

IN DIE HOOGGEREGSECF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

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SAAKNOMMER: CC 482/85

DELMAS

1986-03-07

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21
ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST
ASSESSORE: MNR. W.F. KRUGEL
PROF. W.A. JOUBERT

NAMENS DIE STAAT:

ADV. P.B. JACOB
ADV. P. FICK
ADV. W. HANEKOM

42

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 42

(Bladsye 1981 - 2033)

COURT RESUMES ON 7 MARCH 1986.

LUMA MAHLATSI: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: I am pleased to inform Your Lordship that all the accused are here. Will Your Lordship receive a short request for further particulars to the amendments that were added to the pleadings? I do not know if Your Lordship wants them now or when the particulars come?

COURT: Not necessarily, you can hand it to my Registrar and he can hand it to me later. (10)

MR BIZOS: As Your Lordship pleases. Now Reverend Mahlatsi I want to tell you that through the good offices of the Prosecutor, for which we thank him, I have found out the dates of your two statements. Your first statement was made on 23 December 1984 and your second statement was made on 11 January 1985. Now would you agree with that? -- That is so.

Right. Now after 3 September and 17 and up to 17 December 1984 did you live in the Vaal Triangle? -- That is so.

At home? -- Yes.

And went to work regularly? -- Yes. (20)

COURT: What is your work? -- I am employed by Iscor, Vaal.

MR BIZOS: What work do you do there? -- As an operator.

Machine operator? -- That is so.

And was your conscience clear that you yourself had not done anything wrong in relation to the events of 3 September and thereafter? -- No I do not remember having done anything.

Well is the answer to the question yes my conscience was clear that I had done no wrong? -- That is so.

Right. And how did you, how did you feel here in court when it was suggested to you, or rather it was said to you (30) by His Lordship that the State alleges that you might be guilty

of/.....

of treason and murder, terrorism and furthering the objects of an unlawful organisation? How did you feel about that, did you feel that you were guilty of any of these things? -- Because of the fact that I knew that I had done nothing wrong and therefore I did not feel that I was really guilty of any crime.

And has that been your attitude right through from the time that you became involved in the affairs of the Vaal Civic Association to the day that you found yourself as a State witness in this court? -- That is so. (10)

And is that the belief that you had after 3 December and after your detention, sorry after 3 December and up to, I will start again. Was that a feeling that you had from 3 September right up to the time of your detention in December 1984? About your colleagues in the VCA that were not with you? -- Are you talking about what they have done, the wrong what they have done during the period?

COURT: Should you not limit it to specific persons because colleagues in the VCA is very very wide and one of them may have committed theft along the way at some stage. (20)

MR BIZOS: You knew who had been arrested prior to your detention on the 17th? -- Yes I did know about some though there were others who I did not know about.

Did you feel at the time of your detention that any of the people that you had worked with in the VCA and who are now before His Lordship had done anything wrong with you before your detention? -- Not at all because when they introduced me to the whole thing they said Vaal Civic Association is working similar to a trade union and because of my knowledge of the trade union which is working with the law of the country, which is lawful, therefore I felt there was nothing wrong./..... (30)

wrong.

Yes, and was it Mr Vilakazi, accused no. 10, who told you that the VCA was similar or would work in the same way as a trade union? -- That is true.

And that people with a common interest are entitled as a right to come together in order to protect their common interests? -- That is so.

And let me, whilst we are on this because you said that people must not be afraid, is there a feeling among unlettered people, unlettered people and people who have not been exposed (1) to democratically elected organisations that any organisation is likely to be viewed unfavourably by the authorities?

COURT: That is a very difficult question. How is one exposed to a democratically elected organisation?

MR BIZOS: I will try and simplify it My Lord. I am sorry, I will try to

COURT: Why can you not ask him about the people in the vicinity how they feel about these things?

MR BIZOS: Yes. Were there people in your community who were scared to join organisations because they thought that they (20) would be viewed with disfavour by the authorities? -- No there was none. In fact the feeling amongst the community there was that they wanted to join this organisation.

And when speakers at meetings said "Don't be afraid, join the organisation" were they appealing to those who may have been not so strong of heart to join? -- That is so.

COURT: Counsel is not speaking about those people in the community who are normally disinterested in anything that that goes on in the community. He is speaking about people who were afraid to join. -- The position is a person who (30) was interested in joining any organisation one would have determined/....

determined that from what the person will, what part the person will play in what is happening in this organisation. Therefore it would only depend on that person's feelings as to whether this person wants to join or not, though it is maybe not done theoretically or orally but his actions would then determine the fact whether he is joining or not.

Yes. We will leave that there. Now I want to give a couple of examples of the feeling in your community that the VCA was completely an aboveboard organisation. -- That is so.

You held regular meetings? -- That is so we used to (10) hold meetings.

They were not secret meetings? -- They were private meetings.

In the sense that all committee meetings are private?
--Yes that is so.

Did you keep minutes? -- No no minutes were kept.

Yes. You recall that at the meeting of the 26th I think it was you who told us that one of the speakers said that you are going to read about what is happening here in the newspaper -- That is so. (20)

And did he, at the time that he said this, point to any newspaper man or any newspapermen at the meeting of the 26th?
-- No he did not point a person or persons who were from the newspapers. What he said was this what he was saying is going to be reduced in writing by him and this will later be handed over to the newspaper people.

Well I am going to put to you that there was a newspaperman there. Did you see him? -- There were two of the newspapermen there present but the one he was writing was not the one to be handed over to these people. (30)

Oh I see. Do you know from which newspapers these two newspapermen/.....

newspapermen were? -- They are known to be me to be reporters in the Vaal.

Yes but you do not know for which newspaper? -- No, that I do not know.

Do you know whether one of them was from The Sowetan? -- I will not have any knowledge of that whether he was from The Sowetan or not.

Yes, anyway there were two newspapermen there and they were making notes whilst everyone was speaking? -- I am not saying the newspapermen were busy writing or making notes (10) from that meeting. What I am saying is this man said he is going to reduce what is being said into writing and that will be handed over to newspaper people.

COURT: Is this man accused no. 5? -- Yes no. 5.

MR BIZOS: Now over and above that you saw two newspapermen at the meeting whom you know as newspapermen? -- Yes I did see them, they were even taking photos.

And did they remain there throughout the meeting? -- That is so.

And all the speakers that spoke at that meeting could (20) have seen the same thing that you saw, that the newspapermen were taking photos and that they were there to listen to what was being said? -- That is true.

And they said whatever they had to say in the full knowledge that what they say may be published? -- That is true.

Right. Now you as a priest would you consider yourself as a peace loving man? -- In connection with what?

In connection with everything, in relation to peace against violence? -- That is true.

Yes, you are a peace loving man? -- That is so. (30)

And did you consider your actual participation in the march/.....

march right up to the time you heard the shots near Mr Caesar Motjeane's house to be consistent with your attitude of the peace loving man? -- No I would not say so, they were not according to my belief as a peace loving person. Was it that I would not have decided to run away. I would have just decided to stand there and mill around.

Yes, up to the time that you heard the shots did you believe that what you had done up to then was in accordance with your principles as leading the life of a peace loving man? -- I am not clear do you mean where this fighting was (10) taking place?

Let me try and make it clear.

COURT: Let us take it a little bit earlier. Ask him before they started the march, and then up to a stage if you want to.

MR BIZOS: As Your Lordship pleases. Up to the time that you went to the beginning of the march behind the placard carriers did you believe that this was going to be a peaceful march? -- That is so.

And right up to the time that you reached the fork near the lane and you heard the shooting did you, up to that (20) time did you still believe that this was a lawful and peaceful march that you were taking part in?

COURT: Are you asking about a lawful march or a peaceful march? There may be a peaceful illegal march.

MR BIZOS: This is so.

COURT: Or a violent lawful march.

MR BIZOS: As Your Lordship pleases. I will confine it to peaceful. Did you believe right up to the time that you got to Zone 11 that this was, you were taking part in a peaceful march? -- That is so. (30)

COURT: What did you think when you saw the stones on the street?/.....

street? -- What occurred in my mind was that these COSAS children are just being naughty, that is why those stones were there.

I am going to come back to those stones because I am going to put to you that there were no stones on that road, that the stones were really put up later, much later in the day and thereafter in order to prevent the police from doing their work. But let us leave the stones for a moment. Right up to the time that you heard the shots and you decided to dissociate yourself with any further happenings you believed (10) that it was a peaceful activity that you were involved in? -- That is so.

