

## 1972 INQUEST TRANSLATION: Judgment

But this judicial inquiry has already received so much publicity, and it is also clear that it has raised a lot of interest among the general public, so that I feel obliged to provide a complete ruling.

Apart from the State, there are persons in this investigation who have a special interest, as set out in Article II of the Act and they have legal representation, namely the parents of the deceased, Mr Yusuf Ahmed Timol and his wife, Ms Hawa Timol, who are represented by Adv IA Maisels, assisted by Adv George Bizos, and the South African Police, represented by Adv SA Cilliers.

I also want to express my heartfelt thanks to Prof Simson, my learned assessor, who assisted me very professionally. Without his assistance, especially with regard to the medical aspect, I would have been lost.

According to testimony heard in this investigation, the deceased, Ahmed Timol, came into police custody at about 23:10 on 22 October 1971, a Friday, and from then on he remained in police custody until his death, which occurred just after 15:48 on Wednesday, 27 October 1971. He was therefore in the hands of the police for four days and seventeen hours.

On the evening of 22 October 1971, the deceased was in the company of a certain Mahomed Essop, in the motorcar belonging to the aunt of the deceased, Amina Desai, an Anglia with registration number TU 22315, when at about 23:10 members of the South African police force manning a roadblock forced them to stop in Fuel Road, Coronationville. The car was driven by Essop and the deceased was a passenger in the car.

They were then questioned by Sergeant Leonard Kleyn while other members of the force, including a Coloured sergeant, Adam Thinnies, approached the car and were also then present. Essop and the deceased were asked to open the boot of the car, which they did, and in this part of the Anglia a number of documents were found, hidden in a newspaper, part of a Rand Daily Mail. Upon investigation, it was found that the documents were pamphlets of a banned organisation. Because of this discovery, the deceased and Essop

were detained by Sergeant Kleyn and with this car, TU 22315, they were taken to Newlands Police Station where Sergeant Kleyn contacted the Security Police per telephone. Later detective Warrant-officer Els of the Security Police arrived. The incident was reported to him and the documents found in the boot of the Anglia in question were shown to him. Then Warrant-officer Els confiscated the documents and called his officers.

Later Captain Dirker and Colonel Greyling, both from the Security Police, arrived. They then took over the deceased, Essop, motorcar TU 22315, as well as the documents.

According to the testimony of Captain Dirker, he arrived at the Newlands Police Station at about 12:45 on 23 October 1971, after he received a telephone message from Warrant-officer Els.

After checking the documents in the Anglia, TU 22315, and seeing that these were pamphlets of the banned organisations “African National Congress” and “South African Communist Party”, he first talked to Mahomed Essop, who provided him with certain personal particulars. Then he also talked to the deceased, Ahmed Timol, who also provided him with certain personal particulars. He said that he talked to the two Indian gentlemen separately and that Sergeant Kleyn was present all the time.

At 02:40 on 23 October 1971, the deceased, with all the documents found in the Anglia, was taken alone to John Vorster Square by Captain Dirker, accompanied by Sergeant Kleyn.

Sergeant Kleyn also testified that he guarded the deceased at John Vorster Square until 5:30 on 23 October 1971 and he said that the deceased was never assaulted by him or by anybody in his presence.

Under cross-examination by Mr Maisels, Sergeant Kleyn confirmed that at no time while the deceased was in his custody, from 23:00 on 22 October 1971 to 5:30 on 23 October 1971, anybody assaulted the deceased in any way.

Sergeant Kleyn further testified that during questioning by Captain Dirker and Lieutenant Colonel Van Wyk at John Vorster Square, the deceased was relaxed. The deceased was fully clothed and Sergeant Kleyn could see no injuries. He did not see any external injuries.

From the testimony of Captain Dirker it appears that he and Lieutenant Colonel van Wyk, who joined him at about 3:15 in his office at John Vorster Square, together questioned the deceased until about 5:30, when Colonel van Wyk removed the deceased from Captain Dirker's office. He did not see the deceased again. He also testified that while in his custody, the deceased was not assaulted by him or by any other member of the police force.

Colonel van Wyk confirmed the testimony of Captain Dirker that he arrived at John Vorster Square just after 03:00 on 23 October 1971 and he said that he found Captain Dirker, Sergeant Kleyn and the deceased in the office of the former. He testified that upon his arrival in Captain Dirker's office he could not see any injuries to the face, hands, etc of the deceased, although he did not carry out a thorough inspection of the person of the deceased.

He further testified that at this stage he and Captain Dirker perused several documents allegedly found in the possession of the deceased, to determine whether they contained the names of other suspects who could be arrested and searched.

According to the contents of the document, Colonel van Wyk said, it was clear that the deceased was a communist who was in continuous contact with the Central Committee of the Communist Party in England and that the deceased was in charge of the so-called "Main Unit" in South Africa. The deceased was therefore of inestimable value to the Security Police. It was then decided to detain the deceased at the offices of the Security Police at John Vorster Square because in the past communists escaped from prisons or cells or they smuggled information out of cells or received information in cells in some inexplicable way.

At 04:30 on 23 October 1971, Colonel van Wyk requested Captain van Niekerk from their headquarters to come and assist him with the questioning and Captain van Niekerk and Captain Gloy joined him at 06:00 on the same day.

Colonel van Wyk then instructed Captain van Niekerk and Captain Gloy to start questioning the deceased. Colonel van Wyk only took part in the questioning again from 08:30 to 19:30 on 25 October 1971 and on this occasion Captain Bean assisted him.

Captain Bean took part in the questioning of the deceased as follows: 08:30 to 19:30 on 25 October 1971 and again on 26 October 1971 from 08:30 to 20:00, on both occasions with Colonel van Wyk.

The deceased was questioned by Captain van Niekerk and Captain Gloy from 06:00 to 19:00 on 23 October 1971 and again on 24 October 1971 from 08:00 to 20:00, and then again on 27 October 1971 from 08:30 to 15:30.

Both testified that the deceased was free of injuries or wounds when they took over from Colonel van Wyk at 06:00 on 23 October 1971 and he was still free of wounds or any injuries the morning of 27 October 1971.

During the morning of 27 October 1971 Colonel van Wyk visited Office 1026 of John Vorster Square where Captain van Niekerk and Captain Gloy were busy questioning the deceased in order to ascertain what progress had been made. He found the deceased comfortable, sitting at a table and writing and he did not complain of poor treatment.

For the period that the deceased was in detention, namely the nights of 23 October 1971, 24 October 1971, 25 October 1971 and 26 October 1971, he was guarded by two sergeants of the Security Police, Sergeants Bouwer and Louw, who took the deceased into their custody on the opportunities in question in the afternoon or evening from Captain van Niekerk and Captain Gloy or Colonel van Wyk and Captain Bean, and in the particular mornings they handed him back to these persons.

When in the custody of Sergeants Louw and Bouwer, they testified that his sleep was not interrupted at all. He slept well and they did not question him at night. When he requested, the deceased was taken to the washing room and toilet. He slept in his underwear with a bare chest, because it was hot. Sometimes at night the deceased woke up and asked for water to drink, which they gave him, and sometimes they also gave him of their own coffee. To pass the time, they played cards, but not with the deceased. The deceased seemed satisfied and never complained.

They saw his bare torso on several occasions, but never saw marks or injuries. The light was good and if there were marks on his body, they testified, before Wednesday, 27 October 1971, they would have seen it. The marks that can be seen on his body on the

photograph, Exhibit U they did not see. The deceased rested well and slept peacefully. He appeared very calm and did not complain. The deceased had a mattress to sleep on and the necessary blankets.

On Wednesday, 27 October 1971, Captain van Niekerk and Captain Gloy continued the questioning of the deceased. He apparently cooperated with them and provided information, mostly information they already had. He provided the names and addresses of people, including the name of his brother Mohamed Timol in Durban, and his aunt, Amina Desai, and various other people.

Three names were also found on the documents that were found in the Anglia in which he was caught, namely Quentin, Henry and Martin. He was questioned about these persons. He was evasive and did not provide any more information on these people, except to say that they were more occasional friends, that he did not know their addresses and that Quentin was a Coloured.

At about 15:50 on 27 October 1971, a member of the Security Police entered Office 1026. His name was not revealed for the sake of State Security and in the evidence he is referred to as Mr X. He stood close to the door and informed Captain van Niekerk and Captain Gloy that they had positively identified Quentin, Martin and Henry, and also knew where they were. At this stage Sergeant Rodriques, who had entered the office at 15:30 to hand over salary cheques to Captain van Niekerk and Captain Gloy, which he brought from head office in Pretoria where he was stationed. [sic] At the same time he took a tray with three cups of coffee to the office for the two officers and the deceased.

When this statement was made, Rodriques was standing against a table more or less northeast of the desk where the deceased was then busy writing and where he was still sitting on a chair north of the table. Captain Gloy and Captain van Niekerk sat respectively to the western and southern side of the table.

According to the witnesses, the statement by X about Quentin and the others caused an expression of shock or disappointment on the face of the deceased. Immediately after the statement, Captain Gloy and Captain van Niekerk had left the room with X, in order to verify the information provided to them.

Before their departure, they asked Rodriques to keep an eye on the deceased in their absence. Rodriques sat down on the chair to the south of the table, opposite the deceased. Soon after Gloy and van Niekerk left, Rodriques testified, the deceased asked him to take him to the toilet. The deceased got up from his chair and so did Rodriques. Rodriques moved to the left, that is to the west, pushed a chair on the western side of the table that was in his way under the table, with his eyes on the chair. When he looked up, he saw that the deceased was storming towards the window in the southeastern corner, past the eastern side of the table, on the opposite side of the table where Rodriques was. Rodriques then moved back, that is on the northern side of the table to the east, to try and stop the deceased. He stumbled over the chair he had just vacated earlier and could not stop the deceased when he pushed open the window and dived out. The window was neither latched nor secured.

Rodriques looked out of the window and saw the deceased lying next to the building. He immediately ran to Colonel Greyling's office to report the incident. He found the latter in his office and told him what happened. He and Colonel Greyling and others then went outside.

The testimony of Warrant Officer Deysel is that it was then found that the deceased was lying next to the building on the southern side. Immediately when he heard somebody shout that the deceased had jumped out of the window, the witness grabbed two blankets in his office on the tenth floor and rushed down. Deysel described how the deceased was lying on his stomach, his right arm under his body, his left arm a little away, palm upwards, the left leg straight, the right leg bended to the inside, slightly away from the left leg. He did not have his right shoe. Later it was found a little distance from the body. Warrant Officer Deysel testified that he then felt the pulse of the deceased and that his heart was still beating. The deceased was then carried into the building with the help of his colleagues. In the entry hall, Deysel once again took the pulse of the deceased, but his heart was no longer beating. The body of the deceased was taken to an office on the ninth floor where Dr VD Kemp, according to his statement, that is according to Kemp's statement, at 16:05 examined the body of the deceased and determined that he had just died.

Deysel further testified that he was one of the first people to arrive on the scene. He said that there are shrubs on the scene, as I saw myself when I visited the scene. Deysel

testified that the deceased was lying on a shrub. There were pieces of newly crushed shrubs at his shoulders and chest.

On 29 October 1971 a post-mortem was carried out on the body of the deceased by Dr NJ Schepers, a state pathologist, in the presence of a private pathologist, Dr Jonathan Gluckman, who attended the post-mortem on the request of the legal representative of the deceased's parents, Mr and Ms Timol. Dr Schepers found that the cause of the death was serious brain damage and loss of blood. I just want to add that this is not what he said in his report originally, he said that the deceased died of multiple injuries, but after my learned Assessor asked him certain questions, he said that the finding was that the deceased died of serious brain damage and loss of blood.

In order to ascertain what had happened in Room 1026 on the tenth floor of the building known as John Vorster Square on the afternoon of 27 October 1971 when the deceased was questioned in the room, got out of the room and fell to the ground on the southern side of the building, it is necessary to look at the testimony of some witnesses in detail.

In the first instance it is necessary to ascertain whether the deceased has been murdered. If this is not the case, he accidentally fell out of the window, and if this is not the case he jumped out of the window and committed suicide.

