

rental. It is implicit in your lordship's finding that that was the aim of the march, on the finding, and not what the witnesses whose evidence your lordship could not accept may or may not have said. Now could they have foreseen what in fact happened on the facts presented before your lordship? Your lordship found, and we must accept as a finding, that they performed acts which were aimed at bringing about some form of violence. Your lordship spoke of coercion, of people not to go to work. Let us try and put, with respect, ourselves in the position of the accused in the meeting of 2 September (10) where they discussed how the march should proceed, when marshalls were appointed, when it was emphasised that they should get to Houtkop in order, on your lordship's finding, to get the councillors to resign or to reduce the rent. They could not have known how many people were going to turn up for this march. They did not know that violence would have broken out the night before at Bophelong. They would not have known that far away from their march very early in the morning of the 3rd that violence would have broken out in Sharpeville. I do not want to repeat what we argued but Brigadier Viljoen(20) did not expect any trouble. He was not told by the local security police officers of any march, although it is clear that the then Captain and later Major Steyn knew about it. Why should one say with hindsight that they must have foreseen the catastrophic results? Your lordship has not found any one of them to have committed any act of violence, nor to have incited anyone to have committed any act of violence. I am dealing with the Vaal accused - I am excluding for this purpose Mr Manthata, accused no. 16. We submit on the question of punishment, in the absence of any direct (30)

intent/....

intent but a constructive intent such as the sub-section requires. And in the absence of any evidence that they themselves participated in any act of violence or incitement of violence thereafter - we are not unmindful of your lordship's judgment of what happened in the Vaal afterwards, particularly in November and continued on into 1985. As your lordship will be referred to later most of the accused that have been convicted by your lordship from the Vaal were in custody at the time. Nor can they be held responsible for anything that happened thereafter in the rest of the country. (10)

We would submit, therefore, that your lordship should try to disabuse your lordship's mind, from your your lordship's mind all the terrible things that happened in the Vaal where people were killed, where property was burned, where life was made particularly difficult for many and not only those who were councillors. All those facts or happenings are not the responsibility of these accused. The other factor that your lordship will, with respect, take into consideration is this - there are lots of convictions for terrorism, for taking up AK 47's, planting bombs and limpet mines and that is (20) terrorism. And sentences are imposed on young people who take up those acts varying from three, ten, sometimes fifteen years, where sometimes life has been lost and sometimes serious injury has been inflicted. Your lordship's sentence on these accused from the Vaal should be so vastly different from that sort of sentence lest the impression is created that if you publicly call for the redress of grievances and your calls are ignored - and on the evidence it was thought necessary to go in large numbers so that you may be heard, if that is going to be terrorism and if that is going to be (30) punished/....

punished in the same way as taking up of arms what is the purpose of peaceful protest in the country in order to redress grievances. Your lordship with respect does not live in a vacuum. There have been protest meetings and marches from which no violence has resulted and although your lordship may be of the view that a long term of imprisonment in this case may induce others not to hold protest meetings or call councillors by ugly names or be restrained from holding marches it may well be that the holding of protest meetings and participating in marches is so much a lesser evil than the other(10) that your lordship's sentence should not equate them at all but there should be a very substantial disparity for offences in which violence was plotted or actually committed as against the resultant or incidental violence which may arise as a result from otherwise peaceful protest. We submit that any sentence imposed on any of these accused that would give that impression may, with the greatest respect, be counter-productive. The other evidence which we would ask your lordship to take into consideration is Professor Helm's evidence which was not challenged, that often marches or gatherings create (20) their own momentum, that although they may have been planned for one purpose they may finish up differently to what they were originally intended. We are not unmindful that this may have been part of your lordship's reasoning in deciding that the conduct was foreseen but we would also ask your lordship to take into consideration Professor Helm's evidence that these facts in relation to crowd control and the behaviour of crowds are not generally known except to social scientists of her calibre. And the fact that there was difficulty in Sharpeville in 1960 and difficulty in Soweto in 1976 and (30)

some/....

