gesien het dokumente ontvang en dat hy gesê het hy het ongeveer 300 van die pamflet, Bewysstuk "N" ontvang om te versprei. Die dokument, Bewysstuk "N", was aan hom in sy getuienis in hoof getoon en hy het dit onteenseglik identifiseer as 'n voorbeeld van die pamflet wat hy by Regina Mundi op 16 Junie versprei het in die getal van, soos ek reeds gesê het, om en by 300.

Bewysstuk "N" het boaan:

" South African Youth Revolutionary Council (SAYRCO)"

en dan die embleem van SAYRCO en dit lees as volg:

"On June 16th 1976 all the black workers, the unemployed professionals and students. It happened in Sharpeville, more than 70 defenceless black people were murdered by the racists. It happened again in 1976 when innocent school kids were mercilessly massacred by the trigger happy Boer gangsters. In fact the so-called South African Government is having a program of genocide of the black man. Every day passes with humiliation of black adults by young Afrikaner boys and girls in the industries. From day to day we witness terrible Gestapo like torture of people struggling for the betterment of humanity. Every minute passes with the maiming of black farm labourers, genocide of the black man. We resist in every day of our lives to give in. We are black people whose ancestors were the proudest people ever to walk the face of this earth. We will resist as we have always refused to surrender in the face of such savage and barbaric deeds perpetrated against us. It is time that our enemy gets to know that we are now in the stage of confrontation. We can never negotiate principles. We as the youths of a colonised country will never hesitate to defend our people.

We grew up in an atmosphere of shot and fire, we reject in totality to wait each year for June 16th in order to commemorate the murder of our kith and kin. We call on all patriots to unite in the onerous task of overthrowing an abhorrible regime. Let us remember that our people in Zimbabwe have their freedom today. Their freedom was never negotiated or given them on a silver plate, they fought hard. Let us wipe off our minds the consideration of technology or military might. Technology never decides a war. It is the will of a people. We are decided we must win. It is time that we stop theorising but act. Revolution is not one single battle, but a protracted struggle filled with defeats and successes. We have had our defeats, we are about to succeed. We cannot allow ourselves to be reduced to mere commemorators of the death of our kith and kin. Learn, teach, organise and act against the enemy. Issued by South African Youth Revolutionary Council (SAYRCO)"

Ingevolge die bepalings wat ek voorheen na verwys het, is hierdie dokument ook toelaatbaar by inhandiging en is dit prima facie bewys van die inhoud daarvan. Ek keer later hierna terug as ek onder andere Bewysstuk "G" gaan behandel.

Bewysstuk "W" het ook weereens dieselfde soort strekking. Bewysstuk "X" sal ek ook behandel. Bewysstuk "Y":

"Fifth Anniversary of June 16th massacres.

Once again, we, the South African Youth Revolutionary Council (SAYRCO) reminds you of the lives of our brothers sisters and parents that were massacred during June 1976 when we were resisting against another form of oppression meeted to us by the racists, facists regime. We are

calling all the people of South African, mothers and fathers, youths and students, to observe this historic day by declaring a national day of mourning and abstaining from all forms of entertainment, all forms of sport to be suspended, all shebeens te close and church leaders to organise services. Brothers, sisters and beloved parents, let us fight the enemy on all forms and at all fronts. Let us rise in one spirit and objective, with one voice as oppressed people we say we shall overcome. Issued by SAYRCO. (June 16th)" (10

Bewysstuk "Z" is ook toelaatbaar. Teen die toelaatbaarheid van hierdie dokument is daar in die betoog beswaar gemaak. Ek stem egter met mnr. Swanepoel se siening van die aangeleentheid ten volle saam. Die dokumente is na my mening ingevolge die bekende bepalings van die Wet op Terrorisme toelaatbaar. Wat hulle bewyswaarde is, nadat 'n betrokke beskuldigde arresteer is, soos in hierdie geval, is 'n totaal ander vraag. Of daar in geykte gevalle gesê kan word indien daar iets inkriminerends is in die betrokke dokument wat dan so ingehandig word wat hom inkrimineer (20 en behoort te inkrimineer is 'n vraag wat ek dink sal afhang van die omstandighede van elke geval. Hoewel gevolglik Bewysstuk "Z", na my mening, toelaatbaar is, is dit in die lig van die omstandighede van die geval en in die lig veral van die feit dat dit nie betwis word dat beskuldigde Nr. 2 die president van SAYRCO is nie, nie van enige groot bewyswaarde nie. Dit moet onthou word dat Bewysstuk "Z" heeltemal duidelik uitgereik is deur SAYRCO na Beskuldigde 1 se arrestasie en in die lig van die omstandighede het Bewysstuk "Z" dan na my mening, min indien enige bewyswaarde(30

teen/...

teen Beskuldigde Nr. 2.

Bewysstuk "AA" is 'n fotostatiese afdruk van 'n SAYRCO dokument en weereens ingevolge die bepalings van die betrokke wet is dit ook toelaatbaar en is die inhoud daarvan ook vermoed die waarheid of korrek te wees.

Dit lees as volg:

"On the anniversary of SAYRCO.

Comrades a year has elapsed since the establishment of our organisation. From inception serious efforts were taken by us to strengthen this movement for a thorough going offensive against the enemy. Progress achieved is highly impressive given the hostile machinations from our enemies and friends. That this organisation is a force, is a reality. We can only hope that those friends practising hostility against us will realise very soon that overwhelming and defeating the enemy, is as sure as daybreak. Politically Southern Africa has transformed to a more advantageous atmosphere. The enemy has shifted from the aggressive and offensive posture into a clear defensive one. Having achieved this ours is to pressure him into an unconditional surrender. We are also encouraged by the victory in Zimbabwe of the ZANO PF under the wise leadership of comrade Mgabe. The British with their western alies wants to make us believe that it is through their generosity that the elections were held. No, to us it is a very clear case that the holding of the Lancaster House discussion was capitulation of the enemy. After all who has ever negotiated with terrorists. There are serious lessons to be drawn by us from the Zimbabwe revolution. To quote but a few, that

there/....

there can be no successful revolution without a thorough backing from the masses of our people and also to win the masses of our people requires hard honest and consistent work. We should never pose as revolutionaries if we have no serious action that our people can point and say: "These are our fighters." A summary of this by comrade tell no lies and claim no easy victories."

Ek gaan die volgende paragraaf lees nie en gaan dan voort met die paragraaf daarna, en dan wil ek beklemtoon dat hierdie paragraaf van besonder groot belang is. Ek gaan dit in verband met die ander bewysstukke netnou bring.

"Like all oppressed people, our choice is very limited. The only path we have is armed revolutionary struggle."

Die res van die paragraaf verloor ek nie uit die oog nie maar wil ek dit beklemtoon dat daardie aanhaling uit daardie paragraaf nie in isolasie gesien word nie maar in verband gebring word met die res van daardie dokument en ook in verband gebring word met die res van die dokumente.

Bewysstuk "BB" is ook op dieselfde grondslag toelaatbaar. Dit is ook 'n SAYRCO dokument. Onder andere in die dokument op bladsy 2 kom die volgende voor:

"We therefor believe that a self reliant protected peoples war is the only way to victory. We of SAYRCO rely on the masses to defeat the South African oppressive system machinery which are armed to the teeth with imperialism and zionism. We have to create a formidable and steeled peoples' army from among the peasants, workers and revolutionary intellectuals. A peoples army which have to know and learn warfare through warfare and train our commanders right in the heat of battle. The entire masses, men, women, young

and/...

and old to nurse the wounded and even attack the enemy with whatever weapons they have in their hands from knife, match to gun. On the question of weapons and other military supplies, the slogan we raise to the masses is: Destroy the enemy with his own guns and bullets. Also along with this slogan we have to organise politicise and arm the masses."

Dan Bewysstuk "CC", ook 'n dokument van die SAYRCO organisasie. 'n Brief gedateer 20.11.79 en geadresseer aan Laas G. Eriksen "Director (IEUF) P.O. Box 108, 1211 Geneva 24, Switzerland." 'n Versoek om fondse. Ek sal later hierna ook weer terugkeer.

Dan Bewysstuk "DD" hoewel weereens toelaatbaar om dieselfde redes as in die geval van Bewysstuk "Z" dink ek nie is dit in die saak van enige werklike wesenlike belang nie. Dit neem na my mening nie die aangeleentheid verder nie.

Hierdie dokumente waarna ek verwys het is heeltemal duidelik getuienis van die oogmerke en doelstellings, samestelling en tot 'n groot mate die wyse waarop SAYRCO beoog om sy doelstellings en bedrywighede te bevorder en (20 te bereik. Die dokumente spreek vanself. Hulle inhoud het ek na verwys. Ek het, soos ek reeds gesê het die dokumente nie volledig uitgelees nie, dit is nie nodig nie. Dit is slegs nodig om daarop te wys dat die res van die inhoud van daardie dokumente strook met hierdie grepe wat ek uit die dokumente voorgelees het.

Daar kan, na my mening as hierdie dokumente bekyk word, geen die minste twyfel wees dat SAYRCO se oogmerke die omverwerping van die huidige regering in Suid-Afrika is nie, en dat hierdie omverwerping op onkonstitusionele (30

wyse sou geskied. Daar kan geen twyfel wees dat hulle hulle self daarvan oortuig het en hulself daarmee vereenselwig het dat hulle hierdie oogmerk van die omverwerping van die huidige Suid-Afrikaanse Regering, op geen ander wyse kan vermag het, as 'n rewolusie voortgebring deur gewapende konflik nie.

