

AK-2883 / 7/16

**IN THE SUPREME COURT OF SOUTH AFRICA
(TRANSVAAL PROVINCIAL DIVISION)**

Case No.:

In the review Application of:

J J WALUS

First Applicant

C DERBY-LEWIS

Second Applicant

And

AMNESTY COMMITTEE

Respondent

REVIEW

**AGAINST THE DECISION BY : JUDGE. H. MALL, JUDGE. A WILSON,
JUDGE PRESIDENT, B. NGOEPE, ACTING
JUDGE. DENZIL POTGIETER & ACTING
JUDGE. S. KAMPEPE**

**OF THE AMNESTY COMMITTEE IN THE APPLICATIONS OF J J WALUS
(AM270/96) AND C DERBY-LEWIS (AM271/96) DELIVERED BY THE AMNESTY
COMMITTEE AT CAPE TOWN ON 7 APRIL 1999**

ON BEHALF OF APPLICANTS

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unless I was in Cape Town and in the House at that time I wouldn't have heard about it.

But Mr Chairman, let me also say that I could quite easily understand from a political point of view, Mr Du Plessis repudiating Mr Koos Botha, because Mr Koos Botha was no longer a member of the Conservative Party when he was repudiated. He had been fired.

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MR BIZOS: Before or after the bomb?

MR DERBY-LEWIS: Mr Chairman, I am not sure of those dates but I know that by the time Mr Du Plessis made the speech he had been fired.

MR BIZOS: You will not divert me in my questions Mr Derby-Lewis, the question is a simple one. Would an important member representing the Conservative Party at the President's Council, not be aware of what Mr Du Plessis said on behalf of the Conservative Party in Parliament on the 21st of October 1992?

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MR DERBY-LEWIS: Yes, I would have been.

MR BIZOS: You would have been aware of it?

MR DERBY-LEWIS: Not of all of the details, but certainly that it had been said.

MR BIZOS: Certainly that the leader says don't commit crimes? Is that right?

MR DERBY-LEWIS: Mr Chairman, then you must describe a crime. When is a crime a crime, when you are involved with a

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freedom struggle, is a crime a crime? When you are involved in a wartime situation... (intervention)

MR BIZOS: Murder is a crime Mr Derby-Lewis.

MR DERBY-LEWIS: But then Mr Chairman, then you must refuse to accept the ANC's crimes as well, because they also murdered.

MR BIZOS: No, Mr Derby-Lewis, you missed the point entirely, let's leave the ANC cases for another hearing Mr Derby-Lewis, let's deal with yours.

(Loud clapping and laughing)

The issue is not whether, the issue that I am questioning you on is whether you acted on behalf of the Conservative Party or not and I am asking you and the Committee with respect, is entitled to a straight answer. Did you or did you not know that your leader said do not commit crimes through the mouth of Mr Du Plessis on the 21st of October 1992?

Do you want me to repeat the question?

MR DERBY-LEWIS: Mr Chairman, I was aware of that newspaper report.

MR BIZOS: To the effect, correctly reporting what is in the Hansard?

MR DERBY-LEWIS: In the Hansard, when I have a look at the Hansard I will be able to answer the question Mr Chairman Mr Bizos has said he will provide us with that.

MR BIZOS: Yes. This particular page is actually attached to the bundle, I have a fuller - it is at page R3 F, pages 1 and 2 Mr Chairman, 1, 2 and 3.

CHAIRPERSON: What page Mr Bizos, please.

MR BIZOS: R3, Section F, 1 to 3.

MR DERBY-LEWIS: I have it Mr Chairman, there are no page numbers on this Hansard or dates.

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MR BIZOS: Page 1 - 3.

MR DERBY-LEWIS: Oh, 21st of October, okay, I have got it Mr Chairman.

MR BIZOS: The Hansard is on page 2 - "Mr du Plessis"

MR DERBY-LEWIS: What portion of the speech are you referring to?

MR BIZOS: Right-hand corner.

MR DERBY-LEWIS: Right-hand corner, yes?

MR BIZOS: Right-hand bottom section, the Honourable member said that he was at the Voortrekker Monument like apparently you were.

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MR DERBY-LEWIS: Yes, I have that paragraph Mr Chairman, third from the bottom.

MR BIZOS: Do you want me to read it again or do you want to read it to yourself. Have the Committee members got it?

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MR BIZOS: R3 and it has inner divisions and it is in division F, and each division is numbered and I am looking at page 2, Mr Chairman.

MR DERBY-LEWIS: I have it Mr Chairman. It says here -"My Honourable leader has said repeatedly that nothing gives an individual the right to commit crimes or misdeed"

But I wasn't acting

MR BIZOS: You are reading the second paragraph, please read the first paragraph. I have read it into the record, you can read it aloud or to yourself, please yourself.

MR DERBY-LEWIS: Can Mr Bizos repeat the question now Mr Chairman. I have the

MR BIZOS: Could there have been any doubt in your mind after this statement in Parliament, which was both after the Voortrekker Monument speech and after the Kimberley congress document that you produced in evidence, came into being?

MR DERBY-LEWIS: Yes, there could have Mr Chairman.

MR BIZOS: I beg your pardon?

MR DERBY-LEWIS: There could have. If you look at Appendix A which we submitted with all of those acts of sabotage from the 8th of February 1990, other people also got the same message I got regardless of what is said here.

MR BIZOS: No, just one moment please. We will come to that exhibit and I will ask you questions there. There is a difference between acts of violence committed by unknown people and the statement in Parliament of the leader of a political party saying that our party is not for violence.

Deal with the question on the basis of that you knew that your leader in 1992, October, said that despite the speech at the Voortrekker Hoogte and despite the document of the Kimberley resolution, our party is against violence. Deal with that please.

MR DERBY-LEWIS: Mr Chairman, this paragraph -

"My Honourable leader has said repeatedly that nothing gives an individual the right to commit crimes or misdeeds"

he is saying he said repeatedly, he didn't say when he said it.

Mr Du Plessis was now referring to what had been said in the past by the leader of the CP.

MR BIZOS: You don't seem to come to terms with my question. Either you do not understand it or you do not want to answer it. I will try again Mr Derby-Lewis.

MR DERBY-LEWIS: There is no reason not to answer.

MR BIZOS: A member of the President's Council in relation to the policy of his party, doesn't have to rely on snippets in the Patriot, either in English or Afrikaans, doesn't have to rely on loose statements made by your wife or other contributors to the

Patriot, you are a senior office bearer of the Conservative Party and a senior colleague of your says in Parliament this is our policy against violence.

Could there have been any doubt in your mind that the CP was against violence?

MR DERBY-LEWIS: At the time that Mr Du Plessis made the speech?

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MR BIZOS: Yes

MR DERBY-LEWIS: There was still doubt. But in 1993 Mr Chairman, there was very little doubt when one considers what my leader said then.

MR BIZOS: No, please, please Mr Derby-Lewis. In your documents, and I will refer you to chapter and verse if need be, you said that what inspired you to believe that your party was for violence was, and you repeated it often, the third freedom struggle speech of Dr Treurnicht at the Voortrekker Monument and the Kimberley document, both those events occurred prior to the speech of Mr Du Plessis in Parliament.

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Question - could there have been any doubt in the mind of any responsible leader of the Conservative Party such as yourself, that the Conservative Party — (tape ends) ...

MR DERBY-LEWIS: Dr Treurnicht held a speech at the Paardekraal Monument, 10th of October 1992, where he clearly expressed war sentiments.

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MR BIZOS: Where is that speech?

MR DERBY-LEWIS: Mr Chairman, I do have a copy of the report on that (intervention)

MR BIZOS: We can have it thank you. You say that it was the 10th of October what year?

MR DERBY-LEWIS: Of 1992

MR BIZOS: This was on the 21st of October 1992? 10

MR DERBY-LEWIS: That is correct Mr Chairman, that is why I say there could have been confusion.

MR BIZOS: Are you not going to say that the leader of the Conservative Party talks of war on the 10th of October at the Paardekraal Monument and a senior member of the Conservative Party talks with a different tongue in Parliament, 11 days later, is that what you are saying?

MR DERBY-LEWIS: What I am saying Mr Chairman, is that Mr Du Plessis was referring to violence, Dr Treurnicht was talking war. 20

MR BIZOS: Oh, I see, there is a difference is there, between killing people in war and killing people by assassins?

MR DERBY-LEWIS: There is, Mr Chairman, there is.

MR BIZOS: Is that a form of your Conservative Party logic Mr Derby-Lewis?

MR DERBY-LEWIS: Mr Chairman, assassination is an act of war, it can occur during a war situation. 30

MR BIZOS: I see.

MR DERBY-LEWIS: Clearly so.

MR BIZOS: So what you are saying is that Conservative Party policy, as at the 21st of October, was different in relation to destroying property, they mustn't do that, but they can go and kill people?

MR DERBY-LEWIS: Mr Chairman, what I am saying is that in a war-time situation, and I was convinced that the Conservative Party was preparing for war, then acts of that nature could have been committed

MR BIZOS: I will merely give you a final opportunity for today to say anything else that you may want to say but briefly if you can, how could you possibly have said in your applications as you did that what prompted you to do this was primarily the Monument speech and the Kimberley congress, how could you have said that?

MR DERBY-LEWIS: Mr Chairman, I said that the Monument speech in 1990 called the people up to the third freedom struggle. By 1992 it was quite clear that Mr De Klerk had closed the constitutional door to us, so no matter what was being said, the criteria which had been established by the Conservative Party for participation in the democratic process and a constitutional route, had been closed and the Conservative Party had said on numerous

occasions that violence would be justifiable in a situation where the Constitutional path was closed.

MR BIZOS: Yes, that is a condition or threat of going over to violence in the future at some time. Look at the last sentence of the previous paragraph Mr Derby-Lewis.

"There were 130 000 people present on that occasion, how many of them have gone out and planted bombs?" as a rhetorical question, as reproof of Mr Botha that he was alone and that is why he stood alone at K-court in Pretoria and nobody went there to give him any moral or other support.

MR DERBY-LEWIS: Mr Chairman, I have already referred to appendix A in which it is quite clear how many people went out and planted bombs.

MR BIZOS: On behalf of the Conservative Party, do you say Sir?

MR DERBY-LEWIS: I am saying in response to what Dr Treurnicht initially said on the 26th of May 1990, it set the thought process in motion ...(intervention)

MR BIZOS: Do you say that the acts enumerated in that annexure were done on behalf of the Conservative Party Sir, yes or no?

MR DERBY-LEWIS: I say I did it on behalf of the Conservative Party and in support of the Conservative Party and in support of the Afrikaner's freedom struggle.

MR BIZOS: Please answer the question Sir.

MR DERBY-LEWIS: I have answered the question, Mr Chairman.

MR BIZOS: Do you say that the acts enumerated in the annexure that you referred to, were committed on behalf of the Conservative Party, yes or no?

MR DERBY-LEWIS: Yes.

MR BIZOS: We will examine them.

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CHAIRPERSON: Mr Bizos, maybe at an appropriate time.

MR BIZOS: That will be so.

CHAIRPERSON: It will be convenient at this stage, for reasons explained.

MR BIZOS: We accept that.

CHAIRPERSON: The Committee will now adjourn until ten o'clock on Monday morning.

COMMITTEE ADJOURNS

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ON RESUMPTION ON 18 AUGUST 1997 - DAY 6

MR MPSHE: Mr Chairman, we are ready to begin, but my learned friend, Adv Bizos has indicated that he has a request to make to the Committee about some videos.

CHAIRPERSON: Mr Bizos?

MR BIZOS: Mr Chairman, I tendered to ask you to view a video of Mr Hartzenberg being interviewed by Mr Lester Venter on the SABC. I am told that the equipment is not here. Arrangements are being made to try and get some equipment here. I don't want to take up time. I will proceed, with your leave, with my examination of Mr Derby-Lewis.

CHAIRPERSON: You may proceed.

CLIVE DERBY-LEWIS: (Still under affirmation).

CROSS-EXAMINATION BY MR BIZOS: (cont).

Mr Derby-Lewis, I read to you a portion of Hansard in which Mr Koos Botha was repudiated for contending that the speech at Voortrekker Hoogte and the resolution of or the adoption of a programme of action in Kimberley was said not to be concerned with violence. What I want to do, Mr Chairman, for the sake of completeness, is to hand in a fuller section of Hansard, commencing on page 12738 and finishing at 12838. We, having regard to our limited resources, we have made one copy for the Commission and one copy for counsel for the applicants. I

do not intend referring to it at this stage, but it may be necessary during the course of argument to refer to portions of what was said, in order to explain what the debate was about.