And right up, and you have already told us from 3 September to 23 December when you were detained your conscience was clear? -- When you talk about a clear conscience are you talking about a clear conscience on me, that related to what had happened or what is the position?

Did you feel that you were in any way responsible for any of the damage that was done on the 3rd? -- It can be that I may also be accused because of may having taken a part in (20) the march.

Yes. Except for your taking part in the march did you feel that you had done anything else that was wrong? -- No not at all, not as far as I can think.

But now came your detention on 17 December. Could you please tell us who detained you? -- It was not the 17th but the 18th.

Alright make it the 18th. On the 18th who detained you? -- I am sorry that I do not know their names, that is the names of the police who came to detain me. (30)

Black or White? -- Whites. In the company of two or three/.....

three Blacks.

Now can you please tell us what you were told when they came to take you, what were you told? Were you being arrested, were you being detained, were you warned in any way, what happened? -- On arrival there there was a knock at the door. I opened the door then an enquiry was made from me as to whether I am Reverend Mahlatsi on which I answered affirmative.

Yes, and what were you told? -- As a result of which then they told me that they were there sent by a Captain to fetch me. Which resulted in me asking them "Now why are you fetch-(10)ing me". In reply to that they said "For Section 29".

Did you know what that was? -- Because of their being police I did not know what is meant by Section 29.

Did you ask them? -- I did not because I knew what the reason was or what my involvement was. Therefore I just got into the car and we left.

Did anybody explain to you when you got to the Captain, what is the Captain's name? -- I do not know what his name is because I called them "Meneer", therefore I do not know what their proper names are. (20)

Have you seen him in the vicinity of the court at all?
-- You mean in this court?

In the vicinity of the court? -- I will say yes.

Well have you found the name afterwards? -- I did not follow that up to find out what his name was because the only respect due to him from me was to call him "Meneer".

Did he explain to you what Section 29 was? -- Yes what he explained to me was that Section 29 is detaining.

Yes, for how long? -- No that was not explained as to for how long. (30)

Yes. Did he tell you why you were being detained under
Section/.....

Section 29? -- No he did not because I knew what my trouble was.

Yes and what did you think your trouble was? -- I just said to myself I remember what my problem is and what my trouble was.

What was, why did you think you had been detained? -- Because of the reason that after the rioting which had taken place there quite a number of people were arrested.

And you knew that you were being arrested as a result of the fact that there was rioting? Yes. -- That is so. (10)

Were you told that you were suspected of committing any specific offence? -- No I was not told.

Were you asked any questions by the Captain? -- No no questions by him.

So you were merely told that you were detained under Section 29? -- That is so.

That was on 18 December? -- That is so.

At what time more or less? -- I was fetched at about 05h30 or 06h00 from my home.

In the morning or in the evening? (20)

MNR JACOBS: Edele ek wil beswaar maak teen al hierdie getuieni wat nou gelei word. Dit is heeltemal irrelevant. Dit gaan oor hierdie man se arrestasie, n ding wat niks met hierdie saak op hierdie stadium te doen het nie. Hierdie getuienis wat hy gegee het gaan heeltemal oor n ander basis. Ek weet nie wat die belang is om te hoor of hy gewaarsku was en of hy arresteer was en wat ookal. Die punt dwaal so af op n koletorale aspek dat n mens nie weet wat is die belang hiervan.

COURT: How is it relevant to know at what time was he fetched and whether he was warned by the Captain and what he under- (30 stood under Section 29?

MR BIZOS:/.....

MR BIZOS: The circumstances under which a statement comes to be taken by a witness is particularly relevant.

COURT: Well the statement was taken not on the 18th.

MR BIZOS: Yes but it is everything

COURT. Tell me Mr Bizos how is it relevant whether he was fetched at 05h30 or at 05h35? I mean why do you ask the question?

MR BIZOS: I ask the question because I submit that an arrest in the early hours of the morning may have an effect on the witness's mind, the period of time that he was actually kept (10) in detention and where he was kept and in whose company he was kept.

COURT: Well we are not there. At the moment the objection is at the question when exactly were you detained. It is at five thirty or at five six in the morning or in the afternoon.

MR BIZOS: I merely asked whether it was in the morning or in the evening for the sake of certainty. But I do not understand the objection to be to that question. I understand, with respect, My Learned Friend's objection to be that I should be stopped by Your Lordship from enquiring into the (20) circumstances of his arrest and the circumstances under which he came to make his statement. It may be that during this unfortunately long process of enquiry that one or two questions may be introduced which, when the answer is given, appear not to carry the matter very much further but as to whether or not I am entitled to enquire fully into the circumstances under which the Statement was made I submit with respect on the authorities it is particularly relevant and it can affect the credibility of the witness and Your Lordship's view of the value of the witness' evidence in the end. (30)

COURT: My view is that you are entitled to cross-examine

on/.....

on the manner in which the statement was taken but I think we should not deviate too much into too little detail which does not bring us anywhere.

MR BIZOS: As Your Lordship pleases. I will try and, now could you please tell us between the morning of the 18th when you were detained and 23 December 1984 when you made your first statement who was the person who questioned you? -- At the time of my arrest or the time of my detention this day in question by the police I was not the only person who was being detained there. It was myself, Hlanyane and Dibathe. We were taken (10) to the police station. The following day we were taken to the doctor.

ASSESSOR (MR KRÜGEL): Is that accused no. 15? -- I believe so, I am not sure.

COURT: Could he stand up please. -- That is the man I am talking about.

Yes, you, accused no. 15 and a Mr Dibathe? -- Dibathe, were detained the same day.

Yes you were taken to the police station and then? -- From where we were taken to a doctor the following day. (20)

Why? -- That was with a view of examining us as to whether are we not suffering from any kind of illness from home, and to examine whether we had any scars on our bodies or scratches (as it is put by the witness).

Now you said you were questioned in the period between your arrest, that is 18 December, to 23 December when you made your first statement. Was it throughout that period or only a portion of the period? -- No in Vereeniging. I was only questioned after detention in Benoni.

MR BIZOS: The question actually was who interrogated you (30) before the 23rd when you made your first statement? -- A

short/.....

short white policeman.

You do not know his name? -- I only know the name of the interpreter whom I requested to be present at the time of my questioning as an interpreter. That person's name is Eiland.

Let us come to His Lordship's question please. I am trying to cut it short. Will you please tell us from the time that you went to Benoni that you were detained there to the time that you made your statement on the 23rd for how long had you been interrogated? -- If my memory serves me well (10) I was interrogated for two or three days.

Two or three days. Before anything was written down? -- At the time they were writing.

I see. So your statement took two or three days to write down? -- That is so.

COURT: Was everything that they wrote down later put in your statement? -- That is so.

But this statement you say involved a total denial by you of any involvement in the march?-- What I am saying is in my first statement the question of the march on the 3rd was (20) not included. It only came to be included in the second statement because of my having requested a Captain there to get me the man who has got my statement to come back. It is only then that it was revealed to him.

MR BIZOS: We will come back to that in due course. Let us just stay with the first statement for a while. For how many hours a day were they busy with you taking your statement or making notes during these three days? -- I would not know for how many hours because I did not have a wristwatch. They had taken it. (30)

Was it the whole day, you know from the morning to the afternoon?/.....

afternoon? -- They would start in the morning, at times stop at about 12h00 and then say they will be seeing me again the following day.

I see, so it was three full working days?

MNR JACOBS: Nee Edele dit is nie ...

COURT: Stop at 12h00 and come back the next day.

MR BIZOS: Oh the next day, I beg your pardon.

COURT: So it is the morning and then the next day.

MR BIZOS: I am sorry. Would they not come back in the afternoon? Did you not have afternoon sessions? -- No we (10) were not meeting in the afternoons. Why we were not meeting that I cannot tell. He may be attending other things but he never came back.

Yes, I am sorry I was not paying attention to your answer. So it was three mornings?

MNR JACOBS: Edele dit is ook nie drie mores nie.

COURT: It was two or three days, so it can be two or three mornings.

MR BIZOS: Yes, as Your Lordship pleases. Now tell me this, how many people were interrogating you during these mornings (20) when you were being questioned, how many people were there? -- At first this short man I have just given a description about came in the company of the interpreter Eiland, until I completed my first statement. After which later then I requested to see the same man as described, the short man, who was then no longer available to see me.

Yes. But that was after your statement was finished?

-- That is so.

