TOTALITARIANISM — POLITICAL TRIALS

1989 — JUNE — ~~JULY~~ AUG.

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New turn in Godolozi mystery

PORT ELIZABETH. — Why was an airport worker, who allegedly saw Eastern Cape activist Qaqawuli Godolozi's kidnappers, fired? That's the question facing a Port Elizabeth court this week.

The court is hearing an application on the disappearance of Godolozi, Sipho Hashe and Champion Galela.

The three, all executive members of the restricted Port Elizabeth Black Civic Organisation (Pebco), disappeared mysteriously four years ago.

Mrs Benedicta Nobulele Godolozi, mother of one of the missing men, is demanding that the Minister of Law and Order and the officer commanding the Alexandria police station produce her son.

Two earlier applications demanding that police release or produce the three failed when police flatly denied they were holding the men.

The activists disappeared on May 8 1985. They had gone to the Port Elizabeth airport, apparently after receiving a phone call asking them to fetch a member of the British embassy.

Airport worker Mzwandile Fezi told the court when the application started last year that he had seen the three men being apprehended by police at the airport.

Fezi subsequently lost his job.

When the application resumed this week, the airport's senior supervisor, Mr A Thompson, said he did not know when Fezi had been dismissed.

He said he had been told that Fezi lost his job because of his "bad work record".

"I find it fascinating that you had heard this about Mr Fezi, a labourer," said Mr M Baslian for the applicants.

There was some argument over this line of questioning between the two parties, and the court will rule this week on whether Thompson will be questioned further on Fezi's dismissal.

In earlier evidence, heard when the application started late last year, several other witnesses claimed to have seen the three men in police custody.

The case continues.

Divided by 'apart-hate'

THE drama of the "Upington 25" trial touched on white Upington for the first time last week.

After the death sentence was imposed on 14 trialists on Friday, about 250 friends and relatives marching through the central business district, closely flanked by hordes of riot policemen.

For many Upington whites, this was their first contact with an event described by community leader Alfred Gubula as "the worst thing ever to happen to Paballelo. We will never recover from this."

Most whites were only aware of the trial — which has generated considerable international attention — through the "discomfort" of being unable to park their cars in front of the court.

Police banned parking in the vicinity of the court "for security reasons".

After the crowd had marched for a kilometre, a police officer ordered foreign TV crews and other members of the press to stop filming and photographing "this operation".

Shortly afterwards, police were heard to warn the crowd to disperse.

"Why are they marching through our town?" a bewildered white shop assistant asked a friend.

Upington is an apartheid town, with the three communities strictly divided along racial lines.

Only one hotel and one restaurant are open to all races. The town's municipal swimming pool is reserved for whites.

Third-class

Paballelo, in turn, is a typical "platteland" township, with about 20 000 residents. It's name, ironically, means "place of playing".

The township was largely unaffect-

SENTENCED TO DEATH

Evelyn de Bruyn

Gideon Madlongolwane

GRIEVING RELATIVE

e heavy police presence outside the court was the first indication to ny white residents that a major trial was underway in their town

Community leader Mr Alfred Gubula is determined not to lose hope

f tears

For three years the people of Paballelo have lived in the shadow of a murder trial which has focused international attention on their community and brought heartache and bitterness into their homes. The trial drew to a close last week when 14 of the "Upington 25" trialists received the death sentence. Eleven others are still awaiting sentence. For the people of Paballelo, though, another battle has begun - to save their loved ones from the gallows.

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Mrs Susan Bekekeke with her son's prized model ship

'God be with you' —

BEFORE being sentenced to death, one of the Upington trialists told the court last week that he believed the black man would one day see real justice in South Africa.

Justice Bekebeke, 27, said he believed the trial had been based on racial prejudice.

"In this case people have deliberately made examples out of us," he said.

Bekebeke also told the judge, Mr Justice Jan Basson, that he hoped God would allow him (Basson) enough years to see Bekebeke walking along the streets of South Africa as a free man.

Bekebeke's emotional statement was delivered after Basson gave the 14 trialists, for whom no mitigation was found, the opportunity to address the court before sentence was imposed.

It was the first time the trialists had spoken in court as they had refused to take the witness stand out

A sorrowful Mrs Virginia Masiza - her one son, Wellington, is on Death Row; the other, Ronnie, is awaiting sentence

Potential orphans: Johnny de Bruyn and his sister, Montecuzo

Township

cumstances in the case of Justice Sat... determined that Barry's part in the murder was not motivated by "inherent wickedness" as he was 19 at the time.

Sethwala's murder was the tragic outcome of a protest meeting held to discuss high rents and other grievances in Paballelo on November 13 1985.

Stoning

About 3 000 of the township's residents gathered on the local soccer field when police arrived to break up the meeting. After police began using teargas, many residents fled down the only escape route, Philane Street, where Sethwala lived less than 100 metres away.

Residents began stoning Sethwala's home after he opened fire on the crowd. He was subsequently caught by the crowd, fatally hit over the head with the butt of his own shotgun, and his body set alight.

Twenty-six residents were charged with murder and after an 18-month trial, 25 of them were convicted in terms of the common purpose doctrine, which argues that even though some of them may not have taken

Paballelo has become a place of weeping with the entire community affected

EVERY time the mother of one of the Upington 14 looks at a model ship made by her son in prison, she bursts into tears.

Mrs Susan Bekebeke, the mother of Justice Bekebeke — a former male nurse who intended to become a medical doctor — is struggling to come to terms with the death sentence imposed on her son and 13 others by judge Jan Basson on Friday.

Only the possibility of appealing against the sentence keeps her from crumbling altogether.

"If there wasn't that small hope, I don't know how I could cope," she said in her small Paballelo house, where her son's painstakingly crafted model of a cruise liner occupies place of honour in the living room.

Meeting

Justice "Basie" Bekebeke, 27, and his brother Barry Bekebeke, 22, were both convicted of the murder of municipal policeman Lucas Sethwala in terms of the controversial common purpose doctrine, which was also applied in the Sharpeville Six trial.

Basson found no extenuating cir- [illegible] of Justice but 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 14 trialists sentenced to death are Kenneth Kumalo, Eric Gubula, David Lekhanyane, Andrew Lekhanyane, Myner Bovu, Zuko Zabendlini, Justice Bekebeke, Zonga Mokhatle, Wellington Masiza, Boy Jafta, Evelina de Bruin, Gideon Madlongolwane, Xolile Yona and Albert Tywilli.

The case against the other 12 accused, where mitigation was found, was continued this week.

The shattered families and friends of the 14 trialists sentenced to death have expressed disbelief at the severity of the sentence.

"Both my boys are very good children," said Bekebeke

Her youngest son, Paulie, 11, still believes that "Ouboet" — as he calls Justice — will come home.

"I have not accepted the judgment and I know my two children will walk into this house one day," said Bekebeke.

Johnny de Bruin, the son of Gideon Madlongolwane and Evelina de Bruin, who were both sentenced to death, said "hard times" lay ahead.

He had visited his parents, aged 63 and 60, three times a week in prison since they were convicted in April 1988.

His older brother, James, 29, was now having to support the family on his wages.

His younger brother and sister, Mansion, 14, and Adelaide, 11, were missing their parents "terribly", he said.

Gideon, an SATS veteran of 36 years, was described in court as one of Paballelo's most beloved residents. Evelina was "a woman of the house" who had worked as a domestic servant for 16 years.

Most Paballelo residents were stunned when the couple received the death sentence.

Mrs Lydia Yona, the mother of boxer Xolile Yona, 24, said it was very difficult to believe that her son had been sentenced to death.

"He has always been a good child and his whole life revolved around boxing," she said.

At present she is taking care of Yona's three-year-old son, Percival.

"I do not know what it will be like for him to grow up without a father," she said.

The Yona house is filled with matchstick models made by Xolile since his imprisonment. He was refused bail at the start of the trial and was in Upington prison for three years before being sent to death row on Friday.

His brother, Lesley, said he had intended to take Xolile to the Transvaal after the trial to further his boxing career.

Yona named a model boat he made after his hero, Mike Tyson, and even shaved his head in the fashion adopted by the champion.

Another of his models depicts the courtroom in which he and 13 fellow trialists were sentenced to death.

Said Mr Alfred Gubula, 55, whose 31-year-old son, Zonga Mokhatle, has already been transferred to Pretoria Central Prison with the other trialists: "We feel so terrible helpless.

"There has never been so much grief and bitterness in Paballelo before," he said, as told how he burst into tears while speaking to overseas television correspondents after judgment was handed down.

"This weekend people just sat at home in a dazed state of shock."

After sentence was passed, Gubula briefly visited his son in a cell beneath the small Upington courtroom.

"He was crying as he told me, 'Daddy don't stop praying for us. This is not the end.'

"He told me that we must not give up hope.

"He said even if they are not granted leave to appeal against their death sentences, we must still go on fighting and petition the State President to try and save them "

- condemned man tells Judge

of belief that their testimony would be "valueless".

Protesting his innocence, Zuko Xabendlini described the trial as "a stain on the legal system of South Africa".

Zonga Mokgatle, 28, once again denied that he had killed municipal policeman Lucas Sethwala.

"You (Basson) are going to take me away from my wife and children and my parents for something I have not done. I say to you, my Lord, God be with you," said Mokgatle.

Kenneth Kumalo, 29, a former mayor of Paballelo, said the evidence produced had been a "lot of fabricated lies" and had "misled" the court.

Sixty-year-old Evelina de Bruin also dismissed the evidence as "lies".

"The real culprits will come forward at a later date. Then they will reveal themselves, because other people committed this crime," she said.

She said the only thing she was worried about was her home and children.

Her common-law husband, 63-year-old Gideon Madlongolwane, said his conscience was "clean" and that he would "go to heaven" if he was hung.

"As I am standing here today, I have not done anything wrong," he said.

Andrew Lekhanyane also maintained he was "clean".

"The blood of the deceased is not on my hands," he said.

Albert Tywilli, 23, told Basson bitterly: "You have robbed me of my children. Congratulations!"

After Basson had passed the death sentence, the court immediately rose and adjourned.

The accused were taken back to their cells beneath the courtroom, where relatives were given permission to visit them.

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rocked South Africa from 1984 after black frustration came to the fore in large-scale riots in the townships.

But on 13 November 1985, all this changed. Since then, youths have been detained and placed under heavy restrictions, and residents have been harassed by the municipal police.

"The people of Paballelo are at the bottom of an imposed racial hierarchy," Professor Martin West of the University of Cape Town testified during the trial.

"They are third-class citizens in their own town."

Unemployment

Problems faced by the community are high rents, harrassment by municipal police, a serious housing shortage and high unemployment.

White Upington, however, is an oasis in a semi-desert with luxurious homes lining the banks of the Orange river.

NGSK minister, the Reverend Aubrey Beukes, has spent most of the past 12 months trying to highlight the plight of the Upington 25.

Beukes has consequently been the target of a concerted disinformation campaign by "unknown persons".

He has received death threats from somebody purporting to be a member of the "Wit Wolwe", while pamphlets depicting him as a devil and a communist have been distributed among members of his congregation.

Only after sentence was passed on the 14 trialists had members of his congregation realised what had happened in their town, Beukes said last week.

On Friday, when Paballelo was in mourning, white Upington carried on as normal.

STUNNED: Mrs Dora Gobo struggles to contain her grief after hearing that her nephew, Xolile Yona, is to hang. Her son, Neville Witbooi, is still awaiting sentence

'I can't betray my family'

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By HENRY LUDSKI

THE "sleepness nights" of ANC commander Bongani Jonas are over.

This week, as his 62-year-old mother Violet and brothers Andile and Sipho watched from the public gallery of the Supreme Court, Cape Town, he explained how he could never "betray" them by giving evidence for the state.

"I am from the oppressed society and my people are suffering. Should I testify I will also be betraying myself," Jonas told the packed court.

On April 19, after only a few hours in the witness box, Jonas refused to go ahead with his evidence for the state — a decision which could cost him up to five years in jail.

Speaking about a "struggle within myself", Jonas said that before April 19 he had suffered sleepness nights because his conscience would not allow him to testify.

"But since April 19 I am glad to say I can sleep well without the aid of sleeping tablets," he said.

Tony Yengeni and 13 others are facing charges of terrorism and Jonas, who is still being held under Section 31 of the Internal Security Act, was to have been the state's key witness.

Humiliating

Jonas said that by testifying he would have created serious difficulties for members of his family, including his 72-year-old father, Mr Amos Jonas.

"If I testify in this court my family will never be able to face the community. I will also be accepting slavery," he said.

"I have a brother Sipho who is in Standard 9 at ID Mkize and should I testify, I would be humiliating him and he would not be able to face his colleagues.

"I also have a brother Andile, a teacher at I D Mkize who is an important leader in our society.

"Should I testify I could also be destroying him and he won't be able to face his students and colleagues. I would be betraying my brother," said Jonas.

Describing his childhood and how he was "oppressed from the time he was born", Jonas said that the "struggle" was not only for political power, but also for "human dignity".

"It is clear that our society has been polarised, that the black society enjoys no political rights and that our human dignity is being trampled on daily by the government," Jonas said.

Bongani continued with his evidence on Thursday after which Durban sociologist, Professor Fatima Meer, also testified on his behalf.

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Youth leader to appear in court

CAPE youth leader Mzonke Whitey Jacobs appeared in the Athlone magistrate's court this week charged with contravening restrictions imposed on him in terms of the emergency regulations.

Jacobs, president of the Cape Youth Congress (Cayco), was allegedly absent from his home on January 30 this year during a prescribed time in terms of his restriction order.

He was not asked to plead and the matter was postponed to July 4.

His lawyer indicated to SOUTH that Jacobs would contest the restriction order.

A minutes-long reprieve from the noose

2-8/6/89. 331 Wmell

By IVOR POWELL

DEATH row prisoner Andries Anton Uithaler had a few minutes of jubilation this week when he received a clemency notice: his death sentence had been commuted to a 15-year sentence.

Only minutes later, before the first transport of jubilation had worn off, Uithaler was served another notice by the sheriff of the court — his notice of execution.

Next Tuesday he is to go to the gallows for his other death sentence, handed out for armed robbery with aggravating circumstances.

Tuesday happens to be Uithaler's birthday.

Uithaler is one of seven death row prisoners — one a woman, the first to be executed in over two years — who were served notices of execution this week. None were convicted on political grounds.

Unless urgent petitions for clemency lodged on behalf of the condemned have been successful, four prisoners will have been hanged in the early hours of this morning.

They are Sandra Smith and Jasin Harris, of Mitchell's Plain, both sentenced in 1986 for a Cape Flats murder, Michael Erasmus of Cape Town, sentenced for murder and sodomy in 1987, and Jacob Ndaba, convicted on five counts of murder in the Rand Supreme Court last year.

On Tuesday, three further executions are sheduled. They are Uithaler, his co-accused Michael Morris and Mxolisi Isaac Tshongoyi, convicted of murder early in 1988.

Pretoria Central's death row is overcrowded at present. Of the more than 280 prisoners held there at present, some are, according to Brian Currin, national director of Lawyers for Human Rights, being forced to double up on cells. Others — the forgotten on death row, those who have not received visitors — have even been transferred to other parts of Pretoria Central or another prison, Currin said.

Meanwhile, he reports, 42 new death cells are in the process of being built in order to relieve the congestion.

"It's hard to avoid the sinister conclusion that space is being made for the Upington 14," Laura Polecutt, a Black Sash researcher said yesterday.

Laurel Angus, a researcher attached to the Centre for Applied Legal Studies at the University of the Witwatersrand drew attention to the increase in hangings over the past month. "Where only one prisoner was executed in January this year, and one in February, there will have been 12 executions in the space of 10 days."

On Wednesday night, Desmond Tutu, Anglican Archbishop of Cape Town, added his voice to those calling for the abolition of the death penalty in South Africa.

"I include even a Barend Strydom who is a child and product fed on the hatred and contempt that are the logical consequences of apartheid and its horrendous racism," Tutu said in an address to the Anglican Church's Provincial Synod in Durban.

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Court told of secret police death squad

Police had formed a special unit of ANC defectors, known as the Askari Group, 'to seek out and kill their former colleagues', the Yengeni terrorism trial heard this week. SAHM VENTER reports

DETAILS of a secret police hit squad of "African National Congress defectors", called the Askari Group, emerged in the Cape Supreme Court yesterday.

Bongani Abednego Jonas, 31, the "Mr X" who refused to give evidence for the state against the 14 accused in the Yengeni terrorism trial, told the court he was shot by a member of this group.

The work of Askaris, or the A-Team as security policeman Major du Toit called them, was to "go around the township acting on information from the security police to seek out and kill their former colleagues".

"Some of them said I was fortunate to be alive," Jonas said.

There are at least two units of this group operating in South Africa. One is led by a Sergeant Balletjies and is based in Pretoria. The other, a Cape unit, operates from East London and covers the area from Cape Town to the Wild Coast, the court heard.

"I was told there was another unit to be formed in Cape Town, which would work from Cape Town to George and near Beaufort West," Jonas said.

He said Askari members had told him they had killed people in Botswana (including a man called Naledi) and had shot a suspected "terrorist" in Guguletu in September 1988.

Jonas was giving evidence in a hearing in terms of section 189 of the Internal Security Act to determine whether he has "just cause" to refuse to give state evidence. His refusal is based on the grounds that testifying for the state would by "humanly intolerable".

If the court finds Jonas has no "just cause" he faces up to five years' jail.

Members of Askari included Stan Gwiji and "Neville" from the Transvaal, Lucky Mavimbela of Paarl, and "David", said Jonas.

He said he was shot in the left hip by "David" on September 17 1987, before being detained under Section 29 of the Internal Security Act. Security policemen had pulled, stood and jumped on his fractured leg. Jonas said he spent several months in hospital, much of the time chained to his bed.

"David" later suggested he join the Askaris, Jonas told the court.

"He said I would be given a house, security, will have the opportunity to marry, but my wife will have to stay in the base because I must understand that my life will never be the same again. Because in order to be protected by the state, we have to work in a team," Jonas said.

"I agreed, but in myself I never agreed because if I refused to work for Askari then the police would have other suspicions of me. I had to play along; that humilated me."

Jonas said he had been told by the security police that he would be a state witness.

Since his refusal on April 19 to give evidence for the state, all his privileges had been taken away. Jonas said Du Toit had instructed the police station commander "to keep me in conditions of section 29 though I am still (being held under) section 31".

The hearing threatens to become a marathon one, with the state announcing it will call about 30 witnesses to refute Jonas' allegations.

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Upington: Legal history's biggest extenuation case

THE death sentence on 14 of the 25 Upington murder trialists followed what was "probably the most comprehensive and detailed evidence in extenuation" ever in a South African trial, says University of Cape Town law professor Denis Davis.

Last week Mr Justice Jan J Basson found no extenuating circumstances in the case of 14 of the Upington accused, all of whom he had earlier convicted of the 1985 mob murder of a municipal policeman.

In the case of the remaining 11, the judge found extenuating circumstances on the basis of youth (several were in their teens and still at school at the time), emotional immaturity and low intelligence.

The court had to decide whether the murder of Lucas "Jetta" Sethwala was carried out by a mindless mob or by a group of people whose specific, planned intention was to drive him from his house and kill him.

By presenting detailed psychological profiles of each accused, the defence lawyers tried to show that, for most of them, violence was out of character.

Using an extensively documented theory of de-individuation, they argued that each of the accused was influenced by powerful psychological and other forces which operate in crowds. These render individuals unable to think rationally and diminish their responsibility, in much the same way as drunkenness.

The argument in extenuation presented at the Upington murder trial was the most massive in legal history. GAYE DAVIS reports on why the judge rejected it

A socio-economic survey of Uitenhage's Paballelo township showed that the residents suffered from disadvantage, discrimination and lack of rights. These conditions, it was argued, set the scene for the murder, which took place on November 13 1985.

That morning, about 3 000 residents gathered on a soccer field to discuss grievances, including rents people could no longer afford to pay. Police fired teargas to disperse the crowd, and in their anger, fleeing residents attacked a beerhall and stoned a police Casspir. A crowd of about 300 gathered outside Sethwala's house and started to stone it.

Sethewala fired his shotgun from a window, wounding a small child. He then fled, was chased and struck fatally over the head with his own gun. His body was then further assaulted before being set alight.

Three days before, police allegedly shot dead a pregnant woman returning from a shop, sparking days of turmoil during which homes of councillors and policemen were attacked.

The disruption of the meeting and the tense climate in the township were cited by the defence lawyers as important factors influencing the behaviour of the accused.

They asked why a group of people from widely differing backgrounds should come together to perpetrate a murder in broad daylight without trying to disguise themselves.

Justice Basson rejected the bulk of the defence's argument.

In his view, the incident amounted to a politically motivated, "semi-organised revolt". While he could not find evidence of a plot to kill Sethwala, the overall plan was clear: to act against symbols of authority and *"impimpis"* (informers).

A state witness, Dr CP de Kock of the Human Sciences Research Council had thrown "much light on the matter", he said.

De Kock described a pattern of political turmoil which erupted in 1984 and spread from cities to rural areas. When Sethwala was murdered, a pattern had emerged of people, usually figures of authority, being stoned, chased, assaulted and set alight.

The judge found that possible political motives among the accused had not been fully investigated. Had they been, and had the accused themselves testified, their apparently irrational behaviour might have seemed rational, the judge found.

Evidence on de-individuation amounted to "pure speculation", Justice Basson said. None of the accused had testified, so he had no factual basis on which to decide on their state of mind at the time of the murder.

He added: "An accused with no other defence has no right simply to call on de-individuation in a last attempt to spring free from the consequences of his crime."

While conceding that Paballelo residents had grievances, he concurred with the trial judge in the Sharpeville Six case, who said it could not be seen as an extenuating circumstance when people aired grievances by "sowing death and destruction".

Nor could he find that provocation was a factor.

The crowd "knew" police would use force if the meeting did not disperse. "It is difficult to believe the people could be provoked by the teargas. They made its use necessary by their actions."

It was "pure nonsense" to say that Sethwala had further provoked the crowd gathered at his house by wounding the child. "With such a heavy stoning of his house, the people could surely have expected the deceased to defend himself," Justice Basson said.

He rejected the contention that most of the accused had played a lesser role in the murder.

It was "not necessary" for the state to prove all 25 took part in the actual killing. They associated themselves with the common purpose by stoning the house with the intention of driving him out to be killed, he said.

The judge was anxious to get it over. A few words and he slipped out quickly ...

The attitudes of those condemned at Upington ranged from hesitancy to defiance, reports DAVID BERESFORD

THE old lady, Evelina de Bruin, was wiping tears from her eyes in the dock. A psychiatrist slipped a tranquilliser to Kenneth Khumalo. The boxer, Xolile Yona, was leaning into the public gallery, embracing his weeping girlfriend. Justice Bekebeke was reading Du Toit's *Punishment in South Africa*. Justice wanted to be a psychiatrist and was studying by correspondence; Du Toit rules that out on death row.

Then a deep voice started and the 14 condemned people stood in the Upington court house and sang *Nkosi Sikelel'iAfrika*, the riot police watching impassively. As they finished, a policeman called for order and Mr Justice Basson took his seat underneath the South African flag, bolted to the wall.

There was a brief exchange on a technicality with advocate Anton Lubowski. Then the judge nodded to the accused No 1 and the Xhosa interpreter invited Kenneth Khumalo to say his last words to the court.

The rest of the condemned were dressed in tracksuits, supplied by the defence; even Evelina had a tracksuit jacket on top of her skirt. But Kenneth was dapper in a dark suit and tie, as befitted a one-time mayor of Upington's Paballelo township.

Relatives of the Upington trialists react with shock after the death sentence is passed

Picture: MARIUS BOSCH, Afrapix

He told the court that the case against them, for the mob murder of a Pabellelo policeman, was based on "fabricated lies". And he said that the trial would "act as a scale which will measure justice in the legal system of South Africa".

And so it went, the accused rising one by one to their feet to make their appeals, to express their hopes and give vent to their anger. None of them appeared to have prepared for the moment and they spoke hesitantly.

Justice Bekebeke, the 28-year-old scholar, was the most articulate. He made an appeal for racial harmony and told the judge: "I would like the Lord to give you many years so that one day you can see me walking on the streets of a free South Africa ... May the Lord bless you."

Evelina spoke of her kids: "I feel very sad for my children and my home. I've been taken away from them for something I didn't do."

Her common-law husband, Gideon Madlongolwane, went on at length, criticising the trial in detail. But he was listened to with the deference due to a father of 10 children being sent with his wife to the gallows, until the judge interrupted to say that the merits of the case could be argued by his counsel on appeal.

Xolile, the boxer, asked the judge to reconsider. "You are taking me away from my family," he said. "I grew up without a father. Now my child must grow up without knowing a father ... I would like to be a boxer. I would like to be a good boxer. I'm asking for a last chance."

The last of the condemned, Albert Tywilli — a 27-year-old former policeman — struck a note of defiance. "If I had come before a clever judge he wouldn't have found me guilty," he said contemptuously. "Congratulations on your brilliant judgement!"

The grim ceremony of the death sentence — "you will be taken from here to a place of execution ... " — has long been abandoned in South Africa's courts, and Justice Basson was anxious to get the formality over. So he called out the numbers of the accused and added, perfunctorily, "...you are sentenced to death". He rose quickly and slipped out of the court room, leaving the condemned milling about uncertainly.

The court was cleared to give relatives 15 minutes with each of the accused; their last chance to kiss and embrace, because in Pretoria farewells will have to be made behind reinforced glass.

As the families came out of the court building, they began to sing and dance with friends and supporters waiting for them. The growing crowd moved around the side of the building to see the 14 go, harmonising the haunting melody, *Senzeni Na?* — "What have we done ? What have we done ? Our sin is kindness."

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Sethewala fired his shotgun from a window, wounding a small child. He then fled, was chased and struck fatally over the head with his own gun. His body was then further assaulted before being set alight.

Three days before, police allegedly shot dead a pregnant woman returning from a shop, sparking days of turmoil during which homes of councillors and policemen were attacked.

The disruption of the meeting and the tense climate in the township were cited by the defence lawyers as important factors influencing the behaviour of the accused.

They asked why a group of people from widely differing backgrounds should come together to perpetrate a murder in broad daylight without trying to disguise themselves.

Justice Basson rejected the bulk of the defence's argument.

In his view, the incident amounted to a politically motivated, "semi-organised revolt". While he could not find evidence of a plot to kill Sethwala, the overall plan was clear: to act against symbols of authority and *"impimpis"* (informers).

A state witness, Dr CP de Kock of the Human Sciences Research Council had thrown "much light on the matter", he said.

De Kock described a pattern of political turmoil which erupted in 1984 and spread from cities to rural areas. When Sethwala was murdered, a pattern had emerged of people, usually figures of authority, being stoned, chased, assaulted and set alight.

The judge found that possible political motives among the accused had not been fully investigated. Had they been, and had the accused themselves testified, their apparently irrational behaviour might have seemed rational, the judge found.

Evidence on de-individuation amounted to "pure speculation", Justice Basson said. None of the accused had testified, so he had no factual basis on which to decide on their state of mind at the time of the murder.

He added: "An accused with no other defence has no right simply to call on de-individuation in a last attempt to spring free from the consequences of his crime."

While conceding that Paballelo residents had grievances, he concurred with the trial judge in the Sharpeville Six case, who said it could not be seen as an extenuating circumstance when people aired grievances by "sowing death and destruction".

Nor could he find that provocation was a factor.

The crowd "knew" police would use force if the meeting did not disperse. "It is difficult to believe the people could be provoked by the teargas. They made its use necessary by their actions."

It was "pure nonsense" to say that Sethwala had further provoked the crowd gathered at his house by wounding the child. "With such a heavy stoning of his house, the people could surely have expected the deceased to defend himself," Justice Basson said.

He rejected the contention that most of the accused had played a lesser role in the murder.

It was "not necessary" for the state to prove all 25 took part in the actual killing. They associated themselves with the common purpose by stoning the house with the intention of driving him out to be killed, he said.

The judge was anxious to get it over. A few words and he slipped out quickly ...

The attitudes of those condemned at Upington ranged from hesitancy to defiance, reports DAVID BERESFORD

THE old lady, Evelina de Bruin, was wiping tears from her eyes in the dock. A psychiatrist slipped a tranquilliser to Kenneth Khumalo. The boxer, Xolile Yona, was leaning into the public gallery, embracing his weeping girlfriend. Justice Bekebeke was reading Du Toit's *Punishment in South Africa*. Justice wanted to be a psychiatrist and was studying by correspondence; Du Toit rules that out on death row.

Then a deep voice started and the 14 condemned people stood in the Upington court house and sang *Nkosi Sikelel'iAfrika*, the riot police watching impassively. As they finished, a policeman called for order and Mr Justice Basson took his seat underneath the South African flag, bolted to the wall.

There was a brief exchange on a technicality with advocate Anton Lubowski. Then the judge nodded to the accused No 1 and the Xhosa interpreter invited Kenneth Khumalo to say his last words to the court.

The rest of the condemned were dressed in tracksuits, supplied by the defence; even Evelina had a tracksuit jacket on top of her skirt. But Kenneth was dapper in a dark suit and tie, as befitted a one-time mayor of Upington's Paballelo township.

Relatives of the Upington trialists react with shock after the death sentence is passed

Picture: MARIUS BOSCH, Afrapix

He told the court that the case against them, for the mob murder of a Pabellelo policeman, was based on "fabricated lies". And he said that the trial would "act as a scale which will measure justice in the legal system of South Africa".

And so it went, the accused rising one by one to their feet to make their appeals, to express their hopes and give vent to their anger. None of them appeared to have prepared for the moment and they spoke hesitantly.

Justice Bekebeke, the 28-year-old scholar, was the most articulate. He made an appeal for racial harmony and told the judge: "I would like the Lord to give you many years so that one day you can see me walking on the streets of a free South Africa ... May the Lord bless you."

Evelina spoke of her kids: "I feel very sad for my children and my home. I've been taken away from them for something I didn't do."

Her common-law husband, Gideon Madlongolwane, went on at length, criticising the trial in detail. But he was listened to with the deference due to a father of 10 children being sent with his wife to the gallows, until the judge interrupted to say that the merits of the case could be argued by his counsel on appeal.

Xolile, the boxer, asked the judge to reconsider. "You are taking me away from my family," he said. "I grew up without a father. Now my child must grow up without knowing a father ... I would like to be a boxer. I would like to be a good boxer. I'm asking for a last chance."

The last of the condemned, Albert Tywilli — a 27-year-old former policeman — struck a note of defiance. "If I had come before a clever judge he wouldn't have found me guilty," he said contemptuously. "Congratulations on your brilliant judgement!"

The grim ceremony of the death sentence — "you will be taken from here to a place of execution ... " — has long been abandoned in South Africa's courts, and Justice Basson was anxious to get the formality over. So he called out the numbers of the accused and added, perfunctorily, "...you are sentenced to death". He rose quickly and slipped out of the court room, leaving the condemned milling about uncertainly.

The court was cleared to give relatives 15 minutes with each of the accused; their last chance to kiss and embrace, because in Pretoria farewells will have to be made behind reinforced glass.

As the families came out of the court building, they began to sing and dance with friends and supporters waiting for them. The growing crowd moved around the side of the building to see the 14 go, harmonising the haunting melody, *Senzeni Na?* — "What have we done? What have we done? Our sin is kindness."

Down Seventh Avenue ... with

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Alexandra township was in turmoil in 1976 when Moses Mayekiso, regarded by most residents as their leader, was arrested. While Mayekiso stood trial in a months-long treason case, the authorities began an 'upgrading' programme in the old township. This week Mayekiso, free once more, walked the very different streets of Alex

Story: SHAUN JOHNSON
Pictures: CEDRIC NUNN

A tale of two townships: To left and right, overcrowded shanties. Behind, brand-new private flats, so expensive few can afford to move in
Pictures: AFRAPIX

THE last time Moses Mayekiso walked up Alexandra's 7th Avenue, its squalid shacks were framed by dark, thick smoke from burning barricades.

That was in 1986; the township was in turmoil, and Mayekiso was the man most residents looked to as their leader.

Last Tuesday, Moses walked up 7th Avenue again, accompanied by a *Weekly Mail* reporter. This time there were none of the tell-tale signs of civil war. By contrast, huge, freshly-painted blocks of flats formed a backdrop to the shanties.

They were not there in June 1986 when Mayekiso and four of his colleagues were arrested and eventually tried — unsuccessfully — for treason, subversion and sedition.

The high-rise blocks symbolise the physical changes in Alex over the three intervening years. At the same time, the triumphant re-emergence of Mayekiso shows an underlying political continuum.

Alex was identified by the government in 1986 as key example of an urban black "oilspot"; a township which could erupt into rebellion at any time.

It became a testing-ground for the state's two-pronged response to this threat: the removal of "troublemakers" like Mayekiso, and their replacement by town councillors, coupled with upgrading, to alleviate the material hardships of the community. (See accompanying story.)

The detention of leading activists and a massive security force clampdown had a devastating effect on the powerful community organisations — from "yard committees" to youth congresses — which had mushroomed in the township, and security strategists hoped Alex would forever be pacified.

They would have been disappointed to see residents' responses to Mayekiso's tour of the township last week. After brief seconds of non-recognition — he had been away for a long time — passers-by, young and old, broke into broad grins and shouted to catch his attention.

One elderly man ran after him down the dusty street bellowing: "Hey! Moss! Hey!" Mayekiso stopped. *"Sidinga ukukubona njalo lapha, Moss,"* he said. (We need to see you here more often, Moss.)

At other points during the walkabout, matriarchs emerged from leantos to embrace him. The symbolism of the trade unionist-cum-community leader had lost none of its power.

Although he never tires of stressing that he is just one of countless anti-apartheid activists, Mayekiso is in many ways the embodiment of the political transformation Alex has undergone.

As an under-educated Transkeian youth of 25 he arrived in the township in 1973 to look for work. He had fled the mines in Welkom, and lived illegally in Alex's hated single mens' hostels.

He remembers thinking on first seeing Alex — ironically it was Selbourne Street, later to become the fulcrum of Alex's "Six Day War" — that it was the worst place he had ever come across.

He spent two years doing piecework on construction sites before finally securing a steady job as a worker in the Toyota factory in nearby Wynberg.

Already the living conditions in Alex — he and his extended family never had more than a one-roomed shack to live in — had affected his political perceptions profoundly, and labour disputes at Toyota would result in his dismissal and emergence as one of South Africa's most respected trade unionists.

It was in this capacity that he could argue, in 1984, for worker participation in community issues. Two years later, with Alex in revolt, Mayekiso was elected chairperson of the Alexandra Action Committee, which spearheaded attempts to solve the crisis and give direction to the nascent popular organisation which had developed.

He was active in the AAC until his arrest on June 28, two weeks after the nationwide State of Emergency was declared, and the experience has stayed with him and the residents of the township.

Standing in the yard of the house he used to live in — it has now been sold off — he argued that the government's upgrading programme had done nothing to change the lives of the people of Alex, and that powerful political grievances remained.

The tiny rooms leading off the yard were home to no less than 13 families, each with five or six children. There was no electricity and no sewerage. There was one tap and three portable toilets.

Graffiti painted on corrugated iron on the roadside proclaimed "Viva Mayekiso". The surrounding area is still known as the "Mayekiso Section" of Alex.

The homecoming scenes were more than just touching. "Organisation is beginning to be rebuilt in Alex," said Mayekiso. "The political transformation that took place has not been destroyed by either the State of Emergency or this upgrading."

Activists had absorbed the lessons of changed conditions, he said, and were once again rallying the community: "We have had so many people coming to us and saying they needed an organisational voice again ... it's deep."

ALEX: TESTING GROUND FOR THE NEW STATE STRATEGY

ALEXANDRA is a top-priority testing ground for the state's strategic response to the urban township rebellion of 1984-1986.

This response, according to Planact researcher Andrew Boraine, has been devised through the structures of the National Security Management System — in this case, the mini-Joint Management Centre responsible for Alex — and includes repressive and non-repressive measures.

Boraine sees the central aim of current state strategies as being "the creation and/or maintenance of a variety of social, geographical and political divisions".

Essentially, it has been accepted that the people of Alex cannot be wished away — so they must be pacified.

In addition to security action, this aim is pursued via "differentiated strategies in areas such as land allocation, black housing, the provision of township services and facilities, urban management and financing, black unemployment, health and social welfare, and access to resources".

Alex is a prime example of the policy, which releases considerable funds for township upgrading — relying largely on contributions from the controversial Regional Services Councils.

Nobody denies the need for the improvement of the physical environment; the question is what effect it has. Boraine points to the "creation of divisions within existing black townships (between middle-class homeowners in new élite suburbs, and working-class people in council housing and backyard shacks) ..."

In Alex, such contrasts are becoming stark: the new "Eastbank" suburb would not be out of place in many white towns of the East Rand, while conditions in "Old Alex" grow more dreadful by the day.

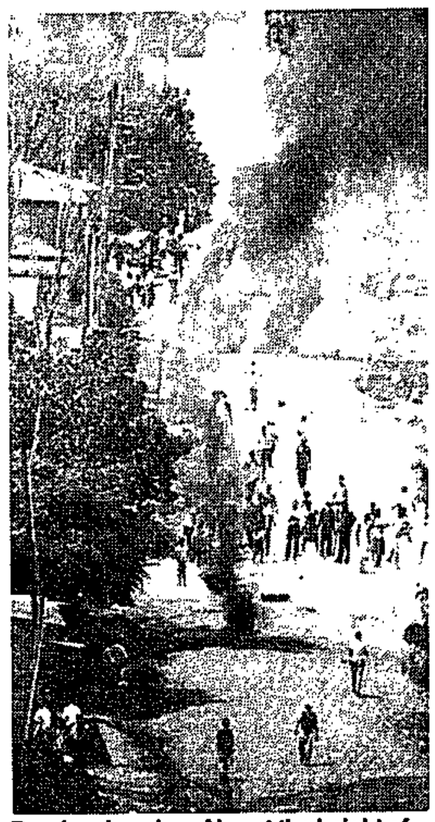
Many existing houses are being sold off to local landlords, who will remove the burden of rent-collection from the authorities. Given the long-standing, almost endemic rent boycott, this is a significant shift.

The improvements in Alex are being imposed from the top down. Not even JMC members would contend that the sitting councillors are representative of the community — all were "elected" unopposed, most have sullied reputations.

The township is run by its energetic, white, appointed administrator, Steve Burger. Along with his colleagues, he plays a key role in identifying upgrading needs.

There is ample opportunity for the sowing of division under the guise of assistance. After struggling for decades as a township of "have-nots", Alex now boasts a small group of "haves".

The schism angers many long-established working-class residents, who complain of more affluent "outsiders" being brought in to make the township look more acceptable.



Burning, burning: Alex at the height of the unrest before the Emergency
Picture: AFP

Moses Mayekiso has had direct experience of the new divisions. "When I was acquitted, the people of Eastbank were warned: 'Mayekiso is out. You are now in trouble, because he will attack you with his comrades.' They locked their doors; these people were fearful, and it takes time to reassure them."

The people of Eastbank have a lot to protect, compared to those of Old Alex: house prices start from R46 200, which, according to the Black Sash, would require a household income of R1 450 a month to sustain monthly mortgage repayments of R435 under the subsidised first-time homeowners' scheme.

Even modest, unrestored houses in Old Alex are well beyond the means of the township's residents. Government upgrading policy, they believe, is not aimed at them. They are deeply alienated — perhaps even more than they were in 1986.

Some statistics about Alex are revealing. Unemployment levels are at least 50 percent. The population density is 300 people per hectare, against eight in neighbouring Sandton.

There are shack settlements on almost every one of Alex's 22 streets. As much as 80 percent of the township's population is believed to consist of squatters.

Eighty-eight percent of inhabitants have no water-borne sewerage or electricity. Only 10 percent of the "dark city's" main streets are lit.

Coupled with clear signs of a resurgence of resistance organisation — and a refusal by officials to negotiate with extra-parliamentary structures — these factors lend support to Boraine's conclusion that "whatever (strategic) choices the JMC's make, it is clear that their ability to control the black townships for an indefinite period ... is increasingly limited".

police probe into Webster assassination

By GAVIN EVANS

FIVE weeks after David Webster's assassination, police remain tight-lipped on the progress of their investigation, while human rights activists have challenged them to produce results.

Police investigating officer Colonel Floris Mostert said on Wednesday that his men were "still investigating the whole thing", but could not comment further "as this could have a bearing on the outcome".

Earlier, one of his colleagues, Colonel Chris Earle, said there were "definitely no positive clues", but insisted his team were "trying their best".

Human Rights Commission representative Dr Max Coleman expressed scepticism about how seriously the investigation was being taken by police and challenged them to show evidence of their efforts. "We are starting to feel that this investigation is going the way of all the others in the past. After an initial flurry of police reaction everything has gone silent.

"It is disturbing that 33 days after his death, there seems to be a complete halt in progress towards solving his murder," Coleman said.

He expressed surprise that police were remaining silent despite newspaper reports that new witnesses had been found and a claim by convicted mass murderer Barend Strydom that the "Wit Wolwe" were behind Webster's assassination.

A recent *Vrye Weekblad* report said that a new eye-witness had come forward with fresh information on the identity of the killers which suggested that the original identikits were inaccurate.

Colonel Mostert said police would alter the existing identikits "if necessary". He refused to comment further.

Vrye Weekblad reporter Jacques Pauw was also handed a letter by Strydom in which he claimed the Wit Wolwe were responsible for Dr Webster's assassination. The police have discounted claims that the Wit Wolwe exist.

A grief-stricken Maggie Friedman, girlfriend of assassinated David Webster, at a detainees teaparty held to commemorate him
Picture: STEVE HILTON-BARBER, Afrapix

Diplomatic attack delays independenc

By HANS BRANDT

DIPLOMATIC insecurity on the part of United Nation negotiators and hard-nosed bargaining by their South African counterparts seem to be behind the continuing delays in the implementation of UN Resolution 435 in Namibia.

Since April 1, when the incursion by Swapo guerrillas into northern Namibia and the resultant bloody fighting with South African controlled security forces threw the independence process into disarray, South Africa has managed to keep the UN on the diplomatic defensive.

Theoretically, the Security Council should oversee the implementation of Resolution 435. But when fighting broke out in northern Namibia, South Africa, with the backing of the Soviet Union and the United States, managed to dictate the manner in which the crisis was resolved.

While several meetings of the Joint Commission, involving South Africa, Angola and Cuba, set various deadlines and took decisions, the Security Council and UN officials were relegated to observer status. Their attempts to participate in discussions in the Joint Commission were reportedly brushed aside.

Mounting international criticism of the inability of the United Nations Transition Assistance Group (Untag) to stop the fighting also put the UN on the defensive. UN representative Cedric Thornberry, based in Windhoek, clammed up.

Vindicated by developments since the beginning of April, South Africa can negotiate from a position of strength. The UN meanwhile seems reluctant to commit itself, afraid of giving rise to a new storm of criticism.

As a result, UN secretary ge Javier Perez de Cuellar is increasingly becoming involved in negotiat This week, a decision on the a tion of discriminatory legislation on an amnesty law, prerequisite the return of an estimated 40 00 fugees to Namibia, were referr him.

One of the sticking points is pro mation AG8, which established territory's ethnic administrations part of the scrapping of discrimin ry laws, Untag wants AG8 rescin — while Pienaar is arguing it does not threaten free and fair e tions.

The delays are to the advantage South Africa. Swapo cannot get election machinery into gear with many of the exiles, who include senior leadership. At the same ti the Democratic Turnhalle Alliance electioneering for all it's worth, ap edly with the generous assistance South Africa.

In Kavango, for instance, demob ised members of 202 Battalion ha reportedly become official DTA o ganisers. Yet they remain on the pa roll of the Namibian administratio until November.

Serious allegations of misconduc have in the past been levelled again 202 and 101 battalions and again the Koevoet police unit. More tha 120 such allegations are currently be ing investigated by Untag.

Untag's problems are compounde by the fact that Resolution 435 gi South Africa, through Pienaar, enormous influence over the transiti process. Nothing can happen on disputed issues unless his agreem is secured.

ANC accuses SA of killings

By GAVIN EVANS

A FRESH campaign of "assassinations and disinformation" is being waged against the African National Congress, representatives for the movement say.

In the past month four ANC members have allegedly been assassinated, while two mystery letters written by "disillusioned" ANC members have been widely circulated in Lusaka and South Africa.

Responding to questions from the *Weekly Mail* an ANC representative in Lusaka said the letters, which were also sent to members of the foreign and local press, were part of a campaign to boost the credibility of the South African government's "conditional amnesty" call made earlier this month.

The ANC has also accused "South African agents" of being behind the deaths of four of its members in Lusaka.

Earlier this month Jackie Mabuza and fellow-ANC member "Peter" died from drinking beer which had been spiked with poison.

Five weeks ago Moss Mthunzi and Sadhan Naidoo were murdered at an ANC farm near Lusaka. The ANC accused an "infiltrator" known as Tex of shooting the men while they were talking after supper.

"Tex" and another man are being held in custody in Lusaka, according to the ANC.

On May 18 ANC members discovered a landmine buried on the road to one of their "safe houses" in Lusaka, the representative said.

The campaign against the organisation included "statements by various government officials" and "speculations by newspapers", the ANC statement said. On May 15 the *Citizen* carried a report that the South African government was prepared to members who wished to return to South Africa "instead of being moved to camps in North Africa".

The report quoted Law and Order Minister Adriaan Vlok as saying the cases would be treated "on merit", and were conditional on the ANC members "repudiating violence".

He claimed to be responding to two "pamphlets" distributed in Lusaka by "disgruntled" ANC members.

The first purports to be written by an ANC member and alleges dissatisfaction within the ANC.

A second letter, allegedly written by a "senior member of the National Executive of the ANC" repeats the allegations and states that the ANC's presence in Lusaka is being reduced from 2 500 to 350 people.

Responding to the allegations the ANC said the letters were "devoid of any truth" and did not originate from ANC members in Lusaka.

"The Zambian government has not ordered the ANC to reduce its numbers," the ANC said.

The Bureau for Information denied specific knowledge of the letters, but police representative Captain Reg Crewe said they were "aware of the pamphlets, but we are not aware if they are genuine".

He said the information in the letters "corresponds with information in our possession".

● Meanwhile it is reported from Dar-es-Salaam that one of two men, alleged to be South African secret agents who tried to hijack a plane to Johannesburg, has pleaded guilty on two charges.

The two men tried on May 18 to divert an Aeroflot airliner while it was on a flight from Luanda to Dar-es-Salaam. Most of the 200 passengers

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- WE SUPPORT EFFORTS TO SCRAP ALL UNJUST LAWS

B O FORSSMAN
MANAGING DIRECTOR

Mokaba trial: jail for the two others

TWO men who were originally charged with terrorism alongside youth leader Peter Mokaba in the Pietersburg Regional Court have been sentenced to four and two years respectively.

Charges against Mokaba, president of the now-restricted South African Youth Congress, were suddenly withdrawn last week.

The two men — Malebane Elifas Tswai and Sam Thabo Masemola — pleaded guilty to alternative charges.

Tswai, 28, admitted acting as a courier for the African National Congress between Botswana and South Africa. He was sentenced to an effective four years.

Masemola, 29, was found guilty of possessing two limpet mines.

In mitigation of sentence, the defence had argued the two men had not been trained militarily. Masemola and Tswai had claimed a certain Lucky had given them arms. Thus, the defence argued, their transgression consisted of the failure to make proper enquries.

Why black's not quite beautiful

As explained by the honourable members of the Durban City Council

The beach saga continues, reports CARMEL RICKARD

THE "cheerful genes" of the "coloured race groups", the Bible and the racist beliefs of Barend Strydom were all marshalled by Durban city councillors this week to back their arguments for or against beach integration.

At stake were the remaining whites-only beaches and pools, which the council's amenities committee recommended the full council should agree to integrate.

Before the debate began, both sides knew the outcome. Discreet questioning and lobbying revealed the council — much more conservative since last October's elections — would vote 15/15 and that the mayor was expected to use his casting vote to maintain the status quo.

After four hours of discussion, the council voted exactly as predicted, but the sometimes bitter debate produced some colourful argument.

Malcolm Prentiss said he thought whites were projecting their dislike of overcrowding on to other races: black people positively loved to be on top of each other and this experience of being in very close quarters was what caused them to go to the beach in the first place.

He did not think there was anything wrong with it, it was simply a cultural fact that black people found "security and pleasure" from being in close quarters.

The "coloured race groups" liked to be so close together as it was part of their "cheerful companionable nature", he said. A love of being in close proximity was "built into the genes" of these beachgoers.

Beachfront councillor Arthur Bow-Bowles, of the conservative Civic Action League, said that "disgusting behaviour by the blacks" had burnt the bridges of goodwill between the races.

Undeterred by opposing councillors who said bad behaviour was not limited to one race group, Bowles cited urinating and defecating on the beaches as the main problem.

He also quoted the Bible to prove that "the Lord himself did separate the races".

Another opponent of integration, Jo Allen, said beachfront residents were already in "a state of siege" because of the many black people who used the existing integrated beaches.

She regularly visited the integrated paddling pools and found that some of the black children in the open pools had "suppurating sores" and she had seen women washing nappies in the pools.

Using a completely different approach, deputy mayor Margaret Winter appealed to the councillors to learn a lesson from the tragedy of Barend Strydom.

She said there was a challenge to councillors to show the country and the black residents of the city that they rejected the values which had shaped Strydom.

Liberal councillor Yvonne Hart made a more pragmatic appeal, saying councillors worried about disinvestment and sanctions would be taking a step to overcome these problems if they voted for integration.

The defeat of the motion means it cannot be debated again for a year.

May there always be good food on your table

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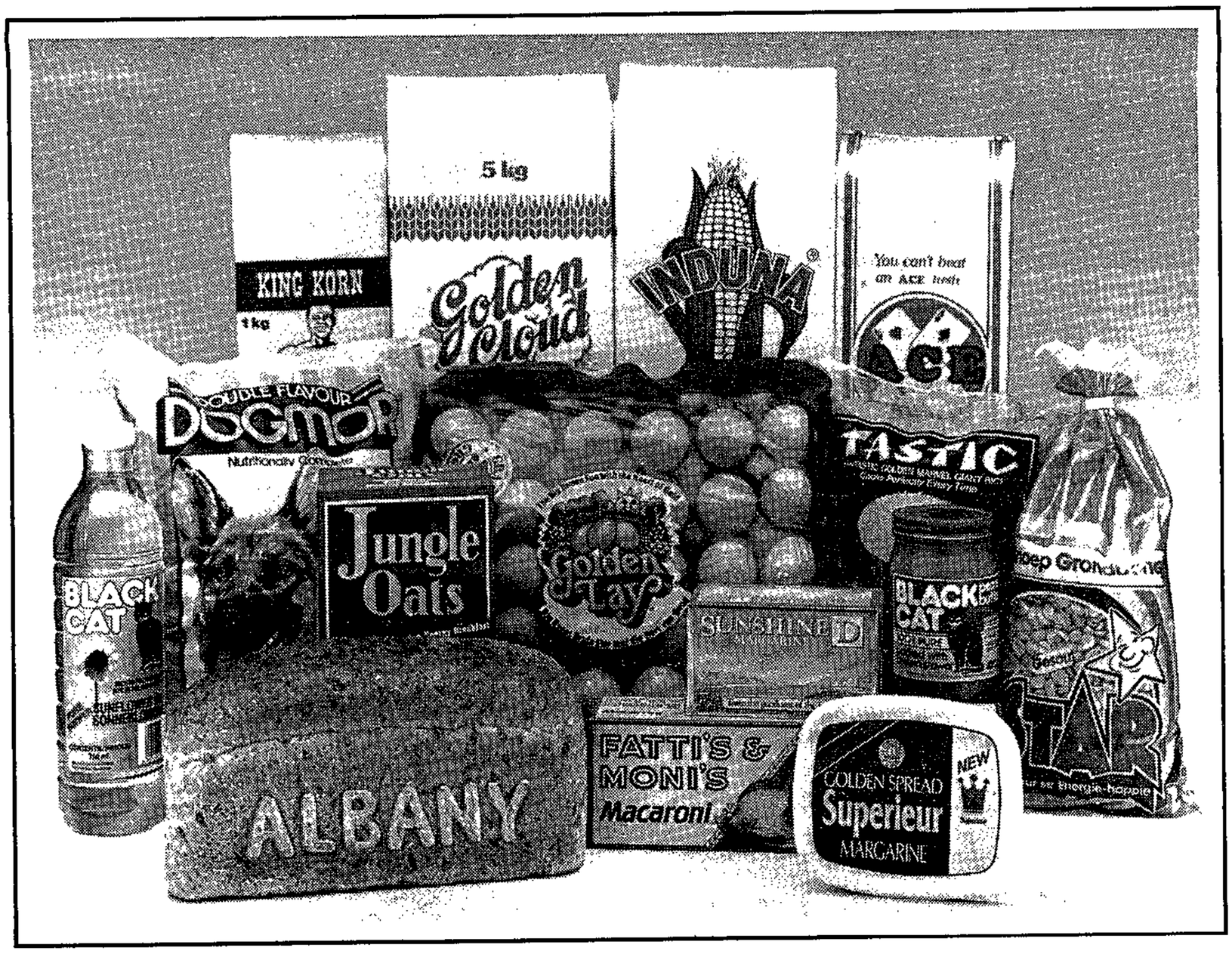


TIGER OATS

English protest at changes to varsities rules

By PAT SIDLEY

THE Acts in terms of which universities are established — the Private Acts — have been amended so that the government-nominated members of university councils will now be nominated by the minister of education and culture in the white House of Assembly, instead of by the state president.

This has raised a protest from the four English language universities which feel they are being steamrollered into the white "own affairs" administration.

A statement from the universities of the Witwatersrand, Cape Town, Natal and Rhodes, said: "The universities believe it is completely inappropriate for the white 'own affairs' minister to nominate council members. It is absurd to take this retrograde step in 1989 when more than 20 percent of the students at our universities are not white. The Committee of University Principals is unanimous that the universities should fall under a single education ministry, and not be forced to fit into the 'own affairs' ideology. The universities that have consistently opposed apartheid in education object most strongly to this unilateral action."

According to Professor Robert Charlton, vice-chancellor of the University of the Witwatersrand, it was customary for the universities to be consulted before any changes were made to the Private Acts.

He said the universities were consulted and all had opposed the move. However, the government had gone ahead with the amendment.

Matters of fact

A REPORT last week headed "Bakkies and banners as the Kou trek to Pretoria" mistakenly described the Windhoek newspaper *Die S wester* as the "mouthpiece of Democratic Turnhalle Alliance".

It is the mouthpiece of the Nati Party of SWA. The DTA has poi out that it rejected the "*bakkietrek*" a "silly exercise".

● An editing error led to the follo ing line appearing in last week's view of Young Guns by David I man: "Billy (the Kid) had the g fortune to be born in the right plac the right time." Neither the sent nor the sentiment appeared in original copy.

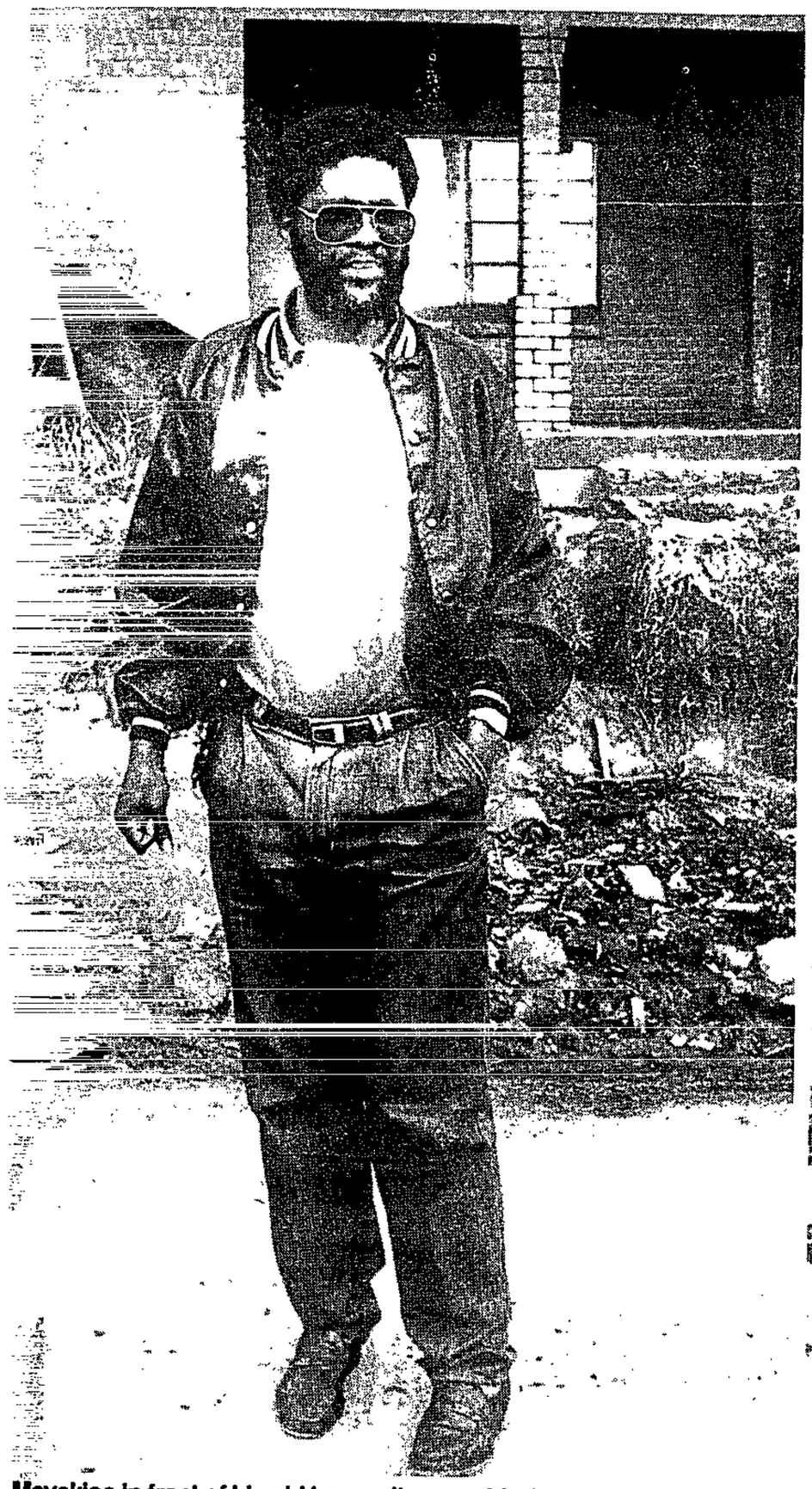
It also said Billy "killed 21 men should have read he "boasted" of ing 21 men.

● The report "Funny thing, a vey will always say just what want it to" referred to "almost ev one to the right of the Conser Party". It should have read ever to the "left" of the CP.

…ES HIS FIRST WALK ALONG SEVENTH AVENUE

…loses Mayekiso

Three years on, the best-known resident of Alex takes a walk through his much-changed old township ...



Mayekiso in front of his old house. It was sold while he was in detention

Sewerage, Alex-style. A resident cleans out the alley beside her house

Illegal shacks crowd into what was once a park called Freedom Square

…s he toured the crowded blocks of …ld Alex", it was easy to see why …e stability should not be con… with permanent acquiescence. … the shadows cast by the new …ent blocks, the odd new street …, the beginnings of electrifica… and sewerage schemes, tens of …ands of people still live in abo… circumstances. A frightening …er of indigent people eke out a …g in the cramped square kilomet… of the old township — and new …rs pour in, filling the last re… cracks.

…estimated R90-million reported …ve been spent or at least ear…ked by the Joint Management …e on making Alex liveable seems paltry when one is confronted by the real sights, smells and sounds of the ghetto.

The population bulge is crucial: "You see this new shack settlement?" Mayekiso said. "This used to be a people's park called 'Freedom Square'. It was where the very first meeting was held in '85, where it all started."

Freedom Square is now, like all the formerly vacant lots in Alex, a dense warren of shanties, constructed from the unlikeliest rubbish-dump flotsam.

The sewerage system comprises fetid gullies running unpredictably through the shack-suburb, pouring out on to the street. "These people are under threat of removal to Orange Farm," said Mayekiso, referring to an informal settlement 50km south of Johannesburg. They are organising to resist.

Today, Alex's contradictions are on show as never before. There are glimpses of undreamt-of affluence, but they are fleeting among the spreading, deepening, grinding poverty.

The spanking-new flats say a lot about this: most are empty, too expensive for the residents, and unattractive in a community life based on close-proximity, low-rise living.

"We are back," said Mayekiso. "And we will start again where we left off."

INDICATOR
SOUTH AFRICA

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Written applications are invited for two scholarships of twelve months duration which will provide in-house training in the Indicator Project South Africa, a privately funded research and publishing unit based at the University of Natal.

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Mokaba trial: jail for the two others

TWO men who were originally charged with terrorism alongside youth leader Peter Mokaba in the Pietersburg Regional Court have been sentenced to four and two years respectively.

Charges against Mokaba, president of the now-restricted South African Youth Congress, were suddenly withdrawn last week.

The two men — Malebane Elifas Tswai and Sam Thabo Masemola — pleaded guilty to alternative charges.

Tswai, 28, admitted acting as a courier for the African National Congress between Botswana and South Africa. He was sentenced to an effective four years.

Masemola, 29, was found guilty of possessing two limpet mines.

In mitigation of sentence, the defence had argued the two men had not been trained militarily. Masemola and Tswai had claimed a certain Lucky had given them arms. Thus, the defence argued, their transgression consisted of the failure to make proper enquries.

'I joined hit squad to survi

Court told of shadowy anti-ANC Askari unit

By REHANA ROSSOUW
Staff Reporter

FORMER state witness Mr Bongani Jonas told the Supreme Court he had been recruited into a shadowy police unit known as Askari, which hunted and killed African National Congress guerrillas.

At an investigation into his refusal to give evidence for the State in the trial of 14 people accused of terrorism, he said he had joined the unit for his "own survival".

The accused 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.

Kicked

The court heard yesterday that Mr Jonas, 30, had been shot in the thigh while being arrested in September 1987. He said he had been interrogated for about six hours while police stood on his injured leg and kicked it repeatedly.

He said after he was released from hospital in February or March 1988 he had been held at Tableview police station where he was interrogated regularly by security police.

In May 1988, when the trialists appeared in court for the first time, he was ordered to pack his clothing but was stopped by the station commander.

He was taken to security police headquarters in Loop Street where he was told by a Major du Toit to co-operate and be a State witness or "face the hangman's noose".

"I was not asked; I was told that I was going to give evidence," Mr Jonas said.

"For me to testify would be to betray myself. I was a victim. I was shot, treated cruelly and isolated from my family. But I had to play along for my own survival. If I did not I would not be here today."

Mr Jonas said he had been recruited into Askari — also known as the A-team — which was made up of defectors from the ANC.

During his detention he learned of two units, one in Pretoria and the other in East London.

"I was told there was to be another unit based in Cape Town and I was to be recruited into it. I got to know some of the members — one called David, who had shot me, Fanyana, Young Lion and Lucky Mavibela from Paarl and Stan Buyiji and Neville from the Transvaal.

"David told me I must work for them and I would get a house and security. I was told I could marry but then my wife had to live in the (police) base because my life would never be the same again."

Mr Jonas said the Askari members told him they had shot a suspected ANC terrorist in Guguletu in September last year and one in Port Elizabeth.

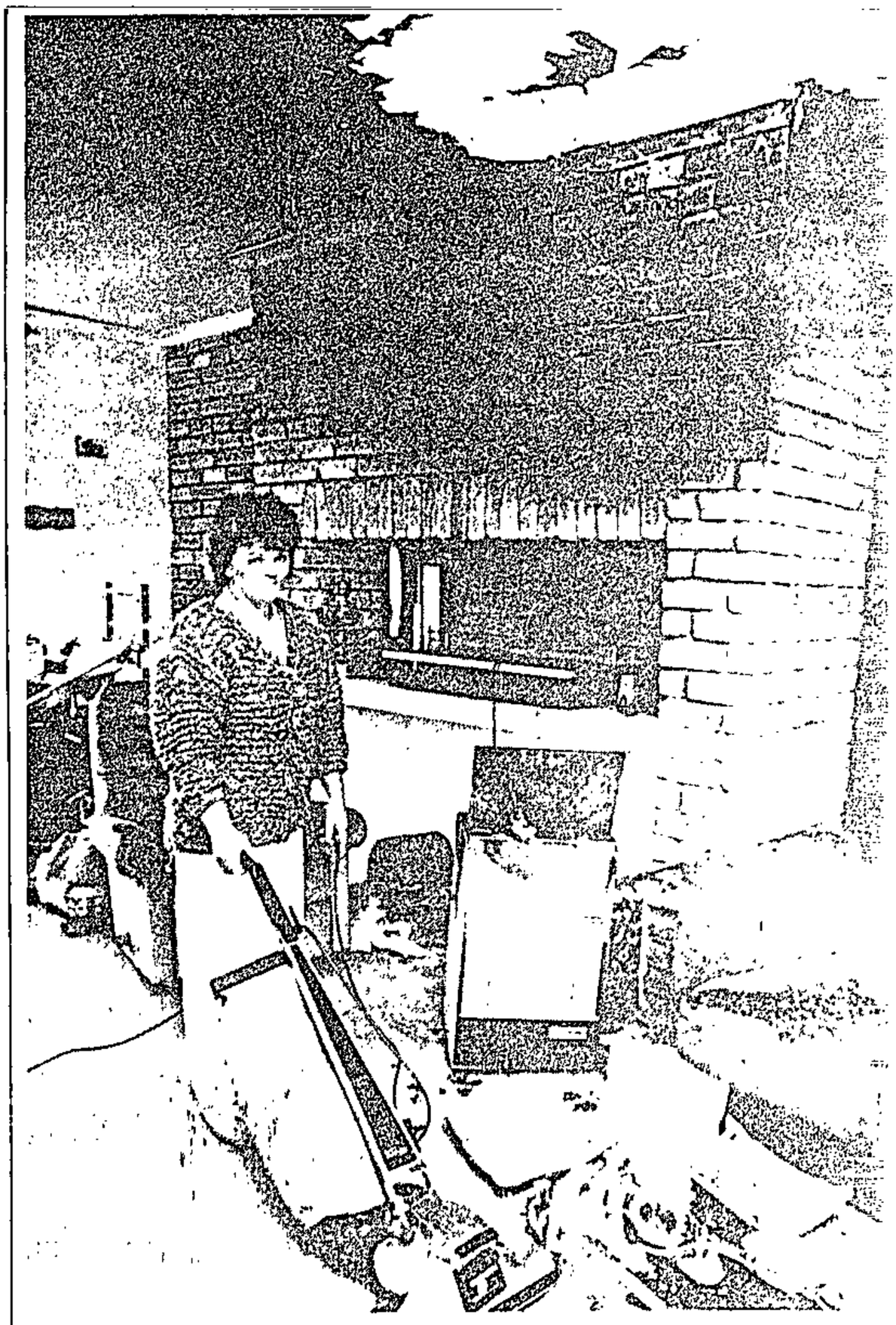
He was taken with them to Athlone, Lansdowne and Bonteheuwel at night, where they told him they were the "gestapo".

"I agreed to join Askari — I must be honest to this court. But inside myself I did not agree, because if I refused to work for the police they would have been suspicious of me."

Mr Jonas said after he refused to testify Major du Toit denied him the privileges he was allowed as a Section 31 detainee.

An appointment to visit his mother and brother on April 19 was cancelled and Major du Toit told him he would have no access to his family, no correspondence and his radio would be taken away.

His visits were stopped and he had not seen his family since he refused to testify. (Proceeding)



Picture: DION THC

GAS FIRE: Mrs Tillie van Rensburg of Durbanville indicates the damage her home after a gas bottle for a heater burst into flames. She rushed Hermon Street house with her five children after calling the fire brigad

Council clears social worker

JOHANNESBURG. — A social worker charged with unprofessional conduct following her involvement in a 1987 ANC trial was found not guilty at a disciplinary hearing of the Council for Social and Associated Workers.

Miss Greta Appelgren was sentenced to 21 months' imprisonment in 1987 for the role she played in the bomb blast in Durban in 1986.

Her co-accused, ANC member Robert McBride, is on Death Row for the death of three young women killed by the bomb blast.

Appelgren was found guilty of two counts of attempted murder, aiding a prisoner to escape and terrorism.

The council was of the opinion that the offence for which Appelgren was convicted could amount to unprofessional and improper conduct.

Her attorney, Mr Steve Motingoe of the Legal Resources Centre, argued that Appelgren's action had not interfered with her professional duties.

He said she had not acted in her capacity as a social worker and it could not be argued that her conduct had disgraced the profession.

The council found that Appelgren's professional conduct was, in fact, exemplary and that she had served the profession efficiently. — Sapa

Court told of police anti-ANC hit squads

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By RONNIE MORRIS
Supreme Court Reporter

MR BONGANI Jonas yesterday told the Supreme Court he had agreed to join a police unit known as the A-Team, which was composed of former ANC members whose work was "to kill their former ANC colleagues".

Further claims made by Mr Jonas, 30, in the Yengeni terrorism trial were that:

- Security police had "consulted" with accused Ms Jenny Schreiner "so as to create an Olivia Forsyth".
- He was shot by a policeman in the hip from five metres when he was arrested, and another later stood on the wound.
- He was taken up Table Mountain in the cable car by security police, to the Sea Point beachfront and other outings when it was thought he would give evidence for the state.
- Police removed a suit and shoes they bought him, as well as soap and a wash-cloth given to him when he refused to testify as a state witness.