CHAIRPERSON: Yes.

MR BIZOS: The relevant passage that I read out is before you, each one of you have a copy in R4, I beg your pardon, in R3, in section F, together with the newspaper cuttings that summarise the debate from pages F1 to 5, clearly indicated to the world at large that the CP was against the use of violence. Having explained that, Mr Chairman, I would like to proceed with the examination.

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CHAIRPERSON: Please do.

MR BIZOS: Would you please turn — (intervention).

MR DERBY-LEWIS: Mr Chairman, can I request that I be given an opportunity to go through this document before Mr Bizos starts referring to it because I am not familiar with it?

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CHAIRPERSON: Is it the pages from Hansard?

MR DERBY-LEWIS: The pages from Hansard, yes, Mr Chairman.

CHAIRPERSON: Mr Bizos, are you going to be questioning him on the contents of this document?

MR BIZOS: Not on any portion. What I wanted to put to Mr Derby-Lewis, I put on Friday afternoon, Mr Chairman. If - I am sure that Mr Derby-Lewis has time during the adjournments and

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after court, if - and he is represented by counsel, I have made the document available they will, no doubt, have an opportunity to re-examine the witness and if there is anything that they want to draw attention to, which either explains or deals for any matter, the matter can be clarified then. We are anxious not to take up court time for Mr Lewis to peruse documents.

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CHAIRPERSON: Mr Lewis, if you have any difficulty as a result of questions being put to you, which taxes your memory about these documents, we will then consider it at that stage.

MR DERBY-LEWIS: Mr Chairman, with respect, I still have a problem, because Mr Bizos may ask me questions which are referred to in other speeches by my colleagues of which I am not aware and I don't know whether (intervention)

CHAIRPERSON: He will put that to you, you can reserve your answer. But let's proceed with the rest of the evidence.

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MR DERBY-LEWIS: Right, thank you, Mr Chairman.

MR BIZOS: Thank you. Will you please look at R3, page, section F, page 1.

MR DERBY-LEWIS: Yes. Yes, Mr Chairman, I have got it.

MR BIZOS: This is a newspaper report in The Citizen. Did you and your wife regularly read The Citizen, Mr Derby-Lewis?

MR DERBY-LEWIS: Yes, Mr Chairman

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MR BIZOS: And it would appear that your wife was a regular contributor to The Citizen, not as regular as Die Patriot, but she was a contributor to this

MR DERBY-LEWIS: If Mr Bizos is referring, Mr Chairman, to the occasional letter which my wife used to submit to the editor, that is correct.

MR BIZOS: Yes. And please try and remember whether this report came to your notice, which is a summary of the debate in Parliament:

"Hillview bomber, Mr Koos Botha, should stop blaming the Conservative Party and its leaders for his actions, and he would then find that they had sympathy for him, Mr Daan du Plessis, CP Roodeplaat said yesterday.

Speaking in debate on the further Indemnity Bill he said Mr Botha had blamed a speech by CP leader, Dr Andries Treurnicht in which he said the third war of freedom had begun for inciting him to violence. Naturally, the third war of freedom has begun, said Mr Du Plessis, but the fact that I say this here today,

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does not oblige you to go out tomorrow and plant bombs.

There had been 30 000 people at the Voortrekkerhoogte meeting where Dr Treurnicht made the statement. How many of those people went and planted bombs? Dr Treurnicht had said that anyone who planted bombs did so at his own risk, knowing that he was contravening the laws of the land, and that he would have to bear the blame and the punishment. If Mr Botha had indeed blown up Hillview School, the question arose whether he had not known the consequences. Mr Botha had naturally been alone when he was finally brought to court. At that stage he had already kicked his colleagues in the face and cut himself off from them."

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Did this report come to your notice?

MR DERBY-LEWIS: Yes, Mr Chairman, in all probability.

MR BIZOS: Yes. Now before you decided to make yourself guilty of murder, did you go to your leader and say, ask

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specifically, leader, what is our party's policy in relation to killing people or doing damage to property or using violence?

MR DERBY-LEWIS: Mr Chairman, I testified previously that I had already discussed the moral basis of killing in the ongoing struggle against the anti-Christ and I have testified as to what my leader said.

MR BIZOS: Yes. But will you leave anti-Christ out for a moment and can we have a direct answer to the question. When you heard or read of this, did you go to your leader and ask him what is our policy in relation to acts of violence?

MR DERBY-LEWIS: No, I did not, Mr Chairman.

MR BIZOS: When you were discussing with your friend, Mr Walus, the plans in order to murder Chris Hani, did you say to him that there are public statements which clearly indicate that the Conservative Party is against violence?

MR DERBY-LEWIS: No, Mr Chairman, because that was not so.

MR BIZOS: Well, are you saying that Mr Prinsloo, who made these statements, was lying to the public of South Africa?

MR DERBY-LEWIS: Mr Chairman, Mr Prinsloo didn't make those statements.

MR BIZOS: I beg your pardon, Du Plessis, I beg your pardon.

MR DERBY-LEWIS: Mr Du Plessis made the statement.

MR BIZOS: I beg your pardon, yes.

MR DERBY-LEWIS: The second point I wish to make, Mr Chairman, is that if you have a look at the clipping, you will see at the bottom there, the last paragraph in that clipping, there is a quote:

"At that stage he had already kicked his
colleagues in the face."

I am not sure to which, to whom this is attributed, the report doesn't say that.

Then thirdly, Mr Chairman, I want to say here that the report says Dr Treurnicht had said that-

"Anyone who planted bombs did so at his own risk,
knowing that he was contravening the laws..."

as Mr Bizos correctly read out,

"... the laws of the land, and that he would have to
bear the blame and punishment"

This was done by all freedom fighters, they all contravened the law in terms of the war which is being waged. Mr Chairman, and they all committed crimes. So how can I be ... (intervention).

MR BIZOS: Do you mind answering my question my question, Mr Derby-Lewis.

MR DERBY-LEWIS: I have answered the question, Mr Chairman.

MR BIZOS: I will repeat it and I will ask the Chairman to direct you to answer it. Whilst you were discussing the manner in which you and Mr Walus were going to murder Chris Hani, did you tell Mr Walus that the record showed that the Conservative Party was against violence?

MR DERBY-LEWIS: I did not tell him that, Mr Chairman, no.

MR BIZOS: Why did you not tell him that if you knew the policy clearly? Did you not want to inform Mr Walus that he was about - you were discussing the commission of an act of murder, contrary to the policy of the body of which you were a senior member?

MR DERBY-LEWIS: Mr Chairman, we were clearly in a war-time climate, and that wasn't even necessary, according to my assessment, because it was quite obvious that we were in a war situation.

MR BIZOS: I didn't ask you whether you thought that we were or were not in a war situation. The question is why did you not tell Mr Walus that statements had been made by leading CP people that CP was against violence? Why did you not tell him that?

MR DERBY-LEWIS: Because, Mr Chairman, at the time that we discussed the act of war, the policy had changed completely, and

according to statements by various leaders it was clear that it was a different situation.

MR BIZOS: In your application, Mr Derby-Lewis, you said that the statements that influenced you to conspire and assist in the commission of the murder of Chris Hani, it was - were the monument speech and the Kimberley resolution. Can you point to a single public statement anywhere, after this disassociation of the Conservative Party from violence, can you show any other public statement by the CP that they had changed their policy as enunciated by Mr Du Plessis in Hansard at the time? Can you show a single statement? Can you show us in your application where a single statement was made saying that Mr Du Plessis was wrong?

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MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: He may have been correct when he said that in Parliament, but the policy has changed. Can you show a single statement?

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MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: Now who were you, after the office-bearers of the CP had clearly indicated that violence was not the policy of the CP, to second-guess their public statements, that the policy may have changed?

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MR DERBY-LEWIS: Mr Chairman, I did not have to guess, and I refer you to a report in the Rapport newspaper, dated the 11th of October 1992, and it is a report of the speech held by the late Dr Treurnicht at Paardekraal Monument in Krugersdorp. And Mr Chairman, the headline is very clear, and I will be submitting this bundle, Mr Chairman. The headline is clear -

"Treurnicht praat oorlog."

(Treurnicht discusses war).

that was the perception of the journalist who wrote the story. And Mr Chairman, what this report tells us of Dr Treurnicht's speech, the first paragraph reads as follows -

"The time is almost there that the Afrikaner volk will exclaim that they cannot do anything else than to go into war."

Sorry, Mr Chairman, the sound seems to go off and on while I am talking, I'm sorry, I have nothing to do with that.

Mr Chairman, then this report goes further and Dr Treurnicht spoke about how the "Boerekrygers 'n klipstapel" by Paardekraal opgerig het", that would (..indistinct) on the 12th of December 1880, as a symbol that they were going to fight to the end

Now Mr Chairman, I can tell you that at this function held at Paardekraal Monument on the 10th of October, "ons het ook klippe gestapel" That was a part of the ceremony.

Further, Mr Chairman ... (intervention).

MR BIZOS: What was the date?

MR DERBY-LEWIS: That was the 11th of October, is the report, Mr Chairman.

MR BIZOS: The 11th of October?

MR DERBY-LEWIS: That's correct, Mr Chairman.

MR BIZOS: Mr Derby-Lewis, I don't want to interrupt you, but may I draw your attention that the document on which I have referred you to in The Citizen, was after that. The debate in Parliament was after Paardekraal.

MR DERBY-LEWIS: Mr Chairman, I don't mind when the debate was held, but if one looks at the contents of Mr Du Plessis' speech, it is clear that he is actually repeating statements which were said in the past.

MR BIZOS: Mr Derby-Lewis, I asked you and I will ask you again, can you refer us to a single public utterance by anyone in the leadership of the CP which contradicted what was said by Mr Du Plessis as reported in The Citizen of the 22nd of October 1992, can you or can't you?

MR DERBY-LEWIS: Mr Chairman, I have already answered that question. I said ... (intervention)

MR BIZOS: You haven't answered that question.

MR DERBY-LEWIS: My answer was no.

MR BIZOS: Oh, I see. So your reference to the Paardekraal statement was not in answer to that question?

MR DERBY-LEWIS: Mr Chairman, my reference to the Paardekraal report was in elucidation of the situation which prevailed at the time.

MR BIZOS: The caucus of the CP, and Mr Du Plessis that spoke in its name in Parliament, obviously didn't know or did not interpret the Paardekraal speech that you speak about in the manner in which you do?

MR DERBY-LEWIS: Mr Chairman, I was an equal member of the caucus to the status of Mr Du Plessis.

MR BIZOS: And did you go ... (intervention)

MR DERBY-LEWIS: And that was his perception. Sorry, can I finish, please?

MR BIZOS: Yes, please do.

MR DERBY-LEWIS: And that was his perception at the time and he was in the speech clearly getting stuck into Mr Koos Botha, because of the fact that he had already been expelled from the party and that he was obviously in Mr Du Plessis' statements,

creating an embarrassment for the party by continually blaming Dr Treurnicht for something that was said in 1990. I am not blaming Dr Treurnicht, Mr Chairman, for something that was said in 1990.

The 1990 statement was the beginning, but this 1992 statement, Mr Chairman, was clearly a completely different ball-game.

MR BIZOS: The different ball-game was on the 12th of October. The caucus, your caucus member of equal rank to you on the 21st of October, said that the policy was still one of peace.

MR DERBY-LEWIS: Mr Chairman, obviously I can't speak for my colleague.

MR BIZOS: Right.

MR DERBY-LEWIS: And I think it would be necessary for him to be examined in this respect.

MR BIZOS: No, he is not applying for amnesty, you are.

MR DERBY-LEWIS: But Mr Chairman, it is clear that the statement has caused confusion, and I think that he must be called.

MR BIZOS: Has it caused confusion or is it the truth?

MR DERBY-LEWIS: It hasn't caused confusion in my mind, Mr Chairman.

MR BIZOS: I see.

MR DERBY-LEWIS: Because I am clearly aware of the situation which prevailed at that time.

MR BIZOS: You were a member of that caucus. After the 21st of October, did you attend the next caucus meeting and say how dare Du Plessis misinterpret our policy?

