

THE PROTEST MARCH

The protest march started at the Roman Catholic Church Small Farms at approximately 9h00 and after proceeding east along Selbourne Road for a short distance, at Masenkeng bus terminus it turned south along Vilakazi Street which borders on zone 7. From a T-junction in the veld beyond zone 7 it first turned west and then veered south following Wessels Mota Road past the BP Garage which is in zone 12 extension and Fowlers bus stop which lies between zones 11 and 12, to the post office. There the tarmac road joins in a T-junction the Johannesburg- Vereeniging Road which passes Houtkop where the administrative offices of Lekoa are situated. To the east of the post office the road divides zone 11 and zones 13 and 14.

At the south-eastern side of zone 11 lies Hunter's Garage. There the march ignominiously ended without reaching its destination, the administrative offices at Houtkop. According to the map AAR.10 the distance from Small Farms to Hunter's Garage is approximately six kilometers. And the distance to Houtkop approximately nine kilometers. Accused no 8 testified that he expected the march to Houtkop to last two-and-a-half to three hours.

This procession, which was called a march in court, was neither an orderly march nor a sedate procession. The participants were not in line or in step. It was a group of people of varying ages jogging to

the tune of their song with raised fists and taking up the width of the tarmac road. The march was approximately 500 meters long and the first third thereof mainly consisted of youths.

It had no problem with traffic as there was none.

Near Hunter's Garage the marchers were dispersed by the police who used tear-smoke. This had been inevitable from the start. The march was unlawful and in any event no police officer worth his salt could allow a chanting fist waving crowd to proceed to the main administrative offices of Lekoa at a time when many other administrative offices, beer halls and houses of councillors had been or were under attack. The defence was at pains to prove that the marchers were not warned to disperse. It should be borne in mind that most witnesses could not have heard a warning as they were too far from the front and a helicopter arriving overhead would have drowned all warnings. Against the background of a full scale riot at the time it may well be that no warning was given. We cannot decide this issue.

In any event it is immaterial. Despite the large police presence straddling the road in an obvious attempt to prevent the march from proceeding to Houtkop, it did not stop. It slowed down but unwaveringly proceeded towards the police. It is not surprising that the police took action when they were some 40 metres off.

The defence emphasis on the alleged absence of a warning by the police can in the context only be explained in the light of a version that the alleged unwarranted dispersal caused anger and frustration to boil over into violence erupting in the Vaal. In this way everything that happened in Lekoa can be laid at the door of the police. That was also one official UDF version. Exh W.42 document 4 UDF News October 1984 p.2; exh W.32 SASPU National December 1984 p.14.

Nothing is further from the truth. On the morning of 3 September 1984, long before the march started and also while it was in progress the Vaal erupted in violence, which grew worse after the dispersal of the march.

Though the route of the march and other matters are common cause, there are a number of points upon which there was a sharp difference between the versions of the state and accused. We will not here give a detailed analysis of the witnesses who gave evidence. Reference should be made to Annexure Z hereto. Some were so poor that they do not merit attention. We bear in mind that in the case of the state witnesses ic.8, Mahlatsi and Phosisi the evidence of each cannot stand on its own and we will determine what confirmation thereof is available.

What struck us is how the defence case changed as time went by and the state case unfolded. We will indicate how the accused from time to time trimmed their sails to the wind. This tendency seriously affects their credibility.

It is common cause that the leadership of the VCA set up the procession at Small Farms and guided it along its way. There are disputes about the participation of particular accused but that will be dealt with when we deal with them individually. It is common cause that Esau Raditsela was the mainspring.

There was a big dispute on who the leaders of the march were. The witness ic.8 said that the march was led by Esau Raditsela accused No 2, No 8, No 13 and No 17. Reverend Mahlatsi said that the march was led by Esau Raditsela accused No 17 and a youngster. The accused testified that its leaders were accused No 9, Modise Ntombeni and reverend Mahlatsi. They were not supported by their witnesses. Maria Oliphant mentions only Mahlatsi.

Not much turns on this as it is common cause that when the march was near the intersection Esau Raditsela was with those at the front. (See the evidence of Temba Mazibuko). The VCA leaders were the leaders of the march according to defence witness Maphalla.

