IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

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1986-08-13

DIE STAAT teen: PATRICK MABUYA BALEKA EN 21 ANDER

VOOR: SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRÜGEL

PROF. W.A. JOUBERT

NAMENS DIE STAAT: ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

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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 127

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HOF HERVAT OP 13 AUGUSTUS 1986.

MNR. FICK : U Edele, die Staat roep die volgende getuie. Sy naam is Stoffel Maile. Hy getuig oor paragraaf 77 sub-paragraaf 15 sub-paragraaf (iii). Dit is bladsy 360 van die akte. Dit is oor die moord op raadslid Dhlamini.

STOFFEL MAILE, v.o.e. (Deur tolk)

ONDERVRAGING DEUR MNR. FICK : U is woonagtig te 7485 Sharpeville? -- Ja, dit is waar ek woon.

U woon daar reeds sedert Augustus 1949? -- Ja, sedert daardie tyd.

Een van die oorledenes in hierdie saak, raadslid Jacob Dhlamini, het jy hom geken? -- Ja, ek het hom geken.

Hy was u buurman? -- Ja, hy was my buurman.

As u sê hy was u buurman, het hy in die erf langs u gewoon aan dieselfde kant van die straat? -- Die huis langsaan het hy bewoon.

HOF : Wat was sy nommer? -- Nee, ek weet nie wat sy nommer is nie.

MNR. FICK : Op Maandag, 3 September 1984 om ongeveer 07h30 was u voor die kombuisdeur op u erf? -- Ja, ek was in my erf.

Wat het u gesien en gehoor? -- Ek het 'n klomp mense opgemerk wat om die hoek aangekom het.

Met die pad? -- Ja, in die straat.

Kan u vir die Hof skat hoeveel mense was hierdie groep wat u van praat? -- Meer as 'n honderd.

Wat het u opgemerk? Het hulle stil gestap? Het hulle gesing, geskreeu, 'n lawaai gemaak? -- Toe hulle om die hoek gekom het, was hulle besig om 'n groot geraas te maak.

HOF : Is dit 'n geskreeu of 'n gesing of watter tipe geraas? -- Hulle het geskreeu oor iets tussen hulle.

MNR. FICK : Kon u hoor waaroor hulle geskreeu het? -- Ek

... / het

het dit nie verstaan nie.

Was daar enige teken deur die mense gegee terwyl hulle so geskreeu het? -- Ja, om vuiste op te lig, soos ek aandui.

HOF : Regtervuis in die lug? -- Ja.

MNR. FICK : Die mense kom nou aan en wat gebeur toe? -- Hulle het gekom tot by die hek wat lei in my perseel in en Dhlamini s'n.

HOF : Is daar twee hekke langs mekaar? -- Ja, daar is twee hekke langs mekaar.

MNR. FICK : Op daardie stadium, het u die oorledene, Jacob Dhlamini gesien? -- Nie op daardie stadium nie. Hy was in sy huis gewees.

Die oorledene, Jacob Dhlamini,se vrou, het jy haar gesien? -- Sy was by die waterkraan op haar perseel.

HOF : Voor of agter die huis? -- Agter die huis.

MNR. FICK : U sê die mense het gekom tot by die hek van u perseel en toe? -- Toe hulle voor die twee hekke gestaan het, het hulle na my huis en Dhlamini se huis gewys. Dit is toe ek op daardie stadium besef het dat die mense eintlik besig was om te baklei.

HOF : Nie onder mekaar nie? -- Die woorde wat hulle gebesig het, het my die indruk laat kry dat die mense van plan was om te baklei.

MNR. FICK : Wat se woorde het hulle gesê? -- Een het gesê "Hierdie een is Dhlamini se huis." Die ander een wys my huis en sê "Dit is Dhlamini se huis."

Het van die mense enigiets by hulle gehad? Wapens? -- Ja, klippe en bakstene.

Het net ŉ paar van die groep wat u gesien het hierdie klippe en bakstene gehad of was daar ŉ klomp van hulle wat dit gehad het? -- Dié wat heel voor was van die klomp is die

.../ persone

persone wat ek gesien het wat die klippe en die bakstene gehad het.

