

TOTALITARIANISM - POLITICAL TRIALS

1989

~~FEBRUARY~~

JANUARY — FEBRUARY

## **'Delmas-type' trial for E Cape?**

*Cape Times* 5/1/89  
Own Correspondent

ATTORNEYS believe a security police docket being studied by the attorney-general's office in Grahamstown could lead to a "Delmas-type" treason trial in the Eastern Cape. However, a spokesman said yesterday that no decision had yet been taken on whether any detainees would be prosecuted.

It is believed that more than 100 people in the Eastern Cape — including the entire UDF leadership in the region — are still being held under the emergency regulations.

Local legal representatives of detainees said last month they believed that 30 Eastern Cape leaders would be charged with treason.

APR 6 THIS 7/1/89  
**'ANC man' in court** (331)

EAST LONDON. — A Ciskei man briefly appeared in the East London Regional Court in connection with a charge of terrorism yesterday. No charges were put to Mr Mxolisi Jiyiya, 49, of Mdantsane, and the matter was postponed to January 12. The state alleges that Mr Jiyiya was a member of the banned ANC.

# Ebrahim trial reopens in Pretoria

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By Jo-Anne Collinge

The sentencing procedure in the trial of kidnapped African National Congress member Ebrahim Ismail Ebrahim and two others begins in Pretoria's Palace of Justice today when the defence leads evidence in mitigation.

Ebrahim and Acton Mandla Maseko have been convicted of treason for their ANC activities. Simon Dladla, whose South African nationality is in doubt, was acquitted of treason but convicted of terrorism.

From the outset the trial has commanded considerable attention, not only because Ebrahim was placed in the dock as a result

of forcible abduction from Swaziland, but because — if the charge sheet is correct — he was the most senior ANC man to go on trial since Rivonia.

In an unprecedented development, three National Executive Committee members of the ANC — Mr Jacob Zuma, Mr Ronnie Kasrils and Mr John Nkadimeng — gave evidence for the defence. The evidence was taken on commission in London.

## LANDMINE WARFARE

Delivering judgment in November, Mr Justice Daniels said the court was convinced that Ebrahim was not only involved in po-

litical work for the ANC but that he had "an intimate involvement beyond political structures only".

The judge observed that it was probable that Ebrahim was chairman of the ANC's Regional Political Military Committee in Swaziland, as the State alleged.

Ebrahim was also found to have participated in landmine warfare in that he conveyed instructions to Elias Motsoaledi Command of the ANC, the structure responsible for carrying out such attacks.

Maseko and Dladla were both found to have been involved in the placing of landmines in the South-eastern Transvaal during the first half of 1986. Several people were injured when the mines exploded.



## Sentencing begins <sup>news</sup> today in <sup>9/1/89</sup> ANC trial <sup>331</sup>

**The Argus Correspondent**

JOHANNESBURG. — Sentencing in the trial of African National Congress member Ebrahim Ismail Ebrahim and two others begins in Pretoria's Palace of Justice today after the defence leads evidence in mitigation.

Ebrahim and Acton Mandla Maseko have both been convicted of treason for their ANC activities. Simon Dladla was convicted of terrorism.

From the outset the trial has attracted considerable attention, not only because Ebrahim was placed in the dock as a result of his forcible abduction from Swaziland, but because he is regarded as the most senior ANC man to go on trial since the Rivonia trial.

Delivering judgment in November, Mr Justice Daniels said the court was convinced Ebrahim had "an intimate involvement beyond political structures only".

### ANC CHAIRMAN

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# Academics speak in mitigation in treason trial

By Jo-Anne Collinge

Developments in customary and international law during the last 40 years created the impression that the struggle waged by the African National Congress was acknowledged abroad as a "just war of national liberation", Stellenbosch international relations expert Professor Gerhard Erasmus told the Pretoria Supreme Court yesterday.

He was the second of two University of Stellenbosch academics to give evidence in mitigation of sentence in the trial of senior ANC member Ebrahim Ismail Ebrahim.

Ebrahim, who has already served a 15-year sentence for sabotage, has been convicted of treason along with Acton Mandla Maseko. A third accused, Simon Dladla, was found guilty of terrorism but acquitted of treason because his South African nationality was in doubt.

All have been linked to landmine warfare in the judgment of Mr Justice Daniels delivered last year.

Professor Erasmus said there were three major areas in which developments supported the conclusion that the ANC was viewed as a national liberation organisations engaged in a just war. These were:

- Within the United Nations, where there had been repeated resolutions condemning South Africa's racial policies, accepting ANC and Pan-Africanist Congress as legitimate representatives of the people of South Africa and designating the ANC struggle a "just struggle".
- In the realm of military law, where in 1977 two protocols to the Geneva Convention were added, extending humanitarian protection to combatants engaged in non-declared wars.
- The practices of individual states in relation to South Africa, including their willingness to allow the ANC a presence in their countries and to adopt sanctions against South Africa.

Earlier in the day Professor Johan Degenaar told the court: "Any group of people, including the Afrikaner, would come to a similar decision (to resort to armed struggle) if they were victims of structural violence and if their non-violent strategy — pursued for decades — was ignored."

He made it clear that he believed all forms of political violence were morally wrong.

Evidence in mitigation continues today.

## 12 charged with treason, terrorism and murder

Star 12/1/89  
231 By McKeed Kotlolo, Pretoria Bureau

Twelve alleged members of the banned African National Congress, yesterday appeared before a Pretoria Regional Court magistrate on 18 charges, including treason, terrorism, the murder of three policemen in Atteridgeville and attempted murder.

The accused were not asked to plead before the magistrate, Mr B O J van Schalkwyk, who postponed the case to January 30. They were not granted bail.

They are Mr Moeketsi Roney Toka (25), Mr Peter Maluleke (34), Mr Bernard Phuti Mokgonyana (21), Mr Joseph Nkosi (39), Mr Reuben Thapelo Khotso (23), Mr Noah Reginald Legodi (22), Mr James Alfred Kgasi (25), all of Mamelodi, and Mr Godfrey Velaphi Mokube (41) of Bloemfontein, Mr Ernest Thobaki Ramadite (24), Mr Francis Pitse (24), George Mathe (21) and Mr Johannes Maleka (25) all of Atteridgeville.

The 12 accused were represented by Advocate Mathole Motshekga, attorneys Ms Priscilla Jana and Mr Koopa Samy. They are to appear in the Pretoria Regional Court again on January 30.

day, pawnbrokers lend money on an item brought in by a customer

anything". The most common items are hi-fi sets and videos.

PRETORIA — Twelve alleged ANC members — among them Mamelodi Civic Association member Peter Holmes Maluleka, 34 — went on trial yesterday in the Pretoria Regional Court on charges that include high treason.

The State alleges they committed unlawful acts between 1982 to July 1988.

The 12 are also facing charges of terrorism, furthering the aims of the ANC, four counts of murder, attempted murder and contravention of the Internal Security Act.

According to the charge sheet, on March 18, 1988, the accused allegedly murdered three Atteridgeville policemen: Constables Barney Mope, Andrew Mphahlele and Nelson Phanyane.

The policemen were gunned down in Atteridgeville township.

On May 10 the men allegedly caused the death of one-year-old Patience Mulele when an attempt was made on the life of Rosemary Mswalule of

## 12 in court for treason

*B/Dam 12/11/89*  
*331*

Mamelodi.

They are also alleged to have attempted to kill Matilda Venter, Elke Hansen, Anna Maria Prinsloo and Susan Maria Kruger, all of Pretoria, on May 26 1988.

Their bail application was turned down by the court.

The attorney-general issued a certificate in terms of the Internal Security Act, declining to grant bail on the basis that to do so would not be in the interest of state security and the maintenance of law and order.

The accused were not asked to plead and their case was postponed to January 30. — Sapa.



## Bethal treason trial draws to a close

331 Pretoria Correspondent *sta* 12/11/89

Defence counsel for the Bethal treason trial accused in the Pretoria Supreme Court yesterday wrapped up their case after calling three academics to testify in mitigation.

After almost 1½ years in the dock, the trial in which ANC member, Ebrahim Ismail Ebrahim (51) and Acton Mandla Maseko (38) — who were convicted on a main charge of high treason in November — and Simon Dladla, who was found guilty of terrorism, has come to its final stages.

The State yesterday indicated they would not call any witnesses, and the hearing was adjourned until today when defence counsel will begin their argument.

In a document handed in to court yesterday, the State claimed that Ebrahim — who had served 15 years' imprisonment after being convicted of sabotage in 1963 — was a co-founder of the ANC's military wing, Umkhonto We Sizwe. The state claimed this information was published in an article written in Umkhonto's internal journal, *Dawn*.

The director of the Community Agency for Social Enquiry (Case), Mr Mark Orkin, who testified in mitigation, said it appeared that Ebrahim was "an early recruit".

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## Sequel to killing of police

Sowetan  
12/1/89

# Treason trial

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TWELVE alleged members of the banned African National Congress who allegedly shot dead three policemen in Atteridgeville last year, appeared on 12 charges of treason, murder and attempted murder in a Pretoria Regional Court yesterday.

The accused, who include political activists, are Mr Moeketsi Ronny Toka (25) of Mamelodi, Mr Godfrey Velaphi Mokube (41) of Bloemfontein, Mr Francis Pitse (24), Mr Ernest Thoboki Ramadike (24), Mr George Mathe (21) and Mr Johannes Maleka (25); all of Atteridgeville, Mr Peter Maluleka (34), Mr Phuti Bernard Mokgonyana (26), Mr Joseph Nkosi (39), Mr Thapelo Reuben Khotso (23), Mr Reginald Noah Legodi (22) and Mr Alfred James Kgasi (25) all of Mamelodi.

They were not asked to plead to the main count of treason, seven charges

By MONK  
NKOMO

of terrorism and four of murder. The magistrate, Mr B O J van Schalkwyk postponed the case to January 30 after notifying the accused that the Attorney-General has submitted a certificate that barred them from getting bail. The accused were represented by Advocate Mathole Motshekga and attorneys Priscilla Jana and Koopa Samy.

The State alleges that the accused on March 18 last year in Atteridgeville, unlawfully and intentionally murdered Mr Bernard Mope, Mr Andrew Mphahlele, Mr Nelson Phenyane — all policemen — and one-year-old Patience Kulele in Mamelodi on May 10 last year.

The accused also allegedly unlawfully and intentionally attempted to murder Mr Ananiaus Nkoane and Ms Rose-

Mary Mozwayine in Atteridgeville on March 18 1988 and Miss Mathilda Eleonora Venter, Miss Elke Martha Hansen, Miss Anna Maria Prinsloo and Miss Susana Maria Kruger — all white women — in Pretoria on May 26 1988.

According to the charge sheet the accused, during March last year, were unlawfully in possession of explosives including SPM limpet mines, 158 mini limpet mines, handgrenades, 9mm Makarov pistols and ammunition.

The State alleges that during the period 1982 to July last year, the

accused unlawfully conspired with the ANC to violently overthrow the Government and endanger the maintenance of law and order.



# 'Today's treason will be tomorrow's heroism'

By Jo-Anne Collinge

Leading African National Congress member Ebrahim Ismail Ebrahim was motivated by the ideal of "harmonious non-racialism" in his political life and in his decision to join Umkhonto we Sizwe in 1961.

This view was expressed by sociologist Mr Mark Orkin of the Community Agency for Social Enquiry (CASE) while giving evidence in mitigation of sentence in the trial of Ebrahim and two others in Pretoria's Palace of Justice, yesterday.

Ebrahim, Acton Mandela Maseko and Simon Dladla have all been convicted of treason.

Maseko's and Dladla's convictions relate to their involvement in the laying of landmines in the south-eastern Transvaal in early 1986. Ebrahim's conviction relates to his participation in Swaziland-based political and military structures of the ANC. Ebrahim has already served a 15-year sentence for sabotage.

Mr Justice Daniels ruled yesterday that statements by the accused to Mr Orkin could not be admitted as evidence and that such conclusions as Mr Orkin drew on the basis of these statements would only be valid insofar as the statements were corroborated by evidence tested in court.

"When his public politics were frustrated, his recourse to other means followed as an inevitable conclusion from the premises of his profound commitments," Mr Orkin said.

After the trauma of 1976 "it was not the non-racial ideals of the ANC that attracted him ... but the pragmatic possibility which the ANC offered, of retaliating to state repression on more equal terms."

He also said that three Human Sciences Research Council studies and two CASE studies suggested an increasing acceptance of the use of violence to achieve political ends.

Against this background, Mr Orkin said "what has been defined as treason ... will be construed as selfless heroism by the future".



## COURTS

# I was <sup>May 12/11/89</sup> abducted, tortured, claims 331 Ebrahim

The Argus  
Correspondent

PRETORIA. — One of the men convicted of treason in the Bethal treason trial made claims in his statement handed to court that he had been kidnapped from his home in Swaziland and tortured by South African police before being brought to trial in South Africa.

Ebrahim Ismail Ebrahim, 51, holder of an Indian passport, said yesterday complaints to the Minister of Law and Order had not been investigated and his abduction from Swaziland was unlawful.

He claimed that since 1986 his attorneys had repeatedly requested the Attorney-General to state if he intended prosecuting "the criminals" who had abducted him, but the AG had made no reply, according to Ebrahim.

In a legal wrangle during the hearing in the Pretoria Supreme Court, defence counsel handed in statements made by the three accused, Ebrahim and Acton Mandla Maseko, 38, who were convicted of high treason in November, and Simon Dladla, who was found guilty of terrorism.

The State objected to the handing in of the documents by the defence, arguing that the statements by the accused — one of which sharply criticised the State and judicial system — could not be put to the test and this evidence, "which was being sneaked through the back door" according to the prosecutor, should not be admissible.

**"Worthless"**

MR JUSTICE DANIELS commented that the court did not have the facts before it and the evidence was "worthless" as its basis had not been put before court by the defence.

The defence argued that Mr Mark Orkin, a social scientist who testified in mitigation, would use the statements made by the accused to show the court how he had come to certain conclusions.

The judge admitted the statements to court, but said he would not accept them as evidence and that the statements would not necessarily be regarded as true. However, he said Mr Orkin could refer to the statements while testifying.

In a 16-page statement made by Ebrahim, he asked that before Mr Justice Daniels pass sentence he should take certain factors into consideration.

### Sequel

"I was kidnapped from Swaziland by the South African security forces, which amounted to an act of State terrorism," he said.

Ebrahim claimed his abduction was a sequel to the kidnapping of a Swiss couple, a Swazi woman and a registered South African refugee, Mr Shadrack Maphumulo. He said that South African police had raided Mr Maphumulo's flat and killed him.

"Are these abductions and murder not acts of State terrorism? Have our laws given immunity to the perpetrators of these ghastly acts?" he asked in the statement.

Ebrahim said his abduction was followed by police torture to "the point where I nearly lost my mind". He claimed that Maseko and Dladla had also been "brutally tortured".

The very system of detention without trial and access to lawyers, family or anyone from the outside, according to Ebrahim, created the ideal conditions for the wicked mind to devise methods of human torture.

He said the courts were inclined to accept the testimony of police witnesses when detainees complained of being tortured.

Ebrahim said nearly all the evidence given against him by the secret State witnesses was sheer fabrication.

# Bethal 3 'acted on conscious precepts'

Cart Times 12/1/89

JOHANNESBURG. — A sociologist yesterday testified in mitigation in the Bethal treason trial that the three accused, who were convicted of treason and terrorism, had resorted to means that were violent, according to the finding of the court, only after they had adjudged that peaceful avenues had been closed by the state.

Giving evidence in the Pretoria Supreme Court trial of Ebrahim Ismail Ebrahim, Mandla Maseko and Simon Dladla was the head of the Community Agency for Social Inquiry in Johannesburg, Mr Mark Orkin.

Mr Justice Daniels had earlier convicted Ebrahim and Maseko of treason, and Dladla on an alternative charge of terrorism.

None of the accused gave evidence during the trial, though several top-ranking ANC members gave evidence for the defence before a specially-appointed commission in London.

Mr Orkin, after interviews with the three, handed a report to the court.

The prosecution objected to allowing statements by the accused to be

handed to the court, because this evidence had not been tested, and would be based on hearsay because none of the accused had testified in court.

Mr Orkin testified that the accused were not wicked or selfish men, nor did they manifest deviant behaviour in an orthodox criminal context, but had acted rationally according to consciously-held ethical precepts.

Mr Orkin said: "On the one hand the objective social conditions, and their awareness of their own and others' suffering under them, powerfully motivated them towards redressing the perceived injustices. On the other, they concluded that the state deprived them of effective and lawful means of achieving redress.

"From that perspective it followed logically that they had to take recourse to unlawful means, because they had been left with no alternative."

A severe sentence would embitter rather than rehabilitate them, he said.  
— Sapa



# THE HIGHEST COURT AND THE GALLOWS

TWO recent Appeal Court judgements have saved from the gallows men sentenced to death. But legal experts are convinced that this indicates any new spirit in the court of last resort.

At the very least, the judgements will serve to increase attention on the application of the death sentence in South Africa, where last year alone 218 people were sentenced to death and 117 executed.

Both judgements were handed down by the same Appellate Division judge, Mr Justice Botha.

Justice Botha was one of three AD judges who heard the "Sharpeville Six" appeal, where a highly controversial supreme court decision to impose death sentences was upheld.

Last month, in a review judgement, he overturned three death sentences given to men for murders committed during a mine fight.

The death sentences were imposed by Mr Justice JJ Strydom. The review judgement made headlines because Justice Strydom had earlier given a Northern Transvaal farmer a suspended sentence after he whipped to death one of his farm labourers.

A legal source said: "The judicial policy message of the 'Sharpeville Six' judgement was that if you are on the scene of a murder, or consolidate yourself in any way with the event, you too are going to be convicted and given the death sentence."

The facts of the mineworkers' case

Several men have been saved from the gallows by the Appellate Division recently. But in at least one instance, the facts were comparable to those in the Sharpeville Six case, where the court ruled the other way. GAYE DAVIS reports

are not dissimilar to those of the 'Sharpeville Six' case, and Justice Strydom's sentence followed the temper of the 'Sharpeville Six' judgement.

"Justice Botha's activism is an interesting contrast with his refusal to intervene in the 'Sharpeville Six' matter. It shows a level of anxiety about convictions for murder and the application of the death sentence which many commentators think should have led to a different result in the 'Sharpeville Six' trial."

If the same stance had been taken on the "Sharpeville Six" matter, the death sentences would never have been upheld, he said.

Earlier last month, Justice Botha upheld an appeal by a Mitchells Plain man against a death sentence imposed by Mr Justice Braam Latagan of the Cape bench.

Albert Petersen, 19 years old when the crime was committed, was convicted of murder with extenuating circum-

stances and robbery with aggravating circumstances.

He was sentenced to 10 years for the murder and given the death penalty for the robbery — a sentence Justice Botha described as "shockingly inappropriate". He reduced the death sentence to three years' jail and set aside another sentence of 10 years.

Justice Botha said it appeared Justice Latagan wanted to punish Petersen for the fact that the deceased died during the robbery, even though he had already been sentenced to 10 years because a man died.

What was disturbing, said Justice Botha, was that Justice Latagan had made a mistake of exactly the same sort in a previous case which also went on appeal.

He had to assume Justice Latagan did not take note of the judgement in that case.

Subsequent inquiries revealed that five death sentences imposed by Justice Latagan over the past three years were set aside and reduced to a total of 18 years' imprisonment.

The recently launched Society for the Abolition of the Death Penalty is carrying out a study on how judges go about sentencing people, to what extent the death sentence is upheld by the Appeal Court, and how many cases never reach this court.

It has also written to Minister of Justice, Kobie Coetsee, requesting a commission of inquiry into the death penalty and for a moratorium on all hangings pending the outcome.

Brian Currin, national director of Lawyers for Human Rights, believes the recent AD decisions will inevitably result in individual judges questioning themselves about their partiality or impartiality.

"Many judges believe they are impartial and that they administer justice fairly, but they are white people working within a white system with no exposure to black aspirations or frustration."

One should also discriminate between criminal matters and those testing individual liberties, Currin said.

The past two years had seen the courts' ability to test civil liberty issues increasingly eroded by successive AD decisions in favour of the government — rendering the courts virtually redundant.

"It would be pure speculation to say the AD had decided to make up on the swings what it had lost on the roundabouts through decisions such as the 'Sharpeville Six' case."

In the face of decisions such as Justice Strydom's, to impose a suspended sentence on the white farmer who beat a labourer to death, any black person could be excused for thinking there was no justice to be had before a South African court.

However welcome the AD's intervention in overturning death sentences, much more was required before the damage done was anywhere near repaired.

## FAMILIES AGAINST THE HANGMAN

CONVICTED murderers Johannes Mangate and Bakiri Nelson were hanged this morning upon the gallows of Pretoria's Central Prison.

Three days ago, relatives of the men were among many who travelled to Pretoria to sign an anti-capital punishment petition launched by the newly-formed Families of People on Death Row (Fopod).

One man was a "political"; the other committed a domestic killing. In 1986, Upland farm labourer Mangate shot to death four people, including his girlfriend, after a row with co-workers.

In the same year Nelson went to the Port Elizabeth home of two elderly women whom, he said, refused to pay him for gardening work. He strangled them with a rope.

Shortly before Christmas, the 40-year-old Mangate, who was on death row for almost two years, seemed to sense time was running out. He wrote a letter to Lawyers for Human Rights asking for help.

Restrained, polite and to the point, Mangate explained that he had suffered "mental sickness as from my childhood" yet was never examined by a psychiatrist during his trial. In addition, he said, an application by his pro deo defence to send him for the statutory 30 days' mental observation, was rejected by the court.

Mangate ended the letter: "Brother, I profoundly hope you'll help me. Remember, my life is at stake ..."

Fopod totally condemns the death sentence in all cases, regardless of who it is imposed on and why.

"Judicial killings," it says, "teach society the lesson that death and violence are acceptable solutions to the problems facing us. Such killings create the impression that retribution is justifiable."

Fopod has been launched as a support group to the anti-death movement, a sort of emotional link in a chain of organisations such as the Black Sash which have long campaigned for the death sentence to be scrapped.

As Doris McBride, mother of convicted ANC bomber Robert McBride, told families present at the press conference to launch the petition: "If we rely only upon other people to do things for us and our children, we will never get anywhere ... we have a duty to act because the death sentence touches us in a way it cannot touch others."

The petition currently being circulated by Fopod calls upon PW Botha to:

- Institute an immediate moratorium on all executions.
- Set up a judicial commission of inquiry into the use of the death penalty in South Africa.
- Investigate "more appropriate methods of punishment, which seek to cure rather than destroy".

Charlotte Bauer

captured...  
bique.

2

## Rightist Rudolph charged on shooting

Pretoria Correspondent

Mr Piet Rudolph, a member of a right-wing organisation and former Pretoria city councillor appeared briefly in the Pretoria North Magistrate's Court yesterday in connection with a shooting at the NBS branch in Pretoria North.

The incident happened on December 14 last year when Mr Petrus Johannes Rudolph is alleged to have fired shots at the NBS building in Gerritt Maritz Street.

Mr Rudolph appeared briefly in connection with allegations of malicious damage to property, possession of tear-gas and firing shots in a municipal area.

Mr Rudolph was not asked to plead and the case was postponed to March 6.

His bail was extended.

## Reed to sail in South Star

Bertie "Biltong" Reed, South Africa's renowned long-distance yachtsman, will skipper the 36-ft Miura class boat GA Insurance in the prestigious South Star race to St Helena and back, starting on Saturday from Cape Town.

Crewing the boat will



lay January 13 1989

## State seeks death penalty

# No deaths in E Tvl bombings, defence submits

Star 17 11/87  
331

Pretoria Correspondent

The death penalty should be imposed on all three accused — two of whom were convicted of treason and the other of terrorism in the Bethal treason trial heard in the Pretoria Supreme Court — prosecution argued yesterday.

The acts of terror — which included landmine warfare in the south-eastern Transvaal — committed by ANC member Ebrahim Ismail Ebrahim (51) and Acton Maseko (38), who were convicted on a main charge of high treason in November, and Simon Dladla, who was found guilty of terrorism, were “cold-blooded and barbaric”, according to State prosecutor Mr H Prinsloo.

Even though Ebrahim only planned the terrorist acts, the death sentence should also be imposed on him, Mr Prinsloo argued.

Defence counsel Mr L Gering submitted that the purpose of the landmine attacks was not aimed at specifically killing anybody but only formed part of the ANC's armed struggle.

He said nobody had been killed, but admitted that there had been a possibility that people might have died as a result of the attacks.

“Where the sentence of death is not mandatory, it should only be imposed in extreme cases,” Mr Gering said. He added that during no political trial in South Africa where the accused had not killed anybody was the death penalty ever imposed.

### Maimed

However, Mr Prinsloo felt that the accused did not care who was maimed during their attacks, in which mostly black people had been hurt.

He said their deeds were well-planned and while Maseko and Dladla were directly involved in planting landmines, Ebrahim planned the attacks with them and also supplied weapons and money.

The hearing was adjourned until Monday, when sentence will be passed.

BUSINESS DAY, Friday, January 13 1989

# Armed struggle will continue — defence counsel

PRETORIA — Until such time as meaningful changes were made by government, the armed struggle would continue, defence counsel for the Bethal treason trialists submitted in mitigation in the Pretoria Supreme Court yesterday.

Defence counsel L. Gering closed his case in the trial of ANC member Ebrahim Ismail Ebrahim, 51, and Anton Maseko, 38, who were convicted on a main charge of treason in November, and Simon Dladla, who was found guilty of terrorism.

Gering said: "We are dealing with a divided society and when government

banned the ANC it gave its followers no choice but to go underground and, therefore, to act illegally."

He said 70% of the population, even after all the reforms, had no say in the law-making process.

Mr Justice Daniels replied that there had been more changes made by government in the past 10 years than had occurred in the last 300 years in SA, and that did not appear to have any significance to the accused.

He said it was his function to impose a sentence with regard to the severity of the crimes committed.

Gering said: "Those who make

peaceful change impossible make violence inevitable and, furthermore, there is an increasing support by South Africans for armed struggle and violence."

Mr Justice Daniels said he felt most blacks did probably sympathise with the ANC on a broad base, but when it came to the "nitty-gritty" there might be a different response by the people.

Gering argued that the judge, in considering an appropriate sentence, should keep in mind what the international community's feelings were towards the ANC.

He said the outside world regarded the ANC struggle against "the racist regime" as just.

"I am asking you not to put on judicial blinkers or pass a sentence to appease the outside world but merely to consider the current feelings of most South Africans and outsiders towards the ANC."

Second defence counsel H K Naidu said, referring to Ebrahim, that the court was dealing with a man who was committed to a struggle to release his people from the present unjust system and the shackles of apartheid. — Sapa



## FOCUS: CAPITAL PUNISHMENT

# THE HIGHEST COURT AND THE GALLOWS

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are not dissimilar to those of the 'Sharpeville Six' case, and Justice Strydom's sentence followed the temper of the 'Sharpeville Six' judgement.

"Justice Botha's activism is an interesting contrast with his refusal to intervene in the 'Sharpeville Six' matter. It shows a level of anxiety about convictions for murder and the application of the death sentence which many commentators think should have led to a different result in the 'Sharpeville Six' trial."

If the same stance had been taken on the "Sharpeville Six" matter, the death sentences would never have been upheld, he said.

Earlier last month, Justice Botha upheld an appeal by a Mitchell's Plain man against a death sentence imposed by Mr Justice Braam Lategan of the Cape bench.

Albert Petersen, 19 years old when the crime was committed, was convicted of murder with extenuating circum-

stances and robbery with aggravating circumstances.

He was sentenced to 10 years for the murder and given the death penalty for the robbery — a sentence Justice Botha described as "shockingly inappropriate". He reduced the death sentence to three years' jail and set aside another sentence of 10 years.

Justice Botha said it appeared Justice Lategan wanted to punish Petersen for the fact that the deceased died during the robbery, even though he had already sentenced him to 10 years because the man died.

What was disturbing, said Justice Botha, was that Justice Lategan had made a mistake of exactly the same sort in a previous case which also went on appeal.

He had to assume Justice Lategan did not take note of the judgement in that case.

Subsequent inquiries revealed that five death sentences imposed by Justice Lategan over the past three years were set aside and reduced to a total of 18 years' imprisonment.

The recently launched Society for the Abolition of the Death Penalty is carrying out a study on how judges go about sentencing people, to what extent the death sentence is upheld by the Appeal Court, and how many cases never reach this court.

It has also written to Minister of Justice, Kobie Coetsee, requesting a commission of inquiry into the death penalty and for a moratorium on all hangings pending the outcome.

Brian Currin, national director of Lawyers for Human Rights, believes the recent AD decisions will inevitably result in individual judges questioning themselves about their partiality or impartiality.

"Many judges believe they are impartial and that they administer justice fairly, but they are white people working within a white system with no exposure to black aspirations or frustrations."

One should also discriminate between criminal matters and those testing individual liberties, Currin said.

The past two years had seen the courts' ability to test civil liberty issues increasingly eroded by successive AD decisions in favour of the government — rendering the courts virtually redundant.

"It would be pure speculation to say the AD had decided to make up on the swings what it had lost on the roundabouts through decisions such as the 'Sharpeville Six' case."

In the face of decisions such as Justice Strydom's, to impose a suspended sentence on the white farmer who beat a labourer to death, any black person could be excused for thinking there was no justice to be had before a South African court.

However welcome the AD's intervention in overturning death sentences, much more was required before the damage done was anywhere near repaired.

## FAMILIES AGAINST THE HANGMAN

CONVICTED murderers Johannes Mangate and Bakiri Nelson were hanged this morning upon the gallows of Pretoria's Central Prison.

Three days ago, relatives of the two men were among many who travelled to Pretoria to sign an anti-capital punishment petition launched by the newly-formed Families of People on Death Row (Fopod).

Neither man was a "political"; both had committed gruesome killings. In 1986, Upington farm labourer Mangate shot to death four people, including his girlfriend, after a row with co-workers.

In the same year Nelson went to the Port Elizabeth home of two elderly women whom, he said, refused to pay him for gardening work. He strangled them with a rope.

Shortly before Christmas, the 40-year-old Mangate, who was on death row for almost two years, seemed to sense time was running out. He wrote a letter to Lawyers for Human Rights asking for help.

Restrained, polite and to the point, Mangate explained that he had suffered "mental sickness as from my childhood" yet was never examined by a psychiatrist during his trial. In addition, he said, an application by his pro deo defence to send him for the statutory 30 days' mental observation, was rejected by the court.

Mangate ended the letter: "Brother, I profoundly hope you'll help me. Remember, my life is at stake ..."

Fopod totally condemns the death sentence in all cases, regardless of who it is imposed on and why.

"Judicial killings," it says, "teach society the lesson that death and violence are acceptable solutions to the problems facing us. Such killings create the impression that retribution is justifiable."

Fopod has been launched as a support group to the abolitionist movement, a sort of emotional link in a chain of organisations such as the Black Sash which have long campaigned for the death sentence to be scrapped.

As Doris McBride, mother of convicted ANC bomber Robert McBride, told families present at the press conference to launch the petition: "If we rely only upon other people to do things for us and our children, we will never get anywhere ... we have a duty to act because the death sentence touches us in a way it cannot touch others."

The petition currently being circulated by Fopod calls upon PW Botha to:

- Institute an immediate moratorium on all executions.
- Set up a judicial commission of inquiry into the use of the death penalty in South Africa.
- Investigate "more appropriate methods of punishment, which seek to cure rather than destroy".

Charlotte Bauer



(23)

# Ebrahim: My brush with SA's angels of death

SENIOR African National Congress member and "Bethal" treason trialist Ismail Ebrahim broke his silence this week — in a statement alleging systematic South African state terrorism, police fabrication of evidence and torture "to the point where I nearly lost my mind".

The statement was made to the head of the Community Agency for Social Enquiry, Mark Orkin, who presented it to the court as part of his evidence in mitigation of sentence. Ebrahim had previously refused to testify. He and co-accused Mandla Maseko — whose statement to Orkin was also

**A few days before he is to be sentenced, a Bethal treason trialist breaks his silence — to tell a frightening tale of torture and state violence. VUSI GUNENE reports**

Maseko, saying they were not part of the evidence led in court, had not been contested and could, therefore, not be taken as true.

The statements, however, formed part of the court record when submitted together with a report by Orkin to the court.

Orkin told the judge that Ebrahim was "pained by his continuing experiences of the indignity of racial discrimination, and spurred by a religiously-based sense of social duty". His prime commitment was to the achievement of harmonious non-racialism in South Africa.

"In furtherance of this value, he undertook a series of rational-purposive actions, from becoming politically involved in his early teens, through an organisational leadership role, to joining Umkhonto we Sizwe in 1961 and returning to the ranks of the ANC after his jail sentence in 1980."

In his own statement, Ebrahim refers to his alleged abduction from Swaziland by South African security forces in 1986.

"At that point, I was carrying an Indian passport, issued to me by the government of India. The lack of any judicial restraint has given the secur-

ty forces of apartheid a free hand to continue their abductions with impunity," he says.

"The violation of the borders of the neighbouring state, of its independence and sovereignty, is itself a great offence against international law."

Ebrahim says his abduction took place four days after the kidnapping of a Swiss couple, a Swazi woman and a registered South Africa refugee, Shadrack Maphumulo, from Swaziland.

"The South African Police raided Maphumulo's flat at night and shot him in the stomach. They dragged his bleeding body down a flight of stairs and dumped him into the boot of their car. He died before he reached the offices of the security police ...

"Are these abductions and murder not acts of state terrorism?"

"We in the ANC never advocated a policy of murdering or abducting South African personnel abroad. Yet it is now the accepted policy of the South African security forces to assassinate and abduct the opponents of the apartheid regime in foreign lands."

Ebrahim says his abduction was followed by "police torture to the point where I nearly lost my mind".

"My two co-accused were also brutally tortured. It is horrifying to note how widespread these tortures are."

"The very system of detention without trial and without access to lawyers, family or anyone from the outside creates the ideal conditions for the wicked mind to devise methods of human torture. I have had personal experience of this, both in 1963 and during the present detentions."

Ebrahim goes on to say that victims of torture in South Africa "face the problem in court that it is only our word against the testimony of police officers".

A further "shockingly unbelievable" aspect of his own trial, Ebrahim says, was that two of the secret witnesses who testified against him "totally fabricated the evidence against me".

"Why so much evidence was fabricated by the police is difficult to comprehend. It was probably meant to justify my abduction from Swaziland and the subsequent torture in police cells," he said.

In a message to South Africans, Ebrahim said he did not fear the outcome of the trial.

"We have brushed shoulders with the angels of death who guard the king and princes that occupy the apartheid throne. In their hands they carry the gun, the hangman's noose and the vile instruments of torture. We know that the throne they defend can only stand because it is surrounded by a moat of human suffering."

● Mr Justice Daniels announced yesterday that sentence of the three accused would take place on Monday.

# Pretoria treason trial looms

By VUSI GUNENE

YET another treason trial loomed this week as 12 Pretoria activists, including the chairman of the Mamelodi Civic Association, Peter Maluleke, appeared in the Pretoria Magistrate's Court.

The 12, mainly residents of Mamelodi and Atteridgeville near Pretoria, made their second appearance this week after being charged with treason. There are 27 alternative charges — four under the Internal Security Act, three under the Arms and Ammunition Act, four of murder, five of attempted murder and 11 of malicious damage to property.

The state alleges that between 1982 and July 1988, the accused plotted to overthrow the state, and that they were either members or supporters of the African National Congress.

It is alleged that during this period, they conspired with the ANC and its supporters to carry out acts of violence.

The accused are also charged with the unlawful possession of explosives, an SPM limpet mine, 158 mini-limpet mines and hand grenades.

The state also alleges that on or about March 18 last year, the accused murdered Barney Mope, Andrew Mphahlela, Nelson Phenyane and one-year-old Patience Kulele, all of Atteridgeville.

Mope, Mphahlela and Phenyane are understood to have been members of the South African Police.

The accused are also charged with the attempted murder of Ananias Nkoane, Rosemary Muzwayine, Mathilda Venter, Elke Hansen, Anna Prinsloo and Susanna Kruger.

The 12 accused are: Mooketsi Ron-ey Toka, 25, of Ga-rankuwa near Pretoria; Godfrey Velaphi Makabe, 41, of Bloemfontein; Francis Pitse, 24; Ernest Thoboki Ramadite, 24; George Mathe, 21; Johannes Maleka, 25, all of Atteridgeville; and Peter Maluleke, 34; Peter Mokgonyana, 26; Joseph Nkosi, 39; Thapelo Reuben Khotsa, 23; Reginald Noah Legodi, 22; and Alfred James Kgasi, 25, all of Mamelodi.

The trial was postponed to January 30.

331 WMA 13-19/1/89.

CHL Tim P  
16/1/89

## Sentence today for convicted Bethal three 331

PRETORIA. — The three men convicted in the Bethal trial are to be sentenced by Mr Justice Daniels in the Pretoria Supreme Court today.

The state asked for the death penalty for all three.

ANC member Ebrahim Ismail Ebrahim, 51, and Acton Maseko, 38, were both convicted on the main charge of treason, and Simon Dladla was found guilty of terrorism.

The prosecutor, Mr H Prinsloo, said the men were responsible for "cold-blooded and barbaric" acts of terror.

Defence counsel Mr L Gericke said landmine attacks in the south-eastern Transvaal had not been aimed at killing anybody specifically, but only formed part of the ANC's armed struggle. — Sapa



# Weapons found in buried trunk, city court hears

By BRONWYN DAVIDS, Staff Reporter

A TIN trunk containing weapons from Eastern bloc countries was found buried at the home of a Guguletu woman and her daughter who are charged with harbouring a trained terrorist, a regional court heard.

Mrs Ethel Loza, 44, Miss Maureen Loza, 19, of 90 Nokwanda Street, Miss Sindiswa Dlavu, 27, of Kwazakele, Port Elizabeth, and Mr Xolile Mini, 30 of G251, Khayelitsha, pleaded not guilty yesterday to charges of harbouring Mr Nkululeko "Solly" Mutsi.

They are charged under Section 54(4) of Act 74 of 1982 of the Internal Security Act.

## HANDGRENADES

In a statement handed to a Cape Town regional court, Mrs and Miss Loza admitted that a tin trunk was found in their backyard. They were not prepared to answer any questions, said Mr A Albertus, for the accused.

The contents of the trunk was handed in as exhibits. There were nine M75 Yugoslav-made handgrenades, a Russian AKM rifle and two magazines, each with 28 bullets.

There was also an AK cleaning kit, a home-made canvas holster with two magazines and six boxes of bullets.

Yesterday, Major Andre du Toit, a senior member of the bomb squad in the Western Cape said that on July 5 last year at 3.40 am, he and 22 policemen surrounded Mrs Loza's house.

Major du Toit went to the door, identified himself and asked for "Solly, Kenneth or Joseph", all aliases of Mr Mutsi.

He said the occupants denied knowing the man. Police then searched the house.

Major du Toit pushed the toilet door and someone behind it fired a shot.

## BARRICADED IN ROOM

Major du Toit was pulled back by Warrant Officer Johan Nel. A man rushed out from behind the toilet door and barricaded himself and Miss Loza in one of the rooms.

The man fired and Miss Loza screamed. Later the man released her and fired more shots.

At 5.25 am Major Dolf Odendaal of the riot squad took over the operation. At 7.50 am police threw two M6 handgrenades into the house.

Major du Toit said they re-entered the house and found Mr Mutsi's body with a Makarov pistol lying beside it.

The hearing continues today.

**SAPA**

**AFRICAN** National Congress member Acton Mandla Maseko narrowly escaped the gallows yesterday when he was sentenced in Pretoria's Palace of Justice to 23 years for his part in landmine warfare.

Senior ANC man Ebrahim Ismail Ebrahim, who was kidnapped from Swaziland before being detained in Pretoria and placed on trial, received a 20-year term. And the third accused, Simon Dladla, got 12 years.

In an emotional scene after the passing of sentence, the crowd in the gallery rose to sing Nkosi Sikelel'i Afrika. At the end of the singing one of the prosecutors in the case was heard to remark: "Lank lewe die AWB. (Long live the AWB)."

### **Borderline**

Both Maseko and Ebrahim were found guilty of treason by Mr Justice Daniels while Dladla, a Swaziland national, was convicted of terrorism. The charges relate to various ANC activities including the laying of landmines in the south-eastern Transvaal in April and June 1986. Eight people were injured in the blasts.

Mr Justice Daniels described Maseko's case as a "borderline" case for the imposition of the death sentence.

### **Hesitated**

The factor that had saved him was that "fortunately and not by design nobody was killed in any of the landmine attacks.

"Had this occurred I would not have hesitated in imposing the ultimate penalty."

For purposes of sentencing Ebrahim's indirect part in the laying of landmines and other violence had been disregarded said Mr Justice Daniels.

# **Top ANC men jailed**

Page 2

SOWETAN, Tuesday, January 17, 1989



# Policeman shot man in back

Soweto 17/1/89

A PRETORIA North inquest magistrate yesterday heard that a Mamelodi resident who allegedly endangered the lives of the police on the day of the Mamelodi massacre, was killed by shots which hit him from behind.

This was said by Sergeant Eugene Halliday during an inquest into a shooting incident in which 14 people were killed and scores injured. He was being cross-examined by Mr Morris Basslian, counsel for the families of the victims, before Mr J M Pretorius.

By ALINAH DUBE

The policeman said he shot the man in the back. He said he did so to stop the man from throwing a petrol bomb he was carrying at a police vehicle.

## Loaded

After he realised that the man was injured, Sergeant Halliday said he loaded his victim — who was still alive at the time — into a police vehicle and transported him to the police station. He said the man was injured and could not walk unaided as a result.

Asked by Mr Basslian why the policeman did not take the man to hospital, he stated that he did not deem it necessary. Although he admitted that the man was struck by more than one bullet, he would not agree that the man was seriously injured.

The witness said attempts to obtain the man's identity were unsuccessful as he was carrying no document on him. However, he stated that one of his colleagues took pictures of a number of dead people at the police station.

(Proceeding).



HUNDREDS of people attended the funeral service of Soweto teacher Mrs Leah Bernice Mampa, of Dube township, who died at the Baragwanath Hospital. She was loved and adored by her pupils at Phuthi Lower Primary School, Soweto, and by many people who associated with her. Mrs Mampa also taught at several schools in the QwaQwa homeland.



at 1500 in Cape Town was developing in SA. Port Elizabeth does not sup- a city to live in, invest in and visit.

'Borderline case for death penalty'

# Ebrahim and Maseko get long sentences

Alamy 17/1/87  
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ANC members Mandla Maseko, 37, and Ebrahim Ismail Ebrahim, 51, were sentenced in the Pretoria Supreme Court yesterday to 23 and 20 years imprisonment respectively for treason in what the judge described as a borderline case for the imposition of the death sentence.

Their co-accused, a Swazi citizen Simon Dladla, 36, convicted on an alternative charge of terrorism, was sentenced to 12 years imprisonment.

Mr Justice Daniels found it had been proved beyond reasonable doubt that Maseko was responsible for landmine blasts in the eastern Transvaal in April and June 1986.

He said Ebrahim had not been directly involved in the blasts but was a committed member of the ANC and had, at all times, rendered moral support for this operation.

The court found Dladla was indi-

SUSAN RUSSELL

rectly involved in the blasts in that he conveyed Maseko to the selected targets.

Mr Justice Daniels said: "Eight civilians were injured in these attacks.

"The attacks were carried out in furtherance of official (ANC) policy to which Maseko and Ebrahim fully subscribe and which they refuse to renounce."

He said Maseko's military training in foreign countries and Ebrahim's previous conviction and 15-year sentence for sabotage were aggravating features.

The judge said the State had argued forcibly for the imposition of the death penalty. It was a borderline case and he would have had no hesitation in imposing the death sentence if lives had been lost in the blasts.

He said: "It may be they regret



Julie Wells, American wife of convicted ANC member Ebrahim Ebrahim, after her husband was sentenced to 20 years jail for treason. Picture: REUTER

that people were injured. I shall accept that as a fact in their favour, although no direct evidence of that was placed before me.

"Their reluctance, or rather failure, to renounce violence as a means to an end strikes me similarly as an aggravating feature in determining the sentences to be imposed."

# Prosecutor denies<sup>AWB</sup> 'pro-AWB' remark<sup>331</sup>

The Argus Correspondent

PRETORIA. — A prosecutor in the Bethal treason trial today denied she said "lank lewe die AWB" (long live the AWB) at the end of the case.

State prosecutor Louise van der Walt was reported to have said this minutes after the three Bethal treason trialists were sentenced yesterday in the Pretoria Supreme Court to a total of 55 years' imprisonment.

Today she said: "I deny it; bring me evidence that I said this in court.

"I am on my way to the Attorney-General's office and while I'm about it, I will lay a charge against the Press for saying this about me."

Several reporters, however, heard Mrs van der Walt's reference to the AWB and were prepared to make affidavits to this effect.

The incident has been widely reported around the world.

After Mr Justice Daniels sentenced Acton Maseko, 38, Simon Dladla and Ebrahim Ismail Ebrahim, 51, to 23, 12, and 20 years' imprisonment respectively, the crowds began to sing *Nkosi Sikelel' iAfrika* (God Bless Africa) while the trialists were bidding their farewells.

Mrs van der Walt, seemingly upset at the chanting, ordered that the three men — two of whom had been convicted of treason and the other of terrorism — be led to the cells.

"Lank lewe die AWB," she is alleged to have said, after which she repeated it and questioned a nearby group of security policemen why they did not arrest the crowds for singing the song.

She said that they (the policemen) could arrest her for saying "long live the AWB" and should thus also arrest the people who were singing in the public gallery.

Approached today she said: "Bring me evidence that I was the one who said this. There were several prosecutors in that court."

Transvaal Attorney-General Mr Don Brunette said last night: "It sounds like a blatant lie and I just cannot believe it."

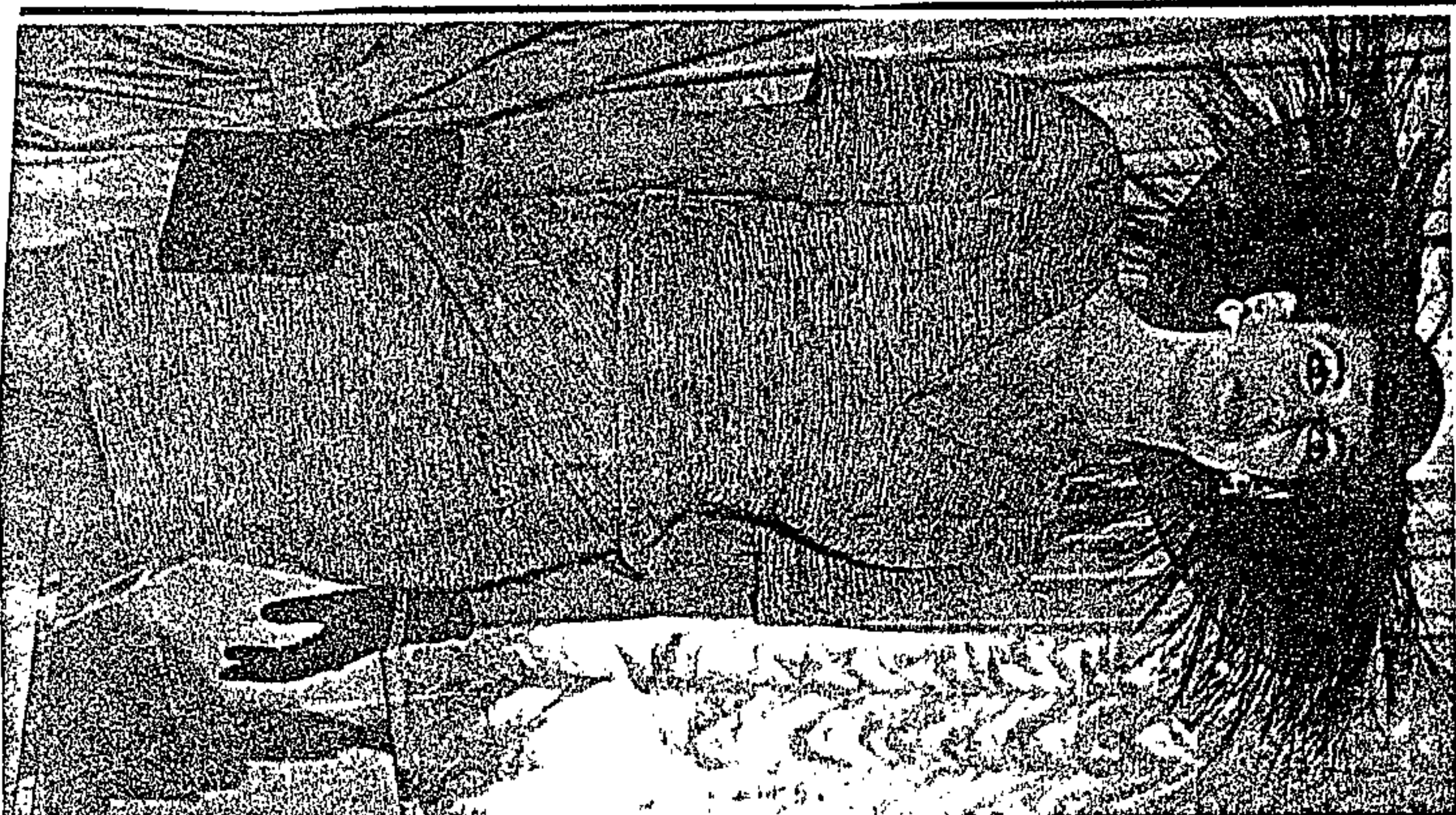


# NEW AWB ROW

APR 2nd 17/1/89 (331)

## Counsel's remark causes stir at trial

### A peek at Met fashion



Own Correspondent

**JOHANNESBURG.** — A row has blown up over a junior state counsel's pro-AWB slogan overheard by reporters at the end of the Bethal treason trial in the Pretoria Supreme Court yesterday.

Ms Louise van der Walt is alleged to have said "Jank lewe die AWB" (long live the AWB) when top African National Congress member Ebrahim Ismail Ebrahim gave the black power salute in response to his 20-year sentence.

Last night Britain's main national radio and TV newscasts gave prominence to reports of the incident, reports our London Correspondent. After Mr Justice Daniels left the court, the crowd in the public gallery rose to their feet and with clenched fists joined ANC members Ebrahim, Action Maseko and their co-accused Simon Dladla in singing N'kosi Sikelele i Afrika.

### Clap hands

It was at the conclusion of the singing and shouting of slogans by the crowd that Ms Van der Walt was heard to refer to the AWB and seen to clap her hands.

The Transvaal attorney-general later denied that she had said "Jank lewe die AWB".

Last night a spokesman for the Department of Justice said the matter was being looked into.

Earlier the department said the attorney-general had received conflicting reports that the prosecutor concerned had said "long live the ANC" and "long live the AWB".

Ms Van der Walt could not be reached for comment last night.

Maseko, 37, and Ebrahim, 51, were sentenced to 23 and 20 years imprisonment respectively for treason in what the judge described as a borderline case for the imposition of the death sentence.

Their co-accused, Dladla, 36, a Swazi citizen, was convicted on an alternative charge of terrorism and sentenced to 12 years imprisonment.

The trial has drawn extensive international interest. Ebrahim is alleged to be the highest ranking member of the ANC to have gone on trial in South Africa since the organisation's jailed leader Nelson Mandela was in the dock in 1964.



# 3 ANC men jailed for 55 years

JOHANNESBURG. — A judge yesterday handed down jail sentences totalling 55 years on three African National Congress men, among them a man who accused South African security police of abducting him from Swaziland two years ago.

Prosecutors had urged death sentences for ANC members Ebrahim Ismail Ebrahim, Acton Maseko and Simon Dladla who planted landmines on farm roads in the south-eastern Transvaal in 1986.

Ebrahim was jailed for 20 years, Maseko for 23 years and Dladla for 12.

Ebrahim and Maseko were convicted of treason while Dladla had been convicted of terrorism.

Before the sentenced men were returned to the Palace of Justice basement cells, they turned round in the dock to return black power salutes to singing supporters — many of them white — who packed the public gallery.

Mr Justice Daniels said it had been a "borderline case" whether he would give Maseko the death penalty. Had any of the eight people injured in the landmine attacks been killed, he would "not have hesitated to impose the ultimate penalty".

Ebrahim did not master-mind the attacks or formulate strategy, but his previous 15-year sentence for sabotage and his failure to renounce violence had to be taken into account.

He had been a totally committed ANC member and played an important part in the organisation's political structure.

Mr Justice Daniels said Ebrahim

had only himself to blame for the fact that he would emerge from prison an aged man.

Maseko was a trained terrorist and, like Ebrahim, intelligent and politically motivated. He was the "main participant" in the landmine attacks, the judge said.

Dladla, of lower intelligence and less educated than the other two men, played a subordinate, but very important, part in the execution of the attacks.

He was not a South African citizen and his sentence would serve as a warning to other non-South Africans who helped the ANC.

None of the three testified in mitigation during the trial.

Ebrahim, however, told a sociologist that South African security police had abducted him from Swaziland in 1986 and tortured him in Pretoria.

Sociologist Mr Mark Orkin, who testified on Ebrahim's behalf, said Ebrahim was motivated "by his continuing experiences of the indignity of racial discrimination and spurred by a religiously-based sense of social duty".

The judge said Ebrahim and Maseko were both members of the ANC, an organisation that endeavoured to overthrow the government and replace it "with what it perceives to be a democratic government".

Part of its strategy was to employ violent means, and this had been official policy since 1961 when Umkhonto we Sizwe was established.

The trialists' "lack of repentance and remorse" was disconcerting and their failure to renounce violence was an aggravating factor when it came to determining sentence, the judge said.

— UPI and Sapa

CME Time  
17/1/87  
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# Trial within trial for four held on security charge <sup>231</sup>

Staff Reporter

18/1/89  
A TRIAL within a trial will be held in the Cape Town Regional Court in April to test the admissibility of statements made by four people charged with harbouring a trained terrorist.

Mrs Ethel Loza, 44, Miss Maureen Loza, 19, of 90 Nokwanda Street, Guguletu, Miss Sindiswa Dlavu, 27, of Kwazakele, Port Elizabeth and Mr Xolile Mini, 30, of G251, Khayelitsha pleaded not guilty to charges of harbouring a suspected terrorist, Mr Nkululeko Mutsi (Solly) between July 1987 and July last year.

They are charged under Section 54 (4) of Act 74 of 1982 of the Internal Security Act.

Mrs and Miss Loza admitted in a statement handed to the court that a tin trunk filled with armaments of Eastern bloc origin was found in their backyard.

The four were not prepared to answer any questions.

The hearing yesterday hinged on whether the four accused were informed that they had the right to remain silent and that they did not have to make statements while being detained under Section 29 of the Internal Security Act.

Warrant-officer Johan Nel, who was in charge of the investigations, said he did inform the accused of their rights.

He said they all gave "their full co-operation".

He said he did not force or put pressure on them to make a statement.

Under cross-examination by Mr A Albertus, for the defence, Mr Nel denied that he told all the accused that they would be held for six months in prison if their answers were not "satisfactory".

Detective Warrant-Officer Jeff Benzien said he went to fetch Miss Dlavu and Mr Mini in Port Elizabeth, acting on information from Section 29 detainee Mr Alan Mamba.

He said he only questioned Miss Dlavu on two occasions, once at Louis Le Grange Square, Port Elizabeth, and then when she confronted Mr Mamba in Cape Town.

Under cross-examination by Mr Albertus, he denied "terrorising" Miss Dlavu while interrogating her in Port Elizabeth.

He also denied that she was handcuffed to the bars at the security forces offices at Culemborg, the security police headquarters in Cape Town.

Mr Benzien repeated that he had informed Miss Dlavu of her right to not answer questions under Section 29.

Later, Mr Albertus asked him: "Did you explain to Miss Dlavu that she had the right to remain silent and that she was not compelled to answer any questions or to make a statement?"

Mr Benzien: "No, your honour."

Four statements made by the accused before magistrates at Cape Town and Wynberg courts were handed in. They were not read because defence counsel contested the admissibility of the statements on the grounds that the accused had not been informed or were unaware of their rights under Section 29.

The hearing has been postponed to April 3.

Mr M.J. Langenhoven was on the Bench. Mr F. Silbert appeared for the State. Mr A. Albertus, instructed by Mr Buleleni Ngcuka, appeared for the accused.

## Inquest is delayed

*Sowetan 18/1/89*  
AN inquest into the 1985 Mamelodi shootings yesterday went into adjournment during the first half of the day as a result of missing documents.

The adjournment was requested by Mr Morris Basslian, counsel for the families of the victims, after a police sergeant told the court that he did not remember if he had entered details of the man he killed into the occurrence book on the day of the shootings.

Sergeant Eugene Halliday was being cross-examined by Mr Basslian

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during an inquest into an incident in which 14 Mamelodi residents were shot dead and scores injured by members of the police force and the SADF on November 21, 1985. The inquest is before Mr J.N. Pretorius in the Pretoria North Magistrate's Court.

In a statement before court, Sergeant Halliday said he did make an entry in connection with a man he fatally wounded that day. But when cross-examined he said he did not remember entering details in the occurrence book. (Proceeding).

GET YOUR



Star 18/1/89

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## Furore over comment at treason trial

# Prosecutor denies salute to the AWB

Newspaper reporters heard treason trial prosecutor Mrs Louise van der Walt say "lank lewe die AWB" (long live the AWB) minutes after three men had been sentenced to jail in Pretoria's Palace of Justice for ANC activities.

Reporters from The Star the Pretoria News and Business Day heard Mrs van der Walt make the comment.

Mrs van der Walt yesterday denied she had made the comment.

"I deny it. Bring me evidence that I said this in court."

"I am presently on my way to the Attorney-General's office and while I'm about it I will lay a charge against the press for saying this about me."

### Widely reported

The remark attributed to Mrs van der Walt has been widely reported around the world and was the subject of a leading article in the *Daily Mail* in London.

After Mr Justice Daniels on Monday sentenced Acton Maseko (38) to 23 years' imprisonment, Simon Dladla to 12 years and Ebrahim Ismail Ebrahim (51) to

20 years, the crowd began to sing Nkosi Sikelel'i Afrika" (God Bless Africa) while the sentenced men were bidding their farewells.

Mrs van der Walt, visibly upset at the chanting, ordered that the three men — two of whom had been convicted of treason and the third of terrorism — be led to the cells in the basement.

Then she is alleged to have said: "Lank lewe die AWB."

Transvaal Attorney-General Mr Don Brunette commented: "It sounds like a blatant lie and I just cannot believe it. As far as I know, Mrs van der Walt is not an AWB member."



# Making of a revolutionary

From ANNE COLLINGS in Johannesburg : a profile drawn from a sociologist's report and statements handed in to court at the Bethal treason trial that ended this week

AS a nine-year-old boy in 1961, Acton Mandla Maseko wondered what the graffiti "Mandela, Sisulu and Dadoo shall rule" and "Long live ANC" meant.

His mother was appalled when he asked her and warned him never to voice such questions or he might join Nelson Mandela and Walter Sisulu in prison.

This week Maseko, a member of the African National Congress and part of the Elias Motsoaledi Command of Umkhonto we Sizwe, was sentenced to 23 years for treason.

Maseko's home was Alexandra township until he left the country in 1976 at the age of 25.

Living cheek-by-jowl with the affluent white northern Johannesburg suburbanites, a slow resentment built in him during his childhood. His expulsion from school by white teachers added to a sense of discrimination and racial friction.

But it was the liberation of Mozambique that first awoke explicitly political thoughts in him, he said. A press picture of a Frelimo soldier relaxing on a bench with an AK47 slung over his shoulder made a deep impression, he recalled. "I had an image of myself sitting on a bench in Johannesburg with an AK47."

Initially Maseko was attracted by the Black Consciousness approach. He would hold political discussions with friends, attend the trial of the Saso leaders in Pretoria to hear Steve Biko give evidence.

But little action came from this talk and the events of 1976 finally overtook Maseko and his friends.

He recalls vividly seeing in the Johannesburg Star, sister newspaper of The Argus, the picture of Hector Peterson — the first child to die in the 1976 uprising — his limp body in the arms of a man in overalls.

By June 17 he and his friends had made their way to Soweto. They saw two people shot by police — people who didn't get up after being felled. Back in Alexandra the brother of a close friend of his, Madinda, was shot in his car and killed.

"The police prevented us approaching (the crashed car). Later, in the paper, there was a picture of Madinda's corpse still in the car."

He went to the funerals of 1976. "As the dead were being buried, the youths vowed on their graves that they will continue the struggle until victory is achieved. I was part and parcel of this young generation who



Julie Wells, American wife of convicted treason trialist Ismail Ebrahim, talks to reporters after her husband was sentenced this week in the Pretoria Supreme Court to 20 years imprisonment.

were inspired by those who had died in the struggle."

Maseko left the country and joined the ANC shortly thereafter. He had mixed feelings about the non-racial approach of the ANC and joined with the intention of "hardening" the ANC's line.

But, he explained, his perception about black-white relations changed after joining the ANC and learning of its history. His generalised feeling of violence toward all who were not black began to wane, and he accepted the ANC's policy that violence should be targetted "at defenders of the ruling class — policemen and soldiers."

The man found guilty of planting landmines on farm roads in Breyten and Volksrust in 1986 said he perceived that farmers in border areas played the same defensive role, having formed themselves into "area defence systems".

RICHARD BARTLETT

EVIDENCE in mitigation and ex-tenuation in the trial of 25 people found guilty last year of the murder of an Upington municipal policeman will be heard when the trial resumes in the town on February 6.

The 25 were convicted last April of the murder of Lucas "Jetta" Sethwala at the height of township unrest in 1985, on the grounds of common purpose. Another accused Enoch Nonondwana, 33, was found guilty of attempted murder. The murder took

## Upington trial mitigation evidence

place on November 13, 1985, in Paballo township, Upington.

Mr Justice J J Basson found the majority of the accused had actively associated themselves with the common purpose of the group which had gathered outside Sethwala's home. He found the group had the intention of driving Sethwala from his house to kill him. Most of the accused were found to have participated in stoning

the house, so illustrating their intentions to achieve the common purpose.

The names and ages of those convicted of murder are: Kenneth Khumalo, 31, Tros Gubula, 29, Abel Kuru, 26, David, 23, and Andrew Kekhan-yane, 27, Gudlani Boyu, 28, Zuko Zambindini, 31, Elijah Matshoba, 22, Justice "Basie" Bekebeke, 26, Zonga Mokgathal, 30, Ronnie, 21, and Welington Masiza, 26, Barry Bekebeke, 22, Boy Jafra, 23, Xoliswa Dube, 21,

Elizabeth Bostaander, 20, Evelina de Bruin, 54, Gideon Madlongolwane, 59, Xolile Yona, 23, Albert Tywilli, 26, Jeffrey Sakeya, 23, Sarel Jacobs, 21, Roy Swartbooi, 21, Neville Witbooi, 20, and Ivan Kazi, 20.

The case has become the focus of a campaign launched by the SA Council of Churches and Nactu. Part of this was a church service held in the All Saints Church, Paballo, on Sunday.



## 'AWB' prosecutor toted a revolver at treason trial

Staff Reporter

Prosecutor Mrs Louise van der Walt, at the centre of a storm for verbally saluting the AWB in the Supreme Court on Monday, was involved in another controversy last year for wearing a revolver in court.

Both incidents took place during the marathon Bethal treason trial.

On Monday, three reporters heard Mrs van der Walt say: "Lank lewe die AWB" (long live the AWB), minutes after three men had been sentenced to jail in the Palace of Justice in Pretoria for ANC activities.

She has denied making the remark and says she will lay charges against the press for reporting the incident.

Last May two reporters covering the treason trial — then being held in Bethal — and a defence attorney, saw Mrs van der Walt wearing what appeared to be revolver in a holster on her waist during court proceedings.

Afterwards, one of the reporters asked Mrs van der Walt why she wore the gun, and she replied that she travelled on lonely roads by herself at night.

### WEAPON FOR PROTECTION

A reporter then telephoned the Attorney-General of the Transvaal, Mr Don Brunette, for comment about why one of his prosecutors was wearing a gun in court.

Mr Brunette told The Star yesterday that he had questioned Mrs van der Walt at that time and she denied that she ever wore the gun into court.

"She had been issued with a gun for her protection because the case was being held close to Swaziland and special security precautions were being enforced.

Mr Brunette said there was no provision that said a prosecutor could not wear a gun in court, and if there was a threatened attack on the court then prosecutors were entitled to wear guns.

"However I don't encourage it, as it could intimidate."

The treason trial, during the months it sat in Bethal, was held amid the strictest security ever seen in the area.

A well-known civil rights attorney said that not only had he seen Mrs van der Walt wearing the gun in court, but a number of his colleagues had seen her armed at other court proceedings during the past two years.





## The public face of private sorrow

Julie Wells, the common law wife of "Bethal" treason trialist and senior ANC member Ismail Ebrahim, digests the news that she faces a 20-year separation from her lover. American-born Wells, who is holding the couple's five-year-old daughter, Cassia, spoke to the press minutes after Ebrahim had been sentenced to 20 years in jail this week. Co-accused Mandla Maseko, an ANC guerilla, was jailed for 23 years, while Simon Dladla, a Swazi found guilty of transporting Maseko on guerilla operations, was jailed for 12 years.



Ismail Ebrahim ... a 20-year sentence.

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WMAC 20-26/1/89.



# Lawyers in uproar over armed prosecutors in court

By Therese Anders  
and Tim Cohen

A furor has broken out in legal circles over whether or not guns should be carried by court prosecutors — and the Attorney-General of the Transvaal says he has known of attorneys bringing guns into court.

This follows reports that a prosecutor in the Bethal treason trial — who is alleged to have verbally saluted the AWB in Pretoria's Palace of Justice this week — had been armed at an earlier stage in the trial.

On Wednesday The Star dis-

closed that Mrs Louise van der Walt had regularly carried a revolver during the marathon trial in Bethal.

Yesterday a senior advocate drew attention to a 334-year-old Dutch High Court order — which he claims could still be used in South Africa as a guideline for court behaviour in terms of Roman Dutch law. This prohibited court officials from being armed.

Yesterday The Star was told of a never-before published instance where the then Chief Magistrate of Johannesburg in 1977 ordered a prosecutor to remove his revolver

while in court.

Transvaal Attorney-General Mr Don Brunette said defence attorneys in the Bethal trial had apparently known about Mrs van der Walt's gun but had never complained and he had personally seen attorneys bring guns into court in their briefcases.

The uproar over Mrs van der Walt — which has received widespread international coverage — began on Monday when three reporters heard her say: "Lank lewe die AWB" (Long live the AWB) soon after three men had been given lengthy prison sentences in

the Pretoria Palace of Justice for their ANC activities.

Mrs van der Walt has denied she made this remark.

The Dutch court ruling, re-published in the 1960 *South African Law Journal*, says it is unbecoming and in conflict with the old usage for an officer of the court to carry a sidearm.

Some lawyers have pointed out that rules of conduct for officers of the court are laid down in the Supreme Court Act and these may overtake the Dutch High Court's decision.

The advocate who quoted the

ruling also told of an instance during the aftermath of the 1976 Soweto uprising when a trial at Soweto's Protea Court was stopped because one of the accused objected to the prosecutor wearing a revolver in court.

Counsel for the accused, who refused to proceed with the case, took the matter to the then chief magistrate of Johannesburg who ordered the prosecutor to remove his weapon.

Commenting on this 1977 Johannesburg order, Attorney-General Brunette said a magistrate's ruling was not binding on the Su-

preme Court.  
He said rulings on guns in court made in previous times were made in totally different circumstances to those applying in court today.

"We had a shooting inside a court not long ago in Vereeniging."

He said at the time Mrs van der Walt was wearing a gun in the Bethal court, important information had been received which made special security precautions necessary.



Walt ... dispute over gun in during Bethal trial.



VIOLENCE is usually seen primarily in physical terms. The advantage is that one capitalises on the image of destruction but the disadvantage is that one ignores the more subtle manifestations, for example, psychological and structural violence. In both cases we can speak of a metaphorical use of the term violence.

In the case of psychological violence there need not be any physical violence at all but the experience of injury done to the person is crucial. It is an assault on the integrity of a person. Examples of psychological violence are brainwashing, indoctrination and authoritarian attitudes in family relationships and educational contexts.

The term "structural violence" is another example of the metaphorical use of the word violence. Violence is structural when the extreme force is not exerted wilfully by a person but by a structure, a set of relationships, created and perpetuated by custom or law. A structure is created which curbs the freedom of subjects unfairly or which discriminates unjustly against certain sections of the community preventing them from gaining full citizenship. Structural violence is the worst kind of political injustice when rulers enforce oppressive and discriminatory laws without the consent of the ruled.

Professor D A Kotze, who discusses discrimination as a form of structural violence, states:

"In terms of the definition of structural violence, South African society is regarded internationally as a structurally violent society. This is mainly the result of the fact that this is probably the only society on earth which legally enforces discrimination with all the connotations of inequality and injustice called forward by this term."

The concept of structural violence raises the problem of the justification of political violence. Political violence refers to both state violence and revolutionary violence. Usually State violence is seen as legitimate force used against the will of others and

# The need for a liberating narrative on violence

CH- 71415 20/11/84

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Professor JOHAN DEGENAAR of the Department of Philosophy at the University of Stellenbosch testified in mitigation of sentence at the Bethal treason trial which ended in the Supreme Court in Pretoria this week.

During cross-examination by counsel for the state, Prof Degenaar said that, in criticising both the state and revolutionaries, he did not want to undermine the authority of the judge or create the impression that he failed to appreciate the extent of the humiliation suffered by blacks or deny the seriousness of the offence of the accused. His main purpose was to keep morality alive in all contexts and to emphasise the importance of historical consciousness.

The implication of his analysis is a realisation that it is not only the accused who are in the box. History has placed all of us — including the judge — in the box. To a question by Mr Justice Daniels, Prof Degenaar said he was not implying that the accused should not be punished but, he added, the judge in passing sentence should be aware of his historical position for his decision could help guide South Africa in a negative or a positive direction.

A negative direction entails that the sentence passed merely contributes to the perpetuation of the spiral of violence, while a positive direction entails the creation of hope in the hearts of all concerned — a hope for reconciliation and a negotiated settlement.

This is an extract from Professor Degenaar's statement to the court.



therefore as not a case of violating rights, while revolutionary violence is seen as illegitimate force and therefore as violation of rights.

This view rests on the identification of law and right, of legitimacy and justice, and on the assumption that the State has an unquestionable right to command while citizens have a binding obligation to obey.

According to this way of thinking the problem of the justification of political violence should not be formulated in terms of legality but in terms of morality. This means that the use of extreme force by the State can be legitimate, but if the laws themselves are violent, that is, unjust

and therefore destructive of the freedom of the citizens, the structural and physical violence used by the State is unjustified. This is the claim made by revolutionary movements. It is said that the State cannot justify its use of violence because the laws of the State violate moral rights.

The revolutionary movement claims that it can justify its own violence because this violence is primarily counter-violence. It opposes the structural violence of an unjust system; it works towards a just system. In this sense the end justifies the means. Its own use of violence is seen by the revolutionary as constructive rather than destructive, progressive rather than entrenched in

upstart laws. It is only constructive violence which can liberate the man from structural violence which perpetuates itself.

With the term "structural violence" I have drawn attention to the fact that revolutionary violence is not the only kind of violence and that violence always needs justification. This does not entail that the justification used is necessarily convincing. For example, the traditional way of justifying violence in terms of the principle that the end justifies the means is unacceptable. The end is absorbed by the means ascribing an unintended priority to the violent means.

This applies equally to those who use violence, structurally and physically, in order to maintain law and order, and to revolutionaries who allow for violent means in order to reach the liberated and purified future. Far from the end justifying the means, the means justifies the end. This calls for a moral dimension which has to qualify all actions as means to a projected goal. According to Hanna Arendt: "The means used to achieve political goals are more often than not of greater relevance to the future world than the intended goals."

On the basis of my argument I criticise the State because of the structural violence present in our society. I do this for moral reasons and because it produces counter-violence. I also criticise the revolutionaries for their use of violence. I do this for moral reasons and because it is counter-productive and cannot lay the foundation of a just society based on a negotiated settlement.

We should view the phenomenon of revolutionary violence in context. It can be described as counter-violence because of the

existence of structural violence in our society which is responsible for excluding blacks from sharing political power. Therefore, although I do not justify the use of violence I can understand their decision in favour of the armed struggle. Any group of people, including the Afrikaners, would come to a similar decision if they were the victims of structural violence and if their non-violent political strategy pursued for decades was ignored.

Both sides in this conflict should admit their mistakes, for without this realisation there can be no negotiation and reconciliation. And this is what we need if we have to create a just future.

I am of the opinion that we should not think about the future in fatalistic and pessimistic terms. One way of liberating ourselves from despair is to think about our political situation as a process. This entails that we should also evaluate political violence, whether State violence or revolutionary violence, in terms of a process. I have analysed the concept of violence in terms of its physical, psychological and structural manifestations. Unfortunately the word "structure" tends to ascribe a static quality to a set of relationships.

However, this need not be the case. By introducing time into the picture and by viewing relationships in terms of a process that is taking place, the possibility of change is introduced. The violence need not be seen as inevitable or as a final state of affairs. Violence can lead to a new set of relationships.

In order to achieve this we have to interpret violent events, not merely judge them. Interpretation of events entails a narrative, that is, telling a story about them. In order to do this we have to take

history seriously. And we have to face up to the challenges present in the following disturbing questions: Why do we have these manifestations of political violence, namely, State violence and revolutionary violence, at this stage of our history? What misuse of power is involved in the asymmetrical power relationships that obtain in our present situation?

If we contextualise our analysis of violence and integrate our judgment on violent events into the historical context, then we will be better equipped to detect our co-responsibility for the present state of affairs, and discover the possibility that the future need not merely be the continuation of the past.

In order to direct the process of our history in a positive direction we have to tell a meaningful story about this history and about the violent events in this history. We need a historical consciousness which does not speak about violence in general, but about these manifestations of violence at this time and in this place, of these participants, whether oppressors or oppressed, who are part of this tragedy that is called by the name of South Africa.

Only when we construct a liberating narrative on violence, will we be prepared for the next stage of our history. As crucial metaphor for this liberating narrative I propose the image of nation-building. If we genuinely start narrating the story of nation-building and realise that we are all participants in this story, we will discover the need for stopping this spiral of political violence which is destroying the texture of our society which is brutalising all of us.

Since the Government is responsible for structural violence and the ANC for revolutionary violence there is no other choice in the context of a liberating narrative about our history but for these participants to work towards a negotiated settlement. Both kinds of violence are morally unacceptable.

But we need more than a correct judgment. We need a liberating narrative which acknowledges the equality of all the participants, allowing all to become fully-fledged characters in the next chapter of the story of building a South African nation.



Mr Tish 20/1/89

# Suspected Peninsula bombers for court

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## Supreme Court Reporter

FOURTEEN alleged members of the banned African National Congress — allegedly responsible for the bombings at Castle Court, the Athlone Magistrate's Court, D F Malan Airport toilets and Peninsula petrol stations — will come to trial in the Supreme Court on February 8.

The 14 have been detained for periods of up to 17 months.

The accused will be charged with treason, alternatively terrorism. They are Mr Tony Sitembiso Yengeni, 34, Ms Jennifer Ann Schreiner, 31, Ms Lumka Elizabeth Nyamza, 26, Mr Michael Mzimkhulu Lum-bambo, 26, Mr Mbutu Richmond Nduku, 26, Mr Wellington Mongameli Nkwandla, 31, Mr Mtheteleli Titana, 26, Mr Gary Kruser, 27, Mr Christopher Charles Giffard, 27, Mr Sitlabocha Charles Mahlale, 37, Mr Alpheus Nkwana Ndude, 45, Ms Gertrude Magdaleen Nethania Fester, 35, Ms Zurayah Abass, 35, and Ms Colleen Lombard, 37.

After the car-bomb blast at Castle Court and a limpet mine explosion at D F Malan Airport, Mr Yengeni allegedly wrote a letter to three city newspapers under the name "Basil February Mk Squad" claiming responsibility for the explosions and explaining that they had been done in revenge for the deaths of certain ANC members.

Mr Yengeni is alleged to have received military training in Angola and the Soviet Union between 1977 and 1980 and been a member of the ANC's regional military council in Lesotho between 1982 and 1986.

It is alleged that when he settled in the Peninsula in 1986 his aim was to: Make contact with other ANC members; take over command of an ANC structure known as the Western Cape Machinery; arrange accommodation for ANC members on missions; receive, store and distribute explosives, arms and ammunition, and give in-

## Allegedly all ANC members

structions for acts of violence.

Mr Yengeni is alleged to be responsible for a limpet mine explosion at the Mowbray police station.

During 1986 he is alleged to have stored handgrenades, limpet mines and arms at the Lansdowne house he had shared with Ms Nyamza.

During June 1987 Mr Yengeni is alleged to have handed 18 handgrenades to Mr Jonas, who handed 12 to Mr Titana and three to Mr Nkwandla, and kept two himself.

During May/June 1987, on the instructions of Mr Yengeni, Ms Abass and Ms Lombard allegedly went to Botswana to fetch money, returning with R17 000.

During June, on the instructions of Mr Yengeni, a limpet mine which caused extensive damage was placed at the Athlone Magistrate's Court.

During July Mr Kruser was asked to drive a car to Botswana to collect arms, ammunition and explosives. He brought back a number of AK-47 rifles, limpet mines, handgrenades and ammunition, which Mr Yengeni stored at his home.

On Friday July 17, 1987, Mr Yengeni and Ms Schreiner met Mr Jonas and handed him six limpet mines, instructing him to place them at two peninsula service stations. The explosions were to coincide with a planned explosion at Castle Court, Tenant Street, Cape Town — where married members of the SADF lived — and the Wynberg Military Hospital.

On Monday July 20, near UCT, Ms Schreiner allegedly stole a car and later, with Mr Yengeni, placed six loaded gas cylinders into the car and attached three limpet mines to them. Later that evening they parked the car in the parking area of Castle Court and at 8.35pm the car bomb exploded, injuring inhabitants and causing extensive damage.

On the evening of July 21 Ms Schreiner and Mr Yengeni allegedly placed two limpet mines in the ladies' toilets at D F Malan Airport. One mine exploded about midnight, causing extensive damage. The second one was discovered by the police.

At the time of his arrest Mr Yengeni allegedly possessed a Makarov pistol and two fully-loaded magazines, five AK-47 rifles and eight AK-47 magazines. Nearly 1 000 rounds of ammunition, one SPM limpet mine, two mini limpet mines, one holder for limpet mines and three mechanical timers were found in Ms Schreiner's flat.

According to the indictment Ms Schreiner is alleged to have received training in the politics of mass organisation from the ANC during 1979.

During 1986 Ms Schreiner was allegedly trained in the principles of underground work and is also alleged to have done propaganda work for the ANC, the SACP and the SA Congress of Trade Unions (SACTU).

It is alleged Ms Schreiner again visited the ANC in Zimbabwe in March 1987 and met MK Commissar Mr Chris Hani.

During July of that year she and Mr Giffard used a microscope to conceal information on small pieces of photographic film which were then concealed under postage stamps.

The remaining accused are alleged to have either: Locally received military training; planted limpet mines at two peninsula service stations; attacked members of the SAP at Mbekweni, Paarl; travelled to Botswana and returned with arms, explosives and money, or assisted people to enter or leave the Republic.



# Judge Rules on Delmas

Star 21/1/89

ADELE BALETA

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THE Appeal Court will have to decide whether the dismissal of an assessor in the Delmas treason trial was irregular, rendering the court's constitution improper and the conviction of 11 men, including key United Democratic Front (UDF) leaders, null and void.

This became evident in Pretoria's Palace of Justice yesterday when Mr Justice van Dijkhorst handed down judgment on an application by the men for leave to make certain special entries to the Appeal Court.

They may now submit that Mr Justice van Dijkhorst wrongly used his powers in dismissing the assessor, Professor J A Joubert, in early 1987 and that the proceedings continued before an improperly constituted court.

After the assessor's dismissal the defence launched an unsuccessful application for the quashing of the trial in April 1987 on the grounds that the judge was not impartial. They had argued that the dismissal was invalid.

The defence was also granted leave to submit to the Appeal Court that the judge made interventions in proceedings which were prejudicial to the accused, disruptive to the conduct of the defence case and which created an impression of partiality.

Referring to the trialists' application for general leave to appeal against sentence and conviction, Mr van Dijkhorst said he could only give limited appeal.

But he added that if the applicants were dissatisfied with the ruling they could petition the Chief Justice within 21 days. All 11 trialists were refused leave to appeal against their sentences.

The three UDF leaders - publicity secretary Terror Lekota who was sen-

tenced to 12 years imprisonment, National Secretary Popo Molefe and former UDF Transvaal secretary Moss Chikane who were jailed for 10 years each - were given limited appeal against their treason convictions.

They are permitted to appeal against the court's findings on the admissibility of documents, the UDF's policies and campaigns and the alleged link between the UDF and the African National Congress and the rulings on the admissibility of video and tape recordings.

But they have been refused leave to appeal against the findings on what the defence sees as a vital area of the trial - the general situation in South Africa from July 1984 to July 1985 as inferred from evidence on 31 areas.

Defence counsel argued that the evaluation of evidence on resistance in 31 localities was vital to the conclusion drawn by the judge that the UDF had pursued a violent policy.

The judge further refused the men the opportunity to argue against the findings on the credibility of witnesses.

During the defence's application it was argued that there was a discernable difference of approach to State witnesses and Defence witnesses.

Mr Tom Manthata, a field worker for the South African Council of Churches who was convicted of treason and sentenced to six years in prison, was granted general leave to appeal against his conviction.

All seven Vaal trialists were refused leave to appeal against their convictions and sentences.

One of the seven men, Gcina Malindi was convicted of terrorism and sentenced to five years jail. The other six who were also convicted of terrorism had their entire sentences conditionally suspended for five years.

# plea



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21/1/89

Cape Times, Saturday, J

## 11 Delmas trialists to submit special entry

JOHANNESBURG. — The Delmas treason trial judge, Mr Justice Van Dijkhorst, yesterday granted leave to 11 convicted men to make a special entry to the Appeal Court concerning the most controversial aspects of the case.

The defence has been granted leave to make a special entry to the Appellate Division on the basis that the judge wrongly construed his powers under the Criminal Procedure Act in dismissing one of his assessors, Professor J A Joubert, and that the trial continued before an improperly constituted court. The defence has also been granted leave to argue that the refusal of Mr Justice Van Dijkhorst to admit Professor Joubert's statement hampered the defence's earlier attempt to quash the trial.

Responding to the defence's application for leave to appeal against sentence and conviction of the 11 trialists who were sentenced to between five and 12 years' imprisonment, Mr Justice Van Dijkhorst said he would grant only limited appeal.

# Upington gathers to pray for accused

*Tears flow as the  
26 wait to see if  
they will follow  
the Sharpeville Six*



The Rev Lionel Louw, addressing the crowd at a Save the Compaatriot prayer meeting for the Upington 26.

Pics: ANDRIES MCINENI



By **CONNIE MOLUSI**

AN hour of darkness descended on the Upington community last weekend as they gathered to pray for 26 people whose lives may end at the gallows.

People wept as they remembered family members and friends they may never see again after February 6.

The 26 have been found guilty of the murder of a municipal policeman, Lucas Tshenolo Sethwala.

They are said to be the largest group ever convicted of murder in a single South African trial.

The killing followed the pattern of many others during the mass riots which swept South Africa's townships between 1984 and 1986.

The circumstances of the 26 are similar to those of the Sharpeville Six, who were found guilty of the killing of a Lekoa councillor. Although they could not be proved to have directly caused the death of the councillor, they were said to be part of the crowd that killed him.

The killing of the policeman followed a meeting to protest rent increases in the township. A group of people stoned his house after police used teargas to disperse the meeting.

The policeman fired a shot from his shotgun, wounding one person in the crowd before fleeing. The crowd chased after the policeman and brought him down in a nearby field. He was hit twice over the head with the butt of his gun.

The blows broke the butt of his gun and killed him, according to a pathologist who gave evidence for the State in the trial. His body was then stoned and kicked before being set alight. The court found that this was done by the same group that had earlier stoned his house.

The court, using the doctrine of common purpose, found that even though the accused may not have taken part in the policeman's actual killing, the fact that they were part of a crowd that threw stones at his house was enough to infer that their intention was to drive the policeman from his house and kill him.

The court found that most of the accused were part of the crowd that threw stones at the policeman's house, and that by so doing, they associated themselves with the common purpose of the group.

The common purpose doctrine was clarified by the appeal court in the case of the Sharpeville Six. Before then there were differing judicial interpretations of the doctrine.

As the South African law stands, any person who is part of a mob that becomes intent on murder is equally guilty if the mob action results in someone being killed, even if that person did not inflict the fatal blow.

The case will resume in court on February 6 for the lawyers of the 26 to argue extenuating circumstances.

Under South African law, if somebody is found guilty of murder without extenuating circumstances, it is mandatory to impose the death sentence.

In the case of the Sharpeville Six, however, it was found that none of the accused was directly involved in the killing. The court found no extenuating circumstances. The same fate may await the Upington 26.



**On their way to a Save the Compatriots prayer meeting for the Upington 26.**

The national director of Lawyers for Human Rights, Brian Currin, said he found the principle of common purpose valid in assessing culpability in mob behaviour, but that he found the consequences too severe. In his view, indirect participation should automatically be regarded as extenuation.

"As justice is delivered in this country, the political overtones of those wild days of unrest are being ignored by the courts who have to deal with each matter on a strictly criminal basis.

"The ultimate cause of the spiral of violence in South Africa is the State and its laws. The most effective weapon against that can be found in the struggle for human rights, which has at its essence the dignity of mankind.

"Once we have won our dignity, we have won - because no laws, system or weapon will ever succeed in oppressing us again," Currin said.

Among the 26 are three women, as well as a couple aged 60 and 63 respectively.

The former mayor of Paballelo township, Kenneth Khumalo, is standing trial as accused number one. Khumalo was working as the town council's treasurer at the time of his arrest.

Lydia Nompondwana, wife of Enoch, who is accused number seven, said since the arrest of her husband, life has changed completely for her and their four children: "I do not know rest and spend sleepless nights. I am unemployed, so the family has to depend on assistance from relatives."



## Printing boss in court over left-wing pamphlets

Court Reporter

AR645 24/1/89 331

A PRINTING firm boss has admitted in the Cape Town Regional Court that he printed five left-wing pamphlets.

Mr Allie Parker, 47, of Lansdowne Road, Lansdowne, owner of Allie's Printing Press in Elsies River, denied charges under the emergency media regulations that the five documents contained subversive statements.

Attorney Mr N Arendse told the court yesterday that the emergency regulations under which Mr Parker had been charged had expired and the charges were therefore not valid.

The hearing against Mr Parker was postponed to February 10, pending the outcome of a similar trial in the Cape Town Magistrate's Court.

## Prosecutor's alleged remark about AWB 'a silly business'

By Dawn Barkhuizen

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An incident in which a woman State prosecutor allegedly said "Lank lewe die AWB" (Long live the AWB) after the Bethal treason trial has been dismissed as a "silly business" by the Transvaal Attorney-General, Mr Don Brunette.

Star 25/1/89  
"It is not my duty to hold an inquiry against her," he told The Star. "As far as I am concerned, it is a silly business. I regard the whole matter as dead."

He said he had "plenty of people, including two reporters" to support the prosecutor, Mrs Louise van der Walt, who has denied making the comment.

The incident was widely reported after five reporters, one from The Star, two from the Pretoria News, one from Reuter and another from Business Day, claimed to have heard Mrs Van der Walt say "Lank lewe die AWB" at the conclusion of the trial in Pretoria recently.

# Broederstroom 4 in court

25/1/89  
Sowetan  
THE "Broederstroom Four", who were arrested last May, are due to appear in the Pretoria Magistrate's Court today.

Former *Rand Daily Mail* journalist Mr Damian de Lange, Mr Hugh Lugg and Mr Ian Robertson were allegedly

all active in the African National Congress prior to their arrest at a rented house in the rural village of Broederstroom.

Police said they found an arms cache in the house.

Miss Susan Westcott

SOWETAN  
REPORTER

was a teacher who allegedly became a revolutionary after becoming romantically

involved with Mr de Lange.

Mr de Lange, Mr Lugg and Mr Robertson were all from East London while Miss Westcott was born in Swaziland.



## Worcester '3' convicted of terrorism

THREE men who attempted to leave the country to undergo military training by the African National Congress (ANC) were last week convicted in the Worcester regional court of terrorism.

Xholile Justice Byaboi, 23, was sentenced to seven years imprisonment. Monwabisi Mdqihogi, 21, and Malungisi Khumalo, 23, were sentenced to six years imprisonment.

Two and a half years of all three sentences

were suspended for five years.

Co-trialist Mary Ngmentu, 43, was convicted of furthering the aims of the ANC.

She was sentenced to three years imprisonment, two of which was suspended.

The court heard that she had encouraged the men to join the ANC and go to Botswana. She had given them food and shelter.

A fifth accused, Caroline Makasi, 31, was acquitted.

(33) South 24/1 - 2/2/89

# Top Umkhonto man on trial

JOHANNESBURG. — A high ranking Umkhonto We Sizwe commander Obed Masina is due to appear in the Delmas Circuit Court with three other MK cadres next week to face at least 49 charges including high treason.

Facing charges with Masina are Frans Masangu, Neo Griffith Potosane and Joseph Elias Makhura.

The State alleges that between 1977 to September 1986 in South Africa and elsewhere they "unlawfully and with hostile

intent against the State conspired with the ANC and its members to overthrow the government through force".

Masina, regarded as the first high-ranking MK general to be arrested by security forces, is also charged with the murder of Orphan (Hlubi) Chaki, a notorious Soweto policeman gunned down in 1978.

The four are also charged with murdering David Lukhele, a politician involved in the Ingwavuma land dispute, and two others.

They also face 20 attempted murder charges including that of Elizabeth Lukhele and Jameson Nkosi.

They face 13 counts of malicious injury to properties, including the blasting of a Casspir by detonating a landmine with the intention of killing its occupants.

Other acts of malicious injury to property include the detonation of limpet mines in 1986 near Silverton in the Pretoria district with the intention of prejudicing persons in their ownership.

# 'Broederstroem ANC trio' make their first appearance

PRETORIA — Three members of the alleged Broederstroem ANC cell appeared in the Pretoria Regional Court yesterday on a charge of terrorism and 25 other charges.

Damian de Lange, Ian Robertson and Susan Donnelly were not

asked to plead and were remanded to February 7.

According to charges formulated by the Attorney General, the three were, *inter alia* linked to a blast in Benoni on March 1 last year in which an SAAP bus was damaged and a number of

passengers injured, while De Lange was linked to an arson attack on PFP offices in 1981.

De Lange, a former journalist, shouted "Amandla" when he entered the packed courtroom.

Yesterday was the trio's first

court appearance after they were arrested at a house in Broederstroem, allegedly packed with explosives, on May 8 last year.

Bail was refused in terms of Section 30 of the Internal Security Act. — Sapa.





**COURT APPEARANCE:** Margaret and John Wescott, the parents of Susan Donelly, outside the Pretoria magistrate's court where their daughter and two other alleged ANC members made their first court appearance, charged with terrorism and other offences.

## 'Broederstroom' fourth may be used as State witness

**The Argus Correspondent**  
**PRETORIA.** — The fourth member of the "Broederstroom" African National Congress cell may be used as a State witness, said attorney Mr Peter Harris, who is representing three of the group.

He said he had enquired as to why Mr Hugh Lugg had not been charged with Mrs Susan Donelly, Mr Ian Robertson and Mr Damian de Lange, but had received no answer.

State Prosecutor Mr Frans Roets said he could not say whether Mr Lugg was to be a State witness, nor could he say why he had not been charged along with the other three.

He said it was a high security case.

Mr Harris said he had not had the opportunity to consult his clients, except for a few minutes before their appearance, because they had been

held under section 29 of the Internal Security Act.

Now that they were awaiting-trial prisoners he would have more time to consult them, and their parents could also visit them.

Mrs Margaret Westcott, Mrs Donelly's mother, said she wanted permission to visit her daughter tomorrow, her 25th birthday.

Deck of eight

# Weekblad: Are SA academics also guilty?

Own Correspondent

JOHANNESBURG. — If the Afrikaans weekly newspaper Vrye Weekblad contravened the Internal Security Act by indirectly referring to a listed person, every SA history academic would be guilty of infringing the law, the Magistrate's Court here was told yesterday.

This was said in argument by advocate Mr Eberhard Bertelsmann, SC, who was defending Vrye Weekblad editor Mr Max du Preez, 37.

Mr Du Preez pleaded not guilty to four charges of publishing four editions of the newspaper (on November 4, 11, 18 and 25) without it having been duly registered, and one charge of quoting a listed person.

Mr Bertelsmann told magistrate Mr Pieter Breenkamp it was absurd to expect academics to refrain from critically analysing and commenting on differing views within society.

He said the Vrye Weekblad was aimed at a critical, educated market. The article in question was written by Wits academic Mark Swilling and appeared in the paper on November 11, 1988.

Mr Bertelsmann told the court the article was a critical commentary on the Leverkusen conference which involved discussions between South Africans, ANC officials and USSR African specialists.

It had thus made indirect reference to opinions held by a wide range of people, including listed SA Communist Party founder Joe Slovo.

He said the Act made provision for the direct quotation of a speech, writing, statement or utterance of a listed person.

Mr Bertelsmann argued that since the article did not directly quote Slovo it was not in contravention of the Internal Security Act, and said it was the function of the court to interpret the law in such a way as to preserve individual liberty.



## Opinion of writer, defence argues

# Editor denies security charge

By Celeste Louw

The editor of the weekly newspaper, *Vrye Weekblad*, pleaded not guilty to a charge of contravening the Internal Security Act before a Johannesburg magistrate yesterday.

The charge against Wending Publications and Mr Max du Preez (37) arose from an article in the November 11 issue of *Vrye Weekblad* on the Leverkusen Conference in West Germany in which South African, Soviet and ANC academics participated.

According to the charge sheet, *Vrye Weekblad* quoted a listed person, Mr Joe Slovo, who is general secretary of the South Afri-

can Communist Party and a member of the ANC's national executive committee.

Mr E. Bertelsmann, appearing for Mr du Preez, argued that the article in question "is the product of the writer, Mark Swilling, and not the opinion of Joe Slovo".

"The article clearly reflects the impressions of the writer on the conference."

Mr Bertelsmann asked for the acquittal of his clients, saying that an extract of the speech or quotation of Joe Slovo is not reflected in the article.

"It would be impossible to have a meaningful political conversation if an innocent article at-

tempting to reach the intellectual reader is to be included as a contravention of this section of the Internal Security Act," he said.

That section of the Act attempts to prevent the publication of personal viewpoints of a listed person, he argued. The State Prosecutor, Mr A. van Wyk, argued that the section attempts to "silence the voice of a listed person altogether".

Mr du Preez pleaded guilty to counts of publishing four issues of *Vrye Weekblad* when it was not registered.

Mr P Bredenkamp postponed the hearing to February 13.

# Three terror accused in court

By Deborah Smith,  
Pretoria Bureau

Three of the "Broederstroom Four", who are facing numerous charges in connection with arms caches and terrorism, entered the dock in the Pretoria Magistrate's Court yesterday with raised fists and shouting "amandla" to crowds of friends and supporters.

Mrs Susan Donnelly (24), formerly Westcott, Mr Damian de Lange (31) and Mr Ian Robertson (26) were not asked to plead to the 26 charges and the case was postponed to February 7 for a bail hearing.

The three were arrested in a house in Broederstroom, outside Pretoria, last May. The fourth accused, Mr Hugh Lugg, did not appear.

It appeared the State intended to use Mr Lugg as a State witness, according to an attorney,

## State asks for certificate to prohibit granting of bail

Mr Peter Harris, who is representing the three.

He said he had asked why Mr Lugg had not been charged with Mrs Donnelly, Mr Robertson and Mr de Lange, but had received no answer.

State prosecutor Mr Frans Roets said he could not say whether Mr Lugg was to be a State witness nor could he say why he had not been charged with the other three. He said it was a high security case.

Mr Harris said he had not had the opportunity to consult his clients, except for a few minutes prior to their appearance, because they had been held in

terms of Section 29 of the Internal Security Act.

Now that they were awaiting-trial prisoners he would have more time to consult and their parents could also visit them.

Mrs Margaret Westcott, Mrs Donnelly's mother, said she wanted permission to visit her daughter tomorrow, her 25th birthday.

The three are facing a charge of terrorism, 14 charges of attempted murder and a charge of malicious damage to property arising from an alleged attempt to blow up a South African Air Force bus in Benoni in March 1988.

They are also charged with the illegal possession of bombs and hand grenades found in their Broederstroom house.

Mr Harris applied for bail, but the State asked that the Attorney-General issue a certificate in terms of Section 30 of the Internal Security Act prohibiting the granting of bail.

Mrs Donnelly and Mr Robertson faced the public gallery during their appearance and smiled while greeting friends and giving the "thumbs up" sign.

Mr de Lange is facing two charges of arson and a charge of attempted arson arising from fires at two Progressive Federal Party offices in Johannesburg. It is alleged that he, either alone or accompanied by convicted former journalist Marion Sparg, set fire to a building in Norwood and one in Illovo in May 1981.



# 3 faace 26 charges

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SAPA

"Amandla" to crowds  
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Attractive redhead  
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handgrenades found in  
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handgrenades, 40 mor-  
tars, a Sam 7 ground-to-  
air missile.

They are charged with  
possessing three Makar-  
ov pistols, three Walther  
pistols and a Colt  
without a licence as well  
as ammunition.

They were also  
charged with the  
unlawful possession of  
AKM47 rifles and the  
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## Bail

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## Diepkloof Detainees refuse meals

THE Prisons Service has  
confirmed that 20  
detainees at Johannes-  
burg's Diepkloof Prison  
are refusing meals.

The Sowetan earlier  
learnt — from statements  
apparently issued by the  
hunger strikers — that  
they were refusing food  
as an act of protest at

SOWETAN  
Reporter

A statement in the  
name of the protesters  
reads: "Our present  
protest action stems from  
our deep conviction that  
the regime intends to  
keep us here indefinitely.  
We are effectively

They are facing  
charges of terrorism, 14  
charges of attempted  
murder and a charge of  
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possessing three Makar-  
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as ammunition.

He allegedly attempt-  
ed to set a building in

"It is not possible to say  
yet if the falls of ground  
can be related directly to  
the tremor.

## Tremor Deaths

Parktown alight on the  
same day.

Handgrenades found in  
their Broederstroem  
house including 38  
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without a licence as well  
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# Witness denies police testimony

331  
26/11/89  
Sowetan

A DEFENCE witness was yesterday told that the evidence of policemen who testified earlier in court was a true reflection of circumstances under which a man was shot dead in Mamelodi on November 1, 1985.

Mr A C Le Roux, senior counsel for the police, was cross-examining Miss Yvonne Mokgabudi, an eye witness, during an inquest into the shootings in which 14 Mamelodi residents were shot dead and scores injured. The inquest is

By ALINAH DUBE

before Mr J N Pretorius in the Pretoria North Magistrate's Court.

The two policemen, Sergeant Eugene Halliday and Constable J P L van der Walt told the court earlier that they saw a man with a petrol bomb as they were patrolling the township that day.

Both policemen described in their statements that the man was in a throwing position.

Sergeant Halliday admitted that he shot and killed the man.

Mr Le Roux pointed out that the fact that Ms Mokgabudi voluntarily said the dead man, Mr Jerry Ngwatle, had nothing in his hands and also "did not appear as if he wanted to throw anything at the police," was proof that the latter did carry something.

Miss Mokgabudi rejected the counsel's suggestion and said he saw a policeman shoot at Mr Ngwatle.

(Proceeding)



## Broederstroom three in court on 23 terror charges

By VUSI GUNENE

THREE alleged African National Congress members, popularly known as the "Broederstroom three" appeared in the Pretoria Magistrate's Court this week on charges of terrorism.

The three, former *Rand Daily Mail* journalist Damian Michael de Lange, Ian Hugh Robertson and Susan Catherine Donnelly (née Westcott) appeared before magistrate JA Venter and were not asked to plead.

The three accused were charged with 23 counts of terrorism, while De Lange faces an additional charge of arson.

The state alleges that on or about May 31 1981, De Lange, acting alone or together with Marion Sparg, set fire to a house occupied by the Progressive Federal Party in Norwood, Johannesburg.

The state alleges that De Lange left the country in June 1981 to join the ANC and its military wing, Umkhonto we Sizwe.

It is alleged that he returned to the country in July 1986 as a commander of an Umkhonto unit of four people in the country.

The indictment alleges that during the period July 1986 to May 8 1988, the unit established caches of explosives and arms for the purpose of sabotage.

It is alleged that during October and November 1987, members of De Lange's unit conducted an experimental explosion against a high voltage mast pole in Klipriver, near Vereeniging.

On November 1987, the unit blew up a communications mast antennae in Linksfield, near Johannesburg, causing extensive damage to surrounding houses and property, and also attempted to blow up a second mast in the same vicinity.

On March 1 last year, the unit is alleged to have caused an explosion in Benoni in which a South African Air Force bus was extensively damaged. A car and various houses were also damaged as a result of the explosion.

Ian Robertson is alleged to have left the country between 1977 and 1987 for Botswana and Zambia in order to join the ANC.

It is alleged that he underwent military training in various ANC camps and in the Soviet Union.

He allegedly returned as the commissar of the unit under the command of De Lange and participated in, or conspired with, the unit in reconnoitring military, political and other targets with the intention of carrying out attacks.

Susan Donnelly, a British subject, is alleged to be a member of the ANC and to have joined De Lange's unit as a communications officer in August 1987.

It is also alleged that she made telephone calls to and from London for the purpose of passing messages and instructions between the unit and its ANC links in the United Kingdom.

Donnelly is also alleged to have received radio messages from the ANC.

The accused also face charges of attempted murder, and unlawful possession of explosives and arms.

Another member of the alleged cell who was captured last year at the Broederstroom farm near Pelindaba, Hugh Lugg, may testify next month when the trial resumes.

A fifth member of the unit, Paul Annergarn, left the country after an alleged disagreement with the remaining members of the unit.

68/e/e-1/te

# Delmas appeal on Joubert sacking

27/1-2/2/89.  
BY VUSI GUNENE

THE fate of 11 men convicted in the "Delmas treason trial" will now be decided by the Appeal Court after a Pretoria Palace of Justice judge granted their application for leave to appeal against parts of the trial judgement.

Mr Justice K van Dijkhorst, the trial judge, gave permission last week to the 11 men to challenge his dismissal of assessor Professor JA Joubert during the three-year trial.

If the Appeal Court accepts that the dismissal constituted an irregularity in the trial procedure, the conviction and sentences of the men could be rendered null and void.

A controversial secret affidavit by Joubert, which the trial judge twice refused to admit on the record, will also be handed to the Appeal Court for a final decision.

The affidavit contains startling allegations of conversations and events

in the judge's chambers while Joubert was still on the bench with Mr Justice van Dijkhorst.

Joubert was dismissed because he had signed the United Democratic Front's "Million Signatures" campaign.

In terms of Justice van Dijkhorst's latest ruling, the men may now submit a special entry to the Appeal Court.

They allege that the trial judge intervened frequently during the course of the proceedings to ask questions and make observations which were not required for the purpose of clarification, and which were allegedly prejudicial to the accused, of a leading nature, disrupted the examination and cross-examination of witnesses and created an impression of subjectivity

and partiality.

Handing down his judgement, Justice van Dijkhorst said that the "record will show that I was even-handed in my treatment of counsel on both sides. They all came in for the criticism which was due to them."

"Where tediousness or repetitiveness of some led to exasperation, my remarks were sometimes caustic. I offer no apology therefor," the judge said.

Justice van Dijkhorst said he could have dismissed the application for this special entry as "frivolous and vexatious". However, he would not do so because of the wide publicity the trial had received, both locally and abroad.

The judge also granted leave to appeal on alleged irregularities by the prosecutors during the trial.



# ANC's 40 offices 'unique'

Own Correspondent

33

MARITZBURG — The African National Congress now boasted more representative offices in foreign capitals than did Pretoria, Dr Ian Phillips of the Department of Political Science, University of Natal, told the Supreme Court yesterday.

He was giving evidence in mitigation of sentence for three ANC men found guilty of terrorism on Wednesday by Mr Justice Booysen.

They are Derrick Muthwa (27) of Empangeni, Mafi Mgobhozi (21) of Umlazi and Ntela Skhosana (23) of Ntabamhlope, near Estcourt.

Dr Phillips said this growth in the

ANC's representative offices to between 40 and 45 was unique in the history of liberation movements, and that for all the recognition in the international arena, it had shunned the status of being the sole representative of the people.

He added that within South Africa both the legitimacy and moral authority of the Government had declined dramatically since 1976.

The ANC's popularity had grown apace and by 1987/88 its support — somewhere between 47 and 55 per cent on the Witwatersrand — represented the combined support of all other tendencies in the community.

The trial continues.

## Boraine pleads not guilty on books charge

9th Tm's 28/1/89 Court Reporter 331

ANDREW BORAINÉ, UDF executive member and son of Idasa co-director Dr Alex Boraine, yesterday pleaded not guilty in Cape Town Magistrate's Court to distributing or possessing 28 "undesirable" books at an Observatory bookshop.

Mr Boraine, 29, of Bonan Road, Rondebosch, appeared with his co-accused, Ms Nicky Rosseau, 33, of Belmont Road, Mowbray.

The state alleges that on February 19, 1985 at Open Books, Main Road, Observatory, they distributed 21 undesirable publications and possessed seven, among them a textbook on Marxism.

The hearing was adjourned to March 2.

Mr M J C Tolken was the magistrate. Mr E S Grobbelaar prosecuted. Mr Les Rose-Innes, instructed by Mallinck, Röss, Richman and Closenbergh Inc, appeared for the two.



# Ex-Nat to lead treason defence

A TOP rebel Nationalist who once put South Africa's case on Namibia to the international court in the Hague is to lead the defence team in the treason trial of 14 alleged ANC activists, including several suspected bombers.

Mr D P "Lang Dawid" de Villiers, QC, confirmed this week that he would be acting as leading counsel for the defence in the trial which starts on February 8 in the Supreme Court in Cape Town.

Mr De Villiers, former managing director of the government-supporting Nasionale Pers, rocked the National Party when he quit the Press group to join the Independents.

## Accused

Among his many achievements was heading the South African legal team when it argued its case in the '60s for South Africa's continued mandate in Namibia.

Legal experts said his appearance on behalf of the "Yengeni Fourteen" underlined the significance of the treason trial — a marathon hearing that may run into the early '90s and will almost certainly cost millions of rands.

Among the accused are the alleged Soviet-trained com-

By HAMISH McINDOE

mander of the ANC in the Western Cape, Tony Yengeni, and 32-year-old academic Jenny Schreiner, whose family tree resembles a Who's Who of famous South Africans over the past 150 years.

The pair allegedly mounted a two-year bombing and propaganda blitz that ended in arrest by security police at the end of 1987.

In a 66-page charge sheet, the State alleges that the accused were responsible for several bombings, including limpet-mine attacks on the Athlone Magistrate's Court and D F Malan Airport; transporting arms and explosives into SA from neighbouring states; intelligence gathering; recruiting activists and administering funds for the ANC.

Most of the accused were allegedly involved in some type of courier activity for the ANC.

## Future

Visits were also allegedly made to Harare for briefings with the commissar of the ANC's armed wing, (Umkhonto we Sizwe), Chris Hani, to step up the movement's "military" activity in the Western Cape.

All but two of the accused have been held in Pollsmoor Prison for 17 months as security detainees and, more recently, as awaiting-trial prisoners.

Citing "ethical" reasons, Mr De Villiers declined to give reasons for accepting the brief to represent the Yengeni Fourteen.

"All I can say is that cases of this kind have unfortunately become a feature of the present-day histories of our society, and may well play a part in the shaping of the future."

## Academics meet ANC

ABOUT 30 of SA's top legal academics, most of them Afrikaners, begin a week-long debate with the African National Congress in Harare tomorrow.

The group from SA is led by Dr Frederik van Zyl Slabbert and the ANC team will be headed by Professor Albie Sachs, who was injured by a car bomb in Maputo last year.

# Fourth white cell man turns State evidence

By DE WET POTGIETER

THE fourth member of the Broederstroom Four, Mr Hugh Lugg, will testify against his comrades as a State witness.

Mr Lugg, 30, did not appear with the three other alleged members of the white ANC cell in the Pretoria Regional Court this week. It was reliably learned that Mr Lugg would give evidence for the State at the hearing.

Former Rand Daily Mail journalist Damian de Lange, 31, Ian Hugh Robertson, 36, and former school teacher, Susan Catherine Donnelly, 24, appeared in court for the first time since the police raided a house near Hartbeespoort Dam last year.

The trio face a series of charges including terrorism, illegal possession of hand-grenades, explosives, arms and ammunition, malicious damage to property and 16 charges of attempted murder.

Mr De Lange also faces two charges of arson and an attempted arson charge relating to incidents during 1981 when he and a convicted ANC member, Marion Sparg, allegedly set fire to PFP offices in Norwood and Illovo.

He was allegedly also involved with Sparg in an attempt to burn the PFP office in Parkwood.

The defence advocate, Mr P J Harris, gave notice that representation would be made to the Attorney-General for permission for the accused to apply for bail.

The case was postponed to February 7.

The whereabouts of the fifth member of the alleged cell, Paul Annergarn, are still unknown.

## Bushy tails

SQUIRRELS that plague the White House gardens will soon be history, said President Bush who plans to turn his spaniel loose on them.



## Former leading Nat to defend ANC accused (331)

CAPE TOWN — Former leading Nationalist Mr D P "Lang David" de Villiers has been asked to lead the defence of Ms Jenny Schreiner and 13 co-accused in an ANC treason trial in the Cape Town Supreme Court next week.

Mr de Villiers, QC, once put South Africa's case on Namibia to the International Court of Justice.

Ms Jenny Schreiner's father, Professor Denys Schreiner, said that the choice of Mr de Villiers as leading counsel was that of the accused.

The State alleges that the accused were responsible for several bombings, including limpet-mine attacks on the Athlone Magistrate's Court and D F Malan Airport, transporting arms and explosives into South Africa, intelligence gathering, recruiting activists and administering funds for the ANC. — Sapa.

More than 10 years ago the headlines blared that "Hlubi", the "most feared policeman in Soweto", had been gunned down outside his Rockville home. A massive hunt was on for his killer.

This week Mr Jabu Obed Masina — also from Rockville — will appear in the dock in the Delmas Circuit Court charged with the killing of Hlubi and, along with three others, with high treason.

The men are alleged to be an African National Congress assassination squad, highly trained for the purposes of "the identification and elimination of persons in the Republic", according to the indictment.

In addition to the killing of Detective Sergeant Orphan "Hlubi" Chaphi in June 1978 (for which Mr Masina alone is held to be responsible), they are charged with three other murders which took place between March and June 1986 in the Pretoria township of Mamelodi — those of Mr David Lukhele, his sister-in-law Mrs Elizabeth Dlodlu and Constable Sinki Vuma.

#### SELECTED TARGETS

This second Delmas treason trial is likely to be shorter than the first, but of considerable interest. The three assassinated men, the indictment suggests, were selected targets and each was prominent within a specific context.

