

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

12.28 Vol. 331 Pg. 18 895 - 18 929.

SAAKNOMMER: CC 482/85

PRETORIA

1988-01-25

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSOR : MNR. W.F. KRUGEL

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

LUBBE OPNAMES

VOLUME 331

(Bladsye 18 895 - 18 929)

COURT RESUMES ON 25 JANUARY 1988.

MR BIZOS : All the accused are before Your Lordship this morning. The next witness is Victor Matabane Mbatyazwa. He will speak in Xhosa.

VICTOR MATABANE MBATYAZWA, d.s.s. (Through interpreter)

EXAMINATION BY MR BIZOS : Mr Mbatyazwa, are you 49 years of age and do you reside at 1527 Sharpeville in the Vaal Triangle?

-- Yes.

And are you employed as a machine operator by Apex Industries? -- Yes. (10)

In Vereeniging? -- Yes.

For how long have you been employed by this company? -- 21 Years.

Is that since 1966? -- 1966.

During 1984 how much were you earning? -- R2,46 per hour.

Did that come to approximately R140,00 per week? -- That is correct.

You are married and you have four children? -- Yes.

Are all your children still young and still dependent on you? -- That is so. (20)

Since 1982, have you been a member of any trade union?

-- I joined in 1982.

Which union did you join? -- Metal and Allied Workers Union.

Is that shortly known as MAWU? -- MAWU, yes.

And since 1985 whilst still employed by Apex Industries, have you assumed any office in the trade union at your work?

-- Yes, as a shopsteward.

Do you know whether your trade union was ever affiliated to the United Democratic Front, the UDF? -- No. (30)

Do/...

Do you know or do you know that it was not affiliated?
-- It was not affiliated.

Since 1982 were you a keen trade union member and did you participate in its activities? -- Very much so.

COURT : Just for my own interest sake. A shop steward with a certain employer or are there a number of them? -- It depends on the number of employees by that particular firm as to whether it justifies one shop steward or more.

How many employees does one shop steward serve? -- If the employees are fifteen or plus, then you have two shop(10) stewards, not one. Depending on departments as well.

MR BIZOS : Is there a tendency that if there is a separate department in the work, there is a shop steward for each department? -- Yes.

How many shop stewards are you at Apex? -- We are two.

And the total number of employees of Apex? -- It is three hundred plus. Well, Apex I will say is not yet properly organised.

Did you or do you have your own house in Sharpeville? --
No, I do not have one. (20)

To this day? -- Until now.

Is that because you were not interested in having your own house? -- I tried and failed.

Where are you living in Sharpeville? You have given us the address, but what sort of premises do you live in? -- I have put up a structure of my own on the church premises.

Is that where you were living in 1983/84? -- No.

Where were you living then? -- S1527 was my address.

What sort of structure were you living in in 1984? --
Even then I had put up a structure of a sort of a shelter(30)
in/...

in which I lived on somebody's premises.

And were you paying rent for putting up that shelter? --
Yes, R25,00 per month.

COURT : Why did you move to the church premises? -- The yard on which I lived where I had this shelter structure put was small and I had children. I needed a bigger space. I did not have enough space on which to extend my shelter to accommodate everybody of my family.

MR BIZOS : Did you try to get a house? -- Yes, I tried.

Since the year 1979 up to date I have been trying. (10)

Why did you fail to get a house? -- I was first told, that is the first reason, that there were no houses available to be allocated to me as an applicant and then I questioned this thing by saying other people do get houses. I was then told look, there are two ways which can be used for you to get a house allocated in your name. Number one, you must pay a bribe, which bribe would not be less than R100,00. Or alternatively, there are people who are in arrears with their rent payments, who are being evicted from the houses. For me to be allocated that house, I shall have to be pre-(20)pared to pay the arrears, which could amount to as much as R300,00. In that way then I would be allocated a house.

You are saying you were told this. Was this told to you in secret or how did you come to know that this was the way in which you had to get a house in Sharpeville? -- I got to know about this through discussions with residents in the township, because I also wanted to have a property of my own which I rent. In discussing this they would then tell me what to do.

Do you recall that there were elections to the council(30)

for/...

for the Town Council of Lekoa in 1983? -- Yes, I recall that.

Did you vote in that election? -- Yes.

Did you have any objection in participating in that election? -- No, I did not.

You have already told us that you were an active member of your union at the time. Did your union take part in any campaign to get people not to vote in that election? -- No, it did not.

Other than your union and your church, were you a member of any other organisation in 1983/84 or 1985 for that (10) matter? -- No.

I want to take you to the beginning of August 1984. Did you hear anything about a proposed rent increase? -- No.

Did you hear of any councillors' meeting in the beginning of August? -- No.

Did you go to any meeting at which the councillors were present and spoke to the people in August 1984? -- Yes, on 5 August.

How did you come to go to that meeting? -- During those days, that is the days just before this day of the meeting, (20) I came to know in hearing from people in the area that there was going to be a councillors' meeting, namely a meeting which was being convened by the councillors.

COURT : Where was it held? -- In the old hall in Sharpeville.

MR BIZOS : Did you go to that meeting? -- I went to this meeting, yes.

Why? -- I went there to go and hear personally what was said by the councillors in relation to the increase of the rent.

How would the increase of the rent have affected you (30)

at/...

at that time? -- It affected me because besides the money I paid for having my shelter structure on the premises of this person, I was compelled to pay an amount of R10,00 from the first month of the year, that would mean for the whole year. Then I was expected to pay a total amount of R120,00.

COURT : For what? -- Lodger's permit.

Was that going up? -- It was going to be increased to us as well.

With how much? Did you know? What was said was that the R5,90 was going to be an increase to us as well. (10)

MR BIZOS : The person that allowed you to put up the structure on your stand, was he or she a person who was well off? -- It was a poor person just like myself.

Was there any discussion between the occupier of the stand or the owner of the stand and you as to who would have to bear the R5,90 increase if it came about?

COURT : The R5,90 increase of himself or of the owner?

