IN DIE HOOGGEREGSHOF VAN SUID-AFRIA

(TRANSVAALSE PROVINSIALE AFDELING)

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VOOR: SY EDELE REGTER VAN DIJKHORST en ASSESSOR : MNR. W.F. KRUGEL

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KLAGTE: (SIEN AKTE VAN BESKULDIGING)

PLEIT: AL DIE BESKULDIGDES: ONSKULDIG

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KONTRAKTEURS : LUBBE OPNAMES

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VOLUME 444

(Bladsye 26 094 tot 26 132)

THE COURT RESUMES AFTER LUNCH

MR TIP: As the court pleases. Before continuing with the 3 September events I omitted to mention one aspect of the meeting of 26 August which I think should probably be drawn to your lordship's attention and that is the witness Nonyana I am sorry to be out of place in this way, m'lord, the witness Nonyana in fact spoke during his brief attendance there in favour of the march in order to have a meeting between the residents and the people in authority at Houtkop. That is at volume 386 page 22 375 lines 6 to 11. The significance of that is that it was never suggested to Tim Nonyana in cross-examination or the other witness Ngwenya that they had anything other than a bona fide interest in proceeding with this march when they went to the square on 3 September 1984. That is a theme that we will have to return to later. Now on 3 September your lordship has heard from accused no.11 that generally on the streets where he moved that morning there were no road obstructions. That is in volume 218 page 11 549 line 29 to page 11 550 line 15. Now the same account as to the absence of road obstructions is given by the other witnesses. Ngwenya although he lives very close to the square, the square is in the middle, it is a central part of Boipatong. He also saw no road obstructions in the vicinity. Volume 386 page 22 347 lines 10 to 14. Nonyana testifies to similar effect. Your lordship will recall that he lives two houses away from the house of councillor Mpondo in Inzimvubu Street and he says when he went to the square he saw no road obstructions. Volume 386 page 22 376 lines 1 to 14. Now that perception is confirmed by Mr Mohapi in his evidence. He has told your lordship

that it was only later in the day that he saw road obstructions and that is the evidence of Mohapi volume 39 page 1 810 lines 2 to 9 and on his version he went all over Boipatong before he saw road obstructions later in the day. Now the significance of it is this and it is with regard to the state's submission made on page 342 of the "betoog". It says generally on the morning of 3 September 1984 accused no.11 must have known, they say, of the violence which had broken out elsewhere in the Vaal and at least of the incidents which had taken place according to the police testimony in Boipatong during the night of the 2nd and the 3rd. One of those peace officers your lordship will recall, Terblanche I think it was, said 80% of the roads had road obstructions by early in the morning. A state witness did not see any of them and the three witnesses for the defence similarly say only road obstructions arose later. Specifically in relation to events in Boipatong these matters were canvassed in the cross-examination of accused no.11 and he said no, he did not know of them and that is in volume 218 page 11 549 line 29 page 11 552 line 17. There is direct evidence and with respect it is not open to the state to say he must have known of the violence and therefore by continuing with his proposed march it shows that he intended violence himself.

COURT: Is it your submission there were no obstructions at all in Boipatong?

MR TIP: The evidence of these witnesses is certainly in the areas where they moved they did not encounter them.

COURT: Yes well, that is no answer to the question.

MR TIP: Well, I cannot take it further m'lord. One of the other state witnesses Setchabela, the bus driver, also told

your lordship that when he drove out in his bus there were no road obstructions then shortly after 07h00 in the morning. I can say no more than that . A somewhat different picture is presented that where the key state witness in relation to accused no.11, that is Mohapi, says that he only saw road obstructions later and there is no reason to doubt accused no.11 either. And in relation generally to the events and the violence which had occurred accused no.11 says that he did not know of it. There is no suggestion in the evidence of the state witness Mohapi that he had any knowledge of any violence and so we submit that in that regard too one cannot draw any adverse inference at all against accused no.11 in this regard. It is common cause that at the square when the people were assembled a police vehicle arrived and it was stoned as it entered the square and it then sped away down Mopedi Street with a number of people following it. Accused no.11 gives his account of it in volume 214 page 11 284 line 13 to page 11 285 line 30. What he says is that that incident took place so fast that he had no opportunity to try to stop the youths who stoned the police vehicle. It is in volume 214 page 11 286 lines 4 to 8. For reference sake Ngwenya and Nonyana also described this incident. Your lordship will find those at volume 386 page 22 347 line 15 to page 22 348 line 19 and volume 386 page 22 377 lines 15 to 30. The witness Ngwenya did not actually see the stoning. He just saw the commotion. Of course your lordship has heard that there were a great number of people in the square and there is no reason to doubt that, to doubt the account given by Ngwenya. What then took place is that accused no.11, Sothso and the witness Mohapi tried to get the

march going. They lifted placards, they started singing "Siyaya iHoutkop", they moved across the square to the intersection of Lekoa and Inzimvubu Streets and the purpose was to proceed if possible on to Houtkop. Volume 214 is the account given by no.11, page 11 286 line 9 to page 11 287 line 15. And what accused no.11 had in mind is that he thought that by trying to get the march started he might distract people's attention from what was happening there. Volume 218 page 11 561 line 22 to page 11 562 line 11. The witness Nonyana confirms this attempt to get the march going with raised placards and singing although he only remembers seeing accused no.11 holding up his placard high. It is in volume 386 page 22 378 line 1 to page 22 379 line 1. Mohapi, the state witness, also confirms this attempt to get the march going. And he says to your lordship that they did so in the hope that they would be followed. Volume 40, page 1 873 lines 8 to 21. He reaffirms it in re-examination and he there includes the statement that they hoped that the people would realise that they wanted them to one side but they were not successful in attracting their attention. Volume 40, page 1 903 lines 3 to 11. At page 341 of the "betoog" in support of its contention that accused no.11 was really concerned with prompting violence they say that he made an extremely feeble effort to get the march going. We meet that submission with this simple fact that accused no.11 did no more and no less than the state witness Mohapi and we will give you some of the references but your lordship will remember clearly that Mohapi said on several occasions that they were not interested in violence, they wanted a peaceful march so if Mohapi did not want violence but does exactly the same as / ..