Hlubi, the Post recorded, "played a leading role in suppressing unrest after the '76 disturbances and has been the target of student abuse and hatred".

It is rare even today to find a member of the Soweto youth generation of '76 who does not recall Hlubi and the dread he evoked among them.

A petrol bomb attack was

# Facing trial at Delmas 2 the '70s men

Recent history has coupled the words "Delmas" and "treason trial" firmly in the minds of the public. This week a second treason trial begins in that small eastern Transvaal town centring on the deaths of three controversial figures. **JO-ANNE COLLINGE** reports.

made on his house during the turmoil of '76/77.

He was notorious for his free use of his weapon and one report noted that he had "sent many to the grave". Hatred as he was in the townships (where he was perceived to play a security-type role in '76 although he was attached to the Brixton Murder and Robbery Squad) he was highly respected by his superiors in the police force.

Mr Lukhele waged an unremitting campaign to have the Swazi homeland of kaNgwane, together with its 850 000 people, handed over to Swaziland — a plan which Pretoria seriously intended implementing until blocked by opposition from within kaNgwane in 1984.

Constable Vuma was known only within Mamelodi. According to evidence at the inquest on victims of the Mamelodi Massacre, his house was burnt on the day of the shootings and a colleague in the force opened fire on a crowd of youths outside the burning home.

The accused — Mr Masina, Mr TingTing Masango (30), Mr Neo Potsane (28) and Mr Joseph Makhura — will appear in the dock largely unknown quantities.

According to the indictment

Mr Masina left South Africa in 1977. His mother, Mrs Joyce Dube, confirms that he disappeared then. At the time he was a mature student of 27 years struggling to obtain a matric certificate.

He has told his lawyers that he was not active during the '76 student uprising. As the eldest living son in a large family, he was forced to leave school in Form 1 to seek work. Seven years later, when injuries inflicted in a mugging made it impossible for him to do manual work, he returned to his studies — only to have them repeatedly interrupted by political conflict.

Mr Potsane, also of Soweto, is alleged to have left South Africa during the turbulent year of 1977 at the age of 17. His father, Mr Simon Potsane, says he simply disappeared, saying he was going to visit his grandfather in the Free State.

Mr Potsane was one of the '76 generation. He was in the protest marches. He was shot through the ear, his father recalls.

Both Mr Masango (30) and Mr Makhura (29) spent their high school years in Mamelodi. Mr Masango was involved in student protests in '76 and was

expelled from school because of them. While working for a major motor corporation, he continued to organise students and joined the Black People's Convention.

He campaigned against the execution of the ANC's Solomon Mahlangu, disappeared shortly afterwards and is alleged to have joined the ANC in 1979.

Mr Makhura is alleged to have joined the ANC in 1980. He lived with relatives in Mamelodi and his disappearance while still a school pupil caused them grave concern.

The four accused were detained in September 1986 near Pretoria and were initially held incommunicado under section 29 of the Internal Security Act.

In addition to the assassinations they are alleged to have placed a limpet mine at a bus stop in Silverton in July 1986. The blast injured 17 people.

They are also charged with planting a landmine near So-shanguve.

#### DRIVER INJURED

According to the indictment it was sited on a road "which was identified as a target which was being used by military vehicles". It detonated when a road grader passed over it, injuring the driver.

The main charge of treason centres on the alleged membership and/or support of the ANC as an organisation which has as its aim the overthrow or endangering of State authority in South Africa and the accused men's alleged conspiracy to commit the above acts to promote the aims of the ANC.

Alternative charges include murder, attempted murder, terrorism and unlawful possession of arms and ammunition. In all they face 41 charges.



# De Villiers for ANC trial

Staff Reporter

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FORMER leading Nationalist Mr D P "Lang Dawid" de Villiers has been asked to lead the defence of Ms Jenny Schreiner, descendant of many great South Africans, and her 13 co-accused in the ANC treason trial starting in the Supreme Court, Cape Town, next week.

Mr De Villiers, QC, who once put South Africa's case on Namibia to the International Court in The Hague, rocked the National Party during the last parliamentary elections when he quit his post as managing director of the

government-supporting Nasionale Pers to join the Independents.

The father of one of the accused, the deputy director of the University of Natal, Professor Denys Schreiner, said yesterday that the choice of Mr De Villiers as leading counsel for the defence was that of the trialists.

Mr De Villiers would not "talk about pending cases" yesterday.

In a 66-page charge sheet, the state alleges that the accused — who include the allegedly Soviet-trained commander of the ANC in the Western Cape, Mr Tony Yen-

geni — were responsible for several bombings, including limpet-mine attacks on Athlone Magistrate's Court and D F Malan Airport, transporting arms and explosives into SA from neighbouring states, intelligence gathering, recruiting activists and administering funds for the ANC.

Prof Schreiner, whose father was one of the country's most distinguished judges, Mr Oliver Denys Schreiner, said he would be coming to Cape Town next week to attend the start of the marathon trial which is expected to run on into the 1990s.

Star 31/1/89

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39 charges against 12 'conspirators'

# Alleged ANC killers face Supreme Court

By McKeed Kotlolo,  
Pretoria Bureau

The case of 12 alleged members of the banned African National Congress facing 39 charges including terrorism, treason, murder, attempted murder and malicious damage to property has been referred to the Supreme Court.

The accused are: Mr Moeketsi Roney Toka (25), Mr Peter Maluleke (34), Mr Bernard Phuti Mokonyana (21), Mr Joseph Nkosi (39), Mr Reuben Thapelo Khotso (23), Mr Noah Reginald Legodi (22), Mr James Alfred Kgasi (25), all of Mamelodi, Pretoria; Mr Godfrey Velaphi Mokube (41) of Bloemfontein; and Mr Ernest Thobaki Ramadite (24), Mr Fran-

cis Pitse (24), Mr George Mathe (21) and Mr Johannes Maleka (25), all of Atteridgeville, Pretoria.

Mr B O J van Schalkwyk in the Pretoria Regional Court referred the case to the Supreme Court at a date still to be determined by the Attorney-General.

The charges have been increased from 28 to 39.

## CONSPIRED

The charge sheet stated that during March last year the 12 men were unlawfully in possession of explosives which included 158 mini-limpet mines, SPM limpet mines, a 9mm Makarov pistol, hand grenades and ammunition.

The State alleges that in Atteridgeville in March last year

they murdered three policemen — Mr Barney Mope, Mr Andrew Mphahlele and Mr Nelson Phenyane. It is also alleged that they murdered one-year-old Patience Kulele in Mamelodi in May last year.

The State alleges that they attempted to murder Ms Rose-Mary Muzwayine and Mr Ananias Nkoane in Atteridgeville in March last year; and Ms Mathilda Eleonora Venter, Ms Elke Martha Hansen, Ms Anna Maria Prinsloo and Ms Sussana Maria Magdalena Kruger in Pretoria in May last year.

It is further alleged that during the period between 1982 and July 1988 they conspired with the banned ANC.



# Trial of alleged ANC 12 to be moved

331  
Sowetan  
21/1/89

THE trial of twelve alleged members of the African National Congress, who allegedly shot dead three policemen and were responsible for the bomb blast at a cinema in Pretoria last year, has been referred to the Supreme Court for hearing.

The twelve accused appeared before Mr J A Venter in a Pretoria regional court yesterday on 39 counts, including high treason, murder, terrorism, attempted murder and malicious damage to property.

They were not asked to plead. The magistrate informed them that the Attorney-General will determine the date for their appearance in the

By MONK  
NKOMO

Pretoria Supreme Court. The accused were represented by Advocate Mathole Motshekga and Mr Mohammed Khan, an attorney who is instructed by Priscilla Jana and Associates.

The accused, who include political activists, are: Mr Moeketsi Roniwa Toka (25), of Mamelodi; Mr Godfrey Velaphi Mokube (41), of Bloemfontein; Mr Francis Pitse (24); Mr Ernest Ramadite (24); Mr George Mathe (21); Mr Johannes Maleka (25) — all of Atteridgeville; Mr Peter Maluleka (34); Mr Phutsi Bernard Mokgonyana (26); Mr Joseph Nkosi (31); Mr

Thapelo Reuben Khotsa (23); Mr Reginald Noah Legodi (22) and Mr Alfred James Kgasi (25) — all of Mamelodi.

The State alleges that the accused on March 18 last year and in Atteridgeville, unlawfully and intentionally murdered Mr Bernard Mope, Mr Andrew Mphahlele, Mr Nelson Phenyane — all policemen — and one-year-old Patience Kulele in Mamelodi on May 10, 1988.

According to the charge sheet the accused during March last year were unlawfully in possession of explosives that included SPM limpet mines, 158 mini limpet mines, handgrenades, 9mm Markarov pistols and ammunition.

Star 31/1/89

## Bethal appeal judgment (331) reserved

Pretoria Correspondent

Judgment for leave to appeal for two of the three Bethal treason trialists — who were sentenced in the Pretoria Supreme Court to a total of 55 years imprisonment — was today reserved by Mr Justice Daniels until February 6.

Mr H K Naidu, defence counsel for Acton Maseko and Ebrahim Ismail Ebrahim, who were convicted of treason and sentenced to 23 years and 20 years imprisonment respectively, and Simon Dladla who was found guilty of terrorism and jailed for 12 years, asked for leave to appeal against the sentence and conviction imposed on Dladla and against Maseko's sentence.

Mr Naidu said the judge's 20-year sentence on Ebrahim was not justified because Mr Justice Daniels had over-emphasised his previous conviction.

Sentence on Dladla, having regard to his minimal contribution to the commission of the offences was "unduly harsh and induced a sense of shock", Mr Naidu said.



# Man thrown from train

A SOWETO man appearing with two others on charges of murdering a South African Transport Service employee who was thrown out of a moving train during a strike in 1987, said he did not want to make a confession to a magistrate because he was feeling sorry about what had happened.

"I was shy and sorry about what had happened. I knew these people (the magistrate) would regard me as a killer and I did not intend to kill the man," said Mr Sophania Tini Matloga (32) at the

By SONTI  
MASEKO

Rand Supreme Court yesterday.

He is appearing with Mr Wilson Nakana (37) and Mr Sethabane Edward Mathole (36) before Mr Justice W R Solomon and two assessors. The men, who are members of the South African Railways and Harbours Workers Union and live in Naledi township in Soweto, have pleaded not guilty to the murder of Mr Samuel Medina.

The State alleges that Mr Medina, who was a ticket attendant during the Sats strike, was flung

out of a moving train on April 27 at Mayfair that year.

In a trial within a trial yesterday to determine the admissibility of a statement made by Mr Matloga, he admitted making two statements to different magistrates in 1987.

331  
Sorry

In the first statement the court heard that Mr Matloga did not relate the event of April 27 at Mayfair before a magistrate, Mr Joubert.

He told the court that he was feeling sorry about what happened on that day.

However the court heard that on July 1, a week after he went to see Mr Joubert, Mr Matloga went to another magistrate, Mr Steenkamp, to make a confession about the event on April 27 in Mayfair.

Mr Matloga said he agreed to make a confession, although he was still feeling "shy and sorry" because he was promised by a policeman that he would be freed the next day.

He told the court that the policeman, who he said was an investigating officer in the case, had threatened to take him to the Vaal River and he

understood that he would be thrown in the Vaal Dam and drowned if he did not make a confession. Asked if he did not regard himself as a murderer he replied that he did not as he was influenced and forced by his colleagues.

"They said that if I did not do what they said I must do I was one of the impimpis (sellouts) and they would burn me and my house," he said. During cross examination advocate Mr T E Dicker for the State remarked that he found Mr Matloga's evidence differed totally with his evidence-in-chief.

(Proceeding)

the minor part of the  
Point Civic Centre.

*946-10-15 344/189*

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## Terror charges

PRETORIA. — Twelve men allegedly linked to the Sterland bombing in April last year and attacks in Atteridgeville and Mamelodi appeared briefly in the Magistrate's Court here yesterday on charges ranging from terrorism to murder and malicious damage to property.



# Four charged in necklace trial

Cape Times 31/1/89

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Own Correspondent

PORT ELIZABETH. — Four men appeared in the Supreme Court here yesterday charged with a necklace murder arising out of an alleged Azapo and UDF feud.

Mr Sipho Cishe, 25, Mr Mandi Dunjana, 21, Mr Ntlalo Voortou, 19, and Mr Xolani Mayeza, 18, pleaded not guilty to the murder of Mr Mdoda Mavit Nonyathi on October 28, 1985.

The charge alleges that Mr Nonyathi was attacked with knives, stones and axes in Dladla Street, Zwide. He was later taken to the KwaZakele golf course and set alight.

Dr PW van Zyl, the district surgeon, said he conducted a post-mortem on October 30, 1985. He found lacerated wounds to the top of the head, incised wounds on the head, neck and back and an injury caused by blunt force to the forehead. There were burns and a skull fracture of the forehead.

The trial continues today.

Mr Justice Ludorf was on the Bench, with Mr G Reynolds and Mr M C Guy von Pittius as assessors.

# Judge rules accused's confession admissible

*Steenkamp 11/2/87*

A CONFESSION by one of the three men charged with the murder of a South African Transport Services employee during a strike in 1987 was accepted as evidence in a trial and subsequently read into the record at the Rand Supreme Court yesterday.

The presiding judge Mr Justice W R Solomon and two assessors ruled that the confession by one of the accused, Mr Sophania Tini Matloga was admissible as evidence before the court.

He dismissed Mr

By SONTI  
MASEKO

Matloga's version that he was threatened by the police and promised freedom if he made the statement as "a tissue of lies".

Mr Matloga (32), is charged together with Mr Wilson Nakana (37), and Mr Sethabane Edward Mathoel (36), with the murder of a Sats employee Mr Samuel Medina during a railway strike in 1987. The men, who are members of Sarhwu, have pleaded not guilty.

*331*  
A state witness, Mr T R Steenkamp, read the confession made to him by Mr Matloga on July 1, 1987 about the murder of Mr Medina at Mayfair station on April 27 that year.

Mr Matloga in his statement said he was part of a group that boarded a train home from a meeting on April 27, 1987 at Doornfontein.

"The train stopped at Johannesburg Station and at Braamfontein. The next stop was at Langlaagte Station," the statement read.



# KTC trial resumes

331 2.5-8/2/89

WITNESS number 67 took the stand again this week in the KTC trial, the country's biggest ever damages trial.

And all indications are that Major Dolf Odendal, former second-in-command of the riot squad in the Western Cape, will be in the box for at least another month.

Odendal's evidence since August 22 last year makes up about 4 000 of the 10 000-page court record in the trial, in which the

Methodist Church in Africa and 20 KTC families are claiming about R200 000.

About 3 300 others, including former KTC and Old Crossroads residents, with similar claims are eagerly awaiting the outcome of the trial, which could lead to the Minister of Law and Order paying out about R5-million in claims and several millions more in legal costs.

It has been estimated that the trial is costing almost R300 000 a month in legal fees, of which more than two-thirds are spent by the state.

The trial began in August 1987 and seems set to go into the last decade of this century. Observers believe the costs and time taken up by this trial would be a deterrent for anyone with similar claims.

No matter what the outcome, an appeal on either side may mean that neither will receive any money for several years still.

However, the courtroom has become emptier as the trial continued. Some claimants accuse the police of supporting widow vigilantes who burnt down most of KTC squatter camp in three days of bloody fighting in June 1986 and the destruction of three satellite camps next to Old Crossroads a few weeks earlier.

When the trial started in 1987, there was tremendous interest from KTC residents. It is practice in South African courts that witnesses give evidence and are questioned in the language they are most comfortable with.

The witness who has spent most time in the box is Odendal. When the trial adjourned in December, Odendal, who was in charge of the police during operations at KTC, was still being cross-examined.

In his evidence he has denied police complicity in widow attacks on the squatter camps. Asked why police did not stop widowke from attacking KTC, Odendal said police policy was to intervene when there was actual fighting.

If a group of vigilantes were teargassed, they would break up into smaller groups and regroup later, he said. Innocent people could also be affected.

## HAPPY, BUT SAD

After marrying Ester Ndlangamandla (left) at Pollsmoor on Saturday, it was back across Table Bay by ferry for long-term prisoner Cleophas Ndlovu who still has three years of a 15-year sentence to serve.

"At that moment I was happy, but now I'm sad because my husband can't be with me," said Mrs Ndlovu after the ceremony. Ndlovu was jailed with recently released ANC leader Harry Gwala in the 1977 Maritzburg trial.



## Anti-halaal campaign ignored

A RIGHT-WING campaign against halaal products has made little impact on major supermarkets.

The campaign, launched by the Rev. Soon Zevenster of the Evangelical Reformed Church in Bellville, has drawn an angry reaction from Muslim leaders.

He has also called on supermarkets to withdraw products bearing halaal stamps.

The country's leading supermarkets, OK Bazaar, Checkers and Pick 'n Pay, appear to have defied Zevenster's call.

OK Bazaars PRO Mrs Honey Brian said it was the manufacturers' sole right to decide whether the halaal mark should be removed from products.

The manager of Pick 'n Pay's Claremont branch, Mr E Zitz, said: "We now separate these products from others in the supermarket. However, this is not general practice. It may differ at other supermarkets."

The Muslim Youth Movement (MYM) said the anti-halaal movement was "yet another indication that the anti-Islamic sentiment among right-wing Afrikaners was still rife".

South 2/2/-8/2/89.

Another policeman alleged to have been involved in the attacks, Warrant Officer Hendrick Barnard, was killed in May last year on the second anniversary of the destruction of the Crossroads satellite camps. According to evidence in court, Barnard was seen entering the Methodist Church in KTC. When he came out the church was burning.

Counsel for the claimants also took evidence on commission in London in October 1987 from photographer Dave Hartman, who feared arrest if he came to South Africa. Hartman left South Africa to escape military training.

Hartman's photos showed police standing by as widowke set shacks alight.





NATIONAL

## Treason trial<sup>AK605</sup> observers filmed<sup>2/2/89</sup> 331

Argus Correspondent

JOHANNESBURG.— People attending the latest Delmas treason trial have been filmed in the court's public gallery — an incident which has drawn strong criticism from human rights lawyers.

About 100 family, friends, supporters and international observers in the gallery were filmed by a man, presumed to be a policeman, with a video camera shortly after the lunch recess.

The man, who was seen with uniformed policemen before the trial began, slowly panned his camera over everyone sitting in the public gallery before the court session began.

### Privacy

Mr Brian Currin, the national director of Lawyers for Human Rights, said taking a photograph was a violation of a personal right — the right to privacy.

But he was not prepared to say whether the action was illegal.

Johannesburg attorney Mr Peter Reynolds said the incident would not be an illegal invasion of privacy because the people in the gallery were photographed in a public place.

### "Probably legal"

The filming would have been contempt of court had it taken place while the court was in session, or if there had been a directive from the Judge President prohibiting photos in court.

Wits University's Professor P Q R Boberg said all the relevant cases on this aspect of the law dealt with the unauthorised use or publication of a photograph rather than the illegal taking of a photograph.

CAPE Times 2/2/89

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**AT COURT . . .** Trade union leader Mr Moses Mayekiso arrives at court in Johannesburg yesterday where he faces charges of treason. The case is being watched by international labour groups.

Picture: REUTERS

## 'Miracle' in 'tinderbox' township

Own Correspondent

**JOHANNESBURG.** — The township of Alexandra had been a tinderbox waiting to blow up and it was a miracle it had taken so long before it did, according to the former chairman of the Sandton Town Council's management committee, Mr Ricky Valente.

He was testifying in the Rand Supreme Court yesterday on behalf of trade unionist Mr Moses Mayekiso and four other Alexandra men charged with treason. He was referring to the violence that erupted in Alexandra during 1986.

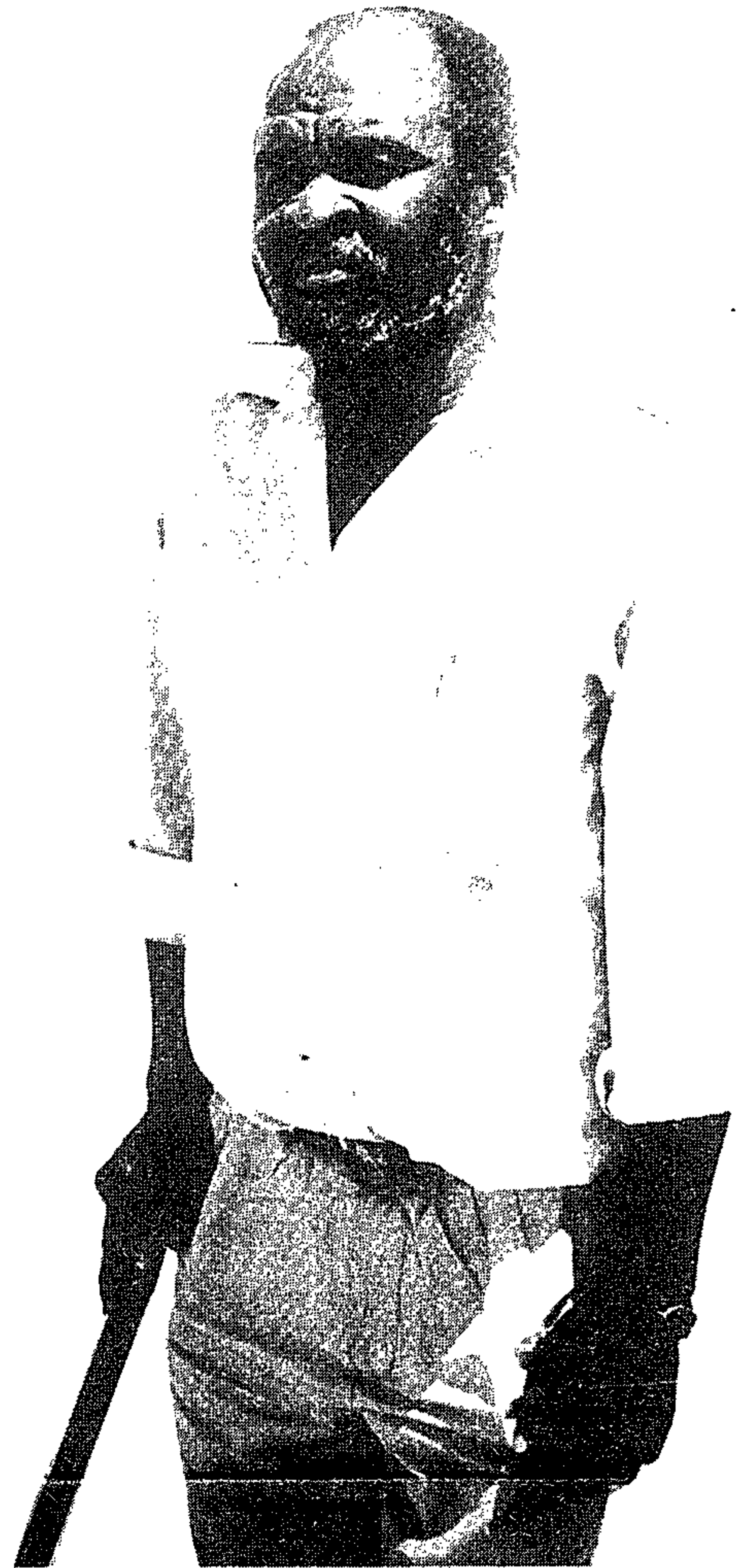
Mr Mayekiso, 38; Mr Paul Tshabalala, 38; Mr Richard Mdakane, 29; Mr Obed Bapela, 28; and Mr Mzwanele Mayekiso, 22, have all pleaded not guilty to treason and alternative charges of subversion and sedition.

The charges arise from their alleged involvement in the establishment of the Alexandra Action Committee, "organs of people's power" and "people's courts" in 1985 and 1986.



# A town in the shadow of the gallows

## SPECIAL REPORT



Alfred Gubula, fighting to save his son

**P**ABALLELO has escaped almost every period of upheaval in the past three decades.

But, it could probably not do so forever.

Even untouched by the uprisings of 1976, it was unprepared for the events which exploded with devastating and tragic consequences 10 years later.

The sky was blue on Wednesday, 13 November 1985 and it was windless when 3 000 of the township's residents gathered on the soccer field usually used by the local soccer team, "Eleven Experiences".

What had started as a protest meeting to discuss high rents and other grievances ended about an hour later in the tragic killing of municipal policeman Lucas "Jetta" Sethwala.

Paballelo residents almost without exception describe events of that day as if it was almost fated to happen that way.

Hemmed in by the police on the one side and by a workers' hostel and clinic on the other side, the group had only one way to run when the meeting was broken up by police using teargas — Philane Street and the home of "Jetta" Sethwala less than 100 metres away.

"If things had happened any other way or if people had run in another direction Jetta would be alive today and we could have gone on with our lives," said Alfred Gubula.

"It was the biggest blow for Paballelo," said this 54-year-old community leader who first

*In the wake of the Sharpeville Six controversy, comes an even bigger "common purpose" trial, that of the "Uppington 26" — the largest group ever convicted of murder in South African legal history.*

*Unless legal counsel for the accused can prove extenuating circumstances when the trial resumes next week, the judge will be obliged by law to sentence 25 of the trialists to death.*

*SOUTH reporter HENRY LUDSKI spent two days in the township of Paballelo outside Uppington — and found a northern Cape community living in the shadow of the gallows and the trauma of a tragic event that happened three years ago.*

tasted teargas that day.

In the three days before the soccer field meeting sporadic incidents of unrest had happened in the township. The unrest arose from the teargassing by the police of a crowd leaving a rents protest meeting.

"My eyes started burning and I didn't know what was going on. My son Basie told me it was teargas.

"I've never known such a thing as teargas," said Mrs Susan "Nana" Bekebeke who got her first whiff of teargas in her King Street home on that Sunday.

The tragic chain of events which followed the meeting on the soccer field three days later has been described in chilling detail in the Northern Cape Circuit Court of the Supreme Court.

Residents told the court the attack on Jetta's

house began after the constable opened fire on the crowd fleeing from the pandemonium at the soccer field.

According to the evidence of state witnesses, people shouted "Maak hom dood" (Kill him) and "Haal die hond lewendig uit die huis and sit 'n necklace om sy nek" (Bring the dog out the house alive and put a necklace around his neck).

Stones were thrown at the house and "Jetta" fled but was chased, pulled down and fatally hit on the head with the butt of his shotgun. His body was stoned and kicked before being set alight.

In the next two weeks police arrested 52 Paballelo residents in connection with the murder. At an identity parade the number of accused was reduced to 26.

They were charged with murder and after an 18-month trial, 25 of the accused were convicted in terms of the common purpose doctrine — that even though some of them may not have taken part in the actual killing of the policeman, the stoning of his house was enough to infer that the intention was to drive him from his house and kill him. The other accused was convicted of attempted murder.

The common purpose doctrine was clarified by the appeal court in the case of the Sharpeville Six.

As the South African law stands, any person who is part of a mob that becomes intent on murder is equally guilty if the mob action results in someone being killed, even if that person did not inflict the fatal blow.

• **TURN TO PAGES 10 & 11**



CULTURE is a product of social and economic structures. However, in South Africa, business sports entrepreneurs have succeeded in transforming this historical product, with much help from the ruling class, into a commercial venture.

The continued denial of facilities provides a real basis for mobilisation. But to do this you have to win the confidence of the masses and enter townships physically and boldly.

However, the acceptance of leadership is predicated on how you locate yourself in the wider liberation movement.

Like other organisations, Sacos will have to build a mass-based sports movement that is representative of the most exploited section of our society, the black working class.

Sacos must be aware it is dealing with a highly politicised, conscious constituency in the townships that must be an essential part in any decision-making or restructuring.

Big capital and the state have found a new market in black sport and they are not going to stand still and look at us organising sport as part of people's culture.

We need to firmly launch progressive sports organisations in our townships, rural areas, schools and unions.

Our strategies cannot be sterile and unimaginative. Unless we build mass participation of our people in shaping the policies of our sports movement it will remain the preserve of elitist sections of our society.

Breaking down the barriers at school level is crucial, with a need for links between Sacos and student, youth and teacher structures.

Slogans like "no normal sport in an abnormal society" must be

# Sacos must change

**THE South African Council on Sport needs a fundamental shift in strategy to attract the majority of sportspeople, a conference in Durban heard last week. The call was made by Jay Naidoo, general secretary of the Congress of South African Trade Unions, in his keynote address to the conference organised by the Natal Council on Sport (Nacos). The following is an edited extract from his speech.**



Jay Naidoo

recognised as a description of our reality, not a prescription.

With the reality of mass poverty in the townships is the inferior and almost nonexistent sports facilities.

So while there cannot be normal sport in SA it does not mean there is no sport in our country.

We have to develop strategies that

isolate apartheid sport and all its manifestations and develop non-racial sport.

Our sportsmen and women need to start contributing and leading the cultural and sports boycotts, not merely respond to international progressive sport and cultural bodies.

Sacos must lobby other democratic

forces within SA in building this campaign of isolating friends of apartheid in sports and strengthening the non-racial sports movement.

An example is the experience of the labour movement with the working class internationally.

We do not hesitate, where the opportunity arises, to advance our organisation and to engage the resources or training that our international allies have to offer.

Scores of our leadership have benefited from specialised courses they have attended overseas or with experts brought here.

A good example is health and safety. Rather than develop our strategies through experience which means workers dying of industrial disease and accidents we draw on the accumulated experience of unions internationally and adopt that to the conditions that face us here.

Similarly, on the sports front there must be no intellectual hangups about developing creative strategies that will, while isolating apartheid sport, strengthen and consolidate non-racial sport.

If this means enlisting our allies internationally to develop our sports organisations through coaching, equipment or any other resource then we must not hesitate to do so.

## Strategy

Obviously, this is not a strategy that can be implemented in isolation of the mass democratic movement.

Unless Sacos affiliated codes come to terms with issues like this, we will find the carpet pulled from under our feet while we engage in academic debate.

At present the South African Cricket Union (Sacu) is pumping huge resources into our townships to coach pupils and teachers and thereby extend the influence of what remains essentially racist sport.

Their motivation remains using this strategy to gain access to international competition while our strategy will always be, while developing the potential of our people, making the sports struggle one of the cutting edges of our struggle.

Sacos has to develop clear programmes on how to accommodate, organise and encourage its allies like the labour movement or youth and student organisations to bring their members into Sacos in a conscious and deliberate way.

For example, in Natal we have to thrash out a concrete programme to accommodate the scores of Cosatu worker soccer clubs in Nacos.

All our strategies and tactics must aim at uniting our ranks against the

divisions caused by apartheid. We must create no space for the defenders of racist sport.

Therefore, all initiatives towards unity must develop out of democratic discussions among our members and then in the decisionmaking structures of our respective organisations.

Proposals for unity must be put before our constituencies for full debate both in the sports front as well as in the community at grassroots level.

If we go through this process of consultation and democratic decision-making, ultimate decisions on unity or any other issue facing us will be legitimate and credible and also defensible.

We will strengthen democratic organisations and our membership's understanding of democracy.

The Sacos codes will have to address more seriously the building of unity with sports organisations outside the Sacos fold.

Our experience as Cosatu as well as in the community has shown that only representative nationally based sectoral organisation can challenge the monopoly power of capitalism and apartheid.

It is only in this way that Sacos and its policies will root itself among our people and defeat the manoeuvres of the racist sports codes.

The mass democratic movement will have no alternative but to continue to work with sports bodies outside Sacos if this task is not taken seriously.

Sacos needs to be ready to open up new democratic trenches and practices in peoples sports and to place progressive sports in the hands of the majority so that sport can begin to play a meaningful role in rebuilding and leading our fragmented society into a new and free democratic South Africa.

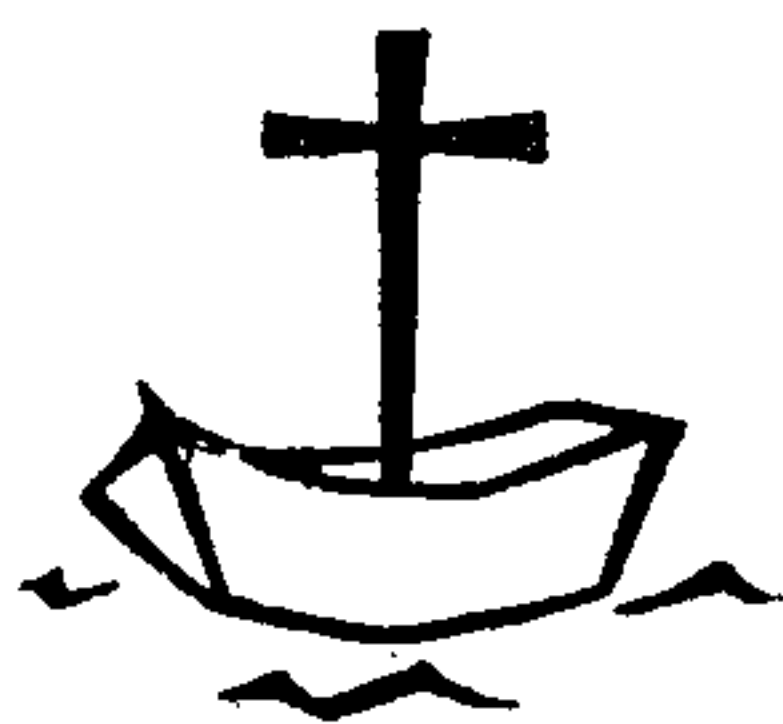
Racist sport, like the apartheid state, is in crisis. South Africa is more isolated than ever before.

This has been the result of the cumulative effect of our mass struggles and the international campaign led by organisations like Sanroc to isolate apartheid sport.

Despite its weaknesses, Sacos has been given the support of freedom-loving people in South Africa and we call upon you not to betray this trust.

Never has there been such an urgent need for unity. The issues cannot be debated in drawing rooms but must be taken to the membership.

When this is done we will observe that the desire to build one strong, dynamic sports movement is overwhelming.



## MESSAGE OF SUPPORT

*We share in the agonising fate of the Upington 26 being found guilty of murder and attempted murder.*

*We share the anxiety of their families. We'll remember you on February 6.*

*We prayfully hope that justice will be done.*

*Comrades, be courageous and strong.*

**ISSUE BY NORTHERN CAPE COUNCIL OF CHURCHES  
(DIAMOND FIELDS)**



# Ex-mayor, 60-year-olds among trialists

AN ex-mayor, a 60-year-old couple, a former policeman, high school pupils and three sets of brothers.

These are just some of the accused in the Upington 26 trial set to make legal history.

**Kenneth Khumalo, 32**, a former mayor of Paballelo, is married with three children. He was convicted of murder. At the time of his arrest he was working for the Paballelo town council as treasurer.

**Tros Gubula, 29**, who is unmarried and has one child, was unemployed at the time of the incident.

**Abel Kutu, 27**, one of nine accused living in King Street, was employed as a labourer at the time of his arrest. Abel lived with his parents before he was taken into custody.

Brothers **David, 24**, and **Andrew Lekhanyane, 28**, are the sons of a priest who until recently was attached to a congregation in Paballelo. They have been held in custody at Upington Prison since they were convicted in April last year.

**Zuko Zabendlini, 31**, is also the son of a priest.

**Elijah Matshoba, 22**, of De Aar, came to Paballelo to further his schooling. The court found that Elijah had participated in the assault of Sethwala.

**Justice "Basie" Bekebeke, 26**, worked for four years as male nurse at the Windhoek provincial hospital. He has been in custody since November 1985. The court found that he had inflicted the fatal blow by hitting the policeman over the head twice.

**Zonga Mokgathal, 30**, a father of four, was unemployed at the time of the killing. A captain and coach of a soccer team, he lived with his grandmother in King Street, Paballelo. The court found that he was one of the accused who had assaulted Sethwala.

**Ronnie, 22**, and **Wellington Masiwa, 26**, who lived with their parents, were also found guilty in that they either participated in the attack on the policeman or were associated through common purpose. Their father, Mr Elliott Masiwa died shortly after they were convicted but permission for them to attend the funeral was refused.

**Barry Bekebeke, 22**, was

at high school at the time of the incident. He completed Std 9 during the trial, but was not able to write exams as the court was sitting. The judge found that he had participated in the attack by throwing stones at Sethwala's house.

**Booi Japtha, 23**, was a friend of the policeman. He visited Sethwala on the day of the incident. The court found that he had participated in the attack on his friend's house. He was found guilty as an accomplice.

**Xoliswa Duba, 22**, one of three women trialists, gave birth to a child during the trial.

**Evelyn de Bruyn** and **Gideon Madlongolwane, 60**-year-old parents of ten children, were found guilty of having participated in the attack on the policeman's house. They have also been held in custody at Upington Prison since their conviction.

**Xollie Yona, 24**, a keen boxer, was found to have stoned the policeman's house and attacked the policeman. The judge also found that he returned from the scene where the policeman's body was found chanting "Hey, Hey, the dog is dead".

**Albert Tywilli, 26**, a former policeman, recently

lost the use of his left eye following an incident involving a municipal policeman. The assault is presently the subject of a court case. He was found guilty of murder in that he had actively associated himself with the common purpose of the group.

**Jeffery Sekiya, 24**, a casual labourer, was found by the court to have throw stones at the deceased's house and associated himself with the common purpose of the crowd.

**Sarel Jacobs, 22**, lived at home with his parents in Paballelo. The Court found that he actively associated himself with the common purpose of the group by throwing stones at the policeman's home.

**Roy Swartbool, 22**, was a high school pupil at the time of the incident. The court found that he had participated in the attack on the deceased's house and was an accomplice.

**Neville Witbooi, 20**, was 17-years-old at the time of the incident and continued his schooling during the trial. The Court found that he had participated in the attack on the policeman's house by throwing stones.

**Ivan Kazi, 21**, was found by the court to have participated in the attack on the policeman's house.



Lydia Nompondwana with nine-year-old son, Neville



A township of grief

## Pain of Paballelo

By HENRY LUDSKI

"WELCOME To Paballelo" is the happy sign that greets you as you drive into this dusty North Cape township.

But a sadness hangs over the community like a heavy cloud. The remarkable 18-month long "common purpose" trial of the "Upington 26" has shattered the lives of dozens of families and will go down in the annals of South African legal history as the highest number of murder convictions in a single trial.

For the families of the accused the trial and the events which led to it have been a nightmare still to reach its peak.

In interviews they speak about the fateful Wednesday, 13 November 1985, as if it was yesterday.

Details of the weather on that day and the events surrounding the rent protest meeting on the nearby sportsfield used by the local soccer team with the quaint name of "Eleven Experiences", are still vivid in their memories.

The anguish of the families directly affected, however, is a shared experience in this close-knit yet peculiar community of 10 000.

"We have become a family, When I cry, they cry. The trial has taken my husband, but it has given me lots of mothers and fathers in return," said 32-year-old Lydia Nompondwana, a mother of four and wife of Enoch Nompondwana who has been convicted of attempted murder in the trial.

The community has its roots in the nearby township of Blikkies where its residents had for many years lived in harmony with coloured people.

People classified African were moved to Paballelo in 1960 — neatly separated from Blikkies by a railway line.

The removals, however, could not erase the strong community and blood ties that existed. Many of the Paballelo children still attend schools in the coloured areas of Upington.

Paballelo is unique with its large concentration of Afrikaans-speaking Africans, but it has all the problems and grievances common to townships throughout the country.

Unemployment is rife, evictions common and this week the community was again gearing itself for a battle over high rents — the issue which sparked off the unrest.

A source of amusement among residents is the name of the township which means a "place of play".

But their laughter can't conceal the hurt they feel knowing that their loved-ones could still be sentenced to death.

"It was the saddest day in the history of Paballelo when they were found guilty," said community leader Mr Alfred Gubula whose 29-year-old son, Tros, is one of the accused.

The trial has dominated all other issues in Paballelo.

"Things will never be the same again," said Mrs Susan "Nana" Bekebeke whose two sons Barry and Justice Bekebeke have been convicted of murder.

The families all regret and condemn the killing of the policeman. Lucas "Jetta" Sethwala. The policeman, who was killed a few weeks before his 24th birthday, had been unmarried.

Sethwala joined the Paballelo town council's health section before becoming a municipal policeman.

"There were some people who thought he was a good person, and I don't think people really hated him," said Lydia Nompondwana.

"We lived side-by-side with Sethwala all our lives. We were like brother and sister and he would often come into our house for tea," she said.

The trial has changed the community's political perceptions.

"Some of the people now dislike the police," said Nompondwana whose husband Enoch was the first African person to be appointed as manager of a salt mine in Upington — an unusual development in this conservative town on the banks of the Orange River.

# A i mc

"WHAT is a home without a mother?"

This plaque on the wall of 11 Street, Paballelo, Upington, has poignance for this household.

But not only is it a house with a mother, it is a father too.

Pensioners Gideon Mandlani and his wife, Evelyn de Bruyn, are the Upington 26 trial.

Both have been in custody in Prison ever since 25 of the accused were found guilty in April last year of killing a Paballelo policeman in November 1985.

Below: Mrs Lena Duba, waits to visit her daughter Xoliswa in prison. Right: Montuzeco, 11, and Johnny de Bruyn, whose parents have been held in custody since their conviction in April last year





# ome without a ther — or father

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a mother, there's no  
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last accused in the

the nearby Upington  
were convicted in  
the man during unrest

"My parents were held for six months before they were granted bail. In that time we had to struggle on our own," said their son, 29-year-old James de Bruyn.

James has assumed responsibility for the household of eight.

Living without their parents has not only been traumatic but also "very difficult", said James, the sole-breadwinner.

His parents were arrested in November 1985 shortly after he had been held for 14-days in terms of the Internal Security Act.

They were released on bail when the trial started the following April.

"We are finding it very difficult to live without our parents, but we are doing our best to cope," said De

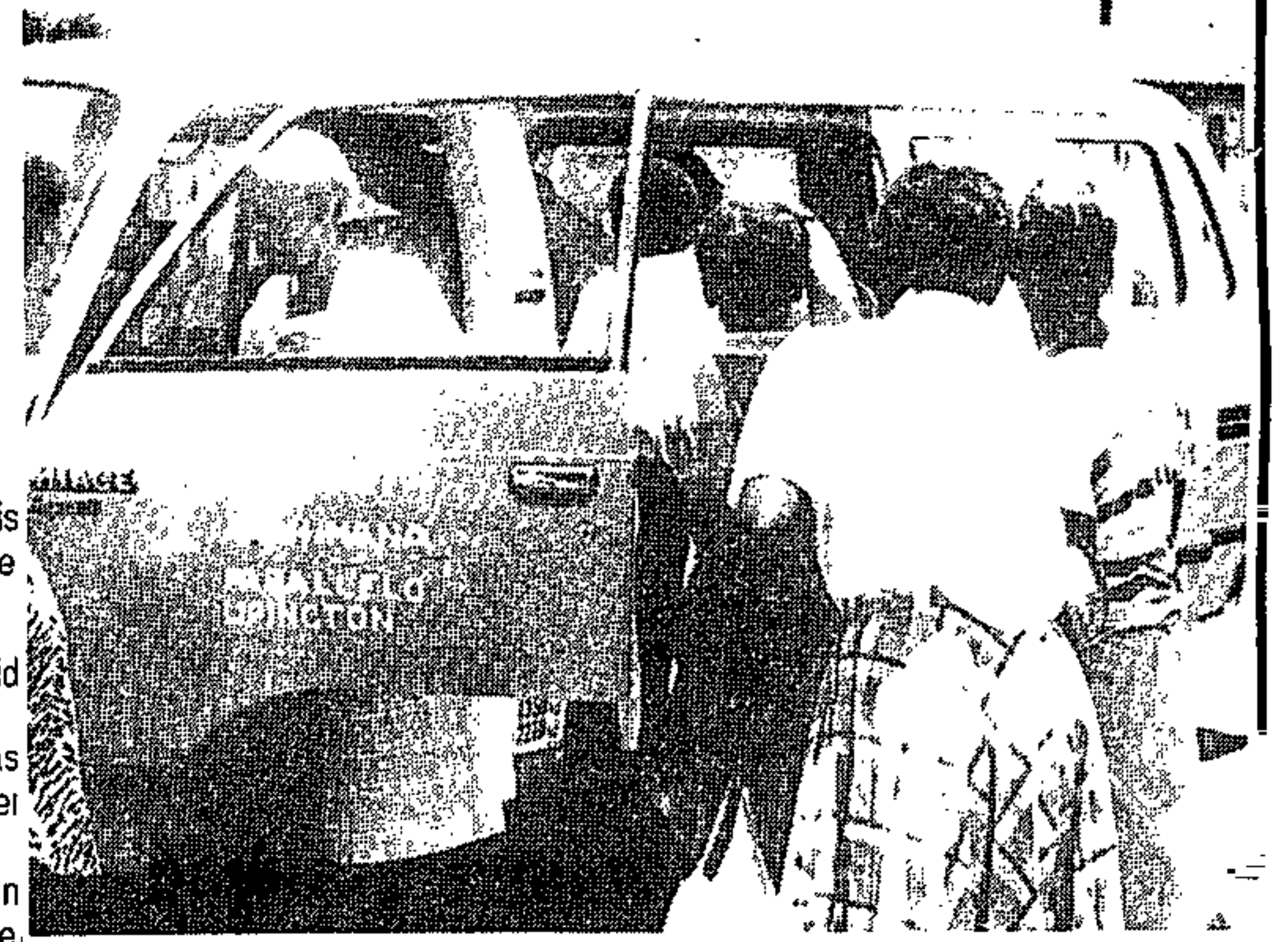
Bruyn.

His brother Johnny de Bruyn has the task of visiting his parents three times a week along with the families of the other accused.

"I still can't get used to seeing my parents in jail," said Johnny shortly after returning from his Thursday visit.

The couple were both found guilty of murder as accomplices in the killing of Lucas Sethwala on November 13, 1985.

The trial reaches its final stages next week when extenuation of sentence starts. The couple faces the death sentence if the court finds no extenuating circumstances.



Relatives off to visits trialist in Upington prison

## A labour of love for mum

A 60cm-high gift on Mrs Susan "Nana" Bekebeke's mantelpiece occupies a special place in her heart.

It is a constant reminder of her sons, Justice "Basie" Bekebeke, 26, and Barry, 22, found guilty in April last year of the murder of Lucas "Jetta" Sethwala.

In his lonely hours in the nearby Upington Prison, Justice, or "Basie" as she refers to him, has glued together a model ship from thousands of matchsticks.

Justice was found by the judge to be the person responsible for striking the fatal blow which killed the policeman in November 1985.

Mrs Bekebeke said that when her son gave her the present she was overcome by tears.

"When he gave me the ship saying that he had nothing else to give me, I couldn't stop crying," his 46-year-old mother said.

She said she was "shattered" by the events of 1985 which had so tragically changed the course of her sons' lives.

Justice Bekebeke was arrested by police in Windhoek shortly after the killing of the policeman and has been held in custody in the nearby Upington Prison since.

Barry Bekebeke was found guilty of participating in the attack on the policeman by throwing stones at the house.

He joined his brother in jail in April last year after his bail was revoked on conviction.

Justice, a male nurse in Windhoek for four years, had wanted to study medicine.

"When I think how far he could be now with his studies I'm heartsore," she said.

Her son gave up his job in 1985 to complete his matric in Butterworth in Transkei and had planned to enrol at the University of the Witwatersrand the following year.

However, four days after returning home for the holidays on November 9, "Jetta" Sethwala was killed. Not long after that Justice was arrested on charges of murder.

Her other son continued with his schooling, but could not write his matric examinations because of the trial.

The Bekebeke's are the victims of forced removals from the nearby township of Blikkies where black and coloured families had lived together for a number of years.

Visibly angry as she speaks about the move, Mrs Bekebeke said: "We were happy in Blikkies. I thought we will never get used to this place."

"In Blikkies my mother had a big house with eight rooms, a big veranda and two extra rooms outside."



A gift of love for Mrs Susan Bekebeke — from prison



CAPE TEACHERS' PROFESSIONAL ASSOCIATION  
KAAPLANDSE PROFESSIONELE ONDERWYSERSUNIE

*The Cape Teachers' Professional Association  
thinks of the Upington 26 and their families  
during their ordeal and prays that justice will  
prevail.*



## Treason accused 'tried to end unrest'

By Helen Grange

Mr Moses Mayekiso, the treason accused whose trial re-opened yesterday after he was released on bail in December, had participated in various meetings in an effort to end the unrest in Alexandra township during 1986, the Rand Supreme Court heard.

Mr Mayekiso (38), and his co-accused, Mr Mzwanele Mayekiso, Mr Obed Bapela, Mr Richard Mdakane and Mr Paul Tshabalala, all from Alexandra, are charged with treason and sedition.

Giving evidence yesterday, Mr Ricky Valente, former chairman of the Sandton town council, told the court he had organised several meetings with former Alexandra mayor Mr Sam Buti as well as with members of the Alexandra Action Committee (of which Mr Mayekiso was an executive member) following the "six day war" in the township early in 1986.

"Mr Mayekiso wanted to liaise with the authorities so that peace could be restored to Alex.

### ARMY REMOVED

"He also wanted the army patrols removed from the township and for the police to act only on normal crime cases."

"He and other representatives of Alexandra community organisations felt the presence of the army was provocative... The people were living in fear of the army," Mr Valente said.

During one discussion between Mr Mayekiso and Mr Valente, Mr Mayekiso had expressed his disapproval of corporal punishment and was in favour of a properly run administration in Alexandra — although he thought this would be almost impossible given the circumstances.

Mr Valente, who told the court he was an "honest broker in a very unhappy situation", said he had been instrumental in the organisation of mass funerals in Alexandra as well as meetings between influential township leaders and the authorities.

Mr Valente added, however, that efforts by Mr Sam Buti to upgrade the township were fruitless at the time because of the lack of funds. "He was never regarded by people as a pawn. He was seen as someone who tried to achieve something but couldn't."

The trial continues.

star 2/2/89

(331)

'Judicial system founded on injustice'

# Four alleged ANC men refuse to plead

By Paula Fray

DELMAS — Four men yesterday refused to plead to charges, including treason, terrorism and murder, saying they were soldiers of the African National Congress's military wing, Umkhonto we Sizwe, and did not recognise the civilian court.

Spontaneous applause burst from the public gallery in the Supreme Court sitting in Delmas after each of the men associated himself with the statement read by the first accused, Mr Jabu Obed Masina. The others on trial are Mr Frans TingTing Masango, Mr Neo Potsane and Mr Joseph Makhura.

They are alleged to be members of an ANC assassination squad and face 49 charges including treason, terrorism, murder, attempted murder, and unlawful possession of arms and ammunition.

The accused's statement said: "Our refusal to participate in the proceedings stems from our belief that this court and this judicial system is founded on injustice and oppression. We state that such a judicial system cannot operate independently from the political system within which it functions."

The statement said that all four men were held in solitary confinement for eight months without access to legal representation and were "tortured and bru-

tally assaulted".

During this period, the statement said, information, which the accused believed would be used against them, was extracted from them by the security police.

The statement said the South African government and defence force leaders constantly said South Africa was in a state of war and "we, as soldiers, cannot and should not, stand trial in a civilian court."

They said as "trained soldiers and freedom fighters" they had taken up the struggle on behalf of their people "to rid this country of a system which is evil and which degrades and dehumanises people on the basis of skin colour".

After their refusal to plead, the judge, Mr Justice M de Klerk, entered a plea of not guilty.

The accused have refused representation by advocates, but attorneys will be present during the trial.

The judge warned them that they face charges for which "the ultimate penalty" could be enacted and advised representation.

The State yesterday brought forward five witnesses regarding the murder of Mr David Lukhele, known for his campaign to have the Swazi homeland of kaNgwane handed to Swaziland, and his sister-in-law Mrs Elizabeth Dlodlu, who were shot dead at their Mamelodi home.

One of the witnesses, Mrs Elizabeth Lukhele — the wife of the victim — broke down in court when she saw a photograph of the scene of the June 6 1986 shooting.

Court was adjourned for about 10 minutes for Mrs Lukhele to compose herself.

She identified the third accused, Mr Potsane, as the man who had come into their home on that day.

The accused declined to cross-examine witnesses.

The trial continues.



## Strict security at start of latest 'Delmas' trial

By Paula Fray

There was strict security yesterday at the start of the latest "Delmas treason trial" where four alleged members of the African National Congress's military wing, Umkhonto we Sizwe, are appearing before the Supreme Court sitting in Delmas.

Members of the public were bodily searched when they entered the building after passing through metal detectors.

At one stage, people leaving the court were searched.

At first, men without ties were refused entry into court but police allowed them in after relatives of the accused arrived without ties.

A glass partition — installed during the previous marathon "Delmas" trial — separated the public gallery from the dock and the bench.

Despite the distance of

the trial from Mamelodi and Soweto, where the accused come from, there were about 100 family, friends, supporters and international observers in the gallery.

Among them were Mr Jan van Eck, independent MP, Mr Jay Naidoo, secretary-general of the Congress of South African Trade Unions, Dr Max Coleman and Father Smangalis Mkhathshwa of the Human Rights Commission and a representative from the American Embassy.

The four accused, dressed in dark suits, ties and light shirts were not handcuffed and gave clenched fist salutes as they entered the court.

Members of the public responded with shouts of support.

During the tea break, the accused pressed against the glass partition and spoke briefly with supporters before being led down to the cells.

FILMED

# Public gallery filmed before trial continues

By Tim Cohen

People attending the latest Delmas treason trial were filmed while sitting in the court's public gallery yesterday — an incident which has drawn strong criticism from human rights lawyers.

About 100 family members, friends, supporters and international observers in the gallery were filmed by a man presumed to be a policeman with a video camera shortly after the luncheon recess.

The man, who was seen with uniformed policemen before the trial began, slowly panned his camera over everyone sitting in the public gallery shortly before the court session began.

Mr Brian Currin, the National Director of Lawyers for Human Rights, said yesterday the taking of a photograph was a violation of a kind of personal right, the right to privacy.

But he added he was not prepared to say whether the action of the man was illegal.

Johannesburg attorney Mr Peter Reynolds said the incident would not be an illegal invasion of privacy because the people were photographed in a public place.

The filming would have been contempt of court had it taken place while the court was in session, but unless there was a directive from the Judge President prohibiting the taking of photos in court, the man's action was probably legal, he said.

Wits University's Professor PQR Boberg said all the relevant cases on this aspect of the law dealt with the unauthorised use or publication of a photograph — rather than the illegal taking of a photograph.

● See Page 2.



# 25 face hanging

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2/2-8/2/89

By HENRY LUDSKI

AN all-out effort will be launched next week to save 25 Upington residents from the gallows.

The defence team appearing for the 25 accused convicted in the Upington Circuit Court in April last year of murdering municipal policeman Lucas "Jetta" Sethwala, have gathered an array of experts to prove extenuating circumstances when the trial resumes next week.

## Town in a noose. - Pages 9, 10, 11

Lawyers are hoping to fly UCT anthropologist, Dr Mamphela Ramphele, from New York to give evidence as an expert witness.

Other witnesses who will have to prove extenuating circumstances are behavioural psychologist Professor Graham Tyson of Wits University, Dr Herman Raath, a private clinical psychologist from Windhoek, UCT social anthropologist

Professor Martin West and Cape Town criminologist Professor Dirk van Zyl Smith.

The expert witnesses will look at the factors and events which have moulded the lives of the accused and the Paballelo community.

"We are faced with enormous difficulties trying to prove extenuation circumstances and it's going to be a tough fight," said lawyer Andy Durbach.

The trialists are all from the township of Paballelo near Upington.

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SOWETAN, Thursday, February 23, 1989

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# ANC 4 refuse to plead

FOUR men yesterday refused to plead to charges including treason, saying they were soldiers of the African National Congress' military wing, Umkhonto we Sizwe, and did not recognise the civilian court.

## SOWETAN Reporter

treason, terrorism, murder, attempted murder, and unlawful possession of arms and ammunition.

The statement read by Mr Masina on behalf of the accused said: "Our refusal to participate in

the proceedings stem from our belief that this court and this judicial system is founded on injustice and oppression. We state that such a judicial system cannot operate independently from the political system within which it functions."

The statement said that all four men were held in solitary confinement without access to legal representation for eight months.

All were "tortured and brutally assaulted", the statement said.

During this process, said the statement, information was extracted from them by the security police. They believed that the information would be used against them.

## Umkhonto

"We, as members of Umkhonto we Sizwe, the military wing of the ANC, are involved in a war of national liberation," the statement read.

The statement said it was also true that the South African government and defence force leaders constantly said South Africa was in a state of war.

"We, as soldiers,

cannot and should not, stand trial in a civilian court."

They said that as "trained soldiers and freedom fighters" they had taken up the struggle on behalf of their people "to rid this country of a system which is evil and which degrades and dehumanises people on the basis of skin colour".

They said the international community had condemned apartheid as a crime against humanity.

After their refusal to plead, the judge, Mr Justice M de Klerk, entered a plea of not guilty.

The accused have refused representation by advocates, but attorneys will be present during the trial.

(Proceeding).

Makhura.

The men are alleged to be members of a highly trained ANC assassination squad and face 49 charges including



# Soviet weapons shown in Delmas terror trial

DELMAS. — Five AK47 rifles and two Makarov pistols were handed in to the Delmas Circuit Court in the treason and terrorism trial of four self-confessed ANC soldiers.

The weapons were linked to empty cartridges found at the murder scenes of three people — including a policeman — who allegedly died at the hands of the ANC soldiers.

The four men allegedly murdered Constable Sinki Joseph

ARGUS 3/2/89 331  
Vuma, Mr Mabaleka David Lukhele and his sister-in-law, Mrs Elizabeth Dlodlu.

The accused, Mr Jabu Obed Masina, Mr Frans Ting-Ting Masango, Mr Neo Griffith Pot-sane and Mr Joseph Elias Mak-hura, continued to boycott court proceedings.

They face a charge of treason and 49 other charges including murder, terrorism, attempted murder, malicious damage to property and the il-

legal possession of firearms and ammunition.

Captain Thomas Wolmarans of the police forensic department yesterday said that 26 empty cartridges handed to him on June 12, at the Mamelodi home of Mr Lukhele, had been fired from one AK47 rifle.

Another 20 cartridges found on Constable Vuma's property matched another AK47 rifle, he said.

Warrant Officer Andre

Theunis du Toit said that distinguishing marks left on the cartridges matched one of the AK47 rifles to the 26 empty cartridges handed to the police for examination in June after Mr Lukhele's murder.

A woman who led a chant of "the struggle continues" was asked to leave the court.

The hearing took place under tight security. — Sapa.  
(Proceeding)

(321) www.mv  
3/21-9/2/89

## The melting pot trial: 14 ANC accused from diverse backgrounds

By GAYE DAVIS,  
Cape Town

THE media has focused on treason trialist Jennifer Schreiner, 32, an academic and a member of a well-known South African family with a privileged background.

A more fitting focus would be on the fact that as a group, the 14 accused in the major treason trial starting in the Cape Supreme Court on Wednesday represent each sector of South Africa's divided society: classified black, "coloured" and white, they come from the ranks of the unemployed, the working class and educated elite.

They include:

- Tony Sithembiso Yengeni, 34, a former student activist who is married to co-trialist Lumka Elizabeth Nyamza, 26, a former Congress of South African Students' member. The couple have a four-year-old child, Mandlabantu;

- Gary John Kruser, 28, who grew up in a middle-class family in the "coloured" Cape Town township of Athlone, later working as a community worker among squatter communities;

- Christopher Giffard, 28, a University of Cape Town lecturer at the time of his arrest;

- Gertrude Fester, 36, a lecturer in a training college for teachers classified "coloured" who was an active member of the United Women's Congress, a United Democratic Front affiliate;

- Unemployed worker Richmond Nduku, 27;

- Community worker Sitlabocha Charles Mahlale, 38;

- Mongameli Wellington Nkwandla, 31, who, like his fellow accused Michael Mzimkulu Lubambo, 36, was working at a cotton mill when arrested;

- Alpheus Ndude, 46, the former co-ordinator of an adult literacy project;

- Mthetheleli Titana, 26, a former student activist;

- Colleen Lombard, 38, a trained secretary and mother of three who has worked for a trade union and the Churches Urban Planning Commission;

- Suraya Abass, 36, a Muslim who at the time of her detention was working for a children's magazine, *Molo Songololo*.

Most of the accused have been in prison since September 1987, when police announced the arrest of 11 suspected African National Congress guerrillas in what they termed one of their "biggest breakthroughs" against the outlawed organisation.

They were held incommunicado for six months before the first of several court appearances in a regional court, which were marked by a magistrate's order barring the presence of friends and family on grounds they could not behave.

Lombard and Abass were detained from August 1987 until January 1988 when they were released on R3 000 bail granted on condition they reported to police daily.

Fester was arrested in May last year and held under Section 29 until she joined the other accused in the dock last August. At that hearing, a final indictment was presented by the state and another postponement was granted, amid defence protests at the length of time their clients had already been in jail.

Charged with offences ranging from a spate of Peninsula bomb attacks, propaganda work, recruitment activities and courier tasks for the ANC, the accused have shown high levels of morale and militancy during their court appearances with their *toyi-toyi* and chanting.



## Accused decline to cross-examine

# Policeman shot at close range — doctor

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3/2/89.

By Paula Fray

A policeman attacked in his Mamelodi home in 1986 died of loss of blood after being shot several times — at least twice at close range — a State pathologist said yesterday in the Delmas treason trial.

Mr Justice M de Klerk entered a plea of not guilty for Mr Jabu Obed Masina (36) of Rockville, Mr Frans TingTing Masango (28) of Mamelodi, Mr Neo Potsane (26) of Dube and Mr Joseph Makhura (26) of Mamelodi, after they refused to plead at the start of the trial on Wednesday.

They face 49 charges, including treason, terrorism, murder, attempted murder and illegal possession of weapons and ammunition.

They said they were soldiers of the African National Congress's military wing, Umkhonto we Sizwe, and "should not stand trial in a civilian court".

The State led evidence on the

March 1986 murder of Constable Sinki Vuma.

A State pathologist, Dr J A Malan, said he received the body on March 18 1986, but body changes had indicated the man had died before then. Constable Vuma had multiple bullet wounds and died of loss of blood.

Dr Malan said the bullets had passed through the body from the front to the back. No bullets were found in his body.

### Cross-examine

Two of the wounds examined under a microscope indicated the shots had gone off "within centimetres of the body".

Constable Vuma's wife, Mrs Busisiwe Vuma, told the court she last saw her husband alive on March 14 at her parents home.

The judge advised the accused that they could question witnesses. The men have so far declined to cross-examine witnesses.

Constable Vuma's neighbour, Mr

W Vilakazi, said he had gone to bed on the night of March 14, when he heard a loud noise on his roof. He went to look and thought he saw "pink" smoke settling at Constable Vuma's house. He did not see Constable Vuma the whole weekend. The body was found on March 17.

Captain Thomas Wolmarans of the SAP forensic division said police found tracer bullets in the wall and 20 shells at the scene.

He said he had received 26 shells in June 1986, which were found at the scene of another shooting. The bullets had been fired from the same calibre gun but not the same weapon as the previous shooting.

Captain A du Toit of the SAP forensic department dealing with microscopic identification produced seven assault rifles — AK47 and AKMs — and two Makarov pistols. He matched two different AK47s to separate sets of shells found at the scenes of the shootings. The trial continues.

# **Court suspends Mwasa order**

THE Pretoria Supreme Court has suspended an industrial court order forcing Perskor to reinstate about 212 workers dismissed after a strike last year.

Mr Justice Daniels issued the order pending review proceedings into the matter on Wednesday this week.

Perskor successfully sought the suspension of an industrial court decision which ordered the company to reinstate the workers, all members of the Media Workers' Association of South Africa, dismissed after a four-day strike in June, 1988.

Should the review dismiss Perskor's application backdated wages would then be paid to the individual workers.



# Cop bled to death

Sowetan 3/2/89

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A POLICEMAN shot in his Mamelodi home in 1986 died of loss of blood after being shot several times — at least twice at close range — a State pathologist said at the latest Delmas treason trial.

The four accused, Mr Jabu Obed Masina, Mr Frans Ting Ting Masango, Mr Neo Potsane and Mr Joseph Makhura, face charges including treason, terrorism and murder, on Wednesday refused to plead.

They said they were soldiers of the African National Congress' military wing, Umkhonto we Sizwe, and

therefore "should not stand trial in a civilian court."

The State led evidence regarding the murder of Constable Sinki Vuma in March 1986.

A State pathologist, Dr J A Malan, told the court he received the body on March 18, 1986, but body changes had indicated the man had died well before then.

Constable Vuma had multiple bullet wounds and died of loss of blood.

Constable Vuma's wife, Mrs Busisiwe Vuma, told the court she last saw her husband alive on March 14 at her parents home. She did not live at their Mamelodi home at that

stage.

The judge, Mr Justice M de Klerk, advised the four accused that despite their refusal to be represented, they could still ask questions.

The four men have declined to cross-examine witnesses.

The body was found on March 17.

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# 'Uppington 25': String of experts to testify

By GAYE DAVIS,  
Cape Town

TROS GUBULA turns 30 on Monday — but he won't be celebrating. Instead, along with his fellow defendants who have been dubbed the "Uppington 25", he will be sitting in a Northern Cape courtroom listening as defence lawyers begin argument on extenuating circumstances and mitigation of sentence.

Convicted of the 1985 murder of a municipal policeman in Paballelo township, all 25 face death sentences. They are believed to be the largest group facing the gallows in South African legal history. A 26th accused was convicted of attempted murder.

The trial's similarities with the "Sharpeville Six" case, to the extent that the judge relied on the doctrine of common purpose in finding all 25 guilty of murder, has focused attention on the case.

Most of the defendants have been in custody since April 1988 when, after an 18-month hearing, Mr Justice JJ Basson concluded his 400-page judgement. A bail application in June last year was refused.

A former male nurse, Justice Bekebeke, 27, and former professional boxer Xolile Yona, 24, have been in jail since November 1985.

The accused range in age from 21 to 64. The youngest, Xoliswa Dube,

was 17 at the time of her arrest. During the trial, which started in 1986, she gave birth to a daughter, whom she named Innocentia.

Instructed by Cape Town attorney Andrea Durbach, the defence team will be led by Cape advocate Ian Farlam, SC, assisted by junior counsel Anton Lubowski of Namibia and Andre Landman, a Johannesburg advocate who has defended all 26 accused since the start of their trial.

Expert witnesses to be called by the defence to lead evidence on extenuating circumstances include:

● Behavioural psychologist Graham Tyson, associate professor and head of Wits University's Division of Experimental Psychology. He was called as an expert witness in the "Sharpeville Six" case.

● Dr Herman Raath, a clinical psy-

chologist in Windhoek, whose PhD thesis examined the acculturation of black people in South Africa in adjusting to Western society.

● Professor Marin West, former head of the University of Cape Town's department of social anthropology and acting head of UCT's School of Social Work, who has interviewed the families of the accused and the accused themselves.

Evidence in mitigation will include a report on a survey conducted by Professor Dirk van Zyl Smit, director of UCT's Institute of Criminology. The survey involved questioning a cross-section of Paballelo residents on the community's perception of appropriate sentences for the accused.

Most of the accused were convicted on the basis that they were part of a crowd which stoned the home of a municipal policeman, before he was killed and his body assaulted and set alight, also by a crowd of people.

Justice Basson found the crowd's

intention was to drive the man from his house and kill him. Those involved in the stoning thus associated themselves with the common purpose of the group.

The incident took place on November 13 1985.

Evidence was that, after a meeting called by residents to discuss high rents and other grievances was broken up by police using teargas, a crowd stoned the home of Lucas "Jetta" Sethwala.

He fired a shotgun, wounding someone before fleeing. Tackled and brought down in a nearby field, he was twice hit over the head with his shotgun. The blows killed him.

His body was stoned, kicked and then set alight. The court found this was done by the same group of people who stoned the house.

Using the doctrine of common purpose, Justice Basson found that even though the accused may not have taken part in the actual killing, the fact they were part of a crowd which stoned his house was enough for him to infer the intention was to drive Jetta from his house and kill him.

He found most of the accused were part of the stone-throwing crowd, thus actively associated themselves with the group and its intention.



Star 3/2/89

(331)

By Helen Grange

A man accused of treason, Mr Moses Mayekiso, was not in favour of "people's courts" and his intentions were never to try and overthrow the state, the Rand Supreme Court heard yesterday.

Mr Ricky Valente, former chairman of the Sandton management committee said this in evidence in the trial of Mr Mayekiso (38) and his co-accused, Mr Mzwanele Mayekiso, Mr Obed Bapela, Mr Richard Mdakane and Mr Paul Tshabalala, all from Alexandra.

The five men are alleged to have attempted to usurp the authority of the State by establishing "organs of people's power" in Alexandra in 1986.

Mr Valente, who had become friendly with Mr Mayekiso through various meetings he had arranged between the local

## Mayekiso 'did not favour courts'

authorities and Alexandra representatives, said Mr Mayekiso had "only wanted to restore normality to the troubled township and to assist in its upgrading".

Mr Justice van der Walt: Weren't attempts at redevelopment disrupted by unrest?

Mr Valente: The unrest in 1986 was the trigger that forced redevelopment in Alexandra.

He added that the redevelopment plans had involved expropriation of people's homes. "The people couldn't accept that," he said.

Mrs Refilwe Mashigo, a social worker in Alexandra, said that unwillingness by the police to

attend to reported crime had led to the initiation of the "Anti-Crime Campaign" (ACC), which was run by township youths.

"At first we thought it was a good crime clean-up. But people began to misuse it for their own benefits. The adults disapproved of the ACC once it began sjambokking people," she said.

The "people's courts" which arose were an angry response to the lack of response of the police to complaints. On one occasion, the army's assistance was enlisted after police refused to allow Alex residents to get water from neighbouring factories.

The "people's courts", Mrs Mashigo said, were not interfered with because adults were intimidated by the youths who ran them.

Mrs Mashigo said that the attitude towards the Alexandra town councillors was of "disillusionment and bitterness" because of their failure to fulfill promises.

This had led to the formation of "yard committees", "street committees" and "block committees" to give residents some direction in improving their conditions.

"The ideas expressed by Mr Mayekiso at the first 'yard committee' meeting gave the residents some direction," she said.

The "yard committees" were disbanded however after a "vigilante attack" believed to be launched by police supporters.

The hearing continues.

People's courts founded 'in chaos'

JOHANNESBURG. — It was against a background of disorder and chaos in Alexandra that the "people's courts" emerged.

This was the testimony of Prof Belinda Bozzoli, head of the Department of Sociology at the University of the Witwatersrand, who was testifying in the trial of Mr Moses Mayekiso and four others in the Rand Supreme Court yesterday.

Mr Mayekiso, general secretary of the National Union of Metal Workers of South Africa, is one of five men charged with treason, sedition and subversion.

The accused were all executive members of the Alexandra Action Committee. Mr Mayekiso, 38, Mr Paul Tshabalala, 38, Mr Richard Mzameni Mdakane, 29, Mr Obed Bapela, 28, and Mr Mzwanele Mayekiso, 22, have all pleaded not guilty.

Yesterday Prof Bozzoli described conditions in Alexandra at the time. She said both the youths and the adults in Alexandra regarded the SA Police and the municipal police as responsible for all the deaths following the six-day war in Alexandra during 1986.

Prof Bozzoli said there was a feeling of increased recklessness and militancy among the youths and crime became more prevalent in the chaos of the time. Residents responded by turning to the youths, who had already established the Anti-Crime Campaign. The youths would listen to their problems and mediate, and in this haphazard fashion the people's courts emerged.

Prof Bozzoli said that while the ACC had been seen as just by both youths and adults, the people's courts had never enjoyed this same respect and contained elements of violence from the outset. — Sapa



The People's Paper's matric supplement starts again today. And there to read some hot-off-the-press copies were pupils from Kwadikathole Secondary School in Kettlehong... delighted with this study aid. Learning Press will appear free inside City Press every week from now until you write your exams towards

the end of the year — except during your school holidays.

These subjects from the matric syllabus will be covered: Accountancy, Biblical Studies, Biology, Business Economics, English Language and Literature, Geography, Mathematics and Physical Science. Good Learning!

# 'Bethal' trio get leave to appeal

By STAN MHLONGO

THREE convicted Bethal treason trialists — Ebrahim Ishmael Ebrahim, Acton Mandla Maseko and Simon Dladla — who were sentenced to a total of 55 years' jail by the Pretoria Supreme Court, have been granted leave to appeal against their sentences.

Johannesburg lawyer Chris Waters told City Press that the court had also permitted the defence to challenge the finding that the court had jurisdiction over Ebrahim, a senior ANC member who was abducted from Swaziland in December 1986.

However, judgment has been reserved on the convictions of Dladla and Ebrahim.

The defence is also not permitted to make special entries on the records.

Ebrahim, Maseko and Dladla were found guilty of treason, attempted murder and terrorism.

The names of jailed

## Ebrahim challenges jurisdiction

ANC leader Nelson Mandela, SACP chairman Joe Slovo and SA Council of Trade Union members John Nkandimeng and Joe Mkhwanazi featured prominently in the trial, which lasted over two years.

The evidence of five ANC members in London was heard by a commission during the trial.

During the trial, the State alleged that Ebrahim met Helene Passtoors — presently serving ten years' imprisonment — in a Johannesburg hotel on May 25, 1985 and they discussed buying a smallholding for the ANC.

The State claimed that the smallholding was to be used as a shelter for

ANC members, as well as a depot for weapons, ammunition and explosives.

The State further alleged that Ebrahim and Passtoors had also discussed a secret route which would be used by Ebrahim, Passtoors and other ANC members to leave SA illegally.

The route allegedly went through Nelspruit to Komatipoort, from where the Swaziland border was to be crossed.

Throughout the trial Ebrahim maintained that he was kidnapped from his house in Swaziland and handed over to the police.

Ebrahim was sentenced to 20 years, Maseko 23 years and Dladla 12 years.

## I am like Jesus Christ — 'strike killer'

By MARTIN NTSOELENG

A ZION Christian Church member this week told the Rand Supreme he was like Jesus Christ.

Giving evidence before Judge Solomon and two assessors, Wilson Nakana, said: "Christ was betrayed and killed for money by people he did not know."

Nakana, Sophiana Tini Matloga and Sethabane Edward Mathole — all Sats workers and Sarhwi members — have pleaded not guilty to murdering another Sats worker, Samuel Medina, during the 1987 railway strike.

Matloga said in a statement to a

Sandton magistrate that Nakana had forced her and Mathole to throw a "scab" out of a moving train.

Nakana has denied being at Mayfair Station on the day of the murder, or attending a meeting. He has also denied that he knows his co-accused.

Asked by Judge Solomon if he thought was like Christ, Nakana replied: "Yes." He said all the witnesses who said he was at the scene of the murder were lying.

The judge said Matloga's version was a tissue of lies, that he had repeatedly changed his evidence in

the witness box, and that he was unreliable.

In his statement, Matloga said he was with a group of other strikers when they saw three people working at Mayfair Station. They got off their train at Langlaagte Station and marched back to Mayfair Station.

There they pushed Medina and another "scab" into a train. After the train left the station, Nakana ordered them to throw Medina out.

Medina's body was later found with severe abrasions and legs severed at the knees. He later died at Hillbrow Hospital.

**BEST IN SPORTS COVERAGE**

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Chen 9/2/89

# 'We won't plead to unjust laws'

By MARTIN  
NTSOELENGOE

## Delmas trialists refuse counsel

THERE was drama in the Delmas Circuit Court this week when four alleged killers of super-cop Sgt Orphan Hlubi Chapi, who are members of the ANC's military wing, Umkhonto we Sizwe, refused to plead to "unjust laws".

They also told Judge M C de Klerk, and two assessors that they did not need a defence counsel.

Earlier, would-be defence counsel Advocate Peter Harris tried to explain why a defence was important, but they still refused counsel.

Before the trial started the judge stressed the need for a defence counsel. They remained adamant.

The four are Jabu Obed Ma-

sina, 30, Ting Ting Masango, 30, Neo Potsane, 28, and Joseph Makhura, 27. They are facing 49 counts including four murders and sabotage.

Alternative charges include murder, attempted murder, terrorism and unlawful possession of firearms and ammunition.

Prosecutor Harry Prinsloo warned the accused not to ask for counsel in the middle of the case. However, the judge said they

could seek help with their defence during the proceedings.

Group leader Masina, giving reasons why they would not plead, said: "Apartheid is a system founded on unjust laws. We were held in solitary confinement for eight months by the security police who tortured us to extract information."

"We are soldiers of the ANC, and are involved in a war with the

South African Government over the unjust laws. Therefore, we as soldiers cannot stand trial in this court. We have taken it upon ourselves not to plead."

After his speech the packed room applauded amid shouts of "Amandla".

Prinsloo asked the court to enter a plea of not guilty.

Elizabeth Lukhele, wife of slain former KaNgwane Legislative Assembly member David Lukhele, said her husband was shot dead in their Mamelodi house by Potsane.

The State alleges the four are an ANC assassination squad, highly trained to identify and eliminate people in South Africa.

Masina is alleged to have killed Chapi, one of the most feared detectives, at the height of the Soweto unrest in June 1978.

The four are also linked to other murders between March and June 1986 in Mamelodi.

The indictment states that Masina, of Rockville, Soweto, left the country in 1977 when he was a student struggling to obtain a matric certificate.

Potsane, also from Soweto, is alleged to have skipped the country in 1977, at the age of 17. Before he left home, he told his parents that he was visiting his grandfather in the Free State.

Potsane was a student during the 1976/77 conflicts and was shot through the ear during a protest march.

The trial continues.



# Treason trial spotlights Bop 'independence'

MAFEKING. — The legitimacy of Bophuthatswana's independence will come under the spotlight again today when the trial of 195 people charged with high treason following last year's abortive coup resumes in the Mmabatho Supreme Court.

It is nearly a year since President Mangope and several of his Cabinet Ministers were rescued by the South African Defence Force after being held captive at the Mmabatho independence stadium for 15 hours.

The case, which started in August, was postponed for the second time on October 17.

Defence counsel led by Professor John Dugard, a specialist in constitutional law at the University of the Witwatersrand, objected to the charge of high treason.

## "NOT RECOGNISED"

Professor Dugard argued that Bophuthatswana was not an internationally recognised country and therefore not a sovereign state. The accused could not be charged with treason.

He said the existence of a state was determined by international law, not domestic law, and suggested that alternative charges be brought.

Mr Justice M W Friedman said that if he had to agree with Professor Dugard, he would be terminating Bophuthatswana's independence.

He ruled the trial should continue.

Meanwhile, Minister of Foreign Affairs Mr Solomon Rathebe said his government is still looking for Mr R Malebane-Metsing, the alleged coup leader. — Sapa.

# 'Soldiers' of ANC still won't plead

By Paula Fray

DELMAS — Four men who refused last week to plead to charges including that of treason, saying they were African National Congress soldiers and should not be tried in a civilian court, continued on Friday to decline to participate in the court proceedings.

Mr Jabu Obed Masina, Mr Frans TingTing Masango, Mr Neo Potsane and Mr Joseph Makhura have also refused representation by advocates and have so far declined to cross-examine witnesses.

They face 49 charges. The main charge is treason, and alternative charges include murder, attempted murder and terrorism.

Mr Justice M de Klerk said on Friday that in the case of unrepresented accused the court would assist them as much as possible.

Captain S J Harmse of the SAP said he went to the scene of the Silverton explosion outside the Checkers centre at a "busy" bus stop on July 4 1986.

He showed parts of a Russian-made limpet mine which were found at the scene.

He was sure the limpet mine was deliberately planted in a rubber bin, he said.

Earlier, Captain J van Sitter, formerly of the Murder and Robbery unit in Soweto, told the court he went to see his friend, Detective-Sergeant Orphan "Hlubi" Chaphi, in June 1978 in hospital where he later died.

At Sergeant Chaphi's home he found blood on the pavement and stoep, one shell from a Russian pistol and eight 9 mm shells.

The trial continues.



SUSAN RUSSELL

THE People's Courts formed by the youth of Alexandra in 1986 were initially supported by many adults as a means to remedy lawlessness in the township at the time, sociologist Professor Belinda Bozzoli told the Rand Supreme Court on Friday.

She was called to give evidence before Mr Justice P Van der Walt on behalf of treason trialist Moses Mayekiso and his four co-accused.

Mayekiso, 38, Paul Tshabalala, 38, Richard Mdakane, 29, Obed Bapela,

## 'People's courts were backed by adults'

28, and Mzwanele Mayekiso, 22, have all pleaded not guilty to treason and alternative charges of sedition and subversion.

It is alleged they were involved in the formation of the Alexandra Action Committee, "organs of people's power" and "people's courts" in the township during 1985 to 1986.

Bozzoli said those who were youths during the unrest of 1985 to

1986 had grown up in Alexandra during the period when the authorities had planned to remove family structures from the township and turn it entirely into a hostel town.

She told the court the anti-crime campaign was initially started by the youth in Alexandra in response to the perceived ineffectiveness of the police.

Initially the campaign seemed to be successful and had the support of

adults in the community.

However, the anti-crime campaign was brought into disrepute by the activities of criminal elements who used it for their own ends.

Many adults supported the people's courts as a means of remedying lawlessness.

Bozzoli said that unlike the anti-crime campaign, the people's courts were authoritarian from their inception and run in a brutal way.

# Homeland is sovereign State, 1/2/89 rules judge

The Argus Correspondent

MMABATHO. — The Republic of Bophuthatswana must objectively be regarded as a sovereign independent state despite United Nations resolutions to the contrary, Mr Justice J Friedman declared in a judgment handed down in the Supreme Court here.

He dismissed an objection by defence counsel, Mr J C Dugard, presented at a hearing in November 1987 that as Bophuthatswana was not a sovereign state, the 195 people accused of treason could not be charged with this offence.

The mass trial follows an abortive coup on February 10 when elements of the security forces tried to overthrow the government of President Lucas Mangope.

Mr Justice Friedman in a two-and-a-half-hour judgment yesterday dismissed claims that Bophuthatswana was not in charge of its own internal sovereignty.

He quoted the 1977 Montevideo Convention which laid down conditions for recognition of a State: a permanent population, defined territory, a legal government and a capacity to enter into formal relations with other states.

He concluded that Bophuthatswana had the necessary intentions and attributes of being a sovereign independent state according to the Montevideo Convention, the law of the country and international law.

The trial was adjourned to tomorrow.



7/2/87

# ANC men refused leave to appeal against sentences

PRETORIA. — Leave to appeal was yesterday refused in the Supreme Court here to a senior ANC member, Ebrahim Ismail Ebrahim, who was convicted of treason last year. who provided help for the planting of landmines at Volksrust and Breyten in 1986, to appeal against his conviction on a charge of terrorism, as well as his 12-year sentence.

Mr Justice Daniels refused Ebrahim, a regional commander of the ANC in Swaziland and one of the first members of the ANC's military wing, Umkhonto we Sizwe, leave to appeal against his 20-year sentence.

Leave was also refused to a Swazi citizen, Simon Dladla,

Mr Justice Daniels refused leave for certain special entries to be made in regard to Ebrahim, Dladla, and a third accused, Acton Maseko, who was sentenced to 23 years' imprisonment on a charge of treason.

By Helen Grange

Treason accused Mr Moses Mayekiso was respected by sensible people who supported the Alexandra Action Committee's efforts at unity and guidance, the Rand Supreme Court heard yesterday.

This was said in evidence by Father R E Cairns, a Catholic priest based in Alexandra who had dealings with Mr Mayekiso during the Alexandra unrest in 1986.

The 38-year-old trade unionist and his co-accused, Mr Mzwanele Mayekiso, Mr Paul Tshabalala, Mr Richard Mda-kane and Mr Obed Bape-

## Mayekiso respected, Alex priest tells court

la, are charged with treason.

They are alleged to have attempted to usurp the authority of the State by establishing "organs of people's power" in Alexandra in 1986.

Father Cairns said the AAC "sprang up" when people lost confidence in the Alexandra Civic Association.

"The AAC was never a violent committee. It was rather a committee of service and I only heard good remarks about the

AAC's yard committees, block committees and street committees," Father Cairns said.

In earlier evidence, Professor Colin Bundy, an author of three political books and a lecturer at the University of Cape Town, and Professor Belinda Bozzoli, a professor of sociology at the University of the Witwatersrand and an accomplished author of a number of sociological works, told the court of the trou-

bled township circumstances in which Mr Mayekiso became politically active.

Professor Bozzoli said Mr Mayekiso lived in one of the worst urban township situations in South Africa.

She said the "six-day war" in Alexandra, which involved a policeman being attacked and burnt, shop-looting, violent clashes and the burning down of factories, had been sparked by the police invasion of a mass funeral night vigil in May 1986.

The case was tentatively postponed to Thursday.



## Evidence given in camera

By Dirk Nel, *Star*  
Northern Transvaal  
Bureau 4/2/87

PIETERSBURG — A former Pan African Congress (PAC) trainee testified in camera during a terrorism hearing here yesterday after the state claimed his life would be in danger if he gave evidence in open court.

The regional magistrate, Mr G J J van Deventer, specified that the press could attend proceedings providing the witness, known as Mr X, was not identified.

At the start of the trial, Mr Abram Magagula (31) of Beit Street, Evaton, Vereeniging, pleaded not guilty to ten charges, including terrorism, being a member of the PAC and promoting its aims, possessing automatic weapons, ammunition and grenades, entering the country illegally and pointing a firearm. (33)

### VICTIMISED

The defence counsel, Mr B M Ngoepe, opposed the application to have Mr X's evidence heard in camera. He said the State was unable to articulate the basis for Mr X's fears.

However Mr van Deventer ruled that there was a reasonable possibility that Mr X could be victimised if he testified in open court.

Mr X told the court he entered Lesotho illegally last year from Matatiele and joined a PAC training camp where he saw the accused, also a trainee, at the time.

He said he spent about six months at the camp, where lectures in politics were given and recruits were put through strenuous physical training.

The hearing continues.

# Accused spoke to us willingly, say policemen

By Paula Fray

**DELMAS** — Four alleged African National Congress members — who have refused to participate in court proceedings — willingly spoke to the police, two State witnesses said in the Delmas Circuit Court yesterday.

The men face 49 charges, including a main charge of treason. Mr Jabu Obed Masina, Mr Frans TingTing Masango, Mr Neo Potsane and Mr Joseph Makhura, told the court they were soldiers of the African National Congress' military wing, Umkhonto we Sizwe, and "should not stand trial in a civilian court".

The judge, Mr Justice M de Klerk, asked investigating officer Captain H J Prinsloo why men who allegedly underwent training and who regarded themselves as soldiers would be willing to speak about the organisation to the police.

Captain Prinsloo said Mr Masina, Mr Masango and Mr Potsane had spoken to him, individually, on different occasions. They were not beaten or intimidated and no promises were made to them. They were handed over to other policemen so they could point out places.

He spoke to the three accused in a "relaxed atmosphere". They spoke in English.

He said there were no allegations of electric shocks or beatings. There was an allegation they were kicked and beaten when arrested. This was investigated and a report was given to the Attorney-General who decided not to prosecute.

## MOTIVATED MEMBERS

Captain Prinsloo said during the past 12 years of his dealings with ANC members he noticed the ANC sent only highly motivated members into South Africa who, with a show of bravado, would tell the police what they had done.

They were also scared to go back to the ANC as physical action was taken against them because they had not completed their missions, he said.

Lieutenant-Colonel Jan Erasmus, who was in the Security Branch in Pretoria in 1986, told the court they arrested three of the accused on September 13 1986 near Soshanguve. The fourth accused, Mr Masina, was arrested in Winterveldt the next day after Mr Potsane and Mr Makhura took them to a house there. The four gave false names when arrested.

Colonel Erasmus said he noticed at their arrest that Mr Masango and Mr Potsane were drunk.

The trial continues.



## Cape Town treason trial is postponed

CAPE TOWN — The treason trial of an alleged ANC member, 31-year-old Miss Jenny Schreiner and her 13 co-accused, was postponed *in absentia* in the Cape Town Supreme Court yesterday.

The 14 accused all face charges of treason and alternative charges of terrorism. They are to appear in court again tomorrow.

Miss Schreiner and 11 of her co-accused are being detained in the Pollsmore Prison while two others are out on bail of R3 000 each. — Sapa.

# <sup>Star 7/2/89</sup> 'Something removed rationality of accused'

By Helen Grange

Attitudes and perceptions of the men involved in the murder of non-strikers during the illegal Transport Services strike in 1987 were a primary factor to be taken into account when judging extenuating circumstances, the RandSupreme Court heard yesterday.

Evidence in mitigation began yesterday after a lengthy break following the conviction last year of eight men for the murder of five non-strikers. Eight other men were convicted of various crimes including kidnapping, intimidation and attempted murder.

Of the original 18 men on trial, two were found not guilty and acquitted.

Defence council Mr Eric Dane argued yesterday that the strike had been born in "intense circumstances" and the court had to decide whether the perceptions of the accused were "reasonable and in line with their subsequent conduct".

Mr Dane said: "It cannot be alleged that the conduct of the accused was due to inner vice on their part but that something happened during the six-week Sats strike which removed the element of rationality from the accused and caused them to behave in a manner which was alien to them."

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The court previously heard that eight of the men agreed that five non-strikers should be killed. The five — Mr Vhulani Mulaudzi, Mr Kati Sebopelo, Mr Mulatelo Moremane, Mr Jerry Goodman and Mr Albert Phuluwa — were kept in a room at Cosatu House and guarded by various workers.

The first three were taken away at about 8 pm on April 28 to the bush near the industrial area of Prolecon. Later, a stationwagon returned and the remaining two men were taken to Prolecon. It was there that Mr Phuluwa escaped. The others were stabbed, had a 30-kg rock dropped onto their heads and were finally set alight.

Bongisi Sibisi (33), Wilson Matshili (33) and Mafemane Rikhotso (33) were convicted of four murders, one attempted murder, five counts of kidnapping and one of intimidation.

David Dzevhe (30) was convicted of three murders and one count of intimidation. Patrick Molefe (27), Takalani Mamphanga (25) and George Magedzo (36) were convicted of four counts of murder, one of attempted murder and one of intimidation. Phineas Netshitungulwane (25) was found guilty of four murders and one count of intimidation.

The hearing continues.



# Documents mystery

A COMMISSION of inquiry into alleged irregularities in the Department of Education and Training yesterday heard evidence of counter-revolutionary methods by the department — and missing tender documents.

## SAPA

A senior education adviser, Mr A P van Zyl, testified that he wrote a letter on October 15, 1985, to the Procurement Administration Department, regarding the printing of 35 000 copies of a pamphlet entitled "Focus on Education".

The commission, chaired by Miss Justice L van den Heever, heard the correct tendering procedure had not been followed in ordering the pamphlets.

Mr Van Zyl testified that the pamphlet was aimed at stopping the school boycott in Cradock.

He said the first he knew of the publication was when he was confronted by a bill for the printing by Cradock Koerante.

Another DET official, Mr W van Vuuren, testified that he was involved in the department's special instructions — a section started

by President P W Botha for counter-revolutionary strategies.

Mr Van Vuuren said a son of his direct superior, Mr Jaap Strydom, Mr Tinus Strydom, was transferred from the Department of Co-operation and Development to the DET.

Mr Van Vuuren, however, said he did not know Cradock Koerante printed "Focus on Education" nor did he know of Mr Strydom Junior's involvement in Cradock Koerante.

A second order for the purchasing of 5 000 newspapers for 10 weeks, costing R10 000, was discussed by a senior procurement official, Mr Wynand Coetzee, who testified that the correct tendering procedure was followed except that the quotes were either missing or not on file.

The hearing continues.

## Mob murder mitigation hearing

UPINGTON — A hearing in mitigation of sentence for 25 people who could face the death penalty for their complicity in the mob killing of a policeman began here yesterday. *6/12/89*

The so-called Upington 25 are believed to be the largest group ever convicted in an SA murder trial.

Their case is similar to that of the "Sharpeville Six", who were reprieved from the gallows last year by President P W Botha after international protest.

In both instances, the prosecution was unable to show that most of the defendants physically contributed to the killing. However, the judges found the defendants guilty under the doctrine of common purpose, which holds them responsible because they were part of a

crowd that intended to kill the victim.

The Upington 25, ranging in age from 21 to 64, were convicted of murder last year for the killing on November 13 1985 of a policeman, Lucas Sethwala, who was assaulted and set alight by members of the mob after police broke up a protest rally. *(23 X 331)*

Evidence presented at the trial identified four of the 25 as the men primarily responsible for the assault that killed Sethwala. Mr Justice Basson convicted the remaining 21 because he said they shared the same intent.

During the hearing, defence lawyers will call expert witnesses to argue that the judge should not impose the death sentence because of extenuating social and political factors. — Sapa-AP.

## Top ANC man's appeal is refused

PRETORIA — Senior ANC member Ebrahim Ismail Ebrahim, who was convicted of treason last year, was yesterday refused leave to appeal against his 20-year sentence when he appeared in the Pretoria Supreme Court. *6/12/89*

Mr Justice Daniels refused the application by the regional commander of the ANC in Swaziland and one of the first members of the ANC's military wing, Umkonkotho we Sizwe.

Leave to appeal was also refused to Swazi citizen Simon Dladla against his 12-year sentence for terrorism and Acton Maseko's 23-year sentence for treason. Both were involved in terror attacks in Volksrust and Breyten in 1986. — Sapa.

## Man charged with murdering child

SUSAN RUSSELL

A MAN has pleaded not guilty in the Rand Supreme Court to murdering his two-year-old son.

Isaac Mohammed, 24, of Western Coloured Township, is charged with murdering his son Marvin Louw at his mother Isabel Louw's home in Eldorado Park in August 1987.

His defence is that he accidentally stood on the child in the dark.

The State alleges on the night of the death, Marvin screamed once while alone with his father. Mohammed handed the child back to his mother and left, dressed only in his underclothes.



Mayekiso 'tried to negotiate'

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B/Dan 7/2/89

# Priest describes treason trialist as peaceful man

TRADE unionist Moses Mayekiso was balanced, peaceful, mature and generally respected in Alexandra, a Catholic priest told the Rand Supreme Court yesterday.

F Cairns, who ministers and lives in the Sandton township, testified on behalf of Mayekiso and four co-accused.

All have pleaded not guilty to treason and alternative charges of subversion and sedition.

The charges against Mayekiso, 38, Paul Tshabalala, 38, Richard Mdakane, 29, Obed Bapela, 28, and Mzwanele Mayekiso, 22, relate to their alleged involvement in the formation of Alexandra Action Committee, people's courts, and "Organs of People's Power" in the township during 1985-86.

Cairns said Mayekiso came to his house in March 1986. "Mayekiso was looking to me as a possible means to get in contact the authorities for negotiation," he added.

Cairns said police patrols were



● MAYEKISO

SUSAN RUSSELL

feared and residents felt they were abusing their power.

He added Mayekiso wanted the police to operate normally.

Cairns said he had been unable to find out who were leaders of the people's courts.

"I felt it was my duty to try and negotiate with them. Today I still don't know who was in control. I do not remember raising the question of people's courts with Mayekiso but we certainly discussed violence," Cairns said.

He added: "Mayekiso was very much against violence. I never heard his name associated with people's courts or violence."

Cairns said the Alexandra Action Committee had sprung up after people lost confidence in the Civic Association. It had tried to form street, yard and block committees to help people.

"I heard only good remarks about the yard committees — the few that existed," he added.

Cairns said he had asked mayor Sam Buti to attend the first crisis committee meeting in Alexandra, in February 1986, but he had not turned up.

The hearing was adjourned until Thursday.

# ANC accused spoke 'willingly'

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Some am 7/2/89

FOUR alleged African National Congress members who have refused to participate in court proceedings, willingly spoke to the police, two State witnesses said in the Delmas Circuit Court yesterday.

The four, who face 49 charges including a main charge of treason, and alternative charges, including terrorism, murder and attempted murder.

The four, Mr Jabu Obed Masina, Mr Frans Tingting Masango, Mr Neo Potsane and Mr Joseph Makhura, told the court they were

soldiers of the African National Congress' military wing, Umkhonto We Sizwe, and "should not stand trial in a civilian court."

The judge, Mr Justice M de Klerk, asked investigating officer Captain H J Prinsloo why men who allegedly underwent training and who regarded themselves as soldiers would be willing to speak about the organisation to the police.

## Promises

Captain Prinsloo said Mr Masina, Mr Masango and Mr Potsane had spoken to him on different occasions. They were not beaten or intimidated and no promises were made to them. They were handed over to other policemen so that they could point out places.

He spoke to the three accused in a "relaxed atmosphere." They spoke in English.

He said there were no allegations of electric shocks or beatings. There was an allegation they were kicked and beaten when arrested. This was investigated and a report was given to the Attorney-General who decided not to prosecute.

Captain Prinsloo said during the past 12 years of his dealings with ANC members he noticed the ANC sent only highly motivated members into South Africa who, with a show of bravado, would tell the police what they did.

They were also scared to go back to the ANC as physical action was taken against them because they had not completed their missions.



# Alleged ANC trio won't get bail

sowetan 8/2/89

331

THE "Broederstroom Three" were remanded to June 12 for trial when they appeared in the Pretoria Regional Court yesterday.

Their counsel withdrew the application to apply for bail. No evidence was led and they were not asked to plead.

All three shouted "amandla" when they entered the court room.

The three face 23 charges, including counts of terrorism, attempted murder and unlawful possession of arms, ammunition and explosiveness.

Police allegedly discovered a big arms cache, including a Sam 7

ground-to-air missile, when they arrested alleged ANC members Mr. Damian de Lange, Mr. Ian Robertson and Miss Susan Donnelly at a Broederstroom house on May 8 last year, where they reportedly posed as artists.

An alleged fourth member, Mr. Hugh Lugg, will be a state witness, police said, while a fifth, Mr. Paul Annegarn, went missing and was reportedly in Angola at one stage.

Sixteen attempted murder charges relate to those injured when an explosion occurred near a SAAF bus in Benoni on March 1 last year. —

Sapa

11/11/89  
**'Broeders 3'  
remanded  
for trial 331**

PRETORIA — The "Broederstroom Three" were remanded to June 12 for trial when they appeared in the Regional Court here yesterday. Their counsel withdrew the application for bail. No evidence was led and they were not asked to plead.

The three face 23 charges, including counts of terrorism, attempted murder and unlawful possession of arms and explosives.

Police allegedly discovered a big arms cache when they arrested alleged ANC members Mr Damian de Lange, Mr Ian Robertson and Miss Susan Donnelly on May 8 last year, at a Broederstroom house, where they reportedly posed as artists.

An alleged fourth member, Mr Hugh Lugg, will be a state witness, police said, while a fifth, Mr Paul Annegarn, was reportedly in Angola at one stage. — Sapa



Star 8/2/89 (331)

## 'Soldiers' not harmed, says district surgeon

By Paula Fray

Four alleged African National Congress "soldiers" were examined after they made statements to police and no signs that they were assaulted or tortured were found, a district surgeon told the Delmas Circuit Court yesterday.

Dr W J Pietersen, Pretoria district surgeon, said Mr Frans TingTing Masango said he was "shocked", but he found no burn marks which indicated this.

The judge, Mr Justice M de Klerk, noted that the four had said in a statement at the start of the trial that they were "brutally assaulted".

The men face 49 charges, including treason. They have refused to participate in court proceedings, saying they were soldiers of the ANC's military wing and "should not stand trial in a civilian court".

Dr Pietersen said he examined the four accused from "time to time".

On September 23, 1986, he first examined Mr Obed Jabu Masina with the specific order to look for injuries in respect of possible beatings. Mr Masina had given a statement to the police.

### NO INJURIES

Dr Pietersen said he did not find any fresh wounds. If Mr Masina was assaulted — he was brought in nine days after his arrest — Dr Pietersen said he would still expect to find discolouring of the flesh.

He examined Mr Masina again in December.

Mr Masango told him during his examination that he was given electric shocks. Dr Pietersen said he found no fresh injuries. If Mr Masango had been shocked there would have been burn marks, he said.

Mr Masango's blood pressure was "normal" said Dr Pietersen. If Mr Masango was stressed, his blood pressure would have been high, he said.

Dr Pietersen said he examined Mr Neo Potsane in December. Mr Potsane had a cyst on his left elbow. There were no signs of an assault.

Mr Joseph Makhura, who was examined in December, complained of headaches and his left eye was red. Dr Pietersen said it was unlikely the redness was the result of a slap.

The trial continues.

on charge after fighting erupted between groups of rival spectators between Fiorentina and Bologna in Bologna at the weekend.

... van Ronge said the policy-says he is covered for all legal claims brought against him for accidental injuries to the extent of R200 000.

## Broederstroom trial to start on June 12

Pretoria Correspondent

331

Defence counsel for the "Broederstroom-Three", Mr Peter Harris, withdrew their application for bail when they appeared briefly in the Pretoria Regional Court yesterday.

Mr Damian Michael de Lange (32), Mr Ian Hugh Robertson (36) and Ms Susan Catherine Donnelly (24) face charges of terrorism, attempted murder, possession of weapons and malicious damage to property.

Mr de Lange faces a further two charges of arson and one of attempted arson.

They, and a fourth man, were arrested last May.

They are alleged to be responsible for the limpet mine attack on a South African Air Force bus in Benoni last March.

The weapons allegation involves a large cache of arms found on a Broederstroom property. It included grenades, limpet mines, Makarov pistols and AK 47 rifles.

There was a heavy police presence at the court yesterday.

The case has been postponed to June 12.



# Strike violence 'was predicted'

By Helen Grange (33)

The murder of non-strikers during the illegal SA Transport Services (Sats) strike in 1987 had been predicted in newspaper editorials a month before it happened, and Sats should have applied itself to prevent it, the Rand Supreme Court heard yesterday.

Arguing in mitigation of sentence for eight men convicted of murdering five non-strikers and eight other men convicted of various crimes including kidnapping, intimidation and attempted murder, Mr M E Luitingh said newspaper editorials had predicted there was "going to be blood" in the highly charged situation.

"Sats should have applied themselves in diffusing the conflict," he said.

Mr Luitingh said the murders were due to a combination of psychological phenomena which altered the state of mind of the accused.

"The situation of conflict led to a

diminished consciousness of right and wrong. There was a clouding of judgment which removed the elements of reality, making them vulnerable to poor judgment."

Any normal person would have acted similarly given the combination of forces existing at the time. The accused were normal people and some were leaders in their own fields. S.J. 8/2/87

Sentence should take into account whether they would be able to return to a normal life once they had reflected on their deeds, which were committed out of the desire to conform to the decisions of the group.

The court previously heard eight of the accused had agreed that five non-strikers should be killed. The five were kept in a room at Cosatu House and guarded by various workers.

They were taken to Prolecon. Mr Phuluwa escaped and the others were killed.

The hearing continues.

# Court hears how 'PAC insurgents' entered SA

Star 8/4/89

By Dirk Nel,  
Northern Transvaal Bureau

331/10

PIETERSBURG — The daring adventures of two alleged Pan-Africanist Congress (PAC) insurgents, who crossed into South Africa from Zimbabwe in October 1987, were described in the Pietersburg Regional Court yesterday.

Mr Abram Magagula (31) of Evaton, Vereeniging, has pleaded not guilty to charges of terrorism, being a member of the PAC and promoting its aims; illegally possessing firearms, ammunition and grenades; entering the country illegally; and several other charges under the Internal Security Act.

A state witness known as Mr X, who may not be identified, told the magistrate, Mr G J J van Deventer, that he and the accused had instructions to enter Venda, where they were to recruit PAC members.

They had received training in Libya and Yugoslavia in the handling of explosives and firearms, insurgency, and various other skills, after initially joining a PAC camp in Lesotho, he said.

## ELECTRIFIED FENCE

After spending some time in Harare, they were transported to the Limpopo River, and tried to enter South Africa at a point about 25 km from Messina. But they could not get over an electrified border fence on the South African side of the river.

They received help from a man on the Zimbabwean side of the river, who clipped the fence at a point where there was no electrical current, the court heard.

Posing as mineworkers from Messina, they joined a party of workers being transported in a truck to Messina by a farmer the next day.

At Messina they decided to establish contacts in the Nancefield township, and soon managed to find sleeping accommodation there. All this time, they had been carrying Scorpion pistols in holsters under their jackets, and grenades and ammunition in their baggage, the witness told the court.

However, the police received a tip-off, and they were arrested at the Nancefield house after midnight, he said.

The hearing continues today.



AR 691 8/2/85  
West keeps  
watch on  
'Uppington 25'

**Political Staff**

WESTERN diplomats are closely watching the outcome of a trial in Uppington where 25 black people have been convicted of murder.

"There are parallels with the Sharpeville Six," said one diplomat, who acknowledged intense interest in the proceedings. Defence lawyers were expected this week to lead evidence in mitigation.

The Uppington 25 were convicted by Mr Justice J J Basson last year for the mob murder of a black policeman who was assaulted and set alight after being chased from his house on November 13 1985.

Like the Sharpeville Six, the Uppington 25, thought to be the largest group convicted in a murder trial, were found guilty under the doctrine of "common purpose".

**OUTCRY**

The prosecution was unable to show that most defendants actually dealt the blows or lit the matches. They were convicted, however, because they were part of a crowd intent on killing the victim.

A diplomatic source said there would be an international outcry if they were sent to the gallows.

Evidence identified four of the 25 as primarily responsible for the assault on the policeman, Mr Lucas Sethwala. The group attacked him after police broke up a rally protesting against rent rises.

# Guards found guilty of murdering seven children

DURBAN. — Two community guards have been found guilty in the Durban Supreme Court of kidnapping eight children, murdering seven of them and attempting to murder another.

Before giving judgment in the trial of 11 Lindelani men charged with kidnapping nine children, murdering eight of them and attempting to murder another, Mr Justice Broome, sitting with two assessors, withdrew their bail.

## INKATHA

The court found Emmanuel Khanyile, the leader of the community guards, and Bhekani Wilfred Phewa guilty of 16 of the 17 counts of murder, attempted murder and kidnapping on March 16 1987.

A clerk at the Lindelani community offices, Lucky Mtshali, who left before the children were killed, was found guilty of eight counts of kidnapping.

Another man employed at the Lindelani community offices, Sipho Dube, who issued receipts and membership cards to people who joined Inkatha, was found guilty of being an accessory after the fact of murder.

Dube went with a group of men to the Ntuzuma cemetery where the children had been killed and waited in the bakkie as the other men loaded the bodies. He then drove the men to another section where the bodies were thrown into a ditch.

Three other security guards in Lindelani, Mr Sipho Clement Ndlovu, Mr Muntukathenjwa Phillip Biyela and Mr Mzibeni John Khuzwayo, were found not guilty on all counts.

Mr Sithembiso Morgan Bodloza Mkhize, who was employed as the bodyguard of a Lindelani community leader, Mr TH Shabalala, was also found not guilty. — Sapa.

(Proceeding)



# Treason trialists sing in court

Supreme Court Reporter

FOURTEEN people, alleged to be members of the "Western Cape machinery" of the ANC and allegedly responsible for bomb blasts at Castle Court, the Athlone Magistrate's Court and D F Malan Airport toilets, chanted and sang as they filed into the dock yesterday morning.

The trial was postponed to March 1 by agreement between the parties to enable the state to supply the defence counsel with further particulars.

The 14, some of whom have been detained for up to 17 months, will be charged with treason alternatively terrorism. They have not yet pleaded.

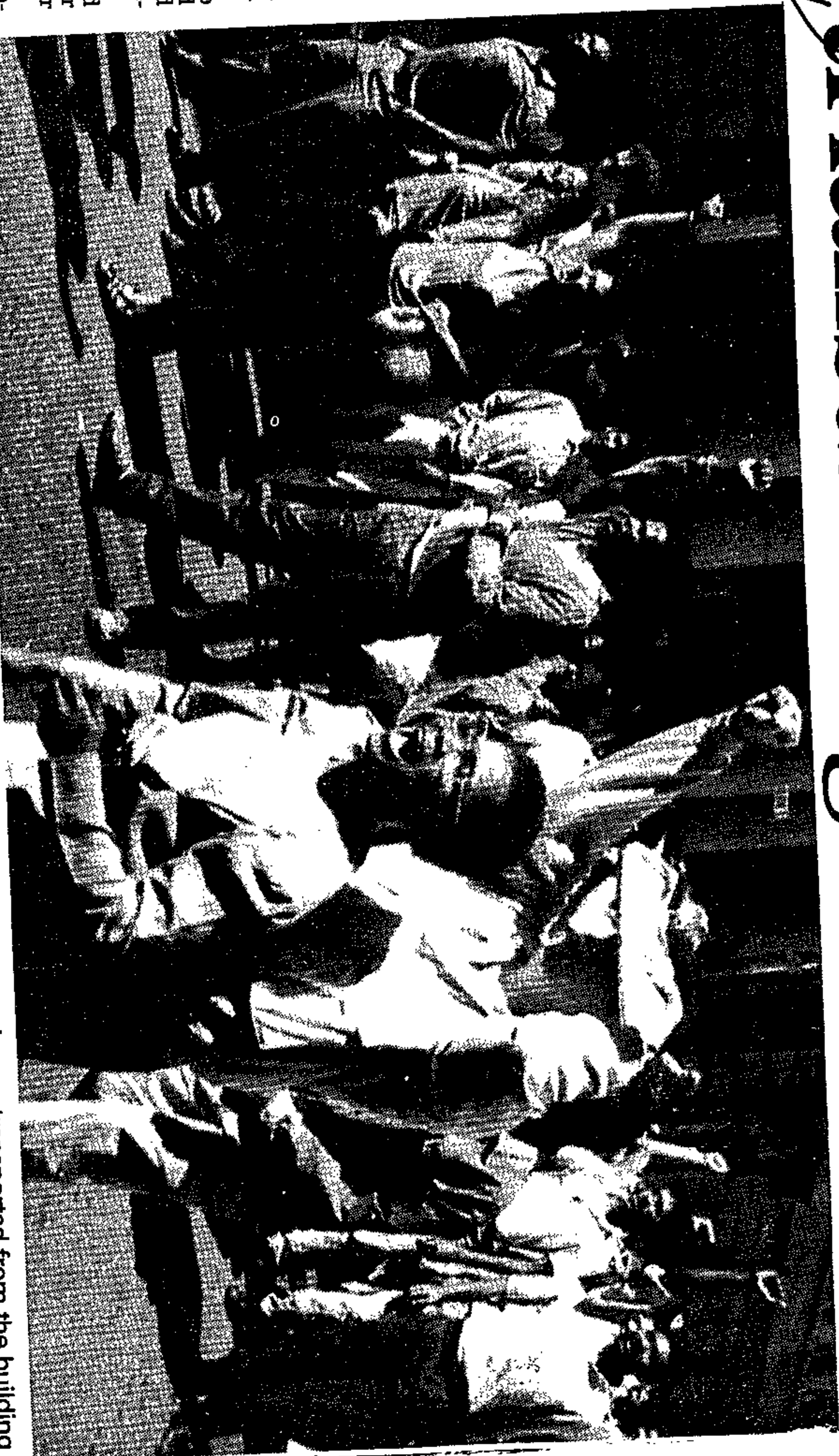
They are: Mr Tony Sitembiso Yengeni, Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyanza, Mr Michael Mzinkulu Lumbambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mthetleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Sitalbocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

The court resounded with chants as they filed into the dock from the cells below and family and friends in the packed public gallery raised clenched fists as the 14 started singing "Nkosi Sikelel' iAfrika" (God bless Africa).

Mr D P de Villiers SC told the court he appeared for all the accused together with Mr Mike Doren, Mr Pious Langa and Mr Johnny de Lange and that four firms of attorneys represented the accused.

An application for bail of R3 000 each of Ms Lombard and Ms Abass to be extended, was granted.

