

PUBLIC SECTOR GOVT. JUSTICE,

1989

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Trials make '88 headlines

Star 2/1/89

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By Cathy Stagg

The trials heard in the Rand Supreme Court last year included South Africa's biggest fraud trial, the biggest award for damages in a civil action and a murder trial which captured the attention of the nation.

Detective Sergeant Robert van der Merwe (30) and Captain Jack la Grange (40) were both given double death sentences for the murder of drug dealers Mr Bennie Ogle and Mr Peter Pillay. They were also sentenced to 10 years' imprisonment for attempting to murder Mr Ernest Molokoane.

PACKED TO CAPACITY

The 19-day trial was punctuated with dramatic surprises and the public gallery was packed to capacity every day. Mr Justice Irving Steyn passed sentence on April 2. On November 24 the two men were among those granted clemency.

In June, Miss Reeva Forman's two companies were awarded R2,125 million damages, believed to be the largest award made in South African legal history.

Reeva Forman (Pty) Ltd and Reeva Success Dynamics sought R3 million arising out of an article published in the June 1985 edition of *Style* magazine. Miss Forman herself was not a party as she accepted an out of court settlement but she attended court every day of the trial.

On August 14, three former African Bank managers were sentenced to 14 years' imprisonment. Alan Young (37), Henry Harper (44) and Arthur Ferreira (40) made R100 million profit in foreign exchange deals and were convicted of fraud and contravening exchange control regulations.

Mr Justice G Gordon said that the previous largest fraud trial, the Rademeyer case in which an Eskom employee defrauded his employer, paled into insignificance when compared to the amounts in the African Bank case. The bank itself was acquitted of all charges.

Ashwell Zwane and seven co-accused

were acquitted of treason but sentenced to an effective four years' imprisonment for sedition. They took part in unlawful anti-crime campaigns and ran a people's court in Alexandra.

Mr Justice P J Grosskopf said the people's court, which was operated in a shack in 15th Avenue during 1986, had started out helping Alexandra residents but it had degenerated into a system filled with violence and injustice. Handing down sentence on October 4, the judge described the accused as the soldiers and not the generals.

Mr Moses Mayekiso and his four co-accused were granted bail on December 12. Their trial on charges of treason, alternatively subversion or sedition, began in October 1987 and attracted international attention because of Mr Mayekiso's prominence as the general-secretary of the National Union of Metalworkers of South Africa.

ILLEGAL SATS STRIKE

It is alleged they attempted to usurp the authority of the State by making Alexandra ungovernable. At the end of their evidence, the Attorney-General withdrew a certificate which had blocked the accused from applying for bail.

On August 10, eight men who were involved in an illegal Sats strike, admitted they had murdered four non-strikers and attempted to murder another man.

Of the 18 men on trial, two were acquitted and the rest were convicted of a variety of crimes once Mr Justice T T Spoelstra accepted their pleas.

Two doctors brought applications before the Rand Supreme Court.

On October 6, Mr Justice R Goldstone ruled that Dr Beverly Traub should be given the promotion which had been denied her since she signed a letter expressing her deep concern about conditions at Baragwanath Hospital. She was one of 101 doctors who signed a letter published in the

South African Medical Journal

Dr Traub said she welcomed the judgment but did not want it to be seen as a fight for the doctors, but as a fight for the patients at Baragwanath.

Dr Paul Davis challenged the validity of a subpoena and on November 1 his application was dismissed with costs. He had published the results of a study which concluded that 83 percent of a group of people released from detention and examined by six doctors between July and October 1985, showed signs of physical abuse.

He was subpoenaed to appear in the Johannesburg Magistrate's Court to be examined by a public prosecutor. Mr Acting Justice S Burger, with Mr Justice C F Elloff concurring, ruled that the confidential relationship between doctor and patient must yield to the public interest.

In February, Heather Smith (20) was sentenced to six years' imprisonment for the murder of her married lover, Mr Marthin Cornish. She shot him on on May 22 1987.

On September 2, an Iranian, Mohomnad Sedighi-Safai (36), was sentenced to an effective 14 years' imprisonment for murdering his German wife, Elke, and attempting to murder his brother-in-law, Mr Jurgen Steffens. The shootings took place at Mr Steffen's Sandton home on October 5 1987.

ACCOUNTANT DIES

On October 7, three men were convicted of culpable homicide arising from the death of an accountant whose body was found in the Bryanston Shopping Centre parking lot. David Hilton Kearney (37) had been paid to repossess a BMW car from Mr Morris Grauman (50). Kearney got Mrs Barbara Bunck to lure Mr Grauman to the shopping centre where he was assaulted by Gary Teasdale (22) and Colin Michael Gemmel (21).

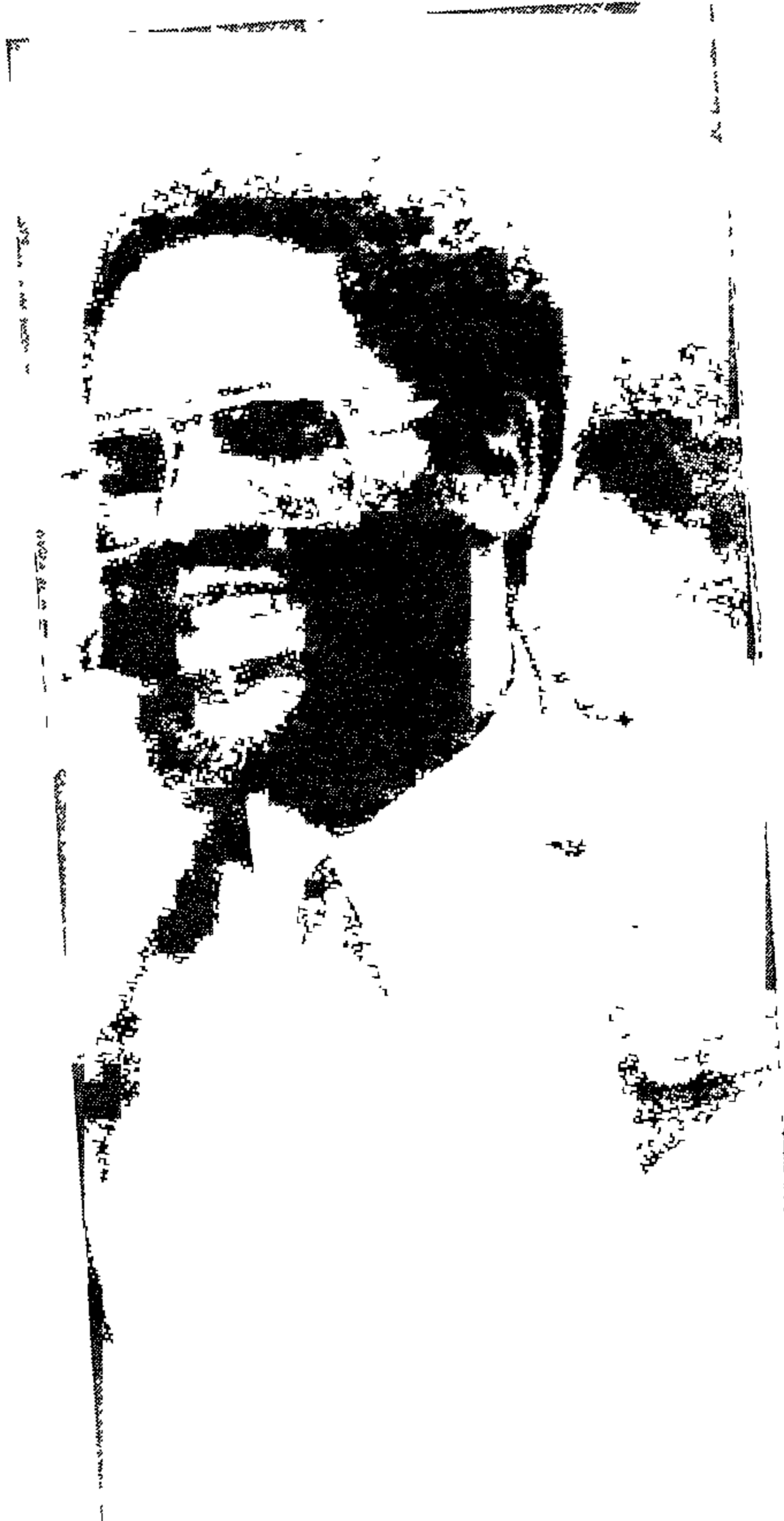
Mr Justice P J van der Walt said there could never be a lawful reason to assault a man to make him return a car.