as accused no.11 on what possible basis can the position of accused no.11 begin to be distinguished. We submit that there is no foundation for this. What happened thereafter, the material events is that it is then observed that there is commotion at the end of Inzimvubu Street. Sothso suggested that they go there, if something wrong was happening that they should try to stop it and they went and found a group of youths stoning Mpondo's house. That is in volume 214, it is the account of accused no.11; page 11 287 line 16 to page 11 288 line 11 and again there is direct corresponden-(10 ce with the evidence given by Mohapi. He has told your lordship that the idea of following these people the stone-throwers, was that it be possible to stop them and then to proceed with the march. Volume 40 page 1 872 lines 3 to 9. And Mohapi confirms also what accused no.11 testified to, that he had no opportunity to call on the people to stop the rioting and to rejoin the march. Mohapi's evidence, volume 40, page 1 872 lines 21 to 24. Once those three people had gone to Mpondo's house they made an assessment and the assess-ment was that they would not able to stop the group which (20 was stoning the house and that if they tried there was every chance that they themselves might be injured by this group. Accused no.11 thought it was best then to give way and Sothso suggested that they leave in case they were thought to be part of the group and that is what they did, m'lord, they then left. That is in the account of accused no.11 to be found in volume 214 page 11 288 line 28 to page 11 289 line 13 and again I would refer your lordship to the evidence of Mohapi. He told your lordship that in his view, had he stepped in front of the crowd there at Mpondo's house, raised his arms and said (30

stop / ..

stop this, he might himself have been assaulted or stoned, even killed by this violent crowd and he told your lordship that no single call would have had any effect on this crowd. In volume 40 page 1 874 line 22 to page 1 875 line 4. Accused no.11 goes on then to testify that after leaving Mpondo's house he, Sothso and Mohapi went back to the square and accused no.11 left them and went home where he remained.

ASSESSOR: Is that 11 which testified so?

MR TIP: That is in no.11's testimony.

ASSESSOR: He said no.11 left them and went home? (10

MR TIP: 11 then left and went home, yes. No.11 also denies that he was present at any acts of violence elsewhere in Boipatong on that day. His evidence is at volume 214 page 11 289 line 27 to page 11 290 line 29. The witness Nonyana testified on this aspect and he told your lordship that when he left the square for home he came across accused no.11, Sothso and Mohapi in Inzimvubu Street, they were heading in the opposite direction to him. They were heading towards the square and when he, Nonyana, got home he found a group of people still at Mpondo, some of whom were stoning the (20 house. That evidence is at volume 386 page 22 379 line 15 to page 22 380 line 3. The question has arisen in respect of this as to whether the evidence is in conflict to what was put. That submission is made by the state at page 333 of the "betoog" and they say that it is in conflict with what was put in volume 40 at page 1 881 to the witness Mohapi. Our submission is that the version that was put to the witness Mohapi must be read in context to what have gone before. Essentially what was put is that accused no.11 left the others after Mpondo's house and the context firstly is in relation (30

to the evidence of Mohapi and in the course of that evidence a series of questions was put to the witness about precisely where that witness said that he, Sothso and accused no.11 had gone. Your lordship will find those questions beginning in volume 40, page 1 879 line 24 and in the course of the several answers that follow it establishes the following on Mohapi's account m'lord, that the group went first of all to Mpondo's house; that thereafter they went to councillor Nzungu's house, after that they went to Nzungu's shop; after that they went to the bottle store and it was only after the bottle store that they dispersed on their various ways. And then your lordship posed the following question to Mohapi which he confirmed as follows:

> "Now I followed your route on the map while you have been talking and I want to put it to you that you and the other two crossed the length and breadth of Boipatong in pursuit of this unruly mob."

Then the cross-examination is resumed and that is page 1 880 line 31 to page 1 881 line 4. Then Mr Bizos is on record as asking the following:

> "Well, what I am going to put to you is that if this may be true of you but it is not true of accused no.11 that he lost you after the attack on Mpondo's shop - I beg your pardon, Mpondo's home and from that stage on he was not in your company."

Now what we submit is that really the four places were identified by Mohapi as landmarks against which or in relation to which their route was plotted and that is the intent of the version put, the manner it was put clearly in our submission is that it was after Mpondo's house but before Nzungu's

house that accused no.11 parted from the others. And we submit it is relevant that it was put in terms of after Mpondo's house and not at Mpondo's house. Had that been what was put then the state would have had cause for complaint perhaps. There was another question which preceded the passages which I have referred your lordship to, at page 1 878 at lines 20 to 23 when your lordship asked the witness Mohapi:

"Yes, but did you part company before or after you came to Mpondo's house or before or after you came to Nzungu's house; before or after you came to his shop?" (10

and he said:

"On our way to Nzungu's house we parted company."

He went on to say they rejoined at Nzungu's house. Mohapi was not here saying we parted company for the day, but with respect the idiom that was employed in what was put to Mohapi - after Mpondo's house - is really to be found in what went before. Now we submit then that the criticism although the putting can be criticised if one takes a very strict view of it, it would have been far better had it been put to Mohapi precisely where they parted company, but we submit that if (20 that putting is subject to criticism it certainly does not amount to a basis for discrediting the evidence of accused no.11 and Nonyana. It is of moment that the evidence of those two witnesses has to be weighed against that of a single state witness who is an accomplice and when your lordship determines the satisfactoriness or otherwise of Mohapi's evidence in the following we submit is of particular relevance and that is that this evidence by Mohapi once again does not correspond with the case pleaded against the accused.

What is pleaded in paragraph 77(6) at page 355 of (30

the indictment is that accused no.11, Sothso and Mohapi withdrew from the masses once they were thoroughly caught up in the campaign of destruction. The state was then asked to specify precisely when this withdrawal took place and in its reply it pleaded that it was after the events at Nzungu's house. After Nzungu's house and vehicles had been set alight and your lordship will find that in paragraph 4.1.7 of the further particulars page 112. Now the evidence of Mohapi is in conflict with that. He says we did not part after Nzungu's house, we went on to Nzungu's shop and we went on after that to the bottle store and so we submit that the account given in this respect by accused no.11 is to be preferred. There is one further and decisive aspect to consider in relation to the state's case on Boipatong and the position of accused no.11 in particular and generally the existence of the conspiracy pleaded by it, and the departure point for these concluding submissions is at page 340 of the "betoog", paragraph 5.6 and I should just like to read it for your lordship's benefit:

> "Dit word verder betoog dat die sogenaamde vreedsame optog wat selfs Mohapi verkondig net 'n rookskerm is om die werklike doel met die byeenkoms by die vierkant te verdoesel. Dit word spesifiek betoog dat Mohapi nie doelbewus leuens hieroor vertel nie maar dat hy soos hy met betrekking tot die verhouding tussen Boipatong Residents' committee deur beskuldigde 11 in die duister gelaat is, doelbewus hieroor mislei is deur beskuldigde 11."

