there is prejudice to the accused. However, that is not prejudice in the general sense, but prejudice in a particular sense which has been defined. I will come back to that.

Mr Chaskalson, on behalf of the defence, emphasised that the accused have been in custody for a long time, that the indictment was served in July 1985, that the case has now run without interruption for one month or more and that it is a case which is difficult to prepare. Twelve separate offences are involved and a course of conduct is alleged running over a long period. He argues that the proposed amendment extends the scope of the indictment in three respects, that, firstly, the conduct of persons other than the accused is involved at times not previously mentioned; secondly, that organisations not previously mentioned are now drawn into the case and then more in particular certain allegations are made against one of the accused not previously made. He stressed that pages 77 to 79 of the further particulars cover 31 areas around the country where violence occurred; that in four respects dates are changed; that a number of new organisations are introduced as co-conspirators and that the effect thereof is that in respect of 21 of the 31 areas new averments of organisations are made for which the accused are held responsible allegedly.

In respect of one of the accused there are now five new allegations, some of them of a very serious nature and in general there are two further averments of murder, not specifically laid at the feet of the accused and general averments of riots and arson.

It is therefore submitted by the defence that the accused are now after long preparation called upon to deal with new matters.

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There is substance in what Mr Chaskalson argues, up to a point . When considering this matter one has to bear in mind that this amendment probably arises from an approach which the State held with which approach I disagreed in a ruling I gave. That approach pertained to the extent to which the State is bound to particulars already given. Furthermore I was informed that some of the information now given was received late by the State.

When saying that material allegations are now made by the State which were not previously made and that the scope of (10) the case is thereby extended, one must view this in perspective in the perspective of the totality of the case, bearing in mind the estimated duration of this case and the whole field of investigation which in any event has to be traversed.

The question of particularity was raised, but it is clear that that is not the real objection to this proposed amendment. In my view it is in the interest of justice that the issues between the State and the accused be properly ventilated. The proposed amendments bar one, do not deal with aspects already dealt with in evidence. (20)

I mentioned that I would come back to the test of prejudice which is to be applied. The law, as I see it, is concisely put in the Law of South Africa, volume 5 under Criminal Procedure paragraph 556 :

> "The Court may at any time before judgment order that the charge be amended whether it discloses an offence or not, provided that the accused will not be prejudiced in his defence. The amendment may be made on such terms as to an adjournment of the proceedings as the Court may deem fit. Prejudice to the accused implies unfairness to (30) him, not the deprivation of a technical point which he

... / might

might have employed to his advantage. Prejudice implies an inroad upon his ability to place his full defence before the Court in the best possible manner and not the frustration of a means of escape for a guilty man. The test of prejudice is whether the accused, in the presentation of his case, stands in a position less advantageous than he would have been if the charge had already stood in its amended form when he pleaded. He would be prejudiced if he reasonably could have tendered other evidence or might have cross-examined differently. (10) Even then he can be met by a postponement which would normally remove most embarrassments."

Now, if one has to apply the law, as I have quoted it, to the circumstances of this amendment, it is of course clear that the scope of the case and the scope of the investigation by the defence is widened, but I do not think that the defence would be in a materially worse position than they would have been, had the allegations been made at the outset. In my view, therefore, justice demands that the amendments be granted.

For the sake of clarity I deem it advisable to read (20) them into the record.

Page 77 of the further particulars paragraph 2 Ratanda, the date is amended to "22/3/84 tot 30/4/84."

Page 77 paragraph 3 Tokoza of the further particulars at the end thereof the words "en is 'n polisieman vermoor "are a

Page 77 of the further particulars paragraph 5 Tsakane the words "en COSAS" are added, where indicated and the date is changed to "Oktober 1984 tot Julie 1985."

Page 78 of the further particulars paragraph 8 Kwa-Thema at the end thereof is added "en het oproer, geweldpleging (30) en brandstigting plaasgevind."

... / Page

Page 78 of the further particulars paragraph 9 where Soweto Civic Organisation appears, it is amended to "Soweto Civic Association" and "COSAS en AZASO" are added after the word "SOYCO".

Page 78 of the further particulars Mankweng paragraph 11 the date is amended to "Einde Julie 1985."