Asked for protection

Mr Jonas, 30, was giving evidence at an inquiry to determine whether he had just excuse for his refusal to testify. On April 18 when he started giving evidence for the state Mr Jonas repeatedly asked for the court's protection and the next day said he no longer wished to continue.

If he had testified he would have brought shame to his family who would never be able to live in their community, he said.

Mr Jonas said he learnt about the "A-Team" which comprised ANC defectors and was told by members of two operating units, one in Pretoria and another in East London. A third was to be formed in Cape Town. He got to know A-Team members including a David from Pretoria, a man known as Fanyana, Lucky Marimbela, Stan Gwigi and a man known as Neville.

Members took him to Athlone, Lansdowne and Bonteheuwel at night and told him they were "the Gestapo" and their work was "to go around townships acting on information from the security police ... and kill former ANC colleagues".

Capt William Liebenberg told him about Ms Schreiner and said security police had consulted with her "so as to create an Olivia Forsyth" to create

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From page 1

Hit squads

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animosity between democratic whites and the oppressed community.

The plan was to create the impression that Ms Schreiner had been "planted" in the struggle, and that whites could not be trusted.

After Ms Schreiner refused to co-operate with police it was suggested to him that everything be done to put her in a difficult position.

After he indicated in court on April 19 he no longer wished to testify for the state, he was denied access to his family, legal representatives or correspondence.

Security police removed the suit and shoes they had bought him, his soap and wash-cloth were removed and he was now locked in his cell for 23 hours a day.

An exercise bicycle and exercise springs provided by police were removed, as were his bed, his radio, newspapers and a Xhosa and English Bible.

When he asked a Major Du Toit about the removal of the English Bible, he was told that "we don't have the same God". He was also taken to security police offices in Loop Street where he was threatened and interrogated, he said.

Earlier, Mr Jonas described how on September 17, 1987, while he, his girlfriend and a friend were driving to Khayelitsha they were "ambushed" by a police minibus and a car. Shots were fired from both vehicles, he said.

A chase ensued and he evaded police and offloaded his friend, but when he returned to his car, where he left his girlfriend, he was met by A-Team member "David".

Mr Jonas said he was unarmed and had his hands above his head. He saw "David" load, arm and point a pistol at his genitals from about five metres and fire. When he fell down "David" pointed the pistol at his forehead.

He was then "brutally manhandled" into a police car and later taken to security police offices at Culemborg.

Mr Jonas said he was still being interrogated.

State prosecutor Mr H Klem said he would have to call about 30 witnesses to refute Mr Jonas's allegations.

The trial continues today.

Steve 2/6/89 331 ~~251~~

Witness tells why he joined 'police hit-squad'

Own Correspondent

CAPE TOWN — Former state witness Mr Bongani Jonas told the Supreme Court he was recruited into a shadowing police unit known as Askari, which hunted down and killed African National Congress guerillas.

In an investigation into his refusal to give evidence for the state, he said that he joined the unit for his "own survival".

Mr Jonas was to have given evidence in the trial of 14 people charged with terrorism. They are: Mr Tony Sitembiso 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.

Interrogated

The court heard yesterday that Mr Jonas was shot in the thigh when he was arrested in September 1987 and was interrogated for about six hours while policemen stood on his injured leg and kicked it.

He said after he was released from hospital in February or March 1988 he was held at Tableview police station where he was interrogated regularly.

In May 1988 when the 14 people appeared in court for the first time, he was ordered to pack — but was later stopped.

He was taken to security police headquarters in Loop Street, where he was told by a Major du Toit to co-operate and be a state witness or "face the hangman's noose or go to the shallow pit".

"I was not asked, I was told that I was going to give evidence," Mr Jonas said.

"They took me to an office where Colonel Smit had a piece of paper with my name on, which I signed.

"I was told that if I signed the paper I would have access to my family within 40 days. If I did not, the police could keep me under Section 29 for another six months or more."

He said he was detained under Section 31 of the Internal Security Act.

Mr Jonas said a statement was drafted by the head of the terrorist detection unit, Captain William Liebenberg, and he was taken to the Loop Street offices to meet two state prosecutors.

"But my conscience binds me and I cannot give false evidence to this court. Captain Liebenberg told me he had asked Jenny (Miss Schreiner) to cross the line and be like Olivia Forsyth. He wanted to create a division between democratic (whites) and the oppressed community so that our people did not trust the white people," he said.

"For me to testify would be to betray myself first. I was a victim. I was shot, treated cruelly and isolated from my family.

"But I had to play along for my own survival. If I did not I would not have been here today. I would be in the company of Ashley Kriel and others."

He said he was recruited into Askari — also known as the A-team — which was made up of defectors from the ANC.

Askari was led by the South African Police and during his detention he learned of two units, one based in Pretoria and another called the Cape unit based in East London. He was told there was to be another unit in Cape Town and which he would be recruited into.

"I got to know some of the members — one called David, who had shot me, Fanyana, Young Lion and Lucky Mavibela from Paarl and Stan Buyiji and Neville from the Transvaal."

"I was told the work of Askari was to go into the townships acting on information from the security police and seek and kill their former colleagues."

He appeared in the Supreme Court on April 18 to give evidence for the state and did not tell the court of his decision not to testify.

"On the first day I asked the court for protection but only on the second day (April 19) I felt confident enough that it would protect and secure me."

Brought shame

Mr Jonas said that after he refused to testify Major du Toit denied him the privileges he was allowed under Section 31.

Mr Jonas said he would have brought shame upon himself and his family if he had testified. He regarded the struggle for freedom as a law of nature and for him to go this was an "act against God Himself".

He said the trial was a unique one in the history of South Africa as a cross-section of the people were represented.

"Black and white, side by side, male and female as equals, fellow countrymen united in action.

"This is a microcism of a future nation. For me to testify against the nation is an offence which is more than treason."

The hearing continues.

Upington 25 case

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THE remaining accused in the marathon Upington 25 murder case were to be sentenced today, their lawyers confirmed late last night.

The 11 accused, together with 14 others were earlier last week found guilty of murder under the principle of common purpose following the death of a Paballelo policeman in 1985. Sowetan 2/6/89

Ex-cop convicted of helping two detainees escape

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CM. Times 3/6/89

Court Reporter

A FORMER policeman who helped two detainees escape from the Wynberg police cells by handing them a package containing a gun after he received R1 000 was yesterday convicted in the Wynberg Regional Court.

After the state withdrew the main count of contravening the Internal Security Act, Sean Damés, 22, of Tzaneen pleaded guilty to and was convicted on an alternative charge of aiding two detainees, Mr Adriaan Siphiwo Qila and Mr Donisile Smallboy Nokhatywa, to escape from the Wynberg cells.

Damés was a policeman guarding the two at the time.

In a statement he admitted that on January 28 he handed them a package containing a gun which they used in escaping from the cells. He had received the firearm from a friend of the detainees.

He admitted that he received R1 000 and did not ascertain what the package contained. From the package's weight he suspected it contained a gun.

The matter was adjourned to June 22 for sentence and bail of R2 000 was extended.

Damés initially appeared with Ms Christina Tyulu, 40, of KTC, who pleaded not guilty to the count of contravening the Internal Security Act. After the pleas were noted the trials were separated.

Ms Tyulu's bail of R2 000 was also extended and her hearing was adjourned to August 7.

Mr A P Kotze was the magistrate. Mr D Roath prosecuted. Mr E Mohammed appeared for Ms Tyulu and Mr G Snaps appeared for Damés.

Upington trial: jail for other 12 accused

UPINGTON — Sentences ranging from six to eight years' imprisonment were passed on the remaining 12 accused in the Upington Paballelo murder trial by Mr Justice Basson yesterday.

Fourteen of the 26 accused in the trial were given the death sentence at a hearing last Friday. Star 31/6/84.

Abel Kutu (24), a youth of 17, Sarel Jacobs (20) and Ronnie Masiza (19) were each sentenced to six years in jail.

Enoch Nompondwana, (30) and Elisha Matshoba (19) both received sentences of eight years' imprisonment.

Mr Justice Basson said Matshoba and Masiza should be sent to Leeukop Youth Centre or any other similar youth institution if this was possible.

Barry Bekebeke (19), two young women aged 17, and a young man of 17 were each sentenced to six years' imprisonment, conditionally suspended for five years.

The judge ordered that they should perform certain civic duties without remuneration for 1 200 hours within 40 months with a minimum of 30 hours a month.

Roy Swartbooi (18) and Ivan Kazi (18) were each sentenced to six years in jail, conditionally suspended for five years.

They are to be placed under the care of a Roman Catholic priest at Upington to perform duties like cleaning the buildings and grounds. (82) (331)

These duties should be performed without remuneration, the judge said.

All six accused whose sentences have been suspended have been placed under the supervision of a parole officer attached to the Coloured Community Service of the Cape Provincial Administration.

Mr Justice Basson said a report should be submitted to him on or before June 30 and December 31 every year by the parole officer.

If any of the conditions were not strictly complied with, the suspended sentences would immediately come into operation, the judge warned. — Sapa.

Dramatic turn in Upington trial

Cape Times 3/6/89 (2nd) 32

From MARIUS BOSCH

UPINGTON. — In a dramatic turn, six of the Upington 25 trialists were yesterday given suspended sentences for their part in the November 1985 murder of a municipal policeman.

One of those freed, Barry Bekebeke, is the brother of fellow-trialist Justice Bekebeke who was sentenced to death last week.

There were jubilant scenes outside the court as family and friends welcomed back Bekebeke, 23, Xoliswa Dube, 23, Elizabeth Bostaander, 22, Roy Swartbooi, 22, Neville Witbooi, 20, and Ivan Kazi, 21.

Last week Mr Justice Jan Basson sentenced 14 co-accused to death for the "common purpose" murder of the policeman.

Yesterday he sentenced the six to six years' imprisonment, suspended for five years, on condition they render 1 200 hours of community service for a period of 40 months.

Two other trialists, Elisha Matshoba, 22, and Enoch Nompondwane, 34, received eight-year jail terms. Matshoba was convicted of murder and Nompondwane of attempted murder.

Four other trialists — Abel Kutu, 28, Ronnie Masiza, 22, Jeffrey Sekiya, 24, and Sarel Jacobs, 22 — were sentenced to six years in jail.

In passing sentence on the 12, the judge said the sentence should have a measure of mercy. "Mercy is an ingredient of justice itself," he said, but added that "one cannot allow that people murder an innocent person if they have grievances against the state authority".

Mr Justice Basson ordered that two of the six render their community service at a Roman Catholic Church here and the other four at a coloured old-age home.

An application for leave to appeal by the defence has been postponed until June 26 when Mr Justice Basson will hear the application in Kimberley.

Mr Justice Basson sat with an assesor Mr R Kurland. The 25 were represented by Mr Ian Farlem, SC, assisted by Mr Anton Lubowski and Mr Andre Landman. The defence was instructed by Ms Andy Durbach and Mr Colin Kahanovitz of Bernadt, Vukic and Potash. Nompondwane was represented by pro-Deo counsel Mr Eben Boshof. The state was represented by Mr T van Rensburg and Mr J Schreuder.

Upington 26 death-trial drama ends

By CONNIE MOLUSI

THE marathon Upington 26 trial came to an end this week, as Judge Basson sentenced the 12 remaining accused.

Fourteen of the 26 accused were found guilty of murder without extenuating circumstances and got the mandatory death sentence amid a public outcry and fears that the case would go the way of the Sharpeville Six.

The 26 had been convicted of murder, due to the controversial common purpose doctrine, for killing municipal policeman Lucas Jetta Sethwala in Paballelo township near Upington in November 1985.

Judge Basson sentenced Barry Bekebeke, Xoliswa Dube, Elizabeth Bostander, and accused number 25, a 17-year-old youth, to six years conditionally suspended for five years.

The judge ordered they should perform community service at a coloured old-age home without pay for 1 200 hours over a period of 14 months.

Enoch Nompondwana, found guilty of attempted murder, was sentenced to eight years imprisonment.

A youth of 17, Sarel Jacobs, and Ronnie Masiza were each sentenced to six years in jail.

Roy Swartbooi and Ivan Kazi were each sentenced to six years conditionally suspended for five years.

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RELEASED . . . a joyful Gertrude Fester, one of the accused in the Yengeni terrorism trial, was this week granted R3 000 bail after more than a year in custody. Picture: BENNY GOOL

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'Police forced me to testify'

FORMER state witness Mr Abednigo Bongani Jonas told the Cape Town Supreme Court this week that he had been forced to become a state witness by members of the security police.

Mr Jonas was giving evidence during an inquiry to determine whether he had a just excuse not to testify against Mr Tony Yengeni and 13 others.

By AYESHA ISMAIL

Mr Jonas said if he testified he would be betraying his "human dignity", would never be able to live with himself and his family and would never be able to face members of the community.

Mr Jonas said he had "never ever" had any intention of testifying against the accused. He said: "I was only playing along because the police made the decision for me."

Counsel for the state, Mr Hendrik Klemm, put it to Mr Jonas that he had information which he did not want to reveal to the court.

Mercy

Mr Jonas refused to answer the question, saying that he would be incriminating himself if he did.

Mr Jonas conceded that Mr Klemm had explained to him the advantages and disadvantages of giving evidence in an open court and in camera. However, he said he had to make a suitable choice taking the police and his own survival into consideration.

Mr Jonas said: "The court should understand that I was captive in the hands of the security police. I was at their mercy.

"For me to have indicated to Mr Klemm my intentions would have left suspicion, so I had to take into consideration the question of my survival. I had to play along."

Mr Jonas said after the accused had appeared in court for the first time he was taken to a Colonel Smith's office where he was forced to sign a piece of paper with his name on it stating that he would be a state witness.

Mr Jonas said he did not mislead the police into thinking that he would be a state witness but that they had misled themselves.

Mr Jonas also revealed during his evidence that he was recruited into a police unit called the Askari Unit also known as the A-Team.

He said the A-Team consisted of members who had defected from the ANC.

Mr Jonas said the work of the A-Team was to kill their former ANC colleagues for fear of being identified.

In earlier evidence during the trial, Captain William Liebenberg was questioned by counsel for the accused, Mr Dawid de Villiers QC, on the existence of the A-Team.

Captain Liebenberg refused to disclose any information concerning the unit and pleaded privilege.

● One of the accused, Miss Gertrude Fester, was released on R3 000 bail this week.

Her bail conditions are that she reports to the Maitland Police Station daily when the court is not in session and that she does not interfere with state witnesses.

Miss Fester, a teacher at a teachers' training college, was met outside the court building by family and friends after being in custody for 14 months.

The trial is proceeding.

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Marathon murder trial ends

By HAMISH McINDOE

AFTER nearly 1 000 days the marathon Upington 26 murder trial finished late this week on a note of mercy.

In a day of legal tenterhooks, Mr Justice Jan Basson handed down suspended sentences to six trialists convicted of the "common purpose" mob murder of a black policeman during the 1985 township violence.

Relatives sitting in the public gallery breathed a collective sigh of relief at the last batch of sentencings after 13 men and one woman — a 60-year-old mother of 10 children — were told they would hang last week.

The remaining six accused were jailed for terms ranging from six to eight years — suspended for five years.

Ending the murder trial, which commenced on October 13, 1986 and involved 153 witnesses being called to give evidence, Judge Basson said in passing sentence that mercy was "an ingredient of justice itself".

Smashed

In court this week, an 80-page survey on a township's attitude to the death penalty commissioned by the defence was not allowed to be submitted as evidence in mitigation of sentence.

The survey, compiled over five months in 1988 by 20 field workers attached to the University of Cape Town's Criminology Institute, polled over 300 residents of Paballelo township near Upington in the northern Cape, where Constable Lucas Sethwala was beaten and stoned before being set alight.

Only four of the accused were found to have actually assaulted Constable Sethwala.

One of them, trialist Justice Bekebeke, grabbed the victim's gun and smashed it over his head with such force that the butt broke.

The judge ruled that the UCT survey, which polled residents on their willingness to accept the accused back into the community and their attitudes towards capital punishment, was not relevant.

Mr Justice Basson reportedly said: "A judge is part of the community. Why should I worry about what a lot of people in Paballelo think about my judgement?"

The six accused who received suspended prison sentences were ordered to perform 1 200 hours of community service over a period of 40 months.

A defence application for leave to apeal will be heard on June 26.

Merciful sentences end marathon trial

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By HAMISH McINDOE

THE thousand-day Upington 26 murder trial finished late this week on a note of mercy.

Mr Justice Jan Basson handed down suspended sentences to six trialists convicted of the "common purpose" mob murder of a black policeman during the 1985 township violence.

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The remaining six accused were jailed for terms ranging from six to eight years.

Ending the murder trial, which commenced on October 13, 1986, and involved 153 witnesses being called to give evidence, Judge Basson said in passing sentence that mercy was "an ingredient of justice itself".

In court this week, a mammoth 80-page survey on a township's attitude to the death penalty commissioned by the defence was not allowed to be submitted as evidence in sessions arguing in mitigation of sentence.

A "disappointed" survey director, Professor Dirk van Zyl Smit, said: "One of the factors of any sentencing is the attitude of the community.

"And, in a divided society like South Africa, the defence felt that the judge was in no position to assess the sentiment of Paballelo township."

The six accused who received suspended prison sentences — six years suspended for five years — were ordered to give 1 200 hours of community service over a period of 40 months.

An defence application for leave to appeal will be heard on June 26.

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Outcry likely over Upington death sentences

The trial that made history

By Patrick Laurence

The Upington trial, in which 25 residents of the township of Paballelo were convicted of murder and one of attempted murder, is already assured of a niche in South African legal history.

The conviction of 25 of the 26 residents for the murder in November 1985 of a municipal policeman, Mr Lucas Sethwala, set a record — it was the largest number of people convicted of murder in a single trial.

More than a year later, after a change in defence counsel forced adjournments, a different kind of precedent was set when Mr Justice J J Basson sentenced 14 of the 25 to death, having found there were no extenuating circumstances for the 14.

On Friday the remaining accused were sentenced to jail for periods ranging from six to eight years, with four of them receiving suspended sentences.

The threat of an international controversy is primarily prompted by the application of the legal doctrine of common purpose to township violence.

The Upington trial was heard, so to speak, as the controversy over the trial and conviction of the Sharpeville Six reached a crescendo.

The Six were part of an angry crowd which slaughtered a township councillor in Sharpeville in September 1984; they were all convicted of murder and sentenced to death on the basis of common purpose.

In the words of Mr Justice A S Botha, of the Appellate Division, who dismissed an appeal against the death sentence by the Sharpeville Six:

"Each of these accused shared a common purpose to kill the deceased with the mob as a whole, the members of which were intent upon killing the deceased and ... succeeded in doing so."

The Six did not hang in the end. Amid mounting international protest, President Botha commuted their death sentences to long periods of imprisonment.

The Appeal Court, however, upheld the original death sentence and a subsequent decision by the trial judge, Mr Justice J A Human, to refuse an application from the Six for the trial to be re-opened.

Thus, the application of the doctrine of common purpose as a legal instrument against the perpetrators of mob violence in the townships stood intact during the trial of the Upington 26.

Parallels

Mr Justice Basson applied it in the Upington trial, citing the Sharpeville case in the course of his judgment.

There are interesting parallels between the two trials (and, consequently, every reason to anticipate the same international furore if the appeal of the Upington 14 is rejected). The points on which the two trials converge include:

- The status of the victim. From the perspective of emerging township radicalism of 1984-85, councillors and policemen were seen as accomplices in imposing apartheid.
- The scene of the killing. Both victims were besieged in their homes by angry crowds which forced them out.
- The nature of the murder. The victims were set on fire: Mr Dlamini's funeral pyre was his motor car; petrol was poured over Mr Sethwala as he lay on the ground as a prelude to putting it to flame.
- The cause of death: The victims were felled by blows which killed — or would have killed them — even before they were set on fire.
- The prelude to the killing. Tensions were high in Sharpeville and Upington. They were fuelled by resentment at higher rents imposed by the township councils and clashes with riot police.

In Upington the crowd which attacked Mr Sethwala's house was a disparate band of people, according to the evidence given in mitigation of sentence by Professor Graham Tyson, professor of psychology at the University of the Witwatersrand.

He argued that only the dynamics of crowd psychology could have wielded so diverse a band of people into a revengeful mob; he added that its impact would have been to reduce their moral responsibility in much the same way as alcohol.

His analysis, however, did not convince the judge that there were extenuating circumstances for 14 of the 25 people he convicted of murder.

Mr Edwin Cameron, of the University of the Witwatersrand's Centre for Applied Legal Studies, believes the doctine of common purpose is an inappropriate legal weapon for dealing with township rebellion.

He predicts: "The Upington judgment on the 14 will evoke exactly the same gut reaction as the Sharpeville judgment, rightly so."

Emergency regulations: UCT students in court

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DAGS 7/6/89

Court Reporter

TWO University of Cape Town students have appeared in Cape Town Magistrate's Court charged with contravening emergency regulations.

Miss Katharine Mary Savage, 21, and Miss Annalise Laura Bosman, 22, both of Observatory, have lodged objections to the charges.

The State alleges that they contravened the emergency regulations published in the Government Gazette on June 11 1987 by publishing on the front page of Varsity news and comment on a school boycott and particulars of the extent to which the boycott was successful.

Counsel Mr L Rose-Innes filed an objection to the charges on the grounds that they did not disclose an offence because the regulations concerned had expired on June 10 1988 — before the Attorney-General's decision to prosecute.

The hearing was postponed to August 7 for argument on the objection.

Mr M J C Tolken was on the Bench and Mrs Alicia van den Bergh appeared for the State. Mr Rose-Innes was instructed by Bernadt, Vukic and Potash.

Court hears of police 'terror group' Askari

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NCGS 7/6/89

By REHANA ROSSOUW
Staff Reporter

A MAN who told the Supreme Court he had been recruited during his detention into a shadowy police unit made up of African National Congress defectors, said that if he had joined the police he would have used his gun against them first.

Mr Bongani Jonas was being cross-examined yesterday during an inquiry to determine if he had a just excuse for refusing to testify for the State in the trial of Mr Tony Yengeni and 13 others.

Mr Hendrik Klem, for the State, asked Mr Jonas why he had told the court that the investigating officer, Major du Toit, had threatened him when the truth was that the major had given him "privileges" during his detention.

Mr Jonas had a radio in his cell, was bought new clothing, read newspapers every day, was taken on drives to Sea Point and Table Mountain and ate hotel food during his detention under Section 31 of the Internal Security Act.

Mr Jonas said Major du Toit had told him that if he "dumped" the police in court (as a State witness) "I would curse the day that I was born".

"I do not call what he gave me decent treatment — that treatment was intended to destroy me so that I could betray my people," Mr Jonas said.

Mr Klem said he would call policemen to testify that Mr Jonas had not been assaulted during his detention.

Mr Jonas said earlier that policemen had assaulted him by kicking and jumping on his injured leg where he had been shot during his arrest.

"If I was not assaulted, why did the police take such a long time to get me to a hospital? What were they doing in the time that they had me?" Mr Jonas replied.

Mr Klem asked Mr Jonas why, if the police threatened him so often, they had asked him to join their ranks.

Mr Jonas replied that he had been recruited into Askari, "a terror group".

"If I had joined them I would first have used the gun against them."

Mr Klem said Sargeant Masemeki, who shot Mr Jonas, would tell the court he was shot while attempting to evade arrest.

The hearing continues.

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Save the Upington 14 campaign gains support

By DALE KNEEN, Staff Reporter

A CAMPAIGN to save 14 Paballelo residents sentenced to death in Upington for the murder of municipal policeman Lucas Sethwala is being backed by at least 11 organisations.

When the 13 men and one woman, known as the Upington 14, were sentenced to death last month, the court invoked the controversial "common purpose" doctrine in spite of finding that only four of the accused actually assaulted the victim.

It was also found that each of the 14 was acting with the specific aim of murdering the policeman and not as a "deindividuated" mob.

DEATH SENTENCE

At a National Association of Democratic Lawyers (Nadel) Press conference in Cape Town last night, the organisations voiced their opposition to the death sentence in general and particularly to the sentence of the Upington 14.

They included The Black Sash, Cosatu, the National Education Crisis Committee (NECC), The Call of Islam, the United Women's Congress, the Cape Democrats, the Western Cape Committee against Repression, the Western Cape Teachers Union (Wectu) and the Mowbray Youth Congress.

The organisations also indicated support for the "Save the Upington 14" campaign, which is being launched at a meeting in the City Hall tomorrow night.

The 14 Paballelo residents sentenced to death are: Kenneth Khumalo, Tros Gubula, brothers Andrew and David Lekhanyane, Myner Bovu, Zuko Xabendlini, Justice Bekebeke, Zonga Mogatla, Wellington Masiza, Boy Japhta, Gideon Madlongolwane, Evelina de Bruin, Xolile Yona and Albert Tywilli.

UCT SURVEY

● Most residents of Paballelo felt the Upington 14 should not be punished at all, because the community was not convinced of their guilt, a survey conducted by UCT's Institute of Criminology has found.

The defence attorneys requested the Institute of Criminology to conduct a survey to ascertain what the community felt would be appropriate punishment.

The survey, however, was not considered in court as the judge said Paballelo's residents were "a bunch of faceless and uninformed people".

"As criminologists, we find the judge's decision to rule this kind of evidence inadmissible yet another disappointing precedent in South African legal history," the institute said in a statement.

The survey also found there was an overwhelming opposition to the death penalty and clear majority support for release.

Altogether 87 percent of the residents interviewed were against the death penalty, and only three percent supported hanging any of the trialists. Furthermore, 69 percent favoured release, while only 11 percent opposed the release of the trialists.

Accused 'saw police, magistrate as same'

Supreme Court Reporter

MR BONGANI JONAS, who has refused to testify for the state in the trial of Mr Tony Yengeni and 13 others, yesterday told the Supreme Court that the reason he had not told three doctors and a magistrate he had been assaulted by security police was because he saw no difference between them and the police.

Mr Jonas, 31, said this during cross-examination at an inquiry to determine if he has a just excuse for refusing to testify. His counsel, Mr A M Omar, told the court it would be humanly intolerable for him to give evidence.

Asked by Mr H Klem SC, for the state, if he had told a Dr Steyn shortly after his admission to Woodstock Hospital that he had been assaulted, Mr Jonas said he had not.

Although he had been seen by three doctors and a magistrate, he had not told them of the assault at security police offices where Warrant Officer Jeff Benzien had stood on his wounded hip, Mr Jonas said.

When he gave a written statement to a magistrate, he had not told of the assault because at that stage he had not seen any difference between the magistrate and the security police.

Asked if he had been told to tell the truth in court, Mr Jonas said he had been, but that Mr Klem had told him not to mention that parts of his statement to the magistrate had been suggested to him by security police.

Asked by Mr Klem why he had not told the authorities of his refusal to testify, Mr Jonas said he could not tell this to the people who had shot him, tortured him, forced him to co-operate and told him he was to be a witness.

He had to wait until he had the protection of the court.

The trial continues today.

Illness over

Anti-violence work

Major campaign to stop hangings

By HENRY LUDSKI

AS A NATIONAL campaign gets off the ground to stop hangings, 12 more people have been sent to the gallows by a Ciskei judge.

The condemned men were among 16 accused convicted by Mr Justice Heath in the Bisho Supreme Court for the murder of five people in Mdantsane about two years ago.

Two weeks ago 14 people were sentenced to death on the common purpose doctrine by a circuit court in Upington.

A campaign has now been launched following a national and international outcry over the growing list of South Africans on death row at Pretoria Central Prison.

Mr Pius Langa, president of the National Association of Democratic Lawyers, said at a press conference in Cape Town legal executions were in fact "premeditated murder".

"The political factors surrounding the Upington trial had not been taken into account".

About a dozen organisations, including the Call of Islam, Cosatu, the United Women's Congress and the Black Sash, added their voice to the mounting campaign to "Save the Upington 14".

At the Anglican Church Provincial Synod in Durban Archbishop Desmond Tutu urged the church to lend support for the campaign for a reprieve for the Upington 14.

TO PAGE TWO

Lower league soccer — Page 29

P.T.O.

South NEWS 8-14/6/89

Eight days that spelled life or death

By PETER AUF DER HEYDE and NOSIPHO KULATI

GRAHAMSTOWN. — If Bangkhaya Petros had been born eight days later, he would not now be on Ciskei's death row.

He is one of 12 Mdantsane men who were this week sentenced to death after being convicted of five counts of murder.

Their victims were alleged gang members who had earlier killed the brother of one of the accused.

Mr Justice Heath ruled that no extenuating circumstances existed for the 16, but he found that Section 277 of the Criminal Procedures Act applied to four of them.

In terms of this section he does not have to impose the death sentence on a convicted person if the offender was under 18 at the time of the offence.

Petros turned 18 eight days before the murders took place.

Petros, now 20, Bonakele Jwambi, 41, Mabonga Jamela, 26, Luyanda Kana, 27, Mseki Mbusi, 27, Xolile Nkukwana, 23, Soyiso Zuzani, 22, Mbuyiselo Klaas, 22, Mandlenkosi Jakavu, 27, Mzwabantgu Katsikatsi, 24, Raymond Kana, 32, and Thando Kana, 23, were each sentenced to death five times for the murders.

They also received a 20-year prison sentence for attempted murder.

Wonke Faku, 19, Albert Resha, 19, and two youths were sentenced to an effective 20 years' imprisonment.

During the trial, the court heard evidence that a gang calling themselves "Killer Boys" were terrorising residents in a section of Mdantsane.

Shebeen

During a shebeen visit, gang members fatally stabbed the brother of one of the accused.

In his judgment, Mr Justice Heath said the following day a group of people abducted six youths who were taken to an isolated area and then set alight.

One of them survived and testified in court that he had seen some of the accused at the scene.

The accused denied having participated in the abduction and the subsequent burning of the youths and pleaded not guilty to all charges.

This week's 12 death sentences were the highest number imposed in a single trial since Ciskeian independence.

It brought to 16 the number of people sentenced to death in the territory during the first five months of this year.

The death sentences come less than two weeks after 14 Upington residents were sentenced to death.

'Nothing binding' condemned men

GRAHAMSTOWN. — There seems to be no common factor that binds the 16 Mdantsane residents found guilty of five counts of murder and one of attempted murder.

In their extenuation report, psychologists Vernon Sack and Ian Meyer write that there are "great variations in terms of such factors as home background, intelligence, age, personality, marital status, religious affiliation, education, interests etc.

"This variety suggests no apparent likelihood under normal circumstances of common action, for there is no one common factor which binds all the accused."

The 12 men sentenced to death are:

● Bonakele Jwambi, 41, is the brother of Mkuseli Jwambi, who was stabbed to death by the alleged gang members.

Jwambi is married with six children and was working as a store supervisor for 12 years. He is the half-brother of three others convicted.

● Mabonga Jamela, 26, is single with one child, and worked as a factory hand.

● Luyanda Kana, 27, is single with one child. He left school in Std 8 and was unemployed at the time of his arrest.

● Mbeki Mbusi, 27, is single with one child. He passed matric and wanted to study towards a law degree after school. He was unemployed at the time of his arrest.

● Xolile Nkukwana, 23, is single with one child. He was in Std 7 at the time of his arrest.

● Soyiso Zusani, 22, is single with one child, and worked as a labourer for SA Breweries.

● Mbuyiselo Klaas, 22, earned money occasionally as a professional boxer, but was otherwise unemployed.

Unmarried, his girlfriend gave birth to his first child while he was in prison.

● Mandlenkosi Jakavu, 25, is married with three children, and worked as a labourer.

● Bangkhaya Petros, 20, turned 18 a week before the murders took place. He is unmarried and was unemployed at the time of his arrest.

The psychologist's report stated his IQ was below 66, which is intellectually defective.

● Mzwabantu Katsikatsi, 24, is married with one child, and worked as a vendor in the informal sector.

● Raymond Kana, 32, is married with three children, is the owner of a shebeen in which the stabbing took place.

He is half-brother of Mkuseli Jwambi, who was helping him to stop a fight in the shebeen when he was stabbed to death.

● Thando Kana, 23, is also a half-brother of Mkuseli Jwambi. He is single with one child, and worked as a hairdresser and storeman.

Major bid to stop hangings

FROM PAGE ONE

"It makes you shudder that we can sentence 14 people to death in one fell swoop."

The 14 Paballelo residents, including a 60-year-old couple, were sentenced to death two weeks ago for the murder of municipal policeman Lucas "Jetta" Sethwala on November 13, 1985.

Murphy Morobe, publicity secretary of the United Democratic Front, and trade unionist Moses Mayekiso are scheduled to speak at the campaign's first public protest meeting at the City Hall this evening (Thursday).

'Crisis of conscience' for Jonas, court told

ARGUS 8/6/89 331

By REHANA ROSSOUW
Staff Reporter

IT was "humanly intolerable" for Mr Bongani Jonas to testify against his comrades charged with terrorism as his conscience would not allow him to do so and he would not be able to live with himself, the Supreme Court has been told.

This was part of evidence yesterday by Professor Fatima Meer, director of the Institute for Black Research at Natal University.

Professor Meer was testifying at the inquiry being held to determine whether Mr Jonas had a "just excuse" for refusing to give evidence for the State in the trial of Tony Yengeni and 13 others.

Professor Meer said Mr Jonas had identified his dilemma as a crisis of conscience.

"The court needs to establish whether there is any reality in these claims, whether they reflect the actual state of Bongani's mind and soul, or whether they are being used wantonly to help him out of a difficult situation."

Mr Jonas had become what he was by deriving his conscience and his "self" from society.

"Since he derived these from society, he owes them to society, and if he violates any of the norms and values of his society, he would have violated the conscience which is part of his personality structure.

"It is in that context that his conscience will not allow him to give evidence.

"It is difficult for those who have not gone through the experiences Mr Jonas has gone through in the last 19 months ... to appreciate the full import of his dilemma. I have been detained myself so I understand it."

(Proceeding.)

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Unfair to keep them on Island – defence

State opposes bail for Delmas Five

Pretoria Correspondent

Three affidavits by security policemen were handed to the Pretoria Supreme Court yesterday in support of the State's opposition to the bail applications of five men serving prison sentences on Robben Island who have applied for bail pending the outcome of their appeal against their convictions.

In a fourth affidavit, Transvaal Attorney-General Mr Donald Brunette said he had seen the documents submitted to the court by the State.

He had also seen other police documents, which could not be made public in the interest of State security and the maintenance of law and order, and in order not to reveal police methods in obtaining the information and to prevent possible danger to the lives of informers.

The men — Gcinumuzi Petrus Malindi; an SA Council of Churches field worker, Thomas Manthata; and UDF executive members Popo Molefe, Patrick Lekota and Moss Chikane — were convicted last year on terrorism and treason charges.

Arguing the importance of the bail application, counsel for the applicants, Mr George Bizos SC, yesterday told Mr Justice Daniels it would be unfair to keep the men in prison because reasonable grounds existed for the Appeal Court to find that the trial court had been improperly consituted following the dismissal of an assessor.

Mr P Jacobs SC opposed the application on the State's behalf.

Mr Bizos said the trial court had found that none of the applicants had either executed or planned acts of violence.

According to Mr Bizos, the State's opposition to the application were the long terms of imprisonment the men were serving, the trial court's finding that the UDF was the internal wing of the ANC and that the UDF had been "continuing their unlawful activities".

The State also opposed Mr Bizos's attempt to hand documents, which have been filed to the Appeal Court, to Mr Justice Daniels.

Mr Jacobs argued that the defence "had sprung a surprise on us" and were "bringing the documents through the back door".

Controversy

Although Mr Bizos assured Mr Justice Daniels at the start of the hearing that the judge would not have to read the court documents, which total almost 30 000 pages, Mr Jacobs submitted that the defence's arguments, which have been submitted to the Appeal Court, could be argued meaningfully only in relation to the court record.

Referring to an affidavit by UDF acting national general-secretary Mr Valli Moosa, Mr Bizos submitted that Mr Moosa, one of the applicants' many co-conspirators and Lekota's successor in the UDF, was not restricted in terms of the emergency regulations, while the applicants were serving prison sentences on Robben Island.

Concerning talks between the UDF and ANC on the controversy surrounding the Mandela Football Club, contained in an affidavit by Major P E J Kruger that has been submitted by the State, Mr Bizos said the security policeman's interpretation of the discussion "suddenly became conspiratorial", while it was non-conspiratorial.

Supporting the State's submission that the men could easily flee the country should they be granted bail, Major Kruger said that in the past, people granted bail or who had been acquitted had left the country illegally and joined the ANC.

In a second affidavit, Major Kruger said: "From information received it is clear that the security situation in the country has not yet normalised and acts of violence during April 1989 have not decreased."

He identified nine organisations — the ANC, UDF, Natal Indian Congress, Congress of SA Trade Unions, SA Health Workers Congress, Johannesburg Democratic Action Committee, SA Youth Congress, UDF Women's Congress and the National Association of Democratic Lawyers — as politicising and mobilising the masses, despite the emergency regulations.

Warrant-Officer J P van der Merwe said in an affidavit he was on duty during the funeral of University of the Witwatersrand lecturer Dr David Webster.

"I observed the following outside the church: A large group of people, of both sexes but predominantly black, gathered outside the church and a large number of the people outside the church sang liberation songs popularising the ANC and Umkhonto we Sizwe."

The case was postponed until June 16.

Jonas refusal a 'crisis of conscience'

Supreme Court Reporter

MR BONGANI JONAS, who has refused to testify for the state in the trial of Mr Tony Yengeni and 13 others, has described his dilemma as a crisis of conscience, the Supreme Court heard yesterday.

Professor Fatima Meer, director of the Institute for Black Research in Natal, was called as an expert witness in an inquiry held to determine if Mr Jonas had a just excuse for his refusal to testify.

Mr Jonas' claim — that it was intolerable for him to testify — raised a moral issue which was at the same time sociological, since consciousness of morality was derived within and from society, Prof Meer said.

To ascertain the veracity of Mr Jonas' claim, one had to consider the concepts of self and conscience that he raised and examine the cultural milieu from which he derived this.

Mr Jonas was not merely using words when he referred to his conscience which would not allow him to give evidence. He was referring to well-established social realities, she said.

It was difficult for those who had not gone through the experiences Mr Jonas had in the last 19 months to appreciate the full import of his dilemma, Prof Meer said.

Mr Justice S Selikowitz was on the bench. Mr W S le Roux and Ms J V Knoll were the assessors. Mr A M Omar appeared for Mr Jonas.

Sowetan 8/6/89 (331)

Bail opposed by police

THREE affidavits by security policemen were handed to the Pretoria Supreme Court in support of the State's opposition to five Delmas trialists' bail application.

SOWETAN REPORTER

The applications were handed to the court yesterday.

In a fourth affidavit, the Transvaal Attorney-General, Mr Donald Brunette, said he had seen the documents submitted to the court by the State.

He also saw other police documents which could not be made public in the interest of State security, the maintenance of law and order, police methods in obtaining the information, and possible danger to the lives of informers.

Brunette said he did not believe that the men should be granted bail and two of the trialists, Popo Molefe and Patrick Lekota, had not resigned from their executive posts in the UDF.

Supporting the State's submission that the men could easily flee the country should they be granted bail, Major P E J Kruger said in the past people granted bail or who have been acquitted, left the country illegally and joined the ANC.

As an example, Major Kruger said Mr Esau Raditsela and Mr Dorcas Raditsela left the country illegally to Botswana and later joined the ANC.

Lieutenant D B Erasmus said in an affidavit that Mr Elias Mokhele, the former chairman of the Bophelong Youth Congress and a member of the Vaal Civic Association, left the country during 1986 to join the ANC after he was granted R3 000 bail.

In a second affidavit by Kruger, he said: "From information received, it is clear that the security situation in the country has not yet normalised and acts of violence during April 1989 have not decreased."

Kruger identified nine organisations — the ANC, the UDF, the Natal Indian Congress, the Congress of South African Trade Unions, the South African Health Workers' Congress, the Johannesburg Democratic Action Committee, the South African Youth Congress, the UDF Women's Congress and the National Association of Democratic Lawyers — as politicising and mobilising "the masses despite the emergency regulations."

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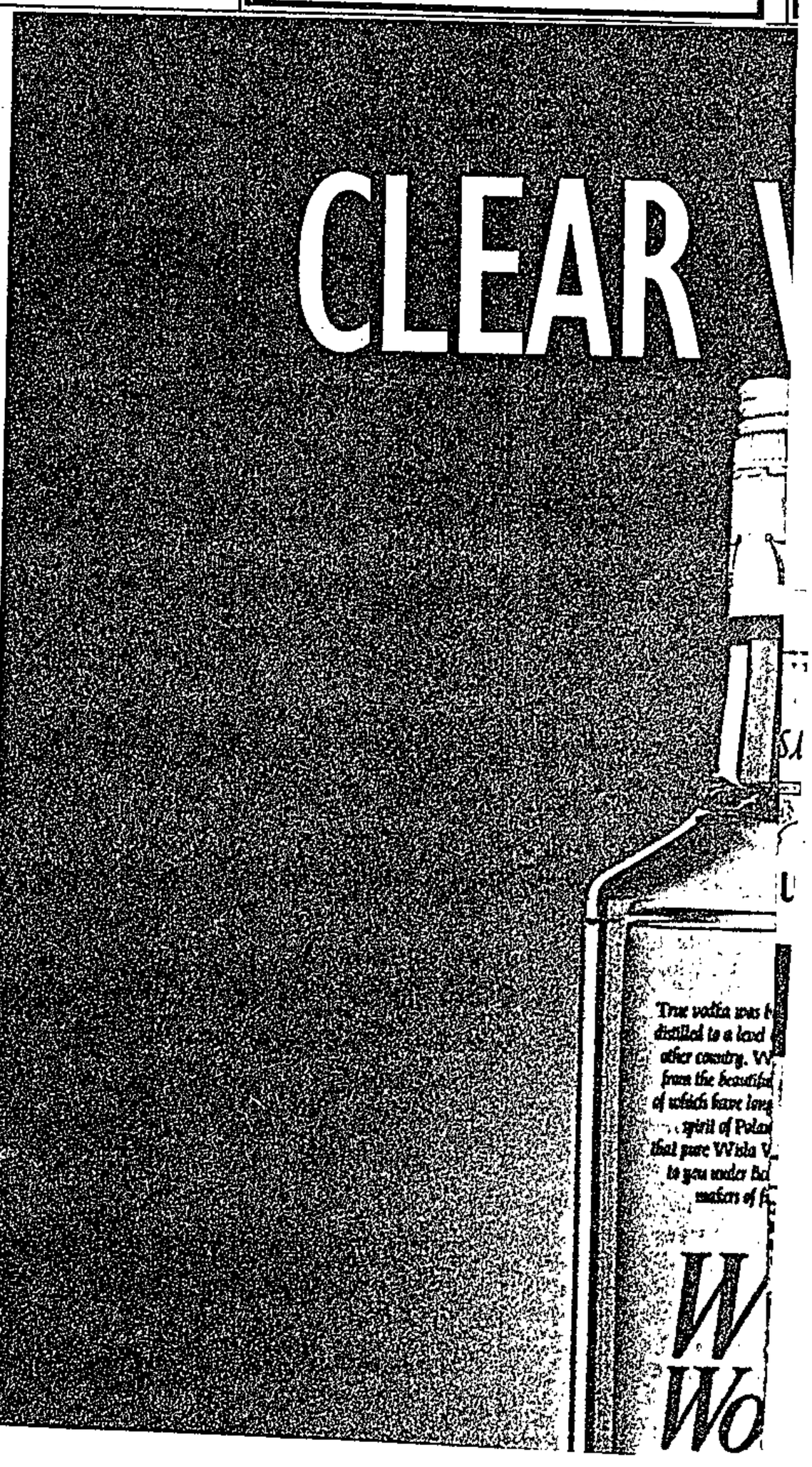

Delmas Five ask for bail

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WMail 9-14/6/89.

THE five convicted "Delmas" trialists, serving their sentences on Robben Island, applied for bail this week in the Pretoria Supreme Court pending an appeal.

The application was on the grounds that the five had good prospects of a successful appeal and that reasons for refusal of previous bail applications were no longer applicable.

Gcinumuzi Malindi, Thomas Manthata, Popo Molefe, Patrick "Terror" Lekota and Moses Chikane said in affidavits that if granted bail they would "rigorously and strictly comply with each and every condition".

The marathon treason trial of the United Democratic Front leaders and members of the Vaal Civic Association ended in November last year.

The state opposed the application on the grounds that the men were still executive members of the UDF.

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Wmail 9-14/6/89

'Common purpose': 12 more to hang

TWELVE men were sentenced to death in the Bisho Supreme Court this week on the evidence of an eyewitness who testified that he had seen only four of them take a direct part in the murders of which they were accused.

The men were part of a group of 26 Mdantsane residents convicted of the murder of five alleged gang members who had earlier fatally wounded the brother of one of the accused.

In his judgement, Mr Justice J Heath said that although only some of the accused were involved in actual violence, they had all associated themselves with it. He used the common purpose principle to convict them on five counts of murder and one of attempted murder.

The accused were part of a group of people who abducted six youths from

By PETER AUF DER HEYDE

their homes and later set them alight. One survived the attack. The day before the murders took place, the youths had been involved in a fight in which the brother of one of the accused was fatally stabbed.

Throughout the trial the 16 men protested their innocence and produced alibis to back this up. Although the judge said there was nothing to suggest that the alibis were "inherently improbable", he rejected them "in view of the totality of the evidence" against the accused.

The accused were linked to the abduction by numerous witnesses, but only Mbulelo Vellem, who was one of the six, gave evidence as to what happened at the scene of the murders.

He told the court that he had been abducted from his home by some of the accused, taken to waste ground and beaten until he was unconscious.

On regaining consciousness, he discovered that he was covered in grass and a burning tyre, and fled. He testified that apart from the four who had assaulted him, he did not know whether the other accused had done anything at the scene of the crime.

He imposed five death sentences on Bonakele Jwambi, 41, Mabongo Jamela, 26, Luyanda Kana, 27, Mseki Mbusi, 27, Xolile Nkukwana, 23, Soyiso Zuzani, 22, Mbuyiselo Klaas, 22, Bangkhanya Petros, 20, Mandenkosi Jakavu, 28, Mzwabantu Katsikatsi, 24, Raymond Kana, 32, and Thando Kana, 23.

All but Katsikatsi were sentenced to 20 years' imprisonment for attempted murder, while Wonke Faku, 19, and Albert Resha, 19, and two youths who cannot be named were sentenced to an effective 20 years' jail on the six counts.

Giving evidence on behalf of the accused, psychologists Dr Vernon Sack and Mr Ian Meyer presented a 130-page report which described Mdantsane as a mainly poor community suffering from unemployment, low wages, poor facilities and costly education.

They found there had been intersection conflict between the younger township residents. In one area, a gang calling themselves the "Killer Boys" were terrorising residents,

He also rejected the psychologists' evidence that one of the accused, Bongkhaya Petros, had an IQ of below 66, and was probably mildly retarded. — ANA

Launch of clemency campaign for Upington 14

By DALE KNEEN
Staff Reporter

A CAMPAIGN to save the Upington 14, who face the gallows after being found guilty of the murder of a Paballelo municipal policeman, has been launched in Cape Town.

More than 3 000 chanting, singing people packed the City Hall last night to hear speakers, including Cosatu leader Mr Moses Mayekiso, the National Association of Democratic Lawyers (Nadel) president, advocate Mr P Langa, and a Paballelo priest, the Rev Aubrey Beukes, call for the abolition of the death penalty and for clemency for the 14.

"Common purpose"

The 14 were sentenced to death last month after a court found that although only four of the accused actually assaulted Mr Lucas Sethwala, the other 10 had shared in a "common purpose".

Seven relatives of the 14 were also present at the meeting. They were Mr Jack Bovu, father of Myner Bovu, Mrs Masiza, mother of Wellington Masiza, Mrs Mary Matoli, a relative of Boy Japhta, Mrs Frances Gubula, sister of Tros Gubula, Mrs Susan Bekebeke, mother of Justice Bekebeke, Mr Alfred Gubula, adoptive father of Zonga Mogatla, and the Rev J de Bruin, brother of Evelina de Bruin.

Picture: WILLIE de KLERK, The Argus.

MASS SUPPORT: Some of the 3 000 people who attended the launch at the City Hall of a campaign to save the Upington 14.

The government was urged to implement a judicial inquiry into the death penalty and to stop "the senseless murder of its citizens by hanging".

Several organisations, including Cosatu, the United Women's Congress and the Black Sash, voiced their support for the campaign at the meeting. Other organisations have also shown support.

The Upington trialists had been represented by a single attorney for much of the duration of the trial, said a speaker from the Society for the Abolition of the Death Penalty.

Mr Langa said crime should be punished, but "judicial hangings" debased the society that sanctioned them.

"On Death Row, the killing is chillingly cold-blooded, calculated and premeditated."

Mr Mayekiso said the death penalty was no solution to the "social and economic crimes of apartheid and capitalism".

"How can a country say it has a civilised legal system when it is used to kill the people it is meant to protect?" he asked.

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Jonas 'expressing values of majority'

By REHANA ROSSOUW
Staff Reporter

TERRORISM "witness" Mr Bongani Jonas was not a criminal refusing to give evidence on a crime committed against his people, but was expressing the values of the majority of the South African population, the Supreme Court has been told.

This was part of the evidence yesterday of Professor Fatima Meer, director of the Institute for Black Research at Natal University, at the inquiry to determine whether Mr Jonas had a "just excuse" for refusing to give evidence for the State in the trial of Tony Yengeni and 13 others.

Deep suffering

Professor Meer said Mr Jonas had pointed to the polarisation which existed in South Africa in his evidence and identified it as the conflict between the enfranchised and the disfranchised.

"He has pointed to the deep suffering that exists among his people and analysed it as due to their subordinate status that makes them vulnerable to exploitation and all manner of deprivation," she said.

"His observations in these respects are not exaggerated."

Professor Meer said the reality of the South African situation was that it was in a state of civil war between opposing collective consciences.

She said "practically everybody" had taken sides, loyalties had been challenged and positions taken.

"On the extreme fringes, the war manifests itself militarily, above all between the ANC and the SADF and the police," she said.

She said if Mr Jonas had been insisting on refusing to testify in order to protect a murder, rape or robbery, crimes on which there was universal consensus on all social consciences, his refusal to give evidence would be untenable.

This was clearly not so in Mr Jonas's case, Professor Meer said.

"The court is not posed here with a criminal who is refusing to testify on a crime committed against the people.

"It is facing a man who is refusing to abandon deep-seated values acquired from his immediate culture, values of loyalty and trust between fellow men and women, between comrades, values of patriotism to one's country and people."

The hearing was postponed until Tuesday.

Terror convicts want bail

Star Fails 9/6/89 (331)

PRETORIA. — Five men, serving prison sentences on Robben Island, have applied for bail pending the outcome of their appeal against their convictions. Gcinumuzi Petrus Malindi, South African Council of Churches field worker Thomas Manthata and UDF executive members Popo Molefe, Patrick Lekota and Moss Chikane were convicted last year on charges of terrorism and treason.

CMC Times 9/6/86 331

Jonas 'won't abandon values'

Supreme Court Reporter

MR Bongani Jonas was not a criminal refusing to testify about a crime committed against the people, but a man refusing to abandon deep-seated values, the Supreme Court heard yesterday.

This was the evidence of Professor Fatima Meer, director of the Institute for Black Research in Natal, who was called as an expert witness in an inquiry held to determine whether Mr Jonas, 31, has a just excuse for his refusal to testify for the state in the trial of Mr Tony Yengeni and 13 others.

Professor Meer said Mr Jonas had been subjected to a series of traumas concentrated in a relatively short space of time.

His evidence was that he had been ambushed, shot at point-blank range, had his wounded leg subjected to deliberate and vindictive physical pain, had been interrogated and then hospitalised — for part of the time in chains.

His detention had passed through two phases, the first under section 29 when he was totally isolated for eight months, extensively interrogated, reduced to "abject dependency" on his captors and driven into a state of fear that they would kill him if he did not co-operate.

Mr Jonas was then "promoted" to section 31 when he was deemed to be co-operating and treated to small rewards which included tea bags and sugar, a trip to Table Mountain and an exercise bike, Professor Meer said.

Mr Jonas had identified his own response to his detention as one of "playing along", but it was apparent that he had been thrown into deep psychological conflict which was manifested in lack of sleep.

He had emphasised that his obligations were to his community, who constituted his solidarity with the struggle, not to the police.

Had Mr Jonas testified for the state he would have faced ostracism from his community, Professor Meer said.

She said Mr Jonas had given evidence about "deviants" or "a body of Mr Xs" who were drafted into special combat units known as A-teams or Askari who lived in special camps and were dependent on "the system" for protection in return for assistance in police work.

The hearing continues on Tuesday.

Mr Justice S Selikowitz was on the bench with Mr W S le Roux and Ms J V Knoll as assessors. Mr A M Omar, instructed by H Joshua, of Wilkinson, Joshua, Gihwala and Abercrombie Inc, appeared for Mr Jonas. Mr H Klem SC, with Mr Jannie van Vuuren and Mrs Sandra Swart, appeared for the state.

Squatter leader on R2 000 bail

Court Reporter

THE leader of the Brown's Farm squatters, Mr Christopher Toise, who has been in detention for four months, was released on R2 000 bail yesterday after appearing in the Wynberg Regional Court in connection with charges of harbouring an escaped prisoner and possessing an AK-47 rifle.

Mr Toise, 63, of Brown's Farm, Philippi, was not asked to plead.

The state alleges that he contravened the Internal Security Act in that between October last year and February this year, having had reason to suspect that Ms Agnes Ntombiszodwa Yoyo or Mr Danisile Nokhatywa were intending to commit an offence or had committed an offence, he rendered assistance to them by storing an AK-47 rifle, four magazines and 120 rounds of ammunition.

The hearing was adjourned to August 1.

Mr A S McCarthy was the magistrate. Mr M Stowe appeared for the state. Mr Toise was represented by Wilkinson, Joshua, Gihwala and Abercrombie.

'ANC trio' on trial

THE trial of the three alleged members of a white ANC cell who were arrested near Pretoria last year will start in the Pretoria Regional Court on Monday.

Former journalist Damian Michael de Lange, Ian Hugh Robertson and former school teacher Susan Catherine Donelly face 24 charges of which 16 are for terrorism.

Other charges against the "Broederstroom Three" include illegal possession of handgrenades, bombs, explosives, Russian made arms and ammunition.

331 Allwen 16/6/86

A death-row victim bids a final goodbye.

Death penalty for E Cape activists

CP Correspondent

THE number of people on death row increased this week following the sentencing to death of 12 Mdantsane men by a Ciskei Supreme Court.

Two weeks ago,14 Upington residents received the death sentence.

The 12 Mdantsane men last week received the death penalty five times for the abduction and murder of five youths. Four other accused were jailed for 20 years as they were under 18 at the time of the murders.

The necklacings were carried out after the victims allegedly killed the brother of one of the accused.

Handing down judgement in the Bisho Supreme court, Judge J Heath found the 16 had wilfully abducted and later necklaced the youths.

In a report, two psychologists described Mdantsane as a lower socio-economic area with high unemployment, low average wage levels, poor facilities, costly education and vast overcrowding.

Community frustration was aggravated by a gang known as the "Killer Boys." The murder victims were alleged to be members of this gang.

The senseless killing of an accused's brother ignited the violence, said the report.

However, Judge Heath did not rule on the report as the accused refused to testify in mitigation.

He, therefore, imposed death sentences as they were guilty of murder without extenuating circumstances.

Those who received the death penalty are: Bonakele Jwambi, 41. Mabongo Jamela, 26, Luyanda Kana, 27, Mseki Mbusi, 27, Xololi Nkukwana, 23, Soyiso Zuzani, 22. Mbuyiselo Klaas, 22, Bangkhaya Petros, 20, Mandlenkosi Jakavu. 28, Mzwabantu Katsikatsi, 24 Raymond Kana, 32 and Thandc Kana, 23. – Ana

331 Wwm 11/6/89.

Defence fights on for release of Delmas five

By SOL MORATHI

A BATTLE by defence counsel to secure the release of the five men convicted in the Delmas treason trial seven months ago continued in the Pretoria Supreme Court this week.

Patrick Lekota, UDF executive member Popo Molefe, former UDF Transvaal secretary Moss Chikane, SACC field worker Tom Manthata and Gcinumuzi Malindi have applied for bail pending their application to appeal against their convictions.

The five are presently serving sentences ranging from five to 12 years imprisonment on Robben Island after being convicted of treason and terrorism in November last year.

The five said in support of their bail application that the Appeal Court proceedings would be lengthy and further imprisonment would be "irreparable prejudice".

The State has opposed the application on the grounds that they might skip the country. Two security policemen, Major PEJ Kruger and Lieutenant DB Erasmus, cited several cases of people who had skipped the country after being granted bail.

Counsel for the State, PB Jacobs, argued that despite the personal circumstances of the applicants there was a strong possibility that they would not give themselves over to the authorities if their appeal failed.

The bail hearing has been adjourned until June 16.

331 Weekly 11/6/89.

Defence fights on for release of Delmas five

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26 charges include arms infiltration

Alleged white ANC terror unit on trial

331

Star 14/6/89.

By Norman Chandler,
Pretoria Bureau

The "Broederstroom Three" trial begins today in Pretoria Regional Court and the spotlight is expected to fall on methods used by an alleged African National Congress terror unit in infiltrating South Africa and bringing arms into the country.

Three whites, Mrs Susan Catherine Donelly formerly Westcott (24), Mr Damian Michael de Lange (31) and Mr Ian Hugh Robertson (36), are alleged by the State to be members of an ANC unit.

They, with Mr Hugh Lugg, were arrested on a remote farm at Broederstroom, south-west of Pretoria, on May 8 last year and have been in custody since.

Mrs Donelly, a former teacher, Mr de Lange, a former journalist, and Mr Robertson, whose profession is unknown, appeared in the Pretoria Magistrate's Court on January 25 and on February 7 this year, when bail was refused in terms of section 30 of the Internal Security Act. Mr Lugg has not appeared in court since his arrest.

The trio are facing 26 charges, including one of terrorism, 14 of attempted murder, and a charge of malicious damage to property arising from an attempt to blow up a South African Air Forece passenger bus in Benoni in March last year.

They are also charged with the illegal possession of bombs, hand grenades, machine-guns and ammunition found in the Broederstroom house as well as in the vicinity of the Buffelspoort Dam and in the Kalahari Gemsbok National Park.

Mr de Lange, a former journalist on the defunct *Rand Daily Mail*, is also facing two charges of arson and a charge of attempted arson arising from fires at the Progressive Federal Party's offices in Norwood and Illovo, Johannesburg.

Training in Angola

The charge sheet, compiled by the Attorney-General, alleges that he left South Africa in June 1981 to join the ANC and underwent military training in Angola. He returned in 1986 as commander of a unit of four members to establish a terrorist unit in SA.

Mr de Lange was born in Kitwe, Zambia, and did his national service in the South African Navy. A former miner at Phalaborwa, Mr de Lange became a journalist in 1980 when he joined the *Cape Times*. He transferred to the now defunct *Sunday Express* in Johannesburg and then joined the *Rand Daily Mail*.

Mr Robertson was born in Johannesburg and attended Highlands North High School in the city. He matriculated there in 1970.

He dropped out of the University of the Witwatersrand while studying for a BA degree and the State alleges he joined the ANC some time after 1977 and worked in Botswana and Zambia. No details are known of Mr Lugg's background.

Mrs Donelly was born in Swaziland and educated at the Kamhlaba High School in Mbabane and at Cambridge Polytechnic in Cambridge, England. She returned to Swaziland in 1985 and taught English at Matsapa High School near Manzini.

According to the charge sheet, Mrs Donelly, a British subject, is alleged to be a member of the ANC. The charge sheet alleges she joined Mr de Lange's group in 1987 as communications officer.

Present at the two initial court appearances by the three accused were representatives of the British, German, Australian and United States embassies.

The trial, amidst strict security, has been set down for five days.

Baby, you're still beautiful to me . . . even though th
fair at Zoo Lake in Johannesburg yesterday. His ou
town.

Marx quits job al Bloomberg nomin

Star 14/6/89.

By Shirley Woodgate,
Municipal Reporter

National Party campaign manager Mr Alwyn Marx, who masterminded the NP's spectacular municipal election victory in Johannesburg last October, has resigned the job ahead of tonight's Parliamentary nomination contest in Bez Valley.

His surprise move came amid claims and counterclaims by Mr Sam Bloomberg and Nat sources.

The resignation comes hard on the heels of his withdrawal as an NP candidate in Bez Valley, which means sitting MP Mr Bloomberg is likely to be *re*-nominated unopposed.

The move has sparked speculation that Mr Marx is convinced the Bloomberg family is holding the NP to ransom.

The suggestion is that Mr Bloomberg's son — Councillor Howard Bloomberg — would desert the NP in the Johannesburg City Council if Mr Sam Bloomberg was ousted in Bez Valley.

But Mr Sam Bloomberg said this morning that if Mr Marx had indeed withdrawn, it would mean democracy was the only winner.

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Star 12/6/89

Rivonia trial recalled

(33)

LONDON — Anti-apartheid activist Mrs Hilda Bernstein, who fled from South Africa 25 years ago, today publishes a book, "The World That Was Ours", about events surrounding the Rivonia trial. It is an expanded version of an earlier book. Her husband, Lionel, was acquitted at the trial. — The Star Bureau.

Defence to call experts for terror trio

ARGUS 13/6/89

331

The Argus Correspondent

PRETORIA. — Evidence in mitigation of sentence will be led today in the trial of the "Broederstroom Three".

Damian Michael de Lange, 32, Ian Hugh Robertson, 36, and Susan Catherine Donelly, 24, were yesterday found guilty in the Regional Court here of 10 counts of terrorism.

De Lange and Robertson were found guilty on a further count of terrorism, while De Lange was also found guilty of two counts of arson and one of attempted arson.

The defence was expected to call three expert witnesses, a historian and two sociologists.

The three were found guilty by Mr W J van den Bergh on the counts which included the bombing of a military bus in Benoni, damage to electric pylons and radio masts and receiving arms and amunition.

The prosecutor, Mr P J Pretorius, said the State could prove no previous convictions against the three.

They were acquitted on 10 other counts, including four of terrorism, unlawful possession of hand-grenades and bombs, unlawful possession of arms without a licence, unlawfu possession of cannon, mortar, rocket launcher, machine-gun or machine rifles, unlawful possession of ammunition and unlawful possession of explosives.

Pleas to court

The pleas handed to court by the three highly trained African National Congress members detailed their activities since their infiltration into the country during 1987.

Their mission was to reconnoitre military, economic and other targets and to carry out missions against chosen targets.

De Lange was the group's commander and Robertson was the political commissar.

The men established themselves in the Witwatersrand area where they rented houses and bought cars after receiving money from the ANC.

During August 1987 Susan Donnelly (nee Westcott), a Briton, joined the group as a communications officer.

According to Donnelly's plea, she joined the ANC during 1987 and received military training and training in communications in Angola for four months.

Donnelly legally entered the country during August 1987 and helped the group to establish themselves by assisting in renting houses and buying vehicles.

Rocket launcher

De Lange and Robertson admitted receiving ammunition, explosives, a cannon, a RPG7 rocket launcher, mortars and machine-guns.

The men admitted exploding a home-made device on October 26 1987 next to a high-voltage electric mastpole in the Alberton/Kliprivier area, denting the pole.

The men admitted detonating a home-made explosive device on a radio mast on Linksfield Ridge in Johannesburg on November 26 1987, causing R103 600 damage.

An attempt on the same day to explode a similar device on a similar mast failed.

The men also admitted detonating a home-made explosive device with shrapnel by radio remote control in Benoni on March 1 1988 at a time when a bus with military personnel was passing.

During September and October 1987 the men obtained information on aspects of military, police, State and economic activities in the Pretoria/Witwatersrand/Vereeniging area.

Thomas Hearns in Las Vegas last night, in which he retained his title afte

ANC trio found guilty after terror admissions

331

By Norman Chandler, Star 13/6/89
Pretoria Bureau

Microdots, coded radio messages and instructions hidden in dolls are alleged to have been used by a Soviet-trained military expert and two colleagues on a terror mission to South Africa.

The unit also made bombs — some unsuccessfully — and sent photographic negatives packed with military information out of the country. This was alleged in the Pretoria Regional Court yesterday when three members of an alleged ANC terror unit appeared on charges of terrorism and attempted murder.

The so-called "Broederstroom Three" — Damian Michael de Lange, Ian Hugh Robertson and Susan Catherine Donelly — were found guilty on terrorism charges.

PLEAS ACCEPTED

After the State accepted not guilty pleas, they were acquitted of five other terrorism charges and five relating to the illegal possession of weapons and explosives.

The hearing continues today.

Yesterday, De Lange and Robertson agreed with evidence that they were members of the ANC's military arm, Umkhonto We Sizwe.

De Lange, a former journalist, and Robertson — profession unknown — were convicted on 11 counts of terrorism, to which they had pleaded guilty.

De Lange also pleaded guilty to two charges of arson.

Donelly, a schoolteacher, admitted being a member of the ANC, and pleaded guilty to 10 charges of terrorism.

The trial arose from the arrest of the group — described as a "specialised terrorism unit" — at a farm near Broederstroom, south-west of Pretoria, on May 8 last year. De Lange and Robertson had allegedly entered South Africa in July 1987, and Donelly in August. A fourth man, Mr Hugh Lugg, was also arrested, but did not appear at two previous court hearings or at yesterday's hearing.

De Lange and Robertson said they were members of Umkhonto We Sizwe and came to South Africa to take action against chosen targets.

Robertson, said in court to be the political commissar of the group, had allegedly undergone training in Angola, Zambia and the Soviet Union. The court heard that they sent information on military and police installations to the ANC by coded message, radio and by telephone.

Other information was passed on to alleged ANC members named as Gill Marcus, Ronnie Kasrills, and a British subject known only as "Karen".

The latter came to South Africa, and the State alleges, met De Lange at Jan Smuts Airport on July 17. There he allegedly received money and further instructions — which were concealed in toy dolls.

"Karen" returned to London the next month, carrying with her, it is alleged, microdot information concealed in a copy of a magazine.

expected to exibit a "personal commitment to

have studied".

Nam o a.

Will TV eye peer into our courts?

331

Stw 13/6/84

By HELEN GRANGE

Reporters have always been allowed to write about court trials in South Africa, but cameras have been barred — except with the express permission of the presiding officer. Now the trend in America is to allow television cameras into the courtroom.

Millions of South Africans would have loved to watch the riveting trial of Barend Strydom at home on television, not to mention the salacious account of events on the night of Ralf Krebs's murder.

We can only imagine, with some guidance from news reports, the tension in the courtroom during the pronouncement of a death sentence, or the sentiment during the acquittal of a treason trialist after years in custody.

The printed word can convey a great deal of the events and feelings during a dramatic court case — but nothing beats actually seeing and hearing it.

The first trial televised in New York proved sensational. The public was gripped by the case of Gerald Steinberg, a middle-class lawyer accused of murdering his six-year-old adopted daughter.

In Britain, a move is afoot at the Bar Council to allow TV cameras into courts.

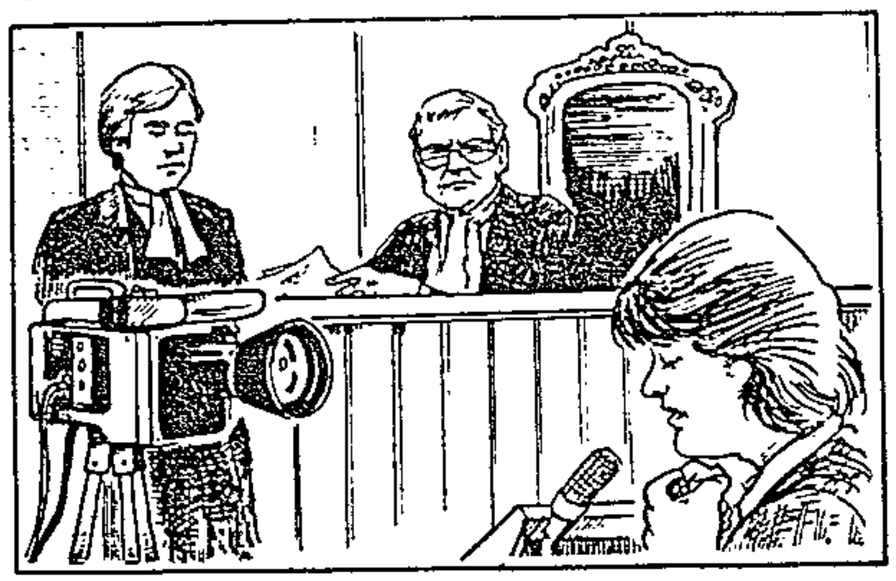
High scepticism

The chairman has pointed out a number of potential advantages in broadcasting trials. One argument is that in a system of open justice, as many people as possible should be able to see it at work.

This point is accepted by all camps in South Africa's legal fraternity, but when the prospect of TV trials is looked at more carefully in the South African context, scepticism runs high.

The question has raised some debate in Parliament, and though the possibility of TV liberty in courts has not been ruled out, indications are that it will be strictly controlled.

Minister of Justice Mr H J Coetsee stressed in Parliament recently that wide media coverage afforded to the conduct of the accused and sympathisers in political trials had the "inherent danger of other extremists being induced into adopting a similar attitude".



After examining the impact of the limited TV coverage of the Strydom trial, Mr Coetsee said it was clearly apparent that the presiding officer must be granted "unrestricted discretion" in controlling coverage and photographs.

