

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

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SAAKNOMMER: CC 452/85

DELMAS

1986-06-11

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRUGEL

PROF. W.A. JOUBERT

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

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TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

LUBBE OPNAMES

VOLUME 106

(IN CAMERA GETUIE NR. 21)

(Bladsye 5 248 - 5 282)

HOF HERVAT IN CAMERA.

MNR. HANEKOM : (Eerste gedeelte nie op band) in Tumahole. Hy het bedank as gevolg van persoonlike dreigemente wat hy gekry het. In die konsultasie het hy my meegedeel dat hy eintlik in die ope hof wil getuig, maar vanoggend het hy my meegedeel dat toe hy gister van die hof af by sy huis aankom het sy kinders vir hom gesê dat daar vreemde mense was wat gesê het hulle moet dit aan hom oordra dat hy nie in hierdie saak moet getuig nie. Hy beskou dit as 'n dreigement en hy is nou daarom bevrees om in die ope hof te getuig. Hy vra (10) nou om in camera te getuig.

MR BIZOS : I have been given information quite openly, there was another councillor here. Could I just check with My Learned Friend as to whether this is the person. We are ad idem that he has been around, he was walking around the court openly. He has been seen by people from Tumahole. I wrote his name down because we were told by these people that he is here. We expected him to give evidence. We have some instructions in relation to him. We have, of course, no instructions who might have gone to his house or what the threat may have (20) been, but we submit, with respect, that it is in his own interest that once he is known to be a witness in the case that there should not be any speculation as to what he said.

MNR. HANEKOM : Ek wil net daarop wys, hierdie man het nie openlik hier rondgeloop nie. Dit kan ek voor instaan. Hy was al die tyd in 'n kantoor en die ander aspek is dat hier kom baie getuies wat die Staat nie almal roep nie. As hierdie man in camera getuig, al is daar mense wat weet dat hy by die hof was, sal hulle nie noodwendig weet dat hy 'n getuie was nie en die posisie het verander van gister af. (30)

MR BIZOS : I am informed that he was actually moving around

... / last

laest week and talking to people from Tumahole.

HOF : Ek begryp dat u 'n raadslid is of 'n gewese raadslid is van Tumahole en dat u kom getuig oor gebeure in Tumahole. Ek is meegedeel deur die aanklaer dat u vra om in camera te getuig nadat u aanvanklik van plan was om in die ope hof te getuig. Is dit korrek?

GETUIE : Ja.

HOF : Kan u my net sê wat die rede is vir u versoek?

GETUIE : Gister toe ek tuis kom, het ek 'n boodskap gekry dat ek nie hof toe hoef te kom nie. (10)

HOF : Wie het die boodskap gegee?

GETUIE : Dit was 'n kind gewees wat my die boodskap gegee het.

HOF : U eie kind?

GETUIE : Ja, my eie kind, want gister was ek hier op Delmas gewees.

HOF : Wat was die boodskap? Wat was die inhoud van die boodskap?

GETUIE : Dat ek nie hof toe moet kom hier in Delmas nie. Die kind het verder vir my gesê dat die boodskap was dat al kom ek nie hiernatoe nie, maak dit nie saak nie. Die kind (20) het toe van die persone verneem wie hulle is. Die persone het nie daarop geantwoord nie. Hulle het met 'n voertuig met 'n Komper-registrasie gery. Die kind sê toe verder vir my dat terwyl hulle met die kind gepraat het, was hulle nie vriendelik gewees nie. Dit is as gevolg daarvan dat ek besluit het om hierdie ding hier te openbaar en besluit wat om te doen.

HOF : Kan u net vir my sê, was dit grootmense of kinders wat met die voertuig gery het?

GETUIE : Ek het nie daardie besonderhede gevra nie.

HOF : Het u gevra of dit mans of vrouens was? (30)

GETUIE : Ja, ek het gevra. Dit was manspersone gewees.

HOF : Hoeveel?

GETUIE : Vyf.

HOF : Vyf manspersone?

GETUIE : Ja.

HOF : Waar woon u?

GETUIE : Tumahole.

HOF : Ek verstaan dat u verlede week ook hier was?

GETUIE : Ja, ek was.

HOF : Het u nie verlede week met die publiek gesels wat hier was nie? (10)

GETUIE : Nee.

HOF : Het u met niemand gesels wat hier rond is nie?

GETUIE : Nee, ons was die hele tyd in daardie kamertjie gewees.

HOF : Maar dit is blykbaar bekend dat u hier is? Die mense het self gesê u is in Delmas?

GETUIE : Ja, volgens wat hulle gesê het weet hulle dat ek hier is.

HOF : Dan weet hulle dat iemand u hier gesien het seker?

GETUIE : Hier was ek nooit uit gewees nie. Ons kom in die môre hier en dan gaan ons saans weg. (20)

HOF : Waarom sê u sal dit enige nut hê as ek u in camera laat getuig?

GETUIE : Dit is as gevolg van die manier waarop die kind opgetree het. Die kind was so geskrik gewees toe die kind die boodskap aan my oorgedra het.

HOF : Maar die boodskap is of u nou getuig of nie getuig nie, dit sal nie verskil maak nie. Is dit nie so nie?

GETUIE : Die boodskap was ek moet nie hiernatoe kom nie, want my kom hiernatoe is eintlik nie 'n ding wat my pla nie. (30)

HOF : Is die boodskap u moenie kom nie?

GETUIE : Ja.

HOF : Sal dit u gemakliker laat voel as u in camera getuig?

GETUIE : Ja.

HOF : My beslissing is ongelukkig dat die getuie in camera sal getuig en ons sal met sy getuienis begin om 14h00. Sal u asseblief die publiek in kennis stel.

HOF VERDAAG.

HOF HERVAT.

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MR BIZOS : My Lord, we want to ask Your Lordship to adjourn the trial in order to give us an opportunity to consult with the accused on a matter which does not really affect the evidence about to be given by this witness. There is no other (10) time available than this particular afternoon. I understand from My Learned Friend for the State that the State has no objection to our application and we would urge Your Lordship to grant it until tomorrow morning.

