

IN THE SUPREME COURT OF SOUTH AFRICA
TRANSVAAL PROVINCIAL DIVISION

In the matter of:-

THE STATE

v.

FREDERICK JOHN HARRIS

- RECORD OF PROCEEDINGS -

VOLUME V

Pages 727 - 925

EVIDENCE, JUDGMENT, VERDICT,
SENTENCE, JUDGMENT GRANTING
LEAVE TO APPEAL and SPECIAL ENTRY.

- I N D E X -

VOLUME V
Pages 727 to 925

EVIDENCE (Continued):

In rebuttal:

Dr. G. VAN NIEKERK Cross-Examined 727
Re-Examined 806

For the Defence:

Prof. B.A. HURST Further Examined 815
Further Cross-Examined 823

Called by Court:

W.H. BRITS ... Examined 826
J. WARD ... Examined 826

JUDGMENT	...	...	...	828
VERDICT and SENTENCE	...	...	...	910
CERTIFICATE	...	...	...	910 (a)
APPLICATION - LEAVE TO APPEAL	...	...	...	911
AMENDMENT OF GROUNDS OF LEAVE TO APPEAL	...	...	...	913
PETITION	...	...	...	917
APPLICATION FOR SPECIAL ENTRY	...	...	...	919
JUDGMENT	...	...	...	921
ORDER OF COURT	...	...	...	923
CERTIFICATE BY REGISTRAR	...	...	...	925

GERT VAN NIEKERK, (n.o.e.)

CROSS-EXAMINATION BY MR. SOGGOT: Dr. van Niekerk, do you agree with Dr. van Wyk's diagnosis of the accused or description of the accused as a person who is emotionally immature? --- Ek wil net sê, Edelagbare, om 'n evaluasie van 'n persoon se persoonlikheid te maak is moeilik onder die omstandighede wat ons hom gesien het. Hy was onder geweldige spanning, en om 'n evaluasie van 'n persoonlikheid te maak is dit nodig om die persoon se basiese persoonlikheid eienskappe te kry. Ons het hom alleen die /10 relatief korte periode gesien, en ons het verder die geskiedenis van hom gekry. Nou, ek wil net sê die persoon se persoonlikheids eienskappe val vir my binne die grense van normaal. Ons het die geskiedenis - Professor Hurst het dit aan ons oorgedra wat Mnr. Harris se ma vir Professor Hurst gesê het, dat hy geneig is om sedert sy kinderjare is hy geneig om op 'n emosionele manier te reageer, en om 'n senuweeagtige persoonlikheid te wees.

Well, I understand your finding that he is normal but do you say that he is emotionally unstable? --- Ek /20 wil nie graag hom in 'n spesifieke kompartement gaan druk nie, Edelagbare, maar die bietjie geskiedenis wat ons het die kan inpas by hierdie opinie van emosioneel 'n onvolwasse persoonlikheid.

Just to get clarity, have you any disagreement, whatsoever, on the formulation given to his Lordship by Dr. van Wyk as to the accused's immaturity emotionally speaking? --- Ek verstaan nie in watter aspek eintlike - hoe het die definisie gegaan nie?

DEUR DIE HOF: Dr. van Wyk het gesê dat dit sy opinie is /30 dat die persoon emosioneel onvolwasse is, en dat dit

onstaan uit sy emosionele verhouding teenoor sy moeder, en hy toon dit deur hy huil as hy praat van haar en so aan. Stem u saam of is u nie bereid om so 'n beslissing te neem nie? --- Die gedrag wat ek waargeneem het, die kan inpas by die beskrywing van emosioneel onvolwasse persoonlikheid, Edelagbare.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Well, have you anything to add to Dr. van Wyk's characterisation as emotionally unstable? --- Nee, Edelagbare.

Are you satisfied with that description? --- Ek /10
is tevrede, Edelagbare.

When I first asked you that, I^m may be wrong, but I thought there was perhaps some reluctance on your part to express it in those terms. Are you quite happy about those terms? --- Omdat hierdie vir my nie eintlik 'n spesifieke diagnose van 'n spesifieke persoonlikheid is nie, maar dit is meer 'n beskrywing van 'n soort persoonlikheid met groot grense, Edelagbare, daaroor is ek huiwerig om te sê, hierdie persoonlikheid is nou spesifiek onvolwasse, want ons weet tog dat onder /20
sommige omstandighede hierdie begrip is nie absoluut nie, dis relatief. Onder sommige omstandighede mag 'n mens wat almal as emosioneel volwasse aanvaar soms op 'n emosioneel onvolwasse manier optreë. Hierdie beskou ek net as 'n beskrywing van die persoonlikheid eienskappe.

Do you feel that because you had so little access to the accused that you cannot express a very firm opinion on his psychological state? --- Is dit nou van sy persoonlikheids eienskappe, Edelagbare, of van sy geestestoestand nou op die huidige tyd? /30

Well, I'm referring to both. His present

personality from a psychological point of view, and also his state of mind at the time of the incident? --- Ek meen dat ek genoeg van hom gesien het, Edelagbare, om 'n opinie uit te spreek oor sy geestestoestand.

At the moment? --- Op die huidige oomblik, Edelagbare.

And are you satisfied - or if I may put it this way. When you talk of an emotional immaturity, do you agree with Dr. van Wyk that this is a species of neurotic disorder? --- Ek wil hier sê ek sal nie sê in 100% van gevalle nie, Edelagbare, ek verwys weer na wat ek vantevore gesê het, hierdie is 'n beskrywing van 'n persoon wat nog altyd binne die grense van normaal is. /10

If I may return to that in a moment. As far as his condition is concerned at the time of the incident, do you feel that you can express an opinion as to his psychiatric state of mind? --- Die informasie wat Professor Hurst van Mnr. Harris gekry het wat ek voel redelik volledig is, Edelagbare, ek wil net hier sê ek kan nie 'n meer volledige ondersoek op 'n pasiënt doen as wat op hom gedoen is nie. En ^{van} die geskiedenis wat ons hier in die hof aangehoor het is ek tevrede om 'n opinie op daardie informasie uit te spreek. /20

Now, doctor, when you referred to - I think the words used were that the accused is neurotic in some way or other, would you please explain a little more precisely what is meant by... --- Ek glo nie ek het die woord gebruik nie, Edelagbare ge-goneuroties of neuroties nie.

No, I don't think you used it, but Dr. van Wyk mentioned that his immaturity was of a nature of neurotic /30

disorder? --- Daar is nie spesifiek afgebakende toestande nie, Edelagbare, maar gewoonlik waar daar sogenaamde psigoneurotiese siekte toestande - waar daar simptome is wat in verskillende kategorieë kan geplaas word, soos angstevoelens, histeriese reaksies ens., wat gewoonlik die gevolg is van die persoon se manier van hantering van sy lewens probleme of in die verskillende situasies van die lewe, of soos ons daarvan sal sê wat gewoonlik as gevolg van sielkundige oorsake, sogenaamde psigogene oorsake is. /10

Well, doctor, may I put this question this way, how does an emotionally unstable person differ in his reactions from a normal person? --- Hy verskil alleen in graad, Edelagbare.

And in what way would he differ? Could you give instances, for example? --- In 'n gewone situasie as 'n mens onderhewig is aan angst en spanning, enige een van ons die kom in sulke situasies onder sulke omstandighede, Edelagbare, maar in die geval van 'n persoon wat aan 'n psigoneurose spesifiek angst neurose ly /20 die mag die simptome van angst wys, waar daar nie 'n opvallende rede in die omgewing of in die omstandighede van die pasiënt is nie.

Now, do you find that in the accused? --- Die gespannenheid en die angst wat ek opgemerk het, Edelagbare, in Mnr. Harris die is heeltemal verklaarbaar, reken ek, met sy huidige situasie en omstandighede met die ondersoek.

Are you saying that you would find that in a normal person under these conditions? --- Kan heeltemal /30 normaal wees, Edelagbare.

Well, in what way do you find that Mr. Harris is emotionally unstable? --- Sy emosies het skielik gewissel, Edelagbare, dit het nie vreeslik lank geduur nie. As hy gehuil het, het hy miskien vir 'n half minuut of vir 'n minuut gehuil en 'n half minuut daarna het hy geglimlag. So hierdie skerpe verandering, wisselings wat op effens onstabiliteit wys, maar weereens ek beskou onder sekere omstandighede mag dit binne die perke van normaal wees.

I think that what Dr. van Wyk said was that the /10 emotional reactions here are reactive, it is reaction to the environment. Do you agree with that? --- Dis korrek, Edelagbare.

And are you saying that when Harris laughs or cries, for example, that is part of his reaction to a given environment or environmental stimulus? --- Heelwaarskynlik, Edelagbare, dit is wat ek opgemerk het, wat ek waargeneem het.

Now, are you in effect saying that in his emotional reaction to a situation he is the same as every- /20 one else, but perhaps the reaction is a bit exaggerated, over accentuated? Is that what you are saying? --- Dis korrek, Edelagbare. Sy reaksies is vir my binne die grense van normales.

And do you say that he over reacts to a situation or under reacts, if you understand my question? --- Hy reageer miskien bietjie meer as die verwagte, maar weereens, Edelagbare, binne die grense van normaal vir my.

Now, you have stressed 'normaal', you have repeated that word several times, are you saying that /30 in any given situation you would anticipate that Harris'

reaction would be 'normaal', would be ordinary? --- Dit hang natuurlik van die omstandigheid af, Edelagbare.

If they are extraordinary, you would say that he would simply over react, that's how it would differ from the reaction of an ordinary person? --- Dit sal ek verwag in 'n mate, ja, Edelagbare, maar ek kannie die graad van in hoe 'n mate hy hiperreaksie gaan toon nie, meer gaan reageer as die gewone kan ek gladnie 'n opinie uitspreek nie.

Doctor, does it amount to saying that from observation of Harris and from your knowledge of his history, his reactions at all material times are not abnormal ones? --- Ek kan net sê dat volgens my opinie dat sy gedrag die kan gewoonlik verklaar word deur die omstandigheid en omgewings faktore wat inwerk op sy spesifieke besondere persoonlikheid.

/10

Now, doctor, if I understand you correctly, a person who over reacts or who reacts in the way of the accused would if, for example, something is said which makes him angry, would you say he would over act by way of an emotion of anger? --- Dit is moontlik, Edelagbare, maar in sy geskiedenis het ek nie hierdie spesifieke soort van reaksie - sou ek sê is effens vreemd aan hom om skielik as gevolg van 'n situasie in skielike woede te reageer nie.

/20

Well, you may not have seen this specific situation, but I'm trying to understand or ask questions as to exactly what is involved by the suggestion that he is emotionally unstable. With an emotionally unstable person, let us say in the abstract, would you expect him given a situation which would tend to make the normal man

/30

angry, would you expect him to over react by way of anger?

--- Hy mag moontlik in so 'n geval mag hy reageer met barsting, Edelagbare, maar hy mag ook op 'n ander emosionele manier, behalwe woede, mag hy reageer, hy mag byvoorbeeld miskien huil. Maar die emosionele reaksie, van watter aard ookal, verwag ek gaan bietjie meer as die verwagte, die gemiddelde wees.

Well, if an abnormal person, for example, were to be addressed with tender or kind words, would you in the case of an emotionally unstable person, expect him to react with hatred or violence? --- Nee, gewoonlik nie, Edelagbare, ek verwag dat sy reaksie redelik van pas gaan wees in daardie spesifieke omstandigheid. /10

That is what I wanted to get. You would expect from such a person that his reaction would pass, that it would be in accordance with the given situation? --- Ek sal verwag dat sy reaksies redelik van pas sal wees, soos ek in die begin gesê het, binne die grense van normaal nog altyd.

Yes. Now, you've heard mention in this court that the accused was seen by a certain State witness as he went up the stairs at Damelin College, and I think the phrase was that he looked 'bleek' and he looked 'baie bekommerd of verskrik', now does that, in view of the facts which you have available, make sense? Does that sound probable to you? Bearing in mind that he has come from the station where he has planted a bomb? --- As dit waargeneem is, Edelagbare, dan kan ek niks sê. Dit moes waarskynlik waar gewees het. /20

Well, you know that he left the bomb at the station, not so? --- Ja, Edelagbare, hy het so gesê. /30

And you know, I take it you accept that he went to Damelin College in order to change his clothes?

--- Dis wat hy gesê het, Edelagbare.

Well, you don't dispute that? Do you accept that? --- Ek aanvaar dit, Edelagbare.

Now, doctor, in that situation would you say that his reaction, or his appearance of being 'bleek en bekommerd', is probable, do you think that is a probable reaction in the situation? --- Ek sou sê, ja, Edelagbare, ek sou sê dis 'n reaksie wat heeltemal vanpas is in daardie omstandighede. /10

Why would you say it would fit in that situation? --- As 'n mens gehandel het soos hy gehandel het, Edelagbare, en hy is nog - en hy het waarskynlik die vrees vir arrestasie ook gehad, dan is dit vir my heeltemal binne die grense van normaal om te verwag dat so 'n persoon moontlik bleek en bekommerd mag voorkom.

Well, from all the facts that you have in your possession, do you think in fact that Harris was 'bekommerd', was anxious after the incident, after he left the station? --- Ek kannie eintlik sê nie, Edelagbare, maar ek weet hy was bekommerd dat hy moontlik gearresteer mag word, daaroor het hy sy ander klere gaan aantrek. So, ek sou sê dit is heeltemal moontlik dat hy dalk bekommerd kon gewees het. /20

Well, what I'm asking you, in terms of your knowledge of his personality and history, would you say that that was probable that he would be 'bekommerd' at that stage? --- Ek sou sê ja, Edelagbare.

Because of his fear of arrest, you say? --- Ek sou sê ja, Edelagbare, as gevolg daarvan. /30

Now, we know, doctor, that at the time Harris came to the station he had a bomb with him, and his Lordship has also been informed, and you know that prior to that situation Harris had been a member of an organisation whose members had been rounded up by the police? --- Ja, Edelagbare.

And you know that Lloyd, a person who associated very closely with Harris in the organisation, and who knew of his plans to plant a bomb at the station, was in the hands of the police at that stage? --- Ja, Edelagbare /10

And it's also known that Harris as a personality was a man who had his picture in the papers frequently before that date? --- Ja, Edelagbare.

Now, if Harris were a normal person, how would he feel when he came into that concourse with that bomb he had? --- Ek sou sê hy sou minstens gespanne gewees het, Edelagbare.

Well, is that all you can suggest, doctor? --- Ek sal nie die graad van spanning kan vasstel nie, maar ek sou sê dat hy nogal heelwat gespanne moes gewees het, spanning van 'n taamlike graad moes ondervind het, Edelagbare. /20

Apart from tension, would you suggest that an ordinary man would have any particular emotion at that stage? --- Ek verstaan nie mooi nie. Ek het gesê, Edelagbare, dat ek reken hy sou die emosie van spanning gehad het, hy sou angstig gevoel het onder daardie omstandighede.

He would be tense and he would be frightened, not so? --- Ek sou dit verwag, Edelagbare /30

And that is what you would have expected from

Harris, not so? --- Ek sou dit verwag, Edelagbare.

And his purpose, we know, was to plant the bomb and then to get away, isn't that right? But we also heard that he sat down for a few minutes. --- So het hy gesê.

That's what he said, yes. Now, during that period when he sat down for a few minutes, would there be anything in the total situation which would change his reaction? --- Ek glo nie, Edelagbare, ek reken hy sou nog gespanne gevoel het, hy sou nog angstig gewees het. /10

Except the bomb had to go off quite soon - on anybody's version, the State version or his version. --- Dis korrek, Edelagbare.

And it is clear that his emotions then must Belt 73 have been tense and frightened? --- Dit is korrek, Edelagbare.

And would you say that this would continue until he got to college? --- Ek weet nie of ek hierop kan antwoord nie, Edelagbare, hy kon nog steeds gespanne gewees het, maar miskien vir 'n kort moment kon hy verligting van spanning gevoel het, want nou het hy die daad gepleeg wat al weke vooruit beplan is, hier het hy die ding neergesit en hy is nie gearresteer solank by die tas met die bom in sy besit gehad het nie. Ek sou verwag hy sou nog gespanne gewees het, maar daar mag moontlik die gevoel van verligting van spanning gewees het. /20

Yes, but what ^{one} would expect in a person who is normal, is a continuing sense of fear, not so, even when he got to the college? --- In 'n mate het hierdie omstandighede nou verander, Edelagbare, soos ek /30

sê, dit is nou heeltemal moontlik vir my dat hy 'n gevoel van verligting van ontspanning gekry het.

DEUR DIE HOF: Hy is ontslae van die ding? --- Dis korrek, Edelagbare.

As iemand daar kom dan kan hy hom disassosieer van die ding? --- Dis korrek, Edelagbare.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) So are you suggesting then that at the stage he got to the college he probably was no longer frightened? --- Ek kan nie sê dat enige spesifieke emosie vir enige lang periode moet voortduur nie, Edelagbare. Dit hang af van omstandighede en van sy gedagtegang. Moontlik het hy toe hy poskantoor toe gery het of na die kollege toe gery het weer begin bekommered raak, ek weet nie, maar dit is heeltemal moontlik. Daardie een spesifieke emosie hoef nie gedurig standhoudend voort te geduur het nie. /10

But in a normal person would that fear ever disappear? --- Ek glo nie dit moet heeltemal verdwyn nie, Edelagbare, maar daar kan onder sekere omstandighede - verwag ek dat hierdie vrees meer sal wees, hoewel die angs an die spanning onder ander omstandighede moontlik minder sal wees. /20

Just to get back to the college. Can you suggest any probability as to whether he was feeling anxiety when he got to the college or not? --- Ek glo nie ek kan 'n opinie uitspreek nie, Edelagbare, ek kan gladnie 'n opinie uitspreek oor die waarskynlikheid hoe 'n normale mens behoort te gevoel het in daardie omstandighede nie.

I asked you that same question just now in a different context, when I was cross-examining you on the /30

views of a certain State witness who said he was 'bleek en bekommerd', and unless - I'm subject to correction - but I understood your answer to be that he probably was frightened at the time? --- Ek het gesê hy mag moontlik bekommerd gewees het.

Well, doctor, after the college he eventually landed up at home, not so, you know that? --- Dis korrek, Edelagbare.

And he has given evidence which is not contradicted, that he heard news that it had gone off? --- Dis /10 korrek, Edelagbare.

Now, how would you have expected him to react in that situation.

BY THE COURT: Well, he knew when he heard the fire engines, didn't he?

MR. SOGGOT: It might have been his inference yes.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) We know, doctor, that either at the stage when he was at Damelin College or when he got home and heard the news, he heard that the bomb had gone off and that a catastrophe had taken place. /20 What would you say his reaction would probably have been? --- Weereens glo ek nie ek kan die waarskynlikheid noem nie, Edelagbare, maar ek kan 'n paar moontlikhede noem. Moontlikheid is, hy het die koffer iets na vier het hy die koffer van ontslae geraak, soos hy gesê het, en nou is dit al 'n uur en 'n half of twee uur het al verloop, hy mag moontlik nog meer verlig gevoel het. As hy dit nie gebeplan het om die mense te beseer nie dan miskien sou hy bekommerd gewees het, of as hy so iets gebeplan het, moontlik het alles verloop volgens plan en hy het /30 nog meer rede gehad om tevrede met homself te voel. Ek

noem dit net as moontlikhede, Edelagbare, ek kan my nie uitspreek oor die waarskynlikheid nie.

But, doctor, a normal person on hearing that many people had been seriously injured, and knowing that the explosion had been committed in the name of the organisation which was known to the police, don't you think that he would be terrified? As to his own personal situation. --- Ek sou dit verwag het, Edelagbare, maar ek sou ook verwag dat so 'n persoon al vantevore daaraan moes gedink het, en die moontlikheid moes voor- /10 sien het, en miskien op hierdie manier moontlik al daardie moontlikheid aanvaar het. Ek weet nie.

