TOTALITARIANISM — POLITICAL TRIALS

1989 -

SEPT — NOV. — DEC

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1/9/89 331

Detainee Daki has bail plea rejected

Court Reporter

THE attorney-general has refused bail to emergency detainee Mr Madoda Keith Daki "in the interests of state security and the maintenance of law and order".

Public prosecutor Mrs A van den Bergh informed Cape Town Magistrate's Court of the decision when Mr Daki made a brief appearance yesterday.

The order indicated that Mr Daki faced terrorism charges under Section 54 (1) of the Internal Security Act.

It also stated that he would not be released until either sentence had been passed or he hadbeen discharged.

Mr Daki's co-accused, Mr Robert Mngedisi Twalo, had his bail of R1 000 extended.

They were not asked to plead and the hearing was postponed till September 29 for further investigation.

They were arrested on February 20 in connection with an alleged police discovery of a bomb in the vicinity of the Supreme Court.

Mr M J C Tolken was the magistrate. E Moosa and Associates appeared for the men.

Rapist to hear sentence later

Court Reporter

A TRANSVAAL man, convicted of raping, attempting to rape and indecently assaulting a minor, will be sentenced only in six months' time, Parow Regional Court decided yesterday.

The magistrate ordered that Christoffel Johannes Gildenhuys, 45, of Brits, be kept under observation for six months.

He was arrested in July after police discovered him attempting to rape a 15-year-old girl in the back of a bakkie in the Goodwood station parking lot.

The court convicted him of trying to rape and indecently assaulting a minor between 1983 and 1985

Quoting of Gwala: Editor acquitted

JOHANNESBURG. — The editor of the Sunday Times, Mr Tertius Myburgh, and a reporter of the same newspaper were yesterday found not guilty by a magistrate here of contravening the Internal Security Act by quoting a listed person.

The magistrate, Mr S van Rensburg, found that Mr Myburgh had been away on vacation and could not have prevented the newspaper from quoting ANC activist Mr Harry Gwala in the December 11, 1988 issue of the Sunday Times.

The reporter who wrote the article, Mr Manda Tyala, was also acquitted because the final decision to publish had not been his.

Times Media Limited, the publisher of the Sunday Times, was fined R2 000 for quoting Mr Gwala without the minister's permission.

Passing sentence, Mr Van Rensburg said the company had acted negligently by not consulting the Government Gazette.

Times Media Limited will lodge an appeal against judgment.

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Paper is acquitted on security charge

Sowetan 11/11/89

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The magistrate, Mr S van Rensburg, found that Myburgh had been away on vacation and could not have prevented the newspaper from quoting ANC activist, Mr Harry Gwala, in December 11 1988 issue of the *Sunday Times*.

The reporter who wrote the article, Mr Mandla Tyala, was also acquitted because the final decision to publish had not been his.

Times Media Limited, the publishers of the *Sunday Times*, was fined R2 000 for quoting Gwala without the Minister's permission.

In previous evidence, the court heard that newsroom staff had consulted the consolidated list of people who may not be quoted, supplied by Sapa, because they had intended writing an article on Gwala following his release from Robben Island.

Due to the style of the punctuation, the name Gwala did not appear on the list, the court heard.

A reporter told the court that the Government Gazette was not used to check the consolidated list because it was very time consuming.

Sapa's list proved to be reliable and up-to-date over the years.

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18-day grilling for security cop

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Cape Times 11/9/89

A SECURITY policeman yesterday told the Supreme Court that as investigating officer in a case involving Mr Tony Yengeni and 13 others, he had not been told about alleged assaults on a number of the accused nor had he launched an inquiry.

Warrant-Officer Schalk van der Merwe was giving evidence during his 18th day of cross-examination.

Answering questions from Mr Michael Donen, for the defence, he said he had been involved in the arrest of Mr Mtheteleli Titana — who had been shot and wounded — as an explosives expert.

Mrs Lumka Yengeni had been interrogated in a room at security police offices at Culemborg and he remembered an occasion — when she was interrogated by a WO Naude — when she screamed: "You must kill me now, I'm tired of this interrogation."

He and other colleagues had rushed into the room to see what was going on because they "had a bit of a fright" at the "sudden yelling and screaming".

Asked if he was aware of Mr Christopher Giffard's state of health when he was fetched in East London on December 19, 1987, WO Van der Merwe said he appeared healthy. The trial continues.

331 Rwen 3/9/89

Defence to move on ANC seven

By DAN DHLAMINI

A POTCHEFSTROOM Regional court magistrate this week provisionally accepted confessions made by two of seven alleged ANC members who face terrorism charges.

The ruling by magistrate TJ la Grange follows a trial within a trial wherein Jacob Lithlakanyane, 19, of Vanderbijlpark and Jackson Batyi, 23, of Port Elizabeth, claimed they were forced to confess to being ANC members assigned to kill the then Lekoa Mayor Essau Mahlatsi and cause disruption in the Vaal.

The magistrate assured the accused that even if he had provisionally accepted the confessions, it was not final.

Appearing before him on four counts of terrorism allegedly committed between 1983 and 1988, were Batyi and Lithlakanyane with Lawrence Selekoa, 19, of Thabong, Welkom; and Edward Motubatsi, 29; Soul Tsoletsi, 35; Emmah Madzikane, 34; and Angeline Mokgosi, 41, all of Sebokeng.

After the state had closed its case, defence advocate Landman applied for the discharge of Madzikane, a mother of a 15 month old infant, who has been awaiting trial since her arrest last year.

Landman argued that Madzikane did not know Lithlakanyane and Batyi were ANC members when she gave them accomodation.

She did not know they were recruiting members for the ANC, he said.

Prosecutor J Smith opposed the application and La Grange turned it down.

The case was adjourned until September 11 when the defence will call witnesses to testify in favour of the seven accused.

Delmas 11 in appeal

28/11/89 Sowetan

THE Appeal Court in Bloemfontein yesterday heard preliminary argument on four special entries on the trial record of 11 men convicted in the "Delmas" terrorism trial.

The appellants received leave from the Appeal Court to argue the special entries as a preliminary appeal after the court had heard argument in August that if the special entries were upheld, it could be found that the trial had been irregular.

The proceedings which had lasted for 37 months would then be vitiated.

The preliminary appeal is being heard by the Chief Justice, Mr Justice Corbett, Mr Justice Botha, Mr Justice Smalberger, Mr Justice Kumleben and Mr Justice Nicholas (acting judge of appeal).

The appellants are Gcinumuzi Petrus Malindi, Tsietsi David Mphuti, Naphtali Mbuti Nkopane, Tebello Ephraim Ramakgula, Sekwati John Mokoena, Serame Jacob Hlanyane, Thomas Madikwe Manthata (a fieldworkers for the South African Council of Churches), Hlabeng Sam Matlole, Simon Popo Molefe (who was general secretary of the United Democratic Front), Mosiuoa Gerard Patrick Lekota (UDF publicity secretary) and Moses Mabokela Chikane (who was Transvaal regional secretary of the UDF).

The men were convicted by Mr Justice K van Dijkhorst in November last year after what is believed to have been the longest political trial in South African history.

Malindi, Manthata, Molefe, Lekota and Chikane received prison sentences of between five and 12 years, while the sentences of the other men were suspended.

The special entries concern whether the trial court was properly constituted after the judge ruled that one of the two assessors, Professor W A Joubert, had to recuse himself.

The judge made this ruling after he learnt that Professor Joubert had "participated in the UDF's million signature campaign by signing one of its declarations."

The judge then directed that the trial would proceed before the remaining members of the court - himself and Mr W F Krugel.

The argument is continuing.-

Sapa

Witnesses tell of 'Trojan Horse' deaths

Sunday Times Reporter

EYE-WITNESSES to the "Trojan Horse" shootings this week recalled the moment when security force members, hidden in crates on the back of a lorry, opened fire on a crowd in riot-torn Athlone in 1985, killing three youths.

Giving evidence in the Cape Town Supreme Court, where 13 security force members face murder charges in a private prosecution, a bank clerk and city journalist, Mr Denis Cruywagen, gave their accounts of the incident.

Mr Cruywagen remembered thinking it was "silly" for a Government truck to expose itself to the threat of being hit by stone-throwers.

Both witnesses were asked whether stones had been thrown at the truck. Mr Cruywagen said an "object" hit the windscreen.

Mr Justice D M Williamson agreed to an application to separate the private prosecutions which were brought by the parents of two of the dead youths.

The prosecution initiated by the father of one, Mr Martin Magmoed, is proceeding against the 12 policemen and an SADF officer.

The other prosecution, brought by Mrs Georgina Williamson in respect of her dead son Michael Miranda, will be decided by the court after the first trial, which continues on Tuesday.

GUILTY OF TREASON

A 22-year-old man who carried out instructions of the African National Congress (ANC) to overthrow the Government by violent means was yesterday found guilty of high treason.

Edward Tsheise Mokati of Thabong township in Welkom was convicted by Mr Justice Solomon sitting with two assessors in the Rand Supreme Court. The judge said the court was satisfied with the State's evidence that proved beyond reasonable doubt the allegations against Mokati.

Carried out ANC mission

By MANDLA NDLAZI

Evidence was that Mokati infiltrated the country from Angola and other places during August 1987 with the aim to kill or attack the police, informers and councillors in black areas.

To sabotage power and police stations, magistrates' courts, communication networks and railway lines after he had received military training in arms and ammunition.

Mokati, who belies his age with a "baby face" remained cool after the verdict. He faced terrorism and sabotage charges as alternatives. These fell off when he was convicted of the main charge of high treason.

Packed

The court's public gallery was packed with young men and women of Mokati's age. After a brief adjournment soon after the verdict, he exchanged smiles with some of the spectators in the gallery.

According to evidence, he was arrested near Park station and he later took the police to a house where he lived at Moletsane township in Soweto, were arms and ammunition was found.

The judge said Mokati had admitted placing limpet mines that exploded at the Vanderbijl Square bus terminus in Johannesburg on September 21 last year.

Twenty people were injured in the explosion that destroyed several buses, private cars, and windows of business premises nearby. He said Mokati had also admitted to placing limpet mines that damaged a power station in Naledi on Septeber 17 last year.

Star 6/9/89

'Evidence differs from inquest'

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Own Correspondent

CAPE TOWN — A prosecution witness and friend of Shaun Magmoed — one of those killed in the "Trojan Horse" shooting — has denied in the Cape Supreme Court that he was one of the stonethrowers who attacked the vehicle from which concealed armed policemen subsequently fired on the crowd.

Mr F Hattingh SC, for the defence, said Mr Galiep Rykliffe's evidence yesterday conflicted substantially with evidence he gave during the inquest two years ago.

Mr Rykliffe (20) said he, relatives and Shaun were at his aunt's home at 102 Thornton Road, Athlone, on October 15 1985.

NO REASON

Most of the youths in the house had been prevented by the aunt from going to a Muslim school in the afternoon. She gave no reason for this, Mr Rykliffe said under cross-examination.

About 4 pm, they were allowed out. They saw the shooting and ran inside. He was last in and was shot in the right forearm and left leg as he entered.

Mr Hattingh read out extracts from his inquest evidence, in which Mr Rykliffe was recorded as saying the youths had been prevented by his grandmother from leaving the house as she thought they might get hurt.

He also said stones had been thrown not only from the shop's direction but also from the opposite side of the road.

The hearing continues.

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Mr Chissano said "the bandits" an e
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Star 6/9/89

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Oliver.

Star Times 8/3/89

Yengeni inquiry goes on

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Supreme Court Reporter

THE inquiry into the refusal of Mr Bongani Jonas to give evidence for the state in the trial of Mr Tony Yengeni and 13 others will continue in the Supreme Court today because an interpreter who spoke North Sotho could not be found in Cape Town yesterday.

A new witness was called but before he could be sworn in, Mr Hendrik Klem SC, for the state, said the witness spoke North Sotho and that an interpreter was not available in Cape Town.

He had consulted the witness in Afrikaans and the man could give evidence in Afrikaans. The interpreter now on duty at the trial could then translate evidence into Xhosa and if the witness had difficulties he could indicate this to the court, Mr Klem said.

Mr Justice S Selikowitz said he was not prepared to continue the inquiry on that basis because during cross-examination the witness could deny having said certain things.

The inquiry was adjourned until today for a North Sotho interpreter to be flown to Cape Town from Johannesburg.

The Star Friday Sep

Shotguns can be lethal – expert

Own Correspondent 331

CAPE TOWN — A forensic and ballistics expert told the Cape Supreme Court in the Trojan Horse trial yesterday that shotguns were "extremely destructive" weapons and it was virtually impossible to "put pellets where you want them".

Dr David Joseph Klatzow, who told the court he had testified in about 100 court cases, said he had conducted experiments with six shotguns and 100 rounds of ammunition given to him by the police. Star 8/9/89

He was testifying in the private prosecution of 14 security force members for the death of Shaun Magmoed (16) after nine policemen, hidden in crates on the back of a railways truck, allegedly fired with sharp ammunition on a crowd of stone throwers in Thornton Road, Athlone, on October 15 1985.

Dr Klatzow said shotguns were "probably one of the most destructive weapons" and even a wad from an empty cartridge could be lethal at close range.

The spread of shot from a shotgun could vary between 15 and 30 percent and could quadruple over a distance.

Upington 14: Appeal granted

CM. Tofts 9/9/89

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By MARIUS BOSCH

FOURTEEN Upington residents sentenced to death for the 1985 murder of a municipal policeman were yesterday granted leave by the Appeal Court in Bloemfontein to appeal against the mass-hanging judgment.

The group, known as the "Upington 14", was sentenced to death by Northern Cape judge Mr Justice Jan Basson on May 26 this year in a small courtroom in Upington after a marathon trial that started in September 1986.

On June 27, Mr Justice Basson turned down an application for leave to appeal by the 14 and 12 other residents of Upington's Pabalello township convicted of the murder of Constable Lucas Sethwala.

Lawyers acting for the group on July 17 took the last legal step to save the 14 from the gallows when a petition was send to the Chief Justice.

Yesterday the Appeal Court granted leave to appeal against their convictions to 13 of those who had received death sentences. A further ten, who were sentenced to jail terms — some suspended on condition that six of the 25 render community service, were also granted leave to appeal against their convictions.

The group was convicted of murder on grounds of the common-purpose doctrine — also used in the trial of the Sharpeville Six — and a 26th defendant was found guilty of attempted murder.

Among the 14 granted leave to appeal against death sentences are a common-law husband and wife, both over 60 years old, and a former male nurse who intended to study medicine.

The Appeal Court granted 16 of the 23 leave to appeal against their convictions on the restricted basis that they had formed part of a crowd that had gathered outside Const Sethwala's house and stoned it.

Justice Bekebeke, 28, was not granted leave to appeal as was aspiring artist Elisha Matshoba, 23.

The trial court found that Bekebeke had delivered the fatal blows to the policeman with Const Sethwala's own shotgun.

No application for leave to appeal was received from Enoch Nompondwana — a former mayor of Paballelo — who was sentenced to eight years' imprisonment. He was the only person convicted of attempted murder.

Cape Town lawyers acting for the group said last night that 16 of the group granted the restricted leave to appeal may not contest the lower court's finding that they were part of the crowd that had stoned the dead policeman's house.

Those who received the restricted leave to appeal against their convictions are Kenneth Khumalo, 30, and Eric Tros Gubula, 30 (death sentences), Abel Kutu, 28, (six years), David Lekhanyane, 25, Myner Gudlani Bovu, 29, Zuko Xabendlini, 32, and Andrew Lekhanyane, 29 (all death sentences), Zonga Mokgatle, 31, (death), Ronnie Masiza, 23, (six years), Wellington Masiza, 27 (death), Barry Bekebeke, 23 (six years', conditionally suspended), Evelina de Bruin, 54, Gideon Madlongolwane, 61, Zolile Yona, 25, and Albert Tywilli, 27 (all death sentences) and Sarel Jacobs, 23 (six years).

Those on whom no restriction was placed on their leave to appeal were Boy Japhta, 24 (death), Xoliswa Dube, 21, and Elizabeth Bostaander (each with six years conditionally suspended), Jeffrey Sekiya, 25 (six years), Roy Swartbooi, 23, Neville Witbooi, 21, and Ivan Kazi, 22 (all with six years conditionally suspended).

Terror accused to stay or go?

Supreme Court Reporter

THE judge in the terrorism trial of Mr Tony Yengeni and 13 others will make a ruling on Monday morning whether the accused should be excused from the court for the duration of the inquiry into the refusal of Mr Bongani Jonas to give evidence for the state.

This followed an application by the state because a witness had allegedly been intimidated when some of the accused shouted "Down with traitors" at the witness.

Major Andre du Toit, investigating officer and member of the security police, said that while he was walking out of the court with Mr Jonas on April 18, Mr Gary Kruser had also shouted "Down with traitors, down". The next day Mr Jonas refused to continue his evidence.

He had also been present on Thursday when Mr Kruser, Mr Sitlabocha Mahlale and Mr Alpheus Ndude made admonishing signs with their forefingers when they saw the witness, Sergeant David Mosemeki.

Later when the judge, Mr Justice S Selikowitz, and assesors had left the court and Sergeant Mosemeki was still in the witness box, Mr Yengeni raised his right arm in the air and shouted "Down with traitors" in the policeman's direction.

Major Du Toit said his impression of Thursday's incident was that the accused had intimidated his witness.

Mr H Klem SC, for the state, said that to prevent further intimidation of witnesses the accused should be excused from court. They had shown very clearly that they had no respect for the process of the court.

Mr Michael Donen, for the defence, said the state had failed to lay down legal basis for the ejectment application. There was no evidence from Sergeant Mosemeki that he had been affected, he said.

'Terror' eleven jailed in PE

LEVEN Port Elizabeth ctivists have been given ison sentences ranging om two to 16 years after ing found guilty of a mber of charges, inding terrorism.

Among the group was a rmer vice president of e Port Elizabeth Black ommunity Organisaon, Lizo Pityana, who as sentenced to four ars imprisonment.

Magistrate C Fouche nvicted the 11 of terrorm, aiding and abetting NC members, ANC embership and unlaw possession of weapons. Linda Fibi, Gunyazile arubungwana and ko Adam were senced to an effective 16 ars after being found ilty of terrorism.

Vuyo Kwinina, awonga Wellem and zolizi Dyasi were each ntenced to an effective ree years after being und guilty of aiding and etting ANC members.

Sabelo Matemane and olomzi Liwende each reived a 15-year sentence ter being found guilty terrorism and the unwful possession of weapns, and Toto Masiza was ntenced to thirteen-and-half-years on the same harges.

Lauretta Mengezeleli nd Lizo Pityana were ch sentenced to an efctive two years for helpg ANC members. – na

Long row of timber crosses marks the resting place

IKC us 18/9/89

By TYRONE SEALE
Staff Reporter

A LONG row of simple timber crosses in the Calvinia cemetery marks the resting place of 23 of the town's residents who drowned in the Olifants River 12 days ago.

And in the Namaqualand town of Klawer, a mass grave holds another 12 of the 52 people who drowned when a lorry driven by Mr Smit Rossouw, 26, smashed through a railing on a bridge over the river and plunged into the strong current. Only 12 survived.

Mr Rossouw, a member of the prominent family which runs the farms where the victims worked, was buried separately in Klawer on Saturday.

The labourers, most of whom worked at Trawal more than an hour's drive from Calvinia, were starved of life's luxuries.

They worked up to 11 hours a day and earned very little. Mothers took their babies along to the vegetable fields and vineyards where they toiled, because there was no one to take care of them at home.

Knew suffering

They knew what it was to suffer and to share their meagre resources.

But this weekend, the compassion and charity of thousands of concerned South Africans provided a dignified final farewell for the Olifants River victims.

Numerous speakers at the Calvinia service on Saturday thanked contributors to the Klawer Disaster Fund for their concern.

The service was attended by more than 2 000 people who crowded into and leaned through the windows of the 1 500-seater Ned Geref Sendingkerk in the dusty Hantam town.

Among the mourners were the mayor of Calvinia, Mr Christie Rheeder, and his wife Viola.

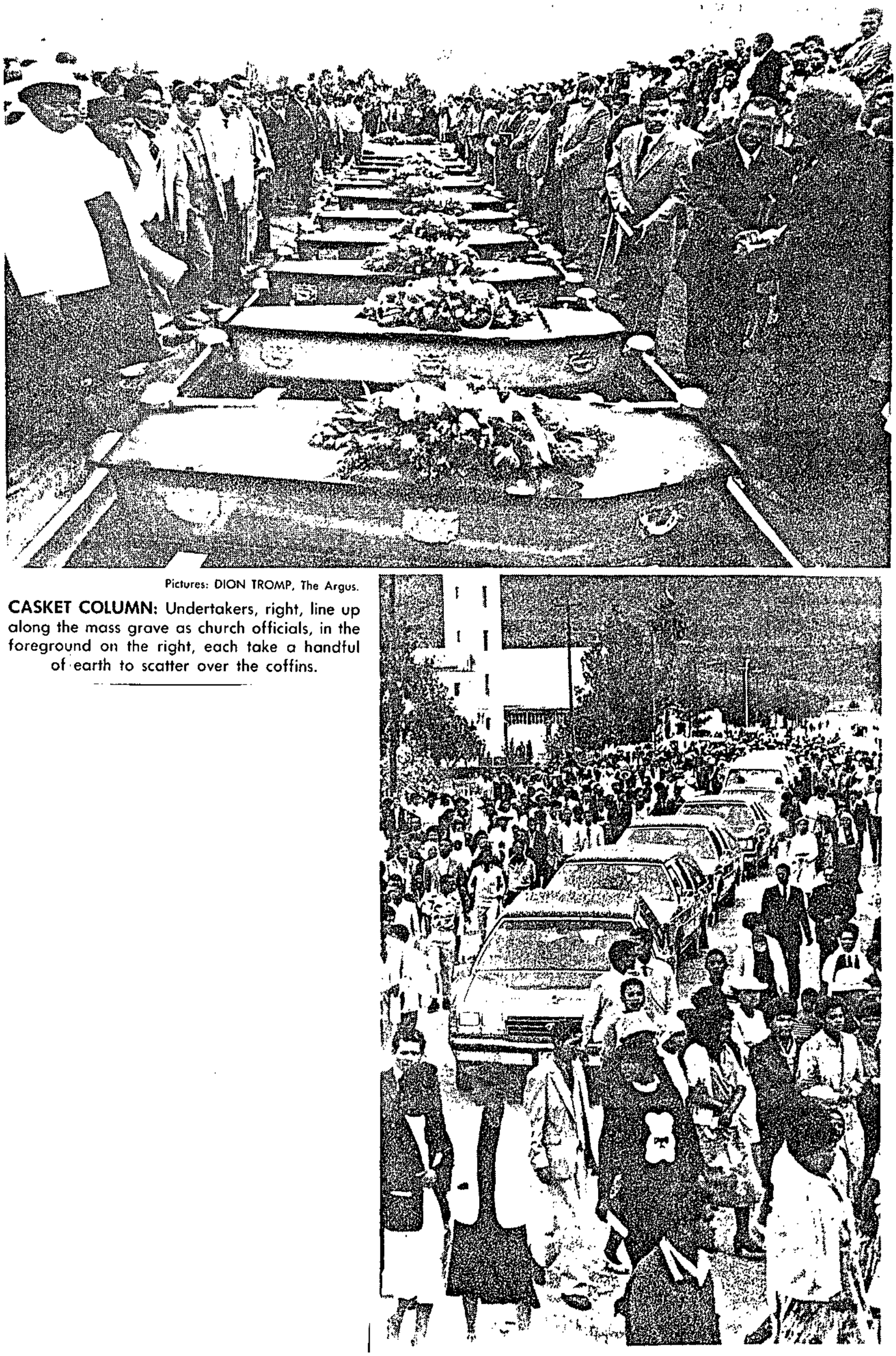
"Our deepest sympathy goes to all who lost family and friends," Mr Rheeder said. "When we lay a wreath this afternoon, we want you to know it is a symbol of the sympathy of the entire community."

Father Chris Hendricks of the Klawer Anglican church said: "Not only Calvinia and Klawer lost people in the Kranskop bridge disaster, but communities at Piketberg, Leipoldtville, Postberg and Carnavon were also affected.

"(Memorial) services must still be held there."

The Rev Attie Louw urged mourners to "hold on to your faith".

"More than 22 people have died in the floodwaters of the Olifants River. How do you hold on to the truth that is in Christ when your heart is broken over people who have been



Pictures: DION TROMP, The Argus.

CASKET COLUMN: Undertakers, right, line up along the mass grave as church officials, in the foreground on the right, each take a handful of earth to scatter over the coffins.

(331) Cowen 10/9/89.

eptember 10, 1989

Upington 14 given leave to appeal

THE Appeal Court in Bloemfontein has granted the "Upington 14" leave to appeal against the death sentences they received as a result of the death of Constable Lucas Sethwala at Paballelo, Upington, on November 13 1985.

Thirteen of those who received the death sentence were given leave to appeal against their convictions while a further 10 who received prison sentences, some conditionally suspended, can appeal against their convictions.

In the case of 16 of the 23, leave to appeal against their convictions was granted on the restricted basis that they formed part of the crowd at Sethwala's house and threw stones at it.

Justice Bekebeke, 28, who had been sentenced to death, was not given leave to appeal against his conviction and Elisha Matshoba, 23, may appeal only against his imprisonment for eight years.

Twenty-six people were convicted by Judge JJ Basson in May this year. The 14 were sentenced to death on May 26 after no extenuation was found.

A week later the remaining 12 received sentences ranging from imprisonment suspended on condition that they do community service to eight years.

Those who received restricted leave to appeal against their death sentences were Kenneth Khumalo, 30, Eric Tros Gubula, 30, David Lekhanyane, 25, Myner Gudlani Bovu, 29, Zuko Xabendlini, 32, Andrew Lekhanyane, 29, Zonga Mokgatle, 31, Wellington Masiza, 27, Albert de Bruin, 54, Gideon Madlongolwane, 61, Zolile Yona, 25, and Albert Tywilli, 27.

Abel Kutu, 28, Ronnie Masiza, 23, and Sarel Jacobs, 23, were given restricted leave to appeal against their six-year prison sentences.

Madondo killing trial set

The Argus Correspondent

JOHANNESBURG. — The seven people who allegedly murdered a former member of the Mandela United Soccer Club earlier this year were told by a magistrate that their trial would begin in the Rand Supreme Court on February 1 next year.

The five men, one woman and a youth allegedly murdered Mr Maxwell Madondo on February 13 this year by assaulting him with stones, sticks and pangas.

Mr Madondo died of cerebral injuries.

It was alleged that Mr Madondo and a friend had been taken by one of the accused to a house where he had been assaulted.

He was then taken to the open veld in Orlando where he was left to die.

The accused are: Mr Lerodoti Ikaneng, 22, Mr Mpeka Cili, 22, Mr Isaac Masebuko, 23, Mr Sandilo Blanket, 22, Mr Sibusiso Chili, 25, Mrs Dudu Chili, 47, and a 17-year-old youth.

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12/9/89

The Argus, Tuesday Se

COURTS

Court told of shots fired during chase

By LINDA GALLOWAY
Supreme Court Reporter

A SECURITY policeman has demonstrated in the Supreme Court, Cape Town, how, while trying to make an arrest, he drove with one hand and fired a gun with the other.

Sergeant Matamela David Musimeke said he had been a policeman for 23 years and had been "involved in the African National Congress".

He was giving evidence at the inquiry into the refusal of Mr Bongani Abednego Jonas to testify as a State witness in the Yengeni terrorism trial. The inquiry forms part of the trial in which Mr Tony Yengeni and 13 others are charged with terrorism.

"Serious threat"

Earlier yesterday Mr Justice Selikowitz ruled that Mr Yengeni's presence at the inqiry posed "a serious threat to the proper administration of justice" after he shouted "Down with traitors ... down!" at Sergeant Musimeke after the court adjourned last Thursday.

He ordered that Mr Yengeni remain out of court until after the last day of evidence in the inquiry.

Mr Michael Donen, for the trialists, brought an application to vary the ruling and allow Mr Yengeni back in court on the grounds that he and the other trialists had given an undertaking that it would not happen again.

The judge turned down the application but said Mr Donen could re-apply tomorrow.

Sergeant Musimeke said that on September 17 1987, after the arrest of Mr Yengeni, he had driven with Mr Yengeni to an appointed checkpoint with Mr Jonas in Athlone.

However, before they reached the checkpoint Mr Yengeni pointed out a Mercedes-Benz in Klipfontein Road and said it was "the man we had spoken about."

He and Mr Yengeni, followed by a police minibus, followed the car on to the N2 freeway, where the minibus pulled in front of the Mercedes and slowed.

Sergeant Musimeke said he drew up alongside the car and hooted to attract Mr Jonas's attention.

He then showed his "appointment card" which had "SA Police" in large black letters on it.

The cars slowed down and a policeman got out of the minibus to arrest Mr Jonas, but Mr Jonas suddenly drove away at high speed.

Sergeant Musimeke said he gave chase and took his service weapon out from under the driver's seat. With his left hand on the steering-wheel, he fired shots at the back of Mr Jonas's car.

The hearing continues.

Mr Justice Selikowitz is sitting with Mr W S Le Roux and Ms J V Knoll as assessors. Mr H Klem and Mr J van Vuuren appear for the State. Mr A M Omar, instructed by Mr Huxley Joshua of Wilkinson, Joshua and Gihwala, appears for Mr Jonas. Mr D P De Villiers, QC, Mr M Donen, Mr P Langa and Mr J de Lange appear for the defence, instructed by E Moosa and Associates, Mallinick Ress Richman and Closenberg Inc, R Vassan and Company and Enver Daniels and Company.

(Proceeding)

Inquest into death of 7 reopened

Star 12/9/89.

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CAPE TOWN — The inquest on the death of seven alleged ANC insurgents killed by security force members in 1986 in Gugulétu was reopened in the Wynberg Magistrate's Court yesterday.

The Attorney-General of the Cape instructed the inquest to be reopened after new evidence came to light in the trial of reporter Tony Weaver.

Weaver wrote a report of the events on March 3 1986 and was later charged with writing an incorrect report.

A Wynberg magistrate found in 1986 that the seven alleged terrorists died as a result of action by police task force members in the line of security duty.

Evidence was given yesterday that the police had received information that their forces would be attacked in Guguletu before the incident in which the seven men died.

The inquest continues. — Sapa.

12 in court over demo

Star 12/9/84

CAPE TOWN — Twelve *Cape Times* journalists appeared briefly in the Cape Town Magistrate's Court yesterday in connection with an allegedly illegal peaceful poster demonstration for press freedom.

They are Southern African Society of Journalists members Kathy Whitehead, Marianne Thamm, Katharine Butt, Ronnie Morris, Janet Levy, Craig Tyson, Peter Dennehy, Andre Koopman, Glenn Sherratt, Monica Graaff, Patrick Collings and Yvette van Breda.

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Warrants of arrest were authorised, but stayed over until September 25, in respect of Di Caelers and Charl de Villiers, who failed to make court appearances with the others.

The hearing was adjourned until November 27 for a decision by the Attorney-General regarding prosecution. — Sapa.

Upington 14 allowed to appeal

Star 12/9/89

Staff Reporter

The "Upington 14", sentenced to death for the murder of Constable Lucas Sethwala, were granted leave to appeal by the Appeals Court on Friday.

Lawyer Mr Colin Kahanovitz said yesterday all 14 — a woman and 13 men — who were sentenced to death on May 26 were granted leave to appeal against their sentences.

The death sentence was imposed by Mr Justice J J Basson in the circuit court at Upington in May this year after he had found no extenuating circumstances for their part in the policeman's death in Paballelo, Upington, on November 13 1985.

Mr Justice Basson refused leave to appeal on June 27 and the petition was then sent to the Chief Justice at the Appeals Court in Bloemfontein in July.

The remaining accused received sentences ranging from suspended imprisonment with community service to imprisonment for nine years.

Mr Kahanovitz said 23 of the 25 petitioners convicted of murder were granted leave to appeal against their convictions.

The two accused not granted leave to appeal against their murder convictions are J Bekebeke and E Matshoba. Both were granted leave to appeal against sentence.

Mr Kahanovitz said 16 of the accused were granted restricted leave to appeal in that they may not contest the lower court's finding that they were part of a crowd at the deceased's house and threw stones at it.

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Judge orders Yengeni from court inquiry

Supreme Court Reporter

MR Tony Yengeni was yesterday excused from further attendance at an inquiry into a refusal by Mr Bongani Jonas to give evidence for the state, because his continued presence "poses a serious threat to the administration of justice".

Mr Justice S Selikowitz made this ruling yesterday morning after the state last week brought an application that all the accused be excused for the alleged intimidation of a state witness.

Evidence was that after the judge and assessors had left the court room last Thursday and while Sergeant Matamela David Musimeke was still seated in the witness box, Mr Yengeni had raised his right fist and shouted "Down with traitors".

Mr Justice Selikowitz said the administration of justice required that a witness be entitled to court protection against intimidation. He said Mr Yengeni would not be allowed to be present during the inquiry, but granted Mr Yengeni leave to apply for a variation of the order.

Mr Michael Donen, for the defence, applied for a variation order, but Mr Justice Selikowitz said it would be heard tomorrow.

After an adjournment to the afternoon, Sgt Musimeke testified about the arrest of Mr Yengeni and Mr Bongani Jonas.

He said Mr Yengeni had told security police he was due to meet a Mr Thabe Sizwe (alias of Mr Jonas) at a garage in Belgravia Road, Athlone, at 7pm on September 17, 1987.

He identified himself to Mr Yengeni as a security policeman and told him he could answer questions or refuse to do so.

While they were driving in Vanguard Expressway Mr Yengeni pointed out a passing car as that of Mr Jonas. Sgt Musimeke made a U-turn, and accompanied by police in a minibus, followed Mr Jonas to the N1 freeway.

He drew up alongside Mr Jonas, who was accompanied by a woman, and hooted at him. He showed Mr Jonas his police identity card, and ordered him to stop. Mr Jonas sped off.

He fired two shots at the moving car. Another policemen also fired shots at the car, Sgt Musimeke said.

The hearing continues today.

Picket: Journalists in court

Staff Reporter

TWELVE Cape Times journalists appeared briefly in Cape Town Magistrate's Court yesterday in connection with an alleged illegal peaceful poster demonstration for press freedom.

They were SA Society of Journalists members Kathy Whitehead, Marianne Thamm, Katharine Butt, Ronnie Morris, Janet Levy, Craig Tyson, Peter Dennehy, Andre Koopman, Glenn Sherratt, Monica Graaff, Patrick Collings and Yvette van Breda.

The hearing was adjourned until November 27 for a decision by the attorney-general regarding prosecution.

Mr M J C Tolken was the magistrate. Mr J M McEwan prosecuted. Mr W Field appeared for the journalists.

CRT 7147/3 12/9/87

Verdict today in trial of printer

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Court Reporter

CITY printer Mr Allie Parker should be acquitted of charges under the emergency media regulations, defence advocate Mr L Rose-Innes said in Cape Town Regional Court yesterday in his final argument.

Judgment will be passed today.

Mr Parker, 47, of Lansdowne, has pleaded not guilty to producing five pamphlets containing subversive statements at his Elsie's River printing works.

The state alleges that the pamphlets urged students not to register at black schools at the beginning of last year.

Mr Rose-Innes submitted that the court should not confuse refusal to register with refusal to use registration forms that had not been approved by an approved body of teachers, parents and departmental officials.

He further submitted that Mr Parker had "printed" the pamphlets, but had not "produced" them.

Mr Eben Grobelaar, for the state, submitted that the usual meaning of "to produce" encompassed "to print" and that Mr Parker should therefore be convicted.

Mr J K Klopper was the magistrate. Mr Rose-Innes was instructed by E Moosa and Associates.

Judge rules on Yengeni's conduct

CAPE TOWN — Terrorism accused Tony Yengeni's presence in court during an inquiry into the refusal of a State witness to testify posed "a serious threat to the proper administration of justice", the Cape Town Supreme Court ruled yesterday.

Mr Justice Selikowitz ruled that Yengeni should not be present for the rest of the inquiry and should reappear on the day following the last day of evidence in the hearing.

The ruling was the result of an application by the State to have all 14 terrorism accused removed for the duration of the inquiry after Yengeni shouted "down with traitors ... down" at a State witness who was to testify. B Days 12/9/89

Sgt M D Musimeke, allegedly a former member of the ANC and who shot Bongani Jonas when he was arrested in 1987, was to give evidence at the hearing inquiring into the reason for Jonas's refusal to give evidence for the State.

The judge said he believed Yengeni's conduct amounted to a "deliberate attempt to intimidate the witness". (331)

He had not received an expression of regret, an attempt at explanation or an undertaking that it would not happen again. For this reason Yengeni's presence during the hearing posed a serious threat.

Yengeni was given leave to bring an application to change the terms of the ruling. — Sapa.

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Shouting mother's sentence set aside

Supreme Court Reporter

A WORCESTER mother, jailed for one month for contempt of court after she turned to the public gallery and shouted "Amandla" after she was sentenced on another charge, yesterday had the sentence set aside.

Evidence was Mary Ngemntu, 47, a mother of six, was an awaiting-trial prisoner at the Worcester prison on a charge of furthering the aims of a banned organisation.

She and a cell-mate were on a hunger strike when she bit a warder during an attempt to remove the cell-mate. She was later convicted of assault with intent to do grievous bodily harm and sentenced to six months' imprisonment, of which three months were suspended.

Before Ngemntu was led to the cells she turned to the public gallery, raised her right fist and shouted "Amandla".

Mr Justice L A Rose-Innes — with Mr Acting-Justice G A Kühn concurring — confirmed Ngemntu's sentence on the assault charge.

The judges said that while it had been "out of order" for Ngemntu to have faced the public gallery and shout "Amandla", the court was not convinced it had been an assault directed at the magistrate.

Mr W C Viljoen appeared for the state. Mr Siraj Desai, instructed by E Moosa and Associates, appeared for Ngemntu.

'Poll violence sparked confession to spying'

CAPE TOWN — Gregory Flatt, 21, of Mitchells Plain yesterday claimed he had been a security police informer since 1987 but that the killings on the Cape Flats on election night had influenced him to confess.

Police spokesman Col Vic Haynes said last night police were aware of Flatt's allegations, which had been passed onto the security police for comment.

Flatt appearedat a Press conference in Athlone wearing a "June 16" T-shirt, a UDF badge and shoes still stained purple from last week's protest march in Cape Town.

He said security police had suggested he play the role of agent provocateur. "This is done by inciting crowds and encouraging and actively participating in unrest. They suggested being particularly brave at barricades and throwing stones." Flatt said he had supplied security police with video recordings, including one of the service on August 20 in St George's Cathedral where various organisations had "unbanned" themselves.

"In the election campaign, (Law and Order) Minister (Adriaan) Vlok quoted extensively from this recording. My security police handler subsequently conveyed Vlok's congratulations to me." He said the handler had told him Vlok wanted to display Archbishop Desmond Tutu's "clown-like" behaviour on TV to discredit him. — Sapa.

Epol court action settled

SUSAN RUSSELL

A R105 500 claim for damages brought in the Rand Supreme Court against Epol by racehorse trainer-owner Charles Maree and Dr C A Hyams was settled out of court yesterday.

The claim was instituted after seven of their horses allegedly became unsuitable for racing after eating contaminated feed.

The claim of Maree and Hyam represented the total value of the seven horses. One of the conditions of settlement was that the terms would not be made public.

Maree's horses were among those poisoned at several Transvaal racing stables in February 1985, after eating Epol horse cubes from a batch which had been contaminated by salinomycin — a substance fatal to horses.

Immediately after the incident, Epol set up a panel of vets and experts to test and monitor affected horses.

When the case began before Mr Justice Van der Walt on Monday, Epol conceded that horses passed as normal were subsequently diagnosed as unsuitable for racing. However, it disputed what the cause of this had been.

Cosatu hearing postponed

SUSAN RUSSELL

THE Rand Supreme Court yesterday postponed to next week the hearing of an urgent application brought by Cosatu and its general secretary Jay Naidoo against Law and Order Minister Adriaan Vlok.

Naidoo and the union federation are seeking an order setting aside the warrants used by police during a search of the trade unionist's home on August 31 this year, and directing the authorities to return confiscated documents.

They are also seeking an order directing the police to either destroy or refrain from using videos and photographs taken of Naidoo's home.

NATAL UNREST DEATHS

September 1987 to January 1989:	668
February 1989 — September 11 1989:	218
Past 24 hours' official toll:	4
TOTAL:	890

Star 13/9/89 -

Policeman tells how he shot man five times

(331)

Own Correspondent

CAPE TOWN — A policeman told a Wynberg Magistrate's Court that he shot a man four or five times in a reflex action in a bid to put him out of action as quickly as possible.

Warrant-Officer John Sterrenberg of Bishop Lavis Police Station was giving evidence on the first day of the reopened inquest on seven alleged ANC guerillas who died in a hail of police gunfire in a skirmish near the outskirts of Guguletu on March 3 1986.

The Attorney-General, Mr Niel Rossouw, ordered the reopening of the inquest after new evidence came to light at the trial of journalist Tony Weaver, who was charged under the Police Act with publishing false information about the police without verifying it was truthful. Weaver was acquitted.

Yesterday W/O Sterrenberg said he was involved in the clash with the seven men near Guguletu.

He said the police received information about the terrorists and went to apprehend them. At the scene he heard an explosion and hid behind a tree.

"I saw a man running and firing with an AK-47 gun from a hip position.

"I was about 45 metres from where he was. I took out my pistol and fired rapidly about four to five times at the man. I wanted to put him out as quickly as possible.

"He appeared to be fiddling with something. I did not know whether other policemen had been firing at him, but shots were continuing even after the man fell," he said.

The man's body was attached to a rope to be rolled over because the police suspected he had a handgrenade under him.

Defend themselves

Cross-examined by Advocate F van Zyl, for the Minister of Law and Order, W/O Sterrenberg said the police were told to effect arrests, but had to defend themselves when fired upon.

Sergeant Peter Viljoen described to the court how he shot an alleged ANC guerilla, who was wielding an AK-47 rifle, several times with a shotgun.

Sergeant Viljoen said that after being shot the man ran towards a tree and fell down. He went closer and saw the man trying to get up. He then shot him in the head with a pistol.

The man had not been shooting at him specifically. He had seen no one else in the area. He went closer to the man to shoot him to prevent other people getting hurt.

He was not sure whether the man had seen him approaching. He was very nervous and had aimed specifically at the man's head.

He then went to direct traffic to make sure that no vehicles entered the area.

The inquest is continuing.

Court told of killer squad

By RONNIE MORRIS
Supreme Court Reporter

A SECURITY police sergeant and member of the "terrorists detection unit" yesterday told the Supreme Court that the unit's duties included the elimination of ANC guerillas, where this was "possible".

Sergeant Matamela David Musimeke, of security police headquarters in Pretoria, was giving evidence in the inquiry into a refusal by Mr Bongani Jonas to give evidence for the state in the trial of Mr Tony Yengeni and 13 others on charges of terrorism.

Sergeant Musimeke testified that he had been involved in the arrest of Mr Jonas and had shot him once after a car chase and also in the arrest of Mr Mtheteleli Titana and had shot him four times.

Asked by Mr A M Omar, for Mr Jonas, what his duties entailed as a member of the terrorist detection unit (TDU), Sergeant Musimeke said it entailed the arrest of ANC and PAC members.

In response to questions by Mr Omar, Sergeant Musimeke said that to perform his duties he had to study the methods of the ANC and PAC. He then learnt who the people were who operated inside South Africa.

He also sometimes gathered information about people who might have left the country for military training and was given photographs to learn the identity of these people.

Asked if there was a special group consisting of rehabilitated persons — former ANC or PAC guerillas who were now members of the SAP — Sergeant Musimeke said there was such a group. He did not know, however, that the group was known as Askari.

Asked by Mr Omar how large the group was, Sergeant Musimeke said he could not disclose that in court and that one of his superiors should be called. He could not say anything about the group because it was "top secret". There were also other secrets which he could not mention.

Told that Captain William Liebenberg, head of the TDU, had also said he was not prepared to reveal details about the group, Sergeant Musimeke said he "had done a good thing".

Asked why he could not make anything public, Sergeant Musimeke said that would be dangerous to the group.

He had "moved around" the country with the group and could not say anything about its activities. He had been in Cape Town on September 17, 1987 after receiving information that Mr Jonas and Mr Yengeni were in the city.

Told by Mr Omar his instructions were that part of the activities of the rehabilitated group was to "eliminate" members of Umkhonto we Sizwe — the military wing of the ANC, Sergeant Musimeke said that when these members were arrested they were taken to court.

Asked if it was not part of the work of the group to eliminate ANC guerillas, Sergeant Musimeke replied: "If possible we can eliminate them."

He had never heard of the group referred to as Askari or the A-Team, he said.

The hearing continues today

be a shortage of residential land within a few years if more town house development should continue to be extremely

ANC arms courier guilty — sentence next month

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By VUYO BAVUMA
Staff Reporter

SENTENCE will be passed next month on a Langa African National Congress arms courier found guilty of terrorism.

Phumzile Simelela, 19, pleaded guilty in Cape Town Regional Court to charges of undergoing military training in the Peninsula and fetching arms and ammunition from Lesotho during May 1988.

Admitting the charges, Simelela said he was recruited into the ANC by Mr Kenneth Moyake, who had since been shot dead by police.

He said Mr Moyake trained him in the use of hand-grenades and a Makarov pistol. He did not know Mr Moyake before he had approached him for military training.

LIMPET MINES

Simelela also admitted going with Mr Moyake to Lesotho to fetch three limpet mines and ammunition from the ANC. When they returned he stored a grenade and a mine at his home. When he was arrested on July 29 last year he had a mine and a detonator.

Yesterday Mr K Armien, for Simelela, asked for a postponement to obtain a report from a probation officer.

The magistrate, Mr M J Langehoven, adjourned the hearing until October 2 and extended Simelela's bail of R2 000.

Mr F Silbert appeared for the State.

Soccer fan charged

UMTATA. — A Transkei football fan, Mr Boy Mpiphi, 28, has been charged with assault after an attack on a referee and his linesmen at the weekend. He was not asked to plead and was released on warning until November 11. — Sapa.

Allie Parker acquitted

GAT 13/9/89
Trials 331

Court Reporter

A CAPE TOWN regional magistrate yesterday acquitted city printer Mr Allie Parker of charges in terms of the emergency media regulations.

Mr Parker, 47, of Lansdowne, had pleaded not guilty to "producing" five pamphlets containing subversive statements at his Elsie's River printing works.

Magistrate Mr J K Klopper ruled that Mr Parker had not been aware that he was acting unlawfully when he printed pamplets drawn up by the National Education Crisis Committee, the Parents, Teachers and Students Association and the Young Christians Association.

Turncoats need State protection, says policeman

Star 14/9/89 331

Own Correspondent

CAPE TOWN — Former members of the armed wing of the African National Congress who joined the SA Police became targets because they were regarded by their former comrades as traitors, the Cape Town Supreme Court heard yesterday.

Giving evidence at the inquiry into the refusal of Mr Bongani Jonas to testify as a State witness in the trial of Mr Tony Yengeni and 13 others on charges of terrorism, Sergeant Matamela David Musimeke said that former ANC operatives led "a very difficult life because they are always hunted".

He said black communities which were sympathetic to the ANC would also regard the "rehabilitated terrorists" as traitors. He said the State had to protect these people — known as Askari or "the A-Team" — who worked in the Security Police "terrorist tracking unit". Star 14/9/89

IN DANGER

Sergeant Musimeke said he worked with this police group, but had never been a member of the ANC.

However, if his photograph were published and he was identified as a policeman, his life could be in danger because he worked with members of the ANC and PAC who did not know he was a policeman.

He said ANC and PAC members wanted to overthrow the South African Government and they saw the police as "part of the State apparatus".

He said he was aware SA had many of the elements of a civil war and that in his mind, Mr Jonas, Mr Yengeni and another accused, Mr "J J" Titana, were on one side and he on the other.

He said he had information Mr Yengeni was commander of the western Cape's ANC machinery.

The court has ordered that no photographs, drawings or other graphic representations of Sergeant Musimeke be published during the trial.

The accused are Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

'Evidence of Trojan Horse witness untrue'

CAPE TOWN — A prosecution witness in the "Trojan Horse" trial agreed in the Cape Town Supreme Court yesterday that a video showed him walking unaided after being shot; he had said in evidence he had to be assisted.

Mr Cedric Buckton was being cross-examined by three counsel for members of the security forces who have been charged with murder after Shaun Magmoed (16) was shot dead on October 15 1985.

During his evidence-in-chief, Mr Buckton said that after he had been shot a second time, he and three other people who were in his car were taken to the corner of Thornton and St Simons roads to join others being held under police guard. He was assisted by other people to the corner, he said.

Yesterday, a police video recording, showing him walking unaided, was shown. When told his evidence in that regard was untrue, Mr Buckton agreed.

Asked why he had been quoted in a newspaper report as saying he was on his way home when he was shot, he replied he could not have said that and that the report was misleading.

Asked why, in his evidence on Tuesday, he only then for the first time said he had been shot a second time, while he did not say that at the public-violence trial or at the inquest, Mr Buckton said he could not answer.

The trial continues today. — Sapa.

Cosatu: Sapa editor for court

JOHANNESBURG. — The Editor of the South African Press Association (Sapa), Mr Edwin Linington, has been ordered to appear today before a Johannesburg magistrate to give information on alleged offences committed by the Congress of South African Trade Unions (Cosatu) during their 1989 congress.

Mr Linington is to apply for a postponement of the hearing. — Sapa

Judge bans pics of security cop

Sunday Times 14/9/87 p 331

Supreme Court Reporter

THE judge in the Yengeni trial yesterday ordered a ban on the taking or printing of photographs of a security policeman giving evidence at an inquiry into the refusal of Mr Bongani Jonas to give evidence for the state.

Mr Justice S Selikowitz made this order after Mr Hendrik Klem, for the state, brought an application asking that the press be banned from taking or publishing a photograph of Sergeant David Matamela Musimeke, a security policeman.

Mr Justice Selikowitz said the evidence of Brigadier Herman Stadler, Professor Colin Bundy and Mr Jonas — in an application to hold the inquiry in camera — showed that Sgt Musimeke was clearly a target of attack from the community at large, many of whom regarded him as a traitor.

The order read: "Until the completion of this inquiry in terms of Section 189 of the Criminal Procedures Act, no photograph, drawing or other graphic representation of this witness is to be published.

"Furthermore, all persons are interdicted during this period from photographing this witness for purposes of publication of such photographs."

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Yengeni trial cop 'seen as traitor'

By RONNIE MORRIS
Supreme Court Reporter

A SECURITY police sergeant yesterday told the Supreme Court he was seen by members of Umkhonto we Sizwe as "the enemy traitor ... and a dog" because, as he was a policeman, his duties included the arrest of ANC and PAC members.

Sergeant David Matamela Musimeke, of security police headquarters in Pretoria, was giving evidence at the summary inquiry into the refusal of Mr Bongani Jonas to give evidence for the state in the trial of Mr Tony Yengeni and 13 others.

Under cross-examination by Mr A M Omar, for Mr Jonas, Sgt Musimeke said rehabilitated people — former ANC and PAC members who were now members of the police — were in a difficult position.

He disputed a submission that rehabilitated persons had been captured. He said they had been arrested and some had even surrendered themselves at police stations. They later ended up working for the police because they could not work elsewhere, he said.

In response to questions, Sgt Musimeke said rehabilitated persons were regarded as traitors in the black communities sympathetic to the ANC, and special measures had to be adopted to protect them.

He had assisted in the arrest of many members of the ANC and PAC who were intent on overthrowing the government, Sgt Musimeke said.

Asked by Mr Omar if it was correct that many of the rehabilitated persons had a special knowledge of the people arrested because they had either worked with them or had been in training camps together, Sgt Musimeke said it was.

Rehabilitated persons became "special targets" and did not live under their own names.

A large part their lives was spent giving evidence in terrorism and treason trials all over the country, he said.

Asked if it was correct that rehabilitated persons lived a difficult life, Sgt Musimeke said they did because they were always hunted. He told the court he was a "marked man".

Before coming to Cape Town in September 1987 he had information that both Mr Tony Yengeni and Mr Jonas were members of the ANC who were highly trained in the military.

He agreed with a submission by Mr Omar that in South Africa there were many elements of a civil war and that people like Mr Yengeni and Mr Jonas and himself were not on the same side.

The inquiry continues today.

Former ANC men 'traitors'

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A266S/14/9/89

By LINDA GALLOWAY
Supreme Court Reporter

FORMER members of the armed wing of the African National Congress who joined the South African Police had become targets because they were regarded by their former comrades as traitors, the Supreme Court, Cape Town, has heard.

Giving evidence at the inquiry into the refusal of Mr Bongani Jonas to testify as a State witness in the trial of Mr Tony Yengeni and 13 others on charges of terrorism, Sergeant Matamela David Musimeke agreed that former ANC operatives led "a very difficult life because they are always hunted".

It was true that black communities which were sympathetic to the ANC would also regard the "rehabilitated terrorists" as traitors.

"The A-Team"

He said the State had to take measures to protect these people — known informally as Askari, or "the A-Team" — who worked in the Security Police terrorist-tracking unit.

Sergeant Musimeke said he worked with the group, but had never been a member of the ANC. However, if his photograph was published and he was identified as a policeman, his life could be in danger because he worked with members of the ANC and Pan African Congress who did not know he was a policeman.

He said he believed that members of the ANC and PAC wanted to overthrow the South African government, and that they saw the police as "part of the State apparatus".

He agreed that to ANC members he would be seen as part of the enemy.

"Yes, they regard me as an enemy, as a dog," he said.

Sergeant Musimeke said he was "aware" that South Africa had many of the elements of a civil war and that in his mind, Mr Jonas, Mr Yengeni and another accused, Mr "J J" Titana, were on one side and he on the other.

Asked about Mr Yengeni, Sergeant Musimeke said he had information that Mr Yengeni was the overall commander of the Western Cape's ANC machinery.

● The court has ordered that no photographs, drawings "or other graphic representations" of Sergeant Musimeke may be published until the completion of the inquiry, and that "all persons are interdicted during the same period from photographing the witness for the purpose of publication".

Mr Justice S Selikowitz made the order after an application by the State on the request of the policeman.

"Target of attack"

The judge said there had been evidence to the effect that Sergeant Musimeke was "a target of attack from the community at large, many of whom regard him as a traitor".

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

Mr Justice Selikowitz is sitting with Mr W S Le Roux and Ms J V Knoll as assessors. Mr H Klem and Mr J van Vuuren appear for the State. Mr A M Omar, instructed by Mr Huxley Joshua of Wilkinson, Joshua and Gihwala, appears for Mr Jonas. Mr D P De Villiers QC, Mr M Donen, Mr P Langa and Mr J de Lange appear for the defence, instructed by E Moosa and Associates, Mallinick Ress Richman and Closenberg Inc, R Vassan and Company and Enver Daniels and Company.

Judge overlooks court outburst

NR(4) R 19/89 331

By LINDA GALLOWAY
Supreme Court Reporter

A SECOND terrorism trialist who shouted "down with traitors, down!" at a security policeman giving evidence in the Supreme Court has not been disciplined by the court because of the emotional nature of the outburst.

The court, where an inquiry is being held into the refusal of Mr Bongani Jonas to give evidence as a state witness in the trial of Mr Tony Yengeni and 13 others, heard that on Wednesday after court had adjourned Mrs Lumka Yengeni, the wife of Mr Tony Yengeni, had shouted the slogan at Sergeant M D Musimeke.

Last week, Mr Yengeni was ordered from the court for the duration of the inquiry after he shouted the same slogan at Sergeant Musimeke.

Mr H Klem, for the State, yesterday made an application for Mrs Yengeni to be charged with contempt of court, but Mr Justice Selikowitz ruled that he was satisfied that the outburst had not impaired the dignity of the court.

"I intend on this occasion to overlook Mrs Yengeni's behaviour, but I think I should record there is something I can do on this occasion.

"If similar behaviour occurs I will be failing in my duty to prevent the situation and punish the culprit.

"The accused are obliged, notwithstanding the stresses they may feel or the strain and devotion, to maintain the standard of behaviour from the moment they arrive in this court till they leave," he said.

Peace policeman melts crowd of 800

By DON HOLLIDAY, Staff Reporter

MITCHELL'S Plain policeman Lieutenant Gregory Rockman has intervened to peacefully disperse a placard demonstration held in his honour by about 800 school pupils outside Mitchell's Plain Magistrate's Court.

Lieutenant Rockman, who made world headlines last week after criticising riot police activities on the Cape Flats, described the obedience of the crowd as "a triumph for peaceful progress."

He said he and station commander Colonel John Manuel were at the police station watching pupils gather outside the court building yesterday.

"As I came out of cover there was loud applause.

"It was unreal. It's hard to explain but if you'd been there you would have understood.

"I told them I didn't want any more stone-throwing in Mitchell's Plain and asked whether they agreed. They answered me full blast with shouts of Yeah ... yeah.

"I said they had proved they were peaceful citizens and told them I wanted them to disperse after my address.

"Within no time they just disappeared."

● Another picture, page 3.

Hearing postponed

331 By Celeste Louw

The editor of the South African Press Association (Sapa) appeared before a Johannesburg magistrate yesterday in terms of section 205 of the Criminal Procedure Act to give information about alleged offences by the Congress of South African Trade Unions (Cosatu).

Mr Edwin Linington appeared before a magistrate in his office and the matter was postponed to October 3.

Mr Linington was ordered to appear before the magistrate to give information regarding offences allegedly committed by Cosatu during its Third National Congress from July 12 to July 16 this year.

Stoning: Six pupils in court

CAPE TIMES 15/9/89

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Staff Reporter

SIX pupils appeared briefly in Mitchells Plain Magistrate's Court yesterday on charges of public violence and robbery.

No evidence was led and Mr Marius Isaacs, 18, Mr Nasief Safadien, 19, both of Beacon Hill, and four youths from Eastridge and Beacon Hill were warned to appear again on November 7.

Mr Isaacs's and Mr Safadien's bail of R100 each was extended.

The state alleges that on August 17 this year the six stoned a police vehicle outside Beacon Hill Senior Secondary School, causing R500 damage, and that they also stoned a van belonging to Mr Kiewiet Deurgal and robbed him of meat.

Judge decides to overlook outburst

CAT Tigks 15/9/89 331

Notes 'extreme stress' endured by prisoners

Supreme Court Reporter

THE judge in the trial of Mr Tony Yengeni and 13 others yesterday said he would overlook the behaviour of Mrs Lumka Yengeni who had shouted "Down with traitors!" at a security policeman giving evidence in the inquiry into Mr Bongani Jonas's refusal to give evidence for the State.

Mr Justice Selikowitz said this after the state asked that Mrs Yengeni be found guilty of contempt of court because she directed the remark at Sergeant David Matamela Musimeke, of security police headquarters.

Mr Michael Donen, for the defence, said Mrs Yengeni lost control of herself because of something Sergeant Musimeke had said during cross-examination by Mr A M Omar, counsel for Mr Jonas.

Sergeant Musimeke had testified that after a high-speed car chase on the N2, Mr Jonas stopped his car and fled over a fence. The sergeant then shot him.

Asked if he had not thought it necessary to fire a warning shot, Sergeant Musimeke replied: "I'd be wasting government money," Mr Donen said.

He said Mrs Yengeni had a background of emotional anxiety. When she made the remark she had been in detention three days short of two years. She had received medication to prevent emotional outbursts, Mr Donen said.

After the ejectment of Mr Yengeni for similar action, all the accused had given an undertaking that outbursts would not happen again.

Mrs Yengeni had also been disturbed by the fact that no sooner had her husband been removed from court than the state brought evidence against him which had nothing to do with whether Mr Jonas had a just excuse for refusing to testify.

She was also "horrified" at the suggestion that her husband had given police information which led to the shooting of Mr Jonas.

Mr Justice Selikowitz said he was aware that people held under the conditions experienced by the accused had to be under extreme emotional stress from time to time.

However, certain norms of behaviour had to be maintained and it was the court's task to do that. The defence team had a difficult task but one of its duties was to attempt to encourage the maintenance of those norms.

"If the accused need to give vent to feelings they should do so outside the confines of this building," the judge said.

The inquiry continues today.

... on which judge you get

Some judges are more likely to impose the death penalty than others, the latest research suggests. By CARMEL RICKARD

THE stereotype of a "hanging judge" might be a reality: some judges are far more likely to impose the death sentence than others, according to new research.

Of 32 Cape judges who heard possible death penalty cases from 1986 to 1988, just three of the judges accounted for more than half of all those sent to death row. While some judges did not pass the death penalty at all, one judge imposed it in 44 percent of the cases he heard.

The research, published in the latest edition of the *South African Journal on Human Rights*, examines the imposition of the death penalty in the Cape Provincial Division from 1986 to 1988.

The authors, Christina Murray, Julia Sloth-Nielse and Colin Tredoux, all from the University of Cape Town, list the 32 judges who heard cases which involved the death penalty during that period.

They then tabulate the number of death penalties imposed by each. Taking into account that the judges might have had differing work loads, the researchers worked out the percentage of the total number of cases heard by each judge and the proportion of death penalties these cases could be expected to involve.

However, some judges passed the death penalty far more often than might have been expected.

The five who passed the death penalty most often were judges PWE Baker, AJ Lategan, HC Nel, L van den Heever and DM Williamson.

One of the most startling results to emerge is that judges Baker, Lategan and Williamson, who heard only 15 percent of the cases among them, sentenced to death 51 percent of the accused during the two-year period.

By contrast, another group of three judges all of whom passed the death penalty at least once, heard 32 percent of the cases, but sentenced only 12 percent of all those condemned.

Sixteen of the 32 judges did not pass the death penalty during the two-year period, although some of these 16 were acting during the time, and were not given permanent appointments.

Other findings included:

- Mr Justice Baker heard 2,24 percent of all the cases but was responsible for 10 percent of the death penalties passed.
- Mr Justice Lategan heard 8,09 percent of the cases but was responsible for 21,25 percent of the death penalties.
- Mr Justice Williamson heard 4,98 percent of the cases, while handing down 13,75 percent of the death penalties.
- Mr Justice L Rose-Innes who heard 10,40 percent of the cases, passed 1,25 percent of the death penalties.
- Mr Justice EL King who heard 3,99 percent of cases, sentenced no-one to death.

The researchers say they believe that a judge's "personal predisposition to the imposition of capital punishment" plays a crucial role in explaining the statistics they unearthed.

However, another possible way of explaining the fact that some judges impose the death penalty so often is that they are "allocated" such cases more often. The researchers say they cannot discount such a possibility, but that it would in any case be unacceptable if this were so.

They found that in 18 cases, judges imposed the death sentence even where there was no obligation to do so. Sometimes these were linked to "mandatory death sentences" — in other words, where someone found guilty of murder with no extenuation and therefore "automatically" sentenced to death, was also sentenced to death on other counts like rape.

However, 11 of these "non-compulsory" death sentences were not linked to "mandatory death sentences", and of these 11, five were passed by Mr Justice Lategan and four by Judge President G Munnik.

The research also showed that chances are strong an accused, once sentenced to death, will be refused leave to appeal: of the 120 people condemned by the Cape judges, leave was granted in 40 cases.

One of the alarming claims to emerge in the paper, is a reported interview by researcher David Bruck.

A Durban judge told Bruck he had sometimes imposed the death sentence "merely to frighten local criminals". The unnamed judge said that in such cases he imposed the death penalty "while fully intending to write to the Ministry of Justice to recommend clemency".

This judge said he did not know whether these death sentences had actually been commuted as he had never inquired. He claimed the state president commuted about 80 percent of death sentences every year. However, the actual rate the year before the interview was 15 percent.

Director of Lawyers for Human Rights Brian Currin said the findings highlighted the "question of inequality before the law" and said it strengthened the argument for abolition.

"Surely the life or death of someone should not depend on which judge is allocated the case."

Month-long bus strike may end

By CARMEL RICKARD, Durban

ABOUT 200 000 people in Durban have been without bus transport for exactly a month.

Thirty-one days ago some 900 drivers stopped work over a number of issues including wages.

Last week it appeared the strike was over and union officials signed an agreement with the Durban Transport Management Board. Workers were expected to return immediately.

However, after only a few dozen signed up early on Monday, there was a walk-out in protest over the way management was handling the re-employment procedure. Talks have continued all week to sort out these problems.

The strike has left some 200 000 commuters a day having to find alternative transport. It has also cost the city millions of rands in lost revenue.

Under tough labour laws it has been an illegal strike since passenger transport is classified as an "essential service" and employees are prohibited from striking at all.

The irony, according to some labour lawyers, is that the classification of passenger transport as an "essential service" could be seen as indirectly having provoked the strike.

He said collective bargaining could not occur properly where there was no pressure of possible industrial action. In the case of the Durban bus drivers and management, he claimed their bargaining relationship could have "atrophied" over the years.

"It is quite possible that if the drivers had had the right to strike, they would not have needed to do so."

Late yesterday talks were continuing after all-day discussions on Wednesday between management, union officials and lawyers.

After these talks, officials said they were "very promising" and that an end to the stoppage could be close.

They said the discussions were not about the settlement of the strike reached last week-end, but over the way it should be implemented.

In terms of the settlement workers will be re-employed rather than reinstated, but all workers will be rehired and they will not lose out on benefits accrued before the strike.

Biko Day stayaway is almost unheeded

15-21/9/89.

By CASSANDRA MOODLEY

WORKER unity appeared to be strained this week when a reported call for a stayaway on September 12, Biko Day, went virtually unheeded.

However, union leaders insist that despite confusion regarding action on Biko Day, the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions (Nactu) remain committed to the unity of workers.

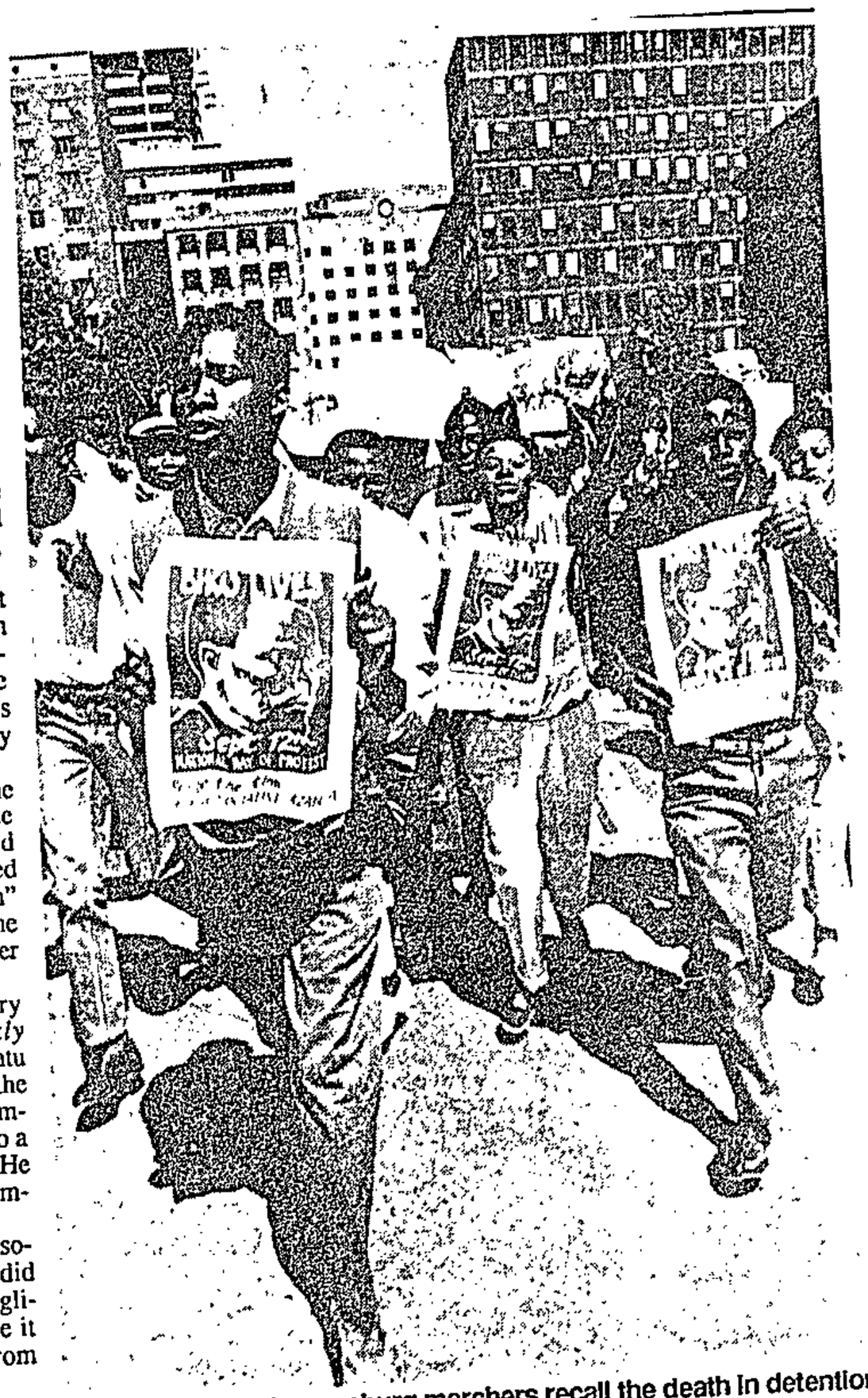
In a press statement released at the beginning of the month, Nactu, the black consciousness movement and the Pan Africanist Movement called for a day of "national protest action" to mark the 12th anniversary of the death in detention of political leader Steve Biko.

However, Nactu general secretary Piroshaw Camay told the *Weekly Mail* that at the meeting with Cosatu last Friday — held to evaluate the success of the stayaway on September 5 and 6 — they did not agree to a stayaway call for September 12. He said it was decided that protest demonstrations would be held instead.

A Nactu official said there were isolated incidents where workers did stay away but the number was negligible because the confusion made it difficult to obtain a mandate from workers.

A stayaway was reported at some schools in Port Elizabeth. The report added that the Port Elizabeth Student's Committee disassociated itself from the stayaway which was called "in the name of the mass democratic movement by Nactu and the BC groupings to mark the 12th anniversary of the death of Steve Biko".

Meanwhile, Cosatu said in a statement this week that the decision, taken at last month's workers' summit, to boycott white businesses and stage protests against overtime had been postponed to September 22.



Not forgotten: Johannesburg marchers recall the death in detention 12 years ago of Steve Biko Picture: STEVE HILTON-BARBER, Afrapix

The 12th anniversary of Biko's death was commemorated on Tuesday at venues around the country.

On Monday, about 200 BCM supporters staged a placard demonstration in Johannesburg. The demonstration was aimed at observing Biko Day and continuing the campaign against the Labour Relations Amendment Act.

The demonstrators marched to the Kerk Street and Simmonds Street branches of First National Bank to protest against the bank's sponsorship of the international rugby tour.

Police armed with batons ordered the demonstrators to disperse in terms of the Emergency regulations. One demonstrator was arrested but later released, said a BCM representative.

Cop would return ANC fire 'as both could die', court hears

Supreme Court Reporter

A SECURITY policeman yesterday told the Supreme Court he only shot at ANC guerillas when they resisted arrest or when they fired shots at him "because both of us could die".

This was said yesterday by Sergeant David Matamela Musimeke in response to questions by the state at the inquiry into the refusal by Mr Bongani Jonas to give evidence for the state.

Mr Hendrik Klem, SC, for the state, referred Sergeant Musimeke to an answer given in response to a question by Mr A M Omar (Mr Jonas' counsel) whether the duties of the Terrorists Detection Unit (TDU) — which used rehabilitated former ANC members — were to eliminate ANC guerillas.

He had replied the unit's duties were to arrest ANC guerillas and bring them before a court.

When Mr Omar had asked him if part of their duties did not include the elimination of ANC guerillas, Mr Klem said he had replied: "If possible we can eliminate them."

Asked what he had meant with "we can eliminate them", Sergeant Musimeke said police had first to try and arrest ANC members. If they resisted arrest or opened fire, police "must return fire" because "both of us could die".

The hearing continues on Monday.

The accused are: Mr Tony Yengeni, Ms Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Mr Justice S Selikowitz was on the bench with Mr W S le Roux and Ms J V Knoll as assessors. Appearing for the defence were Mr D P de Villiers, QC, assisted by Mr Mike Donen, Mr Pius Langa and Mr Johnny de Lange and instructed by Mallinick, Ress, Richman and Closenberg Inc, Essa Moosa and Associates, R Vassen and Co and Enver Daniels and Co. Mr Klem, with Mr Jannie van Vuuren and Mrs Sandra Swart, appeared for the state.

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Hangings: Judge's feelings 'crucial'

Own Correspondent

JOHANNESBURG. — A judge's personal feelings about capital punishment played a crucial role in explaining a significant disparity in the number of death sentences passed by individual judges, according to the findings of a two-year research project conducted in the Cape Provincial Division of the Supreme Court.

The results of the project, published in the latest issue of the South African Journal on Human Rights, was conducted from 1986 to 1988 by three legal academics from UCT's law faculty.

Ms Christina Murray, Ms Julia Sloth-Nielsen and Mr Colin Tredoux said their statistics showed significant disparities in the use of capital punishment by individual judges for comparable caseloads.

They stated that the difference between the actual number and the expected number of accused sentenced to death for the caseload showed that the disparities in death sentences handed down could not be due to the uneven numerical distribution of criminal cases among individual judges.

"We believe a judge's personal predisposition to the imposition of capital punishment does indeed play a crucial role in explaining our statistics," said the researchers.

Their statistics revealed that three judges — Mr Justice J Baker, Mr Justice J Lategan and Mr Justice J Williamson — heard only 15% of the cases during the two-year period, but had sentenced 51% of the accused in the sample used.

Another group of three judges — Mr Justice J Marais, Mr Justice J P Munnik and Mr Justice J Rose-Innes — tried 32% of the cases, but had sentenced only 12% of those condemned to hang during the period covered by the research.

The researchers said it could be alleged some judges were routinely assigned to cases where the death penalty was more probable, while others were given less serious cases.

This would imply some judges received a far larger proportion of cases to try where the death penalty was likely, they said, and there was some evidence that differential allocation had taken place in political cases.

In provincial divisions the Judge President organised the Supreme Court roll and the criteria used to allocate criminal trials were currently obscure, the researchers pointed out.

They said any allocation procedure which could not be openly assessed had to be rejected.

A system where the Judge President allocated cases likely to carry the death sentence to judges he thought were reluctant to pass the death sentence would be just as unacceptable as the opposite, according to the report.

"It necessarily means that by some private process the JP intervenes in advance to influence the outcome of a trial," they said.

"Any system which permits the unrestrained manipulation of such factors cannot be condoned.

"It undermines the fundamental principle of equality before the law."

The researchers state that the influence of personal philosophy was more relevant when the death sentence was imposed in a case where the judge had a discretion.

"Our statistics reveal 16 of the 18 discretionary death sentences were imposed by only two judges."

Mr Justice Lategan imposed 10 and Mr Justice Munnik imposed 6.

"Whatever other factors may contribute to the wide disparities our research reveals, we cannot ignore the wealth of evidence from judges and researchers alike that personal views on penal policy are an important factor in explaining differing sentences," they said.

I ambushed suspect, sergeant tells terror trial

Own Correspondent

CAPE TOWN — A policeman acting on information from a man he had shot the previous day ambushed another suspect at a pre-arranged meeting place and shot him four times when he ran away, the Cape Supreme Court was told yesterday.

Sergeant M D Musimeke was giving evidence in the terrorism trial of Mr Tony Yengeni and 13 others.

He told the court how he had gone to Heideveld railway station to meet Mr Mtheteleli Titana, or "J J", on information from Mr Bongani Jonas, whom he had shot and captured the day before.

Sergeant Musimeke said he drove Mr Jonas's car, a Ford Granada, and parked where Mr Jonas had suggested, on September 19 1987.

He sat in the car until about 7.30 pm, when a man approached from the left and peered through the front passenger window.

"I recognised him as the person in the photograph I had," the policeman said.

The man then walked around to the back of the car and stood at the numberplate, watched through the rear-view mirror by Sergeant Musimeke.

He crouched down behind the car and the policeman took his firearm out from under the seat, opened the door and jumped out.

Mr Titana then ran away, and Sergeant Musimeke chased him, shouting "police, police". He fired two shots.

After jumping over a fence Mr Titana fell and was bitten by a dog, but continued running and jumped another fence.

Sergeant Musimeke said he fired another four shots at Mr Titana, and then walked around to where he was lying, bleeding.

The policeman searched Mr Titana, "for a Makarov (pistol) or a handgrenade", but found nothing.

Other policemen arrived and he handed over the suspect.

The hearing continues.

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gay Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

Sergeant tells of firing six shots at fleeing man

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Supreme Court Reporter

A SECURITY policeman described in the Supreme Court yesterday how he fired shots at Mr Mtheteleli Titana — an accused in the Yengeni trial — when he fled from Heideveld station, where he was due to meet Mr Bongani Jonas.

Sergeant David Matamela Musimeke, of security police headquarters in Pretoria, was giving evidence in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

Sergeant Musimeke said that after he had been involved in the arrest of Mr Jonas, who had been wounded in the process, he had learnt from Mr Jonas that he (Mr Jonas) was supposed to meet Mr Titana at the Heideveld station on the evening of September 19.

He went to the meeting place in Mr Jonas' car and parked it away from buildings as Mr Johas had suggested.

When Mr Titana approached the car about 7.30pm and peered through the passenger-side window, he recognised him as the wanted man.

When he opened the door and took out his firearm, Mr Titana ran off and a chase ensued. He had identified himself as a police officer and ordered Mr Titana to stop.

In the chase he fired six shots and eventually found Mr Titana lying bleeding on the ground.

The trial continues today.

Security police team sent to hunt ANC evidence

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By LINDA GALLOWAY
Supreme Court Reporter

Argus 20/9/89

A SPECIAL team of security policemen, some of them former members of the African National Congress, came to Cape Town from Pretoria to track down members of the ANC's Western Cape machinery, the Cape Supreme Court has heard.

Sergeant M D Musimeke, a security policeman based in Pretoria, said this in evidence in the trial of Mr Tony Yengeni and 13 others charged with terrorism.

He told the court that he and other members of the team, attached to the security police's terrorist-tracking unit, came to Cape Town several times between November 1986 and September 1987.

Sergeant Musimeke said the police had information on Mr Yengeni, Mr Mtheteleli "J J" Titana and Mr Bongani Jonas, and had "long been looking for them".

He regarded them as his enemies. "I know if they can find me they can kill me," he said.

Cross-examined by Mr Pius Langa for the defence, Sergeant Musimeke said he could not remember how many policemen had been in the team, and refused to name the former members of the ANC and PAC serving on the squad.

He told the court that on the last trip to the Cape before the arrest of Mr Yengeni, Mr Jonas, Mr Titana and others, he drove from Pretoria in his minibus in convoy with three other vehicles.

He could not remember how many passengers he had, or how many passengers were in the other vehicles.

The policeman told the court that in the event of him using his firearm, he had to report it to the police station nearest to where the shooting took place.

He had come to Cape Town with one firearm and two magazines. He had fired five shots at Mr Jonas and four at Mr Titana.

(Proceeding)

12 face arson, stoning charges

By CLIVE SAWYER
Tygerberg Bureau

TWELVE Paarl East residents have appeared in Paarl Magistrate's Court following a week of unrest in townships outside the town.

And a Stellenbosch lawyer said several people had been arrested in the past few days on charges of arson and public violence.

It was believed more than 200 were still in detention after 25 were released on Monday.

In separate incidents, a lorry was burnt out in Sandrift Street, New Town, on Thursday, and the contents of a municipal office in Paarl East were damaged by fire, firemen said. Neither the building itself nor records in filing cabinets were damaged.

According to a police unrest report, police were injured and vehicles damaged in stone-throwing incidents in Mbekweni. Tearsmoke was used to disperse crowds.

Seven men and a woman resident in Paarl East appeared in court on Monday in connection with the alleged stoning of 21 vehicles involving damage amounting to R16 000.

A man and four youths, also of Paarl East, appeared in connection with alleged arson.

Both hearings were postponed to October 10 and the accused were released on R100 bail each.

Mr S P Burger was on the bench and Miss C Theunissen appeared for the State.

Warning shots a waste of money – policeman

Star 21/9/89 331

Own Correspondent

CAPE TOWN — A security policeman who shot two terror suspects told the Cape Supreme Court he never fired warning shots because they were "a waste of government money".

Giving evidence in the Yengeni terrorism trial, Sergeant M D Musimeke said he had not fired warning shots at Mr Bongani Jonas or Mr Mtheteleli Titana, or shouted to them to "stop or I'll shoot" when he arrested them in September, 1987.

The policeman, who speaks North Sotho, said he had shouted "jama, jama, polisie" which he knew meant "stop" in Xhosa.

Mr Pius Langa, for the defence, put it to Sergeant Musimeke that there was no such word in Xhosa or Zulu meaning stop.

The policeman said he was not in the habit of firing warning shots at suspects.

Asked whether he considered it a waste of government money he replied: "That is how I consider it".

The hearing continues.

Those on trial are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard. Mr Justice S Selikowitz is sitting with Mr W S Le Roux and Ms J V Knoll as assessors. Mr H Klem and Mr J van Vuuren appear for the state. Mr A M Omar, instructed by Mr Huxley Joshua of Wilkinson, Joshua and Gihwala, appears for Mr Jonas. Mr D P De Villiers, QC, Mr M Donen, Mr P Langa and Mr J de Lange appear for the defence, instructed by E Moosa and Associates, Mallinick Ress Richman and Closenberg Inc, R Vassan and Company and Enver Daniels and Company.

Election night: 22 charges dropped

By MICHAEL DOMAN, False Bay Bureau

CHARGES against 22 people charged with attending an illegal gathering by holding placards and singing freedom songs near a Hanover Park polling station on election night have been withdrawn.

The 22 — 16 from Hanover Park, four from Newfields Estate, a youth and an attorney from Woodstock — were told the senior public prosecutor had withdrawn the charge under the Internal Security Act, when they appeared in the Mitchells Plain Magistrate's Court on Wednesday.

The 22 had not been asked to plead.

It was alleged that the singing group, in Hanover Park Avenue, was discouraging people from voting.

Mr D Adam, for 12 of the accused, including attorney Mr Rodney de Kock, asked that it be recorded that Mr De Kock had been arrested while acting in his professional capacity.

Mr S Hockey appeared for the other 10 accused. Mr S Malherbe was on the Bench. Miss J M Swart appeared for the State.

Poet to perform

MZWAKHE Mbuli, the protest poet who is creating a storm at the Market Theatre Warehouse, is billed for Nation Building Week.

His collection of works, which he recites and sings, comes from his anthology, *Before Dawn* and recordings *Change is Pain* and *Unbroken Spirit*.

He has again been invited by the German Confederate of Trade Unions to take part in the world music festival in Recklinghausen, Germany, in November. A statement issued by the German embassy in Pretoria has said that Mzwakhe had been invited to visit Germany since 1987 but he had been repeatedly refused the necessary travel document.

Mzwakhe has been detained several times and he maintains that the authorities' attempts to silence him have not been successful.

After his release from his recent spell of detention, he said: "I regard myself as entering the second phase of my creative years. As a poet you have to produce poems. In solitary confinement I produced from memory."

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Sowetan 22/9/89

'Woman a platoon commander'

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By MONK NKOMO

SEVEN suspected members of the Azanian National Liberation Army, the military wing of the Black Consciouness Movement of Azania, will appear in the Klerksdorp regional court on October 5 on charges of terrorism.

According to the charge sheet, the accused are members of the BCMA and its military wing AZANLA, who underwent military and political training in several countries - including Libya and Botswana - with the aim of overthrowing the South African Government through violence. Mr Willie Seriti, whose firm represents five of the accused, yesterday confirmed the trial date.

The seven, who include a woman, are: Mziwendoda Lawrence Kondile (22) of Port Elizabeth; Matikela Mashiqana (27) of 4244 Tubani Street, Kwazakhele, Port Elizabeth; Motsamoai Patrick Nthako (24) of 106 Thabong Township Welkom; Nelson Joyi (27) of 3995 Sali Street Kwazakhele; Saxone Mokonenyane (20) of 218 Thabong Township; Simon Ndlovu (18) and Miss Dorris Kuki Tlhako (17) both of Dlamini, Soweto.

The State alleges that Tlhako became a platoon commander while she underwent training outside the Republic between November 1986 and October 1988. Kondile, according to the charge sheet, acted as an instructor and provided military training to members of the BCMA and AZANLA. He also became head of the intelligence and military committee of the organisation in January last year, the state alleges.

Policeman had no warrants for terror accused

Supreme Court Reporter

A SECURITY policeman testifying in the terrorism trial of Mr Tony Yengeni and 13 others said in the Supreme Court yesterday that he did not have warrants to search the room of or arrest one of the accused, Ms Gertrude Fester. Cape Times 23/9/89 (331)

Warrant Officer J Theron said this during cross-examination for the defence by Mr Johnny de Lange.

WO Theron said he had received instructions from Captain William Liebenberg, the head of the terrorist detection unit, to search for and arrest Ms Fester, after the security police received information on Ms Fester.

At 5am on May 19 last year, he and four colleagues went to Ms Fester's Kensington home, where he warned her he was arresting her in terms of security legislation.

They had searched Ms Fester's room and confiscated a box of documents and video tapes.

Asked by Mr De Lange if it was true that he had not read Ms Fester her rights, WO Theron said this was correct, because he was not involved in the investigation and could not ask her questions.

In response to a question by Mr De Lange, WO Theron said he did not have a warrant for Ms Fester's arrest, nor did he have a warrant to search her room.

The trial continues on Monday.

Clemency plea by cadre's mother

By SOL MORATHI

THE mother of an ANC cadre sentenced to death in the sensational Messina treason trial, has written an open letter to the State President FW de Klerk pleading for clemency for her son.

Winnie Mncube of Soweto, sent the letter on behalf of her son Mthele-leli this week.

Mncube and Mzonde-leli Nondula received 11 death sentences and 50 years in jail in May last year for murder, treason, attempted murder and entering the country with arms and ammunition.

An edited version of Winnie Mncube's letter is as follows.

"Mr De Klerk, I am a mother and my son Mthetheleli Zephania Mncube is languishing in death row with other children opposing and fighting apartheid.

"Today I wish to make a call to you in direct response to your oath that you are committed to 'justice for all'.

"The practical implementation of a promise for a better life for us all after the elections would naturally be, first of all, commuting all death sentences imposed on our sons by apartheid.

"Now Mr De Klerk, I say the ball is in your court to save all these poor souls. Mr De Klerk, I am pleading and praying on my knees to God that you do not stain your hands with the blood of our innocent sons."

A-G to decide on South editor's trial

Staff Reporter

THE trial of a former editor of South newspaper for allegedly contravening emergency regulations has been postponed in Cape Town Magistrate's Court pending a decision by the Attorney-General.

Mr Rashid Ahmed Seria, 38, of Surrey Estate, has not been asked plead to charges of contravening emergency regulations on May 11 1988 by publishing an article entitled "It's 1985 in the schools again," with news comment on a school boycott.

Yesterday magistrate Mr M J C Tolken postponed the matter until October 11 pending the Attorney-General's decision.

Mr J M McEwan appeared for the State and Mr D Gihwala for Mr Seria.

200 bound for court after protest violence

ARGUS 25/9/89

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The Argus Correspondent

PRETORIA. — At least 200 people are to appear in the Pretoria Magistrate's Court today in the wake of Saturday's violence at Church Square, the Union Buildings, and in Church and Bloed streets.

They include members of the Women Against Repression coalition of 29 groups — organisers of a 35 000-strong march on the Union Buildings and which the government successfully stopped by appealing to the Supreme Court to ban it — journalists, photographers, trade unionists, activists and members of the public arrested in Church and Bloed streets.

All those arrested were released on their own recognisances on Saturday after their particulars were taken by police and told to report at the magistrate's court today.

A total of 154 people were held at Church Square and the Union Buildings and an unknown number outside Cosatu's Northern Transvaal's headquarters building in Bloed Street.

The incidents arose during a protest rally held on Church Square by the Afrikaner Weerstandsbeweging (AWB), the Afrikaner Volskwag, the Boerestaat Party and the Vereniging van Oranjewerkers.

Girl, 12, in dock with protesters

Cape Times 26/9/89

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PRETORIA. — Two people who were among 139 scheduled to appear in the Magistrate's Court here yesterday in connection with Saturday's protest were rearrested yesterday after a crowd began dancing and singing in the court complex.

Meanwhile, at a news conference in the Martyrs' Chapel of St Alban's Cathedral near the court, Women Against Repression (WAR) vowed to march again, undaunted by the police crushing of their attempt to march to the Union Buildings on Saturday.

WAR said they would again refuse to ask for permission for the march because peaceful protest was a democratic right.

Among the accused in court yesterday was a 12-year-old girl from Lenasia, who was arrested on Saturday and held for two hours before being released and warned to appear. Charges against her were dropped, however.

A total of 113 accused were warned to reappear on November 30.

Provisional warrants of arrest were issued against 25 who allegedly failed to appear.

Seven doctors, who are members of the National Medical and Dental Association, were among the people arrested on Saturday, as well as five journalists.

The accused went to the WAR news conference yesterday after their appearance in court to describe what they witnessed on Saturday, but their observations may not be published.

At the court yesterday a warning was directed at a crowd of 60 by police, who said they were contravening the Internal Security Act.

"You are not allowed to sing and dance. You will be arrested," police said.

A woman who led the singing and dancing was led away by police.

The two people who were rearrested yesterday were Ms Pamela Majodina and Mr Peter Lemalo.

In other developments yesterday:

- Police in East London said they would act where necessary in terms of the law during a march planned here tomorrow. A police spokesman said he would like to remind the organisers of the protest about the terms of the Internal Security Act which prohibited all open-air gatherings.
- In Pretoria, the leader of the Conservative Party, Dr Andries Treurnicht, urged the government to ban anti-apartheid protest marches, saying allowing them was playing into the hands of the ANC. — Sapa

'Order had broken down'

Star 26/9/18 (331)

CAPE TOWN — The "Trojan Horse" operation, in which three people died after police opened fire on stone-throwers, was planned because "law and order had broken down", the Cape Supreme Court was told yesterday.

The operation, in which policemen allegedly hid in crates on the back of an unmarked railways truck, was intended "to observe and identify ringleaders responsible for inciting riots", according to statements by four of the policemen involved read to the court by Colonel George Potgieter, district CID officer for Athlone.

The colonel was testifying in the private prosecution of 13 security force members for the death of Shaun Magmoed (16). The statements form part of the inquest record handed to the court and the defence is contesting the admissibility of certain of the accused's evidence at the inquest.

The hearing continues.

[redacted] and

Drama after Pta demos

By ALINAH DUBE

POLICE allegedly arrested and assaulted two of the 103 people who were due to appear in the Pretoria Magistrate's Court yesterday following demonstrations in the city centre on Saturday.

The two, Mr Peter Lebelo and Miss Pamela Majodima, were arrested when a group of people started chanting and singing outside the courtroom.

A policeman warned that the crowd was contravening the Internal Security Act and that they were not allowed to sing and dance.

Steven Motingoe, one of the lawyers representing the accused who have been charged with attending an unlawful gathering, told the court that Lebelo and Majodima had been assaulted after yesterday's arrests.

The two were warned and released after new charges were put before them.

Among those who appeared before Mr W J Krugel following the Women Against Repression's protest were journalists.

They included the bureau chief for the ABC news, Mr Richard Sergay, Mr Carl Raubenheimer and Mr Alvin Andrew both of the ABC news, Mr Gideon Mendel, a freelance photo-journalist with overseas publications.

On duty

A lawyer representing the journalists, Mr D Dison, told the court that his clients had been arrested while on duty covering Saturday's events.

He also said that his other client, Dr Suzan Goldstein, was arrested while manning a first aid station in the city.

The magistrate also issued warrants for the arrest of 27 people who were not in court yesterday.

The arrests will not be effected pending the next hearing on November 30.

It was also mentioned in court that an accused, Mr Lucas Masombuka, was in hospital as a result of an alleged police assault.

A 12-year-old Lenasia girl, who was arrested while walking across a park with her mother, had charges against her withdrawn.

Warned

All the accused have been warned to appear in court on November 30.

Other lawyers in the case are Mr Mpho Molefe, Mr A Ayob and Mr J Bellew. Mrs C van Huyssteen is prosecuting.

Terror accused seen in house — evidence

ARGUS 26/9/89 (331)

By LINDA GALLOWAY
Supreme Court Reporter

A SECURITY policeman driving past a house in Nyanga saw through an open doorway a man he recognised as a suspect, the Supreme Court, Cape Town, has been told.

Warrant Officer Theron, giving evidence in the Yengeni terrorism trial, said he had orders to be "on the lookout" for accused Mr Charles Mahlale.

He said he was attached to the security police "black affairs" section which was separate from the investigation unit.

He was responsible for the arrest of Mr Alpheus Ndude, Mr Mahlale and Ms Gertrude Fester.

Warrant Officer Theron said he and a colleague were driving down a street in Nyanga when he saw a man he thought was Mr Mahlale through an open doorway.

Reversed

He reversed, looked again, drove on and reversed a second time. He entered the house, warned Mr Mahlale that he was under arrest and took him to the car.

He said it was "untrue" that his partner, a Sergeant Steenkamp, had pointed a firearm at Mr Mahlale and said this would not have been necessary as Mr Mahlale had co-operated.

He had not regarded Mr Mahlale as a dangerous person.

It was possible that his colleague had taken the bag Mr Mahlale was carrying to see what was in it.

Mr Johnny de Lange, for the defence, said his instructions were that Warrant Officer Theron's colleague had pointed a firearm at Mr Mahlale as he walked to the car.

Asked

He said Mr Mahlale would say that he was not told why he was being arrested and that when he asked Warrant Officer Theron what he was to be questioned about, there was no response.

When he asked again the policeman placed his hand "in the area where his gun was."

Warrant Officer Theron denied this.

The hearing continues.

Special 'appeal' for Delmas 11

BLOEMFONTEIN — The Appeal Court in Bloemfontein has granted an application by 11 men convicted in the Delmas terrorism trial for a special entry (as amended) on their trial record to be heard as a preliminary appeal, separate from the main appeal.

The special entry concerns whether, in connection with or during the proceedings, there were irregular and/or illegal departures from and infringements of the formalities, rules and principles of procedure which the law requires to be observed.

When the application was argued before the court on August 24, it was submitted that the irregularities were, "per se", irregularities that would vitiate the proceedings of the trial in which Gcinumuzi Petrus Malindi and 10 others were convicted by Mr Justice K van Dijkhorst in November last year.

The trial, which stretched over 37 months, is believed to be the longest trial in South African legal history.

The basis of the argument for the special entries is that the trial court was not properly constituted after the trial judge ruled that one assessor, Dr W A Joubert, had to recuse himself. The trial had then proceeded before the judge and remaining assessor.

A basis for the special entry to be argued as a preliminary appeal is the expense and time that would be involved to prepare a full record of the trial, which will be needed if the main appeal has to be heard.

However, if the Appeal Court should find that the trial was irregular, the convictions and sentences will have to be set aside and there will be no need for an appeal against them.

The estimated cost to prepare the trial record is between R388 000 and R480 000.

Mr Justice Nicholas (acting judge of appeal), with the concurrence of the Chief Justice Mr Justice Corbett and Mr Justice Botha, said that, in his opinion, this case was of the exceptional kind which justified an order for the appeal to be heard in two stages.

"For the reasons advanced by the appellants, it falls into a very special category. The proposed course would be convenient to all parties and the court, and it would not result in disadvantage to anyone," said the judge.

He added that a consideration not so far mentioned in his judgment was that some of the appellants were serving sentences of imprisonment. If their convictions were to be set aside, that should be done at the earliest stage possible.

Mr Justice Nicholas said the first three sub-clauses of the special entry, at least, raised points of substances which, if decided in favour of the appellants, would probably be decisive of the appeal. The arguments advanced in support of them were cogent.

He said the argument for the fourth sub-clause (which dealt with the trial judge's ruling that certain parts of reports by Dr Joubert were inadmissible) was not as strong. — Sapa.

Released from detention

By Stan Hlophe

Restricted United Democratic Front leader Mr Trevor Manuel was released from detention in the Free State yesterday and is expected home tonight.

Mr Manuel, the secretary of the UDF's Western Cape region, went on a hunger strike after he was detained without charge under the emergency regulations last month, his attorney, Mr Essa Moosa, said.

HEALTH

Mr Moosa said there was concern over Mr Manuel's health, particularly as he had taken part in previous hunger strikes.

Mr Manuel was detained on August 8 after savouring freedom for less than 80 days.

He was freed on July 7 after spending almost two years as an emergency detainee.

record — defence

Own Correspondent

CAPE TOWN — An objection to the admission of an inquest record has been lodged by defence counsel for the 13 security policemen in the "Trojan Horse" trial.

The defence counsel for the 13 policemen accused in a private prosecution of the murder of a 16-year-old boy in October 1985 have lodged an objection against the admission of an inquest record because of certain irregularities pertaining to the proceedings.

An inquest was held after three people died when police opened fire on a group who allegedly stoned a SATS truck in which the men were hidden.

They also object to the admission of the testimony of two of the accused in previous criminal proceedings relating to the case.

Advocate F Hattingh, for the defence, argued that the inquest magistrate failed to adequately warn the men against incriminating themselves.

REPRESENTATION ADEQUATE

He asked for this evidence as well as the rest of the inquest records to be disregarded.

Arguing on behalf of the prosecution, Mr Jules Browde SC said the witnesses, now the accused, had adequate representation at the time of the inquest.

He said Mr Anton Veldhuizen, who had appeared on behalf of the Minister of Law and Order at that time, had therefore also appeared on behalf of the policemen because they were part of his department.

Mr Veldhuizen, now on the defence team, had also objected on several occasions on behalf of one of the witnesses against questions put to him. On one occasion this witness had refused to answer a question, Mr Browde said. When asked why, Mr Veldhuizen had stepped in and given an explanation.

The case continues.

Star 28/9/89

Forensic tests throw police evidence awry

331

CAPE TOWN — A police ballistics expert yesterday placed doubt on the evidence of two policemen implicated in the "Guguletu Seven" inquest in Wynberg.

Brigadier Albek van Schalkwyk told the court he had reason to believe that Warrant Officer H Barnard could have misjudged the distance at which he shot dead an alleged ANC terrorist in bushes near the N1 in Guguletu.

"According to W/O Barnard's statement he was about seven paces behind the deceased ... I would conclude that his own momentum must have carried him closer than he realised," he said.

Brig van Schlkwyk also said that although Constable T J Mbelo had testified that his arms had been parallel to the ground when he had fired several pistol shots into another alleged terrorist near the Guguletu intersection of NY1 and NY111, he could well have lowered his hands to fire the second shot into the falling man.

Forensic evidence indicates that one of the shots that killed the man that Const Mbelo fired at travelled upwards through the man's body, thereby throwing into question the angle at which the shot was fired.

"He could have overcompensated in trying to return his hands to a parallel position after recoiling from the first shot," Brig van Schalkwyk said.

The inquest into the deaths of seven alleged ANC guerillas in Guguletu on March 3 1986 was re-opened this month following the emergence of new evidence during and after the Police Act trial, and acquittal, of *Cape Times* journalist Mr Tony Weaver.

Mr Weaver was charged with publishing untrue matter about the police by saying the men had been shot in cold blood and that the police had then "planted" weapons on the deceased.

The hearing continues. — Sapa.

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Cops charge Natal Mercury

Own Correspondent

DURBAN. — Police yesterday warned the editor of the Natal Mercury, Mr James McMillan, that charges were being investigated against the newspaper for allegedly contravening the Media Emergency Regulations.

According to the warning, the paper published a story "commenting on security actions and deployment thereof and a restricted gathering ... as well as the placing of a photograph on page two of an unrest situation".

The story and photograph concerned violence at the University of Natal's Durban campus on September 4.

'Police should know their rights'

Own Correspondent

CAPE TOWN — Because of the nature of their work, policemen should know about not incriminating themselves in evidence in court, the Cape Supreme Court was told yesterday.

This was said by Mr Jules Browde, SC, in reference to evidence given by policemen in an inquest which followed the "Trojan Horse" incident in 1985.

Mr Browde, appearing for a private prosecution, was addressing the court on the admissibility in the present trial of the inquest and earlier trial records.

The defence has objected to the admission of the records, because they believe the witnesses were not warned of their rights not to answer questions which could incriminate them.

Mr Browde argued that the men were in fact warned, and that as they were represented by counsel, they were protected against incriminating themselves. He added that as policemen, they should have been aware of their rights.

The inquest was held on the deaths of three youths in October 1985 when police hiding in crates on the back of a Sats truck opened fire on a group of people who had allegedly stoned the truck.