Murder, in view of the testimony given, is excluded and even considering it is ludicrous. In accordance with the testimony he was a valuable find that the police wanted to keep. What I said about murder is also applicable to the possibility that the deceased accidentally fell out of the window. To accept anything other than that the deceased jumped out of the window and fell to the ground, can only be seen as ludicrous. If it is now assumed that the deceased committed suicide, I have to ascertain, if possible, from the evidence before me, what the cause for the suicide was. Did the deceased take the step because of torture or mistreatment by the police or the Security Police in particular? Could it have been the result of self-reproach? Thirdly, could it be because he knew that he would go to prison for many years? Fourthly, was there a political motive behind his actions, namely that he did it because of the communist ideology?

The testimonies that are more relevant to this question are the following and I will also look at them in this order, namely the testimony of:

1. Lieutenant Colonel van Wyk
2. Captain Bean
3. Captain Johannes Gloy
4. Captain Johannes van Niekerk
5. Sergeant Frederik Bouwer
6. Sergeant Jacob Louw
7. Joao Rodriques
8. Brigadier Cecil Pattle
9. Sergeant Peter van der Merwe
10. Hawa Timol
11. Yusuf Timol
12. Warrant Officer Carel Janse van Rensburg
13. Warrant Officer Johannes Liebenberg
14. Detective Sergeant Petrus du Preez
15. Major General Christoffel Buys
16. Major Johannes Fick
17. Mr Frederik Swart.

Then I will look at the medical evidence.

Captain Dirker's testimony I will not treat in detail, as I said before. I could just mention that his testimony is corroborated by the testimony of Sergeant Kleyn, for the whole period that the deceased spent in custody of Captain Dirker. In general Captain Dirker's testimony regarded his initial questioning of the accused to get some apparently primary information from him and he spent some time perusing documents.

Then we have the testimony of Colonel Willem van Wyk. He testified that he is a Lieutenant Colonel in the Security Police stationed in Pretoria. On 23 October 1971 at 02:30, as he testified, he was summoned to John Vorster Square where he arrived at 3:00. Upon his arrival, he went to the ninth floor, to Captain Dirker's office. There he found Captain Dirker, Sergeant Kleyn, as well as the deceased. He was briefly informed by Captain Dirker about what had happened and he and Captain Dirker immediately started to investigate the documents lying on the table, documents he was informed were found in the possession of the deceased. He said that he saw that it would be best to look at the documents first and quickly did so. At that stage Captain Dirker was making notes and members of the



Force came and went. He sat and worked and the deceased sat. Sergeant Kleyn was standing around. He asked the deceased if he was able to type. On the table there was a typewriter, which the witnesses suspected belonged to the deceased. The deceased confirmed that he could type and Colonel Van Wyk asked him to type out his personal history. He, the deceased was willing to do so and started typing. About an hour later, the witness said, he realised that it would be a tremendous job to question the deceased, to investigate the case, and he then called Captain van Niekerk in Pretoria to come and help him. Captain Van Niekerk and Captain Gloy arrived quite a while after 06:00. He briefly informed them, gave them some of the documents on the table and instructed them to start questioning the deceased. He remained busy with the investigation until Saturday afternoon, 23 October 1971 when he went home. Before his departure he once again talked to several people about the case. He and Captain Dirker agreed that Van Niekerk and Gloy would continue with the questioning and that he, Colonel van Wyk, would return on Monday to help with the questioning. He testified that from the documents it became clear that the deceased and his followers were busy with a campaign of sabotage and even mass murder. Several names appeared in the documents and it was decided that these people would be arrested.

On Monday, 25 October 1971 at 08:30 he arrived at John Vorster Square again and he found the deceased on the tenth floor, he does not know the room number. At that stage the deceased was in the custody of Sergeant Boucher, who handed him over to the witness. He said that Sergeant Louw was also present. At that stage Captain Bean also arrived to assist him with the questioning. The questioning started between 08:00 and 08:30 in a room on the tenth floor. He was questioned on Monday and Tuesday, both days from about 07:00 in the morning to about 20:00. The deceased had a quiet personality, he always spoke softly and gave the impression that he was cooperating, but actually did not cooperate with them, he was not willing to tell the truth. There were several names and addresses on the document and he said that he knew about the people and that he was sorry that some of these people must also be arrested. He was also asked who these people were, except for those whose names appeared on the documents and, according to the witness, according to the documents in his position, it appeared that he was the leader of the "Main Unit" of the Communist Party in South Africa. The witness said that he wanted to know who the leaders of the other so-called Main Units in South Africa were, as well as the leaders of the Sub-Units. He said that according to the documents, people were appointed from the "sub-units" by leaders of the "Main Units". The deceased

indicated that he did not know who these people were. The witness then said that the deceased told them several lies in this regard, for example that a person who wrote to him from England was Stephanie Kemp, while it was later ascertained that it was not Stephanie Kemp, but Rika Hodges. A person with the name Quentin was also mentioned. He said that these names also appeared in the documents found in the possession of the deceased. The name of a certain Martin Smith was also there. During an investigation at a later stage, they found a paper bag with an Indian lady and the same names appeared on this brown paper and next to them was a telephone number, telephone numbers, and said that this led to the discovery of Quentin and other people. When he questioned the deceased about Quentin, the deceased said that he was a Coloured and that he did not know where he was and that he did not know the other people. He did not give any surnames, and it continued in this vein.

In his testimony, the Colonel said that on Wednesday, 27 October 1971 between 10:30 and 11:00 he visited the questioning for a few seconds. Gloy and Van Niekerk were present and he saw that the deceased was sitting and writing. He asked them how things were going and then he left again. He returned between 15:30 and 15:45 on 27 October 1971. He had hardly arrived on the ninth floor when he was informed that the deceased was dead. He said that he did not believe it, but later he discovered that it was the truth. The deceased repeatedly said that he was aware of the fact that he would go to prison for at least twenty to twenty-five years and the witness said that he could say in support of the deceased that he was not willing to get others into trouble. The deceased allegedly also told him that he, the deceased, did not know why he kept the documents and that he, the deceased, had instructions to destroy them and this was the reason why many people and their families would suffer from his incorrect behaviour.

The witness also testified that he has been a member of the Security Police approximately for the past twelve years. He was a senior person in security, he was away for six years and after his return this has been nearly his first case. He also helped with the investigation into the case against Bram Fischer and the Rivonia case.

Under cross-examination, this witness said among other things that the deceased was in his company for about seventeen hours and he said that no person could question somebody continuously for seventeen hours. He also went through the documents and it was necessary to determine who the other people were who had to be arrested based on

the information obtained through a study of these papers. Under cross-examination he admitted that it is possible that the incident enjoyed a lot of publicity. Exhibits M and N, two letters from a person calling himself International, he saw among the documents that morning. On the paper bag he found, which was in the possession of the Indian lady he mentioned, Smith's name also appeared and he said in his testimony that Exhibits M and N are the only documents where the names of Quentin, Henry and Martin appeared. He also testified that it has apparently been determined that Henry is the twin brother of Quentin Jacobsen. Martin was Martin Cohen. And he also admitted that the fact that the deceased was in contact with Quentin, was very important to them. He stayed with his interpretation that Quentin and Timol were planning sabotage.

He also said that he was aware that Quentin Jacobsen had been prosecuted, but that he was not involved in this case. He admitted that it was very strange that the name of the deceased, Timol, was not mentioned in this case. He later heard that Jacobsen was found not guilty and released and in his testimony he said that he thought that Jacobsen was very lucky under the circumstances. He said that he had asked about Quentin's identity on many occasions. Under cross-examination he also said that the deceased did not discuss anything in his presence. He said that Quentin was very important to him; the deceased told him that Quentin was a Coloured.

With regard to the allegations that pressure was put on the deceased, he said that he knew nothing about that and he said that it was important to win the goodwill of the deceased; that they have a lot of patience and that their first task is to win trust. He further added that the deceased was invaluable to them.

Mr Maisels posed the following question: "If the medical evidence is that he received certain injuries", the witness testified that this did not happen in his presence. And he was very shocked when he heard that the deceased was dead. He received the message at about 16:00 on 27 October 1971 when he was on the ninth floor. He was very shocked, so shocked that he immediately took his car and drove home. He further testified under cross-examination that he saw the deceased at 11:00 on 27 October 1971 when he was sitting at the table, writing. He looked relaxed. The next day, after the incident, he went back to John Vorster Square. He then heard that the deceased had jumped out of the window while he was in Rodriques' custody. He asked what had happened. He said that Rodriques is a member of the Security Police in Pretoria, and further he testified that he

was not in control of the investigation involving Timol, but Captain Dirker was. With regard to Captain Bean, he testified under cross-examination that the former is a younger member than he and that Bean only asked a few questions. Most of the questions were posed by him, Colonel van Wyk. Later he saw what the deceased had written, namely the writing on Exhibit O.

He saw this on Sunday. With regard to Exhibit O, he said that the whole document, Exhibit O, is in the handwriting of the deceased, except for the last few questions and answers he thought was in the handwriting of Captain Gloy. He did not read through the document. Several names appear on page 1 of Exhibit O, including the name Essop. He heard that Essop had also been detained with the deceased. He also admitted that it was general knowledge that Essop went to hospital. He heard about this on Wednesday, he did not know if Essop went to hospital on Monday or Tuesday. Exhibit O, page 2 to 8 he only saw after the deceased's death. He did not read it. He cannot remember if Jacobsen had been under arrest at that moment. In any case, he saw all these documents before Jacobsen's arrest. He also said that he felt that Quentin was with the deceased in the conspiracy. On the Wednesday in question, 27 October, he did not hear about Jacobsen, but after the death of the deceased he heard about Jacobsen. At that stage, he said, it was known that the deceased was the head of the Communist Party in South Africa and that Quentin was with him in a conspiracy. It was therefore very important to determine who Quentin was.

As far as Exhibit P was concerned, the witness testified that he only remembered the first half, namely P1. He remembered this drawing, which he saw. He had quickly looked at it. He then said that he knew the handwritings of most of his colleagues and believed that the handwriting on P2 and 08 looked the same and that it looked like the handwriting of Captain Gloy.

Captain Gloy and Van Niekerk, he testified further, questioned the deceased from 24 October 1971 to 25 October 1971. He was asked about a possible reason for the deceased to commit suicide. In this regard he said that he did not know why the deceased committed suicide. He said that he asked Rodriques later on what happened, a day or so later; it was within a day or two after the incident. Then he said that General Buys was the investigating officer.

In response to questions posed by Mr Cilliers, the witness said that they got along well with the deceased, although they sometimes realised that he was lying. He also said that it was absolutely necessary to have the trust of such a person and gradually he would come to your side. He said that he was convinced that it would happen at some stage. The deceased was very valuable to the police and he does not know of any motive that could have moved the deceased to commit suicide and they wanted to keep him to obtain the facts.

Captain Bean, who questioned the deceased with Colonel Van Wyk, testified as follows. He testified that he was also a member of the Security Branch and that he had helped with the questioning of the deceased on 25 October 1971 from 08:30 to 19:30 and again on 26 October 1971 from 08:30 to 20:00. He assisted Colonel Van Wyk on both occasions. From what Colonel Van Wyk told him, he realised that the main aim was to determine the names of the main- and sub-groups. He also deduced that Colonel Van Wyk wanted to win the trust of the deceased and the deceased gave Captain Bean the impression that he was cooperating. He was very calm and friendly and as far as the deceased was concerned, he was open; he admitted that he was a communist. He said that the deceased told him that while he visited England on one occasion, he became a convinced communist. However, he did not want to reveal the names of other people. The deceased sat or stood up straight, as he preferred. The deceased ate with them, had tea and drank soft drinks. This questioning took place on the tenth floor. He could not provide the room number. On both occasions that he took part in the questioning, he found the deceased in the custody of Sergeants Bouwer and Louw and on both occasions they handed the deceased over to Sergeants Bouwer and Louw in the evening. He did not see any injuries on the deceased, the deceased also did not complain and in his presence nobody assaulted or threatened the deceased.