But from the normal person you would expect there to be a sense of terror, not so? --- Ek sou dit verwag, Edelagbare.

ASSESSOR MNR. VAN DER BERGH: Mits hy dit nie beplan het nie? --- Ja, Edelagbare, solank hy dit nie beplan nie, want as hy dit vooraf hom ten doel gestel het om spesifiek hierdie gevolg te...

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) But how does /20 the 'beplanning' effect his personal position? Whether he planned it or not, he would still sense his personal danger, that wouldn't be effected? --- Ek sou verwag hy sou nog altyd in 'n mate, die graad waarvan ek nie kan bepaal nie, bekommerd wees oordadig dat hy moontlik miskien gearresteer kon word, maar nou het alreeds 'n paar uur verloop, hy is nog nie gearresteer nie, moontlik miskien het hy verligting van selfs daardie spanning

Doctor, do you not say now that the normal person would have felt terror in that situation? --- Ek /30 sou dit persoonlik gevoel het, ja, Edelagbare.

As far as you are concerned from your diagnosis of Harris, you would have expected it from him? ---

Behalwe wanneer hy die gevolg gebeplan het, Edelagbare, dan sou ek eindelik verwag het hy moes bekommerd gevoel het, sleg gevoel het oor hierdie onnodige gebeurtenis wat gebeur het.

ASSESSOR MNR. VAN DER BERGH: Met ander woorde, dokter, as ek u reg verstaan, as hy nie bedoel het om mense seer te maak nie, dan sou jy verwag het dat hy sleg sou gevoel het? --- Ek sou sê as hy nie die moontlikheid dat mense mag seerkry goed oorweeg het en die moontlikheid aanvaar het nie, Edelagbare, dan sou ek verwag hy moes sleg voel daarna. Die verwagte reaksie is dat hy sal sleg voel.

/10

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, I'm not talking for a moment about questions of remorse, or feeling bad, I'm talking now about one specific emotion and that is terror, fear for his own personal position. Do you agree that whether he planned it or not, he should have felt it? --- Hy behoort nog - ek het al gesê, Edelagbare - in 'n mate, die graad waarvan ek nie kan bepaal nie, moes hy nog altyd 'n mate van bekommernis oor die gevolge vir sy persoon van hierdie daad gehad het.

/20

Doctor, isn't that rather understating it? I'm talking now about the expectation from an ordinary man, what your expectations would be as to his feelings, You say in a degree he would be worried.

BY THE COURT: He said "I'm not prepared to say to what extent."

DR. VAN NIEKERK: Kan ek dit so uitdruk, Edelagbare, dat as ek persoonlik wat nog nooit vantevore enige sabotasie daad gepleeg het of ondervinding daaraan gehad het nie,

/30

as ek so iets doen dan verwag ek, ek gaan vreeslik en uiters bekommerd wees, maar waar ek miskien al langer ondervinding in sabotasie gehad het, dat ek al hierdie ondervinding vantevore gehad het, mag ek bietjie minder bekommernis hê as wat ek andersins sou gehad het.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) But, doctor, you are forgetting the specific circumstances, and that is, that his colleagues or co-conspirators were in jail, and that one by one members of his cell had been taken by the Special Branch, and that the explosion had been done in the name of the organisation. This isn't an ordinary sabotage case. Wouldn't you in those circumstances have expected him to take precautions, to flee, to hide himself, to get out of the country? --- Ek sou dit eintlik verwag het, Edelagbare. /10

You would have expected it on your assessment of Harris as a normal person, that he would have done that? --- Ek sou dit onder normale omstandighede verwag het, Edelagbare, maar mens trööë nie altyd onder alle omstandighede op soos verwag nie, dis al wat ek kan sê, dis al wat ek kan antwoord op daardie vraag. /20

But you cannot suggest any reason to his Lordship why Harris did not take these precautions? --- Ek is nie bereid nie.

You have no psychological insight which can explain that? --- Ek kan gladnie sê nie, Edelagbare.

It does suggest to you the possibility that his judgment was seriously impaired. For some reason or other? --- Ja, Edelagbare, hierdie is een van die moontlikhede. /30

But you can't suggest what that is? --- Ek is

nie bereid nie, Edelagbare, ek glo nie ek kwalifiseer daarvoor nie.

Now, to just come back a little bit. On the State version Harris went into that concourse without any disguise, placed the bomb with a note on it, saying, 'back in ten minutes', and on the State version he aroused - people did look at him, he aroused some very definite attention and some very definite suspicion. Now, does this suggest to you a lack of judgment or not? --- Ek is bevrees ek het nie getuie aangehoor, Edelagbare, hoe die /10 man se gedrag op die stasie gewees het soos waargeneem deur ander mense nie. Ek het alleen wat hy vir Professor Hurst vertel het en hier in die hof.

DEUR DIE HOF: Die getuienis is dat hy die tas neergesit het en dat hy met die oorledene oor die saak gepraat het, en toe oorkant die tas, daar by die buitekantse muur van die binnesaal gaan staan het en telkens na sy horlosie gekyk het en toe omtrent half vier verdwyn het.

DR. VAN NIEKERK: Ek sou graag wil weet, Edelagbare, hoe hy hom gedra het voordat ek kan sê of dit normaal of /20 abnormaal is. Of hy gewoonweg gesels het en of hy op enige abnormale manier gesels het.

DEUR DIE HOF: Wel, hy het gesels met die oorledene. Ons weet nie wat gesê was nie. Daar was net gesien dat hy weggestap het van die tas en oorkant gestaan het, waarskynlik waar hy die tas nog kon sien en sy horlosie dop gehou het. Nou ja, dit is nie noodwendig dat hy gedurig daar gestaan het nie. Die observasie was nie deurlopend nie, en dat hy so omtrent half daar weg is.

DR. VAN NIEKERK: Kan ek dan die vraag net weer kry, /30 asseblief.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, my question is, in that situation which his Lordship has described to you, and bearing in mind the fact that Harris is a man who has had his photograph in the paper before, and I may add he frequently used the railways, don't you think that the failure to disguise himself suggested a gross error of judgment? --- Eerstens wil ek net sê hierdie gedrag wat Edelagbare vir my beskryf het is nie in enige opsig abnormaal eintlik nie.

Well, the behaviour is not abnormal. I don't /10 think you appreciate my question. I'm talking about it in terms of the danger of his being arrested, of his being identified, be tracked down and arrested. A normal man, I would suggest to you, would take some sort of precautions. He will effect some sort of disguise. --- Ek sou dit moontlik verwag, Edelagbare, maar die ander oorweging is ook daar. In 'n groot groep mense waar niemand jou ken is dit moontlik ook nie nodig nie. Ek weet nie.

ASSESSOR VAN DER BERG: Jy kan nie van ondervinding praat nie? --- Ek sou nie kan sê nie, Edelagbare. /20

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Well, one doesn't really know what people would do, any individual person, but an ordinary reasonable man one would expect would behave differently, not so? --- Ek weet nie, Edelagbare. Die feit vir my dat hy nie 'n vermomming gebruik het nie het nie veel waarde vir my nie, of dit abnormaal of normaal gewees het nie, ek kan nie alleen daarop besluit nie, Edelagbare, ek is jammer.

But, doctor, we also have the evidence of the police that certain notes, of a gravely incriminating /30 nature, were found in his car. I may very briefly tell

you - in his car or in his house. One indicated the combination of petrol and dynamite to be used. Another indicated such items as the hat which he had to take or intended to take, things connected with his sabotage purpose, and a document which indicated details of the proposed station explosion. Now, would you - before answering that question - would you agree that Mr. Harris is an intelligent person? --- Ek stem saam, Edelagbare, hy is 'n intelligente man.

And would you agree that in the normal course of events an intelligent person would take steps to cover his traces, and destroy such notes, which in any event will no longer serve him any purpose? --- Ek sou so ver wag, Edelagbare, maar ek weet ook van heelwat mense wat vandag in die gevangenis sit, wat ook intelligente mense is, wat nie sulke voorbereidsels getref het nie. /10

But what we have at the moment are three acts in which judgment was lacking seriously, isn't that right? One, his failure to run away after the event, the other his failure to effect any disguise, and the third one I'm suggesting to you now, his failure to dispose of extremely incriminating notes? --- Ek stem saam, Edelagbare, dit is nie goeie oordeel nie, maar goeie oordeel die is nie gelyk aan en sinoniem met geestesversteurnis nie. /20

Yes, but again for all three of those things you can't suggest why his judgment should have been impaired or defective? --- Ek weet nie, Edelagbare, ek kan dit nie verklaar nie.

There is evidence - well I think is is common- cause that during the month of July the other members of /30

his - one other member of his cell had been arrested, and that there was fear that he himself would be arrested in terms of the law relating to 90 Days Detention. There is evidence that his wife suggested to him that they should leave the country and he laughed in her face, and it is common-cause that he did not leave the country. Now, do you think that that is normal? --- Dit is moontlik dat in hierdie geval dit abnormaal mag wees, Edelagbare, maar vir my is dit ook moontlik dat dit heeltemal normaal sou gewees het as die man so motivering, die doel wat hy gestel het sterk genoeg gewees het om daardie vrees te oorwin. /10

But, doctor, he is an emotionally unstable person, wouldn't you have found fear as his predominate emotion. He might have stayed, that I conceive, but wouldn't he have been frightened? --- 'n Emosionele onvolwasse persoonlikheid, as ons dit aanneem as die beskrywing van sy persoonlikheid, hy is nie dag na dag, uur na uur in 'n toestand van angs nie, Edelagbare.

But his wife says that during this period, and h e says so, he was in a state of elation. Isn't that inconsistent with the situation which would in anybody else, any normal person provoke a sense of terror, or certainly very extreme fear? --- Weereens hang dit van die graad van sy opgewektheid af, Edelagbare. Ek herinner my dat sy eggenote ook gesê het dat hy nie so abnormaal opgewek gewees het, dat hulle gemeen het dis nodig om 'n psigiater te raadpleeg nie of 'n geneesheer. /20

Doctor, at the moment I'm not talking about his normality or the psychiatry of that. I'm suggesting to you that this is a reaction which is not probable in /30

terms of what you postulate, namely, an emotionally unstable person. I'm saying a person of such a situation will be frightened, he wouldn't be elated, he wouldn't laugh. --- Ek wil graag ook net onder u aandag bring dat ons nie almal - elkeen van ons van oomblik tot oomblik nie dieselfde manier reageer op angste en spanninge nie. Mens mag soms 'n abnormale opgewektheid ook - ek sê moontlik, Edelagbare.

But, doctor, to be simple, to be elementary about it, a normal person would be frightened. This /10 reaction of elation is something which you can't explain? --- Dis korrek, Edelagbare, behalwe, weereens, waar so 'n motivering oorheersend is.

He might have the motivation, but should still have had the fear. Not so? --- Dis korrek, Edelagbare. Ek sou 'n mate van bekommerdheid tog verwag het.

And, doctor, for all these things that I've dealt with until now. The three acts in which there was a defect of judgment, and this period when the reaction of elation doesn't really square with the analysis of - /20 is incompatible with the idea that he is emotionally unstable. Professor Hurst has an explanation for all these phenomena, hasn't he? In regard to the lack of judgment, for example, the defect of judgment. Professor Hurst's theory does explain those things? --- Dis korrek, Edelagbare.

And Professor Hurst's theory also explains the inconsistent emotion, the fact that he felt elation, when in a normal man you would expect a sense of fear? -- - Ja, Edelagbare. /30

DEUR DIE HOF: Is dit botsend? Vrees en gelukkig voel?

Kan hy nie gelukkig voel omdat hy dit gedoen het, en ook tersame met dit bang wees dat hy gevang sal word? --- Ek sou sê, ja, Edelagbare, en die vertoon van die emosie wat ons vertoon is nie altyd die heersende emosie wat ons het in ons nie.

Buitekant kan jy 'n glimlag hê, binnekant is jy bekommerd? --- Dis korrek, Edelagbare.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) But he might have been 'bekommerd' 'buitekant', but he didn't do anything about it. He didn't leave the country, nor did he destroy his notes. That you can't explain? --- Nee, ek kan nie. /10

Now, doctor, referring to Friday the 24th.....

* COURT ADJOURNS *

ON RESUMPTION OF COURT:

GERT VAN NIEKERK, (n.o.e.)

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, to refer, for a moment, to an emotionally unstable person. In a given situation, do you find that he may have emotions which are unpredictable, which are - one might say capricious? --- Ek sou sê die emosionele onvolwasse persoonlikheid die sal geneig wees om emosioneel onvoorspelbaar op te tree. /20

But must the emotions that he experiences always have some relationship with the stimulus? --- Ek reken so, Edelagbare.

There will be a call to relationship which any psychiatrist or psychologist could understand, not so? -- - As hy al the informasie tot sy beskikking het van die omstandighede waarin daardie persoon op daardie moment verkeer, Edelagbare. /30

But if we talk about a normal person, for a moment, if he has an experience of terror or fear, which lasts over a certain time period, would you expect all sorts of other emotions, perhaps contradictory emotions to obtrude during that period? Without any change in the external environment? --- Weereens hang dit van omstandighede af, Edelagbare, waar hy geen planne vir die toekoms het nie, sou ek sê moethy bekommerd en beangs wees, maar as hy miskien hierdie spesifieke omstandigheid voorsien het en daarvoor geplan het dan mag dit moontlik wees dat hy nie sal bekommerd voel nie. /10

But in a normal person - and to be specific - now he experiences fear and shall we say strong fear, it is not likely that he is at the same time going to experience joy? I'm not talking about Harris on the station now, I'm just talking about the ordinary normal person. --- Ek sou dit nie verwag nie, Edelagbare.

U sou dit nie verwag nie? --- Maar weereens wil ek net onder u aandag bring die werklike emosie en die vertoon van emosie loop nie altyd saam nie, dit mag verskillend wees, wat ander mense opmerk. /20

At the moment I'm talking about the subjective world, and that is given a normal person who is experiencing fear, you will not expect him in the normal course, and without a change in external environment, to have a feeling of joy? --- Ek sal dit nie verwag nie, Edelagbare.

Now, Harris has described to you and the other psychiatrist and Professor Hurst the experience which he - the emotion which he experienced in the station concourse, not so? --- Dis wat hy beskryf het vir ons, Edelagbare /30

How would you in psychiatric terms characterise

or describe that experience? --- Ek sou sê - ek weet nie of ek hoof in psigiatriese terme te beskryf nie, Edelagbare, gewone taal dink ek sal voldoende wees. Hy het gesê dat hy het opgewek gevoel, nou vir die paar minute wat hy op die bank gesit het, het hy opgewek gevoel.

Well, then to discard psychiatric terms. What sort of emotion would you describe this as? --- Ek sou sê dis 'n aangename emosie.

An emotion of pleasure, a pleasant emotion, is that what you say? --- Dis korrek, Edelagbare, die emosie /10 wat hy beskryf het wat hy gehad het was 'n aangename emosie.

Is that all you say about it, you don't think it should be otherwise described in regard to its degree, for example? --- Hy het ook gesê dat hy het nog nie werklik so opgeruimd gevoel vantevore in sy lewe as daardie moment nie. Weereens die informasie verkry van Mnr. Harris.

Doctor, you undoubtedly have a great experience with people. How would you describe that emotion? Merely to say that he had a pleasant emotion is to /20 describe something very pedestrian, something very commonplace. Now it appears from what Harris says this was more than that.

DEUR DIE HOF: Stem jy saam dat dit 'n ekstase was? --- Dis 'n gevoel van ekstase, die emosie van ekstase wat hy beskryf het, Edelagbare.

En kan u aan die hand doen wat die bron van hierdie emosies gewees het? --- Mens kan 'n hele paar moontlikhede noem, reken ek, Edelagbare. Mens kry 'n gevoel van ekstase in die kondisies wat Professor Hurst /30 beskryf het, manies depressiewe psigose. Ek het al

heelwat pasiënte gekry wat beskryf het die gevoel van ekstase gedurende epilepsie, net na epileptiese aanvalle opgewek van epileptiese aanvalle. En mens kan dit in die normale mense onder spesifieke omstandighede, glo ek kan dit ook voorkom, 'n gevoel van ekstase, van geweldige opgeruimdheid onder sekere omstandighede.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Well, when you use the phrase 'geweldige opgeruimdheid', are you talking a bout the same sort of feeling which you are talking about when you use the word 'ekstase'? Do you draw any /10
distinction? --- 'n Gevoel van ekstase is vir my net 'n geweldige aangename emosie, Edelagbare, dit is nie 'n spesifieke siekte toestand of 'n sindroom 'n spesifiek siekte entiteit wat hier beskrywe word nie.

So that when you use the word ecstasy you are using it in a lay sense, not so? --- Ja, Edelagbare.

That is, something which is similar to the feeling of extreme elation or extreme joy? --- Ja, Edelagbare.

You are not using it in the psychiatric sense /20 are you? That is an ecstasy associated with a manic depressive condition? --- Ek het gesê die gevoel van ekstase die kom in daardie toestand voor, daardie is een van die moontlikhede.

Well, doctor, I'll come back to that in a moment. How ever you describe it, do you accept that Harris had some sensation of ecstasy in the station, in the concourse? --- Nee, Edelagbare, ek aanvaar net dat Mnr. Harris vir Professor Hurst gesê het en vir die hof gesê het hy het die emosie gehad. Ek het geen /30
manier om vas te stel of hy wel daardie emosie ondervind

het of nie, ek kan gladnie besluit nie.

Well, if we accept for the moment that Harris had the feeling of ecstacy in the lay sense, can you suggest to his Lordship any reason in that given situation which gave him that feeling? --- Daar is seker 'n hele verskeidenheid, Edelagbare, maar in hierdie geval 'n moontlikheid wat ek aan dink is dat hierdie man het hierdie optrede beplan. Die belangrikste optrede van sy lewe tot sover. Hy het die moontlikheid in ag geneem dat hy moontlik die geskiedenis van die land op hierdie /10 manier kan beïnvloed. En nou het hy dit gedaan, hy is amper klaar daarmee, moontlik mag hy opgewek gevoel het om daardie rede, moontlik as gevolg van die verligting van die erge spanning waarin hy verkeer het kon ook daartoe bygedra het.

Why should there have been a relief from the severe anxiety at that stage? He was still in the situation, he had not got away yet? --- Maar hy het nou die daad gedoen waarvoor hy beplan het, en hy het die bom nou neergesit. /20

But his personal danger was greater than it had ever been, because there and then he could be caught? --- Ja, Edelagbare, hy kon.

And from a normal person, as you have already told his Lordship, one would expect a sense of fear, a strong sense of fear? --- Maar ek sou sê dat sy vrees groter sou gewees het solank hy met die koffer in sy hand gestaan het voordat hy hom daar neergesit het en geloop het miskien.

But the sensation which he describes is a /30 sensation felt before he had gone away, before he had

made his escape? --- Dis wat hy sê, Edelagbare, ja.

Well, for the moment we are only talking about the phenomena on the basis of what he says. In terms of what he says the sense of ecstasy, the experience of ecstasy is not explained, as far as you are concerned, or is it? --- Ek verwys u net na my antwoord op die vorige vraag. As ons aanneem hy het sekere karakter eienskappe van 'n emosionele onvolwasse persoon, dat so 'n persoon se emosionele reaksies soms onstabiel, soms beïtjie onvoorspelbaar mag wees, Edelagbare. Meer kan ek /10 nie sê nie, Edelagbare.