S Africans 'buying illegal passports'

330 Own correspondent CT 28/9/89

LONDON - South Africans are able to buy passports from the Dominican Republic and could be using them for sanctions-busting operations, the journal Africa Confidential claims.

The journal quoted business sources in Johannesburg saying Dominica was the only Caribbean island willing to sell its passports to South Africans, and did so with the help of a middle-man in London.

A spokesman for Dominica's Foreign Ministry denied any knowledge of the passport sales, which he said would be illegal.

But Africa Confidential claimed that South AFricans needed only to make a "substantial investment" in land on the island. They did not even need to be resident.

The journal said some property developers and government officials in the Dominican Republic were doing well from the passport trade.

Dominica is reported to be rife with corruption and a major drug-trafficking centre.

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Delmas appeal to be heard in two stages

BLOEMFONTEIN. — The Appeal Court has granted an application by 11 men convicted in the "Delmas" terrorism trial for a special entry on their trial record to be heard as a preliminary appeal, separate from the main appeal.

The special entry concerns whether, in connection with or during the proceedings, there were irregular and/or illegal departures from and infringements of the formalities, rules and principles of procedure which the law requires.

When the application was argued before the court on August 24, it was submitted that the irregularities would invalidate the trial in which Gcinumuzi Petrus Malindi and 10 others were convicted by Mr Justice K van Dijkhorst in November last year.

LONGEST TRIAL

The trial, which stretched over 37 months, is believed to be the longest trial in South African legal history.

The basis of the argument is that the trial court was not properly constituted after the judge ruled that one assessor, Dr W A Joubert, had to withdraw. The trial had then proceeded before the judge and remaining assessor.

A basis for the special entry to be argued as a preliminary appeal is the expense and time that would be involved to prepare a full record of the trial, which will be needed if the main appeal has to be heard.

However, if the Appeal Court finds that the trial was irregular, the convictions and sentences will have to be set aside and there will be no need for an appeal against them.

The estimated cost to prepare the trial record is between R388 000 and R480 000.

EXCEPTIONAL CASE

Mr Justice Nicholas (Acting Judge of Appeal), with the concurrence of the Chief Justice, Mr Justice Corbett, and Mr Justice Botha, said that, in his opinion, this case was of the exceptional kind which justified an order for the appeal to be heard in two stages.

"For the reasons advanced by the appellants, it falls into a very special category. The proposed course would be convenient to all parties and the court, and it would not result in disadvantage to anyone", said the judge.

He added that a consideration not so far mentioned in his judgment was that some of the appellants were serving prison sentences. If their convictions were to be set aside, that should be done at the earliest stage possible. — Sapa.

Alleged PAC man convicted

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TWENTY - nine - year - old alleged activist Vusimusi Wellington Mandoyi was yesterday convicted of a terrorism charge and of being a member of an unlawful organisation by the Johannesburg Regional Court. Sowetan 29/9/89

The magistrate, Mr S J Lombard, convicted Mandoyi mainly on the strength of a confession he made after his arrest as well as the evidence of four State witnesses, three of whom may not be identified.

The confession was contested by Mandoyi's defence counsel, Mr B Ngoepe, on basis that it was not made voluntarily. But it was ruled admissible by the court.

The three witnesses who testified in camera, Mr X1, Mr X2 and Mr X3, told the court earlier that they were former members of the PAC. They said they had met Mandoyi at various times between 1978 and 1987 in Lesotho, Zimbabwe and Libya.

The defence will lead evidence in mitigation today.

30/9/89

Trialist 'had nothing to hide'

Supreme Court Reporter

TERRORISM accused Mr Gary Kruser had agreed to write a statement on his involvement in bringing arms across the border from Botswana and had later also volunteered to a make a confession to a magistrate, the Supreme Court heard yesterday.

This was said by Warrant-Officer Adriaan Kruger, of the Mossel Bay security branch, in evidence in the trial of Mr Tony Yengeni and 13 others.

WO Kruger said he interrogated Mr Kruser at Rondebosch police station, where he was being held under Section 29 of the Internal Security Act, on September 30, 1987.

Confession

He warned Mr Kruser that he was not compelled to say anything but if he did it would be taken down and used as evidence against him.

Mr Kruser told him he had nothing to hide and accepted five folio pages on which to write down his "story". WO Kruger said he collected the pages the next day.

Mr Kruser also "agreed to make a confession to a magistrate", and did on October 1.

WO Kruger said he never received complaints about injuries from Mr Kruser.

The trial continues on October 16.

Police warn five papers of probe into 'breaches'

By ANTHONY JOHNSON
Political Correspondent

POLICE have so far this week informed the editors of five English-language newspapers that possible breaches of the emergency regulations are being investigated against their publications.

The editor of the Cape Times was informed by police yesterday that two alleged contraventions of the regulations are being probed by police. The cases involve the publication of a report and a photograph dealing with security force action in Hanover Park in July this year.

Earlier this month the editor was told by police that the publication in the Cape Times of a photograph portraying security force action in central Cape Town shortly before the election was also being investigated.

Sapa reports that the editor of The Star was informed by police yesterday that they were looking into an allegation that the newspaper had contravened the emergency regulations.

On Wednesday, security police visited the offices of three Durban newspapers to warn each editor of charges being investigated against their newspaper.

Editors of the Daily News, the Sunday Tribune and the Natal Mercury were each visited by police but the charges being investigated are related to different news reports and, in the case of one of the newspapers, to advertising.

1st Oct 1989 Sunday Times

Love soothes the anguish for convicted ANC pair

By CHARIS PERKINS

IT'S a weekend of trauma for the convicted Broederstroom three as they wait for their sentences to be handed down by a magistrate this week.

Susan Westcott, 25, Damian de Lange, 31, and Iain Robertson, 36, have been convicted of multiple charges of terrorism by Mr W J van den Bergh in the Pretoria Regional Court following a police raid on a farmhouse in the Broederstroom district.

"Susan has reconciled herself to going to prison," said her mother, Mrs Margaret Westcott, yesterday.

Solitary

"She has been alone in her cell — effectively in solitary confinement — ever since her arrest 18 months ago but she is coping very well.

"The prison authorities have allowed her a colour television and a ration of two videos a day. She helps to pass her time knitting and has just knitted a beautiful jumper for her dad.

"She is a strong woman and we are proud of her," she said.

Susan and co-accused De Lange are to marry in prison as soon as their divorces are finalised. The couple have not spent time alone together since they were arrested at Broederstroom.

THE FAMILIES: Damian's brother-in-law Carl, his mother Grace, Susan's brother Michael and parents Margaret and John Picture: STEVE GREEN

But they are allowed to write letters to each other and their relationship has blossomed behind bars.

"My daughter loves Damian and it is their relationship which keeps the hope in her alive. Their love is something she can hold on to," said Mrs Westcott.

"Damian has told me he wants to marry my daughter because she is beautiful, intelligent, strong and brave."

The couple's defence lawyer, Peter Harris, confirmed the two have instructed him to institute divorce proceedings.

He said he was unable to predict when the marriage would take place.

Very little is known about Susan's husband. In June this year, Susan's father John told the court he learnt of his daughter's marriage only after her arrest.

"It was a marriage of convenience. Susan needed a new surname as part of the disguise she had to assume for her South African mission," he said this week.

Cell

"Her husband, Dominic Donelly, was 48 and she met him for the first time the day they were married."

Damian has a wife named Diana. They were married in Botswana in 1982 and have twin sons.

Susan and Damian met each other in Swaziland in 1986 where Susan was teaching.

When Susan volunteered to join the all-white cell of the African National Congress military wing in 1987, she had no idea Damian was also part of the team.

They entered South Africa separately to meet at Broederstroom. He was the cell's leader — she its communication officer.

"Susan joined Umkhonto we Sizwe because of her way of thinking. Her value systems and her objectives in life were firmly established," sociologist and witness for the defence Professor Brunhilde Helm told the court.

Susan and Damian gave no sign of being in love as they sat in the dock this week. They hardly glanced at each other as they sat on either side of fellow trialist Iain Robertson listening intently to the proceedings.

She has pleaded guilty to 10 charges of terrorism. Iain and Damian have both pleaded guilty to 11 terrorism charges, and Damian to two counts of arson.

Testifying at the trial late this week, South African security police explosives and weapons expert Captain Hendrik van Niekerk Kotze said the weaponry and explosives found during the raid on Broederstroom could have caused massive death and destruction if they had been used properly.

Among the weapons found were a Russian-made Sam-7 surface-to-air missile, 60mm mortar bombs from North Korea, hand-grenades, an AK-47 assault rifle, a home-made bomb, a Russian PKM belt-fed machine gun and a limpet mine.

Giggles as witness describes accused

1st October 1987

By HAPPY ZONDI

GIGGLES filled the Rand Supreme Court this week as Dr Abu Baker Asvat murder trial witness Floyd Sakhile Tshabalala explained how he could not forget second accused Thulani Nicholas Dlamini's head.

He told Justice Mr AJ Solomon this week: "It is huge, but his face is small. His jaws are connected to the head, and he has a long sharp chin," said Tshabalala, who works for the Soweto Fire Brigade.

Tshbalala said he went to the Rockville surgery on January 27 to collect a patient to be taken to Baragwanath Hospital.

When he arrived, an "hysterical" woman ordered him to chase two men who had shot Asvat.

However, he lost the fleeing men in a park.

By the time he returned to the surgery Asvat was dead.

Dlamini, 20, and Zakhele Cyril Mbatha, 21, have pleaded not guilty to a charge of murder, two counts of unlawful possession of firearms, two counts of robbery, and two of unlawful possession of ammunition.

The court also heard that the pair broke into a Nongoma store belonging to Ephraim Mdlalose in Natal in June 28 last year.

They assaulted him and robbed him of R55 000, his wrist watch and cigarettes.

On the fifth day of the hearing, the defence requested a trial-within-a-trial.

Thokoza 2 appeal against jail terms

By MARTIN NTSOELENGOE

ONE of the longest theft trials in the legal history of South Africa, involving the former mayor and town clerk of Thokoza, ended this week.

The trial of Dikekedi Doris Thinana, 43, of Soweto and Lebethe Gerald Mmamabolo, 45, of Thokoza started on January 6, 1987, and dragged on for 34 months.

The two were sentenced to eight years in jail by IJJ Luther in the Johannesburg Regional Court. Their appeal will be heard tomorrow.

Passing sentence, the magistrate said they stole council money for their own ends.

They were each sentenced to six years on the first count of stealing R513 083 from the council on April 19, 1986. On the second count, of stealing R164 243 on June 9 of that year, they received two years each.

Thinane said R700 000 had been used to buy two houses. Councillors denied knowledge of this use of council funds.

CNL
Trust
2/11/89

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Contempt charge for editor

JOHANNESBURG. — The editor of Saamstaan, Mr Derick Jackson, has been charged with contempt of court in connection with an article published in June 1989, the Human Rights Commission (HRC) said in a statement yesterday.

A HRC spokesman said police had advised other newspapers "that charges against them are being investigated".

He said Mr Jackson was charged for contempt of court, regarding an article published in June 1989 by Oudtshoorn-based Saamstaan newspaper, which was awarded the Pringle Award for press freedom in 1988.

The report commented on the seemingly light sentences passed on two policemen who were found guilty of the murder of activist Mr Andile "Ace" Kobe, who died of injuries received in police custody. — Sapa

3-9/11/89. (331) woman1

'ANC colours' row at trial as Rivonia men arrive

By PHIL MOLEFE

DRAMA unfolded in the Pretoria Regional Court this week when four of the recently released ANC leaders showed up at the Broederstroom terrorism trial.

As the three trialists went down to the cells, following a court ruling that they take off the ANC colours they were wearing, the four ANC leaders entered the court room to resounding cries of "Viva comrade leaders and Viva the ANC".

When Walter Sisulu, Ahmed Kathrada, Elias Motsoaledi and Andrew Mlangeni arrived on Wednesday for the trial the court had adjourned for the third time since the proceedings began in the morning.

The state, represented by Advocate Pretorius, had objected to the trialists wearing ANC colours saying "it is still an offence in South Africa to publish or exhibit colours of a banned organisation".

"In this particular instance, your worship, an offence is being commited in court and outside court," said Pretorius.

The trialists, Damian de Lange and Iain Robertson, in navy blue suits and white shirts wore black ties sporting ANC colours; and Susan Westcott, wearing a green and black T-shirt, made a natural pattern of ANC colours with her blonde hair. Westcott also wore a green and gold scarf around her neck.

Defence counsel David Soggot said the colours wore by the three accused could be appropriate to the ANC as well as to Inkatha.

Magistrate WJ van den Bergh ruled after the defence's submission that the colours were illegal and he did not wish to continue with the trial until the accused had taken off the ANC colours.

The proceedings were halted for about 20 minutes during which there was a deadlock over the display of the movement's colours.

The trialists emerged after the lengthy hush-hush consultation with their legal advisers to find the ANC leaders already occupying the front bench in the public gallery.

Once again cries of "Viva comrade leaders" resounded through the packed courtroom as the Broederstroom three hugged and greeted the leaders.

"We are with you throughout," whispered the 77-year-old former ANC general secretary Walter Sisulu, as he shook hands with the three.

The four released leaders listened attentively as Soggot cross-examined Professor FA Maritz, a sociologist and Unisa's dean of arts, who testified in aggravation of sentence.

Professor Maritz had earlier told the court he disagreed with the testimony of two other socioligists, Betty Welz and Professor Brunhilde Helm, who appeared for the defence.

Welz and Helm had told the court the trio had no choice but to join the military wing of the ANC, Umkhonto weSizwe, because of their objection to the policy of apartheid.

Maritz said he did not agree with the two sociologists as the trio had other options open to them

See PAGE 13

Noel Williams charge dropped

Staff Reporter

FORMER detainee and UDF leader Mr Noel Williams had a charge of contravening the conditions under which he was released withdrawn against him in Cape Town Regional Court yesterday.

The state alleged that Mr Williams, 41, of Alicia Crescent, Avondale, Atlantis, broke his restriction order by leaving the Malmesbury magisterial district without permission and going to Louwville, Vredenburg, on September 22 last year.

Mr Williams was released from detention in September 1987 after three months.

Star 3/10/89 331

Terror trial told of confession

Own Correspondent

CAPE TOWN — Terrorism accused Mr Gary Kruser agreed to make a statement on his alleged ANC involvement even after he had been warned that he did not have to say anything, a Mossel Bay security policeman has told the Supreme Court.

This was the evidence given by Warrant Officer Adriaan Jacobus Kruger during the trial of Mr Tony Yengeni and 13 others on charges of terrorism.

The policeman told the court he had information that Mr Kruser had brought weapons across the border from Botswana and had interrogated him at Rondebosch police station.

He warned Mr Kruser that he had the right to remain silent but that anything he said could be used against him.

CLARITY

Mr Kruser said he had nothing to hide and so he gave him sheets of paper and told him to "write your story". After that he had only questioned Mr Kruser to get clarity on certain things he had written down.

Warrant Officer Kruger said Mr Kruser had also agreed to make a confession before a magistrate.

Mr Kruser had not complained to him of any injuries.

The trial will resume on October 16.

The trialists are Mr Tony Yengeni, Ms Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

Dladla and Ebrahim lose pleas

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Cape Times 3/10/89

BLOEMFONTEIN. — The Appeal Court here has refused applications for leave to appeal by two men convicted in connection with land-mine attacks near the Swaziland-South African border in 1986.

Simon Dladla was refused leave to appeal against his conviction and 12-year sentence for terrorism and Ebrahim Ismail Ebrahim, a senior member of the African National Congress, was refused leave to appeal against his 20 years' imprisonment for treason.

The men were convicted by Mr Justice H Daniels in the Eastern and South-eastern Circuit Local Supreme Court at Piet Retief on November 21, 1988. — Sapa

7 'Azanians' on charges of terrorism

4/10/89 STAR

By Thabo Leshilo

Seven suspected cadres of the Azanian National Liberation Army (Azanla) will appear today in an historical case in the Klerksdorp Regional Court on charges of terrorism.

It is the first case in the country to involve insurgents from the Black Consciousness movement.

According to the charge sheet the six men and a 17-year-old girl are members of the exiled Black Consciousness Movement of Azania (BCMA) and its military wing Azanla, and received training in Botswana and Libya with the intention to violently overthrow the Government.

UNDERGROUND

The State alleges that some of them formed an underground cell near Tsheseng in Qwa-Qwa where they trained recruits and active supporters of both organisations.

The accused are Mr Mziwemadoda Lawrence Kondile (21), Mr Matikela Mashiqana (27) and Mr Nelson Joyi (27), all from Port Elizabeth, Mr Motsamai Patrick Nthako (24) and Mr Saxon Mokonenyana (20) from Thabong Location Welkom, Mr Simon Ndlovu (18) and a 17-year-old girl from Dlamini.

A spokesman for the instructing attorneys said the trial date would be set today.

Threats against the Press stepped up

ARGUS 4/10/89

By Kaizer Nyatsumba
Argus Correspondent
in Johannesburg

MORE threats of prosecution against the Press have been made in the past six weeks than in the 12 months before that, according to media lawyer Mr Peter Reynolds.

In an interview Mr Reynolds said it was strange that in an era when "reform" and "negotiation" were the buzz words, the government had silently embarked on a campaign to muzzle the press and violate the public's right to know.

Mr Reynolds was commenting on the subpoena by police of South African Press Association (Sapa) editor, Mr Edwin Linington, to appear in court to be cross-examined under oath in terms of Section 205 of the Criminal Procedure Act.

□□□

Mr Linington's subpoena arises from the receipt by Sapa of a press release from Cosatu on July 14, containing resolutions passed by the National Union of Mineworkers (NUM), the National Union of Metalworkers of South Africa (NUMSA), and the Transport and General Workers' Union (TGWU) at the congress of trade unions held in July.

According to Mr Reynolds, Sapa sent the press release to all its members "in the ordinary course of its day-to-day business as a news-gathering body for the major newspapers of this country and the SABC."

Said Mr Reynolds: "The police, according to my information, are already aware of the answers to the questions (they want to ask). It seems to me that the police are proceeding with this matter from the instructions of the Minister of Law and Order, Mr Adriaan Vlok.

"This action against Mr Linington is just another example — and there have been many recently — of harassment of the media by the South African Police. Certainly the press release came from sensitive political organisations, and certainly the resolutions were strongly worded, but this is no reason to harass the editor of Sapa.

□□□

"Why do the police not obtain answers to their questions from the source of the press release, Cosatu?"

Mr Reynolds said it was important that the South African public knew that the Government had embarked on a subtle method of harassing the press. If the people knew the Government was tampering with their right, then maybe the Government would be forced to "back down," he said.

He said at this time in the history of South Africa, it was of fundamental importance that all South Africans knew what people both inside and outside the country were saying and doing.

Mr Reynolds pointed out that although an important meeting had taken place between the ANC and members of the Broederbond, South Africans would never know the ANC's view of the meeting because the organisation's office-bearers could not be qouted in this country.

Hope never dies in the shadow of the gallows

Next week marks the 26th anniversary of the opening of the Rivonia Trial, now marked as International Prisoners' Day. This year, the focus is on Death Row inmates.

IVOR POWELL reports

ON October 11, 1963 — as an act of solidarity with the accused in the Rivonia Treason trial which had opened two days earlier — the United Nations passed Resolution 1181, calling for the release of political prisoners in South Africa.

Thirteen years later, in 1976, the UN passed another Resolution, number 21/6C, declaring the day as an annual International Prisoners' Day.

In South Africa — which has been called the "imprisoned society", which has often had the highest rate of incarceration per capita in the world, which until this year was second only to Iran in frequency of legal executions — the day has a special relevance.

But to none more than to those who find themselves on Pretoria Central Prison's Death Row.

The *Weekly Mail* is in possession of two documents — one overtly activist, the other soberly academic — which deal in depth with the lives and expectations of death experienced by those awaiting execution.

The Shrinking World of Pretoria was written by exile Phyllis Naidoo in Harare. The other, *The Living Dead: Living on Death Row*, was written by the University of the Witwatersrand's Project for the Study of Violence director Lloyd Vogelman and was first delivered to a legal convention earlier this year.

The two documents agree in points of substance to a surprising degree.

The Death Row which emerges is a place of unrelieved monotony and boredom, as it is a place of fear; a place of pointless and corrosive hope as it a place of despair. The banality is as

Cells are not large: "If you stand up and face the bars, stretch your hands and you will touch both walls. Your ceiling high up holds the fluorescent lights. Befriend them for they will stay with you until you leave this cell — 24 hours per day", Naidoo writes.

You get five blankets which are almost invariably dirty, both documents testify. There is a basin and flush toilet in the cell ("...possibly for the first time in your life, you have the use of a water borne toilet," Naidoo wryly observes) as well as a folding tray/table and a bed. That is all, except for the sound of a local radio station blaring continually — whether you like it or not — through speakers in the wall.

THREE more people were hanged in Pretoria this week, bringing the total for 1989 to 42.

The three were Khethokule Stephen, 26; Samuel Sam Kokoi Mogohlo, 23, and Alphius Thantsha, 35.

A fourth man, Leon Faasen, was granted a stay of execution.

Fifty-four Death Row prisoners have been reprieved this year.

At 6am each morning a bell rings, marking the start of the new day. At seven, there is a prisoner count, then a five-minute communal shower, and every second day, a shave. At 8am a breakfast is served of soft porridge (with, according to informants, insufficient milk and sugar) and cold coffee (described as being "like dirty water").

Lunch follows a mere three-and-a-half hours later, at 11.30.

Another three-and-a-half hours later, it is time for supper — the day shift workers on Death Row, like most prison workers, keep office hours, regardless of the fact that it means three meals in seven hours and 17 hours without food.

Between meals there are two visiting periods per day, 30 minutes of exercise in enforced silence.

Prison library books, censored newspapers and religious literature — the only kind that may be sent in from the outside world— are available for the long hours the prisoners are alone in their cells.

Perhaps because of their continuous exposure to artificial light, a high percentage of prisoners require spectacles on Death Row.

But, according to Vogelman: "Unlike an ordinary prisoner, it is alleged that the Death Row prisoner may receive spectacles, but not free of charge...

"Similarly according to the sister of a Death Row prisoner, should such a prisoner complain of toothache, the tooth is merely extracted. No conservative dentistry is carried out."

"It appears," Vogelman speculates, "that the attitude underpinning such a policy is that unnecessary expense on such prisoners is wasteful. This attitude is further confirmation to the prisoner of Death Row that his life and his complaints are worth little."

If life is worth little, it often goes on for a very long time. The "Addo Youth Congress Four" spent more than 800 days on Death Row, and it is not unusual for prisoners to await execution for 18 months or more.

But, according to Vogelman, prisoners seldom give up hope. Significantly, he observes, a feature of the fickle but necessary friendships which spring up on Death Row is their directedness to the future.

He recounts a prisoner's report of two inmates under the shadow of the gallows talking of setting up a business together and hotly debating whether to live in Cape Town or Johannesburg.

As Vogelman observes, "a future planned means death denied."

Many turn to religion.

Much of the inmates of Death Row's time is taken up in framing appeals and pleas for clemency.

In the event that these are unsuccessful, notice of execution is finally handed down and the prisoner is moved to the awaiting-execution cells — the "pot".

"Some reports suggest that the (up to) seven prisoners who occupy the 'pot' are often manic. They laugh, make jokes and speak for the whole night. The mania often extends to discussions about the process of hanging. Jokes would be made about who had the largest neck and how much rope the hangman would need."

Near the beginning of the prisoner's stay in the 'pot', he is taken for neck and body measurements. This is done in order to calculate the requisite strength of rope and length of drop to make a clean job of it.

The day before the prisoner finds out what the hangman looks like, he is served a special meal, usually a whole, deboned chicken. Usually that night is taken up in singing hymns or freedom songs.

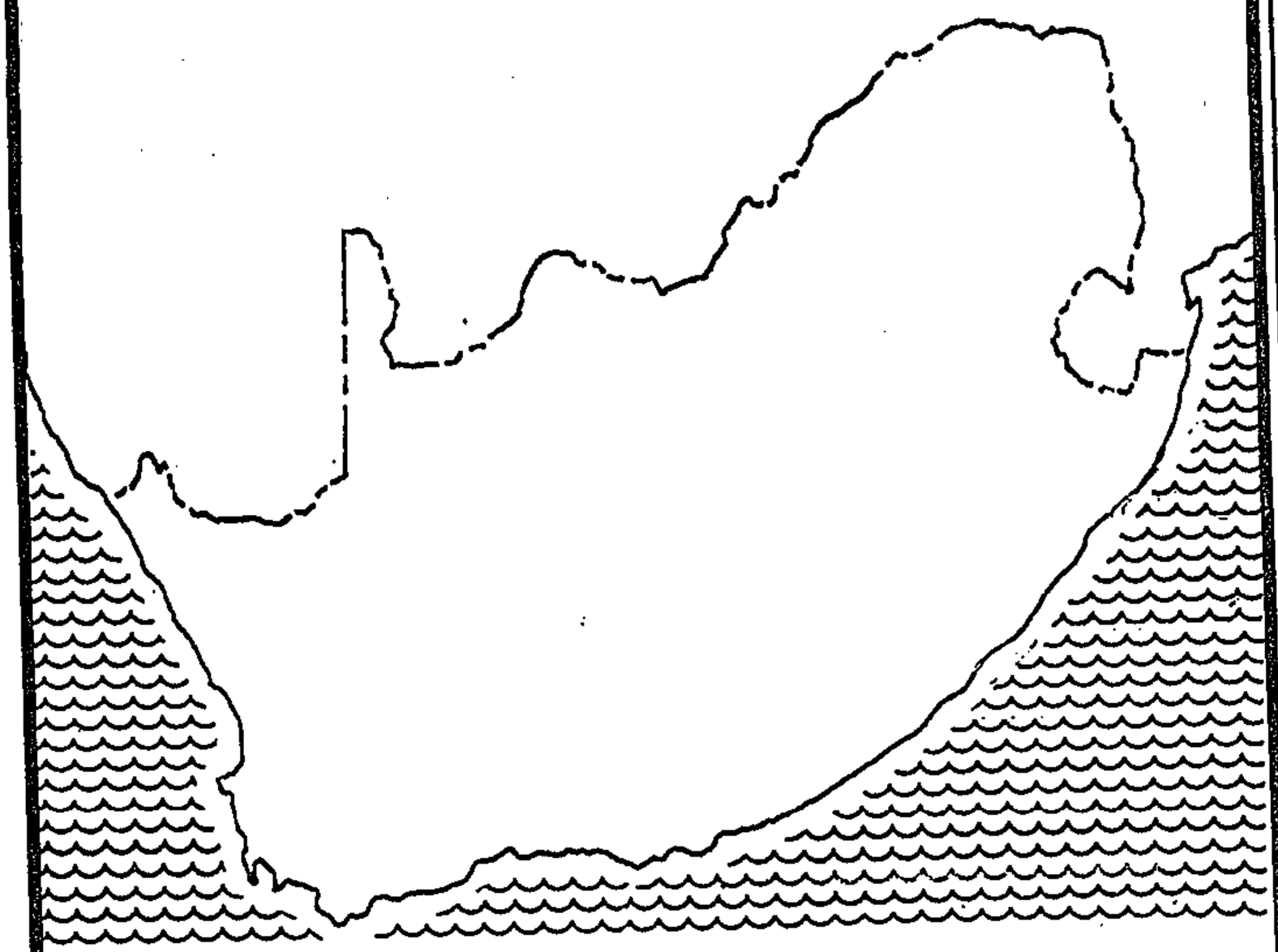
At 6am the prisoners, in the company of a doctor to certify death and a policeman to take fingerprints for purposes of identification, are led up the gallows — which can hang seven people at one time. Ropes — in the case of black prisoners, Naidoo claims, often stained with the blood and vomit of the previous user — are placed around the prisoners' necks and then a hood.

● Pickets in Johannesburg and other protests are scheduled for October 11.

●This article has been put to Prisons Service for comment. They have not yet replied, but their response will be published as soon as it is practicable.

COMRADE
CHIEF DALINJEBO
SABATA

YOUR REBURIAL IS A VICTORY FOR THE STRUGGLE



YOUR UNDYING SPIRIT AND THAT OF COMRADE CHIEF ALBERT LUTHULI WILL CONTINUE TO POWER THE WHEEL OF LIBERATION.

REST IN PEACE!!!!

Issued by: The Mandela Campaign, 37 Jorissen Street, Braamfontein

Assessors' role highlighted

THE role of assessors in the judicial process has been spotlighted in three major trials recently: South Africa's longest treason trial, the murder trial of the Queenstown Six and the trial of three African National Congress guerillas.

The law requires a judge to appoint two assessors if he thinks that the death sentence may have to be imposed. The requirement is obligatory.

The dismissal of an assessor, Dr W A Joubert, by Mr Justice Kees van Dijkhorst in the treason trial known as Delmas 1 has been a major talking point for more than two years.

For appeal

But it is now subject to the scrutiny of the Appeal Court, following a judgment on September 25 in which three Appeal Court judges, including the Chief Justice, agreed to hear an application that the dismissal of Dr Joubert was irregular, separately from the main appeal.

In May, however, the Appeal Court granted judgment in another case involving the discharge of an assessor which is relevant to the pending appeal in Delmas 1.

The second case — known formally as Gqeba and Others vs The State — was cited in the judgment granting the Delmas 1 trialists the right to a separate hearing of their application on the dismissal of Dr Joubert.

In the original trial of Zwandile Gqeba and his co-accused the court sentenced six Queenstown "comrades" to death for the necklace murder of an alleged collaborator. But during the trial the

Conditions are defined in the Act

PATRICK LAURENCE

judge, Mr Justice Kroon, discharged one of the assessors, Mr D de V van Rensburg; he did so to enable Mr van Rensburg to be at the bedside of only daughter, who was desperately ill with cancer.

The trial proceeded before Mr Justice Kroon and the second assessor.

After conviction and sentence, however, the accused took the case on appeal, asking for Appeal Court to declare that the discharge of the assessor had been irregular and thus to free them.

The Appeal Court agreed that the discharge of assessor Van Rensburg was irregular: "After Mr van Rensburg's discharge the court was accordingly not properly composed and its findings cannot stand."

Its reasoning is interesting. The Criminal Procedure Act defines two conditions under which a trial may proceed without one of the assessors: if he dies or if he "becomes unable to act at any time during the trial".

"It seems clear that the mere desire of an assessor to be discharged, however pressing his reasons may be, would not amount to inability to act," the Appeal Court said.

The appeal on the discharge of the assessor in the Gqeba case forms a backdrop to the pending appeal on the dismissal of Dr Joubert by Mr Justice van Dijkhorst in Delmas 1.

In the Delmas 1 trial the judge ruled that Dr Joubert was unable to act after he, the judge, learnt that Dr Joubert had been a signatory to the United Democratic Front's Million Signature campaign.

Mr Justice van Dijkhorst held that Dr Joubert's signature was inimical to "dispassionate and unfettered consideration" of the charges against the UDF leaders and Dr Joubert "has become unable to act as assessor".

Apart from objecting to the judge's apparent willingness to overlook the Broederbond membership of the second assessor, Mr W F Krugel, counsel for the defence, argued that the word "unable" in the Criminal Procedure Act refers to "physical or mental incapacity short of death".

Contention

The Delmas accused, defence counsel contended, were thus entitled to a hearing before the full court, ie the judge and both assessors. The Appeal Court will assess these points when it considers the application, possibly before Christmas.

Delmas II, involving three ANC guerillas, Jabu Masina, Ting Ting Masango and Neo Potsane, is apposite because it highlights the power of assessors.

In that trial Mr Justice de Klerk found that the three men were guilty of murder; in his assessment, however, there were extenuating circumstances because they considered themselves to be soldiers of the ANC fighting a "just war".

But his assessors overruled him, forcing the court to impose the mandatory death penalty.

Holomisa frees 6 prisoners

CPM T-111 7/10/89 331

UMTATA. — Transkei is to release, with immediate effect, six political prisoners in an initiative aimed at "paving the way for discussions on the constitutional future of Southern Africa".

The chairman of the Transkei Military Council, Major-General Bantu Holomisa, said in a statement yesterday that there were currently 12 prisoners in Transkei serving terms of imprisonment for offences which in the main were politically motivated.

"The majority of these prisoners were motivated in their actions by their hatred of the policies which have led to the partitioning of what, at one stage, was a united Southern Africa.

"The government of Transkei, in accordance with its previous pronouncements on the subject, intends promoting dialogue aimed at creating a climate of change which in turn will ultimately lead to the formulation of a new constitutional dispensation for Southern Africa.

"Some of the political prisoners presently in our jails have an important role to play in such dialogue.

"I have stated in the past that Transkei is part of the scenario which is emerging in Southern Africa."

Maj-Gen Holomisa gave the names of those to be released in terms of the decision, as Zakade Buka, Ernest Sotsu, Phumlani Khubukeli, Mfanelo Matshaya, Marelane Kopman and Noble Nthunya. — Sapa

Court for city unionists

Labour Reporter

TWO city trade union officials arrested yesterday while protesting against the Labour Relations Act were warned to appear in Cape Town Magistrate's Court to face charges under the Gatherings and Demonstrations Act.

Cosatu regional vice-chairperson Ms Grace Bosman and Chemical Workers' Industrial Union regional chairman Mr Abraham Aghulas were released on R100 police bail each, an attorney said.

Police ordered about 300 workers to disperse outside Kanhym Meats in Montague Gardens.

Delmas III man 'dug out rusty rifle'

By VUSI GUNENE

THE "DELMAS III" treason trial, in which 12 Pretoria activists are appearing on charges of terrorism, murder and attempted murder, was this week told by high-ranking police officers that three of the accused had pointed out places where the alleged crimes occured or arms were hidden.

The 12, alleged members of the African National Congress, have pleaded not guilty to the charges which include bombings and the shooting of three policemen in Atteridgeville near Pretoria in March last year.

Captain Hendrick Kotze of the Murder and Robbery Squad in Pretoria told the Delmas Supreme Court he had been introduced to Francis Pitse, one of the accused, and an awaiting-trial prisoner by a Captain Visser. He said Visser came to him on June 21 and asked him to accompany Pitse who wanted to show the police "some places".

Kotze said he met Pitse the following day at the security branch offices.

"Mr Pitse told me he had some places to show the police. I noticed that Mr Pitse had a gunshot wound on his left arm.When I asked him what had happened, he told me that he was shot, but not by police."

Kotze said that Pitse also directed them to houses in Atteridgeville, including a house in Mariana Street where the three policemen were killed in March last year, and to the South African/Botswana border.

Lieutenant Peter Senekal of the SAP Narcotics Divison told the court he was also asked by security police to accompany Pitse on July 8 last year.

"Pitse directed us to house No. 20 in Laka Street, Atteridgeville. On arrival at the house, Mr Pitse showed us a place in front of the house. He then dug in the garden and took out a plastic-wrapped object. We opened the object in Mr Pitse's presence and found an old rusty R-1 rifle."

A policeman who was in the company of the three policemen who were killed, earlier told of the shooting.

Constable Dawid Mdawo said that he, Barney Mope, Andrew Mphahlela and Nelson Phenyane were sitting outside a shebeen in Atteridgeville drinking beer when he heard loud gunfire. He went into the house.

"I switched off the lights from the mainswitch in the house. I later went out through the kitchen door to check on my friends. I found them lying on the ground in pain and bleeding. I then went to neighbours to summon an ambulance."

Mdawo said he had not seen anyone during the shooting — "things happened so fast".

Under cross-examination Mdawo agreed that between 1985, 1986 and 1987 there had been a series of petrol bomb attacks on houses of activists and policemen.

He said he, Mphahlele and Mope were involved in investigating the petrol bombs attacks.

Mdawo conceded that after mass funerals of activists shot by police or killed during petrol bomb attacks crowds would attack policemen's houses because of their disconten about investigations into such attacks.

331 Weekly 10-16/11/89.

ANC trialist in court

A WOMAN who allegedly joined Umkhonto we Sizwe, the military wing of the ANC, in Angola during August 1986, Ms Linda Tsotsi, appeared in Cape Town Regional Court yesterday.

Ms Tsotsi allegedly entered South Africa in December 1987 to recruit people for the ANC.

A co-accused, journalist Ms Veliswa Mhluali, was charged with performing acts for the ANC from 1985 till 1988.

The case was postponed till December 11 for trial. — Sapa

...tions.

Sunday Times 12/10/89

South charge withdrawn

CHARGES of contravening the emergency regulations were withdrawn against the editor of South and the newspaper in Cape Town Magistrate's Court yesterday.

The state had alleged that Mr Rashid Seria, 38, of Surrey Estate wrongfully published an article in May last year with news and comment on a boycott against the Department of Education and Training. — Sapa

'Brain surgery' detainee convicted

Cape Times 13/10/89 331

NANA ROBERT MALITI, who underwent brain surgery hours after being arrested for carrying a limpet mine near a ceremony attended by the Minister of Law and Order, was convicted in the Cape Town Regional Court yesterday of terrorism.

Maliti, 22, of New Crossroads, had pleaded not guilty to terrorism in terms of the Internal Security Act, alternately being in possession of a limpet mine.

However, after hearing the evidence of state witness Warrant Officer J F Rousseau, the defence conceded that Maliti had been in possession of the limpet mine but asserted that the detonator and the mine were separate.

WO Rousseau said he arrested Maliti in New Crossroads 150 metres from where Mr Adriaan Vlok was attending the opening of a new police station on October 22 last year.

Magistrate Mr F F Botes invoked section 69 of the Internal Security Act to presume that Maliti intended to harm people or damage property.

The trial continues today.

Mr Justice Williamson

Six judges opposed jailing Mpetha

Staff Reporter

THE Cape Town judge who sentenced Mr Oscar Mpetha, 80, to a mandatory five-year prison term in June 1983 said he would have suspended the entire sentence had it been in his power to do so.

Mr Justice D Williamson said at the time: "I think that justice does not require that he be imprisoned.

"The end of his life is too near for such punishment to be of any benefit either to him or to society.

"Because of his very special circumstances compassion should, in my view, be the overriding consideration. If it were in my power to do so, the sentence of imprisonment which I would have imposed would have been totally suspended."

The ailing Mr Mpetha was in detention from August 1980 until he was convicted of participating in terroristic activities on June 28, 1983.

His attorney, Mr Himan Bernadt, said that bail applications made during the trial "were refused by the attorney-general, whose statutory authority ousted that of the court in this regard".

When the authority of the attorney-general fell away at the end of the trial another bail application was made, pending an appeal to the Appellate Division of the Supreme Court, and bail of R1 was granted.

The appeal was heard in March 1985 before five judges of appeal. Three of them held that the sentence of five years was mandatory and two dissented.

One of the five, Mr Justice M M Corbett, now Chief Justice, said at the time that though there was a difference of opinion as to whether the compulsory minimum sentence of five years was applicable, it was the opinion of all five judges "that a wholly suspended sentence would have been the proper punishment".

Mr Bernadt said that appeals were made to then-state president Mr P W Botha and Minister of Justice Mr Kobie Coetsee for Mr Mpetha's release on grounds of his serious illness, but these were denied.

Mr Oscar Mpetha

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Limpet mine carrier gets five years

Court Reporter

CONVICTED terrorist Nana Robert Maliti, who underwent brain surgery hours after police arrested him in October last year, was yesterday sentenced in Cape Town Regional Court to an effective five years' imprisonment.

The sentence was passed by magistrate Mr F F Botes after he listened to expert medical evidence that Maliti, 23, of New Crossroads, had been severely brain-damaged as a result of an injury received during his arrest.

Police found him carrying a limpet mine in a plastic bag 150 metres away from where the Minister of Law and Order, Mr Adriaan Vlok, was opening a police station in New Crossroads. Hours later he was admitted to Groote Schuur Hospital where he underwent brain surgery.

Maliti, who admitted being in possession of the mine but pleaded not guilty to terrorism, was convicted earlier this week on the grounds that he could have intended to hurt people that day.

Neuropsychologist Ms Cora de Villiers told the court that Maliti, whose intelligence had previously been normal, was now mentally retarded as a result of frontal lobe damage to the brain.

This meant that he was extrememly slow in comprehending instructions, had difficulty in retaining information and had severe problems developing strategies for learning which involved being unable to learn from past mistakes.

Although he was "most helpful and friendly", he would be unable to continue helping his mother with her taxi business as he miscalculated figures.

Suffered a great deal

His performance during a test in which he had to draw his way out of a maze with a pencil was equivalent to that of a child of seven years and 10 months. This was significant as Maliti was 23 years old, she said.

Ms De Villiers said Maliti also had problems with the manual dexterity of his right hand and impaired motor reflex action as a result of the damage to the left hemisphere of his brain.

"Maliti has suffered a great deal as a result of his injury," she concluded.

Mr Botes found that the court could not determine how Maliti received the injury that resulted in surgery that day and could therefore not take the evidence too seriously.

"When society expects to be protected you cannot take the personal circumstances of an individual into account," he said.

Advocate Mr S Desai, instructed by Ms C Burger for the defence, argued that Maliti should be given a fully suspended sentence on the grounds that he had "already suffered immeasurably" from the injuries he sustained.

Maliti was sentenced to seven years' imprisonment for terrorism, with two years suspended for five years. He was further sentenced to another one year, to run concurrently with the other sentence, for possessing a publication of a banned organisation, the SA Communist Party.

Mr K Roussouw prosecuted.

15/10/89

331

CITY PRESS, October 15, 1989

THE UNCONDITIONAL RELEASE

RIVONIA RAID

15/10/84 (331)

Van den Bergh – began detention without trial

this week. It was difficult to believe he was the man responsible for the introduction of detention without trial.

He said when Prime Minister Hendrik Verwoerd heard of the Rivonia arrests, Verwoerd told him Verwoerd wanted him to free Mandela and the others, he discovered the order had not come from the P M.

Van den Bergh said believed Vorster had made the decision on his own.

"I never discovered why Vorster wanted the accused released, but it might have been because of the embarrassing treason trial in the 1950s, which lasted five years and ended with all the accused being acquitted.

"I think Vorster feared the same thing would happen again, but state security was different under my command."

He had also fought with Vorster over the appointment of Percy Yutar, then deputy Attorney-General of the Transvaal, as prosecutor in the Rivonia trial.

"Vorster didn't want him, but I insisted.

"I knew he was the best man the State had to get a conviction. Twice Vorster tried to dismiss Yutar, but I insisted."

In spite of media reports during the past 30 years that Van den Bergh had been appointed head of State security because he was a close associate of John Vorster, he said he hardly knew Vorster when he was appointed.

"Verwoerd appointed me on the recommendation of Frans Erasmus, who was then Justice Minister.

"It is true Vorster and I had both been interned at Koffiefontein during World War II, but there were hundreds of us. He was there for only 17 months and I was there for three years.

"He was in a different hut a long distance from me and I doubt if I spoke a dozen words to him during the 17 months he was there."

Van den Bergh is a staunch supporter of the CP and even stood for them in an election.

He said he only stood to show his dissatisfaction with PW Botha's government and did not expect to win, but did surprisingly well.

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constables and a police dog.

The van driver reversed, as if to obey the farm employee.

Then Van Wyk's voice boomed inside the van: "Ons slaan toe" (we close in). The van doors burst open and the men ran to the homestead.

This is the story contained in *Rivonia: Operation Mayibuye*, a book on the Rivonia trial written by former judge HHW de Villiers.

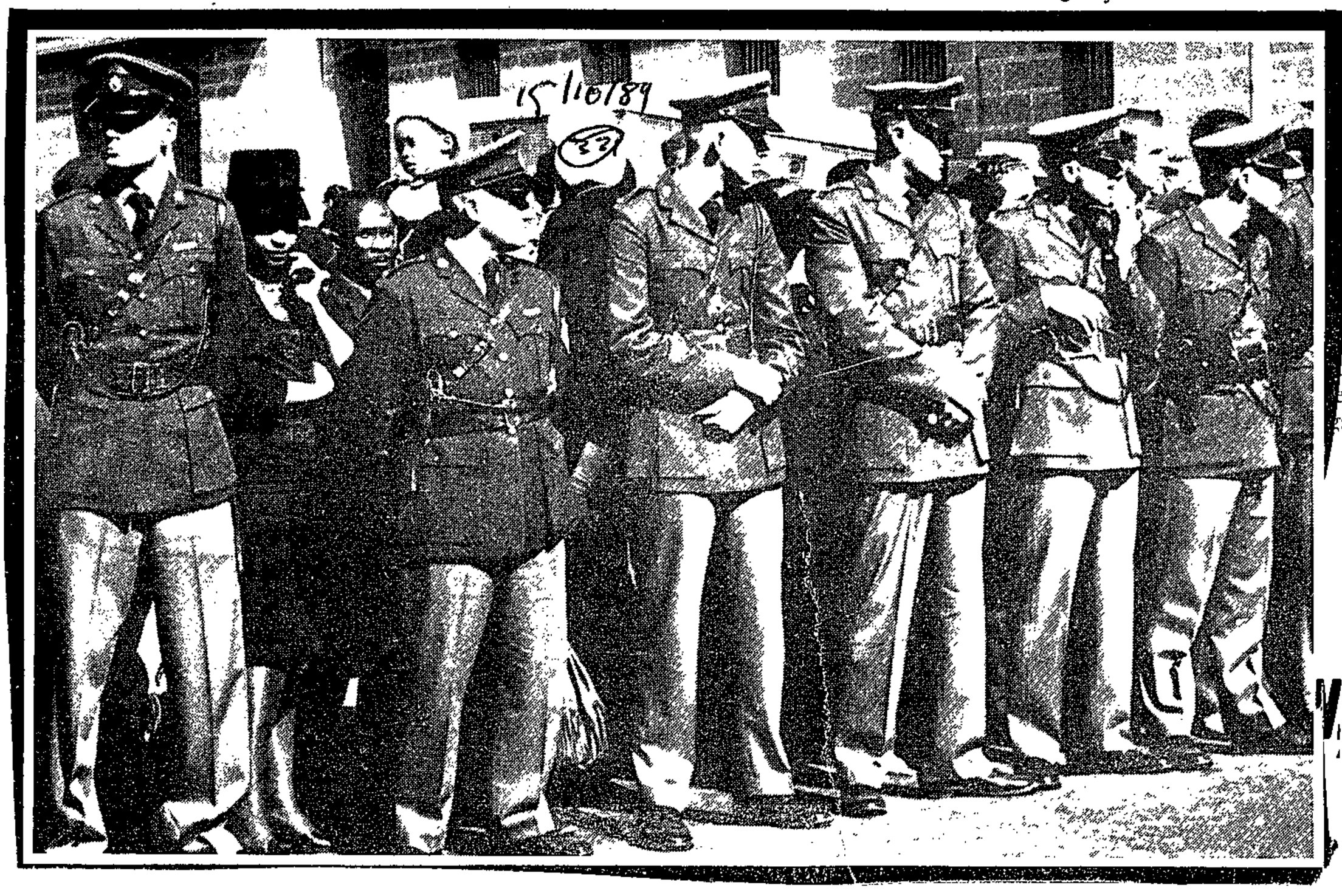
Published in 1964, it gives the "official view" of events on that fateful afternoon in 1963.

It was an afternoon that brought the names Mandela (who was in jail at the time), Sisulu, Kathrada, Motsoaledi, Mhlaba, Mhlangeni and Mbeki to the forefront

In the thatched cottage which the police entered, six

shouted a warning. When the police burst into the cottage, three jumped through a back window – and straight into the arms of the police."

The three were Walter Sisulu, Govan Mbeki and Ahmed Kathrada. Inside the cottage two whites, Lionel Bernstein and Bob Hepple, and Raymond Mhlaba were arrested. In the main building police



Mandela, who stole media hearts during the Rivonia trial in 1964, pictured (left) outside the Old Pretoria Synagogue during her husband's trial.

The jailed ANC leader's wife has petitioned tirelessly against apartheid during the decades since.

Those sentenced at the Rivonia trial to life imprisonment for sabotage by Transvaal Judge President Quartus de Wet were Nelson Mandela, Walter Sisulu, Dennis Goldberg, Raymond Mahlaba, Elias Motsoaledi, Andrew Mlangeni and Govan Mbeki.

Goldberg, released after renouncing violence, returned to Israel. Mbeki was released in 1987.

In the bottom left picture, police hold back the crowds outside the Pretoria Palace of Justice at the Rivonia trial.

...e ANC

but the police – helped by a police dog – stepped out of the shadows and arrested him."

...d nabbed t

...y hit Lilliesleaf and

How they

By ZB MOLEFE

IT was a chilly afternoon as a laundry van drove slowly up the winding drive and stopped in front of Lilliesleaf Farm in Rivonia on July 11, 1963.

It was part of the exclusive northern suburbs of Johannesburg, rambling, with a large garden.

The white driver of the van was stopped by one of the farm employees, who ordered him to turn back.

The driver and his companion explained that they were trying to contact new customers in the area.

A ... in the van, however, covered Lt WPJ van Wyk, had left the farm earlier.

"Towards dusk he returned by car. He drove unsuspectingly along the last short leg of the ing dirt road that front door," w Villiers.

"Spotting the police cars, he smelt disaster and hurriedly reversed to the corner he had just turned,

...ted Dennis Goldberg. ...thur Goldreich, who ...at Lilliesleaf with his ...and three children,

...g of the wind-

men were examining a document titled "Operation Mayibuye".

De Villiers writes: "Of the six men, three were Bantu, two were whites and one was an Indian.

arrested

Arthur

lived at L

wife and

THE General deplores trialists' release

15/10/89

why Pres

By DESMOND BLOW

NELSON Mandela and five other Rivonia trialists, who are to be released after 26 years in jail, might not have been imprisoned if former Prime Minister John Vorster had had his way.

But the then-head of State security, Gen "Lang" Hendrik van den Bergh, insisted and threatened to resign if the Rivonia detainees were not charged.

However, Van den Bergh did not succeed in persuading government to charge them with treason, instead of sabotage, which could have meant the death sentence.

The five Rivonia trialists to be freed are Walter Sisulu, Raymond Mhlaba, Ahmed Kathrada, Elias Motsoaledi, Andrew Mlangeni and Oscar Mpetha.

Van den Bergh, now 75 and a farmer, was genial when I visited him at his home outside Bapsfontein said all detainees should be released immediately.

Van den Bergh stood his ground, threatening to resign if the prisoners were not charged.

"Now the government is breaking its own laws by releasing these men. In 1950 the government introduced the anti-communist legislation which I implemented in the 1960s. Now they are releasing these communists."

Van den Bergh said he insisted he be given a free hand and that stiff legislation be introduced so he could "clean up the country" when he accepted the appointment as head of State security from Verwoerd.

Verwoerd agreed as long as Van den Bergh watched his step.

Van den Bergh replied that if he stepped out of line Verwoerd should fire him.

"I was never fired, nor was I ever rebuked by Verwoerd."

Although Vorster, who was then Justice Minister,

THE UNCONDITIONAL RELEASE

THE RIVONIA RAID

General deplores trialists' release

15/10/89 City Press

By DESMOND BLOW

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"I was never fired, nor was I ever rebuked by Verwoerd."

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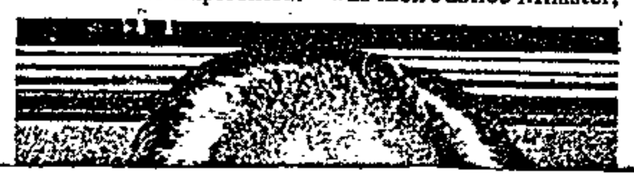


Winnie Mandela, who stole media hearts during the Rivonia trial in 1964, pictured (left) outside the Old Pretoria Synagogue during her husband's trial.

The jailed ANC leader's wife has petitioned tirelessly against apartheid during the decades since.

Those sentenced at the Rivonia trial to life imprisonment for sabotage by Transvaal Judge President Quartus de Wet were Nelson Mandela, Walter Sisulu, Dennis Goldberg, Raymond Mahlaba, Elias Motsoaledi, Andrew Mlangeni and Govan Mbeki.

Goldberg, released after renouncing violence, returned to Israel. Mbeki was released in 1987.

In the bottom left picture, police hold back the crowds outside the Pretoria Palace of Justice at the Rivonia trial.

How they hit Lilliesleaf and nabbed the ANC

By ZB MOLEFE

IT was a chilly afternoon as a laundry van drove slowly up the winding drive and stopped in front of Lilliesleaf Farm in Rivonia on July 11, 1963.

It was part of the exclusive northern suburbs of Johannesburg, rambling, with a large garden.

The white driver of the van was stopped by one of the farm employees, who ordered him to turn back.

The driver and his companion explained that they were trying to contact new customers in the area.

A rug in the van, however, covered Lt WPJ van Wyk, ten constables and a police dog.

The van driver reversed, as if to obey the farm employee.

Then Van Wyk's voice boomed inside the van: "One... men were examining a document titled "Operation Mayibuye".

De Villiers writes: "Of the six men, three were bantu, two were whites and one was an Indian. Somebody shouted a warning. When the police burst into the cottage, three jumped through a

arrested Dennis Goldberg.

Arthur Goldreich, who lived at Lilliesleaf with his wife and three children, had left the farm earlier.

"Towards dusk he returned by car. He drove unsuspectingly along the last short leg of the winding dirt road that led to his front door," writes De Villiers.

"Spotting the police cars, he smelt disaster and hurriedly reversed to the corner he had just turned, but the police – helped by a police dog – stepped out of the shadows and arrested him."

Van den Bergh — began detention without trial

this week. It was difficult to believe he was the man responsible for the introduction of detention without trial.

He said when Prime Minister Hendrik Verwoerd heard of the Rivonia arrests, Verwoerd told him Verwoerd wanted him to free Mandela and the others, he discovered the order had not come from the P M.

Van den Bergh said believed Vorster had made the decision on his own.

"I never discovered why Vorster wanted the accused released, but it might have been because of the embarrassing treason trial in the 1950s, which lasted five years and ended with all the accused being acquitted.

"I think Vorster feared the same thing would happen again, but state security was different under my command."

He had also fought with Vorster over the appointment of Percy Yutar, then deputy Attorney-General of the Transvaal, as prosecutor in the Rivonia trial.

"Vorster didn't want him, but I insisted.

"I knew he was the best man the State had to get a conviction. Twice Vorster tried to dismiss Yutar, but I insisted."

In spite of media reports during the past 30 years that Van den Bergh had been appointed head of State security because he was a close associate of John Vorster, he said he hardly knew Vorster when he was appointed.

"Verwoerd appointed me on the recommendation of Frans Erasmus, who was then Justice Minister.

"It is true Vorster and I had both been interned at Koffiefontein during World War II, but there were hundreds of us. He was there for only 17 months and I was there for three years.

"He was in a different hut a long distance from me and I doubt if I spoke a dozen words to him during the 17 months he was there."

Van den Bergh is a staunch supporter of the CP and even stood for them in an election.

He said he only stood to show his dissatisfaction with PW Botha's government and did not expect to win, but did surprisingly well.

---

ten constables and a police dog.

The van driver reversed, as if to obey the farm employee.

Then Van Wyk's voice boomed inside the van: "Ons slaan toe" (we close in). The van doors burst open and the men ran to the homestead.

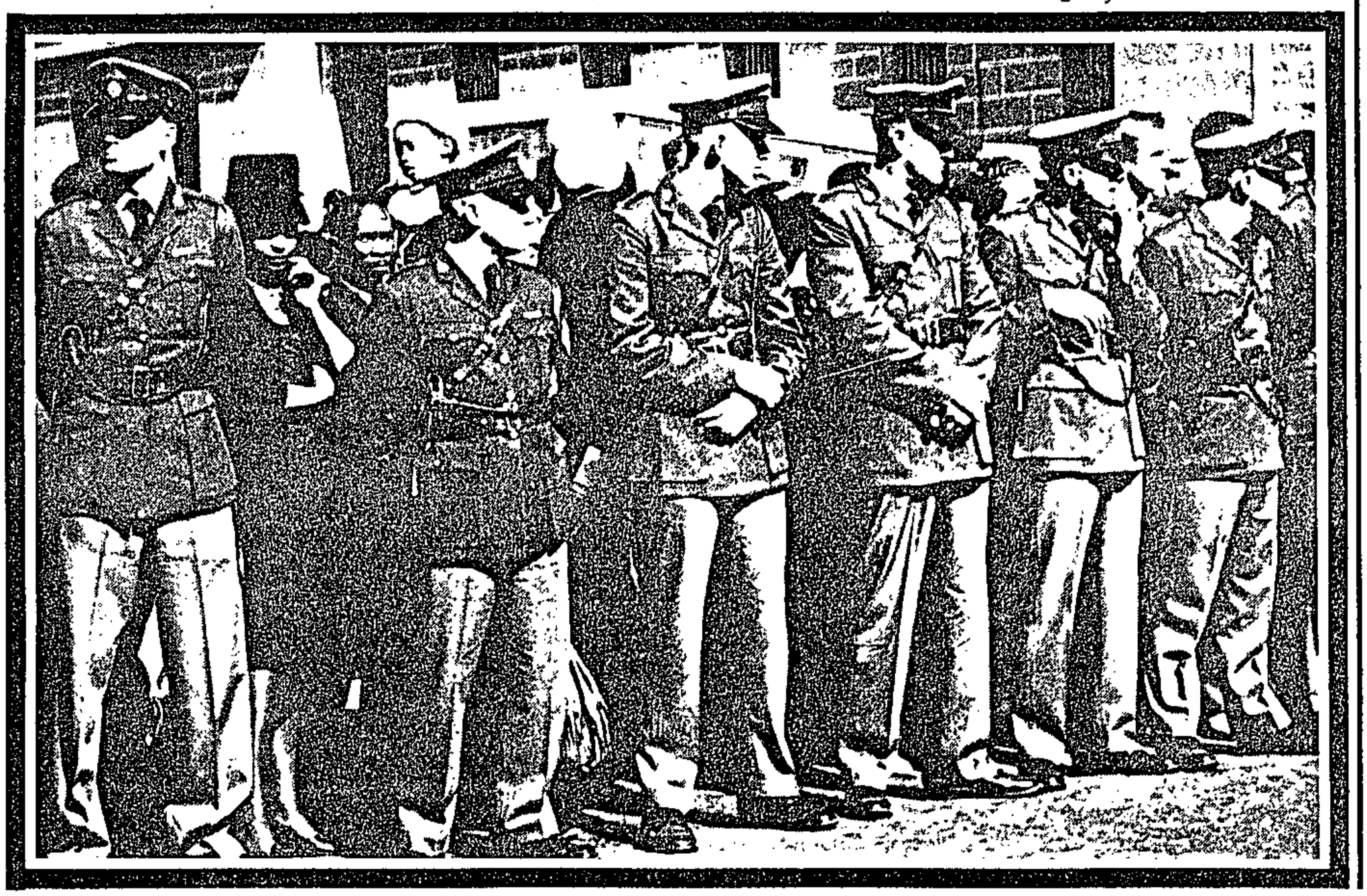
This is the story contained in *Rivonia: Operation Mayibuye*, a book on the Rivonia trial written by former judge HHW de Villiers.

Published in 1964, it gives the "official view" of events on that fateful afternoon in 1963.

It was an afternoon that brought the names Mandela (who was in jail at the time), Sisulu, Kathrada, Motsoaledi, Mhlaba, Mhlangeni and Mbeki to the forefront

In the thatched cottage which the police entered, six Somebody shouted a warning. When the police burst into the cottage, three jumped through a back window – and straight into the arms of the police."

The three were Walter Sisulu, Govan Mbeki and Ahmed Kathrada. Inside the cottage two whites, Lionel Bernstein and Bob Hepple, and Raymond Mhlaba were arrested. In the main building police



Parade clash: 11 in court

Court Reporter

ELEVEN people were released on their own recognisance yesterday after appearing in the Cape Town Magistrate's Court in connection with an incident on Wednesday in which a Rastafarian band clashed with police on the Grand Parade. They were not asked to plead and were warned to appear again on December 15.

The incident occurred when a traffic officer allegedly tried to stop the band playing amplified music near the stalls.

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xe to fall

Judge to decide fate of 143 treason trialists

BY DAN DHLAMINI

THE 143 Bophuthatswana soldiers facing charges of treason could know their fate this week when Judge WA Friedman delivers judgment, expected to run for days.

Another treason trial resulting from the abortive Bophuthatswana coup on February 10 last year has been concluded and a third is expected to be postponed tomorrow.

The appearance of the accused in the Mmabatho Supreme Court near Rooigrond stems from the events of February 10 last year when soldiers under the command of W/O Timmy Phiri, former chief of the Bophuthatswana National Security Unit, held President Lucas Mangope, cabinet ministers and high-ranking officials in an effort to overthrow the government.

The coup was crushed by the SADF on the same day.

Earlier Phiri told the court in a written statement that a spirit of patriotism and the unending corruption in the Mangope government compelled him to overthrow it.

Rocky Malebane-Metsing, coup architect.

Phiri said Rocky Malebane-Metsing, leader of the People's Progressive Party, now in London, was the architect of the coup.

His capture carries a R50 000 reward from the Bophuthatswana government.

On August 1 the prosecution, defence and Judge Friedman flew to London to take evidence from Malebane-Metsing.

Bophuthatswana Attorney General JJ Smith said the contents of Metsing's evidence would only be made public tomorrow.

Lawyers Iqbal Motala and Tayob Kamdar, who represent the 143 soldiers, said they expected judgment to last at least a week.

They would ask for a postponement if their clients were found guilty to prepare mitigation.

Meanwhile D Panchiar, who represents Bophuthatswana's former deputy commissioner of police Lucky Sekame and seven senior officers in the Bophuthatswana army, said their case would be postponed tomorrow. They all appear on charges of treason.

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City Press 15/10/89

Bop coup: a

Soldiers leaving the Mmabatho Supreme Court earlier this year. Altogether 143 have been charged with treason after an unsuccessful coup on February 10 last year. The SADF intervened.

LE'S PAPER Tel: Jhb (011) 493-3552 Durban (031) 301-4636 Price Tvl/OFS R1.00 (88c + 12c GST) Natal/Cape R1.10 (97c + 13c GST) Elsewhere, back page October 15, 1989 ★★★

Rivonia's mystery man unmasked

Bruno Mtolo ... gave evidence at Rivonia

By S'BU MNGADI

BRUNO Mtolo, the man who gave evidence against Nelson Mandela and others in the Rivonia trial, yesterday broke years of silence to say he would like to see Mandela president of South Africa.

Speaking from his Durban home, the ailing 62-year-old Mtolo – known as Mr X in political trials in the 60s – said he was happy to hear of the release of Walter Sisulu and other Rivonia treason trialists.

"Thank God, it happened before any of us died."

About Mandela he said: "I'm still convinced he was never a member of the Communist Party. I can't wait to live under his presidency." However, he still believes the SACP controls the ANC.

Did he regret having given evidence? Mtolo claims he does not.

He said he was disillusioned because the ANC hierachy were driving around in posh cars and collecting money with the pretence that it was for the liberation of the African people.

"The same people clouded our minds with Eastern propaganda (communism) to the extent we forgot ourselves and our families."

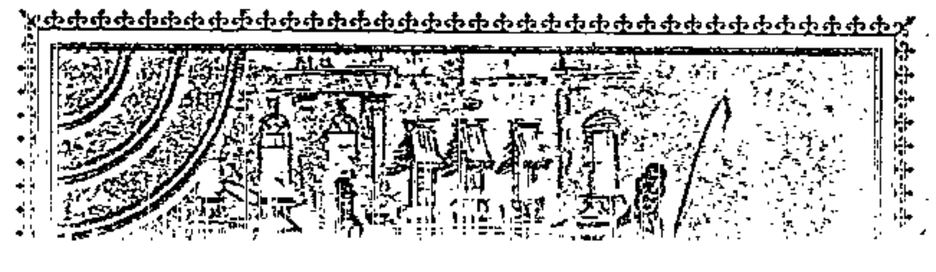
He said ANC members were "made instruments for creating hardship and misery in hundreds of families and through them some poor kids would never see their fathers and brothers again".

Nelson Mandela was the only accused in the Rivonia trial who smiled at him, he added.

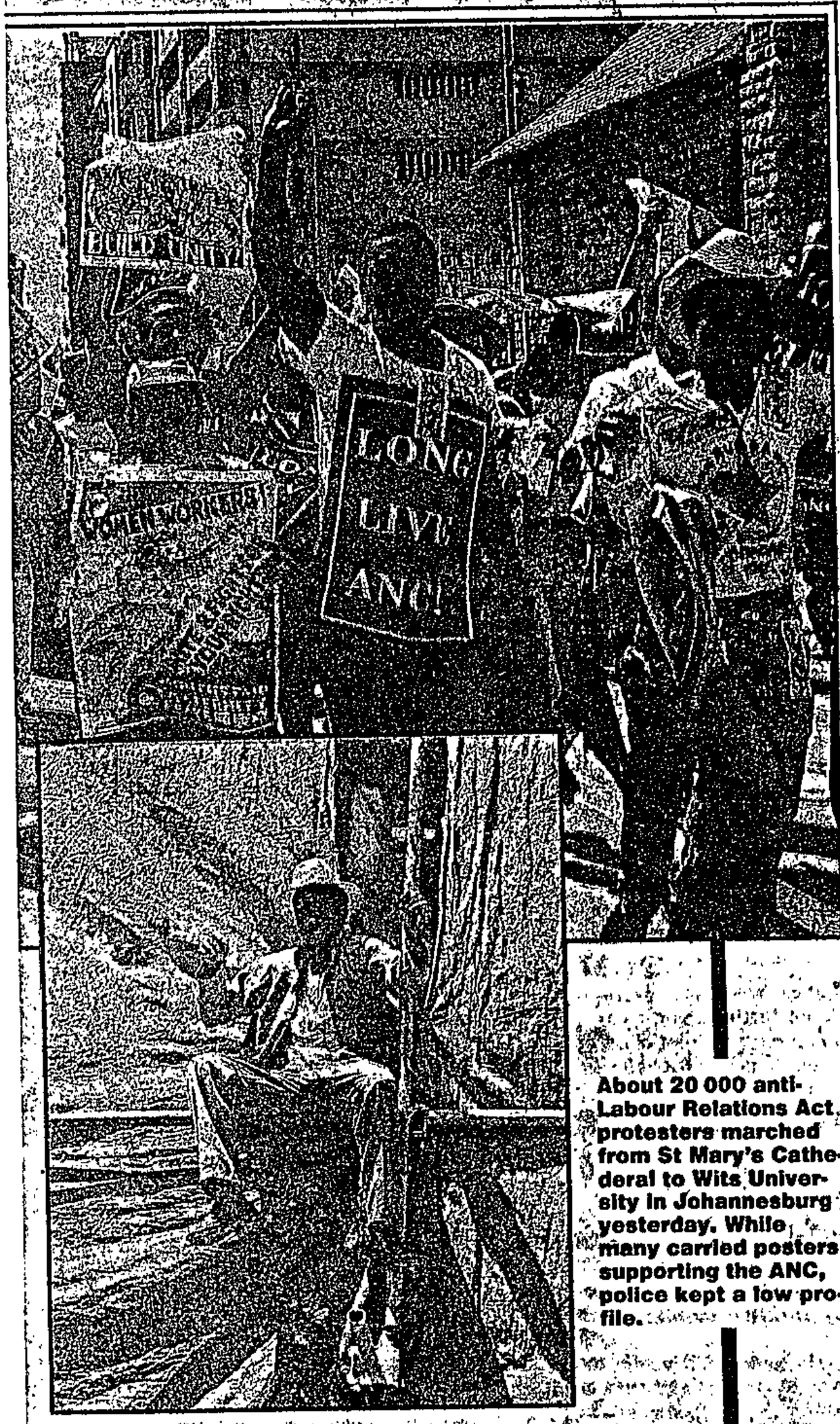
During the trial Judge De Wet said Mtolo had struck him as a highly intelligent person with a remarkable memory.

Today Mtolo is suffering from cardiac failure

Demonstrators



UMNDENGU



About 20 000 anti-Labour Relations Act protesters marched from St Mary's Cathedral to Wits University in Johannesburg yesterday. While many carried posters supporting the ANC, police kept a low profile.

Inset: This man made sure he had a bird's-eye view of the march from a scaffold in Plein Street.

By S'BU MNGADI

BRUNO Mtolo, the man who gave evidence against Nelson Mandela and others in the Rivonia trial, yesterday broke years of silence to say he would like to see Mandela president of South Africa.

Speaking from his Durban home, the ailing 62-year-old Mtolo – known as Mr X in political trials in the 60s – said he was happy to hear of the release of Walter Sisulu and other Rivonia treason trialists.

"Thank God, it happened before any of us died."

About Mandela he said: "I'm still convinced he was never a member of the Communist Party. I can't wait to live under his presidency." However, he still believes the SACP controls the ANC.

Did he regret having given evidence? Mtolo claims he does not.

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"The same people clouded our minds with Eastern propaganda (communism) to the extent we forgot ourselves and our families."

He said ANC members were "made instruments for creating hardship and misery in hundreds of families and through them some poor kids would never see their fathers and brothers again".

Nelson Mandela was the only accused in the Rivonia trial who smiled at him, he added.

During the trial Judge De Wet said Mtolo had struck him as a highly intelligent person with a remarkable memory.

Today Mtolo is suffering from cardiac failure and anxiety and lives quietly in Umlazi. He is short of breath and cannot speak longer than a minute at a time.

Now and again he smiles about the old days – when he was an activist in the ANC, the SA Congress of Trade Unions, the SACP and the Natal regional command of Umkhonto we Sizwe.

He was an explosives specialist and was involved in most of the 29 cases of sabotage in Natal at the time.

He received training at Lilliesfarm, Rivonia, where most of the Rivonia trialists were arrested.

He also gave evidence in the trial of the captain of Umkhonto's Natal regional command at the time, Curnick Ndlovu.

Although he appeared on several ANC hitlists, no attempts on his life have been made.

Contrary to what many people thought, Mtolo said he never joined the police force but chose – with a Std 8 – to work at various places in Durban. In the 70s he was employed by Republican Press as a photographer.

Big welcome for leaders

By CHARLES MOGALE

TENSIONS reached an all-time high yesterday as South Africa awaited the release of eight prominent political prisoners.

By late last night, the eight, including former ANC secretary-general Walter Sisulu, were still being expected by large chanting crowds outside their homes.

The others are Rivonia trialists Andrew Mlangeni, Wilton Mkwayi, Ahmed Kathrada, Raymond Mhlaba and Elias Motsoaledi. Also to be released were South Africa's longest-serving political prisoner, Japhta Masemola of the PAC, and veteran trade unionist Oscar Mphetha.

Sources close to Pretoria said the government had planned the timing of the release for minimal fanfare. They said it was hoped to make the releases "quiet family affairs".

Other sources said the releases had been delayed because of yesterday's marches in protest against the Labour Relations Act. It was feared the former prisoners would be "hijacked" to the marches.

2 in court over Asvat murder

Staff Reporter

Two men accused of murdering Dr Abu-Baker Asvat appeared in the Rand Supreme Court yesterday.

Mr Zakhele Nhlekisana Cyril Mbatha (21) and Mr Thulani Shelela Johannes Nicholas Dlamini (20), both of no fixed address, are appearing before Mr Justice Solomon and two assessors.

They have pleaded not guilty to the murder, two counts of robbery with aggravating circumstances, two counts of unlawful possession of firearms and two counts of unlawful possession of ammunition.

According to the indictment the two accused went to Dr Asvat's surgery in Soweto on January 27 this year. Mr Mbatha gave the sister his details but the two men left before Mr Mbatha was called into the consulting room. They returned after Dr Asvat's last patient had left, then allegedly robbed and shot him.

Star 17/10/89

Strydom protest court sequel

A young mother who demonstrated outside the Supreme Court to show the far Right that Barend Strydom was a murderer and not a hero has had her sentence postponed in Pretoria Regional Court.

The magistrate, Mr M de Kock, yesterday found Sandra Lucia Ewer (29) of Roodepoort guilty of demonstrating within a 500 m radius of a court building on May 25.

(331) Star 17/10/89

He said he would postpone sentence for 12 months, but if Ewer appeared on a similar charge within that period she could be sentenced for this offence. — Pretoria Correspondent.

Court lifts protest charges

CAPE Times 17/10/85

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By MONICA GRAAFF
Court Reporter

MORE THAN 1 000 city protesters, arrested shortly before the September 6 general elections for alleged unlawful demonstrations, have had charges withdrawn against them in Cape Town Magistrate's Court.

This was announced last night by a spokesman for the National Association of Democratic Lawyers (Nadel).

The attorney-general, Mr Neil Rossouw, last night confirmed that charges had been withdrawn against all those people who allegedly had taken part in illegal gatherings on and between August 24 and September 5, and who were to appear in Cape Town Magistrate's Court.

No court appearances

According to the Nadel spokesman the senior public prosecutor has advised the lawyers representing all those arrested that the state would not be proceeding with any of the prosecutions against the protesters.

Charges would be witdrawn *in absentia* over the next couple of months thereby relieving the accused of the need to appear in court.

The spokesman also announced that Nadel would soon be calling a meeting of all those arrested.

Terror trial: Suspect 'wasn't told his rights'

ARGUS 17/10/89

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By LINDA GALLOWAY
Supreme Court Reporter

A SECURITY policeman failed to inform terrorism accused Mr Gary Kruser of his rights while he was under interrogation as a Section 29 detainee, his defence counsel alleges.

However, Warrant Officer Adriaan Jacobus Kruger has denied this before the Supreme Court, Cape Town, where Mr Tony Yengeni and 13 others are being tried on terrorism charges.

At the start of the hearing the accused refused to plead and said they were taking part in the trial under protest.

ARMS

Under cross-examination by Mr D P de Villiers, QC, for the defence, yesterday, Warrant Officer Kruger said he had told Mr Kruser he was suspected of having brought arms into South Africa from Botswana.

Mr De Villiers said Mr Kruser would deny the Warrant Officer had warned him of his right to refuse to answer questions.

Warrant Officer Kruger denied having omitted the warning.

Mr Kruser had said he had "nothing to hide" and it was suggested that he write down details of his activities.

Warrant Officer Kruger also denied giving Mr Kruser a calendar on which he had marked the dates on which he believed he had been in Botswana.

PENKNIFE

He had bought a soft drink for Mr Kruser but could not remember the tin's falling to the floor or that he had used a penknife to open the dented lid. He said he did not own a penknife.

Mr Kruser had not objected to making a statement before a magistrate, Warrant Officer Kruger said. He had been taken to security police offices at Culemborg at 7am and had remained there until he saw a magistrate in the afternoon.

Copies of the cell register kept on Mr Kruser at Rondebosch police station, where he had been held as a Section 29 detainee, were handed in to the court.

The hearing continues.

The accused are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

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Army orders may not be moral, says judge

The Argus Correspondent

ROOIGROND. — A Bophuthatswana Supreme Court judge, Mr Justice M W Friedman, has begun delivering a 700-page judgment after the six-month trial for treason of 143 soldiers involved in an abortive military coup.

He said yesterday a compromise satisfying the requirements both of morality and of discipline within the army had to be found.

"OBEYING ORDERS"

He was responding to a defence argument that the 143 members of the Bophuthatswana National Security Unit who took part in the coup attempt in February last year were merely obeying the orders of their superiors.

Mr Justice Friedman said that in many countries obedience to orders was regarded as a distinct defence.

There were two views: that a subordinate's duty was blind obedience to the order, or that a subordinate must decide whether the order he received was lawful and obey only lawful orders.

This could interfere with military discipline and a compromise which satisfied both this and morality must be found — a balance between total immunity and total liability.

Mr Justice Friedman said statements of 142 of the accused were essentially the same. They pleaded not guilty, admitted involvement in the coup but denied hostile intent to commit high treason or being party to any plot to overthrow the government.

They claimed they had acted as soldiers of the Bophuthatswana Defence Force, obeying orders from superior officers. It was common cause their statements were freely and voluntarily made.

On the main count of treason, the soldiers are charged with capturing President Lucas Mangope on February 10 last year, attacking ministers' houses and capturing families, taking the President and ministers hostage and occupying the Molop military base, Broadcast Centre, government buildings and the airbase.

In addition they are charged with informing soldiers that the government had been overthrown by the Defence Force and that a new President had been sworn in.

The 143 face alternative counts under the Internal Security Act, including causing or encouraging an insurrection and forcible resistance to government.

Mr Justice Friedman said the definition of treason was any overt act committed unlawfully by people owing allegiance to the State and conspiring to overthrow the State.

He said the court accepted that all the accused owed allegiance to the State. He had already found the Republic of Bophuthatswana to be a sovereign independent State and therefore high treason could be committed against its government.

The trial continues.

Mother in court over demo at 'Wit Wolf' trial

ARGUS 17/10/89 331

The Argus Correspondent

PRETORIA. — A mother who demonstrated outside the Supreme Court to show the far right that Barend Strydom was a "murderer" and not a "hero" has had sentencing postponed in a Pretoria Regional Court.

Magistrate Mr M de Kock yesterday found Sandra Lucia Ewer, 29, of Roodepoort, guilty of demonstrating within a 500-metre radius of a court building on May 25.

Mr De Kock said he would postpone sentencing for 12 months but if Ewer appeared on a similar charge within that period she could be sentenced.

In her evidence Ewer, a mother of two young children, told Mr De Kock she was no radical. During the week of May 22 she was continuously exposed to far-right support for mass murderer Barend Strydom and their use of the trial as a political platform.

The actions of the far right were totally against her moral convictions and Christian beliefs.

She said these organisations made their support and political views publicly known by their dress during the proceedings.

Ewer said that by May 25 (the day Strydom was sentenced) she was very unhappy as it appeared that authorities were doing nothing.

She said the bad publicity created the impression in the overseas Press that all South Africans, especially Afrikaners, supported these racial actions.

For a mother whose children had to have a future in the country and a person who wanted to promote racial harmony, it was all too much.

On May 25 she stood outside the Pretoria Supreme Court with a poster which she lifted up for the crowd to see. She said her protest was not aimed at the State.

She wanted to bring it home to the far right that Strydom was a "mass murderer" and not a "hero" and she blamed them for the racial hatred they sowed in the country — not only between black and white but also between English and Afrikaners.

Ewer said she thought this was also a way to show the world that not all Afrikaners supported murderers.

She admitted that she should have done research to see if her actions were against the law.

State prosecutor Mrs L Meyer said the strong words that Ewer used on the poster ("Wipe out the Kappie Komando, AWB and Wit Wolwe and Murderer, do it on the gallows") could have instigated an uproar.

The young mother denied this was her intention. She said she did not mean people should be wiped out — she meant the organisations.

Police witness denies threat

Supreme Court Reporter

A SECURITY policeman denied in the Supreme Court yesterday that he had told terrorism accused Mr Wellington Nkwandla that "something could happen to him" at security police offices in Cape Town if he refused to make a confession to a magistrate.

Warrant Officer Adriaan Kruger was giving evidence under cross-examination in the trial of Mr Tony Yengeni and 13 others who have been charged with terrorism.

Mr D P de Villiers QC, for the defence, put it to him that on October 15, 1987 he had accompanied another security policeman to Steenberg police station to interrogate Mr Nkwandla. There he had discussed making a confession to a magistrate with the accused.

WO Kruger denied all of this.

Mr De Villiers then submitted that: "You had told him if he refused you would take him to the city the next day with the added suggestion that something could happen to people who refuse to talk and who are taken to town."

WO Kruger replied that he had no knowledge of a conversation he had with Mr Nkwandla.

Mr De Villiers further put it to him that after the threat that something could happen to people who refused to co-operate Mr Nkwandla had started writing the statement and completed it the next day.

The trial continues today.

Bomb in city: Trial referred

Cape Times 13 Nov 1990 p9 (331)

THE hearing of terrorism charges against two Guguletu men, Mr Madoda Keith Daki and Mr Robert Mngedisi Twalo, who were allegedly found carrying a bomb near the Supreme Court, has been referred to Cape Town Regional Court for trial.

Mr Daki, 31, and Mr Twalo, 33, were told to appear in the Regional Court on November 20 when they made brief appearances in Cape Town Magistrate's Court yesterday.

Mr Daki was remanded, but Mr Twalo's bail of R1 000 was extended.

Mr H J Venter was the magistrate. Mr L Nordier prosecuted. Mr E Mohamed appeared for Mr Twalo.

its by relatives, they had managed to smuggle a letter to the Red Cross

"The doctor attending to us was busy ridiculing those who needed at-

destroy you."

No internal/external ANC

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From MONO BADELA

JOHANNESBURG. — Two of the Rivonia trialists released unconditionally last Sunday say there is only one ANC and that the movement's headquarters is in Lusaka.

In an interview in Soweto this week, Ahmed Kathrada and Andrew Mlangeni emphasised that there was no question of opening an office in South Africa.

"The ANC is banned in South Africa and therefore it cannot have an office here."

Kathrada stressed that there was a tendency for the government sources to refer to an internal and external ANC.

"There is only one ANC," he said.

"We are a united organisation and our allegiance is to one ANC. We have no intention of establishing ourselves as an internal wing of the ANC. We're subject to the disciplines of Lusaka.

"The official leadership of the ANC is in Lusaka and even with our presence here it continues to be in Lusaka on matters of policy."

"Once the basic demands of the ANC are met we'll go to the table," he said.

The two said Lusaka would decide whether they would have "talks about talks" with government leaders.

Mlangeni said they had no intention of establishing themselves outside the country unless "instructed to do so".

South 19-25/10/89

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Cape Times, Thursday, October 19, 1989 5

'Yengeni case witness tells of smuggling 'confession'

Supreme Court Reporter

A SECURITY policeman told the Supreme Court yesterday that he had regarded a written statement by terrorism accused Mr Gary Kruser — that he had smuggled weapons across the border from Botswana — as a confession and wanted him to repeat it to a magistrate.

This was said by Warrant Officer Adriaan Kruger during re-examination of his evidence in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

In response to questions by Mr Jannie van Vuuren, for the state, WO Kruger said he had been told to interrogate Mr Kruser, who was suspected of having smuggled arms across the border from Botswana.

The purpose of the interrogation was twofold — as part of the investigation and also to comply with the conditions of Section 29 of the Internal Security Act which provides for indefinite detention till questions are satisfactorily answered.

He had regarded a written statement Mr Kruser had given him on October 1, 1987 as a confession that he had brought arms across the border. He had then asked Mr Kruser if he was prepared to make a statement to a magistrate, WO Kruger said.

After he had read Mr Kruser's statement he had interrogated him further on the network used to bring the arms across the border.

The trial was adjourned and the inquiry — into the refusal by Mr Bongani Jonas to give evidence for the state — will continue today.

The accused are: Mr Yengeni, Ms Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mthetelefi Titana, Mr Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Broederstroom 3 trial resumes

By Norman Chandler
Pretoria Bureau

The Broederstroom Three ANC terrorism trial is to resume in the Pretoria Regional Court on Monday after a four-month postponement.

The three accused, former journalist Damian Michael de Lange, Ian Hugh Robertson (no occupation given), and schoolteacher Susan Catherine Donelly, formerly Westcott, were found guilty of various counts of terrorism in June by Mr W J van den Bergh.

De Lange (30) and Robertson (36) were both found guilty on 11 counts of terrorism.

De Lange was also found guilty on two counts of arson and one of attempted arson.

Donelly, a British citizen, was found guilty on 10 counts of terrorism.

They and a fourth man, Mr Hugh Lugg, were arrested at a remote farm in the Broederstroom area on May 8 last year. Mr Lugg has not been seen since the arrests.

The court was told the three were members of an ANC "specialised terror unit".

De Lange was said by the State to be the commander, Robertson the political commissar and Donelly the communications officer.

Initially the trio were charged not only with terrorism but with attempted murder and charges relating to explosives, arms and ammunition.

Milnerton and Table View homes while the owners were away by using a monkey wrench to open the front door.

...ing was adjourned till December 4 for the probation officers' reports.

Mr J M Lemmer was the magistrate. Ms Wilma van der Merwe prosecuted. Mr J Kudo appeared for Miskey. Mr W M Steyn appeared for Broad. Campbell was not represented.

Policeman says prisoner was prepared to help

Cape Times 20/10/87 331

Supreme Court Reporter

SECURITY policeman Warrant Officer Jeff Benzien yesterday told the Supreme Court that minutes after a wounded Mr Bongani Jonas had been taken to security police offices, he offered to show police where arms were hidden.

WO Benzien denied he had stood on a bullet wound in Mr Jonas's thigh or that he had kicked him.

WO Benzien was giving evidence in an inquiry to determine if Mr Jonas has just cause for refusing to testify for the state in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

The court heard that WO Benzien spoke to Mr Jonas after his arrest. He said he did not regard Mr Jonas's thigh wound as dangerous.

Mr Jonas was interrogated about arms caches and his impression was that Mr Jonas wanted to show police where arms were hidden as soon as possible.

"Because of his preparedness, almost anxiety, to show us where the arms were, we decided to take him to Khayelitsha first before he could receive professional medical advice."

Mr Jonas was taken to hospital after 10pm that day when police had returned from a house in Khayelitsha

GM-
Times
20/10/89

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Bop coup — 143 convicted

MMABATHO. — The Supreme Court here yesterday convicted 143 men of treason following the military coup attempt in Bophuthatswana last year.

Delivering judgment, Mr Justice M W Friedman said statements made by the mastermind of the coup, Warrant Officer T Phiri, were "not only traitorous and treasonable, but those who executed those orders acted treasonably".

The judge will today begin imposing individual sentences on the defendants. — Sapa

W. Mail 20-26/10/89 (33)

Asvat 2 'told me they killed the doctor'

By CASSANDRA MOODLEY

A WITNESS yesterday described to a tense Rand Supreme Court how the two men accused of killing Dr Abu Baker Asvat had told him "they had killed a doctor in Rockville Soweto and they were looking for a hiding place because the police were looking for them".

Asvat, health secretary of the Azanian Peoples Organisation, was killed in his surgery in Rockville, Soweto in January this year.

Two men, Zakhele Nhlekisana Cyril Mbatha, 21, and Thulani Shelela Johannes Nicholas Dlamini, 20, are appearing on seven charges: one count of murder; two of unlawful possession of firearms; two of robbery; and two of unlawful possession of ammunition.

They have pleaded not guilty.

The charges relate to two separate incidents: the killing of Asvat early this year, and an incident in Nongoma in Natal where the state alleges Dlamini and Mbatha, with two others, robbed the Ekubuzeni store of R550 and cigarettes worth R600, in June last year.

The witness, whose name may not be disclosed, said Mbatha and Dlamini had come to his Soweto hostel room in February last year, and told him of their involvement in the killing.

"They told me they had appeared on TV and in the newspapers," the witness said.

The two wanted to stay at his place "temporarily because they wanted to look for a shack in the Vereeniging area.

"They said they would not go home (to Nongoma, Natal) because they had robbed a shop."

The man said he had known the two from their childhood in Nongoma.

He reported the men to the Protea police station at dawn on a Friday in February and they were arrested later that morning.

The next day he found "Mbatha's reference book, wrapped in a plastic paper, in a dustbin outside my hostel."

He said when the men told him they had killed a "doctor in Soweto", Dlamini was doing the talking, though Mbatha did not deny anything, he said.

Counsel for Dlamini and Mbatha said the two would deny the witness's evidence because the men on trial "had no reason to discuss anything with this man (the witness) because he hated Dlamini, who was from a different tribal faction".

It was also put to the witness that he "hated Dlamini" because he felt a relative of his had been killed by an uncle of Dlamini's.

Earlier yesterday Dr Aboobaker Ebrahim Seedat, a medical partner to Asvat's brother, told how on arrival at Asvat's Soweto surgery he saw him "lying on the floor with a lot of money spilled around him and the desk and draws in disarray".

Seedat was asked to gather Asvat's personal belongings and the money on the floor.

The state alleges the two stole R135 from Asvat's rooms.

However Seedat said the loose notes he found on Asvat's desk after the incident totalled R190 and he had not added the loose change.

The trial began on Monday this week.

On Wednesday a flood of painful memories were released as Albertina Sisulu recounted how she found Asvat lying in a pool of blood in his surgery.

Sisulu, president of the United Democratic Front and wife of recently released African National Congress leader Walter Sisulu, was a nursing sister at the surgery. In the emotion-charged courtroom, she recalled the events of the afternoon of January 27 this year.

"While a certain patient, Mandla Nkwanyana, was in the consulting room with Dr Asvat, I heard the grill door (a security door at the entrance of the consulting room) click— as if it was being opened — I thought Mandla was coming in with Dr Asvat after the examination," Sisulu said.

"Shortly after I heard a gunshot followed by a scream. To me it was the doctor's voice. I called on him and he did not answer. I ran through the back door and I screamed for help.

"While outside shouting for help I heard another gunshot and saw two young men running towards the gate outside."

She waved down an ambulance that had arrived to fetch a patient and asked the driver to chase the two men and returned to the consulting rooms to find Asvat "lying in a pool of blood".

She said the man in the surgery whose particulars she had taken and whom she heard Asvat talking to before the shot rang could have been Dlamini.

Another witness, Thandi Tshabalala, told the court how she ran towards the surgery after hearing two shots.

She found the doctor lying down, still alive, she said with tears rolling down her cheeks.

"I tried to talk to him but his lips were moving and he was showing me with his hands that the telephone was on the wall.

"He was already dead when the police arrived."

Tshabalala identified Dlamini as the person she saw at the window of the consultation room armed with a gun.

After leaving the courtroom Sisula told the *Weekly Mail*: that "standing in the witness box took me back to the day when Dr Asvat was shot — it was very hurtful.

"Dr Asvat was my child. Losing him was like losing my own child.

"But then he was also a father to me. He was also the person I went to when I was in trouble."

Symbolic protesters in court

Cape Times 20/10/89 Staff Reporter

A "SYMBOLIC" squatter shack erected on Republic Day on vacant land in Stellenbosch was meant to illustrate how quickly such a structure could be erected, Stellenbosch Magistrate's Court heard yesterday.

Twenty people are facing trespassing charges brought by the Stellenbosch Municipality after about 60 people erected a symbolic squatter dwelling on municipal land at Uitsig, near Cloetesville.

The case was adjourned to November 22.

Defectors 'aided police' (331)

Star 20/9/89

Own Correspondent

CAPE TOWN — A special team of security policemen, some former members of the ANC, came to Cape Town from Pretoria to track down members of the movement's operations in the western Cape, the Cape Supreme Court has been told.

Sergeant M D Musimeke, based in Pretoria, said this in evidence at the trial of Mr Tony Yengeni and 13 others charged with terrorism.

He said he and other members of the team, attached to the Security Police's terrorist-tracking unit, travelled to Cape Town several times between November 1986 and September 1987. The police had information on Mr Yengeni, Mr Mthetheleli "J J" Titana and Mr Bongani Jonas, and had "long been looking for them".

He regarded them as his enemies. "I know that if they can find me they can kill me."

Under cross-examination by Mr Pius Langa, for the defence, he refused to name former ANC and PAC members in his team. He could not say how many policemen it contained.

Terrorism trial to resume

(331) Star 21/10/89

PAT DEVEREAUX

THE court case involving three African National Congress cadres — the so-called "Broederstroom Three" — resumes in the Pretoria Magistrate's court on Monday.

The three, Damian de Lange (31), Iain Robertson (35) and Susan Westcott (25) were captured at a Broederstroom farmhouse on May 8 last year in possession of an arms cache. They were found guilty of various counts of terrorism in June.

A fourth accused, Mr Hugh Lugg (30), has apparently been held in detention since the group's arrest in May. He was expected to be called as a State witness but it is now believed that he will not be called to give evidence against the three.

The brother of Westcott, Mr Michael Westcott, said this week his sister "seemed very well and strong".

His sister and De Lange planned to marry as soon as the trial was over.

CMR T&H 21/10/89 331

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Jonas was 'most co-operative guerilla ever'

Supreme Court Reporter

SECURITY policeman Warrant Officer Jeff Benzien yesterday told the Supreme Court Mr Bongani Jonas had been the most co-operative captured ANC guerilla he had ever met.

WO Benzien was giving evidence in the inquiry to determine if Mr Jonas had just excuse for his refusal to give evidence for the state in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

Asked by Mr A M Omar, for Mr Jonas, if he knew that Mr Jonas' femur had been broken — Mr Jonas was shot in the thigh during his arrest — WO Benzien said he did not know and it came as a surprise when he learnt that at Woodstock Hospital.

In reponse to questions by Mr Omar, WO Benzien said while at security police offices at Culemborg he did not know that Mr Jonas' leg had been broken or that it had "hung loose".

He conceded that Mr Jonas could have been in pain but said Mr Jonas had told him the pain had not been unbearable.

In spite of Mr Jonas' thigh wound and his pain, he had been almost eager that police take him to Khayelitsha so that he could show police where he had hidden arms, WO Benzien said.

Asked by Mr Omar why it had been necessary to detain Mr Jonas under Section 29 if he had been co-operative, WO Benzien said security police were dealing with a recently-arrested highly-trained ANC guerilla who was an enemy of the police, the community and a criminal who could point out arms.

Detention under section 29 allowed police an opportunity to obtain information from a detainee who was compelled to answer questions to the satisfaction of police, he said.

WO Benzien told the court that Mr Jonas had said to him that he had wanted to defect from the ANC long before his arrest.

In response to a question by Mr Justice S Selikowitz, WO Benzien said in his experience Mr Jonas had been the most co-operative captured ANC guerilla.

He also said Mr Jonas had not received pain-killing medicine before his admission to hospital, nor did he have his wound bandaged.

Because of the willingness with which Mr Jonas had answered questions he had gained the impression that Mr Jonas would co-operate with the police.

The hearing continues on Monday.

Cape Times 21/10/87

351

Hofmeyr in court for breaking restrictions

Court Reporter

RECENTLY released hunger-striking lawyer Mr Willie Hofmeyr made a brief appearance in Cape Town Magistrate's Court yesterday in connection with possible charges of breaking his emergency restriction orders, allegedly for failing to obey a 6pm to 6am curfew.

The former UDF executive member was arrested on August 16 and detained for 27 days, during which he embarked on a hunger strike.

Mr Hofmeyr, 34, of Observatory, had his bail of R200 extended and was told to return to court on November 24 to hear the attorney-general's decison regarding prosecution.

Mr HJ Venter was the magistrate. Mrs A van den Bergh prosecuted. Mr W Field appeared for Mr Hofmeyr.

331

Court sees video of Trojan Horse incident

Shooting followed stoning by seconds

Own Correspondent

CAPE TOWN — Shooting by security force members hiding in crates on the back of a truck began 2½ seconds after the first stone hit the windscreen, a video recording of the "Trojan Horse" incident screened in the Cape Town Supreme Court showed yesterday.

The court watched an extended, though edited, version of CBS News footage shown earlier.

Sophisticated video equipment demonstrated that the shooting lasted for 14 seconds and 20 frames.

CBS News cameraman Mr Christopher Everson, who recorded the footage, said it was like "the third world war" when the shooting began.

Private prosecution

He was giving evidence in the private prosecution of 13 security force members who are charged with the murder of Shaun Magmoed (16) who died in the incident on October 15 1985.

Mr Everson said he thought at first that the security force members were trying to scare the crowd by shooting with "coarse salt or light birdshot".

He said he had 17 years' experience as a television cameraman. He had been in many of trouble spots around the world, including Pakistan, Afghanistan and Beijing.

On October 15 he and his soundman were "cruising" the Cape Flats, filming sporadic incidents of unrest. A colleague received a message that there was "trouble" in Athlone.

The upper end of Thornton Road, Athlone, looked fairly normal. Further down a crowd had gathered on either side of the road.

They stopped about 50 m away, took out their equipment and began recording. They stopped far away because the foreign press had been criticised and accused of instigating unrest.

"Our brief was not to become involved, to stay well away and observe."

Mr Everson said there was a crowd of about 100 people at the intersection.

About 20 people, at a rough guess, were throwing stones. They appeared highly selective about which vehicles they stoned. Civilian vehicles driven by coloured people were not stoned.

He noticed a yellow truck with SA Railways plates driving down the road. Expecting it to be a target, he filmed it. It was unmolested and continued down the road.

After he crossed the road to film from a different angle, he saw the vehicle returning. As it appeared, he zoomed his camera into the windscreen and filmed it being stoned from both sides.

When he heard firing he zoomed the lens back and noticed men popping out of the boxes on the back of the vehicle. There was general panic and screaming.

The hearing continues.

'People's court' five run out of appeals

Court Reporter

FIVE Nyanga men are expected to hand themselves over this week after three years of battling against their 1986 jail sentences for running a "people's court".

They were sentenced by a Wynberg magistrate in September 1986 to between 1½ and 2½ years effectively for lashing two sisters 60 times each.

According to a spokesman for their attorneys, Essa Moosa and Associates, the five have finally exhausted every channel of appeal.

Their final appeal, for clemency from President F W de Klerk, was turned down earlier this month.

Wynberg public prosecutor Mr Piet Mostert yesterday confirmed that actor Mzake Ndidimba, 31, musician Simon Pasiya, 30, Xola Jack, 23, Lawrence Sidlayiya, 28, and Ndimphiwe Kweza, 23, were expected to turn themselves in at the Wynberg Magistrate's Court soon.

a record R700 000 for the Wildlife Society.

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Asvat murder: Police hit us, claim accused

Staff Reporter

A trial within a trial began on Friday in the Rand Supreme Court when two men accused of murdering Dr Abu-Baker Asvat claimed they were assaulted by police when they were arrested.

Mr Zakhele Mbatha (21) and Mr Thulani Shelela Dlamini (20) have pleaded not guilty to the murder on January 27 this year.

They have also pleaded not guilty to two charges of robbery with aggravating circumstances, two counts of illegal possesssion of a firearm and two counts of unlawful possession of ammunition.

State witnesses have denied the men were assaulted or that Mr Dlamini was bitten by a police dog.

The hearing continues.

Mrs Yengeni excused from court for a week

Cape Times 24/10/89 331

Supreme Court Reporter

MRS Lumka Yengeni, who has been admitted to Groote Schuur Hospital psychiatric unit, was excused yesterday from attending court for another week at the recommendtion of a psychiatrist.

Mrs Yengeni, who with her husband Tony and 12 others is accused of terrorism, was admitted to hospital on September 29 and was diagnosed as suffering from post-traumatic stress disorder. She was due to return to court yesterday.

Mr Justice S Selokwitz granted the application.

Mr H Klem SC, for the state, then closed the state case in the inquiry into the refusal by Mr Bongani Jonas to testify for the state in the case of Mr Yengeni and his co-accused.

The hearing continues next Monday.

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the Commonwealth summit, he reiterated the government's firm stand against international interference in South Africa's internal

of an internationally-interim government."

The new South Africa considered and dis

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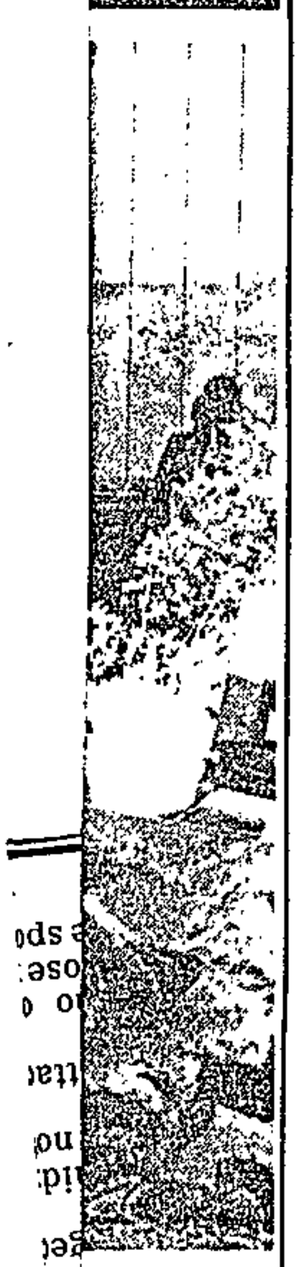

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Upington 26: Bail refused for death row woman

Cape Times 24/10/87

331

Staff Reporter

IN an extraordinary application in the Kimberley Supreme Court yesterday, bail for the only woman on death row in South Africa was yesterday refused.

The woman, 55-year-old illiterate domestic servant Evelina de Bruijn, is one of the "Upington 26" trialists.

The 26 have been sentenced for the death of a municipal policeman in Uppington's Paballelo township in 1985. Four of the 26 were granted bail yesterday pending their appeal.

Besides De Bruijn's application, one other bail application was refused by Mr Justice Jan Basson. The bail application of Elisha Matshoba, 22 — sentenced to eight years' — was turned down.

Mr Henri Viljoen, SC, told the Kimberley Supreme Court yesterday that it was an extraordinary application that anybody sentenced to death should be allowed out on bail, but the defence believed that the circumstances in which De Bruijn found herself were exceptional.

De Bruijn and her husband, Gideon Madlongolwane, 63, were sentenced to death by Mr Justice Basson in May this year.

Wits clinical psychologist Mr Lloyd Vogelman said De Bruijn was the only woman on death row and that she was depressed because of the stress of awaiting execution.