Now were you told by this short man, or his interpreter or anyone else for what purpose this statement was being (30) taken? -- They did not tell me prior to my having signed the statement./.....

statement. It is only after signing it that they then said to me now what is going to happen is they are going to check this statement against the other statements by other people to verify whether this statement corresponds with what is being said in other statements by other people.

Now when this short man was asking you questions did he not appear to you to have some knowledge about the matters that he was asking you questions about? -- No I did not pay any particular attention as to notice that, whether he knew anything about the things he was questioning me about, nor did(10) he tell me about his knowledge of the things he was questioning me about.

Was he a friendly man, this short man? -- Yes he was quite a friendly man because he even bought me some cold drink to drink.

Did you ask him whether you were going to be accused or whether you were going to be used as a witness or what your fate was going to be? -- No I did not ask him because I was just waiting to see what they are doing about me because it was my first time in life to be arrested. (20)

Did you not ask him, you know he is a friendly man he buys you cold drinks, it was your first experience, and say "Meneer what is going to happen to me please, how long am I going to stay here"? -- It never occurred in my mind to ask him that because I was just waiting to see what they are going to do.

And you have already told us that you signed this statement on oath? -- That is the first one.

And was there a specific statement there that you did not take any part in the march? -- That is so.

And was there a specific statement in that that you did(30) not take part in any violent action? -- That is so.

And/....

And was there a specific statement in that statement that you had no knowledge of anyone committing any act of violence? -- Is that in respect of my first statement?

Yes we are only talking about your first statement up to now. -- That is so, I never made mention of that.

COURT: No, no, no, that is a different thing. Whether you mentioned it or not. Is there a specific statement "I don't know of anyone committing any act of violence" in your first statement? -- That is so.

MR BIZOS: And is there a specific statement in your first (10) statement that you did not know of anyone that incited other people to commit acts of violence? -- I did not make mention of that in my first statement. I only made mention of that in my second one.

Now you remember that His Lordship asked you a question and I am going to ask you a similar question. Did you say in your first statement "I know of no one who incited other people to commit acts of violence"? -- I still repeat I did not talk about that in my first statement. I only mentioned that in my second statement. (20)

COURT: So your answer is no in your first statement the question whether you knew of anybody that incited other people to commit acts of violence was not referred to? -- I only made mention of that in my second statement after having decided to tell the truth.

MR BIZOS: Now let us just, I do not know if Your Lordship wants to ask, let us just take it on another basis. In your first statement did the short man, your interrogator, ask you about who spoke at the meeting of the 26th? -- Because of my having had a knowledge of who the speakers were at this (30) particular meeting he did not ask me.

I do not understand the reason that you gave. You say that because you had knowledge of who the speakers were he did not ask you. I am sorry I do not understand. -- Yes talking about, are you talking about the person who wrote my first statement?

Yes. -- This person when he approached me he said "Look I want you to tell me what happened on the 26th". Therefore I related to him what happened. It was not as a result of the question being put to me by him that I had to mention the speakers. (10)

Right. I see what you mean now. Did you tell him that Mrs Mokoena spoke at the meeting of the 26th? -- That is so.

Did you tell him in your first statement that Mrs Mokoena spoke and incited the people at the meeting to violence? Did you tell him that in your first statement? -- I did make mention of her as a speaker in this meeting, about her having said something which was in a way to be said to be meaning that people must take a violent stand, that I did not. Instead that came from the audience when this man whom they referred to as a councillor was on the floor. (20)

I see. So let us deal with Mrs Mokoena first. Did you tell the person who was taking your first statement what Mrs Mokoena said but you made no mention of the fact that Mrs Mokoena made any reference to violent action? -- Because I did not hear that it is true. But what I am saying is it was uttered by the audience. Maybe at the time when the audience was making that noise in uttering that she may have said something which I did not hear.

So are you now saying to His Lordship that Mrs Mokoena did not say anything at the meeting of the 26th which could (30) be interpreted as a call to violence? -- That I did not hear.

Yes./.....

Yes. Did you hear any woman calling for violence other than in relation to this person who was a councillor which we will come to later? Did you hear any woman calling on anybody at the meeting to act violently? -- No, except for the woman I heard at that time when they were swearing at this councillor, I did not hear any other person.

So that even in your first statement when you did not mention that any woman called for violence other than in relation to this councillor, to that extent your first statement is true? -- Yes. (10)

Did you in your first statement make any mention that Mr Khabi made any call for any violent action against councillors or anybody else? -- Yes.

Do you say that you mentioned it or did not mention it in your first statement? -- I mentioned that in my first statement.

That Mr Khabi spoke in that way? -- That is so.

And I thought that you told us that the only violent action that you heard of was in relation to the councillor who was present? -- What was said to the councillor when this (20) councillor came up to the stage was said by a woman from the audience right at the back.

COURT: Let us get some clarity now on this, on what you are telling counsel. When counsel asks you about whether anybody mentioned violent action do you understand that as violent action immediately or violent action, or also including violent action in future and also including violent action which is a possibility depending on a condition being fulfilled or not? -- I understand this violent action to be referring on the date of the 3rd because this day was going (30) to be a stay away.

Yes./.....

Contradiction.
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lines
21 to 25.

Yes. Actually counsel is not asking about that. He is asking did anybody at that meeting refer to any action which is violent in general, whether it is to be immediately or whether it is to be in future or whether it is dependent upon a condition being fulfilled, something done or not done? -- Yes I understand that but there was such a person who spoke about that, that was Khabi.

MR BIZOS: Now let us just get clarity, absolute clarity so that there is no misunderstanding or possible misunderstanding. In your first statement in relation to any woman, in relation to any woman, did you say that any woman said at the meeting of the 25th, I beg your pardon at the meeting of the 26th, did any woman at the meeting of the 26th say that councillors must be killed on 3 September or any other date? Did any woman say so? -- I may have not explained it that way in details but what is being mentioned here now I do remember, though not in this fashion that it is being put to me by the counsel. (10)

Listen to your evidence yesterday.

COURT: Now just a moment. Let him answer it now. Now will(20) you answer counsel's question. His question is did any woman say on 26 August councillors must be ^{Killed}~~called~~, either on 3 September or on any other date?

MR BIZOS: No, with respect My Lord, the question is did you in your first statement say that any woman said this?

MNR JACOBS: Nee Edele dit was nie die vraag.

COURT: That was not the question.

MNR JACOBS: Hy was, hy is verwarrend gestel omdat dit gesê dat 'n spesifiek rider aangesit "a woman say that they must be killed on the 3rd". (30)

COURT: Yes.

MR BIZOS: /.....

MR BIZOS: Well My Lord I can read the question out. In your first statement ...

ASSESSOR (MR KRÜGEL): In relation to any woman.

MR BIZOS: In relation to any woman did you say, did any woman say at the meeting of the 26th that councillors must be killed on the 3rd or any other date? Did any woman say so.

COURT: Well this is a jumping about. It even got me mixed up Mr Bizos and I am not the witness. Now let us put the questions clearly. First of all whether somebody said it and secondly whether it was in the statment, so that I also (10) can have clarity. I will put these questions.

MR BIZOS: As Your Lordship pleases.

COURT: Now did any woman on 26 August say that councillors must be killed at any time in the future? -- What I know is this while being in that meeting somebody came up to the stage who was referred to as a councillor. While this person was on the floor then a woman from the audience shouted that that person on the floor there is a councillor and this is not a councillor's meeting, as a result of which then a voice from again in the audience said "Let this person be killed". (20)

Yes? -- That is all that that woman was said. No mention was made of the 3rd as to on the 3rd councillors were to be killed.

This is now this woman. Now did anybody else mention killing, whether immediately or in future? -- Do I understand His Lordship to be talking about the killing which was to take place on the 3rd?

No, did anybody say that anyone might in future be killed? No I did not hear that person.

Yes, thank you. (30)

MR BIZOS: You see Mr Mahlatsi in view of that answer that you/.....

*-f. to
masem ya.*

you have just given to His Lordship now I am going to suggest to you that your answer in relation to what Mrs Mokoena said at the meeting of the 26th yesterday when you were being asked questions by Mr Jacobs was incorrect. -- In relation to what question?

Yes, I will remind you. You see because, I will remind you about it, that you spoke about what Mrs Mokoena said, and I am going to suggest to you that most of what you said was absolutely correct, about passes and about women being braver than men and then you said she sat down. (10)

COURT: Is that now his full evidence?