But, you have already told his Lordship that the reactions of an emotionally immature person are none the less causally explicable, isn't that right? --- Ek het gesê dat ek verwag dit nog binne die grense van normaal sou wees, Edelagbare.

Well, I'm not talking about normality at the moment, I'm referring to your evidence where you said that the emotions of such a person are in any given situation causally related. Now, the question I'm /20 putting to you is, what, as far as you know, on the basis of what Harris has told you and told his Lordship and the gentlemen assossors, what is there which causally precipitated this emotion of ecstasy? --- Volgens die informasie, volgens die geskiedenis wat Mnr. Harris gegee het, Edelagbare, het ek geen verklaring van hierdie gevoel van opgewektheid nie. Op die basis van wat hy gegee het kan ek dit nie verklaar nie.

Yes, except along the lines of Professor Hurst's interpretation? --- Ja, Edelagbare, as 'n mens /30 aanneem dat hierdie beskrywing van sy emosie wat van hom

alleen kom, as 'n mens dit kan aanvaar en onthou dat hierdie net 'n beskrywing van hom alleen is, 'n subjektiewe beskrywing.

Once you have that then Professor Hurst's explanation is the explanation, not so? Once you accept Harris' version? --- Ja, Edelagbare, ek kan aan geen ander verklaring dink as dit aanvaar word.

Now, doctor, to come back to the question of ecstasy then in a psychiatric sense, it's distinguished from the other moods by the various text isn't it? /10
There are clear differences between elation, euphoria, exaltation and ecstasy. In psychiatric terms these things are clearly differentiated? --- Vir my is hulle meer net 'n beskrywing van die emosie, Edelagbare.

Are you suggesting different pitches of emotion? Different levels or intensities of emotion? --
- Verskillende grade, maar ek glo nie daar is neergelê, daar mag handboeke wees wat dit miskine neerlê, maar in algemene gebruik is ons geneig om dit redelik vry te gebruik, Edelagbare. /20

Doctor, can I put one or two parts, passages from Modern Clinical Psychiatry, the 6th edition by Noyes & Kolb, you are aware of this text, and I take it that it is a well-known authoritative text in psychiatric literature? --- Dis bekend, ja.

Now, they talk, for example, on page 80 - this is in the chapter which deals with Disturbances of Affect.

"A multiteity pleasurable effect is known as euphoria. The euphoric patient is of an optimistic mental set, is imbued with the subjectively pleasant /30 feeling of well-being, and is confident and assured

"in attitude. Euphoria is most frequently noted in hypomanic states and in certain organic disorders, such as general paresis, multiple sclerosis and some cases of frontal lower tumor." Now do you agree with that? --- Ja.

Now with elation: "In elation an air of enjoyment and self-confidence radiates from the patient, and his motor activity and drive are exaggerated. His circumstances may be such that unhappiness should be produced, yet everything that would normally produce that feeling is lightly brushed aside. It imparts a false sense of reality. Elation is often labile, and readily shifts to irritability." Now that, you also agree with?--- Ja. /10

"Now, in exaltation, there is an intense elation accompanied by an attitude of grandeur; a less frequent disorder is ecstasy." Now the definition is as follows: "In this, the mood is one of peculiar, entrancing, peaceful rapture, and tranquil sense of power. A religious feeling is an essential part of the state. The patient identifies himself with an immense cosmic power. He feels detached from outside things, and on a new plane of existence, accompanied often by a feeling of having been re-born." /20

Now there is more to it, but if I may pause there. Is it not clear that the state of ecstasy which is described here - the sense of transcendence, the merging into the Universe, the sense of power and religious tranquillity: aren't these things, aren't these factors or entities which make of ecstasy in psychiatric jargon, a totally different thing from the emotion which the layman talks /30

about when he uses the word ecstasy? --- Ek sou sê, ja, Edelagbare. As 'n mens ekstase gebruik in hierdie sin dan is dit iets anderste, hierdie beskryf dan 'n gevorderde graad van daardie emosies sou ek sê.

But what ever it is, if this is experienced by manic depressive, it is an experience which is completely different from what the normal person experiences when he has some or other form of ecstasy? --- Dis korrek, Edelagbare. Maar, dit is dan 'n manies depressiewe persoon, wat aan 'n manies depressiew siekte ly, en ek /10 sou nie verwag dat daar net hierdie kondisie van ekstase, ek sou van die ander simptome ook wou gehad het, soos byvoorbeeld, rusteloosheid van die maniese pasiënt, en miskien spraaksaamheid.

DEUR DIE HOF: Vind u nie daardie simptome teenwoordig by die beskuldigde nie? --- Ek het nie uit die geskiedenis gekry dat gedurende hierdie periode hy ook rusteloos was en so nie. Hy gee die geskiedenis, hy het gesit op die bank.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, if I /20 may approach it this way. When we talk of ecstasy in the lay sense, we really just mean a very intense feeling, but when you as a psychiatrist talk of this ecstasy of a manic depressive, then you think of the total picture, containing one or more of these components, not so? Now, doctor, what you said to his Lordship and the gentlemen assessors just now, was that there is no basis whether Harris had this ecstasy or not, because it only comes from him, not so? ---Ja.

Now, I just want to refer you to the various /30 passages or to some of the passages which were elicited

by Professor Hurst in examination in conjunction with you. I refer to page 3 of the report, his experience whilst seated on the bench of Johannesburg station. " He stated that he felt like an insect, a fly that could see all around it, and he said it was like cinerama." Now, that for one thing was a statement which he made at the second consultation with him, on the second day of consultation. --- Ek is van opinie dat hierdie kwessie van cinerama het hy op die heel eerste onderhoud al genoem, Edelagbare.

/10

You heard Professor Hurst's evidence which was to the effect that he mentioned this feeling on the 11th for the first time. Do you disagree with that? --- Is dit van die cinerama, Edelagbare?

I don't think that the Professor was confining himself to any particular metaphor used by the accused. I think he was talking about this description, what ever form it took, of an ecstatic state or an elated state. Do you agree that that description first came out on the second day of consultation? ---- Ja, Edelagbare, maar ek herinner my dat hy iets van die cinerama gesê het die heel eerste dag, maar hy het nie uitgebrei daarop nie, hy het nie iets gesê van die glas bal, hy het alleen die cinerama het hy die eerste dag genoem, en daarvandaan af/aangegaan.

/20

Well, doctor, will you check your notes, please, on that point. With his Lordship's permission? --- Ekskuus, Edelagbare, dit is op die 11de, die tweede dag.

Now, what he said there was first of all the idea that he could see all around him. Now, on the next interview, on the 16th, he said, amongst other things,

/30

I'm extropolating (?) "I was aware of all around me, I was part of the world." Now, there we have in layman's language the merging, isn't that right? Not so? --- Dis korrek, Edelagbare.

"The world and I are one, you could say, even with the thing, the bomb which was on the ground, on the right." At an earlier stage of this interview he describes the opening phase of his experience on the bench as follows: "I felt very holidayish, carefree. Like being at the coast on holiday, I felt on top of everything." /10'
Now, again we have here the fact that we have a layman trying to describe something subjective, not so, doctor? --- Yes.

And I think that you will concede that for anybody, perhaps even a poet, it is difficult to express in words one's subjective feelings precisely? --- Ja.

He says, 'I felt carefree on top of the world, I knew I was doing the right thing, it was terrifically important.' Now, here we have the sense of tranquillity or pleasure, which is another component of the estatic /20
state of the manic depressive, not so? --- Dit sal daarby kan inpas, Edelagbare, ja.

He says, on paragraph C, at the interview on the 18th, on this occasion he stressed his ability to see all around him, that he felt physically part of the world, that he felt very powerful. Now, that also is a characteristic of the manic depressive state? --- Korrek, Edelagbare, maar dis miskien ook gewoon as 'n mens geweldig kragtig voel. As 'n mens met 'n klomp ontplofstowwe langs jou sit en jy gaan Johannesburg se stasie /30
opblaas dan is dit ook moontlik - dis miskien ook moontlik

om hierdie gevoel van krag te hê. Ek noem dit net as 'n ander moontlikheid, Edelagbare..

That may be an explanation, but you agree that it is again another one of the components, which are described by Noyes & Kolb? --- Ja, Edelagbare.

The one ..(coughing) .. that is entrancing, another feature is that it is tranquil, another that there is a sense /of power and that there is an identification with the cosmic order? --- Ja, Edelagbare.

What Harris gave you and Professor Hurst /10 during the interviews is in fact a picture, a very vivid picture, not so, of his experience? --- Dis wat hy gegee het, Edelagbare. Die informasie wat hy gegee het.

And this vivid remembrance or recollection, that in fact you concede is one of the characteristics of the remembrance of the exalted state by a manic depressive? --- Dis korrek, Edelagbare, maar ek meen hierdie geweldige emosie kan mens ook van ander oorsake hê, soos ek vroeër gesê het.

Doctor, I'll come to that. Do you agree that /20 whatever the explanation is, Harris has - if you take Professor Hurst's record of the extracts of the interview, and you take Noyes & Kolb, you as a psychiatrist would say that this is a classic case, apparently, of the manic depressive ecstasy? --- Ja, Edelagbare, hy voldoen aan daardie vereiste.

Now, doctor, are you suggesting to his Lordship that in the normal course of events and without the manic depressive tendency, the accused could have felt this experience in these terms? --- Ek reken dat dit wel /30 moontlik is. Soos ek gesê het, Edelagbare, dit is iets

wat gebeplan is hy het 'n geweldige rede daarvoor gehad, motivering, en soos ek weer sê, hierdie kon hy moontlik gevoel het - dit is die groot ding in my lewe, die ding waarvoor ek werklik op aarde is, en gekoppel aan die gevoel van spanning voel ek - ek mag natuurlik verkeerd wees - dat dit moontlik is dat hy ook in hierdie toestand as gevolg van omstandigheds faktore kon gewees het.

Belt 75.

Doctor, I say this subject to correction, but I understood you to say just now, that if Harris had this it was only explicable in terms of Dr. Hurst's theory - /10
Professor Hurst's theory? --- Ek onthou dat ek gesê het dat hierdie kan inpas by hierdie beskrywing van die ekstatiëse toestand, en ek het gesê hierdie eksplanasie van Professor Hurst is 'n moontlik een, maar ek stel ook die ander moontlikheid, Edelagbare.

Well, doctor, the note which I have here indicates that from the information and the history in your possession, if Harris had this, the only explanation - 'I have no explanation of the ecstasy except Professor Hurst's.' Do you remember saying that? --- As dit van /20
hierdie graad is wat Mnr. Harris gesê het, het ek so bedoel, Edelagbare.

But, doctor, I was talking very specifically then, very specifically, of the ecstasy in its psychoatric concept. Is there an answer, doctor? --- Kan u net die vraag herhaal, asseblief, Edelagbare.

Well, earlier on I asked you the same question, and I said on the assumption that Harris in fact experienced this, have you any explanation other than Professor Hurst's for this experience, and your answer was that you didn't. /30
"From information and history I have no explanation of

the ecstasy except Professor Hurst's," --- As dit van hierdie graad van ekstase is, is dit die enigste - dis 'n waarskynlike eksplanasie, Edelagbare.

DEUR DIE HOF: U meen die graad wat Harris beskryf het? --- Die graad wat hy beskryf het, Edelagbare.

En as dit so is, is hy dan daardie oomblik nie verantwoordelik vir sy daade nie? --- As dit so is sal hy aan die ekstatische toestand van die maniese depressiewe ly. En ek glo nie hy sal verantwoordelik wees vir sy daade op daardie moment nie, Edelagbare, ingeval dit /10 werklik so is soos hy dit beskryf het.

Hoelank sal sy onverantwoordelikheid duur? --- Ek sou sê vir die lengte van daardie periode van ekstase. Vir so lank hy op die bank gesit het. Daardie paar minute wat hy op die bank gesit het.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, Professor Hurst's explanation, again on the assumption that this is true, is the most probable one, isn't that so? --- Vir watter periode?

For the period that this specific ecstasy endured /20 as described by the accused? --- As dit in werklikheid aanwesig was.

Doctor, on the assumption that this was felt, that Harris in fact experienced this, do you agree that Professor Hurst's explanation is the most probable? --- Vir die duur van daardie episode, as dit aanvaar word, Edelagbare.

Now, I think that logically takes us to the question as to how long this state in fact endured, but perhaps before I come to that, doctor, do you agree that /30 even for a very well trained psychiatrist it would be

impossible to simulate and to concoct this condition? You heard Professor Hurst's version and views on the possibilities of simulation and concoction, do you agree with him? Again accepting that these phenomena exist?

--- Ja, Edelagbare, maar aan die anderkant herinner dit my dat Professor Hurst gesê het dat selfs 'n goed opgeleide psigiater soms moeilikheid sal hê om so 'n toestand in 'n persoon te erken. Is dit nie korrek nie?

I think he says that it will be difficult for a well trained psychiatrist to simulate this condition, not to identify it. Well, I'm referring to the part where the Professor said that this condition is of so complex a nature that even a well trained psychiatrist would be unable to simulate this condition. --- Ek stem saam, Edelagbare, behalwe as 'n mens nou kennis vooraf daarvan geneem het, as 'n mens miskien dit gelees het, want eintlik is dit die beskrywing van die gevoel, nie waar nie. /10

Well, are you suggesting, doctor, that this might have come from Harris' reading? --- Ek wil dit nie voorstel nie, Edelagbare, maar ek noem dit as 'n moontlikheid. As 'n mens so iets gelees het dan kan 'n mens dit miskien onthou. /20

You have Professor Hurst's evidence that this condition of ecstasy is a rare condition, not so? Do you agree with that? --- Dis korrek, Edelagbare.

And it is the sort of thing that the ordinary - which the layman, and perhaps even the psychologist would not have an intimate knowledge of, do you agree with that? --- Dis korrek, Edelagbare. /30

So that in the ordinary course of events it is

unlikely that an accused person, who is not a psychiatrist, would be able to concoct this version? --- In die gewone omstandighede sal dit onwaarskynlik wees. Maar dit was moontlik darem dat hy moontlik kennis daarvan dra.

Now, in this case we haven't only got a condition of ecstasy described, but a whole complex of symptoms and features. One has the ecstasy, but associated with that one has the history, again leave aside for a moment whether it was actually felt or not, but you will agree that the anterior history of mood swings is highly consistent with the description of the experience of an estatic state? --- Korrek, Edelagbare. /10

They go together, not so? --- Dis korrek, as 'n mens nie aanvaar dat hierdie gemoedstemming /as gevolg van ander faktore, omstandigheid of omgewings faktore is nie. Dit is natuurlik die ander moontlike verklaring van die gemoedstemming wisseling.

Wel, doctor, at the moment I am only interested in one point and that is the possibility that this could have been simulated. The question is whether there is a consistency in the picture given by the accused. At the moment I'm not asking you whether they in fact go together or not. You agree that the description of ecstasy together with the description of a history of mood cycles is highly consistent? --- Dis korrek. /20

Do you also agree that the working out of the paranoid trend, the interaction of the confluence of the paranoid trend and the manic depressive trend shows a consistent picture? Do you understand my question? --- /30
BY THE COURT: You mean in the abstract?

MR. SOGGOT: No, my Lord, here.

DR. VAN NIEKERK: Ek het nog nie genoem die paranoïede moontlikhede nie. Ek het dit nog nie genoem nie, Edelagbare.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, that is perfectly so. What I'm saying, you don't interpret these facts as a paranoid trend? --- Nee, Edelagbare.

But the facts which the accused told you, and if one assumes for a moment that they are indicative of a paranoid trend, those facts fit in with the rest of his description of his state? --- As 'n mens aanvaar dat hierdie wel waandenkbeelde is, wat ek nie meen nie, Edelagbare, sal dit liewers inpas in 'n skisofreniese siekte toestand soos Professor Hurst ook genoem het gister. Skisofreniese paranoïede toestand. /10

Well, making the assumptions, again, doctor you don't have to make concessions on this point, making the assumptions that there was a paranoid trend, and a history of mood swings, one sees a consistent working together of them in the story relating, for example, to the letter to the Prime Minister, or in this person's belief that he could change history over night with one bomb. My question is, the confluence of these things, the way they are put together in the accused's version does not suggest to you that they are not authentic, as a narration of his history? --- Ek weet nie of ek daardie vraag kan antwoord nie. Die waarskynlikheid of dit waar kan wees en of dit gesimuleer kan wees nie. Ek verstaan nie juis nie. /20

If I may put it more simply, doctor... /30

BY THE COURT: You must either put it in the abstract or

ask the witness whether he agrees with the paranoid trends. He says that although hallucinations - to him they are not hallucinations.

MR. SOGGOT: I am dealing only with the abstract at the moment, my Lord. The question I'm posing to him is in the abstract at the moment, and that is, given that these things happened, the total picture that it creates is an integrated picture.

DR. VAN NIEKER: Dis korrek, Edelagbare.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) And there is /10
nothing in the picture which suggests something inconsistent or concocted? --- Ek sal nie sê dis onmoontlik nie, maar dis onwaarskynlik.

ASSESSOR MRN. VAN DER BERGH: Ek neem aan dan moet dit die hele storie wees? --- Dis korrek, Edelagbare.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, do you agree with Professor Hurst's evidence to the effect that the manic depressive state of ecstasy is also - also has as one of the associated features a state of amnesia in part? --- Ek sal saamstem, Edelagbare, dat in so ver /20
as hierdie ekstatische toestand is vir my 'n gevorderde graad van maniese toestand, en mens kry soms geheueverlies in die meer erg gevorderde grade van maniese toestande, alhoewel in die meer ligterer grade geheueverlies nie die gewone is nie, maar in die erger grade kan daar wel geheueverlies voorkom.

Well, doctor, if we can only talk of ecstasy for the moment. Do you agree that with the experience of ecstasy is associated....

BY THE COURT: Well, he has agreed with you. He has /30
agreed with you, but he says only in the most advanced

cases.

MR. SOGGOT: That I wasn't clear about, my Lord.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Are you saying, doctor, that only in the advanced cases of manic depression? --- Dis korrek, Edelagbare, want vir my is hierdie ekstatiiese toestand - dis vir my verteenwoordigend van 'n erger graad van maniese toestand.

Does it amount to saying that a person can have the sense of ecstasy - that you wouldn't expect the sense of ecstasy to be associated with some amnesia in an ordinary case where the manic depressive - the state has not advanced too far? --- Ek sou sê in die gewone gevoel van ekstase, Edelagbare, sal ek nie verwag dat daar geheueverlies is nie, en ek sal dit ook nie in die ligter grade van maniese depressiewe psigose verwag nie. /10

When you talk about 'gewone ekstase' you are still talking about the psychiatric - the state as it is conceived by psychiatrists? --- Nee, ek het van die gevoel van 'n ekstase gepraat.

Doctor, my question relates to ecstasy as defined by Noyes & Kolb which I read out to you? --- Ek sou sê dat geheueverlies wel in die psigiatriese toestand soos beskryf wel moontlik kan wees, dat daar amnesie is. /20

* HOF VERDAAG *

BY HERVATTING VAN HOF: 26 Oktober 1964.

MR. PHILLIPS: Makes an application for leave to recall Professor Hurst at the conclusion of Dr. van Niekerk's evidence, merely for the purpose of obtaining his comments on the matterst that were mentioned by the two psychiatrists called by the State and which were never put to Professor Hurst when he was in the box. Mr. Phillips also asks /30

leave to hand in three cuttings from three Sunday newspapers of the 26th July, which are published photographs of the accused. They are: 'Dagbreek', 'Sunday Express' and 'Sunday Times'.

MR. MOODIE: Mr. Moodie submits that it is not necessary to hand them in, the fact that there had been photographs in those papers is admitted., and Defence case is closed.