HOF : Was daar in die pad klippe en bakstene of het hulle die bakstene van elders af saamgebring? -- Met hulle aankoms daar het hulle dit alreeds gehad.

MNR. FICK : U sê hulle praat toe oor watter huis is Dhlamini se huis. En toe? -- As gevolg van die mense se optrede daar by die hek en die woorde wat hulle gebesig het en ek die indruk gekry het dat die mense van plan was om te baklei, het ek vir Dhlamini se vrou wat op die agterplaas was gesê dat sy nou die plek moet verlaat en nie by hulle huis moet ingaan nie.

HOF : Dat sy die perseel moet verlaat? -- Ja, ek het gesê sy moet die perseel verlaat en na my erf toe kom.

MNR. FICK Het sy gekom? -- Ja, sy het in my huis ingekom.

Wat gebeur toe? -- Die klomp het toe Dhlamini se huis met klippe begin bestook.

Gaan aan? -- Terwyl hulle besig was om die huis met klippe te bestook, het ek terselfdertyd opgemerk dat die huis alreeds aan die brand is. Ek was dus in 'n moeilike posisie geplaas daar watter een om uit te wys, want dit was net deurmekaar gewees.

Het u gesien hoe die huis aan die brand geraak het? -- Met die bestoking met klippe, het die huis terselfdertyd aan die brand geslaan. Hoe dit begin het kan ek nie sê nie.

Het die mense wat nou klippe gegooi het enigiets geskreeu of gesê terwyl hulle so aangegaan het? -- Ja, hulle het gesê "Ons kom jou vang." Op hierdie stadium kon ek sien dat Dhlamini in die huis is by die venster. Die mense het verder gesê "Al kan jy skiet, ons kom jou vang." Op daardie stadium was die huis aan die brand gewees, besig om te brand.

HOF : Het hy toe al geskiet of nog? -- Nee, nie wat ek van bewus is nie. Ek het net die mense gehoor praat.

MNR. FICK : U sê die huis was toe reeds aan die brand. Wat gebeur toe? -- Die huis is aan die brand, die klippe word nog steeds bestook en daar was toe 'n ander klomp by die voertuig van Dhlamini.

Die voertuig van Dhlamini, waar was hy gewees? -- Dit was in 'n garage gewees.

Op die perseel? -- Ja, op sy perseel. Hulle het probeer om die voertuig daar uit te kry totdat hulle daarin geslaag het om die voertuig uit te kry tot by die straat. Nadat hulle die voertuig tot op die straat gekry het, het die voertuig ook aan die brand geslaan.

Het u gesien wat veroorsaak het dat die voertuig aan die brand slaan? -- Terwyl hulle met hande gegooi het, dit wil sê voorwerpe met hande gegooi het na die voertuig, het die voertuig aan die brand geslaan.

U het laas vir die Hof gesê u het vir die oorledene Jacob Dhlamini in sy huis gesien. Wat het toe gebeur?-- Terwyl die huis aan die brand was, en die mense nog daar besig was met bakleiery met hom, het hy probeer om uit te vlug. Toe hy net die huis verlaat om weg te kom van die huis af, het hulle hom gevang.

HOF : Het hy by die deur uitgevlug? -- Ja, hy is by die kombuisdeur uit , om die hoek van die huis.

Toe vang hulle hom? -- Ja. Waar hulle hom nou so met klippe bestook het, dat 'n mens dit kan beskrywe dat 'n klip op 'n ander klip beland het.

Het hy bly lê? -- Nie op daardie stadium nie.

MNR. FICK : Wat het hy gemaak? -- Hy het probeer om te baklei daar. Dit het hom nie gehelp nie, want die klomp

... / was

was te sterk gewees.

Het u op daardie stadium enige vuurwapen gesien? -- Nee, ek het nie 'n vuurwapen gesien nie.

U sê die klomp was toe te sterk vir hom. Wat het toe gebeur? -- Hulle het met hom so daar baklei, dat hulle oor die draadheining gespring het, dit wil sê my erf se draadheining.

HOF : In jou erf in? -- Ja, in my erf in.

En Dhlamini ook? -- Ja.