Mr Justice S Selokowitz presided. Mr H G Klem SC, with Mr J van Vuuren, appeared for the state. Messrs De Villiers, Doren, Langa and De Lange were instructed by Mailinck, Press, Richman and Closenbergh Inc, Esau Moosa and Associates, R Vassen and Co and Enver Daniels and Co.



**CROWD SCENE** ... The scene outside the Supreme Court yesterday as the accused were transported from the building where Mr Tony Yengeni and 13 others appeared on charges of treason, alternatively terrorism.

Picture: ERIC MILLER

Mr J M Lemmer was the magistrate, Mr J Su the accused.

9/2/87  
2 sentenced  
to death 231

Own Correspondent

DURBAN. — There were cheers and cries of "amandla" in the Supreme Court here yesterday after two Inkatha men from Lindelani were sentenced to death for the "slaughter" of seven KwaMashu youths.

Emmanuel Khanyile, 34, and Bhekani Wilfred Phewa, 31, were found guilty by Mr Justice Broome and two assessors of murdering the seven, aged between 15 and 17, on March 16, 1987.

At the Ntuzuma cemetery the children were made to alight from the kombi they had been forced into and told to walk in twos holding hands. They were surrounded and then brutally massacred.



# Suits, songs as Yengeni 14 appear

By RYLAND FISHER

ALLEGED ANC commander Tony Yengeni, dressed in a dark blue three-piece suit, led his fellow trialists in a toyi-toyi up the steps from the cells in the Cape Town Supreme Court this week, setting the tone for what may become one of the longest political trials ever in the Western Cape.

And as the 14 filed into the dock shortly before 10am on Wednesday, about 100 relatives and friends in the public gallery rose to sing the national anthem *Nkosi Sikelel iAfrika*.

The singing and shouting of slogans were over by 10h05 when Mr Justice Selwyn Selikowitz entered the courtroom with his two assessors, Advocate Willem Le Roux and Advocate Jillian Knoll.

## Uniforms

Jenny Schreiner, Lumka Nyamza, Gertrude Fester, Suraya Abass and Colleen Lombard were all dressed in the black, green and gold uniform of the Federation of South African Women.

Those in the front row of the public gallery included parents of some of the trialists and the children of Colleen Lombard, Chevan, 17, Shadley, 16, and Yana, ten.

Because of their ages, the three had to get special permission to attend the court proceedings.

Former UDF publicity secretary Hilda Ndude, restricted to the Wynberg magisterial district, also had to get special permission to attend the trial. Her husband, Alpheus Ndude, is one of the accused.

Selikowitz, granting a postponement to March 1, said he hoped evidence would begin on that day because the accused had been in prison for long periods.

Some have been in detention for up to 18 months.

Bail of R3 000 each for Lombard



Colleen Lombard, left, and Suraya Abass at the Supreme Court

and Abass was extended.

The proceedings took seven minutes.

Before the trialists went down to the cells, there was one more song, and slogans and waves from the public gallery.

The excitement continued outside court as a huge crowd gathered to see the trialists being taken by truck back to Pollsmoor Prison.

As the truck sped, sirens wailing, down Dorp Street, a stream of people ran down Leeuwen Street to catch a last glimpse.

In Long Street, youths unfurled a banner calling for the release of trialist Gary Kruser.

At least one person is believed to have been taken into custody.

By 11am, Cape Town's city centre was "back to normal".

The trialists, charged with treason alternatively terrorism, are represented by a high-powered defence team instructed by four legal firms.

Head of the defence team is former Nasionale Pers managing director Advocate Dawid de Villiers QC. He is assisted by National Association of Democratic Lawyers Association (Nadel) president Advocate Pius Langa, advocate Johnny de Lange and Advocate Michael Donen.

Those on trial are Yengeni, Schreiner, Nyamza, Michael Lumbambo, Mbutu Nduku, Wellington Nkwandla, Mthetheleli Titana, Kruser, Christopher Giffard, Sitlabocha Mahlale, Ndude, Fester, Abass and Lombard.

# 'Rivonia' protest

By RYLAND FISHER

831 8/15/89  
G-15/2/89

THE four "Rivonia trialists" still held at Pollsmoor Prison have protested against plans by prison authorities to move them to the quarters formerly occupied by Nelson Mandela, it has been reliably learnt.

The four - Walter Sisulu, Ahmed Kathrada, Andrew Mhlange and Raymond Mhlaba - are being held on their own in a section of the prison.

When prison authorities tried to move them recently, they charged that Mandela's former quarters were "damp" and had contributed to his contracting tuberculosis, our source said.

Mandela was moved from the prison to Tygerberg Hospital and later to Constantiaberg to recover from his illness.

The ageing African National Congress leader is presently held in a house on the Victor Verster Prison grounds.

Asked to comment, the Prisons Service said: "It is our policy not to comment on the incarceration circumstances of individual prisoners".

## Eye surgery

The protest by the four Pollsmoor prisoners came as the Prisons Service confirmed that Sisulu, at 76 the eldest of the Rivonia trialists, was admitted to hospital last month for eye surgery.

The prison authorities said Sisulu was making "satisfactory progress".

Govan Mbeki, a fellow Rivonia trialist, was released from Robben Island late in 1987, because of ill-health.

Others released for health reasons recently include former ANC and SA Communist Party leader Harry Gwala, and Pan Africanist Congress (PAC) leader Zeph Mothopeng.



# Tutu's son, AWB leader face charges

JOHANNESBURG. — The Attorney-General for the Witwatersrand, Mr Klaus von Lieres und Wilkau, has decided to prosecute Mr Eugene Terre'Blanche on charges of malicious damage to property and crimen injuria — and Mr Trevor Tutu for the same charges, among others.

Mr Von Lieres has further decided to prosecute Mr Willeboer Bruno Venter on a charge of crimen injuria following an incident last June when Mr Venter allegedly insulted Archbishop Desmond Tutu while he was boarding a plane at Jan Smuts Airport.

Disclosing the details of the charges yesterday morning, Mr Von Lieres said Mr Terre'Blanche, the leader of the AWB, would be prosecuted as a result of the Paardekraal Monument incident on December 26 last year when Mr Terre'Blanche, accompanied by Sunday Times columnist Jani Allan, allegedly drove his car into the monument's gates.

Mr Von Lieres said the charge of crimen injuria arose from allegations of Mr Terre'Blanche's "most insulting language to the police" at the scene.

The son of Archbishop Tutu, Mr Trevor Tutu, is being prosecuted on three counts of crimen injuria following incidents which allegedly took place in Langlaagte in October last year, at Jan Smuts Airport on December 31 last year and at Kempton Park magistrate's court on January 3 this year.

He will face further charges of contravening Section 27 (2) of the Police Act (hindering a police officer in his task) — relating to the October 1988 Langlaagte incident, contravening the Civil Aviation Offences Act (communicating information which he knew to be false) — relating to the Jan Smuts Airport incident on December 31 and malicious damage to property which relates to his alleged trampling on a policeman's hat on his arrest on January 3 this year. — Sapa



## Sequel to study of released detainees

# Doctor no longer under threat of jail

By Jo-Anne Richards and Cathy Staggs

A Johannesburg doctor was yesterday freed from the threat of jail when he appeared before a magistrate to answer a subpoena.

Dr Paul Davis was subpoenaed under section 205 of the Criminal Procedure Act to hand over medical records concerning patients who are former detainees. He faced a possible jail term of up to two years if he refused.

During nearly an hour's questioning yesterday, Dr Davis told the magistrate, Mr J B van der Merwe, he no longer had any medical files relating to the patients who had formed the basis of his study on the medical condition of 40 released detainees.

Dr Davis subpoena followed an interview with reporter Ms Jo-

Anne Richards on the study which resulted in an article in The Star in September 1986. The study revealed that 83 percent of those treated between July 26 and October 31 1985 showed medical evidence of ill-treatment.

### Obligation dropped

Dr Davis was not named in the article. Subsequently, Ms Richards was subpoenaed to reveal his name. Dr Davis later freed her from her obligation to protect his identity, saying the police already knew who he was.

Dr Davis told the magistrate yesterday he did not have the names, ages, addresses or occupations of the patients who had formed the basis of the study.

These patients were seen as a service by a group of doctors at Dr

Davis's rooms. They were referred by the Detainees' Parents Support Committee. Their files were kept apart from those of his regular patients and were later coded and stored by the National Medical and Dental Association (NAMDA).

He said of the five patients who later became his personal patients he could remember only two — one was called Peter, the other Daphne. They had specifically asked him not to record their surnames.

"I no longer have these files," he said. Asked why, Dr Davis said he had noticed on Monday that the files were missing. "I became concerned. I looked into it more deeply — I thought they may have been mislaid."

The prosecutor, Mr A van Wyk, said the police were conducting an investigation into the allegations made in the article, but

this could only be successful if they had names, ages and addresses of alleged victims.

He asked Dr Davis why he did not report alleged assaults to the police. Dr Davis said it was not for him to prosecute the police on behalf of his patients.

Mr van Wyk: You knew where the alleged assaults took place? — Yes. Mr van Wyk: You knew the people who were the victims? — Yes.

Mr van Wyk: Could you not have made this information available to the police?

Dr Davis: Not without the patient's permission. I cannot do it unilaterally. I strenuously subscribe to the Hippocratic Oath.

Dr Davis said his concern had been to stop what was allegedly happening in detention. "I saw people who alleged they were beaten and battered and I found plenty of evidence to support this. I didn't know where to turn."

General approaches to the police by the medical association had borne no fruit, Dr Davis said. "So I went the more public route which, if you'll forgive me, had more effect."

Dr Paul Davis, accompanied by a friend, Miss Josephine Gon, arrives at the Johannesburg Magistrate's Court where he had been subpoenaed to give evidence about patients he had treated after their release from detention.



## Van Tonder loses battle over language

By Helen Grange

The leader of the ultra-right-wing Boersaap Party, Mr Robert van Tonder, has lost his appeal against a conviction of contempt of court following his refusal to pay a traffic summons in 1986 because it was written in English.

Mr Justice Weyers yesterday dismissed the appeal, saying Mr van Tonder "wasn't entitled to a bilingual notice because it wasn't the type (of public notice) contemplated in the Constitutional Act".

Mr van Tonder launched the appeal after he had been fined R40 for a speeding offence and warned and discharged after he was found guilty of contempt of court on October 23 1986.

In what was regarded as a test case for the Afrikaans language, he said the traffic officer concerned had insisted on speaking to him in English, having ignored his request to speak in Afrikaans. Mr van

Tonder returned the summons to the officer once he noticed it was written in English.

Mr van Tonder failed to appear in court on the prescribed date and was later charged with contempt of court.

Mr van Tonder, known as a "taalbot" (indirectly translated as "fighter for the language"), argued to the court that the summons was invalid in terms of the Constitution, which stated that Afrikaans and English were the official languages and that all citizens had an entrenched right to use them.

It was also the obligation for all municipalities, town councils and public institutions to use both official languages.

"A public official must serve the public in the language of their choice. A State document must be comprehensible but this is not the

only reason a language must be upheld.

"If comprehension is the only factor necessary, then Afrikaans must be eliminated — because most Afrikaans understand English, although this is not the case in reverse," Mr van Tonder said.

He said the municipalities of Randburg, Sandton and Johannesburg were especially guilty of "holding Afrikaans in contempt".

"Their traffic departments accept that every motorist is an English speaker because all their tickets and summonses are issued in English. Even if Afrikaans is spoken to the traffic officer, he still writes everything in English."

To hold Afrikaans in contempt in such a manner affected Afrikaans' dignity and rights. By affecting the human rights of Afrikaans, the political parties in control were in contempt of their own Constitution, the party leader said.

"The State says that if bilingualism had to be enforced, it would lead to absurdity. I say their argument is absurd," he said.

Mr van Tonder added that the Afrikaans language was being "silently eliminated" by the media and by the Constitution, the laws of which were not intended to have such an effect.

## Woman jailed for fraud

Own Correspondent

BLOEMFONTEIN — A Bloemfontein woman, Anna Susanna Gertruida Maritz (31) of Pellister, has been jailed for an effective four years and three months after being found guilty in the Bloemfontein Regional Court of fraud and theft at three separate hearings.

She told the magistrate, Mr E T Engelbrecht, that she worked at OK Bazaars as head of the postal section from March to April 1988.

She admitted taking R4 661 from postal payments which should have gone to the company.

In the second hearing, before Mr N J Theron, she was convicted on four charges of fraud and theft committed while she worked at a garage at Koffiefontein in 1987. On December 29 last year, while awaiting sentence on the first two charges, she defrauded Boland Bank in Bloemfontein of R2 000.

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**HAGAR the Horrible**

By Dik Browne

LOOK AT HER SITTING THERE SO CALM AND SERENE AND BEAUTIFUL!

I CAN HONESTLY SAY I LOVE HER MORE TODAY THAN I DID THE FIRST DAY I SAW HER!

THAT'S BEAUTIFUL, HAGAR! I WISH I OWNED A BOAT!



# Yengeni <sup>331</sup> treason trial is postponed

Own Correspondent

CAPE TOWN — Crowds gathered outside the Cape Town Supreme Court yesterday for the first appearance of the 14 Yengeni treason accused.

The trial, which was to have started yesterday, was postponed by agreement until March 1.

The 14 alleged members of the African National Congress, among them a University of Cape Town lecturer and the daughter of a well-known South African family, were not asked to plead.

The public gallery was crammed with family and friends of the accused, many dressed in the black, green and gold colours of the ANC.

They stood with clenched fists as the trialists entered the dock, and sang Nkosi Sikelel' iAfrika (God Bless Africa).

Mr D P "Lang Dawid" de Villiers, SC, appeared for the accused, with advocates Mr Pious Langa, Mr Michael Donen and Mr Johnny de Lange.

The judge, Mr Justice Selikowitz, said he understood the postponement was to allow the defence time to study further particulars which they had been waiting for from the State.

# Upington 25 back in court for sentencing

The Argus Correspondent

PRETORIA. — The case of 25 Upington residents convicted of murder and one of attempted murder has resumed after a six-month adjournment.

The defence team applied for an adjournment last June to prepare evidence in extenuation of sentence.

In terms of South African law, if somebody is found guilty of murder without extenuating circumstances it is mandatory to impose the death sentence.

Professor G A Tyson, head of the University of the Witwatersrand's division of experimental psychology, this week was the first witness to testify on crowd behaviour in extenuation of sentence.

Although their case has become known as that of the "Upington 25", 26 people were accused of murdering Constable Lucas Sethwale on November 13 1985 in Upington's Paballelo township.

Twenty-five accused — the largest group yet convicted of murder in a single South African trial — were convicted of murder, while another was convicted of attempted murder.

The Upington 25 case bears a similarity to the Sharpeville Six's trial as the 25 accused were also convicted on the basis of common purpose.

The Sharpeville Six — five men and a woman — are serving terms of 18 to 25 years' after President Botha showed clemency amid an international furore at their death sentences.

In the Upington 25 case the court found that most of the accused active-

ly shared the same intent to commit murder.

Most of the accused were found to have taken part in stoning Constable Sethwale's house and thereby associating themselves with the common purpose of the actual perpetrators of the murder.

The accused, who pleaded not guilty to charges of murder and, alternatively, of public violence, were convicted of murder last April following an 18-month trial.

The trial was held in camera until February 1988 because some accused were minors.

## Former mayor

The 26 accused are aged between 21 and 63 and include three women and three sets of brothers.

Paballelo's former mayor, Kenneth Khumalo, 33, is accused No 1 and was working as the town council's treasurer at the time of his arrest. He has been released on bail.

The others convicted are Tros Gubula, 29, Abel Kutu, 26, brothers David, 23, and Andrew Kekhanyane, 27, Gudlani Bovu, 28, Zuko Zabendlini, 31, Elijah Matshoba, 22, brothers Barry, 22 and Justice "Basie" Bekebeke, 26, Zonga Mokgathal, 30, and brothers Ronnie, 21 and Wellington Masiza, 26.

Also Boy Jafta, 23, Xoliswa Dube, 21, Elizabeth Bostaander, 20, Evelina de Bruin, 54, Gideon Madlongolwana, 59, Xolile Yona, 23, Albert Tywilli, 26, Jeffrey Sakeya, 23, Sarel Jacobs, 21, Roy Swartbooi, 21, Neville Witbooi, 20, and Ivan Kazi, 21.

Enoch Nonpondwana, 33, was convicted of attempted murder.



AKG 9/2/88 (331)

# Cheers as two are sentenced to death

DURBAN. — There were cheers of "amandla!" in the Durban Supreme Court after two Inkatha men from Lindelani were sentenced to death for the "slaughter" of seven KwaMashu youths.

Emmanuel Khanyile, 34, and Bhekani Wilfred Phewa, 31, were yesterday found guilty by Mr Justice Broome and two assessors of murdering the youths, aged between 15 and 17, on March 16, 1987.

The court found there were no extenuating circumstances and that it had been a "well-executed and well-organised slaughter".

The judge said the killings were deliberate.

He said the children were made to leave the kombi they had been forced into at the Ntuzuma cemetery and told to walk in twos, holding hands. They were surrounded and then brutally massacred.

Khanyile and Phewa, who were employed as community guards in Lindelani, were each sentenced to seven years jail for the attempted murder of Mr Duncan Tabo Mntambo.

They were also convicted on eight counts of kidnapping.

Lucky Mtshali, 30, Thami Ndlovu, 18, Sifiso Lawrence

Mavuso, 18, and Dennis Victor Mchunu, 40, were convicted on eight counts of kidnapping.

Khanyile and Phewa were found to be party to the indiscriminate capture of the eight boys and one girl, some of whom were seriously assaulted.

The judge said the tenor of the evidence had been that any child who could be captured was caught — regardless of whether or not he was a trouble-maker.

Defence counsel for the men, Mr K Kemp, said a state of virtual civil war, mainly due to clashes between Inkatha and

the United Democratic Front, had existed in Lindelani, KwaMashu and Ntuzuma at the time of the killings.

Mr Kemp said it was clear the actions of the men, who were members of Inkatha, were part of the general political struggle between the rival organisations.

Mrs M Steyn, for the State, said there were no extenuating circumstances.

Sentence on Mtshali, Ndlovu, Mavuso, Mchunu and Sipho Dube, 31, who was convicted of being an accessory to the murder, will be passed today. — Sapa.

# Apartheid's foes on trial

THE South African government has in recent years increasingly resorted to the courts to counter its opponents.

The number of "political" trials currently handled by courts throughout the country are too numerous to mention. The abundance of these trials often leads to important trials going unnoticed.

Last month two important terrorism trials in Worcester were concluded with little publicity.

A list of pending trials in the Western Cape, or involving people from the area, is as follows:

Ongoing: Tony Yengeni and 13 others, Supreme Court, Cape Town treason and alternatively, terrorism.

February 10: Allie Parker, Cape Town magistrate's court, violating the media regulations.

February 13: Jonathan Anthony, Robertson magistrate's court, possession of banned literature.

February 14: Nkosemtu Naki and Simon Ngcime, from Cape Town, will appear in Rustenburg magistrate's court, charged with furthering the aims of a banned organisation.

February 15: Phoebe Potgieter, 23, Cape Town regional court, furthering the aims of a restricted organisation (UDF).

February 17: Michael Ndhuping and Thapelo Sedikelo, Cape Town magistrate's court, furthering the aims of a banned organisation.

February 17: Nomatyala Hangana, possession of banned literature.

February 20: Don de la Harpe, furthering the aims of a banned organisation.

February 27: Alfred Dywili, Sonwabile Mbeki and Elliot Mkalana, Athlone magistrate's court, charges of intimidation relating to protests against bus fare increases.

February 28: Noel Williams, Vre-

denburg magistrate's court, breaking restriction order.

February 28: Paul Joemat, and a 16-year-old youth, Athlone magistrates court, furthering the aims of a banned organisation.

Jason Matthews, violating media restrictions and malicious damage to property relating to October municipal elections.

March 3: Mbulelo Grootboom, George regional court, contravening the Internal Security Act.

March 6: Allen Ndodomzi Mam-

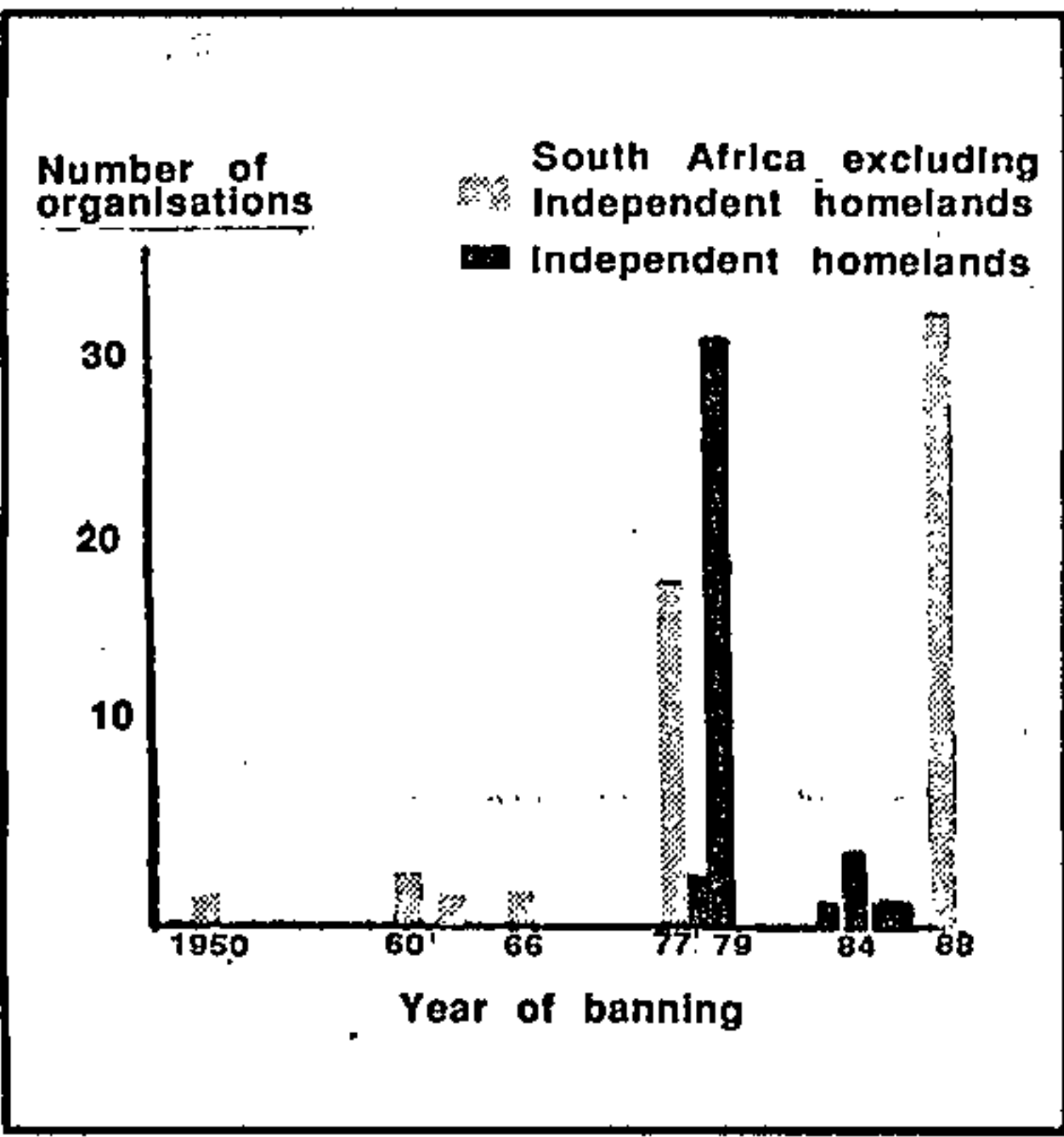
ba, Cape Town magistrates court, terrorism and murder.

March 20: Mzukisi Mdidimba, 18, intimidation relating to the October municipal elections.

April 3: Ethel Loza, 44, Xolile Mini, 30, Maureen Loza, 19, Sindiswa Dlavu, 27, and Khungeke Mali, 30, Cape Town regional court, harbouring a fugitive.

April 3: Phumzile Simelela, Cape Town magistrates court, terrorism.

April 4: Hilton James and Ivan Avontuur, furthering the aims of the ANC.



Graph: HRC

**WILLIAM Thomas, 27, a full-time organiser for the United Democratic Front, is the longest serving Western Cape detainee having been held since June 3.**

Other state of emergency detainees include:

Neville van der Rheede, 33, teacher and UDF executive member, has been held since September 21.

Zoli Malindi, 64, former UDF president, has been held since September, his seventh period of detention since 1960.

Mountain Qumbela, 58, UDF executive member and former Robben Island prisoner, has been held since September 21.

Trevor Manuel, 32, a former UDF Western Cape secretary and national executive member, was detained on September 21. Since October 1985 he has spent more than 850 days behind bars without trial. His wife, Lyn, is five months pregnant with their second child.

Nokwanda Pokwanda, 32, a UDF executive member, was detained on November 17.

Tommy Mathee, 22, a University

## Thomas held longest in W Cape

of the Western Cape student from Paarl, has been held since October 20.

Clinton Bronn, 21, of Robertson, has been held since December 12.

Tsili Moahludi, of the Paarl Youth Congress, has been held since December 23.

Simon Makamba, also of Paarl, has been held since December 23.

Saul Webers, 23, of Robertson, has been held since January 9.

Section 29 detainees include: Veliwa Mhlawuli, 35, a Grassroots journalist, has been held since November 5.

Buyiswa Jack, 33, field worker for the Western Province Council of Churches, who is four months pregnant, has been held since November 17.

Sandile Mkhonto, 24, a former WPCC field worker, has been held since October 10.

Xolile Jaxa, 23, of the Cape Youth Congress, has been held since October 10.

Nomaindia Mfeketho, 36, a member of the United Womens Congress, was also detained on October 10.

Roseberry Sonto, 33, a member of the Western Cape Civic Association and former Cayco president, was also detained on the same day.

Mziwoxolo Mfeketo, 32, has been held since September 5.

Siphiwo Qila, has been held since September 5.

Gcobani Xhegwana, 19, of Paarl, has been held since November 18.

Robert Maliti, 22, has been held since November 25.

Lucy Abrahams, 27, former organiser for the Media Workers Association and Paper, Wood and Allied Workers Union, has been held since December 6.

REPRESSION by administrative fiat has become the norm in South Africa.

So much so that the number of organisations banned or restricted by promulgation in the government gazette in 1988 have almost doubled compared to 1977 when the government cracked down on Black Consciousness organisations, according to figures released by the Human Rights Commission (HRC) in its Fact Paper No 2 for January 1989.

Extracted from the HRC report is the following chronology of bannings:

### 1985

In August 1985, soon after the declaration of the 1985 State of Emergency, the Congress of South African Students (Cosas) was banned under the Internal Security Act. Cosas, a national student movement, was responsible for the mass mobilisation of students in the period leading up to its banning, and it was the largest of the UDF affiliates, building much of the UDF's popular support.

### 1988

In February 1988 a new mechanism was employed for banning 17 organisations by means of imposing restrictions under the State of Emergency regulations.

These restrictions have the effect of banning the organisations until the lifting of the Emergency. If instead the Internal Security Act had been invoked, the organisations would have had the right to have the banning order reviewed by the Chief Justice.

Thus, by using the emergency regulations, the courts were entirely circumvented. The organisations (mainly UDF affiliates and including the UDF itself), which were prohibited from "carrying on or performing any activities or acts whatsoever", were:

- Azanian People's Organisation (AZAPO)
- Azanian Youth Organisation (AZAYO)
- Cape Youth Congress (CAYCO)
- Cradock Residents' Association (CRADORA)
- Detainee Parents' Support Committee (DPSC)
- Detainees' Support Committee (DESCOM)
- National Education Crisis Committee (NECC)
- National Education Union of South Africa (NEUSA)
- Port Elizabeth Black Civic Organisation (PEBCO)
- Release Mandela Committee (RMC)
- Soweto Civic Association (SCA)
- Soweto Youth Congress (SOYCO)
- South African National Students' Congress (SANSCO)
- South African Youth Congress (SAYCO)
- United Democratic Front (UDF)

SOUTH's Repression Dossier is the first of a monthly focus on political trials, detentions, bannings and restrictions — measures used by the State against opponents in South Africa.

Repression Dossier NO 1 could only focus on detentions and pending trials in the Western Cape because of space problems. Next month it will focus on repression in other parts of the country.

This dossier has been compiled from information supplied and publications produced by the Repression Monitoring Group, the Human Rights Commission (HRC) and the lawyers and relatives of detainees.

## Repression by admin now a norm

- Vaal Civic Association (VCA)
- Western Cape Civic Association.

At the same time as these restrictions, a different set of restrictions were imposed on the Congress of South African Trade Unions (COSATU) which effectively stopped any of their activities not confined to the workplace and narrowly to workers' issues.

Following the February restrictions, a new organisation was formed in the Cape — the Committee for Defence of Democracy. Six days after its launch, it was restricted under the same conditions as the 17 organisations.

With the second annual re-imposition of the State of Emergency on June 10 1988, the restrictions imposed earlier in the year on the 18 organisations were renewed.

After a long build-up of public threats and a concerted campaign in the government-controlled media, the End Conscription Campaign (ECC) was restricted under the same conditions as the 18 silenced organisations.

The Soweto Students' Congress (SOSCO) and the Azanian Coordinating Committee were restricted under the emergency regulations. AZACCO had been formed in February as a response to the restriction of Azanian Peoples' Organisation (AZAPO).

SOSCO had been formed in 1985 after the banning of Cosas.

At the beginning of November, a further two organisations were restricted — Port Elizabeth Youth Congress (PEYCO) and the Transvaal Students' Congress (TRASCO). Later in the month, restrictions were placed for the first time on a right-wing organisation, the extremist Blanke Bevydingsbeweging (BBB) and at the same time its leader, Johan Schabert, was restricted.

During November, the state intimated that a further five organisations were considered for restriction orders.

In fact, a further eight organisations were restricted up to the end of year, bringing the total to 34 restrictions in 1988.

On December 8, the Black Students' Society (BSS) at the University of the Witwatersrand and the Black Students' Movement at Rhodes University, Grahamstown, were restricted.

On December 13, two more student organisations were restricted: Mitchell's Plain Student Congress (MSC) and the Western Cape Student Council (WCSC).

This was followed on December 29 by restrictions on the Democratic Teachers' Union, the National Detainees' Forum, Western Cape Students' Congress and Western Cape Teachers' Union.

The Suppression of Communism Act of 1950 was replaced in 1976 by the Internal Security Act which consolidated all security legislation existing at the time.

Up to this time five organisations had been banned under the Suppression of Communism Act and these bannings were not subject to the ISA.



This focus was made possible by the support of the  
**FOUNDATION FOR PEACE AND JUSTICE**



# Upington pupils held

By HENRY LUDSKI

THE small township of Paballelo in Upington has been shocked by a spate of detentions days before the start of a murder trial in which 25 residents could face the gallows.

Five pupils from the Paballelo Secondary School were de-

tained in an early morning swoop last Friday. Three more were detained on Sunday.

One of the pupils is 19 year-old Henry Mchauli, acquitted a week ago of "smacking" a municipal policeman who confiscated the copies of SOUTH he was selling.

The other pupils are: brothers Elliot and Edward Prusente, Patrick Williams, Tokkie Ganayekhe,

Daniel Toni, Jeremia Thile and Nkosinathi Mnyaka.

The trial of the 25 Paballelo residents, convicted of the murder of policeman Lucas "Jetta" Setlwala in November 1985, resumed this week after a 10-month break during which the accused were held at Upington prison.

Another trialist has been convicted of attempted murder.

The policeman was killed after a

protest meeting to discuss high rents was broken up by police using tear gas.

This week's court proceedings took place amid a strong police presence in and outside court.

The small Upington court was packed to capacity with families, clerics and representatives from over 20 organisations.

At one stage the large crowd spilled onto the pavement and was dispersed.

The first witnesses for the defence this week included Wits University behavioural psychologist Professor Graham Tyson, who gave evidence on the psychological forces which might have influenced the accused to attack and kill the policeman.

Most of the accused were convicted on the controversial principle of "common purpose", which argues that although the accused might not have participated in the actual killing, it could be inferred from their actions that it was their intention to kill Setlwala.

Unless the array of witnesses gathered by the defence can prove extenuating circumstances in the next few weeks, the judge will be obliged by law to sentence to death the "Upington 25" — the largest group ever convicted of murder in South African legal history.

Tyson argued that in his opinion it was "highly probable" that all the accused were influenced on the day of the killing by several factors which would have "impaired" their ability to think rationally.

He said factors like the level of arousal and mob psychology would have diminished the responsibility of the accused in much the same way as the consumption of too much alcohol or great emotional stress.

Schreiner, 13 others face battery of charges

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B/D 07 9/2/89

# Cape treason trialists make first appearance

CAPE TOWN — Crowds gathered outside the Cape Town Supreme Court and packed the public gallery yesterday for the first appearance of Jennifer Schreiner, Tony Yengeni and 12 other treason trialists.

The trial, which was to have started yesterday, was postponed by agreement until March 1, and is expected to last for several months.

The 14 alleged ANC members were not asked to plead.

Mr Justice Selikowitz said he understood the postponement was to allow the defence time to study further particulars which they had been waiting for from the State.

The 14 are accused of furthering the aims and objectives of the ANC "and/or their own hostile and treasonable intent" by carrying out acts between 1979 and their arrest in 1987 or, alternatively, that they conspired to overthrow or endanger State au-

thority between 1982 and 1987.

There are four alternatives to the main charge of treason: terrorism, being office bearers or members of an unlawful organisation, taking part in the activities of an unlawful organisation, or defending or encouraging the achievement of the objectives of an unlawful organisation.

Schreiner, 32, and Yengeni, 34, are alleged to have been responsible for the car bomb which exploded at a Defence Force block of flats in District Six and the limpet mines placed in toilets at D F Malan Airport.

## Blasts

It is also alleged that Schreiner, the daughter of the deputy vice-chancellor of the University of Natal, Denys Schreiner, stole a car and bought six gas cylinders to make the car bomb which exploded in the parking area of Castle Court in Tenant Street.

The State also alleges that Yengeni and others were responsible for the blasts at the Athlone Magistrate's Court, petrol stations in Maitland and Plumstead and the Lakeside Post Office.

The charge sheet alleges that Schreiner was the treasurer of the ANC in Cape Town and worked with Yengeni, formerly of the ANC's military council in Lesotho.

It is alleged that five AK-47 rifles, 967 rounds of ammunition, three limpet mines, three timers and two detonators were found in a metal trunk in her Wynberg flat when she was arrested.

Schreiner allegedly underwent training in Botswana in 1979. Her tasks were to spread propaganda of the ANC, SA Congress of Trade Unions (Sactu) and the SA Communist Party, and to link up with trained members of the ANC sent to the Western Cape. — Sapa.



Sowetan 10/2/87

# Expert slams laws

A TOP US legal expert, in South Africa to monitor the treason trial of a prominent black trade union leader, yesterday assailed emergency laws which permit lengthy detention without trial.

Benno Schmidt, president of Yale University and a law professor, said he considered the legal questions raised by the trial of Moses Mayekiso and four co-defendants even more serious now than when he first started his monitoring task.

"Lengthy detention and solitary confinement must strike any person as an outrage under these circumstances," Schmidt told a news conference.

Schmidt is a member of a panel of top US legal experts following the case of Mayekiso, who faces the death penalty on charges of fomenting anti-government unrest in the Johannesburg township of Alexandra in 1985 and 1986.

Mayekiso, general secretary of the National Union of Metalworkers in South Africa, is accused of launching a rent strike and organising a consumer boycott of businesses owned by whites and black government sympathisers.

Schmidt said the attorney-general's denial of bail for Mayekiso and his co-defendants for nearly two years and their months of solitary confinement were particularly upsetting.

Mayekiso, arrested in February 1987, was allowed bail only last December. "We have not reached formal conclusions on any of these matters, but after my visit here I must say the questions raised by the Mayekiso trial are clearly even more serious than when we began our monitoring effort," Schmidt said. Sapa.

# Killer crowd was 'as if hypnotised'

CME Times 10/2/89  
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From MARIUS BOSCH

UPINGTON. — Twenty-five people accused of killing a municipal policeman in 1985 in this northern Cape town were influenced by strong psychological forces similar to being hypnotised, after police had fired teargas during a protest meeting, the circuit court heard yesterday.

Prof Graham Tyson, head of the experimental psychology department at Wits University, was testifying on the psychology of crowd behaviour, in the trial of the "Upington 25".

The 25 — ranging in age from 25 to 60 — were convicted by Mr Justice J Basson of murdering the policeman on November 13 in Paballelo township, on the same legal principle of common purpose applied in the Sharpeville Six trial.

They were convicted on evidence that they were part of a crowd who killed the policeman after stoning his home. The stoning followed a residents' meeting to discuss high rents, education and problems faced by the township youth which was broken up by police firing teargas.

Defence counsel has been preparing evidence for mitigation since June 1, 1988.

Prof Tyson said yesterday he be-

lieved there was evidence indicating that the accused were influenced by very strong psychological forces on the day of the killing.

He said the use of teargas could affect the behaviour of the crowd, adding to the psychological forces.

This process — which he described as "de-individuation" — produced behaviour analogous to the behaviour of persons who were hypnotised or under the influence of alcohol.

This de-individuation state was one which prevented people from recognising the consequences of their actions and making rational decisions, he said.

The courtroom has been packed since the case resumed on Monday, with friends and relatives of the accused, among whom are a former professional boxer, male nurse, former policeman, former mayor of the township and a 60-year-old father of 10 children.

Police were present in force, body-searching everyone entering the building and no vehicles were allowed to park in the immediate vicinity.

Cross-examination continues today.

The 25 are represented by Mr Ian Farlam, SC, assisted by Mr Anton Lubowski and Mr Andre Landman.



THE UPINGTON 25

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## World watch *FMAC*

Once again international attention is focused on a SA courtroom. The resumption of the trial of the "Upington 25," as they have been dubbed, is being closely watched by representatives of foreign embassies.

The 25 are facing a possible death sentence, in a murder trial similar to that of the "Sharpeville Six" which provoked a world outcry until their death sentences were commuted last year.

The Upington case involves the mob murder of a municipal policeman, Lucas Sethwala, at the height of the "unrest" in November 1985. Following a lengthy trial, Mr Justice Basson found the 25 guilty of murder last May. The similarity with the Sharpeville Six case is that the judge relied on the doctrine of common purpose to find a number of the accused guilty. In his judgment Justice Basson divided the accused into principal actors (four), directly involved in the killing, and 21 accomplices who have been found guilty of murder based on the doctrine of common purpose (a 26th accused has been found guilty of attempted murder).

Whether the 25 will be sent to the gallows now hinges on whether Justice Basson finds extenuating circumstances. Under SA law, if someone is found guilty of murder without extenuation the death sentence is obligatory.

Defence is currently leading evidence in extenuation, and at the time of going to press Professor Graham Tyson, a behavioural psychologist and head of Wits University's Division of Experimental Psychology, was due to give evidence.

Both the American and Australian embassies have sent representatives to the trial. The German and Canadian embassies have confirmed they are monitoring the case, and may yet send a representative to the northern Cape court. The Canadian Embassy's Lucy Edwards says: "We are watching the case with great interest and concern, and have already reported on it to Ottawa."

The murder took place in the township of Paballelo near Upington. Following the dispersal of a meeting by the police, a crowd of

about 200 gathered outside Sethwala's house. The house was stoned and the policeman fired a shotgun into the crowd, wounding one person. He then fled and was felled by one of the accused, who disarmed him and delivered two fatal blows to the head with the shotgun. Sethwala's body was then stoned, kicked and set alight.

Justice Basson ruled that it was the intention of the crowd to drive the man from his house and kill him. Though the accomplices were not involved in the killing, by throwing

stones they actively associated themselves with the intention of the crowd to force the constable out of the house.

A number of expert witnesses are to be called over the next month. They include Dr Herman Raath, a clinical psychologist from Windhoek; Professor Martin West, former head of the University of Cape Town's department of social anthropology and acting head of UCT's School of Social Work, who has interviewed the accused and their families; and Professor Dirk van Zyl Smit of

UCT's Institute of Criminology.

Tyson will be giving evidence for each of the accused individually. The thrust of his evidence rests on the concept of "de-individuation" — a state in which you are not capable of forming intention.

As a theory it offers an explanation for why "decent people" get caught up in the heat of the moment, become impulsive and commit deeds they would not normally contemplate. It has been accepted as extenuation in a number of other cases.

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10/2/89

# Medics saw ANC 'soldiers'

By Paula Fray

Four alleged African National Congress "soldiers" were given medical examinations after making statements to a magistrate — because the ANC often complained that accused people were assaulted, a witness told the Circuit Court in Delmas yesterday.

Investigating officer Captain H J Prinsloo said the accused were taken to a district surgeon after making statements.

The four alleged members of the ANC's military wing, Umkhonto we Sizwe, Mr Jabu Obed Masina, Mr Frans TingTing Masango, Mr Neo Potsane and Mr Joseph Makhura, face 49 charges — including treason.

They have refused to participate in court proceedings, saying they were soldiers and "should not stand trial in a civilian court".

Mr Masina told a magistrate, Mr Andre Goosen, that he feared violence if he did not make a statement. He took the statement from him in De-

cember 1986.

Replying to questions from the Bench, Mr Goosen said that in the context of Mr Masina's other answers, he did not think this established a prima facie case that Mr Masina feared he would be beaten, or that the statement was given under coercion.

Mr Goosen also took statements from Mr Potsane, Mr Masango and Mr Makhura.

Two other magistrates testified that they had taken statements from the men, who had made them "willingly".

## MILITARY TRAINING

Earlier, Captain Prinsloo said he had spoken to them about allegations that they were members of the banned ANC, had received military training outside South Africa, and that weapons and ammunition had been found on them when they were arrested.

Mr Masina had spoken to him about the murders of Detective-Sergeant Orphan "Hlubi" Chaphi, Constable Sinki Vuma, Mr David Lukhele and

Mrs Elizabeth Dlodlu, and the Shoshanguve and Silverton blasts.

Mr Masango had also spoken to him about the murders of Constable Vuma, Mr Lukhele and Mrs Dlodlu and the Shoshanguve blast, while Mr Potsane spoke to him about the three murders, and the Silverton blast.

There was laughter and muttering in the public gallery when Captain Prinsloo said the three men had told him they could not believe how well they were being treated by the police. He said they had been trained to accept the worst possible treatment when captured.

He said they willingly told what they had done for "propaganda" purposes.

Captain Prinsloo said all four accused had spent between seven and eight months in prison, under section 29 of the Internal Security Act.

In that they were visited only by State officials. Once charged, they had access to lawyers.

The hearing continues.



# Terror accused 'was deputy-commander'

ster 10/2/89 By Dirk Nel,  
Northern Transvaal Bureau

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PIETERSBURG — A second anonymous witness was yesterday called by the State to testify, when the trial of Mr Abram Magagula (31) of Evaton, Vereeniging, continued in the Pietersburg Regional Court.

Mr Magagula has pleaded not guilty to charges of terrorism, being a member of the Pan Africanist Congress (PAC) and promoting its aims, the illegal possession of firearms, ammunition and grenades, and several alleged contraventions of the Internal Security Act.

The witness, known as Mr Y, testified *in camera*, after Mr J A van Zyl, representing the State, indicated that there could be reprisals if the evidence was given in open court.

## 'INFILTRATED SUCCESSFULLY'

Mr Y said that he was with the accused at a PAC transit camp in Lesotho, and in Libya, where the accused was a "deputy-commander" during a guerilla training course.

He told the court he infiltrated the country successfully, but was later arrested near Louis Trichardt.

Warrant Officer R van Rooyen told the magistrate he found Scorpion pistols and grenades in the possession of Mr Magagula and another alleged insurgent, when he arrested them in the Nancefield township at Messina in October, 1987.

He said he also found a piece of paper bearing the names of terror suspects in the lining of the accused's jacket.

Earlier, another unidentified witness, Mr X, said he became a State witness because he believed he would then be released.

The hearing continues.

# Killer crowd was 'as if hypnotised'

Cape Times 10/2/89  
331

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## TWENTY-FIVE PEOPLE FACE A POSSIBLE DEATH SENTENCE AFTER A MOB KILLING ...

SCRAWLED in black paint on the concrete path leading up to the door of his church is a warning: "Beukes, you neglect us — get right or get out".

It is not the first warning Reverend Aubrey Beukes has had since he took up the cause of the Uppington 25. But it is one of the less frightening ones.

Beukes, 32, is a minister in the Nederduitse Gereformeerde Sendingkerk in Uppington. His congregation lives in the "coloured" township of Blikkiesdorp.

The Uppington 25 are from Paballelo, Uppington's black township. It lies alongside Blikkiesdorp, separated only by a railway line. But apartheid has ensured that each township, their people and their concerns are as remote from one another as if they were separate countries.

For many of Beukes' parishioners — as with most whites in this conservative Northern Cape town — the

## A reverend's lonely battle

By GAYE DAVIS in Uppington

trial is a "Bantu" issue.

Some find it difficult to understand why Beukes should devote time and energy to highlighting the plight of people who do not even belong to his congregation. Others would probably like to join him — but are afraid.

And there are those who are exploiting the fear and apathy in what he sees as a clear attempt to isolate him from his community and neutralise his efforts. Beukes is convinced they are not members of his congregation.

The first pamphlet appeared in Blikkiesdorp on January 19. Allegations that he misused church funds to finance a church service to rally support for the trialists were juxtaposed with facts and figures of government

expenditure on upgrading Uppington's "coloured" townships.

The second pamphlet, distributed last week, portrayed him with horns and a tail, blood running from his mouth, a hammer and sickle alongside his name. Overleaf was a letter addressed to his congregation, thanking them for "reacting so strongly" after hearing "a few of the facts behind the dominance".

Beukes, the letter said, was a "vehicle of Satan", bent on a revolution of hate and violence — for why else would he go to such lengths to have murderers acquitted?

A revolution would bring blood in the streets, a collapsed economy, famine and churches turned into "political gathering places" where Bibles "are burned in great heaps".

Parishioners should stand together and "squeeze this boil which is giving us so many problems".

The pamphlet followed telephoned death threats, including one from someone claiming to be from the Wit Wolwe (White Wolves). And one day he found brake fluid had been thrown over his car.

Beukes spent two weeks on the telephone during January alerting local and foreign media and church groups about the trial. But the first time he openly addressed the issue was during a sermon last Sunday, leading him to believe the authors of the pamphlets must have had access to his telephone.

"They are trying to isolate me from my community, putting out the message that I sanction violence ... but people's lives are at stake here. There has been no real support for the trialists and their families from any of the other churches."



Smear pamphlet aimed at Beukes

# Can a mob have a mind and a single purpose?

In a small Northern Cape town, a court hears remarkable evidence in a case similar in many ways to that of the Sharpeville Six ... only a lot bigger  
GAYE DAVIS reports from Uppington

A RAMPAGING, mindless mob — or a group of people acting with the specific aim of brutally murdering a municipal policeman?

That was the question before a Northern Cape judge this week as defence lawyers engaged in their battle to save 25 Uppington residents from possible death sentences.

The trial has made South African legal history: the Uppington 25 are the largest number of people to be convicted of murder in a single trial.

Mr Justice JJ Basson found most of the 25 guilty on the basis that they were part of a crowd which stoned Lucas "Jetta" Sethwala's house shortly before his death on November 13 1985. A 26th defendant was convicted of attempted murder.

He found the intention of the crowd was to drive the policeman from his house and kill him. His application of the common purpose doctrine and other similarities with the "Sharpeville Six" case have focused international attention on the trial and drawn the scrutiny of human rights groups.

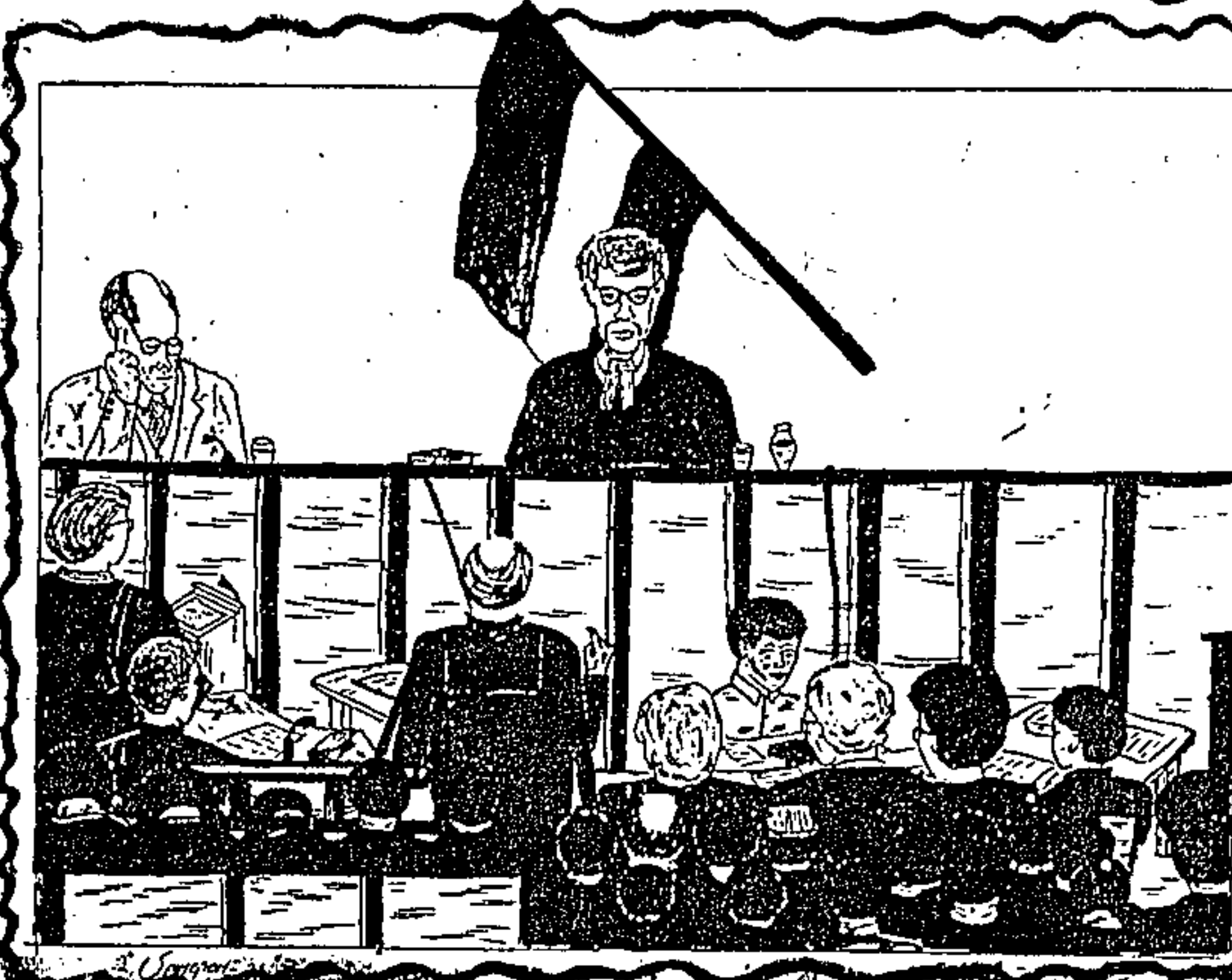
This week, as argument on extenuating circumstances began, the packed courtroom heard an expert on mob psychology explain how 25 people of different backgrounds and characters could have come together to perpetrate a murder in broad daylight, making no attempt at stealth or disguising themselves.

Professor Graham Tyson, associate professor and head of the department of experimental psychology at Wits University, described how psychological forces operate on crowds — rendering individuals unable to think rationally and thus diminishing their responsibility in much the same way as might the consumption of too much alcohol.

Tyson, who has made a study of mob killings in South Africa in recent years, said the fact that there were great variations between the accused in terms of home backgrounds, intelligence and personality meant the events of November 13 could not be explained in terms of a group of people brought together by prior disposition or criminal intention.

From reports on the accused by a clinical psychologist and social worker, it was clear the behaviour of many of the accused was out of character.

The court record showed that even the deceased and his wife were



View from the dock: Uppington court drawn by Elisha Matshoba, accused no 9



Not all relatives could get into the crowded court room. Here, some of the unlucky ones hand over food parcels to be passed to the accused  
Picture: ULLI MICHEL, Reuter

amazed to see some of the accused taking part in the attack: one was the policeman's best friend, another a youth treated as a son of the house.

Describing the events of the day, Tyson drew out psychological and other factors he believed came into play.

Rumours that Paballelo's mayor was R1 000 in rent arrears, yet had not been evicted as others had, would have heightened feelings of frustration and tension in the impoverished township. The killing took place after residents were dispersed by police using teargas from a meeting on the soccer field held to discuss rentals.

There were rumours that the meeting was organised by police — rumours the police themselves were aware of. That this was not the case was irrelevant: people believed it and

would have been intensely frustrated when dispersed.

The sound of gunshots as teargas was fired, uncertainty whether live ammunition was being used, the effects of the teargas and panicked attempts to get away would all have served to arouse the crowd.

"This, coupled with people's frustration, would have led to intense anger and greatly increase the possibility of violence. People would also be more susceptible to suggestion, and more likely to act without thinking of the consequences."

The mob's action in first destroying the wall of a beerhall, then stoning a police Casspir, then — when the Casspir had gone — attacking the deceased's house, were all typical of a highly aroused group of people.

More teargas was fired when the

Casspir was stoned. When his home was stoned, the policeman fired his shotgun as the crowd, hitting a child. "Arousal feeds on itself and tends to grow rapidly. Things happen quickly and there was no chance for the arousal to dissipate."

Probably all of those who attacked the house and the fleeing policeman would have been deindividuated to varying degrees.

This could also be inferred from their behaviour: one of the characteristics of deindividuation was that people became irrational, less concerned with how others saw their behaviour.

"None of the mob tried to mask their identity either during the stone throwing, the assault or when gloating about his death — though it is obvious they could be identified easily."

"Even after the deceased fired his shotgun from inside his house the crowd continued to throw stones, regardless of their personal danger."

"The attack itself was irrational: the first two blows with the butt of his shotgun killed him, yet the mob continued to assault him for between four and 10 minutes. What rational purpose could that serve, especially when it logically increased the chances of being caught or identified?"

"The only reasonable explanation for this behaviour seems to be that they were deindividuated," Tyson said.

Where there was deindividuation in a mob situation, modelling — a copycat reaction by members of the crowd — was likely to increase, he said.

There was no evidence of a leader in the true sense of the word, but some of the accused, given their ag-

gressive natures, could unwittingly have "led" the mob by starting to throw stones, with others modelling their behaviour on this.

Justice Bekebeke, the 27-year-old male nurse found guilty of dealing the two blows which killed the policeman, was "not an aggressive hoodlum but rather an intelligent, mature and decent person with a lot to offer his community. Yet he acted in a barbaric manner," Tyson said.

"Even given that as the court has found it was his intention to kill the deceased, one would have expected someone with his intellectual ability to have planned it more carefully."

In Tyson's opinion, frustration played a major role: Bekebeke had above average intelligence and wanted to be a doctor. Factors beyond his control made realising this impossible. His concern for others and awareness of Paballelo's problems could have led to his involvement in trying to solve them — and much frustration when the meeting to discuss rents was broken up.

The teargas fired in retaliation, the stoning of the deceased's house and the fact that a child was hit when the policeman fired his shotgun would have further increased his arousal.

"The degree to which he was aroused and deindividuated can be gauged by the frenzied manner in which he caught and killed the deceased."

Possibly, if the Casspir had not been where it was, the killing might not have occurred. And if the policeman's house had been situated elsewhere in Paballelo, "I say with almost 100 per cent certainty it wouldn't have been attacked," Tyson said.

Dealing with each of the 25 individually, Tyson said he found — on the basis of reports by a clinical psychologist and a social worker — that 14 had acted totally out of character.

They are Kenneth Khumalo, 32, a former councillor and colleague of the dead man; Tros Gubula, 30; David Lekhanyane, 24, a "responsible young man whom the deceased was surprised to see involved; Myner Gudlani Bovu, 28, a trainee teacher; Zuko Zabandini, 32; Elisha Matshoba, 23, "an outstanding young man", talented and a church-goer; Justice Bekebeke; his brother Barry, 22, "sensitive and artistic"; Ronnie Masiza, 22; Booi Jasta, 23, a friend of the deceased, treated as a son of the house; Elizabeth Bostaander, 22, a reserved, highly moral, exemplary student; Gideon Madlongolwane, 60; Albert Tywilli, 26, the policeman's best friend, and Neville Witbooi, 20.

Low intellectual ability, unsophistication and other factors could have led to six accused getting caught up in the excitement: Jeffrey Sekiya, 24; Sarel Jacobs, 22; Roy Swartbooi, 22; Ivan Kazi, 21; Xoliswa Duba, 20, and Wellington Masiza, 26.

Only four of the accused had aggressive natures: Abel Kutu, 22; Andrew Lekhanyane, 28; Zonga Mokgale, 30, and Xolile Yona, 24.



Printer denies  
subversive  
publications

Court Reporter

CITY printer Mr Allie Parker, who admitted printing five publications but pleaded not guilty to producing publications containing subversive statements, appeared in Cape Town Regional Court yesterday.

At a previous hearing Mr Parker, 47, of Lansdowne, denied that at Elsie's River he had contravened the emergency regulations by producing five publications containing subversive statements.

He admitted having printed the documents but "placed all the other elements in dispute".

The hearing was adjourned to March 20.

Mr J M Lemmer was the magistrate. Mr P Silbert prosecuted. Mr B Wagley appeared for Mr Parker.



# Teargas angle in plea for mercy

By MARIUS BOSCH

STRONG psychological forces had influenced 25 residents of an Upington township in the 1985 murder of a policeman, a behavioural psychologist told a packed Upington courtroom this week.

Professor Graham Tyson, head of the Division of Experimental Psychology at the University of the Witwatersrand, was giving evidence in mitigation in the trial of the "Upington 25" — possibly the largest number of people convicted for the same murder in South Africa.

After a marathon hearing lasting 18 months, the defendants were convicted of murder in April last year. In a 400-page judgment, Mr Justice Basson found a 26th man guilty of attempted murder.

Most of the accused were convicted on the basis that they formed part of a crowd that stoned the house of a municipal policeman before he was killed and his body burnt.

## Similarities

The incident took place in Paballelo township after a meeting to discuss grievances was broken up by police using teargas.

The trial has attracted international attention, largely because of certain similarities to the case of the "Sharpeville Six", in that Mr Justice J Basson cited the doctrine of common purpose in finding all 25 guilty of murder.

Professor Tyson told the court the use of teargas could have affected the behaviour of a crowd already aroused by conditions in Paballelo.

While the hearing is a daily topic in Paballelo, few of Upington's whites appear aware of the trial which the defence describes as unique in South African legal history.

The instructing attorney, Ms Andrea Durbach, said the hearing was expected to last for another two months.

man had subsequ-

sale. He added that

"About 99 percent

Act.

A SECURITY policeman who arrested an alleged guerilla of the Pan Africanist Congress found a list of known suspects in the lining of a jacket, the Pietersburg Regional Court heard last week.

Warrant Officer R van Rooyen told Mr J G J van Deventer that the alleged guerilla, Mr Abram Magagula, was not assaulted after his arrest because he had co-operated with the police.

Mr Magagula (31) of Evaton near Vereeniging, faces ten charges ranging from terrorism to attempted escape from

# Court told of guerilla list

331

Sowetan 13/2/89

By MATHATHA TSEDU

custody. He has pleaded not guilty to all the charges.

A witness who cannot be identified and who testified behind closed doors, told the court that he had met Mr Magagula at a PAC camp in Maseru, Lesotho. He

said they later travelled together to Libya, Bulgaria, Zimbabwe and Tanzania where they received training in guerilla warfare.

Mr Y, who is the second witness to testify in camera, said he was arrested near Louis

Trichardt by SADF soldiers. He said two other guerillas who had been with him had been shot dead by the soldiers. He said he was still being held by police in terms of Section 31 of the Internal Security Act.

(Proceeding)

## Director

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# Mining industry layoffs 'severe'

JOHANNESBURG — The 1988 decline in staffing levels in the two main sectors of SA's mining industry — gold and coal — was far more severe than the announcements of about 10 000 layoffs during the year suggest, statistics released by the Chamber of Mines reveal.

Provisional figures, computed jointly by the chamber and the Minerals Bureau, show the average number employed on goldmines in June at 523 687, 40 765 down on the previous year. This represents the first decline in gold mining employment figures in more than a decade.

And staffing levels on SA's collieries, at 87 125, were down by 6 554 on the year and at their lowest mark in a decade.

It appears most of these jobs were lost through natural attri-

tion. Chamber senior GM, external relations, Johann Liebenberg warned that the next 12 months "do not look promising" as regards job creation on the gold mines.

For twelve of the 31 goldmines affiliated to the chamber, it cost \$385 or more to extract each ounce of gold last year.

Regarding the collieries, Liebenberg said things were looking up, but this was only relative to the 1987 downturn: "The domestic market is dead. The international market is picking up both in terms of volumes and prices."

National Union of Mineworkers (NUM) assistant general secretary Marcel Golding said the union was discussing the economic conditions in the industry, including the retrenchments suf-

fered in the last year.

However, he conceded the union faced difficult choices in dealing with the problem of marginal mines and retrenchments. A most unpopular solution, which the union had traditionally opposed as divisive, was differential wage rates at those mines.

But, he added: "We are not oblivious as to what is going on. We have always been pragmatic. That is why we settled last year."

He stressed, though, the NUM's preparedness to compromise was dependent on an open and frank approach by the industry. "We want real and timeous proof of the difficulties the industry tells us it is facing," he said.

The NUM accepted the need for fair dividends, he said. But this had to be put into perspective next to the need for a living wage.



# Uppington 25 start battle for their lives

The hearing in which 25 Uppington residents have been convicted of murder has resumed after a six-month adjournment, but week on expert on crowd behaviour gave evidence in extenuation. By ESTHER WAUGH.

The case of 25 Uppington residents convicted of murder, and one of attempted murder, resumed last week after a six-month adjournment.

The defence applied for an adjournment at June to prepare extenuation evidence. Although the case has become known as the "Uppington 25", 26 people were accused of murdering Constable Lucas Setlwaile on November 13 1985 in Paballole township.

The case has a similarity to the Sharpeville Six trial because the accused were also convicted on the basis of common purpose. Most were found to have participated in setting Constable Setlwaile's house, and thereby associating themselves with the common purpose of the actual perpetrators of the murder.

Twenty-five of the accused were convicted of murder last April after an 18-month trial.

Paballole's former mayor, Mr Kenneth Khumalo, is one of the accused. Professor G A Tyson, head of the University of the Witwatersrand's division of experimental psychology, last week testified on crowd behaviour.

The court found that Khumalo (33) participated in the attack on Constable Setlwaile's home in that he threw stones. And he was armed with a bottle containing a liquid resembling petrol.

Though there was no evidence that he had participated in the physical attack on the constable, bottles resembling those in his possession were found near the place where the man was set alight.

Professor Tyson said: "There appears to be no logical reason for his participation in the murder."

"Certainly there is no evidence of any personal grudges, and the deceased was so surprised at seeing Khumalo throwing stones that he drew it to the attention of all those in the house."

Another of the "25", Tros Gubula (30), was employed by an Uppington firm at the time of his arrest.

The court found that he had participated in the attack on the constable's home with the intention of driving him out of the place and killing him.

He was found to have actively associated himself with the common purpose of the group by throwing stones at the home. Gubula was found to have been an accomplice.

Professor Tyson said in evidence in extenuation: "It seems likely that (Gubula) would have been highly aroused on the morning of the incident."

"I get the impression that he is rather a meek fellow, and given this, I would think that his response to the event would have been a very strong one."

"Another factor which I think would have played a major role in the behaviour of this accused is conformity."

Abel Kulu (28) at the time of his arrest was employed as a labourer.

The court found that Kulu participated in the attack on Constable Setlwaile's house by actively associating himself with the group and their purpose.

It was found that he must have heard people in the group calling for the deceased to be killed.

He was classified as an accomplice. Of Kulu, Professor Tyson testified that he "has a poorly developed value system, a low frustration tolerance, and a predisposition to react with aggression."

"Because of his low level of intellectual functioning, this accused is also very likely to conform."

The court found that Booi Japhla (24) had participated in the attack on the policeman's house and had returned from the murder scene with the two Masiza brothers. He was classified as an accomplice.

Professor Tyson testified that it was likely that Japhla would have conformed with the group.

## Out of character

Xoliswa Dube (23) at the time of her arrest was a pupil at high school.

Dube has a child who lives with his father in Kimberley, where he attends school.

The court found that she was part of the group which had gathered outside the policeman's house, and had shouted that he in the house, thereby inciting the crowd.

It was further found that she knew that the crowd wanted to drive the policeman from his home, and she had actively associated herself with the crowd's common purpose by inciting them.

She was classified as an accomplice. "Her childlike nature makes it highly probable that her attention would become fixated outside herself, and this, together with the arousal and the large group size, is likely to have led to de-individualization, and to her being swept along with the crowd," said Professor Tyson.

Elizabeth Bostander (23) was a pupil at high school at the time of her arrest. The court found that she had associated herself with the actions of the crowd and had thrown stones at the policeman's home. She was classified as an accomplice.

"In this accused, we have another case in which the behaviour for which she has been convicted is totally out of character," said Professor Tyson.



A relative enters the court as a policeman stands guard — 26 people were accused of the murder of Constable Lucas Setlwaile on November 13, 1985.

which the behaviour for which she has been convicted is totally out of character," said Professor Tyson.

She is a quiet and reserved person with high moral values, a regular churchgoer, and an exemplary pupil.

"Once in that situation, she would be highly susceptible to conformity pressures, and in my opinion it is highly likely that she simply modelled her behaviour on that of others around her."

Evelina de Bruin (about 63) is the common-law wife of Gideon Madlongwane. They have 10 children.

At the time of her arrest she worked as a domestic in Uppington.

The court found that she had incited the crowd gathered outside the policeman's house to stone the place and kill him.

She was also found to have stoned the house, and to have walked past the place after the policeman had been killed shouting words to the effect: "Why are his white brothers not helping him now?"

She was classified as an accomplice.

Describing De Bruin's crowd behaviour, Professor Tyson said: "Her very high level of arousal, together with being in the crowd, and the novelty of the situation, is likely to have caused her to be de-individualized."

Steve 13/1/89

Gideon Madlongwane (about 60) at the time of his arrest had worked for the South African Railways for 36 years.

The court found that he had associated himself with the common purpose of the group and had stoned the policeman's home. He was classified as an accomplice.

Professor Tyson found that Madlongwane's behaviour on the day of the incident was out of character and probably due to situational factors.

Xolie Yona (25) has been in custody since his arrest in November 1985.

The court found that he had actively associated himself with the common purpose of the group and had participated in the stoning of the policeman's home.

It was also found that he had participated in the physical attack on the policeman, and had returned from the scene of the murder chanting "Hey, hey, the dog is dead."

He was classified as a principal offender. "The high arousal and the fact that he has a strong resentment to authority figures," said Professor Tyson.

"This high arousal, and the fact that he probably felt a close unity with the others, would probably have led to de-individualization."

Albert Tywilli (27) was a member of the South African Police some time before his arrest.

The court found that he had actively associated himself with the common purpose of the group and had thrown stones at the policeman's home.

He was classified as an accomplice. "The fact that this accused took part in the murder of the deceased seems totally illogical, given that he was the deceased's best friend."

"The only reasonable explanation appears to be that he was responding to situational forces," said Professor Tyson. Jeffrey Sekiya (25) was a casual labourer for a construction company.

He was convicted on the same basis as Tywilli.

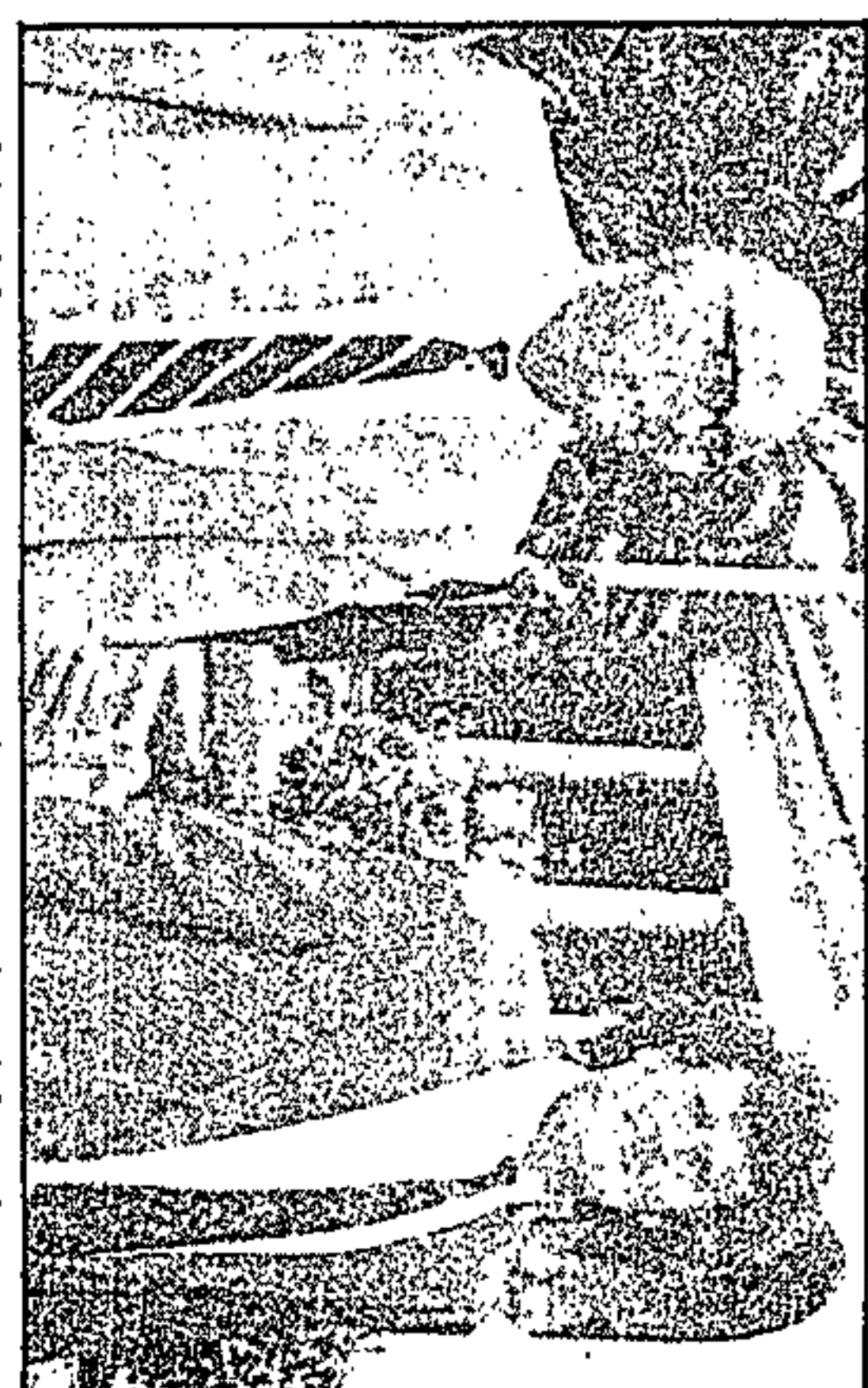
Professor Tyson said Sekiya probably conformed with the group and was de-individualized on the day of the murder.

Sarel Jacobs (22) Jacobs was a supervisor for a construction company before his arrest.

He was convicted on the same basis as Tywilli and Sekiya.

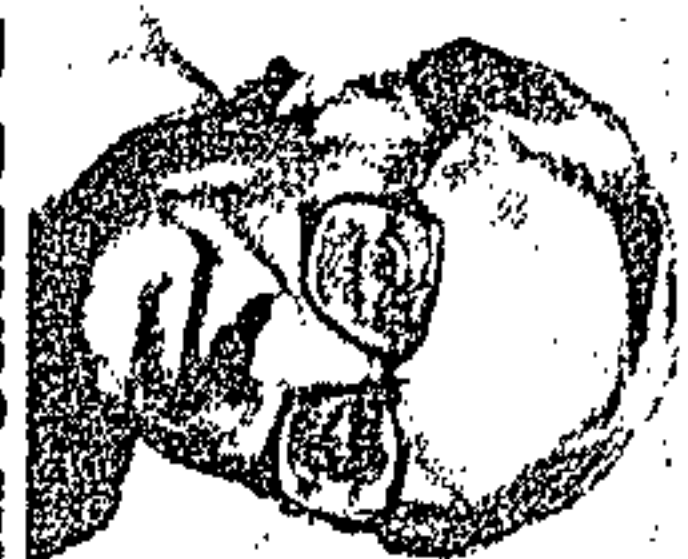
"However, with his limited intellectual ability, poorly developed sense of values, and labile emotions, it is probable that once he joined the crowd he quickly got caught up in all the excitement and became de-individualized," Professor Tyson told the court.

Roy Swartbooi (23) was a pupil at the time of his arrest.



Part of the defence team, senior counsels Mr Ian Farlam (left) and Mr Anton Lubowski outside the Uppington Magistrate's Court.

## THE INDEPENDENT PARTY



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# 11/6/89 13/2/89 (331) (331) **'White Wolf' Strydom asks court to remove blacks**

The Argus Correspondent  
**PRETORIA.** — The alleged White Wolf gunman, Mr Barend Hendrik Strydom, gave a "white-power salute" and asked that blacks be removed from the room when he appeared in the Pretoria Magistrate's Court today.

Mr Strydom, 23, entered the court and said: "Ek sal waardeer as die polisie die kaffirs hier uit die hof verwyder." (I would appreciate it if the police would remove the blacks from court.)

He raised his arm and said: "Lank lewe apartheid" (long live apartheid) before the court proceedings began.

When the magistrate, Mr A G Stander, entered the court Mr Strydom said he would appreciate it if his requests were adhered to otherwise he would not carry on with the court proceedings.

## **CUSTODY**

Mr Stander warned Mr Strydom that the hearing could go ahead without his co-operation and that he could be charged with contempt of court.

The court was told the Attorney-General of the Transvaal had referred the case to the Supreme Court for trial on May 15.

Until then Mr Strydom will be held in custody.

He faces eight charges of murder, 16 of attempted murder and one of pointing a firearm.

Mr Strydom allegedly went on a shooting rampage on November 15 in Strijdom Square, killing seven people and wounding 15.

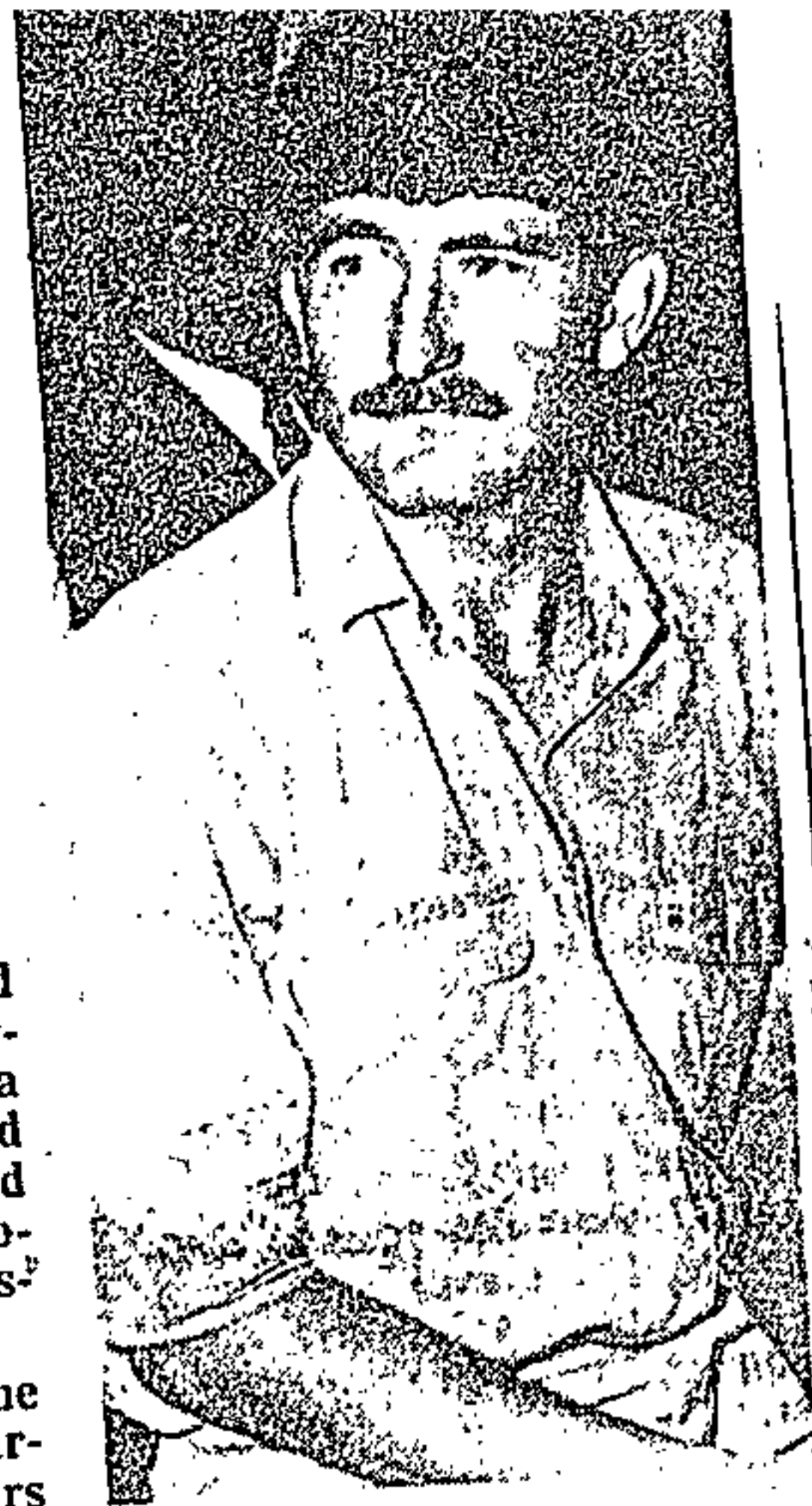
He also allegedly shot Mrs Martha Mosikedi, 27, near her shack in De Deur on November 8.

Mr Strydom has pleaded not guilty to the charges.

At an earlier court appearance Pretoria district surgeon Dr Willem Pieterse said Mr Strydom was aware of what he had done but showed signs of a "psychopathic personality".

Members of Mr Strydom's family were in court today. He greeted them all and kissed his stepmother.

Mr Strydom was wearing khaki clothes and a tie with the Transvaal Vierkleur flag.



Mr Barend Strydom



His stepmother, Mrs Daphne Strydom

# Upington 25 psychologist questioned

From MARIUS BOSCH

UPINGTON. — The participation in the mob killing of an Upington policeman by his best friend and a person who was "like a brother" to the dead man seemed to be totally illogical, a Supreme Court judge was told here yesterday.

Professor Graham Tyson, head of the division of experimental psychology at the University of the Witwatersrand, was being cross-examined on his evidence in mitigation in the trial of "the Upington 25", all residents of Upington's Paballelo township who have been found guilty of the murder.

They were convicted of the murder on the legal principle of common purpose which was applied in the case of "the Sharpeville 6".

Earlier, Professor Tyson said events in Paballelo leading up to the murder had aroused the crowd to the extent that they became "deindividuated" — a process which he said was similar to being hypnotised or being under the influence of alcohol.

## 'Out of character'

One of the accused, former policeman Albert Tywilli, had been the dead man's best friend.

His behaviour in participating in the attack on the dead man, Constable Lucas "Jetta" Sethwala, was totally out of character, Professor Tyson said.

He said events — like the breaking up of a meeting called to discuss grievances in Paballelo by police firing teargas, and the stoning of a police vehicle and the deceased's house — could have contributed to the arousal of the accused into a state where their recognition of the consequences of their actions was diminished.

Earlier in the hearing Mrs Beatrice Sethwala, mother of the murdered policeman, testified that she viewed one of the accused, Boy Japhta, as almost like a son.

She said she had been amazed to see him among the crowd stoning her house on the day of the killing as her son and Japhta were "like brothers".

Professor Tyson said that Japhta's behaviour suggested that he was "deindividuated" and simply conformed with the mob.

The state will continue the cross-examination of Professor Tyson today.



CPA Toms 14/3/89  
331

## White Wolf warned by magistrate

PRETORIA. — "White Wolf" Mr Barend Hendrik Strydom asked police to "remove the kaffirs" from the Magistrate's Court here when he appeared yesterday facing eight charges of murder and 16 of attempted murder.

The alleged murders took place in November last year when Mr Strydom allegedly opened fire in Pretoria's Strijdom Square.

After raising his arm and saying "Long live apartheid!", Mr Strydom told magistrate Mr A G C Stander that if his request was not adhered to he would not carry on with the proceedings.

Mr Stander warned 23-year-old Mr Strydom that the proceedings could carry on without his co-operation if necessary and that he could be charged with contempt of court.

Mr Strydom's Supreme Court trial begins on May 15. He will be held in custody until then. — Sapa

CPA Toms 14/3/89

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## 'Judge Upington 25 in socio-economic context'

From ESTHER WAUGH  
The Argus Correspondent

UPINGTON. — The socio-economic conditions of the township of Paballelo here had to be seen as relevant to the context in which the 25 township residents, now convicted of "common cause" murder, acted, said expert witness Professor Martin West, testifying in mitigation of sentence.

Twenty-five Paballelo residents have been convicted of murder and one of attempted murder after the mob killing of Constable Lucas Sethwala on November 13 1985.

Professor West, of the University of Cape Town's Department of Social Anthropology, said yesterday the court's judgment took "relatively little" account of socio-economic conditions in Paballelo.

While it made some note of complaints about housing, rents, poor facilities and official harassment, it found that only some of the accused actually paid rent themselves and most lived with their parents or families and contributed little if anything to rent.

"If the inhabitants perceive there to be complaints, then there are com-

plaints, irrespective of the assessment of outsiders," said Professor West.

"Such complaints must be relevant to the understanding of the general context in which the events took place."

He found it "problematic" that the court found the rent issue did not affect the accused.

"It is not by chance that rents are such a major issue in black townships generally," Professor West testified.

Paballelo was a disadvantaged community with high unemployment and low wage levels.

"My evidence also shows that a number of the accused, despite their youth, have parental responsibilities. Others were making a contribution to family resources and some were in fact critical to the financial support of their parents."

● Mr Justice Basson, who is on the Bench, yesterday ordered the South African Police to investigate allegations of assault by one of the Upington trialists, Xolie Yona.

Yona alleges police punched him in the stomach, applied shocks to him and presented him with a plate of faeces when he complained of hunger.

# Cops beat me, gave me electric shocks <sup>Cape Times 15/2/89</sup> accused

From MARIUS BOSCH

UPINGTON. — A Supreme Court judge presiding at the trial of the Upington 25 yesterday gave defence counsel an assurance that allegations of a police assault on one of the accused would be investigated.

One of the accused, Mr Xolile Yona, alleged that he was assaulted by police after undergoing medical examinations at Groote Schuur Hospital, defence counsel advocate Mr Ian Farlam, SC, told Mr Justice J Basson.

Mr Yona said that after he complained of hunger, police wearing plastic gloves entered the room carrying a plate of faeces and told him to eat it. When he refused, police handcuffed him and smeared it over his mouth.

Mr Farlam said that Mr Yona, a former professional boxer, alleged that after being transported to Cape Town on January 30 this year he spent the night in a police station and had to be taken to Groote Schuur the following day for an EEG and a brain scan. He had complained to staff that he had not been fed, Mr Farlam said.

After the medical examination, Upington police had taken him to an unidentified Cape Town police station. He was then transferred to another station where, he alleged, he was punched in the stomach several times, had electrodes attached to his head and was given electrical shocks.



'Upington 25 a disadvantaged group'

# Paballelo complaints valid, claims witness

Star 15/2/89.

By Esther Waugh

UPINGTON — A second expert witness testifying at the trial of the 25 Upington residents who have been convicted of murder, Professor Martin West, yesterday gave evidence on the socio-economic conditions in Paballelo.

The 25 Paballelo residents have been convicted of murder and of attempted murder after the mob killing of Constable Lucas Sethwala on November 13 1985.

Professor West, of the University of Cape Town's Department of Social Anthropology, told the court that he had interviewed the families of 25 of the accused convicted of murder, interviewed various Paballelo residents and had visited the township three times, once with his colleague, Dr MR Ramphela. He also met all the accused.

Professor West said the court record and judgment revealed "relatively little on socio-economic conditions in Paballelo", although the judge appeared to have accepted the fact that many residents had complaints.

"What there is focuses on the

local issues of housing, schooling, rents, poor facilities (roads and lighting), community problems (reckless driving and alcohol abuse) and official harassment," Professor West said.

He said that according to the judgment only some of the accused actually paid rent themselves and most of the accused lived with their families.

"There is an important sense in which the question as to whether the complaints are objectively 'real' is not the issue."

## Perception

"If the inhabitants perceive there to be complaints, then there are complaints, irrespective of the assessment of outsiders.

"Such complaints must be relevant to the understanding of the general context in which the events took place," Professor West told the court.

He said that the type of complaints raised in the trial were identical with grievances raised in other black townships.

"It is my considered view that it is altogether improbable that the

grievances mentioned in the context of Paballelo are in any way contrived.

"I note in this regard that many improvements to facilities in Paballelo have been made subsequent to the commencement of the trial," Professor West said.

He further said that he found it "problematic" that the court found the rent issue did not affect the accused.

"It is not by chance that rents are such a major issue in black townships generally. Rents are a major item of expenditure, and are critically related to security of tenure: failure to keep up payments leads to eviction," Professor West testified.

He described Paballelo as a disadvantaged community with high unemployment and low wage levels.

"My evidence also shows that a number of the accused, despite their youth, have parental responsibilities; others were making a contribution to family resources, and some were in fact critical to the financial support of their parents," the professor said.

The trial continues.

# 'Trojan Horse' case an SA first

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Star 15/12/87

The families of two people killed in the "Trojan Horse" shootings in Athlone in the Cape in 1985 want justice. CLARE HARPER reports.

South Africa's first private prosecution for murder is scheduled to begin in the Cape Town Supreme Court on August 1 when 13 police and Defence Force personnel allegedly involved in Athlone's "Trojan Horse" incident will appear.

During the incident, in October 1985, policemen hid in wooden crates on the back of a South African Transport Services truck and drove down Thornton Road firing on stone-throwers. Two teenagers and an 11-year-old boy were killed.

Police at the time defended the "ambush" as a necessary technique to protect people using public roads in the area.

Both the Attorney-General for the Witwatersrand, Mr Klaus von Lieres, and the chairman of the Bar Council, Mr Max Labe, said yesterday they did not know of any modern private prosecution for murder, although Mr von Lieres said it might have happened before the introduction of the Attorney-General's office in the Cape in 1829.

## Rare Situations

Private prosecutions only happen in rare situations and can only start once the Attorney-General has issued a certificate declining to prosecute.

Last year the Attorney-General of the Cape, Mr Daniel Rossouw, declined to prosecute anybody after an inquest court found that Lieutenant Douw Vermeulen and his task force were negligent and responsible for the deaths of Michael Miranda (11), Shaun Magmoed

(16) and Johanathan Claasen (18).

The attorney for the Magmoed and Miranda families said yesterday that the families felt the accused had to answer for their actions.

A private murder prosecution is identical to a normal criminal one, except the aggrieved party takes on the role of the State.

A major difference is that in a criminal trial the prosecution has the advantage of the Attorney-General's office and police investigators at its disposal.

In a private prosecution the plaintiff has to do all his own investigation.

## A-G can intervene

However, the accused have as much chance of being convicted of murder as they would in a normal criminal case, and the trial follows the normal criminal procedure.

The Attorney-General is empowered to intervene at any stage of the proceedings and continue the prosecution.

The families of the two dead children will have to pay their own costs, but if the prosecution succeeds, the accused or the State may be ordered to pay these costs. If it fails the private prosecutor may be ordered to pay the costs of the accused.

A further burden on the plaintiff is that in terms of the Criminal Procedure Act, he must deposit security for any costs the defence may incur, with a magistrate, before the prosecution can take place.

The families have deposited R10 000 with the chief magistrate of Wynberg for this purpose.



# Investigation ordered into assault allegations

33 By Esther Waugh

UPINGTON — Mr Justice Basson yesterday ordered police to investigate allegations of assault made by one of the Upington 25, Xolie Yona.

The allegations follow a trip to Cape Town by Yona for medical examination at Groote Schuur Hospital.

Mr Ian Farlam SC, counsel for the defence, told the court that a Dr Kesler of Upington examined Yona, who has been convicted of murder, in Upington and recommended that he be sent to Cape Town for an ECG and a Catscan. Yona was accompanied to Cape Town by two Upington policemen for an examination at Groote Schuur Hospital on January 30.

Yona (25), a professional boxer and one of the accused who had been in custody since his arrest in November 1985, alleged that he left Upington on January 30 and arrived in Cape Town that night.

The next day he underwent the test at the hospital and said he had complained to the hospital staff that he had not been fed. After his medical examination was completed Yona said the Upington police took

him to another police station in Cape Town from where he was later transferred by two white plainclothes police to another police station.

Yona alleged that a black plainclothes policeman questioned him at the police station. He said that the policeman was joined by other SAP members.

He alleged that he was:

- Punched in the stomach several times.
- Shocked after electrodes were attached to his head.
- After complaining that he was hungry, policemen wearing plastic gloves entered the room carrying a plate of faeces and instructed him to eat it. Yona alleged that he had refused whereupon he was handcuffed and the faeces was smeared over his mouth. He was then beaten in an attempt to force him to open his mouth.

Mr Farham told the court that a Major Mans of the Upington prison assured a defence attorney, Ms Andy Durbach, that Yona was not held in solitary confinement as was alleged by the accused.

## Violence: Youth awaits judgment

PR645 15/2/87 (331)  
Tygerberg Bureau

JUDGMENT in the trial of a 16-year-old youth who was allegedly a member of the "Bonteheuvel Military Wing" and who allegedly petrol-bombed vehicles, has been postponed until February 28.

An in-camera summing-up of the case, in which the youth faces three charges of public violence, was made yesterday in the Parow Regional Court.

The accused, who may not be named because he is a minor, allegedly petrol-bombed vehicles on October

1 and December 29 and 30 1987. He has pleaded not guilty.

He was arrested on November 18 1987 and was released on bail. He allegedly jumped bail and has been in police custody for about eight months.

According to Mr D Potgieter for the defence, the youth admitted committing the offences after the police had assaulted him.

The court rejected a plea that the confession be ignored.

The magistrate was Mr J P Vermaak and the prosecutor Mr D J Brand.



# Lawyer's car is painted by 'wolve'

By PETER DENNEHY

MEN claiming to be "wit wolve" struck in Observatory early yesterday morning.

Markings similar to AWB insignia were spraypainted on a car belonging to Mr Johnny de Lange, an advocate appearing for the 14 accused in the Yengeni-Schreiner trial.

Mr De Lange said yesterday that he had received two telephone calls soon after 2am. He was told the "wit wolve" were back, and that he was regarded as a "traitor", and he should look at his car.

Two of his tyres had also been let down.

A man at the AWB office in Pretoria said it was unlikely that AWB members were responsible.

In another incident, Mr Hennie van Wyk of Retreat had a marble shot through the glass portion of his front door, and "DPSC sucks" spray-painted on the door.

Mr Van Wyk said the DPSC referred to the Detainees' Parents Support Committee, with which he had been associated.



**MARKED CAR...** A neighbour, Ms Jenni Noble, looks at Mr Johnny de Lange's car. Tyres were also let down.

Picture: RICHARD BELL

Mc Times 16/2/87 23/25/31

# Accused were 'third-class citizens'

From MARIUS BOSCH

UPINGTON. — The Upington 25 on trial for the murder of a policeman were third-class citizens in the town and subjected "to all the controls and restrictions placed upon black people", a Supreme Court judge heard yesterday.

Prof Martin West of UCT's department of social anthropology was giving evidence on a report he compiled after interviewing the accused and their families.

He said socio-economic problems coupled with police action could have led to the killing of Constable Lucas Sethwala. Factors adding to the problems were high unemployment, overcrowding in the township, low wages and allegations of official harassment.

"It is this context of disadvantage, discrimination and absence of rights which set the scene for the events of November 1985."

Paballelo was a relatively quiet

and conservative area with a low crime rate and there was less "unrest" there than in some other areas during the riots of 1976 and 1985, Prof West said.

"I would expect the more conservative areas to keep things bottled up and to explode periodically."

Prof West compared the situation to the police teargassing of demonstrating UCT students which caused "normally sedate academics to hang out of buildings and heap abuse on police".



# The day Paballelo 'exploded'



Mrs Susan Bekebeke, mother of two of the accused

A UCT sociologist has described the killing of an Upington municipal policeman in 1985 as the day when years of frustrations and suffering "exploded" the quiet of Paballelo.

Professor Martin West was giving evidence this week in the trial of the "Upington 25" — the largest group ever convicted of murder in South African legal history.

He argues that deprivation, discrimination and the absence of rights in Paballelo set the scene for

the events of November 1985.

The 25 Paballelo residents were convicted in April last year for the murder of policeman Lucas "Jetta" Sethwa on November 13 1985.

They face a mandatory death sentence unless the array of witnesses gathered by the defence can prove extenuating circumstances.

West, who visited Paballelo on three occasions to interview families of the trialists, described the township as a "relatively quiet,

conservative area" where people had obviously, in many cases, made the best of their situation.

He said the Paballelo residents were "most disadvantaged in terms of facilities, employment, schooling and opportunities for advancement.

"They are without the direct political representation which could engage those who control their lives and they have little confidence in their town council."

He endorsed the psychological

evidence of Professor Graham Tyson of Wits University that the social background of the accused was "overwhelmingly at variance" with the offence of which they have been convicted.

Most of the accused have been convicted on the controversial principle of common purpose which argues that although some of the accused might not have participated in the actual killing, it could be inferred from their actions that it was their intention to kill the policeman.

## Statements accepted as evidence in Delmas trial

# 'I shot Soweto policeman'

By Jo-Anne Collinge

More than 10 years after the killing of Detective Sergeant Orphan "Hlubi" Chaphi, described in the press as Soweto's most feared policeman, a document apparently revealing his last moments was made public yesterday.

The statement by his alleged assassin, self-proclaimed African National Congress member Mr Obed Jabu Masina (38), has been accepted as evidence in the Delmas Circuit Court trial in which four men face charges of treason, terrorism and murder.

The accused, declaring themselves to be soldiers of Umkhonto we Sizwe, have refused to acknowledge the jurisdiction of a South African civilian court.

### Torture claims

They have refused to plead, to be represented by counsel and to cross-examine witnesses, including those who had knowledge of how they came within days of their detention to make statements admitting to ANC membership and acts of violence. Their silence during evidence has been

maintained despite their declaration at the time of their refusal to plead that they had been "brutally tortured" and statements to certain magistrates that some of them had been assaulted.

In the light of the uncontested testimony of witnesses in the trial-within-a-trial on the statements, Mr Justice de Klerk admitted as evidence the statements by all four accused — Mr Masina, Mr TingTing Masango (30), Mr Neo Potsane (28) and Mr Joseph Makhura (29).

Mr Masina's statement disclosed that he had been the lone assassin of Sergeant Chaphi one night in June 1978 and had laid in wait at a Soweto school near his target's house.

"When he (Sergeant Chaphi) got out of his car to open the gate I came out of my hiding place ... he didn't see me because it was night.

"When he noticed me he took fright and pulled out his gun. I pretended to be drunk. He asked me if I was all right and I said yes. He then replaced his gun against his body. And I took out my pistol and shot him."

According to the statement, Mr Masina then fled with the wounded Sergeant Chaphi firing at him. Having escaped, he left the country, reported back to the ANC and was sent for further military training, returning to South Africa only in 1986.

Among other things the statements contained:

● An admission that Mr Masango caused the death of Mamelodi policeman Constable Sinki Vuma in March 1986. According to the statement by Mr Masango, he waited for Constable Vuma to come home, sighted him through a window of his home and shot him. He explained why he killed the man: "For a long time Sinky (sic) has been killing people and causing people to be captured. Because I am a member of the ANC and an employee of the people, I decided he had to be eliminated."

● Details of the killing of KaNgwane politician David Lukhele in his Mamelodi home in June 1986. Mr Potsane stated he had shot Mr Lukhele with an AK-47 assault rifle while Mr Masina waited outside. He also stated he had accidentally shot a woman in the room.

The hearing continues today.



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## Trevor Tutu in court after AG decision

JOHANNESBURG. — Mr Trevor Tutu, 32, of Orlando West, Soweto, appeared in Kempton Park Magistrate's Court yesterday after a decision by the Witwatersrand Attorney-General, Mr Klaus von Lieres, to prosecute him.

According to previous reports, Mr Tutu was to be prosecuted on three charges of crimen injuria after incidents at Langlaagte, Johannesburg, in October, at Jan Smuts Airport on December 31, and at Kempton Park Magistrate's Court on January 3.

Mr Tutu appeared with Miss Jane Rhodes of Johannesburg.

The prosecutor, Ms R Redelinghuys, asked the magistrate for a separation of trials.

The magistrate, Mr H le Grange, granted the request.

When Mr Tutu was recalled he said that because of the negative publicity he had been receiving he would like to plead to the charges.

— Sapa

# Inquest on Goniwe resumes in E Cape

Own Correspondent

PORT ELIZABETH — The inquest on four prominent Eastern Cape community leaders, including Mr Matthew Goniwe, resumed in the New Brighton Regional Court yesterday.

Mr Goniwe, Mr Fort Calata, Mr Sparrow Mkhonto and Mr Cicelo Mhlawuli disappeared after leaving for Cradock, following a United Democratic Front briefing in Port Elizabeth on June 27 1985.

The following day the burnt-out wreck of their car was found and two badly burnt bodies. Five days later two more bodies were found in a clearing between St George's Strand and Bluewater Bay.

Magistrate Mr E de Beer said after perusal of all documents he had decided to hold the inquests at the same time, but would make separate findings.

A statement by the investigating officer, Detective Warrant Officer S J Els, said he went to Veeplaas on June 28 1985.

He came across a body which was badly burnt. Bullet shells were found nearby. There were knife wounds on the corpse's chest. There was also a strong petrol smell.

Mr Goniwe's burnt-out vehicle was found near the Scribante race track.

Warrant Officer Els said he went to Bluewater Bay where another burnt body was found. A hand appeared to have been chopped off.

On July 2, he and Lieutenant-Colonel Strydom found two burnt bodies at Bluewater Bay.



# Teargas 'could affect crowd'

CMT TMS 11/2/87 33

From MARIUS BOSCH

UPINGTON. — Teargas fired at residents of the Pabellelo township here after a protest meeting could have caused a reaction leading to the murder of a policeman, a Namibian clinical psychologist testified here yesterday.

Dr Herman Raath, who conducted clinical tests and interviews with 25 people convicted of murdering Constable Lucas

Sethwala in 1985, was giving evidence in extenuation of sentence in the Upington 25 trial.

He said a "pain reaction" caused by teargas, which many residents experienced for the first time that day, could have attributed to the arousal of the crowd.

Last week, Professor Graham Tyson testified that people could become "de-individuated" in a mob situation.

# Four stoned policeman's home

By GILL TURNBULL, Court Reporter

FOUR Saldanha Bay men have been convicted in Cape Town Regional Court of stoning a policeman's home.

Johannes Strauss, 18, Jacobus Diergaardt, 21, Godfrey Kekana, 23, and Jacobus January, 18, all of Diazville, pleaded not guilty.

They were convicted of committing public violence by stoning Constable David Mitchells's house in Diazville in September 1987.

Mr Robert Kekana, 29, Mr Masewell Moss, 28, and a youth aged 16 were acquitted.

## FETCHED REVOLVER

Constable Mitchells said stones "rained" into his house, smashing the windows and a coffee table. Bedroom windows were also smashed and a stone landed on the bed.

He told his wife to hold his son in the passage and fetched a revolver.

When the stone-throwers ran away, Constable Mitchells spoke to the Van Wyk family across the road.

Miss Katrina van Wyk testified that between about 60 and 70 people stoned the house.

Among the stone-throwers she recognised Diergaardt, Kekana and January.

Miss Marianna van Wyk said she recognised Strauss, Diergaardt, Godfrey and Robert Kekana and January.

## STRONG SUSPICION

The magistrate, Mr J D Huggett, said there were two conflicting stories. He found the Van Wyk sisters' evidence more believable because there were slight discrepancies. Had their evidence matched perfectly he would have doubted their word.

Although there was a strong suspicion that Mr Strauss, Mr Moss and the youth were involved, the evidence was not strong enough to convict them.

Sentence will be passed today.

Mr DJ Brand appeared for the State. The accused were represented by Mr D Potgieter, instructed by Mr Taswell Papier of C E MacDonald.



EVIDENCE in the treason trial of National Union of Metalworkers (Numsa) general secretary Moses Mayekiso and four other Alexandra activists was concluded in the Rand Supreme Court last week with little of the media attention given to the Delmas case.

Yet the trial poses vital questions about the future and limits of legitimate political opposition in South Africa.

The central issue is: if the activities allegedly undertaken by Mayekiso and his co-accused are treasonable, what scope do people excluded from participation in government by apartheid have for lawful political dissent?

The State alleges that during 1985-86 Mayekiso, 38, his brother Mzwanele, 22, Obed Bapela, 28, Richard Mdakane, 29, and Paul Tshabalala, 38, plotted to seize control of Alexandra and render it ungovernable.

All five have pleaded not guilty to treason and alternative charges of subversion and sedition.

They are also alleged to have been involved in the formation of the Alexandra Action Committee, people's courts and organs of people's power as part of an attempt to usurp the authority of the state.

Evidence was led on behalf of the state to support allegations that the formation of yard, street and block committees, organs of people's power and people's courts were part of African National Congress attempts to control the entire country.

The defence team led evidence, including testimony by Mayekiso himself, that the action committee and yard committees were locally based community organisations formed to deal with the appalling living and social conditions in Alexandra.

After more than a year of evidence from state and defence witnesses, the trial was postponed last week after counsel for the five closed their case.

The trial will resume on April 3 for argument.

While the trial has received relatively little publicity locally, it is being closely watched by the international trade union movement.

A 10-member committee of prominent US jurists is also monitoring the trial and will publish a full report at the conclusion of the case.

One feature of the case that has disturbed both foreign and local observers is the period the five spent in custody before being given bail.

All the trialists except Tshabalala — who was arrested in January 1987 — were detained in June 1986.

When the case came to trial the attorney-general issued a certificate in terms of section 30 of the Internal Security Act preventing them from applying for bail.

In May last year, they brought an application challenging the validity of the AG's certificate, but this was dismissed.

Bail was only granted subject to stringent restrictions in December last

# If this is treason, then what are the limits of dissent?

**Evidence in the trial of Moses Mayekiso and four colleagues was completed last week, but the central issue remains to be resolved: If the accused are indeed guilty of treason, what then are the limits of legitimate political opposition?**



**Mayekiso and Benno Schmidt outside the Rand Supreme Court**

Picture: ULLI MICHEL, Reuter

year, shortly after sentence was passed on the Delmas trialists.

At the start of the trial in October 1987, Mr Justice P van der Walt said he would not be sitting with assessors, because a reading of the indictment, annexures and further particulars showed the case was not one in which the death sentence would be imposed.

He also granted a request that a number of state witnesses, who included Alexandra shopkeepers, business people and council officials, give their evidence in camera.

The judge said it was regrettable that their evidence would have to be given behind closed doors but remarked that "we are, however, living times that are far from normal".

One businessman who testified about the effects of a consumer boycott said his turnover had dropped from R20 000 to R120 a month after a pamphlet was distributed claiming he had helped soldiers and had dealings with the police and the Alexandra town council.

When he was called to the stand,

Mayekiso denied the state's allegation that he and his co-accused had used the action committee to seize control of the township.

"By forming an organisation in Alexandra, we were forming a community organisation," Mayekiso said.

"We were not looking at it as the state has alleged — that we wanted to take control as a government.

"Services such as electricity and road repairs, as well as the entire ad-

ministration of Alexandra — that beyond our scope," Mayekiso said.

During his evidence-in-chief he also asked about the establishment of the yard committees.

"The committee system should create harmony and peace in the community, as well as forming an organisation in Alexandra that would represent the community to the authorities."

"Those were the areas we were looking at in Alexandra."

Asked to comment on the state allegation that the action committee had been furthering the plans of the ANC to take control of the country, Mayekiso told the court it had worked as an independent organisation.

"We had no co-operation with them concerning Alexandra's problems, he said.

"We were working as an independent organisation, (which was) also independent of the organisations that were within the country."

He said the committee's aims had been different from those of the ANC.

"Even now they are different — but there are certain aims with which we sympathise, such as the non-racial future of South Africa," he said.

"Where we disagree with them is where they make use of violence."

Mayekiso also spoke of the people's courts that sprang up in Alexandra during the first half of 1986.

"My feeling was that seeing it was handled by untrained people, some of the decisions made there could be wrong and harsh and it would not be in keeping with fairness at times."

Mayekiso said his brother, Mzwanele, was sent to investigate the courts, and was told that "they were not going to stop because it was the only method to put people straight".

Mayekiso said he had not personally intervened.

The final day of the trial last week was attended by Yale University President, Benno Schmidt, who is member of the US jurists' monitoring committee.

At a press conference, Schmidt told journalists there was great concern in the US about the apparently widespread use of treason indictments against opponents of the government and apartheid.

It was also a matter of concern, he said, that distinguished trade union leaders should face treason indictments.



# Attack on cop's home: 4 guilty

Cape Times 17/2/89 Court Reporter (251) (252) (253) (254) (255) (256) (257) (258) (259) (260) (261) (262) (263) (264) (265) (266) (267) (268) (269) (270) (271) (272) (273) (274) (275) (276) (277) (278) (279) (280) (281) (282) (283) (284) (285) (286) (287) (288) (289) (290) (291) (292) (293) (294) (295) (296) (297) (298) (299) (300) (301) (302) (303) (304) (305) (306) (307) (308) (309) (310) (311) (312) (313) (314) (315) (316) (317) (318) (319) (320) (321) (322) (323) (324) (325) (326) (327) (328) (329) (330) (331) (332) (333) (334) (335) (336) (337) (338) (339) (340) (341) (342) (343) (344) (345) (346) (347) (348) (349) (350) (351) (352) (353) (354) (355) (356) (357) (358) (359) (360) (361) (362) (363) (364) (365) (366) (367) (368) (369) (370) (371) (372) (373) (374) (375) (376) (377) (378) (379) (380) (381) (382) (383) (384) (385) (386) (387) (388) (389) (390) (391) (392) (393) (394) (395) (396) (397) (398) (399) (400) (401) (402) (403) (404) (405) (406) (407) (408) (409) (410) (411) (412) (413) (414) (415) (416) (417) (418) (419) (420) (421) (422) (423) (424) (425) (426) (427) (428) (429) (430) (431) (432) (433) (434) (435) (436) (437) (438) (439) (440) (441) (442) (443) (444) (445) (446) (447) (448) (449) (450) (451) (452) (453) (454) (455) (456) (457) (458) (459) (460) (461) (462) (463) (464) (465) (466) (467) (468) (469) (470) (471) (472) (473) (474) (475) (476) (477) (478) (479) (480) (481) (482) (483) (484) (485) (486) (487) (488) (489) (490) (491) (492) (493) (494) (495) (496) (497) (498) (499) (500) (501) (502) (503) (504) (505) (506) (507) (508) (509) (510) (511) (512) (513) (514) (515) (516) (517) (518) (519) (520) (521) (522) (523) (524) (525) (526) (527) (528) (529) (530) (531) (532) (533) (534) (535) (536) (537) (538) (539) (540) (541) (542) (543) (544) (545) (546) (547) (548) (549) (550) (551) (552) (553) (554) (555) (556) (557) (558) (559) (560) (561) (562) (563) (564) (565) (566) (567) (568) (569) (570) (571) (572) (573) (574) (575) (576) (577) (578) (579) (580) (581) (582) (583) (584) (585) (586) (587) (588) (589) (590) (591) (592) (593) (594) (595) (596) (597) (598) (599) (600) (601) (602) (603) (604) (605) (606) (607) (608) (609) (610) (611) (612) (613) (614) (615) (616) (617) (618) (619) (620) (621) (622) (623) (624) (625) (626) (627) (628) (629) (630) (631) (632) (633) (634) (635) (636) (637) (638) (639) (640) (641) (642) (643) (644) (645) (646) (647) (648) (649) (650) (651) (652) (653) (654) (655) (656) (657) (658) (659) (660) (661) (662) (663) (664) (665) (666) (667) (668) (669) (670) (671) (672) (673) (674) (675) (676) (677) (678) (679) (680) (681) (682) (683) (684) (685) (686) (687) (688) (689) (690) (691) (692) (693) (694) (695) (696) (697) (698) (699) (700) (701) (702) (703) (704) (705) (706) (707) (708) (709) (710) (711) (712) (713) (714) (715) (716) (717) (718) (719) (720) (721) (722) (723) (724) (725) (726) (727) (728) (729) (730) (731) (732) (733) (734) (735) (736) (737) (738) (739) (740) (741) (742) (743) (744) (745) (746) (747) (748) (749) (750) (751) (752) (753) (754) (755) (756) (757) (758) (759) (760) (761) (762) (763) (764) (765) (766) (767) (768) (769) (770) (771) (772) (773) (774) (775) (776) (777) (778) (779) (780) (781) (782) (783) (784) (785) (786) (787) (788) (789) (790) (791) (792) (793) (794) (795) (796) (797) (798) (799) (800) (801) (802) (803) (804) (805) (806) (807) (808) (809) (810) (811) (812) (813) (814) (815) (816) (817) (818) (819) (820) (821) (822) (823) (824) (825) (826) (827) (828) (829) (830) (831) (832) (833) (834) (835) (836) (837) (838) (839) (840) (841) (842) (843) (844) (845) (846) (847) (848) (849) (850) (851) (852) (853) (854) (855) (856) (857) (858) (859) (860) (861) (862) (863) (864) (865) (866) (867) (868) (869) (870) (871) (872) (873) (874) (875) (876) (877) (878) (879) (880) (881) (882) (883) (884) (885) (886) (887) (888) (889) (890) (891) (892) (893) (894) (895) (896) (897) (898) (899) (900) (901) (902) (903) (904) (905) (906) (907) (908) (909) (910) (911) (912) (913) (914) (915) (916) (917) (918) (919) (920) (921) (922) (923) (924) (925) (926) (927) (928) (929) (930) (931) (932) (933) (934) (935) (936) (937) (938) (939) (940) (941) (942) (943) (944) (945) (946) (947) (948) (949) (950) (951) (952) (953) (954) (955) (956) (957) (958) (959) (960) (961) (962) (963) (964) (965) (966) (967) (968) (969) (970) (971) (972) (973) (974) (975) (976) (977) (978) (979) (980) (981) (982) (983) (984) (985) (986) (987) (988) (989) (990) (991) (992) (993) (994) (995) (996) (997) (998) (999) (1000)

FOUR MEN were yesterday convicted in Cape Town Regional Court of stoning the house of a policeman in Saldanha.

Three of their co-accused — a 16-year-old youth and two men, Mr Robert Kekana, 29, of Diazville, Saldanha, and Mr Maxwell Moss, 28, of White City, Saldanha — were acquitted.

