

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

I 1.4 VOL. 25 PG 1164 - 1233.

SAAKNOMMER: CC 482/85

DELMAS

1986-02-18

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRUGEL

PROF. W.A. JOUBERT

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

25

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 25

(Bladsye 1164 - 1233)

COURT RESUMES ON 18 FEBRUARY 1986.

COURT: When we adjourned last Thursday the question arose as to the admissibility of a question which you put. Do you persist in that question?

MR BIZOS: No My Lord, I have already indicated to My Learned Friend that I will pursue the point that I want to make in another manner which will be less objectionable, if in fact that was so.

COURT: Please continue.

THULO RONALD KOAHO: d.s.s. (Through Interpreter) (10)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Now on the 19th were there two security police vehicles parked outside the

COURT: May I just interrupt you, I am sorry Mr Bizos. Could we just ascertain has accused no. 17 returned or is he still absent?

MR BIZOS: No he has not returned. I do not know if My Learned Friends have any

COURT: What news is there of accused no. 17?

MR FICK: We have not received any news sir, I do not know whether the defence is in contact with anyone. (20)

COURT: Can we take it that he is still in hospital?

MR FICK: He is still in hospital.

COURT: That is noted. I am sorry Mr Bizos.

MR BIZOS: From the nature of the complaint it looks as though it is fairly certain that he is still in hospital. On the 19th were there two police vehicles parked outside Father Moselane's, accused no. 3's, church? -- No.

You are sure of that? -- Yes.

Now let me give you some details because I am going to suggest to you that that answer is incorrect. Did the (30) police during this period use a Ford Colt Galant, beige in colour/.....

colour with frosted or tinted, tinted, windows? -- No it was not there.

No that was not the question. Did the security police during August 1984 use a Ford, no it is not Ford, Colt Galant.

COURT: Not a Ford?

MR BIZOS: Well I thought that it was a Ford but apparently, my instructions are, my written instructions are that it was a Colt Galant.

COURT: Colt Galant, beige in colour with tinted windows.

MR BIZOS: With tinted windows. (10)

COURT: Now could you just limit the question. The security police are all over the country, maybe.

MR BIZOS: In the Vaal Triangle.

COURT: In the Vaal Triangle.

MR BIZOS: In the Vaal Triangle. -- That is so.

And has it a long aerial on its, on it? -- That is so.

Right. Now, and if I were to put to you that that vehicle was outside the church on the 19th what would you say? -- No it was not there.

Did the security police in the Vaal Triangle during (20) that period use a blue Cortina? -- Yes that is so.

Was that vehicle outside the church? -- No.

I see. Now I want to get clarity on this. Are you saying that they were definitely not there or is it possible that they were there with other security police officers and that you were unaware of it? -- No these vehicles were not there because during that time I was using my private car.

I am not suggesting to you that you used those cars. You probably did not. The question is whether you are able to tell His Lordship that those cars were not outside the (30) church? -- They were not there.

You/.....

You give a positive assurance that they were not there?
-- That is so.

Nor were there any other security police vehicles in the immediate vicinity of the church, either when you arrived or when you left? -- No there was none.

COURT: Did you all come in one car? -- That is so.

MR BIZOS: I suppose you would even be able to go further, that if there was going to be a security police presence near the church it would not have been kept a secret from you? -- I do not understand that question. (10)

I will try and clarify it. Was your visit to this church on the 19th something that you took on your own initiative or was it something that was planned by your superiors, by your department? -- I was on duty when I was there.

But the other part of the question, you were not on duty without the knowledge of your superiors, at that point? -- That is so.

And if your superiors had sent vehicles to keep observation outside the church it would not have been kept a secret from you because your visit was planned? -- That is (20) so.

Now are the two vehicles that I described to you well known to those who receive the attention of the security police from time to time as security police vehicles? -- That is so.

To give but an example would you say that accused no. 2 received the attention of the security police from time to time during the year that you were a member of the security police prior to 19 August? -- That is so.

Yes. And if those vehicles were there, if those vehicles were there as I am putting to you that they were, the security (30) police presence around, or possibly in the church, could not have/.....

have escaped people who received security police attention?

-- That is so.

Yes. Now I am going to put to you what was objected to, but in another way so that we should not become involved, we do not want to know your police methods. But do you agree that people who receive the attention of the security police know or believe that their speeches in halls and elsewhere are mechanically recorded by the security police? -- That is so.

And it is not a secret because this fact has been de- (10)
posed to by numerous security police officers in various trials? -- That is so.

Would you agree that the presence of the aerial such as there was on that Colt Galant and the tinted windows might have given the impression to people that it was there in order to record what was going on inside? -- That I do not know.

Right. Because I am going to put to you that as a result of the presence of this, these two vehicles outside the church and the previous experiences of particularly accused no. 16, that is Mr Manthata, he knew and indeed expected that any- (20)
thing that he said would be recorded? -- That is what I do not know.

Yes. Right, there are just a number of general questions I want to ask you about this meeting. Firstly I do not want to spoil any possibility of a successful application to retain the identity of the third person as a secret at this stage but subject to His Lordship's concurrence I would ask you to write down the name of the third person please. I do not know whether Your Lordship has any objection to that?

COURT: Well if it is to be on record, it has to be (30)
recorded. If you want it merely written down and I will keep

the/.....

the piece of paper in my possession then it is not part of the record. Is that what you intend doing?

MR BIZOS: Well I do not think, I think we should have it on record because it may become relevant but I do see that we are practically in camera anyway, there are two police officers and the accused in court and no one else, so we might as well have it on record and Your Lordship could direct that the name should not be divulged at this stage.

COURT: Any objection Mr Hanekom?

MR HANEKOM: I have no objection. (10)

COURT: Yes, for the purposes of this answer the court will sit in camera.

MR BIZOS: Could you please let us know the name of this person? -- With the Court's permission yes. Motsomiye Jacob Legotla.

Is he a police officer or not? -- No.

Was he a person who gave information to the police? --
No.

Was he there in order to assist you in the performance of your duty? -- No. (20)

How did he come to accompany you? -- He is employed by the broadcasting corporation.

He is employed by the broadcasting corporation. Well was he there in his capacity as an employee of the broadcasting corporation? -- That is so.

In order to gather news presumably? -- That is so.

And did he have the equivalent of a press card or something? -- No I did not see that.

Did he make any notes during the meeting? -- No he did not. (30)

Did he have any recording mechanism with him? -- No.

Why/....

Why not? -- That I will not answer because I do not know.

Whose idea was it that he should accompany you? -- I requested him to accompany me or to come together because we were attending that meeting.

But what was his purpose? -- He has got to do with the collection of news for the broadcasting.

I see, so he was there in his capacity as a reporter? -- That is so.

Now whilst you were there, you knew this person to be a reporter and we will accept your word for it for the time (10) being, did you notice any other reporters there? -- No.

And if I were to put to you, if I were to put to you that there were reporters from two reputable newspapers making notes during the course of this meeting what would you say? -- I did not see reporters.

Were you not keeping a lookout to see what was happening at this meeting? -- I was listening to what was being said.

Tell me before filing this three page handwritten report of yours on the Monday morning you did not by any chance round about that date have a look at any of the newspapers to see (20) whether their reporting corresponded with yours? -- No I did not.

Is it not part of your duty to gather information, even from newspapers? -- That is so.

And do you not regularly get The Sowetan and The Rand Daily Mail, as it was? -- We used to get them.

And was it not really part of your duty to see what was being reported there so that you may more intelligently do your work? -- I did not get that opportunity of doing that.

Oh. I would have though, I would have thought that you (30) would have sought out the opportunities to see whether you could/.....

could find the corroboration for your report in any newspaper report that may have appeared? -- Well I did not deem it necessary.

I see. We will come back to that. Now was this the only meeting that you have ever attended at Father Moselane's, accused no. 3's church? -- That is the only meeting, yes.

The police officer Letsele, had he make any reports to you about any prior meeting? -- No.

Had anyone else made any report of any prior meeting to you? -- No. (10)

How did you find out that this meeting was going to take place on the 19th? -- Well people told me about this meeting which will be held.

Yes. Which people told you about it? -- The people from the community of Sebokeng, those are the people I live with.

And was it your idea or your superiors' idea that you should attend it in your capacity as a police officer on the 19th? -- It was my superiors' idea.

Yes. Would you agree that on the 19th you were known as a police officer to Mr Oupa Hlomoka, accused no. 2? (20)

COURT: That is now 19 August 1984 I take it?

MR BIZOS: 1984 yes. -- That is so.

Yes. And are you able to tell His Lordship whether or not the late Letsele was well known as a policeman by 19 August 1984? -- He was known in the vicinity of Sebokeng as a member of the police.

And those who receive the attention of the security police are they compartmentalised, did you believe that Sebokeng people would not tell Sharpeville people and vice versa whether a young man, a member of their community, had become a member (30) of the security police? -- Well it is possible that they may have/.....

have told each other.

Yes. Were you in any form of disguise? -- No I was not disguised.

And because of your personal association with accused no. 2 you must have stuck out there like a sore thumb, to him at any rate? -- That is so.

COURT: Do you know whether accused no. 2 noticed you there? -- I discovered that he was aware of my presence there just before the meeting was off.

Was? -- Was out.

(10)

MR BIZOS: But you do not know when he discovered your presence? -- That is so.

Yes. And you would not be able to deny the suggestion that not only accused no. 2 but other people there saw you, associated you with the motor cars outside and they were aware of the presence of the security police on

COURT: You cannot put it that way because the witness denies that there were cars outside.

MR BIZOS: As Your Lordship pleases. I will omit that. I will put to you, are you able to negative the suggestion that I (20) am putting to you, that accused no. 2 and others at the meeting were aware of your presence as a member of the security police? -- That I cannot tell.

Will you please tell His Lordship where you were sitting in the hall, in the church? -- I would say I was seated on the fourth chair from the back.

From the back. Yes.

COURT: Were these chairs in rows? -- Yes.

So you were seated in the fourth row from the back? -- That is so.

(30)

MR BIZOS: Near the entrance? -- That is so.

And/.....

And if I understood your evidence correctly, although there will be a dispute about the time, you arrived there early? -- Yes.

When the chairs had not filled up? -- That is so.

And that anyone entering or being in the hall at the time that you took your place would have had no difficulty in seeing you? If he knew you? -- That is so.

And because of the fact that you were known as a security police officer to accused no. 2 and others would you accept that they would not have thought that you had come there to (10) protest against the rent increase? -- No.

You came there in order to report on what was happening at the meeting? -- That is so.

And I am going to put to you that this fact was known to accused, let me make it specific, to accused no. 2, Mr Oupa Hlomoka, that this was communicated to accused no. 3, Father Moselane and to Mr Tom Manthata, accused no. 16, before anybody spoke? -- That I do not know.

Alright. Now I want you to please tell us for how long did you remain at this meeting, in hours? -- It can be one (20) and a half hours.