Ms Reeva Forman two of her companies were awarded more than R2 million damages

STAR

2/1/89

(252)



Trade unionist Moses Mayekiso — with his wife, Kola — is free at last to walk the streets of Johannesburg. But he is still on trial and forbidden, in terms of his bail conditions, to go home to Alexandra township.

World protest over Sisulu 'clamps'

Star 5/11/89 (252)
The restriction of *New Nation* editor Mr Zwelakhe Sisulu after his release from nearly two years' detention without trial, has drawn protest from people in several foreign countries.

The Star has received copies of 30 letters sent to the State President and various other officials, calling for the lifting of Mr Sisulu's restrictions

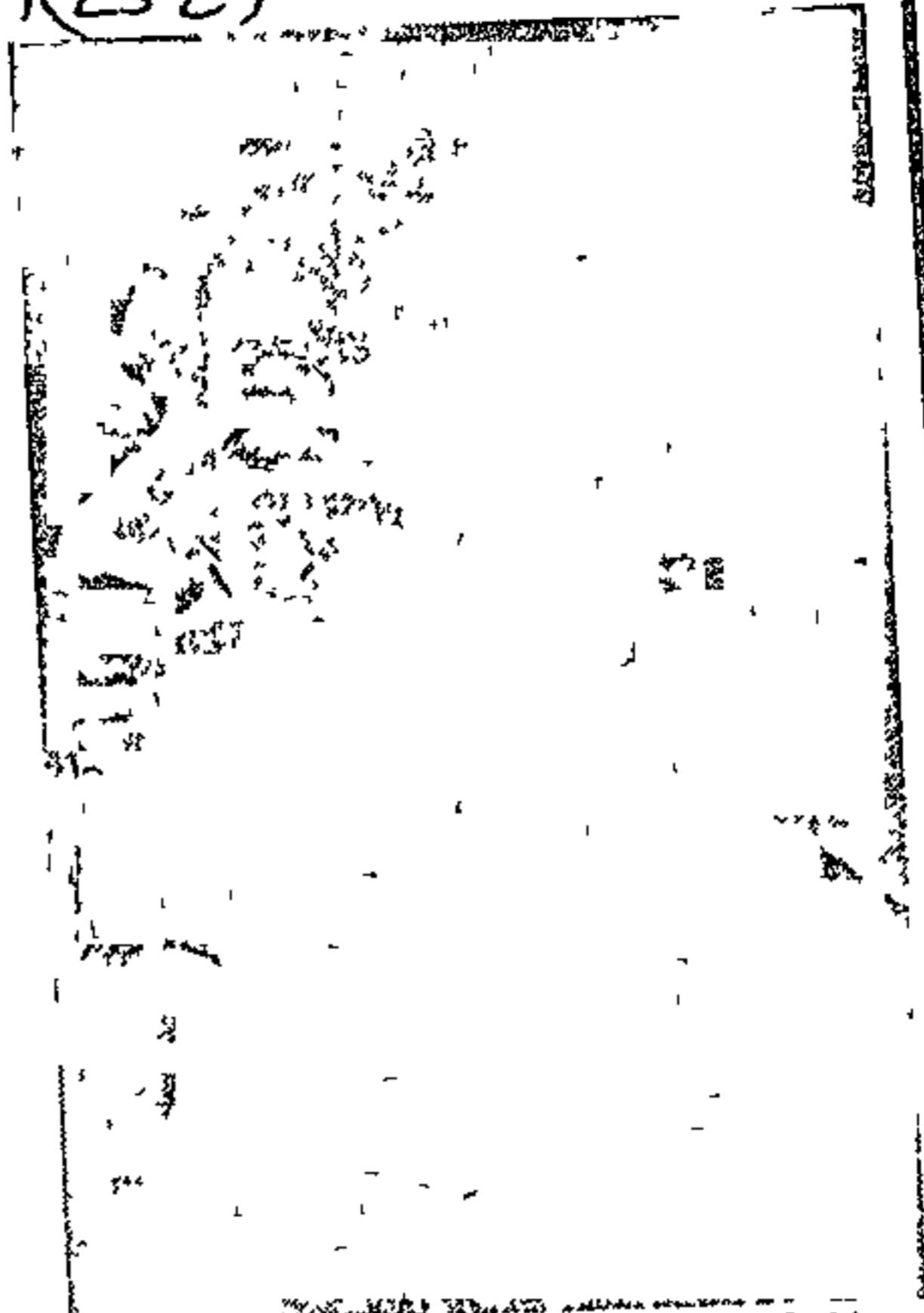
Among them is one from the 350-member Journalists Association of Dalarna, a branch of the Swedish Union of Journalists

It reads "We are deeply concerned at the severe restriction order imposed on Zwelakhe Sisulu on December 2 and inquire why his freedom of expression, movement and association have been curtailed in this way"

NON-VIOLENT OPPOSITION

The association's chairman, Mr Hans-Olof Sundin, observes that the restriction appears to have been imposed "solely because of his work on behalf of human rights and his non-violent opposition to government policies"

The restrictions on Mr Sisulu expressly prohibit him doing his job as a journalist. In addition, he is confined to his house between dusk and dawn, has to report twice daily to the police and is prohibited from taking



Mr Zwelakhe Sisulu, editor of *New Nation*

part in the activities of a range of organisations and attending meetings

The United Nations Association of Great Britain and Northern Ireland has also written to Mr PW Botha, calling for the "immediate and total lifting" of Mr Sisulu's restriction order

Magistrate reconsiders

Shwelan 5/1/89 252

THERE was no certainty yet as to whether the inquest magistrate ordered to reconsider his decision on the controversial killing of seven alleged guerillas by police in Guguletu two years ago, would allow verbal evidence

This was said yesterday by the assistant senior prosecutor at the Wynberg magistrate's court, Mrs Sandra Swart, in reply to a query for a court date on the reopening of the inquest into the deaths of the seven alleged ANC members

STUDYING

She said inquest magistrate Mr G Hoffman would begin studying additional evidence collected by the Attorney-General's office before deciding on a court date

In November 1986 Mr Hoffman found on sworn affidavits only that all seven men died from bullet wounds sustained "in police activity for the combatting of terrorism" — Sapa

SENTENCES ARE QUASHED

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Solomon 9/11/89

MR Justice J J Strydom, the judge who gave a controversial suspended sentence to a man who had whipped to death one of his farm hands several months ago, has had three death sentences overturned by the Appeal Court in a review judgment handed down last year.