MR BIZOS: Now My Lord, and then he said she sat down. I am going to, I have not finished the question yet My Lord. And then a question was put, the question was "Was there any talk about rent?" and you said that she said that rent must not be paid. -- Yes that is what I said.

And then you remember whether Mr Jacobs asked you another question? -- Could you just go on with Mrs Mokoena then let us finish that one first and then we will come back to Mr Jacobs. (20)

COURT: Which is actually correct.

MR BIZOS: Mr Jacobs then asked you another question. "Did she say anything about councillors?" You recall that? -- Was that question in relation to Mrs Mokoena?

Yes. -- I answered a question by saying I did not hear.

So is your answer now that you say that in answer to the question by Mr Jacobs as to whether Mrs Mokoena said anything about councillors you said "I did not hear"? Is that your answer here? -- Am I right in saying that a question is being put by you in this fashion that Mr Jacobs asked me whether I (30) heard Mrs Mokoena saying anything about the councillors and

now/.....

now you want to know from me whether I heard anything which was being said by Mrs Mokoena concerning the councillors?

Yes. -- In answer to that question I said at the time when the councillor was on the floor somebody, or the crowd, or the audience, shouted that "Let him be killed". I do not know whether she also took part in that.

COURT: That is a different thing. That is not what is being dealt with. That is a different aspect. We are just dealing with what you told the Court Mrs Mokoena said at the meeting and not as part of shouting when a councillor was on the floor. -- I did not hear anything that she said about councillors. (10)

MR BIZOS: Now you told His Lordship yesterday that you called for a senior police officer to come to you? -- That is true.

But now I would like to know, I would like to know this, were you seen by any police officers from the time of the completion of your first statement and the coming of the senior officer? Did you see any other junior officers? -- Yes there are people who come there and visit us, the senior people, the brigadiers in uniform. (20)

.Yes, they no doubt come to you and ask you whether you have any complaints. I am not referring to those. Those are the brigadiers and the high ranking police officers who come on inspection. Yes I am not talking about those. I am talking about other members of the security police or other police officers that may have come to you between the two dates that I have given you, between 23 December and 11 January, whether any other people came to ask you questions? -- No they did not come because the person who I asked for to come and see me also came there in the middle of January or somewhere in February. (30)

Well/.....

Well we do not have to argue about the date anymore because I have been assured what the date is. But now I want to read to you a portion of your evidence later yesterday afternoon. I will read it fully so that there can be no misunderstanding. The question was:

"Surely the person who took your first statement was concerned to interrogate you about violence on the 3rd?"

-- That is so.

Yes and then I asked you whether he did not do what (10) was said and the following answer was given by you:

"No, he did not."

COURT: On what question?

MR BIZOS: As to what the interrogation was.

COURT: The question was the interrogator asked, when he took the first statement on the violence on 3 September. The answer to that question was "He did not"?

MR BIZOS: "He did not", yes My Lord, and I have the answer, not "He did not", "At the time of interrogation he confronted me with what others are saying of me and in my presence I (20) denied it". This is the answer that I have from the witness.

COURT: I have the answer "He confronted me with what others said about me and my presence. I denied any knowledge that I was part of the march on the 3rd of September".

MR BIZOS: Yes My Lord. Now who confronted you when, with what others had said?

COURT: Now this has not been interpreted to the witness.

MR BIZOS: Yes, I am sorry My Lord. -- That is true. This man came to me after I had made my first statement and said to me "Look there are people who say in their statements (30) that you did take part on the 3rd."

Who/.....

Who was this person that confronted you with this? --
It was not the first man who had taken my statement but it was
a captain.. The one the defence said must go out of court
here yesterday.

That was Captain Botes? -- Yes that is him.

Did he tell you who had made statements, saying that you
had taken part? -- I did ask him about that, as to who were
the people who were alleging on that on which in reply he
said according to law he is not supposed to tell me who the
people are. (10)

Who took your second statement? -- The same captain.

How long did it take to take, how long did it take him
to take your second statement? -- Now if you are talking about
how long do you mean days or time? What period of time?

Yes well it can be hours, it can be days, it can be, how
long?-- If my memory serves me well that statement took a
day and a half.

A day and a half.--That is if I still remember.

In this second statement did you deal with Mrs Mokoena's
speech on the 26th? -- I cannot remember that. (20)

Was your second statement started as a statement from
scratch or was it just something that added to your first
statement? -- In my second statement I was making a statement
relating to 3 September, the reason being that because in my
first statement I made mention of dates which were not in-
cluding 3 September.

No what I wanted to know is whether your second statement
substituted your first statement in relation to everything that
you had to say, that it was a new statement? Relating from
the beginning to the end? -- I do not know how to explain (30)
this to counsel. The first statement was taken in the initiative
of/.....

.. of the police in which I did not include what was happening on the 3rd. That was completed. On my request a second statement was taken which related only to the 3rd of September, which C123 I considered to be a second statement. Which statement was taken at my request.

Let me, I will come back to this in a moment but let me ask you this. Your second statement, your second statement did it incorporate what you had said in your first statement or did you now think that you had made two separate statements, one dealing with up to the 26th and one dealing with the 3rd, (10) as two separate statements?

COURT: No that is not entirely correctly put because his first statement contained a statement that on 3 September he was not there, he had, he and his wife had left or his wife was ill or something of the sort. You remember? So something was said of the 3rd but he disclaimed any participation.

MR BIZOS: Could I put it this way, as His Lordship has suggested to me that, were there going to be two statements now that you had made? The first one that dealt with your general activities and a second statement dealing with the (20) events of the 3rd in which you participated? -- It is true when one would say that the statement, the first statement is not the same or identical with the statement about the 3rd because in that statement I was scared of making mention of my presence at certain places, the reason being that things had happened on the 3rd I did not want to be involved in that. It is only later in the second statement that I elaborated on my involvement on the 3rd.

Alright. Let me leave that for a moment and ask you this. Was your second statement also on oath? -- Yes it (30) was.

And/.....

And did you realise that you had made two statements on oath which conflicted with one another? -- I do not understand the question, what you are driving at when saying I have taken oath and gave two different versions which are not the same. That I am not clear on.

Well you have understood it correctly because I am saying what you are saying. -- Could you just repeat that question?

Did you realise that you had made two statements on oath which were conflicting? -- What I know is this on the (10) two statements that I made I did not take them to be conflicting statements because what I know is that what I have told there is the truth, that is the contents of the two statements is true.

It is not so easy Mr Mahlatsi. -- About what?

You said, you recall His Lordship reminded us that in your first statement you said you did not take any part in the affairs of the 3rd and you were off because your wife was ill? -- That is true, those were the lies I told.

Right. Now tell me did Captain Botes not tell you of (20) the seriousness of making two conflicting statements on oath? -- No because I would say what I had told him was accepted by him as the truth, that is why he allowed me to sign it. Because if it was not true he would not have allowed me to sign it.

Well the first one allowed you to sign it, allowed you to sign your first statement on oath. -- Yes he made me sign and allowed me to sign it because he accepted what I had told him there as the truth, in which I had denied any partici- (30) pation on the 3rd.

Did/....

Did he express satisfaction that the second statement that you made corresponded with what others had told him?

-- Did he, who?

Did he, Captain Botes express satisfaction that what you had now told him in the second statement was in accordance with what others had told him? -- Yes he did express that satisfaction.

Because your statement now corresponded with the statements that he had from others? -- That is so.

And was it on the completion of your statement when (10) his satisfaction was expressed that he told you that you would be a witness? -- Yes that is so.

He told you you would be a witness as soon as you signed the second statement?

COURT: As soon as he had signed?

MR BIZOS: As soon as he had signed the second statement. -- Yes that is so.

And whilst he was taking the statement were you friendly to one another? -- I will not be in a position really to comment about this particular day only about his being (20) friendly or not because this man I used to see frequently and most of the time he was a happy man.

Yes, he was very happy with your second statement? -- Not knowing of course whether the statement itself made him very happy or whatelse could have caused his being very happy..

When he told you that you would be a witness did he discuss the possible difficulty with you as a witness because he would have to disclose to the Prosecutor and possibly even to the Court that you had made two conflicting statements on oath? -- No he did not mention that to me. (30)

COURT ADJOURNS FOR TEA. COURT RESUMES.

LUMA MAHLATSI: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Now Reverend Mahlatsi during January and February 1985 were you being detained in a cell at the Benoni Police Station? -- That is so.

And was accused no. 15, Mr Hlanyane, also detained in a cell at the same police station? -- Yes that is so.