As hierdie feit in ag geneem word, as 'n mens kyk na die oogmerke van SAYRCO soos uiteengesit in sy konstitusie, Bewysstukke "A" en "B", as die trant van die inhoud van die toesprake wat gelewer is en deur SAYRCO goedgekeur is, soos blyk uit Bewysstuk "C" ontleed word, as die daaropvolgende dokumente van SAYRCO, Bewysstuk "N", Bewysstuk "AA", Bewysstuk "BB" en Bewysstuk "Y" ontleed word, soos ek reeds aangedui het, dan is dit heeltemal duidelik dat SAYRCO nie tevrede is as organisasie met die blote herdenking van sekere dae, soos 16 Junie nie, maar dat hulle dit voorsien as binne die redelike toekoms bereikbare oogmerk, die gewelddadige omverwerping van die Suid-Afrikaanse Regering.

As iemand 'n ampsdraer of lid van 'n organisasie word, dan is dit voor die handliggend dat hy hom vereenselwig met die oogmerke en doelstellings van daardie organisasie. In die geval, in die besonder van beskuldigde Nr. 2, is hy, nie alleen 'n stigterslid van SAYRCO nie maar hy is die eerste president van SAYRCO. Dit blyk heeltemal duidelik uit Bewysstuk "C". Dit is heeltemal duidelik uit wat ek reeds gesê het, hy veral, in die lig daarvan dat hy stigterslid en president van SAYRCO is, ten volle op hoogte sou wees met die oogmerke, doelstellings, en in besonder - en dit is van baie groot belang in hierdie saak - die wyse

waarop/....

waarop die oogmerke van SAYRCO beoog bereik sou word. In hierdie verband moet nie uit die oog verloor word die feit dat hy op 17 Junie 1981 met behulp van Bewysstuk "D", 'n ooglopende vals paspoort in Suid-Afrika aangekom het nie. Hierdie paspoort Nr. 426569 is uitgereik aan ene Peter Mokodedi(?), P.O. Box 20, Ramotswa. Occupation: Scholar en hy word aangedui onder die hoof "Nationality : Citizen of Botswana." Op daardie stadium, dit is by uitreiking was die lande wat hy wou besoek Suid-Wes Afrika en Rhodesië. Volgens die stempels en inskrywings in hierdie paspoort het (10 hy toe sedert 1977 met behulp van hierdie paspoort heelwat gereis. Ek gaan nie al hierdie inskrywings in besonderhede behandel nie. Dit is nodig dat ek slegs na sommige van hulle verwys.

Op bladsy 5 kom daar voor die datum by 'n stempel 22.12.79 en die stempel lees dan:

> "Permitted to enter and remain in the Republic of South Africa/SWA up to and including 22.12.79 for the purpose of visit. Randburg. He is not subject to the provisions of Section 26 of Act 67 of 1964 (20 or of Section 10 or 12 of Act 25 of 1945 or Section 5 of Proclamation 29 of 1935 SWA during the currency of this permit".

Dan is dit geteken deur die een of ander paspoortbeampte. Dan is daar een of twee stempels wat redelik onleesbaar is wat moontlik verband hou met die aankoms en vertrek op daardie geleentheid maar dit is nie heeltemal duidelik nie.

Wat wel duidelik is, is dat daardie besondere besoek aan Randburg was en daar kan nie twyfel daaromtrent bestaan nie dat enige Hof in hierdie land geregtelike (30

kennis daarvan kan neem dat Randburg net te noorde van Johannesburg geleë is. Ek dink ons het die dae ontgroei van die vermaarde Engelse Regter wat geregtelik nie bewus was van die identiteit van 'n sekere, op daardie stadium, besonder bekende aktriese nie. Ek dink van dinge waar van elke lid van die gemeenskap bewus is kan die howe deesdae geregtelike kennis neem en die ligging van Randburg sou seer sekerlik een van hulle wees.

Dan is daar op bladsy 6 'n identiese stempel afdruk met net die inskrywings in daardie stempel anders. Daardie verwys na 'n besoek van 1980.08.31 aan "for the purpose of H/D." Ek weet nie waarvoor dit staan nie, ek is nie op hoogte daarmee nie, en die plek is Soweto. Ook geteken deur een of ander paspoortbeheerbeampte. Daar is dan ook verskeie ander inskrywings en soos ek gesê het dit is nie nodig dat ek almal behandel nie. Dit is belangrik slegs om daarop te wys dat dit duidelik is volgens Bewysstuk "D" dat Beskuldigde Nr. 2 nie Suid-Afrika slegs en in besonder Soweto en sy omgewing op die 17de Junie besoek het nie. Al hierdie besoeke op datums na die stigting van SAYRCO.

Hier weereens het ons die posisie dat getuienis, feite, al is dit ook brokkies, nie in isolasie beskou kan word nie, en weereens kom die beweerde verhouding, die beweerde liefdesverhouding van Beskuldigde Nr. 1 en Beskuldigde Nr. 2 ter sprake. Onthou sal word dat Beskuldigde Nr. 1 se getuienis was dat sy vir die eerste keer sedert sy onwettige vertrek uit Suid-Afrika aan die begin van 1977 gesien het te Gaberone, Botswana in Februarie 1981, toe sy hom daar by die Holiday Inn onverwags ontmoet het toe hy by 'n tafel naburig aan haar gesit het en hy haar daar

toevallig gesien en herken het en met haar kom gesels het.

Dit is 'n belangrike feit, as dit so is en ek sê vir geen oomblik dat dit so is nie, maar as dit so is dat Beskuldige Nr. 2 op hierdie onbetwisbare besoeke van hom aan Suid- Afrika sedert daardie verlating van hom in 1977, nie na sy ou nooi toe gegaan het vir wie hy so lief was nie en onmiddellik weer so lief nog steeds was toe hy haar weer gesien het in Februarie 1981 nie, waarvoor het hy Suid-Afrika toe gekom; waarvoor het hy dit nodig gevind om met 'n vervalste paspoort op al hierdie besoeke Suid- (10 Afrika toe te kom tot en met hierdie onwettige besoek van hom wat tot sy arrestasie op 17 Junie gelei het. Dit kan nie na my mening dan uit verband gesien word met die gebeure van die 16de Junie by die Regina Mundi Kerk nie.- Daar kan, na my mening, geen ander afleiding as 'n redelike afleiding bestaan, gesien in die lig van die beginsels uiteengesit in die nog steeds toonaangewende beslissing van R vs Blom 1939 AD, as ek reg onthou is die verwysing bladsy 183, met betrekking tot die wyse waarop afleidings van omstandigheidsgetuienis gemaak moet word en die ver- (20 eistes waaraan dit moet voldoen nie. Dat Beskuldigde Nr. 2 op die 17de Junie 1981 besoek afgelê het om hierdie revolusionêre oogmerke met geweld as hoofelement van daardie revolusie te bevorder nie. Daar is natuurlik ander moontlikhede as daaroor gegis wil word. Dit is nie die vraag, en ek wil beklemtoon, die vraag by hierdie, soos in ander strafverhore is nie of daar ander moontlikhede bestaan nie. Die vraag is eerstens, is hierdie afleiding wat die Staat wil hê ek moet maak, en waarmee ek nou besig is, bestaanbaar met die bewese feite. Tweedens, is daardie afleiding (30

die enigste een wat rederlikerwyse gemaak kan word. Met ander woorde, anders gestel, is al die ander afleidings wat moontlik gemaak kan word nie redelik moontlik korrek nie en as 'n mens hierdie toetse van die Blom-beslissing dan toepas by hierdie aangeleentheid dan kan 'n mens ander moontlikhede versin, mens kan gis oor ander moontlikhede, dit is so en ek gaan seer sekerlik my nie nou ophou en bemoei met daardie moontlikhede nie. Ek gaan volstaan slegs by die stelling en aanmerking dat al daardie moontlikhede wat kan bestaan, is geeneen redelik nie. Die enigste redelike afleiding wat gemaak kan word in al hierdie omstandighede, as 'n mens die verhouding van Beskuldigde Nr. 1 met Beskuldigde Nr. 2 in oënskou neem; as 'n mens die besoeke van Beskuldigde Nr. 1 na Botswana in ag neem. Ek sal later hierdie aspek meer volledig behandel as ek haar spesifieke aandeel in die aangeleentheid behandel. As 'n mens Freedom se onbetwisbare aandeel in hierdie aangeleentheid behandel; as aanvaar word dat Lucky Mshlanga se getuienis korrek aanvaar is; as die getuienis van Tselo Stanley Mamabolo en Ouma aanvaar word dat daar op daardie geleenthede werwingsdade gepleeg was vir militêre opleiding deur SAYRCO, buitelands, uit Suid-Afrika uit, dat Beskuldigde Nr. 2 se besoek van 17.6.81 hiermee verband gehou het want hierdie aangeleenthede wat ek genoem het, is 'n logiese opeenloping van die een na die ander. Ek wil dit dan verder beklemtoon dat al sou 'n mens by hierdie ondersoek na hierdie vraagstuk die getuienis van Ouma verwerp en die getuienis van Tselo Stanley Mamabolo verwerp dan sit 'n mens nog steeds met die getuienis van wat daar by die Regina Mundi Kerk op 16.6.81

tussen/....

tussen Lucky Mshlanga en Beskuldigde Nr. 1 plaasgevind en daardie getuienis wil ek dit beklemtoon, kan na my mening, onder geen omstandighede verwerp word nie. Die enigste gevolgtrekking waartoe, na my mening, geraak kan word, op daardie getuienis is dat Lucky se getuienis aanvaar moet word. Ek het die aspek reeds volledig behandel en noem dit net volledigheidshalwe by die verdere beoordeling van hierdie aangeleentheid.