Under cross-examination in response to a question put to him by Mr Maisels, he said that he made his statement, marked Q, at the end of October 1971, not long after the incident. He wrote it down and then submitted it to General Buys. He was instructed to have it typed, which he did, and then he signed the statement before Major Fick. The Concept One he had initially, he destroyed, he said. He said that he usually does this.

With regard to the investigation diary, he said that this document is kept by the detective doing the investigation. He did not keep an investigation diary himself. He did not make

any notes and Colonel Van Wyk did not make notes either. He also testified that he was not really a questioner in the real sense of the word; he was instructed to assist Colonel Van Wyk and he asked very few questions, only to clarify some questions. With regard to Exhibit P, he said that he could not remember if he saw it, although he was aware that this document was created on 24 October 1971. 25 October 1971 was the first time he had to do with the deceased and he did not know who questioned him before that. As he put it, or rather confirmed what Mr Maisels suggested, he was a “passive onlooker”. He said that he was not at John Vorster Square on 27 October 1971. On 28 October 1971 he was there, but he did not see Rodriques; he heard what had happened and also asked personally what had happened and he was told that Sergeant Rodriques was present when the accused jumped out of the window. He did not know Rodriques then, because he was stationed in Johannesburg while Rodriques was stationed in Pretoria and he saw Rodriques for the first time the week before, before he testified in this Court.

Now I get to the testimony of Captain Gloy. He testified that he was a captain in the Security Police and he testified that he made statement G with regard to this investigation and he then read his statement. I do not think that it is necessary for me to read this statement out loud at this stage. He also testified with regard to Exhibit O, that it was notes made by the deceased and written by the deceased himself. On the last page, 08, there are two questions and answers in his own handwriting. Exhibit Q was also written by the deceased in the presence of the witness and the deceased also made the drawings. The pages of Exhibit O come from a memo book. He used pages 1 to 14 himself. He testified with regard to Exhibit Q: pages 1 to 15 are minutes that were compiled from notes of 27 October 1971 and they were drawn up on the last day of questioning of the deceased, they were drawn up while he was being questioned. Exhibit Q is partly in his handwriting, from page 9 to 13 is in the handwriting of Captain Van Niekerk, and then he, the witness, wrote again on page 14 and part of page 15. The first part of page 15 was torn out when pages 15 to 22 were handed over to General Buys for submission to a handwriting specialist. The other part of page 15 stayed in the possession of the witness and was lost. He said that he continued from page 14 on to page 15. He gave the deceased the whole memo book and the notes they made were already written in the book. Pages 1 to 15 had not been torn out. The deceased started writing under the witness' handwriting on page 15. Pages 1 to 22 were torn out a month later and although his handwriting appeared on page 22, it was accidentally not torn out. Part of page 22 was written on the 27<sup>th</sup>, immediately after the deceased wrote. The deceased's last handwriting appears just before that of the

witness on page 22. He also testified that Sergeant Rodriques had nothing at all to do with the questioning of the deceased.

In response to cross-examination by Mr Maisels, I want to mention the following said by the witness: Before he questioned the deceased in this case, he had questioned people before but not a lot. With regard to the questioning of the deceased, he said that he and Van Niekerk took turns to question the deceased. He would accept it if it is said that he questioned the deceased for thirty-two hours. On Saturday, 23 October 1971 from 07:30 to 20:30, the deceased did not look tired. On Sunday, 24 October 1971 from 08:00 to 20:00. Here he said that the deceased was helpful with a few exceptions. The deceased was not questioned until 27 October 1971, from 08:00 to 15:30 by him and Van Niekerk. Some of the things they thought were important, the deceased did not want to tell them. Over all three days he was helpful in general, but not in everything; some things remained outstanding. His behaviour throughout was about the same on all the days. Exhibit R comprises two pages; this witness said it was the handwriting of Van Niekerk, Captain Van Niekerk. He could not say when Van Niekerk made those notes. With regard to his statement, he said that he made it to General Buys on 4 November 1971, first written out on paper, shown to General Buys and then General Buys took a statement from him, wrote it down and later on it was typed. He wrote out his statement a few days earlier. It was correct and accurate and there was no difference between the original statement and his statement, Exhibit G, submitted to this case. With regard to Exhibit Q, he said that on page 6 there is a reference to Quentin; Martin and Henry were not mentioned. International is a person who wrote Exhibit N, a person with the name of Ebrahim Essop.

With regard to Exhibit R, he testified that it says International at the top, it starts with "International" and it says that he has been a good friend for a number of years, he is a real playboy with no fixed income; he has many friends and money, but no fixed address or work and he is of dubious origin. He regularly visits Wits and has many friends there, he also knows Quentin, Martin and Henry, etc. In this document, Exhibit R, a document written by the deceased, he also mentioned that he became drunk on that occasion. The next question was posed by Mr Maisels: "may we take it then that all that is recorded in connection with Quentin, Martin and Henry is simply in Exhibit R and which seems to relate to International, who he is and who his friends are?" The witness responded that this is correct. Mr Maisels then asked the following: "and then in Exhibit Q, it is also under the heading of International and the introduction to Quentin, how long did you question him

about Martin, Henry and Quentin?” The witness said that he did not take the time and that it was probably an intensive questioning to determine who these three people were.

He then testified that he could not remember when he was asked for the first time to make a statement, he could not remember the day he saw General Buys for the first time and he then said that Exhibit G is the only statement that still exists, the previous ones were destroyed and they were only loose notes. Mr Maisels then ask: “Tell me, why did you specifically mention these three names and not what must have been many other sources and pieces of information that you obtained during the first two days?” The question was: “Just before the deceased committed suicide, it was the last subject to be discussed in his presence.” He also testified that Quentin was arrested on 2 November 1971 and in the possession of Quentin Jacobsen a book was found called “The Anarchist’s Cook Book” which was very important. Mr Maisels then asked him: “The position was that on Saturday and Sunday the deceased was calm and collected and on Wednesday too?” The answer was: That is true.

Question: “And on Wednesday he wrote out as far as I know for the first time a lot of things”? – The answer was: “Not for the first time, on the 23<sup>rd</sup> and 24<sup>th</sup> he also wrote things. Exhibit P was written in two parts, page 1 on the 23<sup>rd</sup>, page 2 and 3 etc on the 24<sup>th</sup>. He wrote a lot more on the 27<sup>th</sup>, on the last day, as can be seen from Exhibit Q”. The witness also said that if you look at the documents you could get the impression that he cooperated better on Wednesday than on the other days, but this was not the case. They did not write everything down, many revelations by the deceased were not written down. He further said that on the afternoon in question, Wednesday, the 27<sup>th</sup>, X came in and gave information. Shortly before Rodriques had brought coffee. It was about 15:30. X arrived at about 15:50. Rodriques stayed after he brought the coffee. Rodriques brought them their salary cheques. Rodriques talked to Van Niekerk and to him, Captain Gloy. As far as he knew he was standing the whole time. The coffee he brought was for the witness, for Van Niekerk and for the deceased.

At this stage, he was shown Exhibit S, a photograph of Room 1026 and he said that when the coffee came, he was sitting on Chair A, Van Niekerk on Chair C and the deceased on Chair B. The windows were closed the whole time, because of the noise outside. As far as he knew, Rodriques never sat but was standing against the table. The deceased was questioned during this period. The deceased looked shocked when X came in and



provided the information; this was the only time that he looked shocked. The witness was sitting across from him and he immediately looked from the witness to Van Niekerk and his eyes were confused, they were glassy. He also lowered his head. As far as the witness can remember, the deceased did not say or ask anything. The witness said that he immediately got up, went to X and left the room with Van Niekerk. Captain Van Niekerk also left the room with him and they went with X, asking Rodriques to stay with the deceased. They went down to the ninth floor. They used the stairs, he, Van Niekerk and X. He further said that he did not think that the deceased saw X, because the deceased was seated with his back to the door. X came about two steps into the room, the deceased did not look round.

He said that while they were turning left from the main passage on the ninth floor to a certain office where they wanted to verify the information provided to them by X, they encountered a certain Sergeant Joubert who came running towards them and said that Timol had jumped. He said that he told Joubert that he was joking. However, Joubert was serious and he had to believe him. He immediately returned to Room 1026, together with Van Niekerk. Upon his arrival there, he did not find anybody. He went to the open window, looked through it and saw a person lying next to the building. The window was about as wide open as on Exhibit S. He was very shocked. Later he saw Rodriques in Colonel Greyling's office. He asked him what had happened and Rodriques told him that the deceased had jumped out of the window. Rodriques explained that he, Rodriques, was sitting on Chair A as in Exhibit S. The deceased asked him to go to the toilet. When Rodriques got up, the deceased also got up. The deceased pretended to go to the door, but suddenly turned around towards the window, he opened the window and fell through it. Rodriques also explained that he tried to stop the deceased by jumping around the table, the southern side of the table. However, he stumbled over a chair. He could not stop.

The witness said the deceased was about 5 feet 5 inches tall. At the time when Rodriques told him this, explained it, Colonel Greyling was not present, only he and Rodriques were present. He said that until today he is still satisfied with Rodriques' explanation. He concluded his testimony under cross-examination by Mr Maisels by saying that while the deceased was in his custody, he did not sustain any injuries and he never complained about any pain when he questioned him.

In response to questions posed by Mr Cilliers as legal representative of the South African Police, Captain Gloy said that he knew Rodriques before, that he was stationed at the Head Office of the Security Police in Pretoria, where Rodriques did clerical work. Rodriques does not do any questioning and has been working at a clerical division at head office for two years. He further said that on the day in question Rodriques only brought a file and salary cheques for Van Niekerk and him.

The deceased said that Quentin was a Coloured and that he only knew him on a social level, which was a lie. The deceased refused to say anything about the three persons, namely Quentin, Martin and Henry and the witness further said that when the deceased did not cooperate, apparently told things they could not believe, no notes were taken. The questions were also spread out. All three of them had coffee, the coffee Rodriques brought. The deceased drank his coffee normally and with regard to the speech of the deceased, this witness said that it was normal and that the deceased was "soft-spoken". He never coughed. He further said that the deceased was very valuable to them and that he could have been of value to them and that there was more information they would have liked to get from him.

With regard to the questioning of detainees, he said that if he won the trust of a person, he talked more and this was also their aim with regard to the deceased.

At this stage Captain Gloy stepped down. Later on he was called back and questioned again by Mr Maisels. Under further cross-examination, he said, among other things, when he referred to his statement, Statement O, paragraph 5, that from what he had said it could be interpreted that at that moment the deceased was still busy writing, but this was not the case. He said that Exhibit O was written by the deceased of his own accord in response to questions that were posed to him the previous day and he admitted that on that day, they did not ask him any questions and he conceded that from the document one could deduce that what was written were answers to questions. Then there were the very strange marks between the paragraphs on Exhibit O and with regard to these marks, the witness said that just above his handwriting, the mark was made by him, but the other marks in the document between the paragraphs are the deceased's marks and it was not the witness's marks on the other pages.

I then continue with the testimony of Captain Johannes Van Niekerk. This witness also testified that he is a captain at the Security Division of the South African Police and Statement H is an affidavit made by him. He read the contents to the Court and confirmed them. Once again I do not feel that it is necessary to explain the contents, they are included in the case records. He was cross-examined by Mr Bizos and about the statement he said that he only made one statement and that was the statement. He said that on the day after the deceased's death, he made notes in the form of a statement, the events were still fresh in his memory and this is the reason why he made the notes. The contents of this statement were the same and there is no fundamental difference between that statement and Statement H. He admitted that as an experienced officer he knew that notes that are taken during an incident could be very valuable, but under the circumstances he did not find this necessary. He wrote four to five pages. This related to this statement. On 28 October 1971, he said, he heard about the incident on the radio and in the newspapers and he admitted that there was "public disquiet" but it did not make a difference to him. He realised that he would have to testify.