"We place a very high premium on the dignity and decorum of our courts ... any possible restriction on the taking of photographs or television coverage is not aimed at curtailing accessibility to our courts, but at protecting the parties concerned, and also placing the dignity of the courts beyond all doubt," he said.

The protection of parties and dignity of the courts are the arguments of some law experts against television coverage.

Said Mr Andries Geyser, president of the Transvaal Law Society: "Public scrutiny through television coverage would bring untoward pressure on the magistrate or judge, as well as the accused, who may suffer in their performance as a result. There is also a danger that public bias may influence a judge's decision."

Professor John Middelton, a senior lecturer at Unisa's law faculty, attacks the TV coverage idea on the grounds that the court's dignity and that of participants would be infringed.

"Witnesses are summonsed to testify against their will. Televising them would infringe their dignity."

Legal experts also attacked the concept on the grounds of bias arising from the editing procedure, much the same as the diluted newspaper reports tend to tell only the most gripping parts.

But in spite of convincing arguments against televised trials, some points suggesting positive aspects have been voiced.

A visiting United States laywer, Mr David Akerson, said televised trials might have the effect of making the judge or magistrate more accountable for his judgments.

Responsible behaviour

In Britain, it has been argued that people behave more responsibly when cameras are there. It has been said that people actually recall more when they know they are giving evidence in front of a camera.

Whatever the informal debate, televised trials in South Africa could be a long way off.

Said Mr Max Laby of the Johannesburg Bar Council: "It has never been discussed, and as far as the Bar Council is concerned, it is a non-issue."

Pope's tour meets with luke-warm response

CAPE TIMES 13/6/89

Squatters acquitted

Staff Reporter

A SPRINGBOK magistrate yesterday acquitted two Port Nolloth squatters on charges of intimidation relating to a consumer boycott in the West Coast town last year.

Sisters Ms Beauty and Ms Elizabeth Popi, both of the Tentedorp squatter settlement, were both discharged when magistrate Mr M J Langenhoven found that the state had failed to prove their guilt beyond reasonable doubt.

The charges followed an incident on October 3 last year when the sisters allegedly "threatened to assault, injure, harm or kill" two Port Nolloth women for patronising a local cafe.

Mr I J Muller, instructed by Mr Henk Smith of Mallinick, Ress, Richman and Closenberg, appeared for the Popi sisters.

White ANC 3 found guilty

THE "Broederstroom Three" — an alleged white cell of the ANC — established a series of arms caches and a sophisticated information network, a Pretoria Regional Court magistrate heard yesterday.

The accused, Mr Damian Michael de Lange (32), Mr Ian Hugh Robertson (36) and Mrs Susan Catherine Donelly (24) also made two attempts to bomb a military bus on the East Rand and planted explosives at various electrical and radio pylons.

They were found guilty by Mr W J van den Bergh on 10 counts of terrorism.

According to an annexure to the charge sheet, De Lange left South Africa during June 1981 to become a member of the ANC and underwent military training in Angola and Zambia. He also joined the military wing Umkhonto we Sizwe (Spear of the Nation).

Sowetan 13/6/89 331

Combat

His co-accused, Robertson left the country between 1977 and 1978. He went to Botswana and Zambia and became a member of the ANC. He underwent military training in various ANC camps in Angola, Zambia and Russia.

Donelly, also a member of the ANC, underwent military training, combat work and communications in Malanye and Angola between March and June 1987.

On July 1, De Lange and Robertson infiltrated into South Africa illegally entering at Makopong, as a specialised guerilla unit. De Lange was commander of the unit and Robertson the political commissar.

Their mission was to reconnoitre military, political, economic and other targets with the intention of carrying ou

• To Page 2

Win a

ANC 3 guilty

Sowetan 13/6/89 331

• From page 1

operations against these targets.

They established a unit in the Witwatersrand area where they received money, messages, rented houses and performed acts in furthering their mission for the ANC.

He also found De Lange and Robertson guilty on an 11th count of terrorism and De Lange guilty on two other counts of arson and one of attempted arson.

They were acquitted on ten other charges of terrorism, according to their pleas.

The case has been adjourned until 2pm today for expert witnesses to be called.

After a delay of almost three hours the three walked into Court 5 of the regional court, with De Lange and Robertson shouting "Amandla" with raised fists.

13/06/84 (331)

ANC 3: Defence to testify

PRETORIA. — The defence in the Broederstroom trial is expected to lead expert testimony today after three members of the all-white Broederstroom ANC cell were convicted in the Pretoria Regional Court of terrorism yesterday.

Damian Michael de Lange, Ian Hugh Robertson and Mrs Susan Catherine Donnely (née Westcott) were convicted of 10 charges of terrorism, while the two men were convicted of an 11th terrorism charge.

De Lange was also convicted of two charges of arson and one of attempted arson after he and Marion Sparg set PFP offices on fire in 1981. Sparg is already serving a jail term.

The three were convicted by Mr W J van den Bergh shortly after the trial started, after they pleaded guilty to the charges and alternative charges.

Mr Van den Bergh acquitted them of five further charges of terrorism and five charges relating to the illegal possession of weapons, ammunition and explosives, after state prosecutor Mr Frans Roets accepted their "not-guilty" pleas on these charges.

De Lange and Robertson balled their fists and cried "Amandla" when they entered and left the court. A number of people in the public gallery replied. All three addressed Mr Van den Bergh deferentially.

The public gallery was packed by friends and family members, who peered at the exhibition of impounded weapons and ammunition.

The 88-page charge sheet says the three ANC operatives reconnoitred police and military installations and passed on the information to the ANC.

Among acts of terrorism, De Lange detonated a home-made explosive device by means of a radio transmitter in Benoni last year, extensively damaging a bus carrying army personnel.

They also allegedly concealed arms in the Magaliesberg, at Buffelspoort Dam, Broederstroom and/or Bokspits/Gemsbok area, and were arrested in a rented house at Broederstroom on May 8 last year.

Mr Hugh Lugg, whom police had previously named in connection with the case, was not seen in court yesterday. A fifth person, Paul Annegarn, has left the country and reportedly requested his family not to try to contact him.

The charge sheet said De Lange, a South African citizen, left South Africa to join the ANC's military wing, Umkhonto we Sizwe. He was trained in Angola and Zambia.

Robertson, also a South African citizen, underwent military training in ANC camps in Angola, Zambia and Russia.

Donelly, a British subject, received training in military and combat work and communications in Malanye, Angola, in 1987.

On July 1 1986 De Lange and Robertson infiltrated South Africa at Makopong as "part of a specialised terrorist unit".

They based themselves in the Witwatersrand area, where they received money, messages, rented houses and purchased cars, "and performed acts in furtherance of their mission for the ANC".

De Lange was the commander of the unit and Robertson the political commissar.

"Their mission was to reconnoitre military, political, economic and other targets with the intention of carrying out operations against the targets," according to the charge sheet.

Donelly joined the unit in 1987.

Among weapons allegedly cached were a SAM-7 ground-to-air missile, three Walther pistols, three Makarov pistols, 18 F1 handgrenades, eight SPM limpet mines, two remote-control sets, a Russian two-wave radio, two 60mm mortar tubes (exhibited in court), 40 mortars, a machinegun, demolition charges and detonators.

The accused also manufactured their own explosives.

The state alleged De Lange telephoned the ANC offices in London in 1987 and gave a coded message to Gill Marcus, who relayed it to Ronnie Kasrills. A British subject, Karen, was sent to South Africa via Harare.

De Lange met her at Jan Smuts Airport on July 17, 1987, and received money and instructions concealed in two dolls from her.

Karen received small squares of photographic negatives containing coded information to take back to London. These "microsquares" were concealed in a copy of a magazine.

Donelly met Kasrills in Harare last year. She carried with her a report on photographic film, still inside a camera, and returned with instructions from the ANC on January 17 or 18, the state alleged.

She also received new instructions and schedules for receiving ANC-transmitted signals from Luanda or Lusaka.

The accused received a Russian transceiver and were able to communicate with the ANC in Luanda and Lusaka.

The accused were also making use of telephone communications with the ANC in London, Zimbabwe and Botswana, according to the charge sheet.

During April last year the accused erected an antenna outside the house at Broederstroom and received coded messages from the ANC until the time of their arrest. — Sapa

Three in court on terrorism charges

Cape Times 13/6/87
331

Court Reporter

A COUPLE who have been detained for more than six months appeared in the Wynberg Regional Court yesterday with Western Province Council of Churches field worker Ms Buyiswa Jack on charges of terrorism.

Mr Danisile Nokhatywa, 33, Ms Agnes Ntombisodwa Yoyo, 26, and Ms Jack, 35, of Nyanga, were not asked to plead.

The state alleges that in October 1985 Mr Nokhatywa threw a handgrenade at a Casspir and another handgrenade at a private house.

It also alleges that he and Ms Yoyo was trained by the ANC in Angola and committed acts of violence.

It also alleges that Ms Jack was a member of the ANC and that she went to Botswana to fetch a map indicating where an arms cache was hidden.

Ms Jack, who recently gave birth to her third child, had bail of R5 000 extended.

Ms Yoyo and Mr Nokhatywa were detained and the hearing was adjourned to June 23.

Historian gives evidence at ANC trio's trial

331 B/Day 14/6/89

'Moral authority lost'

PRETORIA — A series of events from the mid-70s onward, including the Soweto uprising, the Uitenhage shootings, and Steve Biko's death, had led to a growing conviction among many South Africans that government had surrendered its moral authority, a court was told here yesterday.

History Professor Colin Bundy was testifying at the trial of the three ANC activists convicted on terrorism charges in the Pretoria Regional Court this week.

Convicted

Former Rand Daily Mail journalist Damian de Lange and Ian Robertson pleaded guilty to 11 counts of terrorism. British subject Susan Donelly pleaded guilty to 10 counts.

They were convicted by the magistrate, W van den Bergh, after the State accepted their pleas of guilty on those counts.

De Lange also pleaded guilty to two counts of arson and one of attempted arson for fires started by himself and Marion Sparg at three PFP offices in

SUSAN RUSSELL

Johannesburg in 1981.

The three pleaded not guilty to various other counts of terrorism and unlawful possession of ammunition, explosives and arms.

They were acquitted on these charges after their pleas of not guilty were accepted by the State.

The "Broederstroom Three" were part of an ANC unit formed on the Witwatersrand in 1987. They were arrested at a Broederstroom house in May last year. A fourth man who was arrested with them, Hugh Lugg, has thus far not appeared in court.

When the trial resumed yesterday afternoon the first two rows of the public gallery were filled with policemen. More police lined the back of the courtroom.

Bundy testified on what he described as a period of crisis in SA dating from the mid-70s until the present day. One of the features of this crisis was a recurring and high level of popular or mass protest since 1976, he said.

Another feature of this overall crisis was the perception that government had surrendered its moral authority. Bundy described this as "a crisis of legitimacy".

"More recently since 1985 the repeated states of emergency with the inevitable inroads that that makes on normal rule of law has probably further increased that dwindling legitimacy," Bundy said.

The historian told the court that at the same time there had been an enormous shift in popular allegiance to the ANC.

Recognition

The organisation had won diplomatic and public recognition overseas, he said, and surveys showed that whereas previously one third and more black South Africans had supported the ANC, one half and more did so now.

Bundy told the court visits to the ANC by prominent SA businessmen, clergymen, students and others since 1985 was a measure of recognition of the ANC's actual and perceived importance by individuals and groups which included opinion formers.

The trial continues today.

'Near impossible

ANC's stature grows but Govt in crisis, court told

Star 14/6/87. 331

By Norman Chandler,
Pretoria Bureau

The ANC had began a climb to legitimacy among the people of South Africa — including businessmen and academics — while the legitimacy of the South African Government was dwindling, the Pretoria Regional Court was told yesterday.

Historian Professor Colin Bundy said the country was in a state of social crisis and there was a growing conviction "that the Government has surrendered its moral authority".

He said this in evidence in mitigation of the Broederstroom Three. Damian de Lange, Ian Robertson and Susan Donelly were found guilty on Monday on counts of terrorism.

Members of an alleged ANC "specialised terror unit" sent to attack selected targets in South Africa, they were arrested on May 8 last year after a raid on a farmhouse at Broederstroom near Pretoria.

Professor Bundy, professor of history at the University of Cape Town, said the era in which the trio had grown up had in the South African context shown a "distinctive political character".

CRISES

He told the court in reply to questions by Mr D Soggot, SC, for the defence, that the era was one in which South African society "expressed an interlocking set of acute problems ... and so long-lasting that one could accurately characterise it as ... a multifaceted historical and social crisis".

There were seven crises being faced by South Africa: A very evident phenomenon of a recurrent and high level of popular and mass protest — particularly since 1976; deep-seated economic malaise; international pressures; a crisis of legitimacy; costly involvement in extra-territorial warfare; repeated states of emergency which meant dwindling legitimacy; and increasing violence.

On the other hand, he said, there was the increasing legitimacy of the ANC. Visits by top businessmen and others to the ANC were "recognition of its actual and potential importance".

Professor Bundy, who continues his evidence today, said the events of 1976 — the Soweto uprising — had "fed into some of the people the energies and dynamism of politics and (contributed) to the mushroom growth of township politics".

A salient feature had been the role played by youth protesters.

"It was a major social confrontation ... 6 000 to 9 000 young South Africans left the country and entered exile."

Asked by Mr Soggot if what he was saying referred only to the Witwatersrand, Professor Bundy said: "Events had their flashpoint in Soweto, but spread across South Africa. Over 200 communities were affected."

RECOGNITION

Professor Bundy said since the mid-1970s, the South African Government had experienced a crisis of legitimacy as a result of events "such as Soweto, the death of Biko, the banning of 17 organisations in October 1977, deployment of troops in townships, and incidents such as the shootings at Uitenhage's Langa township in 1985".

The ANC had received greater diplomatic and political recognition overseas in the past decade than South Africa, added Professor Bundy.

Though seen by the Government as the country's No 1 Enemy, it was seen by eminent people as "a negotiator ... as the most logical and most necessary participant in any large-scale negotiation about the future of South Africa".

Professor Bundy said the ANC had increased its level of support from a third to about half the African population between the mid-1970s and now.

Sketching the history of the organisation, he said "a significant number" of white South Africans had gone into exile to work for or with the ANC".

The hearing continues.

● See Page 2.

Fatima Meer called as expert witness in trial

NCGS 14/6/89

331

By ANDREA WEISS
Staff Reporter

HAD mass murderer Wit Wolf Barend Strydom been in the same situation as terrorism "witness" Mr Bongani Jonas, he should not have been compelled to testify, Professor Fatima Meer has told the Cape Town Supreme Court.

Professor Meer, director of the Institute for Black Research in Natal, was being cross-examined yesterday as an expert witness in an inquiry to determine if Mr Jonas had a just excuse for his refusal to testify against Mr Tony Yengeni and 13 others.

Questioned by State prosecuter Mr Hendrik Klem, SC, on her attitude towards Strydom, Professor Meer said the courts should keep pace with the changes in society and bring groups together by not compelling "brother to testify against brother".

Professor Meer

She said while she had not followed the story in the newspapers, on the face of it, Strydom's killings appeared to be politically-motivated violence.

"As a sociologist, I would say that there are mitigating factors even in that act of violence, but not knowing the details I am not in a position to comment on it," Professor Meer said.

Asked by Mr Klem if she believed a fellow member of the Wit Wolwe should be compelled to testify against Strydom, Professor Meer said she did not believe he should if that testimony would make his position untenable.

Mr Klem asked Professor Meer if she would hold the same position if this led to Strydom's acquittal.

"I remain of that view," she said.

Mr Klem asked Professor Meer to comment on whether a person who acted like Strydom for political reasons should "get away with murder", but the same person committing robbery should be convicted.

Professor Meer said it seemed as if the perpetrator of a violent act and somebody brought to court to give evidence were being confused.

In her evidence, she had pointed out that if a person was in situation which was humanly intolerable, the court should not compel him to give evidence against himself and his society.

Mr Klem asked whether it would be in the interest of the families of Strydom's victims to allow Strydom to be aquitted by not compelling somebody to testify against him.

Professor Meer said by compelling a witness, the court would end up aggravating acts of violence.

Mr Klem: "Don't you rather think that the families of the eight victims shot by Strydom would not accept the situation and would rather take the law into their own hands?"

Professor Meer: "I think the function of law courts is not retribution. The function of court is to re-establish a sense of equilibrium and justice in the community at large."

14/06/86

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nd the Broederstroom Three

and Jansie Niehaus and Dominee Frikkie Conradie, also expressed approval of the ANC.

De Lange was also said to have taken part in political discussions organised by journalists at the Sunday Express and that anti-apartheid views were "frequently expressed and discussed."

When security forces struck into Mozambique and attacked Motola, near Maputo, in 1981, De Lange, Geyer and Sparg, in anger, attacked Progressive Federal Party offices in Johannsburg. Geyer then fled the country.

De Lange and Sparg also decided to leave the country, and crossed the border into Botswana.

There, De Lange was joined by his girlfriend, Diana, who was at that time pregnant with their twin boys. He married her in Lusaka in April 1982.

Trained at ANC camps in Angola, he was sent to Tanzania to be with his family.

He went to Swaziland to contact members of the ANC and met co-accused Susan Donelly. After returning to Lusaka, he was ordered to South Africa.

Ian Robertson, the alleged political commissar of the Broederstroom group, was, according to the evidence, educated at Orange Grove Primary School and Highlands North High School, both in Johannesburg.

His parents were, too, "highly critical of apartheid and instilled in him a notion that the structure of South African society was unfair as the policy of apartheid was detrimental to the well-being of black citizens".

Robertson's grandmother was a founder member of the Black Sash movement, and his uncle was Professor Eddie Roux, a member of the Communist Party.

His girlfriend in 1972 was Merle Barsel, whose mother had been sentenced to five years' imprisonment in terms of security legislation at that time.

He studied for a BA degree in politics at the University of the Witwatersrand, but did not write the final examinations.

Going to London with Merle Barsel, he met members of the ANC.

Donelly, born in Swaziland, first came into contact with South Africans of all races while studying at a school in Mbabane.

Returning to Swaziland in 1985, she learned of actions or activities alleged to have been carried out by South African military personnel.

Donelly went to Maputo and then to Lusaka and Luanda, where she received military training.

The Broederstroom Three in court.

The story behi

From NORMAN CHANDLER
The Argus Correspondent

JOHANNESBURG. — The story of how three members of an alleged African National Congress terrorist unit, one the father of twin seven-year-old boys, formed their political views has unfolded in the Pretoria Regional Court as part of evidence in mitigation of sentence.

Two came from families critical of apartheid and were further influenced while working for a newspaper company, while the third formed an attitude as a result of socialising with South Africans.

Damian de Lange, the leader of the unit, was the product of a family critical of apartheid.

After working as a trainee hotel manager and a miner, De Lange became a journalist, first working for the defunct Rand Daily Mail, then for the Cape Times and later for the defunct Sunday Express.

"In October 1980 he met ar befriended Marion Sparg," the court was told. Sparg is a former journalist who was convicted and sentenced to prison for treason some years ago.

He also met Arnold Geyer another former journalist, as well as political activists Ca[illegible] and Jansie Niehaus.

Evidence was that De Lange was influenced by Sparg and Geyer, who had views radically opposed to apartheid and the government. They, with Ca[illegible]

SA in social crisis, professor tells court

From NORMAN CHANDLER,
The Argus Correspondent

JOHANNESBURG. — The African National Congress was gaining legitimacy among the people of South Africa, while the legitimacy of the South African government was "dwindling", the Pretoria Regional Court heard yesterday.

The nation was in a state of "social crisis" and there was a growing conviction "that the government has surrendered its moral authority", historian Professor Colin Bundy said in evidence in mitigation on behalf of the so-called "Broederstroom Three".

The three — Damian de Lange, Ian Robertson and Susan Donelly — were on Monday found guilty on several counts of terrorism.

"Social crisis"

Professor Bundy, Professor of History at the University of Cape Town and at the University of the Western Cape, said in mitigation that the era in which the trio had grown up had, in the South African context, showed a "distinctive political character".

He told the magistrate, Mr W van den Bergh, under questioning from the leader of the Defence team, Mr D Soggitt, SC, that the era was one in which South African society "expressed an inter-locking set of acute problems ... so acute that one could characterise it as constituting a multi-faceted historical and social crisis".

He said there were seven crises being faced by South Africa:

These were a very evident phenomenon of a recurrent and high level of popular and mass protest (particularly since 1976); deep-seated economic malaise; international pressures on South Africa; a crisis of legitimacy; costly involvement in extra-territorial warfare; repeated states of emergency meant dwindling legitimacy; and increasing violence.

Exiled

Professor Bundy is to continue giving evidence today.

Describing the Soweto uprising of 1976, he said that a salient feature had been the role played at that time by youth protesters — "it was a major social confrontation ... 6 000 to 9 000 young South Africans left the country and entered exile".

"These events had their flashpoint in Soweto, but spread across South Africa. Over 200 communities were affected in all four provinces."

Professor Bundy said South Africa's government was going through a crisis of legitimacy.

"A government suffers a decreasing of legitimacy under certain circumstances. It means significant subjects withdraw that consent to be governed, and frequently transfer it (their consent) elsewhere.

He said the ANC had increased its level of support in this country from a third to about half of the African population between the mid-1970s and the current period.

Visits by top businessmen and others to the ANC was "recognition of the ANC's actual and potential importance".

Professor Bundy said that the ANC was receiving greater diplomatic and political recognition overseas in the last decade than was South Africa, and in fact had more missions overseas than did South Africa. This raised laughter in court.

Sketching the history of the organisation, Professor Bundy said "a significant number" of white South Africans had gone into exile to work for or with the ANC — "this is evident from the fact that some have been arrested and convicted in South Africa".

(Proceeding)

Star 14/6/89 331

Treason 3 'grew up in anti-apartheid climate'

By Norman Chandler,
Pretoria Bureau

The story of how three members of an alleged ANC terrorist unit formed their political views unfolded in the Pretoria Regional Court yesterday as part of evidence in mitigation of sentence.

Damian de Lange came from a family critical of apartheid.

After working as a trainee hotel manager and a miner, De Lange became a journalist, first working for the now defunct *Rand Daily Mail*, then for the *Cape Times*, and later for the defunct *Sunday Express*.

"In October 1980 he met and befriended Marion Sparg," the court was told. Sparg, a former *Sunday Times*journalist, was convicted and imprisoned for 10 years for treason in November 1986.

'ACTIVISTS'

He also met Arnold Geyer, another former journalist, as well as political activists Carl and Jansie Niehaus.

Evidence submitted to court says that De Lange was influenced by Sparg and Geyer, who had views radically opposed to apartheid and the South African government. They, together with Carl and Jansie Niehaus and Dominee (Frikkie) Conradie, also expressed approval of the ANC.

When South African security forces struck into Mozambique and attacked Motola, near Maputo, in 1981, the court was told that De Lange, Geyer and Sparg, in anger, attacked Progressive Federal Party offices in Johannsburg. Geyer then fled the country.

De Lange and Sparg also decided to leave and crossed the border into Botswana.

There, De Lange was joined by his girlfriend, Diana, who was at that time pregnant with their twin boys. He married her in Lusaka in April, 1982.

He was accepted as a member of the ANC and the family remained in Gaborone until February 1982 before De Lange was flown to Lusaka.

He met co-accused Susan Donelly in Swaziland when he went there to contact ANC members. After returning to Lusaka, he was ordered to South Africa.

Co-accused Ian Robertson was, according to the evidence, educated at the Orange Grove Primary School and Highlands North High School, both in Johannesburg.

His parents, too, were "highly critical of apartheid and instilled in him a notion that the structure of South African society was unfair insofar as the policy of apartheid was detrimental to the well-being of black citizens."

Robertson was a member of the Young Progs, and worked as a proof reader at South African Associated Newspapers and "in the course of this employment he came into close contact with political journalists who ... frequently discussed their radical anti-apartheid views."

He studied for a BA degree in politics at the University of the Witwatersrand, but did not write the final examinations.

Going to London with Merle Barsel, he met members of the ANC "and while in London he also came into close contact with ideas and literature of the ANC and came to appreciate the extent of anti-apartheid feeling in the United Kingdom and Europe," the court was told.

He joined the ANC in Lusaka on New Year's Eve, 1977, and six weeks later was flown to London where he worked in the offices of the International Defence and Aid Fund. He joinedUmkhonto we Sizwe in 1985, and was flown from London to Luanda for training. He also underwent further training in Moscow prior to entering South Africa in July 1987.

'MILITARY ACTS'

Swaziland-born Susan Donelly first came into contact with South Africans of all races while studying at Waterford School in Mbabane, Swaziland.

Donelly studied at Warwick University, in England, and "developed a strong commitment to southern Africa.

Returning to Swaziland in 1985, she learnt of actions or activities alleged to have been carried out by South African military personnel.

"These incidents confirmed her belief that the present South African Government should be opposed and she gave expression to that belief by making contact with ANC members in Swaziland," the court heard.

Donelly went to Maputo, and then to Lusaka and Luanda where she received military training and training in communications.

Experts evidence for ANC convicts

EVIDENCE in mitigation started yesterday afternoon in the trial of three African National Congress members who were captured by police at a remote farmhouse near Broederstroom last year.

The three — Damian Michael de Lange, Ian Hugh Robertson, and Susan Catherine Donelly — were on Monday found guilty in the Pretoria Regional Court on terrorism charges.

De Lange, leader of what was described in court as a "specialised terrorism unit," and Robertson, the unit's political commissar, were found guilty on 11 charges. Donelly, the communications officer, was found guilty on 10 charges.

Acquitted

The trio were acquitted by magistrate Mr W van den Bergh of five other terrorism charges and five relating to the illegal possession of weapons and explosives after the State accepted their not guilty pleas.

Starting this afternoon, the defence team, led by Mr D Soggott, SC, is expected to call at least three expert witnesses — two sociologists and a historian — while it is not yet clear which witnesses the State will place on the stand.

The prosecution is being led by Advocate Frans Koen.

From page 1

with episodes of unrest, including school boycotts and rioting, during which he was the victim of stone-throwing incidents.

"He also had contact with black community leaders in various townships and befriended other journalists, including black journalists, through whom he came to acquire a new insight into black experiences and perceptions," the biographical sketch says.

De Lange befriended Sparg and Geyer when he joined the Sunday Express in Johannesburg in 1980, as well as Carl and Jansie Niehaus and Dominee Frikkie Conradie, who opposed apartheid and expressed approval for the ANC.

The petrol-bombing of the PFP office took place at this stage.

De Lange, having decided to join the ANC, was helped to enter Botswana by Ds Conradie. De Lange was joined by his wife, Diana, who was then pregnant with their twin boys.

De Lange was accepted as an ANC member and flown to Lusaka in February 1982. He received military training in Angola and later worked as a journalist for an ANC magazine, "Dawn".

In 1983 he taught in a primary school in Tanzania and later in an ANC photographic laboratory.

He was sent on a mission to Swaziland in November 1985, where he met ANC members and Susan Donelly.

The summary concludes: "Finally, in July 1987, De Lange and Robertson with two other members of the ANC returned to South Africa to carry out their mission."

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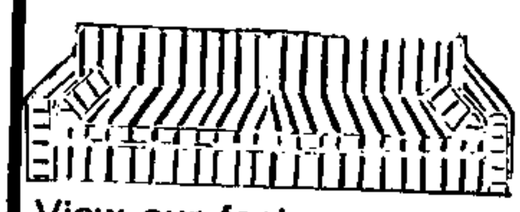

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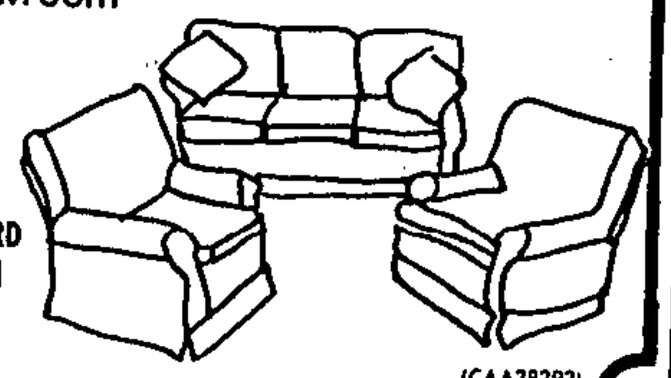

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(CAA38292)

ANC trial told govt has lost moral authority

PRETORIA. — A series of events from the mid-70s onward, including the Soweto uprising, the Uitenhage shootings and the killing of Steve Biko, had led to a growing conviction among many South Africans that the government had surrendered its moral authority, a Pretoria court was told yesterday.

Historian Professor Colin Bundy was testifying at the trial of the three ANC activists — former journalist Damien de Lange, Ian Robertson and Susan Donelly — convicted of terrorism in the Pretoria Regional Court this week after pleading guilty.

The "Broederstroom three" were arrested at a Broderstroom house in May last year with Mr Hugh Lugg, who has not appeared in court.

Professor Bundy said South Africa had been in crisis from the mid-70s until the present day. One of the features of this crisis was a recurring and high level of popular or mass protest.

Another feature was the perception that the government had surrendered its moral authority. It was "a crisis of legitimacy".

"Since 1985 the repeated states of emergency, with their inevitable inroads on normal rule of law, have probably further decreased that dwindling legitimacy," Professor Bundy said.

He told the court that at the same time there had been an enormous shift in popular allegiance to the ANC.

He said all surveys on support for the ANC agreed that it was the grouping with the largest support in South Africa.

He caused laughter from the public gallery when he said that, according to press reports, the ANC had more offices abroad than the South African government.

He added that members of the many prominent South African groups that had had talks with the exiled ANC leadership since 1985 said they felt that the ANC could not be ignored in any future dispensation in South Africa.

Professor Bundy said South Africa remained one of the very few societies that continued to entrench racist measures in law.

South Africa also had an extremely high disparity in its distribution of wealth.

The police were often thrust into the position of having to maintain the status quo and blacks had developed a very marked hostility towards the police.

Anthropologists found, for instance, that the dream that was most common among Eastern Cape women was that of a police raid.

The trial continues. — Own Correspondent and Sapa

WE'LL GIVE YOU THE BEST

'Stones thrown at ANC commander'

Cape Times 14/6/89 331

PRETORIA. — The commander of the Broederstroom ANC cell had stones thrown at him when he travelled through townships as a journalist.

Damian de Lange's career was described in court yesterday as part of his defence.

De Lange, 30, was convicted earlier this week of terrorism along with Susan Donnelly and Hugh Robertson.

The stoning attack on De Lange took place while he was a reporter and before he had joined the ANC.

The biographic report said De Lange was influenced by fellow journalists Arnold Geyer and Marion Sparg when he worked with them on the now-defunct Sunday Express. Geyer and Sparg held views radically opposed to the government.

The document added that De Lange, Geyer and Sparg petrol-bombed a PFP office in 1981 in protest against PFP statements in support of the SADF's cross-border attack on Matola.

When the bombing took place, "the offices were closed and there were no persons on the premises", according to the defence.

Geyer has since left South Africa and Sparg is serving a jail sentence in a Pretoria prison.

The document said when De Lange detonated a home-made bomb near a military bus in Benoni by remote control, he was "motivated by a desire to avoid injury to civilians".

De Lange was born in Kitwe, Zambia. The family later moved to South Africa.

There was a strong bond within the family, which included three younger brothers. His mother was an ardent Catholic.

De Lange matriculated, but not having sufficient funds to enter university, became a trainee manager at the Hotel Kennaway in East London and later, in June 1977, worked for a Foskor phosphate mine at Palaborwa.

At the mine De Lange gained a firsthand knowledge of the disparity in wages between blacks and whites.

He was apolitical at that stage, considered himself a pacifist and read extensively in Eastern religions.

He completed a journalism training course in 1979 in Johannesburg and worked for the Rand Daily Mail and the Cape Times.

In Cape Town he came into contact

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● Govt 'lost moral authority' — Page 2

P.T.O.

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From page 1

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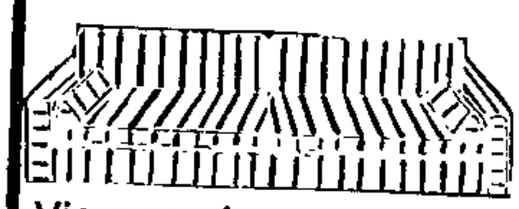

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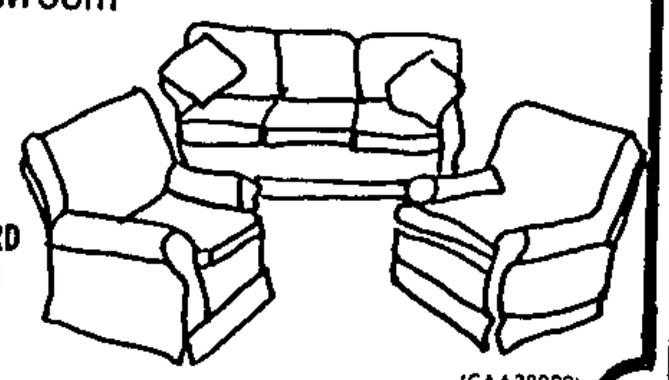

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The trial continues. — Own Correspondent and Sapa

A missing man at the one-hour ANC trial: Witness Hugh Lugg

331
wmail 15-22/6/89.

Weekly Mail Reporter

ONE person was conspicuously absent from the "Broederstroom" trial this week: Hugh Lugg, a member of the all-white African National Congress miiitary cell that was on trial in Pretoria.

Lugg, 30, was arrested with the other three cell members last year. He did not appear at the first court hearing in January and defence lawyers said then that they expected Lugg to appear as a state witness.

At the time of the arrest of the "Broederstroom" cell in May 1988, police said the group had been betrayed by an ANC informer.

But this week, as the other three stood in court to face charges of terrorism and the prospect of long prison sentences, it was as if nobody knew anything about Lugg.

His name was not even mentioned in court.

The fifth member of the cell, Paul Annergarn, left the country shortly before the arrests, allegedly after a disagreement with his colleagues.

Lugg's non-appearance was just one surprise in the magistrate's court this week. The main one, however, was that what was expected to be a sensational show-trial — involving a highly-trained, all-white military cell of Umkhonto we Sizwe, the ANC's military wing — turned into a quick and carefully choreographed performance.

After waiting 13 months in detention, the three accused pleaded guilty and were convicted in little over 30 minutes.

The state, for its part, came to court with an amended indictment. Attempted murder charges, which appeared on the earlier indictment, had been dropped from the 87-page document. And when the accused pleaded not guilty to some of the charges, the state accepted this and they were immediately acquitted on these counts.

Damian de Lange, 31, Iain Robertson, 36, and Susan Donelly, 24, pleaded guilty to 10 charges of terrorism. Robertson and De Lange also pleaded guilty of causing an explosion near a South African Defence Force bus in Benoni in March 1988.

De Lange also admitted two charges of arson, and one of attempted arson in connection with attacks on three Progressive Federal Party offices in Johannesburg, in 1981. His co-accused on these charges, Marion

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HUMOUR P.T.O

15-22/6/89. 331 Mail

A missing man at ANC trial

●From PAGE 1

Sparg, is already serving a 25-year sentence for treason.

De Lange was out of the country at the time of her trial.

Magistrate WJ van den Bergh acquitted the three on further terrorism charges and on charges of illegal possession of exposives, ammunition, and weapons, after the prosecutor accepted their pleas of not guilty.

In the dock, the three accused looked like ordinary citizens rather than "highly trained terrorists". De Lange wore a pinstriped suit, and Robertson, in a dark suit, gave a clenched-fist salute and shouted "Amandla" as they entered the courtroom.

The crowd of family members, friends and members of the "Broederstroom Support Committee" responded with a salute.

De Lange admitted to being the commander of a "specialised separate unit to carry out instructions on behalf of the ANC". He had been trained in "military and combat work, politics, engineering (explosives) and communications". He and Robertson entered South Africa in July 1987.

Robertson was the unit's "political commissar". He had undergone the same training as De Lange, as well as "intelligence training" in the Soviet Union.

Donelly, a British subject, had received military and communications training.

The cell was responsible for one practice explosion, two failed bombing attempts, and two successful attacks. In the practice explosion on October 26 1987, they blew up a high voltage electric mastpole in the Alberton/Kliprivier area.

A bombing attempt failed in Benoni in February 1988 and on Linksfield Ridge on November 26 1987, but later that day they blew up a radio mast inthe area.

Sixteen air force personnel were injured when they attacked a military bus in Benoni on March 1 1988.

Although there was no evidence during the trial, the evidence in mitigation produced some interesting exchanges.

John Westcott, Donelly's father, was asked if his daughter ever had an affair with a black man.

"Will you repeat that?" he replied.

"Has she ever had an affair with a black man?" the state advocate, Frans Roets, said.

"Is that really in ... taste?"

"Has she had a love affair, a personal affair, more than a personal affair ... Did she have a regular black caller?" Roets looked embarrassed as he struggled for the right words.

Friends and family members laughed and the magistrate called the court to order.

"She certainly had no 'regular black caller' while she lived in my home," Westcott said coldly.

De Lange's mother, giving evidence in mitigation of sentence, said she sympathised with the ANC, except for its use of violence.

"I see their point of view and agree with their course, but not their violence," she said.

Under cross-examination, she conceded that her son could be described as a "terrorist".

She said it was "not her son, but a soldier" who had committed these acts of "terror".

On Wednesday the unit's weapons cache was on display. Apart from a formidable array of weapons, including a SAM-7 ground-to-air missile, limpet mines, hand grenades, mortars, a machine gun, and pistol as well as wigs, glasses, hairdye, camera and video and snorkelling equipment.

De Lange, Robertson, Donelly and Lugg were arrested at a house in Broederstroom, only 5km from the Pelindaba nuclear research station.

This week's charge sheet contained detailed information about the group's activities while operating underground in the country between July 1987 and their capture in 1988.

They communicated with the ANC in Lusaka and London through coded telephone messages, notes hidden in dolls, radios and "micro-squares" hiden in a copy of *Cosmopolitan*.

For example, a British woman, identified as Karen, travelled to Harare in July 1987 carrying money and instructions hidden in two dolls. She was met by Donelly, who took the dolls and gave Karen "micro-squares" to hide for the journey back to London.

Star 15/6/89 (331)

Did she have black caller, prosecutor asks father

Uproar greets State's question about Donelly

By Norman Chandler, Pretoria Bureau

There were cries of "extraordinary" from the accused in the Broederstroom terrorism trial yesterday when State prosecutor Mr Frans Roets asked the father of Susan Donelly whether his daughter had "a regular black caller".

It was the last question put to Mr John Westcott, during cross-examination of his evidence in mitigation, on Donelly's alleged association with people of all races in Swaziland and Britain.

It came during the Broederstroom Three terrorism trial — and caused gasps and an uproar in the packed public gallery at the Pretoria Regional Court.

Earlier, the court had heard that Donelly counted among her friends at school in Swaziland the children of Nelson Mandela and of Archbishop Desmond Tutu.

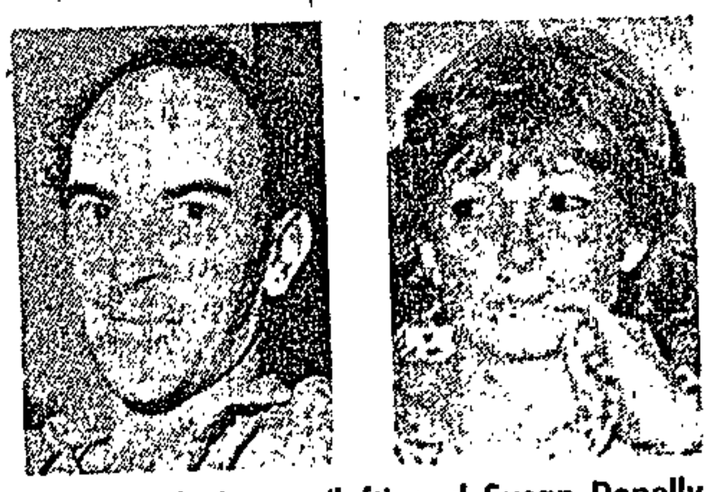
Donelly, Damian de Lange and Iain Robertson were this week found guilty by the magistrate, Mr W van den Bergh, on several charges of terrorism arising out of the uncovering of an alleged African National Congress terrorist unit.

'Bad taste'

The unit was arrested at a farmhouse near Broederstroom, south-west of Pretoria, on May 8 last year. Another member of the group, Mr Hugh Lugg, was also arrested but has not been seen since. De Lange and Robertson were found guilty on 11 charges of terrorism and Donelly on 10.

The question about the "black caller" was asked after Mr David Soggot, SC, leading the defence team, objected to Mr Roets's line of questioning of Mr Westcott.

Mr Roets had, moments earlier, asked Mr Westcott, the third witness to take the stand in mitigation: "You say she mingled freely with blacks and all races and nationalities. There is nothing wrong with that.



Damian de Lange (left) and Susan Donelly ... found guilty on several terror charges.

Did she have an affair with a black man?"

Mr Soggot immediately interjected that the question was in bad taste, and Mr Roets then re-phrased it after explaining to the magistrate it was important to the trial.

The re-phrased question brought an immediate response of "extraordinary" and much head-shaking and laughter from the three accused. Mrs Westcott first looked shocked at the allegation about her daughter, laughed and then cried.

Her husband replied to Mr Roets: "Not while she lived in my home."

In his evidence, Mr Westcott had told Mr Soggot that the family had had friends from all race groups and "the children did not discriminate between colour or race among their friends ... my only concern was to demonstrate the viability of non-racial association and show by example."

While his daughter had been at Waterford School in Mbabane, Archbishop Tutu, Mrs Helen Suzman and author Nadine Gordimer were among many people who had spoken at the school. The speakers may have "communicated ideas to the children".

Asked how the views expressed by others had affected his daughter and his son Michael, who had been at the same school, Mr Westcott said: "It was part of their conditioning. They picked up naturally an abhorrence of the idea of apartheid."

Cross-examined, Mr Westcott said the first he knew of Donelly being a member of the ANC was when she was arrested. He said she appeared to be committed to the ANC and regarded herself as a soldier.

Earlier yesterday, De Lange's mother told the court that the man who was sitting in the dock was "not my son, but a soldier".

Mrs Grace de Lange, of East London, described him as "a different person" from the one who had been a pacifist in his youth.

She was being cross-examined by Mr Roets after giving evidence in mitigation.

De Lange had been angered by the treatment of workers on a mine at which worked. After becoming a journalist and joining the now defunct *Rand Daily Mail* in Johannesburg, De Lange told her he had been stopped "from writing what he wanted to write" and that "parameters were placed on his writing. Articles weren't being used, articles on resettlements and so on".

Not a pacifist

Mrs de Lange was asked whether she thought the ANC was waging a just war. She replied: "I can see their point of view, particularly since Monday (the start of the trial). But I do not have any sympathy with the violent means of the ANC ... but other ways, yes."

Mr Roets: "Do you approve of your son's actions?"

Mrs de Lange: "I do. That was not my son, that's a soldier. I do not approve of violence whether or not it was my son's doing."

She was asked to read aloud from statements made in the charge sheet beginning with when De Lange was described as a pacifist. Mr van den Bergh asked her: "Do you think him to be a pacifist?"

Mrs de Lange: "Well, 'no' would be a direct answer but you are now speaking of a different person. He is an activist. He is a terrorist."

MY SON A TERRO-MOTHER

Sowetan 15/6/89

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THE mother of convicted ANC insurgent Damian de Lange winked at her son as she said "yes, my son is a terrorist".

Mrs Grace de Lange was giving evidence in mitigation of sentence for her son who was convicted on 10 counts of terrorism on Monday in the Pretoria Regional Court together with Ian Robertson and Susan Donelly by magistrate Mr W J van den Bergh.

Mrs de Lange said it was not her son who planted the bombs but a soldier.

She said she did not support the violence of the ANC but had sympathy with the organisation.

Mrs de Lange told the court of how her son had told her of his dissatisfaction with conditions under which black workers worked at a Phalaborwa mine.

He felt that the wages of a black family man were insufficient to support their families.

She said during his time at the mine in Phalaborwa he had saved for the entrance fee to university. Unfortunately on his way down from Phalaborwa his kombi ate up all his money.

He later enrolled in a journalism cadet course after which he started working at various newspapers.

Through his work as a journalist he came into contact with many people and saw suffering among the people.

Damian told her that often he had written stories on boycotts and black resettlements which were not printed.

She gathered that the students must have been hurt as her son took the incident very much to heart and was very upset.

Mrs de Lange said another incident that had bothered her son was while he was in Cape Town and his father was visiting him a contingent of school children were pushed around and handled into vans. He turned round and asked his father "what are you doing about this."

He was extremely upset about the incident and the incident has photographed itself on his mind.

(Proceeding)

DAY OF JUDGMENT

JUDGMENT of the 143 accused facing charges of treason or alternatively terrorism, will begin in the Mmabatho Supreme Court on October 16.

The charges follow the abortive coup on February 10 1988. This was announced by the presiding judge, Mr Justice W A Friedman, in court yesterday.

He told the accused the trial had begun on February 6 1989 and evidence on behalf of the State and defence had been concluded in May.

The State had called 53 witnesses and the record of their testimony was voluminous. The main arguments by State and defence counsel number more than 600 pages.

The hangman darkens yet another life

(331)

Grier 28/5/89

Mother sent home by doomed son as a noose beckons

By SELLO SERIPE

ABRAHAM "Bizza" Mngomezulu, 25, who was hanged on Thursday in Pretoria for the necklace 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.

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.

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

Mother's plea to c

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15/6/1989
C Times

wn Correspondent

PRETORIA. — The mother of one of the white ANC members convicted of terrorism in the Regional Court this week concluded her evidence-in-chief yesterday with an appeal to the magistrate on her son's behalf.

"I just ask from my heart that when you sentence my boy you don't break the spirit," Mrs Grace de Lange asked Mr W van den Bergh.

Damian de Lang, and Ian Hugh Robertson were convicted on 11 counts of terrorism and Susan Donelly on 10 counts after pleading guilty to the charges.

They were acquitted on various other charges of terrorism and unlawful possession of arms, explosives and ammunition after their pleas of not guilty on these counts were accepted by the state.

The three were part of an ANC cell established on the Witwatersrand in 1987 and arrested at a Broederstroom house in May last year.

De Lange and Robertson have both admitted to being members of Umkhonto We Sizwe — the military wing of the ANC.

Donelly joined the cell as a communications officer, De Lange was its commander and Robertson the political commissar.

Mrs Grace de Lange was called to give evidence in mitigation of sentence by the defence after the state was granted leave to postpone their cross-examination of historian Professor Colin Bundy until next Tuesday.

"That wasn't my son that was a soldier," she told the court during heated cross-examination by prosecutor Mr Frans Roets during which he questioned her on ANC violence.

"Do you think the ANC's is a just war?" he asked her at one stage.

"Well on what I have seen over the last three days I can only say I can see their point of view".

Asked about their policy of violence she said: "I don't approve of violence. I don't approve of violence whether it was my son or another perpetrator."

Mr Roets: "So you don't approve of your son's actions?"

Mrs De Lange: "Violent actions, no."

Later she told the court she sympathised with the ANC apart from their policy of violence.

Mr Roets: "Do you consider a soldier and terrorist as one and the same thing?"

Mrs De Lange: "No, not necessarily."

Query about a 'regular black caller'

PRETORIA. — The question of a possible "regular black caller" that Broederstroom trialist Susan Donelly might have had was raised in the Pretoria Regional Court yesterday.

The matter was raised by advocate Mr Frans Roets, for the state, when he cross-examined Donelly's father, Mr John Wescott.

Mr Wescott was testifying in mitigation after Donelly, Damian de Lange and Ian Robertson — members of the "white Broederstroom ANC cell" — were convicted this week of respectively 10, 11 and 11 counts of terrorism.

Mr Roets asked Mr Wescott whether his daughter had ever had an affair with a black man.

Mr Wescott replied: "Will you repeat that?"

Mr Roets: "Has she ever had an affair with a black man?"

Mr Wescott appealed to the magistrate, Mr W van den Bergh: "Is that really in... taste...?"

Mr Roets explained to the court that he wanted to determine to what extent Donelly had "mixed and mingled with ANC people".

Mr Wescott then replied: "She certainly had no 'regular black caller' while she lived in my home."

He said he only discovered she had joined the ANC when he learned she had been arrested at Broederstroom last year.

'ourt

During her evidence Mrs De Lange described De Lange's development in a Catholic family.

The eldest of five boys De Lange became a trainee journalist after two years working on a mine, she told the court.

Mrs De Lange also described her son's growing frustration and disillusionment at the self-censorship imposed by newspapers on reports exposing conditions under which black people lived in this country.

The trial continues today.

ANC trial told of death of dominee

PRETORIA. — A dominee who helped Damian de Lange cross the border into Botswana, where De Lange joined the ANC, has since died in a car crash.

It emerged in the Broederstroom terrorism trial yesterday that De Lange, who commanded the ANC cell at Broederstroom, was helped to cross the border illegally by a Dominee Frikkie Conradie.

The defence and prosecution teams said Mr Conradie had since died in a car accident.

The defence said De Lange met Mr Conradie in Johannesburg in 1980, about the time he met Carl and Jansie Niehaus and journalists Marion Sparg and Arnold Geyer. — Sapa

'Compassionate' to treat Jonas as PoW — witness

CAPE TIMES 15/6/89 (331)

Supreme Court Reporter

THE "compassionate approach" for the "captured" Mr Bongani Jonas would be to treat him as a prisoner of war, the Supreme Court was told yesterday.

This was said by Professor Fatima Meer, an expert witness called to testify at an inquiry to determine if Mr Jonas had a "just excuse" for his refusal to testify for the state in the trial of Mr Tony Yengeni and 13 others.

Captain William Liebenberg, head of the terrorist detection unit, told the court that on the night of his arrest a wounded Mr Jonas had been willing to point out where weapons had been stored.

Information Mr Jonas had given police had led to the arrest of Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Ms Colleen Lombard, Captain Liebenberg said.

During discussions Mr Jonas did not appear unwilling to testify for the state and said he would become a state witness. The trial continues today.

Mr Justice S Selikowitz was on the bench with Mr W S le Roux and Ms J V Knoll as the assessors. Mr A M Omar appeared for Mr Jonas. Mr Klem, SC, with Mr Jannie van Vuuren and Mrs Sandra Swart, appeared for the state.

Convicted terrorist 'motivated by idealism, not gain'

Don't cripple my girl, pleads Donelly's dad

Star 16/6/89

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By Norman Chandler, Pretoria Bureau

The father of convicted terrorist Susan Donelly yesterday made an impassioned plea in the Pretoria Regional Court for the imposition of a sentence "which will not cripple her for life".

Mr John Westcott was giving evidence in mitigation for the defence during the "Broederstroom Three" trial before Mr W van der Bergh.

Donelly was this week found guilty with co-accused Damian de Lange and Iain Robertson on several charges of terrorism. She pleaded guilty to terrorism and was found guilty on 10 charges.

De Lange and Robertson, who also pleaded guilty, were both convicted on 11 charges.

The trial has been adjourned to Tuesday next week.

Mr Westcott said yesterday it was apparent to him that his daughter was a very capable person.

"She is motivated by idealism and not by personal gain. I beg you not to give her a sentence which would cripple her for the rest of her life."

As he completed his plea, his wife, Mrs Margaret Westcott, and his daughter began to sob. Donelly was comforted by Robertson, who put his arm around her.

The court adjourned in order to allow her to compose herself and family members went into the corridor outside the courtroom to comfort Mrs Westcott.

Earlier, Mr Westcott said he had no knowledge of the man whom Donelly had wed in a marriage of convenience.

It emerged in evidence that she had married a Mr Donelly "in order to have another passport to enter a country".

"My knowledge of it is limited to the fact that there was a marriage. I knew and know nothing about Donelly at all," he told the court.

It was said in court that Donelly had darkened her hair and had worn spectacles for the purposes of the passport photograph.

The magistrate also heard Mr Frans Roets, the State prosecutor, put it to Mr Westcott that Donelly had had an abortion.

Mr van der Bergh told Mr Roets that the line of questioning was irrelevant.

Yesterday the court was again crowded. As the three accused left the court, they shouted "Amandla!" (power) but there was no answering shout from the public gallery.

A feature of the first three days of the hearing had been replied shouts of "Awetu!" (... to the people) from the public gallery.

On Wednesday there was a shout of "AWB!" from the gallery. The person who made the shout could not be identified.

De Lange faces divorce

Mrs Diane de Lange, wife of Damian de Lange, is seeking a divorce in Zambia from her husband, who was this week found guilty in the Pretoria Regional Court of terrorism.

The couple were married in Lusaka in 1982.

They have twin boys, described in the witness box in court by De Lange's mother, Mrs Grace de Lange, as "my darling little grandsons".

Mrs de Lange, jun, was pregnant with the twins when De Lange fled South Africa in, it is alleged in papers handed into court, the company of former *Sunday Times* reporter Marian Sparg, who was convicted and sentenced in 1986 to 10 years' jail for terrorism.

De Lange was at the time working for the *Sunday Express*.

He and his wife first lived in Gaborone, Botswana, then went to Lusaka, where they married.

Later, when De Lange was sent for military training in Angola, Mrs de Lange went to Tanzania.

After military training and working as a kitchen-hand in an ANC camp in Angola, De Lange was also sent to Tanzania where he was a "teacher's aide".

News in Brief

Coup members convicted

MMABATHO. — Eight members of the banned Peoples Progressive Party have been found guilty of treason in the Supreme Court for their role in an attempt to overthrow the Bophuthatswana government last year.

Women weep in ANC trial

Cape Times 16/6/89 (331)

Own Correspondent

JOHANNESBURG. — ANC activist Susan Donelly and her mother, Mrs Margaret Westcott, broke down in tears yesterday after her father begged the magistrate to impose a sentence that would not cripple his daughter for life.

"May I make an appeal to you on behalf of my daughter?" headmaster Mr John Westcott asked magistrate Mr W van den Bergh at the end of his evidence in mitigation in the Regional Court yesterday.

"She was motivated by idealism, not personal gain. I beg you not to give her a sentence which will cripple the rest of her life. She is potentially a valuable member of the world community."

The magistrate adjourned the court to allow Donelly and her mother to compose themselves.

Donelly and two other members of the ANC cell arrested in Broederstroom on May 8 last year — former Damian de Lange, 32, and Ian Robertson, 36 — were convicted of terrorism this week. They had pleaded guilty.

Donelly, who is a school teacher and a British subject was convicted on 10 counts.

Yesterday the magistrate upheld two objections by the defence to questions put to Mr Westcott by prosecutor Mr Frans Roets.

Mr Roets opened his cross-examination by asking Mr Westcott whether he knew if his daughter had had an abortion.

He withdrew the question after defence counsel, Mr D Soggot SC, objected on the grounds that this evidence was not relevant and was calculated to upset Donnelly's father.

Later Mr Roets gave Mr Westcott a series of photographs showing the bodies of landmine victims.

He produced them in response to Mr Wescott's earlier evidence that his daughter had been affected by the killing of a child in a raid which Swazis believed had been conducted by the SADF or SAP.

"Do you think it's right that every time a child is killed someone who knew that child should take revenge, join an organisation bent on revenge against the perpetrators of the crime?" Mr Roets asked.

"This has nothing to do with this case," Mr Soggot objected. "It is designed to create an impression. We are all aware of the facts of landmines and the havoc they can create."

Asked what the purpose of this cross-examination was, Mr Roets said: "Because the child was shot in an incident assumed to be the work of the SA police or army, evidently accused number three became a terrorist.

"Here I am showing two whole families completely mutilated and wiped out".

The magistrate upheld the objection, disallowing further questions on the photographs.

Asked by Mr Roets whether he saw his daughter as a terrorist, Mr Westcott replied: "In terms of South African culture and legal system, yes, she is a terrorist."

The trial was postponed by consent until June 20.

PUTTING HIS MONEY ... Mr Eugene van der Merwe (right), a staunch Democratic Party supporter, showed his faith in his party by giving a full month's salary to the campaign of Simon's Town DP candidate Mr Jannie Momberg (left). With them is DP Simon's Town chairman Mr Ed Coombe.

Dockworker gives his pay to DP

CAPE TIMES 16/6/89 (331)

By BARRY STREEK

A SIMON'S TOWN dockworker, Mr Eugene can der Merwe, has — as promised in the Cape Times Teleletters — donated a month's salary to the Democratic Party.

Mr Van der Merwe, 55, committed his salary to the DP before he knew who its candidate would be in Simon's Town and only met the candidate, Mr Jannie Momberg, after he had paid over his salary to the party.

His pledge to the DP, made on the spur of the moment, was "a commitment to the party as a Christian who was concerned about all people, whether they were black or white".

"I haven't any children of my own but I am very concerned about the future of young people in South Africa," Mr Van der Merwe said.

● A DP member of the President's Council, Mr Pieter Schoeman, was last night chosen as the party's candidate in the safe NP seat of Durbanville.

Mr Schoeman, who nearly wrested the North Rand seat from the NP in the 1987 election, is expected to give Mr Frik van Deventer, who won the seat by more than 6 000 votes in 1987, a tough fight.

r Craven said.

State witness unsafe, says cop

Supreme Court Reporter

A SECURITY police officer yesterday agreed in the Supreme Court that Mr Bongani Jonas would have been an outcast in his community and would have "committed suicide" by returning there, had he given evidence for the State.

This was said yesterday by Captain William Liebenberg, at an inquiry held to determine whether Mr Jonas had a just excuse for his refusal to testify for the State in the trial of Mr Tony Yengeni and 13 others.

Asked by A M Omar, for Mr Jonas, what options Mr Jonas had while being held in terms of Section 29, Capt Liebenberg said that he had explained the complications to Mr Jonas.

'Suicide'

Capt Liebenberg agreed with Mr Omar that Mr Jonas would have been a target for the ANC and would have been rejected by the section of the community which supported the ANC.

Asked if would be "suicide" for a person who gave evidence for the State to return to his community, Capt Liebenberg said it would.

Capt Liebenberg said Mr Jonas had been "totally convincing" and had made a fool of him.

Asked by the judge if the State case was completely different without Mr Jonas's evidence, Capt Liebenberg said he believed it was.

Mr D P de Villiers QC, for all the accused, asked that the court not sit today because it was widely regarded as a public holiday, but this was refused.

The hearing continues.

Number of hangings in SA considerably down this year

WITH nearly half the year gone, 1989 has been a relatively quiet time for South Africa's normally active hangman.

His busy schedule last year and the year before, and the outcry which it aroused against hanging here and abroad, appears to have embarrassed the Ministry of Justice.

All the signs point to a major effort by the Ministry to reduce the number of hangings after the startling figures of 164 in 1987 — the highest since the Union of South African came into being in 1910 — and 117 in 1988.

Mr Brian Currin, national director of Lawyers for Human Rights, notes that the monthly hangings for 1989 is about half the figure for the past decade.

In mid-June, the total was 34.

There is another pointer: the number of reprieves has risen sharply — 37 so far. The total last year was 49. In 1987 only 20 were saved from the gallows by presidential clemency.

One cause of the downturn in executions has been the revival of the abolitionist movement.

The Society for the Abolition of the Death Penalty was relaunched last year after being moribund for nearly 15 years.

Its re-emergence was because of the underlying, and growing, unease over the death penalty.

Another factor which helped foment resistance was the execution of political offenders, starting in 1979 with the hanging of Solomon Mahlangu, the first African National Congress fighter to be sent to gallows after the black student unrest in 1976/7.

The trickle of political offenders treading the path to the gibbet grew over the years became

PATRICK LAURENCE

a steady stream by the time of the township rebellions of 1984/6. Voices were raised in protest.

Foremost among the protestors was the South African Youth Congress. It initiated a "Save the Patriots" campaign in 1986.

The "patriots" were people sentenced to death for politically-motivated killings. The victims were either civilians killed by ANC bombers, or alleged collaborators and informers murdered by enraged mobs.

Late last year Minister of Justice Mr Kobie Coetsee told Parliament that more than 100 people were sentenced to death between 1984 and September 1988 for "unrest related offences".

Of those, 17 were executed, and 87 were on Death Row.

The latest Human Rights Update, researched and published by the Human Rights Commission, lists the names of 66 people on Death Row for "politically-related reasons".

They do not include the "Upington 14", who, like the Sharpeville Six, were sentenced to death under the controversial common purpose principle. They were found to have associated themselves with the murder of a municipal policeman, although only one man struck the fatal blow.

The trial and execution of politically-motivated offenders reflects another fact which the South African establishment finds embarrassing: the judges and prosecutors are all white, the condemned all black.

The cries of protest from liberal whites and radical blacks against the rising number of executions have been reinforced in recent years by expressions of concern from leading Afrikaners.

In a recent article, Professor Lourens du Plessis of the University of Stellenbosch said hanging has become a political question in South Africa.

He wants it taken out of the political arena. That means he wants a moratorium on hanging for politically-rooted crime.

Reflecting on the politicisation of the death penalty, he said: "Political foes are settling their differences in a macabre manner — the Government with the gibbet, and resisters with random bombs ... the death penalty dare not be used to buttress distorted and discriminatory social structures."

Professor du Plessis's plea does not call for abolition of the death penalty — but it is a major step in that direction.

'Mistake to warn detainee?'

Supreme Court Reporter

A RETIRED security policeman yesterday agreed in the Supreme Court he may have made a mistake in warning a Section 29 detainee, Mr Bongani Jonas, that he had the right to refuse to answer questions.

This was said yesterday by Warrant-Officer Gert Waggenaar at an inquiry held to determine if Mr Jonas had just excuse for his refusal to testify for the State in the trial of Mr Tony Yengeni and 13 others.

W/O Waggenaar said he had vistied Mr Jonas in Woodstock Hospital — where he had been hospitalised for a bullet wound in the leg — to obtain "priority information" regarding weapons and his accomplices.

He had warned Mr Jonas in terms of Judges Rules that he had the right to remain silent and refuse to answer questions as what he said would be used against him as evidence.

In reply to questions put to him by Mr A M Omar, for Mr Jonas, W/O Waggenaar said he had later found Mr Jonas had already been warned about his rights shortly after his arrest.

After the hospital visits Mr Jonas had given him a written statement about his activities in five instalments.

He agreed that Section 29 of the Internal Security Act provided for Mr Jonas to be detained until he had satisfactorily answered questions, but said it was his practice to warn detainees.

Mr Jonas later agreed to make a statement to a visiting magistrate.

The hearing continues on August 1.

Mr Justice S Selikowitz presided with Mr W S le Roux and Ms J V Knoll as assessors. Mr Omar, instructed by Mr H Joshua of Wilkinson Joshua Gihwala and Abercrombie, appeared for Mr Jonas. Mr H Klem SC, assisted by Mr Jannie van Vuuren and Mrs Sandra Swart, appeared for the State.

ivory imports from Africa to help [illegible]
phants.

Cape Times 17/6/89

ANC 3 granted appeal

331

PRETORIA. — The provincial division of the Supreme Court here has granted three ANC members, sentenced to death by a circuit court at Delmas in April, leave to appeal against their sentences.

S/Times 18/6/89

Mystery of the fourth white activist

By CHARIS PERKINS and HAMISH McINDOE

A QUESTION mark hangs over the fourth member of the highly trained all-white ANC military cell arrested at Broederstroom in May last year.

What is to happen to Hugh Lugg — the ANC activist who allegedly turned informer on his comrades-in-arms Damian de Lange, 31, Ian Robertson, 36, and Susan Donelly, 24?

Mr Lugg is being held in Pretoria under section 31 of the Internal Security Act — which means he is a material witness in State custody. And he will be freed when the trial is over.

State advocate Frans Roets SC would not say whether Mr Lugg would be called to give evidence against his former ANC colleagues.

Transvaal Attorney-General Don Brunette said that if Mr Lugg requested police protection after his release, he would probably be granted it.

Meanwhile a senior SAP spokesman refused to comment on whether Mr Lugg would in fact be granted protection. Nor would he say what police protection would involve.

"All I can say is that cases like this are considered on merit," he said.

Fled

Mr Lugg is the 31-year-old son of the former head of the East London Technical College's art department, Mr Jack Lugg.

He matriculated at Queens College in the Eastern Cape and went on to study at the universities of Cape Town and Stellenbosch.

In 1979 he fled to Britain to avoid military service.

He was granted an ANC bursary to attend the Goldsmith School of Art and later completed a teaching diploma at the University of London.

He underwent his military training in Lusaka and allegedly became a member of the Broederstroom cell.

Meanwhile, another mystery has arisen from the trial.

A biographical document presented in court this week on De Lange indicates that a dominee, the Rev Frederik Conradie, helped De Lange escape into Botswana in 1981.

The next year Mr Conradie, known as the "the white dominee" of Alexandra township in Johannesburg, was killed when his car overturned on an open road while he was travelling to Lichtenberg to visit his sick father.

Mr Conradie, who allegedly had a strong influence on De Lange, was 36 when the accident happened on March 1, 1982.

Man shot dead for hurling stone

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Pretoria Correspondent

A Pretoria policeman shot dead a demonstrator with his R1 semi-automatic assault rifle to prevent him hurling a rock at a passing army vehicle, the inquest into the deaths of 12 Mamelodi residents has heard.

Captain Hermanus Arnoldus le Roux told the inquest — which resumed yesterday in the Pretoria North Magistrate's Court after it was adjourned in February — that he shot the man as he was about to throw a second rock at the army vehicle. Star 20/6/89

Captain le Roux said the man was on the roof of a house in Mamelodi on November 21 1985.

Asked by Mrs A van Tonder, who is appearing for the State, whether the Defence Force members in the vehicle were armed, he replied "yes".

He was not aware of any reason why they did not shoot at the man.

Captain le Roux told the court that he came on duty in Mamelodi at 2 am on the day of the shootings.

At about 7 am he received a radio message to proceed to the YMCA centre in Mamelodi East where he came across a group of between 5 000 and 10 000 residents who were dancing, singing and waving placards.

The policemen urged the people to move to the H M Pitje Stadium.

"The people agreed to move to the stadium and they were joined by others on their way there."

Captain le Roux said the crowd swore at the police and threatened to set them alight.

He received a radio message on the way to the stadium that the Mamelodi police station was surrounded by a group of angry blacks.

They proceeded to the police station and were later confronted by "hundreds of blacks" who rained an assortment of missiles on their Casspir.

Captain le Roux told the court that he fired a shot with his R1 rifle at a man who hit a policeman on the head with a rock. He also shot at about three other people in the group.

(Proceeding).

Broederstroom 3: Evidence in mitigation

Current situation vital in ANC trial

Star 20/6/89 331

By Norman Chandler,
Pretoria Bureau

The manner in which historians and the South African Government view the current political situation and the African National Congress will form part of the evidence when the Broederstroom Three terrorism trial resumes today.

The Pretoria Regional Court heard last week that political events in South Africa, particularly since 1976, could have led to three white self-confessed ANC members reaching their decision to join the organisation.

The three — Damian de Lange, Iain Robertson and Susan Donelly (nee Westcott) — pleaded and were, last week, found guilty on various charges of terrorism. De Lange was also found guilty on two charges of arson.

De Lange and Robertson have both told the court, in papers handed in by their defence attorneys, they are members of Umkhonto we Sizwe (Spear of the Nation), the military wing of the ANC.

Professor Colin Bundy, Professor of History at the University of Cape Town and at the University of the Western Cape, told the court last week when giving evidence in mitigation on behalf the accused, that "the era in which they grew up" needed to be taken into consideration.

He said that during that period the ANC had began a climb to legitimacy among the people of South Africa while the legitimacy of the Government was dwindling.

Professor Bundy described the era as showing a "distinctive political character", and added that in this time South African society "expressed an interlocking set of acute problems ... and so long-lasting that one could accurately characterise it as ... a multifaceted historical and social crisis".

Professor Bundy, regarded as the top expert on the African National Congress and who has given evidence in other terrorism cases, is to be extensively cross-examined today by Mr Frans Roets, for the State.

Last week, Mr Roets asked for an adjournment in order to prepare his cross-examination.

It is expected that the State will this week also call an expert witness on the ANC.

The trial arises out of a raid made by the police on a remote farmhouse in the Broederstroom area, south-west of Pretoria, on May 8 last year. The three accused and a fourth man, Mr Hugh Lugg, were arrested. Mr Lugg has not been seen since the arrests were made.

They were alleged to be members of an ANC "specialised terror unit". De Lange was said by the State to be the unit leader, Robertson the political commissar, and Donelly the communications officer.

Initially, the three accused were charged not only with terrorism but also with attempted murder and charges relating to explosives, arms and ammunition, and damage to property.

Banned papers: Sendingkerk pastor in court

ARGUS 20/6/89

By REHANA ROSSOUW, Staff Reporter

A MINISTER of the Montagu N G Sendingkerk has appeared in Worcester Regional Court on charges relating to the possession of prohibited literature.

The Rev Dirk Marais, of Eyssen Street, Montagu, pleaded not guilty yesterday.

The State alleges that Mr Marais was found in possession of two copies of the African Communist, a copy of Sechaba (the monthly publication of the African National Congress) and a copy of a speech by ANC president Mr Oliver Tambo at a World Council of Churches gathering.

The head of Worcester's security police, Lieutenant Gerhardt Nieuwoudt, said he and 12 officers searched the offices of the Montagu/Ashton Community Service project on December 1 after being told they would find illegal literature there.

Mr Marais is the director the project.

CONFISCATED

Lieutenant Nieuwoudt said documents were confiscated and were given to a Warrant Officer van Loggerenberg to determine which were prohibited.