Johannes Strauss, 18, Jacobus Diergaardt, 21, Godfrey Kekana, 29, and Jacobus Januarie, 18, all of Saldanha, were convicted of public violence.

The court heard that on September 12 they were part of a group of about 60 people who stoned the house of Constable A Mitchells.

The policeman said three windows were broken and furniture inside the house was damaged, but that he could not put a monetary value to the damage.

His neighbour, Ms K Van Wyk, told the court that between 6pm and 7pm, after the end of a rugby match nearby, she heard a noise outside. She saw a group of about 65 people, some of whom were stoning the Mitchells' house.

She identified all of the accused as being part of the group but said only three of them threw stones.

The hearing continues today for sentence.



## AN ANTHROPOLOGIST EXAMINES LIFE IN AN IMPOVERISHED TOWNSHIP

ALLEGATIONS that police tortured one of the Upington 25 and tried to force him to eat excrement while he was in Cape Town for neurological tests emerged during the trial this week.

Mr Justice JJ Basson granted a defence team request that an investigation be launched into the matter.

Defence advocate Ian Farlam SC told the court that one of the accused, former boxer Xolile Yona, 24, had been ferried from Upington Prison to Cape Town on January 30.

He was held overnight in police cells and underwent an electroencephalogram and brain scan the

### Boxer's arm 'ached from beating'

By GAYE DAVIS

next day, when he was returned to police cells. Hospital staff reported that Yona had complained of not being fed, Farlam told the court.

According to Yona, he was returned to the police cells and was then taken by Cape Town police to another police station.

There a black plain-clothes policeman questioned him before being joined by other policemen. Yona alleged he was punched in the stomach several times and that he was subject-

ed to electric shock treatment.

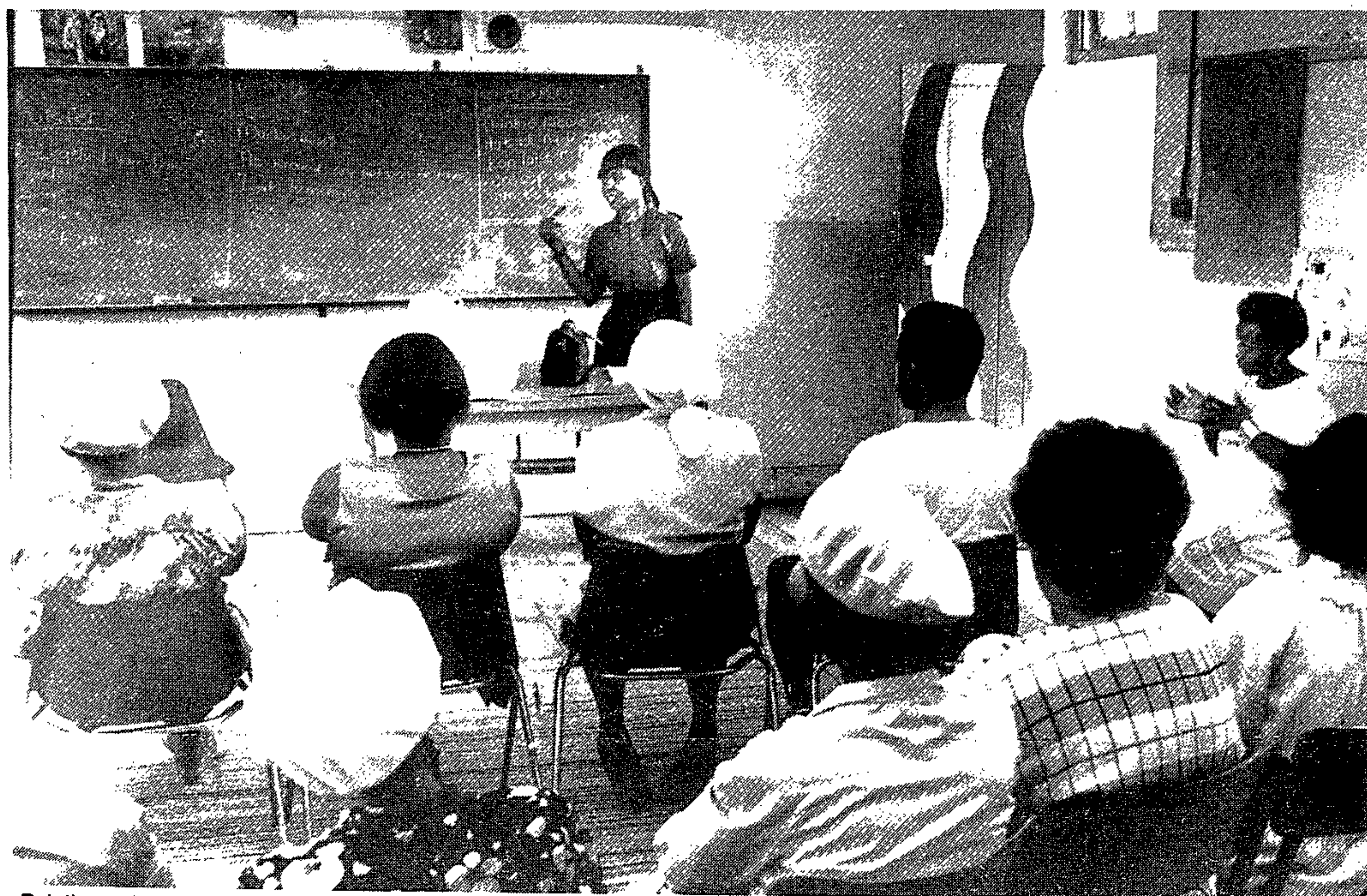
When he complained of being hungry, he alleged, a policeman wearing plastic gloves entered the room carrying a plate of excrement and instructed him to eat it.

When he refused to do so, he was allegedly handcuffed and excrement was smeared over his face and mouth. He alleged he was then beaten in an attempt to force him to open his mouth.

Yona later complained to his attorney, Andrea Durbach, that his arm was "very sore" and that his body

"ached from the beatings", Farlam said. Durbach subsequently telephoned a Major Mans at Upington Prison who assured her Yona was not being held in solitary confinement and said Yona had complained of matters which he described as being "beyond his jurisdiction". He told Durbach he would take the matter up with his superiors.

A private doctor who examined Yona told Durbach there was no evidence of assault, but conceded Yona was well-padded and had a dark skin. He found Yona's urine to be very concentrated, with ketones present which, the court heard, could be the result of starvation or assault.



Relatives of the 25 Upington trialists listen to Joyce Mokhesi, sister of one of the 'Sharpeville Six', at a meeting to discuss their problems

Picture: ERIC MILLER, Afrapix

A BACKGROUND of disadvantage, discrimination and lack of rights set the scene for the 1985 murder of municipal policeman Lucas "Jetta" Sethwala, an Upington court heard this week.

Social anthropologist Professor Martin West was giving evidence in mitigation of sentence in the trial of the Upington 25, convicted — on the principle of common purpose — of the murder. A 26th defendant was found guilty of attempted murder.

West, of the University of Cape Town, referred to a December 1987 socio-economic survey commissioned by the town council of Upington's black township, Paballelo, the home of all 26 defendants.

Paballelo's town clerk first had to be subpoenaed by the defence team to produce the report for West's scrutiny.

West said the report showed the township had some of the classic features of poverty: overcrowding, unemployment and low wages.

Based on an "acceptable" 45 percent sample of Paballelo's estimated 10 000-strong population, the report revealed that:

- Some 965 extra families were living on a total of 1 421 residential sites. The figure of 1,68 families for each site represented "serious overcrowding".

- There was an "extraordinarily high" unemployment rate of 30,9 percent in December 1987. The average figure among black people in South African towns in August 1987 was 13,9 percent and the national average overall was 18,2 percent.

- At least 92,4 percent of Paballelo breadwinners were earning less than the Minimum Living Level of R557 a month, calculated for a family of seven in Kimberley in an August 1987 Unisa Bureau for Market Research report.

- Fully 57,5 percent of Paballelo

## The impoverished backdrop to the Upington murder

**The Upington 25 came from a township which suffered from massive overcrowding, high unemployment and low wages. These contributed to explaining the tensions in the township at the time of the murder in 1985, the court heard. By GAYE DAVIS**

breadwinners were earning less than R250 a month and 36,9 percent less than R150 a month. Even lower incomes were earned by other family members, with 66,1 percent earning less than R250 a month and 46,8 percent less than R150.

West said the court's judgment said relatively little about Paballelo's socio-economic conditions — but they were relevant to understanding the context in which the events of 1985 took place.

West said the judge accepted residents had complaints about rents, schooling, poor facilities and official harassment, but found few of the accused were directly affected, as most lived with their parents and did not themselves contribute to rents.

Whether the complaints were objectively "real" was not the issue, West said. "If the inhabitants perceive there to be complaints, then there are complaints, irrespective of the assessment of outsiders."

It was improbable that the grievances were contrived: Paballelo facilities

were improved after the trial began in 1986.

Rents were a major item of expenditure, and failure to pay rent led to evictions. Young people were "patently affected".

A number of the accused, despite their youth, had parental responsibilities; others were contributing to family resources and some were "critical to the financial support of their parents".

They would have "every reason" to be directly and personally affected by rent increases.

The judgment also mentioned problems in schools over the quality of education. The judge felt it unnecessary to make any assessment of this, but it was unlikely that the serious inequalities in black education would be unknown in Paballelo, West said.

Paballelo residents were also at the bottom of an imposed racial hierarchy — the most disadvantaged in terms of facilities, employment and opportunities for advancement — and had no direct political representation.

"They are third-class citizens in Upington, which is a conservative area in terms of white politics, and have been subject to all the controls and restrictions on black people generally."

"It is this context of disadvantage, discrimination and absence of rights which sets the scene for the events of November 1985," West said.

Paballelo was a relatively quiet, conservative area. People had made

the best of their situation and homes. Crime was fairly low by township standards and there was less "unrest" than in other areas in 1976 and 1985.

"But this in no way detracts from the underlying frustrations and sense of deprivation," West said.

He endorsed psychological evidence that the differing social backgrounds of the accused were at complete variance with the crime, for which they had been convicted.

The accused include the elderly parents of 10 children, three sets of brothers, three women, people who can neither read nor write and others with tertiary education, regular churchgoers and others with no religious convictions, scholars and workers, unemployed people, people from stable families and broken homes.

West had no doubt that the confrontation with police on the day of the murder, when a meeting about high rents was dispersed with teargas, could have led to "cohesion among those present".

"The particular situation, in the context of the frustration and disadvantage referred to, could lead to common action by a disparate group of people in the psychological climate created."

The accused are: Kenneth Khumalo, 32; Tros Gubula, 30; David Lekhanyane, 24; Andrew Lekhanyane, 28; Myner Gudlani Bovu, 28; Zuko Zabendini, 32; Elisha Matshoba, 23; Justice Bekebeke, 27; Barry Bekebeke, 22; Ronnie Masiza, 22; Wellington Masiza, 26; Booi Jafta, 23; Elizabeth Bostaander, 22; Gideon Madlongolwane, 60; Evelina de Bruin, 63; Albert Tywilli, 26; Neville Witbooi, 20; Roy Swartbooi, 22; Jeffrey Sekiya, 24; Sarel Jacobs, 22; Ivan Kazi, 21; Xoliswa Duba, 20; Abei Kutu, 22; Zonga Mokgatle, 30 and Xolile Yona, 24.

The trial continues.



2 on charges  
of terrorism

Court Reporter 331

A TRANSKEI man and a  
Guguletu man appeared  
in the Cape Town Re-  
gional Court yesterday  
in connection with  
charges of terrorism and  
furthering the aims of  
the African National  
Congress.

Mr Molliat Mziwoxolo  
Mfeketo, of Umtata, and  
Mr Xolile Thompson  
Jaxa, of Guguletu, were  
not asked to plead.

The hearing was ad-  
journcd to March 3.

Mr J.D. Huggett was the magistrate. Mr  
D.J. Brand prosecuted. Mr E. Mohammed of  
E. Moosa and Associates appeared for the  
two men.



By Kaizer Nyatumba

BETHAL — One of nine policemen accused of culpable homicide told the investigating officer he had not done his job because a tenth person involved in the crime had not been charged, the Bethal Regional Court was told yesterday.

When Constable Mandla Stephen Masuku (30), who was not represented, put this to Major Martinus Scheepers, the officer said the case had been well investigated.

The nine policemen have pleaded not guilty

## Accused criticises police investigations

to the charges, arising from the death of Mr Zacharia Madonsela.

The accused — five members of the SAP in Bethal and four municipal policemen from the nearby Mzinoni township — allegedly assaulted Mr Madonsela after taking him to the police station on February 28 last year.

One accused, Constable Kadeni Stan Ndlovu, had laid a charge against Mr

Madonsela for assault.

The accused are Constable Patrick Lutona Shirinza (25), Constable Bulile Thomas Ngcobo (23), Constable Kadeni Stan Ndlovu (29), Constable Thembinkosi Mishack Hlongwa (23), Constable Mandla Stephen Masuku (30) and Mzinoni municipal policemen Mr Timothy Motebang Mokoena (28), Mr Thabo Joseph Mokoena (23), Mr Jere-

miah Mzayifuni Nxumalo (27) and Mr Phillip Sekgulumu Sekonyela (24).

In a trial within a trial, the admissibility of the accused's statements was questioned. The policemen claimed they did not know their statements would be used in court.

Defence lawyers asked that the statements be regarded as inadmissible because they had not been told about their rights. The magistrate, Mr J V R Pietersen, will rule on the admissibility of the evidence today.

21/2/87  
EX-Mandela club  
member in court

**The Argus Correspondent**

JOHANNESBURG. — A former member of the Mandela United Football Club has appeared briefly in the Soweto Magistrate's Court over an allegation of murder.

Mr Andrew Ekaneng, 20, was not asked to plead and no evidence was led.

Mr Ekaneng's appearance followed the death of Mr Maxwell Madondo, also a former member of the team, whose body was found in Orlando West last week.



## Alleged ANC man was reported by informer

*Sowetan 21/2/87*  
(331)  
A POLICE informer, working in Kopfontein near the Botswana border, told a Johannesburg Regional Court magistrate that he went to call the police after he had spotted a man lying on a rock, not far from the border post.

Mr Thomas Moseme, in his evidence-in-chief, said it was shortly before 7am on March 14 last year as he was riding to work on a bicycle when he saw the man, alleged to have been Mr Nelson Pasha, lying on his stomach and reading a newspaper.

Mr Moseme was giving evidence in the trial of Mr Pasha of Tembisa, who is alleged to be a member of the banned Pan Africanist Congress. Mr Moseme said he was a casual

By SONTI  
MASEKO

labourer or handyman for the South African Police and he also passed on information to them about "suspicious" people in the area.

### Terrorism

Mr Pasha, who is facing three counts of terrorism, membership of the PAC and arson pleaded not guilty before Mr T J le Grange.

According to the State, Mr Pasha left the country during September 1986 and received military training and education in revolutionary ideology and strategies in China and Guinea under the auspices of the PAC.

## Arson: man (29) in court

By Celeste Louw

Star 21/2/87  
A 29-year-old man appeared before a Johannesburg magistrate yesterday on charges of being a member of the banned Pan African Congress (PAC), arson and being in possession of explosives.

Mr Nelson Phasha of Potgietersrus pleaded not guilty to all the charges before Mr T le Grange.

The State alleges that Mr Phasha attempted to smuggle 10 grenades, pistols, 4 Scorpion pistols and ammunition through the Kopfontein border post into the country on March 14 last year.

According to the charge sheet, Mr Pasha set the Sethokga hostel alight and caused damage to the property of the Tembisa City Council on April 30 1986.

It was also alleged that he received military training in China and entered South Africa illegally in September 1987 to recruit new members for the PAC.

Sergeant Theodore Store told the court he received an order to arrest two men at the Kopfontein border post.

He said he thought Mr Pasha was an illegal immigrant.

He was arrested after Sergeant Store found the ammunition in Mr Pasha's possession, the court heard.

The hearing continues.



# Mokaba terror trial date set for May 22

By Jo-Anne Collinge

The trial of South African Youth Congress president Mr Peter Mokaba, who faces charges of terrorism and furthering the aims of an unlawful organisation, is scheduled to begin on May 22.

Mr Mokaba, together with his co-accused, Sekhukhune Youth Congress president Mr Malebane Elifas Tswai and Mr Sam Thabo Masemola, appeared briefly in the Regional Court at Pietersburg yesterday.

They arrived at court in a police armoured vehicle and emerged in leg-irons.

Mrs Prescilla Mokaba, mother of the first accused, was in court. Recently released after nine months in detention, she had to apply for a special permit to attend as her restriction order confines her to the area of Mankweng, about 30 km outside Pietersburg.

The prosecutor failed to arrive from Pretoria for the appearance and the trial date was provisionally set by the defence. The men, who have already served almost a year as detain-

ees and awaiting trial prisoners, are to remain in custody.

At the end of the appearance, Mr Mokaba emitted a deep growl of "Amandla!" from the dock (drawing a response of "Awethu" from the gallery and "Aluta ... which the crowd completed with the word "continua").

The terrorism charges arise from the accused's alleged membership and/or support of the African National Congress.

According to the charge sheet Mr Mokaba acted in a supervisory capacity for the ANC, allegedly ordering the removal of arms from Vaalwater to Zebediela. It is further alleged that Mr Tswai carried out this task.

## SUPPLIED ARMS

Mr Mokaba also allegedly supplied arms to an unspecified person and ordered this person to train others in their use.

In addition, Mr Mokaba is said to have supplied two mini-limpet mines to Mr Masemola for burial in Sekhukhuneland and to have recruited Mr Tswai to act as an ANC courier to Botswana.

Cape Times 21/2/87

## Psychologist cross-examined

From MARIUS BOSCH

331

UPINGTON. — A Namibian clinical psychologist giving evidence in extenuation of sentence of the "Upington 25" yesterday repudiated the state prosecutor's claim that he had tried to create a one-sided view to strengthen a theory that the 25 were aroused to such an extent that they could not recognise the consequences of their actions.

Dr Herman Raath was being cross-examined by Mr T van Rensburg on a

report he had compiled on clinical interviews and tests he had conducted on the 25.

Mr Van Rensburg asked why the accused were not questioned as to their "motivation" to take part in their acts leading to the murder of Constable Lucas Sethwala.

The offence occurred almost three years ago and any evidence as to the "motivation" would be distorted by time, Dr Raath said.

The case continues today.



# Closed cases shock

331  
22/5/89

By SONTI MASEKO

BOTH the State and the defence counsel in the terrorism trial of the alleged PAC man Mr Nelson Phasha closed their cases unexpectedly yesterday as the hearing entered its second day at the Johannesburg Regional Court.

The defence counsel advocate, Mr D Mosenke, instructed by Mrs D Mokgatle, argued that Mr Phasha (27), accused of terrorism, membership of the PAC and arson could not be convicted on the evidence of three State witnesses before the court.

# Upington community service plea

From MARIUS BOSCH

UPINGTON. — An advocate acting for the "Upington 25" asked a court here yesterday to consider community service as an alternative to jailing the 25, convicted of murdering a policeman in 1985.

Mr Ian Farlam SC requested Mr Justice J Basson to ask the National Institute for Crime Prevention and Rehabilitation of Offenders (Nicro) to hold an evaluation panel in terms of the Criminal Procedure Act to assess the suitability of the accused for community service.

The Act was amended last month to provide for community

service as an alternative to prison, he said.

Mr Justice Basson asked Mr Farlam whether facilities for the rendering of community service existed in Upington.

Mr Farlam replied that part of Nicro's brief would be to investigate that.

Prosecutor Mr T van Rensburg said he had not yet seen the amendment to the Act and asked for time to study both the request and amendment.

One of the accused, Xolile Yona, was not in court yesterday after a doctor certified on Monday that he was unfit to attend the

proceedings. Court was disrupted on Monday when Yona collapsed after receiving a letter from his girlfriend informing him she was pregnant by another man.

Earlier yesterday, clinical psychologist Dr Herman Raath said under cross-examination that a tense psychological atmosphere in Paballelo at the time of the murder could have influenced the actions of the 25.

The atmosphere, would have had the same effect as hypnosis in that the accused would not have recognised the consequences of their actions. The trial continues.



*Cap. Temp 22/2/89 351*  
**No clemency yet for McBride**

CLEMENCY for convicted Magoo's Bar car-bomber Robert McBride had not been considered "at this stage", the Minister of Justice, Mr Kobie Coetsee, said yesterday. He added that Mr McBride's legal representative had been given the opportunity "to have neurological tests done on him". Mr Coetsee, replying to a question by Mr Roger Hulley (PFP, Constantia), said he had received appeals for clemency in respect of the death sentence imposed on Mr McBride. Three people died in the Durban beachfront bombing.



# I KILLED ASVAT

REPORTS. tures and ments in the tion may be sored in of the Go ment's stat emergency.

**Accused tells court**

TWENTY-ONE-YEAR-OLD Mr Zakhele Mbatha told a Johannesburg magistrate yesterday that he shot Dr Abu-Baker Asvat after he had gone to his consulting rooms to rob him.

Mr Mbatha, of no fixed address, told the court that a certain Johannes had planned the robbery.

He went to Dr Asvat's consulting rooms in Rockville, Soweto, on January 27 with a pistol and demanded money from the doctor while holding him at gunpoint.

Dr Asvat managed to grab me and I fired a warning shot at his feet because I could see that he was much stronger than me," Mr Mbatha said.

## Grabbed

The court heard that Dr Asvat then grabbed his legs and Mr Mbatha shot him in the chest.

Johannes then arrived on the scene and took an amount of R135 which he and Mr Mbatha shared, the court heard.

Mr Mbatha said that he didn't know his co-accused, Mr Toelane Dlamini (20), and that he had not been involved in the incident.

Mr JP Bredenkamp accepted Mr Mbatha's pleas of guilty on charges of illegal possession of a firearm and ammunition. Pleas of not guilty were entered on charges of



Mr ABDUL-HAG Asvat, father of murdered Dr Abu-Baker Asvat, leaves the court.

murder and robbery.

Mr Bredenkamp found that Mr Mbatha had not admitted that Dr Asvat died as a result of the shooting.

Mr Dlamini pleaded not guilty to all charges.

The case was postponed to March 3.

Police have made more arrests in connection with the murder of Maxwell Madondo, former member of the Mandela Football Club.

A South African Police spokesman said yesterday it was possible the detained people would appear in the Johannesburg Magistrate's Court today.



**Raindrops keep fallin'**

"RAIN, rain go away... come back another day," some sang yesterday as they were caught off-guard by a downpour. But it was not so with top model Innocentia Moephuli, who gave the unpredictable skies a smile.

Pic: ROBERT MAGWAZA

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## Three UDF members released from jail

THREE UDF members have been released from detention, the offices of Essa Moosa and Associates confirmed yesterday.

They are Mr William Thomas, Ms Nokwanda Pokwana and Mr Neville van der Rheede. Mr Van der Rheede is due to appear in Wynberg Magistrate's Court today on charges of possessing banned literature.

A member of the restricted Azanian People's Organisation, teacher Mr Moraba Charles Matlakala, 23, was also released from detention last week after spending 195 days in solitary confinement. He was detained in August last year.

In Johannesburg, 21 detainees still in the Hillbrow Hospital after their hunger strike have demanded that the government release them from detention and not return them to prison, the Detainees' Aid Centre said yesterday.

They said that one of their number who had been in the hospital, Mr Ephraim Nkoe, was returned to prison yesterday.

Mr Nkoe, 28, an executive member of the restricted South African Youth Congress, brought an urgent application for his release in the Rand Supreme Court yesterday on the grounds that the failure by the police to furnish any reason or information for his arrest and detention rendered them invalid. He asked the court to declare his arrest and detention unlawful and order his release.

Judgment was reserved.

The chairman of the Nusas local committee at the University of Stellenbosch, Ms Leslee Durr, 21, who has been on an eight-day solidarity hunger fast, ended her fast last night on doctor's orders. She had been fasting along with the SRC presidents of five Nusas campuses in the country, including Ms Geordi Ratcliffe of UCT, "because it is the best way to draw attention on campus to the plight of detainees".

And the UCT SRC said yesterday that a meeting would be held at the campus today to focus on the detained hunger strikers.

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331

## NATAL TRADE UNIONIST FOUND GUILTY OF TERRORISM

MARITZBURG — A trade unionist was convicted in the Regional Court yesterday on charges of terrorism and being an accessory to the attempted murder of 14 school-children.

During the trial, it was proved that Southern Natal Cosatu chairman Alfred Muntu Ndlovu, 38:

- Was involved in activities intended unlawfully to overthrow or endanger state authority from June to October 1987;
- Arranged accommodation, food and transport for one Mjitha, know-

### Own Correspondent

ing that he had undergone military training by the ANC and was engaged on an ANC mission in SA; □ Introduced other people to Mjitha, who were to assist him in his mission or who were to be trained by him in the use of AK-47s.

On August 6 1987, Ndlovu drove Mjitha to a school where an Inkatha youth meeting was taking place. The aim was to kill Joseph Mabaso. Mjitha fired a number of shots at

the group with an AK-47, wounding 14 of them.

In judgment, Magistrate G J Barnard referred to the evidence of expert witness for the defence Alex Erwin, the national education officer of the National Union of Metal Workers of SA.

Erwin stated in evidence that Cosatu shared a common ideology with the ANC, recognised it as a leading force in the liberation struggle and did not regard it as a terrorist organisation.





# Reunited in the dock

331  
Smith  
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**Back  
home  
after  
264  
days**

By HENRY LUDSKI

A LANSLOWNE woman held under Section 29 of the Internal Security Act saw her husband for the first time in a year when they appeared in court recently on charges of terrorism.

Lucy Abrahams, 28, was detained on December 6 last year, barely an hour after arriving at the Albert Street home of her parents whom she had not seen for three years.

Gerald Nyembe last saw his wife shortly before he was detained by police in the Transvaal early last year.

But they were recently reunited in the dock of the Johannesburg Regional Court.

They will appear in court again on March 4 when details of the charges against Abrahams will be presented.

Johannesburg deputy attorney-general Mr Andre de Vries said this week Nyembe had been charged with promoting the activities of a banned organisation and undergoing military training with the ANC.

## Military training

"Lucy Abrahams is likely to face similar charges, but these have not been finalised yet," said De Vries.

Nyembe was originally to have gone on trial alone, but when his wife was arrested it was decided to link the cases.

Nyembe has been charged with allegedly leaving South Africa in January 1986 to join and undergo military training with the ANC.

"When he entered the Republic again in November 1987 from Botswana with false identification he was allegedly in possession of a Makarov pistol and some ammunition," said De Vries.

De Vries said that after Nyembe was arrested early last year Abrahams allegedly moved to Cape Town to "continue her ANC activities".

Both are being held at Diepkloof Prison in Johannesburg.

Abrahams is a former trade unionist with the Media Workers Association of South Africa and the Paper, Wood and Allied Workers Union. Her husband worked for the same union.



Freed detainee William Thomas reunited with his wife, Marlene, and four-year-old daughter Nina

## FROM PAGE 1

Like other UDF executive members released on Wednesday, Nokwanda Pokwana and teacher Neville van Rheede, and Trevor Manuel last week, he too has been under a restriction order.

For Thomas being restricted to the magisterial district of Wynberg means he

will not be able to continue his job as full-time organiser with the UDF.

Zoli Malindi and UDF executive member Mountain Qumbela were the only two emergency detainees still at the prison.

Van der Rheede, also of Mitchells Plain, was released on R250 bail after appearing in Wynberg Regional Court

Advocate Dullah Omar, Western Cape president of the National Association of Democratic Lawyers, said the restrictions were punitive and "totally unnecessary".

"The restrictions mean the released detainees will have to be their own policemen and jailers."



**THREE UDF members have been released from detention, the offices of Essa Moosa and Associates confirmed yesterday.**

They are Mr William Thomas, Ms Nokwanda Pokwana and Mr Neville van der Rheede. Mr Van der Rheede is due to appear in Wynberg Magistrate's Court today on charges of possessing banned literature.

## Three UDF members released from jail

A member of the restricted Azanian People's Organisation, teacher Mr Moraba Charles Matlakala, 23, was also released from detention last week after spending 195 days in solitary confinement. He was detained in August last year.

In Johannesburg, 21 detainees still in the Hillbrow Hospital after their hunger strike have demanded that the government release them from detention and not return them to prison, the Detainees' Aid Centre said yesterday.

They said that one of their number who had been in the hospital, Mr Ephraim Nkoe, was returned to prison yesterday.

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And the UCT SRC said yesterday that a meeting would be held at the campus today to focus on the detained hunger strikers.



# Behind the glass, four accused who won't speak

Problems of Communism July-August 1987



Mandela (left) and Walter Sisulu photographed at Fort on island prison in 1966

ANC Secretary General E. J. Kheke was the Communist spokesman, the CPUSA also expanded its role to the CPUSA Central Committee. This does not mean that the CPUSA is a low-level party while the CPUSA is a high-level party.

A picture of two men deep in conversation. What makes it remarkable is the place (Fort on island prison) and the people (Nelson Mandela and Walter Sisulu). Is the picture legal? Well, it must be courtesy of the government's own Bureau for Information, which has reprinted 15 000 copies of the publication, *Problems of Communism*, containing this rare 1966 photograph, the most famous picture of the ANC leaders

"DELMAS two", the treason trial currently taking place in the conservative Eastern Transvaal *dorpie*, has a number of key differences from its more famous predecessor. There is no legal defence and no cross-examination; only the state is leading evidence.

In terms of court days, the original trial was the longest in South African legal history, lasting three years. The current one is not expected to continue for long. It started three weeks ago, and already the state has concluded its case.

Four men face a possible death sentence in the current trial. Despite repeated warnings by the presiding judge, Mr Justice M de Klerk, of the gravity of the alleged offences, the men have refused legal representation and have consistently declined to cross-examine state witnesses on allegations put before the court.

The judge entered a plea of not guilty at the beginning of the trial after the men had refused to plead.

At the beginning of the trial, the four alleged highly-trained members of the African National Congress's military wing, Umkhonto we Sizwe, told Justice de Klerk, who is sitting with two assessors, that "we as soldiers, cannot and should not stand trial in a civilian court".

The accused, Jabu Masina, Ting-Ting Masango, Neo Potsane and Joseph Makhura, are alleged to have been responsible for the killing of Detective Sergeant Orphan "Hlubi" Chapi, Constable Sinki Vuma, Swazi national David Lukhele and Lukhele's sister-in-law Elizabeth Dlodlu, between 1978 and 1985.

The accused stared without emotion at explosive experts called to give ev-

The Delmas II trial resembles its famous predecessor only in the severity of the charges. VUSI GUNENE reports

idence by the state and police witnesses said to have expert knowledge of ANC structures this week.

When A-47 rifles and Makarov pistols were handed in to the court as exhibits, they did not seem shaken.

At the start of the trial, and to spontaneous applause from the public gallery, Masina read out a statement on behalf of the accused explaining their decision not to participate in the court proceedings.

He said that "our refusal to participate in the proceedings stems from our belief that this court and this judicial system cannot operate independently from the political system within which it functions."

"As soldiers and freedom fighters, we have taken up the struggle on behalf of our people to get rid of this system, which is evil and which degrades and dehumanises people on the basis of skin colour."

Relatives, friends and supporters — mostly members of the Federation of Transvaal Women — wanting to touch the accused during court recesses are prevented from doing so by a glass partition.

This week, two anonymous state witnesses, allegedly ex-members of the ANC told the court that they had seen the accused in ANC training camps.

Only accredited journalists and reporters were allowed to sit in on the proceedings.

Another state witness, Brigadier Jacobus Hendrick Pochener, told the court that ANC publications such as *Dawn* and *Sechaba*, always referred to police, security police and army personnel as targets. Defectors from the ANC were also known to be targets, he said.

He also told the court that according to his investigations, members of the ANC's military wing, Umkhonto we Sizwe, were more highly trained in the handling of weapons than those of the Pan Africanist Congress.

Three of the accused, Masina, Potsane and Makhura, are alleged to have placed a limpet mine outside a shopping complex in Silverton, Pretoria on July 4 1986. The resulting explosion injured 17 people.

The four men are alleged to have planted a landmine on a dirt road in Soshanguve, near Pretoria, which detonated when a road grader passed over it on July 21 1986.

According to the indictment, the landmine was placed on a road which "was identified as a target used by military vehicles".

Masina alone is accused of killing Detective-Sergeant "Orphan" Hlubi Chapi on June 26 1978 in Soweto. Hlubi was described by newspapers at the time as being particularly hated by the youth for his role in the 1976 uprising.

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**UNIVERSITY OF NATAL**

PIETERMARITZBURG

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**Secretary to the Press**

Ref P12/89

Closing date: 10 March 1989

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Applicants should have some research background as well as media skills.

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P.O. Box 2517

Pietermaritzburg 3200

Closing date: March 24.

# Upington accused in hospital 33/

From MARIUS BOSCH

UPINGTON. — Court proceedings in the trial of the Upington 25 were disrupted yesterday when one of the accused had to be taken to hospital for emergency surgery.

Ms Xoliswa Dube, 22, was diagnosed as suffering from acute appendicitis and was taken to hospital yesterday afternoon. The defence asked the court to grant permission for Ms Dube not to attend proceedings until March 6.

Mr Justice J Basson granted the

request after seeing a doctor's medical certificate.

Ms Dube, who was still at school when she was arrested for her part in the murder of a policeman in 1985, gave birth during the trial.

The child — whom she named Innocentia — is now 18 months old.

The court also heard yesterday that one of the accused, 60-year-old Mr Gideon Madlongolwane, who has been working for SATS for 36 years, went to work before and after court proceedings while he was free on bail.



## Witness's silence justified, court rules

By GAYE DAVIS

A CAPE Town man's conviction and sentence for refusing to testify as a state witness in a terrorism trial has been set aside by the Supreme Court in Pretoria.

Abdul Aziz Kader, 27, was sentenced to two years' jail last July for refusing to testify in the trial of seven men accused of Pan Africanist Congress and Qibla activities.

In what is believed to be an unprecedented decision, the court found Kader was suffering from post-traumatic stress syndrome after being detained for nine weeks in solitary confinement, when he was repeatedly interrogated by security police.

Mr Justice L Esselen (with Mr Justice D le Roux concurring) found it would be "humanly impossible" in the circumstances to force Kader to testify.

Expert evidence by Groote Schuur Hospital psychiatrists Professor Eleanor Nash and Dr R Holmes clearly established the stress syndrome diagnosis and the probable serious consequences for Kader — including worsening depression and a high risk of suicide.

The court directed that a telegram be sent to Pollsmoor Prison, Cape Town, ordering Kader's immediate release.

# Upington court looks into 'community service'

By GAYE DAVIS,  
Cape Town

THE judge presiding over the Upington 25 trial this week granted a defence request that the accused be assessed on their suitability for community service.

Justice JJ Basson stressed he was granting the order at the request of the defence, saying he did not want to "raise anyone's expectations" by making such an order. The 25 have been convicted of murdering a municipal policeman.

The request was made in terms of a recent amendment to the Criminal Procedure Act which expands existing provisions for community service as an alternative to jail sentences by establishing a specific procedure courts can follow.

In terms of the order, the National Institute of Crime Prevention and Rehabilitation of Offenders will investigate the situation and report back.

In terms of South African law, the death sentence is mandatory unless extenuating circumstances are found — a legal battle the defence team is currently waging.

If extenuation is found, imposing the death sentence then becomes a matter for the court's discretion.

The granting of this week's order does not mean the court will necessarily find community service orders an appropriate form of sentence for any of the accused.

But should it so find, the initial assessment will have been done.

The trial, in which a 26th defendant has been found guilty of attempted murder, is now in its third week.

The defence team could close its case next week after evidence is led on the effects of teargas.

● One of the accused, Xolile Yona, 24, collapsed during proceedings this week and after medical treatment was granted a two-day absence.

Yona's alleged torture and assault by policemen while he was in Cape Town for neurological tests before the resumption of the trial is the subject of an investigation ordered by the court at the request of the defence.



# Madondo - four appear

(331)

*Sowetan 24/7/89*  
By SONTI MASEKO

THE death of Mr Maxwell Madondo — believed to have been a member of the Mandela football team — was recalled at the Johannesburg Magistrate's Court yesterday when two youths testified that they saw him being assaulted near Uncle Tom's Hall in Soweto on February 13.

The youths, Mr Nhlanhla (18) and Mr Sandile (29), both of the same address in Orlando West, made these admissions before the magistrate, Mr J. H. Bredenkamp, at the Johannesburg Magistrate's Court.

They are charged with two others, Mr Andrew Lerotodi (23) and Mr Isaac Maphoto Mazibuko with the murder of Madondo.

Mr Mazibuko did not plead and said he needed a lawyer.

## Freed Athlone man re-arrested as he leaves jail

Staff Reporter

THE Pretoria Supreme Court this week ordered the release of an Athlone man who was jailed for two years for refusing to testify in a terrorism trial — but he was re-arrested and charged under the Internal Security Act as he left prison.

Mr Abdul Aziz Kader, 27, who has held for almost three years, appeared briefly in court soon after his arrest.

He was remanded until March 16 when his case will be heard in the Wynberg regional court.

Mr Kader, who was first arrested in June, 1986, twice received psychiatric treatment while in detention.

On Wednesday the Supreme Court set aside his conviction in July last year for contempt of court.

Mr Kader was sentenced to two years for refusing to testify in the PAC-Quibla terrorism trial.

The court ruled that Mr Kader had been suffering at the time of the trial from post traumatic stress syndrome following nine weeks in solitary confinement during detention and repeated interrogation.

Mr Kader was released from prison late on Thursday night, and as he drove out of Pollsmoor in his attorney's car they were stopped outside the prison gates by police.

Mr Kader was then re-arrested.

● The PAC-Quibla case was heard in Pretoria last year.

Members of Quibla, the radical Western Cape movement, were arrested after entering the country from Botswana. Official sources said that they had made contact with Libya while out of the country.

Seven accused — allegedly members of either the banned PAC or Quibla — eventually faced more than 30 charges under the Internal Security Act, including attempted murder, terrorism, and belonging to banned organisations.

Four were found guilty of terrorism by a Pretoria magistrate in October last year.



# Accused 'acted like robots'

From MARIUS BOSCH

UPINGTON. — An individual would not be able to withstand group pressure but would conform in the face of certain psychological conditions, the Supreme Court heard here yesterday.

Clinical psychologist Dr Herman Raath was replying to state cross-examination in the trial of the Upington 25, who have been convicted of killing a local policeman.

Dr Raath said the behaviour of the accused had not been calculated — in a certain sense they acted like robots.

The attack appeared to be irrational and to have occurred on the spur of the moment.

Frustration about the socio-economic conditions in Paballelo could have led to a "highly tense situation". The crowd could have become aroused to such an extent that they were caught up in events leading to the killing.

The trial continues on Monday.

● One of the accused, Kenneth Khumalo, has received a card from Sweden expressing support for the 25.

Another accused, Xoliswa Dube, who underwent emergency surgery on Thursday, was late yesterday in a satisfactory condition in hospital.

# The treason trial capital of SA

## Tight security in Delmas as 4 'ANC cadres' refuse to plead

MARTIN  
ELENGOE

most members of the VCA and Azapo were acquitted, while others - including the South African Council of Churches' Tom Mambata and the UDF's Terror Lekota and Popo Molele - were sentenced to prison terms.

On trial now are two Soweto-born men, Jabu Obed Masina, 30, and Neo Polesane, 28, and Ting Ting Frans Masingo, 30, and Joseph Makhura, 27, who grew up in Mamelodi.

They are facing four counts of murder, 13 of attempted murder, the planting of two limpet mines, possession of firearms and ammunition.

The current trial differs from the one which began in 1986 in that the four accused have refused to plead to the charges - some of which carry the death penalty - and they have refused lengthy trial.

gal counsel.

The four have said they will not plead to unjust apartheid laws. This is the first time since the early '60s that treason trialists have refused to plead in a case of this magnitude.

They claim they are soldiers of the ANC's military wing, Umkhonto we Sizwe, and therefore cannot be tried in a civilian court.

In court is Judge de Klerk and two assessors. Spectators come from as far as Mamelodi and Soweto to hear how the four allegedly maimed and killed four people.

A permanent road-block has been set up on all roads leading to the courtroom. Only official vehicles are admitted to the parking zone near the court, where 24-hour surveillance is in force.

Mechanical body searches are conducted on all who enter the court premises, including reporters, TV crews and foreign visitors.

The extreme security measures surrounding the trial - believed to be one of the more unusual trials to be heard in South Africa - seem suggestive of the importance and seriousness of the case and the calibre of the accused.

The accused are divided from the public gallery by a thick high glass wall.

They have to press their ears against the glass to hear what those on the other side are saying. Security is so tight that even reporters are

refused permission to contact the prosecutor.

The fact that the trial is taking place in a remote plateau town also seems to be having a bearing on the extraordinary security measures.

The State alleges that the four planted a limpet mine in Silverton, and another in Shoshanguve. Masina is alleged to have shot dead the most feared Soweto detective, "Orphan" Hubi Chapi, and a constable, Sinki Vuma.

A security policeman told the court that Masina had shown him where he had shot Chapi dead.

Later he took him to Silverton, and Shoshanguve, where the four had allegedly planted the limpet mines. All the accused had on different

times allegedly been taken by security police to point out various places where bombs had been planted.

Security police giving evidence in the case said Masina admitted shooting Chapi as he alighted from his car.

Another security policeman said Masango had shown him a place in Shoshanguve where he planted a limpet mine. He also had pointed out where he shot dead a Const Vuma.

A security policeman said Masango had told him he used a spanner to dig a hole before planting the mine.

He said Masango acknowledged that before the mine was planted, he (Masango) knew that people worked on that

road.

In a statement made by Polesane, he admitted shooting dead "David Lukhele and his sister, Elizabeth Djudlu, according to evidence before court.

In part, the statement reads: "I knocked on the door and went inside. I shot at Lukhele.

"His sister jumped up and fell on her brother. I shot at her too."

Petrus Myburgh, a security policeman, said he interrogated Makhura at length about the use of a limpet mine and that Makhura had said he had learned to use limpet mines in Angola, where he underwent his military training.

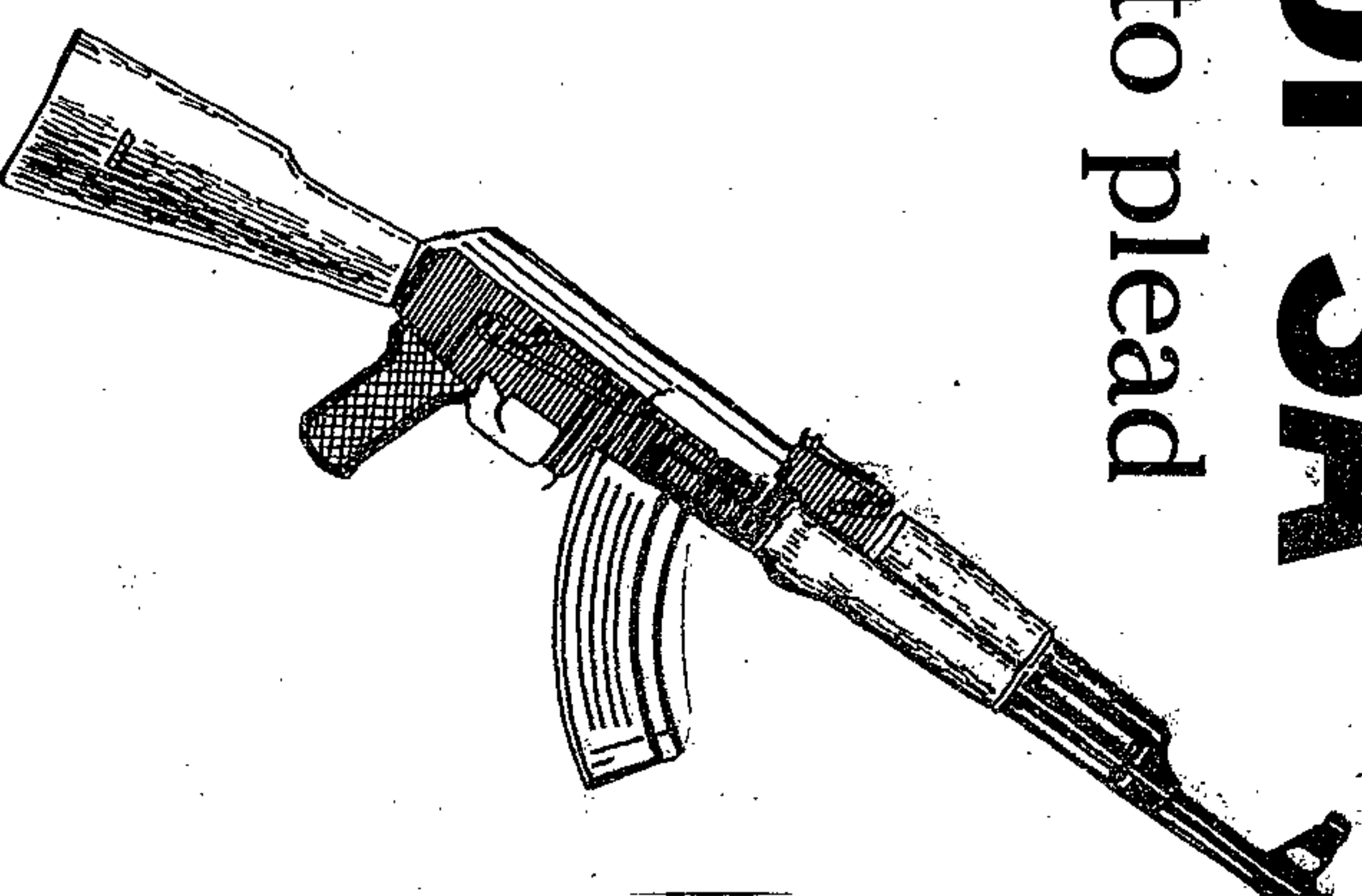
SAP forensic expert Capt Thomas Wolmarans testified that 26 empty

cartridges handed to him on June 12, 1986, had been fired from an AK-47 rifle. They had been found at Lukhele's Mamelodi house.

Another 20 empty cartridges which had been found in Vuma's house matched up to a separate AK-47, Wolmarans said.

Five AK-47 rifles and two Makarov pistols were shown in court and identified by W/O Andre Theunis du Toit as weapons which had been handed in for examination on June 17 and September 18, 1986.

Du Toit said that distinguishing marks left on the cartridges linked one of the AK-47s to the 26 empty cartridges handed to police for examination after Lukhele's murder.





# Trial has changed the mood in conservative town

**T**HE Upington 26 trial has changed the face of the conservative platteland dorp.

There has been an increase in detentions and restriction orders and a rightwing smear campaign.

Two youths, Simon Manyake and Daniel Tom, were released from detention and given restriction orders.

Tom is restricted to Windhoek where he is attending boarding school. He may not enter the magisterial district of Upington without the permission of the divisional commander of the security branch for the Northern Cape.

Tom, 19, was born in Upington but was refused admission to Paballelo Senior Secondary School earlier this year.

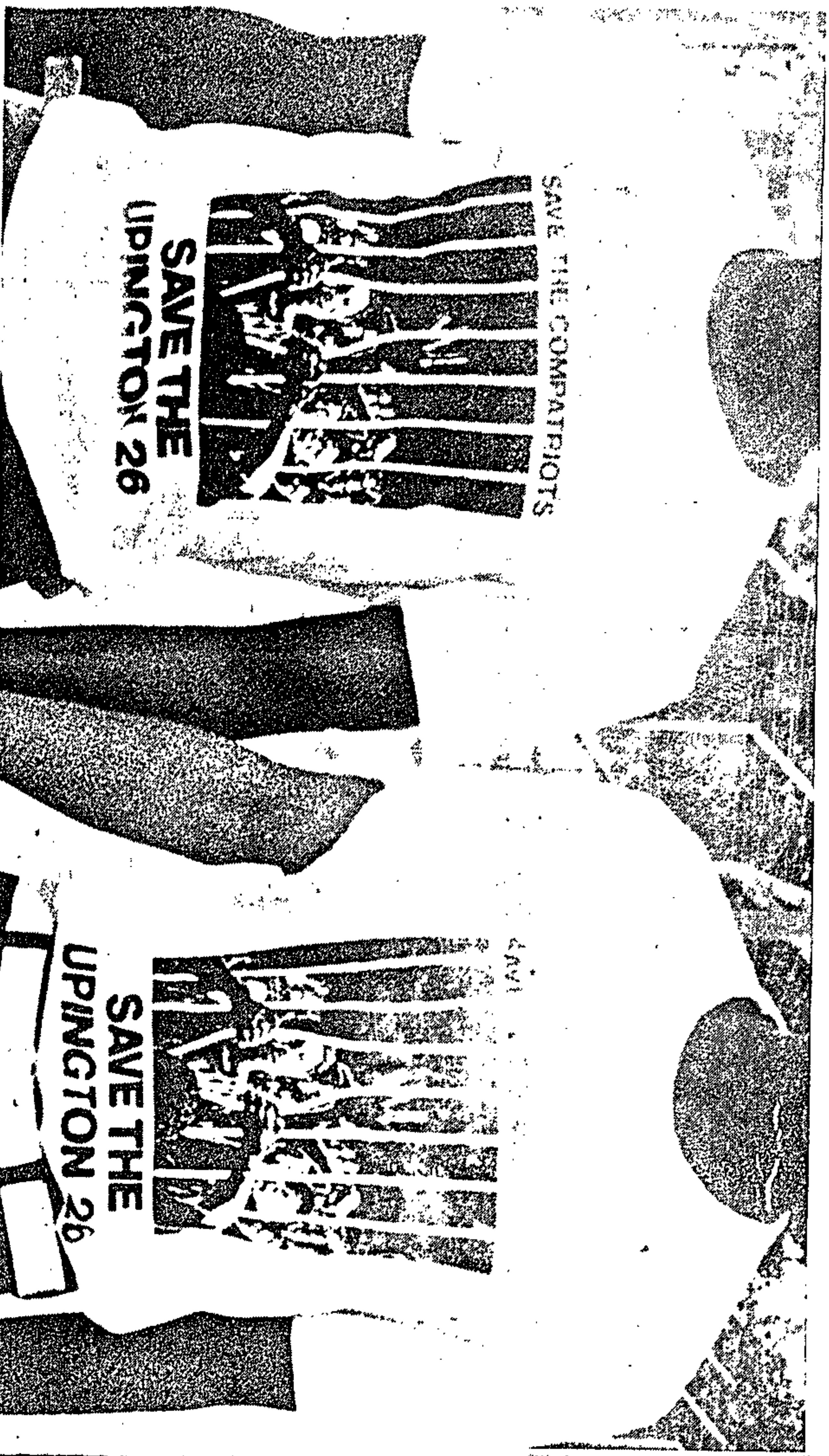
Simon Manyake, 22, was also born in Upington. He is presently unemployed and was looking for a job before his detention.

From tomorrow, he will have to seek the permission of the divisional commander of the security branch to remain in Upington.

Meanwhile, two pamphlets have been distributed attacking Rev Aubrey Beukes of the NG Sendingkerk, who has been sympathetic to detainees.

The first pamphlet is addressed to his congregation with a question: "Do you expect Christian messages from your church leader or do you expect him to talk politics?"

The second pamphlet was addressed to Beukes' congregation thanking them for having reacted strongly to some of the dark deeds of their priest.



# Upington goes the route of the Sharpeville Six

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politics?"

"A second pamphlet was addressed to Beukes' congregation thanking them for having reacted strongly to some of the dark deeds of their priest."

# Upington goes the route of the Sharpeville Six

## CONNIE MOLUSI visits a troubled town

**F**OR three years a human drama threatening to plunge SA into more Sharpeville-type world attention has been unfolding in Upington.

This little-known town in the north-western Cape has the attention of the world centring on its trial of 26 people, including a former mayor, a policeman, two people aged 60 and 63 and three youths who were 17 years old when arrested.

Twenty-five people have been found guilty of murder and the 26th of the attempted murder of a municipal policeman, Lucas Jetta Sethwa, a friend of some of the accused.

Judge JJ Basson found most of the 25 guilty on the basis that they were part of the crowd that stoned Sethwa's house shortly before he was killed.

He found the intention of the mob was to drive the policeman from his house and kill him.

The use of the common-purpose doctrine, similar to that in the Sharpeville Six case, has led to international complaints.

In November 1985 the community of Paballelo township in Upington was going through a crisis. Paballelo had many social problems, a high rate of unemployment and widespread poverty. The area is situated in a preferential-employment region where jobs are reserved for whites and coloureds. During November 1985 several

attempts were made by the community to hold a meeting to discuss some of the burning issues in the township. These included high rent, evictions, the use of alcohol by school children, the harassment of hawkers by municipal police and a lack of qualified teachers.

Attempts by the black community to seek solutions to poor housing, unemployment and poverty have often been labelled subversive activities aimed at undermining the State.

Yet on the day the policeman was killed, November 12, there were rumours that the police had called a meeting to address their problems – and the people were desperate enough to believe this.

While people were gathered at the local soccer field, waiting for the police to come and address them, they were ordered to disperse and teargas canisters were thrown.

It was first time that teargas was used in Paballelo.

It seemed that the whole community went berserk. The trouble was made worse by a policeman firing shots from his service shotgun at the running crowd.

People took their anger out on the policeman and started throwing stones at his house. Eventually the hail of stones became too heavy for him and the policeman ran out looking for better cover.

He was brought down by the crowd. He was allegedly beaten with the butt of his gun – which blows apparently killed him – and kicked and beaten for almost 10 minutes. He

was later soaked with petrol and set alight. This incident led to the historic trial in which 25 people have been found guilty of murder at the same time.

The case has certain peculiarities. One of the accused, Kenneth Khumalo, a former mayor of Paballelo, was a friend and colleague of the deceased.

The deceased was allegedly so surprised to see Khumalo throwing stones at his house that he drew it to the attention of all those in the house.

Khumalo had earlier resigned his mayoral seat for a post as a treasurer in the Paballelo Town Council. People of his stature in township politics do not usually associate in activities similar to those that led to the deceased's death.

Accused number 15, Boot Japhtha, is said to have been a very close friend of the deceased. Beatrice Sethwa, the deceased's mother, regarded Boot as her own son. Japhtha even visited the deceased the night before he died, when they chatted about their usual business and had tea.

The two regarded each other as brothers, yet the deceased's mother testified the deceased was shocked to see Japhtha among the crowd stoning his house.

Two other accused, Evelina de Bruin and Gideon Madlongolwane, are aged 63 and 60 respectively.

The two lived together for 15 years as common-law husband and wife. At their age it seems very strange that they were among a youthful group after the blood of a policeman.



The crowd mills in Paballelo after a prayer service for the Upington 26.



# Upington 25 acted like 'robots'

(331)

UPINGTON — An individual would not be able to withstand group pressure and would conform under certain psychological conditions, a Supreme Court judge heard on Friday.

Clinical psychologist Dr Herman Raath said this in reply to State cross-examination in the trial of the Upington 25.

He said the attack on a policeman, which led to his death, appeared to be irrational and on the spur of the mo-

Own Correspondent

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Frustration about the socio-economic conditions in Paballelo could have led to a "highly tense situation" causing the crowd to become aroused to such an extent that they became caught up in events leading to the killing.

The trial continues today.



3/Day 27/2/89

## Natal unionist gets five years for terrorism

MARITZBURG — Trade unionist Alfred Ndlovu, convicted on Friday of terrorism and being an accessory to attempted murder, had intended "adding fuel to the fire" at a time of rioting and violence.

Regional Court magistrate G Barnard said this before sentencing Ndlovu to an effective five years' imprisonment.

Ndlovu, a top Transport and General Workers' Union (TGWU) and Co-

Own Correspondent

satu official, aided a trained ANC terrorist, Mjitha, on a mission in SA.

Ndlovu was convicted as an accessory to the attempted murder of 14 Inkatha youth members shot by Mjitha at Emzaweni School near Maritzburg on August 6, 1987.

Ndlovu introduced Mjitha to people who possessed commercial explosives, knowing he intended blowing

up police stations, the court found.

Ndlovu also provided a home-made shotgun and encouraged an attack on Inkatha members.

The magistrate said a mitigating factor was that the local struggle between unionists and Inkatha had influenced Ndlovu's actions.

A TGWU spokesman described Ndlovu as "a peace-loving man" who had tried to talk to local Inkatha leaders long before violence flared.

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## CHINA WARNS US ON TAIWAN POLICY

PEKING — Premier Li Peng made clear to President George Bush yesterday that China would brook no sliding

policy was not to intervene in this process. It was for the Chinese on either side of the Taiwan Straits to decide



# STOMP JARPER

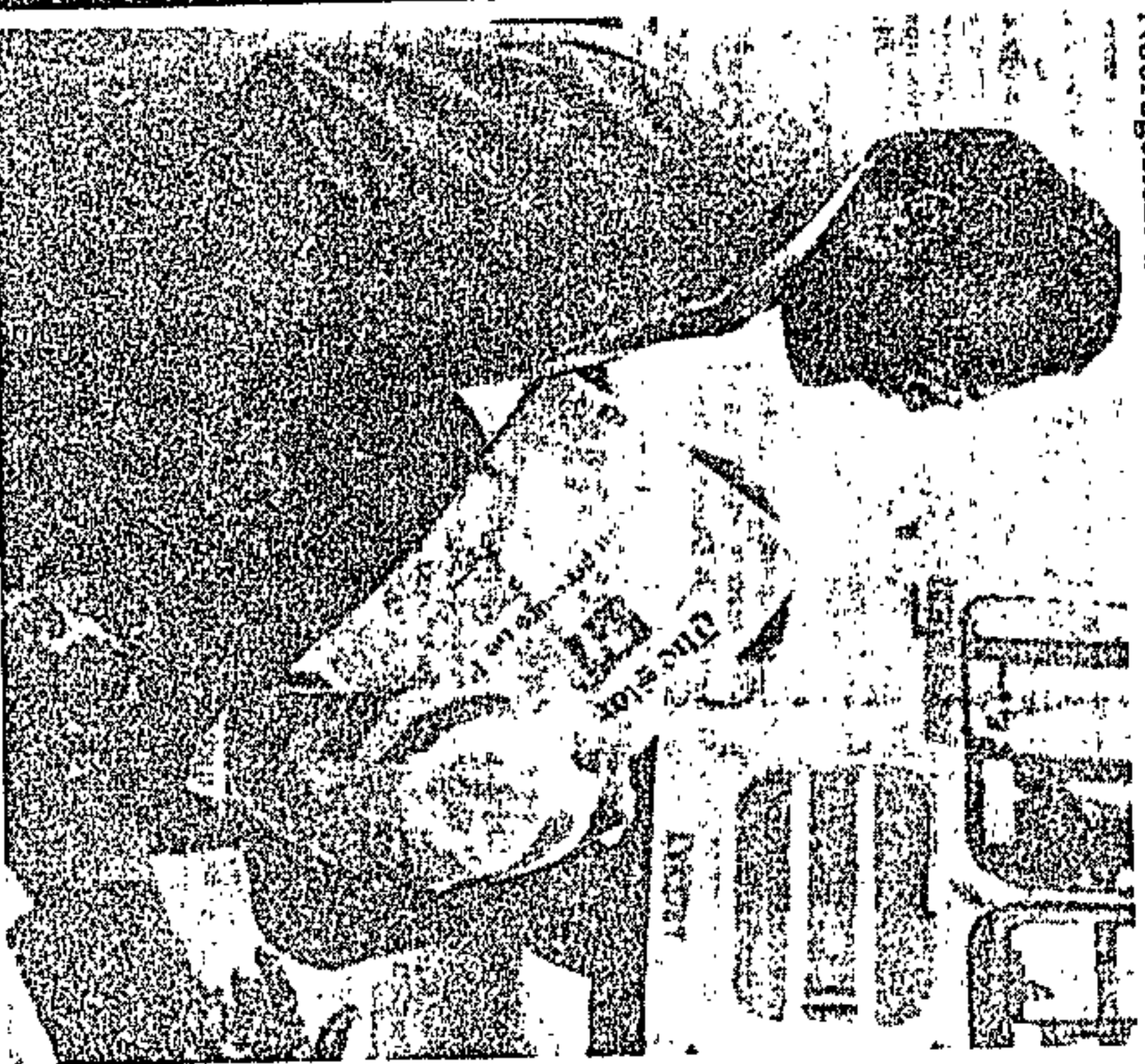
Soweto 28/2/89 331

## R500 bail granted

From Page 1

Two more people appeared before a Johannesburg magistrate yesterday in connection with the alleged murder of Mooketsi Stompie Seipei, a 14-year-old Tumahole, Orange Free State, youth whose body was found in January between Noordgesicht and New Canada railway station, Soweto.

The names of 21-year-old Mr Kaiza Cebekhulu, of Hamersdale and a 16-year-old girl were added to the charge sheet of former bus driver of the Mandela United football club. He was Mr John Morgan (61), who appeared in court on Friday. The proceedings were held in camera.



Mrs DUDU Chilli, a member of the Federation of Transvaal Women, hides her face behind a newspaper minutes after she had appeared before a Johannesburg magistrate on charges relating to the killing of Mr Maxwell Madondo, who was a member of the Mandela United Football Club. On her left is lawyer, Mr Hanly Vally. Pic: MBUZENI ZULU

### Murder

Mr P Bredenkamp postponed the case until March 10. In another case a fifth accused appeared in the Johannesburg Magistrate's Court, also yesterday, in connection with the murder of Mr Maxwell Spokes Ma-

To Page 2

REPORTS, pictures and comments in this edition may be considered in terms of the Government's state of emergency.

**CHARLIE PARKERS**  
 233 BREE STREET  
 (Between Wanderers & King  
 George Streets)

**THE FIRST AND LARGEST HAIR  
 PERMIT IN TRANSVAAL**  
**Promotion Feb. 25 to March 9**

<b>SUPER KURL</b> STEP 1, 2, 3	<b>SUPER CURL</b> Gel or Spray
<b>R45<sup>99</sup></b> 5 litres	<b>R3<sup>99</sup></b> 250 ml
<b>BLACK LIKE ME</b> Twin Pack	<b>EASY WAVES</b> Sets
<b>R7<sup>99</sup></b> 2 x 250 ml	<b>R8<sup>99</sup></b>
<b>AMERICAN FLAIR SET</b>	<b>WINNING TOUCH</b> Gel or Spray
<b>R7<sup>99</sup></b>	<b>R3<sup>99</sup></b> 300 ml



*Case 71115 28/2/89*

## Publication appeal upheld

Supreme Court Reporter *331*

THE conviction and sentence of an article clerk for possession of a banned publication was yesterday set aside on appeal to the Supreme Court.

Mr Desmond Grootboom, 25, was convicted in Goodwood Magistrate's Court last May 5 of being in possession of Umsebenzi, a banned publication of the SA Communist Party.

He was sentenced to three months' imprisonment, conditionally suspended for five years.

Mr Justice J H Conradie, with Mr Acting-Justice D G Scott concurring, found that there was not sufficient reason to reject Mr Grootboom's evidence without the risk of a wrongful conviction.

Mr Grootboom conceded that the publication was found in his room but denied knowledge of it or that he had possessed it.

Mr Siraj Desai, assisted by Mr D J Jacobs and instructed by Wilkinson, Joshua, Gihwala and Abercrombie, appeared for Mr Grootboom. Mr W C Viljoen appeared for the Attorney-General.



946 7/15 28/2/89  
**Accused only  
intent on art**

From MARIUS BOSCH  
UPINGTON. — The participation of an aspiring artist in the murder of a local policeman was totally out of character, a psychologist testified yesterday at the trial of the "Upington 25".

Dr Herman Raath said the defendant, Elisha Matshoba, 23, had no previous history of aggressive behaviour and was intent only on developing his artistic talents.

Matshoba was classified as a principal offender and the court found that he had participated in the stoning of the dead policeman's house and had taken part in the physical attack on the policeman.

He was found guilty although he participated in the attack after the policeman had already died.

Matshoba was in Std. 9 when he was arrested for his part in the murder in 1985.

The trial continues.





## Alleged PAC man freed State case not proved

AN alleged PAC man, accused of terrorism and arson was acquitted on all the charges at the Johannesburg Regional Court yesterday.

Mr Nelson Phasha (27), of Mahwelereng was also acquitted of possession of arms, explosives and a Scorpion machine-gun which was allegedly concealed under a piece of paper when he was arrested at Kopfontein near the Botswana border in March last year.

He was also alleged to have burnt down the offices of the Tembisa Town Council in May 1986. The magistrate Mr T J la Grange said there was no evidence brought before the court that Mr Phasha had committed arson or was a member of the PAC.

The State had closed its case after three State witnesses, who gave evidence of the witnesses themselves. Mr la Grange also said the evidence of the witness could not be believed. The defence counsel led

by Mr Dikgang Mosenekane also decided not to lead evidence.

The magistrate accepted Mr Mosenekane's submission that the State did not prove that the machine pistol found near Mr Phasha was in fact a firearm and not nearly a replica of it. There was also no proof that the bag found near the scene of the arrest belonged to Mr Phasha.

Mr Phasha was represented by Mrs D Mokgalle of the Black Lawyers Association's Legal Education Centre.



**A JOYFUL Mr Nelson Phasha after his acquittal on charges of terrorism yesterday.**

## Alleged PAC terrorist <sup>331</sup> acquitted <sup>22</sup>

By Celeste Louw

*star 11/31/89*  
Mr Nelson Phasha (29) was acquitted in the Johannesburg Regional Court yesterday on charges of being a member of the banned Pan African Congress, illegal possession of explosives and arson.

The State alleged that Mr Phasha, of Potgietersrus, attempted to smuggle explosives, pistols and other ammunition into the country on March 14 last year.

It was also alleged that he set the Sethokga Hostel alight and caused damage to the property of the Tembisa City Council on April 30 1986.

The magistrate, Mr T le Grange, found that the three State witnesses had given contradictory evidence.



# Psychologists testify in Upington

UPINGTON — The shooting of a child by a policeman could have caused one of the defendants in the Upington 25 trial to become emotionally disturbed and led to the eventual death of the policeman, a Supreme Court judge heard yesterday.

The court heard that on the day of the incident in 1985 about 200 people stoned the home of Constable Lucas Sethwala, who retaliated by firing his shotgun into the crowd wounding a young child.

Clinical psychologist Dr Herman Raath said the shooting of the child

could have caused severe emotional upheaval in the case of trialist Justice Beke, a former male nurse.

The court found Beke had chased the policemen, taken his weapon and killed him using the butt of the shotgun.

Another psychologist testified earlier that the events leading to the incident were likely to have aroused Beke to such an extent he would not have recognised the consequences of his actions.

Own Correspondent

13/89  
Court told  
of tortoise  
'torture' 331

Staff Reporter

A 16-YEAR-OLD youth, who alleged police tortured him with a tortoise, was yesterday found guilty in the Parow Regional Court on two charges of public violence.

The charges stem from incidents in October and December 1987 when youths stoned and petrol-bombed vehicles in Bonteheuwel.

Magistrate Mr J P Vermaak said the accused's "credibility left much to be desired".

Earlier the youth alleged that while he was lying naked and handcuffed in the Bishop Lavis police station, lettuce leaves had been placed on his chest and genitals. A tortoise allegedly nibbled at his pubic hairs, causing him to "scream with pain".



ratory.

*CAP & Times 2/3/89* (276)  
**Knife attack: Man dies**

PRETORIA. — One man was killed when a group of people armed with knives attacked a policeman at his home at Mpopomeni near Howick in Natal. The policeman received stab wounds to his head.

*CAP & Times 2/3/89* (331)  
**'PAC man' acquitted**

JOHANNESBURG. — An alleged member of the Pan African Congress, Mr Nelson Phasha, 27, of Mahwelereng, was yesterday acquitted of all charges of terrorism against him.

Reports by Staff Reporter, Own Correspondent, Sapa-Reuter-AP and UPI.

CAPE TOWN  
2/3/89

# Yengeni trial: 331 Treason charge dropped

Supreme Court Reporter

THE Yengeni trial resumed with a surprise development yesterday as the state withdrew a charge of treason against the 14 alleged members of the ANC.

In the original indictment the state alleged that the 14 were members of the "Western Cape machinery" of the ANC and were responsible for bomb blasts at Castle Court, Athlone Magistrate's Court and D F Malan Airport.

Prosecutor Mr H C Klem said the state had received a request on February 22 for "further and better particulars" and three days ago had informed defence counsel that a charge of treason would not be pursued by the state.

Instead, charges of terrorism in terms of the old Terrorism Act would be brought against Mr Tony Yengeni, Ms Jennifer Schreiner and Ms Lumka Nyamza.

## March 6

The three would also face charges of terrorism in terms of the Internal Security Act with the other 11 accused.

Mr Klem said he had given an undertaking to serve an amended indictment on the 14 by March 6.

Both state and defence counsel had agreed that the trial would start on March 8 when the accused would be asked to plead, he said.

The accused are: Mr Yengeni, Ms Schreiner, Ms Nyamza, Mr Michael Lumambo, 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 Mrs J V Knoll as assessors. Mr D de Villiers QC appeared with Mr Michael Donen, Mr Pious Langa and Mr Johnny de Lange and was instructed by Malinick, Rees, Richman and Cloenberg Inc, Esso Moses and Associates, R Vaseen and Co and Enver Daniels and Co. Mr Klem appeared with Mr J van Vuuren.

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# Schreiner: State drops treason charges

CAPE TOWN — The State yesterday withdrew treason charges against Jennifer Schreiner, Tony Yengeni and 12 other alleged ANC members.

Prosecutor Hendrik Klem made the dramatic announcement shortly after the start of proceedings in the Supreme Court.

He said the treason charge would be substituted by charges under the Terrorism Act.

Charges against Yengeni, Schreiner and Lumka Elizabeth Nyamza would relate to their allegedly receiving military training outside SA, he said.

Own Correspondent

In the original indictment the State alleged they were members of the "Western Cape machinery" of the ANC and were responsible for bomb blasts at Castle Court, the Athlone Magistrate's Court and D F Malan Airport toilets.

Both the State and defence counsel agreed the trial would start on March 8.

Advocate "Lang David" de Villiers, SC, for the accused, said counsel could not give an undertaking

that the trialists would plead next week as they had not seen the new charges.

Earlier 12 of the accused — two had been released on bail of R3 000 each — filed greeted the packed gallery with shouts of "Amandla" and "Viva ANC" as they filed into the dock.

Sapa reports that police cordoned off a section of Keerom Street in front of the court.

The crowd of about 150 who attended the hearing stood on the court steps and sang "freedom" songs until they were ordered to disperse.

**U.S. ALLOCATES  
ADDITIONAL VISAS**

(Usual criteria not applicable)

**FOR GREEN CARD**

BANK OF LISBON INTERNATIONAL LTD.

NOTICE

Increase in Finance Charge Rates

Bank of Lisbon International Ltd hereby gives notice that, with effect from 1st March 1988

(231)

**South NEWS** 2-8/3/89

## Subdued welcome for ANC trialists

TONY YENGENI and his fellow trialists were given a subdued and tense welcome in the Supreme Court, Cape Town this week after people in the public gallery were warned not to sing in court.

Relatives and friends stood up as the "Yengeni 14" came singing from the court cells for their appearance on Wednesday morning.

But their response to Yengeni's chanting of African National Congress and SA Communist Party slogans was restricted to clenched fists.

Minutes before the 14 appeared, lawyers and court officials told those in the public gallery that there should be no singing in court.

"We have instructions from the Judge President that if anyone sings or shouts Amandla, everyone will not be allowed in court for this trial again," said a court official.

Yengeni, dressed in a blue dashiki, and the other trialists, some in African print shirts or dresses, were in court for about 10 minutes.

Mr Hendrik Klem, for the state, announced that they would "no longer pursue" charges of treason against the 14.

An additional charge of terrorism would be added to Yengeni, his wife Lunka Nyamza, and Jenny Schreiner, for allegedly receiving training "outside the borders of the Republic".

Klem said he would amend the

indictment by next Monday and the accused would be asked to plead when the case resumes next Wednesday.

Advocate David de Villiers QC, for the defence, said they had agreed to drop their request for further particulars since most of their questions related to the main charge of treason, which had now been dropped.

De Villiers said he could not give an undertaking that the 14 would be ready to plead because they had not seen the new schedule of charges.

Tension continued outside as about 80 singing relatives huddled on the steps of the court building for shelter from a sudden downpour.

Police, also seeking shelter from the rain at a building opposite the court, ordered the crowd to disperse after about five minutes.

Most of the crowd walked down an alley into Long Street to wait for the truck taking the trialists back to Pollsmoor Prison.

At least one person was taken away by police after they dispersed a crowd in Long Street.

The trialists are Yengeni, Schreiner, Nyamza, Michael Lumbambo, Mbutu Nduku, Wellington Nkwandla, Mthetheli Tiana, Gary Kruse, Christopher Giffard, Sitalabochi Mahlale, Alpheus Ndude, Gertrude Fester, Suraya Abass and Colleen Lombard.



# State alters Delmas charge to murder

Star 2/3/89  
By Jo-Anne Collinge

In a twist at the end of the second Delmas treason trial, the State yesterday dropped the main charge of treason and pressed instead for convictions for murder and attempted murder against four self-proclaimed members of Umkhonto we Sizwe.

The trial has drawn international attention because the accused have refused to plead to the charges and have refused to defend themselves, arguing that they are soldiers in the national liberation struggle and should not be tried in a South African civilian court.

Pleas of not guilty were entered on their behalf when the trial commenced a month ago.

Judgment by Mr Justice de Klerk began yesterday and is likely to be concluded

today.

Whereas the original main charge of treason does not carry a mandatory death penalty, a murder conviction compels the judge to sentence the accused to death unless mitigating factors can be found.

Since there was no defence evidence led, the State presented its argument on conviction soon after its last witness testified. Prosecutor Mr H Prinsloo asked that:

● Mr Jabu Masina of Soweto be convicted on four counts of murder and 20 counts of attempted murder.

The murder charges related to the killing of Sergeant Orphan "Hlubi" Chaphi — the man known as "Soweto's most feared policeman" — in 1978; the killing of kaNgwane opposition figure Mr David Lukhele and his sister-in-law in Mamelodi in 1986;

and the assassination of Mamelodi policeman Constable Sinki Vuma, also in 1986.

The charges of attempted murder relate to the injury of Mr Lukhele's wife and to injuries caused during a limpet mine explosion in Silverton and a landmine explosion in Soshanguve.

● Mr TingTing Masango of Mamelodi be convicted on three counts of murder and 20 of attempted murder, arising from the two deaths at the Lukhele home, the assassination of Constable Vuma and the Silverton and Soshanguve blasts.

● Mr Neo Potsane of Soweto be convicted on two counts of murder and 20 of attempted murder, for the attacks at the Lukhele home, in Silverton and Soshanguve.

● Mr Joseph Makhura be convicted on 20 counts of attempted murder.



# The boundaries of guilt



mob is wrong.

David Unterhalter is a former lecturer in law at University College, Oxford, and now teaches legal studies at Wits. He argues that applying the doctrine of common purpose to the actions of a

I recently spoke to a group of foreign law students about the case of the Sharpeville Six (S vs Safatsa).

In that case, the Appellate Division held that accused persons who manifest an active association with a murderous mob may be convicted of murder where the mob succeeds in its common purpose to kill the deceased — even though none of the accused's actions caused the death of the deceased.

I said to my audience that the case was wrongly decided, but that SA law was quite capable of producing just principles of criminal liability, even in politically charged cases of this kind. They were sceptical. Surely, they said, no other outcome was to be expected from conservative white judges ruling upon threatening events of political upheaval?

That is a very grave allegation. But it helps little to solemnly intone about the high virtues of our judiciary if their judgments do not command respect, whatever our differing political affiliations. The real issue is whether, on their record of decision-making, condemnation is warranted. Opinion is sharply divided on the merits of the decision in the Sharpeville Six case. Among lawyers, there are those who defend the decision as a justified application of an established doctrine to the consequences of mob action. Others criticise the doctrine of common purpose as a crude one, ill-suited to pinning down individual criminal responsibility for actions taken in a crowd.

Our common-sense intuitions are also mixed. If I lend my actions to a collective undertaking to murder, can I be heard to complain if that undertaking is successful? On the other hand, if my actions do not bring about the death of another, should I be convicted of murder, notwithstanding my hostile intent towards the deceased?

It is plain that these are not simple issues, but they are important ones. Already the implications of the Appellate Division's decision in the Sharpeville Six case are being felt in the lower courts. In the Supreme Court in Uppington, the trial of 25 persons convicted of the murder of a municipal policeman continues (S vs Khumalo).

The presiding judge, Mr Justice Basson, found that 21 of the accused were guilty of murder as accomplices having actively associated themselves with a common purpose to

stone the house, drive the deceased from it and kill him. Four other accused were found guilty of murder as principal actors in killing the deceased. Now international attention is once more focused upon our courts to see whether evidence of extenuation will be accepted and the death penalty avoided.

Three preliminary points about the doctrine of common purpose should be noted. First, persons who join crowds and throw stones or make inflammatory statements are not blameless. The issue is simply the nature of their blameworthiness. Second, principles of criminal responsibility must apply generally. Responsibility should not depend upon the value of the accused's political objectives in acting as they did. Otherwise the trial degenerates into an occasion for pursuing and evaluating political causes.

Third, in other respected legal systems, the law of complicity sets out the liability of participants in a joint unlawful enterprise. In English law, Section 8 of the Accessories and Abettors Act, 1861, renders a person who aids and abets an offence liable as a principal offender. And there are English cases that make use of the idea of participation in a joint unlawful enterprise as a basis for liability (see R vs Reid).

Notwithstanding these observations, it is my view that the doctrine of common purpose in South African law cannot, as it presently stands, be justified. The morality of the criminal law is strongly wedded to the idea that we hold people responsible for what they have done and the harmful consequences that they bring about. What is troubling in cases such as those of the Sharpeville Six or Uppington 25 is that the actions of some of the accused, convicted of murder under the doctrine of common purpose, may have been wrong — but we find it difficult to describe them as murderous.

Throwing a stone or using threatening language is wrong, but when it does not bring about a fatal consequence it grates against our moral intuitions to call it murder. The problem with the doctrine of common purpose is that it fails to distinguish the blameworthiness of different actions.

What the doctrine of common purpose says is that if I actively associate myself with a mob, which I may do by overt conduct of a relatively trivial kind, and that mob has formed a common purpose to kill, and persons in the mob then do kill, the actions falling within the common purpose that brought about the death of the deceased will be attributed to me and render me liable for the murder.

To see why it is that this version of the doctrine is unacceptable, consider the central case of the doctrine of common purpose. A and B agree to kill X. Following the plan agreed upon, B goes out and does kill X. No one seriously doubts that while it is B's

action that brings about the death of X, both A and B are equally responsible, and the doctrine of common purpose allows us to attribute B's action to A to render him liable for the murder. We have no difficulties with the legal conclusion in this example.

However, where there is no agreement, but simply an active association with the common purpose of the mob, the basis of the accused's liability is much less clear. First, can a person share a common purpose with a mob? I think not. The mob is an abstraction; attributing a common purpose to it is anthropomorphism. The criminal law is not concerned with abstractions but with the responsibility of individuals.

A common purpose can only be formed between individuals. And though large numbers of people may come to share a common purpose, that must be established. For we know that individuals are just as likely to intend different things by their actions as to make common cause. What must be established is that a common purpose to kill existed between the accused and those who actually did the killing, unmediated by the mind of the mob — which is a metaphysical nonsense. In any group of people there may be more than one common purpose, and the acts of the killers may not fall within the scope of all of them.

The second point is this. Even if it is established that there was a common purpose to kill the deceased, is a person's active association with the actions of the crowd a sufficient basis for making him liable for those actions? Not necessarily. There are many different ways of participating in a crowd; not all identify a person with the common purpose in the same way, or at all. Quite frequently we endorse, support, or associate ourselves with another's actions without in any way wishing to adopt or assume responsibility for those actions.

So too I may act in the context of a crowd, but not thereby consent to be bound by the actions of those who would kill. That may come about simply because I support their reasons for acting, but do not wish to adopt those actions as my own because I am content with something less drastic, such as throwing a stone. Active association is a catch-all criterion of blameworthiness, unresponsive to the differences between people's actions.

Lawyers are creatures of habit. They take the legal concepts available and put them to use.

The danger is that they lose touch with a common-sense view of what is right. Our courts have applied the doctrine of common purpose, a perfectly respectable doctrine, to the accused's participation in a mob, and in doing so are wrong. They have thereby extended the boundaries of liability for murder too far.



# Delmas 3 convicted of murder

By Jo-Anne Collinge

Murder convictions were yesterday pronounced in the Supreme Court sitting in Delmas on three of the four members of Umkhonto we Sizwe who have refused to defend themselves on the grounds that they are soldiers who should not be subject to a civilian court.

The three convicted men, who now face a mandatory death penalty unless they are able to prove extenuating circumstances, showed no emotion during the pronouncement of guilt. They occasionally talked quietly in the box.

Mr Justice de Klerk declared that Jabu Masina was guilty on four counts of murder and one of attempted murder, TingTing Masango was guilty on three counts of murder and one of attempted murder, and Neo Potsane was guilty on two counts of murder and one of attempted murder.

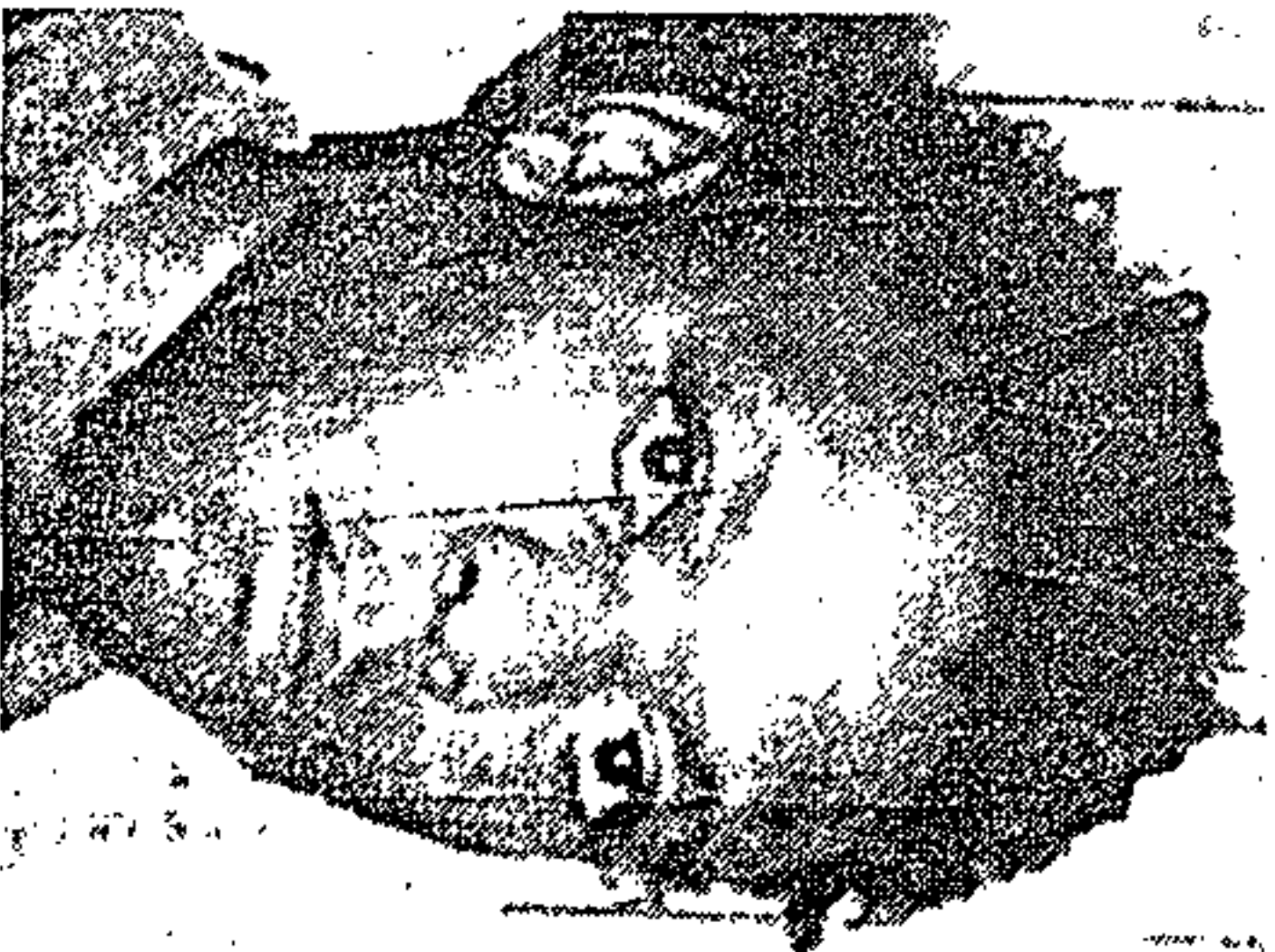
The State case lasted a month. No evidence was presented on behalf of the defence, who dispensed with the services of an advocate, and no challenge was made to the admissibility of statements made by the accused to magistrates and policemen.

It remains to be seen whether the three accused will present evidence in mitigation of sentence or simply bow to the mandatory imposition of the death penalty.

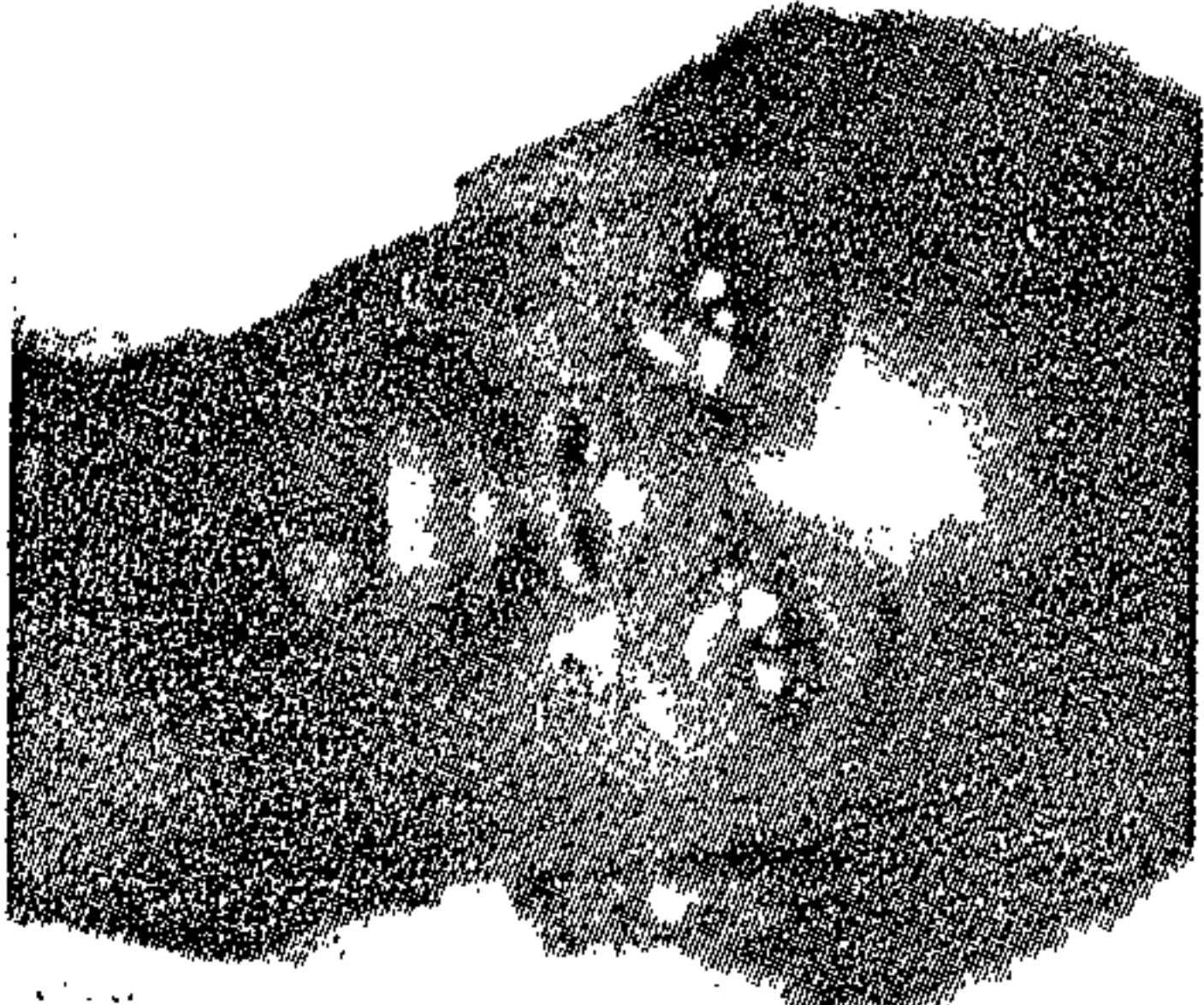
The convictions arise from the assassinations of Detective Sergeant Orphan "Hlubi" Chaphi in Soweto in 1978; Constable Sinki Vuma in Mamelodi in March 1986, and kaNgwane politician Mr David Luhele and his sister-in-law, Mrs Elizabeth Dlodlu, in Mamelodi in mid-1986.

The fourth accused, Mr Joseph Makhura, was acquitted on all charges relating to these killings. He and his co-accused still face judgment on 19 counts of attempted murder and an alternative charge of terrorism relating to the planting of a limpet mine in Silvertown in 1986 and a landmine in So-shanguve during the same year.

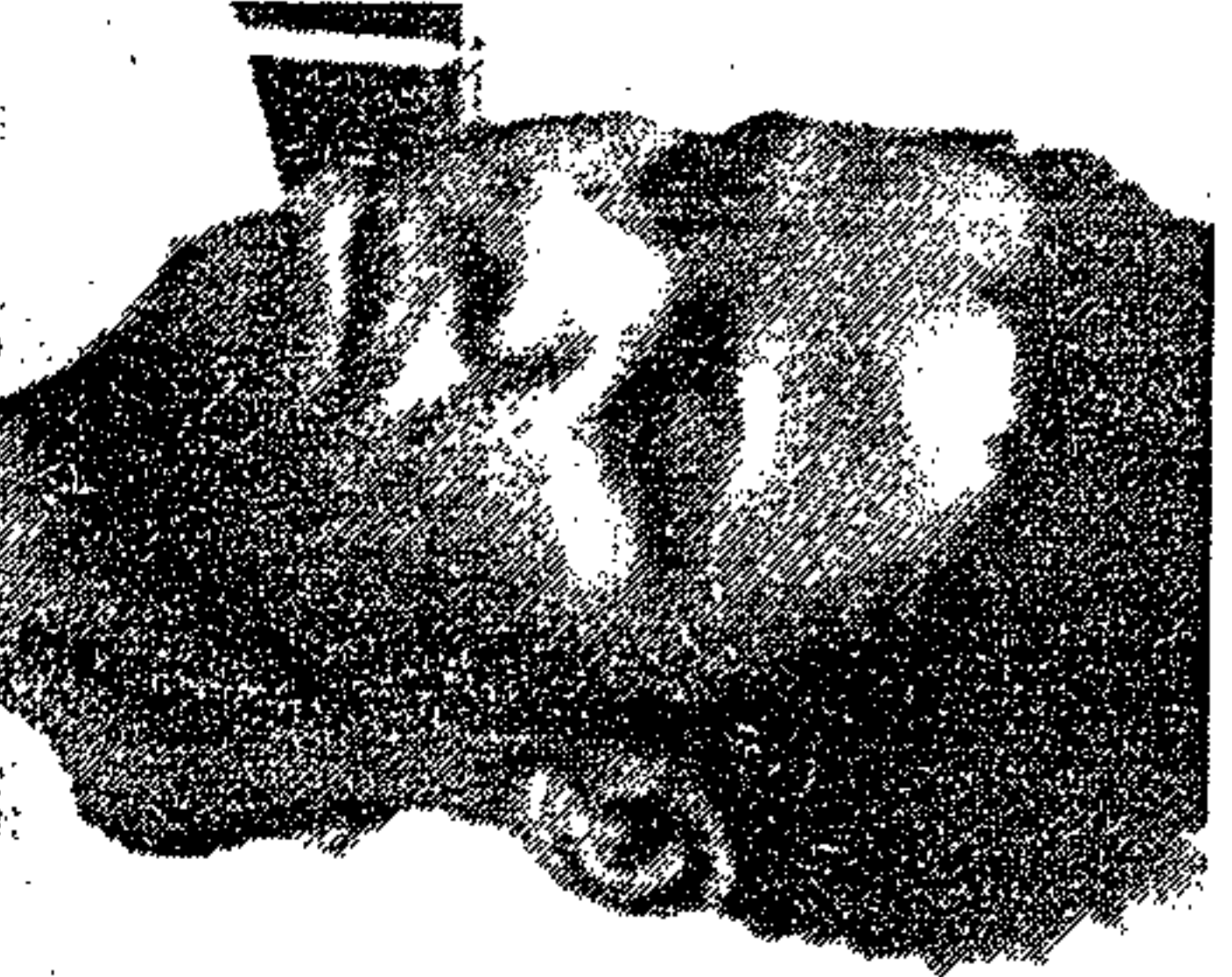
Though convicted on four counts of



Neo Potsane... guilty.



Jabu Masina... guilty.



TingTing Masango... guilty.

murder, Masina was held to have carried out only one of the assassinations — that of "Hlubi", the controversial policeman of the 1976 Soweto uprising. He was convicted for the other killings on the grounds of conspiracy and common purpose with the actual killers.

Similarly, Masango was found to have shot only Constable Vuma but to have conspired with Masina and Potsane in the killings at the Luhele home. It was he who had identified Luhele as a target and had sought African National Congress approval for Luhele's elimination.

Potsane was found to have shot Luhele and his sister-in-law. Although she

was not a target, it could have been foreseen that she would be caught in the "rain of bullets" fired from his AK-47 weapon, which was "not known as a marksman's weapon", the judge said.

The judge found that the statements of the accused to magistrates and policemen constituted confessions and contained "unambiguous acknowledgment" that they had committed the crimes. The fact that statements were mutually confirmatory and that they were supported by other State evidence provided the basis for his findings of guilt.

Judgment is expected to be concluded today.



# Murder verdict

**MURDER** convictions were yesterday pronounced in the Delmas Circuit Court on three of the four members of Umkhonto we Sizwe who have refused to defend themselves on the grounds that they

are soldiers who should not be subject to a civilian court.

The three convicted men, who now face a mandatory death penalty unless they are able to prove extenuating circumstances, showed no emotion during the

## SOWETAN Reporter

pronouncements of guilt, talking quietly in the box from time to time.

Reviewing in detail the State evidence against the four men, Mr Justice de Klerk declared that

Jabu Masina was guilty on four counts of murder and one of attempted murder; Tingting Masango was guilty of three counts of murder and one of attempted murder and Neo Potsane was guilty on two counts of murder and one of attempted murder.

The State case lasted a month. No evidence was presented on behalf of the defence, who dispensed with the services of an advocate, and no challenge was made to the admissibility of statements made by the accused.

It remains to be seen whether the three accused will present evidence in mitigation of sentence, or simply bow to the mandatory imposition of the death

penalty.

The convictions arise from the assassinations of Detective Sergeant Orphan "Hlubi" Chaphi in Soweto in 1978; Constable Sinki Vuma in Mamelodi in March, 1986; and KaNgwane politician Mr David Lukhele and his sister-in-law, Mrs Elizabeth Dlodlu in Mamelodi.



# Banned books: 4/3/89 Boraine 331 acquitted

ANDREW BORAINÉ, UDF executive member and son of Idasa co-director Dr Alex Boraine, was yesterday acquitted in Cape Town Magistrate's Court of distributing or possessing 28 prohibited books at an Observatory bookshop.

Mr Boraine, 29, of Bonan Road, Rondebosch, and his co-accused, Ms Nicky Rousseau, 33, of Belmont Road, Mowbray, pleaded not guilty.

They were acquitted of distributing 21 undesirable publications and possessing seven on February 19, 1985 at Open Books, Main Road, Observatory.

The magistrate, Mr MJC Tolken, said the publications had been found in the shop which was jointly owned by the two at the time.

It was clear that the books were kept separate from those available to the public, Mr Tolken said.

## Alleged ANC man<sup>33/</sup> allowed R1 000 bail

Cape Times 6/3/87  
Court Reporter

A GUGULETU man was granted bail of R1 000 in Cape Town Regional Court when he appeared in connection with charges of terrorism and furthering the aims of the African National Congress.

Mr Xolile Thompson Jaxa and his co-accused, Mr Molliat Mziwoxolo Mfeketo, of Umtata, were not asked to plead on Friday.

The state alleges that the two transported three men to Botswana for military training by the ANC or to make contact with its members. It is further alleged that Mr Jaxa and Mr Mfeketo distributed a banned publication.

The hearing was adjourned to May 22.



# I watched friend die, Ellis Park riot trial told

5/13/87 By Helen Grange 33

A man who was assaulted during the 1987 Kruger Day riots at Ellis Park stadium told the Rand Supreme Court on Friday how he watched his friend bleed to death on the pavement outside the stadium after being attacked by a mob of black youths.

Mr Theo Robert Durrham was testifying in the trial of six men charged with two murders, eight attempted murders and public violence arising from a clash between riot police and a mob in Bezuidenhout Valley.

Mr Sidwell Ntuli (21), Mr Matthews Mathopa (20), Mr Mackenzi Tshabalala (18), Mr Reginald Dlamini (16), Mr Clement Mokotedi (18) and Mr Vusi Eric Masindeni (30) pleaded not guilty to all the charges.

They allegedly murdered Mr Ledge van Druten and Mr Bazil Godfrey de Lorme.

According to the indictment, the incidents

occurred after a group of youths began fighting in Bezuidenhout Park, where they were confronted by riot police.

In spite of police attempts to disperse the crowd with teargas, the incensed youths moved towards Ellis Park stadium after hurling bottles, stones and bricks at police vehicles.

On their way to the stadium, they attacked two occupied vehicles, injuring two motorists before attacking various residences in the area.

They then went to Ellis Park stadium where the murders were allegedly committed.

## BLOW TO HEAD

Mr Durrham said he left the stadium with his friend, Mr van Druten, at about 7 pm after watching rugby.

"We were on our way to our car when a group of blacks approached us.

"I stepped off the pavement so they could pass when I felt a blow to my head. I turned round and saw Van Druten fall. He was holding his chest and bleeding.

"I ran to the stadium's main gate and summoned the police. When I got back to Van Druten, he was already dead. The police found a knife wound in the back of my head," said Mr Durrham.

Mr Darryl Paul Robinson, a traffic officer who was at the scene, told the court he had chased after the mob after spotting Mr Van Druten lying in a pool of blood.

"I saw a group of between 50 and 100 running up the street. They were throwing stones at bus windows. I followed the group to Ellis Park railway station.

The hearing continues.

# No bail for suspects

JOHANNESBURG. — Bail for four accused of the murder of Mandela United Football Club member Mr Maxwell Madondo on January 30 was refused in the Magistrate's Court yesterday.

Magistrate Mr G van Wyk ruled that there was ample evidence that Mr Lerothodi Ikaneng, 23, Mr Isaac Mazibuko,

22, Mr Nklanhla Blanket, 18, and Mr Sandile Blanket, 20, all of Orlando West, Soweto, had quarrelled with the football club and that the club had no scruples when it came to eliminating such opposition.

He said that if they were granted bail, the football club could attempt to kill the four or involve them in further illegal activities.

CAP 4 MP 7/3/89





7/3/89

2 The Argus, Tuesday

## Soccer club linked to man's death

The Argus  
Correspondent (37)  
JOHANNESBURG —

Mr Maxwell Madondo was murdered as a result of clashes between members of the Mandela United Soccer Club and the accused involved in the Madondo murder case, a policeman told a Johannesburg magistrate.

Detective Sergeant Jean van Zyl gave evidence yesterday in a bail application for four of the accused, who allegedly murdered Mr Madondo on February 13 this year.

Mr G van Wyk refused the application by Mr Andrew Ikaneng, 27, Mr Sandile Blanket, 20, Mr Isaac Mazibuko, 22, and a 17-year-old youth.

A fifth accused, Mrs Dudu Chili, 47, was granted bail of R500 last week.

Sergeant van Zyl said members of the football club had tried to kill Mr Ikaneng by slashing his throat. He survived.

The accused decided "to put things right with the soccer club".

APR 11 1989

## Upington trialist 231 'manacled to her bed'

From MARIUS BOSCH

UPINGTON. — An accused in the "Upington 25" trial was handcuffed to a bed while she was recovering from an emergency operation, a judge was told here yesterday.

Mr Ian Farlam SC was relating a sworn statement made by Miss Xoliswa Dube, in which she said she was handcuffed to the bedframe when the policeman guarding her left the ward. This, Mr Farlam said, caused Miss Dube to suffer considerable pain.

She subsequently fell asleep, still handcuffed.

Miss Dube said that on Sunday, January 26, 1985, on returning to her ward after having a bath, she saw her police guard and another man embracing on her bed.

"Hulle was besig om te vry (they were busy necking)," she wrote.

Her guard then instructed her to wait in the corridor where she stood for about 25 minutes.

The following day she was discharged and was driven at high speed in a police vehicle to the court "causing her to slide around and bang into the sides of the van", Mr Farlam said.

After she was told to wait outside the court, her attorney was called and Miss Dube complained to the attorney of being in pain. Arrangements were then made to have her readmitted to hospital.



# "Student chief died of a 'head wound'"

sowetan 8/3/89

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A DAVEYTON student leader, Mr Caiphus Nyoka (23), died from a head gunshot wound, a pathologist's report revealed as the second leg of the inquest into his death continued at the Benoni Magistrate Court yesterday.

Dr Len Anstey, the Nyoka family pathologist, said "at least 12

bullets struck Mr Nyoka — one in the hand, one in the neck, six in the chest, two on the right hand, one on the left elbow and one on the right forearm.

"The fatal shot was unquestionably the shot in the head," the pathologist said.

Dr Anstey also argued that the head wound might have been inflicted before others. The court heard that three bullets were found lodged inside Mr Nyoka's body.

Earlier evidence before Mr J P Myburg was that Mr Nyoka was shot dead by the security police at his home on August 23, 1987. It was also said that the police had gone to Mr Nyoka's home to investigate allegations that he was in possession of "terrorist weapons".

At the time of his death, Mr Nyoka was the president of the SRC at Mabuya High School where he was a matric pupil. He was also a co-ordinator of the Transvaal Students Congress.

A 21-year-old Soweto man, Mr Elson Monyakeng, who was sharing a bed with Mr Nyoka when the police arrived, also gave evidence. He said police woke them up and pushed him and two others outside the room after asking who, among them, was Caiphus.

Mr Nyoka, he said, did not offer any resistance while the police were questioning them. He also said he did not see any knife in Mr Nyoka's hand and anywhere inside the backroom they were sleeping in.

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## Clenched fists greet ANC trialists

By AVESHA ALLIE

THE terrorism trial of the "Yengeni 14" was delayed this week because of changes to the charge sheet.

On Wednesday, Tony Yengeni and his fellow trialists made their third brief appearance in the Supreme Court, Cape Town, since the trial began.

Defence counsel, advocate David de Villiers, QC, asked for an adjournment to allow more time to

consult with the trialists.

De Villiers said the trialists might be asked to plead when they appear again and the state might have further amendments to the charge sheet.

Relatives of the trialists were searched as they entered the court in groups of 10. Inside court they were reminded by a lawyer that there should be no singing.

There was silence in the public

gallery as the 14 singing trialists made their appearance. Relatives returned clenched fists as Yengeni shouted: "Viva ANC!"

The men on trial were dressed in suits and the women wore black skirts with matching green jackets.

De Villiers asked the court for the trialists to be given more time at Pollsmoor Prison for consultations. After the hearing was adjourned, the trialists — who remained briefly

in court — managed to wave at relatives in the public gallery before they were taken back to the cells.

There were no incidents outside the court as a crowd waited for the trialists to be transported in a truck to Pollsmoor Prison.

The trialists are Yengeni, Jenny Schreiner, Lunka Nyanza, Michael Lumbambo, Mbulu Nduku, Wellington Nkwandla, Mthetheli Tiam, Gary Kruger, Christopher Giffard, Silaboche Mahlae, Alphons Ndude, Gertrude Foster, Suraya Abass and Colleen Lombard.



# Murder by friends is *CIVIL TRIALS 9/3/89* *331* 'not strange' — expert

From MARIUS BOSCH

UPINGTON. — The participation in the murder of a policeman by two of the dead man's best friends was "not strange", a state witness said yesterday in the Upington 25 trial.

Dr CP de Kock, a sociologist attached to the Human Sciences Research Council, said history proved that brothers often turned against each other in times of conflict.

During the South African War, the brother of one the most revered boer generals "joined the other side", he said.

Dr De Kock had lectured regularly at the Defence College and Police College on crowd dynamics and control, according to his credentials put before the court.

He said there were resemblances between unrest throughout South Africa and events in Upington's Paballelo township on the day of the murder.

On Monday Dr De Kock said the behaviour of the accused should be seen in a South African context. Riots which had originated in the Vaal Triangle in 1984 soon spread to the rest of the country and the result was a countrywide mobilisation of blacks.

During the unrest the aim was to make the country ungovernable, he said. The subsequent vacuum was filled by "alternative structures".

In Paballelo this was evident in disciplinary measures taken by the Upington Youth Congress.

The trial continues.

# Yengeni trial held over until tomorrow

Supreme Court Reporter

THE TRIAL of 14 people, alleged to be members of the ANC's "Western Cape machinery" responsible for bomb blasts at Castle Court, the Athlone Magistrate's Court and D F Malan Airport toilets, will start tomorrow, the Supreme Court was told yesterday.

Mr D P de Villiers QC, defence counsel, applied for a postponement in the interest of both defence and state.

The state had given three accused, Mr Tony Sitembiso Yengeni, Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza an amended indictment based on the old Terrorism Act, Mr De Villiers said.

"By Monday we informed the state we had certain difficulties with the proposed amendments to the indictment which we contend to be irregularities in law which could be to the prejudice of the accused."

Because of the routine at Pollsmoor prison defence counsel had had inadequate time to consult with the accused.

The accused entered the court singing "Viva International Women" — in recognition of yesterday being International Women's Day. Family and friends in the public gallery responded with a clenched fist salute.

The accused are: Mr Yengeni, Ms Schreiner, Ms Nyamza, Mr Michael Mzimkhulu Lumbambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Sitalabocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Mr Justice S Selikowitz was on the Bench. Mr W S le Roux and Mrs J V Knoll were the assessors. Mr De Villiers, assisted by Mr Mike Dopen, Mr Pious Langa and Mr Johnny de Lange and instructed by Mallinick, Ress, Richman and Cloenberg Inc, Essa Moosa and Associates, R Vassen and Co and Enver Daniels and Co, appeared for the accused. Mr H G Klem SC, with Mr J van Vuuren and Mrs Sandra Swart, appeared for the State.



*CAPE TIMES 9/3/89*  
**Two to hang  
for necklacing** *33/*

PORT ELIZABETH. — Two KwaNobuhle men were yesterday sentenced to death after the Grahamstown Supreme Court convicted them of the necklace murder of an alleged Azapo supporter.

Mr Justice Cooper found no extenuating circumstances in sentencing Nelson Nhini Boss, 27, and Skumbuyo Janjies, 19, while Mcedisi Boss, 22, — convicted of murder with extenuating circumstances — was sentenced to 15 years' imprisonment.

All three were sentenced to five years' imprisonment for kidnapping Mr Mtshiya but for Mcedisi Boss, this will run concurrently with the murder sentence.

# City terror trialists refuse to plead

8545  
10/3/89

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By LINDA GALLOWAY  
Supreme Court Reporter

FOURTEEN accused of terrorism indicated in the Cape Town Supreme Court today that they did not intend to plead to the charges.

The trialists are Mr Tony Sitembiso Yengeni (accused No 1), Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Michael Mzimkhulu Lumbamsbo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Sitlabocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Mr Yengeni stood in the dock to make a statement explaining the position of the trialists, but was prevented from doing so by legal argument from both counsel.

The court adjourned to allow the State to examine the statement and to consider the options open to the trialists under these circumstances.

Mr D P de Villiers, QC, for the trialists, said the accused had three options. They could plead guilty, not guilty, or they could refuse to plead in terms of Section 109 of the Criminal Procedure Act.

"They have elected not to plead to these charges," he said.

"In this situation they should be given an opportunity to explain to the court why, and it would be grossly unfair to deny them this opportunity."

They are charged with terrorism, alternatively acting as office bearers or members of the African National Congress and/or the South African Communist Party.

(Proceeding)



CHN 11/3/89 (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33)

# 4 SATS workers sentenced to death

JOHANNESBURG. — Four railway workers, who took part in the 1987 SATS strike and were found guilty of murdering four non-strikers, were sentenced to death four times each in the Rand Supreme Court yesterday.

No extenuating circumstances were found in regard to the four: Wilson Matshili, 33, Patrick Molefe, 27, Takalani David Mam-

phanga, 25, and George Magedzo, 36.

The men were also found guilty on charges of attempted murder, kidnapping and intimidation, and were sentenced to between five and eight years of imprisonment each.

Four other railway workers were convicted of murder with extenuating circumstances.

Bongisi Sibisi, 33, David Dsehve, 30, Phineas Neshitungulwane, 35, and Mafemane Rikhotso, 30, were sentenced by Mr Justice T T Spoelstra to terms of imprisonment varying between eight and 12 years for the murder of the same four non-strikers.

Eight other employees were given suspended sentences for attempted murder, assault, kidnapping and intimidation. — Sapa

*On file 11/3/87*  
**'Comrade' sent  
for observation**

*33/*  
**Court Reporter**

AN alleged "Bonteheuwel Comrade", charged with setting fire to three policemen's houses, a post office and six vehicles when he was 14, was yesterday sent for 30 days' mental observation.

The youth, now 17, is mentally handicapped and pleaded not guilty in Cape Town Regional Court to 10 counts of public violence, alternatively arson, and of malicious damage to property.

The hearing was adjourned to April 10.

Mr J M Lemmer was the magistrate. Mr D J Brand prosecuted. Mr D Potgieter was instructed by Mr E Mohammed of E Moosa and Associates.



**Supreme Court Reporter**

TENSION was noticeable in the Supreme Court yesterday when terrorism accused Mr Tony Yengeni was told he could not read out a statement to the court to explain why he and his 13 co-accused refused to plead.

However, after the accused had said they refused to plead and the judge had entered pleas of not guilty, Mr Yengeni was allowed to read the statement.

After Mr H G Klem SC, for the state, had read out the charges to him, Mr Yengeni said he wished to read out a statement — which had been handed to the prosecutors, the judge and assessors.

Mr Justice S Selikowitz declined permission, saying he was not concerned with the contents of the statement.

When Mr Klem read out the second charge, Mr Yengeni said: "I refuse to plead to all the charges put to me for reasons set out in the statement which the court has refused to accept."

The charges were then put to all the accused who said they refused to plead to the charges and that they were participating in the trial under protest.

Mr Justice Selikowitz entered pleas of not guilty for each accused.

Mr Klem then told the court that Mr Yengeni could read out his statement in terms of Section 115 of the Criminal Procedures Act.

In his statement, which was endorsed by all the accused, Mr Yengeni said the state should face the charge they now faced.

**'Will of the people'**

"We believe South Africa belongs to all who live in it and that no government can justly claim authority unless it is based on the will of the people."