The intersection of which much mention was made lies just to the south of Fowler bus stop on the way to the post office. There the road to the stadion joins the tarred Wessels Mota road at right-angles from the east. From that intersection towards the south-east runs a lane to councillor Ceasar Motjeane's house which is in zone 11. Beyond the intersection Wessels Mota veers slightly to the right, that is south south-west. At times in the evidence this was incorrectly referred to as a right turn.

The state case was that when the intersection was reached by the vanguard of the march a member of a small group of people, less than 20 in number, standing at the corner of the lane shouted "there is a dog" and pointed up the lane.

A considerable number of marchers then ran from the march up the lane. A mob of more than 1 000 attacked councillor Motjeane's house with stones breaking the windows, saying it was the dog's property. Shots were fired from the house. Members of the mob lifted the fence. A youth had a long stick with a cloth wound around one end which he wetted from a container with inflammable liquid and put a match to. This burning stick was thrust through a broken window into the house, which was set on fire. Thereafter the motor car and truck of councillor Motjeane were doused with inflammable liquid and set alight. A person was dragged from the house by the mob and killed while the mob ululated with joy.

The witness ic.8 who gave this evidence testified that on the premises next to councillor Motjeane's house at the fence stood accused No 5 and accused No 13 and a little further on sat accused No 2 with folded arms. They were onlookers. Esau Raditsela was there too.

The aforementioned accused denied having been at councillor Motjeane's house. We will deal with this aspect when they are dealt with individually.

The evidence of the witness ic.8 was confirmed by reverend Mahlatsi as far as the events in the intersection are concerned. He stated that the small group came out of the lane shouting "the dogs of councillors are shooting here". Shots were heard. Esau Raditsela said "let us go" and the front of the march ran up the lane leaving part of the march standing in the intersection. Mahlatsi says he got a fright and ran away.

This evidence is supported by the action and evidence of Rati-bisi. He suddenly left the march, becoming frightened when the vanguard was at the lane. He was then in the vicinity of the BP Garage. He left as a result of what he called "a disturbance" at the intersection and went home. He only saw smoke at councillor Motjeane's home when he was in zone 12 extension on his way home. As the mere joining of another group at the intersection and the resultant slowing down could not have caused his fear, there must have been something else. This was probably the events at councillor Motjeane's home.

The state evidence is further somewhat bolstered by that of Masenya who reached the burnt-out house of Ceasar Motjeane and saw a corpse which he was told was that of the councillor and on it a placard reading "assassinate the sell-out; asinamali; away with rents".

His times are not reliable and it is probable that he reached the spot after the dispersal of the march. The fact of the placard is however an indication that a member of a march had been there.

The defence case as put to state witnesses was that the lane and the road in front of councillor Motjeane's house were full of people before the march reached the intersection. Someone said "here is the dog's place". Whilst the original vanguard was coming into the intersection smoke was apparent from the direction of Motjeane's house. That, the movement of people in the lane and the noise from Motjeane's house induced people from the march out of curiosity to go and see what was happening.

Accused No 8, No 9, No 5, No 2 and No 13 were not supported by defence witnesses Radebe, Lepele, Dlamini, Maphalla and Ratibisi that there was smoke at the house of councillor Motjeane when the march reached the intersection.

These accused trimmed their sails to the wind. Despite what had been put on their behalf accused No 8, No 9, No 5 and No 2 denied that there had been any reference to "dog". Accused No 8 and No 2 denied that anybody from the march went up the lane. Accused No 9 said that he did not look up the lane. And accused No 5 denied that the march went up the lane. Accused No 9 and No 2 denied that there had been shots. Accused No 13 was too far back to see or hear what was going on. To a certain extent accused No 9 supports the state case. He says that Esau Raditsela was in front at the intersection and had disappeared when the disorder had been straightened out.

We reject the version of these accused where it conflicts with the state case.

The demerits of the witnesses Sello, Martha Oliphant, Mazibuko and Vilakazi are set out in annexure Z hereto.