MR. PHILLIPS: My Lord, it might be an advantage to your Lordship from that point of view, and specifically that one of these newspapers not only publishes the photograph, but makes it very clear that the photograph is connected with the fact that the bomb had exploded on the Friday afternoon in the station. /10

BY THE COURT: Well, if Mr. Moodie objects. That's correct your case is closed, but that admission is on record.

MR. PHILLIPS: I ask leave only to hand them in for that purpose, because they do make it quite clear in the one case that there is a connection, indicated by the newspaper, between the photograph and the station explosion. There is no such specific connection indicated in the others. /20
I ask my learned friend not to press the objection.

MR. MOODIE: I have no power. Your Lordship has the power. The case is closed, your Lordship knows that I have no power to consent or otherwise.

BY THE COURT: Well, you can hand them in and I'll read them and consider it.

GERT VAN NIEKERK, (n.o.e.)

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, on Friday, I think, we got to the stage where I was about to question /30
you on the amnesia or so called amnesia suffered by the

accused around about the time that the planting of the bomb took place. Now, do you agree with Dr. van Wyk's views on this amnesia? Do you also think that this is not an amnesia which is characteristic of the manic depressive ecstasy? --- Ek meen dat dit meer waarskynlik as gevolg van een van die ander redes is, Edelagbare.

DEUR DIE HOF: Meer spanning? --- Soos byvoorbeeld spanning. Angstig en gespanne gewees het. Die ander moontlikheid wat ek moet noem is opsetlike amnesie, Edelagbare, dat dit net gesê word.

/10.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Do you - to deal with Dr. van Wyk's reasoning - do you think that this amnesia if indeed genuine or the gaps in memory if indeed genuine are explicable in terms of Dr. van Wyk's reasoning, namely, that a long time has elapsed and the important things will tend to stand out, and the unimportant, trivial, will be forgotten? --- Ek stem saam, Edelagbare, as 'n mens amnesie as gevolg van spanning het dan sal hierdie die patroon, die neiging meer wees om die meer belangrike dinge te onthou en onbelangrike dinge sal ~~nie~~ geneig wees om te vergeet. Ek sal nie ^{sê} 'n mens sal alle onbelangrike dinge vergeet nie, maar hierdie sal die patroon wees, wat ek sou verwag.

/20

And you would expect this pattern or this tendency to be more marked the longer the time has elapsed from the time that the incident took place? --- Ek weet nie, Edelagbare, as dit 'n belangrike gebeure is dan gaan dit nie saakmaak hoe 'n lang periode het verstrek, hy sal dit onthou.

The important things would stand out, but the trivial things would with the passage of time, surely,

/30

be forgotten? --- Dis moontlik, Edelagbare.

Well, that is the probability, isn't it, with all of us? --- Dit is waarskynlik dan, Edelagbare, in enige van ons.

Would your observations be altered if you are dealing with the case of a person whose attention is directed the same day and on subsequent days to his activities and what he did? In other words, a person being directed to the history which took place on a particular day, and refreshing his memory and revivifying /10 the images of the day. Do you think that that would effect the nature of the recollection of both important and trivial details? --- Dit is moontlik, Edelagbare, maar dit is nie noodwendig nie, want terwyl dit gebeur het en hy gespanne gewees het hy miskien nie sy aandag bepaal by daardie gebeure, hy het miskien nie raakgesien nie, daarom al word hy hoeveel keer daarna weer teruggebring en gevra onthou jy dit nou, dan sal hy dit nie kan onthou nie, want hy het nie aandag gegee aan daardie gebeure nie. /20.

But that reasoning would not apply in respect of those things where clearly he must have given very careful attention, not so? --- Ek sê weer dat ek sou verwag dat die meer belangrike goed hy beter sal onthou, Edelagbare.

Well, you know what Harris' plan was that day? His plan was to explode a bomb, and he has told his Lordship and he has also told the psychiatrists that he set the watch, he wound the watch, which would eventually determine - set off the timing mechanism. /30 Now, in that regard he is confused, on his evidence he

doesn't know whether it took place at Brixton or at the station. Now, do you first of all, conceive that that was, as far as one knows, an important part of his plan that day, something which will have taken his attention? --- Ek sou sê dat dit moontlik 'n belangrike gebeurtenis was, maar hy kon oorskadu raak deur ander gebeure, Edelagbare. En ek wil herinner net aan die ander moontlikheid van opsetlike amnesie.

We'll come back to that later. At the moment I'm just talking about what would normally happen with a /10 person, if you take an important event like that, namely, the setting of the watch, and if you assume that on the same day, or on days shortly following the event he was interrogated about his movements and what he did, you would expect him to have a fairly clear recollection of where he set the timing mechanism? --- Ek sou dit verwag het, Edelagbare, maar ek sê weer, miskien kon daar ander gebeure gewees het wat dit kon oorskadu het, wat meer emosionele waarde gehad het.

I just want to put it to you that there is /20 evidence that Mrs. Bowen, one of the witnesses from Damelin College, made a statement to the police on Monday, and that the accused on Monday or Tuesday pointed out certain things to the police. Now, assuming that there was an interrogation by the police as to his movements and what he did, you would - had he not been in an ecstatic state of a manic depressive, you would have expected in the normal course that he would have remembered that important detail? ---- Ek sou dit verwag, Edelagbare, maar weer met die voorbehoud dat hy nie gepreokkupeer gewees het /30 met die gebeure wat voorlê nie.

Now, doctor, it is clear that after a passage of five or six weeks, small details in a normal person would tend to disappear, but what we have from Harris here is a description of some things which are intensely highlighted and detailed. We have the description, for example, of the P on the Portuguese number plate, do you remember that? Do you remember, I think it was in consultation, that he actually drew it for Professor Hurst? --- Dis korrek, Edelagbare.

And he claimed to have a very vivid recollection /10 of where it was pattered, the stem of the P, or its exact shape, not so? --- Dis korrek, Edelagbare.

Now, in the normal course of events, you don't think, you don't remember things like that which had happened a month or two back.

BY THE COURT: Didn't the witness say yesterday or on Friday that it was very important for him to find a parking space.

MR. SOGGOT: My Lord, that is what Dr. van Wyk said.

DR. VAN NIEKERK: Dit sal afhang van hoe belangrik daardie /20 insident of gebeure is, Edelagbare. Hy was miskien haastig gewees, hy moet nou by die foon kom om te bel, en hy moet 'n parkeer plek kry, dan kry hy dit, so daardie kon heelwaarskynlik 'n belangrike gebeurtenis vir Mnr. Harris gewees het op daardie moment.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) It might have been a 'belangrike gebeurtenis', his whole series of actions from the time he left home until the time he went to Damelin College were 'belangrik', but can you suggest any reason to his Lordship why the registration /30 plate of any vehicle should attract his attention? ---

Ek het alreeds gesê, Edelagbare, hierdie insident was van belang. Hy het gesoek vir 'n parkeerplek, en hy het nou hierdie voertuig sien uittrek voor him, en hy het sy nommerplaat opgemerk.

Doctor, this particular thing he remembered, he doesn't remember every other detail.

BY THE COURT: But don't you think the witness has answered the question twice, now why should he answer it three times.

MR. SOGGOT: As the court please.

/10

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, the voice in the Greek shop, for example, the Afrikaans voice, the Greek who spoke a good Afrikaans. Can you suggest to his Lordship any particular reason why that should have been remembered? ---Ek het geen verklaring hoekom hierdie nou spesifiek moet onthou word nie, Edelagbare.

The thing is that in normal life such trivial things like this don't stand out and are not retained for a number of months, isn't that right? --- Ek kannie heeltemal saamstem nie, Edelagbare, soms onthou ons onbelangrike gebeurtenisse ook.

/20

But that is not characteristic of our memory? --- Dis it nie karakteristiek nie, maar dit gebeur tog soms, Edelagbare.

Don't you think that the explanation for this uncharacteristic memory, and it's not just one item that one talks about, but one knows that there are several, the key in the car, the remembrance that the car seemed to have moved its position, the Portuguese P and the voice in the Greek shop, don't you think that the heightening of confidence which takes place in an ecstatic

/30

mood is the real explanation for the very vivid recollection of these items and the retention of their memory? --
 - Dis moontlik, Edelagbare, dat 'n mens amnesie as gevolg van 'n soortgelyke siekte toestand manies depressiewe psigose kry, maar ek sou nie verwag dat dit langs mekaar moet voorkom, en onthou hy skielik vreeslik helder, dan die volgende moment is daar 'n beneweling van die bewus-syn dan is die geheue weer swakker as gevolg van die manies depressiewe siekte toestand.

Doctor, I will come to that shortly, I just /10
 want to refer you to a text in Anderson which has already been referred to in front of his Lordship, where he says this on page 92: "The change in the external world was a noticeable feature in all four subjects. The first three patients observed that everything seemed more beautiful as well as more real and more intense. That details were perceived, which had not been noticed before." This certainly is an explanation for Harris' recollection?
BY THE COURT: He answered the question. He said it could be the explanation, but then he shouldn't expect /20
 clouded memory next to clear memory.

MR. SOGGOT: My Lord, I do propose to deal with that in sequence.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Do you agree, if I may refer you to Meyer-Gross on Clinical Psychiatry, the 1954 edition, if I may quote from page 203: "The attention of the manic patient is intense, but fleeting." Do you agree? --- Ja, Edelagbare.

That is also a significant passage in the light of what we are dealing with now, don't you think? In /30
 the sense of trying to explain intense, but disconnected

recollections of Harris? --- Soos ek alreeds gesê het, Edelagbare, dat dit wel moontlik is, dit kan in 'n maniese depressiewe toestand voorkom.

Now, also your argument that the important things would be remembered. Don't you think in terms of Harris' story that the approach to the bench, and the leaving it were very important stages in his movements? Especially, bearing in mind, that when he left the bench, leaving the suitcase behind, somebody could have come after him and said, 'excuse me, sir, you've left a suitcase there', and started the whole trouble which would have led to his identification and his arrest? --- Agterna is dit belangrik, Edelagbare, maar ek weet nie of Mnr. Harris op daardie moment hierdie as belangrik beskou het nie, of dit vir hom emosioneel van belang op daardie moment was nie. /10

For the normal person that would have been very important, not so? --- Edelagbare, die normale gedrag verskil soveel dat ek sou dit miskien verwag, maar dit kan net so maklik anderste wees. /20

Well, another incident, for a man in Harris' position, he is sitting on the bench, and the next moment he notices that there is a man sitting next to him, he didn't see the man arrive, he has no recollection of what the man did before sitting down, in the normal course of events in that situation a normal person would be very aware of those persons who are in his immediate proximity, and who will approach him? --- Ek sou so verwag, as 'n mens se aandag nie op 'n ander plek besig is, byvoorbeeld, op sy koffer langs hom, Edelagbare. /30

Well, there was nothing in that situation then

for the 'koffer' to attract his attention? --- Ek sal nie 'n opinie kan uitspreek nie, Edelagbare, of daar toe iets van belang was nie.

And putting the note on the suitcase, that was a critical step in terms of his plan, wasn't it? --- Ek sou so verwag, Edelagbare.

Of that also he has no memory.

BY THE COURT: Did he say that he put it on the suitcase?

MR. SOGGOT: My Lord, I think he said he must have.

Harris put it in his pocket, but he has no recollection /10
of putting it on the suitcase.

DR. VAN NIEKERK: In die hof het hy gesê dat hy vooraf die notatjie reggemaak het om op die tas te sit. As ek my reg herinner, gedurende ons onderhoud met Professor Hurst, het Professor Hurst hom gevra na die nota, en hy het gesê, 'ek onthou nie van die nota, ek onthou niks van die nota nie.'

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Whatever it is, he does say that he cannot remember putting the note on the suitcase, but for a normal person you would expect a /20
recollection of that important thing? --- Ek sou so verwag, Edelagbare, as hy nie opsetlik amnesie simuleer nie. Weer as hy miskien sy aandag elders op iets van groter belang gehad het.

Well, there is no evidence, doctor, that he at that stage concentrated his attention on anything else. That is if you exclude the ecstasy? --- Maar ek moet daardie moontlikhede noem, Edelagbare, wat ek genoem het, dat hy moontlik sy aandag op 'n ander plek gewees het of nie opsetlik aandag gegee het nie. /30

Those are possibilities, but the thing is you

have here three items which I mentioned to you, which were important or would have been important to a normal person, but which are forgotten, not so? --- Volgens Mnr. Harris, ja.

As far as the clouding of consciousness is concerned, I think you would agree, that where you have a manic depressive ecstasy clouding of consciousness is a characteristic feature? --- Ek sal nie sê dit is karakteristiek nie, maar dit kan voorkom in erge grade van manie kan dit voorkom, Edelagbare. /10

Would you say it is characteristic of a higher degree of mania.

BY THE COURT: He said it can happen.

DR. VAN NIEKERK: Ek sal nie sê dit is karakteristiek nie

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) I want to put to you a passage from Henderson & Gillespie, the 9th edition at page 213, where they say: "There is no sharp distinguishing between hypomania and mania. The one grades into the other. There are cases in which a state of acute excitement develops at once without any previous /20 hypomanic stage. Acute excitement may be preceded by a short period of sleeplessness and irritability. In this stage the elation, flight of ideas and over activity are all the more intense, and in addition there may be a certain clouding of consciousness with disorientation and great impulsiveness." Do you agree with that text? --- Ek stem heeltemaal saam, want dis wat ek gesê het, Edelagbare, daar mag beneweling voorkom.

And then, if then you are satisfied that Harris did have amnesic periods or has amnesic patches relating /30 to that afternoon, that would be corroboration that he

in fact had a state of manic depressive ecstasy? --- Ek het die ander moontlikhede ookal genoem, Edelagbare, ek weet nie of the aanvaarding van die amnesie eintlik vir my gaan die bewys wees nie, want die ander moontlikhede is nog daar en is nog nie uitgesluit vir my nie.

There are other possibilities. There are always other possibilities, but I'm suggesting it would corroborate the diagnosis of manic depressive ecstasy. --
- Ek sou sê dit hoef nie noodwendig nie, Edelagbare.

I'm sorry, doctor, I didn't catch that? --- Dit /10 kan, maar nie noodwendig nie. Dis moontlik maar nie noodwendig nie.

Is there anything to suggest to you that the amnesic patches claimed here are not consistent with the manic depressive ecstasy? --- Soos ek alreeds gesê het hierdie kan inpas by die amnesie van 'n manies depressiewe psigose, behalwe dat ek net nie hierdie geweldige skommelings, hierdie oomblik vreeslik heldere geheue en dan direk daarna weer die benewelde geheue, maar ek sou sê verder kan dit inpas, maar dit kan ook /30 inpas by die ander moontlikhede wat ek genoem het.

Doctor, may I put it to you this way, that where you have a manic state, there is, so to speak, a trinity of components: the person has emotions, the person thinks, and the person moves. Those three things, not so? --- Ja, Edelagbare.

Now do you agree that in any state or any grade or degree of this manic state, one or other of those components may vary. You might, for example, have a 3 plus increase in movements, but no increase /30 in thinking. In other words, I am saying that there is

not invariably a consistent degree of the increase or decrease in the activity of those three components? --- Ek stem saam, Edelagbare, maar ek is nie bereid om 'n diagnose van 'n maniese toestand te maak waar net een van daardie komponente aanwesig is nie, en veral waar die aanwesigheid of afwesigheid van daardie komponent alleen afhang van die geskiedenis wat die pasiënt gee.

I want to refer you - do you agree with Dr. van Wyk's version, and that is, that the fluctuations, if they existed, would be within limits, and you have already stated that you don't expect to find amnesia at one stage and then such sharp vivid images of the next. That is your argument, not so? --- Ek sou dit nie verwag nie, Edelagbare. Hierdie geweldige verskille van uiterstes. /10

I'm quoting from Meyer-Gross again, page 201. "An important and significant symptom of endogenous depression, but also of mania is the daily fluctuations of mood and of the total state." Do you agree with that? /20 --- Dis korrek, Edelagbare, maar nie van sekond tot sekond nie.

Well, that doesn't refer to the question of consciousness. I want to refer you to page 203: "Manic excitement in its most severe form leads to confusion in which the typical symptoms of mania are observed. Consciousness which is clear in the less severe stage become clouded. illusions and hallucinations may be observed, and the condition may resemble a delirium." Do you agree with that? --- Ek stem saam, Edelagbare, maar dan sal ek nie 'n heldere bewussyn die /30

volgende sekond verwag nie, hierdie is meer 'n geleidelike oorgang van die beneweling van die bewussyn, dan word dit geleidelik helder. In elk geval in my ondervinding het ek dit so gevind.

Belt 77.

Why do you say that, doctor, have you got any text which suggests that that is the typical nature of the fluctuation? --- Ek het nog nie anders gelees in die handboeke ook nie, Edelagbare, en ek baseer dit eintlik op my waarnemings wat ek gemaak het van pasiënte.

But have you ever specifically investigated? /10
--- Nee, Edelagbare, ek het nie 'n spesiale studie daarvan gemaak nie.

Well, in any particular case, have you investigated this specific point, and that is the nature of the fluctuations and their relations with amnesia.

BY THE COURT: It is his experience with his patients.

MR. SOGGOT: Well, my Lord, I'm questioning him on that, whether on this specific point he has investigated it.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) You have /20
experienced fluctuations, I accept that, but in relation to amnesia? --- Dis korrek, Edelagbare, maar ek het nog nie in my ondervinding, met 'n hele klompie pasiënte darem, het ek nog nie hierdie skielike skerp fluktuasies tegekom nie. Ek mag natuurlik verkeerd wees, maar in my ondervinding. Dis my ondervinding wat die grense stel van wat ek hier sê.

Doctor, I think it is clear that this sort of manic depressive ecstasy is a very rare condition, not so? --- Dit is skaars - nou hierdie spesifieke toestand, /30
maar ek het al heelwat van die gevorderdes, dis nogal

redelik algemeen in die hospitale, Edelagbare.

But when you talk of your experience, are you talking about patients who had a high degree of mania, or are you talking of the ecstatic state in psychiatric terms? --- Ek praat van gevorderde maniese toestande, want hierdie toestand van manies depressiewe ekstase kan ek nie sien kan voorkom waar daar geen van die ander simptome van manies depressiewe psigose nie ook in die agtergrond voor die gebeure of na die gebeure kom nie, Edelagbare.

/10

Doctor, I will deal with that later, but at the moment I'm asking you if you have had specific experience of amnesic states in relation to persons who have had this sort of ecstasy, manic depressive ecstasy? --- Ek het nog nie, Edelagbare, met hierdie spesifieke manies depressiewe stase, soos hier beskryf.

Well, then there is nothing in your experience which suggests to you that the fluctuations might not be much more acute in such a condition, as opposed to the ordinary manic condition in higher degrees? --- Dis verwante toestande, Edelagbare, dit is eintlik dieselfde toestand met verskillende grade.

/20

DEUR DIE HCF: Kom die ekstase net voor in gevorderde gevalle, wat alreeds in die hospitale is? --- Ek sou dit verwag, Edelagbare, dat hierdie ekstatische toestand van die manies depressiewe psigose alleen in die agtergrond van 'n gevorderde of ten minste 'n gevestigde maniese toestand voorkom.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) In fact, doctor, the ecstasy is the acute manic state par excellence? --- Edelagbare, ja, maar daar is daar nog die ander komponente

/30

van handeling en van gedagte ook.

Well, just to get this quite clear. I'm not sure whether this is quite clear. You don't have this experience except in states of acute manic depression?

--- Korrek, Edelagbare.