"We accordingly abhor the apartheid state and, in so far as we have no choice in the matter, we owe it no allegiance whatsoever. We make no apologies for seeking its downfall nor do we believe that those who seek its demise, whether by international armed conflict or otherwise, should on that account be considered guilty of criminal conduct."

Mr Klem said the trial was not an ideological prosecution but that the indictment related to acts of terrorism committed in the Western Cape from July 1986 to August 1987.

He said the targets included the Mowbray police station, the Lakeside post office, the Athlone Magistrate's Court, a councillor's house in Guguletu, two service stations and a Plumstead garage.

Other targets were Castle Court in the city, the women's toilet at D F Malan Airport, the house of a policeman in Guguletu and a police vehicle at Mbekweni, Paarl.

The hearing continues next Tuesday, when the state will apply for the evidence of some state witnesses to be given in camera.

The accused are: Mr Yengeni, Ms Jennifer Schreiner, Ms Lumka Nyamza, Mr Michael Eumbambo, 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 D P de Villiers SC is assisted by Mr Mike Donen, Mr Pious Langa and Mr Johnny de Lange and instructed by Mallinck, Rees, Richman and Closenbergh Inc, Esau Moosa and Associates, R Vassen and Co and Enver Daniels and Co. Mr Klem SC, with Mr J van Vuuren and Mrs Sandra Swart, appeared for the state.

# Terror accused explain refusal to plead

# Delmas trial: probe into assault claim

W/5 ARCS 11/3/89 331

JOHANNESBURG. — An investigation will be held into the alleged assault by prison warders in Modderbee Prison, Springs, of the four ANC members standing trial in Delmas.

This follows an announcement by the four in the Delmas Circuit Court yesterday that they were assaulted on Wednesday when they refused to go back into their cells.

The men, Jabu Obed Masina, Frans Ting-Ting Masango, Neo Griffith Potsane and Joseph Makhura were due to be sentenced yesterday failing a final opportunity given to them to give evidence in mitigation.

## **"Kicked, punched"**

Three of the men face the death sentence after being convicted last Friday of murder.

Masango told the court that all four of them had been assaulted and Makhura had been knocked semi-unconscious for almost an hour on Wednesday.

The four accused held up torn T-shirts containing brown marks which they claimed were boot marks.

They alleged they had been kicked and punched

and said there were witnesses to this.

Mr Justice de Klerk said he had been informed that unnecessary force had been used to get the men back into their prison cells.

The incident would be investigated and the necessary steps would be taken, he said. "If you were assaulted, the people who did it will be punished."

But it had to be established also whether it had been assault on the men or a political demonstration by the men, he said.

A prisons liaison officer reacted to the alleged assault, saying that the Prisons Act made provision for "necessary force" to be used if prisoners refused to go back to their cells.

A lawyer for the accused, Mr Peter Harris, said his clients had told him they had demanded to see the head of the prison to register complaints about their conditions after they were told he was not available for days prior to this.

They refused to return to their prison cells and were assaulted, said Mr Harris.

Mr Justice de Klerk has postponed the trial to April 25 when witnesses will lead evidence on the alleged assault. — Sapa



RA, 12 March 1989

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## Ex-ANC fighters<sup>231</sup> to testify for State

By HAMISH McINDOE

FORMER African National Congress guerillas will be called as State witnesses to testify in a Supreme Court trial in which 14 South Africans are accused of terrorism.

The trialists, who include the alleged Soviet-trained commander of the ANC in the Western Cape, Tony Yengeni, and academic Jenny Schreiner, refused to plead when they appeared in the Cape Town Supreme Court this week.

Mr Justice S Selikowitz entered a plea of not guilty on behalf of all the accused.

In an emotion-charged statement read before the court, Mr Yengeni said all the trialists refused to accept the jurisdiction of the court.

He said apartheid had "not left the judicial system untainted".

"Apartheid stands condemned as a crime against humanity ... it has been allowed to devastate millions of lives."

### 'Traitors'

The State alleges the accused bombed 11 targets in the Western Cape between 1986 and August 1987.

Mr H G Klem SC, for the State, said the testimony of former ANC members and colleagues of the accused would help prove the State's allegations.

But, he said, since it was "the policy of the ANC to assassinate collaborators or traitors" he would apply for their evidence to be heard in camera.

# World's focus is on apartheid Uppington

Cape Times 13/3/89 (331)

From  
MARIUS BOSCH

APARTHEID is alive and well in Uppington and under international spotlight.

The focus is on 25 residents of the town's Paballelo township, who are facing the death penalty for the murder of a policeman during the height of the riots that rocked SA in 1985.

"White" Uppington is an oasis in a semi-desert, boasting two monuments to two animals — one of a donkey and the other of a camel. The latter, installed in front of the police station, is a tribute to the role played by the camel in the fighting of crime in the early 1900s.

Taxis and most of the hotels and restaurants are segregated. A "non-white" taxidriver said: "If they catch us transporting whites, the speedcops give us very heavy fines."

Paballelo is a typical platteland township with about 20 000 residents.

There is severe overcrowding and unemployment figures are high.

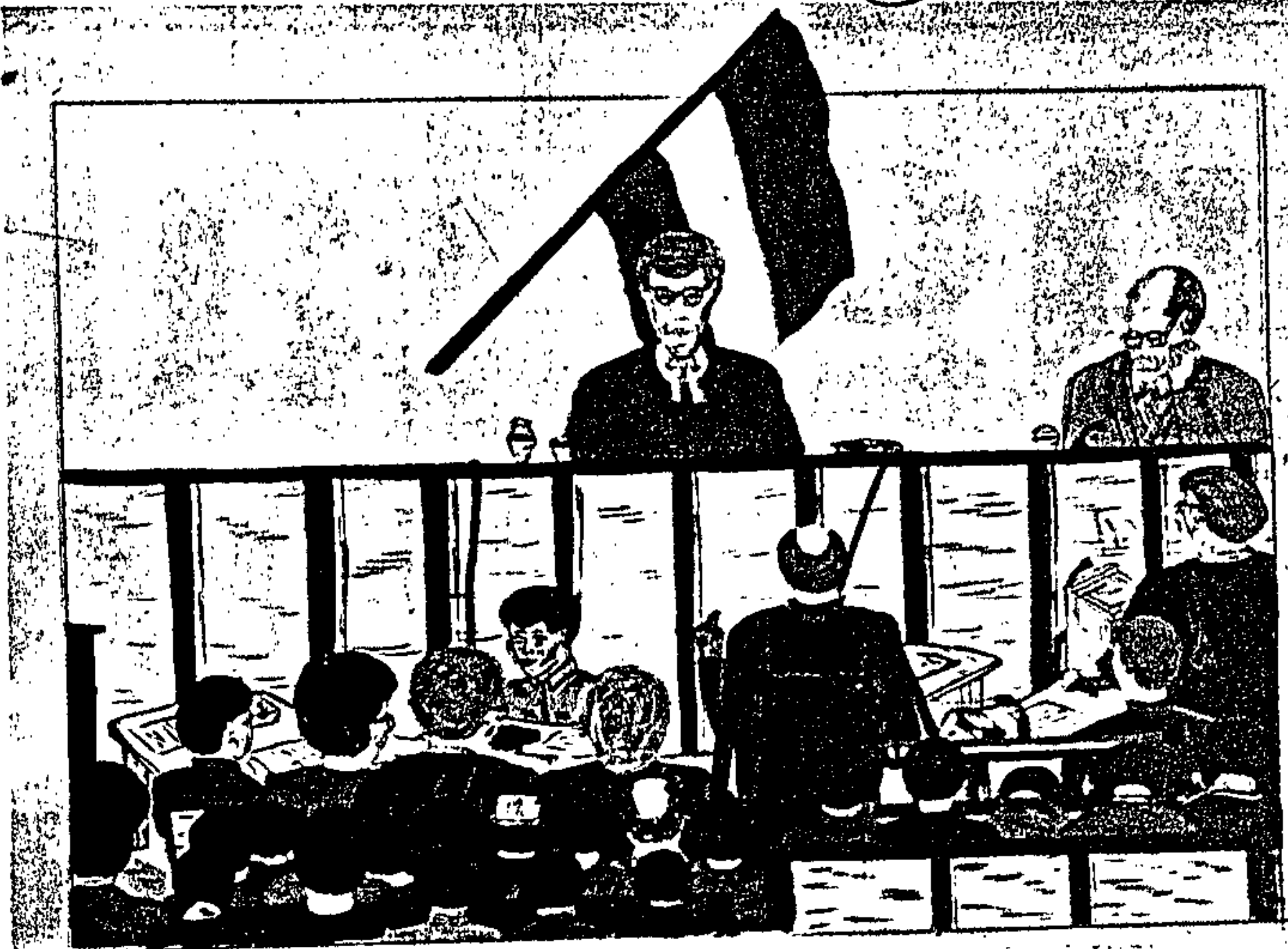
Some of the small dwellings house up to 15 people, said community leader Mr Alfred Gubula.

On weekends the town resembles a graveyard with only the sound of hardworking air-conditioners to be heard.

With the impending independence in Namibia, the town is expecting a boom period and work has begun on a new shopping centre.

Although "the border" would be only an hour's drive away, residents believe that their daily lives would not change.

"All the government must do is to scrape a wide road and plant it full of landmines. I am sure that is what they will do," said a young engineer.



ARTIST ON TRIAL... Elisha Matshoba, one of the Uppington murder trialists, painted this picture of the scene inside the courtroom.

Picture: ERIC MILLER

From MARIUS BOSCH

UPINGTON. — All Elisha Matshoba wants to be is an artist.

A drawing by him of the courtroom where he is on trial for his life has attracted international attention.

He has been convicted — along with 24 other residents of Uppington's Paballelo township — of the murder of a policeman in 1985.

Since the marathon trial started in September 1986, Matshoba had spent his days in court sketching and drawing — using the judge and defence team as life subjects for his pencil.

He was in Std 9 when he was arrested and at school his favourite subject was art. In De Aar, where Matshoba was born in 1966, several houses in the town's Nozwakazi township sport decorative house numbers painted by him. He also painted the name of the Nozwakazi town hall on to the building.

Matshoba, a quiet well-spoken young man, was given the nickname of "Boris Becker" by Paballelo residents because he excelled at tennis.

Matshoba presented defence

## Uppington convicted draws praise in courtroom drawing

witnesses with drawings of themselves on the witness stand. One of the witnesses, Wits social psychologist Professor Graham Tyson, said at the time that the drawing would be one of his most treasured possessions.

During the trial Matshoba also painstakingly crafted a model boat from about 14 000 matches. This he gave to his pensioner fa-

ther, Mr Abednego Matshoba.

A moved Mr Matshoba said afterwards: "My son is so good at art."

During the festive season last year Mr Matshoba donned a Father Christmas costume and braved the heat in De Aar to raise money to attend the trial in Uppington.

"I fainted at least once because it was so warm in that suit," he said last week.

Mr Matshoba showed reporters and lawyers badges won by his son in his church youth movement.

He was the commander of the Uppington group of the Pathfinders youth group at the time of his arrest.

In testimony before the court he was described as a helpful and quiet person who was intent only on developing his artistic talents.

His mother described him as the most helpful of her children, repairing electrical appliances and installing a wooden ceiling in their De Aar home.

Over and above his artistic talents, he is apparently an accomplished actor who used this skill in acting out religious themes.



# HSRC 'analyst' testifies in trial

From MARIUS BOSCH

UPINGTON. — A Human Sciences Research Council employee was granted leave to testify in the trial of the "Upington 25" because of the potential sensitivity of the case, evidence handed in to the court stated yesterday.

Dr C P de Kock — an HSRC conflict analyst — was last week requested by defence counsel to hand in, as evidence, a letter from his employers granting him permission to testify for the state.

The objectivity of Dr De Kock's testimony was questioned by advocate Mr Ian Farlam SC.

Dr De Kock had been involved in the training of police at the SA Police College and at the SAP's counter-insurgency training centre near Groblersdal since 1979.

## Uitenhage

Dr De Kock said he was testifying in his private capacity.

Under cross-examination by Mr Farlam last week, Dr De Kock conceded that he had visited "unrest areas" during 1985 accompanied by police.

He had also assisted the state in a damages suit brought against the Minister of Law and Order by victims of the 1985 police shooting of 21 mourners at Langa, Uitenhage, he said.

Dr De Kock said his work at the HSRC was to the benefit of all South Africans in gauging the reasons for conflict and how to control conflict.

Earlier last week, Dr De Kock expressed his doubts as to the effectiveness of the use of "minimum violence" in controlling crowds.

The trial continues.

*CNT*  
*Trifl*  
*15/3/89*

## Video: Teacher in court *330*

Court Reporter

MITCHELLS PLAIN teacher Mr Neville van der Rheede, who was in detention for more than five months, appeared in Wynberg Regional Court yesterday in connection with possession of a prohibited video.

Mr Van der Rheede, 34, was arrested on September 21 last year and was released last month when he appeared in court for the first time in connection with possessing the video. He has not been asked to plead.

The state alleges that on September 21 last year he possessed a video cassette "Umkhonto we Sizwe" which had been distributed by the ANC.

The hearing was adjourned to April 14 and bail of R250 was extended.

Mr J B Swanepoel was the magistrate. Mr C J Musi prosecuted. Mr E Mohammed of E Moosa and Associates appeared for Mr Van der Rheede.



...about 50 000 mandrax tablets  
were confiscated.  
The hearing was adjourned to April 12.

They robbed the couple  
bag containing R28, before  
Davids.

## Bank bomb: Man appears

Supreme Court Reporter

A GUGULETU man allegedly responsible for a limpet mine explosion at a Wynberg bank in which a man was killed, yesterday appeared briefly in the Supreme Court.

Mr Allen Ndodomzi Mamba was not asked to plead to a charge of murder and four charges of terrorism and the hearing was adjourned to April 18.

During October 1987 Mr Mamba allegedly conspired with a Mr Kenneth Moyake to obtain arms, ammunition and explosives from the ANC for use in the Cape Peninsula.

The state alleges that Mr Mamba and Mr Moyake decided in June last year to carry out attacks in the Peninsula and selected as targets the Wynberg branch of Volkskas and the railway line near Langa station.

On June 15 last year they allegedly constructed an explosive device which they activated and placed in a dirt-bin outside the bank. In the resultant explosion Mr Elliot Mphati Ketelo was killed.

Mr Justice C T Howie was on the Bench. Mr Siraj Desai, instructed by E Moosa and Associates, appeared for Mr Mamba. Mr Mike Stowe appeared for the state.

...manurax tablets  
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...of Carrick and Ple  
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# ANC trial: Secret plea for secrecy by state

CHL Tmt  
15/3/89

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## Supreme Court Reporter

AN application by the state to have the evidence of certain state witnesses in the trial of Mr Tony Yengeni and 13 others heard in camera took place in camera yesterday.

Mr H Klem SC, for the state, said the application was made in terms of Section 153 (2) of the Criminal Procedure Act and Section 65 of the Internal Security Act.

Mr D P de Villiers QC, for the defence, said defence counsel would oppose the application for the evidence itself to be heard in camera.

Mr Justice S Selikowitz granted the application and ordered the courtroom cleared of all except legal counsel and police.

## Refused to plead

The judge said the law provided for proceedings to take place in camera if there was a likelihood that harm might result to a person, other than an accused, if he testified at the proceedings.

The court could direct that such a person should testify behind closed doors and that his identity should not be revealed, he said.

The accused are: Mr Yengeni, Ms Jennifer Schreiner, Ms Lumka Nyamza, 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.

Last week they refused to plead to the charges.

Mr W S le Roux and Mrs J V Knoll are the assessors. Mr De Villiers appeared with Mr Mike Donen, Mr Pious Langa and Mr Johnny de Lange and was instructed by Mallinck, Ress, Richman and Closenbergh Inc, E Moosa and Associates, R Vassen and Co and Enver Daniels and Co. Mr Klem appeared with Mr J van Vuuren and Mrs Sandra Swart.

CHART Times 331

March 15, 1989

## Apartheid reason for frustration — witness

From MARIUS BOSCH

UPINGTON. — The reason for black frustration was the apartheid system and not local issues, as was the case during the riots of 1985, a witness for the state said here yesterday in the trial of the "Upington 25".

Human Sciences Research Council conflict analyst Dr C P de Kock said in reply to cross-examination by advocate Mr Ian Farlam SC that a statement by former Minister of Information Mr Louis Nel that the ANC was responsible for the riots during 1984-1986 was an extreme viewpoint.

In 1985, local issues in Upington's Paballelo township, such as the halting of informal sector sales, could have caused frustration in the township, Dr De Kock said.

Dr De Kock agreed with an assertion from Mr Farlam that a major difference between Paballelo and much of the rest of SA during the 1985 unrest was that local structures in Paballelo continued to function while many local governments elsewhere were paralysed.

Earlier during cross-examination, Dr De Kock said the ANC was caught totally off-guard by the student riots of 1976. In the riots of 1984 to 1986 the ANC used the lessons learnt in 1976 to attempt to "make the country ungovernable". The trial continues.



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## SOUTH NEWS

SOUTH, March 16 to March 22 1989 7

# Why trialists won't plead

**TONY YENGONI and his fellow trialists in a terrorism trial refused to plead in the Supreme Court last week. In an eight-page statement, Yengoni outlined their reasons. The following is an edited version of his statement:**

WE stand here charged with "terrorism". The original main charge against us was treason.

After the state had been questioned on our behalf, it withdrew this charge. The allegation then was that we sought to overthrow the state.

The present indictment still attributes such an intent to us. What was, and still is, omitted is that the state referred to is the apartheid state.

Our understanding of treason is that it is a crime against the people. It would, for instance, be treason to betray the people of this country and to take up arms against them. But our people have been treasonably betrayed. The racist minority regime rules by force, through the barrel of the gun and without a mandate from the people.

It has created an apartheid state and, in order to maintain and defend it, employs awesome weapons of war which it has unleashed against the citizens of this country.

One of the results is an ongoing international armed conflict in which the racist minority regime is ranged against the people of the country.

We believe that South Africa belongs to all who live in it and that no government can justly claim authority unless it is based on the will of the people.

We accordingly abhor the apartheid state and, in so far as we have any choice in the matter, we owe it no allegiance whatsoever. We make no apologies for seeking its downfall.

Nor do we believe that those who seek its demise, whether by international armed conflict or otherwise, should on that account be considered guilty of criminal or otherwise, should on that account be considered guilty of criminal conduct.

The regime therefore stands accused of treason and the people do not and will not withdraw that charge.

As for the charge we now face, we again say that it is the state that stands accused.

In defence of its apartheid practices, this regime has brooked no...

its youth to take up arms against fellow citizens, to defend the indefensible.

Apartheid stands condemned as a crime by the international community and has been rejected as a heresy and a sin by the religious community. Yet it has been allowed to devastate millions of lives in this country.

Most regrettably, apartheid has not left the legal system and the judicial process of this country untainted. With due respect to your Lordship and learned Assessors, we have to point out that an official Court in this country cannot ignore the laws to which it owes its existence, nor the body of laws which constitute the apartheid legal system; in other words it is enjoined to apply an unjust legal system.

One facet of the workings of the system has already been manifested in this case, in the course of events whereby we were arrested, detained, interrogated and brought to trial.

After our arrest, we were detained under Section 29 of the Internal Security Act, a provision which is, in practice, used only against the political opponents of the regime.

It is a horrific legal provision and is in blatant disregard of the Rule of Law. The Security Police have not failed...

becomes a mere tool of the oppressor.

The courts have, furthermore, failed to fight the erosion of civil liberties. The judiciary have, by their silence, allowed this erosion to gain momentum and the courts now find themselves bereft of their traditional role of an independent arbiter and protector of individual rights.

The total picture is therefore

that of a regime which has treated the courts of this land with disdain. We cannot therefore have confidence in those Courts; they are not the Courts of the people of South Africa; they cannot dispense "justice" except in accordance with the guidelines and rules devised by the oppressor.

Our ideal is that all shall be equal before the law; that the courts shall be representative of all the people.

While, therefore, we find ourselves compelled by circumstances to participate in the proceedings in this case, as we intend to do, we have no desire, nor do we find it all necessary, to plead to the charges brought against us in this court.

Finally, we cannot fail to observe that there are numerous political trials before the courts in this country. Hundreds of our comrades, decent, sensitive and intelligent men and women are daily arraigned; they have but one thing in common: they pursue the same ideal of freedom which the fathers and grandfathers of today's rulers sought and fought for against the British. But they seek something more:

they struggle for a new society where discrimination based on the colour of one's skin shall be a thing of the past. Hundreds of those noble souls already populate the jails of this country.

Thousands more have suffered severe deprivation while being held in detention for indefinite periods without trial, the anguish and desperation of it all sometimes driving some of them to adopt extreme measures, such as hunger strikes, in order to draw attention to their plight. We in this Court are but a humble few. We tread a thorny path which is rapidly becoming a highway. We do expect pain, prison and death if need be. But our cause is just. Therefore, and in accordance with the ideals enshrined in the Freedom Charter, we here, together with the rest of the people of South Africa, black and white, equals, countrymen, brothers and sisters, will strive together, sparing nothing of our strength and courage, until a just and democratic society is achieved. Victory is certain. South Africa shall be free.

advantage of its provisions; it enables them to operate in the dark and to extract maximum advantage to the maximum detriment of their victim.

It enables them to exert all manner of pressures on the detained: psychological and physical torture, intimidation, coercion and assaults.

It exposes the detainee to dehumanising and degrading treatment, lengthy interrogation and months of solitary confinement without even the basic mental comforts such as reading material, access to family, friends and legal representation and advice.

### Mental

It is as though the system is designed to destroy the detainee's mental faculties; it is in fact designed to break him, to force him to produce information which will be used against him at his trial.

Having undergone the rigours of Section 29 ourselves, we are not surprised that political trials are characterised by a high number of "confessions" allegedly made by the accused.

The courts have admitted numerous of these so-called confessions.

The Act stipulates that the detainee should be visited periodically by a magistrate as well as by other employees of the State. We were so visited.

Some of us were also visited by the Judge President of this division. Our experience shows that these visits do no succeed to ameliorate in any substantial way the conditions under which we are kept.

It would rather seem that they were designed to put a more humane veneer to barbaric treatment which is in effect sanctioned and countenanced by the law.

Some of our comrades still bear painful reminders of their ordeal; they are still receiving medical and psychological treatment.

There is no doubt that the state is using the section as a terrorist weapon: to exact a terrible revenge on opponents of the regime's sterile and outdated policies.

Eventually, when the victim has been thoroughly broken, he is brought before these courts to put a final stamp of credibility on the actions of the police.

The Court then in effect

### Innocent

Tens of thousands of the regime's political opponents have languished in gaol, having been detained without trial.

Scores of others are forced to stand trial for so-called crimes against the state.

This is called the maintenance of law and order. We call it terrorism.

It is terrorism too when innocent men, women and children are attacked by the regime's police and SADF, and killed while they sleep, in foreign countries. We think of Maseru, Matola, Gaberone and others.

It is terrorism when this country's neighbours are destabilised, all in the name of apartheid.

It is terrorism when assassination squads, operating inside and outside this country, hunt for and eliminate opponents of apartheid. We think of Ruth First, Jeanette Schoon, Pat Ndzima, Cassius Make, Abram Tiro and many others.

We recall with horror the cruel, violent and untimely deaths of many heroes of the struggle inside this country, all at the hands of the agents of this regime.

It includes Joseph Mdluli, Steve Biko, Neil Aggett, Goniwe, Calata, Mhlawuli, Saul Mkhize, Hector Peterson, Timol and many others.

The roll-call is endless. It includes the hordes of our fallen comrades who have dared to march in protest against their oppression, together with the countless numbers who did not even march but were mowed down by the police and SADF in the townships of our land: Sharpeville, Langa, Nyanga, Soweto and elsewhere.

We call this brutal, naked terrorism. This is terrorism in any language.

It is terrorism when, in the pursuit of apartheid, whole communities are uprooted, when extreme misery and poverty are the lot of certain sections of the population while others enjoy a standard of living which rates with the highest in the world.

We say that it is the regime that is guilty of terrorism. It would therefore be terrorism for us to identify with apartheid, or to condone a system that forces

# Lawyers pull-out of Pityana trial

GRAHAMSTOWN.  
— The entire defence  
team in a major politi-  
cal trial in Kenton in

the Eastern Cape has  
withdrawn after the  
state presented its  
case.

Lizo Pityana, a former  
vice-president of the  
Port Elizabeth Black  
Civic Organisation

(Pebco), and ten others  
are facing 11 charges  
including terrorism,  
membership of the  
banned African National  
Congress, attempted  
murder and the illegal  
possession of arms and  
ammunition.

At the beginning of the  
trial, they pleaded not  
guilty to all charges. After  
the state had presented its  
case, lawyers acting for  
the accused, began "plea-  
bargaining" with the state.

However, they could not  
reach any agreement and  
when the trial resumed, the  
defence team informed the  
magistrate they were  
withdrawing from the  
case.

Ms Vanessa Brereton,  
one of the attorneys in-  
volved, said they had de-  
cided to withdraw for  
"ethical reasons".

"We unfortunately had  
no alternative but to with-  
draw. As a result, the case  
has been postponed to  
March 23 to enable the  
accused to find another  
defence team."

Pityana, brother of ANC  
man Barney Pityana, and  
the others are accused of  
being members of the  
ANC between April and  
December 1987.

The other accused are:  
Gunyafile Marobongwana,  
Zuko Adam, Vuyo  
Kwinana, Mawenga  
Willem, Mzolisi Dyasi,  
Sabelo Matomane,  
Solomzi Liwende, Toto  
Masiza, Linda Fibi and  
Lauretta Mengezeleli. -  
ANA



# Coup trial told of move for discharge

By Alan Cooper

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MMABATHO — The State yesterday closed its case in the mass treason trial in the Mmabatho Supreme Court.

The trial is a sequel to the failed coup of February 10 1988.

Defence counsel yesterday in-

formed the Bench they intended applying for the discharge of 22 of the 165 accused on the basis that there was no evidence to convict them.

stay 17/3/89

The court was adjourned until March 21.

# Defence team withdraws from Kenton trial

CP Correspondent

THE entire defence team in a major political trial underway in Kenton in the Eastern Cape this week withdrew after the State presented its case.

A former vice-president of the Port Elizabeth Black Civic Organisation, Lizo Pityana, and 10 others are facing 11 charges including terrorism, membership of the banned ANC, attempted murder and the illegal possession of arms and ammunition.

At the beginning of the trial, they

pleaded not guilty to all charges. However, after the State had presented its case, lawyers acting for the accused began "plea-bargaining" with the State.

But the two sides could not reach any agreement and when the trial resumed after negotiations, the defence team informed the judge that they were withdrawing from the case.

Venassa Brereton, one of the attorneys involved, said they had decided to withdraw for "ethical reasons".

"We unfortunately had no alterna-

tive but to withdraw and, as a result, the case has been postponed to March 23 to enable the accused to find another defence team."

Pityana - the brother of ANC leader Barney Pityana - and the others are accused of being members of the ANC between April and December 1987.

The other accused are Gunyasile Marobongwana, Zuko Adam, Vuyo Kwinana, Mawenga Willem, Mzolisi Dyasi, Sabelo Matomane, Solomzi Lwende, Toto Masiza, Linda Fibi and Lauretta Mengezeleli. - Ana

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Gwen  
19/3/89



## Lawyers withdraw from trial

PORT ELIZABETH — All the lawyers involved in defending 11 people in the Kerton-on-Sea terrorism trial have withdrawn "for ethical reasons".

The accused appearing in the regional court at Kerton are: Linda Fibi, Gunyazile Marubungwana, Zuko Adam, Vuyo Kwinana, Mawonga Willem, Mzolisi Dyasi, Sebelo Matomane, Solomzi Liwende, Toto Masiza, Lizo Pityana and Lauretta Bukelwa Mengezeleli.

They face charges of terrorism, attempted murder, conspiracy, malicious damage to property and the unlawful importation or possession of firearms, explosives and ammunition.

Their lawyers had been involved in

### Own Correspondent

"plea-bargaining" with the State prosecutor on behalf of their clients.

When the trial resumed last week, however, the lawyers — instructing attorneys and advocates — indicated that for ethical reasons, they could no longer represent the accused.

The trial has been postponed to March 23 to allow the accused to arrange alternative legal representation.

An attorney, Vanessa Brereton, said yesterday all the lawyers had had no option but to withdraw. No reasons had been given for the withdrawal, because this would prejudice the accused.

CMG Tink  
y, March 20, 1989 5

## Advocate pleads for humanity

From MARIUS BOSCH

UPINGTON. — Senior defence counsel for the "Upington 25", Mr Ian Farlam SC, asked the court during argument in mitigation to approach the case "with humanity and feeling".

Referring to the refusal of the defendants to testify in extenuation of sentence, Mr Farlam said extenuating circumstances could still be established through circumstantial evidence.

This had happened in the 1970 "Cohen case" although businessman Ronald Cohen, convicted of murdering his wife, had refused to testify in extenuation.

Mr Farlam said evidence given by Professor Graham Tyson of Wits University on the "deindividuation" — and consequent reduced responsibility — of the Upington 25 at the time of the murder had been opposed by the state.

However, the state's own witness, Dr CP de Kock, had conceded that deindividuation was a possible explanation for the behaviour of the 25.

The trial continues.



# Trialist sent for observation

From MARIUS BOSCH

UPINGTON. — An Upington 25 trialist who last week stood up in court and shouted "give me the death sentence", was yesterday referred for 30 days' psychiatric observation.

Former professional boxer Xolile Yona, who was restrained by his fellow trialists during the outburst, was referred to Bloemfontein's Orange Hospital by Mr Justice Jan Basson.

Clinical psychologist Dr Herman Raath, who testified earlier in extenuation of sentence for the 25, was granted permission by Mr Justice Basson to accompany Yona to Bloemfontein.

Defence advocate Mr Ian Farlam, SC, said Yona feared he would be tortured similarly to allegations of police torture he had made in court after undergoing medical examinations in Cape Town in January this year.

Mr Justice Basson separated Yona's trial from the other defendants' and postponed the case to May 8.

At Mr Farlam's request, he appointed Cape Town psychiatrist Dr Michael Quayle to the panel of psychiatrists.

Replying to a question from the judge on the reason for the 25 not giving evidence in extenuation themselves, Mr Farlam said the "false evidence" given by the defendants previously had led to their conviction.

The judge last week granted the 25 a final chance to give evidence in extenuation of sentence. The defendants refused to take up this offer.

The trial continues.

# 29 years jail for ANC man

Sowetan 21/3/89

331

A 28-year-old Soweto man and member of the banned African National Congress was sentenced to a total of 29 years in prison after he was convicted of various charges under the Terrorism Act at a Johannesburg Regional Court yesterday.

The magistrate, Mr JS Lombard ruled that Robert Dumisani Mwandla of Mofolo Soweto will serve an effective 10 years in jail for terrorism and that his sentences on four other counts, four

By SONTI  
MASEKO

years for membership of a banned organisation; six years for possession of firearm; two years for ammunition and seven years for explosives should run concurrently with the first.

## Training

According to the State, Mwandla was a member of the ANC from 1984 until December 1987 and he received military training in Botswana

during January and February in 1984. Mwandla also made trips during this period between Botswana and the Republic to carry out missions for the ANC. These missions included identifying targets and finding sites for the establishment of arms caches in the Republic.



# Anti-enrolment pamphlets 'held up school registration'

By GILL TURNBULL  
Court Reporter

PAMPHLETS urging pupils not to enrol for high schools last year played a part in a hold-up in the registration process, the Cape Town Regional Court has been told.

This was evidence in the trial of printer Mr Allie Parker, 47, of Lansdowne Road, who has pleaded not guilty to five charges of contravening the Public Safety Act by publishing subversive statements.

The charges relate to five pamphlets, four in Xhosa and a translation of one into English,

distributed in townships in January last year.

Mr William Staude, regional chief of education and training for the Western Cape, told the court yesterday that in his opinion the pamphlets handed in to court as exhibits had been the "link between the message not to register and the slowness of the registration process".

Mr Staude said that towards the end of 1987 the Department of Education and Training began encouraging pupils, parents, and teachers to fill in high school registration forms for 1988.

"On January 6 the department drew to the attention of parents that there would be a 10-day period for registration and the deadline would be January 23.

"Over the next three or four days, starting on January 11, four pamphlets appeared."

Mr Staude said all the pamphlets carried the name of Allie's Printing Services and all carried a "do not complete registration forms message".

The hearing was postponed to May 15.

# Killing was revenge

ONE of the five suspected members of the African National Congress who allegedly attacked houses of policemen in Mamelodi two years ago, joined the organisation to "avenge" the death of his brother who was hanged for murder and terrorism six years ago, a Pretoria Regional Court heard yesterday.

By MONK NKOMO

The magistrate, Mr W J Fourie read a statement made by Mr Thekiso Mogoerane (31) in which he stated that he joined the ANC so that he could avenge the death of his brother, Thelle Mogoerane, an ANC guerilla who, together with two others, were executed in June 1983 for murder and attacks on police stations in Soweto and Pretoria North.

Mr Mogoerane of Vosloorus and four other accused — Mr Samuel Mokubela (29) of Soshanguve, Mr Conrad Lekhumbi (28), Mr Edwin Makwela (35) and Mr Sello Khota (34) all of Mamelodi, have pleaded not guilty to charges of terrorism, attempted murder, theft and possession of firearms.

In his judgment, which is expected to be concluded today, the magistrate said he was satisfied that statements of the accused were made voluntarily.

Mr Mogoerane said in his statement he went to

Swaziland to undergo military training but was told that he would receive the training in South Africa. He went again in 1985 and was eventually taken to Angola where he underwent training for eight months.

The State alleges that on or about February 2, 1986 and July 19 1987, the accused attacked the houses of Detective Sergeant Johannes Hlongwane and Warrant Officer Stephen Setole with AK47 rifles and a handgrenade in an attempt to murder them and their families in Mamelodi East. They also attempted to kill Constable Koise Ntsoane, the State alleges.

The magistrate yesterday also read a statement made by Mr Mokubela in which he admits that he and two others — Bennie and Nelson — attacked Warrant Officer Hlongwane's house with a handgrenade and AK47 rifles.



# Stompie trial:

## Man appears

JOHANNESBURG — An

18-year-old youth appeared briefly before a magistrate here yesterday in connection with the murder of 14-year-old Stompie Seipei.

There are now nine accused in the murder trial, after Mr P Bredenkamp added the name of Mr Sibiso Brian Mabusa of Diepkloof to the charge sheet.

No formal charges were put to Mr Mabusa and he was not asked to plead.

Some of the other accused are members of the Mandela United Soccer Club.

The case was postponed to April 21. — Sapa

# Court hears of the 25's lack of fear

CAPE TOWN 22/3/89 (331)  
From MARIUS BOSCH

UPINGTON. — Something happened on the day of the killing of a policeman that had overridden Paballelo residents' fear of being shot by live ammunition, the presiding judge in the Upington 25 trial heard yesterday.

Arguing in extenuation of sentence for the 25, Mr Ian Farlam SC said a threat by police to use live ammunition usually operated as a powerful deterrent and that the use of live ammunition a day before the killing had, in fact,

prevented further acts of vandalism.

The only explanation for the resurgence of violence — which led to the murder of Constable Lucas Sethwala — was that a state of deindividuation, brought about by situational factors operating on the day of the killing, had overridden the fear of being shot with live ammunition, Mr Farlam said.

The situational forces present were of such an intensity as to induce the dead policeman's best

friend and a person who regarded Const Sethwala as a brother to take part in his murder, he said.

Mr Farlam told the court that one of the extenuating circumstances present in the case was the youth and immaturity of some of the defendants. He referred to the 1974 "Scissors Murder" case in which a judge found a teenager guilty of the murder of her married lover's wife but the Appeal Court overturned her sentence on the grounds of her youth and immaturity.

The trial continues.



nuclear weapon.

## Cop on treason charge

*Call Mps 22/3/89* *331*  
ZWELITSHA. — A senior Ciskei police elite officer told the Magistrate's Court here yesterday that he had not been given an opportunity to get a legal representative. Colonel Mlulgifi Matthew Genda, no age given, the former station commander at the Zwelitsha police station, pleaded not guilty to a charge of treason. The matter was postponed to April 4. ■

News in Brief

CH 7MB 72/3/89 (22) (331)  
**Six Bop accused released**

MMABATHO. — Six more members of the Bophuthatswana security forces accused of treason were discharged in the Supreme Court here yesterday bringing the number of discharged to 28 since the beginning of the trial of 195 soldiers in February.



# GRENADES 5 GUILTY

*Sowetan 22/3/89*  
FOUR members of the African National Congress and a supporter who attacked the houses of two senior policemen with hand grenades and AK-47 rifles in Mamelodi in 1986 and 1987, were yesterday convicted in the Pretoria Regional Court on two counts of terrorism.

Samuel Mokhubela (29), of Soshanguve, Thekiso Mogoerane (31), of Vosloorus, Conrad Lekhumbi (28) and Sello Khota (34), both of Mamelodi, were found guilty on both counts that included the attack on the houses of Det Sgt Johannes Hlongwane and W/O W S Setole on February 17, 1986 and July 19, 1987.

Edwin Makwela, described as a supporter of the ANC, was acquitted on one count of terrorism.

The magistrate, Mr W J Fourie, also convicted Mokhubela of possession of a firearm and six rounds of ammunition without a licence. All accused had pleaded not guilty.

Mr Fourie described four of the men, except Makwela, as members of the ANC who had received military training. Makwela was a supporter of the organisation because weapons smuggled from outside the country were stored in his house where meetings and training of recruits took place, he said.

the time they arrived.

## ANC tape conviction

upheld  
Sowetan 22/3/85  
on appeal

THE Appeal Court in Bloemfontein yesterday dismissed the appeal of Ezron Tsietsi Menze, of Diepkloof Extension, Soweto, against his conviction for possession of a prohibited publication at Johannesburg on April 19, 1985.

The prohibited matter was a record cassette of an interview by Oliver Tambo, president of the African National Congress, on the situation in Southern Africa.

### Convicted

Menze was convicted by a Johannesburg Regional Court magistrate and sentenced to 18 months (9 months conditionally suspended) on July 27, 1985. On appeal to the Witwatersrand Local Supreme Court the conviction was confirmed, but the sentence was wholly suspended.

Yesterday Mr Justice Vivier, with the concurrence of Mr Justice Hefer and Mr Justice Steyn, found that Menze was correctly convicted.



Case 71015 22/3/89

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## Arms: Poet, wife in court

JOHANNESBURG — Shouts of "Amandla" greeted poet Mzwakhe Mbuli and his wife Nomsa after they stepped out of the cells in Protea Magistrate's Court on Monday, the Sowetan reports.

Bail was set at R1 000 for Mr Mbuli and R500 for his wife.

The couple appeared briefly on a charge under the Arms and Ammunition Act for allegedly being in possession of explosives.

They were not asked to plead and the case was postponed to April 11.

Their appearance followed their arrest at their home in Soweto on Friday. — Sapa.



# ANC men get 7 to 18 years for terrorism

Sowetan 23/3/89  
331

By MONK  
NKOMO

FOUR members of the ANC and an active supporter of the organisation were jailed for terrorism charges for between seven and 18 years in Pretoria Regional Court yesterday.

Conrad Lekhumbi (28) of Mamelodi, Samuel Mokubela (29) of Soshanguve, Thekiso Mogoerane (31) of Vosloorus and Sello Khota of Mamelodi were each convicted on two counts of terrorism. Edwin Makwela (35) of Mamelodi, the ANC supporter, was convicted on one count of terrorism.

Lekhumbi was jailed for 18 years, Mogoerane and Mokubela for 17, Khota for 15 and Makwela for seven. Mokubela was jailed for a further 18 months for being in possession of a firearm and six rounds of ammunition without a licence.

Passing sentence, the magistrate, Mr W J Fourie, said the first four accused had intentions to murder although nobody was killed during the handgrenade attack on the houses of Detective Sergeant Johannes Hlongwane and Warrant Officer W S Setole on February 17, 1986 and July 19, 1987 respectively.

Mr Fourie said none of the accused had shown remorse for the crimes. He also viewed terrorism as a very serious crime and said innocent people were being killed during the terrorist act.

The magistrate ruled that two years of the sentence of four of the accused should run concurrently. Two years of Makwela's sentences were conditionally suspended for five years. Mokubela, Mogoerane and Lekhumbi, who was described by Mr Fourie as the leader of the group, will each serve an effective 15 years in jail. Khota and Makwela will respectively serve ten years and five years.

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# ANC men jailed for attacks on police

*AK 45 73/3/89 (331)*  
**The Argus Correspondent**

**PRETORIA.** — Four men involved in AK-47 and hand grenade attacks on policemen's houses in Mamelodi township have been jailed for 10 years each by a Pretoria Regional Magistrate.

African National Congress members Samuel Mokhubela, 30, Thekiso Aaron Mogoerane, 31, Conrad Lekhumbi, 28, and Sello Stevens Khota, 34, were found guilty of terrorism following armed attacks on two policemen's houses in February 1986 and July 1987.

Before sentencing the men, Mr W J Fourie said he had taken into account the time spent in detention, first as detainees and then as awaiting trial prisoners.

He said they had shown no remorse for their deeds, and that it was "no thanks to them" that no one had been killed.

During the armed attacks, in which hand-grenades were thrown and shots fired from AK-47 rifles, occupants of both homes were injured.

The four were also found guilty of a second charge of terrorism involving recruiting for the ANC, smuggling arms, undergoing and giving military training and supporting and furthering the aims of the ANC.

Parts of the jail sentences they received for the second count will run concurrently with their 10 year sentences.

A fifth man, Motshele Edwin Makwela, 35, whose home was used as a meeting place, was sen-

tenced to seven years imprisonment (two years suspended for five) on the second count.

Mr Fourie said although Lekhumbi had not taken part physically in the attack, he had planned and initiated the attack and supplied the weapons.

Mr Fourie said Mokhubela, who joined the ANC in 1986, underwent military training outside South Africa.

He was convicted on two other charges of possession of a firearm and possession of ammunition for which he received 18 months imprisonment — which will run concurrently with the 10 year term.

Mogoerane, who also received military training outside the country, was involved in recruiting members for the ANC.

Mar 23/1989 (331)

## 'No remorse' from 5 guilty of terrorism

Own Correspondent

A Pretoria Regional Magistrate found that five men, convicted of terrorism, showed no remorse for their deeds — and it was "no thanks to them" that no one had been killed in the armed attacks in which they were involved.

Four of the men were each sentenced to 10 years' imprisonment for terrorism. On a second charge of terrorism, all five were sentenced to prison terms ranging from five to eight years.

Before passing sentence yesterday, Mr W J Fourie said he had taken into account the time the men had spent in detention, their personal circumstances and involvement in the crimes.

Court findings showed four of the men were responsible for attacks on two policemen's houses in Mamelodi during February 1986 and July 1987.

Samuel Mokhubela (30), Thekiso Aaron Mogoerane (31), Conrad Lekhumbi (28) and Sello Stevens Khota (34), were all sentenced to 10 years' jail.

Mr Fourie said although Lekhumbi had not taken part physically in the attack, he had planned and initiated the attack and supplied the weapons.

### POSSESSION OF FIREARM

Mokhubela was also convicted on two other charges of possession of a firearm and of ammunition, for which he received 18 months imprisonment — to run concurrently with the 10-year term.

For the second charge of terrorism, Mokhubela was sentenced to seven years in jail, of which two will run concurrently with the 10-year term. Mogoerane also received seven years, of which two will run concurrently. Lekhumbi was sentenced to eight years, of which two will run concurrently. Khota was sentenced to five years imprisonment, running concurrently with the 10-year term.

Motshela Edwin Makwela (35) was found to have allowed his home to be used as gathering place for the Mamelodi unit, housed recruits and allowed military training to take place on his property. He was sentenced to seven years imprisonment, of which two years were suspended for five years.



# Hunger striker tells of hardships

Own Correspondent

DURBAN. — Thirty-five days without food has taken its toll on hunger-striking detainee Mr Sandile Thusi.

Mr Thusi was in St Aidan's Hospital yesterday and was in an extremely weak condition. He has difficulty in lifting up his hands, is talking slowly and cannot speak for long without showing signs of fatigue.

He looks extremely thin and has an ashen appearance with dull, glazed eyes.

However, he was still lucid and said he was both glad and grateful that people "outside"

had not forgotten him and were campaigning for his release.

"I just want them to know I am still all right," he said.

Mr Thusi reiterated that he would not eat again until he was charged or released.

"This is the only way I can protest — I feel I am doing what is right, not only for myself but for other detainees as well. This hunger strike is not wrong — it is a statement of hope for the future," he said.

Mr Thusi's attorney, Ms Daya Pillay, said he was admitted for ear surgery about midday yesterday but that it was unrelated to the hunger strike.

Mr Thusi is employed as a researcher at the educational projects unit at the University of Natal.

He spent his childhood in the New Hanover district before moving to Umlazi with his parents. He was involved in various church youth groups while at school and pioneered the establishment of a youth organisation in his area in the early '80s.

In 1985 his home in Umlazi was gutted by right-wing vigilantes and his brother was killed. His family moved back to New Hanover after the attack.

He was first detained in June 1986 and was released after 11 months without any charges.

His present stint in detention began on June 16 last year and he has been on the hunger strike since February 18 this year.

● About 4 000 staff members and students from the University of Natal marched in protest of the prolonged detention of Mr Thusi yesterday.

The march, which included Archbishop Denis Hurley and the principal of the University of Natal, Prof Peter Booysen, took place on campus.

~~331~~ Upington  
trial <sup>case 7015</sup>  
24/3/89  
adjourned

From MARIUS BOSCH

UPINGTON. — The trial of the "Upington 25" was yesterday adjourned until April 10, when the defence will continue with argument for extenuation of sentence.

The 25 have been convicted of murdering a policeman in 1985.

For the friends and relatives of the accused it has been a long and agonizing trial since it started in October 1986. Judgment was passed by Mr Justice Jan Basson in April 1988, and the trial resumed on February 6 this year.

Although the trial has featured prominently in local and foreign newspapers, it appears most whites in Upington are unaware of it.

"All they moan about is that they can't park their cars in front of the court," said one shop owner.

Police have prohibited parking in the vicinity of the court for security reasons.

Evidence led by the defence states that events leading to the killing of the policeman so undermined the defendants that they could not recognise the consequences of their actions.



# Yona pleaded with court: 'Give me death sentence'

AN "Uppington 25" trialist who last week stood up in court and shouted "give me the death sentence", has been referred for psychiatric observation.

Former professional boxer Xolile Yona, who had to be restrained by his fellow trialists during the outburst, was referred to Bloemfontein's Orange Hospital for 30 days by Judge J Basson.

A clinical psychologist,

Dr Herman Raath - who testified earlier in the trial in extenuation of sentence for the 25 - was granted permission to accompany Yona to Bloemfontein.

Defence counsel Ian Farlam, SC, said Yona feared a repeat of alleged torture by police, an allegation he had made in court after undergoing medical examinations in Cape Town in January this year.

Judge Basson also sepa-

rated Yona's trial from that of the other defendants and postponed the case to May 8.

He appointed Cape Town psychiatrist Michael Quayle to the panel of psychiatrists on request by Farlam.

Earlier, Farlam referred to previous testimony by a police officer who said that if teargas was fired at a crowd, the crowd went berserk.

The teargas fired at a crowd in Paballelo Township on the day of the murder of Const Lucas Sethwala had the effect of causing panic and causing emotional arousal leading to a fight-or-flight situation.

This was a classic example of a non-violent crowd which was inflamed by a spark and the result was a riot, Farlam said.

A State witness, sociologist Dr CP de Kock, conceded that the firing of teargas and the shooting of a child by the dead policeman were further sparks that triggered the killing of Sethwala, Farlam said.

In reply to a question from Judge Basson on the involvement of one of the defendants, Elisha Matshoba, in the school boycotts of 1985, Farlam said SA had a long history of school boycotts.

In the 1920s Afrikaner parents boycotted schools in protest against their children being educated in English.

Judge Basson expressed his doubts as to the correctness of this statement, and said Afrikaans had been made one of the two official languages in 1925. - Sapa

Uppington  
25 trialist  
referred for  
psychiatric  
observation

26/3/89  
Crown

331

Star 28/3/87

331

## Trial linked to Ebrahim case

# Soweto mother on terrorism charges

By Janet Heard

A Soweto mother appeared in the Bethal Magistrate's Court last week on seven charges under the old Communism Act and the Internal Security Act.

The charges include terrorism and furthering the aims of a banned organisation.

Ms Pumla Williams of Pimville, who was 28 at the time of her arrest in June 1987, has pleaded not guilty to all charges.

The trial, which began in December, has received scant press coverage and evidence has been heard in camera.

She was arrested outside a supermarket near Baragwanath Hospital and held at Piet Retief in solitary confinement. Police later arrested her sister, two aunts and her mother.

They were all released except Ms Busi Tedile who was held under the Internal Security Act.

Ms Williams, who has a young child, was charged in September 1988 and transferred to Bethal.

It is believed the State tried to put pressure on her to testify in the recent Bethal treason trial of Ismail Ebrahim and others.

The State alleges Ms Williams was a

member of the Transvaal Implementation Machinery, responsible for acts of terror in the Transvaal and connected to a high command allegedly called Elias Motsoaledi.

The group are alleged to have implemented machinery for reconnaissance in four farms in the Transvaal, and for placing land mines in various places.

The State alleges Ms Williams attended meetings where plans for these missions were discussed.

The State also alleges she left the country in 1978 and that she infiltrated South Africa in 1986, and started a cell in Soweto on the instructions of Ismail Ebrahim.

In December, the State handed in a statement which they alleged she had made under oath. Ms Williams denied that she had made the statement, but the court accepted it and it was handed down as evidence.

Last week, members of her family were called as witnesses and one of them was arrested, then released on bail and charged with perjury.

A key State witness "Mr X", whose name cannot be revealed, testified last week. The case was postponed until today, when the defence team will cross-examine "Mr X".



# Judgment day for accused unionists

*Smelter 214/89*  
*(331)*

JUDGMENT in the trial of trade unionist, Mr Moses Mayekiso and four other men, will be given in the Rand Supreme Court on April 24.

This week Defence Counsel, Mr D H Soggot, SC, submitted the State had not proved any of the charges against the five men and they should be acquitted.

On Monday, the State abandoned the treason charge but submitted the

men were *guilty* of subversion, alternatively sedition.

The accused are Mr Mayekiso (38), his younger brother Mr Mzwanele Mayekiso (22), Mr Paul Tshabalala (38), Mr Richard Mdakane (29) and Mr Obed Bapela (28).

They all lived in

Alexandra at the time of the alleged crimes and were charged as a result of the activities of the Alexandra Action Committee (AAC).

Mr A C Human, SC, said among the reasons for the State abandoning the treason charge was the refusal of witnesses to testify.



Mr Terre'Blanche

## Terre'Blanche in court on property damage charge

*11663 3/4/89 (331)*  
The Argus Correspondent

**KRUGERSDORP.** — The leader of the AWB, Mr Eugene Terre'Blanche today pleaded not guilty to a charge of malicious damage to property, and a charge of crimen injuria in the Krugersdorp Magistrate's Court.

Mr Terre'Blanche is charged with allegedly breaking and damaging the gate to the Parkkraal Monument on December 27 last year, and also of allegedly breaking the lock on the gate with an unknown object.

He is also charged with crimen injuria after allegedly using abusive language to two policemen who went to investigate at the scene.

Mr Terre'Blanche was dressed in khaki.

Sunday Times columnist Ms Jani Allen, a key witness, arrived at court accompanied by her editor, Mr Tertius Myburgh.

Mr Terre'Blanche is represented by Mr Johan Rousseau. Mr Zas van Zyl is appearing for the State and Mr F W van Niekerk is the magistrate.



## Treason trial begins

1964 3/4/89 10 331-324  
The Argus Correspondent

JOHANNESBURG. — The bizarre treason trial of Colonel Vuyane Genda of the Ciskei police, who had to undergo surgery after being assaulted during his detention, is due to begin in a Ciskei magistrate's court tomorrow.

The colonel was originally detained in December, supposedly in connection with the death of Mr Eric Mntonga, Border director of the Institute for a Democratic Alternative for South Africa (Idasa).

But now he faces treason charges — allegedly for telling Idasa that policemen were responsible for the death of Mr Mntonga.

However, Idasa claimed they are in the dark so far as Colonel Genda is concerned and have not been contacted, or asked for comment on the case by Ciskeian security forces.

## Treason trial (331) resumes

THE treason trial of the secretary-general of the National Union of Metal Workers of South Africa, Mr Moses Mayekiso, and four civic leaders resumes in the Rand Supreme Court today.

They are appearing before Mr Justice P J van der Walt on charges of treason, alternatively sedition and subversion. The prosecution alleges they attempted to usurp the authority of the State by trying to seize control of Alexandra township in 1985/86 by establishing the Alexandra Action Committee and "organs of people's power."

It is further alleged that they launched a consumer boycott of shops in and around Alexandra and campaigned against police and councillors.

Mr Mayekiso (40) is appearing with Mr Paul Tshabalala (32), Mr Richard Mdakane (39), Mr Obed Bapela (38) and Mr Mzwanele Mayekiso (22). They are all from Alexandra and have pleaded not guilty.

Their last appearance was on December 12 last year when they were released on bail. Mr Mayekiso is out on R10 000 and the other four men on R5 000 bail each. One of the bail conditions is that they may not go to Alexandra their home town.



## Treason trial begins

*Argus 3/4/89*  
The Argus Correspondent

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But now he faces treason charges — allegedly for telling Idasa that policemen were responsible for the death of Mr Mntonga.

However, Idasa claimed they are in the dark so far as Colonel Genda is concerned and have not been contacted, or asked for comment on the case by Ciskeian security forces.

# ET visits Paardekraal during court case

Cape Times 4/4/89

331

Own Correspondent

JOHANNESBURG. — AWB leader Mr Eugene Terre'Blanche yesterday visited the Paardekraal Monument in Krugersdorp where he allegedly rammed and damaged two gates and verbally abused two policemen late last year.

A khaki-clad Mr Terre'Blanche, accompanied by his defence attorneys, was attending a court inspection at the scene of the alleged crimes on his first appearance in Krugersdorp Magistrate's Court on charges of malicious damage to property and crimen injuria. The offences were allegedly committed on the night of December 27. Mr Terre'Blanche pleaded not guilty to the charges before the magistrate, Mr S W van Niekerk.

Also present at the court yesterday was Sunday Times columnist Ms Jani Allan, who was alleged to have been

with Mr Terre'Blanche at the time of the alleged offences.

Ms Allan, called as a state witness, was accompanied by Sunday Times editor Mr Tertius Myburgh. She has yet to give evidence.

During the day, prosecutor Mr Zas van Zyl called eyewitness Mr Nicholas Kearney to describe what he saw from his Paardekraal Avenue home, directly opposite the monument grounds.

Mr Kearney told a packed court that he saw a white BMW with two people pull up in front of the gates about 8.15pm. He said the car idled for about 30 seconds before the driver revved the engine and rammed the gates.

He said the man then opened his boot, took something out and fiddled with the gate's lock. He opened the gate and drove in. Then the police arrived.

The case continues today.



shots during the incident. *Chit Trip 4/4/89*  
**Appeal for ANC man** *331*  
JOHANNESBURG. — ANC guerilla Oupa Alex Seheri, sentenced to death in February, was granted leave to appeal by the Rand Supreme Court yesterday. Co-accused Setembiso Buthelezi, sentenced to three years for unlawful possession of arms, was also given leave to appeal.

CAPE TOWN 15 4/6/84.

# State fails on Mayekiso treason charge

Own Correspondent 331

JOHANNESBURG. — After 18 months of evidence, the state conceded in the Rand Supreme Court yesterday that it had failed to prove a charge of treason against unionist Mr Moses Mayekiso and his co-accused.

Prosecutor Mr A C Human, SC, argued before Mr Justice P J van der Walt, however, that alternative charges of subversion and sedition had been proved.

Mr Mayekiso, the 38-year-old general secretary of the National Union of Mineworkers of SA, his 22-year-old brother Mzwanele, Mr Paul Tshabalala, 38, Mr Richard Mdakane, 29, and Mr Obed Bapela, 28, have pleaded not guilty to all charges.

Mr Human said vital state wit-

nesses had refused to testify despite assurances that they would not be identified and their evidence would be heard in camera.

"Because of these and other difficulties we are of the opinion that the state has not succeeded in proving treason."

Mr Human said all five accused were executive members of the Alexandra Action Committee, which mobilised township residents with the aim of bringing about constitutional, political, social and economic change.

They conspired, he said, to launch rent and consumer boycotts as well as campaigns against the police and town councillors, causing a general dislocation and disorder.

He argued that the conspiracy

was formed at a workshop held at Tusong on April 13, 1986.

Defence counsel Mr D Soggot, SC, argued that the workshop was a communal gathering, attended by representatives of various Alexandra organisations, whose purpose was to discuss community problems and issues, including the boycotts, organisation of yard committees and the formation of one civic body.

A subsequent workshop in July was unanimous that the community did not want a consumer boycott but backed the rent boycott.

He argued that in the absence of evidence that there was any encouragement of any boycott, the holding of the meeting did not amount to launching or encouraging a campaign.

Argument continues today.

# Vital witnesses silent, says State

By Cathy Stagg

The State submitted yesterday it had proved subversion or alternatively sedition in the case of trade unionist Mr Moses Mayekiso and four other men.

Mr A C Human SC was presenting argument before Mr Justice P J van der Walt in the Rand Supreme Court.

Mr D H Soggot SC, who appears for the five accused, is expected to complete his argument today.

The trial began on November 19 1987.

Mr Mayekiso (38), his brother Mr Mzwanele Mayekiso (22), Mr Paul Tshabalala (38), Mr Richard Mdakane (29) and Mr Obed Bapela (28) were arrested in June 1986 and accused of treason.

## ACTION COMMITTEE

They all lived in Alexandra at the time of the alleged offences and were charged as a result of the activities of the Alexandra Action Committee.

Mr Human gave reasons why the State had not proved beyond reasonable doubt that the five men had committed treason.

He said that because of fear of reprisals if they testified, Alexandra residents were allowed to give evidence in camera and their identification was prohibited, but despite this vital witnesses refused to testify.

Others refused to testify for reasons best known to themselves and the State decided not to force the issue.

The hearing continues.





# Terre'Blanche: Retired soldier tells of ramming

mk43 4/4/89 331

**The Argus Correspondent**  
JOHANNESBURG. — A retired soldier who called police when he saw someone ramming the gate at the Paardekraal Monument and then forcing his way into the grounds, testified at the trial of Mr Eugene Terre'Blanche.

Mr Terre'Blanche, the leader of the Afrikanerweerstandbeweging, appeared in the Krugersdorp Magistrate's Court yesterday on a charge of malicious damage to property after allegedly "breaking and damaging the gates at the monument with a car as well as a lock at the gate with an unknown object".

He pleaded not guilty.

He also pleaded not guilty to a charge of crimen injuria after allegedly telling two policemen who were investigating the incident to "go to hell" and to "f... off".

## In uniform

Mr Terre'Blanche arrived at court with bodyguards, some in uniform, while Sunday Times journalist Jani Allan, a key witness in the case, arrived with the newspaper's editor, Mr Tertius Myburgh.

Mr Nico Kearney, a retired soldier who lives opposite the monument gates, testified that he saw a car pull up in front of the gates about 8.15pm on December 27 last year.

He said the car idled, then the engine was revved and the car drove straight into the gate. He could see two people inside the car but could not recognise them.

When the car hit the gate, Mr Kearney ran inside and told his children to get the car's number and told his wife to telephone the police. He went back outside and said he saw the car's boot had been opened.

A man was standing at the gate, fiddling with the lock, according to Mr Kearney. After about ten minutes the man opened the lock and pushed open the gate.

While he was still struggling with the lock, however, and while Mr Kearney's children were standing behind the car writing down the registration number, a woman climbed out of the car and walked to the man.

She spoke to him and it looked to Mr Kearney as if the man pushed the woman and she went back inside the car.

The man put something into the boot and then climbed into the car and drove into the monument grounds.

About ten minutes later a police van arrived.

Shortly after the first van arrived two more police vans arrived as well as three police cars.

The case continues today.



**ACCUSED:** Bearded Mr Eugene Terre'Blanche and some of his bodyguards outside court.



Ms Jani Allan

## Poison victims in dramatic airlift rescue

**The Argus Correspondent**

PRETORIA. — Eighteen people poisoned by insecticide on a Free State farm had to be taken to Bloemfontein hospitals in a major airlift involving the South African Air Force and civilian and military medical personnel.

A young girl died after about 50 people were poisoned on Sunday.

Three SAAF Dakotas, four military ambulances, eight provincial ambulances and eight QwaQwa government ambulances took part.

A team from Universitas Hospital flew to Reitz to help stabilise the patients and 18 of the worst afflicted were ferried to Bethlehem by ambulances from where they were flown to Bloemfontein.

None of the patients is in immediate danger.

## Cafda collection

TOMORROW'S street collection is for the Cape Flats Association (Cafda), fund-raising number 08 800116 0002.

## Alleged killer 'hearing voices in his head'

**The Argus Correspondent**

JOHANNESBURG. — Mr Katiza Cebekhulu, accused of murdering Stompie Seipel, is "hearing voices in his head" and an order has been made to send him to Sterkfontein Hospital for observation.

Mr Cebekhulu, 21, of Diepkloof, and co-accused Mr Xolisa Falatsi, 35, of Pimville, Mr Jerry Richardson, 61, a former coach of the Mandela United soccer club, Mr John Morgan, 61, a former bus driver for the club, and four youths — have not pleaded in the Magistrate's Court here.

Dr Michael Slutzkin, a State psychiatrist, recommended that Mr Cebekhulu be sent for observation because his behaviour "raised doubts about his mental state".

"On being examined Mr Cebekhulu told me he was hearing voices in his head. He could not explain the reason for this and appeared very agitated and anxious," said Dr Slutzkin.

"He said he was under a lot of pressure in giving certain evidence to the court."

Dr Slutzkin added that Mr Cebekhulu insisted there was nothing wrong with him and was very "frustrated and almost frightened at the prospect of mental illness".

"He either refused or was unable to answer questions."

The hearing was postponed to next Monday.

## Elephant terror

NEW DELHI — Twenty rampaging elephants have killed eight people, destroyed 120 houses and spread terror in central India, the Hindustan Times reported. — Sapa-Reuter.

# Alleged BPP member acquitted of treason

Own Correspondent (37) treason in that they alleg-  
MMABATHO — Mr Wil- edly conspired to over-  
liam Mataboge, an al- throw the Government of  
leged member of the now Bophuthatswana on Feb-  
banned People's Party, was charged  
Progressive Party, was alternatively charged  
yesterday discharged in J under the Internal Secu-  
the Mmabatho Supreme rity Act.  
Court. The State will call nine  
witnesses.  
Under a new indict- ment the remaining eight  
accused face charges of until today.



# 'ANC member' gets bail after 8 months

Cape Times 4/4/89

Court Reporter

331

A Langa teenager who has been in detention for eight months and faces charges under the Internal Security Act was released on R2 000 bail by a Cape Town Regional Magistrate yesterday.

Mr Phumzile Simelela, 19, was not asked to plead.

The court heard that the attorney-general had decided to withdraw a certificate frustrating bail which was granted on condition that Mr Simelela does not communicate with state witnesses and reports to Langa police daily between 8am and 5pm.

The state alleges that Mr Simelela was recruited as a member of the ANC by Mr Kenneth Moyake in May last year, received weapons training, travelled illegally to Lesotho to obtain arms and stored arms at his home.

A limpet mine and a detonator were allegedly found in his possession when he was arrested on July 29 last year.

The hearing was adjourned to June 19 for plea and trial in the Regional Court.

Mr J K Kloppe was the magistrate. Mr M Stowe prosecuted. Miss C Burger of E Moosa and Associates appeared for Mr Simelela.



## **'Furthering' charge ditched**

*Cape Times 4/4/89*  
Court Reporter

331

CHARGES of furthering the aims of three restricted organisations, including the UDF, were yesterday withdrawn against a UWC student in the Cape Town Regional Court.

The state had alleged that Ms Fêbé Potgieter, 21, of Hyacinth Road, Belhar, furthered the aims of the UDF, Cape Youth Congress (Cayco) and the Western Cape Civic Association (WCCA) while they were restricted.

As far as is known, it is the first case of this nature to have been brought since 18 organisations were restricted in February last year.

Mr C P J Prinsloo was the magistrate. Mr J M Koen prosecuted. Mr M Parker of E Moosa and Associates appeared for Ms Potgieter.

# Mayekiso case: Treason charges dropped

331

South Africa 4/1/87

THE State yesterday dropped the treason charges against trade unionist Mr Moses Mayekiso and four civic leaders.

This was announced in the Rand Supreme Court by Mr Chris Human (SC), appearing for the State, when he summed up the case against the five accused.

Dropping the treason charges, Mr Human said some State witnesses gave evidence in camera due to fear of reprisal and violence. Some vital witnesses, he said, refused to testify. Others refused for reasons best known to themselves. "The State," said Mr Human, "decided not to force the issue and these potential witnesses were not asked to testify."

"Because of these and other difficulties encountered and after giving serious thought to the matter, ever mindful of the heavy onus resting on the State, we are of the opinion that the State has not succeeded beyond any reasonable doubt in proving treason against the five accused. Our submission will therefore centre around subver-

By MANDLA  
NDLAZI

sion, alternatively sedition," said Mr Human.

On the question of subversion, Mr Justice P J van der Walt, who is on the bench, asked how a citizen who had no vote hoped to bring about constitutional change in the country.

Mr Human said it could be done through peaceful means and by negotiating with authorities. On sedition, the judge wished to know if there were seditious acts in the case against the five accused.

Mr Mayekiso (40), secretary general of the National Union of Metal Workers of South Africa (Numsa) is appearing with Mr Paul Tshabalala (32), Mr Richard Mdakane (39), Mr Obed Bapela (38) and Mr Mzwanele Mayekiso (22).

They have pleaded not guilty.

# Suspended sentence for public violence

Cape Times 5/8/89  
331  
Court Reporter

AN ALLEGED "Bonteheuwel comrade", who claimed a policeman forced confessions out of him by coaxing a tortoise on to his pubic area, was yesterday given a four-year suspended sentence in the Parow Regional Court for public violence.

The youth, aged 17, was convicted of setting fire to three delivery trucks in Bonteheuwel between October and December last year.

Earlier, in a trial-within-a-trial, the youth said he was taken to Bishop Lavis police station where Sergeant Ilmar Pikker handcuffed him, made him remove his trousers and lie on the floor.

The sergeant then placed lettuce leaves on his pubic area and the tortoise climbed on to him.

It was a "fairly big tortoise and it started to nibble on my pubic hair", the youth said. He was terrified and screamed. Sergeant Pikker questioned him all the while and he finally agreed to make a confession.

Sergeant Pikker denied the allegations about the tortoise.

The magistrate, Mr J P Vermaak, ruled that the confessions were admissible. He said the accused's "credibility left much to be desired".

Mr D J Brand prosecuted. Mr E Moosa appeared for the youth.



## Subversion judgment on April 24

# Acquit Alex five, urges defence lawyer

By Cathy Stagg

Judgment in the trial of trade unionist Mr Moses Mayekiso and four other men will be given in the Rand Supreme Court on April 24.

Yesterday defence counsel Mr D.H. Soggot SC submitted that the State had not proved any of the charges against the five men and that they should be acquitted.

On Monday the State abandoned the treason charge but submitted that the men were guilty of subversion, alternatively sedition.

## Refusal to testify

The accused are Mr Mayekiso (38), his brother Mr Mzwanele Mayekiso (22), Mr Paul Tshabalala (38), Mr Richard Mdakane (29) and Mr Obed Bapela (28).

They all lived in Alexandra at the time of the alleged crimes and were charged as a result of the activities of the Alexandra Action Committee (AAC).

Mr A.C. Human SC said among the reasons for the State abandoning the treason charge was the refusal of witnesses to testify.

Mr Soggot submitted it was a striking feature of the State's evidence on the AAC that there was not a single witness from the thousands of Alexandra residents who must have been involved with the various

AAC committees. One could infer that the failure to call witnesses on an alleged conspiracy was because the State's allegations did not match historical fact.

During the trial, which began in November 1987, the history of the township was traced and Mr Justice P.J. van der Walt heard in detail about conditions in Alexandra at the time of the alleged crimes.

The State sought to link the activities of the accused to ANC strategy. Various documents, found in the possession of the accused or at their homes, were placed before the court.

Renaming of streets was dealt with as was the way in which funerals had been conducted. The court was told about "people's courts" and how committees had been set up in township yards, streets and blocks.

Mr Soggot said there was no proof of the alleged conspiracy, supposedly motivated by the accused, to seize control of Alexandra and make it ungovernable.

Regarding rent and consumer boycotts, Mr Soggot said the evidence showed there was a debate during which people expressed approval or disapproval but the discussions had led to a dead end.

"The evidence proved the accused were not revolutionary or radical leaders imbued with revolutionary ideologies, but men rooted in their community who had set out to come to grips with political realities."

From MONO BADELA

331

JOHANNESBURG. - The defence this week completed its argument in the treason case involving trade unionists Moses Mayekiso and four other Alexandra township community leaders.

Mr Justice P J van der Walt later announced in the Rand Supreme Court that he would give judgment on April 24, 16 months after the trial began in January 1988.

Mayekiso, 40, secretary-general of the National Union of

## Charges dropped in Mayekiso trial

*Smith 5-12/89.*

Metalworkers, is appearing with Paul Tshabalala, 32, Richard Mdakane, 39, Obed Bapel, 38, and Mzwanele Mayekiso, 22.

They have plead not guilty to various charges including high treason, subversion, sedition and helping to establish alternative structures in the township of

Alexandra during 1985 and 1986.

In his summary, defence counsel David Soggot SC submitted that the five were not part of the conspiracy that led to fierce rioting in the township of Alexandra during what became known as the "Alex Six-Day War".

# Mayekiso verdict is on April 26

JUDGMENT in the trial of trade unionist and Alexandra activist Mr Moses Mayekiso and four civic leaders was yesterday postponed to April 24 in the Rand Supreme Court.

This was after counsel for the defence, Mr David Soggot, SC,

By **MANDLA  
NDLAZI**

concluded argument for the acquittal of the five.

Mr Soggot confined his submissions to the subversion and sedition charges.

Mr Mayekiso (40) general secretary of the National Union of Metalworkers, with Mr Paul Tshabalala (32), Mr Richard Mdakane (39), Mr Obed Bapela (38) and Mr Mzwanele Mayekiso (22) appeared before Mr P J van der Walt.

Mr Soggot said the State had failed to prove guilt and that the men were not adventurers, but had tried to apply the successful techniques of trade union struggle to the township.



6/Day 5/4/87

# Call for acquittal in Mayekiso trial

THE State had been unable to call one person from Alexandra to testify that trade unionist Moses Mayekiso and his four accused had formed and fostered a subversive strategy for the township, because no such strategy existed, the Rand Supreme Court was told yesterday.

This submission was made by defence counsel D Soggot, SC, at the close of his argument before Mr Justice van der Walt.

Mayekiso, 38, his brother, Mzwanele, 22, Paul Tshabalala, 38, Richard Mdakane, 29, and Obed Ba-

SUSAN RUSSELL

pela, 28, have all pleaded not guilty to treason and alternative charges of subversion and sedition.

The State alleged that as members of the Alexandra Action Committee the five were involved in the formation of people's courts, initiating and encouraging consumer and rent boycotts and a conspiracy to seize control of the township and render it ungovernable during 1985 and the first half of 1986.

On Monday, the State conceded it had not proved treason against the five. (331)

However, State counsel A C Human, SC, submitted the alternative charges had been proved beyond reasonable doubt and asked for a conviction for subversion, alternatively sedition.

Soggot argued the State was unable to prove subversion on the part of the five trialists or the committee and asked for an acquittal.

Police search court with sniffer dogs

# Court told of 'noisy' interrogation

Cape Times 6/4/89 331  
Court Reporter

ABOUT 20 Port Elizabeth policemen banged on the walls and made "horrendous noises" while a woman, alleged to have harboured a terrorist, was interrogated, Cape Town Regional Court heard yesterday.

Ms Sindiswa Beauty

Dlawu, 27, of KwaZulu, PE, was giving evidence in a trial in which she, Mrs Ethel Thenjiwe Loza, 44, Ms Maureen Mandisa Loza, 19, both of Guguletu, and Mr Xolile Mini, 30, of Khayelitsha, pleaded not guilty to harbouring suspected guerilla Mr Nkululeko

"Solly" Mutsi.

Ms Dlawu said she was forced to make a statement saying that she knew Mr Mutsi was a "terrorist".

The hearing continues tomorrow.

Mr M J Langenhoven was the magistrate. Mr F Silbert prosecuted. Mr M A Albertus instructed by Mr B T Ngcuka of N J Yekiso and Associates appeared for the four.

Own Correspondent 571

property and crime in injury allegedly committed at the Paardekraal Monument on December 27. He has pleaded not guilty.

"I took his car keys and started talking to the woman who identified herself as Jani Allan. She said she was busy with a story.

"Terre'Blanche then demanded to see a senior police officer and swore: "Vlieg in julle moere. — (Go to hell)." —

Const Page said he radioed a "Lieutenant Smit" who arrived and spoke to Mr Terre'Blanche.

**"Smit instructed me to hand over the bullets and the car keys."**

The case has been adjourned to May 8 with the state announcing that Ms Allan would now be a defence witness.

"He said he had some weapons in Pretoria but none with him. I asked to search his car."



# Coup plotter 'gave assurances of safety'

By Alan Cooper

331  
MMABATHO — Abram Morake, one of the eight People's Progressive Party members accused in the treason trial being held here in the Mmbatho Supreme Court yesterday said in a statement that the alleged coup leader, Mr Rocky Malebane Metsing, gave his assurance on February 10, the day of the aborted coup, that South Africans in Bophuthatswana would be safe following the overthrow of the government.

The eight accused have pleaded not guilty to the charge of treason but admitted they were at various times at Eagle's Nest, their party headquarters in Mafikeng on February 10.

Their party, which is now banned, was led by Mr Metsing, who fled the country after the unsuccessful coup.

They had denied taking part in any of the military activities on February 10.

Mr Morake said he went to

Eagle's Nest after hearing about the coup on the radio. Mr Metsing arrived escorted by soldiers.

He was wearing a black jacket, black trousers with brown strips on the seams and a black Homburg hat. He said he had been sworn in as president.

Mr Morake heard Mr Metsing on the phone saying South Africa had accepted the situation and that he had given South Africa guarantees about the protection of its citizens.

(Proceeding)

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TRADE unionist Moses Mayekiso and his four co-accused did not set out to seize power in Alexandra but had wanted to build a democratic community organisation applying successful techniques used in unions. Defence counsel D Soggot, SC, made this submission in argument before Mr Justice PJ van der Walt in the Rand Supreme Court this week.

When the trial resumed for argument on Monday after one and a half years of evidence, the state conceded it had not proved treason against the five.

State Counsel AC Human SC asked for a conviction on the alternative charges of subversion or sedition. He said vital state witnesses had refused to testify.

"Because of this and other difficulties, and after giving serious thought to the matter, we are of the opinion the state has not succeeded beyond any reasonable doubt in proving treason against the accused," he said.

Mayekiso, his brother Mzwanele, Obed Bapela, Richard Mdaane and Paul Tshabalala pleaded not guilty to all charges.

# One-and-half years on, no treason in the treason trial

The state alleged that as executive members of the Alexandra Action Committee the five were involved in a conspiracy to seize control of Alexandra and make it ungovernable.

Human argued that during the period 1985-86 they had conspired to form people's courts, launch rent and consumer boycotts, campaigns against the police and town councillors, and caused or promoted disorder and dislocation in the township.

During his argument, in response to a question from the judge, Human conceded consumer and rent boycotts were not unlawful *per se*. It depended how they were enforced, he said.

Soggot submitted the state had failed to prove a conspiracy by the trialists, the AAC, other community organisations in Alexandra or the residents themselves. He said neither se-

**As the Mayekiso treason trial entered its last lap this week, the state conceded that it had not proved treason against the five accused, reports HELEN PAKEMAN**

dition or subversion had been proved and asked for an acquittal on both.

Soggot referred the court to minutes taken at AAC meetings during the months after its formation at the beginning of 1986. He argued they provided unchallengeable corroboration of the trialists' evidence on what they did and wanted to achieve.

"The totality of the evidence proves the accused were not revolutionary or radical leaders imbued with revolutionary ideologies," he said, "but

men rooted in their community who set out to come to grips with the political realities.

"The state was unable to call one single person from the population of Alexandra to testify to the fact that the boycotts were fostered by any person from the AAC," he said.

"While the state has suggested that difficulty has been experienced in obtaining evidence, it is to be noted the state was able to call scores of witnesses in respect of the people's courts and other matters.

"It is submitted ... there were no witnesses to testify to a subversive strategy for the simple reason that such strategy never existed."

Soggot also said although the state had records from the people's courts in 7th and 19th Avenues it had failed to call any credible witness who

implicated the five in their operation. There was no proof Mayekiso, his co-accused or the AAC initiated or encouraged the rent and consumer boycotts in Alexandra at the time.

In any event, Soggot said, these did not constitute acts of subversion as contemplated by section 54 of the Internal Security Act.

In conclusion Soggot said the five had at no stage set out to propagate any political ideology at the general and public meetings.

"They acted without a trace of clandestine purpose; they did their best to defuse a state of extreme crisis and tension in Alexandra," he said.

During the defence argument Mr Justice Van der Walt said: "The difficulty one has with a case like this is that you have white perceptions and you have black perceptions."

"I am sitting as a judge. I am white. I view it in a certain way. A black person might view it differently."

"Politics comes into it. Nationalism comes into it. You have a whole mixture of ideologies."

The judge said he hoped to give judgement on April 24.



# Claims of torture let convict off the rope

JANET HEARD

DRAMATIC developments in the Bloemfontein Appellate Division saw a convicted murderer transferred to the awaiting-trial section of Pretoria's Central Prison after spending 18 months on death row.

The move followed a decision by the Appellate Division that Mr. Joseph Chidi's conviction and sentence be set aside and the case be referred to the trial judge for further evidence to be heard.

The change in Mr. Chidi's prisoner status arose after the single State witness who implicated him for the murder of a town councillor said in an affidavit that his evidence was false and he was not present at the time of the murder.

The witness, Mr. Joseph Chebedi, of Tembisa, said in the affidavit that he reluctantly made a statement implicating Mr. Chidi to the police and testified that the statement was true in court "because I had been beaten (by members of the security police) and feared



MR. MASEROLE CHIDI: Relieved that his son is off death row.

for my life".

In September 1987, Mr. Chidi (27), of Tembisa, who pleaded not guilty, was convicted of murdering Mr. Sello Gidion Moeng of the Umfuyani section of the township on May 7, 1986. Mr. Justice le Grange found there were no extenuating circumstances. He granted Mr. Chidi leave to appeal against sentence and conviction.

Mr. Chebedi's affidavit said: "I have been deeply troubled ever since I gave the evidence and have been extremely worried that an innocent man could be hanged."

He said he was aware

he could be charged with perjury as a result of giving two conflicting statements under oath, "but this is a consequence which I am willing to face".

Mr. Chebedi alleged that he had been picked up by the security police and held in detention for several months during 1986.

He was interrogated, he said, by security policemen at Tembisa and Kempton Park.

"While in detention I was beaten with a fist, kicked and had a plastic tube put over my head. This tube was tied at my neck so as to suffocate me and while my head was covered I was beaten and my head was placed in a bucket of water."

"I was beaten by the police to say that I knew something about the case. When I persisted in my statement that I was ignorant (which was true) the police said that it would be in order if I said that Joseph Chidi was involved in this case. I have known Joseph for about 12 years."

## Gun pointed

"I was thrown into a police van and roughly driven through the streets and into the veld outside Tembisa where a gun was pointed at me by a security policeman. I was told that if I did not implicate the said Joseph Chidi I would be shot."

Mr. Maserole Chidi, the accused's father, told Saturday Star that he and his wife and five daughters were overjoyed to hear about the ruling.

They expressed anger that the witness's evidence had resulted in Mr. Chidi being "put in a cage for all this time".

"It has been terrible at home without Joseph for the past few years. We now at least have some hope that he will be able to come home again," the father said.

Mr. Chebedi said he was originally charged with the same offence as Mr. Chidi but before the case was transferred to the Supreme Court, the charge against him was withdrawn.

Mr. Chebedi said he was unable to bear the feeling of guilt any longer and approached the Witwatersrand Council of Churches. On February 13 he made the affidavit to an attorney at Lawyers for Human Rights.

A date for the re-opening of the trial has not been set yet.

# Escaped detainee says he's a nervous wreck

PAT DEVEREAUX

FORMER Black Students Society member, Mr. Tebogo Mngomezulu — the 11th emergency detainee to escape from hospital — is suffering from psychological repercussions after nine months in detention.

A free man now, the 25-year-old student leader interviewed yesterday said: "I am a nervous wreck and will be going to see a psychotherapist."

Detained on August 12 last year, Mr. Mngomezulu said that after being in hospital for a month and 18 days — as a result of going on hunger strike — he had believed the Ministers of Law and Order, Mr. Adriaan Vlok, did not intend to release him.

"A security police visit while I was in hospital was the last straw. I decided I had to take my freedom," said the young man.

"So last Saturday I just walked out of the Johannesburg Hospital after telling my guard I was going to fetch something."

On Wednesday he went to the British Consulate for refuge. "In five hours I managed to get the as-



MR. TEBOGO MNGOMEZULU: Eleventh detainee to escape.

surance that I would not be restricted or rearrested. This was something my lawyers had been unable to achieve in months of negotiations with the Government."

"It just shows that a bit of international pressure can do," said Mr. Mngomezulu.

Detainee monitoring groups around the country estimate that there are approximately 35 detainees still on hunger strike.

In the wake of a number of escapes, the Government this week announced that hunger striking detainees would be moved to Pelenoni Hospital in Bloemfontein.

Three detainees have apparently already been moved there.

Shown around the



# State won't call Jani Allan in Terre-Blanche hearing

by KATY MACDONALD

Weekend Argus Correspondent

JOHANNESBURG. — THE State prosecutor in the trial of AWB leader Mr Eugene Terre-Blanche will not be calling Sunday Times columnist Jani Allan to the witness stand. He announced this in court this week shortly before the trial was postponed until May 8.

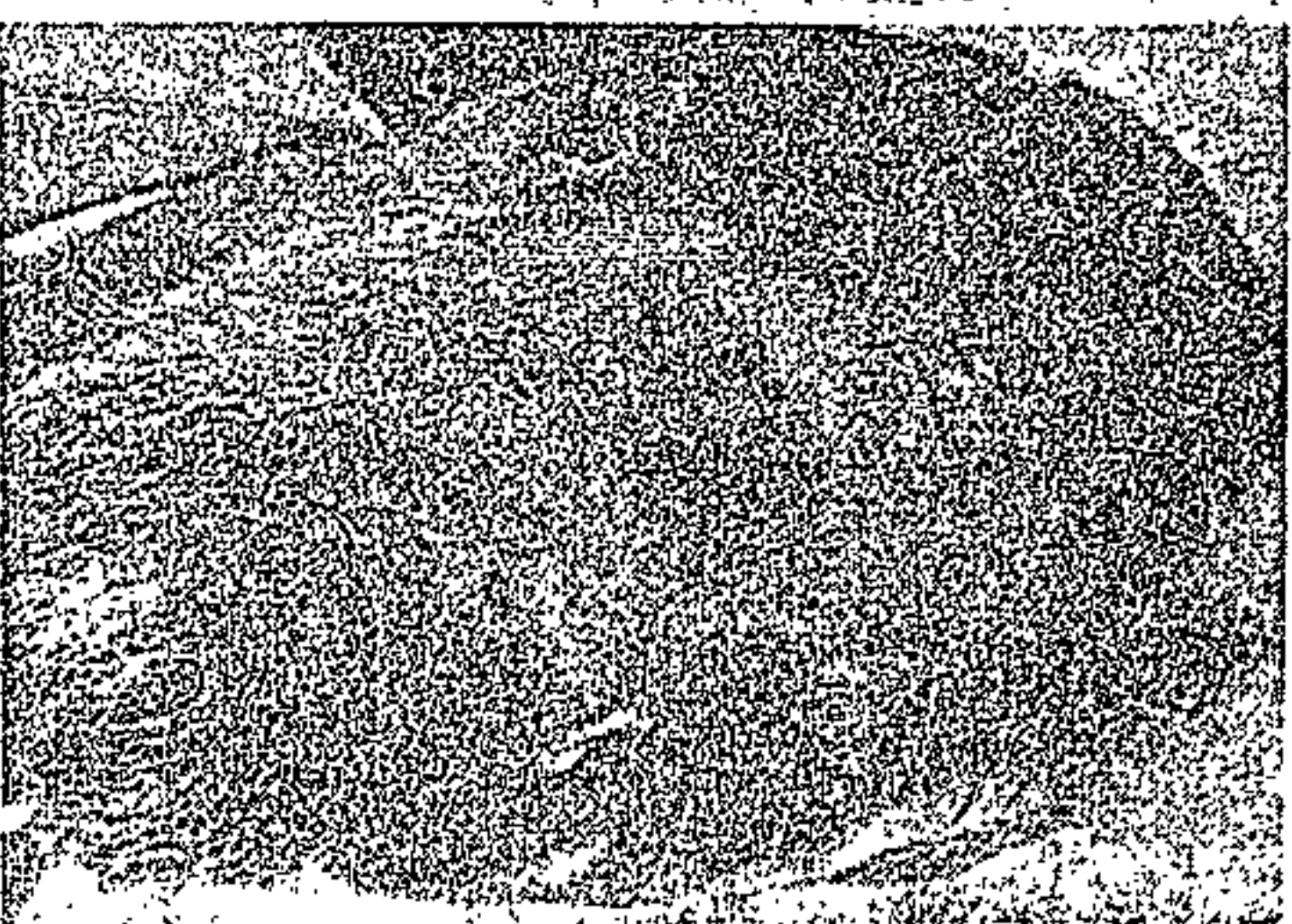
Ms Allan is a key witness to Mr Terre-Blanche's trial as she was with him on the night of December 27 last year when he allegedly drove his car into the gates of the Paardekraal Monument and swore at two policemen investigating the incident.

Mr Zs van Zyl said he could not comment on his reasons for dropping Ms Allan as a witness after sending her a subpoena to attend court on the first day of the AWB leader's trial.

Mr van Zyl, who also made available to the defence four other witnesses, including Mr Terre-Blanche's gardener, Mr Mischak Tawane, said he did not know whether the defence would call Ms Allan to testify. He conceded that if the defence did not call her, there was "a real possibility" the magistrate himself would do so.

A legal source said it was probable Mr van Zyl had decided not to call Ms Allan as she would be more useful as a witness he could cross-examine.

The trial has been set down for three



Eugene Terre-Blanche



Jani Allan

days, from May 8 to 10. The State is expected to complete its case on May 8.

The court setting is far from glamorous. The stumpy, grey-bearded Afrikaner Weerstandbeweging leader sat on a hard wooden bench in a small courtroom with a scratched parquet floor and brick walls.

Proceedings were heard to the buzz of faulty fluorescent lighting. His lawyers

No one was really concerned about the bent and rusty gates which seemed half to fill the court as they rested upside down against the dock.

What everyone had really come to see was ET on trial and Jani Allan in the witness box. To hear about the AWB leader's connection with this glamorous journalist from a "blissense" English newspaper. To see if the leader winced when his dealings with her in the dark on the ground of the Paardekraal Monument were spelt out in court.

The drabness of the setting could not suppress the drama of the situation. Aware she was giving evidence against a powerful political figure, Miss Wanda Kearney, a young witness for the State, fled the court building and ran down the road in tears when told by Mr Terre-Blanche's aggressive advocate Johan Roussau her evidence contradicted that of her father.

Retrieved by her mother and a plainclothes policewoman, she returned red-eyed to the witness stand to ask chokingly that her evidence be withdrawn.

Magistrate Mr SW van Niekerk told her sternly this was impossible, and the relentless cross-examination continued, reducing Miss Kearney to tears again.

The same day, a meeting between blacks and white right-wingers nearly exploded into confrontation after blacks filled every available space in the public gallery during a tea break.

Tension mounted as the AWB, realising they had been displaced, glared at the seated blacks. An anxious-faced policeman announced the court must be cleared to look for explosives. The blacks were ushered quickly out of the court and two sniffer dogs brought in.

Eventually the courtroom was pronounced safe, and its doors opened. Most AWB members managed to enter through the front door and regain their places before the blacks standing by the back door were allowed in.

As the blacks entered the court, Mr Terre-Blanche stood up, turned to face them and watched, unsmiling, as they sat down in the one row left free by whites. When court resumed after lunch, there was not a black face to be seen.

This was probably the largest black audience Mr Terre-Blanche had ever drawn.

Obviously cramped and restless, Mr Terre-Blanche constantly shifted position in the dock. However, his piercing blue-eyed gaze did not move from the State witnesses giving evidence against him.

His lawyer, Mr Johan Roussau, who was advised by two attorneys, sat in front of his client, not more than two metres away. A tall man with smoothed-down white hair, gold watch and large gold ring, he appeared (was it merely coincidence?) on the first and third day of the trial in red tie, white shirt and black suit — the colours of the AWB.



# City terrorism trial postponed

Staff Reporter

THE hearing of terrorism charges against a man who suffered a brain haemorrhage hours after being arrested for allegedly carrying a primed limpet mine near a ceremony attended by the Minister of Law and Order, Mr Adriaan Vlok, was yesterday postponed in the Cape Town Regional Court until April 26.

Mr Nana Robert Maliti, 22, of New Crossroads — who yesterday ap-

peared to be well and eager to catch a glimpse of his mother in the gallery — was not asked to plead on charges under sections 54 (1) and 56 (1)(c) of the Internal Security Act.

Mr Maliti underwent brain surgery in Groote Schuur Hospital in October last year hours after police allegedly found him carrying a primed limpet mine in a plastic bag some 150m from a police station which the minister was opening in New Crossroads.

# No extenuation, says state

By MARIUS BOSCH

THE STATE this week asked that no extenuating circumstances be found for 13 of the 25 defendants in the Upington 25 trial.

The 25 were convicted on the grounds of common purpose of the murder of municipal policeman Constable Lucas Sethwala in 1985 in Upington's Paballelo township.

Among the 13 are a 60-year-old mother of 10 children, Evelina de Bruin, and a former mayor of Paballelo, Kenneth Khumalo.

If no extenuating factors are found by Mr Justice Jan Basson, he will be bound to sentence the 13 to death.

The court found that De Bruin had incited the crowd which had gathered outside the home of the policeman on the day of the killing, and was

classified as an accomplice in the murder.

Her common-law husband Gideon Madlongolwane was also convicted of murder by the judge.

At the time of her arrest in 1985, De Bruin had been working as a domestic servant for an Upington family — a position she had held for 16 years.

In previous evidence before the court she was described as a devout churchgoer and a "woman of the house".

The trial was yesterday adjourned to May 22 for judgment on extenuation.

Sentence on 24 of the defendants is expected to be passed on June 5.

Mr Justice J J Basson is sitting with an assessor. Mr Terrence van Rensburg appears for the state. The 25 are represented by Mr Ian Farlam SC assisted by Mr Anton Lubowski and Mr Andre Landman.



# Teacher's charge dropped

9/14/87 15/4/87  
Court Reporter 331

MITCHELLS PLAIN teacher Mr Neville van der Rheede, who was in detention for more than five months, had charges in connection with possessing a banned video withdrawn in Wynberg Regional Court yesterday.

Mr Van der Rheede, 34, was arrested on September 21 last year and was released last month when he appeared in court for the first time in connection with the video.

The state had alleged that on September 21 he possessed a video cassette "Umkhonto we Sizwe" which had been distributed by the ANC.

Mr Van der Rheede had charges of terrorism and furthering the aims of the ANC withdrawn against him in May 1987. In August last year, he had restrictions imposed on him.

Mr A P Kotze was the magistrate. Mr J Diergaard prosecuted. Mr D J Jacobs, instructed by E Moosa and Associates, appeared for Mr Van der Rheede.

# BID TO STAY EXECUTIONS

## Last day for 3 men

THREE prisoners on death row are due to hang tomorrow.

They are Lazarus Mance, John Ndlovu and Harry Ngcobo. Mance and Ndlovu were co-accused in a murder and robbery trial.

They were convicted in the Rand Supreme Court of murder and robbery with aggravating circumstances on April 19, 1988. Both their application for leave to appeal and their petition to the Chief Justice were refused.

Although Ndlovu has petitioned the State President, his co-accused Mance has not done so. In the circumstances, according to Lawyers for Human Rights, representations have been made to the Department of Justice that the execution of both prisoners be stayed, pending the outcome of the outstanding petition.

If the representations are unsuccessful, the lawyers would bring the appropriate court application.

Ngcobo was convicted of murder and robbery with extenuating circumstances on May 9 last year. Due to a misunderstanding, his counsel did not petition the Chief Justice for leave to appeal.

Lawyers for Human Rights have similarly made representation with the Department of Justice that his execution be stayed pending the petition.

Lawyers said two of the three prisoners have not exercised all their rights. If necessary, applications for stays or execution will be brought on behalf of all three.

A spokesman said: "Obviously, if John Ndlovu is executed prior to Mance's petition to the State President, the latter's petition could be severely prejudiced."

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State asks for 13 death penalties

UPINGTON — The State has asked that no extenuating circumstances be found for 13 of the 25 defendants in the Upington 25 trial.

The trial was postponed on Friday to May 22 for judgment on extenuation.

The 25 have been convicted of murdering municipal policeman Constable Lucas Sethwala in 1985 in Upington's Paballelo

Own Correspondent

township on the grounds of common purpose. Among the 13 are a 60-year-old mother of 10 children, Evelina de Bruin, and a former mayor of Paballelo, Kenneth Khumalo.

If no extenuating factors are found by Mr Justice Jan Basson he will be bound to sentence the 13 to death.

700 Vermaas creditors given delay of meeting

PRETORIA — More than 700 creditors representing R100m worth of claims against Pretoria attorney Wessel Albert Vermaas have won an urgent application against the Master of the Pretoria Supreme Court.

Mr Justice Goldstein granted an order late last week overruling the Master's decision to hold a creditors' meeting on April 19 concerning Verco Holdings — Vermaas's holding company.

The reason for the application, said Tony Michael, elected spokesman of 725 creditors, was that the creditors in the Vermaas and Eurotrust matters could appoint new trustees in terms of the Insolvency Act.

However, the creditors who brought the application do not have a say in the Verco meeting because their money was invested with Vermaas or Eurotrust, and subsequently they could not elect new trustees.

Michael said it was not in the interest of these creditors to have the meetings as advertised in the Government Gazette.

Michael said the creditors were unhappy with the existing provisional liquidators, Messrs Walter Edelstein, Brian Nel, Andre Hessels and Lewis Klopper — who were appointed on December 9 last year after Verco was provisionally liquidated, and after a judgment awarded against them in the Ciskei Supreme Court on March 3.

The Master of the Supreme Court, B C Nell, had refused to postpone the Verco meeting until after the Vermaas and Eurotrust meetings, which were to be held on April 20 and 21 respectively.

As a result of the court order, the Vermaas and Eurotrust creditors' meetings will be held on April 20, before the Verco meeting, which will enable the creditors to appoint trustees of their choice. — Sapa.



## Accused's statements voluntary, court finds

*Cape Argus* 12/4/79 Court Reporter 331

A TEENAGER who testified that he had been assaulted, influenced to make statements and point out places to police, had co-operated voluntarily, a Cape Town Regional magistrate found yesterday.

Mr J D Hugget made this finding after the trial within a trial of Mr John de Vos, 18, of Privaat Street, Bonteheuwel. Mr De Vos previously testified that he had been blindfolded, handcuffed, suspended and electrically shocked. He has pleaded not guilty to two counts of public violence, alternatively arson and malicious damage to property.

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# 'Traitor' call at treason trial

CHE Times 19/4/89 331

Supreme Court  
Reporter

THE main state witness in the trial of Mr Tony Yengeni and 13 others — a trained ANC guerilla introduced as "Mr X" — was yesterday greeted with chants of "down with traitors" when he left the court during an adjournment.

Mr X said he had received military training in Angola and East Germany.

Mr Justice S Selikowitz yesterday gave judgment in a three-week application by the state and ordered that the evidence of Mr X be heard in a closed court, that the public be excluded and that the press be allowed to attend but not disclose the witness's identity.

The accused — who have refused to plead to a charge of terrorism — are: Mr Tony Sitebiso Yengeni, Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Michael

## Evidence in closed court by ANC Mr X

Mzimkhulu Lumbambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mtheteli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Sitlabocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Mr X said that after high school he enrolled at the University of Fort Hare where he dropped out during his second year because of class boycotts.

Mr X interrupted his evidence to ask the court to protect him from intimidation.

"I am a member of the ANC and that is not child's play. I have been involved in the armed struggle. It is under these circumstances that I seek the court's protection as a right."

Mr Justice Selikowitz assured Mr X that the court had protected him by ordering that he testify in a closed court and that the press not identify him.

Mr X said he left the country in 1981 to join the ANC and was a member till he infiltrated the Republic in May 1986.

"I received political training in Lesotho. Then I went to Angola via Swaziland and Mozambique and re-

ceived general military and political training for six months in Angola."

He spent six months in East Germany and then returned to Angola.

In May 1986 he and three other men, Mr Xolisi Petane, Mr Billy Holiday and Mr Mtheteli Titana, infiltrated the Republic from Botswana.

On arriving in Cape Town he met Mr Mahlale, one of the accused, whom he had known for many years and asked him to arrange accommodation for the unit. They were taken to another man who helped them.

They had problems communicating with the ANC and had to fend for themselves. He met Mr Yengeni when the commanders and commissars of two separate units met to discuss problems.

The hearing continues today.

Mr D P de Villiers SC, assisted by Mr M. ko Donan, Mr Pius Langa and Mr Johnny de Lange and instructed by Mellinick, Ross, Richman and Closenberg Inc, Essa Mooza and Associates, R Vassen and Co and Enver Daniels and Co, appeared for the accused. Mr H Klem SC, with Mr J van Vuuren and Mrs Sandra Swart, appeared for the state.

## Razor blade in baby food

Own Correspondent

LONDON. — A baby girl was taken to hospital on Sunday after eating a chopped-up razor blade put in a jar of baby food. Fortunately she was not badly hurt.

The baby's 28-year-old mother found the blade and a warning message in a jar of Heinz baby food bought from a store at Littlemore, near Oxford. The message warned that other Heinz products had also been contaminated.

The store...

## Milnerton man wins R216 000

Staff Reporter

MILNERTON businessman Mr Ivan McKay has won a whopping R216 000,95c in the St John Ambulance crossword competition.

Mr McKay said "most of the money will be invested to make my wife's and my retirement more comfortable". Mr McKay, who enters a lot of competitions, sent in 26 entries, at R10 a time.



Mr X <sup>MC4</sup>  
19/4/89  
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# refuses to give further evidence

By LINDA GALLOWAY  
Supreme Court Reporter

A TRAINED member of the African National Congress, brought to court as a State witness in the trial of 14 people charged with terrorism, has refused to give evidence and has asked for legal representation.

The man, who may only be identified as Mr X, took the stand today after giving evidence yesterday about his involvement with the ANC and his military training in Angola and East Germany.

Mr X told the court that since his arrest in September, 1987, he had been "under mental stress" and had sleepless nights for 15 months. He had survived on pain killers and was afraid that he could be addicted to them.

The State psychologist, who had treated him, had diagnosed "avoidance conflict".

Mr X said that throughout his detention he had been afraid, but at the same time he had wanted to avoid giving evidence. He had summoned his brother and asked him to approach attorneys representing the 14 accused, to instruct them to act for him.

## NO OPTION

Mr X said earlier this month he signed a document stating he had not sent his brother to get legal representation: he had no option but to sign.

It was only in court that he could express his opinion because he needed the court's protection.

He did not want to "fall on a bar of soap" or "fall from the 10th floor", or "fall down a flight of stairs" or "end up having a brain operation", or "leave someone cold", he said, the latter a reference to the comment of former Minister of Justice, Jimmy Kruger on the death of Steven Biko.

The conditions under which he had been arrested were the reasons for his behaviour. He was living in fear.

"There are charges against me as a cadre of the ANC. I am expecting them."

"I am still a member of the ANC and prepared to go to Mandela's feet."

"It would be improper to proceed with my evidence. I am prepared to face the consequences."

(Proceeding.)

• Earlier evidence, page 4.



# Youth awaits judgment <sup>11/6/88</sup> in public <sup>19/4/89</sup> violence trial

BY GILL TURNBULL <sup>331</sup>  
Court Reporter

THE trial of a Bonteheuvel teenager charged with public violence in August 1987 has been postponed to the end of May for judgment.

Mr John de Vos, 19, has pleaded not guilty to charges that with others he set alight an Allied Publishing truck on August 18 and a policeman's house on August 28, both in Bonteheuvel.

Mr de Vos also denied being a member of the Bonteheuvel Military Wing.

Mr Dirk Brand, for the State, argued yesterday that the State had proved Mr de Vos's guilt beyond reasonable doubt.

Mr de Vos's admissions to police and identification of the sites of the alleged incidents, made after about six weeks in detention, were possible because he had been involved, Mr Brand submitted.

Counsel for the defence, Mr D Potgieter, argued that "it is laughable to speak of public violence".

"In that case every fire is public violence. The violence was against the truck, not the public. There was no evidence of a riot there. It was nothing more than malicious damage to property."

Mr Potgieter submitted that the same principle applied to the house. It was only because it had been a policeman's house that the charge was public violence instead of arson.

The hearing was postponed to May 29 for judgment.

Mr J D Huggett was on the Bench.

# Terrorism trial told of military training by ANC

By LINDA GALLOWAY  
Supreme Court Reporter

A STATE witness in the Supreme Court trial of 14 people accused of terrorism told the court he was militarily and politically trained by the African National Congress in Angola, Botswana and the German Democratic Republic.

The man, whom the court has ruled must be called Mr X, is testifying in camera. The Press may report his evidence as long as he is not identified.

The trialists are: Mr Tony Sitembiso Yengeni (accused No 1), Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Michael Mzimkhulu Lum-bamsbo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Sitlabocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

## Studies suspended

Mr X said he had been recruited into the ANC by accused Mr Sitlabocha Charles Mahlale in 1981 after his studies at Fort Hare University were suspended.

He joined Umkhonto we Sizwe, the armed wing of the ANC, and went to Mozambique and Angola for training.

"I conducted the tasks as-

signed to me by the ANC until the day of my arrest on September 17 1987," he said.

Mr X said he spent time at Camp 101 in Angola and then went to East Germany in 1983, where he was given political and military training.

He returned to Angola and fought with Fapla (Angolan army) forces against Unita in southern Angola.

## Further clashes

In 1984 he was moved to Caxito Camp, where he was made a company commissar, before being moved to Pango Camp, where he was the "camp propagandist".

There were further clashes with Unita to protect roads leading from Luanda to ANC bases.

In September 1985 he travelled to Lusaka, where he was made the commander of the Basil February unit.

The other members were Mxolisi Petane (who is serving a 17-year sentence for terrorism), Billy Holliday (who died in KTC in 1987), Reggie Nyarenda and another accused Mtheteleli Titana.

Their instructions were "to mobilise the masses" and to popularise the ANC and the Freedom Charter.

They "infiltrated" South Africa in May 1986, crossing the border near Kimberley.

Mr X said when he crossed the border he was armed with

an AK-47 rifle and 90 rounds of ammunition, a Makarov pistol and ammunition, and three handgrenades "for self protection".

He said the others were armed with similar weapons.

In Cape Town he met Mr Mahlale again, and asked whether he could accommodate the comrades in the unit. Mr Mahlale had "security reservations" so they were accommodated elsewhere.

He met Accused No 1, Mr Tony Yengeni, in 1986 at a meeting with the commander of another ANC cell in the Western Cape, where they discussed the problems of two cells working independently of each other in the Western Cape.

(Proceeding)

smoke a lot of green pipes and not get gerook. It's only after I

left with the police, he heard scuffling outside.

appears for the State.

# Unwilling witness X gives thumbs up to terror accused

ARC 45 ~~CASE FILE~~ 20/4/89 331

By LINDA GALLOWAY  
Supreme Court Reporter

THE self-confessed member of the African National Congress who refused to testify as a State witness in a terrorism trial will remain in detention in the custody of the security police until the hearing resumes.

Postponing the hearing until Tuesday, Mr Justice S Selikowitz said in the Supreme Court, Cape Town, yesterday that although the man had asked to be held at Pollsmoor Prison because he feared he would be assaulted, this could not be done without facts being placed before the court.

The man, identified in court only as Mr X, was brought as a witness in the trial of 14 people charged with terrorism.

The accused are Mr Tony Si-tembiso Yengeni, Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Michael Mzimkhulu Lumbamsbo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Sitlabocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

The witness had indicated that he feared assault or other abuse from the security police and sought a directive from the court to ensure his safety.

He also requested that the court order protecting his identity be lifted and that further

proceedings involving him be held in open court. He believed this would offer him greater protection.

Mr Klem said the State would oppose all the requests. Mr X was still a detainee in terms of Section 31 of the Internal Security Act and only the Attorney-General could change the terms of his detention.

After the court adjourned the accused waved to Mr X and gave him "thumbs-up" signals, which he returned. He was whisked from court in an unmarked car.

In terms of Section 31 the police are not obliged to reveal where the detainee is being held and he may be held until the criminal case in which he is involved is concluded.

# CHEAP PRICE

# NOTCHHEADT



# State witness turns in terror trial

CAPE TIMES 20/11/89

331

## Supreme Court Reporter

MR X, the principal state witness in the terrorism trial of Mr Tony Yengeni and 13 others, was yesterday greeted with jubilant singing of "come back to us" from the accused when he said it would be improper for him to continue giving evidence.

Mr X, whom the court has ordered must testify in a closed court and not be named, told the court at the start of the proceedings that he had a special request.

"Yesterday I asked for court protection, having had some points in my mind. Firstly I would like to state before this court the position I am in mentally."

He had been having sleepless nights for the past 15 months and survived by taking Prothiaden sleeping tablets, which he feared would have negative effects or cause him to become addicted.

Mr X said he was afraid of slipping on a bar of soap while washing, falling from the 10th floor or

a flight of stairs — and ending up "with brain operations, or leave someone cold like ... Steve Biko (did) in the past".

He did not want to testify against the people he had worked with, his comrades with whom he had "gone through thick and thin".

"Your Lordship, I joined the African National Congress knowing what it is to join the ANC and am prepared still to continue with the line told by the ANC."

"It would be improper also for me to give evidence whilst having some members of my family in prison. I would like to mention for the first time in this court that one of them being Nelson Rolihlala Mandela, a member of my family."

"It would be improper for me to give evidence in this court because that will divide my family."

He had also never mentioned to the police that he had a child in the custody of the ANC in Lusaka and that he appreciated the way they had looked after the child. It would be wrong for him to turn

against them, he said.

"So, I am still a member of the African National Congress and am prepared to go to Mandela's feet. I feel it would be improper to proceed with that evidence."

"If I am found guilty I am prepared to face the consequences, but would appreciate a chance to consult with legal experts that I instructed my brother to consult on my behalf."

When the court adjourned, some of the accused waved and smiled at Mr X and sang "come back to us" in Xhosa.

After the lunchtime adjournment, Mr Siraj Desai informed the court that he had been instructed to appear for Mr X, who had asked that he seek relief from the court.

The accused are: Mr Tony Sitembiso Yengeni, Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Michael Mzimkhulu Lumbambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mthetleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Silebocha Charles Mahlele, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nathanias Fester, Ms Zurayah Abass and Ms Colleen Lombard. Mr D P de Villiers SC, assisted by Mr Mike Donen, Mr Pius Lange and Mr Johnny de Lange and instructed by Mallinck, Ress, Richman and Closenbergh Inc, Essa Moosa and Associates, R Vassen and Co and Enver Daniels and Co, appeared for the accused. Mr Desai was instructed by Wilkinson, Joshua, Gihwala and Abercrombie Inc. Mr H Klem SC, with Mr J van Vuuren and Mrs Sandra Swart, appeared for the state.



# Birthday drama for Mr X

133/20-26/4/89

By AYESHA ALLIE and HENRY LUDSKI

AN ANC commander, considered by the State to be its star witness, made a dramatic turnabout in a major political trial in the Supreme Court, Cape Town, this week.

In two days of drama the witness, referred to by the court as Mr X to protect his identity, entered the court as a "traitor", only to emerge as a "hero" in the eyes of the 14 "Yengeni trialists" charged with terrorism.

Mr X celebrated his 30th birthday on Tuesday giving evidence for the state and branded a "traitor" by jeering former comrades.

The next day the commander of the "Basil February" unit of the ANC's Umkonto We Sizwe refused to testify further — and left the court a hero.

• TURN TO PAGE 3



**CAKE FOR COMRADES.** Two of the "Yengeni trialists", Zuraya Abass, left, and Colleen Lombard, celebrate the birthdays this week of their co-accused Alpheus Ndude and Lumka Nyamza

PIC: YUNUS MOHAMED

P.T.O.



20-26/4/89 Smith  
**Mr X**

**FROM PAGE 1**

In another ironic twist on Thursday, birthday celebrations planned for accused Alpheus Ndude, 47, and Lumka Nyamiza, 30, were quickly changed to include Mr X.

Shortly before requesting his own legal counsel and asking for "protection" from the court, Mr X said that he "wanted to be with my comrades".

"I am still a member of the ANC and I am prepared to go to Mandela's feet," he said.