some difficulty in Tumahole in 1984 may well be contrasted with other perhaps even bigger marches in South Africa's history which in recent years, and during the same period, which did not lead to any difficulty. It is a notoriously known fact that a single senior police officer turned around some 30 000 people in 1960 shortly after Sharpeville by merely promising them that he will arrange a meeting between its leader and the Minister. And this is where the apportionment of blame comes in. There was no communication and if your lordship has regard to the table appearing on the second (10) and third pages of Professor Helm's report and scores the conduct of those responsible for law and order, not in relation to the Vaal in general, it may well be that what may have been contained became a general tragedy because people are treated on the same basis, because there was trouble at Caesar Motjeane's and because there was trouble at Dlamini's house therefore the people marching, three or more thousand, even though they may have been singing had to be dispersed by teargas and rubber bullets rather than someone asking a couple of simple questions when the march slowed down, it is common(20) cause that that is so. It came almost to a stop, "Where are you going and why" and "What can we do in order to avoid further trouble". So both on the basis, we submit, of hindsight reasoning and on the basis of the apportionment of blame the persons before your lordship cannot be held responsible for it. I intend dealing with each accused individually.

In relation to accused no. 5 your lordship will take into account that he actually spent 1 033 days in custody of which 260 days were in social isolation. His personal (30) circumstances/....

circumstances your lordship will find on page 10 732 to 10 740. He was described by your lordship as bright and talented. He is a person who has a previous conviction for public violence. It was, in our respectful submission, a long time ago and although there can be a debate on its relevance on this issue even if your lordship considers it relevant the act of which he has now been found guilty is materially different.

COURT: Why do you say there can be a debate about the relevance? (10)

MR BIZOS: Because that was when he was 20 years of age. He deliberately committed, with special intent, an unlawful act. This was not a deliberate act to bring about violence. There is a fundamental difference between what he was, I think he was then 19, together with his friends throwing stones. There is a fundamental difference between that and his standing up at a public meeting, openly in the presence of newspapermen or women saying that at another meeting a resolution was taken to have a stayaway. Your lordship has found that that was aimed at bringing about, there is a completely different intent. (20) Your lordship has found that he ought to have foreseen. That is a, there is a fundamental difference between the two, the actual and the constructive intent. There are a number of things that I want to remind your lordship about accused no. 5, Mr Malindi. In your lordship's judgment, with the greatest respect, your lordship's impression was that this was a dedicated youth leader. Yes that he was a youth and that he is a leader and that he has some dedication as a result of his having to deny that his father was his father so that he should not be taken in for a pass offence, yes that probably (30) gave/....

ave him a considerable amount of motivation to become dedicated. But let me remind your lordship that his role in fact was a secondary one. At the formation of the VCA the uncontradicted evidence was that he was at his friend's wedding. On the evidence he was asked to speak at the afternoon meeting of the 26th at the last minute. Your lordship has not found that there was a conspiracy between him or Raditsela or anyone else. In fact his failure to mention the stayaway during the morning meeting is valid corroboration for his statement to your lordship that he was requested to speak as one of the (10) youth by Raditsela at the last minute. Your lordship of course poses the question, correctly in my respectful submission, would Raditsela have left it to chance. But of course the facts show that the march was actually proposed by someone else and it may well be that Mr Raditsela had sent another or others to this meeting for this purpose and that Mr Malindi, accused no. 5, in fact pre-empted that person by suggesting the stayaway. There is support for that, on your lordship's finding. Accepting what your lordship called the unchallenged evidence of Masenya, that before Mr Malindi, accused no. 5 (20) spoke Mr Matlole, accused no. 17, if he had not made a very clear call at least had alluded to a stayaway on the 3rd. Which is further supported by your lordship's finding that a decision taken at another meeting on the 25th would of necessity have spread, that information would have spread in the community. Your lordship will recall that it was on the meeting of the 25th. So that to elevate accused no. 5, Mr Malindi, as the other ego of Mr Raditsela is not supported by the facts in our respectful submission. He must be treated in sentence, in our respectful submission, as a young (30) person/....