MNR. HANEKOM : Ek het geen beswaar teen die versoek nie.

HOF VERDAAG TOT 11 JUNIE 1986.

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HOF HERVAT OP 11 JUNIE 1986.

MR BIZOS : My Lord, the document AAS(7), that is the document containing the admissions in relation to the handling of the tapes, has been signed by all the accused except accused (20) no. 10, Mr Vilakazi, who is absent.

COURT : When do we expect him back?

MR BIZOS : In a few days.

COURT : I think you can keep it until he is back.

IN CAMERA GETUIE NR. 21, v.o.e. (Deur tolk)

ONDERVRAGING DEUR MNR. HANEKOM : Gedurende November 1983 is u verkies tot die Gemeenskapsraad van Tumahole? Is dit reg?
— Ja.

Gedurende 1984 was daar twee organisasies in Tumahole, te wete die Tumahole Students Organisation en Prohumanism.(30) Het u kennis gedra van hulle? Het u geweet van hulle bestaan?

-- Ek het eers daarvan begin weet van hulle bestaan toe hulle ons na die saal toe geroep het.

Het hulle gevra dat u Raad met hulle byeenkom? -- Ja.

Wanneer was dit? -- Dit was in Juniemaand. Ek het die datum vergeet.

1984? -- Ja.

Kan u onthou wie het die Tumahole Students Organisation verteenwoordig by hierdie byeenkoms? -- Ja.

Wie was dit? -- Brother Skosana.

Is dit die persoon wat ook bekend staan as Lister (10) Skosana? -- Ja.

Wie nog? -- Die tweede persoon wat aan my bekend was, is Robert. Dit is net die twee wat ek geken het.

Weet u wat Robert se ander name is? -- Nee, hy is net aan my bekend met daardie naam.

En die Prohumanism organisasie, wie het dit verteenwoordig? -- Maripa en Martins. Dit is die twee wat ek ken.

U self was as raadslid teenwoordig? -- Ja, ek was.

Wat het julle by die byeenkoms bespreek? -- Die huurgeld.

Wat is gesê oor die huurgeld? -- Dit was in die tyd (20) wat die huurgelde verhoog aces word. Toe hulle ons genooi het, het hulle gesê ons moet kom praat oor daardie punt, dit wil sê die verhoging van huurgelde, dat dit nie verhoog moet word nie.

Ek dink dit is gereenssaak die huur sou verhoog word op 1 Julie 1984? -- Ja.

Wat was die organisasie se houding omtrent die verhoging? -- Hulle houding was die verhoging van die huurgeld te veel sou wees vir die mense van Parys. Daar was van die fabriek wat gesluit was. Tweedens, die mense in Parys kry baie min (30) geld. Dit was die houding van die organisasies.

... / Wat

Wat sou die huurgeld bedra na die verhoging as die verhoging in werking gestel is? — R37,00.

Het die organisasies voorgestel watter huurgeld hulle bereid is om te betaal of wou betaal? — Nie op daardie stadium nie. Hulle het nie gesê hoeveel die huurgeld behoort te wees nie.

Wat was die Raad se houding teenoor hulle klagte? — Die Raad se antwoord daarop was, die projek wat aangepak word in die lokasie is die oorsaak daarvan dat die huurgelde verhoog word. (10)

Watter projekte? — Sewerage.

Het die organisasies by hierdie byeenkoms enige houding ingeneem teenoor die raadslede en die raadstelsel? — Die houding was dat as die huurgeld verhoog word tot daardie bedrag, sal dit dus beteken dat ons nie ons werk behoorlik doen nie, dit wil sê as die Raad. Ons doen nie ons werk behoorlik nie.

Is die byeenkoms op daardie noot uiteen? — Ja, die vergadering is uiteen sonder dat ons enige ooreenkoms bereik het.

Was u by enige verdere byeenkomste tussen u Raad en die organisasies teenwoordig of nie? — Nee, ek was nie teenwoordig nie. (20)

Na die byeenkoms in Junie 1984, het die organisasies massavergaderings in Tumahole gehou? — Ek het daarvan gehoor. Ek het nie die vergaderings bygewoon nie.

Wat was in daardie tyd, Junie 1984, die gemeenskap in Tumahole se gevoel teenoor die raadslede en die raadstelsel? — Na die vergadering gehou was, het ek opgemerk dat die gemeenskap nie meer die raadslede aanvaar nie.

HOF : Voor die tyd? — Voor die vergadering wat ons gehou het met hulle in die saal, dit wil sê die vergadering met (30) die organisasies, het ek van geen vergaderings, dit wil sê

... / massavergaderings

massavergaderings, gehoor nie.

Nee, nee, wat was die gemeenskap se gevoel teenoor die raadslede voor daardie tyd? — Die gemeenskap het niks gesê daaromtrent voor dit nie.

MNR. HANEKOM : Hoekom sê u na die vergadering gehou is het die gemeenskap nie meer die raadslede aanvaar nie? Wat het u dit laat agterkom? — Omdat daar 'n gepratersy in die gemeenskap was dat die mense gesê het dat hulle nie die raadslede wil hê nie.

Het u as raadslid bedank in 1984? — Ja, ek het. (10)

Wanneer in 1984? — Ek kan nie meer so goed onthou nie, maar dit is tussen Oktober of Novembermaand.

Waarom het u bedank? — Waar ek woon, my huis is net langs die skool en die skoolkinders het klippe op my woning gegooi, dit wil sê my woning met klippe bestook wat bestaan het uit sinkplate. Die woning self was gebou van sinkplate.

Het dit net by een geleentheid gebeur of meermale? — Meermale. Ek sal u sê, hulle het nie eintlik die woning direk met klippe gegooi nie, maar wat gebeur het, as hulle verbygaan met die verbystap, het hulle soos 'n klip teen die struktuur(20) gegooi.

Op 'n Sondagand so twee weke voor u bedank het, het daar iets by u huis gebeur? — Ja.