MR BIZOS : Of the owner. We will call him the owner. -- No.

When you got to the meeting, were there councillors there? -- Yes. (20)

Do you remember who they were? -- Yes, I do.

Who were they? -- Dlamini, Mokate, Sekobane, Mofokeng, Kolising, Ma Phosisi.

Is that Mrs Phosisi? -- Mrs Phosisi, yes.

Very briefly I would like you to please tell His Lordship what happened at this meeting as far as you remember it? -- On my arrival at this meeting I was accompanied by a semi-paralysed old man, namely Paul Nhlapo. It was after 08h00 but before 09h00 when we arrived there. The meeting was already proceeding at our arrival. The speaker at the (30) time/...

time of our arrival was councillor Sekobane. He was addressing that meeting in this way.

COURT : Are we going to have the full contents of each speech?

MR BIZOS : I was hoping to do it briefly. I will try and guide the witness in order to have it as brief as possible. Tell us, what did Mr Sekobane say? -- What he said was that the rent was going to be increased with the effect from 1 September 1984, which increase is being resulted by the project of building a new clinic, the tarring of streets (10) and other things he mentioned that I cannot remember now. From what he was saying, I inferred that what he was saying here was a confirmation of a speech by somebody prior to him addressing this meeting.

Did your companion Mr Paul Nhlapo, the semi-paralysed man, ask any questions? -- Yes, he was the first person to get up after Sekobane finished and took a seat there.

What did he ask? -- What he said was the following. We recently elected these councillors who made the following promises. That they were going to look in the interest (20) and the conditions under which the people are living and without increasing the rent and further said "Now, today we are here at a meeting convened by the councillors to come and tell us that they have already increased the rent." He further said "People like ourselves who are suffering so much, where do we get that money from?" That is the money meant for the increase. And further said that the councillors have turned against the people whom they, the councillors, were canvassing, that these people must elect them into the council, by not keeping to their promises. (30)

What/...

What I want to ask you is this. Mr Nhlapo, is he an elderly gentleman? -- Quite old.

What would you say to some evidence that was led before His Lordship that at this meeting only young people had objections to the increase of the rent? -- That is a lie. A confusing lie. In my judgment of the people present at this meeting, I would say the following. Only grown-up people were there and those who were younger than the people I would have called grown-up people were of the age that one could have said that they are people who are already (10) responsible for the payment of rent.

Do you know Miss Nozipho Myeza? -- Quite well.

Did she also said? -- Yes.

I would not ask you what she said. Others may ask you. Was she the only other person that spoke or did other people speak as well about the raising of the rent? -- Quite a lot of people had something to say there because they were not pleased.

Did any councillor respond to these criticisms of the councillors? -- Yes. (20)

Which councillor? -- Councillor Sekobane is the first person.

What was his response? -- His response to this was that we are not the people who increased the rent. The Municipality is the body that increased the rent. After that councillor Kolisang then got up and said "Look, people, let us tell these people (with reference to the audience) the truth. It is not the Administration Board who decided to increase the rent and in fact effected it, but we, the councillors, are the people who increased it" and therefore said "We have (30) been/...

been given the powers to do that. Let us tell them the truth so that they know what the truth is. Even if they swear at us, they should be swearing at us knowing the truth." At the end he said "Praise the Lord."

Did any other councillor speak? -- Yes, councillor Dlamini got up. He in his address stressed that the rent is going to increase from 1 September. He further said that we, the councillors have the powers to arrest and have the powers to release and said the following further that in actual fact the rent was supposed to have been increased (10) by the amount of R50,00, but because of us who disagreed with that kind of increase, we agreed and fixed it at R5,90. Councillor Sekobane got up again and said the following that our fathers, meaning we, the parents, and our children, meaning our sons, are wasting money in the beer gardens and there is therefore no reason to object to the increase. Those were the councillors who had something to say.

Did anybody, I do not want to know about everybody who responded to this, but did a woman respond to these remarks of the councillors? -- Yes, Mrs. Motaung responded to (20) that.

Did she ask anything? -- Yes, she asked a question which was directed to councillor Mokate.

What was her question? -- Her question was about her being evicted from her house and she had complained about it and reported that incident for quite some time and there was nothing that was being done about it.

What happened then? -- In his answer to that, that is councillor Mokate, he did not answer directly to the question which was being asked direct to that by this woman, but (30)

he/...

he made a statement which statement had a bearing to everybody, that is the community as a whole in reference to the audience there, as a result of which there was some shouts from the audience shouting him, Mokate, down.

What happened then? -- There was then an exchange of words in response to one another's statements between Mokate and Mrs Motaung, as a result of which the people then got up and left. When the people got up to leave the meeting, Mrs Motaung went up towards councillor Mokate. Just before she reached him, as she was going for him, councillor (10) Kolisang got inbetween the two which a view of stopping Mrs Motaung from reaching Mokate. As a result of which Mrs Mokate then slapped councillor Kolisang in the face.

Other than this incident, was there any violence or threat of violence at this meeting? -- When I got outside the hall as people were now leaving the meeting, I found that councillor Dlamini has drawn a gun aiming at somebody. Then another person got inbetween them. What the cause was, I do not know.

What would you say to the evidence of the state witnesses (20) nesses was a completely orderly meeting at which there were no real objections to the increase of the rent, is that true or not? -- They are telling a blue lie.

COURT : Are there shades of lies? Is a red lie stronger than a blue lie? -- It is a double double strong insentive lie.

MR BIZOS : I have read in a record of a perfumed lie, which was explained to me on the basis that you could smell it a mile off. There is also evidence that the meeting finished up in an orderly fashion and Mr Dlamini quietly advised (30) people/...

people that if they had any objections, they were to draw up petitions and hand them over to their wards? -- That is still a lie because in the first place this meeting did not close proper. It was just disrupted and people decided to leave as a result of the incident between councillor Mokate and Mrs Motaung. How could he, Dlamini, then have done that.