person with a strong sense of grievance, bright, intelligent, but who did not advocate violence. Your lordship will recall that there were days in this trial, many days in this trial when evidence was led not affecting any particular accused. Well I am pleased to inform your lordship that he actually used that period in order to study. He is a registered student at Unisa and he has just written - he hopes successfully - the first series of examinations. And this is the difficult task that your lordship has. Three and a half years of this young person's life have been wasted. If he committed any offence (10) he was entitled to have had it dealt with within a reasonable period of three or six months. A term of imprisonment and particularly any term of imprisonment of any length can only further waste his young life. The period of imprisonment will not wipe away the bitterness. It will not make his grievances disappear, personal or communal. He showed by his employment before his arrest that he is a person who can make a useful contribution to society and we would submit that the mitigating factors in his case are overwhelming. Your lordship has his present age as 28. Your lordship will recall that (20) gave your lordship his personal circumstances in relation to his unemployed father and his mother being employed as a part time domestic worker in order that the family may be kept together. I now want to turn to Mr Mphuthi, accused no.7.

COURT ADJOURNS FOR TEA. COURT RESUMES.

FURTHER ADDRESS BY MR BIZOS: May I just add in relation to Mr Malindi, accused no. 5, one correction that I said it was three and a half years. It is in fact over four years. He was actually arrested on 23 September 1984. One gets a period in one's mind and ...

(30)

COURT:/....

COURT: Yes. Was he not out on bail?

MR BIZOS: Yes he was out on bail. The dates on which, the days of actual imprisonment are actual days calculated, excluding the bail. So, but the time of his involvement is over four years in the pre-trial and trial procedures. And also because they had to attend court on the part of the case that did not really affect them, and because of the conditions of course your lordship will bear in mind that they could not really lead ordinary lives even during the period when they were out on bail. Now in relation to Mr (10) Mphuthi who is now 51 years of age he spent a total of 762 days in prison of which 204 were in social isolation. He was arrested on 18 November 1984 and he has been involved in this process for over four years. On your lordship's findings that he attended the council meetings of the UDF, attended the Daleside conference, I would submit, with respect, that your lordship must have got the impression that Mr Mphuthi does not in fact initiate anything. Being associated with others he probably accompanied them rather than the initiator of any particular matter. He did not speak at the meeting of the (20) 26th. He took part in the march and this is perhaps a significant fact. There was no evidence that he was on the march, from the state. He candidly admitted that he took part in a part of the march. Your lordship will recall the evidence of the bicycle in connection with that. I do not know whether your lordship actually made a clear finding one way or the other but what is clear is that there is no evidence from the state that he actually took any leadership role at all on the morning of the 3rd. His taking part in the house meetings, the evidence was uncontradicted that the house (30) meetings/....

meetings did not concern themselves with the planning of any act which was intended or aimed at disturbing the maintenance of law and order. His involvement must, as small as it was, his degree of foresight must have been commensurate with his lack of taking any leading part. His personal circumstances appear on page 10 434 to 10 444 of the record. And what we submit in relation to him is that he is a self employed person in his community, has in fact been removed from his community for a period of over four years, even though he was amongst the first to be let out on bail and he, together (10) with others, spent the least time in custody.