She suffers from habitual crying, insomnia and a poor appetite.

He added that her psychological strain had been increased by her strong commitment to her family and her perception that she had failed in her maternal duty.

Her two youngest children are not allowed to visit her because they are under 16 years of age.

In turning down her bail application, the judge said there were not sufficient factors which would make her circumstances so unusual that it would warrant bail.

Four men, Abel Kutu, 28, Ronnie Masiza, 22, Jeffrey Sekiya, 24, and Sarel Jacobs, 22 — all sentenced to six years' — were released on R500 bail each.

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'Comrade' had many problems

331

Court Reporter 24/10/89

A 17-YEAR-OLD Bonteheuwel "comrade", convicted of seven counts of public violence, arson and malicious damage to property, was driven to his actions by a multitude of psychiatric and political problems, the Cape Town Regional Court heard yesterday.

The youth, who may not be named, was part of a group who set fire to, stoned or turned over vehicles belonging to the police, a school inspector and several commercial companies and committed acts of arson on homes and the Bonteheuwel post office between 1986 and 1987.

Giving evidence in mitigation of sentence, clinical psychologist Dr Larry Loebenstein said that the youth had an alcoholic father and an over-protective mother. "Having been exposed to the unrest incidents of 1985, the youth also felt he had to have solidarity with his people."

Bail was refused and the accused is being held in custody. The trial was postponed till next month.

Mr J M Lemmer was the magistrate. Mr D J Brand prosecuted. Mr D Potgieter appeared for the youth.

Fresh evidence in mitigation to be led on ANC trio

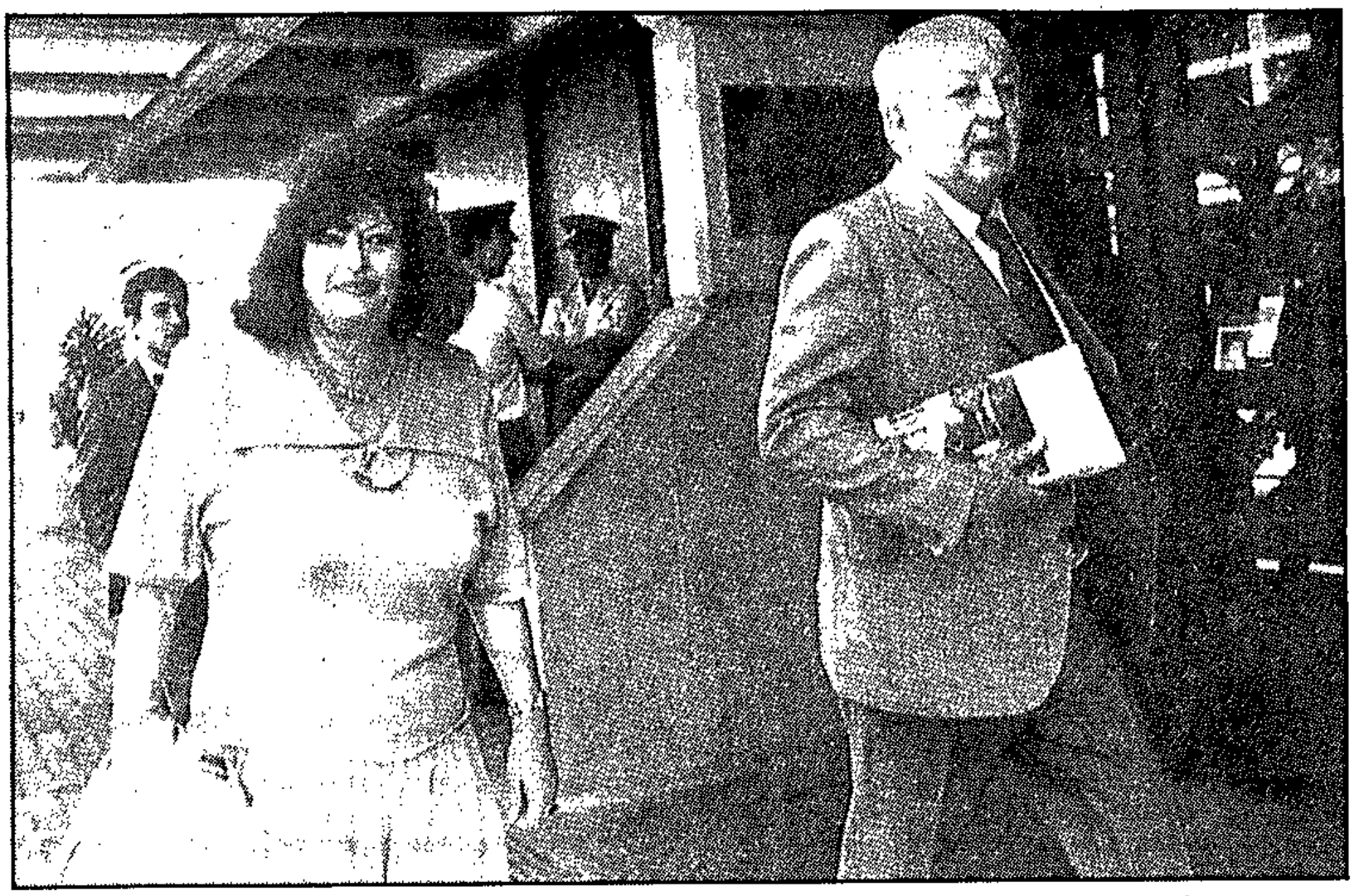
New turn in terror trial

By Norman Chandler, Pretoria Bureau

The trial of three convicted African National Conress terrorists — the so-called Broederstroom Three — took a new turn yesterday when a magistrate allowed a request by the defence for new evidence in mitigation to be led.

Professor Brunhilde Helm, head of the department of applied sociology at the University of Cape Town, is to take the stand today following yesterday's proceedings in which the State spent all day in the Pretoria Regional Court questioning Unisa sociologist Ms S E (Betty) Welz about questions she had asked of the accused.

The court, resuming after a four-month recess, was told by Ms Welz that the accused were "trained soldiers" and that while the "present regime was in power in South Africa, (they) were unlikely to change their minds" about the ANC.



Susan Donelly's parents . . . Mr John Westcott and his wife Mrs Margaret Westcott arrive at court.

Interviews

Ms Welz told magistrate Mr W J van den Bergh that she did not believe the accused — Damian de Lange, Ian Hugh Robertson and Susan Donelly — had deviated from their beliefs.

She was being cross-examined about the interviews she held over a period of four months after a police swoop on an alleged ANC terrorism unit at a remote Broederstroom farmhouse last year.

De Lange, Robertson and Donelly — who entered court with cries of "amandla" and gave the ANC clenched-fist salute — were in June found guilty of multiple terrorism charges. De Lange was also found guilty of two charges of arson.

Ms Welz said the accused were all members of Umkhonto we Sizwe and had not shown remorse for their beliefs.

She had spent many hours interviewing the three. She had double-checked information given to her by the accused — including family and friends, school teachers and employers — but found no inconsistencies in what they had told her.

She was closely cross-examined on various incidents including one at a Foskor plant at Phalaborwa in which De Lange had been involved in a fight with a white superior over treatment meted out to a black man, and another at the Golden Acre shopping centre in Cape Town during which De Lange's father had urged his son, then a journalist, to "do something" about police action against demonstrating children.

Prosecutor Mr J Pretorius questioned Ms Welz about the ANC and was told by her that she was not an expert on the ANC and therefore was not sure how the organisation operated and also knew nothing about the ANC wanting to use the current trial "for propaganda purposes".

She had merely relied on perceptions and reactions in her interviews regarding events such as one at Currie's Fountain, Durban, when police broke up a pro-Frelimo meeting, a parcel-bomb explosion which killed activist Jenny Curtis in Botswana, and bombings of Maputo.

She said, in reply to another question, that the "cumulative effects of all her (Donelly's) experiences" had "propelled Donelly towards the ANC".

New passport

The court heard that Donelly had from 1986 "been interested in the ANC" and had gone to Maputo and Lusaka for training, and that she had "seen herself as a soldier".

After marrying Mr Dominic Edward Donelly, she had obtained a new passport and entered South Africa.

During questioning about her relationship with her family, the magistrate censured the prosecution, saying that "the line must be curtailed".

Mr Pretorius asked Ms Welz whether or not she thought the parents of Donelly and the other members of the terrorism unit were "critical of apartheid".

Mr Pretorius: "Were they all colour blind?"

Ms Welz: "For number three (Donelly), yes. She was brought up in Swaziland, where there is no formal colour bar. In South Africa it is virtually impossible to raise a child without the child being aware of colour . . ."

The hearing continues.

Views of 3 'unlikely to change'

331
Cape Times
24/10/89

PRETORIA. — The defence counsel for the three Broederstroom trialists is expected to call a second sociologist, Prof Brunhilde Helm, today when the terror case continues in the Pretoria Regional Court.

Yesterday Unisa sociologist Ms Betty Welz, for the defence, said under cross-examination by the state it would be highly unlikely under the present regime in South Africa for the three accused to change their views.

She was being cross-examined by Mr J Pretorius on interviews she had conducted with Damian de Lange, Susan Donelly and Iain Hugh Robertson, who in June this year were found guilty on multiple charges of terrorism.

Heavy police presence

The court had found that De Lange, a former journalist who had been unit commander; Robertson who had been political commissar and Donelly, who had been communications officer, had formed a white ANC cell.

When they entered the court room on Monday, the three shouted "amandla" to which members of the public responded with "awethu". There was a heavy police presence in the court.

Mrs Welz told the court her main aim had been to attempt to discover the motivations of the accused. De Lange and his father had witnessed a group of coloured schoolchildren being manhandled by the police in the Golden Acre shopping centre in Cape Town without being given adequate time to disperse.

His father had asked him whether there was nothing he as a journalist could do about it.

Donelly had been "propelled towards" the ANC by an accumulation of experiences. These included allegations of SADF atrocities at Masinga, and contacts with exiles in Britain.

Mrs Welz said perceptions had grown in Donelly's consciousness during 1986 that she wanted to become more involved in the ANC. At the time of her arrest she saw herself "very clearly" as a soldier.

The hearing continues next Tuesday. — Sapa

Terror three's 'culture shock'

ARGUS 24/10/89 (331)

The Argus Correspondent

PRETORIA. — Three convicted African National Congress terrorists had a considerable amount of "culture shock" when they realised South Africa was different from the rest of the world in terms of racial attitudes.

This was told to the "Broederstroom Three" terror trial in the Pretoria Regional Court today by top sociologist Professor Brunhilde Helm who was called in mitigation by the defence.

Professor Helm also said the three, Damian de Lange, Iain Robertson and Susan Donelly (nee Westcott), were "not typical white South Africans" and that definition was "cardinal" in explaining how it had come about that they were in court.

BACKGROUND

Professor Helm is Professor Emeritus at the University of Cape Town, Dean of the School of Health and Social Sciences at the University of Bophuthatswana, and Visiting Professor in Social Sciences at the University of the Witwatersrand.

She said that, in each case, the background of the accused "did not really render them typical white South Africans". It was cardinal to the case.

She asked the magistrate, Mr W J van den Bergh, to take into account what she termed "the extraordinary differences between white South Africa and black South Africa and the Western world".

"Any young person from South Africa, and not only white, who visits abroad cannot avoid a considerable measure of culture shock. There is a wide disparity between perceptions about what is normal and acceptable in South Africa and what is considered normal elsewhere.

"In each case, this experience played a large part in the situation of these three," she said."

De Lange and Robertson were found guilty earlier this year on 11 counts of terrorism, and Donelly on 10 counts. De Lange is also guilty on two counts of arson.

Professor Helm said that their backgrounds did not allow them, nor were they willing to fit into normal South African society.

She said that De Lange, whose Catholic upbringing had first suggested he would be entering the priesthood, regarded himself as not only a "defender of the faith but also a defender of those less privileged".

When he became a journalist, De Lange had mixed with better-educated people and what they had told him had reinforced his commitment.

Professor Helm, asked by Mr David Soggot SC, for the defence, whether or not De Lange would have taken part in petrol bombings of offices of the old Progressive Federal Party, replied: "He would have sooner or later taken the kind of step that he eventually took. The attack on the PFP offices accelerated the issue."

(Proceeding)

Cape Point weapons trial begins

Argus 25/10/89

By VUYO BAVUMA, Staff Reporter

A MAN alleged to be an ANC guerrilla has appeared in the Wynberg Regional Court in connection with two explosions in the Western Cape, including a grenade attack on the home of Crossroads mayor Mr Johnson Ngxobongwana.

Mr Danisile Nokhatywa, 33, is also alleged to have had knowledge of a cache of arms, including rifles and ammunition, handgrenades and limpet mines, in the Cape Point Nature Reserve.

Mr Nokhatywa appeared yesterday with Miss Buyiswa Berlina Jack, 34, of Nyanga, a Western Province Council of Churches field worker, and Miss Agnes Ntombizodwa Yoyo, 26, address unknown, who are also alleged to be members of the ANC.

Terrorism charge

All three pleaded not guilty to a main charge of terrorism and to three alternative charges that between December 1985 and December 1988 they acted unlawfully as members of the ANC, took part in the activities of the ANC and defended or encouraged the aims of the organisation.

The State alleges that Mr Nokhatywa joined the ANC in 1985 and was responsible for bringing arms into the country and training people in their use.

It alleges that he threw a handgrenade at an SADF Casspir near Lansdowne Road on October 23 1985, damaging the vehicle slightly.

He is also alleged to have thrown a handgrenade at the house of Crossroads mayor Mr Johnson Ngxobongwana.

According to the State, Mr Nokhatywa and Miss Yoyo underwent military training in Angola and Zambia in July 1986 and in 1987 and, after their return to Cape Town, trained several people in the use of handgrenades and limpet-mines. They later recruited Miss Jack.

Money and map

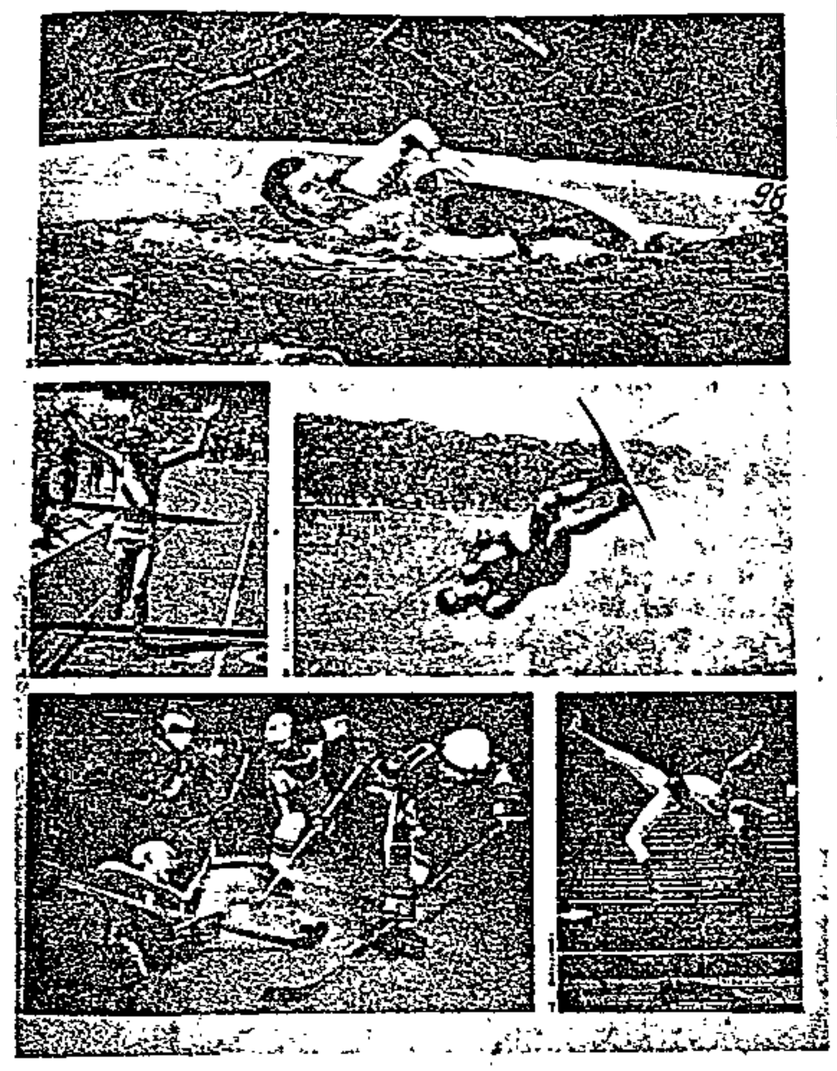
The State further claims Mr Nokhatywa supplied handgrenades to new cadres and that in September 1988 he instructed Miss Jack — recruited into the ANC in September 1988 and trained by him — to travel to Botswana to collect money and a map showing the location of an ANC arms cache in Cape Town.

In October 1988, the State alleges, Mr Nokhatywa and Miss Jack went to fetch the cache in the Cape Point Nature Reserve. Arms included four AK 47 rifles with magazines, 15 F1 handgrenades, three SPM limpet-mines with detonators, 25 handgrenades, detonators, about 1 800 rounds of ammunition for AK 47 rifles and Makarov pistols. It is alleged that the arms were later stored at a factory near Browns Farm in Philippi.

Mr Nokhatywa and Miss Jack were arrested near the Botswana border in the vicinity of Ramatlahba on Novemebr 15.

The State claims Miss Yoyo joined the ANC in July 1986, underwent military training in Angola and helped Mr Nokhatywa to recruit new ANC members.

400 of the best in new Argus book



MORE than 400 of the most striking colour and black-and-white photographs taken by photographers of The Argus over the past 25 years have been assembled in a new book, The Argus Book of Press Photographs, which is now on sale at leading booksellers.

It is the first book of its kind to have been produced in South Africa and it includes a breathtaking pictorial record of the great moments, and some of the memorable lesser moments, of a turbulent era.

Published by Struik Publishers, The Argus Book of Press Photographs includes in its rich diversity of subjects, historical events ranging from the assassination of Prime Minister Hendrik Verwoerd to the world's first heart transplant.

Dramatic highlights at Newlands, international yacht races, and the last — and bitterly controversial — Springbok rugby tour of New Zealand, are among the many sporting events covered.

PROSPUR

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The State claims Miss Yoyo joined the ANC in July 1986, underwent military training in Angola and helped Mr Nokhatywa to recruit new ANC members.

In October 1988, it is alleged, she received two AK 47 rifles, four magazines and 120 rounds of ammunition from Mr Nokhatywa. She later gave one rifle and the ammunition to a Mr Christopher Toise.

● The court heard yesterday that a security policeman promised Miss Jack — who was pregnant and physically unwell at the time of her arrest — that her diet would be improved and that he would arrange bail for her if she made a statement to a magistrate.

Miss Jack was giving evidence in a trial-within-a-trial to determine the admissibilty of her statement to a magistrate on December 22 1988.

She told the court she was arrested near the border of Botswana and Bophuthatswana on November 16 1988, taken to Fort Beaufort and then brought to Cape Town.

She was held at Elsies River police station, but was occasionally questioned at the Culemborg security headquarters. She was pregnant at the time and physically unwell.

"As a result, and on several occasions, I was taken to Groote Schuur and Tygerberg hospitals. The doctors prescribed certain diets for me and medicine, but I never received it."

"Promise"

Miss Jack said a security policeman — a "Mr" Mthunzi — asked her to make a statement and promised that if she did, "I could get out of detention" and "would be able to have my baby as a free person".

Miss Jack said Mr Mthunzi showed her copies of statements he alleged were made by Mr Nokhatywa and a Miss Ncunyiswa Hans.

"Mr Mthunzi said he wanted me to see how the others had implicated me. He said I was delaying the legal proceedings. He also said he was going on holiday and didn't know when he would return and was worried about how they would treat me in his absence."

She said she made the statement on December 22, but did not receive improved food and was not immediately released.

She said she was released almost five months later.

The hearing continues today.

Sunny and warm

(Details — page 2)

obbery saved

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24 HOURS

n-workers' ty of life im- d — page 39.

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Broederstroom Three 'not typical SA whites'

AMGW 25/10/89 331

NAMIBIA ATTACK: Four of the men facing charges of being involved in the machinegun and grenade attack on Untag headquarters in Outjo last month, in which a security guard was killed, appear in the dock in Windhoek. The man in the middle, Craig Barker, has had the charges against him dropped and has been released. The four are, from left, Horst Klenz, Arthur Archer, AWB member Darryl Stopforth and Leonard Veenendal, the Johannesburg leader of the AWB.

The Argus Correspondent

PRETORIA. — A Wits professor has said in court that the "Broederstroom Three" cannot be called typical white South Africans because of their background and historical legacies.

The three, Damien de Lange, 31, Iain Robertson, 36, and Susan Donnelly, 25, were convicted on 10 counts of terrorism in June in the Pretoria Regional Court.

The men were each convicted on a further charge of terrorism and De Lange was convicted on a further two counts of arson and one count of attempted arson.

Argument on mitigation of sentence was adjourned yesterday until tomorrow on request by the state.

The state, led by Mr J P Pretorious, asked the presiding magistrate, Mr W J van den Bergh, for time to prepare for cross-examination of sociologist Professor Brunhilde Helm.

Professor Helm, currently visiting professor at Wits' School of Social Work, said in her evidence in chief the historical legacies of the three did not enable the three to act as normal white South Africans by virtue of accepting general norms and acting within the social norms of South Africa.

Catholic education

According to Professor Helm, De Lange's Catholic upbringing was part of his historical legacy.

Some internal conflict arose from from him being raised a Catholic.

His schooling was mostly in private Catholic schools and he was to have become a priest, but during his adolesence he had doubts and did not seek entry into the priesthood.

Professor Helm said this must have been of some distress to him.

Professor Helm had gained the impression that the De Langes were a close knit, socially concerned family.

After completing matric, De Lange entered the South African Navy after which he worked as a trainee hotel manager for a short time. He left for Phalaborwa where he was employed on a mine and eventually became a journalist.

Professor Helm said De Lange had strong emotions and feelings which were part of his personal make-up.

Professor Helm said a factor to be taken into consideration was the extraordinary difference in the conventional white South African view of the South African racial situation and the view of blacks, the whole Western world and the English speaking world.

She said any young person from South Africa who spends time abroad whether in Europe or Africa, cannot avoid some measure of "cultural shock". Perceptions as far as what is seen as normal in South Africa are not what is expeienced as normal elsewhere.

In the case of Robertson, his mother's family was close to Professor Edward Roux, a noted intellectual at the time, who openly expressed his views against racial segregation.

It was almost a religion in the family to believe in social equality, irrespective of race.

Professor Helm said Robertson was a person who felt deeply and he felt it was his task to redress what he felt was the fundamental injustice in his land of birth.

Donnelly has no direct South African connections, her parents are British and German. She grew up in Swaziland and went to multiracial schools.

Arrest order after alleged brick attack

Staff Reporter

A WARRANT has been issued for the arrest of an I D Mkize High School pupil who was allegedly one of a group who hit a white principal on the head with a brick and then set his car alight.

Mr Manona Anthony Madini, 20, of Guguletu, failed to appear in Wynberg Regional Court to face a charge of public violence.

The hearing has been postponed until November 13 and the warrant has been held over until then.

ONE OF GROUP

Mr Madini was alleged to have been one of a group of people who struck Mr Lyle Redelinghuis, the principal of New Crossroads Secondary school, with a brick on the head on April 20 in Guguletu.

It was also alleged that Mr Madini and the group set Mr Redelinghuis's car alight.

The magistrate, Mr M S Knox, provisionally withdrew Mr Madini's bail of R200 until November 13.

Mrs E Crouse appeared for the State. Mr D Kawalski instructed by Essa Moosa and Associates, appeared for Mr Madini.

Radio announcer sues clinic for R371 363

The Argus Correspondent

PRETORIA. — An Afrikaans radio announcer who worked for the SABC for 30 years, has instituted a R371 363,26 damages claim after nearly losing the use of one eye following an operation.

Mr Andries Johannes Albertus Cornelius, 52, brought the claim against the Garden City Clinic in Johannesburg, owned by Clinic Holdings (Pty) Ltd.

In the Pretoria Supreme Court yesterday Mr Justice Spoelstra ordered Mr Cornelius to hand over certain documents to Clinic Holdings within five days.

Mr Cornelius's claim arose from an operation in December 1985 to remove a cataract from his right eye.

In papers before court Mr Cornelius said that as a result of the negligence of the clinic staff he lost between 90 and 96 percent of the sight in his eye.

He stated that clinic staff had been negligent during the preparation and execution of the operation by failing to ensure that instruments presented to Dr M S Kritzinger were either not clinically or correctly sterilized.

He also said the instruments were chemically sterilized by the defendant without considering what the effect of the chemicals would be if they came in contact with his eye.

As a result of the negligence, Mr Cornelius said, a number of complications ensued, including thickening of the cornea.

In January 1987, the complications made a corneal transplant necessary and on April 18 the sight in his eye was less than 5 percent.

Before the operation Mr Cornelius was a fulltime employee of the SABC where his duties required a lot of reading.

He was also employed as a freelance announcer and commentated on boxing. He was left with no option but to resign.

Mr Cornelius also claimed for loss of income of his fulltime job for which he had earned R42 000 annually and an additional R12 000 for freelance work.

CNA Times 331

October 26, 1989 9

State to question professor on ANC whites

PRETORIA. — The Broederstroom trial, in which three white ANC members have been convicted on multiple charges of terrorism, resumes in the Regional Court here today.

Sociologist Professor Brunhilde Helm is expected to be cross-examined by the state on mitigatory evidence she gave on behalf of the defence on Tuesday.

She said Broederstroom ANC cell commander Damian de Lange regarded himself as an Umkhonto We Sizwe soldier who was still subject to his "orders and procedures" and a prisoner of war.

He and his co-accused Iain Robertson and Susan Donelly believed it was incumbent on themselves to act in a manner befitting soldiers, she said.

Prof Helm is a Professor Emeritus at the University of Cape Town, dean of the School of Health and Social Sciences at the University of Bophuthatswana and visiting professor at the University of the Witwatersrand's School of Social Work. She interviewed the trio in prison.

Prof Helm said the trialists' first-hand experiences of blacks' circumstances in South Africa and in other countries had "played a large part in the situation they occupy today".

Any South African who travelled abroad should expect a "culture shock" regarding race relations.

The trial is expected to end, at the latest, by next week, when regional magistrate Mr W J van den Bergh will pass sentence.

Tight security surrounds the trial, with uniformed policemen patrolling the inside and outside of the court buildings, and many of them sitting in the packed public gallery of Court 5. — Sapa

Grenades, arms cache: Three to appear today

CPK Trials 26/10/89

331

Court Reporter

An alleged ANC guerilla is due to appear in Wynberg Regional Court today in connection with two explosions in the Western Cape and an arms cache in the Cape Point Nature Reserve.

He is alleged to have thrown hand grenades at the home of Crossroads mayor Mr Johnson Ngxobongwana and an SADF Casspir near Lansdowne Road last year.

Mr Danisile Nokhatywa, 33, is appearing with Western Province Council of Churches field worker Ms Buyiswa Jack, 34, and Miss Agnes Ntombizodwa Yoyo, 26, who are also alleged to be members of the ANC.

All three have pleaded not guilty to a main charge of terrorism, and to three alternatives that between December 1985 and December 1988 they acted unlawfully as ANC members, took part in ANC activities and defended or encouraged the aims of the organisation.

The state alleges that Mr Nokhatywa and Miss Yoyo underwent military training in Angola and Zambia in 1986 and 1987 and afterwards brought arms into the country, including hand grenades and limpet mines, and trained people in their use.

It further alleges that Mr Nokhatywa instructed Ms Jack to travel to Botswana to collect money and a map showing the location of an ANC cache in Cape Point, which they recovered in October last year.

Sharpeville 6 – or 7. Does it matter?

W. Mail 27/10 - 2/11/89

A new movie on the Sharpeville killing, to be shot in Zimbabwe, poses a question — does it make any difference who the actual killer was? HUMPHREY TYLER talks to Charles Pillai, who plays the lawyer for the defence

SOUTH AFRICA'S Sharpeville Six become seven in a new film called *Dirty City* to be shot in Zimbabwe early in December. It's a BBC production with Celeste Fox as the producer and Chris Curling as the director. But six or seven, the heart of the matter will remain the very same: the contamination of guilt by association, the contagion of the legal principle of "common purpose" and the degree of retribution for a mob killing of a man.

In the film, the lawyer who will argue for the defence is Durban actor Charles Pillai, a good choice: he played advocate Sydney Kentridge in the stage production of *Stephen Biko: The Inquest*, and in *A Dry White Season* he was Dr Hussein who uncovered some uncomfortable facts in an independent post-mortem. Also, he can glower splendidly.

Though *Dirty City* examines the principles at stake in the trial of the Sharpeville Six, it doesn't try to tell a documentary story. In fact, it has an additional poignancy: in the film, the real killer comes forward, but he is dissuaded from talking. It would mean nobody saved; just one more to hang, the lawyer concludes. So live with your guilt.

The film is being shot in Zimbabwe — partly in the supreme court in Harare — but the setting will be very much South Africa, "you know", says Pillai, "yellow police vans, quirts, Casspirs and one guy has a picture of the state president in his office". Not this one, the one before. You Know Who.

Charles Pillai is 36 and his whole career has turned between law and the stage. His father was a colonel in the police and Pillai went to the University of Durban-Westville to study for a legal degree "because law was in the family". But he was seduced by the stage and was awarded a drama degree first. He persisted with his legal studies, though, and runs a successful practice in Durban, in Chatsworth. He is married to Saira Essa, the Durban actress and producer who runs her own, separate drama studio with ancillary classes in towns all over Natal.

At the moment they are resting, if you could call it that, after a wildly successful nationwide tour of their docu-drama *The James Commission*, which is based on the judicial inquiry into some extraordinary goings-on in the Indian leg of the three-chamber parliament. Pillai played Amichand Rajbansi, the sacked former cabinet minister, and the real Rajbansi was so impressed he turned up at the opening night and actually autographed a lot of programmes.

The enormously successful docu-drama has had about as many *Goon*-ish twists during production as the real-life story it portrayed. Refusing to play in state-controlled venues, like the theatres in the posh Natal Playhouse complex in Durban with its tufty carpets and fancy acoustics, Pillai and Essa's Upstairs Theatre Company made do with the Canegrowers Hall at the ML Sultan Technikon for the tumultuous, packed opening few weeks. It's a huge, cavernous hulk with few facilities and few comforts but it was splendid compared to things to come.

One show was in an elderly cinema with the stage raked so steeply you could abseil from the foot of the cyclorama into the front row seats and there was some speculation about using ropes. The exit was down a pitch black tunnel and fumbling forward in the dark, Pillai

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W. Mail 27/10/89 - 2/11/89

Asvat trial accused tells of shocks

A man accused of murdering activist doctor Abu Baker Asvat says he was tortured with an electric instrument called 'Sergeant Sparks', reports CASSANDRA MOODLEY

AN accused in the Asvat murder trial this week alleged police electrocuted him, "pulled a tube (that of a car tyre) over his face" and forced him to make a statement confessing to the murder of community doctor Dr Abu Baker Asvat.

Zakhele Mbatha, 21, was giving evidence during a trial-within-a-trial in the Rand Supreme Court where he and Thulani Nicholas Dlamini, 20, are appearing on seven charges relating to murder, robbery and unlawful possession of firearms and ammunition.

The two have pleaded not guilty to the charges which include the gunning down of the Soweto doctor in January and the robbery at a store in Natal last year.

Last Friday counsel for Mbatha, Wayne Hutchinson, challenged the admissibility of a statement made by the accused to a policeman because it was "procurred under duress and he was told what to say".

"Therefore the contents are false," Hutchinson said.

In the statement made to Lieutenant FG Page on February 19 this year at Roodepoort police station, Mbatha claimed a friend, Johannes (one of Dlamini's first names), whom he met in December last year, told him of a plan to make money. Johannes took him to Rockville on January 25 and showed him Asvat's surgery. On January 27 Johannes told him to go to the surgery and tell the doctor he was sick.

After giving his particulars to the nurse Mbatha and his friend left the surgery and went to the shop where they remained until 5.30pm, according to the statement.

When they returned to the surgery Johannes gave him a firearm.

Mbatha entered the consulting rooms, pointed the firearm at the doctor and told him he wanted money.

After Asvat grabbed him on his left wrist he shot at the doctor's "upper leg", according to the statement. In the scuffle Mbatha shot the doctor in the chest. Johannes entered the room and removed something from the desk. The two men could not open the door to escape, and Mbatha threatened to shoot Johannes.

He then pointed the firearm at the nurse, whom he could see through the grating, and suddenly the door opened and the two ran away.

from 'Sergeant Sparks'

Mbatha handed the gun to Johannes and split the R135 they had taken from the surgery. In his statement Mbatha added that Johannes said he would use the balance to buy bullets.

During evidence Mbatha denied that the statement was correct and alleged the police told him what to say.

He claimed that the day before he made the statement he was taken by the investigating officer and three other policemen to a chicken farm (behind Kliptown railway station). On the way to the farm, while still outside the Lenasia police station, "Heslinga (the investigating officer) tied a belt around my neck and took me to a Kombi.

"They started assaulting me while we were driving. When I regained consciousness I was asked where the chicken farm was.

"After that they drove me to the Protea police station, where I was taken to a swimming pool.

"My clothes were taken off and my hands were handcuffed behind my back and my feet were also cuffed. They told me if I didn't point out where the firearm was and admit I killed Asvat they would put me into the swimming pool.

"They started holding my feet and my hands, and my head was dipped in the pool.

"The cuffs were removed. I dressed and they went with me into the offices. My denim jacket was brought up to my face and tightened so I couldn't see.

"I was handcuffed and instructed to sit on the chair. I was electrocuted by an object and I fell down from the chair.

"I was instructed to sit down and another object (a car tyre tube) was pulled over my face. I could not breathe.

"I was pulled down to the floor — stomach down. I felt my body being electrocuted. I couldn't scream or cry because the object was tightly squeezed across my face."

Mbatha claimed he then told the police he had sold a firearm to a person called Gugu. He took them to the Marafe hostel where Gugu was staying.

Gugu denied knowing him or anything about the firearm and "they (the police) instructed him to assault me because I was making false allegations against him".

Mbatha said he was again electrocuted and was told the object being used to electrocute him was "Sergeant Sparks".

Then "an Indian policeman (known to him as Moodley) told me that when Heslinga returned he would give me instructions and if I didn't carry out his instructions we would go from round three to round 15 — in sequence".

"Major Heslinga returned with a piece of paper and a ball pen and started telling me about Johannes — my friend — the person I went with to kill the deceased. They said I should say my intention was to go and rob him (Asvat). I was told to mention that the person who came with the idea of getting to the place was Johannes.

"They repeated this several times so I couldn't forget it," he said.

Under cross-examination Mbatha admitted he knew Dlamini from their "homeland". However, he had told a magistrate before the start of the su-

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Future protest hangs on Sunday rally

● From PAGE 1

man Govan Mbeki, who was freed in 1987. Mbeki's restriction orders were lifted for a week to allow him to speak on Sunday.

Muntu Myeza, of the Black Consciousness Movement, said BCM supporters would attend the rally "in a spirit of comradeship".

If the event goes ahead without incident, it will confirm semi-legal status for the ANC within the country, and will mean the Congress-aligned forces will operate at four levels.

The ANC and SACP will have public faces, and at least seven representatives immune from serious threat of prosecution. At the same time they will maintain underground structures.

The UDF, which is restricted, has re-emerged as a public force and is building up its structures.

The Mass Democratic Movement, created to fill the gap left by the UDF, has pulled the UDF, Cosatu and several previously unaligned groups into a coherant and public alliance.

A fifth level could be created if the Conference for a Democratic Future in December succeeds in forging a broad alliance of anti-apartheid forces.

Torture claims in Asvat trial

W Mail 23/10-29/11/89

From PAGE 5

preme court hearing that he did not know Dlamini.

"At what stage did the assaults influence you to make a statement before Lieutenant Page?" asked J van der Merwe, for the state.

"After I returned from the place where I pointed out Gugu," replied Mbatha.

He said after Heslinga and Moodley ran through the story with him a few times he gave his statement to Page, whom he told he had been assaulted while at Protea police station.

Van der Merwe put it to him that in his evidence in chief Mbatha said he received the injury on the way to the chicken farm.

Mbatha also did not tell the Soweto Regional Court magistrate, ME Miller, of his injury. Miller said he did not notice any injuries or that Mbatha was limping.

Dr Ebrahim Asvat, Asvat's brother, said in court earlier this week he had not seen Mbatha limping on the day Mbatha was taken to Asvat's Rockville surgery.

W. Mail 27/10 - 2/11/89 (331)

As Rivonia Six are released, Broederstroom Three face jail

By SHAUN JOHNSON

THERE is a strange irony attached to the sentencing of the "Broederstroom Three" in the Pretoria Regional Court next week.

It is an indication of the unpredictability of the current political situation that recently-released African National Congress leaders, most of them founder members of the military wing Umkhonto weSizwe, are operating freely just as three young members of the same organisation face lengthy prison sentences.

The trial is a manifestation of the government's ambiguous stance towards the banned organisation. The energy with which the three are being prosecuted inside the courtroom is difficult to equate with the open, and allowed, displays of support for the movement outside.

It is also an important sign of how white involvement in guerrilla activity has increased since the "Rivonia" leaders went to Robben Island in 1963 to serve their life sentences.

The eventual fate of Damian de Lange, 31, Iain Robertson, 35, and Susan Westcott, 25, has attracted less attention than might have been expected because it has been overshadowed by the release of the ANC leaders.

But theirs is a case which — as has been borne out by the hours of sociological testimony about the motivation behind their decision to join Umkhonto — says a great deal about the unresolved fissures in South African society; the era of FW de Klerk notwithstanding.

The three, articulate, sophisticated white South Africans, placed their lives at risk in pursuance of their beliefs. The potential risk became actual when they were captured in a raid on their Broederstroom smallholding on May 8 1988.

They were detained under section 29 of the Internal Security Act until January 23 of this year, when they appeared in a magistrates' court on charges relating to terrorism.

In a subsequent appearance, on June 12, De Lange and Robertson pleaded guilty to 11 counts, and Westcott to 10. The current hearings, expected to conclude at the end of next week, are to allow evidence in mitigation.

The three's instructing attorney said: "It is strange, at a time when the ANC has in certain areas been *de facto* 'unbanned', to observe a case being pursued such vigour on charges such membership, furthering the aims and the like."

He believes the state is "trying to depoliticise this and other cases by pursuing the 'criminal' aspects and dropping the charges of treason.

"The effect is that the state wants to depoliticise their actions as soldiers."

For family members, friends and supporters, there is no question about the political dimension.

Susan Westcott's brother, Michael, — who, with Kieran de Lange, brother of Damian and others, has helped set up the "Broederstroom Support Committee" — says events since last year's raid "have had a definite politicising effect".

His own political development was closely allied to that of his sister's, but the influence has been more widely felt — particularly by his parents.

Michael Westcott harbours a hope that the changing political climate will mean she does not have to serve her sentence in its entirety, and says his sister has been "very excited about the releases (of the ANC leaders) ... and the groundswell of support.

"It has been an enormous morale boost for all of them (the three)."

This could be compounded next week, when it is thought possible that Rivonia leaders might pay a visit to the courtroom.

White MKs 'kings' in Soweto

IF the "Broederstroom Three" were able to appear in Soweto tomorrow, they would be regarded as "kings and queens".

This statement, by South African Council of Churches president Bishop Manas Buthelezi, prompted exclamations of approval from the public gallery in the Pretoria Regional Court yesterday.

Buthelezi was giving evidence in mitigation in the case of Damian de Lange, Iain Robertson and Susan Westcott, who have pleaded guilty to several counts of "terrorism". The three Umkhonto weSizwe members are expected to receive their sentences next week.

Before Buthelezi could take the witness stand, defence counsel David Soggot had to convince Magistrate WJ van der Bergh that the prosecution's objection (that the bishop's evidence was not relevant), was not valid.

Soggot successfully argued that Buthelezi, as a prominent figure in black communities, "might be able to offer guidance" to the court, particularly regarding the attitude toward whites who joined the ANC, or Umkhonto.

In his evidence, Buthelezi said the sense of grievance among blacks had increased since 1976: "Many feel frustrated, and some have lost hope that their grievances can be redressed".

Regarding support for the ANC, Buthelezi said "ever since the old (traditional) order crumbled, the ANC was the home for people trying to fit into the new political order".

Increasingly, he said, he had observed that members of Umkhonto were "regarded as heroes by the community, and this cut across the spectrum; ordinary people included".

In the case of whites who joined, he said "my observation is that as they do not have such obvious reasons to cast in their lot with the ANC, they are regarded as even more than heroes.

"There is something within them (which encourages them to join the ANC) ... it is beyond mere physical circumstances. If they (the three) were to appear in Soweto, they would be regarded as kings and queens."

The magistrate acceded to a request from the prosecution for an adjournment until this morning, when Buthelezi will be cross-examined.

Explosives in car: Alleged ANC man in court

By VUYO BAVUMA
Court Reporter

A MAN alleged to have left an explosive-filled car near a Parow shopping centre, and carried out several handgrenade attacks in the Western Cape, has appeared in court to face eight counts of terrorism and trying to escape from custody.

Mr Siphiwo Andriaan Qila, 23, of Guguletu, also faces five alternative charges of attempted murder and three for being a member of the ANC, taking part in its activities and defending or encouraging its aims.

Handcuffed and wearing sunglasses, Mr Qila, a former pupil of Fezeka High in Guguletu, was not asked to plead.

The State alleged that in 1986 Mr Qila was trained in the use of handgrenades by Mxolisi Petane, a member of the ANC's armed wing, now serving 17 years in prison.

It also alleged that Mr Qila received further training in the handling of weapons at Pango camp in Angola in August 1987. He returned to the Western Cape in August 1988.

Mr Qila is also alleged to have left a vehicle filled with home-made explosives near a shopping centre in Parow.

GUGULETU COUNCILLOR

He allegedly threw a handgrenade at the home of the wife of a Guguletu councillor, Mr Densy Lobi, on June 15 or, alternatively, he intentionally wanted to kill four people in the house at the time of the grenade attack.

Mr Qila is alleged to have given a handgrenade to a man known as "Siphiwi", which was used in an attack on the house of a policeman, Mr Morton Majuqulana, in June 1987.

On June 19 last year he allegedly fired several shots with an R-4 rifle at a patrol van in which there were three policemen, and at the vehicle of Sergeant R Matrose on June 21.

The hearing was postponed to December 11.

Cops 'tried to destroy Jonas's coercion claim'

Cape Times 31/10/89 (331)

Supreme Court Reporter

SECURITY police had sought to paint a picture of the conditions under which Mr Bongani Jonas had been held as "friendly and comfortable" and tried to show that his suggestion of coercion was wrong, the Supreme Court heard yesterday.

This was said by Mr A M Omar, for Mr Jonas, during his address to the court in the inquiry held to determine if Mr Jonas had just excuse for his refusal to testify for the state in the terrorism trial of Mr Tony Yengeni and 13 others.

Mr Omar said an element which made it humanly intolerable for Mr Jonas to testify was the highly polarised nature of South African society.

Mr Jonas's position was akin to that of a prisoner-of-war who did not want to give evidence against his comrades.

The probabilities were that Mr Jonas had not been as co-operative as police made him out to be. What stood out glaringly was that police had chosen to detain him for such a long time, Mr Omar said.

Mr Hendrik Klem SC, for the state, said the onus was on a witness to prove he had just excuse not to testify and Mr Jonas had failed to do so. He had not been a credible witness and had been a lying witness, he said.

Mr Jonas had made two major allegations, that he had been unlawfully shot at point-blank range and that he had been assaulted by security police at Culemborg. In both cases the evidence was overwhelming that his version should be rejected.

Evidence was that eight of the accused in the Yengeni trial had been arrested on the strength of information given by Mr Jonas.

The hearing continues today.

Death row 'destroying' woman, 55

Staff Reporter

A 55-YEAR-OLD grandmother — and the only woman on Pretoria's death row — could be "psychologically destroyed" before her appeal against her conviction and sentence is heard next year, Democratic Party law and order spokesman Mr Tian van der Merwe said yesterday.

The DP is to take up the case of Evelina de Bruin, one of the "Upington 14" sentenced to death for the 1985 murder of a municipal policeman, with Justice Minister Mr Kobie Coetsee, Mr Van der Merwe said.

In an extraordinary bail application last week, it was disclosed that De Bruin — an illiterate domestic worker — was "disintegrating" physically and mentally on death row.

Her 63-year-old husband is also on death row for his common-purpose part in the murder.

'Situation altered'

Mr Van der Merwe said De Bruin's circumstances highlighted the "inadequacies" in the South African legal system and that a letter would be written to Mr Coetsee to encourage him to bring about changes in the judicial system to provide for cases such as De Bruin's.

"Once a person has been allowed to appeal, the situation is dramatically altered.

"With the backlog of cases in the courts, we can't just let people stay there," he said.

In last week's failed bail application, Wits University clinical psychologist Mr Lloyd Vogelman said De Bruin was "extremely distressed" and that she suffered from insomnia and habitual crying.

She has been on death row since May 27 and had not seen her two youngest children — both under 16 years of age.

"I am so worried about the welfare of my children that I have not been able to eat or sleep for the past week. I cannot sleep properly. I feel afraid and sad when I think of my children," she said in an affidafit handed in during the bail application.

The trial resumes today.

Union group teargassed

SUSAN RUSSELL

POLICE used teargas to disperse a group of about 1 000 Paper, Printing, Wood and Allied Workers Union members who gathered outside the Rand Supreme Court yesterday where the murder trial of six co-members was due to start.

Police arrested two people in the incident, one of whom escaped.

The trial of the six men is a sequel to a strike among employees of the Afcol furnishing group in June last year.

They are charged with the murder of five non-striking Afcol employees and the attempted murder of another six.

It is alleged that Elias Phasha, 40, David Molebala, 25, Bongani Mazibuko, 34, Michael Thabiso Machepha, 25, Jerry Ranlekoa, 44 and Sydney Dlamini, 26, were involved in the formation of a "special task-force" to intimidate non-strikers and persuade them to take part in the strike.

The State alleges the murders and attempted murders took place on June 2 and 10 last year near the Croesus, Mzimhlophe and Booysens stations.

According to the indictment the strike began in April last year after the dismissal of four employees from Star Furnishers, an Afcol company.

Workers in the group subsequently went out on a sympathy strike.

The trial of the six was yesterday postponed until November 9.

ANC flag

Sapa reports that according to a police spokesman two people were arrested in the incident outside the Supreme Court yesterday for waving an ANC flag.

One of the pair escaped but the other was still in police custody.

The police spokesman said a case of demonstrating in the vicinity of a court building was being investigated.

Rockman's superiors act

Political Staff

CAPE TOWN — The police are to take departmental disciplinary action against Lieutenant Gregory Rockman following his comments to the Press after he had received an official warning not to do so.

Yesterday, a police spokesman would only say: "It is a departmental issue and the matter will be dealt with in that manner."

But, it is reliably understood that a decision to charge Rockman has been made following his comments to the Press yesterday after the official warning.

The spokesman also dismissed suggestions that the police were attempting to prevent the publication of the book on Rockman which is due to be released soon.

Hans Strydom, chairman of Senior Publications, said the book was already being printed and would be published at the end of November.

□ Sapa reports Rockman yesterday said he had been served with an order to prevent him publishing or giving information about the force without first submitting it to his superiors for clearance. He also said he had been told to report to Pretoria for duty on November 16.

Policemen face murder charge

THREE SAP members attached to the Mohlakeng municipality on the West Rand were arrested on Monday, and will face a charge of murder in court today.

A Witwatersrand police spokesman said yesterday the policemen were arrested after the body of a man with a bullet wound in the back of his head was found last Saturday alongside the Zuurbekom road outside Soweto. He said the three had been suspended from duty and investigations were continuing. — Sapa.

stries

NATAL UNREST DEATHS

September 1987 to January 1989:	668
February 1989 — October 30 1989:	297
Past 24 hours' official toll:	0
TOTAL:	965

ANC trio made 'an extreme choice'

PRETORIA. — The three Broederstroom trialists had made an extreme choice when they joined the ANC's military wing, Umkhonto we Sizwe, and should have known the consequences, the Pretoria Regional Court heard yesterday.

Professor F A Maritz, Dean of the Faculty of Arts at Unisa, was giving evidence as an expert witness for the state.

Damian de Lange, Iain Robertson and Susan Westcott were convicted on respectively 11, 11 and 10 charges of terrorism following their arrest at Broederstroom on May 8 last year.

There had been many options available to them to further the cause of blacks, but they had chosen an extreme one and should have known the consequences.

The hearing continues today. — Sapa

Jonas 'trying to restore shattered prestige'

Cape Times 14/11/89 331

Supreme Court Reporter

THE refusal of Mr Bongani Jonas to testify for the state in the trial of Mr Tony Yengeni and 13 others was an "11th-hour bid" to restore shattered prestige, the Supreme Court heard yesterday.

Mr Hendrik Klem, SC, for the state, said this during his address to the court at the inquiry to establish if Mr Jonas had just excuse for his refusal to testify.

Mr Jonas' reasons for his refusal could be categorised as political and moral obligations which have not been upheld as just excuse in the past by the appellate division, Mr Klem said.

Mr A M Omar, for Mr Jonas, replied his client had been subjected to intense police interrogation.

The hearing continues on Friday when Mr Justice S Selikowitz said he hoped to give judgment.

Witnesses duty-bound to give evidence, State argues

By LINDA GALLOWAY
Supreme Court Reporter

CITIZENS were duty-bound to give evidence as State witnesses for the administration of justice and to curb criminal activity, the State prosecution argued in the Cape Supreme Court.

Mr Hendrik Klem, QC, was giving legal argument at the conclusion of the inquiry into the refusal of Mr Bongani Jonas to give evidence as a State witness in the Yengeni terrorism trial.

The hearing has been postponed until Friday when Mr Justice S Selikowitz will give judgment.

Mr Jonas faces a prison sentence of two to five years for refusing to testify in a case where charges have been brought under the Internal Security Act.

Mr Klem said Mr Jonas's reasons for refusing to testify were based on political and moral convictions which could not be taken as a "just excuse" under which the court could discharge him from his duty to testify.

Mr Jonas was seeking to establish a just excuse on the basis that it would be humanly intolerable for him to testify against former comrades. This had already been rejected by the courts as a just excuse, Mr Klem argued.

Mr Dullah Omar, for Mr Jonas, earlier told the court that for Mr Jonas to testify against his comrades would mean he had to live the life "of a hunted man" or join the police force, which would be humanly intolerable.

He had co-operated with police after his arrest.

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

Mr Justice Selikowitz is sitting with Mr W S le Roux and Ms J V Knoll as assessors. Mr H Klem and Mr J van Vuuren appear for the State. Mr A M Omar, instructed by Mr Huxley Joshua of Wilkinson, Joshua and Gihwala, appears for Mr Jonas. Mr D P De Villiers, QC, Mr M Donen, Mr P Langa and Mr J de Lange appear for the defence, instructed by E Moosa and Associates, Mallinick Ress Richman and Closenberg Inc, R Vassan and Company and Enver Daniels and Company.

Broederstroom trio 'had options other than ANC'

AK645 11/11/87 331

The Argus Correspondent

PRETORIA. — The three accused in the Broederstroom terrorism trial should have had "a balanced outlook" towards the African National Congress as they were intelligent, the Pretoria Regional Court heard.

Professor FA Maritz, Dean of the Faculty of Arts at Unisa and a trained sociologist, was yesterday giving evidence for the state.

The trio, Damian de Lange, Iain Robertson and Susan Westcott (also known as Donelly), were convicted earlier this year on multiple terrorism charges arising from a police raid on a remote farmhouse in the Broederstroom district.

MITIGATION

Evidence in mitigation of sentence was given last week by sociologists Mrs Betty Welz, who has worked with Professor Maritz at Unisa, and Professor Brunhilde Helms, professor emeritus at the University of Cape Town.

Professor Maritz said he had "a problem" with the trio's decision to join Umkhonto we Sizwe, the ANC's armed wing. "All three joined voluntarily when there were many other options to further black causes."

Theirs had been an extreme choice and they must have been aware of the possible consequences, particularly "as all three are intelligent, with two being journalists and one a teacher ... one would have expected them to have had a balanced outlook."

RESEARCHED

Earlier, an expert on the ANC, and chief of the police Directorate of Public Relations, General Herman Stadler, said South Africa's 1985 raid on Botswana had been a "political decision". He had co-ordinated the raid.

He had had 26 years' experience in the security branch and had researched the ANC since the early 1960s.

He listed the number of terrorist attacks, targets, deaths and injuries since 1976 — the first time details had been given in public.

In 1985 there were 136 terrorist incidents, in 1986 — 231, in 1987 — 235 and in 1988 — 281. Up to the end of September this year there had been 162. In October, the number reported dropped to six.

Since 1976, 232 people had been killed and 1 301 injured.

There had been attacks against 344 police, 318 civilian, 291 economic and 295 political targets and four against "other" and "unknown" targets.

Reg Oliphant arrested

Cape Times 2/11/89

331

RESTRICTED Oudtshoorn community leader Mr Reggie Oliphant was arrested by security police at D F Malan Airport yesterday and escorted back to his home.

His attorney, Mr Kader Amien, said police told him they were investigating a charge of contravening the restriction order.

Mr Phillip Ivey with his mother, Mrs Elspeth Ivey.

Purple rain:

Cape Times 2/11/89

Man in court

Staff Reporter

A BOTANIST, Mr Phillip Ivey, appeared in court yesterday in connection with an incident involving the "purple rain" cannon in the city centre during a protest in September.

During the protest in Burg Street on September 2 a man climbed on to the roof of a police riot-control truck and directed the nozzle, which was spraying purple dye on protesters, away from the crowd.

To page 2

From page 1

Purple rain

Cape Times 2/11/89

Buildings in the street were splattered as police fought with the man for control of the nozzle.

Police instituted a wide search for the man after the incident.

Yesterday a 26-year-old botanist, Mr Phillip James Ivey, of Claremont, appeared in the Magistrate's Court.

He was not asked to plead to allegations of malicious damage to property, defeating the ends of justice and assault with intent to do grievous bodily harm.

Mr Ivey was arrested yesterday morning. He appeared in court later in the day and was granted bail of R200.

The hearing was adjourned to November 23.

Mr H Venter was the magistrate. Mrs S J Smith appeared for the state and Mr Michael Evans for Mr Ivey.

4 ANC leaders attend trial

331

SA Press Association

Sowetan 2/11/89

FOUR of the seven ANC leaders released on October 15 attended the Broederstroom trial in the Pretoria Regional Court yesterday.

They were hugged and greeted by the trialists - Damian de Lange, Iain Robertson and Susan Westcott (also known as Donelly) - and their families and friends in the courtroom.

ANC political commissar Robertson shouted "Greetings, comrade leaders" when he saw Walter Sisulu, Ahmed Kathrada, Andrew Mlangeni and Elias Motsoaledi in the front row of the public gallery.

The four arrived during a short adjournment while the three accused were removing garb containing gold, green and black colours, after being ordered to do so by Regional Magistrate, Mr W J van den Bergh.

He said it was an "offence" for De Lange and Robertson to wear ties and Westcott a scarf with these colours.

He made the ruling after defence counsel David Soggott said, to sniggers from the packed public gallery, he understood the colours were also Inkatha's colours. He said female supporters in the gallery daily wear many items of clothing, beads and even sandals, with the three colours.

Expert witness

The four ANC leaders listened to an expert witness for the State, the dean of Unisa's arts faculty, Prof F A Maritz, being cross-examined on social factors that caused young people to join the ANC. They left at lunchtime to resounding cries of "viva" from the public gallery.

They were filmed by international television crews as they left the court building to board a waiting minibus in Schoeman Street.

The hearing continues.

From Rivonia to Broederstroom

From MONO BADELA

PRETORIA. — Even in the dock of the Broederstroom trial ANC veteran Walter Sisulu and three of the seven ANC leaders released on October 15 were greeted by the colours, black, green and gold.

But when they walked into the Pretoria Regional Court this week during an adjournment the three accused were removing clothing in the colours of the ANC after being ordered to do so by Regional Court magistrate Mr WJ van der Bergh.

They were hugged and greeted by the trialists — Damian De Lange, Ian Robertson and Susan Westcott, also known as Donnelly — and their families and friends in the courtroom.

ANC Political Commissar Robertson shouted "Greetings, Comrade leaders" when he saw Walter Sisulu, Ahmed Kathrada, Andrew Mlangeni and Elias Motsoaledi in the front row of the public gallery.

The Broederstroom ANC trio have been convicted on three charges of terrorism.

The four ANC leaders listened to an expert witness for the State, the Dean of Arts Faculty at the University of South Africa (Unisa) Prof FA Maritz, being cross-examined on social factors that caused young people to join the ANC before leaving at lunchtime to cries of "Viva" from members of the public in court.

They were filmed by international television crews as they left the court building and boarded awaiting minibus in Schoeman Street.

Earlier Major General Herman Stadler, head of the SAP Public Relations Division in Pretoria told the court that it appeared to him that Walter Sisulu said at Soccer City on Sunday the armed struggle should continue.

Stadler was testifying as an expert for the State. He said although the ANC had apparently adopted a more pragmatic approach its policy was still that the current political setup in South Africa could not be reformed but should be destroyed.

"The ANC's more pragmatic approach had caused the government to adopt a similar attitude."

General Stadler said the ANC had changed its strategy although its demands and goals remained the same because its morale was low as it had in reality lost the "people" war strategy.

COUR

Sisulu draws crowd at ANC trio's hearing

Argus 2/11/89 331

The Argus Correspondent

PRETORIA. — Court Five of the Pretoria Regional Court was packed as four of the African National Congress long-term prisoners released recently attended yesterday's hearing in the trial of the Broederstroom trio.

For an hour before the arrival of Mr Walter Sisulu, Mr Ahmed Kathrada, Mr Elias Motsoaledi and Mr Andrew Mlangeni the pavement outside the building was crowded with foreign and local media representatives.

The four men were taken to the courtroom and seated in a front-row bench reserved by friends and members of the Broederstroom support committee.

Shook hands

As they took their places, people filed past, shook their hands and wished them well.

Their arrival coincided with a recess following an order, made at the State's request, that the accused, Damian de Lange, 31, Iain Robertson, 36, and Susan Donnelly, 25, remove ties and a scarf in the ANC colours.

All three accused were found guilty in June on 10 counts of terrorism by magistrate Mr W J van den Bergh.

De Lange and Robertson were convicted on a further charge of terrorism for an attack on a defence force bus in Benoni last year.

Commander

The commander of the ANC cell, De Lange, was found guilty on two counts of arson and one of attempted arson.

As the Broederstroom trio entered the dock their shouts of "Amandla" brought enthusiastic replies.

"Comrade leaders," De Lange greeted the four men in the front bench before he and his co-accused shook their hands.

When proceedings resumed, the four listened to the defence's cross-examination of Professor Frans Maritz, Dean of the School of Sociology at the University of South Africa.

Professor Maritz said he did not regard the ANC and its military wing as one and the same. The ANC was the oldest liberation movement in the world, but the military wing, Umkhonto We Sizwe (Spear of the Nation), was a terrorist group.

Classified

After the Vietnam War, a United States government department had classified Umkhonto We Sizwe as a terrorist organisation, Professor Maritz said.

He could not name one Western government that had made a distinction between the two, but said the ANC would enjoy more support in England if it were not for its military wing.

If someone joined the ANC, it would not necessarily follow that he would join the military wing.

Professor Maritz conceded that it would not be surprising for ANC members who entered the cultural community of ANC camps outside South Africa, underwent education, propaganda or brain washing and saw themselves as liberators, to join the military wing as well.

As the four ANC leaders left the court, the accused trio thanked them for attending.

The hearing resumes at 2 pm today with the defence arguing in mitigation of sentence.

Leaders attend ANC trial

PRETORIA. — Cries of "Viva!" resounded through the Regional Court here yesterday when four of the recently released seven ANC leaders attended the Broederstroom trial.

They were hugged and greeted in the courtroom by the trialists — Damian de Lange, Iain Robertson and Susan Westcott, also known as Donelly — and their families and friends.

ANC political commissar Robertson shouted "Greetings, comrade leaders!" when he saw Mr Walter Sisulu, Mr Ahmed Kathrada, Mr Andrew Mhlangeni and Mr Elias Motsoaledi in the front row of the public gallery.

Scores of policemen lining the sides of the packed court kept a close watch but took no action.

The four arrived during a short adjournment while the three accused were removing clothing in the gold, green and black ANC colours, after being ordered to do so by magistrate Mr W J van den Bergh.

He said it was an "offence" for De Lange and Robertson to wear ties, and for Westcott to wear a scarf, in these colours.

He made the ruling after defence counsel Mr David Soggott said, to sniggers from the public gallery, that he understood the colours were also Inkatha's.

Women supporters in the gallery wear items of clothing, beads and even sandals in the three colours every day.

The four ANC leaders listened to an expert witness for the State, Dean of the Arts Faculty of the University of South Africa Professor F A Maritz, being cross-examined on social factors that caused young people to join the ANC, before leaving at lunchtime to cries of "Viva!" from members of the public in court.

The four were filmed by international television crews as they left the court building.

Shortly before their arrival, the head of the police public relations division, Major-General Herman Stadler, said it appeared to him that Mr Sisulu said at Soccer City on Sunday that the armed struggle should continue. — Sapa

Charging of journalists a new trend

Cape Times 3/11/89

331

A NEW trend had developed in the past couple of months whereby editors, journalists and publishers had been charged and brought to court, the Human Rights Commission (HRC) said yesterday.

"There are at least six trials in the Transvaal and the Western Cape involving newspapers which have allegedly contravened the emergency media regulations, the Internal Security Act and the Prisons regulations.

"The police have advised other newspapers that charges against them are being investigated," the HRC said in a statement.

The editor of the Oudtshoorn-based community newspaper Saamstaan, Mr Derek Jackson, was charged this week with contempt of court in connection with an article published in June 1989 about the sentences passed on two policemen found guilty of murdering activist Mr Andile "Ace" Kobe, who died of injuries received in police custody in May 1988.

After quoting both the Human Rights Commission and Lawyers for Human Rights, the article commented on the seemingly light sentences, noting that many South Africans were sceptical about the role of the South African judiciary.

"It would appear from the charges against Mr Jackson that commenting or airing an opinion, even though this might represent the view of many people, is not tolerated by the state," the HRC said.

The HRC said that continued action against Saamstaan "seems to be taking on the appearance of a vendetta".

Inside the mind of the young Damian de Lange

A personal biography by convicted Umkhonto We Sizwe cell commander Damian de Lange explains the influences which turned him from a politically unaware, working class youth into a guerrilla

By SHAUN JOHNSON

WHILE working as an unskilled labourer at the state-owned Fosker phosphate mine in Phalaborwa in 1977, Damian de Lange got into a fight with another white employee. It was an important moment in his political development.

De Lange punched a man called "Dik Piet" because he had beaten up a black worker. He came close to losing his job but didn't, and has often thought about the incident since.

"I don't think I was rabidly anti-racist on the mines," he said. "I had no ideas or dreams of crusading for the blacks — it was merely that I tried to treat everyone the same, something I got from my father, mother, and the Catholic religion."

This was one of many recollections De Lange recorded while in prison awaiting the end of his trial for terrorism as one of the "Broederstroom Three".

In a lengthy statement, De Lange traces, in his own words, his life story from the time of his birth in Kitwe, Zambia (then Northern Rhodesia), on August 21 1958.

The *Weekly Mail* is able to reproduce extracts, which provide a fascinating, deeply personal insight into the mind of the young white man before he become an Umkhonto we-Sizwe cell commander.

De Lange started his schooling at a convent in Kitwe and, when the family moved to Durban, was enrolled at another convent on the Bluff. He attended Catechism classes and served as an altar boy. His mother's staunch Catholicism played a big part in his early life.

He then attended Marist Brothers College in Durban, where "I spent two not-such-happy years, being made aware of my income group by others who were mostly from high income groups".

By 1972 the family moved to East London, where De Lange completed his schooling at De La Salle College. At this time he began to question his Catholic beliefs: "I began reading about other religions, beliefs, witchcraft, astrology etcetera — this was to be a very long process, covering a number of years."

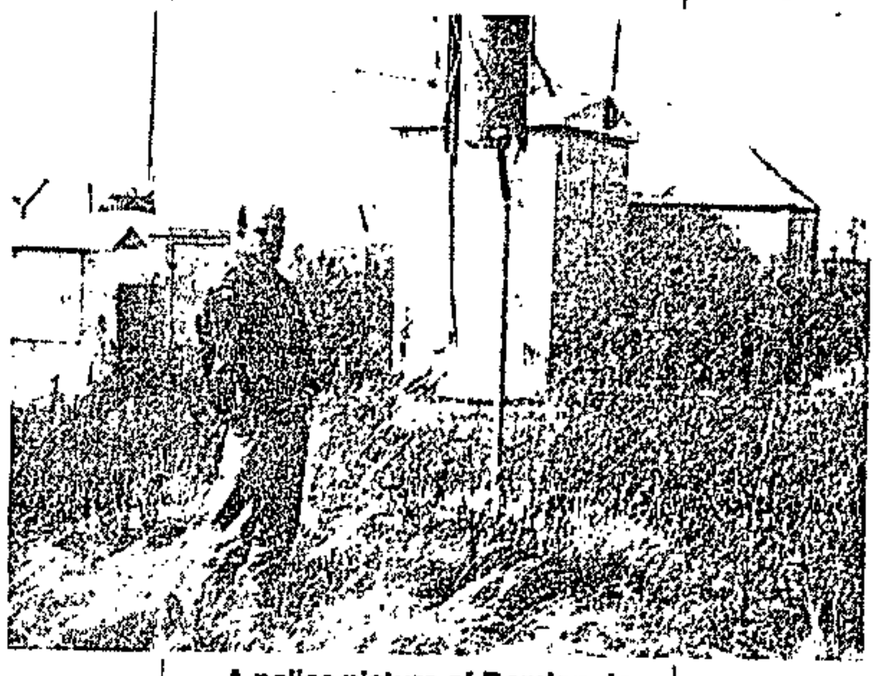
De Lange recalls an awareness of contact with black people from an early age. The family servants, in particular, exerted "a very strong influence in our family, and on me ...

"We (children) were told they were employed by my parents, not by us. This had an influence — we had to treat them as equals, or rather adults who could tell us what to do or not to do.

"Knowing or getting to know these servants helped me to like or not like people as they were. This sparked off arguments at school or among friends on the question of 'kaffirs'. I felt that people could not be lumped together under one derogatory name — some people were good and some were bad."

Describing his home life, De Lange recalls: "As a teenager I didn't think we were a liberal family, especially when it came to sex and drugs and rock and roll. But teenagers always see parents as exactly that and parents and restrictions are always restrictive — *C'est la vie!*"

In July 1976, a month after the Soweto uprisings, he was conscripted into the South African navy. De Lange notes that he was "totally unaware" of the developments in Soweto and the Cape townships. "My world consisted of those I had direct contact with, and life semed to promise one big party."



A police picture of Damian de Lange, taken at an alleged Umkhonto weSizwe target

De Lange's first job afterwards was as a trainee manager at an East London hotel, but he soon left for Phalaborwa and the phosphate mine. It was there that the incident with "Dik Piet" occurred and, more importantly, he developed friendships with black fellow-workers.

"Dick and Josias were the 'bossboys' on our shift, and I would never have got by without them. Though I found out later that what you were supposed to do was to tell the blacks what to do, and then sit in the air-conditioned office and be served tea ...

"I had come to enjoy working on the pump floor, changing pumps, valves, opening blocked pipelines, working with massive wrenches and joking with the blacks ...

"Once I was accused by the shiftboss, in a written report, of being a 'communist' because I spent time talking to the blacks and was Roman Catholic. I had vaguely heard that communists lived behind the iron curtain, but never thought it was something to do with talking to blacks, or religion.

"I got to know the blacks; some were old, some young, but all with very little education. They only spoke Afrikaans besides their own languages. Gradually I got to know that they spent most of their time in the compound except for off-weekends, when they would travel to homes not close to Phalaborwa ...

"Visiting the compound was like a concentration camp to me. Unbelievable. At school I had (been interested in) the writings of people like Ayn Rand and Solzhenitsyn — they painted a picture of what I saw here in real life.

"High fences topped with barbed wire, massive gates with guards, men lining up with ration cards to get food ... Loudspeakers blaring out something unintelligible.

"To me, the blacks were just normal people — some pleasant, others sullen, some extra hardworking and others skiving off whenever possible ...

"Then I found out how much the blacks got paid ... I thought it was a big waste of money, paying us whites so much for basically doing very little."

Back in Phalaborwa, De Lange became increasingly friendly with his black colleagues. "On off-weekends I would drive one or two home (normally to the Gazankulu area), spend a few hours having tea or being introduced to their relatives before being on my way."

At the end of 1978, he was accepted for degree study at the Universities of Cape Town, Rhodes and Wits, but eventually opted to join the then- South African Associated Newspapers group journalistic cadet course. While working on the *Cape Times* during the 1980 school boycotts, he began to attend community meetings.

"I built up contacts in the townships ... to some degree I was accepted in these non-white areas ... All in all it was very interesting and exciting." He met veteran trade unionist Oscar Mpetha at this time, and "formed a strong relationship with a young black journalist.

"With him I spent time in the shebeens and invariably the talk would be about current events, politics, the Boers, police and the ANC. I suppose I was also affected by the sense of a close community, of things shared and of being accepted — despite my initial apprehension of being a white in a township."

De Lange recalls being "surprised at the amount of discussion of politics at casual gatherings, compared to my white counterparts who generally only discussed the latest fashion, music, best beach of late and maybe some scandal."

Jonas sentenced to three years

CT Times 4/11/89 331

By RONNIE MORRIS

AFRICAN National Congress member Bongani Jonas was yesterday jailed for three years for his refusal to testify for the state in the trial of Mr Tony Yengeni and 13 others who face charges of terrorism.

Mr Justice S Selikowitz said he found the alleged "human intolerability" that Jonas, 30, claimed forbade him to testify "was not of sufficient cogency for him to be absolved of his duty to testify".

Immediately after he was sentenced and while the judge and assessors were still leaving the court, Jonas turned to the packed public gallery with his fist raised and shouted "Viva ANC" and "Long live the ANC-SACP alliance".

Spectators in the gallery, joined by the accused in the dock, responded with shouted slogans and raised fists. Some in the gallery also shouted at three policemen who led Jonas from the court.

'Comrades'

On April 18 this year Jonas was called to give evidence against Mr Yengeni and his co-accused after an application by the state — to hear his evidence in camera — was granted. The court ruled that his evidence could be published but that he should be referred to as Mr X.

During his evidence that day Jonas repeatedly asked the court's protection from intimidation from the "left and right".

The next day Jonas returned to court and said he did not want to testify against the people he had worked with.

He called the accused his "comrades" with whom he had "gone through thick and thin".

He said he had a child in the care of the ANC in Lusaka and that he had appreciated the way they had looked after the child.

Jonas testified that he had been shot during his arrest, tortured and assaulted by security police and subjected to intensive interrogation.

Police had denied the torture allegations and said Jonas had co-operated with them and had been a willing witness.

Mr A M Omar, instructed by Mr Huxley Joshua, of Wilkinson, Joshua, Giwhala and Abercrombie, appeared for Jonas. Mr H Klem SC, with Mr Jannie van Vuuren, appeared for the state.

Salutes and jail for man who refused

w/c ARGUS 4/11/89 (331)

By LINDA GALLOWAY
Weekend Argus
Supreme Court Reporter

BONGANI Abednego Jonas, 30, who refused to testify as a State witness in the Supreme Court trial of 14 people on terrorism charges, has been sentenced to three years' imprisonment.

Jonas raised his fist and shouted "Amandla!" after sentence was given, and the 14 trialists and the packed public gallery erupted with shouts of "Forward ANC!" as he was taken from court.

At the beginning of the day the spectators in the public gallery — family, friends and supporters of Jonas and the trialists — were told they would not be allowed to talk to the accused, which is usually permitted, and that anyone doing so would be removed from the gallery.

"Reasons"

In passing judgment, Mr Justice S Selikowitz said he could not find that Jonas had a just excuse for refusing to testify, although he understood his reasons for refusing.

Mr Dullah Omar, for Jonas, had argued that for Jonas to testify would be "humanly intolerable" as he would be betraying family, friends and former comrades in the African National Congress.

If he testified he would live the life of "a hunted man" and would have to live under the protection of the police for the rest of his life.

Mr Omar asked the judge to pass a suspended sentence.

Mr H Klem, for the State, asked that the maximum sentence of five years be imposed.

Mr Justice Selikowitz said Jonas had had two courses — neither "an easy way out."

Jonas was not before the court because of political ideas or because of acts he might have been party to, but because he had refused to give evidence.

"It seems to me you faced a choice of refusing to testify and facing that punishment, or alternatively to testify, with that heavy price as well."

By refusing to testify Jonas had rejected immunity and he was now liable to be charged with the same offences as the accused.

Jonas had refused to give evidence in circumstances where he believed he was being true to himself, his ideals, his family and society, the judge said.

However, there was a large group in society who would disagree with him and who felt that what he had done was "a very wrong and blameworthy thing."

"Dilemma"

Mr Justice Selikowitz said he would be failing in his duty if he did not attribute "some considerable weight" to what Jonas had been through and the dilemma which had faced him.

He had not been able to choose any option which would have allowed him to walk away scot-free.

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

SS, November 5, 1989

No fancy cars for MK three

Their priority was morality

By DESMOND BLOW

THE Broederstroom trio – three young white ANC guerrillas – were idealists who did not take part in "terrorist" activities for personal gain.

While other young whites their age were interested in fancy clothes and cars, the priority of the three was morality.

This was argued by Advocate David Soggot SC this week in the Pretoria Regional Court, where Damian de Lange, 31, Iain Robertson, 36, and Susan Westcott, 25, have all been found guilty on charges of terrorism.

Soggot said two of the three had lost friends through security force action and considered it an honour when they were invited to join Umkhonto we Sizwe.

The leader, De Lange, had been brought up in a Roman Catholic environment and had at one time considered joining the priesthood.

He had worked on the mines and had engaged in fist fights over the treatment of blacks by white colleagues on the mines.

As a journalist his experience of unrest in the townships had further alienated him from SA government policy.

He and two other white journalists had felt so strongly that when the PFP supported the government on cross-border raids by security forces, they fire-bombed PFP offices as a sign of protest.

While in Botswana, close friend Jenny Curtis Schoon had been murdered by a letter bomb and another friend, Mike Hamblin, was killed.

Soggot said De Lange loved South Africa. He joined the ANC in 1981 and Umkhonto we Sizwe in 1982.

Robertson had grown up in a leftist family.

His father had died when Robertson was 12 and his mother – who was against violence – had friends among prominent leftwingers such as Braam Fischer.

Robertson became involved in student politics at Wits and went to London in 1974.

In 1978 he joined the ANC and worked with the International Defence and Aid Fund. In 1985 he was invited to join Umkhonto we Sizwe.

Westcott was born and raised in Swaziland.

Soggot said although she received military training she had been involved in Broederstroom only as the communications officer and this should be a mitigating factor.

She had been brought up in a family that was non-racist and she had attended a non-racial school.

The death of friends, including that of a child, due to South African security force action, had moved her deeply.

Soggot said although the three had been sent weapons of war, they had not used them and had avoided harming civilians.

Soggot referred to their crimes as "ideological delinquency".

Damian de Lange ... could have joined the priesthood.

Susan Westcott ... grew up in a non-racial environment.

Three are defiant in court

THE Broederstroom trio will know their fate this week as their "terrorism" trial draws to a close.

Although they face many years behind bars, they have remained defiant and unrepentant.

They have entered the court with fists clenched and yelled "Amandla".

On Wednesday, shortly before released ANC leaders Walter Sisulu, Ahmed "Kathy" Kathrada, Andrew Mlangeni and Elias Motsoaledi appeared at the Pretoria Regional Court in support of the trio, they were ordered by magistrate WJ van den Bergh to remove the ANC colours in their clothing.

Damian de Lange and Iain Robertson were wearing black ties with gold and green stripes, and Susan Westcott a green skirt, black blouse and gold and green scarf.

There were emotional scenes as the trio and their families greeted the leaders.

When the court was adjourned, the trio shouted "Viva our leaders!"

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Suspension for taxi war culprits

Staff Reporter

OFFENDERS in the Peninsula's recent five-day township taxi war could face suspension or expulsion from the South African Black Taxi Association (SABTA) while further violence will be immediately referred to the police.

This was said yesterday by Mr Basil Nagel, SABTA regional secretary, following a week in which at least one driver was killed, several were badly injured and over a dozen taxis severely damaged.

The feuding Western Cape Black Taxi Association (WCBTA) and the Western Province Black Taxi Association (WPBTA) laid down arms on Thursday last week and pledged peace in front of senior riot policemen.

SABTA's disciplinary committee will begin a commission of inquiry next week into the violence and "thoroughly investigate, identify the problem and uproot it", Mr Nagel said.

SABTA president Mr James Ngcoya will be on hand to ensure that the decisions taken by the committee are properly carried out, he added.

Asked what was being done to prevent a repeat of violence which has sporadically claimed lives and property over the past four years, Mr Nagel said education of drivers was a key element.

Much of the violence followed the Road Transportation Board's greater flexibility in issuing taxi permits in line with the government's deregulation initiative recently, he said.

"The drivers are overtrading certain routes as more and more of them come on to the market with permits," Mr Nagel said.

He said that with better education, drivers would learn to avoid overtraded routes and earn more money identifying and developing new routes.

"There are definitely enough commuters for everybody," he said.

Mr Nagel said that over the past five months the board had been been issuing permits more freely than ever before.

Mr Ngcoya appealed to anyone with information on last week's violence to contact SABTA at 30 Waterkant Street, Room 708, seventh floor, or to phone (021) 211736.

WO tells of Yengeni stake-out

Supreme Court Reporter

A SECURITY policeman yesterday described in the Supreme Court the arrest of Mr Tony Yengeni and the discovery hours later of an arms cache in the Wynberg flat of his co-accused, Ms Jennifer Schreiner.

Warrant Officer Jeffrey Benzien, a member of the Terrorists Detection Unit, was giving evidence in the trial of Mr Yengeni, Ms Schreiner and 12 others who have refused to plead to charges of terrorism.

WO Benzien said that on September 16, 1987 he had received instructions from the unit's head, Captain William Liebenberg, to stake out Highstead Road in Rondebosch (where it joined with Lover's Walk) during an operation to arrest suspected guerillas.

Police information had been that someone would use the telephone kiosk there at 8pm and he kept it under observation. When a car stopped next to the kiosk shortly before 8pm he took up position about 10 paces away.

Other policemen had also edged closer to the kiosk and he recognised Mr Yengeni as the man who had entered the kiosk. He had also known him as Ray (his combat name), WO Benzien said.

At the time two policemen moved towards the kiosk, he noticed another person in the car. While the policemen stormed Mr Yengeni and wrestled him to the ground he went to the car.

He had approached Mr Yengeni with his pistol in his hand because he had heard that he was a trained guerilla and did not know if he was armed. He had later identified the other man as Mr Mzwandile Vena. When it became clear that he and Mr Yengeni were under control an attempt was made to handcuff them.

"Unfortunately none of the members had handcuffs and I left the scene without permission and ran to Rondebosch police station where I obtained hadcuffs and returned."

Later at the police station, except for slight bleeding to Mr Yengeni's lip, he did not see any other injuries, WO Benzien said.

The men were later taken to security police offices at Culemborg, where they were interrogated. Police later that morning went to a house in Searle Street, Lansdowne, where they found Ms Lumka Yengeni.

About 3.10am Mr Yengeni took security police to the Wynberg flat of Ms Schreiner, where a trunk, later found to contain arms, was found. During a subsequent search of the flat, documents were confiscated, and R1 694 in cash, WO Benzien said.

The trial continues today.

Wearing of ANC colours delays start of trial

By RONNIE MORRIS
Supreme Court Reporter

A DISPUTE yesterday over the wearing of ANC badges and colours — which led to court orderlies ordering their removal at the instruction of security police — caused a 1½ hour delay in the start of the trial of Mr Tony Yengeni and 13 others.

Mr Yengeni and some of the accused who wore badges or ANC colours refused and after an altercation between them and police were ordered down to the cells. They were accompanied by their defence counsel.

Later defence counsel and the advocates for the state had a discussion before going to see the judge in chambers.

After the tea adjournment the accused returned, with Mr Yengeni still wearing black, green and gold ribbons from his jacket pocket, Ms Jennifer Schreiner her decorative beadwork necklace and other accused still wearing items which displayed those colours.

When the court convened, Mr D P de Villiers QC said he regretted the delay but that none of the defence or state counsel were responsible.

● Mr De Villiers applied for Ms Soraya Abass to be excused from court for yesterday and today. She had been seen at the weekend by Professor Francis Ames, a neurologist, who said in a report that Ms Abass had mild drooping of the right eyelid which might have deep-seated causes. Ms Abass was scheduled to see a psychiatrist yesterday afternoon, Mr De Villiers said.

Managing Director

10 Superficial relations with section leader [illegible] understand (4-4)

11

7/11/89

331 BDays

Court told ANC three were bent on destruction

THE "Broederstroom three" were not ordinary terrorists but a select group of highly trained, highly motivated and extremely intelligent ANC members bent on a mission of death and destruction, State counsel Frans Roets submitted in the Pretoria Regional Court yesterday.

He made this submission before Magistrate W J van den Bergh during argument on the last day of the trial before sentence is given on Friday.

Susan Westcott, 24, former Rand Daily Mail reporter Damien de Lange, 32, and Ian Robertson, 36, have been convicted on various counts of terrorism. De Lange and Robertson pleaded guilty to 11 counts and Westcott to 10.

Roets said that detonation of an explosive device which damaged a bus carrying airforce personnel in Benoni and which forms the substance of one of the counts on which Robertson and De Lange were convicted, had been well planned and

SUSAN RUSSELL

executed for the sole purpose of injuring military personnel.

It was only because of a miscalculation when detonating the device by remote control, he said, that the main force of the blast had gone in front of the bus and those inside had escaped injury or death.

Role

Roets said De Lange had been the commander of the unit with the final and sole power to make life or death decisions not only on behalf of his colleagues but for thousands — perhaps millions — of his countrymen.

Robertson, said Roets, was a highly trained terrorist who had undergone military training in Angola and the Soviet Union.

It was clear, he said, that by his enthusiastic shouting in court, Robertson was trying to live up to his role as political commissar of the unit.

Westcott, who was the unit's communications officer, was described by Roets as the umbilical cord between them and the ANC.

"What the accused have done should be seen in a most serious light and they should be sentenced accordingly," said Roets.

He also asked the magistrate to take into account the large amount of arms, ammunition and explosives found in their possession.

The three, he said, fully realised what they were embarking on when they entered the country.

Before Roets began arguing yesterday, defence counsel David Soggot SC told the magistrate the State and the defence had formally agreed on the period each of the three had spent in isolation since their arrest.

All were held in isolation in terms of Section 20 of the Internal Security Act from the time of their arrest last May until January 21 this year.

The magistrate said he would pass sentence on Friday.

325 years' jail sought for 3 terror trialists

PRETORIA. — State advocate Mr Frans Roets yesterday asked regional magistrate Mr W J van den Bergh to sentence the three Broederstroom ANC terror trialists to a total of 325 years' jail.

Sentence is expected to be passed at 9am on Friday. Mr Roets said the trio could have caused devastation and havoc in South Africa had they not been arrested.

Addressing Mr Van den Bergh on the subject of appropriate sentences, Mr Roets said it was clear "they wanted to intimidate the population with cowardly attacks".

Broederstroom ANC cell commander Damian de Lange, political commissar Iain Robertson and communications officer Susan Westcott, also known as Donelly, were convicted in June this year of 11, 11 and 10 counts of terrorism respectively.

De Lange was also convicted of two charges of arson and one of attempted arson arising from the petrol-bombing of PFP offices in 1981.

Mr Roets asked that they respectively be sentenced to 125, 110 and 90 years.

De Lange "wanted to carry the torch of liberation ... but used it to set fire to the PFP offices ..."

As ANC cell commander, De Lange had had the power "to make decisions of life and death over thousands, even millions of his former countrymen when he re-entered South Africa on a mission of death and destruction".

De Lange's bomb attack on a SADF bus in Benoni last year had been "a most dastardly deed".

Mr Roets said the only logical inference that could be drawn from defence counsel Mr David Soggott's argument for mitigation was that his clients had "merely wanted to frighten the passengers".

It had only been an act of God that the passengers — 16 members of the air force — had not been killed, said Mr Roets.

He asked Mr Van den Bergh to bear in mind Robertson's "enthusiastic shouting of 'Amandla'. He clearly lives up to his role of political commissar".

Westcott had also uttered a "regular weak squeak" from the dock.

The hearing was adjourned to Friday. — Sapa

Police in phone booth arrest forgot the cuffs

M&G US 7/11/89

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By LINDA GALLOWAY
Supreme Court Reporter

A CONTINGENT of security policemen who staked out a telephone booth in Rondebosch to arrest a terrorism suspect discovered after the arrest that none of them had handcuffs.

This was the evidence of Warrant Officer Jeffrey Theodore Benzien in the Cape Supreme Court trial of Mr Tony Yengeni and 13 others, who have refused to plead to charges of terrorism and alleged African National Congress activities.

Yesterday Warrant Officer Benzien said he was a member of the security branch's terrorist tracking unit.

He had joined the stakeout of the telephone booth in Lover's Walk in Rondebosch in September 1987, when police arrested Mr Yengeni and a Mr Vena.

Warrant Officer Benzien said several policemen had been involved in the operation but after the arrests it was realised that no one had handcuffs. He had run back to Rondebosch police station to borrow two sets from duty policemen.

Asked by Mr J van Vuuren, for the State, why the policemen had not just approached Mr Yengeni, shown him identification and placed him under arrest, Warrant Officer Benzien said he had information that Mr Yengeni was a trained terrorist and had not known what weapons he might have had on him or in his vehicle.

Questioned

When he had seen Mr Yengeni at Rondebosch police station he had noticed he had a bleeding lip, but the cut had been so small it was hardly noticeable.

Mr Yengeni and Mr Vena had been taken back to security police offices at Culemborg and questioned. Warrant Officer Benzien had questioned Mr Vena and established he was not Mr Bongani Jonas, as he had initially thought.

They had left Culemborg about 11pm and taken Mr Yengeni to his house in Lansdowne, where they had found and arrested Mrs Lumka Yengeni and confiscated several items.

Warrant Officer Benzien denied that Mrs Yengeni had been assaulted "in my presence" during the operation at the house.

They had returned to Culemborg shortly before 3am and then left again for the flat of Miss Jenny Schreiner in Wynberg, where they had found a trunk containing weapons and ammunition.

Among the items confiscated at the flat were two lots of money — R149 in a plastic bank bag and R1 500 in R50, R20 and R10 notes lying loose at the bottom of a wicker basket.

● The trial was delayed yesterday when the accused were sent back to the cells and ordered to remove any ANC colours they might have been wearing.

The hearing continues.

Qibla prison terms cut

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PRETORIA. — Five of seven people who were convicted of terrorism in the marathon "PAC-Qibla" trial have had their sentences reduced on appeal to the Supreme Court here.

The appellants were Mabatu Enoch Zulu, 52, Siyabulela Ndoda Gcanga, 26, Vincent Alson Mathunjwa, 29, Sestiba Paul Mohohlo, 29, Daniel Saul Nkopodi, 27, Achmad Cassiem, 41, and Yusuf Patel, 27.

The first five had their sentences reduced.

Cassiem and Patel, who were sentenced to five years' imprisonment respectively, failed in their bid to have their sentences reduced, the judges saying they were "clearly not excessive". — Sapa

Broederstroom Three sentence due this week

ARGUS 7/11/89 331

The Argus Correspondent

PRETORIA. — The "Broederstroom Three" who each faces a maximum of 100 years' imprisonment or more, will be sentenced in the Pretoria Regional Court on Friday.

Yesterday Mr Frans Roets, for the State, asked that the three receive the maximum sentence.

Damian Michael de Lange, 31, Iain Hugh Robertson, 36, and Susan Catherine Donnelly (nee Wescott), 25, were each convicted on 10 counts of terrorism in June by Mr W J van den Bergh.

De Lange and Robertson were convicted on a further count of terrorism following an attack on a Defence Force bus in Benoni last year.

De Lange, the "commander" of the "cell", was convicted on two counts of arson and one of attempted arson. The arson attacks date back to May 1981 when De Lange took part in petrol bombing the PFP offices in Johannesburg.

Mr Roets said the ANC unit or cell to which the three belonged had operated within South Africa. He said the State believed "cell" was an appropriate discription — "they are not merely ANC cells, they can be described as cancerous cells that infiltrate and rot away the very soul of a democratic nation".

Unmolested

He said it was the court's duty to see that the right to live peacefully and unmolested was enjoyed by honest, law-abiding citizens.

Mr Roets said it was clear that all the deeds of terrorism perpetrated by the accused were carefully planned and executed with utter disregard not only for the rights of property, but also for human life and safety.

Giving the second part of the State's address, Mr J P Pretorious said in his opinion the State could not rely on Professor C J Bundy's opinion as expert.

Mr Pretorious said Professor Bundy had spoken of violence used by the State, but never refered to the ANC's actions as violent.

There were mistakes in the evidence of sociologist Mrs Betty Welz. The example he gave was the changing of the date of Donnelly's joining the ANC. He said originally the date was June 1986 but it was changed to January 1987.

He said Mrs Welz's report did not address why after joining the ANC, the three had seen fit to join the military wing.

Replying, Mr D Soggot, for the defence, said the State had gone out of its way to criticise Professor Bundy. Further, the reasons why the three had joined the military wing of the ANC had not been brought up by the State during cross-examination of Mrs Welz.

Editors face subpoenas over rally

Cape Times 8/11/89

JOHANNESBURG. — The editors of South Africa's two largest-circulation dailies face the threat of subpoenas under Section 205 of the Criminal Procedures Act.

The editors of The Star and Sowetan, Mr Harvey Tyson and Mr Aggrey Klaaste respectively, have been told to provide the police with information about the organisation of the "welcome home" rally two Sundays ago for Mr Walter Sisulu and six other released ANC prisoners — or face possible jail terms.

Their cases follow — but are quite separate from — the Section 205 subpoena served on the editor of the South African Press Association (Sapa).

The editors have been asked through their lawyers to name the persons who, or bodies which, placed and paid for the advertisements announcing the rally.

Mr Tyson said he could not and would not provide private information about advertisers unless he was convinced a real crime had been committed.

All legal advertisers and newspaper readers ought to be entitled to normal rights, he said.

"The authorities need to make up their minds. Either the rally was legal, or it was not. If the meeting now turns out to be illegal then the first approach should be made to the government spokesmen who gave an assurance in advance that it could be staged.

"If they want other information about the rally, the police should follow the normal procedure and interview the organisers and organisations which publicly supported it.

"The disturbing thing about these threats to the press of Section 205 is that the government seems to be acting in two contradictory ways — and within the same department.

"We have the benign face which is winning approval for the government at home and abroad — and we have the mailed fist which continues to be used against the press for no apparent reason other than a political one," Mr Tyson said. — Sapa

Jenny Schreiner 'faked illness', officer claimed

Capt Jarvis Sunday 331

Supreme Court Reporter

A SECURITY policeman said yesterday that when doctors found nothing wrong with terrorism accused Ms Jenny Schreiner, he told his superiors he believed she had shammed illness to get to hospital so that she could escape.

Warrant Officer Jeff Benzien was giving evidence in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

WO Benzien said he went to fetch Ms Schreiner from Parow police station on September 17, 1987 and found her in bed. She told him she was feeling unwell and nauseous.

At no stage did he see evidence of a broken mirror or a shoulder-bag strap tied to the bars of the cell, neither did Ms Schreiner tell him she had attempted suicide. She was admitted to hospital that day, WO Benzien said.

Doctors could not find anything wrong with her and he was of the opinion that she had shammed illness so that she could escape from hospital. He conveyed this opinion to his superiors.

Earlier, WO Benzien testified that on the same day he found Ms Schreiner in the office of his superior, Captain W Liebenberg, and demanded her handbag.

He searched it and found a bunch of keys with three metal bars attached to it. He confiscated it and later a colleague demonstrated that the bars could be used to open magnetic locks which had been on a metal trunk found in Ms Schreiner's flat in which arms had been discovered.

The trial continues today.

Police notebook blackout

Argus 8/11/89 (331)

By LINDA GALLOWAY
Supreme Court Reporter

"SENSITIVE" information in the pocket book of a security policeman may be blacked out by State prosecutors before it is handed to the defence counsel in the Yengeni terrorism trial, it was heard in the Supreme Court, Cape Town.

In addition to matters of "State security" the police pocket book of Warrant Officer Jeffrey Theodore Benzien contains references to his investigations of the accused in the trial, and has been referred to in his evidence before court.

Copies

Mr J van Vuuren, for the State, said he would give the defence copies of the pocket book, but with "sensitive" security information deleted.

Mr D P de Villiers, QC, for the defence, said he was not certain this would be acceptable.

Mr Justice S Selikowitz said the prosecution should make copies of the books, with deletions, available to the defence today, when it will be determined whether it is acceptable or not.

Warrant Officer Benzien gave evidence yesterday that after arresting a terrorism suspect, he had confiscated a passport which had entry and exit stamps for Botswana.

Arrests

He said he had been involved in the arrests and questioning of several of the accused, including Mr Gary Kruser.

He had taken Mr Kruser to a post office box in Athlone for which he had a key, but there had been nothing in it.

He had then taken Mr Kruser to a house in Kensington where a woman had given him Mr Kruser's passport which had eight stamps in it — entry and exit stamps from Bophuthatswana and Botswana.

Warrant Officer Benzien had searched Mr Kruser's house and among the things he had found and confiscated were extracts from *The African Communist* and *Communist Speaks*.

Ambulance

The policeman said he had seen Miss Jenny Schreiner on the morning of January 7 last year at Parow police station where she was being held as a Section 29 detainee.

She had been ill and he had not taken her for questioning as originally planned.

Later, she had been taken to hospital and Warrant Officer Benzien had "escorted" the ambulance to Tygerberg Hospital.

However, he told the court, he had not seen any blood in the cell, a broken mirror or the strap of a togbag.

Miss Schreiner had told him she felt nauseous and feverish.

After speaking to doctors at Tygerberg Hospital he had returned to her cell and searched it "for pills or other dangerous things" because he believed, and had told his superiors, she had been faking illness to get into hospital so that she could escape.

(Proceeding.)

● One of the accused, Ms Zurayah Abass, has been excused from court for the remainder of this week after seeing a neurologist and a specialist psychiatrist.

Mr De Villiers told the court that, according to the report of the psychiatrist, Ms Abass had "burnout" and was depressed, showing symptoms of anorexia, tension and anxiety.

'Reluctant' Sapa editor's statement on Cosatu release

JOHANNESBURG. — The editor of the South African Press Association (Sapa), Mr Edwin Linington, made a statement "most reluctantly" before a magistrate yesterday in terms of Section 205 of the Criminal Procedure Act.

Mr Linington, who had been subpoenaed to make a statement about the receipt and transmission of a press release from Cosatu in July this year, told the magistrate, Mr J F Zeelie, that he was making the statement "most reluctantly" and as a last resort "after thoroughly exploring and considering all other alternatives".

After hearing the statement under oath, prosecutor Mr A van Wyk told the court Mr Linington had satisfied Section 205 of the Criminal Procedure Act, and no further information was required from him.

Mr Linington told the magistrate he had been visited by two members of the security branch of the SA Police on August 15 this year, and had been shown a copy of a press release issued by Cosatu through Sapa.

The statement contained resolutions by the National Union of Mineworkers, the Transport and General Workers' Union and the National Union of Metalworkers of South Africa, none of which were unlawful or restricted organisations. Cosatu was partly restricted in terms of the Security Emergency Regulations.

He said the press release had been transmitted to Sapa's subscribers and members in the ordinary way on July 14 this year.

He said Cosatu was a contributor to the Sapa PR wire service which enabled it to provide Sapa with press releases for transmission to the media. The service was available to any person who paid the prescribed fee.

He said the the press release was transmitted to all Sapa's members and subscribers on July 14 this year, the same day it had been received from Cosatu. — Sapa

Editors face subpoenas over rally

Cape Times 8/11/89

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JOHANNESBURG. — The editors of South Africa's two largest-circulation dailies face the threat of subpoenas under Section 205 of the Criminal Procedures Act.

The editors of The Star and Sowetan, Mr Harvey Tyson and Mr Aggrey Klaaste respectively, have been told to provide the police with information about the organisation of the "welcome home" rally two Sundays ago for Mr Walter Sisulu and six other released ANC prisoners — or face possible jail terms.

Their cases follow — but are quite separate from — the Section 205 subpoena served on the editor of the South African Press Association (Sapa).

The editors have been asked through their lawyers to name the persons who, or bodies which, placed and paid for the advertisements announcing the rally.

Mr Tyson said he could not and would not provide private information about advertisers unless he was convinced a real crime had been committed.

All legal advertisers and newspaper readers ought to be entitled to normal rights, he said.

"The authorities need to make up their minds. Either the rally was legal, or it was not. If the meeting now turns out to be illegal then the first approach should be made to the government spokesmen who gave an assurance in advance that it could be staged.

"If they want other information about the rally, the police should follow the normal procedure and interview the organisers and organisations which publicly supported it.

"The disturbing thing about these threats to the press of Section 205 is that the government seems to be acting in two contradictory ways — and within the same department.

"We have the benign face which is winning approval for the government at home and abroad — and we have the mailed fist which continues to be used against the press for no apparent reason other than a political one," Mr Tyson said. — Sapa

ARMS CACHE . . . Constable Donovan Bernardo holds one of five AK-47 rifles found in the trunk allegedly recovered from the Wynberg flat of Ms Jenny Schreiner. Picture: GLENN SHERRATT

WO tells court evidence could be withheld

CAPE TIMES 9/11/89

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Supreme Court Reporter

WARRANT OFFICER Jeff Benzien yesterday told the Supreme Court he would not withhold evidence from the court unless he pleaded privilege for reasons of state security.

WO Benzien, a security policeman and member of the "Terrorist Detection Unit", was giving evidence in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

In reply to a question by Mr D P de Villiers, QC, for the defence, WO Benzien told the court if he were asked to name suspected ANC guerillas in the Cape who were still free, he would either have to ask his superiors if he could do so or decline to do so on the grounds of state security.

Asked by Mr De Villiers if he would do so openly, WO Benzien said he would. He would not withhold evidence from the court unless he had pleaded privilege.

In response to a question, WO Benzien said where state security was involved he could decide to withhold information and not tell the court.

Earlier this week he was shown a photograph — taken at terrorism accused Ms Jenny Schreiner's flat on the morning of her arrest — and asked if he knew anything about a wet mark in front of Mr Yengeni's trousers.

He had replied he knew nothing and that it could have been a discoloration on Mr Yengeni's trousers similar to that which appeared on another policeman, WO Schalk van der Merwe's trousers, also in the photograph.

Yesterday asked what he had meant with his reply, WO Benzien said he had not noticed the wet mark and could not give a definite answer.

He had based his opinion on the photograph.

The trial continues today.

I'd withhold information, says policeman

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9/11/89
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By LINDA GALLOWAY
Supreme Court Reporter

A SECURITY policeman told the Supreme Court, Cape Town, that under certain circumstances he would withhold information from the court if he believed it involved security.

Warrant Officer Jeffrey Theodore Benzien was testifying yesterday in the trial of Mr Tony Yengeni and 13 others on charges of terrorism.

Under cross-examination by Mr D P de Villiers, QC, for the defence, Warrant Officer Benzien conceded there were circumstances under which he would answer questions in court while not necessarily telling "the whole story".

He denied that this could be dangerous, or that the court could gain a "skewed impression" of what had happened and said he thought it was all right "as long as the facts are correct".

Warrant Officer Benzien said that in other situations, where he believed State security was at risk, he would plead privilege or ask to be allowed to consult his superiors before answering a question.

Asked about his evidence-in-chief in which he was questioned about a "wet patch" on Mr Yengeni's trousers after his arrest, which showed up in a photograph before court, Warrant Officer Benzien said he could not say if the trousers were wet or not.

He had pointed out that in the same photograph one of the policemen's trousers also appeared to be a different colour.

Asked by Mr De Villiers whether this was "a flyer" or an attempt to "take the gap", the policeman replied that he had merely noticed the difference and commented on it.

Mr De Villiers said Warrant Officer Benzien had been asked, as an experienced detective, to look at the contrasting colours of Mr Yengeni's trousers in the photograph, and comment on possible reasons for them being wet.