MR DERBY-LEWIS: Mr Chairman, I don't even know whether I was in a position to attend the caucus meeting, the next caucus meeting, because as I explained earlier, I attended the President's Council and we sat for two weeks, and then we were away for two weeks and I am not sure of the timeframe in which this speech was said.

MR BIZOS: Are you suggesting that you did not attend a single caucus meeting between the 21st of October 1992 and the 7th or the 10th of April 1993, when you in association with Walus, Mr Wafus, killed Chris Hani, that you didn't attend a single caucus meeting?

MR DERBY-LEWIS: I am not suggesting that, Mr Chairman, but I most certainly ... (intervention).

MR BIZOS: Does that mean that you did?

MR DERBY-LEWIS: I am not certain on which occasions I attended caucus meetings.

MR BIZOS: Never mind which occasion. Did you attend one or more caucus meetings after the 21st of October, yes or no?

MR DERBY-LEWIS: I am not able to say, Mr Chairman, because I am not sure of the timeframe.

MR BIZOS: I have given you the timeframe, Sir.

MR DERBY-LEWIS: Sorry.

MR BIZOS: Between the 21st of October 1992 and the 10th of April 1993, did you (intervention).

MR DERBY-LEWIS: Mr Chairman —

MR BIZOS: Please listen to the question. Did you or did you not attend a caucus meeting of the Conservative Party? 10

MR DERBY-LEWIS: I am not able to answer that question, Mr Chairman, for the simple reason that people who are aware of the procedures in Parliament, in any case, Mr Chairman, will be aware of the fact that to have a Parliamentary session in October of the year, would be an extraordinary session. It wouldn't be the normal operation of Parliament. Parliament then only once again, Mr Chairman, is prorogued in January or February, I believe, the opening of Parliament took place, and after that, Mr Chairman, there could have been a possibility of one meeting that I could have attended. But there is also a possibility that I didn't, I couldn't attend a meeting because I wasn't there when Parliament was in session. I am not sure of those dates. 20

MR BIZOS: Let's try another way. Did you attend any meetings of the executive of which you were a member of the Conservative Party between the 21st of October 1992 and the 10th of April 1993? 30

MR DERBY-LEWIS: Once again, Mr Chairman, I can't recall, because of the overlap in President's Council's sessions and Parliamentary sessions, and if my memory serves me correctly, I was elected to the executive of the Transvaal some time towards the end of 1992.

MR BIZOS: Well, here was a wonderful opportunity to make a maiden speech on the executive, by saying how could - how could my colleague, Du Plessis, mislead Parliament and mislead the people of the country when in truth and in fact, the war has begun, how dare he insult Koos Botha in that manner and how dare he deny that we are in a war situation and that we can permit acts of violence? Was that part of your maiden speech at the executive towards the end of 1992?

MR DERBY-LEWIS: Mr Chairman, to the best of my memory at no time have I heard Mr Du Plessis saying that we weren't in a war situation. There is nothing in his speech which indicates that

MR BIZOS: So you choose to place your own interpretation on the word, the clear words of Hansard and say that it was not a condemnation of violence?

MR DERBY-LEWIS: Mr Chairman, it was a reference to speeches in the past by Dr Treurnicht. It was not referring to a current statement of Dr Treurnicht and I don't know when the

statement that he is referring to in his speech, was made, but I am quite sure that it was made before October 1992.

MR BIZOS: Now has it not come (intervention).

CHAIRPERSON: Sorry, just for my own information, after October 1992 were there sessions of the President's Council, and if so, could you tell me when the President's Council normally met, please? 10

MR DERBY-LEWIS: I am not sure, Mr Chairman, because there was no normal dates.

CHAIRPERSON: Oh, I see.

MR DERBY-LEWIS: They would set the programme and then we would know that we would be sitting from this day to that day, for two weeks. That was the only thing that we knew that we would be there for a period of two weeks.

CHAIRPERSON: There was no calendar, no prearranged calendar of the sitting of the President's Council? 20

MR DERBY-LEWIS: Yes, there was, Mr Chairman, but it was never run in conjunction with the sittings of Parliament. It was, the President's Council was seen as a separate entity.

CHAIRPERSON: So then, if there was a calendar of the President's Council, you would be able to tell us when the sittings were? 30

MR DERBY-LEWIS: Certainly, Mr Chairman, I would.

CHAIRPERSON: You don't have that information with you now?

MR DERBY-LEWIS: Unfortunately not, Mr Chairman.

CHAIRPERSON: I am sorry to interrupt you.

MR BIZOS: Thank you, Mr Chairman, we will make arrangements, we will research that if Mr Derby-Lewis and his legal representatives don't.

Mr Derby-Lewis - no, you can talk to your counsel before I put my next question. I don't want to stop you.

MR DERBY-LEWIS: Thank you, Mr Chairman.

MR BIZOS: Do you want to talk to him?

MR DERBY-LEWIS: Thank you, Mr Chairman, my thing is going on and off, I just want to ... Mr Chairman, it is highly difficult to concentrate on what one is doing when these - the volume goes on and off all the time.

CHAIRPERSON: That is extremely unsatisfactory. I realise that Mr Derby-Lewis, and I think that it should be put right. It isn't fair that you have to wrestle and juggle with this and at the same time pay attention to what is being asked.

MR DERBY-LEWIS: Thank you, Mr Chairman.

MR BIZOS: Now may I ask this, why are you wearing the earphones, Mr Derby-Lewis, don't you understand my English?

(Laughter)

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MR DERBY-LEWIS: Mr Chairman, I have difficulty hearing what Mr Bizos is saying at times, because he doesn't talk out of his mouth, he talks within his mouth, and it comes over to me very blurred. (Laughter). It is only when he speaks for the audience that he seems to be very clear in his statements. (Laughter).

MR BIZOS: Mr Derby-Lewis, this is the first complaint I had of people not being able to hear me in 43 years. (Laughter and loud applause).

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JUDGE WILSON: Well, Mr Bizos, I have never known you to speak with your hand in front of your mouth, so often, for 40 years, as you have been doing this morning. (Laughter).

MR DERBY-LEWIS: Thank you, Mr Chairman. (Applause).

CHAIRPERSON: Can that be put right, Mr Derby-Lewis' earphone, can that be put right please.

JUDGE WILSON: Hasn't he got a new one?

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MR DERBY-LEWIS: Sorry, I didn't hear that, Mr Chairman.

CHAIRPERSON: I am told that you have got a replacement. Is it correct?

MR DERBY-LEWIS: I have now, Mr Chairman, and it seems to be in order.

CHAIRPERSON: Just stop immediately there are any difficulties.

MR DERBY-LEWIS: Thank you, Mr Chairman, I am just trying to locate the actual Hansard page where Mr Du Plessis spoke,

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amongst this batch that Mr Bizos gave us. Thank you, Mr Chairman, I have the, I have now the reference, it is on page 12806.

CHAIRPERSON: Yes, proceed, Mr Bizos.

MR BIZOS: What is it that you want to draw the Committee's attention to?

MR DERBY-LEWIS: It has gone off again. Pardon?

MR BIZOS: What is it that you want to draw the Committee's attention to?

MR DERBY-LEWIS: I want to draw the Committee's attention, Mr Chairman, to the following paragraph, where Mr Du Plessis is now speaking and he says that the reason why Koos Botha blames the CP, is because Koos Botha was at the Voortrekker Monument on the 26th of May 1990. He then goes further to say -

"My honourable leader has said repeatedly..."

Obviously, Mr Chairman, that is a reference to past statements, and in my opinion the statement by Dr Treurnicht at Paardekraal overrules anything that he may have said in terms of Mr Du Plessis' reference regarding violence.

JUDGE NGOEPE: Sorry, just repeat that?

MR DERBY-LEWIS: Mr Chairman, where Mr Du Plessis in his speech was attacking Mr Koos Botha, he attacked him on the

basis that Mr Botha used as justification for his deeds the speech by Dr Treurnicht at the Voortrekker Monument on the 26th of May 1990. And he said here -

"My honourable leader -"

He said further -

"My honourable leader has said repeatedly that nothing gives an individual the right to commit crimes or misdeeds."

But he is obviously, Mr Chairman, referring to statements that my late leader had said, at earlier dates, and as far as I am concerned, the speech at Paardekraal on the 10th of October overruled any repeated statements that the individual doesn't have the right to commit crimes or misdeeds, because Treurnicht was clearly speaking war.

JUDGE NGOEPE: I think I am going to, Mr Bizos, if you don't mind, I think with regard to this aspect, I think I must ask the witness a question. You seem to say that in his speech at the Monument - at the Monument, Dr Treurnicht did not call for violence.

MR DERBY-LEWIS: May I answer, Mr Chairman?

JUDGE NGOEPE: Yes.

MR DERBY-LEWIS: What I said, was that that speech launched the third freedom struggle, which already at that stage ... (intervention)

JUDGE NGOEPE: I am talking violence.

MR DERBY-LEWIS: No, no, but the freedom struggle was a violent struggle, Mr Chairman.

JUDGE NGOEPE: So you are saying already on the - at the Monument, with his speech at the Monument, he was already calling for violence.

MR DERBY-LEWIS: He was already calling, declaring the third freedom struggle - freedom struggle number one (intervention).

JUDGE NGOEPE: I am sorry, I am talking violence.

MR DERBY-LEWIS: Sorry. No, not at that stage, Mr Chairman.

JUDGE NGOEPE: Yes.

MR DERBY-LEWIS: Not in 1990.

JUDGE NGOEPE: Correct, yes. So

MR DERBY-LEWIS: He launched the freedom struggle.

JUDGE NGOEPE: Correct.

MR DERBY-LEWIS: That's right.

JUDGE NGOEPE: And please, I am talking about violence.

MR DERBY-LEWIS: Yes.

JUDGE NGOEPE: I have no problems with the struggle.

MR DERBY-LEWIS: Yes

JUDGE NGOEPE: As such, I understand his speech to be saying that, but you are saying, as I understand you, that he did call for a struggle, but at that stage he had not as yet called for violence to be used?

MR DERBY-LEWIS: That is correct, Mr Chairman.

JUDGE NGOEPE: Now you are saying at some stage you came to understand that the CP did call for violence to be used?

MR DERBY-LEWIS: Yes, that is correct, Mr Chairman.

JUDGE NGOEPE: Now my question is, normally when there is such a major shift in policy, the issue is debated, and if need be, vigorously, within any party. Now did such a debate take place within the Conservative Party between these two periods, between the speech at the Monument and the ultimate speech that you think called clearly for violence?

MR DERBY-LEWIS: Mr Chairman, there were no official discussions held by the Conservative Party, but if one looks at the overall climate, where the Conservative Party had already in August drawn up their plans for mobilisation, it was clear that they were preparing for a war

JUDGE NGOEPE: Mr Derby-Lewis, being an experienced politician yourself, would you not have - would you not expect

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that if the party makes such a major shift in policy, it would have to officially formally debate the issue?

MR DERBY-LEWIS: No, not necessarily, Mr Chairman.

JUDGE NGOEPE: Oh, I see.

MR DERBY-LEWIS: And I can say, just in further expansion, Mr Chairman, I can say that the debate about the war was going on virtually in all CP circles. People were talking, they were asking how can they now participate, what can they do, and you will see already from 1990, as I refer to in Appendix A, Mr Chairman, many people had already interpreted what was going on, even before it was even discussed, and they started blowing things up and performing acts of war.

JUDGE NGOEPE: So should I understand, us understand you to say that because there had not been an official, as you put it, official formal discussion, there had in fact been no official stance taken?

MR DERBY-LEWIS: No, Mr Chairman. As I mentioned in earlier testimony, the only person in the Conservative Party who is allowed to commit the Conservative Party to anything, without obtaining the approval of anyone within the party, is the leader of the Conservative Party, and Dr Treurnicht had done that

JUDGE NGOEPE: Thank you. I just wanted to clear that aspect

MR DERBY-LEWIS: Thank you, Mr Chairman.

MR BIZOS: Are you suggesting, Mr Derby-Lewis, that Dr Treurnicht committed the Conservative Party to violence without discussing it with anyone?

MR DERBY-LEWIS: Mr Chairman, I don't know what discussions Dr Treurnicht had, I wasn't fixed to him.

MR BIZOS: But

MR DERBY-LEWIS: But this speech held at Paardekraal and I have been given the whole speech, Mr Chairman, and what happened at Paardekraal has to be seen in the correct context. It was very clear that the venue of Paardekraal was even chosen for this - the closest that Dr Andries Treurnicht could come to a declaration of war without actually declaring the war, it was clear from this, and, Mr Chairman, it was clear that it wasn't only my perception, it was the perception of many other people, including the media.