My Lord, it may be of some assistance to Your Lordship and the learned assessor and possibly to my learned friends if I give Your Lordship the pages. It is Mofokeng page 2 532, 2 534, 2 535 and 2 541 to 2 548 and Mrs Phosisi (10) at pages 2 763 to 2 787 that these incidents are described in the state case.

Did you - will you please have a look at AN15.5. Did you see that pamphlet? -- Yes.

Did you see it in August 1984? -- Yes.

Advertising the meeting at the Anglican Church Sharpeville to be held on 12 August 1984 at 14h00? -- Yes.

I want to ask you this. You told us that you were an active member of your union. First of all, MAWU was that a strong union in the Vaal Triangle during 1984? -- In the (20) Republic, not only in the Vaal. It was a strong union in the Republic of South Africa.

And I want to ask you this ... (Court intervenes)

COURT : How many members in the Vaal? -- I cannot even tell what the number is.

MR BIZOS : The Vaal is primarily a metal working area? -- Yes.

If need be, My Lord, evidence will be led that it was I think the first registered union under the new dispensation. Tell me, did your union have anything to do with the calling (30)

of/...

of this meeting?

COURT : Why do you say that with an inflected voice, Mr Bizos? Why do you not merely ask him "Did your union have anything to do with the calling of the meeting?" The way you put it one can sort of without much imagination get an inflection which would lead you to a certain answer. The answer being no.

MR BIZOS : One cannot forget - Your Lordship is quite correct, I tried to avoid it, but one cannot forget - sub-consciously one cannot stop being an advocate. That is (10) all I can say.

COURT : It makes no difference on paper in any event and be the time I read it again I will have forgotten your inflection. All the advocacy is lost.

MR BIZOS : I will try. Did your union have anything to do with the calling of this meeting? -- It had nothing to do with that.

Do you know whether any other union in the Vaal had anything to do with the calling of this meeting? -- What I know is that the meeting in Sharpeville was meant for (20) the residents of Sharpeville and was called by them therefore. No other person or body had any part to play in convening that meeting, as far as I know.

COURT : To which church do you belong? -- Church of Christ.

And where is your church building? - We do not have a church building.

But now on which church premises do you live? -- Bantu Reformed Church is the building.

MR BIZOS : Did you go to the meeting of 12 August 1984? -- Yes, I did. (30)

Were/...

Were you there from the beginning of the meeting? -- Just at the time of my arrival the meeting begun, again in the company of the old man Nhlapo.

When you got there, who appeared to be in charge of the meeting? -- I could not identify a person in control of the meeting, because it was meant for the residents of Sharpeville.

COURT : Was this a meeting without a chairman? -- I find it difficult to say whether there was a chairman or not, because we as residents had gone there to discuss the whole(10) thing as residents. We did not have somebody whom we had chosen as a chairman who will chair the meeting. That is what makes it difficult for me to say who the chairman was.

MR BIZOS : Who started the meeting? -- Reverend Moselane.

Is that accused no. 3 before His Lordship? -- Yes.

Did he explain the purpose of the meeting? -- Yes.

What did he say about it? -- What he said was that for this meeting to be held in this church building, it was as a result of the request by the residents and the members of his congregation that they come and meet there in order to(20) come together and discuss this incident which is not a pleasing one about the increase of the rent. He also added to say that it is of course not pleasing, referring to the question of the rent, especially when one has to consider that in respect of the pensioners and in addition to that. the majority of his congregation are pensioners. He therefore said that it was important to come together and discuss this issue, because there are many ways which one can follow to indicate your disapproval of this question pertaining to the rent, namely the completion of a petition and finding(30)

out/...

out whether this is lawful. He further added that although he himself does not have a good idea of the things he had just mentioned, this can be done, that is going to the lawyers to find some solutions as to what procedure to follow and that after completing the petition, this shall have to be sent to the councillors before 1 September.

Did anyone else speak that you can recall? -- Yes, quite a number of people added their views. We were there in fact to find a solution.

I do not want you to mention the speakers or what they(10) said. Was everyone happy about this fact that there was going to be an increase in this rent? -- From those present there with me not a single one was pleased about the increase on rent.

Were any decisions made at this meeting? -- Yes.

Do you remember what decisions were made? -- That the increase of R5,90 was not being accepted by the community. Therefore the resolution was that this is not going to be paid. The second resolution was that because of the councillors having done all this without taking into conside-(20) ration the burden that it was going to create on the community and that they have decided on this, without having considered the community as a whole in general, they are therefore being asked to resign. Those were the resolutions of the meeting of the 12th.

Was anything going to be done about the question that had been mentioned of the petition and of the legality or otherwise? -- Yes, something was to be done about that.

By whom? -- After having discussed everything and settled whatever we could settle there and then, we were (30) going/...

going to decide as to who the person is who was going to take that up.

COURT : Well, did you? -- No, we did not, the reason being that we had not come to a conclusion about the petition as to what exactly was to happen what was to be done with reference to the petition. We therefore did not have somebody whom we elected to take that issue up.

MR BIZOS : Was anybody going to try and find out what had to be done? -- Yes, Reverend Moselane who raised that was the person to go for that. (10)

Was there any talk of any violence against any councillors personally or their property at this meeting? -- No.

Was there going to be another meeting? -- Yes, an announcement was made after this meeting that there was going to be another meeting on the 19th.

COURT : Was the announcement made at this meeting or later? -- At this meeting, that another meeting was going to be held at the same venue on the 19th.

MR BIZOS : At this meeting of the 12th, who gave the people a chance to speak, so to speak? Who was in control of (20) the meeting? -- Nobody was in fact giving chances to people who is now going to speak next. What happened was that a person would speak. Immediately that person finishes, the next one who feels like it, would just get up and say whatever he or she wished to say at this meeting.

Was anyone on the platform of this church? -- Because of the way in which this meeting place was full, it was difficult for one to differentiate whether there was a platform or not or to say to someone you are on the platform there. (30)

Were/...

Were there a lot of people in front so to speak? -- Yes.

And was a riotous meeting or did it finish up quietly?