Warrant Officer Benzien said he was not prepared to give an opinion on whether the pants were wet or not.

The hearing was adjourned early and will continue today.

The accused are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

New Nation to appeal to Louw

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Own Correspondent

JOHANNESBURG. — New Nation is to make an urgent application to the Minister of Home Affairs, Mr Gene Louw, to discuss the threatened government closure of the newspaper within the next eight days.

The government has provided New Nation with a wad of articles and a five-page letter of complaint saying New Nation had breached five sub-regulations of the emergency regulations. The bulk of the allegations maintain that New Nation has promoted the public image of the banned African National Congress.

The offending articles include letters from readers making allegations of Swapo atrocities, welcoming the release of two detained activists and complaining about high rents in Daveyton.

One is from an Amnesty International member in West Germany alleging race discimination in the application of the death sentence — an allegation made in the 1970s by legal academic Professor Barend van Niekerk — and calling for a commission of inquiry into the application of the death sentence.

Other issues covered in articles include those revolving around negotiations, the defiance campaign, union protests against the Labour Relations Amendment Act and comments by prominent clergymen regarding forced removals and police action against protesters.

A prominent legal academic said that if regard was paid to what the minister is finding objectionable in New Nation, then every newspaper is at risk. "When the regulations leave everything to the opinion of the minister of home affairs, then even mainstream newspapers are at risk."

Mr Gabu Tugwana, acting editor of New Nation, said he believed the government was taking action against New Nation because it was under pressure from the right — "and unfortunately the press is a very visible and easy target".

He feared that in the intense media coverage being given to the Namibian elections, a potential banning of New Nation might go barely noticed.

The government has come under criticism this year for the high number of prosecutions of journalists, editors and newspapers under security legislation, the emergency regulations and the Criminal Procedures Act. Despite frequent rumours of government plans to partially lift media regulations on the local press, increased actions against the press have so far been manifested.

According to the Human Rights Commission, more than "100 laws now limit what may be reported about key areas of national life such as the conduct of the army and the police". It claimed there is self-censorship among members of the press.

New Nation was suspended for three months last year. The government last banned three newspapers, the World, the Weekend World and Pro Veritate of the Christian Insitute in their massive clampdown of October 1977.

Police probe Argus reports

THE editor of the Argus, Mr Andrew Drysdale, has been informed that police are investigating charges against the newspaper under the media emergency regulations.

A police sergeant called on Mr Drysdale on Tuesday to advise him of investigations into two reports, one on August 23 about events at a beach protest, the other about detainees on hunger strike which was published on September 2.

The editor was told the results of the investigation would be referred to the attorney-general for decision. — Sapa

Media threat a 'mockery'

JOHANNESBURG. — The hounding of editors Mr Edwin Linington of Sapa and Mr Harvey Tyson of the Star under Section 205 of the Criminal Procedures Act for information which is freely available, makes a mockery of President F W de Klerk's "open door" policy, the Anti-Censorship Action Group (ACAG) said yesterday.

The spate of prosecutions against editors is a new process of harassment, ACAG said.

"There can be no 'open door' if only some views are permitted to be published," the group said. — Sapa

Disclosure threats on editors fade

JOHANNESBURG. — The threat of Section 205 subpoenas, to force the editors of The Star and The Sowetan to disclose information about advertisers in their newspapers, has been withdrawn.

During the court appearance of SA Press Association editor Mr Edwin Linington, who was forced to give evidence in camera this week about a normal press statement made to Sapa, newspaper lawyers were told informally that the authorities would not be taking any further their demand for information from Sowetan editor Mr Aggrey Klaaste and Star editor-in-chief Mr Harvey Tyson.

The two had been asked to disclose the names of organisations or people who had placed and paid for advertisements about the "welcome" rally for Mr Walter Sisulu and six other released ANC prisoners.

The editors declined to make statements on the grounds that the rally had been declared legal — that no crime had been committed — and that they were not prepared to inform on legitimate advertisers or news sources.

Section 205 allows the authorities to subpoena any potential witness to appear at a secret court session to answer questions about an alleged crime. Failure to comply can lead to a jail sentence of up to five years. — Sapa

EMPTY SPACE ... ANC leader Mr Walter Sisulu stands behind an empty chair bearing the name of his son Zwelakhe, editor of New Nation, unable to attend the conference because of a government gagging order.

ANC 5 pledge to back New Nation

JOHANNESBURG. — The government's campaign against the press over recent weeks "amounted to an all-out war", five of seven recently released African National Congress leaders said here yesterday.

In a pledge of support to the New Nation newspaper — which has been threatened with closure within a week for promoting the aims of the ANC — the five leaders said in a joint statement that freedom of expression was essential to create a climate conducive to meaningful negotiations.

The statement was read by Mr Andrew Mlangeni, while Mr Walter Sisulu, Mr Ahmed Kathrada, Mr Wilton Mkwayi and Mr Elias Motsoaledi listened, at a press conference called by New Nation.

"If South Africa is going to be launched into an orbit that will ensure peace and prosperity for all its people, debate and discussion among South Africans must not only be tolerated but must be encouraged," it said.

Freedom of expression was so essential that it could not be put at the mercy of an individual government minister who, without accounting to anyone, could curtail it as he pleased.

New Nation's acting editor Mr Gabu Tugwana said the government's action sharply contradicted recent political developments such as the meeting between former president Mr P W Botha and jailed ANC leader Mr Nelson Mandela, protest marches, opening of facilities by some municipalities to all races, the realease of the ANC leaders and the Soweto rally to welcome them.

A chair bearing the name of New Nation editor Mr Zwelakhe Sisulu was left empty to emphasise that he was a restricted person and not allowed to work on the newspaper, let alone address a press conference. Sapa

Regime's 'security blanket'?

Political Correspondent

PRESS harassment has raised serious doubts about Mr F W de Klerk's professed commitment to reform, Democratic Party media spokesperson Ms Dene Smuts said on Wednesday.

She said the public needed to be reassured that the government was "not intent on using the emergency regulations as a kind of security blanket".

"What purposes could conceivably be served by subjecting editors to Section 205 subpoenas on the welcome home rally advertisements when the rally itself took place with the government's blessing?

"What purpose is served now by an investigation into possible charges against The Argus ... and the Cape Times for its pictures of the 'purpling' of the city centre when the right to peaceful protest has since been affirmed by the government?"

ANC white cell: Three get long prison sentences

Argus 10/11/89 321

Argus Correspondent

PRETORIA. — The Broederstroom Three will serve effective sentences of 18 to 25 years imprisonment.

Passing sentence in the Pretoria Regional Court today, the magistrate, Mr W J van den Berg, said it was a tragedy to their families but unavoidable.

ANC cell commander and former journalist Damian Michael de Lange, 31, was sentenced to a total of 25 years imprisonment; "political commissar" of the cell, Iain Hugh Robertson, 36, received 20 years, and British citizen Susan Catherine Donnelly, 25, was given 18 years.

The sentences were made up as follows: for being ANC members and undergoing military training, five years imprisonment each; for infiltrating South Africa and establishing an ANC base, eight years; for three counts of receiving weapons, eight years; for two explosions at a high voltage pole and communications mast, 10 years on each count.

De Lange and Robertson were sentenced to 10 years imprisonment for their attack on a military bus in Benoni last year.

De Lange was also sentenced to five years on each of two counts of arson and a further three years imprisonment on a charge of attempted arson following the petrol bombing of PFP offices in May 1981.

Claim of 'conflict' in police evidence

Cutt Times 10/11/89

331

Supreme Court Reporter

A SECURITY policeman yesterday told the Supreme Court that while he did not notice that terrorism accused Mr Tony Yengeni's trousers were wet on the night of his arrest, he may have wet himself deliberately.

Warrant-Officer Jeff Benzien was giving evidence in the trial of Mr Yengeni and 13 others who have refused to plead to charges of terrorism.

WO Benzien said it was correct that he and Captain William Liebenberg and possibly another policeman had driven Mr Yengeni to his co-accused Ms Jenny Schreiner's Wynberg flat hours after his arrest.

Mr D P de Villiers QC, for the defence, put it to him that Capt Liebenberg had testified earlier that while at Ms Schreiner's flat he noticed that Mr Yengeni's trousers were wet.

Mr De Villiers then put it to WO Benzien that there had been "conflict" between his evidence and that of Capt Liebenberg on three points: That he had said he did not know Mr Yengeni had been interrogated; that Capt Liebenberg had said he had interrogated Mr Yengeni and had ordered WO Benzien to continue the interrogation; and that he had said he had been involved in offloading equipment.

The trial continues today.

331 wmail 10-16/11/89

On Menzi's 771st day on Death Row, there was a knock on the cell door ... and he was free

In the week that a campaign has been launched against the death sentence, IVOR POWELL talks to a man who spent two years on death row ... before being declared innocent this week.

LAST Friday, after 770 days awaiting execution on Pretoria Central Prison's death row, Menzi Tafene walked out a free man.

Acquitted along with Tafene was his co-accused Nico Ledube Mnyamana. However, Mnyamana was kept in prison to serve out an unrelated seven-year prison sentence.

In Friday's three-hour appeal hearing, Tafene was officially cleared of a 1986 necklace killing for which he was originally convicted. But it is doubtful that he will ever be the same again.

The overturning of the original decision — on grounds relating to contradictions on the part of state witnesses, and irregularities in their later *quid pro quo* releases — has given rise to intensified calls by abolitionists for the state to call a moratorium on executions.

"How many people have been hanged in this country for crimes they did not commit, merely because they had no access to proper legal representation?" the Society for the Abolition of the Death Penalty in South Africa (SADPSA) asks in a statement.

After more than two years spent in constant illumination — the lights are never switched off on death row — Tafene gets panicky and disoriented in the darkness. He is forced to sleep with the lights on — when he can get to sleep that is; more than two years of constant anxiety have made sleep an elusive commodity, he says.

Eating is no easier. When he was released on Friday, friends and relatives bought a special celebration meal of Kentucky Fried chicken.

And Tafene tucked in: he had long been fantasising about the Colonel's special recipe in prison.

The results were disastrous. After 770 days of prison food, the chicken was too strong and Tafene became violently ill. He has still to find food in the outside world which his prison stomach can handle.

It seems likely that Tafene — though only 24 years old — has developed an ulcer.

While speaking to the *Weekly Mail*, he complained of stomach pains induced by the anxiety of having to relive his time on death row.

But the thing that worries the young, good-looking Tafene the most, now that girls are a possibility again, is what death row has done to his skin. Once smooth-skinned, with a glow of good health in photographs, his face is now scarred and covered with newly erupting pimples.

"I am happy to be out," he says. "But really I am not happy. I think of my fellows who are still inside that place. And I think they made me do so much time in that place, and it was all for nothing."

Freed from death row this week, Menzi Tafene 'still thinks of those inside'

While on death row, Tafene watched his closest friend being executed. He and Jacobus Konze, who occupied an adjoining cell had become so close they were referred to as the "*tweeling*" (twins).

Then Konze, late last year, was taken away to the "pot" — the special awaiting-execution cells, which although they signify a different prisoner status, are actually part of the regular death row cell complex.

"I could hear him shouting (as "pot" prisoners traditionally do) '*sekunjalo*' (it's over). I could hear the singing and the talking all day and all night in the pot, the screaming."

Tafene vividly remembers Konze shouting out one morning that if God had saved biblical figures Shadrack, Meshack and Abednego from the fire, why would He not save him.

Then Konze was returned to his cell opposite Tafene. He had been granted a stay of execution pending clemency petititons.

But, says Tafene, his friend was not the same after his first spell of looking death in the face. He was withdrawn and uncommunicative, already dead, as Tafene puts it, in his heart.

Five months later Konze was taken to the pot for a second time, and this time he did not emerge. All that came out was a letter telling his friend to not lose heart.

According to Tafene, death row prisoners develop a kind of extra-sensory perception regarding executions. Konze, for example, woke screaming from a nightmare the day before his second notice of execution was served.

When such notices are served, Tafene says, "there is no peace from that moment on".

He describes the depression which falls over death row as the week-long wait begins for the executions to come.

"You think all the time about your own death while you listen to the screaming and the singing which comes out from the pot. There is no sleep in those days."

It is usually at these times that prisoners try to commit suicide. Suicide attempts, he claims, contrary to received wisdom, are relatively common on death row.

One prisoner successfully killed himself some years ago by gouging the veins in his arm with shoe nails. More common, though, is the attempted suicide by self immolation — starting a fire with the mattress in the cell and hoping you will burn to death before the warders reach you. So far, though many have tried, no prisoner has succeeded in this peculiarly grisly form of suicide.

Albertina Sisulu outside the surgery in Soweto where Dr Abu Baker Asvat was murdered (331) Picture: AFP

Asvat: The case ends, the puzzles remain

10-16/11/89 W Mail

The Asvat case ends with two death sentences, but the mysteries remain. The two men were described as liars by the judge. What were they covering up? CASSANDRA MOODLEY reports

THE supreme court has passed sentence on the murderers of Dr Abu Baker Asvat — death by hanging. But the question remains: was robbery, as alleged by the state, the real motive for the killing; if not, will the truth die with the killers?

Zakhele Mbatha and Nicholas Dlamini were sentenced to death last week for the murder of the Azanian People's Organisation health secretariat member in his Soweto surgery on January 27 this year. Mbatha also received 19 years and six months, and Dlamini 16 years and four months jail for charges of robbery and possession of firearms and ammunition.

Although it is accepted by family and friends of Asvat that Dlamini and Mbatha were the murderers, justice will not be realised unless the truth is established.

"We reject the finding of the court that it was simply a case of murder and robbery," say Azapo representatives.

The family of the murdered doctor are equally disbelieving.

"Certain things just do not add up," said Asvat's brother, Dr Ebrahim Asvat. "For instance, in his statement presented to the court as evidence, Mbatha claimed they took R135 from the surgery. Yet if robbery was the motive, why did they leave more money than they took?"

The police recovered R190 in notes in the doctor's wallet and R100 in coins strewn over the floor in the consulting rooms.

Ebrahim Asvat also queried why robbers would "shoot immediately" — even before taking all the money in the consulting room.

United Democratic Front co-president Albertina Sisulu, who was Asvat's nurse, said in evidence she heard the security grille door to the consulting room shut and then she heard a gunshot and the doctor screaming.

Prior to that she had heard the doctor call a patient, Mandla Nkwanyana, into his rooms.

Mbatha admitted in court that he had given the false name, Nkwanyana, to Sisulu but denied entering the consulting room.

Asvat was shot twice in the chest and, according to medical evidence, died as a result of gunshot wounds.

Why, if robbery was the primary motive, was he shot twice?

Ebrahim Asvat says his brother would have surrendered cash if his life was threatened.

"We can only believe that his life was threatened from the outset."

Another perplexing feature of this "murder and robbery scenario" is if Mbatha and Dlamini did want to "make money" as Mbatha's statement indicated, why did they choose a doctor's surgery?

There was a shop around the corner from the surgery — the shop where Mbatha claimed, in evidence, he bought cigarettes after furnishing Sisulu with his particulars.

Both the killers gave inconsistent alibis on the witness stand and the judge, Mr Justice R Soloman, said "they were lying witnesses".

An Azapo representative said: "It was obvious that the two men were covering up something — it could be information related to individuals or organisations."

Underlying this sentiment is the suspicion that Dlamini and Mbatha were hired killers.

But even as the imposition of the ultimate sentence hung over them Mbatha said: "I don't have anything to say because I don't know this offence I did not commit."

Dlamini echoed these words.

"But," says Ebrahim Asvat, "capital punishment brings us no closer to justice. Nobody has the right to take another's life."

Shortly before the trial ended Jannie van der Merwe, for the state, began a new line of questioning — the connection between the Asvat murder, the death earlier this year of Stompie Seipei and Winnie Mandela's "football club".

Investigating officer Major H Heslinga told the court he had found no connection.

At the end of the trial he indicated that the police were still investigating this avenue.

Many of Asvat's acquaintances believe the doctor had examined Seipei before his death. The boy's body was found in Soweto in January this year.

Jerry Richardson, who is to appear in the Rand Supreme Court on February 12 charged with the murder of Seipei, was also at Asvat's surgery on the day of the killing.

The fact that Asvat was not merely a doctor but a political activist also raises another question, say activists and representatives of political organisations. In the light of the string of assassinations of activists over the years, and the problems highlighted by the trial of the Asvat killers, was robbery the real motive for his death?

In this case, unlike most assassinations of extra-parliamentary figures in South Africa, the culprits were found and brought to trial.

In the final analysis, however, justice was cheated, say family and friends.

"We know the perpertrators of the crime but the truth we do not know."

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WEEKLY MAIL, Novemb

Albertina Sisulu outside the surgery in Soweto where Dr Abu Baker Asvat was murdered Picture: AFP

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Death of cop's father postpones court case

Supreme Cart Reporter

THE DEATH yesterday morning of security policeman Warrant Officer Jeff Benzien's father led to the trial of Mr Tony Yengeni and 13 others being postponed till Monday.

The cross-examination of Warrant Officer Benzien, a member of the Terrorist Detection Unit, was due to continue yesterday morning when Mr Hendrik Klem SC for the state, asked for an adjournment.

During cross-examination on Thursday, Warrant Officer Benzien said he had served in the South African Air Force as a helicopter flight engineer.

He had completed stints of border duty in Namibia, Angola, the Caprivi Strip and the then Rhodesia between 1970 and 1975 and as flight engineer had also acted as co-pilot and navigator and had been responsible for the maintenance of the radio, instruments and electronics. He had also acted as a gunner, he said.

The helicopters in which he had served had not only supported South African troops but had also given air support to "the specific countries in which we had worked". "It involved air support and reserve troops and everything which accompanies war."

Asked by Mr D P de Villiers QC if that had meant he had supported Unita, WO Benzien said Portugal had controlled Angola and Unita and the MPLA were regarded as "terrorist groups". He had served on the side of Portugal in Angola, WO Benzien said.

Bed in court for trialist?

Supreme Cart Reporter

AN orthopaedic surgeon has recommended that because of acute backache, terrorism accused Ms Jenny Schreiner should be allowed to lie down in court in order not to disrupt court proceedings.

The recommendation came soon after defence counsel asked Mr Justice S Selikowitz if Ms Schreiner, accused number two, could be moved from her position between Mr Yengeni and his wife Lumka to another part in the dock where a chair could be installed for her.

On Thursday defence asked if Ms Schreiner could be allowed a bed in court and said arrangements had been made for her to see an orthopaedic surgeon and a neurosurgeon.

Yesterday Mr Michael Donen, for the defence, said both doctors had recommended that Ms Schreiner be allowed to lie down for a few days to alleviate the pain. Ms Schreiner was excused by Mr Justice Selikowitz from attending the trial.

Yesterday Mr D P de Villiers QC, for the defence, told the court fellow defence counsel Mr Pius Langa would not be able to attend proceedings for the rest of the year due to ill-health.

He was required to remain in Durban — where he lives — for as long as possible, Mr De Villiers said.

Mr Justice Selikowitz said the court wished Mr Langa well and trusted he had a speedy recovery.

Home and car of Westcott parents are vandalised

Capt Trial 11/11/89 331 887

PRETORIA. — The parents of Susan Westcott, one of the "Broederstroom 3" sentenced yesterday in the Magistrate's Court here, were the victims of an attack on Thursday night, which temporarily trapped them inside their Pretoria flat yesterday.

When the Westcotts tried to leave their residence yesterday morning on their way to court, they discovered that during the night they had been sealed into the flat.

A resinous substance had been inserted into the locks of the flat door and the security gate, said a spokesman from the Broederstroom Support Committee, who declined to be named.

"After 45 minutes and with considerable difficulty, the Westcotts managed to free themselves," he said.

They then discovered that the same substance had been put into the locks and exhaust of their vehicle. Two of the car's tyres had also been let down.

The committee said it believed the attack was meant to "intimidate and to prevent" the Westcotts from attending court, where their daughter was sentenced to 18 years' imprisonment. — Sapa

● Broederstroom trio get 25-18 years — Page 5

Sash hits at sentences

THE heavy sentences condemning the "Broederstroom three" to spend the major part of their productive lives in prison, was a severe blow to those who hoped for a future in which reconciliation and peace would be predominant, Black Sash president Mrs Mary Burton said in Cape Town yesterday.

Mrs Burton said Damian de Lange, Iain Robertson and Susan Westcott regarded themselves as soldiers fighting in a bitter civil war.

"Their actions were prompted by a desperate desire to see a process of transformation in this country." — Sapa

Broederstroom trio get 25-18 years

CAPE TIMES 4/11/89 331

Own Correspondent

JOHANNESBURG. — Damian de Lange, 31, Iain Robertson, 36, and Susan Westcott, 24, stood composed in the dock of Pretoria Regional Court yesterday as the magistrate sentenced De Lange to an effective 25 years' imprisonment, Robertson to 20 years and Westcott to 18 years.

De Lange and Robertson had pleaded guilty to 11 counts of terrorism and Westcott to 10 counts.

De Lange had also pleaded guilty to two counts of arson and one count of attempted arson for setting fire to PFP offices in Johannesburg in the company of Marion Sparg in 1981.

The three were members of an ANC unit established on the Witwatersrand in 1987.

They were arrested at a Broederstroom house in May last year.

A scuffle broke out between Robertson and police minutes after the sentences were passed. As the magistrate left the court, family members and supporters in the public gallery showered the three with yellow flowers.

Robertson was exchanging shouts of "Amandla" and "Viva ANC, Viva ANC-SACP Alliance" when he was grabbed by police.

The scuffle was halted when defence attorney Mr Peter Harris intervened.

De Lange, a former Rand Daily Mail reporter, was the commander of the unit, Robertson was its political commissar and Westcott was the group's communications officer.

The magistrate, Mr W J van den Bergh said the use of violence to obtain political ideals could never be condoned. The three had "infiltrated the country and commenced with their deadly mission with a reckless disregard of the consequences".

The three were not on trial for their idealism, political convictions, moral support of the ANC or sympathy with black people in SA.

"It is their transgressions of the law which have to be punished."

Mr Harris said afterwards that the case would be taken on appeal. "It is our view that the judgment contains multiple misdirections in law and in fact."

'Why I fled from ANC comrades'

JOHANNESBURG. — A member of the Broederstroom ANC cell, Mr Hugh Lugg, says he fled from his comrades after being faced with a choice of embarking on a suicide mission or execution.

Speaking at a weekend press conference, Mr Lugg described events which he said led to him fleeing the house in Broederstroom for Pelindaba where he told a security guard he was a member of the ANC. The army, then the police and finally the security police were called and he was arrested. The other three members of the cell were arrested hours later.

Mr Lugg said he had fled from Damian de Lange, Susan Westcott (Donnelly) and Iain Roberton after being charged with insubordination and sabotaging the ANC unit, both of which were capital offences.

He had been disarmed by Westcott and De Lange and had been threatened with death before he decided to flee and hand himself over to the authorities.

At one point De Lange had held a silenced pistol to Mr Lugg's head and had told him his ANC superiors had given him carte blanche to carry out the execution, Mr Lugg claimed.

He had clashed with his fellow members over planned attacks on soft targets including the Durban Tattoo, which could have led to the slaughter of thousands of civilians, he said.

Mr Lugg said his decision to abandon the ANC cell, which led to the arrest of the other three members, had probably saved many lives.

He had also been willing to testify against the others at their trial but had not been asked to do so.

He said he was a free man and was ready to pursue his career in art. He had made no deals with the police, although he had co-operated with them during interrogation.

He thought the sentences handed down to De Lange (25 years), Robertson (20 years) and Susan Westcott (also known as Donelly 18 years) were harsh, but thought they might be reduced on appeal.

A fifth member of the cell, Mr Paul Annegarne, was deported for punishment for insubordination and sent to a "fate unknown".

Mr Lugg said he and the other members of the cell had infiltrated the country in July 1987.

'De Lange's arrogance'

When in South Africa it had become apparent to all the members that the leadership of the ANC was out of touch with the operating conditions on the ground, he said.

"This led to tension and conflict in the unit mainly due to the arrogance and indecisiveness on the part of the commander, De Lange, who systematically undermined Annegarne to the point where he left the group."

Mr Lugg said he and other members of the group had arrested Mr Annegarne and returned him to the house in Broederstroom.

He had been shocked to hear from Westcott who had been told by Mr Ronnie Kasrils, Umkontho we Sizwe's chief intelligence officer, that Mr Annegarne and his girlfriend should be killed.

However, Mr Kasrils had later changed his mind and ordered that he be deported for punishment.

Mr Lugg said Mr Annegarne could possibly have gone to Quatro (the ANC's alleged punishment camp in Angola).

Further dissension arose in the group when Mr Kasrils ordered via De Lange that reconnaissance should be done at the Durban Tattoo at which many civilians would be present.

"I was horrified at the prospect of the possible slaughter of civilians."

He said De Lange became increasingly unreasonable and dictatorial without providing any direction of leadership and he and Robertson had reported to MK high command about the problems. A day or two later, MK high command reported to De Lange that he had a subordination problem in his unit.

De Lange and Westcott had then disarmed him and Robertson and threatened them with execution. Mr Kasrils had given De Lange carte blanche to execute them, Mr Lugg said.

He added that De Lange had said Robertson and Lugg's only alternative to execution was to carry out a suicide mission on his orders or be sent to Quatro.

"This intolerable state of affairs awaiting an imminent execution and being disillusioned by the callousness of our commanders and their unjustifiable emphasis on civilian targets led me to ... surrender to the authorities," Mr Lugg said. — Sapa

B Day 3/11/89

Broederstroom 3 to appeal — lawyer

SUSAN RUSSELL

THE three white members of the ANC's military wing, Umkhonto We Sizwe, who received sentences ranging from 18 to 25 years for terrorism in the Pretoria Regional Court on Friday are to appeal against their jail terms.

"It is our view the judgment contains multiple misdirections in law and in fact," defence attorney Peter Harris said after sentence was passed.

Minutes after Magistrate W J van den Bergh left the courtroom a scuffle broke out between trialist Ian Robertson and police.

Family members and supporters in the public gallery showered the three with yellow flowers.

Robertson was exchanging shouts of "Amandla", "Viva ANC" and "Viva ANC-SACP alliance" with the crowd when he was grabbed by police.

The scuffle was halted when Harris intervened.

Sentence

Westcott who pleaded guilty to 10 counts of terrorism was sentenced to an effective 18 years in jail.

De Lange was sentenced to 25 years imprisonment and Robertson received a 20 year sentence. Both pleaded guilty to 11 counts of terrorism.

De Lange also pleaded guilty to two counts of arson and one count of attempted arson for setting fire to PFP offices in Johannesburg with Marion Sparg in 1981.

The three were members of an ANC unit established on the Witwatersrand in 1987. They were arrested at a Broederstroom house in May last year.

De Lange, a former Rand Daily Mail reporter, was the commander of the unit, Robertson was its political commissar and Westcott was the communications officer.

Meanwhile, unit member Hugh Lugg came into the open at a Press conference on Saturday, giving his account of the events which led him to desert the group and betray his comrades to the police.

Lugg said tension and conflict in the unit had culminated in his being threatened with execution by De Lange — which had left him no option but to surrender to the authorities.

Passing sentence, W J van den Bergh said the weapons found in the unit's possession had great potential to wreak devastation and posed a serious threat to society and law and order in the country.

He said it was common cause that the three showed no remorse and could not be rehabilitated in the present political climate in SA.

"The use of violence to obtain political ideals can never be condoned," he said.

The magistrate accepted there were people on both the left and right who were not satisfied with the present government.

"This is a common occurence in any democratic country. On the other hand there are large numbers of blacks who do not support the ANC and wish to be governed by the government of the day," he said.

"To say that blacks have no political rights in this country is a misnomer," he said.

"They have unlimited democratic rights in the independent, self-governing black states and limited democratic rights in other black areas."

Laughter erupted among people in the public gallery at this point and the magistrate warned he would clear the court of anyone who interrupted him.

"Attempts to overthrow the government of the day by violent means is high treason and terrorism in this country and every other democratic country," he added.

He said the three were not on trial for their idealism, political convictions, moral support of the ANC or sympathy with black people in SA.

"They are entitled to their own views and idealism," he said. "It is their transgressions of the law which have to be punished.

"They infiltrated the country and commenced with their deadly mission with a reckless disregard of the consequences.

"The inference is inescapable that if they were released today they would again take up arms on the instructions of the ANC," he said.

'Traitor' Lugg a liar, says Paul Annegarn

Own Correspondent

LONDON. — Mr Paul Annegarn, the ANC activist who escaped from South Africa before the Broederstroem group was arrested, has joined in condemnation of Mr Hugh Lugg as a traitor and a liar.

Mr Annegarn, who has married a doctor and now lives in London, avoids all publicity.

A spokesman for Mr Annegarn, who remains faithful to the ANC, said on his behalf: "All he wants to say is that he endorses the statement that has been made in South Africa by the families of his friends, who have been given harsh sentences largely because of Hugh Lugg's fabrications for the state.

"Paul agrees with the families that Lugg has lied to try and justify the harsh sentences."

The spokesman said Mr Lugg's claim that Mr Annegarn had been threatened with execution and sent to an ANC punishment camp in Angola because he refused to attack soft targets was "fabrication".

The ANC has refused to make any formal comment on the Broederstroom sentences or Mr Lugg's claims that the group had been ordered to attack soft targets.

Sources close to the ANC say they suspect Mr Lugg was a double-agent from the outset.

Detainee's 'not guilty' plea to cell graffiti

False Bay Bureau

A FORMER security detainee has pleaded not guilty to a charge of malicious damage to property, for allegedly writing Biblical verses and extracts from the Freedom Charter on the newly-painted walls and door of his cell.

Mr Desmond Stevens, 22, of Ring Avenue, Macassar, was detained at the Strand police station from August 22 to September 15 this year.

Yesterday in the Strand Magistrate's Court, his attorney, Ms I Olckers, said her client admitted writing on the walls of cell six, at the police station, with a ball-point pen he had obtained from a policeman.

FREEDOM CHARTER

The graffiti included eight quotations from the Freedom Charter, eight poems, and Luke 4, verse 18, on the prison door.

On the lock of the iron-grille door the first verse of Psalm 58 had been inscribed, the court heard.

The words "Jesus is our Liberator", in 2cm high letters and the name "Rene", on two walls in 5cm high letters, as well as the marking off of the number of days, had all been written by her client, Ms Olckers said.

Constable Juanita van Rensburg said in evidence that the Strand police station's cells, which had had black walls, were painted either beige or grey early in September.

She said Mr Stevens was moved to the freshly-painted cell six so that the cell where he was in solitary confinement — cell eight — could be painted.

Someone had reported on September 11 that cell six's walls had been written on.

Constable Van Rensburg said she had seen the graffiti, and that the cell had been repainted since then, at the State's cost.

Under cross-examination, Constable Van Rensburg said she could not say definitely if there was graffiti in other cells, but that cell three — a communal cell used for most prisoners — always had names and obscenities scribbled on its walls.

The matter was postponed to January 10 next year. Bail of R200 was extended.

Yengeni trial told of 'smouldering cars'

Supreme Court Reporter

A POLICE photographer took pictures of "smouldering cars", including a "bomb car", minutes after arriving at a block of city flats called Castle Court where an explosion had occurred, the Supreme Court heard yesterday.

Sergeant Anton Veenstra was giving evidence about photographs he took in connection with events for which Mr Tony Yengeni and 13 others are being charged with terrorism.

The court heard that Sergeant Veenstra took photographs of a garage in Maitland, where two limpet mines were found, and Castle Court and D F Malan Airport, where explosions occurred.

He was called to Castle Court about 11pm on July 20, 1987, after an explosion there and found cars parked in the courtyard still smouldering. An album containing 20 photographs, of which he took 18, was handed in as an exhibit.

One photograph showed the courtyard, where he said he found the smouldering cars, and also part of a wall surrounding a children's playground.

Another photograph showed two gutted cars next to the "bomb car", while others showed one damaged gas cylinder and six other cylinders, and the place where a limpet mine was destroyed in a controlled explosion.

He went to D F Malan Airport about 1am on July 22, 1987, where he photographed the women's toilet in the departure lounge for Johannesburg-bound flights, where a controlled limpet-mine explosion had taken place.

The women's toilet was near the VIP lounge and he took photographs of the damage.

The trial continues today.

Court told of shots after election day

Cape Times 16/11/84

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By MONICA GRAAFF
Court Reporter

A POLICE constable told the Wynberg Magistrate's Court yesterday that concealed policemen were "probably" firing rubber bullets or teargas through the portholes of a moving police truck the day after the September 6 general election.

Constable Etienne Nel of Deep River police station was testifying in the trial of Mr Igshaan Kenny, 20, of Retreat, who yesterday pleaded not guilty to a charge of public violence.

Mr Kenny is one of the few people against whom charges have not been dropped for allegedly being involved in stone-throwing incidents on the Cape Flats during the election period.

When he first appeared in court in September he was wearing a blood-drenched T-shirt and had blood caked over a cut on his head.

He alleged that he had been beaten up by the policeman who arrested him and afterwards by other policemen in the back of the truck.

The state alleges Mr Kenny threw a stone at a moving police truck after gathering with four others in Gate Road, Steenberg on the evening of September 7.

A stone allegedly hit the police truck below the windscreen.

Constable Nel told the court that he was the driver of the patrolling truck carring other policemen who were concealed in the back.

'Mostly agitators'

They were "probably" pointing their rubber bullet and teargas launchers out of the portholes and firing, he said.

Under cross-examination by defence counsel Mr S Desai, he agreed that it was natural for people in the street to start running away when they heard shots being fired.

"The street was fairly empty that night and the people who were out and about were mostly agitators," he said, adding that he was very familiar with people who threw stones.

Constable Nel said he arrested Mr Kenny but denied beating him up, saying: "I am not interested in hitting them. I may have lost control when I was younger but I am too old for that now."

He said that although the area was very dark he was sure that it was Mr Kenny he saw throwing a stone at the truck.

He said he stopped the truck, got out and caught Mr Kenny who had run in the opposite direction from the other three who also allegedly had thrown stones.

The hearing was adjourned until December 18. Mr Kenny was released on his own recognisance.

Ms M J Griessel was the magistrate. Mr C K Petty prosecuted. Mr Desai was instructed by Ms Beverly Franks of Y Ebrahim and Company.

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Broederstroom cell man 'being used by ANC'

FORMER ANC intelligence officer Mr Hugh Lugg says Paul Annegarn, the fifth member of the Broederstroom cell, was used by the ANC to condemn him as a "traitor and liar" - despite being in agreement with him.

SOWETAN Correspondent

Lugg also dismissed as "absurd" a suggestion that the ANC suspected he was a double agent from the start.

Reacting to a report published yesterday and which quoted a spokesman supposedly speaking on behalf of Paul, Lugg said it was clear his former comrade was being used and was not in a position to speak his own mind.

The report quoted a spokesman as saying on Paul's behalf that he supported the families of the jailed Broederstroom cell members in their condemnation of Lugg as a "traitor and liar".

It condemned as a "fabrication" Lugg's statement that the group had been ordered to attack a crowded stadium during the Durban Tattoo.

Lugg at the weekend spoke about his role in handing over Damian de Lange, Susan Westcott and Iain Robertson to the police saying he was forced to do so because he was under threat of execution.

"Clearly Paul is being used by the ANC. They have still not produced him in London as they initially promised they would do and now someone is supposedly speaking on his behalf.

"I know Paul agrees with what I have said about the ANC but is not in a position to say so.

"All the evidence on the orders to attack the stadium is also available. The police confiscated lots of documents in De Lange's handwriting and radio transcripts of the orders. These said 'deliver accurate fire to the centre of King's Park stadium'," Lugg said yesterday.

He said it was obvious the truth had hurt the ANC and that they would naturally seek to avoid the facts.

"It is important to realise why I did what I did. If I was not under the ANC's sentence of death I would probably have sorted the matter out internally but I was forced to do what I did.

"The ANC is now just trying to polish its image," said Lugg who added he still believed in a just and democratic South Africa but without the violent policy advocated by the ANC.

Call for negotiations

TIARET, Algeria - Algeria has urged direct talks between Morocco and independence-seeking Polisario guerrillas, saying recent fighting in the Western Sahara made them all the more imperative.Sapa-Reuter.

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Murder accused disappear

GRAHAMSTOWN. — Two Port Elizabeth residents facing two murder charges have disappeared and warrants for their arrest have been issued.

Bongani Billy and Tutuzela Cresswill Silinga were part of a group of 11 Kwazakhele residents charged with two necklace murders.

Silinga absconded earlier during the trial and Billy failed to appear in court on Monday.

Earlier the defence had to apply to the court to be given an identification parade report by the state after the prosecutor had refused to hand it over.

The state claimed a precedent would be set which could be abused by defence advocates.

Mr Justice Erasmus said he coud not blame the defence counsel, Mr Ronnie Pillay, for taking "strong exception" to suggestions of unscrupulous behaviour.

After the defence had received the report, they found that some of the witnesses had pointed out some of the accused in court, but had not been able to do so during the identification parade.

The trial is continuing in the Supreme Court. — *ANA*

Man 'wanted to dismantle' mine

Cape Times 17/11/89

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By RONNIE MORRIS

A FORMER petrol attendant at a Plumstead service station yesterday described in the Supreme Court how a colleague wanted to "dismantle" a mini-limpet mine he had found attached to a petrol pump.

Mr Nelson Khethelo was giving evidence in the trial of Mr Tony Yengeni and 13 others who have been charged with terrorism. They have refused to plead to the charges.

Mr Khethelo said he had arrived for duty before 6am on July 20 at Willquix Motors and found an object attached to one of the pumps.

He did not know whatit was and using "considerable force", he managed to remove it. He had shown the object to a colleague, Mr Sydney Ngamlana,and to Mr Sydney Jacobs.

Mr Khethelo caused a ripple of laughter when he said after Mr Jacobs had seen the magnets attached to the base he had wanted to dismantle the limpet mine and "magnetise" his money.

The garage owner arrived about 7.30am and did not recognise the object as a limpet mine. But the mechanic, a Mr Bowles, idenified it as a bomb, Mr Khethelo said.

Mr Khethelo said he had thought it was a door latch.

Asked by Mr Justice S Selikowitz why he had thought this, Mr Khethelo said it was because "the instrument (a detonator) seemed to me like a pipe one can pull out and stick into the side of the door to keep it locked."

The trial continues today.

From Rivonia to Broederstroom

From MONO BADELA

PRETORIA. — Even in the dock of the Broederstroom trial ANC veteran Walter Sisulu and three of the seven ANC leaders released on October 15 were greeted by the colours, black, green and gold.

But when they walked into the Pretoria Regional Court this week during an adjournment the three accused were removing clothing in the colours of the ANC after being ordered to do so by Regional Court magistrate Mr WJ van der Bergh.

They were hugged and greeted by the trialists — Damian De Lange, Ian Robertson and Susan Westcott, also known as Donnelly — and their families and friends in the courtroom.

ANC Political Commissar Robertson shouted "Greetings, Comrade leaders" when he saw Walter Sisulu, Ahmed Kathrada, Andrew Mlangeni and Elias Motsoaledi in the front row of the public gallery.

The Broederstroom ANC trio have been convicted on three charges of terrorism.

The four ANC leaders listened to an expert witness for the State, the Dean of Arts Faculty at the University of South Africa (Unisa) Prof FA Maritz, cross-examined on social factors that caused people to join the ANC before leaving at lunchti cries of "Viva" from members of the public in co

They were filmed by international television cre they left the court building and boarded aw minibus in Schoeman Street.

Earlier Major General Herman Stadler, head SAP Public Relations Division in Pretoria tol court that it appeared to him that Walter Sisulu Soccer City on Sunday the armed struggle should tinue.

Stadler was testifying as an expert for the Sta said although the ANC had apparently adopted a pragmatic approach its policy was still that the political setup in South Africa could not be ref but should be destroyed.

"The ANC's more pragmatic approach had cau government to adopt a similar attitude."

General Stadler said the ANC had changed its gy although its demands and goals remained the because its morale was low as it had in reality "people" war strategy.

Fire hero hid man on run

Staff Reporter

PENINSULA squatter leader Christopher Toise, 63, was yesterday given a suspended sentence by a Wynberg Magistrate after pleading guilty to possessing an AK-47 assault rifle and harbouring an escaped prisoner.

Toise, of Brown's Farm squatter camp, was sentenced to 12 months' imprisonment, suspended for four years, for possessing the rifle and a further six months' imprisonment, also suspended for four years, on the second charge.

Both the prosecution and the defence had asked that a suspended sentence be imposed.

During evidence in mitigation, Toise's counsel, Mr M A Albertus, said his client was a squatter leader who was "more respected" than the local headmen.

Toise acted as an intermediary among the squatters and as a spokesman for the camp. He was also responsible for allocating housing within the squatter camp, the court heard.

Mr Albertus said Toise had saved the lives of two people in the squatter camp when their shack caught fire on November 2.

Quoting from a newspaper article, Mr Albertus said Toise had braved the flames to fetch 14-month-old Zimkitha and had then run back into the blaze to pull out Mrs Miriam Matshikiza.

Toise, a fruit and vegetable hawker by trade and married with six children, still had his hand bandaged from the injuries he had received in the rescue.

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Today Menzi preaches the greatness of the Almighty and convinces many of the power of prayer.

He tells of how some of his friends were taken to the gallows – one of them was Jacobus Konzie.

"After Konzie's execution I was depressed for a month and I felt my own death getting closer."

He remembers how the silence of the night was often interrupted by screams and shouts of agony from those who were about to face the hangman.

"Pak jou goed en volg my," meant the same as "You will hang by the neck until you are dead".

This meant an inmate was to say his last prayers.

"Now that I am free I still sleep with the lights on, because once the room goes dark memories of those still awaiting their appointments with death return and their voices echo in my ears."

Menzi is hoping to return to his home in Burgersdorp this weekend.

The man who slipped from under the noose

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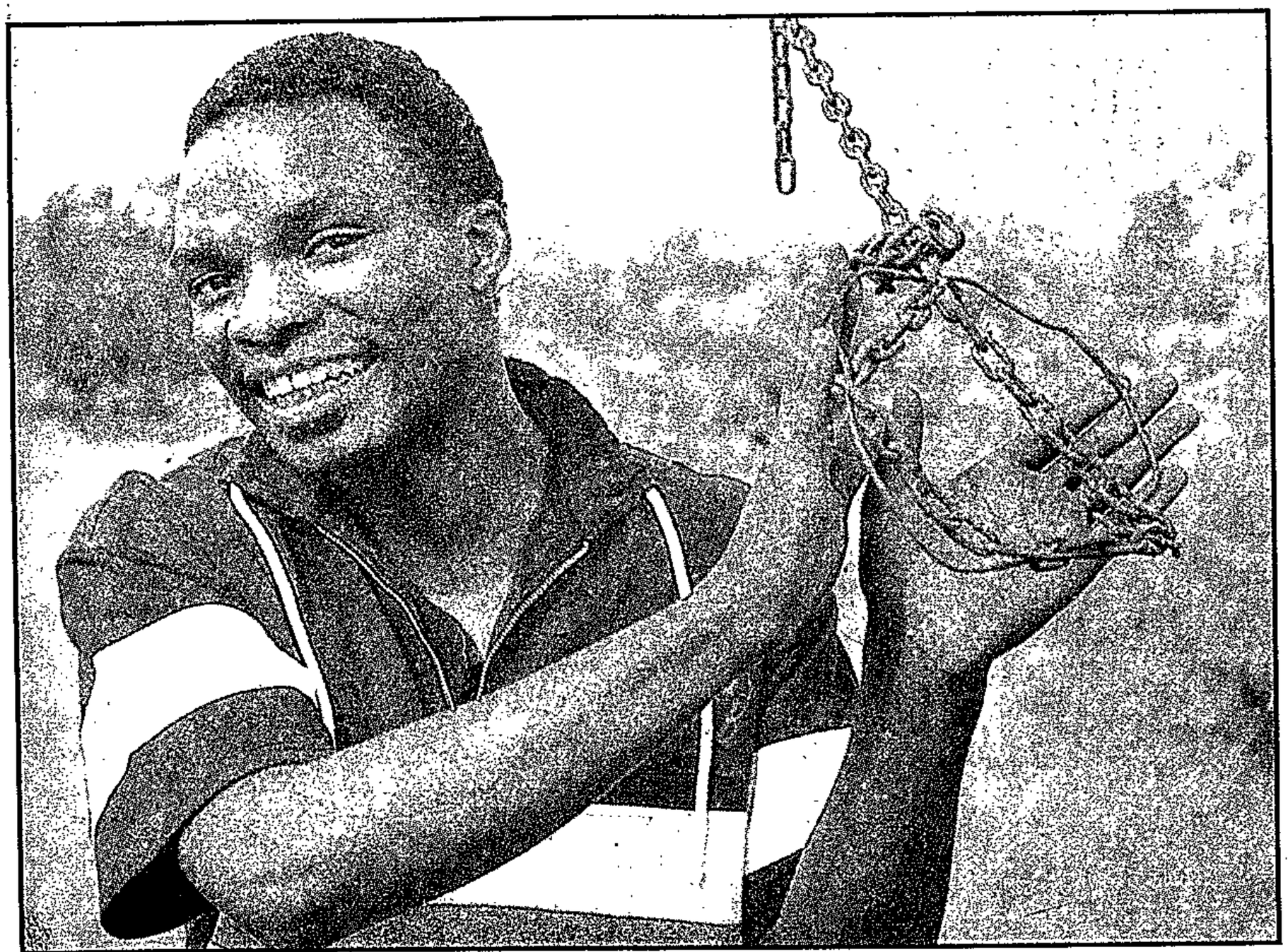
C. Press 19/11/89



Menzi Thafene is now able to joke with a noose. Just two weeks ago it was his greatest fear. ■ Pic: EVANS MBOWENI

Thank God for Fridays, he says

By SOPHIE TEMA

FRIDAYS are significant days in the life of Menzi Thafene, who was recently released from Death Row where he had spent more than two years.

Menzi was born on a Friday, sentenced to death on a Friday, repented and became a Christian on a Friday and walked out of Pretoria Central Prison's Death Row to freedom on a Friday.

In the week that a campaign was launched against the death penalty, Menzi was let out of the death cell after a three-hour appeal hearing on November 10.

He was free to touch the hand of his sister Irene, who had stood outside the prison gates awaiting his fate.

Menzi was sentenced to death for a 1986 necklace killing that took place in Burgersdorp in the Eastern Cape, but was cleared on grounds related to irregularities and contradictions on the part of State witnesses.

At the time of his arrest he was 17 years old and doing Std 6 at the Thembeni Senior School in Burgersdorp.

Speaking from his sister's house in Fourways, Thafene said he still pinches himself to make sure he is no longer staring death in the face.

"I do this because in the death cell I felt as if I was already dead and had almost lost all my senses.

"This is when I prayed in earnest. Sometimes it would get so quiet in the cell that I could feel the presence of God next

R5 000 bail for alleged PAC man in terror trial

Staff Reporter AR643 19/12/89 331

AN alleged Pan Africanist Congress member ha been granted bail of R5 000 in Wynberg Regional Court and released on conditon that he report to Guguletu police station three times a week.

Mr Vuyo Fetsha, 32, of King William's Town, who has not been asked to plead, has been in prison since January.

A further condition of Mr Fetsha's release is that he does not leave the Peninsula.

He appeared in court in connection with charges of committing acts of terrorism from 1978 to this year, joining the PAC, receiving training in Yugoslavia and Tanzania and returning to South Africa to recruit members for the PAC.

The State also alleges that he resisted arrest in Constantia on January 14.

The hearing was postponed to March 26.

Mr A P Kotze was the magistrate. Mrs E Krouse prosecuted. Mr T L Skewiya appeared for Mr Fetsha.

Cape Times 20/11/85 331

'Top secret' Askaris figured in Yengeni trial

Staff Reporter

REFERENCE to the existence of a unit known as Askaris — former ANC guerillas who were taken by police to a farm outside Pretoria where they were "turned" — was first made in the Supreme Court in May this year, in the terrorism trial of Mr Tony Yengeni and 13 others.

Further reference to the group also surfaced during the inquiry into the refusal of ANC member Mr Bongani Jonas to testify for the state in the Yengeni trial.

Jonas said he had been recruited into the unit, whose existence was confirmed in revelations by former security policeman Captain Dirk Coetzee.

After the lengthy inquiry, Mr Justice S Selikowitz found that Jonas, 31, did not have just excuse for his refusal to testify and on November 3 sentenced him to three years imprisonment.

When asked about the group and its modus operandi, security policemen in both cases pleaded privilege in terms of state security or said the group was "top secret" and that nothing could be revealed about it because it could be dangerous.

During the Yengeni trial on May 11, when Mr D P de Villiers, QC, cross-examined Captain Rudolph William Liebenberg, head of the Peninsula Terrorist Detection Unit, about the "A-team", he said he knew only that it was "a television programme".

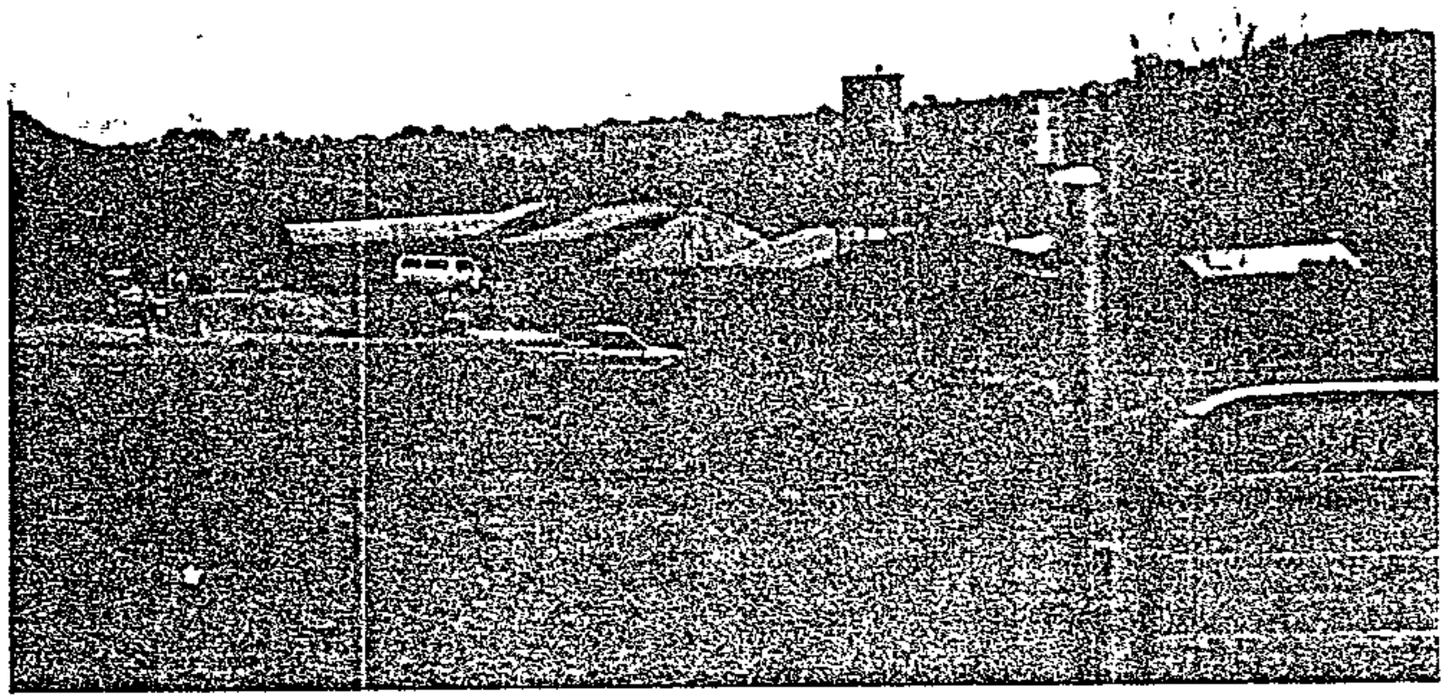
Told that the group was sometimes known as the Askari group, he pleaded privilege and said he needed an adjournment to consult with state prosecutors and his superiors.

Asked the same question by Mr De Villiers, after a short adjournment, Capt Liebenberg replied that no group was officially known by that name but that he had heard the word used for a unit consisting of "rehabilitated terrorists".

He denied having been present when Mr Yengeni's co-accused, Mr Mtheteleli Titana, was told by a policeman named Neville that he and other black policemen were members of the "A-Team" or that he had heard Neville say to Mr Titana they were "Transvaal boere" and that he (Titana) was in a "precarious position" and could be killed at any time.

During the Jonas inquiry on June 1, Jonas said he had agreed to join the "A-Team", which he said was composed of former ANC members whose work was "to kill their former ANC colleagues".

Jonas said he had first learnt about the "A-Team" from members of two operating units, one in Pretoria and another in East London. A third was to be formed in Cape Town and he was to be recruited into it.



ASKARI BASE . . . Vlakplaas, the farm near Pretoria which ex-captain Dirk Coetzee says served as the base for the Askaris — "turned" ANC members who worked for the alleged SAP death squad.

He got to know "A-Team" members, who took him to Athlone, Lansdowne and Bonteheuwel at night and told him they were "the Gestapo". Their work was "to go around townships acting on information from the security police...and kill former ANC colleagues".

Jonas said the Askari members had told him they had shot a suspected ANC guerilla in Guguletu in September last year and another in Port Elizabeth.

On September 13, when the inquiry continued, Sergeant Matamela Musimeke, of security police headquarters in Pretoria — the man who shot Jonas during his arrest — admitted in reply to a question by Mr Dullah Omar, Jonas's counsel, that a group of former rehabilitated ANC and PAC guerillas were now members of the police.

Asked how large the group was, he said he could not disclose that in court and that one of his superiors should be called. He could not say anything about the group because it was "top secret".

He could not make anything public, Sgt Musimeke said, adding that it would be dangerous to the group. He had "moved around" the country with the group and could not say anything about its activities.

Told by Mr Omar that his instructions were that part of the activities of the rehabilitated group was to "eliminate" members of Umkhonto we Sizwe — the military wing of the ANC, Sgt Musimeke said when these members were arrested they were taken to court.

Asked if it was not part of the group's work to eliminate ANC guerillas, Sgt Musimeke replied:"If possible we can eliminate them."

He had never heard of the group referred to as Askari or "A-Team", he said.

Under-cross examination Sgt Musimeke said rehabilitated persons were regarded as traitors and became "special targets". They did not live under their own names and a large part of their lives was spent giving evidence in terrorism and treason trials all over the country.

CM 331

Executions on mine: 18 arrested

Own Correspondent

JOHANNESBURG. — Almost 3½ years after the public execution of four Basotho team leaders at the Western Holdings gold mine near Welkom, 18 men were arrested and appeared in court last week on charges of murder. They will appear again on December 11.

Business Day editor Mr Ken Owen and two reporters were subpoenaed in May to hand over information to police after a special report, quoting eyewitness accounts of the murders on July 12 and 13, 1986, at the Anglo American mine, was published.

The accounts were mainly from a public inquiry by Mr Dan Bregman SC into a labour dispute at the mine.

Police initially said the Bregman report contained no leads to solve the murders, but after the Business Day special report was published, police confiscated taped recordings of the inquiry proceedings.

On the night of Saturday, July 12, 1986, Mr Chemist Mbalo was executed on a table at No 6 Shaft Hostel in front of a crowd estimated by different witnesses at between 80 and 400.

The following night Mr Mosa Posholi, Mr Ramarumo Libenyane and Mr Bofelo Martini, were forced to stand on the same table and were beaten to death in front of an estimated 2 000 other black miners.

The four team leaders were accused of being "impimpis" — informers for mine management.

Almost a year after the four executions, on June 6, 1987, two white mine officials were murdered by a mob of mine workers at No 6, barely a 100 metres from the spot of the executions.

Two days later, 138 miners were arrested, of whom 17 subsequently faced charges of murder and public violence.

One miner was sentenced to death and eight were jailed for between three and 10 years on all three charges.

SILENT ACCUSED FOUND GUILTY

(38)
Sowetan
20/11/89

TWO young men who refused to plead or speak at a trial in which they were accused of conspiring with the ANC to overthrow the Government were convicted of terrorism at the Protea Magistrate's Court.

Obed Selukwanda Madonsela (23) and Christopher Khumalo (27), both of Tembisa on the East Rand, were convicted by Mr LJ Schyff who said they had prejudiced themselves by refusing to participate in the trial.

Both men refused to plead at the beginning of the trial and had requested their attorney, Mr Krish Naidoo, to withdraw from the case. They also refused to cross-examine the state witnesses during the proceedings. They

By MANDLA NDLAZI

only shook their heads in silence when Schyff asked if they had anything to say before he gave his verdict.

They again shook their heads in silence when the magistrate asked if they had anything to say in mitigation of sentence. This was followed by a brief adjournment and at resumption the case was postponed to Friday for sentence.

They are in custody. Madonsela was convicted on six of the 10 counts of terrorism, including illegal possession of banned literature, and Khumalo on four counts, except the count relating to banned literature. They were acquitted of the rest.

Arrests under Section 50 for 'practical' reasons

Supreme Court Reporter

A SECURITY policeman yesterday denied in the Supreme Court that security police arrested suspected guerillas under the Criminal Procedures Act rather than the Internal Security Act to prevent a delay in obtaining information.

Warrant Officer Jeffrey Theodore Benzien, of the Terrorist Detection Unit (TDU), was giving evidence under cross-examination in the trial of Mr Tony Yengeni and 13 others on charges of terrorism. They have refused to plead to the charges.

Asked by Mr D P de Villiers QC, for the defence, why the TDU arrested suspects in terms of Section 50 of the Criminal Procedures Act — which provides that a person must be brought before court within 48 hours — and not Section 29 of the Internal Security Act, WO Benzien said it was for practical purposes.

In terms of Section 29 only a policeman with the rank of Lieutenant-Colonel may order the detention of a person but they were not always available.

He agreed that after an arrest in terms of Section 50 security police would get a colonel to sign a detention order in terms of Section 29 so a person need not appear in court.

The trial continues today.

More evidence sought against alleged guerrilla

AR665 22/11/89 331

Staff Reporter

AN alleged trained guerrilla of the Pan Africanist Congress has appeared in the Wynberg Regional Court in connection with four charges, including one of terrorism.

Mr Vuyo Fetsha, 32, of King William's Town, has not been asked to plead to charges of being a member of the banned PAC's military wing, the Africanist People's Liberation Army, furthering the aims and objectives of the organisation, and resisting arrest.

The state also alleged that Mr Fetsha received military training in Yugoslavia between 1978 and 1989. He allegedly also conspired to overthrow the government.

Advocate T L Skweyiya, for Mr Fetsha, described the charge sheet as "vague" and asked for more details in the interest of justice.

He said: "Justice is a two-pronged system which does not apply to one side. The defence wants to know the exact names of places where Mr Fetsha allegedly underwent training.

"The state only says the accused underwent tranining in 'military academies'. We don't how many such places there are in Yugoslavia. The state doesn't say in which cities these academies are in.

"The state also does not know the type of training the accused allegedly underwent and the exact dates when these activities took place," Mr Skweyiya said.

Magistrate Nr M S Knox ruled the state should supply more details when the hearing continues today.

Mrs E Crouse appeared for the State.

Accused to have security cop charged

CM Trials 22/11/89

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Supreme Court Reporter

IN a dramatic announcement in the Yengeni trial yesterday, counsel for the defence said two of the accused had taken steps to have security policeman Warrant Officer Jeff Benzien prosecuted under international law on charges of crimes against humanity and torture.

The announcement by Mr D P de Villiers, QC, came shortly before the tea adjournment while he was cross-examining WO Benzien on the techniques he used as a member of the Terrorist Detection Unit (TDU) during interrogation of suspected guerillas to gain information from them.

Mr D Villiers said he wanted to proceed with questions which, depending on the answers, could incriminate WO Benzien.

It was normally left to the court to warn a witness about incriminating himself but in certain circumstances it was the duty of legal counsel to bring information to the attention of the court and for WO Benzien to know "the extent of his jeopardy as a witness".

"It is not merely a question of complaints against WO Benzien laid with police in this country, but steps have been taken on behalf of two of the accused with the view of prosecuting this witness (Benzien) outside the borders of South Africa on internationally-recognised crimes against humanity and torture," Mr De Villiers said.

Mr Jannie van Vuuren, for the state, said the prosecutor had consulted with WO Benzien and was of the opinion that the self-incrimination warning would not have been necessary.

Asked by Mr Justice S Selikowitz when he proposed to bring the questions, Mr De Villiers said the questions which would follow would gradually lead one into the other.

After the judge had told WO Benzien that the court may be asked to decide if a question should be answered or not and that he had an opportunity to gain legal advice, WO Benzien asked if the court could adjourn so that he could consult with the state advocates.

Benzien: I get aggressive with guerilla suspects

CAN Trial
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31

Supreme Court Reporter

A SECURITY policeman yesterday agreed in the Supreme Court that he became "aggressive" with suspected guerillas when he was on the verge of arresting them and admitted he had held a firearm "under the nose" of suspects.

Warrant Officer Jeff Benzien of the Terrorist Detection Unit (TDU) was giving evidence under cross-examination in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

He was being asked about the techniques used by the TDU during interrogation of suspected guerillas in obtaining information about planned acts and the whereabouts of arms and collaborators.

He denied seeing security police assault, handcuff a suspect to burglar bars and punch him, pull a suspect's beard, suffocate a suspect, wrap a wet towel around a suspect's face during interrogation, pull a plastic bag over a person's head or beat a suspect who was bound hand and foot.

Asked if leg irons were justified in a situation where a suspect was handcuffed, where there were burglar bars on the windows and where there were about five security policemen in the office, WO Benzien said it depended on whether a person was riotous and if he had to be controlled.

Mr D P de Villiers, QC, for the defence, said it was his duty to put to WO Benzien evidence the defence had of his role in the techniques of interrogation used by the TDU.

In reply to a submission by Mr De Villiers that he had in many instances played the role of the "bad guy" during interrogation, WO Benzien said he strongly denied that.

Told that at the begining of interrogation he was "very aggressive" so as to intimidate a suspect, WO Benzien agreed he did act aggressively at the point of arrest. He said on occassions he had held a firearm under the nose of a suspect he had woken up to prevent him from reaching under the cushion or bed for a handgrenade. He wanted to immobilise the person and show he would not hesitate to shoot, he said .

Asked if that was not intimidatory, WO Benzien said when he arrested a guerilla he did not regard it as intimidatory but rather as a necessity.

Mr De Villiers then referred him to the arrest in 1987 of ANC guerilla Ashley Forbes — imprisoned last year for terrorism — who had alleged that he (Benzien) had told him from the start he was responsible for him and that whatever happened to him depended on him.

WO Benzien said he could not remember that nor could he remember saying to Forbes it depended on his co-operation whether he was treated as an animal or a human being.

Cape Times 22/6/89

Natal paper to face 4 charges

Own Correspondent

DURBAN. — Natal's fledgling newspaper the New African was informed by the police yesterday that it faces four charges in relation to articles published between June and August this year.

The newspaper is charged with allegedly contravening the Prison's Act, the Internal Security Act and the emergency regulations.

Benzien denies handcuffing terror accused

Supreme Court Reporter

WARRANT OFFICER Jeff Benzien yesterday denied in the Supreme Court that he had handcuffed terrorism accused Mr Gary Kruser to burglar bars at security police offices, forcing him to stand on his toes.

WO Benzien, of the Terrorist Detection Unit, was giving evidence under cross-examination in the trial of Mr Tony Yengeni and 13 others who have been charged with terrorism. The accused have refused to plead.

He was being asked about the techniques and "shock tactics" used by the TDU to obtain information from suspected guerillas about the whereabouts of arms, accomplices and planned acts after their arrest.

Before Mr D P de Villiers, for the defence, could continue his cross-examination, Mr Jannie van Vuuren, for the state, said the state took "strong exception" to the dramatic announcement by Mr De Villiers on Tuesday that WO Benzien would be charged under international law with crimes against humanity and torture.

The matter had been widely reported in the press and whether it had been intended or not had clearly been intimidatory to WO Benzien, he said.

Asked about the arrest in 1987 of Ashraf Karriem, an accused in the trial of Ashley Forbes and 14 others, WO Benzien admitted he had held a firearm to Karriem's head.

He however denied that he had threatened to arrest Karriem's elderly parents.

REPRESSION DOSSIER

Youth held

A GRASSY Park youth and his father were detained by security police last Thursday.

Attorney Mr Ibbie Mohamed said security police would not confirm under which section Mark Henry, 19, of Elm Road, was being held.

His father was released on Friday afternoon.

There are no other detainees being held in the Western Cape at present.

200 charged in 60 political trials

ABOUT 200 people face charges in almost 60 political trials in the Western Cape.

The following is a list of some of the trials:

November 23: Tony Yengeni and 13 others, terrorism, Cape Town Supreme Court.

November 23: Mangaliso Dolosi, public violence, Athlone Magistrate's Court.

November 23: Litha Mlahleki, assault, disobeying orders, Robben Island Prison.

November 23: Phumzile Simelela, terrorism, Cape Town Regional Court.

November 23: Gcobani Xhegwana, attempted murder, setting off an explosive device, Strand Regional Court.

November 23: M Zide and two others, public violence, Athlone Magistrate's Court.

November 23: Phillip Ivy, malicious damage to property, defeating the ends of justice, assault, Cape Town Magistrate's Court.

November 24: SK Mathiso and others, murder, Athlone Magistrate's Court.

November 24: Willie Hofmeyr, contravening restriction order, Cape Town Magistrate's Court.

November 27: Christina Tyulu, assisting terrorists, Wynberg Regional Court.

November 27: Archibald Mbetshu and two others, public violence, Athlone Magistrate's Court.

November 27: 12 Cape Town journalists, illegal gathering, Cape Town Magistrate's Court.

November 27: Leslee Durr and 27 others, illegal gathering, Stellenbosch Magistrate's Court.

November 28: Zamile Hleli, public violence, Athlone Magistrate's Court.

November 28: S Swarts, public violence, Paarl Magistrate's Court.

November 28: Raymond Walker and two others, public violence, Vredenburg Magistrate's Court.

November 29: Job Jacobs and John Dompas, public violence, Paarl Regional Court.

November 30: W Bona, public violence, Athlone Magistrate's Court.

November 30: G Johnson, public violence, Paarl Magistrate's Court.

November 30: Gavin Thomas and 11 others, public violence, Paarl Magistrate's Court.

December 1: Edwin Myo, attempted murder, Oudtshoorn Regional Court.

December 1: Mzonke "Whitey" Jacobs, contravening restriction order, Athlone Magistrate's Court.

December 1: Edward Ningi, public violence, George Magistrate's Court.

December 3: Hilton McDillan, possession of banned literature, Oudtshoorn Magistrate's Court.

December 5: H Willemse, public violence, Paarl Regional Court.

December 8: Elliot Mthwa and 12 others, public violence, Wynberg Regional Court.

December 8: Derrick Jackson, illegal publishing a photo of Nelson Mandela, Oudtshoorn Regional Court.

December 11: Veliswa Mhlawuli and Linda Tsotsi, terrorism, Cape Town Regional Court.

December 11: Johnny de Lange, contravening emergency regulations, Cape Town Magistrate's Court.

December 12: Karel George and three others, arson, public violence, Touws River Magistrate's Court.

December 12: D Williams, public violence, Paarl Regional Court.

December 14: Five Saldanha youths, spraying graffiti on walls, Hopefield Magistrate's Court.

December 14: A Warries and 17 others, public violence, Paarl Regional Court.

December 14: CM Mzamone, public violence, Athlone Magistrate's Court.

December 15: W Bitterhout, public violence, Paarl Regional Court.

December 19: Buyiswa Jack and two others, terrorism, Wynberg Magistrate's Court.

January 1 1990: Two Stellenbosch youths, public violence, Stellenbosch Magistrate's Court.

January 1: Ndithando Msitshana and two others, public violence, Worcester Magistrate's Court.

January 11: Franklyn Ables and five others, public violence, Stellenbosch Regional Court.

January 12: Roderick Cupido, public violence, Stellenbosch Regional Court.

January 15: Chris Daniels and two others, public violence, Stellenbosch Regional Court.

January 18: Pedro Appolis and three others, public violence, Stellenbosch Regional Court.

January 22: Bertram Valentine, public violence, Worcester Regional Court.

January 25: Wilhelm Abrahams and 13 others, public violence, Stellenbosch Regional Court.

January 26: Willie Fortuin and two others, public violence, Stellenbosch Magistrate's Court.

February 1990: Methodist Church in Africa and 21 KTC families, damages, Cape Town Supreme Court.

February 5: Johnny Issel, furthering the aims of a banned organisation, Goodwood Magistrate's Court.

Waiting for the axe to fall

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South 23-29/11/89

AT the New Nation offices in Johannesburg, the staff is waiting for the censor's axe to fall.

The newspaper is suffering through the tortuous procedure of accusations and warnings made by Minister of Home Affairs' Eugene Louw, who has the authority to close the paper for three months.

The next few weeks may signal the closure of the paper for the second time since it was founded in 1986 by the Southern African Catholic Bishops' Conference.

New Nation, an outspoken critic of government policy, has been the victim of government repression throughout its existence.

It was suspended for two months last year. Its editor, Zwelakhe Sisulu, was detained for two years under the emergency regulations and is now heavily restricted. Its acting editor, Gabu Tugwana, is being prosecuted in court for several alleged contraventions of the emergency regulations.

In his warning on November 2, Louw said he believed the newspaper had been publishing "subversive statements" and he was examining 11 issues of the paper from July 7 for contraventions of the emergency regulations.

The minister is investigating 32 articles, including a supplement carrying interviews with the eight released ANC leaders and an advertisement for the "Welcome Home" rally at Soccer City.

The "examination" of the newspaper begins with an article publishing extracts from an interrogation manual allegedly used by the security forces.

Fourteen of the 32 articles identified by the minister for examination are, in his opinion, subversive or promoting the breakdown of public order, while 11 articles are being examined for promoting the image of the ANC.

Articles allegedly promoting the image of the UDF and the South African Youth Congress and "encouraging feelings of hatred and hostility towards the security forces" are also being examined.

Most of the articles under examination are reports on the Defiance Campaign, negotiations, the ANC's constitutional guidelines, the Harare Declaration, the consumer boycott and the election period.

For example, a report headed "Workers Back Defiance" is described as "promoting and fomenting the breakdown of public order in the Republic ... by publishing statements which encourage people to act in defiance of the state of emergency and to challenge the separate amenities".

New Nation was given two weeks to make representations to Louw, after which he could suspend the paper for three months.

Acting editor Tugwana requested an extension of the two-week deadline, which was denied. He requested a meeting with Louw, which was also denied.

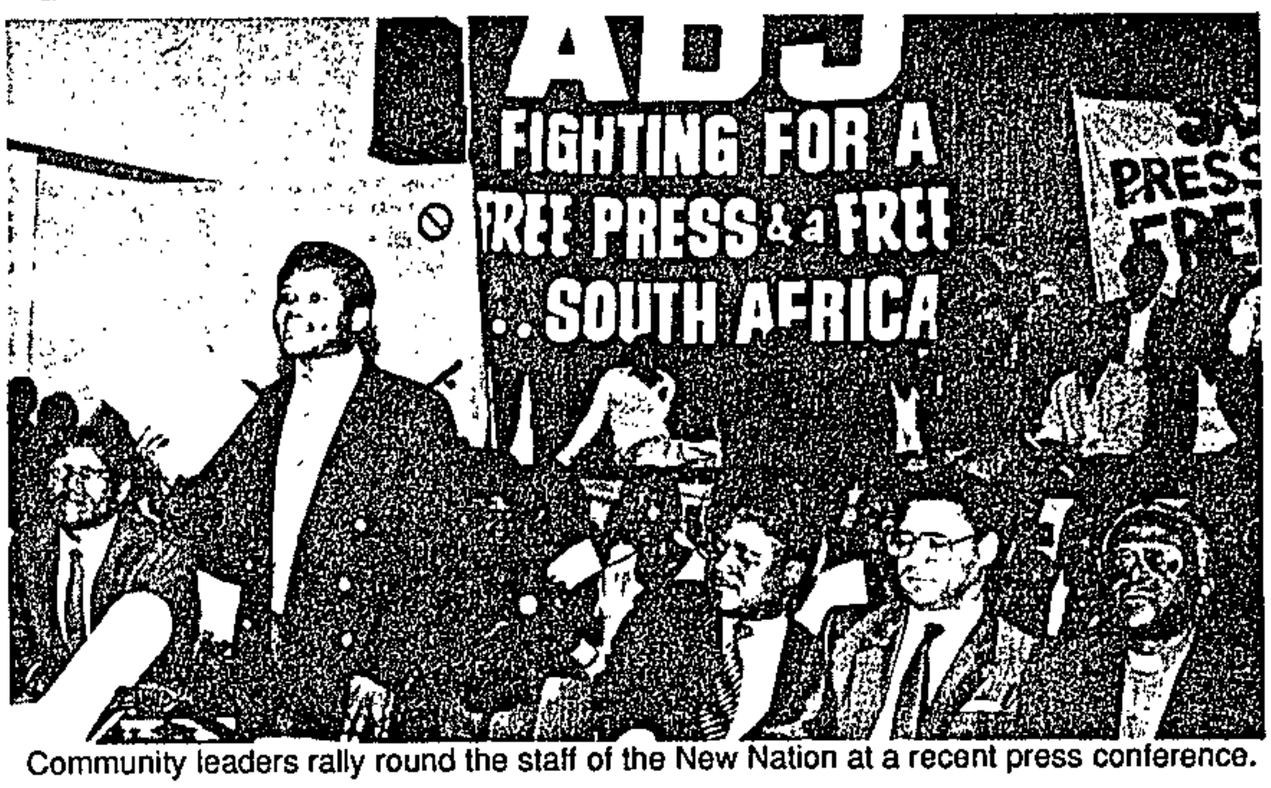
In its response to the minister, the newspaper said it was the "voice of the voiceless" in South Africa.

"The content of our newspaper is not fabricated in order to create a climate of violence and unrest," the response stated.

"What we reflect in the newspaper is the stark reality of life in South Africa, particularly as lived by black people.

"The New Nation believes it is important that all who are interested in a negotiated settlement should get unsanitised information on the life and problems of the people with whom and on whose behalf they will be negotiating.

"Without this kind of vigorous journalism as typified by the New Nation, the views of the oppressed and voiceless would not be known."



Community leaders rally round the staff of the New Nation at a recent press conference.

Solidarity

Messages of support have been pouring into the New Nation's offices from governments and national and international organisations.

The US ambassador to South Africa, Mr William Swing, visited the newspaper last week to show his solidarity with the staff.

The warning given to New Nation after months of inactivity by the government's media watchdogs has thrown the media in South Africa back towards the worst days of the state of emergency, the Anti-censorship Action Group (ACAG) said.

"It has particularly given the alternative press a sharp reminder that the government still holds power over the information they may publish and indeed, their continued existence," ACAG said.

"If the government proceeds with its action against New Nation, a storm of local and international criticism is likely to be brought down upon it, undermining the recent moves towards freedom of speech that have won it some praise."

SOUTH's Repression Dossier is a monthly focus on political trials, detentions, bannings and restrictions — measures used by the state against opponents in South Africa.

This dossier has been compiled from information supplied by lawyers and relatives of detainees, and publications produced by the Repression Monitoring Group and the Human Rights Commission.

This focus was made possible by the support of the FOUNDATION FOR PEACE AND JUSTICE

Argus 331

Pro-Yengeni demos arrested on way to court

Staff Reporter

EIGHT demonstrators who gathered in Greenmarket Square to express solidarity with the Yengeni treason trialists in the Supreme Court were arrested today because they did not have permission to demonstrate.

Police confiscated two placards reading "Our struggle for freedom is not an act of treason" and "Release all political detainees" when the group first tried to demonstrate outside the Metropolitan Methodist Church in Burg Street.

The demonstrators went back into the church and then regrouped on Greenmarket Square where the police gave them five minutes to disperse, seizing another placard.

MESSAGE OF SUPPORT

A spokesman for the demonstrators said their only intention was to remind people of the many political detainees, and to express support for the Yengeni trialists.

Most moved towards the Supreme Court, but were stopped by the police, who arrested eight.

Inside the church a message of support from the Yengeni trialists was read out as a small group gathered to decide what action to take next.

Some of the group had earlier attempted to get into the Supreme Court where the trial is being heard but were turned away because it was full.

Burg Street was sealed off and there was a heavy police presence.

Mother jailed for public violence

False Bay Bureau

A STRAND mother-of-three has been jailed for an effective nine months for public violence after being arrested shortly after a beach protest had been dispersed by police.

Strand regional magistrate Mr D Cronje sentenced Diana van Beulen, 22, of Rusthof, to two years in jail, of which 15 months were conditionally suspended, for having thrown a stone at a police vehicle.

Van Beulen pleaded not guilty to public violence, but guilty to an alternative charge of malicious damage to property.

UNCLE IN BRAWL

Van Beulen told the court she and two of her children had been on the way to a relative's house to deliver some chickens when she had stopped near a brawl in which her uncle had been involved.

She said a man had knocked over her five-year-old daughter and run off with the chickens. She had picked up a half-brick and thrown it in his direction.

She said because many people who had been at the beach protest were around the brawl, police had arrived and fired teargas, and an unrest situation had developed.

Mr Cronje rejected her evidence and accepted the version of two police witnesses, who said they had picked out Van Beulen by her white dress.

The magistrate reprimanded one of the policemen for his aggressive attitude under cross-examination by Ms Ilze Olckers, for Van Beulen.

Ms H Lombard appeared for the State.

● Ms Olckers said she would lodge an appeal.

Policeman denies 'animal' threats

AKGU 23/4/89

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By LINDA GALLOWAY
Supreme Court Reporter

A SECURITY policeman who questioned several terrorism suspects has denied in the Cape Supreme Court that he grabbed the genitals of a man who was handcuffed or that he threatened to treat another "like an animal."

Warrant Officer Jeffrey Theodore Benzien is under cross-examination in the terrorism trial of Mr Tony Yengeni and 13 others who have refused to plead to the charges against them.

At the start of yesterday's hearing Mr J van Vuuren, for the state, objected to the defence's cross-examination and said the questions (about detainees and accused in other trials involving Warrant Officer Benzien) ranged far wider than the issues at hand and were irrelevant.

Mr Justice S Selikowitz replied that Mr D P de Villiers, QC, was "a very senior practitioner" who had given the court the assurance that the line of questioning was relevant, and he was prepared to accept this.

Mr Van Vuuren also raised "a very strong objection" to the way in which Mr De Villiers had announced the intention of two of the accused to have Warrant Officer Benzien charged under international law with crimes against humanity, and torture.

Mr Van Vuuren said extensive coverage in the Press had created an impression that Warrant Officer Benzien had already been charged and was to appear in court, which was not the case.

Continuing cross-examination, Mr De Villiers questioned Warrant Officer Benzien about the arrest and interrogation of Mr Ashraf Karriem, an accused in the Ashley Forbes terrorism trial last year.

Warrant Officer Benzien denied that he had "screamed repeatedly" at Mr Karriem to tell the whereabouts of a hand grenade allegedly in his possesion.

He confirmed that after his arrest Mr Karriem was handcuffed with his hands behind his back and taken to a police vehicle.

Warrant Officer Benzien denied that he had put one arm behind Mr Karriem and grabbed his genitals with the other hand.

Asked about the arrest of accused Mr Gary Kruser in Athlone in September 1987, Warrant Officer Benzien denied that he had been present.

He said Captain William Liebenberg had been in charge of Mr Kruser's interrogation and he had merely "taken part on occasions".

Warrant Officer Benzien denied he told Mr Kruser that the two of them could talk and behave like gentlemen but that Mr Kruser should know that the alternative was to be treated like an animal.

The hearing continues.

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

Court told of police brutality

Court Reporter

RIOT police hit a former student leader with the butt of a rifle, threatened him with his life and tried to force him to say: "I am a kaffir", the Cape Town Regional Court heard yesterday.

Phumzile Simelela, 20, of Langa, who won a damages claim against the Minister of Law and Order after the event, which occurred in 1985, said this during evidence in mitigation of sentence after pleading guilty and being convicted of terrorism.

Simelela said that at the age of 18 he had gone with a man named Solly to Lesotho, where Solly had obtained three limpet mines and had stored one at Simelela's home on their return.

Simelela, who was arrested on July 29 last year, said: "I would not have used it. I do not like the use of violence for political goals, but I understand those who do."

He was detained under Section 29 for nine months.

The hearing continues today.

Mr M J Langehoven was the magistrate. Mr N Stowe, instructed by state attorneys, prosecuted. Mr J Whitehead, instructed by K Amin, appeared for Simelela.

Sonn and Lieutenant Gregory [illegible]

Yengeni cop denies 'wet bag' torture

CAPE TIMES 24/11/81

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Supreme Court Reporter

WARRANT OFFICER Jeff Benzien yesterday denied in the Supreme Court that during interrogation he had suffocated jailed ANC guerillas Ashley Forbes and Peter Jacobs, or terrorism-accused Mr Tony Yengeni and Mr Gary Kruser, by smothering them with a wet bag pulled over their heads.

WO Benzien was being cross-examined on "shock tactics" used by the Terrorists Detection Unit (TDU) in obtaining information from suspected guerillas shortly after their arrest.

During cross-examination, WO Benzien was told the defence would call Forbes, Jacobs, Nicklo Pedro, Anwa Dramat, David Fortuin and Ashraf Karriem to testify about the interrogation techniques used by WO Benzien.

A terrorism-accused in another trial, Mr Lucien Abrahams, would also be called to testify, the court heard.

Yesterday the male accused wore yellow tops with the letters YDSG (Yengeni Defendants' Support Group) on the front, and UK (United Kingdom) on the back, while the women wore khaki clothing. They were greeted with clenched-fist salutes by a packed public gallery when they entered the dock.

Mr D P de Villiers, QC, for the defence, put it to WO Benzien that he was held back during the interrogation of suspects, but that he would intervene in a "dramatic manner" when it appeared no progress was being made.

WO Benzien denied this and said an allegation that he intimidated and threatened suspects was incorrect.

In reply to questions WO Benzien said he did not see Mr Yengeni being assaulted by his colleagues, neither had he seen his beard being pulled out, nor had he been been present when Mr Yengeni — whose hands were cuffed behind his back and whose feet were manacled — was beaten to the ground.

He was also not present when TDU commander Captain William Liebenberg allegedly placed his hands on either side of Mr Yengeni's face, lifted him off the ground and said if he did not co-operate he would be killed.

WO Benzien further denied an allegation that he had played a central role in practices where he would smother suspects until the verge of unconsciousness.

He denied that during interrogation he would pull a plastic or cloth bag over a suspect's head while the person was lying on his stomach on the floor with his hands cuffed behind his back and that he would pour water over the bag and pull it tight.

He further denied he had used that technique on Mr Yengeni, Mr Kruser, Forbes or Jacobs, or that he had threatened to use it on Forbes' co-accused Nicklo Pedro.

The trial continues today.

CITY PROTEST . . . Two nuns, who were later arrested, walk in Burg Street yesterday to participate in a placard demonstration in support of the Yengeni trialists. Several people were arrested in three separate demonstrations, all in support of the trialists, near the Supreme Court and on Greenmarket Square yesterday. Picture: ANNE LAING

50 held after city placard demo

POLICE yesterday arrested about 50 people in three separate demonstrations in support of political detainees and the Yengeni trialists.

The biggest demonstration was held at noon in Greenmarket Square, when protestors staged a brief placard demonstration.

The Rev Syd Luckett, director of the Anglican Churches Board for Social Responsiblity, Mr Balfour Ngconde, the Western Cape chairman of the National Sports Congress, two nuns and several journalists were among those detained.

Some were released and did not have to appear in court.

Earlier, six people were arrested in Burg Street. They appeared in the Cape Town Magistrate's Court and were released afterwards.

Mr Luckett and Ms Vuyiswa Jack were arrested twice yesterday — once in Greenmarket Square and late in the afternoon near the Supreme Court.

They were released after the first arrest.

Yesterday afternoon 33 of the alleged demonstrators appeared in Cape Town Magistrate's Court. No charges were led. They were released on their own recognisance and told to appeal again on January 9.

Public packs court for Rockman's appearance

Court Reporter

MITCHELLS PLAIN Magistrate's Court was packed with members of the public and prison warders yesterday when suspended policeman Lieutenant Gregory Rockman and 15 others appeared in connection with an alleged illegal gathering in Mitchells Plain Town Centre last week.

The 16, 11 of whom are suspended prison warders, were arrested after a protest march by the newly-formed Police and Prisons Civil Rights Union (Popcru), headed by Lt Rockman.

They were not asked to plead and the hearing was postponed till January 10 when the attorney-general's decision regarding prosecution will be made known.

Trojan 13 'guilty of common purpose'

By GAYE DAVIS,
Cape Town

IN an ironic twist, the prosecution of 13 security force members for the "Trojan Horse" killings depends on the same legal point that convicted the Sharpeville Six — the common purpose doctrine.

Alternatively, the 12 policemen and a South African Defence Force member were guilty of culpable homicide — also in terms of the common purpose doctrine — because they caused the death of Shaun Magmoed, 16, through negligence.

This was argued in the Cape Supreme Court this week by Jules Browde, SC, who said the Sharpeville Six trial had established that no causal connection had to be established between the conduct of an accused and the death of a person. .

Thus the three senior police, railways police and defence force officers who devised the scheme could be held guilty even though they were not at the scene. So could the truck's driver, although he fired no shots.

And although the prosecution could not establish which of the policemen fired the fatal shots, this too was not necessary. Under common purpose, the action of each accused was imputed to each other, Browde said.

The security force members are in the dock in terms of a private prosecution brought by the mother of Magmoed, who was one of three youths who died in the incident.

The trial entered its final stages this week after initially being repeatedly stalled by defence counsel objections to aspects of the proceedings.

Browde described it as the "most extraordinary case" because no defence had been raised by any of the accused. The only intimation that police acted in self-defence or in order to make arrests lay in affidavits filed during an earlier inquest — and their truth had not been admitted by the accused.

Browde argued that "when the accused set out on this adventure they knew the result of it was going to be death".

The operation — sending a government vehicle into an area troubled by unrest, knowing it might be stoned — was intended to elicit an attack.

The fact that the hidden policemen were armed with shotguns, pistols and lethal ammunition meant the possibility of fatalities must have been foreseen.

After travelling once down Thornton Road without incident, the truck turned and retraced its passage — deviating from its planned route.

This amounted to a "very strong invitation — stone me and see what happens to you", Browde said.

Within seconds of the first stones hitting the truck, the policemen sprang up and started firing into the crowd — most of whom were bystanders, rather than stone-throwers.

Although people immediately turned and fled, they continued to pump 39 rounds — 1 400 "lethal pellets" — into the crowd from close range without interruption.

There was no warning, no attempt at identifying themselves or their purpose or even to leave the truck.

Officer warned of Nuremburg style charges

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By GAYE DAVIS,
Cape Town

A SECURITY policeman was this week told he could face prosecution under international law for recognised "crimes against humanity and torture". W Mail 24 - 30/11/89

Dawid de Villiers, QC, defence counsel in the Yengeni trial in which 14 people are charged with terrorism and other Internal Security Act charges, interrupted his cross-examination of Warrant Officer Jeff Benzien to warn him his answers could incriminate him.

It was not merely a question of complaints laid with police within South Africa, De Villiers said.

Steps had been taken "on behalf of two of the accused with a view to the possibility of (Benzien's) prosecution outside the borders of this country on internationally recognised crimes against humanity and torture".

Defined after the Nuremberg war-crimes trials and ratified by the United Nations in 1946, crimes against humanity form part of international customary law. Apartheid is deemed such a crime by the International Convention on the Suppression and Punishment of the Crime of Apartheid, ratified by 86 nations.

Some countries, including the United States, the United Kingdom and South Africa, have rules of incorporation rendering international customary law part of their domestic law.

In the view of legal experts, this gives them the jurisdiction to prosecute official torture, recognised by international customary as a crime.

This means Benzien would not be able to leave South Africa without the threat of prosecution — or that he may face prosecution in South Africa at some much later date.

In his evidence, Benzien has repeatedly denied allegations that he was guilty of torture.

He denied jumping on the shattered leg of Bongani Jonas — who was shot on his arrest and who was recently sentenced to three years' for refusing to testify — or that Jonas pleaded to be taken to hospital.

He said Jonas was co-operative and "seemed anxious" to point out arms caches in Khayelitsha, which was why police took him there first.

Questioned on the techniques employed by the Terrorist Detection Unit to extract information from suspected guerrillas, Benzien conceded that he became "aggressive" on the point of arrest but denied that he invariably played "bad guy" during Mutt and Jeff-type interrogations.

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Trial protest: 33 appear in court

Staff Reporter

THIRTY-THREE people arrested after a demonstration outside the Metropolitan Methodist Church in support of terrorism trialists have appeared in the Cape Town Magistrate's Court. They were not asked to plead and were released on warning.

They were Mr Andile Hoho, 26, of Langa; Mr Asiza Charles, 32, of Athlone; Miss Zelda Hotizman, 28; Miss Robine Kayser, 21, of Lansdowne; Mr Leon Vollenhoven, 37, of Mitchell's Plain; Mr Sidumo Cole, 25, of Guguletu; Mr Theophilus Jonas, 21, of Guguletu; Mr Patrick Nangu of Guguletu; Miss Buyiswa Jack, 35, of Nyanga; Ms June Esau, 36, of Lansdowne; Mr Andrew Mandla, 18, of Guguletu; Mr Mnikeli Msesi, 26, of Guguletu; Mr Ndumiso Booi, 19, of Khayelitsha; Mr Mtheleli Maliti, 20, of Paarl; Mr Amien Benjamin, 21, Mr Edward Cottle, 21, of Athlone; Miss Miriam Will, 21, of Manenberg; Mr Owen Fourie, 22, of Manenberg; Miss Rosei Bles, 32, of Bellville Technikon; Sister Clare Horkif, 46, of Rondebosch; Mr Sidney Luckett, 42; Mr S Sodidi, 30, of Nyanga; Mr Balfour Ngconde, 35, of Guguletu; Miss Yasmine Jacobs, 29; Mr Otto Ntuli of Nyanga; Mr Ferdinand Faine, 29, of Hanover Park; Mr Kiwelo Mpahlwa, 26, Cape Town; Mr Mac Jonas, 23, of Athlone, and five minors.

The magistrate was Mr H J Venter. Mr D J Cloete appeared for the State. Mr V Saldanha appeared for the accused.

Policeman denies threat to kill suspect

By LINDA GALLOWAY
Supreme Court Reporter

SECURITY policeman Warrant Officer Jeffrey Benzien has denied that he wrapped a terrorism suspect in a blanket after telling him that he had come to kill him, assaulted him and then took him to a restaurant in Bloubergstrand.

The policeman denied the allegations while under cross-examination by Mr D P de Villers QC during the Yengeni terrorism trial in the Cape Supreme Court.

Mr De Villiers put it to Warrant Officer Benzien that in May 1987 he had interrogated terrorism suspect Ashley Forbes and assaulted and threatened him several times.

"Bloodshot eyes"

Warrant Officer Benzien denied the allegations.

He labelled as "lies" the allegation by Forbes that one night the policeman had gone to him "with bloodshot eyes and wild hair" as though he had been drinking and had said: "I have not come to question you, I have come to kill you."

He denied that he had struggled to roll Forbes in a blanket and, with the help of Captain William Liebenberg, had rolled him up in the blanket, knelt on his back and tried to smother him with a wet towel.

"It never happened," he told the court.

He also denied having put a plastic bag full of water over Forbes's head.

He confirmed he and another policeman had taken Forbes to a restaurant in Bloubergstrand late that night, because they were on their way to Saldanha, but decided to go the following day instead, and were hungry.

Warrant Officer Benzien strenuously denied allegations by Forbes, put to him by Mr De Villiers, that the policeman had used the plastic bag full of water on more than one occasion, or that he had given Forbes electric shocks.

He denied that he had refused to allow him to use the toilet for long periods or had denied him meals, and said that instead he had "gone out of my way" to provide Forbes with food.

He also denied having sat opposite Forbes on a stool or having punched him and burst his ear drum, stuck his fingers up Forbes's nostrils, strangled him until his neck was bruised or hit his head against a wall until he lost consciousness.

Told by Mr De Villiers that Forbes had said the policeman had then taken him on a trip to Mossel Bay to keep him out of Cape Town where people could see his injuries, Warrant Officer Benzien said he had travelled extensively with Forbes, to the Eastern and Southern Cape, the Transkei and the Botswana border during the course of the investigation.

Forbes and 14 others were tried on charges of terrorism last year and he was sentenced to 15 years' imprisonment.

The hearing continues.

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

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The Delmas assessor saga may be laid to rest soon

By CARMEL RICKARD,

9/11/89

24-3

THE "ghost" which has haunted the marathon "Delmas" treason trial may finally be laid to rest — on Monday the defence team will argue that the trial should be set aside because of the dismissal of assessor Willem Joubert.

At stake will be the treason and terrorism sentences of 11 of the original 22 accused, as well as the state's apparent moral victory against the United Democratic Front after the three-year case.

One of the findings of the trial judge, Mr Justice K van Dijkhorst, was the UDF was involved in a conspiracy with the African National Congress to overthrow the state by violence — a ruling the state had failed to obtain in the 1985 Natal UDF treason trial when all the accused were acquitted.

The Delmas "ghost" appeared early in the trial when Mr Justice van Dijkhorst dismissed one of his assessors, former law professor Joubert, on the grounds that he had signed the UDF million signature petition against the tricameral parliament.

On Monday the defence will challenge the trial and its outcome on the technical issue of Joubert's dismissal, rather than going into the merits of the verdict and sentence at this stage.

Should they fail to persuade the Appellate Division to declare a mistrial on Joubert's dismissal, the defence will then tackle the merits of the convictions, but it could be some time before the appeal on these grounds could be heard.

The argument for the AD to declare a mistrial is based on the defence objection to the way the judge sacked Joubert, and the reasons for which he did it.

When the petition issue came to his attention, Mr Justice van Dijkhorst conducted an inquiry into the matter in his chambers.

However, Arthur Chaskalson, SC, for the defence will argue that he should have heard the matter in open court and that all sides should have been able to advance argument and evidence on the issue before any decision was reached.

They will also argue that the judge misinterpreted the Criminal Procedure Act which sets out the conditions under which an assessor may be dismissed.

● Four "Delmas" trialists were convicted of treason: Patrick Terror Lekota (12 years), Popo Molefe (10 years), Moss Chikane (10 years) and Thomas Manthata (six years).

Seven of the trialists were found guilty of terrorism: G Malindi was sentenced to five years as he had a previous conviction, but the other six were given suspended sentences on controversial conditions: T Mphuthi, N Nkopane, T Ramakgula, S Mokoena, S Hlanyane and H Matlole.

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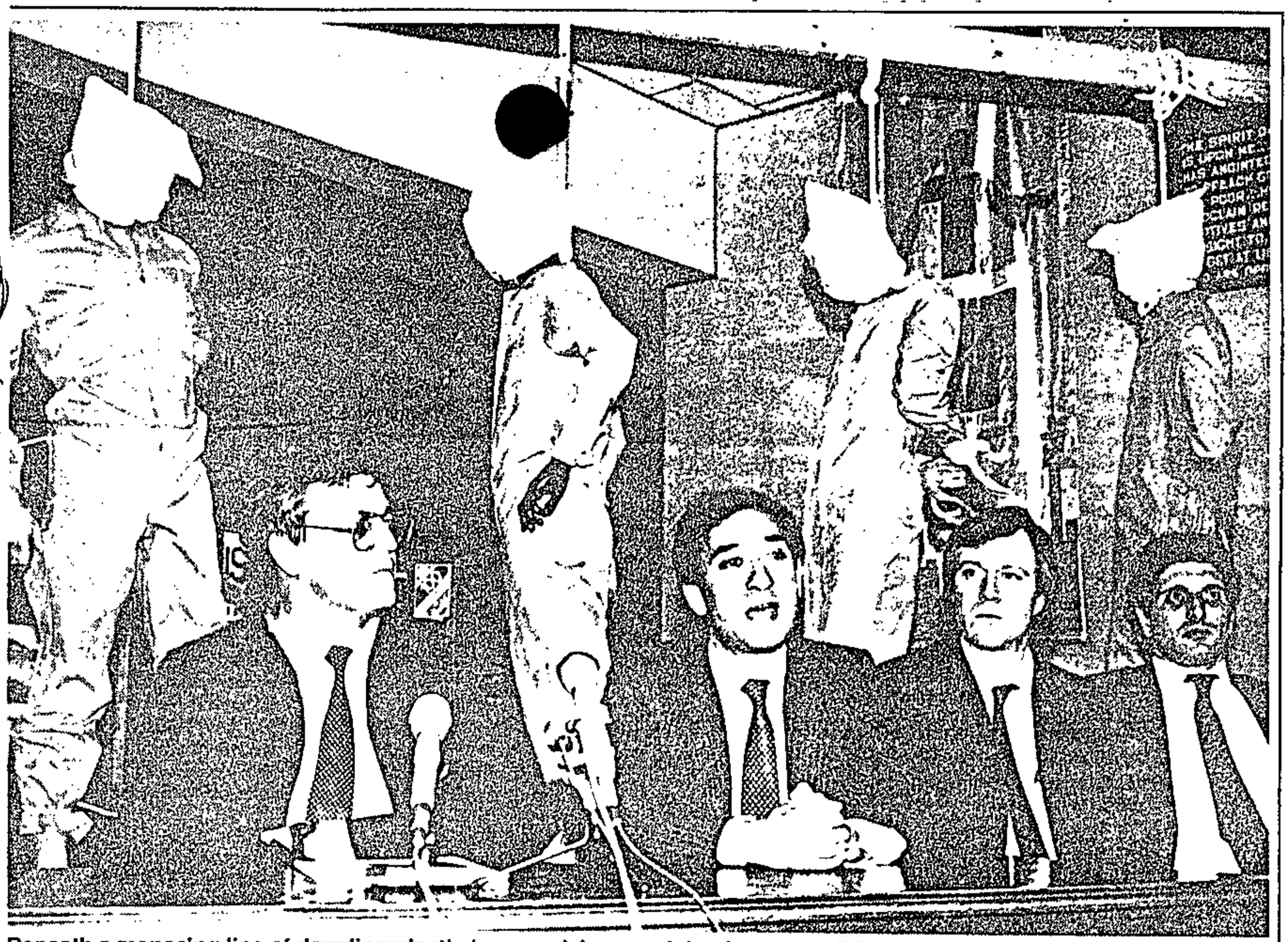
Winnie 24-30/11/93



Beneath a menacing line of dangling plastic 'corpses', human rights lawyers call for an end to the death penalty this week
Picture: ULLI MICHEL, Reuter

From death row to light sentences for 6 convicts

By IVOR POWELL & PHIL MOLEFE

SIX death row prisoners had their sentences overturned this week in two judgements that place serious question marks around the functioning of the legal system.

In the retrial — called on purely procedural grounds — of the "Queenstown 5", a different court and a different judge reduced five death sentences to terms of less than two years imprisonment.

A sixth accused died of TB while on death row.

In the second case Paulos Maseko was released from death row after the Appeal Court found that the original judge had acted in a seemingly prejudiced and partial manner.

Three Appeal Court judges found that Acting Justice WJ Human had acted in such a way as to make it seem he had rejected Maseko's evidence and closed his thoughts to the possible innocence of Maseko before the trial was concluded.

Justice Human is the same judge who convicted the Sharpeville 6 on a "necklacing" charge. Their death sentences have also been overturned.

In the original trial, Human had told Maseko, when the latter was giving evidence, to hurry up so the court could get the trial over and done with.

In the East London trial an important precedent was set — one which is expected to have important implications for next week's appeal in the "Delmas treason trial", which involves senior United Democratic Front leaders, and for "necklace" cases in general.

This arises from the decision of the judge to admit as extenuation the principle of deindividuation in relation to certain extreme forms of crowd behaviour.

In the deindividuated state, the individual becomes an anonymous — and therefore only partially responsible — part of a group.

Lawyers have pointed to the wide-ranging effects of the judgement — they believe it is likely to have legal implications for scores of people on death row convicted for their part in mob killings.

"The judgement has important implications for human rights law and it could indicate a change in attitude to 'political crime'. It bears directly on the current debate about capital punishment," said a human rights lawyer.

The "Queenstown trial" this week was the second time the men were tried for the murder of Noshipho Zamela in Mlungisi, near Queenstown.

The five were originally sentenced to death in 1987. However, their convictions and sentences were set aside by the appeal court on the ba-

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MURDEROUS POL POT'S FAIRY GODMOTHERS IN THE WES

Six taken off death row

Wmail 24-30/11/89

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From PAGE 1

sis that the dismissal of one of the assessors by the trial judge had been irregular.

The assessor in the trial had requested that he be granted leave because his daughter was ill.The judge had allowed him to go.