Mr Nkopane, accused no. 8, is now 44 years of age. He was arrested on 18 November 1984 and he therefore also has C.1570 been involved in this for over four years. He also has spent 977 days in custody, 204 of which were in social isolation. It is of course correct that he was the chairman of the meeting of the 26th at which the stayaway and the march were agreed upon. He also at the request of Raditsela was apparently the person responsible for making the placards early on the morning of the 3rd and he took some part in the forma- (20) tion of the march. But your lordship will recall from his personal circumstances from 8 718 to 8 731 his family circumstances and long period of employment with the same employer. What I submit would have struck your lordship in relation to Mr Nkopane is that he actually became a leader by default, with due respect to him. He was the third or fourth choice for the chairmanship of the meeting of the 26th and your lordship will recall that he actually had to be helped out when there was the hiccup at the meeting with Mr Masenya, had to be helped out by the erstwhile accused no. 10, Mr Vilakazi. His attendance (30) at/....

at the formation of the VCA appeared to be incidental and his attendance of the house meetings, it is common cause there was no planning of any act aimed at any of the results that subsequently emerged. He too would not have been in a position to foresee the consequences of those actions. Your lordship has acquitted Mr Vilakazi, accused no. 10. I take that as a starting point as to what the irony of fate, one might say, brings about which is after all a relevant factor in passing sentence. We have, and what I am saying is I am not arguing against your lordship's judgment in relation (10) to the offence of Mr Nkopane but the person who did have a leadership position, accused no. 10, Mr Vilakazi, was in fact the most senior VCA person at a meeting, on the platform at which the stayaway was agreed upon, the march was agreed upon but because he had a trade union conference in Natal he did not attend the march. And on your lordship's finding that it is both really that make the offence charged. And then one takes the irony of fate with the erstwhile accused no. 2. He attended three meetings in Sharpeville and the march as the leader of AZAPO in the Vaal. Why I am relating these facts (20) and ask your lordship to contemplate on them is this, that even though your lordship found Mr Nkopane to be guilty of the offence of terrorism which is really an amalgam of what the erstwhile accused no. 10 did and what the erstwhile accused no. 2 did but because each one of them did not do both, through accidents of fate, they are acquitted and this is the offence of terrorism. And the point that I make is this that this form of terrorism, or this offence is so easily committed, on your lordship's finding, by people who come together in order to address their grievances. There is no suggestion that (30)

Mr Nkopane/....

Mr Nkopane did anything on this march which was more than what the erstwhile accused no. 2, Mr Hlomoka, did. And we would submit your lordship's findings in relation to these accused is evidence of the ease with which people can fall foul of this far reaching section in the act. Legal liability is one thing, your lordship has made a finding on that and I have to argue the case on that basis. But what is the difference in moral responsibility. After all moral blameworthiness is that which determines the sentence that one is to suffer. The other factor in his favour is that your lordship relied on (10) what was happening in the various areas, the destruction in the various areas on the morning when people, on your lordship's finding must have seen on their way to the march or whilst taking part in the march. Your lordship's finding in relation to the erstwhile accused no. 2 that he was coming from zone 3 and the evidence was that that was an area which was quiet your lordship will also take into consideration that Mr Nkopane was actually coming from the same area in zone 3 so that he would not have had the notice that others might have had who came from zone 11 and other places. I may say that that (20) point applies equally to Mr Malindi, accused no. 2, although your lordship

COURT: No. 5.

MR BIZOS: Oh no. 5, I beg your pardon. No. 5 although your lordship, if my memory serves me correctly, may have been sceptical about his having spent the night in zone 3. Nevertheless there is no evidence to the contrary and he was not challenged on that aspect. So that that point, in our respectful submission, applies with equal validity to accused no. 5, Mr Malindi. (30)

I/....

I now turn to Mr Ramagula, accused no. 9. He too was arrested on 27 November, no I beg your pardon, 23 November 1984 and he has been involved in these proceedings for over four years. He was one of the first to be granted bail on 10 June, no I beg your pardon, he was one of the first but he has spent a total of 956 days in prison of which 199 were in social isolation.

COURT: What does that mean? Does it mean solitary confinement or does it mean something else?

MR BIZOS: I use the words social isolation because the (10)
police object to solitary confinement because they say they once a day see a warder that brings them food and that sort of thing and it is not solitary confinement and I was picked out at an inquest where I was cross-examining so I have changed my ways.