Het hulle hom net met klippe toe getakel of met kieries of vuiste of met wat? -- Dit was so deurmekaar gewees. Alles waarop hulle afgekom het, het hulle gebruik. Dit wil sê klippe en nog ander voorwerpe wat gebruik is.

MNR. FICK : Hulle land toe in u erf en toe? -- Toe hulle net by die deur kom, was hy moeg gewees of hy was toe nie meer sterk genoeg om hom teë te sit nie. Dit is waar hulle hom nou klaargemaak het. Met klippe.

ASSESSOR (MNR. KRÜGEL) : Is dit nou by u deur? -- Ja, by my deur.

MNR. FICK : Die voor- of agterdeur? -- Die kombuisdeur.

HOF : Het hulle hom daar doodgeslaan? -- Ja.

MNR. FICK : Wat gebeur toe daarna? -- Nadat hulle klaar was, het hulle weggegaan. 'n Entjie daarvandaan het hulle teruggekom en gesê nee, die persoon sal opstaan. Hulle het hom toe gesleep ... (mnr. Fick kom tussenbei)

Laat ons dit net eers opklaar voordat jy van die sleep praat. Hoe ver het hulle weggegaan van u huis af voor hulle omgedraai het? -- (Getuie dui distansie aan)

HOF : Agt meter. -- Hulle het toe teruggekeer na hom toe. Hulle het hom daar weggeneem.

U het gesê hulle het hom gesleep? -- Daarby bedoel ek

... / hulle

hulle het hom net opgelig en steeds gesleep op die grond.

Waarnatoe het hulle hom toe gevat? -- Na die voertuig toe.

MNR. FICK : As u sê na die voertuig toe, praat u van sy voertuig wat in die straat gebrand het? -- Ja, die voertuig van hom wat in die straat was en wat gebrand het.

Wat gebeur toe? -- Eintlik was die mense se bedoeling was om hom op hierdie brandende voertuig te gooi, maar die vlamme van die voertuig het dit nie toegelaat nie.

HOF : Dit was te warm gewees? -- Ja, dit was te warm gewees.

Ja en toe? -- As gevolg waarvan hulle hom toe daar op die grond laat lê het.

MNR. FICK : By die kar of weg van die kar af? -- Naby die voertuig op die grond.

En toe? - Hulle het hom toe met petrol daar gegooi en hom aan die brand gesteek.

Die petrol wat hulle oor hom gegooi het, waar het hulle dit gekry? Het jy gesien? -- Hulle loop met die petrol. Die klomp het self die petrol gehad.

HOF : Kannetjies of houers of wat? -- Dit is iets soortgelyk aan 'n emmer, maar ek is nie seker presies wat dit is nie, want dit was 'n klomp mense se bewegings daar.

MNR. FICK : Laat ons net duidelikheid kry. Wanneer het u hierdie emmer vir die eerste keer gesien daardie dag? -- Toe hulle die vloeistof oor die persoon gooi, het ek vir die eerste keer gesien dat daar 'n emmer was.

U het nie daardie emmer of 'n soortgelyke emmer al by die oorledene se huis gesien vantevore nie? -- Nee, ek het nie.

U sê hulle het petrol oor hom gegooi en hom aan die

... / brand

brand gesteek. Wat gebeur toe? -- Nadat hulle dit gedoen het, is hulle toe weg.

U sê u bly reeds sedert 1949 in daardie huis? -- Ja, sedert daardie tyd tot vandag toe.

Ken u die mense van Sharpeville redelik goed? -- Ja, in die omgewing waar ek beweeg ken ek die mense.

Kan u vir die Hof sê het u enige van die persone wat daar ook woon tussen hierdie groep gesien? Ken u van hierdie mense? -- Nie een van die mense het ek daar gesien nie.

Die organisasie Vaal Civic Organisation, COSAS, weet u van die organisasies, ken u hulle? -- Ek weet nie van die organisasies nie.

Het u in hierdie tyd wat hierdie Maandag, 3 September 1984 voorafgegaan het die vorige kom onssê twee maande, enige pamflette of publikasies gekry wat geadverteer het van 'n wegbly-aksie op 3 September? -- Ek het dit nie opgelet nie. Dus dra ek geen kennis daarvan nie.