The notes he made initially about his statement he later threw in the rubbish bin. He did not see the need to keep that draft statement. His initial notes, or the so-called draft statement, he showed to General Buys. They were not signed. Statement H was made on 4 November 1971 and went to General Buys a day or two before 4 November 1971 and he said that he did not sign the draft statement before General Buys. What Rodriques told him was not included in his notes. He saw General Buys in Colonel Greyling's office where he was summoned a day or two before 4 November. When he saw General Buys, it was more or less the time that Jacobsen was arrested.

Mr Bizos posed the following question: "I put it to you that information was given to General Buys prior to the arrest of Jacobsen". The witness denied this. A further question: "you see, I'm going to suggest to you having regard to certain public statements that were made prior to the 2<sup>nd</sup> November 1971 and your affidavit which was made after the 2<sup>nd</sup> November 1971, there was a substantial change in front as to how Timol came to meet his death". The witness responded: "I can only say that I reject the statement completely". He then said that on the same afternoon, Wednesday, he talked to Rodriques. He met him in the passage in the building near the office of Colonel Greyling and asked him what had happened. Rodriques said that just after they, Captain van Niekerk and Captain Gloy, had left, the deceased told him that he wanted to go to the toilet and the deceased got up from

his chair. Rodriques also got up. Rodriques had the impression that the deceased wanted to walk. Rodriques came out from behind the table where he was sitting, while the deceased was at the other corner of the table at that stage. The deceased suddenly jumped to the window, opened the window and dived through it. He, Rodriques, first wanted to move round the left-hand side of the table, he then went around to the right from where he had been sitting at the table, but it was too late.

Exhibit E, a report published in the newspaper *Rapport* was shown to him and the witness said that this is not what Rodriques told him. He also said that he could not remember ever having seen this report in the *Rapport* and he did not think that he had ever seen it. He did see the headlines of the Rand Daily Mail on the street the next day, but he did not read the newspaper. According to his testimony under cross-examination by Mr Bizos, he questioned the deceased as follows: the first day, Saturday, from 06:00 to 19:00, thirteen hours. Sunday from 08:00 to 20:00, twelve hours. Wednesday, from 08:00 to 15:30, eight hours, that makes thirty-three hours. He conceded that it must have been about thirty hours. He said that the deceased was not questioned at night and that Captain Gloy and he together questioned the deceased during the times in question. After hours the deceased was handed over to members of the Force who were responsible for guarding him and who had instructions not to question him. Both Sergeants Louw and Bouwer, they had to guard him alone in the room and he said that there were many reasons why he had to be kept in this room. It was decided on a higher level to keep him there and the reason was for security. He said, as he expressed it in English, that the deceased had to be guarded or treated in such a way "so as not to become physically exhausted". He was given an opportunity to sleep and he made sure that the deceased did sleep at night. He could not see anything wrong with the fact that the deceased was kept in that room.

He conceded that he is an experienced investigating officer and that he has questioned several people who were detained in terms of Section 6 of the Act on Terrorism. In this case the instruction to question the deceased came from Colonel Greyling. The deceased also said that he had slept and the witness could see that he was refreshed. On Wednesday morning, 27 October 1971, the deceased did not look tired to him. He also said that where he was present nothing happened to the deceased and the deceased did not complain. The deceased did ask him for certain things, for example to visit the toilet or brush his teeth and he was not aware of any injuries on the deceased.

He was not involved with the investigation into Jacobsen and he said that there could have been a link between the shock when the information regarding Quentin Jacobsen became known and the events that took place later on. He said that he did not think that it was important, but it could be of interest. He said that he had reason to believe that the deceased and Jacobsen were “co-conspirators”.

Mr Bizos posed the following question: “Now you must have believed that this announcement about Quentin and Henry having been traced, so to speak, is something of great importance to the deceased”? “That is the impression I got”, the witness answered. A few questions further: “And what I am putting to you is this, that subsequent events have shown objectively that Jacobsen did not mean anything in Timol's life”. The answer was: “In any investigation, there are always underlying factors that cannot be submitted to Court through admissions or other facts”. And he further said that the fact that Jacobsen was found innocent later on did not change his testimony in any way.

He further said that when X came, he stood in the door of the office. No attempt was made to hide the identity of X. Nobody except the witness and Captain Gloy knew that the identity of X had to be kept secret. They knew him, they knew who he was, so that his name was not mentioned and he also said that the deceased did not see X. He also testified that other people also came and went and that the deceased would not have been able to distinguish between those people and X. He denied that the arrival of X in the office was a trap. He testified that he insists that he wanted to know who those people were and when he learnt who they were, he immediately introduced measures to verify the information and for that reason Captain Gloy and he left the office at that moment. At the time when X was reporting the information, he did not question the deceased about these people; he had not spoken a word to him at that stage. Then he was asked: “But what did Timol do that gave you the impression that he was shocked?” He answered: “I was sitting on my chair next to the table, X came in. If I remember correctly, his first words were ‘I know who Quentin, Martin and Henry are’ and immediately afterwards he mentioned the name Quentin Jacobsen. I looked at Timol for a moment and I saw that he seemed shocked. A question: “How”. Answer: “His eyes were bigger, there was an expression on his face and he quickly looked from me to Captain Gloy and back to me, and possibly a little to the back, and then he lowered his head without saying anything. It was obvious, you had to take note of it”.

He further said that the deceased's answer to the questions on Exhibit O, "who assisted you to distribute the pamphlets on 13 August 1970 in Durban, Cape Town and in Port Elizabeth on 14 August 1970", "No one assisted me" was a lie. A question by Mr Bizos: "You knew bombs had spread pamphlets in Johannesburg and several other cities more or less simultaneously". The answer was: "yes, there were occasions that these bombs went off simultaneously but is being referred to here is not bombs, but distribution through the post, it was planned, it was not a coincidence. The typewriting on the different pamphlets was all from the same typewriter, which was later identified as belonging to the deceased. The deceased's answer did not upset me", the witness testified.

He further testified that the deceased gave them very valuable information as far as the deceased himself was concerned, as well as the Communist Party in London, his headquarters, but he also said that the deceased was very vague about providing information of incidents that took place locally and which could have been very valuable to break up the organisation. He said that his reaction to this was normal and he said that he knew that finally they would get to the truth. They were aware of the fact that he had accomplices in other cities and that the deceased did help them and that they discovered very important facts.

He further said that when a detainee provided false information, they did not attack him physically, it does not help to get angry, patience is a virtue. It is not advisable to lose your temper; you do not achieve anything in this way. You achieve much more if they win the trust of the man and show him in a nice way that he is playing a game that you have known for a long time. He further said that Quentin, Martin and Henry were not discussed immediately prior to the death of the deceased; they were busy discussing the distribution of documents when X came in.

Exhibit P, page 1, was drawn up by the deceased on Saturday, 23 October 1971; while pages 2 and 3 were also drawn up by him, also in the presence of the witness. The witness said that Exhibit R was in his own handwriting, that of the witness, and was written during the morning of 23 October 1971. It refers to Quentin and Henry; they were under discussion at the time that the notes were made. The name of the person International was also mentioned there, which later proved to be a certain Ebrahim Laher. Exhibits M and N are two of the documents that were found in the possession of the deceased in the car. The witness said that the deceased said that the person who signed the letter, Exhibit

M, was the same person who signed the letter Exhibit N as International. Other things were also said in this regard and the witness was anxious to find this person, International.

The deceased told him that International had gone overseas with Quentin and this was one of the reasons why the witness wanted to find out more about International. He was interested in International because, he testified, International could lead him to Quentin Jacobsen. The deceased said that Quentin Jacobsen was a Coloured and later this proved to be incorrect. The witness said that the deceased had reason to protect Quentin, but he did not know why.

He further said with regard to the questioning that there was no practice that had to be followed every time. It depended on each individual case. Each case had its own individual problems. He said that they showed many documents, also Exhibits M and N to the deceased and he told them that E was International or Ebrahim. Now, with regard to Exhibits M and N, he said that these documents were not there when Rodriques was with them in the office on the afternoon in question. When X came in, he and Gloy first talked in the office, then outside the office and then they went down to the ninth floor, he, Gloy and X. They were still underway when somebody came and shouted that Timol had jumped. He and Gloy both returned to 1026 on the tenth floor to the window that was open. They looked down, and for a moment his eyes did not focus, but he was able to see where the deceased was lying. He said that he did not know the building well, and he took the normal lift to go down.

Now with regard to who were down there, in the confusion, as the witness testified, he was not able to say who were there, he was not very interested either; he was only interested in the deceased. He remembers that Colonel Greyling was there and also Warrant Officer Deysel. He says that he remembered this specifically. He cannot remember that he saw a man in uniform there.

Mr Bizos then asked him the following question: "On your evidence, nobody could have got the information about the identity of the deceased or the fact that the deceased had jumped out of the window before you yourself got it." His answer was: "No, there were definitely other people who knew, because an outsider came to inform me on the ninth floor", by outsider he explained that he meant a member of the Force who had nothing to do with them. He then testified that the deceased was carried inside and that it was such

a shock to him that he was not interested in who were present there. His only interest was in the deceased. He confirmed that Dr Kemp arrived after a few minutes.

At another stage during the questioning, the witness said that there were several jokes between them and the deceased. He said that he thanked the deceased for the exhibits he brought them. The deceased laughed but after that his attitude suddenly changed. He lowered his head and said: "All you have to do, the Prosecutor must just get up and hand over these documents – he said that the deceased indicated with his hands – one after the other to the Court and I would get at least twenty years". The witness said that he told the deceased to put that idea out of his head as soon as possible and the witness told him there could be a revolution and if the deceased gave the information, he could still be free the next day. He also told the deceased that they are not prosecutors and that there are no predetermined sentences, each case has its own trial. He said that this happened before the 27<sup>th</sup>.

He said that the deceased did not look impressed with what he told him and he repeatedly said that he would get a long jail sentence. He then said that the deceased repeated this again, and they discussed it for an hour or more.

With regard to the difference in handwriting on Exhibits O and P he explained that different pens were used. There are certain names of Exhibit P that were scratched out by the deceased on purpose and the name that was scratched, out later became prominent. That is the name written just below the name of Solly Jaskelson. It became clear that this name was not intended for the eyes of the Security Police. He did not receive any complaint from the deceased that he was in pain, and he never saw any gesture of pain made by the deceased. With regard to Essop, he said that he had nothing to do with him; he only heard at one stage that Essop had gone to hospital.

In response to questions posed to him by Mr Cilliers, the witness said that there was nothing abnormal about the speech of the deceased; he talked with a soft but clear voice. He had three meals a day with the witness and Captain Gloy, he did not have difficulty eating or drinking and he did not struggle to swallow. He also said in his testimony that a few minutes before his death he drank coffee with them and that afternoon they all ate potato chips together. He also said that the studios referred to in Exhibit M belonged to Quentin Jacobsen. Henry, the witness said, turned out to be Quentin's twin brother.



In response to questions posed to him by the Court at this stage, the witness said that when X came in, the witness was no longer busy writing. Gloy was writing and he was just finishing. He said that immediately after the incident nothing in the office was removed by him or by any other person, every remained as it was, even the cold drink bottles are today still in the office, he said.

Now I get to the testimony of Sergeant Frederik Bouwer and the testimony of Sergeant Jacob Louw. They are the two persons who had the deceased in custody some evenings. The statement made by Frederik Bouwer is Statement I, which was read out and which the witness confirmed to be the truth. According to the statement, Statement I, Sergeants Bouwer and Louw had the deceased in custody from 19:00 on 23 October 1971 to the next morning, at 08:00, that would be on 24 October. And again from 20:00 on the evening of 24 October 1971 to the next morning, 25 October 1971 at 08:30. And then again from the evening of 25 October 1971 at 19:30 to the next morning at 08:00, that is 26 October 1971. And then again on 26 October 1971 from 20:00 to the next morning, 27 October 1971 at 08:00. The witness Bouwer said that for the period that the deceased was in their custody they put no pressure on him and his sleep was not interrupted at all.