The Appeal Court found that in a murder trial heard two years ago Mr Justice Strydom's reasoning was "fundamentally fallacious" when he sentenced three men to death for murders committed during a mine fight:

One of the men on death row has now been set free on appeal, the second had his death sentence reduced to 30 days imprisonment and the third was given 10 years

Mr Justice Strydom recently made international news when he gave a Northern Transvaal farmer, Jacobus Vorster, a suspended sentence for killing one of his labourers, Mr Eric Sambo, by repeatedly assaulting him after Mr Sambo had ridden over Vorster's dogs with a tractor

Mr Justice Strydom, sitting with two assessors in the circuit court at

Klerksdorp, found six of the original eight accused guilty on various charges arising from a faction fight in Orkney in February 1986

Findings

Three accused — Tyelovuyo Mgedezi, Solomon Nonghwathi and Paulus Tshehlana — were sentenced to death. Siphwe Mbalomdaka was given an effective 10-year jail term. Frans Makhanya and Edwin Masike both got seven years.

But late last year the Appeal Court found the trial judge had erred in not considering the evidence of each accused separately. "The trial court's failure to embark upon such an exercise

constituted a serious misdirection," the Appeal Court held

On reassessing the case, the judge found Tyelovuyo Mgedezi guilty on two counts of attempted murder and sentenced him to an effective 10 years in jail

Solomon Nonghwathi's murder conviction was changed to one of assault with intent to do grievous bodily harm and a 30-day jail term was substituted for death

Mr Paulus Tshehlana and Mr Edwin Masike were set free, Siphwe Mbalomdaka's effective 10-year sentence was not changed, and Frans Makhanya was convicted of public violence and jailed for 18 months

Incident at Paardekraal described as a trap

b/day 11/1/89

Terre'Blanche tipped to easily keep leadership

AWB leader Eugene Terre-Blanche would easily retain his leadership against the challenge of four of his top lieutenants suspended from the right-wing movement recently, predicts Boerestaat Beweging leader Robert van Tonder.

Van Tonder, whose organisation has close links with the AWB, said Terre'Blanche had clearly walked into a trap that he said may have been laid by the NP or even the CP.

"Why would so many policemen suddenly appear on the scene if all that was damaged was one gate?" Van Tonder said, referring to the Paardekraal monument incident last month involving Terre'Blanche and newspaper columnist Jani Allan.

The incident led to a call for his

PETER DELMAR

resignation from four AWB Groo- traad members, including his deputy Jan Groenewald, amid allegations of womanising and heavy drinking.

Van Tonder said the CP could conceivably have tried to discredit Terre'Blanche by arranging the Paardekraal incident.

The CP would be "quite happy if the AWB disappears", he said, adding that the party had clearly rejected the concept of a *Boerestaat* or *volkstaat*.

□ A CP MP, who asked not to be identified, said yesterday the AWB's internal feud would have "absolutely no effect" on the party. The CP, he said, had four times more members

than the highest independent estimate of AWB membership of 100 000.

□ Sapa reports from Pretoria that Terre'Blanche said in an interview he did not "wantonly destroy" a gate at Paardekraal; and that he enjoyed "an odd drink or two" but was by no means an alcoholic.

He said stories that he was a womaniser and had an improper relationship with Allan were "nothing but a load of bull", adding he had "nothing to hide".

Terre'Blanche said his initial reluctance to reply publicly to the charges had been because he had "wanted to think this thing through"

"But you can't trust the media these days. Everything you say is twisted and put into the wrong context. Nobody would have believed me anyway," he said

Anti-hanging campaign

UNLESS bold affirmative action was taken, executions in SA would average more than one a day by the year 2000 if present trends regarding capital punishment continued, Lawyers for Human Rights (LHR) national director Brian Currin said in Pretoria yesterday

He was addressing more than 50 relatives of people on death row during the launch of a national campaign against the death penalty.

Currin said last year's 117 executions in SA, excluding the independent states, were, according to LHR's information, the most judicial executions anywhere in the world.

He said during 1988, 213 people

SIPHO NGCOBO

were sentenced to death and although there were 48 reprieves and 27 successful appeals, statistics indicated the number of people on death row was increasing annually.

Projections were that executions would reach one a day by 2000, with the number of death-row prisoners still only just below 300, he said.

"Something urgent must surely be done and we again appeal to the State President to declare a moratorium on all executions and establish an appropriate commission of inquiry in accordance with our petition of September last year."



Family members of people on death-row at a launch of a national campaign against the death penalty. From left: George Moncube, father of ANC insurgent Mthetheleli, and Doris McBride, mother of ANC bomber Robert.

Picture ROBERT BOTHA

Couple in court on kidnapping charge

A COUPLE appeared in the Johannesburg Magistrate's Court yesterday on a charge of kidnapping their own children from foster parents

Andrew Peter Lees, 26, and his wife Barbarah Dawn, 23, of Rosey Street, Rosettenville, are alleged to have abducted their children, Can-

THEO RAWANA

dice Carmen and Donald Peter, from the custody of a Mr and Mrs Kasman of Parkhurst on January 4.

The couple were not asked to plead and were remanded in custody until January 16

THE UNIVERSITY OF THE FREE STATE

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DEATH ROW CHAMPIONS

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A "save the patriots" campaign for two "comrades" — one on death row after his appeal was turned down and the other due to appeal against his death sentence — has been launched by the National Union of Mineworkers, said a spokesman yesterday.

The campaign, with 20 000 petitions sent out to Num regions and mines for the members to sign, is supported by other trade unions, youth organisations and churches opposed to the death penalty, the spokesperson said.

He said the petitions will be sent to the State President, Mr P W Botha, not later than Saturday, requesting him for clemency.

According to a statement issued by Num yesterday, "comrade" Mgedezi is due to hang early this year and another member, Lucky Nomnganga, who was sentenced to death on September 28 last year, has been granted leave to appeal against some of the charges that were levelled against him.

Mgedezi was sentenced to death four times by a trial court that found him guilty on four counts of murder and 15 years' imprisonment for attempted murder.

The charges arose from a faction fight in Orkney in February 1986. The Appeal Court reduced the sentences to two death penalties for the two murders, 6 years imprisonment for the other two murders and 10 years for attempted murder.

MIR P W Botha



Hanging a day by the year 2000?

PRETORIA — Executions in South Africa would average more than one a day by the year 2000, if present "frightening trends" regarding capital punishment continued, the national director of Lawyers for Human Rights (LHR), Mr Brian Currin, said here yesterday.

He was speaking at a news conference organised by the Families of People on Death Row (Fopod).

Mr Currin said last year's "shockingly high" 117 executions in South Africa, excluding the independent states were, according to LHR's information, the highest number of judicial executions in the world.

"It would seem that the situation is deteriorating," Mr Currin said.

"During 1988, 213 people were sentenced to death. Although on the positive side, there were 48 reprieves and 27 successful appeals, statistics indicate that the number of people on Death Row is increasing annually.

Additional cells are presently being constructed to meet the upsurge in numbers.