As 'n mens dit dan alles aanvaar; as 'n mens dit sien in die lig van die aard van die soort byeenkoms waar-(10 oor die 16de Junie 1976 herdenk word op elke jaar 16 Junie by die Regina Mundi kerk, dan kan daar geen gevolgtrekking wees anders as die een wat ek nou gepostuleer het nie.

Dit bring ons noodwendig dan by die verdere gevolgtrekking dat in sy hoedanigheid as president van die organisasie SAYRCO met hierdie betrokke oogmerke wat ek uiteengesit het, Beskuldigde Nr. 2 hom vereenselwig het met die dade verrig deur medewerkers, lede en andere ter bevordering van hierdie oogmerke van SAYRCO. Ek sal die aspek later volledig behandel. Op hierdie stadium is (20 dit voldoende om dit te konstateer.

Ek wil op die stadium dan oorgaan tot die behandeling van Beskuldigde Nr. 1 se posisie met betrekking tot hierdie aangeleenthede. Dit is nie nodig dat ek weer die geloofwaardigheidsaspek behandel nie. Dit hou nou verband met die feitebevindings in hierdie geval en ek wil dit dan slegs pertinent beklemtoon dat die feitebevindings en die rede vir daardie bevindings steeds in ag geneem moet word by die verdere aspekte wat ek nou gaan behandel.

Om-saam te vat uit wat ek reeds gesê het met (30

betrekking tot Beskuldigde Nr. 1, is die posisie so dat ek bevind op die getuienis voor my, by wyse weereens hoofsaaklik van afleiding weereens gebaseer op die beginsels soos ek dit behandel het en uiteen gesit is in die nog steeds toonaangewende beslissing van Blom dat daar nie twyfel daaromtrent kan bestaan nie, dat dit inderdaad die enigste afleiding is wat as 'n redelike afleiding gemaak kan word, dat sy te alle tersaaklike tye, minstens 'n wetende ondersteuner van die SAYRCO organisasie was.

Die Staat het gepoog om te bewys dat sy die sekretaresse van SAYRCO was. Die Staat het nie in daardie poging geslaag nie. Die Staat het hierdie poging aangewend deur middel van Catherine Lipalasa. Ek het daardie getuienis reeds verwerp en die redes daarvoor aangevoer.

Die verdere getuienis dui na my mening egter onteenseglik daarop dat sy te alle tersaaklike tye bewus was van die organisasie SAYRCO; dat sy te alle tersaaklike tye op hoogte was van die oogmerke en doelstellings van SAYRCO. As 'n mens die beginselbenadering soos in Blom se saak uiteen gesit toepas by hierdie aangeleentheid dan kan 'n mens daardie aspekte wat ek reeds volledig behandel het met betrekking tot Nr. 1 se bedrywighede op die 16de Junie 1981 by die Regina Mundi Kerk met betrekking tot Lucky Mshlanga se werwing vir militêre opleiding; die daaropvolgende kontak deur haar met Freedom op 17 Junie; haar besoek aan Sisholu(?) haar daaropvolgende besoek aan hom, die reëlings wat sy getref het, dit is nie nodig dat ek al hierdie aangeleenthede weer uiteensit nie. Dan is dit heeltemal duidelik dat sy hierdie werwing gedoen het en hierdie reëlings getref het, wetende dat sy dit vir SAYRCO

doen/...

doen, wetende wat die oogmerke van SAYRCO is en dat sy op haar beurt haar weereens daarmee vereenselwig het.

Die eindresultaat is dus dat tot op hierdie punt is sy en Beskuldigde Nr. 2 dan in feitlik dieselfde posisie. Die enigste verskil is dat hy nie self, behalwe by die gebeure op die 17de Junie, soos ek reeds uiteen gesit het, fisies betrokke was nie en natuurlik by die stigting van die organisasie SAYRCO fisies teenwoordig gewees het nie, maar behalwe met daardie uitsonderings en dit is nie nodig dat ek al daardie aangeleenthede volledig uiteensit nie, (10 is hy en Beskuldigde Nr. 1 in dieselfde bootjie, in presies dieselfde posisie, vís a vís SAYRCO.

Ek wil beklemtoon, ek het dit reeds genoem, ek het dit nie uit die oog verloor nie, dit is nie bewese dat Nr. 1 'n ampsdraer van SAYRCO was nie. Dit is hoogstens bewys in die getuienis dat sy 'n bewuste medewerker was en ek het reeds verduidelik wat ek bedoel met bewuste medewerker en dit is nie nodig dat ek weereens op die aangeleentheid ingaan nie. Ek herhaal dit net sodat daar enige onduidelikheid met betrekking tot wat ek in die opsig bedoel (20 kan bestaan nie.

Dit is op die stadium dan gerieflik om oor te gaan tot 'n beskouing van, in die lig van wat ek gesê het, die Staat bewys het met betrekking tot die bewerings wat in die twee aanklagte gemaak word.

Met betrekking tot die aanhef tot die aanklagte, dit is Aanklagte 1 en 2, bewys die getuienis volledig en dit kan nie betwis word nie, dat die Soweto Students Representative Council (SSRC) gedurende 1977 tot 'n onwettige organisasie verklaar is. Dit is bewys dat Beskuldigde 2 (30

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'n leier van daardie organisasie die SSRC was. Beskuldigde Nr. 1 se eie getuienis bewys dat sy ook 'n bewuste medewerker van die SSRC was. Sy het wel gesê dat sy nooit aktief toegetree het tot die amptelike geledere van die organisasie nie maar sy het namens hierdie organisasie werk gedoen wetende wat dit alles behels. Sy is dus in die feitelike posisie wat die Staat beweer in daardie bewering.

Die dokumente wat ek reeds behandel het, bewys dat daardie uitgeweke lede van die SSRC en andere, insluitende Beskuldigde Nr. 2, SAYRCO buite die Republiek gestig het te wete in Nairobi in April 1979. Wat ek reeds gesê het, sal duidelik getoon het dat SAYRCO ten doel het om die dinge uiteengesit op bladsy 2 in I, II, III en IV te vermag. Dit is om te poog om die wettige gesag in die Republiek omver te werp deur middel van geweld; om persone te kry om by SAYRCO aan te sluit en militêre opleiding te ontvang, om kontak te maak met organisasies in die Republiek en deur middel van die organisasies die doelstellings van SAYRCO te bevorder. Onthou sal word in die verband dat die dokumente na wat verwys is, onder andere hulde bring aan hierdie organisasies waarna verwys word in bewering 3 in die klagstaat maar die beperkinge van daardie organisasies uitwys en sê dat SAYRCO met hulle sal kontak maak om doeltreffender en op 'n uitgebreide wyse hierdie doelstellings te bevorder, en om swartmense in die Republiek in opstand te laat kom teen die wettige gesag in die Republiek.

Dan gaan die bewerings verder:

"NADEMAAL Beskuldigde Nr. 2 die President van SAYRCO is", en dit is onteenseglik bewys.

"NADEMAAL Beskuldigde 1 op 'n onbekende datum by SAYRCO aangesluit het en haar met die doelstellings vereenselwig het." Die getuienis bewys nie dat sy inderdaad amptelik 'n lid van SAYRCO geword het nie maar soos ek die posisie sien is dit nie nodig dat die getuienis dit as sulks letterlik bewys nie. Die getuienis bewys, en ek het dit reeds volledig genoeg behandel, is dat sy 'n bewuste, wetende medewerker van SAYRCO was en by organisasies soos hierdie glo ek nie is dit nodig dat 'n mens op die amptelike lederegister daarvan sal verskyn nie. Dit is nie nodig dat 'n mens getuienis sou hê van 'n ampsdraer van SAYRCO dat 'n persoon lid is daarvan nie. Dit is voldoende om die afleiding te maak vir die doeleindes hiervan dat iemand lid is, as die getuienis bewys soos ek reeds bevind het, dat 'n persoon 'n bewuste, wetende medewerker was en dit vir redes wat ek reeds aangevoer het, bewys die getuienis met betrekking tot Beskuldigde Nr, 1 dan onteenseglik.

Die klagstaat gaan dan verder en beweer op aanklag 1: "DEURDAT die beskuldigdes gedurende of omtrent die tydperk 1977 tot 17 Junie 1981 en in die Republiek en elders, wederregtelik en met die opset om die handhawing van wet en orde in die Republiek of gedeelte daarvan in gevaar te stel (1) met mekaar en ander lede van SAYRCO saamgesweer het om by die pleging van die dade hieronder genoem, behulpsaam te wees of dit te bewerkstellig of te pleeg. (a) Om die doelstellings van SAYRCO te bevorder en te poog om daaraan uitvoering te gee."

Die dokumente met betrekking tot beskuldigde Nr. 2 wat ek reeds behandel het bewys dit bo twyfel. Met betrekking tot beskuldigde Nr. 1 is dit heeltemal duidelik uit

wat ek reeds gesê het dat haar werklike, fisiese dade inderdaad hierdie bewering bewys.

"(b) Om te poog om die wettige gesag in die Republiek omver te werp deur middel van geweld." Dieselfde geld hier met betrekking tot beide beskuldigdes. "(c) Om persone te verkry om by SAYRCO aan te sluit en/of die doelstellings van SATRCO te bevorder." Uit wat ek reeds gesê het is dit heeltemal duidelik dat die getuienis hierdie bewering ook bewys.

"(d) Om persone oor te haal om buite die Republiek militêre opleiding te ontvang." Ek wil weereens beklemtoon dat al sou 'n mens die getuienis van Tselo Stanley Mamabolo en Ouma verwerp, dan sit jy nog met die getuienis van Lucky Mshlanga wat onder geen omstandighede verwerp kan word nie. Ek is tevrede dat die getuienis van al drie daardie getuies as bo redelike twyfel in die opsigte wat ek behandel het aanvaar moet word as bo redelike twyfel korrek en waar. Ek is gevolglik tevrede dat die getuienis van daardie drie getuies hierdie bewering van die Staat in Aanklag 1 bewys.