COURT: I am not picking you out. I just want to know what you are meaning.

MR BIZOS: What in truth and in fact is that you are alone, you are ...

COURT: In a cell on your own. (20)

MR BIZOS: In a cell on your own. You cannot see relatives, you cannot see your lawyer and you, but you do not see anyone but those who guard over you, whereas solitary confinement may be throw the key away type of thing. There is a sensitivity about solitary confinement, this is why I use social isolation. Which in itself is a very drastic punishment. Now your lordship will find his personal circumstances in 9 197 to 9 204 and if ever anyone had a personal grievance to want to lead a march, as he did, Mr Ramagula was one. I want to recall the removal of his doors from his house to your lordship's (30)

memory/....

memory but I do not intend giving your lordship the detail. I do not think that many of us will forget his description of what happened. Now he is the person who is a young diabetic, in the medical sense, and your lordship has heard the evidence of Professor Kalk. Of course the prison can deal with a diabetic. We have no doubt that if an effort is made it can be done, save that his experience and in three other cases - I am sorry two other cases in Dr Kalk's experience, this has not been done. Your lordship will have regard to the contents of the letter to the Commissioner of Police when we were at (10) Delmas. What has happened here, and I do not want to bother your lordship with details but even after Dr Kalk gave evidence here there were occasions on which his insulin was not given to him or given at the wrong times. It is not for lack of goodwill or lack of care but a prison is not geared for personalised attention and we would submit that if an unsophisticated person such as Mr Ramagula found himself with personal grievances in the middle of a situation where he led a march and let it be remembered that that was not the evidence of the state. He believed that he was doing the right thing, that (20) at a very early stage it was put by me on his behalf that he led the march, he volunteered to lead the march. Now four years away from his home in the Vaal, with his health problem, may be thought to be sufficient punishment for a man who has a disease which will affect his expectation of life and where imprisonment may, due to the lapse of the changing of the guard or the going of the particular warder on holiday - and there is no reason to believe that there was any less care exercised at Modder B or at the Pretoria prison that there is going to be exercised in the future. And the fact that a (30)

professor/.....

professor of medicine had to give special instructions to a lieutenant both in writing and communicate with her telephonically from time to time in order to secure proper treatment is further evidence that imprisonment for him would be an additional burden which we submit he should not be called upon to bear. There is of course on Professor Kalk's evidence a risk of permanent damage to his health as a result of the regimen that prison life compels people to live under because of, well prisons are not geared to serve six carefully planned meals a day, nor to inject people in the right place twice (10) a day.

COURT: Well let us say it is not a hotel with room service.

MR BIZOS: No. No certainly not. But when it comes to danger of health I submit that we should be particularly helpful. It is not even a room with an alarm bell when there is great danger. I now turn to Mr Mokoena, accused no. 11, who is 36 years of age. Your lordship will find his personal circumstances in volume 212, pages 11 218 to 11 229. He spent, he was arrested on 14 November 1984. He has spent 981 days in prison, 208 in social isolation. Now on your lordship's (20) findings that intended march actually broke out into violence, unlike the Sebokeng march and your lordship in your lordship's findings found that Mr Mokoena was responsible for that. Now what I want to submit to your lordship is this, your lordship if need be should make a specific finding - the evidence was not contradicted - that he was at the meeting of 2 September at the Small Farms Catholic Church. It was intended that both marches on that evidence and on your lordship's finding, that the Sebokeng march was not intended to go out and commit acts of violence, that they should have been similar marches. (30)

The/....

The fact that the gathering at the square in Boiphatong went off to the house of Mpondo and stoned it is completely consistent with Professor Helm's evidence that what is intended at times does not come about and we submit that having regard to his personal circumstances and more particularly the evidence of the lack of pre-planning of any such matter from Mohape and others, that having regard to the fact that four years of his life has been taken up and the other similar considerations he too has already paid heavily for his involvement.