Vertel vir die Hof daarvan, asseblief? — Ek was op pad van die kerkdiens.

Die aand? Op 'n Sondagand? — Ja, die Sondagand. Toe ek by die huis kom, net na die aandete, het daar persone by my woning gekom. Dit was vreemde mense.

Was dit mans of vrouens? — Manspersone.

Het hulle net 'n voertuig gekom? — Ek het eers bewus (30) geword van die voertuig waarmee hulle gery het toe hulle uit is.

Hoeveel mans het daar gekom? — Ek is nie seker van die aantal nie, maar tussen ses en sewe manspersone. Hulle het met hulle aankoms daar gevra of dit David Mazibuko se huis was, waarop ek bevestigend geantwoord het. Die persone sê toe vir my ek moet hierdie werk los.

Waarna het hulle verwys? Wat se werk? — As lid van die gemeenskapsraad. Die persone het belaciava's aangehad wat die kop en die gesig bedek het en nog donker glase of donker brille opgehad.

Het u nog iets opgemerk aangaande hulle klaredrag? — (10)
Hulle het skipperhemde van UDF aangehad.

Het u met die mense gepraat toe hulle sê u moet bedank as raadslid? — Toe hulle dit gesê het, net toe ek van plan was om te antwoord, het hulle toe weggegaan. Ek wou saam met hulle uitgegaan het, toe sê hulle vir my nee, bly agter.

Het hulle gesê wat sal gebeur as u nie bedank nie? — Hulle het gesê hulle sal weet as ek nie bedank nie.

Het dit vir u voorgekom of hulle besig was om grappies te maak daar by die huis of hoe het u dit beskou? — Dit was nie grappies gewees nie. (20)

Is dit die rede waarom u bedank het? — Ja.

Nadat u bedank het, het u enige verdere dreigemente gekry of nie? — Nee.

Het die kinders nog klippe na u huis gegooi? — Die kinders het opgehou. 'n Rukkie na hulle opgehou het, het ek eers bedank.

HOF : Laat ek net duidelikheid kry. Het die kinders eers opgehou en het u toe bedank of het u eers bedank en toe het die kinders opgehou? — Hulle het opgehou voor ek bedank het.

MNR. HANEKOM : Kon u enigsins agterkom of die ses of sewe (30) mans wat die aand by u huis was, inwoners van Tsubhole was?

Kon u dit enigsins vasstel of nie? — Nee, dit is vreemdelinge. Ek ken hulle nie.

HOF : Hoekom sê u so? U kon tog nie sien hoe hulle gesigte lyk nie? — Ekskuus, ek het die vraag mis verstaan. Ek weet nie of hulle Tumahole se mense was, al dan nie, want hulle gesigte was toe gewees.

MNR. HANEKOM : Toe hulle u woning verlaat het, het u gesien hoe hulle weg is, met 'n voertuig of te voet? — Hulle het met 'n Kombi daar weggery, want ek het deur die venster gekyk.

Het u die Kombi vantevore in Tumahole gesien of nie? (10)
— Nee.

En agterna ooit weer? — Nee.

CROSS-EXAMINATION BY MR BIZOS : You as a councillor, were you for or against the rent increase, you personally? — I was not for the increase of rent.

Did you make it generally known to the community during June 1984 that you were against the increase of the rent? — Yes.

And more particularly, did you speak to community leaders such as Mr Ace Magashule from time to time about your (20) community's affairs, not necessarily in June, thereafter, but generally speaking, did you speak to Mr Magashule about the community's affairs? — Yes.

COURT : Who is Ace Magashule? — He is staying in Parys.

Why do you call him a community leader? — I call him that, because it happened that different people approached me about things affecting the community there and whoever came to me to make enquiries about things that are affecting the community as a councillor I took that person to be a leader in the community and that is why he takes the trouble of coming to (30) me.

So, anybody who makes enquiries you call a leader? — No.

MR BIZOS : Did Mr Magashule play an important role in the affairs of your community? — I know Mr Magashule, because in fact he is a person I am used to.

COURT : You do not know what he does? Why he is called a community leader? — No, because I came to know him while he was still at school. In fact he grew up in the vicinity where I was living. That is in the same area.

MR BIZOS : Let us leave out the community leader part of it, because I do not think it is something that we want to (10) talk about now. You say you are used to him and did you confide in him from time to time what was happening in your community? — Yes, when he asked me about it.

What were your reasons for being against the rent increase? — It is because I was aware of one thing, that there was not much place where people could be employed in Parys and therefore people are not having employment. Employment is scarce.

And was the economic position of your community bad in 1984? — Yes.

Were you on the council before November 1983? — No, (20) I became a councillor in 1983.

Did you know that there had been an increase of the rent before that? — Yes.

And if the increase that was voted for in 1983 came into operation, there would have been more than a 100% increase in the rent in less than two years? — No, I am not in a position to tell about that.

COURT : Is this an aspect which is still in dispute? Why repeat it? This witness does not know. You have put in the documents. The previous councillor agreed to it. (30)

MR BIZOS : I will lead him on it. The rent in the beginning

of 1983 was R18,00 and it was going to jump up to R37,00 in 1984? — First R26,00.

And then R37,00? — Yes.

And that it would double over a period of less than two years? — Yes.

Do you recall that the representatives of TSO and Prohumanism that came there had documents? — They had some documents from where they referred while questioning us.

Did they contend that previous promises that had been made in relation to projects had not been kept? The promises(10) in relation to previous projects had not been kept? — Yes, they did question on that.

And was it their contention that moneys had been paid for increased rents before or rentals without the projects for which the moneys were paid, having been started or done? — Yes, that was the position, because the sewerage was not yet in the township. It was still in the process of being brought into the township.

But the sewerage was not the only project in respect of which money had been levied? It was also levied for high (20) mast lighting, for a clinic, for a creche? — Well, on that really I cannot have any proof in saying that the creche was also included as a project. There was an existing creche there.