MR BIZOS : The witness has been called somewhat out of order. There are a couple of things that we want to check. Could we have a short adjournment?

COURT : Yes.

WITNESS STANDS DOWN.

COURT ADJOURNS. COURT RESUMES.

STOFFEL MAILE, STILL UNDER OATH

CROSS-EXAMINATION BY MR BIZOS : Mr Maile, did you get up on the morning or 3 September 1984 in the ordinary way at about 06h00 in the morning?

COURT : What do you mean by the ordinary way? Left foot or right foot?

MR BIZOS : I mean as usual. -- Yes. I did not know anything. What happened is. I was just arriving from work.

I was working night duty. So, I slept just for a very short while and then I was up again.

Do you recall what time you got up? -- It was not long after 07h00.

COURT : Did you get up of your own record or did you hear a noise and were you awaken by a noise? -- I wanted to go and pass water. As a result of which then I woke up.

MR BIZOS : And did you check the time and was it shortly after 07h00? -- No, it was not very long after 07h00.

For how long would you say you were awake when you heard the first trouble? -- I did not hear anything at the time when I got up. I even went to pass water and then went around in the yard after having passed water. Still there was nothing I heard at that time.

And you told us that you saw Mrs Dhlamini at one stage drawing water from the tap at the back of the house. Did she appear to you to be excited or afraid or was she just carrying on with her ordinary housewifely duties? -- She did not appear to me to be knowing anything. She was just normal.

The first indication that she apparently had of any trouble that day, was when you sounded the warning to her? -- That is true.

Were you living alone in the house on that morning or were there other people as well, in your own house? -- Well, there were small children in the yard with me, not elderly people.

When you say small children, can we have some idea of their ages? -- About twelve years of age.

When you got up, did you get any report from these children of any trouble whilst you were asleep or did they just merrily go along on their own way? -- They made

... / no

no report to me.

And did they appear to be quite happy at what they were doing and not excited or afraid or anything? -- That is true. No report was made to me. In fact they were just normal. They did not report anything to me.

So, as the nextdoor neighbour of the late Mr Dhlamini would be able to say positively to His Lordship that there was no trouble against him or against his property before you saw this group of approximately hundred people approaching the house at approximately 07h30? -- Not at all. I had accepted Dhlamini like my own child. In fact he would spend his time in my house as well.

And then you saw this attack or approximately a hundred people making this terrible attack on Dhlamini and his family and his house, would you tell His Lordship how long it lasted more or less? -- They did not take very long. I am not even in a position to say if it was in terms of hours to say whether it was two hours or an hour, but all I can say is, it was not very long.

And from the time, however long or short it may have been, from the time that it started, did this group of approximately one hundred people keep on the attack from the time it started till the time that he met his unfortunate death? -- Yes.

And nobody intervened or tried to assist the late Mr Dhlamini during this attack? -- Because of the confusion which was there, I am not in a position to tell whether there was anybody who intervenes or tried to help Dhlamini or not.

Did the police arrive whilst this attack was going on and dispersed the crowd there before Mr Dhlamini was dragged to his death next to the car? -- During that time

I was asleep. I did not see anything about the police there.

COURT : Just a moment. Do you know whether the police did disperse the people at Dhlamini's house? -- I was asleep during that time. I did not see anything.

I want you to tell me whether you heard anybody tell you that the police had dispersed people? -- No, I was not told.

So, nobody mentioned to you that night or that morning before you were awake that the police had come and dispersed people? -- No, not at all. I know nothing about that.

MR BIZOS : Did you see the police there at all during the course of that morning? -- I only saw some soldiers after the incident, passing in the street or they were in the street,

Was that after Mr Dhlamini had died? -- Yes.

COURT : Were these soldiers people with camouflage dress? -- Yes.

Can you distinguish between police wearing camouflage uniform and soldiers wearing camouflage uniform? -- I do not know what the difference is between the two.

MR BIZOS : We will call them uniform men. -- Well I can only distinguish a policeman according to his badge that this is a policeman.

And you only saw them for the first time, you only saw uniform men after the death of the deceased? -- Yes.