Projections were that executions would top one a day by 2000 to keep the number of Death Row prisoners below 300, he said — Sapa

Mams inquest needs witnesses

Star 10/1/89
Pretoria Correspondent

Witnesses to the 1985 Mamelodi shooting have been asked to have their statements taken down so they can give evidence in the inquest into deaths of people killed (252)

Mr. Nano Matlala, a Pretoria attorney representing the Mamelodi community in the inquest, said more witnesses were required to testify at the inquest.

"I appeal to anybody who witnessed the shooting, bodies lying on the ground or helped to remove the bodies to contact me at (012) 26-923/4," said Mr Matlala

Court reserves judgment on long sentence

By Cathy Stagg

Judgment has been reserved in an application concerning a six-year jail sentence imposed on David Bruce, who refused to do military service.

The sentence was imposed on July 25 last year by a Johannesburg magistrate, Mr PH Bredenkamp.

Yesterday, Mr Edwin Cameron, who appeared on behalf of Bruce, told Mr Justice J Coetzee and Mr Justice MJ Strydom in the Rand Supreme Court that the court had been given a sliding scale a minimum of 18 months or 1½ times the outstanding amount of military duty, whichever was the longer.

He submitted that, in Bruce's case, the six years' of imprisonment imposed for refusing to do military duty was the maximum and not a compulsory sentence.

Mr T E Dicker, who appeared for the State, submitted that the court did not have a discretion for this type of offence.

Mr Justice Coetzee remarked that the court was like a calculator, merely working out the legislature's formula.

The words in the Defence Act which were debated were "liable to" and "whichever is the longer".

Mr Cameron said "liable to" meant the court had a discretion in deciding on the length of the sentence and the second



Mr G Bruce, father of David Bruce, outside the Supreme Court yesterday.

phrase merely indicated which measure to use.

Mr Dicker's argument was that "whichever is the longer" meant that the minimum sentence was 18 months (for instance if the person had only refused to do a 30-day camp) or 1½ times the outstanding amount.

As Bruce had refused to do any duty for reasons other than religious objection for which provision was made, he submitted the only sentence which could be imposed was the maximum of six years.

In reply, Mr Cameron said a court must consider the crime, the requirements of society and the accused's personal circumstances.

Mr Justice Strydom said he and his brother judge needed time to consider the arguments presented by counsel and reserved judgment.

Star 10/11/89

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Death Row families speak out

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Sowden
11/1/89

HANGING people is a barbaric system and South Africa would have been world champions if there was a hanging competition at the Olympics, parents and relatives of prisoners on Death Row said in Pretoria yesterday.

Speaking at the launching of Families of People on Death Row (Fopod), an organisation that is campaigning against the death penalty, Mrs Doris McBride — whose son Robert was condemned for murder and terrorism two years ago — told of the agony and misery experienced by people on death row

Mrs McBride urged the community to unite and pray and help the condemned people and added that,



Inquest ⁵² hears of ⁵² omission

Star 11/18/85
Pretoria Correspondent

Conflicting documentary evidence on the location of bodies of alleged victims of the Mamelodi shootings on November 21, 1985, forced a short adjournment of the Inquest Court in Pretoria North yesterday

Mr JN Pretorius adjourned the inquest to allow witnesses who removed the bodies to testify following a request by Mr Morris Basslain, who is representing families of the victims

Earlier during the Inquest, Captain Daniel Hugo McLachlan, who was in charge of a Casspir at the scene of the mass gathering, said during the dispersal of most of the crowd of about 20 000 his team also had to use buckshot to disperse a stone-throwing group

He said about 300 people were closing in on three colleagues who were left stranded on the ground due to a misunderstanding, and whose lives were in danger.

The three policemen were not hurt during the stone-throwing and they ultimately boarded the Casspir.

Asked whether he did report the incident to a Colonel Loots who was in charge, Captain McLachlan said he did, but he could not say why the colonel left out the stone-throwing incident in his report because "I cannot speak on his behalf"

He agreed that a "normal" person, such as Colonel Loots, would have regarded the stone-throwing incident as important

The inquest continues

CAPE TIMES 12/1/89
2 prisoners to hang
PRETORIA — Two death row prisoners are due to be executed tomorrow. They are Nelson Bakiri and Johannes Mangate, both of the Cape Province

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Star 12/1/89

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

By Jo-Anne Collinge

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

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

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

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

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

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

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

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

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

Prisoners to be hanged

TWO death row prisoners are due to be executed tomorrow, Lawyers for Human Rights said in Pretoria yesterday

They are Nelson Bakiri and Johannes Mangate, both from the Cape Province

(25) Sowetan 14/11/89
LHR had investigated their cases thoroughly and had exhausted all available remedies to save the condemned men, including petitioning for clemency to the State President — Sapa

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"Regretfully, nothing further can be done to save them from execution," said LHR's national director, Mr Brian Curran. Sapa

12 charged with treason, terrorism and murder

By Mckeed Kotlolo, Pretoria Bureau

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

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

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

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

Killers who murdered six people hanged today

By McKeed Kotlolo,
Pretoria Bureau

Two death row prisoners convicted of murdering six people were hanged today despite many attempts to save them, including petitions for clemency to the State President by Lawyers for Human Rights (LHR)

Their executions at Pretoria Central Prison were confirmed by the Department of Justice today

A statement by the department said Bakiri Nelson (29) was convicted in the Grahamstown Supreme Court on December 10 1987 for a double murder and Johannes Mangate (41) was convicted in Upington on April 20 last year on four counts of murder

Nelson was found guilty of the murders of Ms Valarey Frances Dansey (68) and her mother, Mrs Esther Frances Havercaal Penny (89). The murders occurred on January 16 1987 in their home in Port Alfred

Ms Dansey's body was hidden under

shrubs and grass and a wheelbarrow Mrs Penny was found in her room

Mangate was sentenced for the murders of Mr Mgagi Merman Matshoba (41), Mr Willem Malela (36), Mr Adoons Cooper (32) and Miss Sophie Dingaon (26). He was also accused of attempted theft, unlawfully pointing a firearm at a person and the use of a vehicle without the owner's permission, and was sentenced to 10 years and eight months for the offences

According to the statement, Mangate broke into his employer's house on the farm Grootwitpan in the Gordonia district and stole, among other items, a 22 Mauser, a 308 Forester and 62 bullets on October 27 1987, the day on which he killed the four people

In a statement released to Sapa yesterday, the LHR said it had thoroughly investigated the cases of the two men and had also exhausted all the remedies to save them from the gallows. The LHR also petitioned the State President for clemency

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National cycling event cancelled

4 000 pylons in Mozambique had been sabotaged and the reconstruction teams would

Armed struggle will continue — defence counsel

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

Defence counsel L. Gering closed his case in the trial of ANC member Ebrahim Ismail Ebrahim, 51, and Anton Maseko, 38, who were convicted on a main charge of treason in November, and Simon Dladla, who was found guilty of terrorism. Gering said "We are dealing with a divided society and when government

banned the ANC it gave its followers no choice but to go underground and, therefore, to act illegally." He said 70% of the population, even after all the reforms, had no say in the law-making process.

Mr Justice Daniels replied that there had been more changes made by government in the past 10 years than had occurred in the last 300 years in SA, and that did not appear to have any significance to the accused. He said it was his function to impose a sentence with regard to the severity of the crimes committed. Gering said, "Those who make

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

Mr Justice Daniels said he felt most blacks did probably sympathise with the ANC on a broad base, but when it came to the "nitty-gritty" there might be a different response by the people. Gering argued that the judge, in considering an appropriate sentence, should keep in mind what the international community's feelings were towards the ANC.