And you told us that you left but by the time you had left accused nos. 1, 2, 3, 4 and 16 and the woman whose name you mentioned

COURT: Nozipho.

MR BIZOS: Nozipho Myeza, had already spoken? -- That is so.

Right. Now I want you to please tell His Lordship, let us take them in order. Accused no. 1, for how long did he speak according to you? -- He was very brief.

No please tell us for how long he spoke? (30)

COURT: Are you taking them in order because no. 16 spoke

first./.....

first?

MR BIZOS: No My Lord, for this purpose I am not taking them in order, I did not suggest to the witness that....

COURT: Well should we not take them in order?

MR BIZOS: As Your Lordship pleases.

COURT: In order as they appeared at the meeting.

MR BIZOS: There is going to be a dispute about that, that is why I am doing it this way My Lord.

COURT: Yes, very well, go ahead.

MR BIZOS: As Your Lordship pleases. Could you please tell (10) us for how long accused no. 1 spoke? -- I cannot remember that.

Well please make an estimate. You told us that you were there for about an hour and a half. Please make an estimate for how long accused no. 1 spoke? -- I cannot quite remember. Because this happened quite long back.

Alright, so you are not prepared to give us any estimate of time in relation to accused no. 1? -- That is so.

Please give us some estimate of time in relation to accused no. 2? -- I cannot remember.

You cannot say whether it was two minutes or five (20) minutes or ten minutes or twenty minutes or half an hour? -- No.

Right. Will you please tell us about accused no. 3, for how long did he hold the floor? -- I will estimate five minutes.

Five minutes. Yes, right, and accused no. 4 for how long would you say that he spoke? -- Accused no. 4 was no speaker in that meeting. What he did there was just to introduce the people.

Yes well how long did he hold the floor? In all? -- It was not long. (30)

Just a minutes or two, couple of minutes? -- About two minutes./.....

minutes.

About two minutes. Yes. And accused no. 16? -- He made a speech there but I cannot remember for how long did he make the speech.

Five minutes, ten minutes, fifteen minutes, twenty minutes, half an hour? -- That I will not remember.

So you cannot tell His Lordship whether he spoke for five minutes or half an hour? -- I cannot remember that.

In your report, in your statement, in your evidence-in-chief did you purport to give a summary of the speech or (10) were you selective in your memory?

COURT: That is now three things you are asking about, his report, his statement and his evidence-in-chief.

MR BIZOS: I will take them one by one if need be My Lord but...

COURT: Yes well I do not know what the difference is between his report and his statement.

MR BIZOS: Well My Lord there was a report on the day after, he told Your Lordship.

COURT: Yes well I think you should pin it down to what exactly you want. Is it the statement or is it the evidence-in-chief. (20)

MR BIZOS: Right. I will confine myself to the evidence-in-chief. In your evidence-in-chief did you purport to give a summary of everything that each one of the speakers said? Or not? -- I was relating what I heard being said there in short.

So you were giving a summary, is that what you say? -- That is so.

Not selected bits? -- That is so.

Not the selected bits that may assist the State to prove its case in this case? -- I was only relating about what I remember happened there. (30)

Would you say that your memory turned out to be selective or/.....

or was your memory fair, you were completely fair to the accused about what was said? -- As I have already said that I was relating about what happened there in brief.

Yes. Let us try and, as we go along, refresh your memory about some of the things that you might possibly have left out and some of the things that you put in. First of all you say that accused no. 2 and Nozipho Myeza were seen by you at about 13h30? -- No.

Not? When did you see accused no. 2 and Nozipho Myeza for the first time on that day? -- At about 14h00. (10)

Right. -- Just before the meeting started.

Now if it was at 14h00 and not at 13h30 as you said in your evidence-in-chief do you recall that Father Moselane, accused no. 2 and Nozipho Myeza came to the church at about 14h00 and Father Moselane opened the church door, unlocked the church door? -- That is so.

Right. And there was obviously no one in the church before he unlocked it? -- That is so.

Do you recall that Mr Tom Manthata, accused no. 16, was with them? -- No I saw him in the church building. (20)

Yes. Did you know him before this day? -- No.

Are you saying that he was in the church building when it was opened or that he followed afterwards? -- I only became aware of his presence when he was being introduced to the audience in the church.

Did you know Mr Peter Hlubi? -- No.

Did you get to know him later during the meeting? -- That is so.

Was he with accused no. 3 and the others that I have put to you when accused no. 3 opened the church? -- No I did not see him at the time. (30)

Would/.....

Would you be able to admit or deny that Mr Hlubi and Mr Manthata, accused no. 16, in fact came into the church together with Father Moselane, accused no. 3? -- That I cannot remember.

But you are not in a position to deny it? -- That is so.

Would you agree that by the time Father Moselane arrived to open the church a couple of hundred people were in small groups outside the church? -- That is so.

And that they were in the main, I am instructed, elderly people? -- That is so. (10)

And after Father Moselane, and such persons who were with him, had entered the church they slowly followed into the church? -- What happened is accused no. 3 unlocked the door, went into the church building and then again went out. On his return for the second time, that is after he had opened the door, the people were already in the church building.

Now have you suddenly realised that your evidence-in-chief was in conflict with what you told us a short while ago? -- That is not so.

Well you see, let me just get your words so that there (20) is no misunderstanding. If Your Lordship bears with me I will just have to come across the, no I cannot find it, I will rely on my memory My Lord. Do you recall telling us that accused no. 3 went into the church together with the others?

COURT: Which others Mr Bizos?

MR BIZOS: The ones that he admitted, accused no. 2 and ...

COURT: No his evidence was no. 3, no. 16, no. 1 and no. 4 entered. No. 2 and Nozipho were in the church.

MR BIZOS: That was his evidence-in-chief, not this morning.

COURT: Yes the evidence-in-chief. (30)

MR BIZOS: No I

COURT:/.....

COURT: Are you referring to the evidence this morning?

MR BIZOS: This morning yes.

COURT: Yes, what is

MR BIZOS: I am going to put to you that the impression that you gave in your evidence-in-chief is that you went there early, at 13h30 and that you saw the church being prepared by accused no. 2 and by the woman Myeza? -- That I am referring to, after the church was opened and we entered the church.

What I am going to put to you is that in fact, that in fact there was not this coming and going by accused no. 3, (10) nor, what do you say to that? That he came in and he went inside together with his companions?

COURT: And stayed there.

MR BIZOS: And stayed there. -- No that is not so.

And that there was no need for any preparation? -- There was preparation.

What preparation do you say there was? -- They were putting the tables in position in the church.

The tables? -- Yes.

What tables? -- An ordinary table, the usual table (20) which we are used to.

I thought you said tables? -- I say tables yes.

What tables were there put there? -- The tables behind which they were seated.

How many tables do you say there were? -- Three.

And you say that those were put there by who? -- Amongst the people who were putting those tables there I knew only accused no. 2 and Nozipho Myeza.

You told us that accused no. 1, no. 2, no. 3, no. 4 and no. 16 entered the church. (30)

COURT: No, no, no. 3, no. 16, no. 1 and no. 4 entered the church./.....

church. Obviously everybody entered the church, but together no. 3, 16, 1 and 4.

MR BIZOS: Right. Those persons entered the church? -- Yes quite so.

And you told us that accused no. 3, Father Moselane, came out? -- No you did not understand me.

Did I not understand you? Well perhaps you would not mind explaining to me simply this. Do you say that Father Moselane entered the church and remained there or that Father Moselane entered the church, came out and re-entered the church? -- (10) I will explain that.

Yes, please do. -- What happened is this, he unlocked the door and opened the church building, went in and the people followed in going into the church. He himself, that is accused no. 3, opened the windows and thereafter he left the church building. On his return accused no. 2 was then accompanied by accused no. 16.

COURT: Accused no. 3 was accompanied? -- No. 3 was accompanied by accused no. 16.

And who else? (20)

MR BIZOS: Anyone else? -- And no. 4, and no. 1.

Yes, and who else? -- Those are the only people I still remember.

Now I am going to put to you that the persons in the company of accused no. 3 entered the church together when the church was opened. -- No.

And that your evidence of going in and coming out was contrived by you when you realised that what you said in your evidence-in-chief could not have happened? -- It could happen.

Yes, it could happen. Because there was, I have (30) already put to you there was no need for any preparation, that/.....

that people entered in simultaneously, that is predominantly elderly people entered in simultaneously with accused no. 1, I beg your pardon accused no. 3, not 1. Accused no. 3, accused no. 2, accused no. 16, Mr Peter Hlubi and the woman Myeza, Nozipho Myeza? -- No that is not so.

And that although there may have been some stirring, some stirring of the people because they were waiting outside and as they were going in to move for position as to where to sit there was no demonstration in any way? A quiet entry so to speak? -- That is so. (10)

Yes.

COURT: Is it agreed that there were three tables or that there were tables?

MR BIZOS: I have no instruction on that My Lord, I intend getting an instruction. My instructions are that there was no preparation. This, in order to give His Lordship the picture, I have a quick instruction My Lord that there was a small table and that the only person sitting at the table were Mr Peter Hlubi and accused no. 3. What do you say to that? -- No I dispute that. (20)

Alright. To give His Lordship an idea that this church has the seating place, the seating place which takes about a thousand people? -- That is so.

COURT: Does it have pews and chairs or only chairs?

MR BIZOS: I have just seats on my instructions, I cannot say.

COURT: You could ask the witness. -- If my memory serves me well this I can describe as chairs put together, which means they are fixed together in a form of a bench.

MR BIZOS: Yes. I am instructed that they are pews My Lord.

-- That is so. (30)

And what you called the stage is a misnomer. What there is/.....

is in fact in the Anglican Church is a portion known as a sanctuary, do you know that? -- No that I do not know.

Well it is a slightly raised platform about a brick or a brick and a half high. -- That is so.

And I will refer to that not as a stage, nor as a platform but I will refer to it as a sanctuary.

COURT: Should we not rather stick to the stage because in some halls we will not call it a sanctuary we will call it a stage.

MR BIZOS: My Lord it is a complete misnomer with respect. (10)

COURT: Yes, well carry on.

MR BIZOS: It is a complete misnomer. I will perhaps use the word "platform", which is neutral. We will use the word platform. There is a slightly raised platform? -- That is so.

And at the back of it there is the alter? -- That is so.

And do you agree that the alter is sacrosanct, nobody goes near it except priests? -- That is so.

COURT: Is the alter screened off from the hall or not? -- Yes it is.

MR BIZOS: And this platform, is it large enough that if (20) you were to put chairs on it, or people were to sit on their haunches, it would take about fifty to seventy people? -- That is so.

And was the meeting so well attended that ordinary members of the audience and late comers spread onto this platform? -- No they were not seated at the back, they were sitting right in front of this table.

What I am asking you is this, I am not asking you whether the particular people that you have mentioned were sitting at the table or not or who they were at this stage but at this (30) meeting was this platform full of people? -- Yes it was.

And/.....

And some of them were late comers and they came there and that was the space that was available and they went there? -- That is so.