Under cross-examination by Mr Bizos, he said that he and Sergeant Louw spent a total of about fifty hours with the deceased. They, that means he and Sergeant Louw, stayed with him in the room except when one of them went to the toilet. They did not sleep; they received the instructions from Colonel Greyling. He conceded that there are cells at John Vorster Square, but not on the tenth floor, the cells are completely separate in another part of the building and he did not see anything wrong with the fact that the deceased was kept in the room. He said that the aim was not to exhaust him and he admitted that if he was in a cell, a constable on duty could have stood guard. He believed that the deceased was kept in the room to ensure that he did not come into contact with other prisoners.

He further testified that he did not sleep; he sat on a chair, which is customary when two people guard somebody. He sat and read the newspaper and he also played cards with Louw. The deceased said that he wanted to lie down. The deceased said that he wanted to go and wash, he was taken to the toilet or bathroom where he washed. The deceased lied down to sleep in his underpants; the deceased said that it was hot. Some nights the deceased woke up and asked to be taken to the toilet; he was taken there. Sometimes the

deceased also asked for water during the night and drank water, sometimes they also gave him coffee that they had with them.

They did not talk to him much. The only conversation he can remember is when he and Louw were playing cards and the deceased told them that he would play with them, but he wanted to play Five Card. Apparently they did not know the card game and they did not play with the deceased. The deceased never had any complaints with regard to pain. He also did not ask about it, because the deceased appeared to be satisfied and he never complained. He used his arms freely when he washed. The witness said he saw the body, he had several opportunities to see the deceased's body and he did not see any marks on the deceased's body. The light was good. If there were any bruises on the body of the deceased before Wednesday, 27 October 1971, he would have seen it. With the naked eye he did not see anything. He was shown a photograph, Exhibit U, a photo of the body of the deceased where there were marks and he testified that he could see the marks on the photo on the left-hand side and also on the left upper arm. The witness was asked that if there was testimony that these bruises were caused before the death of the deceased and the witness answered that he did not see the marks and he said that he repeated that he did not see any marks and he did not complain either. He did not examine his legs or paid attention to them. In the bathroom he conceded that the deceased removed his shirt as well.

In response to questions posed by Mr Cilliers, the witness said that the deceased's skin was sallow and darker than that of a White person. He said that he asked the deceased if the light bothered him and the deceased said not at all. On two mornings he saw him eat: bacon and eggs, sausage, bread, etc. The deceased seemed relaxed. During re-examination, on a question posed to him by Mr Kotze, he said that he did not have a special reason to pay attention to the body of the deceased.

THE COURT ADJOURNED

THE COURT RECONVENED

With regard to the nights that the deceased was in custody, there is also the testimony of Sergeant Jacob Louw. I find that it would be unnecessary to look at his testimony in detail. His testimony is nearly a repetition of what Sergeant Boucher told us. I want to say that Louw was also thoroughly questioned by Mr Bizos and that he also said that he did not

see any marks on the body of the deceased. It is clear from his testimony that he had the opportunity, if he had paid attention, to have seen such marks.

And then I get to the testimony of ... I first want to look at the testimony of Sergeant Rodriques. Joao Rodriques testified that he is a sergeant stationed at the Security Police Headquarters in Pretoria. He is in the clerical division and he said that he went to Johannesburg on 27 October 1971. He had to bring certain documents to John Vorster Square and he also handed over two cheques to Captain Gloy and Van Niekerk.

Upon his arrival at John Vorster Square, he went to the tenth floor, room 1026, where he took the cheques and at the same time he took a tray with three cups of coffee to the office. In the office he found Captain Gloy, Captain Van Niekerk and the deceased. He said that his time of arrival was about 15:30. He put the coffee down on the table. Gloy, Van Niekerk and the deceased drank the coffee. Later he said that a person arrived who gave information to Gloy and Van Niekerk about a person called Quentin Jacobsen. He said that the deceased looked shocked, he turned his head from side to side and his eyes looked wild. At that moment he also looked at witness Rodriques. Gloy and Van Niekerk then got up and asked him to guard the deceased while they went to investigate the information they had just received. They went out.

He said that he then sat down on a chair on the southern side of the table, the chair that Gloy had just vacated. Furthermore on the photo, Exhibit S, a photo of the room and its contents, the witness said that he was sitting on Chair A, while the deceased sat on Chair B. A little while after Gloy and Van Niekerk had gone out, the deceased asked to go to the toilet. The deceased was sitting on Chair B, as I have already mentioned. Both of them got up. Rodriques said he went to the left, where Chair C was in his way. At that moment his eyes were on the chair, Chair C. He pushed it in and then he saw the deceased, who was standing on the right-hand side of the table from where Rodriques was, rushing towards the window. The witness said he first wanted to go to the left, but the chair that the deceased had just vacated, Chair B, would have been in his way and he went back to the right, where he had trouble with Chair A, which was in his way.

At this moment the deceased was already at the window, the window was already open and he was busy diving through the window. In an attempt to grab the deceased, he stumbled over Chair A. He could not even touch the deceased. When he got to the

window, he said that he saw the deceased lying on the ground next to the building. He immediately ran to Colonel Greyling's office to report. He found Colonel Greyling in his office and reported the matter to him. Colonel Greyling, he and other people then went down. He does not know who the people were who went down, apparently he is a stranger there and he did not know the people well.

At the bottom he saw the body again, and the body was brought inside. He said that this was the only and the first time ever in his life that he saw the deceased. He did not question him. He did not threaten him and he did not assault him either. He also confirmed that the statement, Statement R, was made by him on 11 November 1971.

Under cross-examination he said that Exhibit R, dated 11 November 1971, is the only statement he made. He did not make any other written report and nobody asked him to make a written report. The first time General Buys talked to him was the day after the incident, namely 28 October 1971, the Thursday. When this discussion with General Buys took place, Rodriques testified, General Buys did not make notes of what he said. He said that Major Fick talked to him on the afternoon just after the incident occurred, namely on Wednesday afternoon. He also made no notes and Rodriques said that he told Major Fick exactly what happened, as he did here in Court. He gave the same version to General Buys. Captain Van Niekerk and Captain Gloy also asked him and he told the same story.

He said that Chair C was pushed out in such a way and he had to push it back. His eyes were on the chair and he noticed a movement on the right, it was a quick movement in the direction of the window. Under cross-examination he further said that things happened quickly and that it was difficult to describe it precisely. He tried to follow the deceased and he said he mentions that the deceased was rushing to the window and that he, Rodriques, first tried to move around the north-western corner of the table, but Chair B, that is the chair that the deceased occupied a little earlier, was in his way and he jumped back to stop the deceased. At this moment, he said, the deceased had already reached the window. At that time he was next to A, that is Chair A, on the western side of this chair. He wanted to grab him but he was too late. He could not say exactly how the deceased was standing in relation to Chair B and he did not see the movement of the deceased until he got to C. He did not notice where the deceased was when he, Rodriques started moving. He did not expect anything and did not pay specific attention. He said what

attracted his attention was that the man rushed and he said that he was very close to the deceased when he went through the window.

With regard to the initial movements of the deceased, he said that the deceased started moving forward and then he turned around. He then said that he, Rodriques, stumbled over A when he moved back. He did not see the deceased move back to the door; he saw no movement to the door.

With regard to the version that Captain Gloy told the court in his testimony on what Rodriques told him with regard to the events, Rodriques said that he did not say it exactly like that and that it could be a misunderstanding. He reiterates this with regard to what Captain Van Niekerk said about this. He further said that his version to General Buys was as he explained in his statement and he also demonstrated what happened.

With regard to the photo, Exhibit S, he said that he is the person appearing on the photo and that the photo was taken the same afternoon. He could not remember if he was asked to stand in that exact position. Brigadier Pattle was in charge of the photo taking and he said that he could not remember if he was asked to stand in that specific position. Also with regard to the photo, Exhibit Z, he testified that he was the person appearing on the photo and he thought that the photo was taken the same evening. He could not remember what it represents and he also said that when he came in with the coffee, the window was closed. He did not notice the noise. It was relatively quiet; he could not remember a noise. He conceded that when the window is closed, you could hear a bit of the noise of the traffic outside. He did not investigate the window on the afternoon in question before the incident occurred. He said that the catch on the window was apparently broken and the deceased opened the window. He further said that he could not observe everything, because it happened very quickly.

With regard to the expression on the deceased's face, he said that he could see the side of the deceased's face and the first time he saw his face from the front was when he sat opposite him. He was about fifteen or twenty minutes in the room before the incident occurred.

Once again under cross-examination, he said that the deceased looked from side with a wild look in his eyes after the person provided information on Quentin. He could not

remember of he looked around. A plan of the room, Exhibit AA, was shown to him and when he was further questioned about what he could see of the face of the deceased, he said that he could see the eyes of the deceased from the side and when he turned his head he could see his eyes.

He explained that he was standing next to the table and that he was still in the same position when the person X came in. After Gloy and Van Niekerk had left, he did not talk to the deceased, it was only a little while before the toilet incident occurred. With regard to the statement he said that before he testified, he went through the copy of his statement, it was given to him a few days before and he went through it a few days before.

In response to questions posed to him by Mr Cilliers, he said with regard to the movement of the deceased, that it was nearly one movement, the opening and diving out of the window and he further explained how he was standing next to the table, as the table occurs on Exhibit AA; he was leaning against the table and he could see the face of the deceased. He also said that he was shocked after the incident.

This witness, Rodriques, was called back after Brigadier Pattle testified and in his further testimony he said that he saw Brigadier Pattle for the first time in room 1026 shortly after the incident, he could not remember the time. He testified that he does not know Colonel Burger, but possible Colonel Greyling was also there, present in room 1026 when he was there with Brigadier Pattle and he was then asked to explain what happened. Later a photographer was called and then Brigadier Pattle, the photographer and he were present. The first time he said that Brigadier Pattle asked him to explain what had happened. He could not remember that he was asked about this again by Brigadier Pattle when the photographer was not present. He was very confused and it is possible that they could have asked him to assume certain positions.

He said that it was a very big shock to him and it was still a greater shock when he saw the corpse and that the events immediately following that were very vague. He could not say why he was standing with his back to the camera as it appears on Exhibit Z. He could not remember if the photographer asked him to stand with his back to the camera.

Then he said that he cannot say what he told Pattle and that Brigadier Pattle may have misunderstood him. The chairs were still in the same position when the photos were taken.

Personal details he provided is that he is 33 years old and that he has been in the police service for sixteen years. He had thirteen years' service in the uniform branch as a clerk and then two years' clerical service in the Security division. In other words, he spent his whole career in a clerical position.

Under further cross-examination by Mr Maisels, he said that Chair A in Exhibit Z is in the position that it was and that the chair had not been moved, as far as he knew. It is a large chair, a swivel chair. And then he said that in his attempt to prevent the deceased from jumping out of the window, he tried to go around the chair and not to push it out of the way. He says that he may have bumped the chair a little. He further said that he did not know what testimony Brigadier Pattle would give and he was also not asked what he told Brigadier Pattle. It is the first time that he now heard what Brigadier Pattle claims he told him. Further he said that he has never arrested anybody in his life.

Brigadier Cecil Pattle testified that he made a statement, Statement X and he says, among other things, I will not explain the whole statement, that on 27 October 1971 at about 16:10 he was sitting in his office, room 705 on the seventh floor of John Vorster Square when it was reported to him by Brigadier Burger that it was seen that a body had fallen from the tenth floor in Commissioner Street, on the Commissioner Street side of John Vorster Square a few minutes before. Later in his statement he said that at a later stage, at about 16:20, he had an interview with Lieutenant Colonel Greyling in his office where Colonel Greyling made a further report to him.

Because of this report, he went to room 1026 on the tenth floor of the building, where he was introduced to Detective Sergeant Rodriques of the Security Police. He said that later on Rodriques made a complete report to him about had happened and because of what Rodriques told him, he then examined this room, 1026. He said he then examined the room thoroughly and he found no signs that furniture was disturbed in the room or that a struggle took place. There were no signs of bloodstains on the floor, walls, and ceiling or on the furniture in the office. The window on the left was open at about 45° and the catch with which is usually secured, he called it the "retaining screw" was loose, "unscrewed".