And although both of you were in a state of solitary confinement or social isolation did you nevertheless manage from time to time to communicate with one another? -- No we did not. (10)

No you know I know that you were not supposed to but I would appeal to you that the mere fact that you were not supposed to should not prevent you from telling His Lordship whether you did so or not Reverend.

COURT: Would you just put to the witness what you mean by "communicate", knocking on the wall or shouting or talking...

MR BIZOS: No actually speaking.

COURT: Speaking with each other?

MR BIZOS: Yes, at one stage you were in adjoining cells.

-- No we could not have met. What was happening is when (20) they were giving food for us they would give me the food first and then lock me up and then go to him.

COURT: That is not what counsel is putting. Counsel is putting firstly that you were in adjoining cells? -- No it was not an adjoining cell. My cell was in a corner and then Hlanyane's cell was a third cell from mine.

MR BIZOS: Three cells away? -- Yes three cells away from me.

Three cells. And I am sure everyone concerned knows the size of a cell. If you speak sufficiently loudly you can be heard three cells away? -- It can be done by people who (30) are more than one person in a cell. Otherwise if it is a person/.....

person, one person in a cell and the other one is one person then you cannot hear what is being said.

Well I am going to put to you that you in fact communicated with one another. And, listen to what you said to him, among many other things, that you yourself had not been assaulted, that you had not been assaulted. Did you tell him that? -- That is why I say we never met, nor did I have any opportunity of talking to him. Except of course when we were being transported from Vereeniging, we were together in the same car. (10)

Yes. And that you told him that you were being confronted by statements which had been made by other people? -- Are you saying that is what I said to him?

Yes. -- No that is not so.

And that you were told that if you agreed that you would be used as a witness and would not be charged? -- No that is not so.

Just try and remember this Reverend Mahlatsi, do you recall putting in a complaint that the toilet in your cell was out of order? -- The only thing which was out of order (20) in my cell was the shower and the toilet was in a working order.

Oh. Did you change cells as a result of the plumbing system going wrong, whether it was the shower or the toilet? -- Yes that is true, I was.

And was your cell in fact changed? -- Yes I was moved to the second cell.

Was that a cell which was adjacent to accused no. 15's cell? -- That is so.

So it is correct that at one stage you were in adjacent cells? -- I know for a fact that there was no discussion (30) between him and myself because we were given instructions not

to/.....

to talk to each other.

COURT: That is not the question. The question is is it correct that you were in adjacent cells? -- That is true.

MR BIZOS: Yes. Why did you find it necessary Reverend Mahlatsi to deny to His Lordship that you were in adjacent cells? -- Why I denied that is because at the time when I came there for the first time my cell was right at the corner, not adjacent to his.

Yes but I did not ask you whether you were in adjacent cells just at the beginning. I asked you during this period(10) whether you were in adjacent cells. -- That is so.

And how do you suggest accused no. 15 knew that the reason for your change of the cell was, he has put in brackets in his note to me "the toilet" but it was the plumbing, that there was something wrong with the plumbing? How would he have known about that if you did not communicate? -- It may be that he got that from the police on duty there, that is those who were bringing food for us.

Well let me remind you of some of the other details. Having a radio whilst you are in social isolation is a (20) great luxury I presume? -- That is so.

And did you in fact have a radio in your cell? -- Up to now I still have one.

Yes but you had one at or about the time that you were making the second statement? -- No there was none.

When did you get the radio? -- After the completion of my second statement.

Now let us leave the comfort that it may have given you. How do you suggest accused no. 15 knew about the fact that you had a radio? -- That I cannot tell as to how he came to(30) know about that.

Well/.....

Well because if you were in adjoining cells presumably he can hear it? -- That I will not know whether he had any radio from my cell or he had a radio playing from the police cars or the White people's cars which were parked outside.

But anyway he came to the correct conclusion that you had a radio? -- That is true. He is correct.

And if you are lonely do you not try and speak to the man in the adjoining cell? -- No you cannot unless the doors are opened for you to come out of the cells, otherwise you cannot.

But they are not soundproof are they? -- You can hear (10) the noise, that is if people are in a group together then you can hear that noise.

Well if you can hear a group surely you can hear the one individual if he raises his voice up sufficiently? -- Even if that person can shout at the top of his voice you will not make out what that person is saying, all you are going to hear there is a voice but what the voice is saying you cannot hear.

Do you think that I came to knowledge of the fact that you made more than one statement only when you mentioned it?

COURT: Maybe you were guessing Mr Bizos. It will not be the (20) first time.

MR BIZOS: Well I thought that it strikes home. Did you mention to accused no. 15 that you made more than one statement? -- That I made two statements, that was never discussed with him.

You see I am going to suggest to you that you had regular discussions with accused no. 15 and, do you recall discussing with accused no. 15, whilst you were so detained, the unrest that occurred in Sebokeng during December 1984, after your joint detention? -- That you allege was happening in Benoni? (30)

Yes. -- No what I know is we had a discussion at Vereeniging

Police/.....

Police Station, that is where we were locked up, the three of us. Namely myself, Dibathe and Hlanyane.

Do you recall telling accused no. 15 whilst in the cell at Benoni that you had told the police that you had met him after the march? -- No that I cannot recall.

Do you remember telling him that he should try and square up his story to the police with what you had told them? -- No I do not believe that I would have ever said that to him because I would not have confused a person to deviate from the statement he wanted to make. (10)

Did you not think that if accused no. 15 made any different statement to yours about your movements on the march that you may not have any of the benefits that had or were likely to accrue to you? -- No it never occurred to me.

Did it not occur to you that accused no. 15 may have been tempted, like you were in December, to deny that he was on the march with you? -- No it never occurred to me that he can possibly deny any knowledge of that.

COURT: Is it put that he was not on the march?

MR BIZOS: No My Lord. (20)

COURT: It is not put.

MR BIZOS: It has not been put that he was not on the march.

I just want to make sure. No he admits that he was on the march My Lord. You see what I am putting to you is that when you are in social isolation and there are opportunities for discussion the opportunity will not be allowed to pass by? -- No it cannot be that a person will always make use of the opportunity which happens to be there while he is detained in isolation. The reason being that I will have to respect the laws of the police that we are not supposed to speak to each other, even though there is such an opportunity I would (30)

just/.....

just ignore that.

Yes. -- Secondly all that was happening there was a door would be unlocked and food will be handed over to me and again locked. Therefore there was no such opportunity.

What would have been, Reverend Mahlatsi, a greater wrong to commit, to sign under oath what was not the truth or to transgress a police instruction not to speak to your neighbour? -- What was very important to me was to be abiding with the law or regulation which said or was saying that I must not talk to him. (10)

Tell me in your first statement, the one you made in December, was there any mention at all of Mr Khabi speaking at the meeting of the 26th? -- That is so.

Right, please tell us what was in your statement of the 26th that you said Mr Khabi said?

COURT: The statement was not on the 26th.

MR BIZOS: I beg your pardon, I am sorry the statement, the first statement in relation to the 26th about Mr Khabi. -- What Khabi said was that he was grateful because of the meeting or the manner in which the meeting was held, and (20) we must not be frightened by the fact that perhaps we may be arrested by the police.

Yes, anything else? -- Secondly that we must unite in order to succeed in this question of the rent.

Yes, anything else? -- And he further said these are dogs who are using our moneys.

Yes, anything else? -- And further on he requested from the people there if they could go and set alight the house of one Dutch.

He said, now you know (30)

COURT: You are now interrupting him. Do you want the whole story?/....

story?

MR BIZOS: The whole story, very well, and then we will come. Please tell us everything that he said? -- He further said that he is a Chairman of the Ratepayers and he assists the elderly people in respect of food, that is all.

Now is this what you say you said in your first statement about Mr Khabi? -- If my memory serves me well I still maintain that those are the words I used.

But that is a clear speech that violence must be used and the words were used on the 26th? -- Yes I would say so, that (10) he was in fact promoting violence in the sense that he asked the people to go and burn the shop belonging to this person Dutch.

Now listen to what you said yesterday afternoon. I will read the question and your answer.

COURT: In cross-examination or in chief?

MR BIZOS: In cross-examination about probably a page of Your Lordship's handwriting from the end of the day's proceedings. The question was:

"So when you made the first statement did it not (20) contain anything of violence being spoken of on the 26th?" That is the question. -- That is pertaining to the first statement?

Yes. You remember what your answer was to that question? -- When was this?