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

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

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

Star 14/1/89

Judge's appeal unheeded

PETER FABRICIUS
Political Staff

MR Justice Lategan's call six weeks ago for a full public inquiry into critical remarks made by an Appeal Court judge of a death sentence he passed, seems to have gone unheeded

A spokesman for Minister of Justice Mr Kobie Coetsee said yesterday he knew of no such inquiry. However the Minister was on leave until next week and so this could not be confirmed.

The ministry had said



Mr Justice Lategan

earlier that if Mr Coetsee were directly asked for an inquiry he would consider it.

Mr Justice Lategan of the Cape Supreme Court issued a press statement

early in December calling for the inquiry to clear his name when a controversy erupted over a death sentence he passed on Albert Pieterse (20) for robbery with aggravating circumstances.

Appeal Court judge Mr Justice Botha set aside the death sentence, describing it as "so shockingly unsuitable that it staggers me".

Legal experts said Mr Botha's criticism was the strongest they had heard passed on a Supreme Court judge's sentence.

State hangs 2 murderers

TWO convicted murderers went to the gallows in Pretoria on Friday, the first hangings of 1989 in South Africa which has one of the highest execution rates in the world.

Nelson Bakari (29), and Johannes Mangate (41), were convicted of multiple murders. They were not among the 48 people on Death Row for politically motivated crimes.

Some 117 people — 76 blacks, 38 coloureds and three whites — were hanged last year at Pretoria Central Prison, where all executions in South Africa are carried out

In 1987, 164 people were executed. Human rights campaigners say there are about 217 people on Death Row at present — Sapa-Reuter.

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Sowetan

16/1/89

OFS Administrator hurt in death crash

Staff Reporter

Two people died and three, including the Administrator of the Free State, Mr Louis Botha, were injured in a collision near Bethlehem on Friday

Mr Kanthilal Harku (31) and his wife, Shaheda (31), both of Newcastle, were killed in the accident, which happened at 11 00 pm

The Harkus's son and daughter, aged 6 and 3, were treated for their injuries at the hospital in Bethlehem and discharged yesterday

Mr Botha was on his way to his farm near Bethlehem after a visit to Cape Town. He was treated for shock and chest bruises

Bethal trial ^{(252) 2/1/89} sentence today ^{14/1/89}

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

The State asked for the death penalty for all three, ANC member Ebrahim Ismail Ebrahim (51), Acton Maseko (38) — who were both convicted on a main charge of treason — and Simon Dladla, who was found guilty of terrorism

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

Book firm to stop selling ^{stop 16/1/89} Rushdie novel

LONDON — WH Smith will remove the controversial book "Satanic Verses" from its 430 stores in Britain following a rally against the novel.

But the *Sunday Times* and *The Mail on Sunday* newspapers reported that company officials said their decision was taken for commercial reasons

Copies of the novel, by Indian-born author Salman Rushdie — were burned at a peaceful rally in central England of 1 500 people on Saturday

BLASPHEMOUS

The book, which is condemned by Muslims as blasphemous and has been banned in Saudi Arabia, India and South Africa, highlights an Indian actor's internal struggle against the forces of evil

"It is a commercial consideration. We are not bowing to pressure," *The Times* quoted WH Smith and Sons Ltd managing director Mr Malcolm Field as saying

"But we have to bear in mind that a whole shop could be threatened by this sort of thing," he said

Rushdie, who lives in Ealing, London, told *The Sunday Times*, "this is a very sad day, not only for me, but for English literature" — Sapa-AP

THE CASE of the violent rapist, William Frederick van der Merwe, who was recently slain by one of his last victims — a case which has all the elements of a Greek tragedy — highlights the terrible dilemma confronting the law-enforcement agencies can a man who was convicted of such crimes be let loose on the public again and, if so, who must bear the responsibility for that decision?

The judge who tried Van der Merwe in 1972, Mr Justice Irving Steyn, came to the conclusion that such a dilemma should not arise at all in that case, and that the accused should be hanged. Despite his relative youth, a history of a deprived and confused early childhood, dyslexia and, possibly, a degree of psychopathy, Van der Merwe was sentenced to die on the gallows at the age of 20.

Said Mr Justice Steyn at the time: "My paramount duty in this case is to protect the public. I cannot let the public run the risk of the accused being released because of good behaviour, at a time and place when he will again be able to embark upon this type of crime." These were prophetic words, as time would prove.

Van der Merwe appealed, and the Appeal Court — in a judgment that was destined to become classic — set aside the death sentence in a majority ruling of two judges against one Chief Justice Ogilvie Thompson felt — in an equally prophetic judgment — that "the prospects of rehabilitation and reform can be but slight." But he was overruled by his two brethren, Holmes and Jansen.

Mr Justice Holmes was at his eloquent best. "Sentence to the gallows is the incomparably utter extreme of punishment. It should rarely, if ever, be resorted to in the case of a youngster, if a long period of imprisonment might well result in reformation."

So a sentence of 20 years' imprisonment was substituted.

"The law operates to protect women against outrage," said Mr Justice Holmes. "As to that, if there be any doubt whether such a massive sentence of imprisonment will not be a sufficient expiation for the gravely evil misdeeds of his youth, let them cast their minds back in their own lives over that period, and consider how much has happened to them in those two decades, and how long it has seemed, although enlivened by domestic happiness and the free pursuit of their avocations. No such



□ STRAUSS "The prediction of human behaviour is not and cannot be a precise science"

PROF S A STRAUSS, Professor of Criminal Law, University of SA

Can society afford to release violent criminals?

BIDans
16/11/87
(252)

ameliorations attend the slow tread of years when you are locked up."

Van der Merwe served 15 years of his sentence. Following lengthy treatment in the Psychopaths' Prison and after meticulous, careful and repeated assessment by the Release Board, release on parole was regarded as a reasonably safe option in the case of a man who apparently had

responded well to the rehabilitation programme.

Purely on the basis of general statistical data, the chances of recidivism in such a case would seem to be less than 25%.

Tragically, Van der Merwe soon fell back into his youthful pattern of criminal behaviour and ultimately met a violent death after having

raped and killed one of his final victims.

Clearly, judges Irving Steyn and Ogilvie Thompson were completely correct in their prognosis of the accused's future behaviour. In retrospect, it must be said that no one can be blamed for concluding that Van der Merwe should have been hanged after all. Does this mean that the

courts and the prison authorities, in comparable cases in the future, ought not to show the same leniency and take a similar chance with a convicted person?

In theory it would be possible for the criminal-justice system to afford absolute protection to the public by hanging all violent criminals or imprisoning them to the end of their days.

But such a defeatist approach would offend against enlightened, modern notions of penology. The prediction of human behaviour is not and cannot be a precise science, even in the case of individuals with a history of social deviation.

Moreover, it would clearly be unjust to the majority of convicted criminals who are unlikely to relapse into crime — in any event, the same type of serious crime — to preclude the possibility of finite prison sentences and release on parole in their cases.

Society, through its properly constituted organs, cannot dodge the humanitarian responsibility of allowing convicts who have served lengthy sentences and are judged after due expert investigation and with circumspection, to become members of normal society, even if it involves calculated risk.

One has, of course, the utmost sympathy with those persons who fall victim to the deeds of a small percentage of criminals who turn out to be unrehabilitated or unrepentant, but the criminal-justice system cannot be blamed for such failures. It would appear to me to be one of the tragic tribulations that life offers, from time to time, and to which all of us are exposed.