Under cross-examination by Mr J Whitehead, for Mr Marais, Lieutenant Nieuwoudt declined to name his informant, but said his sources had given reliable information in the past.

He declined to reply to a question on the "rewards" given to the "sources" after a conviction.

Lieutenant Nieuwoudt said he remembered that Mr Marais telephoned his lawyer in Cape Town when he arrived and that he said the warrant was vague and his lawyer would approach the Supreme Court to stop the police from searching the premises.

"I told him it would be a waste of time getting an interdict because we had powers in terms of the emergency regulations to conduct a search," Lieutenant Nieuwoudt said.

"I remember that he said we could search the premises because he had nothing to hide."

Lieutenant Nieuwoudt said he was aware that prohibited literature was sent to the Montagu/Ashton Community Service project in March.

He also saw banned literature sent to the offices last week from England. Mr Marais had taken the literature to the Montagu police.

He did not attempt to discover who had sent it because it was not "part of my duties".

AWARE OF VENDETTA

In reply to questions by Mr Whitehead, Lieutenant Nieuwoudt said he was aware that a "vendetta" was being waged against Mr Marais, but did not know the culprits.

He knew about a break-in at the offices of the project in August last year, that the locks were tampered with in November, that an ambulance was called to Mr Marais's home after a caller alleged he had had a heart attack and that threatening telephone calls were made to his home after the killing of Dr David Webster.

Lieutenant Nieuwoudt said he was not aware that 20-dozen hot cross buns were sent to Mr Marais's home at Easter after a fake order.

The hearing continues.

Mr A J van Wyk is on the Bench and Mr D Nel appears for the State. Mr Whitehead is instructed by the Legal Resources Centre.

THREE CONVICTED OF TERRORISM

THREE men have been convicted of terrorism by a Rustenburg magistrate.

By SONTI MASEKO

The men, Norman Moloi (24), of Orlando West, Soweto, Cyprian Naki (22) and Simon Ngcime, both of Khayelitsha, Cape Town, were found to be members of the banned Pan Africanist Congress by Mr M D de Wit.

Moloi will effectively serve nine years while Naki and Ngcime will each serve eight years.

The three pleaded guilty to the charges.

The men were arrested at a roadblock in Boekenhoutfontein near Rustenburg on May 22, the court heard. They were found in possession of handgrenades, scorpion machineguns and ammunition.

Two State witnesses, both Pac defectors, testified against the men during the trial.

Mr X said he, Naki and Ngcime received military training at camps in Tripoli, Libya and Ranjewo in Yugoslavia.

The other witness, Mr Y, told the court that he and Moloi received training at camps in Ruwo in Tanzania and Bengazi, Tripoli.

Major J D Potgieter, said to be an expert on Pac, said there were about 700 Pac members outside the country. He said, using Soweto as a barometer, there was an increase in the organisation's activities inside the country recently.

The three men were represented by advocate Mr B M Ngoepe and Mr M N Sithole, instructed by Seriti, Mavundla and Partners.

June 21 1989

Bundy questioned closely on views

False SA history 'added to crisis'

By Norman Chandler, Pretoria Bureau

South African history had been falsified on a "grand scale" and had contributed to the crisis facing the country, historian Professor Colin Bundy told the Broederstroom Three terrorism trial in Pretoria yesterday.

He questioned whether the State was trying to prove that the arrival of Iron Age Bantu people 1 000 years before Dutch settlers met them was part of the "ANC strategy against South Africa".

Under cross-examination of his evidence in mitigation, Professor Bundy was closely questioned on his political and historical views by prosecutor Mr Johan Pretorius.

Key role

A professor of History at the University of Cape Town and at the University of the Western Cape, Professor Bundy is the defence team's expert witness in the trial of Damian de Lange, Iain Robertson and Susan Donelly, who have been found guilty on various charges of terrorism. De Lange was also found guilty on two charges of arson.

The professor told Pretoria Regional Court magistrate Mr W van der Bergh that education generally had played a key role in black consciousness of the political situation in South Africa.

The teaching of history in particular was of vital importance.

He agreed that he could be called a "revisionist" who was a member of "more accurately, a revisionist generation".

Professor Bundy said for this reason he was critical, as were others, of South African school history text books, written in the 1960's. He said the books had purported to show that white settlers (the Dutch) had first met Bantu-speaking Africans when advancing north and eastwards in the 18 th century.

"This is a falsehood on a grand scale," he declared. "For a thousand years Iron Age people had been living on the plains — there were 1 400 years between the time the Dutch settlers arrived and the Iron Age people had been living there."

He described the claim about the settlers having met blacks as "well-worn".

"It is false," he said.

Professor Bundy then told Mr Pretorius: "Are you trying to allege that early Stone Age man came in as part of African National Congress strategy?"

There was laughter from the packed public gallery.

Reading from reports he had written over a period of years, Professor Bundy said "gutter education" affected black and, most acutely, African children.

He said the term "gutter education" was widely used in the education system "and it has considerable currency".

Expansion

Asked what it meant, Professor Bundy explained that from 1960 to 1975, African high school pupils increased sevenfold and in the next decade trebled.

From 1960 to 1984 there was a 100-fold increase in all black children at school "and expansion in these numbers has been part of the problem".

"It places great strains on the education system. In a society where resources are allocated, it has a great deal to do with differential access to power, that is, in race."

Later, Professor Bundy said the State was guilty of what he termed structural or institutional violence and this included detention without trial.

Asked whether he did not think the ANC was also guilty of such violence, Professor Bundy said he was prepared to say the ANC also used structural violence but he was not prepared to say it was consistent.

The ANC was not a terrorist organisation and had repudiated terror, Professor Bundy said in earlier evidence yesterday.

"national liberation and self-determination".

Mr Pretorius asked Professor Bundy if he regarded the ANC as a terrorist organisation. Professor Bundy said it depended on the definition of terrorist.

He added: "Certainly it is a military organisation, but it has over a period of time repudiated terror and sought instead to conduct its operations against military establishments."

The case continues.

Banned book 'shocked' dominee

331 / 3572 11266/89 21/6/89

By RUSSELL MICHAELS
Staff Reporter

A SENDINGKERK clergyman accused of possessing prohibited literature has told Worcester Regional Court he was shocked when a banned book was found in his office.

The Rev Dirk Marais, 39, of Eyssen Street, Montagu, was allegedly found in possession of two copies of the African Communist, a copy of Sechaba (the monthly publication of the African National Congress) and a copy of a speech made by ANC president Mr Oliver Tambo at a World Council of Churches gathering. He has pleaded not guilty.

Giving evidence in his defence, Mr Marais, director of the Montagu/Ashton Community Service project, said 13 policemen searched the premises on December 1 last year.

"After showing me a search warrant which seemed vague a Warrant Officer van Loggerenberg asked me to unlock a filing cabinet.

"I did not have the keys and left my office to fetch them, but wondered whether it was wise under the circumstances. Instead I called for my secretary.

"I told a policeman to fetch the keys himself. I was suspicious and on my way back to a chair where I sat previously I saw a small book — which I had never seen before — on my desk.

"I asked the warrant officer about it and he said it came from a shelf on the desk. I denied it. The cover, if I remember correctly, was something like *Bird Life in Australia*.

"I paged through the book and was shocked to see the words 'African communist'. I accused the police of planting the book there."

The hearing was postponed to July 31.

Mr A J van Wyk was on the Bench. Mr Marais was represented by Mr J Whitehead, instructed by the Legal Resources Centre.

1989

UCT professor testifies in trial of Broederstroom 3

Mitus 21/6/89 331

The Argus Correspondent

PRETORIA. — An expert witness in the trial of the "Broederstroom Three" took a letter to Britain on behalf of a South African Communist Party sympathiser, a Pretoria Regional Court heard.

Professor of History at the University of Cape Town and a lecturer at the University fo the Western Cape, Professor Colin James Bundy, told the court yesterday that he took the letter, given to him by a Jeffrey Rudin, to Britain almost 23 years ago. He did not know what the letter contained.

Professor Bundy was giving evidence in mitigation for three members of the African National Congress cell convicted on 10 counts of terrorism last week.

Damian de Lange, 30, Iain Robertson, 36, and Susan Donnelly, 25, pleaded guilty and were found guilty on 10 counts of terrorism.

De Lange and Robertson were found guilty on an 11th count of terrorism, De Lange was found guilty on a further two counts of arson and one of attempted arson.

Magistrate Mr W J van den Bergh warned that he would not allow laughter in court.

There was laughter after defence lawyer Mr D H Soggot questioned the relevance of State prosecutor Mr J Pretorius cross-examining Professor Bundy on the time of entry into South Africa by Bantu-speaking people.

STONE AGE MEN

Mr Soggot said the question was irrelevant unless there were allegations that early stone age men came into the country as part of African National Congress strategy (laughter).

Mr Pretorius was questioning Professor Bundy on various of his published works.

Professor Bundy said that in his opinion the ANC was not a terrorist organisation.

He said he did not sympathise with the ANC. He said the organisation used violence although it did not have a policy of violence.

When asked by Mr Pretorius why he neglected to mention the SACP during his evidence-in-chief, Professor Bundy said he neglected to do so after consultation with the defence.

Mr Soggot said the defence did not see it necessary to mention the Communist Party when they were talking about the acceptance of whites in the ANC.

Professor Bundy agreed with Mr Pretorius that the SACP was relevant and that an alliance existed between the two. He said co-operation between the two organisations had "waxed and waned" since 1928.

ANC not a terror group - expert

SOWETAN Reporter

THE African National Congress was not a terrorist organisation and had repudiated terror, the Pretoria Regional Court was told yesterday by Professor Colin Bundy.

Bundy, Professor of History at the University of Cape Town and the University of the Western Cape, was being cross-examined by the State on the resumption of the "Broederstroom Three" trial.

Bundy told the court the ANC's aims were "national liberation and self-determination".

Damian de Lange, Iain Robertson and Susan Donelly, members of an ANC unit uncovered at Broederstroom last year, have been found guilty on a number of terrorism charges.

Subdued

The three yesterday entered the court without the customary shouts of "Amandla", which had been a feature of the trial.

They appeared subdued as they spoke among themselves and to friends and relations.

For the first time during the trial, which is being heard by Mr W van der Bergh, neither sets of parents went to the dock to greet De Lange or Donelly.

Bundy, who last week gave evidence in mitigation for the three, was cross-examined yesterday by Mr T Pretorius, for the prosecution, on the historical evidence he had led regarding the ANC.

He told the court the four levels of violence enunciated by Nelson Mandela — sabotage, guerilla war, terrorism and revolution — from the dock during the Rivonia trial 25 years ago were part of a "people's war" by the ANC.

Pursuit

"Guerilla war and the people's war are now being run together," said Bundy.

Pretorius asked Bundy if he regarded the ANC as a terrorist organisation and Bundy said it depended on the definition of terrorist — his definition was the "pursuit of political ends".

He added: "Certainly, it is a military organisation but has over a period of time repudiated terror and sought instead to conduct its operations against military establishments to certain standards."

Bundy told the court that military and police installations were regarded by the ANC as "legitimate targets" and that "enemy personnel such as security forces and farmers in frontier areas who were integrated in the system of area defence" were also on the ANC list.

The organisation was hostile to "collaborators and stooges". It was also hostile to local government officials and the black town councillors.

Asked by Pretorius about the ANC's targets, Bundy said so-called "soft targets" included loss of human life or injury while other targets were buildings or other inanimate objects. There is what he termed "a blurring of lines" between soft and hard targets.

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Sowetan 21/6/89

Death row visits amid hopes of appeal

331 South 22-28/6/89.

THE families of the "Upington 14" this week paid their first visit to loved ones on death row as lawyers prepared to apply for permission for leave to appeal against sentence and conviction.

The 14 Paballelo residents, including the township's former mayor and a 60-year-old couple, are awaiting execution at Pretoria Central Prison for the murder of Lucas "Jetta" Sethwala in November 1985.

Twelve other accused for whom Mr Justice Jan Basson found extenuation mainly on the basis of their youth, were given sentences ranging from 1 200 hours of community service to eight years' imprisonment.

Next Monday an application for permission for leave to appeal will be heard by Justice Basson in the Supreme Court, Kimberley.

The application is likely to be based on argument that the controversial "common purpose" doctrine was not correctly applied by the judge.

Basson found that even though some of the accused did not take part in the actual killing, their actions on the day were enough to infer that their intention was to drive Sethwala from his house and kill him.

A lawyer representing the Upington 26 said they would apply for permission for leave to appeal against the convictions and sentences of all the trialists except the sentences of those who were doing community service.

A nationwide campaign to "Save the Upington 14" has been launched.

Star 22/6/89

ANC three 'motivated by idealism not crime'

By Norman Chandler, Pretoria Bureau

A sociologist told the Broederstroom Three terror trial in Pretoria yesterday that she believed "strong idealistic elements" rather than "criminal deviation" motivated the accused.

Mrs S E (Betty) Welz, of Unisa, said Damian de Lange, Iain Robertson and Susan Donnelly — alleged members of an African National Congress terror unit — had also indicated their "faith in the future of a non-racial South Africa".

And in other evidence led yesterday, Professor Colin Bundy, Professor of History at the University of Cape Town and the University of the Western Cape, denied he sympathised with the ANC or that he was a Marxist.

Mrs Welz and Professor Bundy were giving evidence in mitigation for the Broederstroom Three, who have been found guilty in the Pretoria Regional Court of various counts of terrorism, and De Lange on two further charges of arson.

The idealism of the accused was yesterday highlighted by Mrs Welz, who said that De Lange had been influenced by his Catholic upbringing, Robertson through a deep left-wing commitment, and Donnelly via a strong liberal background.

Mrs Welz said that "nowadays the prospect of a non-racial society in South Africa is espoused by the Government, but at the time that De Lange and Robertson left ... to join the ANC, it was not.

"The accused make the point that they see themselves as in step with the hopes and aspirations of the majority of ... black South Africans."

Answering questions by Mr D Soggott, SC, for the defence, Mrs Welz described the three as "normally caring people who would wish to pursue ordinary lives if the demands of what they see as the struggle for justice had not intervened".

She said life as a member of the ANC was one of no salary, of wearing second-hand clothes and of eating from food parcels. De Lange never lived in a house alone with his family — "most of the time, he and his wife and their twin sons lived in one room."

ay, June 22, 1989 9

Racist sign: Man jailed

DURBAN. — Local Affairs Committee member Morris Fynn was jailed for 100 days yesterday after refusing to pay a R200 fine for sawing down and removing a race-restriction signboard on Durban's whites-only South Beach.

Giving evidence, Fynn said: "My chopping down the beach sign is removing something I feel is causing irreparable harm to South Africa as a whole."

Sentencing him, magistrate Mr J Jacobsz said Fynn might have had good motives but that did not give him the right to take the law into his own hands. — Sapa

Editor fined for quoting listed person

JOHANNESBURG. — Vrye Weekblad editor Max du Preez was yesterday sentenced to six months in prison, suspended for five years, for contravening the Internal Security Act.

Johannesburg magistrate Mr Pieter Bredenkamp found Du Preez guilty of publishing an article quoting listed ANC national executive committee member and SA Communist Party general-secretary Mr Joe Slovo.

Wits Centre for Policy Studies senior lecturer Mr Mark Swilling indirectly quoted Mr Slovo in a Vrye Weekblad report on the Leverkusen conference attended by South African, ANC and Soviet academics in West Germany.

Wending Publications was fined R1 000, suspended conditionally for five years.

Defence counsel Mr Eberhard Bertelsmann said he had no ill intentions when publishing the article.

'VIOLENT UPRISING UNLIKELY'

Sowetan 22/6/89
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A TOP expert on the African National Congress and chief defence witness in mitigation at the Broderstroom terrorist trial, Professor Colin Bundy, yesterday cast doubt on whether violence in South Africa since 1984 was a revolution against the State.

He told the Pretoria Regional Court that an eight-armed "revolutionary octopus" he had worked out from a study of the situation did not add up to revolution.

"Some of the arms did, others were blurred lines, and still others did not," Bundy, history professor at the University of Cape Town and the University of the Western Cape, said.

In evidence given during a re-examination of his original evidence in mitigation, Bundy denied he was a Marxist, denied that he sympathised with the ANC, but he did agree that he did not support the policies of the South African Government.

Bundy also repeated to the magistrate, Mr W. van den Bergh, that the ANC was not a terrorist organisation.

He was giving evidence at the trial of Damian de Lange, Iain Robertson and Susan Donnelly, alleged members of an ANC terror unit which was uncovered at Broederstroom in May last year.

The three have been found guilty on various counts of terrorism, while De Lange has also been found guilty on two charges of arson.

Proceeding

Broederstroom 3 'acted normally'

Cape Times 22/6/89

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Own Correspondent

JOHANNESBURG. — Strong idealistic elements in the upbringing of the three white ANC members convicted of terrorism last week strongly suggested their actions were inspired by this idealism rather than any criminal deviation, a Unisa sociologist told the Pretoria Regional Court yesterday.

Ms Stella Welz, a senior lecturer at Unisa, gave evidence in mitigation on behalf of the "Broederstroom three".

Damien de Lange, 32, and Ian Robertson, 36, — both self-confessed members of Umkhonto we Sizwe, the ANC's military wing, were convicted on 11 counts of terrorism. Susan Donelly was convicted on 10 counts.

Ms Welz she interviewed Donelly for a total of 12 hours and the other two for eight hours.

The sociologist told the court that the three believed violence could not be avoided because they were confronting the institutionalised and structural violence of the SA state.

"It can be argued the three reacted normally and sensitively to an abnormal situation," she added.

While the prospect of a non-racial South Africa was now espoused by the government, she said, this was not the case when De Lange and Robertson left the country: "Their actions were not motivated by self-gain. Rather the opposite."

The trial continues today.

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LONG BREAK FOR TERROR 3

THE presiding magistrate in the trial of the "Broederstroom Three" yesterday granted a postponement of four months after a request by the State.

SOWETAN Correspondent

Magistrate Mr W J van den Bergh said he knew in criminal cases a person was entitled to a speedy trial but he also needed all the evidence put properly before the court.

Van den Bergh said he realised that the three, Damian de Lange (30), Ian Robertson (36) and Susan Donnelly (25), convicted last week on 11 counts of terrorism, had been in custody for over a year.

He said he granted the State time to prepare for cross-examination of expert witness Mrs S E Welz, senior lecturer in sociology at Unisa.

Earlier Mr D H Soggot opposed the remand saying it would be very hard on Donnelly in particular as she was in virtual solitary confinement. She was in a cell by herself and only went out for an hour's exercise every day.

State prosecutor Mr Frans Roets pointed out that if the case was not remanded yesterday it would have been remanded today which was the last day it was put down on the roll.

Soggot said the State had time to consult with another sociologist as it was unfair to Mrs Welz to be cross-examined four months after giving her evidence.

Roets said the sociologist they wished to consult with was not in town and the State was unable to prepare its cross-examination without the help of another expert witness.

Soggot said with all the universities in the Pretoria and Johannesburg area there should be someone with whom the State could consult.

The date set for the trial to resume is October 23, and it has been put down on the roll for 10 days.

Broederstroom trial delay is unfair – defence

Weekly Mail Reporter

IT was unjust to postpone the "Broederstroom" trial, as one of accused, Susan Donelly, had already been in effective solitary confinement for over a year, the defence counsel said this week.

The terrorism trial of the three African National Congress members in the Pretoria Magistrate's Court was yesterday postponed to October at the request of the state, despite objections by the defence.

Prosecutor F Roets told the court the prosecution was neither "prepared nor willing to continue with the cross-examination" of sociologist Stella Welz without consulting other sociologists.

Defence counsel David Soggot argued it would be unfair to cross-examine Welz months after she had given evidence in the trial of Donelly, Damian de Lange and Iain Robertson, who were convicted on several counts of terrorism last week.

A delay would also place a strain on the three ANC members, particularly Donelly, who had effectively been in solitary confinement for almost a year, Soggot argued. Lawyers understand that Donelly is the only white woman awaiting-trial prisoner at the Pretoria Central Prison. She is alone in her cell 23 hours a day, the odd hour being an exercise period.

Six days of mitigating evidence have been led in the trial. The testimony included a report by Welz, which said the actions of the accused "were inspired by idealism rather than any criminal deviation ... They have faith in the future of a non-racial South Africa".

Magistrate W van den Bergh said while he appreciated the defence submissions, "justice demands that all evidence and facts are put before the court".

Most of the last two days were taken up with the cross-examination of Colin Bundy, professor of history at the University of Cape Town and the University of the Western Cape.

A number of Bundy's academic papers were examined, in the words of Soggot, "in microscopic detail". For several hours the prosecutor, T Pretorius, questioned Bundy about the meaning of words and phrases in them.

The defence objected when Bundy was repeatedly asked questions about the movement of prehistoric peoples in South Africa. Soggot challenged the relevance of the line of questioning, in the absence of an allegation that early Stone Age man had entered South Africa as part of ANC strategy.

In answer to prosecution questions, Bundy said he belonged to the "revisionist" school, which was also known as the "radical" or "new Marxist" school. However, he stressed that these were labels bestowed by other people and that it was more accurate to refer to the "revisionist generation" of historians.

The academic was closely questioned about an episode 23 years ago when, as a student in his early 20s, he "somewhat doubtfully" became a member of the Natal Liberation Front. Asked why he had earlier denied all knowledge of this little-known student organsation, he said he had forgotten about it.

He also admitted he had "clandestinely" carried a sealed envelope to England for a friend, who was later convicted under the Suppression of Communism Act.

The prosecution was attempting, in the words of Pretorious, to show that a "subconscious bias is acting ... and that the court cannot rely on your evidence".

Asked whether he sympathised with the ANC, Bundy said "in terms of support, I do not".

Soggot said that the prosecutor had attacked "this learned professor" but had exposed no factual inaccuracies in Bundy's evidence.

(331) Weekly Mail 23-29/6/89.

State wins plea for 'Broeder 3' delay

Pretoria Bureau Star 23/6/89

There was dramatic contest in the Pretoria Regional Court yesterday when the State asked for a four-month postponement in the "Broederstroom 3" hearing. 331

Magistrate Mr W van den Bergh and the defence argued against prosecutor Mr Frans Roets, who had asked for a postponement until October 23.

The hearing involves Damian de Lange, Iain Robertson and Susan Donnelly.

The court heard that Donnelly — who had been in "virtual solitary confinement" for a year with a one-hour exercise period a day — and her fellow-accused were distressed by the suggestion of a postponement.

De Lange, Robertson and Donnelly have been found guilty on charges of terrorism.

They were arrested after a raid on a farmhouse in Broederstroom in May.

They were members of an ANC unit.

Mr Roets told the court a postponement was necessary for the State to prepare its cross-examination of Mrs S E (Betty) Welz, a University of South Africa sociologist called by the defence to give expert evidence in mitigation.

"The State is not prepared to proceed with the cross-examination of Mrs Welz," he said.

Defence counsel Mr D Soggot opposed the application.

He said: "Our instructions are to oppose, because it is not fair to the witness to have to give evidence and then have the matter postponed until October 23.

"The evidence presented is not difficult to understand."

The postponement was granted.

Police captain asks State for new advocate

Star 2 3/6/89

331

By Mckeed Kotlolo,
Pretoria Bureau

A police officer giving evidence for the State at the inquest into the Mamelodi shootings, yesterday rejected the services of the State advocate allocated to him and asked for a postponement so that another could be appointed to represent him.

Captain Hermanus Arnoldus le Roux was giving evidence on the November 21 1985 shootings in Mamelodi in which at least 12 people demonstrating against rents were killed and scores of others wounded.

ARMY VEHICLE

The captain had earlier told the inquest how he shot a man alleged to have thrown part of a brick at an army vehicle.

Statements were also received from the driver of the army vehicle and from a witness to the shooting of the man.

Captain le Roux also said he was ill and had arranged for a medical examination on Monday.

Inquest magistrate, Mr P J Pretorius, granted the captain's request. The State Attorney will appoint another advocate to represent him.

Mother, 60, on death row

Cape Times 24/6/89 215 331

By MARIUS BOSCH

THE only woman on South Africa's death row at present is a 60-year-old mother of 10 children who was sentenced to death for her part in the 1985 murder of a municipal policeman in Upington's Paballelo township.

Evelina de Bruin was sentenced to death because the judge in the "Upington 25" trial found that she had actively associated herself with the common purpose of a mob in chasing the policeman out of his house to kill him.

She was sentenced to death along with 13 other Paballelo residents — including her 63-year-old husband, Gideon Madlongolwane — on May 26.

De Bruin's attorney, Ms Andy Durbach, said that when she had visited her on death row recently, De Bruin had burst out crying.

"She could not believe what had happened to her," Ms Durbach said.

De Bruin — who is illiterate — was given a picture Bible to read and Ms Durbach said wardens had promised to help her with the writing and reading of letters.

De Bruin worked for an Upington family as a domestic servant for 16 years before her arrest.

Before she was sentenced, she protested her innocence.

Ms Durbach said De Bruin had requested a meeting with her husband — who is being held in the maximum security part of Pretoria Central prison.

"She also asked when her children could see her," she said.

The two youngest children of De Bruin and Madlongolwane would not be able to visit their parents on death row, because they are both under 16 years.

● A spokesman for the SA Prison Services yesterday said it was the policy of the service not to comment on individual prisoners.

Our love behind bars gave us strength, say white ANC members

mission," he said. He also confirmed that both couples' divorce proceedings against their present partners were under way.

The couple have not spent time alone together since they were arrested at Broederstroom more than a year ago. And they have seen each other only during joint consultations with their lawyers.

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

The couple gave no sign of being in love as they sat in the Pretoria Regional Court this week listening intently to witnesses giving evidence.

They sat on either side of fellow trialist Iain Robertson, and only turned to each other to whisper comments about the court proceedings.

But sources close to the couple say they love each other very much.

And Susan's mother, Mrs Margaret Westcott, said in court this week that her daughter's "fondness for Damian kept her going during the long months she has spent alone in prison".

The couple met each other in Swaziland in 1986 where Susan was teaching.

In 1987 they entered South Africa separately to set up the all-white cell of the ANC military wing. He was the cell's leader — she was its communications officer.

They were arrested — along with cell members Hugh Lugg and Iain Robertson — in May last year.

Radiance

Susan is married to a man about whom little is known.

Damian has a wife named Diana. They were married in Botswana in April 1982 and have twin sons. Diana is believed to be living in Zambia.

Susan had a quiet radiance about her in court this week. She has worn the same simple black and green suit throughout the trial. The suit's golden buttons set off her red hair, and her appearance betrays no sign of her being a "hardened, highly trained militant".

But the green, black and gold Susan wears are the colours of the ANC, and the two have pleaded guilty to 10 charges of terrorism.

Damian has also been found guilty of two charges of arson and, along with Iain Robertson, an 11th charge of terrorism.

There was bitter disappointment in court this week when magistrate Mr W J van den Bergh granted a prosecution application to adjourn the trial until October 23.

State prosecutor Mr Frans Roets SC told the court the prosecution was "neither prepared nor willing to continue with the cross-examination".

Defence counsel Mr David Soggot SC argued that a long delay in the proceedings would place tremendous strain on the three ANC members.

"Our clients are quite frankly distressed at the prospect."

Disturbed

He said Susan in particular was disturbed.

"She has been alone in her cell — in effective solitary confinement — ever since her arrest over a year ago."

Earlier in the week, the court heard that the three ANC trialists were motivated by idealism rather than by any criminal deviation.

Giving evidence in mitigation, sociologist Mrs Stella Welz — a professor at the University of South Africa — said the three accused had "faith in the future of a non-racial South Africa".

"They believe this thinking is in step with the hopes and aspirations of the vast majority of South Africans — the black people," she said.

"They all appear to be normally caring people who would wish to pursue ordinary lives with ordinary families if the demands of what they see as the struggle for justice had not intervened.

"All had an option to lead comfortable, white, middle-class South African lives. But they have chosen to sacrifice this," she said.

Jail wedding for terror pair

CHARIS PERKINS

TWO partners in terror are in love and plan to marry behind bars when their divorces are finalised.

The love Susan Donelly and Damian de Lange have for each other has seen them through the anguish of their arrest, imprisonment and trial.

Defence lawyer Peter Harris confirmed this week that Susan and Damian planned to marry.

"They will get married as soon as they are divorced from their present spouses and as soon as the prison authorities give them permission," he said. He also confirmed that both couples' divorce proceedings against their present partners were under way.

The couple have not spent time alone together since they were arrested at Broederstroom more than a

ARRIAGE PLANS ... ANC couple Susan Donelly and Damian de Lange

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Evidence questioned

Application to save 14 is launched

UPINGTON — Counsel for the Upington 14 yesterday began to fight for the lives of their clients who have been sentenced to death.

In an application for leave to appeal in the Kimberley Supreme Court, defence counsel said not all the people who ran after the dead man, and who had earlier pelted him at the house in which he was hiding, had done so intentionally to kill him.

The circumstances which had prevailed in Upington at the time also had to be take into account.

Mr I G Farlam, SC, said the house was stoned, teargas was used and the crowds were emotional.

Under such circumstances, it would have been difficult to identify correctly the accused involved.

It was strange all the witnesses (for the State) were either relatives of the deceased or loyal to him. It was difficult to accept that Ms Beatrice Sethwala managed to identify 19 of the accused in seven minutes.

It was highly unlikely this was possible considering the great commotion and confusion.

Pointed out

Mr Justice J J Basson said five other accused, who had not been arrested as suspects, had also been pointed out by her. She had been subjected to thorough cross-examination. Her discomfort had also been brought about by the accused in court, he said.

Mr Farlam said witnesses sometimes constructed incidents and involved people they knew.

Mr Justice Basson said if a person had been identified and failed to account satisfactorily for his whereabout, this surely strengthened the witness's story.

Mr Farlam said Ms Sethwala's evidence was just too good to be true. The most difficult witness to break down was the one who was honest but genuinely sincere in his or her error, he said.

"In all these, and other circumstances, there was room for doubt, which another court might view in another light," he said.

The hearing continues.

Leader was 'deliberately' killed by SAP lawyer

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THE killing of student leader Caiphus Nyoka was a deliberate and intentional act on the part of the police, a representative of the Nyoka family said at the inquest held at the Benoni Magistrate's Court yesterday.

By SONTI MASEKO

The only inference that could be drawn from the evidence was that the killing on August 23 1987 was deliberate and premeditated, Advocate A J Kraut said at the hearing yesterday.

He submitted that the evidence of the three policemen — Marais, Stander and Engelbrecht was contradictory, fraught with inconsistencies and improbable.

"A crime of murder was committed by the policemen and that is the finding that should be brought in this matter."

Nyoka, who was president of the SRC and organiser of the Transvaal Youth Congress was killed at his home in Daveyton by the police.

According to evidence before Mr J P Myburgh, Nyoka was shot at four times by Marais and five times by Stander while he lay in his bed.

Three other youths were found sleeping in his room, Elson, Excellence and Exodus, were thrown out of the room, made to lie down and then Caiphus was shot.

The policemen who gave evidence said they had gone to Nyoka's home to search for firearms explosive devices and possible handgrenades which they believed Nyoka had in his possession.

The policemen also said they had been warned that Nyoka was not the type of person who would readily give himself up and that he was dangerous.

Kraut rejected the policemen's versions and raised improbabilities in their evidence, which he said suggested that the policemen had tailored their evidence and therefore had something to hide.

Among the arguments he raised against the policemen's version were that:

- The policemen would not have gone into the room where Nyoka was sleeping if they believed he was a terrorist because it would have been dangerous for them to do so. Instead, they would have surrounded the house, called him to come out or maybe flush him out with teargas;
- The argument that they fired when Nyoka moved his hand to reach for something either underneath the bed or at the side of it, and that they saw a shining object was a justification for the shooting;
- He said even if there was a shining object, it could have been a watch, a glass or spectacles, and even if the shining object was a knife, it did not constitute such a danger to them that they had to shoot him;
- It was not likely that Nyoka moved to attack the police because he already knew who they were, that they were probably armed and that he would have invited himself to be shot if he dared to attack them; and
- The policemen, who had removed the element of surprise by walking into the room were in control of the situation and could have achieved their objective, of arresting Nyoka. The inquest continues on July 12.

Meanwhile the *Sowetan* learnt from Mr Moses Nyoka that the tombstone of his son was vandalised and the words defaced.

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Battle for lives of the Upington 14

COUNSEL for the defence of the Upington 14 yesterday began to fight for the lives of their clients who have been sentenced to death in an application for leave to appeal in the Kimberley Supreme Court.

SOWETAN Correspondent

Advocate I G Farlam, SC, assisted by Advocate A Landman (instructed by Messrs Bernardt, Vukic and Potash of Cape Town), said not all the people who ran after the deceased, and earlier pelted him at the house he was hiding in, had done so with the intention to kill him.

"Any of them could have done so out of sheer curiosity," he said.

Stones

Factors that had to be borne in mind were the circumstances which prevailed at Upington then.

He said stones had been pelted at the house, and teargas was used. The crowds had been overcome by their emotions.

Under such circumstances, it must have been difficult to correctly identify the accused involved, and in addition, he said the opportunity to observe incidents could also not have been too good.

It was strange that all the witnesses were either relatives of the deceased or loyal to him. It was also difficult to accept that Beatrice Sethwala managed to identify 19 of the accused, he pointed out.

She did all this in only seven minutes, he added.

There had been great commotion and confusion, and it was therefore highly unlikely.

Mr Justice J J Basson said five other accused, who had not even been arrested as suspects, had been pointed out by her. She had been subjected to thorough cross-examination. Her discomfort had also been brought about by the accused in court, pointed out Basson.

Farlam reminded the court that witnesses sometimes constructed incidents and events and involved people only because they were acquainted with them.

Basson said if a person had been identified, and he failed to satisfactorily explain his whereabouts at that specific period, surely it strengthened the evidence of the one who identified them.

Evidence

Farlam said Beatrice's evidence was just too good to be true. The most difficult witness to break down was the one who was honest, but genuinely sincere in his error, he said.

"In all these, and other circumstances, there was room for doubt, which another court might view in another light and come to a different conclusion," he said.

Advocate E D Boshoff also represented one of the accused, and T B van Rensburg represented the State.

The appeal application continues today.

TUTU DENIES BOMB THREAT

MR TREVOR Tutu refused to co-operate with police at Jan Smuts Airport after he allegedly made a bomb threat until they treated him in a civilised manner.

This is what a Johannesburg Regional Court magistrate was told yesterday.

Tutu (32), was giving evidence in the trial in which he is accused of making a false bomb threat at Jan Smuts Airport on December 31 last year.

He has pleaded not guilty to the charge and of charges of crimen injuria, causing malicious damage to a traffic officers' cap and hindering the police in the execution of their duties.

Tutu told the court that he had rolled the written charge into a ball

SOWETAN Reporter

and tossed it at a Major Ernest Boucher, who caught it.

"In the prevailing spirit of friendliness, he gave me a sticker reading 'adopt a cop, they care'. I asked if he would understand if I didn't use the sticker because it was not in favour in Soweto."

Tutu told the court that he had not made a bomb threat at the airport.

The trial is proceeding.

Cape Times 28/4/87

Four charged with intimidating workers

Court Reporter

FOUR men appeared in separate hearings at the Cape Town Regional Court yesterday in connection with charges of intimidating Nampak workers to strike in January.

Mr Isaac Adams, 35, of Bishops Lavis, Mr Andries Pinkoko, 39, of Khayelitsha, Mr Neil Thomas, 23, of Beacon Valley, and Mr Dumies Abels, 22, of Belhar were not asked to plead.

Mr Adams allegedly threatened Mr Pieter Marais with a knife; Mr Pinkoko allegedly hit and threatened Mr Karel Goliath with a kierie; Mr Thomas allegedly hit Mr Steven Zeelie in the face, while Mr Abels allegedly hit Mr Yunus September with a stick.

The hearings were postponed to dates in August.

Judge refuses appeal

CNL Trials
28/6/89

3-31

AN application for leave to appeal against the imposition of the death sentence on the "Upington 14" was yesterday refused in the Supreme Court, Kimberley.

The defence had also applied for leave to appeal against the conviction of the other 12 accused and the sentences of three of the appellants.

The case arose from the 1985 murder of a municipal constable in Upington's Paballelo township. Fourteen people were sentenced to death by Mr Justice Basson a month ago.

He had convicted the 26 on the controversial doctrine of common purpose — also applied in the case of the Sharpeville Six.

Six of the defendants received suspended sentences and the others were sentenced to between six and eight years' imprisonment.

Mr Justice Basson said in refusing the application: "Due to the death penalty imposed on the 14 appellants and the wide publicity the case enjoyed, including internationally, one would wish the Appeal Court could make a final decision on the matter."

However the crucial test was whether reasonable prospects existed for success on appeal.

If such grounds did not exist the application should be rejected "to prevent saddling the Appeal Court with appeals which had no grounds for success", he said.

"All considered, it is my opinion that no such grounds and reasonable prospects for success in the application exist, and all the applications are therefore rejected."

Instructing attorney for the defence Ms Andy Durbach said yesterday the defence had argued on about 30 grounds, but the judge had found no merit in the application and had rejected it in totality.

In his argument, Mr Ian Farlam SC, for the defence, submitted that the court had erred in holding that every person who threw a stone at the deceased's house was a party to a common purpose to kill.

The court had also erred in finding that each accused had the intention to kill the policeman.

It had also erred in relying on the "unsatisfactory evidence" of two state witnesses, Mr Douglas Khambule and his son Desmond, Mr Farlam said.

R9,30
R12,0
R8,00

Policeman 'eliminated leaders'

By Mckeed Kotlolo
Pretoria Bureau

The Mamelodi inquest into the November 21 1985 shootings heard that a policeman who shot a man in the head in Block C did so because he wanted to "eliminate the leaders".

Captain Hermanus Arnoldus le Roux told the inquest that he shot a man who was throwing objects at the police and hid behind a house in Block C.

The captain said he did not aim at a specific part of the body and that he shot the man because he was a leader and he wanted to eliminate the leaders. He further said he had shot three other leaders in the same area, including a woman.

Captain le Roux said of the other three alleged leaders he shot, one male was hit in the leg while the other was hit in the thigh. The woman was hit in the hand as she allegedly tried to throw a bottle.

The captain denied that the man he shot in the head was Mr Paul Mavimbela and he insisted that the man was shot at house number 780 Block C Makhusela Street and not near 755 Block C as alleged by a witness.

Captain le Roux, who earlier told the court that he was in possession of the videotape of the shooting incidents for two years, was given another chance to view it with the hope that he would be able to identify the house where the shooting allegedly occurred, but he said he was not sure if he would be able to point it out.

The inquest adjourned till this morning for an inspection in loco of the area.

R6-m toothpaste battle ends today

Pretoria Correspondent

South Africa's most protracted and expensive court case — estimated to have cost the litigants more than R6 million in legal fees alone — ends today when Mr Justice van Schalkwyk will deliver judgment in the Rand Supreme Court.

The dispute began three years ago when Colgate reacted against the launch of Mentadent's anti-tartar toothpaste advertising campaign.

The case, instituted by Colgate, has been before the Supreme Court since October, 1987.

The managing director of Elida Pond's, Mr Theo Rodrigues, said his company deplored the waste of millions of rands incurred during the dispute.

Had Colgate pursued the matter through the conventional and appropriate route, which is the Advertising Standards Authority (ASA), the matter could have been settled in a couple of weeks at a cost of a few hundred rands.

Elida Pond's had been reluctant to go to court from the outset, not because the company could not defend its claims for Mentadent, but because of the enormous cost.

Elida Pond's argument that the matter should be resolved by alternative means was rejected by the court, said Mr Rodrigues.

During the course of the case itself, all offers of settlement by Elida Pond's had been rejected by Colgate, he said.

In America Colgate has lodged numerous complaints against Unilever's anti-tartar claims, all of which have been rejected.

Riddle of missing PE men still unsolved

A SUPREME Court hearing asking police to produce three missing Port Elizabeth activists has been postponed again with the families of the missing men no closer to finding them than when they disappeared four years ago.

And it is unlikely that the lengthy hearing, postponed last week for lawyers to prepare arguments, will ever bring them closer to solving the riddle of where the leaders are today.

In April 1985, Port Elizabeth Black Civic Organisation leaders Qaqauli Godolozi, Sipho Hashe and Champion Galela disappeared mysteriously, shortly after organising a highly successful three-day stayaway.

The "Black Weekend", as it was called, resulted in them receiving widespread press exposure and death threats.

Between the time of the stayaway and Hashe's disappearance, four petrol bombs were thrown into his home in an apparent assassination attempt.

The day before their disappearance, Godolozi spoke to Methodist minister Max Madlingozi about his fears for his life.

On May 8, the three men were allegedly instructed to meet a British Consul member at the HF Verwoerd Airport. UDF vice-president, Henry Fazzie, was also asked to meet the consul member, but he had other work to do at the time.

According to evidence led by Mzandile Fezi, an airport worker, the men were allegedly approached by three plainclothes and four uniformed policemen and taken away in a vehicle. He was later dismissed by South African Airways.

The men were then seen at Louis Le Grange Square. A witness, Olive Jacobs, said she had asked Hashe what he was doing there and he had told her he had been arrested by security police at the airport.

The men were later spotted at the Algoa police station and then at the Alexandria police station in August 1985, where they were last seen.

Two detainees and a bakery truck driver gave similar descriptions of the men.

Victor Sizane, who was detained at the time, received a note in a matchbox from the next door cell. The note said: "It is me, Godolozi, who are you?" When he saw Godolozi later, his head was wrapped in bandages.

Sizani was allegedly offered R400 by the attorney for the respondents, CJ Mouton, to say he had not seen the men.

After his first day of giving evidence, Sizani was knocked down by a car. The court adjourned until he was able to proceed, on crutches.

All evidence of the whereabouts of the men was denied by security police.

Captain H Schmidt, former station commander at the Alexandria police station, denied the three men were ever detained but conceded it possible that a detainee could be threatened and forced to use false names by his captors.

Captain JH van Taak, former station commander at Louis Le Grange Square, denied the three men were held but admitted that security police could have brought people to their offices without his knowledge.

A constable stationed at the Alexandria police station conceded that their occurence book for 1985 contained incorrect and false entries. - PEN

VS

BID TO RELEASE BONGANI

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By CHIARA CHARTER

THE Attorney General has been asked to order the release of an ANC commander who has refused to testify in a major political trial.

Lawyers acting on behalf of Bongani Jonas, 31, have written to the Attorney General saying that it is "unjust" and "punitive" for the state to continue to hold Jonas under Section 31 of the Internal Security Act, his brother, Mr Andile Jonas, said.

"The conditions under which my brother is held at Table View police station are harmful to his health and wellbeing and that there is no useful purpose to his detention now that he has refused to be a state witness.

"We are extremely worried about him. Since refusing to testify, all Bongani's privileges have been withdrawn.

Even in court he is kept away from people in the public gallery and whisked in and out," Jonas said.

Jonas was arrested in September 1987. He was first held under Section 29 of the Internal Security Act and has been detained under Section 31 for more than a year.

He is currently the subject of an enquiry under the Criminal Procedure Act after earlier this year refusing to testify as a state witness in the trial of Tony Yengeni and 14 others in the Cape Town Supreme Court.

Appeal move in Upington court tussle

THE chief justice is to be petitioned for leave to appeal against the conviction and sentences of the Upington 26 and the death sentences imposed on 14 of them for the 1985 murder of a municipal policeman.

This new round in the legal battle to save the lives of the 14, who include the elderly parents of 10 children, follows this week's rejection in the Supreme Court in Kimberley of an application for leave to appeal.

Mr Justice J Basson, who also presided over the marathon trial, dismissed the application in a brief judgement after listening for one-and-a-half days to submissions by defence counsel.

The convictions of all 26, most of them on the basis of the controversial common purpose doctrine, were contested in the application, as well as the sentences imposed on three of the accused.

Defence counsel also contested Justice Basson's findings that there were no extenuating circumstances in the case of the 14 sentenced to hang.

Defence attorneys have 21 days from the date of refusal to file a petition with the chief justice.

In his judgement, Justice Basson said: "Due to the death penalty imposed on the 14 appellants and the wide publicity the case enjoyed, including internationally, one would wish the Appeal Court could make a final decision on the matter."

By GAYE DAVIS, Cape Town

The crucial test, however, was whether there were reasonable prospects for success on appeal.

If there were then the application could be granted; if not the application should be rejected to prevent saddling the Appeal Court with appeals which had no grounds for success.

"All considered, it is my opinion that no such grounds and reasonable prospects for success in the application exist, and all the applications are hereby rejected."

He said that "virtually every finding of the court was disputed" by defence counsel, who argued the application on some 30 grounds.

Defence counsel argued that the court erred in convicting the accused in several respects, including the following:

- In holding that every person who threw a stone at policeman Jetta Sethwala's house was a party to a common purpose to kill;
- By finding that those who chased the deceased intended to kill, rather than assault;
- In relying on the "unsatisfactory testimony" of two state witnesses.

The defence contended the court also erred in finding no extenuating circumstances existed in the case of the 14.

"The court should have found that all the accused acted in a state of de-individuation, alternatively, were strongly influenced by situational forces to such an extent as to reduce their moral blameworthiness," counsel said.

Instead of finding that the events of November 13 1985 constituted a "semi-organised riot" the court should have found that on the probablities they amounted to a "spontaneous hostile outburst".

The court further erred in holding that it was not possible to find extenuating circumstances because the accused did not testify.

"The court failed to attach sufficient weight to the accused's reasons for not testifying," counsel said.

The "moral guilt" of Justice "Basie" Bekebeke, who struck Sethwala twice over the head with the butt of his own gun with such force that it broke, was lessened, counsel argued.

"He lost control over himself as a result of a combination of factors, particularly the inhalation of teargas, the breaking up of the meeting and the shooting of a child by the deceased."

On receiving the petition, the chief justice will then appoint two or more judges to consider whether leave to appeal will be granted.

TOTALITARIANISM - POLITICAL TRIALS

1989

Tully

ITEM	DATE	NO	POLICE DEPARTMENT
1. Ballad beam	DT-	M-	
2. Handle head			
3. Cable f lamp			

same time "all suspen... justice, clashing with the Botha over treatment of squatters." s from Pretoria that the Southern

have lost not just another ... real friend and brother," the Bishops Conference said.

New light on Emergency laws

Case of Atlantis leader may affect hundreds of lives

Own Correspondent

CAPE TOWN — A precedent-setting case in the Cape Town Regional Court yesterday could affect the lives of hundreds of people placed under emergency restriction orders.

The State is charging former UDF leader and Atlantis community leader Noel Williams with having contravened the conditions of his release from detention by leaving his restricted area on September 22 last year without Security Branch permission.

Williams, 42, of Alicia Crescent, Avondale, Atlantis, was released in September 1987 after three months detention on condition he did not leave the magisterial district of Malmesbury without official permission.

His release was premature as his detention was to have ended when the 1987 State of Emergency expired last year.

At yesterday's hearing, Williams's counsel Dullar Omar submitted that his client could not plead because the State's charges did not disclose any offence.

He said Williams's conditions of release expired on June 10 along with the 1987 State of Emergency and were not automatically renewed when the 1988 State of Emergency was declared.

The conditions of release fell away at the same time the detention would have ended, Omar said, adding that the regulation purporting to keep the conditions of release in force during the following State of Emergency were ultra vires and of "no force or effect".

Omar also submitted that the emergency regulations required the authorities to apply their minds to each individual case, however practically difficult it might be for them.

State prosecutor Ian Yuill said there was no case law to indicate that the minister should re-apply his mind to restriction orders when a new State of Emergency was proclaimed.

However, the accused had committed an offence and should stand trial, he argued.

Judgment on the validity of the charges will take place next week.

South

REPRESSION DOSSIER No 5

Jailed Mpetha 80 next month

SOUTH AFRICA'S oldest political prisoner, Oscar Mpetha, turns 80 next month - with one year still to go of a five-year jail sentence.

The frail and sickly Mpetha, who suffers from diabetes, has spent most of his sentence under armed guard at Groote Schuur Hospital.

Mpetha, jailed for terrorism, has lost his wife Rose and son Karl in this period.

The sickly Mrs Mpetha died in 1986. Karl, 36, died in a car accident in Arpil.

Called the "Father of South African trade unionism", Mpetha spends his days in hospital knitting jerseys for loved-ones and for charity.

And it is likely that the former Cape president of the African National Congress and the United Democratic Front will spend his birthday the same way.

He will turn 80 at the time of a mounting international campaign being spearheaded overseas by the Anti-Apartheid Movement and his youngest son Themba Mpetha.

The Free Oscar Mpetha Committee has published a half-page advertisement in a London newspaper demanding his release and this week similar advertisements were placed in newspapers in South Africa.

Locally, Mpetha's daughter Esther has been campaigning for the release of her father for the past four years, along with several organisations.

"I am hoping the government will show some humanity and release my father before his birthday," she said.

The family had made unsuccessful attempts to have him released for her mother and brothers' funerals.

Mpetha, for many years general secretary of the Food and Canning Workers Union, now called the Food and Allied Workers Union (Fawu), was born at Mt Fletcher, Transkei on August 5, 1909.

In a call for his immediate and unconditional release from prison, Fawu said Mpetha had "dedicated his life to the working class struggle, particularly as a factory worker, an organiser and a community leader".

"As a gallant and tireless fighter for freedom and the unity of the South African people, he was involved in the formation and building of the JCU, FCWU, Sactu, UDF, and youth and other community organisations.

"His imprisonment is unjust and condemned by all South Africans and the international community.

"His health had deteriorated while imprisoned and he needs special attention and medical care.

"His beloved ones, families and freedom loving people inside and outside South Africa are missing him."

Fawu is establishing a trust to look after the welfare of Mpetha.

CAMPAIGNING. Esther Mpetha addresses a press conference on her father's plight

Thirty 'political' trials in W Cape

TRIALS

THE following is a list of political trials in the Western Cape in July.

July 3: Noel Williams, contravening restriction order, Cape Town Regional Court.

Julu 4: Mziwoxolo Mfeketo and Xolile Jaxa, terrorism, Cape Town Regional Court.

July 4: Mzonke "Whitey" Jacobs, contravening restriction order, Athlone Regional Court.

July 4: P Njozela, public violence, Bellville Magistrates' Court.

July 5: Five youths, charges of malicious damage to property, Hopefield Magistrates Court.

July 5: Mangaliso Dolosi, public violence, Athlone Magistrates' Court.

July 6: J Adams, assault and resisting arrest, Oudtshoorn Regional Court.

July 7: Allie Parker, publishing subversive literature, Parow Regional Court.

July 7: V Hlombe and six others, murder, Mitchells Plain Regional Court.

Julu 7: Abbey Angel, assault, Vredenberg Regional Court.

July 10: Johnny Issel, furthering the aims of the ANC, Goodwood Regional Court.

July 14: Audrey Mlakaza, Zodwa Mtandeki, Bukelwa Jerremiah, Kholeka Khombela, Mvuleni Yengeni, Nowhi Yengeni, and Shirley Yengeni, contravening the emergency regulations, Cape Town Regional Court.

July 17: Elliot Mthwa, Makhosonke Matoto, Mzwabantu Nciyabo, and 10 others, public violence, Wynberg Regional Court.

July 17: A youth who may not be named, public violence, Cape Town Regional Court.

July 17: Former SOUTH editor Rashid Seria, contravening the emergency media regulations, Cape Town Magistrates Court.

July 17: Mxolisi Zide, Fumanekile Magwelu, and Mongameli Masumpa, public violence, Athlone Regional Court.

July 18: W Lumkwana, assault, Athlone Regional Court.

July 18: Gcobani Xhegwana, attempted murder, malicious damage to property, alternatively setting off an explosive device, Caledon Regional Court.

July 20: Ashley Kriel inquest, Wynberg Magistrates Court.

July 21: Mninawe Godongwana, possession of a firearm, Wynberg Regional Court.

July 21: Veliswa Mhlawuli, Linda Tsotsi, terrorism, Cape Town Regional Court,

July 21: Mzwandile Mzamane, public violence, Athlone Regional Court.

July 24: Robert Maliti, terrorism, Cape Town Regional Court.

July 26: Marjorie Lewis and Terence Lucas, furthering the aims of the ANC, Wynberg Regional Court.

July 26: Zamile Hleli, public violence, Athlone Regional Court.

July 27: Gem Mlumko, murder, Hofmeyer Regional Court.

July 27: Allie Parker, violation of media regulations, Cape Town Regional Court.

July 31: John de Vos, public violence, Cape Town Regional Court.

July 31: Reverend Dirkie Marais, possession of prohibited material, Worcester Regional Court.

Oudtshoorn man only emergency detainee

STATE OF EMERGENCY

Hilton McDillain, 23, from Oudtshoorn, is the only emergency detainee being held in the Western and Southern Cape.

Six Guguletu pupils have recently been released after being held under the state of emergency for up to two months. One of them Anthony Madini has been charged with public violence and released on bail of R300.

The others are Basil Mtongaatana, Tutu Majozi, Pelly Bomvana, Thanduxolo Sogani and Siyabulela Dawweti.

SECTION 29

The following people have been held under Section 29 of the Internal Security Act. The number of days they have been held on July 6 is in brackets.

Vuyo Fetsha (178), Robert Thwala (141), Zamile Louw (141), Ngconde Balfour (141), Mdoda Daki (141), Siphiwo Qila (89), Lungile Mfobo (89) and Reggie Mzamo, who has been held since May.

Restrictees fear after attack

RESTRICTIONS

GRAHAMSTOWN. — Restricted ex-detainees here are living in fear of "death squads" following a petrol bomb attack on one of their homes.

Gugile Nkwinti, former executive member of the Port Alfred Civic Association, and his family were lucky to escape injury when the bomb exploded outside his bedroom window at 2.00am last Wednesday.

Neighbours told him later that they had seen strange men near his home earlier in the week.

An Eastern Cape police spokesman said they were not aware of the incident, but added that it would be investigated.

Meanwhile, relatives of former detainees from the region who have written to Minister of Law and Order Adriaan Vlok asking him to lift restriction orders are continuing with their Stop the Restrictions campaign.

The people, who told Vlok about the effect of restrictions on their children, have yet to receive a reply from the Minister.

Hundreds of former detainees throughout the country were placed under stringent restriction orders after being released. - ANA

MORE than 20 Western Cape and Southern Cape activists have been heavily restricted under emergency regulations.

They include Noel Williams, Dorothy Zihlangu, Roseberry Sonto, Christmas Tinto, Willie Hoffmeyr, Zoli Malindi, Josseph Marks, Joey Marks, William Thomas, Trevor Manuel, Mzonke Jacobs, Mountain Qumbela, Hilda Ndude, Ebrahim Rasool, Neville van der Rheede, Walter Mputeng, Wilson Sidina, Janet Small, Amy Thornton, Harold Harvey, Nokwanda Pokwana, Reggie Olifant, Derick Jackson and Mbulelo Grootboom.

Transkei man found guilty of terrorism

Cape Times 6/7/89 331

Staff Reporter

A TRANSKEI man who conceded that he received political and military training from the ANC at a camp in Angola was yesterday convicted in Cape Town Regional Court of terrorism.

Molliat Mziwoxolo Mfeketo, 32, of Southern Wood, Umtata, pleaded not guilty to terrorism but admitted that in 1986 he travelled to Angola via Botswana and Zambia to "receive mainly political training and a minimal amount of military training".

In a statement handed to the court, Mfeketo said: "I spent one week at Ponga camp in Angola. I intended promoting a constitutional, political, industrial, social or economic change in South Africa.

"I returned to the RSA immediately after and since then have not been involved in any act of a similar nature. Since my return from Angola I have been working as a teacher in the Ciskei."

His co-accused, Mr Xolile Jaxa, 26, of Guguletu, was acquitted on the terrorism charge but was convicted of unlawfully possessing an ANC publication.

Both men were acquitted on a third charge of terrorism.

The hearing was adjourned to July 7 for sentence.

Mr J D Huggett was the magistrate. Miss A A Peckham prosecuted. Mr Dullah Omar, instructed by Miss C Burger of E Moosa and Associates, appeared for the two men.

J V Square sabotage plan alleged

A SOWETO man accused of attempting to destroy John Vorster Square last year with the help of four others appeared in the Johannesburg Magistrate's Court yesterday.

Mr Harold Matsididi (41), pleaded not guilty to charges of sabotage and the illegal possession of a firearm and ammunition.

He was detained in Soweto on July 29 as he and the other men were allegedly preparing their

SAPA

attack on the police station.

Police allegedly confiscated a BMW with three RPG-7 rockets and their booster charges, an RPG-7 launcher, three AK-47 rifles with 444 7.62mm rounds, and a handgrenade and detonator on the back seat.

The State's first witness, a Sergeant Mokoena, told the court he had been patrolling the streets of Soweto with two constables when they stopped in front of a stationery BMW which had five men standing next to it.

Police

The men immediately jumped into the BMW as if to flee when they saw the police, but sprang out again when they realised their path was blocked.

Mokoena said he saw Matsididi climb out of the BMW and arrested him after he "accidentally" bumped into him.

Matsididi would, however, deny he was ever in the BMW and would say he did not know the other men, but was only talking to them when the police arrived, said his counsel, Mr N P Willis.

The State's second witness, Constable J Nkwashu, refuted earlier evidence where Mokoena said he took a revolver from Matsididi and placed it in the BMW.

Nkwashu said the sergeant kept the revolver in his possession and handed it over to some security policemen who arrived later.

He also contradicted Mokoena's claims that a man climbed out of the BMW and pointed an AK-47 at them.

Nkwashu said he could not remember everything clearly as he was "frightened and shocked at the time because, prior to that, I had heard a handgrenade exploding."

Tembisa 10 in court

331

TEN people have appeared in a Pretoria Regional Court in connection with a charge of intimidation.

During their appearance before magistrate Mr F J Poolman yesterday no charges were read to Wilson Nashimbane (26), Simon Khoza (26), and Frank Mashito (no age given), all of Tembisa.

No ages or addresses were given for the other accused. They are: Freddy Mushimbye, Samuel Marula, Abram Kodwna, Prince Tshiwela, David Masotsa, Wilson Seja and Jackson Langa.

The men were arrested on Saturday.

SALDRU LIBRARY JOURNAL CATALOGUE

The campaign maintains
save the school would be to o

Man pleads not guilty to police station attack charge

TANIA LEVY

A MAN who allegedly plotted to attack John Vorster Square police headquarters pleaded not guilty to charges in the Johannesburg Magistrate's Court yesterday.

Harold Matsididi faces charges of sabotage and unlawful possession of a firearm and ammunition.

The charge sheet says Matsididi was allegedly one of a group who planned to attack John Vorster Square armed with three AK-47 machine guns and ammunition, three RPG-7 rockets and charges, one RPG-7 launcher, an F1 handgrenade and an RG-42 handgrenade detonator.

The five men were allegedly on their way there when they were apprehended in Soweto by police last July. Matsididi was arrested by security police near a white BMW containing the ammunition.

His advocate, N Willis, said Matsididi denied ever being in the BMW, knowing its contents or having a .38 revolver in his hands at any stage.

State witness Constable A Mokoena said he had taken the revolver from Matsididi during the incident.

Constable Joseph Nkwashu said Matsididi hid under the vehicle.

The case continues.

Grenade attack

A HANDGRENADE was thrown at a policeman who attempted to arrest four men fleeing from a BMW car found with arms and ammunition on its back seat, a Johannesburg Regional Magistrate was told yesterday.

This was evidence at the trial of Mr Harold Matshididi (41) of Diepkloof, appearing before Mr H Wolmarans. He has pleaded not guilty to charges of sabotage and unlawful possession of arms and ammunition.

The BMW, according to evidence in court, was found at Emdeni township, Soweto, on July 29 last year by three policemen.

Something terrible happened to ordinary people on a dusty township soccer field

Crazy to kill — a story of mob revenge

The crime took only minutes to commit — in the open, in daylight, before witnesses. It was indelibly horrible. But it took two and a half years to unravel it all in a bleak court in a small town on the edge of a South African desert.

Even now, the true and absolute guilt of all is not clear to everyone, even though it is crystal clear to the judge. Knots and tangles remain.

THE FIRST STONE*

One man, a Sunday School teacher turned policeman, was murdered. It was a horrible death. But after the trial the outcome read: 14 death sentences and 11 lesser penalties. The bare facts do not tell the full, human story. Starting today follow the real life, and death, drama of the Upington 26.

The crime was murder. The question: who, and how many, were responsible for it?

The victim was a Sunday School teacher turned policeman. He died somewhere between 7 o'clock and 8:10 on the morning of Wednesday, November 13 1985.

People who were not even at the place of the killing were sentenced to death.

On the other hand, one man who was shown to be there — he carried petrol to the killing place — avoided the ultimate penalty.

The court propounded the view that it was a matter of pure random chance who did the deed; who happened to be faster than, or closer to, the victim. What really mattered was who truly wanted him dead.

It was one of the most extraordinary trials in South African legal history, leading to the greatest number of people ever given the death sentence for one incident. The final outcome read: four principal offenders, 21 guilty accomplices, 14 death sentences, 11 lesser penalties. One man was convicted of attempted murder.

It became known as the Upington 26 trial, later the Upington 14 trial — curious misnomers when any Upingtonian will tell you, emphatically, that Paballelo township is definitely NOT part of Upington.

It is another place entirely; a place where so many accused knew each other and the victim that it could almost be said

But could the same principle be extended to 26 people? Could they all have a common purpose? Could they all be party to one murder in unusual circumstances?

And if they were, could they claim they were swept away by hysteria, and shouldn't be held fully responsible? After all, everyone knows that mobs do things that individuals wouldn't dream of doing.

The court spent days, weeks, listening to men claiming to be experts on crowd psychology contradict each other. It is not too fanciful to conclude that, if the court was persuaded by one witness the accused would hang; and if it were persuaded by

> When the identity parade was over, five "innocents" had joined the accused.

Anyway, is mass hanging an antidote to socio-political ills?

Most of the defendants had clean records, a minor miracle for black people in South Africa. Among them were an elderly couple who held hands in court; the choirboy son of an ordained minister; a young man who dreamed of being a doctor so he could heal people.

The victim's best friend and the lad who was regarded as a son in the family home were among those charged with murdering him.

One young advocate, almost single-handed, carried the burden of defending 25 people, each with a different story. Some of

Foreign correspondents ventured to Upington and the world became fascinated by glimpses of the unfolding drama of the Upington 26. Fascination turned to dismay when 25 were convicted of murder; dismay to horror when 14 were sentenced to death.

South Africans hardly followed the trial. The remoteness of the locale and the sheer day-to-day tedium of the interminable proceedings meant that local newspapers covered it only spasmodically, television not at all.

Besides, ordinary South Africans have grown bored with long, dry "political" trials ....

□ □ □ □

When Advocate Andre Landman of Johannesburg stepped off the plane at Upington he didn't have a notion what he was stepping into.

It was his biggest challenge after three years at the bar. The trial was set down

There might have been fewer, save for a curious episode.

Long before the trial, the police had arrested 21 suspects. They decided to hold an identity parade, and combed the streets of Paballelo for 39 innocent faces to ensure fairness.

But, when the identity parade was over, five of the "innocents" had also been fingered by the unseen witnesses. They joined the ranks of the accused.

The defendants who trooped into court that October day wore numbered placards round their necks to identify them to circuit judge J J Basson and his assessors, Mr Richard Kurland and Mr T J Obbes. For most of the trial they WERE numbers; they even referred to themselves by number sometimes.

Assessor Obbes died during the trial. He was not replaced.

There were two advocates for the defen-

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By REX GIBSON

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It is another place entirely; a place where so many accused knew each other and the victim that it could almost be said to have been a family killing.

Of a kind.

□ □ □ □

"Common purpose" is a commonplace legal doctrine. Simply, if two people rob a bank and one of them kills a guard, then both are guilty of murder. Few quarrel with that.

But could the same principle be extended to 26 people? Could they all have a common purpose? Could they all be party to one murder in unusual circumstances?

And if they were, could they claim they were swept away by hysteria, and shouldn't be held fully responsible? After all, everyone knows that mobs do things that individuals wouldn't dream of doing.

The court spent days, weeks, listening to men claiming to be experts on crowd psychology contradict each other. It is not too fanciful to conclude that, if the court was persuaded by one witness the accused would hang; and if it were persuaded by another, then there would be mercy.

Even if the "mob hysteria" defence didn't work, could it be said that the accused had so many legitimate grievances, were required to live in so much degradation — could it be said that this made them less guilty? Was being a victim of apartheid an extenuating factor?

Anyway, is mass hanging an antidote to socio-political ills?

Most of the defendants had clean records, a minor miracle for black people in South Africa. Among them were an elderly couple who held hands in court; the choirboy son of an ordained minister; a young man who dreamed of being a doctor so he could heal people.

The victim's best friend and the lad who was regarded as a son in the family home were among those charged with murdering him.

One young advocate, almost single-handed, carried the burden of defending 25 people, each with a different story. Some of the accused lied — as life in an apartheid society had taught them to — when the truth might have served them better. All kept quiet when, according to the judge, it might have helped to speak.

At first they were as disparate a group as anyone could find. Most were almost apolitical. Later they solidified and became committed to "the struggle".

> When the identity parade was over, five "innocents" had joined the accused.

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When Advocate Andre Landman of Johannesburg stepped off the plane at Upington he didn't have a notion what he was stepping into.

It was his biggest challenge after three years at the bar. The trial was set down for a mere nine weeks. It was not to be like that at all.

On a warm Monday in October 1986 the 26 defendants were led by policemen into a small Upington courtroom in a magistrates' court building designed, thirties-style, like an introspective fort, turned in on itself. They overflowed the box for defendants, spilling on to wooden benches.

There might have been fewer, save for a curious episode.

Long before the trial, the police had arrested 21 suspects. They decided to hold an identity parade, and combed the streets of Paballelo for 39 innocent faces to ensure fairness.

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Assessor Obbes died during the trial. He was not replaced.

There were two advocates for the defendants. Mr Eben Boshoff represented the man the court knew as No 7 — Emoch Ntompondwane.

Mr Landman represented the rest, 25 souls in all. It was a superhuman task. Before the trial was half over he was deprived of the services of an instructing attorney. The legal firm which acted for the accused withdrew suddenly "for lack of funds". Mr Landman struggled on alone, pro deo, unassisted.

The court did not seem to find this odd or unacceptable.

The first phase of the trial, up to conviction, lasted 18 months with breaks. The judge found all Mr Landman's clients guilty of murder. He found Mr Boshoff's client, No 7 Ntompondwane, guilty only of attempted murder. No 7 can thank a lapse by a district surgeon for that.

The surgeon failed to do a simple, obvious test that would have established once and for all whether the victim was dead when the petrol was poured. You can't murder a dead body. No 7 got the benefit of the doubt.

The record occupies 10 974 pages in 96 volumes. Judgment on this aspect alone is 400 pages.

Then came extenuation. By now the defence was strengthened by funding and new counsel, Ian Farlam SC and Antom Lubowski.

But most of all, perhaps, it was strengthened by the arrival of a remarkable young woman attorney, Andrea "Andy" Durbach, whose slightly cooky appearance and style could not hide the fact that, inside, she was all steel and fire. She too didn't know what she was letting herself in for. Had she known, she might never have got involved.

The defence was given nine months to prepare what was to become the most comprehensive case for extenuation ever offered to a South African court.

It was not enough. Not nearly enough.

They were holding hands when the death sentence came. The Prisons Act prevents publication of their pictures. But artist "Andy" used his imagination to capture the closeness of Evelina de Bruijn and Gideon Madlongolwane. And the loneliness.

Portrait of a gentle couple, 'killers' both

Evelina de Bruijn and Gideon Madlongolwane have been together for a long, long time — married in their own eyes. Both are in their sixties.

They have 10 children, two of them at school.

No one will ever properly understand what madness prompted this ordinary, elderly couple to destroy their own lives on November 13 1985.

Gideon is a law-abiding man. He worked for the railways for 36 years and became a foreman. He has no criminal record, as even the State conceded. He doesn't drink or smoke. His pleasure is talking to friends, who call him a "mooi persoon".

Barely literate, he has a natural dignity. His reported behaviour on the day of the killing was "out of character".

His wife Evelina is a simpler soul, not literate at all. She leaves the talking to Gideon. She is a devout member of the Apostolic Faith Mission.

Arthritis plagues her and she walks awkwardly. "Heavy of body," the court described her.

She worked as a domestic for the same family for 25 years. Since her arrest she has heard not a word from them.

They are a sturdy couple, solidly planted. In court they sit close together, shoulders touching for comfort. Often they hold hands.

Gideon watches the floor with dead eyes for much of the trial, staring into an abyss in his own mind.

At the end, Evelina de Bruijn tells the judge: "I feel very sad for my children and my home. I've been taken away from them for something I didn't do."

The judge found that both had been part of the mob and had stoned Jetta Sethwala's house. She had incited people. Neither were proved to be at the actual killing. Both were sentenced to death.

Evelina, on her way to Pretoria Central, sends a last message to her son, James, now head of the family: "Look after the house and children and stay strong together."

After sentence Evelina is separated from the others.

In the back of the police car that takes her away, her body crumples. She weeps inconsolably. Her loneliness is too much to bear; she has seen her comrades in adversity for the last time.

Her husband too.

TOMORROW: Prelude to murder: a mob stirs. Something happened on a dusty soccer field that day that led to grim tragedy . . . What was it?

RPG-7 rocket found in car, magistrate told

By Brendan Templeton

An RPG-7 rocket, capable of penetrating 3,5 m of concrete, had been removed from its wrapping and was ready for use when police allegedly foiled a planned attack on John Vorster Square last year, a Johannesburg magistrate heard yesterday.