(e) volg op (d) en as (e) bewys is, is dit na my mening in die lig van die dokumentêre getuienis wat ek reeds volledig genoeg behandel het, aksiomaties dat (e) ook bewys is. Ek behandel (e) gevolglik nie verder nie.

(f) volg na my mening nie op die getuienis nie. 'n Mens kan dit moontlik inlees by die dokumentasie wat ingehandig is, dit is na my mening egter argumenteerbaar en na my mening kan bewering (f) dan buite rekening gelaat word.

"(g) om kontak met organisasies in die Republiek te bewerkstellig en deur middel van die organisasies die doelstellings van SAYRCO te bevorder." Dit blyk duidelik

uit/....

uit die dokumentasie wat ek reeds behandel het dat SAYRCO hulle dit ten doel gestel het om met sulke organisasies kontak te maak om SAYRCO se doelstellings te bevorder. Ek het die aspek reeds by 'n ander aspek behandel maar die twee hang saam met mekaar en na my mening is dit ook bewys.

"(h) Om Suid-Afrikaanse paspoorte te bekom vir vervalsing en vir gebruik deur SAYRCO lede om die Republiek onwettig binne te kom." Ek het reeds die getuienis van daardie drie getuies, Floyd Tjezi, Edward Malinga en Brian Mtetwa baie volledig behandel. Ek gaan dit nie weer behandel nie. Ek wys slegs weereens daarop dat ek daardie getuienis aanvaar dat hulle op versoek van Nr. 1 die paspoorte bekom het.

Die vraag ontstaan dan, met watter oogmerk sou beskuldigde Nr. 1 paspoorte van hierdie mense wou bekom as daardie mense daardie paspoorte nie self gaan gebruik nie, as sy, soos die getuienis hierso wys, sy inderdaad self fisiese besit geneem het van daardie paspoorte. Ek dink dat weereens in die lig van die Blom beslissing, daar geen ander afleiding gemaak kan word in die lig van haar bedrywighede met betrekking tot die gebeure op die 16de Junie nie. Die gebeure op die 17de Junie en ook die gebeure met betrekking tot die getuienis van Tselo Stanley Mamabolo nie dat hier pogings was om mense te verkry om militêre opleiding te ondergaan in die buiteland en om hierdie en moontlik ander oogmerke en doelstellings van SAYRCO te bevorder, vals paspoorte besonder handig te pas sou kom. Die afleiding word verder gestaaf deur die feit dat Beskuldigde Nr. 2 self van 'n vals paspoort gebruik gemaak het. Nie net op die 17de Junie nie maar soos ek reeds daarop gewys het, op verskeie

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ander geleenthede ook.

Nou wil ek 'n aspek net volledigheidshalwe heeltemal duidelik stel. Ek is bewus deurgaans van die feit dat die getuienis van Tselo Stanley Mamabolo en Ouma nie beskuldigde Nr. 1 direk persoonlik inkrimineer nie, maar in die lig van wat ek reeds gesê het dat sy 'n bewuste, wetende medewerker van SAYRCO was, is op die grondslag wat ek reeds uiteen gesit het, enige iets wat gedoen word ter bevordering van hierdie oogmerke waarvan sy bewus is, haar goedkeuring wegdra en is dit dan projekteerbaar op haar. Hierdie aangeleentheid volg 'n patroon soos ek reeds uiteen gesit het. Dit kan nie uit die oog verloor word nie, dit is 'n aaneenlopende aangeleentheid en die feit dat ander mense soos Freedom, Sipho en Joe by Stanley en Ouma op daardie geleentheid en geleenthede bedrywig was, bevestig bloot net hierdie aaneenlopende bedrywighede van die organisasie SAYRCO, en as, soos ek bevind het, Beskuldigde Nr. 1 bewustelik meegedoen het aan hierdie bedrywighede dan is hierdie aangeleenthede ook op haar van toepassing en dra dit by tot die bewys van die omvang van die aangeleentheid.

"(i) Om verblyf en ander hulp in die Republiek te reël vir SAYRCO lede wat die Republiek binnekom." Die besoek van die 17de Junie is vanselfsprekend van toepassing hierop en dit verg dan geen verdere kommentaar nie.

Bladsy 4, item 2 gaan dan voort: "Die dade hieronder gepleeg en/of ander persone uitgelok, aangestig, beveel, hulp verleen, aangeraai, aangemoedig of verkry het om die genoemde dade te pleeg. (a) Beskuldigde 2 het deel geneem aan die stigting van SAYRCO en was te alle saaklike tye die president daarvan." Dit is voor die handliggend weereens

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en ek hoef nie verder daarop aan te gaan nie.

"(b) Op openbare vergadering gehou te Regina Mundi Kerk in Soweto op 16 Junie 1981 is SAYRCO pamflette uitgedeel aan die aanwesiges waarin opstand teen die wettige gesag in die Republiek aangemoedig word."

Ek het reeds verwys na wat ek meen 'n mistasting deur mnr. Swanepoel is met betrekking tot Bewysstuk "N" en wat die Staat derhalwe bewys het met betrekking tot hierdie betrokke bewering. Bewysstuk "N" is van baie groot belang hierso. As wat ek reeds gesê het met betrekking tot die revolusionêre oogmerke, by wyse van gewelddadige optrede van SAYRCO in ag geneem word, dan kan Bewysstuk "N" geensins anders vertolk word as 'n oproep op die aanwesiges om in opstand te kom teen die wettige gesag van die Republiek nie. Paragraaf 3 hiervan is veral van groot belang. Ek wil weereens beklemtoon dat ek dit nie buite verband ruk nie, ek lees dit saam met die hele dokument maar gerieflikheidshalwe lees ek slegs paragraaf 3:

> "It is time that our enemy gets to know that we are now in the stage of confrontation, we can never negotiate principles. We grew up in an atmosphere of shot and fire."

Ek het dele uit paragraaf 3 uitgelaat maar dit is voldoende om te illustreer wat ek bedoel.

"(c) Gedurende Junie 1981 het Beskuldigde 1, twee SAYRCO lede vanaf Botswana in kontak gebring Mtabo Ndabeni(?) die nasionale organiseerder van die Azanian Peoples Organisation (hierna Azapo genoem)." Sover my geheue strek het die Staat nie getuienis tot die effek aangebied nie en derhalwe het die Staat bewering (c) nie bewys nie.

Dieselfde/...

Dieselfde geld met betrekking tot die bewering in paragraaf 3 in verband met Azanyu.

"(e) Beskuldigde 1 het op 17 Junie 1981 vir Tame Mazoehy(?) die sekretaris van die Media Workers' Association of South Africa in Soweto in kontak gebring met Beskuldigde Nr. 2 en 'n ander lid van SAYRCO." Dit is na my mening bewese om die redes wat ek reeds aangehaal het. Na my mening bewys die getuienis dat Beskuldigde 1 weereens wetende, op hoogte met die feitelike posisie, beskuldigde 2 in verbinding gebring het met Tame Mazoehy van Mwasa en ek wil dit beklemtoon, die getuienis bewys onteenseglik in die lig van Kaptein Claasen se getuienis met betrekking tot Bewysstukke "A", "B" en "C" wat ek reeds volledig behandel het dat daardie in kontak bring by Beskuldigde 1 se huis van Tame Mazoehy en Beskuldigde Nr. 2 geensins was ter bevordering van enige iets wat te doen het met die skryfkuns of die joernalistiek nie. Dit het onteenseglik te doen met die bereiking van die doelstellings en oogmerke van SAYRCO. Die afleiding as 'n moontlike, wat redelik kan wees, dat daardie kontak tussen Mazoehy en Nr. 2 was ter bevordering van enige iets wat by die wydste as letterkundig beskou kan word is vergesog en kan na my mening net nie water hou nie.

"(f) Beskuldigde Nr. 1 het gedurende 1981 te Soweto vir Floyd Jabulani Tjezi, Brian Mtetwa en Edward Malinga versoek om aansoek te doen vir paspoorte en dit daarna self in ontvangs geneem vir gebruik deur SAYRCO." Die aspek hang saam met 'n item wat ek reeds behandel het en na mening om dieselfde redes is dit bewese.

"(G) Beskuldigde Nr. 1 het by verskeie geleenthede gedurende 1981 te Soweto verblyf gereël en ander reëlings getref vir SAYRCO lede wat die Republiek binne gekom het."

Hierdie/...

Hierdie item is na my mening nie deur die getuienis gestaaf nie behalwe in die reeds genoemde item met betrekking tot die verblyf van Beskuldigde Nr. 2 en die ander SAYRCO lid Charlie wat reeds as 'n bewering in hierdie feitelike uiteensetting genoem is en ek reeds behandel het. Daar is na my mening, in die lig van die getuienis wat voor my gelê is, 'n oorvleueling en na my mening regverdigheidshalwe dan kan daar nie 'n duplikasie met betrekking tot hierdie aspek plaasvind nie.