Page 79 of the further particulars paragraph 16 Huhudi, the following is added "Op 1/7/84 het beskuldigde M.G.P. Lekota 'n massavergadering van HUYO toegespreek en die mense opgesweep tot geweld." (10)

Page 79 of the further particulars paragraph 17 Thumahole the date is amended to "Sedert Januarie 1984" and the following is added "En het beskuldigde M.G.P. Lekota (1) op of omtrent Julie 1984 tot September 1984 te Thumahole aan lede van Thumahole Student Organisation en/of Thumahole Youth Congress en/of lede van die publiek opleiding verskaf in die maak en gebruik van petrolbomme; (2) die gemelde persone se onderrig verskaf in die maak en gebruik van plakkate en baniere vir gebruik tydens betogings en oproer; (3) gedurende Januarie 1985 was 'n massavergadering belê deur Thumahole (20) Student's Organisation en het beskuldigde M.G.P. Lekota (a) as gasspreker opgetree en voorgestel dat die organisasie se naam verander word na Thumahole Youth Congress en (b) die mense op die vergadering aangemoedig om die huurkwessie op te neem en gedurende 1985 raadslede te beveg en om raadslede se besittings te vernietig. Gedurende Julie 1984 het biskop D. Tutu, beskuldigde M.G.P. Lekota en beskuldigde S.P. Molefe 'n raadslid van Thumahole (1) te woord gestaan te Khotso House, Johannesburg en hom meegedeel dat as hy bereid is om as raadslid te bedank dan sal sy eiendom nie verder beskadig word (30) nie en (2) nadat die betrokke raadslid wel bedank het, het hy

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weer biskop D. Tutu geskakel waarna hy gerapporteer het dat drie persmanne na die raadslid moes gaan vir persverklarings omtrent die raadslid se bedanking. Op 10/7/84 is beskuldigde S.P. Molefe op Parys/Barrage-pad voorgekeer en het hy ongeveer 200 pamflette getiteld "New Deal - No Deal"in sy besit gehad. Op 15 Julie 1984 is beskuldigde M.G.P. Lekota en 'n ander persoon by Thumahole voorgekeer en in besit gevind van etlike dokumente waaronder "UDF Resolutions, First National Conference UDF Program of Action, Minutes of a General Council Meeting 17/9/83, Preliminary Report on the Effect of the Crisis (10) on labour, Speech delivered by Brett Murdoll 29/9/83 UCT, Statement on the Detention of Publicity Secretary Terror Lekota, Letter of UDF to US Ambassador New Deal must be rejecte UDF Fact Sheet on Ciskei, Impression of Repression of SAAWU i the Ciskei en Joint Statement of UDF and OVGWU en ander organi-sasies."

At page 79 of the further particulars paragraph 18 Seeiso-ville is amended by adding "En het beskuldigde M.G.P. Lekota op 21/2/85 aktief deelgeneem in die betrokke woonbuurt aan 'n klipgooiery deur Swartmassas na 'n begrafnis en ook algemene(2 oproer in die gebied."

Page 80 of the further particulars paragraph 22 Evander the heading is amended to "Leslie Swartwoongebied" and the Leandra Youth Organisation is changed to "Leandra Action Committee."

Page 80 of the further particulars paragraph 28 Cookhouse. To this paragraph is added the words "En is 'n onderwyser vermoor."

Page 81 of the further particulars paragraph 31 Welkom. To this paragraph is added "Op 11 Augustus 1984 het beskul (30 digde M.G.P. Lekota te Thabong, Welkom, 'n toespraak gehou by

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die begrafnis van 'n persoon wat in die onluste aldaar gedood is en het hy 'n oproep gedoen op die begrafnisgangers om te veg totdat uiteindelike vryheid en vrede verkry is. Hy het 'n beroep gedoen op die vroue om deel te neem aan die stryd wat volgens hom reeds in 1912 begin het."

At page 19 to sub-paragraph 4(iii) is added the following "UWO United Women's Organisation wie se lede van die bestuur tans aan die Staat onbekend is."