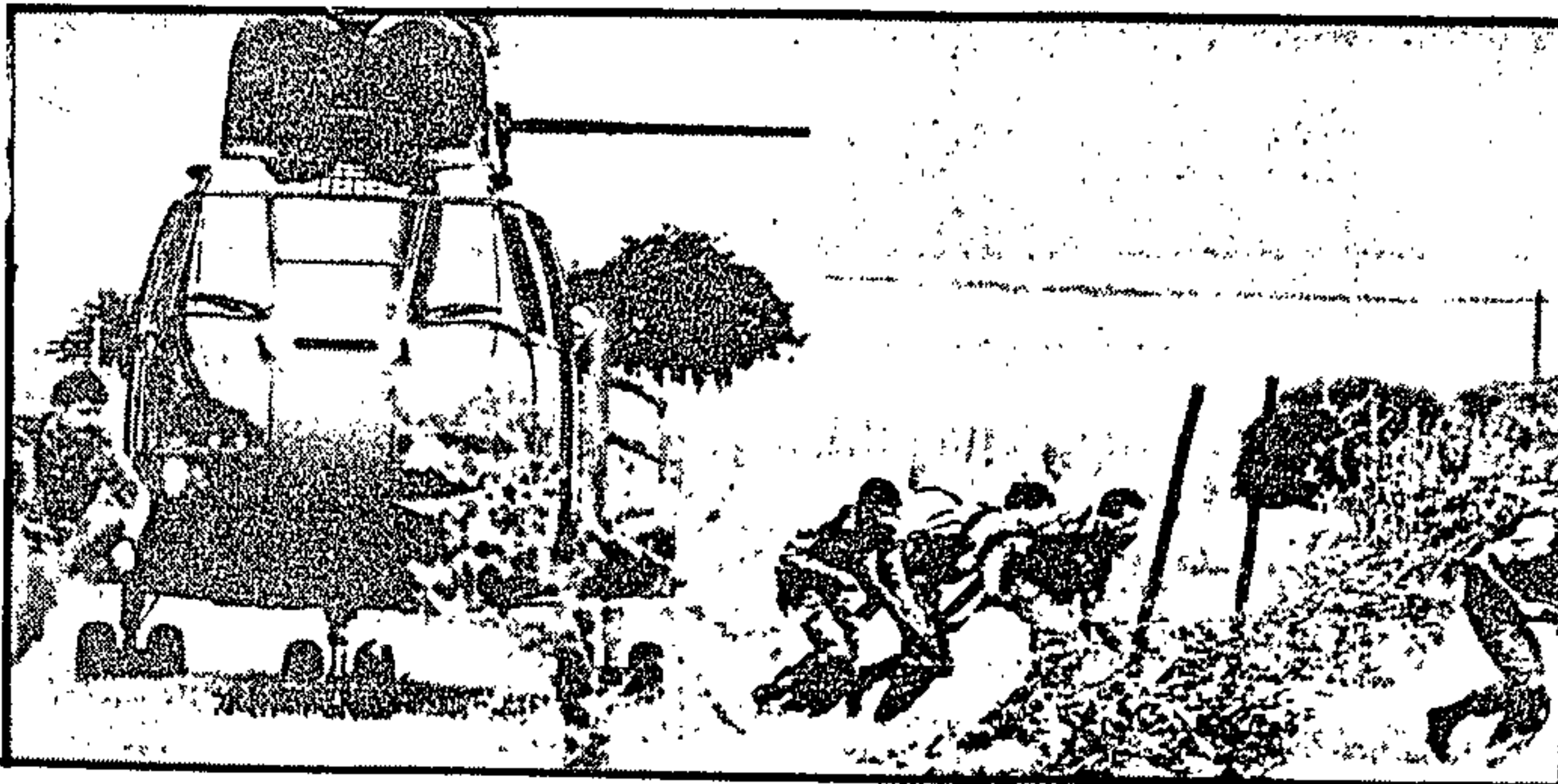
"It is only in court that I can express my opinion because I had reasons why I could not express my views before. I did not want to fall on a bar of soap, fall from the 10th floor, fall from a flight of steps, end up with a brain operation or end up leaving someone cold," he said.

Applications for him to be moved from Section 31 of the Internal Security Act on the grounds that he was no longer a state witness, and for him to be transferred to Pollsmoor, were also turned down by the judge.

The state has granted permission for Mr X to see his lawyer for two hours every day until the trial resumes next Tuesday.

The trial continues on April 25.





**Raiders of the Lost Coup** — Business Day photographer Robert Botha's winning entry in the Picture Story category of the 1988 Ilford Photo Press Awards — showed the dramatic sequence of events in last year's failed coup in Bophuthatswana. Overall winner was Ken Oosterbroek of The Star. Entries were said by the judges to be the finest for many years.

## 'Frightened' ANC man refuses to give evidence

CAPE TOWN — A trained ANC member brought to court as a State witness in the trial of 14 people charged with terrorism, has refused to give evidence and has asked for legal representation.

The man, who may be identified only as Mr X, took the stand yesterday after giving evidence on Tuesday about his involvement with the ANC and his military training in Angola and East Germany.

Mr X told the court that since his arrest in September 1987, he had been "under mental stress" and had had sleepless nights for 15 months. He had survived on painkillers and was afraid that he could be addicted to them.

The state psychologist, who had treated him, had diagnosed "avoidance conflict".

Mr X said that throughout his detention he had been afraid, but at the same time he had wanted to avoid giving evidence. He had summoned his brother and asked him to approach attor-

neys representing the 14 accused to instruct them to act for him.

Mr X said earlier this month he had signed a document stating he had not sent his brother to get legal representation: he had had no option but to sign.

It was only in court that he could express his opinion because he needed the court's protection.

He did not want to "fall on a bar of soap" or "fall from the 10th floor", or "fall down a flight of stairs".

The conditions under which he had been arrested were the reasons for his behaviour. He was living in fear.

"There are charges against me as a cadre of the ANC. I am expecting them," he said.

"I am still a member of the ANC and prepared to go to Mandela's feet.

"It would be improper to proceed with my evidence. I am prepared to face the consequences."

The trial continues. — Sapa.

## Natal unrest: 14 gunned down

MARITZBURG — Six people were shot dead in Shongweni, near Pietermaritzburg on Tuesday night, bringing to 14 the number of people gunned down in Natal's townships in the last five days.

A foreign television crew filming refugees fleeing the area this morning came across three bodies lying by the roadside. One was covered in a blanket, the others in newspaper. All were men and all had been shot.

Witnesses said four of those killed had alighted from a bus on Tuesday evening when an armed gang sprang out of surrounding bush and began firing at them.

Two more died in a later attack on a house in the Kwambiza section of the township.

In another section of Shongweni the film crew found a number of "comrades" in defence positions.

A KwaZulu police spokesman said investigations into the deaths were continuing. No arrests have been made. — Sapa.

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EXPLAINING why he had waited until he was in court before announcing his refusal to testify, Mr X spoke calmly, without passion. In his blue suit, he was the image of the personnel manager he might have been in different circumstances.

He did it because he was afraid - "of falling on a piece of soap ... or from the 10th floor or down a flight of stairs," he said. Driving home the point, he said he was afraid he would end up having a brain operation, or that he would "leave someone cold" - a reference to former justice minister Jimmy Kruger's comment on the death in detention of black consciousness leader Steve Biko.

Mr X, the state's main witness for the prosecution in the Cape Supreme Court terrorism trial involving 14 alleged ANC members, has been held in solitary confinement since his arrest, along with several others, in September 1987.

He did not immediately announce his refusal to testify. Throughout Tuesday, he answered questions from the state prosecutor about his flight from South Africa and period of training with the African National Congress.

The product of ID Mkize High in Cape Town's Guguletu township, Mr X told the court that he had started a degree in personnel management at Fort Hare University before it was closed in 1980 following student boycotts.

He told the court he joined the ANC after being recruited by accused number 10 in the trial, Sitlabocha Charles Mahlale. In 1981 he left the country for political and military training in Lesotho, Angola and the German Democratic Republic, before

## Mr X, the ANC commissar, explains why he suddenly changed his mind

On his first day in the witness box at the Cape Town terrorism trial, Mr X readily answered questions. But on the second, he interrupted his testimony to make a surprise announcement: He was not willing to testify against his own comrades.

GAYE DAVIS reports

returning to Angola in 1983.

There he fought alongside Fapla forces against Unita troops, whose atrocities he had seen with his "naked eyes". The ANC believed it was the duty of its cadres to "bleed a little" for the Angolan people, whose liberation had been marred by Unita, he said.

Mr X told the court he had been company commissar at the ANC's Caxito camp in Angola and propagandist at the Pango camp, also in Angola. He later moved to Lusaka and was made commander of the Basil February Unit of Umkhonto we Sizwe.

He said his unit's members were Mxolisi Petane (currently serving a 17-year jail sentence for terrorism),

who was his commissar; accused number seven, Metheteleli Titana; and a certain Billy Holiday, who died in New Crossroads in 1987.

Mr X said his mission was to popularise Basil February, a member of Cape Town's coloured community killed in a skirmish with Rhodesian troops in 1967.

His instructions were to mobilise the masses and carry out the tasks of the ANC in its "fight against apartheid". "The violence of the ANC was not an end in itself, but a means to an end ... the realisation of its goals stated in the Freedom Charter of 1955," he said.

Mr X said the unit crossed into South Africa from Botswana in May 1986, and that contact was esta-

blished in Cape Town with accused number one, Tony Sithembiso Yengeni.

When the court adjourned after Mr X had given evidence, and he was being hustled out of the courtroom by police, all the trialists rose. Looking directly at him, they chanted: "Long live the spirit of no surrender! Long live the spirit of no compromise! Down with traitors!"

When he appeared in court the next day, Mr X interrupted his testimony to ask the court for permission to make a "special request".

He said that throughout his period in detention he had suffered from sleeplessness and had seen a state psychiatrist. He then said: "I personally wouldn't like to testify against the people I worked with ... I have gone through thick and thin with them."

Asking for access to a lawyer - which he had not previously had - and the court's protection, he said he had been warned "that if I turn around in court here I will curse the day I was born".

He said that while in detention, he had been assaulted.

Mr X said: "It would be improper for me to give evidence in this court because that will divide my family." Nelson Mandela was a member of this family, he explained.

He also had a child being cared for by the ANC in Lusaka. He appreciated this, and it would "be wrong for me to turn against them".

"I am still a member of the African National Congress, and I am prepared to go to Nelson Mandela's feet."

The sudden turnabout by the ANC commander - believed to be one of the most senior members of the organisation ever to appear as a state witness - drew a tumultuous response from the trialists.

Bursting into song, they gestured to him to join them in the dock they have occupied since their trial began on February 6.

After an adjournment, Mr X's newly-appointed counsel, Siraj Desai, asked the court that Mr X be removed from the custody of the security police, as he feared being assaulted.

Mr X also asked that the court's order forbidding the disclosure of his identity be lifted, Desai said.

These requests were not granted. However, his attorneys will have daily access to him and the question of revealing his identity will be settled when the trial resumes next week.

The other accused in the trial are Jennifer Ann Schreiner, 32; Yengeni's wife, Lumka Elizabeth Nyamza, 25; Michael Mzimkhulu Lumbambo, 35; Mbutu Richmond Nduku, 26; Wellington Mongameli Nkwandla, 31; Gary Kruser, 27; Christopher John Giffard, 27; Alpheus Nkwana Ndude, 45; Gertrude Magdaleen Nethania Fester, 36; Zurayah Abass, 35 and Colleen Lombard, 37.

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sioner for Refugees.

*Chf. Trial 22/4/89*  
**Jhb journalist in court** *331*

JOHANNESBURG. — Journalist Miss Kerry Jane Cullinan, 25, appeared in the Regional Court here this week and denied illegal possession of a pamphlet associated with the banned SA Communist Party.



# Lies save five from hangman's rope

By MARTIN NTSOELENGOE

LIES told by three State witnesses in the Rand Supreme Court this week saved five Tembisa men from a hanging.

The witnesses, Abraham Molahlehi, Suzi Mabena and Richard Simka contradicted themselves so much that Judge Roux threw out the case and discharged Magudu Mnguni, 26; Mbiko Mnguni, 27; Lucky Mnguni, 24; Selby Mnguni, 24; and Dladla Ethuel Zondo, 36.

It was earlier alleged by the

State that they murdered Gibson Simka on September 28, 1984. Simka died of multiple stab wounds.

Before acquitting the men Judge Roux said, that there must be reasonable evidence for the court to continue with the case.

Pleading for their acquittal, advocate F Van Rooyen for the defence said the court must take into account contradictory evidence by Molahlehi, Mabena and Simka. He said evidence by the three

was contradictory, fanciful and weak and must be rejected.

Advocate Van Rooyen said Mabena told the court that she had seen the five men, but under cross-examination denied seeing them.

He added that Simka and Mabena had said Gibson Simka was hijacked at about midnight, but Molahlehi had said it was about 7pm.

Judge Roux agreed, saying most witnesses had given contradictory evidence, while some had

lied outright.

In his evidence Molahlehi said they met Simka at a shebeen, and he saw Magudu and Zondo force Simka into the boot of the car.

He accompanied them to an open veld where Simka was taken from the boot and severely assaulted with a panga.

When asked by the judge how he saw that Simka cut with a panga in the dark, Molahlehi said he could see in the dark.

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Colours

24/23/4/89

# 'X' refuses to testify in terror trial

CP Correspondent

A SELF-confessed trained member of the ANC who refused to testify in a terrorism trial against 14 alleged ANC members in the Cape Town Supreme Court this week, refused to continue because "he was still a member of the ANC".

The man, who may only be identified as "Mr X," took the stand on Tuesday after giving evidence about his involvement with the ANC and his military training in Angola and East Germany.

But on the following day (Wednesday), he refused - saying that it would be "improper to proceed with my evidence. I am prepared to face the consequences".

Mr X then asked for legal representation.

Earlier, Mr X made a special request. He told the

**'It is wrong as I am still a member of ANC'**

court that since his arrest in September 1987, he had been "under mental stress" and had sleepless nights for 15 months.

He had survived on pain killers and was afraid that he could become addicted to them. The state psychologist, who had treated him had diagnosed "avoidance conflict". Mr X said throughout his detention he had been afraid, but at the same time wanted to avoid giving evidence.

He had summoned his brother and asked him to approach attorneys repre-

sending the 14 accused to instruct them to act for him.

His brother gave evidence for the defence in the earlier part of the trial when the state applied to have the state witness' evidence heard in camera.

Mr X said that earlier this month, he signed a document stating that he did not send his brother to get legal representation, but had no option but to sign the document, although he knew he had sent his brother.

He felt that it was only

in court that he could express his opinion.

The conditions under which he had been arrested were the reason for his behaviour.

He had to consider Isaac Newton's third law of action and reaction.

"There are charges against me as a cadre of the ANC. I am expecting them," he said.

The 14 accused are Tony Yengeni, Jenny Schreiner, Lumka Nyamka, Michael Lumtambo, Mbothu Nduko, Wellington Kwandla, Mthetheleli Ntintana, Gary Kruser, Christopher Giffard, Charles Mohlale, Alpheus Ndude, Gertrude Festa, Zureiha Abbas and Coleen Lombard.

The court adjourned to allow legal counsel to consider Mr X's position as a Section 31 detainee.

# Parents in bid to save Delmas

By Jo-Anne Collinge

Families of four African National Congress men who have refused to participate in their trial in the Supreme Court at Delmas have instructed lawyers to lead evidence in mitigation of sentence in a bid to save their sons from the gallows.

The trial enters the sentencing phase tomorrow.

Jabu Masina, Neo Potsane, TingTing Masango and Joseph Makhura have stated they believe it inappropriate that soldiers of Umkhonto we Sizwe should be tried in civilian courts.

In a statement, their parents said they respected their sons' decision to refrain from participating in the trial.

However, they said, they felt it "essential that all South Africans should know the circumstances and events that compelled them to choose the path that they did. "Accordingly we have instructed lawyers to place an argument in extenuation before the court."

Masina, Potsane and Masango have been convicted of murders which they carried out as part of an ANC assassination squad. The men they killed were policemen Sergeant Orphan "Hlubi" Chaphi of Soweto and Constable Sinki Vuma of Mamelodi, and homeland politician Mr David Lukehele.

Makhura has been acquitted on murder charges but convicted on other counts of attempted murder.

If no mitigating factors are found, the death sentence must be imposed on Masina, Potsane and Masango.



# Second major US bank rolls over SA debt

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By Ramsay Milne, Star Bureau  
NEW YORK — In a major move that will help give South Africa a new measure of financial stability, second US bank has exercised a debt repayment option that will give the South African government until 1997 to repay its foreign debt.

John McGillicuddy, chairman and chief executive of Manufacturers Hanover, announced the bank's decision to a meeting of shareholders in New York.

He said the company had applied "a modest amount" of its outstanding South African loans to its new collection schedule and was considering further use of the option.

With some \$230 million in South

African debt still outstanding, Manufacturers Hanover becomes the second major US lender with Citibank to accept Pretoria's proposal, which was offered to all foreign lenders, to delay collection of the debt.

Citibank has put all \$666 million of its outstanding South African loans on the 1997 collection schedule.

The latest move is regarded as being particularly significant because Manufacturers Hanover and JP Morgan are the only two US leading banks on the international technical committee negotiating South Africa's \$3 billion foreign debt.

Citibank had been the third US member but dropped out after it

accepted the 1997 repayment option.

Anti-apartheid activists fear that more banks will follow the lead set by the two US banks, weakening the technical committee's bargaining position.

These activists, who came close to creating a major economic crisis when they campaigned strongly three years ago for US banks to "tighten the screws" against South Africa by calling up these huge debts for almost immediate payment — a move that, in the opinion of many, would have economically crippled the country — still favour immediate and total repayment of the outstanding South African loans. Delayed repayment of the loan

gives Pretoria a measure of economic stability, critics say, and Manufacturers' decision contains an implicit assumption of the government's continued existence — something its more radical enemies here thought was unlikely during the height of the 1986-87 township disturbances.

Mr McGillicuddy, in opposing a resolution calling for the immediate recalling of the South African loan, repeated the bank's abhorrence of apartheid and said the bank would continue to explore all options "short of losing the shareholders' money."

He said he would not, however, adhere to a pre-determined negotiating position, such as demanding immediate repayment.

## Second US bank to roll over SA debt

Finance Staff

A second major US bank, Manufacturers Hanover, yesterday said it would extend the period in which South African debtors can repay their \$230 million (R575 million) loans.

This followed last week's decision by Citicorp to roll over its South African debt, due next year, until 1997.

The move is regarded as being particularly significant because Manufacturers Hanover and JP Morgan are the only two leading US banks on the international technical committee renegotiating South Africa's \$3 billion (R7,5 billion) foreign debt.

South Africa's economic growth has been severely curtailed by the need to repay its foreign debt. The extension of repayment of the debt will give monetary and fiscal authorities greater flexibility.

● See Page 12



# Judge urges: 'Reconsider' treason charges

Own Correspondent

JOHANNESBURG. — Given the spectrum of politics in our society from black to white and far left to far right, a charge of treason should be carefully considered and reconsidered before being brought, Mr Justice Van der Walt said yesterday.

He made this comment at the conclusion of his judgment in the Rand Supreme Court, acquitting unionist Mr Moses Mayekiso and four others on charges of treason and alternative charges of subversion and sedition.

"It is a matter for comment and concern that so much energy and time was spent in the course of this trial on evidence made necessary and relevant by the charge of treason which has proved abortive.

"Treason," he said, "is a crime in a very special category where the ideas and political aspirations of those charged are part of the issue."

## Complex society

Mr Justice Van der Walt said that in our strange and complex society a charge of treason should be considered very carefully before being brought "given the spectrum of politics of our citizens from black to white and from far left to far right, with the grievances and aspirations in most cases legitimate, the intemperate and exaggerated language liberally spiced with political cliches, and most of these citizens striving for a just South Africa".

During his judgment Mr Justice Van der Walt referred to statements in the press at the time attributed to Mr Mayekiso and which formed part of the state's evidence.

He said the state had built up a persuasive case on these that might possibly indicate a subversive intent and possible furtherance of certain events in the township.

The judge said, however, that taking conditions in Alexandra at the time into account and the Alexandra Action Committee's desire for political support, their evidence before the court could not be rejected and might reasonably be true.

Mr Justice Van der Walt noted in particular Mr Mayekiso's meetings with Alexandra's administrator, Mr Steve Burger, and other local authorities. "This, in my view, refutes any suggestion of a subversive intent," he said.

He said it was evident the support by the five accused and the AAC of the rent boycott was a form of protest against conditions in Alexandra and

JOHANNESBURG. — "We are returning to continue where we left off," freed Alexandra treason trialist Mr Moses Mayekiso told a media conference after he and his four co-accused were acquitted yesterday.

He said the message from the judgment delivered yesterday by Mr Justice PJ van der Walt was that structures such as street committees were lawful "and we should now continue building them".

Mr Mayekiso said the community structures he and his colleagues of the Alexandra Action Committee (AAC) had been accused of building were democratic in that they encouraged answerability and accountability by community leaders.

He said: "The power should be given to the people where it belongs," adding: "We believe the solution is to get rid of apartheid. The power should be given to where it belongs."

Mr Mayekiso, 40, said the marathon trial was "a trial of the whole struggle for a better society" in South Africa.

He said community structures such as street committees and "people's courts" were "spontaneously" introduced by the people in response to "the injustices in our society".

the perceived corruption of the councillors — not to make Alexandra ungovernable but to upgrade living conditions.

The judge also said a strong case had been made out against Mr Paul Tshabalala concerning his participation in the people's court at 31, 7th Avenue.

He added, however, that the single person who testified on this was an extremely poor witness and while the court did not think Mr Tshabalala had been completely truthful, his evidence that he had only mediated on domestic problems could reasonably be true.

Mr Justice Van der Walt described the minutes of AAC meetings from its inception in February 1986 until its demise with the arrest of four of the five in June that year as the "most important part of the defence's evidence".

"Despite a faint suggestion by the state that it is not genuine, I'm satisfied on the evidence before the court that it is," he said.

"The importance of the minutes lies in that it affords an insight into the thoughts of the AAC executive and actions at the time covered by the indictment."

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Sep 11/89

## Bid to save lives of 4 ANC men

By Jo-Anne Collinge

Families of four African National Congress men who have refused to participate in their trial in the Supreme Court at Delmas have instructed lawyers to lead evidence in mitigation of sentence in a bid to save their sons from the gallows.

The trial enters the sentencing phase today.

Jabu Masina, Neo Potsane, Tingting Masango and Joseph Makhura have stated they believe it inappropriate that soldiers of Umkhonto we Sizwe should be tried in civilian courts.

In a statement, their parents said they respected their sons' decision to refrain from participating in the trial.

However, they said, they felt it "essential that all South Africans should know the circumstances and events that compelled them to choose the path that they did. "Accordingly we have instructed lawyers to place an argument in extenuation before the court."

Masina, Potsane and Masango have been convicted of murders which they carried out as part of an ANC assassination squad. The men they killed were police Sergeant Orphan Chaphi of Soweto, Constable Sinki Vuma of Mamelodi and homeland politician Mr David Lukhele.

Makhura has been acquitted on murder charges but convicted on other counts of attempted murder.

If no mitigating factors are found, the death sentence must be imposed on Masina, Potsane and Masango.



# Singing and dancing in court as Moses Mayekiso is found not guilty

## Judge

## frees

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26/12/87

## Alex

331

## Five

Own Correspondent

JOHANNESBURG. —

Trade unionist Mr Moses Mayekiso and four co-accused walked out of the Rand Supreme Court free yesterday after they were found not guilty of treason and alternative charges of subversion and sedition.

Members and officials of the National Union of Metalworkers, of which Mr Mayekiso is general secretary, packed the court. They broke into song and danced as Mr Justice P J van der Walt acquitted the five.

Mr Mayekiso, 40, his brother Mr Mzwanele Mayekiso, 24, Mr Paul Tshabalala, 32, Mr Richard Mdakane, 31, and Mr Obed Bapela, 31, were alleged to have conspired with civic and youth organisations in Alexandra to seize control of the township and make it ungovernable in 1985 and the first half of 1986.

All five were executive members of the Alexandra Action Committee formed in February 1986 and which dissolved with Mr Mayekiso's arrest in June that year.

During the trial, which began in October



**FREE ...** Trade unionist Mr Moses Mayekiso outside the Rand Supreme Court yesterday after his acquittal on charges of sedition and subversion.

1987, the state also attempted to prove that the five and the AAC were involved in people's courts, consumer and rent boycotts and campaigns to replace police and town councillors and state structures with alternatives.

Mr Justice Van der Walt found that on the evidence before him neither of the alternative charges had been proved.

The main charge of treason was dropped by the state when, on resuming the trial for

the argument on April 3, it conceded that it had not been able to prove treason beyond reasonable doubt.

"In the final instance, sitting as a judge in this trial I have no knowledge whatsoever of what actually took place in Alexandra during the first half of 1986," the judge said.

"The only knowledge I have since gathered was that from subjective evidence of a few of

the many thousands of residents of Alexandra.

"The picture may be correct or completely different from the true facts.

"In this court only the accused know what actually happened and whether their version

© Judge's reasons — Page 6

Page 2



From page 1

## Mayekiso

Cam. Trip  
25/6/89

33

is closer to the truth than that of the state.

"My task is and has been to assess the evidence put before me and on that evidence only to decide whether the state has proven the guilt of the accused on the charge of subversion, alternatively sedition, beyond a reasonable doubt.

"In my view," the judge said, "the state has not."

Earlier, he said the five saw apartheid as wrong and unacceptable and tried to propagate their right as citizens of

a democracy to have a vote and participate in some way in the electoral process leading to the appointment of a government.

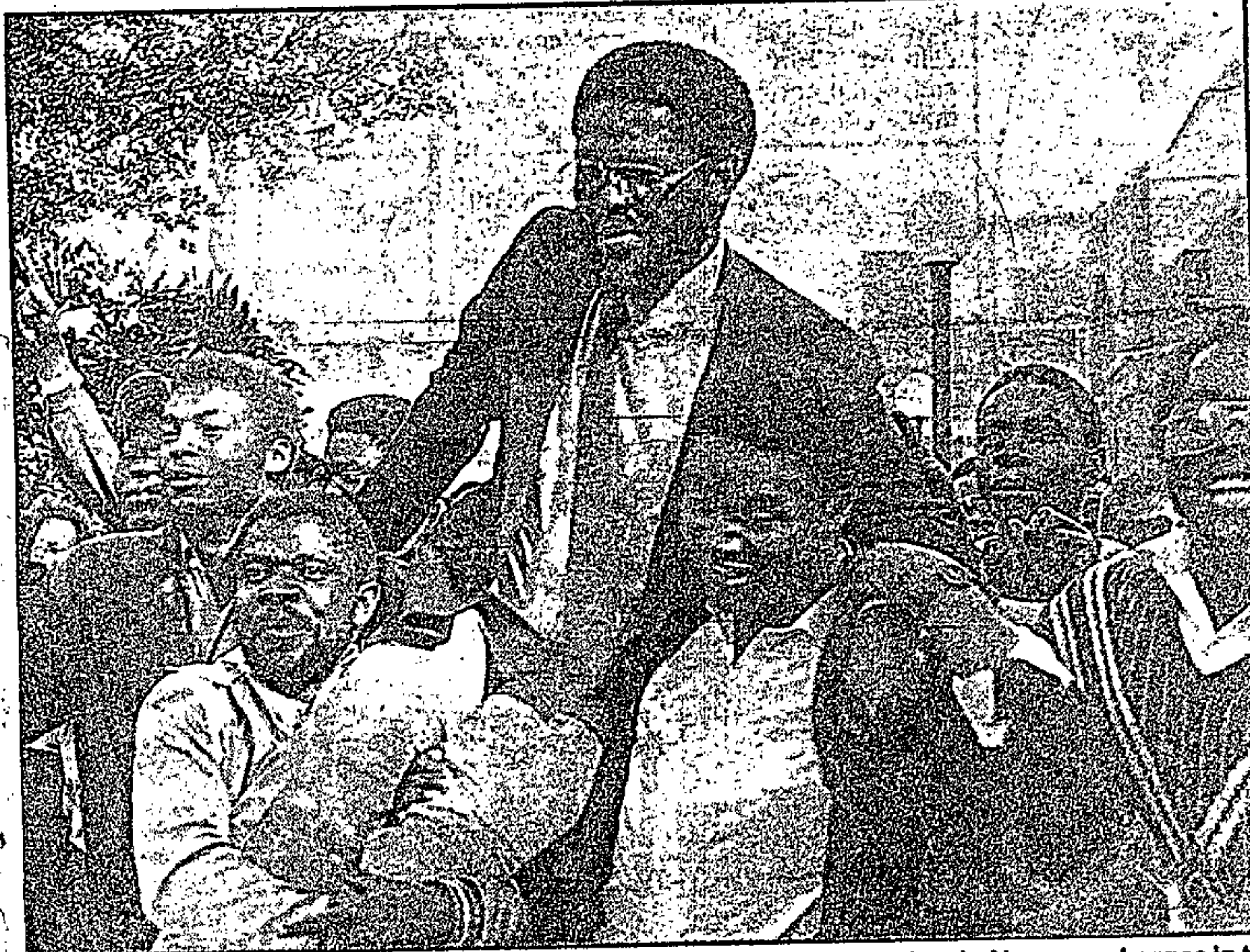
"The accused were involved in the trade union movement and adhered to socialist ideals," the judge said.

"There is no direct evidence involving the accused or the AAC in the planning or execution of the unrest, attacks on the police, resignation of town councillors or the establishment of people's courts," Mr Justice Van der Walt said.

"Nor is there any evidence that the AAC was set up as an alternative structure to replace the town council."

The judge said there was also no evidence that the five planned or executed or had a part in any attempt to substitute something of their own making to uphold law and order to displace the police.





TRADE unionist Mr Moses Mayekiso is carried aloft after being acquitted of treason charges in the Rand Supreme Court yesterday.

Another  
operator  
is slain  
in taxi  
wars -  
see Page 2

# Alex leaders acquitted

*Sowetan 25/4/89*

TRADE unionist, Mr Moses Mayekiso, and four civic leaders were found not guilty of all charges of treason and acquitted by a Rand Supreme Court judge yesterday.

Shouts of "viva" filled

By **MANDLA  
NDLAZI**

the courtroom as the excited crowd of spectators in the public gallery jumped from their seats and surged forward to shake hands

with the five men in the dock.

Mr Justice P J van der Walt expressed concern that so much time and energy was wasted in the trial of the five men, all

• To Page 2

## Acquittal

*Sowetan 25/4/89*

• From Page

members of the Alexandra Action Committee.

The judge said the State had failed to prove beyond reasonable doubts that the accused were guilty of treason, subversion and sedition.

The State had alleged that they attempted to usurp its authority by trying to seize control of Alexandra township.



# PLEAS FOR SILENT FOUR

FAMILIES of four African National Congress men who have refused to participate in their trial in the Supreme Court at Delmas have instructed lawyers to lead evidence in mitigation of sentence in a bid to save their sons from the gallows. (37)

The trial enters the sentencing phase today.

The four trialists — Jabu Masina, Neo Potsane, Tingting Masango and Joseph Makhura — will maintain their stance of non-participation. They have stated that they believed it inappropriate that

soldiers of Umkhonto weSizwe should be tried in civilian courts.

In a statement, the parents of the Delmas 2 trialists, said they understood and respected their son's decision to refrain from participating in the trial.

"However, we, as mothers and fathers, feel that it is our duty to alleviate their situation in any way possible. It is our firm belief that were it not for the system of apartheid our sons would never have left their beloved South Africa and would not be where they are today."



#### Supreme Court Reporter

MR X, the ANC member who was to be the "main witness" in the trial of Mr Tony Yengeni and 13 others on charges of terrorism, could be jailed for five years if the court finds he had no "just excuse" for his refusal to give evidence.

This emerged in the Supreme Court yesterday when Mr X said he was still not prepared to answer questions put to him either by the defence team or by the state.

Mr H Klem SC, for the state, said Mr X was a competent witness and in terms of Section 189 of the Criminal Procedures Act the court had a discretion to hold a summary inquiry into Mr X's refusal.

Mr A M Omar, for Mr X, said his client had been warned as an accomplice and there was a likelihood that he could be charged with the same offences as the accused. He had already given evidence but not relating to the charge itself.

Mr D P de Villiers SC, for the accused, said the evidence already given should be struck from the record because the defence would be unable to cross-examine Mr X.

He also asked that the ban on the publication of Mr X's identity be lifted.

Mr Omar said the inquiry was separate from the criminal proceedings against Mr Yengeni and his co-accused and should be held in an open court.

"It would be most unusual if a person can be sent to prison anonymously. It would border on a secret trial of this witness, more particularly where he said he wanted his identity made known."

Mr Justice Selikowitz said he would make a ruling today.

Mr De Villiers was assisted by Mr Mike Donen, Mr Pius Langa and Mr Johnny de Lange and instructed by Mallinck, Ress, Richman and Closenbergh Inc, Essa Moosa and Associates, R Vassen and Co and Enver Daniels and Co. Mr H Klem SC, with Mr J van Vuuren and Mrs Sandra Swart, appeared for the state.

## Jail for Mr X if he won't testify

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CIVIL RIGHTS 28/1/89

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Mwanda, 10, and Mark Smigsby, 8. Members of the group were on the ground.

## Father tells court of son's 9-year absence

The Argus Correspondent

JOHANNESBURG. — A father who fought in the South African army in World War 2 and spent more than three years in prisoner of war camps took the witness stand in a bid to save his son, one of four African National Congress on trial.

Mr Simon Potsane, 69, is the father of Neo Potsane, the third accused in the "Delmas 2" trial. Potsane, Jabu Masina and Ting-Ting Masango have been convicted of murder and face mandatory death penalties unless mitigating

factors can be established.

Fourth accused Joseph Makhura has been convicted on multiple counts of attempted murder as have his fellow trialists.

The four have refused to take part in the proceedings of the trial. They maintain they should be treated as prisoners of war.

Mr Potsane testified that his children had been brought up in the Free State and had come to live in Soweto about two years before the 1976 uprising.

"On June 16, Neo and other

friends of his reported he was shot through the ear," the father said. "The bullet penetrated the tissue and only blood could be seen."

Mr Potsane said his son disappeared from home in December 1977, saying he was going to visit his grandfather in the Free State. Police at Protea later told him Neo had left the country.

He next saw his son in police custody in December 1986, nine years after his disappearance.

© Hooded man shoots at bus, page 6.



THE acquittal of trade unionist Mr Moses Mayekiso and four co-accused on treason and alternative charges yesterday received widespread acclaim from human-rights lawyers, trade unionists and the US government.

Welcoming the judgment as a "victory for the human-rights cause", Lawyers for Human Rights (LHR) director of research and education Mr Peter Mothle said: "We need more such judgements to vindicate the impartial image of our judiciary."

The acquittal of the five former members of the Alexandra Action Committee (AAC) proved that the activities of most community leaders were aimed at peaceably bringing about justice and a non-racial democracy, Mr Mothle said.

Congress of SA Trade Unions vice-president Mr Chris Dhlamini said the judgment supported Cosatu's position to build democratic structures representing the interests of "people on the ground".

UCT administrative law expert Professor Hugh Corder, noting that he based his comment on press reports, said Mr Justice P J van der Walt's judgment would be welcomed by human-rights lawyers.

The US State Department said it was heartened by the verdict in the Mayekiso case, adding that the activities of the former trialists were "an important element in the struggle for a non-violent end" to the system of apartheid.

## Acquittal of trade unionists acclaimed

33/  
Cape Times 26/4/89



**UNITED** Auto Workers president Mr Owen Bieber blasted South Africa's apartheid government for the "malicious and outrageous" prosecution of a key trade union leader, who was found not guilty on Monday of charges of subversion and sedition.

Moses Mayekiso, general secretary of the National Union of Metalworkers of South Africa (Numsa), and four co-defendants, were acquitted by Rand Supreme Court judge P.J. van der Walt at the close of a trial in Johannesburg that began in October 1987.

"The South African authorities knew all along that Mayekiso committed no crime, but they jailed him for 901 days and subjected him to a long and costly trial to keep him from his crucial role as the leader of the second largest trade union in South Africa," Mr Bieber said. "Mayekiso should have been free to pursue his union's agenda of a better life for its members and their families, but instead he sat day after day behind the bars of apartheid's jails for crimes he never committed," the UAW president said.

#### Attention

The Mayekiso trial drew international attention because convictions would have widened significantly the government's ability to prosecute political opponents on treason and subversion charges for what has been considered allowable political dissent.

Legal observers said



THE scene outside the Rand Supreme Court on Monday after the acquittal of the Alexandra leaders.

## 'A victory for all those who helped shine spotlight on Mayekiso trial'

that convictions would have wiped out the line between such dissent and criminal activity, subjecting a wide range of union, church and community activists to potential treason indictments for non-violent protest and organising.

"The acquittals are a victory for the defendants, but also for all those who helped shine the spotlight of international scrutiny on this trial," Bieber said.

"The UAW is proud to have been a part of the international campaign urging that justice be done in the Mayekiso case."

"When we began this

## FOCUS

effort, Moses Mayekiso faced the horrible possibility of a hangman's noose," he said. "Today, he's a free man ready to carry on the struggle."

Mr Bieber convened a committee of prominent American judges and lawyers to monitor the Mayekiso trial shortly after it began in 1987.

Prominent

The committee includes a former justice of the US Supreme Court, three sitting judges on US courts of appeal, a former US attorney general, the district attorney of Brooklyn, NY, and a number of other prominent jurists. Benno Schmidt Jr, president of Yale University and former dean of Columbia University Law School, went to South Africa on behalf of the committee in February to observe the trial first-hand. He met with the Judge presiding over the trial, as well as the Attorney General overseeing the prosecution, the defence lawyers, the defendants

#### Universal News Services - Washington

and the Deputy Minister for Foreign Affairs and visited Alexandra township where the actions cited in the indictment allegedly occurred.

Mr Bieber yesterday sent a telex to South Africa's Minister of Law and Order, strongly urging that the government not impose restrictions on the freedom of Mayekiso.

#### Bannings

In other "show" trials of prominent anti-apartheid activists, defendants who have been acquitted have quickly been placed under restriction orders, preventing them from meeting with groups of five or more, from giving interviews, travelling, etc.

"You have robbed Moses Mayekiso of his freedom for nearly three years, despite his

innocence," Mr Bieber's telex to Minister Adriaan Vlok stated.

"I strongly urge your government not to place any restrictions on him, or his co-accused. To restrict them following acquittal would undermine your own judiciary."

Mr Bieber commended Judge van der Walt for his "brave and outspoken judgment, which should serve as a reminder to South African authorities that treason, subversion and sedition are not charges to be brought casually."

Mayekiso and his co-accused faced charges of treason, subversion and sedition for their efforts to organise township residents seeking improved living conditions there.

The state claimed they supported rent and consumer boycotts and so-called "people's courts".

Conditions had deteriorated seriously in Alexandra in 1986, in part because the Government hoped to relocate many township residents further away from Johannesburg.

Failure

The defendants were accused of organising yard, street and block committees to put pressure on the local town council to improve housing, health services, sewage disposal, crime control and transportation.

When final arguments opened in the trial on April 3, the prosecution acknowledged it had failed to "prove the treason charges" and moved that they be dropped. Monday's verdict of not guilty came on the remaining charges of subversion and sedition.

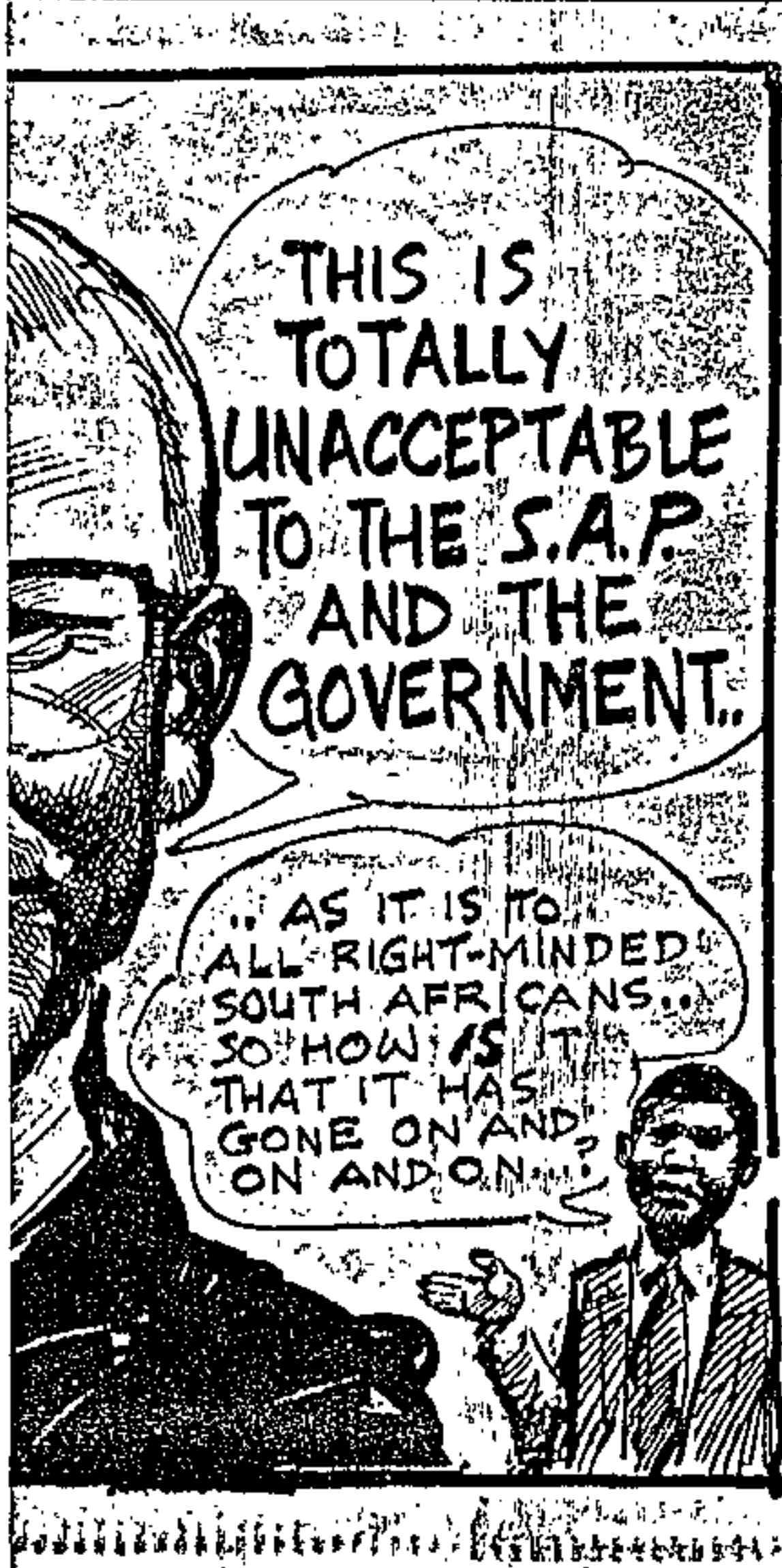
The UAW president had attempted to visit Mayekiso in John Vorster Square prison in August 1986, while he was detained without charge, but his request was denied.

Mr Bieber then met with South Africa's Minister of Justice in Cape Town to protest the detention.

The UAW sponsored a speaking tour earlier this month of Mayekiso's wife, Khola Fir, Detroit, Chicago, Washington and New York.

Mayekiso also discussed the trial with Sen. Paul Simon (Democrat - Illinois), who heads the Africa sub-committee in the Senate, and with Representative Howard Wolpe (Democrat - Michigan), who chairs the African sub-committee in the House of Representatives.

The Mayekiso case was the focus of a broad international campaign co-ordinated by the International Metalworkers' Federation, a 14-million-member trade secretariat based in Geneva. The UAW and Mayekiso's union, Numsa, both are affiliated to the IMF.



Political comment in this issue by Aggrey Klaaste and Sam Mabe. Sub-editing, headlines and posters by Sydney Mathaku. All of 61 Commando Road, Industria, West Johannesburg.

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## 'We warned him not to return'

26/4/89  
Pretoria Correspondent

One of the accused in the Witbank "coat-hanger" murder trial yesterday told the Pretoria Supreme Court that he and seven co-accused had merely warned a worker not to return to the hostel compound until after a strike had ended.

Following the death of the mineworker who did not heed a call to strike but instead went to work, nine Witbank mine-workers have pleaded not guilty to a murder charge.

Mr Moses Nyakane (32) said he and the other accused, all members of the mineworkers' union, decided at a committee meeting, which he chaired, that workers who did not heed the strike should not be assaulted.

### SLEEP ELSEWHERE

Mr Nyakane said after hearing that a worker, Mr Joseph Mthimunya — who was later strangled with two wire coat-hangers — had been to work, the committee decided to warn him not to return to the hostel compound.

The committee, which consisted of himself and seven other of the accused, told Mr Mthimunya "it would be better if you sleep elsewhere," Mr Nyakane said.

"None of the accused harmed the deceased," he told the court. The trial continues.

## Human rights leader detained

The Port Elizabeth regional organiser for Lawyers for Human Rights (LHR), Mr Wiseman Kula, has been detained in terms of the emergency regulations, the organisation said in a statement in Pretoria yesterday.

LHR's director of research and education, Mr SP Mothle, said Mr Kula's detention amounted to harassment.

LHR's regional committee in Port Elizabeth was investigating the detention. — Sapa.



# Decade of crackdown on dissent

Although treason trials have now come to be a common feature of South African life, before 1979 they were still very rare.

Records show that between the end of World War 2 and 1979 there was only one treason trial in the country. It involved key leaders of the then Congress Alliance and last ed from 1956 to 1961. ANC leader Nelson Mandela was one of the accused.

Charges were later withdrawn against all but 30 of the 156 accused, and the 30 who did go through the trial were all acquitted in 1961.

The introduction of the tricameral parliamentary system in 1983, and the strong resistance with which it was met by leaders in the black community, was to lay fertile ground for further treason trials.

## New dispensation

The insurrection that swept the country after the introduction of the tricameral Parliament led to the introduction of the state of emergency in 1985. Most of the community leaders who steered the resistance against the new dispensation were later to find themselves facing charges of treason, for which the maximum sentence is death.

Forty-four people were charged with treason in 1984. Of these, 11 were found guilty and sentenced to anything from two to 25 years. The rest were either acquitted or had charges against them withdrawn.

A trial that captured South Africa's imagination in 1985 was that in Maritzburg of 16 United Democratic Front leaders. 14 of 102 were charged with treason in December 1984, 11 detainees

When trade unionist Mr Moses Mosekiso and his four co-accused were acquitted on all charges in the Rand Supreme Court this week — after the main charge of treason was earlier withdrawn because of insufficient evidence — they joined many others who, after waiting for many months to hear their fate, ended up being acquitted. KAIZER NYATSUMBA reports.



Mr Albertus Stubb, vice-president of the United Democratic Front.

They sit were Mr Mewa Ramogochi, Mr George Seperechedi and Mr M.J. Ndoo of the Natal Indian Congress. Dr Essop Jessat of the Transvaal Indian Congress, and Mr Anthony Mokoena and Mr Curtis Nkomo, both Transvaal vice-presidents of the UDF. Mr Archie Gumede and Mr De Klerk were charged with treason in December 1984.

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Mr Moses Mosekiso, trade unionist.

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## Guilt of sedition

In the Delmas treason trial, which ended in November last year, only four of the original 19 accused — Patrick "Terror" Lekota, Simon Popo Molele, Moss Chikane and the Rev Thomas Madikwe Manthata — were convicted of treason. Most of the other accused were acquitted long before the trial was over.

In another treason trial at the Rand Supreme Court, in which eight people were charged, the accused were found guilty of sedition and acquitted on the treason charges. At the Pretoria Supreme Court in October last year, ANC members Ebrahim Ismail and Aton Maseko were convicted of treason, and the third accused, Simon Dladla, was convicted of a lesser charge of terrorism. Charges of treason were withdrawn against 14 people in the Cape Supreme Court in October last year, and the accused are now charged with terrorism. In a forthcoming trial in the Pretoria Supreme Court, treason charges have been withdrawn against four men.

Before Mr Mosekiso and his four co-accused were acquitted on all charges this week, the State withdrew charges of treason because of lack of sufficient evidence.



Introduction of tricameral Parliament saw number of treason trials surge

# Decade of crackdown on dissent

Although treason trials have now come to be a common feature of South African life, before 1979 they were still very rare.

Records show that between the end of World War 2 and 1979 there was only one treason trial in the country. It involved key leaders of the then Congress Alliance and lasted from 1956 to 1961. ANC leader Nelson Mandela was one of the accused. Charges were later withdrawn.

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## New dispensation

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When trade unionist M.Moses Moyoekio and his four co-accused were acquitted on the charge of treason was earlier withdrawn because of insufficient evidence — they joined many others who, after waiting for many months to hear their fate, ended up being acquitted. KALZER NVATSUMBA reports.

**Mrs Albertina Sibilo** Vice-President of the Council

reasons. The 28 men, including the Rangoon-based leader, were released from prison and six of them, all key members of the UDF, were immediately expelled and charged with the

In a massive crackdown aimed at the UDF and its affiliates in February 1985, six more leaders of the UDF and six more leaders of

[illegible]

Chikane, Professor Ismail A. Chikane, Mr. Sam Kikine and Ismail Ngecho. Mr. Kikine and



**Mr Moses Mayekiso . . . landmark acquisition being in pro-**

Necoco belonged to the SA Allied Workers Union. Two more SAWU leaders, Mr Thozamile Gqwetha and Mr Sisa Nkkelana, were later arrested and faced similar charges.

Dutch citizen Helene Pass, was found guilty of treason, and sentenced to life imprisonment on the second charge of espionage in May 1986 and sentenced to 10 years in prison.

and bail totalling R170 000 was immediately granted.

In a surprise move, Mr Imber later appeared in person for the first time at the Maritzburg Supreme Court on 10 January.

According to the Defence, 49 of the 50 accused are charged with facing treason charges in eight trials in South Africa in 1991.

In 1987, 36 people were charged, the six trials that were completed the same year, 10 people were convicted and eight acquitted.

with treason at four different trials but none of these trials were completed in the same year and there were no acquittals during the course of the trials.

## Guilty of sedition

In the Delmas treason trial, which ended in November last year, one-fourth of the original 19 accused Patrick "Terror" Lekota, Simon Popo Molele, Moss Chikane and the Rev Thomas Madikwe Mantlata. Rev Thomas Madikwe Mantlata was convicted of treason. Most of the other accused were acquitted long before the trial was over.

Rand Supreme Court, in which eight people were charged, the accused were found guilty of sedition and acquitted on the treason charges.

Ebrahlin Ishmail and Action Mass were convicted of treason, and the third accused, Simon Diadla, convicted of a lesser charge of treasonism.

Charges of treason were withdrawn against 14 people in the Cass County in October last year and the accused are now charged with terrorism. In a forthcoming trial in the Pretoria Supreme Court

Before Mr. Mayekiso and his co-accused were acquitted on charges this week, the State withdrew charges of treason because

lack of sufficient evidence, if not



# 'We are ready to die for our ideals'

By Jo-Anne Collinge

DELMAS — Four convicted African National Congress members stood in the dock in olive green battle dress yesterday and called on South Africans of all colours to "unite around the democratic perspectives for which so many people have already laid down their lives and for which we are prepared to die".

The plea — made before a packed Delmas Supreme Court — was part of a statement read by the first accused, Jabu Masina.

Mr Justice de Klerk requested that the four men's statement be delivered before he heard evidence in mitigation of sentence.

Three of the four men — Masina, TingTing Masango and Neo Potsane — have been convicted of murder and face a mandatory death sentence if mitigating factors are not established.

The fourth, Joseph Makhura, has been convicted of attempted murder.

The murder convictions arise from the killing of Detective Sergeant Orphan "Hlubi" Chaphi — the man billed as Soweto's most feared policeman — in 1978; the assassination of Mamelodi policeman Constable Sinki Vuma in 1986; and the killing of kaNgwane poli-

tician David Lukhele and his sister-in-law, Mrs Elizabeth Dladu, also in 1986.

The attempted murders relate to a limpet mine blast near a supermarket in Silverton in 1986 in which at least 18 people were hurt and a landmine explosion in Soshanguve in which one person was injured.

Mr Justice de Klerk yesterday gave an historic judgment which allowed counsel Mr Dennis Kuny to lead evidence in mitigation on the instruction of families of the four men.

The men in the dock maintained the position that they were soldiers of Umkhonto we Sizwe and would not participate in the proceedings of a civilian court.

## 'IMMORAL TO REFUSE'

Although the State opposed evidence being led on the parents' instructions, the judge decided it would be immoral to refuse this.

"The court is concerned that justice should be done. It cannot be done unless the other side is heard.

"To the extent that counsel for the families can present the other side it is welcomed by the court."

He ask that the four read their statement so that he could construe evi-

dence in the light of this. (33 V 33)  
Before a packed gallery, Masina stated: "We are not criminals; we are not murderers.

"I, myself, am the survivor of the Soweto revolt of 1976 where I suffered the trauma of seeing hundreds of innocent children and young people drop dead from police gunfire.

"That event shocked us all into the realisation that the life of the black person has no value under apartheid and will have none until the system is destroyed."

He outlined the history of the ANC's non-violent struggle, saying that even after resorting to violence the movement had never turned away from the option of negotiation.

The statement included a phrase in the manifesto of Umkhonto we Sizwe, written in December 1961, referring to the hope that "our first actions will awaken everyone to a realisation of the disastrous situation to which the Nationalist policy is leading ... so that both the Government and its policies can be changed before matters reach the desperate stage of civil war."

They added: "We mention, however, that the Silverton explosion (outside a supermarket) was entirely our own idea and that we were not acting under instructions from the ANC."

Masina said: "We reiterate that it is contrary to the policy of the ANC to select targets whose sole objective is to strike at civilians."

Sometimes, he acknowledged, there might be "situations where individual combatants go beyond policy and commit acts which cannot be condoned".

The hearing continues.

● See Page 2.

## JSE to probe Elspark dealings

By Ann Crotty

The JSE has launched an inquiry into Ellis Park Stadium share dealings between April 11 and 19.

Brokers are to submit returns to the JSE committee by April 28.

In 11 deals last week, 785 000 shares changed hands with the price moving up 20c to 100c.

The share was suspended last Thurs-

day and reinstated on Monday following an announcement that the Transvaal Rugby Football Union planned to buy out the minority shareholders.

TRFU president Dr Louis Luyt said the union's auditors had been appointed to ensure that no individuals connected with decision-making at EPS or the TRFU would make any profit on the sale of shares.



# 'Order to kill' denied

By MONK NKOMO

ONE of nine members of the National Union of Mineworkers accused of murder yesterday denied he ordered the killing of employees who did not participate in a strike at the Blinkpan Coal Mine in Middelburg two years ago.

Mr Moses Nyakane (32) told the Pretoria

Supreme Court that he addressed mineworkers at the meeting on August 9, 1987 and requested them not to fight because such action would jeopardise negotiations.

Mr Nyakane and the eight others — Mr Philemon Moloi (27), Mr

Jim Mogashoa (32), Mr Zingilisili Siquala (30), Mr Jacob Mashiloane (29), Mr Piet Mahlangu (23), Mr Esau Vilakazi (37), Mr Thabiso Lehuoa (50) and Mr Elvis Bongani Mubi (23) — have pleaded not guilty before Mr Justice van Dyk to having strangled Mr Joseph Mthimunye.

# Identity of Mr X revealed in court

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Cape Times 27/4/89

By RONNIE MORRIS  
Supreme Court Reporter

IN a day of high drama in the Yengeni terrorism trial, Mr Justice S Selikowitz ruled yesterday that there was no longer justification to protect the identity of Mr X, saying Mr Abednego Bongani Jonas could now testify in an open court.

Mr Jonas was to have been the main state witness in the trial of Mr Tony Yengeni and 13 others who have been charged with terrorism. They have refused to plead to the charges.

After giving evidence for the state for one day last week, Mr Jonas — a self-confessed trained member of the African National Congress — made a dramatic turnaround the next day and said he was no longer prepared to testify.

Yesterday morning Mr Jonas reiterated that he was not prepared to give evidence and confirmed he had been detained in terms of Section 31 of the Internal Security Act since May last year. He was held in terms of Section 29 before that.

"Even if a sentence is imposed on me I'm prepared to serve it," he said.

Asked by his counsel, Mr A M Omar, if he was aware that he could be jailed for five years, Mr Jonas said: "I'm prepared to stand by my decision."

Asked by Mr Justice Selikowitz what the reason for that decision was, Mr Jonas said: "I want the world to know my identity, my views and not to think I'm a collaborator or a traitor who decided to betray the struggle."

Mr Omar said there was a likelihood that Mr Jonas could be charged under the old Terrorism Act and the Internal

Security Act and there was a probability that he would be in prison when an inquiry was held to determine if he had a "just excuse" to refuse to testify.

There were a number of absurdities because while in prison he would never refer to himself as Mr X, and would be entitled to receive visitors and write letters.

The last thing the court wanted was an impression that a secret trial was being held. Many elements of a secret trial were present, Mr Omar said.

The factual basis on which the court made the order on April 18 had been altered and the reasonable possibility that Mr Jonas would be harmed no longer existed.

Mr H Klem SC, for the state, said Mr Jonas's motivation was that he needed a platform to "render himself a hero in the eyes of the world, the ANC and its supporters".

That was not anywhere near a sound reason for the court to reverse the order and Mr Jonas's evidence that he would refuse to testify for the state was not a fact that should persuade the court.

"The witness is clearly a person who is prepared to change his mind at the drop of a pin. The witness expressed his willingness to testify for the state and has now expressed the opposite."

The hearing continues tomorrow.

The accused are: Mr Tony Sitembiso Yengeni, Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Michael Mzimkhulu Lum-bambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mthetleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Sitalabocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nathania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Mr D P de Villiers SC, appearing for the accused, was assisted by Mr Mike Donen, Mr Pius Langa and Mr Johnny de Lange and instructed by Mr Mallinck, Rees, Richman and Closenbergh Inc, Essa Moosa and Associates, R Vassen and Co and Enver Daniels and Co. Mr Klem, with Mr J van Vuuren and Mrs Sandra Swart, appeared for the state.



*Cape Times 27/4/89*

## Groups clash on road rest breaks

Staff Reporter

ROAD safety groups and the Public Carriers' Association have crossed swords over proposed legislation to restrict long-distance driver hours.

Mr Ian Moss, chief executive of the Public Carriers' Association, says he is concerned that the new regulations will interfere with matters already controlled by wage and employment regulated measures which lay down specific requirements.

Mr Moss said rest breaks were already common practice among road transport operators and defaulters were the exception.

The new Act has been published but the implementation date is still to be announced. It requires a minimum 15-minute rest in any five-hour stint, and a maximum 14 hours driving in a 24-hour period.

Mr Ginger Johnston, Western Cape manager for the AA, said drivers who did the Johannesburg-Cape Town run without a break were "accidents on wheels".

There were companies that took advantage of drivers whose licence was their livelihood.

"If they are told to get the load to their destination in the shortest possible time, they may well believe they could lose their jobs if they don't," he said.

## Maliti released on bail

*Cape Times 27/4/89* Staff Reporter 351

MR Nana Robert Maliti, the man who suffered a brain haemorrhage hours after being arrested for allegedly carrying a primed limpet mine near a ceremony attended by the Minister of Law and Order, Mr Adriaan Vlok, was released in Cape Town Regional Court yesterday on R5 000 bail.

The court also postponed the hearing of terrorism charges against Mr Maliti, 22, of New Crossroads, until June 13.

He underwent surgery at Groote Schuur Hospital hours after his arrest on October 22 last year.

*De haan at*

# ANC man found guilty of murder

By CHARL DE VILLIERS

A SELF-CONFESSED ANC "cadre" was yesterday found guilty of murder with extenuating circumstances following a hand-grenade blast which killed a man in Wynberg on June 16 last year.

Allen Ndodomzi Mamba, pleading guilty in Cape Town Supreme Court to the murder charge and contravening the Internal Security Act, told Mr Acting-Justice A J van Schalkwyk that he "sincerely regretted" killing the victim.

The explosive device — a hand grenade attached to a limpet mine — was primed to explode at 4am on June 16 and placed in a

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rubbish bin near the Volkskas Bank in Piers Road, Wynberg, Mamba said.

He and a fellow ANC member, Mr Kenneth Moyake, had planted the device to "commemorate 16 June" and to damage the bank "as banks collaborate with this apartheid regime to make us poorer", he said.

The blast victim, Mr Elliot Mphathi Ketelo, apparently removed the device from the bin before the grenade exploded, Mamba said in a statement handed to the court.

On June 15 Mamba and Mr Moyake — who had since died — placed the fatal device and another limpet mine on the

Langa-Pinelands railway line. This, too, exploded later than planned, damaging the track and disrupting train traffic.

ANC weaponry — including an AK47 assault rifle, two Makarov pistols, fragmentation grenades, limpet mines, ammunition and a holster made from a brassiere and crepe bandages — were exhibited in court.

The weaponry, hidden in an arms cache and Mamba's Nyanga Bush home, was recovered by police after his arrest, he said.

The hearing continues on Friday.

Mr S Dool, instructed by E Moosa and Associates, appeared for Mamba. The state was represented by Mr Mike Stowe, and Mr H van Huytzen and Mr W S O'Brien were the assessors.

Police hunt still Dagga 'mailed'



# Detainee calls off hunger strike

ARGUS 27/4/89 331

The Argus Correspondent

JOHANNESBURG. — Johannesburg detainee Mr Charles Malunga yesterday called off a "hunger strike to the death" after police served charges of terrorism on him.

According to his lawyer he will appear in the Johannesburg Magistrate's Court today.

He is charged under section 54.1 of the Internal Security Act.

Mr Malunga, a Vosloosrus schoolteacher, announced his intention to fast "the Bobby Sand's way" and embarked on his third hunger strike on Sunday after police failed to charge him.

He has fasted for a total of 32 days and has been in the Johannesburg Hospital since February. He had been shackled to his hospital bed with leg irons for more than a week.

He was detained late last year.

● Another detainee, Ms Thandi Shongwe, was charged separately yesterday under the Internal Security Act. Details of the charge are not known, her lawyer said.

Ms Shongwe, who is also from Vosloosrus, has been held in detention since November.

By AYESHA ALLIE

THE veil of secrecy surrounding "Mr X" in the Yengeni treason trial was this week lifted in the Supreme Court, Cape Town.

In a dramatic move, Mr Justice Selwyn Selikowitz ruled that Mr Abednego Bongani Jonas could be named and that the proceedings involving him were to continue in open court.

Jonas, 30, had earlier requested that his identity be made known as he did not want to be regarded as a "traitor and collaborator".

Last week Jonas refused to testify after only a few hours in the witness stand.

# 'Mr X' named in court

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He was considered by the state to be its key witness.

Commander of the four-man "Basil February" unit of the ANC which entered South Africa from Botswana in

1986, Jonas told the court he did not want to testify against the people he had worked with.

"I have gone through thick and thin with them," he said.

He was due to testify against Tony Yengeni and 13 others, who are facing charges of terrorism.

This week Jonas, who is still being held under Section 31 of the Internal Security Act, told the court: "Even if a 20-year sentence is imposed on me, I am prepared to serve it. I am prepared to stand by my decision."

An ID Mkize High matriculant, Jonas comes from a well-known Guguletu family.

He began a degree in personnel management at Fort Hare University in 1980, but left the country to join the ANC in 1981.



# SA 'bleeding', Delmas trial hears

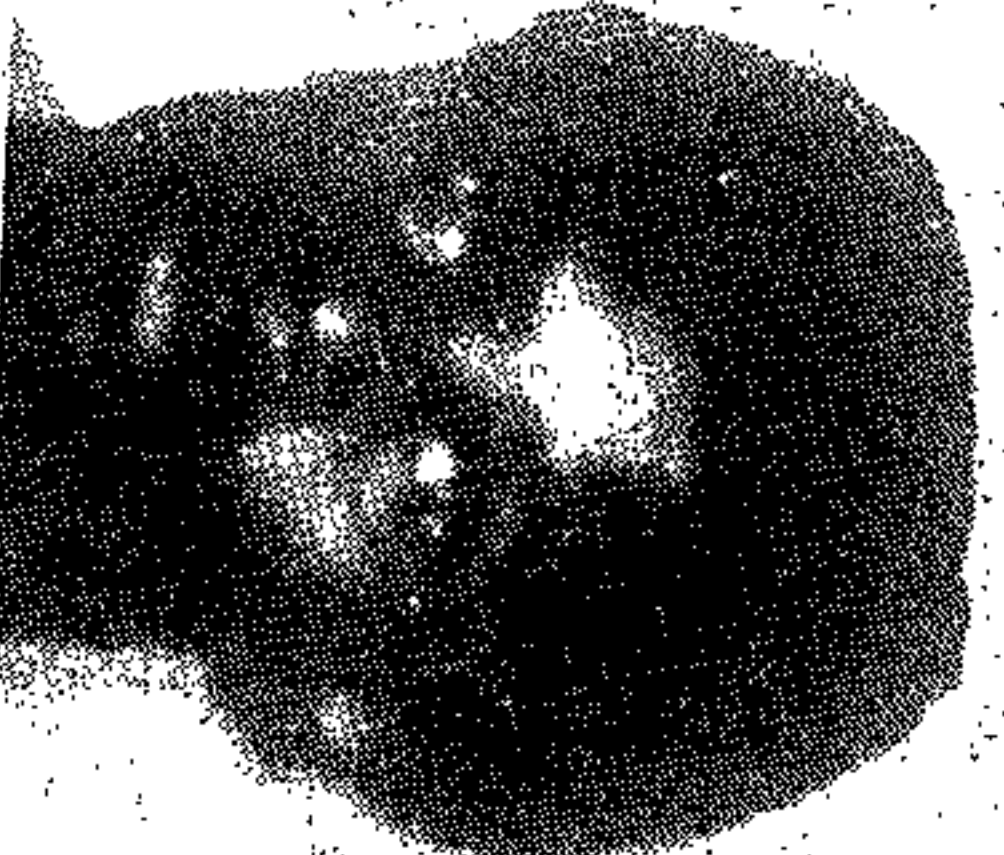
From MONO BADELA

JOHANNESBURG. — Four convicted African National Congress members stood in the dock in olive-green combatant uniform this week and warned that the whole of South Africa was beginning to "bleed".

It would continue to do so, they said, unless the apartheid system was destroyed and replaced by a democratic system of government.

The men called on South Africans of all colour to "unite around the democratic perspective for which so many people have laid down their lives and for which we are prepared to die".

Their plea, made before a packed Delmas circuit court, east of Johannesburg, was part of a 12-page



Jabu Masina

statement read by accused number one, Jabu Masina.

The presiding judge, Mr Justice de Klerk, requested that the accused's statement be delivered before he heard evidence in mitigation of sentence.

Three of the Unkhonto we Sizwe cadres — Masina, Ting-Ting Masango and Neo Potsane — have been convicted of murder and face a mandatory death sentence if mitigating factors are not established.

The fourth accused, Joseph Makhura, has been convicted on multiple counts, ranging from attempted murder and terrorism to malicious damage to property.

Mr Justice de Klerk made an historic decision to allow a counsel to lead evidence in mitigation of sentence on the instruction of the families of the accused.

Professor Colin Bundy, head of the History Department at the University of Cape Town, gave evidence in mitigation of sentence.

The men in the dock have contended since the trial began on February

1 that they should not be tried in a civilian court as they are "prisoners of war".

Masina said it would be essential to understand what prompted the ANC to undertake armed struggle to appreciate "why we stand here in this court as soldiers of the African National Congress."

He said their actions of setting landmines and blowing up buildings were not for private gain, nor were they prompted by revenge.

"These actions were taken by ourselves as soldiers in the army of the ANC acting under instructions."

Concluding their statement, Masina said: "We know that this court may sentence us to death. If this happens, so be it! We love life, but we love our people and our country even more. If we are hanged, our death will not be in vain."

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# Jubilation as Mayekiso freed

MINUTES after he was acquitted of all charges, a jubilant Moses Mayekiso vowed to continue building street committees and other alternative structures.

Mayekiso left the Rand Supreme Court on Monday a free man as he and four co-accused — all Alexandra community leaders — were acquitted of subversion and sedition.

In a trial which started almost two years ago, they were originally charged with treason for their part in setting up "alternative structures" such as street committees, "people's courts" and other organisations in Alexandra township.

Mayekiso said Mr Justice van der Walt's judgment meant structures such as street committees were lawful.

Lawyers and lawyers' organisations countrywide have welcomed the acquittal of the five men and hailed it as a major blow to attempts to criminalise anti-apartheid resistance.

Mark Swilling, of the Centre of Applied Politics at Wits University, said it must be accepted that the organisations and alternative structures which Moses Mayekiso represents "are a part of the solution and not part of the problem".

Swilling said the judgment reflected that the government had failed in its attempts to prove that legal township organisations of the sort established in Alexandra during 1985 and 1986 were a part of a violent revolutionary onslaught.

"This implicitly calls into question the state's rationale for the continuation of the State of Emergency," Swilling added.

Lawyers who were present in court and heard the judgment hugged one another. Several of them simply said: "It's amazing, it's amazing."

Jay Naidoo, Cosatu's general secretary, said the government should release all detainees and political prisoners "and come to terms with the real problems that affect the majority of our people".

Naidoo said there was only one



IT'S AMAZING. Moses Mayekiso, right, being greeted outside court by a well-wisher 27/4-3/5/89

lesson the government needed to learn from the judgment and that was that it could not blame the problems of South Africa on what it termed the radicals and agitators.

"The substantial cause of these problems and its causes are its own political and economic policies."

Chris Dlamini, Cosatu's first vice-president, said: "Cosatu and the United Democratic Front were also on trial in this case and the court has now ruled that that our fight for freedom is legal."

In his landmark judgment, Mr Justice van der Walt urged those involved in the exercise of justice to carefully consider treason charges before prosecution.

Mayekiso, general secretary of the 120 000 strong National Union of Metalworkers of South Africa (Numsa), and his four co-accused,

had been in detention for more than two years after being detained in June 1986.

Mayekiso himself was detained on his arrival at Jan Smuts Airport when he returned from a trip to Sweden.

Bail was only granted to them in December last year and this was accompanied by heavy restrictions, including being prevented to enter Alexandra township.

In his summary, the judge said he had found nothing in the evidence before him that linked the accused with the banned African National Congress, nor anything that suggested that the actions of the five intended to make Alexandra "ungovernable", nor that the accused through their actions intended to subvert the authority of Alexandra township, nor that they wanted to overthrow the state by force.



## Outside judge for Balfour case

AN URGENT application in the Supreme Court, Cape Town, for the release of Section 29 detainee Ngconde Balfour was this week postponed to allow a judge from outside the Cape to hear the case.

The basis for the application is that there is no reason for Balfour to continue to be detained. He has been held since February 20 this year.

Balfour's legal representative said his client was only questioned for

three days, and since Section 29 was for the purpose of interrogation, there seemed no point to his client still being held.

In replying papers, the police said they had reason to believe that Balfour was implicated in the placing of a bomb outside the Supreme Court at the end of last year.

The court felt it would be prejudicial to Balfour for a Cape Town judge to hear the application.

# I didn't mean to kill, says ANC man who set explosive

Own Correspondent

CAPE TOWN — A trained ANC member was yesterday convicted in the Supreme Court here of murder with extenuating circumstances and of contravening the Internal Security Act.

Allen Ndodomzi Mamba said he was "extremely distressed" when he heard an explosive device he set had killed a workman.

He said in a statement that on June 15, with Kenneth Moyake, he set a device consisting of a hand grenade and a limpet mine near the Volkskas Bank in Piers Road, Wynberg, Cape.

It was his intention that it explode at 4 am on June 16.

"The reason for this was to commemorate June 16, which is an important date in the struggle of our people against apart-

heid, discrimination and oppression," the statement read.

"It was also to cause damage to the bank as banks collaborate with this apartheid regime to make us poorer."

The device did not explode as planned.

But later in the morning, when Mr Elliot Ketelo removed it from the dirtbin, it exploded, causing his death.

## HIS REGRET

"When I heard of this deed I was extremely distressed and after my arrest I told the police I regret that somebody died as a result of my activities," Mamba said.

"I do not hesitate to place on record my sincere regrets that I am responsible for the death of

somebody. It was at no stage my intention to hurt or injure any person."

Mamba said he took steps to ensure that nobody would be hurt by choosing a target at which he knew there would be nobody around at 4 am.

He checked with council workers and ascertained that they did not start before 5 am.

Mamba said a limpet mine he activated on the line between Langa and Pinelands station on June 16, which disrupted rail traffic, was not only to commemorate June 16 but to "provide workers who stayed at home with an excuse to explain their absence and avoid being sacked by their bosses".

The hearing was postponed until tomorrow.



rsday April 27 1989

# Tell the world who I am, says reluctant Mr X

Own Correspondent

CAPE TOWN — Mr X, the State witness who refused to testify in the trial of 14 people charged with terrorism, has been named as Mr Bongani Abednego Jonas.

Mr Justice Selwyn Selikowitz, said yesterday there was no longer any reason to protect his identity, and ordered that his summary trial for refusing to testify should be heard in open court.

The judge said he was satisfied that the factual position which caused him to make an order protecting Mr Jonas's identity and to place his evidence in camera, had changed because the witness had refused to testify.

The order had been made to protect the witness, named as Mr X, from harm.

Mr Justice Selikowitz said he was also very

concerned that justice "be seen to be done".

Mr Jonas yesterday told the court he "definitely" persisted in his decision not to testify and that he wanted his name published because he wanted "the world to know my identity, my views, and to not think that I am a collaborator or a traitor or that I have decided to betray the struggle, which is a just cause".

The judge said that if Mr Jonas's trial for refusing to testify continued to be heard in camera, it was not far-fetched to suggest that if he went to prison no information about his trial or sentence could be made available, even to his close family.

The hearing continues.

## Boat's engineer lost at sea

Own Correspondent

CAPE TOWN — A St Helena Bay fishing boat crewman is lost at sea and presumed drowned after the Rooi Jantjiesfontein sank off Saldanha Bay with him and his eight fellow crew members yesterday.

Mr Kobie Vraagom, the engineer of the boat owned by fishing company Suid Oranje, went missing when the vessel sank about 12 miles due west of Saldanha Bay harbour at 4.20 am. The other men were rescued.

# Plea for men 'in war of liberation'

By Jo-Anne Collinge

Three African National Congress men convicted of murder were "trying to bring about an integration rather than a disintegration of society" and they should not be sentenced to death, counsel for the parents of the men in the Delmas Supreme Court dock argued yesterday.

Mr Dennis Kuny SC told Mr Justice de Klerk he was not asking him to condone killing but to attempt to understand that the three men had been "acting as soldiers in a war of liberation, under orders".

The three men convicted of murder are Jabu Masina, TingTing Masango and Neo Potsane. Unless the judge finds that there were mitigating circumstances, he has no option but to impose the death penalty.

## Refused to defend themselves

The men have refused to defend themselves at all stages of the trial, arguing that they should be treated as POWs and not tried in a criminal court.

In an unprecedented move their parents this week instructed counsel to present evidence in mitigation.

Sentence will be passed today.

A fourth man, Joseph Makhura, has with the others been convicted of multiple counts of attempted murder arising from a limpet mine

blast at Silverton and a landmine explosion at Soshanguve in 1986.

Killed by the first three men were Detective Sergeant Orphan "Hlubi" Chaphi, in 1978, and Constable Sinki Vuma, and a kaNgwane politician, David Lukhele, in 1986. Mr Lukhele's sister-in-law was also killed.

Mr Kuny argued that the judge's task was to decide whether there were factors present which, in the eyes of the average reasonable person, might diminish the moral blameworthiness of Masina, Masango and Potsane.

The judgment of the "reasonable man" should be seen in the context of the black community where the killings took place, he said.

It was an "unfortunate fact" that the men were being tried in an all-white court and that whites "cannot begin to imagine" the circumstances of people growing up in the black townships.

Nonetheless, said Mr Kuny, it was the task of the court officers to project themselves into those alien conditions.

Mr Kuny argued there had been evidence that during 1976 and again in 1985/6 conditions of extreme violence prevailed in the townships. In such an "orgy of violence" it was hard to know how to judge where moral responsibility began and ended, said Mr Kuny.

He observed that when the policeman known as "Hlubi" was killed in 1978, Masina had carried out an act "which was met at the time with a certain amount of public approval".

Mr Kuny argued that the men were not like ordinary criminals. "They face their fate with a great deal of courage and determination."

Executing them would have no deterrent value. "People who act with the kind of courage that these people do are not going to be deterred by the death penalty."

The prosecutor, Mr H Prinsloo SC, said the men had "planned, cold-blooded murders" which they had carried out in pursuit of their political objectives.

He said that if extenuation were found in this case it would mean that people could "commit murder left and right" and simply claim that they were trained ANC members acting on instruction.

## State appeals against speed trap acquittal

By Cathy Stagg

The State has applied for leave to appeal against the judgment in which Mr Ivor Wells of Pretoria successfully challenged his conviction and fine resulting from being trapped by camera on a freeway.

Mr Klaus von Lieres, SC, the Attorney General for the Witwatersrand Local Division enrolled the application in the Rand Supreme Court yesterday.

He asked Mr Justice L le Grange to postpone the matter to a date to be arranged between the parties. Mr Von Lieres also asked the judge to note an application to possibly lead further evidence.

In March Mr Wells, a Pretoria attorney, appeared in person before Mr Justice T T Spoelstra and Mr Acting Justice D A Bregman.

Mr Wells was trapped on January 26, allegedly doing 137km/h on the N1 freeway in Randburg — a 120km/h zone — by a camera known as the Travello Mark 4.



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# 'Delmas Three' sentenced to hang

**DELMAS.** — Three African National Congress guerillas who refused to participate in their murder trial because they claimed to be prisoners of war, were sentenced to death yesterday for four killings and a bombing at a bus stop.

The three wore olive-green military uniforms with ANC colours throughout the proceedings.

Their only active role in the trial came on Tuesday, when one read a statement on behalf of his comrades which said in part: "We are soldiers in a patriotic army struggling to establish democracy and peace. We believe that we are prisoners of war."

In an unusual procedure, the men's families were allowed to present evidence in mitigation of sentence when the defendants refused to do so. The death penalty is mandatory after a murder conviction unless evidence shows there were mitigating circumstances.

Mr Justice Marius de Klerk found there were none, sentencing Jabu Masina, 36, Ting-Ting Masango, 28, and Neo Potsane, 27, for murdering two black policemen, a black town councillor and the councillor's sister-in law. They also received a 25-year prison sentence for attempted murder in connection with a limpet mine at a bus stop in 1986 in which 17 people were injured and setting a landmine on a road mainly used by military vehicles.

## Soldiers in patriotic army, they tell court

A fourth defendant, Joseph Makhura, 26, was sentenced to 25 years in prison in connection with the bomb and landmine.

The victims of the first three accused were Detective Sergeant Orphan "Hlubi" Chaphi, killed in Soweto in 1978, and Constable Sinki Vuma, KaNgwane politician Mr David Lukhele and his sister-in-law, killed in Mamelodi in 1986.

Masina read the defendants' statement on Tuesday before a packed gallery of more than 200 people chanting "Viva ANC".

"We say that the present South African government has no authority, no moral or legal right to rule over the people of this country," he said. "It is therefore our duty to bring this crime to an end, to remove this illegal state."

"If we are hanged, our death will not be in vain. Those who come after us will undoubtedly complete our mission in life."

The statement said the ANC had not taken up arms until after it was outlawed in 1960, and "it is contrary to the policy of the ANC to select targets whose sole objective is to strike at civilians".

Without referring to the bus stop bomb, Masina said: "There may be situations where individual combatants go beyond policy and commit acts which cannot be condoned."

Their attorney, Mr Denis Kuny, told the judge the defendants had been "acting as soldiers in a war of liberation, under orders". He said the four blacks were being tried by whites, who "cannot begin to imagine" the circumstances of people growing up in black townships.

There had been evidence that during the 1976 period and again in 1985/6 conditions of extreme violence prevailed in the townships.

In such an "orgy of violence" it was hard to know how to judge where moral responsibility began and ended, said Mr Kuny.

"People who act with the kind of courage that these people are not going to be deterred by the death penalty," Mr Kuny said.

Prosecutor Mr Harry Prinsloo said the men had committed "planned, cold-blooded murders" in pursuit of political objectives. He said that granting extenuating circumstances in this case would mean people could "commit murder left and right" and claim they were ANC members acting on instruction. — Sapa-AP

**Amazing end to Delmas II treason trial ...**

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WmM 28/4-4/5/89

# Judge outvoted - so three will hang

By VUSI GUNENE

THREE men were sentenced to death yesterday after a judge was overruled by two civil servants in the "Delmas Two" treason trial.

Mr Justice M de Klerk said he had found extenuating circumstances and believed the men should not hang. He spent over three hours giving detailed reasons for this in his judgement.

However, he added that his two assessors — both civil servants — had disagreed with him and had the power to outvote him.

He gave their reasons for this in a brief three-minute summation — and then pronounced the death sentence on three of the accused.

The assessors were L de Kock, a retired magistrate, and A Botha, a retired Department of Justice official.

Legal sources last night said they knew of no previous capital case where the assessors had used their power to overrule the judge. Attorney Peter Harris said he was "astonished

## A TALE OF TWO TREASON TRIALS

In another marathon treason trial,  
a very different verdict  
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that the assessors should disregard the extensive and well-reasoned judgement. It is a cause of great concern," he said.

The question now is whether the accused — three African National Congress guerrillas found guilty of murder and attempted murder and a fourth found guilty of attempted murder — will appeal.

To do this they will have to change their attitude to the trial. Until now, the four have refused to take part in the proceedings, claiming they were prisoners of war and could therefore not be tried in a civilian court.

This led to a "silent" trial, with the accused even declining to lead evidence in mitigation — the only thing that could save them from death row. This was eventually done by lawyers instructed by the families of the accused men.

They argued that the actions of the accused had to be seen against the

●To PAGE 3

## Judge outvoted: three will hang

●From PAGE 1

background of apartheid and the events of 1976 which led to their leaving the country.

The judge accepted this evidence, only to be overruled by his assessors in relation to three of the four.

Obed Jabu Masina, 38; Frans TingTing Masango, 30; and Neo Griffith Potsane, 28, were last month found guilty of the murders of Constable Sinki Vuma of Mamelodi in 1985, Detective-Sergeant Orphan "Hlubi" Chapi of Soweto in 1978 and Swazi national David Lukhele and his sister-in-law, Elizabeth Busiswe Dlodlu, both of Mamelodi, in 1986.

The fourth accused, Joseph Makhura, 29, was convicted of attempted murder in connection with the planting of limpet mines in Silverton and Soshanguve, near Pretoria, in July 1986. He was sentenced to an effective 25 years' imprisonment — a sentence also imposed on his co-accused.

Charges of treason against all four was earlier withdrawn by the state.

After sentence had been passed, emotions ran high in the Delmas Circuit Court. There were murmurs of anger and some people in the gallery wept as policemen monitoring proceedings dragged the four down the stairs to cells below the courtroom.

The four showed no remorse or fear. Earlier, Masina told the court: "If it were not for apartheid, we would be out there with our brothers and sisters, black and white."

And earlier this week, the four told the judge: "We know that this court may sentence us to death. If this happens, so be it! We love life, but we love our people and our country even more. If we are hanged, our death will not be in vain."

Masina, who spoke on behalf of the other three men, added: "Those who come after us will undoubtedly complete our mission in life; to create a just and democratic South Africa which belongs to all who live in it."

In explaining the deeds which led to their convictions, Masina said: "The actions which we undertook were not for private gain, nor prompted by revenge

"Our actions took place in an escalating war between those committed to apartheid and those who seek its eradication and the establishment of a society which is not based on racial superiority, divided by hatred and ruled by fear."



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## IN A SURPRISE VERDICT, THE COURT SETS FREE ALL THE MAYEKISO ACCUSED

WHEN Mr Justice PJ van der Walt jailed Marion Sparg for 25 years for sabotage in 1986, he argued that she was white and privileged. He could not understand why she would want to take up arms on behalf of the African National Congress.

This week the same judge surprised observers by acquitting five Alexandra leaders who had been charged with treason, alternatively sedition and subversion. He cited the fact that black people had no vote and highlighted their poor living conditions.

This was unusual and important — for if judges start taking such factors into account, it could affect many political trials.

This contrasts with the finding of Mr Justice K van Dijkhorst in the "Delmas" treason trial, which led to long prison sentences for leaders of the United Democratic Front.

Delivering his judgement last year, Justice van Dijkhorst rejected suggestions that black exclusion from the tricameral system had created anger and accounted for the subsequent political upsurge. He also rejected the historical background that formed part of the accused's explanation.

Justice van der Walt, however, saw black exclusion from the new consti-

## From Delmas to Alex: How two judges see black anger

tution as a vital factor and spent a great deal of time in his judgement examining the history of Alexandra township.

He said, for example, that Alexandra had "a unique history and they have (more) problems than anywhere else ... daily lives of black South Africans are beset with troubles not experienced by whites".

This, legal observers say, was an extremely unusual, if not unique, approach from a South African judge.

The Delmas evidence had rested to a large extent on speeches, images, rhetoric and symbols. The Mayekiso judge downplayed the importance of rhetoric, accepting that it could often become excessive in the heat of the moment, and placed more emphasis on the activities of the accused.

This made exhibit "JJJ" — the minutes of the Alexandra Action Committee (AAC) meetings — central to

**The Mayekiso case judge drew attention to the difficult conditions under which the accused lived ... a rare approach for a South African judge, and one markedly different to that taken in that other recent treason trial, Delmas**

the court's finding. "JJJ" revealed no direct evidence that the AAC planned or started unrest and showed that, though the AAC had started the rent boycott, it had not planned to make the township ungovernable.

The judge rejected suggestions from the prosecution that these documents were fake, and they became a crucial testament to the activities and thinking of the accused.

Their content was contrasted with the way the police handled the unrest in Alexandra in that period. The

judge stopped short of saying police were involved in the "six-day war" that began in Alexandra on April 22 1986, but had sharp words to say about the incident in which 17 people died.

Many people had testified that vigilantes had been helped or accompanied by police, he said. Witnesses had said the responsible people wore sky-blue shirts and were followed by Casspirs.

"The impression of police having a hand in the attack will persist in the minds of the people of Alexandra," said Justice van der Walt. This perception had been strengthened by the lack of prosecutions following the attack.

It was also notable that the judge visited Alexandra township — and it appeared to have created a deep impression on him.

The Mayekiso case was particularly

important because one of the country's best-known unionists, Moses Mayekiso, was on trial.

What was being tested was not just political activity, but the involvement of major unions, such as Mayekiso's National Union of Metalworkers (Numsa), in such activity.

And the political activity being examined for illegality was the archetypal resistance politics of the last few years — street committees, people's courts, anti-police campaigns, anti-community council campaigns and rent boycotts.

Jay Naidoo, general secretary of the Congress of South African Trade Unions (Cosatu), said afterwards that the finding vindicated union involvement in community struggles.

Mayekiso cited the acquittal as proof that the activities the accused were involved in as leaders of the AAC were legal. He immediately called for the reorganisation of these structures.

Lawyers confirm that the judgement means that street committees, to the extent that they are designed to improve conditions and even run campaigns, are not *per se* illegal.

The same applies to the rent boycott, which the judge also said was

## There's more to the case than Moses

### Weekly Mail Reporters

AS the leader of a key trade union and focus of an international campaign, Moses Mayekiso is familiar to all South Africa watchers — but how many people can name his four co-accused?

The "four others" in what became known as the "Mayekiso Trial" are:



Obed Bapela,



Richard Mdakane,



Paul Tshabalala

Paul Tshabalala, Richard Mdakane, Obed Bapela and Moses' brother, Mzwanele Mayekiso.

PAUL TSHABALALA, the 32-year-old accused number two in the trial, said: "The struggle is continuing and we are going to start where we left off before our detention and trial."

Tshabalala, who is married and has three children, was born in Alexandra on November 19 1956.

One of a family of five children, Tshabalala was brought up by his grandmother — his mother, a domestic worker, lived elsewhere. In 1971, his grandmother was forcibly removed to Meadowlands, Soweto, losing her freehold rights on her Alex property in the process.

In the same year, the school he attended, the Holy Cross Mission, was moved from Alexandra to Diepkloof, Soweto.

He left school to find work, and was immediately confronted by job insecurity and poor wages in a work environment where trade unions were still weak.

Joining a Wynberg engineering company, he earned R10 a week, and supplemented his income working as a caddy at the Bryanston Country Club. In early 1973, he lost his job when the company moved to Brits.

Tshabalala eventually joined the Toyota Marketing Company in Marlboro as a packer. Moses Mayekiso, was employed by the company at a later date.

The 1976 nationwide uprisings had a profound effect on Tshabalala, who was particularly moved when some of his friends were killed by police during unrest in Alexandra. "Although I started to be actively involved in politics in 1985, 1976 played a role in showing me the oppression blacks in this country were made to live under," he said.

In December 1986, after being retrenched from his job, he bought a small panel van to carry out light deliveries around the Reef. He also sold cold drinks in the township.

In 1986 he became actively involved in civic politics when he joined the Alexandra Action Committee (AAC), which was



Neighbours greet Moses Mayekiso and his fellow trialists outside the Mayekiso home in Alexandra a few hours after their acquittal

THE Zola Budd (kombi) carrying Moses Mayekiso and his colleagues hooted as it approached the older part of Alexandra. People peeped through their windows to see what was happening.

Gradually the filthy, unlit streets of Alex came to life as other cars hooted and put their bright lights on.

Mayekiso, his younger brother Mzwanele, Paul Tshabalala, Obed Bapela and Richard Mdakane were back in their home township for the first time in three years. The five Alex leaders had been acquitted earlier that day at the dramatic conclusion of their three-year treason trial.

A second kombi arrived shortly behind them, carrying youths chanting slogans and singing freedom songs. They climbed out of the kombi, formed a group in the middle of the street and danced the *toyitoyi*.

More and more people came out of their houses to watch the spectacle. "It's been long since we saw this here," remarked one woman as she swayed in time to the songs.

Spectators gathered in small groups — unsure whether to join the *toyitoyi*, but staying in small groups to avoid the filth and mud in the streets. Small groups were scattered all over.

The sounds of "Viva Nelson Mandela, Viva Oliver Tambo" and slogans about other leaders of the African National Congress filled the air.

The youths danced down the street and into the side-streets before turn-

## A kombi hoots, and Alex bursts into life

**When the Alex Five came home for the first time in three years, the township sprang to life to welcome them back.**

By MUSA ZONDI

ing around and dancing back. A large crowd was now following them, singing and dancing.

The four leaders joined in. So did children of three and four, standing on the other side of the heap of filth, and an impromptu chorus followed. They moved to the sound of the *toyitoyi*, but their space was restricted by the mud and filth in front of them.

Standing in the middle of the crowd, Mayekiso began speaking, and all the noise died down as people strained to hear. "We are back and we will start where we stopped," he said.

There were ululations, whistles and hooters.

"I want to hear that the street, yard and block committees are meeting tomorrow. The court said they are not illegal. We must begin restructuring," Mayekiso said.

Almost everyone in the vicinity of Mayekiso's house was in the street by this time. Before he could finish



Celebrating outside the court

his speech, sounds of "Hallo Mayekiso, Obed, Richard, Paul and Mzwanele" filled the air.

"We have been told there is redevelopment (in Alex) but nothing has changed," Mayekiso added.

A man who called himself Comrade Joe staggered forward, brandishing a telegram envelope in the air. "This is the telegram from Moses Mayekiso," he said.

He came into the full glare of a television light, and lifted his hand to touch Mayekiso's, saying "When Mandela was sentenced, he said ...

em ... blood ... What did he say about blood again?"

He paused. "He said liberation will be nourished by our blood".

As the lights faded and the sounds of hooters died down, the dancers quietly and peacefully dispersed. Comrade Joe staggered away, avoiding the excrement scattered all over the street. He muttered as he disappeared, "Sebeqalile futhi" (They are at it again.)

Earlier, when they were discharged, Mayekiso and his colleagues had to attend several "meetings". First they addressed cheering well-wishers who had come in their hundreds to the Central Methodist Church.

Earlier in the day, a lot of people had been turned away from the court because it was full. Outside, a contingent of police ordered them to disperse and they gathered at the church for a chance to see and listen to their leaders.

At the meeting, the four leaders thanked those responsible for the support they received both internationally and nationally.

"The judgement proved that peaceful protest is possible without breaking the law," Mayekiso said. "We have to control our townships and at the end of the day, control the country."

It was victory for the whole national democratic struggle, Mayekiso said, and for the working class who wanted to get rid of apartheid, exploitation and corruption.



# The weekend Rambos lay siege to Angola

Every weekend,  
scores of kids  
descend on a derelict  
building to play war  
games with high-tech  
pistols which can cost  
hundreds of rands.  
Why? Because it's  
fun ... especially  
when you really get  
to hurt the other guy

By GAVIN EVANS

THE derelict buildings of the old Edenvale Hospital, near Johannesburg, have new names: "Angola", "Lebowa", "Soweto", "Nicaragua" and "Lebanon".

And this is no longer a place for healing the sick. It has been transformed into the playground of an entertainment growth industry known as "Tactical War Games".

Every Saturday and Sunday up to a hundred children arrive at the Edenvale hospital grounds in their parent's BMWs and Mercedes Benzes, and are collected eight hours later, having spent R50 each on arms and ammunition.

The game that draws these children away from the shopping centres and bowling alleys is run by an SADF "recce" captain, Louis Kloppers, who doubles as an explosives expert for visiting film crews. He is one of a growing number of adults who have taken to the game.

"We get doctors, lawyers, businessmen, plumbers. My brother's a minister and he really enjoyed it," said craggy-faced Doug Blom who manages the centre.

There are six other war game centres in Johannesburg, and more are being planned to cope with the demand. Already over 2 000 people in Johannesburg alone are war game players.

"It's like a drug", said 15-year-old Wayne of Wendywood, who recently spent R950 adding an infra-red sight and silencer to his gas gun.

"I'm totally addicted. When I come home from boarding school I don't even speak to my folks, I just come out here."

The essential ingredients are a military uniform, a specially-fitted mask and goggles, a gas gun which shoots red paint pellets at high speed — and the desire to shoot or be shot.

Optional extras are a helmet, Rambo boots and a flak jacket.



The heat of battle: guns blaze as three warriors ambush their quarry in an old hospital ward

Pictures: GIDEON MENDEL



Dressed to kill: A fully-kitted warrior can cost his parents as much as R1 000

For the younger kids, however, the bravado often gives way to fear.

"When I started it was helluva scary, but now that I'm good it's just fun," said Steve.

Asked to explain the fear, he said, "it's not so much the pain, it's the shock of realising you've been hunted down and hit."

For 12-year-old William, a fat boy with little aptitude for stealth or aggression, the game was a trial. He had won a R100 war games voucher at the Rand Show and had come along by himself. His mother had spent R250 on a Rambo uniform for

him. He started out keen but nervous, a stranger in a team of buddies. When the "rounds" started flying, he took refuge in a quiet spot in "Soweto", and hid. Soon he was found by an older team member who assumed the role of a commanding officer. "Either you join us in raiding Angola, or you're out of the game," he was instructed.

Later a sympathetic 11-year-old consoled him: "You don't have to listen to him. He's not your father."

"I know", William said. "But I don't want to get into trouble. My

mom spent so much on my uniform, but I'm scared."

The simulated "war" ethos is always close to players' imaginations.

"I love war movies. Since I started playing I've never missed one," said Jason, 16.

Larry who is due to go to the army next year and is currently a member of a junior team called "Ballbreakers" said "it makes it easier, when you do your national service".

He describes the prowess of Louis Kloppers, who leads the two Transvaal teams which hunt each other down. Once you've been shot in the body your's "dead" until a comrade liberates you. The team that "kills" all its enemies is the winner.

Soft-spoken Larry, 16, says laconically that the purpose of the game "is basically to shoot people".

When asked why he enjoys it, he said the experience of shooting and being shot was "an incredible high — it's pure adrenaline".

"It's especially fun when you shoot someone and it causes pain."

Being hit on a uniformed part of the body is "about like being jacked at school", said 12-year-old Steve.

"It's sort of like being hit hard with a squash ball, but maybe a little softer," advised Blom.

At the end of an afternoon's war between two groups of seven, one

22-year-old had a bleeding welt on his arm — the price of the macho gesture of fighting with sleeves rolled up.

An 11-year-old child had to have his eyes washed out because paint seeped under his goggles. Another had an injured hand, and 23-year-old Brian came away with a swollen groin. "I always get shot in the nuts. It's a favourite target," he noted.

A few women sometimes join in, and are generally well-treated as "one of the boys".

"The ladies are very vicious," said Larry. "They're even more aggressive than men".

But the code remains one of Rambo-esque machismo. As the older team, the less agile Blom assumed the tone of a standard six reserve player relaying the feats of the first team rugby captain. "His feet don't seem to touch the ground. He's everywhere and nowhere at the same time."

"Just when you think he's disappeared, he disarms you and then shoots you with his own gun."

Blom admitted that a visiting American team had beaten the Transvaal, "but only because of their superior weaponry".

On the other hand, he notes with pride, his team recently beat the South African Police squad "hands down".



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formed in the wake of the 1986 uprising in Alexandra.

Tshabalala soon rose through the ranks to become the committee's vice-chairman, a position he held until his detention in January 1987.

Tshabalala is a keen soccer player, who played for a local side called Birds and was nicknamed "Brains" for his midfield skills.

He is a qualified referee who worked for both the National Professional Soccer League and the National Soccer League. But his sporting interests no longer lie with the NSL. "I want to build progressive sport organisations and those affiliated to the South African Council on Sport," he told the *Weekly Mail*.

**RICHARD MZAMENI MDAKANE**, accused number three in the trial, was born on January 1 1958, in Dundee, Natal, the eldest of five children.

"I come from a very poor family — my father is a labourer, so my interest in working-class politics comes from there," he said this week.

In 1969 the family were forced to move off the farm where they were living when the farmer sold the land. They moved to Ladysmith, where his father found a job as a municipal worker.

Mdakane's first contact with politics came through his school principal at Sigweje High School. "He would visit me, talk to me about current issues. He was very opposed to Inkatha and opened my eyes to them."

"My parents did not really want to be in-

## The other four: The Alex accused the media ignored

● From PAGE 12

involved in politics — they were afraid of it — but they were very supportive during the trial. My mother was especially strong," he said, adding that his mother and sister had attended the trial when they could.

After completing his matric, in the early 1980s, Mdakane travelled to Johannesburg in search of work.

He settled in Alexandra, and started work at a metal firm, Formscraft. Here he helped recruit workers into the Metal and Allied Workers Union (now Numsa).

His activities attracted the attention of management and he was reprimanded. However, he said he had continued his union work until leaving the company in 1983.

For the next two years Mdakane did odd jobs and continued his political education through discussions and by reading.

At the height of the 1986 upsurge in Alex, his brother, Zephania, was shot dead by security forces. His cousin, Alexandra Student Congress president Jacob Mabizela, was shot dead by unknown assailants. Mdakane was detained at Mabizela's funeral.

Talking after the trial, Mdakane said: "I think this is only the end of part one — we

are still not safe from hit squads. We will have to be careful."

The childhood of **KOPENG OBED BAPELA**, accused number four in the trial, was repeatedly disrupted by family misfortune.

Bapela was born in Alexandra in 1958, but went to live with his grandparents in Gamasemola, Sekhukhuneland, two years later.

His grandparents died in 1965 and he was placed in the care of an aunt, who, he said, was not interested in looking after him.

He began school at the age of nine while in Sekhukhuneland. However, when in Std 1, he had to return to Alexandra where he found that his mother had remarried.

In 1977 he joined the Alexandra Students League — which, he said, resulted in his expulsion from school.

Misfortune struck again when his stepfather was jailed for two years, forcing him to leave school and start work in order to provide for his family.

Working as a labourer at an engineering firm gave him "a taste of working-class consciousness", he said. "From there, there was

no turning back."

In 1980 he helped initiate the Alexandra branch of the Congress of South African Students and was elected as the acting branch secretary later that year.

He also helped to form the Alexandra Youth Congress (Ayco), which was launched in September 1983. At about the same time, he had his first brush with the security police, being detained under section 29 of the Internal Security Act.

In 1985 Bapela moved to the Eastern Cape to run community education workshops in Cradock, Graaff-Reinet, Port Elizabeth and Queenstown.

At the Cradock funeral of assassinated community leader Matthew Goniwe, Bapela was allegedly one of a crowd who hoisted the flag of the South African Communist Party. Charged along with 10 others with promoting the aims of a banned organisation, he was found not guilty.

On his return to Alexandra, he became involved in the running of people's courts. He was also elected publicity secretary of the AAC.

Witwatersrand University sociology professor, Belinda Bozzoli — who gave evi-



Mzwanele Mayekiso

dence in the trial on social conditions in Alexandra — commented that accused number five **MZWANELE MAYEKISO** had "extraordinary dedication".

"He arrived in Johannesburg and immediately became involved in Alexandra community issues," she said.

Mayekiso was born on June 26 1964 in Cala, southern Transkei — a stronghold of the Pan Africanist Congress's military wing, Poqo — the seventh of eight children.

His father, Bethuel Mayekiso was a migrant worker in the Western Cape. His mother Ellen, whom he described as very strong and supportive, was a farmworker.

In 1976 he went to live with an uncle in Zwelisha township, outside King William's Town, and took part in the 1980 school boycotts.

Mayekiso returned to the Transkei in 1985 to complete his matric at the Matanzima High School.

Towards the end of the year he moved to Alexandra in search of work. During this time he lived with his brother Moses and became involved in the community structures.

He became the organiser of the AAC and helped set up street committees.

A member of the AAC who was in detention with Mayekiso described him as "humble" and a source of strength to all the prisoners who came to him with their problems.

On being acquitted Mayekiso said: "I am happy, yet frustrated, because we were in for so long, only to be acquitted. We were imprisoned for nothing."

## Mayekiso the unionist

● From PAGE 13

and the council was a way of getting workers to accept responsibility for their own organisation.

The Katlehong shop stewards' council was really the first in the country to function effectively, and rapidly became a phenomenon which has shaped the entire trade union movement in South Africa.

Within a few months, workers were discussing Mawu in the trains, buses and shebeens. Then a wave of strikes started — most of them in Wadeville. Moses spent week after week walking from one factory to another, laden with paper bags full of joining forms, handling up to four or five strikes every day.

Workers poured into the union's office on the edge of Katlehong, dumped hundreds of joining forms and announced that they were already on strike.

Eventually Moses created order out of chaos. The union's membership had grown by thousands in those few short months, mainly due to his ability to explain unionism to workers, to give direction and to build durable structures under pressure.

The next year saw a similar strike wave in Wadeville. Moses was developing leadership in the shop stewards' council which has stood the union in good stead ever since. These leaders were energetically organising other workers, and helped to build many of the unions of the Federation of South African Trade Unions (now part of the Congress of South African Trade Unions — Cosatu).

At about that time, the destruction of shacks in Katlehong became a major issue. Under Moses' guidance, the shop stewards council took this up as a major campaign, pushing employers and the authorities. They seem to have succeeded, because the bulldozing almost stopped.

This was one of the earliest "community" interventions of the shop stewards' councils.

Moses was at that time working until 11pm or midnight every night, Saturdays and Sundays included, then catching taxis, buses and trains back to Alexandra. It is hardly surprising that his first marriage broke down under the pressure.

Moses had phenomenal ability to persuade workers, and great personal bravery. He avoided rabble-rousing tactics: he always explained things to workers and made sure that they understood. He does not believe in promising workers things which he could not deliver, or in "triumphalism" — unrealistic optimism.

I remember one occasion when about 2 000 workers were on strike at McKechnie Bros, in Wadeville. Moses began talking to the workers, who did not know him. A personnel officer had been not long before, and things were very tense.

One of the clerks, not wanting to be upstaged, suggested that Moses must be a spy and Moses melted into the crowd, waited until the clerk had left, started speaking again and then led the entire crowd across Wadeville to our offices. They joined the union.

Moses has always been a prolific thinker, planner and report writer. He was politicised in the Transkei: he says the children there form political clubs at school. He was deeply and unwaveringly committed to the independence of the trade unions and the working class, and has been and still is strongly committed to socialism.

All of these things, and his belief in the importance of mass-based, democratic structures, were clearly reflected in the Alexandra Action Committee.

Moses had become a very prominent and respected figure in Alexandra, and, after the first wave of enthusiasm for community organisation in 1984, people began to consult him about how to build democratic and lasting organisation.

He was also involved in discussions with Mawu's Johannesburg shop stewards' council about the destruction of shacks in Alexandra. From this grew the idea of building community organisation based on trade union principles of mandates, report-backs and endless meetings to involve the mass of the people.

Dissatisfaction with earlier civic organisations based primarily on activists led to the rapid adoption of the AAC by the population of Alex.

Moses will not move without mass support, and believes that this must be informed support. But he is not afraid to lead. At a time when to talk of socialism was widely condemned as premature and divisive, Moses, as branch secretary of Mawu's Transvaal branch, insisted on propagating socialist ideas widely within the union.

He did this in the belief that people must make informed decisions. The right to discuss and understand socialism and to make a democratic choice is a right that has to be fought for.

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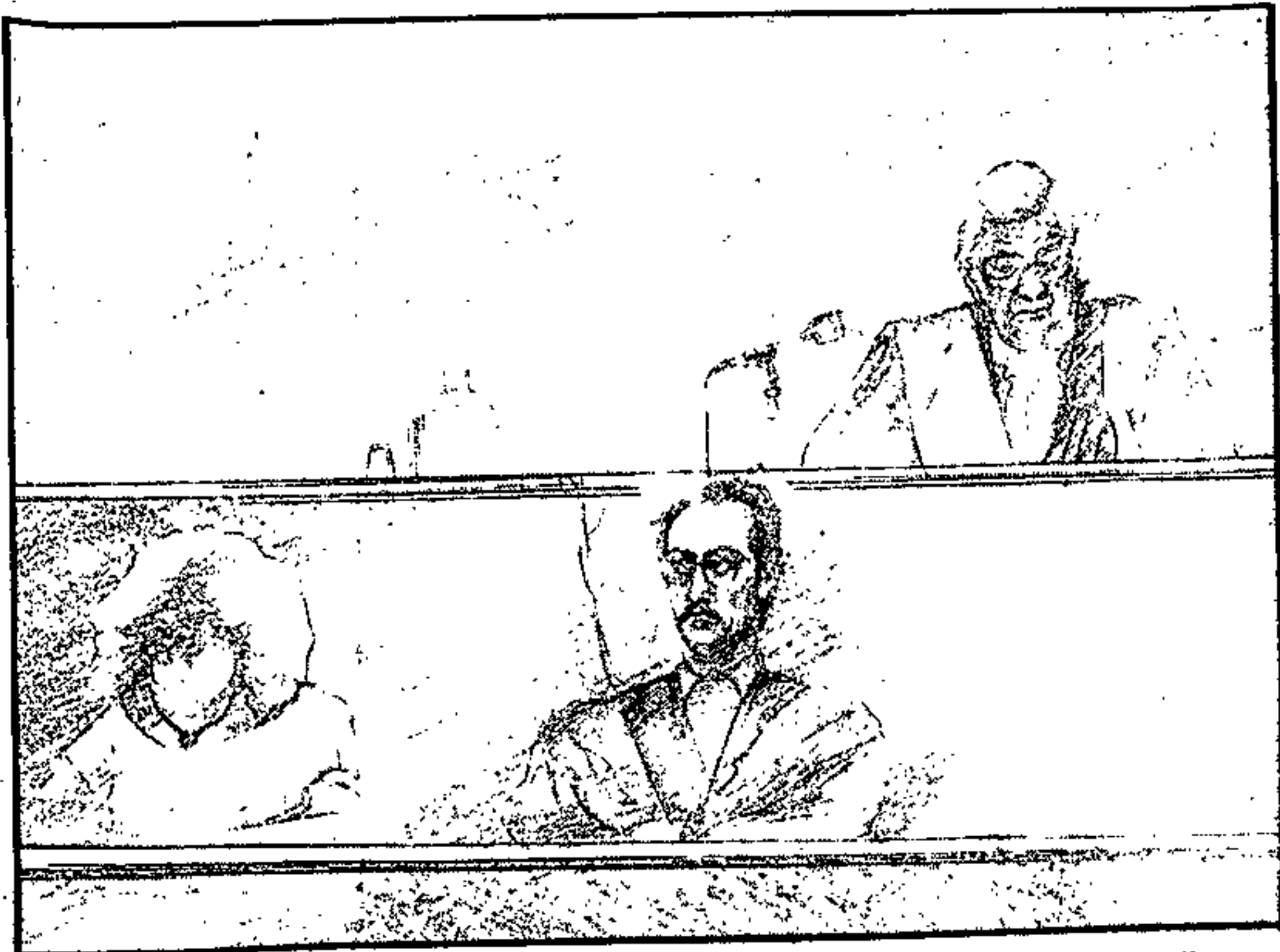
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Mr Justice PJ van der Walt ... draws attention to the difficult conditions under which the accused lived and finds them all not guilty

Drawings: Thea Soggot

aimed at improving living conditions.

However, the judgement was less clear on such things as people's courts, anti-police campaigns and anti-community council campaigns.

The judge did not really have to comment on these in his finding.

In these respects, the findings will be important for future political campaigns, as well as for other political

trials that deal with these issues.

However, Emergency regulations that control boycott and other political campaigns override the laws under which Mayekiso and his co-accused were charged — and the court's finding will not change this.

The Mayekiso trial was the focus of what was probably the biggest international campaign ever waged around a single court case in South Africa. It took the form of newspaper advertisements, high-profile international observers in court and world-wide expressions of solidarity.

The result of the case will be seen as a victory for this campaign — and set the ground for others of the same kind.

It was also notable that the trial was presented by its critics as an attempt to criminalise trade union involvement in politics and to set the scene for further court cases against unionists. If this was the intention, it has been foiled.

In the final analysis, however, the trial has lasted two years; most of the accused have been in for three years. This alone may mean that the state achieved one of its key goals — keeping key opposition leaders out of Alexandra for a long period of time.

## A portrait of Mayekiso as a unionist

A profile of MOSES MAYEKISO by one of his closest union colleagues, BERNIE FANAROFF of the National Union of Metalworkers of SA

A NEW shop steward appeared at the meetings at the Toyota warehouse near Alexandra in 1977: Moses Mayekiso. Quiet and unobtrusive, he was soon elected secretary of the shop stewards' committee of the Metal and Allied Workers' Union.

Over the next three years, Mawu members struggled for recognition at Toyota. Their organisation was built up meticulously, with weekly shop stewards' meetings at the union office in Wynberg and general meetings of all members weekly (or sometimes more often) in the factory. Innumerable strategies were tried and re-tried, and after three years Mawu won a short-lived recognition.

This experience, of slow, painful and meticulous organisation, and the need to have the full and undivided support of the workers, has stayed with "Bra Moss" ever since.

Moses was dismissed from Toyota in 1979, and after working as a voluntary, unpaid organiser for Mawu was officially appointed to work for the union at the beginning of 1980.

He was given the job of organising Wadeville, one of the largest industrial areas on the Witwatersrand. At the time, Mawu had members in only one factory in the area.

Moses held meetings in the hostels in Kaitshong, inviting workers from many factories at once, and talking to them about the union. Membership took off very quickly — especially after Moses refused to allow police to disperse one of these meetings and continued to conduct the meeting with breaks for negotiation with the police.

We had heard about shop stewards' councils from Mawu's Natal branch, and Moses began to build such a council in Wadeville. Its initial aim was to involve shop stewards in recruiting members, building union structures in the factories, and carrying out the basic education about unionism. Organisers were then, as now heavily overloaded with work,

• TO PAGE

# Curtains down on the treason dress rehearsal

The judge criticised the state for bringing treason charges without sufficient consideration. His verdict may complicate any state attempts at a general crackdown on trade unionists

By HELEN PAKEMAN

ANY hope the state may have had of using the Mayekiso trial as a dress rehearsal for a legal crackdown on the trade union movement faded this week with the acquittal of the National Union of Metalworkers (Numsa) general secretary and his four co-accused.

Mayekiso, 40, his brother Mzwanele, 24, Paul Tshabalala, 32, Richard Mdakane, 31, and Obed Bapela, 31, were found not guilty of treason and alternative charges of subversion and sedition by Mr Justice PJ van der Walt in the Rand Supreme Court on Monday.

The judge found the state had not proved any of the charges against the five.

After almost one and a half years of evidence the state had to concede it had not proved treason against the five and asked only asked for a conviction on the alternative charges.

Concluding his judgement, Justice van der Walt cautioned the state against bringing treason charges without careful consideration.

"It is a matter for comment and concern that so much energy and time was spent in the course of this trial on evidence made necessary and relevant by the charge of treason which has proved abortive," he said.

"Treason is a crime in a very special category where the ideas and political aspirations of those charged are part of the issue.