Further with regard to this investigation at the window, he said "no scratch marks or any other marks which might indicate a struggle were found on the window or walls, nor were traces of hair or other ... found".

With regard to the photos, Exhibits S, Z and BB, he testified that these photos were taken in his presence in room 1026. He said that he asked Rodriques to place the chairs in the position that they were when the alleged incident took place, which Rodriques did. Exhibit BB is a photo of the chairs and the tables as they were arranged at the time of the incident. As far as photo Z is concerned, Exhibit Z, he said that he asked Rodriques to take up a position in which he claimed to have been when the deceased, according to information provided to him by Rodriques, started to move away from his chair to the window. In Exhibit S, he said, he asked Rodriques to take up the position where he was standing when the deceased jumped, jumped from the window. He also asked him to open the window as it was after the deceased went through it. He said that Rodriques explained how he got to the position as he appears in Exhibit S. Rodriques told him that he moved around the table from where he sat in Chair A. The deceased was sitting in Chair B. The deceased asked him to go to the toilet. Rodriques then got up from his chair and moved around to C. When he arrived at C with his hand on the back of the chair, he noticed from the corner of his eye that the deceased was moving from B in the direction around the table and to the window. Rodriques then followed him, followed the deceased around the table in the same direction, and when he reached the point indicated in the photo where he stood, the deceased jumped through the window and he was not able to do anything about it. Brigadier Pattle said that he was very upset when he reported this to him, he was very pale.

Under cross-examination by Mr Maisels, Brigadier Pattle said that the interview with Rodriques took place between 16:30 and 16:45. He said that Colonel Greyling also told him: "go slowly, this man is very upset". Then he said that the second explanation Rodriques gave him was the same as the one he gave him originally and then the photographer was present and it happened at 17:30, between 17:30 and 18:00. He could not remember if any fingerprints were taken and he said that the photographer, Van der Merwe, who later appeared on the scene is also a fingerprint expert. He confirmed that he could not find any signs of bloodstains with the naked eye. He looked around well and also said that the window was open when he came in the first time and it was open to the extent that is shown on Exhibit S.

In response to questions posed by Mr Cilliers, the witness said that the photographer told Rodriques to turn his back to the camera and that Rodriques walked to the position where



he was photographed. It is normal police practice where photographs are taken in this way for the person to stand with his back to the camera.

In response to questions posed to him by the Court, the witness said, among other things, that he entered room 1026 for the first time at about 16:40 to 16:45 that afternoon. He also said that before the furniture was reorganised after asking Rodriques about it, they were nearly in the same position, although Rodriques corrected the position of some of the chairs. He also said that Rodriques gave him the impression that Chair C was in his way. As far as the cups are concerned that you can also see in the photograph, he said that the cups were still there. He confirmed that there was no sign of a struggle in the room. He completely excluded the possibility that the deceased was thrown from the window and he also testified how he came to this conclusion and he explained that in view of the position in which the deceased fell it was clear to him according to the position of the corpse of the deceased, the body of the deceased lay on the ground, that it corresponded with somebody who jumped or dived out of the window.

I will not look at the testimony of Peter van der Merwe, the photographer, in detail. I can only say that in his testimony he confirmed the testimony of Brigadier Pattle, especially with regard to the explanation that Rodriques gave Brigadier Pattle.

I am now getting to the testimony of the deceased's parents, Hawa Timol and Yusuf Timol and I want to look at their testimony together with that of Warrant Officer Carel Janse van Rensburg and Warrant Officer Johannes Liebenberg. I do not want to go into the full details here either; it is clear that on the occasion in question, on 26 October 1971, these witnesses, namely Van Rensburg and Liebenberg, went to the residence of the Timols to go and look for certain documents. They found the Timols there, Hawa, the mother and Yusuf, the father. What makes the testimony of these people relevant to a certain extent, is what the two members of the police force allegedly said.

The testimony of Mrs Timol and Mr Timol gives the impression that there was a kind of threat in what was said. Mrs Timol said that she spoke Afrikaans to these persons and especially I would say with Warrant Officer van Rensburg. At this moment I only want to say that I do not believe that Mrs Timol was a very honest witness. When testifying while being questioned by Mr Kotze, she tried to convince the Court that she could not really understand Afrikaans and that she could not really follow what this statement, Exhibit O,

made by her, said. Later it became clear that she could speak Afrikaans very well and later when she was asked what was said, she repeated everything nearly word for word in Afrikaans. Mr Timol testified that Mrs Timol was a young girl when she came from India, that they got married and lived for many years in a rural town, in an Afrikaans-speaking environment, Breyten, and that she learnt to speak Afrikaans in this way. However, I just want to look for a moment at the words that were said there. She said that when those people left, one of them said we have your son. That was on the first occasion, on 23 October 1971 when they arrived there. And now I refer to the occasion on 26 October 1971 again where Warrant Officer Carel Jansen van Rensburg and Warrant Officer Johannes Liebenberg were involved. On this occasion they came to look for a book. As in her statement, Statement L, she said that she asked them “who sent you for the book?” the one said, “Your son sent us”. She then asked, “Where is my son, please wash [sic] my son”. One then said: “You cannot see you son anymore”. She then asked him: “Why, Sir, I am so sad, we are now fasting”. The police member in question then allegedly said: “He must get a hiding”. She then asked him: “Why Sir, you beat my son and I did not beat my son”. He then answered: “You did not beat him, that is why we are now beating him”. Then she said: “You say that you are giving my son a hiding, you must listen well, Sir, if somebody gives your son a hiding, his mother will also be sad. You must not give my son a hiding”.

This is her version and then there is the version of Warrant Officer Carel Petrus Janse van Rensburg as it appears in Statement N and he said that the conversation was as follows: Mrs Timol asks: “I want to see my son”. He answered: “You cannot see him”. Mrs Timol: “Why did you capture him?” Answer: “He was naughty”. Mr Timol: “My child was never naughty, I never gave him a hiding.” Answer: “Listen, old mother, a child must get a hiding. If you gave him a hiding then, you would not have been crying now.” These are the different versions given in this regard. I have already commented on my opinion of the credibility of Mr Timol as a witness. I do not think it is necessary for me to say in this regard whether I reject the version of Mrs Timol or whether I accept that of Warrant Officer Van Rensburg. It is clear that this is a conversation that took place and I want to say that even if I accept what Mrs Timol said, it does not reveal an intention, a plan that the deceased had to be beaten or that he had already been beaten. About the witnesses, I want to say that Warrant Officer van Rensburg and Warrant Officer Liebenberg impress me more as people who could give the right version.

Now I get to the testimony of Sergeant, Detective Sergeant Petrus du Preez, also of the Security Police, an investigator of writing, a handwriting expert. He testified that at the end of October 1971 he took a sample from a typewriter and he investigated various documents that he received from Captain Dirker. Exhibit A, a document "Inkululeko" is one of the documents and Exhibit 1 that was shown in Court is the typewriter. The number of the typewriter is 511604. He determined that Exhibit 1, the typewriter, was used to do the typing on Exhibit A. Exhibit B he referred to is also a wax sheet, also given to him by Captain Dirker. He also determined that the Exhibit A was copied from the wax sheet, Exhibit B.

He also received various other documents with handwriting from Captain Dirker. Now the handwriting on Exhibit O that he received from Captain Dirker he compared with that on maps, Exhibit L, and he said that he found that the handwriting on Exhibit O was the same as the handwriting on Exhibit L, namely that it was the same writer. He also received Exhibit G, letters by Timol. He determined that it was the same writer who wrote Exhibit O. Later he received Exhibit O back from Major Fick with the request to investigate certain marks appearing on it. On Exhibit O there is a strange, I would not say strange, but remarkable mark appearing between the paragraphs on pages 4, 5,6, 7 and 8. It was disputed by the representatives of the Timol family that the marks on ... between paragraphs on Exhibit O, from pages 4 to 8, that is 8, the top one, not the second and third one; that these marks were made by the deceased.

The mark in question is in the form of a cross, that I will describe, two diagonal lines and then two lines over them. Captain Gloy denied that he made the other marks, that is the first mark that appears on pages 4 and 8 and he said that he only made the marks on page 8, those are the second and third marks on page 8. These marks were also examined by the witness. He explained how he reached a decision and I will not explain his whole testimony in this regard, but after his thorough examination, he determined that the last two marks on page 8 appear much bigger than the other marks and that they were definitely made by different people.

The witness was under cross-examination by Mr Maisels for quite a while, I will not explain the cross-examination, I am satisfied with Sergeant du Preez's testimony and I accept his opinion in this regard.

Now I get to the testimony of Major-General Christoffel Buys, who said very little in his evidence-in-chief. He said that he was employed at the head office of the detective branch and that he was in charge of this investigation. On 4 November 1971 he went to the residence of the deceased's parents where he received Exhibit 4, certain maps. Later he also received Exhibit O from Captain Gloy. These documents he handed over to Captain Fourie, a handwriting expert for examination. His affidavit is Statement BB and he says that this forms part of his testimony

Mr Maisels took him under cross-examination and he said that Major Fick, Warrant Officer Fouche and he were in charge of the current investigation. He said that he took charge of the investigation on the day after the death of the deceased. On Wednesday, 27 October, he said it was a Friday morning, the 29<sup>th</sup> October that he took over the investigation. He was provided with certain information, an investigation diary was opened, which is in the possession of Major Fick and it may be perused. He said that the diary would include or show the date when each of these statements was completed.

He said that he took the statement of Rodriques on 11 November 1971, but this was not the first time he questioned him. He said that he remembers Rodriques very well, he saw Rodriques for the first time on Thursday, 28 October 1978, late in the afternoon at John Vorster Square. He had not seen Brigadier Pattle before he saw Rodriques. Before he talked to Rodriques or saw him, he already had information from Brigadier Kruger firstly and also from Brigadier Burger at John Vorster Square. He said when he talked to Rodriques he was aware that they had taken photographs. He said he had not seen the photos before he talked to Rodriques.

He asked Rodriques what had happened and he did not write down what Rodriques told him. With regard to Rodriques' condition he said: "I won't say that he was in a state of shock, he was definitely not happy, he was distressed and he was able to give a coherent account. He gave me an account." And then he said that Rodriques did not write this report down. The only thing Brigadier Pattle told him, was that the deceased had jumped to his death and Brigadier Pattle did not give him any details in that regard.

Brigadier Burger told him that Rodriques informed him that the man had jumped and that they carried out a preliminary investigation of the case and came to the conclusion that there was no foul play. He said that Brigadier Pattle made the statement, Statement X; he

saw it and also read it. He was especially asked if he had asked Brigadier Pattle, in particular paragraph 6 of Brigadier Pattle's statement, he said that he did not find this necessary.

He conceded that there are definitely now two versions allegedly provided by Rodriques, namely on the one hand what he told Brigadier Pattle and on the other hand what he told the other people. However, General Buys said that he believed what Rodriques said. He said that at that stage Brigadier Pattle had already told him that he did not expect any foul play. He said he trusted his officers to be honest and to stay with the truth.

It also becomes clear from his testimony that before Brigadier Pattle came to testify, Brigadier Pattle told him that he, Brigadier Pattle, did not agree with what Rodriques testified in court, namely that the version Rodriques told the Court differed from that he gave Pattle. General Buys continued with his testimony to say that he had no reason to doubt Rodriques's version, because he, Rodriques, was the only person present there.

Under cross-examination he said that he had also tried to trace the movements of the deceased after he left the house until his death. He also said in his further testimony under cross-examination, that after Brigadier Pattle told him that Pattle would give another version in the Court, he did not talk to Rodriques again and he also instructed Major Fick not to talk to Rodriques about it. He confirmed that the version Rodriques gave him was essentially the same as the one Rodriques gave the court.

He was then questioned by Mr Maisels about the report that was published in the *Rapport* newspaper and General Buys testified that a certain Freek Swart telephoned him on Friday or Saturday, the 29<sup>th</sup> or the 30<sup>th</sup>. It was during the evening when he was at home. Swart allegedly told him, and I want to quote his words that he testified in English: "He phoned my home, he told me there is dirty mud which is going to be slung. The propaganda would be that the Security Police had tortured the deceased excessively and there will also be claims that they pulled out his nails." General Buys says that he asked Mr Swart who gave him this information, but Swart did not want to give him the name of the person.

