\frac{1}{2}$ myl, wat sommige loop, daaglik.

En as die skool daar bly staan waar hy is en dit kan, onder die Wet, myns insiens deur 'n wysigende permit toegelaat word, wat sal die distansie dan van die Indiër skool wees na die voorgestelde gebied C. 6? --- Dit is sowat 'n myl, Meneer.

Met ander woorde van die blanke kinders loop dan n myl verder? --- Ja, dit is reg.

Ek het u verstaan net nou dat u gesê het dit is die Indiër kinders wat omtrent n myl verder moet loop? --- Dit is van die bestaande skool.

Ja, ek praat van die bestaande skool na C.6. - daardie distansie. Is ek reg as ek van u verstaan dat die blanke kinders distansie omtrent n myl verder is as die Indiër kinders s'n? --- Ja, dit sal maklik so wees, Meneer die Voorsitter.

DR. LOWEN: From which starting point? I can't follow this? From which point is the question meant?

MR. WESSELS: The point is made, Mr. Chairman from the European area on the eastern side of the spruit where we crossed the little ditch yesterday, there is a European area - a developed area - near that railway line.

DR. LOWEN: A European developed area? --- A European developed area.

DR. LOWEN: I didn't see it? --- I'm sorry you didn't see it, I saw it this morning, I went round there

DR. LOWEN: Mr. Chairman, are these - I'm sorry, but just for clarification - does Mr. Wessels refer to the one or two houses standing there? Does he say that because these children would have to walk two miles there, ^{therefore} /generally everybody has to walk two miles?

---CHAIRMAN: Not ---

CHAIRMAN: Not one or two houses. There are several houses - I don't know the number, I should say about thirty to forty.

MR. WESSELS: That is the impression that I got.

DR. LOWEN: In Albany Street?

CHAIRMAN: Along the National Road, right to the Centre Road and follow as you go out.

MR. WESSELS: Meneer Joubert, die natuurlike-
lokasie, net vir herinnering, dit lyk vir my asof
ons nie almal bewus is nie hoe 'n natuurlike-
lokasie geadministreer word nie. Die fondse wat enige
Stadsraad insamel van die natuurlike in 'n lokasie
is die Stadsraad verplig om daardie fondse te ge-
bruik vir die inwoners van die lokasie alleen. Ons
mag dit nie vir iets anders gebruik nie? --- Nee.

Met ander woorde, as u ekstra geriewe vir die
natuurlike daar skep dan sal hulle die koste van
ekstra
daardie/geriewe moet dra? --- Dit is korrek.

En dit is alleenlik in belange op om hulle
sakke te pas dat u nie straatligte en water aan-
lê in die huise?

DR. LOWEN: (Interposing) Sir, I object to
this kind of examination.

MR. WESSELS: Sir, I regret

DR. LOWEN: (Interposing) Will you please
wait for my objection. Sir, I object against

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the way, to the way, in which these questions are put. I have watched a few of these questions, listened to them. The last question is really more a speech to which a yes is expected from the witness. Now, Sir, you will have observed that Mr. Wessels - who, of course, should have examined before I cross-examined because new matters are brought up now - Mr. Wessels, who appears for a council which has no statutory foundation at all, I still have not been able to find any reference in any statutory reference to a Planning Council, but he, in fact, seems to appear for a body, rightly or wrongly, which has worked out plans submitted by the Municipality, or at least assisted in the working out and who supports, of course, the establishment of Group Areas as put forth by the Town Council, the Town Council supports him. Unfortunately, it wasn't observed that all this should be examination-in-chief and I should have cross-examined after these questions have been put, but, having omitted that, Mr. Wessels now, is in the position of a person who examines a witness-in-chief and he should not lead this witness with this kind of a leading question. What he does is this, he makes a speech to the witness and says, "This and this and this and this is the position," and that, Sir, I say, is inadmissible, would be inadmissible in any court of law. He can put his questions, but not in the form of leading as he does it here. And since he seems to think that these points are of very great importance I would ask him, in fairness to everybody

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