And not intervening in any way at what was happening, but merely passing by or riding by Mr Dhlamini's house? -- I did not see them intervening. At that time I was asleep.

COURT : Can you say positively that there was an intervention? -- No, I cannot, because I did not see anything.

MR BIZOS : After the attack of Mr Dhlamini's house, did you

... / go

go back to sleep or did you still remain awake? -- I did not go to sleep after that.

The commencement of the attack on Mr Dhlamini's house right up to the time that presumably Mr Dhlamini's body was removed from the street outside this house you remained awake? -- I was awake.

And at your house? -- I was just around in my yard there, but I did not go to sleep.

In your own house or in your yard. Obviously paying attention to what was happening? -- I was shocked myself, not knowing what was happening.

Of course, but I mean you were not in a sense of shock that if there had been any shooting or the police came there, you would not have heard it or noticed it? -- At the time when I was up I would have seen the police.

And you would have heard any shots that may have been fired? -- While being up, yes, I would have heard that.

Throughout this attack, did this, from the time that it started till the time that the deceased died, did the group remain more or less the same size? -- I would say yes approximately the same number.

None of the neighbouring people joined in or no fresh groups came? -- That I did not notice whether people from the neighbourhood joined this group or not.

After the deceased's death, did the group leave? -- Yes, the left.

And there were no further incidents? -- No, Only the police came after that.

And there was no large group of people that came there during the attack, larger group of people that came there during the attack or a large group of people after he was

dead? -- No. The people who were there at that scene dispersed. They all ran away.

They never came back? -- No.

And to this day you have never heard of the late Mr Dhlamini having used his fire-arm? -- No, I last heard from the group when they said "Even if you can shoot, we are going to get hold of you."

And has your relationship with the widow of the late Mr Dhlamini remained a good one? -- Yes, up to date.

COURT : Does she still live there? -- No, she does not live there now.

MR BIZOS : But you have seen her often? -- Yes, on many occasions.

And she did not mention anything to you about her husband shooting before his death? -- No, she did not.

I want to suggest to you that either you or others have not given a correct picture and I want to put to you what others have told His Lordship and to give you an opportunity to comment on that. I am referring to Volume 64 page 3 366. You see, Brigadier Viljoen told His Lordship that he was called to the scene at approximately 07h30 because there was an incident at Mr Dhlamini's house and that on his arrival there he was told by Mr Dhlamini that there was an attack on his house and that he, Mr Dhlamini, had used his 9mm pistol and he, the deceased, felt that he had struck someone as a result of the shooting. That it would appear that as a result of that the group had disappeared. Have you any comment to make on that? -- I do not have a comment on what you put to me, because I did not know about that.

Are you aware of any teargas being used or any rubber

... / bullets

bullets being fired for the purposes of dispersing any crowd from the front of Mr Dhlamini's house on this day? -- No, I do not have any knowledge about that.

Are you aware that birdshot was used in order to disperse the crowd? -- I only heard about that when I was told. Otherwise I personally did not see anything.

Were you in your home at approximately 11h00 on that day, 3 September? -- Yes, I was home.

And you were awake? -- I was awake, yes.

My Lord, I have referred to the evidence of Warrant Officer Bruyns which appears on pages 3 623 - I am sorry, it starts at 3 622 to 3 623. Have you any comment to make in relation to that evidence that has been given to His Lordship? -- I do not have any comment about what has been put to me as evidence before His Lordship, because I do not know about that. I only heard about that having happened thatthe soldiers were there, but otherwise I do not have a knowledge of it.

You told us that you did not hear any noise, you did not see anything? -- I did not hear nor did I see anything. A person who is asleep is just as good as a dead person.

But you told us you were not asleep after the attack on Mr Dhlamini's house? -- That is true. After that I did not go to sleep.

HERONDERVRAGING DEUR MNR. FICK : Na hierdie voorval plaasgevind het ongeveer 11h00 die oggend, het jy nog buite ... (Hof kom tussenbei)

HOF : Watter voorval het 11h00 plaasgevind? Hierdie getuie het nie gepraat van 'n voorval om 11h00 nie.