In answer to the state case that at the intersection a considerable number of people streamed from the march up the lane to councillor Motjeane's house which was under attack, the defence case was that the disturbance and consequent slow down of the march were caused by a large group joining the march from the front.

It is clear from the above that the defence version of the events at the intersection is so contradictory and murky that it has to be rejected. What is certain is that there was a commotion at the intersection while councillor Motjeane's house was under attack. It is inevitable that this attack would have been noticed and it is probable that a considerable number of people would have left the march to satisfy their curiosity or join in the attack. We cannot conceive that of a group of more than 2000 no one would break away to see what fate awaited the luckless councillor.

We therefore find that the state witnesses are correct in this respect and that a part of the march which included Esau Raditsela went up the lane to the house of Motjeane.

What is of vital importance is to determine the intention of the organisers of this march. Was it seen by them as a legal peaceful demonstration against the increased rent or did they have an ulterior motive?

We accept that many of the common folk joined the march not thinking about its legality and with the sole purpose of making known their feelings about the rent. The question to be answered is whether they were the dupes of leaders intent on misusing their innocence.

However, no witness was called who had been amongst those that allegedly joined.

The defence case as put to state witnesses was that as the march arrived at the intersection there was a large group of people, approximately 300, moving towards the front of the march from the post office direction in order to join the march at the intersection. They were spread over the pavements and the road and were waiting to join the procession. The intersection was full of people as the march approached and so were the lane and road in front of councillor Motjeane's house. At the intersection the order of the march was lost as different groups joined in front. The vanguard was no longer the vanguard because people coming from the lane and left and right joined the march. The people joining the procession also sang. They became the new vanguard. By the time the front rank reached the intersection there were hundreds of people in front of them.

This was not the case the accused put before court.

Accused No 8 stated that no biggish group joined from the left. He made no mention of any other group. In the intersection there was a group on both sides of the road just milling around. Nobody took over as vanguard. The big group from the front infiltrated into the march

behind the original leaders and placard bearers. The group of 300 was in a march and were on the tarmac, not spread over the pavements as well.

Accused No 9 testified that the group of 200 plus were on the pavement and road and intended to join in front of the front rank. They turned around in order to do so but were requested not to. They then drifted behind the leaders. The placard bearers of the new group joined behind those of the old group. This was the only group joining at the intersection.

Accused No 5 testified that at the intersection there were groups of varying sizes. A large group seemed to be waiting. He did not see how the large group merged with the march. He could not remember how they joined. Had they joined the march from the sides he would have seen it. He did not know what happened to the placard bearers of the new group.

Accused No 2 stated that at the intersection a group of approximately 300 met with the front of the march. He was quite far and could not see if they were moving or standing still. No further particulars were given by him.

As demonstrated the accused who testified on this aspect contradicted what had been put on their behalf.

The matter becomes more confusing when regard is had to the defence witnesses.

M P Dlamini testified that there was no delay or disorder at the intersection. A group of 100 plus with placards joined before the march reached Fowler bus stop. This he later retracted.

Lilian Nyembe stated that a group of 100 to 160 joined the march from the left between Fowler bus stop and the intersection emerging from the road to the stadium or from the lane.

Martha Oliphant said that at the intersection nothing happened. The march did not slow down and there were no other placards joining.

Petrus Radebe stated that at Fowler bus stop the march slowed down and people joined. The people who joined the march could have come from the lane. At the intersection the march stopped because of a disruption in front.

F C Lepele testified that a group joined up front at the intersection. He did not see placards. They were still approaching when the leaders of the march had taken the turn to the right. He could not say how they joined.

THE WITNESS TESTIFIED THAT THIS WITNESS WOULD HAVE BEEN NOTIFIED AND IN THE YEAR 1973

Themba Mazibuko stated that the group of 150 to 200 coming from the front had placards. They met when the front of the march had completed the curve to the right. They did not infiltrate into the march but turned around and formed a vanguard together with the original placard bearers. There were no people in the lane or in the intersection in front of the lane.

M S Vilakazi was extremely vague when cross-examined on the group of 200 which had placards and joined the march from the front. He said there was no group joining from the left and did not see people in the lane.

These witnesses have been dealt with in annexure Z which should be read in conjunction herewith.