"In this very strange and complex society of ours, and given the spectrum of politics of our citizens, from black to white, far left to far right, with the grievances and aspirations in most cases legitimate ... a charge of treason should be carefully considered and very carefully reconsidered before being brought."

The charges against the five arose out of their activism in Alexandra during 1985 and the first half of 1986.

It was alleged that as executive members of the Alexandra Action Committee (AAC), Mayekiso and his co-accused conspired with other civic and youth groups in the township to seize control of the area and render it ungovernable.

The state also set out to prove that they were involved in the organisation and initiation of the rent and consumer boycotts in Alexandra, campaigns against the police and town councillors and attempts to replace state structures with alternative "organs of people's power".

"There is no direct evidence involving the accused or the AAC in the planning or execution of the unrest, attacks on police, resignation of town councillors or the establishment of people's courts," said Justice van der Walt.

He said there was also no evidence the five planned, executed or had a part in any attempt to remove the police and substitute something of their own making to uphold law and order in Alexandra.

"There is evidence that the accused and the AAC supported the rent boycott as a form of protest against the conditions in Alexandra and perceived corruption of councillors," the judge said, "not to make the area ungovernable but to obtain the upgrading of the area and better living conditions."

Justice van der Walt said the consumer boycott was also seen as a form of protest against specific shop owners and businesses because of their attitude to residents.

"In the final instance, sitting as a



A policeman seizes posters from protestors outside the court

judge in this trial, I have no knowledge whatsoever of what actually took place in Alexandra during the first half of 1986.

"The only knowledge I have since gained was from the subjective evidence of a few of the many thousands of residents of Alexandra. That picture may be correct or completely different from the facts.

"In this court, only the accused know what actually happened and whether their version is closer to the truth than that of the state, or whether the state version is in fact the truth."

Justice van der Walt said his task had been to assess the evidence put before him and on that basis to decide whether the state had proved the charges beyond reasonable doubt.

"In my view," he said, "the state has not."

The judge also found that Mayekiso's meetings with Alexandra's administrator, Steve Burger, local clerics and the chairman of Sandton's management committee, Ricky Valente, indicated a desire by the AAC to involve the authorities at the height of the unrest.

"This in my view refutes any suggestion of a subversive intent," he said.

Justice van der Walt also expressed concern that those responsible for the "vigilante attack" on residents in April 1986 had still not been identified and prosecuted.

"It is common cause that residents believed the attack was by police or supported by them," he said. "This perception had a great deal of substance, borne out by eye-witness accounts of the clothing of the attackers, their activities in close vicinity of the police station and the apparent support by police vehicles."

"I cannot solve the mystery nor is it a mystery I need to resolve. It is however a matter of regret and concern that those responsible have not been identified and prosecuted."

If the attackers were not identified and prosecuted, residents would retain the impression that the police had had a hand in the attack and resultant burnings and deaths, the judge said.

## Moses Mayekiso arrives at his door for the first time in three years

"Though we are no longer in Sun City (Johannesburg Prison), we are in a much bigger jail now," Mayekiso said.

One after the other, the four men rededicated themselves to the structures and principles for which they had been incarcerated.

At a press conference later in the offices of the National Union of Metalworkers of South Africa, Mayekiso,

who is the union's general secretary, dedicated himself to a socialist solution to the South African problems — "the kind of socialism that doesn't exist yet."

They then went off to see the township they had left behind. And later they ended the day with a party at the offices of their attorneys, Cheadle, Thompson and Haysom, in Braamfontein.



## SOMETHING had to be done.

Tensions among State of Emergency prisoners in St Alban's Prison had reached breaking point after months in detention without trial.

I, for one, had been in prison for 30 months and there seemed little prospect of being released.

We had exhausted all legal avenues and the struggles we had waged since June 1986 to get our freedom — numerous petitions to numerous ministers, court challenges, representations to departments and even a one-day hunger strike — had been in vain.

However, it was the way the state ignored our numerous appeals and petitions that brought tension to a peak in February.

We knew that to obtain our release we had to send a shiver up the spine of the Minister of Law and Order, Adriaan Vlok — and an indefinite hunger strike was the only way to do this.

The decision to embark on the strike was made democratically. The prisoners in one cell proposed it and it was referred to other cells through the "political panel", a structure, made up of one representative of each cell, which we had created to co-ordinate political matters.

The idea was referred back to each cell and discussed by all 105 Emergency detainees in St Alban's. After much debate, it was unanimously agreed that we would embark on an indefinite hunger strike from Monday, February 6.

The way we planned it was no different from other campaigns waged outside prison. We knew that to embark on a spontaneous campaign without first preparing fertile ground would be like fighting an armed force with our bare hands.

**W**e grouped ourselves into co-ordinating committees with representatives from each cell.

We appointed a "delegation" made up of the cream of our intellectuals — Mkhuzeli Jack, Gugile Nkintwe, Patric Madalane, Ihron Mzwandile Rensburg, Leslie Mangcotywa and McDonald Fani.

I was part of the "motivation committee", whose task it was to ensure that hunger-strikers did not give up hope. We would make daily reports about new developments to give them strength.

There was a "disciplinary committee" which would see that everything was done in an orderly way — and try to prevent anyone from breaking the fast.

This committee, also made up of one representative from each cell, started by collecting all food in the cells, such as sweets, and storing it away. We also inspected the food the warders delivered every day.

If someone wanted to break the fast, this committee would try to talk to him about the importance of not weakening. Luckily, this never became a real problem because nobody even talked about breaking the strike.

I think Foreign Minister Pik Botha would struggle to match the work of Stone Sizani and Mike Xhego, who ran the "publicity committee". It was their job to see that our plight got the attention of the local and foreign media, ministers, parents, teachers, doctors, lawyers, the Black Sash, unions, other popular organisations and the international community.

Finally, we had a "crisis committee", which would monitor the situation of those who were sick, keeping daily records of everyone's pulse, weight, temperature and urine readings.

Day one of the hunger strike began with the delivery of a memorandum to the chief warder, asking him to tell it to Minister of Law and Order Adriaan Vlok. Our demand was simple: we had been held without trial for almost three years, all our representations had been ignored and we wanted to be released immediately.

Then everything seemed to come to a standstill, as we tried to preserve our energy by walking slowly and talking in very low tones. Our daily political discussions, indoor and out-

Journalist Brian Sokutu, who spent 30 months in detention, gives the first inside account of how the 105 detainees at Port Elizabeth's St Alban's Prison made their decision to stage a hunger strike ... and how they coped with the bleak days that followed, each man getting weaker and weaker ...

# AN INSIDER'S ACCOUNT OF THE PRISON STRIKES

By BRIAN SOKUTU

door games and studies had become something of the past.

The deputy head of the prison, a Captain Piet Steyn, asked to see our delegation. When they came back to report to us, we were stunned by his attitude.

He promised to telex our memorandum to various state departments, to sell us toiletries and stationery during the hunger strike, to give us an extra 15 minutes exercise time and to help in whatever way was possible.

He asked about one of the comrades, Themba Duze, a trade unionist with diabetes who had been admitted to the prison hospital. However, Duze had been excused from the hunger strike because of his sickness.

The usual atmosphere had undergone a rapid transformation. We had never known the warders to be so concerned.

The prison delivered food as usual, but nobody took it. The disciplinary committee inspected it and reported remarkable changes in quantity and quality. There was a lot of meat, and tomatoes and onions had been introduced for the first time.

This was obviously an attempt to tempt us to take the food and destroy our militancy. But it did not seem to make any difference, thanks to the unity of the "comrades".

It was a drizzly, windy day and we walked around the prison yard in small groups, talking about social and domestic issues. For once, there was no heavy politics.

Some activity continued. Khaya Matiso, a Rhodes University student, went to write exams. Foreseeing a loss of energy, he asked if he could write all his papers in one sitting, but the university refused.

The first real salvo was fired by the district surgeon, a Dr Knoetze, and the person in charge of the prison medical section, Sister G Toubkin.

**Food arrived as usual. But there were remarkable changes in quantity and quality: lots of meat, and even tomatoes and onions. Nobody touched it ...**

They sent most of detainees in the prison hospital back to their cells.

They were Mike Tofile, a member of the PE Youth Congress suffering from a backache and ulcer; Stone Sizani, UDF publicity secretary in the Eastern Cape who had a heart disease; Henry Fazzie, UDF vice-president in the Eastern Cape and president of the PE Black Civic Organisation, who had backache and arthritis; and Ihron Mzwandile Rensburg, national secretary of the National Education Crisis Committee, who was suffering from an ulcer and backache.

The only two detainees left behind in the prison hospital were Ernest Malgas, a Pebco executive member who had high blood pressure, and Duze. Fazzie was later called back to stay with these two.

That night, despite headaches and hunger, we watched a video, *Knight of the City*, and a rugby match between Wales and Scotland.

Facial expressions were changing. Our eyes were red. Some people slept. Someone cracked a joke during the film, but nobody was paying attention as we felt the pangs of hunger.

But we knew we had to resist. When I went back to my cell there were no jokes, not even from known

humourists such as Pellet Sigwevu. A few comrades were trying to play scrabble, but were disturbed by a warder who said: "Julle raak swak nou, ne?" (You're getting weak).

Our rumbling stomachs heralded the arrival of day two. There was an evident loss of energy and many "comrades" slept late. We drank water to quench our thirst, but only at a very slow pace.

An unprecedented quiet had descended on the prison from the early hours of the morning, so that we could even hear the splashing of the taps and showers. Gugile Nkintwe, a Port Alfred activist, tried to break the silence by talking about the "Olivia Forsyth saga". People just gave him a nod.

Despite a loss of energy, I managed to do a bit of washing and ironing.

"I cannot do ironing. Will you please help me?" asked young Gege Mbikanye, a student leader who was too weak to do his own chores. But I was dizzy and sweating, taking a long time to do simple things like buttoning a shirt, and had to sit on a bench and rest.

**W**e were called in groups to the hospital for urine, pulse, temperature and weight tests. Each one of us had a pen and a piece of paper to secretly record the test results, some even writing on their arm. Over the next 10 days, there was a constant struggle between us and the medical staff who tried to stop us seeing our test results.

The doctor read us the Tokyo Declaration (on the medical treatment of prisoners), warning us of the danger of the hunger strike.

A confrontation ensued. "Your patients are on hunger strike. What do you say about that?" Rensburg asked him.

"I've said it before. You are doing it at your own risk," he said.

The district surgeon was cornered on whether he ever visited detainees in their cells.

"I've worked in prisons for five years," he said.

An interjection: "You have not answered the questions, doc."

"Yes, I have visited the cells."

"You mean specifically at D-Section? I've been here in 1985, 1986, 1987, 1988 and 1989 and have never seen you there," Mkhuzeli Jack said.

Another interjection: "How many cells are there? How many detainees are there?"

The doctor's face turned red.

"I think the doctor is now tired," one detainee, Tango Lamani, said.

The doctor could also not tell us why they refused us access to our medical records. Later, one of the medical staffers told us that this senior warder had overridden the doctor and ordered this, but we could not believe it.

The medical staff refused to place weak detainees on a drip, saying that the only prescription that would help was food. They also refused requests to send detainees to outside hospitals for a second opinion.

One of the things that strengthened us during the hunger strike was the constant news reports about our plight and the support we were getting, both locally and abroad. We managed to smuggle newspapers into prison to keep ourselves informed.

Day three was tough, but I found some reserve energy and tried to wash some clothes. I felt weak, but had lost the usual lust for food.

"Comrades" sat and slept on the grass in the prison yard. Those waiting to be examined filled all the beds in the hospital, sneaking a quick rest.

There was another confrontation between us and the district surgeon when he evicted weak comrades who were resting on the hospital beds.

"Are you a doctor or a warder?" one angry comrade said.

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**Court reveals  
Mr X's name:  
Bongani  
Jonas, ANC  
commander**

By GAYE DAVIS,  
Cape Town

COURT Number One in Cape Town's Supreme Court building resounded to cries of "Long live Commander Bongani Jonas" this week after a judge ruled the identity of "Mr X" could be revealed.

Bongani Abednego Jonas, 30, was brought last week as a key state witness in the trial of 14 people charged with terrorism.

Early during his second day in the witness stand he stated his refusal to testify further, saying he had waited until he was in court to do so because he feared reprisals.

At the time he was protected by a court order providing for him to give evidence *in camera* and forbidding reporters from revealing his identity.

As a state witness, he faced repercussions from people who would see him as a traitor.

This week, he wanted "the world to know my identity and my views and not think I am a collaborator, or a traitor, or had decided to betray the struggle — which is a just cause".

Asked by his defence counsel, Dulah Omar, if there was a likelihood he would testify again, he said: "Not at all — even if a sentence is imposed (for refusing to testify) I am prepared to serve it, even if it is 20 years."

State counsel Hendrik Klem, SC, opposing the move, argued that Jonas wanted to use the court as a platform "to render him a hero in the eyes of the ANC and its supporters".

Having once changed his mind, he could do it again, Klem said.

The judge responded: "It was a pre-determined plan, he didn't change his mind in this court ... The state believed he was willing to testify. He has given evidence, not yet tested, that he deliberately misled the state, seeing it as the only way of protecting himself from possible harm."

He was satisfied the basis on which the order was originally made no longer held, Mr Justice Selikowitz said.

"It is the strong desire of this court not to have anything hidden from the world at large ... nothing can be lost by changing the order."

If Jonas did change his mind at some later date, arrangements could be made to have his identity kept secret. For refusing to testify, he faced a summary hearing and if it was found he had no just excuse for his action, he could be jailed for up to five years.

"The circumstances would have to be extreme to do this in secret — it would be akin to a secret trial of the accused," he said.

There was no justification for him to interfere with Jonas' fundamental right to a hearing in open court.

The trial resumes today. In addition to a possible five-year sentence for refusing to give evidence, Jonas also faces charges under the Terrorism and Internal Security Acts as an accomplice of the 14 already on trial.

They are: Tony Sithembiso Yengeni, 34; Jennifer Ann Schreiner, 32; Lumka Elizabeth Nyamza, 26 (Yengeni's wife); Michael Mzimkulu Lumbambo, 36; Mbutu Richmond Nduku, 27; Wellington Mongameli Nkwandla, 31; Gary Kruser, 28; Christopher John Giffard, 28; Alpheus Nkwana Ndude, 45; Gertrude Magdalene Nethania Fester, 36; Zurayab Abass, 36; and Colleen Lombard, 38.



# Judge outvoted on Delmas death sentences

The Argus Correspondent

331

JOHANNESBURG. — A Transvaal Supreme Court judge sentenced three African National Congress men to hang yesterday against his own judgment, but forced to do so by the views of his two assessors.

After the passing of sentence by Mr Justice M C de Klerk in Delmas, the packed public gallery erupted into powerful shouts of "Viva ANC" and "We will not let our comrades die".

The condemned men — Jabu Masina, Ting-Ting Masango and Neo Potsane — and a fourth accused, Joseph Makhura, faced the crowd briefly in their olive green, military-style uniforms, raising their voices and their fists behind the glass barrier that separated them from the gallery.

Right to the end they refused to mount a defence case, claiming they were soldiers; they should enjoy prisoner-of-war status and should not take part in civilian trials.

Their families stepped in and briefed counsel to present evidence in mitigation of sentence this week.

Mr Justice De Klerk was outvoted by his assessors, Mr L de Kock and Mr A Botha, on the question of whether mitigating factors could be found in the commission of the murders. Only such a finding could prevent the mandatory death penalty being imposed.

Mr Justice De Klerk held the view that as soldiers trained in ANC camps, the men had been exposed to influences which could — and did — alter their

states of mind and change the moral framework in which they viewed killing.

This, he declared, did not change their legal culpability, but it diminished their moral blameworthiness so that the "mandatory death sentence is not applicable".

The assessors decided that while the accused had been exposed to influences which could have altered their moral guilt, there was "a lack of evidence that their minds actually had been influenced to the desired degree".

Defeated in this manner, the judge passed the mandatory death sentence on Masina on four counts of murder; on Masango for three counts and on Potsane for two counts. The convictions arose from the assassination of the feared Soweto policeman, Sergeant Orphan "Hlubi" Chaphi in 1978, of Mamelodi policeman, Constable Sinki Vuma, in 1986 and Kangwane politician, Mr David Lukehele, and his sister-in-law, Mrs Elizaeth Dlodlu, in Mamelodi during 1986.

Makhura was sentenced to an effective 25 years for multiple counts of attempted murder, arising from a limpet mine blast in Silverton and a landmine blast in Soshanguve in 1986. His co-accused were similarly sentenced.

There was dismay as the impact of the dissenting assessors' views became clear, and people listened soberly as the judge invited the accused to address the court before he sentenced them.

Masina rose to speak. "I want to say if it was not for apartheid we would not be standing before this court. We would be sitting at home with our brothers and sisters, black and white."

## News editor in court

Own Correspondent

DURBAN. — Alleged bomber and news editor of Post Natal, Mr Muhammed Rafiq Rohan, made a brief appearance in the Durban Magistrate's Court yesterday in connection with allegations of terrorism and of contravening the Internal Security Act.

He is facing charges of receiving terrorist training, illegal possession of weapons and explosive devices and four counts of causing explosions in the Durban area.

There was strict security outside the court before the start of the hearing. Mr Rohan appeared on crutches after apparently breaking his leg.

The hearing was adjourned until May 5.

Mr Rohan is being kept in custody.





# ANC will free us all, says city bomb murderer Mamba

W/E ARGUS 29/6/89 331  
by REHANA ROSSOUW  
Weekend Argus Reporter

AFRICAN National Congress commander Allen Mamba, convicted this week of murder and terrorism, told the Supreme Court the ANC would free all South Africans.

Mamba was convicted in Cape Town after admitting placing limpet mines at the Volkskas bank in Piers Road, Wynberg, and on the railway near Pinebush on June 15 last year.

A passer-by was killed when the limpet mine at Wynberg exploded.

Mamba gave evidence in mitigation yesterday.

He said he was beaten by police on June 16 1978. He had been walking and saw police running and shooting teargas.

"I didn't know why the police were shooting. I ran past and one of them hit me on my head with a baton," he said.

"I managed to run further but was tripped by a policeman and a

few started assaulting me.

"I was kicked and was hit by batons. I still have marks on my head."

## Tripped

Mamba said he was arrested and police alleged he had been a stone-thrower.

However, he had been released soon after his arrest.

He disliked what had happened to him and decided to do something about it.

"I then decided to join the struggle."

He read the Freedom Charter, which gave him an understanding of the ANC.

"I could identify with the Freedom Charter.

"The basis of it was to fight for housing for people, for food to eat and that the wealth of the country should be shared among all its inhabitants.

"Before I read the Charter I regarded whites as my enemies.

"I later realised white people should also be accepted and we should all live peacefully."

Mamba joined the ANC in 1984 and left the country for military training.

## Oppression

He said the ANC was fighting for the freedom of all South Africans and for an end to oppression, slums and exploitation.

"I believe the ANC will achieve these ends," Mamba said.

During cross-examination by prosecutor Mr Mike Stowe, Mamba said he did not regret placing explosive devices at the bank in Wynberg or the railway line.

"But I do regret that it cost a life," he said.

He said he still regarded himself as a member of Umkhonto we Sizwe and as long as South Africans had not obtained their "rights" would continue with the activities of Umkhonto.

The hearing continues on Tuesday.



# Overruling of Delmas judge *CAN. Times 29/4/89* 'distressing' 331

JOHANNESBURG. — It was distressing that the two assessors in the Delmas trial, who outvoted Mr Justice Marius de Klerk to bring about a judgment of death in the case of three of the ANC accused on Thursday, had disagreed with the judges decision, lawyer Mr Peter Harris said yesterday.

"It is distressing that in a case of such a sensitive nature the two assessors, both of whom are ex-civil servants — one a retired magistrate and the other a retired Department of Justice official — should disagree with the well-reasoned and meticulous judgment of the presiding judge," Mr Harris said.

Mr Justice De Klerk found there were no mitigating circumstances in the cases of Jabu Masina, 36, Ting-Ting Masango, 28, and Neo Potsane, 27. He therefore sentenced them to death for the murder of two black policemen, a black town councillor and the councillor's sister-in-law.

Mr Harris pointed out that the judge had, in fact, found mitigating circumstances but had been outvoted by his two assessors, Mr L V de Kock and Dr D Botha.

Meanwhile the chairman of the Lawyers for Human Rights, Mr Jules Browde, said yesterday that the case of a Supreme Court judge being overruled by his assessors is a rare occurrence in South Africa, but nevertheless lawful.

It showed the need to give wider powers to judges so that they could use their discretion in passing sentences of death, even if no extenuating circumstances were found.

It was not yet known whether an appeal for the three would be lodged, their defence counsel, Mr Dennis Kuny, SC, said yesterday. — Sapa

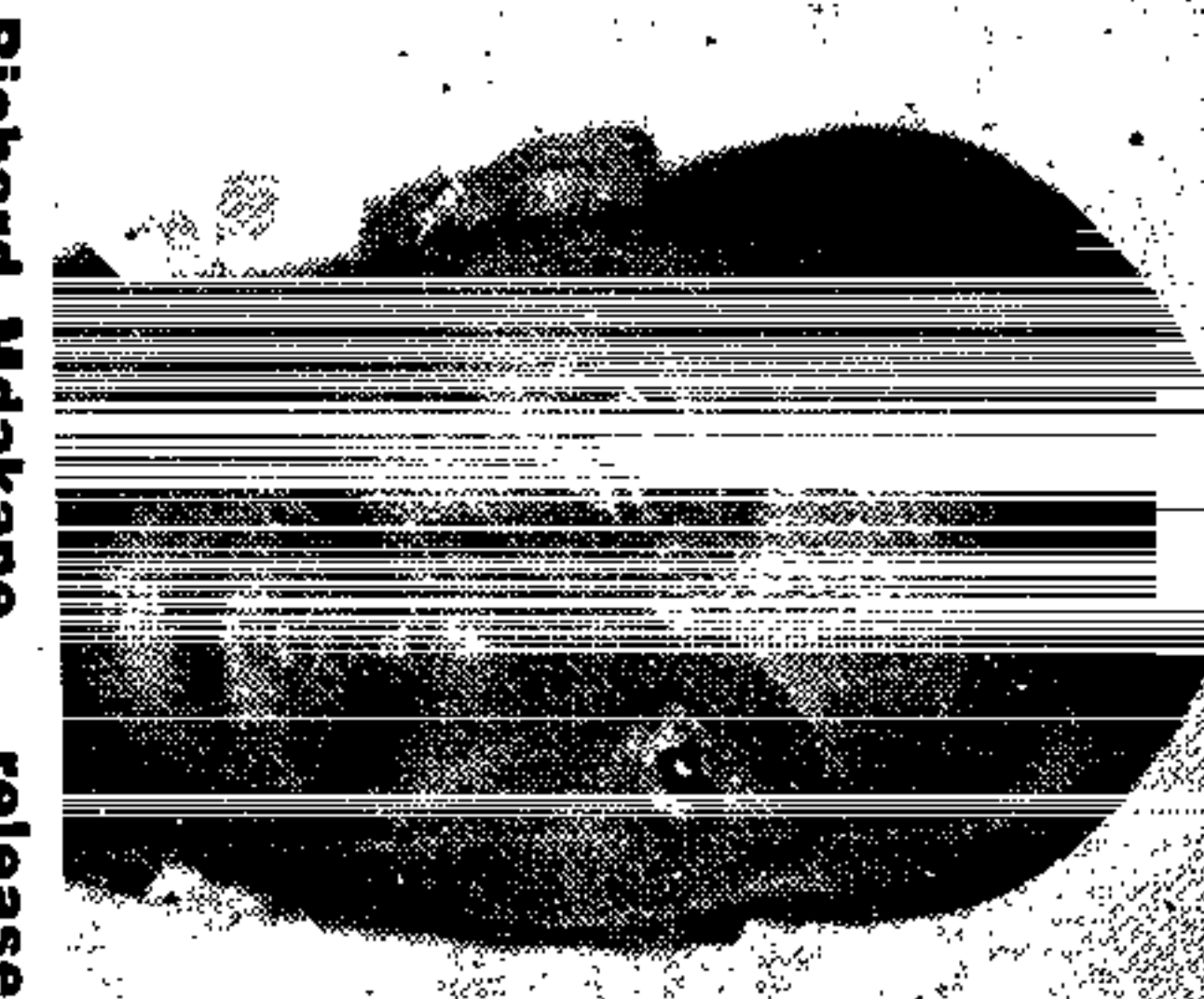




Moses Mayekiso... general secretary of the Metalworkers' Union of SA.



Obed Bapela... arrested in June 1986 - released on bail in December last year.

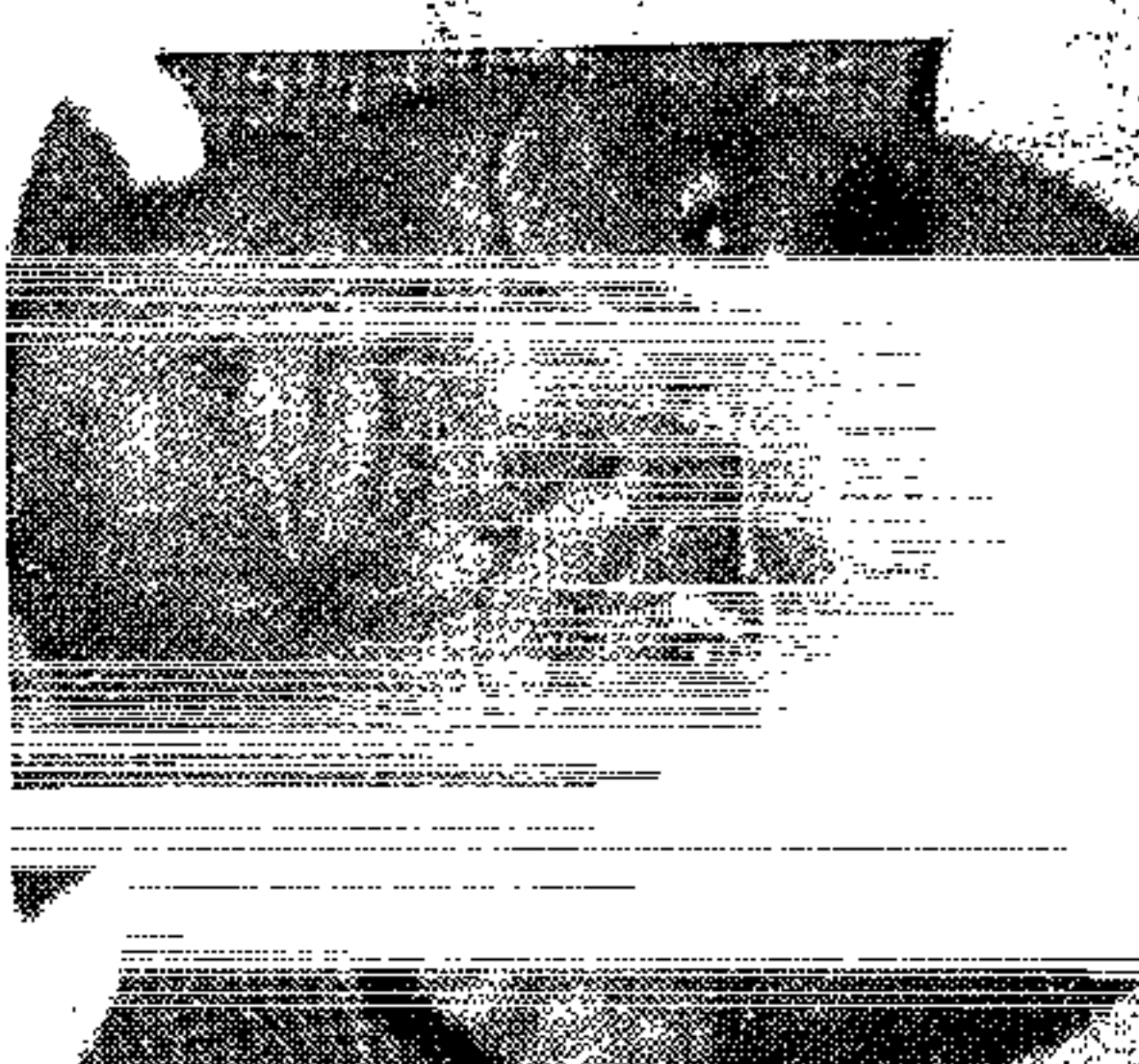


Richard Mdakane... released with three others on R5 000 bail in December 1988.



Mwanele Mayekiso... at 24, Moses' brother was the youngest trialist.

Alex  
five  
case  
could  
affect



Paul Tshabalala... free at last after more than two years on trial for treason.

# LANDMARK JUDGMENT

**By MARTIN NTSOENGOE**  
**THERE** was jubilation in the Rand Supreme Court this week after the secretary-general of the National Union of Metalworkers of SA and four others were acquitted on charges of sedition.

The acquittal by Judge PJ van der Walt of Moses Mayekiso, 40, and four other Alexandra township residents, is expected to have a ripple effect on several other prosecutions of activists who formed street committees in black townships.

The trial began in October 1987. Numsa's Mayekiso, Paul Tshabalala, 32, Richard Mdkar, 31, Obed Bapela, 31, and Mwanele Mayekiso, 24, were charged with treason, alternatively sedition, alternatively subversion.

Judge van der Walt remarked that the case was difficult for him because as a judge, he viewed it from a white perception, while a black would view it from a black perception.

The judge said: "I am sitting here as a judge. I am white. I view it in a certain way. A black will view it differently. Politics comes into it."

He expressed concern that so much time had been spent on evidence relating to the treason charge, which was eventually dropped.

"It is a matter for comment and concern that so much energy and time was spent in the course of this trial on evidence made necessary and relevant by the charge of treason which proved abortive. It re-

**In the spectrum of politics of our citizens - from black to white, and from far left to far right, with their grievances and aspirations in most cases legitimate - most of these citizens are just striving for a better South Africa.**

guilty of subversion, alternatively sedition.

The five had pleaded not guilty to all the charges.

Chris Human, SC, for the State, said then that because the witnesses refused to give evidence, and because of other difficulties, the State had given the matter a serious thought.

"We are of the opinion that the State has not succeeded beyond reasonable doubt in proving treason against the accused," he said.

The judge said on acquitting the five: "In the spectrum of politics of our citizens - from black to white, and from far left to far right, with their grievances and aspirations in most cases legitimate - most of these citizens are just striving for a better South Africa."

The judge found the State had not proved beyond reasonable doubt the guilt of the accused on charges of subversion of sedition.

In his judgment he traced the background of Alexandra, and the years in which residents developed distrust for authority.

From 1912 to 1963 blacks could own land freehold in Alexandra. The government then decided to turn it into a township of 25 000 single blacks and expropriated the freehold land. Many felt it was their birthright to stay in Alex.

Between 1976 and 1979 organisations including Rev Sam Buti's Save Alex Party persuaded the authorities to re-establish Alex as a family township. Buti's party won an election and became councilors.

Although re-development took place in terms of a master plan, only a small section of the Alexandra community benefited.

"This was clearly why the community was dissatisfied and developed a lack of trust in authority."

the judge said.

The old area had no water-borne sewerage, there was only one tap for every four to six dwellings and the roads were in poor condition, with no stormwater drains.

The judge saw this for himself. A unique feature of Alexandra was the number of shacks erected on a stand designed to house one dwelling. The yard contained up to 15 families.

The yard was the first unit of organisation Mayekiso and his co-accused set up. Each yard was to have a committee, which would sort out problems and report to street and block committees.

The judge took judicial note that blacks, unlike other population

groups, had no vote to elect members of Parliament.

The State had argued that during the period 1985-86, the five had conspired to form people's courts, yard, block and street committees.

They had also allegedly launched consumer boycotts of white-owned shops in the vicinity, campaigned against the SA Police, SADF and Alexandra Town Council led by Sam Buti.

The State said they had created marshals who forced residents to go to funerals, and enforced consumer and rent boycotts.

In 1985-86, violence had flared in black townships. Buti's home was petrol-bombed in 1985, and

the army moved into Alex in early 1986 and the "six-day war" followed.

The Alexandra Action Committee (AAC) was formed on February 17, 1986.

But the judge found the AAC minutes showed the accused were keen to involve the authorities in solving Alex's problems, which refuted any suggestion of subversion.

On April 22 1986, "radicals" were attacked by "vigilantes" during the night. It was common belief that the vigilantes were police or were being helped by police.

The said the perception had substance and said it was a matter for regret the perpetrators had never been prosecuted.



# If we are hanged...

## It will not be in vain — Delmas four

Four convicted African National Congress members stood in the dock in the Delmas Supreme Court this week and called on South Africans of all colours to "unite around the democratic perspectives for which so many people have already laid down their lives and for which we are prepared to die".

Judge de Klerk had requested that a statement by the four men be read before he heard evidence in mitigation of sentence.

The first accused, Jabu Masina, read the following statement:

IT IS important for this court and all South Africans to understand that the ANC and those that they represent turned to armed struggle as a last resort.

If anyone is aware of the true meaning of violence, it is the black peoples of Southern Africa. It is we who have been the victims of violence for centuries. Our own experience has taught us to hate violence and it was to terminate the violence against our people, which is inherent in white minority domination, that the ANC was formed.

For almost 50 years, and particularly under the extreme provocation that came with the apartheid system in 1948, we resisted the natural urge to respond by resorting to armed struggle. For more than a decade, we continued to proclaim and

follow a policy of non-violence in the face of unrelenting and mounting violence against our people. In recognition of this fact, the president-general of the ANC, the late Chief Albert Luthuli, was awarded the Nobel Peace Prize in 1960. Our non-violent resistance to apartheid, however, proved fruitless. Instead, a massacre of scores of unarmed, peaceful and innocent men, women and children was committed in March 1960, immediately followed by the outlawing of our organisation and the arrest of every known leader.

It should be noted it was not until almost two years after its being declared illegal that the ANC took recourse to armed struggle. The manifesto of Umkhonto We Sizwe, issued on December 16 1961, in explaining why the victims of apartheid violence were embarking on armed struggle, stated:

"The government policy of force, repression and violence will no longer be met with non-violent resistance only. The choice is not ours; it has been made by the Nationalist government which has rejected every peaceful demand by the people for rights and freedom and answered every such demand with force and yet more force.

We of Umkhonto We Sizwe have always sought — as the liberation movement has sought — to achieve liberation without bloodshed and civil clash. We do still. We hope that our first actions will

awaken everyone to a realisation of the disastrous situation to which the Nationalist policy is leading. We hope that we will bring the government and its supporters to their senses before it is too late, so that both government and its policies can be changed before matters reach the desperate stage of civil war."

Let it be remembered that the onslaught of Nazism

### It was to terminate the violence

### against our people, which is inherent in white minority domination, that the ANC was formed."

ultimately left the people of Europe with no choice but to fight. In the same way, the onslaught of apartheid has ultimately left its victims in South Africa with no choice but to fight.

In earlier times, the people of the United States resorted to armed struggle in the face of what they considered to be an unrelenting tyranny.

Similarly, other peoples in the world have also resorted to armed struggle to secure their freedom and the

independence of their countries. That is why the preamble to the Universal Declaration of Human Rights states:

"It is essential if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."

If we were free of the inhuman system of apartheid in our country, if we lived as full and equal citizens, without discrimination, victimisation and persecution on grounds of the colour of our skin, if black and white lived together as fellow Africans in this our common African motherland, we would have no cause to take to arms.

And yet the conflict in our country, as elsewhere in the world, can be resolved peacefully. The ANC has never been opposed to negotiation. To say this is to say nothing that is new in the ANC.

In 1952 Nelson Mandela wrote to Malan asking for a round table conference to find a solution to the problems of South Africa. That invitation was ignored. When Strijdom was in power the same offer was made. It was again ignored. When Verwoerd was Prime Minister we asked for a national convention for all the people in South Africa to decide on their future. This, too, was ignored.

In this context Chief Albert Luthuli declared: "Who will deny that 30 years of my life have been spent knocking in vain, patiently, moderately and

modestly at a closed and barred door? What have been the fruits of my many years of moderation? Has there been any reciprocal tolerance or moderation from the government? No! On the contrary, the past 30 years have seen a greater number of laws restricting our rights and progress until today we have reached a stage where we have almost no rights at all."

It was only when all other forms of resistance were no longer open to us that we turned to armed struggle. It is essential to understand what prompted the ANC to undertake armed struggle in order to appreciate why we stand here in this court as combatants and soldiers of the African National Congress. We are not criminals; we are not murderers.

I, myself, am a survivor of the Soweto revolt of 1976, where I suffered the trauma of seeing hundreds of innocent children and young people, including my own relatives and friends, drop dead from police gunfire.

That event shocked us all into the realisation that the life of the black person has no value under apartheid, and will have none until the system is destroyed.

Indeed the slaughter has continued and many more have been killed or hanged since 1976. The trauma of the Soweto killings has been with us ever since.

The actions which we undertook were not for private gain, nor prompted by revenge. These actions were taken by ourselves as

peoples are entitled to seek and receive support in accordance with the purposes and principles of the (UN) Charter."

The Freedom Charter expresses the prime motivation of the South African liberation movement and the aspirations of the majority of our people. It is no chance element that the first clause stating "the people shall govern" is a demand for self-determination.

It is no secret that realisation of this demand has been blocked by armoured vehicles and a SADF only too willing to use firepower against South Africans in the townships and in the many other areas where the struggle for freedom is conducted.

The regime does not offer peace. It has drowned all attempts to achieve peace in bloodshed and this means suppression of our people — to live free of continued armed threats and attacks in a democratic country based on one person one vote.

We, as soldiers of a people's army, struggle against a state which continues to deny the people's right to self-determination and which practices a policy of apartheid which has been characterised as an international crime.

The charge sheet refers to the ANC attacking the "state authority". Who gave it that authority? We say that the present South African government has no authority, no moral or legal right to rule over the people of this country. It is therefore our duty to bring it to an end.

ANC has expressed concern at the recent spate of attacks which led to some civilian casualties. The stated policy of the ANC is that it respects the values underpinning the humane conduct of war.

It is for this reason that the ANC has solemnly undertaken to respect the Geneva Conventions and the additional protocols of 1977 insofar as they are applicable to the struggle waged by its combatants. The convention is one of the cornerstones of international humanitarian law.

The African National Congress has taken the serious step of making a solemn declaration at the headquarters of the ICRC (International Committee of the Red Cross) that they would abide by the Geneva Conventions and Protocol 1.

The South African government has refused to sign these protocols. In doing so the ANC reiterates that for more than 75 years it has respected humanitarian principles in the struggle for freedom.

It is, however, important to note that the conflict in South Africa is of a violent and often arbitrary nature. There is a war going on in this country. The fact that the war has, in the main, been confined to the townships, does not alter the fact that South Africa is involved in a war.

The South African government has repeatedly stated that it is involved in a war with the ANC and that it is fighting for its survival. But it is we, the oppressed people of South Africa, who are under

whose sole objective is to strike at civilians. We state here and now, as combatants in the army of the African National Congress, that this struggle will continue until all elements of apartheid have been eradicated and we have a society that is free, democratic and just. It is crucial for white people in South Africa to realise this truth: that it is not democracy that threatens their future.

It is this government, determined to enforce its will by military power, which poses the threat to their very survival.

We call on all our people in South Africa, regardless of colour, to unite around the democratic perspectives for which so many people have already laid down their lives and for which we are prepared to die.

We reaffirm that in the new South Africa the people, all of the people, shall govern. We shall together translate that fundamental democratic principle into the practice whereby each person shall be entitled to vote and to be voted into any elective organ in the new united non-racial South Africa.

The new South Africa must reflect and enhance our oneness, breaking down the destructive idea and practice of defining our people by race, colour or ethnic group. The individual and equal rights of all South Africans, without regard to any racial category, shall be guaranteed.

Those rights must include freedoms such as those of association, speech, assembly, language, religion, the Press, the inviolability of family life and freedom from



acting generally under instructions and orders from our leaders.

We mention, however, that the Silverton explosion was entirely our own idea and that we were not acting under instructions from the ANC.

Our actions took place in an escalating war between those committed to apartheid and those who seek its eradication and the establishment of a society which is not based on racial superiority, divided by hatred and ruled by fear.

Since the victory over fascism in World War II, the right to self-determination of people has become recognised as a fundamental part of international law. The

**The Nationalist government has rejected every peaceful demand by the people and has answered every such demand with force."**

denial of this right to any people by any state, however powerful, is not permissible.

The right to self-determination has been incorporated in many international law instruments, most significantly as Article 1 of both United Nations human rights covenants, adopted in 1966.

A people who are denied that right are entitled to struggle for its achievement. In 1970, a major declaration passed by consensus of all states in the United Nations clarified this:

"Every state has the duty to refrain from any forcible action which deprives people... of their right to self-determination and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such

end, to remove this illegal state.

We are soldiers in a patriotic army, struggling to establish democracy and peace. We believe that we are prisoners of war and that we should be treated in accordance with international rules governing such status.

The state of war which exists in South Africa is a war of national liberation and self-determination on the basis of the Freedom Charter. We affirm that it is, as Article 1 of Protocol 1 of 1977

recognises, an armed conflict of the type in which peoples are fighting against "colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination".

The reasons which compelled us to take up arms have not changed but have indeed exacerbated with each passing day. The present South African government has left us no choice but further to escalate our offensive.

Despite numerous appeals for the release of our leaders, for discrimination to come to an end and for equality, we have been faced by successive states of emergency in which our people have been killed, wounded, tortured and detained in their thousands.

Gen Van Loggerenburg stated in Cape Town in the End Conscription Campaign trial that SA was in a state of war. Such statements are confirmed by cross border attacks into countries such as Angola, Botswana, Lesotho, Mozambique, Swaziland, Zambia and Zimbabwe.

These attacks, which have been carried out by South African Defence Force personnel, have resulted in the deaths of not only ANC members but also innocent nationals of these countries. These attacks received extensive coverage in the state media and in the South African commercial Press.

Despite the actions and attitudes of this regime, the ANC has sought to have the conflict now in progress regulated in conformity with the international laws of war, aimed at protecting civilian life and preventing barbarous conditions of combat and captivity.

In fact, the national executive committee of the

fighting for our survival.

In the result, hundreds of persons have been killed. Massacres have been perpetrated against civilians at Mamelodi, Uitenhage, Queenstown, Winterveld and elsewhere. We are witnessing a situation that is beginning to spread beyond the townships.

Indeed, we are beginning to see South Africans of all races going to bury their loved ones who have died in the course of our people's resistance to apartheid - whites, Africans, Indians, coloureds, all are going to bury their dead.

The whole of South Africa is beginning to bleed and will continue to do so unless the apartheid system is destroyed and replaced by a democratic system of government.

In the past, we have taken every precaution not to harm civilians. Thus targets such as power stations, strategic installations and military targets have been the subject of attention and elaborate steps were taken to ensure that no civilians were hurt.

We have stated that this remains our policy. However, as in any war situation, there may be instances where individual combatants are responsible for acts that go beyond policy and which cannot be condoned. It is an unfortunate and tragic fact of war that civilians fall victim to the violence.

We are more concerned about civilian lives than our adversary, the apartheid government, whose soldiers, police and vigilantes fighting under their control and direction, do not even pause to think: "How many children will be there?"

In the Second World War men, women and children were slaughtered in their tens of thousands in the cities of London, Coventry, Dresden and Hiroshima, to name a few. In more recent times the Vietnam War, the conflict in central America and the wars in the Middle East have all featured inordinate amounts of civilian deaths.

This has not been the case with the ANC. From the very beginning of our armed struggle, it has been part of the morality of the ANC that civilians should not be a target of attack. We reiterated that it is contrary to the policy of the ANC to select targets

detention without trial.

We who are fighting for a new South Africa believe all should be free to form and join any party of their choice, without let or hindrance. We reaffirm that democracy in our country cannot succeed if it permits the organised propagation of ideas of fascism, racialism and ethnicity.

History demands that the present system of government must go. Apartheid is the monstrous offspring of an immoral and criminal system which cannot be supported or tolerated. Your children are being used to kill for apartheid and your intellects are misused to perpetuate the same system.

The wealth of the country, which both black and

**We are soldiers in a patriotic army, struggling to establish democracy and peace."**

white create, is being used to keep a corrupt and undemocratic government in power. Why do you allow this to continue? The situation in our country is critical. There cannot be innocent bystanders.

To whites in this country we stretch out our arms and call on you to help end the violence of apartheid. You have the power and the opportunity to contribute decisively to redress an historical injustice which has persisted for over three centuries.

We know that this court may sentence us to death. If this happens, so be it! We love life, but we love our people and our country even more. If we are hanged, our death will not be in vain.

Those who come after us will undoubtedly complete our mission in life: to create a just and democratic South Africa which belongs to all who live in it, a South Africa in which the gallows will be placed in a museum to remind future generations how barbaric the perpetrators of the crime of apartheid were.

The struggle continues!

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**CP Correspondent**

THE identity of a self-confessed commander of Umkhonto we Sizwe, who refused to continue giving evidence in the terrorism trial of 14 people in the Cape Town Supreme Court, has been revealed.

Judge S Selikowitz ruled that Bongani Jonas could be named because there was no longer justification to protect his identity, and that proceedings involving him should be held in open court.

He also ruled that an inquiry should be held into why Jonas refused to continue to give evidence.

Originally, Jonas had not been named because of an alleged ANC policy to harm collaborators or people who betrayed the organisation.

This week Jonas reiterated his reasons for refusing to testify against "comrades".

He also refused to answer questions from either the defence or the State concerning the evidence he had already given.

Asked whether he knew the implications of his actions, Jonas said, "I am aware of the consequences. Even if a 20-year sentence is imposed on me, I am prepared to serve it."

Explaining why he wanted his name to be made known, he said: "I want the world to know my views, my identity and not to think that I am a collaborator or a traitor who decided to betray the struggle."

# Terror trial witness Mr X is named

231/1/89  
30/4/89

Appearing for Jonas, Advocate Dullah Omar said the restrictions placed on his client's identity amounted to a secret trial.

There was a likelihood that Jonas could be charged under the Terrorism Act and the Internal Security Act. There was also a possibility that he would be held in prison during the inquiry.

Omar said there was a reasonable probability that Jonas would not be harmed.

Advocate H Klem SC, for the State, argued that Jonas wanted to "render" himself a hero in the eyes of the world.

"The witness is clearly a person who is prepared to change his mind at the drop of a pin. The witness expressed his willingness to testify and has now expressed the opposite," Klem said.

The 14 accused are Tony Yengeni, Jennifer Shreiner, Lumka Nyamza, Michael Lumbambo, Mbutu Nduku, Mongameli Nkwandla, Mtheteleli Titana, Gary Kruser, Christopher Giffard, Charles Mohlale, Alpheus Ndude, Gertrude Fester, Zurayah Abass and Coleen Lombard.

## Unionists in strike trial

THREE trade unionists appeared in the Pietersburg Regional Court this week facing charges of instigating economic sabotage, inciting workers to strike and contravening the Internal Security Act.

Abraham Malatji, 41, Malesela Sekela, 39, and Rhodes Makamu, pleaded not guilty to all charges. Later all charges against Makamu – an organiser of the Transport and Allied Workers' Union – were withdrawn and a charge of inciting economic sabotage against the other two was also withdrawn.

The charges arose from a strike at Lcbowa Transport in Seshego, from June 25 to July 17, 1987.

The case continues. – Sapa

20/8/87



# Today a guerrilla, tomorrow a leader

By MARTIN NTSOELENGOE

RELATIVES and lawyers are fighting to save the lives of four ANC members convicted of murder, attempted murder and other related charges, but the Delmas trialists remain defiant.

When they emerged from the cells into the court this week they shouted: "Amandla!" to a thunderous chorus of "Awethu!"

The four, clad in the green, black and yellow ANC colours, joked among themselves, and with relatives and friends.

Three of the accused - Jabu Masina, 30, of Soweto, Ting Ting Masango, 30, of Mamelodi and Neo Potsane, 28, of Soweto - may be given the death sentence if the judge finds no mitigating factors.

Joseph Makhura, 27, of Mamelodi, was found guilty on various counts of attempted murder and sabotage.

Judgment was expected yesterday but had not yet been given by the time of going to press.

The men had refused legal representation and re-

**"Unite around  
democracy". Turn  
to Page 8 for full  
text of ANC men's  
statement.**

fused to plead before Judge MC de Klerk, claiming that as soldiers of the ANC's military wing, Umkhonto We Sizwe, they should not be tried by a civilian court.

Masina was found guilty of the murder of the most feared policeman in Soweto, Orphan Hlubi Chapi.

Potsane was convicted of the murder of the leader of the KaNgwane opposition party, David Lukhele, and his sister, Elizabeth Dlodlu, in Mamelodi.

Masina and Masango were both convicted of the murder of Sinki Vuma, a Mamelodi policeman.

When the trial resumed on Tuesday the defence advocate, David Soggo, SC, called Professor Colin Bundy of the University of the Western Cape to give evidence in mitigation.

Bundy, who specialises in South African history, told the court that about 6 000 black youths left the country after the June 16 student uprisings in 1976. Some of them joined the ANC.

He said the accused represented the present generation in pursuit of political rights.

"Today's guerrilla or freedom fighter may be tomorrow's prime minister. Robert Mugabe is a good example," he said.

# Alleged Durban bomber in court

(331) 8/10/87 2/5/87  
DURBAN — Post Natal news editor Muhammed Rafiq Rohan appeared in the Durban Magistrate's Court yesterday in connection with allegations of terrorism and of contravening the Internal Security Act.

He is facing charges of receiving terrorist training; illegal possession of weapons and explosive devices; and four of causing explosions in the Durban area.

Rohan, on crutches after apparently breaking his leg during his arrest after a bomb blast at the C R Swart single quarters earlier this month, was escorted into court by an armed policeman.

Advocate H K Naidu, appearing for Rohan, asked for an adjournment, saying Rohan had been in solitary confinement since his arrest and had had no opportunity to

consult with his legal representatives.

The hearing was postponed to May 5, and Rohan is being kept in custody.

No charges have been put to Rohan yet, but the State will allege, among other charges, that:

□ During the period October 7 1988 to November 27 1988 — and between February 10 and February 12 this year — he received terrorist training at Harare and Lusaka;

□ Between January 24 and January 25 he detonated explosive devices at the Bulwer Park sub-station;

□ On January 30 this year he caused an explosion at the SAP radio control centre in Ridge Road; and on March 10 at Natal Command headquarters.

Own Correspondent



#### Supreme Court Reporter

BOTH Mr Bongani Jonas — until last week known as Mr X — and an accused in the terrorism trial of Mr Tony Yengeni and 13 others were wounded during their arrest, the Supreme Court heard yesterday.

This was said during the evidence of Captain William Rudolph Liebenberg, commanding officer of the terrorist detection unit.

Capt Liebenberg said that after the arrest of Mr Yengeni, Ms Jennifer Schreiner and Ms Lumka Nyamza on September 17, police continued their questioning and learnt that Mr Yengeni had a meeting planned with Mr Jonas for the next afternoon.

Police kept observation while two other security policemen accompanied Mr Yengeni to the meeting place in Belgravia Road. Mr Jonas was not there, but a

## Two terror *Mr Titana 3/5/89* accused 'wounded' 33/ in arrests'

message was later received that Mr Jonas was wounded and had been arrested.

When asked where he lived, Mr Jonas took police to his home in Khayelitsha.

After further questioning of Mr Jonas, police learnt that he had planned a meeting on September 19 with accused number seven, Mr Mtheteleli Titana, at Heideveld station.

About 7.10pm he received a

message that Mr Titana had been arrested by waiting policemen and had been wounded. He had then taken police to a house in Khayelitsha.

A person living there was arrested and later identified as a Mr Dlangidlangi. He told police Mr Titana and another person, later identified as Mr Sandile Mkhonto, had brought arms there but that Mr Mkhonto had later fetched them. He called an ambulance to fetch Mr Titana from security police offices. He then told Mr Dlangidlangi that Mr Mkhonto had also been arrested.

Mr Dlangidlangi said that arms were still at his house but that he did not tell police because he had been threatened he would be murdered by the necklace method. Police had returned to his house and found arms, Capt Liebenberg said.

The hearing continues today.

# Court hears of Jonas' arrest

3-10/5/89  
ABEDNEGO Bongani Jonas, the ANC commander called by the state to give evidence against Tony Yengeni and 13 others, will know his fate on May 30.

Until then he will remain in detention in terms of Section 31 of the Internal Security Act.

Bongani, 30, who refused to give evidence only hours after entering the witness box, could face a sentence of up to five years.

Meanwhile, the Supreme Court, Cape Town heard this week how Jonas was wounded while being arrested by security policemen on September 17 1987.

Captain William Liebenberg told the court that during interrogation he discovered Yengeni had arranged a meeting with Jonas for the following day.

Two security policemen accompanied Yengeni to the meeting place in Belgravia Road, Athlone. Liebenberg heard later that Jonas had been shot during the arrest.

Jonas accompanied him from the security police headquarters to his home in Khayelitsha. Here Jonas identified where a Makharov pistol and three grenades were hidden.

They returned to security police headquarters from where he summoned an ambulance, Liebenberg told the court.



# Pamphlet, mail list in Schreiner flat, say police

11645 3/5/89

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By LINDA GALLOWAY  
Supreme Court Reporter

COPIES of a pamphlet entitled *The Communist Speaks* were found in a travel bag under the bed of terrorism accused Jenny Schreiner, the Supreme Court was told.

Security policeman Captain William Rudolf Liebenberg was testifying in the Cape Town trial of 14 people charged with terrorism who were allegedly responsible for several bomb blasts around the Peninsula in 1986 and 1987.

The accused are: Mr Tony Sitembiso Yengeni (accused No 1), Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Michael Mzimkhulu Lum-bamsbo, Mr Mbutu Richmond Nduku, Mr Wellington Monga-meli Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Sitlabocha Charles Mahlale, Mr

Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Also found in Ms Schreiner's flat was a mailing list with the addresses of "activists" in Observatory and Mowbray, the court was told.

Captain Liebenberg testified that after the arrest of Ms Schreiner and the confiscation of items in her flat, he returned to his office to question Mr Yengeni, Ms Nyamza and Ms Schreiner.

He established that Mr Yengeni was to meet Mr Bongani Jonas in Belgravia Road, Athlone, that evening and arranged for policemen to stake out the venue.

Mr Yengeni drove with two policemen in his own car to the meeting place. Captain Liebenberg said he heard about 30 minutes after the arranged meeting time that Mr Jonas

had been wounded and arrested.

He questioned Mr Jonas, who took him to a house in Khayelitsha where, wrapped in sheepskins in a cupboard, he found weapons and ammunition.

He learnt that Mr Jonas had an appointment to meet Mr Mtheteleli Titana (accused No 7) at Heideveld station and again set up an ambush.

Mr Titana was also wounded and arrested.

Captain Liebenberg said he questioned Mr Titana, who then took him to a house in Khayelitsha, where he arrested Mr Dhlangu Dhlangu.

He was told that Mr Titana and another man had stored arms at Mr Dhlangu's home. Mr Titana took him to a house in Guguletu but the man, Mr Sandile Mkhonto, was not at home.

The hearing continues.

# Bomber 'did not mean to injure'<sup>331</sup>

Supreme Court Reporter

ALLEN MAMBA, a self-confessed ANC cadre member who placed an explosive device outside a bank which exploded and killed a man and who planted a limpet mine on a railway line, at no stage intended to injure people, the Supreme Court heard yesterday.

Mamba was convicted last week of murder and terrorism. He admitted placing the device, a handgrenade attached to a limpet mine, in a bin outside the Volkskas Bank in Piers Road, Wynberg, in June last year. Mr Elliot Mphathi Ketelo died in the consequent explosion.

Mamba also admitted that on June 15 last year he and a fellow ANC member, Mr Kenneth Moyake, who has died, placed a limpet mine on the Langa-Pinelands rail line. The mine exploded later than they planned, causing damaging and disrupting traffic.

## Regret

Mr Siraj Desai, for Mamba, said "a fact which had been common cause in Mamba's trial was that he at no stage intended to injure people". Mamba must for the rest of his life bear on his conscience that someone had died, even though he had expressed regret.

Mr Mike Stowe, for the state, said Mamba had shown a "reckless disregard" for human life.

The state would ask for an effective sentence of 22 years, he said.

Sentence will be passed next Tuesday.

Mr Acting Justice G D van Schalkwyk presided. Mr H van Huysteen and Mr W S O'Brien were the assessors. Mr Desai was instructed by Essa Moosa and Associates.



# Court sentences 4 for stoning cop's house

Court Times 4/5/89 31  
Court Reporter

A TEENAGER and two young men were yesterday sentenced in Cape Town Regional Court to an effective one-year jail term for stoning the house of a policeman in Saldanha.

Johannes Strauss, 19, Jacobus Diergaardt, 23, and Godfrey Kekana, 25, all of Saldanha, were convicted of public violence and sentenced to three years' imprisonment of which two years were suspended for five years.

Their co-accused, Jacobus Januarie, 20, whom the court heard was "mildly mentally retarded", was sentenced to three years' imprisonment wholly suspended.

A 16-year-old youth and two men, Mr Robert Kekana, 29, of

Diazville, Saldanha, and Mr Maxwell Moss, 28, of White city, Saldanha, were acquitted.

The court heard that on September 12 they were part of a group of about 60 people who stoned the house of Constable A. Mitchells after a rugby match.

Passing sentence, the magistrate, Mr J.D. Huggett, accepted that Januarie was mildly retarded and that none of the accused had previous convictions. The court heard that the "trouble" had started at a nearby sports field.

The three sentenced to effective jail terms were released on R500 bail each, pending an appeal against conviction and sentence.

Mr F. Silbert prosecuted. Mr D. Potgieter, instructed by Mr T. MacDonald, appeared for the accused.

# Party for Mayekiso banned by police

*Cape Times 5/8/89*  
*331*

Own Correspondent

JOHANNESBURG. — A welcoming party for former treason trialist Mr Moses Mayekiso and six other Alexandra township activists has been banned by police in terms of the emergency regulations.

This was announced by the Alexandra Action Committee (AAC) at a press conference here on Wednesday.

The ban, issued by Witwatersrand Divisional Police Commissioner Brigadier Hendrik Muller in terms of Regulation 10 of the state of emergency, appears in the Government Gazette of April 28.

The party, scheduled to take place at Alexandra's East Bank Community Hall, had been organised by the AAC and the Alexandra Youth Congress (AYC) to welcome back Mr Mayekiso and his co-trialists Mr Obed Bapela, Mr Mzwandile Mayekiso, Mr Richard Mdakane and Mr Paul Tshabalala.

The party was also to include former Robben Island prisoner Mr Jacob Seatlholo and former emergency detainee and hunger-striker Mr Job Sithole, who recently took refuge at the German Embassy in protest against his detention without trial.



...people from the UN Secretariat who have been selected to be senior officials of Untag".

## Mayekiso 'welcome home' party banned

SIPHO NGCOBO

A WELCOMING party for former treason trialist Moses Mayekiso and six other Alexandra township activists has been banned by police in terms of the emergency regulations.

This was announced by the Alexandra Action Committee (AAC) at a Press conference on Wednesday.

The ban, which has been issued by Witwatersrand Divisional Police Commissioner Brigadier Hendrik Muller, in terms of emergency Regulation 10, appeared in the Government Gazette of April 28.

The party, which was to have taken place at an Alexandra community hall, had been organised by the AAC and the Alexandra Youth Congress to welcome Mayekiso and his co-trialists back into the community.

Mayekiso and his co-treason trialists said they feared the banning of the party would be followed by restrictions on them.

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# Terror accused to attend initiation

CNE Times 6/5/89

Court Reporter

331

A Langa teenager who was detained for eight months and faces terrorism charges had a bail condition that he report to the police deleted as he has to "go the bush" for a traditional initiation, the Cape Town Regional Court heard yesterday.

Mr Phumzile Simelela, 19, was released on R2 000 bail at a previous hearing on condition that he report to the Langa police each day and that he not interfere with state witnesses.

Mr Simelela's attorney, Mr E Mohammed, asked that the condition concerning his reports to the police be deleted. The application was granted when the state made no objection. Mr Simelela has to "go to the bush" for a month.

He was not asked to plead, but the state alleges that he was recruited as a member of the ANC by Kenneth Moyake (also known as Solly) in May last year and that he received training in the use of a hand grenade and a Makarov pistol.

The hearing was adjourned to June 19.



# Govt 'responsible' for terror reign

By ANTHONY JOHNSON  
Political Correspondent

THE government had to be held responsible for the reign of violence being waged against civil-rights activists such as Dr David Webster, the MP for Claremont, Mr Jan van Eck, said yesterday.

Speaking at the University of Western Cape at a service for the "Uppington 26" — who are awaiting sentence for murder, Mr Van Eck accused the government of condoning repression and violence against government opponents, and treating human-rights activists as though they were enemies of the state.

This gave the green light to all right-

wing vigilantes to take the sort of violent action meted out to human-rights campaigners like Dr Webster.

An example of such right-wing vigilante action was the campaign of terror waged against the NG Sendingkerk minister in Uppington, the Rev Aubrey Beukes, who had arranged services for the 26 accused.

Mr Van Eck said he had sent the Minister of Law and Order, Mr Adriaan Vlok, a dossier in which he listed incidents of intimidation against Mr Beukes.

These included death threats, his car being vandalised, smear pamphlets distributed in Uppington and crude graffiti painted on his church's wall.

In his reply, Mr Vlok said on May 2: "It would seem as if Rev Beukes has himself brought the wrath of the community upon himself and that this has possibly led to the revenge actions."

Mr Van Eck said the minister's reply was shocking since it seemed to imply that people like Mr Beukes and Dr Webster and others should expect right-wing vigilante violence if they engaged in human-rights campaigns.

Law and Order spokesman Brigadier Leon Mellet said last night: "The minister is on record as opposing all forms of violence."

Cap 1  
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### 3 in 'Kei court for terrorism

UMTATA. — A man alleged to have damaged a fuel depot here, a power station and the nearby Umtata Dam in June 1985 by placing mines there, appeared in the Supreme Court here yesterday together with two men who are alleged to have harboured him.

Mr Mzwandile Vena, 28, is facing a charge of terrorism and Mr Mzimkulu Tukela, 26, and Mr Sonwabo Mbekela, 27, are charged with harbouring a terrorist. — Sapa



# Terre'Blanche defence wants case dismissed

ARGUS  
10/5/89

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The Argus Correspondent

JOHANNESBURG. — The Krugersdorp magistrate at the trial of the leader of the AWB will make known today whether he will dismiss charges against Mr Eugene Terre'Blanche or if the case will continue.

Mr Terre'Blanche is appearing on charges of malicious damage to property and crimen injuria after an incident at the Krugersdorp Paardekraal Monument in December last year in which he and Sunday Times columnist Jani Allen were involved.

Mr Johan Rossouw, for Mr Terre'Blanche, applied for the dismissal of the charges after the State closed its case.

He said that if it appeared there was no testimony that the accused had committed the crime, the court could not find him guilty.

## DEFINITE FACTOR

It was the defence's submission that the credibility of the State witnesses was a definite factor.

If there was testimony implicating the accused, but it was of such a poor quality that no fair person could possibly find the accused guilty, then the court would be justified in dismissing the case.

Mr Rossouw said that if the court was of the opinion that it would be fruitless to carry on with the trial, as the accused would not be found guilty, the case could be dismissed and further costs, inconvenience and embarrassment to the accused could be spared.

Mr Rossouw said he was of the opinion that Miss Allen should have been called to testify by the State, which had subpoenaed her, as she was the one person who could objectively tell the court what happened.

The defence concluded from Miss Allen's non-appearance that she could not confirm the State's case. Miss Allen had in fact appeared in court, but was not called to testify.

Regarding the crimen injuria charges, it was clear to the defence that the complainants felt slandered by the accused's alleged remarks only months after he had apparently made them.

Mr Zas van Zyl, for the State, said it was completely normal for witnesses to forget smaller details months after an incident.

The court could arrive at only one reasonable conclusion, namely that Mr Terre'Blanche drove the car and that the car was first seen outside the gate and was later seen inside the grounds at the Paardekraal Monument.



AT COURT: AWB leader Mr Eugene Terre'Blanche arrives at Krugersdorp Magistrate's Court flanked by members of his organisation.

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# Accused co-operated voluntarily, says officer

By LINDA GALLOWAY  
Supreme Court Reporter

A SECURITY policeman in charge of tracking down "terrorists" told the Supreme Court that force had not been used in his presence to elicit information from Mr Tony Yengeni after he was arrested.

Captain William Rudolf Liebenberg was testifying before Mr Justice S Selikowitz at the trial of Mr Yengeni and 13 others, who have refused to plead to charges of terrorism.

The trialists are: Mr Yengeni (accused No 1), Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Michael Mzimkhulu Lumbambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Sitlabocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Cross-examining Captain Liebenberg, Mr DP de Villiers QC, for the defence, said the accused would deny that Captain Liebenberg had told them of their right to remain silent.

Captain Liebenberg denied this, and said he had warned them that they were being arrested in terms of the Criminal Procedures Act, and that they had the right to remain silent.

Mr de Villiers asked whether Mr Yengeni had volunteered answers to all the questions asked him after his arrest, and Captain Liebenberg replied that he had answered almost all the questions satisfactorily.

He said force had not been used on Mr Yengeni in his presence, and although he had noticed that Mr Yen-

geni's lip was swollen, he believed this had happened during a scuffle when he was arrested.

He (Captain Liebenberg) had been told by the two officers who arrested Mr Yengeni that they had "flattened him" ("hom platgeduik het").

Asked whether he had seen any other signs of assault on Mr Yengeni, he replied: "Not that I can remember." It was possible there were other injuries unseen under his clothes.

(Proceeding)



# Terre'Blanche defence calls for dismissal

Own Correspondent

JOHANNESBURG. — Defence counsel in the trial of AWB leader Mr Eugene Terre'Blanche yesterday called for a dismissal of all charges on the grounds that some state witnesses had given unreliable evidence.

The call came after the state closed its case against Mr Terre'Blanche, whose appearance follows an incident at the Paardekraal Monument in December last year in which he allegedly rammed two gates with his car and verbally abused two investigating police officers.

He has pleaded not guilty to malicious damage to property and two counts of crimen injuria.

Mr Johan Rossouw, SC, defending, told a packed Krugersdorp Magistrate's Court that evidence from Mr Nicholas Kearney and Miss Wanda Kearney, who testified in April that they saw Mr Terre'Blanche ram the monument gates with his car, was "totally unreliable", if not untrue.

With regard to the charges of crimen injuria laid by two police officers who confronted Mr Terre'Blanche and Sunday Times columnist Ms Jani Allan in the monument grounds, Mr Rossouw said he found it very strange that these were laid months after the incident.

He said evidence submitted by Constable Colin Page and Constable Carlos Mitchell — who testified yesterday — was also contradictory and that this empowered the court to dismiss all charges.

He said the state had not called Ms Allan to testify, as she would not have corroborated the state's case.

A finding will be given today.

CNC- Tink's  
10/5/89 (331)

# Passtoors freed in trade-off

PRETORIA. — Jailed African National Congress courier Helene Passtoors is to be deported to Brussels this week.

It is believed that three South African diplomats expelled by the Belgians following her conviction in 1986 will return to Brussels after her deportation.

Passtoors, a Dutch-Belgian national, was sentenced to 10 years for carrying arms for the ANC.

Government sources confirmed that Passtoors yesterday signed a document agreeing to restrict her movements in Southern Africa and to renounce violence.

Passtoors will be taken to Jan Smuts Airport sometime this week by South African officials — probably straight from the Pretoria Prison.

Diplomatic sources said a proposal for Passtoors' release was first discussed after her conviction.

The Belgian government continued its pressure for her release by expelling three South African diplomats — Miss A van Rensburg, Mr A S Redelinghuys and Mr A J van der Merwe.

Passtoors, 46, is the former wife of Mr Klaas de Jonge, who took refuge in the Dutch embassy in Pretoria, where he lived for two years before he was released in a spy swap in 1987.

Passtoors' lawyer has reported that she became ill and depressed in prison, where she converted to Islam. She is held in Pretoria Central Prison, the only jail in the country where executions are carried out.

She was the first foreigner convicted of treason in South Africa since trials during the Anglo-Boer war at the turn of the century.

She was convicted of treason — which she denied — on the grounds that while she was not a South African citizen she came here legally and owed allegiance to this country.

During her trial Passtoors, who had lived in several African countries for 20 years, said she had agreed to help the ANC partly because she felt she owed it to her children to demonstrate her opposition to racism and fascism.

"It was very strongly a question of duty. I did not think I had a choice." — Reuter and Political Staff.



CAPE TIMES  
Wednesday, May 10, 1989

# Yengeni gave out key address 'voluntarily'

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TERRORISM accused Mr Tony Yengeni had co-operated with security police and had voluntarily given them the address of co-accused Ms Jenny Schreiner without being forced to do so, the Supreme Court heard yesterday.

This was said in cross-examination by Captain William Rudolph Liebenberg, head of the terrorist detection unit, in the trial of Mr Yengeni, Ms Schreiner and 12 others.

Mr Yengeni, who was arrested in Rondebosch on September 17, 1987 had been warned about the reason for his arrests and of his right to remain silent. A suspected terrorist would be arrested under the Criminal Procedures Act and warned of this right, Capt Liebenberg said.

He was not permitted to detain a suspect in terms of Section 29 of the Internal Security Act because that was the job of a policeman with the rank of Lieutenant-Colonel.

When a suspected terrorist was arrested police wanted information about possible arms, helpers and also their addresses so their homes could be searched.

Asked by Mr D P de Villiers QC, if he was familiar with judges' rules, Captain Liebenberg said he was. He however did not ex-

perience problems with the rules if he wanted to find out if a suspect knew about arms or knew where his helpers were.

Told by Mr De Villiers that his system — warning a suspect in terms of judges' rules and then asking about arms and followers — appeared to work because Mr Yengeni had answered questions put to him, Capt Liebenberg said that was correct.

Both Mr Yengeni and a man arrested with him, Mr Zwandile Vena, were taken to security police offices at Culemborg and during questioning there for about 20 minutes the men gave their address as Searle Street, Lansdowne. Police then left for that address and stayed there for three hours.

## House searched

Asked why they had stayed so long, Capt Liebenberg said they had searched the entire house. They left there about 1am and arrived at Ms Schreiner's Wynberg flat about 3.45am later that morning.

Asked what security police had done between the time they left Mr Yengeni's Lansdowne house and reached Ms Schreiner's flat, Capt Liebenberg said they unpacked exhibits and drank coffee.

The first time at Culemborg he had not only asked Mr Yengeni and Mr Vena where they lived

but he had also asked Mr Yengeni about his military training, when he infiltrated the Republic and if he was involved in acts of terror.

He also wanted to know where any other possible terrorists lived, where his helpers were and a "host of other questions".

Asked if he had asked all these questions in 20 minutes and if they had been satisfactorily answered, Capt Liebenberg replied in the affirmative.

Mr Yengeni and Mr Vena had been questioned in separate offices and had been handcuffed at the time. Mr Yengeni had been in leg manacles to prevent his escape during a second interview.

He had volunteered information and no force had been used against him. If he had been assaulted he would have noticed scars, Capt Liebenberg said.

He had not seen any visible scars except for a slightly swollen lip which he had noticed when he had warned Mr Yengeni after his arrest.

## The hearing continues today.

The accused are: Mr Yengeni, Ms Schreiner, Ms Nyamza, Mr Michael Mzimkhulu Lumbambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mtheteli Tlana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Silebocha Charles Mhalele, Mr Alphus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Mr S Solikowitz 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, Mr Pius Langa and Mr Johnny de Lange and instructed by Mallinck, Ress, Richman and Closenbergh Inc; Essa Moosa and Associates; R Vassen and Co and Enver Daniels and Co. Mr Klem SC, with Mr J van Vuuren and Mrs Sandra Swart, appeared for the State.



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Crying after her son was sentenced to death, is Neo Potsane's mother

# A ray of hope, then despair

From MONO BADELA  
JOHANNESBURG.

— For a short while, it looked as though the Delmas four would all live.

Delivering sentence, Mr Justice M de Klerk appeared sympathetic, giving rise to hope for the accused.

"A person subjected to the intense influence of indoctrination and military training received in an ANC camp, who came to view himself as a soldier and freedom fighter and to whom even assassination was acceptable, would attach less blame to the act of killing than if he had not been so trained," said the judge.

The men before him, dressed in the ANC's olive-green battledress and convicted of murder, had been trained in this manner.

Because of the influence to which they had been subjected and the views they held, their degree of moral blameworthiness was "appreciably reduced", said De Klerk.

He told the court that mitigating circumstances existed and the mandatory death sentence was not warranted.

But the crunch came towards the end of his summary, shattering the hopes of relatives and friends.

His two assessors, Mr IV de Kock and Dr D Botha, held a view to the contrary, he said, and differed with him on the strength of facts before court.

## Outvoted

He had been outvoted and had no choice but to pass the death sentence on accused numbers one, two and three for their activities as ANC soldiers.

As he spoke emotions ran high in the crowded gallery, with people weeping freely or exclaiming angrily.

All were stunned by the sudden twist of fate. The three condemned men, Jabu Masina, TingTing Masango and Neo Potsane, and the fourth accused, Joseph Makhura, faced the crowd briefly from behind the glass partition that separated them from the public gallery.

Then, before descending

down the stairs to the cells below, they erupted into a powerful shout: "Viva ANC! Viva Umkhonto we Sizwe!"

Asked by the judge for a comment before passing sentence, accused number one, Jabu Masina, stood up and said: "If it was not for the system of apartheid we would not be in court and in this position."

Makhura was sentenced to an effective 25 years for multiple counts of attempted murder arising from a limpet mine blast in Silverton and a landmine blast in Soshanguve in 1986.

His co-accused were similarly sentenced.

Right to the end of their trial, the Delmas Two trialists refused to mount a defence case, claiming they were soldiers and should therefore have prisoner-of-war status.

Throughout their trial the police and SADF maintained a strong presence in and around the court.

Masina, Masango and Potsane will now join three other ANC operatives on death row in the Pretoria Central Prison.

Those already waiting for their appointment with the hangman are Robert McBride, Mthetheleli Zaphania Mncube and Mzondeleli Euclide Nondula.

McBride is on death row for the Magoos Bar bombing in Durban in which several people were killed, while Mncube and Nondulo were sentenced last year in Messina on nine counts of murder and 26 counts of attempted murder.

## Campaign to save three from gallows

JOHANNESBURG. — The National Association of Democratic Lawyers (Nadel) has reacted with outrage to the death sentences imposed on three ANC operatives at the Delmas circuit court last week.

The organisation has called on the South African judiciary to conscientiously object to the imposition of the death penalty on ANC and other combatants.

Speaking on behalf of Nadel, vice-president Mathole Motshekga said the Delmas court did not have the jurisdiction to sentence the three to death.

"We welcome the finding of Judge de Klerk which was overruled by his assessors, that mitigating circumstances were present in the Delmas case."

"We hope that on appeal the Appellate Division will overturn the judgment and accept that there are mitigating circumstances in the Delmas and similar cases."

Mr Peter Harris, lawyer for the accused, said he was "stunned" that the two assessors, one a retired magistrate and the other a retired official of the Department of Justice, should disagree with the judge's "well-reasoned and meticulous" judgment.

Meanwhile, a national and international campaign similar to that organised for the "Sharpeville Six" last year is to be launched for the three condemned ANC men.

At an emotional prayer meeting held at Johannesburg's Central Methodist Church after the sentencing, family and community leaders vowed to save the three men from the gallows.

Mr Thabo Molewa, one of the lawyers who represented the three, appealed to everyone present at the service to take up the campaign.



# Cop denies he influenced detained youth

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## Court Reporter

A POLICEMAN denied yesterday that he had influenced a 14-year-old alleged member of the "Bonteheuvel Military Wing" to make a statement to a magistrate, but admitted it was possible to influence a boy of that age during interrogation.

This was the evidence of Sergeant Ilmar Pikker in the Cape Town Regional Court yesterday. He was testifying in a trial within a trial of a youth, now aged 17, who pleaded not guilty to 10 counts of public violence, alternatively arson and malicious damage to property.

The state alleges that he set fire to three policemen's houses, a post office and six vehicles when he was 14.

The court heard that he is mentally handicapped and had attended adaptation classes for four years. He has been in custody for four months.

During a trial-within-a-trial, held after the defence claimed he was unduly influenced to make a statement to the magistrate, the youth said he was assaulted by police after his arrest on October 2, 1987. He said he was interrogated daily by Sergeant Pikker and on October 15 he made a statement to a magistrate, on the policeman's instructions.

The teenager was then befriended by Sergeant Pikker who brought him sweets, cigarettes and cool-drinks.

The hearing continues today.

# Namibia is next <sup>CAN 7/15</sup> for the <sup>11/5/89</sup> AWB chief <sup>33</sup>

Own Correspondent

JOHANNESBURG. — Following his acquittal in the Krugersdorp Magistrate's Court yesterday, AWB leader Mr Eugene Terre Blanche plans to address the Namibia issue and work with the Conservative Party to put a new government in power.

Mr Terre Blanche told this to journalists in Krugersdorp's Victoria Hotel after a brisk march from the magistrate's court where he was found not guilty by magistrate Mr F.W. van Niekerk on a count of malicious damage to property and two counts of crimen injuria.

The charges arose from an incident at the Paardekraal monument in December last year where Mr Terre Blanche allegedly rammed two gates with his car and abused two investigating policemen.

He yesterday praised the outcome saying the verdict lifted the judiciary above politics.

"Thank God this country has an honest judiciary."

● ET cleared — Page 7



# DELMAS TRIAL 5 IN NEW BAIL PLEA

A DRAMATIC sequel to South Africa's longest treason trial is imminent: the five men who were convicted late last year are continuing their fight for freedom from Robben Island.

The five have launched an application for bail pending the outcome of their appeal against conviction in the Appeal Court

and, if necessary, of a petition to the Chief Justice to widen the ground of their appeal.

Their application for bail will be the seventh since the start of the trial per se in Jun. 1985.

Originally 22 men were accused of treason: 11 were acquitted on all charges — six were convicted of terrorism but given suspended sentences.

The six earlier applications for bail, made between 1985 and 1988, resulted in all but three of the men being granted bail during the trial.

The same three men — Popo Molefe, Patrick Lekota and Moss Chikane — are applicants in the latest application.

The five Robben Island prisoners involved in the seventh

and arguably most dramatic bail application are: Molefe, Lekota and Chikane, all senior members of the United Democratic Front at, or immediately before, their arrest — Tom Manthata, a stalwart of the Black Consciousness Move-

## SOWETAN REPORTER

As leaders of the UDF, the trio were found to have been part of the UDF policy to make South Africa ungovernable through "mass action by violent means against government institutions."

Like them, Manthata was convicted of treason. The judge, however, said in passing sentence: "If the crime of treason can be notionally divided into categories his action would clearly fall in a less serious class."

He was sent to jail for six years.

Malindi was convicted of terrorism as defined in the Internal Security Act for his role in events leading to the disturbances in the Vaal Triangle in September 1984.

# Torture claims denied

Supreme Court Reporter

A SECURITY police officer denied in the Supreme Court yesterday that terrorism accused Mr Tony Yengeni had been assaulted and tortured and that a wet rubber bag had been placed over his head during interrogation.

Captain William Rudolph Liebenberg, head of the terrorist detection unit, also denied that a colleague had stepped on the injured leg of captured ANC guerilla Mr Bongani Jonas or that Mr Yengeni's shot and injured co-accused Mr Mtheteli Titana's injured leg had been twisted several times to gain information.

Mr D P de Villiers, QC, for the defence, showed Captain Liebenberg police photographs taken of Mr Yengeni during a search at co-accused Ms Jenny Schreiner's flat and asked if he could see anything abnormal on the right-hand side of Mr Yengeni's face.

There was a "considerable swelling" on the right-hand side of Mr Yengeni's face, a bruising under his right eye and a swollen lower lip, Mr De Villiers said.

Captain Liebenberg replied he could not see a swelling or anything else abnormal.

Asked about a wet mark on Mr Yengeni's trousers, Captain Liebenberg said the trousers had been wet and when he saw this during the raid on Ms Schreiner's flat, he thought Mr Yengeni had wet his pants.

He was not able to say if the trousers became wet while Mr Yengeni was lying down.

## Facial bruises

Mr De Villiers put it to Captain Liebenberg that the bruises on Mr Yengeni's face were an indication that he had been subjected to assault and torture during interrogation before and after police visited Mr Yengeni's Lansdowne address.

Captain Liebenberg denied this and added that Mr Yengeni had never been threatened by a W/O Nel that "ugly things" would happen to him if he refused to co-operate.

He further denied that Mr Yengeni's beard had been pulled, that he had been slapped and kicked, that he had fallen while handcuffed and manacled and also that he himself had threatened to kill Mr Yengeni.

Mr De Villiers further put it to Captain Liebenberg that during questioning W/O Jeff Benzien had threatened to fetch his "stuff", that the interrogation had lasted for four hours and that police had only visited Searlle Street after midnight.

Captain Liebenberg denied this.

He further denied that after the raid on Ms Schreiner's flat W/O Benzien had arrived with his "stuff", taken Mr Yengeni to

*Capt Tink 11/5/89*  
**Court hears  
of beatings,  
rubber bag**

another office, replaced the standard handcuffs with rounder ones, placed a wet towel around Mr Yengeni's eyes and then placed a wet rubber bag over his head.

He also denied that W/O Benzien had made Mr Yengeni lie on his stomach and that he had tightened the rubber bag and caused Mr Yengeni to lose consciousness. He had regularly visited the interrogation and had not seen W/O Benzien do this, Captain Liebenberg said.

Mr De Villiers further put it to him that Mr Yengeni had been unwilling to give police information and that he had been coerced to do so. This Captain Liebenberg denied.

He confirmed that Mr Jonas had been arrested and wounded before a scheduled meeting with Mr Yengeni in Athlone on September 17. Captain Liebenberg said he had first seen Mr Jonas at security police offices at Culemborg and had asked him about the seriousness of his wound.

He did not do anything about Mr Jonas' wound and when he had asked him about it Mr Jonas had said the bleeding had stopped and that there was no feeling in the area surrounding the wound.

In response to questions Mr Jonas had told him he was prepared to be transported to point out places to police. He was then carried in a blanket, Captain Liebenberg said.

Asked if he had not thought it wise to get Mr Jonas medical attention, Captain Liebenberg said he did not at the time.

Mr De Villiers then asked Captain Liebenberg what he would say to Mr Jonas' testimony that W/O Benzien had asked him where the wound was and had then stood on the wound while interrogating him.

Captain Liebenberg replied it had not been done in his presence. He was however aware that Mr Jonas had been operated on the next day and a metal pin inserted to mend a fracture.

Asked what he would say if evidence was

led that Mr Jonas had pleaded with security police to be taken to hospital but was told he must give police information, Captain Liebenberg said it would not be correct.

Told by Mr De Villiers that had Mr Jonas been arrested in terms of the Criminal Procedures Act he would have been entitled to his own doctor and attorney, Captain Liebenberg agreed.

He agreed that in both instances Mr Jonas' situation had changed when he was detained in terms of Section 29 of the Internal Security Act. He was not able to say if Mr Jonas had deliberately or incidentally been detained in terms of Section 29 before being taken to hospital.

In response to questions Captain Liebenberg — who had testified that Mr Titana was also wounded during his arrest at Heideveld station — denied that he had been present.

Mr Titana had only been admitted to Woodstock Hospital, then transferred to Groote Schuur Hospital, after he had been taken to Culemborg for questioning. He was not aware that Mr Titana had bled profusely from a wound in his right buttock or that he had been placed on an intravenous drip, Captain Liebenberg said.

While pointing out places to police Mr Titana had not been bleeding and neither was this the case when they returned to Culemborg.

## Extreme pain

Mr Titana had willingly showed police his house in Khayelitsha and never complained of extreme pain. Captain Liebenberg further denied that he had slapped Mr Titana.

Mr De Villiers put it to Captain Liebenberg that his colleague W/O Nel had "grabbed Mr Titana's injured leg and swung it around like an old car's starter sling, imitating the noise of a starting car".

Captain Liebenberg denied this and said W/O Nel had not been present. He also denied that W/O Nel had done it a second time or that Mr Titana had asked W/O Nel to take him to hospital.

He further denied that later at Culemborg W/O Nel had told Mr Titana that worse could happen to him and that because of the pain Mr Titana had agreed to point out places to police.

He also denied that he and W/O Nel had again twisted Mr Titana's leg, that he had pointed a pistol at his face and that he had threatened to shoot him.

The hearing continues today.

The accused are: Mr Yengeni, Ms Schreiner, Ms Lumka Nyamza, Mr Mzimkhulu Lumbambo, Mr Mbutu Nduku, Mr Mongameli Nkwandla, Mr Titana, Mr Gary Krusor, Mr Christopher Giffard, Mr Sitalaboche Mahlale, Mr Alphaus Ndude, Ms Gertrude Fester, Ms Zurayah Abasa and Ms Colleen Lombard.



# Police deny 'cranking' shot-shattered leg

By LINDA GALLOWAY  
Supreme Court Reporter

11/15/87  
Jenas, who has refused to be a State witness, had all been assaulted by security police.

A MAN who was shot four times in the leg when he was arrested had his leg "cranked like the starting-handle of a vintage motor car" and was denied access to medical attention for several hours, it was alleged in the Supreme Court, Cape Town.

Captain Liebenberg denied that assaults or torture had taken place in his presence.

The trialists are Mr Tony Sitembiso Yengeni, Ms Jennifer Ann Schreiner, Ms Lunika Elizabeth Nyamza, Mr Michael Mzinkhulu Lumbamsbo, Mr Mbutu Richmond Nduku, Mr Welling-ton Mongameli Nkwandla, Mr Mtheteli Titana, Mr Gary Kruse, Mr Christopher John Giffard, Mr Siliabo-cha Charles Mahlale, Mr Alpheus

Nkwana Ndude, Ms Gertrude Magda-leen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Mr de Villiers said Mr Titana would say that Captain Liebenberg was present when he was shot four times in the thigh at Heideveld station in September 1987. He had identified the policeman by his reddish beard.

Mr Titana had pleaded with Captain Liebenberg and Sergeant Nel to take him to hospital, but Captain Liebenberg had replied: "Not before you tell us what we want to know."

Mr D P de Villiers, QC, was yesterday cross-examining security policeman Captain William Rudolf Liebenberg during the trial of 14 people charged with terrorism, and said two of the accused, Mr Tony Yengeni and Mr Mtheteli Titana, and Mr Bongani

He would say that a Sergeant Nel, who was with Captain Liebenberg, had taken his shattered leg by the ankle and "cranked it like the starting-handle of a vintage car, making noises like a car starting". He had done this twice.

Mr Titana had pleaded with Captain Liebenberg and Sergeant Nel to take him to hospital, but Captain Liebenberg had replied: "Not before you tell us what we want to know."

He said he could not remember Sergeant Nel being present that night. The hearing continues.



A dramatic sequel to South Africa's longest treason trial is imminent: the five men who were convicted late last year are continuing their fight for freedom from Robben Island.

The five have launched an application for bail, pending the outcome of their appeal against conviction in the Appeal Court and, if necessary, of a petition to the Chief Justice to widen the grounds of their appeal.

Their application for bail will be the seventh since the start of the trial *per se* in June 1985. Originally 22 men were accused of treason: 11 were acquitted on all charges; six were convicted of terrorism but given suspended sentences.

The six earlier applications for bail, made between 1985 and 1988, resulted in all but three of the men

## Another chapter in an unce

being granted bail during the trial. The same three men — Popo Molefe, Patrick Lekota and Moss Chikane — are applicants in the latest application.

The five Robben Island prisoners involved in the seventh and bail application are: Molefe, Lekota and Chikane, all senior members of the United Democratic Front at, or immediately before, their arrest; Tom Mantsata, a stalwart of the black consciousness movement and a field worker with the SA Council of Churches, and Geinumuzi Malindi, a member of the Vaal Civic Association.

South Africa's longest treason trial, from June 1985 to November 1988, is still a subject of legal argu-

convicted of treason by Mr Justice K van Dijkhorst on November 15 last year. Molefe and Chikane were sentenced to jail for 10 years; Lekota, who had a previous conviction, was jailed for 12 years.

As leaders of the UDF, the trio were found to have been part of the UDF policy to make South Africa ungovernable through "mass action by violent means against government institutions".

Like them, Mantsata was convicted of treason. The judge, however,

said in passing crime of treason divided into categories, would clearly fall class." Mantsata years.

Malindi was convicted as defined in the Act for his role to the Disturbance Triangle in September 20 January

On 20 January Dijkhorst granted to appeal against

## Waging fight for freedom

ment as those convicted continue their fight for freedom from Robben Island. **PATRICK LAURENCE** reports.

sentence: "If the can be notionally egories his action 1 in a less serious was jailed for six

invicted of terror- the Internal Security in events leading ices in the Vaal ber 1984. Mr Justice van all five men leave conviction and for

a special entry to be made. A "special entry" is usually associated with alleged irregularities in court proceedings; in this case it relates to the controversial dismissal by the trial judge of one of his assessors, Professor W A Joubert.

Leave to appeal against sentence was refused, however, so was leave to appeal against a major portion of the judgment, running to more than 200 pages, on the situation in the South Africa between July 1984 and July 1985.

The grounds for launching the latest bail application are not known. But, judging from the earlier applications for bail, it is likely to include the argument that the security situation has improved substantially since bail was first refused through a signed order from the Attorney-General.

Another argument, used in the sixth bail application, is that the UDF is now a restricted organisation and that its capacity for action threatening the security of the state is thus severely contained.

Strengthening that contention is the freedom now enjoyed by two former UDF detainees, Mr Mohammed

Valli and Mr Murphy Morobe, both of whom occupied senior positions in the UDF. Their freedom has *prima facie* not imperilled the security of the state.

These considerations apart, the five Robben Island prisoners may be presumed to have undertaken to refrain from political activity pending the outcome of their appeal.

But, more important, it is an open secret that five and their lawyers believe that their appeal has a good chance of succeeding, particularly their contention that the dismissal of Professor Joubert was irregular and unlawful.

Thus, in their view, it would be unfair to incarcerate the five men while they wait for the inevitably drawn out legal proceedings.



# Union couple 'learnt combat work'

From MONO BADELA  
JOHANNESBURG. —  
Former Lansdowne resi-  
dent Lucienne Abrahams,  
28, stood in the dock at  
the Johannesburg regional  
court this week to hear a  
"comrade" testify against  
her.

Abrahams and her com-  
mon-law husband, Gerald  
Nyembe, 32, of Soweto,  
have pleaded not guilty to  
charges of terrorism and  
furthering the aims of the  
African National Congress

(ANC).

The mystery state witness  
told the court he had met  
Abrahams at ANC camps  
in Angola and at a house  
in Lusaka, where she was  
known as "Julie".

Abrahams is a former or-  
ganiser of the Media  
Workers' Association of  
South Africa who later  
worked with her husband  
for the Paper, Wood and  
Allied Workers Union.

This week magistrate Mr

PB Luyt accepted an ap-  
plication by the state pros-  
ecutor, Mr PH van Staden,  
that the hearing be held in  
camera.

Van Staden said the  
names of the two state  
witnesses, both alleged  
former members of  
Umkhonto we Sizwe,  
needed to be protected as  
"anything could happen to  
them and their homes, as  
well as those of their  
friends".

The state alleges in a

seven-page indictment that  
Nyembe and Abrahams  
left South Africa between  
January 1986 and March  
1986 to join the ANC and  
to receive military training  
in Angola.


The state also alleges that  
Abrahams, on the instruc-  
tions of the ANC, illegally  
entered South Africa via  
Botswana between Octo-  
ber and November 1987.

She had not seen her  
husband since early 1988,

when he was detained by  
police in the Transvaal.

A year passed before she  
saw her husband again,  
this time in the dock when  
they appeared together in  
the Johannesburg regional  
court in February.

The mystery state wit-  
ness, "Mr X", told the  
court that Abrahams and  
Nyembe had attended sev-  
eral camps in Angola,  
where they were trained in  
military combat work.

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11-17/5/89.



Rohan's family outside court last week. From left: His sister Charmaine Benson, an unknown relative, his uncle Chotoo Bhana and brother-in-law Alvin Benson

## News-editor faces terrorism charges

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Smith

DURBAN. — Last Friday the staff at the Natal Post newspaper came to work late, without management complaining.

They did the same thing the week before. And they will do it again on May 22.

On the last two Fridays, the staff has first stopped by at the magistrates courts to shake hands with their news editor, Rafiq Rohan, 35, who faces six terrorism charges.

Rohan, on crutches since breaking his leg at the time of his arrest, is appearing in court amid tight security.

Last Friday he hobbled before magistrate CJ Loubser to plead not guilty to four bombing charges, terrorist training in Harare and Lusaka, and illegal possession of weapons

and explosives.

Rohan is represented by a high-powered legal team, including advocate Kessie Naidu, who was involved in a heated exchange with security branch WO W Fourie, at the first appearance.

Fourie was accused of having flouted the legal team's orders to stay away from Rohan, who is being held in isolation.

In contrast, lawyers only received permission to see Rohan hours before.

Naidu warned that Fourie would be interdicted if he did not reform, outlawing all conversation except on the topic of the weather.

State prosecutor Christo van Schalwyk told the court he would oppose a bail application on May 12.



# State acts against 'Mr X'



Andile Jonas

By HENRY LUDSKI

AN ANC commander given star treatment by the state while preparing to testify in a major political trial in the Supreme Court, Cape

Town, has since been stripped of all privileges.

The relative comfort accorded to Abednego Bongani Jonas while being held under Section 31 of the Internal Security Act as a state witness ended

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abruptly after he refused to testify in the case of Tony Yengeni and 14 others in the Supreme Court, Cape Town.

"After my brother took this decision, they stopped the hotel food, took away his radio and all the clothes they had bought him, and refused to allow him any further contact with his family," said Andile Jonas this week.

He said his family was concerned about his brother's welfare, as he had been in detention since September 1987.

Jonas, 30, could face a sentence of up to five years for refusing to give evidence.

When he stepped into the witness box for the first time on April 18 to give evidence against Tony Yengeni and 13 others facing charges of terrorism, Jonas wore a new blue suit.

## Unlaced shoes

But when he next appeared in court after his dramatic announcement that he was no longer prepared to be a state witness, Jonas wore a T-shirt, shorts and unlaced shoes.

The state had collected the two new suits and other items of clothing they had bought him.

"I had to go out and buy him a suit, shoes and other clothes, to wear to court," said Andile Jonas, a teacher at ID Mkize High School, where his brother studied 10 years ago.

In a letter to Jonas' lawyer, a spokesperson for the Attorney-General's office explained that while being held under Section 31, "certain privileges", to which he was otherwise not entitled, had been granted to Bongani Jonas.

"When your client (Jonas) refused to answer any further questions in court the privileges were withdrawn," said the spokesperson.

Meanwhile, the trial continued this week with Captain William Liebenberg, head of the terrorist detection unit, denying that Yengeni had been tortured and assaulted by security policeman W/O Jeff Benzien.

Cross-examined by Mr D P de Villiers, for the defence, Liebenberg also denied that during the four hours of interrogation Benzien had tightened a wet rubber bag over Yengeni's head until he had lost consciousness.

Liebenberg also denied that a colleague had stepped on Jonas' injured leg.

# ET cleared: Court says case has no value

copy Times 11/5/89 331

JOHANNESBURG. — AWP leader Mr Eugene Terre'Blanche was yesterday acquitted on charges of malicious damage to property and crimen injuria.

Krugersdorp magistrate Mr S W van Niekerk found part of the testimony in the state's case "unbelievable and of no value".

Mr Terre'Blanche had pleaded not guilty to the charges, which arose from an incident at the Paardekraal Monument last year in which the gates to the property were damaged by a car, a lock was forced and two policemen were sworn at.

At the time Mr Terre'Blanche is said to have been in the company of Sunday Times columnist Ms Jani Allan.

Mr Van Niekerk said the court could not prove who had damaged the gate

and the lock on the gate.

He said the court had heard testimony from three groups of witnesses.

The first included police experts and was about the damage to the gates at the monument. The second group consisted of Mr Nico Kearney and his daughter Wanda, who live opposite the monument gate, and the third group consisted of Constables Colin Page and Carlos Mitchell.

It was common knowledge that the gates at the monument and the lock had been damaged between 2pm on December 26 and the evening of December 27.

Mr Van Niekerk said there were three versions of why the police were called to investigate an incident at the scene and the court could not determine which was the correct version.



taking shape in a shed at ... martin. A computer was used to "race" eight boats around the world the docks.

Cape Times 12/5/89  
**News editor tells of  
'threats, harassment'**

DURBAN. — Post Natal news editor Mr Muhammed Rafiq Rohan, 35, claimed in an urgent application to the Supreme Court here yesterday that he was being harassed, threatened and questioned against his will by a security policeman.

In an application citing the Minister of Law and Order and Warrant-Officer T Fourie, Mr Rohan asked for an order interdicting the respondents, or those under their control, from questioning, harassing, threatening or communicating with him except through his attorneys.

Mr Rohan is in custody in Wentworth Prison awaiting trial on six counts of contravening the Internal Security Act. He has pleaded not guilty.

Mr Rohan said that although his lawyer had informed W/O Fourie that Mr Rohan was not obliged to answer questions, W/O Fourie continued to question him. When he refused to respond, W/O Fourie threatened to make his life "miserable".

His attorneys had written a letter of complaint to the police. A reply "emphatically denied" improper conduct but said, nevertheless, that W/O Fourie undertook not to act unlawfully.

Judgment was reserved. — Sapa

# Court shields awaiting-trial pressman

IN a case which could have far-reaching implications for all awaiting trial prisoners, the news editor of a Durban newspaper has been granted an order barring the police from questioning him about the offences he is alleged to have committed.

Rafiq Rohan, who works for the *Natal Post*, has been charged with a number of counts under the Internal Security Act. He has already appeared in court where he pleaded not guilty on all counts.

Yesterday his lawyers brought an application for an interdict in the Durban Supreme Court, complaining he was being harassed by the investigating officer in his case.

They asked the court for protection against Warrant Officer T Fourie. An order was granted despite police op-

position.  
By CARMEL RICKARD,  
Durban

In his affidavit, Rohan alleged that even after he had been charged and had pleaded to these charges, the police officer questioned and harassed him about the offences he is alleged to have committed.

At Rohan's first court appearance, his lawyers warned the police that Fourie should stop questioning their client or they would go to court.

However, Rohan said Fourie had continued and that he had said, "I don't care what your attorneys do or say, even if they want to go to the supreme court. If I want to see you I will see you because I am the investigating officer."

The judge said such questioning, after Rohan had been charged, could have the effect of getting from him concessions which were against his interests. He ordered that no police officer may question Rohan in connection with the charges.

The police have also been barred from in any way harassing or threatening him. The matter comes to court again later this month.

When the case is argued, one of the issues will be whether an awaiting trial prisoner has the right not to be questioned by police.

Until now it has been standard practice that police do not question such prisoners, but the judge said yesterday that it appeared this was an open question which the court would have to consider.



# Court told of police 'system'

AKG 12/6/87 331

By LINDA GALLOWAY  
Supreme Court Reporter

THE SECURITY police used a "system" in dealing with alleged terrorists so they could be forced to answer questions and make confessions before being allowed access to medical care, it was alleged in the Cape Town Supreme Court.

Mr D P de Villiers QC was cross examining Captain William Rudolf Liebenberg of the security police during the trial of 14 people charged with terrorism.

The accused are Mr Tony Sitembiso Yengeni (accused No 1), Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Michael Mzimkhulu Lum-bambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongameli Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher John Giffard, Mr Sitlabocha Charles Mahlale, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Captain Liebenberg had testified that Mr Titana and Mr Bongani Jonas were both wounded when they were arrested in terms of the Criminal Procedures Act.

## HIDDEN ARMS

They had "voluntarily" answered questions, had been driven around the Peninsula to recover hidden arms, and given information about accomplices before the terms of their detention were changed to Section 29 and they were taken to hospital for treatment.

It is a provision of the law that somebody detained in terms of Section 29 be taken to see a district surgeon "as soon as possible" after they are detained.

The Criminal Procedures Act does not have any such provision.

Mr de Villiers put it to Captain Liebenberg that there was a pattern — that the wounded person was first detained in terms of the Criminal Procedures Act, taken to make discoveries and then held in terms of Section 29.

Captain Liebenberg denied there was a pattern and said each case was handled individually. He said only a policeman of the rank of lieutenant-colonel or higher could detain somebody in terms of Section 29 and somebody of that rank was not always available to consider the circumstances of the detainee.

## DISTRICT SURGEON

Mr de Villiers said he believed this system was used so that detainees did not have to be taken to a district surgeon immediately, because the discovery of weapons and explosives, and the arrest of accomplices, would be delayed by the hospitalisation of the detainee before questioning.

● A man who allegedly hid weapons in his house in Khayelitsha, and who was to have given evidence as a State witness in the trial, had died, the court was told.

Mr de Villiers told the court that the State had led evidence last week about Mr Dhlangu Dhlangu.

Mr Justice S Selikowitz will rule today on the admissibility of the evidence concerning Mr Dhlangu Dhlangu.

## Supreme Court Reporter

SECURITY police used "rehabilitated terrorists" known as the "A-Team" during the arrest of terrorism accused Mr Mtheteli Titana, the Supreme Court heard yesterday.

This was evidence in the trial of Mr Tony Yengeni and 13 others during the cross-examination of Captain William Rudolph Liebenberg, head of the terrorist detection unit.

Asked by Mr D P de Villiers QC if he knew about the A-Team, Captain Liebenberg said he knew only that it had been a television programme. Told that the group was sometimes known as the Askari team, Captain Liebenberg said he pleaded privilege and needed an adjournment in order to get permission from the State prosecutor and his superiors.

## Wounded

When court resumed after a short adjournment, Mr De Villiers again asked if a police unit known as the Askari team existed.

Captain 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".

In reply to further questions he said black policemen had been present at the arrest of Mr Bongani Jonas but they were not members of the unit. Both Mr Jonas and Mr Titana had been shot and wounded by the same policeman.

# Cop tells of former terrorists' in the A-Team

CHT Tim's  
12/5/89  
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Asked if a person known as Lucky was a member of the Askari unit, Captain Liebenberg said he was not prepared to reveal that.

Mr De Villiers said that when Mr Titana was taken to security police offices at Culemborg a person known as Neville told him that he and other black policemen were members of the "A-Team". Captain Liebenberg said he had arrived later and this had not been said in his presence.

Nor was he present when Mr Titana was told the A-

Team were "Transvaal boere" and that he was in a "precarious position". He was also not present when Mr Titana was told by Neville that he could be killed at any time.

Mr De Villiers put it to Captain Liebenberg that because of intimidation at Culemborg and the fact that he was wounded, Mr Titana had agreed to show certain things to police. Captain Liebenberg replied that Mr Titana had agreed to do so voluntarily. He denied that he had pointed a pistol at Mr Ti-

titana's face during interrogation.

Mr De Villiers suggested to Captain Liebenberg that the procedure he used — arresting a suspect in terms of the Criminal Procedures Act and subsequently detaining under security legislation — was to avoid the need to take the suspect to a district-surgeon.

Captain Liebenberg replied that if he had the rank of lieutenant-colonel he would detain a suspect immediately under security laws. But he conceded that tracing a suspected terror-

ist's arms or comrades could be delayed if the suspect was taken to a district-surgeon as required.

He further conceded that should a suspect be wounded — like Mr Jonas and Mr Titana had been — the district surgeon would recommend that the suspect be hospitalised and not accompany police to point out places.

Captain Liebenberg denied that accused Mr Gary Kruser had been slapped and punched after his arrest and handcuffed to burglar bars in an office at Culemborg. This had not happened in his presence, he said.

## Limpet mines

He also denied that a day after his arrest Mr Kruser was handcuffed during interrogation, had his feet manacled, and that Warrant-Officer Jeff Benzien placed a rubber bag over his head, pulled it tight and threatened to "take him to the verge of death".

Captain Liebenberg also denied that after his arrest on October 28, 1987, Mr Silabocho Charles Mahlale (accused number 10) was slapped and threatened when questioned about alleged ANC members, associates and limpet mines at Manenberg police station.

The hearing continues today.

The accused are: Mr Yengeni, Ms Jennifer Schreiner, Ms Lumka Nyanza, Mr Michael Lumbeno, Mr Mabus Ndabe, Mr Wellington Nkwenkwe, Mr Titana, Mr Kruser, Mr Christopher Giffard, Mr Mahlale, Mr Alphus Ndube, Ms Garuda Foster, Ms Zureyah Abass and Ms Colleen Lombard. Mr Justice S Selikowitz is on the Bench with Mr W S le Roux and Ms J V Knoll as assessors. Mr De Villiers appears with Mr Mike Doreen, Mr Pius Lange and Mr Johnny de Lange and is instructed by Mallinck, Ross, Richman and Cloenberg Inc; Esaa Moosa and Associates; R Vassen and Co and Enver Daniels and Co. Mr H Klein SC, with Mr J van Vuuren and Mrs Sandra Swart, appears for the State.



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## Magistrate throws out teenager's confession

### Court Reporter

A 14-YEAR-OLD alleged member of the "Bonte-heuwel Military Wing", who was interrogated for eight days, was unduly influenced by police to make a confession to a magistrate, a Cape Town Regional Court found yesterday.

Magistrate Mr J M Lemmer rejected the confession on these grounds after a trial-within-a-trial was held to determine whether the youth, now aged 17, was influenced by police to make a statement.

The youth, who may not be identified, is charged with setting fire to three policemen's houses, a post office and six vehicles when he was 14.

The youth, who attended adaptation classes, pleaded not guilty to ten counts of public violence alternatively arson and malicious damage to property. He has been in custody for four months after breaching his bail.

An application for the youth's acquittal was turned down and the hearing continues today for the defence and the state to address the court.

Mr D J Brand prosecuted. Mr D Potgieter, instructed by E Moosa and Associates, appeared for the youth.

## Bombers get double death sentences <sup>(33)</sup>

*own times 13/8/89*  
Own Correspondent

UMTATA. — Two Umtata men, Ndibulele Ndzamela, 28, and Pumuzile Mayapi, 23, each received a double death sentence here yesterday on two counts of murder, arising from a bomb blast at the Mzamba Wild Coast Casino in April 1986.

Mr Anthony Hudson of Durban and a 13-year-old Bizana boy, Moffat Bhekuzulu Ntakane, died in the explosion.

Ndzamela and Mayapi were also sentenced to 18 years' imprisonment on a charge of terrorism.

Mr Justice Mitchell described the killing as a cold, calculated and callous act, and also premeditated in the way the mines were concealed in the toilet, where they could be placed easily.

He said the act was politically motivated and it could not be understood in a country like Transkei, where there was no class distinction.



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CAPT T. 13/5/89  
**Treason: 3 acquitted**

MMABATHO. — Three members of the disbanded Bophuthatswana National Security Unit in the Defence Force, charged with high treason, were acquitted in the Supreme Court at Rooigrond near Mafikeng yesterday.



# Bail for detained church worker

*copy sent 13/5/89*  
*331*

**Court Reporter**

A PREGNANT Western Province Council of Churches field worker, Ms Vuyiswa Jack, was granted R5 000 bail in Wynberg Regional Court yesterday after being detained for six months under Section 29 of the Internal Security Act.

Ms Jack, 35, of Nyanga, a mother of two, is also a member of the United Women's Congress. She is due to be admitted to hospital to have her baby on Monday.

She was arrested on November 17 last year and faces charges of terrorism. She was not asked to plead.

Bail was granted on condition that Ms Jack not interfere with state witnesses, that she report to the Guguletu police every third day — except when in hospital — and that she inform the investigating officer of her admission to hospital.

The matter was adjourned to June 12 for a Supreme Court date to be set.

Mr AS McCarthy was the magistrate. Mr M Stowe of the attorney-general's office prosecuted. Mr BT Ngcuka appeared for Ms Jack.

**RELEASED . . .** Ms Jack, released yesterday on R5 000 bail after being detained under Section 29 of the Internal Security Act for six months. A mother of two, she is due to give birth on Monday.

Picture: FANIE JASON



# 'I wasn't there,' says officer of interrogation

Capt. Tink 13/5/89 331

## Supreme Court Reporter

A SECURITY police officer yesterday denied in the Supreme Court that he had been present at an interrogation where terrorism accused Mr Gary Kruser was tortured and that he had intervened to stop it.

Captain William Liebenberg, head of the terrorists detection unit, further denied — during cross-examination in the trial of Mr Tony Yengeni and 13 others — that Mr Kruser had been interrogated while standing on his toes with his arms cuffed to burglar bars high behind him.

In reply to questions by Mr D P de Villiers QC, for the defence, Capt Liebenberg denied that Mr Kruser had been slapped by police when he was placed in their vehicle or that he had been threatened by black policemen shortly after his arrest.

He further denied that Mr Kruser had been told that he was a terrorist, that no-one knew that he had been arrested or that he was not important and would be sent home if he co-operated with police.

Mr De Villiers put it to Capt Liebenberg that during interrogation at Culemborg (security police offices), Mr Kruser's arms were raised behind his head and cuffed to burglar bars. Capt Liebenberg replied it had not happened in his presence and further denied having seen Mr Kruser's wrists bleed because of the handcuffs.

Mr De Villiers put it to Capt Lie-

benberg he had tried to persuade Mr Kruser a week after his arrest to make a confession to a magistrate. He denied this and said Mr Kruser had done everything voluntarily and had not been influenced. He also did not tell Mr Kruser he would be returned to his cell and kept there for five months if he refused to make a confession.

Capt Liebenberg further denied having been present when Warrant-Officer Jeff Benzien told Mr Kruser that no-one knew he was in detention and that security police could kill. He was also not present when Mr Kruser was told by W/O Benzien that Mr Bongani Jonas and Mr Titana were in hospital and that the same could happen to him if he were not careful.

Earlier, at the start of the proceedings, Mr Justice S Selikowitz ruled that evidence given by Capt Liebenberg about what a Mr Dhlangu Dhlangu is said to have told him was inadmissible as evidence.

Capt Liebenberg had testified that Mr Dhlangu Dhlangu — he has since died of cancer — had told him that Mr Mtheteleli Titana and another man had stored arms at his Khayelitsha home but that the other man had collected the arms.

Mr Dhlangu Dhlangu later told him that the weapons were in fact stored at his house but that he was too scared to tell police of it because he had been threatened with the neck-lace murder if he did so.

The hearing continues on Tuesday.



# ANC dispute sentence of 'reluctant' judge

The Argus Correspondent

JOHANNESBURG — Attorneys acting for three members of an African National Congress assassination squad condemned to death in the recent "Delmas 2" trial, are to apply for leave to appeal against the sentences imposed on the men by a 'reluctant' Transvaal judge.

Mr Peter Harris of the firm Cheadle, Thompson and Haysom confirmed that he had been instructed to appeal.

No date had yet been set for the application to be heard.

The mandatory death penalty was imposed on three of the four trialists in the "Delmas 2" trial when two assessors outvoted Mr Justice de Klerk.

The judge felt the background of township conflict and the training that the three men had received as African National Congress soldiers could — and did — influence them in such a way as to constitute mitigating factors.

In a judgment unique in South African legal history, Mr Justice de Klerk found that the imposition of a mandatory death sentence was not appropriate because factors existed which diminished the trialists' moral responsibility.

But the two assessors, Dr A Botha and Mr LV de Kock, were not satisfied that it had been established that the men actually were influenced to the requisite degree.

The condemned men are Jabu Masina and Neo Potsane of Soweto and TingTing Masango of Mamelodi.