An explosives' expert, Mr Cobus Snyman, told the court in the sabotage trial of Mr Harold Matsididi (41) that an RPG-7 rocket launcher and three RPG-7 rockets with primed booster charges were found in a BMW which Mr Matsididi was allegedly sitting in.

Mr Matsididi pleaded not guilty to charges of sabotage. The State claims he tried to, or conspired to launch an attack on John Vorster Square last year and was in the illegal possession of a firearm and ammunition.

He was arrested in the early morning of July 29 after he and four other men allegedly fled when a police patrol car stopped next to their car which was parked on the side of a road.

One of the policemen, Constable A A Mokoena of Soweto, said he had arrested Mr Matsididi after knocking him down and removing a loaded .38 revolver from his possession.

HANDGRENADE EXPLODED

His colleague, Constable J Mahlangu, said a handgrenade was thrown at him when he pursued the other men. He gave up the chase when it exploded and returned to the the BMW, finding a discarded AK 47 on his way back.

Three AK-47's and 444 7.62 mm rounds, and a hand grenade with its detonator were also found in the car.

Evidence about what was done with the .38 revolver has differed between the witnesses:

Constable Mokoena said he put the gun, loaded with six bullets, on the back seat of the BMW after taking it away from Mr Matsididi.

His colleague, Constable J Nkwashu, said Constable Mokoena had kept the revolver on him all the time and handed it over to security police.

Mr Snyman, stationed in Soweto at the time and the first to respond to Constable Mokoena's radio call for back-up, said the revolver was found on the floor of the car with only five rounds in the chamber. Another .38 round was later found at the scene, he said.

Constable Mahlangu experienced difficulty describing to the court what a .38 revolver looked like, and cross—examination was postponed to today pending the presentation of the revolver in court.

Photographs of the scene were handed in to the court yesterday.

The charges against Mr Matsididi claim he planned the attack against John Vorster Square, reconnoitred the police station prior to July 29, and knew the identity and assisted four other men named Pat, TK, Billy and Ben, in the planned attack.

The hearing continues.

Cnt 7148 13/7/89

Man in court on terror charges

331

Court Reporter

A 31-YEAR-OLD man made a brief appearance in Wynberg Regional Court yesterday in connection with terrorism charges.

Mr Vuyo Fetsha, whose address is unknown to the state, was not asked to plead.

The hearing was postponed until August 28 for plea and the trial is expected to run until September 1.

Mr M S Knox was the magistrate. Mrs E Crouse prosecuted. Mr W Mpongoshe appeared for the accused.

plication for summary judgment against him on Tuesday.

Supreme Court asked to decide

CAPE TOWN — An application challenging the validity of an emergency regulation governing the release of detainees should be referred to the Supreme Court, a Regional Court magistrate here ruled yesterday. Sloan 13/7/89.

This emerged in the trial of former detainee and UDF leader Noel Williams of Atlantis, who was charged with contravening the condition of his release by leaving his restricted area in September last year without the permission of the magistrate or Security Branch.

The matter was adjourned to August 28. — Sapa. 331

Political comment in this issue by Ken Owen. Newsbills by Trevor Bisseker. Headlines and sub-editing by Michael Moon. All of Times Media Ltd. 11 Diagonal St, Johannesburg

I put AK-47 into car – policeman

331

Star 13/7/89.

Staff Reporter

A policeman told a Johannesburg magistrate yesterday he had put an AK-47 rifle into a car after being ordered to do so by a security police officer.

Photographs, handed in as evidence at the trial of Mr Harold Matsididi, showed the AK-47 in a car in which Mr Harold Matsididi was allegedly sitting.

Mr Matsididi is facing charges of sabotage and the illegal possession of a firearm and ammunition. The State claims he attempted to attack, or aided others in an attempted attack on, John Vorster Square last year.

Constable J Mahlangu of the Soweto Vehicle Unit said he did not find it strange that a security police officer had told him to put the rifle in the car "as my senior officers know more than me".

"Would you then say the security police had their own reasons for telling you to put the AK-47 back into the vehicle?" asked defence counsel Mr N Willis.

"That is correct," said Constable Mahlangu.

The State alleges arms and ammunition, including RPG-7 rockets ready for use and AK-47 rifles, were found in the car.

Constable Mahlangu told the magistrate, Mr A Wolmarans, he had picked the rifle up after pursuing four other men who fled when approached by him and two other policemen in the early hours of July 29 last year.

He initially handed it to another constable, but put it into the BMW when told to do so by a security police officer.

Photographs of the rifle inside the car were then handed in as evidence to the court.

He said he would not be able to identify the security policeman because it was dark at the time and he was not able to get a good look at his face.

He was able to identify the accused because he had made Mr Matsididi sit up when he searched him.

But Lieutenant Ocker Olivier of the SAP Internal Investigation Department said Mr Matsididi had lain face down for the entire duration of Constable Mahlangu's search and had not sat up at any stage.

Mr Matsididi was arrested at the scene and had a loaded .38 revolver taken from him, the State claims.

Constable Mahlangu yesterday correctly identified the revolver from among a selection of several handguns.

Star 13/7/89

Father is bitter over finding on activist's death

By Abel Mabelane,
East Rand Bureau

Nobody could be held criminally responsible for the death of Daveyton activist and student leader Mr K Caiphas Nyoka, shot dead by the East Rand Reaction Unit in the back room of his parents' home in 1987, a Benoni inquest court found yesterday.

Mr Nyoka's father, Mr Moses Nyoka, said after the hearing that he felt bitter that those responsible for his son's death were not brought to justice.

Mr Nyoka said he supported a call made earlier by Mr A J Kraut, counsel for the family, who asked the court to find the killing was unjustified and those responsible should be found guilty of murder.

He said he found it disturbing that the court had rejected evidence by the family and their witnesses.

The magistrate, Mr J P Myburgh, said the court was faced with two conflicting versions, from the family of the deceased and from the East Rand Reaction Unit.

He found the family and their witnesses to be unreliable. Their evidence could only be accepted when corroborated by other evidence.

Mr Myburgh said although he found some of the police evidence concerning events on the night Mr Nyoka died unsatisfactory, their version was more acceptable.

Hide

He rejected a defence statement that the police tailored their evidence to tally because they had "something to hide".

Mr Myburgh said the question before the court was whether a reasonable man in the position of the police could have acted differently.

Taking into account that the deceased was suspected of being a terrorist in possession of arms, a reasonable man would not have acted differently, he said.

Ms Andrea "Andy" Durbach . . . outside the court that was to become almost a prison as the trial dragged on and on.

Andy – living, caring lawyer

Petite, with a mop of wild brown hair and granny spectacles, Andrea Durbach — known to almost everyone as Andy — has the knack of making a room glow just by bouncing into it. People smile. Everyone in Upington seems to greet her. Relatives of the accused call her "mother" for her caring. Some bring her little presents, like a single rose in a fine-stemmed vase.

The Upington trial became a near-obsession for her, consumed her. She thinks now she may need a rest from law.

Andy Durbach qualified in law at the University of Cape Town in 1981. She was president of the Law Students' Council in her final year.

She was torn between law and acting as a career. Her father said even bad lawyers made a living; bad actors didn't. Today she is a partner with a firm of attorneys in Cape Town.

I watch as she briefs relatives on the way things are in Death Row. It is pure theatre; a sympathetic observer conveying the flavour of existence for the condemned.

The men are strong, she reports. When they come out the womenfolk are going to discover that. They are of good cheer, sure they will not hang.

The mothers weep when she tells of Evelina de Bruijn, the only occupant of the women's Death Row. The warders are being very kind to her. They have promised to teach her to read and write before ....

Before what?

The little audience in the matchbox lounge of the township home wipe their eyes again. Andy Durbach is their link with their loved ones, their hope for better times to come. She finds their humility and strength an inspiration.

They trust her.

14/07/89

(33)

14/7/89

Briefing

Jetta Sethwala's family home . . . nine fearful souls hid as the stones rained down.

Jetta: last dash — to death

331

THE FIRST STONE*

The policeman was uneasy, something was in the wind. He slept with his shotgun close and when the stones pelted the walls, roof and windows, he used it. Did the shots trigger the mobs' reaction, or was his fate already decided? In the third of a six-part series the events of the fateful day are recalled.

By REX GIBSON

* "He that is without sin among you, let him first cast a stone . . ." St John, Chap 8 Verse 7.

Municipal constable Jetta Sethwala was nervous.

He had been back in Paballelo for only a few weeks after police training at Hammanskraal. He lived in a neat, white-walled matchbox house — two bedrooms, lounge, kitchen, red stoep; outside toilet, no bathroom. Sharing it was his mother, his siblings and sundry children.

By some accounts, he was a likeable enough lad before he joined the force, a Sunday School teacher. The sage of Paballelo, Mr Alfred Gubula, says: "He grew up in front of me, but I didn't really know him. He was an ordinary boy. As usual."

Mrs Lydia Ntompondwane, wife of the man who carried the petrol, says: "Some people thought he was a good person. I don't think they hated him."

But power seemed to go to his head a little. He and a fellow constable were blamed for harrassing women meat sellers and confiscating their meagre supplies.

Trivial stuff, really, but Jetta felt uneasy. Something, he thought, was in the wind. He had heard disturbing reports from the meeting in the community hall on Sunday. His name had been mentioned. On Monday and Tuesday nights he slept away from home, to be on the safe side.

About 3 am on Wednesday he returned to find that two young women and several children from another threatened family had — curiously — sought and been given sanctuary in HIS house. He decided to sleep in a chair, a special-issue shotgun beside him "for emergencies".

Some time after seven o'clock he, like the rest of this fearful little household of nine souls, was alerted by commotion and raised voices in the street.

Jetta Sethwala dressed, took his shotgun and peeped from a street-facing window. He could not believe his eyes. People he knew by name were out there. Friends were out there!

"The man who is supposed to come and save me is come here to kill me," he cried.

From the evidence, the panic in No 405 Pilane St that morning is palpable. Now the beleagured were recognising voices. The voices were saying things like "Jetta is in the house, he's in the house" and "let's get him out alive and give him the necklace".

"Viva! Viva!"

The womenfolk found hiding places under the bed and in the wardrobe of the back bedroom. Stones pelted the walls, roof, windows. Panes shattered. You could say that nature, denying much to this inhospitable soil, at least provided ammunition in abundance for vengeful people. Occasionally one or other of the beleaguered band would venture to a window and look out. At the trial they said they recognised and remembered the faces.

Jetta Sethwala decided to use his shotgun. He fired two — three, four? — shots from his little window. David Visagie, aged 11, was wounded as he ran down the street. Did this shot provide the trigger for the ultimate horror, or was it simply another milestone on a predetermined path for the mob? The accused may know but, in court, they were not saying.

According to most of them, they were not even there at all.

But the judge found that three people in particular — Jetta's best friend, the young man who was like a son in his household and his colleague in municipal service — were part of the mob, and they are on death row now.

□ □ □ □

Constable Sethwala decided to go for help. Strangely, this life-threatening crowd had not tried to enter the property with its puny garden gate, its bedraggled privet hedge, its rickety wire fencing. He slipped out of the back door and darted over a fence to a neighbour. Out of fear, the neighbour turned him away.

State witness Desmond Khambule (19) said he saw it all. Constable Sethwala ran hither and thither, arrived at an arid little square that gave access to Pilane Street.

Then he made an extraordinary move. Entering Pilane St, he turned left instead of right and — waving his gun, firing in the air — ran purposefully through the mob outside his house. Perhaps the mob was stunned. Jetta had passed them by before the chase began.

Constable Jetta Sethwala was 223 paces from death.

At the T-junction he made his second puzzling decision. Instead of turning right towards the main road and possible safety, he swung half-left, crossed the road and fled through a vacant lot. His path took him across a barren waste unadorned by tree, bush or blade of grass; past a derelict children's playground; towards a cluster of forlorn prefab huts known locally as the Post Office houses.

His terror must have known no bounds. The pack was closing.

Again there are contradictions. One man, especially fleet, drew close. He said in court that Jetta turned on him. But the State witnesses said the pursuer pounced on Jetta, wrestled him to the ground.

Then, they said, the pursuer took Jetta's own gun and swung it twice with such ferocity that the metal of the barrel sheared at the point where it joined the stock.

Constable Lucas Tshenolo (Jetta) Sethwala, late of the Paballello municipal constabulary, died mercifully quickly, just days before his 24th birthday. He might not have felt the kicks and stabs that desecrated his body. Petrol provided the pyre.

As the flames rose, knots of people made their way back, passing the house on Pilane Street as they did. Some were singing: "Hey, hey, die hond is dood", a rhythmic dirge that, according to one witness, can strike terror into any heart.

A symbol of the system had been demolished. A running dog had been put down. The moment is tinged with a bitter irony. Jetta never really wanted to be a policeman at all.

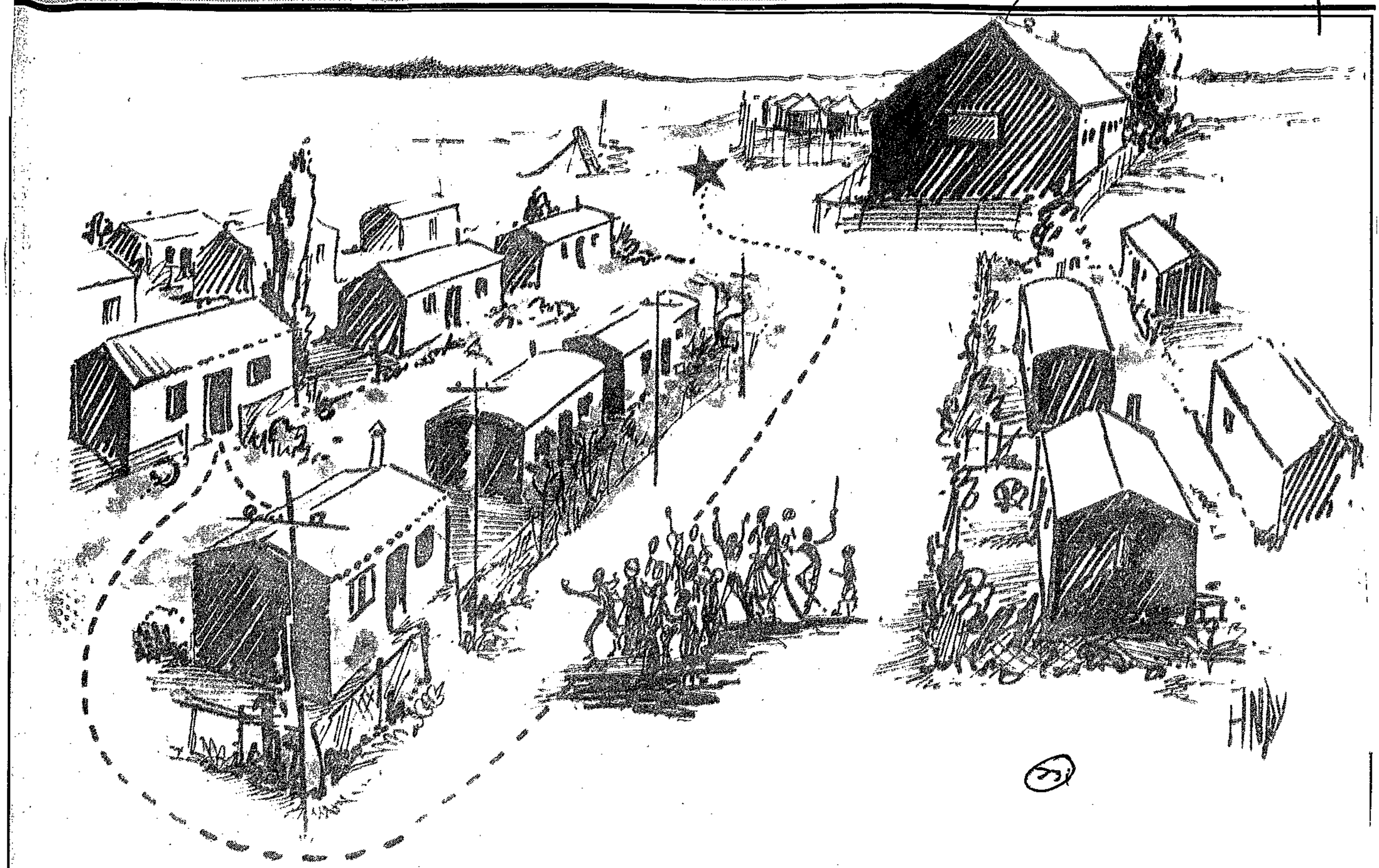
It was the only job he could get in poverty-stricken Paballelo.

'The man who is supposed to save me is come to kill me'

14/7/89

331

ON MONDAY: The death bell tolls — 14 times. But what was it that made the victim's best friend and a man who was like a son in the household join the killing pack?



Dash for death . . . Jetta Sethwala's fatal escape route. Why did he decide to run through the mob that was baying for his blood?

I made false statement after torture, says accused

(331)

Star 14/7/81

By Celeste Louw

A man who is alleged to have planned to sabotage John Vorster Square told a Johannesburg Regional Court magistrate yesterday that he had made a false statement to a magistrate because the police had threatened and assaulted him.

Mr Harold Matsididi gave evidence in a trial within a trial after he had contested the admission of the statement in which he allegedly made confessions about actions he had planned.

BRIEFED

Mr Matsididi has pleaded not guilty to a charge of sabotage and illegal possession of a firearm and ammunition.

According to the charge sheet he had attempted to attack John Vorster Square last year.

"I was taken to a magistrate to make a statement after I was told what questions the magistrate would ask me and what my answers should be," Mr Matsididi said.

The court heard that he had received electric shocks twice at the Protea police station after the police said that he had lied to them.

"They told me that I was wasting their time. My hands were tied behind my back, my feet were tied together and my head was covered."

"One person requested that petrol should be thrown on me and I heard someone shake a box of matches after a liquid had been poured over me," Mr Matsididi said.

The court heard that Mr Matsididi fainted after he had been shocked.

He told the court that the interrogation was repeated and he had been shocked for a second time.

"I did not tell the magistrate or anyone else about the assaults because I was told that the police would see my statement and that they would 'see me right'.

"People in detention have been found hanged or they have vanished. Because of the nature of the assault on me I was scared of what could happen to me," he said.

Mr Matsididi said the policemen also informed him that the period of his detention could be extended for three to five years.

The trial continues before Mr A Wolmarans.

Reporter taught to car-bomb

w/t ARGUS 15/7/89.

331

Weekend Argus Correspondent

DURBAN. — Alleged African National Congress operative Mr Muhammad Rafiq Rohan, 35, was promised R15 000 on the successful completion of a car-bomb attack on the Defence Force headquarters here, it has been said in the Durban Regional Court.

The State alleged this when indicting Mr Rohan on 10 counts of contravening the Internal Security Act, the Explosives Act and the Arms and Ammunition Act and of attempted murder.

Mr Rohan, arrested on April 7, also faces 19 alternative counts.

The State alleges the following:

Lusaka meeting

During October 1988 Mr Rohan attended, as a reporter, a meeting in Lusaka between delegates from the Natal and Transvaal Indian Congresses with the ANC and Umkhonto We' Sizwe (MK).

He was approached by a member of the ANC and MK, identified only as Carl, and invited to join the organisations and to undergo political and military training.

In November 1988, Mr Rohan received political and military training and instruction from Carl.

This included instructions in the following: the use of firearms — including the AK47 rifle — hand grenades, limpet mines, remote control car bombs and timing devices; the use of code words and methods of communication with the ANC and MK, the establishment of arms cashes; and surveillance and counter-surveillance.

Mr Rohan returned to South Africa after training. He was contacted by Carl and instructed to accept a consignment of weapons, ammunition and explosive devices, which he took to his home.

While in Lusaka he had been instructed to establish an arms cache and — using his own discretion — to use the items against either the police, the Defence Force or government economic institutions.

Carl contacted him in January 1989 and said he was to prove his commitment to the ANC and MK by setting off an explosion at one of the three targets.

On January 24 1989 Mr Rohan placed explosives at an electrical substation in Bulwer Park, which exploded the next morning.

Two days later Carl contacted Mr Rohan and urged him to plant an explosive where many casualties and extensive damage would occur.

On January 28 1989 at 10pm Mr Rohan placed explosives at an electrical transformer in front of a police workshop and next to a detective branch office.

The devices were discovered and exploded while police tried to defuse them.

A day later, Mr Rohan was contacted by Carl who summoned him to Zimbabwe where — between February 24 and 26 1989 — he was instructed in the planning and execution of car-bombs.

He was also instructed by Carl to set off a car-bomb outside the Natal Command headquarters of the SADF intended to cause many casualties.

Carl promised him R15 000 if he completed the task successfully.

On March 10 1989, Mr Rohan placed explosives, comprising two mini-limpet mines and four demolition charges, outside the officers' club at Natal Command.

They exploded during a function party for senior officers and their partners and spouses.

Sixteen people were injured in the explosion and extensive damage was caused.

Remonstrated

Shortly afterwards the accused was again contacted by Carl, who remonstrated with him for not obeying orders.

During the evening of April 7 1989 — again acting on instructions from Carl — Mr Rohan placed bombs near the hostel at Durban police headquarters. Three people were injured in the explosion.

Mr Rohan, who appeared on crutches, was arrested shortly after the blast. He is recovering from a broken leg injured during his arrest not far from the scene of, and shortly after the blast at C R Swart Square.

Magistrate Mr L J van der Schyff remanded Mr Rohan and adjourned the hearing to August 21 when a trial date will be set.

...tajikistan, Tass said yesterday.

Journalist on 29 charges

DURBAN. — The news editor of the Post Natal newspaper, Mr Muhammad Rafiq Rohan, 35, was indicted in the Regional Court here yesterday on 29 counts of contravening the Internal Security Act, the Explosives Act and the Arms and Ammunition Act and of attempted murder.

A tireless worker for the accused

Dominee Aubrey Beukes

SOMEBODY down there doesn't love Dominee Aubrey Beukes, the Cape divinity graduate who came to minister to the coloured people of Upington in 1982.

He isn't like the old Dominee at all. The old Dominee used to invite the grand white folks to his church once or twice a year, keep the front two rows of pews open for them.

The new Dominee invites blacks all the time — and they sit anywhere!

The new Dominee gets hate mail and has had a death threat. The barrage started when he became involved with the Upington trial.

Some of the pamphlets and car stickers that have circulated about him are far too sophisticated, he believes, to come directly from his own community.

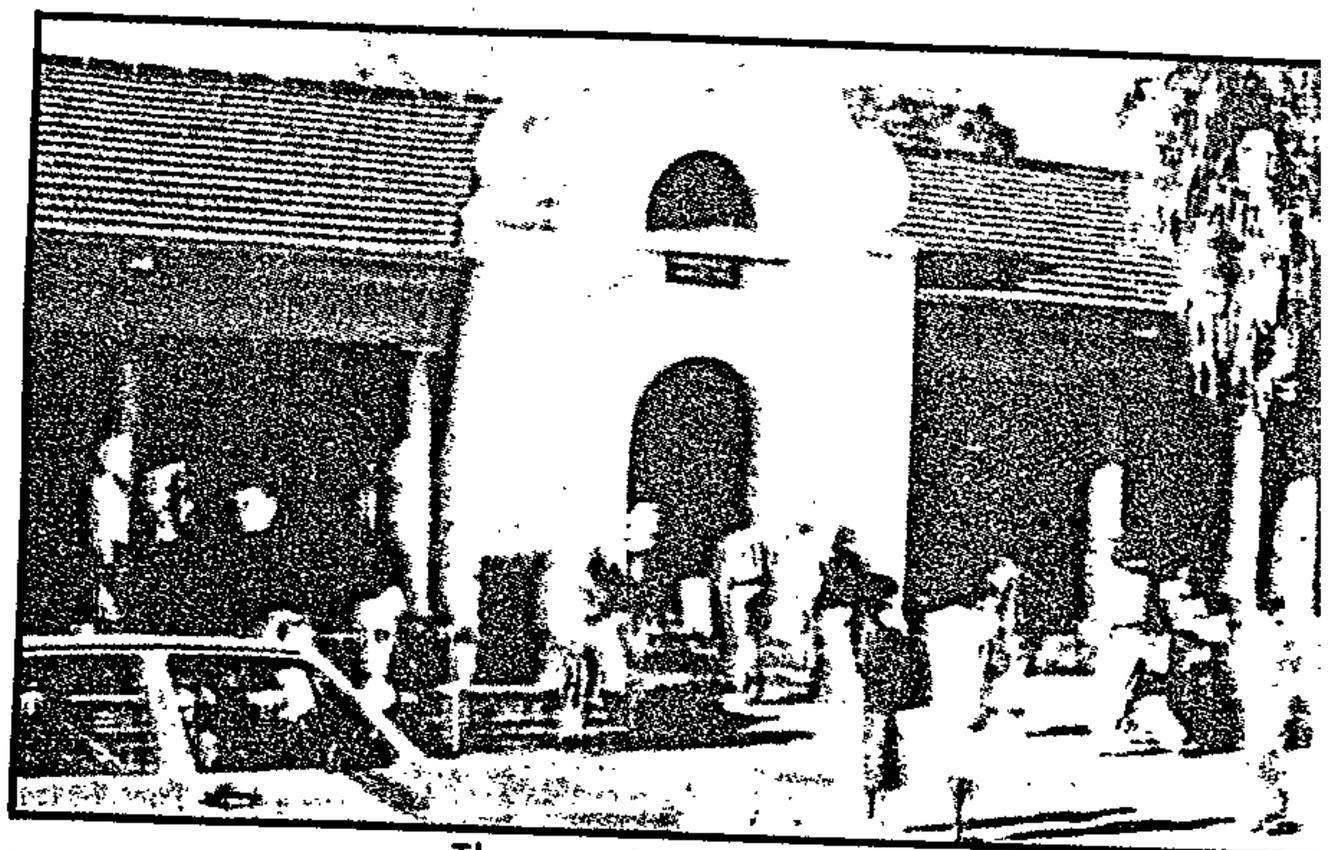
Aubrey Beukes is 32, married with two children. He is slight and intense, and wears a bokbaard. He is minister of the NG Sendingskerk. The diningroom of his modest home has been hijacked for a study, complete with copying machine, telephone and unruly bookcases.

On the wall is a well-known prayer: "God grant me the serenity to accept the things I cannot change, the courage to change the things I can, and the wisdom to know the difference."

Ds Beukes doesn't seem to know the difference. He refuses to practise religious apartheid, though some in his congregation want it; someone daubed a message on the church path: "Beukes, you neglect us — get right or get out."

He moves as easily in Paballelo and Upington as he does in his own area. He has worked tirelessly to rally support for the Upington accused.

He was the only coloured member of the Upington community to be detained in the aftermath of the killing. "They took 82 days of my life. I won't easily forget that," he says.



The courthouse at Upington

331

PAC man found guilty on six charges to be sentenced on Thursday

PAC man found with arms

PIETERSBURG - A former Pan Africanist Congress commander was on Friday found guilty on six counts of terrorism in the Pietersburg Magistrate's Court.

Abraham Magagula (31) was found guilty on six counts of terrorism by magistrate Mr G J J van Deventer but was acquitted on two counts of escaping from hospital and of pointing a gun at a policeman. Sentence will be passed this Thursday.

Defence council, Mr B M Ngoepe, said in mitigation of sentence that the court should bear in mind that when Magagula left South Africa in 1985 he intended studying.

He further submitted that sentence for the five lesser counts should run concurrently with sentence on the main count.

The court heard that the accused left the country via Lesotho. He travelled to Tanzania and then to Tripoli in Libya where he underwent military training for six months.

On his return to Tanzania he was appointed commander of the PAC's Roof camp.

Magagula, the State alleged, received instructions from Zimbabwe to carry out a mission inside South Africa.

He and two others allegedly infiltrated South Africa through Zimbabwe.

The three insurgents were arrested in Nancefield, the black township adjoining Messina. They were allegedly found to be in possession of three Scorpion semi-automatic pistols, six magazines and six hand-grenades. - Sapa.

...the memoirs are expected to appear in 1994.

ANC man guilty

Capt Tms 17/7/89

331

PIETERSBURG. — A former PAC commander, Mr Abraham Magagula, 31, was yesterday found guilty in the Magistrate's Court here on six counts of terrorism.

STAR
17/7/89

(53)

Briefing

THE FIRST STONE*

For four days the Judge went over the evidence . . . it was a nightmare for those at the bottom of the list. For three nights they went to bed not knowing whether they were to die. In the fourth of a six-part series on the Uplington 26 trial the questions of common purpose and extenuation are reviewed.

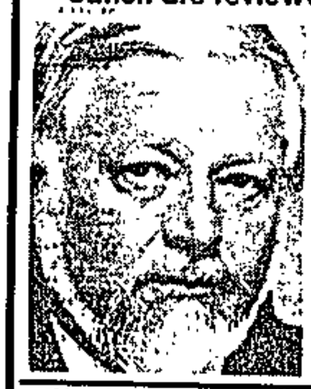
By REX GIBSON

* "He that is without sin among you, let him first cast a stone . . ."
St John, Chap 8 Verse 7.

25 'murderers' — but how many will hang

Star 17/7/89 (331)

whether they were to die. In the fourth of a six-part series on the Upington 26 trial the questions of common purpose and extenuation are reviewed.



By REX GIBSON

"He that is without sin among you, let him first cast a stone . . ."
St John, Chap 8 Verse 7.

It drizzled the day the judge pronounced the death sentence — not 14 times, just once, for all 14 in the dock. Appropriate weather for a hanging, a member of the Defence team thought.

Appropriate courtroom too: bleakly PWD, overwhelmingly matt brown. The furniture is cheerless and two sheets of brown paper are tacked over the panes of a sash window as a makeshift blind.

Said the Judge: "Accused number 1, 2, 4, 5, 6, 8, 10, 11, 13, 15, 18, 19, 20 and 21 ... I sentence you to death."

Their families knew them better as Kenneth "Pinkie" Kumalo, Eric "Tros" Gubula, David Lekanyane, Myner Gudlane, Zuko Xabendlini, Andrew Lekanyane, Justice "Basie" Bekebeke, Zonga Makhatle, Wellington Masiza, Boy Jafta, Evelina de Bruijn, Gideon Madlongolwane, Xolile Yona and Albert Tywilli.

Among them were two brothers and a husband and wife.

No 21, Albert Tywilli — Baptist church member, choir singer and soccer fan, aged 23 at the time of the crime — was Jetta's best friend. He had previously worked for the police for three years, and still played soccer for the police team.

No 15, Boy Jafta, aged 20 at the time, was regarded as a son in the Sethwala home. A bright if ill-educated young man, he was a member of the Ethiopian Church. His interests were soccer and choir singing. He had no police record. The ID book that would have given him a permanent job arrived only after his arrest.

Professor Graham Tyson, for the defence, argued that deindividuation was the best, possibly only, explanation for these two men to have turned so brutally on a close friend. The judge, scathingly, dismissed it as a theory built on sand.

□ □ □ □

The courtroom that May day in Upington was strangely subdued. There were no cries of anguish, just soft tears. The stress of the preceding four days had drained nearly everyone.

Over those days Mr Justice Basson had reviewed the evidence in extenuation, defendant by defendant. All 25 in the dock had been found guilty of murder. But who was going to hang for it, who would be shown mercy?

Advocate Andre Landman ... carried the burden, almost single handed, of defending 25 people.

Relatives were allowed 15 minutes to say goodbye to the condemned, in batches, as police cameras peered at them.

Then the sirens began to wail, as they had done every day that the court sat. The yellow police truck left the wire cage jutting from the building, picked up its convoy of police escorts, ran the gauntlet of the police dogs and the crowd waiting outside.

Singing, the condemned started on the first leg of a journey to Death Row, Pretoria Central.

□ □ □ □

When the alibis were refuted and the denials dismissed, the core of the dispute in the first phase of the Upington trial was whether the accused were all in this mess together. Common purpose, if you will.

Did the crowd outside Jetta's house throw stones because it wanted to drive him from his lair? If so, was it to kill him? If so, it mattered not — said the judge — whether the accused were actually at the scene of the killing, which took place elsewhere, later. They had the necessary common purpose.

View '

Accused No 1, Kenneth "Pinkie" Kumalo, was the first, but not the last, to hear the sombre reasoning. It was only days before his 33rd birthday.

Married with three children, he was Paballelo's first mayor. Later he resigned to become town treasurer, a paid job. He was Jetta's senior colleague.

Paballelo people looked up to him. Now the Judge was looking down at him.

He had always wanted to be an advocate. Now he was about to be convicted by the courts he had aspired to.

The judge intoned: "The accused, by his actions outside the victim's house, associated himself actively with the common objective of the group, namely to drive the victim out of his house and kill him.

"Accused No 1 is found guilty of murder and is classified as an accomplice. The form of intention is *dolus directus*".

Kumalo was not at the scene of the killing.

To Judge Basson — an unflinching man — the logic of his argument was inexorable, and his pronouncement of guilty on all but one of the Upington 26 was like the tolling of a bell.

> It's a court case, not a funeral, observed the Judge

It was a nightmare time for those at the bottom of the list. For three nights they went to bed not knowing whether they were to die.

When the judge came to the end of his review it was clear that 14 people would have to be sentenced to death. The court could find no sign that their moral blameworthiness was less than absolute, unforgiveable.

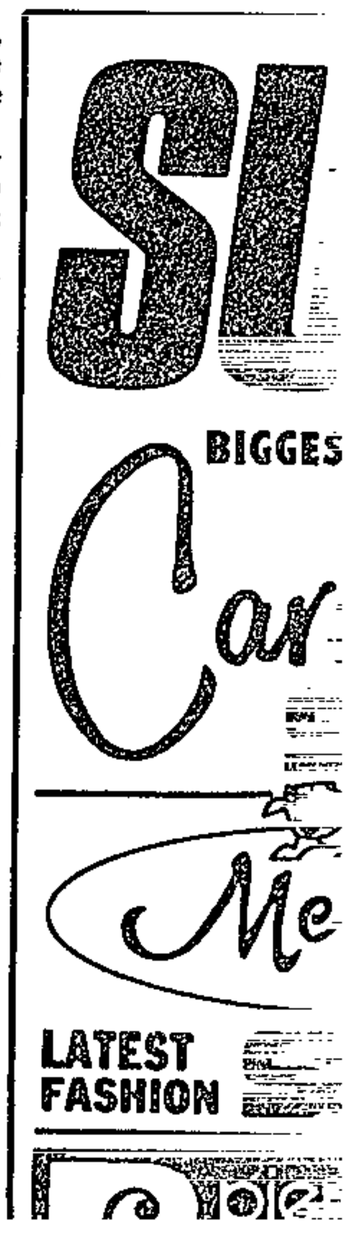
The Defence wanted to wait a few days so that relatives from distant places could be there for the sentence. But the judge said no, he would do it tomorrow ... "It's a court case, not a funeral," he observed.

Relatives held a prayer meeting that night. The next day, sentencing took only an hour or so.

□ □ □ □

Each convicted person was invited to address the court. Most said they were innocent. Justice Bekebeke, found guilty of striking the fatal blows, told the judge: "I would like the Lord to give you many years so that one day you can see me walking on the streets of a free South Africa — may the Lord bless you."

TOMORROW: Deadly people — the psychology of a mob. The judge listens to two experts on human behaviour. If he is persuaded by one, the accused may get mercy. But if he is persuaded by the other ...



derers' now 'ill hang?

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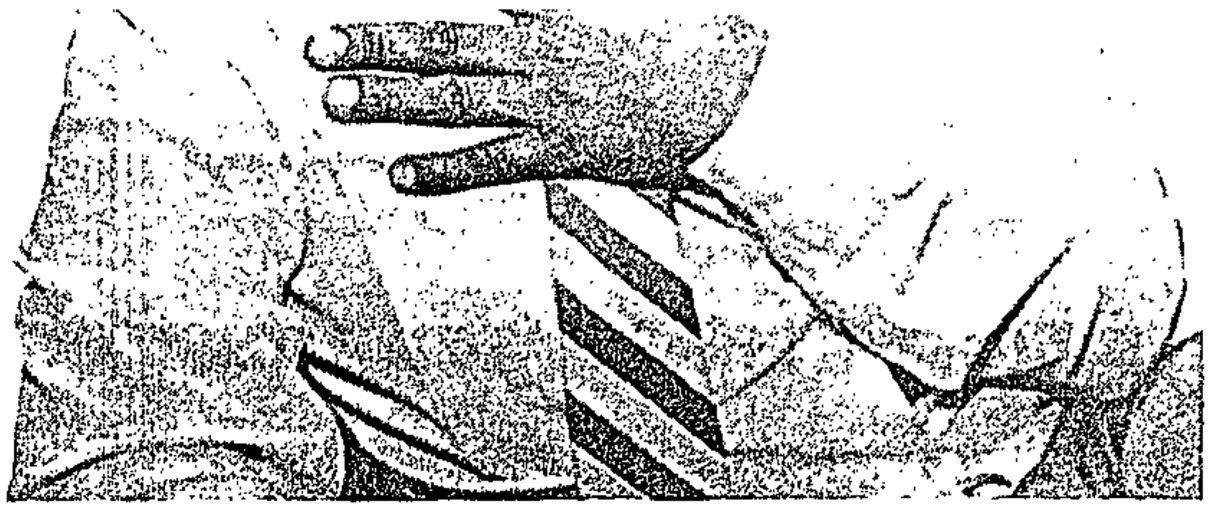
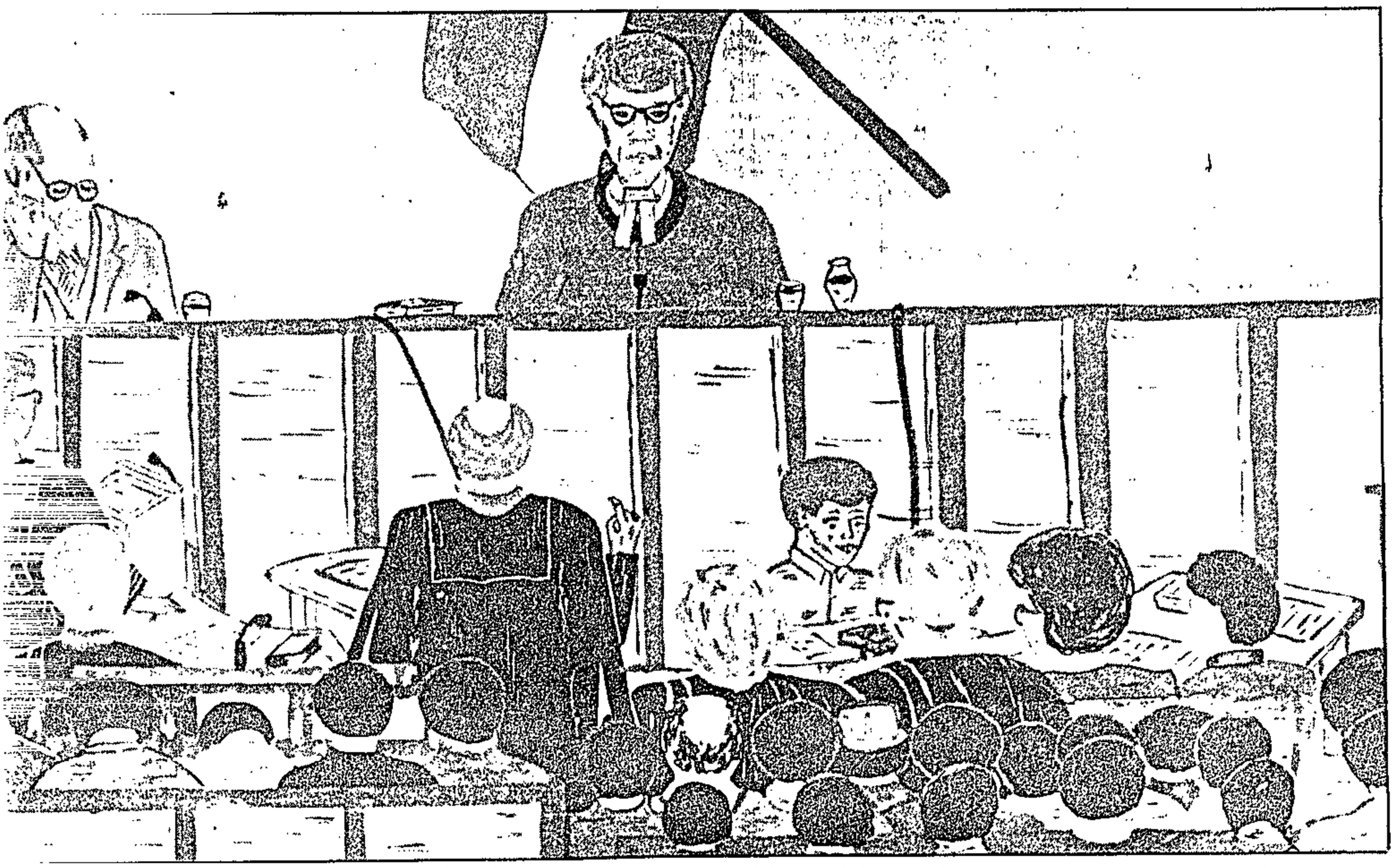


Ds Aubrey Beukes . . . His enemies depict him as the devil, and have desecrated the path to his church. He takes it all as a compliment.



View from the dock . . . as accused No 9, Elisha Matshoba, saw the courtroom, Mr Justice Basson presiding.

. They had the necessary com-

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When passion inflames a crowd . . .

331

Defence lawyer Andy Durbach outside the Upington court.

... and, carries his tomes to court. If he persuaded the ... have to die ....

... death sentence ... no cries of anguish, just quiet tears. Relatives leave the courthouse.

Nine months was not too long at all for the Defence to construct its massive argument in extenuation in the Upington trial. But it might as well have spent nine days for all the good it did.

Fortunately, the Defence didn't know that.

By the time the 25 people had been found guilty of the murder of one, the trial had begun to capture local and international attention.

Something else happened too: a remarkable lawyer entered the case.

Andrea "Andy" Durbach, a 31-year-old Cape Town attorney, is an enthusiast, a natural leader, a person who doesn't even pretend to legal dispassion in this instance. She proved to be an inspired choice. If the condemned yet escape the gallows, it will be in large part because of her.

Looking for something to move the court's heart, she flung herself into the task of showing that the accused weren't necessarily all brutish louts bent on committing murder for dubious political motives. She mobilised experts in psychology, social anthropology and criminology to research crowd behaviour and social conditions.

She persuaded Professor Dirk van Zyl Smit, head of the Institute of Criminology at the University of Cape Town, to conduct a unique investigation such as had not been tried in extenuation argument before.

His job was to find out what kind of justice the people of Paballelo themselves wanted for the defendants. Did they demand 25 eyes for an eye? Twenty-two students and staff of the institute went into the field to interview the residents. They had a carefully-constructed questionnaire.

It was blazing hot that November weekend and they were dosed with salt tablets and liquid at intervals.

They came back with remarkable findings, crystallised in an 80-page report. The single most significant finding was that the people of Paballelo did not condone the murder, but they did not seek revenge either. More than half the respondents thought the accused should not be punished at all. Only one person wanted the death penalty.

The Judge declined to admit the report as evidence.

But he left it in the record anyway — in case an appeal court might think differently.

□ □ □ □

Martin West, Professor of Social Anthropology at the University of Cape Town has a string of qualifications as long as an arm. He researched social conditions at Paballelo minutely.

He told the court: "If inhabitants perceive there to be complaints, then there are complaints.

"It is my considered view that it is altogether improbable that the grievances mentioned in the context of Paballelo are in any way contrived."

He questioned the judge's view that high rents affected the accused "at the most" indirectly. The final judgment accepted the fact that grievances existed but did not regard them as a justification, or even a proper explanation, for the crime.

Professor West explained why people so deprived and discriminated against might grow angry. But he could find no reason why people of such diverse backgrounds, interests, education and ages should combine in common action unless some other forces were at work.

The forces of mob psychology, perhaps?

□ □ □ □

Can people who join mobs lose their individual will and their moral standards, get swept away, become "deindividuated" in the jargon of psychology?

It is not fanciful to imagine that two men, two protagonists, held the fate of the 14 in their hands at this stage. If the judge was persuaded by one, they would hang; persuaded by the other, there might have been mercy ... One was a Wits psychology professor; the other a HSRC sociologist.

The judge was sometimes impatient with the Defence experts. He seemed to think they were trying to excuse the inexcusable.

Psychologists themselves disagree on aspects of the theory of deinviduation. But Graham Tyson, associate professor and head of the division of experimental psychology at Wits, prepared a formidable paper. At least, at least, the Defence thought, he will provide food for the court's thought.

Yes, people DO behave differently in crowds. Different psychological forces come into play. Frustration, arousal, provocation and modelling have a role. Rumours — like the one about the police calling the meeting on fateful day — have an important effect; so does the human desire to conform and follow leader-figures.

All or some of these forces can combine to make people behave as if they are drunk or hypnotised. They can't see the consequences of their actions. They can't make rational or moral decisions. When they come to their senses, the mind begins immediately to obscure the dreadful memories.

Anyone — male, female, old, young, civilised, primitive — can become deindividuated.

Said Professor Tyson: "It is my opinion that it is highly probable that all the accused were deindividuated to varying extents. This deindividuation, together with other psychological factors ... would have impaired the accuseds' ability to think rationally and would diminish responsibility."

□ □ □ □

Dr C P de Kock, a sociologist with the Human Sciences Research Council, lectures regularly to the police and the military on crowd dynamics. He is not a psychologist; he thinks very differently from Professor Tyson and others.

He came to court armed with copies of two letters. One was from his employers saying he could give evidence in his private capacity. The other was from himself to his employers saying they needn't feel worried that he was not equipped for the task. "After two cases I know I am not less well-equipped than the Defence's people."

In any event, he would only be called to give evidence if it looked as though the Defence was doing well. "Personally, I think that's a thin chance," he opined.

The "thin chance" came off. The State called him.

He believed the mob was politically motivated, aware of what it was doing. South Africa was enduring unrest, it had spread to rural areas at the time, emphasis had been laid on burning people; the "necklace" was soon to become popular.

Dr de Kock noted that attempts were being made to make townships ungovernable. Part of the accepted strategy was to harp on alleged grievances. In Paballelo this was only just beginning ... He did not go much for the notion of deindividuation. The killing of Jetta Sethwala was much more calculated than that.

He didn't think it strange or odd that two of Jetta's good friends took part in the attack. Brother often turned against brother in time of war. Any Boer could tell you that.

The judge listened — and concurred. The defendants declined to give evidence in extenuation that might have established their state of mind. The judge said they left him no choice.

The fate of the Upington 14 was sealed.

□ □ □ □

There was a final irony for those who still believe that the Upington 14, now the Death Row 14, are not so much political animals as sorely—tried citizens with real grievances.

At a mass anti-hanging rally in Cape Town last month the condemned were called "Soldiers of Tambo".

Before the trial most of them — rural, conservative souls in the main — would have scoffed at the very idea. But martyrdom and the esprit de corps that comes from a shared prison and public attention are powerful forces too, and ....

Soldiers of Tambo they may become.

THE FIRST STONE*

Can people who join mobs lose their individual will and their moral standards and get swept away? If the judge in the Upington 26 trial was persuaded such a "mob psyche" existed there might have been mercy for the accused. In the fifth of a six-part series the evidence in extenuation is examined.

By REX GIBSON

* "He that is without sin among you, let him first cast a stone . . ." St John, Chap 8 Verse 7.

> ". . . the accuseds' ability to think rationally was impaired"

A deadly Catch 22 situation

Sometimes, Catch 22 can be fatal. Most of the accused in the Upington trial offered an alibi. They were not at the house when it was stoned, not at the site where Jetta Sethwala was done to death.

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But if they branded themselves liars in the first place, who would believe them next time round? So they gave no evidence in extenuation.

In sentencing 14 to death, the judge said the refusal to try to explain their actions had left him no choice.

TOMORROW: The wounds that won't heal. Relatives of the victim still live in Paballelo, cheek by jowl with relatives of the condemned men . . . is the murder forgotten?

When inf a cr

Graham Tyson, professor of psychology at the University of the Witwatersrand, carries his tomes to court. If he persuaded the judge, then perhaps some accused would not have to die . . . .

Nine months was not too long at the Defence to construct its ... argument in extenuation in the t ton trial. But it might as well spent nine days for all the good it

Fortunately, the Defence didn't that.

By the time the 25 people had been guilty of the murder of one, the tr- begun to capture local and interna'' tention.

Something else happened too: a ... able lawyer entered the case.

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After the death sentence . . . no cries of anguish, just quiet tears. Relatives leave the courthouse.

What do you do, what can you say when your son, your brother has been sentenced to death? Sister Lindiare (left) and mother Martha Xabendlini, relatives of Zuko, accused No 6.

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But if they branded themselves liars in the first place, who would believe them next time round? So they gave no evidence in extenuation.

In sentencing 14 to death, the judge said the refusal to try to explain their actions had left him no choice.

ence — on 14

17/7/84

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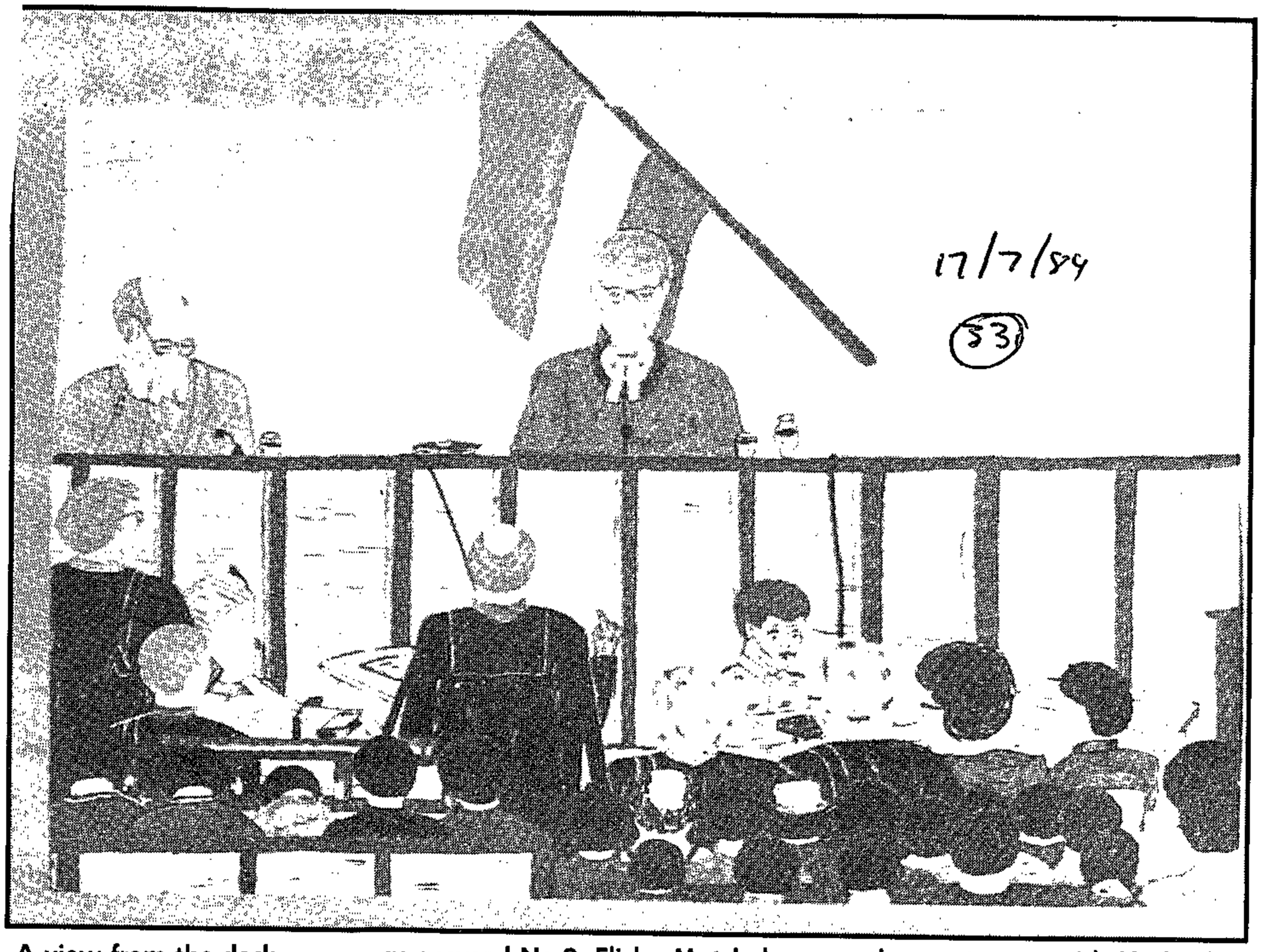

A view from the dock ..... as accused No 9, Elisha Matshoba, saw the courtroom, with Mr Justice Basson presiding

Sombre relatives ..... Mrs Susan Bekebeke, left, mother of two of the accused and Mrs Elsie Vice, mother of another accused's children. What can we do to help? they ask

Death sent

The story of the brutal killing of a fleeing man — and the day on which the judge pronounced death sentences on 14 accused.

17/7/89

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IT DRIZZLED the day the judge pronounced the death sentence — not 14 times, just once, for all 14 in the dock.

The courtroom was bleakly PWD, overwhelmingly matt brown. The furniture is cheerless and two sheets of brown paper are tacked over the panes of a sash window as a makeshift blind.

Said the Judge: "Accused number 1, 2, 4, 5, 6, 8, 10, 11, 13, 15, 18, 19, 20 and 21 ..... I sentence you to death."

Their families knew them better as Kenneth "Pinkie" Kumalo, Eric "Tros" Gubula, David Lekanyane, Myner Gudlane, Zuko Xabendlini, Andrew Lekanyane, Justice "Basie" Bekebeke, Zonga Makhatle, Wellington Masiza, Boy Jafta, Evelina de Bruijn, Gideon Madlongolwane, Xolile Yona and Albert Tywilli.

THE FIRST STONE

PART 4

By REX GIBSON

Brothers

Among them were two sets of brothers and a husband and wife.

No 21, Albert Tywilli — Baptist church member, choir singer and soccer fan, aged 23 at the time of the crime — was Jetta's best friend. He had previously worked for the police for three years, and still played soccer for the police team.

No 15, Boy Jafta, aged 20 at the time, was regarded as a son in the Sethwala home. A bright if ill-educated young man, he was a member of the Ethiopian Church.

His interests were soccer and choir singing. He had no police record. The ID book that would have given him a permanent job arrived only after his arrest.

Professor Graham Tyson, for the defence, argued that deindividuation was the best, possibly only, explanation for these two men to have turned so brutally on a close friend. The judge dismissed it as a theory built on sand.

The courtroom that May day in Upington was strangely subdued. There were no cries of anguish, just soft tears. The stress of the preceding four days had drained nearly everyone.

Over those days Mr Justice Basson had reviewed the evidence in extenuation, defendant by defendant. All 25 in the dock had been found guilty of murder. But who was going to hang for it, who would be shown mercy?

It was a nightmare time for those at the bottom of the list. For three nights they went to bed not knowing whether they were to die.

When the judge came to the end of his review it was clear that 14 people would have to be sentenced to death. The court could find no sign that their moral blameworthiness was less than absolute, unforgiveable.

The Defence wanted to wait a few days so that relatives from distant places could be there for the sentence. But the judge said no, he would do it tomorrow .... "It's a court case, not a funeral," he observed.

Prayer

Relatives held a prayer meeting that night. The next day, sentencing took only an hour or so.

Each convicted person was invited to address the court. Most said they were innocent. Justice Bekebeke, found guilty of striking the fatal blows, told the judge: "I would like the Lord to give you many years so that one day you can see me walking on the streets of a free South Africa — may the Lord bless you."

Relatives were allowed 15 minutes to say goodbye to the condemned, in batches, as police cameras peered at them.

Then the sirens began to wail, as they had done every day that the court sat. The yellow police truck left the wire cage jutting from the building, picked up its convoy of escorts and drove past the police dogs and the crowd waiting outside.

Singing, the condemned started on the first leg of a journey to Death Row, Pretoria Central.

When the alibis were refuted and the denials dismissed, the core of the dispute in the first phase of the Upington trial was whether the accused were all in this mess together — common purpose.

Did the crowd outside Jetta's house throw stones because it wanted to drive him from his lair? If so, was it to kill him? If so, it mattered not — said the judge — whether the accused were actually at the scene of the killing, which took place elsewhere, later. They had the necessary common purpose.

Accused No. 1, Kenneth "Pinkie" Kumalo, was the first, but not the last, to hear the sombre reasoning. It was only days before his 33rd birthday.

Married with three children, he was Paballelo's first mayor. Later he resigned to become town treasurer, a paid job. He was Jetta's senior colleague.

Paballelo people looked up to him. Now the Judge was looking down at him.

He had always wanted to be an advocate. Now he was about to be convicted by the courts he had aspired to.

The judge intoned: "The accused, by his actions outside the victim's house, associated himself actively with the common objective of the group, namely to drive the victim out of his house and kill him.

Inexorable

"Accused No 1 is found guilty of murder and is classified as an accomplice. The form of intention is dolus directus."

Kumalo was not at the scene of the killing.

To Judge Basson the logic of his argument was inexorable, and he pronounced all but one of the Upington 26 guilty..

TOMORROW: Deadly people — the psychology of a mob. The judge listens to two experts on human behaviour. If he is persuaded by one, the accused may get mercy. But if he is persuaded by the other ...

Magagula a member of PAC

PIETERSBURG — Abram Magagula (31) of Everton, Vereeniging, was found guilty in the Pietersburg Regional Court on Friday of being a member of the Pan African Congress, of illegally possessing firearms, ammunition and hand grendades and of entering the country illegally.

Magagula was acquitted on charges of attempting to escape police custody from the Pieters burg Hospital and of pointing a firearm.

Defence counsel Mr B N Ngoepe said in mitigation Magagula's case was not as serious as previous similar cases because he had not been involved in a shoot-out with police when arrested.

Judgment will be given on Thursday. — Northern Transvaal Bureau.

Psychology of the mob

The story of a brutal killing, the sentencing to death of 14 people — and the pleas in extenuation

THE FIRST STONE

PART 5

By REX GIBSON

BY the time the 25 people had been found guilty of the murder of one, the case had begun to capture local and international attention.

Something else happened too; a remarkable lawyer entered the case.

Andrea "Andy" Durbach, a 31-year-old Cape Town attorney, is an enthusiast, a natural leader, a person who doesn't even pretend to legal dispassion in this instance. She proved to be an inspired choice. If the condemned yet escape the gallows, it will be in large part because of her.

Looking for something to move the court's heart, she flung herself into the task of showing that the accused weren't necessarily all brutish louts bent on committing murder for dubious political motives. She mobilised experts in psychology, social anthropology and criminology to research crowd behaviour and social conditions.

She persuaded Professor Dirk van Zyl Smit, head of the Institute of Criminology at the University of Cape Town, to conduct a unique investigation such as had not been tried in extenuation argument before.

Questionnaire

His job was to find out what kind of justice the people of Paballelo themselves wanted for the defendants. Did they demand 25 eyes for an eye? Twenty-two students and staff of the institute went into the field to interview the residents. They had a carefully-constructed questionnaire.

It was blazing hot that November weekend and they were dosed with salt tablets and liquid at intervals.

At least, the defence thought, he will provide food for the court's thought.

Yes, people DO behave differently in crowds. Different psychological forces come into play. Frustration, arousal, provocation and modelling have a role. Rumours — like the one about the police calling the meeting on that fateful day — have an important effect; so does the human desire to conform and follow leader-figures.

All or some of these forces can combine to make people behave as if they are drunk or hypnotised. They can't see the consequences of their actions. They can't make rational or moral decisions. When they come to their senses, the mind begins immediately to obscure the dreadful memories.

Anyone — male, female, old, young, civilised, primitive — can become deindividuated.

Said Professor Tyson: "It is my opinion that it is highly probable that all the accused were deindividuated to varying extents. This deindividuation, together with other psychological factors ... would have impaired the accuseds' ability to think rationally and would diminish responsibility."

Dr C P de Kock, a sociologist with the Human Sciences Research Council, lectures regularly to the police and the military on crowd dynamics. He is not a psychologist; he thinks very differently from Professor Tyson and others.

He came to court armed with copies of two letters. One was from his employers

The terrible dilemma ..

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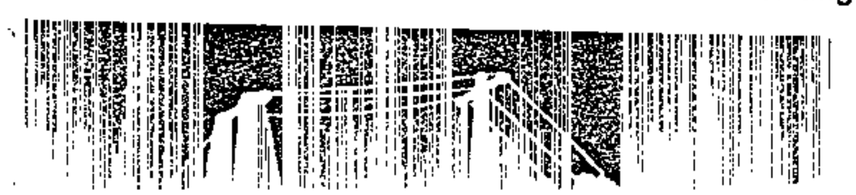

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It was blazing hot that November weekend and they were dosed with salt tablets and liquid at intervals.

They came back with remarkable findings, crystallised in an 80-page report. The single most significant finding was that the people of Paballelo did not condone the murder, but they did not seek revenge either. More than half the respondents thought the accused should not be punished at all. Only one person wanted the death penalty.

The judge declined to admit the report as evidence.

But he left it in the record anyway — in case an appeal court might think differently.

Martin West, professor of social anthropology at the University of Cape Town, has a string of qualifications as long as an arm. He researched social conditions at Paballelo minutely.

He told the court: "If inhabitants perceive there to be complaints, then there are complaints.

"It is my considered view that it is altogether improbable that the grievances mentioned in the context of Paballelo are in any way contrived."

Rents

He differed with the judge's view that high rents affected the accused "at the most" indirectly. The final judgment accepted the fact that grievances existed but did not regard them as a justification, or even a proper explanation, for the crime.

Professor West explained why people so deprived and discriminated against might grow angry. But he could find no reason why people of such diverse backgrounds, interests, education and ages should combine in common action unless some other forces were at work.

The forces of mob psychology, perhaps?

Can people who join mobs lose their individual will and their moral standards, get swept away, become "deindividuated" in the jargon of psychology?

It is not fanciful to imagine that two men, two protagonists, held the fate of the 14 in their hands at this stage. If the judge was persuaded by one, they would hang; persuaded by the other, there might have been mercy ....

One was a Wits psychology professor; the other an HSRC sociologist.

Psychologists themselves disagree on aspects of the theory of deindividuation. But Graham Tyson, associate professor and head of the division of experimental psychology at Wits, prepared a formidable paper.

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Dr C P de Kock, a sociologist with the Human Sciences Research Council, lectures regularly to the police and the military on crowd dynamics. He is not a psychologist; he thinks very differently from Professor Tyson and others.

He came to court armed with copies of two letters. One was from his employers saying he could give evidence in his private capacity. The other was from himself to his employers saying they needn't feel worried that he was not equipped for the task. "After two cases I know I am not less well-equipped than the defence's people."

Unrest

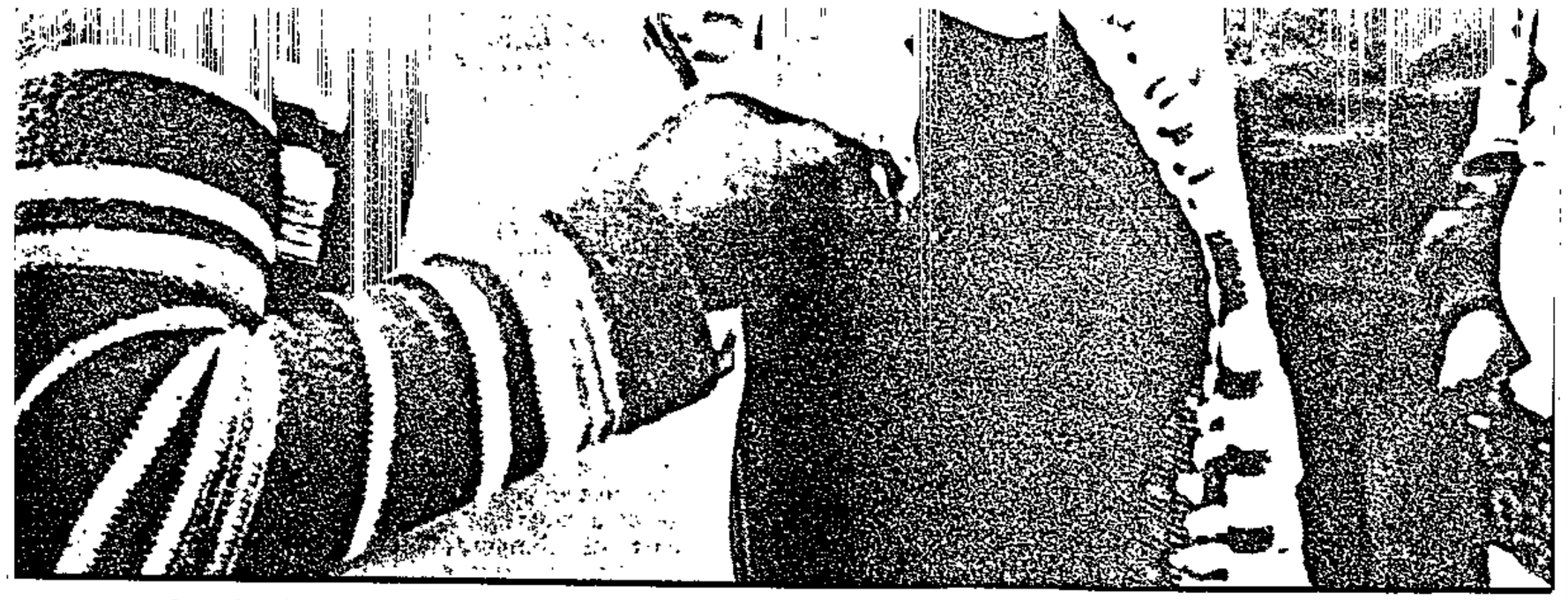
He believed the mob was politically motivated, aware of what it was doing. South Africa was enduring unrest, it had spread to rural areas at the time, emphasis had been laid on burning people; the "necklace" was soon to become popular.

Dr de Kock noted that attempts were being made to make townships ungovernable. Part of the accepted strategy was to harp on alleged grievances. In Paballelo this was only just beginning .... He did not go much for the notion of deindividuation. The killing of Jetta Sethwala was much more calculated than that.

He didn't think it strange or odd that two of Jetta's good friends took part in the attack. Brother often turned against brother in time of war. Any Boer could tell you that.

The judge listened — and concurred. The defendants declined to give evidence in extenuation that might have established their state of mind. The judge said they left him no choice.

The fate of the Upington 14 was sealed.



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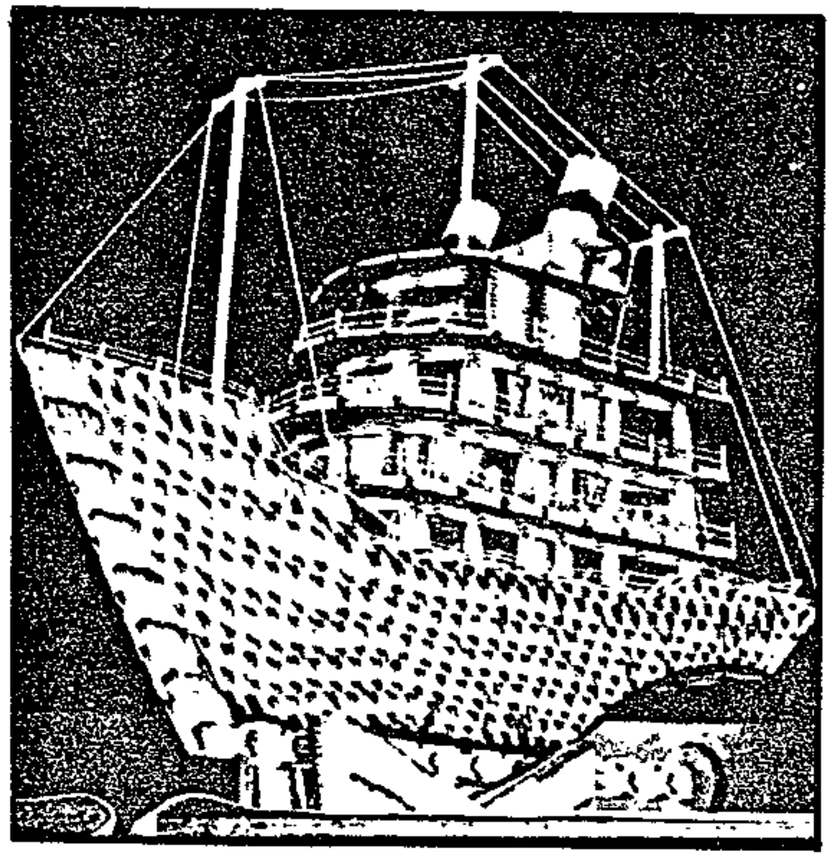

Time hangs heavy in jail. Some of the accused built themselves models out of matchsticks. This one now sails proudly in a Cape Town exhibition

RIGHT: What can you do, what can you say when your son, your brother, has been sentenced to death? Sister Lindiare (standing) and mother Martha Xabendlini, relatives of Zuko, accused No 6

There was a final irony for those who still believe that the Upington 14, now the Death Row 14, are not so much political as sorely-tried citizens with real grievances.

At a mass anti-hanging rally in Cape Town last month the condemned were called "Soldiers of Tambo."

Before the trial most of them — rural, conservative souls in the main — would have scoffed at the very idea. But martyrdom and the esprit de corps that comes from a shared prison and public attention are powerful forces too, and .....

Soldiers of Tambo they may become.

TOMORROW: The wounds that won't heal. Relatives of the victim still live in Paballelo, cheek by jowl with relatives of the condemned men .... is the murder forgotten?

