

IN THE SUPREME COURT OF SOUTH AFRICA
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

Cape Town, 17th November, 1964.

T H E S T A T E

-versus-

- 1) EDWARD JOSEPH DANIELS.
- 2) DAVID GUY DE KELLER.

BEYERS, J.P.: When it is my duty to sentence anybody I as
 10 a rule do not like to say much. It is bad enough to be
 punished without having to listen to a speech about it. In
 this case, however, although I would have preferred to have
 said very little, the fact that you have pleaded guilty
 meant that I had to give no reasons for convicting you,
 but I think it is a duty I have to perform to say a few
 words about the crime of which you have been found guilty.
 I shall try and make it as brief as possible, but I must
 deal with what you have been convicted of and the circum-
 stances surrounding it in as far as I see them and in so
 20 far as they have a reference to the sentences I am obliged
 to pass.

I must say I have given much thought to the sen-
 tences in this case. It is not by any means a pleasant
 task. Your counsel have expounded at length upon your per-
 sonalities and upon the emotional motivations for your
 conduct. These things are rightly mentioned, and they have
 to be taken into account because it is the criminal and not
 the crime that I have to punish. At the same time it must
 be remembered that I am not presiding at the head of a

psychiatric couch, I am presiding in the Supreme Court of the Cape. I have been put here by organized society to do a duty, to protect its interests and to act on its behalf against anti-legal operations which threaten its existence.

When it comes to sentencing any man, a judge's task is arduous and lonely. When you have to decide whether you find a person guilty or not guilty, you have rules to guide you; when it comes to sentence you are all alone. You have your duty to do towards society, and at the same time you
10 have before you human beings, and it is just impossible not to feel a natural pity and sympathy, not only for them but for those that are close to them. This is a task in which a judge has to operate by himself, and in that task he can expect little help from anybody else. I am in no different position in this case.

You have pleaded guilty to the crime of sabotage. It is unnecessary for me again to go through the indictment. You know what it contains, and the public by this time knows what it is that you have done. You knew when
20 you embarked upon your course of conduct that the penalties prescribed by the law were heavy, and that you could, by your conduct, even have incurred the supreme penalty. You entered upon your operations with your eyes wide open to the consequences. You have had plenty of time, both of you, to contemplate, to reflect upon your conduct and to desist therefrom. Both of you have been in this thing for almost two years. You thought fit not to desist but to carry on.

Almost from its inception you were members of this organization, and if the police had not succeeded in exposing
30 its activities I have no reason to believe that you would not still have been in it. I have had it in evidence that the sabotage that was to be committed by this group was

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not yet at an end but that there was to be more. I have seen preparations for further acts of aggression, the masses of explosives that were shown in this Court, timing devices, and further mechanisms for applying to these timing devices, and I have no reason to doubt that this thing would have carried on to more and more excesses, and I have no reason to doubt that you two would have been in it at the end, as you are now in it at the end.

10 Another thing that is of significance is that neither of you has, as far as I have been able to judge, shown any real contrition for your actions. You have expressed no real remorse. Although you have pleaded guilty - and there is no virtue in that, because on the evidence you must inevitably have been found guilty - neither of you availed yourself of the opportunity to give evidence, to explain under oath your actions and your motivations therefor. You chose instead to read your carefully prepared and somewhat futile statements from the dock.

20 Daniels, in your statement you expound at length upon the skolly menace. What on earth your actions had to do with the skolly menace, of which I probably am as aware as or more aware than you are, and how you were going to cure it by becoming a super skolly yourself, and instead of the knife use high explosives, I have no idea. Although you cast yourselves upon the mercy of the Court neither of you, even at this late stage, was prepared to take the Court into your confidence, was prepared to come under oath and allow yourselves to be cross-examined about your motives in this case. I am perfectly aware - and it will have been explained to you - that in the law of this country there is
30 no obligation upon you to give evidence. That choice is yours. The fact that you did not give evidence, of course,

/is.....

is not taken into consideration in passing any sentence upon you, but it does confirm, and in so far only is it of any relevance, that in my view you have up to this moment shown no real remorse or contrition for your actions - rather you have sought to justify them. This Court was prepared to give you a fair trial. It set aside six weeks of its time to hear your case. The thought obtrudes itself in one's mind whether in those so-called "democratic" countries that are held up as an example to this country that treatment would have been accorded to people who did what you did or whether the process would have been a much briefer one.