And it was clear that the people that were on this platform were not necessarily programmed speakers, or programmed official guests? -- That is so.

Yes. Now whenever accused no. 3, 2, 16, Your Lordship may notice that I am leaving accused no. 1 out because I will put specifically what happened in relation to him. When these people came into the church did they go onto the platform? (10) -- They went up to the place where chairs were prepared for them at the table.

And was that at approximately 14h00? -- At that time when they came in it was past 14h00.

How many people would you say there were in the hall at that time? -- About 600.

Do you say that the hall was already full? -- That is so.

For how long do you say you waited on your chair before they came? -- About five minutes.

Right. And would you agree that there was no demon- (20) stration at that stage even on your own version? -- I do not agree.

You do not agree. What do you say happened? -- What I say happened is at the time when accused no. 3 came in there with the other accused, namely 2, 16 and 1, the people shouted "Amandla".

You are sure of that? -- Yes I am sure.

The grandmothers and the grandfathers all stood up and shouted "Amandla"? -- That is so.

All of them? -- The portion of the people which I (30) could see, yes.

Well/.....

Well you are not going to tell us that you joined them?

-- I did join them.

You joined them, you also shouted "Amandla"? -- Yes, that is so.

Yes. Was that in order to keep your cover? -- That is so.

Did you also stand up tall and shout "Amandla"? -- Yes.

Did you not think that by standing up and shouting "Amandla" in that way you may have been noticed as a hypocrite by accused no. 2 who knew you as a security policeman? -- (10) No that I did not think of.

You did not think. Were you also taken up by the procession of important guests? -- No.

Not. Would you agree that however many people there may have been in the hall eighty to ninety percent were elderly people? -- That is so.

COURT: What is your definition of an elderly person?

MR BIZOS: Like me. -- No.

What, older than me? -- Middle-aged.

Middle-aged, yes alright. (20)

COURT: That is younger than you.

MR BIZOS: Younger, forty, forty-five and over? -- That is so.

Yes. So there were mothers and father and grandmothers and grandfathers? -- That is so.

Just for the sake of the record the UDF has been introduced in many of these meetings, did you know that on that day they were celebrating its first anniversary in Johannesburg? -- No I did not know that.

Anyway there was no UDF presence there? -- That I am not in a position to explain. (30)

Well there was no obvious UDF presence there? -- That

is/.....

is so.

Yes. And you see I am going to put to you now that only Father Moselane, accused no. 16 Mr Tom Manthata, Mr Peter Hlubi and Nozipho Myeza took their place on the platform? -- No.

That accused no. 4 came late and merely took a place on this platform. What do you say to that? -- No.

And that accused no. 1 was not there at that stage? -- No he was there.

Was accused no. 1 a stranger to you prior to this day? -- That is so. (10)

And was Mr Mohapi Lazarus More, accused no. 4, a stranger to you on this day? -- That is so.

Alright.

COURT: Who is that now?

MR BIZOS: No. 4 My Lord. Now when you came in, when you came in as soon as Father Moselane opened the church, did you immediately notice a banner on the platform or at the alter or anywhere else? -- I saw when it was being put up.

Yes. You say you saw it being put up? -- Yes.

Would you please give His Lordship the size of this banner that you say you saw? -- About the length as indicated by me, the length of my arms stretched on both side. (20)

Yes, with your long arms it is almost two metres.

COURT: Two metres.

MR BIZOS: And how wide was it? -- About this. (As indicated by the witness)

Short of a metre.

COURT: Comma six of a metre.

MR BIZOS: And what material was it made out of? -- Cloth.

Yes. Would you agree that it appeared to be an unstuck mielie, white mielie bag or something like that originally, /..... (30)

originally, mielie meal bag? -- It looks like it, yes.

And do you agree that it had red writing on it? -- That is so.

Now I am going to put to you what was written on that and I want you to please tell me whether you agree or do not agree. "Asinamale"? -- Yes.

And in big red letters? And for the sake of bilingualism it also had on it "Harena chelete". Do you agree with that? -- Yes.

And I am going to put to you that that was all that (10) there was on this banner? -- No.

Yes, you recall what you said in your evidence-in-chief about that? -- Yes that is so.

Yes you told us that there was something about councillors? -- Yes.

I am going to put to you that that is incorrect and that you put the "Away with Councillors" there, you put those words there because you want to support the State's case, they were not there? -- That is not so.

Now I am going to put to you what in fact happened at (20) this meeting, I want you to please listen carefully. Right at the beginning did Father Moselane ask the people congregated in the church to sing "Rea lo boka Morena"? -- That is so.

Why did you not mention that in your evidence-in-chief? -- It had slipped my mind.

Well how could the very beginning of the meeting slip you mind? -- With us in a church whenever there is an opening there is always a hymn and therefore I did not take it too seriously, whether there was a hymn or not. (30)

But surely you were not asked in this court to find out what/.....

what was serious, what you took seriously or not, but to describe what happened at this meeting in the church? -- As I have already explained that I remember some of the things and some I do not remember.

Was this hymn sung with fervour by the packed congregation in the church? -- Yes.

Are you yourself familiar with this hymn? -- Quite well.

Did you yourself sing it? -- Yes I did.

Did you not think it is important to tell us about it as the "Amandlas" that you had sprinkled the meeting with? (10)

COURT: I do not think that is a fair way of putting it, that the witness sprinkled the meeting with "Amandlas". That he testified about.

MR BIZOS: As Your Lordship pleases. I get carried away with metaphors sometimes, I will try and avoid it. Were the "Amandlas" uttered by the members of the, or the speakers, were they more important for your purposes than the hymn?

-- As I have already mentioned that I do remember some of the things that happened there, some I do not remember.

Some you do not remember. So you did not remember (20) about "Rea lo boka Morena"? Right. Then do you recall that Father Moselane offered a prayer? -- Yes.

Please tell us what the prayer was about? -- I cannot remember.

You remember anything about the prayer, any word, what its subject matter was, what it is that Father Moselane prayed for, led the congregation in prayer for? -- No I cannot remember.

Let me read you the prayer that Father Moselane will say he read. What language did he read it in by the way? -- (30) Did he or him read it?

No, /.....

No, did, what language did Father Moselane read the prayer in?

COURT: Let us call him accused no. 3.

MR BIZOS: Father Moselane, accused no. 3.

COURT: Mr Bizos let us call him accused no. 3.

MR BIZOS: As Your Lordship pleases. -- In Sotho.

Yes. You are sure? -- That is so.

Not in Tswana? -- Sotho and Tswana are parallel, they go together.

They might but they are different languages. -- That (10) is so, slightly.

Yes, but you did not remember the language in which the prayer was offered? -- I still say it is Sotho.

Well then if I put to you that it was Tswana? -- Well it is possible.

Yes. I want to read to you an English translation of that prayer because I want to ask you some questions about it.

COURT: As the prayer got an official number?

MR BIZOS: Yes My Lord it appears, it is the second paragraph on page 245 of the Communion in the Anglican Church. (20)

COURT: Thank you.

MR BIZOS: I will read it out in English. "Prevent us Oh Lord in all our doings with they most gracious favour and further us with Thy continual help that in all our works begun, continued and ended in Thee we may glorify Thy Holy name and finally by Thy mercy obtain everlasting life through Jesus Christ our Lord, Amen." Do you recall whether or not this was the prayer in Tswana that was uttered? -- As I have already said I cannot remember the prayer.

You do not remember it at all. Well do you remember (30) the passage that was read out of the Testaments? -- Yes I do.

Yes, /.....

Yes, what was the passage? -- I only remember the words which were used from the Bible.

Yes that is what I am referring to, please tell us the words that you remember that were used from the bible? -- When he was reading from the Bible he was reading about the Israelites and the Egyptians.

Yes what did the Bible say about the Israelites and the Egyptians that you remember, that was read by accused no. 3? -- I remember where he said the Israelites were oppressed by the Egyptians. (10)

Is that all you remember? -- That is so.

Now I am going to read to you the passage that was actually read, Exodus 3 verse 17. Listen to it and tell us whether this was read or not?

COURT: Only the one verse?

MR BIZOS: Only the one verse. "And I have said I will bring you up out of the affliction of Egypt unto the land of Canaanites, and the Hittites, and the Amorites and the Perizzites and the Hivites and the Jebusites, unto a land flowing with milk and honey." Do you recall that? -- That (20) is so.

You confirm that. Good. Now do you recall that as soon as that passage was read Father Moselane, accused no. 3, then gave what is called in ecclesiastical circles the exegesis, the explanation? The sermon if you like? -- That is so.

Alright, now please tell us what Father Moselane, accused no. 3, said about that? What did he say about the prayer and this passage? Tell us about it? -- He said the Israelites were oppressed by the Egyptians and today the councillors are oppressing the community. (30)

Yes, what else did he say? -- I cannot remember beyond that/....

that.

But why this fixation about councillors, is that, for how long did he explain this passage, did he just give one sentence? -- He was not long.

Alright, now listen to what I am going to put to you and tell us whether your memory is refreshed so that you can tell His Lordship whether this was said or not said or you cannot remember whether it was said or not. Did he say that the position of the Israelites was the same as the oppressed people in this country? -- No I cannot remember that. (10)

Are you able to say to His Lordship that he did not say it? -- As I have already said I cannot remember.

Yes. And I am going to put to you that he did not make any comparison between the Pharoahs and the councillors as you have suggested in your evidence.

COURT: Did he use the word "Pharoahs" or did he use the word "Egyptians"?

MR BIZOS: I have no specific

COURT: I have no recollection of the word "Pharoahs" was used. (20)

MR BIZOS: Well, Egyptians was mentioned to him by the witness. Who was responsible, from your knowledge who was responsible for the oppression of the Israelites in Egypt? -- The Egyptians.

Not the Pharoah? -- No. No I never spoke about Pharoahs. I heard the Bible talking about Israelites and Egyptians.

Because I am going to tell you how Father Moselane, accused no. 3, developed, he said yes that there was oppression but faith in God as the Israelites had faith in God was the answer to the problems. -- I cannot remember those words. (30)

Are you prepared to say that the did not say it? -- I

am/.....

am not saying he did not say those words, I say I cannot remember the words.

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How is it that you will remember the councillors but do not remember the possibility of his having said that the answer to the community's problem was a deep faith in God like the Israelites had that they would eventually come to the land of milk and honey? -- I remember about the councillors because that was the explanation he gave after reading the Bible.

Did accused no. 3 refer to the fact that this was not the first or the last meeting but that a series of meetings (10) would be held? -- That is so.

Did he say that there had been a previous meeting on the 12th? -- That is so.

And did he say that he had explained to the people present on the 12th why he, Mr Hlubi and Myeza, Nozipho Myeza, had decided to call these meetings? -- That is so.

Do you recall that he said that his church has an assistance programme for elderly people and more particularly old aged pensioners who cannot make ends meet?-- That I cannot remember. (20)

You are not prepared to deny that he said it? -- No I am not.