LEFT: Graham Tyson, professor of psychology at Witwatersrand University.

If he were to persuade the judge, then perhaps some of the accused would not have to die .....

Last legal bid to save Upington 14

CNA Times 18/7/89

THE last possible legal step to save the "Upington 14" from the gallows was taken yesterday when a petition requesting leave to appeal against the sentences was handed to the Chief Justice.

Lawyers said the process could take several months.

The 14 residents of Upington's Paballelo township were sentenced to death on May 26 this year for their part in the 1985 common purpose murder of a municipal policeman.

A request for leave to appeal against the sentences and conviction of the 26 was turned down by Mr Justice Jan Basson — who also handed down the death sentences — on June 26.

Azapo loses court case

AN application by the Azanian Peoples Organisation, which challenged its banning, was dismissed in the Supreme Court, Durban, yesterday.

The ban in terms of the security emergency regulations was renewed on June 10 last year.

Azapo claims the regulations were invalid and of no force and effect in law.

It also claims that its banning in terms of the regulations was also invalid and of no force and effect in law.

The State President and the Minister of Law and Order, who are cited as respondents, disputed these claims and submitted that the emergency regulations and the banning of Azapo were valid. They asked that Azapo's application be dismissed.

In his judgment, Mr Justice Booysen quoted a number of cases dealing with similar issues which had been decided in the Appeal Court.

He found that the State President had acted within his powers in promulgating the regulations. He did not agree with the Azapo submissions that the regulations were contradictory and vague.

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Star 18/7/89

Upington 14: letters from around globe

Political Reporter

Democratic Party MP Mr Peter Soal has been inundated with letters from all over the world expressing support for the Upington 14, recently sentenced to death for the "common purpose" murder of a black policeman in the township of Paballelo near Upington in 1985.

Mr Soal said copies of the letters — he was receiving about 20 a day — had been sent to the State President, the Ministers of Justice and of Law and Order, the SA ambassador in Washington and the Attorney-General.

He said the DP would again raise the issue in Parliament, and he would present the letters to Parliament during the next session.

Mr Soal added that The Star's six-part series on the killing played an important role in educating the public about what happened in Paballelo.

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● When passion inflames a crowd — Page 21.

Fear of police led to suicide bid — accused

(3080) (331) 8/W 18/7/89

By Celeste Louw

An accused in a sabotage trial told a Johannesburg Regional Court yesterday that he had tried to commit suicide because he "could no longer stand the threats and treatment of the police" after his arrest.

Mr Harold Matsididi (42) of Diepkloof was being cross-examined by the prosecutor in a trial within a trial.

Mr Matsididi contested the admission of a statement to the court after he had allegedly been forced by the police to make the confessions to a magistrate.

Mr Matsididi has pleaded not guilty to a charge of sabotage for allegedly attempting or planning to attack John Vorster Square last year. He has also pleaded not guilty to a charge of illegal possession of a firearm and ammunition.

In previous evidence Mr Matsididi told the court he had received electric shocks twice at the Protea Police Station after his arrest.

He had been assaulted and threatened by police and made the statement to a magistrate "out of fear of what could happen to me".

The trial continues before Mr A Wolmarans.

s have not healed'

THE FIRST STONE

PART 6

By REX GIBSON

Paballelo — it means "a place of play" — is the place for blacks. Five kilometres from town, there is no mistaking its pariah status, though the first impact is softened by surprising greenery.

Upington is a coloured preference area which, translated, means that blacks mostly get only the jobs which no one else will do. When jobs are scarce, they go without. Then they live the half-life of the unwanted unemployed. That's one reason why no one quite knows how many people live in Pabalello.

Upington's information bureau says it's 15 100. The judge put it at about 20 000.

The most conservative estimate comes from a socio-economic analysis commissioned from town planners by the Paballello authorities. The report is regarded as so sensitive that the authorities had to be subpoenaed before they would produce it at the Upington trial. It reveals serious overcrowding, massive unemployment of nearly one in three, more than nine in 10 families living below the Minimum Living Level of R557 a month for a household of seven.

This report estimates the population to be a mere 10 183. If the judge is right, there are twice that number of people living there. The problem is doubled.

I arrive unannounced to see Paballelo's town clerk in his offices just outside the township. A guard assures me that there is no way Mr Tienie Nortje will see me; he is dringend besig (urgently busy). He holds his rifle in an unfriendly way. I am not comforted by the fact that its stock bears a car-sticker saying: "I love Paballelo."

After a while, reluctantly, he agrees to escort me to the office. Mr Nortje turns out not to be too dringend besig. He greets me like a friend. He is a perky man with a perky moustache. His desk is a clutter, and the State President's picture seems to be looking down on it with some disdain.

Mr Nortje came to Paballelo after the killing. He believes stoutly in being a good uncle. He understands the black mind. The people expect him to be tough — tough but fair. He gives them what they expect. He says he is having some success with his new policy for collecting rents.

First, he tells people in arrears that they have seven days to pay up — or else. Then if they don't pay he evicts them. Afterwards, if they come to him, he will negotiate a compromise: full rent from then on, arrears paid off in instalments as low as R5 a month. Rents run from R63 (raised to R71 this month) upwards in Pabalello.

He offers figures to illustrate his success. Before the killing, rent revenue averaged R45 000 a month. Immediately after, it dropped to R22 000.

By March this year it was averaging R95 000. "It shows," says Mr Nortje, "that the people of Paballelo were slow to co-operate, but now they want us to build together."

Since the killing, residents have got new amenities: a swimming pool, a creche, floodlights for the soccer stadium, another 800m of tar on the only tarred road in the township. Mr Nortje is pleased.

How then is the mood in Paballelo today? Is Mr Nortje nervous in his fortress-like offices? Not so you'd notice.

He says: "The situation is not explosive. The children are still boycotting some classes, but the DET is working on that. Last Friday there was a petrol bomb at Mr Xaba's home.

"Things are reasonably quiet but I wouldn't say that nothing could happen here. Sometimes you feel a little prickle on your neck hairs."

Upington's town clerk, Mr H J van Wyk, is more sanguine. Asked whether the murder and the trial have had any effects — social, political, economic — he replies emphatically: "None whatsoever." He is on record as confirming that people in Upington know their place.

No pictures

Ds Aubrey Beukes of the NG Sendingskerk, doesn't seem to know his place. He has earned the ire of his coloured parishioners for concerning himself with the fate of the black Upington 26. He sees it differently. "There are wounds here that time won't easily heal.

"The residents were uprooted in an insensitive and bureaucratic way. They have received the message: You don't belong here.

"While the white town develops into an oasis, and millions are spent on coloured areas, Paballelo's town clerk lists his social improvements as extensions to the police station, safety fences for councillors' homes and the tarring of a road," says the dominee.

Jetta Sethwala's sister Magdaleen comes singing out the front door of the house where the stoning happened so long ago, baby on her back, laundry in her arms. She sees the camera and is instantly guarded, even hostile.

No pictures, she says. And no, she doesn't want to talk about life in the township where her brother was killed by friends and neighbours. So I can't ask her whether she is ostracised, as some residents claim she and her family are.

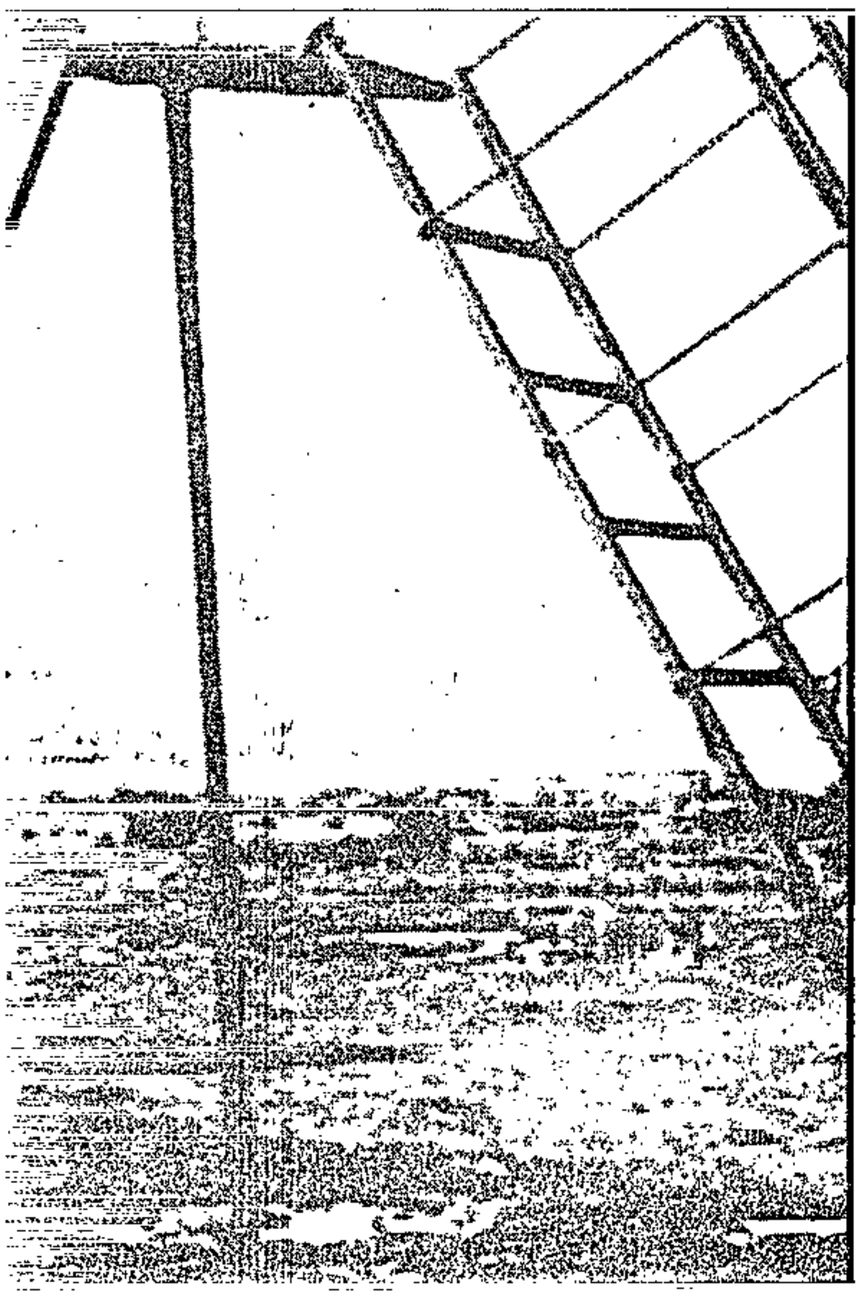
She reports my presence to Warrant Officer T Medlar of Paballelo police station; a mountain of a man who blots out the sun as he approaches me, bristling.

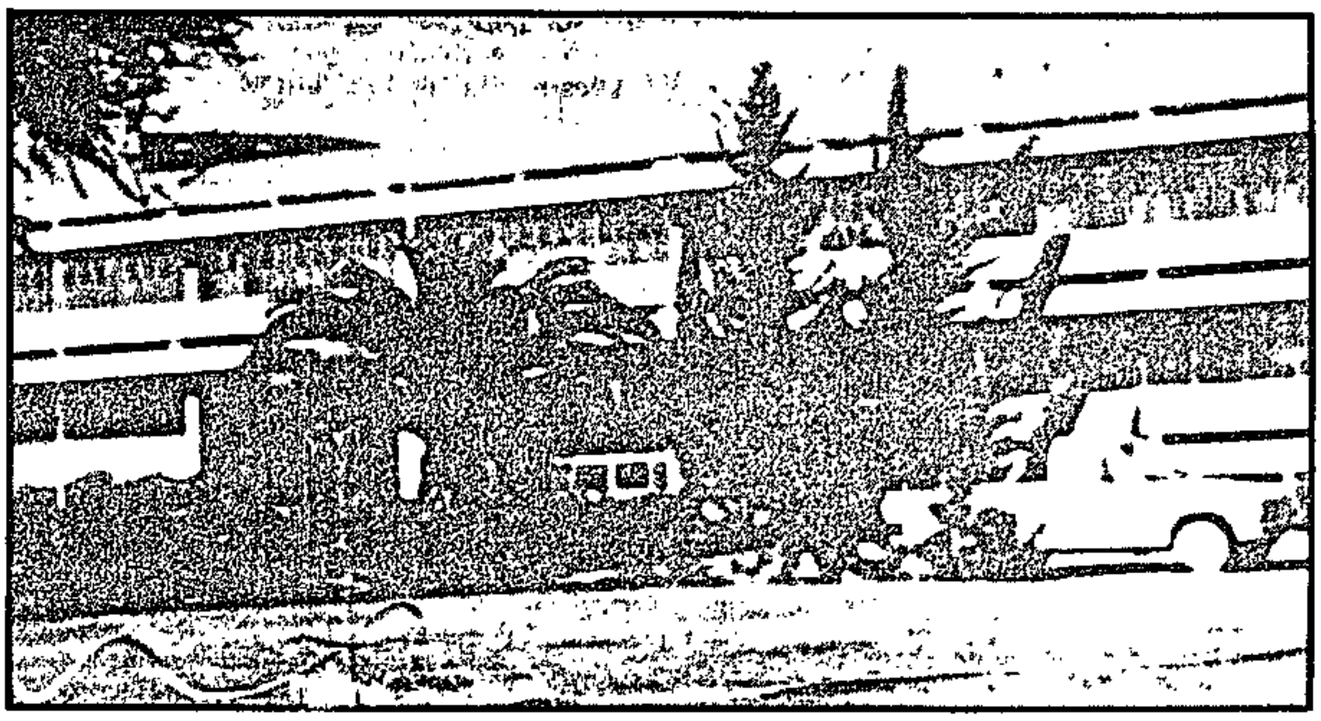
He had seen me yesterday with the dominee. I needn't think he didn't know what I was up to. Why didn't I leave the police alone. Didn't I know that people were even saying that the police were murdering the Upington triallists; that the police were to blame for everything.

He is very angry. He has a good mind, he says, to confiscate the film, the camera. Why hadn't I talked to someone who really knew what happened. Like him.

"I was the one who put the flames out on the body." he says.

Clearly, the wounds have not healed.





from this "Place of fun" Jetta Sethwala was murdered
Research shows Pababello to be hugely overcrowded
Here the desert blooms too

'Wounds have not

THE aftermath: A visit to Upington nearly four years after a killing which resulted in 14 people being sentenced to death. This is the final part.

FROM the air the landscape looks like elephant hide brown-grey, dry, seamed. Rock koppies cast black shadows on arid soil in the late afternoon sun.

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Surnames

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Before the forced removals of the fifties, blacks used to live there too. Some still do. The trick was to adopt Afrikaans surnames. For instance, a family whose name meant "eye" in Xhosa might suddenly became the Oog family.

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THE FIRST STONE

PART 6

By REX GIBSON

I arrive unannounced to see Paballelo's town clerk in his offices just outside the township. A guard assures me that there is no way Mr Tienie Nortje will see me; he is dringend besig (urgently busy). He holds his rifle in an unfriendly way. I am not comforted by the fact that its stock bears a car-sticker saying: "I love Paballelo."

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Mr Nortje came to Paballelo after the killing. He believes stoutly in being a good uncle. He understands the black mind. The people expect him to be tough — tough but fair. He gives them what they expect. He says he is having some success with his new policy for collecting rents.

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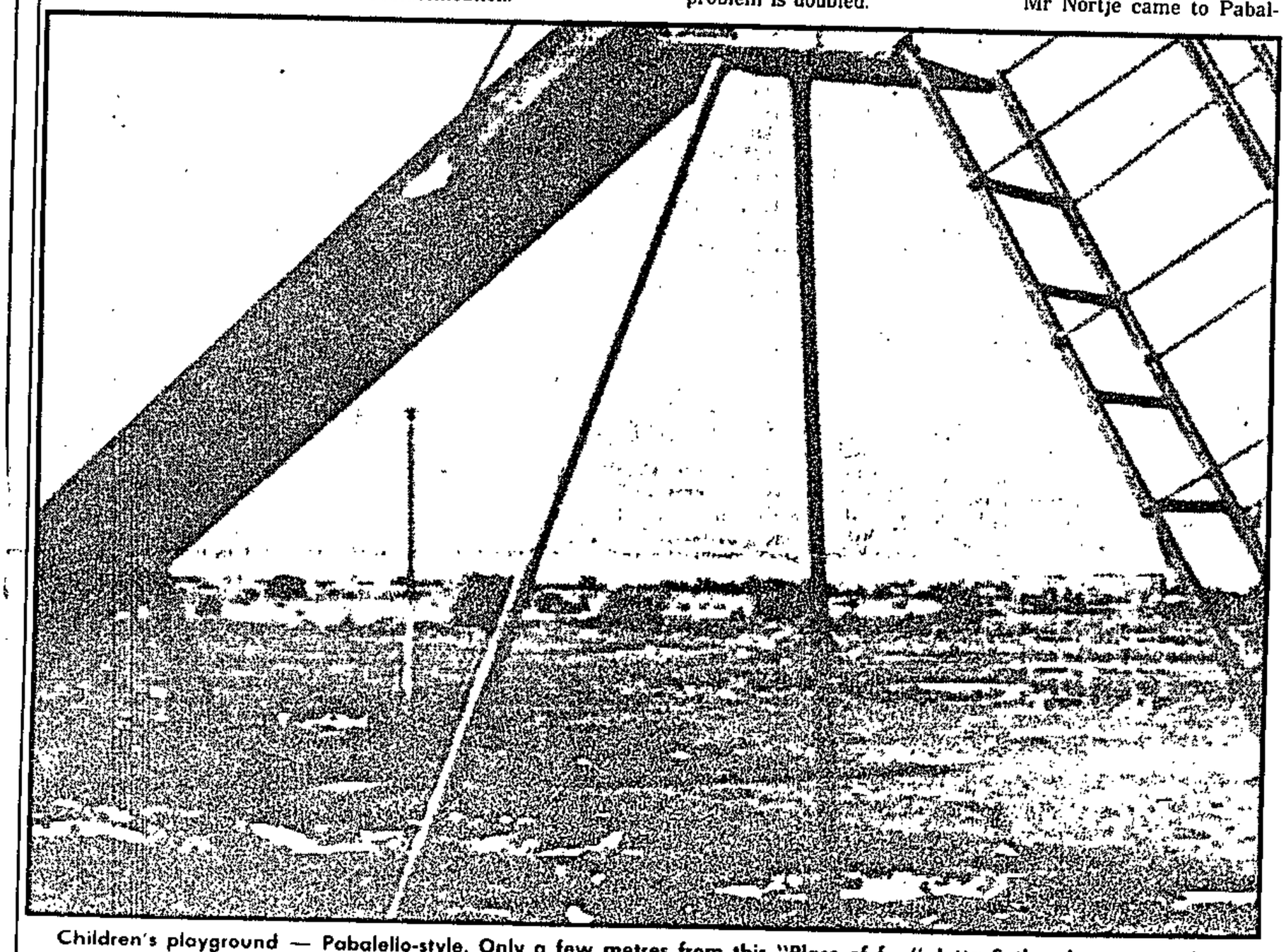
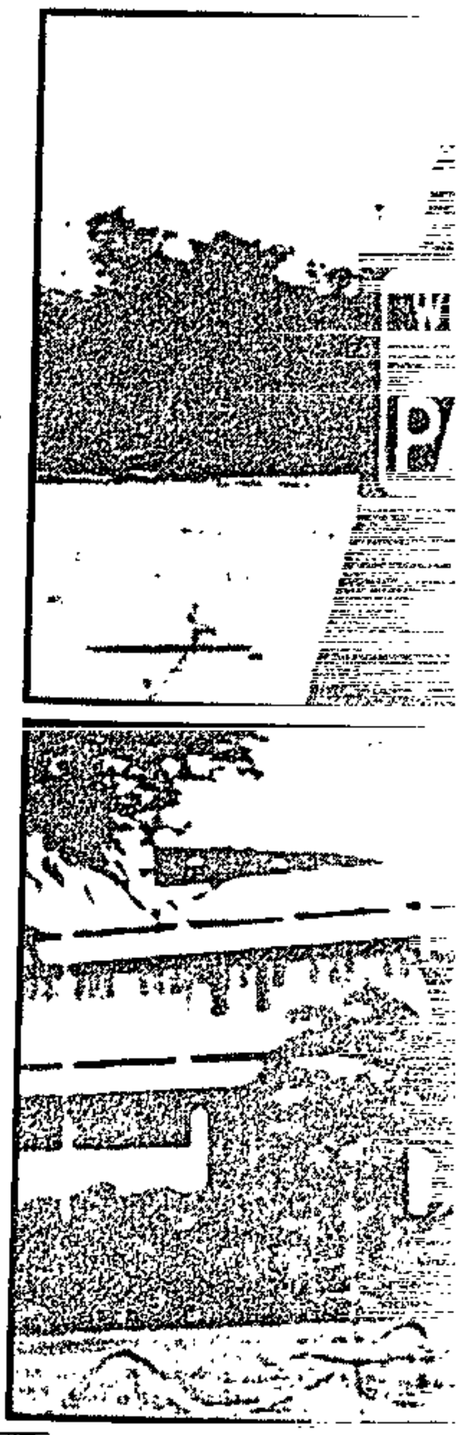
He offers figures to illustrate his success. Before the killing, rent revenue averaged R45 000 a month. Immediately after, it dropped to R22 000.

By March this year it was averaging R95 000. "It shows," says Mr Nortje, "that the people of Paballelo were slow to co-operate, but now they want us to build together."

Since the killing, residents have got new amenities: a swimming pool, a creche, floodlights for the soccer stadium, another 800m of tar on the only tarred road in the township. Mr Nortje is pleased.

How then is the mood in Paballelo today? Is Mr Nortje nervous in his fortress-like offices? Not so you'd notice.





Children's playground — Pabalello-style. Only a few metres from this "Place of fun" Jetta Sethwala was murdered
RIGHT ABOVE: 'Welcome" sign at the entrance to the township. Research shows Pababello to be hugely overcrowded
RIGHT: The modern Civic Centre of Upington. Here the desert blooms too

ANC-POW link makes history

SUSAN RUSSELL

A SUPREME Court judge made legal history recently when he accepted that the political facts and subjective perceptions which compelled four ANC combatants to take up arms lessened their moral culpability. The four were on trial for murder.

Lawyers see Mr Justice de Klerk's finding in March this year in the case of the "Delmas Four" as the first step towards granting ANC fighters informal prisoner-of-war status.

The judge accepted evidence that with the existence of a state of war between the ANC and the SA government, the four perceived themselves as soldiers in a war of national liberation.

Mr Justice de Klerk found all these factors diminished their moral blameworthiness to the extent that imposing an obligatory death sentence was not applicable.

It is significant that this is the first time in SA that a judge has taken political factors into account when making a finding on extenuation in a case of this nature.

His two assessors, however, disagreed and found there were no extenuating circumstances, which meant the judge had to abide by the majority decision and impose the death sentence. He granted leave to appeal.

When the four appeared in ANC uniform they did not make formal application for prisoner-of-war status. But they refused to plead or take part in proceedings on the basis they were prisoners of war. They also refused to take part in proceedings after conviction, but allowed their parents to plead on their behalf.

The attorney acting on behalf of the Delmas four, Peter Harris, said the judge's finding was the first step towards informal prisoner-of-war status for ANC trialists.

He said: "If such arguments are used in extenuation and judges follow the same path as Mr Justice de Klerk, as I believe they should, then this approach can bring about *de facto* prisoner-of-war status and prevent the imposition of the death sentence.

Similar finding

"The point has to be made that today's guerrillas are tomorrow's Prime Ministers . . . "

The judge's finding should also be weighed up against a similar finding by a trial court in Namibia in 1983. From that time no Swapo guerrillas in political trials were executed.

Mr Justice de Klerk's finding comes at a time when the escalation of conflict has brought an ever increasing number of ANC combatants before the courts on criminal charges which carry the death penalty. Government has also come under pressure as the ANC attains greater legitimacy.

Obed Masina, Frans Ting-Ting Masango, Neo Griffith Potsane and Joseph Elias Makhura were all "children of 1976" and among the thousands who left SA to join the ANC. After undergoing training they returned as members of Umkhonto we Sizwe — the ANC's military wing.

All except Makhura were convicted of murdering people they perceived to represent the enemy — including two black policeman and a Kangwane politician.

A murder conviction carries a mandatory death sentence in SA law unless the court accepts the existence of extenuating circumstances.

As Harris put it recently in a paper delivered at a conference on political trials: "The fact that ANC combatants view themselves as being engaged in an international conflict and fighting a just cause in an army of national liberation should operate as an extenuating circumstance, reducing their moral, if not their legal guilt."

"The point must also be made that to hang these kinds of guerrillas would merely be a perpetuation of the violence in our society," Harris added.

The Delmas trial had also illustrated the difficulty a white judge in this country had in passing judgment and imposing a sentence which reflected the feelings of a deeply divided community.

During extenuation, evidence was led to show that people in Soweto regarded the accused as heroes, Harris said.

Potsane's aged father testified that after the killing of a black policeman people in Soweto had danced in the streets. While he believed the killings for which his son was on trial were wrong, he understood what had led him to take up arms.

Mr Justice de Klerk's finding was not accepted by his two assessors. Both found that even if the four were influenced by the factors put before the court, these *per se* did not constitute extenuation.

Since their finding of no extenuation constituted a majority decision by the court, Mr Justice de Klerk was obliged to pass the death sentence on Masina, Masango and Potsane.

Perspective

Harris said even though the judge had spent three-and-a-half hours giving a meticulous judgment, the two assessors had come to a contrary finding in a three-minute judgment and the result was the imposition of the death sentence.

Masina probably put the trial into perspective when the four trialists were asked by the judge if they had anything to say before sentence was passed.

"We just want to say that if it were not for apartheid we would not be sitting here in this court — we would be sitting with our brothers, both black and white," Masina said.

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19/07/89

The wounds that will not heal

From the air the landscape looks like elephant hide — brown-grey, dry, seamed. Rock koppies cast black shadows on arid soil in the late afternoon sun.

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The wide streets are something of a nuisance to one old-timer. Locals tell the story of how, since the murder at Paballelo, he studiously crosses the road when he sees a group of blacks approaching. "These kaffirs burn everyone they see," he explains.

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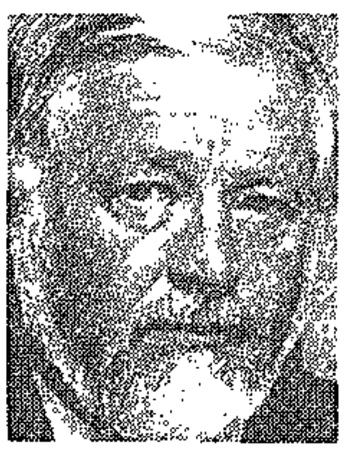
How then is the mood in Paballelo today? Is

THE FIRST STONE*

Four years after the events that led to the Upington 26 trial, Paballelo seems a quiet, innocuous backwater. But assessments of the mood in the township depend upon whom one speaks to. In this final episode of a series, a white official lists new amenities and speaks of increasing co-operation, while a preacher dismisses the improvements as irrelevant and describes the township as a powderkeg.



By REX GIBSON

* "He that is without sin among you, let him first cast a stone . . ."
St John, Chap 8 Verse 7.

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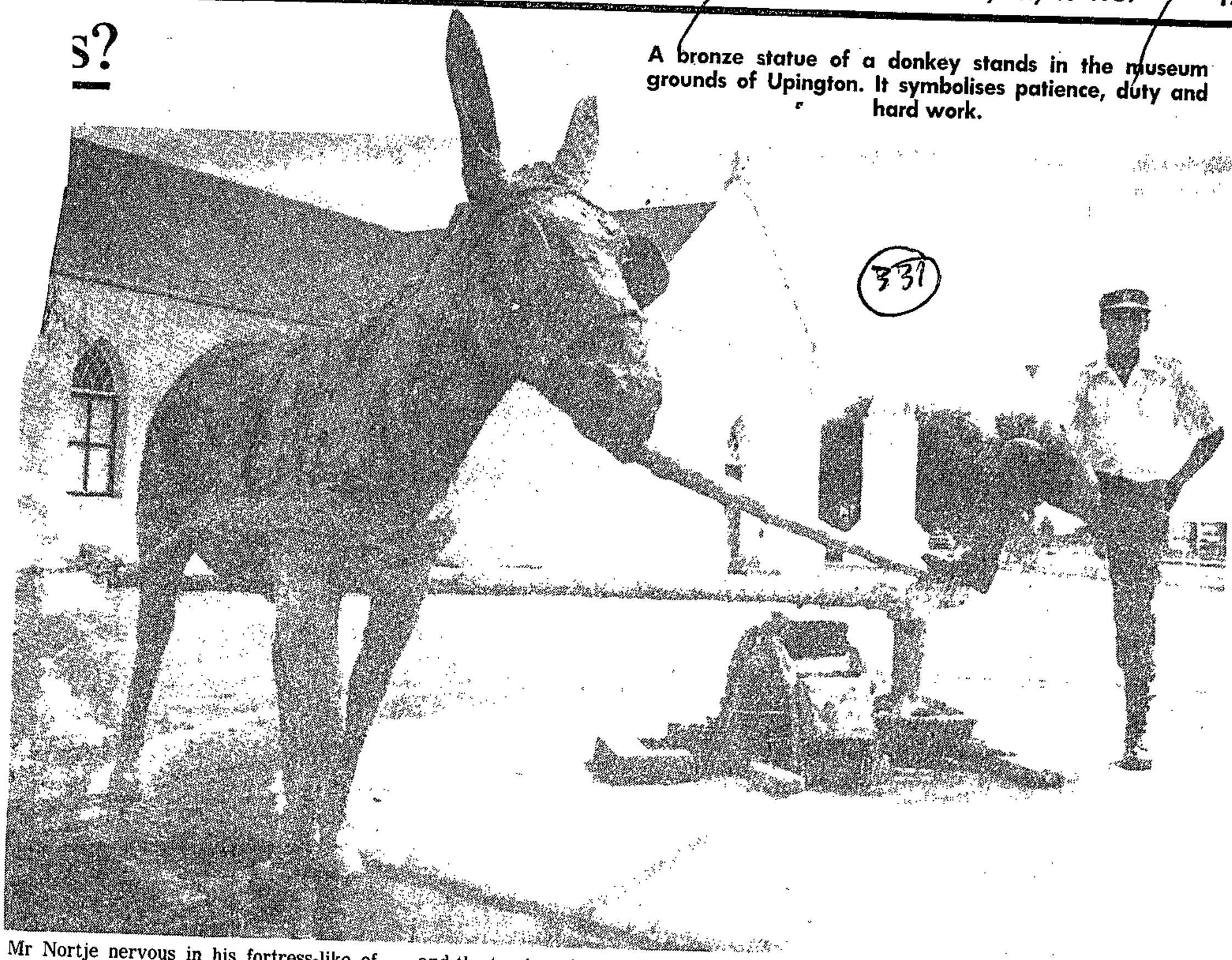

A bronze statue of a donkey stands in the museum grounds of Upington. It symbolises patience, duty and hard work.

B31

Mr Nortje nervous in his fortress-like offices? Not so you'd notice.

He says: "The situation is not explosive. The children are still boycotting some classes, but the DET is working on that. Last Friday there was a petrol bomb at Mr Kaba's home.

"Things are reasonably quiet but I couldn't say that nothing could happen here. Sometimes you feel a little prickle on your neck hairs."

Upington's Town Clerk, Mr H J van Wyk, is more sanguine. Asked whether the murders and the trial have had any effects — social, political, economic — he replies emphatically: "None whatsoever." He is on record as confirming that people in Upington know their place.

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Mr Abrey Beukes, of the NG Sendingskerk, doesn't seem to know his place. He has drawn the ire of his coloured parishioners for concerning himself with the fate of the so-called Upington 26. He sees it differently. There are wounds here that time won't ever heal.

Coloured residents were uprooted in an insensitive and bureaucratic way. They have received the message: You don't belong here. While the white town develops into an oasis and millions are spent on coloured areas, Paballelo's town clerk lists his social improvements as extensions to the police station, safety fences for councillors' homes and the tarring of a road," says the domineering dominee.

He thinks Paballelo today is a powder-keg.

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Jetta Sethwala's sister Magdaleen comes singing out the front door of the house where the stoning happened so long ago, baby on her back, laundry in her arms. She sees the camera and is instantly guarded, even hostile.

> Sometimes you feel a little prickle on your neck hairs

No pictures, she says. And no, she doesn't want to talk about life in the township where her brother was killed by friends and neighbours. So I can't ask her whether she is ostracised, as some residents claim she and her family are.

She reports my presence to Warrant Officer T Medlar of Paballelo police station; a mountain of a man who blots out the sun as he approaches me, bristling.

He had seen me yesterday with the lying dominee. I needn't think he didn't know what I was up to. Why didn't I leave the police alone. Didn't I know that people were even saying that the police were murdering the Upington accused; that the police were to blame for everything.

He is very angry. He has a good mind, he says, to confiscate the film, the camera. Why hadn't I talked to someone who really knew what happened. Like him.

"I was the one who put the flames out on the body." he says.

Clearly, the wounds have not healed.

□ □ □ □

Paballelo township looks rural, peaceful as I leave. It is hard to imagine, but there are at least 150, perhaps 250, murderers walking its dusty streets.

They are the people who were also part of the mob which gathered outside Jetta Sethwala's house that fateful day in 1985. Some of them may even have been at the place where Jetta was done to death. If they had been identified and brought to court, Judge Basson would have had no choice in his own mind but to convict them of murder too.

The killers know who they are. Neighbours, acquaintances, friends — they too must know who some of them are. It would be a terrible burden to bear, except that hardly anyone can imagine that these very ordinary people would kill again.

Unless, of course, new passions arise, a new hysteria grows ... Who knows then what a mob will do?

Minds distorted by outside influence judge

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2222
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DURING his judgment on extenuation Mr Justice de Klerk emphasised that his finding did not make the killings any less reprehensible.

There was no doubt, he said, that any civilised society would rate the moral blameworthiness of the three as serious.

"The question to be considered however remains: what is the moral judgment which must be pronounced, not only on the deed, but also on the deed and the perpetrator, having regard to the circumstances and their bearing on his state of mind, however gruesome the deed may be.

"A finding that the actions of the accused cannot be condoned by any morally accepted code, applicable in any civilised society, is not an answer to the question with which one is grappling."

The judge pointed out that an extenuation finding did not bring the moral code into disrepute.

"All that happens," he said, "is that recognition is given to the fact that human minds are susceptible to influence and the state of mind in question was so distorted by the influence and probably did not function as it would have."

Victims

He said among the most important facts emerging from the statements made by the four on which the State largely based its case, was their belief that blacks had been the victims of violence and the armed struggle had been embarked on as a last resort.

"The accused regard themselves as soldiers who were under the general command of their leaders who were involved in a war for justice," he said.

"The objective correctness of this subjective view I do not have to discuss."

"The accused all received training in ANC camps in neighbouring countries and some of them in East Germany," said Mr Justice de Klerk.

"Undoubtedly the accused were talked into thinking that assassination of so-called enemies or collaborators is justified because a state of war exists."

He said this conclusion about the indoctrination they were subjected to was not speculation.

"No direct evidence is necessary to make one realise that no Sunday school picnic existed in an ANC camp where a war against apartheid was prepared," the judge remarked.

Strangers

"The influences to which I have referred," he continued, "can infest one's system and distort one's mind to such an extent that it could lead to extremely anti-social behaviour.

"This influence is the only probable cause or motive for the murders of people who were strangers to the accused.

The judge said an assessor or judge hearing a trial like this had to be careful that his abhorrence of terrorism or his impression of the ANC did not affect his objectivity and better judgment.

"In no way do I wish to sound like an apologist for the accused," he cautioned.

"Their conduct will be branded as abhorrent by all civilised persons and that would also be the judgment made by history after minds have calmed down.

"According to my judgment, however, the circumstances which had a bearing on their state of mind were of such a nature that it markedly reduced their blameworthiness, irrespective of how blameworthy their conduct may still be," he said.

Families want 12 tried in Pretoria (331)

Star 19/7/87

Pretoria Correspondent

The families of 12 men accused of treason — the so-called Pretoria 12 — have asked that the trial not be heard in Delmas.

At a press conference in Pretoria yesterday, the families urged the State to move the trial back to Pretoria.

The hearing is scheduled to start in Delmas on August 1.

According to the families, the hearing in Delmas would pose transport and financial problems for relatives.

The 12 families said most of the accused were from Pretoria and most of the incidents which led to the trial took place in and around Pretoria.

CA01.....Clerical Assistant

Upington 14 petition the Chief Justice

BLOEMFONTEIN — The Appeal Court has received a petition to the Chief Justice by the Upington 14 for leave to appeal against the death sentences they received following the death of Constable Lucas Sethwala. (332) (331)

The policeman was killed at Paballelo, Upington, on November 13 1985. 5th/9/17/89.

The death sentence was imposed on the 14 by Mr Justice J J Basson in the circuit court at Upington on May 26 this year after he had found there was no extenuation for their part in the policeman's death.

On June 27, the trial judge refused the 14 leave to appeal. — Sapa.

SOWETAN Thursday July 20 1989

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BIG TREASON CASE SET FOR DELMAS

By MONK NKOMO

THE treason trial of 12 suspected members of the ANC who allegedly shot dead three policemen in Atteridgeville last year will be held in the Delmas Circuit Court on August 1.

This is despite protests from lawyers and relatives of the accused that the case be held in Pretoria.

Speaking at a Press conference in Pretoria, a representative of the National Association of Democratic Lawyers said he doubted if the trial would be fair if held in Delmas.

He also called on the Government to grant all jailed political activists prisoner of war status.

"The law of treason is outdated in this country and should no longer be applicable," the representative said.

The 12 accused are Mr Moeketsi Ronie 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 Malcka (25), all of Atteridgeville; Mr Peter Mafuleka (34), Mr Phuti Bernard Mokgonyana (26), Mr Joseph Nkosi(39), Mr Reuben Khotsa (23), Mr Reginald Legodi (22) and Mr Alfred James Kgasi (25), all of Mamelodi.

They are charged with treason, seven alternative counts of terrorism, four counts of murder, six of attempted murder and 11 charges of damage to property.

The State alleges that on March 18 last year in Atteridgeville the accused killed three policemen - Mr Bernard Mope, Mr Andrew Mphahlele and Mr Nelson Phenyane. They are also alleged to have killed one-year-old Patience Kulele in Mamelodi on May 10, 1988.

They are alleged to have attempted to murder Ananius Nkoane and Rose-Mary Muzwayine in Atteridgeville on March 18 last year and Matilda Eleonora Venter, Elke Marta Hansen, Anna Maria Prinsloo and Susanna Maria Kruger in Pretoria on May 26, 1988.

Ppawu official denies charge

331

AN OFFICIAL of the Paper, Printing and Allied Workers Union yesterday told a Johannesburg magistrate that he was forced to make a statement in which he admitted to being a member of Umkhonto we Sizwe, the military wing of the ANC.

Mr Gerald Nyembe (32) of Ppawu and Ms Lucienne Anna Abrahams (28), a former organiser of the Media Workers Association of South Africa (Mwasa), appeared before Mr B P Luyt in the Johannesburg regional court.

They have pleaded not guilty to a charge of terrorism and an alternative charge of being members of the banned ANC.

Nyembe had earlier told the court the police who interogated him wanted to know whether he was a member of the ANC and Umkhonto we Sizwe and if he had undergone military training in Angola.

He was frequently kicked, punched and choked with a cloth as he was questioned. He was also asked if his other name was Tony.

He eventually admitted to these allegations as he could no longer stand the pain.

He did this to stop the police from assualting him further.

No lawyer, so not guilty

By CARMEL RICKARD

THE insistence by the supreme court that an accused must be allowed legal representation was clearly illustrated last week when the conviction of Durban workshop assistant Sidney Zikali was overturned.

In 1987 Zikali, who works for the University of Natal in Durban, was charged with assault and a university law lecturer agreed to appear for him.

The lawyer phoned the prosecutor to inform her he would be unable to appear for Zikali on the set date, and they arranged a mutually convenient postponement.

However, when Zikali arrived in court, believing he would simply be given formal notification of the postponement, he was told the case was proceeding.

The court record shows he was not asked whether he wanted legal representation and at the end of the trial, in which he conducted his own defence, he was convicted.

When Zikali next appeared, this time for sentencing, his lawyer was present and informed the court that the case would be taken on review as Zikali believed the trial should not have gone ahead.

The case was postponed for two months for sentence, but once again the lawyer was unable to be present on the set date and phoned the prosecutor to arrange another date.

When Zikali appeared on the original date, expecting the matter to be formally postponed, there was a repeat of his earlier problem.

Once more the magistrate went ahead with proceedings and Zikali had to argue on his own behalf on mitigation and a suitable sentence. He was fined R150 or 50 days suspended for five years.

With the sponsorship of Lawyers for Human Rights, Zikali appealed against his conviction and sentence.

He argued both were irregular because the prosecuting staff failed to keep their side of agreements they had made with Zikali's lawyers

He also challenged the fact that when he was tried, the magistrate did not ask whether he had legal representation. And on the day he was sentenced, the magistrate went ahead with the matter even though he knew Zikali had legal representation but his counsel was not in court.

Zikali's appeal was heard last week by two Natal Supreme Court judges. They overturned the conviction and sentence, remarking that it was a fundamental right established through a long series of cases for an accused to have representation.

Lawyers commented that the case was not an isolated example, and that it was "still happening every day".

2 in court on terror charges

SAHC 2017/789.

331 By Celeste Louw

Two former trade union organisers appeared in the Johannesburg Regional Court yesterday on charges of terrorism and being ANC members.

Mr Gerald Nyembe (32), a former organiser of the Paper and Printing Allied Workers Union (Pawu), and Miss Lucienne Abrahms (28), a former organiser of the Media Workers' Association of South Africa (Mwasa), have pleaded not guilty.

The charge sheet says they left South Africa in 1986 and joined the ANC for military training.

It was also claimed they underwent military training with the ANC in Angola.

The hearing continues.

9/E

'Organiser stayed mum'

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Sowetan 24/7/89

By MANDLA NDLAZI

A FORMER organiser of the Media Workers Association of South Africa (Mwasa) refused to answer police who questioned her for six hours during interrogation, a Johannesburg regional court magistrate was told yesterday.

This was said by Detective Warrant Officer AJ Steenkamp of the security police in Cape Town.

He was giving evidence at a trial of Mr Gerald Nyembe (32) and Ms Lucienna Anna Abrahams (28) charged with terrorism and alternative charge of being members of the banned ANC.

Nyembe an official of the Paper, Printing and Allied Workers Union and Abrahams, former organiser of Mwasa have pleaded not guilty and are represented by Mr S L Joseph.

Steenkamp told the court that Abrahams was arrested on November 29 last year.

He said he questioned her from 10am until 3pm, but she refused to answer the questions.

She was then taken from his office and sent back to the cells.

He said he saw her again on December 8. On that day, he said, she was shown her husband's signature on some paper.

The indication was that her husband had admitted allegations against him. Steenkamp said Abrahams wept, became emotional and requested to be left alone.

He said she was then taken to a small office. He said Abrahams was in the office for half an hour and later she answered every question that was put to her.

Steenkamp denied that he was assaulted or forced to make a statement.

He said she was Nyembe's wife.

(Proceeding)

11 years' jail for PAC commander

Star 21/7/89 (331)

PIETERSBURG — A Pan Africanist Congress member found guilty on charges of terrorism was sentenced yesterday in the Pietersburg Regional Court to 11 years' imprisonment.

Abram Magagula (31), of Everton near Vereeniging, was convicted of terrorism, possession of weapons, ammunition, and hand grenades, and of being a member of the PAC. The magistrate, Mr G J J van de Venter, acquitted Magagula on a charge of entering the country illegally.

The court found that Magagula was a deputy commander of PAC's military wing, the Azania People's Liberation Army, and that he had trained in Tanzania and Libya. — Northern Transvaal Bureau.

been so close to me. I've lost a brother.

"He was very bright, very golden era of black journalism alongside Henry Nxumalo, Professor E'skia shua Motjuwadi (99), a brother and three sisters.

'Nightmare mission that went wrong'

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Own Correspondent

CAPE TOWN — Suspected African National Congress member Ashley Kriel died as a consequence of an unlawful act by security policeman Warrant Officer Jeff Benzien, a Wynberg inquest court heard yesterday.

A finding to this effect was urged by counsel for Mr Kriel's family. A finding will be made today.

Warrant Officer Benzien of the Terrorist Detection Unit admitted killing Mr Kriel during a skirmish in Athlone in July 1987.

Mr Jeremy Gauntlett, SC, for the Kriel family, said Warrant Officer Benzien and Sergeant Anthony Abels' "scouting" operation into Athlone, where they attempted to find Mr Kriel, was "manifestly ill-conceived". There was no radio, no immediate back-up, no firearm readily to hand and no plan of what to do if Mr Kriel was found.

"These factors paved the way for a loss of control by Benzien of the situation."

Mr Gauntlett said both policemen were unable to offer any direct evidence as to how the gun went off.

"Warrant Officer Benzien took a decision to pull that trigger to curtail a mission which was a nightmare and had gone wrong."

Mr P de Bruyn, for the Minister of Law and Order, said Warrant Officer Benzien's version of the shooting should be accepted.

"It was a mere accident, without any unlawfulness on the part of anyone."

UCT law student jailed for terrorism

Argus 24/7/89 331

Staff Reporter

A UCT law student and former teacher who had political and military training at an ANC camp in Angola has been sentenced to 2½ years' imprisonment.

Molliat Mziwoxolo Mfeketo, 33, of Southern Wood, Umtata, pleaded guilty in Cape Town Regional Court to a charge of terrorism. He was sentenced to five years, with 2½ years suspended for five years.

He admitted that in 1986 he travelled to Angola for political training and "minimal military training". He spent a week in Angola and had intended to promote constitutional, political, industrial or economic change in South Africa.

He returned to teach in Ciskei and did not take part in political acts.

Co-accused Xolile "Sto" Jaxa, 26, of Guguletu, was sentenced to 18 months for possessing a publication of a banned organisation. Nine months was suspended for five years.

The magistrate, Mr D J Huggett, said Mfeketo was not a criminal and was hard-working.

"You have proved you can prosper in poor circumstances. You have a degree and you were studying law at UCT.

"But anyone who joins the ANC won't slip away easily. The court cannot allow people to go outside the country to have military training and then return to disobey the law of the country," he said.

The court took into account the long time the men spent in jail and that Jaxa was having pyschiatric treatment because of his detention.

Miss A A Peckham appeared for the State and Mr Dullah Omar for the accused.

Twelve on trial in Delmas III

By PHIL MOLEFE

THE remote Eastern Transvaal town of Delmas is becoming a centre of big political trials. What is expected to be called "Delmas Three" is set down for August 1 in the Delmas Circuit Court.

On trial are 12 Pretoria activists facing charges of treason, murder, attempted murder, terrorism, participating in the activities of the African National Congress and alternative charges under the Arms and Ammunition Act.

Charges relate to a series of hand grenade attacks and explosions in Mamelodi and Pretoria in early 1988.

The 12 — Moeketsi Rodney Toka, Godfrey Velaphi Mokupe, Francis Pitse, Ernest Thoboki Ramadipe, George Mathe, Johannes Maleka, Peter Holmes Maluleka, Phuthi Bernard Mokgonyana, Joseph Nkosi, Thapelo Reuben Khotsa, Reginald Noah Legodi and Alfred James Kgasi — allegedly received training from the ANC either inside or outside South Africa.

Among the 12 are members of the Mamelodi Civic Association, Mamelodi Youth Organisation, Saulsville/Atteridgeville Youth Organisation (Sayo) and Ga-Rankuwa Youth Organisation (Gayo).

The state alleges that during early 1988 the 12, or some of them, were involved in a shoot-out with police in Mamelodi in which three policemen were killed.

Other charges relate to an explosion in Sterland, a cinema complex, and near a Juicy Lucy in Pretoria.

Families and community organisations in Pretoria have expressed anger at the switching of the trial to Delmas, saying the move will cause great inconvenience to those wishing to attend.

The president of the National Association of Democratic Lawyers, Mathole Motshekga, urged the authorities to transfer the trial to Pretoria.

331 Sowetan 21-27/7/89

Britain.

Cape Times 22/7/89

Sowetan faces court case

331

JOHANNESBURG. — The editor of the Sowetan, Mr Aggrey Zola Klaaste, and the newspaper's owners, the Argus Printing and Publishing Company, are to face charges of unlawfully publishing or disseminating a speech by African National Congress activist and listed person Mr Harry Gwala in December 1988.

Mr Klaaste and the Argus Company are to appear in Johannesburg Magistrate's Court on August 9.

The editors of the Sunday Times, Weekly Mail and New Nation, and the owners of these publications, have received similar summonses. — Sapa

Political comment in this issue by J C Viviers, G Q Kling, G E Shaw, J V Scott, A Johnson and B Streek. Headlines and sub-editing by A Henderson and D Moyle, all of Newspaper House, 122 St George's Street, Cape Town.

Journalist faces terrorism charges

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CAPE TIMES 22/7/89

Court Reporter

GRASSROOTS journalist Miss Veliswa Mhlawuli appeared briefly in Cape Town Regional Court yesterday in connection with terrorism charges.

Miss Mhlawuli, 36, and her co-accused Miss Linda Tsotsi, 32, were not asked to plead and the trial was postponed to October 9.

The charge sheet indicates that Miss Mhlawuli, a mother of two, faces six counts of terrorism in terms of the Internal Security Act, while Miss Tsotsi faces one charge of terrorism.

Miss Tsotsi is in custody. Miss Mhlawuli's R2 500 bail was extended.

Mr A L Laubscher was the magistrate. Mr I Yuill prosecuted. Mr E Mohammad appeared for the accused.

New Crossroads man on limpet mine charge

By VUYO BAVUMA
Staff Reporter

A MAN who was arrested for allegedly carrying a limpet mine in Old Crossroads, while Cabinet Minister Mr Adriaan Vlok was opening a police station, appeared briefly in the Cape Town Regional Court today.

Mr Robert Nana Maliti, 23, of New Crossroads was not asked to plead.

The State alleged that Mr Maliti was carrying a limpet mine in a plastic bag 150 metres from where Mr Vlok was opening a police station on October 22 last year.

Shortly after his arrest Mr Maliti had surgery at Groote Schuur for a brain haemorrhage.

The charge indicates that he will be charged with terrorism, alternatively possesing an SMP limpet mine.

Mr Maliti also faces a charge of possesing a copy of Umsebenzi, a publication of a banned organisation.

The hearing was adjourned until Wednesday. Mr Maliti's bail of R5 000 was extended.

The magistrate was Mr F F Botes. Advocate J K Rossouw appeared for the State. Miss Christine Burger, instructed by Essa Moossa and Associate appeared for Mr Maliti.

Mandela: Editor charged

Cape Times 24/7/89 (BR) (BA) 331

Staff Reporter

AN Oudtshoorn community newspaper has been charged under the Prisons Act for publishing a photograph of Mr Nelson Mandela last year.

Saamstaan's editor Mr Derek Jackson has to appear in Oudtshoorn Magistrate's Court on September 20.

Most major English newspapers and some Afrikaans papers published photographs of Mr Mandela after his meeting with President P W Botha on July 5.

A spokesman for Saamstaan said the summons stated that the publishing of the photograph in the December issue was done without the permission of the SA Prison Services.

Southern African Society of Journalists (SASJ) president Mr Bob Kernohan yesterday said it was disturbing that so long after the event Saamstaan was singled out to be charged with the offence.

KILLINGS - COP QUIZZED

331

COUNSEL for families of victims of the 1985 Mamelodi shootings yesterday told a policeman who has admitted shooting and killing people that he was giving conflicting evidence.

5Mr Morris Basslian was cross examining Captain Harmanus Arnoldus le Roux at an inquest into

By ALINAH DUBE

the death of Mamelodi residents on November 21, 1985.

The hearing resumed yesterday before Mr J P Pretorius after an adjournment for three weeks.

Basslian said the policeman's testimony was in conflict with that of a cameraman who filmed the areas Le Roux had pointed out to him after he shot at people that day.

Evidence

He told the court that the photographer's evidence was that a blood-stained portion of land appearing on the video film before court was identified by the policeman. The area is situated not far from house 755 C, Mamelodi West.

Basslian referred to the evidence after Le Roux denied having been responsible for a shooting incident at the area. The policeman had said he did not know why the photographer chose to focus on the area appearing on the video film while he had shown him house number 780 C as the scene of the shooting.

"I stated clearly in the tape that I shot and killed the man near house number 780 C. The man was attacking a casspir and it is my strong contention that I cannot be held responsible for his death," he said.

The policeman denied that all the places he pointed out in the video tape were identified by him.

The court was adjourned to enable the defence to point out the conflicting evidence of the policeman and the photographer.

(Proceeding)

Firing squad

KAMPALA - Some Ugandan army officers may face the firing squad for letting 47 teenage prisoners suffocate in an abandoned train, army commander Major-General Salim Saleh, said.

"Someone will have to die for this," he was quoted.

Bombs explode

THREE bombs exploded near Cape Town courthouses, killing two men. Police say they may be the first shots in a black nationalist campaign against September general elections.

Teacher not paid

By PHANGISILE MTSHALI

A VOSLOORUS school teacher was forced to resort to begging because the Department of Education and Training has not paid her since January.

Miss Nomi Editl Mdluli, a mother of three teenagers, said her salary was not renewed when she returned from study leave in January this year.

For five months she lived on her savings but when they ran out, she started begging.

East Rand region director for the DET, Mr H Booysen, said he has apologised to Mdluli for the inconvenience caused and has promised to rectify to the problem.

"The problem was due to submission of study leave forms and the entry into our computer. The matter is being settled to Mdluli's satisfaction."

THE UNIVERSAL

Police shot to kill terrorist

SOWETAN, Wednesday, July 26-1989

A POLICE captain told a Pretoria North inquest magistrate yesterday that although he was a poor shot, he made sure that each bullet he fired in Mamelodi killed a person.

By ALINAH DUBE

Captain Hermanus Arnoldus le Roux, who has admitted shooting and killing people in Mamelodi, said this under cross examination by Mr Morris Basslian, counsel for the families of the victims.

The inquest into the killing of Mamelodi residents on November 21, 1985 is being heard by Mr J P Pretorius.

Le Roux testified that he was standing on a casspir when he shot a demonstrator in the head.

He said he would have been killed by the mob should he have tried to alight from the vehicle before he fired.

"I was faced with an emergency. The mob was attacking the casspir and I had to shoot as a result," the policeman said.

He said not all people at the scene had attacked the army vehicle. He said the move appeared to have been "well organised."

He also told his colleague, a Sergeant Stroh to keep the mob away from the casspir. He could not remember if he had specifically told his colleague to use birdshot.

Stroh also fired at the people, he said.

Shortly after 10am, he said they received a message that policemen's houses were being attacked in the township. While continuing with their duties, Le Roux said he shot and killed a dog which had been set on him by an unknown woman.

(Proceeding)

Buthelezi responds

THE KwaZulu Chief Minister, Chief Mangosuthu Buthelezi, has responded to a statement by the senior prince, Mcwayizeni Zulu, in which the prince said he would take the Chief Minister to court in relation to the dispute within the Zulu Royal family.

In a statement, Buthelezi said Mcwayizeni could go ahead with the court action.

Man denies limpet mine charges

Court Reporter

MR Robert Maliti, charged with terrorism for allegedly carrying a limpet mine near a ceremony attended by the Minister of Law and Order, told a Cape Town Regional Court yesterday that he did not even know how a limpet mine worked.

Mr Maliti, 22, of New Crossroads, pleaded not guilty to terrorism, alternatively possessing an SPM limpet mine.

The state alleged that Mr Maliti, who was admitted to hospital for brain surgery hours after his arrest last October, was found carring a limpet mine in a plastic bag 150 metres from where Mr Adriaan Vlok was opening a police station in Old Crossroads.

Explaining his client's plea, Mr Seraj Desai said Mr Maliti denied that he was in possession of a limpet mine or that he had had training or any experience in operating one.

Mr Maliti also denied a further charge of possessing a banned publication, an SA Communist Party *Umsebenzi*.

"I admit that the publication appears to be published by an unlawful organisation, but I deny that it was found in my possession on the day of the indictment.

"If it was found at my house, then I do not know who might have placed it there as I had no knowlegde of its existence," Mr Maliti's statement read.

The hearing was postponed till October 11 for trial. Mr Maliti's bail of R5 000 was extended.

Mr F F Botes was the magistrate. Mr J K Rossouw prosecuted.

Sowetan 27/2/89

Terror trial ends

PORT ELIZABETH. — The terrorism trial of five Humansdorp activists ended this week after they changed their pleas to guilty.

Mzologi Wabani, 29, and Pumlani Nqgungwana, 28, were convicted on the main count of terrorism for receiving training outside SA.

Sungqile Hobongwana, 32, Mabelandile Stampo, 31, and Tambanga Puba, 32, were convicted for assisting and harbouring ANC members.

Wabani and Nqgungwana were sentenced to seven years each; Honbongwana and Stampo to three years each (with a year suspended); and Puba to three years (with all but six months of the sentence suspended). — PEN

Brain-op man on terror rap

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A NEW CROSSROADS man, allegedly arrested in possession of a limpet mine near a function attended by Minister of Law and Order Adriaan Vlok, has denied knowing how the limpet mine "functions".

Robert Nana Maliti, 22, pleaded not guilty to charges of terrorism, possessing a limpet mine, or of being in possessing of a publication of a banned organisation.

Maliti who underwent brain surgery shortly after being arrested in Crossroads on October 22 last year, is continuing with his action against the police claiming he had been assaulted.

South 27/7 - 2/8/89.

Out on bail of R5 000, Maliti this week made a brief appearance in the Cape Town Regional Court before the hearing was postponed to October 11.

In a statement handed to the court, Maliti denied that he had ever possessed the explosive device or that he was trained or experienced to use a limpet mine.

"I do not know how it functions. I would simply not know what to do with a limpet mine," he said.

Maliti was held for several months under Section 29 of the Internal Security Act before being charged and released.

Police forced me to confess, says accused

By Brendan Templeton

A woman charged with terrorism told a Johannesburg magistrate yesterday that while she was in solitary confinement a policeman threatened to kill her if she refused to sign a confession.

Mrs Lucienne Abrahams and her husband Mr Gerald Nyembe are accused of being members of and promoting the aims of the ANC, and of leaving and entering SA illegally to undergo military training in Angola. Mr Nyembe is also accused of illegally possessing a Makarov pistol and its ammunition.

They pleaded not guilty to the charges.

Mrs Abrahams said she was detained last year and was told by the police they would allow her out of solitary confinement only if she agreed to make a confession.

Her advocate, Mr S L Joseph, claimed her alleged confession had been obtained under duress and should not be considered reliable evidence.

But police witnesses told the court in earlier evidence that Mrs Abrahams had been put in solitary to prevent her passing sensitive information on to other prisoners.

Mrs Abrahams described to the court how a Warrent-Officer Benzine burst into a room while she was being interrogated and said to the other policemen: "Finish with her. Leave her to me. I'll kill her."

AFRAID

He accused her of planting bombs in Cape Town and left the room.

Another officer then said: "We've been patient with you so far, but Benzine would not be so patient," she claimed.

Mrs Abrahams said she had agreed to sign the confession because she feared she would be killed; she was afraid of staying in solitary indefinitely; the police had promised her she would be allowed to see her husband; she would have access to the courts.

Prosecutor Mr F. van Staden asked her why she was willing to make a statement, as it could possibly incriminate her.

She replied that there was protection in the courts.

The hearing continues.

Couple in court on terror charges

331

A Krugersdorp couple appeared briefly in the Johannesburg Magistrate's Court yesterday on charges of terrorism and of illegally being in possession of four limpet mines and ammunition.

Mr Simon Moagale (39) pleaded not guilty to the charges.

His wife Mrs Helen Mogale (20) will plead on August 1 when the case resumes. — Staff Reporter.

Transport union members charged

PIETERSBURG — Two members of the Transport and Allied Workers' Union appeared in the Pietersburg Magistrate's Court yesterday.

Mr Abram Malatji (40) and Mr Daniel Sekele (39) pleaded not guilty to a charge of instigating and participating in an unlawful strike at Lebowa Transport in 1987.

The case was postponed until December 4.

The two allegedly participated in a strike where workers demanded wage increases and the reinstatement of nine co-workers who were fired. — Sapa.

Evidence is questioned

Sowetan 27/7/89

By ALINAH DUBE

A PRETORIA North inquest court magistrate yesterday heard of discrepancies found in statements made by members of a police squad after the Mamelodi mass shootings of 1985.

The discrepancies were pointed out to court by Mr Morris Basslian, counsel for the families of the victims. He did this while cross examining Captain Hermanus Arnoldus le Roux, before Mr J P Pretorius.

Le Roux has admitted shooting and killing two Mamelodi residents on November 21, 1985. He said his intention was to eliminate people he considered to have been leaders at the scene of unrest.

Testify

Basslian said it was of utmost importance that Warrant Officer Muller be called to testify before the inquest as a result of the discrepancies in his statement and that of Le Roux. He said although the two policemen had been together at "this crucial time," the statements differed in logic and sequence.

Quoting excerpts from Muller's statement, Basslian said the policeman admitted having fired teargas at a crowd in Makhusela Street in Mamelodi on that day. This, he said, was denied by Le Roux who said no teargas was fired while they were together.

Le Roux's evidence also differed with that of his colleague when he said Muller was struck with an object on the forehead. According to him, the impact was very hard and had caused his colleague to fall.

But in his statement, Muller said the object only struck the helmet he wore on his head. He said he went to sit down after the incident.

'Unions prefer outdated system'

Sowetan 27/7/89

SOUTH African trade unions prefer the very system from which the Soviet Union is trying to free itself, senior general manager, external relations of the Chamber of Mines, Mr Johan Liebenberg, said in Johannesburg yesterday.

He was addressing a function hosted by the SABC.

He said: "The irony is that quite a number of the major, newer unions are now fostering socialism but can only fulfill their role in a free market economy.

"From Zimbabwe and Mocambique, to China and the Soviet Union, the socialist promise has failed to materialise. The vigour of the free market is now being sought by all these countries to resuscitate seriously failing economies," he said.

(33)

No wedding cake for Mandla

YOUNG Mandla Nyamza, above, has been denied what should have been one of the happiest days of his life.

Mandla's parents, Tony Yengeni and Lumka Nyamza, are both on trial for terrorism in the Cape Town Supreme Court.

They were due to get married on Thursday and had applied for permission from the South African Police for five-year-old Mandla to attend the wedding.

Hour-long reception

But the bouncy youngster was refused permission to attend both the hour-long ceremony and the reception.

The couple's lawyer, Mr Mike Evans, said the police would allow only Yengeni's father and Nyamza's mother to attend the ceremony.

Evans said police had also refused to allow relatives who had travelled to Cape Town from the Eastern Cape to attend the reception.

A lawyer is the only additional person who will be allowed to attend the 40-minute celebration.

Further representations were made to the Prisons Service but at the time of going to press no response had been received.

Sowetan 27/7 - 2/8/85

Today's Kriel verdict turns upon a single bullet

The months-long inquest in the fatal shooting of ANC guerrilla Ashley Kriel ends today, with a verdict that will decide the legality of a single gun-shot. GAYE DAVIS reports

THE security policeman whose finger was on the trigger of the gun which fatally wounded African National Congress guerrilla Ashley Kriel acted unlawfully, it was argued this week in the Wynberg Magistrate's Court.

Jeremy Gauntlett, counsel for Kriel's family, said it was the duty of the magistrate presiding over the inquest hearing into Kriel's death on July 9 1987, to return a finding that his death was the result of an unlawful act by Warrant Officer Jeff Benzien.

Benzien, who had admitted his finger was on the trigger when the shot was fired at close range, had himself rejected the generally accepted defences: that he fired in self-defence, to prevent Kriel escaping or to effect his arrest.

Earlier evidence was that Benzien and a colleague, Sergeant Abels, were sent to a house in Hazendal, Athlone, to verify information that Kriel was hiding there. Wearing overalls, they posed as council employees inspecting drains.

Gauntlett described the police operation as "manifestly ill-conceived".

"It was planned as a 'scouting operation', yet there was no radio, no immediate back-up, no firearm readily to hand and no plan as what to do if Kriel was found.

"These factors paved the way for a loss of control by Benzien of the whole situation, and a decision to resort to a desperate measure."

Neither Benzien nor Abels could offer any direct evidence as to how the firearm went off and the evidence of both was to be "approached with caution", Gauntlett said.

"Not only was Abels provided with Benzien's affidavit, and able to 'memorise' it, but Benzien and Abels consulted together with their legal representatives at the scene and were able to see what each other pointed out."

Benzien's evidence was unsatisfactory, Gauntlett said.

Evidence was that on the wall of his office was a Cape Youth Congress poster bearing Kriel's photograph and the legend: "Victory or death, freedom is certain." Under it Benzien had scrawled on it the words: "Not for you ..."

Gauntlett said Benzien's suggestion that this behaviour was consistent with that of a normal police professional was "hardly credible".

Benzien also made an "extremely significant slip" when, in explaining the poster, he drew the analogy of a pilot shooting down an enemy plane and notching up his score.

This was not the behaviour of a policeman who had found himself involved in a shooting accident, Gauntlett said.

Had the shooting been an accident Benzien could simply have said so, but he had only belatedly conceded it might have been accidental.

When the shot went off, Kriel was no longer struggling to escape the two policemen. Slightly built, he was bent over under the weight of Benzien on his back, while Abels was helping to force him down.

The shooting was deliberaté, "to curtail an operation which was a nightmare from the beginning", Gauntlett said.

Forensic evidence led could not prove whether or not the shooting was lawful — just that the gun was either jammed in Kriel's back or extremely close to it when the shot was fired.

There was no evidence of the firearm catching on anything or of Benzien's trigger finger being jolted, and neither Benzien nor Abels could give direct evidence on this.

Accordingly, the shooting had not been shown to be lawful and it was the duty of the inquiry to return a finding that Kriel's death was the result of an unlawful act by Benzien.

Benzien's counsel, P de Bruyn, said the security policeman's evidence should be accepted.

It was notable that he had been thoroughly cross-examined on a struggle which lasted only a few seconds and happened years ago. The only criticism of his evidence was his behaviour afterwards.

De Bruyn agreed that statements by Benzien and Abels were open to criticism because of their similarities.

Referring to the poster on Benzien's office wall, he said what was written on it was an indication of Benzien's emotional state at the time he put it up — and not of his emotional state during the struggle with Kriel.

A finding is expected today.

Star 28/7/89 (331)

Security law's aim is to 'force confessions'

By Brendan Templeton

Confessions made by prisoners held under Section 29 of the Internal Security Act were usually forced out of them and should not be used in a court of law, a Johannesburg magistrate was told yesterday.

In the terrorism trial of a married couple, Mr Gerald Nyembe (32) and Mrs Lucienne Abrahams (28), advocate Mr S L Joseph said it was the intention of the Act that people be forced to make confessions while in detention.

This did not mean courts had to consider confessions gained under what would normally be illegal circumstances, even when made before a magistrate, he said.

The State claims confessions made by the two before magistrates, saying they were members of the African National Congress, show they are guilty of terrorism.

Mr Nyembe and Mrs Abrahams said they were told by police they would be kept in solitary confinement until they gave "satifactory" answers to police questions.

THREATENED

Mrs Abrahams said she was threatened with death by one policeman. Mr Nyembe said he was assaulted by Bophuthatswana police before being handed over to SA Police. He was also told he would be held in detention until he had answered "satisfactorily".

But prosecutor Mr P T van Staden said the two were only in solitary confinement for a matter of days, which was not enough time to "crack". When people spoke of cracking under solitary confinement, they usually spoke in terms of months, he said.

Mrs Abrahams was an intelligent woman who realised she could be incriminated by the evidence she had given. It made nonsense of her claim that she thought she was only making a statement concerning her husband.

Mr Joseph argued that a person only made a voluntary statement incriminating himself when overcome by remorse. This was not applicable if one seriously considered the charge that Mr Nyembe was a hardened terrorist.

Why else would a trained terrorist suddenly turn around and give his whole story to the police if not under duress, he asked.

The case continues today.

Break-up 'affected accused'

331

Court Reporter Cape Times 11/8/89

A BONTEHEUWEL man, convicted of public violence for setting fire to a policeman's home and a newspaper truck in 1987, had been severely affected by the loss of his father, a Cape Town Regional Court heard yesterday.

This was said by attorney Mr K Armien before the sentencing of John de Vos, 20, who had pleaded not guilty.

"Evidence shows that John was a willing, obedient and exemplary pupil at school until his father walked out on his mother and he consequently dropped out of school," Mr Armien said.

Sentence will be passed today.

ugust 1 1989

331 Star 1/8/89.

Appeals against far-off venue fail

12 to face treason charge in Delmas

By Mckeed Kotlolo,
Pretoria Bureau

The trial of 12 alleged members of the banned African National Congress (ANC) charged with high treason, murder and attempted murder, starts in Delmas today despite appeals from civic organisations and relatives to hold it in Pretoria.

The office of the Attorney General has confirmed that the trial of Godfrey Velaphi Mokube (41), Francis Pitsi (24), George Mathe (21), Ernest Thoboki Ramadite (24), Johannes Maleka (25), Peter Maluleka (34), Bernard Mokgonyana (26), Joseph Nkosi (39), Reuben Thapelo Khotsa (23), Reginald Noah Legodi (22), Alfred James Kgasi (25) and Moeketsi Rodney Toka (25) is in Delmas.