Opsommend dan en samevattend na aanleiding van wat ek tot dusver gesê het, in die lig van die beslissings waarna ek vroeër verwys het, en hoofsaaklik daardie beslissings wat betrekking het op die vraagstuk van sameswering is dit my mening dat die posisie só is: (10

As iemand soos Beskuldigde Nr. 2 'n stigterslid is van 'n organisasie soos SAYRCO teenwoordig is by die aanvaarding van die konstitusie van daardie organisasie, president word van daardie organisasie, daardie amp beklee deurentyd tot en met sy arrestasie op aanklagte voortspruitende uit sy bedrywighede en die bedrywighede van daardie organisasie, dan as 'n mens verder in ag neem en dit wil ek beklemtoon, die feit dat as 'n mens 'n organisasie stig soos SAURCO en ek gaan nie weer die aard en doelstellings en oogmerke van die organisasie behandel nie, dit moet net aanvaar word dat daardie aangeleenthede wat ek reeds volledig behandel het hier ook in ag geneem moet word, dan het jy te doen met 'n revolusionêre organisasie en revolusionêre organisasies het nog te alle tye, te alle plekke die een enkel gemeenskaplike eienskap gehad dat hulle geweld as hoofmiddel aangewend het en beoog het om aan te wend. Ek is in (20 (30

betoog deur beskuldigde Nr. 2 se senior advokaat, Adv. Coaker die Oxford Dictionary se omskrywing van die woord "revolution" op hierdie aangeleentheid gelees en dit het heeltemal duidelik totale verband met wat ek sê. Dit is soos die woord omskryf word in die woordeboeke vir sover dit die betrokke aspekte betref, maar mense wat hierdie soort van organisasies stig en daarvan lede word, gaan nie woordeboeke raadpleeg om die betekenisse van daardie soort organisasie te bepaal nie. As hulle revolusionêre organisasies stig dan weet hulle wat hulle stig. Hulle weet dat dit in kort 'n revolusionêre organisasie is. 'n Organisasie wat hom hoofsaaklik ten doel het om geweld te pleeg ter bereiking van wat ookal sy oogmerke mag wees. Gewoonlik die omverwerping van die bestaande regering van 'n land. Die geval in hierdie saak ook en so 'n persoon soos Beskuldigde Nr. 2 duidelik bewese is, te gewees het in hierdie organisasie besef dan, en na my mening, enige argument of betoog tot die teenoorgestelde kan net nie opgaan nie. Dat daar deur die ander lede wat van tyd tot tyd tot die organisasie gewerf kan word, allerhande middele en dade gaan verrig en pleeg ter bereiking van die bevordering van die oogmerke van daardie organisasie.

By 'n revolusionêre organisasie, dink ek, is dit voor die handliggend as dit so 'n wye veld gaan dek soos SAYRCO onteenseglik beoog het om te dek, dat dit onmoontlik sou wees vir enige ampsdraer of enige ampsdraers van daardie organisasie om 'n ieder en elke lid van daardie organisasie se bedrywighede en dade en wyse waarop daardie bedrywighede en dade uitgevoer sou word tot in die fynste besonderhede te beheer, te beperk, uit te brei of onder toesig te hou.

Dit is voor die handliggend, dit is na my mening klinkklaar duidelik dat dit so sou wees. Maar dit is 'n risiko wat iemand in daardie posisie noodwendig aanvaar. As 'n mens president word van 'n organisasie wat hom ten doel stel om die wettige gesag, die daargestelde gesag in enige land, en in hierdie geval in besonder dan die Regering van die Republiek van Suid-Afrika, omver te werp deur middel van geweldpleging en alles wat daarmee saamgaan, dan aanvaar jy onteenseglik ook dat daar op allerhande onomskrewe en onomskryfbare wyses dade gepleeg en verrig gaan word ter bevordering van daardie oogmerke en doelstellings en aanvaar jy dit. Dit is na my mening die posisie waarin beskuldigde Nr. 2 hom hoofsaaklik bevind.

Beskuldigde Nr. 1 se posisie is dan, soos ek reeds aangedui het en dit is belangrike om weereens daarop te let, 'n bewuste, ingeligte, wetende medewerker, ondersteuner lid - 'n mens kan die beskrywing gebruik wat jy verkies - was van SAYRCO. Dat sy te Regina Mundi op die 16de Junie hierdie dade verrig het wat ek reeds genoem het, hierdie dade van die 17de Junie verrig en uitgevoer het wat ek reeds genoem het en dit is heeltemal duidelik dat in hierdie opsig sy haar ook vereenselwig het met die doelstellings en oogmerke van SAYRCO soos ek dit behandel het. Dit is dan heeltemal duidelik dat tot daardie mate, die mate wat ek alreeds uiteen gesit het by die behandeling van die spesifieke feitelike bewerings op aanklag 1, hulle skuldig is aan daardie dade wat ek behandel en bevind het teen hulle in Aanklag 1 en op Aanklag 1 word hulle tot daardie mate dan beide SKULDIG bevind.

Vir sover dit Aanklag 2 betref, het ek met groot

belangstelling/....

belangstelling na die betoë wat gerig was en ek moet mnr. Swanepoel wat namens die Staat opgetree het, gelyk gee dat hy korrek is in sy benadering tot die vraagstuk in Aanklag 2. Dit is heeltemal duidelik dat as 'n mens kom by hierdie soort van probleem ons te doen het met moontlik een van daardie probleme in die Strafreg waar dit die minste moontlik is om enige stel reëls neer te lê wat as aanduiding in alle sake gevolg kan word. Ek is verwys in besonder na die beslissing S vs Christie 1982(1) SA 464 (AD). Ek het daardie beslissing noukeurig nageslaan en by die toepassing (10 van die beginsels wat die Appêlhof daar uiteen gesit het, is ek van oordeel dat mnr. Swanepoel korrek in sy betoog is as hy aanvoer dat ons hier nie met 'n verdeling van klagtes of 'n duplikasie van skuldigbevindings soos dit ook bekend is, te doen het nie maar dat ons inderdaad hier met twee skeibare feitelike posisies te doen het waar daar wel noodwendig 'n mate van oorvleueling bestaan.

Die bewering in Aanklag 1 is nie dat daardie mense inderdaad gewerf was nie. Die bewering is dat hulle saamgesweer het om sulke werwing te doen vir militêre oplei- (20 ding in die buiteland soos ek dit reeds behandel het. Die sameswering om hierdie militêre opleiding, om mense te kry om hierdie militêre opleiding te ondergaan dit is 'n substantiewe oortreding op sigself van die bepalings van Art. 21(a) van die Wet op Terrorisme. Die beslissings waarna ek verwys het maak dit duidelik dat daar in die gemenereg in Suid-Afrika nie 'n substantiewe misdaad van sameswering bestaan nie om 'n misdaad te pleeg nie maar dat die wetgewer op verskeie terreine daarna ingegryp het waarvan die Wet op Terrorisme een van die paar voorbeelde is. Dit is nie (30

nodig dat ek die ander statutêre bepalings behandel nie. Dit is weereens volledig en voldoende in die beslissings wat ek genoem het behandel en uiteen gesit. Dit is voldoende om te volstaan by wat ek op die aspek reeds gesê het. Dit is dan duidelik, net weereens by wyse van samevatting tot meer helderheid dat ingevolge die bepalings van Art. 21 van die Wet op Terrorisme die blote sameswering om hierdie soort dinge te verrig reeds 'n substantiewe misdaad is en dit is wat in Aanklag 1 in die feitelike bewerings deur die Staat inderdaad beweer word en soos ek (10 bevind het inderdaad dan deur die getuienis en soos gestaaf deur die dokumentasie bewys is.

As ons dan kom by Aanklag 2 het ons te doen met 'n oortreding van Art. 21(b) van die Wet op Terrorisme. Ek het reeds daarop gewys dat die Statutêre verwysing gewysig was in die Nadere Besonderhede wat verstrek was, dit was 'n fout gewees deur die opsteller van die klagstaat om daar te verwys na 'n oortreding van Art. 21(a), dit moet Art. 21(b) wees en ek wil dit net beklemtoon omdat dit maklik uit die oog verloor kan word dat ons hier te doen het dan(20 nie met Art. 21(a) nie maar met Art. 21(b) en die feitelike bewering in Aanklag 2 is weereens volledigheidshalwe:

"DEURDAT die beskuldigdes wederregtelik op of omtrent die tye gemeld in kolom A van die bylae en te of naby die plekke gemeld in kolom B van die bylae ter uitvoering van 'n onderlinge gemeenskaplike opset en ter bevordering van die doelstellings van SAYRCO, die persone gemeld in kolom C van die bylae, uitgelok, aangestig, aangeraai, aangemoedig of verkry het om opleiding te ontvang wat van nut sou kon wees vir 'n persoon by die ingevaarstelling(30

van/...

van die handhawing van wet en orde te beoog, te wete militêre opleiding."

Ek het reeds in die behandeling van die getuienis daarop gewys dat die enigste getuie wat hier getuig het waarvan ek die getuienis aanvaar het, Lucky Msuaka Mshlanga is en dat ek die getuie Catherine Lipalesa Tamaye se getuienis verwerp het.

Dit is dan heeltemal duidelik as Lucky Msuaka Mshlanga se getuienis aanvaar word, soos ek dit dan aanvaar het, dat hy inderdaad werklik gewerf was om hierdie militêre opleiding te ondergaan. Hy was gewerf op 16 Junie 1981 by die Regina Mundi Kerk deur Beskuldigde Nr. 1.