-- It was a peaceful and well-behaved meeting. To me it was quite clear that everybody present there wanted to hear exactly what was being said to be able to relate to whoever about what he heard in this meeting.

Did you go to the meeting of 19 August 1984? -- Yes.

Did you go alone? -- Still in the company of the old man Nhlapo.

What - did you get there at the time of the start of (10) the meeting or had it started before you got there? -- When the meeting began I was already there.

Were there more or less people there on the 19th than had been the previous week? -- This day there were so many people that they in fact did not all get into the meeting hall. Some of them were standing outside.

How did that meeting start, the meeting of the 19th?

-- It was opened by Reverend Moselane with a hymn Reya boka Morena, He read from the Bible and preached what he read in the Bible. After which then there was a prayer. After (20) which prayer then he explained the purpose of the meeting which was held there. To say that this meeting precedes the meeting of the 12th. There was a person there acting as a chairman. That person's name is not known to me.

Had you seen him before? Did you know anything about him? -- I knew nothing about this person. I only became aware of the presence of that person there at the time when this person started speaking.

Can you recall what he said? -- Yes, this person reminded us who were there at this meeting about the resolutions (30)

of/...

of the previous meeting which was held on the 12th, saying that there were two resolutions at the previous meeting, being that there is going to be payment on rent with the exclusion of the R5,90 increase and that there was going to be a request to the councillors to resign. These he mentioned as resolutions of the meeting of the 12th at this meeting.

How did the audience react at the meeting of the 19th when these two resolutions were mentioned by the person who was the chairman of the meeting? -- And was accepted and (10) confirmed by this meeting. Those that were present in the previous meeting said yes, the resolutions are correct.

COURT ADJOURNS. COURT RESUMES.

VICTOR MATABANE MBATYAZWA, still under oath

FURTHER EXAMINATION BY MR BIZOS : We were dealing with the meeting of the 19th. You told us how it started and what was said at the beginning. Did any people speak from the stage on this occasion? -- The manner in which that place was full, one could not say there was a place to which one could refer as a stage, but of the people in front there, (20) Reverend Moselane spoke and the other person who was assisting him also from the front is the next person who spoke from there.

COURT : Who was that? -- I do not know this person, but that is the person who was explaining about the meeting which was held on the 12th.

Is that the chairman? -- That is the one, I said I could refer to as a chairman.

MR BIZOS : And after him, what happened? -- There was then a suggestion which was made that we do not buy from the (30) councillors'/....

councillors' shops. In so doing that does not mean that we are fighting them as persons, individuals. That is just to make them feel the pain in order to gain them to our side. That was a suggestion which was made on the 19th.

Can you recall who made that suggestion? -- Yes, I can.

Who made that suggestion? -- Oupa Hlomoka made the suggestion.

COURT : Have we heard that name before?

MR BIZOS : Is that accused no. 2 sitting in front there? --
Yes. (10)

Did you know him before? -- I saw him for the first time on the 19th and that was the last time I saw him.

Can you recall whether anything was said as to whether he belonged to any organisation or not? -- Yes.

What was said? -- It was said he is a member of AZAPO.

Can you recall who else spoke at this meeting? -- Yes, then we were told about Mr Tom Manthata by Reverend Moselane, who was saying he, Tom, is a guest speaker amongst us.

Do you see - did he speak, Mr Tom Manthata? -- Yes, he did speak at this meeting, although I am not going to be (20) able to remember his speech in details or broad details.

Do you see Mr Tom Manthata here? -- He looks like that man.

Which man? -- The one standing.

Accused no. 16. You say you would not be able to say precisely what he said, but I want to ask you this. Did he say that councillors must be killed? -- No, he did not say that. I would have remembered that.

Did he say that councillors' properties must be destroyed?
-- No, he did not say that. (30)

Well/...

Well, can you tell us what you remember him saying?

-- Yes. I remember him in his speech talking about the importance of voting, saying voting is what gives power to the people. He made an example of that with reference to White old ladies, namely the pensioners, referring to a predicament in which they find themselves and how they overcame that which was shown on TV saying voting for the councillors does not in fact give us again in power, the reason being that they the councillors do not have the powers, although of course voting does give some power to a person. He further said (10) it is true that when councillors are canvassing for votes, they do make some promises, especially about the rent where they say there would not be any increase on rent and et cetera. He further said that those promises they made, after they are being elected into power, they then failed to carry out those promises. He made an example to the residents of Sharpeville. In fact in this fashion saying to them that they must come together and unite. In so doing they will be able to overcome the difficulty that is facing them, because the difficulty which they are facing, which is already (20) on them is a kind of a difficulty with no mercy. Saying pensioners, old ladies who are pensioners, there is no mercy for them. People, those who are out of employment, are all bound to this problem. He made it clear to the residents of Sharpeville that they meet with the councillors in order to discuss the question of rent. He further said if that does not bring about a good result, it is only then that this resolution can be carried out namely the requesting of the councillors to resign. At the end of his address he lifted his arm and shouted "Maatla". In response to that (30)

we/...

we, the audience, said "Ikusasa Ngelethu. Bokamoso ke Jwa Rona." That is in Sotho.

Did Mr Manthata tear up a piece of paper and throw it on the ground? -- I do not remember seeing that with my eyes.

Did he hold up a piece of paper saying that this paper - containing the rent increase - should be burnt? -- No, I do not recall seeing that.

COURT: Did he hold up a piece of paper? -- I did not see that. It could be that I did not observe it, but I did not see it. (10)

MR BIZOS : Can you recall whether any other speaker spoke? -- Yes, I can recall that there was another speaker.

Can you recall who he was? -- This person was introduced as Patrick Baleka.

Did anyone say where he came from? -- Yes, it was said he is from Soweto.

Can you recall whether any organisation that he might have belonged to was mentioned? -- No, not by somebody else. He himself introduced himself in that respect.

What did he say in that respect? -- He said that he (20) was from AZANYU.