The authorities should, however, endeavour to avoid further tragedies as best they can by way of realistic conditions of release, such as a duty to report regularly to the police, liaison with probation officers and therapeutic treatment (e.g., the compulsory administration of sexually repressive medication or even brain surgery, in the case of violent sex offenders).

When society expresses its ire over the last act of the human drama of William van der Merwe, the famous dictum of Mr Justice Holmes in this self same case should be recalled: "The element of mercy, a hallmark of civilised and enlightened administration, should not be overlooked, lest the court be in danger of reducing itself to the plane of the criminal. True mercy has nothing in common with soft weakness, or maudlin sympathy for the criminal or permissive tolerance."

Freedom and devolution in SA

Dear Sir,
I TRIED TO MAKE the point, in an earlier letter, that devolution of power will not necessarily result in more freedom. Frances Kendall (Letters, January 4) accuses me of a lack of understanding and of silly assumptions, but fails to help me out of my ignorance. My question is whether, in the future canton of Germiston, I will enjoy more freedom than at present?

Kendall makes some errors of logic, such as that because autocratic government is characterised by strong central government, therefore devolved power is always democratic. Boksburg springs to mind as a local authority with enough power to set back the clock.

She then suggests that the proliferation of bureaucracies in devolved systems would be overcome by privatisation. I agree with this, but this has little to do with the advantages of devolution.

Kendall embraces federalism, the new cure for all our problems. Yet I have been led to believe there can be federations with a low degree of devolution — e.g., Aus-

LETTERS



tralia — and unitary states with a high degree of RSCs, and plans for a large measure of devolution and federalism have in principle nothing in common. Kendall goes on to deny similarities

between cantons and homelands, both cases of devolved power in my book, on the grounds that homelands have been imposed by government and that homelands do not have freedom of movement. I am not a defender of homelands but understand there is today a large degree of freedom of movement. In the proposed cantons, however, movement will be restricted in order to prevent a canton attractive to its inhabitants from being swamped by immigrants of an "unattractive" type. One last point. If I "vote with my feet" by leaving Germiston because it is too conservative, then Germiston without my contribution becomes even more conservative. At any rate, more people vote with their pockets than with their feet.

C L KIDSON, Edenvale

THE BEST IN BOOKS

Indigestible

THIS IS a very large book, which claims to tell the real story of SA. "The motivation of our book may have begun in the hallowed halls of our universities, but the story has been told in a way that everyone will find readable," it proclaims.

parody (as in the caption to juxtaposed pictures of white and black housing) "A STUDY IN CONTRASTS blue-watered swimmingpools twinkle (they don't, it's late afternoon) amid the lush, wooded gardens of Johannesburg's northern suburbs, while woodsmoke wreathes around

ism in Cape Town was developing in SA Fort Elizabeth does not sup a city to live in, invest in and visit

'Borderline case for death penalty' Ebrahim and Maseko get long sentences

Alamy 07/11/87
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Julie Wells, American wife of convicted ANC member Ebrahim Ebrahim, after her husband was sentenced to 20 years jail for treason
Picture REUTERS

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

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

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

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

The court found Dladla was indi-

SUSAN RUSSELL

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

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

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

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

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

He said: "It may be they regret

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

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

SAPA

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

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

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

Borderline

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

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

Hesitated

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

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

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

TOP ANCO MENT JAILER

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SOWETAN, Tuesday, January 17, 1989

Sowetan 17/1/89

(252)

Court official's 'AWB slogan'

A ROW has broken out over a junior State counsel's pro-AWB slogan overheard by reporters at the end of the Bethal treason trial in the Pretoria Supreme Court yesterday.

Junior State counsel L. van der Walt is alleged to have said "Lang lewe die AWB" (Long live the AWB).

After Mr Justice Daniels left the court, the crowd in the public gallery rose and joined ANC members Ebrahim Ismail Ebrahim and Mandla Maseko and their co-accused Simon Dladla in singing N'kosi Sikelel 'iAfrika.

At the end of the singing and shouting of slogans by the crowd, Van der Walt was heard by Business Day to refer to the AWB and seen to clap her hands. The Transvaal Attorney-General lat-

SUSAN RUSSELL

er denied Van der Walt had said "Lang lewe die AWB". A Justice Department spokesman confirmed the A-G had received conflicting reports that the prosecutor concerned had said "Long live the ANC" and "Long live the AWB". The spokesman said the A-G denied either was uttered by Van der Walt.

A spokesman for the Justice Minister's office said last night the matter would be looked into.

IAN HOBBS reports from London that Britain's main national radio and TV newscasts yesterday gave prominence to reports claiming the prosecutor had shouted an AWB slogan.

● See Page 2

ANC landmine man escapes death sentence

By Jo-Anne Collinge

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

Senior ANC man Ebrahim Ismail Ebrahim, who was kidnapped from Swaziland before being detained in

Pretoria and placed on trial, received a 20-year term. The third accused, Simon Dladla, was given 12 years' jail. In an emotional scene after the passing of sentence, the crowd in the gallery rose to sing Nkosi Sikelel' iAfrika. At the end of the singing one of the prosecutors in the case was heard to remark "Lank lewe die AWB" (Long live the AWB).

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

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

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

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

For purposes of sentence, Ebrahim's indirect part in the laying of landmines and other violence had been disregarded, said Mr Justice Daniels. There was no evidence he had masterminded any such attacks.

But he was a committed and respected member of the ANC. He had previously been sentenced to 15 years' jail for sabotage and within a short time of completing his sentence had returned to the fold of the ANC.

Dladla, who acted as a courier in the laying of landmines, was not an ANC member. It was hard to know whether to classify him as an accomplice or a mercenary, Mr Justice Daniels said.

● Approached about the prosecutor's remark, the Transvaal Attorney-General, Mr Don Brunette, said "It sounds like a blatant lie and I cannot believe it".

He had not questioned the prosecutor about the incident, but, according to two versions he had heard, the prosecutor "did not say anything to that effect".

● See Page 17.

A-G says he has 'umpteenth witnesses' ASZ

CHARLOTTE MATHEWS
and SUSAN RUSSELL

THERE were "umpteenth witnesses in court" who could deny that State counsel Louise van der Walt said "Lank lewe die AWB" at the end of the Bethal treason trial on Monday, Transvaal Attorney-General Don Brunette said yesterday. *Business Day 18/11/89*

The Attorney-General was reacting to Press reports of the remark allegedly made by Van der Walt after the crowd in the public gallery bade farewell to the three trialists and sang Nkosi Sikelel'Africa.

Van der Walt's alleged remark received worldwide coverage.

She was quoted yesterday as saying she was going to take legal action and press charges against reporters responsible for publishing the remark.

No offence

Van der Walt could not be contacted to confirm this yesterday.

Both she and Brunette have denied the incident.

"If I investigate her, should I investigate those people who sang ANC songs after the trial?" Brunette said.

"As far as I am concerned no offence was committed."

"We do try to have objective people in the department," he said. "But I have people on my staff from all political beliefs. The only duty of an advocate is to be objective in the case he is handling."

□ Business Day stands by its report that Van der Walt was heard to refer to the AWB and was seen to clap her hands.

Inquest is delayed

Sowetan 18/1/87
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AN inquest into the 1985 Mamelodi shootings yesterday went into adjournment during the first half of the day as a result of missing documents.