and they go on to say no.11 knew that violence would break out. Now one can understand that the state will have

difficulties with the evidence of its own witness Mohapi, because his evidence is conclusively destructive in our submission of the existence of a conspiracy certainly in Boipatong insofar as the Boipatong residents' committee is concerned and accused no.11. And I should like to give your lordship a few references in this evidence which make it perfectly clear. The first one is right in the beginning of his cross-examination. Before any specific matters are put to him he is asked a general question. It is on the second page of his cross-examination and he is asked whether he felt that he had committed any offence in relation to these events and he says yes. Your lordship will find this in volume 39 page 1 825 lines 5 to 26 and after having explained that he did feel himself to be guilty of a crime of an offence he was asked this:

"What offence did you feel that you had committed?"

and the answer is:

"Because of my having taken a part in making people aware and bringing them together to unite and fight the increased rents and make people accept the point that we were to march in order to go and talk to the people in authority about the question of the rent."

Now perhaps in the course of his time in detention that is how Mr Mohapi came to view things, but objectively of course the statement is entirely innocent and what is absolutely clear about it is that there is not the slightest hint in Mohapi's view and understanding that he was party to a conspiracy of violence. And that position is repeatedly made by Mohapi in the course of further answers given by him in respect of the purpose of the meeting of 15 August, which is alleged

to be part of the implementation of a conspiracy. He says the purpose was to discuss the rent matters. Your lordship will find that in volume 39 page 1 789 lines 5 to 8. It is common cause that he was elected vice-chairman of this committee. He was not a person on the outside. At the meeting of 15 August it was said that what the committee would do would be to represent the community to the councillors concerning the rent issue. Volume 39 page 1 789 line 29 to page 1 790 line 2. This is an inside account. Then he tells your lordship that the committee intended the march to be a peaceful and orderly march to Houtkop. The committee hoped and believed that the people of Boipatong would answer to the call and peacefully gather at the square and march in an orderly fashion to Houtkop. It is in volume 40 page 1 862 lines 16 to 25. He goes on to tell your lordship that it was believed that the greater the number who turned up the greater the impact would be on those making the decisions. It never occurred to them that there would be destruction of property or the commission of a violent act. They would go with placards and sing "Siyaya iHoutkop" until they got there. Volume 40 page 1 863 lines 2 to 11. I promised to give your lordship the reference to the portion where he says the meeting of the 26th was not a conspiratorial meeting in any way to do anything wrong. Volume 40, page 1 892 lines 25 to 28. He told your lordship also that the Boipatong residents' committee was really concerned with the problems of the community as shown by the resolutions and not with the notion of overthrowing the state by violence or to make the country ungovernable. And that appears at volume 40 page 1 900 lines 20 to 29. Right up to the stage where the people were assembling at

the square on 3 September there is evidence there that Mohapi asked accused no.11 about the placards, what were they for and accused no.11 said that these were the placards to be used on the march. Volume 39 page 1 803 lines 2 to 9. It is clear that Mohapi had no doubt that there was to be a march, that Ngwenya and Nonyana had no doubt that there was to be a march and we submit that there is no basis for submitting that accused no.11 had anything different in mind. He has told your lordship that he was intent on a peaceful march. Now the state has conceded its problems and what it tries (10 to do in order to fashion a latter day solution to them is to say well Mohapi was misled and we submit with respect that that submission can find no fruitful ground anywhere and there are certain aspects that bear remarking. The first one is that it is of course not the case that accused no.11 has had to meet here. What was pleaded is that he was in a conspiracy with among others his fellow committee members including Mr Mohapi. The fact that the state has now had to find a different tack in our submissions shows that it acknowledges that it has not proved that case against (20 accused no.11. It cannot bypass its own indictment and its own evidence in this way. It is not as if Mohapi's evidence or that his statement came late in the day to the state. It is on record that he made only one statement and that was on 15 January 1985, nearly five months before the service of the indictment on the accused. Your lordship will find that date in volume 39 page 1 824 lines 1 to 14. When he was called to give evidence here before your lordship he was warned in terms of section 204. After the cross-examination of Mr Mohapi when these concessions were made by him there was no (30

attempt /..

attempt by the state to suggest in re-examination that perhaps he had been misled by accused no.11. Throughout his evidence it was never canvassed in any way at all, this notion that he had been misled. It goes without saying really that had the case of the state been that accused no.11 had misled his vice-chairman on this committee the approach to the cross-examination of Mohapi would have been obviously materially different. Different objectives would have had to be striven for, different questions posed and the matter would have had to be canvassed in the course of the evidence of accused no.11. It is a different case, and that it was not alive to the mind of the state apparently even when accused no.11 was being cross-examined is that it was put to him in volume 218 page 11 552 lines 18 to 29, it was put to him although this resolution had been taken on 26 August that you are going to have a march you and your committee members had a different purpose. The phrase is there: "U en u komiteelede se bedoeling" and even at that stage there was no suggestion that amongst those committee members Mohapi was to be excluded. What we submit is the overall effect is that a conspiracy is pleaded, the evidence establishes in our submission positively and overwhelmingly that there was only one matter before the minds of the Boipatong residents' committee organisers and accused no.11 in particular and that was the rent issue, that throughout the efforts of that committee they were pursuing that issue and never a conspiracy and never an object of violence of any sort, never the implementation of a UDF campaign of any description; nothing at all to do with the ANC or the Communist Party; that the organisation of the march was one that was intended to be peaceful

that it was hoped that it would get to Houtkop and that the unfortunate eruption of violence at the square thereafter was not something that had been planned. We say that the state pleaded a case it called from the inside of this committee a person who could tell you what the case was, what was this committee about and it has told your lordship absolutely clearly that there was no conspiracy and no plan to violence and that is in our respectful submission closes the door quite completely on the state's case regarding Boipatong and accused no.11. (10

That completes the submissions concerning Boipatong. Again there are certain documents that we will incorporate in an address to be given at a later stage. Mr Bizos will resume the further submissions.

COURT: Yes, Mr Bizos.