Can you recall very briefly what he said? What he spoke about? -- Again with him, because of the fact that this happened some time ago, I may not be able to remember in broad what he said in his speech. I do remember some of the things that he said.

What do you remember him saying? -- What he said was to add to what was already said by the previous speakers, namely with reference to the difficulty faced by the people including those that are unemployed and the increase of buying. (30)

COURT/...

COURT : The increase of what? -- The inflation. That is what I am referring to. The income tax which is rising, saying all that as mentioned where the difficulties which are being faced by the people. He did not have much to say.

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MR BIZOS : Can you recall whether he started off by reciting a poem called "Afrika Afrika"? -- He never recited.

Did he say that we are ready to fight if they want us to fight? -- He never said that because in the first place fighting was not the subject of discussion there.

Did he say we must listen to the song and fight? -- He(10) did not say that.

MNR. FICK : Miskien verwys my geleerde vriend na die geval van "Face the music" wat vertaal was as "Hoor my lied." Dit is later reggestel. Ek dink dit is wat my geleerde vriend in gedagte het.

MR BIZOS : The words I used are on record by one of the state witnesses. Did he say anything about the SRC's? -- No, nothing was said about that.

Did he say anything about Mahlatsi increased the rent and Mahlatsi must pay the rent? -- No, Mr Baleka. He did(20) not say that.

COURT : Is there any relationship between accused no. 1 and Mr Baleka? -- I do not know.

MR BIZOS : When you refer to Mr Baleka, you refer to accused no. 1? -- I can see the person referred to now, but at that time he was still young and now he looks much older. He is now a man.

Do you remember the correct order in which people spoke or not? -- I do remember.

All I want to ask you is this. You told us that (30)

Mr Oupa/...

Mr Oupa Hlomoka, accused no. 2, the man sitting in the middle of the three in front, did he speak before Mr Tom Manthata accused no. 16, the guest speaker or after Mr Manthata? -- First accused no. 2 - first Mr Manthata, accused no. 16. I am being confused by the numbers. May I refer to them by their names?

COURT : Yes, we will add the numbers.

MR BIZOS : You told us that Mr Hlomoka, accused no. 2 proposed that the - the boycott of the councillors' shops? -- Yes. (10)

What happened to that proposal? -- It was accepted by the majority.

Did anyone at this meeting say that if anyone was seen buying from the shops of councillors, the masses would kill and murder them and burn their houses? Did anyone say anything like that at the meeting? -- There was no such a talk. If anything of that sort was said, I would not have attended those meetings any more.

Do you know any police officers by the name of Sergeant Koaho or a Constable Letsele? -- No, I do not know that. (20)

Did anything happen at this meeting which appeared to you a threat to anyone present at the meeting? -- No, nothing at all.

Do you know a person by the name of Albert Botha? -- I did not know this person at the time.

Did you get to know him afterwards? -- Yes.

When afterwards? How long after the 19th? -- I only came to know this person after the 3rd.

Of September? -- Yes.

COURT : Of what year? -- 1984. (30)

MR BIZOS/...

MR BIZOS : Do you recall whether this person was at the meeting of the 19th, Albert Botha and whether he said anything? -- If he was there, I did not see him and I cannot recall him speaking.

Was there any singing at this meeting? -- No.

How did the meeting finish? -- It finished peaceful. Nkosi Sikilele i Afrika was sung. Then a prayer. After that, an announcement was made to the meeting that there was another meeting which was going to be held on the 26th. We then parted from that meeting. (10)

I am not sure, was Nkosi Sikilele i Afrika sung or not? -- Yes, it was sung.

Was anything sung at the beginning of the meeting?

-- Yes.

What was sung at the beginning of the meeting? -- Reya boka Morena.

Besides these two hymns were there any other songs sang at this meeting? -- No, nothing else.

Did you consider this meeting as a meeting of the UDF or of AZAPO or of COSAS or of any other political organisation? -- I took that meeting as it was there as the residents meeting of Sharpeville. (20)

Was anything said about the petition or legal action? -- Yes. What was said was that a reminder was made about what had been referred to at the meeting to the 12th with reference to the investigation about the legality of what was happening and the petition and therefore that has not yet been concluded. Some investigations are still going on.

You told us that there was an announcement - sorry, I do not remember whether you said it or not. Was there (30)
going/...

going to be a meeting on the 26th?

COURT : Yes.

MR BIZOS : Did you attend the meeting of the 26th? -- I was not able to attend although I was in fact interested in attending that meeting.

Any reason why you could not attend?

COURT : Does it matter?

MR BIZOS : In case my learned friends want to check ... (Court intervenes)

COURT : May be had flue? (10)

MR BIZOS : He was at work.

COURT : But he did not attend it?

MR BIZOS : He did not attend it. Did you go anywhere near the church that afternoon? -- I went to the church under the impression that I may find that the meeting is still proceeding.

And had it finished? -- Unfortunately, yes. On arrival there they had left.

And had it finished? -- Unfortunately, yes. On arrival there they had left. (20)

Did you find anybody at or near the church when you went there? -- Yes, I found somebody outside.

Did you know this person? -- No, I do not know the name of that person.

Did you do anything at the request of this person? -- Yes, this person whose name I had forgotten that I found on the premises there had some documents which were relating to the petition about which a resolution was taken.

And what did you do? -- He handed me that document which was signed by me. That I did because I knew about it and (30)

I/...

I was in fact awaiting that.

And when you signed it, you handed the document back?

-- Yes, I handed it back to him.

Did you go to any meeting on 2 September 1984? -- No, I could not go.

When did you hear or did you hear about any stay-away on 3 September 1984? -- No.

When did you first hear about it? -- Late afternoon on a Sunday just before the Monday.

COURT : Every Sunday precedes a Monday. Which Sunday and (10) which Monday? -- I think it was the 2nd before the Monday of the 3rd.

Of September? -- Yes.

MR BIZOS : What did you find out? -- I was walking around in the township in the streets there, when I picked up a piece of paper on the ground. There was some writing on this piece of paper. I read the contents, which message was on that piece of paper that in the whole of the Vaal the workers, school children and teachers, nobody is going to work on the 3rd, because of the complaint about the increase on rent. (20)

Did this document say who had issued it? -- No, it did not say where it originated from.