This, the defence claimed, was irregular, and it was on this ground that the retrial was ordered.

Passing sentence in the retrial on Tuesday, Mr Justice C Jansen said factors he considered were the concept of "deindividuation" and how this phenomenon might have influenced the behaviour of the accused in a crowd situation.

Judge Jansen said the subjective minds of the accused at the time was an important consideration as what had consciously or subconsciously driven them to act the way they did.

Legal Resource Centre director, Arthur Chaskalson SC, said: "The judgement is striking and demonstrates the danger of the death penalty because the difference between the death sentence and 20 months is so extreme."

He added: "This shows that if appropriate evidence is produced and it has appropriate consideration the difference may be between death and imprisonment.

"The decision requires government law advisers to reassess recommendations as to whether or not death penalties should be implemented."

The remaining five men were rearrested immediately after the Appeal Court's decision and again charged with the murder of Zamela.

At the start of their retrial early this year, the five pleaded guilty to murder and the defence led expert evidence in extenuation.

Justice Jansen sentenced the six to 60 months' imprisonment, of which 40 months were suspended for five years.

Justice Jansen remarked that his judgement, in particular the leniency, may come in for criticism in certain quarters — particularly among some politicians. But he said if he did err he would prefer to err on the side of the accused.

He accepted that the perception of the community, their sense of relative deprivation, their sense of alienation and frustration and their experience of police actions were all relevant in determining the subjective state of mind of the accused when they became part of the crowd which necklaced the deceased.

ANC arms man says SADF group hit him

Staff Reporter

A TRAINED ANC arms courier has claimed in the Cape Town Regional Court that he was assaulted by a group of SADF men and bundled into a Buffel personnel carrier.

Phumzile Kenneth Simelela, 19, of Langa, was giving evidence in the Cape Town Regional Court.

He pleaded guilty to undergoing military training in the Peninsula and fetching arms and ammunition from the ANC in Lesotho. He also had a limpet mine and detonator when he was arrested on July 29. He was convicted on the main charge of terrorism.

"JUMPED ON ME"

Yesterday Simelela told the court that he and two friends were going to Langa Station on November 20 1985 when a Buffel approached them.

He said his two friends ran away but he did not "because I was innocent".

"Two soldiers got off the vehicle and grabbed me. They started to assault me. They bundled me into their Buffel and continued to assault me. Others punched me while others jumped on me.

"Others pointed guns at me and forced me to say 'I am a kaffir'. But I refused. They also threatened to kill me, but I managed to persuade them to take me to a police station instead."

Simelela said the soldiers told him he would be charged with armed robbery and public violence.

SETTLEMENT

"They continued to assault me at the police station. They kept me for a day and I was later released. My family laid a claim against the Minister of Police and subsequently won an out-of-court settlement," he said.

Cross-examined by Mr Mike Stowe, for the State, Simelela said he went to Lesotho because he wanted to make a contribution towards the freedom of his people.

He said he had not intended to use the weapons found in his possession. "I do not condone the use of violence to achieve political aims."

Simelela will be sentenced today.

Court rejects confession

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A DETAINEE made legal history this week when his confession was thrown out of court on the grounds that he had developed a form of psychosis first discovered among Vietnam war veterans.

A confession by trade unionist Mandla Cele, detained since 1986 under the Emergency, was thrown out in the marathon Newcastle trial, because he has developed Post Traumatic Stress Disorder (PTSD).

Cele, 28, fellow trade unionist Professor Sibankulu, 25, and 19-year-old student Tatai Kgati, are accused in a trial showcasing the total onslaught theory.

Advocate BR Morrison closed the case for the state this week, claiming "a direct link between ANC policies and the National Education Crisis Committee (NECC) and the Newcastle Youth Organisation (Neyo)".

Defence lawyers Guido Penzhorn and Bheka Sheza start their argument on Wednesday December 6, having achieved one victory when Cele's confession was disallowed in a lengthy trial within a trial.

The 80-page confession, dictated to magistrate JAV Breedt over five days, was thrown out after evidence by Professor Michael Andrew Simpson, a member of the Royal College of Psychiatry. He said Cele's mental balance had been thrown off by possible police assault and the "cumulative effect of lengthy detention together with continuous interrogation". — Durbanews

Weekly 24-30/11/89.

CAPE TIMES 25/11/89

No charges against Willie

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Court Reporter

THE attorney-general yesterday withdrew charges against restricted civil rights lawyer Mr Willie Hofmeyr in the Cape Town Magistrate's Court.

The charges related to an incident in August when he was allegedly not at home between the curfew hours determined by his emergency restriction orders.

Mr Hofmeyr, 35, of Observatory, was never asked to plead.

Mr H J Venter was the magistrate. Mr L Nortier prosecuted. Mr R S Zurmaner appeared for Mr Hofmeyr.

Asvat killers: Appeal denied

JOHANNESBURG. — The two convicted murderers of anti-apartheid activist Dr Abu Baker Asvat, who were sentenced to death earlier this month, were yesterday refused leave to appeal in the Rand Supreme Court.

Zakhele Mbatha's application for leave to appeal against his sentence claimed he was immature at the time of the killing, while Thulani Dlamini made the application against his conviction claiming he had not been properly identified by witnesses. — Sapa

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'ANC trying to besmirch me'

CMT Times 25/4/89

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WO vows to carry on task

Supreme Court Reporter

CROSS-EXAMINATION of a security policeman in the Yengeni trial took an unexpected turn yesterday when Warrant Officer Jeff Benzien accused the ANC of initiating a campaign to intimidate him and besmirch his name because he was responsible for the death of highly-regarded ANC guerilla Ashley Kriel.

He vowed, however, that he would remain with the Terrorists Detection Unit (TDU) and continue his task of arresting guerillas and bringing them before court.

During his cross-examination by Mr D P de Villiers, QC, for the defence, about allegations that he had put a wet bag over suspects' heads, WO Benzien said serious allegations, which received wide publicity, had been made.

Serious allegations, which he had denied, had been made on Thursday when his name appeared on posters at a placard demonstration. In his opinion that was "absolute blackening" of his name.

He denied that at times he had shown signs that he had lost self-control and said his temper was that of an average man.

Told that TDU commander Captain William Liebenberg had said in reply to a question by Mr Justice S Selkowitz that he (Benzien) was the member of the unit who had the "shortest temper", WO Benzien replied the captain was entitled to his opinion.

Mr De Villiers put it to him that there had been a system and an understanding between members of the unit that he was held out as the ogre and that suspects who refused to co-operate would be handed over to him, Mr De Villiers said.

WO Benzien denied this and further denied being responsible for intimidation, serious assaults and torture of suspects.

Asked by Mr De Villiers why people would give false evidence against him, WO Benzien said: "It would appear that the TDU had become an absolute threat to the ANC in the Western Cape. The purpose of the ANC was to intimidate members of the unit and to have them declared unreliable witnesses.

"The repetition of this rubbish in court would spur members (of the TDU) to ask for a transfer rather than listen to these lies day after day. Should any of the members crack under this deliberate intimidation then the ANC would have succeeded in its aims," WO Benzien said.

The trial continues on Monday.

Ex-Langa High leader gets year's jail sentence

W/C Appeal 25/11/89 331

Weekend Argus Reporter

A FORMER chairman of Langa High School student representative council has been sentenced to jail for a year after being convicted of terrorism.

Phumzile Kenneth Simelela, 19, of Langa, pleaded guilty in Cape Town Regional Court yesterday to charges of being trained militarily in the Peninsula and fetching arms and ammunition from the ANC in Lesotho.

He had a limpet mine and a detonator when he was arrested on July 29 last year.

The magistrate, Mr M J Langehoven, sentenced Similela to three years' jail, with two suspended for five years.

Simelela was released on bail of R3 000 pending appeal and ordered to report to Langa police station every Friday.

Mr Mike Stowe appeared for State and Mr John Whitehead, instructed by Mr K Armien of Essa Mossa and Associates, for the accused.

Court hears of fireball, limpet mine

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CAT Times 28/11/89

By RONNIE MORRIS
Supreme Court Reporter

A SENIOR city fireman yesterday told the Supreme Court that minutes after an explosion had taken place at Castle Court he had seen a fireball three storeys high and after extinguishing three burning cars he almost stepped on a primed limpet mine.

Mr Tyrone Pellew, station officer at the Central Fire Brigade, was giving evidence in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

He told the court that on July 20, 1987 they received a report that Castle Court — a city block of flats which houses SADF members — was alight. When the fire brigade arrived there three minutes later, he saw flames burning fiercely among parked cars about 60 metres away. He said that while employing a pump, he heard a second explosion.

"Looking across I saw a fireball rise about the height of the flats. My impression was that it was either a gas explosion or one of the vehicles' petrol tanks had exploded."

After the second explosion firemen approached the burning cars and he noticed a number of liquid petroleum gas cylinders engulfed in flames in one of the vehicles, approximately where the back seat or luggage compartment was, Mr Pellew said.

He had also seen a fragmented gas cylinder lying on open ground a few metres away from the wreckage of the car, which was parked between two other cars.

Had the second explosion take place when firemen were trying to extinguish the burning cars, it would have been potentially dangerous because gas cylinder explosions occurred outwards and upwards, Mr Pellew said.

He had later asked that two full cylinders found on the scene be removed because they had been exposed to extreme heat. The cylinders were hazardous because the gas was unstable, he said.

After the cylinders were removed, one of his men showed him a magnet found on one of the cylinders which was later identified as coming from a 158-type mini-limpet mine.

Mr Pellew said when he approached the wreck of the car after it had been dampened down, he heard a voice say: "I found it, here it is. It's primed to explode."

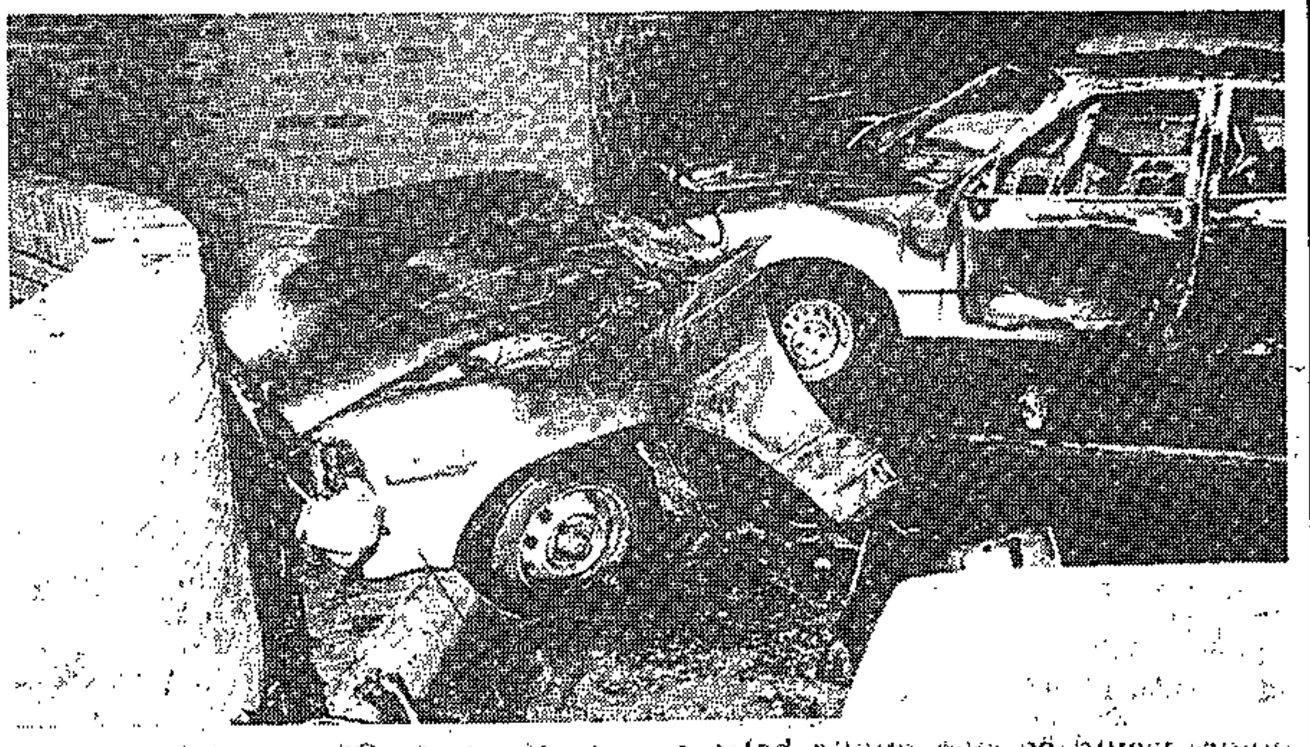
He turned round and near the front left wheel of the the wreck saw a rectangular-shaped object which police identified as a mini-limpet mine. When he heard that he "took off" over a nearby wall.

Mr Pellew said the danger of gas cylinders left leaking in an enclosed area like a car or a room was that when the gas and oxygen reached the right proportions, the "car could be considered as a bomb in itself". It merely needed an ignition from any spark, match or electrical switch.

Asked by Mr Jannie van Vuuren, for the state, how high the flames were when the fire was at its fiercest, Mr Pellew said it was the equivalent of three storeys.

Asked by Mr Michael Donen, for the defence, during cross-examination, how long he had been on the scene before he heard a second explosion, Mr Pellew said it was a matter of seconds.

The trial continues today.



WRECKED CAR . . . The charred wreckage of the car in which seven gas cylinders were found shortly after two explosions at Castle Court on July 20, 1987.

Picture: COURTESY SAP

Mine ready to blow up at fireman's feet

Argus 28/11/89

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By LINDA GALLOWAY
Supreme Court Reporter

A FIRE station officer told the Supreme Court how, after being called out to a fire in central Cape Town, he nearly stood on a limpet mine and then "vacated the nearby vicinity" with speed.

Mr Byron Claude Pellew was giving evidence in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism and ANC-related activities.

He said that on July 20 1987 he was on duty at the Roeland Street central fire station at 8.40pm when a fire was reported at Castle Court in Tennant Street.

Minutes before the call he heard an explosion.

BURNING FIERCELY

A fire tender was at the scene at 8.43pm. Three cars were burning fiercely in the courtyard of the block of flats.

He instructed the crew to deploy a water jet and was about to get out of the fire engine when he heard a second explosion and saw a fireball rise above the flats.

Mr Pellew said he suspected there had been a gas explosion and moved closer to the fire when he saw liquid petroleum gas (LPG) cylinders in the wreckage of a car between two other cars.

He retreated to about 13 metres from the blast and took cover.

The fire took about 15 minutes to put out and firemen spent another 15 to 20 minutes damping down the area.

Police arrived and Mr Pellew said something was mentioned about the possibility of a limpet mine. His men helped the police search the area.

He was standing next to one of the burnt-out cars when he looked down and as he saw an oblong object next to his left heel he heard a voice say "I've found it. It's primed to go off!" and he "took off over the wall".

The mini-limpet mine found at Mr Pellew's feet was removed by police and detonated in a controlled explosion.

Of the cylinders removed from the wreckage, Mr Pellew said two had been found to still contain LPG. African Oxygen was called in to remove them, as was standard practice when cylinders had been exposed to heat and could be unstable.

NOTICED MAGNET

One of his fire officers noticed a magnet stuck to the side of one of the cylinders. This was pointed out to police and was said to have been from a limpet mine.

Of the seven cylinders, one had exploded and burst open and two had obvious holes in the metal.

The cylinders are on display in the courtroom as exhibits in the trial.

Nobody had been injured in the incident, although Mr Pellew had heard that one or two residents of Castle Court had been treated for shock.

The hearing continues.

Court crowded for Maties' march case

Cape Times 28/11/89 331

By MONICA GRAAFF
Court Reporter

THE Stellenbosch Magistrate's Court was packed yesterday and a peaceful picket demonstration and church service were held outside to mark the start of the emergency regulation trial of former Nusas chairman Ms Leslee Durr and 27 others.

The accused, most of whom are connected in some way to the University of Stellenbosch, pleaded not guilty to holding an illegal gathering on September 5, the day before the general election, by attempting to march from the students' union to St Mary's Anglican Church near the court.

The march was to protest the Labour Relations Act and the detention of teachers and students and to call for a living wage.

The accused included Ms Durr, the present Nusas chairman Mr Rudolf Mastenbroek, English lecturer Mr Rob Gaylard, the Rev Adonis Booyse, 12 students and 11 university workers.

A warrant of arrest was authorised but was stayed until February next year in respect of another accused, foreign journalist Mr James Mitchell, who is currently overseas.

Giving evidence yesterday, a Stellenbosch riot squad chief identified only as a Captain Els told the court his men arrested the protesters after they failed to heed a warning to disperse.

Under cross-examination by defence advocate Mr John van den Berg, Capt Els agreed that it would have been difficult for some of the protesters to hear the warning. He also agreed it would be difficult for the public to know when a gathering constitued an illegal gathering.

Mr R Nortje was the magistrate. Mr J van Reenen prosecuted. Mr Van den Berg was instructed by Ms I Olckers.

Because of the Board's [illegible] on the work done at grassroots level [illegible] unmasked by [illegible]
structure and because the "closed

The Call echoes on

Prominent anti-apartheid activist Moulana Farid Esack has left The Call of Islam, which he led since its formation in 1984. But, say those still in the organisation, the departure of one leader does not mean it will die. NAZIER HASSEN reports:

Moulana Farid Esack

CALL of Islam. Moulana Farid Esack.

Since the organisation was founded in 1984, many considered the two synonymous.

Esack's recent resignation as the Call's national coordinator raised the issue of a power vacuum.

But behind Esack — admittedly the organisation's public spokesperson, one of its four founders, a key strategist, and main theologian — an invisible leadership shaped the Call's ideology and activism.

Esack resigned after nearly a year's struggle over his accountability to the organisation. But he remains positive about Call's future.

"In commitment and intellectual clarity of the present leadership lies its strength," Esack said. "It was a myth that Call had only one leader."

"Invisible" leaders

Ebrahim Rasool, Adli Jacobs and Shamil Manie, Call's other three founders, form the core of this "invisible" leadership. But they are quick to add that the Call's 50 active members all have a contribution to make.

Rather than electing another national coordinator, the Call has formed a national secretariat, including four officebearers.

Imam Hassan Solomons, active in the early days of the Call, will "play a key role ... acting very much like a PRO," members say — though they express caution about promoting another charismatic leader.

Over the years Call has emerged as the organisation that has continuously introduced politics to the Muslim community.

Their affiliation to the United Democratic Front and apparent support for the African National Congress drew sharp criticism from conservatives in the Muslim community. And many believed that Call was selling Islam short by adopting a Marxist strategy.

"I have been guilty of shortchanging the public on the Marxist question in the past, but I think there is an important need for the Call leadership to seriously answer this question as well as the nature of Islamic struggle," Esack said.

Call has tabled a new agenda, geared at increasing the role of the ordinary Muslim in political, social and ecological issues.

It has scheduled a national conference of Muslims for May next year in Cape Town "so the Ummah (community) can speak with one voice".

"We plan to use the level of consciousness created by the defiance campaign to draw Muslims into Call," Rasool said.

Aside from addressing Muslims' fear of communism, Call also intends to draw the Ulama — the Muslim clergy — closer into the political fold by speaking at Madressas and Mosques.

"We need to get close to the formal structures in the community," Manie said.

They aim to increase Muslim involvement in trade unions. The theological understanding of many Muslims differs on the feasibility of joining unions. It is in issues such as these that Call's leadership feel they can make a difference.

"It should be seen as our task to give people the theological basis for entering these structures," Manie said.

Rasool was more specific: "Muslims are on shaky ground in this regard. Does the Qur'aan sanction a working class struggle? Is the distribution of wealth and free enterprise allowed in Islam? We need to develop a level of conciousness of these issues."

Esack felt strongly about upgrading the role of women in the struggle and society, which remains on the Call's agenda.

"Call has to return to what Islam says about women and how Shariah — Islamic Law — relates to the family," said Mastoera Sadan, who works on Call's women's project.

"We must educate women around what their rights are, and give them options to their problems," Sadan said.

This entails setting up an advice office for women where they can offer help to victims of abuse.

Muslims have a high divorce rate and more than 50 percent of battered wives are Muslims, according to Rape Crisis statistics.

Pervasive drug abuse has swept across the Western Cape over the last five years.

According to Rasool, Call has to "make drug clinics accessible" to the public and to "remove the shame attached" to drug-related problems.

"It is no longer a naughty child-syndrome," he said.

Call's ambitions extend to the sport arena as well. Recent trends toward rugby-related violence and sectarianism and Call's inability to stamp out such behaviour among Muslim sports people have caused concern.

"We must influence them to rise above their petty religious differences and racial violence," Rasool said.

"Our plan must be a comprehensive grassroots one that may even entail addressing clubs at Annual General Meetings," Manie said. "We need to communicate directly with the players."

Call also plans to strengthen its commitment to environmental issues.

"The concept of ecology must be politicised — it is no longer a liberal theme," Rasool said.

"Toxic waste and the depletion of the Ozone layer will determine the quality of the new South Africa we are to inherit."

This concern for the environment, as well as most items on the agenda is intrinsic to basic Islamic principles that Esack himself espoused.

Esack fears that some of the ideas he "pushed for" in Call may not bear fruit now that he is not there to oversee their implementation.

"The country's present political climate and developments in SA might force these ideas into the background," he said.

"With the loss of a major religious figure Call is going to suffer a loss in the public eye," Esack said.

"But they have the infrastructural strength and Islamic commitment to pull themselves together and build an organisation that has strength at grassroots level."

Moulana Ebrahim Moosa, a lecturer in Cape Town theologian and vice-president of the Muslim Youth Movement, said: "Moulana Esack was a very energetic leader in Call and he reflected their dynamism. But if one talented person leaves an organisation it does not mean the organisation should come to a standstill."

B/Day 28/11/89

Christmas fruit grounded

B/Day 28/11/89 LESLEY LAMBERT

CAPE TOWN — The Western Cape deciduous-fruit industry has announced that it still needs air transport for about 15% of its Christmas season exports, following reports that fruit exports are in danger of being grounded by a shortage of air cargo space.

A spokesman for the industry's international marketing arm, Unifruco, which earned over R900m from deciduous fruit exports last year, said that except for 12% to 15% of members' Christmas exports, it had managed to secure air space for most of the anticipated Christmas exports.

Fruit exporters tend to transport their produce by ship during most of the year because of the high cost of air freight. Unifruco transports less than 1% of its annual crop by air, according to the spokesman. But, higher demand and higher prices in international markets over the Christmas season, justify the cost of getting the fruit to markets as quickly as possible.

There is often a scramble for air space negotiated by the Perishable Products Export Control Board near the end of the year, as many smaller exporters prefer to see the outcome of their crop before commiting themselves to transport arrangements.

ANNOUNCEMENT

It is with deep regret that the death on Saturday, 25 November 1989 of Mr Maurice Berzack, founder and chairman of the

Judgment reserved in Delmas appeal case

BLOEMFONTEIN — Judgment has been reserved by the Appeal Court in Bloemfontein on the preliminary appeal by Gcinamuzi Petrus Malindi and 10 other men convicted in the Delmas terrorism trial in November last year by Mr Justice K van Dijkhorst.

The preliminary appeal was on four special entries in the trial record which, it was contended, would vitiate the entire trial if upheld.

It was heard by Chief Justice Corbett, Mr Justice Botha, Mr Justice Smalberger, Mr Justice Kumleben and Mr Justice Nicholas (acting judge of appeal).

The special entries dealt with whether or not the trial court was properly constituted after Mr Justice van Dijkhorst ruled that one assessor, Dr W A Joubert, had to recuse himself.

Fairness demanded that the *audi alteram partem* (hear the other party) rule be scrupulously observed, Arthur Chaskalson SC told the court yesterday.

Chaskalson, who appeared with George Bizos SC, K S Tip and G J Marcus for the 11 men, said an accused was entitled to be heard in relation to such a decision.

He submitted that Section 147 (1) of the Criminal Procedures Act required the judge to exercise judicial discretion on whether the circumstances were such that Joubert was indeed unable to act as an assessor and, if so, what action should be taken.

The judge had chosen to invoke Section 147 without calling on the State or the defence to be heard "after due deliberation".

The judge had made his ruling after he had learned that Joubert had signed a document referred to as the "million signature campaign".

Chaskalson said it appeared from the record that the judge did not make proper inquiries as to the circumstances in which the document was signed and the reason why it was signed before he formed the opinion that Joubert was unable to act as an assessor. — Sapa.

Mercury 28/11/89

9 NATIONAL

Crowd hysteria judgment legal precedent

The Argus Correspondent

JOHANNESBURG. — A precedent-setting judgment last week, which saved five men from the gallows after they were retried, may heavily influence the fate of the Upington 14 appealing against their death sentences.

In a widely praised ruling, five men were sentenced to less than two years in jail for a murder for which they were once sentenced to death.

The men were sentenced by Eastern Cape judge Mr Justice C Jansen to 20 months each for their part in the August, 1985, killing of Ms Nosipho Zanela, who was burnt to death with a petrol-filled car tyre.

"DE-INDIVIDUATION"

In the retrial, which took place because of a technical error in the first trial, Mr Justice Jansen accepted evidence by a social anthropologist about the effects of crowd hysteria on personal behaviour, known as "de-individuation".

Lawyers fighting against capital punishment said Judge Jansen was only the second judge in South Africa to accept the principle of de-individuation. But because of the dramatic contrast in sentences in this case, lawyers believe the ruling will set a binding precent for judges in the Eastern Cape Supreme Court district and will be "persuasive" elsewhere in the country.

UPINGTON CASE

Chairman of the General Council of the Bar, Mr Milton Seligson SC, said the ruling would "obviously be cited as a precedent" and given attention by the Appelate Division in connection with the Upington case.

Twenty-five of the 331 ed for the murder of Constable Lucas Sethwala at Paballelo township in Upington are appealing against their sentences. Fourteen were sentenced to death in May this year after no extenuation was found for their part in the killing.

The remaining 12 received sentences ranging from imprisonment — suspended on condition they do community service — to imprisonment of eight years.

The principle of "de-individuation" featured strongly in the Upington case and was explained in detail to the court by Professor Graham Tyson, professor of psychology at the University of the Witwatersrand.

"MOB PSYCHE"

Had the court, presided over by Mr Justice Basson, been persuaded such a "mob psyche" existed, some of the accused in the trial may have received far lighter sentences.

"It is now up to the highest court division to decide, taking last week's case into consideration, how much weight to give the principle of common purpose regarding the Upington case appeals," said Mr Seligson.

Mr Seligson said the Council of the Bar had recently called for a far-reaching inquiry into the death penalty to be conducted by the South African Law Commission.

RESERVATIONS

Mr Raymond Tucker, a representative of Lawyers for Human Rights, expressed some reservation over hopes that last week's judgment would affect courts elsewhere.

"The position adopted in this case will not affect the overall attitude by courts in South Africa," he said.

Nevertheless, last week's ruling had illustrated the "horrendous capacity for miscarriages of justice through the death penalty".

At present there are 289 people on death row. Eighty of these are political convicts. The National Association of Democratic Lawyers (Nadel) recently criticised the state for using the death penalty as a political weapon.

Media charges withdrawn

Staff Reporter CHR Times 29/11/89 (331)

CHARGES of contravening media regulations have been withdrawn against two UCT students in the Cape Town Magistrate's Court.

Ms Kate Savage, 21, and Ms Annelise Bosman, 22, both of Observatory, had been charged as the editors of the UCT newspaper Varsity for publishing news and comment concerning a Cape Schools boycott against the Department of Education and Training.

The women had not been asked to plead.

Mr H J Venter was the Magistrate. Ms A van den Bergh prosecuted.

Allegations fabricated — Benzien

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CAE Trials 29/11/89

Supreme Court Reporter

A SECURITY policeman, Warrant Officer Jeff Benzien, yesterday told the Supreme Court he believed allegations that he had assaulted and tortured the accused in the Yengeni terrorism trial were made up by the accused while they were held at Pollsmoor Prison.

WO Benzien, who was being cross-examined in the trial of Mr Tony Yengeni and 13 others, said he was speculating, but believed stories had been made up either in Pollsmoor prison or before the arrest of the accused.

Asked by Mr D P de Villiers about the allegations that he had placed a wet bag over the head of Mr Gary Kruser, WO Benzien said it was a story fabricated while Mr Kruser was held in Pollsmoor.

Told that two weeks after his detention Mr Kruser had complained about the "wet bag treatment" to the Inspector of Detainees and that he could not have heard such a story in Pollsmoor, WO Benzien agreed.

Mr De Villiers then read out the district-surgeon's report compiled in respect of Mr Yengeni a day after his arrest. The doctor found a bruise on Mr Yengeni's right cheek, a bruise on both his upper and lower right eyelid, and a 8mm laceration on his lower lip.

The doctor had also found a large bruise in Mr Yengeni's central abdominal wall.

Mr De Villiers told WO Benzien that Mr Yengeni had told the district surgeon — in the presence of two policemen — that the bruise in his face had been caused by a kick and that a wet bag had been placed over his head.

Asked if he persisted with his view that Mr Yengeni had heard of the assaults and the wet bag treatment at Pollsmoor, WO Benzien said he did.

He contended that Mr Kruser had been held at Sea Point police station where Nicklo Pedro and Colin Petersen — both accused in the Forbes trial — were held. He said it was possible they had spoken about the treatment even though they had been held separately.

Accused tells of wet sack torture

CME Trials 29/11/89

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By MONICA GRAAFF
Court Reporter

SECURITY policeman Warrant Officer Jeffrey Benzien put a wet sack over a woman's head, made her lie on the floor and sat on her while they were in his office, the Wynberg Regional Court heard yesterday.

This was said as evidence in mitigation in the trial of Christina Tyulu, 40, who yesterday pleaded guilty to helping two suspected ANC guerillas escape from Wynberg police cells in January this year.

Giving evidence in mitigation of sentence, Tyulu, of KTC squatter camp, said she was caught shortly after the escape and taken to Wynberg police station.

"After midnight some security policemen came to fetch me and put a sack over my head," she said.

They took her to a room, made her lie on her stomach on the floor and exchanged the sack for a wet one covered in plastic which they pulled tightly over her nose, suffocating her.

WO Benzien, WO P Mathunzi and a another security policeman called Coetzee were in the room.

She was then taken to WO Benzien's office.

"When I did not reply to their questions Benzien dipped some canvass in water and sat on me," she said.

recovered on Sunday afternoon.

Cape Times 29/4/87

Media charges dropped

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EMERGENCY media charges against two University of Cape Town student editors were yesterday withdrawn in the Cape Town Magistrate's Court. Ms Kate Savage, 21, and Ms Annelise Bosman, 22, both of Obseravtory were both editors of the UCT magazine Varsity.

Opposit...

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Police tell why they held 'peaceful' protesters

By CLIVE SAWYER
Tygerberg Bureau

STELLENBOSCH police district commander Colonel Cornelius Taljaard has told the Stellenbosch Magistrate's Court he ordered protesting university students and workers to be arrested, not dispersed, because their gathering was illegal, in spite of being orderly.

Colonel Taljaard was one of 18 police officers who gave evidence yesterday at the trial of 28 students and workers charged with attending an illegal protest march on September 5.

The gathering was broken up by police using dogs and quirts.

Arrests were made first at De Braak and, later, when some protesters allegedly regrouped in Victoria Street.

Among the senior police officers who gave evidence were the then station commander, Lieutenant-Colonel Trevor Vermeulen, security branch chief Captain Phillipus Fourie and the riot squad head, a Captain Els.

Asked by Mr John van der Berg, for the accused, if it was usual practice to warn people before dispersing them, Colonel Taljaard said each officer in charge of a "situation" had to use his own discretion.

Mr Van der Berg: There has been evidence this gathering was orderly, tame and not earth-shattering.

Colonel Taljaard: They were making a lot of noise. They could have done anything.

He said police action against students had not been inspired by the university authorities' known disapproval of protest.

Asked by Mr Van der Berg why the trial was being allowed to proceed when there were protests being allowed "all over the Cape", Colonel Taljaard said: "I have no idea."

Constable Johannes Roux said he and other police had arrested protesters after being told to do so by Captain Els. The protest had been peaceful, he said.

After the "action" at De Braak was over, police arrested people in Victoria Street following a radio report that protesters had regrouped there.

Those arrested had been heading toward university residences, he said.

Sergeant Gert du Plessis said no order to arrest people was given at the scene of the protest.

Orders to arrest had been given earlier that day at Stellenbosch police station and all arrests were made in terms of the emergency regulations, he said. No order to disperse was given at De Braak.

Constable Michael Horstmann said those arrested had not had a "threatening bearing".

Each of the arresting officers testified that the accused had been singing, dancing and waving clenched fists.

Lieutenant-Colonel Vermeulen said he was effectively in command, while Colonel Taljaard said he had given orders to disperse the crowd.

Four policemen said arrests had been made in terms of the emergency regulations, while others said they were made in terms of the Internal Security Act.

Captain Fourie said the security branch had radio contact with two plainclothes members, Constable Tetile Sigwendu and a Constable Nel, who monitored the march after it left the university campus.

They knew about the march because informers and other police had supplied them with pamphlets advertising it, said Captain Fourie.

"For a singing, protesting group, it was relatively orderly.

(Proceeding).

I shot suspect, says alleged hit-squad boss

Argus 29/11/89 (331)

NAMED: Warrant Officer Pienaar, who was second-in-command of the hit-squad operation according to his superior, leaves the inquest.

MEMORIES: Mrs Naidu holding a picture of her son Lenny, killed in a police operation.

The Argus Correspondent

PIET RETIEF. — Major Eugene de Kock told an inquest court he had prayed that a young African National Congress suspect would not die as he shot him in the side with an Uzi machine-gun.

The security police officer who is alleged to be the head of the Vlakplaas "death squad" said in evidence earlier this year that he had shot at Mr Surendra "Lenny" Naidu, 23, after Mr Naidu had fired at him with a pistol.

Two affidavits have been handed into the court saying the four people in the ambush car were unarmed.

In charge

Although Major de Kock was not present at the resumption of the inquest in Piet Retief yesterday, the court record with his previous evidence was available. He is on record as saying he was solely in charge of the operation on June 8 last year when the four ANC suspects died.

He said he had neither written instruction nor directives from any superior on how this matter be handled. News that the four people were to cross from Swaziland into South Africa had first reached him the day before the incident.

He had appointed a Warrant Officer Pienaar, of the local security police, as second-in-command of the operation in which about seven or eight policemen were involved. He had armed his men with standard 9mm pistols, R-1 rifles and Uzi submachine guns. They were not wearing bullet-proof vests.

Major de Kock said he aimed the Uzi at Mr Naidu's left side.

Asked if he expected someone shot in the heart to survive, he replied: "One can only hope someone will come out of it alive."

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Bishops bless terrorism accused

CAPE TOWN — Archbishop Desmond Tutu, the Bishop of Lesotho and the Bishop of Port Elizabeth attended the Yengeni terrorism trial in the Supreme Court here yesterday.

The archbishop, Bishop Phillip Lekuku and Bishop Bruce Evans were in court for more than an hour.

They blessed the trialists from the public gallery during the tea recess before leaving court.

Once outside, Archbishop Tutu commented on the age of the accused, saying he was "quite shocked" to see how young they were.

Asked how he felt about the trial, Archbishop Tutu said: "When SA is free all these guys will be free," and predicted that this would be "quite soon".

The three churchmen listened to the testimony of W/O Roelof Greyling van Rooyen, a security policeman and explosives expert based in Pretoria.

He attended the scene of a car explosion at Castle Court in Tennant Street, Cape Town, in July 1987 and detonated a mini-limpet mine found at the scene.

It had been raining and the light was poor, so a full investigation of the incident began only the following day.

The trialists are: Tony Yengeni, Jennifer Schreiner, Lumka Yengeni, Michael Lumbambo, Mbutu Nduku, Wellington Nkwandla, Mtheteleli Titana, Gary Kruser, Christopher Giffard, Sitlabocha Mahlale, Alpheus Ndude, Gertrude Fester, Zurayah Abass and Colleen Lombard.

The trial continues. — Sapa.

The three generations of the Cronje family who will make history when they trade on the JSE floor today. From left, they are: Lisa, grandfather Lappies and Andy. Picture: ROBERT BOTHA

ANC activists 'were unarmed'

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TWO ANC members have alleged in affidavits before a Piet Retief inquest magistrate that four ANC activists killed in an SA Police ambush near the Swaziland border in 1988, were unarmed.

Leonard Gwebu and Zwelakhe Mhlungu's affidavits contradict evidence given by Maj Eugene de Kock and Warrant-Officer Frederik Pienaar, who have testified before the court about their involvement in the shooting of the ANC activists.

De Kock, the alleged successor of self-confessed death squad field commander Dirk Coetzee, said in evidence earlier this year that he gave an order to fire at the four when one of them shot at police from a car. He fired 11 shots with an Uzi sub-machinegun.

The four ANC members were Surendra "Lenny" Naidu, 23, Nontsikelelo Cotoza, 25, Makhosi Nyoka, 25, and Lindiwe Mthemba, 21. Three of the dead were women.

ADELE BALETA

BDay 29/11/89

De Kock said after the firing stopped, Naidu, who was dead, fell out of the back door with a Makarov pistol next to him. A spent cartridge was found near the vehicle.

Pienaar said a hand-grenade was found in the pockets of two of the dead women.

Mhlungu stated he had briefed the four in Swaziland on "certain missions" and that it had been agreed that the four would enter SA unarmed. They had R3 500 in cash.

"The reason for my scepticism (that they were carrying arms) is that I was the only person who could have supplied them with arms during the briefing session," he said in the affidavit.

Gwebu, who accompanied the four to a place near the border on June 8 denied the four carried arms.

The inquest began in February and was adjourned in April when counsel Zak Yacoob, for the Naidu family, applied for the inquest to be set aside on the basis that Pienaar had been involved in the shooting.

Magistrate H Wilkens appointed a new investigating officer.

When the case resumed yesterday, State counsel Gideon Lotz, SC, objected to Pienaar being questioned in English. He said it was imperative that Pienaar — who could face a murder charge — understood what was being said and asked.

The hearing was adjourned until today so that interpreters can be appointed for all parties.

Charge cop, say trialists

331 South 30/11-6/12/89

By REHANA ROSSOUW

TRIALISTS in the Yengeni trial have initiated steps to have security police warrant-officer Jeffrey Benzien prosecuted overseas for alleged crimes against humanity and torture.

According to their legal counsel, the trialists have instructed international agencies to prosecute Benzien should he set foot outside South Africa.

It is understood that they also intend taking similar steps against other members of the security branch.

In another development in the ongoing Yengeni trial 10 former detainees who were interrogated by Benzien and his colleagues in the terrorism detection unit have offered to give evidence against them.

Suffocated

Details of Benzien's alleged intimidation and alleged torture of the 10, mainly at security police offices at Culemborg, were revealed in the Supreme Court recently during the Yengeni trial.

Under cross-examination by Advocate DP de Villiers QC, Benzien denied that he had beaten, chained, suffocated and shocked detainees.

De Villiers said four people alleged that Benzien smothered them by placing a bag filled with water over their heads: Ashley Forbes, Peter Jacobs, Tony Yengeni and Gary Kruser.

He said he would raise allegations by people who had been involved in three security trials and had been in contact with Benzien during their detention under Section 29 of the Internal Security Act.

De Villiers raised allegations made by five people who had been on trial with Forbes: David Fortuin, Ashraf Karriem, Nicklo Pedro, Anwa Dramat and Peter Jacobs.

Allegations of assault and intimidation were also made by Yengeni and his co-accused Gary Kruser and Lumka Yengeni.

Bongani Jonas, recently sentenced to three years' imprisonment for refusing to give evidence in the Yengeni trial, alleged that Benzien stood and jumped on his leg while a bullet was lodged in his thigh.

Benzien admitted during cross examination that he was "aggressive at times" but said he had never seen violence used against a person suspected of being a "terrorist".

He said he had never seen a suspect being smacked or punched; he had never seen anyone handcuffed to the burglar bars at Culemborg; he had never seen a person's beard being pulled piece by piece from his face.

Benzien said he had never seen a person suffocated to the edge of unconsciousness or beaten until they fell to the ground.

He denied that he had squeezed the private parts of a detainee or touched the breasts of a detainee and lifted her nightgown over her head.

Benzien denied that he intimidated suspects but admitted that during arrests he awoke suspects by pressing his gun against their faces.

He believed there was a smear campaign against him. During a demonstration in support of the trialists on Thursday he had seen posters which had his name and derogatory slogans on them.

"My instructions are that you go further than issuing threats, you tell people what will happen to them if they do not co-operate," De Villiers told Benzien.

De Villiers said he would call several witnesses to testify about Benzien's actions during interrogations. He put all their allegations to Benzien.

The placard demonstration which upset Warrant Officer Jeffrey Benzien

● In terms of the United Nations General Assembly Resolution 95 (1) of 1946 the person charged need not have committed the offence in the country in which he is being prosecuted.

Crimes against humanity are "inhumane acts committed against any civilian population before or during a war, or persecutions on political, racial or religious grounds".

A legal expert said apartheid was a crime against humanity according to the International Convention on the Suppression and Punishment of Crime Against Apartheid which has been ratified by 86 nations.

Benzien keeps his address a secret

Cutt Times 30/11/89

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Supreme Court Reporter

SECURITY policeman Warrant Officer Jeff Benzien told the Supreme Court yesterday that he was not prepared to say where he lived except to say it was in the northern suburbs.

WO Benzien was being questioned by Mr D P de Villiers, QC, defence counsel for Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

Asked about allegations of torture made in evidence during the trial of Ms Christina Tyulu and reported in yesterday's Cape Times, WO Benzien said he still believed the allegations were fabricated in order to smear his name and intimidate him.

Mr De Villiers then showed WO Benzien a document received from the regional commissioner of police confirming that jailed ANC guerilla Ashley Forbes had laid a complaint against police. Copies of three statements by Forbes were annexed.

In the third statement, made on February 1 last year, Forbes said he had not told the truth in an earlier statement because he feared the security police.

He alleged that WO Benzien undressed him at Culemborg, that he was handcuffed, suffocated and subjected to electric shocks.

The trial continues.

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30/11/89

Cape Times, Thursday, Nove

Delmas appeal: Judgment reserved

BLOEMFONTEIN. — Judgment has been reserved by the Appeal Court here in the preliminary appeal by Gcinamuzi Petrus Malindi and 10 other men, who were convicted in the "Delmas" terrorism trial by Mr Justice K van Dijkhorst in November last year.

The preliminary appeal was on four special entries on the trial record which, it has been contended, will vitiate the entire trial — which lasted 37 months — if one or more of the special entries is upheld.

The special entries deal with whether or not the trial court was properly constituted after Mr Justice van Dijkhorst ruled that the one assessor, Dr W A Joubert, had to recuse himself.

Mr Justice van Dijkhorst had made his ruling after he had learned that Dr Joubert had signed a document referred to as the "million signature campaign".

Fairness demanded that the audi alteram partem (hear the other party) rule be scrupulously observed, Mr A Chaskalson, SC, told the court.

Mr Chaskalson, who appeared with Mr George Bizos, SC, Mr K S Tip and Mr G J Marcus, for the 11 men, told the court a decision as important as one which changes the composition of the court in the course of a trial is a decision in relation to which an accused is entitled to be heard.

Mr Chaskalson submitted that section 147(1) of the Criminal Procedure Act required a judge to exercise a judicial discretion on whether the circumstances were such that Dr Joubert was indeed unable to act as an assessor and, if so, what action should be taken.

The judge had chosen to invoke section 147 without calling on the state or the defence "after due deliberation".

It was submitted the audi alteram partem rule was not excluded by the provisions of section 147 and that the irregularity was one that vitiated the proceedings.

The preliminary appeal was heard by Chief Justice Mr Justice Corbett, Mr Justice Botha, Mr Justice Smalberger, Mr Justice Kumleben and Mr Justice Nicholas (acting judge of appeal). — Sapa

Policeman on death row ready to testify

The Argus Correspondent

PIET RETIEF. — Death row prisoner and self-confessed former member of the alleged police "death squad", Butana Almond Nofomela, is willing to give evidence at the Piet Retief inquest into the deaths of four African National Congress suspects.

Mr Zak Yacoob, counsel for the families, told the court this yesterday after he had linked the deaths of the four deceased to the alleged death squads.

Nofomela has alleged in affidavits that Major Eugene Alexander de Kock was head of a death squad in the police force.

LED OPERATION

Major De Kock has told the inquest court that he led the police operation in which four young ANC suspects died on June 8 last year.

If there was indeed a police hit squad and Major De Kock led it, then there was a likelihood that the inquest deaths were assassinations, Mr Yacoob said.

A security policeman, Warrant Officer Frederick Johannes Pienaar, gave the court the names of the current head of the police's secret C1 Askari unit and several of its members.

He said a Brigadier Van Rensburg had replaced Brigadier Willem Schoon, who had retired, as head of the unit. Brigadier Schoon was named in the confessions of former policeman Captain Dirk Coetzee as having been involved with the unit's alleged "death squads".

Warrant Officer Pienaar also named two other C1 unit members under cross-examination yesterday by counsel for the families of the four ANC suspects who died in a police ambush on June 8 last year.

TRAVELLED

The two are Lieutenant Gladstone Silulami Mose and a Warrant Officer Ras. They and alleged "death squad" chief Major De Kock had travelled to Piet Retief from their C1 base in Pretoria for the operation in which the four suspects died.

Warrant Officer Pienaar said he had been second in command to Major De Kock during the operation, although he himself was not a member of C1 unit.

Jail term for helping escape from police cells

Staff Reporter

A KHAYELITSHA woman who said she was tortured by security policemen has been sentenced to an effective nine months' imprisonment for helping two alleged terrorists escape.

Christina Tyulu, 40, was sentenced in the Wynberg Regional Court yesterday for supplying a police constable with a Makharov pistol and R1 000 to help the two men escape from the Wynberg police station.

Constable Sean Dame had passed the weapon on to alleged terrorists Danisele Nokhatywa and Andian Siphiwo who had then escaped in January this year.

GUN AND MONEY

At an earlier hearing, Dame was sentenced to three years' imprisonment, with one year suspended, for his offence.

Magistrate Mr A S McCarthy took into account before passing sentence that Tyulu had been co-operating with a "white policeman" in giving him the gun and the money.

The magistrate accepted that Tyulu had suffered mentally and physically at the hands of the security police who had questioned her on the whereabouts of the two alleged terrorists.

He also accepted that Tyulu was related to Nokhatywa and had thought he was only imprisoned on a drugs charge.

LEGAL RELEASE

He said, however, that the accused knew what she was doing was wrong and that the release of a prisoner must be done legally.

Tyulu, who had pleaded guilty, was sentenced to 15 months' impirisonment with six months suspended for five years.

She was released on R2 000 bail pending an appeal.

Miss E Bartman prosecuted. Mr I J Muller, instructed by Mr E Moosa, appeared for Tyulu.

B/Day 30/11/87

Head of police C1 unit is named

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30/11/89

ADELE BALETA

NEW information about the Pretoria police C1 unit, alleged to be a "death squad", was disclosed yesterday with the naming of its leader as a Brig van Rensburg during the Piet Retief inquest into the death of four ANC members last year.

During cross-examination, Warrant Officer Frederik Pienaar, second in command of the operation in which the four were killed, said Van Rensburg succeeded Brig Willem Schoon as head of CI unit. He said the unit rehabilitated ANC members who were then used to identify ANC activists in SA.

The dead ANC members, one man and three women, were killed in a police ambush shortly after they entered SA from Swaziland on June 8 1988.

Their names were Surendra "Lenny" Naidu, 23, Nontsikelelo Cotoza, 25, Makhosi Nyoka, 25, and Lindiwe Mthemba, 21.

The court has heard that Maj Eugene de Kock, was the commander of the police ambush.

Pienaar, head of Piet Retief security branch, said yesterday two more CI unit members, Lt Silulami Mose and W/O Marthinus Ras, took part in the shooting.

Affidavits

In an affidvait, Mose, a former ANC member, said that on De Kock's instructions he drove the deceased across the border on June 8. They were intercepted by De Kock, Pienaar and other policemen outside Piet Retief.

Mose leapt out. Police say shots were fired from the car. They returned the fire and the four diseased were killed.

Two affidavits by Swazi ANC members have been handed to the court stating they were unarmed.

Pienaar said yesterday that the police had planned only to arrest the ANC members. Asked if he thought that anyone could survive such an ambush, he said "I had hoped so".

Earlier inquest magistrate H J Wilkens turned down a application by lawyers for the families who have death row prisoner Butana Nofomela's affidavit admitted as part of the record.

Advocates Zak Yacoob and M Moerane argued that the document was relevant to the case.

Yacoob said the families were worried that alleged squad head De Kock was the same man who led the operation that led to the death of their children. He said it was crucial to establish that De Kock was head of the alleged squad and if such a squad existed. He said a full investigation was necessary to resolve the matter.

Moerane said Nofomela, who had mentioned De Kock in his affidavit, was willing to give evidence in the Piet Retief inquest. He suggested that the magistrate supoena Nofomela. There was nothing preventing her from doing so.

Allegations

State Counsel Gideon Lotz said if the document, which she felt was irrelevent, was to be admitted, Nofomela's evidence should be tested in court.

The magistrate ruled that the allegations in the affidavit that De Kock was leader of an alleged assassination squad were based on speculation.

The hearing continues.

'Intolerable to testify against ex-comrades'

ARCHS 31/10/89 (331

By LINDA GALLOWAY
Supreme Court Reporter

THE Section 29 detention of Mr Bongani Jonas was not only designed to extract information from him but also to "break down his personality" and make him a different person, the Cape Supreme Court has been told.

Giving legal argument at the end of the inquiry into Mr Jonas's refusal to testify as a State witness in the Yengeni terrorism trial, Mr Dullah Omar said it would have been "humanly intolerable" for Mr Jonas to have testified against his former comrades.

Having refused to testify, Mr Jonas was "in all likelihood" going to be charged with the same offences as the accused before court.

If he had testified he would have been "virtually compelled" to join the police and live the rest of his life "as a hunted man," Mr Omar said.

Mr Jonas's detention had been designed to break down his personality and "rehabilitate" him.

Survival technique

"Faced with this situation and the systematic coercion inherent in Section 29, (Mr) Jonas embarked on a policy of co-operation. He was compelled to co-operate, as a survival technique," Mr Omar said.

Mr Justice S Selikowitz questioned Mr Omar on the relevance of what had led Mr Jonas to make his decision not to testify for the State.

The duty to testify, as defined in the legislation, was not dependent on consent, he said.

To force Mr Jonas to testify, after what he had been through, would make a mockery of the judicial process, Mr Omar said.

The State had contended that Mr Jonas was "the most co-operative" ANC operative they had ever dealt with. Mr Omar said the indications were that this was not the case at all.

Mr Hendrik Klem, QC, for the State, told the court there had been no need for the police to assault Mr Jonas, as he had been co-operative and had volunteered information from the start.

Own fault

However, he said it was Mr Jonas's fault that he had been shot when he attempted to flee from the police before his arrest.

Mr Klem said that Mr Jonas had always appeared to be in control, and had "played along" with the police to get a good deal, which had succeeded.

In a politically polarised society it was important that the court had access to evidence, and rather than excuse Mr Jonas because of these circumstances, it was even more important that he testify.

The hearing continues.

● Yesterday was Ms Schreiner's birthday and friends from the United Women's Congress, of which Ms Schreiner is a member, were allowed to bring a special meal and a birthday cake for the trialists at lunch time.

The accused are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

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COURTS

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Broederstroom: Top policeman to testify

The Argus Correspondent

PRETORIA. — The head of the public relations division of the police, Major-General Herman Statler, will be called as expert witness in the trial of the Broederstroom Three.

The State, lead by Mr Frans Roets and Mr Johan Pretorious, indicated yesterday to Pretoria Regional Court magistrate Mr W J van den Bergh that they would be calling General Statler and one other witness.

In June the three members of the white ANC cell, Damian de Lange, 31, Iain Robertson, 36, and Susan Donnelly, 25, were each found guilty on 10 counts of terrorism.

Mr Van den Bergh found De Lange and Robertson, who were arrested in May last year with Donnelly at the artist community of Broederstroom, guilty on a further charge of terrorism.

De Lange, commander of the cell, was found guilty on a further two counts of arson and one count of attempted arson.

Mr Dave Soggot, for the defence, yesterday completed his cross-examination of State witness Captain Hendrik van Niekerk Kotze, an arms and explosives expert.

Captain Kotze, of the police security branch, was questioned by Mr Soggot about the "home-made" explosives which were included in a bomb attack on a Defence Force bus in Benoni last year.

According to Captain Kotze, the ammonia nitrate — taken from the Broedestroom house — was only mixed by him to get the clots out and the car on which the explosion was conducted had been drained of all petrol.

Captain Kotze said the 17kg bomb had then been detonated electronically.

From a photograph of the remains of an explosives device, Captain Kotze said he could identify a limpet mine, but could not say if there had been more than one. He said that in some explosions the explosive devices break up so small that they can not be identified.

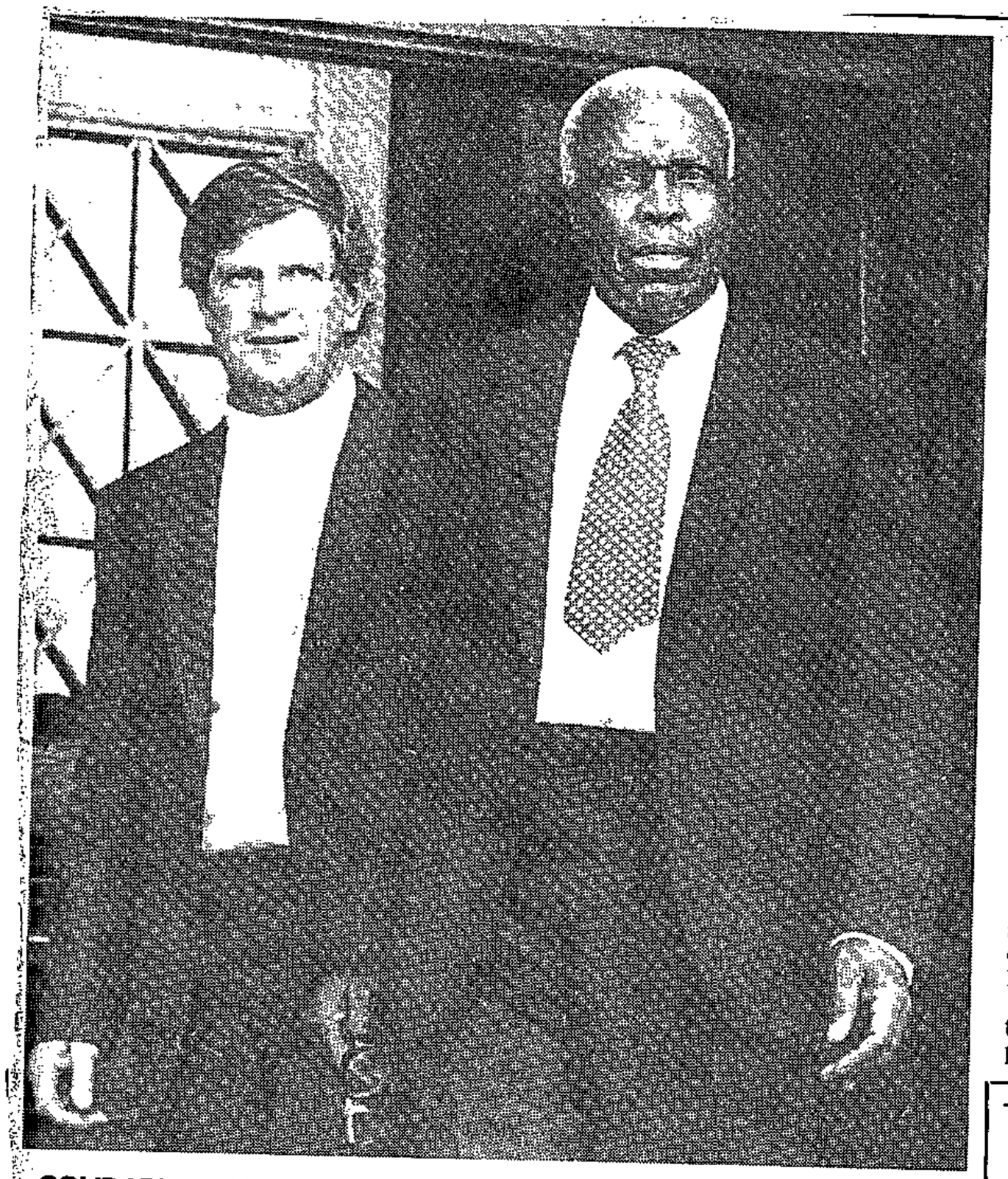
The hearing continues.

action before submitting his entry.

Marchers not charged

PRETORIA. — A total of 111 people, among a group who marched on the Union Buildings in the "Women Against Repression" march in September, had charges against them withdrawn when they appeared in the Pretoria Regional Court yesterday.

Provisional warrants of arrest were issued against 31 who failed to appear, but it seems the state will withdraw charges against them. — Sapa



SOLIDARITY VISIT ... Recently-released ANC leader Mr Raymond Mhlaba outside the Supreme Court with the Rev Syd Luckett, where they briefly attended the trial of Mr Tony Yengeni and 13 others. Mr Mhlaba was loudly greeted by the accused in court.

Picture: ANNE LAING

Benzien: No false entries in pocket book

Supreme Court Reporter

WARRANT OFFICER Jeff Benzien yesterday said in the Supreme Court it was not far-fetched that he could have taken 13 minutes to take part in a search of two houses in Athlone, talk to the occupants and reach security police offices at Culemborg.

WO Benzien was being cross-examined in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

Mr D P de Villiers, QC, for the defence, referred him to an entry in his pocket book about the search of a terrorism suspect Mr Eustice Nyerenda, also known as Bollie, on September 18, 1987. Police had surrounded a house in Second Avenue, Belgravia in order to arrest Mr Nyerenda and also to search it.

One entry read he had arrived at the house at 6.25am and the next at 6.38 that he had been back at Culemborg.

In reply to a question by Mr De Villiers, WO Benzien said it was not far-fetched that he could have searched two houses, spoken to the occupants and return to Culemborg in 13 minutes.

Asked if it was not clear that something was wrong with the entries in his pocket book, WO Benzien said the time noted must have been wrong. He denied he had used his pocket book to place himself as far away from Culemborg as possible — at a time when terrorism accused Mr Gary Kruser alleged he had been tortured by WO Benzien with the wet bag method.

Mr De Villiers referred WO Benzien to the evidence of his commanding officer Captain William Liebenberg who had said Mr Gary Kruser had been interrogated at Culemborg, by several security policemen including WO Benzien, for two or three hours.

WO Benzien said he disagreed, the investigation he had done with Mr Kruser concerning his passport and a post box in Athlone had taken placed between 6.40am and about 10am.

In reply to questions WO Benzien agreed that he had taken Mr Kruser to Manenberg police station where was left in a cell with his hands cuffed behind his back.

He denied however that Mr Kruser was not allowed to drink water. The cell also had a tap and a toilet, he said.

Asked if someone with hands cuffed behind his back would have been able to use the toilet or drink water, WO Benzien replied: "If he had tried hard enough, I believe he would have."

The trial continues today.

CITY

Benzien concedes error, denies falsifying record

By LINDA GALLOWAY
Supreme Court Reporter

A SECURITY policeman has admitted in the Supreme Court, Cape Town, that the times written in his pocket book may have been incorrect but the entries were not "fitted in" to suit his version of events.

Warrant Officer Jeffrey Theodore Benzien is under cross-examination in the Yengeni trial in which 14 accused refused to plead to charges of terrorism and African National Congress-related activities.

Continuing with the cross-examination of Warrant Officer Benzien, Mr D P de Villiers QC, for the defence, recalled the interrogation of accused Mr Gary Kruser on the morning of September 22 1987.

Conflict

There was conflict about the times the policeman had written in his pocket book recording the events of that morning.

Mr De Villiers put it to the policeman that he had interrogated Mr Kruser for two hours that morning and used the "wet bag treatment" by putting a bag of water over his head and nearly choking him.

The policeman denied this and said he had taken part in a raid on two adjoining houses in Belgravia, Athlone, at 6.25am in search of an ANC suspect, "Bollie".

He had returned to security police offices at Culemborg at 6.38am, had spoken to Mr Kruser but not interrogated him.

Warrant Officer Benzien denied that he had made entries and later filled in times to suit his version of events, and denied that he had made this particular entry to cover up having interrogated and assaulted Mr Kruser that morning.

Mr De Villiers said that Mr Tony Yengeni, arrested on 17 September, also alleged that the policeman had used the "wet bag treatment" on him.

Salute

● Recently released political prisoner and former Umkhonto we Sizwe commander Mr Raymond Mhlaba attended the trial yesterday. He was in Cape Town to meet fellow-Rivonia trialist Nelson Mandela at Victor Verster Prison and attend the University of the Western Cape graduation ceremony where Mr Govan Mbeki received an honorary doctorate.

The accused stood to attention and saluted Mr Mhlaba, who spoke briefly to them before the hearing began.

The trial continues today.

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

Students 'did not intend to break law'

Tygerberg Bureau

STELLENBOSCH University students and workers accused of attending an illegal gathering could not be found guilty because they did not intend to break the law, Stellenbosch Magistrate's Court has beenm told.

Arguing for the defence, Mr John van der Berg said the 28 accused were among those arrested on September 5 on their way from a legal gathering to a legal church service.

Police let violations of the Internal Security Act, under which the accused were charged, go by every day, he said.

The marchers were allowed to proceed a "reasonable distance" before police took action, and before then had had no indication they were acting illegally, Mr Van der Berg said.

There had been no evidence that a ban on the meeting had been published in the Government Gazette.

Mr J van Reenen, for the State, said the accused must have realised there was a possibility their gathering was illegal.

"It was no ordinary walk to a rugby match. They were excited, waving banners and singing so-called freedom songs," he said.

Some of the accused had given evidence that they knew each other. This and activities like singing and raising clenched fists showed they had a common purpose.

Earlier university rector Professor Mike de Vries was called as a defence witness. University council rules forbade protest on the campus, he said.

The rules aimed to give those of different opinions the opportunity to debate instead of demonstrating, he said.

On the relationship between the university, the police and the Attorney-General, he said Stellenbosch police had agreed not to enter the campus without consulting him.

Where a student was alleged to have committed an offence, the police or the Attorney-General would contact him and withdraw charges. The university would then discipline the offender, Professor De Vries said.

"It is not in the interests of a young man or woman to have a criminal record. We contact the Attorney-General and inform him what has been done."

However, the university did not interfere with the normal process of law.

Judgement in the case is expected today.

Inquest rules out questions on police unit

Cape Times 1/12/89

Own Correspondent

JOHANNESBURG. — A Piet Retief inquest magistrate was told yesterday an application would be made to a higher court to review two findings she made relating to Pretoria Police C1 Unit and the existence of an alleged assassination squad.

The inquest is into the death of four ANC members — one man and three women — who were killed in a police ambush on June 8, 1988.

Magistrate Ms Helen Wilkens yesterday refused to allow cross-examination of Warrant Officer Frederik Pienaar — head of the Piet Retief security police — about the C1 Unit which is alleged to have operated an assassination squad.

WO Pienaar said Major Eugene de Kock, a C1 Unit member, was in charge of the police operation in which the shooting occurred shortly after the deceased entered South Africa from Swaziland last year.

"From our instruction the people 'deceased', who came into SA were unarmed and were killed unnecessarily," the advocate for the families of the three women, Mr Marumo Moerane, said.

He contended that if the operation was the work of a "hit squad", then the four ANC members had been assassinated.

The magistrate postponed the hearing until May 8, 1990, after Mr Yacoob and Mr Moerane refused to continue cross-exmination of WO Pienaar, saying they reserved the right to question at a later stage.

Delmas: Now the tense wait for a verdict

1-7/12/89

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By VUSI GUNENE

SOUTH AFRICA may be set for another national rally to welcome the release of political prisoners if the appeal of the convicted "Delmas treason trialists" heard this week in the Appellate Division is successful.

The fate of five political prisoners convicted in South Africa's longest and costliest trial last year, hangs in the balance, pending judgement by the Appellate Division.

The Appellate Division reserved judgement on the appeal and it is not known when judgement will be handed down.

Three United Democratic Front leaders, Popo Simon Molefe, Patrick "Terror" Lekota and Moses Chikane, and South African Council of Churches stalwart Thomas Manthata and Vaal activist Gcinamuzi Malindi, may join their families for Christmas if the judgement is handed down soon.

The three UDF leaders have spent three Christmases behind bars after several bail applications on their behalf were refused by the presiding judge, Mr Justice K van Dijkhorst.

If the appeal is succesful, the findings of Mr Justice van Dijkhorst that the UDF conspired with the African National Congress to overthrow the state — which banned its (UDF) activities— could be rejected.

The men will then be free to join in the crucial debates currently being held by a wide range of anti-apartheid groups and continue working for the political beliefs that have sent them to prison sentences ranging from five to 12 years.

If the appeal is sucessful, it will also overturn restriction orders placed on six of the Vaal activists which effectively removed them from political activity.

The defence team this week challenged the proceedings and outcome of the trial when Mr Justice van Dijkhorst dismissed one of the assessors, former law professor Willem Joubert.

Joubert was asked to recuse himself from the trial after the presiding judge found out that he had signed the UDF's One Million Signature Campaign.

The defence team challeged the manner in which Joubert was dismissed from the trial.

The defence argued that the matter could have been heard before an open court and that a third affidavit that Joubert made could have been admitted as part of the court's record during the trial.

Mr Justice van Dijkhorst refused to admit the affidavit because it would have contradicted his version of what happened in the judges chambers —and that would have constituted a contempt of court.

If the appeal is successful, the content of the controversial affidavit may be revealed, bringing into the open the much-awaited reasons for Joubert's dismissal. Indeed, the entire marathon trial —which lasted more than three years —could be buried once and for all.

● The appeal was heard by the Chief Justice Mr tice Corbett, Mr Justice Botha, Mr Justice Smalberger, Mr Justice Kumleben and Mr Justice Nicholas.

Handcuffed accused 'not ingenious'

Supreme Court Reporter

WARRANT OFFICER Jeff Benzien yesterday told the Supreme Court that terrorism acused Mr Gary Kruser could have used his ingenuity to use a toilet or open a tap to drink water while he was held in a cell with his hands cuffed behind his back.

WO Benzien, of the Terrorism Detection Unit, was being cross-examined in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

He told the court he had taken Mr Kruser to Manenberg police station and placed him in a cell.

He denied that Mr Kruser did not have access to water or a toilet and said those facilities were in the cell. The tap had been of the "modern, economical" sort which, after being depressed, would run for a few seconds and automatically shut off.

Asked by Mr D P de Villiers, QC, for the defence, if he could think of a method how Mr Kruser could have opened the tap, WO Benzien replied: "If I had been in his shoes, I would have used an elbow to open the tap."

Asked if he would be surprised that Mr Kruser was unable to open the tap, WO Benzien said he would and added: "I think he was not ingenious enough."

Asked by Mr Justice S Selikowitz why he had left Mr Kruser handcuffed in the cell, WO Benzien said there was no way of knowing if other people would pass the cell. It had happened that dangerous criminals pretended they had been arrested for lesser crimes like drunkedness in order that they could be released.

He had not left instructions that Mr Kruser could get water or use the toilet because he believed Mr Kruser could help himself, WO Benzien said.

Asked how a fully clothed person with his hands cuffed behind his back could use the toilet, WO Benzien said he could use his thumbs to pull his trousers down.

The trial continues on Monday.

Mr W S le Roux and Ms J V Knoll were the assessors. Mr De Villiers appeared for the accused. He was assisted by Mr Mike Donen, Mr Pius Langa and Mr Johnny de Lange and instructed by Mallinick, Bess, Richman and Closenberg Inc; Essa Moosa and Associates; R Vassen and Co, and Enver Daniels and Co. Mr Hendrik Klem, SC, and Mr Jannie van Vuuren appeared for the state.

Delmas 1 treason trialists free by Christmas?

SOUTH Africa's longest treason trial has reached another nail-biting climax with the decision by the Appeal Court to reserve judgment on an appeal to have the conviction quashed and the sentences set aside.

The appeal in Delmas 1, as the trial has come to be known, was heard before five judges of the Appeal Court almost exactly a year after three top United Democratic Front leaders and a senior South African Council of Churches field worker were found guilty of treason.

The trial judge, Mr Justice K van Dijkhorst, jailed them for between six and 12 years at the end of the trial shortly before Christmas last year.

Hopes have now been rekindled that they may be freed and reunited with their families by Christmas Day, following the hearing on November 27 of their appeal by the Chief Justice, Mr Justice M M Corbett, and four judges of the Appeal Court.

The thrust of their appeal is that the trial judge

PATRICK LAURENCE

wrongly and unfairly dismissed one of the assessors, Mr W A Joubert, in the original trial; wrongly, they contend, because he contravened the Criminal Procedure Act and unfairly because he refused to hear any argument on his decision.

The appeal relates only to the occurrence of these alleged irregularities, Mr Justice H C Nicholas, having granted them permission in September to lodge a separate appeal on these matters, without prejudicing their right to appeal on the trial court's actual findings and sentences.

There is speculation in legal circles that judgment on the appeal may be given within days. It is fuelled in part by Mr Justice Nicholas's ruling in September.

Mr Justice Nicholas, who was one of the five judges before whom the appeal was made, said then "... some of the appellants are serving sentences of imprisonment. If their convictions are to be set aside, that should be done at the earliest stage possible".

The Appeal Court goes into recess next week. The relatives and friends of the jailed men — Patrick Lekota, Popo Molefe, Moses Chikane and Tom Manthata — are all hoping that a favourable judgment may be given by then.

If their appeal on the alleged irregularities succeeds, the men could be theoretically re-charged.

But experienced legal observers are fairly confident that will not happen.

As an academic lawyer noted: "They will have spend 4½ years in abortive proceedings.

"Thus if would be manifestly unfair to recharge them, even if the present climate of reconciliation was not present."

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Lawyers will monitor trial

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A PRETORIA firm of attorneys has been instructed to monitor the trial of an Australian political activist who allegedly fire-bombed diplomatic vehicles belonging to the South African and United States Embassies in Canberra last year.

Mr Willie Seriti of Seriti, Mavundla and Partners yesterday confirmed that Mr Maxwell Nemadzivhanani, chief observer of the Pan Africanist Congress at the United Nations, had instructed them to assist and monitor the trial of his wife, Miss Kerry Browning, an Australian citizen.

Seriti said they had already written a letter to the Australian Embassy in South Africa requesting an immediate investigation into circumstances that led to Browning's arrest and her link with the PAC.

"Browning sees herself as a victim of victimisation and a convenient scapegoat," Seriti said in the letter.

Browning, who is also alleged to have sent a letter bomb to a United States Ambassador on October 4 last year, has pleaded not guilty to all the charges.

Seriti said they had applied for urgent visas so that he and his advocate, Dikgang Moseneke, could attend the trial in Australia this week.

6/8/21/5 Sowetan

Man in court over bombing of Rajbansi's house

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DURBAN — A man who allegedly organised the bombing of the Grosvenor Girls High School and the home of former House of Delegates chairman Mr Amichand Rajbansi appeared in the Durban Regional Court yesterday.

Mr Lulamile Xate (31), whose address was given as the Alan Taylor Residence, pleaded not guilty to three counts of terrorism, three counts of illegal possession of explosives and one charge of attempted murder.

The State alleges that Mr Xate enrolled as a medical student at the University of Natal in Durban in 1983. At some stage he met members of the ANC and later joined the organisation.

He went to Swaziland for training and later returned to South Africa.

He was appointed Natal commander of Umkhonto we Sizwe, the military wing of the ANC.

The State alleges that he took part in a reconaissance of Mr Rajbansi's home and was co-responsible for the choice and supply of explosive devices.

He handed over the explosives, which were detonated at Mr Rajbansi's home on August 4, 1985, damaging the structure.

The State also alleges that during 1985 Mr Xate organised three men, Mr Zinto Cele, Mr Mandlenkose Ndimande and Mr Sibusiso Mazibuko to explode a bomb at the Grosvenor Girls' High School.

The bomb was exploded on October 24. Mr Cele and Mr Ndimande died in the explosion and Mr Mazibuko was seriously injured.

The deputy Attorney-General of Natal, Mr N J Gey von Pittius SC, said Mr Xate was also charged with attempted murder of the pupils and staff of the school and members of the public who might be nearby because the bomb was supposed to explode when the school was in session.

The hearing continues. — Sapa.

Charge against Klaaste dropped

JOHANNESBURG. — A charge of contravening the Internal Security Act by quoting released ANC stalwart Mr Harry Gwala, a listed person, was withdrawn yesterday against Aggrey Klaaste, editor of the Sowetan newspaper, and Argus Holdings Ltd.

Miss M van der Merwe, prosecutor in the magistrate's court, informed the court of the attorney-general's decision to withdraw the charge. — Sapa

Wits stone throwing: four appear in court

SBG 12/89 By Celeste Louw (331)

Springbok cyclist Gary Wilson and three co-accused appeared in the Johannesburg Magistrate's Court yesterday for allegedly throwing stones at police during an unlawful gathering on the University of the Witwatersrand campus earlier this year.

Mr Wilson (23) of Honeydew, Mr Gontle Sebopedi (23) of Hillbrow, Mr Abram Ranto (22) and a 14-year-old youth have pleaded not guilty to charges of assault with intent to cause grievous bodily harm on August 31 this year.

Lieutenant Adam Buitendach told the court he was in charge of a police riot squad which had attempted to prevent a youth defiance rally taking place.

A crowd of up to 1 000 people gathered before the Great Hall where they were ordered to disperse in terms of the emergency regulations, the court heard.

"When the crowd refused to disperse, I ordered my men to start preparing to storm the crowd with batons, and teargas was fired into the crowd."

The lieutenant said he saw a youth throwing a stone at policemen and he was arrested a while later.

Constable R Goosen of the security branch told the court he saw Mr Wilson pick up stones and throw them in the direction of riot squad policemen.

Defence for Mr Wilson put it to the court that he had thrown a rubber bullet in the direction of trees after his friend had been hit with the bullet.

The trial continues.

Benzien: Assault charges 'fabricated

WARRANT OFFICER Jeff Benzien yesterday denied in the Supreme Court he had seen injuries on Mr Tony Yengeni's face and said he persisted with his view that allegations of assaults by him were fabricated at Pollsmoor Prison to smear his name.

WO Benzien was responding to questions by Mr D P de Villiers, QC, for the defence, in the trial of Mr Yengeni and 13 others on charges of terrorism.

Mr De Villiers said there were several people and parties to whom Mr Yengeni had shown his injuries and with whom he had lodged complaints.

Soon after his arrest on September 17, 1987, a district surgeon had noted bruises to Mr Yengeni's face, his inner left arm and the wall of his stomach.

On September 19 Steenberg police noted in the occurrences book that his eyes were swollen and he had complained of being assaulted by security police.

Asked by Mr De Villiers if he had seen Mr Yengeni's swollen eyes, WO Benzien said he had not seen him that day and could not comment.

The next day Mr Yengeni had been seen by the station commander, who had also entered his assault allegation in the occurrences book.

On November 11, 1987, Mr Yengeni saw the inspector of detainees while held at Paarl and under a heading "general treatment" the inspector had written that Mr Yengeni had complained of an assault by security police after his arrest but did not wish to provide details.

The trial continues.

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Township kids wait in despair

By MARIUS BOSCH

A SMALL house in Paballelo township outside Upington is filled with children but there is no happy laughter — only a sense of despair.

While other children their age play in Paballelo's hot and dusty streets, Mobolelo, 14, and Adelaide, 11, sit in the lounge of their absent parents' house waiting.

They are the youngest children of Evelina de Bruin, 53, and Gideon Madlongolwane, 63, both on death row in Pretoria for their part in the 1985 common purpose murder of municipal policeman Constable Jetta Sethwala.

Along with 12 other Paballelo residents, they were sentenced to death earlier this year, sparking an international outcry over the judgment.

In September the Appeal Court granted leave to appeal to 13 of the "Upington 14".

Adelaide and Mobolelo have not seen their parents since they were sentenced in May this year.

"They have avoided talking about it ... they only want to see mom and dad," says Mr Shadrack Madlongolwane, 30, their eldest brother who had been taking care of the children.

His brother, Namibian teacher Mr Welcome Madlongolwane, 28, says Adelaide had adapted "much better" than Mobolelo.

"Having our parents on death row has a big impact on Mobolelo. When he sees a gun like the kitsconstables carry he wants it to 'go and free my parents'," Mr Madlongolwane says.

"I am worried about the society of cruel people created in this country. Hatred is built in the child."

Mr Shadrack Madlongolwane says when he comes back from visiting his parents in Pretoria the two children want to know every detail of the conversations he had with them.

"And the first thing my parents want to know is how the children are doing."

The two children will be spending Christmas Day — De Bruin's birthday — in Cape Town.

Brother and sister in vigil for parents on death row

The mother of two other men convicted of the murder, Mrs Susan Bekebeke says she feels much better now that her two sons have been granted leave to appeal.

Barry Bekebeke, 23, received a suspended six year sentence on condition he did community service in Upington. His older brother, Justice "Basie" Bekebeke received the death sentence.

The Appeal Court ruled that Justice Bekebeke could only appeal against his sentence and not against his conviction for murder.

"In letters Justice writes to me that he is hopeful that he will come home," Mrs Bekebeke says.

Both the Bekebekes were exceptional students with above-average intelligence.

Barry Bekebeke wants to study social work at UCT when he completes matric through correspondence, while his brother, a former male nurse, wants to be a doctor.

Barry Bekebeke and three other trialists are doing community work at the N D Swart old-age home in the Blikkiesdorp coloured township while two other trialists are doing their community service at the Roman Catholic church in Upington.

The group, along with four others — who are out on bail pending their appeal have formed the "Congress of the Upington 26" to raise funds for the families of the trialists.

With financial help from the Black Sash they are painstakingly crafting model boats from thousands of matches.

During the trial, they made several models which they gave to their families and legal team.

Elizabeth Bostaander, one of the three women convicted of murder, said she did not know how to make the models but added: "Barry will teach me."

Today these model boats are the most prized possessions of the families of the 14 on Death Row.

Black Sash spokeswoman Ms Cindy Tyrrell says the organisation had already received orders for more than R3 000-worth of models.

CPA social worker Mrs Nelmie Barnard says the four doing community service at the old-age home "are doing very well — they are becoming aware of the plight of the elderly".

The six doing community service must do 1 200 hours of service over a three-year period, Mrs Barnard said.

The mother of the dead policeman, Mrs Beatrice Setwala, refused to speak about the case, saying "it is like an old wound being scratched open again".

ABSENT PARENTS ... Some of the Madlongolwane children at their parents' home in Paballelo. They are, left to right, grandson Mhlanganisi, Mobolelo, 14, Welcome, 28, and Adelaide, 11. Their parents are Evelina de Bruin, 53, and Gideon Madlongolwane, 63, who are both on death row in Pretoria.
Picture: ERIC MILLER

TRIALISTS ... Three of the "Upington 26", from left, Jeffrey Sikiya, Barry Bekebeke and Neville Witbooi. Sikiya is out on bail pending his appeal, while Witbooi and Bekebeke received suspended sentences.
Picture: ERIC MILLER

Paballelo mourns Lubowski

Staff Reporter

THE murder of Swapo activist Mr Anton Lubowski was a tremendous shock to the "Upington 26", to whom he had been friend as well as advocate.

Mr Lubowski was one of two junior counsel assisting Mr Ian Farlam SC in the marathon murder trial which ended in June this year.

"I was at home and friends in Windhoek phoned to tell me that our advocate had been shot dead," said Barry Bekebeke, who received a suspended sentence for his part in the "common purpose" murder of a municipal policeman in 1985.

Bekebeke said he could not believe that Mr Lubowski had been killed and had prayed that it was not true.

His mother, Mrs Susan Bekebeke, said all the families of the "Upington 26" were "very, very sad about the murder ... he meant so much to us".

Before the judge sentenced her son and 11 others, Mr Lubowski had told the families that six trialists might be "let out", she said.

"This was a tremendous help after the previous week," she said — when Mr Justice Jan Basson sentenced 14 of the trialists to death.

In the house of Paballelo community leader Mr Alfred Gubula, a photograph of Mr Lubowski stands on top of a matchstick model boat made by his adopted son, Zonga Mokhatle — one of those now on Death Row.

"It was a terrible thing, almost as if a dark cloud hovered over Paballelo," Mr Gubula said at the weekend.

"We felt bitter, almost more than about our own people in Pretoria (Death Row)."

Mr Gubula said Mr Lubowski had meant "a lot for the trialists and families".

This was very evident during the trial, when the 26 accused treated Mr Lubowski with reverence.

"There are few like Advocate Lubowski, believing in mankind," Mr Gubula said.

Benzien read complaint by Schreiner against policeman, court hears

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Supreme Court Reporter

AFTER terrorism suspect Ms Jenny Schreiner was allowed to lay a charge against a security policeman alleging harassment and intimidation, her statement was shown to one of his colleagues, the Cape Supreme Court has heard.

Cross-examining Warrant Officer Jeffrey Benzien during the Yengeni trial, Mr D P de Villiers QC said that Ms Schreiner was taken to Rondebosch police station to lay a charge with the uniformed branch against Lieutenant Frans Mostert for harassment and intimidation.

Warrant Officer Benzien confirmed that he had gone to Rondebosch police station later that day and that he had spoken to the captain who had taken Ms Schreiner's statement.

He denied that Ms Schreiner had walked into the office to find him reading the statement she had made or that the uniform branch policeman had said they should all leave because he was embarassed that it had happened.

"ENEMY RANKS"

Warrant Officer Benzien told the court it had not surprised him to hear that Ms Schreiner had made a complaint against Lieutenant Mostert as he had heard of other instances where complaints had been made against him.

He said it was "no secret" that he and Lieutenant Mostert did not "see eye to eye."

However he could not remember having asked Ms Schreiner whether she was "surprised that there were problems in the enemy (police) ranks as well".

He could not explain why, after noting in his pocket book that Ms Schreiner had complained about Lieutenant Mostert, he had taken her straight back to Lieutenant Mostert for further questioning.

Asked about an early morning incident in January last year, when Ms Schreiner was admitted to Tygerberg Hospital after complaining of being ill, Warrant Officer Benzien said he had seen Ms Schreiner in her cell and she had complained of nausea.

She had her blanket drawn up to her chin and he had not looked around her cell to see if there was any noticeable cause for her illness.

Agreeing that attempted suicides were a risk taken into consideration by policemen interrogating Section 29 detainees, Warrant Officer Benzien said he was not aware of a sportsbag with a shoulder strap Ms Schreiner had.

He confirmed that it would be possible to hang oneself from the bars of a police cell "if one wanted to."

HOSPITAL

Although several attempts were made to call a district surgeon to examine Ms Schreiner, one had only arrived later that afternoon, and he had advised that Ms Schreiner be admitted to Tygerberg Hospital.

Cross-examined on the interrogation of Mr Tony Yengeni, Warrant Officer Benzien agreed there would be "pressing" questions to ask someone detained under Section 29 about the whereabouts of weapons and other terrorism suspects, but denied emphatically that Mr Yengeni had been assaulted in trying to obtain this information.

(Proceeding)

The accused are: Mr Tony Yengeni, Ms Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

'I discussed statement of terrorism suspect

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Own Correspondent

CAPE TOWN — After terrorism suspect Ms Jenny Schreiner was allowed to lay a charge against a security policeman for harassment and intimidation, her statement was shown to one of his colleagues, the Cape Supreme Court heard yesterday.

Cross-examining Warrant-Officer Jeffrey Benzien in the so-called Yengeni trial, Mr D P de Villiers, QC, said Ms Schreiner was taken to Rondebosch police station to lay a charge with the uniform branch against Lieutenant Frans Mostert for harassment and intimidation.

Warrant Officer Benzien confirmed that he had gone to Rondebosch police station later that day and that he had spoken to the captain who had taken Ms Schreiner's statement.

He denied she had walked into the office to find him reading the statement she had made or that the uniform branch policeman had said they should all leave because he was embarrassed that it had happened.

The officer told the court it had not surprised him to hear that Ms Schreiner had made a complaint against Lieutenant Mostert as he had heard of other instances where complaints had been made against him.

He could not explain why, after noting in his pocket book that Ms Schreiner had complained about Lieutenant Mostert, he had taken her straight back to Lieutenant Mostert for further questioning, but said he had mentioned the complaint to the head of the security police.

Asked about an early morning incident in January last year, when Ms Schreiner was admitted to Tygerberg Hospital after complaining of being ill, Warrant Officer Benzien said he had seen Ms Schreiner in her cell and she had complained of nausea.

She had her blanket drawn up to her chin and he had not looked around her cell to see whether there was any noticeable cause for her illness.

Although several attempts were made to call a district surgeon to examine Ms Schreiner, one had arrived only later that afternoon, and he had advised that Ms Schreiner be admitted to Tygerberg Hospital.

Cross-examined on Mr Tony Yengeni's interrogation, Warrant Officer Benzien agreed there would be "pressing" questions to ask someone held under Section 29 about the whereabouts of weapons and other terrorism suspects, but denied that Mr Yengeni had been assaulted in trying to obtain this information.

The trial continues.

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Schreiner suicide bid

She was feigning illness to escape, says Benzien

Supreme Court Reporter

DETAILS of a suicide bid by terrorism accused Ms Jenny Schreiner were revealed in court yesterday.

Warrant Officer Jeff Benzien told the Supreme Court he had not noticed a strap tied to a cell window and used by Ms Schreiner in a suicide attempt, and neither had he found pieces of a broken mirror she had used in an attempt to cut her wrists.

When Ms Schreiner was admitted to hospital he had thought she was feigning illness in an "organised attempt" to get admitted to a hospital from where she could escape, WO Benzien said on his final day in the witness stand.

He was giving evidence under cross-examination in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

Mr D P de Villiers QC, for the defence, said Ms Schreiner would testify that she had attempted suicide by cutting her wrists, drinking 30 Voltaren tablets, drinking contact lense cleansing fluid and by trying to hang herself with the strap.

She had not wanted to tell representatives of the state or doctors at all costs.

Asked by Mr De Villiers if, during a search of her cell at Parow police station, he had seen a bag strap hanging from bars in the window of her cell, WO Benzien said he had not.

Mr De Villiers said Ms Schreiner would testify she had attempted to hang herself from the bars with the strap but had been unsuccessful because a ring attached to the strap broke.

WO Benzien said he had not seen the ring on the floor during the search and neither had he searched the vicinity of a broken toilet where Ms Schreiner said pieces of a broken mirror had been wrapped in folded trousers.

He had also not seen marks on Ms Schreiner's wrists or on her neck and neither had he seen blood specks on her bedding. If there had been he would have seen them.

Asked if he had seen a pail of water in the cell, WO Benzien said he had not and did not know that when she had attempted to cut her wrists, Ms Schreiner rinsed the blood off in the pail.

Asked if he had not found anything in the cell which indicated a suicide attempt by Ms Schreiner, WO Benzien said he had not.

In addition to doctors being unable to find anything wrong with her, he had gained the impression that Ms Schreiner had feigned illness so that she could escape from hospital.

Asked if he had found anything in her cell that she could have drunk, WO Benzien said he had not. Ms Schreiner had not complained to doctors about having drunk anything.

In reply to a submission by Mr De Villiers that he had not thoroughly investigated a suicide attempt by Ms Schreiner, WO Benzien said he had not found anything suspect in her cell.

Asked if he had found three containers with contact lense cleansing fluid in the cell, WO Benzien said he did not know if she had the fluids in her cell.

WO Benzien said he would not say the suicide attempt was not true but he found it strange because he had not found anything suspect in Ms Schreiner's cell.

The trial continues today.

Grenade: poet and wife in court

By Staff Reporter

The "people's poet", Mr Mzwakhe Mbuli, and his wife Nomsa, briefly appeared in the Protea Magistrate's Court yesterday on a charge of being in possession of a handgrenade.

The Mbulis were not asked to plead.

The trial was postponed until Janaury 18.

The couple are accused of having a handgrenade at their Pimville home in Soweto in March this year.

Mr L B H Tonkin appeared for Mr Mbuli, while Mrs Mbuli was represented by Mr T M Boyce, both instructed by Mrs Priscilla Jana.

Policeman saw no sign, of suicide bid in cell

Star 1/12/84

(331)

CAPE TOWN — Warrant Officer Jeff Benzien yesterday told the Supreme Court that he had used by Ms Schreiner in an attempt to cut her wrists. When admitted to hospital, Schreiner was found to have a broken mirror in a locked toilet. Benzien said he had thought she had used it in an attempt to commit suicide. Benzien said he had not seen any sign of a suicide attempt by Ms Schreiner in a cell when he had looked in at 6.30 am. Benzien said he had not seen any sign of a suicide attempt by Ms Schreiner in a cell when he had looked in at 6.30 am. Benzien said he had not seen any sign of a suicide attempt by Ms Schreiner in a cell when he had looked in at 6.30 am.

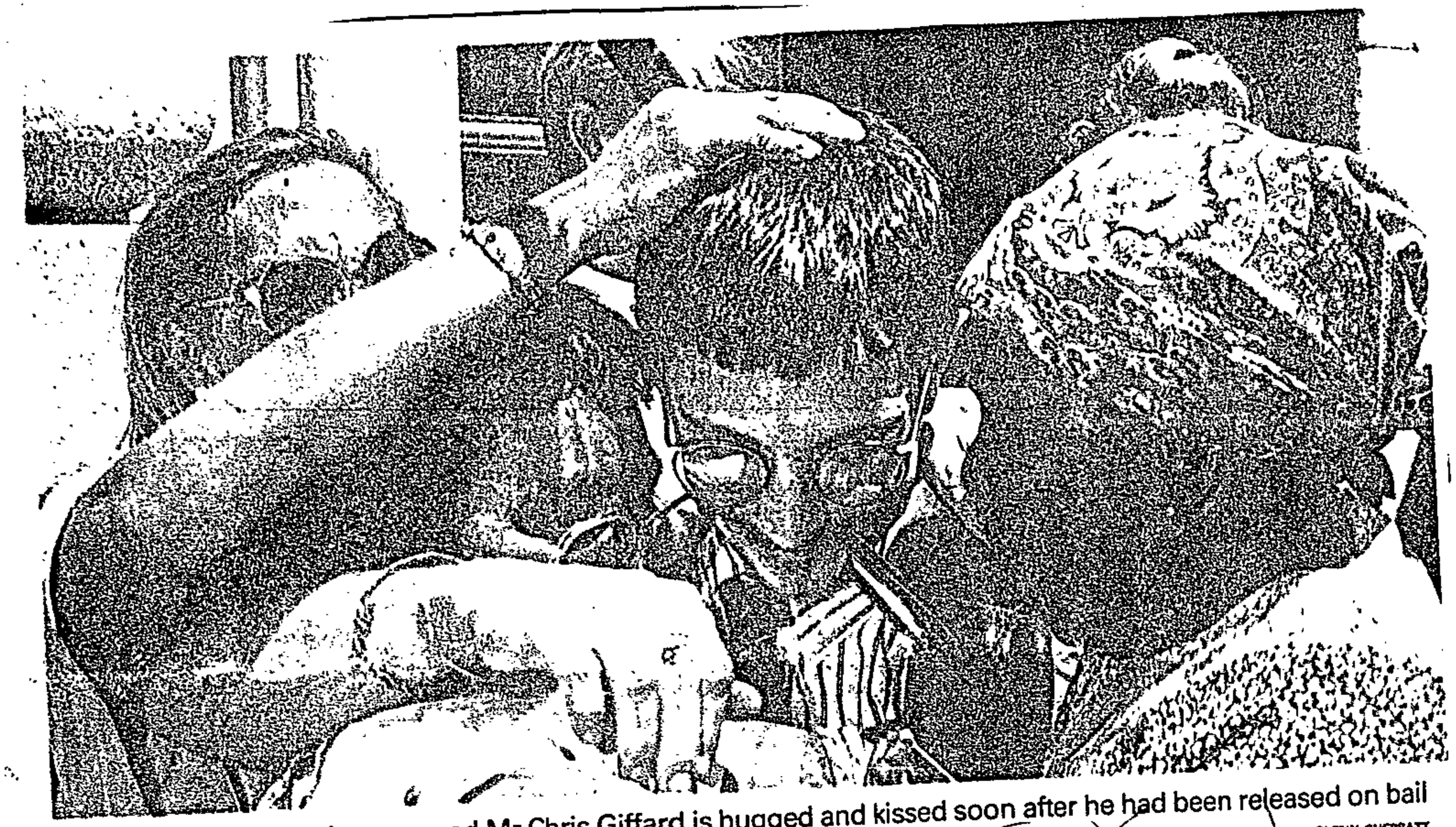
Mail charges dropped

THE government has dropped three charges, including two charges under the emergency regulations, against the Weekly Mail newspaper.

Weekly Mail editor Mr Anton Harber said yesterday the newspaper's attorneys had been informed of the move by the state attorney.

Mr Harber was to have appeared in all three cases. Ms Jo-Anne Bekker and Mr Franz Kruger were to have appeared with him on two of the charges.

Mr Harber and Mr Thami Makhanwanazi were to have faced a charge under the Internal Security for allegedly quoting a "listed" person, Mr Harry Gwala.



ON BAIL ... Terrorism accused Mr Chris Giffard is hugged and kissed soon after he had been released on bail of R3 000 yesterday.

Picture: GLENN SHERRATT

CAPE TIMES 9/12/89. 331

Yengeni pair get bail

By RONNIE MORRIS

TWO of the accused in the Yengeni terrorism trial were freed on bail yesterday after two years in detention.

They are Mr Alpheus Ndude and Mr Chris Giffard, who were mobbed by friends outside the Supreme Court yesterday afternoon. The men are co-accused of Mr Tony Yengeni and 11 others.

On his way to a vehicle provided to take him home, Mr Ndude led an impromptu dance for a few metres.

Mr Ndude, a father of five, said he felt good after being released on bail. He had had no contact visits during the two years and the first thing he wanted to do was to be re-united with his family. Reading had kept him going in trying times, he said.

Mr Giffard said he felt great but could not feel free while his comrades and other political prisoners were not free.

Shortly before the court adjourned for the day, Mr Hendrik Klem, SC, for the state, said with effect from yesterday the attorney-general had, in respect of Mr Giffard and Mr Ndude, withdrawn objection to them being granted bail.

Mr Justice S Selikowitz, in granting the orders for their release on bail of R3 000 each, said it "is one of the more pleasant things I have done in this trial".

● At the time of his detention on October 28, 1987, Mr Ndude was employed as a co-ordinator at the Adult Learning Project. He is married to former UDF publicity secretary Mrs Hilda Ndude.

Mr Giffard lived in East London until he finished school in 1978. At the time of his arrest he was a lecturer and post-graduate student at the University of Cape Town.

The granting of bail yesterday brought to five the number of accused who are not in custody. The others are Ms Gertrude Fester, Ms Colleen Lombard and Ms Soraya Abass.

Mother heard car-bomb hissing

CAR-Trials 9/12/89 331

Supreme Court Reporter

A WOMAN yesterday told the Supreme Court yesterday that about two minutes after she had walked past a car outside a block of flats with her 11-month-old baby, she had heard an explosion.

She said she had heard a "hissing" noise from the car.

Mrs Gillian Von Bratt, a resident of Castle Court, was giving evidence in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

Mrs Von Bratt told the court she, her husband and their baby had returned to the complex about 8.30pm on July 20, 1987, and because it was drizzling they had parked behind a car which had stood in their bay.

"As I passed between the cars I heard a hissing noise. I did not know what it was and went upstairs to wait for my husband while he reversed the car to park it elsewhere.

"As we walked into the flat I heard the explosion. I went back into the passage and saw flames coming from the place where we normally park our car."

She had heard a second explosion which sounded like a gas bottle exploding, Mrs Von Bratt said.

She then collected her husband, her baby and her maid and left the building.

Later when she returned to the vicinity of their flat, she found a large gas bottle which had been torn to shreds.

Mr Justice S Selikowitz granted an application by Mr D P de Villiers, QC, that security policeman Warrant Officer Adriaan Kruger be recalled for cross-examination.

WO Kruger had denied that he had interrogated Mr Wellington Nkwandla, but an occurrences book and a cell register at Steenberg police station where Mr Nkwandla had been detained would indicate otherwise, Mr De Villiers said.

The trial continues on Monday.

Lawyers move on Ebrahim case

CAPE TIMES 11/12/89

331 354

LAWYERS are re-examining the case of convicted African National Congress executive Ebrahim Ismael Ebrahim, in the light of new allegations by a former hit-squad member that Ebrahim was abducted by South African security forces from Swaziland.

The new evidence may influence the appeal Ebrahim will lodge against his 20-year sentence next year, lawyers said. Mr Justice H Daniels who heard Ebrahim's treason case last year rejected Ebrahim's claim that he had been abducted by South African agents on December 15, 1986.

At the time, however, Law and Order Minister Mr Adriaan Vlok said he could not admit or deny the allegation of the abduction of Ebrahim "except to strongly deny that any member of the SAP was involved".

Butana Nofomela, the self-confessed security police assassin on death row, has made allegations about the abduction of Ebrahim, who was regional commander for Umkhonto we Sizwe. The details of the allegations are not known.

However, two other alleged members of Section C1 are known to have been involved in Ebrahim's interrogation. One was Brigadier Willem Schoon and the other a Captain Naude. — Sapa

CAPE Times 12/12/89 331

Two women in terrorism pleas today?

GRASSROOTS journalist Ms Veliswa Mhluali and co-accused Ms Linda Tsotsi are expected to plead to charges of terrorism today, the Cape Town Regional Court heard yesterday.

Ms Mhluali, 36, of Guguletu, faces charges of harbouring or assisting members of the ANC and being a member of the ANC.

Ms Tsotsi, 32, of the Eastern Cape, faces charges of receiving military training from the ANC in Angola between 1986 and 1987 and furthering the aims of the ANC.

Broederstroom 3 lodge appeal

Pretoria Correspondent

A notice of appeal against sentence has been lodged with the clerk of the Pretoria Magistrate's Court on behalf of the "Broederstroom Three", sentenced to effective jail terms ranging from 18 to 25 years.

The appeal was lodged on November 24.

Damian Michael de Lange (31), commander of a white ANC cell, was sentenced to an effective 25 years in jail after being convicted on 11 counts of terrorism, two counts of arson and one of attempted arson.

Iain Hugh Robertson (36), political commissar for the cell, found guilty on 11 counts of terrorism, was sentenced to an effective 20 years in jail.

The 25-year-old Susan Wescott (also known as Donelly), a British citizen and communications officer for the cell, was sentenced to an effective 18 years in jail. She was found guilty on 10 counts of terrorism.

According to the appeal, the sentences were excessive and created a sense of shock.

'COURT ERRED'

The appeal also argues the trial court erred or committed a misdirection. It erroneously found that while similar actions on the part of black persons could be understood, this was not the position in regard to the accused.

The court imposed sentences which were not in proportion to the moral guilt of the accused, in light of the fact that Westcott was not party to the explosion set off in the vicinity of an Air Force bus, and the court failed to take into consideration that it was common cause between the State and the defence that there were clear political reasons why the accused joined the ANC.

A further ground for appeal was that the trial court erred by quoting the State President for authority for the fact that the ANC was banned because of the violence of Umkhonto We Sizwe, in the absence of any evidence on the record to that fact.

The appeal also states the court gave undue weight to aggravating features of the case, thereby according inadequate weight to mitigating factors.

Grassroots journalist convicted

CAR 7/19/1 13/12/89 331

Court Reporter

GRASSROOTS journalist Veliswa Mhlauli, 37, who last year lost an eye after being shot at, yesterday pleaded guilty and was convicted in Cape Town Regional Court of several counts of harbouring or concealing members of the ANC.

Her co-accused, Linda Oriel Tsoksi, 32, of the Eastern Cape, pleaded guilty and was convicted of belonging to the ANC, an unlawful organisation, and its military wing, Umkhonto we Sizwe.

No evidence was led and the hearing was postponed till tomorrow for sentencing.

Mhlauli's bail of R2 500 was extended and Tsoksi, who has been in custody by order of the attorney-general since her arrest in September last year, was remanded.

Her seven-year-old daughter, who travelled from the Eastern Cape to attend the trial, waited outside the building. She has not seen her mother for over a year.

Mhlauli harboured four unlawful people in Kensington, Cape Town and KTC between 1985 and 1988, rendered them assistance and failed to report their whereabouts to the police.

Tsoksi received military training from the ANC in Angola and Zambia in 1986 and 1987 and then "infiltrated" South Africa via Transkei and Lesotho.

Mr J M Lemmer was the magistrate. Mr I Yuill prosecuted. Mr J Muller, instructed by E Moosa and Associates, appeared for the women.