MR BIZOS: Let us ask you this. Dr Treurnicht never told you that there was a change of policy to go over to violence?

MR DERBY-LEWIS: Dr Treurnicht told me, Mr Chairman, in terms of the first paragraph of this clipping -

"Die tyd is amper daar ..." (The time is
nearly there ...)

That was in October already, Mr Chairman -

"... dat die Afrikanervolk gaan uitroep

" (That the Afrikaner Volk will call
out. "

The Afrikaner nation. He wasn't talking about the CP - can I please just finish. That the Afrikaner Volk or nation is going to cry out that it cannot do anything else but to declare war

Mr Chairman, who is the Afrikaner volk, the Afrikaner nation? I am the Afrikaner volk. Those people sitting there are the Afrikaner volk, they are here in support of myself. The Afrikaner volk launched a fund to pay my legal costs, my legal expenses. It was not Dr Treurnicht. Dr Treurnicht only verified what was in everybody's heads in any case, Mr Chairman.

MR BIZOS: I will ask you the question again. Did Dr Treurnicht tell you personally that there was a change of CP policy from non-violence to violence? Yes or no.

MR DERBY-LEWIS: Mr Chairman, I am unable to answer all of these ridiculous questions in a straight yes or no context, because yes or no is not a satisfactory way of answering it.

CHAIRPERSON: No, it may be possible to say Dr Treurnicht never told me or he told me.

MR DERBY-LEWIS: Mr Chairman, he is saying that did Dr Treurnicht tell me personally. In other words, he is insinuating

that he expects Dr Treurnicht to take me one side and say there is a war.

CHAIRPERSON: Just answer that, just tell him that then.

MR DERBY-LEWIS: But I also want to say no, Mr Chairman, but I was present when he made the statement.

CHAIRPERSON: Yes.

MR DERBY-LEWIS: And he was talking to me as a member of the Afrikaner volk.

CHAIRPERSON: Quite right. We understand the answer.

MR DERBY-LEWIS: Thank you, Mr Chairman.

MR BIZOS: Right. Did Dr Hartzenberg ever tell you personally that the CP policy had changed from non-violence to violence? Yes or no.

MR DERBY-LEWIS: Mr Chairman, Dr Hartzenberg's statements are on the record of this court, of this Committee.

MR BIZOS: Please answer my question.

MR DERBY-LEWIS: He did not tell me personally, once again.

MR BIZOS: Thank you.

MR BIZOS: Did any other leader of the Conservative Party tell you personally that there was a change of policy by the CP from non-violence to violence?

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: Thank you. Now can we go to the next statement in The Citizen?

MR DERBY-LEWIS: Is this page 37

MR BIZOS: Page 4R. It is the same section, R3 - I beg your pardon, did I say R4 again? R3, a Citizen article on page 4, subsection (a), page 3.

MR DERBY-LEWIS: Subsection (a), page 3?

MR BIZOS: (a), yes

MR DERBY-LEWIS: Subsection (a), page 3, Mr Chairman, is a Citizen report regarding a reference by the AWB leader to Walus. Is that the one?

MR BIZOS: Yes. Yes.

MR DERBY-LEWIS: Page 3, right.

MR BIZOS: Now ...

CHAIRPERSON: There are two articles on page 3, which one are you referring to, Mr Bizos?

JUDGE WILSON: They run on.

MR BIZOS: Yes, Sir, they have to be

CHAIRPERSON: Oh, I beg your pardon.

MR BIZOS: You see there Walus is AWB member, ET, but then if you have a look at the paragraph on the right-hand side.

CHAIRPERSON: Yes, I see, so the bottom half is a continuation.

MR BIZOS: Is a continuation.

CHAIRPERSON: Thank you very much.

MR BIZOS: Yes.

"Mr Terreblanche said he condemned the assassination but that he understood the motive, the motive any White would have for killing Mr Hani. He disapproved of the attack because it was an assassination and not a kill in a real war, adding, 'if it had been a proper battle, I would have killed Mr Hani myself'."

And then he goes on.

Now did the leader of the AWB whose meetings you attended, or with whom you associated, ever tell you that assassination was part and parcel of the AWB's policy?

MR DERBY-LEWIS: Sorry, Mr Chairman, my thing has acted up again, I only got half of the question. Can Mr Bizos please repeat.

CHAIRPERSON: Yes, unfortunately, we will just have to be patient. We will just have to be patient, Mr Bizos, and

MR BIZOS: I am that and I will try my best not to ... (Laughter)

Did the man with whom you appeared on the same platform, with whom you marched and with whom you were praised, ever tell

you that before the murder, ever tell you that the AWB policy was in favour of assassination of political leaders, yes or no?

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: Good. I also want to ask you something. Did you as an officer and a gentleman to which you went to tremendous lengths to persuade us on in your lengthy evidence, Mr Derby-Lewis, isn't an assassination abhorrent to an army officer and a gentleman? 10

MR DERBY-LEWIS: Mr Chairman, in certain circumstances, anything is acceptable. If one studies the war there were very numerous cases where assassinations were planned by military men in terms of the war which was being waged.

MR BIZOS: Isn't the ethic to which apparently Mr Terreblanche was brought up on, that you kill in war, but you do not - you do not go about assassinating people, is that a distinction which never occurred to you as an officer and a gentleman? 20

MR DERBY-LEWIS: Mr Chairman, as far as Mr Terreblanche's ethics are concerned, I am not able to comment. As far as I am concerned, we were in a war-time situation, which justified any action for the defence and protection of your people's rights. Any action whatsoever.

MR BIZOS: You said, Mr Derby-Lewis, that Mr Terreblanche never told you that assassination was permissible. Is there any 30

other leader of any other right-wing political party or organisation, that told you that assassination was in order for his or her organisation?

MR DERBY-LEWIS: No, Mr Chairman, because I would never discuss that with anyone else, because of the extent to which the right had been infiltrated by the State.

MR BIZOS: So that no political organisation on the right ever told you that assassination was its policy?

MR DERBY-LEWIS: No, Mr Chairman, but they obviously carried out their own assassinations.

MR BIZOS: Please confine yourself to answers of my question, please.

MR DERBY-LEWIS: Mr Chairman —

MR BIZOS: So that we do not have to go off on a tangent. If you want to add anything, you have counsel sitting next to you who is making careful notes who can make them in due course. Please try and confine yourself to the answering the question, if you can.

CHAIRPERSON: The question was directed at you about a leader or leaders of right-wing organisations.

MR DERBY-LEWIS: I understood that.

CHAIRPERSON: And I think you should just confine yourself whether any leaders told you that it was their policy.

MR DERBY-LEWIS: Yes. I said no, Mr Chairman.

CHAIRPERSON: I can understand followers of organisations doing things.

MR DERBY-LEWIS: Yes.

CHAIRPERSON: But the question is now directed as to leaders of the organisation.

MR DERBY-LEWIS: And I answered that question in the negative, Mr Chairman.

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CHAIRPERSON: Yes.

MR BIZOS: Now if we could have a look at page 11 of the same bundle, 3(a).

MR DERBY-LEWIS: Page 11 of 3(a)?

MR BIZOS: Of R3, section A, page 11

MR DERBY-LEWIS: Page 11 I think I have it, Mr Chairman, yes.

MR BIZOS: Yes.

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"Clive's arrest was a great shock to CP leaders in Cape Town. The arrest of Mr Clive Derby-Lewis, member of the President's Council of the Conservative Party, in connection with the murder of Mr Chris Hani, was a great shock to the CP leaders."

And then -

"The CP at this stage does not consider any actions or steps to be taken against him."

And then the next paragraph says:

"Dr Andries Treurnicht, CP leader, who is convalescing in hospital after having a heart attack, only heard the shocking news yesterday morning. It was kept away from Dr Treurnicht until Dr Willie Snyman, CP MP for Pietersburg and a medical doctor, told him in hospital yesterday that he is somebody who was his confidante is a suspect in the sensational murder case and is being detained. Dr Snyman also said that everybody in the CP were shocked to hear about Mr Derby-Lewis' arrest. He was, however, not of the opinion that Treurnicht was very shocked because there is nothing in politics that upsets one to a greater extent. There is also nothing more known of the case against

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Mr Derby-Lewis. Dr Ferdie Hartzenberg, deputy leader of the CP, said yesterday it came out of the blue and it caught the CP off-guard."

Now the gentleman referred to in this (indistinct)?

MR DERBY-LEWIS. Yes, Mr Chairman.

MR BIZOS. Did they speak the truth, and more particularly, Dr Ferdie Hartzenberg, that your "possible involvement came out of the blue", and that the Conservative Party was taken by surprise that one of its leading members was alleged to have committed a murder?

MR DERBY-LEWIS. Mr Chairman, I don't know what Dr Hartzenberg said, but from what appears here, that is reported as to what he said, particularly as far as the quotation is concerned, and that is "uit die bloue" (out of the blue) and in other words it came out of the blue. But "-en het die KP onverhoeds betrap" (caught the CP offguard), doesn't appear to be his words, so I don't know what he said in the full context.

MR BIZOS. Well, in order not to delay these proceedings, at the commencement, Mr Derby-Lewis, we requested by drawing attention to all the statements said to have been made by leaders of the Conservative Party, whether they will be admitted or denied, that they were correctly reported or not. Have you and

your legal representatives taken any steps to ask these honourable leaders whether they were correctly reported or not during the course of last week?

MR DERBY-LEWIS: I think Mr Chairman, I will let my legal representative answer that question because he would have a much closer contact with them, because it is very difficult for me to converse with anybody in this situation.

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MR BIZOS: I accept that. Could the counsel for the applicant please respond to the request that we made in the beginning of last week, Mr Chairman?

MR PRINSLOO: The reply to that is no, Mr Chairman, we have not yet consulted with the leaders or people referred to.

MR BIZOS: May I request, Mr Chairman, that the Committee directs the applicant and his legal representatives to let us know as soon as possible, because this cross-examination cannot really be pressed home by Mr Derby-Lewis saying that he doesn't know whether they were correctly reported or not, and he may have to be recalled later. So can we please know, Mr Chairman, when we will be told whether the statements that we referred to on the first day, were made by the leaders of the Conservative Party or not.

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CHAIRPERSON: Is it possible to attend to this matter as expeditiously as possible, during the proceedings some time?

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MR PRINSLOO: We will do so, Mr Chairman.

CHAIRPERSON: Thank you.

MR PRINSLOO: We will respond to this.

CHAIRPERSON: Thank you. Can we move on to some other aspect, if it is not convenient to carry on questioning on these Press statements?

MR BIZOS: Yes, Mr Chairman, I will have to reorganise my examination.

CHAIRPERSON: You may continue putting these questions and in re-examination, maybe he will be able to clear it up.

MR BIZOS: Yes, I will put it on the basis that they have not been denied, Mr Chairman.

CHAIRPERSON: Yes.

MR BIZOS: And then my learned friend, counsel for the applicant can choose to let us know. If they dispute them I am assuming that they will call the friends of the applicant to dispute it.

CHAIRPERSON: Yes, alright. At any rate they will have the opportunity of re-examining their witness.

MR BIZOS: Yes.

CHAIRPERSON: After consulting whoever they wish to.

MR BIZOS: Yes. Then may we have a look at R3, Section H, page 3. You see this is from Beeld -

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"The Government is trying to link the CP to the murder of Mr Chris Hani by arresting a member of the CP and Dr Ferdie Hartzenberg, deputy leader said that yesterday. That was on the ..."

(indistinct) Now at that stage it would appear that Dr Hartzenberg believed that you were innocent and that your arrest was a "komplot" of the Government. Is that correct?

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MR DERBY-LEWIS: Apparently, yes, Mr Chairman.

MR BIZOS: Yes, that would be because you had kept your planning and execution of Chris Hani's murder from the acting leader of the Conservative Party.

MR DERBY-LEWIS: No, Mr Chairman, he was not the acting leader of the Conservative Party. This report says clearly "onder-leier van die KP", not acting leader.

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MR BIZOS: Well, thank you for that correction. At that time Dr Treurnicht was hardly in a position to make any Press statements, and the "onder-leier" made that on his behalf. In any event, the question is, that Dr Hartzenberg, never mind his correct designation, thought that you were innocent and the victim of a National Party Government "komplot" to falsely implicate you in the murder. Is that correct?