Now, doctor, I understand when you say that they are related, that is the ordinary manic form to the extreme manic form, but your statement is that you have no experience that fluctuations are so sharp. Might not the increased manic state bring in its trail a much sharper fluctuation? --- Ek het dit nog nie opgemerk in die ergste grade van maniese toestande nie, Edelagbare. /10

Now, doctor, just one point I want to deal with briefly, and that is the time when this ecstatic state took place. Do you - I want to refer you to Anderson again, page 87. Is it correct that when this experience is felt the patient has no sense of time or a distorted sense of time? --- Ek sal nie kan sê of dit so beskryf is nie, Edelagbare.

I'm referring to page 85 of Anderson, where he says this: "She had no sense of time 'everything is absolutely new, every minute is as if everything has just started.' Do you accept that that is a characteristic of the ecstatic state? --- Professor Anderson sê so in my boek, Edelagbare, hy is seker 'n autoriteit, hy het die vier gevalle beskryf. Ek kan nie sê of dit karakteristiek is of nie. /20

You don't dispute what he says there? --- Nee, maar ek kan dit ook nie bevestig nie.

And I want to refer you, on this point, also to Ballak, Manic Depressive Psychosis. This is a 1952 /30

edition at page 116, where he says: "These authors find that 25% of manic depressive patients followed up presented confusional episodes, consisting of a loss of time and place, loss of full consciousness, disorientation and so on." --- Ek praat nie van die graad van die maniese toestande daar nie, Edelagbare.

Yes, that may be, but do you accept that as happening? --- Ek het alreeds gesê dat in die maniese depressiewe psigose en veral, volgens my ondervinding, in die gevorderde fases, mag daar amnesie voorkom, Edel- /10 agbare.

I'm talking about time distortions and loss of a time sense. Do you accept that that happens in the advanced forms of...

BY THE COURT: He has just said that.

MR. SOGGOT: My Lord, I'm sorry, I didn't catch that.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, given that this may happen, doctor, may it not be that the description of the time period during which Harris felt this experience may very well be distorted? He said at /20 one stage it was a few seconds, at another stage it was a few minutes. The ecstatic state in fact might have been felt over a much longer period? --- Ek sou sê dis moontlik, Edelagbare, solank dit in grense bly...

May I put it this way, you can't take Harris too strictly at his word when he says it was only a few seconds or a few minutes? In other words, his characterisation of the time period must be viewed with a great deal of care? --- Dis korrek, Edelagbare.

And to make a true assessment you would have /30 to look for other symptoms of the ecstatic state? ---

Ja, Edelagbare.

And do you agree that the state of ecstasy can last for as little as half an hour? --- Ek sou sê dat dit moontlik vir 'n half uur kan duur, Edelagbare, maar na die afloop van die ekstatische toestand of direk net voor, dan sou ek verwag om minstens aanduidende simptome of ander simptome van maniese fase ook op te merk.

Well, if, for example, he were restless and cheerful afterwards, would that be an indication of a manic state? --- Afhangende van die graad, ja, Edelagbare. /10

Well, that is the evidence that is before his Lordship. That after his return, Harris got cheerful, he made a number of telephone calls, and afterwards he went soundly to sleep. --- In die geskiedenis wat Professor Hurst van sy vader gekry het, het hy die aand om ses uur 'calm and collective' het hy voorgekom, Edelagbare.

He appeared that, yes, but we do know that in a state of ecstasy people can appear very calm. I thought /20 that was clear already? --- Ja, Edelagbare, hulle kan.

Now, doctor, on Friday I asked you a number of questions relating to Harris' failure or lack of judgment on a number of points. Do you know of any other things which he did or said which indicates a lack of judgment, in this particular history?

BY THE COURT: Do you mean previously?

MR. SOGGOT: My Lord, to be more specific, in the month of July.

DR. VAN NIEKERK: Ek sou werklik nie kon sê nie. Daar /30 was die gesuike van Mnr. Harris se vrou dat hy onver-

skillig bestuur het, Edelagbare. Die mag aanduiding wees, maar daar mag ander verklarings ook wees.

CROSS-EXAMINATION BY MR. SOGGOT (COND) I'm thinking now of the plan which has been outlined before his Lordship, the whole plan about the station bombing, the plan to put the bomb and the plan to give a warning. Now, you remember the evidence that Harris was completely convinced that this warning would be acted on and would work, not so?

BY THE COURT: That's what he says.

/10

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) That is the evidence, not so? --- Dis wat Mnr. Harris gesê het.

And you also remember the evidence of Lloyd and also of Harris, namely, that it wasn't his deliberate intention to take life? --- Ek het net Mnr. Harris se getuie aangehoor, nie Mnr. Lloyd se getuie nie, Edelagbare.

Well, doctor, this belief, this very, very confident belief which he had that the police would act on his warning, use the loudspeakers, clear the station, /20 get people outside of the concourse, standing around where they could see this explosion, this big bang, do you think that that was a normal calculation of a normal man? --- Ek het alreeds voorheen gesê, Edelagbare, as 'n mens miskien swak oordeel openbaar is dit nie sinoniem of gelyk aan of die bewys van geestesstoornis nie.

ASSESSOR MNR. VAN DER BERGH: Of dit mag miskien inpas by wat Mev. Swersky vir hom aan die hand gegee het wat gedoen word in Israel? --- Dis ook moontlik, Edelagbare /30.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Whether it

happened in Israel or not, he expected the police to believe it. Do you accept that that was a grave error of judgment? --- Ek is in die posisie om agterna die gebeure so te sê dat dit swak oordeel was, maar ek weet nie wat sou ek voor die gebeure kon gesê het nie, Edelagbare.

Doctor, I'm talking about a normal man. A normal man you would expect, would not come to such a grotesque conclusion, with such confidence? --- Ek weet nie, Edelagbare, of 'n mens dit kan verwag of nie verwag nie. Die sogenaamde normale mense die handel soms maar snaaks en vreemd, en ek kannie 'n opinie uitspreek. Die voorspelbaarheid van normale mense - van die gemiddelde menslike gedrag, ek is nie bereid om te voorspel nie. /10

Well, people do make mistakes sometimes, that may be, but are you - do you concede that this confident calculation made by Harris that the police would act, was a bizarre one, a very definite failure of judgment? --- Ek sou nie sê dat dit moes vreeslik snaaks gewees het dat dit bizarre gewees het nie, Edelagbare, ek sou sê nou agterna kan mens sê dat dit swak oordeel was. Dis al wat ek bereid is om te sê daaroor. /20

Doctor, it goes further than that. He thought, on his version, that there was no danger. Now, any reasonable man... --- Dis natuurlik wat hy sê, Edelagbare, wat hy vir ons gesê/dat hy nie gevaar verwag nie. /30

Well, I'm asking you to accept that, otherwise there is no point in my questioning you. He thought that there was no danger, now bearing in mind all the possibilities - I don't know whether you have heard all of

them which have been raised in this court, the possibility that the loudspeaker system might not work, that the police might not react, that there would be foreigners, natives, children who wouldn't understand, doesn't this confidence on his part strike you as a clear failure of judgment? --- Ek sou sê ja, Edelagbare, as ek dit net altyd die sentrale gedagte hierdie is wat Mnr. Harris sê.

And you have got no explanation as to why that failure of judgment would have come about? --- Nee Edelagbare. /10

But Professor Hurst's theory that he suffered from hypermania in this period, would explain it, not so? --- Ek persoonlik kan dit nie verklaar nie, Edelagbare.

But do you agree with the proposition I'm putting to you? --- Ek moet aanvaar altyd die aanvaarding dat hierdie die stelling van Mnr. Harris is, en ek dink die hele konsep die berus daarop vir my. Ek weet nie of ek die vraag verkeerd verstaan het nie.

And the letter which he wanted to write to Dr. Verwoerd, do you think that that shows any failure of judgment? Unreality in his thinking? --- Ek glo nie Edelagbare, ek glo nie dat hy werklik onrealisties gewees het nie, altans nie volgens wat hy vir ons gesê het nie. /20

Doctor, I just want you to accept for a moment Harris' version, and that is that he thought that this letter - to use a lay phrase - would do the trick, that this letter would so effect Dr. Verwoerd that a national convention would be called. I want you to accept his version when he says that he intended this to be done /30

instead of sabotage? --- As ek my reg herinner, Edelagbare, het hy nie alleen direk aan Dr. Verwoerd - daarop sy saak baseer nie, maar hy het gesê vir Professor Hurst dat hy ook kopieë aan die koerante gaan stuur van hierdie brief. So hy het nie, soos ek dit sien, sy hoop alleen gevestig op die persoonlike private brief aan Dr. Verwoerd nie, maar hy sou ook kopieë aan die koerante gestuur het om die publiek^{te} betrek.

Doctor, one can accept that. What I'm saying to you is that there we have a man who thought that this /10 piece of paper alone, in lieu of sabotage and coupled with the threat it contained would effect Dr. Verwoerd? --- Hy het vir Professor Hurst gesê, Edelagbare, dat hy probeer Dr. Verwoerd op hierdie manier beïnvloed. Hy het ook gesê hy het nie seker gewees of hy dit kan doen nie, daarom sou hy ook die kopieë aan die koerante gestuur het.

What is clear from his evidence is that he expected that it would have an effect. Isn't that right? --- Hy sou die kopieë ook na die koerante gestuur het.

Whether he sent it to the papers or not, whatever it is, sending this to Dr. Verwoerd would have an effect, he believed that on his evidence? --- So gemeen, Edelagbare, maar waarskynlik nie vreeslik sterk nie, want agterna het hy hierdie plan verander onder die invloed van bespreking met iemand anderste, so hierdie geloof kon nie vreeslik sterk gewees het as dit so maklik verander is dan nie.

What is clear, doctor, he believed sufficiently in this idea of his to write the letter. He went as /30 far as composing it, not so? --- Hy het hom geskryf,

maar hy het hom nie gestuur nie.

What I'm asking you is, this idea on the part of any person, that the Government, once they get a threatening letter is going to respond to the ultimatum on the S.A.B.C. news, don't you think that this is another demonstration of a failure of judgment? ---

BY THE COURT: The witness doesn't agree with you, Mr. Soggot. So it is no good repeating the question, he will keep on disagreeing with you.

DR. VAN NIEKERK: Dis korrek, Edelagbare.

/10.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Are you saying, doctor, that this is the sort of thing you would expect from a normal man? --- Ek wil net sê, Edelagbare, dit is nie vir my die bewys van 'n geestes stoornis nie.

But that is not my question. My question is whether this discloses the judgment of a normal man? --- Normale mense se gedrag is so onvoorspelbaar dat ek wil my nie daarin begeef deur te sê ek sou dit verwag of nie verwag van 'n normale mens nie.

Doctor, that I can also understand, and that is that people are unpredictable, but this letter shows a judgment which is wrong. Whatever your explanation is, whether it is predictable or not, here is a failure of judgment? --- Ek kan net sê dat Mnr. Harris homself het ook later waarskynlik gemeen, 'ek het swak geoordeel toe ek die brief geskryf het; en daarom na bespreking het hy dit toe nie gestuur nie, dis my verklaring daarvoor. /20

That is so, doctor, but do you agree then that it was weak judgment? --- Dit was dan swak oordeel Ek sou nie so geoordeel het nie, dit kan ek sê. /30

And for that 'swak oordeel', have you got any explanation? --- Ek het nie 'n verklaring daarvoor nie, Edelagbare, ek sê hy het dit toe nooit uitgevoer nie, want hy het ook gemeen dat hy het swak geoordeel.

Doctor, just something I'd like to ask you about, do you think that a normal man would consider that eight sticks of dynamite would ignite a can of petrol which is right next to it? --- Ek sou dit verwag, Edelagbare.

What do you think of a man's judgment when /10
he says to himself, I'm not sure of that, I'm going to put cortex next to the petrol can in order to make quite sure that it becomes ignited? --- Ek sou sê dat dit bietjie ver gesog is, Edelagbare. Ek sou eerstens vra is daar nie 'n ander rede hoekom hy so sê daarvan nie.

Doctor, you told his Lordship and the gentlemen assessors on Friday that in your considered opinion the accused was an immature personality, not so? --- Ek het gesê dat sy gedrag in sommige gevalle die was nie - die het gedui op 'n emosionele onvolwasseheid, Edelag- /20
bare.

Well, to put it simply, if you are prepared to characterise him at all in psychiatric terms, you would say that he is emotionally immature and emotionally labial? --- Ek kan net weer sê, Edelagbare, die persoonlikheids evaluasies wat ek moet doen, die hang af van 'n periode waarin hierdie persoon geweldig gespanne gewees het. So ek wil nie sê hy is definitief 'n emosionele onvolwasse persoonlikheid nie, maar gedrag wat ek waargeneem het en gedrag wat uit die geskiedenis /30
uitgekóm het die dui daarop dat hy in sommige gevalle

emosioneel onvolwasse optreë.

Well, then does it amount to this, that if he is not that, then he is simply normal? --- Ek het gesê, hoe ek hom ookal beskryf, dit is binne die grense van normaal. Ek het herhaalde kere gesê, Edelagbare.

I just want to put a passage or two to you from Noyes & Kolb, Modern Clinical Psychiatry, at page 64, just to have this on record: 'Emotionally unstable Personalities.' "Individuals of this type of personality are characterised by the explosive intensity of their emotions in reaction to relatively slight external stimuli." Do you agree with that? --- Ja. /10

And then another passage: "Their emotional tension is usually at a rather high pitch and may suddenly and unexpectedly burst out in uncontrolled anger or other disproportionate emotional display." Do you agree with that? --- Ja, Edelagbare.

Doctor, does it amount to saying that when one talks of an emotionally immature person or emotionally immature characteristics, one is really thinking of somebody who in a different way can be described as a spoilt child, not so? Behaving like a spoilt child? --- Ja, in sommige gevalle kan dit so wees. /20

Well, wouldn't you agree that that is a broad characterisation of such a personality? --- Dis korrek, Edelagbare, maar ek kan ook sê dat 'n bederfde kind op enige manier kan reageer, hy hoef nie net op 'n emosionele onvolwasse manier te reageer nie.

Now, doctor, an inappropriate reaction to an environment by such a person, is not a characteristic of such a person's behaviour? --- Kan die vraag herhaal /30

word?

The inappropriate reaction to an environment by such a person is not characteristic of such a person's behaviour. In other words, when he is cross, he will cry or he'll get very angry or he might withdraw, as the spoilt child might, but an inappropriate reaction that is not characteristic of this person's behaviour? ---
Gewoonlik nie, Edelagbare, gewoonlik reageer hy van pas binne die grense van normaal.

Now, we have it that Harris - this is accepted /10 by Dr. van Wyk. We have it that Harris did have mood swinging, changes of moods, do you accept that? --- Dis wat hy aan ons vertel het, ja, Edelagbare.

Now, is this your suggestion - your explanation for these mood swings that he is merely reacting to environmental stimulus? --- Dis korrek, Edelagbare.

Belt 78.

Is that the only explanation that you have to suggest to his Lordship? --- Edelagbare, gemoeds wisselinge kan voorkom in byvoorbeeld die sikloïde(?) persoonlikheid, maar ek praat van hierdie spesifieke geval, /20
reken ek dat dit gewoonlik as gevolg van omgewings en omstandigheids faktore is.

Do you exclude the possibility that the accused is a cyclothymic personality? --- Ek kan dit gladnie heeltemal uitskakel nie, Edelagbare.

And do you think that any of his moods are explicable, rather in terms of a cyclothymic personality, rather than his reaction to environmental stimulus? ---
Ek voel dat 'n mens dit kan verklaar op sy reaksies op omgewing en omstandigheids faktore, Edelagbare. /30

Doctor, you have seen the accused a great

deal and you have heard his evidence, do you consider that any of his reactions are inappropriate to the environment, or have been inappropriate to the environment? --- Is dit nou die eksterne omgewing of inwendige omgewing, inwendige omgewing soos gedagtegang, is daar ook waarop mense emosioneel kan reageer wat dan nie opvallend vir die omgewing is nie, Edelagbare.

A stimulus which comes from the environment or perhaps which comes from a train of thought inside him. What I'm asking you is, do you consider that in any part of his history he has shown inappropriate emotional reactions to his environment? --- Nie wat ek my kan herinner nie, Edelagbare, miskien hier in die getuiebank het hy soms miskien 'n bietjie lighartig geword, maar weereens ek weet nie wat was in sy gedagte, wat die motivering daarvoor gewees het nie. Ek kan dit nie verklaar nie. Ek kan my nie nou herinner van ander nie. /10

You can't remember inappropriate reactions. You remember that on his evidence he came back from Damelin College and he came home and then he heard about the news as to what happened at the station, and the emotion he describes was an emotion of detachment? --- Ja. /20

Do you think that is inappropriate or not? -- - Ek persoonlik sou nie so gevoel het nie, Edelagbare, maar ek weet nie, soos ek voorheen gesê het miskien het hy die ding beplan en nou het hy sy doel bereik, en hy voel kalm en bedaard. Ek weet nie.

Doctor, do you remember his evidence when he told his Lordship that the news of the station event /30

made no sense to him, and he believed that what he planned had taken place rather than the reverse?---- Ja, Edelagbare.

Is that the reaction of a normal person? --- Ek sou dit nie abnormaal noem nie, Edelagbare, dit kan nog normaal wees, volgens my opinie.

You do know that the accused, after he was arrested, was detained in custody in terms of the 90 Day Law, not so? --- Ja, Edelagbare.

And you do know that his detention involved /10
solitary confinement? --- Ek weet nie presies nie, Edelagbare, Professor Hurst het vir hom gevra of dit hom gebeeïnvloed het die aanhouding, en hy het gesê, nee hy het heelwat met die polisie gepraat, hy het gesê hy het gelees ook, en as hy bietjie vervelig was het hy gefantaseer.

That may be, but his detention generally was in isolation, not so? --- Ek sou so reken, Edelagbare. Maar ek ken nie die omstandighede van 90 Dae aanhouding geensins nie. Ek het nie kennis daarvan nie. /20

You also know that during detention he suffered from a fractured jaw? --- Korrek, Edelagbare.

And you also know that during this period he was isolated from his wife, his parents, his child? --- Dis korrek, Edelagbare, hy was in die gevangenis, in die tronk gewees.

And you can accept that he was aware that this charge was facing him. --- Ek weet nie wanneer die klagte aan hom gestel is, wanneer hy daarvan bewus gewees het nie, Edelagbare, want hy het vir ons gesê toe hy /30
gearresteer is, het hy vir ons gesê onder die 90 Dae aan-

houding, en dis eers later wat die klag aan hom gestel is. Ek weet nie wanneer dit gestel is nie.

Well, doctor, to cut through it. The point is, he had done the deed, he had shown the police a whole number of things and he was being detained in custody. The point that I want to make is that all these circumstances will tend to make a person very, very depressed? --- Angstig ook. Dit mag 'n mens bedruk maak, maar angstig ook maak, gespanne maak, Edelagbare.

I'm sorry, I didn't catch you. Do you agree /10 that it would make him depressed? --- Ek dit dat dit hom wel bedruk kon gemaak het, maar ook angstig.

Do you remember his telling you and Professor Hurst that when he was in jail for the most time his mood was up - to use his phrase? --- Ek herinner my dat hy gesê het gedurende 'n spesifieke episode het hy opgeruimd gevoel, maar ek kan my nie herinner dat hy gesê het voortdurende opgewektheid nie, Edelagbare. Hy het vir my gesê dat hy wel bedruk voel, en hierdie bedruktheid is soms verlig in die agtermiddae en hy het as /20 rede gegee dan het hy gewoonlik die kos van die huis af gekry.

Doctor, may I perhaps try and refresh your memory, that he told you that he was depressed in the first few days, but for the most part - not all the time - please don't misunderstand me, for most of the time his mood was up, and that he wanted his people to know that. Would you perhaps want to consult your notes on this point?