In two forgotten trials, court told of documents so explosive not even lawyers could see them

331

wmail 15-20/12/89.

Secret papers hold 'hit squad' key

Mandela did tell MDM of FW talks

By GAVIN EVANS

THE Mass Democratic Movement had prior knowledge that jailed African National Congress leader Nelson Mandela was about to meet State President FW de Klerk.

Contrary to speculation that the MDM and ANC were "caught by surprise" by the meeting, MDM representatives said they had been told the event was in the pipeline weeks before it took place.

"Soon after his meeting with PW Botha, Mr Mandela raised the possibility of meeting with De Klerk, and we therefore knew it was about to take place, although we did not know the exact date," said MDM representative Murphy Morobe.

He said the MDM was cautious about commenting on the meeting. "We will have to wait for a detailed report from Mr Mandela." Morobe said the MDM was confident Mandela would have articulated the ANC position and said the meeting was "part of the process. We have never had any reason to question his bona fides. He has always taken his lead from the movement." The ANC has yet to respond to news of the meeting, but has kept in touch with developments.

When Mandela met PW Botha four months ago, the ANC welcomed the event. While Botha's Tuynhuys "tea party" came as virtually the last act of his presidency, De Klerk's marks a major step in an ongoing process of negotiation. Having engaged in discussions with Mandela, De Klerk is likely to open the prison doors within the next few months.

Advocate Dullah Omar, who represents Mandela, stressed the ANC leader wished to be freed immediately, but was "not going to beg for his release".

Wednesday's Tuynhuys meeting was the first encounter between the state president (pictured left) and the ANC leader. Also present were Justice Minister Kobie Coetsee and Constitutional Development Minister Gerrit Viljoen.

●To PAGE 2

By IVOR POWELL

THE *Weekly Mail* has identified a State Security Council document which gives details of the establishment and function of police and military "special forces" and could provide the key to the "hit squad" scandal.

The document, believed to be entitled "Constitution and Functions of the Special Forces", was stolen by a soldier from the psychological unit of the Department of Military Intelligence (DMI) nine years ago.

It is believed to outline the structures in which the "hit squads" operate, tracing them up to the SSC, which was then led by President PW Botha and included a number of senior cabinet ministers or their deputies.

Although *Weekly Mail* does not have the document, state investigators should have easy access to it: it is part of the court records of two Official Secrets Act trials in the Johannesburg Magistrate's Court that took place in 1980/1.

The authenticity of the document is not in question — the state itself argued that its content was so sensitive that possession of it was illegal.

The trials were held *in camera* and the state argued that the document was so explosive that not even the defence lawyers should see it. After legal argument, they agreed to show only parts of it to the lawyers in order to secure their agreement on an *in camera* ruling.

It is believed that it was marked "secret" and was intercepted on its way to a shredder in the DMI psychology unit. An SADF soldier, Corporal Gerhard van der Werff, who worked in the unit, was tried and convicted for this.

●To PAGE 2

Bloodied and bruised ... injured Ermelo re

— OZENS of residents of

presence of these factors would count in a candidate's favour, according to Greyling.

● Destabilisation techniques and the running of secret operations in neighbouring states.

● The use of disinformation and propaganda techniques in raising morale among the general armed forces.

All of this ties in with information already in the possession of *Weekly Mail* and other newspapers indicating that the dirty-tricks squads were not the work of a few maverick policemen, nor of the far rightwing, but part of a systematic state strategy of counter-revolutionary warfare.

The military has previously admitted a number of illegal activities, justifying them — in the words of Defence Minister Magnus Malan — as "necessary for the efficient defence and protection of the Republic".

Secret papers hold 'hit squad' clues

wmail 15-20/12/89.

●From PAGE 1

In exchange for a comparatively light sentence, Van der Werff gave evidence against his then lover, University of the Witwatersrand student activist, Ben Greyling.

Greyling was in custody, facing trial with three other Wits students caught putting up South African Communist Party posters and tried in early 1981. It was when he was arrested on this charge that police raided his home and found the DMI document.

He was acquitted on charges under the Official Secrets Act in connection with the document, but he and the other three students served 10 days in prison for furthering the aims of the Communist Party.

The *Weekly Mail* cannot reveal details of the document that emerged in the trials because of the *in camera* ruling.

However, *Weekly Mail* this week made contact with Greyling, who has been granted political asylum in the US and now lives in San Francisco.

According to Greyling, he had gathered information dealing with:

● Secret funding for the "special forces" so that they would not need to answer to parliament, but only to the SSC, regarding their secret operations. Normal state funding channels were not to be used in the case of special operations and secret funds were set up for these purposes.

● Recruitment of operatives from the ranks of the South African Defence Force, the South African Police and other branches of the civil service. Recruits were subjected to stringent testing at state-run psychological units. Among other things, they were tested on "aggression quotients" which were made up from such factors as whether or not there was a history of instability, alcoholism or divorce in the candidate's family. The

poral Gerhard van der Werff, who worked in the unit, was tried and convicted for this.

●To PAGE 2

D-Day for Delmas (331)

IT'S D-DAY for the Delmas treason trialists. At 10am today, the Appeal Court in Bloemfontein will give judgement on their case — and optimistic lawyers believe there is a better than even chance the five political leaders will be released.

This will mean a boost for the UDF, which saw three key leaders — general secretary Popo Molefe, publicity secretary Patrick "Terror" Lekota and Pretoria activist Moss Chikane — jailed when the trial concluded last year.

The other two trialists who received prison sentences were SA Council of Church's stalwart Tom Manthata and Vaal activist Gcinamuzi Malindi.

Six other Vaal activists were given suspended sentences with heavy conditions, limiting their movement and political activities for five years.

The judgement could lay to rest the country's longest political trial, and one its most controversial. The point at issue is whether Justice K van Dijkhorst acted correctly in firing assessor Professor Willem Joubert.

Sowetan 15-20/12/89.

2 terror trialists convicted

Court Reporter

TWO city people connected with an arms cache found in the Cape Point Nature Reserve and with a hand grenade attack in the Peninsula were yesterday convicted of terrorism.

Danisile Nokhatywa, 33, and his wife, Agnes Ntombizodwa Yoyo, 26, had pleaded not guilty in the Wynberg Regional Court but had admitted to joining the ANC in 1985 and undergoing training in Angola in 1987.

Nokhatywa had further admitted to throwing a grenade at an SADF vehicle in Lansdowne Road in 1985 and to collecting arms from a Cape Point cache.

Their co-accused, Western Province Council of Churches field worker Buyiswa Jack, 34, who had also pleaded not guilty, was acquitted on the main charge of terrorism but convicted of rendering assistance to a terrorist.

Sentence will be passed today.

Mr A P Kotze was the magistrate. Mr M Stowe prosecuted. Mr L Skweyiya, for the accused, was assisted by Mr S Majiet and instructed by Mr Bulelani Ngcuke and Mr E Mohamed.

News in brief

How are these 2 things connected.

Suspended sentence for guerilla

Cape Times
15/12/89
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Court Reporter

AN ANC guerilla and a journalist were yesterday given suspended sentences by a magistrate who accepted both state and defence arguments that the political situation in the country had changed.

Cape Town Regional Court magistrate Mr J M Lemmer made this decision after listening to the arguments of both the state and the defence who both said that the political situation in South Africa had changed so substantially that it was unlikely that city journalist Veliswa Mhlauli and ANC guerilla Linda Tsotsi would behave the same way today as they had in the past.

Grassroots reporter Mhlauli, 37, who lost an eye after being shot at while walking home in August last year, this week pleaded guilty and was convicted of several counts of harbouring or concealing members of the ANC. She spent several months in prison before being released on R2 500 bail.

Tsotsi, 32, originally of the Eastern Cape, pleaded guilty and was convicted of unlawfully belonging to the ANC, an unlawful organisation, and its military wing, Umkhonto we Sizwe. She spent over a year in custody by order of the attorney-general.

Defence advocate Mr J Muller introduced the words of Bob Dylan's famous song "The times they are a changin' ", during his argument in mitigation of sentence.

State prosecutor Mr Ian Yuil then virtually echoed his words by saying: "You just have to read the papers every day to get a real feeling for how positively things are changing."

Mr Lemmer accepted that today's "changed political climate" was "relevant", but cautioned that "simply because a section of the community condones the actions of the accused, does not mean that activities that could lead to injury of people or property can be tolerated".

He also referred to mitigating evidence led by UCT Social Sciences Dean, Professor Martin West, who said that both of the accused, who were "bright, intelligent people", had grown up with "a great deal of poverty and hardship" and had both experienced "political violence" in their youth.

That they were first offenders and single mothers who received no support from the fathers of their children, also had to be borne in mind, he said.

The packed court erupted when Mr Lemmer sentenced both accused to five years imprisonment, fully suspended for five years, with cries of "Amandla! Awethu", "Forward to the Future", and "Viva ANC".

About fifty people, singing freedom songs in resounding harmony, then did the toyi-toyi through the corridors of the court and out of the building where police met them and asked them to disperse.

Shortly before, Tsotsi, dressed in traditional Xhosa attire, was reunited with her tearful seven-year-old daughter who had not been allowed to visit her mother for over a year.

Mr Muller was instructed by E Moosa and Associates.

FREE . . . Linda Tsotsi and Veliswa Mhlauli are greeted by a jubiliant crowd as they leave court after being giv suspended sentences. Picture: El

331

3 Yengeni trialists allowed a holiday

By LINDA GALLOWAY
Supreme Court Reporter

THREE of the Yengeni terrorism trialists who are on bail will be going on holiday during the seven-week Supreme Court recess — after an application was brought by their defence counsel to change their stringent bail conditions.

Mr Michael Donen, for the defence, told the court the three women wanted to holiday outside Cape Town in January — Ms Gertrude Fester in Vredendal, Ms Zurayah Abass in Oudtshoorn and Mrs Colleen Lombard in Arniston.

Ms Fester and Ms Abass had also planned a joint trip to a friend's holiday cottage in Plettenberg Bay.

All three were required to report daily to the police between 5 pm and 9 pm.

The application was for an order releasing them from having to report daily on the days away from Cape Town, alternatively, to be allowed to report to the police station nearest to where they would be.

State prosecutor Mr H Klem opposed the application saying it would "hinder the administration of justice" for the accused to report elsewhere because police had set up "a semi-permanent mechanism" in Cape Town "to monitor the movements of the accused and to ensure that they will stand trial".

All three women were called to give evidence on their reasons for wanting to go away and asked whether they would return to stand trial next year.

Ms Fester said she had not had a holiday since her release on bail in May this year. She would stay with family in Vredendal where she could be contacted by telephone.

Ms Abass, who spent five months in detention, said that 1989 had been "an extremely exhausting and tiring year" as she had kept her job at the children's project Molo Songololo while standing trial, often working late at night.

She had married last year and felt that she needed time to spend "with myself and my husband".

Mrs Lombard, who has three children, told the court that she had not had a holiday this year and had been reporting daily to the police for two years.

All three assured the court that they fully intended returning to continue the trial next year.

Giving judgment, Mr Justice S Selikowitz said there had been no evidence that any of the women had broken their bail conditions to date.

horror as fun and fun as horror

3 Yengeni co-accused given leave to holiday

Supreme Court Reporter

THREE accused in the terrorism trial of Mr Tony Yengeni and 13 others may go on holiday outside Cape Town after having their bail conditions amended yesterday

Ms Gertrude Fester, Ms Colleen Lombard and Ms Zoraya Abass, who are on bail of R3 000 each with certain conditions, succeeded in their application to have one condition amended which required them to report daily to the Mowbray, Athlone and Guguletu police stations respectively.

The applications, brought by Mr Michael Donen for the accused, was opposed by Mr Hendrik Klem SC, for the state, who said the administration of justice would be prejudiced if the bail conditions were amended.

The bail conditions were there to ensure that the accused stood trial and it was logical that the bail conditions should impinge on the freedom of movement of the accused.

The women testified that they needed to go on holiday and gave the court an assurance that they would not abscond as they had a "commitment" to their trial. They had no intention of prejudicing their co-accused.

In granting the order, Mr Justice S Selikowitz, said there was nothing to suggest that the women, who had been on bail for some time, would not stand trial.

He ordered Ms Fester to report to the Vredendal police in the period 5 and 9pm between January 2 and 4 next year and the Plettenberg police during the period January 26 to 31.

Ms Abass was required to report to the Oudtshoorn police between December 31 and January 7 between 5 and 9m and at the Plettenberg police station between January 26 to 31.

Ms Lombard was required to report to the Bredasdorp police station between January 5 and 10.

The trial continues on February 5 next year.

Death row man pleads guilty

(331)

DEATH row prisoner Butana Nofomela yesterday and pleaded guilty to murdering Durban attorney Griffiths Mxenge.

Nofomela, a former security policeman, was the first person to allege the existence of police death squads.

On October 19, the night before he was due to hang, he signed a statement saying he knew about the assassination squads and that he had been part of them, assisting in a number of killings.

He appeared briefly in the Pietermaritzburg Magistrate's Court where he pleaded guilty to the murder of Mxenge — just one of the killings in which he claims he participated.

The magistrate, GLS Holland, prosecutor Bruce Morrison, and Denis Kuny, SC, for Nofomela, discussed who else was to be charged for Mxenge's killing.

Kuny said the offence was allegedly committed by Nofomela in the company of three others who were involved, and he asked whether Nofomela was to be charged alone or with other accused.

Morrison said he could not reply to this question as it would depend on investigations which are under way.

Nofomela's lawyers handed in a statement outlining the circumstances of the killing. Nofomela said he was a member of the security police seconded to a police assassination squad under the command of Captain Dirk Coetzee.

He said that in late 1981 he was instructed by Brigadier Willem Schoon to "eliminate, that is to kill", Mxenge.

The magistrate postponed the case to February 28 next year.

Witness
15-20/12/89.

Freed five: 'We are not bitter'

THE five Delmas trialists released from Robben Island are not bitter about the four years they spent in prison.

Senior United Democratic Front leaders Mr Patrick "Terror" Lekota, Mr Popo Molofe and Mr Moss Chikane, and SA Council of Churches official Mr Tom Manthata, and member of the UDF-affiliated Vaal Civic Association Mr Gcina Malindi were released after the Appeal Court yesterday overturned their convictions for treason and ordered their release.

Speaking in the city before leaving for Johannesburg, a jubilant Mr Lekota said: "We understand that in the struggle some sacrifices had to be made. If some came our way we accepted them as unavoidable."

However, he and his four fellow trialists remained committed to the UDF's ideals.

For the future, Mr Lekota said the trialists had "nothing special on the agenda" and they would take their cue from the UDF.

He demanded the immediate release of Mr Nelson Mandela, saying: "Without the key man this country's questions cannot be solved."

Archbishop Desmond Tutu was among a crowd of about 100 who welcomed the five trialists, sentenced in November 1988 after what is believed to be the longest trial in South African history, lasting 37 months.

A strong press contingent and about 70 toyi-toying supporters were at first left disappointed in Cape Town harbour when the trialists failed to arrive on the expected Robben Island ferry around 4pm.

But within a short time news spread that the trialists had been dropped off elsewhere in the harbour. The crowd found them at the Western Province Council of Churches' Cowley House and the five were given a rousing welcome.

In an emotion-charged scene, the trialists embraced friends and relatives before being whisked off to D F Malan airport to fly to Johannesburg.

The group gathered in the departures hall at the airport and were accompanied by a singing and dancing crowd to the boarding gate.

The five arrived at Jan Smuts airport to an enthusiastic welcome from about 450 chanting and dancing supporters, who included SACC secretary the Rev Frank Chikane, UDF official Mr Yusuf Surtee and Dr Allan Boesak, who had just arrived from a New York flight.

While the group was leaving the departure hall minor scuffles broke out and a lawyer, Ms Caroline Nichols, was detained and film confiscated from international freelance photographer Mr Herbert Mabusa and Sunday Times photgrapher Mr Joe Sepale.

Police with dogs patrolled the driveway area outside Jan Smuts airport and a number of the welcoming committee members were bitten.

In reaction to the release yesterday, Lawyers for Human Rights (LHR) welcomed the Appellate Division's decision, but slammed the trial as "an abortive prosecution which took years of blundering incompetence to achieve nothing but red faces". — Staff Reporter and Sapa-Reuter-AP

P.T.O

THE ROAD TO FREEDOM

w/t Argus 16/12/89

'Now Mandela can be freed'

Weekend Argus Correspondent

JOHANNESBURG. — Community leaders and legal experts have reacted with euphoria to the release of five Delmas treason trialists, saying the last obstacle to the release of Mr Nelson Mandela has now been removed.

Hundreds of chanting, toyi-toying supporters thronged the departure hall of D F Malan Airport yesterday afternoon to welcome the five, who were freed from Robben Island prison after their convictions and sentences were set aside by the Appeal Court.

Longest trial

The five — Mr Patrick "Terror" Lekota, publicity secretary of the UDF, Mr Popo Molefe, general secretary, Mr Moss Chikane, a former UDF executive member, Mr Tom Manthata, a field worker with the South African Council of Churches and Mr Gcinumzi Malindi, of the Vaal Civic Association — were sentenced to between five and 12 years after South Africa's longest treason trial, which lasted 37 months.

Professor John Dugard of the Wits Centre for Applied Legal Studies said he was delighted but not surprised at the news that their appeal had succeeded.

"It seemed obvious to me that the judge in this case had acted irregularly in dismissing (assessor Dr W A) Joubert. Many lives have been wasted as a result of this and the taxpayer had to bear the burden of a long trial."

Professor Dugard said the Delmas trialsts would be able to play an important role in political events of the future.

"And," he said, "now that they are out, the last obstacle has been removed in the way of the release of Mr Nelson Mandela."

Mr Walter Sisulu, the ANC leader who was also released only recently, said the news was exciting. "I have been so depressed by the whole case of Delmas, but at last justice has been done. The reason they were kept so long was merely to punish them without sentencing them."

Welcome home

He said the Delmas triallsts were held in high regard by many people. "These people will have the same welcome we had," he said, referring to his own release and that of seven fellow political prisoners.

The Canadian ambassador, Mr Ronald MacLean, said in a statement that the setting aside of the conviction had been one of the "best Christmas presents imaginable".

The legal team's success in having the convictions overturned was a milestone not only for human rights and the rule of law but for those "seeking a just, non-racial and democratic South Africa", he said.

The director of Lawyers for Human Rights, Mr Brian Currin, said the Appeal Court's decision was an exciting victory for human rights in South Africa.

Trial costs

"This judgment will undoubtedly begin to restore the credibility of the South African judiciary. It destroys the perception which many have that judges are agents of the system.

"On the other hand, we call upon the State to inform the citizens of this country how much of our hard-earned money was spent on this abortive prosecution and many years of blundering incompetence."

A spokesman for the Mass Democratic Movement, Mr Murphy Morobe, said: "The United Democratic Front has always maintained this trial should never have taken place.

"It confirms our view that the State was acting in a vindictive manner and trying to find an excuse to stop the events of 1984."

Dressed in shabby blue jackets, black slacks, khaki shirts and boots, the men were taken from Robben Island yesterday afternoon to the airport, where they were to catch a flight to Johannesburg.

Principles the same

They were met by a huge crowd of chanting supporters, which included Archbishop Desmond Tutu, his wife Leah and members of the UDF and its affiliates in the Western Cape.

The men were hoisted shoulder-high amid shouts of "Viva ANC".

Mr Lekota said at a brief Press conference that though they were happy to be free, they had wasted four-and-a-half years of their lives in prison and were unrepentant.

"The impression should not be created that prison has changed those principles that led to our imprisonment.

"Those we held when we formed the UDF at Mitchell's Plain in 1983 still remain valid. Those principles have been highlighted by events in Namibia which make us more determined."

Archbishop Tutu said the release of the men was a sign "that we are winning the struggle".

"We knew justice would ultimately prevail. We know we are unstoppable and we are very proud of you," he said.

Picture: ANDREW INGRAM, Weekend

Hundreds of supporters — including Archbishop Desmond Tutu — ululated, hugged and kissed five Delmas treason trialists who were released from Robben Island yesterday. With the [illegible] are the five — from left, Mr Popo Molefe, Mr "Terror" Lekota, Mr Tom Manthata, Mr Gcinumzi [illegible]indi and Mr Moss Chikane. In front is UDF Western Cape executive member Mr Trevor [illegible]

Drug No 2 gunned dow[illegible]

BOGOTA. — The Colombian government has scored its biggest victory in the four-month-old drug war by killing Jose Gonzalo Rodriguez Gacha, called the number two man in the powerful Medellin cocaine cartel.

Rodriguez Gacha, his 17-year-old son, Freddy, and 15 people believed to be bodyguards were killed in a shootout yesterday in a rural area near Tolu, a city on the Caribbean coast 600km north of the capital, Bogota, police said.

Rodriguez Gacha, 42, known as "the Mexican" for his love of popular Mexican culture, was considered by police to be one of the main organisers of the wave of terror attacks in Colombia since the drug war began, including a truck bomb attack last week which killed 63 people and wounded 653.

In Washington chief US drug-fighter William Bennett said he had spoken by telephone to Colombian President Virgilio Barco, who confirmed Rodriguez Gacha's death.

"President Barco told me that this operation is very important psychologically for the Colombian people. The Colombian effort against the cartel has been a difficult one; they have many hideouts and many people helping them.

Rodriguez Gacha

"But President Barco believes that doubts about the Colombian government's resolve and ability to defeat the cartel should now recede. Rodriguez Gacha, President Barco said, was a significant man — a man who had killed many innocent men, women and children," Mr Bennett said.

Rodriguez Gacha and Medellin cartel chief Pablo Escobar were the two most wanted men in Colombia. Rewards equalling about R700 000 were offered for information leading to their capture.

Key role

Rodriguez Gacha faced at least three US indictments and was among the "dozen most wanted" sought for extradition to stand trial in the United States.

General Miguel Angel Maza Marquez, head of the country's security and intelligence agency, told a news conference yesterday that Rodriguez Gacha was the number two leader of the Medellin cartel. "The country has different characteristics now than before," he said.

Maza Marquez, who blamed Rodriguez Gacha Escobar for organising truck bombing on D[illegible] as an attempt on his life, Rodriguez Gacha played a role in hiring foreign [illegible]naries to train private for the cartels.

Frustration

Rodriguez Gacha was first cartel leader to be or captured since the [illegible]ment on August 18 [illegible] sweeping anti-drugs [illegible] and the cocaine barons in declared "total war" on the lombian establishment.

There was no immediate planation about why [illegible] Gacha was not seized alive.

Police sources had [illegible] their frustration after [illegible]ing another Medellin drug [illegible]on, Jorge Luis Ochoa on vember 21, 1987, only to him freed on a legal [illegible]ity a month later. The was widely believed to been intimidated or bribed. Sapa-AP.

Wife to appear on assault charges

Court Reporter

A 26-year-old woman appeared in the Wynberg Magistrate's Court yesterday in connection with two charges of assault.

Ms Agnes Ntombizodwa Yoyo allegedly assaulted a policewoman in the Wynberg Regional Court as her husband, Mr Danisile Nokhatywa, 33, was being led down to the cells.

She was not asked to plead and was released on R100 bail. The hearing was postponed till January 23.

Mr J A B Nel was the magistrate. Mr R P C Bethune prosecuted. Mr S Majiet, instructed by E Mohamed, appeared for Yoyo.

Terrorist sentenced to nine years jail

Cark Trials 16/12/89

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By MONICA GRAAFF
Court Reporter

CONVICTED terrorist Danisile Nokhatywa was yesterday sentenced in the Wynberg Regional Court to nine years imprisonment.

His wife, convicted terrorist Agnes Ntombizodwa Yoyo, was sentenced to four years imprisonment, fully suspended for four years.

A third accused, Western Province Council of Churches field worker Buyiswa Jack, 34, who was this week convicted of rendering assistance to an ANC guerilla, also received a fully suspended four-year sentence.

As soon as the magistrate had left the room, 33-year-old Nokhatywa turned to the packed gallery, raised his fist in the air and shouted: "Amandla! (Power!)". The windows shook when about 70 voices responed: "Awethu! (To the People!).

Then, as he was being taken down to the cells a scuffle erupted between his wife, who wanted to give him a last hug, and a policewoman who was trying to restrain her.

Many policemen entered the fracas which ended when Yoyo too was pushed down the stairs.

Magistrate Mr A P Kotze found that while it was "not against the law" to try and effect political and constitutional change, violence could not be tolerated.

While the accused were obviously people deeply frustrated by political and socio-economic conditions, there were "other ways of bringing about change".

Mr A P Kotze was the magistrate. Mr M Stowe prosecuted. Mr L Skweyiya was assisted by Mr S Majiet and instructed by Mr Bulelani Ngcuke and Mr E Mohamed.

Treason trial five are freed

Drama as Appeal Court quashes convictions

BLOEMFONTEIN. — South Africa's longest treason trial reached a dramatic climax yesterday when the Appeal Court here quashed the convictions of five men — three of them leaders of the United Democratic Front — and set their sentences aside.

The five who stepped into freedom yesterday were Mr Patrick "Terror" Lekota, publicity secretary of the UDF, Mr Popo Molefe, UDF general-secretary, Mr Moses "Moss" Chikane, former UDF executive member, Mr Tom Manthata, a senior field worker with the SA Council of Churches, and Mr Gcinu Muzi Malindi, a member of the UDF-affiliated Vaal Civic Association.

The Appeal Court upheld an application by defence counsel for the convictions to be quashed and for the sentences to be set aside.

The appeal concerned the controversial dismissal by the trial judge, Mr Justice Kees van Dijkhorst, of one of his assessors, Dr W A Joubert, on the grounds that Dr Joubert had signed the UDF's "million signature campaign" — protesting against the tricameral Parliament — and was thus not in a position to act as an impartial assessor.

'Incapacity'

Counsel for the five men — and six of their co-accused who were given suspended sentences — argued the dismissal of Dr Joubert was unlawful and unfair.

They contended it was unlawful because it was in contravention of the Criminal Procedure Act — which states that an assessor can only be dismissed if he "becomes unable to act" due to physical or mental incapacity — and unfair because neither Dr Joubert nor the accused were granted an opportunity to put forward their arguments.

The Chief Justice, Mr Justice Corbett, with the concurrence of Mr Justice Botha, Mr Justice Smalberger, Mr Justice Kumleben and Mr Justice Nicholas (Acting Judge of Appeal) yesterday upheld one special entry on the trial record of Mr Malindi, who had been convicted by Mr Justice van Dijkhorst in November 1988.

The Chief Justice found the first of the four special entries, which formed grounds for the appeal, was well-founded and the trial judge was not entitled, in the circumstances, to exercise the power granted to him by Section 147 (1) of the Criminal Procedure Act to rule Dr Joubert was unable to act as assessor.

It necessarily followed the trial judge did not have the power to direct that the trial proceed before himself and the remaining assessor, Mr W F Krugel.

Since the five men were freed on a technicality, they can in theory be arrested and recharged, a process which would involve another long treason trial.

Legal observers, however, are fairly confident the state will not press charges.

The judgment at 10am yesterday is a sequel to the preliminary appeal heard on November 27 this year.

In the November hearing, Mr A Chaskalson, counsel for the defence, submitted the grounds for Dr Joubert's recusal existed before the start of the trial.

Mr Justice Van Dijkhorst originally jailed Mr Molefe for 10 years and Mr Lekota for 12.

Jailed with them for periods of five to 10 years were Mr Chikane, Mr Malindi and Mr Manthata.

Six other Vaal activists were given suspended sentences and their movements and political activities severely restricted.

The Appeal Court found that the only suggested source of such power was Section 147 (1) and it was under that sub-section that the trial court purported to act.

This power was not available to the trial judge and it followed that contrary to the wishes of the appellant, the trial proceeded to conviction and sentence before an improperly-constituted court.

This conclusion rendered consideration of the other special entries strictly unnecessary, Mr Justice Corbett said.

He said, however, that two of the other entries raised procedural issues of some importance.

The judge presiding in a criminal court should not make rules or give directions in regard to the trial that affect the interests of the parties without affording them the opportunity to be heard.

Accordingly, where a judge acting in terms of Section 147 has found that an assessor has become unable to act as such, it is encumbent on him to hear the parties on the question as to the further conduct of the proceedings.

Deprived

More particularly, the parties should be heard as to whether he should direct that the trial proceed before the remaining members of the court or that the trial start anew and that a new assessor be appointed.

The importance to an accused person to be tried by a properly-constituted court had already been noted and such persons should not be deprived of this advantage, the Appeal Court found.

In the present case the trial had been proceeding for a long time when the decision to invoke Section 147 was made and there were certain manifest disadvantages to a new trial.

Mr Justice Corbett said that a new trial may well have been the accused's preference, and it could make no difference in principle whether the trial was 17 months old (as was the case in the Delmas trial), or one day old, as regards the actual decision of the judge that an assessor had become unable to act as such.

He said it was important to point out that the parties were entitled to be heard before the decision was taken. — Sapa

DELMAS NOT BIT

(Press 17/12/89

THE five Delmas trialists released on Friday after spending four years in jail refuse to be bitter.

The five are UDF publicity secretary Terror Lekota, the organisation's general secretary, Popo Molefe, Vaal Civic Association official Gcina Malindi, senior SACC fieldworker Tom Manthata and former UDF executive Moss Chikane.

Speaking in Johannesburg yesterday, Molefe said: "We are not bitter about the system. When you get into the struggle there are penalties one must expect. We have paid that price.

"What is disgusting is that it was clear from the outset that the State had no case against us. It was only the prejudices of those who are entrusted with upholding justice.

"It cost us a lot, including separation from our families and their harassment."

Lekota said: "Somehow we knew we would not have to serve the full sentences. We trusted our people to put pressure on the government."

Judge slated for his rulings in long trial

Both men said all they needed now was a "good rest" and to be with their families.

"Our family life has been disrupted. We will go back to politics as soon as we have sorted out our problems," they said.

The once burly Lekota, a former professional soccer player, has lost weight. "But I hope to pick up soon," he said with a laugh.

Molefe is now wearing spectacles. "My eyesight was gradually failing. I put this down to tension during our marathon trial," he said.

The Appeal Court decision to uphold an appeal by the Delmas trialists has thrown the spotlight on the trial judge.

Judge K van Dijkhorst refused to recuse himself and

A happy moment as released Delmas trialists Terror Lekota (left) and Popo

17/12/89

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restart the trial of the 19 Delmas accused after he dismissed assessor Dr Willem Joubert.

The dismissal followed the court's discovery that Joubert earlier signed the UDF's Million Signature Campaign against the tricameral parliament.

This week the Appeal Court in Bloemfontein ruled Van Dijkhorst erred by refusing to restart the trial.

The judgment said a judge presiding in a criminal court should not give directions in regard to the trial that affect the interests of the parties without giving them the opportunity to be heard.

He was also criticised for making a ruling on Joubert without giving him or the accused an opportunity to state their case.

The accused were sentenced to terms ranging from five to 12 years for treason.

After Joubert's dismissal, the 19 accused submitted an affidavit in which they said Van Dijkhorst and the other assessor, WF Krugel, were hostile towards them.

■ **More pictures Page 4**

Activist refused bail

CP Correspondent

A PORT Elizabeth activist, sentenced to three years' jail, has had his bail application turned down despite four others sentenced for the same offence being granted bail.

Two weeks ago Lizo Pityana, Lauretta Mengezeleli, Mxolisi Dyasi and Mawonga Wellem were granted R1 000 bail each at Grahamstown Supreme Court, pending appeals against their sentences.

Vuyo Kwinana, sentenced to an effective three years' jail, last week applied to the Regional Court for bail. After magistrate C Fouche turned down his application, his lawyers appealed against the decision.

The Grahamstown Supreme Court on Friday turned down Kwinana's application after the judge said he was not convinced Kwinana would not abscond.

Pityana – exiled ANC member and Saso founder-member Barney Pityana's brother – Mengezeleli and Dyasi were sentenced to an effective two years in jail, while Willem was given a three-year jail sentence after being convicted of furthering the aims of the ANC.

The five are part of a group of 11 Port Elizabeth residents arrested in 1987. They were charged with the attempted murder of a number of municipal policemen, helping ANC members and of planting a bomb on a Port Elizabeth bus.

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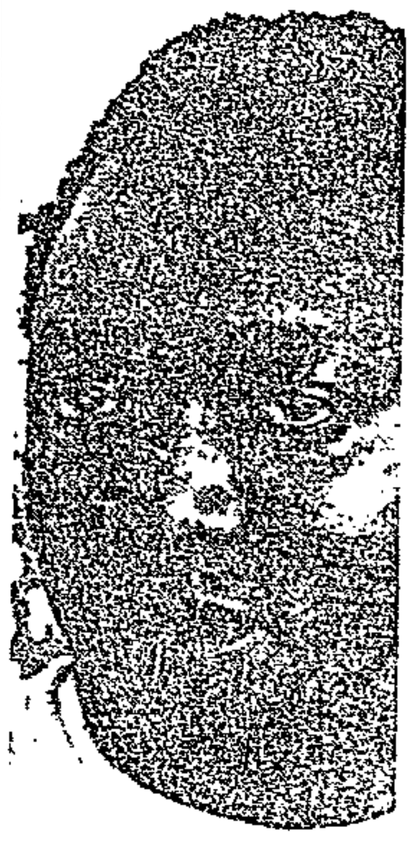
Cape Times, Monday, Dece

Molefe sees changes



FREED TRIALIST ...
Mr Popo Molefe

Own Correspondent

JOHANNESBURG. — Former UDF general-secretary Mr Popo Molefe, released from Robben Island on Friday, said yesterday he perceived very dramatic changes in South Africa in the nearly five years since his arrest.

Mr Molefe was freed, together with Mr "Terror" Lekota, Mr Moss Chikane, Mr Tom Mathatha and Mr Gcinumuzi Malindi after the Appeal Court overturned the convictions and set aside sentences passed by Mr Justice van Dijkhorst in the lengthy Delmas treason trial.

The most striking change, Mr Molefe said, was the growing strength of "our movement", which had survived government attempts to smash it in the mid-1980s and had made tremendous advances.

The second change was the new regime of President F W de Klerk, who was far more sophisticated than his predecessor and more sensitive to local and international pressures.

Mr Molefe said he was looking forward to fully participating in the activities of the Mass Democratic Movement (MDM).

His first priority, though, was to remedy his "disorganised" personal life, particularly re-establishing family relationships, including that with his daughter, born only a month before his arrest.

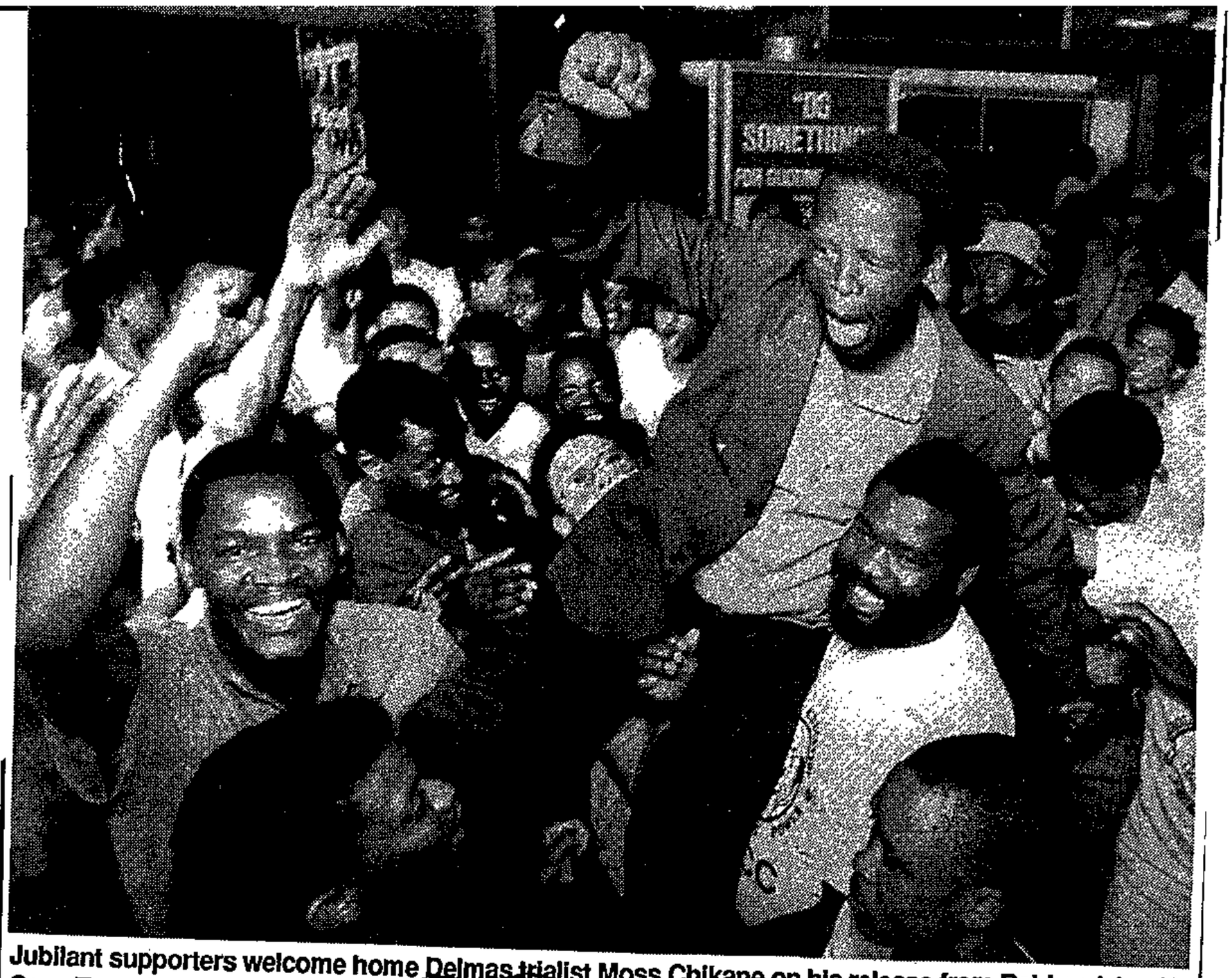
Mr Molefe said the most important part of the consolidation of the anti-apartheid organisation was the establishment of Cosatu and its alliance with the UDF.

Cosatu had been a very powerful unifying force and had contributed greatly to "enhancing the quality of the struggle and its leadership". The birth of youth and womens' organisations had also been important.

Mr Molefe said the released men had returned to a situation where government strategy had failed. It had now lost the initiative in defining the direction of change and was merely responding to pressures.

He said the actions and plans of the more sophisticated Mr De Klerk may buy time. But, he said, his limited understanding of the MDM/ANC suggested these organisations were capable of adopting a sufficiently flexible response to government's negotiation initiatives.

"Our organisations have set out, in the Harare Declaration, very reasonable preconditions for talks. They are likely to be flexible in this respect, but will not be flexible about our birthright — full participation in governing our country."



Jubilant supporters welcome home Delmas trialist Moss Chikane on his release from Robben Island in Cape Town last Friday.

Picture: BENNY GOOL

331 Umsebe 21/12-18/1/90

Free Delmas man Molefe speaks on whither now

UDF general secretary Popo Molefe, free after five years behind bars talks of the future for opposition politics, the Harare Declaration and his meeting with Nelson Mandela.

By VUSI GUNENE

NEARLY five years behind bars before being acquitted have not left the United Democratic Front's Popo Molefe bitter — "only angry at my conviction", he said this week in his first public address after his release on Friday.

Molefe, the UDF national general secretary, national publicity secretary Patrick "Terror" Lekota and former Transvaal secretary Moss Chikane were released with South African Council of Churches fieldworker Thomas Manthata and Vaal activists Gcinimuzi Malindi.

They were all convicted in South Africa's longest treason trial — the Delmas Treason Trial — on December 8 last year.

"The mission that we had undertaken then, of the struggle of our people for a non-racial democratic future, is not yet over.

"We have gained the moral highground and this is indicative of the support we received throughout the trial, and during this period of the Mass Democratic Movement," he said.

In an interview with the *Weekly Mail* this week, Molefe said his desire to continue to work where he had left off has not diminished.

He and his colleagues had no political positions in mind, and would be placed by the MDM "wherever they see fit".

"Our task in this critical period of much-talked of negotiations is to contribute towards the building of a broad unity of our people so that, in the next gathering of our people, there will be greater unity.

"In that respect we see our task as complementing the efforts of our people to bring nearer a non-racial democratic South Africa as enshrined in the Freedom Charter."

Commenting on the formation of the MDM and the Conference for a Democratic Future, Molefe said it brought "great joy and inspiration".

"We begin to realise those objectives that we sought for at the formation of the UDF are starting to crystalise.

"Before our incarceration, and even at our last annual meeting, we insisted on the unity of the broad section of people, including all those organisations which were not part of the UDF at its formation."

He said the released men had returned in a period "when the fires of our struggle are burning in every corner of our country".

Asked his opinion on the negotiations issue, Molefe said he fully supported the Harare Declaration.

"From the very beginning even the African National Congress never rejected the idea of negotiations. It was forced into armed struggle because avenues of negotiations were no longer possible.

"The demands contained in the Harare Declaration are reasonable demands and I think if negotiations were to come we would have no option but to participate, as long as those conditions are met. If the opportunity presents itself for us to minimise casualties we would seize such an opportunity."

Molefe said he rejected any attempts by the government to hold an ethnic referendum because that "was not in line with the process of a non-racial and democratic South Africa which we advocate".

"If the very same goverment had seen fit to allow the people of Namibia to go through a path of non-racialism, there is no reason why it should not apply it in South Africa.

"In the same way, the international community should be made aware of their suggestions that we are a multi-racial and multi-cultural society and therefore we cannot unite."

Molefe said such manoeuvres by the international community would "undercut the social condition".

"We must warn them that, much as it was possible for this very government to have Greeks, Japanese, Chinese and so forth in one culture and one race, there is no reason why we cannot come together in a non-racial South Africa."

Commenting on the trial he said: "We did not go to jail because we committed any offence. The regime sought to punish us and the UDF as a whole. It found a sympathetic bench to do so and upheld apartheid racial discriminatory laws."

Molefe added that "to a great extent the trial has confirmed the argument that the judicial system in our country is not independent, but serves the interest of the executive".

"The judgement that has vindicated us would probably be a better decision in the future," he said.

Commenting on his meeting with Nelson Mandela, Molefe said their discussions were "fruitful" and that Mandela had demonstrated that "although he is regarded as the greatest leader of our people, he is not a man who would like to have the last say".

"He is a loyal member of the ANC and is guided by it. He has regular consultations with the ANC."

Molefe said that Mandela was concerned about political prisoners, particularly those serving life sentences. Mandela was talking with government officials about their plight.

Asked how they received the news of their release, Molefe said the inmates on Robben Island carried him high and did the *toyi-toyi* and sang freedom songs. much to the amusement of the prison officials.

TOTALITARIANISM- POLITICAL TRIALS

1990

JANUARY - MAY

Liberty is dead

Thousands attend funeral

City Press 7/1/90

By DESMOND BLOW

WITBANK'S best-known political activist, Eric Liberty, 33, was allegedly murdered by the son of a black policeman two nights before Christmas when he went to stop a fight in the township of Schoongezicht.

He was stabbed in the heart.

A man has been arrested and charged with murder.

This week more than 6 000 people from Schoongezicht and the adjoining township of Guqa attended Liberty's funeral.

Liberty was detained frequently by the Witbank and Middelburg Security Police, but his spirit was never broken, report his comrades.

Towards the end of last year Liberty was responsible for stopping a gang war in the townships.

To celebrate the "peace" he held a braai for them, but police who suspected his motives raided the braai putting scores of people to flight. Liberty was arrested for disturbing the peace.

Witbank is a Conservative Party stronghold but anti-apartheid organisations including branches of NUM, Cosatu and junior church organisations are very active.

In an interview *City Press* had with Liberty before his death, the father of two said he had received threats from an anti-activist organisation which calls itself the South Eastern Transvaal Students' Association Committee.

Caricatures of well-known activists, including Liberty, were sprayed on walls in the townships with a hangman's noose around their necks.

Liberty refused to take these threats seriously.

Political comment and newshills by K Sibiya, headlines and sub-editing by J Beffon, both of 204 Eloff Street Ext., Johannesburg.

Court case declined

By DAN DHLAMINI

City Press 7/1/90

A POTCHEFSTROOM magistrate has declined to hear two cases of obstructing the police because he saw the incidents from which the charges arose.

Magistrate Ben Bester this week recused himself from the proceedings involving Benjamin Hlanyane, 30, an executive member of the Vaal Civic Association, and Philip Ntepe, 26, who appeared before him separately on charges of obstructing police during the course of their duty.

Hlanyane and Ntepe, both represented by Advocate A Hussein, were not asked to plead and their cases were adjourned until January 18. They were granted R100 bail each.

Their appearance is a sequel to an incident on November 14 at Potchefstroom magistrate's court when seven ANC members were convicted on terrorism charges.

New date for trial

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By MARTIN NTSOELENGOE

City Press 7/1/90

NOTORIOUS Soweto gang leader Mbumelelo "Sporo" Mandisi, who is serving a 75-year jail term for multiple crimes, made another appearance with two alleged henchmen this week.

The two, who are also serving long prison terms are, Benini Tshabalala, 20, and a 17-year-old youth.

Their appearance is a sequel to the murders of Christopher Ngwenya and Jacob Mokgakgali on November 23 last year.

Mandisi is also charged with the murder of Albert Ntsele on November 1 last year.

The three were not asked to plead and their case was postponed to January 19.

Mandisi and his gang allegedly conducted a reign of terror in Soweto.

7 'insurgents' charged

CP&M 7/11/90

By CONNIE MOLUSI (331)

SEVEN suspected members of the military wing of the Black Consciousness Movement of Azania (BCMA) will appear on charges of terrorism in Klerksdorp Regional Court tomorrow.

The accused are said to be members of the BCMA and its military wing, the Azanian National Liberation Army (Azanla), and to have undergone military and political training in Libya and Botswana with the aim of overthrowing the South African government.

It is the first case involving trained insurgents from the BCMA since its formation in April 1980.

The trial has some fascinating aspects. Unlike the ANC and PAC the BCMA is not a banned organisation.

The seven accused include a 17-year-old Soweto girl who is said to be a platoon commander. The others are Lawrence Kondile and Matikela Mashiqana from Port Elizabeth, Patrick Nthako of Welkom, Nelson Joyi of Port Elizabeth, Saxon Mokonenyana of Welkom and Simon Ndlovu of Soweto.

The State claims the BCMA intended to unlawfully overthrow the government and establish a revolutionary national democracy in transition to socialism.

The trialists are accused of recruiting people for military and political training and to have established military bases in Transkei and QwaQwa.

The State also alleges the 17-year-old girl, from Dlamini in Soweto, left the country between September 1986 and October 1988 to undergo military and political training and became a platoon commander.

Kondile is said to have been an instructor and to have become the head of intelligence and military commander of Azanla.

Defence advocates Dikgang Moseneke and Imran Moosa went to Harare last week to consult the BCMA leadership.

Terror trial of 7 resumes

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Sowetan 8/1/90

The terrorism trial of seven alleged members of the Black Consciousness Movement of Azania, one of them a 17-year old girl, resumes today at a Regional court in Klerksdorp after a two-month postponement.

The seven are accused of being members of the Azanian National Liberation Army, said to be the military wing of the BCMA.

Training

According to the charge sheet the youths received military training at or near Dukwe Camp in Botswana, and in Libya. It is also alleged that some of the accused formed an underground cell near Tsheseng in QwaQwa where they gave political and military training to recruits and active supporters of the organisation.

Their names are Mr Mziwamadoda Lawrence Kondile (21), Mr Matikela Mashiqana, (27), Mr Nelson Joyi,(27), all of Port Elizabeth, Mr Motsamai Patrick Nthako (24), and Mr Saxon Mokonenyana (20), both of Thabong location in Welkom, and Mr Simon Ndlovu (18) and a 17-year-old girl, both from Soweto.

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Seven plead not guilty to charges of terrorism

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By Thabo Leshilo

Seven suspected members of the Black Consciousness Movement of Azania (BCMA) and its armed wing, the Azanian National Liberation Army (Azanla), yesterday appeared in the Klerksdorp Regional Court on charges of terrorism and conspiracy to violently overthrow the Government.

The accused pleaded not guilty to all charges.

According to the charge sheet, the accused left South Africa between April 1986 and March 1989, joined the BCMA and Azanla in Botswana and received military and political training at Dukwe.

The accused are: Mr Mziwamadoda Lawrence Kondile (22), Mr Mtikala Mashiqawa (28), Mr Nelson Joyi (28), all from Port Elizabeth; Mr Patrick Motsamai Nthako (25) and Mr Saxon Mokonenyane (21) from Welkom's Thabong location; Mr Simon Ndlovu (20) and Miss Doris Kuki Thlako (18) both from Dlamini in Soweto. Star 9/1/90

WEAPON TRAINING

The State alleges that the aim of the BCMA and Azanla was to unlawfully overthrow the present regime through violence and replace it with a revolutionary national democracy in transition to a socialistic state.

All the accused are said to have received training in the handling and use of various weapons of war including hand-grenades, landmines, AK-47 rifles, TNT explosives and GMPG and PPSH sub—machine guns.

Mr Kondile, the first accused, is said to have become the head of intelligence and military committee of the BCMA and Azanla while Miss Thlako is said to have been a platoon commander.

Counsel for the accused challenged the admissability of "confessions" allegedly made by Mr Kondile, Mr Nthako, Mr Joyi and Mr Mokonenyane.

Advocates Dikgang Moseneke and Imraan Moosa, briefed by Seriti, Mavundla and Partners, appeared for the accused while advocate Louw Pienaar prosecuted. Mr J D Pretorious presided.

The hearing continues today.

Trial takes turn over 'forced' statements

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Sowetan 10/11/90

STATEMENTS allegedly made by some of the seven alleged members of the Black Consciousness Movement of Azania threw a case into a trial-within-a-trial in the second day of the proceedings at the Klerksdorp Regional Court yesterday.

By MANDLA NDLAZI

This was after magistrate Mr JD Pretorius had ruled that the State should call witnesses to give evidence that would show whether the statements by the accused were voluntarily made.

The statements in question were allegedly made by Mr Mziwamadoda Lawrence Kondile (21), Mr Motsamai Patrick Ntako (24), Mr Saxon Mokonenyana (20) and Mr Simon Ndlovu (18).

They are appearing with Mr Nelson Joyi (27), Mr Matikela Mashiqana (27) and a 17-year-old girl on terrorism charges.

They have all pleaded not guilty and are represented by Mr Dikgang Moseneke and Mr Imraan Moosa, instructed by Seriti, Mavundla and Partners.

The prosecutor, Mr Lou Pienaar, had argued that the statements were admissible while Moseneke and Moosa contested admissibility.

According to the charge sheet, the seven accused, from townships in Port Elizabeth, Welkom and Soweto, received military training at or near Dukwe camp in Botswana and in Lybia.

It is further alleged that some of them formed an underground cell near Tsheseng in QwaQwa where they gave political and military training to recruits and active supporters of the organisation.

The first State witness to be called was Warrant Officer Hendrik J Blignaut of the Security Police in Parys.

He said he took part in the investigations of the case.

He said he interrogated Kondile who later agreed to make a statement. He said Kondile told him he wished to make a statement to a magistrate.

Blignaut said Kondile eventually made a statement to a magistrate and he (Blignaut) gave it to Lieutenant Else.

He said he did not influence Kondile to make a statement, neither did he or any other policemen assault him.

He said he did not strip Kondile of his clothes or search him the day he went to make a statement.

Blignaut said Kondile spoke to him freely during interrogation.

Defence wins early round in terror trial

Star 10/11/90

331

By Thabo Leshilo

The defence counsel in the terrorism trial of seven alleged members of the Black Consciousness Movement of Azania and cadres of its armed wing, the Azanian National Liberation Army, (Azanla), won a preliminary victory in the Klerksdorp Regional Court yesterday.

The magistrate, Mr J D Pretorius, ruled in favour of the defence that the onus to prove the validity of confessions allegedly made by four of the accused lay with the State.

OFFICIALS

The defence argued that the confessions had been made involuntarily and bore names different from those on the charge sheet. They had not been certified by appropriate officials and were conducted in a manner that incriminated the accused.

The accused whose alleged confessions were contested are Mr Mzwiwamadoda Lawrence Kondile (22), Mr Motsamai Patrick Nthako (25), Mr Nelson Joyi (28), Mr Saxon Mokonenyane (21) and Mr Simon Ndlovu (20). No argument was led on Mr Joyi's alleged statement and he was not affected by the ruling.

The State will now have to prove the alleged confessions were made voluntarily and satisfied legal requirements.

The first State witness, Warrant Officer Hendrik Blignaut, told the court that Mr Kondile, who was arrested by Bophuthatswana police and handed over to the SAP, voluntarily made the statement to get the whole affair off his chest.

The State alleges that the aim of the BCMA and Azanla was to violently overthrow the Government and eventually replace it with a socialist state.

The other accused are Mr Mtikala Mashiqawa (28) and Miss Doris Kuki Thlako (18).

Mr Kondile is said to have become the head of intelligence of the military committee of the BCMA and Azanla while Miss Thlako is said to have been a platoon commander.

The hearing continues.

Star 10/11/90

'Hit squad' reports – two subpoenaed

By Karen Stander

Vrye Weekblad editor Max du Preez and reporter Jaques Pauw have been subpoenaed to supply information concerning the murder of Durban lawyer Mr Griffiths Mxenge and other offences allegedly committed by a police "hit squad".

The journalists are to appear before Johannesburg magistrate Mr J F Zeelie on Friday.

They were ordered to surrender the original cassette tapes of interviews with former policemen and self-confessed hit squad members Captain Dirk Coetzee and Mr David Tshikalange, any notes on the interviews and all documents in their possession relating to the activities of the alleged hit squad.

They were also ordered to provide sworn affidavits saying the cassettes and notes were authentic and the originals.

Du Preez said the subpoena had been served shortly after lunch on Monday in terms of Section 205 of the Criminal Procedures Act. The subpoena said the journalists "probably have information" about the murder of Mr Mxenge "and other murders and offences" mentioned in the paper's November 17 and 24 editions.

Du Preez said the newspaper — the first to break the "hit squad" story — was committed to co-operating "with whoever wants to get to the bottom of the matter ... we have nothing to hide".

'Flaws' in the police evidence

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Sowetan 11/11/90

By MANDLA NDLAZI

CONTRADICTORY police evidence emerged on the second day of a trial-within-a-trial in the Klerksdrorp Regional Courty yesterday when Mr Dikgang Moseneke, counsel for the defence questioned a State witness.

Moseneke was questioning a security police officer who acted as an interpreter for warrant officer Hendrik J Blignaut, when he interrogated one of the seven youths facing terrorism charges.

The youths, alleged members of the Black Consciousness Movement of Azania, have pleaded not guilty before Mr JD Pretorius. Their case was thrown into a trial-within-a-trial following a dispute by the defence and the state on the admissibility of statements allegedly made by some of the youths.

Mr Enoc M Rampai of the security police in Welkom said it would be a lie that one of the accused, Mr Mziwamadoda Lawrence Kondile (21), was not warned according to judge's rules when he was interrogated.

Warrant Officer Blignaut had earlier told the court that he did not warn Kondile.

He said he did not because he had been under the impression that Kondile had been warned by police who interrogated him earlier. He said he was however not sure about this.

When told that Blignaut said he did not take a statement from Kondile, Rampai said it was a lie. He said he recalls Blignaut taking a statement that was read back to Kondile.

Kondile was later told about the questions he should expect from a magistrate when he made a statement. He did not know why Blignaut denied this, he said.

Proceeding.

No room for spectators

cpnes 14/11/90

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By DAN DHLAMINI

HUNDREDS of Black Conciousness Movement of Azania (BCMA) supporters were this week refused entry to the packed Klerksdorp Regional Court where seven alleged Azanian National Liberation Army cadres faced terrorism charges.

Defence advocates Dikgang Moseneke and Imram Moosa asked Magistrate JD Pretorius to move the hearing to a bigger venue.

On Monday, the first day of the trial, Lawrance Kondile, 21, Matikela Mashiqana, 27, and Nelson Joyi, 27, all of Port Elizabeth; Patrick Nthako, 24, and Saxon Mokonenyana, 20, of Welkom; and Simon Ndlovu and and Doris Tlhako, both 18 and from Soweto, wore BCMA colours and shouted slogans.

Traffic outside was halted temporarily as youths sang freedom songs and shouted slogans.

The State alleged that the seven committed acts of terrorism between April 1986 and March 1989; underwent political and military training in Botswana and Libya; and established a cell at Tsheseng near Qwa-Qwa, where they gave Azanla recruits political and military training.

The accused pleaded not guilty to all charges.

Nthako, Joyi, Mokonenyana, Ndlovu and alleged BCMA and Azanla intelligence and military committee leader Kondile denied confessions handed in by prosecutor Louw Pienaar had been made voluntarily.

The magistrate ruled that the onus to prove the validity of the confessions lay with the State.

W/O Hendrick Blignaut said Kondile had opted to make a statement to a magistrate to get the matter off his chest.

Lt JC Ellis of Welkom Security Branch, who led the investigation, denied that the accused were forced to make incriminating confessions.

The case continues tomorrow.

Long delays for trial date – official

By Janet Heard

Some people had been kept in jail for up to three years while awaiting trial because there was an insufficient number of courts, according to the deputy Attorney-General for the Eastern Cape, Mr Mike Hodgen.

The long delays facing awaiting-trial prisoners was highlighted last week by a report that an Eastern Cape prisoner, Mr Blom Pule, had embarked on a hunger strike in protest against the delay in setting him a trial date.

According to the report, Mr. Pule was arrested on a murder charge in December 1987 and had appeared in court 13 times without being given a trial date. Star 15/11/90

Mr Hodgen said the situation had improved recently and there was a decreasing number of people who waited for long periods.

If the State was unable to bring a person to court within a few months of his arrest, it would be immoral to oppose a bail application and keep him in prison for a number of years, said Mr Brian Currin, the national director of Lawyers for Human Rights.

He added it was only justifiable to oppose a bail application when there was a strong possibility the accused would abscond if he was released.

Legal sources in the Eastern Cape attributed the long delay for awaiting-trial prisoners to the backlog which had arisen from the large number of arrests during the 1984-6 political conflict.

A human rights attorney said there had been an improvement in the last year, but it was common for awaiting-trial prisoners to remain in prison for a year or more before a trial date was set.

Mr Silas Nkanunu, the Port Elizabeth regional chairman of the National Association of Democratic Lawyers, said "ideally a prisoner should be released on bail after the first court appearance".

The Transvaal Attorney-General, Mr Don Brunette, said the province did not have a backlog and monthly figures showed on average that a Supreme Court trial took eight to nine months from the time of arrest until the completion of the trial.

He said there were exceptions which included complicated political cases such as the Delmas treason trial and certain fraud cases.

Denial by SB cop

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By MOKGADI PELA

A WELKOM Security Branch official has denied being part of the interrogation team that questioned some of the seven alleged cadres of the Black Consciousness Movement of Azania on trial in Klerksdorp.

Captain Alexander Venter was giving evidence on the fifth day of a trial-within-a-trial in the Klerksdorp Regional Court on Friday.

Venter told a packed courtroom that a Lieutenant Ellis had been in charge of the interrogation team.

Asked by defence advocate Mr Dikgang Moseneke if he was aware of allegations of police assault of detainees during interrogation in South Africa, Venter said: "Those claims are sometimes true and at times false."

Venter said if such claims were made they would be investigated and referred to the Attorney-General for possible prosecution.

The accused, who include an 18-year-old woman alleged to have been a platoon commander of Azanla (the BCMA's military wing), are charged with receiving military training in Libya and Dukwe, Botswana, with the aim of establishing a socialist state in South Africa.

They are also alleged to have been trained in the use of several weapons.

They have all pleaded not guilty before Mr J D Pretorius.

The trial-within-a-trail followed a dispute over the admissibility of statements allegedly made by some of the accused.

Injuries

Earlier, Dr Benjamin Robinson (69) denied seeing any injuries on the face of one of the accused, Mr Patrick Thako.

He said if Thako had been slapped on the face, he would have clinically detected it.

But Moseneke said he had seen boxers whose faces looked fine even after a 12-round bout.

Security was tight with police searching people entering the court-room.

Some of the accused wore jeans while Miss Kuki Nthako wore a dress with the black, gold and red star colours of the BCMA.

Proceeding.

New evidence 1986 murder trial re-opens

By LINDA GALLOWAY
Supreme Court Reporter

A 1986 murder trial in which eight Oudtshoorn people were sentenced to death for the killing of a community councillor, has been re-opened in the Cape Supreme Court with the State President's consent.

The hearing, in terms of Chapter 32 of the Criminal Procedure Act, is to hear further evidence in the trial of Patrick Manginda, Desmond Majola, Dickson Madikane, Chwete Makay and Jimmy Sitwayi; Abraham Galant, Andries Saptoe and Ronnie Nyuka who were minors at the time of the hearing.

The men are on Death Row in Pretoria Central prison.

They were convicted of murdering Bongolethu town councillor Mr Patrick "Big Boy" Marenene in November 1985 by chopping him with an axe, stoning, stabbing, hitting and kicking him before setting him alight.

In terms of the Act, the State President may sanction the reopening of a case on petition if further evidence has become available.

The evidence is evaluated by the court and submitted with recommendations to the State President. The court makes no finding.

Yesterday, Bongolethu resident Ms Olga Claasen, 29, told the court she had been at her home in Third Street on November 22, 1985. She and her sister, Catherine, and friend, Jennifer MacLean, heard a loud noise and gunshots from a parallel street.

Chased

They saw Mr Marenene running down the street chased by Mackay. A large crowd was following them.

Mr Marenene was carrying a gun and fired a shot as he ran. Ms Claasen said she heard someone shout: "That's the sixth and last shot".

A group of people stopped Mr Marenene and Ms Claasen said the next thing she saw was him lying face down on the ground.

Mackay had picked up a rock about the size of a rugby ball which he dashed down on Mr Marenene's head. Almost simultaneously she saw Majola chopping at Mr Marenene with an axe, and looked away.

The large crowd was singing and chanting that "the impimpi (informer) must die".

Ms Claasen said she saw a group of people walking with a tyre, wood and paper. Although she did not know for sure, she thought they were going to set Mr Marenene alight.

She knew Madinga, Madikane, Sitwayi and Nyuka well, and had not seen them at the scene.

Under cross-examination by Mr P Prins, for the State, Ms Claasen said that although she disagreed with the crowd who had killed Mr Marenene, he had deserved a beating because he acted wrongly as a town councillor and took decisions without consulting the community.

She had not called the police because "the boere (police) were hostile towards us".

The hearing continues today.

Mr Justice A J Lategan is sitting with Mr P Vlok and Mr H Van Huyssteen as assessors. Mr G Van Schalkwyk, SC, and Mr D Omar, instructed by Mr I Mohammed of E Moosa and Associates, appear for the eight men.

said yesterday.

Sat Times 17/1/90

'ANC' charge dropped

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ZWELITSHA. — A charge accusing the Border Rugby Union secretary, Mr Zandisile Ncinane, of being a member of the ANC was withdrawn in the Regional Court yesterday.

Three-year-old necklace trial opens again

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W Mail 17/11/90 - 25/11/90

By PHILIPPA GARSON

IN an extremely rare occurence, the murder trial in which three people were sentenced to death for killing a community councillor more than three years ago, has been reopened.

Patrick Maginda, Desmond Majola and Dixon Madikane have been on Death Row since September 1986.

The men, all in their mid-20s, were convicted of killing an Oudtshoorn community councillor, Patrick "Big Boy" Marenene, in November 1985. Marenene was stoned and axed to death before being "necklaced". Another youth was sentenced along with the three to five years imprisonment for his part in the crime.

But the lawyer for the convicted four, Ebrahim Mohammed, says that sometime after Mr Justice B Lategan handed down the death sentence on the three in the Cape Town Supreme Court, people in Oudtshoorn approached his firm saying that what had transpired in court was not true.

They claimed Maginda had not been present at the time of the councillor's death, and that Majola had not thrown stones or been involved in the attack.

The lawyers applied for the reopening of the case in 1988 but this was dismissed by the Appeal Court.

"We then petitioned the state president asking for a reopening of the case. The petition lay with the department of justice for nearly a year, and last month we were told that the case would be opened for retrial," said Mohammed.

This week two women gave evidence in court and the judge will now submit a recommendation to the state president, who will decide the fate of the three men.

In Mohammed's view, the reopening of the case is linked to the campaign against the death penalty.

A FREE CAROLINE CULLINAN CALENDAR WITH EVERY NEW SUBSCRIPTION TO THE WEEKLY MAIL
PAGE 4

Report by judge over Death Row 8 for President

CAPE TIMES 17/11/90

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Supreme Court Reporter

EIGHT Oudtshoorn men on Death Row for the murder of a community councillor, whose trial had been reopened, will have to wait for a judge's finding to reach the State President before they will know what their fate is.

The men are Patrick Manginda, Desmond Majola, Dickson Madikane, Chwete Makay, Jimmy Siwayi, Abraham Galant, Andries Saptoe and Ronnie Nyuka. They were sentenced in the Cape Supreme Court to death in 1986 for the death of Bongolethu town councillor Mr Patrick "Big Boy" Marenene.

The men's convictions and sentences were confirmed by the Appeal Court and the State President was then petitioned. In terms of Section 327 of the Criminal Procedures Act, the State President referred the matter back to the trial court to hear the evidence of two witnesses.

The Act provides that the trial can be reopened if further evidence which may materially affect a conviction or the death sentence comes to light.

The court should assess the value of further evidence and advise the State President whether and to what extent the evidence affects the conviction and sentence.

Shouting, shots

Earlier this week, Ms Olga Klaasen, 29, of Bongolethu, said she was at home in Third Avenue on November 22, 1985 and had been in the company of her late sister and a friend, Ms Jennifer Maclaine.

They had heard people shouting and shots being fired and moved to a corner where they saw Mr Marenene, holding a firearm, run across a field.

The shouting continued and "every now and then" a shot was fired. A little distance from Mr Marenene she saw Makay followed by a large crowd. The crowd caught up with Mr Marenene, surrounded him and it was clear he was being assaulted.

Ms Klaasen said she saw Makay fall to the ground and later saw him pick up a big stone and throw it down towards Mr Marenene's head.

She had also seen Majola with an axe and when he lifted the axe she could see what he was going to do and turned away. The crowd was chanting that "the impimpi (informer) must die", Ms Klaasen said.

She had later seen a group of people walking with a tyre, wood and paper and although she was not sure what they were going to do, she suspected they were going to set Mr Marenene alight.

Ms Klaasen said she had known Manginda since childhood and also knew Nyuka and Makay well.

After the incident police had surrounded the township and had arrested a few hundred people, including Ms Klaasen.

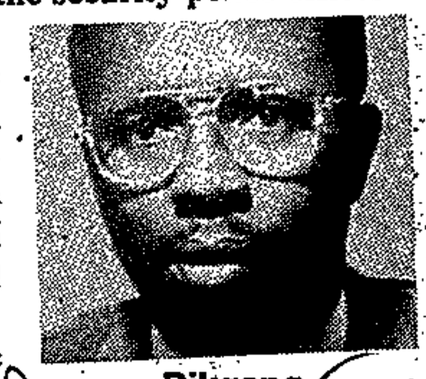
Mr Justice A J Lategan presided and was assisted by Mr P Vlok and Mr H van Huyssteen as assessors. Mr G D van Schalkwyk SC, with Mr A M Omar and instructed by Mr E Mohammed of E Moosa and Associates, appeared for the eight men.

Trial-within-trial uncovers 'flaws'

By MANDLA NDLAZI

A security branch policeman, called a liar by defence council Mr Dikgang Moseneke, yesterday said it was difficult to say who saw him have tea with one of the seven alleged members of the Black Consciousness Movement of Azania at the security police offices in Welkom.

This was said at the trial-within-a-trial of six men and a woman appearing on terrorism charge before Mr J D Pretorius in the Klerksdorp Regional Court.



Dikgang Moseneke

The proceedings were plunged into an inner trial following a dispute between the defence and the State over the admissibility of statements allegedly made by some of the accused.

When asked by Moseneke about who saw him drink tea with Mr Mziwamadoda Lawrence Kondile (21) at the Welkom Security Police Offices on February 23 last year, Constable Pitso David Ramusedi answered "it is a difficult question".

Ramusedi earlier said in cross-examination he sat for five hours with Kondile at the security police offices waiting for colleagues who would come from Kroonstad and did not know what time they would arrive. He said he did not interrogate Kondile.

(Proceeding)

W/Mail 19/11/90 - 25/1/90.

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Light sentence for ANC woman

By PHILIPPA GARSON

LIGHT sentences handed down recently to convicted African National Congress members is a sign that the courts are changing their attitude to the banned organisation, say some lawyers.

Last week Sheila Mathabe — who alleges she was abducted from Swaziland in 1987 — was found guilty in the Bethal Magistrate's Court of being a member of the ANC, undergoing political training outside the country and furthering the aims of the organisation. She was sentenced to three years imprisonment, suspended for five years.

Mathabe, charged on seven counts of terrorism, pleaded guilty to membership and furthering the aims of the ANC, and not guilty to having undergone military training. Her lawyer, Lawrence Tonkin, said: "She could have got 10 years for what she pleaded guilty to, and we certainly thought — up until the end — she would have received a jail sentence." He described her light sentence as "highly unusual, even historic in a Conservative Party stronghold like Bethal".

Mathabe, 37, is suing the minister of law and order for abduction, arrest and assault by members of the South African Police.

Mathabe, wife of ANC member Guebuza Nyanda, claims she was slapped, punched, burned and whipped when she was abducted from Swaziland in May 1987.

She was held in solitary confinement for 18 months and released in November 1988 without being charged. But six months later — after proceeding with her own case against the state — Mathabe was rearrested and charged with terrorism.

Though overjoyed at her light sentence, Mathabe says she is bitter at the "stress and pain I suffered during my arrest and detention". She views her freedom as a sign that "things are relaxing" but describes as absurd the fact that "minor political activists like myself are being charged while our leaders walk free".

Tonkin says that recent lenient sentences handed down to ANC members in the Cape may have had some influence on the case. Lawyers there are surprised at recent developments in the Cape Regional Court.

Last month two people convicted of ANC membership and having undergone military training, Agnus Yoyo and Linda Tsoki, were given suspended sentences. Yoyo got four years jail suspended for five years and Tsoki received a sentence of five years suspended for five years. One person who appeared with the two received a jail term for his involvement in handgrenade explosions.

Lawyer for the two, Ebrahim Mohammed, says that though neither Yoyo nor Tsoki committed acts of violence inside South Africa, Tsoki was a trained member of the ANC's military wing, Umkhonto weSizwe, and Yoyo was found with two AK47's in her possession.

Although there is no mandatory jail term for being convicted of military training, Mohammed says the practice, until recently, was to hand down jail sentences. He adds that there has been a definite shift in the approach of court officials and the department of justice over the past few months.

Some lawyers say that leniency of the courts comes as a response to what court officials see as a change in state policy.

Judgment delayed in poet Mbuli's grenade hearing

Star 19/11/90 By Abel Mushi 331

Judgment in the trial of "people's poet," Mzwakhe Mbuli and his wife Nomsa who appeared in the Protea Magistrate's Court yesterday on a charge of being in possession of a hand grenade at their home in Pimville, Soweto, was postponed to February 2.

The Mbulis were arrested on March 17 last year and were released on bail of R1 000 and R500 respectively.

The two also appeared on an alternative charge of failing to report to the police the location of the grenade at their home.

They both pleaded not guilty to the main and alternative charge.

COMMON PURPOSE

The couple's defence counsels questioned the imposition of the same charge on both when the device was neither found on either of their persons nor a common purpose proved.

They argued that the grenade could have been brought into the house by someone else as the couple were not the only people who had access to it and asked that the charges be withdrawn.

The first accused, Mr Mbuli, was represented by Mr L Tonkin and his wife by Mr T M Boyce.

They appeared before Mr T F Veldman and Mr S T Voight appeared for the State.

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'Terrorists' — if they exist

By CASSANDRA MOODLEY

THE first terrorism trial involving alleged members of the exiled Black Consciousness Movement of Azania, began last week — and the state has to prove that the organisation exists.

The trial in the Klerksdorp Magistrate's Court involves seven alleged members of the exiled BCMA who are accused of leaving the country and undergoing political and military training in the organisation's military wing, the Azanian Liberation Army.

Unlike the ANC or the PAC, the BCMA is not a banned organisation "since," say the trialists' advocates Imran Moosa and Dikgang Moseneke, "it was not formed inside South Africa".

The state has firstly to prove that the organisation does, in fact, exist.

The state has handed two basic BCMA documents over to the court, the constitution and a blueprint entitled "Urgent Tasks". The documents trace the beginnings of the movement in April 1980, attributing its inception to the lack of an external infrastructure for black consciousness adherents, especially those forced into exile.

It is alleged that the accused left the country during the period April 1986 to March 1989 and that they reported to BCMA bases at Dukwe in Botswana and in Libya, where they received training. They then allegedly infiltrated the country to further the objectives of the organisation and to establish underground cells where new members could be recruited and trained.

According to charges 24-year-old Mziwamadoda Kondile was the head of intelligence and of the movement's military committee.

This is the only trial to have been heard in South Africa in which an 18-year-old woman is alleged to have been a platoon commander.

Another significant aspect of the trial is that it opened with a trial-within-a-trial as the admissability of statements made by some of the trialists was challenged. It was claimed the documents were obtained under duress.

A statement by one of the trialists, Simon Ndlovu, was withdrawn by the prosecutor, Louw Pienaar, this week.

Last week the magistrate, JD Pretorius, ruled that the onus rested with the state to prove the validity of the statements of four of the accused. The authenticity of three more statements has still to be contested.

Lonely Xmas on Death Row

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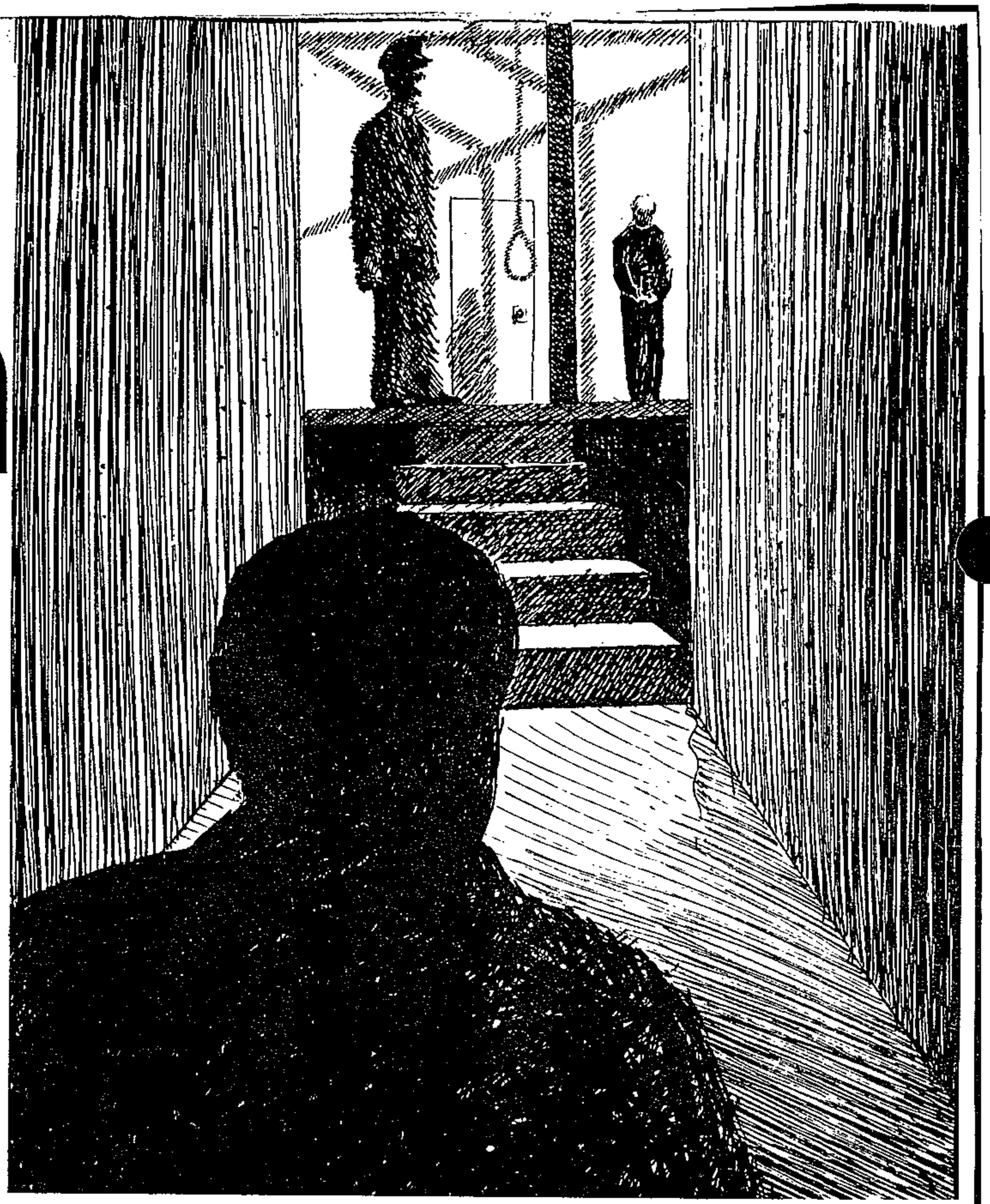
20-18/1/90



THIS Christmas will be the third behind the cold walls of Death Row for Patrick Maginda who was sentenced to death with two other men in September 1986 for the murder of a community councillor in Oudtshoorn.

He was not yet 21 at the time.

Upington grandmother Evelena de Bruin, convicted in May this year on the grounds of common purpose for the murder of municipal policeman Lucas Jetta Sethwala, sits alone in another Death Row cell.

According to psychologists, De Bruin is "steadily disintegrating" on Death Row.

Cut off from her family, she will spend this Christmas without even the benefit of a bible since she is illiterate.

Almost 300 other people await the hangman's noose.

At least 80 of them were sentenced to death for politically-related crimes.

They include ANC guerillas and township residents convicted of killing informers, policemen and councillors.

P.T.O.

Among several trade union members on Death Row for strike-related murders are four South African Railway and Harbour Workers' Union members.

They were convicted for the murder of non-strikers in the bitter 1987 Sats strike during which six strikers were shot dead at Johannesburg station by police.

Some of the condemned on Death Row, such as Robert McBride, the Bisho 12 and the Upington 14, are well-known.

Others have been largely forgotten by all but their families.

Reprehensible

Concerned organisations, lawyers and community leaders have called on the community to remember those on Death Row this Christmas.

A spokesperson for the National Association of Democratic Lawyers (Nadel) said the organisation believed that "a killing could not solve a killing" and therefore called on the government to abolish the death penalty.

He said Nadel viewed the use of the death penalty in South Africa — which has the second-highest execution rate in the world — as "particularly reprehensible in view of the effect of apartheid on society".

"It cannot be denied that racial factors impact on judicial decisions and this extends to the decision whether to legally take a person's life.

"The number of political executions increases with the rise in political dissent," he said.

Since 1958 the number of crimes for which one can receive the death sentence in South Africa has been increased from three to 11.

The highest ever number of executions in South Africa took place in 1987 when 181 people were hanged.

Last year 121 people were hanged and 52 people have been executed so far this year.

● Comment: Page 10

Hit squad abduction claim adds a twist to treason case

LAWYERS are re-examining the case of convicted ANC member Ebrahim Ismael Ebrahim in the light of allegations by a former alleged hit squad member that Ebrahim was abducted from Swaziland by SA security forces.

They said the new evidence could influence the appeal Ebrahim will lodge next year against his 20-year sentence.

Mr Justice H Daniels, who heard Ebrahim's treason case last year, rejected his evidence that he had been abducted by SA security forces or their agents on December 15 1986.

CHARLENE SMITH

Document

At the time, Law and Order Minister Adriaan Vlok said he could not admit or deny the abduction allegation "except to strongly deny that any member of the SAP was involved".

Death row prisoner Butana Almond Nofomela, who claims he was a security police assassin, has made allegations about the abduction of Ebrahim. Ebrahim was a regional commander of the ANC military wing Umkhonto we Sizwe.

Details of the allegations are not known.

Two other alleged members of the assassination squads, said to be known as Section C1, are known to have been involved in Ebrahim's interrogation. One was Brig Willem Schoon and the other a Capt Naude.

A second link in the Ebrahim case to Nofomela's previous allegations comes in the form of an ANC document presented to court by the State during Ebrahim's trial in April 1988.

The document was allegedly photographed in Lusaka by a South African spy.

The ANC document said the SAP had arrested a cadre in Soweto identified as "Comrade Scotch". The arrest was followed by the kidnapping of an ANC operative identified as "September" and who commanded an ANC unit.

Ebrahim said his abductors told him "September" was now working for them.

Nofomela has, in previous statements, talked of the abduction from Swaziland of an ANC operative called "September".

The ANC document goes on to say this was followed by the death of "four cadres" during an armed clash in an unidentified border area.

Suzman recalls some 'nasty Nats'

Own Correspondent

CAPE TOWN — Former MP Helen Suzman has some harsh words for the five Nationalists who served as prime minister during her 26-year career in Parliament.

In a lecture at UCT's summer school yesterday, she described D F Malan as "a dour old dominee who commanded much respect from his own party, but I would not say very great affection".

Although she had very little to do with the next prime minister, J G Strijdom, his successors Hendrik Verwoerd and John Vorster were "as nasty a pair as you could ever encounter in your worst nightmares. Dr Verwoerd was a most extraordinary man, (with) a deep conviction that he had a divine mission.... I have to admit Dr Verwoerd was the only man who has ever scared me stiff."

Vorster was a very different cup of tea, "pragmatic, down to earth", she said.

Suzman said there was only one way to describe P W Botha — "he was an irascible bully. I cannot say his retirement caused any regrets on my part and I have no doubt the feeling is mutual, now that I too have left Parliament."

esday, January 24 1990

'Ciskei coup documents found in Moringer's home'

DOCUMENTS allegedly detailing a Transkei-planned coup in Ciskei were found at the home of Austrian national Ranier Moringer during a late-night raid by police on August 31 last year, an informed source said yesterday.

It was reported last week an attempted coup by Transkei against Ciskei was aborted in August last year. SA officials were quoted saying Transkei Defence Force troops crossed the Transkei border in hired vehicles heading for Ciskei but got cold feet and called it off.

Moringer was arrested on August 31 last year on charges of foreign exchange fraud totalling R47m.

MANDY JEAN WOODS

He is in custody and is expected to appear again in the Johannesburg Magistrate's Court tomorrow.

The source said "some specific information" relating to the coup plans was found at Moringer's house during the raid.

"There were indications that individuals quite high up in the Transkei government were involved," he said.

Another source said Ciskei leader Lennox Sebe's brother Charles — the exiled former Ciskei Central Intelligence Service commander who is now living in SA — was at Moringer's home at the time of the arrest.

Ciskei Foreign Affairs deputy director-general Headman Somtunzi said last night Ciskei was aware as early as August 8 last year of Moringer's involvement in the planned coup attempt by Transkei.

Somtunzi said intelligence sources said Moringer was in financial difficulties at the time.

He said the Ciskei government had rejected Moringer's tender application to operate Ciskei Airways because his company, Ciskei Aircraft Industries, was in financial trouble.

The Ciskei People's Development Bank had given Moringer financial assistance to set up his company, he said. The bank was aware of Moringer's financial position as the loan was "under strict control" of bank officials, he said.

Moringer's attorney, Gary Mazaham, said he would make no comment until he could discuss the matter with his client.

Webster murder linked to secret group, court told

PRETORIA — The Supreme Court heard yesterday there was a secret organisation which could be linked to the murders of Wits University lecturer David Webster and Swapo executive member Anton Lubowski.

In an affidavit opposing an application for the release of Ferdi Barnard, Brig Floris Mostert, of the Brixton Murder and Robbery Unit, denied Barnard's arrest and detention were unlawful.

Since the investigation of Webster's murder, it had become apparent a secret organisation existed.

He said he had reason to suspect the detainee (Barnard) had valuable information with regard to it.

The organisation was responsible for the murders of Webster and Lubowski, he said. — Sapa.

January 25 1990

Court told of undercover police

Shooting of four linked to 'strategy'

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Star 25/1/90

Own Correspondent

DURBAN — An incident in which four young men were shot dead by undercover policemen was part of a strategy to prevent terrorism, a Durban inquest magistrate was told yesterday.

Major Eugene de Kock, of an anti-terrorist unit of the security police, was giving evidence at an inquest into the deaths of four men at Chesterville in 1986.

The men were Mr Russell Mngomezulu (23), Mr Mutuwenkosi Khanyile (24), Mr Joseph Mthembu (20) and Mr Sandile Khawala (23).

Major de Kock told inquest magistrate Mr B J Olivier that the undercover men had been sent to Durban to infiltrate suspected terrorist groups.

One of the men had been issued with a Russian-made AK-47 rifle and ammunition.

Major de Kock said the operation was launched because of the number of terrorist incidents in the Durban area at that time. It was hoped the undercover men could forestall terrorist attacks.

The inquest has been proceeding intermittently for a few months. It is expected to continue for two more months.

The families of the four young men claim they were victims of a police hit squad. The police claim they were fired upon and returned the fire.

The hearing continues.

SA ties with East bloc regretted

The Star Bureau

LONDON — Opposition MPs here have voiced their dismay at the links apparently being forged by South Africa and Eastern European countries.

Labour Party MPs Mr George Galloway and Mr Ernie Ross said in a motion on the Commons Order Paper yesterday they regretted the official visit to Hungary of Minister of Foreign Affairs Mr Pik Botha and signs that the two countries were moving towards establishing diplomatic ties.

The MPs noted "the SA Foreign Office is targeting other East European countries".

They hoped "a sad and unexpected result of the democratic upheaval in Europe is not the opening of a new pro-apartheid front in East and Central Europe".

Star 25/1/90

Taxi passengers left standing

Municipal Reporter

Minibus taxi passengers commuting between Diepkloof and Johannesburg complained yesterday that they were left stranded on the roadside when the driver was held by traffic officers.

A spokesman for the passengers said the almost fully-loaded vehicle was stopped at about 10 am near Nasrec. After a traffic officer spoke to the driver, they were asked to get out.

When he asked how they were to complete their journey, they were told it was not the traffic department's problem.

Johannesburg Traffic Department spokesman Mr John van der Westhuizen said the driver was arrested because he did not have necessary papers to operate a taxi, or identification.

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Star 25/1/90

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... the people govern". - Sapa.

New turn in BCMA trial

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Sowetan 25/11/90

THE trial within-a-trial at the Klerksdorp Regional Court took a dramatic turn yesterday when a lieutenant giving evidence for the defence disagreed with the prosecutor on a docket that was said to be missing.

The court was earlier told that the docket had been opened by Mr Patrick Motsamai Nthako (24), one of the six alleged members of the Black Consciousness Movement of Azania.

By MANDLA NDLAZI

He had laid a charge against Security Police who allegedly assaulted him.

Docket

Lieutenant E J Roux, of the Virginia police station told the court that she disagreed with the prosecutor Mr L Pienaar that the docket could not be found.

The docket was brought to court yesterday.

Roux was called by the defence to testify on the docket and statement made by Nthako, one of the six alleged members of the BCMA appearing on charges of terrorism.

Nthako and his six co-accused have pleaded not guilty before Mr J D Pretorius.

Mr Dikgang Mosenkeke, counsel for the defence, criticised the State's attitude in handling some matters of the proceedings in a "backdoor way".

He said the State had failed in making earlier preparations for the case and now wanted to use the "backdoor way".

(Proceeding)

AG to press charges on five 'AWB' detainees

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Court Trial 25/11/90

Political Staff

FIVE alleged far-right extremists — all reported to be breakaway members of Aquila, the military wing of the Afrikaner Weerstandsbeweging (AWB) — are to be charged with various offences.

This was confirmed last night by Mr Klaus von Lieres, the attorney-general of the Witwatersrand, where the men were detained in December last year.

"There will definitely be prosecutions," he said.

Mr Von Lieres added that he had received a docket from the police about ten days ago and was considering his decision on what charges to press.

It was possible that his decision would be finalised before the end of the week.

Serious charges

But Mr Von Lieres said he could give no indication of what charges would be pressed or who would be charged.

However, it is understood that some of the men face some serious charges.

After the detention of the five, police displayed various weapons and explosives which were said to have been picked up when they were arrested.

Some of the charges they are likely to face relate to the possession of these arms.

It was also reported in December that police were investigating various incidents in which these arms and explosives were actually used against anti-apartheid activists.

Whether any of the charges they face will relate to these incidents could not be confirmed last night, but this seems likely.

Ready for trial — five more objectors take on the army

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26/1-1/2/90.

Military service may have been reduced to one year, but conscientious objectors still face the prospect of spending up to six in prison for refusing to do it. GAVIN EVANS reports

FIVE conscientious objectors from around the country are on trial for refusing to serve in the South African Defence Force and face sentences of up to six years imprisonment.

Several others have presented themselves for trial, but have not yet been charged, while the appeals of objectors David Bruce and Dr Ivan Toms will be heard by the Appellate Division next month.

Most of those facing trial were members of the group of 771 objectors who publicly refused military service in September last year.

The latest to face trial is former Permanent Force member Gary Rathbone, who will appear on court on Monday for refusing further military service.

Rathbone, 28, completed four years in the Permanent Force between 1979 and 1982, but still faces an 18 month sentence for refusing to do a camp.

He is currently completing a masters degree in African literature at Wits University and is working as a freelance journalist and artist. He is lead guitarist of the rock group The Spectres.

"I am objecting on political grounds because I believe the SADF is still upholding the apartheid system, and is not a patriotic organisation. I also object to the idea that I have no options regarding military service," he said yesterday.

Also on trial for refusing to serve are Johannesburg Anglican priest Reverend Douglas Torr, Johannesburg theologian André Croucamp, Durban End Conscription Campaign activist Michael Graaf and Pietermaritzburg rural worker Richard Clacey.

Torr, 25, a priest in Coronationville, appeared in the Johannesburg Magistrate's Court on January 15 and was remanded until May 14. He faces a mandatory sentence of six years imprisonment for refusing to do his initial service.

Croucamp, 25, who has completed his initial service, refused an army camp on December 18 last year, and has been remanded until March 26. He faces three years imprisonment.

Graaf, 30, a University of Natal honours graduate, refused a camp call-up on December 15 last year and has been remanded until February 13. He faces up to three years imprisonment.

Graaf completed his initial service 10 years ago, spending much of his time in Namibia. He is a former executive member of the ECC.

Clacey, 29, has completed his national service and all but 26 days of his camp allotment, but now faces a possible 18 months in jail.

He has twice been convicted on charges of failure to report and is now being charged with refusing to serve. For the past four years he has worked for a rural development agency in Pietermaritzburg.

Two of those who have directly informed the SADF of their refusal to comply with their call-ups are University of the Western Cape lecturer Cobus de Swardt and Catholic community worker Brendan Moran.

De Swardt, 28, announced his refusal to do further military service last year. However, when he presented himself for arrest on December 27 last year he was informed his army camp had been cancelled.

He is a Stellenbosch graduate whose step-father is the former National Party MP for Ladybrand and whose mother is the former NP Member of the Provincial Council for Malmesbury.

De Swardt is currently lecturing in sociology at the University of the Western Cape and is completing a PHD on Aids. He faces up to three years imprisonment.

Moran, 24, returned to South Africa in August last year, after three years in exile in London.

After arriving home he worked in a Catholic community service project in the Valley of a Thousand Hills near Durban and is now working as a volunteer for the Churches Alternative Service Programme as a teacher at a school for deaf children.

On Thursday he plans to report for his initial service call-up and will inform the SADF of his refusal to serve.

Another objector, David Schmidt, 30, was a recognised religious objector who completed over five years of his six year period of community service with the Cape Town municipality.

As a result he faces possible imprisonment for refusing to serve. Since taking this stand, however, religious objectors who have completed five years of their community service have been informed that further service is not required.

Three conscientious objectors are currently in jail for refusing to serve and a fourth is out on bail, having completed half of his prison sentence.

David Bruce, 26, has completed 19 months of his six year sentence at Pretoria Central Prison; Charles Bester, 19, has completed 13 months of a six year sentence at Kroonstad Prison and Saul Batzofin, 30, has completed nine months of an 18 month sentence at Zonderwater Prison.

Dr Ivan Toms, 46, completed nine months of his 18 month sentence, and is currently out on bail pending an appeal.

The cases of Toms and Bruce will be heard at the Appellate Division in Bloemfontein on February 27.

The key issue before the court will be whether the Defence Act prescribes mandatory or maximum sentences for objectors. If the appeal is successful it will mean that courts will have a discretion in determining the length of sentences.

Anger erupts over mayor's actions

By JAPIE MOKWEBO
cl pers 28/11/90

TEMBISA Town Councillors are up in arms following allegations that mayor Solomon More has allocated vast strips of land to a white building contractor without consulting the council.

Councillors and president of the Tembisa Homeseekers' Association (THA) Sam Songo this week charged that the mayor was doing things "on his own".

Thousands of THA members have been squatting near Oakmoor Station since September 29.

"The mayor wants to move all homeless families from the area to pave the way for a white builder. He has already allocated land to the company.

"Some councillors have turned estate agents for white building contractors to whom first preference is given – yet our fellow black builders are without work," Songo said.

"I say the council should allocate land to the homeless families where they can be allowed to build houses that suit their pockets. We cannot allow the mayor to push our people into debts that will result in banks evicting families."

More said the council was going ahead with preparations at the transit camp, to which all squatters were to be moved.

"I have just signed another contract with a Pretoria company that will start building in the near future. Squatters are to be housed at Tshenolong Section as their houses will be built near Leboeng, Teanong and in Esiphethweni," he said.

Medical check for terror-trial man

By DAN DHLAMINI cl pers 28/11/90 (331)

MEDICAL evidence will be given when the case involving seven alleged Azanian National Liberation Army (Azanla) members resumes on April 17.

A trial-within-a-trial began when the case started three weeks ago, following the accused's claims that they were forced to make incriminating confessions to magistrates.

Appearing on terrorism charges before magistrate JD Pretorius in the Klerkdorp Regional Court are Lawrence Kondile, 21, of Port Elizabeth; Matikela Mashiqana, 27, of Port Elizabeth; Patrick Nthako, 24, of Welkom; Nelson Joyi, 27, of Port Elizabeth; Saxon Mokonenyana, 20, of Welkom; Simon Ndlovu, 18; and Doris Tlhako, 18, both of Soweto.

Kondile was examined by a doctor during the week to ascertain if his eardrum had been perforated in an alleged assault by Bophuthatswana police when he was arrested.

Results of the examination will be presented when the case resumes.

B/Day 29/11/90

Shift in policy seen in political cases

CHARLENE SMITH

THE legal profession is closely monitoring what it perceives to be a major shift in government policy towards the prosecution of political crimes.

Witwatersrand University Centre for Applied Legal Studies director John Dugard said the centre was attempting to monitor political cases being withdrawn before they reached court.

Dugard said it was too early to be certain of the trend, but added it was clear some charges under the Internal Security Act were being dropped.

The trend included not enforcing bans on meetings, and not prosecuting those who quoted listed people or those found in possession of banned documents.

"They are letting these things go quietly but intelligently. However, my guess is that they won't repeal the Act at this stage."

Dugard said there was a mood of greater confidence in the courts.

Lawyers, advocates and legal academics see a trend towards lighter or suspended sentences in the past three months. Some say they would not be surprised if political trials, where violence is not a factor, ceased and those involved in non-violent political trials were pardoned.

The consensus appears to be that the courts are taking the initiative.

Johannesburg human rights lawyer Azhar Cachalia said he had had a case involving a woman accused of harbouring an ANC guerrilla withdrawn last Monday.

He said government's political decision to allow a rally in October that turned out to be a *de facto* ANC rally had certain legal implications, and therefore it may have been considered difficult to prosecute people for furthering the aims of the same organisation or possessing its publications.

Cape Town human rights lawyer Ibrahim Mohammed said he believed government allowing protests, talk about the return of exiles, the unbanning of the ANC and the release of Nelson Mandela had all influenced court officials.

Mohammed, who has dealt with Internal Security Act and terrorism cases for some years, gave some examples of the new trend in sentencing.

In the recent trial of the Leza sisters, they received a suspended sentence for harbouring an ANC guerrilla. In the past, Mohammed said, they would have received at least 18 months in jail.

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No directive

Mohammed cited several other cases as further examples, including some from the judicially more conservative Transvaal.

Justice Minister Kobie Coetsee, replying to a Business Day question on whether lighter sentences for political crimes were in response to a directive from his department, said: "Most definitely not."

Two of the pre-negotiation stipulations of the ANC document on negotiations, the Harare Declaration, contain demands for the abolition of the Internal Security Act and an end to political trials.

However, legal sources canvassed, almost without exception, said they did not believe this was at issue at this stage.

Rather, they believed the new political climate was influencing the courts.

Father applies for review of Trojan trial

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CAPE TOWN — Thirteen security force members acquitted of murder following the 1985 "Trojan Horse" shootings had to be brought to court again to be found guilty of the crimes with which they had been charged, the Cape Town Supreme Court heard yesterday. sfcr 30/11/90

Mr Jeremy Gauntlett SC said this while arguing in support of an application by the father of Shaun Magmoed (16) who was shot dead in the incident.

Mr Gauntlett argued questions of law relating to the murder trial being reserved for consideration by the Appelate Division.

The application was brought by Mr Martin Magmoed His son Shaun died with two other youths when police hiding in crates on a truck fired at stonethrowers and a crowd in Thornton Road, Athlone, on October 15 1985.

The case made South African legal history when the security force members implicated in the controversial shooting were brought to trial in the country's first private prosecution for murder.

A second private prosecution for the death of MichaelMiranda, 11, during the same incident was postponed pending the outcome of that brought by Mr Magmoed.

When asked by Mr Justice DM Williamson what the application "ultimately sought to achieve", Mr Gauntlett replied: "To find the (former accused) guilty of the crimes with which they were charged."

MrGauntlett argued that under Section 319 of the Criminal Procedures Act of 1977 any question of law arising out of a trial in a superior court could — at the discretion of the court, prosecutor or accused — be reserved for consideration by the Appellate Division. — Sapa.

South 11/2 - 7/2/90

Journalist on terror charges

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DURBAN. — A former Cape Town journalist, Mohamed Rafiq Rohan, 36, will appear in the Pietermaritzburg Supreme Court next Monday on six counts of terrorism.

News-editor of "The Post", a Durban newspaper for the Indian community, Rohan has been held in solitary confinement since April 1989.

Rohan's leg was broken after he was allegedly spotted reconnoitring Natal police headquarters and apprehended.

He hobbled into court on crutches last May to plead not guilty to four charges of bombing, of having received military training in Harare and Lusaka, and of possessing weapons and explosives.

At the time, Minister of Law and Order Adriaan Vlok claimed Rohan was a trained member of Umkhonto we Sizwe who bombed police housing and vehicles and planted a limpet mine at an electrical sub-station.

According to Vlok, eight limpet mines, 11 mini limpets, a Makharov pistol, 35 hand-grenades and two AK47s were found in Rohan's home.

The Media Workers Association of South Africa (Mwasa), to which Rohan belonged, slammed Vlok at the time of the arrest for pre-empting the process of justice. —

:itter freedom

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From MONO BADELA

JOHANNESBURG. — When former Cape Town trade unionist Lucienne Abrahams walked out of the Johannesburg regional court this week after 14 months in custody, her overwhelming feeling was one of sadness.

For the alleged ANC cadre, acquitted on charges under the Internal Security Act, the joy of being free was soured when her co-accused and husband Gerald Nyembe was sentenced to an effective five years in jail.

Abrahams said her release brought her only "the strongest pain of my life".

Magistrate BP Luyt sentenced Nyembe to eight years' imprisonment, three years of which were suspended for five years on condition he is not sentenced again in terms of the Internal Security Act.

Abrahams, former Western Cape organiser for the Media Workers Association of South Africa (Mwasa) and now working for the Paper, Print, Wood and Allied Workers Union, said she had "no regrets" about her 14 months in custody.

"I always knew I had the support of my family and the organisations I had been working with, and that helped me to cope with my ordeal."

Abrahams and Nyembe had pleaded not guilty and had denied leaving the country to undergo military training at ANC camps in Angola and Lusaka.

Three members of Askaris, a special police squad comprising former ANC members, had given evidence against the couple.

The trial, which began in May last year, took a dramatic turn in October when the Johannesburg regional court ruled as inadmissible a "confession" Abrahams had made to security police in Cape Town.

Abrahams claimed that the confession had been made under duress while in detention. The security police had threatened to "kill me", she said.