MR DERBY-LEWIS: From this report, yes, Mr Chairman.

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MR BIZOS: As far as you are concerned, the deputy leader of the Conservative Party knew nothing about your involvement in it even after your arrest.

MR DERBY-LEWIS: That is correct, Mr Chairman, because in terms of Section 29 I had no access to him to tell him anything about it, and as I testified earlier, I actually read out a copy of a statement which I eventually had to smuggle out of the Section 29 detention, in order to claim responsibility for the deed. 10

MR BIZOS: Now the gravamen of my question, Mr Derby-Lewis, is that he obviously knew nothing about your involvement.

MR DERBY-LEWIS: I replied to that in the affirmative, Mr Chairman, already

CHAIRPERSON: By that, I think I would like clarity, whether your involvement prior, in other words, Dr Hartzenberg knew nothing about the fact that you were planning to do what had happened? 20

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: He (intervention).

JUDGE WILSON: Mr Bizos, are you going on with what happens thereafter on this article?

MR BIZOS: "He said in the debate about the State President's budget, he asked whether Mr Clive Derby-Lewis, the CP member of the 30

President's Council who was this weekend arrested in connection with the murder of Mr Hanı, whether he was going to be charged, and what he is going to be charged for."

Further evidence that he knew nothing about it and he cast aspersions about the integrity of the persons who arrested or caused his arrest. Is that correct?

MR DERBY-LEWIS: That's correct, Mr Chairman.

MR BIZOS: And then he goes on to say that -

"Dr Hartzenberg had said that Mrs Winnie Mandela "

He mentioned two names in the London Times of two ANC members who allegedly were involved with the murder of Mr Chris Hanı, but the Government is too scared to arrest them. Tell me, you didn't co-operate with two ANC members in killing Mr Chris Hanı, did you?

MR DERBY-LEWIS: No, Mr Chairman, I did not.

MR BIZOS: Yes, well, we can disregard that report then.

"The Government will not also arrest Mr Mokaba, the leader of the ANC Youth League, who said that Boere must be murdered. The CP can be investigated

concerning the murder of Mr Hani,
because nothing will be found there,
because he is not involved with murders,
the ANC should be investigated."

Well, that's a false statement that was made by Mr Hartzenberg,
false in fact, he - I am not saying for one moment that he knew of
your involvement, but it was false in fact, is that correct? 10

MR DERBY-LEWIS: Yes, but understandable in the
circumstances, Mr Chairman.

MR BIZOS: I see, yes. What is understandable? That Dr
Hartzenberg should blame the ANC and the National Party
Government and not you? Is that what's understandable?

MR DERBY-LEWIS: No, I didn't say that, Mr Chairman, because
he wasn't talking about me, he was talking about the ANC.

MR BIZOS: Yes, he said that the ANC and the Government were
responsible when you knew - when you know that you and Walus
did it alone. 20

MR DERBY-LEWIS: He didn't say the ANC and the Government
were responsible, Mr Chairman. It is clear from this statement
that he was pointing fingers at the ANC only.

MR BIZOS: Oh, and that the Government was too afraid to
investigate it?

MR DERBY-LEWIS: That's correct, yes. 30

MR BIZOS: Yes, very well. Now let's - can we please go to the next one Section C, page 1, in The Citizen. R3, page 1

MR DERBY-LEWIS: I have it, Mr Chairman.

MR BIZOS: "CP Derby-Lewis Smokescreen.

The arrest of Conservative Party
President councillor, Mr Clive Derby-
Lewis . "

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It is the same speech, but reported in another paper -

"...CP Deputy Leader, Dr Ferdie
Hartzenberg said yesterday. Speaking
during the debate on the State President's
Vote he said that the CP did not kill
people and that the Government would
not find anything out which it could hold
against the party."

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That too turned out to be incorrect.

MR DERBY-LEWIS: That's right, Mr Chairman, because he was not aware of the details.

MR BIZOS: He was - not of the details, he didn't know that one, and he was shocked, that one of its leading members had made himself guilty of murder.

MR DERBY-LEWIS: No, he wasn't shocked at that. He was shocked that I was arrested on suspicion of having committed the

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murder. Because he didn't know at that time whether I had committed a murder or not.

MR BIZOS: Oh. Are you going to say that if he knew that you had committed a murder, he would have sent you a congratulatory telegram? (Laughter)

MR DERBY-LEWIS: I am not saying anything, Mr Chairman, because that would be pure speculation.

MR BIZOS: Now what I want to put to you, Mr Derby-Lewis, that you are denying the obvious and that your denial is false. Not only are there these cuttings, but also we will show a full interview with the leader of the Conservative Party, of an interview between Mr Lester Venter and him on the SABC, in which your leader in the Conservative Party, dissociates himself and the Conservative Party completely from the policy of violence and from you, if in fact you were shown to be guilty. Have you any comment to make if those - if the facts as I've put to you up to now are correctly reported, and if that interview with Mr Lester Venter is shown to the Committee?

MR DERBY-LEWIS: Mr Chairman, could Mr Bizos, before I answer that question, tell me what date the interview was carried out?

MR BIZOS: Shortly after your arrest.

MR DERBY-LEWIS: What date, Mr Chairman?

MR BIZOS: The tape, Mr Chairman, is in the possession of the Commission. From the content it is clear that it was shortly after the funeral of Mr Chris Hani, but we will establish the precise date.

MR DERBY-LEWIS: Why I ask the question, Mr Chairman, is because in his introduction of this question, Mr Bizos once again referred to Dr Hartzenberg as the leader of the Conservative Party.

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MR BIZOS: Yes.

MR DERBY-LEWIS: And it would depend on the date of that interview as to confirm the veracity or otherwise of that statement.

MR BIZOS: Well, let me just change my question and say the deputy-leader of the Conservative Party. (Laughter). If it makes so much difference to you. Don't become involved with minutiae, Mr Derby-Lewis, please answer the gravamen of the question.

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CHAIRPERSON: I think Mr Bizos he is entitled to have an idea.. (intervention)

MR BIZOS: .. of the date.

CHAIRPERSON: .. about when that statement was made.

MR BIZOS: Shortly after the day.

CHAIRPERSON: It can be cleared up.

MR BIZOS: We will give him the precise date.

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CHAIRPERSON: Yes, very well.

MR BIZOS: After the adjournment.

CHAIRPERSON: Yes, yes.

MR DERBY-LEWIS: Because as I testified, Mr Chairman, only the leader of the Conservative Party is allowed to make policy statements without first going to an executive and getting their approval. So it is very relevant that date.

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CHAIRPERSON: Yes.

MR BIZOS: Are you saying that the deputy leader of the Conservative Party, if he is recorded as having said, that the Conservative Party would have nothing to do with violence, and it was not its policy, that he is not an authorised person to speak on behalf of the party, whilst the leader is in hospital with a heart attack? Is that what you are saying?

MR DERBY-LEWIS: What I am saying is, Mr Chairman, is that the constitution clearly states what the procedure is, and I have explained that procedure.

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MR BIZOS: Please answer the question.

MR DERBY-LEWIS: And that is that the leader alone can make statements without first going back to an executive and clearing it with them.

MR BIZOS: Are you saying that the deputy leader of the Conservative Party can not, has no authority to say what the

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policy of the party is in relation to violence whilst the leader is in hospital with a serious heart attack?

MR DERBY-LEWIS: Mr Chairman, as I said, I am not aware of the date. I don't know whether Dr Treurnicht in fact was in hospital at that time.

MR BIZOS: Yes.

MR DERBY-LEWIS: Can we wait until we have the date of the interview, then I can answer that question.

MR BIZOS: Yes, well, it is readily available, it is just not with the Commission, it is not

JUDGE WILSON: As I understand what Mr Bizos is saying, is not that the deputy leader is creating new policy, but the deputy leader is merely stating what the policy of the party is. He is not making any new rulings, he is not making any new decisions.

MR DERBY-LEWIS: That is correct, Mr Chairman.

JUDGE WILSON: That is your question isn't it Mr Bizos?

MR BIZOS: Yes.

MR DERBY-LEWIS: And that is correct, Mr Chairman

CHAIRPERSON: If you are going to move on to something else, perhaps we might consider that to be this an appropriate stage to take the adjournment.

MR BIZOS: I don't know what time you intend taking the adjournment.

CHAIRPERSON: I'm sorry. The Committee will take an adjournment for 15 minutes.

COMMITTEE ADJOURNS

ON RESUMPTION:

CLIVE DERBY-LEWIS: (Still under affirmation).

CROSS-EXAMINATION BY MR BIZOS. (cont)

Will you please turn to page R3, page 20 to page 21? This would be the sections, all of them. I am going to put a general question. R3 is in - I just want to see the section, Mr Chairman. The index is not in any particular section, Mr Chairman. If you have a look at page 20, statements by Conservative Party contradicting, it is - oh, I beg your pardon. I am looking at my notes in cross-examination rather than R3 proper. I beg your pardon. Give me R3, please, and the index.

MR MPSHE. Mr Chairman, whilst Mr Bizos is going through his documents, may I request the Committee to release the gentlemen who were warned to be here today, that is the policemen, Mr Deetliefs, Pieters and Beegman, with the rider that we shall keep in touch with their lawyers whenever they are needed. Thank you.

CHAIRPERSON: Mr Bizos, are you in a position to give some indication as to when you may require these witnesses?

MR BIZOS: Mr Chairman, certainly not today. What I would suggest, with respect, that they be excused. They have a legal representative at Brakpan. The Commission counsel has his number, and that we will give them reasonable notice when they would be required by the Commission.

CHAIRPERSON: Has this been conveyed, Mr Mpshe, to the gentlemen concerned? 10

MR MPSHE: It has been conveyed, Mr Chairman.

CHAIRPERSON: Well, let it be placed on record, that those who have been subpoenaed to attend these hearings and who are here this morning, that you will not be required this morning and that your attorney will inform you and give you adequate notice as to when you will be required. Until then you are excused from further attendance.

MR MPSHE: Thank you, Mr Chairman. 20

CHAIRPERSON: Thank you. What section are we now going to deal with? R3, section what?

MR BIZOS: I am trying to save time and I do not want to put all the statements that have been placed before the Committee to the witness at this stage, because many of them are repetitions of a widely reported statement made in Parliament. So it would be repetitive for me to read them out. I merely want to ...
(intervention). 30

CHAIRPERSON: Well, you don't have to read them out. You can just give the reference.

MR BIZOS: Yes, Mr Chairman. The further ones are to be found at R3, Section F, page 1 of The Citizen, in the - in Section

JUDGE WILSON: Haven't you asked him a great many questions about F1 already, Mr Bizos? 10

MR BIZOS: I want to leave them out for the time-being, Mr Chairman.

CHAIRPERSON: Well, you may proceed.

MR BIZOS: And we will come back because we are now in a position to really - to really get down to indisputable evidence in relation to CP policy. Although the video-machine is not here, we have a transcript of what is said and we want to hand that to, and I am going to put the contents of that to the witness as to whether he agrees or disagrees with it and what the position was. 20

CHAIRPERSON: Would you rather not to do that after he has had a chance of seeing the video?

MR DERBY-LEWIS: Please, Mr Chairman.

MR BIZOS: There is no machinery now available to show it, but the video has been given to the other side, I understand. It will be made available to the Commission.

CHAIRPERSON: Oh, they have seen the video?

MR PRINSLOO: No, Mr Chairman, we have not seen the video. 30

CHAIRPERSON: Pardon?

MR PRINSLOO: We have not seen the video, it is still in possession of the other side.

CHAIRPERSON: You were given it?

MR PRINSLOO: We were given it, we did not look at that, at a very brief time.

CHAIRPERSON: Yes.

MR PRINSLOO: It was given and taken back again, Mr Chairman.

MR BIZOS: I am instructed, Mr Chairman, that two copies were available, we took one and they took one.

CHAIRPERSON: Yes. Anyway, let's not quibble about whether you were given and taken away, the fact of the matter is that you haven't had a chance of seeing it.

MR PRINSLOO: That's correct, Mr Chairman.

CHAIRPERSON: Alright. Now if you wish to put questions on the statement on the transcript, they have got a copy of that, have they?

MR BIZOS: I am going to give it to them now, Mr Chairman, it has just arrived.

CHAIRPERSON: Once again, Mr Derby-Lewis, you are going to be questioned on a transcript of a document.