They are facing a charge of high treason, seven alternative counts of terrorism, four counts of murder, six counts of attempted murder and 11 counts of damage to property.

The State alleges the 12 murdered three policemen in Atteridgeville on March 18 last year and a year-old Patience Kulele in Mamelodi on May 10 last year.

The policemen were Bernard Mope, Nelson Phenyane and Andrew Mphahlele.

The 12 are also alleged to have attempted to murder Mathilda Eleonora Venter in Pretoria on May 26 last year; Rose-Mary Muzwayine and Annanius Nkoana in Atteridgeville on March 18 1988, and Elke Martha Hansen, Anna Maria Prinsloo and Sussana Maria Kruger in Pretoria on May 26 1988.

The unsuccessful appeals by civic organisations and relatives for the trial to be held in Pretoria were made on the grounds that the accused are all from Pretoria and the crimes they are alleged to have committed occurred in Pretoria.

Relatives said the authorities were trying to frustrate them so that they did not attend the trial.

They said the authorities were aware that it would be difficult for them to afford the daily fare between Pretoria and Delmas.

R20 000 payroll, police said.

CM Times 2/8/89

Delmas trial postponed

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DELMAS. — The trial of 12 alleged members of the ANC, whose charges include last year's bomb attack on the Sterland cinema complex in Pretoria, has been postponed till August 9 by a special sitting of the Supreme Court, Pretoria, at Delmas.

CM Times 2/8/89

Joshua Doore strike ends

JOHANNESBURG. — The five-week-long strike by hundreds of Joshua Doore workers at stores owned by the group has ended.

Mr Dullah Omar

Lawyer's illness stalls Bongani inquiry

Cnt. Tim H 2/8/89 331

Supreme Court Reporter

THE illness of advocate Mr Dullah Omar yesterday led to the postponement of the inquiry into the refusal of Mr Bongani Jonas to give evidence for the State in the terrorism trial of Mr Tony Yengeni and 13 others.

Mr D Jacobs, for Mr Jonas, said Mr Omar has had a heart attack and was indisposed. He would need three weeks to convalesce, Mr Jacobs said.

Mr Justice S Selikowitz, said the court expressed the wish that Mr Omar would have a speedy and complete recovery: "I was considerably distressed when I read in a newspaper that Mr Omar had a heart attack and the court and assessors wish him well".

The trial inquiry was adjourned to September 4 while the "main trial" will proceed on Thursday.

The accused are: Mr Yengeni, Ms Jennifer Schreiner, Ms Lumka Nyamza, Mr Michael Lumbambo, Mr Richmond 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 Mike Donen assisted by Mr Pius Langa and Mr Johnny de Lange and instructed by Mallinick, Ress, Richman and Closenberg Inc; Essa Moosa and Associates; R Vassen and Co and Enver Daniels and Co. Mr Hendrik Klem SC, with Mr Jannie van Vuuren and Mrs Sandra Swart, appeared for the State.

DELMAS TRIAL DATE

THE treason trial of 12 suspected members of the African National Congress was postponed to August 9 when they appeared in the Delmas Circuit Court yesterday.

Friends and relatives of the accused men came in droves from Pretoria and elsewhere to attend the trial. 331

Tight security was evident in and outside the court room.

During brief adjournments before Mr Justice W J van der Merwe and his two assesors could take their seats, shouts of "Viva Mkhonto we Sizwe" and "Viva the South African Communist Party," were heard from the coutroom.

The accused are: Mr Godfrey Mokube (41), of Bloemfontein; Mr Francis Pitse (24), Mr Ernest Ramadite (24), Mr George Mathe (21), and Mr Johannes Maleka (25), all of Atteridgeville near Pretoria.

The others from Mamelodi near Pretoria are: Mr Peter Maluleka (34), Mr Phuti Mokgonyana (26), Mr Joseph Nkosi (39), Mr Thapelo Khotsa (23), Mr Reginald Legodi (22), Mr Alfred Kgasi (25) and Mr Moeketsi Toka (25).

They are facing a main charge of high treason, four counts of murder, six of attempted murder, seven alternative counts of terrorism and six counts of damage to property.

Sowetan 2/8/89

Defence team applies for security of almost R1-m

'Trojan' prosecution in jeopardy

Own Correspondent

CAPE TOWN — The defence request for security of almost R1 million in the "Trojan Horse" murder trial in the Supreme Court could effectively halt the prosecution, the court has heard.

Twelve policemen and an SADF officer are facing charges of murder arising from the death of three youths in Athlone in 1985.

The security officers allegedly planned and executed an operation in which eight policemen were hidden in crates on the back of an SA Transport Services truck which was driven through unrest-hit areas in October 1985.

When the truck was stoned, the men opened fire, killing Michael Miranda (11), Shaun Magmoed (16) and Jonathan Claasens (21).

At an inquest last year the magistrate found that a police lieutenant and his task force were guilty of negligence and caused the death of the three. However, the Attorney-General refused to prosecute and yesterday's private prosecution — the first of its kind in South African legal history — was launched.

The private prosecutors are Mrs Georgina Williams, the mother of Michael Miranda, and Mr Martin Magmoed, Shaun's father.

The hearing opened with argument before Mr Justice D M Williamson on the amount of security which should be fixed in the event of the defendants' acquittal.

State paying costs

Mr P de Bruyn, SC, argued on behalf of all the defendants that the security should cover all the costs of their defence — R945 000. The security set by a Wynberg magistrate last month of R10 000 was totally inadequate.

"The accused did not place themselves here (in court), they were brought here by the private prosecutors who should face the consequences of their actions."

Mr de Bruyn said the trial would last longer than the 20 days expected by the private prosecutors and that six counsel had been appointed by the 13 accused.

Mr J Browde, SC, for the prosecution, said it was "extraordinary" that although the men had been charged in their personal capacities, the State was paying their costs.

He said the application for more security was a "combined effort" to stifle the proceedings. The prosecutors had no means of paying almost R1 million as they were supported by public-interest funding. "If the order is granted it will not only abort the prosecution but establish a precedent where only the rich could become public prosecutors."

The accused are Colonel P Janse van Rensburg, Major Christiaan Loedolf and Commandant S Pienaar — who planned the operation — and Lieutenant Douw Vermeulen, Sergeant F van Niekerk, Sergeant J J Burger, Constable W Puchert, Constable P M du Toit, Constable A J Smit, Sergeant J Sayer, W/O A Swart, Constable A J Rossel and Sergeant A M Smit.

The hearing continues today.

Making South African legal history . . . members of the families bringing the prosecution: Mrs Georgina Williams (left); Mr Theo Williams; Mr Martin Nagmoed and Mrs Williams' sister, Mrs A du Toit.

British govt asks cricket rebels to r

● From Page 1

would last only half as long as the Caribbean tour, and said: "Obviously, I had to give the offer of a far shorter tour a lot of consideration. Ali Bacher phoned me from Johannesburg earlier yesterday and I told him I'd do the job."

● The decision by the 16 was condemnded as "an act of treachery" by Commonwealth Secretary-General Sir Shridath Ramphal.

"By becoming pawns in the hands of the South African Cricket Union the rebel group are lending support

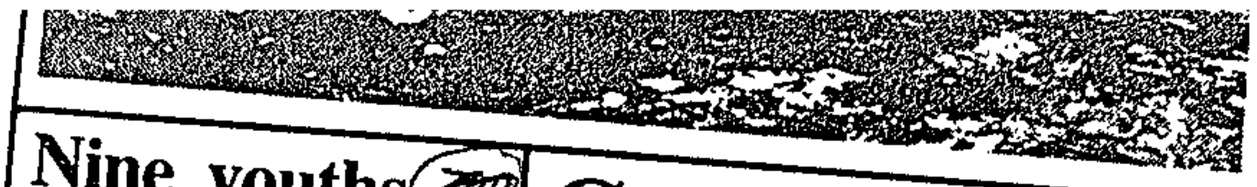
He said the South African tour to South Africa's efforts to destabilise international cricket."

● Sanroc's Sam Ramsamy has bitterly attacked the decision.

Speaking on BBC 2, he said it was difficult to predict the repercussions, but many black countries were seeking ways of excluding Britain from the Commonwealth Games.

"These particular people should be sanctioned for whatever they are doing, and what I'd like make very clear is that this is a political exercise, not a sporting exercise. These particular players have been invited to South Africa ... to give the South African Government political respectability internationally. The South African Government is deeply involved in this tour."

Referring to the England players who coached black youngsters in the townships, he said: "We don't know if this is a good thing." He claimed the South African Government's motives were "very sinister" adding: "They are not doing this from the bottom of their hearts to improve the cricket of blacks in South Africa."



the bitumen caught alight. No one was injured.

Nine youths were detained

JOHANNESBURG. — Nine youths aged between 14 and 17 were detained under emergency regulations between June and July this year, the Human Rights Commission said yesterday.

The youths, all of Durban, were held between June 20 and July 26.

In a statement issued yesterday, the commission condemned their continued detention and demanded that they be freed unconditionally.

The commission said that 57 other people were still in detention. — Sapa

Cape man jailed for acts of public violence

Court Reporter

A BONTEHEUWEL man was sentenced in Cape Town Regional Court yesterday to an effective five years' imprisonment for petrol-bombing a policeman's home and setting a newspaper truck alight two years ago.

John de Vos, 20, of Privaat Street, Bonteheuwel, had pleaded not guilty to both counts of public violence committed in Bonteheuwel in August 1987.

He was sentenced to five years' imprisonment on each count, half suspended for five years.

De Vos, described by his attorney Mr Kadar Amien as "an immature 18-year-old who was severely affected by the loss of his father at the time", was convicted for setting fire to an Allied Publishing van outside the Protea Café and for taking part in an attack on a policeman's house. After hearing the sentence, Mr Amien said he had received instructions to appeal.

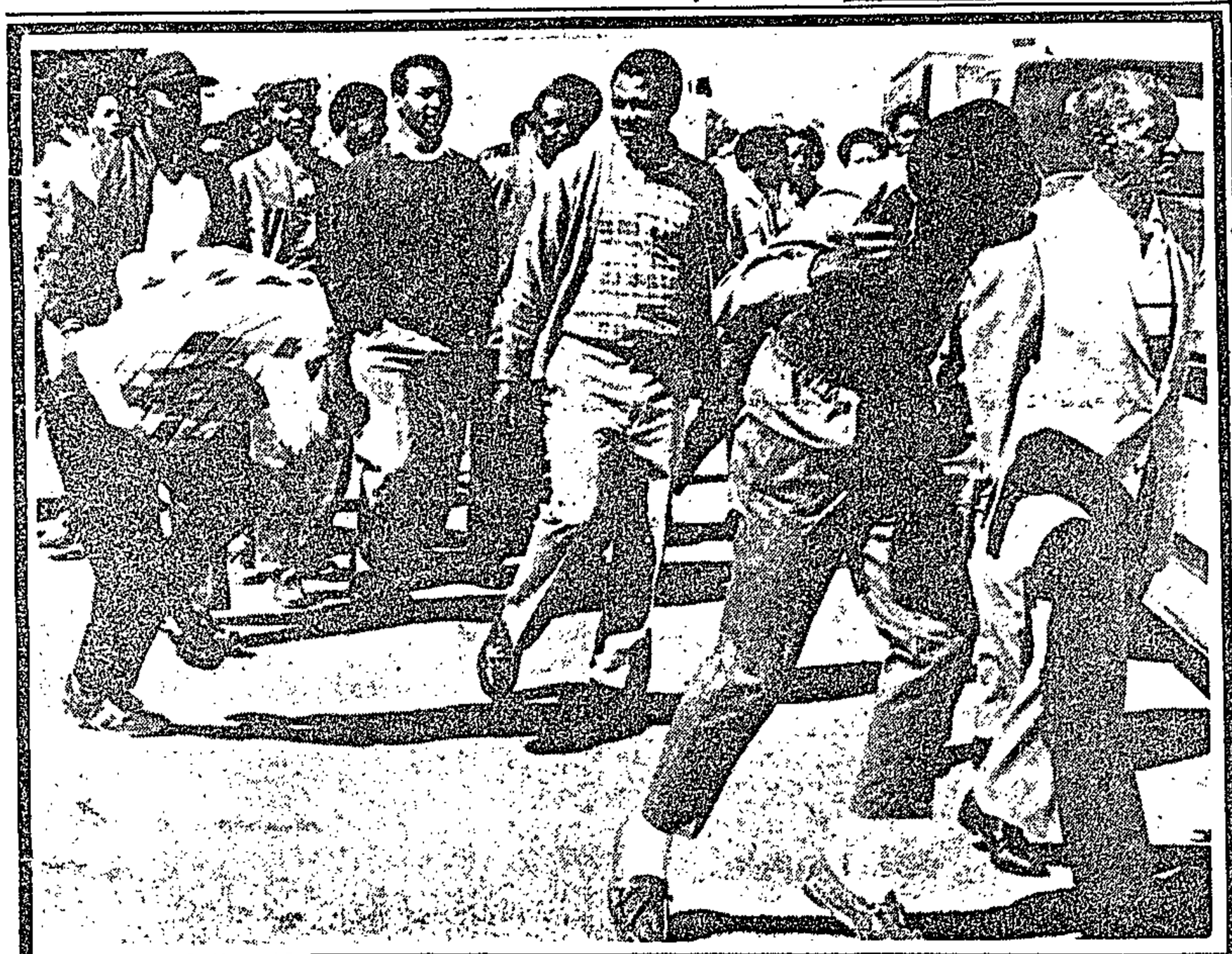
Mr J D Huggett was the magistrate, Mr D J Brand prosecuted.

conference on the Cape Flats.

today.

This is believed to be part of the

● To Page 2



Relatives of the 12 ANC accused who appeared in the Delmas Circuit Court were accompanied by groups of youths who did the "Toyi-toy" outside court yesterday. The grey haired man walking on the right is Mr Alfred Maluleka, father of accused Mr Peter Maluleka.

Apartheid summit

Sowetan 2/18/89

LEADING members of anti-apartheid organisations and trade unions are to attend a meeting of the Commonwealth Committee of Foreign Ministers on South Africa to be held in Canberra, Australia, starting on Saturday.

They include Mr Thabo Mbeki, ANC foreign affairs director; Mr Azhar Cachalia of the United Democratic Front; Mr Ahmed Gora Ebrahim of the Pan Africanist Congress; Father Smangaliso Mkhatshwa of the Kagiso Trust; Mr Abdul Samad Minty of World Campaign; Mr Moses Mayekiso of the National Union of Metalworkers of South Africa; and Dr Max Coleman of the Human Rights Committee of

● To Page 2

State alleges six 'necklaced' man

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AR648

3/8/89

By LINDA GALLOWAY
Supreme Court Reporter

SIX people have been charged in the Cape Town Supreme Court with the "necklace" murder of a Worcester man.

The court heard yesterday that an accused, Mr Philip Sibozo, had been "missing" for some time and charges against him were withdrawn.

The six pleaded not guilty to charges of murder and arson following the death of Mr Mpazamo Bethwell Mbani on October 13 1985.

They are Mr Amos Jantjies, Mr Nation March, Mr Mbuyiselo Kondile, Mr Archie Qomayi, Ms Eunice Hlazla and Ms Francina Lukaso.

In a summary of probable facts, the State alleged that the accused "and a big group of other people" marched to the house of Ms Martha Mooi in the Worcester township of Zwelethemba and set it alight.

Mr Mbani allegedly attempted to stop the group and was attacked, stoned, stabbed, shot and then set alight. All the accused allegedly "played an active role" in the attack.

In an explanation of plea, Mr Jantjies said he was at his home at the time of the alleged offence and had no personal knowledge of the attack on Mr Mbani.

Mr March told the court that he was ill in bed on the day of the killing, and had heard about it later that day "from kids in the neighbourhood".

Mr Kondile said he lived next door to Ms Mooi, and was at home on that day. He had heard noises, but did not see anything, and did "not associate myself in any way with any unlawful act".

Mr Qomayi told the court he had been visiting friends in Zwelethemba on October 13, and had "not witnessed the events which are the subject of charges against me".

Ms Hlazla said she was at home that day "recovering from the alcoholic liquor I consumed the previous evening" and she had no knowledge of the offence.

Ms Lukaso said she had been at home, and had seen smoke from the direction of Ms Mooi's home, but had not seen what was happening.

Mr Acting Justice Kuhn is on the Bench, with Mr H van Huyssteen and Mr V Vlok as assessors. Mr M Broeksma appears for the State. Mr S Desai and Mr S Majiet appear for the defence.

Agency.

2 cops shot dead

DURBAN. — Two off-duty policemen were killed yesterday in KwaMashu, north of here, police said. They were watching a schools soccer match when five men emerged from the crowd and shot them, police said.

Man gets 4 years

JOHANNESBURG. — A father of three, Simon George Mogale, 34, of Krugersdorp, was jailed for six years yesterday, four years effective, for hiding limpet mines in his shack.

UN: Mine-proof trucks

WINDHOEK. — A spokesman for Untag, Mr Fred Eckhard, has announced here that the United Nations General Assembly has approved the purchase of 20 Wolf turbo landmine-resistant vehicles at a cost of R5,7 million. Untag's police contingent has come under criticism because of its inability to monitor police action, due to insufficent landmine-resistant vehicles.

6 plead not guilty to arson, murder

Cnit Trials 3/8/87

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Supreme Court Reporter

SIX Zweletemba residents, who have been charged with arson and the murder of a man under the common-purpose doctrine, yesterday pleaded not guilty to the charge in the Supreme Court.

The state alleges that on October 13, 1985, Mr Philip Sibozo, Mr Amos Jantjies, Mr Nation March, Mr Mbuyiselo Kondile, Mr Archie Qomayi, Ms Eunice Hlazla, Ms Francina Lukaso and a large group of people went to the house of Mrs Martha Mooi to burn it down.

When Mr Mpazamo Bethwell Mbani tried to persuade the group to desist from the attack he was attacked, stoned and stabbed or hit with sharp objects. The state further alleges the group shot Mr Mbani and later doused him with petrol and set him alight.

The seven had played an active role in the attack and it was later established that Mr Mbani had died of a brain injury.

The charge against Mr Sibozo was withdrawn as he was missing.

Mr Jantjies claimed to be at home at the time and Mr March said he was ill in bed on the day.

The hearing continues today.

Mr Acting Justice G A Kühn presided. Mr Marius Broeksma appeared for the state. Mr S Desai and Mr S A Majiedt appeared for the accused.

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REPRESSION DOSSIER

Trials in W Cape

The following is a list of trials in the Western Cape for August:

Aug 1: Buyiswa Jack, Danisile Nokhantywa and Agnes Yoyo, terrorism, Wynberg regional court.

Aug 1: Christopher Toyise, harbouring a fugitive and possession of a firearm, Wynberg regional court.

Aug 1: Amos Dyantyi, Mbuyiselo Kondile, Nation March, P Sobozo and Eunice Hlahla, murder, Supreme Court, Cape Town.

Aug 1: Tony Yengeni and 13 others, terrorism, Supreme Court, Cape Town.

Aug 2: Anthony Madini, public violence, Athlone magistrates court.

Aug 4: M Arendse, public violence, Prince Albert magistrates court.

Aug 4: Mninawe Godongwana, possession of a firearm, Wynberg regional court.

Aug 7: Katherine Savage, Annalise Bosman, contravening emergency media regulations, Cape Town magistrates court.

Aug 7: Christina Tyulu, assisting a terrorist, Wynberg regional court.

Aug 7: Zanethemba Ronoti, Martinus Damons, Paulos Mahlaba, Elias Jack, Stan Smile, William Maphitsa, John Siko and Cedrick Koeberg, illegal gathering, George regional court

Aug 10: Mzonke "Whitey" Jacobs, contravening restriction order, Athlone magistrates court.

Aug 14: Johnny Issel, furthering the aims of the ANC, Goodwood magistrates court.

Aug 14: W Bona, public violence, Athlone magistrates court.

Aug 16: W Lumkwana, assault, Athlone magistrates court.

Aug 20: Derek Jackson, editor of Saamstaan, publishing a photograph of Nelson Mandela, Oudtshoorn magistrates court.

Aug 21: Don de la Harpe, furthering the aims of the ANC, Cape Town regional court.

Aug 22: Ethel Loza, Maureen Loza, Sindiswa Dlavu and Xolile Mini, harbouring a terrorist, Cape Town regional court.

Aug 23: A youth, public violence, Cape Town regional court.

Aug 24: Archibald Mbetshu, Velile Sethela and Noncedo Nyebetha, public violence, Athlone magistrates court.

Aug 24: SK Mathiso, murder, Athlone regional court.

Aug 24: Mangalise Dolosi, public violence, Athlone magistrates court.

Aug 24: Allie Parker, printing subversive literature, Parow regional court.

Aug 25: Maxwell Moss, Manfred van Rooyen, Johannes Strauss and Jonathan Barends, public violence, Vredenberg regional court.

Aug 28: Noel Williams, contravening restriction order, Cape Town regional court.

Aug 28: Rashid Seria, former SOUTH editor, contravening the emergency media regulations, Cape Town magistrates court.

Aug 28: V Helkiso, possession of banned literature, Beaufort West magistrates court.

Aug 28: Vuyo Fetsha, terrorism, Wynberg regional court.

Aug 30: Zamile Hleli, public violence, Athlone magistrates court.

Courts used to hamstring Press

THE spate of prosecutions of editors and publishers in terms of the media curbs in the emergency regulations is seen as a new tactic by the state to bludgeon the Press.

With the draconian and arbitrary banning of publications becoming a political liability, both internationally and locally, the state is now resorting to the courts to tie down editors and publishers in lengthy and costly court hearings.

A security policeman who recently informed SOUTH of an investigation into contraventions of the media curbs and a possible charge, confirmed that the instruction emanated from the media monitoring section of the Department of Home Affairs in Pretoria.

In recent weeks the police have visited the offices of Saamstaan in Oudtshoorn, the Natal Witness in Pietermaritzburg and The Star, Sowetan, Weekly Mail and Vrye Weekblad in Johannesburg.

Many of these publications, including SOUTH, have several investigations and possible prosecutions pending.

The trial of SOUTH's former editor, Rashid Seria, one of the first to appear in court in connection with publishing material which contravened the emergency regulations, will be heard on August 28.

The editors of Varsity have also appeared in court charged under the emergency regulations.

Recent state action against publications and journalists include:

- Last month three Weekly Mail journalists, co-editor Anton Harber, and former writers Jo-Ann Bekker and Franz Kruger, were summonsed to appear in court for publishing material related to emergency detainees.
- The editor of the Sowetan, Aggrey Klaaste, has been charged under the Internal Security Act for quoting a listed person.

Other actions by the state against publications include:

- The organiser of Saamstaan in Oudtshoorn, Mr Derek Jackson, has been summonsed to appear in court on September 20 in connection with a contravention of the Prisons Act by publishing a picture of Nelson Mandela.
- In June, 400 copies of Saamstaan were confiscated by the police in terms of the Criminal Procedures Act.
- Municipal police raided the homes of three members of the Democratic Party's black youth wing in Meloding near Virginia in the Free State on July 18 and confiscated copies of progressive newspapers.
- In a series of raids on publishers on July 4, the police searched the offices of Ravan Press, Work in progress (WIP), The Other Press Service (TOPS), Learn and Teach, AD Jonker, Skotaville Publishers and the Johannesburg office of David Philip. A book, documents, posters and photgraphs were seized.

ON TRIAL. Printer Mr Allie Parker, who faces charges under the media curbs

Families: Stop deathrow torment

FAMILY members of executed political prisoners have rallied in support of people on deathrow by submitting a petition to the State President calling for clemency and an end to capital punishment.

The petition was signed by about 30 family members.

The petition reads:

"We believe that our first-hand exposure to the terrible implications of judicial killing qualifies us to tell you of the horrors associated with it and to plead with you for clemency on behalf of those who are waiting to die.

"We have experienced first-hand the anguish, the torment, the sense of helplessness and the anger experienced while waiting for a loved one to die.

"We have all experienced the deep feelings of futility and anger when our husbands, brothers and sons have been hanged.

"With respect, Mr President, there is no justification for the cold-blooded and purposeless killing of another human being. The killing of our family members has not helped matters nor changed the situation in our country to a peaceful one.

"As numerous statistics have shown, their deaths have not prevented others from continuing with the pursuance of the ideals which they regard as noble.

"The spiral of violence in our society is gaining momentum and the hanging of more people only perpetuates that spiral.

"The killing of our family members has caused us immeasurable suffering and torment. The families of those who are still to die are being punished as brutally."

The petition points out that what seems today to be "just retribution" will be regarded by future generations as grievous crimes.

"More and more countries around the world are abolishing the death penalty and in South Africa it is particularly appropriate that this be done now to make sure of a less violent future for all.

"The solution to the problems that we face can only be found if the parties concerned, and you are one, show compassion for those who are at your mercy.

"We therefore call on you to grant clemency to those persons who are on deathrow and to end capital punishment."

Among those on deathrow for politically-related reasons are Robert McBride, Oupa Josias Mbonane, Sibusiso Senele Masuku, Patrick Manginda, Desmond Majola, Dickson Madikane, Abraham Zeyo, Rodney Boxer Moloi, Stanford Lebepe, Mangena Boesman, Msokoli Willie, Mhlawumbi Desemela, George Skosana, Jabu Masinga, Ting Ting Masango, Neo Potsane, Elliot Nkuna, Joseph Mahlalela, Mthetheleli Mncube, Mzondeleli Nondula, Kenneth P Khumalo, Eric T Gubula, David Lekhanyane, Zuko Zabendlini, Andrew Lekhanyane, Justice Bekebeke, Zonga Mokgatle, Myner G Bovu, Wellington Masiza, Booi Japhta, Evelina de Bruin, Gideon Madlogolwane, Xolile Yona and Albert Twili.

Update on detentions

STATE OF EMERGENCY

THE following is a list of state of emergency detainees in the Western Cape:

Gloria Veale, 19, and Ronald Jacobs, 17, from Glendale Senior Secondary School, were detained on July 18.

Walleen Mostert, 16, and Freda Mostert, 18, from Mondale Senior Secondary School, Estelle Leonard, 18, and Siraaj Ebrahim, 18, from Glendale, and Jacques Baartman, 18, of Cedars Secondary School, were detained in Mitchells Plain on July 28.

SECTION 29

ONLY three Section 29 detainees are being held in the Western Cape at present.

They are: Siphiwo Qila and Miranda Sineli, who have been held since April 14, and Reggie Mzamo, who was detained in May.

JOB

Cape Times 4/8/89 331

'Illegal' pen, toilet paper confiscated

Supreme Court Reporter

POLICE confiscated a length of toilet paper with writing on it and a pen hidden in a washing powder container during a search of the cell of terrorism accused Ms Jennifer Schreiner while she was a section 29 detainee, the Supreme Court heard yesterday.

This was said by Sergeant Renette Freitas, a cell guard at the Parow police station where Ms Schreiner was held in solitay confinement under section 29 of the Internal Security Act.

Sergeant Freitas said that on October 15, 1987, she was ordered by security police to search Ms Schreiner's cell for "anything of value".

She found a length of toilet paper with writing on it folded very small and hidden in the seam of Ms Schreiner's handbag.

Under cross-examination by Mr Michael Donen, counsel for the accused, Sergeant Freitas said she was required to search for illegal possessions and confiscated the toilet paper because Ms Schreiner was not allowed to possess a pen.

Asked by Mr Donen if Ms Schreiner had a Bible at the time, Sergeant Freitas said she did not. Ms Schreiner was not allowed reading matter or writing paper.

Security policeman Sergeant Benjamin Lategan said that during a search of Ms Schreiner's Wynberg flat he found notes on loose pages in a recipe book. The notes were instructions on secret communication methods which included telephonic codes, "the postcard method", coding and decoding instructions, instructions on how to use communal letter boxes, Post Office telexes and how to send messages on microfilm hidden under postage stamps.

The hearing continues today.

The accused are: Mr Tony Yengeni, Ms 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.

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

BOMBING CASE

A YOUNG man accused of being responsible for two blasts in Johannesburg and Soweto pleaded not guilty yesterday when he appeared in the Rand Supreme Court charged with treason, alternatively terrorism and sabotage.

Mr Edward Theise Mokati (22) of Thabong township, Welkom, appeared before Mr Justice Solomon and two assessors. According to the State the two blasts caused damage estimated at about R95 000.

By MANDLA NDLAZI

Mokati was arrested in September last year at the Johannesburg station allegedly in possession of limpet mine detonators. He was taken to a house in Moletsane township, Soweto, where two SPM limpet mines, eight detonators, two F1 hand-granades and parts of explosives were found, according to a document attached to the indictment.

According to the State he and other people left the country in June 1986 for Lusaka in Zambia via Maseru. He refused to do military training in Zambia. From about August of that year he received military training from the ANC at a camp known as Pango in Angola.

No. 1666 **4 Augustus 1989**

PUBLIKASIE VAN GEKONSOLIDEERDE LYS INGEVOLGE ARTIKEL 16 (6) (a) VAN DIE WET OP BINNELANDSE VEILIGHEID, 1982 (WET 74 VAN 1982)

Ingevolge die bepalings van artikel 16 (6) (a) van die Wet op Binnelandse Veiligheid, 1982 (Wet 74 van 1982), word die gekonsolideerde lys, uiteengesit in die Bylae, soos deur die Direkteur van Veiligheidswetgewing bygehou, op las van die Direkteur van Veiligheidswetgewing hierby gepubliseer.

No. 1666 **4 August 1989**

PUBLICATION OF CONSOLIDATED LIST IN TERMS OF SECTION 16 (6) (a) OF THE INTERNAL SECURITY ACT, 1982 (ACT 74 OF 1982)

In terms of the provisions of section 16 (6) (a) of the Internal Security Act, 1982 (Act 74 of 1982), the consolidated list, set out in the Schedule, as kept up to date by the Director of Security Legislation, is hereby published by order of the Director of Security Legislation.

BYLAE/SCHEDULE

A. PERSONE WAT AAN MISDRYWE BEDOEL IN ARTIKEL 16 (1) (b) VAN DIE WET OP BINNELANDSE VEILIGHEID, 1982, SKULDIG BEVIND IS

A. PERSONS WHO HAVE BEEN CONVICTED OF OFFENCES REFERRED TO IN SECTION 16 (1) (b) OF THE INTERNAL SECURITY ACT, 1982

Name van persone Names of persons	Misdryf(we) waaraan skuldig bevind Offence(s) convicted of	Datum van skuldigbevinding Date of conviction
Apelgren, Greta Margaret	Misdrywe bedoel in artikel 54 van Wet 74/1982/Offences referred to in section 54 of Act 74/1982	7/4/1987
Baadjies, Clements	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	2/9/1988
Bacela, Professor	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	25/4/1986
Bakardien, Baderaan Ismail	Misdryf bedoel in artikel 56 (1) (a) van Wet 74/1982/Offence referred to in section 56 (1) (a) of Act 74/1982	23/4/1986
Balizulu, Sonwabo Joseph	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	14/9/1988
Banda, Vronda Zeblon	Hoogverraad/Treason	15/9/1983
Bhoya, Herbert	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	27/4/1987
Binda, Sipho Zachius	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	28/10/1985
Bogatsu, Clement	Misdrywe bedoel in artikel 54 van Wet 74/1982/Offences referred to in section 54 of Act 74/1982	16/5/1986
Buthelezi, Norbert Sifiso	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	5/12/1985
Cairncross, Colin	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	2/9/1988
Carelse, Andries	Misdrywe bedoel in artikel 54 van Wet 74/1982/Offences referred to in section 54 of Act 74/1982	1/8/1986
Cassiem, Achmad	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	26/10/1988
Cele, Mandla Njabala	Misdrywe bedoel in artikels 54 en 56 (1) (a) van Wet 74/1982/Offences referred to in sections 54 and 56 (1) (a) of Act 74/1982	5/12/1988
Charles, Joseph	Misdryf bedoel in artikel 56 (1) (a) van Wet 74/1982/Offence referred to in section 56 (1) (a) of Act 74/1982	2/6/1983
Chikane, Moses Mabokels	Hoogverraad/Treason	8/12/1988
Chirwa, Aleck	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	7/12/1984
Chiwayo, Lazarus	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	29/3/1988
Cikozani, Mzwakhe Hespro	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	29/9/1983
Curtis, Kevin Lionel	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	17/12/1986
Dapula, Mzwimwabantu Errol	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	11/8/1988
Dhlomo, Sibongiseni Maxwell	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	15/4/1987
Dinca, Siphiwo Wellington	Hoogverraad/Treason	29/9/1983
Diniso, Oupa Moses	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	10/12/1985
Dipico, Emsley	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	13/6/1988
Direko, Abraham Tebogo	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	13/9/1988
Ditsebe, Peter Parks Tebogo	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	19/11/1986
Dladla, Mandlenkosi	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	17/9/1987

No. 1666 **4 Augustus 1989**

PUBLIKASIE VAN GEKONSOLIDEERDE LYS INGEVOLGE ARTIKEL 16 (6) (a) VAN DIE WET OP BINNELANDSE VEILIGHEID, 1982 (WET 74 VAN 1982)

Ingevolge die bepalings van artikel 16 (6) (a) van die Wet op Binnelandse Veiligheid, 1982 (Wet 74 van 1982), word die gekonsolideerde lys, uiteengesit in die Bylae, soos deur die Direkteur van Veiligheidswetgewing bygehou, op las van die Direkteur van Veiligheidswetgewing hierby gepubliseer.

No. 1666 **4 August 1989**

PUBLICATION OF CONSOLIDATED LIST IN TERMS OF SECTION 16 (6) (a) OF THE INTERNAL SECURITY ACT, 1982 (ACT 74 OF 1982)

In terms of the provisions of section 16 (6) (a) of the Internal Security Act, 1982 (Act 74 of 1982), the consolidated list, set out in the Schedule, as kept up to date by the Director of Security Legislation, is hereby published by order of the Director of Security Legislation.

BYLAE/SCHEDULE

A. PERSONE WAT AAN MISDRYWE BEDOEL IN ARTIKEL 16 (1) (b) VAN DIE WET OP BINNELANDSE VEILIGHEID, 1982, SKULDIG BEVIND IS

A. PERSONS WHO HAVE BEEN CONVICTED OF OFFENCES REFERRED TO IN SECTION 16 (1) (b) OF THE INTERNAL SECURITY ACT, 1982

Name van persone Names of persons	Misdryf(we) waaraan skuldig bevind Offence(s) convicted of	Datum van skuldigbevinding Date of conviction
Apelgren, Greta Margaret	Misdrywe bedoel in artikel 54 van Wet 74/1982/Offences referred to in section 54 of Act 74/1982	7/4/1987
Baadjies, Clements	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	2/9/1988
Bacela, Professor	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	25/4/1986
Bakardien, Baderaan Ismail	Misdryf bedoel in artikel 56 (1) (a) van Wet 74/1982/Offence referred to in section 56 (1) (a) of Act 74/1982	23/4/1986
Balizulu, Sonwabo Joseph	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	14/9/1988
Banda, Vronda Zeblon	Hoogverraad/Treason	15/9/1983
Bhoya, Herbert	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	27/4/1987
Binda, Sipho Zachius	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	28/10/1985
Bogatsu, Clement	Misdrywe bedoel in artikel 54 van Wet 74/1982/Offences referred to in section 54 of Act 74/1982	16/5/1986
Buthelezi, Norbert Sifiso	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	5/12/1985
Cairncross, Colin	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	2/9/1988
Carelse, Andries	Misdrywe bedoel in artikel 54 van Wet 74/1982/Offences referred to in section 54 of Act 74/1982	1/8/1986
Cassiem, Achmad	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	26/10/1988
Cele, Mandla Njabala	Misdrywe bedoel in artikels 54 en 56 (1) (a) van Wet 74/1982/Offences referred to in sections 54 and 56 (1) (a) of Act 74/1982	5/12/1988
Charles, Joseph	Misdryf bedoel in artikel 56 (1) (a) van Wet 74/1982/Offence referred to in section 56 (1) (a) of Act 74/1982	2/6/1983
Chikane, Moses Mabokels	Hoogverraad/Treason	8/12/1988
Chirwa, Aleck	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	7/12/1984
Chiwayo, Lazarus	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	29/3/1988
Cikozani, Mzwakhe Hespro	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	29/9/1983
Curtis, Kevin Lionel	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	17/12/1986
Dapula, Mzwimwabantu Errol	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	11/8/1988
Dhlomo, Sibongiseni Maxwell	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	15/4/1987
Dinca, Siphiwo Wellington	Hoogverraad/Treason	29/9/1983
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Dircko, Abraham Tebogo	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	13/9/1988
Ditsebe, Peter Parks Tebogo	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	19/11/1986
Dladla, Mandlenkosi	Misdryf bedoel in artikel 54 van Wet 74/1982/Offence referred to in section 54 of Act 74/1982	17/9/1987

Natal court overrules 'fair trial' judgement

By CARMEL RICKARD

THE widely-hailed ruling of Natal judge, Mr Justice John Didcott, which insisted that accused be properly represented, has been set aside by a full bench of the Natal court.

The full bench — consisting of Natal's judge president Mr Justice Howard, with Mr Justice Booysen and Mr Justice Combrink — held that legal representation was not vital to the fairness of a trial.

The judges said that accused persons did have the right to legal representation, but they did not have the right to be provided with representation they might want but could not afford.

They said the earlier judgement of Mr Justice Didcott — which made representation, in many cases, a prerequisite for a fair trial — was unworkable.

National president of Lawyers for Human Rights Brian Currin expressed his organisation's "deep distress" at the new ruling.

He said that at a time when the judiciary was not only losing credibility, but was becoming "increasingly irrelevant" to the vast majority of South Africans, the Didcott judgement "was seen to side with the plight of the oppressed and underprivileged".

Currin said that since 85 percent of accused in criminal cases were unrepresented, a public defender programme was desperately needed.

The Didcott judgement had given this idea impetus. Publicity surrounding the ruling had led to an increased awareness among lawyers and many more had begun offering their services for poor clients.

Another LHR official predicted that with the overruling of this judgement, the interest of these lawyers would decline rapidly.

Currin commented: "For the judge president of Natal to state that the rule laid down by Mr Justice Didcott would be unworkable in practice begs the question, in our respectful view.

"If the full bench were of the view that the rule was unworkable, they should rather have improved upon it. As far as we are concerned, the court should rather have found a way of making the rule work."

R1-million security bid fails in Trojan Horse case

A JUDGE has dismissed an application for almost R1-million to be lodged as security against legal costs in the murder trial of 12 policemen and a South African Defence Force member arising out of the notorious Trojan Horse killings of 1985.

The security force members are in the dock in terms of a private prosecution brought by the mother of Michael Miranda and the father of Shaun Magmoed. Michael Miranda was 11 and Shaun Magmoed 16 when they died in a hail of gunfire on October 15 1985.

Filmed by a CBS television news team, the incident sent shock waves round the world.

In an operation authorised by senior police, defence force and railways police officers, policemen concealed themselves in three large crates on the back of a railways delivery truck. The driver and his passenger were dressed as railways personnel.

The truck trawled twice down Thornton Road in the suburb of Athlone, attracting stones on its return trip. The hidden men, armed with pump-action shotguns, sprang up and fired 39 rounds of "sharp point" ammunition into the crowd.

Miranda, Magmoed and a third youth, 21-year-old Jonathan Claassen, were killed.

The parents of Magmoed and Miranda launched the action — believed to be the first private prosecution for murder in South African legal history — after the attorney general of the Cape declined to prosecute, in spite

By GAYE DAVIS, Cape Town

of a magistrate's inquest finding that police acted unlawfully.

On launching the private prosecution, the boys' parents lodged R10 000 as security against legal costs which might be incurred by the 13 defendants, who include the senior officers who devised the action and the 10-man task-force which carried it out.

This week they faced having to raise R945 000, based on estimated legal fees of R15 000 a day for the three senior counsel, three junior counsel and two firms of attorneys representing the accused.

But Cape Supreme Court judge Mr Justice DM Williamson dismissed the application, which the family's counsel, Jules Browde SC, described as an attempt to "stifle prosecution".

Defence costs of the accused were being met by the state, Justice Williamson said.

While the possibility existed they might forfeit this if it were proved they failed to comply with instructions, it was only a possibility and not a probability.

He had to consider the matter in terms of an amount the accused might reasonably be expected to incur personally, on the basis of probability rather than a vague and intangible possibility.

Policemen facing charges of murder in the 'Trojan Horse' trial leave the Supreme Court Picture: RASHID LOMBARD, Afrapix

Otherwise, he would be "loading the scales of fariness unduly heavily in favour of the accused and against the private prosecutors".

There was insufficient information before him to show that the accused would probably have to bear the legal costs and they were thus not entitled to ask for security.

Counsel for the accused said yesterday they would consider appealing against the decision.

Of the defendants, one has since been promoted to the rank of lieutenant colonel. Another has retired from the police force and a third, a Citizen Force member of the SADF, is still the principal of a school.

They are: retired SAP colonel Pieter Janse van Rensburg, former commander of the Western Cape unrest unit; Lieutenant Colonel Christiaan Loedolff, at the time a major in the now disbanded SA Railways Police and commander of the regional unrest unit; SADF Commandant Salmon Pienaar; Lieutenant Douw Vermeulen, who headed the task force; Warrant Officer Andre Swart, Sergeant James Sayer, Sergeant Frank van Niekerk, Sergeant Jacobus Burger, Sergeant Albertus Myburgh, Constable Andre Smit, Constable Wilhelm Puchert, Constable Alexander Rossel and Constable Pieter du Toit.

The trial was postponed until Wednesday.

Education will make sure
of their future. FlexiDowment will

Kriel verdict: An accident

331
Guardian
4-10/8/89

By GAYE DAVIS

THE shot which killed African National Congress guerrilla Ashley Kriel during a tussle with police was fired accidentally, an inquest magistrate found last week.

While he found that Warrant Officer Jeff Benzien's shooting of Kriel fell within the bounds of his duty, magistrate G Hoffmann used harsh words to describe certain of the security policeman's actions.

Kriel, 20, died on July 9 1987 at a house in Athlone after he was confronted by Benzien and a Sergeant Anthony Abels. The fatal shot came from his own weapon, wrested from him during a struggle with the two policemen.

The court heard that on the wall of his office, Benzien had a poster with Kriel's picture and the legend, "Victory or death, freedom is certain". Under it, Benzien had scrawled: "Not for you."

Magistrate Hoffmann described Benzien's action as "tasteless, disgusting and disturbing".

Terrorism trial hears how cops took cash, documents

Supreme Court Reporter

DAYS after security police found arms in the Wynberg flat of terrorism accused Ms Jennifer Schreiner, they seized a briefcase at a Mowbray bank containing documents, R2 000 in cash and some foreign currency.

This was said yesterday by Warrant Officer Schalk van der Merwe, a security policeman and explosives expert, in the trial of Mr Tony Yengeni and 13 others.

WO Van der Merwe said he had been called to Ms Schreiner's flat after her arrest on September 17, 1987. There he found a metal trunk. After cutting the locks he opened it cautiously in case of a booby-trap and also required Ms Schreiner to be present.

Having Ms Schreiner present was a reasonable measure because had the trunk been booby-trapped Ms Schreiner would have given an indication, he said.

Film under stamp

When AK-47 assault rifles, limpet mines, ammunition and magazines were recovered from the trunk she showed no emotion. He had taken over the unpacking of the trunk when Ms Schreiner handled a limpet mine in a careless manner.

During a subsequent search of the flat, police found postcards with a small piece of film concealed under a stamp.

A few days later, on September 22, security police acted on information and seized a briefcase held at a Mowbray bank. The case contained personal correspondence, R2 000 in cash, Swazi and Botswana currency, Ms Schreiner's identity document and a passport, WO Van der Merwe said.

The hearing continues on Monday.

Yengeni trial: 'Note led to copy of bomb blast letter'

By LINDA GALLOWAY
Supreme Court Reporter

A NOTE in a briefcase in a safe deposit box led police to a house in Table View where they found a copy of a letter from the "Basil February MK Squad" in a trunk in the garage, the Supreme Court was told.

The letter, in which responsibility was claimed for several Peninsula bomb blasts, was published in daily newspapers in Cape Town in July 1986.

Identifying the letter during the trial of Mr Tony Yengeni and 13 others charged with terrorism, Sergeant Schalk van der Merwe told the court he found the letter in a locked trunk in the garage of a house in Circle Road, Table View.

The letter read: "Dear Reporter, The Basil February MK (Umkhonto we Sizwe) squad claim responsibility for attacks on various targets in the Western Cape.

"We are paying last respects to, and honouring, our late commander and leader, Comrade Cassius Make, Ashley Kriel and all other heroes and martyrs of our struggle.

"We have vehemently disproved Pretoria's propaganda that these cold-blooded murders by its death squads have broken MK's backbone. The racists can kill individual guerrillas but can never kill MK, the ANC and the struggle of our people for liberation.

"Why? Because MK comes from and lives among the people. Our will, our determination and our capacity to continue and intensify our struggle has never been higher. Our own morale is sustained by the fact that we are fighting and dying for the most noble and cherished ideals of our people: Freedom and the social emancipation enshrined in the Freedom Charter.

"Time, the world and history are in our favour. Ours is a just and legitimate struggle.

"We vow that we will continue to answer racist violence with people's revolutionary violence until the black, green and gold flag flies over the Union Buildings in Pretoria."

Photographs of Mowbray police station, where a bomb exploded on July 3, 1986, were shown to the court.

The trialists are: Mr Tony Yengeni (accused No 1), Ms Jennifer Ann 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 Nethania Fester, Ms Zurayah Abass and Ms Colleen Lombard.

Two UCT student editors in court

331 Staff Reporter CMR Times 8/12/89

AN application by two UCT students to have charges of contravening media regulations under the emergency regulations withdrawn against them, failed in Cape Town Magistrate's Court yesterday.

Ms Kate Savage, 21, and Ms Annelise Bosman, 22, both of Observatory and editors of the UCT newspaper Varsity, face charges of wrongfully publishing on May 4 last year news and comment concerning a Cape schools' boycott against the Department of Education and Training.

The women were not asked to plead.

Mr John Whitehead, for the two, argued that the emergency regulations under which they face prosecution had expired.

He submitted that the attorney-general did not have the authority to direct the trial, as the two had been charged on December 12, 1988 — after the 1987 state of emergency had expired on June 10, 1988.

"They are therefore ineffective and prosecution in terms thereof is not competent," he said.

The hearing was adjourned to September 8.

The magistrate was Mr M J C Tolken. Mr Whitehead was instructed by Bernadt, Vukic and Potash. Mr J M McEwan prosecuted.

RELEASED ... Mr Johnn
Cape Town Magistrate's (
release. With him is his

Snags for 2 Yengeni trial lawyers

Supreme Court Reporter

A DEFENCE lawyer in the Yengeni terrorism trial yesterday told the court of circumstances affecting two members of the defence team.

Mr D P de Villiers, SC, told the court yesterday morning that he wished to place on record the circumstances under which two members of the defence team, Mr Johnny de Lange and Mr Pius Langa, had been affected.

Mr De Lange had been detained by police during an incident on Saturday and Mr Langa's house had been shot at last Thursday night.

Mr Justice Selikowitz said: "I am shocked to hear that Mr Langa's house had been attacked. If that attack had anything to do with his appearance in this court I'm appalled that it happened and certainly cannot conceive of any justification whatsoever for such behaviour."

African War are

nny de Lange outside the Court yesterday after his wife, Ms Pam Haddad.

journed to August 28.

Mr M J C Tolken was the magistrate. Mr J M McEwan prosecuted. Mr Pius Langa, instructed by Mr Willie Hofmeyr of Mallinicks, appeared for Mr De Lange.

Cop tells of mine at petrol pump

CM&L Times 8/8/89/331

Supreme Court Reporter

A SECURITY policeman yesterday testified about two bomb blasts in the Peninsula in 1987 and the discovery of an unexploded but primed limpet mine hidden behind a petrol pump at a Maitland petrol station.

Warrant-Officer Schalk van der Merwe, an explosives expert, was giving evidence in the terrorism trial of Mr Tony Yengeni and 13 others.

On September 26, 1987, he had gone to an address in Table View where he had confiscated a trunk stored in a garage which contained documents and books. In the trunk he had also found a photostat of a letter dated July 23 which purportedly came from the Basil February MK squad of Umkhonto we Siswe — the ANC's military wing — and which claimed responsibility for bomb blasts.

On July 3, 1987, he went to the Mowbray police station where an explosion had taken place after a device had been hidden in a flower bed under a window. Because of the extent of the damage he concluded that a mini limpet mine had been used, WO Van der Merwe said.

On July 19 he went to the Palm Tyre Service station in Maitland where an explosion had occurred. During a search of the premises an SPM limpet mine, wrapped in newspaper, was discovered behind a petrol pump.

The hearing continues tomorrow.

The accused are: Mr Tony 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 Sitlaboche Mahlale, Mr Alpheus Ndude, Ms Gertrude Fester, Ms Zurayah Abass and Ms Colleen Lombard.

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

Stun grenades

... Court yesterday after his ... wife, Ms Pam Haddad.

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Cop tells of mine at petrol pump

Cape Times 8/8/89 (331)

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Stun grenades

Terror trial accused had black eye, court told

By Brendan Templeton

A police officer said yesterday that alleged terrorist Mr Edward Mokati (22) had a black eye when he was handed over to him shortly after he was arrested.

Captain P A Marais of John Vorster Square said he had not noted the injury in his report because he was not concerned with the private life of the accused.

Mr Mokati is accused of treason, alternatively terrorism, sabotage or the illegal possession of explosive materials.

It is alleged he planted a limpet mine which exploded last year at the Van der Bijl bus terminus.

He was arrested at Johannesburg station after an informant pointed him out.

A policeman from the Forensic Scentific Laboratory in Pretoria, Captain A du Toit, said he made a video as Mr Mokati demonstrated the use of weapons.

The hearing continues.

331 Star 8/8/89

Two refuse to face trial

Own Correspondent

DURBAN — Two alleged terrorists have refused to participate in their trial in the Durban Regional Court, claiming that, as soldiers, they should not be in a civilian court.

Mr Welcome Vukane Mhlongo (28) of Chesterville and Mr Nkosinathi Lancelot Mazibuko (22) of kwaMashu have nevertheless pleaded not guilty to the charges of contravening the Internal Security Act. A third accused, Miss Ntombenhle Charity Mazibuko (26) of Lamontville, has also pleaded not guilty.

The three are alleged to have contravened the Internal Security Act between December 1985 and November 1988.

Mr Mhlongo also faces charges of illegal possession of firearms and explosives and banned publications.

Not guilty, say accused in 'Trojan Horse' trial

Own Correspondent

CAPE TOWN — Twelve policemen and a South African Defence Force member in the "Trojan Horse" trial pleaded not guilty in the Cape Supreme Court yesterday to two charges of murder.

The men denied in statements that they had acted unlawfully against Shaun Magmoed (16) and Michael Miranda (11) or that they had intended to kill them.

The trial is a private prosecution brought against the men by the parents of the two boys who were killed in the "Trojan Horse" incident in 1985 when policemen hid in crates in the back of a South African Transport Services truck and opened fire on people who were allegedly stoning vehicles.

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10/8/89

stm

NEGLIGENT

A Wynberg Inquest Magistrate found last year that Lieutenant Douw Vermeulen and his men were negligent and had caused the youths' deaths.

The attorney-general subsequently refused to prosecute and their parents decided to bring a private prosecution.

The hearing was postponed until today after Mr P De Bruyn, SC, for Colonel P Janse van Rensburg and Major Christiaan Loedolff, said the defence intended making an application in terms of Section 10(3) of the Criminal Procedures Act for the charges to be declared invalid.

Section 10(3) reads: "Two or more persons shall not prosecute in the same charge except where two or more persons have been injured by the same offence.

Mr Jules Browde, SC, for the prosecution, said he was unfamiliar with the scope of the subsection.

ARGUMENT

The postponement was necessary for the teams to prepare argument and because some further particulars of the charges were still outstanding and consultations between the two legal teams concerning formal admissions had to be made, Mr de Bruyn said.

An amendment to the indictment separating the two murder charges was granted by Mr Justice D M Williamson.

The hearing began 90 minutes later than scheduled.

Last week, the court dismissed an application by the defence that R10 000 already paid as security for legal costs that may be incurred by the families, be increased to almost R1 million.

Page 4

Delay pleas in ANC trial

331

THE defence counsels for 12 alleged ANC members who are facing high treason charges in the Delmas Circuit Court yesterday asked for further particulars on the charges and for time to prepare their defence.

The 12 men from Mamelodi near Pretoria, are facing a charge of high treason, seven alternative counts of terrorism, four counts of murder, six counts of attempted murder and 11 counts of malicious damage to property.

The State alleged that the 12 murdered three policemen in Atteridgeville on March 18, last year, and a year-old Patience Kulele in Mamelodi on May 10.

They are also alleged to have attempted to murder Mathilda Eleonora Venter in Pretoria on May 16 last year, Rose-Mary Muzwayine and Ananius Nkoana in Atteridgeville on March 18, 1988, and Elke Martha Hansen, Anna Maria Prinsloo and Sussana Maria Kruger in Pretoria on May 26, 1988.

The presiding judge, Mr Justice W van der Merwe, will decide the two matters today.

10/8/87

Sowetan

W/O tells court of quiz tacties

Supreme Court Reporter

A SECURITY policeman yesterday told the Supreme Court he had used various techniques to get terrorism accused Ms Jennifer Ann Schreiner to volunteer information.

The techniques included the "Mutt and Jeff" or good guy versus bad guy technique, using a thick decoy file to let a detainee think police already knew enough about them, confronting a detainee with an alleged accomplice's confession and the "rapid-fire" method of questioning to confuse a detainee.

This was said yesterday during cross-examination by Warrant-Officer Schalk van der Merwe during the trial of Mr Tony Yengeni and 13 others on charges of terrorism.

W/O Van der Merwe said he would also rephrase a question and ask it over and over to exploit a contradiction.

Questioned by Mr Michael Donen, for the defence, he agreed that for 90% of the time Ms Schreiner had been cut off from the outside world during her detention.

The hearing continues today.

'DEATH THREAT'

Benzien

'Leave her to me. I'll kill her.'

From MONO BADELA

JOHANNESBURG. — Well-known security policeman Jeff Benzien, who was involved in the killing of ANC guerilla Ashley Kriel, threatened to kill a detained trade unionist, it was alleged in the Johannesburg Regional Court.

Lucienne Abrahams, former Western Cape organiser for the Media Workers' Association of South Africa, told the court she had been threatened with death by Benzien while being held in solitary confinement.

Abrahams was giving evidence in a terrorism trial in which she and her husband Gerald Nyembe are appearing on charges related to ANC activities.

The state alleged that Abrahams and Nyembe promoted the aims of the banned organisation and that they left the country illegally to undergo military training.

Testifying in a "trial within a trial" to test the validity of a confession she had made, Abrahams told the court it had been made under duress.

She said that during her detention last year she was told by police that they would release her from solitary confinement if she agreed to make a confession.

Abrahams described to the court how Warrant Officer Benzien had burst into a room where she was being interrogated.

In the presence of other policemen, he shook his fist in her face, swore at her and, shaking with rage, said: "Finish with her. Leave her to me. I'll kill her."

After accusing her of planting bombs in Cape Town last year, Benzien left the room.

Abrahams claimed that another officer, a Lieutenant Badenhorst of the Protea Police headquarters in Soweto, then said: "We've been patient with you so far, but Benzien would not be so patient."

Abrahams said she had agreed to sign the confession because she feared for her life.

She had heard of Benzien's "reputation" in the Western Cape.

She was also afraid of remaining in solitary confinement indefinitely.

The police had also promised her she would be allowed to see her husband and have access to the courts, she claimed.

The prosecutor, Mr F van Staden, asked her why she had been willing to make a statement which could incriminate her.

She replied that it was a way to get the protection of the courts.

The trial has been postponed to October 16 when the court will rule on the admissibility of the confession as evidence.

London's underground rail network.

Sowetan editor in court

JOHANNESBURG. — The editor of The Sowetan, Mr Aggrey Klaaste, appeared briefly before a magistrate here on Tuesday for allegedly contravening the Internal Security Act. The case was postponed provisionally to September 5.

'DEATH THREAT'

Benzien

'Leave her to me. I'll kill her.'

From MONO BADELA

JOHANNESBURG. — Well-known security policeman Jeff Benzien, who was involved in the killing of ANC guerilla Ashley Kriel, threatened to kill a detained trade unionist, it was alleged in the Johannesburg Regional Court.

Lucienne Abrahams, former Western Cape organiser for the Media Workers' Association of South Africa, told the court she had been threatened with death by Benzien while being held in solitary confinement.

Abrahams was giving evidence in a terrorism trial in which she and her husband Gerald Nyembe are appearing on charges related to ANC activities.

The state alleged that Abrahams and Nyembe promoted the aims of the banned organisation and that they left the country illegally to undergo military training.

Testifying in a "trial within a trial" to test the validity of a confession she had made, Abrahams told the court it had been made under duress.

She said that during her detention last year she was told by police that they would release her from solitary confinement if she agreed to make a confession.

Abrahams described to the court how Warrant Officer Benzien had burst into a room where she was being interrogated.

In the presence of other policemen, he shook his fist in her face, swore at her and, shaking with rage, said: "Finish with her. Leave her to me. I'll kill her."

After accusing her of planting bombs in Cape Town last year, Benzien left the room.

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The trial has been postponed to October 16 when the court will rule on the admissibility of the confession as evidence.

Defence asks for Delmas trial to be postponed

By Jovial Rantao

The defence counsel for 12 alleged ANC members, who are facing high treason charges in the Circuit Court in Delmas, yesterday asked for further particulars on the charges and for time to prepare their defence.

The 12 men from Mamelodi, near Pretoria, are facing a charge of high treason, seven alternative counts of terrorism, four counts of murder, six counts of attempted murder and 11 counts of malicious damage to property.

The State alleged that the 12 murdered three policemen in Atteridgeville on March 18 last year and one-year-old Patience Kulele in Mamelodi on May 10.

They are also alleged to have attempted to murder six others in or near Pretoria last year.

In his application, Advocate P Pretorius, for the defence, said he had asked for further particulars with regard to a charge that the accused allegedly conspired to carry out the aims and objectives of the ANC.

CONFUSION

Mr Pretorius said he wanted details of how, where and when each of the accused allegedly took part in the conspiracy.

"The allegations are unclear, to some extent contradictory and confusing to the accused," Mr Pretorius said.

In his reply, Advocate H J Prinsloo said with regard to the accused's common purpose, three had joined the ANC's existing conspiracy to overthrow the Government by violent means at a later stage.

Mr L Tonkin, who is representing eight of the accused, made an application to have the case postponed until the end of October. He said he needed time to study the indictment.

The presiding judge, Mr Justice W van der Merwe, will decide the two matters today.

The accused are: Mr Godfrey Mokube (41), Mr Francis Pitsi (24), Mr George Mathe (21), Mr Ernest Ramadite (24), Mr Johannes Maleka (25), Mr Peter Maluleka (34), Mr Bernard Mokgonyana (26), Mr Joseph Nkosi (39), Mr Reuben Khotsa (23), Mr Reginald Legodi (22), Mr Alfred Kgasi (25) and Mr Rodney Tokas

Schreiner was 'known' to police

By LINDA GALLOWAY, Supreme Court Reporter

TERRORISM accused Miss Jenny Schreiner was "known" to the security police before her arrest and detention under Section 29 of the Internal Security Act, the Cape Town Supreme Court heard.

Sergeant Schalk van der Merwe was testifying under cross-examination in the trial of Miss Schreiner and 13 others charged with terrorism.

The policeman told the court that he was "aware of the existence" of Miss Schreiner before her arrest, but said he was "not at liberty to divulge" how or why he knew of her.

However, he had not been "looking for her", although he could not say whether his colleagues had or not.

"OF SECURITY IMPORTANCE"

Sergeant van der Merwe confirmed that, in accordance with police standing orders, he kept a pocketbook diary but said he only recorded his duty hours.

He had taken a decision not to record his daily movements, as stipulated in the orders, because his work was "of security importance" and the loss of the book would be a security risk.

Answering a question by Mr Michael Donen for the defence, Sergeant van der Merwe conceded that recording the dates and hours on which he interrogated detainees would "not specifically" have constituted a security risk.

He said that during the interrogation of Miss Schreiner, he had "observed an expectation of premature release from detention" and he believed that one of the reasons for this was to avoid having to answer questions.

He conceded that detainees held under Section 29 could fear that they might be tortured, and that they could be afraid of spending a long time in detention.

He believed that part of this fear was because they were not answering questions truthfully and they were afraid they would contradict themselves and give things away.

The trial continues today.

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

'Trojan' trial application judgment

CAPE TOWN — Judgment on the application for the indictment in the "Trojan horse" murder trial to be declared invalid will be handed down in the Cape Supreme Court on Tuesday.

Twelve policemen and a member of the SADF yesterday pleaded not guilty to two counts of murder arising from the deaths in Athlone in 1985 of Shaun Magmoed, 16, and Michael Miranda, 11.

An inquest magistrate last year found the men, most of whom hid in crates in the back of a Sats truck and opened fire on youths allegedly stoning vehicles, were negligent and had caused the boys' deaths.

After the Attorney-General declined to prosecute, the parents brought a private prosecution.

Indictment

Counsel for the defence brought the application in terms of Section 10(3) of the Criminal Procedures Act.

They argued that the indictment, which named Shaun's father, Martin Magmoed, and Michael's mother, Georgina Williams, as prosecutors in both murder counts, was in conflict with the provisions of Section 10(3). The section reads: "Two or more persons shall not prosecute in the same charge except where two or more persons have been injured by the same offence".

Williams was not entitled to prosecute in the count concerning Shaun's death as she had not suffered injury or prejudice by his death, it was argued. Magmoed was in a similar position, counsel argued. — Sapa.

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...isclosures of their rent
...rears.

Treason trial

THE Delmas treason trial involving 12 alleged ANC members has been postponed to next Tuesday.Defence counsel asked for further particulars on the charges and for time to prepare their case. (331)

It is alleged that the men murdered three policemen in Atteridgeville on March 18 last year. Sowetan 11/8/89

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Police with sjamboks scatter marchers at court

HUNDREDS of Cosatu members, marching on the Kempton Park Magistrate's Court, where 27 of them were due to appear for singing freedom songs on a commuter train, were yesterday scattered by police using sjamboks.

A police spokesman in Pretoria confirmed the incident and said 20 members of the crowd were arrested.

The 27 accused were scattered with the crowd, many of whom suffered sjambok wounds, and did not appear in court.

Lawyers from Cheadle Thompson and Haysom who arrived in court without their clients secured a postponement to November 20.

Warrants of arrest would be issued against the 27 for not appearing, but would be held over until November 20, a Cheadle Thompson and Haysom spokesman said.

But if the workers again failed to appear on November 20 they would be arrested, he added.

About 18 of the workers scattered by

SIPHO NGCOBO

police suffered sjambok injuries and were taken to the Johannesburg General Hospital.

In a statement yesterday, Cosatu condemned the "brutal, cowardly and unprovoked police attack". It said the sjamboking took place at about 9.30am when a crowd of about 500 workers, supporting the workers, marched to court.

Disperse

They were confronted by police outside the court and given three minutes to disperse. As the workers were still debating the matter, the police charged and began to sjambok them.

It said instead of being allowed into court, the workers were "blocked, chased, and brutally assaulted by uniformed police, security police and even traffic cops".

"Having seen the "ferocity" of the police action, the workers decided to disperse and return to the station. But when they returned to the station they found that the police were blocking their way, the statement said.

The people then faced another charge and some workers, many of them injured, were forced to walk to nearby police stations, the statement alleged.

Instead of being allowed back onto the trains, some faced yet another charge. Some workers, many of them injured, were forced to walk from Kempton Park to Isando Station, others to Van Riebeeck Station.

Cosatu has instructed its attorneys to investigate legal proceedings against the police.

A police spokesman confirmed 20 people were arrested when about 300 black people arrived simultaneously at the court.

They were asked to disperse, but when they did not comply, police used quirts and arrested 10.

At 9.30am about 100 of them returned. They were asked to disperse. A further 10 people were arrested, police said.

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Delmas treason trial postponed

By Jovial Rantao

The judge in the Delmas Circuit Court trial, in which 12 alleged ANC members are facing a charge of treason, yesterday postponed the hearing to Tuesday.

Mr Justice W van der Merwe, who was due to rule on whether the State should furnish the defence counsel with more particulars and with more time to prepare their defence, said his services were required in Johannesburg and he would give his ruling on August 15 at 10 am.

He would also decide on the duration of the adjournment, which had been requested by one of the defence counsel, Mr Lawrence Tonkin.

In his application on Wednesday, Mr Tonkin, who represents eight of the accused, said he needed more time to go through the indictment and prepare his defence.

THREE POLICEMEN

The 12 men, from Mamelodi near Pretoria, are facing charges of treason, seven alternative counts of terrorism, four counts of murder, six counts of attempted murder and 11 counts of malicious damage.

The State alleges the 12 murdered three policemen in Atteridgeville on March 18 last year and one-year-old Patience Kulele in Mamelodi on May 10.

They are also alleged to have attempted, last year, to murder Ms Mathilda Eleonora Venter in Pretoria on May 16; Ms Rose-Mary Muzwayine and Ms Ananius Nkoane in Atteridgeville on March 18; and Ms Elke Martha Hansen, Ms Anna Maria Prinsloo and Ms Sussana Maria Kruger in Pretoria on May 26.

The accused are Mr Godfrey Mokube (41), Mr Francis Pitsi (24), Mr George Mathe (21), Mr Ernest Ramadite (24), Mr Johannes Maleka (25), Mr Peter Maluleka (34), Mr Bernard Mokgonyana (26), Mr Joseph Nkosi (39), Mr Reuben Khotsa (23), Mr Reginald Legodi (22), Mr Alfred Kgasi (25) and Mr Rodney Toka.

...reatured to them
Picture: PAUL GRENDON, Afrapix

Murder charge 'defuses political trial'

By PHIL MOLEFE

TREASON charges have been dropped against 12 "Delmas Three" trialists but this could be intended to have the effect of depoliticising the trial, legal experts say.

"The state may have decided to frame the charges in a less political form because of the attention political trials attract," said one expert.

A main charge of murder, he said, would make the case appear to be an ordinary criminal one.

"This is in line with the argument often advanced by government spokemen that they are concerned with ordinary criminals and not political offenders."

The 12 are appearing before Mr Justice WJ van der Walt on charges of murder, attempted murder, terrorism, participating in the activities of the African National Congress and alternative charges under the Arms and Ammunition Act.

Lawyers believe the state may also have considered treason an unnecessary burden in view of the fact that the accused face 49 alternative charges.

Experts say judgement given in the Mayekiso treason trial could have been another factor. In his judgement, Van der Walt sounded a very strong warning about the indiscriminate use of treason charges.

"A case of treason should be carefully considered before it is brought to court," he said.

Legally speaking, there are no significant implications since both treason and murder carry a death sentence, said a representative for the Centre for Applied Legal Studies.

"It is legally significant in one respect only, namely, that the death penalty for treason is discretionary whereas in the case of murder without extenuating circumstances it is mandatory," he added.

Charges relate to a series of hand-grenade attacks, shootings and explosions in Mamelodi and Pretoria in early 1988.

The state alleges that during a period unknown to the state the 12 were members or active supporters of the ANC. According to the charge sheet, accused one and two received military training in Angola and Cuba and the rest were trained inside the country.

It is alleged that the 12, or some of them, were involved in a shoot-out with police in Mamelodi in which three policemen were killed. Two civilians were seriously injured in the action.

In April 1988 an SPM limpet mine, of Russian origin, exploded at the municipal offices in Atteridgeville.

Other explosions occurred at Sterland, a cinema complex, and near Juicy Lucy in Pretoria.

The state alleges that the 12 — Moeketsi Rodney Toka, 25; Godfrey Velaphi Mokube, 41; Francis Pitse, 24; Ernset Thoboki Ramadite, 24; George Mathe, 21; Johannes Maleka, 25, Peter Holmes Maluleka, 34; Phuti Bernard Mokgonyana, 26; Joseph Nkosi, 39; Thapelo Reuben Khotsa, 23; Reginald Noah Legodi, 22; and Alfred James Kgasi, 25 — were trained in the use of fire arms and explosives and engaging in warfare. It is further alleged that they were trained in mobilising and politicising the masses.

Among the 12 are members of the Mamelodi Civic Association, Mamelodi Youth Congress, Saulsville/Atteridgeville Youth Organisation and Ga-Rankuwa Youth Organisation.

Relatives and friends, who have to travel from far-away Pretoria townships, have complained about the trial been taken to Delmas.

Over the years, political trials of this nature have been taken to distant places like Delmas, Mesina and Bethal.

Very often this resulted in great inconvenience to the lawyers and more importantly to the family and friends of those on trial.

In all these cases the usual reason given is it is for security purposes.

"A lot of consideration is given before the judge president can decide where a trial can be heard," said DB Brunette, the attorney-general of the Transvaal.

The Strydom trial is a sharp contrast to the considerations the state gives before deciding on the venue of the trial. Barend Strydom, the mass murderer, lived in Pretoria at the time of the shooting and the trial was taken to the Pretoria Supreme Court.

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A singing crowd arrives for the trial of the singing workers

By AUDREY BROWN

HUNDREDS of singing workers rode the trains yesterday to attend a trial of 47 colleagues charged with ... disturbing the peace by singing on trains.

On their arrival, the crowd were dispersed with sjamboks by police.

More than 500 workers from Johannesburg boarded the 8am train to Kempton Park, singing and chanting, to attend the trial of the 47 workers, arrested in June.