The state witness reverend Mahlatsi testified that though the march had as its destination Houtkop the idea was that along the route it would touch at the houses of councillors to show them the placards and to make them resign and go along to Houtkop. This Esau Raditsela said in the hall, adding that should they not comply they should be killed and their shops set alight.

This evidence was strongly disputed by the defence.

There is however, the evidence of S P Mofokeng, a councillor who received a document on the evening of 2 September which was being distributed in Sharpeville stating that there would be a march to Houtkop and that the councillors would be fetched to lead it.

This was also the version of the UDF and other organisations after the riots started. It was alleged that the councillors when fetched by the peaceful residents inexplicably started shooting them and that that triggered the violence in the Vaal. Exhs W.60 and AN.8 sheet 2 p.1.

This version is also supported by the undisputed evidence of Masenya that at the meeting of 26 August 1984 accused No 5, No 8 and No 17 said that the people should first go to the houses of councillors to enquire why the rent is so high and then on to Houtkop.

Esau Raditsela told McCamel that the purpose of the march was to meet the councillors and administration board at Houtkop. As the councillors were not employed at Houtkop and would not be there in the normal course of events on a Monday, McCamel asked Esau Raditsela whether they had been notified to be there. Raditsela's attitude was "gaboshwe". (The prime meaning of this word is let them die and a secondary meaning is go to hell). If they are not prepared to resign or to meet the people they must see what happens. It follows that at the time of this conversation on 1 September 1984 the councillors had not been notified. The only way to get them to go to Houtkop would be to take them along on 3 September.

The state witness ic. 8's version differs from that of Mahlatsi. He states that Esau Raditsela said that they were going to march to Houtkop. They were going to kill Mahlatsi and brothers (referring to the mayor of Lekoa, not this witness). The houses of councillors must be destroyed and their property as also the property of police and the Vaal Transport Corporation. This witness was under the impression that the violence would commence after they had been to Houtkop.

Accused No 8 testified that the purpose of the march was to meet the Administration Board at Houtkop (and not the councillors).

Accused No 2 denied that it was a purpose of the march to go to councillors homes to get them to join the marchers to Houtkop.

The defence witnesses Lilian Nyembe and Martha Oliphant, while denying that it was stated that the councillors would be taken along, both state that Esau Raditsela said they would go to Houtkop to speak to the councillors. The defence witness Mokati said that the purpose of the march was to address the councillors at Houtkop on the rents issue.

These witnesses were not credible. Neither were the accused. That the idea was that councillors should be confronted on 3 September is also evident from the speeches at the meeting of 26 August 1984 at Boipatong. Peter Mohapi testified that Sotsu, accused No 11, he and Esau Raditsela all referred to a march to Houtkop to meet the councillors. This was not disputed. It is also borne out by exh AT.6, the agenda, which reads: "Confront the local Town Councils to resign pronto."

What is clear is that a confrontation with the councillors at Houtkop was envisaged. If the idea was to fetch them en route the organisers of the march must have known that this could lead to resistance and violence against the councillors. If Raditsela did not propose that councillors be fetched on the way to Houtkop the organisers either were not serious about reaching Houtkop (knowing full well that the police would prevent it) or the organisers knew that on reaching Houtkop the absence of the councillors would cause such frustration and anger that the crowd would get out of hand.

What is clear is that no decision was ever taken by the organisers of the march to invite the councillors and no steps were taken to do so.

No informed person, as the organisers of the march undoubtedly were, could have seriously thought by 3 September that they would be met by councillors at Houtkop. As early as 30 August councillors were informed by the mayor that councillors would be attacked on Monday. Councillor Patricia Phosisi had been threatened telephonically in the week before the march and had moved out of her home. Councillor Mgcina's house was attacked on 29 August 1984 and he had before that date already sent his family away. The councillors had been routed at a meeting on 29 August 1984. They had also been issued with fire-arms for their protection.

Whichever way the matter is viewed the march was a recipe for disaster. We can come to only one conclusion and that is that it was intended to be that.