I do not think we will worry His Lordship with too much detail. Did they contend, without giving any details, that promises had been made which had not been kept? — Yes.

Your objections at the council meeting when this increase took place, were they voted on or were there other councillors to support you or were you an alone voice? — It was voted(30) on that.

Was there anyone besides you who was against the increase in the rental? — In this voting we were only two people who opposed the increase of the rental. I cannot remember who the second person was.

Did you make it known in the community that you were against the increase of the rental? — I held a meeting with my people in my ward and made it known to them.

That you were against it and did you give them the reasons why you were against it? — Yes, the reasons that I gave to the council in the council meeting are the reasons that I (10) gave to my people.

Do you recall whether at a meeting that you had with the representatives of TSO and the other organisation, you were asked questions as to whether the formalities that were necessary for the increasing of rental had gone through, whether the right procedure had been followed? — There were such questions, but the procedure was not yet completed at the time when we had this meeting.

What was the date of the meeting in June? Do you know?
— No, I cannot remember that. (20)

But it was in June? — Yes, it was during June.

Did you as a councillor know whether any advertisement had been placed in one or more newspapers calling for any objections? — We were discussing this in a council meeting, but I am not in a position to give a clear light on this being advertised as a notice in a newspaper, because I am not a regular reading of newspapers.

The question is not whether you saw it in the paper, but whether your council resolved to advertise that there was going to be this increase and to call up on people to make (30) objections within a certain date and that they would consider

the objections? Were any of those procedures gone through?
-- No, the procedure which was followed there, was as follows. Each and every councillor was holding a meeting in his ward to inform the community. That was the only way in which this was made known to the community.

I am just going to put to you that although some councillors held meetings, not all councillors held meetings. -- Yes, that is so.

But be that as it may, you do agree that the procedure that I outlined about advertising for objections and con- (10) sidering of objections had not gone through? -- Not at all, yes.

Did you as a councillor know that this procedure had to be followed? -- No.

But by way of contrast, did these young people from TSO and Prohumanism seem to know the procedure that had to be followed? -- You mean they indicated that it was supposed to have been advertised the way you put it?

Yes? Or asked questions which indicated that they were reasonably good askers of questions ... (Court intervenes)(20)

COURT : No, that is going to mix the whole thing up. Did they indicate at this meeting that the procedure that had to be followed was an advertisement in a newspaper and that this had not been done? -- They generally asked questions from us.

We know about general questions, about sewerage and all things like that. At the moment council is concentrating on one aspect and we want to know whether at this particular meeting questions were asked about an advertisement in the newspapers of the proposed increase? -- No, there were no (30) such notices, except for personal notes which were delivered

... / to

to different people in the township.

No, no, I am not asking you whether there were or were no advertisements. I am asking you whether at this particular meeting TSO and Prohumanism asked questions, asking "Has there been an advertisement in the newspaper pertaining to the increase?" — No, there was no such a question.

MR BIZOS : Do you recall whether there were questions about what steps had been taken, what procedures had been adopted about the rentals? — Pertaining to rent, what was said there was, they are not going to pay the rents until the rents (10) were reduced.

Did they say anything which indicated to you that they believed that the proposed increase would not be valid? — Unfortunately this happened long ago. I cannot quite recall exactly what was happening there, but I cannot remember hearing that.

Let me try and put a general question to you. Did they appear to be quite knowledgeable about the manner in which rents were to be increased validly?

COURT : That is a very general question. You will get a (20) general answer. I will ask another question and it will appear that this witness does not know what the question is about. Will you make it more particular, please?

MR BIZOS : Did it appear that these young people with the documents that they had were knowledgeable about the question of rental in the community? — When is this now? Before the meeting or after the meeting?

During the meeting? — No, I do not know whether they had any knowledge or not. That I do not know.

Were they comparatively young in relation to the ages (30) of the councillors? — Yes.

Did some of your fellow councillors get upset about being asked questions by people much younger than themselves? — Yes, there is an incident.

Did anyone of the councillors express this resentment at being asked questions by young people? — Not that in fact there was such a resentment which was made aware by any of the councillors to the people who were asking questions, but what I noticed there was. The manner in which people were talking there, the spirits were not of the best, because the people who were asking questions, were not putting their questions (10) polite, as a result of which then the answers were not polite either.

What these young people were saying about the increase in the rental, did that accord more or less with what your own views were when you voted against the proposal at the council meeting? — Yes, in fact they had the same reasons. For instance because I had a feeling at the time when I was against the increase on the rents that people there are very much in need as a result of which I decided to try and organise a burial society within the community in my ward. (20)

At the meeting with these young people did you support their point of view or express views against their point of view ... (Court intervenes)

COURT : Just a moment, Mr Bizos. This witness has told us that these people were misinformed about projects which had not been carried out. The sewerage was on its way to the township and they said the project had not been carried out. So, that point he differed from them entirely. It is only so far on the point that the people cannot afford, that there is correspondence between his views and their views. On (30) what aspect are you asking the witness?

... / MR BIZOS

MR BIZOS : With the greatest respect the witness said he found himself in agreement with the contentions of the young people there.

COURT : With which contentions?

MR BIZOS : That the rent should not be increased. I do not know why Your Lordship, with respect, ... (Court intervenes)

COURT : Yes, well, we know all along he has been of the view that the rent should not be increased. What is the point? He was in agreement with them.

MR BIZOS : The question was whether he expressed a view (10) at the joint meeting or not?

COURT : In accordance with what they said, but they also objected to the projects which had not been carried out.

MR BIZOS : The objection was to the increase of the rental and the question was was your attitude at the joined meeting one of rejecting the contention of the young people that the rent should be increased, expressing a view against that, or remaining quiet about it?

COURT : Did you speak at the joint meeting? -- No.

There is your answer. Next question? (20)

MR BIZOS : With the greatest respect, I would appeal to Your Lordship to allow me to examine the witness in the manner in which I consider best for the benefits of my clients.