Had there been any discussion or any decision in the trade union circles which you moved in at the time about the stay-away on the 2nd before you picked up this piece of paper? -- Not at all.

Did you make any decision as to what you personally would do the next day? -- Not at the time. I did not take a particular decision, except to say to myself well, I will hear from the buses. If the buses are running, the noise (30)

of/...

of the buses is there. It would mean people are going to work. I will just catch the bus and go to work.

Were the buses running the next morning? -- There were no buses.

COURT : At what time do you catch a bus? -- I leave home at 05h30 because I start working at 06h00.

And as from what time did you notice that there were no buses? -- I got up at the usual time which I get up daily when I go to work and waited to hear the noise of the buses driving past that area, because I am not far from the bus (10) stop where I board my bus. So, there was no such a noise.

Just tell me the time that you get up? -- About 05h20 is the time that I get up.

From getting up you only take ten minutes to catch a bus? -- Even less than that because I am not far from the bus stop.

MR BIZOS : Did you see anything unusual happening at about or early that morning? -- It was at about 05h30 while I was still waiting there to see what was happening when I heard some noise which was a sound to me from guns and I later (20) felt that something was affecting my eyes.

Did you hear anyone saying that there would be a march in Sharpeville on 3 September 1984? -- No.

Did you know early in the morning of the 3rd whether or not there was going to be march in Sebokeng? -- No.

COURT : Where do you live in Sharpeville? In which suburb? -- Vuka.

Do you live in Vuka? -- Yes.

Near Dabula Drive? -- Which one is this one now?

This is the one that has the bus route on? -- No, I do(30)

not/...

not know the place Your Lordship is referring to now.

Do you live very near the bus route? -- Yes, the bus route in the direction of Pick 'N Pay.

May I remind Your Lordship that he has changed his place of residence. I am not sure to which he is referring to now.

COURT : Saying you live in Vuka, are you speaking as of 1984? -- During the year 1984 is when I was staying in Vuka. I only moved last year which is 1987 to this new address I am talking about. That is where I live at the present moment.

Do you live near the Lekoa Shandu High School? -- No, (10) the nearest school to me there was Mohlodi.

MR BIZOS : You say that you felt that your eyes were affected. At what time was that more or less? -- At about 06h30.

Did you remain indoors during the morning of the 3rd or did you go out? -- I decided that it was not going to be possible to go to work for me at about 07h00. While we were still standing outside there watching what was happening, surprised, still hearing the noise from the guns which were firing and this thing affecting my eyes still there in the (20) air, I heard a shot. I noticed that something was falling next to me. That was a teargas can landing next to me, not far from the doorway. The person with whom I was standing outside there fell. I went around the house through the kitchen door. I entered the house.

How many of you were there together when this canister of teargas was shot and landed next to you? -- We were three. In fact the three of us were people who were going to work.

COURT : Where were you standing? -- In the immediate vicinity of the front door. (30)

MR BIZOS/...

MR BIZOS : The front door of what? -- Of the house.

Whose house? -- Of the house owner at 1527. That is the premises at which I had my structure put up.

COURT : Did you see where this canister came from? -- It came from our left as we were standing there, from that direction.

Across the roof? -- No, not across the roof, but from the side of the house.

MR BIZOS : Did you see anybody who were in the immediate vicinity that might have sent you this canister? -- There(10) was some shouting from the people there, saying there are some soldiers at Duke's place. As a result of which then we looked in the direction of Duke's residence. From where I was I could see that there were soldiers there because there was nothing obscuring my view in seeing Duke's house.

COURT : Who is Duke? -- Duke is a constable. I do not know whether he is a CID or what kind of a constable he is.

Was there a crowd at Duke's house? -- What I noticed at that time there were the White soldiers.

MR BIZOS : Were the three of you shouting or performing any(20) sort of unruly act or were you just standing there? -- No, we were just engaged in a discussion amongst ourselves there, about what was happening.

Did you remain at home or did you visit anyone? -- I remained home until at about 09h00, 09h30, when I decided to go to Paul Nhlapo's house. Paul Nhlapo is the old man with whom I time and again attended the meetings.

How long did you stay there? -- While walking towards this man's place in the vicinity of the square and nearby is a bottle-store. I noticed four police vehicles, landrovers,(30
yellow/...

yellow in colour from where a policeman came out. Coming in my direction he pointed a gun at me, as a result of which I stopped. When I stopped he dropped his hand, meaning dropped the gun and not pointing it at me. I started moving. When I started moving he again pointed the gun at me. This happened on three occasions. The fourth time this person fired a shot in the air. I went on walking and then this person returned to the vehicle until I reached Nhlapo's place. I stayed there at Nhlapo's for the whole day. On my way to Nhlapo's residence I did not see any damaging or(10) damage to any property.

COURT : Tell me where does Nhlapo live? -- Also in Vuka in another street some distance away from my address where I lived at the time.

MR BIZOS : My Lord, it will be proved that it is S328.

COURT : Let us wait till the evidence comes.

MR BIZOS : On your return in the afternoon home, did you see any damage? -- The things were bad then because the streets were busy with people going in different directions. One could not make out exactly what was happening. (20)

Were the streets clear at that time? -- There were obstructions at the time. In the streets you would find dustbins and old motorcar scraps, obstructing the road.

Had there been such obstructions in the morning when you left your home to go to Mr Nhlapo's place? -- No, there was none. What I can tell the court is I did see some ashes on the road, but I did not know exactly what was happening and to me there was nothing abnormal about it.

Did you pass anywhere near the Vuka Liquor Store on the 3rd? -- I would not say I was near that, because at (30)

the/...

the time of my passing the police vehicles in the vicinity of the bottle-store, I passed far away from it in this position. First myself. Inbetween myself and the bottle-store one would find the police vehicles which were parked there.