Here one should bear in mind that reverend Mahlatsi saw people before the march started wet cloths to counter the effects of tear-gas. It was the defence case as put to the state witnesses that Esau Raditsela called on people to provide themselves with wet cloths for

that purpose. When they would meet the police they should not divide or be dispersed but proceed straight on to Houtkop.

Later the defence, realising the danger of this stance, trimmed its sails and the accused gave totally contrary evidence. The accused denied having been present inside the hall where Raditsela allegedly said this.

One should not lose sight of the fact that at the time by Government Notice dated 30 March 1984 (exh CA.2) all open-air gatherings in the Vaal area had been prohibited. This included processions. The accused were well aware of this. Accused No 10 knew of it and accused No 5 was under prosecution at the time for a contravention of this particular prohibition. At the meeting of 26 August 1984 Masenya had raised the question of arrest of participants in the march and according to Ratibisi, Raditsela knew of the prohibition on meetings in the open air and for that reason asked for the use of the hall on 3 September before the march. In fact it was put to the witness ic.8 in cross-examination that accused No 5 was outside the VCA meeting of 27 October 1983 as a marshall "so that a gathering should not form outside as this was against the law". The VCA was therefore well aware that a gathering was unlawful and in fact took steps to prevent it at the time. There is also the evidence of defence witness Namane that at the meeting of 26 August 1984 a man stated that the march was illegal as it was in the open air. This objection was merely brushed aside.

The defence case received a windfall when in S v Mahlangu 1986 1 SA 135 (T) for technical reasons the Transvaal Provincial Division on 6 September 1985 declared the said government notice invalid. We are bound by that judgment. It does, however, not dispose of our case, though it may lead to the strange conclusion that a legal march was held with guilty intent. One has to look beyond the contravention of the prohibition set out in the government notice. To cause a riot is sedition or the crime of terrorism in terms of section 54(1) of the Internal Security Act 74 of 1982, provided the intention to do so is present. The fact that the instrument used is a march which, though regarded as illegal, a year later turns out to have been legal does not change the position.

That the organisers had full knowledge of the illegality of this march is further clear from the fact that their purpose was kept quiet as long as possible. The pamphlet (exh AN.15.2) drafted by Esau Raditsela for 3 September does not refer to the protest march at all. Accused No 8 could not explain the omission of this most important information. Neither could accused No 11 (in respect of exhs AN.15.1 and AT.12).

This protest march had some strange features. At the meeting of 26 August no time was set for it and no arrangements were made to advertise it (except that Esau Raditsela was to draft a pamphlet). The pamphlet which was drafted did not mention the march. At the meeting of area representatives on 2 September there was no enquiry as to how the people would be notified. It was not discussed how and where areas along the route would join the march - which would be the obvious thing to arrange. If no trouble with the police was expected, why were they not contacted in advance? Could they not have expected that a big crowd marching to Houtkop singing freedom songs would frighten the administration and cause them to call the police? Why was the administration not contacted beforehand for an appointment with Mr Ganz if the intention was to speak to him?

Josua Raboroko a reporter at the Sowetan was shown exh AN.15.1 between 26 August and 2 September by Esau Raditsela who also told him of the march. Yet he did not report this in the Sowetan as he thought it might be subversive to do so. The Sowetan did not publish a word about the stay-away and march in advance.

Raboroko who lives in Sebokeng did not hear from any other source of the march. This leads to the conclusion that it was deliberately kept quiet.

Accused No 2 testified that he did not expect a march on 3 September and went to the Roman Catholic church at Small Farms under the impression that it was merely going to be a meeting.

Accused No 9 attempts to counter these arguments by saying that the march was openly advertised by loudspeaker on 2 September and that it had also been openly discussed by the inhabitants and that police living in the area would no doubt have known about it.

It is obvious that one cannot hold a protest march without some publicity to swell the ranks. What is clear, however, is that the organisers intended that until it got underway the march should keep such a low profile that the authorities would not take steps to prevent it. Therefore even up to shortly before the march was set up the semblance of a protest meeting was kept.