COURT : That is a very serious consideration obviously. It is also a very serious consideration that we speed up this case a little bit and not ask questions which are common cause. It is common cause the rent was increased, it is common now the witness was against it. There are certain variations as to what was asked and what was not asked, but let us hurry up a bit, please. (30)

MR BIZOS : I will try. If you kept quiet at the meeting, was
... / there

there any particular reason why you kept quiet and did not express a view which was in relation to the increase of the rental which was in accordance with that of the young people? -- There were special people who were chosen to be the speakers on behalf of the council. I was not one of them. Therefore I did not have any right to say anything.

Although you believed that you did not have the right to express your view at the council meeting, were your views that you were against the rent wellknown to your community at that stage? -- What happened is this. We first held meetings (10) to inform the community at different wards about the increase on rentals, as a result of which the meeting I held, people voiced their grievances by saying for instance there is lack of employment, little income, giving a number of reasons and therefore saying they cannot afford, which reasons were accepted by me, as a result of which then on attending a council meeting where this issue was discussed, I raised those objections against the increment on rent on which later there was voting and I lost the vote. After that I went back to my constituency where I informed the people that I voiced their (20) grievances and gave them as reasons for being against the increase on rent and in fact I was not for the increase on rentals.

After the joint meeting, as a result of your views of the increase of rental being known to your community, were you approached by members of your community and asked why you did not speak out against the rentals at the joint meeting? -- No, I was not approached.

I am going to suggest to you that your position was an uncomfortable one at that meeting and that you expressed (30) your lack of comfort to members of your community afterwards?

... / What

-- What kind of comfort is that?

COURT : Could you tell the witness to whom he said what?

MR BIZOS : More particularly, did you say to the person I have already put to you, Mr Ace Magashule, that you were not allowed to - you had been told before the joint meeting that you could not express your views and that you felt uncomfortable about that? -- Not that we were told not to say anything at this particular meeting, but people who were going to represent the council were already chosen, that those were the people who were going to be the speakers. (10)

Was there any agreement or suggestion to you that you should not speak at this joint meeting? -- No.

Did you start feeling uncomfortable as a councillor as a result of your opinion in relation to the increase of rentals not having prevailed at the council meeting? -- I was not happy at all when my suggestion was not accepted.

COURT : No, we are not talking of the council meeting where you were out-voted. Counsel is now speaking of the joint meeting with TSO?

MR BIZOS : With respect, the witness is correct. I did (20) put about a council meeting. The question was in relation to the council meeting.

COURT : We all feel uncomfortable when we are out-voted.

MR BIZOS : Let me assure you, My Lord, that there will be evidence that this witness - I am sorry that I have to disclose it, my question and the relevance of my question, Your Lordship is compelling me to tell Your Lordship what the relevancy is and I may lose the element of surprise, because the evidence is going to be that after the council meeting this witness expressed the desire to resign and he was advised against (30) resigning. This is why I am asking this question and I would

ask Your Lordship to allow me to please put it my way.

COURT : Well, go ahead.

MR BIZOS : You told us that you felt uncomfortable after the council meeting because your view in relation to the increase of the rentals was - did not prevail? -- Not only that was the reason. There were other things which were taking place within this council. For instance, on different issues, say I were to suggest something and then say but how is this happening, then they would stand in my way to block it not to be taken further on investigation or discussion. Those (10) were some of the other reasons which made me feel uncomfortable.

Was the increase in the rental one of the issues? -- Yes.

Did the fact that you also had to sit down quietly at a joint meeting and not express your view in relation to the increase in rental add to your difficulties with the council? -- That is true, because of the people who were chosen earlier as speakers on behalf of the council. I did want to talk there in the meeting and voice my views, but I was stopped in the sense that I was not chosen as one of the speakers. There (20) fore I was deprived of the chance of saying whatever I wanted to say. May I ask a question?

COURT : If it is relevant, yes? -- Yes.

Yes? -- In fact what I wanted to say is, to clarify something in the evidence I have given here. One reason is this that during the time of the first project, that is the sewerage project, when they started with that, I was not yet a councillor and now I voiced this at the time when they were deciding that the rents are to be increased for projects and said to the council then when I was in the council "Look, you have (30) started a project with reference to the sewerage project and

it is still incomplete, but again now you want to make some increase on rentals, whereas the people have not seen what has been done with the money they are paying for the project which is incomplete. Let us complete one project and then tackle the next one, than to keep on increasing moneys and saying we are doing projects." That is what I said in the meeting, while objecting to this increase.

MR BIZOS : Did you make your feelings of discomfort in the council known to members of your community and more particularly Mr Tom Letsoenyo, Vuyo Dabi or Lister Skosana? Did (10) you tell them about the discomfort that you felt in your council? -- I told Ace Magashule about all that, as I have already said what the relationship was between me and Ace.

COURT : Not the other three mentioned? -- No.

MR BIZOS : Do you know whether Ace is a friend of Tom Letsoenyo, Buyo Dabi and Lister Skosana? -- I do not know about that.

COURT : Do you know these three persons? -- Yes, I know them, because we live in the same area in Parys.

MR BIZOS : I have no specific instructions as to whether (20) you said this to each one of them individually, but what I want to say to you is, as a result of your speaking about your difficulties, it was wellknown in your community and including these three persons that you were unhappy in relation to your position on the council? -- I am not in a position to dispute that, the reason being that may be I told one person, who decided then to go about telling the others and that is how the community came to know about my not being happy.

And did you in this state of unhappiness indicate that you wanted to resign? -- No, I never said that. (30)

Let me remind you of something else that you said to

... / Mr Ace

Mr Ace Magashule. Were you approached by a police officer called Skefu. -- Yes, I was.

And were you taken to the police station? -- Yes.

And for how long were you kept at the police station? -- He called me in for an interview to question me.

For how long did you remain at the police station? -- It was just for some time, not a long time.

How many hours? -- I cannot remember because this is long ago.

Was it before your resignation? -- Yes. (10)

What sort of a policeman is this, Mr Skefu? -- He is a detective.