Are you now talking about the morning trip or the return trip in the afternoon? -- In the morning trip.

Did you become aware whether or not the Vuka Liquor Store was damaged? -- On arrival at home I only heard from people saying the bottle-store was on fire. I personally did not see that. (10)

COURT : Why lead this evidence?

MR BIZOS : It was not clear in my statement that it was hearsay, as very often happens.

COURT : Ask your attorneys to check whether it is hearsay or not.

MR BIZOS : I have no further questions.

MNR. FICK : Ek wil net op rekord plaas dat ons is Vrydag meegedeel dat hier nog getuies van Sebokeng gelei sal word. Ons is vanoggend meegedeel daar is vervoerprobleme en 'n getuie van Sharpeville is hier. Ek sal met die voorbe- (20)
reiding wat ek kon doen in ongeveer 'n halfuur die getuie kruisverhoor. Ek is byvoorbeeld glad nie in staat om oor 5 Augustus op hierdie stadium te kruisverhoor nie. Ek sal oor die ander vergaderings kruisverhoor.

KRUISONDERVRAGING DEUR MNR. FICK : Van waar is u oorspronklik? Is u van die Vaaldriehoek of kom u van 'n ander landstreek? -- Wil u weet waar ek gebore was?

Waar het u groot geword? -- Herschel.

U het na u begin werk het na die Vaal gekom. Is dit korrek? -- Ja. (30)

HOF : In watter jaar? -- Dit was in 1966 wat ek in die Vaal gekom het.

Was u verblyf wettig? -- Ja, ek was wettig gewees, want met my aankoms daar was ek alreeds in diens gewees wettiglik.

MNR. FICK : Behalwe die stories wat u gehoor het in die woongebiede dat u kan n huis kry deur n omkoopbedrag van R100,00 te betaal of u moet die persone wat uitgesit is se agterstallige huur betaal, het u niks verder gedoen self om n woning te kry nie. Is dit reg? -- Nee, ek het probeer. Die rede hoekom ek hierdie advies raakgeloop het by hierdie (10) mense, dat die mense my hierdie tipe advies gegee het, was omdat ek nog steeds besig was om te probeer om my eie huis te kry. Sedert die jaar 1979 het ek gesukkel tot en met die jaar 1982 wat ek hierdie advies bekom het.

Ek wil nie lank hierop stilstaan nie, maar kan u net vir die hof sê hoe het u probeer om n huis te bekom in daardie jare? Wat het u gedoen? -- Die eerste raadslid wat ek genader het in daardie tyd was mnr. Malesane wat destyds n raadslid was. Hy is die persoon wat my meegedeel het dat daar nie huise was nie. (20)

En hy het niks van omkoperij gepraat nie? -- Hy self nie.

Behalwe dat u by die persoon gehoor het daar is nie huise nie, het u iets verder gedoen? -- Daar was niks anders vir my om te doen nie, want hy was eintlik die sleutel vir my. Ek moes sy toestemming gekry het as die raadslid van my wyk.

U het hom net een maal genader? -- Nee, dit is nie net een maal in die tydperk vanaf 1979 tot 1981 nie.

Hoeveel keer het u hom genader? -- Ek sal nie kan tel hoeveel maal nie. Ek het verskeie kere na hom toe gegaan. (30)

Ek/...

Ek was n inwoner daar.

HOF : En by nie een geleentheid het hy vir u omkoopgeld gevra nie? -- Nee, hy het niks gesê nie. Wat my net gepla het was dat ek bewus geword het van sekere mense wat nie huise gehad het net soos ek dat hulle later huise toegeken is nie.

Hoekom kom u hier stories vertel oor omkoperij as die man by wie jy kontak het nie n woord praat van omkoopgeld nie? -- Dit is omdat die mense saam met wie ek gesukkel het om huise te bekom, wat toe later huise gekry het, vir my (10) dit gesê het. Dit is die manier hoe jy moet optree om n huis te kan kry.

MNR. FICK : Het u ooit met daardie inligting na die polisie toe gegaan en gesê "Kyk, ek wil ook n huis hê, maar hier is mense wat sê hulle betaal omkoopgeld dan kry hulle huise, u moet die saak ondersoek"? -- Dit is omdat ek nie geweet het dat die polisie enige rol speel met die toekenning van huise nie.

Nee, wag net so n bietjie. Jy kan nie so daarby verby kom nie. Die polisie ondersoek misdad. Het u geweet (20) dit is n misdad om omkoopgeld te betaal en te ontvang? -- Ek het nie daarna gekyk nie. Ek het eintlik nie daaraan gedink nie. Al wat ek in belang gestel het was om n huis te kry.

Ek stel dit aan u, u hele getuienis hier oor die omkoperij is vals? Dit is daarom dat u die ooglopende ding, naamlik om n klagte te gaan lê het, nooit gedoen het nie?

ASSESSOR (MNR. KRUGEL) : Is u klaar met die prosedure om n huis in die hande te kry, mnr. Fick?

MNR. FICK : Ek wou nog een vraag daarvoor gevra het. -- (30)

Nee/...

Nee, ek stem nie saam met u stelling nie.

Het u by die raad se kantore self gaan aansoek doen om h huis? -- Ja, ek het. Met my aankoms daar was ek gesê dat ek wel kwalifiseer om h huis te kry. Ek kan h huis toegeken word, maar my vrou is nie toegelaat in daardie gebied nie. Sy sal dus nie daar kan bly nie.

HOF : Is dit dan nie die rede waarom u nie die huis gekry het nie? -- Nee, dit is h rede wat die raadslid vir my gegee het nie. Dit is h rede wat aan my gegee is na ek sommer besluit het om self na die kantoor toe te gaan. Dit is die(10) Administrasiekantoor, wat vir my dit gesê het. Nie die raadslid nie.

Maar was u vrou gekwalifiseer om in die woonbuurt te woon? -- Nee, sy het nie die reg gehad nie, omdat sy nie gekwalifiseer het nie. Ek het gekwalifiseer. Ek wou gehad het dat sy ook moet kwalifiseer net soos ek, want ek het nie van h rede geweet hoekom sy nie kwalifiseer net soos ek nie.