MR DERBY-LEWIS: Which I haven't seen, Mr Chairman.

CHAIRPERSON: I understand. If questions are put which you are able to answer, you will answer. Where you can't answer, then you will say so. The reason for that obviously being that you would like to see the video or the transcript itself.

MR DERBY-LEWIS: Thank you, Mr Chairman.

MR BIZOS: There is internal contents in the video as to when the date was, Mr Chairman. You will see that there are references to events. It is an **Agenda** programme and Penny Smythe says:

"Good evening and welcome to **Agenda**
on Tuesday."

On what day were you arrested, Mr Derby-Lewis?

MR DERBY-LEWIS: On Saturday, the 17th of April, Mr Chairman.

MR BIZOS: Well, you may be able to infer the date from the contents, Mr Chairman.

"The assassination of Chris Hani and the subsequent arrest of senior Conservative Party MP, Clive Derby-Lewis, has rocked the CP. To discuss the implications of these and other events, our political correspondent, Lester Venter, is joined by the CP's deputy leader, **Dr Ferdie Hartzenberg** in Cape Town."

Apparently, Mr Chairman, the set is now here, so we may be able to run it contemporaneously. Is that so, Mr Chairman, can the video person put it on?

CHAIRPERSON: Is there somebody who can answer?

LADY: You will be able to see it, ja.

CHAIRPERSON: How long will it take for you to put it right?

LADY: Five, 10 minutes.

CHAIRPERSON: Call us immediately you are ready to do so.

JUDGE WILSON: Before we do that, Mr Bizos, are you giving this a number?

MR BIZOS: Yes, Mr Chairman. I think the (indistinct - not speaking into microphone) the Commission is the keeper of the index of the documents, I hope, Mr Chairman, I don't know what the next number is going to be.

CHAIRPERSON: R6 perhaps.

MR BIZOS: So this would be R6.

MR MPSHE: Mr Chairman, you can refer to it as R6. R6.

CHAIRPERSON: Yes. Well, call us as soon as you are ready.

COMMITTEE ADJOURNS

VIDEO APPARATUS BEING INSTALLED

ON RESUMPTION:

CLIVE DERBY-LEWIS: (Still under affirmation)

CROSS-EXAMINATION BY MR BIZOS: (cont)

Yes, Mr Chairman, I am instructed that - you will see on the screen the first page, where it is a little jumpy apparently but once you have -there is nothing wrong with the sound, and once we have the transcript, which I am sure is a correct one, we will - may just have to suffer the bad picture, and then we will go on to the Agenda programme. If there is any jumping there as well, it will not be prejudicial because of the transcript we have, I submit, and I will ask them to carry on.

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CHAIRPERSON: Yes.

VIDEO OF AGENDA:ELLEN ERASMUS:

"... has again voiced his party's disapproval of the arrest of Mr Clive Derby-Lewis in connection with the Hani assassination, a standpoint which brought a response today from the Police:

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MR FERDIE HARTZENBERG:

We are upset about the whole situation because the Government has changed their attitude three times now. In the first

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instance they said they arrested Mr Clive Derby-Lewis as a suspect. Then they said they are detaining him to question him, and now he is being detained in terms of Section 29 of the Act. We don't know what the position is, because it seems to us that they can't build up a case against him and we think that they should rather investigate the allegations of Mrs Winnie Mandela, who said that the ANC was responsible for the murder on Mr Hani.*

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MR BIZOS: That was part of the news section. We will now move on to the **Agenda**. It is not necessary really to confirm it, but will you agree that that was Dr Hartzenberg speaking, Mr Derby-Lewis?

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MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: Yes. Yes?

VIDEO CONTINUES:

PRESENTER - PENNY SMYTHE:

"On **Agenda** tonight the Conservative Party (indistinct - voice fades ...)
following the Hani assassination.

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(Indistinct ...)* (Recording cannot be heard to transcribe)

DR FERDIE HARTZENBERG

*(Indistinct ...) in South Africa, because the government and the ANC has already agreed on a constitution-making body on a transitional government, but now the ANC announced that they are going with a mass action until the government has promised the date of the election. And the fact is that they create the violence. Because their leaders, they made statements and acts, they killed people at the funeral yesterday, nine people were killed; 19 before the time, and they regard it as a success, and we think it was a total failure from a point of view of law and order and maintenance and stability.

MR VENTER

Forgive me for interrupting you. I hear what you say that the Conservative Party is not involved in planning the violence,

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but how do you account for the fact then that two of your members have been associated, and these are members of the party, these are public representatives, these are not people elsewhere in local (indistinct) of supporters.

DR FERDIE HARTZENBERG:

(Indistinct) It is not - the party didn't plan any act, actually the party said in all its meetings, at its congresses, that our aim is to create a political situation in South Africa where there will be peace and stability.

MR VENTER:

But if it is not the party, how does it happen, Dr Hartzenberg?

DR FERDIE HARTZENBERG:

Well, it happens all over the world.

MR VENTER: Political parties?

DR FERDIE HARTZENBERG:

Political parties all over the world. Well, a member of the National Party killed a labourer on his farm the other day. Is that the National Party, means that the

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National Party is involved in violence and killings? It happens all over the world and all over this country.

MR VENTER:

So your point is that there isn't a pattern developing, that there isn't a culture of violence?

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DR FERDIE HARTZENBERG

No, not in the Conservative Party.

MR VENTER:

If one looks at the sort of statements that are made by the leadership of the party, yourself included, is the statements the talk repeatedly about the need for resistance, armed resistance - I had a look through the files there is a file of Press cuttings, all of the same direction. Now admittedly none of those are a direct call to arms, but is not the open-ended nature of this sort of threatening talk, amounting to a tacit approval of violence?

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DR FERDIE HARTZENBERG:

No, no, not at all. You know, our nation,

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the Afrikaner nation has a history of protest and sometimes they used weapons to protest, but that is not to make a war, but to make sure that the people know that we are serious and the fact is, that we has a right as a nation to freedom and self-determination. And what is happening at the moment in the country, points to a situation where the Communist is going to take over this country, and that we will never accept. And therefore, we say if that happens in South Africa, it will not be accepted by our nation, and therefore, we say at the beginning of this century we fought a war against the biggest country in the world, for our freedom. And don't push us too far because if you take that risk, that might happen again and that is why the Conservative Party put our case, we made the statement and we propose the policy just to prevent that situation.

MR VENTER:

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So you are saying if, if this take-over that you are talking about, then a violent resistance to it. So it is a situation that hasn't arisen yet?

DR FERDIE HARTZENBERG:

Look, Mr Venter, we have watched the news tonight and we have seen the violence in Yugoslavia. It is being created as a result of a political situation, and the Government and the ANC want to create the same situation in South Africa. And we will not be responsible for what is going to happen if that situation is created in South Africa. We warned them, but we are not going to accept a Communist government over our nation.

MR VENTER:

I would like to return to that point, but talking about the news, the item relevant there was that the European Parliament is going to investigate right-wing connections between Europe and South Africa. Now this flows from the

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connections of members such as Mr Derby-Lewis and the various organisations.

DR FERDIE HARTZENBERG:

Ja.

MR VENTER:

Any comments on this investigation, that will touch your party?

DR FERDIE HARTZENBERG:

If you will allow me I will answer this one in Afrikaans.

MR VENTER:

Please.

DR FERDIE HARTZENBERG:

Dit is vir my 'n groot verrassing dat hulle nou die konneksie tussen mnr Derby-Lewis en sekere regse groepe in Europa wil ondersoek. Hoekom ondersoek hulle nie die konneksies tussen politieke leiers in Afrika met Kommunistiese Partye in Europa nie? Hoekom ondersoek die Europese Parlement nie die uitlatings wat mev Winnie Mandela gemaak het, naamlik

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dat die ANC verantwoordelik is vir hierdie moord en dat sy twee name genoem het, en dat hulle nou daarvoor begaan is. Ek dink hierdie hele poging is daarop gemik om die aandag af te trek van die geweld wat veroorsaak is deur die Regering en die ANC. Hulle is verantwoordelik daarvoor. Nou word daar 'n sondebok gesoek.

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MNR VENTER:

Maar die Europese Parlement (onduidelik) en hulle sameswering (onduidelik).

DR FERDIE HARTZENBERG:

Die Europese Parlement wil graag hê dit wat die Regering en die ANC voorstel moet plaasvind in Suid-Afrika, en hulle weet net so goed soos ons weet, hier is te veel weerstand daarteen, nie net van ons nie, maar van baie ander partye, nasies, state in Suid-Afrika wat nie die situasie wil hê nie.

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MR VENTER:

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Talking about resistance, Dr Hartzenberg,
and before you leave the Afrikaans
..(intervention)

DR FERDIE HARTZENBERG:

Ja.

MR VENTER:

You said yesterday in Parliament "die
volk sal in opstand moet kom teen
oorname". The nation will have to come,
a rising resistance against the take-over
of the ANC and the SACP. Do you accept
that such a take-over might be the logical
democratic outcome of an open election
in South Africa?

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DR FERDIE HARTZENBERG:

Well, I don't think there will be an open
election in South Africa.

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MR VENTER:

Why not?

DR FERDIE HARTZENBERG:

In the first instance because
as I have said just now, the Government
and the ANC already agreed on the

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election of a constituent assembly and on a transitional executive council

MR VENTER:

Is that not an election?

DR FERDIE HARTZENBERG:

That is not an election if now they must negotiate it and they must determine whether other parties also support it. But now the ANC announced that they are going with mass action to determine these things. In other words, they are not interested in negotiations.

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MR VENTER:

Does that mean that you are opposed to an open free election in the country?

DR FERDIE HARTZENBERG:

Of course, we believe that there must be elections for the nations and the states who prefer to be free and have self-determination.

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MR VENTER:

If the drive towards negotiations which it clearly is at the moment, is to the

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creation of such an election, what is the CP doing in those negotiations?

DR FERDIE HARTZENBERG:

Laat ek net vir jou een ding vertel, en dit is, minstens ons volk is nie te vinde vir 'n oorheersing deur die ANC en die Kommunistiese Party of enigiemand anders nie. Ons is nie die enigste nie. Daar is ander state en ander volke wat dieselfde wil hê en ons doel is om juis dit by die onderhandelingsafel duidelik te stel, sodat daar voorsiening voor gemaak kan word. En as daarvoor voorsiening gemaak word, dit is wat ons voorstel, dat state en volke wat vry wil wees en selfbeskikking wil hê en onafhanklik self wil wees, dat hulle moet toegelaat word om te doen. Alleen dan kan jy vrede in Suid-Afrika hê, maar as 'n meerderheid 'n klomp volke wil oorheers, sal jy nooit vrede in Suid-Afrika hê nie. En dit is presies wat ons by die

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onderhandelingsstafel voor gesorg het dat selfbeskikking op die lys kom.

MR VENTER:

Granted. But if the negotiations carry on the track that they are at the moment, and that is the end goal being immediate, end goal being an open election, are you saying that the Conservative Party will pull out of those negotiations?

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DR FERDIE HARTZENBERG:

We have only one point on our agenda, and whether we fight elections or we participate in Parliament or in any form or in mobilisation, we have only one point on our agenda, and that is the freedom and self-determination of our nation.

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MR VENTER:

Dr Hartzenberg ... (intervention).

DR FERDIE HARTZENBERG:

And if it becomes clear that negotiations will not deliver that, then it will be meaningless to participate, then we will

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sign our own funeral arrangements and we are not going to do that, we are not prepared to do that.

MR VENTER:

Dr Hartzenberg, thank you very much.

That is from us in Parliament in Cape Town, back to you, Penny."

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MR BIZOS: Mr Derby-Lewis, to date this interview you will see that on the first page, "that the funeral yesterday", it is well-known and it will be shown on another video that the funeral was on the 19th. So please assume that this interview was on the 20th of April 1993. Now I want to read to you on page 1 of the transcript, I beg your pardon, it is page 2. Page 1 of the Agenda interview.

"Is there a culture of violence developing in the Conservative Party?"

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And the answer is:

"No, not at all, Mr Venter, the Conservative Party has never since its inception planned acts of violence. Actually the planning of the Conservative Party has at its aim to prevent violence in the country by offering a political

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solution that we would create peace and stability and prosperity in South Africa."

Do you agree or disagree with that policy formulation of the Conservative Party, spoken by Dr Hartzenberg?

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: You agree with that? 10

MR DERBY-LEWIS: Yes.