MR BIZOS: As your lordship pleases. What we are about to submit to your lordship is that the four witnesses who were detained and who were brought to court m'lord, either as detainees or who had been detained and gave evidence require special treatment by your lordship and we have set outsel- (20 ves the task of bringing to your lordship's attention what the learning in regard to the court's approach is with witnesses of this nature and to make submissions that the witnesses IC.8, Mahlatsi, Rina Mokoena and Mohapi insofar as they are contradicted by the accused and defence witnesses they cannot be believed. No argument has been addressed to your lordship by the state as to this special approach that is required, and for that reason we want to take up a little time in order to indicate to your lordship the headings under which we are going to approach these witnesses. Let us (30

start / ..

start with IC.8. He was warned as an accomplice as he was still in detention at the time he was giving evidence. He was one of the first witnesses from the Vaal to give evidence for the state. He more than any other witness for the state gave direct evidence against a number of the accused to the effect that they called for violence against the councillors and that three of them were in the vicinity of the home of Caesar Matuane at the time of the attack against him and his bodyguard in respect of which all the accused as your lordship knows face charges of murder. He more than any other witness tried to support the state's case as pleaded and as later amplified, than any other state witness. Even he however was not prepared to go as far as the state in relation to the general allegations of conspiracy in that he denies that he was ever a party to any agreement to overthrow the state and I am referring particularly to page 998 of the record line 3 to line 19. I will read your lordship the passage. I tried in a more indirect way to do it on the previous page but then I said let me try to simply it:

"Did you agree ever with the ANC to overthrow the state, you personally? -- No, not at all, not with the ANC.

Did you ever know of any agreement between AZAPO and the ANC - an agreement between AZAPO and the ANC to overthrow the state? -- No, I know nothing about that.

You know nothing about it. Did you feel that whilst you were in detention that you were responsible for any of the deaths of any of the councillors that were killed? -- What occurred to me while I was in detention in fact which is one of the reasons which cause me to think

about killing myself is that this government will not look deep into the whole thing. They will just accept it on face value that we, the people who had a lot to say are the people who caused by having a lot to say, that the councillors be killed and therefore I felt it would be wise to kill myself."

Now the reason why I quote this passage at this stage is that it has a ring of familiarity with the passage that my learned friend Mr Tip read to your lordship from the evidence of Mohapi, the second page of his cross-examination to the effect that the only thing that he did was really to organise people to unite, to protest. We will show your lordship on the authorities and on his own admissions that that is the thought of innocent behaviour which is converted into guilty behaviour during the course of detention and prolonged interrogation and suggestion as to what is required in order that the detainee may gain his liberty. IC.8 is contradicted by McCamel. I have already indicated to your lordship that the state couples IC.8 and McCamel and says that they are both satisfactory witnesses, but we will have shown and will continue to show that there are differences. He is contradicted by the other detainee and other accomplice called by the state, Mahlatsi, and he is contradicted by no less than six of the accused - accused nos.2, 3, 5, 8, 9 and 13 and no less than twelve defence witnesses and I will merely refer to the names at this stage.

ASSESSOR: How many?

MR BIZOS: Twelve if I have counted correctly, Myesa, Msimanga, Caba, Mabasa, for the sake of convenience these are the Sharpeville witnesses, Radibisi (he is the first of

the defence witnesses), Mapala, Mgudlua, Dhlamini, Myembe Repele, Mazibuko and Vilakazi, the erstwhile accused no.18. The respects in which he is contradicted we have dealt with in part in relation to the Sharpeville case. We will deal with those in the Sebokeng case and we will give your lordship, we do not intend repeating the Sharpeville argument, we will give your lordship the page numbers in the argument where the conflict arises, already recorded in relation to the Sharpeville case. The circumstances under which a witness comes to give evidence is particularly relevant to his motivation and his reliability or lack of it. We submit that accused no.8 could not have done worse on his own evidence. We will do it under six headings - I am sorry, IC.8, I am told that I said accused no.8, IC.8. The circumstances of his arrest, the circumstances of his detention, the manner in which he was assaulted, the manner in which he was programmed during that period of four months that he was being interrogated and his statement was taken. Well, interrogated fifthly, the manner in which his statement will be the fifth, the warning uttered to him that he must not depart from his statement and that the fear that he had of his interrogators was still present according to his own evidence whilst he was giving evidence here in court. Now before giving your lordship the details I would like to refer your lordship to a number of authorities dealing with the question of the approach to detainees' evidence. The first occasion on which the reliability of anything said by a detainee who was compelled to speak was considered in the case of S v Ismail 1965 1 SA 446 (NPD) by MILNE JP. I may say it is S v Ismail and Others (1), like in this case there were a number of

judgments / ..

judgments in that case. It was argued in that case that the mere fact that a person was in detention and that he would remain in detention up to a period of 90 days, which was the period of detention in 1965, was sufficient to render a statement made by him as inadmissible on the ground that it was unreliable and at page 448H to 449A MILNE JP having rejected the accused's version that he was threatened and that he was assaulted and that he was told by the police what to say, all that was rejected; was only left with this one fact namely that the person knew that he was in for 90 days and that he would not be released unless he made a statement to the satisfaction of a police officer, and this is what his lordship says:

> "I think I should say that I do not regard the fact that Sergeant Nyagar told the accused that he would be detained for 90 days prior to the actual authority being forthcoming for his detention for 90 days as in itself constituting a fact attending to negative the accused's freedom of volition. The authority was forthcoming the next day and I do not perceive how it can make any difference when it comes to considering the effect upon the accused's will. It was his belief that he was subject to the 90 day provisions plus the interrogation that is said to have affected his will. I think it is right to say that on 18 July he believed he was going to be detained for 90 days in solitary confinement unless he made a satisfactory statement. To contemplate being detained for 90 days in solitary confinement without being able to see one's relatives and friends is in its nature a grievous thing and it is perhaps even more

so / ..

so if the person who contemplates his detention has a family dependent upon him."

Now the reason why I quote this passage to your lordship is this. We refer your lordship to the evidence of IC.9 that it was not only - I am sorry, IC.8, that it was not only the fear of detention for an indefinite period but the other concerns that he had so that even if he had not himself admitted that he had been assaulted and threatened the mere threat of detention may have been sufficient.

The case of S v Hlekani .... (10

COURT: How do you spell that?

MR BIZOS: Sorry, H-l-e-k-a-n-i, reported in 1964 4 SA 429 (ECD) a judgment of WYNNE J, a full-bench decision consisting of VAN DER RIET J, WYNN J and O'HAGAN - I will merely read the headnote:

"A statement made by a person detained under Section 17 of Act 37 of 1963 where there has been no threat or inducement to make such a statement is admissible in evidence."