Ek wil hier net 'n oomblik afdwaal interessantheidshalwe, hoewel dit nie van wesenlike belang by die aangeleentheid is nie en net terloops meld dat dit moontlik is, ek het nie op die aspek volledig ingegaan nie, maar dit is 'n interessante feitelike en regtelike aspek hierso wat by my opgekom het tydens die getuienis aflegging dat dit moontlik sou gewees het vir die Staat in die lig van die aard van die gebeure soos deur Lucky Mshlanga getuig van die 16de Junie 1981, dat sy verstrekking van Pascal, sy vriend se naam aan Nr. 1 en haar aanvaarding van daardie naam as 'n moontlike kandidaat vir militêre opleiding, 'n aanstigting van Lucky Mshlanga kon wees om Pascal te kry om militêre opleiding te ondergaan. Dit is heeltemal duidelik dat dit inderdaad is wat daar gebeur het en ek is van mening oppervlakkig beskou, sonder dat ek op die aspek volledig ingegaan het, dat die verdere bewering in die besonderhede hier in die bylae gemeld, kon gewees het dat daardie aanstigting ook bestaan het. Dit daar gelaat, ek meld dit net in die

verbygaan/...

verbygaan interessantheidshalwe.

Die posisie is dan verder, as ons aanvaar dat hierdie gebeure van die 16de Junie 1981 met betrekking tot Nr. 1 en Lucky Mshlanga plaasgevind het, dan is dit heeltemal duidelik weereens in die lig van wat ek voorheen gesê het, dat beskuldigde Nr. 2 in die lig van die ampsposisie wat hy beklee het, weereens hier ook verantwoordelik is vir wat gedoen is ter bereiking van hierdie oogmerke en doelstellings van SAYRCO. Dit is voor die handliggend dat Beskuldigde Nr. 1 in die lig daarvan dat sy fisies hierdie daad verrig (10 het, ook daarvoor verantwoordelik is en in die omstandighede met betrekking dan tot slegs Lucky Msuaka Mshlango(?) vind ek dat die Staat die bewering in Aanklag 2 ook bewys het en word BEIDE BESKULDIGDES aan Aanklag 2 ook SKULDIG BEVIND.

BESKULDIGDE NR. 1 VORIGE VEROORDELING BEWYS EN ERKEN

BESKULDIGDE NR. 2 GEEN VORIGE VEROORDELINGS NIE.

BETOë DEUR VERDEDIGING TER VERSAGTING VAN VONNIS

MNR. THERON SPREEK HOF TOE M.B.T. VONNIS (20

S E N T E N C E

COURT: I am indebted to Mr. Brassey for Accused No. 1 and Mr. Coaker for Accused No. 2 and Mr. Theron for the State, for the addresses they have made in respect of sentence in this matter. These addresses have been most helpful to me.

In assessing the sentence in this case, the principles as anunciated in S vs Rabie 1975 (4) SA 855 (AD) are applicable. In other words, the sentence has to fit (30

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the accused, it has to fit the crime and it has to be fair to society. This has been said in a number of cases. The element of mercy as it is applicable in punishing convicted persons, was explained fully in that particular judgment, I bear the whole of the judgment in this regard in mind.

The principles as annunciated in R vs Mzwakala 1957 (4) SA 273 (AD) are also applicable. I quote from the headnote in that decision:

> "By die bepaling van straf waar die misdaad een is wat die veiligheid van die publiek ernstig in gevaar stel kan persoonlike aspekte van die beskuldigde soos sy ouderdom, sy gesindheid ten tye van die daad en sy vorige veroordelings vergelykenderwys van minder belang wees. Die faktor van afskrikking moet in verhouding groter gewig dra as gewoonlik."

But I wish to emphasize that in view of the subsequent decisions of which Rabie is perhaps the best example, these principles as annunciated in R vs Mzwakala have perhaps to be qualified and borne in mind when assessing sentence. Then perhaps more applicable as far as this particular matter is concerned, I bear in mind the decision of S vs Thuhadeleni & Others 1969 (1) SA (AD).

The duty to punish in matters like this is an extremely difficult one because there are certain areas on which the Courts simply cannot encroach. Mr. Brassey pointed out these matters quite correctly and it is no function of any court of law in this Country to either, to say anything which could be construded as either approval or disapproval of the policies of the Government in this

Country. That is not the function of any Court of Law in this Country.

However, Mr. Brassey and Mr. Coaker are also quite correct in at the same time stating that the fact that the offences of which the two accused have been convicted are political offences. The contradiction and the difficulty which this entails and embodies, is, I think immediately apparent to anybody who would for a moment think about the matter. It is often difficult to reconcile these two principles. However, it is imperative that this particular aspect should not be lost sight of. If the Courts were to embark upon a discussion or an analysis or a consideration of the political policies of any government it would be embarking upon a field where the particular personal views of the sentencer would prevail inevitably to an unhealthy and unacceptable degree. This is something which cannot be allowed.

The fact then that the offences are political have to be qualified by that particular consideration and at page 172 of the Thuhadeleni decision the Court makes this very clear.

> "If the Courts are to be the guardians of its legislative observants, they would have to be the arbiters of the policies pursued. That is not the function of our courts. Where the subject matter is within the competence of the lawgiver our courts will not sit in judgment of matters of policy. As observed by Lord De Villiers CJ in R vs McCleary 1912 (AD) 199 at 215. "Our courts have every right to enquire whether any statute

has transgressed the limits of the subjects in regard to which the legislator is empowered to legislate, but they have no right to enquire whether in dealing with the subjects within its competence, the legislator has acted wisely or unwisely for the benefit of the public or for the benefit of private individuals.

In the same case Innes, J. referring to the power to make laws for the peace, order and good government of a country remarked at page 220: (10

"Always, assuming that the restrictive limits of the empowering documents are observed, the discretion to judge what measures are condusive to peace, order and good government lies with the lawgiver and not with the Courts. Having regard to the fact that the a sub-ordinate legislature is within the limits of its subjects and area in a similar position to the bridge of Parliament it is impossible that the colonial courts should have an overriding authority to say when measures are and when they are not in the general interest (20 of peace, order and good government." Solomon J. expressed similar views and added at page 226: "No matter how strongly any judge may feel that a particular law is antagonistic to good government he has no authority on that ground to declare the law to be invalid."

It follows then from this that it is not the function of the courts to say anything which could be construed as indicating either sympathy or antagonism to the political views of the accused persons. As far as that is concerned, the Courts in my view, have to be completely impartial as (30

between/---

between the accused persons and the Government and arising from that, the only matter which the courts can then properly take into account is the fact that those political views, whatever they might be, held by the accused persons were held bona fide, genuinely and with no other ulterior purposes. Beyond that I do not think it would be proper for any court of law to go.

In S vs Essop & Others 1973(2) SA 815 (TPD) the following appears in the headnote:

"The safety of the State is the supreme law . (10
of a State."

This is in trials of this nature something which the Courts cannot lose sight of either. In dealing with a matter such as this case is concerned with, this is of extreme importance because we are not dealing as in one of the cases quoted to me, that of ex parte Crous, with one particular individual's views of a particular isolated matter leading to one particular isolated incident of violence or incitement to commit violence. We are here in effect dealing with a completely substantially different matter and that (20 is a proposed attack upon the very existence and very structure of the State.

The distinction in my view is of very great importance and on the facts the cases quoted to me then, can be distinguished from the case we are now dealing with.

I take into account the personal factors of the two accused. Accused No. 1 is 22 years old. Accused No. 2 is 23 years old. Both are still students and both are obviously still very young persons practically on the threshold of their adult lives. I bear in mind and this was (30

correctly/....

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correctly submitted to me, that any lengthy sentence would certainly seriously harm and impede their future progress and development. These are matters which are important and these are matters which simply cannot be lost sight of.

I also bear in mind that whatever the merits or demerits of their political views might be, that in my view the evidence in this matter shows that these views were held genuinely by these two accused persons and to that extent then the sentences which I impose have been framed in order to fit the accused.

Coming then to the question that the sentence should also fit the crime and be fair to society and in that respect of course society could be substituted by State which in this case would be more applicable. Those two considerations can, I think, best be dealt with jointly and in evaluating what sentence is appropriate and fair I bear in mind also what I believe has been correctly submitted to me, that the allegations on which count 2 founded arise from and has a very close connection to the allegations and also the acts committed in respect of Count 1. The one in my view follows inevitably upon the other. There is, as I stated yesterday in the judgment, a great deal of overlapping in the two matters and this is an important matter when it comes to assessing what sentence is appropriate.

There is also in my view in view of the whole set-up of the matter sufficient grounds for distinguishing between the sentences to be imposed upon accused No. 1 and accused No. 2. What has been said on behalf of accused No. 1, is I think correct. It would follow inevitably

from/...

from a number of circumstances that having had this, to her, unpleasant experience regarding the Kempton Park trial in which she gave evidence and was then given the cold shoulder as far as political matters were concerned by her friends and associates, having been the girlfriend at that particular stage of Accused No. 2; having subsequently at their meeting resumed this relationship, it would I think, have been extremely strange, it would have been extraordinary had she not again been woven into the webb of these political activities with which this particular case is concerned.

There is on that score also in my view a great deal of human sympathy for her. This is a factor which I bear in mind and in these circumstances had I been empowered to do so, I certainly would have imposed in her case rather less than the minimum sentence prescribed. However, the legislator has seen fit in its wisdom to prescribe a minimum sentence for this particular offence. I say nothing and I intend to say nothing that could at all be construed as criticising that. I am bound by that particular provision and in her case then the sentence on Count 1 is FIVE (5) YEARS' IMPRISONMENT and on Count 2 it is FIVE (5) YEARS' IMPRISONMENT but it is ordered that the sentences are to run concurrently.

As far as Accused No. 2 is concerned the position in my view is materially different. In his case we have not to deal with the same sort of person as we have had to deal with in the case of Accused No. 1, a young woman who was led astray by the experience which I pointed out she had at Kempton Park, the relationship she had with No. 2

and the subsequent weaving into that particular webb as I have pointed out, with all the factors that Mr. Brassey in my view correctly, submitted to me.