General Buys did not agree with the report of which passages were shown him as it appeared in *Rapport*. At that stage the investigation had been postponed and General Buys testified again on 4 May 1972 and then said that before he had the conversation with

the journalist Swart, he saw Captain Gloy and Captain Van Niekerk. They also reported to him and told him that they had talked to Rodriques and they told him what Rodriques told them with regard to the incident. He also did not write down what they told him then. At this stage he handed over the investigation diary, Exhibit HH and this is when the incident occurred that he got sick and could not testify further.

Major Johannes Fick testified that he made the statement, Statement CC. He confirmed it. Points were shown to him were the deceased allegedly fell. He testified with regard to Exhibit CC that it was a photo that was taken at the side of the building, Exhibit DD and the shrub and Exhibit EE is a spot next to the shrub, Exhibit FF is also a spot next to the shrub where the body was found and Exhibit GG is the position where the shoe and the watch of the deceased were found. The watch was found at Point Y and the shoe at Point X. I do not want to go into his cross-examination in detail, but there are some aspects that I want to look at.

He said that with regard to the diary, Exhibit HH, he made most of the entries and that the entries were made at the time of the events, namely that the dates are correct in other words. He made the first entry on 28 October 1970 at 12:00. He said that apart from General Buys, he was the most senior person who was involved in the investigation.

With regard to the medical examination, he testified that on 4 November 1971 he received the report on the post-mortem from Dr Schepers and he then handed it over to General Buys. He denied that he discussed the case on 4 November 1971 with Mr Rothwell, the Senior Public Prosecutor. On 28 October 1971, he said, Rodriques was at the Security offices at John Vorster Square and on the afternoon in question he talked to Rodriques in the presence of General Buys. He then knew that Rodriques had made a report to Brigadier Pattle. He said that in this regard he also did not ask Brigadier Pattle exactly what Rodriques had said.

At that stage he was also aware that photos were taken, but he had not yet seen them. He said he was not very sure, but he thought that he saw those photographs a day or two later and he said that Exhibit S is one of the photos he saw. He did not ask what it represented. He further said in his testimony that he discussed Exhibit S on Tuesday afternoon, the week in which he testified, namely 2 May 1972, after the Court session with Brigadier Pattle, before Brigadier Pattle gave his testimony. The photos were in the

possession of Brigadier Pattle and the witness said that on 18 November 1971 he had already received all the photos. He saw them on 29 October 1971, which was before any statements had been taken from any witnesses. He said that at this stage he received a whole pile of photographs from Warrant Officer van der Merwe, which he all handed over to Brigadier Pattle at the same time. He did look through them. He did not ask Brigadier Pattle anything about the photos, because Brigadier Pattle made his own statement and received the testimony in a typed format. The witness's name was type on the statement and then it was brought to him where it was certified. He said that he read the statement. The statement mentioned photos. He then knew that the photos were in the possession of Brigadier Pattle and he did not find it necessary to asked Brigadier Pattle questions about the photos.

He said it was his duty to assist General Buys with the gathering of evidence to place complete information at the disposal of the Court. There were many newspaper reports about the incident and a lot of criticism against the police at that stage.

With regard to paragraphs 5 and 6 of Statement X made by Brigadier Pattle, the witness testified that he did not ask Brigadier Pattle about the report Rodriques made to him. He said there were various reports, or rather there were reports by various people and he thought that he knew what the report was that Rodriques made to Brigadier Pattle.

He then testified that on 28 October 1971 he visited Office 1026 in the presence of Rodriques and General Buys and they asked Rodriques to give a demonstration. He said that he is now surprised that there is a difference. He testified that last Friday, he allegedly gave another version as the one Rodriques claims he gave to Brigadier Pattle, that even before Rodriques had testified. He said that on Friday he and Brigadier Pattle worked together on another case and they were discussing that investigation, that was after Captain Van Niekerk had testified and when Brigadier Pattle told him that it differed from Rodriques's version as it was given in this Court, namely that that Rodriques told him that the deceased, that he, Rodriques, moved in an entirely different direction.

He said that in relation to the photo, Exhibit S, it is probably like Rodriques told Brigadier Pattle. He further said that he knew that Rodriques gave some or other explanation to Brigadier Pattle, Colonel Greyling and Colonel Burger, but he did not question Brigadier Pattle further. He said that he did ask Colonel Greyling on the morning of 28 October 1971

and then Colonel Greyling told him what Rodriques allegedly told him and that corresponded with what Rodriques told him. At this moment this witness was told by Mr Maisels, and I want to repeat the question: “You are engaged on a white-washing expedition”. The witness said that he objected to this.

With regard to Jacobsen, the witness testified that he did not know when Jacobsen had been arrested and he said that he had nothing to do with Jacobsen’s case. He had no interest in that case. When Rodriques gave him and General Buys a demonstration in Room 1026, the witness said that he was controlled. With regard to the post-mortem the witness said that he knew that Dr Gluckman was present at the post-mortem. Dr Gluckman introduced himself to him, I mean he was also present; he knew that he was a pathologist. He knew that certain parts, certain cuts were given to Dr Gluckman by Dr Schepers and he did not ask Dr Gluckman for his findings afterwards. He said that he knew that the findings of Dr Gluckman would later be made available to the Court. He conceded that ante mortem injuries are important.

At the end of the cross-examination, Mr Maisels once again told the witness: “your approach to the investigation was conditioned by bias, not to present the police in a bad light” en he answered no. “That is why later written statements were taken” and he answered no. “That is why I suggest there was a burning anxiety for the police to connect Timol and Jacobsen”. The witness said that he rejected that.

The last witness that I now want to discuss is the testimony of Mr Frederik Swart, the journalist of *Rapport*, to whom Exhibit T, an excerpt from the *Rapport* newspaper, dated 31 October 1971, was shown. This witness admitted that he wrote the report as it was published, except for the last four paragraphs. I do not want to go into too much detail, it is not necessary, all I want to say about his testimony is that he admitted that words that appeared in italics in the report appear in quotation marks, giving the impression that these were the real words of General Buys. He admitted that this was not the case, the italics were by him or somebody else and he also said that he made no notes when General Buys informed him, provided him with the information. He depended on his memory entirely and he admitted that it was done to a certain extent to create drama.

As far as my impressions about the various witnesses are concerned, I would like to make the following comments. In the first instance, as far as Captain Dirker is concerned, I did



not discuss his testimony in great detail; at times he was attacked vehemently and sometimes he appeared hostile to Timol's legal representative. It gave me the impression of a personal question between him and Mr Maisels and therefore it was not prejudicial to the inquest. However, I got the impression that Captain Dirker was honest when he testified and I do not have any reason to be suspicious about, or to doubt his testimony.

As far as any possible assault by him personally is concerned, or any knowledge he could have had about assault of the deceased by anybody else, was not under serious attack. He was only asked one or two questions in this regard. I am now referring to the questions that were posed by the legal representatives of the Timol family. He is also corroborated by Sergeant Leonard Kleyn who was with him all the time he questioned the deceased, that is from 12:15 to 17:30 on 23 October 1971, that the deceased was not assaulted during this period. Kleyn was only asked a few questions under cross-examination.

As far as Colonel van Wyk is concerned, I also want to say that he had been thoroughly questioned by Mr Maisels. My impression is that he is honest and trustworthy. He is corroborated by Captain Bean with regard to what happened at the following times: 25 October 1971, 08:30 to 19:30; 26 October 1971, 08:30 to 20:00.

Captain Bean was also questioned by Mr Maisels but he did not come under such a stringent attack as Colonel Van Wyk. I find Captain Bean honest and reliable.

As far as Captain Gloy and Captain Van Niekerk are concerned, both were questioned stringently, thoroughly and lengthily. Both gave their testimony in a calm and controlled way and I was especially impressed with Captain Van Niekerk who left me with a feeling of complete faith in his honesty and fairness. I do not have the least difficulty to accept these two witnesses as reliable and trustworthy.

As far as Boucher and Louw are concerned, they were also questioned thoroughly. They corroborate each other. The question arises as to whether they were lying when they said they did not see any marks on the deceased's body. They did not have any reason to pay special attention to this and Dr Schepers said in this regard as follows: "I do not think a lay person (Dr Schepers testified in this regard), would easily have seen the scabs because they were small, except for the one on the forearm, which I believe a lay person would have noticed. The question was posed: "and what about the marks on the photo that one

can see". "The bruises, it is a dark skin, we must understand that light was now shone on that skin, now it is very emphasised on photos, they would not have been that obvious on the body, then you can see well. I mean, if you are looking for something, you will see them, if you pay special attention. I am now referring to a lay person."

In any case, as far as the remainder of their testimony is concerned, I do not have any reason to reject it and I am satisfied that when the deceased was in their custody, they treated him well and in a civilised manner.

As far as the witness Joao Rodriques is concerned, he is contradicted by Brigadier Pattle with regard to his explanation on how the deceased succeeded in getting out of the window and apparently also to a certain extent by a report that appeared in the newspaper *Rapport* on 31 October 1971, Exhibit T, information that Witness Swart got from General Buys, as Swart testified. According to Captain Gloy, Rodriques also told him what had happened on the same afternoon as the incident and this version is in accordance with his testimony.

On the same afternoon he gave a version to General Buys that is basically the same as his testimony and here I want to add that on the same occasion or later the afternoon when he gave a version to Captain Van Niekerk, the main points were the same as his testimony in Court. I must say that although General Pattle impressed me as an honest witness, there is a possibility, even though a vague possibility, that he could have misunderstood Rodriques. I am saying this because Captain Gloy, Captain Van Niekerk and General Buys testified that on the same afternoon Rodriques gave them a version that in general corresponded with his testimony.

With regard to the report that appeared in *Rapport* on 31 October 1971 (see Exhibit T), Mr Frederik Swart, a journalist, testified. It is clear from his testimony that the words that appear in quotations marks in the report in the newspaper and which are apparently attributed to General Buys, were not the own words of General Buys and the witness further said that he did not make any notes when this information was given to him by General Buys and that he depended on his memory when he wrote the report.

I am not willing to find that Rodriques gave another version to General Buys based on the newspaper report. There is far too much uncertainty in this regard.

There is another possibility regarding the version that Brigadier Pattle claims Rodriques gave him, namely that because of shock, Rodriques was confused when he talked to Brigadier Pattle. Whatever the case, I am convinced that Rodriques did not have anything to do with the death of the deceased. He is a clerk at the headquarters of the Security Police in Pretoria, where he has been serving for the past sixteen years. During his whole career he has never carried out the duties of a normal policeman. He had not had anything to do with the deceased at any time and his presence in Office 1026 at the time in question for twenty minutes was a coincidence. There is no reason why he would have assaulted the deceased. Brigadier Pattle also testified that immediately after the incident he went to Room 1026 and he did not find any signs of violence.

As far as General Buys and Major Fick are concerned, I would like to make the following comments. The allegation by Mr Maisels of “white washing” the investigation of the case is completely unfounded. I am satisfied that the investigation by General Buys, assisted by Major Fick – none of them is a member of the Security Police – was objective and fair and as complete as possible under the circumstances. That fact that there are differences in the testimonies, which could have been solved if there was “white washing”, clearly shows that there was no collusion between any members of the police force.

In this regard I want to refer to the testimony of Brigadier Pattle and Sergeant Rodriques in particular; part of the testimony in the investigation that was of the greatest importance. A few days before Brigadier Pattle was going to testify, General Buys already knew that Brigadier Pattle would testify that Rodriques gave him a version on Wednesday 27 October 1971 of what happened in Room 1026 that differed substantially from what Rodriques said in his testimony in Court.

General Buys said in his testimony that Brigadier Pattle informed him a few days before that he did not agree with what Rodriques had said. Before that General Buys was not aware of what Rodriques told Brigadier Pattle, because Brigadier Pattle did not provide the details in his statement (see Statement X).