In any particular branch? -- He is a CID in Parys. He was an ex-councillor before. He was a councillor. In fact he was the chairman. He was an ex-chairman of the council in which we were serving.

COURT : Is his surname Skefu? -- Yes.

MR BIZOS : Did he during this interview, as you now call it, accuse you of disrupting the affairs of the council? -- His main problem was that we were standing for election as (20) candidates for the same ward with him and I was elected above him in that ward. So, he lost his vote.

But was your interview before or after the increase in the rental? -- I cannot quite remember that.

I will repeat the question. Did he accuse you of disrupting the work of the council? -- Yes, he did.

And did he also accuse you of leaking information which you obtained at council meetings to TSO? -- Before Mr Hlalele's shop was burnt down, he wanted to know from me, that is Skefu, if there was anything that I knew at the time about UDF. (30) On which I said to him I do not know about UDF. In fact I had

no knowledge of UDF at all by then, whether there was something called UDF.

We will come to that part of your conversation about the UDF, but let us come back to my question, as to whether he accused you of passing on information to TSO from the council meetings? Do you recall telling Mr Magashule that? — No, not in that way. He did not ask me a question to that effect.

Did he also ask you to continue speaking to the people in TSO and pass on the information to him? — No.

Well, I am going to put to you that this is what he (10) said, but ... (Court intervenes)

COURT : He said it to Mr Magashule?

MR BIZOS : He said it to Magashule, the three things. Disrupting the council, taking information to TSO and finally a request to give information to him. — No, that is not so. In fact this man was also against the idea of the rent increase, as a result of which then he wanted to know from me what are my reasons of being against the rent increase.

ASSESSOR (MR KRÜGEL) : Is that Ace? — That is Skefu, who is staying in my ward. (20)

MR BIZOS : Did Mr Skefu intend your conversation to remain confidential between the two of you? — Yes, he did.

But you told Mr Ace Magashule about it? — Well, that was not that kind of a secret which I could just keep quiet about, because if I am a councillor, I am working within the people.

Did you tell Mr Ace Magashule one of the ways in which you were accused of disrupting the work of the council was by being against the rent increase? — Who was accusing me on that?

COURT : No, counsel puts it to you that you told Ace (30) Magashule that Skefu had accused you of disrupting the council

... / by

by being against rent increase? -- Yes, I told him that.

MR BIZOS : Did you tell Mr Ace Magashule the truth? -- Yes, it was the truth.

So, this police officer Skefu considered being against the rent increase as disrupting the work of the council? -- No, Skefu felt bad when he lost his votes and I took over the ward by being elected in the voting.

COURT : Yes, but now, either you do not understand the question or you do not answer the question. Counsel puts it to you that your previous answer means that in fact Skefu was(10) against the rent increase? -- Yes.

MR BIZOS : With respect, My Lord, that is not what I put. What I put to the witness is that if he told Ace Magashule the truth and Skefu considered the opposition to the rent increase as disrupting the council's work ... (Court intervenes)

COURT : I put it wrongly. Counsel says that your previous answer means that Skefu considered that if one was against the rent increase, one disrupts the work of the council? -- Yes, in other words, that is the position. (20)

MR BIZOS : And that your previous answer that Skefu himself was against the rent increase, must have been a mistake? -- What happened in this case is. Skefu was no member of the council, that is the community council, but he knew about practically everything that was happening within the council, as a result of which then he later came back to question me about things that he knew, which are the truth that were happening during a council meeting he did not attend.

Did that make you angry? -- Yes.

Did you tell Ace and other members of your community (30) that you felt that you had been humiliated by a person who

... / was

was not a member of the council, but who was a policeman, who was meddling in council affairs? -- No, I did not tell anybody about that.

Did you not tell Ace and did it not become known in your community that you were actually felt that you were being manipulated? -- No.

As you are now there standing, do you not feel that you were being manipulated and that you were called in to the police office by your electoral opponent to discuss what you considered to be correct as a public representative? -- I (10) could see that, that I am being manipulated, but I had no power to go and tell the community about it.

I am suggesting to you that you did tell the community, but what I want to ask is, whether this visit to Mr Skefu at the police station was before or after the burning of Mr Hlalele's shop? -- It was not long, but I cannot recall how long it was.

Did you as a councillor at the next council meeting raise the question of your rights and privileges as a councillor and the apparent interference that an ex-councillor and (20) police officer was exercising over you? -- Yes, I did make mention of that in a council meeting.

Did you at a council meeting say as a result of the manner in which you had been treated you wanted to resign? -- Yes, I did, but not at this meeting. After having heard quite a lot of things again later from the same man Skefu, then I did make mention of that, that I want to resign.

Could you please tell His Lordship on how many occasions did you say to your council that you wanted to resign? -- On one occasion only. (30)

Were you told or advised that it would be wrong for you

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to resign because it would be a reflection on the council system if you resign? -- No, not in that way.

Was your resignation accepted? Did you tender a resignation? -- No, they refused to accept my resignation.

So, you tendered a resignation, but they refused to accept it? -- Yes.

To whom did you tender your resignation and who refused to accept it? -- I made mention of that at our meeting and then I went and told our branch manager, that is the township manager, the superintendent. (10)

COURT : Did you officially say "I am resigning" or did you say "I intend resigning"? -- I told them that I intend resigning if Skefu goes on like this the way he comes to me.

MR BIZOS : How long after this joint meeting - how long after the burning of Mr Hlalele's shop did you say that unless Skefu stops interfering with you, you are going to resign? -- I cannot quite remember as to how long it was after that, because it is a long time ago.

You also told His Lordship that it was not only the one meeting that you had with Skefu at the police station, (20) but that he continued. On how many occasions did he approach you in relation to council business before you said that you were going to resign? -- On three other occasions.

And what was the basis of his approach to you? -- For instance, the first time when he called me in, was as a result of my having been against the increase on rentals and these other three occasions, each time I oppose what is being suggested in a meeting, then Skefu would come to me about that - he would come to know about that and then come to me and talk about it, whereas this was discussed in a council meeting. (30) Like for instance, about keeping of beasts in the township.