* COURT ADJOURNS *

/30

BY HERVATTING VAN HOF:

DR. GERT VAN NIEKERK, (n.o.e.)

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, did you find the passage that I raised? --- Ek het afgeskryf, Edelagbare, waar Mnr. Harris gesê het hy was vir 'n paar dae opgewek gewees. En gedurende hierdie paar dae van opgewektheid het hy 'n spesifieke episode gehad wat hy van vertel het, waar hy meer opgewek nog gewees het, nadat hy sy gesig onder die kraan gewas het en daarna gaan eet het. /10

Do you dispute that Harris in fact told you people that most of the time his feeling was up in jail? --- Dis nie die indruk wat ek gekry het nie. Ek mag verkeerd wees, Edelagbare, maar dit was nie my indruk gewees nie dat hy gedurende die grootste deel meer opgewek gewees het, bokant die lyn liewers as op die lyn. Dis nie my indruk gewees nie, Edelagbare.

Doctor, that is what he said. Accepting that it is correct, does this strike you as normal, bearing in mind his whole condition? --- Ek persoonlik sou nie /20 opgewek gewees het nie, Edelagbare.

No normal person would in the ordinary course be elated in those conditions? --- Afhangende van sy gedagtegang, want hy het vir ons gesê dat hy gefantaseer het, byvoorbeeld gefantaseer hoe lekker sou dit wees om vir 'n vakansie Wiltuin toe te gaan.

I'm not speaking about specific moments, I'm talking about the duration of days, whole periods when his mood is up. That is not normal? --- Ek sou dit nie verwag nie, Edelagbare, maar ek kan nie sê dat dit /30 abnormaal is om so te wees nie. Moontlik kan dit nog

binne die grense van normaal wees.

Have you any explanation to suggest why he should have felt this elation for the most time? ---
 Geen rede, behalwe dit miskien vir hom 'n geestes verdediging is.

Are you suggesting that people can make themselves feel elated? ---Hulle kan onbewustelik hulle geestes proses - hulle kan tot 'n mate dit beïnvloed, Edelagbare, ek sê nie jy kan sê, ek gaan my nou opgewek maak nie, ek sê dit nie, maar 'n mens se gedagtegang /10
 het tog 'n invloed op 'n mens se emosies.

Professor Hurst's explanation for this elation is probable, do you agree? --- Ek weet nie wat is die verklaring, Edelagbare?

That this elation was a result of his cyclothymic personality, that it was from his mental depressive condition? --- Dit kan inpas in 'n sikloïede geaardheid, Edelagbare.

If you take that, for example, together with the genetic background, doesn't that give you a probable /20 picture of a manic depressive mood swing? --- Edelagbare vir my stel dit die moontlikheid, maar nog nie die waarskynlikheid nie. Die moontlikheid van 'n maniese depressiewe..

Well, may I put it to you this way, can you express any better explanation to the court for this elation, than that of Professor Hurst? --- Nou as ek aanvaar dat hierdie gevoel wat Mnr. Harris beskryf het dat dit werklik aanwesig was, Edelagbare, as ek dit aanvaar is die enigste ander moontlike verklaring, /30
 soos ek gesê het, hierdie mag miskien verdedigings

meganisme wees, hy kon gedink het miskien gaan die dinge nog reg loop. Ek weet nie. Ek het eintlik nie 'n verklaring dan daarvoor nie.

Doctor, to take this in conjunction with the other features, the fact that he says that he had no sense of fear on the station, the fact that when he drove his motorcar he felt like a centaur, the fact that when he went to the station in the mornings he had the sense of a perfect communion with nature, are these the sort of things which you normally find?--- Hierdie /10
goed stel vir my die moontlikheid van 'n maniese depressiewepsigose, die moontlikheid moet oorweeg word, maar in die geheel prent, Edelagbare, nie net hierdie spesifieke gevoelens nie, maar in die geheel prent, die gevoelens wat hy gehad het en hoe hy opgetreë het ook. Die geheel beeld moet in aanmerking geneem word.

DEUR DIE HOF: Sou jy aan sy gedrag - gestel dit is soos Professor Hurst gesê het dat daar manies depressiewe psigose was - sou jy verwag dat jy iets in sy gedrag sou kon bespeur, afgesien van wat hy sê? --- Ek sou, Edelag- /20
bare, ek sou die ander komponent van rusteloosheid sou ek verwag het.

Die rusteloosheid voor en na...--- Ek sou dit verwag, Edelagbare.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) If there was evidence of restlessness before, would you consider that an important indication that he was hypomanic? ---
Afhangende van die graad van rusteloosheid, ja, Edelag-
bare, want daar is ander redes vir rusteloosheid natuur-
lik ook. /30

I just want to on this point, put one passage

to you from Arieti, the American Handbook of Psychiatry, this is a well known, an authoritative book on psychiatry, not so? --- Ja, Edelagbare.

I'm referring to the 1949 edition at page ..

DEUR DIE HOF: En as die psigose nou so gevorder is dat jy die ekstase het, sou jy verwag het dat sy rusteloosheid intens of nie intens is nie? --- Ek sou verwag het dat dit van gevorderde graad is. Soos ek vroeër gesê het, hierdie komponente loop nie presies ewewydig nie, Edelagbare, maar darem tussen die grense, en ek /10 sou verwag het as dit so 'n gevorderde maniese toestand is om 'n redelike gevorderde graad van rusteloosheid en van spraaksaamheid te kry.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Doctor, referring to Henderson & Gillespie, page 209, they say here: "Perhaps the most striking symptom of all is extreme restlessness." Do you agree with that? --- Dis een van die belangrikste komponente, ja.

BY THE COURT: The word used is 'extreme restlessness'.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Now, there has /20 been evidence placed before his Lordship that the accused couldn't sit still, that he wanted to go to cinema's, that he kept on wanting to do things, he was very talkative and excited in the period preceding the station bomb incident. Isn't this a striking example of this very important symptom? --- As 'n mens gewoonlik so 'n gevorderde rusteloosheid kry, Edelagbare, is dit gewoonlik opvallend vir omstanders, hier is iets verkeerd, en ek herinner my Mevr. Harris het gesê dat hy nie - die rusteloosheid het nie abnormaal vir haar voorgekom nie, /30 Nie so abnormaal dat 'n geneesheer of 'n psigiater of

enige ander instansie inverband met hierdie rusteloosheid en spraaksamheid van hom genader is nie.

Are you suggesting doctor, that the hypomanic state is one which usually gives rise to the feeling with observers that the man should go to a psychiatrist?

--- Ek het eintlik geantwoord op die paragraaf wat geless is van 'extreme restlessness', Edelagbare.

But, doctor, the thing is that the hypomanic state might vary between all sorts of degrees? --- Dis korrek, Edelagbare

/10

And restlessness might vary in degree? --- Dis korrek, Edelagbare.

And when his wife says that it wasn't an abnormal restlessness, she is clearly talking in terms of his general personality? --- Ek vermoed so, Edelagbare.

Well, the fact that you have evidence that here is a man who was more restless, more active, when his wife wanted to attend to the baby he dragged her away to cinemas, don't you feel that that is in fact very significant, the total picture? --- Ek het in die geheel, Edelagbare, is daar nie genoeg bewyse vir my dat hierdie man werklik rusteloos was nie.

/20

Don't you think that the evidence that his wife gives of his restlessness is a sufficient indication of restlessness? What more would you want? --- Mevr. Harris het ook gesê dat dit nie van so 'n graad is nie, Edelagbare.

DEUR DIE HOF: En as daar spanning is? Hy is nou besig om 'n bom te maak, hy beplan dit, sou dit stem tot kalmte of rusteloosheid? --- 'n Rede vir rusteloosheid

/30

sou ek sê, Edelagbare.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Do you think

the tension would drive him to want to go to cinemas, for example? --- Moontlik, Edelagbare, om miskien 'n bietjie weg te kom as 'n mens gespanne is.

'Weg te kom' from what, doctor? From a tense situation? --- Van die spanningvolle situasie.

But the evidence is that he was elated on the whole during that period?--- Die rusteloosheid was onder bespreking nou, Edelagbare. /10

I'm suggesting to you, with his whole condition of cheerfulness, he wouldn't want to get away from the anxiety of things as the normal man would want to do? --- Ek glo nie, Edelagbare, want ons het die geskiedenis dat hy nog redelik normaal opgetreë het, hy het nog sy normale lewe geleë, en ek voel om na 'n film vertoning te gaan is nie abnormaal nie.

But hypomanics do lead ordinary existence, doctor? --- Ja, Edelagbare. Hulle gaan na films toe ook.

Well, why then the fact that he led an ordinary/20 existence, why does that suggest to you that he might not have been a hypomaniac? --- Ek het gesê dat ek het nie genoeg bewyse vir 'n hypomaniese toestand nie, Edelagbare.

I just want to refer you on that point to Arieti, page 428, where they say this, referring to hypermania: "Some of his patients increased their activities to such an exaggerated degree as to show very poor judgment." Do you agree with that? --- Ja.

And his little collisions with the Volkswagen /30 and his reckless driving might in fact - would fit in

with that, not so? --- Ek sou sê ja, Edelagbare, maar daar kan ander redes ook vir hierdie gedrag wees, nie net hypomanies.

And his driving over a bump without any regard to his safety and with dynamite in the car, could also fit in with this condition? --- Maar weer eens, Edelagbare, daar kan ander redes wees.

BY THE COURT: The evidence is that he drove very carefully over it? --- So hy het goeie oordeel daar gewys, want hy het ontplofstowwe in die kar. /10

ASSESSOR MNR. VAN DER BERGH: In so 'n toestand, is 'n mens se oordeel swak? --- Ek sou dit verwag, Edelagbare.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) But not in their ordinary day activities, doctor. He won't show poor judgment in his every day activities? A hypomanic appears to live and react like everybody else? --
- Ek sou nie kan sê waar hy sal swak oordeel wys nie, Edelagbare. Hy kan dit op enige lewensgebied wys. Of dit nou die gewone, die alledaagse of die ongewone is, hy mag moontlik - dis nie te sê dat hy dit altyd gaan doen nie, maar hy mag moontlik swak oordeel in 'n verskeidenheid van situasies. /20

Doctor, referring to page 40 here: "They often go on spending sprees with disastrous economic consequences." There is another passage: "They may send out hundreds of unnecessary letters or greeting cards and make a large number of telephone calls." We have in fact here got evidence that he was rather extravagant in that period.

BY THE COURT: He bought a pair of shock absorbers. /30

MR. SOGGOT: My Lord, there is evidence that he bought

more.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) Whatever it is, he bought things that they couldn't afford? --- Weereens gaan dit ahang van die graad waarin hy opgetreë het, Edelagbare, of dit normaal verklaarbaar is en of dit kan inpas by hypomanies.

But all these things do fit into the hypomanic picture? Restlessness, the spending, the lack of judgment, the sudden feelings of elation. As a totality, don't they clearly make a manic depressive picture? --- Soos ek gesê het hierdie goed kan alles inpas by die moontlikheid van 'n hipomaniese toestand, maar dit is nie noodwendig dat dit wel 'n hipomaniese toestand moes gewees het nie, Edelagbare, want hier is ander dingetjies wat ook nie inpas nie, soos byvoorbeeld, 'n hipomaniese persoon die is gewoonlik - hy is heeltemal vol van homself, selfvertroue, hy kan nie maklik deur ander beïnvloed word nie. Mnr. Harris is gebeïnvloed om sy plan van Dr. Verwoerd se brief te laat vaar. Hy is ook in 'n mate beïnvloed om sy plan van die stasie te verander. Hierdie wil nie vir my inpas by die gewone hipomaniese wat gewoonlik rigid is, wat nie maklik deur ander beïnvloed word nie. /10

Doctor, doesn't it always again depend on the degree of mania? When he had the argument with Lloyd it was on the 14th. --- Ja, Edelagbare.

But when Lloyd later on tried to dissuade him from the station project, on Lloyd's version, he was completely inflexible. That is a very significant sign, not so? --- Ek weet nie wat Mnr. Lloyd in getuie- nis gesê het nie, Edelagbare. /30

That was the evidence. His Lordship wouldn't let me put other evidence to you. That is what Lloyd said that he tried to dissuade Harris, but Harris was inflexible. --- Dit sou dan kan inpas miskien by hipomanie, Edelagbare, maar moontlik kan daar ander redes ook vir hierdie rigiditeit wees.

Doctor, doesn't it amount to this, and that is, that on a whole lot of points, you say, this could be consistent with a hypomanic condition, but there may be other reasons. What I'm asking you is, have you got any reason which fits or explains this whole syndrome as a whole? --- Edelagbare, die naaste wat ek aan kan kom van die geskiedenis wat Mnr. Harris gegee het, hy het gebeplan gedurende 'n lang periode, hy het 'n belangrike ding gebeplan, hy het 'n gevaarlike ding gebeplan. Hy het dit om 'n spesifieke rede beplan, hy het dit uitgevoer, en ek sou sê dat die omstandighede ook moontlik sy gedrag kon verklaar het. /10

Belt 77.

Doctor, what I'm putting to you, I'm not only talking about his plan now, I'm talking about every one of his poor judgments. All these strange and inexplicable reactions. I'm suggesting to you that Professor Hurst explained everything with his thesis, and I'm suggesting that although you might say that on each point there may be an explanation, you are unable to explain the total picture. --- Kan dit nie net 'n abnormale toestand .. is dit enmoontlik vir my om dit te verklaar, Edelagbare, maar soos ek sê, hierdie hele gedrag van hom kan eintlik binne normale perke geval het vir my. /20

Doctor, I want to deal briefly with Harris'

depressions. You say that his depressions were normal depressions? --- Vir my is dit verklaarbaar as 'n reaksie van omstandighede of omgewings faktore, Edelagbare.

I'm referring to Arieti, page 425, "Suicidal ideas occur in about 75% of patients, and actual suicide attempts are made by at least 10 to 15%." That is the one thing I want to put to you, the other is: "Ideas of guilt, sin and self condonation are very pronounced." Now do you agree with those two things as being /10 characteristics of the manic depressive depression? --- Ek sal nie sê karakteristiek nie, Edelagbare, want mens kry/dit selfs in normale toestande ook. Ek kan nie sê dat selfmoord karakteristiek is in maniese depressiewe depressie nie.

Do you think that these two things differentiate, manic depressive depression from ordinary depression? Normal depression? --- As 'n mens 100 van elk vat, Edelagbare, dan verwag ek van die manies depressiewe depressie gaan daar moontlik meer selfmoord voorkom /20 as in geval van die ander honderd mense, maar ek sê weer selfmoord as sulks is nie karakteristiek van manies depressiewe depressie nie. Hy kan in 'n hele groot verskeidenheid van ander toestande, en ons moet aanneem ook in normale mense ook voorkom.

I'll Doctor, / come back to that, just one more quotation: "There is no great variety in the patient's thought, it is almost as if the patient purposely selects the thought which has an unpleasant content." Do you agree with that? --- Dis net die skuld gevoel. /30

That is so? --- Weereens, Edelagbare, skuld-

gevoelens die kom in manies depressiewe depressies voor, maar hy is nie karakteristiek nie. 'n Normale mens kan skuldgevoelens as gevolg van handeling wat hulle gedoen het of gelaat het, kan hulle ook skuldgevoelens hê. Skuldgevoelens is nie karakteristiek van maniese depressiewe depressie nie.

Doctor, do you remember Harris telling you that when he is depressed he broods a great deal, and normal worries are very exaggerated, and he feels that there is no point in life? --- Dis gewoonlik so, Edelagbare, as 'n mens teneergedruk voel is dit eintlik die normale gevoel. /10

Do you remember Harris telling you that that is how he feels when he is depressed? --- Hy het so gesê, Edelagbare, dat hy soms teneergedruk voel.

What I want to ask, doctor, is this, and that is, given the combination of suicidal tendencies or ideas together with the brooding, together with the ideas of guilt, don't these rather suggest a manic depressive psychosis? Or rather manic depressive depression, rather than an ordinary normal depression? --- Hier van belang is die graad van die skuldgevoelens en van die selfmoord ideës, hoe sterk is hierdie. /20

But given their presence they are significant as being - as pointing to manic depression? --- Afhangende van die graad, Edelagbare, want hulle kan ook in die normale voorkom, afhangende van die graad.

Well, don't you consider that Harris' ideas of suicide preoccupied him to a large extent? --- Nee, Edelagbare. /30

BY THE COURT: You mean the two examples in his childhood

preoccupied him?

MR. SOGGOT: My Lord, those were only given as examples.

DR. VAN NIEKERK: Hy het eenkeer genoem, Edelagbare, hy het verlede jaar gery met die motor, en hy het gevoel om die motor in iets vas te ry, niks verder nie. Ek kannie - kan hierdie nie sien as 'n ernstige selfmoord gedagte nie.

CROSS-EXAMINATION BY MR. SOGGOT (CONTD.) But do the ideas have to be 'ernstig', aren't the ideas themselves significant? His wife, for example, told his Lordship /10 that he wanted to jump off a cliff, he used to speak of that. Don't these things, running right back from his childhood indicate a very definite trend? --- Ek het ook nie gedink dat die selfmoord gedagtes in die kinderjare van so vreeslik belang is nie, Edelagbare. Hierdie kan nog vir my in die normaal voorkom, al hierdie selfmoord ideës, en hierdie skuldgevoelens. Ek sê nie hulle mag nie op 'n moontlike maniese depressiewe toestand aanduidend wees daarvan nie, maar vir my is die waarskynlike verklaring dit is normaal. /20

Doctor, if you take those things which I have mentioned with the sharpening images which he has, and which he calls telepathy, doesn't this also add up a totality which is very significant? --- Ek glo nie dat hierdie ondervindings enige waarde in hierdie spesifieke argument het nie, Edelagbare.

Are you satisfied that he has had genuine extra sense re-perceptions? --- Nee, Edelagbare, dit is wat hy vir Professor Hurst gesê het.

If, in the normal course of events a person /30 were to come to you, and say that he has images and that

these images have been becoming clearer and clearer and are accompanied by sound and words, wouldn't that be a very strong indication to you that the person was unwell or becoming unwell? --- Ek sou die moontlikheid dat dit 'n simptoom van 'n geestesstoornis is sal ek wel in aanmerking neem, Edelagbare, maar ek sal ook in aanmerking neem dat mense wat nie geestelik verstoort is nie onder sekere omstandighede ook sulke waarnemings gehoor en gesigs waarnemings ondervind het. Mense wat nie versteurd is nie.

/10.

MR. SOGGOT: NO FURTHER QUESTIONS.

HER-VERHOOR DEUR MNR. MOODIE: Dokter, 'n sekere passasie was uitgelees uit Noyes & Kolb, bladsy 80:

"In exaltations there is an intense elation accompanied by an attitude of grandeur, and less frequent effect of disorder is ecstasy. In this ^{the} mood is one of a peculiar entrancing peaceful rapture and tranquil sense of power. A religious feeling is an essential part of this state." Stem jy daarmee saam? --- Dis korrek, Edelagbare.

Het die beskuldigde enige tekens van daardie gevoel gehad? --- Nie sover ek weet nie, nie wat ek gesien het nie, Edelagbare.

/20

BY THE COURT: Is that an essential part of the ecstasy in manic depressive psychosis?

MR. MOODIE: In the exaltation.

HER-VERHOOR DEUR MNR. MOODIE (VERVOLG) Ook is 'n stuk uit hierdie boek aan u voorgelees op bladsy 64, dis 'n hoofstuk wat lees: "Emotionally Unstable Personality." "Their relationship to other persons, however, is constantly subject to fluctuating emotional attitude, because of strong and poorly controlled hostility and

/30

guilt and anxiety. Their emotional tension is usually at a rather high pitch and may suddenly and unexpectedly burst out in uncontrolled anger or other disproportionate emotional display. At these times such persons may shout, bluster, threaten or even become destructive or assaultive."