MR BIZOS: Now and the - on the third page of the transcript -

"If one looks at the sort of statements that are made by the leadership of the party, yourself included, these are statements that talk repeatedly about the need for resistance, armed resistance. I have looked through the files, there is a pile of Press cuttings, all to the same, of the same direction. Now admittedly none of those are direct calls to arms, but it is not an open-ended nature of the sort of threatening talk amounting to tacit approval? 20

No, not at all"

Do you agree with that?

MR DERBY-LEWIS: Mr Chairman, no political leader would go on record as stating that he supports violence. I agree with that statement.

MR BIZOS: No, the question was ... (intervention) 30

MR DERBY-LEWIS: As put by Dr Treurnicht, I agree.

MR BIZOS: Are you saying - are you saying that Dr Hartzenberg was lying?

MR DERBY-LEWIS: Mr Chairman, I am not saying anything of the sort and Mr Bizos knows that. I am saying that no matter what the circumstance, no political party leader would go on record as propagating violence, even if the objective was violence.

MR BIZOS: Let's us examine that. Let us examine that, Mr Derby-Lewis. First of all, the statement on the first page -

"No, not at all, Mr Venter ..."

That paragraph deals with the questions of whether there was a policy of violence, and he says for a culture of violence and he says "no". Then it is put to him -

"Well, you may say no but there are threats of resistance and armed resistance and threatening talk. Does that not mean that the party has a policy of violence".

He says -

"No, not at all."

You say that you accept that this is what Dr Hartzenberg said, correct?

MR DERBY-LEWIS: The official policy of the party, yes.

MR BIZOS: I see. So did - are you now saying that Dr Hartzenberg gave the policy that the CP was giving out, but he was being untruthful to the people of South Africa by saying that there was no culture of violence and that this talk did not mean that the CP was for violence, was just for the benefit of misleading the public?

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MR DERBY-LEWIS: No, Mr Chairman, it is clear from what Dr Treurnicht says here that he was responding to the statement by Venter which reads as follows:

"But is not the open-ended nature of this sort of threatening talk amounting to tacit approval of violence?
No, no, not at all."

MR BIZOS: Yes, Well, is that true or is it untrue?

MR DERBY-LEWIS: Mr Chairman, I fail to understand why Mr Bizos didn't continue on the first page with Dr Treurnicht's words, because there I think he categorises it.

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MR BIZOS: No, please, let me ask the questions that I want to ask the way I want to ask them. You have counsel and he can ask you questions the way that may be more suitable to you. Please answer my questions as I put them to you.

JUDGE WILSON: Can't he answer them the way he wants to answer them, Mr Bizos? (Laughter).

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MR DERBY-LEWIS: Apparently not, Mr Chairman. (Applause).

MR BIZOS: He can answer them but provided it is an answer, and what I am suggesting is that it is not an answer. The statements are categorical statements that there was no culture of violence. I want to know whether that is true or untrue. He said that it is true. Now does that mean that what Dr Hartzenberg said in those two passages is incorrect, and was he telling or misleading the public of South Africa, yes or no? 10

MR DERBY-LEWIS: Not at all, Mr Chairman.

MR BIZOS: Not at all?

MR DERBY-LEWIS: No.

MR BIZOS: Right. If you say that he was not misleading them, then the statements can't be true. A leader cannot both say that there was no culture of violence and you tell us that it is the truth, if you - and yet say that there was a hidden policy. 20

MR DERBY-LEWIS: Mr Chairman, Dr Hartzenberg says in his second paragraph after the paragraph that Mr Bizos quoted -

"The violence is not in the Conservative Party, it is outside the Conservative Party."

So the Conservative Party didn't need to have a policy of violence, it was already there, Mr Chairman. And I want to remind this Committee that I have testified earlier, and it looks as 30

though I will have to repeat what I said during my testimony. I testified earlier that at a speech held at the finalisation of the CP's mobilisation campaign in Pretoria on the 19th of March, Dr Treurnicht said the following:

"Communism ..."

And this is bundle A3, Mr Chairman, and it is item, page 7, and it states the following —

CHAIRPERSON: The reference which bundle, you said A3?

MR DERBY-LEWIS: A3, Mr Chairman, it is actually titled by us bundle C and it is to do with CP mobilisation.

CHAIRPERSON: Sorry. Thank you.

MR DERBY-LEWIS: Thank you, Mr Chairman, it reads as follows:

"Communism in South Africa is alive and well and the mobilisation will oppose the blatant challenge of the ANC, SACP, APLA, through co-ordinated action and resistance, where necessary, in the interests of our people, our freedom and our country."

He quoted an ANC spokesman as saying the following:

"For Communists even peace is war, negotiations is a site for the struggle.

Negotiations is war and of course, war is war."

Then it says further, Mr Chairman -

"Dr Treurnicht's reaction to this statement was as follows: do the Mandelas, Hanis, Tambos, Ronnie Kasrils and the Ramaphosas think they will be able to carry out their plans without resistance? If they believe that they can paralyse this country and make it ungovernable, do they think that there is no possibility of a counter-strategy? We can also say the following: 'those who live by the sword must beware that they do not die by the sword'."

I think it is clear, Mr Chairman, from that statement that Dr Treurnicht wasn't talking about a garden party where everyone was going to sit around and chat and have tea and what-have-you.

Mr Chairman, I ask the indulgence of this Committee because I am going to also submit to the Committee - I don't know whether it has already been distributed, another series of clippings, also regarding the whole aspect of CP support for

myself as a result of this action. If we can just ask Mr Mpshe to give us a series number for it.

MR MPSHE: F.

MR DERBY-LEWIS: It will be F according to Mr, to my

MR PRINSLOO: The last time it was E, Mr Chairman, so I think it will be allocated F.

MR DERBY-LEWIS: Bundle F. And in this bundle, Mr Chairman, and this is page number 11, of the bundle. Sorry, Mr Chairman, if I can just organise that you receive a copy of that. Would you prefer that before I quote of this let you have the bundle, Mr Chairman, because it is ready.

CHAIRPERSON: Let's try and proceed as fast as we can and let's

MR DERBY-LEWIS: Yes, let's carry on, and let you have it. If somebody can just collect it and distribute it.

CHAIRPERSON: Yes.

MR DERBY-LEWIS: Thank you, Mr Chairman. On page 11 which is continuation of page 10, which is the report in the Rapport of the 18th of the 4th 1997, no, sorry, Rapport, can't be 1997, must be 1993. If I can just correct that page 2 of that report is on page 11, Mr Chairman, and this is a statement by the official spokesman for the Conservative Party, Dr Pieter Mulder - and it reads as follows:

"Dr Pieter Mulder, MP of Schweizer-Reneke, and the CP's official spokesman, yesterday evening said he cannot react at this stage because he does not know whether or not Mr Derby-Lewis was arrested on a charge and whether he was only detained for questioning. He said he questioned Mr Derby-Lewis with regards to rumoured connections with the Walus brothers and he gained the impression that there had been such an association in the past."

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I think it is also material to mention, Mr Chairman, seeing that the whole question of the period ... (intervention)

MR BIZOS: Mr Chairman, I have patiently listened to the handing-in of documents, which they didn't even have the courtesy to give us a copy of. In answer to a simple question and I would appeal to the Committee, Mr Chairman, not to give this witness his head from time to time to avoid answering questions, by quoting at length from documents.

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The question was a simple one. We are on page 1 of the transcript of the report of Agenda and the question was, is the statement by Dr Hartzenberg correct that there was no violence in

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the Conservative Party, and we have reached the stage that violence is not in the Conservative Party, it is outside the Conservative Party. The question was a simple one: did Dr Hartzenberg in that paragraph and the two sentences in the next paragraph correctly represent Conservative Party policy at the time of Mr Chris Hani's murder or not? That is the question that I am sure that the Committee wants an answer to. And not what Dr Treurnicht said in Kimberly some time before that or what anyone else may have said, which is subject to interpretation, can we have a simple answer to that question? And may I appeal to the witness to please listen to the question and answer it, and not regard it as a licence to read at his pleasure from various documents.

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MR DERBY-LEWIS: Mr Chairman, may I ask a question before I answer that question?

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CHAIRPERSON: Yes, please do.

MR DERBY-LEWIS: Now is it permissible for Mr Bizos to tell me how I must answer questions? I am trying to present the whole circumstance here and he is preventing me from doing this.

CHAIRPERSON: No I think that as far as possible your counsel can ask you all the questions he thinks is appropriate to clarify anything which he thinks ought to be clarified, if he thinks you

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have omitted something, he will have the right to elicit that evidence from you.

MR DERBY-LEWIS: I understand that, Mr Chairman.

CHAIRPERSON: But I think that for the time being if you are asked a direct question and if there is an answer to that, you should answer that.

MR DERBY-LEWIS: I understand that, Mr Chairman, but with those specific two sentences referred to by Mr Bizos, where Dr Hartzenberg clearly said the violence is not in the Conservative Party, it is outside the Conservative Party.

CHAIRPERSON: Yes, but you must

MR DERBY-LEWIS: I have been trying to illustrate that it is broader than that.

CHAIRPERSON: I think you have answered that.

MR DERBY-LEWIS: Yes, thank you, Mr Chairman. Can I now ask Mr Bizos to repeat his question so that I can try again.

CHAIRPERSON: Sorry, Mr Bizos.

MR BIZOS: Does the previous paragraph and those two sentences correctly represent the Conservative Party policy towards violence at the time that you killed Chris Hani?

MR DERBY-LEWIS: The official policy, yes, Mr Chairman.

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MR BIZOS: Right. Are you saying that at that time there was an official Conservative Party policy in relation to violence and an unofficial policy of the Conservative Party in relation to violence?

MR DERBY-LEWIS: What I am saying or trying to say, Mr Chairman, is that while the official policy of the Conservative Party was against violence, and I also qualified it earlier by saying that no political leader would put anything like that on paper, I am also saying that the interpretation, the perception was that the Conservative Party was already involved in violence, with the mobilisation plans and the statement by Dr Treurnicht.

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MR BIZOS: But Dr Hartzenberg said precisely the opposite, that violence is outside the Conservative Party. Was he telling the truth or not?

MR DERBY-LEWIS: He was telling the truth as confirmed by Dr Treurnicht, when Dr Treurnicht was talking to the mobilisation process which was outside the CP.

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MR BIZOS: Please confine yourself to the statements of Dr Hartzenberg. When he said that violence was outside the Conservative Party, was he telling the truth or not?

MR DERBY-LEWIS: He was telling the truth, yes, Mr Chairman.

MR BIZOS: Thank you.

MR DERBY-LEWIS: I have already said that.

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MR BIZOS: Yes. Now you say that there was an unofficial policy of the Conservative Party. What was - what was the unofficial policy of the Conservative Party in relation to violence? It must be violence.

MR DERBY-LEWIS: Mr Chairman, I did not say there was an unofficial policy within the Conservative Party, I said it was outside, it was bigger than the Conservative Party. 10

MR BIZOS: We are not concerned whether there was violence in the ANC or the Communist Party or the National Party or the security forces, we are concerned with a policy of the Conservative Party which you say in your application, moved you to commit murder. I am asking you, was there an unofficial or an unexpressed policy of violence in the Conservative Party, a policy which the leaders did not speak about, that you didn't speak about and that you actually misled the people of South Africa when you say that there was a policy of non-violence in the Conservative Party? 20

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: No. Now you say that no leader - that no leader will openly say that his party is for violence. Is that what you said?

MR DERBY-LEWIS: I said no leader of a political party, yes, Mr Chairman. 30

MR BIZOS: No leader of a political party would say it.

MR DERBY-LEWIS: That is correct.

MR BIZOS: So that there was no leader of any political party or any political organisation purporting to represent the Afrikaner volk that was publicly advocating violence at that time?

MR DERBY-LEWIS: No political party, is what I said, Mr Chairman, and I repeat it. 10

MR BIZOS: Was there any political, known political organisation which was advocating violence at that time?

MR DERBY-LEWIS: As far as I know, there was, Mr Chairman.

MR BIZOS: Who?

MR DERBY-LEWIS: There was an organisation by the name of the Boere Weerstandsbeweging who were advertising war.

MR BIZOS: Boere Weerstandsbeweging?

MR DERBY-LEWIS: That's correct, Mr Chairman. 20

MR BIZOS: Did you have anything to do with that?

MR DERBY-LEWIS: I had to do with them, yes, Mr Chairman.