... / It

It was said that people will have to do away with their beasts in the township. I was opposed to that, saying "You rather make a camp available which can be used as a grazing camp for the beast, then to say people must get rid of it." That was in the meeting, but later I was confronted by Skefu about that, about my being opposed to the idea of the council in that.

COURT : Were these council meetings not open to the public?

— No.

MR BIZOS : You told His Lordship that you mentioned it at (10) the council and you mentioned it to the superintendent and you said that they refused to accept your resignation and then His Lordship asked you and you said you only threatened to resign. Was any refusal to accept your resignation by anyone? Was there a refusal to accept your resignation by anyone? — I am not clear on that question.

COURT : Did anybody say to you "Do not resign"? — Yes.

MR BIZOS : Who told you not to resign? — The branch manager.

COURT : The branch manager is now? — The superintendent.

MR BIZOS : Did he give any reasons why you should not resign?(20)
— Yes, he said to me it is because Skefu lost the votes and was defeated by me, that is why he is doing all this, because he is feeling bad about it.

Did you get the impression that Skefu actually wanted you to resign? — No. I am the one who told him self that I am going to resign.

Told Skefu? — Told myself.

Oh, you told yourself. I see. Could we then say that between the burning of Mr Elalele's shop and October/November 1984, was not a happy period for you on the council? — (30)
Yes.

COURT : How long was it before you eventually resigned that Skefu stopped his harassment of you? -- I will explain it as follows. Just before the burning of Hlalele's shop, he was worrying me, but not much, but immediately after that, he started worrying me, almost frequently harassing me, in fact even within the council there was no happiness after the burning of the shop, which thing continued with him on the other side busy harassing me continuously until shortly when I resigned.

MR BIZOS : Did your council meet monthly? -- Yes.

Did he harass you after each meeting? -- Not necessarily(10) wait for a meeting. Even before the end of the month he would come and harass me.

Was this harassment particularly embarrassing to you as a public representative? -- Yes. Especially the people in my ward. They were not satisfied at all about what was happening to me. That is including the committee with whom I was working in my ward.

Did you report the harassment of Skefu to your ward committee, so to speak? -- Yes, because when he called me to the police station, I took with me along one of my committee(20) members to be present.

This visit to the police station, was it a polite invitation or was it a command by a police officer? -- It was a command by a policeman, because this man met me in the street and then he stopped the vehicle in which he was travelling. All He said to me was "I want to see you at the police station." I asked him in connection with what. He said to me "I want to see you there before 12h00, please."

Did you in this harassment that was going on in this period approximately three months, if I worked out the period correctly(30) on your evidence, ever tell Skefu "Look, Skefu, the way you are

... / carrying

carrying on, I will have to resign. I have tendered my resignation. The superintendent told me not to resign. Stop it." -- No, not the way you put it, but what I said to him was, I will give you your seat back if you want it.

Did he say "No, thank you" or did he seem to smile at the thought? -- I said that being emotional myself. So, I did not look at him what his reaction was when I said that.

Could you tell His Lordship whether Skefu became aware of your tender to resign on ... (Court intervenes)

COURT : Just say intention to resign. There was no formal(10) tender to resign.

MR BIZOS : Did Skefu - do you know from what Skefu told you that you had mentioned the fact that you would resign if he did not stop? Do you know whether that came to Skefu's notice? -- No, I do not know.

When did you tender your seat to Mr Skefu? How long before your resignation? -- I cannot exactly remember how long that was, but it was not long after Hlalele's shop had been burnt down.

You told us that you were visited by a number of men (20) whose faces were covered with balaclava's.

COURT : Are you going over to another topic?

MR BIZOS : Yes.

WITNESS STANDS DOWN.

COURT ADJOURNS.

COURT RESUMES.

IN CAMERA WITNESS NO. 21, still under oath

CROSS-EXAMINATION BY MR BIZOS (continued) : We know that there was a meeting on 10 September 1984 where approximately fifteen community representatives were present, four councillors, Mr Ganz, Mr Leverink, Mr Roets, Mr Lombard and Mr Ströh. I (30) am referring to AAQ(41). Please have a look at it. We see ... / that

that your name is not there under the heading "Gemeenskapsraad van Tumahole." — No, my name is not there.

COURT : Were you there? — No, I was not.

MR BIZOS : Were you still a councillor at that time? — Yes, I was.

Was there any reason why you were not at this meeting? — I am employed in Vereeniging and I was not present at this meeting.

Were you still a councillor? — Yes.

At this time in September, was your attitude against (10) the rent increase wellknown to your community? — Yes, in my ward.

And from your ward it would have stretched further, because it applied to the whole community? — That I do not know, because I only discussed this with the people in my ward.

Was this a time at which you were being interfered with by Mr Skefu? — Yes.

And had you already declared your intention of possibly resigning from the council? — Yes.

Were you actually invited to go to this meeting on (20) the 10th and were you told it was an important enough meeting to attend? — No, I did not know about that.

What work do you do? — I am a welder.

If you had known about the meeting or when you knew about council meetings or where your services as a councillor were required, were you able to get a day off from your employer? — Yes, on informing them, they would allow me to go.

And do I understand you to say that you did not know, because you were not informed about that meeting? — Yes.

Who would have been responsible for calling all the (30) councillors? — We used to get notices from the superintendent.

Did you find out that there had been this important meeting in relation to the rental on 10 September 1984 after it had taken place? -- Yes, on arrival in Parys I came to know about that.

Did you ever ask for an explanation as to why you were not asked to this meeting? -- No, I did not, because I would only know about a meeting which was made known to me in the form of sending me a notice as to take note of the meeting which will be held.

Did anyone have reason to believe that you had no (10) interest in council affairs at this stage? -- No, I do not know about that.

COURT : How many members were there on the council? -- We were eight and then two of the councillors resigned. We remained being six.

But in September? -- Six or five.