And do you not recall that it was in that context that he said that he was responsible for giving out food parcels to these elderly people? -- No I cannot remember that.

Yes, but you cannot deny that he said it? -- That is so.

But that in delivering the parcels people said "Father what are we going to do with this rent increase"? Do you recall that? -- Yes I do.

And do you recall that he mentioned to the meeting that (30) many of these elderly people had said that they would not be able/.....

able to buy food or their children and grandchildren will not be able to go to school if they had to pay any more of their meagre income on increased rental? -- That is so.

And that he felt it as his duty as the priest in charge to approach Mr Hlubi, Nozipho Myeza and members of his church council so that steps could be taken to alleviate the plight of these poor people? -- That I cannot remember.

Are you able to deny that he said it? -- No.

Now if anyone were to suggest that this was a UDF meeting or an AZAPO meeting or a COSAS meeting or anything like (10) that you would say that that person was not speaking the truth? -- I will disagree with that person.

You will disagree. Because it was made quite clear that he was acting in his capacity as the Father in charge of that parish? -- That is so.

Yes. And there were not people with UDF shirts, and AZAPO shirts or COSAS shirts, or AZASUM shirts or anything like that? -- No there was none.

Yes. And would you agree that nobody smoked? In the meeting? -- That is so. (20)

Nobody lounged around? Lounged around, you know sort of putting their feet on the chairs or on the pews or walking about in a disorderly fashion? -- That is correct.

And that to, whilst accused no. 3 was speaking in his cassock the, it was more a gathering of concerned citizens who had come to their church to try and find a way out of their problems? -- That is so.

Now I am informed My Lord that one of the accused has a problem. I see that it may not be an inconvenient time. I do not know if Your Lordship wants to excuse him or ... (30)

COURT ADJOURNS FOR TEA. COURT RESUMES.

THULO RONALD KOAHO: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Would you agree that neither before he started nor when he finished did Father Moselane, accused no. 3, give an Amandla sign? -- He gave the sign with the people who were in the church.

COURT: What does that mean? Does that mean that when he started his speech or his prayer and sermon and when he ended it he did not give it but he gave the sign when other people gave it when a different speaker was speaking? Or what do you mean? -- He responded, at the time when accused no. 16 was (10) the speaker when accused no. 16 uttered the word "Amandla" he responded with the people in the meeting.

MR BIZOS: By raising his fist? -- That is so.

Was that the first time that you saw him raising his fist? -- That is so.

Not before that at all? -- That is so.

And if he had raised his fist before that you would have seen it? -- That is so.

At any stage of his presence in the church? -- That is so. (20)

You could not have missed him because of the special garb that he wore? -- Yes.

Do you recall, incidentally My Lord accused no. 3 will admit that he does respond when other people do it. He does respond to the Amandla. And that he did respond at the end of no. 16's speech. But you agree that when he spoke and when he finished there were no Amandlas, he behaved in the manner in which the officiating priest would behave almost at a service? -- That is so.

Do you recall that after no. 3 had finished Mr Peter(30) Hlubi took over? -- I cannot remember that.

You/.....

You are not in a position to deny it? -- That is so.

And are you able to remember that Mr Hlubi read out a resolution taken at the previous meeting? -- That I cannot remember.

Yes, now just let me tell you what this resolution, which was either a resolution with two parts or two resolutions but this was its effect. That the people were not to pay the amount by which the rent was going to be increased on 1 September? -- That I cannot remember.

Well do you not remember whether there was a discussion(10) about the very purpose of what I am suggesting to you the meeting was? -- I do.

Well do you say that a resolution of the previous week's meeting was read or not to the effect that the meeting of the 12th had decided that the increase should not be paid? Do you not recall that? -- I cannot remember that.

Well can you recall the second part of the resolution or the second resolution that there should be a call by the people present that councillors should resign? -- No that I cannot remember. (20)

But after all sergeant you were there for the very purpose of reporting accurately to your superiors what was happening at this meeting? -- That is so.

How could you possibly have forgotten whether or not immediately after the, if His Lordship will permit me, the religious part of the activities how could you possibly not remember what happened immediately afterwards? -- As I have already explained here that this thing happened long ago and I have forgotten some of the things that happened there.

Yes. I can understand that we can forget something (30) that may have happened there but surely your memory is not

so/.....

so selective that you can only remember a couple of sentences mentioned in the indictment? -- As I have already said I have forgotten some of the things and remembers those that I could remember.

Did you incorporate on your report that you wrote so shortly after the event on the Monday morning what the person who spoke immediately after Father Moselane, accused no. 3, said? Do you recall that? -- No what happened is I only made mention of the next speaker in the sense that a speaker who I still could remember at the time. (10)

So was your reporting on the morning after the event selective to the extent that you started your report with accused no. 16? -- No.

Well, and in your statement did you make mention of the fact as to precisely who spoke immediately after accused no. 3? -- That is so.

Well did you mention Mr Hlubi? -- No.

Was there any reason why you should not have mentioned Mr Hlubi? -- Yes because I had forgotten about him.

Do you now remember him speaking? -- I cannot remember (20) his speech.

But can you remember that he spoke? -- I cannot remember.

So might there have been a portion of this meeting that has disappeared from your mind? -- That is so.

Yes. Can you explain why portions of the meeting should have escaped your mind altogether and your selective memory only enabled you to give evidence as to what was said about councillors?

COURT: That is not entirely fair. Quite a bit more was said than only councillors. (30)

MR BIZOS: As Your Lordship pleases. In relation to....

COURT:/.....

COURT: Could you not just limit your question to a few simple facts?

MR BIZOS: Yes. You see can you explain why your memory serves you selectively into only telling us a small portion of what happened there? -- It is because some of those things that I have mentioned here caused a fright in me.

Well some of the things might but others did not, could not have? On the basis of your own evidence. -- That is so.

Now can you recall whether there was any reaction from the audience as a result of anything said by Mr Hlubi (10) before accused no. 16 spoke? -- No.

You cannot. But you cannot deny it either? -- That is so.

Do you recall whether Mr Hlubi started introducing Mr Tom Manthata, accused no. 16? -- No I cannot.

Are you able to deny that that happened? -- That is so.

Are you able to deny or are you not able to deny? -- I can deny that.

You say that you can deny that, it did not happen? -- It did not happen. (20)

And if I were to put to you that Mr Hlubi started introducing accused no. 16 but that he was not au fait, was not completely knowledgeable about the details of accused no. 16's curriculum vitae and accused no. 3 took over in the middle, what would you say to that? -- No.

Whoever might have introduced, what was he introduced as, do you remember? -- Yes I do.

What was he introduced as? -- He was introduced as a man from Soweto, a member of the Soweto Committee of Ten and also a member of Soweto Civic Association. (30)

Are you sure that you have given us all the important aspects/.....

aspects of his life that were mentioned by accused no. 3?

-- Yes that is what I can remember.

Well can you not recall that he was also introduced as a field worker of the South African Council of Churches? -- No that I cannot remember.

You are not in a position to deny it? -- That is so.

Do you recall whether in the introduction any mention was made in relation to the work of the South African Council of Churches by accused no. 3 in assisting the poor? -- That I remember. (10)

Being said? -- Yes.

In what context did accused no. 3 talk about the South African Council of Churches and its work for the poor, in introducing no. 16? -- As I have already said that this happened long ago I cannot remember.

Yes but can you not imagine what the relevance of the work of the South African Council of Churches would have been in the introduction of accused no. 16? -- No.

Now you see I am going to put to you again that your memory appears to have been selective in that the primary (20) reason why accused no. 16 was invited by accused no. 3 was because of his position as a field worker of the Council of churches dealing with poverty. What do you say to that? -- That is so.

Well if that is so why in your evidence-in-chief and under cross-examination you mentioned his two political, or quasi-political situations but the most relevant fact of his presence is left out and you do not remember it? -- As I have already said those are the only things that I could remember at the time of my making a report. (30)

Oh so you had forgotten about his role in the South African Council/.....

Council of Churches by the Monday morning when you made your three page written report? -- That is so.

I want to read to you a portion of your evidence that you gave in answer to me this morning. The question was

"And there was obviously no one in the church before he unlocked it? (That refers to accused no. 3)

-- That is so."

Do you recall that? -- That is so, I do remember that.

Then the next question was:

"Do you recall no. 16 was one of them? -- No (10)

I saw him in the church building."

Do you recall that? -- Yes I do .

Did you know him before this day? The answer "No."

Was he inside the church building or did he follow later? Did you give this answer?

COURT: What is the answer?

MR BIZOS: "Only aware of his presence when he was introduced to the audience". Did you say that? -- That is so.

Was that evidence correct? -- That is so.

Right I am going to give you an opportunity to explain(20) why you changed your evidence later and said that you saw him in the file of people that came in and everybody stood up and shouted "Amandla". -- I will explain that.

Please do. -- At the time when they came into the church building the people, the audience there, all stood up and said "Amandla". At that stage I did not know why it was being done and then thereafter the people were introduced.

Yes please finish your explanation. -- That is now introductions one by one. That is all.

Is that all you want to say? -- Yes. (30)

Because you are an experienced police officer and have given/.....

given evidence many times I will not debate it with you. But I am going to put to you that that is evidence which clearly indicates that you changed your evidence. -- No..

Very well. Now after Mr Manthata, accused no. 16, was introduced do you say that he started off with an Amandla?
-- That is so.

And he finished up with an Amandla? -- No.

He did not finish up with an Amandla? -- No. Only the audience in the church who stood up and shouted "Amandla", that is when he finished his speech. (10)

Because I am going to put to you that on this occasion, and he will say that on other occasions, he does not start off with an Amandla but finishes off with an Amandla. -- No.

Was it made clear by Hlubi that he was the only or main speaker?

COURT: Who?

MR BIZOS: No. 16.

COURT: And by whom was that made clear? He was introduced by no. 3?

MR BIZOS: No My Lord Your Lordship will recall that I (20)
started off that Hlubi started.

COURT: Yes?

MR BIZOS: And because he did not know the

COURT: Yes but he disagreed with you, he said Hlubi did not start.

MR BIZOS: Well he did not remember.

COURT: No he was positive that that did not happen.

MR BIZOS: As Your Lordship pleases. I am going to put to you that it was made clear by Mr Hlubi that no. 16 was the main speaker and he was the only invited speaker, what do you (30)
say to that? -- No those words were uttered by accused no. 3.

Well/....

Well do you say accused no. 3 said that accused no. 16 was the main or only speaker invited to speak? -- That is so.

And there was no mention of other speakers before accused no. 16 was introduced? -- That is so.

Right. What language did accused no. 16 speak in? -- Sepedi. S-e-p-e-d-i.

Not Sotho? -- No Northern Sotho he spoke.

You are sure of that? -- That is so.

Was his speech interpreted? -- No.

You are sure of that? -- Yes. (10)

Are you sure you were listening to his speech at all? -- Yes I was.

And you say that his speech was not interpreted into Nguni? -- Later it was interpreted.