MR BIZOS: Did you do it on their behalf, perhaps? (Laughter)

MR DERBY-LEWIS: No, I did not, Mr Chairman.

(Applause).

CHAIRPERSON: Try and avoid interrupting these proceedings, please!

MR BIZOS: Right. So we can leave them out. The reason why I am asking you these questions, Mr Derby-Lewis, is because I want to refer to a document in your own handwriting E11. You have got it in front of you.

MR DERBY-LEWIS: Yes.

MR BIZOS: This is a document which you tried to smuggle out to Miss Chris Steyn. Is that right?

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: Who was she?

MR DERBY-LEWIS: She was a journalist with The Citizen.

MR BIZOS: A friend of your wife's?

MR DERBY-LEWIS: No, Mr Chairman, just somebody I had met during the course of my political duties.

MR BIZOS: To whom was she married?

MR DERBY-LEWIS: She was Miss Chris Steyn, it is clear on this letter.

MR BIZOS: Was she married or have any association with a person in the security police at the time?

MR DERBY-LEWIS: Not to the best of my knowledge, Mr Chairman, no.

MR BIZOS: Whatever she may have been, at the time that you wrote this on the 30th of the 4th 1993, did you intend pleading not guilty to the charges that you were going to face?

MR DERBY-LEWIS: Mr Chairman, I was clearly stating that I was taking responsibility for the attack. That was my only intention.

MR BIZOS: What was the question? Did you intend pleading guilty ... (intervention).

MR DERBY-LEWIS: The question was if I intended pleading guilty.

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MR BIZOS: Did you intend pleading guilty to the charges on which you were arrested?

MR DERBY-LEWIS: I said when I sent this out I only had one intention, and that was to claim responsibility.

MR BIZOS: Did you intend pleading guilty in court?

MR DERBY-LEWIS: Mr Chairman, I have answered (his to the best of my ability. At that stage I wasn't even in court, the whole thing was still being investigated.

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CHAIRPERSON: Yes.

MR DERBY-LEWIS: There wasn't even finality as to whether I was going to be brought before the Court. I was still held under Section 29.

MR BIZOS: Mr Derby-Lewis, this is an admission of liability, is it not?

MR DERBY-LEWIS: That is correct.

MR BIZOS: Freely and voluntarily made.

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MR DERBY-LEWIS: Yes.

MR BIZOS: Nobody forced you to write to Miss Steyn that you were - that you were guilty.

MR DERBY-LEWIS: That I accepted responsibility, yes.

MR BIZOS: Now why did you think that she would keep this highly prejudicial statement on your part a secret from the police?

MR DERBY-LEWIS: Mr Chairman, the media have certain codes of ethics, and I was kind of relying on that

MR BIZOS: Well

MR DERBY-LEWIS: But I didn't send this to her directly, I didn't give it to her directly. In fact, I can't, I mentioned earlier in my testimony that I couldn't remember how I got it out of my Section 29 detention.

MR BIZOS: Let me just get clarity on your understanding of journalistic ethics. Did you expect Miss Steyn, as a journalist and the editor of The Citizen, that if they got a written confession, such as this appears to be, that you had killed Mr Chris Hani, to keep quiet about it?

MR DERBY-LEWIS: Mr Chairman, there was no signature on this document to indicate that it came from me, only my handwriting.

MR BIZOS: Well, how would she have known that it came from you?

MR DERBY-LEWIS: Mr Chairman, I was hoping that with her journalistic knowledge that she would be able to put two and two together and accept it came from me.

MR BIZOS: But why did you trust Miss Steyn to keep this secret of yours when you realised that she could put two and two together and you must have had some respect for the police handwriting expert, why did you take this chance? Unless you trusted her that she would keep your secret. 10

MR DERBY-LEWIS: Mr Chairman, I identified her as one of the few journalists who exist, whose ethics and integrity are more important than anything else.

MR BIZOS: Keeping quiet about murder is good journalistic ethics?

MR DERBY-LEWIS: Mr Chairman, we have even - we have even witnessed people shooting scenes of people being murdered without intervening. What is the difference? 20

MR BIZOS: Just answer my question, please. Did you consider receiving a document admitting to murder good journalistic ethics to keep quiet about it and not hand it over to the police?

MR DERBY-LEWIS: I believed that she would not disclose this, because she was a person of integrity.

MR BIZOS: But ... (intervention).

JUDGE NGOEPE: Sorry, The question is: did you consider that - would you consider that as good journalistic ethics to keep quiet about a document admitting to murder?

MR DERBY-LEWIS: Not necessarily, no, Mr Chairman.

JUDGE WILSON: Why did you send that to her?

MR DERBY-LEWIS: Because I wanted responsibility for the act, actually I wanted to more motivate why the attack was carried out.

MR BIZOS: We will come to that. What did you hope she would do with it?

MR DERBY-LEWIS: I hoped that she would do a story on it, and say that she has received a statement with the following information.

MR BIZOS: Did you not expect that the police would pounce on her and say give us the document that you got?

MR DERBY-LEWIS: I didn't, no, Mr Chairman. I don't know to what extent the Press is protected in terms of confidentiality.

CHAIRPERSON: Mr Derby-Lewis, correct me. Do I gather the impression that what you are really trying to do by sending this statement was to make a political statement?

MR DERBY-LEWIS: That's correct, Mr Chairman.

CHAIRPERSON: You were declaring a political statement in which you were claiming responsibility for what had happened.

MR DERBY-LEWIS: That is correct.

CHAIRPERSON: Is that the purpose of it?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MS KHAMPEPE: May I interpose, Mr Bizos? Mr Derby-Lewis, how would Miss Steyn have been able to put two and two together that you were the author of that document?

MR DERBY-LEWIS: Well, Mr Chairman, I was in detention as she knew and once she read the contents of this, it would have been patently obvious.

CHAIRPERSON: Or it might become clear to her, depending upon who handed it to her.

MR DERBY-LEWIS: As well, Mr Chairman, although as I mentioned, it couldn't remember who I tried to get it through to her.

MR BIZOS: Are you telling the Committee the truth that you smuggled out a highly incriminating document whilst you were alone in a cell and you can't remember who you gave it to? Whom are you protecting?

MR DERBY-LEWIS: Mr Chairman, I am honestly telling this Committee and I have no reason to protect anybody, because as far as I know that's not an offence under the amnesty legislation. I really honestly do not remember. It was four and a half years ago, and I wasn't only detained in a cell, Mr Chairman, I was

moved all around the building. I was moved from the Uniform branch section of the building to the Murder and Robbery squad section of the building. I was moved into a separate building where the security police were located and I don't know. Somebody may, I may have contacted someone, but I really don't know who it was. Otherwise I would have stated it, Mr Chairman. I have no reason to withhold that information.

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MR BIZOS: Now if your answer to the Chairman of the Committee, Judge Mall, is correct, can you please explain why you didn't seek the opportunity when you were asked to plead, to make the political statement that you did it for the reasons that you set out in E11?

MR DERBY-LEWIS: Because I was advised by my legal representative to plead not guilty.

MR BIZOS: But surely, if you killed for the purposes of starting a counter-revolution, Mr Derby-Lewis, as you have told us, you are not so weakly minded that you would listen to a legal representative who would deny you the moment of glory in open court, with the world Press to listen to you, that I did this for my God, for my people, for my country, as you say at the end of E11. Why didn't you take that opportunity if you were prepared to take the opportunity of smuggling the document out?

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MR DERBY-LEWIS: Because I didn't see any glory of what I have done, Mr Chairman and I didn't seek any glory for what I have done.

MR BIZOS: You see if any political objective was being sought to be achieved by trying to smuggle this document out, Mr Derby-Lewis, was because you must have known that your anonymity would have been protected by this person that you sent it to, and that it was really for propaganda purposes that you put it out.

MR DERBY-LEWIS: Is that a question, Mr Chairman?

MR BIZOS: Everything I ask is a question. (Laughter)
(Applause)

MR DERBY-LEWIS: Mr Chairman, the reason why I tried to get it out, was to convey the message as to why the deed had been perpetrated as a part of achieving the objective which I planned to achieve with the deed.

MR BIZOS: Yes. Now I want to deal with the objective that you set out immediately before you wrote "For God, my people, my country". It is headed "The Objectives of the Attack" and if we can down to paragraph 5.

"The objectives of the attack: in the hope that the attack would activate Afrikaner leaders into united action, to save their fatherland and their people."

Did you write that?

MR DERBY-LEWIS: I wrote that, Mr Chairman, yes.

MR BIZOS: Implicit in this objective is your knowledge that the leaders of the Afrikaners needed to be shown the way as to how they were to save their people. Is it not?

MR DERBY-LEWIS: It was the suggestion, Mr Chairman, yes.

MR BIZOS: So that you committed murder in order that the Afrikaner leaders may wake up in order to save their people?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: You therefore knew that the Afrikaner leaders, including your own Dr Treurnicht, Dr Hartzenberg and all the other Afrikaner leaders, were asleep and were not prepared to use assassination for the purposes of saving their people?

MR DERBY-LEWIS: That is not correct, Mr Chairman.

MR BIZOS: Well, if they woke up, what did you expect them to do as a result of you murdering Chris Hani?

MR DERBY-LEWIS: It wasn't to do with waking up, Mr Chairman, it was to bring the seriousness of the situation home as hard as possible and Mr Chairman, the sequence of events which occurred after the assassination, confirmed that my assessment of the situation was right.

MR BIZOS: We will come to that, but please answer the question fully. What did you expect them to do as a result of the example taken by you, by murdering Chris Hani?

MR DERBY-LEWIS: I expected them . . . (intervention).

CHAIRPERSON: The direction, what did you expect the leaders, not the rank and file or others.

MR DERBY-LEWIS: Yes, yes. I expected the leaders to forget about the divisions of the past, which were so prevalent in Afrikaner circles, and to come together as a result of the seriousness of the situation, to see what their future action would be, and that happened.

MR BIZOS: Now let us deal with the Afrikaner leaders. I think that you missed the point made by the Chairman, with respect. What did you expect the leaders to do, and you told us that you would have hoped that they would unite and see how - what did you expect the leaders to do as a result of your giving them an example by murdering Chris Hani?

MR DERBY-LEWIS: I expected them, Mr Chairman to mobilise the people and to step into the vacuum which was created by this chaos.

MR BIZOS: Let me see. First of all, can you please tell us on what page of your amnesty application we can find the, you

disclosing that this as formulated in paragraph 5, was one of the objectives? Is it in you - is it in your application?

MR DERBY-LEWIS: Mr Chairman, it is not in my application, but it became very clear to me after the comments by a member of the Committee regarding the admissibility or the usability of Section 29 evidence, that I was in a situation where I had to declare whatever I could and I had to bring everything - everything possible to the attention of this Committee. And I must apologise, Mr Chairman. I can understand that I may have even done it too extensively, but this matter to me, Mr Chairman, is of so serious a nature, and I am so really ignorant and was ignorant up to the time that Judge Ngoepe brought that to my attention, that I realised then that if - I must now come up - give every detail regarding the whole thing. I was not under that impression for the - in terms of the application that it had to be on that application, because I knew I was going to be given a hearing, Mr Chairman.

MR BIZOS: Well, Mr Derby-Lewis, the heading of your document "The objectives of the attack", are a summary in effect of the direct question on the form, are they not?

MR DERBY-LEWIS: If I can just get the ...

MR BIZOS: Yes, have a look at page 23.

(Laughter) - of Bundle A - page 23, Bundle A, question 10(a).

Will you read out the heading, please?

MR DERBY-LEWIS: Which heading, Mr Chairman?

MR BIZOS: Page 23, let me - let's get on.

MR DERBY-LEWIS: Yes, I have got it.

MR BIZOS: I will read it: 10(a)

"State political objectives sought to be
achieved: go back to E11.

The objective of the attack: ..."

So you applied your mind at the time that you wrote Exhibit E11,
what the objective is, is that correct? That you were called upon
to - not called upon, you decided to say what the objective is, is
that correct?

MR DERBY-LEWIS: Well, Mr Chairman, I believe that in
putting the last sentence in -

"Thus my obtaining an illegal weapon and passing it
on to Mr Walus, was a deed committed within the
counter-revolutionary and resistance climate at the
time. We all wanted to stop the coming into power
of an ANC/SACP government"

MR BIZOS: Please, Mr ...

MR DERBY-LEWIS: "...and that would help us."

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