On page 27 of the further particulars just before paragraph 1.4.1 a new paragraph being paragraph 8 is added (10) which reads as follows "Organisasies met UDF geaffilieer of wat aktiewe ondersteuners van UDF is en waarvan die name van die besture tans aan die Staat onbekend is." They are numbered. I will not read out the numbers. "Tembisa Civic Association TCA, Tembisa Youth Organisation TYO, Ratanda Civic Association RCA, Thokoza Progressive Party, Katlehong Youth Steering Committee, Die Ad hoc komitee van Silverton, Alexandra Civic Association ACA, Mankweng Civic Association MACA, Mankweng Youth Organisation MAYO, Atteridgeville/Saulsville Residents Organisation ASRO, Huhudi Youth Organisation (20) HUYO, Thumahole Students Organisation TSO, Thumahole Youth Congress TYCO, Grahamstwon Civic Association GRACA, Cradock Civic Association CRADORA, Cradock Youth Association CRAYA, Wes-Kaap Civic Association WCCA, Leandra Action Committee LAC, Graaff-Reinet Youth Congress GRAYCO, Graaff-Reinet Community Organisation GRAFCOM, Noupoort Youth Organisation NOYO, Studenteraadskomitee Witbank, Somerset-Oos Youth Organisation SEYOU, Somerset-Oos Residents Association SERA, Cookhouse Youth Organisation CYO, Bedford Youth Congress BEYCO, Adelaide Youth Congress ADYCO." (30)

This is then the totality of the amendments granted.

IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

CASE NO. CC. 482/85

DELMAS

1986-03-05

THE STATE

versus

P.M. BALEKA & 21 OTHERS (10)

J U D G M E N T

VAN DIJKHORST, J.: During his evidence-in-chief this witness testified that at the founding meeting of the Boiphatong Residents Committee on 15 August 1984 accused no. 11 reported on a meeting in Sharpeville which he had attended and where it had been resolved to request councillors to resign and that should they refuse to boycott their businesses and should that be ineffective to set fire to their homes. The witness stated that the committee then resolved to do the (20) same. At the end of his evidence-in-chief Mr Bizos moved that this evidence be struck out. His objection was that it is not set out in the indictment as amplified by further particulars and he relies on a ruling given by me on the evidence of Sergeant Branders of which I struck out a portion.

In the matter of the evidence of Sergeant Branders the objection was upheld on the basis that whereas the indictment and further particulars alleged that accused no. 20 promoted violence it excluded active participation in violence on his part. The State had there effectively bound itself to a (30)

set of allegations by way of further particulars and I held it so bound and struck out the evidence. I also stated obiter that should I be wrong in my conclusion fairness dictated that the accused should be notified of specific acts of violence allegedly committed by them.

I will now deal firstly with the question whether the State has effectively bound itself by indictment and further particulars to a case which excludes the evidence to which objection is taken. The case for the State on this aspect concisely put is as follows: The aim of the ANC, SACP and (10) UDF is the unlawful overthrow and/or endangerment of the South African Government by violence, threats of violence or other means which include the use of force. They proclaim that this can only be attained if the masses in the Republic of South Africa can be persuaded to participate in a violent revolution, and therefore they call for politisation and activation of the masses to participate in violence. The accused, it is alleged, conspired to further the aims of the ANC, SACP and UDF aforementioned. They are therefore guilty of treason, alternatively terrorism, in terms of Section (20) 54(1) of Act 74 of 1982, the Internal Security Act, alternatively subversion in terms of Section 54(2) of the same Act. There is also a charge in terms of Section 13(1)(a)(v) of the said Act, furthering the aims of an illegal organisation, and there are also five counts of murder. I leave the latter two aspects aside.

In the charge of treason it is alleged that they with hostile intent towards the Republic and with intent to overthrow the government or to endanger it committed the acts set out in the annexure. In the charge of terrorism it is (30)

alleged that they committed acts of violence set out in the annexure in paragraphs 30 to 77 or promoted or caused violence and that they incited and encouraged the Black inhabitants of inter alia Boiphatong to commit violence as set out in the annexure. In the charge of subversion it is alleged that the accused caused or promoted general disruption or disorder in especially the Black residential areas by the acts set out in paragraphs 1 to 77 of the annexure.

The acts set out in the annexure include a large number of meetings and a number of campaigns. In paragraph 66 one (10) of these campaigns is dealt with, that against Black Local Authorities which was allegedly waged countrywide by especially civic associations affiliated to the UDF and which succeeded in inciting the masses to violence which led to the destruction of property of black councillors inter alia, murder, general unrest and confrontation with the police.

The State, when calling this witness, told us that the evidence he would give would be dealt with in paragraphs 72 and 77 of the annexure to the indictment. Mr Bizos' argument was limited to the wording of paragraph 72 only, paragraph (20) 77 dealing with the riots themselves. Paragraph 72 deals with Boiphatong in particular, the founding of its area committee on 15 August 1984, accused no. 11's involvement therewith and the mass meeting on 26 August 1984 arranged by it are set out. It is alleged that speakers there under the chairmanship of accused no. 11 incited the audience to violence. Paragraph 72(2) sets out that at the committee meeting of 15 August 1984 it was decided to hold the said mass protest meeting to mobilise the inhabitants to participate actively in "versetaksies", acts of resistance against the increased (30)

rents./....

rents. No particulars were requested to this sub-paragraph separately.