Not whilst he was speaking? -- When he started addressing there was no interpreter.

Was his speech interpreted? Or a substantial portion of his speech interpreted, or most of his speech interpreted? -- A portion of his speech was.

When did you for the first time remember that his speech was interpreted? -- While you are asking me. (20)

Had you forgotten that, that his speech or a substantial portion of it had been interpreted? -- The reason is because I understand Sepedi, therefore that is why I cannot remember whether it was interpreted.

No but were you not purporting to give His Lordship a picture of what was happening at this meeting? -- That is so, that is exactly like that.

Do you remember what the interpreter lookedlike? -- I cannot remember the interpreter. (30)

His age, approximate age?-- Two different people interpreted there/.....

there if my memory serves me well.

Are you now saying that two different people interpreted no. 16's speech? -- That is so.

Into what languages? -- Into Zulu or Xhosa, one of the two, I cannot exactly remember into which one.

And did two people interpret it from Sepedi into Zulu or Xhosa at the same, well contemporaneously? -- No.

Well please tell us about the one that actually translated his speech, what did he look like? -- I cannot exactly remember the features of the person who was interpreting (10) there because there were two people who interpreted in turn the speech of accused no. 16.

Yes, they interpreted it into Xhosa and/or Zulu, and in what other language were they interpreting? -- Those are the only languages I can still recall.

You see because I have a specific instruction, confirmed by accused no. 16, that he actually spoke in Sotho? -- No he spoke in Pedi.

COURT: Do you mean Southern Sotho?

MR BIZOS: My Lord I tried to go into it and apparently (20) accused no. 16 says it is an urban Sotho which is to be distinguished from the rural Sotho, it is a Sotho which is spoken in the urban areas.

COURT: Half English half Sotho?

MR BIZOS: No I do not think it is as bad as that but not Sepedi or Tswana. -- That is quite true, they are the same but he was inclined in using Sepedi words.

Alright. If I were to put to you that the accused no. 16's speech, together with the interpretation into one language, a sort of an urban Nguni, which was a mixture of Zulu and (30) Xhosa, will you be able to admit or deny it? -- That is so.

Yes./.....

Yes, and that it, I do not remember if I put it that it lasted approximately forty minutes? I do not know, did I put that? Forty minutes? -- I cannot remember how long his speech took.

Do you recall whether Mr Manthata, accused no. 16, said that if residents were unhappy with the councillors they should re-elect others, do you remember him saying that? -- No.

Do you deny that he said it? -- Yes I deny that.

You are absolutely sure of that? -- Yes that is so.

And did you hear him say that in some areas the rents (10) have been suspended because of the reaction of the people and if you do not object the rents will remain? -- That is so, I heard him saying that.

You heard him say that. Do you remember whether he made any mention of the Black Local Authorities Act? Do you remember him mentioning that? -- No I cannot recall that.

COURT: In those terms or

MR BIZOS: The Black

COURT: Not called Koornhof Bills?

MR BIZOS: No, no, the (20)

COURT: Black Local Authorities Act.

MR BIZOS: Black Local Authorities Act. -- No I cannot remember that.

Would you have remembered it if he had said it? -- Yes I would.

You would. And are you able to tell His Lordship that he did not make any mention of it? -- He did not mention those words, I did not hear him mentioning those words.

Well I take it there is nothing wrong with your hearing? -- That is so. (30)

Did he say that promises were made at election time by

the/.....

the councillors that the rents would not be increased? -- No I cannot remember that.

And would you have remembered it if he had said so? -- Yes, I would remember that, if it happened that I remember.

You would have remembered it. And you are able to tell His Lordship affirmatively that you did not say it? -- No I did not hear him uttering those words.

Yes, and you would have heard him if he uttered them? -- That is so.

Yes. And did you, do you remember him say that although(10) they had made this promise before the elections they had now increased the rents, do you remember him saying that? -- I cannot remember him uttering those words.

Well would you say that he did not say them because if he had said them, that this would have related to councillors and you would have been sure, you would have remembered it? -- That is so.

Yes. Do you recall him saying that the government was responsible for building separate or apartheid housing for the people? -- No I do not remember those words at all. (20)

And if they were said would you have remembered them? -- That is so.

And are you telling His Lordship that they were not said? -- He never said that.

And do you recall him suggesting that as the government was responsible for building those houses the government should pay the increased rent or the rent? -- No I cannot remember those words.

You cannot remember those words. Very well. Now I am going to come back to that but I want to deal specifically(30) with some of the things that you say about the other accused

before/.....

before coming back to no. 16. Do you recall whether or not accused no. 2 said or asked that the councillors should resign from office, do you recall that? -- Yes I do.

Did he say that? -- Yes.

And do you recall him saying that he was aware that some people would pay the increased rental for fear of being either evicted or locked out? -- Yes.

Did he say that? -- That is what he said.

That is what he said. Now do you recall whether or not accused no. 1 said that most Blacks were already reeling (10) under the escalating costs of living, speak about the cost of living? -- No I cannot remember that.

Are you saying that he did not say it? -- He did not say that.

He did not say that, good. And for that reason they were unable to pay the high rentals? Did he say that? -- No he never put it that way.

He never said it, he never put it like that. Do you remember whether he spoke about unemployment insurance? -- No.

You are sure about that? -- That is so. (20)

Do you recall whether he spoke about General Sales Tax? -- No.

Are you saying that he did not speak about General Sales Tax? -- No he did not speak about that.

Can you recall whether he spoke about the high rate of unemployment? -- No.

You are sure that he did not speak about the high rate of unemployment? -- No he did not speak about that.

Did he then say, did he say that the increase in rents will be a heavy blow to the Black people? -- No. (30)

And if he said it you would have remembered it? -- That

is/.....

is so.

And did he say that the Black people were being robbed or their rights? -- That he said that.

He said that. That you do remember that he said? -- Yes I remember that.

Now you see I am going to put to you that we are fortunate in this case in having contemporaneous reports of this meeting published in two newspapers. And they contradict your version of the facts. I want to give Your Lordship an assurance that the reporters will also be called to give (10) evidence. Now I am going to put to you that there were two newspaper reporters right in front visibly and openly taking notes. Did you know about that? -- I did not see them.

Are you able to admit or deny that they were there? -- I admit that they were there.

Did you see them there? -- No.

Well -- My admission is based on my knowledge of some press people resident in Sharpeville, people whom I think may have been there. That is why I say I admit.

Well let us hear. Do you know Mr Ernest Nkabinde? (20)
-- Yes I do.

Yes. You know him as a Rand Daily Mail reporter, as it then was? -- That is so.

Alright. Now I want to show you his report of 21 August 1984.

COURT: Is it going to be handed in?

MR BIZOS: As Your Lordship pleases.

COURT: What will the number be?

MR BIZOS: May I just consult My Learned Friends in relation to that. AAQ(6) is suggested My Lord. (30)

COURT: Have you got one more, we have only got two.

MR BIZOS:/....

MR BIZOS: Oh I am sorry My Lord. Now

COURT: This is EXHIBIT AAQ(6). What is this number ROM 21.8.84 B on it?

MR BIZOS: That is Rand Daily Mail 21 August 1984. We will seek an admission from My Learned Friends. We cannot get the originals unless we subpoena the State Library.

MNR JACOBS: Edele kan ons net ook vra, ons gaan gevra word om erkennings te maak maar daar word nie eers vir ons afskrifte gegee nie.

MR BIZOS: I am sorry My Lord, I thought that my assistants(10) had given copies, I am sorry, it was not intentional. Now this report was published on 21 August 1984, and you will see the headline "We will not pay rent increases"? And it says "About 800 Sharpeville residents who packed St Cyprians Anglican Church at the weekend resolved not to pay the new increased rent of R5,90 on September the 1st." Does that correctly reflect the purpose of the meeting or not according to you? -- That is so.

Right. Let us just pause there for the moment. Let me assure you that there is nothing in the rest of the report(20) about the houses of councillors being burnt or councillors being stoned or councillors being killed. Take that from me. Would you agree that the most dramatic thing that happened at that meeting according to you was the call to violence? -- That is so.

And insofar Mr Nkabinde makes no reference to any call for violence by anybody there he must have filed a false report? -- I differ with him on this report.

Yes. This decision was taken at a public meeting called by the Anti-Rent Committee. Correct? -- Yes. (30)

Did you know when you made your report and when you made your/.....

your statement that this meeting was a meeting convened and conducted by this so-called Anti-Rent Committee? -- No.

Oh. Who, did you in your report ascribe any parenthood to this meeting, who was responsible for it? -- No.

Did you not think that your superiors would want to know who were, which was the organisation which was really holding a mass meeting in a church on 19 August? -- What occurred to me was that the meeting was in fact called by accused no. 3, Reverend Moselane.

He on his own? -- No not he on his own but with his (10) assistants.

Which assistants? -- Oupa Hlomoka.

Yes? -- Esau Raditsela.

Was Esau Raditsela there? -- No.

Then why did, this is the only meeting that you have been to, Esaud Raditsela was not there, why did you think that Esaud Raditsela was his assistant? -- It is because of the fact that we had received quite a number of reports about different meetings.

Oh. I see. At which Mr Raditsela was? -- That is so. (20)

So if Mr Raditsela calls a meeting and accused no. 3, Father Moselane, calls a meeting Mr Raditsela becomes no. 3's assistant? -- Not in that way but according to the reports this is what they organised together.

I see. You say according to reports. From who? -- From the meetings, that is reports that we get.

From who? -- I am not going to mention names of the people here.

Yes, from informers? -- That is so.

Yes. Well it may be their sense of logic is similar (30) to yours, that because Mr Raditsela, you had a report Mr

Raditsela/....

Raditsela was no. 3's assistant.

COURT: Is that a question?

MR BIZOS: As Your Lordship pleases. Now tell me this, what other assistants did you have in mind when you said "and his assistants", what other assistants? -- I have forgotten the names of the other people who I referred to as his assistants.

In your report? -- That is so.

Who were there or were not at the meeting? -- Both those who were present and those who were absent.

Yes, very well. Let us take the next paragraph of (10) Mr Nkabinde's report. "Reverend Tebogo Moselane, the Chairman of the committee, said that the government had introduced a 99 year leasehold scheme so that residents would buy their houses." Did he say that? -- Yes he said that.

He said that. You did not mention it as having been said. -- That is so.

Why not? -- Because I did not find it necessary.

But who decides what is necessary to be mentioned and not to be mentioned when you are asked what happened and what was said? -- The person who makes the report decides. (20)

To select those portions of the speech that he considers important? -- That is so.

"Most people could not afford to buy their houses, he said, and therefore could not pay the rent increase." Did he say that? -- That is so.

You did not mention that? -- Yes he did.

No you did not mention it? -- No I did not.

And why did you decide to leave that out? -- Well there are important words we want in making our reports, that is we choose those words to make use of in our reports. (30)

You choose them? -- Yes we choose them.

Very/....