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Both of you conspired together with the likes of Dennis Higgs, Randolph Vigne, Michael Schneider, Hirson, Robert Watson, and last, but not least, Adrian Leftwich. Where are most of these now, these men - if one could call them that - that so impressed you? What leaders they would have made for this new South Africa that you were going to build with dynamite! Your counsel has asked me to take into consideration the absence of these people and argued that in some way their absence should be a mitigating factor for you. That, I am afraid, I do not understand. The fact that some of these persons have, for the present at least, escaped their just deserts in no way absolves this Court from its duty of dealing with you. These are the people you chose to conspire with to do damage to your own country. I have not seen all of them. I have seen and had to listen to that hero of the campus, Adrian Leftwich. Your counsel in his address referred to him as a rat. I did not object at the time to that appellation, but on reflection I am not sure that it is not a trifle hard on the genus rattus. I would be prepared to describe him as a little poseur with

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some superficial ability, mostly of the histrionic kind. If you were misled into doing what you did do by men of that ilk, then all I can say is you were misled because you wished to be misled. I cannot believe that, if your wishes had been otherwise, you would have allowed yourselves to have been drawn into the things you did by the likes of Adrian Leftwich. I am afraid that on this score I can find no excuse for your conduct.

10 As I have said before, you set about your deeds deliberately. Both of you started by equipping yourselves for your nefarious actions by a course of study in the use of explosives, and by that means to achieve your nebulous ends. You should, if you are really South Africans, have known the temper of the people of this country better. You should have realised that by dynamite you, and those with you, would not coerce one single person into sharing the views that you happen to have. If you had indeed succeeded in dropping every pylon in the Western Cape, and had done what you obviously intended to do, which was to deprive
20 the people of the Western Cape of electric power, I still think you would have achieved nothing. I believe that the people of this country, the people of all races, are made of sterner stuff than to allow themselves to be intimidated by the Adrian Leftwiches, Dennis Higgses and you. That the whole thing was futile, tragically futile, in no way exonerates you, in no way, in my view, lessens the blame that attaches to you.

30 That you did not intend to harm life and limb I accept unreservedly. That the activities of the group with which you chose freely and voluntarily to associate yourselves in fact endangered the lives of many innocent people, of that there is no doubt. One shudders to think

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of the possibilities of evil inherent in your actions. To receive explosives from a foreign country, hidden in the false bottom of a box in the hold of a ship, unbeknown to the captain and the crew; to keep masses of high explosives in private blocks of flats, to transport it in ordinary motor cars on our roads at night - and in the daytime - to attempt to drop a structure like the FM tower, at night, when there were men whose duty it was to work in that area and on that tower; to destroy the signalling system of our suburban railways - I believe, the evidence is, that with your home-made timing devices there were ten minutes between trains, and in those ten minutes you relied upon the railway staff to do the necessary to stop what could have been carnage - to drop high tension pylons and high tension cables: one can only be grateful that things did not turn out much worse than they did, and I think you two can also be grateful, because, as I have indicated before, if as a result of your activities any person had been killed or even seriously injured, I would have considered it my duty to have seriously considered the supreme penalty for both of you. Fortunately for all of us that is not necessary, because fortunately, and in spite of your actions, nobody was seriously injured and nobody was killed. Any reasonable man - and you are not children - could and should have foreseen - I think any person must have foreseen - the dread potentialities inherent in allowing untrained, unreliable people to be in possession of explosive materials such as described in this case. Anyone must have foreseen that these operations on which you embarked had to culminate in something like the horror of Johannesburg station. Of course I in no way hold you two liable for what happened there. I mention it merely because I think it is important, in considering the

/sentence,.....

sentence, that Courts of Law should in these cases pass such sentences as will deter others of a similar frame of mind from playing around with explosives. You are, neither of you, equipped for that. You trusted a Mr. Watson whose credentials you did not know; you were prepared to drop an FM tower because one Mr. Higgs told you it would be all right. What Mr. Higgs's qualifications were to drop towers, I do not know; what Mr. Watson's qualifications were to teach people like you to decant high explosives from cartridges into canisters in blocks of flats, I do not know.