Now that of course is in conflict with that in Natal but (20 the reason why we submit that it supports our argument is that when there had been threats and inducements the unreliability of a statement is again to be emphasised. Similarly in the case of S v Hassim 1973 3 SA 443 (A) VAN BLERK J quotes with approval a passage in the judgment of the court a quo in that case, the then Judge President JAMES J, this is quoted on page 454G to 455B. I will read that passage:

"It is not for this court to comment upon the task conferred upon the police by these laws. Clearly parliament has given them to the police because it (30

considers /..

considers that they are necessary to protect the security of the state. The court's function, however, is not altered by that fact. Its plain duty to come to a conclusion regarding the reliability of witnesses giving evidence before it remains unimpaired and in performing that duty it must inevitably take into account the circumstances in which a witness arrives in the witness-box, such as whether for instance.."

I am sorry if I am reading falteringly but being a quotation it is in very small print..

COURT: I am following.

MR BIZOS: (continues reading) -

"..such as whether for instance he should be regarded as an accomplice or a police trap or whether special circumstances such as his age which require the court to adopt a cautious approach to the evidence. In the present case many witnesses were detained by the police in solitary confinement until such time as they are willing to make a statement to the police which was considered satisfactory. Others were subjected to long spells of interrogation, others remained in detention until they gave evidence whilst others who were not actually detained have been given accommodation in police barracks until their evidence was heard. All these things were no doubt considered necessary by the authorities who have the grave responsibility of ensuring that the security of the state is protected but they can undoubtedly create situations in which the evidence of witnesses come into court in these circumstances has to be subjected to even more careful

"scrutiny than is usual, before the court can come to any conclusion as to whether a particular witness can be relied on as truthful and reliable. This is because these circumtances raise the possibility that they may have induced in the witness' state of mind which may tempt him to fall in readily with suggestions put to him whilst under interrogation and thereby to depart from the absolute truth or to depart voluntarily from the truth to ingratiate himself with the police or at least to make him unwilling to depart from the sworn statement he has given to the police for fear that this may lead to a prosecution for perjury. The court has been very much aware of these problems when considering this type of witness, and it has no doubt that it has a duty to reject the evidence of any witness if it has grounds for believing that his relationship with the police made the reliability of his evidence when viewed in the light of all the relevant circumstances suspect. There is, however, no all-embracing general rule that any witness who has been held under the provisions of the Terrorism Act must for that reason alone be rejected. The circumstances in each case must be carefully weighed and a decision come to in the case of each individual witness."

Now the approach that we would commend to your lordship and learned assessor is that of THERON J in the case of S v John Christopher Hoffman - if your lordship bears with me for just one moment. It is an unreported judgment in the CPD delivered on 18 March 1977. It is with regret that I hand up copies which have been heavily marked. It came to me

in / ..

in that fashion but as your lordship indicated it may be of some assistance. I will not refer your lordship to all the underlined portions because practically the whole of it has been - I have given a copy to our learned friends for the state. Now I am going to ask your lordship to compare how little was done to the main state witness in that case whose evidence was rejected and how much more was done to IC.8. Your lordship will see from page 1 that the accused, three of them, were charged with contravening the Terrorism Act and his lordship sets out what the charges were, namely that they were alleged to have been guilty of terrorism because they printed and distributed a number of pamphlets, it being held that merely printing them was not an act calculated to endanger the maintenance of law and order but distributing them would have been and therefore evidence of distribution was necessary before the accused would be convicted in that case. Now I would like to read from page 3 of the judgment. One of the persons that your lordship will see on top of page 3 was the witness Frederick Haupt. Your lordship will see, if I pronounce it correctly, Haupt, it is the second paragraph on page 3 where his lordship says the following:

> "In addition Mr Klem adduced evidence intended to show that on the evening of the 13th September, 1976, the three accused and 5 or 6 other persons gathered in the bedroom of a house situate in Doreen Road, Rylands, in which one Jeff lived - Jeff being a friend of accused number 1. A couple of pamphlets, presumably two of those printed earlier that day, were circulated in the bedroom amongst those present there. In this bedroom

it was decided by the three accused that the pamphlets which had been printed (or at any rate some of them) should be distributed that same evening by three teams.." I think that that is the correct word although it is not very clear -

"..by three teams consisting of two men each. According to this evidence adduced by the State, the decision was that with this end in view, Haupt, who happened to be amongst those present, should accompany accused number 3 in his car to distribute pamphlets at the Athlone stadium, where a soccer match was in progress; that number 2 should accompany number 1 in the latter's car to the Mosque, where Moslem members of the public would be attending a service or services; and someone else - unidentified - should accompany Jeff in his car to some other place or places (which were not mentioned by the witness).

After this decision had been taken the people in the bedroom went to another room in the same house, where a television show was in progress. Here number 1 brought and handed over to number 3 a pile of pamphlets about one inch to one and a half inches in thickness. These pamphlets were identical to the pamphlet, Schedule A to the indictment, save that they were yellow in colour. With this pile of pamphlets accused number 3 and Haupt set off to the Athlone stadium, which is situate almost immediately alongside Klipfontein Road, about one mile away from Jeff's home. Outside the Stadium number 3 collected four young newspaper vendors who were waiting for the end of the match with the object of selling

"copies of The Herald newspaper to members of this watching crowd when they should emerge from the grounds. He handed all the pamphlets he had been given by number 1 with the exception of about 10, to the four vendors with instructions to distribute amongst the crowd, and paid them ten cents each in anticipation of their doing so. Immediately thereafter number 3 drove off with Haupt, dropping the latter near to where he lived."

and I will leave out the other passages, m'lord, up to page 6 because it is merely an analysis of the evidence.

"In this regard it will have been noticed from what I said regarding the evidence adduced by Mr Klem that there was testimony of a distribution of the pamphlets on the evening of the 13th September in the home in which Jeff lived and the Athlone Stadium. This evidence implicates each of the three accused. Unfortunately for the State, all the evidence in question emanated from a single witness."

We will show m'lord, that much of what IC.8 has to say, he is alone and a single witness, more particularly against a number of the accused.

"What is worse, it emanated from a witness whom Mr Klem had asked the Court to regard as an accomplice and who, if an important part of his evidence is to be believed, was indeed one. I am referring to Frederick Haupt.