MR BIZOS : Well, I am going to suggest to you there were six up to the time that Mr Hlalele resigned. I am corrected, My Lord, there were eight when Mr Hlalele resigned, but by this time in September the only councillor that was still held (20) office, that was not at this meeting, was you? -- I do not know.

About this visit by the people with balaclava's. You, of course, do not know who they were or who sent them or what their special interest was? -- No, I did not know anything.

They were wearing balaclava's, you told us? -- Yes.

Are you able to tell His Lordship whether the balaclava's is a sort of trademark of the vigilantes? -- What do you mean by vigilantes?

It is a fair enough question. People who take the law (30) into their own hands? -- On that I am not able to give any

evidence, because I do not know.

You say that you saw UDF T-shirts? -- Yes.

How many of the group had UDF T-shirts? All of them or only some of them? -- They did not come right into the house. Those in front were just in the doorway when they were talking to me there. Those in front were the only people visible to me. Those behind I could not see.

How many people were visible to you? -- About four and then there were others outside the door.

How many of the four that were visible to you were (10) actually wearing UDF shirts? -- The manner in which they came there, I did not have time to count as to how many of them were wearing UDF shirts. I was paying more attention to what they were saying.

When were you first asked what were they wearing? -- Being asked?

By anybody? -- No, nobody asked me about that, because it was at night when this took place.

Was it the first time that you mentioned that they were wearing UDF shirts here in court? Or did somebody ask you (20) about it? -- The only person who asked me about that, is the person who was questioning me when I was resigning.

Who questioned you when you were resigning? -- The superintendent. What happened is, I resigned in a meeting where the superintendent was present. So, he is the person who was asking me questions as well as the chairman of the meeting.

Did the superintendent still not want you to resign? -- I do not know at that time what his attitude was towards my resignation because a good number of people were resigning as a result of the damages which were being caused to them. (30)

COURT : Did you all resign together? -- No.

... / MR BIZOS

MR BIZOS : You were alone? -- I was alone when I resigned.

Were the questions that were asked of you indicative of a state of mind of the superintendent that you had to have some good reason for resigning? -- Yes.

Who suggested to you that you had to have a good reason for resigning? -- He asked for reasons from me as to why I was resigning and I told him what my reasons were.

Was your state of mind that unless you gave a good reason, that your resignation may not be accepted? -- Well, it could be like that, but I was going to resign, whether he was (10) accepting my resignation or not. I was determined to resign.

How long after the visit by these balaclava men did you actually resign? -- I cannot quite remember as to how long it was.

Days, weeks, months? -- It could be some weeks or a month.

COURT : At the next meeting or did you pass a meeting? -- It was during the second meeting which was held about the rent, which was held at the office.

Yes, but now the second what? Did you resign at the meeting which followed upon the visit of the balaclava's or (20) did you resign at another meeting? -- What happened is. These people were there on a Sunday evening. The Monday I went to explain to these people as to what happened to me the previous evening.

To which people? -- The office. That is the superintendent's office. Then a meeting was held on the Wednesday, in which meeting I then tendered my resignation.

MR BIZOS : Did you ever go to the police about this matter? -- No, I did not. I just felt it was wise for me to resign as it was said by them that I should resign. (30)

Why did you not go to the police? -- It was not a nice

... / thing

thing to be done by a councillor to go to the police, because there was a lot of confusing already in the township.

Irrespective of this visit by this balaclava group, were you actually at that stage fed-up with the council and the differences with Mr Skefu? -- Yes, I was already on my way to resign.

COURT : How many people had resigned by that time? -- Under correction, I am not certain of the number, but I think three of the councillors had resigned already.

MR BIZOS : You were fourth to resign? -- Yes, I think I (10) was the fourth person.

I do not think I ever got an answer from you as to how many people you say wore UDF shirts? -- My Lord, as I have said, these people were in the doorway and they had balaclava's on and I was paying attention to what they were saying. So, therefore, I had no time to count as to how many of them were clad in the UDF T-shirts.

COURT : But were there more than one? -- There were more than one, because they were in fact a small group of people.

MR BIZOS : Was the only distinctive bit of clothing they (20) had on the UDF shirt? -- Yes.

There was no attempt whatsoever made to possibly hide the shirt? Did you get the impression that they wanted you to see the UDF shirt? -- They were not trying to conceal the shirts.

Those that had UDF shirts on, did they have jackets on or not? -- Only one of them had a lumber-jacket on, which is a leather lumber-jacket.

With which he could have concealed his UDF shirt if he wanted to? -- I do not know. (30)

The jacket was such that if he zipped it or buttoned it,

... / you

you could not see the shirt? — I did not notice whether this lumber-jacket or a zip on or not.

Did any member of your family see these people? — My wife was in the bedroom and I was the only one in this particular room busy having my meal.

How many of them spoke? — Two of them. I remember one saying I must leave this kind of work, meaning that I must resign and the other one saying "He is bound to resign."

Did anyone say anything else? — No.

You told His Lordship that one or other of them (10) asked if this is David Mazibuko's house? — Yes, that was the same person who later said that I must resign.

You being a councillor and an old resident of your community, presumably your house is wellknown to members of your community? — Yes, people in that community know.

Do I understand your evidence correctly, as frightening as the wearing of balaclava's may be and I think all of us would be afraid to be confronted by people with balaclava's, was there actually any verbal threat made to you? — No.

COURT : It was not a very cold night so that one should (20) wear a balaclava? — No, it was hot. It was during summer.

MR BIZOS : Did Mr Skefu continue worrying you after your resignation? — Yes, since then he did not bother with me.

Does he greet you nicely now when he sees you in the street? — Yes.

He did not perhaps ask you why you had resigned? — No, he had not asked me yet.

COURT : Has he become a councillor in your ward? — No, there are no councillors in Parys, in the whole of Parys.

MR BIZOS : There was no re-election or nomination after (30) you resigned? — No.

HERONDERVRAGING DEUR MNR. HANEKOM : Geen vrae.

GEEN VERDERE VRAE.

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DELMAS TREASON TRIAL 1985-1989

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