Het jy van beskuldigde se geskiedenis daarvan afgelei dat hy so gehandel het? --- Nie wat ek my kan herinner nie

DEUR DIE HOF: Gedurende al die onderhoude was daar enige verwyse na godsdiens? --- Hy het vir Professor Hurst gesê dat hy nie aan godsdiens behoort nie, hy glo nie aan God nie. Hy het gesê hy was vroeër - hy het vroeër aan die Katolieke geloof behoort, Edelagbare, maar op die oomblik geen. /10

MNR. MOODIE: GEEN VERDERE VRAE.

ASSESSOR MNR. VAN DER BERG: Dokter net soos in die geval van bestuur onder die invloed van drank, die feit dat 'n mens se asem na drank ruik is nog geen bewys dat hy wel onder die invloed van drank is nie. Is dit so? --- Ja, Edelagbare. /20

Soos ek die getuienis verstaan het van beide Professor Hurst, Dr. van Wyk en van u self, dat daar is s ekere bestandele wat aanwesig moet wees voor jy die kaartjie aan die man kan hang 'manies depressief.'? --- Ja, dis reg.

Volgens die getuienis, dokter, is so 'n persoon se aandag maklik afleibaar? --- Gewoonlik, Edelagbare.

Sy oordeel is swak? --- Ek sou ook sê gewoonlik, Edelagbare. /30

Nou, as dit die geval is - die hof het te

doen met twee periodes - die een is vanaf Brixton begraafplaas tot by die Griekse kafee, met hierdie tussen periode by die stasie, nou wil ek hom behandel in twee fases, die stasie episode wil ek heeltemal uitlos. Nou, dokter, as hy in daardie toestand was toe hy daar by Brixton begraafplaas was, indien hy manies depressief was, sou hy nie net so wel by homself besluit het, 'kyk ek gaan die bom nou by die stadsaal sit, dit sal net so goed wees as die stasie', sou dit vir u snaaks gewees het? --- Soos u gesê het, Edelagbare, in daardie /10 toestand is 'n mens afleibaar en 'n mens kan van plan verander. Dit sou nie snaaks wees in 'n maniese pasiënt nie. Ek sê nie ek verwag dit nie, Edelagbare, maar dit sal nie snaaks wees nie.

En 'n ander eienskap, dokter, is so 'n persoon is baie praterig? --- Hy is gewoonlik spraaksaam.

Met ander woorde, hy praat los en vas? Of nie noodwendig nie? --- Ek sou sê dit kan voorkom, ja, Edelagbare.

Wat vir my net nie duidelik is nie, dokter, /20 indien die hof aanvaar dat hy wel in daardie toestand was, sal dit logies wees dat so 'n mens nou die polisie bel, die 'Daily Mail' bel, die 'Transvaler' bel, en hom elke slag net beperk by daardie paar waarskuwende woorde? Of sou hy meer uitgewie het? --- Ek glo nie, Edelagbare, ek glo nie hy sou hom daar spesifiek bepaal het nie, maar weer afhange van die graad. Maar, vir my nog meer belangrik is, hy het gehandel volgens die vooraf beplande, in elke besonderheid het hy gehandel, en ek verwag nie so 'n handeling en die uitvoering van elke /30 klein besonderheid nie, verwag ek nie van die maniese

pasiënt nie.

Dan is daar 'n eienskap van rusteloosheid, hy is besig altyd om iets te doen. So 'n persoon sal jy verwag dat hy metodies te werk gaan, of sal hy hier 'n ding doen en daar 'n ding doen, en so aangaan? U sien wat ek in die oog het, dokter is dit, kyk, nou was hy by die stasie, as hy nou 'n rustelose persoon was, sou hy so metodies te werk gegaan het, nou na die poskantoor toe gegaan het, hierdie spesifieke oproepe deurgesit het, nou na die college toe gegaan het, daar /10 hom gaan verkleed het, so metodies, verwag jy dit van so 'n persoon? --- Weer afhange van die graad, Edelagbare, maar van 'n maniese pasiënt verwag ek nie so 'n mooi geroetineerde metodiese optrede, en veral weer soos ek nou, nou gesê het, veral as dit vooraf beplan is, hy het volgens die plan ook nog so gehandel. Ek verwag dit nie van die maniese pasiënt nie.

Dokter, en dan is daar die ander eienskap, die waandenkbare, die grootheidswaan en die vervolgingswaan. In sy beskrywing, dokter, as kind op skool, die /20 'fatty', later toe hy onderwyser was, is daar enige iets daar dokter in die beskuldigde se beskrywing van wat plaasgevind het wat u kan vaspen, hy het beslis gely aan 'n vervolgingswaan? --- Dis my persoonlike opinie natuurlik net, Edelagbare, maar ek meen nie dat enige van daardie kan werklike abnormale, patologiese waan idees wees nie, daardie kan gegrond wees in die werklikheid. Dis my opinie, Edelagbare.

Dan, dokter, hier by die stasie, soos ek die getuienis gevolg het. Die man was gemoeid om 'n geweldige, /30 gevraagde projek uit te voer, en toe hy die tas neergesit

het, toe het hy hierdie opdrag, hierdie doel uitgevoer, sou dit nie genoegsaam rede gewees het vir hom, dokter, om in die wolke te wees nie? --- Ek persoonlik neem aan, ja, Edelagbare. Hierdie is 'n moontlike verklaring daarvoor.

Dokter, nou wil ek terugkom na die stasie episode, maar nou wil ek eers aan u net kortliks uitwys, die beskuldigde, volgens die getuienis hier in die hof, volgens die getuienis van Professor Hurst, is geweldig geheg aan sy moeder. Sy moeder volgens die mediese getuienis was een van hierdie tipe persoon, sy tante ook so, die beskuldigde in hierdie geval is 'n ontwikkelde en belese man. Nou, dokter, as jy in jou huiskring vat, hier waar pa en suster en broer bymekaar is, is dit nie net natuurlik dat hulle hierdie toestand van hulle ma sou bespreek het nie, of van hulle tante sou bespreek het nie? --- Ek sou sê, ja, dit sou logies wees, Edelagbare. Ek sê nie waarskynlik nie, maar dit kan maklik gebeur. /10

Ek praat nou van hoe ek die saak sien, dokter. /20 Ek het gelukkig nie so 'n toestand in my huiskring nie. Maar die indruk wat ek kry, dokter, is dat so 'n persoon wie se moeder sodanig siek was sal meer van so 'n toestand af weet as 'n persoon wie geen soiets in sy familie het nie? --- Ek stem saam, Edelagbare.

Dokter, u het aan Advokaat Soggot 'n antwoord gegee wat twee ledig was. Die eerste was toe hy aan u gestel het hierdie beskrywing wat die beskuldigde ervaar het, kan dit wees omdat hy dit werklik deurleef het, of hoe, toe was u antwoord, ja, u het twee antwoorde gegee, /30 hy kon dit deurgemaak het en daarom kon hy dit beskryf

het of hy kon daarvan gelees het. --- Miskien by iemand gehoor het, ek weet nie.

Nou, toe later, dokter, Vrydagmiddag toe was die vraag weer deur Advokaat Soggot aan u gestel, toe het u gesê hierdie beskrywing is die van 'n persoon wat so 'n ervaring deurgemaak het. Volg u, dokter? --- Ja.

Wat is nou eintlik u antwoord op so 'n vraag? --- Ek het gesê dat die beskrywing wat aan my uitgelees is - ek moet net sê die beskrywing is nie volledig uit- /10 gelees nie, daardie van 'n godsdienstige gevoel kan ek my nie herinner dat dit aan my uitgelees is nie, en ek het geantwoord, die beskrywing wat gegee is die kan inpas by die beskrywing wat aan my uitgelees is. Dit kan daarby inpas.

Dokter, en dan ek kom op die end. Hier was van godsdiens gepraat. U weet volgens die boek Openbaringe het Paulus sekere gesigte gesien, en elke gesig is haarfyn neergeskryf wat hy gesien het. Nou in hierdie geval, dokter, het ons die geval van Professor Hurst /20 in u en Dr. van Wyk se teenwoordigheid het die beskuldigde gesien op die 10de Oktober, oor 'n lang tydperk, 'n tydperk van ure, nou is van hierdie gesig, hierdie ekstase waarin hy verkeer het nie 'n woord gerep nie. Reg, dokter, dis die eerste dag se ondersoek? --- Ja, Edelaarbare.

Nou, dokter, die tweede dag...

DEUR DIE HOF: As hy dit ervaar het, sou u verwag het dat dit die eerste dag sou genoem het? --- Ek wil asseblief net kyk hoever het Professor Hurst met sy onder- /30 soe: die eerste dag gekom of hy hom al gevra het van

sulke ervarings, Edelagbare. Ek sou sê, ja, Edelagbare, hy behoort die eerste dag al, want hy het vir ons gesê dat hy op die stasie gewees het.

ASSESSOR MNR. VAN DER BERG: Nou, dokter, op die tweede dag, die 11de Oktober, volgens Professor Hurst se rapport het hy dit gesê, ek het dit hier neergeskryf:

"I felt like an insect, a fly that could see all around it, I could see all around me, like cinerama. I knew what was all around me as if there were two cineramas. I had such a strong feeling."

Dokter, is ek geregtig om te aanvaar dat dit is wat Harris gesien het toe hy in hierdie eksultasie gekom het, en dit is hoe hy dit aan Professor Hurst beskrywe het? --- So het hy gesê wat hy gesien het. /10

Nou, dokter, vyf dae later, op die 16de Oktober, nou kom hy, nou beskrywe hy daardie selfde gebeurtenis, maar nou sê hy so, dokter: "The bench was empty at first, but later I was aware of a young man next to me on my left. Although I was not aware of his coming there. I was aware all around me. I was part of the world. The world and I are one, you could say, even with the thing"- toe verwys hy na die bom - Nou, dokter, rym daardie twee beskrywings van sy ervaring?-- /20
- Die moontlikheid is, Edelagbare, dat hy dit miskien wel kon ervaar het en dit nie genoem het die eerste keer nie, ek weet nie. Of die ander, dat hy dit nie ervaar het nie en dit nie genoem het die eerste keer nie en lateraan daarvoor gedink het en dit toe genoem het, ek is....

Jy sien, hy het vyf dae gehad om die saak te bepeins, dokter? --- Ek noem hierdie twee as moontlik- /30

hede, Edelagbare, maar ek glo nie kwalifiseer om enige opinie uit te spreek.

Dokter, nou gaan ek dan weer 'n paar dae later, dit is nou in die hof. Nou kom hy hier in die hof, dokter, en hy sê - dit is wat Professor Hurst in sy rapport aangestip het - 'he stated that he had a clear view of the world. It was like two cinerama. screens, one behind and one in front. It was like being in a glass ball with people around it." Hier in die hof, dokter, het die eerste maal hierdie voorwerp, die glas bal, tot voorskyn gekom. Nou het u die vlieg, die samesluiting met die kosmos, weer dae later die glas bal. As 'n man wat opgelei is in daardie lyn, dokter, hierdie onderhoude volgens die getuie wat gegee is het ure geduur? --- Ja, Edelagbare. /10

Is dit nie natuurlik dat hy die eerste dag of die tweede dag hierdie beskrywings sou gevind het van die beskuldigde nie? Hoekom moes hy dae vat en altyd verbeter? Is dit natuurlik? --- Ek sou sê, ek sou saamstem dat hierdie miskien/wat mens sou verwag, Edelagbare. Meer kan ek nê sê nie. /20

DEUR DIE HOF: Ek dink wat die geleerde landdros bedoel is dat jy kry die verskillende beskrywings. As hy in werklikheid so 'n ervaring gehad het, sou jy verwag dat die beskrywings sou verskil? --- Eintlik nie, Edelagbare, want in die beskrywing in the boek Noyes & Kolb sê hulle ook dat daardie ondervinding maak altyd 'n geweldige indruk op die persoon wat dit beleef. So ek sou dit eintlik verwag die eerste keer, maar ek weet nie, Edelagbare, ek kan net sê, ek sou dit eintlik verwag het /30

MR. PHILIPS asks leave to recall Professor Hurst;
States that the evidence of the two psychiatrists
called by the State controverts that of Prof. Hurst
and that citations etc. quoted from authorities were
not put to Prof. Hurst.

Dr. van Wyk's evidence re Cattell's Test is negative.

MR. MOODIE objects and states that Defence has closed
its case; Quotes Section 210;

Onus is on Defence to satisfy Court on preponderance
of probability;

If Defence case is re-opened, they may wish to consult
further doctors;

Recall only if essential for just decision of the case,
but nothing suggests that;

Gardiner & Lansdowne p. 406.

MR. PHILIPS will not call other witnesses;

Reads out 11 points of controversy not previously put
to Prof. Hurst.

MR. MOODIE points out that it may be necessary to
recall State psychiatrists.

BY THE COURT: Mr. Moodie, Mr. Philips, on behalf of the
accused, has applied for the recall of Professor Hurst,
on the ground that certain statements made by the State
psychiatrists were not put to him. This type of
procedure does result in protracting the case, because
it may lead to application for a recall of the State
witnesses, and one does not know when that will stop.
But, because of the serious consequences that may result
on the decision in this case, I feel that in fairness to
the accused, that opportunity should be afforded him.

-: oOo :-

PROFESSOR HURST, s.u.o. (Recalled)

FURTHER EXAMINATION BY MR. PHILIPS:

Professor Hurst, you have heard, I have outlined to his Lordship the points upon which I would like you to give the Court the benefit of your comments. These were matters that were not put to you when you gave evidence earlier. Would you first, please, comment on the suggestion that has been made by the State psychiatrists that the accused's mood swings are attributable only to emotional immaturity and emotional lability? --- My Lord, in my opinion, the points against such an interpretation and in favour of a cyclothymic temperament which at times becomes exaggerated to the degree of manic-depressive psychosis are as follows. First of all the genetic background that we have already reviewed; then his history that the duration of episodes of elation and depression can be as long as a week, two weeks or three weeks, with certain evidence of the observation of people such as his wife. This long type of mood swing is not the type of condition you get in emotional instability, where there is an immediate reaction on a psychological provocation. Moreover, there is the, in the case of the lability due to immaturity, the congruence of the mood induced with the precipitating psychological factor, and I am impressed by his statements to us that while in jail, after the first few days, he was predominantly up, and that he wished his people would know about that. And also the picture that I consider compatible with and indeed indicative of hypo-mania, in the early part of July. On these grounds, my Lord, I contend that we are dealing

/10

/20

/30

with a cyclothymic personality, which becomes exaggerated at times to the stage of manic-depressive psychosis, as opposed to emotional lability in the immature type of personality.

MR. PHILIPS: The next statement that I would like you to comment on, Professor Hurst, is Dr. van Wyk's views and also Dr. van Niekerk that you don't get rapid fluctuations between heightened awareness and clouding of consciousness postulated as underlying amnesic periods.

/10

PROF. HURST: My Lord, in this connection, I would like to comment that it is well-known that in any form or phase of manic-depressive psychosis fluctuations within the day, that can be quite rapid, can occur. In the state of ecstasy that I have stated existed, in my opinion, which is the highest form of mania, it is specifically known that clouding of consciousness can occur, and indeed, does occur, and that this intrusion of the clouding of consciousness can be for variable durations, and quite frequently within the course of the day.

/20

In my experience, one does get quite rapid fluctuations between a normal level of consciousness, heightened consciousness and clouding of consciousness, in this state, my Lord.

MR. PHILIPS: Professor Hurst, if this were a condition caused by emotional immaturity or emotional lability - the term used, what sort of reaction does the psychiatrist expect on any particular stimulus?

PROF. HURST: That it is congruous with the stimulus, that the type of stimulus would elicit an appropriate

/30

emotional response, even if it is exaggerated. It wouldn't differ in degree. A stimulus that would be calculated to be depressing wouldn't elicit elation, my Lord.

MR. PHILIPS: Now the next topic, Professor Hurst, the State psychiatrist suggested that the ecstasy which the accused experienced on the station was not a manic ecstasy, but merely one of heightened joy or exhilaration. Would you comment on that, please?

PROF. HURST: Yes, my Lord. The features that characterise the manic-ecstasy as opposed to a normal ecstasy include such features as the feeling of transcendence, and merging with the cosmos and the Universe such as he has described, and these features are not characteristic of normal ecstasies, my Lord. /10

MR. PHILIPS: Then the suggestion was made by Drs. van Wyk and van Niekerk that the accused's mood swings both in this Court and in the consultations that you held with him, were not cyclothymic, but were in fact reactive to external stimuli. Would you comment on that, please? /20

PROF. HURST: My Lord, observing him in court, where the situation was constant, one noted fluctuations in the first day in the morning, in which he was expansive and cheerful, expect...

BY THE COURT: Well, this has all been covered, Mr. Philips?

MR. PHILIPS: Well, Professor Hurst, I don't want you to go over what you have already said, but do you or do you not agree with the views expressed by the two doctors that his mood swings, both here in court and /30

in consultation, were reactive to external stimuli.

PROF. HURST: I do not agree, my Lord.

MR. PHILIPS: Then you heard Dr. van Wyk's answers when I questioned him on the Cattell IPAT test. Now would you tell his Lordship what you know about that test, its validity, and the extent to which you believe it to be...

MR. MOODIE: I think he covered this in his evidence as well.

MR. PHILIPS: With respect, my Lord, he did not. It was never at any stage suggested that this was not a test which was valid and applicable. /10

BY THE COURT: Well, the standardisation was.

MR. PHILIPS: Well, Dr. van Wyk's evidence in this regard, my Lord, was that he doesn't use it, that he doesn't know anything about it, that he doesn't know that it has been standardised for use in this country, and that consequently he completely discounted the fact that Professor Hurst had applied this test. Now that is what I would like Professor Hurst to comment on. /20

PROF. HURST: My Lord, Professor Cattell, who is very skilled in the construction and standardisation of tests, considers this test so to have been standardised as to be applicable in other settings, and it has been used in Australia and India, and he has commended it for use in South Africa. Unlike intelligence tests, it is not measuring abilities that are important as regards the question of vocational or educational adjustment, and having regard to this fact, he, who is a leading authority in this /30

field, considers it applicable, and it is in fact being used in the countries I have mentioned.

ASSESSOR MR. HART TO PROF. HURST: Professor Hurst, this emanates from the United States of America, doesn't it? --- Yes. Professor Cattell was English-trained, and...

Yes. I don't want its history. It comes from the United States. You have just told us it is used in Australia and India. Is it used in Canada?

--- I am only quoting evidence where I know it has been used. It may well have been used in...

/10

Well, do you know that it is used in Canada? Adjoining the United States, as you know. --- I am not aware of studies in that regard.

Is it used in the British Isles - England, Ireland and Scotland? --- I am not aware of that, one way or the other.

Apart from Australia, is it used in any other area that may be or may have been part of the British Commonwealth? --- India.

/20

Is it used on the Continent? --- No, it is an English version. There is only an English version.

FURTHER EXAMINATION BY MR. PHILIPS: (Contd.)

MR. PHILIPS: Dr. van Wyk suggested that if the accused had been in an advanced state of manic-ecstasy, he would probably have been in a stupor. What do you say to that?

PROF. HURST: I do not agree, my Lord. It is a characteristic, at least of part of this condition, that there is a condition of tranquillity, as we saw in the definition from Noyes & Kolb. Outwardly

/30

therefore it doesn't show the restlessness that is characteristic of other forms of mania, but in a few of the cases mentioned by Anderson, people in this ecstasy, so far from being stupid, go about their everyday work.