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

Sergeant Eugene Halliday was being cross-examined by Mr Basslian

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

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

GET YOUR

Cop told a lie claim

Sowetan 19/89

COUNSEL for the families of the victims of the 1985 Mamelodi shootings yesterday accused a policeman who allegedly shot and killed a man of lying about the incident.

Mr Morris Basslian accused Sergeant Eugene Halliday during an inquest into the shootings which left 14 people dead and scores injured.

This was during cross-examination before Mr J N Pretorius in the Pretoria North magistrates' court.

According to evidence before court, Sergeant Halliday fatally wounded a man on November 21, 1985. He told the court that he had seen the man wielding a burning petrol bomb and that his life was endangered as a result.

Throw

The policeman told the inquest that he fired at the man as he conditioned himself to throw the petrol bomb.

He said the man had bent slightly forward with his back turned to him.

Mr Basslian challenged the policeman's evidence on the basis that it was in contrast with the version of a medical professor who said the dead man was shot at by someone aiming directly at his back. The counsel said according to the wounds the man had sustained and the professor's report, the policeman's evidence was untrue.

Although the petrol bomb the man was alleged to have been wielding fell next to him after he was shot at, the sergeant said it burnt out on its own. The man was also not burnt, he said.

Loaded

He said although he realised when he arrived at the police station that the man he had loaded in a police vehicle had died, Sergeant Halliday

By ALINAH DUBE

admitted that he did nothing to find out where the shooting incident took place, look for eye-witnesses or take photographs of the victims.

Mr Basslian put it to him that failure to fulfil these requirements nor take other policemen to the scene of the incident was because it was clear that he was guilty of what he had done.

Mrs Louise van der Walt . . . dispute over gun in handbag during Bethal trial.



Lawyers in uproar over armed prosecutors in court

By Therese Anders

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

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

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

Yesterday a senior advocate drew attention to a 334-year-old Dutch High Court order — which he claims could still be used in South Africa as a guideline for court behaviour in terms of Roman Dutch law. This prohibited court officials from being armed.
Yesterday The Star was told of a never-before-published instance where the then Chief Magistrate of Johannesburg in 1977 ordered a prosecutor to remove his revolver

while in court

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

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

the Pretoria Palace of Justice for their ANC activities.

Mrs van der Walt has denied she made this remark.
The Dutch court ruling, re-published in the 1960 *South African Law Journal*, says it is unbefitting and in conflict with the old usage for an officer of the court to carry a sidearm.

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

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

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

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

preme Court

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

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

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

252) (M)

Judge rules on Delmas

Star 21/1/89

ADELE BALETA

252

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

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

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

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

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

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

But he added that if the applicants were dissatisfied with the ruling they could petition the Chief Justice within 21 days. All 11 trialists were refused leave to appeal against their sentences. The three UDF leaders — publicity secretary Terror Lekotha who was sen-

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

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

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

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

The judge further refused the men the opportunity to argue against the findings on the credibility of witnesses. During the defence's application it was argued that there was a discernible difference of approach to State witnesses and Defence witnesses.

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

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

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

plea

...possible to retain good overall relationships.

The Prime Minister is said to attach great importance to the visits.

good deal an should be can

Leon said it to say he war

Delmas treason trial: 11 granted leave to appeal ^{5/Day 23/1/89} (252)

THE Delmas treason trial judge, Mr Justice van Dijkhorst, on Friday granted leave to 11 convicted men to make a special entry to the Appeal Court concerning the most controversial aspects of the case.

The defence has been granted leave to make a special entry to the Appellate Division on the basis that the judge wrongly construed his powers under the Criminal Procedure Act in dismissing one of his assessors, J A Joubert, and that the trial continued before an improperly constituted court.

The defence has also been granted leave to argue that the refusal of Mr Justice van Dijkhorst to admit Joubert's statement hampered the defence's earlier attempt to quash the trial.

In addition, the defence has been granted leave to submit their contention that the judge made interventions in proceedings which were prejudicial to the accused, disruptive to the conduct of the defence case and which created an impression of partiality. — Sapa.

By JUNE COHEN
A visiting British criminologist and magistrate looks at the William van der Merwe case.

WHERE offenders — particularly if they are psychopaths — have inflicted serious harm on people the courts have a duty to protect the public

The kinds and degrees of criminal harm inflicted by the rapist William van der Merwe initially justified custody and once he became a recidivist it's reported (Cape Times, January 10) that 17 years ago Mr Justice Irving Steyn sentenced him to death. On appeal (in 1972) this sentence was replaced by 20 years' imprisonment, alas not determinate

After 15 years a criminal whose offences horrified the learned judge was set free — in spite of a criminal record which included five counts of rape and three of attempted rape. By any civilised standard, the "screw-driver sex maniac" was both a menace and a danger to society when he was only 20. His criminal conduct was a particular threat to women and children — one of his victims was only 14 when raped

Judge Steyn says that "in this case the death sentence should have been carried out". We're told that Van der Merwe did not have a leucotomy (one basis for appeal), but was he given aversion or hormone therapy to reduce his psychopathic sex drive — while he was in custody?

The public may never know how many victims Van der Merwe attacked. This is a most under-reported crime, but the repercussions of his latest attack are appalling — one young woman raped and killed leaving a young child without a mother's care, one young woman raped and not only left with the trauma and distress of that horrendous event, but also with the fact that she killed someone, albeit in self-defence. It may scar her for the rest of her life.

At 19 she will need psychiatric counselling and she may, with justification, develop an inherent loathing of men. She may remain frigid, or worse, she may be pregnant or develop a venereal disease as a result of the rape.

Surely, in law, both she and the dependants of the dead woman are entitled to reparation? They were innocent victims of a gross error of judgment by those responsible for the re-

Van der Merwe: facts must be made known to prevent repeat

lease of a dangerous, manic, recidivist criminal. His victims now deserve redress for injury and distress, and for Miss Lennon's child, adequate compensation to ensure his care and education

On any "prediction scale", given his previous appalling criminal record Van der Merwe represented a high risk recidivist — surely the public and the victims and their families are entitled to know on what basis his early release was granted

Furthermore, how strict was his supervision and how was a convicted criminal permitted to have a firearm while on parole?

Whilst I personally am not a retentionist for capital punishment, in a country where hanging for certain offences is both statutory and is practiced regularly, in all justice one has to question the thinking behind the successful appeal against Van der Merwe's death sentence in 1972

One question how the law would have been applied had the convicted criminal been black or coloured

Would women judges have allowed Van der Merwe's reduction in penalty for what is not only a heinous crime but one which women dread and fear?

The incapacitation of certain offenders can be guaranteed by either capital punishment or by long periods of incarceration. Some sexual offenders can be prevented from re-offending if they are surgically or chemically castrated — this is done in some countries if the offender (deviant) consents

Where and when offenders are dangerous, the only protection to the public, apart from capital punishment, is that they be kept securely out of circulation for substantial periods

The tragic consequences of Van der Merwe's release leads one to conclude that the only way to avoid mistaken early parole of dangerous offenders is to detain them for the rest of their lives, either in prison or in secure psychiatric hospitals

In conclusion, I would argue that a committee of inquiry should be set up to study all the facts relating to Van der Merwe's release which was so patently ill-advised in view of his previous criminal record and psychopathic nature

It is an established fact that part of the definition of a psychopath is that they commit acts of violence without motive and without subsequent remorse and they constitute a grave threat to society. For this reason most convicted psychopaths in the UK are committed to Broadmoore where they are sectioned to an indeterminate stay

If Van der Merwe's victims or their dependants could prove that his release by the prison authorities was "neglectful of public safety", would they be entitled to compensation under South African law?