To paragraph 72 as a whole a request was directed and of this request paragraphs 33.1 to 33.3 might be relevant. The said paragraph 33.1 reads in part:

> "Is it alleged that there was a specific plan or decision to promote the active participation of the Black masses in "onluste, oproer en/of geweldpleging in die Swart woongebiede in die Vaal Driehoek'?"

The reply to this question refers to the answer to paragraph 28 of the request. This paragraph 28 gives a reply which is inapplicable here but refers to paragraphs 27.6.1, 27.6.4 and 27.6.5. Paragraph 27.6.1 refers to paragraph 9 which in turn deals with the aim of the UDF. Paragraph 27.6.4 reads as follows:

> "Elke beskuldigde het direk sowel as indirek deur deel te word van die sameswering en die nastreef van 'n gemeenskaplike doel en om Swart plaaslike besture te vernietig as deel van opset om die regering van die Republiek van Suid-Afrika buite parlementêr te vervang met 'n sogenaamde demokratiese regering van die massas en deur die kampanjes teen die regering se beleid en wetgewing te voer en die massas op te sweep teen en raadslede en stelsel van Swart plaaslike besture te tipeer as verwerplik en veraaiers van die Swart massas, geweldpleging aangemoedig en raadslede geintimideer. Sien paragraaf 8 supra."

Paragraph 8 here referred to inter alia has the following pertaining to accused nos. 4 to 18 and accused no. 22, I quote it in part:

"Beskuldigdes 4 tot 18 en 22 was minstens bewus van, en het hulle vereenselwig met die doel deur hulle samewerking met die UDF en as lede van liggame wat met UDF geaffilieer is en aktief saamgewerk het in die Vaal Driehoek teen die regering en Swart plaaslike besture en om die Swart plaaslik besture in die Vaal Driehoek ten minste te vernietig soos meer in besonder in the Akte van Beskuldiging infra uiteengesit word."

Paragraph 27.6.5, to which I have also referred, in part reads as follows: (10)

"Deur die propaganda waardeur die Swart massas in die Swart woongebiede opgesweep is teen raadslede en Swart Plaaslike besture soos in paragraaf 27.6.1 supra uiteengesit is het die Swart massas oorgegaan tot geweldpleging en was eiendom vernietig, raadslede vermoor en raadslede deur vrees en intimidasie gedwing om te bedank. Die Staat beweer verder dat hierdie geweldpleging wat ontketen was die direkte gevolg en uitvloeisel was van die sameswering soos in die Akte van Beskuldiging beweer word van die aktiewe organisasie, mobilisasie (20) en kondisionering van veral die Swart massas nadat georganiseer was vir en organisasies gestig of geaffilieer is deur en met UDF en onder UDF se leiding.

Die Staat beweer verder dat die beskuldigdes, hetsy as lede van die bestuurstrukture van UDF of as lede van organisasies wat met UDF geaffilieer het of aktief UDF aktief ondersteun bewus was van die organisasie en mobilisering van veral die Swart massas rondom die verskillende kampanjes van UDF in die Republiek van Suid-Afrika en hul vereenselwig het en aktief meegewerk (30)

het/.....

het in ten minste die Vaal Driehoek met die algemene doel om deur die organisering en mobilisering van die massas en verskillende organisasies onder UDF se leiding die massas, en veral die Swart massas, tot geweldpleging op te sweep en te lei om die Republiek van Suid-Afrika of dele daarvan onregeerbaar te maak."

In these paragraphs that I have referred to the State has not disavowed an intention to rely on the type of evidence placed before us pertaining to the resolution by the Boiphatong Residents Committee. By the paragraphs dealt with by me in my opinion the State has not bound itself.

This brings me back to the general paragraph 66 which referred to the campaign to utilise inter alia the Black Local Authorities Act to mobilise the masses to violence. Paragraph 66(7) reads as follows, I quote the first portion thereof:

"En is hierdie spesifieke kampanje op 'n landswye basis deur veral burgerlike gemeenskapsorganisasies wat met UDF geaffilieer is in Swart woongebiede opgeneem en gevoer."