MR. PHILIPS: Then Dr. van Wyk told the Court that during the course of the consultations that you held with the accused and which he attended, that he clearly - and I think he indicated that Dr. van Niekerk as well - clearly indicated their disagreement with you as to your belief that the accused had experienced a manic-ecstasy. Is that correct? /10

PROF. HURST: At the interviews in jail, Dr. van Wyk indicated that he didn't agree with my interpretation about the phenomena that I regarded as grandiose delusions, but I have no recollection of his disagreeing on the point of manic-ecstasy or any other point. There simply was no comment, which I interpreted as being his interpretation of his duties in this context, that he wasn't called upon to discuss the case. /20

MR. PHILIPS: Then Dr. van Wyk said that in the course of these interviews, you suggested that a conference would be held with the other two psychiatrists, and that then no such conference was held. Is that correct.?

PROF. HURST: I expressed the view, my Lord, that it would be pleasant if colleagues, who hold each other in high regard, could confer at a medical level in these cases, and on two or three occasions I expressed my conclusions as to the likely themes that were in my /30

mind: the cyclothymic and manic-depressive and the paranoid themes. But in view of the fact that neither he nor Dr. van Niekerk contributed anything, I respected the feeling that they felt it wasn't their brief, as it were, to comment. But I do feel that it is not correct that I wilfully didn't call a conference as I promised. I merely felt that in view of the situation, that nothing further happened after my comment, that there was nothing further.

MR. PHILIPS: Then, Professor Hurst, Dr. van Wyk said /10
that his view was that the accused couldn't have appeared calm and undisturbed to observers, if he experienced what he says he did. What do you say to that?

PROF. HURST: I disagree, my Lord. It is characteristic of this condition or part of it that there is this tranquillity, so that during this tranquil phase the person may well - and often does, not attract the attention of the external observer.

MR. PHILIPS: Then, Professor Hurst, one of the /20
examples quoted by you of the accused's abnormal reaction, upon which I think you based your theme of the paranoid trend, was the accused's statement to yourself and to the Court, of his reaction to a marital questionnaire, I think it was, that appeared in a magazine known as "Personality", and Dr. van Wyk said in regard to that that this was his reaction, that the accused's reaction was rationally explicable on the basis that the accused regarded himself as a bad husband. What do you say to that? /30

PROF. HURST: I do not agree with this, my Lord.

The fact that he may have regarded himself as a bad husband doesn't explain the extraordinary belief that some previous school friend of his, or school associate, could have constructed a category within a schedule on which you rate yourself as a marital partner, by visualizing an old colleague. These things would be constructed on certain abstract points. So that I do feel that this was an abnormal reaction, and an idea of reference on the part of Harris.

/10

MR. PHILIPS: Then Dr. van Wyk said that the accused's abnormal reactions, to which you referred, did not provide evidence of a paranoid trend, because the accused did not act upon the various stimuli to which he reacted.

PROF. HURST: It is my contention, my Lord, that in the letter to Dr. Verwoerd, that one has called the "ultimatum," and in the planting of the bomb, that he did in fact act on what I interpret to have been his grandiose reactions, which are part of the paranoid trend. And that in a history of this kind - earlier difficulties, getting on with previous associates, such as he had described to me, at the Hyde Park school, the Indian school and latterly at Damelin, and on one of which he cited as a partial reason for going to England, although not conclusive in themselves, psychiatrically do form part of a recognised picture. Earlier suspiciousness working up to these frank delusions later on.

/20

MR. PHILIPS: Finally, Professor Hurst, you heard Dr. van Niekerk agree with my learned friend, who read him

/30

a passage from a text-book, to the effect that religious feeling is essential to manic-depressive exaltation. What do you say to that?

PROF. HURST: I am quite certain, my Lord, that 'religious' here is not to be interpreted in the sense of a sectarian religion, but a mystical experience. This fusing with the cosmos, this feeling of transcendence. Both from my own experience and the case of Anderson, it is this sense of religious rather than a specific denominational religion that is referred to. /10

-: NO FURTHER QUESTIONS :_

FURTHER CROSS-EXAMINATION BY MR. MOODIE: They were present at all the 16-hours of examination, doctor? The other two doctors? --- Yes, my Lord.

Did you tell them the history of the family? --- I invited them to the interview. Dr. van Wyk said he couldn't come when they were able to come, and he would be happy to hear from me about them, and I did that. /20

You reported to them on the history of the family? --- Yes, my Lord.

You also reported to them on what Mrs. Harris told you? --- Yes, my Lord.

And you also told them the significance of the Cattell Test? --- Yes, I showed them. Yes, my Lord.

Now is there any explanation for the difference of opinion between you and the other two doctors, except that doctors disagree? --- On the Cattell Test?

On the whole lot. On the sum total of your opinion. --- I can only consider that my own opinion /30

is based on my long experience of 29 years in psychiatry, and that doctors do disagree.

-: NO FURTHER QUESTIONS :-

ASSESSOR MR. HART TO PROF. HURST: Professor, one matter I am not at all clear upon. Do I understand correctly now - you examined the accused, I think, for the first time on the 10th October, this month?--- Yes.

For a period, as I have noted it, of approximately a little over 6 hours? --- 16 hours. Oh, on the first day? On the first day it was 3 + 3½ with a break for luncheon. /10

6½ hours? --- Yes.

And is it correct that during that period, at no time did he tell you of this mystic experience that he says he experienced on the station? --- Yes, my Lord, but may I explain the special reason?

No, but he didn't tell you? Was it mentioned at all? --- I didn't deal with that area. It is customary in psychiatric examinations, in cases of investigation of crime, to deal with more general aspects of the psychiatric situation, and for this reason, one had abstained from dealing with that period at all until the second day. /20

Did you not ask him at all about what happened on the station? --- No, my Lord.

BY THE COURT TO PROF. HURST: I don't know whether you have replied to this already, but I just want it on record: For your opinion to survive, if I might use the expression, it is necessary that the Court should find the accused truthful in respect of all his alleged symptoms? --- Situations do exist, my Lord, where an /30

untruthful man who becomes a psychotic, remains untruthful in certain particulars as well, so one has known untruthful people who persisted in an untruthful way, apart from their psychotic...

But I mean, we must believe these symptoms?

--- Believe in the symptoms which I have claimed as symptoms?

In the truth of them. --- Yes, my Lord.

Your opinion is dependent - you believe in them? --- Yes, my Lord.

/10

And your opinion is dependent upon such beliefs? --- Yes. my Lord.

-: oOo :-

MAJOOR BRITZ. (n.o.e.) Herroep.

DEUR DIE HOF: Majoor, het u die afstand afgetreë van Jeppestraat poskantoor tot by Damelin? --- Ek het, Edelagbare.

Hoever is dit? --- Dit is 280 treë.

En het u die tyd geneem? --- Dit het my 3 minute geneem.

Het u vinnig gestap? --- Ek het redelik vinnig gestap.

En het u die afstand afgestap van die saal tot by die stasie tot by die kollege? --- Ek het, Edelagbare, dit is 408 treë. /10

Is dit waar die ontploffing wel...--- Dit is vanwaar die ontploffing wel plaasgevind het tot regvoor die ingang van Damelin College.

408 Treë? --- 408 treë.

En hoe lank het dit geneem? --- $4\frac{1}{2}$ minute.

MNR. MOODIE: GEEN VRAE.

MNR. PHILLIPS: GEEN VRAE.

/20.

JAMES WARD. (s.s.)

BY THE COURT: What is your occupation? --- Senior Fire Officer at Johannesburg Fire Station.

You know about this explosion on Joahnesburg railway station on the 24th July? --- Yes.

Which fire station received the call? --- Central Fire station.

And where is that? --- Central Fire Station situated in Kruis Street, Johannesburg. Corner of Frederick. /30

Kruis and Frederick Streets? --- Yes.

Do you know how far from the station this is? --- Mile and half. I give a guess.

And is there a record of when the call was received? --- Yes, sir.

What time was that? --- At 4.38 in the afternoon.

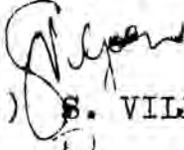
And what time, would you estimate, what time did the fire engines arrive at the station? --- We left at 4.39, and we arrived outside the station at 4.42.

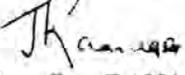
MR. MOODIE: NO QUESTIONS.

MR. PHILLIPS: NO QUESTIONS.

- CERTIFICATE -

We, the undersigned, certify the foregoing to be a true and correct transcript, to the best of our ability, of the evidence and proceedings, mechanically recorded, in the case of The State v. F.J. Harris.


(Sgd.) S. VILJOEN.


(Sgd.) J. RAMAGE.

TRANSCRIBERS

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

In the matter of:-

THE STATE

vs.

FREDERICK JOHN HARRIS

Applicant

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

BE PLEASED TO TAKE NOTICE that application will be made on 19th November 1964 to the above Honourable Court for leave to appeal to the Appellate Division of the Supreme Court of South Africa against the conviction and sentence passed upon the Applicant aforementioned by His Lordship Mr. Justice LUDORF sitting with Assessors in the above Honourable Court on the 6th November 1964, on the grounds that:-

- (a) The conviction on the charge of murder is against the evidence or the weight of evidence, more particularly in that:-
- (i) The Court erred in rejecting the evidence of the Applicant.
 - (ii) The Court erred in finding that the State had proved beyond a reasonable doubt that the Applicant had the intention to murder.

- (iii) The Court erred in finding that the Applicant had not discharged the onus of proving on a balance of probabilities that the Applicant, by reason of some disease of the mind, was not responsible for his actions at the time of the commission of the alleged offence.
- (iv) The Court erred in rejecting the evidence of Professor Hurst and in accepting the evidence of the Psychiatrists for the State in regard to the mental condition of the Applicant at the time of the alleged commission of the offence.
- (v) The Court erred in finding that there were no extenuating circumstances.
- (vi) The sentence was, in all the circumstances, excessive. Supplementary grounds of appeal will be filed before the hearing of the application aforementioned.

DATED at JOHANNESBURG this 17th day of NOVEMBER 1964.

HAYMAN & ARONSCHN,
Attorneys for Applicant,
JOHANNESBURG.

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

In the matter between :

FREDERICK JOHN HARRIS

Applicant

and

THE STATE

Respondent

NOTICE OF AMENDMENT

BE PLEASED TO TAKE NOTICE that Application will be made to the above Honourable Court at 10 a.m. on MONDAY the 7th DECEMBER, 1964, for an amendment to Applicant's Grounds of Appeal by the substitution of the Grounds appearing in the Notice of Application for Leave to Appeal dated the 17th NOVEMBER, 1964, by the following :

1. The conviction on the charge of murder is against the evidence or weight of evidence in that :

(a) The Court erred in rejecting the evidence of the Applicant, more particularly in that the Court erred in finding :

- (i) That the Applicant could have been prompted in his evidence by other prisoners or by visitors or other persons.
- (ii) That the Applicant lied or contradicted himself in respect of his reaction to the news of the explosion at the station and in respect of the voluntariness of the confession to the Magistrate.

- (iii) That the purchase of new shock absorbers was not an extravagance, but that they were bought as a precaution related to the carriage of explosives.
 - (iv) That the Applicant was worried by the danger involved in his activities and the danger of detection.
 - (v) That the Applicant at the time of the depositing of the bomb enjoyed a relief from tension because he was dissociated from the bomb.
 - (vi) That the letter to the Prime Minister was intended to publicise a contemplated demonstration.
- (b) The Court erred in accepting the evidence of the Psychiatrists for The State more particularly in that :
- (i) The said witnesses were contradictory, self-contradictory and vague.
 - (ii) They failed to adequately explain all the features constituting the Applicant's psychiatric state, in particular the state of ecstasy in the psychiatric sense experienced by the Applicant as also the fluctuations of mood which lasted several days or weeks at a time.
 - (iii) The said witnesses had no scientific basis for the suggestion that the Applicant in fact had telepathic experiences, nor were they qualified to make such pronouncements.

- (iv) On his own admissions Dr. van Wyk was not competent to give evidence as to the reliability or otherwise of the CATTELL TEST.
- (c) The Court erred in rejecting the evidence of Professor Hurst more particularly in that :
 - (i) (a) The Court referred to and/or relied upon passages in an article by one Anderson in the Journal of Neurology and Psychiatry 1938 - 1939 which had not been referred to by any witness and which were accordingly not in evidence before the said Court.
 - (b) The Court on the basis of the passages aforementioned drew inferences against Professor Hurst although the said witness had not been cross-examined or been given an opportunity to state his expert opinion in relation to the said passages.
- (ii) The Court erred in finding that Ann Harris would probably have noticed some derangement on the part of the Applicant had his psychiatric state been such as has been described by Professor Hurst.
- (iii) The Court failed to accord any or sufficient weight to the admissions of the Psychiatrists for The State.
- (iv) The Court should have accepted the results of the CATTELL TEST as providing objective scientific information relating to the Applicant's psychiatric condition.

2. The Court erred in finding that the Applicant had not discharged the onus of proving on a balance of probabilities that the Applicant, by reason of some disease of the mind, was not responsible for his actions at the time of the commission of the alleged offence.

3. The Court erred in finding that The State had proved beyond a reasonable doubt that the Applicant had the intention to murder.

4. The Court erred in finding that there were not extenuating circumstances.

DATED at JOHANNESBURG this 4th day of DECEMBER, 1964.

HAYMAN & ARONSOHN,
Attorneys for Applicant,
JOHANNESBURG.

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

In the matter between :

FREDERICK JOHN HARRIS Applicant

and

THE STATE Respondent⁺TO THE JUDGE PRESIDENT AND OTHER HONOURABLE JUDGES
OF THE ABOVE HONOURABLE COURT.P E T I T I O NTHE PETITION OF FREDERICK JOHN HARRIS HUMBLY
SHEWETH THAT :

1. Your Petitioner is FREDERICK JOHN HARRIS an Adult Male, presently in custody in the Central Gaol, Pretoria.
2. The Respondent is THE ATTORNEY GENERAL OF THE TRANSVAAL in his capacity as such.
3. On the 6th day of NOVEMBER, 1964, your Petitioner was found guilty by the above Honourable Court of the crimes of Murder and of Sabotage and was sentenced to death. Your Petitioner has been in custody since then.
4. Immediately after the said verdict your Petitioner instructed his Attorney, MISS RUTH HAYMAN, to make Application for Leave to Appeal and to take such

918. APPLICATION FOR
CONDONATION

other action as she and Counsel deemed necessary in the interests of your Petitioner.

5. Your Petitioner verily believes that his Attorney instructed Counsel to make the said Application and that such Application was enrolled timeously.
6. Your Petitioner now understands that Counsel has advised that an Application for a Special Entry should be made in terms of sub-section 1 of Section 364 of Act 56 of 1955. Your Petitioner as a layman was unaware of such a procedure and left the whole question of further action entirely in the hands of his Legal Advisers.
7. Your Petitioner understands that the Application for a Special Entry is out of time, but your Petitioner respectfully submits that the delay in making this Application is through no fault or omission on his part.
8. Your Petitioner submits that there is a reasonable prospect of success in respect of the Application for a Special Entry for the reasons set out in the Notice of Application thereof which your Petitioner prays should be read as if incorporated herein.

W H E R E F O R E your Petitioner prays that it may please the above Honourable Court to grant an Order -

- (a) condoning the delay in making the said Application for a Special Entry;
- (b) alternative relief.

AND YOUR PETITIONER AS IN DUTY BOUND WILL EVER PRAY.

DATED at PRETORIA this 4th day of DECEMBER, 1964.

(Sgd.) J. Harris.

APPLICANT.

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

In the matter between :

FREDERICK JOHN HARRIS

Applicant

and

THE STATE

Respondent

NOTICE OF APPLICATION FOR A SPECIAL ENTRY IN
TERMS OF SECTION 364(1) OF ACT 56 OF 1955.

BE PLEASED TO TAKE NOTICE that Application will be made to the above Honourable Court at 10 a.m. on MONDAY, the 7th DECEMBER, 1964, in terms of the Section aforementioned for an Order that a Special Entry be made upon the Record of the proceedings in the matter aforementioned on the grounds that it is alleged by the Applicant that the proceedings in connection or during the Trial in the matter aforementioned were irregular in that :

- (a) The Court referred to and/or relied upon passages in an article by one Anderson in the Journal of Neurology and Psychiatry 1938 - 1939 which had not been referred to by any witness and which were accordingly not in evidence before the said Court.
- (b) The Court on the basis of the passages aforementioned drew inferences against Professor Hurst although the said witnesses had not been

IN THE SUPREME COURT OF SOUTH AFRICA
(WITWATERSRAND LOCAL DIVISION)

Johannesburg: 7th December, 1964.

BEFORE: The Hon. Mr. Justice LUDORF.

In the matter of:

THE STATE versus FREDERICK JOHN HARRIS

- JUDGMENT ON APPLICATION FOR LEAVE TO APPEAL -

LUDORF, J.: The applicant was convicted by me, sitting with assessors, of murder and sentenced to death.

I now have before me an application for a special entry and an application for condonation of the lateness of that application as well as an application for leave to appeal against the conviction and sentence. 10

The special entry sought is based upon my reference in the judgment to certain portions of an article referred to by Prof. Hurst in evidence, and portions of which were quoted by him. I regarded other portions of the article, which he did not quote, as being in conflict with the opinion that he expressed. It has been argued that that evidence was not before me. On the other hand 20 it has been argued that the evidence was clearly before me. Be that as it may I regard the point as an arguable one and being a special entry I do not regard it as frivolous which is the only ground upon which I can refuse a special entry, and for that reason I grant the application for condonation and the application for a special entry.

The rest of the grounds of appeal are slender, but

as the Appellate Division would have to consider the whole record to decide if there was an irregularity, and if there was any prejudice, for practical purposes the whole matter will be before the Appeal Court, and I therefore grant the application for leave to appeal.

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

At JOHANNESBURG, Monday the 7th of December, 1964:

Before the Hon. Mr. Justice LUDORF.

In the matter of

FREDERICK JOHN HARRIS

Applicant

and

THE STATE

Respondent

Upon the motion of Mr. A.J. Soggot, counsel for the Applicant, and having heard Mr. K.D.M. Moodie, counsel for the Respondent, and having read the petition and other documents filed,

IT IS ORDERED :

1. That the Applicant be and is hereby granted leave to appeal against the convictions and sentence passed upon him at Pretoria on the 6th of November, 1964; and
2. That in terms of Section 364(1) of Act 56 of 1955 the following special entry be and is hereby made on the record of proceedings against the Applicant:-

"It is alleged by the Applicant that the proceedings in connection with or during the trial of the Applicant were irregular in that (a) the Court referred to and/or relied upon passages in an article by one Anderson in the Journal of Neurology and Psychiatry 1938 -1939, which had not been referred to by any witness and which were accordingly not in the evidence

cross-examined or been given an opportunity
to state his expert opinion in relation to
the said passages.

DATED at JOHANNESBURG this 4th day of DECEMBER, 1964.

HAYMAN & ARONSOHN,
Attorneys for Applicant,
JOHANNESBURG.

before the court; and (b) the Court on the basis of the passages aforementioned drew inferences against Professor Hurst, although the said witness had not been cross-examined or been given an opportunity to state his expert opinion in relation to the said passages."

BY ORDER OF THE COURT.

(Sgd.) F.J. Visser.

ASST. REGISTRAR.

- CERTIFICATE -

I, the undersigned, certify the foregoing,
being Volumes I to VI of the record of proceedings in
the matter of The State v. Frederick John Harris, to be
a true copy of the record filed in this Office.

(Sgd.) J.J. MYBURGH.

REGISTRAR OF THE SUPREME COURT
TRANSVAAL PROVINCIAL DIVISION.