Mr Hlanyane, accused no. 15, this is our respectful (10) submission is a minimal involvement. For all practical purposes he became involved only late in August. If my memory serves me correctly he only attended one of the house meetings, he did not speak at the meeting of the 26th. It is true that he was elected treasurer of the area committee but I do not know, your lordship having heard of the paltry sums involved whether that makes him a particularly important office bearer of any important committee in that organisation. And his participation in the march was incidental. I do not want to say much more because if my memory serves me correctly your lordship in (20) your lordship's judgment already, dealing with the legal liability, foreshadowed the mitigating factors that applied to him. He was detained on 17 December 1984, he has spent 733 days in prison of which 175 were in social isolation.

I now deal with Mr Matlole, accused no. 17 who is 64 years of age. May I return to no. 15, Mr Hlanyane's employment history which was a good one as an electrician employed by Escom if I remember correct and his personal circumstances perhaps I should give to your lordship. Well he did not of course give evidence and they have to be, the others spoke of him, (30)

of/....

of being an electrician and the bail papers which really were admitted in that regard, his personal circumstances. But he is a trained person.

COURT: What is his age?

MR BIZOS: Forty my lord. I now turn to Mr Matlole. Your lordship found him to have been a particularly active person in the Vaal but I submit that his personal circumstances, his present personal circumstances are such that he should be dealt with on the personal circumstances now prevailing rather than his activities then. He was detained on 12 February 1985. (10) He spent 891 days in custody of which 118 were in social isolation. Your lordship heard from others that he is a family man with children and that he was self employed as a collector of dry cleaning, the manner in which he made a living. The evidence of the person with whom he was friendly, Mr Mphuthi, that he has suffered a lapse of memory was not contested by the state. Your lordship will recall what Mr Mphuthi's evidence was, that he did not remember from day to day who visited him before and that he had difficulty in orientating himself as to time and place. He, this picture of course is corroborated (20) by the two reports that have now been placed before your lordship by consent and it is clear that the condition from which he is suffering is, the organic condition is atrophy of the brain and the functional condition is senile dementia. Once those facts are admitted we would submit, with respect, your lordship will also recall that his general health, as is inevitable with this sort of condition, has been particularly bad. Your Lordship will recall that leave was granted, with the consent of the state, for him to undergo an operation to the urinary(?) tract and with senile dementia setting in (30) matters/.....

matters such as blood pressure, sugar and other conditions make it, make this life difficulty. We submit that his case is no different to that of Mr Mpetha whom your lordship has seen on video. And the case is reported in the appellate division, 1985 3 SA 688. The case really was concerned whether the amendment of the, or rather the replacement of the Public Safety Act for the Terrorism Act which provided for a minimum sentence was retrospective or not or whether a person who had committed the offence whilst that act was there had to receive a minimum sentence of five years. His lordship Corbett, J. (10) at page 706 has the following to say - it is a very short judgment dealing with the situation that we are faced with here:

"In this matter I concur in the judgment of Van Heerden, J.A. and in the order that the appeal should be dismissed."

I may say that it was a divided court of three to two as to whether it was, whether a minimum sentence should be imposed or not as a compulsory sentence.

"I do with regret for this case illustrates the injustice which can flow from a statutory enactment which lays down a compulsory minimum sentence and takes away from the (20) trial judge the discretion which he normally enjoys in the imposition of sentence. In this case the trial judge, having held that he was driven to the conclusion that he had no discretion to impose a sentence of less than five years imprisonment stated with reference to the appellant (that is Mr Mpetha):

'He is 74 years of age and is very ill. Dr Disler has described in detail the seriousness of his condition which flows from diabetes and its complications. He must shortly undergo an amputation of (30)

the/....