Haupt was a man of 23 with a nimble mind and an assured manner. He spoke at a terrific pace, giving his answers in rushed - often unfinished - sentences, which rendered it extremely difficult to all concerned to follow his evidence. He made a reasonably good impression

upon /..

upon my assessors and me whilst in the witness-box but after detailed study and discussion of his evidence we have become wary of it."

and we would ask your lordship to become particularly wary of the evidence of IC.8.

I would ask your lordship to turn to page 8:

"From this point onwards the main line of Haupt's evidence is as I have already indicated.

The main reason for our becoming wary of Haupt's evidence is a feeling that he knew more about what had gone on than he was prepared to admit in court, that he may possibly have been prepared to implicate the three accused in order to make certain of saving his own skin.."

there will be a direct admission from witness IC.8 in that regard, m'lord -

"..and that he had this tendency to be glib rather than reliable. I am putting it no higher than that he may possibly have been prepared to implicate the three accused in order to make certain of saving his own skin. The court cannot find that that was the position.

Haupt was not seen by the police until the 14th October 1976, when he was taken to the Headquarters of the Security Branch.."

Your lordship will recall that the events took place from the indictment on page 1 on 13 September 1967 -

"..when he was then taken to the Headquarters of the Security Branch at Caledon Square and a statement was taken from him by Sergeant Geldenhuys, the investigating officer in this case. When he arrived at Caledon Square on that day, he already knew that accused numbers 1

" and 2 had been arrested and while there, so he testified, he heard that number 3 had also been arrested. According to the testimony of Sergeant Geldenhuys, Haupt was originally unwilling to talk. He himself testified that Geldenhuys told him that the police suspected him of having distributed pamphlets with number 3, an allegation which was not denied by Geldenhuys when the latter went into the witness-box later. Haupt testified further that Geldenhuys threatened, while he was questioning him and while he was busy making his statement, that if he did not answer satisfactorily he would be locked up and furthermore that if he did not talk, he would be slapped. Geldenhuys in his evidence denied threatening to smack or otherwise assault Haupt, but admitted that it was possible that he had told him that if he was not prepared to make a statement, he would be detained in custody until he did so. The Sergeant stated that he could not remember whether he had explained the provisions of Section 6 of the Terrorism Act to Haupt, but added that if he had done so he would have told him that he could be detained until he made an acceptable statement. In this connection I feel compelled to remark that while one's sympathies are with the police, where they are working at high pressure and find themselves faced with prospective witnesses who are reluctant to talk, the mere possibility that a witness - and especially one falling into the class of accomplices - may have been threatened with detention if he does not produce a satisfactory statement, is sufficient to tarnish him from the point of view of a Court required to do justice according

to / ..

"to our practice in a criminal case.

Where, therefore, a person such as Haupt, who has been told that he is suspected of distributing pamphlets with accused number 3 and that if he does not answer the questions put to him satisfactorily he will be locked up states that he did indeed go with number 3 to distribute pamphlets but that they actually did no more than to leave the pamphlets in question with four Herald boys, the Court is bound to ponder very deeply before convicting accused no.3 on his evidence. It is too possible that Haupt might have decided to take an easy way out by telling the police what he thought they wished to know or would be prepared to believe. Accused number 3 might even have been substituted by him for someone else whom he preferred to protect. I am not criticising the police, and I am not criticising Sergeant Geldenhuys or his methods in the case, but this is one of the unfortunate results of having and invoking a provision such as section 6 of the Terrorism Act. It may be necessary to invoke these provisions, but it does have the effect of tarnishing the witness' image for the Court and maybe making it impossible for the Court to proceed with confidence upon the basis of his evidence."

Then there is an analysis of his evidence which I do not think it is necessary to read to your lordship. There were comparatively, I would submit with respect, minor criticisms if we compare them to the criticism that we will be able to advance in relation of IC.8 but the net result of this witness having been tarnished in that way was this. Although there was this direct evidence his lordship expresses amazement that the

accused /..

accused never went into the witness-box to deny this - I will try and find that, m'lord.

COURT: Page 19.

MR BIZOS: Is it page 19? Thank you. And despite their going into the witness-box, because of the dangers and despite the direct evidence that was given by Haupt the court found them not guilty and discharged them. Now there are one or two observations that I want to make in relation to this judgment and that is this that firstly the provisions of section 29 in terms of which, according to the evidence of IC.8, he was held when he made his statements, are substantially similar to section 6, 29 and 6 are substantially similar. Secondly that although the witness there complained of threats the sergeant went into the witness-box to deny that he threatened him. Your lordship has..However, from the point of view of the state's untenable situation on page 86 paragraph 3 of the "betoog", the state says that IC.8 was a satisfactory witness. We submit that he was not, but as we are here to answer the state's case within the perimeters that it has chosen to present it, let us deal with their own contention that he is a satisfactory witness. If he is a satisfactory witness then his evidence must be accepted as to what happened to him during interrogation. Why major Kruger, Mr Van Niekerk and I do not remember the third name that he mentioned, did not take the stand and say this man is not telling the truth against us, but of course we know the reason why, m'lord. because the state is in a no win situation. If IC.8 was prepared to brand police officers as persons who seriously assaulted him over a period of four days of his first week of detention; if he is prepared to falsely implicate senior

police / ..

police officers in the security police, that they programmed him over a period of four months and they suggested to him what he should say in his statement, not in a very direct way but in a sufficiently direct way for him to get the idea, your lordship would have been left with a situation: well, if he is prepared to tell such lies against his interrogators why should he be believed when he tells similar lies - well, he makes serious allegations against the accused. So logically the only just solution is to disregard the evidence of IC.8 whenever he is contradicted by the accused. (10

His lordship WESSELS J in setting aside the conviction by COETZEE J in the WLD had this to say in S v Mdingi 1979 1 SA 309 at 317C-G:

K1505 "In my opinion the learned judge a quo failed to approach Radisi's evidence with the degree of caution which the circumstances required. I am satisfied that he erred in making a positive finding that Radisi did not appear to be dishonest or inventive in the witness-box. There is no real corroboration of Radisi's evidence on the crucial issue concerning appellant's knowledge (20 of the true purpose of the journey, save that indirectly furnished by Mdluli's evidence."

May I indicate that the facts were that the accused in that case admitted to driving give young men to the vicinity of the Swaziland border during the period that there was an exodus of young men after the 1976 troubles for the purposes of undergoing military training and his defence was that he was doing it for the taxi fare but Mr Mdluli said something different, that in Soweto he overheard a conversation between him, the taxi driver, and the young men that they were (30

going / ..

going for military training.