Brigadier Pattle, although aware of the uproar his testimony would cause, I would say, stayed with the truth. Under cross-examination General Buys also did not try to find an excuse for Rodriques and he testified truthfully with regard to Rodriques' condition when

he talked to him for the first time on the Wednesday afternoon in question. "I won't say that he was in a state of shock, although he was definitely unhappy and distressed".

Now I get to the summary of the medical evidence as follows: On the basis of the post-mortem carried out by him, Dr Schepers gave the cause of death as "multiple injuries". Under close questioning, he said that the immediate cause of death was serious brain damage and loss of blood.

This finding was not questioned and is accepted by the Court.

The serious injuries, like the fracture of the long bone on the right side of the body, the rib fractures and the fracture of the jaw and face fits with a fall from a great height. Dr Schepers postulated that the deceased fell on his right side and the Court agrees with this. The legal representative of the Timol family claimed that serious injuries obtained shortly before his death could not be distinguished from injuries obtained during the fall. However, it is emphasised that both Dr Schepers and Dr Gluckman were satisfied that the nature of the injuries fitted the way in which the deceased died.

Dr Schepers described the stomach contents of the deceased and he could identify potato chips, among other things. This corroborates the testimony of Captain Van Niekerk.

Therefore, with regard to the post-mortem, there was no difference of opinion between the two medical officials.

However, it appeared that the deceased definitely had other injuries that were sustained ante-mortem. These bruises were investigated histologically, first by Dr Schepers and Dr Gluckman (for the Timol family) and later by Dr Koch of the South African Police. These injuries comprise:

1. Small abrasions with subjacent bruising over the middle and third of the right clavicle, right crista iliaca, lateral side of the right elbow, right shoulder blade.

All the evidence agreed that these injuries were not serious. What is important is that it is easier to date abrasions than bruises.

2. Relatively large abrasion on the left forearm. This injury should be mentioned and is definitely of more importance with regard to size than the other abrasions.
3. Bruises on the right upper arm, the lateral side of the right thigh. The left hand side of the chest. The injury on the right upper arm consists of three round bruises in a triangle. The bruise on the right thigh was of average size. The bruise on the left side of the chest was big. It consists of ten to eleven small bruises and according to the medical evidence it was caused by multiple blows or by one object with multiple protuberances.

The older and more serious injuries are the abrasion on the left fore arm and the bruise on the left hand side of the chest.

During the trial the four medical experts, the three medical experts and the learned assessor, had an opportunity to study the histological referrals of all the above-mentioned injuries and to decide among themselves to what extent they agree on the presence of the various histological differences. This meeting was in the nature of an in loco investigation. All the experts and my learned assessor agreed with the findings, except for Professor Koch who added some additional deviations.

Prof Koch was of great help in the Court, because he mentioned certain deviations that neither Dr Gluckman nor Dr Schepers noticed. In brief, these deviations were the presence of necrotic epitheliums in the scab of most of the abrasions. In some instances the necrotic epitheliums were the full thickness of the epidermis and sometimes only part of it. He also identified the presence of a regenerating epidermis that solved a dispute between Dr Schepers and Dr Gluckman.

The abrasions: Before this meeting, Dr Schepers had already admitted under cross-examination (except for the abrasion on the right shoulder blade) that all the abrasions were between four and eight days old. After the meeting of the medical experts, Dr Gluckman placed the same abrasions in this four to eight days' period. Under cross-examination by the legal representative of the police, Dr Schepers changed this period from five to eight days. All the medical evidence was based mainly on the work of Gillman (1955-56) and Robertson (1972) and for the dating of the age of an abrasion the work of

Robertson. The latter article was submitted as Exhibit LL and it is the considered opinion of the Court that the period of four to eight days must be accepted, since this is the period identified by Robertson, in which he categorised a known group of injuries blindly.

Prof Koch was of the opinion that these abrasions were nine to twelve days and possible older. He based this opinion mainly on the presence of epidermal hyperplastic. Except for an area in the cut of the wound on the right shoulder blade; the other two experts did not find any epidermal hyperplastic. Under cross-examination it became clear that Prof Koch did not have any certainty about the definition of this occurrence. The Court also finds that in the absence of remarkable hyperplastic, Prof Koch's observations place the injury within the four to eight days' age period.

As far as the abrasions are concerned, the Court is of the opinion that apart from the injury to the shoulder blade that could be older, the other injuries are all between four and eight days old. All the medical experts emphasised the difficulty with the dating of bruises. All three considered the bruises in question to be ante-mortem injuries.

Dr Schepers and Dr Gluckman place them in the period one to seven days and Professor Koch in the period of one to ten days or possibly older. The Court accepted that the bruises were between one and seven days old. The Court also found that there was a strong possibility that the injuries were suffered at the same time.

The abrasions are all of the "imprint" kind and therefore both the abrasions and the bruises could have been the result of pushing violence. This concludes the medical evidence.

Now, the evidence brought before me proves without any reasonable doubt that the deceased took his own life. At about 16:00 he was in Room 1026 on the tenth floor and minutes later he was found lying on the southern side of the building, next to a small tree or shrub, plus minus six to eight feet high. There were signs that his body hit this shrub when he fell from a window on the southern side of Room 1026. Some of the branches on the western side of the shrub had been torn off in a way that fits the fall of a large object on the shrub. At the in loco inspection I could still see signs on the shrub that indicated that some branches must have been torn off on the western side, as witnesses informed me later in their testimony.

The medical evidence is that of Dr Schepers, with which we cannot find fault in this regard, and also the injuries found on the deceased are in accordance with a fall from the top of the building.

As far as a possible motive for suicide is concerned, I came to the conclusion based on the evidence that it cannot be found in the torturing of the deceased while in police custody.

The Court's finding with regard to the ante-mortem injuries found on the deceased during the post-mortem, is that, as far as the abrasions are concerned (except for the injuries to the shoulder blade that could have been older), the other injuries were all between four and eight days old. As far as the bruises are concerned, that they are between one and seven days old. It was also found that there is a possibility that the injuries could have been sustained simultaneously. Most of the injuries are described as small injuries and I get the impression from their nature and their distribution over and situation on the body, that it is improbable that they were caused by a purposeful assault of the deceased. The medical evidence also found it difficult to give an opinion on how the deceased sustained these injuries. The closest we can come to an explanation is that the deceased sustained these injuries during a brawl where he was possibly pushed around and possibly also fell.

What must we now assume with regard to the extensibility of the time as found in the medical evidence? Did the deceased sustain these injuries four days before his death, or was it five days, or possibly six or seven days? If four days before the death of the deceased is correct, then I must find that the deceased sustained the injuries somewhere between 23:10 on 22 October 1971 and 16:10 on 23 October 1971, because he was exactly four days and seventeen hours in police custody. During this period he was in the custody of the following people:

1. Sergeant Kleyn, on 22 October 1971, 23:10 to 23 October 1971 at 12:45.
2. Jointly of Sergeant Leonard Kleyn and Captain Dirker, 23 October 1971, 12:45 to 23 October 1971 at 05:30.
3. Colonel Willem van Wyk, 23 October 1971, 03:00 to 23 October 1971 at 06:00.
4. Jointly of Captain Gloy and Captain Johannes van Niekerk, 23 October 1971 at 06:00 to 23 October 1971 at 16:10.

I do not have any reason to reject the testimony of these people who have all testified, that at no time they had the deceased in their custody they assaulted him or that the deceased was assaulted by anybody else while he was in their custody.

There is absolutely no reason why the deceased would have been assaulted by them or any other member of the police period during this period. The deceased was caught coincidentally and it was clear from the start that a valuable source of information for the Security Police was in their hands. The deceased was accommodating and had already started to provide information and it is quite logical that, as Captain Gloy and Captain van Niekerk also testified, they wanted to win the trust of the deceased, rather than to antagonise him by being unfriendly or by assaulting him. The deceased had just gotten into their hands and that stage there were considerable prospects that the deceased could provide valuable information.

As they testified, the deceased's death was a great loss to them. In view of the above, and also the medical evidence that corroborates this view, rather than contradicting it, I came to the conclusion that the deceased had not been assaulted by anybody while he was under police arrest. I am satisfied that while the deceased was in the custody of the Security Police, although he was questioned for long hours, that is from early in the morning until late in the afternoon or early evening, he was treated in a civilised and humane way.

The reason for his suicide can therefore not be found in the possibility of torture or even bad treatment. Did he then take his own life because of self-reproach or for political reasons? Political ideology? The testimony proves without doubt that the deceased was a communist and that he had a prominent position in the ranks of the Communist Party as leader of the Main Unit in South Africa. It must be assumed that he was aware of all instructions to members and therefore also the following instruction about which an admission was made by Advocates Maisels and Bizos during the trial.

It appears in the record and reads as follows: "I just want to say that the documents were originally placed in my possession from which this is quoted; I excluded it because I did not want to embarrass the people whose names I do not want to mention now either. The heading of the document is "Inkululeko – Freedom, February 1972, no 2".



This is the document which this deceased, in accordance with the evidence, was involved in distributing. It reads as follows: "Harass your enemy by going on hunger-strikes, act insane, lodge complaints, whether true or false, resort to civil and criminal actions in courts as often as possible, make sure your complaints and actions the suppressors get the utmost publicity. [sic] Rather commit suicide than to betray the organisation". Issued by the Communist Party of South Africa.

The deceased provided Captain Gloy and Captain Van Niekerk with information (See Exhibit O) involving a number of people, various names were mentioned and he must have known that under the circumstances these people would also have been arrested, among others also his own brother and his aunt, Amin Desai. He also mentioned the names of three people, Quentin, Martin and Henry, whose names and addresses he kept quiet.

It was claimed by the legal representatives of the Timol family that the deceased's relationship with Quentin Jacobsen was only on a social level. This is apparently not the case, as can be seen from Exhibits M and N, two letters written to the deceased by a Communist from the address 11 Essex House, Links Road, London, W,3 (Exhibit M) in which he warns the deceased as follows: "Do not visit Henry and Martin at the studios" and (Exhibit N) dated 9 September 1971: "Have Quentin contacted you? Stay far from him. I am suspicious". These letters were signed by the author "Friend and Brother" in the first case and "Friend, Comrade, someone called International".

If the deceased's relationship with Quentin and his friends Martin and Henry was so innocent and only social, there would be no reason to warn the deceased to stay away from them. According to the testimony of Captain Van Niekerk and Captain Gloy, the face of the deceased showed clear signs of shock and alarm when X told them who Quentin, Martin and Henry were and where they could be found. Of all the probabilities this is most probably why the deceased took his own life, in view of his political activities and ideals, to be found in a chain of events stretching from his arrest with damning evidence in his possession which, as he believed, could have caused him a prison sentence of twenty years, the revealing of names and information to the Security Police that could have caused many people to be detained as well (of which he must have been aware) until the last straw when he learnt with shock and disappointment that the identity of Quentin, Martin and Henry had been revealed and it was at this critical moment in his life that the opportunity presented itself and he made use of it.

My findings in terms of Article 16 of Act 58 of 1959 are:

- a) The identity of the deceased is Ahmed Essop Timol, an Asian male, 29 years old, a born South African, teacher of profession.
- b) Date of death: 27 October 1971.
- c) Cause or probable cause of the death: The deceased died because of serious brain damage and loss of blood sustained when he jumped out of a window of Room 1026 at John Vorster Square and fell to the ground on the southern side of the building. He committed suicide.
- d) No living person is responsible for his death.

Before I conclude, I would like to make the following recommendation for the future, namely that where people are detained in future in terms of Article 6 of Act 83 of 1967, that is the Act on Terrorism, that as soon as possible after arrest, the detainee must be examined by a District Surgeon in order to ascertain the health condition of the detainee and in particular to determine if there are any signs of assault on the body. It could possibly prevent long investigations like this one and could prevent the police from being embarrassed unnecessarily.

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I, the undersigned, certify that the above is a true and correct record of the findings in this investigation, recorded mechanically.

Rewriter