Yesterday afternoon. -- I would ask you to remind me.

Yes. Well it was "That is so". -- That is so what?

That was the answer to the question. -- That those words were uttered by Khabi?

Just listen to the question. The question was "So that (30) when you made the first statement it did not contain anything

of/.....

of violence being spoken on the 26th?" "That is so."

COURT: Could you just read a little on, I am not sure whether the next answer deals with the statement or with the fact.

MR BIZOS: "No mention of Raditsela calling for violence of councillors on the 3rd of the ninth? -- That is so.

No call by Raditsela"

COURT: And the next answer?

MR BIZOS: "You are telling us about not in your first statement ..."

"Then I went to the intersection" My Lord?

(10)

COURT: No, no. "In his address he said we are going to fire councillors houses, he did not mention Caesar Motjeane."

That is pertaining to Raditsela.

MR BIZOS: Yes there he was dealing with the facts.

COURT: I am not so sure, that is why I asked you. Because the difficulty is Mr Bizos we do not always keep statement and fact apart.

MR BIZOS: No My Lord the question is clear,

"So when you made the first statement it did not contain anything of violence being spoken of on the 26th? -- That is so." (20)

-- Was the question pertaining to the violence to be committed on the 26th or the 3rd?

Just listen to the question.

"So when you made your first statement it did not contain anything of violence being spoken of on the 26th? -- That is so."

And the next question also. -- In that statement what I meant when I said yes, when I said that is so I meant that there is someone. (30)

No because the next question was this:

"No/....."

"No mention of Raditsela calling for violence on councillors on the 3rd of the ninth? -- That is so."

-- About Raditsela I did not make mention of his having said that in my first statement. I only made mention of that in my second statement that he made mention of this on the 3rd.

So you see we had two questions relating to what you said in your first statement. Firstly whether there was any talk of violence at the meeting of the 26th. -- That was only said when this person referred to as a councillor was taking the floor, then violence was mentioned, and this came from (10) the audience that this person be killed.

Yes, and do you now again say that that was the only talk of violence that there was at the meeting of the 26th?

COURT: Violence to be at the meeting itself or talk of violence at the meeting or in some future date at some

MR BIZOS: At any time.

COURT: Well let us put it clearly because it is not always so clear Mr Bizos when you say at the meeting.

MR BIZOS: Yes. Was there any talk of violence at the meeting of the 26th in relation to it taking place at any time? (20)

-- Yes there was such a talk. That is the talk I am referring to which came through Khabi.

Well can you explain to His Lordship why, when the question was asked of you yesterday, you did not make the two exceptions you are now making? Or one or other of the exceptions?

COURT: I am sorry Mr Bizos, are we now talking of the contents of the statements or of the facts of what happened at the meeting?

MR BIZOS: Of the contents of the statement.

COURT: Well that was not your previous question. It is (30) not how I understood it. I understood your previous question

to/.....

to deal with what actually happened at the meeting.

MR BIZOS: My Lord the question that I have now asked relates to the statement that was given yesterday afternoon in evidence. And what I, the question is this ...

COURT. But yesterday afternoon the questioning related to the contents of the statement and now his last answer related to the actual talk at the meeting.

MR BIZOS: I am sorry My Lord may I try

COURT: So you are mixing up either me or the witness or both of us. (10)

MR BIZOS: Well perhaps also myself My Lord.

COURT: I do not know but let us just keep it clear because we will get nowhere with the record if we have no clarity.

MR BIZOS: As Your Lordship pleases, let me just try

MNR JACOBS: Edele ek wil ook net graag daarby voeg dat ons nota is ook so verwarrend ons verstaan ook nie, "the first statement not mentions violence on the meeting". Dit kan verstaan word dat op daardie vergadering die getuie het net nou probeer verduidelik, beteken dit die violence op die meeting. So die vraag wat gister gevra was kan ook h (20) betekenis het dat daar op die vergadering violence was en dit is nie genoem in die statement nie.

MR BIZOS: My Lord I have a verbatim note, we can debate with respect what it might mean.

COURT: Well I think that it is best that stick to the facts and cross-examine him on that and the record can speak for itself.

MR BIZOS: As Your Lordship pleases. Reverend Mahlatsi I am going to put to you that all this talk, all this talk of violence at the meeting did not in fact take place. -- I (30) am sorry that I will have to repeat the same thing many times.

Because/.....

Because I would like to in fact explain as to how it came about that violence was mentioned. After the two gentlemen who asked questions from accused no. 5 a certain gentleman took the floor who was not even known to me whether he is a councillor or not because I was seated right in front at the table facing the audience. This person came up to the stage and took a floor there with a view of addressing. At that stage a woman then got up. I take it that woman is the person who knows this person to be what he was labelled to be. This woman uttered the following words: "Let that man get off that (10) stage, we do not want to hear what he is going to say or address from him because this is not a councillor's meeting." It is only then that they started swearing at this man and then the audience said that this person must be killed. Then Khabi in his address did not say that the councillors are to be attacked but what he said was the following: "If you people could burn Dutch's shop on my behalf."

Yes? Finish what you said or is that all you said? -- That is all yes.

Yes, alright. Do I understand you to say, no never (20) mind the statements, do I understand you to say that those were the only two references to any violence at the meeting of the 26th? -- Not only at this meeting on the 26th, also on the 3rd, that is the day of the march, there was such a talk.

Yes. Let us confine ourselves to the 26th. We will come to the 3rd. Was no reference to any violence to be committed at the meeting or any future date other than the audience and Mr Khabi, was no mention of violence made by any other person whatsoever? -- Not that I heard.

Not that you heard. And you were at the Chairman's (30) table so to speak? -- That is so.

And/.....

And did any speaker refer to violence at the meeting of the 26th, other than the two incidents that you had described you could not but have failed to hear it? -- Yes I would have heard that person.

Yes. Now let us just deal with your attitude or response to what you say were calls for violence, by the audience and by Mr Khabi. What was your response to that? -- I was happy to hear that.

You were happy to hear what? -- I was happy with the crowd or the audience which was happy to hear that kind of address, (10 so I was happy with them.

Were you happy that at the meeting at which you were sitting at the Chairman's table that the audience said that a person should be killed because he had partaken in some way or another in the council election? -- When I am talking about having been happy with the crowd what I mean is I also made the sign of Amandla, indicating that I agree with the statement made.

COURT: The witness indicated by sticking up his right fist in the air several times. -- And uttering the word Amandla. (20)

Will you do it again please. Fist was shown, thank you.

MR BIZOS: Tell me you say, by doing that did you want it to indicate to the other people present there that you agreed that this person who wanted to address the meeting should be killed? -- Physically yes but otherwise spiritually not.

Well

COURT: What do you mean by that? -- By that I mean I identified myself with the people who agreed with that physically, although within myself I was seeing this as a mistake.

MR BIZOS: When did you realise that it was a mistake? -- (30
At the stage when it was said that this person should be
killed/....

killed.

Did you realise there and then that it was a mistake for you to agree to it? -- After having taken a part it is then that I realised that.

That it was a mistake. I see yes. Alright. -- That is so.

Now let us just get some details about this person. Did he get a chance to either say anything or ask a question or participate in any way at the meeting? This person that was threatened with (10)

COURT: We call him the "alleged councillor".

MR BIZOS: The alleged councillor. -- Because of the woman who got up and disrupted him he had no opportunity of saying even one word.

Not even one word. -- No I did not hear him uttering a word because there was already some noise in that meeting.

I see. And this person, did he leave his seat and come to the front of the hall to address the meeting? -- Yes facing the audience.

Facing the audience. Before doing that had he stood (20) up to speak from his seat or to ask any question or do anything like that, the alleged councillor?

COURT: Yes, not necessarily immediately before doing it, at any stage in the meeting? -- What happened is the following, this person came from where he was seated up to the Chairman and this person spoke to the Chairman requesting that he be given an opportunity to address the meeting there. The Chairman allowed him. Just before he could speak then the audience disrupted him as described.

MR BIZOS: Right. Listen to the question carefully please. (30) Was this the first view that you had of this alleged councillor during/....

during that meeting? -- It was for the very first time and again even to learn that this person was a councillor.

Had this person, the alleged councillor, had this person not got up during the meeting before this occasion to ask any pertinent question? -- He did not ask any questions prior to that. The only questions which were asked were by the two men who were right at the back that I have already referred to.