It cannot for one moment be thought that those concerned had forgotten what happened in that same vicinity in Sharpeville in 1960 when a mass of protesters confronted the police. Nor could the tragic results of a protest march in Soweto in 1976 have slipped their minds. On 16 June 1976 a protest march in Soweto had led to confrontation with the police and bloodshed with resultant riots. In fact it is called by activists the beginning of the Soweto uprising. On 4 August 1976 the Soweto Students Representative Council (SSRC) organised a massive students march from Soweto to the centre of Johannesburg. This ended in bloodshed after confrontation with the police. This led to renewed

riots. All this is set out in Saspu National Vol 4 No 5 of November 1983 pp.6 and 7 which was found in possession of M S Vilakazi, the former accused No 18, in January 1984 in Sebokeng. Vilakazi was a friend of accused No 5 and Esau Raditsela and one of the founders of the VCA. Of necessity these gentlemen must have had full knowledge of the tragic results of protest marches.

Nor had Lekoa been spared. In 1977 there were disturbances at the Jordan High School in Evaton and a post office vehicle was set alight.

In case they had forgotten, the recent events at Tumahole would have reminded them of the probable consequences of an illegal march. Tumahole is the Black township of Parys and lies within the jurisdiction of the Orange Vaal Development Board. There a rent increase of R10 per month with effect from 1 July 1984 had on 15 July 1984 led to a public protest march and (so rumour had it) after its dispersal by the police to the burning down of a supermarket and a butchery of a town councillor and four days of rioting in which vehicles and buildings were damaged and police injured. All this happened on the doorstep of Lekoa, Parys being approximately 50 kilometers away.

To this can be added the rioting in Welkom on 1 and 2 August 1984 which followed upon the dispersal of an illegal gathering of scholars. Vehicles were set alight. It was reported in the press and

would surely not have passed unnoticed in the Vaal Triangle. Even accused No 20, speaking on 1 August 1984 in Durban, referred to it.

Major Steyn and accused No 3 foresaw that the protest march could lead to violence. They discussed it on 31 August 1984. It was the defence case that major Steyn said that the crowd could possibly attack councillors or their property and that undisciplined youths would attack the police with stones should the police attempt to stop the march. Major Steyn testified that he was concerned about the possibility of violence flowing from the protest action.

On the morning of 3 September 1984 all the portents were of impending disaster. All transport had come to a halt. Before the march a number of buildings were on fire. The defence attempted to make out a case that the smoke from such buildings would not be visible, but that is contradicted by their own witnesses Mgudlwa, Tau, Mazibuku and Lepele. Their evidence indicates that the smoke caused by burning buildings can be seen from afar. One of these buildings which was on fire at the time of the march was the house of councillor Nkiwane in zone 7, near Vilakazi Street along which the march proceeded.

Reporter Raboroko realised that a riot would break out in Sebokeng when at 8h45 he came to a barricade in Wessels Mota Street between the T-junction and zone 12. He was afraid of being held for police and attacked by the youths manning it. From afar he could see the smoke rising from the business centres of zones 13 and 14.

There is other evidence about attacks and rioting prior to the start of the march.

From the above it is clear that prior to the start of the protest march there had been various road-blocks erected, the police had been attacked, administrative buildings and officials had been under attack and various places were going up in smoke.

It may be that people who came from zone 3 to join the march may have been unaware of what was going on elsewhere in Sebokeng as zone 3 and the area of Evaton in between was quiet at the time. But surely some of those converging on the Roman Catholic Church Small Farms to join the march coming from the other areas must have known of the riots and must have told the organisers thereof.

In fact reverend Mahlatsi testified that those in the march built obstructions in the road. And there is defence evidence that barricades were erected at the T-junction of Vilakazi and Wessels Mota Roads and that further on near Fowler bus stop 5 buses had been put out of action by attacking youths and a running battle was fought between them and the police.

The defence argued that violence was not foreseen because about a week after the riots started there was a large gathering of people who dispersed peacefully after their leaders had handed over a memorandum. This argument disregards the fact that by that time the

security forces were fully in control, many of the ringleaders were arrested or on the run and the people were tired of rioting.

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We find that the organisers of this march before it started were
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~~_____~~ aware of riots in Sebokeng and of the fact that it was probable that
their march would be confronted by the police. They pressed on regard-
less.

DELMAS TREASON TRIAL 1985-1989

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