"Radisi, however, did not support Mdluli's version and the latter's evidence stands by itself in regard to the conversation between him and the appellant. It may well be asked why Mdluli should have invented the conversation. It was suggested that Mdluli may have been annoyed because of appellant's alleged refusal to introduce him to some well-connected lady in Soweto. Be that as it may I am of the opinion that the circumstances in which Mdluli came to be called as a witness cannot be overlooked. He was approached to make a statement to the police at the time of his arrest in the black townships. He appreciated that the police probably had knowledge of his association with appellant and Radisi, and that he had released appellant's motorcar for the purposes of the journey to Swaziland."

He was a panelbeater or mechanic, m'lord, and his evidence was: "Haven't you finished it yet, I have got people to take out for military training. Finish it quickly", or words to that effect.

"It appears from Radisi's evidence that he was well aware of the fact that he would be detained under the provisions of the Terrorism Act."

So knowledge of the fact that you may be detained is enough to make the court of appeal wary.

"If he had information about terrorist activities and that such detention would be prejudicial to his business interests. He also stated in further cross-examination that he knew what sort of statement would safeguard his position in regard to his possible detention.

More-over/..

More-over the contradiction between his evidence and that of Radisi cannot be brushed aside on the mere basis that it was possible that Radisi may not have heard what Mdluli and appellant were discussing."

Now, I am not unmindful of the polemics that have gone on between the traditiary on the one hand and the academics on the other on the proper construction and the proper use of these provisions. I do not intend making any submissions in regard to that but I would refer your lordship to a chapter in the book of Professor Matthews called Freedom, State Security and the Rule of Law, it is the first edition first published in 1986. The reason why I am quoting it is that the learned professor articulates particularly well at pages 90 to 95 what the courts have said and what the perceptions of among others an ad hoc committee of the Medical Association of South Africa presided over by Professor Strauss and others as to how the mind of a person who is held in solitary confinement can really be manipulated to make the innocent state of mind of Mr Mohapi as described by him on the second page of his cross-examination to one of a conspiracy. Either IC.8 had the foresight of what Professor Matthews had written or what Professor Matthews had written could have been a case study of what IC.8 has described to your lordship in this case. I merely want to read a portion at page 94 to 95 after the professor has gathered that:

"A court therefore deceives itself in believing that it can evaluate the evidence of a detainee subjected to prolonged isolation by the usual methods of assessment. The trauma experienced by detainees who are interrogated in isolation makes reliance on the evidence - makes

reliance on the witness' demeanour and on general impressions of him extremely dangerous. The test of corroboration by other witnesses is obviously unacceptable where the others are detainees who have been subjected to the same treatment, but even if they are not the test of corroboration remains a dangerous guide since evidence tainted by interrogation and isolation is so questionable as to be incapable of supporting or being supported by other evidence that is credible. The court should not lean on a broken reed. There is only one approach to detainee evidence that is consistent with the evidence of scientists and the requirements of a fair trial, to reject such evidence unless there are cogent and compelling reasons for believing that it is both truthful and reliable. This was the approach of the judge in S v Hoffman.."

that is the judgment that I referred your lordship to -

"..in which the court declared itself unable to proceed with any confidence on the evidence of a detainee held under the indefinite detention provision. In contrast the acceptance in another case of evidence from witnesses who had been detained for over 500 days is enough to boggle the mind and to destroy confidence in political justice in South Africa. It is not sufficient to sound dire warnings about the danger of detainee evidence as in S v Mpedla if the court then proceeds to rely on it. What the court should have done was to adopt a basic rule that denies credibility to the evidence of detainees who have been held for anything but very short periods of detention. Their evidence to react decisively

against detainee evidence has been a lost opportunity to render full justice in security trials. As a former member of the Attorney-General's office in Natal has said they, the courts, have not distinguished themselves in coming to assistance of ex-detainee witness who testified under continued police pressure or even to show themselves fully aware of the difficulties faced by such witnesses and the pressures to which they might have been subjected in detention. It is still not too late for the judiciary to review its attitude and it may be predicted that the institution of indefinite detention for purposes of interrogation will not long survive a bloody-minded decision from the court on the use of detainee statements in evidence in political trials."

I am not asking your lordship to go as far as that but what we do ask your lordship to do..

COURT: I won't give any bloody-minded judgment in this case.

MR BIZOS: As your lordship pleases, but we do - what we do ask your lordship is to follow the reasoning of his lordship Mr Justice Theron in the Hoffman case. There is also a Transvaal...

COURT: What is the approach of the appellate division apart from that by WESSELS J. Is there no case in the appellant division where a witness has been accepted who has been in detention, because I am bound by what the appellant division does.

MR BIZOS: I have no doubt that if one scanned the reports one would find that evidence of people who were in detention was accepted but then of course there is actually a case in this / ..

this division which I shall refer your lordship to, a judgment of his lordship Mr Justice Le Roux where there were a number of accomplices who had given evidence that they had gone for training together with the accused and they went into the witness-box and had a sorry tale to tell similar to IC.8's but the accused did not go into the witness-box to deny it. It would have been a simple thing for them to go into the witness-box and say I was not in Tanzania, I was not in Angola, so that I do not contend - the appellate division in the Ismail case does not say that a witness' evidence has got to be rejected because he was detained. In fact I think in the very Ismail case in the VAN BLERK judgment the appeal if my memory serves me correctly was dismissed - could I just check on that - although these witnesses were held in the camp but the question that was raised in the earlier years was the evidence should not be accepted at all. That is not what I am contending for. What I am contending for is that whilst it is tainted as it is and it is denied and their are contradictions in their evidence and their are probabilities in favour of the accused, that evidence should not be accepted. Let me test it in a very..

COURT: No, I understand the argument because I understood you to say I should follow THERON J in the Cape case.

MR BIZOS: Yes.

COURT: But was a bit different because these people did not go into the witness-box.

MR BIZOS: Which only goes to show what I am saying that your lordship should follow in the judgement of THERON J. He was so wary that despite the fact that they did not give evidence, he acquitted them. What I am saying is that

your lordship should be sufficiently wary that where they have been contradicted and where there are probabilities and where m'lord, and this is really perhaps one of the most important things that all the blood and thunder that IC.8 has spoken about is not in the indictment. But that is not another..

COURT: That is another aspect.

MR BIZOS: That is another aspect.

COURT: What you are saying is when one has an accomplice you have a red light, when he has been detained you have two red lights, if he had been hit while he had been detained you (10 have three red lights and so on.