Very well. "He said that people most affected by the rent increase would be pensioners." Did he say that? -- Yes that is so.

Why did you not mention that in your evidence? -- It was not necessary.

Necessary for who? -- In the report I was making.

Or in the evidence I asked you? You were asked by the Prosecutor what did he say? -- That is so.

Why did you not mention that? -- I did not deem it necessary. (10)

Yes. "Reverend Moselane said the worst part about the increase was that people in arrears over rent were either evicted or locked out of their homes." -- No he did not utter those words.

He did not utter those words? -- No.

You are sure about that? -- Yes I am.

The reporter just put them in out of his own imagination? -- That is so.

"He also alleged that councillors were unfair to the township people as they had bought businesses for their own profit." -- That is so. (20)

That is so. You did not mention that? -- No I did not.

Either in your report or your statement or your evidence-in-chief because you considered it unnecessary? -- That is so.

Even though you were asked by the Prosecutor what it is that was said? -- That is so.

Because you claim the right to select what you reported and what you gave evidence on? -- That is so.

Then the report goes on, "Mr Tom Manthata, the secretary of the Soweto Civic Association said that if residents were unhappy with their councillors they could re-elect others."/. (30)

others." Was that said? -- No.

That was not said? -- That is so.

"In some areas the rents have been suspended because of the reaction of the people and if you do not object the rents will remain, he said." Was that said? -- That is true.

He did say that? -- Yes he said that.

Did you mention that in your report, your statement, or your evidence-in-chief? -- No.

Because again you decided that it was not sufficiently important for you to report or give evidence on it? -- That(10) is so.

COURT: Mr Bizos why do we have only this limited portion of the page of the Rand Daily Mail? Why do you not photostat the whole page and then we can see where it fits in? Or is this a composite picture?

MR BIZOS: No My Lord, the reason why it is in this form, because there are files in the newspaper offices which are cut out in this fashion on subject matter. The originals are not kept, the original we have to go to

COURT: The State Library. (20)

MR BIZOS: The State Library, this is why.

COURT: Oh I see, yes.

MR BIZOS: These are, our cuttings are from files which are Triangle meetings, Vaal Triangle meetings or whatever the case may be.

COURT: Thank you.

MR BIZOS: "Mr Oupa Hlomoka of the Vaal Triangle Azanian Peoples Organisation said the residents should protest against the new rents and called for a boycott of shops and garages owned by the councillors." -- That is so. (30)

Well in fairness to you and the reporter you almost touch

sides/.....

sides on this issue. -- Yes.

"He petitioned the councillors to resign from office and said he was aware that some people would pay the increased rental for fear of being either evicted or locked out." -- That is so.

He said that? -- That is what he said.

Did you say that in your evidence-in-chief? -- That is so.

Are you sure? -- Yes.

And did you report that in your report and in your statement? -- Yes I did. (10)

Now would you agree that if the report is an accurate reflection of the spirit of the meeting and the main points of the speech either the reporter was not there when accused no. 16 spoke or he deliberately suppressed the incitement to violence? -- The reporter was present there, from this newspaper.

Yes. But what do you say to the second part, that he failed to report the most dramatic and the most important thing that accused no. 16 said? -- Yes he left that out. (20)

Yes. Now I am going to put to you that he did not leave it out, it was not said. -- It was said.

And your memory of what was said and was not said is further evidenced by this fact, when I read to you what Mr Tom Manthata, accused no. 16, was reported to have said according to this report without showing you the paper you denied that he said it. When I showed you the paper you admitted it. Now what do you say about that? -- Well I believe that was as a result in which your questions were framed.

What has my manner in which my questions are framed got to do with the correctness of your evidence or not, if you/.... (30)

you say something was said at the meeting in one breath and you deny it in another? -- Well it is because of the manner in which you ask me questions, you are asking me about the same question more than once and using different words and the manner of phrasing your questions.

I can understand that you might find it easier to report on matters when nobody checks them and it might be easier to do that than to have your evidence scrutinised by questioning. Would you like to comment on that? -- No.

Yes. You see I am going to put to you that you, I (10) do not now who you got reports from but that you made a report, if you did make that report on the Monday, which was false in relation to accused no. 16? -- No.

And I am going to put to you furthermore that some of the things that you did remember he said you put completely out of context and you interpreted them completely wrongly. -- No.

Right. Do you know Mr Joshua Raboroko? -- No.

Do you accept from me that he is a reporter on The Sowetan?

COURT: Does it matter if he accepts it or not if he does not know it? (20)

MR BIZOS: As Your Lordship pleases.

COURT: Do I accept it?

MR BIZOS: As Your Lordship pleases. Well I should really have put it will you accept from me that he is a reporter on The Sowetan.

COURT: AAQ(7) is this report of 21 August 1984.

MR BIZOS: Yes My Lord, in The Sowetan. Right. Let us just go through that. "More than 1500 angry Sharpeville residents have resolved not to pay new house rents and service charges increases to be introduced by the Lekoa Town Council as from(30) September the 1st." Would you agree with that main paragraph of/.....

of Mr Raboroko? -- Yes I agree with that report.

And if I were again to assure you that there is no mention in this report of any incitement to violence would you agree that Mr Raboroko would similarly have suppressed the main thrust of the meeting? -- That is so.

COURT: What do you pick Mr Bizos, the 800 residents of The Rand Daily Mail or the 1500 angry residents of Sharpeville, who is lying?

MR BIZOS: I do not know that Your Lordship is called upon to make a finding of that fact or ... (10)

COURT: No, but it shows you the difference between two reporters, they were both at the meeting.

MR BIZOS: In relation to the numbers, yes. There can be differences of opinion in relation to numbers. We do agree with that.

COURT: Yes, carry on.

MR BIZOS: There are different estimates. But as to whether or not there was incitement to murder or not we submit that there is a qualitative difference. Well perhaps you would like to tell us which is correct, the 800 or the 1500? -- A (20) thousand according to me.

In between, yes. "The resolution was taken at an emotionally charged meeting held at St Cyprians Church at the weekend where residents also called for the boycott of shops and other concerns owned by the councillors whom they asked to resign." Is that the essence of the meeting? -- That is so.

Yes. Just listen to the next bit, "Members of the security police in two vehicles watched the proceedings from a distance amid shouting of Black Power slogans and chanting of songs (30) by the crowd which crammed the church." Now let us just break that/....

that up. About the security vehicles, what do you say? --

C79 No that is not so.

I see. So the contemporaneous recording of the presence of two security vehicles is wrong because you have already told us had they been there you would have known all about it?

-- That is so.

And what do you say about the Black Power slogans and the chanting of songs, would you agree with that? -- No I do not agree with the songs.

You do not agree with the songs? -- That is so. (10)

How long before the end of the meeting did you leave?

-- It was just about to be off.

How did you determine that it was about to be off? -- Because just when I arrived at Sharpeville Police Station I noticed the people coming out of the church building.

How far is that away from the church? -- It is not very far.

How far or how near? -- It is about the distance from this court here, this courtroom, to the police station across the road. (20)

Yes. About a hundred metres at most? -- Yes about that.

Hearing distance? -- Yes quite well, even the view is clear from that.

COURT: Can I ask a question? By Black Power slogan, what do you understand under that? -- This is what I understand the person to mean.

The fist in the air as demonstrated? -- Yes.

And shouting or no shouting? -- This coupled with shouting.

Shouting of "Amandla"? -- That is right

MR BIZOS: Did you leave before or after the singing of (30)
Nkosi Sikelele e Africa? -- If it was ever sung it was before
that./.....

that.

But it would have been heard if a thousand people sang it within such a distance? -- I was in a car.

I am sorry I did not hear that? -- I was in a car.

In a car. Which car? -- My private car.

Right. Do you recall whether there was a benediction by Father Moselane, accused no. 3? -- Benediction, what is that?

You do not know what benediction is, you know the blessing of the people at the end of a happening.

COURT: At the end of the meeting? (10)

MR BIZOS: At the end of the meeting. -- No.

It is really a blessing, I think another word is, you were not there for that? -- I probably it was after I had left.

Then it says "Similar leaders from various political and civic associations, including the United Democratic Front, AZAPO, Azanian National Youth Union, Soweto Civic Association, and trade unions launched a scathing attack on councillors for increasing the rents." What do you say to that? -- I quite agree with that, those were in fact represented, that is these organisations were represented by certain people (20) at this particular meeting.

Who represented the United Democratic Front? -- No I did not hear who that was.

Would that not have been an important matter for your report? -- No. It did not occur to me.

Who represented AZAPO? -- Hlomoka, accused no. 2.

Yes, who represented Azanian National Youth Unity? -- Accused no. 1.

And the Civic Association? -- Mr Manthata from Soweto.

COURT: No. 16. (30)

MR BIZOS: Well do you agree, if they did represent those organisations/.....

organisations that a scathing attack on councillors for increasing the rents was the main purpose of the meeting, and the main purport of the meeting? -- That is so.

Yes. Now then it goes on "Mr Tom Manthata of the Soweto Civic Association said that when councillors campaigned under the new Black Local Authorities Act they had promised that rents would not be hiked but they now have increased rents." Was that said? -- Yes he did.

In those words? -- That is so.

Do you now remember that that is what he said? -- Yes (10) those are his words.

"He asked the Council and the government to pay the rents in the black residential areas because they are responsible for building apartheid houses for blacks." Did he use those words? -- No he did not say that.

Any of those words? -- No.

Then "Azania's Patrick Baleka said most blacks were already reeling under the escalating cost of living and could not afford to pay high rents." Did accused no. 1 say that? -- Yes he said that. (20)

He said that, you are sure now that you remember that he said that? -- That is so.

And do you recall whether he said "The delays in receiving unemployment insurance fund payments," do you remember whether he made reference to that? -- No I cannot remember that.

Are you saying that he said it or did not say it? -- I cannot remember.

Well do you remember whether he said anything about General Sales Tax? -- No.

Do you say he said it or did not say it or you do not (30) remember whether he said it or not? -- I cannot remember.

Yes./.....

Yes. Do you recall whether he made any mention about the high rate of unemployment had frustrated most blacks, do you remember whether he said that? -- No I cannot remember that.

Are you saying that you do not remember whether or not he said it or that he did not say it? -- It is possible that he may have said it.

"The increase in rents will be a heavy blow to them."
Did he say that? -- Yes that he did say.

He said "We are being robbed of our rights"? -- Yes that is what he said. (10)

COURT: Is it put that there was shouting of Black Power slogans and chanting of songs by the crowd?

MR BIZOS: The evidence will be that on a couple of occasions, that is when accused no. 16 finished, he gave an, what we call an Amandla sign and that people responded and that it did happen on a couple of other occasions during the course of the meeting, yes.

COURT: That is now the Black Power slogans? And the chanting of songs?

MR BIZOS: The witness chooses to call it the Black Power (20) slogan. We do not call it that.

COURT: That is the reporter that said that.

MR BIZOS: That is

COURT: That is Mr Joshua Raboroko who said that.