The fourth accused, Joseph Makhura, was sentenced to an effective 25 years for multiple counts of attempted murder.

The "Delmas 2" trial was noteworthy as much for its conduct as for its outcome.

Throughout the trial the accused refused to participate, claiming it was incorrect for ANC soldiers to be tried in a civilian court.

They offered no defence and evidence in mitigation was presented on instruction of their families.



Picture: HANNES THIART, The Argus

**COURT OF INJUSTICE:** The first rule of the court is that the judge is always right. If the judge is wrong, see Rule One. The court is UCT Rag's Court of Injustice, where prominent people are hauled before "Mr Justice" Percy Sieff to be prosecuted for "heinous crimes". The accused this year are disc jockey Martin Baillie, UCT vice-chancellor Dr Stuart Saunders, satirist Mark Banks, WP cricket captain Adrian Kuiper and a surprise guest. Proceeds go towards Rag funds. Students Martin Koch, in stocks, and Joey Burke had a trial run before the hearing, due at the Baxter Theatre at 7.15pm on Sunday.

## Police probe R43-million exc



## Mum sees 'killing'

FROM PAGE ONE

Benzien has consistently denied that his finger was on the trigger when the shot went off.

But this week he conceded that he might have fired the shot which killed Kriel, adding that he "had not deliberately put pressure on the trigger".

In his evidence last year in the Ashley Forbes trial, Benzien said he was uncertain whether his finger was on the trigger or whether it had hooked on Kriel's clothing.

His evidence was disputed this week by forensic expert Dr David

Klatzow, who said his examination of the weapon indicated that the muzzle of the gun was not in contact with the deceased at the time it was fired.

Benzien told the court that after his arrest Kriel had broken free and tried to escape.

He had "grabbed" Kriel from behind to stop him reaching the back door of the house. In the scuffle a single shot went off and Kriel had slumped in the doorway.

● The magistrate presiding over the inquest launched a sharp attack on the security police this week.

Mr G Hoffman criticised the police for the "inaccurate" detail in their statements, specially in unrest matters where they were often the only witnesses.

Referring to statements handed to the court by security policemen Warrant Officer Jeff Benzien and Sergeant Anthony Abels, the only witnesses to the Kriel killing, Hoffmann said such inaccuracies could be "very confusing".

Since about 80 percent of the proceedings in open court inquests were dealt with in statements, it was "undesirable" that they often contained incorrect information, said Hoffman.

In his criticism, the magistrate also referred to police statements submitted at the inquests of the victims of the Trojan Horse and the shooting of New Crossroads minister Reverend Cameron Kani, inquests over which he had also presided.

The statements of Benzien and Abels included discrepancies about the instructions they had received when they were sent off to Albermarle road to search for Kriel.

In their statements, the policemen mentioned visiting only 8 Albermarle Road, while in their evidence they said they also went to other homes in the same road before the shooting.

18-23/5/89 Smith

# A 'dress rehearsal' for Delmas

A CASE argued in the Appellate Division this week could prove a "dress rehearsal" for the Delmas treason trial appeal.

By CARMEL RICKARD,  
Durban

Both appeals require the AD to consider the circumstances under which an assessor may be discharged or dismissed by a judge, an issue which has not been canvassed before under the present Criminal Procedure Act.

In the Delmas trial, Mr Justice Kees van Dijkhorst dismissed one of the two assessors, Professor Willem Joubert, on the grounds that he had signed the Million Signature Campaign of the United Democratic Front.

The discharge of Joubert, described by a defence advocate as "a great legal controversy", will be one of the grounds for challenging the outcome of the trial, in which 11 accused were

convicted and sentenced to prison terms ranging from five to 12 years.

This week's appeal in Bloemfontein — which also raises the question of the discharge of an assessor — involved a challenge to the conviction and sentence of seven people convicted for the "necklace" killing of Nosi-pho Zamela, a young woman from Queenstown, murdered in 1985.

Zamela was killed because she was believed to be consorting with "Inkathas" — the local name for Zulu-speaking members of the South African Police sent from Natal to help deal with unrest in Queenstown.

Altogether 15 people were charged with her murder, seven of whom were eventually convicted. The controversial common purpose doctrine was applied by the court in finding the seven guilty — none of the accused was proved to have been directly linked to the death of Zamela.

Six were sentenced to death while the seventh, who was 17 at the time of her murder, was sentenced to 20 years.

When the appeal was heard in Bloemfontein this week, their advocate, Kessie Naidu, argued that the judge who tried the case committed an irregularity when he discharged an assessor during the trial.

The assessor, D van Rensburg, had asked to be discharged on the grounds that his daughter was seriously ill with cancer.

However, Naidu argued that the law gave the judge the power to discharge an assessor if he was unable to act.

In the case of Van Rensburg he was unwilling rather than unable to discharge his duties.

This point was argued before the AD on Tuesday but the appeal on conviction and sentence was adjourned to later this month.



# Mum

# sees

# Kriel

# killing

# restaged



One of the last pictures of Ashley Kriel, taken in Athlone on August 25 1985, the day of the "Pollsmoor March" PIC: RYLAND FISHER

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14-24/5/89

By HENRY LUDSKI

THE mother of Cape Flats youth leader Ashley Kriel this week watched from a courtroom bench as security policemen re-enacted the last seconds before her son was killed.

As Mrs Ivy Kriel and relatives peered from the public gallery, WO Jeff Benzien demonstrated to the Wynberg inquest court his version of the scuffle in which the Bonteheuwel activist was fatally shot.

Recreating the moment the shot went off, Benzien, clutching a .22 Star pistol, lunged for the back of a court orderly, who simulated Kriel.

#### Finger on the trigger

Kriel, 21, was shot dead in a "skirmish" with Benzien and Sergeant Anthony Abels at 8 Albermarle Road in Athlone on July 9 1987.

A member of the ANC's military wing Umkhonto we Sizwe, Kriel left South Africa in 1985 to undergo military training.

The two security policemen — the only witnesses to the shooting — this week gave their account of what allegedly happened on the day of Kriel's death.

TO PAGE THREE

DANCE — See Page 13

## Judge orders police to submit medical reports

By LINDA GALLOWAY  
Supreme Court Reporter

A SUPREME COURT judge has ordered the Divisional Commissioner of Police to hand over copies of medical reports on 14 terrorism accused, compiled after their detention in terms of Section 29, to the registrar of the court.

Mr Justice Selikowitz, presiding at the trial of Mr Tony Yengeni and 13 others, gave the order after an application by Mr D P de Villiers QC, for the defence.

The divisional commissioner or his nominated representative must appear in court today to hand over copies of the documents, compiled by district surgeons in September and October 1987.

Mr Justice Selikowitz said he did not believe the documents were privileged, as argued by the State, because they had been drawn up in terms of the regulations relating to people de-

tained in terms of Section 29, and not as "witness statements" with a view to prosecution, and thus could not be privileged.

The State had claimed that the reports would be used to show the state of mind of certain of the accused when they made "formal confessions" during interrogation.

Mr Justice Selikowitz said that if the detainee had been taken to the district surgeon directly before or after such a confession, for the specific purpose of determining his state of physical and mental health, then the reports would be privileged. However, the State had not made this claim.

In terms of Section 29 of the Internal Security Act, a detainee must be taken to a district surgeon as soon as possible after his detention, and must receive fortnightly visits from a magistrate and district surgeon for the duration of his incarceration.

Copies of these reports must be forwarded to the Divisional Commissioner of Police.

The judge said he did not agree that the "predominant purpose" of Section 29 detention was for interrogation in anticipation of court proceedings, but was to enable the police to "detect and contain terrorist activities" and to acquire information.

### Street collection

TOMORROW'S street collection is for Plumstead Rusoord (fund raising number 08800-1500655). — Staff Reporter.



## 'Yengeni' lawyer gets death threat

CAPE advocate Johnny de Lange has been threatened with the same fate as that of assassinated civil rights campaigner David Webster.

De Lange's wife, Pam Haddad, said the anonymous telephone caller, speaking in Afrikaans, asked when she answered the call last week whether she remembered David Webster. He then said: "De Lange will be the next."

De Lange is part of the defence team in the "Yengeni" terrorism trial in Cape Town.

In February he received two similar threats. He was told that he had "betrayed the Afrikaner nation" and that the Wit Wolwe had returned and "would get him".

The next morning he found the tyres of his car slashed and the bodywork spray-painted with crude red symbols resembling the Afrikaner

Weerstandsbeweging symbol and the swastika.

Cape Democrats, of whom De Lange is an executive member, has now started compiling a dossier of threats and harassment against anti-apartheid activists in the region.

De Lange is the third person known to have received death threats related to Webster's killing.

University of the North SRC president Ernest Khoza was allegedly told by police that "he would end up like David Webster". Police have denied making the threat.

And Durban lawyer Yunus Mahomed received a death threat implying he would be killed in the same way as the Wits academic murdered 19 days ago.

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By GAYE DAVIS  
wmaul 19 25 5/89

# Show trial fears ebb as E Cape leaders are freed

Weekly Mail Reporter

FEARS of a massive Delmas-style treason trial in the Eastern Cape receded this week, following the release from Emergency detention of five key political leaders from Port Elizabeth's St Alban's Prison.

Mkuseli Jack, president of the Port Elizabeth Youth Congress; Stone Sizani, regional publicity secretary of the United Democratic Front; Ernest Malgas, an executive member of the Port Elizabeth Black Civic Organisation; Henry Fazzie, vice-president of the UDF in the Eastern Cape; and Xola Makapela, Pebco's publicity secretary, were released after long periods in detention, but served with harsh restriction orders.

At least a dozen other detained Eastern Cape leaders, including UDF regional president Edgar Ngoyi, have been freed in the past fortnight.

Only two activists in the region are still in detention, both Grahamstown students. They are Thembinkosi Ngebeza, who is held at St Alban's, and Mlindi Magxwalisa, who is held in Alicedale.



The joy of freedom ... Mkuseli Jack, president of Port Elizabeth Youth Congress, is embraced by John Chalmers on his release from detention

Picture: KHWEZI QWAZI; Pen

At one stage, it was rumoured that 20 of the detained leaders faced prosecution, although the Eastern Cape attorney-general would not confirm this.

Some observers believe that the judgement in the Mayekiso case, in which Mr Justice PJ van der Walt criticised the state for bringing treason charges without sufficient consideration, may have decided the authorities against a big show trial in the Eastern Cape. Lawyers and ex-detainees no longer believe such a trial is on the cards.

The five men who have just been freed have been heavily restricted.

Fazzie, Jack and Sizani are not allowed to be in the company of more than four people and must report to a police station twice a day. Sizani has been restricted to another detainee's house, where he must remain between 4pm and 10am every day, for no apparent reason.

Despite activists' jubilation over their release, the ex-detainees are at serious risk of attack now that they are back in the townships.

The UDF's Ngoyi was slightly hurt when he was attacked by a group of men while on his way to report at the kwaZakhele police station in terms of his restriction order.



## 10 years for ANC pair

TWO members of the military wing of the African National Congress have been sentenced to 10 years for terrorism.

Zolile Michael Dikiza, 28, and Ludwe Lemuel Lobese, 27, both of Port Elizabeth, were found guilty in the Kenton Regional Court.

They admitted to joining the ANC and receiving military training outside the country. They were then sent back into the country to establish underground structures for the ANC.

A clinical psychologist, Z Riordan, and an expert on the ANC, political science lecturer Dr Ian Phillips, testified on behalf of the convicted men.

The magistrate, C Meiring, said he did not agree with their evidence as it was based on statements by the accused. He called Phillips' evidence one-sided.

Meiring said even though no-one had been injured nor had any damage been caused, the accused were nevertheless guilty of a very serious offence.

He said he could not find any extenuating circumstances and therefore sentenced the two men to the maximum 10 years. The defence has indicated they will appeal. — Ana

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Cape Times, Friday

## Medical reports due for Yengeni counsel

**Supreme Court Reporter**  
MEDICAL reports by district-surgeons who examined terrorism accused Mr Tony Yengeni and 13 others must this morning be handed over to their defence counsel, the presiding judge ruled.

Mr Justice S Selikowitz handed down judgment yesterday afternoon in an application by Mr D P de Villiers QC, for the defence, that medical reports compiled by district-surgeons shortly after the detention of the accused be made available.

Mr De Villiers said the defence had asked for the reports at the beginning of the trial and was told the matter was receiving attention. However a few days ago the state said the reports were privileged.

The reports could provide "very relevant material" and could also test the credibility of Captain William Liebenberg — presently under cross-examination — and the dependence of the state on alleged confessions made by the accused, Mr De Villiers said.

Mr Justice Selikowitz said it was not envisaged that the medical reports would be used in a contemplated prosecution.

The judge ordered that either the Divisional Commissioner of Police, Western Cape or his representative be present in court this morning to hand in to the Court Registrar copies of all medical reports made by the district-surgeons which were submitted to the Divisional-Commissioner or any other member of the SAP.

The reports related to any medical examinations made by the district-surgeons during visits to any of the accused pursuant to Section 29 of the Internal Security Act or under standing directions.

The hearing continues today.



**Ebrahim may appeal** *Cap Tmp 19/5/89*

**BLOEMFONTEIN** *33* Ebrahim Ismail Ebrahim, a senior ANC member who was sentenced in the "Bethal" treason trial to 20 years' jail, has been granted condonation by the Appeal Court here for the late filing of his notice of appeal against the decision that he was subject to the jurisdiction of the Transvaal Supreme Court.

## 'Madness' to murder policeman

UPINGTON — The only defendant in the "Upington 25" trial to be found guilty of attempted murder yesterday testified he must have been mad if he had taken part in the murder of a municipal policeman in 1985.

Enoch Nompondwana, 34, was testifying in extenuation of sentence.

On Friday Mr Justice Basson sentenced 14 of the accused to death.

Nompondwana was the first black manager of a salt-processing works in Upington, and yesterday his former employer, Brian Sutherland, told the court Nompondwana's family still received half his salary every month because he believed his former employee was innocent.

Nompondwana said teargas fired to disperse a meeting called to protest against high rents in Upington's Paballelo township had caused him to become "aroused on a low level".

He feared the use of live ammunition by police to disperse the 3 000-strong crowd on the soccer field. After teargas was used,

an "unrest situation" resulted, he said.

Clinical psychologist G E Meyer said the finding by the court did not correspond with the results of personality tests he had conducted on Nompondwana. "Enoch is not somebody who would have done something like that at the end," he said.

Replying to a question from Mr Justice Basson, Meyer said there was no sign of any political motive in Nompondwana's action.

In his testimony, Nompondwana described how he was affected by teargas fired to disperse the protest meeting. "I was frightened. The gas burned my eyes and one had to flee," he said.

Meyer said the climate of aggression, agitation and violence at the time of the murder could be advanced as reasons why Nompondwana could not be held responsible for his action.

Defence lawyers said sentences on the other defendants were expected on Friday.

Own Correspondent

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NEWS

# Where's the justice – or isn't there any, ask many South Africans

IT WAS a small news item. But it was of major significance to the growing debate over South Africa's judicial system.

The three African National Congress fighters – Jabu Masina, Neo Potseane and Ting-Ting Masango – who were condemned to death for murder in the "Delmas II" trial are to appeal, the news report said.

They have signed papers authorising their lawyers to go ahead, a spokesman for the instructing firm of attorneys told Saturday Star yesterday.

There is normally nothing unusual about convicted men appealing, particularly when they are sentenced to death.

But the appeal of these men contrasts with their original statement to the trial court before Mr Justice Marius de Klerk.

They declared at the time: "We refuse to participate in the proceedings of a court founded on injustice and oppression. (It) cannot function separately

from a political system... based on skin colour."

Defining themselves as ANC soldiers, they said: "We should not stand trial in a civilian court."

The men have apparently changed their minds, presumably, in part at least, because of Mr Justice de Klerk's widely acclaimed judgment.

Mr Justice de Klerk found that the trio had been subjectively influenced by their training as ANC soldiers and by their belief that they were "fighting a war for liberation and justice," consequently, he concluded, there were extenuating circumstances and the death penalty need not be imposed.

In the sensational climax to the trial, however, Mr Justice de Klerk was overruled by his two assessors.

The relevance of the trial appears to be that, even from the ANC perspective, one cannot make blanket judgments about the judicial system or the judges that serve on it.

There are good judges and bad judges, equally,

**THE judicial system has been criticised by political activists in recent months. PATRICK LAURENCE offers a personal appraisal.**

there are good judgments and bad judgments.

It is, however, a matter of record that expressions of scepticism about the nature of justice in South Africa are growing in number and intensity.

Thus, in January, the ANC treason trialist, Ismael Ebrahim, stated: "I wonder in the future whether we should bother to even stand trial... As an oppressed nation, we can never regard our courts as places of justice in the moral sense of the world. We cannot divorce the courts from the apartheid structures."

At about the same time, the ANC in its anniversary statement spoke of "apartheid courts", labelling them an "integral part of the machinery of repression". Earlier, during the mammoth "Delmas I" treason

trial before Mr Justice K van Dijkhorst, the 22 accused formally asked for his recusal, signalling their contention that he was prejudiced against them.

Criticism of the judicial system, however, is not confined to political activists who, their opponents argue, want to bring the entire system of justice into disrepute as part of their propaganda war against the established order.

Thus, to cite an example, Professor John Dugard, director of the Centre for Applied Legal Studies, noted in a dispassionate analysis that the vast majority of judges are "white Protestant males of conservative outlook who support the present political/racial status quo."

A black lawyer, Mr D M Mokgatle, remarks in another article: "It would be untrue to suggest that judges still enjoy the reputation for independence, racial impartiality and fairness in the black community that their brother judges enjoyed some 30 or 40 years ago."

But, if the judicial system has shortcomings, the remedy is not to reject it in toto, the solution is, rather, to seek redress of the deficiencies.

Mr Justice de Klerk's judgment and the acquittal of Mr Mose Mayekiso and his four co-accused in the "Alexandra trial" by Mr Justice P J Van der Walt a few days before, highlight two important points:

● For all its defects the judicial system still produces judgments which satisfy even the stern tests of political activists who charge that the apartheid ethos has seeped into the judiciary.

● White judges are not necessarily hostile to the plight of the black underclass and the strivings of their leaders.

What is required is not unqualified condemnation but targeted criticism against specific judgments and particular aspects of the judicial system.

One thinks of the campaign by the retiring MP, Mrs Helen Suzman, to have Mr Justice Strydom impeached.

# Cop did not notice accused was 'tired'

Supreme Court Reporter

A SECURITY police officer yesterday told the Supreme Court he did not notice that terrorism accused Mr Gary Kruser looked tired and had "eyes like saucers" when taken to Caledon Square police station to be moved and detained at a police station.

Captain William Liebenberg, head of the terrorists detection unit, said this in cross-examination in the trial of Mr Tony Yengeni and 13 others.

Shortly after his arrest Mr Kruser was taken to security police offices at Culemborg for interrogation and taken to Sea Point police station where he was held overnight, Captain Liebenberg said.

In reply to submissions by Mr D P de Villiers QC, for the defence, Captain Liebenberg denied that he had told Mr Kruser he was dissatisfied with answers he had given during interrogation the night before or that he had told Mr Kruser he had told lies.

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In reply to questions, Captain Liebenberg said he was present at the time Mr Kruser was interrogated but was not present when Mr Kruser was interrogated by Warrant-Officer Jeff Benzien and a black policeman, who spelled him.

Captain Liebenberg agreed he had taken Mr Kruser to the house of Mr Michael Lumbambo but said he did not notice Mr Kruser "walk like a man who was immensely tired".

Mr De Villiers put it to Captain Liebenberg that co-accused Mr Lumbambo and Mr Wellington Nkwandla had seen Mr Kruser at Caledon Square and he appeared tired and had "eyes like saucers".

Captain Liebenberg replied that he had not seen anything abnormal in Mr Kruser that day.

The hearing continues on Tuesday.

The accused are: Mr Yengeni, Ms Jennifer Ann Schreiner, Ms Lumka Elizabeth Nyamza, Mr Lumbambo, Mr Mbutu Richmond Ndulu, Mr Nkwandla, Mr Mtheteli Titana, Mr Kruser, Mr Christopher John Giffard, Mr Sikabocha Charles Mhlati, Mr Alpheus Nkwana Ndude, Ms Gertrude Magdaleen Nathanias Foster, Ms Zureyah Abasa and Ms Colleen Lombard.



Parliament officials said.

*Case Trials 20/5/89*  
**4 acquitted of treason** (33)

**MMABATHO.** — Four more BophuthaTswana Defence Force members, facing charges of high treason after the unsuccessful February 10 coup last year, were acquitted in the Supreme Court at Rooigrond near Mafikeng yesterday.

Reports by Staff Reporter, Own Correspondent, Sapa-Reuter-AP and UPI.

# Supreme Court protest: 7 in court

Cape Times 26/5/89 331

Court Reporter

A 13-YEAR-OLD girl and six women appeared in Cape Town Magistrate's Court yesterday in connection with a demonstration outside the Supreme Court at the start of a current terror trial.

Ms Shirley Yengeni, 38; Ms Pauline Mtadeki, 34; Ms Bukela Jeremiah, 41; Ms Koleka Kombela, 41, and the 13-year-old girl — all of Guguletu, and Ms Ellen Bomali, 27, and Ms Audrey Mhlakaza, 27, of Langa, were not asked to plead.

The hearing was adjourned to July 14 and bail of R50 was extended for each of the women. The 13-year-old girl was released into the custody of her father.

Mr MJC Tolken was the magistrate. Mr JM McEwan prosecuted. Mr V Saldanha appeared for all the accused.



# Former editors charged

Staff Reporter

TWO former editors of Varsity, official student newspaper of the University of Cape Town, and Mr Rashid Seria, former editor of South newspaper, have been charged under the media section of the emergency regulations.

Ms Lise Bosman and Ms Kate Savage and Mr Seria have allegedly contravened the regulations by publishing reports in their newspapers which contained news and comments on, or in connection with, class boycotts at black schools in the Western Cape last year, and for disclosing "particulars of the extent to which such actions or boycotts were successful".

They will appear in the Cape Town Magistrate's Court on June 6.

If convicted they face maximum sentences of R20 000 and/or 10 years in jail.

# SA men in US arms scam 'not diplomats'

CPA: Tmks 22/5/89 337

Own Correspondent

JOHANNESBURG. — The two Johannesburg men arrested in New York on Friday after allegedly trying to sell guns to US Federal agents posing as arms smugglers were not SA diplomats, a Foreign Affairs spokeswoman said yesterday.

She added the South African Consul-General in New York was in touch with US authorities over the matter.

Mr Heinz Gluckle, 45, Mr Syd Baker, 39, US arms broker, Mr Michael Devlin, 45 and his wife Betsy were arrested outside a New York restaurant.

A Sapa report said the agents had expressed interest in selling arms to a Colombian terrorist organisation known as M19.

Foreign Affairs said Mr Baker and Mr Gluckle were both private citizens acting on their own behalf.

One of the men held a German passport although he had lived in SA for 25 years the spokesman said.

An Armscor spokesman declined to comment saying it was not policy to do so.

According to US press reports they and the Devlin couple have been charged with firearms smuggling and contravening the US Anti-Apartheid Act of 1986 which made it a federal offence to do business with SA companies.

Sapa also quotes US press reports as saying the South Africans claimed they were co-owners of an arms factory.

A sample of weapons they could supply were allegedly sent to the US on a Lufthansa flight in February and a second consignment of 250 weapons valued at \$56 000 (R151 000) sent this month.

This latest incident comes only weeks after French authorities trapped Armscor agent, Mr Daniel Storm, in an arms deal with US dealer, Mr Douglas Bernhardt, and three members of an Irish loyalist paramilitary group who were allegedly trying to sell the SA diplomat parts of the Blowpipe missile system.

The international furore over SA's alleged dealings with the Irish organisation led to a hasty investigation by the SA authorities.

The Minister of Defence, General Magnus Malan, subsequently informed Parliament that state officials had been caught up in unauthorised matters but that neither the government nor Armscor were involved in the sale or delivery of weapons to terrorist organisations.

Mr Storm, the minister said, had made an agreement with Mr Bernhardt and when he had made the appointment with the arms dealers had not known any other persons would be present.



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## Rivonia trialists' six-hour visit with Mandela

NELSON Mandela, one of South Africa's longest-serving political prisoners, "entertained" some of his fellow Rivonia trialists at his prison "home" in Paarl before Christmas.

Dullah Omar, the Western Cape president of the National Association of Democratic Lawyers, said four of Mandela's co-prisoners were taken to Victor Verster Prison in the back of an ambulance on December 23.

They are Walter Sisulu, Ahmed Kathrada, Andrew Mhlange and Raymond Mhlaba, who are all

being held at Pollsmoor Prison.

The other two Rivonia trialists still in prison, Wilton Mkwayi and Elias Motsoaledi, who are being held on Robben Island, were not taken.

Omar said he understood that the four prisoners were not told beforehand of their visit to Mandela.

"They were taken early in the morning and spent about six hours with him," he said.

"All of them - except Sisulu - had not seen Nelson since 1986 and they were very excited at be-

ing able to spend time with him.

"Sisulu visited Mandela at Constantiaberg Clinic before he was transferred to Victor Verster early in December."

The Rivonia trialists - Mandela, Sisulu, Kathrada, Motsoaledi, Mhlaba, Mhlange, Govan Mbeki and Dennis Goldberg were sentenced to life imprisonment in 1964.

Goldberg was released in 1985 when he accepted the State President's offer of conditional release and Mbeki was released in December 1986 because of poor

health.

Mandela was moved to a prison house in the grounds of Victor Verster Prison early in December, after receiving treatment for tuberculosis at the luxury Constantiaberg Clinic in Plumstead.

It is not clear whether the visit was at Mandela's request.

The South Africa Prisons Service refused to confirm or deny the visit, saying it was not policy "to comment on the incarceration circumstances or activities of individual prisoners." - Sapa

# Witwolf 'a perfectionist'

'On the border between normal and abnormal,' says doctor



WITWOLF... Barend Strydom

PRETORIA — "White Wolf" Barend Strydom is a perfectionist who planned the Strijdom Square murders with meticulous care, clinical psychologist Dr J Erasmus told the Supreme Court here yesterday.

Yet, Strydom had so many personality disorders that he could be placed "on the border between normal and abnormal".

"I cannot say he is completely normal and I cannot say he is completely abnormal," Dr Erasmus said.

Within a few years, Strydom's personality disorders could lead to a "personality disintegration".

Strydom could not be placed within a specific diagnostic category, even though he suffered from various "personality deficiencies".

Strydom did not believe he had committed any crime and believed that his actions had been "those of a soldier" because South Africa was in a state of war.

His political outlook was "rigid" and "naïve".

"He believes that a right-wing government will come to power soon and that he will then be released, or that the State President will release him."

PRETORIA — Mr Justice Louis Harms warned yesterday that he would consider prosecuting anyone who interfered with his judicial duties in the "White Wolf" case.

Addressing the court immediately after the lunch break, the judge said that a number of people had contacted him in connection with the case.

A member of the public had tried to hand him certain literature, a journalist had telephoned him.

'Contempt' warning from judge

and a second journalist had contacted him about conducting an interview with the accused, Barend Strydom.

Mr Justice Harms warned that if there were any further such incidents he would "act summarily".

and consider charging those involved with contempt of court.

A journalist from an "independent" radio station confirmed yesterday that she had tried to obtain the judge's permission for an interview. She said she had already obtained permission from all the other parties involved.

A court official entered the court during yesterday's hearing and removed her tape recorder. It was returned to her when she left the court — Sapa

Psychosometric tests had shown that Strydom had a "full scale" IQ of 116 and an animosity figure of 10 — compared with the South African average of 4.3.

He had a lot of suppressed aggression, entered into human relationships on an intellectual rather than an emotional level and had a tendency to be aggressive towards women.

Rorschach tests had shown that Strydom had a poor perception of reality. He had identified so strongly with his father that he had very little of his own personality.

"The crime is explicable on the basis of his personality," Dr Erasmus said.

He said Strydom had made inappropriate remarks during 18 hours of interviews with him.

The hearing continues. — Sapa



Forum

# 'We want negotiation, not sanctions' — Tutu

By KAREN STANDER  
Religion Reporter

America's role in applying pressure on the South African government to begin genuine negotiations was critical, according to Archbishop Desmond Tutu who has returned to Cape Town from the United States.

## INTERVIEW

The Anglican leader also discussed in an exclusive interview the change in tactics on sanctions adopted by a delegation of top South African churchmen who visited Washington last week.

And he speculated on how United Democratic Front President Mrs Albertina Sisulu came to be invited to Washington. He also spoke about the delegation's meeting with President George Bush.

Observers noted a change in emphasis in the message delivered at a special forum on South Africa by the church delegation, which included NG Sendingkerk moderator Dr Allan Boesak and former SA Council of Churches general secretary the Rev Beyers Naude.

The cleric said the pressures put on the South African government were second-

ary to getting it to the negotiating table. If the government could be pressured without sanctions, so much the better.

Archbishop Tutu said he had been guided by the position adopted last month by his church's synod of bishops.

The bishops called for "carefully selected and specifically targeted" sanctions, singling out the refusal of landing rights to South African Airways, coupled with an agreement by major airlines not to use South African airports, and the refusal of international banks to "roll over" South Africa's loans.

Archbishop Tutu said it was important that he and his fellow bishops now moved together.

"They specifically said targeted. They didn't say *exclusively* (targeted sanctions), but I didn't even want to go beyond the examples they had given me, the financial sanctions and the landing rights."

There had been no softening of his position, he said.

"I have always said I want effective sanctions. It is not a softening because now we are saying here are sanctions that will work, or their chances of working are much higher, the financial sanctions especially."

"We are stressing that it is not sanctions we are after, it is negotiations, genuine negotiations. And if those come about without the imposition of further sanctions, then well and good, we would welcome it."

He believed Mrs Sisulu's invitation was influenced by Senator David Boren, the conservative Democrat chairman of the Senate select committee on intelligence, who "had the ear" of President Bush.

During a visit by Senator Boren and Senator Sam Nunn to South Africa last year they had met President P W Botha and were "livid" over the way he had treated them.

"They told me he (President Botha) was the best recruiting officer for sanctions."

"They told me about the extraordinary interview and (it was) through this treatment that they realised it was important for them to do what they could to change the situation."

"David Boren especially was very deeply impressed with his interview with Mrs Sisulu. He said the way she spoke about the children, without any bitterness, was one of the most moving things he'd heard."

"It is a matter of record that when he returned to the US he spent an hour-and-a-half with President Bush and the president asked him to keep a watching brief on SA affairs. They subsequently had a two-hour meeting, and that is quite remarkable because President Bush has been giving 15 to 20-minute interviews only."

"Now if David Boren has the ear of the president and if he was so impressed with Mrs Sisulu, it seems reasonable to suppose he suggested it would be a good thing to invite her."

Archbishop Tutu said President Bush asked the delegation for their opinion of National Party leader Mr F W de Klerk. They said they had not met him but suggested that a visit by Mr de Klerk to Washington should be conditional on a move such as the lifting of the state of emergency.

US secretary of state Mr James Baker had made it clear in a meeting with the churchmen that the Bush administration intended to have a policy quite different from that of the previous administration.

"They don't want to be seen to have a policy of benign indifference. They want to be a positive catalyst."



# Death row 6 walk free

GRAHAMSTOWN. - The Appellate Division of the Bloemfontein Supreme Court have set aside the conviction of six men sentenced to death in June 1987 and ordered them to be released from prison.

Mzwandile Gqeba, Whanto Silinga, Lundi Wana, Thembinkosi Pressfeet, Mzwandile Mnizi and Monde Tingwe were convicted of the "necklace" murder during December 1985 of a 18-year-old Queenstown woman alleged to have had an affair with a policeman.

Silinga died of natural causes in December 1987.

During the trial one of the assessors was discharged after he requested the trial judge for permission to travel to Bloemfontein to be with his sick daughter.

Mr Justice Kroon granted his request after finding the assessor unable to continue with the trial. The judge decided to continue with the trial using the one remaining assessor.

## Wide meaning

The defence noted a special entry into the records of an alleged irregularity, stating the case should not have continued under those circumstances.

In a judgment handed down by Mr Justice EM Grosskopf on Wednesday, the judge said he believed the trial judge had given too wide a meaning to the word "unable".

Mr Justice Grosskopf said that after the assessors' discharge the court was accordingly not properly composed and its findings therefore could not stand.

A seventh accused, Thozamile Bacela, who was under the age of 18 at the time of the murder, had his sentence of 20 years set aside.



# State drops terrorism charges

Star 24/1/84 By Jo-Anne Collinge

The State yesterday dropped its terrorism case against South African Youth Congress president Mr Peter Mokaba (30) after keeping him in jail as a detainee and awaiting-trial prisoner for more than 14 months.

Mr Mokaba stepped from the dock in Pietersburg Regional Court and sat among supporters in the public gallery as his two co-accused, Malebane Elifas Tswai (28) and Sam Thabo Masemola (29), pleaded to the charges.

After the hearing Mr Mokaba said he feared he might pay for his freedom with his life.

Mr Mokaba said he had always protested that he was innocent of the allegations made against him — that he had acted as a "supervisor" for the ANC and had instructed Tswai to transfer weapons from one hiding place to another; had supplied handguns to someone and had instructed

this person to train other people in the use thereof; and had given Masemola limpet mines to hide.

Mr Mokaba was held incommunicado for several months in terms of section 29 of the Internal Security Act. During this time, it was alleged in an urgent application to the Pretoria Supreme Court, he was assaulted by police, threatened with death and kept manacled for days on end.

Tswai pleaded guilty to participating in the activities of the banned ANC, by acting as a courier for it and by assisting one of its members to transfer some AK-47 assault rifles from one storage place to another. Masemola pleaded guilty to transgressing the Explosives Act by burying a parcel containing two limpet mines.

Both were found guilty on these counts. They were discharged on all other counts, including the terrorism charge.

Sentence will be passed on Friday.

APR 24/5/89  
Doctors may be called in terror trial

By LINDA GALLOWAY  
Supreme Court Reporter

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ALL the district surgeons in the Peninsula who examined 14 accused during their detention under Section 29 of the Internal Security Act will have to be subpoenaed to appear in court and verify their reports, the Supreme Court has heard.

Mr D P de Villiers, QC, appearing for Mr Tony Yengeni and 13 others accused of terrorism, told the court he had been handed copies of the medical reports, as ordered by Mr Justice S Selikowitz last week, but they were not certified copies.

The whereabouts of the originals were unknown.

It was possible the State could object to the defence cross-examining State witnesses on the basis of the reports, unless the district surgeons were called to verify the documents.

The judge ruled that one report, the 12th medical report of Accused No 4, Mr Michael Lumbambo, was privileged as it had been an examination specifically in connection with a statement by the accused.

The trial continues today.

The trialists are: Mr Tony Yengeni (accused No 1), Ms Jennifer Schreiner, Ms Lumka Nyamza, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Charles Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Ms Colleen Lombard.



# 'stayaway' court told

By GILL TURNBULL  
Court Reporter

IN this week's trial of the former secretary of the Gardens Youth Congress, charged with contravening the emergency regulations, the State has argued that pamphlets distributed in Strand Street on June 2 last year contained an "emotive appeal to the public aimed at encouraging or inciting them to stay away from work".

Public prosecutor Mr J M McEwan was arguing the State's case in the Cape Town Magistrate's Court against UCT law student Mr Julian Snitcher, 24.

## PROTESTING

Mr Snitcher, of Tamboerskloof, has pleaded not guilty to a charge under section 5 (d) of the (media) emergency regulations of unlawfully publishing (which also implies distributing) a pamphlet containing a subversive statement in Strand Street on June 2.

Mr Snitcher testified earlier that the committee of the Gardens Youth Congress, of which he was secretary at the time, decided to distribute pamphlets protesting against the Labour Relations Amendment Bill before parliament.

The pamphlet, handed in as an exhibit, is headed: "Stayaway June 6,7,8.

The organisations of the people will take action."

There follows statements referring to the Labour Bill's abolition of the right to strike, forced removals, apartheid's impact on the quality of life and detentions and harassment by the security forces.

Mr Snitcher told the court that when he volunteered to hand out the pamphlets on the Strand Street footbridge he was not aware of what the wording would be.

In arguing for an acquittal, counsel Mr Les Rose-Innes submitted that a statement could only be subversive if it incited or encouraged people "in contravention of the law".

"There is no evidence whatsoever that the stayaway in question contravened any law, nor what such law was."

Mr Rose-Innes submitted also that Mr Snitcher had no intention of breaking the law, and although aware of the emergency regulations, he lacked the necessary knowledge that the pamphlet contained a subversive statement.

The hearing continues today for judgment.

Mr M J C Tolken is on the Bench. Mr Rose-Innes is instructed by Mr M J Tyfield of Bernadt, Vukic and Potash.

# Pamphlets encouraged stayaway, court told

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# Editor appears in a closed court

Own Correspondent

JOHANNESBURG. — The editor of Business Day, Mr Ken Owen, was yesterday forced to give evidence on the murder of four mine team leaders.

He gave evidence behind closed doors in the Magistrate's Court yesterday after the presiding magistrate refused to allow the proceedings to be held in open court.

Mr Owen was issued with a subpoena in terms of section 205 of the Criminal Procedure Act ordering him to appear before a magistrate and furnish any information he had about the unsolved murders at Western Holdings almost three years ago.

The subpoena was issued after Business Day published two reports on the killings.

The magistrate, Mr D Dafel, refused an application on behalf of Mr Owen for a public hearing and upheld a submission by prosecutor Mr A van Wyk that the public did not have a right to attend the hearing because it was a part of a police investigation and not a judicial proceeding.

The managing director of Times Me-

dia Ltd, Mr Stephen Mulholland, was allowed to sit in on the full proceedings.

Business Day reporters Mr Riaan Smit and Mr Sipho Ngcobo were also subpoenaed yesterday to furnish police with information about the public executions of four mine team leaders at Western Holdings gold mine near Welkom in July 1986.

Articles by the reporters published on May 11 quoted eyewitness accounts of the executions.

Three of these witnesses named alleged murderers during evidence they gave, under oath, before an open inquiry three weeks after the executions.

Police have said they did not attend the inquiry.

Last Friday Western Holdings officials handed police 33 of the 43 tape recordings of evidence made during the 13-day inquiry. Ten of the tapes are inexplicably missing.

The inquiry, conducted by advocate Mr Dan Bregman, SC, investigated disturbances at the mine during the week preceding the executions on the weekend of July 12 and 13.

## Student's conviction may halt path to bar

Court Reporter

THE son of a prominent city attorney, convicted of scattering "stayaway" pamphlets on a Strand Street footbridge, may have problems being admitted to the bar as a lawyer, the Cape Town Magistrate's Court heard yesterday.

Julian David Snitcher, 24, of Claremont, son of attorney Mr Norman Snitcher, was fined R1 000 (or 100 days) for contravening the emergency regulations by distributing about 500 pamphlets containing a subversive statement, on June 2 near Strand Street. Half the fine was suspended for three years.

The magistrate, Mr M J C Tolken, found that Snitcher knew the pamphlets contained a subversive statement.

The conviction may affect Snitcher's career as a lawyer, Mr Tolken accepted. "You may not be allowed to practice as an attorney because of this."

## Not all against toll roads in SA, AA finds

Staff Reporter

NOT everybody is opposed to toll roads — this was the surprise finding of the AA's questionnaire on toll roads, which was sent out at the beginning of the year.

In fact, more than 80% of motorists were willing to pay toll fees on new roads. However, more than 73% said no to tolling existing roads.

Almost 22% of respondents said construction of new or upgraded roads should be financed by increasing the petrol price.

More than 60% of motorists said they would like to see existing fuel levies, taxes and licence fees used exclusively for road purposes.

They realised the country had a money problem but felt the government should provide an adequate road network, since road users were already paying via fuel levies, petrol taxes and licence fees.

Most motorists wanted a National Road Fund — a dedicated fund purely for road building and maintenance — reinstated.

The typical Western Province motorist (67%) was not prepared to pay a toll on an existing road, compared to 73,1% elsewhere in South Africa. However, 80% of local motorists were willing to pay toll on a new road built specifically as a toll road, while 81,6% were in favour of this elsewhere in South Africa.

WP motorists who are against toll financing (22,4%) suggested new or upgraded roads should be financed by increasing the petrol price (20,1% elsewhere). Higher licence fees were fine for 14,5% (16,2% elsewhere) but only 1,4% were in favour of higher income tax (3,0% elsewhere).



# Judgment stuns Pabellelo

By HENRY LUDSKI

THE small Northern Cape township Pabellelo was stunned this week by a Supreme Court judgment which has effectively condemned at least 10 of its residents to the gallows.

Mr Justice Jan Basson, by finding no extenuating factors in the cases of 10 of the accused in the "Uppington 25" trial by the time of going to press on Wednesday, is now obliged to sentence them to death for the killing of municipal policeman Lucas

"Jetta" Sethwala in November 1985.

Mr Justice Basson described as "utter nonsense" an argument by the defence that the actions of the policeman who had fired on a crowd outside his home, had constituted "provocation".

"The people who attacked the home of the deceased, did so because they had decided to drive him out of house and kill him and not because there had been any provocation."

He also rejected, among other things, that the accused had been influenced by outside factors to such an extent that they could not recog-

nise the consequences of their actions.

The 25 are the largest group ever found guilty of murder in South African history.

Almost all the accused were convicted on the principle of "common purpose" — the same doctrine used in the trial of the "Sharpsville Six".

Sethwala was murdered and his body set alight shortly after a residents' meeting was broken up by police using teargas.

Sentence is expected in the next two weeks.

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By RYLAND FISHER

RIVONIA trialist Walter Sisulu turned 77 last week, but the big news of the day involved his wife.

UDF president Albertina Sisulu made headlines last Thursday, her husband's birthday, when US president George Bush invited her to the White House.

Sisulu's birthday went totally unnoticed — unlike the 70th birthday of his fellow life-prisoner Nelson Mandela in July last year.

Sisulu is held in a different section of Pollsmoor Prison to the Rivonia trialists - Raymond Mhlaba, Andrew Mlangeni, Ahmed Kathrada and Wilton Mkwayi.

Elias Motsoaledi is the only Rivonia trialist still held on Robben Island, while Mandela is held at Victor Verster Prison.

According to reliable sources Sisulu spent his day quietly, without any visitors or special meals.

### 'Enjoyable day'

The SA Prisons Service has confirmed that he spent part of the day with his Rivonia colleagues.

Responding to questions, a Prisons Service spokesperson said: "Apart from confirming that Mr Sisulu spent a most enjoyable day with his friends, it is policy not to comment on the details concerning individual prisoners and their incarceration circumstances."

# Quiet birthday for Sisulu

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"For obvious reasons prisoners cannot be allowed to receive food or other perishable items from outside prison."

"Provision is however made for family members to deposit money to a prisoner's credit which can be used to acquire additional items such as

confectionary."

On Mandela's birthday last year, he saw the movie "The Last Emperor", and was allowed a special family visit, which he rejected because other prisoners did not have the same privileges.

Outside prison, his birthday was celebrated in style, with events throughout the world climaxing in a huge concert in London, featuring most of the world's top performers.

Other events included a freedom march in the UK, surveys to gauge his popularity, and birthday wishes and gifts from throughout the world. Most local celebrations — including tea parties, soccer matches, concerts and mass meetings — were banned.

But if Sisulu's birthday did not get the same kind of attention as Mandela's, the two enjoyed almost equal prominence in the African National Congress while it was still a legal organisation.

While Mandela is widely being seen as the leader of the ANC, Sisulu occupied the important position of general secretary from 1949 to 1954 — until the government forced him to resign from the movement.

He was also a founder of the ANC Youth League, and played an important role in the ANC's transformation from a pressure group to a mass movement.

## Little chance of travelling

From MONO BADELA

SOWETO. — The chances of UDF president Mrs Albertina Sisulu keeping her appointment with President George Bush in Washington were "virtually nil", a Sisulu family spokesperson has said.

The 71-year-old matriarch of one of South Africa's most famous families has been invited by Bush to visit the United States and give an update on human rights in South Africa.

Sisulu was "thrilled" to have been invited, said the spokesperson.

However, in terms of her banning order issued in February last year, she is restricted to the magisterial district of Johannesburg.

She has applied for a passport in case Law and Order Minister Adrian Vlok agrees to waive her restrictions.



Albertina Sisulu



# 'Assault' on Yengeni — bruises

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By RONNIE MORRIS  
Supreme Court Reporter

A DISTRICT SURGEON who examined terrorism accused Mr Tony Yengeni found bruises on his face, stomach and left arm and a cut lower lip hours after he was allegedly kicked in the face and assaulted during his detention, the Supreme Court heard yesterday.

However, Captain William Liebenberg, head of the police's terrorist detection unit, said he could not say how Mr Yengeni had sustained the injuries, as he had not been assaulted in his presence.

Mr D P de Villiers, QC, for the defence, put it to Capt Liebenberg during cross-examination that the district surgeon who examined Mr Yengeni had found a bruise on his right cheek, a laceration to his lower lip, a large bruise in his abdominal area and a bruise to his upper left arm.

Asked if he had not seen the bruises, Capt Liebenberg said he had not seen anything abnormal.

When Mr De Villiers told him the medical examination had been conducted in the presence of two policemen, Capt Liebenberg said in cases where highly-trained people were being examined, policemen were present to assure the safety of the doctor and guard the detainee.

Asked if it was possible that Mr Yengeni could have been assaulted, Capt Liebenberg said Mr Yengeni was not

assaulted or kicked in his presence.

"I do not believe it could have happened in my absence. My staff do not assault people and it did not come to my attention," Capt Liebenberg said.

In a medical report compiled two days after Mr Gary Kruser's arrest, the doctor had noted Mr Kruser's allegation that a wet bag had been pulled over his head.

Asked to comment on the fact that, while detained in Paarl, Mr Yengeni had alleged a bag had been pulled over his head and that Mr Kruser had made a similar allegation in Cape Town, Capt Liebenberg said he did not know if the men had read about it in newspapers or if they had met each other and discussed the matter.

Told by Mr De Villiers he was not playing open cards with the court, Capt Liebenberg said he stood by his evidence.

Asked about the wounding of Mr Bongani Jonas and Mr Mtheteleli Tintana during their arrest, Capt Liebenberg said he had not been present, but had learnt the men had been wounded in an attempted escape.

Asked if it was a mere coincidence that both men had alleged their wounded legs were twisted to gain information, Capt Liebenberg said they were members of the same unit and were hospitalised in wards opposite each other.

The hearing continues today.

The accused are: Mr Yengeni, Ms Jennifer Ann Schreiner, Ms Nyamza, Mr Michael Mzimkhulu Lumbambo, Mr Mbutu Richmond Nduku, Mr Wellington Mongemeli Nkwandla, Mr Tiana, Mr Kruser, Mr Christopher John Giffard, Mr Mahlala, Mr Alphous Nkwana Ndudo, Ms Gertrude Fester, Ms Zurayah Abass and Ms Colleen Lombard.



## The quiet smile of an activist who's slipped the police yet again

It's said that Peter Mokaba, president of the country's biggest youth organisation, is the activist police would most dearly like to see behind bars. But time and again, he's given them the slip. As he did this week, yet again.

By MUSA ZONDI



Peter Mokaba: 'Vigilance became my priority, my watchword'

PETER RAMOSHOANE MOKABA is out of prison — yet again. The South African Youth Congress president and former Robben Island convict, believed during 1987 to have been the security police's "most wanted" activist, has once more defied the state's attempts to lock him out of the anti-apartheid struggle. Despite his description on police posters as "Ulter's Gevaarlik" (extremely dangerous), Mokaba walked out of the Pietersburg Regional Court on Tuesday a free man. The state unexpectedly dropped its charges of terrorism against the irrepressible activist who, in 1985, was released from Robben Island on appeal after serving a year of his sentence for "membership of the African National Congress' military wing". Mokaba's life has been one of absolute, overriding commitment to the political tasks he has set himself. This has made his lifestyle unusual, to say the least. Flushed with his sudden freedom this week after another year in the cells, he told the *Weekly Mail* he had not slept at his home in Mankweng since 1980.

Considering the fact that there have been 17 attempts on his life, this is not entirely surprising. He has been in only one of two places for the last eight years, he says — "in prison, or underground".

While on the "outside", Mokaba says he improvised accommodation, boarding with friends and living "anywhere else but home". Interrogating officers warned him to "either leave the country or stay and suffer", he says.

For many South Africans across the political spectrum, Mokaba became an especially potent symbol of the internal anti-apartheid struggle. In his "underground" role as Sayco president — he masterminded the successful secret launch of the massive but now-restricted organisation in 1987 —

he took on almost legendary status. He was the most important youth leader in the country, and admiring activists referred to him as the leader of the "Class of '87", comparing him and his colleagues to the ANC "Class of '44" youth leaders.

He was seen as a "black pimp" dodging the clutches of the state in much the same way as Nelson Mandela had done some 30 years before. And at right-wing meetings in the Northern Transvaal, his was also a name to be conjured with. Mokaba recalls that Afrikaner Weerstandsbeweging demagogue Eugene Terreblanche once threatened to "chase me up to Cairo".

He escaped Robben Island in 1985 on a technicality — the appeal court found that the magistrate who presided over his trial had acted improperly. He was tried again on similar charges in the same year, but received a suspended sentence.

He found himself in prison again in 1988, detained under Section 29 of the Internal Security Act. During this time, he hand-wrote a 26-page document recalling his experiences and setting out his vision of the activities of the security forces and the fortunes of resistance. He released the document to the *Weekly Mail* this week.

In it, he wrote of his feelings after receiving the suspended sentence in 1985: "As I walked out of court free, there was nothing to conceal (the police's) bitter anger ... I knew that far from being free I had actually moved onto a new terrain of struggle."

"I had entered another sector of concentrated enemy fire and defence and vigilance became my priority, my watchwords."

The manuscript details assassination attempts against Mokaba. After his

release from the Island, he wrote, "there were mysterious cars and pedestrians who were clearly watching my home".

In the third week after his release he received a message to telephone a "Jackie" in Johannesburg.

"This person had asked that I phone at eight o'clock, and I had to go to the post office about two kilometres from my home."

"On this particular night, the street the whole way up to the post office was dark. The telephone booths were unlit. I was still wondering (why this was so) when suddenly there was a flash from a stationary car's headlights."

Mokaba ran on to the nearby campus of University of the North, and escaped the men — dressed in Zion Christian Church uniforms — who gave chase.

There were numerous other attempts by unknown assailants to abduct or assassinate him.

"There was a sudden heightening of activity by police and unmarked cars

around my home," he recalls.

On returning home one day he found a dog had been stabbed to death. "I saw that as an omen, a prelude to invasion. I spent less and less time at home and never once slept there. I could smell death in the air."

One would-be assassin confessed to Mokaba. Oupa Monana told him he had been made to join the security forces after being detained. "He told me his main objective was to assassinate me," says Mokaba, "but he failed several times and eventually said he had to spill the beans."

Mokaba says three attempts were made in Alexandra township within the space of three months: "Once they were armed with a rifle and hand grenades, but I confounded them."

Another was carried out by three people who beat him and left him for dead — but he survived.

"During subsequent interrogation," says Mokaba, "I was asked by security police how I had managed to survive the attack in Alexandra. I came to the conclusion that police had orchestrated it."

There were further attempts. Mokaba recalls a failed effort in Wolmarans Street in Johannesburg, for example.

"Then they tried in De Villiers Street, next to the Victoria Hotel. They also waited to ambush me in O'Reilly Road, where this Oupa had set up an appointment with me. I frustrated them."

Monana claimed he had been promised R60 000, a house and a regular salary if he succeeded in killing Mokaba.

Despite the almost unbelievable sequence of events, however, Mokaba has not been intimidated. He has had to resort to an air of fatalism: "I know I may not grow old. I know that they will never rest until they have achieved their objective, that of eliminating me."

"But I also know that not even death can persuade me to give up my love for my people, for democracy, equality and peace in a non-racial and democratic South Africa."

"I know that my death shall not be in vain. I believe that on the soil that is drenched with blood shall inevitably rise the tree of our noble endeavours."

## The two who would not speak

By MUSA ZONDI

THE sudden withdrawal this week of all charges against Peter Mokaba, president of the now-restricted South African Youth Congress, was a result of two key witnesses refusing to testify against the activist.

It is believed the two, Malebane Elias Tswai, 28, and Sam Thabo Masemola, 29, were told soon after their arrest that they should testify against Mokaba in order to avoid being charged themselves.

They gave the impression that they would co-operate on this basis, only to reverse the decision once court proceedings began. The two let the state prosecutor know at the last minute that they would not testify against Mokaba.

They were then charged alongside him and appeared with him in the dock of the Pietersburg Regional

Court on Monday.

However, without their evidence, the state's case against Mokaba collapsed for lack of evidence, and he was freed.

Mokaba had been charged with "terrorism" and was accused of being a "supervisor" for the banned African National Congress in South Africa. He had been in detention as an awaiting-trial prisoner for the past 14 months.

Tswai and Masemola still face charges of membership of the ANC, and possession of arms. They have pleaded guilty to the charges.

Both deny that they underwent military training on behalf of the ANC. Sentence is due to be passed today.



# Stompie trial starts in camera

By GAVIN EVANS

A BAIL application in the murder trial of nine members of Winnie Mandela's "soccer team" was withdrawn on Wednesday after fresh charges were put to the accused.

Each of the nine, who appeared in the Johannesburg Magistrate's Court, now face three charges of abduction, three of assault as well as a charge of murdering James "Stompie" Seipei in January this year.

They were remanded until June 20.

Lawyers for the accused agreed to withdraw their bail application pending further consultations with their clients concerning the fresh charges

and allegations.

The application, which began on Tuesday, was held *in camera* because three of the nine are under 18.

Before the court was cleared, several of the accused swore at a *Weekly Mail* reporter present in court, accusing her of "writing sh—t".

The accused are Jerry Richardson (41), John Morgan (61), Katiza Cebekhulu (21), Jabulani Kubheka (25), Brian Mabuza (18), Xoliswa Falati (35) a 16-year-old girl and two 17-year-old boys.

# Jail for constable who battered man to death

A FORMER Oudstroom riot police-man, sentenced last week to 12 years' imprisonment for bludgeoning a suspect to death, was part of a unit seconded to the Sandkraal — a "peaceful area", according to his commanding officer — at the behest of the local Joint Management Committee.

André Schutte, 19 when he killed Andile "Ace" Kobe in March last year, was also sentenced in the circuit court to six months for each of two charges of assault with intent to do grievous bodily harm, suspended for five years.

His former riot unit colleagues Pieter Koen, 22 and Cornis Serfontein, 23, were each sentenced to seven years in jail for attempted murder.

The three convicted policemen were formerly constables attached to the South Western District riot unit based in Oudstroom.

Colonel GP Marx, the officer commanding the riot unit, told the court riot policemen had been seconded to Sandkraal following a JMC decision that people who moved there from Lawaalkamp required "protection".

He described the township as a "peaceful residential area" with no recorded "unrest incidents".

The three convicted men were each granted R1 000 to petition the chief justice after Mr Justice Hannes Fagan turned down an application for leave to appeal.

Their 23-year-old victim was

Three policemen jailed for killing a suspect by bludgeoning him to death with a plank were part of a unit sent to a township to provide special 'protection' for residents

Own Correspondent: George

punched, kicked and fatally battered over the head in the Sandkraal police station after trying to resist arrest for brawling in public on the night of March 19 in Sandkraal township, near George.

He broke loose on arriving at the police station and ran into a nearby dam, but was caught and taken into a small back room of the police station and assaulted.

The court heard how Schutte used a plank to hit Kobe two or three times on the back of his head while Kobe was trying to stand up. Then Schutte climbed on to a chair, saying: "Now I'll show you how I jump on a kaf-fir's head." He was restrained by Koen and Serfontein.

At about 9pm a comatose and semi-naked Kobe was driven from the Sandkraal police station to an isolated beach 7km away by Serfontein and Koen, where he was dumped. The act, the judge said, displayed "an absence of basic humanity".

Schutte, bitten on the left arm while struggling with Kobe, returned to the police single quarters in George.

Two other policemen who found Kobe two-and-a-half-hours later, still alive but unconscious, were ordered by their sergeant to wait until a senior officer arrived at the scene, at about 1.30am.

Kobe was admitted to the Goerge Hospital where he underwent emergency surgery for a subdural haematoma, but was certified dead by 8.30am.

A post-mortem by Tygerberg Hospital forensic pathologist Professor Jurie Nel found that Kobe had died of a "tremendous blow to the head", which caused immediate concussion and fatal intra-cranial swelling. The body bore 25 to 30 bruises and grazes consistent with blows delivered by blunt objects.

The fatal assault followed several other incidents after the three men went on duty at 1pm on Saturday, March 19. During the afternoon, Schutte punched 57-year-old Klein-booi Qatana and ground his boot into the man's ear, rupturing an eardrum, while investigating a complaint of assault. Qatana was later forced over the back of a chair in the police sta-

tion and sjambokked by Koen.

Schutte, whose basic training at the Police College in Pretoria had been interrupted when he was posted to Soweto for "riot duty" in mid-1987, was also found guilty of grievously assaulting Priscilla Jebese in the charge office by slapping her and grinding his boot against her ear.

"I was looking for silence," he said. "I noticed she was drunk, that she spoke English and incessantly asked me questions; I was irritated and slapped her."

Schutte, who joined the police straight after school because he "enjoyed working with people", was described by the judge as a "sadist" who took "apparent pleasure in hurting weaker people".

He, Koen and Serfontein were "poor witnesses" who often failed to stand up to cross-examination. They had all agreed to make false statements to the investigating officer about the use of the plank, which had been destroyed by Schutte and Koen.

Schutte, said Mr Justice Fagan, had shown no signs of remorse for the "sadistic deeds" recounted in court and possibly showed psychopathic traits. The judge, however, rejected a psychiatrist's argument that Schutte had acted in a state of "automatism".

Schutte's youthfulness, inexperience as a policeman, indiscretion and short temper mitigated in his favour, the judge said.



# THE WEEKLY MAIL

The paper for a changing South Africa

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**THE MOST WANTED MAN SLIPS THROUGH POLICE FINGERS AGAIN ...**

Activist Peter Mokaba is back on the run: **PAGE 7**

## Day of the gallows

The question now:  
Does the state dare  
hang Strydom?



- Eight death verdicts for Barend Strydom
- Fourteen deaths out of 26 at Upington
- Three hanged in Pretoria at dawn
- Two hanged the previous day

THE government faces unprecedented pressure from all sides to halt the death sentence — from left and right, from the international community as well as potential voters — after a day of major developments around the issue.

In the last 24 hours:

● Mass murderer Barend Strydom received eight death sentences. This creates a critical question for the state president: has he the political will to hang Strydom and face the possibility of creating a martyr and rallying-point for the far rightwing?

Weekly Mail Reporters in Pretoria and Upington

● In the "Upington 26" trial, the judge effectively sentenced 14 of the accused to death for their "common purpose" involvement in a necklacing. This sets the stage for an international outcry along the lines of the Sharpeville Six case.

● Three men, including one political prisoner, were executed in Pretoria, bringing the hangman's tally to five this week and 26 this year.

● Five people on death row were released by court

order, and four were immediately re-arrested and taken to court to be retried. A sixth person facing the noose was released by the court — but had already died of TB in prison.

The combination of a rightwing outcry over Strydom and a leftwing outcry over the Upington 26 — reverberating through Pretoria's international relations and influencing voters in the forthcoming election — is likely to cause severe headaches for the state president, who will have to decide whether to al-

●To PAGE 2

## Cheers and fists as Strydom gets death

BLACK spectators gathered outside the Pretoria Supreme Court yesterday laughed, cheered and raised defiant fists when they learnt that mass murderer and self-styled "king of the Wit Wolwe" Barend Strydom had been sentenced to death.

The atmosphere was electric as hundreds of people waited for the sentence, amid a heavy police presence.

Mr Justice Harms, sitting with two assessors, said the court found that there were no extenuating circumstances. He sentenced Strydom to death on eight counts of murder and imposed a further-effective 30-year jail sentence for additional offences of attempted murder and pointing a firearm.

In a bloody rampage last November, Strydom shot dead seven people, including an 80-year-old woman. The previous week, he shot two women in the Weiler's Farm squatter camp near De Dur, killing one of them.

Strydom, who has appeared cheerful throughout the 11-day trial and who waved to relatives and friends from the dock before sentencing, blushed and looked grave-faced when the death sentence was passed.

"Mass murder or racial murder will

By WEEKLY MAIL REPORTERS

not be tolerated by this court," Justice Harms said before passing sentence. He said Strydom had planned the killings carefully.

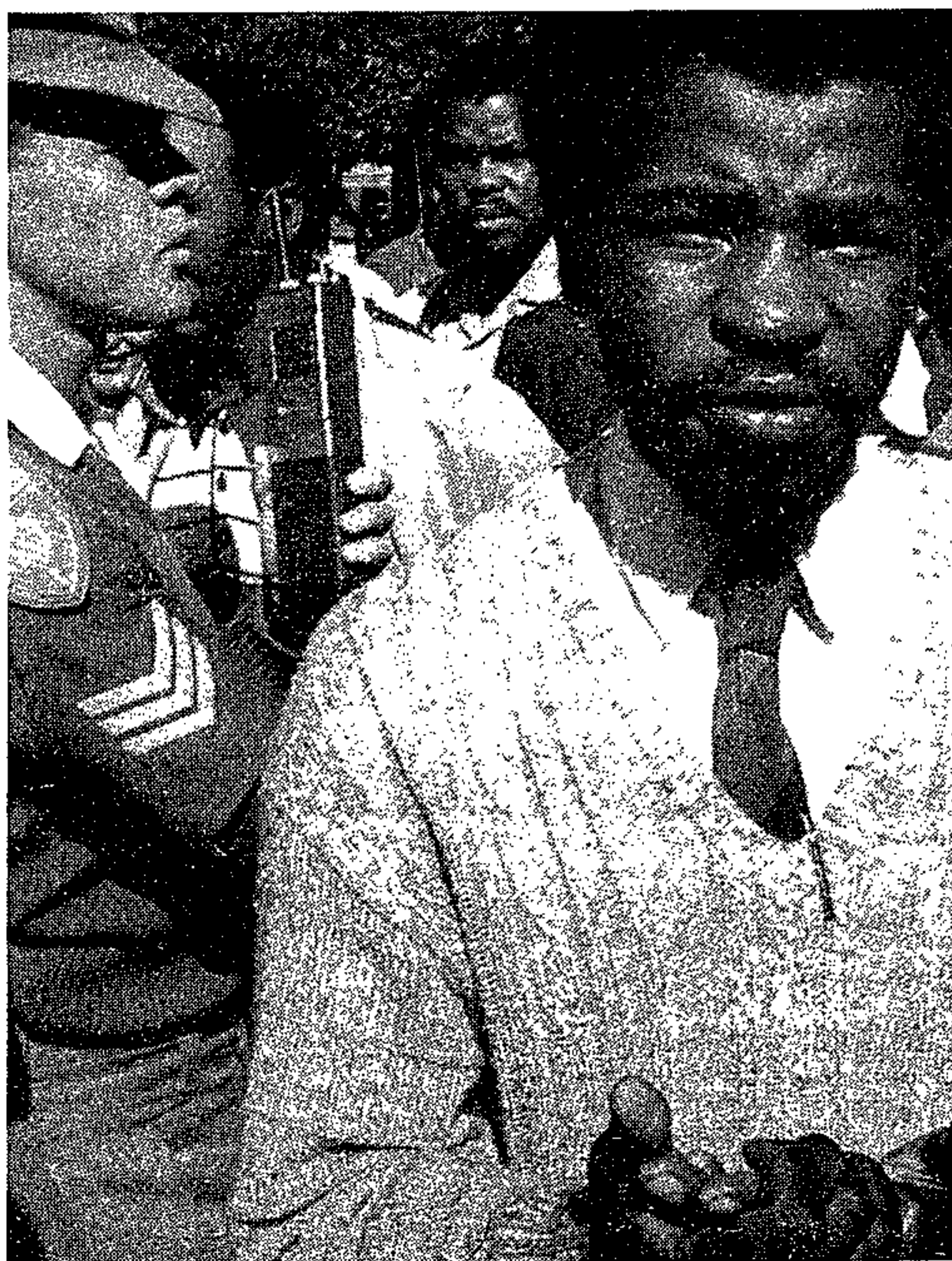
The judge said Strydom's actions were "worse than those of terrorists", in that he had been prepared to shoot people while laughing in their faces, rather than leaving bombs behind. The murders had been unfeeling and cold-blooded, and of such a nature that the judge said had not previously encountered.

Strydom had been strongly influenced by his father, but had gone on to form his own opinions.

The judge said the Pretoria killings had been meant as a propaganda exercise, to frighten members of the African National Congress. Many crimes had been committed under the banner of Christianity, the judge said, but to use God as an accomplice to murder was not acceptable.

As a "modern assassin", Strydom was a danger to the community, Justice Harms added. He had testified that if he were released he would repeat his actions.

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Victim of rightist threats: Simon Mkonduleli, who arrested Strydom.

Picture: STEVE HILTON — BARBER, Afrapix

## Upington judge goes even further than state

By GAYE DAVIS in Upington

"What is our sin ... it is our black skins. They have caught us, now they are trying to murder us. What is our sin? What have we done?"

THESE were the words sung by the "Upington 26" yesterday as they filed into the dock in the Supreme Court in Upington.

Mr Justice J Basson answered their questions as the three-year trial approached its climax: 14 of them were guilty of murder without extenuating circumstances. He had effectively sentenced them to death.

He found extenuating circumstances for the other 11.

Yesterday, the judge went even further than the state prosecutor, who had accepted the "advanced age and clean record" of one accused, Gideon Madlongolwane, 61. The judge found no extenuating circumstances, effectively condemning him to hang.

Justice Basson rejected the bulk of

●To PAGE 2



## DAY OF THE DEATH VERDICTS: FROM STRYDOM TO UPINGTON

FIVE men freed from death row this week after a successful appeal were immediately re-arrested and taken back to Queenstown to stand trial again.

The five, a sixth who died on death row and a seventh who is serving a 20-year-sentence, were convicted of a necklace murder in the Eastern Cape.

This week the Appeal Court in Bloemfontein ordered that they should be freed after finding there had been a mistrial.

In a majority decision, Mr Justice EM Grosskopf and Mr Justice FH Grosskopf found that an assessor in

the trial had been improperly dismissed.

The appeal has been described by lawyers as a "dress rehearsal" for the appeal in the Delmas treason trial, which also concerns the circumstances in which an assessor may be discharged by a judge.

In the current case, the five trialists, had been convicted of killing a woman suspected of having an affair with a policeman.

At the same time as they were in-

## Freed from Death Row - then re-arrested

By CARMEL RICKARD

formed of their successful appeal, Mzwandile Gqeba and four others were also told they were being re-arrested and would be tried again.

A government official told the lawyer of the accused that as the court had upheld the appeal on technical grounds, they would stand trial again on the same charge.

During the first Gqeba trial, one of the assessors was discharged after his

daughter fell seriously ill.

In the appeal, Gqeba's counsel argued that the judge had not acted correctly and that the trial court was, therefore, improperly constituted.

The appeal judges held that the law permitted assessors to be discharged only if they were unable to act. In the Gqeba case the assessor had been unwilling rather than unable to act.

In their judgement, they said: "The fact that the accused consented to the continuation of the trial (before a

judge sitting with only one assessor) cannot affect this conclusion.

"The correct composition of the court is always a matter of importance, but particularly so in a case like the present one, where the trial judge summoned two assessors to his assistance ... because he was of the opinion that a sentence of death might be imposed.

"In the result, six death sentences were in fact passed. This is pre-eminently the type of case in which the legislature intended that the trial judge should be assisted by two assessors."

## Hangings: Pressure from right and left

low them to hang.

There are already signs of the ultra-rightwing rallying around Strydom. There has been an outbreak of threats from the Wit Wolwe, the organisation Strydom purported to represent.

And yesterday *Weekly Mail* was handed a letter signed by "Die Jeug van die Boervolk" and giving an Alberton address. The letter called Strydom "the first major martyr of the third freedom war ... he offers his life as a call to his people to the struggle."

The Upington trial received little local coverage, but drew the attention of diplomats and the international media. The judge yesterday found there were no extenuating circumstances for 14 of the accused, effectively sentencing them to hang.

Chaos erupted in court when the judge announced he wanted to sentence the 14 this morning and threw out defence requests for a postponement "on humanitarian grounds" to allow families to be present.

"This is a court case, it is not a funeral ... what is the point of (delaying) it," the judge said.

The accused broke into song, police tried to force them into the cells and scuffles broke out. Police chased family and friends from the public benches and ordered reporters to leave. (See Page 2)

Lawyers for Human Rights' national directorate in Pretoria, which has played a leading role in exposing and organising against South Africa's prolific use of capital punishment, issued a statement saying the Strydom death penalties "add further impetus to our campaign".

And the Society for the Abolition of the Death Penalty in South Africa said it did not believe Strydom should hang, "no matter how reprehensible his crime was".

●From PAGE 1

This week's executions took place on two separate occasions. On Wednesday, Anton Koen and James Henry Cohen, both convicted of common law murder, were taken to the gallows. Cohen had rejected all offers of legal intercession on his behalf, and though scheduled for execution on Thursday, requested that his hanging date be brought forward.

On Thursday, Simon Mbatha, Abraham Mngomezulu and Patrick Mbatha were executed after clemency petitions had failed. Mngomezulu was sentenced to death on grounds of common purpose, for killing a suspected police informer in Naledi in April 1987. The other two were sentenced for non-political crimes.

Tuesday night saw a dramatic conclusion to last-minute attempts by LHR activists to obtain stays of execution for Sibusiso Sanele Masuku and Oupa Josias Mbonane, convicted together of killing a policeman in Shoshanguve in February 1986.

Earlier on Tuesday, an urgent supreme court application brought in Pretoria failed. In this application LHR had presented fresh evidence, questioning Masuku's participation in the crime; a state witness who had identified Masuku during the trial had submitted an affidavit admitting that she had been lying.

Finally, on Tuesday night, an advocate, delegated by LHR, obtained a 30-day stay of execution from Justice Minister Kobie Coetsee — after the condemned men had already been served the ceremonial last meal of a whole chicken, or alternatively, a large piece of pork.

There was further cause for jubilation this week among opponents of the death penalty when, in two separate cases, Xolani Stuurman, convict-



Under the stern gaze of Oom Paul Kruger, two young Afrikaners relax during a recess in the Strydom trial. Asked what they thought of Strydom, they said they had 'great respect for him'.

Picture: GIDEON MENDEL

ed in connection with a "necklacing" in Uitenhage, and the "Queenstown Five" were set unconditionally free after months of awaiting execution. (See Page 2)

Stuurman was released after a successful appeal. The "Queenstown Five" — the "Queenstown Six" until one of their number, Wantu Silinga, died of tuberculosis in prison — were also convicted in terms of the common purpose doctrine in connection with a "necklacing" murder; their conviction was set aside on a legal technicality. However, as they were leaving Pretoria Central Prison, they were rearrested. (See Page 2)

On Thursday, eight people, some of whom were relatives of condemned prisoners on death row, were arrested after an early morning protest outside Pretoria Central Prison. They were released later in the day on R300 bail, after a trial date had been set for later this month.

## Black spectators cheer verdict

●From PAGE 1

A vengeful feeling pervaded the crowd outside the court. Before the sentence was known, one of Strydom's victims, John Sibuya, who was shot in both arms, said he still could not express his anger. "They should treat him like he treated us. Simply kill him and nothing else," he said.

A white woman bearing a placard with the slogan "murderers do it from the gallows" on one side and "exterminate the Kappie Kommando, the AWB, the Wit Wolwe" on the other, was hurriedly whisked by police into the court buildings, away from public view.

A close friend of the popular Indian trader, Satat Carrim, whom Strydom killed inside his shop, summed up the general reaction to the death sentence. "Perfect. Well judged. We are satisfied now," he said.

Another black spectator jokingly suggested hosting a huge braai at Strydom Square in central Pretoria, the scene of the killings. "Go and tell everyone that we black people are

happy now. We're going to celebrate tonight."

Few of those interviewed by the *Weekly Mail* outside the courtroom believe Strydom is mad — most perceived his actions as blatantly political. Said a man known only as Solomon: "Strydom is in his right mind. He talks straight when he says he doesn't like blacks. It is apartheid, not madness."

Some of the whites interviewed had a rather different perspective — they considered Strydom a *volksheer* (people's hero) and martyr to the Afrikaner nationalist cause.

Trudie Rautenbach and her daughter Karen, who describe themselves as extreme right-wingers, see Strydom as a latter-day Jopie Fourie. "We will build a monument for him when we get our Boer Republic. We are in a state of war. Whites are being murdered daily by blacks; it is in their nature to do so. We will not allow the government to push blacks down our throats."

●From PAGE 1

During the extenuation hearing defence counsel Ian Farlam, SC, gave two explanations for the decision by the accused not to alter previous testimony denying their involvement.

These were the fear that, having been disbelieved once they might be disbelieved again and that by changing their version they could jeopardise any appeal.

Farlam argued that people acting while deindividuated would be unlikely to be aware of their condition. If they remembered anything, it was essential they be interviewed days, rather than years after the event.

The shooting, for which police were later found to have acted within bounds of their duty, followed days of turmoil in the impoverished township during which homes of councillors and policemen were attacked under cover of darkness.

On the morning of November 13 a meeting called to discuss township grievances — including high rents people could no longer pay — was broken up by police using teargas.

Of some 3 000 people at the meeting, a crowd of about 300 ended up outside Sethwala's house.

The crowd began to stone the house. Sethwala fired shots from a window, wounding a small boy, and then fled, firing into the air. He was chased, felled with the butt of his own gun and his body later set alight with petrol.

Justice Basson rejected argument that these incidents, against a background of poverty, deprivation and frustration, provided the spark which was all that was needed to lead to an incident such as Sethwala's murder.

He rejected the defence's argument that deindividuation was the only plausible explanation why 25 people, of widely differing backgrounds should come together in broad daylight and perpetrate a murder without any attempt at disguising themselves. He had been unable to find a plot to kill the policeman, but the overall plan was clear: to act against the authorities and informers.

Referring to the shooting of the small boy, which the defence argued could have provoked the crowd into a lethal rage, Basson said: "With such a heavy stoning of his house, the people could surely have expected the deceased to defend himself ... to talk of provocation on the part of the accused is pure nonsense."

The crowd was not forced to be there — people could have returned home as did the rest of the 3 000 dispersed from the meeting. Evidence by state witness Dr CP de Kock, of the Human Sciences Research Council, threw much light on the probability that the murder was politically motivated, the judge said.

De Kock had described the eruption of political turmoil in 1984 which spread from metropolitan to rural areas. At the time of Sethwala's murder, a pattern was emerging of people, usually figures of authority, being stoned, assaulted and set alight.

The contents of this newspaper have been restricted in terms of the Emergency regulations

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# Mine firings are not likely — despite the panic

THE panic triggered by the fall of the gold price below \$360 led to some greatly exaggerated reports about the threat to South Africa's marginal gold mines.

The retrenchment of 300 000 workers — close to half the total workforce — forecast by a Johannesburg daily newspaper is not imminent.

The spotlight placed by the Chamber of Mines on the marginal mines following the gold price shock should be seen against the background of mine wage negotiations, which have just started.

The National Union of Mineworkers has so far not offered its own analysis, but a spokesman was reported to have said this week: "The announcement by the Chamber of Mines of the possible closure of 18 mines is obviously an attempt to pressure workers to accept starvation wages in the face of annual wage negotiations."

The Council of Mining Unions also mentioned the "hysteria being whipped up by the Chamber of Mines", saying the present situation was temporary. Among the solutions director Ben Nicolson prescribed were changes in tax policy to assist marginal mines, "mothballing" unproductive shafts, improving efficiency and mining higher-grade ores.

**The great marginal mines panic should be seen in its context: this week's mine wage talks. By HILARY JOFFE**

In one sense, this week was no different to any other as far as the mines themselves were concerned — while the gold price fell and then recovered slightly, the rand plummeted.

The effect of the dollar gold price on the mines is in fact an indirect one — the mines are paid in rands, so if the gold price and the rand's value fall equally, their revenue stays the same.

The rand plummeted all the way to 2,80 against the American dollar by the middle of this week, in response to the dollar's rise and gold's fall.

The rand price of gold has been more or less static over several months at between R980 and R1 000, as the dollar price of the metal has been falling.

But while a weaker rand protects the mines against a falling dollar gold price in the short term, it also means higher inflation and eventually higher costs, and costs are the mines' problem. The industry was built on cheap labour, and it can no longer rely on that. And analysts say it was never very efficiently managed or cost-conscious. Over the past two years of a falling gold price, the structural faults have begun to appear.

Since 1980 the gold price in rands has risen by 10 percent a year, but the costs of most of the mines have risen by more than 20 percent a year, according to research by stockbrokers Mathison and Hollidge.

Mathison and Hollidge analyst John Clemmow points out that it is not just in the older, marginal mines that there have been high cost increases — the wealthy mines' costs have also been rising rapidly.

Nor is it simply a question of increasing labour costs. The mines' costs tend to go up every quarter, not just when wage increases are implemented.

Clemmow sees much of the problem as one of bad management. The response of many mines to the falling gold price has been to mine more tons of rock, not necessarily more grams of ore, leading to falling grades of ore and higher fixed costs.

Economist Mike Brown of stockbrokers Davis Borkum Hare agrees. Gold mines have always been badly managed, he says, although he adds that there has been some improvement in terms of more efficient use of materials and some mechanisation.

He said gold mining profits were at their lowest level for about 20 years. Between 18 and 20 of the 43 producing gold mines were "marginal" in the sense that they were making a marginal profit or a slight loss, Brown said.

If in a year's time the gold price had not improved, up to 20 of these mines (producing around 21 percent of South Africa's gold) might be in a critical situation, he said. But at present many could cut capital expenditure, mine higher grades of ore or reduce costs.

The marginals are not all about to shut down — but the cabinet was said to be meeting on Wednesday to consider how to act on two threatened mines, ERPM outside Boksburg and Durban Deep near Roodepoort, both administered by Rand Mines group.

Brown said the government could easily afford the R300-million it is estimated these two mines need, which would probably be in the form of a loan at subsidised interest rates.

These two mines, he said, differ from other marginals, in that they have continued to make losses although they have already cut costs. Each mine has retrenched about 30 percent of its workforce. They are also larger and have long-term expansion prospects.

The mines are also important in the local economies in their areas. The chairman of the Boksburg Chamber of Commerce, Johan Viljoen, said this week if ERPM, which employs about 20 000 people, were to close, this would have severe consequences for the town.

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# A WEDDING IN THE SHADOW OF THE GALLOWS

**O**N May 10 Paula McBride got married. It was a quiet affair, as much tinged with sadness as it was joyous.

There was no fanfare, no lace, no weeping aunts, no reception. Only six people were present: the couple themselves, the priest — and three prison warders.

Paula's husband is Robert John McBride, and the chapel where the ceremony was being held was at Pretoria Central Prison's death row, where Umkhonto weSizwe guerrilla McBride is being held awaiting execution.

Paula comes from a prominent Johannesburg family. Her father is a director of major companies. She is classified white where McBride, born into poverty in Natal's Wentworth township, is classified "coloured".

It would be hard to imagine a more unlikely union, as poignant as it is seemingly doomed as it is unexpected.

But Paula (she does not want her maiden name revealed for fear of repercussions against her family) sees it from a different perspective.

"Getting married is for us an expression of optimism and hope for the future," she said. "We think the case for clemency is good."

But even if McBride's sentence is commuted, there is little chance, failing a change of government, that the couple will ever live together as man and wife. On top of three death sentences handed down for his part in the bombing of Durban nightspot Magoo's Bar in 1986, 25-year-old McBride faces a 67-year prison sentence for other activities as a commander in the African National Congress' military wing, Umkhonto weSizwe.

At the ceremony itself and during the 40 minutes they were allowed as honeymoon, the two were allowed to touch each other — as much as it is possible to touch with wardens looming over your shoulder.

This is the only physical contact they have had since McBride's incarceration. Unless some special dispensation is granted, it may well be the last time they ever touch. The newlyweds were also given the opportunity of buying "refreshments", but they declined.

For the rest, according to the special rules governing death row prisoners, Paula is allowed two visits a day. She speaks to her husband through a kind of telephone receiver and a guard is always present, monitoring the conversation, steering it in acceptable directions.

"You learn to ignore the guards," she

The wife is from a prominent Johannesburg family. The husband is on Death Row. They married this month, full knowing that there is only the smallest chance that they will one day live together as man and wife. They did so out of hope.

By IVOR POWELL

is happening just down the corridor. That the next time it could be you, or your loved one. That other people have such utter control."

A good deal of Paula's anger and frustration is directed against this uncertainty. "Judges should be forced to go to death row, to see for themselves what it's like before they sentence people. Leaving everything else aside, it's unthinkable that people should subject other people to that kind of psychological pressure. It's barbaric. The whole system of hangings is barbaric."

But there are other worries too. "Everybody on death row ends up having to wear glasses. I think the fact that the lights never get switched off ends up damaging the eyes. Things like this also get to you."

For the moment though, McBride is safe. His evidence is required in a case Magoo's Bar co-accused Greta Apelgren is bringing against Natal Newspapers. The Natal Mercury published an editorial suggesting that she should not have escaped the death penalty herself.

Beyond this Paula hopes that clemency appeals will have some effect. One of the assessors in the original case was dissenting on the sentence handed down to McBride, arguing that extenuating circumstances should have been found. His voice has been added to the hundreds of others — including that of United Nations General Secretary Javier Perez de Cuellar, the president of the Anti-Apartheid movement Bishop Trevor Huddleston, and prominent political figures too numerous to mention — who are appealing to the state president for Clemency. And the case has been strengthened by the fact that McBride has, since his imprisonment, renounced violent solutions.

She also hopes that her British passport will put some pressure onto the UK government to make some intercession.

Beyond this, in the opinion of many, the trial itself contained certain irregularities. Among these — as emerged in the trial — the chief instigator of the bombing at Magoo's Bar was allowed to turn state witness. Though this man had in fact been the prime mover in the outrage, and McBride had resisted the attack on civilians, he was allowed to walk out a free man.

"Meanwhile, we just take it a day at a time," Paula says. "Each day is a victory of a kind. Whatever happens, I believe, with every nerve in my body, that we have done the right thing."

Paula McBride — "getting married for us is an expression of optimism and hope for the future"

Picture: CEDRIC NUNN, Afrapix

says. "You're never without them, so you develop a private language. Most of the time the situation doesn't even seem strange to me any more. It's amazing how you learn to adapt; how you learn to accept the weirdest conditions as a kind of normality. You learn a kind of cheerfulness."

However, there are times when the situation becomes all but intolerable.

"The worst is when other prisoners receive their notices of execution, when they get taken off to the pot, where they are held for a week before they are finally hanged. For that week a huge cloud of depression descends over the place," she says. "I mean how do you live with it? Knowing that (a hanging)

## THE ODD COUPLE





# Sentence today on 14 of Upington 25 murder accused

By Dawn Barkhuizen

ntence will be passed on 14 of the accused, the total for which no extenuation has been found, in the "Upington 25" trial today after the presiding judge found no extenuating circumstances for a further four accused yesterday.

Earlier this week Mr Justice J Basson found extenuating circumstances existed in the cases of 11 of the residents of the Upington township of Paballelo convicted of the November 1985 murder.

They will be sentenced towards the end of next week, their legal representative said.

Rejecting argument by the defence that the four had been subjected to crowd forces, Judge Basson yesterday found the actions of

Evelina de Bruin (about 63) and her common law husband, Gideon Madlongwolwane (about 60), Xolile Yona (24) and Albert Tywilli (27) to be without extenuation.

An application that all 25 be sentenced together on compassionate grounds was refused yesterday.

Earlier this week Judge Basson found that no extenuating circumstances existed in the cases of Kenneth Khumalo, Tros Gubula, David and Andrew Lekhanye, Myner Bovu, Zuko Xabendlini, Justice Bekebeke, Zonga Mokgatla, Wellington Masiza and Booi Japhta.

Those for whom extenuation has been found are; Abel Kutu, Elisha Motshiba, Ronnie Masiza, Barry Bekebeke, Xoliswa Dube, Elizabeth Bostaande, Geoffrey Sekiya (24), Sarel Jacobs (23),

# Terror trial accused 'drank skin cleanser'

By LINDA GALLOWAY  
Supreme Court Reporter

**TERRORISM** accused Ms Lumka Nyamza drank a bottle of skin cleanser in a police cell in Piet Retief after she was threatened by a security policeman, the Cape Town Supreme Court has been told.

Ms Nyamza is on trial with 13 others who refused to plead to the charges against them.

Mr D P de Villiers, QC, for the defence, was cross-examining Captain William Rudolf Liebenberg yesterday about a trip to Piet Retief in January last year with Ms Nyamza and co-accused Mr Chris Giffard.

He said Ms Nyamza would say she was taken by a Captain Jonker and other policemen to point out places in connection with allegations against her. She would say that she had been assaulted and had returned with her clothes covered in mud and without her shoes.

Captain Liebenberg said he had not gone with Captain Jonker that day but had asked about Ms Nyamza's condition when they returned.

He denied that Ms Nyamza told him she had been assaulted, or that he had told her she was lucky to have been brought back alive.

He denied telling her that if he had taken her he would have shot her.

Ms Nyamza was taken to a police station in Piet Retief that night and Mr de Villiers said she drank a bottle of liquid which "made her very ill".

Mr de Villiers said Ms Nyamza had swallowed the liquid "as a direct result of the threats you (Captain Liebenberg) made to her".

Captain Liebenberg said he remem-

bered there was a report about Ms Nyamza drinking the skin cleanser wash but could not remember when it had been.

He agreed that the following day she had been taken out again in the same dirty clothes. One of the policemen was sent to buy her a new pair of shoes.

Captain Liebenberg said he remembered that investigators from military intelligence had questioned Ms Nyamza at security police offices but could not remember whether the alleged assault in Piet Retief was discussed.

Mr de Villiers said Ms Nyamza would say she was handcuffed to the bed in her cell at Wynberg police station on orders from Captain Liebenberg.

Captain Liebenberg denied he had given such an order.

He said Ms Nyamza had never asked him whether her husband, Mr Tony Yengeni, was alive and he could not say whether other policemen had refused to tell her.

## Blood on clothes

Ms Nyamza would say she had seen blood on clothes belonging to her husband in a security police office at Culemborg and she had not known whether he was alive or dead.

She had asked to see a psychiatrist because she was depressed and had seen Dr T Zabow. She had told Dr Zabow of her fears and that she had wanted to see her four-year-old son, but had been told that she could not see him until she co-operated "to the satisfaction of the security police".

Captain Liebenberg said he did not know what Ms Nyamza had told Dr Zabow.

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# UPINGTON 14 GET DEATH SENTENCE

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UPINGTON. — Fourteen of the "Upington 25" were today sentenced to death for murdering a municipal policeman, Lucas Sethwala.

The 13 men and one woman were sentenced in the circuit court after Mr Justice J Basson found no extenuating circumstances.

The case against the other 11 accused, where mitigation was found, was postponed until Monday and they are expected to be sentenced next week. The trial has lasted three years.

The 14 are among 25 convicted of killing Mr Sethwala at the height of anti-apartheid riots in November 1985.

Mr Sethwala was beaten, stoned and then set alight in Paballelo near Upington on the edge of the forbidding Namib desert in the Northern Cape.

## "Fabricated lies"

Before sentence was passed, one of the condemned, Kenneth Khumalo, told the court: "I know I am innocent. A lot that was said against me was fabricated lies."

"I wish the judge to live longer to see me walking free in the streets of South Africa."

As Mr Justice Basson passed sentence, the 14, apparently resigned to their fate, said "thank you" in turn while relatives in the packed public gallery wept.

Those sentenced to death today are Kenneth Pinkie Kumalo, Eric Tros Gubula, David Lekhanyane, Myner Gudiani Boyu, Zuko Zabandini, Andrew Lekhanyane, Justice Bekebeke, Zonga Mokhatle, Wellington Masiza, Boy Jafifa, Evelina de Bruin, Gideon Madlongolwane, Xolile Yona and Albert Nyathi.

## "Sharpeville Six"

The case of the "Upington 25" bears similarities to the trial which condemned the "Sharpeville Six" to death and provoked a storm of protest around the world.

Like the Sharpeville Six, many of the Upington 25 were convicted not of actually killing the victim but of sharing a "common purpose" with a mob of about 120.

This is the largest single group condemned to the gallows for a politically motivated crime in modern South African history. — Sapa-Reuter.

Art Tm 15 26/5/89

# Upington 25: Sentence today

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By MARIUS BOSCH and Sapa  
UPINGTON. — Sentence will be passed today on 14 of the Upington 25 trialists convicted of the murder of a municipal policeman in 1985.

Mr Justice Jan Basson in a 200-page judgment this week found there were no extenuating circumstances for the 14 trialists, among whom is a 60-year-old mother of 10 children, her 63-year-old husband and a former mayor of Upington's Paballelo township.

The judge is bound by law to sentence the 14 to death.

The murder occurred on November 13, 1985, after a protest meeting against high rents was broken up by police. A mob stoned the house of Constable Lucas Sethwala who was kicked, stabbed and set alight. According to the judge, all the trialists had a common purpose.

In the case of Evelina de Bruin, 60, the judge said she had played an active and important role in the murder.

She returned from the scene of the murder with balled fists in the air and shouted: "Daar lê die hond en brand" (there lies the dog, burning), the judge said.

"Through lack of evidence on her part, it is difficult to ascertain whether these factors (emotional liability and the fact that some of her children were detained under the emergency regulations) played an important role."

The judge refused a defence request for the case to be postponed to allow family of the 14 to be present at the sentence. The case was a prolonged one dating back to 1986 and the court can find no justification in postponing the trial, he said.



# High treason

docket with A-C 33r

*Cap. 16/87*  
A CHARGE of high treason had been investigated against Mr Mkhuseli Jack, Mr Stone Sizani, Mr Henry Fazzie, and 31 others, the Minister of Law and Order, Mr Adriaan Vlok said yesterday. Replying to a question from the MP for Addo, Mr Peter Hendrickse, Mr Vlok said the docket was with the Attorney-General of the Eastern Cape.

'Proof that system needs to be revised'

# Outcry over Uppington 14

W/C ARCS 27/5/89 331

Weekend Argus Reporter

THE death sentence imposed on 14 of the 26 accused in the Uppington trial — which lawyers say is the biggest single group sentenced to hang for a politically motivated crime in recent South African history — has drawn strong response from a number of groups.

## Art born out of anxiety, boredom

Weekend Argus Reporter

ART works showing painstaking care and intriguing beauty have been created by the Uppington 26, who have been found guilty of murder.

With boxes of matches and glue they have liberated their creativity, born from hours of boredom and anxiety waiting for their trial to end.

Fourteen of the accused were sentenced to death on Friday by Mr Justice Basson.

The other 12 accused, for whom factors were found in mitigation, will be sentenced on Monday.

Among the art works they have created are pleasure cruisers and elaborate ocean liners built with matchsticks.

Xolile Yona, a former professional boxer, became known as the "ox-wagon king" for his Great Trek miniatures.

Former town treasurer Kenneth Humalo, 33, made a magnificent replica of the Roman Catholic church in Pabalello out of clothes pegs as a gift for his wife.

Elijah Mashoba, 24, an accomplished artist, spent much of the trial drawing and painting the characters in the courtroom.

Many of the models are on exhibition at the Baxter Theatre and are being sold to raise funds for the group.

A model luxury liner not on show, however, is one that was made for defence attorney Ms Andy Durbach.

"They gave it to me as a present to say 'thanks'. I had told them I didn't have time for a holiday so they made me a ship so I could have a cruise on a luxury liner."

National Director of the Lawyers for Human Rights, Mr Brian Currin, said the sentence served as proof that the capital system needed to be revised.

"We repeat our urgent plea to the Minister of Justice that he establishes a commission of inquiry for that purpose.

"Unless he does that, continued application of the capital system, particularly with murder convictions where judges have no discretion in the absence of extenuating circumstances and where the common purpose doctrine is applied — will inevitably result in the perception primarily in the black community, that judicial execution in South Africa is nothing other than legalised genocide."

### Devastating

Mr Jan van Eck, MP for Claremont who had had contact with the families and had attended the court hearings when he could, said the impact of the judgment on the impoverished and besieged black community of Pabalello would be devastating.

The Cape Action League has come out strongly against the sentence and the use of the doctrine of common purpose.

It called on all organisations and foreign governments to "do everything in their power" to stop the "brutal" use of capital punishment.

"We pledge our solidarity with those condemned to death and call for the release of all political prisoners and detainees," the statement said.

The South African Council of Churches in criticising the sentence said: "The Church believes that all life is God-given and should not be taken away even by judicial means. South Africa cannot afford to hang her citizens at the rate at which hangings are presently taking place."

Sapa-Reuter reports that South Africa has the third highest official execution rate in the world and hanged at least 537 people between 1985 and mid-1988, according to the London-based human rights group Amnesty International.

The Uppington case was reminiscent of the "Sharpeville Six" trial which last year drew worldwide protests.

Like the Sharpeville Six, many of the 25 were convicted not of actually killing the victim but of sharing a "common purpose" with a crowd of about 120 which did.

Following an international outcry the Sharpeville Six were reprieved by President P W Botha and are serving long jail terms.

Several Western countries indicated they would also take up the case of the Uppington 25 if death sentences were passed.



## Officer 'suspected trunk booby-trap'

*Capt 71415 27/5/89 331*  
A SECURITY police officer yesterday told the Supreme Court he believed it was not unreasonable to ask terrorism accused Ms Jenny Schreiner to open a trunk found in her flat in case it was booby-trapped.

Captain Liebenberg said this in reply to a question put to him by defence advocate, Mr D P de Villiers QC, in the trial of Mr Tony Yengeni, Ms Schreiner and 12 others who had refused to plead to charges of terrorism.

Capt Liebenberg, who completed his last day in the witness box after a lengthy cross-examination, said had the trunk been booby-trapped, Ms Schreiner would not have wanted to hurt herself.

Later, Mr De Villiers said his instructions were that items seized by police at Mr Yengeni's house — including a video recorder, video and music cassettes and portable tape player — in Searle Street, Lansdowne were not returned to the accused and were unaccounted for. Capt Liebenberg replied he did not know anything about the items.

The trial continues on Tuesday.



# Outrage

CAPT Tint

27/5/89

# Over 14 to hang

From MARIUS BOSCH

**UPINGTON.** — The "Upington 14" mass hanging judgment handed down yesterday has been met with outrage from opposition politicians and church leaders.

"It is an outrage that only the apartheid system can produce," a spokesman for the South African Council of Churches said.

Mrs Helen Suzman, the DP's spokesman on justice, said that "one's heart sinks when one thinks of the consequences of hanging 14 people."

"One remembers only too vividly the gasp of horror at home and the total shock abroad when the Sharpeville 6 were sentenced."

"One can only hope an appeal will bring less drastic consequences," she said.

The case was "unprecedented in South African legal history," said instructing attorney for the defence, Ms Andy Durbach.

"It is the largest and most unprecedented group to be sent to death (for a single murder)."

The defence will bring an application to appeal after the rest of the Upington 25 are sentenced.

The sentencing of the 14 township residents stems from an incident in November, 1985, when black policeman Mr Jetta Sethwala was killed.

A mob chased him from his home during a protest against rent increases in the township of Paballelo.

## 'Common purpose'

In sentencing the 14 to death, Mr Justice Jan Basson invoked a controversial "common purpose" doctrine despite finding that only four defendants actually assaulted the victim. The remaining 21 were convicted of murder for throwing stones at Mr Sethwala's house, forcing him to flee.

Shortly after those sentenced had been taken down to the cells, their distressed families gathered outside the court and started to sing hymns.

A crowd of about 250 people then moved towards the Upington CBD as the vehicle containing the 14 was diverted along back roads.

Astonished whites made way for the crowd. Two minutes later police warned the crowd to disperse.

The 14 Paballelo residents sentenced to death are: Kenneth Khumalo — former mayor of Paballelo, Tros Gubula, brothers Andrew and David Lekhanyane, Myner Bovu, Zuko Xabendlini, Justice "Bassie" Bekebeke, Zonga Mogatla, Wellington Masiza, Boy Japhta and Evelina de Bruin, 60 and common-law husband Gideon Madlongolwane, 63.

Evelina de Bruin, 60, and Gideon Madlongolwane, 63, are the oldest among the group. De Bruin worked as a domestic servant for an Upington family for 16 years and Madlongolwane worked for SATS for 36 years.

Inside the court, families of the 14 were allowed to speak to them after they had been sentenced.

Ms Beaver Runciman, spokesperson for the Society for the Abolition of the Death Penalty in SA, said the idea to bring peace to SA was not through judicial killings.



# The hangman darkens yet another life

By SELLO SERIPE

**ABRAHAM "Bizza" Mngomezulu, 25, who was hanged on Thursday in Pretoria for the necklance murder of an alleged police informer, died a strong man.**

The day before his execution, Mngomezulu, of Naledi Extension, told his mother to mourn his death for only three days. He also would not allow his mother, Julia Mngomezulu, 51, to spend the last few hours on death row with him.

Mngomezulu was sentenced to death in November 1987 in the Rand Supreme Court. He initially pleaded not guilty with 23 others, of whom four finally appeared in court with him. Ten were released and nine made State witnesses.

Bizza's sister, Dumazile, 22, told City Press that he was gardening in the yard when a mob burned a man in the veld in Naledi. Petros Masina, Bizza's uncle, strongly condemned the hanging.

## Mother sent home by doomed son as a noose beckons

He said it was unfair that Bizza had been sentenced to death on the evidence of a few witnesses. He said six other witnesses, who might have said something different, were not called to the witness box.

On Friday, City Press found his mother with four women from the neighbourhood who came to sympathise with her.

The last time she saw her son alive was on Wednesday, when she spent 90 minutes talking to him on an intercom, through a glass security partition.

She said Bizza still insisted he had not been involved in the murder of alleged informer Mandla Khoza, who stayed in the same area.

"He told me that even if I stayed overnight, there would be no change of heart on the

side of the authorities and he would still be hanged."

She said the Pretoria Central Prison informed her on May 18 that her son would face the hangman on May 25. She visited him the next day.

"Although he was not hysterical, his eyes were flooded with tears. He murmured that I should not stay too long. He said I must go to see his lawyer and ask the man to save his life."

His mother said she contacted the Johannesburg-based lawyer, but he had told her it was news to him that her son would hang in four days' time.

Although prison authorities had given her permission to spend the whole night with her doomed son, Bizza advised her to go home earlier.



Julia Mngomezulu, Bizza's mother, was told by her son to mourn his execution for only three days.



# Accused find an outlet making models

## Upington 12 will be sentenced today

### Staff Reporter

The remaining 12 members of the Upington 26 will be sentenced today for their part in the 1985 murder of a policeman.

On Friday 14 members of the group were sentenced to death by Mr Justice J J Basson.

They are: Kenneth Pinkie Kumalo, Eric Tros Gubula, David Lekhanyane, Myner Gudlani Bovu, Zuko Zabendlini, Andrew Lekhanyane, Justice Bekebeke, Zonga Mokhatle, Wellington Masiza, Boy Jafta, Evelina de Bruin, Gideon Madlongolwane, Xolile Yona and Albert Tywilli.

Mitigating factors were found for the other 12.

The 26 people make up the largest group convicted of murder in a South African court.

Although only one of the accused inflicted the fatal blows, 25 residents of Pabalello township have been convicted of murder under the principle of common purpose.

The trial has elicited international interest for its similarity

to the Sharpeville Six trial.

Model-making has become a means to while away the time for many members of the group.

First were simple boats, next came pleasure cruisers and then elaborate ocean liners, all built out of matchsticks.

One of the most prolific model makers was Justice Bekebeke (24), who was found to have inflicted the fatal blows. His first project was a huge boat, which he made for his mother as a Christmas present.

The idea caught on. Xolile Yona, a former boxer, became known as the "ox-wagon king" for his Great Trek miniatures.

### Boris Becker

The former town treasurer, Kenneth Humalo (33), also on trial, made a magnificent church out of clothes pegs for his wife. The model is a replica of the Roman Catholic church in Pabalello with pews made from suckers, birthday candles on the altar and bright gift wrapping on the walls.

Another of the 26 is an accomplished artist. Elijah Mashoba (24) has spent much of the trial drawing and painting the characters in the courtroom.

Nicknamed Boris Becker, because he excelled at tennis, Mashoba made his first boat from about 14 000 matches.

Psychologist Professor Graham Tyson described him in evidence as "an outstanding young man — a quiet, studious and talented person active in church activities whose behaviour appears exemplary. His involvement in the murder is totally out of character, suggesting that he was responding to strong situational forces".

Many of the models are presently on exhibition at the Baxter Theatre in Cape Town and are being sold to raise funds.

Ms Beverley Runciman, regional chairman of the Black Sash, which organised the exhibition, said:

"It is incredible to see the upsurge of creativity and beauty that has come out of a very barren and hopeless place."



Public violence  
ruling reserved

Supreme Court Reporter

JUDGMENT was reserved in the Supreme Court yesterday on an appeal by three former Arcadia High School pupils against their conviction and 12-month sentences for public violence.

An Athlone magistrate found that the youths were part of a group who stoned an unmarked police vehicle and a truck near Cathkin High School on May 8, 1987.

Mr J C Marais, for Louis Mark Ross, 21; Shamiel Lee, 19, and Michael Besten, 20, said the magistrate had erred in finding that the evidence of two police witnesses left no doubt that the appellants had been correctly indentified.

Mr W C Viljoen, for the state, said the insinuation of bad faith on the part of the police was inconceivable.

Mr Justice R M Marais presided with Mr Justice E L King. Mr Marais, instructed by A Kader of E Moose and Associates, appeared for the appellants.

REUTERS

# Upington trialist says 'I must have been mad'

From MARIUS BOSCH

UPINGTON. — The only defendant in the Upington 25 trial to be found guilty of attempted murder yesterday said he "must have been mad" if he had taken part in the murder of a municipal policeman in 1985.

Enoch Nompondwana, 34, was testifying in mitigation of sentence after the imposition of death sentences on 14 of his co-accused by Mr Justice Jan Basson on Friday — sentences met with outrage by opposition politicians and church leaders.

Nompondwana, the first black manager of a local salt processing works, said teargas fired to disperse a meeting called to protest against high rents in Upington's Paballelo township had caused him to become "aroused on a low level" and had created an "unrest situation".

The gas burned his eyes, frightened him and made him flee. He said he feared the use of live ammunition by police.

Clinical psychologist Mr G E Meyer said the court's finding was not in accord with the results of personality tests conducted on Nompondwana.

"Enoch is not somebody that would have done something like that at the end," Mr Meyer said.

Nompondwana was a man who was "mad about his work, worked overtime regularly and was also a keen soccer fan".

Mr Meyer said the climate of aggression, agitation and violence at the time of the murder could be reasons why Nompondwana should not be held responsible for his action.

Defence lawyers said sentencing of the rest of the defendants is expected on Friday. The trial continues.

pre-tax profit



# Public violence: Bonteheuwel teenager guilty on two counts

By GILL TURNBULL  
Court Reporter

A BONTEHEUWEL teenager has been convicted in Cape Town Regional Court on two charges of public violence.

John de Vos, 19, pleaded not guilty.

He was convicted of committing public violence with others unknown to the State by setting alight an Allied Publishing delivery truck outside the Protea Café in Bonteheuwel on August 17 1987.

Vos was also convicted for his part in the petrol-bombing of a policeman's house in Mahogany Street, Bonteheuwel, on August 28 1987 while the inhabitants were asleep.

The court heard Vos had been arrested in a bus in which he was sleeping with other teenagers allegedly known as the Bonteheuwel Military Wing.

He denied in evidence he was a member of this group.

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In handing down judgment in an earlier trial within a trial to test whether Vos's statement to the police after about six weeks in detention was made because he was tortured, the magistrate, Mr J D Huggett, said he was satisfied the State had proved beyond reasonable doubt that Vos was neither assaulted nor tortured with electric shocks.

## STRIPPED

"The defence did not place in dispute the wording of the statement. It was claimed only that it was made after he was assaulted."

Earlier Vos told the court he was taken from police cells in Muizenberg at 2am with a sack over his head to an unknown destination, where he was stripped to his underpants, suspended upside down, beaten and interrogated.

Mr Huggett accepted the police version that Vos had not been tortured as well as their

explanation of the accused's claim as an attempt to avoid assault from others in his community for being a so-called "pimp" (local vernacular for traitor).

Mr Huggett said police evidence was precise. Witnesses had not contradicted each other or themselves. The court had no reason to reject this evidence.

In convicting Vos, Mr Huggett said he was satisfied the acts committed in August 1987 constituted public violence and not malicious damage to property or arson.

"The offences were committed in public and the accused was part of a group who had no particular grudge against any one person."

Sentence was postponed to June 14. Vos's bail was forfeited and he was remanded.

Mr Dirk Brand appeared for the State and Vos was represented by Mr A Albertus.

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Upington 14:  
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## OAU protests

ADDIS ABABA. — The Organisation of African Unity (OAU) yesterday called on the international community to put pressure on Pretoria not to carry out death sentences passed on 14 Upington residents last week.

The 14 are among 25 people convicted of murdering a black police constable, Lucas Sethwala, in an Upington township in north-western South Africa in 1985.

— Sapa-Reuter



CM- T&A  
30/5/89

# Teenager lied about police beatings

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Court Reporter

A TEENAGER who fabricated a story that he was assaulted and electrically shocked by police, was yesterday convicted in the Cape Town Regional Court on two counts of public violence.

John de Vos, 19, of Privaat Street, Bonteheuwel, was convicted of setting fire to the house of Constable H Saayman on August 28 last year and also burning an Allied Publishing truck on August 18 in Bluegum Road, Bonteheuwel.

Earlier De Vos alleged that he was forced to point out certain places to the police after he was blindfolded, handcuffed, suspended and electrically shocked.

The magistrate, Mr J D Hugget, found that the assault which De Vos claimed had taken place was "totally untrue". His evidence was "fabricated and half-baked".

"If his evidence is measured against that of the police witnesses, then the court finds it totally unacceptable.

"He was vague, hesitant and he contradicted himself. The police did not contradict each other seriously. The court finds that they corroborated each other and there is no reason why their evidence should be rejected.

"The accused was visited by many policemen but did not tell them of his injuries. If he was suspended for hours, the court would have expected marks on his arms and legs, but there were none," Mr Huggett said.

De Vos formed part of a group who gutted the truck and petrol-bombed the house of Constable Saayman. "Even those members of the group who did not have bombs aligned themselves with the rest of the group. This is a typical example of how four people can commit public violence.

"Their aim was to disturb the public peace, infringe on the rights of others and destroy their property."

The hearing was adjourned to June 14 and De Vos was held in custody.

Mr J M Koen prosecuted. Mr K Arlén appeared for De Vos.

# Terror trialist on bail: Dancing in the street

Cape Times 31/5/89 331

## Supreme Court Reporter

ONE of the accused in the Yengeni terrorism trial, Ms Gertrude Fester, was released on R3 000 bail yesterday after spending more than a year in custody.

Her release caused excitement in a packed gallery in the Supreme Court and outside cheers went up from a group who sang and danced in the street when Ms Fester came out of the court building. Mrs Freda Fester wept as she held her daughter.

Mr H Klem SC, for the state, made the surprise announcement that the Attorney-General had on the basis of new information withdrawn his objection that Ms Fester, co-accused of Mr Tony Yengeni and 12 others, be allowed out on bail.

This caused a ripple in the gallery and some of the accused were clearly delighted and shook Ms Fester's hand.

In terms of her bail conditions Ms Fester must supply the investigating officer with her present address and any subsequent change within 24 hours; report to Maitland police station every day between 5 and 8pm

when the court is not in session and not interfere with state witnesses.

An inquiry into the refusal of Mr Bongani Jonas — formerly known as Mr X because he was to be a state witness — to testify was then held.

Mr A M Omar, for Mr Jonas, said Mr Jonas's case would be that it would be humanly impossible for him to testify. This defence had not been rejected in South African courts and it was an open question for the court to decide if it was a just excuse, Mr Omar said.

Mr Jonas said the reasons for his refusal to testify were complex because South Africans were living in two worlds — a world of the oppressor and that of the oppressed.

He would never be able to live with himself or his conscience and his family would never be able to face members of the oppressed community if he testified he said.

"Should I testify I would betray my own human dignity because our struggle is not just a struggle for political power but also a struggle for human dignity."

The trial continues on Thursday.



Case File 31/5/89

# 'Extreme factors' overtook trialist 331

From MARIUS BOSCH

UPINGTON. — The manager of an Upington salt-processing works, convicted of attempting to murder a municipal policeman in 1985, had acted totally against his nature on the day of the killing, a clinical psychologist told the circuit court here yesterday.

Mr G E Meyer was testifying in extenuation of sentence for Enoch Nompondwana, 34, the only defendant in the Upington 25 trial not to be convicted of murder.

The "abnormal circumstances" present in Upington's Paballelo township on November 13, 1985, would have put strong pressure on Nompondwana to act contrary to his personality profile, Mr Meyer said.

Prosecutor Mr T van Rensburg accused Mr Meyer of "theorising" and "grasping at straws" in suggesting that these circumstances were overpowering.

"You are making deductions that

are totally untrue," Mr Meyer replied.

Rejecting Nompondwana's claim that he had not heard a warning by police to disperse, Mr Van Rensburg suggested that Nompondwana had disregarded the order.

"This morning I did not hear a question you asked and it was in court. How would it be on a field in the midst of a crowd?" Mr Meyer replied.

Mr Meyer said group pressure had made Nompondwana act in the way he did.

Mr Van Rensburg said he would submit to the court that Nompondwana should be held totally responsible for "his deed".

Mr Meyer replied that Nompondwana had acted against his nature due to "extreme external factors".

Earlier yesterday Mr Justice Jan Basson instructed Mr Van Rensburg to summon a Rapport journalist to explain "innacurate reporting" in an article in Sunday's Rapport.

The trial continues tomorrow.

## Witness would be 'betraying dignity'

By LINDA GALLOWAY  
Supreme Court Reporter

TERROR trial witness Mr. Bongani Jonas told the Supreme Court, Cape Town, that testifying for the State would be tantamount to destroying himself and his family.

He was testifying during an investigation into his refusal to give evidence.

The inquiry is taking place as part of the trial of 14 people charged with terrorism.

The accused are: Mr. Tony Yengeni (accused No 1), Ms Jennifer Schreiner, Ms Lumka Nyamza, Mr Michael Lum-bambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitalabocha Charles Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zur-ayah Abass and Ms Colleen Lombard.

Mr Jonas told the court yesterday that it would be "humanly intolerable" for him to testify against the accused.

He was a member of a family which was part of an oppressed society, and if he testified his family would not be able to face that community.

Mr Jonas said he was aware that the charges against the accused had to do with the African National Congress, and this was part of the reason he had refused to testify against them.

"If I should testify I would be betraying my own human dignity," he said.

The struggle the trialists were involved in was not only a struggle for political power but also a struggle for human dignity. (Proceeding)

## Roses named after Mayor of Bellville

Tygerberg Bureau

THE Mayor of Bellville, Professor Kristo Pienaar, has had 150 roses named after him.

The Kristo Pienaar roses, which will be introduced to the Cape this year, will be planted before Professor Pienaar's term of office ends.

Deputy-Mayor Mr D. van Schoor said the roses were a "beautiful tribute" to Professor Pienaar, a botanist.