MNR. FICK : Nadat die voorval ten aansien van Dhlamini

... / plaasgevind

plaasgevind het toe hy gedood is die dag, het u in u huis gesit en die ding bespreek met mense, het u rondgeloop en gaan kyk wat daar aangegaan het? -- Ek het van my bure probeer vasstel wat dit presies is wat nou gebeur het.

As u sê u het by die bure probeer vasstel, was u by hulle in hulle huis of was was hulle by u huis? -- Ek het daar buite gestaan en navraag gedoen by 'n ander ou man wat 'n bejaarde man is omtrent wat nou daar gebeur het.

Het u die heeltyd buite gebly of het u op 'n stadium by u huis ingegaan? -- Na die voorval het ek daar rondgestap, buite gestap. Eintlik het ek nie presies geweet wat nou gebeur nie, wat het nou daar aangegaan nie.

ASSESSOR (MNR. JOUBERT) : Hoe laat het u van u nagdiens gekom daardie nag? -- 03h00 in die oggend.

Toe het u na 07h00 opgestaan en wanneer het u vir die eerste keer weer gaan slaap die dag? -- Na hierdie voorval het ek nie weer gaan slaap nie. Ek het glad nie gaan slaap nie.

Het u daardie aand weer op nagdiens gegaan? -- Nee, ek het nie werk toe gegaan nie.

U was dus die hele dag wakker? -- Ek het nie geslaap nie. Vir die hele dag die betrokke dag het ek nie gaan slaap nie.

ASSESSOR (MNR. KRÜGEL) : Mnr. Maile, wat se werk doen u? -- Ek is 'n "grinder". Ek werk baie swaar.

En hoe oud is u? -- Dit is 60 plus. Dit is 64, want ek is gebore in die jaar 1921.

Werk u met masjiene wat raas? -- Ja, dit is 'n "grinder" wat baie raas.

Dra u iets in u ore as u werk? -- Nee, ek dra niks nie.

... / HOF

HOF : Doen u dit al jare? -- Ja, vir jare.

Hoe lank al? -- 25 Jaar.

Toe u die oggend opstaan, het u op u horlosie gekyk? -- Ek is nie seker of ek nou vir die Hof kan sê dat ek pertinent na ʼn horlosie of ʼn polshorlosie gekyk het nie, om presies te sien hoe laat dit was nie.

Dit is waarom ek vra. -- Dit is net ʼn skatting wat ek gee.

Is u heeltemal seker van die tyd van 07h00 of kan dit ʼn uur vroeër of ʼn uur later wees? -- Nee, dit was na 07h00 gewees toe ek wakker geword het en opgestaan het.

Kan dit soveel wees as sê tot 08h00 of 08h30? -- Dit kan miskien wees tussen 08h00 en 08h30.

RE-CROSS-EXAMINATION BY MR BIZOS : You have had no difficulty in hearing any of the questions that have been put to you in this court?

COURT : By the interpreter who is standing right next to him.

MR BIZOS : I will put a couple of questions in regard to that. -- Is that a question?

Yes? -- I had some difficulty in hearing because of my ears which are being affected by the grinder.

Did you ask anybody to repeat any of the questions that were put to you? -- No, I did not.

Do you think that if guns were discharging birdshot outside your house, if there were a thousand people that were making a tremendous noise and if they were being dispersed by the police and you were awake, you would not have heard anything? Are you suggesting that? -- Well, on that I cannot be certain because my ears are but having that noise.

... / And

And in the beginning, do you recall that you tried to answer a couple of the prosecutor's questions which were put in Afrikaans and that the interpreter interrupted you? -- I did not hear that one. Could you just repeat that?

Do you recall that right at the beginning when the prosecutor was asking you questions in Afrikaans you tried to answer them directly and the interpreter interrupted you? -- Yes, I quite remember that, because there are times when something happens in my head and I am not quite clear of what is happening. I do remember that.

And as I am speaking now in the ordinary way, have you any difficulty in hearing my voice? -- I can hear your voice.

Your Lordship may have noticed that I have deliberately lowered my voice.

COURT : I thought you had sweetened your voice, Mr Bizos.

NO FURTHER QUESTIONS.

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DELMAS TREASON TRIAL 1985-1989

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