MR BIZOS: Well that is what is in his report, yes.

COURT: But now apart from the wording the chanting of songs.

MR BIZOS: Hymns My Lord.

COURT: The chanting of hymns?

MR BIZOS: Hymns My Lord.

COURT: Not songs? (30)

MR BIZOS: That will be the evidence, that there were hymns.

-- There/....

-- There was no singing at all.

Not even of hymns? -- Except for one hymn that I can remember.

Yes. There were two hymns, the Rea lo boka Morena and Nkosi Sikelele, I see the interpreter laughs at me, so the original hymn and Nkosi Sikelele. -- I only heard the other one, Rea lo boka Morena.

And you would contradict the reporter, if he says songs you would say, you would agree that it was a hymn? -- That is so. (10)

You see once again I am going to put to you that there are material differences in relation to your admissions as to what was said by the various speakers between the time that I had the newspaper before you and the time that the newspaper was not before you. Is that right? -- No.

Do you know what Azania stands for? I am sorry, do not say no because you denied that there was any talk about General Sales Tax and that there was any talk about unemployment insurance and that sort of thing. I do not want to go through the details, they are on record, but I am putting to you (20) that there are those differences. But if you want me to give you another example I asked you whether the Black Authorities Act was mentioned and you said it was no it was not mentioned and that you would remember it if it was mentioned. I do not want to give you all the examples so that we can get on with this case. What does Azania stand for? -- No I forget that one.

You forget that one. Because do you recall what representative you called no. 1 in the beginning of your evidence-in-chief? -- Yes I do. (30)

What did you say? -- I said he is from the Youth organisation

in/.....

in Soweto.

Well you said the Soweto Students Organisation. But that is not, Azania is not an acronym for Soweto Students Organisation. -- That is so.

Yes. Now having shown you these newspapers will you agree that you are really at sixes and sevens in relation to precisely what each one of the speakers may or may not have said at the meeting? -- As I have already said that this happened long ago and I remember some of the things and some I do not.

Yes. Now let me try and put in context some of the (10) things that you put into the mouth of accused no. 16. Do you recall he started off by saying that normally speaking the power of the people arose out of the power of the ballot box? -- No. I cannot remember those words.

Are you saying that it was not said? -- I cannot remember those words.

But you cannot deny that they were said? -- That is so.

And did he explain that what he meant by this was that the people had power because they had the power to vote, generally people had power because they had power to vote? (20) -- No.

No what? -- He did not put it that way.

Are you denying that he said that? -- That is so.

Why are you denying it and why are you sure that he did not say it? -- Because I remember his actual words about power, what he said.

Yes what did he say about power? -- He said we have got power or strength in brackets but we cannot use it properly.

INTERPRETER: The word used by the witness is ambiguous, it may mean strength or power. (30)

MR BIZOS: Right. Why are you sure that your memory is not playing/.....

playing tricks again like it played with you when you contradicted yourself in relation to what was said by the speakers on the contents of the newspaper? -- I told you that I remember some of the things and some I do not.

Let us see whether you remember the next thing. Do you remember that he recalled the election amongst Whites that had taken place some while before that? -- No.

Do you not remember that he referred to the agitation in relation to the small pension payments made to White pensioners? Do you not recall that? -- No I cannot recall that. (10)

Are you saying that he did not say it? -- It is possible that he may have mentioned that and I did not hear him mentioning that.

You see do you not recall that he made mention about the campaign that was going on even on television, even on television, about the meagre pensions of White pensioners and how the campaign had helped the pensioners? -- That I remember.

He did say it? -- Yes he did.

And do you remember whether he made reference to a supposed indiscreet statement made by a Minister about that the pensions were quite enough, that a pensioner only needs R20 a month, do you remember that he made mention of that fact? Do you recall that? -- No that I cannot remember.

Well in what context was the T.V. campaign mentioned? -- What he said was that an objection was made by the pensioners, that is White pensioners, and this was on T.V., as a result of which the rent increases were not put in effect.

Well can you recall that the point that he was making, that if people do not speak about their grievances and they do not let those in authority know what their grievances are they will not get any remedy for it? -- That is so. (30)

And/.....

And do you recall that the reason why he spoke about White pensioners was that this campaign by White pensioners was before an election? You recall that? -- Yes that is so.

And that the reason why the campaign was successful was because the White pensioners had the vote? And their demands and campaigns could not be ignored by those in power? Do you recall that? -- Yes I do.

Right. And did he then make what he said about White pensioners relevant to the Black pensioners of Sharpeville, most of who were in that church on that day? -- That is so. (10)

And was

COURT: That was actually two statements that you made. Were most of the Black pensioners in Sharpeville in the church that day?

MR BIZOS: Yes, perhaps I put it wrongly. Many of the pensioners of Sharpeville were in that hall. -- No.

Well I am going to put to you that there were many there but you are entitled Now did he say that some of the pensioners in Sharpeville had voted for councillors? -- That is so. (20)

And did he go on to say that instead of getting some benefit out of their vote they got a rent increase? -- That is so.

And did he go on, as EXHIBIT AAQ(6) says, that if they were unhappy with their councillors they could re-elect others? -- No he did not say that.

He did not say that. -- No he did not.

Well if the newspaper report is correct and the evidence of accused no. 16 and many others that may give evidence that were there present would you agree that his saying that (30) they could re-elect others would make nonsense of your statement/.....

statement that he called upon the people to go and kill them?

-- No that is not what he said.

But do you agree that if that is what was in fact said that it would have been completely inconsistent for him in the next breath to say go out and stone them dead? -- I do not understand that one.

COURT: Well is that not argument Mr Bizos?

MR BIZOS: As Your Lordship pleases. Do you recall he was going further and saying that unfortunately Black people were not as fortunate as White pensioners. -- No I cannot remember (10) that.

Are you able to say that it was not said? -- No.

That if you go on that voting for councillors under the system of the Black Authorities Act was not really an exercise in power, not a proper exercise of a proper vote? -- Yes I remember him saying that.

Yes. Did he also say that the councillors had made numerous promises during their campaign leading up to the election? -- That is so.

But that these promises had not been fulfilled? -- (20) That is so.

Did he say that the power of the Black people because they did not have a proper vote was really the unity of the Black people? -- That is so.

And did he give examples of how the unity among the Black people, despite the absence of a vote, of a proper vote, had gained some benefit for them and give trade unions as an example? -- No I cannot remember that.

Are you able to deny that it was said? -- No.

Right. Did he go on to say that in their unity they (30) should call for a meeting with the councillors? -- No.

You/.....

You see I am going to put to you that you as an experienced witness, as a sergeant in the police, the moment we get to anything near inconsistent with your evidence that there was a call of violence against councillors you deny it, and it is the only things that you deny. Now I want to ask you why do you exclude the possibility that Mr Tom Manthata, accused no. 16, did not at some stage of his speech call for a meeting with the councillors? Why are you categorical about that? -- He never said that.

The question was why are you so categorical about that(10) when you have been proved wrong in many instances and you have been unable to deny so much else that I have put? -- As I have already explained that there are those things that I can still remember and some I forget.

And what I am going to suggest to you is that what you remember is only that which is consistent with the false premise that you started with, that there was a call to violence against councillors. -- That is not so.

COURT ADJOURNS UNTIL 14h00.

C80

COURT RESUMES AT 14h00.

(20)

THULO RONALD KOAHO: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Do you recall whether accused no. 16 referred to the resignation of councillors?

-- That is so, I do remember.

Right. At what stage of his speech did he say that councillors should resign? -- That is when he was saying that people have spoken to the councillors not to increase the rent and the councillors would not listen and therefore they must resign.

But now are you saying to His Lordship that accused (30) no. 16 reported to the people at the meeting that they, the people/.....

people at the meeting, had already spoken to the councillors about the rent? -- That is so.

Did he give any details to the people as to when the people were supposed to have spoken to their councillors? -- What he said is prior to these councillors being elected as councillors they agreed, or in canvassing for votes they said they were not going to increase rents and people elected them with the understanding that there will not be any increase in rents.

Now did, do you recall whether he suggested that they(10) should be spoken to and told that if they went on with this increase of rents they must resign? -- No according to his speech it was as if this has happened already.

Now is it possible that you are mistaken, that he was suggesting to the people that they should call for a meeting with the councillors and if the councillors did not listen to the proposals of the people at the meeting then they should resign? -- No.

Are you saying to His Lordship that the statement of accused no. 16 that councillors should be killed was con- (20) ditional upon anything happening or was it just a straightforward incitement to murder of the councillors? -- What he said is because they have increased the rent therefore they will have to be killed.

I see. So it was an unconditional incitement? -- That is so.

And if anyone were to suggest to His Lordship that the incitement to kill was conditional on something happening or not happening in between would that be a wrong way of putting it? -- No I do not understand that question clearly. (30)

You know what I mean, 326 My Lord. You know what I mean, there/.....

there is a difference between my telling you I am going to, I am sorry I will take myself out of the example. There is a difference between someone saying to someone "I am going to kill you" and "I am going to kill you if you do not do this, that or the other", do you understand that there is a difference between them? -- That is so.

Now having understood that difference and having assured us that there was, that you know of this difference do you say that it was an unconditional statement that councillors must be killed? -- It was an unconditional statement. (10)

And if anyone were to suggest that it was conditional upon their being called upon after the meeting at which no. 16 was speaking to resign, and if they did not resign then they must be stoned and killed and their shops burnt, would that be quite a wrong way of putting it? -- That person would be using the word, he the person is using the way you are putting them to me.

Your evidence-in-chief was that because they have increased the rent they will have to be killed. Do you stand by those words? -- Yes I do. (20)

And do you agree that the way you put it that it was completely unconditional?

COURT: That is not entirely what he said Mr Bizos. "Nou is dit tyd dat ons die raadslede moet dood maak want hulle wil nie bedank nie."

MR BIZOS: Yes, that was one way of, he expressed it more than once. That was one of the ways he expressed it but he also said at another place "Because they have increased the rent they will have to be killed." He said it a moment ago.

COURT: Yes, no you were referring to his evidence-in-chief. (30)

MR BIZOS: Yes well let me put it this way, the way you have
now/.....

now said it it was completely unconditional? -- That is so.

And you stand by that? -- Yes.

That it was unconditional? -- No.

Now if anybody suggests, if anybody suggests that the words used by accused no. 16 were the following "They were also going to ask the councillors to resign and if they did not listen then the residents as the so-called Black Power had to murder the councillors by burning or stoning and they had to destroy their property", if somebody were to put it, if somebody put it in a conditional fashion in the way in which I (10) read it to you would that be quite incorrect? -- No that person is telling the truth.

But do you not understand the difference between a conditional and an unconditional threat?

COURT: Let me put it to this witness clearly. Will you interpret to the witness what I am putting to him now and then I will ask him a question on it. Hulle gaan ook die raadslede vra om te bedank en as hulle nie luister nie dan moet die inwoners, as die sogename Swartmag, die raadslede vermoor deur verbranding or steeniging en hulle eiendom vernietig." (20) Now the emphasis is on "as hulle nie luister nie". Is this correct or incorrect? -- That is correct.