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In the sentences I propose passing upon you I have discriminated between the two of you. I am doubtful whether I should have done so. In giving you, de Keller, a lesser sentence than I am giving Daniels I have given you the benefit of the doubt that is in my mind. In law there is no doubt that both of you are guilty of each and every of the acts of sabotage committed by the group to which you belonged. You conspired together to do these things, and it does not very much matter who did what.

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You, Daniels, assisted in the "attack" - as you chose to call your crimes, in the pseudo military language this silly group used - on the FM tower. You "attacked" the Muldersvlei pylon. But that is really unimportant. That on other things you stood by on medical or escape services, is really unimportant, because, on the evidence, you served on the planning committee and on the regional committee, and the evidence is that each one of these operations was plotted by the planning committee and that none of them could have taken place without the concurrence of the regional committee. So that you are as responsible for each ^{one} of these acts as if you had done it yourself.

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You, de Keller, did not do nearly as much yourself.

/You.....

You probably participated in the reconnaissance of the FM tower. You certainly slunk by night with Adrian Leftwich to attach explosives to an electric pylon. But you again put yourself at the disposal of this group, and that again makes you liable for whatever they did. You were one of them, you supported them, you paid subscriptions to them, and if you were not called upon to do as much as the others did I do not think that is due to any virtue in you. It may be that your co-conspirators merely left you out of some of these things because in their regard you showed an ineptitude or an unreliability, so that they chose other of your co-conspirators. But that lets you, as far as a Court of Law is concerned, out of nothing. The only reason why I have decided to give you a lesser penalty - and as I have already said I may be wrong in that, but if I err my error is on the side of leniency - is that it has been practice, and is practice, in a conspiracy to punish the ringleaders more harshly than the ordinary conspirators. And in every sense of the word Daniels is a ringleader - from the planning committee through the regional committee, he attended the so-called National Committee. What a facade! To what? Nothing but hooliganism and irresponsible crime. I think I have said enough to show what my reactions to these crimes are. I believe that my reactions are these of the greater, the overwhelming part of South African society.

I can finish by saying that the sentence of this Court, as far as you, Daniels, are concerned, is 15 YEARS' IMPRISONMENT. In the case of de Keller, as I have said, perhaps mistakenly, I have decided that your sentence is 10 YEARS' IMPRISONMENT.

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Es. as to finding of documents?

Mr Gibson

65.

ARM.
case

HOF HERVAT OM 10 v.m. OP:
3 NOVEMBER 1964.

SY EDELE: Ek neem nou aan dat hierdie saak sal die 9de en die 10de nie aan wees nie.

MNR. BEUKES: Nee, Edele.

SY EDELE: Dan begin ons weer die 11de.

MNR. BEUKES: Ek sal Vrydag vra vir 'n uitstel tot die 11de.

SY EDELE: Goed.

LYNETTE VAN DER RIET, still under oath:

10 MR. BEUKES:(CONT.) Now, yesterday I showed you certain documents, I just want to carry on with that. Will you have a look at this document C 18, and tell the Court what that signifies? --- This was once again the finalization of the escape system. It was drawn up by me and typed by myself.

Was that the method you discussed and arranged for escaping?--- There was not really a discussion, I was supposed to do it myself.

You did that? --- That is correct.

Were you in charge of this escape? --- That is correct.

20 Will you look at EXHIBIT C 19, do you see it? --- I have never seen this document before.

You have never seen that before? --- No, not before.

C 20? --- I have seen this document before. This is roughly the outline of the medical system.

C 21? --- I have seen this before. This is the procedure in which - which is followed when someone is injured.

30 C 42? --- This was drawn up by me. Some time ago Mr. Schneider approached me in order to get more information about as many things as possible, amongst other things reservoirs. There was no plan to blow up these things at all, it was just to have as much information as possible about the running of

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