Ja, maar afgesien daarvan, wat die owerhede betref was u dus h enkelloper? Gee hulle huise aan enkellopers? -- Net soos ek sê, daar is mense wat saam met my gesukkel het(20) op dieselfde basis en in dieselfde omstandighede met die vrouens wat van die tuislande af gekom het, maar daardie mense het later daarin geslaag om huise te kry.

MNR. FICK : Is die posisie nie dat wat die raad betref moes u in h hostel gaan bly het nie, maar u wou nie in h hostel bly nie, u wou u vrou ook saam met u laat bly in die woongebied? -- As dit miskien die geval was, sou hulle my dan nie eers toegelaat het om in die lokasie te bly nie. Toe ek daar kwalifikasies toegeken was was ek gesê dat ek kwalifiseer om in die lokasie te bly. (30)

MNR. FICK : In 'n hostel? Is dit nie die geval nie? -- In die lokasie. Kyk, die hostel is 'n hostel en die lokasie is 'n lokasie.

Net een aspek nog, is u wettig getroud met u vrou wat u sê wettig u vrou is? -- Ja.

U het 'n huweliksertifikaat wat uitgereik is? -- Ja.

Waar? Transkei of hier? -- Sterkspruit. In die jaar 1960.

Waar is Sterkspruit? -- Beyond Zastron.

ASSESSOR (MNR. KRUGEL) : Sterkspruit of Sterkstroom? -- (10)
Sterkspruit.

MNR. FICK : Op die perseel waar u u konstruksie opgesit het, het daar ook ander mense gekom en hulle konstruksies daar kom opsit en daar kom woon? --Nee.

Was u die enigste loseerder op hierdie perseel? -- Ja, ek was die enigste loseerder.

HOF : U het 'n permit gehad daarvoor? -- Ja.

Het u vrou ook 'n permit gehad? -- Ek wou gehad het dat sy ook op 'n permit geregistreer word sodat ek 'n huis ook kan kry.
Hulle het geweier. (20)

MNR. FICK : Het die eienaar van die perseel gewerk? -- Ja.

Het u ooit enige kennis, amptelike kennis gekry dat u enige verhoging moet betaal met ingang van 1 September 1984? -- Die kennisgewing het melding gemaak van die hele Vaal. Hulle het nie daar in daardie kennisgewing gepraat van verskillende persone nie.

HOF : Waar het u die kennisgewing gesien? -- By die vergadering van die 5de waar ek was, waar hulle verduidelik het, het hulle geen verskil gemaak nie.

Nie meer as ons nou praat van 'n kennisgewing, dan is (30)

dit n stuk papier. Het u n stuk papier gesien waarop staan wat die verhoging is? -- Te Sharpeville was daar nie spesifieke kennisgewings uitgestuur in Sharpeville dat die mense kennis moet neem dat die huur verhoog word in Sharpeville nie. Wat ons wel gehoor het was dat die huur verhoog gaan word in die hele Vaal.

U het self nie n dokument gesien wat vir n permit verhoog word, wat vir n huis verhoog word, hoe dit inmekaar sit nie? -- Niemand het dit gekry nie.

Het niemand skriftelik kennis gekry nie? -- Nee, (10)

MR BIZOS : My Lord, if my memory serves me correctly it is AAQ19.

HOF : Hier is AAQ19. Het u ooit so n dokument gesien? -- Hierdie soort van n dokument het net tot by die raadslede gekom, nie na ons nie. As ons hierdie soort van n dokument gekry het, die kennisgewing wat na verwys word as AAQ19, dan was daar geen rede vir ons gewees om nog met hulle daar te staan en stry nie, want dan sou ons geweet het presies wat daar uiteen gesit word.

MNR. FICK : Ek wil net aan u stel wat volgens hierdie (20) BEWYSSTUK AAQ19 op die teenkant waar die hoof is "Memorandum" word daar gesê "Recognisance must also be taken of the fact that lodger permit fees remain unchanged." -- Ek stem saam met u, maar wat ek sê is dat daardie dokument het net by hulle gebly. Dit was nie na ons toe deurgestuur nie.

HOF : So, as die dokument reg is, dan het u die dokument by die stert beet gehad? -- Nee, hulle het nie aan ons die hele waarheid verduidelik nie.

Op die vergadering van die 5de toe u nou daar met die raadslede by die vergadering was, het u of enigiemand (30)

anders/...

anders vir die raadslede gevra "Maar wat is die posisie met loseerders? Moet hulle meer betaal?" -- Ja, baie mense het daaromtrent gevra, maar die antwoord was net nie duidelik van die raadslede, wat die antwoord is met betrekking tot die loseerders nie. Ek was ook een van die mense gewees ' wat later sou teruggegaan het na daardie vraag toe. Myne sou behels het selfs die kinders wat saam met die ouers woon in die huise, wat ook loseerderspermit betaal. Wat van hulle? Maar ongelukkig het die vergadering uiteen gegaan voor ek dit kon gevra het. (10)

MNR. FICK : Waarom het u nie toe u nou nie 'n kans kry om die vraag te vra op 5 Augustus se vergadering, na die raad se kantore toe geloop en vir een van die beamptes daar gesê "Verduidelik net vir my, sê net vir my, betaal ons meer of betaal ons nie meer nie?" -- Na wie toe? Na wie toe moet ek gaan by die kantore, want hier het ons die raadslede gehad wat met ons hieromtrent kom praat het.

En het u nie gedink u kan by die raad se kantore met een van die raadslede gaan praat nie? -- Hoekom moet ek privaat na hulle toe gaan? Hoekom? Dit was bedoel vir die (20) gemeenskap as 'n geheel by hierdie vergadering.

Ek wil met u oorgaan na 12 Augustus 1984 se vergadering.

GETUIE STAAN AF.

HOF VERDAAG TOT 14h00.

DELMAS TREASON TRIAL 1985-1989

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