MR BIZOS: Well if that is correct why do you deny the suggestion that I put to you earlier that there was a suggestion by accused no. 16 that the councillors should be spoken to after the meeting? -- Well I did not understand that question clearly.

You know you are an experienced sergeant in the security police, you are not having any trouble with the interpreter are you? -- No.

(30)

What part of the question did you find difficult to understand?/.....

understand? -- What I did not understand is because of the question which was not put clear.

What was so unclear on, with the question as to whether accused no. 16 suggested that the councillors should be spoken to before anything happened? What is so difficult about that question? -- What I mean is I did not understand your question proper at the time when you were putting the question.

I see. When His Lordship read out the passage in Afrikaans did you apply your mind where those words came from?

-- That is so. (10)

Where did you think they came from? -- From a witness.

Yes. Contained in what sort of document? -- I do not understand.

Yes, well I am going to put to you that when His Lordship read it to you in Afrikaans you realised that it was part of the record of the court and that is why you agreed with it.

-- No.

Now do you recall on how many times you said that you understood the difference between a conditional and unconditional statement? -- Yes I do. (20)

Yes. I am going to suggest to you that not only were those words that the councillors should be killed not uttered by accused no. 16 but that the tenor of accused no. 16's speech was that as the people had put these councillors in those positions they should call for the resignation of the councillors after that meeting because they had broken their promise. Do you agree with that? -- That is so.

Well if you agree that after the meeting there was going to be a call to resign then obviously it was intended, according to accused no. 16, that some sort of meeting should be called or some arrangement should be made to speak to the councillors?/.... (30)

councillors? Is that so? -- That is so.

Was there any discussion as to how the people present at the meeting should make their voice heard by the councillors?

-- It was not explained.

Do you recall anything being said about petition forms?

-- No.

You are sure about that? -- That is so.

Did you see anybody going around collecting signatures either before or after the meeting? -- No.

Did accused no. 16 give any idea whatsoever what (10) steps had to be taken so that the residents could satisfy themselves that the councillors would not listen? -- I do not understand the question clearly.

Did you understand accused no. 16 to say that the crowd, the people there, must try and convince the councillors to resign? -- No.

Let us test it this way, you told His Lordship that the accused no. 16 told the crowd that they must kill the councillors? -- That is so.

And you then left the meeting? -- No. (20)

No, no, eventually you left the meeting, I did not want to suggest that you immediately left the meeting, you eventually left? -- That is so.

Before the Monday morning when you made your report did you take any steps whatsoever, on the evening of the 19th, on the night or evening of the 19th? -- No.

Did you report it to any senior officer on the 19th?
-- No.

Did you report it to the Mayor, the head of the councillors in the Vaal Triangle? -- I only reported this at (30) our office.

But/.....

But that is the next day? -- Yes.

But now you know if a crowd of a thousand people are incited to murder the councillors and a responsible police officer in the security police hears it what is his duty? Is it not his duty to raise a hue and cry? -- It is my duty.

But why did you not as a matter of urgency say that here we had an agitator from Soweto who came and told a thousand people to kill the councillors, let us take steps right away, let us go and warn the councillors, let us take steps in order to avoid this bloodbath that he has incited them to indulge (10) in? Why did you not do that? -- No I had other work to do more than that.

What was more important, more vital to a security sergeant, to a sergeant in the security police than to protect the innocent lives and property of the councillors who had been so seriously threatened, what was more important? -- That was in connection with my duties, that is security duties, in that area.

What did you do during that Sunday evening and that Sunday night to protect the prospective victims of no. 16's (20) incitement? -- I did not do anything.

Why not? -- Because they had not said when are they going to kill them.

But they were so excited, they were so excited as a result of this incitement that surely you must have realised that the poor councillors and their property must be in immediate danger? -- As I have already said they did not say when were they going to kill them and I therefore did not find it necessary to do that.

You got a shock, you told us? -- That is so. (30)

And in this state of shock why did you not go to the

station/....

station commander at Sharpeville and say, whatever his rank is, "A terrible thing has happened in this church." -- As I have already explained I did not find it necessary prior to my having met the people who had organised me to be there.

And because you did not have instructions what to do when you heard someone inciting an excited crowd to murder you did nothing? -- That is so.

What did you do, for how long did you stay at the police station? -- I did not stay at the police station.

Well how long did you remain there, or in the car (10) near the police station? -- About thirty minutes.

Thirty minutes. And what did you do after the thirty minutes? -- I then left for Sebokeng.

For your home? -- That is so.

Where you spent a quiet evening at home? -- As I have already said I had to continue with my other duties in the township.

I see. And I do not suppose you want to tell us what those duties are for State security reasons? -- That is so.

But tell me, and did you go straight home? -- That (20) is so.

Would it not have been part of your important security duties to follow at least one or two of the more youthful and more enthusiastic groups that had been so incited around the township and see whether they were not going to take up arms against the innocent councillors? -- No the Sharpeville police were on patrol.

No but you yourself did not report what had happened to the people on patrol, they would not know what to look for? -- During that period it was a known fact that after each (30) and every meeting in Sebokeng or Sharpeville then there are troubles/.....

troubles and therefore that is why there were police available patrolling.

Before 3 September? -- That was the position, yes.

What trouble was there after this meeting? -- Peoples cars were being stoned along the road or streets.

On the 19th? -- I am not talking about the 19th in particular, I am talking about previous meetings which were held in Sebokeng.

No I am talking about this meeting. -- No there were no people throwing stones in Sharpeville after the meeting at (10) this church.

Yes. May I suggest to you two possible reasons why you did nothing? To protect the innocent councillors and their property. Either there was no incitement to violence as the accused and many witnesses will say or if you did hear it you could not have taken it seriously. Which of the two, or some other possible reason that you may want to advance as the truth? -- As I have already said no fixed day was mentioned there for the killing of the councillors, therefore I did not find any reason of taking any steps about that. (20)

Were you able to observe the people in the church as they were coming out? -- That is so.

What was their mood when they came out of the church? -- From what I observed every person was taking a direction to her home or his home.

Had the shock and the excitement not been present as soon as they had left the church? -- I do not understand that question.

COURT: Neither did I. You can say was there no evidence of people still being shocked and angered. (30)

MR BIZOS: Yes, was there no, did you not see people shocked and/....

and angered and agitated? -- No they were far from me.

Well ... -- To their different homes.

A thousand people within an area of a hundred metres from here to the police station, surely you could judge the mood, especially as a sergeant in the security police? -- Yes because they were not demonstrating, they were just walking home, I gathered in fact they were just walking normally home.

Tell me was the minister Lapa Munnik mentioned by accused no. 16 in his speech? -- I cannot remember him mentioning that person. (10)

Are you able to admit or deny that that was given as an example of what people can achieve if they express their united opposition to those in authority? -- I cannot dispute that, it is possible that he made mention of that.

Yes. And did he not draw the parallel, did he, do you recall him drawing the parallel between Minister Lapa Munnik saying that a pensioner could live on R20 a month and be laughed out by everyone concerned and the plight of the pensioners, who were hardly receiving enough to pay the rent? -- No I cannot remember that. (20)

Are you able to deny it? -- No it can be that he made mention of that but I did not hear that.

Yes. Do you recall that he actually had a piece of paper from which he read the various increases? -- That is so.

Now I am going to put to you that he did not tear it up but he merely used it as a reference in order to be able to speak in relation to the Vaal figures. -- I do not understand that question.

I am going to put to you that he did not tear up the paper and he did not say that it should be burnt? (30)

COURT: No that it was just as well as burning it.

MR BIZOS: Oh I see.

COURT: Net so goed as om dit te brand.

MR BIZOS: Oh I see, I did not get the nuance, I am sorry My Lord. And that there was no reference to, he did not tear it and that there was no reference to burning it? -- He tore the piece of paper and said it must be burned.

What was the size of the piece of paper that you saw being torn up? About half the size of the previous exhibit.

COURT: Half a foolscap.

MR BIZOS: What did he say, it must be burned? -- Yes he (10) said after tearing it it is just good for burning it.

Just good for burning? -- Yes. That is so.

Now I am going to put to you that that never happened, that that is a contrived bit of evidence in order to try, it is a bit of self corroboration about what he said, you say he said about councillors. -- No.

Tell me when was the question of the boycott of the business first raised, of the businesses of the councillors first raised at this meeting? -- It was during the speech by accused no. 16. (20)

I am going to suggest to you that that was proposed as a motion by accused no. 2 at a later stage. What do you say to that? -- No.

Right. Do you recall whether accused no. 16 made any reference to the existence of charitable organisations in South Africa? -- I did not understand that question well.

Can you recall whether the accused, accused no. 16, made mention of the existence of charitable organisations in South Africa? -- No I cannot remember that.

Are you able to deny it? -- No. (30)

Do you recall whether the accused called upon the people present/.....

present to make use of the organisations that existed in South Africa, the charitable organisations that existed in South Africa? -- That is so.

He did make a call. And do you remember him saying that failure to seek help from outside their own community would be tantamount to a sad loss of faith in mankind and in God? -- No I cannot remember that.

Are you able to deny it? -- No I cannot, it may be that he said that.

Yes. Incidentally you say that accused no. 16 shouted (10) the word "Amandla"? -- That is so.

And you say that it was at the beginning of his speech? -- That is so.

And what was the response? -- The people stood on their feet and said "Awetu" with their hands raised up and clenched fists.

I am going to suggest to you that you could not even get that right because accused did not say "Amandla" but "Matla".

What do you say? -- No he said "Amandla".

And that the response was not "Awetu". If you will (20) forgive the pronunciation, "Bokamoso kejarona". -- Unfortunately I could not make out what Mr Bizos was reading there. The last portion, the response.

I am informed

COURT: Please read it again Mr Bizos, Bokamoso?

MR BIZOS: Bokamoso kejarona. I am instructed it means "the future is ours". -- No.

COURT: Is it kebarona? -- Kebarona.

You have got a j in somewhere.

MR BIZOS: Well I cannot, you see can you recall whether the (30) accused himself used the words "bokamoso kebarona"? -- No.

Is/....

Is this a slogan completely unknown to you? -- That is so.

Have you never heard the slogan "Matla"? -- Not in Sotho or Tswana.

Well is "Matla" a Sotho and Tswana word? -- It fits in both.

And means what? -- Power.

Yes. You are not going to suggest that the Sotho and Tswana people had abrogated their language in favour of Zulu or Xhosa? -- No. (10)

COURT ADJOURNS UNTIL 19 FEBRUARY 1986.

DELMAS TREASON TRIAL 1985-1989

PUBLISHER:

Publisher:- Historical Papers, The University of the Witwatersrand

Location:- Johannesburg

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DOCUMENT DETAILS:

Document ID:- AK2117-I1-4-25

Document Title:- Vol 25 p 1164-1233. Witness: TR Koaho