Had this alleged councillor asked any questions before the occasion on which he was stopped when identified as an alleged councillor would you have seen him and heard him (10) asking such questions? -- I would have seen that because why I saw the other two I have just referred to.

Could you please tell us at what stage of the meeting you say this happened. Was it right at the beginning, was it in the middle or towards the end? At what stage was he booed or threatened to remain silent? -- Are you talking about what was happening there at the time?

I will repeat the question. At what stage was the alleged councillor threatened by the audience? -- It was during the singing. (20)

Yes well, but I thought that the singing was at various times. Tell us beginning, middle, end? -- Now I understand, it was in the middle.

In the middle. Can you recall who had spoken immediately before he attempted to speak? -- If I still remember well the last speaker, just before he attempted to address this meeting can be Khabi.

And who spoke after him, the alleged councillor? -- I say if I still remember well that was Khabi.

I thought that you told us that the alleged councillor(30) tried to speak after Khabi had spoken? The question I am now asking/.....

asking is who spoke after the alleged councillor tried to speak? -- My evidence is immediately after the two gentlemen who were asking questions then the councillor came forward to address. He was called off by the people there. Now if I remember well Khabi was then the next speaker after that incident.

Alright. Now let me go back. Who spoke before the alleged councillor tried to speak?

COURT: Two other people, before the two other people.

MR BIZOS: Oh two other people that he cannot remember, is (10) that the, do you not remember the people who spoke?

COURT: Those were the two questioners.

MR BIZOS: Questioners, oh I see was it question time? Tell me was there any question by anyone as to what was going to happen to the children of the people arrested as a result of the action suggested at the meeting? -- I did not hear a thing about that, that is pertaining to children, as to what was going to happen to them.

Is it possible that you were not paying sufficient attention as to what was happening at this meeting and it might (20) have been said without you taking notice of it? -- Well on that I will agree with you, because I am testifying here about what I heard being said.

But you see you told us categorically that this alleged councillor never said anything or asked anything. -- That is so.

Yes so if it was said by somebody it could not have been this alleged councillor? -- About what?

About what is going to happen to the poor children whose parents are going to be arrested? -- No I did not hear that (30) person.

COURT: /.....

COURT: Now is it because you were not paying sufficient attention or is it because it was not said at all? -- Because it was not said.

MR BIZOS: Especially by this person? -- No this person never ever uttered a word.

Yes, because there was such a strong feeling against him at the meeting that he was not given an opportunity at all? -- That is so.

Mr Matlole, accused no. 17, the elderly gentleman there at the back, did he speak before this alleged councillor (10) tried to speak or afterwards? -- That is why I said I cannot remember precisely who the next speaker was after this councillor or whether it was Khabi or Matlole.

Well do you remember accused no. 17, Mr Matlole, speaking? -- Yes I do.

Now can you not recall whether it was before or after this dramatic incident of the alleged councillor being threatened with death? -- No that I cannot quite remember.

Do you not remember accused no. 17 saying to anybody that they should not worry about the children of the per- (20) sons that might be arrested because there was a solution to that problem? Do you remember accused no. 17 saying that? -- He did not speak about that pertaining to children. All he said in his address was in connection with the people going to work and the rent and this is what he said. We do not want cowards or cowards are not wanted in this because we have to unite in order to overpower this question of rent.

Yes.

COURT: Did accused no. 17 make only one speech or did accused no. 17 make a speech and also on another occasion answer a (30) question or more than one question? -- He did not make a speech

That/.....

That is he was not a speaker. He only answered questions from the people who were putting questions because of their being coward.

MR BIZOS: Well what question was asked that might have indicated to accused no. 17 or anyone else that the questioner might be a coward? -- That was after the questions were put that what is to happen to the people who will go behind our backs to go and pay rent, and those who will go behind our backs and sneak out of the township to go to work. Somebody else, that is that gentleman, answered those questions and (10) then he later in a form of a speech also answered to the questions which had been answered already.

COURT: That is that gentleman being accused no. 17? -- Accused no. 5.

Now, so are we speaking about accused no. 17 answering questions or are we speaking about accused no. 5 answering questions or are we speaking about both? -- What I am trying to say is this after accused no. 5 had answered the questions which were put by those people who were asking questions there in the meeting ... (20)

That is no. 5? -- That is no. 5.

Yes? -- After he had answered those questions then accused no. 17 also added in answering those questions in a form of addressing, not that a direct questions was put.

I see. -- By that I mean he was not responding to a question pertaining to schoolchildren. That one I did not hear.

MR BIZOS: Yes. Now if I understood your evidence correctly Mrs Mokoena, whom you know by name, is the first if not one, was one of the first if not the first speaker after the preliminaries? -- That is so. (30)

Right. And you are sure of that? -- Yes I am.

And/.....

And she most certainly spoke long before accused no. 17 answered any questions? -- Yes it was long after she had finished addressing.

And accused no. 17 spoke for the one and only time in supporting no. 5 about, in answer to questions? -- Yes.

If anyone were to suggest to His Lordship that Mrs Mokoena spoke after Mr Matlole, accused no. 17, what would you say to that suggestion? -- Well what I will say on that it will be the way in which whoever says that knows it.

I see. It is certainly not the way you know it? -- (10)
Not the way I know it. Not the way I have given evidence about.

And if anyone were to suggest to His Lordship that Mrs Mokoena's speech was substantially similar to that of a speech made by accused no. 17 whom she, Mrs Mokoena, followed what would you say about that evidence? -- I will not agree with that.

Now could you describe Mrs Mokoena at that meeting, how big or small a woman was she?

COURT: You will probably get the answer big but not too big or small but not too small. (20)

MR BIZOS: Yes, I will leave it My Lord. Tell me I want to deal with a number of questions in relation to the 3rd, before we come back to the other matters that you spoke of.

COURT: Counsel is now asking you of the day of the march.

MR BIZOS: The day of the march. -- Yes.

Could you please give us as accurately as you can the time that you arrived at Small Farms, Catholic Church, Small Farms.
-- On which day, the 3rd of the 26th?

COURT: He is talking about the day of the march. Will you open your ears. -- You mean about the march? (30)

MR BIZOS: Yes. What times did you get to Catholic Church,

Small/.....

Small Farms? -- If I still remember well when we left home it was 08h00 or 08h30.

Right. Please answer the question, what time do you say you arrived at the Roman Catholic Church? -- Between 10h00 or 11h00.

C124 Is that a serious estimate or do you just sort of say it sommer so? -- That is what I estimate it to be because of the fact that I have been kept in detention for quite a long time.

Do you find that you are confused? -- Yes I will say so.

Yes. Well without looking at the clock behind you (10) could you please tell us what you think the time is now? --

COURT: You might get the answer 17h00 in the afternoon.

MR BIZOS: That will be a significant answer.

COURT: I do not think that is a fair question.

MR BIZOS: What do you think the time is? -- Twenty past twelve.

Yes, well

COURT: The clock at the wall says?

MR BIZOS: Half past.

COURT: Not too bad Mr Bizos. (20)

MR BIZOS: So you are not so badly disorientated as to time. Please try and give us an accurate time that you came to the Roman Church?

COURT: How long would it take you to walk from your home to the Roman Church? -- I do not know how long it takes. All I can say it is far to walk. Because we have to walk through Evaton before we reach the Roman Catholic Church.

MR BIZOS: Alright. Now tell me you told us that the crowd was in the hall when you arrived there, or got into the hall after your arrival? -- On arrival there Esau Raditsela was (30) already there with other people.

Now/.....

Now was the door of the hall open or closed? When you got there first? -- It was open.

It was open. You as the Vice-Chairman of the Zone committee how did you come to remain so far outside the hall? -- The reason is that the hall itself was full and outside the hall was full with a lot of people and again I was not yet conversant with the procedure of the Vaal Civic Association. Therefore I was playing a wait and see from the members of the VCA as to what is the procedure to be followed.

Was there any reason why you should not follow Raditsela into the hall? -- No none.

Anyway you tell us that you remained outside?-- Yes.

And that you heard Raditsela speaking in the hall? -- Yes I did.

Was Raditsela the only person who addressed the audience whilst it was in the hall? -- I believe so.

Well, why is it only your belief, were you not listening? -- I was listening. In so saying I mean I agree with you.

COURT: Do you agree with counsel that he was the only speaker -- That is so. (20)

MR BIZOS: If any other person spoke in the hall you could not have failed to hear? -- No.