On their arrival, the huge crowd was dispersed with sjamboks by a combined force of several members of the South African Police, traffic officers who blocked their only escape route, and municipal police. At least 15 were injured.

And the original 47 accused who were to appear were inexplicably reduced to 27 when the trial — minus the trialists — was brought before the magistrate. The case was postponed.

More than 450 people have been arrested since June — plus another 100 yesterday morning on the East Rand, a fact communicated to the workers down the seven coaches they occupied as they sang their way east.

They were joined by at least another 200 workers at Germiston station and proceeded to Kempton Park Station without incident.

The crowd, by now 700-strong, was walking to the court just over a kilometre away when they were confronted by a combined force of several members of the South African Police, traffic officers and municipal

●To PAGE 2

It's eight in the morning and a singing crowd fills seven coaches on the way to the trial of workers charged with disturbing the peace

Picture: SANTU MOFOKENG, Afrapix

WMail 11-17/8/89.

NTS' WHOM NO-ONE WILL ADMIT TO ... Back Page

A rough welcome for singing crowds

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Winnie 11-17/8/89

●From PAGE 1

police who dispersed them. Those injured were treated at Kempton Park Clinic.

One of the injured people, 43-year-old Veronica Khoza, was on her way to the trial of her son, who was appearing on a charge of theft. Another, Jumaima Mia, 25, from Soweto had come "to show solidarity with my comrades" when she was hit across the back and legs, she said. She also suffered bruises after falling as she ran away from the police. Mia has laid charges of assault.

The train rocked to a beat completely different to the usual clickety-clack as workers sang freedom songs in praise of their unions, the African National Congress, Swapo, the Sandinistas and their own strength.

As the train sped eastward, industrial Johannesburg looked sleepy in comparison to the energy of the people who the coaches. Each coach was led by elected delegates, who saw to it that discipline was maintained.

A delegate from Soweto said: "They can try to harass us, but they will fail because of our unity. That is why we are here."

The rhythm of the train was completely subsumed under the stamping feet as a rousing song rang out through the open windows. Delegates would interrupt the singing by holding up crossed fingers to explain the procedure, or to pass on the latest news.

As the train drew closer to Kempton Park, various calls were made for discipline, even up to the issue of tickets. Those who did not have them were requested to buy them as soon as they could.

The chanting was equally well organised, with people at both ends of the coach being given an opportunity to address the crowd, or to start a song. One of the speakers addressed one of the most burning issues in Soweto now, saying "Phantsi na ma-Jack roll, phantsi!" — (which can be translated roughly as 'down with the gang rapes of schoolgirls').

As one speaker finished, he called "Over to you on the other side, comrades". The cry was then rolled down the length of the coach, like something tangible, till it reached the other end, where another comrade started up again.

The train reached Germiston station, where a large group are waiting to board. They greeted each other with cries of "Qina msebenzi, qina!" (Be strong workers, be strong). The newcomers spread themselves into other coaches and the singing was picked up with renewed vigour.

The usual train-patrollers — the confidence tricksters, fakers and other interesting characters — were absent.

Covered in bruises: A woman who was in the 'singing crowd' dispersed outside the court Picture: CEDRIC NUNN, Afrapix

ton Park Station at 8.45 — just over half-an hour after leaving Johannesburg. The workers disembarked and, according to instructions, halted the singing and started moving *en masse* toward the court, taking care to stay off the main road according to plan so as not to disrupt the normal activities of the awakening Kempton Park.

Hardly two blocks away from the court, between two construction sites on an empty street, the workers were confronted by a contigent of security forces, and dispersed with sjamboks and quirts.

A small group managed to trickle back to the court, where they were denied entrance until their lawyers intervened. Police refused anyone access to the court building, and many of the people milled around outside, fearful of another confrontation.

Several injured people came in, and Yoliswa Pokela, one of those scheduled to appear, cried when she discovered that one of the injured was not even on the train and had nothing to do with the "singing train trial".

When the case appeared before the court, two policemen called out the names of those who would appear in three separate cases later this year. Only 27 names were on the list.

Sam Rikhotso was one who escaped prosection, but he was not too happy about the turn of events.

"Why is the case against me being dropped?" he asked. "Also, I have questions to ask the court. I want to know if I am guilty.

"Now I will carry on singing because I am not proven guilty."

With the "singing train" trial postponed, the workers filtered back to the station, where they boarded a train — and sang all the way back to Johannesburg.

●According to a spokesman for the SA Police, 20 people were arrested at the scene. Further comment was not available at the time of going to press. However an official source was quoted as saying police took action after

economy, corruption and where are

on a limited sample of constituencies.

"We are likely to lose some seats,

Videos of arms at terror trial

By PHIL MOLEFE

VIDEO tapes seen in the Potchefstroom Regional Court this week showed three men accused of terrorism demonstrating how to dismantle and re-assemble an AK-47 rifle.

The trial of seven Vaal activists charged with terrorism has now been opened to the public after several state witnesses gave evidence *in camera* since the start of the trial in June.

Putswe Jacob Litlhakanyane, 19; Lawrence Tumelo Selekoe, 19; Thembisile Jackson Batyi, 23; Edward Rakomang Motubatsi, 29; Saul Andrew Tsotetsi, 35; Emma Nonondze Madzikane, 34; and Angelina Kedibone Mogotsi, 44; have pleaded not guilty to four counts of terrorism before magistrate J le Grange.

The state led evidence this week showing video tapes in court of the accused pointing out target areas.

Evidence given so far shows that no weapons were found to be in the possession of the seven — neither at the time of their arrest nor at places pointed out by them.

The state alleges that Litlhakanyane, Selekoe and Batyi received military training from the African National Congress outside the country. They allegedly entered the country unlawfully through Botswana during 1988 with instructions from the ANC to cause disruption in the Vaal Triangle and establish combat units.

According to the charge sheet, the other four trialists knew that Litlhakanyane, Selekoe and Batyi were trained ANC members and that they had to recruit new members for the movement.

The state alleges that the seven conspired with the ANC and its members or supporters to overthrow or endanger the state authority and that they furthered the aims of an unlawful organisation during or about the periods September 1983 to October 1 1988.

(331) wmail 11-17/8/89.

'Trojan' 12 say case invalid

DEFENCE counsel for 12 policemen and a South African Defence Force member accused of the murder of two youths who died in the Trojan Horse incident in 1985 this week applied for their indictment to be declared invalid.

The move came as a surprise to counsel representing the parents of Michael Miranda, 11, and Shaun Magmoed, 16, who were killed when police hidden in crates on the back of a railways truck suddenly fired on a large crowd after stones were thrown at the vehicle.

Miranda's mother, Georgina Williams, and Martin Magmoed brought a private prosecution after the attorney general of the Cape declined to prosecute, despite an inquest finding that police were negligent and caused the boys' deaths.

Last week Mr Justice DM Williamson dismissed a defence bid for almost R1-million to be lodged as security against legal costs, finding that as the men's legal fees would be paid by the state they were not entitled to security.

This week defence counsel Willie Burger, SC, argued that the indictment itself should be declared invalid. He told the court that in terms of Section 10 (3) of the Criminal Procedure Act Williams was not entitled to prosecute in the count concerning Shaun Magmoed's death as she had not suffered prejudice by it.

Similarly, Martin Magmoed could not prosecute in the count concerning Michael Miranda's death.

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Eight sent to jail for Bop coup attempt

MMABATHO. — Eight members of the banned Peoples Progressive Party, found guilty of treason, were sentenced to prison terms in the Supreme Court here yesterday for their part in the abortive Bophuthatswana coup on February 10 last year.

Mr Justice E A T Smith sentenced A Mataboge, K H Mereyotlhe, D R Morake, L Mahila and R T Molefe to seven years imprisonment each, and S Bopalano, T S Motsoatsoa and K S Dlamini to seven years imprisonment each, of which two years were suspended for three years.

The judge took into account that it was common cause they were not involved in the planning of the coup and that the first knowledge they had had of the coup was the rebel broadcast announcing the overthrow of the government. — Sapa

Judge acquits murder suspects

Supreme Court Reporter

SIX Zweletemba, Worcester, residents charged under the common purpose doctrine with arson and murder, were yesterday acquitted because the court found the main state witness Mr Boeta Mooi had probably reconstructed events.

The state alleged that on October 13, 1985, Mr Phillip Sibozo, Mr Amos Jantjies, Mr Nation March, Mr Mbuyiselo Kondile, Mr Archie Qomayi, Ms Eunice Hlazla, Ms Francina Lukaso and a large group of people went to the house of Mrs Martha Mooi to burn it down.

When Mr Mpazamo Bethwell Mbani tried to persuade the group to desist from the attack he was attacked, stoned and stabbed or hit with sharp objects, shot and later doused with petrol and set alight.

The state alleged that the seven had played an active role in attack and it was later established that Mr Mbani had died of a brain injury.

Assault allegations recalled

By LINDA GALLOWAY
Supreme Court Reporter

PREVIOUS terrorism trials and allegations of assault against security policemen have been recalled during the cross-examination of a policeman in the Yengeni trial in the Supreme Court, Cape Town.

Warrant Officer Schalk van der Merwe said yesterday he recalled that other terrorism accused had made allegations of assault by Lieutenant Frans Mostert, of the security branch.

Cross-examined yesterday by Mr Michael Donen, for the defence, during the trial of Mr Tony Yengeni and 13 others on charges of terrorism, W/O Van der Merwe said he also remembered that Miss June Esau had won an interdict restraining the police from assaulting her while she was in detention in 1985, and that Mrs Shahida Issel had launched an application against the Minister of Law and Order, alleging assault by Lieutenant Mostert.

Asked whether it had been favourable or unfavourable, W/O Van der Merwe said he assumed it was unfavourable "because otherwise it would not have been reported".

He confirmed that on September 26 1987 he had gone to the house of Mr Yengeni at Searle Street in Lansdowne and that a filing cabinet and its contents had been seized.

He remembered that Lieutenant Mostert had received extensive news coverage and that he was well known, but could not remember the substance of what had been said about him.

W/O Van der Merwe said it was "possible" that he had questioned terrorism accused Cecil Esau in Robertson and that Mr Esau had refused to make a statement but later did, after a visit from Lieutenant Mostert.

W/O Van der Merwe said he had not personally gone through the items in the cabinet but had been told they were part of Miss Schreiner's thesis.

He conceded it was possible that documents found in Miss Schreiner's Wynberg flat could also have been thesis material.

The hearing continues.

The accused are Mr Tony Yengeni (accused No 1), Miss Jennifer Ann Schreiner, Mrs Lumka Yengeni, Mr Michael Lumbambo, Mr Mbutu Nduku, Mr Wellington Nkwandla, Mr Mtheteleli Titana, Mr Gary Kruser, Mr Christopher Giffard, Mr Sitlabocha Mahlale, Mr Alpheus Ndude, Miss Gertrude Fester, Ms Zurayah Abass and Mrs Colleen Lombard.

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Policeman 'didn't see injuries on Yengeni'

Supreme Court Reporter

A SECURITY police explosives expert yesterday told the Cape Town Supreme Court he did not notice injuries to terrorism accused Mr Tony Yengeni's face because his main concern had been a possible arms find.

Warrant Officer Schalk van der Merwe was giving evidence under cross-examination in the trial of Mr Yengeni and 13 others who have refused to plead to charges of terrorism.

Mr Michael Donen, for the defence, put it to him that a district surgeon had examined Mr Yengeni hours after his arrest and had recorded a bruise to his right cheek, swollen right eyelids and a laceration to his lower lip.

Asked if he had seen the injuries, WO Van der Merwe said he did not because he had been concerned about finding weapons and took little notice of Mr Yengeni.

Shown a set of photographs — taken when Ms Jennifer Schreiner was asked to unpack a trunk found in her flat — and given a magnifying glass, WO Van der Merwe agreed he could see injuries to Mr Yengeni's face. He could not remember seeing them the night of Ms Schreiner's arrest, however.

Asked about the fact that the photographs showed a large wet spot on Mr Yengeni's trousers, WO Van der Merwe said he did not notice that and added that the wet spot could have been caused by a number of reasons.

Asked about a list of names of security police found in Ms Schreiner's flat, WO Van der Merwe said he knew about the list.

...wind and | Man kills birds | Teacher in

13 more Mitchells Plain pupils held

Staff Reporter

THIRTEEN high school pupils were arrested in Mitchells Plain yesterday and are expected to appear in court on charges of public violence today, according to local crisis centre office worker Mrs H Oosterwyk.

The arrests of the pupils — from Mondale, Portlands, Princeton and Tafelsig high schools — follow several alleged incidents of stone-throwing yesterday.

One Std 7 boy at Mondale was slightly hurt yesterday by a teargas canister.

Yesterday a police spokesman in Pretoria declined to issue any statement on arrests or other events in Mitchells Plain, and local police will not comment on "unrest".

Earlier this week Pretoria police said that if such news was kept to a minimum there might be less unrest than otherwise.

According to yesterday's police unrest report, covering Monday, "the Cape Peninsula was generally quiet with the exception of Mitchells Plain", where several stone-throwing incidents and a few road barricades had been reported.

"On a number of occasions police had to use tearsmoke to disperse the mobs. A few vehicles were damaged by stone-throwers. After two separate stone-throwing incidents, police arrested a number of coloured youths.

"In the first incident, four youths were arrested after a private vehicle was stoned and in the second incident five youths were arrested after stones were thrown at a police vehicle. No injuries were reported."

Yesterday morning five Glendale pupils, two pupils from Spine Road, one from Tafelsig and one other youth appeared in Mitchells Plain Magistrate's Court in connection with charges of public violence.

The pupils, who are all under 18, were not asked to plead and were released into the care of their parents. They will appear again in October.

In Cloetesville, near Stellenbosch, 18-year-old Hannaleen Simmers, the head girl of Luckhoff High School, where pupils have not attended classes for the past five days, was "taken in for questioning by police", her mother, Mrs Elizabeth George, said yesterday.

Attorney Mr Essa Moosa confirmed this week that five students from Touws River and Worcester and three teachers from Paarl were detained under the emergency regulations last Tuesday.

They are Mr Manuel Koopman and Mr Neville Padiachy of Worcester, Mr Borris Nel, Mr Isak Ockhuis and Mr Dan Swarts of Touws River and Mr Tamsanqa Jacobs, Mr Timothy Ndzuzo and Mr Julius Allah, three teachers at Simon Hebe High School in Paarl.

● Sapa reports that the other incident of unrest on Monday, according to the police unrest report, was in Daveyton (Benoni), where a private house was petrol-bombed. No injuries were reported.

Own Correspondent

JOHANNESBURG. — About 6 900 students — the total student body of the University of the North — were in their second day of class boycott yesterday in protest against police raids on campus.

Nusas has called on acting State President and Minister of National Education Mr F W de Klerk to stop "his vicious security police" from harassing students.

A university statement said a mass student meeting on August 11 resolved to "extort a public condemnation of what they call persistent police raids".

Security police 'not trained' — W/O

CAPE TIMES 16/5/89 3:3

A SECURITY policeman yesterday told the Supreme Court that security police were not trained in interrogation techniques and it would be illegal to assault a detainee in order to obtain a confession.

This was said under cross-examination by Warrant-Officer Schalk van der Merwe in the trial of Mr Tony Yengeni and 13 others who have refused to plead to charges of terrorism.

Quoting from a document called "How to outwit the enemy in detention" found after the arrest of Ms Jenny Schreiner, defence counsel Mr Michael Donen asked W/O Van der Merwe if it was true that the document laid out facts and also created certain beliefs in the mind of the reader.

W/O Van der Merwe agreed that the author claimed to know the rights of detainees but said he was unable to comment on claims that the author knew interrogation techniques used by security police.

He admitted that the author was correct that detainees were not required to make or sign statements.

He also agreed that many Section 29 detainees were required to write a life history.

Ms Jenny Schreiner had been asked to write such a biography and in January last year she had been asked to rewrite it, he said.

The trial continues.

20 pupils on public violence charges

AR645 16/8/89 331

Staff Reporters

A LAWYER has confirmed that at least 20 Mitchell's Plain pupils have been charged with public violence and the Western Cape Education Front today called on police to withdraw from schools immediately.

Mitchell's Plain attorney Mr Taswald Papier said 20 pupils had been charged with public violence.

Nine of them appeared in court yesterday, nine others appeared last night and two others are to appear soon, he said.

BARRICADES

The wave of stonings and barricades near high schools in Mitchell's Plain continued yesterday.

Barricades burnt in Merrydale Road near Mondale High and in Caravelle Road, near Glendale High.

The principal of Tafelsig High closed his school about 11.45am.

The Western Cape Education Front today called on police to withdraw from schools immediately to allow pupils and teachers to meet and for the release of detainees.

In a statement, the Education Front, a Mass Democratic Movement organisation, disclosed plans to hold a parents' rally on August 23 at which it plans to inform people about conditions at schools.

It was organising a major education summit, to be held at the University of the Western Cape on August 26, the Education Front said.

The UWC summit will decide on "action in the week of September 1-6, collect the demands and problems of those in the educational sector and look forward to our goals of building a non-racial democratic education system in a united South Africa".

The Education Front was critical of the detention of more than 11 Western Cape pupils.

"What has happened to Vlok's (Minister of Law and Order Mr Adriaan Vlok) claims to have freed the children? Detention of children is cruel and barbaric. Nor does it resolve anything, as events in Mitchell's Plain have shown, but only adds to a tense and volatile situation," the Education Front said.

Police confirm M'Plain arrests

PRETORIA. — The police public relations division said today in its unrest report that "once again, the Cape Peninsula was relatively quiet with the exception of Mitchell's Plain".

"Several incidents of stone-throwing and road barricades were reported in Mitchell's Plain. A number of private vehicles were damaged in stone-throwing incidents but no injuries were reported.

"On occasions, police used tearsmoke and/or rubber bullets to disperse mobs. At one road barricade police arrested three youths and after one stoning incident police arrested one man and 11 youths."

At Bonteheuwel a truck was damaged when it was stoned by a group of youths.

At Vosloorus, East Rand, a group of youths stoned and damaged three buses. Police used quirts to disperse them.

At Inanda, Durban, police used shotgun fire to disperse an illegal gathering. A youth was wounded. He and three other youths were arrested. — Sapa.

Press curbs

In terms of the emergency regulations reports, comment and pictures may be restricted.

House early on February 8 and investigated the burnt-out shell of her house.

He found the charred body of Miss [illegible] clothes, radios and wine which had been taken from her house.

The hearing continues.

Delmas treason trial postponed

Star 16/8/89 By Jovial Rantao (331)

The judge in the Delmas Circuit Court trial in which 12 alleged ANC members face treason charges, yesterday granted the defence a postponement to allow them to prepare for the case.

Mr Justice W van der Merwe postponed the hearing to October 30 for trial. The adjournment was requested by one of the defence counsel, Mr Lawrence Tonkin, who said he needed more time to go through the indictment and prepare his defence.

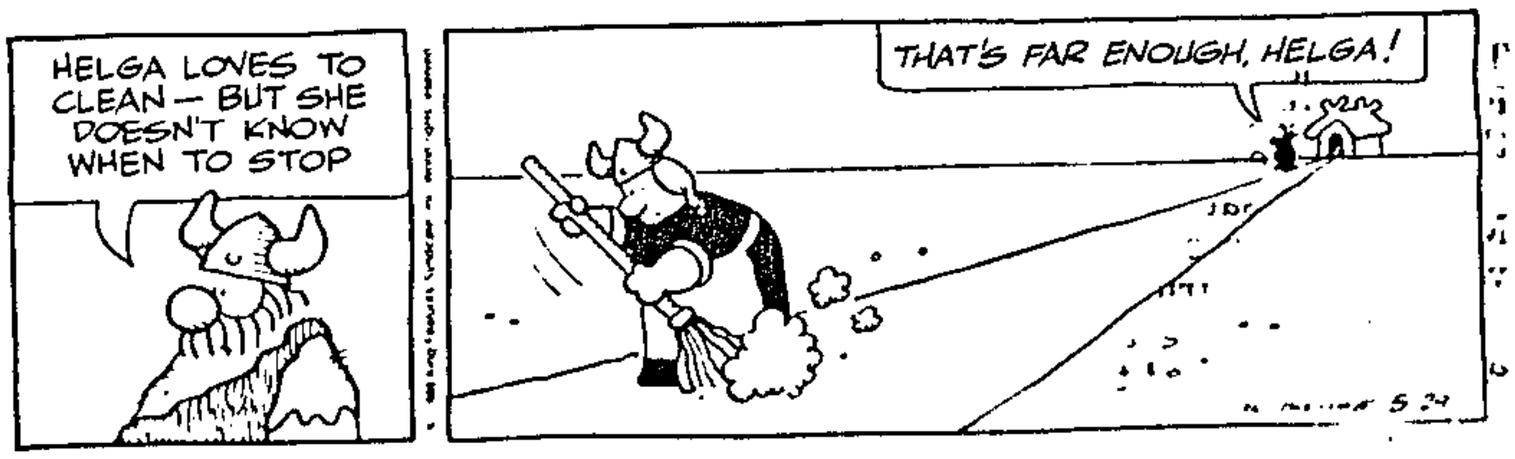
The 12 men, from Mamelodi and Attridgeville near Pretoria, are facing charges of treason, seven alternative counts of terrorism, four counts of murder, six counts of attempted murder and 11 counts of malicious damage.

The State alleges the 12 murdered three policemen in Atteridgeville on March 18 1988 and one-year-old Patience Kulele in Mamelodi on May 10.

They are also alleged to have attempted to murder Ms Mathilda Eleonora Venter in Pretoria on May 16 last year; Ms Rose-Mary Muzwayine and Ms Ananius Nkoane in Atteridgeville on March 18 1988, and Ms Elke Martha Hansen, Ms Anna Maria Prinsloo and Ms Sussana Maria Kruger in Pretoria on May 26 1988.

The accused are: Mr Godfrey Mokube (41), Mr Francis Pitsi (24), Mr George Mathe (21), Mr Ernest Ramadite (24), Mr Johannes Maleka (25), Mr Peter Maluleka (34), Mr Bernard Mokgonyana (26), Mr Joseph Nkosi (39), Mr Reuben Khotsa (23), Mr Reginald Legodi (22), Mr Alfred Kgasi (25) and Mr Rodney Toka.

HÄGAR the Horrible ® By Dik Browne



Advocate: Police truck not fit for carrying cattle

Cape Times 17/8/87 331

Supreme Court Reporter

THE seats and floor of the police truck used to bring Mr Tony Yengeni and 10 co-accused to court yesterday were wet, the shock absorbers defective and the truck was not fit for cattle to be transported in, the Supreme Court heard yesterday.

Mr Michael Donen, for the defence, said this soon after the start of yesterday's proceedings in the trial of Mr Yengeni and 13 others who have refused to plead to charges of terrorism.

Mr Donen said it was with "great reluctance" that he had to raise two issues on which an impasse had been reached between the defence team and accused and the authorities.

For the defence to consult with their clients, an arrangement was made for them to be brought to court earlier at 8.30am. They arrived at court considerably later and he was able to consult only with Ms Jenny Schreiner, for 10 minutes.

In addition the floor and seats of the truck were wet yesterday and the only reason the accused were not soaking wet was that they sat on each other's laps.

More than once they had been hurt either as a result of the manner in which the truck was driven or the condition of the shock absorbers. In spite of representations, the truck ride was as unstable and unpleasant as ever. The truck was not fit for cattle to be transported in, Mr Donen said.

Mr Justice S Selikowitz ordered that a copy made available to the officer commanding Pollsmoor Prison so he could answer the allegations.

Violence: 9 more city pupils appear

Staff Reporter

NINE more Mitchells Plain high school pupils were arrested yesterday and released on bail after appearing in court on public violence charges, a lawyer said.

Urgent bail applications for nine other pupils arrested on Tuesday were brought in Wynberg Magistrate's Court on Tuesday night, and they were released on R100 bail each.

The arrests follow several incidents of stone-throwing in Mitchells Plain on Tuesday.

Pupils at Mondale High School said they suspected there were informers and agents provocateurs among a toyi-toying group on Tuesday. One of them had later pointed out stone-throwers to police.

Mitchells Plain teachers — who declined to be named — said yesterday that they also suspected informers were placed among pupils.

Lawyer Mr Taswell Papier said the 18 pupils released — 15 on bail and three into their parents' custody — were pupils at Mondale, Tafelsig, Cedars and Glendale High Schools, while one was a technikon student. All 18 appeared in Mitchells Plain Magistrate's Court yesterday charged with public violence, Mr Papier said.

The hearing was postponed to September 27 and September 29.

Stretching boundaries of murder

(331)

S047A 17/08 - 23/08/89

The Sharpeville Six and the Upington 14 were sentenced on the basis of the controversial "common purpose" doctrine. But while throwing a stone, or using threatening language may be wrong, is it murderous? asks DAVID UNTERHALTER, a law lecturer at the University of the Witwatersrand:

ONE feature of the uprisings of 1985-1986 was that policemen, councillors, and informers, regarded as agents of an illegitimate state, were attacked by large groups of people, often with fatal results.

Killings of this kind attracted much international attention, and the state sought to bring charges against those responsible. But who was responsible?

Ordinarily, in cases of murder, the first requirement of responsibility is causation: If I do not bring about the death of another, how can I be held accountable for this outcome? Where a killing occurs in the context of actions taken by members of a crowd, it is often difficult to determine whose actions brought about the death of the deceased.

Many may have acted in some way against the deceased, by shouting or throwing stones, for example, but do not thereby cause the death of the deceased. Can such people nevertheless be found guilty of murder?

The answer given by our highest court, the Appellate Division, is that they can. In the case of the Sharpeville Six, S v Safatsa, the Appellate Division held that accused people 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.

It is a person's active association with a crowd bent upon murder that makes of such a person a murderer, even though others in the crowd (who may remain unknown) in fact bring about the death of the deceased. It is on this basis that the Sharpeville Six were convicted of murder.

There have been several other cases that have applied the doctrine of common purpose to highly charged situations, in which large groups of people have acted against their political opponents, the most recent being that of the "Upington 14".

Among lawyers, opinion is sharply divided on the merits of the doctrine of common purpose.

There are those who defend the decision as a justified application of an established doctrine to the consequences of mob actions.

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.

In English law, Section 8 of the Accessories and Abettors Act, 1861 renders a person who aids and abets an offence liable as a principle offender. And there are English cases that make use of the idea of participation in a joint unlawful enterprise as a basis for liability .

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 they bring about.

But what is troubling in cases such as the Sharpeville Six or Upington 14 is that, while the actions of some of the accused may have been wrong, we find it difficult to describe them as murderous.

Throwing a stone or using threatening language is wrong, but when it does not have fatal consequences 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.

Consider its central argument: 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. 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.

Common purpose

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 be formed only between individuals. And though large numbers of people may come to share a common purpose, that must be established.

Individuals are just as likely to intend different things by their actions as to make common cause.

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. Quite frequently we endorse, support, or associate ourselves with another's actions without wishing to adopt or assume responsibility for those actions.

So, too, I may act in the context of a crowd, but not consent to be bound by the actions of those who kill. I may 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 participation in a mob, and in doing so have got things wrong. They have extended the boundaries of liability for murder too far.

We hope that the doctrine will once again be considered by the Appellate Division, and its application confined.

Court to see 'Trojan Horse' screening

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South
17-23/8/89

TELEVISION equipment has been set up in a courtroom of the Supreme Court, Cape Town, for the screening of the horrific "Trojan Horse" shooting in Athlone in 1985.

And CBS cameraman Chris Everson, who was on the spot when 11-year-old Michael Miranda, 16-year-old Shaun Magmoed and Mr Jonathan Claasens were killed, will be called to give evidence.

The video footage will show security policemen emerging from crates on top of an SATS truck and opening fire on a crowd in Thorton Road, Athlone.

Shown to television viewers across the world, the incident sparked off a wave of international protest against the activities of the South African security police in townships.

In March last year, Wynberg inquest magistrate Mr G Hoffman blamed the police for the death of the three people.

The inquest finding was forwarded to Attorney-General Neil Rossouw who, in November last year, decided not to prosecute the policemen.

This led to parents Mr Martin Magmoed and Mrs Georgina Williams bringing the first private murder prosecution in the history of South Africa.

It has taken four years for the parents of the victims of the "Trojan Horse" shooting to bring to court the 12 policemen and SADF members involved in the shooting incident.

For them, it hasn't been an easy path to justice.

The trial began with an application by the policemen's advocates for the court to raise the security paid by the family from R10 000 to R945 000 — but this was rejected by the court.

This week Mr Justice D M Williamson dismissed an application by the accused, who have all pleaded not guilty to charges of murder, that the case against them be declared nul and void.

They had argued that the indictment was in conflict with a provision of the Criminal Procedures Act which states that "two or more persons shall not prosecute in the same charge except where two or more persons have been injured by the same offence".

The trial continues on Friday.

WMail 18-24/8/89

Trojan trial stalled once more

By GAYE DAVIS, Cape Town

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THE Trojan Horse trial, in which 12 policemen and an SADF member have pleaded not guilty to the 1985 murder of two youths, has been stalled by yet another objection from the defence.

The 13 men have been brought to court in terms of a provate prosecution launched by 11-year-old Michael Miranda's mother, Georgina Williams, and Martin Magmoed, father of Shaun Magmoed, 16.

The youths died when security force members hidden in crates on top of a railways truck suddenly shot at a crowd after stones were thrown in Thornton Road, Athlone.

Last week counsel for the defendants, having failed in a bid to get security against legal costs in the case boosted to almost R1-million, argued that the indictment itself was invalid and urged for the case to be dismissed.

Their argument was based on the fact that Williams and Magmoed were joined in prosecution on both counts, when in fact they were only entitled to prosecute in respect of one count of murder each.

Mr Justice DM Williamson found, however, that while this was so, it was no reason on which to find their prosecution invalid. He dismissed the application and allowed counsel for the prosecution to amend the charge sheet.

As it now stands, Williams and Magmoed are prosecuting each in respect of the alleged murder of their own son, while alternative charges of culpable homicide have been added.

This week, defence counsel mounted a fresh assault on the indictment, arguing that it was still invalid because there were two private prosecutors on the same charge sheet and calling for the charges sheets — and the proceedings — to be separated.

A ruling is expected today.

W-O 'didn't know' of Schreiner suicide bid

CM-Times 18/8/89 331

A SECURITY policeman told the Supreme Court yesterday that he did not know Ms Jenny Schreiner had tried to commit suicide, adding that her hospitalisation for a week could have been because she "slipped and fell" in her cell.

Warrant-Officer Schalk van der Merwe was being cross-examined in the trial of Ms Schreiner and 13 others who have refused to plead to charges of terrorism.

Asked by defence counsel Mr Michael Donen whether he had investigated the reason for Ms Schreiner's hospitalisation, W-O Van der Merwe said that as far as he could recall she had "taken ill" after slipping and falling in her cell.

When Mr Donen noted that a fall was not an illness, W-O Van der Merwe said she became ill as a result of the fall.

Pressed about whether he had tried to establish the cause of Ms Schreiner's "illness", W-O Van der Merwe said he "saw no reason" to go to the cell after police inquiries.

He agreed with Mr Donen that people did commit suicide in detention. He said the possibility that Ms Schreiner had attempted to take her own life had entered his mind. But Ms Schreiner had never told him of the attempt.

W-O Van der Merwe said that as a trained interrogator he could assume that a detainee who had attempted suicide was vulnerable.

"At the time we were concerned with the accused's health and at no time did we exploit the accused's state of health to obtain a statement."

Ms Schreiner had not been interrogated in hospital, he said.

The trial continues.

Schreiner 'paled visibly' when shown her note

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ARGUS 8/8/89

By LINDA GALLOWAY
Supreme Court Reporter

WHEN terrorism accused Miss Jenny Schreiner was confronted with a note she had written on toilet paper in her police cell, she "paled visibly and her eyes filled up with tears", the Cape Town Supreme Court has been told.

Testifying under cross-examination during the Yengeni trial, security policeman Warrant Officer Schalk van der Merwe said cell warders at the police station, where Miss Schreiner was kept as a Section 29 detainee, had been instructed to search her cell and had found the note.

Mr Michael Donen, for the defence, suggested to W/O Van der Merwe that he might have thought Miss Schreiner was "weakening" and had intensified his interrogation of her.

The policeman replied that he had "not thought anything".

Earlier, the court heard that Miss Schreiner had tried to commit suicide in her police cell in January last year, after making a statement to a magistrate.

W/O Van der Merwe said he had not inspected Miss Schreiner's cell after the incident, and had not questioned her about her "illness".

He had been told that she had "become ill" and had fallen in her cell.

W/O Van der Merwe told the court he had not interrogated Miss Schreiner during or after her hospitalisation.

He did not believe she had tried to commit suicide because she had not said anything about it to him.

He did not know whether Miss Schreiner had asked to be taken to hospital or if she had been taken because she was visibly ill.

He denied that an attempted suicide by Miss Schreiner would be something the State would have been able to cover up.

The trial continues.

38 M'plain 'defiance' arrests

By DENNIS CRUYWAGEN
Staff Reporter

AT LEAST 38 Mitchell's Plain high school pupils have now been arrested on charges of public violence in the continuing "defiance campaign" on the Cape Flats.

And in other unrest-related incidents in the Cape area, police have confirmed two adults and seven youths have been arrested, and one policeman injured.

Twenty-nine of the pupils have appeared in court and late last night nine more were brought to court when two urgent bail applications were submitted by their lawyer.

They are due to appear again in the Mitchell's Plain Magistrate's Court today.

Lawyer Mr Taswald Papier, of C E McDonald and Associates, said today the nine pupils had been arrested at 12.45pm yesterday.

"We tried to locate them and eventually discovered late in the afternoon that they were being held at Mitchell's Plain police station. We met the investigating officer at 6pm last night and decided to apply for an urgent bail application when it appeared that police wanted to keep them in jail overnight," he said.

CUSTODY OF PARENTS

Six Beacon Hill High School pupils appeared in court at 8pm.

They were Marius Isaacs, 18, Nasief Safodien, 19, and four youths aged between 16 and 17.

Isaacs and Safodien were released on bail of R100 each and the youths are in the custody of their parents.

Three other high school pupils, two from Tafelsig High School and one from Aloe High School, also appeared last night.

Two of them are minors and were released into the care of their parents and David Samuels, a Standard 9 pupil at Tafelsig, was released on R100 bail.

They will appear in court again today.

● Five restricted people have appeared in Athlone Magistrate's Court following their arrests under emergency regulations.

Mr Ebrahim Rassool of Surrey Estate, Mr William Thomas of Athlone, Mr Mountain Qumbela of Guguletu and Miss Hilda Ndude, also of Guguletu, were granted bail of R250 each yesterday.

Bail conditions include a curfew set by the court and that they refrain from interfering with State witnesses.

The fifth accused, Mrs Dorothy Zihlangu, 69, of Guguletu was released on condition that she remain indoors between 7pm and 6am every day.

They are being charged with contravening the emergency regulations unless the Attorney-General decides on a alternative charge, and were

(Turn to page 3, col 1)

Arrests in Cape area

(Cont from page 1)

warned to appear on September 22.

Archbishop Tutu put in an appearance during proceedings.

● Police have confirmed two adults and seven youths have been arrested and a policeman injured in unrest-related incidents in the Cape Town area.

A woman and six youths were arrested in Mitchell's Plain where there were several incidents of stone-throwing, road barricades and illegal gatherings.

In Bishop Lavis police arrested a man and a youth after they had allegedly erected a burning road barricade.

In another incident in the area, a policeman was slightly injured in a stoning incident. Police used tearsmoke to disperse the mob.

A delivery vehicle was damaged when it was stoned in Bonteheuwel. No injuries were reported.

In other incidents around the country, a black man was slightly injured when a group of black youths stoned a shop at Ackerville in Witbank.

At Inanda, Durban, one group of blacks fired a number of shots at another group. Two youths and a woman were killed and three others were wounded. Another youth was burned to death.

At Scotsville, Kraaifontein, a police vehicle was damaged in a stoning incident.

At Galeshewe, Kimberley, a black man was arrested after an incident in which stones were thrown at a private vehicle. One round of tearsmoke was used to disperse the mob.

At Saaiplaas, Virginia, police arrested 90 blacks who had formed an illegal gathering.

7 years' jail each for 2 ANC men

331

Cape Times 19/8/89

Own Correspondent

HUMANSDORP. — Two self-confessed African National Congress (ANC) trained terrorists who were this week convicted of terrorism were sentenced to an effective seven years' imprisonment each in the Regional Court here yesterday.

Mr A W Meiring, the magistrate, sentenced Christopher Sandile Ndesi, 22, of Soweto, and Mvuzo Given Dyams, 22, of Zwide, to 10 years' imprisonment each, conditionally suspending three years of the sentences for four years.

The two had pleaded guilty.

Detainees appear in court

CMT Times 19/8/89 331

TWO emergency detainees, who have been in custody since February without being charged, made a brief appearance in Cape Town Magistrate's Court yesterday.

No charges were put to Mr Robert Mngedisi Twalo, 33, and Mr Madoda Keith Daki, 31, both of Guguletu.

Their lawyers said it was likely they would be charged with terrorism in terms of Section 29 of the Internal Security Act.

Mr Twalo, who is likely to be charged with "assisting a terrorist", was granted bail of R1 000 yesterday.

Mr Daki, however, was remanded in custody as the state has written to the attorney-general asking that he be refused permission to apply for bail.

ADVERTISEMENT

One of 14 guilty of violence

CAR-34 Tim 24/8/89

PAARL — Of the 14 youths, aged 12 to 20, who appeared on Friday in the Magistrate's Court here on charges of public violence, one was found guilty.

Joseph Fisher, 20, of Franschhoek was fined R180 (or six months). In addition he was sentenced to a further six months' imprisonment conditionally suspended for four years.

The state alleged that the youths threw stones at passing cars and attacked people by stabbing them with knives and other sharp objects at La Motte near Franschhoek on February 18 this year. Sapa

Family weeps as ANC three jailed

DM Times 22/8/89 331

DURBAN. — All three accused in the Regional Court terrorism trial here were jailed yesterday — the ANC unit "head" for 10 years, his comrade for seven years and the woman who acted as courier for two years — amid loud weeping from the packed gallery.

Welcome Vukane Mhlongo, 28, of Chesterville, turned to tell his family not to cry as he was sentenced to ten years' imprisonment.

Magistrate Mr T D Reed said he (Mhlongo) could not "expect anything less" for undergoing ANC military training in Angola and returning to South Africa as head of a unit with plans to kill Inkatha leaders.

He had placed a limpet mine in a rubbish bin near a home for the aged in Maritzburg (which did not explode) and was found to have a cache of arms and ammunition at Nottingham Road.

Nkosinathi Lancelot Mazibuko, 26, of KwaMashu, was sentenced to seven years for his role as the "brains" of Mlongo's unit.

Ntombenhle Charity Mazibuko, 26, of Lamontville, who has a six-year-old child by Mhlongo, was jailed for two years for not only acting as a courier for her co-accused but reporting to the ANC in Swaziland on the organisation's activities within South Africa.

Yesterday's proceedings were disrupted for about 10 minutes when the capacity crowd in the courtroom began singing and chanting during one of Nkosinathi Mazibuko's "speeches", in spite of the police's efforts to restrain them.

At one point Mazibuko called Mr Reed a terrorist.

Maritzburg on February [illegible]
Internal Security Act.

12 of Cosatu in court

DURBAN. — A group of 12 Cosatu members, some of them school pupils, have appeared before a magistrate in connection with charges of attending an illegal gathering and contravening the Internal Security Act. They were not asked to plead. The case was adjourned to September 4.

Convicted terrorist disrupts hearing

Sowetan 331. 23/8/89

A 22-YEAR-OLD convicted terrorist Lancelot Mazibuko shouted so loudly in the Durban Regional Court that the magistrate had to adjourn temporarily.

Mazibuko was jailed for seven years while his co-accused, Welcome Vukane Mhlongo (29) and Ntombenhle Charity Mazubuko, were jailed for 10 and two years' imprisonment respectively on terrorism charges.

Mazibuko read out a political statement from the dock and shouted African National Congress political slogans at the top of his voice. The spectators who regarded them as "heroes" responded.

Mazibuko said: "There is no doubt that Section 29 is being used by the police to torture its opponents."

He said "victory or death, the ANC will continue its struggle", adding "there is no easy way to freedom as Mandela wants it".

Mhlongo and Lancelot Mazibuko received terrorist training in Angola during 1987. They both entered the country in 1988 with a mission to kill Inkatha members.

In passing sentence, Mr T D Reed said he accepted that many black people had reasons to be aggrieved regarding the lack of decent housing, hospital facilities, pass laws, migratory systems, labour and influx control laws. Mr Reed said he has taken these factors into account.

Mr Reed said the accused claimed to represent a part of the people in this country. But whether violence was perpetrated by people from the left or right, the court had a duty to act.

He cited the recent case in which the Pretoria Supreme Court sentenced Strydom to death because he shot several blacks out of hatred.

After passing sentence, scores of people, mainly schoolchildren, shook hands with the three.

Cape Times
23/8/89 331

Trial of 4 'terrorists' postponed

THE Cape Town regional court trial of three women and a man, charged with harbouring an alleged ANC guerilla, was yesterday postponed until tomorrow as their advocate, Mr Anwa Albertus, was unable to be present.

Their attorney, Mr Bulelani Ngcuka, said Mr Albertus was still involved with a civil case in the Supreme Court and will be available tomorrow to proceed with the defence's argument before judgment in the trial.

Mrs Ethel Thenjiwe Loza, 44, and Ms Maureen Mandisa Loza, 19, both of Guguletu, Ms Sindiswa Beauty Dlawu, 27, of Port Elizabeth, and Mr Xolile Mini, 30, of Khayelitsha, have pleaded not guilty to unlawfully harbouring or helping suspected guerilla Mr Nkululeko Mutsi.

The offences are allged to have taken place in Guguletu between December 1987 and July last year.

The state alleges it has reason to suspect that Mr Mutsi committed or intended to commit an act of violence.

Appeal on validity of Delmas court

Submissions that the Delmas treason trial — the longest trial in South Africa's history — continued before an improperly constituted court, will be considered by the Bloemfontein Appeal Court tomorrow.

Three leaders of the United Democratic Front were jailed for a total of 32 years by Mr Justice van Dijkhorst in December last year for treason: The publicity secretary, Terror Lekota, received 12 years and the national secretary, Popo Molefe, and former Transvaal secretary, Moss Chikane, received 10 years each.

The defence team in the trial last year noted an appeal on the merits of the judgment and sentence and a special entry that the court be declared improperly constituted because of the dismissal of Professor W A Joubert in March 1987 as an assessor after he had informed the judge, Mr Justice van Dijkhorst, he had signed the UDF's petition opposing the tricameral parliamentary system.

APPLICATION REFUSED

The defence is asking for a separation of its appeal on the merits of the case and the special entry on whether the court was properly constituted.

An application for the quashing of the trial in April 1987, on the grounds of the judge's partiality in dismissing Professor Joubert, was refused by Mr Justice van Dijkhorst.

The defence will argue:

- The judge wrongly construed his powers in dismissing Professor Joubert.
- The refusal of the judge to admit Professor Joubert's statement in connection with this meant the trial continued before an improperly constituted court.
- The refusal of Mr Justice van Dijkhorst to admit Professor Joubert's statement hampered the defence in an earlier attempt to quash the case.

(331) Star 23/8/89

Bid to split 'Trojan' trial

331

CAPE TOWN — The judge in the "Trojan Horse" murder trial of 13 security force members would be exceeding his jurisdiction if he granted an application by the private prosecution to amend the indictment and allow a separation of trials, counsel for the defence argued in the Cape Town Supreme Court yesterday.

Mr Jules Browde, SC, had earlier applied for an amendment to the indictment, allowing for a separation of trials.

Mr P de Bruyn, SC, said the court was being asked by means of an amendment to an invalid indictment to allow the formation of two separate invalid indictments.

The hearing was postponed to tomorrow. — Sapa.

Star 23/8/89

ANC guerilla jailed

331

Sowetan 22/8/89

AN ANC guerilla who was found guilty of terrorism was sentenced to an effective five year jail term by the Pietersburg Regional magistrate on Friday.

Martin Sehlapelo (23) of Seshego, who was a student teacher and former Bachelor of Science student at the University of Witwatersrand, pleaded guilty before Mr A G H Bouer.

In a confession, Sehlapelo said the had crossed into Botswana aboard a goods train without a passport in 1986 shortly after the declaration of the state of emergency, and after seeing his friend in a hospital's intensive care unit following an alleged assault by police.

Sehlapelo immediately contacted other members of the ANC in Botswana where he was taken to Zambia, and later to a camp in Angola to receive military training. He was trained in the use of AK-47 assault rifle, limpet mine and vasrious other weapons, the court hear.

He came back to South Africa in August 1986 on a mission to politicise and recruit people for the ANC.

When passing the sentence, Mr Bouer said the fact that Sehlapelo spent 20 months in detention after being arrested in November 1987 and his plea of guilt should be considered.

He said the plea of guilt showed that he regretted what he had done. He also took into account that he was not found with any weapon and no property was damaged.

12 in court after death of special constable

Court Reporter

SEVEN Nyanga men and five Nyanga youths appeared briefly in Athlone Magistrate's Court yesterday in connection with the death of a special constable in Nyanga last Saturday.

They were Mr Fever Ngxukuma, 32, Mr Douglas Guza, 19, Mr Collin Bushula, 23, Mr Thomas Mhlakaza, 35, Mr Frazer Muvula, 20, Andile Hobo Mtshini, 26, Mr Mthozamo Pringane, 26, and five youths ranging from 13 to 17 years old.

The hearing, which was held in camera, was adjourned till today for a bail application which the state is opposing.

The accused have not yet been asked to plead as the charges have not been formally formulated. But according to lawyers, they face charges of murder and theft of a firearm.

Mr S K E Liebenberg was the magistrate. Mr M F Davis prosecuted. Miss Renata Williams, instructed by Mr P Volmink, appeared for eight of the accused. Mr S Matana and Mr R Kessow appeared for the others.

Policeman denies 'threats'

331
CM Tue 26/8/89

Supreme Court Reporter

A SECURITY policeman yesterday denied in the Supreme Court that he had threatened to get Lieutenant Frans Mostert to interrogate terrorism accused Ms Jenny Schreiner when she refused to co-operate.

Warrant Officer Schalk van der Merwe, in the trial of Mr Tony Yengeni and 13 others, said he did not use that interrogation method. If he had uttered that threat it would have constituted an assault, he said.

Mr Michael Donen, for the defence, had asked if the secret of his success — the first when between December 5 and 9 Ms Schreiner answered questions for the first time and the second between January 4 to 6 last year when she wrote out her autobiography — was due to the threat that he would call in Lt Mostert.

Asked if it was a coincidence that when he drew up a schedule of when Ms Schreiner was to be interrogated he left out the day Lt Mostert intimidated her and that he left out the day he threatened that he would get Lt Mostert, WO Van de Merwe said it was and it was also a mistake on his part.

Mr Donen said he had taken Ms Schreiner to his Loop Street office where he had a photograph on his wall of a Guguletu man who died when a handgrenade exploded close to his body. Mr Donen asked what he would say if Ms Schreiner said the photograph had drained and "psychologically weakened" her.

WO Van der Merwe said Ms Schreiner would say that to discredit him. The picture was there only to show explosives experts they would be dead if they made a mistake.

The hearing continues.

News in Brief

CAA-1/475 26/8/89

Ex-Cayco man in court

331

FORMER president of Cape Youth Congress (Cayco) Mr Whitey Jacobs appeared briefly in Athlone Magistrate's Court yesterday in connection with allegedly breaking his emergency restriction order, and was released on R250 bail.

5 years for ANC guerilla

331

CAA-1/475 26/8/89

PIETERSBURG. — An ANC guerilla, Martin Sehlapelo, 23, convicted in the Regional Court here of terrorism, was yesterday sentenced to an effective five years in jail.

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Delmas legal battle goes on

Cpress 27/8/89.

JUDGMENT was reserved by the Bloemfontein Appeal Court on Friday in the application by Patrick "Terror" Lekota and 10 other Delmas triallists, for two special entries on their trial record to be considered without a full record of the trial before the court.

Chief Justice Corbett, Judge Botha and Judge Nicholas (acting judge of appeal) are hearing the application.

The 11 men were convicted in the "Delmas" trial by Judge K van Dijkhorst in November last year.

Gcinumuzi Petrus Mahindi, Thomas Madikwe Manthata and three executive members of the UDF – Popo Simon Molefe, Mosiou Gerald Patrick Lekota and Moses Mabokela Chikane – were imprisoned for terms of between five to 12 years. The other six received suspended sentences.

The two special entries concern whether the court was properly constituted after the judge ruled that one assessor, Prof WA Joubert, had to recuse himself after it was found he signed the UDF's "Million Signature Campaign".

The applicants believe that if the special entries are upheld, the trial proceedings would have been irregular.

They made their application to reduce the cost and time involved.

PB Jacobs SC, for the State, submitted that on the limited record, the appeal court would not be properly informed of matters that could be relevant to the decision.

He said aspects of the "Million Signature Campaign" would require the court's attention to properly decide on the appeal.

– Sapa

August 27, 1989

331 Claus 27/8/89

Commander rats on boss

Judgment in Shabalala trial expected soon

By S'BU MNGADI

A feared Inkatha commander left death row for a while this week to testify against his former boss, Thomas Mandla Shabalala, who has been charged with murder and attempted murder.

The self-appointed mayor of Linelani squatter camp and a former Inkatha central committee member, 45-year-old Shabalala has been charged with the murder of Igugulabasha pupil Bethwell Bheki Gcabashe on April 20 last year and five attempted murders.

He pleaded not guilty and was granted R500 bail. The trial enters its fifth week tomorrow.

The streets outside the Durban Supreme Court were transformed into a battle field twice this week as supporters and opponents of Shabalala clashed. More than 300 people, mostly schoolchildren, were held but were later released.

The commander, 29-year-old Emmanuel Khanyile, received seven death sentences earlier this year for the murders of seven KwaMashu pupils.

Shabalala's name featured prominently in this case, although he had not yet been charged.

Khanyile, who was escorted by four heavily-armed prison guards, told the packed courtroom he and his men had been on duty at all Inkatha rallies and meetings in Natal.

He told Judge Combrink that on the day of the killings Shabalala sent a boy to tell him the "UDF were holding some children from Igugulabasha High School".

"I did not want to fight because the case against me was pending," he said.

Shabalala was armed with a rifle and had a belt with bullets around his neck.

The group, all heavily armed, left in two minibuses. They came across pupils who were walking "happily on the road".

Shabalala got out of the minibus shouting "here are these dogs" and fired into the crowd, Khanyile said.

As panic-stricken children scattered Shabalala followed a pupil, who had apparently been shot, into a nearby house. Khanyile said he heard another shot go off inside the house.

One of the men, Thokozani Khumalo, struck a pupil on the head with a firearm. When the pupil fell down, a certain Thulasizwe stabbed him.

A police van arrived but the occupants did not intervene.

The attackers left the scene in their vehicles. Khanyile claimed he stood next to a minibus and watched.

Outside the court, a fight broke out between Shabalala's supporters and schoolchildren.

The two groups, brought to court in buses, were unable to enter the packed courtroom. They remained outside, toyi-toying and taunting one another.

Tempers flared when more buses arrived. The Lindelani group stopped the arriving party from joining their colleagues in front of the court.

During the skirmish a schoolgirl, 17-year-old Thandelani Ndlela, was stabbed and kicked. A youth was also stabbed.

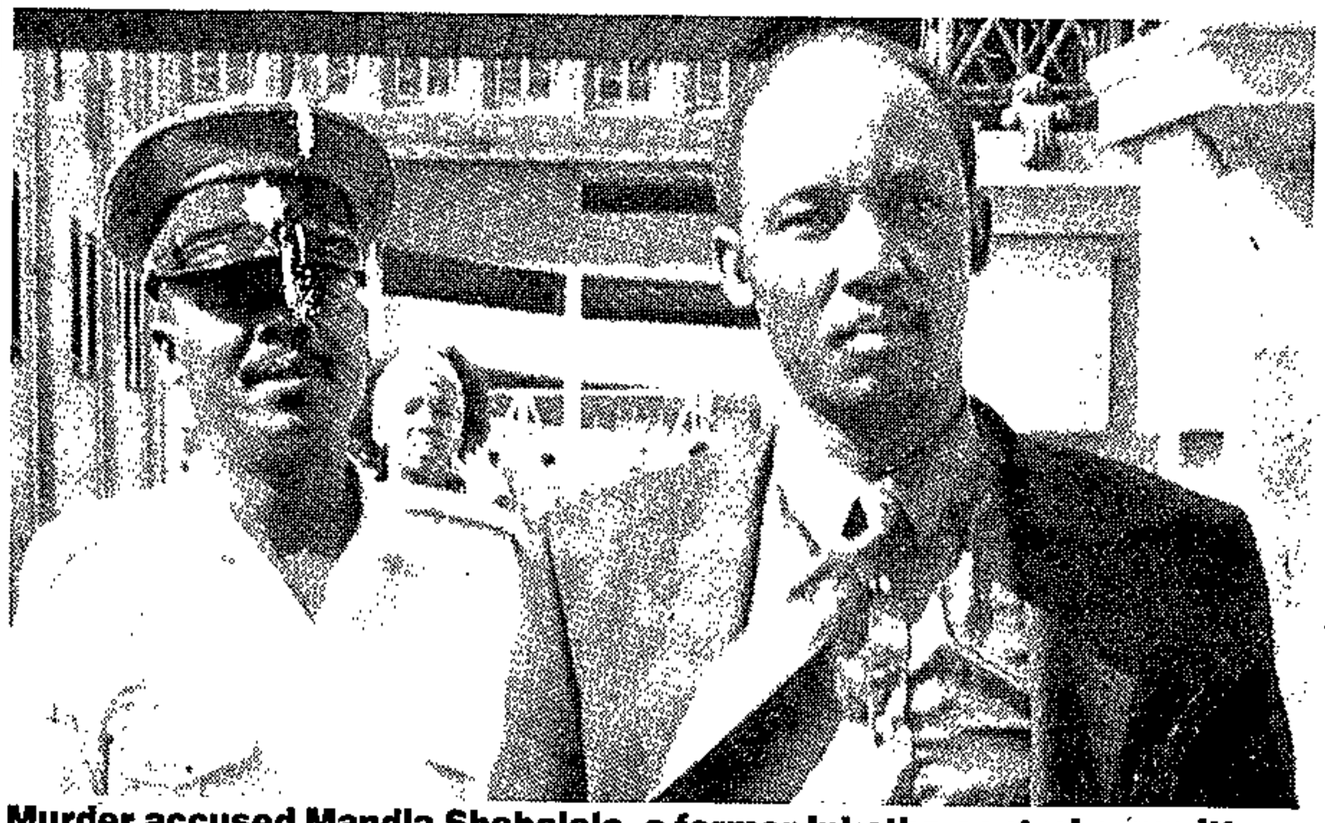
Police intervened and led away a Lindelani youth carrying a home-made firearm.

On Friday about 400 people converged on the Supreme Court but were told by police to leave. They assembled near the court, doing the toyi-toyi.

An hour later, a police reaction unit loaded about 300 members of both factions into separate vans and took them to CR Swart Square.

Police spokesman Lt Col Charl du Toit said their names and addresses had been taken and they were released afterwards.

Judgment is expected this week.



Murder accused Mandla Shabalala, a former Inkatha central committee member, is escorted out of court by a policeman.

Cop told accused gory tales 'to put her at ease'

CAME THIS 29/8/89 331

Supreme Court Reporter

THE Supreme Court heard yesterday that a security policeman had told terrorism accused Ms Jenny Schreiner ghost and suicide stories to make her "feel at ease" and answer questions put to her during interrogation.

Warrant Officer Schalk van der Merwe, an explosives expert and former investigating officer in the trial of Mr Tony Yengeni and 13 others, said this during cross-examination.

He was asked by Mr Michael Donen, for the defence, if he remembered an occasion when he was stationed in Mowbray and had visited the home of a woman who had complained about a burglary and said that furniture moved around in her home.

WO Van der Merwe admitted that in the home two sliding doors had closed on him with "tremendous force" and he had had to strain to get through.

WO Van der Merwe agreed he had told Ms Schreiner about it.

Mr Donen further put it to WO Van der Merwe that while he was a detective at Rondebosch police station a woman had complained she could not get into her flat.

He had forced the door, found a man lying on a bed and applied emergency rescue methods, rushed the man to hospital and saved his life.

He also remembered two further suicide incidents he had told Ms Schreiner about but had done this in a conversation in order to put her at ease.

Told he must have known that Ms Schreiner was left alone in a cell at night at Parow police station with the lights switched off, WO Van der Merwe replied Ms Schreiner was an adult and that ghost stories should not keep her awake at night. He did not think they were the kind of stories which would frighten someone held against their will, WO Van der Merwe said.

Asked why Ms Schreiner had been detained in terms of Section 29, he said because of information that she was involved in the "political scene" and the fact that weaponry was found in her flat. These were sufficient grounds to hold her to obtain information.

He said that by telling Ms Schreiner ghost and suicide stories he could "butter her up" and thereby induce her to answer questions.

The trial continues today.

Sympathy fast for 'Bongolethu 3'

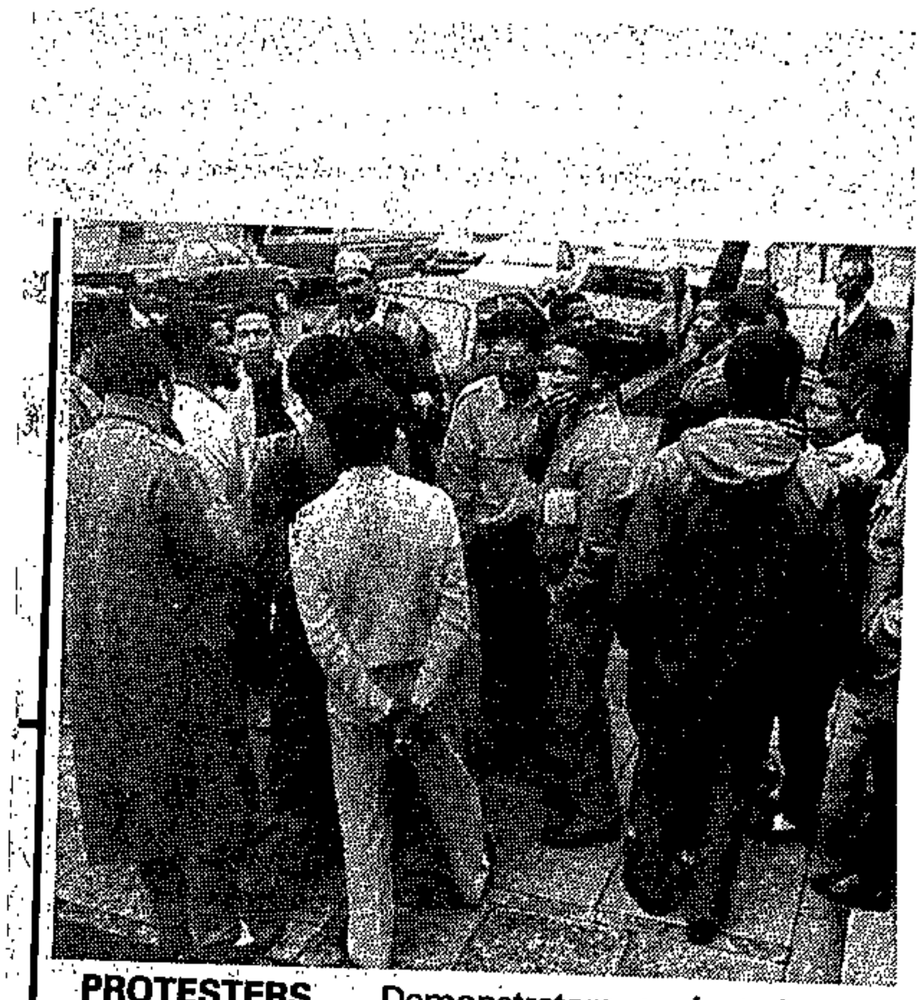
Staff Reporter

A 48-HOUR fast, in sympathy with the "Bongolethu Three" who are are on death row after being convicted of murder, started at 1pm yesterday.

The fast will end with a church service at the Metropolitan Methodist Church in the city tomorrow at 11am.

Desmond Majola, 28, Patrick Manginda, 27, and Dickson Madikane, 28, were sentenced to death on September 23, 1986.

They were convicted of murder on the grounds of common purpose after an incident on November 22, 1985, in Bongolethu, Oudtshoorn, when a member of the local community council was killed.



PROTESTERS . . . Demonstrators against the International rugby tour gather with friends outside the Cape Town Magistrate's Court where they appeared yesterday morning. All 22 accused were released on warning.

CNA Times 29/8/89

Anti-rugby tour demonstrators sing in the dock

By MONICA GRAAFF
Court Reporter

FIFTEEN men, four women and three youths, including a 14-year-old, arrested on Saturday for protesting against the World XV rugby tour, yesterday sang freedom songs in the dock of the Cape Town Magistrate's Court while waiting for the magistrate, Mr J G Odendaal, to arrive.

They quietened down when Mr Odendaal took the bench, but broke usual court protocol by raising their fists rather than their hands to indicate their presence in the crowded dock.

Would-be spectators were told the proceedings were being held in camera.

Police arrested the 22 after a protest outside the President Hotel in Sea Point where the International rugby team were staying, shortly before the start of Saturday's test match. They later released them, warning them to appear in the Cape Town Magistrate's Court yesterday.

No charges were put to the accused and the hearing was postponed till October 23 for the attorney-general's decision on whether or not to prosecute.

The adults were Mr Ngconde Balfour, 35, of Khanya Crescent, Guguletu; Mr Randall Latsape, 26, of Ihamerlaine Street, Woodstock; Mr Abdul Kamaar, 21, of Beacon Valley, Mitchells Plain; Mr Aaron Mgwewu, 19, of NY 78, Guguletu; Ms Pina Nonkulueko, 29, of NY 11, Guguletu; Mr Vuyani Ngcuka, 27, of Zodiac Street, Khayelitsha; Mr Maqbool Hoosian Moos, 20, of Ondine Court, Manenberg; Mr Sharlon Denyssen, 26, of Rocklands, Mitchells Plain; Ms Judy Abrahams, 32, of Arctic Crescent, Crawford; Mr Paul Kihn, 23, of Nooitgedacht Street, Stellenbosch; Mr Paul Joemat, 45, of Jupiter Street, Surrey Estate; Mr Jeffrey Daniels, 25, of East Ridge, Mitchells Plain; Mr Mark Splinters, 21, of Grieta Court, Manenberg; Mr Abduraghman Khan, 30, of Voortrekker Road, Maitland; Ms Eunice Jurgens, 28, of East Ridge, Mitchells Plain; Mr Alex Abercrombie, 38, of Diamant Street, Surrey Estate; Mr Desmond McKenzie, 26, of East Ridge, Mitchells Plain; Mr Donovan Jurgens, of East Ridge, Mitchells Plain; Ms Marlene Matthews, 27, of Rocklands, Mitchells Plain, and Mr Tambinkosi Saongxalo, 19, of Khayelitsha.

Mr J M Mc Ewan prosecuted. Mr S Matana and Mr H B Joshua appeared for the accused.

30/8/89

Cop 'never read file on detainee's illness'

331

Supreme Court Reporter

A SECURITY policeman yesterday told the Supreme Court he had not read a medical report sent to security police from Tygerberg Hospital after Ms Jenny Schreiner became ill because reports of that nature usually contained medical terms he could not understand.

Warrant Officer Schalk van der Merwe, an explosives expert and former investigating officer in the trial of Mr Tony Yengeni and 13 others, said this during his 17th day under cross-examination.

Mr Michael Donen, for the defence, put it to WO Van der Merwe that on her return to Parow police station — where she had been detained in terms of Section 29 — after her discharge from hospital on January 15 last year, instructions had been given that certain objects should be removed from her cell.

Asked if that had not been done because security police suspected she had tried to harm herself and would do so again, WO Van der Merwe said it was not. As far as he knew Ms Schreiner had become ill, had been admitted to hospital, treated and had undergone tests.

Asked if a medical report had been sent to security police and if he had read it, WO Van der Merwe said he did not read the report. He was not a medical person and the medical terms would have been lost on him, he said.

Mr Donen said he found it "beyond belief" that when a person described as a "high profile detainee" became ill WO Van der Merwe received a medical report and did not read it.

The trial continues today.

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Trojan Horse murder trial

Own Correspondent

CAPE TOWN — A journalist yesterday told the Supreme Court that when stones hit the windscreen of a Sats truck men in camouflage gear jumped out of crates on the back and started firing on groups of people.

This was said yesterday by Argus journalist Dennis Cruywagen during evidence in the "Trojan Horse" private prosecution brought by Martin Magmoed whose son, Shaun, 16, died in the incident.

Cruywagen, a driver and a photographer, had arrived at the intersection of St Simons and Thornton Roads when they had seen groups of people — some with stones in their hands — gathered.

He had taken up position on the stoep of a nearby butchery where he watched three groups of people on different corners stone some commercial vehicles while others escaped.

He did not see any barricades and the traffic flow was fairly heavy at the time when a Sats truck with crates on the back drove down Thornton Road in the direction of Klipfontein Road, Cruywagen said.

He had seen a driver and passenger in the cab but had not seeny anyone else, he said.

"I saw the truck again, travelling in the opposite direction. I recall seeing stones being flung at the truck and remember seeing the driver lift his arm." Cruywagen said.

"Simultaneously people jumped out of the crates and opened fire. Out of instinct and probably fear I found myself flat on my back in the butchery. The way they were firing they could have hit anyone,".

"Everything happened so fast ... the first I knew of their (police) presence was when shots were fired. I saw more than five but less than 10 policemen, some wore camouflaged uniforms." Cruywagen said.

"Before the first shot was fired there was no indication that there were people at the back of the truck. I did not expect them to appear."

"Before shots were fired no warning was issued. On other occasions I had heard police issue warnings. If there had been a warning I would have heard it. No teargas was fired," Cruywagen said.

The trial continues today.

Police shot into crowd, court hears

331

I hid behind cars – 'Trojan' witness

31/8/89

Own Correspondent

CAPE TOWN — A woman yesterday told the Cape Supreme Court during the "Trojan Horse" trial how she ran for shelter and crouched behind cars as police emerged from the back of a truck and started firing into a crowd.

Mrs Geraldine Jacobs, a pupil at Belgravia High School at the time, said that on October 15 1985 she had gone to visit a friend in St Simons Road near the intersection with Thornton Road.

Earlier, she had passed the intersection on her way home from school and had not noticed anything unusual.

Truck approaching

When she went to visit her friend later that afternoon, she saw a scattering of people at the intersection. Some "guys" were standing on a corner with stones in their hands. A smouldering object was in the middle of Thornton Road.

She continued to her friend's house. Her friend indicated that a truck was approaching. She saw an orange truck coming down the road with "sort of boxes, crate things on the back".

She saw the truck stop and "some policemen emerge from the crates and started shooting".

"I didn't see anyone stoning the truck," she said. It was possible the truck had been stoned.

When the shooting started, she saw people running away. She ran away as well.

She hid behind two cars and a few seconds later a man joined her there. His leg was bleeding.

The hearing continues.

WO denies 'undue influence'

Cape Times 31/8/89

331

Supreme Court Reporter

A SECURITY policeman yesterday denied that he had told Ms Jenny Schreiner that her fellow accused had made statements and that she was holding up the investigation, and added that would have been considered "undue influence."

Warrant Officer Schalk van der Merwe, explosives expert and former investigation officer, was giving evidence under cross-examination in the trial of Mr Tony Yengeni and 13 others.

Asked by Mr Michael Donen, for the defence, if he had told Ms Schreiner that Mr Yengeni and Mr Chris Giffard had made confessions to a magistrate, WO Van der Merwe said it was possible.

In response to a question, he said he remembered that a colleague, a WO Nel, had told Ms Schreiner he knew she was proud of what she had done and stood for and that she should make a statement to a magistrate.

Told that he had said to Ms Schreiner her refusal to co-operate would lead to the extension of her detention, WO Van der Merwe said he did not discuss that with her.

He remembered sending a colleague to Parow police station — where Ms Schreiner was being detained — to ask her to rewrite an autobiography she had written on January 1 last year.

Asked if WO Nel had not come up with the "ingenious idea" of getting Ms Schreiner to rewrite the January 6 statement and hand it to a magistrate after she refused to make a confession, WO Van der Merwe said the original statement had been written on.

The first time Ms Schreiner appeared willing to make a statement to a magistrate was on January 21. He had then ceased his interrogation of her and had handed her over to WO Nel, WO Van der Merwe said.

Asked how Ms Schreiner had indicated she was willing to make a confession, WO Van der Merwe said that throughout her interrogation Ms Schreiner had appeared self-assured. When she was asked to make the confession she seemed unsure of herself.

Asked by Mr Donen if he had received a report from a captain and a lieutenant at Steenberg police station — where Mr Yengeni was being detained, WO Van der Merwe said he had not.

He also did not receive reports of the injuries from a magistrate and a district-surgeon and was not aware of assault allegations by Mr Yengeni.

WO Van der Merwe denied a submission by Mr Donen that when Mr Yengeni had been examined and given a tablet by a district surgeon he had remarked to two policemen that Mr Yengeni was a terrorist and should not be given the tablets.

He was also not aware that after complaints to the station commander Mr Yengeni had received the tablets three days after they had been prescribed for him.

The trial continues today.