MR BIZOS: Well, I would submit that in relation to IC.8 it is a stone wall. The case in which - I will find it in a moment, m'lord - it was on circuit. I do not know whether your lordship..well, I am sure that this book will be in the library if your lordship wants to look at it, but if your lordship wants to borrow my copy it will be no problem.

COURT: How long can I retain it?

MR BIZOS: I hope that I will not have any need for it for a very long time. (20

COURT: Yes well, may I borrow it?

MR BIZOS: As your lordship pleases. I had better just have a look that I do not have any incriminating evidence in it, or any notes.

COURT: Yes, and erase the price as well.

MR BIZOS: No that is a matter of public record, m'lord.

COURT: Thank you.

MR BIZOS: M'lord, it is in the same volume as the Mdingi case. I will just find the reference to the judgment of his lordship...it won't take me a minute, I am sorry m'lord. (30

The case is S v Malepane and Another 1979 1 SA 1 009, a judgment by LE ROUX J (WLD) but I think it was on circuit in Klerksdorp. Yes, before proceeding, I am reading from page 1 016F -

"Before proceeding to analyse the actual evidence which has been given I wish to deal shortly with the effect of the evidence of the accomplices and the approach which I think a court of law should adopt thereto. Mr Spilk (?) on behalf of accused no.1 succeeded in eliciting under cross-examination from the majority of these accomplices that they had been assaulted in the course of their detention by the police and that they had made statements which subsequently appeared to be untrue. They also made statements in order to escape further beatings, assaults and torture. Subsequently they retracted some of their statements but all of them were unanimous in telling me that the evidence which they were now giving before this court was the truth. I must say that I had great difficulty in assessing the value of their evidence and the weight to be accorded to evidence given by the accomplices. Where a witness comes to court and says that the statement had been extracted from him under duress, but that portions of that statement are not true because the police were not satisfied with the answers he gave them and that he has since corrected the statement, it is difficult to apply the ordinary norms which one would apply to judge the credibility of witnesses. Demeanour can be a false indication in this particular case. It must be remembered that all the accomplices are black men testifying through an interpreter and however excellent the

interpreter is and I must say this particular case was one of the best I have ever come across, it is almost impossible to judge from demeanour alone whether a man is telling the truth or not as would be the case with a witness who is cross-examined directly by counsel. Some of the eight accomplices certainly impressed me as more truthful than others, some of them I feel can be accepted with less circumspection than others. I will deal subsequently with the individuals who have testified before me, but it seems to me that merely to apply the ordi- (10 nary cautionary rule such as those set out in R v Nkanana 1948 4 SA 399 (A) would be totally inadequate. Where the accomplice himself introduces factors like beatings, inducements and the fact that they were all detained by the police, all the inherent dangers attendant on the acceptance of accomplice evidence are multplied and it calls for even greater caution from the trier of fact than in the normal case. It is true that section 208 of the present Criminal Procedure Act now contains much shorter provision which.." (20

but I think that that is old hat to all of us and it is not really..Then certain of the accused were convicted and it also appears from the report that they did not give evidence and that there were many other circumstances to suggest that these people had in fact been out, and they were also busy recruiting people for that purpose. I would like to give your lordship the main witnesses who contradict IC.8. They are accused numbers 2, 3, 5, 8, 9, 13. I have given your lordship a list of the witnesses but now let us take Ratibisi as an example. Your lordship will recall that Ratebisi (30

was / ..

was the caretaker of Small Farms; but Ratebise was there, he was obviously a person interested, did not see any placard advocating violence. Volume 306 page 17 572 line 26 to 29. Above all he denies categorically that Raditsela called for violence at the morning meeting in the hall. Volume 306 page 17 574 line 11. He denies that there were, when I say denies this is the evidence of IC.8 to the contrary. He denies that people were forced to join the march. IC.8 says, volume 306, page 17 580 line 24. He denies that the bus sheds or shelters were damaged. Volume 306 page 17 580(10 line 29 to 30. He says that there was a group of a few hundred at the intersection near Caesar Matuane's house. IC.8 denies this. Your lordship will find Ratebise in volume 303 page 17 581 line 8 to 14. Mazibuko denies that there were placards advocating violence. Page 19 266 line 18 to 20. Mazibuko says that there was a group joining the march, volume 338 page 19 262 line 8 to 15. He denies that the bus stop shelters or ticket office was damaged. Volume 338 page 19 265 line 10 to 19 266 line 3. Letele denies that any violence was called for by Esau Raditsela on the morning of the third. (20 Volume 336 page 19 160 line 23 to 28. There were no placards advocating violence volume 336 page 19 162 line 27 to 29. He denies that property belonging to the VTC was destroyed. Volume 336 page 19 163 lines 20 to 21 and again - sorry, that is it. He denies that people were forced to join the march as IC.8 says. Volume 336 page 19 163 line 22 to 23. He said that a group did join the march at the intersection. Volume 336 page 19 164 lines 14 to 16. Radebe, he denies that there was a placard: Kill Mahlatsi and his brothers, or any other violence on the placards. Volume 333 page 18 999 line 14 (30

to / ..

to 16. He denies that there was any damage to the bus shelters. 18 998 line 16 to 18. He denies that anybody was forced to join the march. Volume 333, 18 998 line 23 and subsequent lines. Sorry, I have not got the ending. He says that a group did join the intersection contrary to what IC.8 says. Volume 333 page 19 001 line 7 to 9. March did not turn off the route, it continued on the tarred road contrary to what IC.9 says - sorry, IC.8 says, that a portion or a small group of people from the march went up. Volume 333 page 19 001 line 25 to 28. Accused no.2 denies (10 the whole Freedom Radio Tape. Now I do not intend going through that again but I think what may be helpful to your lordship is to give your lordship the pages of the argument that has already been advanced in that regard. So it is argument, volume 439 page 25 775 line 21 to page 25 776 line 8 and again at page 25 777 line 14 to page 25 778 line 1. He is contradicted by accused no.3 who says that he did not join AZAPO either in the manner alleged by IC.8 nor at all. Your lordship will find that in argument volume 439 page 25 771 line 16 to page 25 775 line 20. He is contradicted (20 m'lord..I have many more.

COURT: You have?

MR BIZOS: Many more.

COURT: Well, we will use tomorrow for the many more.

THE COURT ADJOURNS UNTIL 23 AUGUST 1988

DELMAS TREASON TRIAL 1985-1989

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