Mrs Julia Abrahams, 58, said in Cape Town on Wednesday she was relieved her daughter was free but "sad" that Nyembe was still imprisoned.

Duduza youths in court

EIGHT students from Duduza township near Brakpan yesterday pleaded not guilty in the Pretoria Magistrate's Court to 10 counts of terrorism.

They are Veli Mazibuko, Hosea Lengofane, Vusi Poolo, Julius Dubazane, Mpho Ambrose Nolutshungo, Ephraim Molefe Mkhwanazi, Tebogo Ben Tlatsi, and a youth of 16.

The state alleges the students were members of the African National Congress and had undergone military training on the East Rand in the use of AK47 rifles, explosives, handgrenades, and limpet mines.

The students face an alternative charge of conspiracy arising out of the 10 terrorism counts.

The State alleges the students conspired in explosions at a Nigel post office, at a service station owned by a Duduza mayor, at a municipal police office at Duduza, at a Duduza soccer stadium in which four people were injured, and on a police vehicle.

The accused are all in custody.-Sapa

Eight students in court on terror charges

Eight people from Duduza township near Brakpan yesterday morning pleaded not guilty in the Pretoria Magistrate's Court to 10 counts of terrorism.

They are Mr Veli Mazibuko, Mr Hosea Lengofane, Mr Vusi Poolo, Mr Julius Dubazane, Mr Mpho Ambrose Nolutshungo, Mr Ephraim Molefe Mkhwanazi, Mr Tebogo Ben Tlatsi and a youth of 16.

The State alleges the students were members of the African National Congress and had undergone military training on the East Rand in the use of AK-47 rifles, explosives, handgrenades, and limpet mines. The eight face an alternative charge of conspiracy arising out of the 10 terrorism counts.

EXPLOSIONS

The State alleges they conspired to create explosions at a Nigel post office, at a service station owned by a Duduza mayor, at a municipal police office at Duduza, at a Duduza soccer stadium in which four people were injured, and on a police vehicle.

They are also charged with four counts of attempted murder and bombings of a police vehicle in Zulu street, Tsakane township, Brakpan, at police single quarters at kwa-Thema, Springs, and in Mokou Street, Duduza, in which a Mr Solomon Rakosa died.

They are further charged with possession of hand grenades and limpet mines.

All these incidents allegedly took place between April and November 1989. — Sapa.

Prisoners on Death Row 'jubilant'

Weekend Argus Corrresponden

JOHANNESBURG. — Death Row prisoners were "overjoyed" and "jubilant" and planned to spend the weekend playing table tennis to celebrate President F W de Klerk's moratorium on executions.

According to Lawyers for Human Rights lawyer Mr Shucks Sefanyetso, who visited the prisoners on Death Row at Pretoria Central Prison, the mood was "very positive".

"They listened to President De Klerk's announcement on the radio, but because it was in Afrikaans, many could not understand and I had to explain it to them."

He said ANC prisoners on Death Row "are hopeful they are going to leave soon".

Mr De Klerk's announcement has been widely welcomed in legal circles.

Intense pressure

It is understood the government has come under intense pressure from judges concerned at the deteriorating image of the South African judiciary and comparisons with countries like Iran.

According to the Director of Wits' Centre for Applied Legal Studies, Professor John Dugard, judges were recently sent a questionnaire by the government sounding their views on capital punishment.

"The judges have not been happy with the spiralling rate of executions. Many judges are strongly opposed to the death penalty, and feel their hands are tied by the present law."

Mr De Klerk's announcement gives judges more discretion in applying the death penalty and gives the accused the automatic right of appeal.

Professor Dugard said the announcement would go a long way towards the abolition of the death penalty, which he believed was not as strongly supported as it may have been in the past.

Professor Etienne Murenik, a national executive member of the Society for the Abolition of the Death Penalty in South Africa, welcomed the move.

"I believe he would have been supported by a significant number of judges.

"Weaknesses"

"I would not imagine the complete abolition of the death penalty would be imminent. But these developments entail a recognition of weaknesses in the notion of the death penalty."

Lawyers for Human Rights director Mr Brian Currin predicted a "drastic reduction" in the number of executions in the near future. He said broadly based political pressure had had an effect.

He said there was a feeling among judges that the number of executions was "unacceptably high".

He said the judiciary was being discredited and that blacks "saw it as part of the oppressive system".

ANC trial expert now at loose end

Own Correspondent

JOHANNESBURG. — Major-General Herman Stadler, a veteran of more than 100 political trials, is at a bit of a loose end — his function as an ANC expert witness appeared to become largely redundant as President De Klerk completed his speech on Friday.

General Stadler, a senior security policeman before being transferred last year to the position of SAP PR chief, said yesterday that he had been scheduled to give evidence today at Pretoria Magistrate's Court, where Mr Veli Mazibuko and seven others are accused of terrorism.

"I don't know what will happen now — we will have to see," he said.

He said he was also scheduled to give evidence soon at a Black Consciousness Movement trial in Klerksdorp.

Ten years ago he attained the status of an expert witness and for many years gave evidence at almost every ANC trial. He estimates he has done so in about 100 trials now.

He said he felt no particular emotion at this new development in which, legally speaking, the ANC was no longer the enemy he had spent much of his life fighting against.

"The function of a policeman is to do the job of the day," General Stadler said.

State drops ANC charge against Issel

CAPT Trials 6/2/90

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Staff Reporter

UDF member Mr Johnny Issel had charges relating to furthering the aims of the ANC withdrawn against him yesterday.

This is believed to be the first act of its kind since President F W de Klerk's announcements on Friday.

The charges were withdrawn in absentia in Parow Regional Court.

Mr Issel 40, of Second Avenue, Fairways, said yesterday that the attorney-general's office had called his lawyers and said he need not come to court.

Mr Issel said he did not understand why the charges were withdrawn against him while "other people facing similar charges are still appearing in court".

"There seems to be confusion in the state department."

He said Mr De Klerk had been "very vague" in defining "where the ANC starts and ends and where MK (the military wing of the ANC) starts and ends. There is no difference between MK and the ANC and if he is legitimising the ANC it means legitimising MK activity".

Mr Issel first appeared in court on March 16 last year, after he was in hiding for almost three years, to face charges of furthering the aims of a banned organisation.

At yesterday's court case, Mr F Botes was the magistrate, Mr M Gerber prosecuted and Mr Issel was represented by Mr P St C Hazell, instructed by E Moosa and Associates.

British Embassy ‖ The Congress of South as our people do not have ‖

Test case for pardon

De Klerk's speech to be used as mitigating evidence in case

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A COPY of President FW de Klerk's opening speech to Parliament on Friday, in which he declared the ANC unbanned, is to be handed to the Pretoria Regional Court in mitigation of sentence of a man convicted of being an ANC member and of terrorism.

Defence counsel for Sipho Solly Mokwena, G J van der Riet, yesterday told magistrate Mr W J van den Bergh De Klerk's speech would be handed to the court as soon as copies had been made.

Last year Mokwena (29) was convicted of being a member of the then-banned ANC since 1982.

SAPA

Mokwena was also convicted on a charge of terrorism, in that he received military training from the ANC, and was in possession of hand-grenades and a Makarov pistol on the date of his arrest in 1988.

Mokwena is in custody.

Meanwhile a Soweto man was convicted yesterday in the Johannesburg Magistrate's Court of being a member of the African National Congress and of possession of weaponry, including a Makarov pistol, hand-grenades and ammunition.

Simon Modise (25), who was a "commander" of the ANC, refused to participate in the trial, saying as a black man he did not believe he would be given a fair trial in an "apartheid court".

He was acquitted on a charge of terrorism.

Mrs Winnie Mandela, wife of ANC leader Nelson Mandela, attended yesterday's hearing.

Defence counsel Ms Caroline Nichols said Modise was apparently the first member of the ANC convicted of membership of the organisation since President F W de Klerk unbanned the ANC last week.

Nichols, however, said she hoped the sentence would reflect the current political developments.

Modise, who left the country in 1976, was arrested in Soweto in September 1988 and wounded.

He will be sentenced on April 12.-

Charges are withdrawn

CAPE TOWN — Cape Town community leader Mr Johnny Issel had charges relating to furthering the aims of the ANC withdrawn against him yesterday, following President de Klerk's announcements.

Mr Issel (40) said yesterday that the Attorney-General's office had telephoned his lawyers with the news. He did not understand why the charges had been withdrawn and yet other people facing similar charges were still appearing in court. "There's some confusion in the relevant Government department."

He added that Mr de Klerk had been very vague in defining where the ANC, and particularly its military wing, started and ended.

A United Democratic Front member, Mr Issel first appeared in court on March 16 last year, after being in hiding for nearly three years, to face charges of furthering the aims of a banned organisation. — Sapa.

Judges rap 'tactless' senior magistrate

By LINDA GALLOWAY
Supreme Court Reporter

TWO Supreme Court judges have slammed a senior magistrate for remarks he made about black witnesses.

Mr Justice C T Howie and Mr Justice A M van Niekerk branded the comments as "tactless and insensitive".

In convicting and sentencing 10 residents of Zwelethemba township in Worcester in 1987 on charges of public violence, magistrate Mr M S Knox said that in his experience black witnesses would "say anything" when pressed.

"To the black, time and distance mean nothing. They know only two times and that is that the sun rises and the sun sets," Mr Knox said in a trial arising out of clashes between witdoeke and comrades in August 1987.

In citing reasons for accepting the evidence of a witness who 'seemed to have contradicted' himself and other witnesses, Mr Knox said that a black person would tell the truth "but when he is pressed there are problems and an honest witness turns into a liar".

His experience had shown that black people's vision and perception were limited.

"They can only concentrate on one aspect at a time."

Genuine endeavour

Overturning all 10 convictions yesterday, Mr Justice Howie, with Mr Justice Van Niekerk concurring, said the magistrate's statements were "a tactless, insensitive disparagement of a kind not only damaging to the administration of justice but to the country".

He did not know how Mr Knox had not realised this.

These remarks "presented as authoritative statements of universal application were of a sweeping, gratuitous nature" which were not only inappropriate and unwarranted but also severely insulting.

Reading Mr Knox's judgment and additional reasons cited for the convictions, Judge Howie said it would seem that the remarks had been made "in a genuine endeavour" to persuade the reader of his in-depth analysis of the evidence in the trial.

If that was what a judicial officer intended to do, then his findings had to be related to the individuals or the specifics of the trial before him, which had not been the case.

Judicial officers were often required to make in-depth assessments of people "from highest to lowest" but one could not dispose of a witness's shortcomings on the basis of generalisations.

● Last year Mr M S Knox told an Indian businessman in court that he had "listened to you people in Natal for 20 years and you all try to jump around (when you tell a story)".

Mr Knox was later reported to have "deeply regretted" the remark.

Man gets six years for bearing arms

331

AFRICAN Natioanal Congress member Sipho Solly Mokoena (30) was yesterday sentenced to six years imprisonment in the Pretoria regional court for terrorism.

Magistrate Mr WJ Van den Bergh warned and discharged Mokoena on the charge of being a member of the then banned ANC in the light of State President Mr FW De Klerk's speech to parliament.

Duty

Van den Bergh said he would be failing in his duty if he did not impose a sentence befitting the crime committed.

He said that Mokoena, who underwent military training and was in possession of a handgrenade and Makarov pistol at the time of his arrest, had to be given a sentence that would "scare off" other

By ALINAH DUBE

people from committing the same crime.

Arguing in mitigation of sentence earlier, Advocate JG Van der Riet asked the court to impose a suspended sentence. He urged the court to take it into consideration the release of founder members of the ANC by the Government late last year.

He submitted that there was no evidence that the accused had involved himself in acts of violence.

"Serious attempts are being made to resolve conflict in a peaceful way and the attitude of courts toward political trials has also changed," he said.

Calling for Mokoena's imprisonment, state prosecutor Mr F Roets referred to an excerpt of De Klerk's speech which said that "the eyes of responsible government across the world are focused on us ..." and submitted that "when the Third World wants to share in the prosperity of the First World they must realise that acts of violence and terror cannot be tolerated".

JACKSON

Jesse Jackson arrives today

JESSE Jackson starts week-long visit to S... Africa today in the ... of momentous ... designed to meet the ... cisms that the Ame... civil rights leader himself so vocif... voiced.

Jackson is the g... local church groups ... share his abhor... apartheid race laws, he is hoping to hold with the man ... promising to chang... face of South A... President FW de K...

Last Friday De ... lifted a 30-year-c... on the African ... Congress, the main fighting white rule promised to release leader Nelson M... an event that ... place during ... visit.

But Jackson ... get a taste of the ... that is determined let apartheid ... Afrikaner

Most exiles could be blocked

Sowetan 7/2/90

By ISMAIL LAGARDIEN

PRESIDENT FW de Klerk's invitation to exiles to come home is confusing and borders on the fallacious.

Almost all the members of movements in exile have at some point committed what can be construed as an act of terror under Section 54 of the Internal Security Act and in terms of the Common purpose doctrine.

Any perso... that has for instance undergone military training could be "guilty of the offence of terrorism and liable on conviction to the penalties provided for by the law for the offence of treason," the law reads. De Klerk did not extend an amnesty, he merely said they should come home.

While the State, through De Klerk's utterances of Friday, implicitly declared no intention to prosecute exiles on return the problem would be that most exiles are not in possession of a South African passport and would have to report to foreign embassies and apply for travel documents.

The question arises whether in the course of applying to re-enter the country will a consular or embassy official allow "terrorists" into South Africa?

Ms Alayne Reesburg of the Department of Foreign Affairs in Cape Town yesterday said: "If there are no charges investigated against any person or they are not linked to any act of violence, they will be allowed back in."

Under the Common Purpose Doctrine all members of movements in exile, particularly military personnel can be found guilty. The issue that bothers most is not arrest in South Africa, but the issue of visas or passports on foreign soil as embassies abroad refer all inquiries - made abroad - to the police.

Applications for passports and visas are dealt with through the same channels as always, including the police. In other words the same discretion applies, she said.

A Johannesburg lawyer said De Klerk's statement was not very clear and a parliamentary source, using the infringement of the Group Areas Act as an example suggested the state would "turn a blind eye" unless it involved a criminal act.

FW's speech used in court

(331) (3055)

STAR 7/2/90

A transcription of Friday's speech by President de Klerk was handed to the Pretoria Regional Court yesterday as evidence in mitigation of sentence for an ANC member.

Sipho Mokwena (24) was cautioned and discharged on a charge of being a member of the ANC, but magistrate Mr W J van der Bergh convicted Mokwena on a charge of terrorism and sentenced him to six years' imprisonment.

He was found to have undergone ANC military training and to have been in possession of a pistol and two grenades.

Mr van der Bergh added that although he took the changing climate in South Africa into consideration, the ANC had still not renounced violence. He said he was passing judgment in a cloud of uncertainty and the seriousness of the charge could not be ignored. — Sapa.

'Suspect's leg broken'

CAPT THIS 8/2/90

331

Cop tells of chase after blast

Own Correspondent

MARITZBURG. — Police found Post Natal news editor Mr Muhammed Rafiq Rohan, 35, lying concealed in bushes where he had made a splint for his broken leg with twigs and shoelaces hours after a high-speed car chase through Durban ended in a collision last April, the College Road Supreme Court heard here yesterday.

A policeman who was involved in the chase along NMR Avenue yesterday identified Mr Rohan as the driver of a blue Ford Sierra spotted in the vicinity of C R Swart Square which aroused suspicion on the night of April 7 last year.

A bomb exploded outside the SAP single quarters about 10pm the same night, injuring three people.

Mr Rohan has pleaded not guilty before Mr Justice Law and two assessors to 22 counts including terrorism and attempted murder as well as possession of bombs, arms and ammunition.

Constable S Meyers said that after the crash, he saw the driver of the Sierra run into the bush. Police could not find the suspect.

About 3.45am the next day the policeman was called back to the scene of the collision. He met up with a dog handler who then found Mr Rohan behind some bushes nursing a broken leg.

The state alleges in the indictment that Mr Rohan placed an explosive device consisting of two 158 mini-limpet mines and four SZ-3 demolition charges at C R Swart Square on April 7.

The hearing continues today.

Transkei frees six prisoners

UMTATA. — Six political prisoners in Transkei jails were released yesterday.

Those released are: Teko Mokhou, Tandisile Jada, Mcebisi Derrick Waqu, Sindiso Sigcu, Ndibulele Ndzamele Mayapi and Pumzile Mayapi.

Both Ndzamele Mayapi and Pumzile Mayapi recently had their double death sentences set aside by the appellate division.

They were convicted following the death of two people at the Mzamba Wild Coast hotel as a result of a limpet mine blast in a toilet.

— Sapa

Man gets 8 years for sabotage conspiracy

Star 9/2/90 (331)

By Celeste Louw

A Soweto bricklayer was sentenced in Johannesburg Regional Court yesterday to an effective eight years' imprisonment for conspiring with members of the ANC to sabotage John Vorster Square.

Harold Matsididi (42) was also sentenced to three years' jail for illegal possession of a firearm and ammunition. The sentences will run concurrently.

The magistrate, Mr H Wolmarans, found that members of the ANC offered Matsididi R5 000 to assist them in sabotaging John Vorster Square.

The men were stopped by police on July 30 1988 on their way to the police station.

Four men escaped but Matsididi was arrested when the police found firearms, including AK-47 rifles and a hand grenade, in their vehicle, the court found.

ANC man jailed — despite FW

F/Mail 9/2 — 15/2/90

By VUSI GUNENE

DESPITE State President FW de Klerk's unbanning of the African National Congress last week, a Pretoria Regional Court magistrate on Tuesday sentenced a man to six years imprisonment for "furthering its violent aims".

The magistrate, WJ van den Bergh, dismissed charges of membership of the ANC, but noted, in passing sentence, that Sipho Mokwena had returned to the country in 1988 with weapons in his possession.

Van den Bergh said Mokwena gave no explanation about what he intended to do with the weapons, but "one had to conclude he intended to use them to kill and maim in order to promote the murderous aims of the ANC".

No evidence was led regarding any acts of violence perpetrated by Mokwena.

Van den Bergh described his task as a difficult one in view of "a cloud of uncertainty" hanging over the ANC's legal postion in the country.

But in justifying sentence, he expressed doubts that the ANC would change its militant position and argued that sentence was being passed on the illegality of Mokwena's actions at the time of his training between 1982 and 1988.

● Two other ongoing political trials were this week postponed, awaiting further clarity following De Klerk's announcements. (331)

Both the Yengeni trial in which 14 trialists are faced with terrorism charges and with membership of and furthering the aims of the ANC and the "Delmas III" trial in which 12 Pretoria activists are charged with murder of three policemen in Atteridgeville near Pretoria were adjourned pending the resolution of legal difficulties surrounding the current position of ANC agents.

● In the Johannesburg Regional court this week, Simon Modise was aquitted of terrorism charges but convicted of ANC membership and possession of weapons. Sentence is due on April 12.

● Rafiq Rohan, news editor of the *Post Natal*, had charges of membership of the ANC withdrawn this week and is now charged with alleged planting of bombs in Natal.

Also in Natal, Lulamile Xate, an alleged Umkhonto weSizwe chief has his judgement due on February 15. His defence will make reference to De Klerk's announcement during mitigation of sentence.

In Cape Town, Johnny Issel, patron of the United Democratic Front, had charges of promoting the aims of the ANC withdrawn against him on Monday this week.

1 000 gather to welcome Vena

UMTATA. — More than 1 000 schoolchildren gathered outside the Transkei Supreme Court here yesterday to welcome Mr Mzwandile Vena, 34, who was granted bail during a politically related trial.

Mr Vena, an alleged ANC military commander, has spent the past three years awaiting trial on charges of sabotage. He is accused of sabotaging the bulk fuel depot in Umtata in June 1985.

He was granted R2 000 bail and will appear in court on April 20 this year.

Mr Vena was extradited from Cape Town in 1986 to stand trial in Transkei. — Sapa

Rumania and around 300 others with the HIV virus causing the disease.

CAPE TIMES 10/2/90

39 city charges dropped

CHARGES of attending illegal gatherings were withdrawn against 39 people in Cape Town Magistrate's Court yesterday in light of the announcements by the President in his opening address to Parliament. The 39 were to have appeared in connection with a march in November last year in solidarity with the Yengeni terrorism trialists.

A voice from 25 years ago

STAR 12/2/90 (331)

Facing the real possibility that he might be sentenced to death, Nelson Mandela made his last public statement for more than a quarter of a century on April 20, 1964. It was a statement central to the whole Rivonia trial.

These are excerpts from a speech which he opened by simply saying: I am the First Accused.

"At the outset, I want to say the suggestion by the State ... that the struggle in South Africa is under the influence of foreigners or communists is wholly incorrect. I have done whatever I did, both as individual and a leader of my people, because of my experience in South Africa and my own proudly felt African background.

"I do not deny that I planned sabotage. I did not plan it in a spirit of recklessness, nor because I have any love of violence. I planned it as a result of a calm and sober assessment of the political situation that had arisen after many years of tyranny, exploitation and oppression of my people by whites."

He admitted he was one of the people who helped to form Umkhonto We Sizwe in November 1961.

The organisation was started for two reasons, he said: "Firstly, we believed that as a result of Government policy, violence by the African people had become inevitable, and that unless responsible leadership was given to canalise and control the feelings of our people, there would be outbreaks of terrorism which would produce an intensity of bitterness and hostility between the various races in this country which is not produced even by war.

"Secondly, we felt that without violence there would be no way open to the African people to succeed in their struggle against ... white supremacy.

"It was only when the Government resorted to a show of force to crush opposition to its policies, did we decide to answer violence with violence. But the violence we chose was not terrorism.

"The ANC had always stood for a non-racial democracy and we shrank from any action which might drive the races further apart than they already were.

"In June of 1961 our followers were begining to lose confidence in this (non-violent) policy and were developing disturbing ideas of terrorism.

Political struggle

"In the late 50s there were outbreaks of violence. Independent small groups were spontaneously making plans for violent political struggle. There was a growing danger that they would adopt terrorism against Africans as well as whites, if not properly directed," he said.

"Civil war would mean the destruction of what the ANC stood for; with civil war, racial peace would be more difficult than ever to achieve.

"Four forms of violence were possible ... sabotage, guerilla warfare, terrorism and open revolution. We chose to adopt the first method and to exhaust it before taking any other action.

"... Sabotage did not involve loss of life, offered the best hope for future race relations, bitterness would be kept to a minimum.

"... We believed South Africa depended to a large extent on foreign capital and foreign trade. We felt that planned destruction of power plants and interference with rail and telephone communiciations would tend to scare capital away from the country ... compelling voters to reconsider their position."

He denied trying to introduce Marxism into the ANC.

"The ANC, unlike the Communist Party, admitted Africans only as members. Its chief goal was for the African people to win unity and full political rights. The CP's main aim was to remove the capitalists and replace them with a working-class establishment.

"The CP sought to emphasise distinctions whilst the ANC seeks to harmonise them. This is a vital distinction.

"The complaint of Africans, however is not only that they are poor and whites are rich, but that the laws which ar made by the whites are designed to preserve this situation. There are two ways to break out of poverty. The first is by formal education, the second by the worker acquiring a greater skill at his work and thus higher wages.

"As far as Africans are concerned both these avenues of advancement are deliberately curtailed by legislation.

"During my lifetime I have dedicated myself to this struggle of the African people. I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and achieve.

"But if needs be, it is an ideal for which I am prepared to die."

On December 16 1961, organised acts of sabotage against government installations marked the emergence of Umkhonto we Sizwe. The same day, the organisation (later to become the ANC's armed wing) dropped leaflets claiming responsibility for the attacks and pledging to carry on the struggle for freedom and democracy by "new methods".

National liberation organisations preferred peaceful opposition, but the patience of the people was not endless, the pamphlet said. The time had come to submit or fight, and "we have no choice but to hit back by all means within our power in defence of our people, our future and our freedom".

Eighteen months later, on July 11 1963, security policemen raided Lilliesleaf farm in Rivonia.

They found nine people in the house. Open on a table lay "Operation Mayibuye" (Operation Come Back), a blueprint for guerilla warfare in South Africa. It had been drawn up by Arthur Goldreich.

In the subsequent trial the six-page document proved crucial as the State tried to prove that the men had plotted sabotage with the ultimate aim of overthrowing the Government.

The plan envisaged that a massive propaganda campaign would be scheduled to stir the masses, along with action by armed guerilla bands attacking pre-selected targets to "create maximum havoc and confusion in the enemy camp".

On October 9, 11 men made their first appearence in a sensational trial which was to last seven months in the Palace of Justice, Pretoria. Among them was Nelson Mandela, a founder-member and commander in chief of Umkhonto we Sizwe, brought from prison to stand trial as the first accused.

Also on trial were ANC secretary general Walter Sisulu, Congress of Democrats executive member Dennis Goldberg, senior ANC official Govan Mbeki, SACP members Ahmed Kathrada and Lionel Bernstein, ANC Cape executive member Raymond Mhlaba, Johannesburg lawyers James Kantor and Bob Hepple, and Elias Motsoaledi and Andrew Mlangeni.

Goldreich and Harold Wolpe were also arrested but escaped from the Johannesburg Fort after bribing a warder. Hepple offered to turn State witness, was released on bail and then fled the country.

The trial roused massive public interest. Reports and editorials were carried in newspapers worldwide. Already there were calls being made to "Free all political prisoners" and "Free Mandela now".

Prime Minister Verwoerd warned the West about "communist-inspired protests" regarding the trial.

Soweto man in court

JOHANNESBURG. — Mr Jerry Vusi Musi Richardson, 41, of Orlando West, Soweto, appeared briefly in the Rand Supreme Court yesterday in connection with the murder of 14-year-old James Moeketsi "Stompie" Sepei.

Mr Richardson was not asked to plead and the case was postponed till Thursday.

In addition to the murder allegation, Mr Richardson also faces an allegation of attempted murder, four counts of kidnapping and five counts of assault with intent to commit grievous bodily harm.

According to the indictment, Mr Richardson was one of a group of people who in December 1988 removed Stompie and three men from the house of the Rev Paul Verryn in Orlando West, and took them to Mrs Winnie Mandela's home at 585 Diepkloof Extension.

The men were assaulted and Stompie's body was found on January 6 last year in the veld between Noordgesig and New Canada. — Sapa

Rohan trial resumes

STAR 13/2/90 (339) (SAPA)

Own Correspondent

MARITZBURG — The State yesterday withdrew its application for a statement made by the accused, Mr Muhammad-Rafiq Rohan, to a Durban magistrate to be used as evidence in his trial.

This was announced here yesterday when Mr Rohan's trial resumed.

Mr Rohan has pleaded not guilty to four charges of attempted murder arising out of bomb blasts last year and to 18 other charges.

The statement was made a few days after his arrest and while he was recuperating from an operation to his leg, broken in a car crash.

BOMB BLASTS

On Friday defence counsel, Mr Kessie Naidu, severely criticised the conclusion of a Durban magistrate, Mr J H Booysen, that the statement had been freely and voluntarily made.

Lieutenant-Colonel H J Fourie said he was asked to accompany Mr Rohan on April 14 last year to various places in Durban.

He said Mr Rohan guided him to the site of a bomb blast in Ridge Road as well as sites at the Natal Command of the Defence Force, the C R Swart police station and at Bulwer Park.

GPA Trial 331

'PAC' man's trial dropped

DURBAN. — An allegation of terrorism was withdrawn in absentia against a man who, it was claimed, was a member of the recently unbanned Pan African Congress (PAC).

Allegations of illegal possession of a pistol and ammunition and of PAC-related publications against Mr Christopher Nhlanhla Myeza, 28, of Thornhill, were also withdrawn in the Regional Court here yesterday. — Sapa

'Rohan showed bomb sites'

MARITZBURG — Post Natal news editor Mr Muhammad-Rafiq Rohan, 35, had shown police places where bombs had exploded in Durban between January and April last year, including the SADF's Natal Command headquarters.

Thus testified Lt-Col H J Fourie of Maritzburg at Mr Rohan's trial in the Supreme Court here yesterday.

Mr Rohan has pleaded not guilty to a total of 22 counts including terrorism, attempted murder, wilfully causing explosions and possession of arms, ammunition and explosives.

At the start of yesterday's hearing, state counsel withdrew an application to admit an alleged confession made by Mr Rohan to a magistrate as evidence in the trial.

The hearing continues today.

Hit list found in Mandela home

Sowetan 15/2/90

331

By MANDLA NDLAZI

A "HIT list" was found in Mrs Winnie Mandela's home by police who searched the place, a Rand Supreme Court judge heard yesterday.

This was disclosed by Sergeant JD van Zyl, investigating officer in the murder of Mr Maxwell Sanele Madondo, a member of the Mandela United Football Club.

Van Zyl said he was given the list by his colleagues who found it in Mandela's home on February 19 last year.

The list, exhibited in court, contained the names of some the men accused of Madondo's murder, and those of Elliot Sisulu and Sipho Sisulu. Van Zyl said the other name in the list, Boni, was that of a person who had been killed.

Van Zyl said this when he was cross-examined by Mr Norman Kades, counsel for the defence at the murder trial of seven accused, among them, Mrs Dudu Chili (47) a member of the Federation of Transvaal Women, and a 17-year-old youth.

Appearing before Mr Justice RA Solomon and two assessors, the seven accused have pleaded not guilty to the murder of Madondo on February 13 last year.

The proceedings have been plunged into a trial-within-a-trial following a dispute between the state and the defence over the admissibility of a statement allegedly made by one of the accused, Mr Isaac Mazibuko.

Earlier, sergeant Van Zyl denied he had forced Mazibuko to make a statement to a magistrate. He also denied he assaulted him. Van Zyl said he did not know whether Madondo was a member of the Mandela Football Club. He did not ascertain this in his investigation.

WINNIE MANDELA

charlie CHARLIE

DALETAN CONSTRUCTION

T'kei courts to drop cases

Own Correspondent

UMTATA. — Transkei courts have been advised by the Department of Justice to postpone for three months cases involving politically motivated violent crimes in which the accused had pleaded, and to withdraw charges completely where the accused had not pleaded.

The deputy attorney general, Mr John Reebein, confirmed that the courts were issued a directive following the unbanning of political organisations.

The directive also included the stopping of cases where the accused had pleaded to non-violent crimes, and the calling off of investigations into suspected political offences.

Medical student guilty of terrorism

331

A MEDICAL student at the University of Natal was convicted of terrorism by a Durban Regional Court magistrate yesterday.

The magistrate, Mr HS van der Walt, found that Lulamile Xate (31) was a member of the African National Congress from 1982 and had become Natal regional commander of Umkhonto we Sizwe, military wing of the ANC.

The court found that between September 1983 and December 1985 he took part in the activities of the ANC and conspired with other members to commit acts of violence.

These included the bombing of the home of Mr Amichand Rajbansi, at that time chairman of the House of Delegates, in August 1985.

Xate organised three men to bomb the Grosvenor Girls' High School in October of the same year. Two of the bombers died in the explosion and a third was seriously injured.

He was found guilty of the attempted murder of pupils and staff of the school.

The magistrate said a sophisticated device with a long time delay had been used. This indicated a plan for the bomb to explode while the school was in session.

The case was adjourned to February 26 for evidence and argument on sentence. - Sapa.

Police dragnet for nine on run

Argus 19/2/90

331

The Argus Correspondent

JOHANNESBURG. — A police dragnet was cast over the Reef for nine prisoners, charged with terrorism and high treason, who broke out of the Modderbee Prison near Benoni after overpowering warders.

The nine were to have appeared in the Delmas Cicuit Court today, said Witwatersrand police spokesman Captain Eugene Opperman.

The prisoners are armed and at least one of them has a prison warder's uniform.

Captain Opperman said the suspects attacked warders about 10am yesterday and overpowered them.

The suspects are: Mr Alfred Kgasi, Mr Ernest Ramodika, Mr Francis Pitse, Mr Johannes Maleka, Mr Jospeph Nkosi, Mr Reginald Legodi, Mr Tapelo Kapotse, Mr Maketse Toka and Mr George Mate.

They are regarded as "extremely dangerous."

The nine took a warder's car and drove towards Johannesburg.

Police immediately began an extensive search and roadblocks were set up.

9 terror-accused escape

JOHANNESBURG. — Nine men charged with terrorism and due to appear in the Delmas Circuit Court today overpowered warders and escaped from Modderbee prison near Benoni yesterday, police said.

The men, who are armed and said to be extremely dangerous, made their getaway in a beige Nissan Skyline belonging to one of the warders. — Sapa

19/4/90 (331)

Medical student (31) is convicted of terrorism

Own Correspondent

DURBAN — A medical student at the University of Natal was yesterday convicted of terrorism, including the possession of explosives, the bombing of the home of Mr Amichand Rajbansi, the bombing of the Grosvenor Girls' High School and attempted murder arising from the High School bombing.

A Durban Regional Court magistrate, Mr H S van der Walt, found Lulamile Xate (31) was a member of the ANC from 1982 and had become Natal regional commander of Umkhonto we Sizwe, its military wing.

The court found that between September 1983 and December 1985 he took part in the activities of the ANC and conspired with other members to commit acts of violence.

BOMBINGS

The court found he was involved in the bombing of the home of Mr Rajbansi, at that time chairman of the House of Delegates, on August 4 1985. An explosion caused damage to the house.

The court found he organised three men to bomb the Grosvenor Girls' High School on October 24 the same year. Two of the bombers died in the explosion and the third was injured.

Mr van der Walt found Xate guilty of attempted murder of pupils and staff of the school. He found that it had been planned that the bomb explode while the school was in session.

Xate admitted a previous conviction in the Supreme Court in Maritzburg in 1986 for refusing to testify. He also admitted another conviction for contempt of court on the same occasion.

The hearing was adjourned to February 26.

Winnie told me to hide ex-member of football club

331

Mus 20/2/90.

The Argus Correspondent

JOHANNESBURG. — A former member of the Mandela United Football Club was encouraged to go into hiding by Mrs Winnie Mandela after he claimed her daughter's lover, Mr Clayton Sizwe Sithole, had shot and killed a member of the football club, the Rand Supreme Court has heard.

Mr Sithole, the father of Miss Zinzi Mandela's child, was found hanged in a shower at John Vorster Square police station on January 30.

Yesterday Mr Lerotodi Andrew Ikaneng, 23, one of four accused of killing a former club member, gave evidence in his own defence. He told Mr Justice R A Solomon and two assessors that Mrs Mandela told him she would find a hiding place for him as police would want to question him about the death of the club member, Mr Maxwell Madonda who was known as Tole.

She told him Tole had been killed because he had given evidence in court.

Mr Ikaneng, Mr Isaac Mazibuko, 22, Mr Sandilo Blanket, 22, and Mr Sibusiso Chili, 25, have pleaded not guilty to murdering Mr Madonda, who was allegedly beaten to death in Orlando West on February 13 1989.

Three other accused, Mrs Dudu Chili, 47, her son Mr Mpika Chili, 22, and Mr Moses Nhlanhtla Blanket, 18, were last week acquitted of murdering Mr Madonda.

Mr Ikaneng testified yesterday he had joined the football club in 1986 and lived in Mrs Mandela's house in Orlando West. After an argument with Mr Sithole and the death of Tole he had left the club.

He said he had been arrested and detained for most of 1987. On his release he returned to Mrs Mandela's home. He left in 1988 and was later called an "informer" by Mrs Mandela and her daughter, Zinzi, at a meeting of a "disciplinary committee" at the Mandela home in Dube.

He said the meeting appeared to have been led by Mr Sithole.

Mr Ikaneng testified Mrs Mandela had urged him to go into hiding after Tole was killed. He had seen Mr Sithole carrying an AK47 rifle.

(Proceeding).

results would not be made known before March.

Cape Times 21/2/90 (331)

Bail granted at terror trial

PRETORIA. — Five of eight students charged with terrorism in the Pretoria Magistrate's Court were yesterday granted bail on condition they do not attend political gatherings. Charges against Mr Ambrose Nolutshungo were withdrawn, and Mr Hosea Lengosane and Mr Veli Mazibuko were refused bail. The state alleges the students were members of the ANC and had undergone military training.

—

Star 21/2/90 ( ) (331) (SB)

How 9 terror accused escaped

Staff Reporter

Nine awaiting-trial prisoners who escaped from Modderbee jail on Sunday obtained door and car keys and a uniform from a warder before making their getaway, a Prisons Service spokesman said yesterday.

Unlocked doors

The nine, accused of terrorism, were armed with a pistol but it was not known where they had obtained it, he added.

Initial information, he said, revealed that the prisoners had tied up three members of the Prisons Service, unlocked the doors and escaped in a car "after having forced members on duty at the access gate to the reserve to open the gates at gunpoint".

The spokesman added: "The car, car keys, uniform as well as the prison door key were recovered in Daveyton later that afternoon. The necessary steps were taken to secure the prison doors."

The Regional Commissioner of Prisons for the Transvaal, Brigadier A J van Zyl, has been commissioned to investigate the escape departmentally.

He said relevant measures would be instituted depending on the outcome of the investigations.

Trialist fails to testify

(33) Sowetan 21/2/90

THE failure of Durban journalist, Mr Muhammad-Rifiq Rohan (35), to testify in his trial and say where he acquired the knowledge to point out the site of four bombings in Durban last year should count against him, State counsel, Mr Christo van Schalkwyk; said in the Supreme Court here yesterday.

Arguing for his conviction on four counts of attempted murder arising from the bombings, Van Schalkwyk said that the facts gathered by the State made a case strong enough to call for an answer from Rohan.

In the circumstances his failure to reply to aspects of the State case strengthened its case.

He said that Rohan had instructed a police officer, who was a stranger to Durban, to drive to the sites of the bombings and had led the way to the sites.

PAC case scrapped

Court Reporter

CHARGES of furthering the aims of a banned organisation were yesterday withdrawn against a Guguletu man in Cape Town Magistrate's Court.

This was done in absentia as Mr Reginald Mteteli Mzamo, 22, failed to appear. He forfeited R5 000 bail.

Mr Mzamo had been suspected of harbouring a member of the PAC, one of the organisations unbanned this month.

Mr H J Ventar was the magistrate. Mr J M McEwan prosecuted. Mr A Khan appeared for Mr Mzamo.

Star 25/2/90 (331)

Winnie encouraged me to go into hiding, says accused

Mandela FC man 'an informer'

By Marguerite Moody

A former member of the Mandela United Football Club was labelled an "informer" and was encouraged to go into hiding by Mrs Winnie Mandela after he claimed her daughter's lover, Mr Sizwe Sithole, had shot and killed a member of the club, it was alleged in the Rand Supreme Court yesterday.

Mr Sithole, the father of Miss Zinzi Mandela's child, was found hanged in a shower room at John Vorster Square police station on January 30.

Yesterday Mr Lerotodi Andrew Ikaneng (23), one of four people accused of killing a former club member, gave evidence in his own defence.

He told Mr Justice R A Solomon and two assessors that Mrs Mandela told him she would find a hiding place for him as the police would want to question him on the death of the club member, known as "Tole".

Mr Ikaneng, Mr Isaac Mazibuko (22), Mr Sandilo Blanket (22) and Mr Sibusiso Chili (25) have pleaded not guilty to murdering former club member Mr Maxwell Madonda, who was allegedly beaten to death in Orlando West, Soweto on February 13 last year.

Three other accused, Mrs Dudu Chili (47), her son Mr Mpika Chili (22) and Mr Moses Nhlanhtla Blanket (18) were last week acquitted of murdering Mr Madonda, after defence counsel Mr Norman Kades made an application for their discharge on the grounds that there was no evidence against them.

Mr Ikaneng testified yesterday he had joined the football club in 1986 and lived in Mrs Mandela's house in Orlando West. After an argument with Mr Sithole and the death of "Tole" he had left the club.

Disciplinary committee

He said he had been arrested and detained by the police for most of 1987. On his release he returned to Mrs Mandela's home. He left the house in 1988 and was later called an informer by Mrs Mandela and her daughter Zinzi at a meeting of a "disciplinary committee" at the Mandela home in Dube.

He said the meeting appeared to have been led by Mr Sithole.

Mr Ikaneng said Mrs Mandela had urged him to go into hiding after "Tole" was killed near a shebeen later that year. He had been at the shebeen with "Tole" and had seen him lying in the street after hearing a shot go off. He had earlier seen Mr Sithole carrying an AK47 rifle.

Mrs Mandela summoned him again after he went to the police and made a statement regarding "Tole's" killing.

On a later date, Mr Ikaneng said, he was stabbed in his neck by the club's coach, Mr Jerry Richardson.

He said thAT at the time of Mr Madonda's death, he had worked at a shebeen in Orlando West and had gone to the scene of the crime after hearing that one of his colleagues at the shebeen, Mr Sibusiso Chili was involved in a "fight".

He claimed he had seen Mr Chili drop a large stone on Mr Madonda's head.

Under cross-examination, Mr Ikaneng denied having known Mr Madonda and said he had had no part in the assault on Mr Madonda.

The hearing continues.

Ruling on trials in trial tomorrow

Supreme Court Reporter

MR Justice S Selikowitz will rule tomorrow whether four separate trials-within-a-trial should be held in respect of confessions made by seven accused in the trial of Mr Tony Yengeni and 13 others, as requested by the state, or one, as suggested by the defence.

This follows an application by Mr Hendrik Klem SC, for the state, that separate trials-within-a-trial be held to test the admissibility of confessions allegedly made to a magistrate by seven of the accused. The state would start with the confession of Mr Mbutu Nduku, he said.

This was opposed by the defence counsel.

Security police had used an investigational system and by intimidation, threats of violence and actual violence had induced the accused to make the statements. Jailed ANC guerillas Ashley Forbes and Nicklo Pedro, and terrorism accused Lucien Abrahams, would give evidence to that effect, the court heard.

Mr Klem yesterday told the court the alleged investigational system "was merely a bogus attempt" to render admissible evidence by Mr Nduku which was not relevant to his case.

Separate trials would save time, he said.

Youths guilty of cop attack

331

Sowetan 23/2/90

TWO youths convicted on a charge of attempted murder understood they were involved in ANC-related activities when they attacked a municipal police station in Soweto with grenades and AK-47 rifles.

This was according to expert evidence submitted by political sociologist Dr Mark Orkin in mitigation for three youths convicted

By SONTI MASEKO

by Johannesburg magistrate Mr I J J Luther yesterday.

The youth, Clement Mbuleko Sobikwa (22), Patrick Mandla Khoza (19) and Lloyd Juluka Methula (31) were found to have been involved in the attack at Phiri Hall in Soweto on March 8 1988 in which 11 policemen were injured.

The youths admitted having four AK-47 rifles, 145 rounds of ammunition, three hand grenades and a detonator.

Luther accepted the defence counsel's plea that the 11 counts of attempted murder be treated as one offence.

Sobikwa and Methula were found guilty of attempted murder and three counts relating to the possession of arms, ammunition and explosives while Khoza, who was 16 at the time, was convicted only for possession arms.

Earlier Mr Velile Zwane was acquitted on all counts because the court found that an alleged confession he made to a magistrate had not been made voluntarily.

ANC man jailed for bombings

Cape Times 28/2/90

331

DURBAN. — An ANC terrorist who was involved in the bombings of the Grosvenor Girls' High School and the home of Mr Amichand Rajbansi was yesterday sentenced to a total of 23 years' imprisonment — an effective five years — by a Durban Regional Court magistrate.

Lulamile Xate, 31, was sentenced to five years on each of three counts of terrorism. All the sentences will run concurrently.

The counts involved the bombing of the school on October 24, 1985, and the bombing of the home of Mr Rajbansi, then chairman of the House of Delegates, on August 4 the same year. The third count involved organising violence and included possession of explosives.

Xate was sentenced to eight years' imprisonment — three of which were suspended for five years — for attempted murder arising from the bombing at the high school. — Sapa

Apartheid signs cut down: Appeal lost

331

The Argus Correspondent Argus 28/2/90

MARITZBURG. — Durban civil rights activist Morris Fynn has lost an appeal in the Maritzburg Supreme Court against his conviction following his cutting down of apartheid beach signs on Christmas Day, 1988.

Fynn was convicted of malicious injury to property in June last year by Durban magistrate Mr P J du Plessis, and fined R200 or 20 days' imprisonment. Fynn told Mr du Plessis he had cut down the beach signs because they were causing irreparable harm to South Africa.

NO RIGHT TO DAMAGE PROPERTY

Mr du Plessis said one might have all the sympathy for Fynn's views and feelings, but that did not give him the right to damage property belonging to others.

Rejecting his appeal on Monday, Mr Justice Squires said however valued his moral principals might have been, putting them into effect resulted in unlawful conduct.

He said it had been established that Fynn's actions had been unlawful and he upheld the conviction and sentence.

Mr Justice Thirion concurred.

Treason charges dossier handed to A-G

ARGUS 28/2/70

Political Correspondent

CHARGES of high treason against Mr Nelson Mandela, Mr Walter Sisulu and PAC leader Mr Zeph Mothopeng by the Conservative Party have been investigated by the police and a dossier has been submitted to the Attorney-General for a decision, parliament has been told.

This emerged in a debate yesterday on a question by the CP MP for Bethal, Mr Chris de Jager, to the Minister of Law and Order, Mr Adriaan Vlok.

The Democratic Party appealed for a more sensitive approach.

Mr De Jager, who said he was astonished that action had not been taken earlier against the two ANC leaders and Mr Mothopeng over their repeated, public statements supporting the armed struggle, asked Mr Vlok if criminal proceedings were being instituted. It was a "serious issue", he said.

Mr Vlok, who confirmed that the charge was laid on February 12, said the dossier was forwarded by police to the Attorney-General on February 22.

It was up to him to decide whether the matter went to court or not.

Bomber of school, MP's home sentenced

ANC terrorist jailed for 5 years

(331) Star 28/2/90

Own Correspondent

DURBAN — An ANC terrorist involved in bombing the Grosvenor Girls High School and Mr Amichand Rajbansi's home was sentenced to 23 years' imprisonment — an effective five years — by a Durban Regional Court magistrate yesterday.

Lulamile Xate (31) was sentenced by Mr H S van der Walt to five years on each of three counts of terrorism.

The counts involved the bombing of the high school on October 24 1985 and the bombing of the home of Mr Rajbansi, then chairman of the House of Delegates, on August 4 1985.

The third count involved organising violence and included possession of explosives.

Xate was sentenced to eight years for attempted murder arising from the school bombing.

The magistrate ordered all the sentences to run concurrently. Three years of the sentence for attempted murder were suspended for five years.

He ordered that the sentence run concurrently with one Xate is now serving for refusing to testify and for contempt of court in a trial in Maritzburg.

Strategy

Passing sentence, the magistrate said the ANC had not been indicted but the entire trial turned around its strategy, one of which was to start a people's war. It had succeeded in that people were fighting and the victims were mainly members of the black community.

Some of the witnesses in the trial were pawns in the political game, Mr van der Walt said.

Xate was not a pawn. He was a very intellectual person and a leader. He must have considered whether it was defensible and morally right to cause death, injury and destruction to ordinary members of society in order to pursue his own political aims.

In law, such behaviour was utterly wrong. Such acts were potentially dangerous to the lives and property of ordinary citizens, the real victims of a people's war.

The attempted murder charge showed how far the people's war had escalated — everything had become a legitimate target.

All the offences had been politically motivated. One wondered whether they would have been committed had the political climate then been what it is today.

Such offences would hopefully no longer be committed.

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local journalists said yesterday.

Editor: Charges upheld

JOHANNESBURG. — The prosecution of Vrye Weekblad editor Mr Max du Preez, and the publication's owners, on charges of contravening the state of emergency regulations relating to media publications, was upheld by the Regional Court here on Monday.

Journalist tried to blow up police HQ

331

APL-Tidits 1/3/90

MARITZBURG. — Former Post Natal news editor Muhammed Rafiq-Rohan was yesterday convicted in the Supreme Court on charges of sabotage, wilfully causing explosions, and possessing arms, ammunition and explosives.

Rohan, 36, appearing before Mr Justice Law and two assessors, was acquitted on several other charges, including those of terrorism and attempted murder.

He was found to have caused three explosions in Durban — at C R Swart Square police headquarters, at a police radio workshop in Ridge Road and at Natal Command.

The explosions caused the injury of at least 17 people and caused thousands of rands damage, the court found.

Mr Justice Law found that the state had failed to prove that Rohan placed a bomb which exploded at the Bulwer Park electricity sub-station on January 25 last year. — Sapa

Pensioner loses murder appeal

A PENSIONER, sentenced to 15 years imprisonment for murdering a farm labourer by tying him to the back of his bakkie and dragging the man for more than 2km, yesterday appealed unsuccessfully in the Pretoria Supreme Court against his conviction and sentence.

Mr Justice F C Kirk-Cohen, Mr Justice J J Strydom and Mr Justice C Botha dismissed an appeal by John Augustine Perreira (59) against his conviction on a charge that he had murdered farm labourer Mr Molefe Nzima near Klipfontein in the Ogies district on November 18 1987.

An appeal against his 15-year sentence, imposed by Mr Justice Smit in the Witbank Circuit Court on July 9 last year, was also dismissed.

Mr Justice Smit found Perreira, who had farmed on a part-time basis in the Ogies district, had confronted Nzima after receiving information the labourer had stolen chickens.

After Nzima had, according to Perreira, admitted he had stolen the chickens, the accused tied a rope around Nzima's neck, legs and arms, fastened the other end to the back of his bakkie, and pulled away.

He pulled and dragged Nzima - who fell down more than six times - for more than 2km until he dropped dead. Sowetan 1/3/90

Medical evidence indicated Nzima had died of a brain haemorrhage.

Mr Justice Smit found Perreira had intended to take Nzima to the police, and did not have the direct intent to kill him when he tied him to the back of his bakkie.

He described the murder as "gruesome", and said he had seriously considered imposing a death sentence on Perreira. - Sapa.

Mandela dossier with A-G

331

Sowetan 11/3/90

CHARGES of high treason laid against Mr Nelson Mandela, Mr Walter Sisulu and PAC leader Mr Zeph Mothopeng by the Conservative Party have been investigated by police and a dossier has been submitted to the Attorney-General for a decision, parliament has been told.

This emerged in an interpellation debate yesterday on a question put by CP MP for Bethal, Mr Chris de Jager to the Minister of Law and Order, Mr Adriaan Vlok.

The Democratic Party appealed for a more sensitive approach.

Sowetan Correspondent

De Jager, who said he was astonished that action had not been taken earlier against the two ANC leaders and Mothopeng over their repeated, public statements supporting the armed struggle, asked Vlok if criminal proceedings were being instituted.

It was a 'serious issue', he said.

Vlok, who confirmed the charge was laid on February 12, said the dossier was forwarded by police to the Attorney-General on February 22.

It was up to him whether the matter went to court or not.

While De Jager argued that the police had intentionally taken a softer line on the ANC than they

Nelson Mandela

would have if the threats had come from the Right wing, Democratic Party co-leader Dr Denis Worrall appealed for a more sensitive approach, citing the beliefs and activities of Afrikaner heroes to illustrate his argument.

South Africa's history was rich with 'treasonable' actions.

'One thinks of Slagtersnek, of Koos de la Rey, of Christiaan de Wet, of Jopie Fourie ... all persons, who on the grounds of idealism or because they wished to rectify injustice, rebelled against the State.'

'If this is true of a de la Rey and a de Wet, it is also true of a Mandela, Sisulu and Biko, a Turner and a Lubowski, he said.'

Nactu and ANC set to meet

A MEETING between the National Congress of Trade Unions and the ANC to discuss "maximum unity" in the labour movement is to be arranged, the federation's president, Mr James Mndaweni has said.

Such talks would focus on forging ties between Nactu, the Congress of South African Trade Unions and the exiled South African Congress of Trade Unions. Sowetan 1/3/90

Speaking after a Nactu delegation met Mr Nelson Mandela at his Orlando West Soweto home this week, Mndaweni said the federation and the

By THEMBA MOLEFE

ANC leader agreed the meeting would be set up after he returned from his international tour which began yesterday.

He said both Nactu and Mandela agreed on the principle of independent trade unionism in the country and the "sensitive" issue of negotiations.

"This demands that discussions should take place on all fronts."

His delegation included Nactu's general secretary Mr Cunningham Ngcukana, Mrs Mary Ntseke and Mrs Agnes Molefe.

Harms probe

THE Harms Commission will start hearing evidence on alleged political murders on Monday, the secretary of the commission, Mr Chris Erasmus, said in Pretoria. - Sapa.

BUSINESS EDUCATION

NAIL SALON COURSES

'Trojan' families give up the fight

(331)

5 (Times 4/3/90

By HAMISH McINDOE

THE marathon Trojan Horse trial came to a dispiriting end for the families of three youths killed in the notorious shooting when the mother of one of them withdrew murder charges against 13 security force members.

The decision to withdraw charges followed the acquittal in the Cape Town Supreme Court of the accused charged with murdering 16-year-old Shaun Magmoed in riot-torn Thornton Road, Athlone, in October 1985.

No hope

In the light of the Magmoed judgment, the prosecution in the second leg of the action — murder charges brought by the mother of 11-year-old victim Michael Miranda — saw little chance of a conviction.

This week, his mother, Mrs Georgina Williams, told the court she would not proceed with the prosecution.

She could not be reached for comment yesterday, but Tafelsig printer Mr John Magmoed — Shaun's uncle — said: "Naturally we're very disappointed, but there was no hope of a successful prosecution after the accused were acquitted first time round.

The youths were killed when police, hidden in crates on the back of a truck, opened fire with shotguns on stone-throwers.

In December last year, Mr Justice D Williamson acquitted the accused of murdering Magmoed on grounds that, while the shooting had been unjustified, they were not criminally responsible. The prosecution also failed to prove the 13 shared a common purpose to use excessive force.

An application for a retrial to allow the highly critical findings of a magisterial inquest into the incident to be used as evidence for the prosecution was refused by Judge Williamson.

Oldies more likely to crash

MOTORISTS who grumble about the way "doddering old fools" drive may well have some justification for their complaints, according to a recent transportation study.

Researchers at America's Columbia University have found that drivers aged 65 and older are involved in more collisions than those aged between 55 and 65.

Jail term upheld on appeal

CAPE TIMES 6/3/90

331

THE conviction and effective five-year prison sentence of a member of the Bonteheuwel Military Wing was yesterday upheld on appeal in the Supreme Court.

John de Vos, 20, of Privaat Street, Bonteheuwel, was convicted of committing public violence with others by setting alight an Allied Publishing truck outside the Protea Cafe in August 1987.

He was further convicted for his part in the petrol-bombing of a policeman's house in Mahogany Street, Bonteheuwel, on August 28 that year while the occupants were sleeping.

De Vos was sentenced to five years on each count, half of which was conditionally suspended for five years.

Strike: SATS men in court

Court Reporter

SIX former South African Transport Services workers who allegedly attempted to throw two men off a train during a recent strike appeared briefly in the Cape Town Magistrate's Court yesterday on charges of attempted murder.

Messrs Oliphant Mpheqeka, 52, Mxolisi Ntila, 43, Bisinethi Nkandlalana, 29, Ngubenkomo Bonase, 50, Nozitsolo Dudumayo, 40, and Bonakele Nqalathi, 39, all of Langa and Khayelitsha, were not asked to plead.

The case was postponed to March 22.

The six are out on bail of R100 each.

'Teach folk to fish, don't give them fish' 331

Sowetan

Sibeko

9/3/90

By THEMBA MOLEFE

THE road has been long and rough for Elizabeth Sibeko but after 25 years in exile she has not given up.

Widowed on June 12 1979 when an assassin's bullet killed her husband David Sibeko, then Pan Africanist Congress director of foreign affairs in Dar es Salaam, she has not abandoned the ideals that made her leave her country.

She now heads the women's affairs wing of the PAX at its Dar es Salaam headquarters.

For 14 years prior to her appointment as secretary for women's affairs in december last year, Sibeko was based at the United Nations observer mission in New York. For about two years she was PAC secretary for labour.

Sibeko spoke to *Sowetan* during the PAC's conference held in Harare on March 3.

Equality of the sexes

She says her task is to co-ordinate projects to empower women through training so that they can take their place in the fields of technology and economics.

"We cannot sit back and say men should empower us," she says, stressing that she believes in equality of the sexes.

"Women need to be trained to run projects just like men do. They must move away from the stereotype that they should only rear children and be good wives. They must plan their own destiny.

"We are looking forward to rebuilding our country and as Africanist women we are also going to take our rightful place in a future United States of Africa," she says.

"That ideal is not a pipe dream. We are not talking about a utopia because we are advancing towards our goal."

Elizabeth Sibeko .... exiled for 25 years.

Sibeko believes that women inside South Africa should be self-reliant and learn more about African tradition, culture and power.

She says that although she is not a Maoist, she believes strongly in Mao Tse-tung's teaching that people should work hard, be resilient and give each other strength.

That philosophy made her survive during the rough times after her husband died, she says.

She holds a Master of Arts degree from the University of Columbia in the United States. She plans to study for a PhD at the University of Tanzania.

Education a priority

Her four children, aged between 23 and 28, are studying in the US.

She believes education should be a priority for women if they are to claim a stake in society.

"We should rather teach people to fish than to give them fish," she says.

She was born in Sophiatown (she refuses to divulge her age) and lived with her husband in Evaton.

David Sibeko was PAC Vaal branch chairman before it was banned in 1960. He left the country in 1963. His wife followed in 1965.

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9/3/90
331

Appeal succeeds

BLOEMFONTEIN. — The Appeal Court here yesterday set aside the conviction and sentence for murder imposed on Rufus Nato Nzo(but dismissed the appeal of Douglas Mnyisile Tyutyu.

The two men were convicted of high treason and murder in 1984.

Yesterday Mr Justice Hefer, with the concurrence of Mr Justice Nestadt, set aside Nzo's conviction and sentence for the murder. — Sapa

Purple rain charges dropped

Cape Times 10/3/90 331

FAMILY and friends cheered in court yesterday when charges against the "purple rain man" were dropped.

Mr Phillip Ivey, 26, a Claremont botanist, was accused of jumping on to and redirecting a police water cannon containing purple dye during a protest last year.

He was also accused of assaulting a policeman, or alternatively, hindering a policeman.

He allegedly kicked and stepped on Constable Marius Vivier after striking him in the face and spraying dye into his eyes.

A third charge was that of malicious damage to property in that he allegedly smashed the left headlight of the water cannon, causing damage of R150.

CAPE Times 15/3/90 (331)

Qibla men granted appeal

BLOEMFONTEIN. — Two members of the Qibla organisation have received leave from the Appeal Court here to appeal against their convictions and sentences for terrorism.

Mr Achmad Cassiem, a leader of the Qibla organisation, and Mr Yusuf Patel, a member of its management executive, were convicted in Pretoria Regional Court on October 26, 1988. Mr Cassiem was imprisoned for six years and Mr Patel for five years.

Qibla was formed about 1978/79 in the Western Cape. It was described on the charge sheet as a Muslim organisation or society, formed to motivate and activate Muslims to become more socially, politically and economically aware to "bring on their own just social order". — Sapa

Leave to appeal for Qibla pair

Sometem 15/3/90

331

TWO members of the Qibla organisation have received leave from the Appeal Court in Bloemfontein to appeal against their convictions and sentences for terrorism.

Achmad Cassiem, a leader of the Qibla organisation, and Yusuf Patel, a member of its management executive, were convicted in the Pretoria Regional Court on October 26, 1988.

Two days later Cassiem was imprisoned for six years and Patel for five years.

Qibla was formed around 1978/79 in the Western Cape.

It was described on the charge sheet as a Moslem organisation or society, formed to motivate and activate Moslems to become more socially, politically and economically aware to "bring on their own just social order".

The magistrate concluded that Qibla was a subversive organisation, with unlawful aims to overthrow or endanger state authority in South Africa.

He found the two men had formed a conspiracy with each other and other members to commit offences contemplated by Section 54(1) of the Internal Security Act.

On November 3, 1989 the Transvaal Supreme Court dismissed appeals by the men against their convictions and sentences. - Sapa.

ANC exiles: bid to speed up applications

Pretoria Correspondent

The Department of Foreign Affairs is investigating the establishment of a "think scrum" to process, with the minimum delay, exiled African National Congress members' applications to return to the country.

This move is said to form part of the Government's commitment to get negotiations for an internal settlement off the ground as soon as possible.

The investigation is believed to be in an advanced stage.

On inquiry, a spokesman for the Department of Foreign Affairs told The Star: "We are keen to get this off the ground as soon as possible. It would make our lives a lot easier.

"This effort is directed at people who left South Africa for legitimate political reasons. It is not designed as a loophole for criminals."

She said the South African authorities did not have the names of all the exiles, excluding those who are wanted for criminal activities in the country.

The Department of Foreign Affairs accepted that the majority of exiles would not have South African passports and would be applying to South African missions for visas or passports.

Since visa and passport applications were lodged with Foreign Affairs, it had also been involved in the "think scrum".

The committee would, within days, be able to advise returning exiles on their legal status.

The spokesman added that the setting up of such a committee was a normal procedure.

A similar "think scrum" was apparently established when hundreds of journalists applied for visas to cover the release of Mr Nelson Mandela.

A Home Affairs spokesman said: "Exact figures are not available since applications for re-admission to the RSA may also have been lodged with South African mission abroad."

Two Qibla members appeal

By BOETI ESHAK

TWO members of the Qibla organisation have been granted leave by the Appeal Court in Bloemfontein to appeal against their convictions and sentences for terrorism.

Achmad Cassiem, a leader of Qibla, and Yusuf Patel, a member of its management executive, were convicted in the Pretoria regional court in October 1988. Cassiem was imprisoned for six years and Patel for five years.

Qibla was described on the charge sheet as an organisation formed to motivate Muslims to work for a "just social order". The magistrate concluded that it was subversive.

Exiled author returns home

LONDON 21/3/90 Mary Benson, author of the first biography of Nelson Mandela, has been granted permission by the South African Government to return after an absence of 22 years.

She will arrive in Johannesburg on Saturday for a two-month visit.

Benson left South Africa in 1966 after being placed under a five-year restriction order, including house arrest. (331)

Hunger strike claim

SIX alleged members of the Black Consciousness Movement of Azania and its military wing, the Azanian National Liberation Army, currently on trial in Klerksdorp for terrorism, have embarked on a hunger strike.

Sowetan 22/3/90

However, the Prisons Department has denied the hunger strike is taking place.

Their lawyer, Mr Mosa Mavundla, said the men began fasting on March 12 in an attempt to force the Government to release them following President FW de Klerk's announcement that political prisoners would be freed.

POLITICAL TRIALS W/Mail 23/3-29/3/90 (331)

The Human Rights Commission recorded a total of 80 political trials completed during November and December last year, involving 637 accused. Of these people, 34 were convicted (5,3 percent), 31 were acquitted (4,8 percent) and 572 had charges against them withdrawn (89,9 percent).

They also recorded 254 on-going political trials involving a total of 1 397 accused.

New probe against Rockman

AK64 3/4/90 331

By VUYO BAVUMA
Staff Reporter

POLICE are investigating a charge in terms of the Fund-raising Act against sacked rebel policeman Mr Gregory Rockman.

Lieutenant Rockman, of Furlow Street, Strand, was told of the new charges after appearing briefly today in the Cape Town Magistrate's Court in connection with a charge of assault.

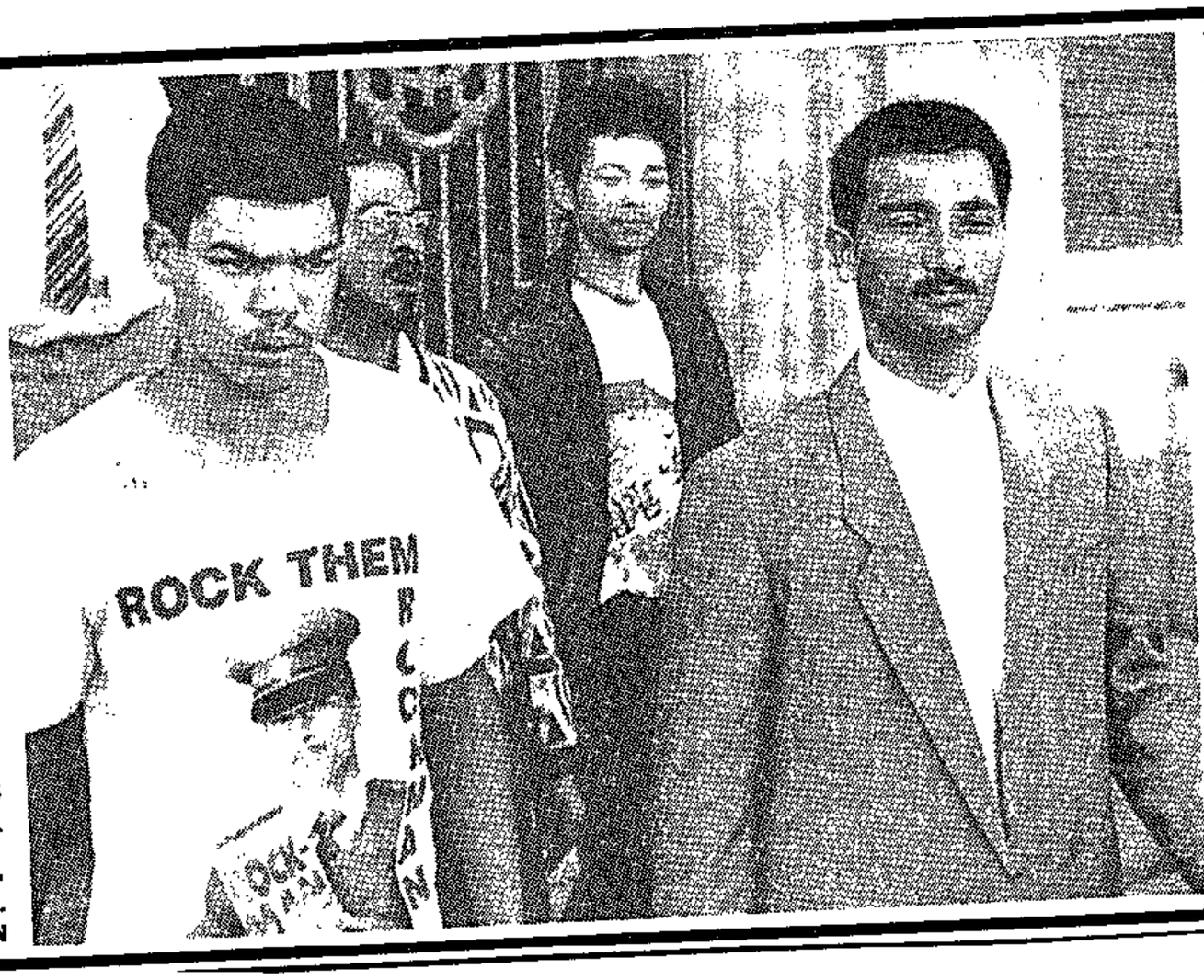
Mr Rockman was not asked to plead. The hearing was postponed to April 25 for further investigation and his bail of R200 was extended.

After the hearing, police escorted Mr Rockman to the CID offices, where they told him that they were investigating a charge in terms of the Fund-raising Act.

In January, police confiscated money allegedly raised by the Police and Prisons Civil Rights Union (Popcru) without a permit. Mr Rockman is the leader of Popcru.

The magistrate was Mr D J Oosthuysen. Mr J M McEwan appeared for the State. Miss P Neer, instructed by Essa Moosa, appeared for Mr Rockman.

CAPE Times 3/4/90 331



REBEL COP ... Former policeman Mr Gregory Rockman leaves the Magistrate's Court with supporters yesterday after the case was postponed.

Picture: STEWART COLMAN

Rockman in court on assault charge

Court Reporter

REBEL policeman Mr Gregory Rockman appeared briefly in Cape Town Magistrate's Court yesterday in connection with an alleged assault on a policeman during an illegal gathering on the Parade last Wednesday.

Mr Rockman was not asked to plead. He was told by the magistrate, Mr Deon Oosthuysen, that the state wished to press further charges against him of which he had not yet been informed, and needed time to investigate the allegations.

The case was postponed till April 25 and Mr Rockman's bail of R200 was extended.

● After leaving court Mr Rockman was led away by CID detectives who took a statement from him concerning a fund-raising event he allegedly launched recently in Montagu.

'Order of Death' members in court

JOHANNESBURG. — Three alleged members of an extreme right-wing group — the Order of Death — appeared briefly in the Johannesburg Magistrate's Court in two separate hearings yesterday.

Mr Dawid Johannes de Beer, 39, Mr Cornelius Gerhardus van Zyl, 28, and Mr Hendrik Binneman, 41, were detained under Section 29 of the Internal Security Act in December last year.

Mr De Beer is facing charges relating to the unlawful possession of teargas, arms and ammunition. His case was transferred to the Vereeniging Regional Court for trial on June 19.

Mr Van Zyl and Mr Binneman were to have stood trial with a further two alleged Order of Death members, Mr Fanie Goosen, 29, and Mr Cornelius Lottering, 24.

Warrants for the arrest of Mr Goosen and Mr Lottering were issued on February 19 after they failed to appear in the Rand Supreme Court on charges of murder, attempted murder, malicious damage to property and illegal possession of firearms.

The two men escaped from a prison truck on March 8.

They were supposed to have faced charges yesterday, together with Mr Van Zyl and Mr Binneman, of housebreaking with intent to steal, theft and conspiracy to commit sabotage at Soweto's Regina Mundi church. — Sapa

3/4/90

Cape Times, Tuesday

Lennox Sebe's son appears in court

BISHO. — General Kwane Sebe, son of deposed Ciskei president Mr Lennox Sebe, made a brief appearance in Zwelitsha Magistrate's Court yesterday with five co-accused who face various charges.

Gen Sebe, former head of the disbanded Ciskei Elite Unit, appeared with two members of his squad and three officers of the Ciskei Defence Force.

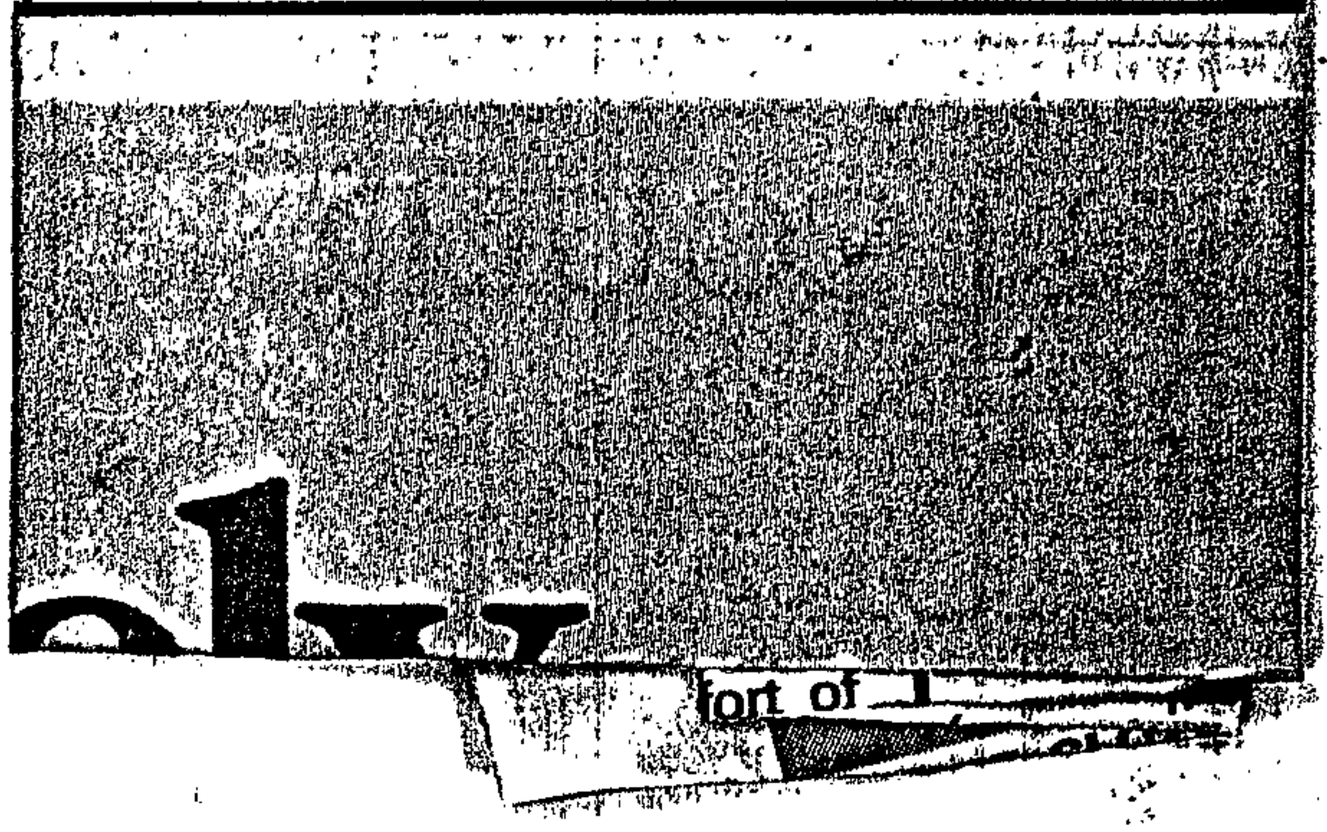
Before the packed court, where tight security was maintained, were Gen Sebe, second-in-command of the unit Major-General M W Tantsi, the head of the Defence Force, Brigadier N Zwelendaba, and Brigadier V Sixishe.

Others from the Elite Unit were Colonel M X Noyila and Lieutenant K W Makom.

The accused were not asked to plead and no evidence was led. Bail was not granted and the hearing was postponed to April 27.

According to the summary of facts before the court, the Ciskei attorney-general had decided to charge the accused with contravening the Explosives Act, four counts of attempted murder and two charges of malicious damage to property and arson.

— Sapa



CAR Trial 4/4/90

331

Change in law could prevent 'Delmas' trials

PRETORIA. — An amendment to the Criminal Procedure Act could prevent a recurrence of a Delmas treason trial-type situation where the Appellate Division nullified proceedings in the country's longest criminal hearing, according to a leading law magazine.

The proposal is put forward in an editorial in the April 1990 edition of Consultus, the official mouthpiece of the General Council of the Bar of South Africa.

Convictions and sentences following the Delmas treason trial were set aside by the Appellate Division after it decided the trial judge's decision to discharge an assessor half-way through the hearing was legally incorrect.

The writer billed the trial — of UDF and Vaal Civic Association leaders for their alleged role in the September 1984 uprisings — as the longest criminal hearing ever — and probably the most expensive.

"Common sense suggests that the trial should have been postponed temporarily and the relevant decision of the trial judge referred to the Appellant Division," the editorial said.

The trial could have been finally abandoned, or another decision could have been taken after a ruling by the Appellate Division.

The editorial asked whether it could be justified to the general public that the trial court — while a "nullity in law" after the discharge of the assessor — could continue for more than a year.

Not allowed in law

The editorial further questioned the possiblity of justifying the "even more thousands of rands" spent on the case and the continued detention of the accused who had already been in detention "for some years".

"Wholesale waste of time, wholesale waste of money and considerable deprivation of freedom were thus the result."

The procedure suggested for preventing this could not be followed because South African law did not allow for adjudication by the Appellate Division on questions of law or appeals regarding the decisions of a trial court about interlocutory matters.

While it would be unsound for questions of law or appeals to be submitted to the Appellate Division before conclusion of a trial, provision should be made for extraordinary cases, the writer argued.

The writer suggested that the Criminal Procedure Act be amended so as to authorise the trial judge to allow, in certain circumstances, for such an interlocutory decision to be referred to the Appellate Division.

Such an amendment should ensure greater fairness in the courts, as well as greater credibility for the legal system among the general public.—Sapa

Argus 22/5/1990 31

Mr X1 aimed to blow up railway line

The Argus Correspondent

PRETORIA. — A former African National Congress fighter infiltrated South Africa with the aim of blowing up the railway line linking Beit Bridge with other parts of the country, a Supreme Court judge has heard.

Giving evidence in the trial of Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbamba, Mr Mbutu Nduku and Mr Wellington Nkwandla in the Pretoria North Magistrate's Court yesterday, the man, who may only be identified as Mr X1, said he infiltrated the country in May 1987.

His mission was also to recruit and train members and to set up "a propaganda machinery."

The trial, which had been heard in the Supreme Court in Cape Town since March last year, resumed in the Pretoria North Magistrate's Court yesterday.

It was adjourned to Pretoria so that Mr X1, who has kidney problems, could be near immediate medical care.

Mr X1 told the court that he was a former member of the ANC's military wing, Umkhonto We Sizwe (Spear of the Nation) and was trained in Angola. He left the country in 1978 and returned in 1987.

He was arrested by some civilians in Louis Trichardt who assaulted him before handing him over to the police.

Mr X1, who identified accused Mr Tony Yengeni as a political commissar at an ANC training camp in Angola in 1979, told the court that he used to recite poetry with the accused whom he referred to by his combat name, Solly.

(Proceeding)

Still no go for public, press at Yengeni trial

OK-TMP 17/5/90 331

Supreme Court Reporter

MEMBERS of the public and press were yesterday again excluded from the Yengeni trial in an application by the state to hear the evidence of a state witness, Mr X1, in camera.

The in-camera ruling followed an initial application by the state for the public gallery to be closed but that the press be allowed to attend because the evidence of Mr X1 — to be heard in Pretoria — would relate to a charge against Mr Tony Yengeni under the old Terrorism Act.

Mr Jannie van Vuuren, for the state, said there was no objection.

Mr Justice S Selikowitz ruled then that Internal Security Act provisions did not apply and that the application could proceed in open court.

However after an adjournment, Mr Van Vuuren returned and said the open court ruling inhibited information the state could place before the court about Mr X1. There would be nothing the state could do to keep his identity secret.

In reversing his earlier ruling, Mr Justice Selikowitz said the administration of justice made it necessary to hear the application behind closed doors.

● Mr Yengeni and his wife Lumka had a rare visitor yesterday in the form of their five-year-old son, Mandla, who was allowed into the courtoom to be with them for a few minutes.

Mr W S le Roux and Ms J V Knoll were the assessors. Mr Mike Donen, and Mr Johnny de Lange appeared for the defence. Mr Hendrik Klem SC, with Mr Van Vuuren and Mrs Sandra Swart, appeared for the State.

Rightwing Order of Death: 3 men in court

AR645 4/4/90 331

JOHANNESBURG. — Three alleged members of an extreme right-wing group — the Order of Death — have appeared briefly in the Johannesburg Magistrate's Court in two separate hearings.

Mr Dawid Johannes de Beer, 39, Mr Cornelius Gerhardus van Zyl, 28, and Mr Hendrik Binneman, 41, were detained under Section 29 of the Internal Security Act in December last year.

Mr De Beer is facing charges relating to the unlawful possession of teargas, arms and ammunition. His case was transferred to the Vereeniging Regional Court for trial on June 19.

ESCAPED FROM POLICE

Mr Van Zyl and Mr Binneman were to have stood trial with a further two alleged Order of Death members, Mr Fanie Goosen, 29, and Mr Cornelius Lottering, 24.

Warrants for the arrest of Mr Goosen and Mr Lottering were issued on February 19 after they failed to appear in the Rand Supreme Court on charges of murder, attempted murder, malicious damage to property and illegal possession of firearms.

The two men — who allegedly planted a bomb outside the flat of former Sunday Times columnist Ms Jani Allen in July last year — escaped from a prison truck on March 8.

With Mr Van Zyl and Mr Binneman they were supposed to face charges of housebreaking with intent to steal, theft, and conspiracy to commit sabotage at Soweto's Regina Mundi church, and further charges of conspiring to commit malicious damage to property, contravention of the Internal Security Act and malicious damage to property. — Sapa.

Trial may go to Pretoria for sick man's evidence

Cape Times 15/5/90 331

Supreme Court Reporter

THE Yengeni trial may move to Pretoria to hear the evidence of another state witness, Mr X1, in camera when the state brings an application today.

Mr Hendrik Klem SC, for the state, gave notice of the application yesterday shortly after the defence had concluded the cross-examination of another state witness, Mr X2, in the trial of Mr Tony Yengeni, Ms Jenny Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla on charges of terrorism.

Mr Klem told Mr Justice S Selikowitz the state wanted the trial to adjourn to Pretoria so that Mr X1 — who has kidney problems — could be near immediate medical care.

In respect of the in camera application the state would rely on information already given to the court as well as evidence at two previous in camera applications and judgments handed down.

In addition, he also relied on the fact that he had given the name of Mr X1 as well as his Umkhonto we Sizwe (MK) name to the defence because the court had already ruled that an affidavit by him could not be admitted if his name was not given to the defence, Mr Klem said.

Earlier in cross-examination by Mr Mike Donen, for the defence, Mr X2 said he had already testified against ANC members in Durban and Warrenton, near Kimberley.

In response to questions, Mr X2 said he had last seen Mr Yengeni in an Angolan training camp 11 years ago and had identified him from a photograph shown to him by police.

The trial continues today.

Clerk's BC vehicle other Angola - motoraut

Mr X1's evidence may take Yengeni trial to Pretoria

Argus 15/5/90 331

By LINDA GALLOWAY, Supreme Court Reporter

THE Yengeni terrorism trial may adjourn to Pretoria to hear evidence from an Askari who is not well enough to travel to the Cape.

Mr Hendrik Klem, for the State, said yesterday at the end of evidence by a former ANC member-turned-policeman, known as Mr X2, that the State would bring an application today for the court to adjourn to Pretoria to hear the evidence of Mr X1.

Mr Klem said the State would also re-apply to have the evidence of Mr X1 heard in camera after Mr Justice S Selikowitz turned down an earlier application on the basis of insufficient evidence.

Mr X2, who identified accused Mr Tony Yengeni as a political commissar at an ANC training camp in Angola in 1979, admitted during cross-examination by Mr Michael Donen for the defence that he could not name any other commissars he had contact with during six years with Umkhonto we Sizwe.

"FIRST" COMMISSAR

He told the court he remembered Mr Yengeni because he was his "first" commissar while undergoing training.

But Mr X2 said he could not remember his "last" commissar or any in between at any of the camps in Angola, Zimbabwe, Botswana and Mozambique where he had served.

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

Mr Justice Selikowitz is on the Bench with Mr W S le Roux and Ms J V Knoll as assessors. Mr H Klem and Mr J van Vuuren appear for the State. Mr D P de Villiers QC, assisted by Mr M Donen and Mr J de Lange, appear for the defence, instructed by E Moosa and Associates, Mallinick Ress Richman and Closenberg Inc, R Vassan and Company and Enver Daniels and Company.

Trial: Man explains defection from ANC

Cape Times 12/5/90

Supreme Court Reporter

DEFECTED ANC member and now policeman, Mr X2, yesterday denied in the Supreme Court that he had defected from the ANC in early 1985 because he feared he would be exposed as a police spy.

Mr X2, who is giving evidence in camera because he feared he would be harmed by the ANC, was being cross-examined during the terrorism trial of Mr Tony Yengeni, Ms Jenny Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

Questioned by Mr Mike Donen, for the defence, Mr X2, who joined the police this year, said he left South Africa for Swaziland in 1978 but had returned a months later, after not receiving an education.

Mr X2 denied he had been sent back to Swaziland in 1979 by police to spy on the ANC, and further that he had asked MK political commissar Mr Chris Hani to send him back to South Africa in 1984 to fight because he was frightened the ANC would find out he was a police spy.

When he deserted from the ANC in Botswana in 1985 he handed himself over to the police at the border post.

Mr X2: Yengeni an ANC commissar

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ARGUS 11/5/90

By LINDA GALLOWAY
Supreme Court Reporter

A FORMER member of the ANC military wing, Umkhonto we Sizwe, has told the Supreme Court, Cape Town, that terrorism accused Mr Tony Yengeni was his "platoon commissar" in an ANC training camp in Angola.

The man, who may be identified only as Mr X2, is now in the police force.

He gave evidence yesterday in the trial in which Mr Yengeni and four others are charged with terrorism and ANC-related activities.

His evidence came after a ruling by Mr Justice S Selikowitz that Mr X2 not be identified because he could be harmed.

The ruling was made after an application by the State to have evidence by two witnesses, Mr X1 and Mr X2, heard in camera.

The application was heard in camera and the public gallery will remain closed until the conclusion of Mr X2's evidence.

The order does not apply to Mr X1, although the State has indicated that the witness is in ill-health and may not testify.

Mr X2 said that in 1979 he went to Swaziland and joined the ANC because he had been told it was the only way of getting an education in that country.

"Fought in Zimbabwe"

He was sent to Quibasha training camp in Angola where Mr Yengeni was the deputy-commander of his platoon. Mr Yengeni's duties were to inform them of the political policies of the ANC and to issue instructions.

Mr X2 said he took a "general course" which included politics, tactics, military engineering, topography, artillery and firearms.

After his training he was sent to Zimbabwe "to fight". When Zimbabwe gained independence he was sent to Zambia before returning to Quibasha in Angola in 1981.

In 1984 he told MK commander Mr Chris Hani that he wanted to "fight in South Africa". He was sent to Caxito training camp and then to Botswana via Swaziland to await further instructions.

At the beginning of 1985 he "decided" to return to South Africa and reported to police at the border post. He joined the police force this year.

Under cross-examination by Mr Michael Donen, for the defence, Mr X2 said the education system in South Africa prompted him to go to Swaziland.

Asked how he felt on his return to South Africa Mr X2 said he had been "tired of the ANC".

The trialists are Mr Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

Yengeni application judgment

Supreme Court Reporter

JUDGMENT would be given in the Supreme Court on Thursday in an application by the state in the Yengeni trial as to whether a new state witness can testify behind closed doors.

Mr Tony Sitembiso Yengeni, Ms Jennifer Ann Schreiner, Mrs Lumka Elizabeth Yengeni, Mr Michael Mzimkhulu Lumbambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla are on trial for terrorism.

The state brought the application on April 24 and both sides have led evidence in camera since. They will argue the application today.

Mr Justice S Selikowitz was on the Bench. Mr W S le Roux and Ms J V Knoll were the assessors. Mr D P de Villiers QC, assisted by Mr Mike Donen and Mr Johnny de Lange appeared for the defence. Mr Hendrik Klem SC, with Mr Jannie van Vuuren and Mrs Sandra Swart, appeared for the State.

Yengeni support group pitching all the way from London

By LINDA GALLOWAY
Staff Reporter

NATIONAL

A GROUP of Londoners has a very close and special interest in the long-running Yengeni terrorism trial in the Cape Town Supreme Court. They are the members of the Yengeni Overseas Support Group.

Several members of the group came to Cape Town last week to see the courtroom they know so well from a distance — to find the trial had convened in camera to hear an application and they were not likely to be able to attend a hearing before they return to the UK.

The number of trialists was halved earlier this year when the State ceased its prosecution against eight of the 14 accused.

Founding members

There is a "15th" accused — Bongani Jonas who is serving a two-year sentence for refusing to testify as a State witness in the trial.

Founding members of the support group were accused Ms Jenny Schreiner's brother, Dr Denys Schreiner and his wife Heather, who visited Cape Town last year and wanted to do something for the trialists on their return to England.

"We knew it was going to be a long trial, fighting every point, and maintaining the morale of the trialists and their families was going to be crucial," said Mrs Schreiner.

They were writing to Ms Schreiner and through local Anti-apartheid Movement activists in West London they recruited people to write to the other individual trialists on a regular basis.

The Yengeni Overseas Support Group developed and sweatshirts proclaiming their support were printed for the 14 accused, who wear them in court.

The group produces a six-weekly newsletter which gives a trial update, details of the charges against the accused and something about them.

● The court is hearing an application by the State to have the evidence of its next witness heard in camera. The application is also being heard in camera and is being opposed by the defence.

The trialists are: Mr Tony Yengeni, Ms Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

Some 'bomb' devices may be even in my home — judge

MM6u5 20/4/90

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By DON HOLLIDAY
Staff Reporter

MANY electrical devices found in the home of terror trialist Miss Jennifer Schreiner and claimed to have have been intended for making explosive devices were common, readily available household articles, trial judge Mr Justice S Selikowitz has observed.

Miss Schreiner, Mr Tony Yengeni, Mrs Lumka Yengeni, Mr Michaels Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla are charged in the Supreme Court, Cape Town, with terrorism relating to acts allegedly committed in the Western Cape in 1986 and 1987.

Police explosives expert Major André du Toit testified yesterday that several items had been found in Miss Schreiner's flat at Marie Court, Wellington Street, Wynberg, in a police raid in 1987.

EXPLOSIVE DEVICES

They had included an ammeter for testing the flow of electrical current, nine-volt batteries capable of activating a detonator, photographic flash cubes, lengths of copper wire, light bulbs which could also activate detonators and glue which could be used for sticking together pieces of electrical circuit.

Major Du Toit said he assumed they were to be used to build explosive devices.

Mr Justice Selikowitz said the articles could be freely bought in a hardware shop and it was possible that he had many of them in his own home.

Major Du Toit said he did not deny that a woman could keep them for conventional purposes, but that they were not the kind of items a woman would normally keep.

The hearing continues.

Schreiner print 'found on document'

Cmt. Trials 11/4/90 331

Staff Reporter

A POLICE fingerprint expert told the Supreme Court yesterday that he was able to match a single fingerprint found on a document called "What is to be done" to that of terrorism accused Ms Jennifer Schreiner.

Sergeant Johannes le Grange was one of several policemen who gave evidence yesterday in the trial of Mr Tony Yengeni, Ms Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

He said he was asked to check the document, a court exhibit, and found the fingerprint on the last page. He treated the print with special chemicals and took a photograph. He matched the print with police records of Ms Schreiner's prints.

Yesterday during the tea break, he fingerprinted Ms Schreiner and found that the prints matched, he told the court.

Earlier, the court heard evidence from two explosives experts who had inspected separate blast sites in Paarl and Stellenbosch where a handgrenade attack and a limpet mine explosion occurred.

Captain Wessel Fourie of the Paarl Security Branch said that on August 8, 1987, he went to the police mobile unit in Mphakalezi Street, Mbekweni, where a handgrenade had been flung at a Casspir.

He said fragments of an "East Bloc" RGD 5 grenade were found around the Casspir.

Sergeant Leon Goosen, of the Stellenbosch security branch, said he had inspected the Vlaeberg railway crossing where a limpet mine shattered a part of the railway line on July 24, 1987. He deduced that a magnetic-type limpet mine had been used.

Mr Michael Donen, for the defence, said the witnesses called by the prosecution had taken him by surprise. Twice he asked the court to adjourn, so that he could consult with the accused.

He did not cross-examine the witnesses.

The hearing is proceeding.

Govt building 9 new jails

Airport cleaner tells of nervous woman in toilets

ARGUS 10/4/90 (331)

By GILL TURNBULL, Staff Reporter

AN airport cleaner has told the Cape Town Supreme Court an "extremely nervous" woman carrying two handbags entered two toilets shortly before they were damaged by an explosion at D F Malan Airport in 1987.

The cleaner, Mrs Eva Jacobs, was giving evidence for the State at the reopening of the Yengeni trial against six terrorism accused.

Eight co-accused were acquitted after the unbanning of the African National Congress.

Mrs Jacobs said that on July 12 1987, shortly before the last flight to Johannesburg at 11.45pm, she went into the women's cloakroom for an illicit smoke-break.

She sat talking to a colleague, Lynette, whose job was cleaning the toilets, while a Mrs Joseph was cleaning the toilets in the babies' room.

A white woman carrying two bags emerged from a toilet.

She smiled in Mrs Jacob's direction, said "Hullo", washed her hands and went into another toilet.

The court heard that both toilets were damaged shortly afterwards by an explosion.

Mrs Jacobs said the woman appeared extremely nervous and her hands were shaking.

When she emerged she said "Bye" and walked out of the cloakroom.

Asked to describe the woman, Mrs Jacobs said she was of medium height and build and in her mid-thirties.

'Similar'

Mr H Klem SC, for the State, asked accused Miss Jenny Schreiner to stand so Mrs Jacobs could see her full-length.

Mrs Jacobs said Miss Schreiner looked similar to the woman but she could not make a positive identification.

Under cross-examination by Mr Michael Donen, for the defence, Mrs Jacobs said she remembered the woman because of her strange behaviour.

She conceded that often people were nervous before a flight.

Mrs Jacobs did not remember how two other women, who went in and out while she was there, were dressed.

Shortly after she returned to cleaning ashtrays in the departure lounge Mrs Joseph ran out shouting that they should all get outside.

As they reached the pavement they heard a blast.

Police and sniffer dogs arrived. Mrs Jacobs said she and other staff were shocked and asked to use the staff toilet in the arrivals hall.

Minutes later police came to warn them to leave the building. While they were outside there was another large explosion.

The hearing continues today.

The accused are Mr Tony Yengeni, Miss Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduka and Mr Wellington Nkwandla.

Cape Times 10/4/90 331

Eyewitness 'unsure' of Schreiner, court told

Staff Reporter

TERRORISM accused Ms Jenny Schreiner was asked to parade in front of a Supreme Court yesterday because a witness was not sure whether she was the woman seen in the toilets at D F Malan Airport just before a midnight explosion there in 1987.

After asking if Ms Schreiner could turn to the side, Mrs Eva Jacobs, a cleaner at the airport, shook her head and told Mr Justice S Selikowitz she was "still not sure".

Mrs Jacobs was giving evidence in the trial of Mr Tony Yengeni, Ms Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

The trial was resumed for the first time yesterday after eight fellow trialists were acquitted and a bail application for the remaining accused was turned down last month.

Mrs Jacobs said that on July 21, 1987, she took a smoke break between 11.30pm and 11.45pm in the "ladies' cloak and rest room" near the departure area for Johannesburg. "A woman came out of the first toilet. She put her two bags on the floor and went to wash her hands. Then she turned her head and said 'hullo' softly. She picked up the bags and went into the third toilet. She looked very nervous."

Mrs Jacobs said that because her duties did not include cleaning the toilets, she dodged into the first toilet when she was told that the supervisor was outside the cloakroom.

"When the supervisor left, I sat on the bench and chatted to Lynnette (another cleaner). The woman came out of the toilet, walked to the door and said 'bye'."

Mrs Jacobs described the woman as being white, about 30, with a "medium build and height", a slender face, a sharp nose and dark-brown shoulder-length hair. The woman was wearing a grey trouser suit.

Mrs Jacobs said that after the last flight left at 11.45pm she went to empty ashtrays in the security section of the departure area.

Soon afterwards everybody was evacuated from the airport. While they stood on the pavement outside, there was an explosion near the women's cloakroom.

"We were scared. We could not see what was going on. After waiting in the carpark, we went to the cleaners' cloakroom. A policeman came to tell us to stand outside on the tarmac. We saw someone running away from the building and then there was another explosion." Mrs Jacobs said she would know the woman if she saw her again.

Mr Hendrik Klem, SC, for the state, asked: "Do you see her in court?"

Shaking her head, Mrs Jacobs said: "I'm not sure. I'm not sure about the woman." She indicated it may have been Ms Schreiner.

Ms Schreiner was asked to leave the dock and walk to the front of the court.

Mrs Jacobs said: "It looks like her but I can't say with certainty. It was a long time ago."

The hearing continues today.

The two assessors are Mr W S le Roux and Ms J Knoll. Mr Klem, Mr J van Vuuren and Mrs P Swart appear for the state. Mr D P de Villiers, QC, Mr Michael Donen and Mr J de Lange appear for the defence.

Bail request turned down in Yengeni trial

CAT Times 24/3/90

331

Staff Reporters

BAIL in respect of Mr Tony Yengeni and five terrorism accused has been refused by the attorney-general after representations had been made to him by counsel for the six.

They are Mr Yengeni, Mrs Lumka Yengeni (his wife), Ms Jennifer Schreiner, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

According to a lawyer for the defence, representations had been made to the attorney-general for the withdrawal of a certificate he issued in terms of Section 30 of the Internal Security Act, which prevents bail "in the interest of the security of the state or the maintenance of law and order".

In a memorandum to the attorney-general the defence said circumstances in the country had changed dramatically since the trial began.

Both the State President and ANC leaders "have declared themselves publicly in favour of conditions of peace, so as to facilitate negotiations bringing about and end to armed conflict and a new dispensation for the country".

The memorandum stated that, faced orginally with charges of high treason, the accused were now not likely to be convicted of "anything more serious" than the possession of arms, ammunition and explosives in varying degrees.

In the light of that, the prevention of release on bail could no longer be considered necessary. The attorney-general had withdrawn a order preventing bail in a recent case, the memorandum said.

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State backs down

By REHANA ROSSOUW

THE dramatic developments in the Cape Town terrorism trial in the Supreme Court this week may affect the future of political trials elsewhere in the country.

Eight trialists in the "Yengeni 14" trial were acquitted on Monday and the trialists' defence is preparing to apply for bail for the remaining six accused.

Mthetheleli Titana, Gary Kruser, Christopher Giffard, Charles Mahlale, Alpheus Ndude, Gertrude Fester, Zurayah Abbas and Colleen Lombard were acquitted of all charges on Monday.

The state is continuing its prosecution against Tony Yengeni, Jenny Schreiner, Lumka Yengeni, Michael Lumbambo, Mbutu Nduku and Wellington Nkwandla.

At the start of the trial the "Yengeni 14" were charged with treason. The state's case was based on their "inside man", Bongani Jonas, and on confessions extracted from 11 of the accused.

The call by the defence team for a consolidated trial within a trial to be held to test the admissibility of confessions made by the trialists in detention led to the prosecution throwing in its hand.

The defence stated their intention to lead evidence about the methods used by the terrorism detection unit to extract confessions from detainees.

"There is no question that the state was worried about the impact this evidence would have had publicly, throughout the country and on the trial itself," said De Villiers.

De Villiers said the prospects for the six remaining trialists were much better than at the start of the trial.

"The state president is making it very clear that he wants the ANC leaders in exile to be free to talk to him with no obstacles in their way.

The ANC should formulate the policy of armed struggle,"and then De Klerk must find it hard to draw a moral line and distinguish their role and that of the foot soldiers", he said.

Titana said he had not been expecting his release as he was a commander of an ANC cell.

"This is really history. I am a trained member of the ANC, I am a soldier of Umkhonto we Sizwe and yet I am acquitted.

He said he intended to file charges against David Musimeke, the policeman who shot him as well as the security policemen who assaulted him.

"I still feel bitter about the torture," he said.

The other released trialists have also indicated their intention to bring civil claims against security policemen, particularly Warrant Officer Jeff Benzien of the terrorism detection unit.

The trial was postponed until April 9 to give the state an opportunity to reorganise its evidence.

ACQUITTED: The eight "Yengeni trialists" acquitted on Monday. Back, from left, Colleen Lombard, Charles Mahlale, Christopher Giffard, Gertrude Fester; middle from left, Gary Kruser, Alpheus Ndude and Zurayah Abbas. Ronnie Mabena and Christopher Sidlayiya, seated, were released from Robben Island on Monday

SOUTH AFRICAN HEALTH WORKERS CONGRESS (SAHWCO)
Invites you to their AGM
theme: Health in Transition
Date: 24.3.1990 (Saturday)
Time: 6pm
Venue: Cric
(next to Joseph Stone)
Speakers:
SAHWCO Chairperson,
Trevor Manuel (UDF),
N. Naidoo,
Social Workers Forum
CAHAC (Bellville)
ALL WELCOME.

CBK Trials 22/3/90 (331

Trial adjournment

Yengeni case may restart 'any time'

Supreme Court Reporter

THE court would be reconvened at any time should a bail application be made, the judge told the Yengeni trialists yesterday while adjourning their trial to April 9.

Mr Justice S Selikowitz said this after Mr Hendrik Klem SC, for the state, had asked for a postponement in order to have witnesses subpoenaed in the case against Mr Tony Yengeni and five others on charges of terrorism.

This came after Ms Jenny Schreiner made certain formal admissions which included admissions that she had rented a flat in Wynberg (where weapons were found in a trunk), that she had stored two metal trunks at other addresses, that she had been the registered owner of the car Mr Yengeni drove on the night of his arrest and that a copy of a computer diskette found in a stored trunk had been a true copy of the original.

Mr Klem initially asked for a postponement until Friday because certain witnesses had to be subpoenaed.

When Mr Justice Selikowitz expressed concern at the number of days the state is spending reorganising its case, Mr Klem formally asked for the postponement till April 9 because the state would by then be able to determine which evidence will be led.

The trial had been shortened by at least one-and-a-half years by getting rid of the trial-within-a-trial and proceedings had also been shortened by two handwriting experts not being called, Mr Klem said.

Mr D P de Villiers QC, for the defence, said they supported the application for a postponement until Friday because an answer was needed from the Attorney-General on the question of bail, as the defence wanted to apply for bail at the earliest opportunity.

Mr Justice Selikowitz granted the adjournment until April 9 but said that if need be he could reconvene the court for a bail application. State and defence counsel could approach him at any time.

Earlier this week the state stopped the prosecution against eight accused, who were then acquitted. They were Mr Mtheteleli Titana, Mr Gary Kruser, Mr Chris Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Ms Colleen Lombard.