To this paragraph a request for particulars was directed, being request 27.6.1. It reads as follows:

"Is it intended to allege that the UDF, or any organisation affiliated to the UDF ever took any decision to encourage or bring about the violent conduct with the results detailed in this paragraph?"

And then follows request 27.6.2:

"If so full particulars are required of the precise date of each decision, the precise place of each decision and names of all persons who were involved in making such decision."

Insofar/.....

Insofar as it can be argued that the evidence does not indicate affiliation by the Boiphatong committee to the UDF this argument fails as the State in paragraph 72 alleges that this committee was founded by activists of the VCA and UDF and paragraph 66(7) and the request should be read in this light. The answer to request 27.6.1 and 27.6.2 is, as I have stated, merely a reference to paragraph 9 which, as I have said, deals with the aims of the UDF. Reading this answer to this question it is clear that the State disavows reliance on a specific resolution to commit violence in this respect. The State is bound by these particulars. The evidence should therefore be struck out.

In passing I wish to state that too much was made in argument of my obiter remarks in my judgment on the evidence of Sergeant Branders. They pertained to the commission of actual violent acts by accused no. 20. I do not wish to be understood to have said that evidence should be pleaded or that no facts outside the indictment can be placed before Court. When occasion arises no doubt I will be called upon to deal with this issue. This is not the time to do so. A reference to the Appellate Division decision in S v DE BEER 1949 (3) SA 740 (A) at 745 and 746 is apposite. The objection is upheld. The evidence pertaining to the resolution of the Boiphatong Residents Committee that houses of councillors would be set alight is struck out.

G.J.M

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IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

CASE NO. CC. 482/85

DELMAS

1986-03-21

THE STATE

versus

P.M. BALEKA & 21 OTHERS

(10)

J U D G M E N T

VAN DIJKHORST, J.: I have been considering this question of bail over the past week and I have considered the arguments placed before me yesterday and they again exercised my mind last night and I have come to a firm decision on the matter of bail. It is advisable for all concerned that I give my ruling thereon now rather than keep everybody in suspense and what I lose in elegance of language in the judgment the accused will gain in certainty.

The accused applied to be released on bail. They (20) previously applied to the Transvaal Provincial Division for bail and after a number of preliminary issues had been dealt with the hearing on the merits of the application for bail took place on 7 November 1984. This hearing was before a Full Bench consisting of three Judges. The application was dismissed for reasons which are set out in the judgment of the Full Bench and to which I shall refer in extenso. The applicants for bail set out in their application that in giving the judgment of the Full Bench ELOFF, D.J.P. said:

"I come to the conclusion that in view of the security (30)

of/.....

of the State the application for bail cannot succeed. This of course is not the last word in the matter. It may be that if, in the weeks and months that lie ahead, greater stability is achieved as regards the situation of unrest or if the state of emergency is lifted it may be that different considerations will obtain. The accused are at any stage free again to approach the trial Judge and may, in the light of changed circumstances, again bring an application for bail."

In paragraph 4 of the application the accused state that on Friday 7 March 1986 the state of emergency was lifted. They state that they have been advised and verily believe that the Attorney General no longer contends that the safety of the State might be harmed if they were to be released on bail. Their belief is incorrect. In fact the safety of the State was the most contested issue in this case in the argument before me. I will revert to this later. The accused further submit that the reason for the refusal of bail given by the Transvaal Provincial Division has now fallen away, in view of what they have stated in paragraph 4 of their application.

Further it is stated in the application that another material event that has occurred since the hearing by the Full Bench is the acquittal of twelve leading members of the United Democratic Front on charges of treason in Pietermaritzburg on 9 December 1985. They state that the twelve UDF leaders who have been acquitted were released and have not been subjected to any administrative prohibition in terms of the Internal Security Act or any other law and that they have resumed their former political activities in the UDF.

It is stated in the application that there are strong similarities between the averments made against the twelve UDF leaders who were acquitted and all the accused in the present case and that many people who have been cited as co-conspirators in the charge against the accused have not been arrested. They draw attention to the fact that the twelve persons who were tried and acquitted in the Pietermaritzburg trial have all been cited as co-conspirators in the charges brought against them. The accused also state that they have no intention of leaving the Republic of South Africa or of joining the ANC and they point out that bail was granted to all the accused in the Pietermaritzburg trial and that they attended their trial regularly and complied with their conditions of bail. They submit that their position is no different from those in the Pietermaritzburg trial. They deny an allegation by the then Captain Kruger that the ANC had a plan to help them to leave South Africa and they state that in any event should the ANC attempt to put such plans into effect they will not co-operate. They set out cogent reasons why it would be better for them to be released on bail rather than be kept in custody. These reasons pertain to their personal circumstances, the disruption of their home life and the preparation for trial.