Well we do not, that is usually a difficult yes or no. Would you have heard the other persons than Raditsela speaking in that hall if they in fact spoke in the hall? -- I would have heard them. In this case only Raditsela was speaking there.

Right. You told us in your evidence-in-chief what you say you heard Raditsela say? -- That is so.

Did anyone in the hall call for death to policemen? -- I did not hear a thing about the police. (30)

Did you, did anyone say that property belonging to the

administration/.....

administration must be destroyed? -- Do you mean the councillors

No, well property of the Administration Board and not the councillors. The question is did you hear anyone say that the property of the Administration Board must be destroyed?

-- No I did not.

Did you hear anyone say that the buses and the bus installations must be destroyed? -- No I did not hear anybody.

Right. If Raditsela had said any of these things would you have heard it? -- I would have heard that yes.

Did Raditsela repeat the speech that he made in the (10) hall when he came out of the hall, did he repeat the speech that he made to the big crowd in the hall to the even bigger crowd that was outside the hall when he came out? -- No he did not repeat the speech he had given inside the hall while he was outside except of course that he gave instructions that the people must take positions in the line and rows with the placards being in that arrangement.

He made no reference to any violence being used to the crowd outside the hall that was preparing itself to march? At the Roman Church quadrangle? -- No that he mentioned (20) in the hall.

But not outside at all? -- No not outside.

And if he had made any loud and clear speech outside to this effect you could not have failed but to hear it? -- Yes I would have heard him.

Now you see I am going to put to you that Raditsela did not call for violence whilst he was addressing the audience in the hall. What do you say to that? -- I say he did. Because there you are he has run away, he is nowhere to be found. (30)

How do you know that? -- Because I have been to his

residence/.....

residence looking for him.

I see. Yes. When did you find out that he was not around?
-- After three or four days, that is three or four days after
the incident of the riots.

But how did you know that during this incommunicado
period of yours the police have not found him? -- I was not
detained in September. I was only detained on 18 December.
I had ample time to go and see him.

No the question was how do you know that the police have
not arrested him in the meantime? -- Well I do not have (10)
that knowledge. All I know is that he has since run away.

Now tell me this if what you say Raditsela said is true
was any directive given by Raditsela as to which councillor's
house you would first go? -- No he did not say except that he
just said to us once we start with the march we will have to
via or go to councillors houses.

But now you were, if not in front, right in front of the
march, right near the front? Behind the placard holders?
-- That is so.

Now but did you not ask Raditsela, "Raditsela here I (20)
am the Vice-Chairman right in front of the march, which of
these councillors houses are we going to call on first"? --
I did not have that question in mind because he was in fact
the leader of the whole thing, he is the one who knew where
to go and what places to touch.

Yes. But now do you know that before you reached the
vicinity of Zone 11 you had distanced yourselves from some
five or six councillors homes? Did you know that? -- I did
not know that. I only know about the councillors from the
area where I came from, that is in (30)

Where did you come from? -- I came from Zone 3.

Do/.....

Do you know Councillor Matseki? -- No I do not know that person.

Councillor Mahajani? -- Yes Mahajani in Zone 14?

No Zone 7. -- No that one I do not know.

councillor Buthelezi? -- No I do not know him.

Councillor J. Mokoena? -- No I do not.

And Councillor Makewane? -- No I do not know him either.

Now if I were to tell you that these councillors homes were left behind you before you got to Zone 11 ...

COURT: Are they on the route?

(10)

MR BIZOS: Off but near, off the route but were left behind.

COURT: Yes but now just get clarity. How far were they off the route?

MR BIZOS: The map will show that My Lord.

COURT: Yes but do not mislead the witness because it can be two miles to the one side and still be left behind.

MR BIZOS: No one of them is fairly near.

COURT: How near is it to the route?

MR BIZOS: Some of them, they are varying distances but there can be no doubt that they were left behind.

(20)

COURT: Yes.

MR BIZOS: Now if I were to put to you that if there was any serious intention on the people of the march to go to councillors houses they would have gone to the homes of the persons that I mentioned to you before they reached Zone 11 what would you say? -- I only know the councillors in Zone 3 and not in Zone 7.

Right. If I were to put to you that Councillor Matseki's house is one block away from the main road on which the march was.

(30)

ASSESSOR (PROF JOUBERT): Who is that?

MR BIZOS:/.....

MR BIZOS: Matseko.

COURT: Is it Matseki or Matseko?

MR BIZOS: I have got both. In one note if Have got Matseke, k-e My Lord.

COURT: Matseke.

MR BIZOS: M-a-t-s-e-k-e. If that is so can you explain why Raditsela's order to go to the councillors and show them the placards and invite them to come along and if not be killed, why that order was disregarded, at least for Mr Matseke who was just one block away? -- We were following him. He is (10) the one who was supposed to know where to find these councillors. Because he is the man who had taken a decision about the placards which are to be carried to be shown to the councillors.

You marched approximately between four and five kilometres from the Small Farms to the time you ran away? -- You mean the distance from the Roman Catholic Church in that direction?

Yes to the spot where you ran away? -- I would not remember what the kilometres were in that distance though all the same it was quite a long distance that I travelled. (20)

Were you near Raditsela for any period of that distance? -- No because he was right at the front and I was in the row, the third row from him.

Well two rows separated you, two or three rows separated you? -- Counting from the row in which Esau Raditsela was my row was the third one.

Well did you not ask him perhaps "Raditsela when are we going to go to visit the first councillor"?

COURT: Were the people quiet or were they singing? -- They were singing. (30)

Softly or at the top of their voices? -- At the top of their/.....

their voices.

Yes.

MR BIZOS: Did they not take a rest at all in all this marching, did they sing all the time? -- There was no rest.

No rest at all? They did not pause to take a breath?
-- No there was no such.

Even though it was slightly uphill? -- Well with the exception of those who were not able to run who were getting tired soon then they would stop.

This was not a running march was it? -- The song that (10) was sung was in fact an emotional one in the sense that they did what I am now demonstrating which I call it is a kind of running. I demonstrate.

COURT: Please, yes the right fist is lifted in the air continuously, the feet are stamping on the ground. It is a sort of a jogging trot it would seem.

MR BIZOS: Yes a jogging trot. Tell me accused no. 17, Mr Matlole, did not manage to fall behind? -- He kept the pace with the people in that jogging fashion until we came to a point where this other group came from a lane where the (20) actual running now, in the proper sense of running, started. He fell back, he could not make it.

We will come to that, we will come to the lane but let us deal with the, accused no. 17 managed to keep up for the four or five kilometres of the march and climbed the boulders that you say were in the middle of the street as barricades?

COURT: Those are actually three questions. One is pertaining to the distance, four or five kilometres, two is whether he climbed boulders and three is whether he kept up the full distance. Which one do you want answered? (30)

MR BIZOS: Well all three My Lord, with respect.

COURT: /.....

COURT: Well let us take them one at a time. Did he climb any boulders? -- That was so.

MR BIZOS: Three quarters of a metre high? -- Not all the stones which were in the road there were three quarters of a metre high. There were those which were smaller where a person could just pass by.

Tell us, the stones that were three quarters of a metre high, how wide were they? -- About this.

Half a metre.

COURT: Half a metre wide. (10)

MR BIZOS: Tell me are there still Cyclops in Sebokeng?
-- Cy?

Are there Supermen in Sebokeng, to pick up such stones and put them on the street? -- Well I will say so because this day in question they succeeded in pushing the stones into the street, not that they lifted the stones but pushed them.

Because I am going to put to you that there were no such stones or any obstruction on the road except of course the people themselves? -- I say there were stones.

Yes. Tell me you yourself were you in the third row (20) of this march for the purpose of going to councillors houses and were you to take part in an attack on the councillors if they did not join? Is that the purpose why you were on this march? -- That is so.

COURT: What is so? -- What I say that is so, what I mean by that is it is correct to say that it was said that should the councillors refuse to come out of their houses and join the march then it will be necessary for them to be killed.

MR BIZOS: You told us that that was said. -- Yes.

The question is did you believe that you were on the (30) way to a councillor's house to do that? -- What I had in mind was/.....

was in view of the fact that it was said they be taken out of their houses to go along with us I just said to myself well they were going to agree to come out of their houses and go along with us.

I see. So you were not going to allow yourself to be influenced by Raditsela's speech? -- That they should be killed

Yes. -- No I was not going to be influenced by that because incidentally I am a priest. I cannot, I am not supposed to kill.

Yes.

(10)

COURT ADJOURNS UNTIL 10 MARCH 1986.

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