The accused still on trial are Mr Yengeni, Ms Jenny Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

Mr W S le Roux and Ms J V Knoll were the assessors. Mr De Villiers QC, is assisted by Mr Mike Donen and Mr Johnny de Lange, and instructed by Mallinick, Ress, Richman and Closenberg Inc; Esse Moosa and Associates; R Vassen and Co and Enver Daniels and Co. Mr Klem, with Mr Jannie van Vuuren, and Mrs Sandra Swart, appeared for the state.

...he put the project to ... was an SADF spy. A preliminary examination into the matter was held in camera.

State drops case against eight 'Yengeni' trialists

Blade 20/3/'10 Own Correspondent 331

CAPE TOWN — Eight of the 14 accused in the so-called Yengeni terrorism trial were acquitted in the Supreme Court yesterday.

Hendrik Klem SC, for the State, said the State had reconsidered its position and, in terms of Section 6(b) of the Criminal Procedures Act, had formally stopped the prosecution against eight of the accused.

Even though the eight had already pleaded to the charges against them, they were entitled to an acquittal. The State had further decided to withdraw the seven confessions, Klem said.

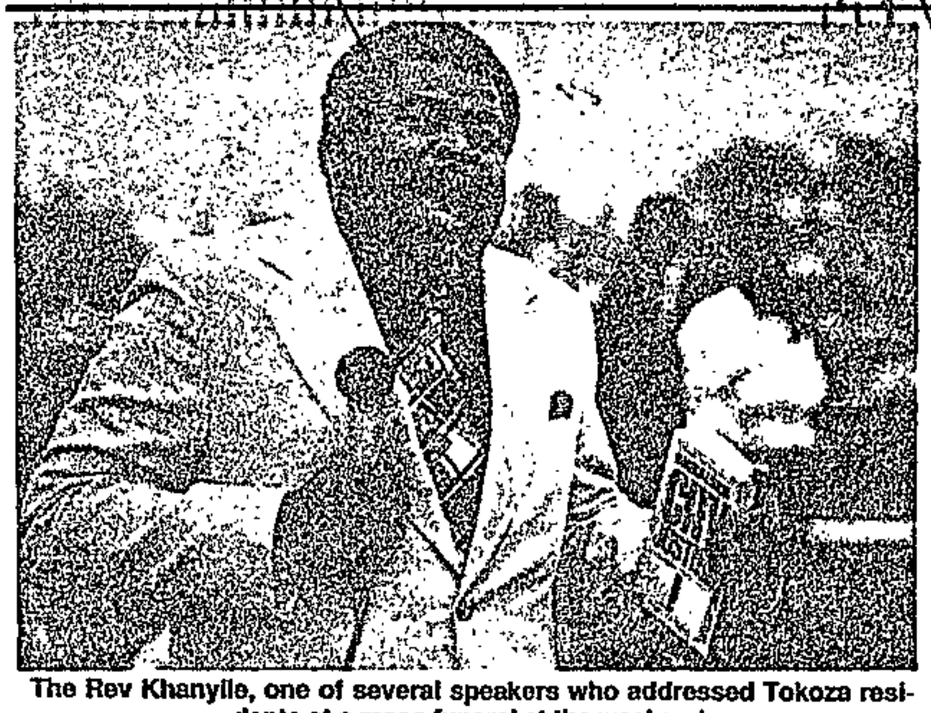
They eight involved are: Mtheteleli Titana, Gary Kruser, Christopher John Giffard, Sitlabocha Charles Mahlale, Alpheus Nkwana Ndude, Gertrude Fester, Zurayah Abass and Colleen Lombard.

In respect of the remaining accused — Tony Yengeni, Jennifer Schreiner, Lumka Yengeni, Michael Lumbambo, Mbutu Nduku, Wellington Nkwandla — the State had not reached the end of its case, he said.

The trial resumed yesterday after Klem had asked for a five-day adjournment last week to consider the State's position after Mr Justice Selikowitz ruled the State bore the onus of proof in the cases of alleged confessions made to a magistrate.

That ruling had taken the State by surprise, Klem said.

Progress at hospital talks



The Rev Khanyile, one of several speakers who addressed Tokoza residents at a mass funeral at the weekend.

Katlehong settles down, licks wounds

AS Katlehong settles down to lick its wounds and gears itself for peace between the warring factions, a postmortem of past weeks' carnage points fingers at rumour-mongering and "apartheid structures" as the underlying causes of the carnage.

By PHANGISILE MTSHALI

Mr Gideon Makhanya, Witwatersrand Council of Churches (WCC) organising secretary, said the upsurge of violence in the East Rand township could have been "to buy time for local authorities" as it came about the time when Katlehong was "challenging them and calling for their resignation," he said.

Bloodshed is used as an excuse for the authorities to prolong their stay in power.

It gives the people an alternative agenda... their lives."

Rumour-mongers moved between hostels and the township with warnings of impending attacks were identified by many as the main causes of the violence.

"Communities must assist us to create a better relationship between the hostel-dwellers and families in the townships. "We believe wqe must try to turn them (the hostels) into family units," said Makhanya.

An announcement by chairman of the now-disbanded Germiston and District Taxi Association, Mr Ted Ntsipe, that last week's carnage broke out when his association and the Katlehong Taxi Organisation had made peace, has left many people wondering what could have sparked the violence.

Inquiry

African National Congress, Mass Democratic Movement and the Katlehong Civic Association, also laid the blame of violence squarely on the apartheid structures and "its enforcers" at a mass rally held on Wednesday.

The South African Black Taxi Association (Sabta) has set up a commission of inquiry into the incident.

"We were surprised to find that there was renewed violence that was directed at the community after we were told by the concerned taxi operators that their four-month dispute was resolved and they were moving towards forming a single association."

Blame!

In a meeting called by the Katlehong Town Council a number of delegates accused police of ineffectiveness.

Hostel representatives also blamed the police for taking sides and not giving protection to all.

"At one stage after we heard of the impending attack, police came to us and ordered us to sleep but we could not. When hell broke loose they shot two of their fellow officers in the chaos," said one hostel dweller.

Lieutenant-Colonel D Diamini said the police effectiveness was hindered by street barricades and lack of co-operation from residents. He said allegations would be investigated.

COMPETITION ♦ COMPETITION ♦ COMPETITION

'IT'S UP TO US'

SOWETAN/COCA-COLA ENVIRONMENTAL COMPETITION

'It's Up To Us' to make sure our environment is pleasant to live in. Coca-Cola and the Sowetan would like to have all primary and high schoolchildren's ideas on how to create a better living environment in South Africa.

HOW TO ENTER

Primary schoolchildren are to show how 'It's up to us' can be improved by drawing a picture, and high schoolchildren are to write an essay (not more than 500 words).

Both the drawing and essay competition should be entitled 'IT'S UP TO US'.

Fill in your entry form, attach it to your drawing and essay and post to: WS Communications, P.O. Box 7555, Johannesburg, 2000 or drop it off at Sowetan House by no later than Monday, April 2, 1990.

Winners will be announced in the Sowetan at the end of April.

PRIZES

One 1st, 2nd and 3rd cash prize IN EACH CATEGORY to the value of R300, R200 and R100.

Ten runners-up prizes IN EACH CATEGORY - Coca-Cola hampers to the value of R30 each.

Twenty finalists in each category will be treated to a day out at the zoo which includes animal feeding.

PLUS!!! The schools of both the winners will each receive equipment or materials of their choice to the value of R1 000.

RULES AND REGULATIONS

1. The judges decision is final and no correspondence will be entered into.
2. Winners will be notified in writing.
3. Prizes cannot be transferred.
4. Staff members of National Beverage Services and the Sowetan, their advertising agencies and their immediate families are not eligible.
5. Winners must be prepared or be photographed for Sowetan.

Coca-Cola Coke

ENTRY FORM ♦ ENTRY FORM ♦ ENTRY FORM

S 4309

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Yengeni trial: sudden turn as state ends case

U/Mail 1613-22/3/90

By GAYE DAVIS, CAPE TOWN

IN a surprise move this week, the prosecution in the Yengeni terrorism trial said it might close its case against all 14 accused without proving the admissibility of confessions seven of the trialists are alleged to have made.

If the state proceeds with its case without the confessions, the chances are that — on the basis of evidence already before the court — several of the trialists could be acquitted.

This week's dramatic development came as trialist Jennifer Schreiner was about to testify in a trial-within-a-trial in which the admissibility of the confessions would be tested.

The defence had earlier succeeded in persuading Mr Justice Selwyn Selikowitz that the admissibility of all the confessions should be a tested in a single trial-within-a-trial, arguing that the security police employed a "system" to extract information from unwilling detainees.

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The system, the court heard, involved persistent questioning, confronting detainees with false confessions by fellow-detainees, threats, intimidation, abuse and violence, interspersed with promises.

Then, in another significant move, Selikowitz ruled last Friday that the onus of proving the admissibility of four of the confessions would rest with the state.

This came as a surprise to the prosecution: state counsel Hendrik Klem SC said as much when he asked the court for a postponement so that the implications of the ruling could be studied.

His request was not granted. After a brief adjournment, Klem — reiterating his surprise at the ruling — said an option the state had now was to close its case in respect of all the accused without proving the admissibility of the confessions.

Selikowitz granted a week-long adjournment.

Schreiner to tell court about detention

ARGUS 12/3/90 331

By LINDA GALLOWAY
Supreme Court Reporter

TERRORISM accused Ms Jenny Schreiner will give evidence today about the circumstances of her Section 29 detention which led her to make a statement to a magistrate allegedly "confessing" to certain things.

Ms Schreiner will be the first witness for the defence in a trial-within-a-trial which will test the admissibility of seven statements made by the accused during their Section 29 detentions.

The defence offered to lead evidence first to prove the statements were not freely and voluntarily made.

The State has to prove that four of the seven statements were made freely and voluntarily, and the onus lies with the defence for the other three, Mr Justice S Selikowitz ruled after a preliminary trial-within-a-trial.

He ruled that the statements of accused Mr Charles Mahlale, Mr Mbutu Nduku, Mr Gary Kruser and Ms Jenny Schreiner did not comply with sections of the Criminal Procedures Act.

Mr Mahlale's statement had been written prior to his appearance before a magistrate and thus had not been reduced to writing by the magistrate or in his presence as required by the Act.

The document relating to Mr Nduku's statement was incomplete and thus it was impossible to conclude from its appearance that it had been freely and voluntarily made.

In a question-and-answer sheet attached to Mr Kruser's document, he stated that he was making the statement because the police and told him that this could increase his chances of being charged and having access to a lawyer.

This implied that there had been undue influence on Mr Kruser to make the statement.

The mere fact that it was suggested to him that making a statement to a magistrate would be "put on the scales" when a decision was made as to whether he could see a lawyer worked against the administration of justice.

In the case of Ms Schreiner's statement, the judge said the document raised many issues which would not benefit from detailed analysis at this stage.

However he was satisfied that there was "sufficient doubt" as to the voluntary nature of the statement and the use of undue influence that the onus would fall on the State to prove otherwise.

In the case of three other accused, Mr Michael Lumbambo, Mr Mtheteleli Titana and Mr Chris Giffard, the defence would have to prove that the statements were not made freely and voluntarily.

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

'Threat to assault, shock Schreiner'

Cpt Times 7/3/90

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Supreme Court Reporter

TERRORISM accused Ms Jenny Schreiner had been intimidated by threats of violence to make a confession to a magistrate, the Supreme Court heard yesterday.

This was the submission by Mr Mike Donen, for the defence, in the trial of Mr Tony Yengeni and 13 others.

Mr Donen said that when Ms Schreiner was taken to a magistrate she alleged she had been manhandled and threatened that she would be handed back to a security policeman, Lieutenant Frans Mostert, who would carry out threats of physical assaults, electric shocks, injections and hypnosis.

She had in fact compiled notes and given them to a security policeman, Warrant-Officer Schalk van der Merwe, after she had been manhandled by Lt Mostert, Mr Donen said.

Mr Donen said that from the face of an official document which is completed before a confession was made, it appeared that "serious intimidation" took place. There was a reasonable possibility that the threats of assaults still operated in Ms Schreiner's mind when she was taken before the magistrate.

She had been handcuffed and when she asked for the cuffs to be removed, the magistrate asked a security policeman who in turn asked a colonel. The colonel refused permission for the handcuffs to be removed for security reasons.

That showed that Ms Schreiner was still under the control of the security police and that the magistrate was also under security police influence because he was unable to order the removal of the handcuffs, Mr Donen said.

Not much assurance could be drawn from the magistrate's assurance to Ms Schreiner that she had nothing to fear because she was in the presence of a magistrate.

There had also been a subtle threat from the security police to continue detaining Ms Schreiner in terms of Section 29 to induce her to make a confession to a magistrate, Mr Donen said.

The trial continues today.

Smuts delivers plea for Groote Schuur

Cpt Times 7/3/90

Political Correspondent

IT would not be surprising if Groote Schuur Hospital had to start closing down some patient services by the end of the week, the MP for Groote Schuur, Ms Dene Smuts, said yesterday.

"Nothing underscores the threat to academic medicine more vividly than the fact that the departments of cardiology and cardiac surgery at the hospital would be marooned in the old wing with equipment that doctors describe as "derelict" if the rumoured cuts are enforced.

"Not only could they not acquire new equipment, they would literally be unable to move into the new wing which has been built at great cost," Ms Smuts said.

After discussing conditions at the hospital with staff yesterday, Ms Smuts said that the plight of striking workers "simply adds to the burdens our health services are expected to carry".

From page 1

already overburdened nursing staff would have to contend with the duties of striking workers.

"If the strike continues the whole hospital system could break down and the patients will suffer."

Dr Bowey said strikers constituted "a support structure which is as vital to the hospital as the clinical care itself".

Groote Schuur was considering the possibility of bringing in more student nurses.

He said it was "not entirely fair" to criticise the quality of the food, but conceded that transport of food to the wards was being affected, which would account for its being cold and slow in arriving.

The director general of Provincial Administration, Mr Barry van der Vyfer, said:

"If clerical, administrative and other personnel cannot help out adequately, alternatives will be found."

He refused to allow the Cape Times to visit the Groote Schuur Hospital "at the moment".

Heart transplant goes ahead

Staff Reporter

GROOTE SCHUUR HOSPITAL'S heart transplant team performed its third heart transplant this year on Monday despite reports that services at the hospital have been affected by a strike.

The operation, performed on a 46-year-old Transvaal man began at 10pm and finished at 2am yesterday morning.

He is in a stable condition and "recovering well" said a hospital spokesman yesterday.

Anglican priest to be charged

THE Rev Sid Luckett, director of the Anglican Board of Social Responsibility, was yesterday warned to appear in the Cape Town Magistrate's Court on March 22 on a charge of hindering a policeman.

Mr Luckett, 42, was arrested twice for picketing in support of political detainees and the Yengeni trialists on November 23.

He was first arrested and freed near Greenmarket Square with about 50 other people, then re-arrested outside the Supreme Court later the same afternoon.

According to the charge sheet, Mr Luckett refused to move out of the way of a policeman making an arrest and then tried to prevent the policeman from closing a van's door once the arrested person was inside.

Judge may reconsider trial ruling

Supreme Court Reporter

MR JUSTICE S Selikowitz who yesterday ordered that a joint trial-within-a-trial be held in respect of seven alleged confessions made by the accused in the Yengeni trial, later said he might reconsider his ruling after defence counsel admitted an error had been made.

The state had asked that four trials-within-a-trial be held in respect of four categories of alleged confessions while the defence had argued for a consolidated trial-within-a-trial.

After the original ruling, Mr Hendrik Klem SC, for the state, handed in the alleged confessions made by Ms Jennifer Schreiner, Mr Michael Lumbambo, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard and Mr Sitlabocha Mahlale.

Asked by Mr Justice Selikowitz who should bear the onus of proof on whether the alleged confessions had been freely and voluntarily made, Mr Mike Donen, for the defence, said in respect of Mr Nduku, Mr Mhalale, Mr Kruser, Mr Lumbambo and Ms Schreiner the onus rested with the state, while in the cases of Mr Titana and Mr Giffard the onus of rested with the defence.

Mr Donen said the defence had erred in saying the defence was supposed to bear the onus in the majority of cases.

'Confession' move in Yengeni trial

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Supreme Court Reporter

A DECISION to have the admissibility of seven statements allegedly made by Yengeni terrorism accused consolidated into one trial-within-a-trial may be overturned, the Supreme Court, Cape Town, has been told.

Mr Justice Selikowitz said this after hearing that the defence counsel believed the onus was on the State to prove the admissibility of five of the seven "confessions".

When informed that the State would be required to prove the majority of the statements, Mr Justice Selikowitz queried the argument of the defence counsel which had in part led to his earlier decision, and said he would reconsider his ruling.

He will hear argument from counsel today before deciding.

The trialists are: Mr Tony Yengeni, Miss Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

Yengeni Riddle of a missing confession

(331)

Cape Times 24/2/90

Supreme Court Reporter

THE RIDDLE of a missing confession, made to a magistrate by an accused in the Yengeni trial, led to the adjournment of the court after a 45-minute sitting yesterday.

Shortly after Mr D P de Villiers QC, for the defence, had concluded his argument in an application to have one trial-within-a-trial in respect of confessions allegedly made by seven of the accused, as opposed to the four trials-within-a-trial requested by the state, Mr Justice S Selikowitz said he wanted to raise a matter with counsel.

He said Mr Hendrik Klem SC, for the state, had on Thursday handed in a four-page document described as Mr Mbutu Nduku's confession.

There was, however, no confession and Mr Nduku's signature did not appear on the document.

Mr De Villiers replied that he "wanted to plead guilty" in failing to notice the incomplete document.

The trial continues on Monday.

Ashley Forbes to be called as a witness

Cape Times 23/2/90 331

Supreme Court Reporter

JAILED ANC guerillas Ashley Forbes and Nicklo Pedro would be called by the defence in the trial of Mr Tony Yengeni and 13 others to prove that security police had made concerted efforts to induce detainees to make involuntary statements to a magistrate, the Supreme Court heard yesterday.

This was said by Mr D P de Villiers QC, for the defence, in the trial of Mr Tony Yengeni and 13 others in an application to have one trial-within-a-trial in respect of confessions allegedly made by seven accused rather than have four separate ones as proposed by the state.

Mr De Villiers said in a memorandum to the state last week, the defence had indicated that the admissibility of the confessions would be contested on the basis that they had not been freely and voluntarily made.

Quoting from the memorandum, Mr De Villiers said a special security police unit called the Terrorists Detection Unit (TDU) was assigned to the investigation of the offences alleged in the case, to track down alleged guerillas, arrest and question them with a view to arresting associates and/or finding stored arms and ammunition.

In all cases the accused were not informed of their right to legal representation, the Judges Rules (warning them of their right to remain silent) were disregarded and they were subjected to very intensive pressure through threats and intimidation and/or actual violence, Mr De Villiers said.

The trial continues today.

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Court ban on Yengeni father lifted

Supreme Court Reporter

A TEMPORARY ban on Mr Leslie Yengeni from attending the trial of his son Tony and 13 others was cancelled by the judge yesterday afternoon, after Mr Yengeni snr explained in a letter his action during a disturbance last week.

The public gallery was cleared by police last Thursday after four women started chanting "stop the trial", and during the clearing of the gallery Mr Yengeni snr questioned police why people who had not participated in the chanting were being removed.

When he was pushed and fell heavily on a bench, Mr Tony Yengeni, his wife Lumka and Mr Gary Kruser responded by shouting abuse at police.

Mr Justice S Selikowitz said yesterday morning that Mr Yengeni's response in questioning a police order was unacceptable and until he made representation would not be allowed to return to the public gallery.

The court adjourned briefly and when it reassembled the gallery — to which members of the public had been readmitted — was empty in an apparent protest at Mr Yengeni snr's exclusion.

After the lunch adjournment Mr Justice Selikowitz said he was given a letter from Mr Yengeni snr, who had satisfied the requirements placed on his readmission.

In his letter Mr Yengeni snr had set out his version of the facts and confirmed he had questioned his removal, but added that he had been mishandled, had fallen heavily on benches and police who had removed him had sworn at him and as a consequence he became emotional and resisted.

Mr Justice Selikowitz assured Mr Yengeni snr that his remarks about the effect the incident had were not only fully understood but that he made allowance for such human emotion.

The provisional order excluding Mr Yengeni snr was cancelled and the Registrar was requested to make a copy of remarks he made available to Mr Yengeni snr, Mr Justice Selikowitz said.

Decision on split in trial due today

MR JUSTICE S Selikowitz, presiding over the Yengeni trial, will rule this morning whether he has the power to direct that four separate trials-within-a-trial be held or if they should be combined into one.

Mr Hendrik Klem SC, for the state, said he had received a document from the defence last Friday in which it was alleged that police had embarked on a system of investigation applicable to all the accused.

Both sides could not agree on a procedure and he submitted there should be four trials-within-a-trial, he said.

These would relate to the confessions made by: Mr Mbutu Nduku; Mr Sitlabocha Mahlale; Mr Michael Lumbambo, Mr Mtheteleli Titana, Mr Gary Kruser and Mr Christopher Giffard; and Ms Jennifer Schreiner.

Mr Dawid de Villiers QC, for the defence, said all the confessions would be challenged on the basis that they had not been freely and voluntarily made.

21/2/90 (331)

Court to decide on Yengeni confessions

Staff Reporter

THE Supreme Court will hear argument today on whether certain confessions made by Yengeni terrorism trialists will be put before court collectively or singly.

It had to be decided whether to consolidate the trials-within-trials necessitated by the confessions made while the 14 were held under Section 29 of the Internal Security Act.

Mr Justice S Selikowitz will also make a ruling today about the reopening of the public gallery after it was closed because of a disturbance last Thursday.

Yesterday, defence advocate Mr Dawid de Villiers, QC, arguing for the reopening, said the maintenance of order and decorum in court had to be weighed against the necessity of justice being seen to be done in public.

He said the trial was attended by family members and friends of the accused. Many of them had not been part of the scuffle with the police, and some had not even been present.

He recommended that notices be posted up outside the entrance to the court gallery advising the public of the conditions of attendance, the behaviour expected of them and the consequences if they did not comply.

Judge halts trial after courtroom scuffle

Supreme Court Reporter

MR Justice S Selikowitz yesterday refused an application by the state to continue the trial in the absence of Mr Tony Yengeni, his wife Lumka and co-accused Mr Gary Kruser after abuse was shouted by them at police during a scuffle in the public gallery.

On Thursday shortly before the judge and assessors were due to enter court four women started chanting from the public gallery "stop the trial".

A police sergeant then ordered that the "whole gallery" be cleared and the doors locked.

When police moved in, Mr Yengeni's father, first asked a policeman why everybody was being removed and then said: "Why are you rude to us, address us properly" and then "I'm sick and tired of this, you have the power so remove us".

He was pushed toward the door and his foot apparently caught in one of the benches and he fell heavily to the floor. At the same time a scuffle broke out between women who resisted and police.

At this stage, Mr Tony Yengeni, who had watched events unfold, shouted to police: "Voertsek, you f...g dogs" and moments later: "Don't fight with our women, if you want to fight come fight with us."

In his application Mr Klem said Mr Kruser had said to the policeman who ordered the gallery cleared: "Haven't you got any brains, you f...g idiot?" while Mrs Yengeni shouted to another policeman: "Voertsek you f...g dogs, you murderers, torturers."

In his judgment Mr Justice Selikowitz said the behaviour of Mr Yengeni, his wife Lumka and Mr Kruser was reprehensible and the gratuitous abuse they directed at police was totally uncalled for.

Police were entitled to the protection of the court, he said.

He formally warned the "accused and others" that any act aimed at undermining the proceedings or interfering with court personnel would be investigated as an attempt at contempt of court.

A decision will be taken on Monday whether the public gallery would remain locked.

Court fight: 3 may be banished

Pages 16/2/90

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By LINDA GALLOWAY
Supreme Court Reporter

THREE of the Yengeni terrorism trialists will hear today whether they will be excluded from court for the remainder of the trial.

Mr Justice S Selikowitz will give judgment today in the application by the State to have Mr Tony Yengeni, Mrs Lumka Yengeni and Mr Gary Kruser absent from court.

The application was made yesterday after four women in the public gallery had chanted "stop this trial", the gallery was ordered cleared and a skirmish between police and spectators had taken place.

When Mr Yengeni's father was pushed by a policeman, Mr Yengeni shouted from the dock: "Leave my father alone. Don't beat up women and old men. If you want to fight come and fight with us".

He then shouted "Voertsek, you f... dogs".

Mr Kruser spoke to one of the policemen in court and asked why action was being taken against everyone in the gallery when only a few had caused the disturbance.

An instruction was given to have the accused taken back to the cells and Mr Kruser shouted at the policeman: "You f... idiot. You are dumb. You haven't got any brains."

Mr Hendrik Klem, for the State, argued that Mr and Mrs Yengeni and Mr Kruser should be removed from court so the hearing could continue uninterrupted.

He said their utterances were intimidatory and intended to disrupt proceedings.

The accused had been warned that stern action would be taken if proceedings were disrupted.

Mr Dawid de Villiers, QC, for the accused, argued that they had not caused the disruption but had responded spontaneously to what they had seen happening in the gallery.

STAR 16/2/90 (331)

Removal of Yengeni accused requested

CAPE TOWN — State prosecutors in the Yengeni terrorism trial have applied to have three of the accused removed from court for the remainder of proceedings after a confrontation in court between people in the public gallery and the police.

Mr Hendrik Klem, for the State, brought the application to have Mr Tony Yengeni, Mrs Lumka Yengeni and Mr Gary Kruser ejected from court after they shouted abuse at police who manhandled people from the public gallery after they started shouting: "Stop this trial!"

Mr David de Villiers, QC, for the defence, asked for an adjournment "to allow some time for emotions and feelings on both sides to subside somewhat" before dealing with the application.

Shortly before court began yesterday morning, after the accused had been brought from the cells, supporters in the gallery shouted: "Stop this trial!"

The chant spread through the gallery and a court orderly gave an order for it to be cleared.

The public resisted and there was a scuffle in which one man's African National Congress T-shirt was torn off his back by police.

No option

Mr Klem said Mr Yengeni had repeatedly shouted at the policemen in court: "Voetsek, you f... dogs".

Mr Kruser had shouted at the sergeant in court: "Haven't you got any brains, you f... idiot".

Mrs Yengeni had also sworn at a policeman and the police witness.

Mr Klem said he had no other option but to apply for the trial to continue in the absence of Mr and Mrs Yengeni and Mr Kruser in terms of the Criminal Procedures Act which allowed for this if an accused conducts himself in such a way that the continuance of the trial becomes impracticable in his presence.

Mr Klem said he had spoken to defence counsel previously and had been given an undertaking the accused would not take part in any unruly behaviour or demonstrations in court.

The court adjourned for one hour to allow consultation. Family and friends, removed from court, stood on the steps outside, waiting to hear the outcome of the proceedings. — Sapa.

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15/2/90

The Argus, Thursday, Febr

3 accused removed from court after obscene outcry

By LINDA GALLOWAY
Supreme Court Reporter

STATE prosecutors in the Yengeni terrorism trial have applied to have three of the accused removed from court for the remainder of proceedings after a confrontation in court between people in the public gallery and the police.

Mr Hendrik Klem, for the State, brought the application to have Mr Tony Yengeni, Mrs Lumka Yengeni and Mr Gary Kruser ejected from court after they shouted abuse at police who manhandled people from the public gallery after they started shouting: "Stop this trial".

Mr Dawid de Villiers, QC, for the defence, asked for an adjournment "to allow some time for emotions and feelings on both sides to subside somewhat" before dealing with the application.

CHANTING SPREAD

Shortly before court began at 10am, after the accused had been brought into court from the cells, supporters in the gallery shouted: "Stop this trial".

The chant spread through the gallery and a court orderly gave an order for it to be cleared.

The public resisted and there was a scuffle in which one man's ANC T-shirt was torn off his back by police.

In bringing the application for the removal of the three accused, Mr Klem said Mr Yengeni had repeatedly shouted at the policement in court: "Voertsek, you f.. dogs."

Mr Kruser had shouted at the sergeant in court: "Haven't you got any brains, you f... idiot."

Mrs Yengeni had also sworn at a policeman and the police witness.

Mr Klem said he had "no other option", but to apply for the trial to continue in the absence of Mr and Mrs Yengeni and Mr Kruser in terms of the Criminal Procedures Act which allowed for this if an accused conducted himself in such a way that the continuance of the trial became impracticable in his presence.

Mr Klem said he had spoken to defence counsel previously and had been given an undertaking that the trialists would not take part in any "unruly behaviour or demonstrations in court".

Court adjourned for one hour to allow consultation.

Family and friends, removed from court, stood on the steps in Keerom Street, waiting to hear the outcome of the proceedings.

Admission of records contested

Capt Trips 14/2/90 331

Supreme Court Reporter

DEFENCE counsel in the trial of Mr Tony Yengeni and 13 others on charges of terrorism have contested the admission of police records regarding pointing-out done by two of the accused, on the basis that it had not been freely and voluntarily done.

Mr D P de Villiers QC said this during state evidence by Captain D de Jong of the Ermelo police, about trips he had taken with Mr Christopher Giffard and later Mrs Lumka Yengeni to point out places.

Captain De Jong said Mr Giffard had been taken on a pointing-out trip at Piet Retief near the Swaziland border and had signed forms saying he agreed that he did the pointing out correctly and that he had not been forced, threatened or assaulted to do so.

On January 1, 1988 Mrs Yengeni too was brought to the Piet Retief security police and taken on a trip, during which she pointed out various places. She too had agreed she had not been coerced to do pointing out, but refused to sign any documents, Captain De Jong said.

The trial continues today.

CAPE Times 13/2/90

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Yengeni trial on despite FW's speech

Supreme Court Reporter

NONE of the accused in the Yengeni trial were released as expected yesterday following a state request last week for an adjournment to consider its position in the wake of the speech made by Mr F W de Klerk at the opening of Parliament.

Yesterday, Mr Hendrik Klem SC, for the state, said he was thankful for the adjournment in order to approach the defence about admissions from some of the accused.

"No admissions will be made and as a result the trial and prosecution will continue against all of the accused," Mr Klem said.

Before continuing the cross-examination of a state witness, Mr D P de Villiers QC, for the defence, said it had been brought to his attention by his clients that the impression may "unwittingly" have been created by Mr Klem that the defence had consented to the week-long adjournment for the purposes of discussing the possibility of making admissions.

He wanted to place on record that that impression was wrong, Mr De Villiers said, and explained that Mr Klem had applied for time to consider his position in the light of the statement made by the State President.

"He had to consider, as I understand it, whether in the light of that statement he ought to withdraw charges against some or all of the accused."

Nothing had been said about admissions and it was on that basis that the defence agreed to the postponement, Mr De Villiers said.

He added: "During the adjournment he did ask us whether we would make certain admissions, some specified and some unspecified. After instructions we informed him no."

The state was not proceeding with the trial "apparently" because the accused were not willing to make admissions, Mr De Villiers said.

The trial continues today.

A waste of time, say trialists' families

By RONNIE MORRIS

THE families of Mr Tony Yengeni and his 13 co-accused on trial for terrorism, yesterday accused the state of "wasting time, money and energy" by continuing with a trial which would be overtaken by history.

The families said this in a statement issued after Mr Hendrik Klem SC, for the state, said the trial and prosecution would continue against all of the accused after they said no admissions would be made by them.

"The trialists appeared in court this morning wearing ANC T-shirts. We know they are committed to continue the struggle against apartheid injustice without compromises.

"We reject the attempts by Mr De Klerk to divide the liberation movement.

"We call on him to release all political prisoners — including those convicted of military actions, so-called public violence — and those who have refused to serve in the apartheid army.

"We salute our respected comrade and leader Mr Nelson Mandela and we are happy that he is free."

The families said local, national and international support had been and would continue to be a great source of inspiration for those involved with political trials.

SUPPORT GROUP ... Supporters of the ANC dance with the organisation's flag outside the Supreme Court yesterday where the terrorism trial of Mr Tony Yengeni and 13 others resumed after a six-week recess. There was intense media interest in the trial folowing speculation that charges may be withdrawn against some of the accused following an announcement by State President F W de Klerk that people who had been jailed for membership of the organisation would be released.

Pictures: ALAN TAYLOR

Cape Times 6/2/90 (Page 1) 351

State seeks Yengeni trial adjournment

By RONNIE MORRIS

THE state yesterday asked for the Yengeni trial to be adjourned till next Monday for it to reconsider its position in the light of President F W de Klerk's speech last week.

Mr Hendrik Klem SC, leader of the state team, said that in view of announcements at the weekend the state would have to study the proclamation and reconsider its position.

Mr D P de Villiers QC, for the defence, said they wanted the trial to proceed as smoothly as possible but had no objection to the adjournment. The defence would use the time to make representations to the state, he said.

Mr De Klerk announced the unbanning of the African National Congress, the South African Communist Party and the Pan African Congress and lifted the restrictions on several organisations.

At the resumption of the trial yesterday seven television camera crews waited outside the Supreme Court while 15 local and foreign journalists waited inside the court following speculation on the possible withdrawal of charges against some of the accused.

Mr De Klerk announced that people who had been jailed for membership of banned organisations would be released but prisoners who had been jailed for offences such as terrorism, murder and arson would not.

The main charge against all the accused is one of terrorism but according to the charge sheet some are charged with furthering the aims and objectives of the ANC, being couriers, arranging accommodation for members and recruiting members while others are charged with handling or storing weapons or for alleged involvement in acts of violence.

The cross-examination of a security policeman, Detective-Sergeant Dirk Gerhardus Steenkamp, proceeded till the lunch adjournment.

Supreme Court Reporter

THE families of the accused in the trial of Mr Tony Yengeni and 13 others yesterday said they were confused with President F W de Klerk's announcement last Friday and demanded that all the accused be set free.

After the trial was adjourned at the request of the state to reconsider its position following Mr De Klerk's announcement, the families called a press conference to discuss the position of the accused.

Mr De Klerk had said that people who had been jailed for membership of banned organisations would be released from jail, but that prisoners who had been convicted on charges of murder, terrorism and arson were not affected by the move.

The families demanded that all the accused be released and said they did not know the difference between public violence and guerilla acts. They had arrived at the Supreme Court with the understanding that their loved ones would be released, a spokesman said.

They also wanted to know what would happen to Bongani Jonas, who late last year was sentenced to three years' imprisonment for refusing to testify for the state in the Yengeni trial.

The families said a refusal by Mr De Klerk to accept the Harare Declaration would not be conducive to negotiations.

Yengeni trialists demand freedom

Cape Times 6/2/90 (Page 1) 331

Court drops 7 charges against news editor

MARITZBURG. — Seven of 29 charges against Post Natal news editor Mr Muhamed-Rafiq Rohan were withdrawn when he appeared in the College Road Supreme Court here yesterday.

Mr Rohan now faces 22 charges involving terrorism, attempted murder, causing explosions in Durban and possession of bombs, explosives and firearms.

The accused, who pleaded not guilty to all charges and who declined to make a statement, gave the black-power salute when he entered the dock.

Captain P C Brand testified yesterday that he had been called to the Bulwer Park electrical sub-station after a blast which damaged a transformer.

He then lifted a mini-limpet mine out of a drain with a fishing net and placed it behind a tree. It exploded 10 metres away from him.

Mr Rohan is charged with having attempted to murder Captain Brand or members of the SA Police or the general public who were near the scene.

No one was injured in the two blasts.

The hearing continues today. — Own Correspondent and Sapa

Cape Times 6/2/90 (Page 1) 334

FW speech used in court

PRETORIA. — A copy of President F W de Klerk's opening speech to Parliament on Friday, in which he declared the ANC unbanned, has been handed to the Regional Court here in mitigation of sentence of a man convicted of being an ANC member and of terrorism.

Last year Mokwena, 29, was convicted of being a member of the then-banned ANC and on a charge of terrorism, in that he received military training from the ANC, and was arrested in possession of handgrenades. — Sapa

Cape Times 6/2/90 (Page 1) 338

6 whites to be charged after attack on blacks

KLERKSDORP. — Six white men were arrested and are to be charged with murder, attempted murder and assault after an attack on blacks near Jouberton on Saturday, police said yesterday.

Police said that on Saturday morning six men entered Jouberton in four cars and a bakkie. They picked up a number of blacks, saying they had work for them in Klerksdorp.

The men then took the people to the police station and wanted to have them charged with minor crimes.

Police said the whites were not prepared to make statements and undertook to return the blacks to Jouberton.

The blacks were dropped off on the Ysterstryd road, near Jouberton, and attacked with fists, feet and sjamboks. One was allegedly kicked to death. — Sapa

Yengeni trialists go free, with tea and thanks for lawyers

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W\Mail 23/3 - 29/3/90

By GAYE DAVIS
Cape Town

DEFENCE lawyers in the Yengeni trial were thanked this week "for bringing us our children, after we have been crying late into the night".

The thanks came during a celebratory tea-party for family and supporters of the 14 trialists, eight of whom were acquitted this week.

Gary Kruser, Chris Giffard, Mthetheleli Titana, Charles Mahlale, Alpheus Ndude, Gertrude Fester, Zurayah Abass and Colleen Lombard emerged into bright sunlight outside the Cape Supreme Court on Monday to be swept into emotional embraces by friends and family.

Their acquittal came as a surprise: state counsel Hendrik Klem SC announced that the state had reconsidered its position and was formally stopping the prosecution against them.

Outside, some of the eight wept: not for themselves, but for those they left behind.

The remaining six accused — Tony Yengeni, Jennifer Schreiner, Lumka Yengeni, Michael Lumbambo, Mbutu Nduku and Wellington Nkwandla — expect to hear today whether a bail application can be launched on their behalf.

While the trial itself has been postponed until April 9, Mr Justice Selwyn Selikowitz has said he will "sit in the middle of the night, if need be" to hear a bail application.

Any bail application depends on a decision by the Cape Attorney-General, Niel Rossouw, who this week heard representations from defence counsel as to why he should withdraw certificates he issued in terms of Section 30 of the Internal Security Act.

The certificates prevent the release of accused persons on bail "in the interests of the security of the state or the maintenance of law and order".

Defence counsel argued the dramatic changes in South Africa since the trial began in March 1988: the commitment to talks by both the government and the African National Congress and the possibility of an amnesty which would include all political prisoners and trialists.

It was pointed out that "not much further evidence" was contemplated before the State closed its case against the remaining accused. Initially, all 14 accused faced charges of high treason, later amended by the state to charges of terrorism.

The remaining accused were unlikely to be convicted of anything more serious than the possession of arms and explosives, counsel argued. If found guilty, their sentences would be far less drastic, counsel said.

A precedent exists for the no-bail orders to be withdrawn: in another political trial in the Western Cape, Madoda Daki, who is accused with Robert Twalo of placing a bomb outside the Cape Supreme Court, was freed on R2 000 bail last Friday after the attorney-general withdrew a Section 30 certificate.

For those acquitted, life can now assume some form of normality. Most of them were arrested during 1987. At least three of them — Ndude, Lombard and Abass — have sat in court almost daily without ever hearing their names mentioned by the state in connection with any crime.

Mr Justice Selikowitz this week expressed his concern at the case "dragging on and on" when the state requested an adjournment to reorganise its case.

How good to feel free ... Yengeni trialists Mthethelili Titana, Colleen Lombard, Alpheus Ndude, Gary Kruser, Zurayah Abass and (seated) Chris Giffard and Charlie Mahlale

Photo: MIKE HUTCHINGS, Afrapi

Webster reward

THE R150 000 reward for information leading to the arrest and conviction of the murderers of Wits academic Dr David Webster is valid for just two more weeks until December 31.

A member of the pledge committee of the Wits branch of the Union of Democratic University Staff Associations, Mr Derek Young, said no one had yet supplied Udusa with information which they felt could lead to them claiming the reward.

"We want people to realise this substantial amount of money is there for the taking, but only until December 31.

"It is being offered to anyone other than members of the South African Police's investigating team."

Asked whether Udusa considered those men presently detained as not being responsible for Dr Webster's murder, Young said it was impossible to respond because it was difficult to know what information the police had.

SOWETAN Correspondent

Another member of the Wits pledge committee, Mr Scott Hazelhurst said there were reasons why Udusa was still advertising the reward.

He said the men were being detained under Section 29 which meant they were being held for questioning and no one knew whether they were responsible.

"Secondly, even if they are responsible, there might still be others who have not yet been arrested and if they are the only ones responsible, then the police might not have enough evidence to convict them and the reward might entice people to come forward."

De-Klerk must think again, say academics

Probe death squads - Wits

Sowetan 20/12/89

DAVID WEBSTER

THE Council of the University of the Witwatersrand has called for the State President to reconsider his decision not to appoint a judicial commission of inquiry into alleged hit squad activities.

Wits University's acting vice-chancellor, Professor Mervyn Shear, said in a statement yesterday the Council was concerned that the State President had decided not to appoint a judicial commission of inquiry into such allegations.

"At a meeting on Friday December 15, the Council of the University of the Witwatersrand noted with gratification that the police had made substantial progress in their investigation of the murder of Wits lecturer, Dr David Webster, and the indication by the State President that he was determined to identify alleged members of the 'hit squad' and ensure prosecution," he said.

"Nevertheless, the Council was seriously concerned that the State President had decided against the appointment of a judicial commission of inquiry.

"It was of the opinion that while it is essential that prosecutions proceed expeditiously, it is of absolute importance that everyone involved in these alleged 'hit squad activities', of whatever rank or seniority, be identified and brought to justice, and that this be seen by all to have been done."

He said the Council had, therefore, written to the State President urging him to reconsider his decision and to appoint a judicial commission of inquiry without delay.

"The Council has also asked that the State President receive a delegation from the university at his earliest convenience, in order to discuss the matter." Sapa.

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War into white areas 'plan' before court

Supreme Court Reporter

A DOCUMENT entitled "Taking people's war into the white areas" and allegedly compiled by terrorism accused Ms Jenny Schreiner was a "blueprint for guerilla warfare", the Supreme Court heard yesterday.

Major Andre du Toit, a security police officer, was presenting his analysis — in the trial of Mr Tony Yengeni, Ms Schreiner and four others — of the document which was allegedly found in a trunk in Ms Schreiner's Wynberg flat shortly after her arrest in September 1987.

The 10-page document was written during the period when explosions took place at D F Malan Airport, two filling stations, on the railway line at Lyndedoch and the car-bomb explosion at Castle Court in town.

He said he based his view on information contained in the document which read: "The war has been taken into the white areas in a very real sense in the last month — the car bomb in the Cape Town SADF residence, the D F Malan limpet blasts, the attacks on a railway line and on two petrol stations."

He regarded Ms Schreiner as a member of the ANC and found the author of the document had identified with the aims, policy, leadership and violent objectives of the ANC to seize power through an armed people's war, Major Du Toit said.

Ms Schreiner wrote in the document that to take the war into the white areas meant that white comrades must become involved in the war and organisational tasks were identified in areas.

These were: To recruit and train white democrats who had not attained a high profile in the UDF or student organisations; the neutralisation of the army by "military-combat work and intelligence work"; and the need for dynamic propaganda machinery for the underground structures to mobilise the masses for a protracted people's war, Major Du Toit said.

He regarded the document as a blueprint for guerilla warfare and an explanation of the manner in which people's war by means of the ANC's "People's War" strategy could be expanded.

Major Du Toit said the document mentioned how the white fighter, especially white women, could become involved in the struggle and set guidelines on how the armed struggle could be waged, which arms to use and what kind of information was necessary to facilitate a seizure of power in South Africa.

The trial continues on Monday.

The accused are: Mr Yengeni, Ms Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

Mr Justice S Selikowitz was on the Bench. Mr W S le Roux and Ms J V Knoll were the assessors. Mr D P de Villiers QC, assisted by Mr Mike Donen and Mr Johnny de Lange appeared for the defence. Mr Hendrik Klern SC, with Mr Jannie van Vuuren and Mrs Sandra Swart, appeared for the state.

شهید

Expert tells court of home-made bombs

Cape Times 20/4/90 331

ORDINARY household electrical items found in terrorism accused Ms Jenny Schreiner's Wynberg flat could have been used as detonators, an explosives expert said in the Supreme Court yesterday.

Major Andre du Toit of the police bomb squad was giving evidence in the trial of Mr Tony Yengeni, Ms Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla.

The court was told that steel wool, light globes and batteries, cold glue and other types of glue could be used in manufacturing home-made detonators.

COURT ARSENAL ... Some of the weapons which will be used as demonstration models during evidence in the Yengeni trial.

Major Du Toit said that by following directions from a book called The Propaganda Training Manual — also found in the flat — cold glue could be used when making a paper cylinder detonator which is a paper tube filled with chemicals and sealed with glue.

Also, two 3,5mm and 2,5mm jacks could be used when making a weapon called the "street broadcaster", said Major Du Toit.

Mr Justice S Selikowitz asked Major Du Toit if there were other electrical items in the Ms Schreiner's flat at Maria Court, Wellington Road, Wynberg or if the items exhibited in court were chosen specifically because of their uses.

Major Du Toit said he was not at the flat when the items were found but deduced that they were bought for making detonators.

"It was unusual finding these items. Women are not normally interested in this stuff. And the things were found in a flat occupied by two women," he said.

Explanations of the origins of AK-47 automatic rifles found at Mr and Mrs Yengeni's Searle Street, Lansdowne, home were also given by Major Du Toit.

He said a Soviet Makarov 9mm pistol was found in a bedside pedestal in Mr and Mrs Yengeni's room.

The hearing continues today.

The two assessors are Mr W S le Roux and Ms J Knoll. Mr H Klem, Mr J van Vuuren and Mrs P Swart appear for the state. Mr D P de Villiers, QC, Mr M Donen and Mr J de Lange appear for the defence.

CMM Times 20/3/90 (331)

Eight of Yengeni trialists acquitted

By RONNIE MORRIS
Supreme Court Reporter

MOTHERS and fathers wept tears of joy in the Supreme Court yesterday when their sons and daughters, on trial for terrorism with Mr Tony Yengeni and others for about a year, were acquitted when the state stopped the prosecution against them.

Some of the accused had been detained and awaiting trial for as long as 17 months.

There was a hushed silence as Mr Hendrik Klem SC, for the state, said the state had reconsidered its position and in terms of Section 6 (b) of the Criminal Procedures Act formally stopped the prosecution against eight of the accused.

They were: Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Sitlabocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Even though the eight had already pleaded to the charges against them, they were entitled to an acquittal. The state had further decided to withdraw the seven confessions, Mr Klem said.

In respect of the remaining accused, Mr Tony Yengeni, Ms Jennifer Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla, the state had not reached the end of its case and further evidence would be led against them, he said.

Mr D P de Villiers, for the defence, gave notice that because "circumstances have changed in this country" representations would be made to the Attorney-General for bail to be granted to the remaining accused.

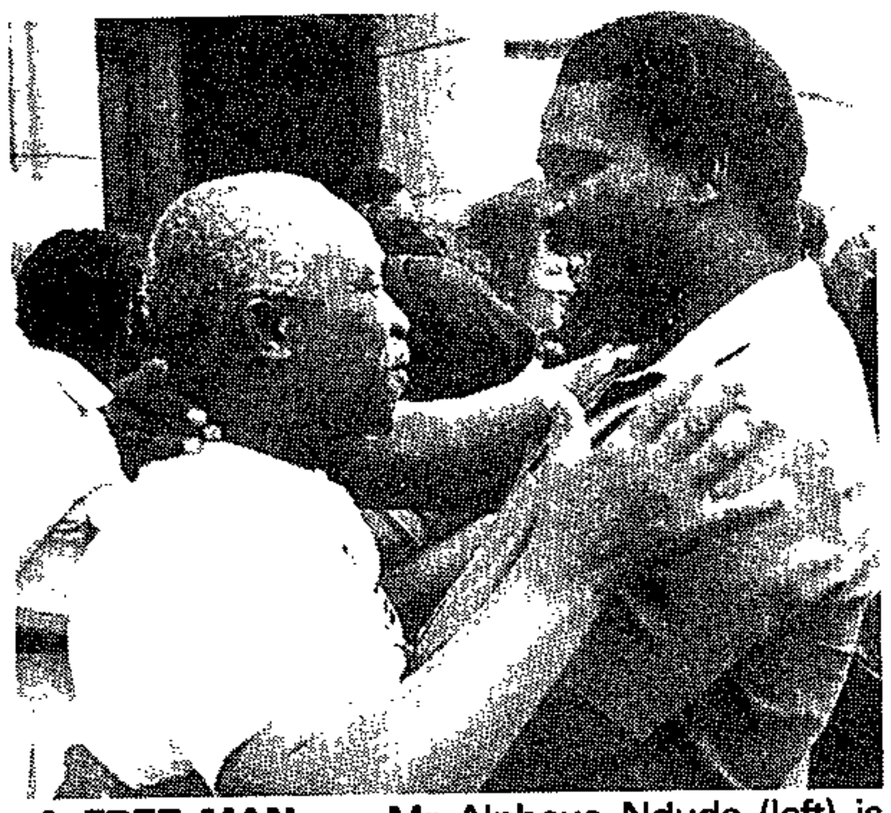
Some of the accused were visibly moved when Mr Justice S Selikowitz called on them to stand and then informed them they had been acquitted.

Mr Klem said that while the state had arranged for two expert witnesses to start evidence yesterday, statements had been given to the defence and it may no longer be necessary to call the witnesses.

Mr De Villiers confirmed that the state asked the defence to look at evidence and formal admissions would be made where issues were not in dispute, he said.

The trial resumed yesterday after Mr Klem last week asked for a five-day adjournment to consider the state's position after Mr Justice Selikowitz ruled the state bore the onus of proof in the cases of five alleged confessions made to a magistrate.

That ruling had taken the state by surprise and one of the options the state would consider was to apply for a reservation on a point of law which must be decided by the Appellate Division, he had said.



A FREE MAN ... Mr Alpheus Ndude (left) is greeted by a friend outside the Supreme Court.
Picture: ALAN TAYLOR

TEARS OF JOY ... Acquitted Yengeni trialist Mr Chris Giffard, with two Yengeni Defendents' Support Group members and Mrs Christina Kruser, mother of Mr Gary Kruser.
Picture: ALAN TAYLOR

Thanks for support, say freed eight

IN a joint statement the acquitted Yengeni trialists, including Mr Bongani Jonas who was jailed for refusing to testify against them, yesterday thanked their families, friends, comrades and loved ones for support given over the past two-and-a-half years.

"It was this support which helped us endure the many pressures placed on us by the state. We call on our families and friends to continue that support.

"We wish to point out our release is no concession and it was not part of a deal. Our release is a result of our refusal to compromise, a refusal to submit to the tactics of the state.

"We waited two-and-a-half years to expose the atrocities committed against us during our detention under Section 29. When that time came the state withdrew our confessions and acquitted us."

The eight pledged to continue working for the release of all political prisoners, the stopping of all political trials and the unconditional return of all exiles.

● Emotional scenes greeted the eight outside the Supreme Court yesterday.

A tearful mother, Mrs Christina Kruser, said: "I'm so happy, it has been a big surprise. I'm overcome with joy in being able to take my boy home tonight."

Mr Gary Kruser said he was "very confused" to be released because he had been held with his co-accused for two years. "My comrades have become a pillar of strength to me, they have become like family and my energies will now go into seeing all political prisoners freed and all political trials stopped."

Mr Chris Giffard said it felt "good" to get on with his life. "I feel strongly a part of me remains in a cell where I lived with my comrades."

Mr Mteteteli Titana said he had expected to be released because the state did not have much evidence. He added that he was sad to leave behind his "comrades with whom I've spent two years".

Mr Charles Mhlale said he was "not so excited" but pleased to be acquitted. He had expected the state to consider its position with regard to the confessions.

Mr Alpheus Ndude said he was "not very excited" because he had thought the state would drop charges against all the accused.

Plea to be heard in camera

Supreme Court Reporter

AN APPLICATION by the state yesterday to have the evidence of a new state witness heard in camera, will take place in camera, the Yengeni trial judge ruled yesterday.

Mr Tony Yengeni, Ms Jenny Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku and Mr Wellington Nkwandla are on trial for terrorism.

Mr Hendrik Klem SC, for the state, said he was unable to proceed with the evidence of an explosives expert, Major Andre du Toit, because documents in "manuscript form" had to be transcribed and checked and a new witness called.

The trial continues.

Trial confession dispute judgment set for tomorrow

Capt Trials 8/3/90 (331)

Supreme Court Reporter

JUDGMENT will be handed down in the Supreme Court tomorrow when Mr Justice S Selikowitz will rule in the trial of Mr Tony Yengeni and 13 others whether the state or defence counsel bore the onus in proving the admissibility of alleged confessions made to a magistrate.

The accused entered their third day on hunger strike yesterday and some wore black T-shirts bearing the legend "Starving for Freedom" in yellow.

The state has applied for four trials-within-a-trial to be held in connection with alleged confessions made by Mr Mbutu Nduku; Mr Sitloboacha Mhalale; Michael Lumbambo, Mr Mteteleli Titana, Mr Gary Kruser and Mr Christopher Giffard, and Ms Jenny Schreiner.

The defence had argued for a consolidated trial-within-a-trial because it was disputed that the confessions had been freely and voluntarily made.

The defence had also argued that the onus of proving the admissibility of the confessions had shifted to the state in respect of Mr Nduku, Mr Mahlale, Mr Kruser and Ms Schreiner.

Yesterday Mr Jannie van Vuuren, for the state, said Mr Mahlale's confession complied with the provisions of Section 217 of the Criminal Procedures Act. He had made a confession to a peace officer (a policeman) and later handed it to a justice of the peace (a magistrate).

Handing the confession to the magistrate was the same as making one, he said.

Mr Hendrik Klem, SC, also for the state, said indications were that Ms Schreiner had made a confession freely and voluntarily.

When asked, she denied that she had been assaulted, threatened or induced to make a confession, he said.

A copy of Mr Nduku's confession had been given to the defence more than 12 months ago and they had had sufficient time to consult with him, he said.

Capt Trials 13/3/90 (331)

Surprise prosecution move in Yengeni trial

By RONNIE MORRIS
Supreme Court Reporter

IN a surprise announcement yesterday in the trial of Mr Tony Yengeni and 14 others, Mr Hendrik Klem SC, for the state, said the prosecution might close its case against all the accused without proving the admissibility of confessions.

Mr Klem, leader of the prosecution, said this shortly after Mr Michael Donen, for the defence, indicated that Ms Jenny Schreiner was ready to testify in a consolidated trial-within-a-trial to test the disputed admissibility of seven confessions.

Mr Justice S Selikowitz granted a one-week postponement to allow the prosecution to hold discussions with the attorney-general.

Applying for the postponement, Mr Klem said he did this in the light of a ruling by Mr Justice Selikowitz last Friday that the state had the onus of proof in the case of alleged confessions by Mr Mbutu Nduku, Mr Charles Mhalale, Ms Schreiner and Mr Gary Kruser.

The typed copy of the ruling was not available and he needed to provide the attorney-general with a copy. The application was also made on the basis that the state had not expected the ruling and had been taken by surprise, Mr Klem said.

To present its case to the best of its ability, the state needed time to consider its options, one of which was whether to apply for a reservation on a question of law which must be decided by the Appellate Division.

"I submit that whatever option the state decides on will seriously affect the balance and the course this trial will take."

Mr D P de Villiers QC, for the defence, said the application had taken them "completely by surprise". The reservation on a point of law always came at the end of the trial, he said.

Mr Justice Selikowitz said the reason given by Mr Klem did not seem to justify a postponement and that he needed more information. He would adjourn for a few minutes to allow Mr Klem to respond, the judge said.

When proceedings continued later, Mr Klem reiterated that the ruling had surprised him, especially in the case of Mr Nduku, where the court found the official document to which the alleged confession was supposed to have been annexed.

Delivering his bombshell, Mr Klem said another option the state had was to close its case in respect of all the accused without proving the admissibility of the confessions.

In the light of the volume of evidence — it runs into thousands of pages — and the fact that the trial had been running for a year, the request for a postponement was a reasonable one. It would be wrong to continue evidence which might later be disregarded, Mr Klem said.

The accused are: Mr Yengeni, Ms Schreiner, Mrs Lumi Yengeni, Mr Michael Lumbamba, Mr Nduku, Mr Wellington Nkwandla, Mr Mthatalali Titane, Mr Kruser, Mr Gifford, M Mahlale, Mr Alpheus Nduda, Ms Gertrude Fester, Ms Zuraya Abass and Ms Colleen Lombard.

Onus rests with state, Yengeni judge rules

Cape Times 10/3/90

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Supreme Court Reporter

PROVING the admissibility of confessions to a magistrate by four accused in the trial of Mr Tony Yengeni and 13 others rested with the state, Mr Justice S Selikowitz ruled yesterday.

The judge further confirmed a ruling he made earlier that a consolidated trial-within-a-trial should be held instead of four separate ones requested by the state.

The state had the onus to prove admissibility of confessions in the cases of Mr Mbutu Nduku, Mr Charles Mahlale, Mr Gary Kruser and Ms Jenny Schreiner, the judge found.

In the case of Mr Nduku, the alleged confession was attached to an official form which referred to annexures A and B, which were not attached.

A statement made by Mr Mhalale raised problems because a statement he had made to a policeman was handed in and attached to the official form.

In terms of the provisions of Section 217 of the Criminal Procedures Act the statement had to be made in the presence of the magistrate, or it had to be rewritten by him.

In respect of Mr Kruser the judge found that when the magistrate asked Mr Kruser if he had been promised anything or expected a reward, he replied in the negative and said he only wanted to be charged in court and "get the whole thing over with".

He also told the magistrate that security police had said he would be charged and have access to a lawyer if he made a statement to a magistrate.

Mr Justice Selikowitz said that even if security legislation precluded Mr Kruser from access to a lawyer he could not find, as it appeared, that there had not been undue influence.

With regard to Ms Schreiner, Mr Justice Selikowitz said a reading of the official document attached to the alleged confession left sufficient doubt of its voluntariness.

The trial continues on Monday, when Ms Schreiner will be called as the first defence witness.

ANC trial: Charges to be dropped?

By RONNIE MORRIS
Supreme Court Reporter

THE terrorism trial of Mr Tony Yengeni and 13 others resumes in the Supreme Court, Cape Town, today amid mounting speculation that charges against some of the accused may be dropped following President F W de Klerk's watershed speech.

In announcing the unbanning of the ANC, the SA Communist Party, the Pan African Congress and other restricted organisations, Mr De Klerk said people jailed merely for their membership of banned organisations would be released.

However, prisoners who had been sentenced for other offences — such as murder, terrorism or arson — were not affected, he said.

Legal observers yesterday said it was unclear whether charges would now be dropped against some of the accused in the Yengeni trial.

Since the trial started last March, a wealth of evidence has been led, many witnesses have been called and five of the accused have been released on bail of R3 000 each.

No evidence has been led against two accused, Ms Zurayah Abass and Ms Colleen Lombard, who according to the indictment were couriers for the ANC, arranged accommodation for ANC members and tried to recruit coloured women into the ANC.

Little evidence has been led against Ms Gertrude Fester, alleged to have acted as a courier and arranged accommodation for ANC cadres.

Mr Alpheus Ndude is alleged to have recruited ANC members, done surveillance work and helped people leave South Africa for military training.

Mr Chris Giffard is indicted for allegedly receiving training in underground political work which would enable him to further the aims and objectives of the ANC, for receiving communications training and for being a member of a propaganda unit.

The remaining accused are charged with either handling or storing weapons, or with involvement in acts of violence.

Mr Hendrik Klem SC, leader of the state team, said decisions would be taken after he had seen and studied a government proclamation.

The attorney-general, Mr Niel Rossouw, said his office was conducting an "intensive study" into trials such as that of Mr Yengeni and others.

The state had already withdrawn charges against Mr Johnny Issel, due to appear in Parow Regional Court on February 12 on a charge of furthering the aims of the ANC, Mr Rossouw said.

Mr Essa Moosa, whose firm represents some of the Yengeni accused, said answers were needed to questions such as how actions by members of the unbanned Umkhonto we Sizwe, military wing of the ANC, would be affected.

Technically the entire leadership of the ANC could be charged with high treason unless matters were clarified, Mr Moosa said.

Explosives expert tells of Casspir damage

By GILL TURNBULL
Staff Reporter

EXPERT evidence relating to explosions in Paarl and Stellenbosch and a fingerprint on an ANC pamphlet has been called by the State in the Yengeni trial in the Supreme Court, Cape Town.

Six members of the ANC are on trial for alleged acts of terrorism in 1987. They are Mr Tony Yengeni, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla and Ms Jennifer Schreiner.

Police explosives expert Captain Wessel Fourie said that about 9pm on August 14 1987 he had investigated a Casspir damaged by a handgrenade in Mphakalazi Street, Mbekweni, near Paarl.

There was a hole in the ground at the back of the Casspir, which had been hit by flying shrapnel.

Three personnel were slightly injured.

Captain Fourie collected metal pieces, which were identified as part of a RGD 5 grenade of "communist" origin.

Describing damage to a railway line at a Vlaeberg crossing near Stellenbosch, Sergeant Leon Goosen of the Stellenbosch Security Branch said a 158 limpet-mine explosion had cracked a track in five places.

Mr Justice S Selikowitz, his two assessors, and the defence team examined the broken pieces.

Another State witness, fingerprint expert Sergeant Johannes le Grange, testified that his investigation had proved a fingerprint on an ANC pamplet belonged to Ms Schreiner.

The hearing continues today.

Convicted bomber: 'I'd do it all again'

Own Correspondent

DURBAN. — Convicted bomber and former journalist Muhammad Rafiq Rohan said in the Supreme Court here yesterday that he felt no remorse for his actions and did not regard them as criminal.

Rohan caused blasts at C R Swart Square, the police radio workshop in Ridge Road and the Natal Command last year. Seventeen people were injured.

During cross-examination, he said that if instructed by the ANC, he would do it all again. But during re-examination by his counsel, he said: "I don't think I would take up arms again. It seems we are on the way to a peaceful and negotiated settlement."

Referring to the blast at Natal Command, he said: "It was not my specific intention to kill anyone — I was simply obeying instructions."

Sentence will be passed tomorrow.

Durban bomber says he would do it again

Sowetan 11/4/90

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A FORMER journalist and convicted bomber, Muhammed Rafiq Rohan (36), said in the Durban Supreme Court yesterday that if he was told to do everything again he would do so.

Rohan was giving evidence in mitigation of sentence after being convicted of causing three explosions in Durban between January and April last year in which 17 people were injured.

He has also been convicted of being in unlawful possession of firearms and ammunition.

Rohan told Mr Justice Law he had joined the African National Congress in October 1988 while on a visit to Lusaka.

Prior to his visit to Lusaka he had been approached by a security policeman who wanted him to become a police informer.

"I was amused at this, considering my stand politically," Rohan said.

Despite two meetings with this security policeman, he had refused the offer.

"I never, ever considered betraying my people," he said.

Asked about the money he had been given, Rohan said it had been to cover expenses. He had been given R14 000 to purchase a safe house and a car. The car would be used to transport weapons in and out of the country.

Regarding the bomb which had been placed at Natal Command, Rohan said he had not necessarily intended killing people.

He knew there was a function on that night. However, he was simply obeying instructions by placing the bomb outside that particular room.

Rohan said he had been told it was a military function. He did not know there would be women there, but had he known he would not have disobeyed his instructions.

He said he had not intended to kill people when he placed the bomb at the C R Swart single quarters. Although it was fairly early in the evening - 8pm - Rohan presumed the building was mainly empty.

He said as most of the lights were off he presumed the men were at parties and discos.

He said he would have tried to avoid taking lives but if someone had died it would have been "unfortunate".

He said he was not remorseful about what he had done. In fact he did not regard his acts as being criminal acts.

The trial continues. - Sapa

Journalist bomber gets 15 years in jail

DURBAN. — Emotional scenes and cries of "Viva Mandela — Viva ANC" greeted the sentencing yesterday of journalist Mohammad Rafiq Rohan to 15 years in jail.

Following the passing of sentence in the Supreme Court here, the former news editor of the Post Natal newspaper turned to face a packed gallery of supporters with a clenched-fist salute.

Rohan, 36, admitted causing blasts at C R Swart Square, Durban's police HQ, the police radio workshop in Ridge Road, Durban, and the Natal Command between January and April last year.

A total of 17 people were injured.

Mr Justice Law said: "The explosions were exceedingly powerful and capable of causing great destruction.

"It was miraculous that no one was killed — it was also very fortunate for the accused."

Mr P K Coetzee appeared for the state and Mr K Naidu for the defence. — Sapa

Teachers guilty of bomb blast

Sowetan Correspondent

TWO Vosloorus teachers were yesterday convicted of 70 charges, including three of murder and 14 of attempted murder, resulting from the Witbank car bomb explosion in October 1988.

In the Supreme Court sitting at Delmas, Mr Justice MC de Klerk found Joseph Mandlenkosi Vilakazi (26) and Ramoepi Stephen Moboa (26) had participated in the car bomb conspiracy.

The charges arise from the car bomb explosion on October 24, 1988 outside a Witbank office block housing security police and CID personnel.

The judge said the two had been involved in the collection of Russian-made weapons which they knew could lead to explosions.

Explosives

They must have known what would happen with the explosives as they were part of the car bomb mission.

The two therefore had the foresight to see that the result could kill or injure people.

He rejected their evidence which contradicted two State witnesses, Miss Anna Mahlangu and Mr Thabi Ngala, both of whom had been involved in the operation.

De Klerk said the two witnesses' evidence was satisfactory and granted them indemnity from prosecution.

During the trial Vilakazi and Moboa denied they were members of the ANC.

They had pleaded not guilty to all 70 charges.

BCMA case held in camera

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By SONTI MASEKO

THE trial of seven members of the Black Consciousness Movement of Azania was yesterday held in camera following an application by the State that evidence by a "group" of witnesses should not be made public.

State prosecutor Mr L Pienaar said in the Klerksdorp Regional Court he intended to lead evidence by former members or supporters of the BCMA, the Azanian National Liberation Army and the Pan Africanist Congress.

He said the witnesses, who were also accomplices, were prepared to testify but feared for their lives if they were to do so in open court.

Appearing before Mr JD Pretorius are Mr Mziwamadoda Kondile (21), Mr Matikela Mashiqana (27), Mr Motsamai Patrick Nthako (24), Mr Nelson Jowi (27), Mr Saxon Mokonenyana (20), Simon Ndlovu (18) and a 17-year-old girl whose identity may not be revealed.

They have all pleaded not guilty to a charge of terrorism.

The State's application was opposed by defence counsel Mr Dikgang Moseneke and Mr Imran Moosa, who said an application for the protection of a group of witnesses was so vague it was not able to specify the people it covered.

They asked the State to make an application for each witness willing to testify in camera.

The public were asked to leave the courtroom while evidence by the witnesses in support of the State application was heard.

(Proceeding).

PREPARE fo

Dramatic turn in BCM trial

By SONTI MASEKO

THE terrorism trial at the Klerksdorp Magistrate's Court took a dramatic turn yesterday when the defence won a postponement to meet the Attorney-General.

They will negotiate a withdrawal of the case against seven members of the Black Consciousness Movement of Azania.

Defence advocate Mr Dikgang Moseneke and Mr Imrann Moosa said they would alternatively seek a stay of the trial pending the release of all political prisoners.

Moseneke and Moosa are representing seven members of the BCMA charged with receiving political and military training from the organisation and its military wing, Azanla.

Sowetan 25/4/90

They are Muziwemadoda Kondile (21), Matikela Mashiqana (27), Motsamai Patrick Nthako (24), Nelson Joyi (27), Saxon Mokonenyana (20), Simon Ndlovu (18) and a 17-year-old girl, whose identity may not be revealed.

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Moseneke said the country was in a climate in which all similar trials had been stopped. The magistrate Mr JD Pretorius granted the postponement for the meeting with the AG but said the case would resume on Thursday.

How could Delmas trial have gone on so long? — law report

CT Times 30/4/90 331

By DAVID YUTAR
Staff Reporter

PEOPLE would be justified in asking how the Delmas trial, South Africa's longest and most expensive criminal trial, could have been allowed to continue for another year when, halfway, it had become a nullity.

This is the comment of an editorial in Consultus, the journal of the South African Bar.

The 22 accused were indicted on charges of treason, alternatively terrorism in terms of the Internal Security Act 74 of 1982. Other charges included subversion, murder and furthering the aims of an unlawful organisation.

The trial lasted three years and a month, during which the court sat on 437 days; 278 witnesses gave evidence; the trial record of evidence and argument fills 459 volumes containing 27 194 pages; and the trial court's judgment took four days to deliver and runs to over 1 500 pages.

The trial was beset by controversy when halfway through its course, the trial judge, Mr Justice Van Dijkhorst, decided to discharge one of his assessors because he had signed a petition in the "million signature campaign" of the UDF.

Subsequently when the trial went on appeal, the Appeal Court decided that the trial judge's action had been irregular and that as a result the trial had become a nullity.

The Consultus article points out that although the trial judge's decision was shrouded in controversy from the start, and there were serious doubts among lawyers as to its correctness, nevertheless the court was, in terms of our law, obliged to continue with the trial until it had reached its conclusion. Only then could there be any prospect of a review by the Appellate Division.

"But can it ever be justified to the general public that the trial court which, after the discharge of the assesssor, was a nullity in law, continued for more than a year, that both the state and the defence, in addition to the many thousands of rands that had already been spent on the case, spent even more thousands and that the accused, who had already been in detention for some years, were detained for a further lengthy period?," asks the editorial.

It goes on to suggest that although in the majority of cases it is undesirable for a trial to be interrupted so as to allow the hearing of a question of law by the Appellate Division, exceptions should be provided for.

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Team stabbed man — witness

The Argus Correspondent

JOHANNESBURG. — After being assaulted by Mrs Winnie Mandela and members of her soccer team, Mr Kenny Kgase was asked to join the team and a few days later was taken along when team members caught and stabbed a man.

This evidence was led in the Rand Supreme Court during the trial of Mr Jerry Richardson. Mr Richardson, 41, of Orlando West has pleaded not guilty to four counts of kidnapping, five of assault with intent to commit grievous bodily harm, one of attempted murder and one of murder.

"Kicked Stompie"

Continuing his evidence in chief yesterday, Mr Kgase said he and the other three were guarded that night by Mr Richardson and a man called Slash.

Later a "tall, muscular man" arrived and asked who they were. Mr Richardson repeated the allegations against the four young men and the newcomer became angry with Stompie.

"He said that is the last thing that can happen when people are fighting for a just cause. He kicked Stompie and asked why he did it. Stompie couldn't answer and he became more angry. He kicked Stompie around the room," Mr Kgase said.

On New Year's Day last year, Mr Kgase said, Stompie was told to write his address on a piece of paper because he was going home. Various men spoke to Stompie before Mr Richardson told him to collect his belongings.

He decribed January 2 as a "different day" saying everyone referred to them as comrades and they were told the past was forgotten. Mr Richardson asked him if he played soccer.

"He said he was looking forward to having a strong team. I was asked if I was going to join them and I said 'no'. They said they had a league with people in exile," Mr Kgase said.

He said that before he gave his answer, everyone was taken out to a piece of open ground to do strenuous exercises.

Later there was a debate about who should be taken with Mr Richardson and other team members.

Mr Kgase said they were not sure what was happening but eventually were escorting a man in a red shirt to see "Mummie".

Later he was ordered to hold the man's legs while Mr Richardson sat on the man's chest and stabbed him with a blade from a pair of garden shears, the court heard.

The hearing continues.

May 3 1990

CITY NATIONAL

Winnie's words terrifying — witness

Mrs Mandela then said they were not fit to be alive.

Xoliswa, a woman who lived at the manse, said Mr Kgase, Mr Mono and Mr Mekgwe had slept with the Rev Paul Verryn. Stompie had sold out comrades in Parys who were killed by the police and Stompie had also complained about sexual misconduct.

Mrs Mandela went up to Mr Kgase, grabbed him by the hair and punched him.

She asked how he could be so irresponsible as not to stop the sexual misconduct, Mr Kgase said.

Then grabbed Stompie by the shoulder and interrogated him about using cameras to spy on everyone. Stompie said he knew nothing about it.

After each had been interrogated by Mrs Mandela, she asked for sjamboks. Then each was beaten up.

The hearing continues.

The Argus Correspondent

JOHANNESBURG. — "Mrs Winnie Mandela said some words which terrified us most of all — she said 'you are not fit to be alive'."

With these words Mr Kenneth Kgase, 31, began describing a series of interrogations and beatings which he and three other young men allegedly endured at Mrs Mandela's house at 585 Diepkloof Extension, Soweto.

He was testifying yesterday at the trial of Mr Jerry Vusi Musi Richardson, 41, of Orlando West, Soweto.

At the start of the trial before Mr Justice B O'Donovan and two assessors in the Rand Supreme Court Mr Richardson pleaded not guilty to 11 counts — four of kidnapping, five of assault with intent to commit grievous bodily harm, one of attempted murder and one of murder. The murder charge arises from the death of James "Stompie" Moketsi Seipei, 14.

Mr Kgase said he had lived at the Methodist Church manse in Orlando West.

On the evening of December 29 1988 he was playing cards with Stompie, Mr Barend Thabiso, 20, and Mr Gabriel Pelo Mekgwe, 21.

Someone burst into the lounge and ordered them into the kitchen, where he saw a tall, well-built man who he now knows as Jerry. Everyone from the house was rounded up.

"Quietness"

They were taken to Diepkloof Extension in a bus, to a house with a swimming pool and a jaccuzi.

Supper was served, more people arrived and Mrs Mandela came in.

"There was an intense quietness," Mr Kgase said.

Sowetan 4/5/90

Lawyers withdraw

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THE Klerksdorp terrorism trial continues today without two members of the defence team, who withdrew from the case yesterday.

Mr Dikgang Moseneke and Mr Imran Moosa, representing seven members of the Black Consciousness Movement of Azania accused of terrorism, announced their withdrawal at the close of yesterday's proceedings.

They told the magistrate, Mr JD Pretorius, that their mandate had been terminated because of his rejecting their application to have the case postponed.

The defence had applied on the grounds that the instructing firm needed two months to raise more funds for the case.

Pretorius said the parties had agreed to continue with the trial daily until it ended.

Moseneke said the trial had become very expensive. It was heard at a place where none of the

By SONTI MASEKO

accused and their families lived and the defence had to pay for travelling and accommodation.

The accused were released on bail totalling R14 000 last week on condition they remained in the Klerksdorp district.

The decision to increase bail from R5 500 to R14 000 and the lengthy duration of the trial were other factors that contributed to the costs.

The trial, initially put down to be heard over eight weeks, was now in its third month.

The magistrate said it should noted that there were State witnesses who were in jail awaiting to give evidence while the trialist were out on bail.

On the financial aspect raised by the defence, he said the accused had decided to pay money for bail. This suggested the bail amount could not be a contributing factor to their being unable to continue with the case.

Stompie trial: Court told of assault

D/L Mgus 5/5/90

JOHANNESBURG.— The Rand Supreme Court has heard how a man, identified as Mr Andrew Ikaneng, was assaulted by Mr Jerry Richardson, said to be a former member of the so-called Mandela football team.

Mr Richardson is on trial charged with murdering 14-year-old anti-apartheid activist "Stompie" Seipei Moeketsi. He has pleaded not guilty.

He has also pleaded not guilty to a charge of attempted murder, four of kidnapping and of assault with intent to do grievous bodily harm.

Garden shears

The court heard earlier that Mr Ikaneng was taken by team members from his Soweto home to an open piece of veld where he was stabbed with garden shears.

Mr Kenneth Kgase yesterday told the court Mr Richardson had taken a garden shear blade from a man he identified as Isaac, who he earlier told to stab Mr Ikaneng, and had himself stabbed Mr Ikaneng, who was being held by two other men.

Mr Ikaneng was left to die.

Mr Kgase, Stompie, Barend Thabiso Mono and Gabriel Pelo Mekgwe were allegedly abducted from the Soweto Methodist Church by members of the football team in December 1988 and taken to various places, including the home of Mrs Winnie Mandela.

In previous hearings the court heard that Mr Richardson and other members of the team went to the Soweto home of Mr Ikaneng and said they were taking him away because "Mummy" (Mrs Mandela) wanted to see him.

The court also heard that Mr Kgase escaped from Mrs Mandela's home after Mr Richardson and a companion had left.

He jumped over a wall, rushed to Baragwanath Hospital and caught a taxi to the Methodist Church in central Johannesburg. He was taken to a doctor for examination.

The court heard that at one stage Stompie spent two days without food during a party that had been held for Umkhonto we Sizwe cadres at Mrs Mandela's home.

The trial continues on Monday. — Sapa.

Union slams cops for 'unprovoked attack'

Staff Reporter

THE Unemployed Workers' Union yesterday slammed the police for "their unprovoked and undisciplined attack" on union members who were leaving Cape Town Magistrate's Court after they had appeared on illegal gathering charges.

Secretary for the Western Cape branch of the union Mr Shahied Mohammed said about 70 people appeared briefly in court on Thursday.

"When the people left the court, they were laid upon by the police. Seven people were arrested for holding an illegal gathering. About eight people were injured."

According to the police report, police arrested six men and a youth amid "violent resistance" after the group ignored an order to disperse as they moved into Buitenkant Street.

Court told of assault by Winnie's team member

JOHANNESBURG. — The Rand Supreme Court yesterday heard that a man identified as Mr Andrew Ikaneng was assaulted by Mr Jerry Richardson — said to be a former member of the so-called Mandela football team.

Mr Richardson is standing trial for the murder of 14-year-old anti-apartheid activist "Stompie" Seipei Moeketsi.

Mr Richardson has pleaded not guilty to murdering Stompie on January 1 or 2, 1989.

He has also pleaded not guilty to a charge of attempted murder, four charges of kidnapping and several charges of assault with intent to do grievous bodily harm.

Yesterday Mr Kenneth Kgase told the court Mr Richardson had taken a garden shear blade from a man he identified as Isaac, whom he had earlier told to stab Mr Ikaneng and had himself stabbed Mr Ikaneng, who was being tightly held by two other men.

Mr Ikaneng was later left to die at the scene.

In previous hearings, the court also heard that Mr Richardson and other members of the team had gone to the Soweto home of Mr Ikaneng and had told people there they were taking him away because "Mommy" (Mrs Mandela) wanted to see him. The hearing continues on Monday. — Sapa

Terror trial defence attorney seeks ruling

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Sowetan 7/8/90

By SONTI MASEKO

THE Klerksdorp terrorism trial was brought to a sudden halt early on Friday when the defence attorney announced he would seek a Supreme Court ruling to overturn a ruling made by the presiding magistrate.

The application to the Supreme Court would be to order the magistrate to allow a postponement which would give the accused time to prepare for their case.

The case was adjourned to tomorrow to allow Mr Mavundla, appearing for seven of the accused, time to file papers for an urgent application.

Mavundla decided to appeal after the magistrate, Mr J D Pretorius, had rejected two applications for a postponement.

On Thursday, an application by the defence, Mr Imram Moosa and Mr E D Moseneke, for a two-month postponement due to financial constraints was refused. Moseneke said the defence needed to raise more funds to be able to continue with the case.

The two advocates later withdrew from the case after informing the court that their mandate had been terminated.

On Friday, Mavundla sought another application to be given time to prepare himself adequately for the case following the withdrawal of the two advocates the previous day. This was also rejected.

Pretorius said Mavundla could continue with the case since he was informed about the progress of the proceedings.

The bulk of the State case had been dealt with, court records were typed and Mavundla or his assistant were at all stages present during the trial; therefore they could continue with the case.

Mavundla then announced that he would apply for a mandamus ruling compelling the magistrate to grant a postponement.

The application is expected to be heard in Pretoria today. The trial continues tomorrow.

Court suspends most of 7-year terror sentence

Supreme Court Reporter Argus 8/5/90 331

A CROSSROADS man whose brain was damaged hours after his arrest for possessing a limpet mine has had most of his prison sentence for terrorism suspended on appeal.

Robert Nana Maliti, 23, was arrested while carrying an limpet mine in a black plastic bag within 150 metres of where Law and Order Minister Mr Adriaan Vlok was opening a police station in New Crossroads in October 1988.

Maliti was convicted of terrorism and sentenced to seven years, with two suspended.

In the Supreme Court, Cape Town, Mr Justice Fagan and Mr Justice Lategan changed Maliti's sentence yesterday and suspended five years of the seven-year penalty.

Terror sentence confirmed

By LINDA GALLOWAY
Supreme Court Reporter

A LANGA teenager has had his effective one-year sentence for terrorism confirmed in the Cape Town Supreme Court after two judges were shown a video demonstration of a limpet-mine blast during an earlier hearing.

Mr Justice A J Lategan, with Mr Justice J J Fagan concurring, confirmed the sentence imposed on Phumzile Simelela, 19, who pleaded guilty to getting limited training in the handling of limpet mines, hand-grenades and Makarov pistols while illegally in Lesotho, and to storing the weapons on his return to Cape Town.

Simelela was sentenced to three years' imprisonment, of which two were conditionally suspended for five years.

Brain damage: Man wins appeal

Supreme Court Reporter

A FIVE-YEAR jail sentence imposed on brain-damaged Robert Nana Maliti for possessing a limpet mine in Crossroads near where Mr Adriaan Vlok, Minister of Law and Order, was due to speak in April last year, was yesterday reduced on appeal in the Supreme Court to two years.

Maliti was convicted of terrorism and possessing a banned publication. He was sentenced to seven years' imprisonment.

Mr Justice A J Lategan, with Mr Justice J Fagan concurring, reduced Maliti's sentence to two years.

Mr Siraj Desai, for Milati, said his client had received a severe head injury after his arrest. He now had the mental ability of a seven-year-old.

Pamphlet: Student loses appeal

Cape Times 8/5/90 3-31

AN appeal in the Supreme Court by city law student Julian Snitcher against his conviction and sentence for unlawfully publishing a pamphlet containing a subversive statement has been dismissed.

An application for leave to appeal to the Appellate Division was also refused yesterday.

Snitcher, 24, of Tamboers Kloof, pleaded not guilty to a contravening Section 5 (d) of the security (media) emergency regulations by publishing a pamphlet containing a subversive statement in Strand Street on June 2, 1988.

He was fined R1 000 (or 100 days), half of which was conditionally suspended for three years.

Mr Justice J Fagan, with Mr Justice A J Lategan concurring, dismissed the appeal.

Mr Willie Viljoen appeared for the state. Mr Rose-Innes was instructed by Mr E Mohamed of E Moosa and Associates.

66 Popcru warders in court

Court Reporter

SIXTY-SIX prison warders made a brief appearance in Wynberg Magistrate's Court yesterday and warrants of arrest were authorised for two who did not attend.

The men, all members of the Police and Prisons Civil Rights Union (Popcru), started by sacked rebel policeman Lieutenant Gregory Rockman, appeared in connection with allegations of holding a demonstration in a restricted area, and of contravening state of emergency regulations.

The warders are alleged to have launched a strike outside Pollsmoor Prison on March 21, and were arrested on the scene.

The hearing was postponed for a decision by the attorney-general and the warders were released on their own recognisances.

Mr P D Theron was the magistrate. Mr C J van den Berg prosecuted.

CAPE TIMES 9/5/90

Nelson Mandela's bid to free boys

Court told of assaults at house

JOHANNESBURG. — Mr Nelson Mandela, while still in prison, had made a fruitless attempt to have four kidnapped youths — allegedly assaulted by Mrs Winnie Mandela at her Soweto home — placed in the care of his attorney, the Rand Supreme Court heard yesterday.

This was revealed by one of the four, Mr Barend Thabiso Mono, 20, when he testified in the trial of Mr Jerry Richardson, 41, of Soweto, charged with murdering teenage activist, "Stompie" Moeketsi Seipei.

Mr Mandela had instructed his attorney, Mr Ismail Ayob, to remove the four from the Mandela home, where they were allegedly being kept against their will, Mr Mono said in his evidence-in-chief.

But when Mr Ayob went to the Mandela home, Mr Richardson had refused to allow the youths to be taken away.

Mr Mono, Mr Kenneth Kgase, 30, Mr Gabriel Pelo Mekgwe, 21, and 14-year-old Stompie, were allegedly abducted in December 1988 by members of the Mandela United Football Club from a Soweto Methodist Church, and taken to the Mandela home in Diepkloof Extension, Soweto.

Stompie's decomposed body was found in open veld in Soweto early in January last year. It has emerged in testimony that Stompie had been accused of "selling out" to police four comrades who were shot dead at Parys.

Mr Richardson has pleaded not guilty to a charge of murder, one of attempted murder, four of kidnapping and five of assault with intent to do grievous bodily harm. He was a member of the Mandela United Football Club.

Mr Mono also told the court Mr Richardson had instructed the youths not to reveal in a statement they were to make to a Johannesburg attorney, Mr Krish Naidoo, that they had been assaulted at Mrs Mandela's house.

Mr Richardson, however, told them to mention in their statement that they had had a sexual relationship with the Rev Paul Verryn, who had been in charge of the Soweto Methodist Church.

They were also told by Mr Richardson to say they had been staying at Mrs Mandela's house because they objected to the sexual relationship with the priest.

In January 1989 the youths were taken to a Soweto medical practitioner, Dr Nthato Motlana, for treatment, but the doctor did not treat them for assaults allegedly inflicted on them by Mrs Mandela and the team members, Mr Mono told the court.

Dr Motlana later took the youths to Mr Naidoo's Johannesburg offices, from where the attorney and a Methodist priest, Bishop Peter Storey, took them to a meeting in Soweto.

They told the meeting about the assaults that took place on them at Mrs Mandela's house.

Mr Mono reiterated under cross-examination yesterday that he and the three other abducted youths had been assaulted by Mrs Mandela. — Sapa

Six SATS workers in court

Court Reporter

SIX SATS workers appeared briefly in Cape Town Regional Court yesterday on charges of attempted murder following incidents on February 5 in which four people were thrown from moving trains in the Cape Town area.

They are alleged to have hit Mr Albert Zimela with an axe before throwing him off the train.

The men are Mr Oliphant Mpheqeka, 52, Mr Nozitsolo Dudumayo, 40, Mr Bonakele Nqalathi, 39, of Khayelitsha, Mr Mxolisi Ntika, 43, of Jonkersdam, and Langa residents Mr Bisinothi Nkandalana, 29, and Mr Ngubenkomo Bonase, 50, of Qwesi Hostel.

All pleaded not guilty.

Bail of R100 each was extended and the hearing was postponed to June 26.

Mr J P Vermaak was on the bench. Mr F Silbert prosecuted. Mr F J van Dyk appeared for the accused.

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Cape Times 10/5/90 Court Reporter

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Youths held 'under guard'

CAPE TIMES 10/5/90

JOHANNESBURG. — One of the four youths allegedly kidnapped and kept "prisoner" at Mrs Winnie Mandela's house told the Rand Supreme Court yesterday that he and other abducted youths had not been allowed to leave the house freely.

Mr Thabiso Mono, 20, was testifying in the trial of Mr Jerry Richardson, 41, who has pleaded not guilty to the murder of teenage activist James "Stompie" Moeketsi Seipei, the attempted murder of Andrew Ikaneng, four kidnapping charges and five of assault.

Mr Mono told the court he and the other abducted youths had always been under guard by Mr Richardson, even when they played soccer with members of the so-called Mandela United Football Club.

He said under cross-examination that Mr Richardson had told him and Mr Gabriel Pelo Mekgwe, 21, that if one of them should escape from the house, he "did not know what would happen to the other".

Mr Richardson said this after one of the four, Mr Kenneth Kgase, 30, had escaped from the Mandela home.

Mr Mono also told the court Mrs Winnie Mandela had taken him and the other youths into Johannesburg where she had bought clothes for them.

He reiterated that Mr Richardson had refused to leave the abducted youths in the care of Mr Nelson Mandela's attorney, Mr Ismail Ayob. — Sapa

Yengeni trial for Pretoria

By LINDA GALLOWAY
Supreme Court Reporter

THE Supreme Court trial of Mr Tony Yengeni and five others on charges of terrorism will adjourn to the Pretoria North Magistrate's Court next week to hear the evidence of a State witness.

Mr Justice S Selikowitz ruled that in terms of an agreement drawn up by counsel for both sides that the costs of the Pretoria sitting would be borne by the State.

The agreement provides that the accused be transported to Pretoria "with the minimum of discomfort" and that they will be held in Pretoria under similar conditions and with the same privileges as they have in Cape Town.

Mr H Klem, for the State, will bring an application today to have the evidence of the State witness heard in camera.

Mr X1 to be named secretly

AN application to have the evidence of a State witness in the Yengeni terrorism trial heard in camera will be heard behind closed doors, it was ruled in the Cape Supreme Court.

Mr Justice S Selikowitz made the ruling yesterday after the State said that while it did not object to the Press being in court, the presence of the public would inhibit the State application.

The State said documents would reveal the name of the witness so far only known as Mr X1 and evidence from similar applications heard in camera would also be used.

Mr X1's evidence will be heard in Pretoria next week. — Supreme Court Reporter.

State's Mr X1 will testify in Yengeni trial

(331)

THE Supreme Court terrorism trial of Tony Yengeni and five other accused moves to the Pretoria North Magistrate's Court next week to hear evidence of state witness "Mr X1". W/Mail 18/5 - 24/5/90

Counsel for the State, Hendrik Klem SC, said it was necessary to move the trial to Pretoria because X1 suffered from kidney problems and had to be close to medical care.

Earlier, another state witness, "Mr X2", identified Yengeni as the commissar of a platoon he belonged to while training in Angola.

X2, a former African National Congress member who defected to the South African Police, said he was trained at Vlakplaas — a farm outside Pretoria where ANC defectors, known as Askaris, are housed.

He gave evidence after Mr Justice Selwyn Selikowitz granted an in-camera application by the state for his identity to be kept a secret.

I know why Asvat was killed, witness tells Stompie trial

The "Stompie trial" is told of another killing. CASSANDRA MOODLEY reports

SOWETO doctor Abubaker Asvat was gunned down in his surgery last year because he was the only professional person who could prove Methodist minister Paul Verryn was sexually abusing boys, a witness told the Stompie Seipei murder trial yesterday.

Xoliswa Falati was being cross-examined by prosecutor LCJ van Vuuren in the Rand Supreme Court, where Mandela FC coach Jerry Richardson is charged with the murder of teenage activist Stompie Seipei, the attempted murder of Andrew Ikaneng, four counts of abduction and five counts of assault.

Falati was previously mentioned in evidence by Kenneth Kgase, Thabiso Mono and Gabriel Mekgwe, who were allegedly abducted.

They said she participated in their kidnapping from Verryn's Orlando West manse and also assaulted them at Winnie Mandela's house.

Falati denied these allegations.

She said that on December 29 1988, the day of the alleged abduction, one of the boys who lived at the manse, Katisa Cebekhulu, told her that Verryn had sexually abused him.

Falati discussed the matter with Mandela, who decided Cebekhulu should be examined by Asvat.

Late that afternoon in Asvat's surgery Mandela and Falati told of the allegations of sexual misconduct and Cebekulu was examined, according to Falati.

"Dr Asvat came out and said Rev. Verryn is sick. He said we should come after 10 to 15 days and he would make an appointment with a psychiatrist for Cebekhulu and Katisa," Falati said.

She claimed Asvat also said he would contact Mandela's lawyer, Krish Naidoo, because this was not the first time Verryn had been accused of sexual misconduct.

The prosecutor said the medical examination could not have taken place on December 29 as Falati testified, because Asvat's medical card was dated December 30, 1988.

The card did not reflect any of the allegations of sexual abuse but referred to Cebekhulu as "mentally confused, occasionally cries, occasional headaches and insomnia", Van Vuuren added.

"The date was changed to destroy evidence and Dr Asvat was killed so nobody could give evidence in this case. He was the only professional man who could prove what I am saying," Falati replied.

"Dr Asvat did not write the allegations on the card because he said he would discuss it with Krish Naidoo and Dr (Nthato) Motlana — he was also in the struggle."

Falati added that the day Asvat was killed he had phoned Mandela to arrange to fetch a letter concerning the incidents and "at 3.30pm he was gunned down". Asvat was killed on January 27 1989.

Falati said that after they returned from the surgery Mandela "disappeared".

She told Richardson about the allegations against Verryn. She said Stompie had complained to her that Mekgwe and another boy at the manse were sexually abusing him.

She and Richardson decided to fetch the boys and keep them at the Mandela house until Verryn returned from leave and they could confront him with the allegations.

Falati denied the boys were taken by force and said she had not seen Richardson assault them.

Richardson did grab Kgase and shake him but Falati claimed she warned him against this because Verryn would use this as a "loophole" and "turn this against them".

Falati denied they accused Stompie of being a police informer.

Earlier yesterday, Richardson admitted under cross examination that he had attempted to murder Andrew Ikaneng.

Richardson also denied that Mandela was there on December 29, 1989 and during the alleged abduction and assaults.

The case continues.

SOWETAN Tuesday 22 1990

No decision to withhold ANC soldier 331 from gallows

JUDGMENT has been reserved by the Appeal Court in Bloemfontein in the appeals by Oupa Alex Seheri of Soweto, against the finding that there was no extenuation for two murders, and

Setimbiso Buthelezi of Alexandra, against his sentence for unlawful possession of weapons.

Seheri, a trained ANC soldier, received a double death sentence from Mr Justice B Acting Justice the O'Donovan in Local

Supreme Court on February 3, 1989 for the murders of Mr Mlando Michael Ngubeni and Mr Xola Ashley Colen Mokaula at Zola III on the night of January 24/25, 1987.

Buthelezi, who was Zinzi Mandela's boyfriend at at the time, boyfriend at the time, years (one year conditionally suspended) for unlawful possession of an AK47 rifle and a Scorpion machine-pistol.

Evidence was that Seheri had fetched a Scorpion pistol from the house of Mrs Winnie Mandela and had left a AK47 rifle there.

Later that night he had been involved in a shebeen brawl and the Scorpion pistol was taken from him.

He had then gone back to Mrs Mandela's home, where he fetched the AK47 and enlisted the aid of Buthelezi and other young men to help him retrieve the Scorpion.

Mr I Hussain, for Seheri and Buthelezi, submitted that Seheri's childhood was characterised by a difficult relationship with his parents.

He ran away from home, had fared poorly at school and left school after standard-two. As an adolescent he was often violently aggressive towards friends and family, but between these violent outbreaks was a kind and generous person.

A clinical psychologist had diagnosed Seheri as having a mixed personality disorder.

A feature of his personality was his low frustration tolerance and poor ability to control his impulses. The effect of alcohol exacerbated the problem.

Another clincial psychologist had testified that Seheri's judgment, self-control and ability to formulate an intention at the time of the offences were significantly diminished by a well-known neurological entity, the dyscontrol syndrome.

Hussain submitted that extenuation was present, with particular regard to the psychological findings.

Defect

He contended the evidence established the existence of a personality defect in Seheri that would rank as an extenuating circumstance that diminished his moral blameworthiness.

Hussain submitted the trial judge erred when he held Seheri's conduct was rational and carefully directed "almost as a military operation".

He argued the judge ought to have held Seheri's conduct was irrational, unnecessary and senseless and consistent with the presence of dyscontrol syndrome.

Hussain said the sentence imposed on Buthelezi was so harsh as to induce a sense of shock. He was a first offender, an exceptional student who was in his third year of study at University of Cape Town for a B.Comm degree, and had won bursaries to further his studies.

He had already spent two years in custody awaiting trial. He had been refused bail and was serving his sentence.

Hussain said the evidence established that Buthelezi was a guest at the house of Mrs Mandela when Seheri left the AK47 there. Buthelezi had later assisted Seheri with transport when the latter wanted to recover his Scorpion pistol, and had brought the pistol back to the Mandela home so that it could be stored there temporarily.

Hussain said there was no evidence that Buthelezi took possession of the weapons for his own purpose or to use them for an evil purpose. - Sapa.

Mrs Winnie Mandela.. Seheri collected the pistol from her home in Soweto

Terror trial halted

Sth Times 23/5/90 (331)

UMTATA. — A man said to be a highly trained ANC guerilla was acquitted in the Transkei Supreme Court yesterday on charges of terrorism and sabotage. The acquittal of Mr Mzwandile Vena follows a directive from the Minister of Justice, in consultation with the Military Council, that the trial be stopped.

Call Times 30/5/90 (331)

Trials of activists 'still flourishing'

JOHANNESBURG. — A South African human-rights organisation said yesterday that trials of anti-apartheid activists were flourishing despite political reforms by President F W de Klerk.

The Human Rights Commission (HRC), which investigates, monitors and publicises human-rights violations, said 184 political trials were under way, involving 1 400 defendants, and between 10 and 20 people were convicted each month.

"At a time when the call from both sides is for the cessation of political trials and the release of political prisoners, the courts are working overtime to manufacture a stream of new political prisoners," it said in a statement to a news conference.

HRC staff distributed a booklet naming 1 522 political prisoners they said were being held. A further 1 000 to 1 500 were being held but had not been identified. All such prisoners should be given an amnesty and freed, they said.

"Acts which are undertaken in opposition to apartheid are political offences," said Mr Geoff Budlender, a lawyer.

The issue of political prisoners is central to preliminary talks between the ANC and the government.

The government admits only to holding people convicted of offences against state security. It said on March 31 these numbered 347. — Sapa-Reuter

WEDNESDAY MAY 30 1990 LATE FINAL

About 1 400 awaiting political trials

Many still in prison

MANY political trials are still pending at a time when the African National Congress is calling for them to end as a precondition for the creation of a climate conducive to negotiations, the Human Rights Commission said yesterday.

By SONTI MASEKO

Speaking at a Press conference in Johannesburg to launch the Commission's Special Report on Political Imprisonment in South Africa, Mr Geoff Budlender said close to 200

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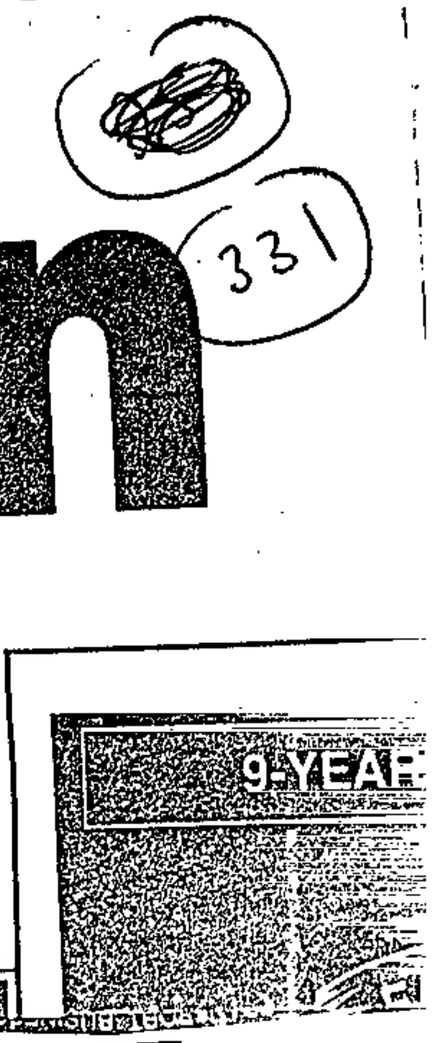

Many political trials pending

From Page 1

political trials, involving about 1400 people, were in progress in the country.

"Until its recent talks with the ANC at Groote Schuur, the Government did not admit to holding political prisoners. Instead it admitted to imprisoning people for 'crimes against the security of the state'," he said

"On March 31, the official figure released in Parliament for these 'security' prisoners was 347

"Using the same definition, the Human Rights Commission estimates that there are still between 2 500 and 3 000 political prisoners still in prison.

"At the end of December 1989, there were 255 political trials underway or set down for commencement," said Budlender.

The commission's report publishes 1 522 names of political prisoners.

Political prisoners, in the South African context, were defined as 'any person who is in prison as a direct result of his opposition to the system of apartheid'.

People to be included in the definition were classified in these categories:

* Peaceful opposition through public or semi-public activities: offenders involved in politicising and consciousness-raising activities.

* People who committed spontaneous attacks on property or individuals percieved as symbols of repression.

* People who recruited others for military training.

Paarl man acquitted in grenade case

By JOHN VILJOEN
Tygerberg Bureau

A PAARL man charged with throwing a hand-grenade at a police car has been acquitted following a magistrate's ruling that three confessions he signed were made under undue influence and were inadmissible.

Mr Gobani Xegwana, 19, of Mbekweni, Paarl, was arrested on November 18 1988 on charges of attempted murder, causing an explosion and damage to property.

Mr Xegwana pleaded not guilty. He said confessions taken by a Paarl magistrate, a police captain and a police sergeant were made under undue influence.

Members of the police special branch told him that unless he made certain statements he would be detained "for a long time".

If he made the statements he would be granted "free bail."

After a "trial within a trial" magistrate Mr D Cronje criticised a Paarl magistrate who took one of the confessions for not seeing "red lights" at the possibility of threats and promises.