They submit that in the circumstances of this case the interests of justice will not be harmed if they are released on bail. Detailed particulars are annexed by each accused of the circumstances pertaining to him in particular.

Before analysing the application and the Attorney General's submissions and answering affidavits I will briefly refer to the legal principles to be applied when this type of

application is dealt with. The arrest and custody of an accused person has the object of ensuring that he stands trial. Our process requires the presence of the accused when justice is administered. Without this presence the process is stultified. The aim of holding an accused in custody is the furtherance of the proper administration of justice. That remains the aim also when a bail application is considered. As it is presumed that an accused is innocent until he is found guilty the approach to an application for bail is always in favorem libertatis provided the administration of justice is not prejudiced by the release of an accused from custody. The security of the State is also an important factor to be considered as will appear from the passages in the judgment of the Full Court which I will quote rather extensively. As the accused are the applicants they have to convince me that their release will not be harmful to the proper administration of justice and that the security of the State will not be jeopardised. They bear the onus.

I have considerable sympathy for accused persons who have to be parted from their families and whose occupations are disrupted because they are detained pending the outcome of their trial, the more so as our criminal process is often a protracted and painstaking search for the truth. The matter has, however, to be decided on legal principles and not on my personal feelings.

The first issue between the State and the accused is whether there are changed circumstances which induce me to look at the question of bail afresh. If in this respect the accused fail to convince me the application must of necessity fail. The basis upon which the Full Bench concluded, as

is set out in the application, was the attitude of the Attorney General. This is clear from the following passages: At page 2 of the judgment ELOFF, DEPUTY J.P., stated as follows:

"I think it necessary to refer first of all to the affidavit by the Attorney General. He states that when the dossier in this matter was placed before him for consideration he decided to indict the accused and then goes on to say the following:

'4. Die de facto posisie in die Republiek huidiglik is sodanig dat enige persoon wat politiekemisdrywe in die Republiek pleeg en die land uitvlug beskerming deur buurstate verleen word en dat geweier word om sodanige persone aan die Republiek uit te lewer vir verhoor van sodanige misdrywe.

5. Ek beskik oor inligting wat ek weens die sensitiewe aard daarvan, die beskerming van polisie metodes en bronne van inligting, en beskerming van beriggewers, nie in die openbare belang aan die Hof kan openbaar nie en wat aandui dat indien die applikante op borgtog of andersins vrygelaat word dit 'n wesenlike gewaar of bedreiging inhou vir die veiligheid van die Staat in die handhawing van wet en orde in die Republiek.

6. Volgens my oordeel het die veiligheidsopset in die gebied van die Vaal Driehoek spesifiek en in die land in die algemeen wesenlik onveranderd gebly sedert die uitoefening van my diskresie tydens die uitreiking van die bevele kragtens Artikel 30(1) van Wet 74 van 1982. Die

verklaring van die bestaan van 'n noodtoestand in sekere gebiede, insluitend die landdros distrikte Vereeniging en Vanderbijlpark on 21 Julie 1985 staaf my siening en die inligting tot my beskikking.'"

Then follows a reference to affidavits by members of the police force. I will refer to evidence of this type later. At page 6 the learned Deputy Judge President stated:

"I propose to confine myself in this judgment to the question of the security of the State. As I pointed out we have before us the affidavit by the Attorney General in which he states under oath that in his opinion on the basis of information made available to him the security of the State will be imperilled if the accused are released on bail. It is not disputed that if this averment is accepted, or rather if there is not any reason to doubt this averment, that this may per se be an adequate reason for withholding bail. Even if there is satisfactory proof that the accused may be restricted by suitable conditions and even if there is adequate reason to believe that they might stand their trial, bail could and should in a proper case be refused on the simple basis that there is adequate reason to believe that the security of the State may be imperilled if the accused are released on bail."

At page 8 the learned Judge continued:

"I return then to the circumstances of this case. In the face of the averment by the Attorney General the question is whether the accused have put material before the Court which will be of such a nature that the statement made by the Attorney General is fully met. We