In his case we have to deal with a young man who, as a student in 1977 left this country illegally after the 1976 Soweto trouble and it is not, I think, incorrect to state that Mr. Theron's submission regarding his leaving the country is quite correct.

Having left the country he then saw fit in view of the fact, and this appears quite clearly from a proper (10 and full reading of the documentary evidence before me and I wish to emphasize as I did yesterday, that this has to be done in order to understand this particular case fully. Although yesterday in the judgment I quoted only extracts from these documents, that was done merely as a matter of convenience, but I emphasize again, that the matter cannot be understood fully unless these documents are read and studied in their entirety, and it appears then from these documents that the SSRC was disbanded at Nairobi in April 1979 because of the fact that it was a regional or- (20 ganisation and as such it could apparently from these documents, not draw funds and aid from overseas institutions in order to finance and assist in its revolutionary ideals which it obviously, from these documents, at that particular stage, held. For that reason then, SAYRCO, South African Youth Revolutionary Council was established at Nairobi in April 1979 on a national basis because it was thought, again reading these documents, that a national organisation like that would be able to draw on funds from overseas sympathisers.

In-this regard Exhibit "CC" is of importance and (30

it would be only reasonable to infer that Exhibit "CC" is probably only one of many similar request submitted by the SAYRCO Organisation to various overseas bodies. It would be extremely unlikely, and in my view it would be completely unrealistic to suppose that Exhibit "CC" is the only request for financial and other aid directed to overseas institutions and this particular one was directed to Laas Gunner Eriksen, Director (IUEF), P.O. Box 108. 1211, Geneva 24, Switzerland.

I am not going to read the whole letter, the first paragraph reads: (10

> "I have been mandated to introduce the South African Youth Revolutionary Council (SAYRCO) to you and the entire directorate of the International University Exchange Fund. Following the June 16th national uprising spearheaded by the Soweto Students Representative Council (SSRC) of South Africa, the central committee of the SSRC in November 1977 adopted a resolution calling for the national conference of all the willing partners of the Black Consciousness Movements and those who participated in the 1976 program with a view to regrouping and reconstruction of the June 16 forces which the apartheid regime feels it has destroyed." (20

It then goes on somewhat further:

> "The ultimate objective of SAYRCO is total eradication of oppression and exploitation and establishment of a popular democratic system based on the principles of scientific social justice."

Then it goes on:

> "In conclusion Sir, I have been further mandated to request (30

financial/...

financial assistance from the IUEF to enable us to sponsor some self reliant schemes and projects aimed at promoting skill and reducing the plight of dependence among the South African community and help us execute our program. If you agree with this humble request I will immediately avail all the necessary information relating to this proposal and other immediate needs."

I might add at this stage that it is interesting to note that the real object of SAYRCO as appears from EXHIBIT "C", (10 "The SAYRCO Special Edition on the First National Congress held in April 1979" were not divulged to this particular organisation in the request as embodied in Exhibit "CC". I think for obvious reasons and I need not say anything more about that, but in Exhibit "C" at page 19 the following appears:

"Declaration and Resolutions adopted by the National Congress of the South African Youth Revolutionary Council (SAYRCO)."

I want to emphasize this, this is not one of the speeches (20 made at the establishment of SAYRCO which were embodied also in Exhibit "C". This is in fact, according to this document the declarations and resolutions of SAYRCO itself and its views are set out and I do not intend to read the whole of this either. Again it is necessary in order to understand the matter fully that the whole of Exhibit "C" should be read and especially in this particular regard the whole of the declaration and resolutions starting on page 19 should be read. As illustrative of what this is about however, the following appears and this has to be related to SAYRCO's(30

attitude/....

attitude as I pointed out in the judgment yesterday to the ANC and the PAC attempts in the past to overthrow the lawful government of this country and it appears from a reading and understanding of all these documents which I have referred to that SAYRCO in fact thinks and is of the opinion that the attempts by the ANC and the PAC in the past have been sporadic and without any real force and effect and have contributed very little towards achieving the objects of those organisations which are in essence, as far as I understand the literature before me,. (10 in this particular case, similar or perhaps identical to those of SAYRCO. It goes on then at page 20 and that is the 4th paragraph:

> "The unorganised and sporadic and far between uprisings are no longer suitable"

and this if one reads the other documents, obviously relates to the ANC and the PAC attempts in the past. These two organisations are in fact referred to in other documents by name in similar terms.

> "They are wasteful and inefficient in terms of life (20 and other resources. There is already an imbalance of forces in favour of the minority regime therefor we cannot afford to waste one drop of black drop, one mg of gunpowder without having 10 litres of blood and a whole arsinal of weapons belonging to the minority regime to show for. Only through total organisation and involvement of the people, only through a new level of intellectual clarity, only through action on the spot, only through armed struggle can victory be achieved. The foregoing analysis without (30

doubt exposes the deliberate strategy of the minority regime. Resistance groups will continue to be defanged, decapitated, exiled, neutralised so long as they accept either to operate within the ambiance of the law and regulations in force in South Africa today or decamp into permanent exile and sole dependence on external help. In defiance of these laws and regulations and the cultural attitudes they inculcate we organised an action committee comprising all resistance elements in South Africa and rejected (and this is important) and rejected the rude of non-violence. As a consequence we paid a high price but no price is too high for the freedom of the fatherland. As things stand only through a revolutionary struggle can a popular government emerge in South Africa but this struggle will take place inside South Africa itself and will not spare the lives and property of all involved in upholding the minority regime. Equally their lives and property outside South Africa will be subject to attack. The minority regime from now will be harassed and attacked where ever to operate and in whatever forum it pretends to represent the people of South Africa."

I don't think it can be argued seriously, I do not think it can be contended seriously that these statements are so much hot air and they are not meant. If one relates what appears in this particular document Exhibit "C" to all the rest of these documents, then whatever the possibilities may have been for the successful carrying out of these objectives, one thing must remain beyond doubt and that is that these resolutions were in fact firmly adopted and that SAYRCO did

in fact instigate and institute certain measures, obviously to further these objectives. I need only to refer very briefly in this regard to the attempt to recruit people for military training. That cannot be divorced from the resolutions and the objectives of SAYRCO and I do not think that the courts would be fulfilling their duty if they were to close their eyes to the possibilities that this sort of thing entails. It is well known that we have had several rather severe terrorist attacks at various centres in this country in the past and it is obvious that the SAYRCO (10 organisation viewed these as rather ineffective and intended to increase and improve on these.

If these are the objectives of an organisation, then clearly the leader of that organisation intended to start a conflagration and if in playing with fire he is himself hurt, then in my view, he is the last person who should be heard to cry.

These were his objectives, these were his objects, he as leader of this particular organisation obviously if his visit to this country on the 17th of June 1981 is to (20 be interpreted correctly, came here in order to further these very objectives. There are a number of other considerations which are important which I think also should be borne in mind in assessing a sentence for a man like accused No. 2.

It is obvious like organisations like his and other organisations have greated martyrs, they have made martyrs out of people who probably from a legal point of view should not have become martyrs and it is possible that his organisation judging from the publications that they released and (30

which are exhibits in this case, after his arrest will attempt to make a martyr of him. This is a matter which I bear in mind also because imposing a sentence on him which could facilitate his martyrdom might defeat the very object of sentencing him. I wish to emphasize therefore that although it is impossible as it was in the judgment yesterday to deal with each and every little bit of evidence in this matter, equally so far as sentence is concerned I have considered and bear in mind each and every little bit of evidence, each and every factor which, in (10 my view could be applicable to assessing the sentence in this matter and I bear in mind and I want to emphasize this, the effect of any sentence on his future life. I bear in mind the accumulative effect of the two sentences and I wish to emphasize that had I convicted him only on Count 1 the sentence would still have been the same. I want to emphasize the fact that I do not sentence him separately insofar as the effect of the sentence is concerned for both offences. I think this will appear clearly from the sentence itself but I wish to emphasize that particu- (20 lar aspect.

On Count 1, in my view, the minimum provided for by the legislature should not at all be regarded as the maximum in his case and there the sentence in the case of Accused No. 2 is TEN (10) YEARS IMPRISONMENT. On Count 2 it is FIVE (5) YEARS IMPRISONMENT and for the reasons I mentioned earlier, it is ordered that those sentences run concurrently.

MR. BRASSEY: Sir, it is my instructions that Accused No. 1 will seek to appeal against her conviction in this matter and for that purpose Sir I hand up a notice of appeal in the matter. I am afraid it has been drawn in manuscript but in due course it will be typed into the record.

Pending her appeal Sir, my instructions are to ask your worship for bail and the position is, there are various factors that your worship will have to consider in the matter. Obviously one of the most important factors is the fact the accused has no actually been convicted, she is no longer an awaiting trail prisoner. Another factor your worship no doubt is going to take into account and attach weight to is the fact that previously she had a passport and now her passport has either been destroyed or is being hidden for one reason or another and that creates its own particular problems which I will deal with in due course. The third factor of course against bail being granted to the accused is the fact that there are no doubt people abroad who would be sympathetic to the accused and assist her in any attempt that she might make to seek to leave the country. My instructions are Sir, of course I would not be making this application otherwise, my instructions are that she has no intention of leaving the country. Indeed I can say without any disrespect, and I am sure your Worship will understand the attitude, the submission I am making is entirely without any disrespect to your worship but in consultation with her legal advisor Sir, the basis upon which your worship has arrived at his findings has been carefully explained to her and the possibility of another Court ariving at a different conclusion essentially on an

evaluation of the evidence has been carefully explained, again I don't want to be disrespectful, she does have a genuine and legitimate hope of success, perhaps optimism, but hope of success on appeal and that is a factor in my submission your worship will take into account.