"the left leg because of gangrene. His expectation of life is very limited and is no likely to be more than a couple of years at best. Even given the best medical treatment it is clear that he has not long to live. Although what he did is undoubtedly serious I think that justice does not require that he be imprisoned."

I may say that it was a direct call to violence, his offence.

"The end of his life is too near for such a punishment to be of any benefit either to him or to (10) society. Because of his very special circumstances compassion should in my view be the overriding consideration. If it were in my power to do so the sentence of imprisonment which I would have imposed would have been totally suspended."

This was the judgment of Williamson, J. as the court of first instance.

"In the result the trial judge imposed a minimum sentence of five years imprisonment. The difference between this and the wholly suspended sentence is manifest. Although (20) there is a difference of opinion in this court as to whether or not the compulsory minimum sentence provided in section 2(1) of the Terrorism Act 83 of 1967 was applicable in this case it is the considered view of all the members of this court that such a minimum sentence is wholly inappropriate as far as the appellant is concerned and that a wholly suspended sentence should have been the proper punishment. In the circumstances I echo the hope expressed by my brother Van Heerden that the appellant's sentence will be ameliorated by adminis- (30) trative action."

We/....

We submit that on the facts before your lordship and insofar as a clinical picture may be necessary to decide the precise nature of his medical condition your lordship's observation of Mr Matlole during these long years of trial must inevitably have led your lordship to the conclusion that he is an old and broken man who cannot be of any danger to society or to anyone else in his present condition and we submit that his is a very clear case for a wholly suspended sentence.

The other person is Mr Manthata, accused no. 16. His personal circumstances are to be found in volume 274 on (10) pages 14 934 and at pages 14 936 to 14 937. You also have had the evidence of Father Thlagale who gave evidence before your lordship very recently in Volume 460 on pages 28 779 line 14 to 28 781 line 4. You also have had the evidence of Dr Kistner in volume 460 of the evidence before your lordship. What is clear from the evidence as a whole is that the act which your lordship found him guilty of was an aberration, having regard to his past history. It is not only he that spoke of his personal circumstances and his general reputation but your lordship will recall the evidence of Dr Kuswayo, (20) the evidence of accused no. 19, the two witnesses who gave evidence in mitigation that he was a high profile person with the qualities that had been described. Your lordship will, with respect, punish him on the basis that it was an aberration such as has been described. What is also clear is that there is no nexus between his conditional incitement to violence and anything that happened in the Vaal. The events described by Mrs Mokati to have taken place on 20 August 1984 in Sharpeville are not related to this incitement. The unbridled violence that there was in Sharpeville on the morning of (30) the/....

the 3rd could not have been as a result of anything that was said at the meeting of the 19th and the reason why I say this is that your lordship has had a detailed description of what has happened that morning from Nozepa Mjeza whose evidence was uncontradicted and which is indeed corroborated by other evidence, that she herself was called a councillor and that she and her father were endangered. On your lordship's findings she was one of the persons who spoke at the meeting of the 19th and had there been any nexus between this riotous group and anything that was said one would have expected some form of (10) recognition from the large group that was responsible on the attack on her. Your lordship has found that he had no business in the Vaal. We must naturally accept that for the purpose of your lordship's judgment on the legal liability of the accused but the uncontradicted evidence on sentence would tend to show, with respect, that he had or that he was at least expected to do this sort of work, not necessarily to address a particular meeting but to keep in touch with whatever was going on. And for a person who is involved in public life to be called upon to address people is not an unusual occurrence. The meet- (20) ings at Sharpeville were materially different to most of the other meetings that your lordship saw on video and whatever limitations there may have been on your lordship's judgment on the film made by Mr Kevin Harris, if the evidence is to be believed that the meeting of the 19th was substantially similar to the meeting of the 26th, and we submit that there is no reason to hold otherwise, then it was not the type of meeting where there would be the excitement. It is significant that after these words were uttered, on your lordship's finding, that the next meeting really continued with (30)

discussion/....

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