Of course the primary factor, one of the major factors your worship must inevitably take into account is the factor that was described in S vs Budlander(?), the case I have already cited to your worship and in my submission for a compassionate treatment of the problems (10 that face her and your worship is very well aware of this case, but for a compassionate treatment of the problems that face the Court and the accused who seeks bail pending his trial in this case, otherwise his appeal, one has to go a long way to find a better case than this. The Learned Judge, his lordship Mr. Justice Van Zyl dealt with many of the difficulties I have submitted to your worship and which will obviously be submitted to the State, the fact that for instance the crimes of a political nature have far less moral (?) to certain sections of the community than to other (20 sections and the chances of a person forfeiting his bail are therefore commensurately greater, that is an inevitable factor and I cannot make light of that because a persons says well I should not have been convicted any way because this is not a crime in my eyes, that sort of attitude. Your worship is well aware of that. I do not want to advance the State's case on this point but particularly at page 269 Van Zyl AJP says as follows:

> "There is a very important thing, the courts do not like ever to deprive a man of his freedom while (30

awaiting/...

awaiting trial. He may be innocent and then it would be very wrong. Also when he is guilty we try not to deprive him of his freedom until he has been convicted. After all even if he was sitting in jail awaiting trial under the most favourable conditions, in the jail you are nevertheless deprived of your freedom. Therefore when fixing the amount we feel that this amount must be put within the reach of the accused. When I say within the reach of the accused, one must not lose sight of the fact that this is a political offence and that the accused has his sympathisers and the bond has been found. This is not an unnatural thing for the Court to take into account when bonds are given by people who commit crimes of moral (?), money is often given by relatives and the Courts are pleased to see it being given by relatives because that is a conditional restraint placed upon the accused that he will not do harm to the people who have done him good by failing to stand his trial. Here too it is an additional constraint upon the accused to stand his trial when he borrows the money or has money given to him by people who support him. On the other hand there is the other aspect of it that it is more readily available."

Of course that was an awaiting trial prisoner, this is an awaiting appeal prisoner. I have mentioned that point, but one would not overstress that one would give it its proper weight. The fact is the accused has been convicted, that

must/...

must be an additional inducement for the accused to estreat bail, but nonetheless until the course of justice has been finalised, until the case has, as it were, run its final course, in one sense in any event the accused has still the hope of being in her eyes vindicated by the courts.

Coming down to more practical matters, your worship is faced as I say with the problem of the passport, your worship is faced with the background, your worship is faced with the situation that there are people outside who may be tempted to assist her, all these factors. It seems to me (10 Sir that of course, the mere fixing of a fairly high amount of money in itself is not going to solve that kind of problem for the reasons suggested by his lordship Mr. Justice Van Zyl, but what will solve the problem, at least to a large extent is this Sir, that the accused is given very stringent conditions of reporting to the police so that if she does seek to estreat bail the police will be aware of that fact within say, 24 hours. I would anticipate that it would be appropriate that she report to a police station perhaps once a day or once every 48 hours or something (20 like that and that bail in any event should be placed fairly high, that I must concede. The problem of the passport Sir seems to be resoluble only in this. I can give your worship the assurance that my instructing attorneys will take the matter up once more and point out to the people who are trying, either who have destroyed the passport or try to hide the passport that it now is in the interest of the accused that the passport be forthcoming and handed over to the authorities because that is a factor that your worship is weighing in his mind. I can do so Sir and I am sure that(30

the/...

the people concerned will now be far less reluctant to produce the passport than was the case in the past. I cannot take it any further than that regreattably because my instructions are that the passport is not to be traced.

Your worship may consider making it a condition of bail, of the release of the accused on bail that the passport be found and handed to the police. The difficulty with that Sir is if the passport has been destroyed, we will never know but what one could do Sir is this with respect, make it a condition of the bail that the passport be produced (10 and handed to the authorities and if it subsequently transpires that there is absolutely no possibility of finding this passport and that the passport has been destroyed or whatever it may be, then the bail application can be renewed at a later stage, that may be the easiest way to deal with the problem.

MNR. THERON: Edelagbare met respek, ek moet sê ek is in 'n mate verbaas oor die aansoek om borg wat gedoen is. In die eerste plek, Beskuldigde 1 en 2 was in hegtenis tot hierdie verhoor en tydens die verhoor, daar was nie toe sprake van (20 borgtog nie. Daar het in die tussentyd nogal 'n noemenswaardige verandering ingetree in die sin dat Nr. 1 nou skuldig bevind is van hierdie ernstige oortredings.

Edelagbare dit is duidelik uit haar vorige veroordeling dat sy 'n skelm is. Ek wil nie meer daaroor sê nie. Ek wil net konstateer dat die Hof of geeneen sal ooit enige waarborg hê al word watter voorwaardes opgelê, indien daar borg oorweeg sal word, dat dit ooit nagekom sou word nie. Daar is bv. nou gesê dat die Hof kan sodanige voorwaardes oplê dat die polisie binne 24 uur bv. kan vasstel as sy nou wel (30

êrens/...

êrens heen wil vlug of soiets, iets van die aard en haar paspoort kan ingehandig word. Edelagbare dit is tog duidelik, ek dink nie dit vat langer as 4 of 5 uur om af te reis na Lesotho en daarheen te vlug nie. Selfs al word daar 'n voorwaarde opgelê dat sy bv. by die polisie moet aanmeld 9 uur die oggend en 9 uur die aand wat normaalweg gedoen word en dit is nogal redelike streng voorwaardes, gewoonlik word daar net aangemeld eenkeer per week of eenkeer per dag, dat sodanige voorwaardes definitief in my submissie nie so 'n voornemende appellant gaan verhoed(10 om te vlug nie. Daar is nou gepraat van die paspoort wat bv. nou ingehandig kan word, maar dit is duidelik uit die getuienis dat dit tog werklik nie enige relevansie het nie want 'n paspoort kan sondermeer verkry word deur hierdie mense en hulle plak net hulle fototjie daarin en dan het hulle 'n nuwe paspoort, so dis nie eintlik 'n faktor nie. Maar as 'n mens die saak in die geheel neem Edelagbare, dan wil ek aan die hand doen dat dit baie onwys sal wees om op hierdie stadium in elk geval, enigsins borgtog te oorweeg en wat meer is ek wil ook net daarop wys dat in my submissie(20 is daar 'n bewyslas op hierdie voornemende appellant om aan te toon dat sy wel nou nie sal vlug nie en daar is geen getuienis in elk geval aangebied nie.

MR. BRASSEY: If I may by way of reply, if my Learned Friend contests that particular issue Sir, I did not think he would but if he does, I must put my client in the box to say that but it is simply going to be that, those are my instructions. I don't think he takes ... I'm sure he does not contest it clearly formally, I do not know how he cross-examine her on that. There is one other aspect, in the course of My (30

Learned/...

Learned Friend's submission he said that of course she has not had bail to date. (a) Your Worship wasn't party to the decision whether to grant or refuse her bail and does not know what factors were relevant there but (b) and much more important Sir, one of the grounds of refusing bail is that the possibility is taken into account that the accused may tamper with witnesses. Of course that is not a factor that your worship will take into account at this stage. (c) In any event, really the considerations are substantially different now from what they were before. (10 The whole pre-trial atmosphere of a political case where there are a sort of army of State witnesses in detention some of whom will and some of whom won't testify and the accused is also in detention and everybody is being as it were kept in the cooler, is quite different from the situation after a conviction. I'm sure My Learned Friend is not contesting the submission that my instructions are that she won't flee but if she is contesting that I think I must put my client in the box, that is what she is going to say in the box. (20

MNR. THERON: Edelagbare ek wil net duidelik maak dat dit sal maklik wees vir 'n voornemende appellant om in die getuiebank te gaan en te sê kyk, ek is van plan om nie te vlug nie. Ek kan dit seker nie betwis as sy so sê nie want ek het op hierdie stadium geen kennis nie maar die feit is Edelagbare dat 'n mens moet rekening hou met realiteite, soos ek reeds op gewys het die kwessie van hoe maklik dit in elk geval gaan wees om te vlug, die kwessie van die paspoort en die feite van hierdie saak, die organisasie waarvan sy 'n ondersteuner was wat gesetel is in Botswana onder andere en hoe gereeld sy(30

na Botswana gegaan het en die vriende wat sy daar het. Ek wil u vra om dit in aanmerking te neem. Dit is baie maklik om te kom sê sy gaan nie vlug nie of sy gaan in Johannesburg bly of waar ookal en wat dies meer sy, maar dit is nie so eenvoudig nie edelagbare.

MR. BRASSEY: I think we understand each other your worship.

J U D G M E N T (Bail Application)

COURT: The evidence in this matter and that includes especially the evidence of accused No. 1 herself, shows that (10 she did intend, shortly before her apprehension in this matter to have gone to Botswana to the university there. She would have started her attendance there during September 1981. According to her evidence in a very short while indeed after she had met accused No. 2 in Botswana she had become aquainted through him, with a great number of his friends and the only possible inference to be drawn from those circumstances and the evidence relating to those circumstances is that those people resided at the same house at which Gideon attended that particular meeting which was (20 so important in this case and with which I dealt fully yesterday.

The probabilities considering all these matters then, in my view, are extremely strong that accused No. 1 will leave the country and that she will not remain in this country.

For these reasons then, bail is refused.

OORSKRYFSTER SE SERTIFIKAAT

Ek, die ondergetekende, sertifiseer hiermee dat die voorgaande 'n ware en juiste oorkonde is van die Uitspraak en Vonnis in die saak van:

DIE STAAT teen M.M. LOATE & K.S. SEATLHOLO

OORSKRYFSTER: .....
J.H. LOURENS