Public exposure of the facts surrounding his untimely release from custody may go some way towards ensuring that any such miscarriage will not be repeated

CHE-Tyler
25/1/89

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Stop the Nels' Campaign

By ALI MPHAKI

THE campaign to save Mr Williams Ntombela (34), a former Nels' Dairy worker who is currently on death row, is gaining momentum according to an official of the Commercial, Catering and Allied Workers' Union of South Africa.

Cawusa is canvassing for signatures from the public in order to petition the authorities in a bid to halt Mr Ntombela's execution, said the official, Mr Salm Vally.

Mr Ntombela was held responsible for the death of two people at the height of the Nels' strike in 1986. An appeal

against the death sentence failed

Mr Ntombela was a shop steward at Nels when — in June, 1986 — about 1 000 workers of the company went on strike in protest against low wages, the state of emergency and appalling working conditions

Shooting

The industrial action was characterised by mass detention of all the approximately 1 000 workers, the fatal shooting of two Nels employees, dismissal of the entire workforce and eviction of some of them from the company's hostels

Cawusa has only until the end of the month to submit the petition

25/1/89

Statement against the judgment

Stair 26/11/89 (D) 252
The Bar Council statement reads "According to the transcript of the judgment of Mr Justice Strydom, it was Vorster's youth and the rashness (on-besonnenheid) which goes with it, plus a small amount of liquor abuse, which landed Vorster in this problem situation

"In fact, however, Vorster was 22 years old at the time of the crime and farmed on his own farm

"The record shows that liquor had at most a minimal effect"

The Bar Council also remarked on Mr Justice Strydom's finding that Vorster would suffer "embarrassment" resulting from a criminal conviction, so that whenever he applied for a passport he would have to state any previous convictions and the punishment therefore

"Apart from the fact that the record contains no reference to any evidence along these considerations, it seems hardly relevant, if compared to the fact that this person had been the cause of the brutal death of the deceased

"The judge also took into account that when the

accused applied for a firearm licence, he would have to make a similar revelation

"The connection between these factors and an appropriate sentence in a case like this is not one that has previously been judicially discerned," the statement said

The statement said the court found that some of the blame lay at Mr Sambo's door

There was a reference in the facts agreed to by the State and defence, that about two months before the killing Mr Sambo, who at that time worked for Voster's father, switched on a tractor which was connected to a bushcutter, even though Mr Sambo knew two puppies were there, and he had been warned not to switch on the tractor

Because he did so, one pup was maimed, the other killed

"The judge held that if the deceased had heeded the warning, this incident would never have taken place. This conclusion is inexplicable, since the record reveals no evidence that the incident with the puppies, two months before the killing, played any part in motivating either of the accused"

Executions: 'Avoid emotive language'

Argus 26/1/89

NEWSVIEW CAPITAL PUNISHMENT

BLOEMFONTEIN — No debate on the pros and cons of capital punishment should lose sight of the fact that the subject of each death sentence was a human being susceptible to trauma, said Mr T P McNally, Attorney-General of the Orange Free State

At the same time, the introduction of emotive language was not helpful to the debate and the matter should be addressed dispassionately, he said in an address to the National Council of Women in Bloemfontein yesterday

Arguments in favour of the death sentence were the deterrence and the no alternative option arguments. Those who advocated the abolition of the death penalty relied on arguments on the nature of the punishment, the unredeemable error and the right to life arguments

Mr McNally said, on the deterrence argument, that a deterred potential killer never surfaced to be counted, so the value of capital punishment as a deterrent could not be quantified scientifically

What could be stated categorically was that the carrying out of a death sentence effectively deterred or prevented that particular person from committing another crime

ALTERNATIVE

Life imprisonment was the first alternative option that presented itself, but this sentence was seldom used. Mr McNally said no record could be found that it had been imposed even once in the Orange Free State in the period 1984-1988

Judges' reluctance to impose sentences of life imprisonment might reflect an unwillingness to abdicate their sentencing responsibility in favour of a Minister of Justice whose identity, 10 or more years hence, was undeterminable and who would be advised by a board whose composition was similarly undeterminable, he said

It might be questioned, he said, whether imprisonment of whatever duration was a suitable alternative for those accused who currently attracted the death sentence

Prison warders and the prison population also had rights to their physical integrity. To sentence a jail murderer, for example, to imprisonment in cases where he would currently be executed, would be to return the murderer to the very milieu in which he had proved to be homicidal and to extend the period of time at which warders and fellow prisoners were at risk of death at his hands

Mr McNally said this point found relevance in the high incidence of jail murderers — 24 of the 59 people sentenced to death in the Free State from 1984 to 1988. Furthermore, desperado-type murderers had an instinct to escape which added risk to prison warders and the public at large

On the unredeemable error argument, Mr McNally said it was significant that Professor Ellison Kahn — a leading South African abolitionist

— did not refer to any South African case where an innocent person had been hanged, when he said there were a number of recorded cases where an innocent person had been sent to the scaffold. There was no such South African case on record

Mr McNally said the possibility of error, if it existed, was made remote by the safeguards which were in place. All those involved in the process must be ever vigilant to keep it that way

On the right to life argument, propagated by human rights groups and heard strongly from the Nordic countries, Mr McNally questioned whether murderers, who are currently the subject of death penalties, did not forfeit their right to life

If an individual's person or property was under attack it was recognised in most jurisdictions that, in given circumstances, the attacker's life may be taken in self-defence. Capital punishment, so it may be argued, was a form of communal self-defence, said Mr McNally

On the subject of mandatory as opposed to discretionary death sentences, Mr McNally said there was much more discretion in the build-up to the imposition of the mandatory death sentence than might at first have appeared to be the case

DISCRETIONARY

In the 1984/88 period in the Free State seven of the 59 death sentences passed were discretionary. Two were for rape, three were for robbery and two for murder with extenuating circumstances

Mr McNally drew attention to the fact that 348 people were convicted of murder between 1984 and 1988 in the Free State, but only 53 (15 per cent) of these were sentenced to death. For the remaining 295 accused the court had exercised its discretion to find extenuation and passed sentences other than death

On the absence of an automatic right of appeal against the death sentence, Mr McNally said the trial judge — who had just found it proved beyond all reasonable doubt that the accused was guilty and, after anxious deliberation, sentenced him to death — must apply the test of whether there was a reasonable prospect that another court might take a different view

In practice, leave was refused more often than not. Of 38 people sentenced to death in the Free State in the four-year period 1984-7, leave of appeal was refused to 31 and granted to seven. Of the 31, the Chief Justice granted leave to appeal to nine people (involved in three cases), but refused it to 22 others (involved in 10 cases)

Of the 38 people, eight had their sentences set aside on appeal, one's sentence was commuted by the State President and the remaining 29 were hanged — Sapa

Bar Council raps judge for 'trivial punishment'

M645 26/1/89
The Argus Correspondent

JOHANNESBURG — The Johannesburg Bar Council has criticised the sentence imposed by a Supreme Court judge on a farmer who caused the death by beating a labourer tied to a tree

The Bar Council said the sentence was "so grossly inappropriate as to induce not simply a sense of shock but one of outrage and concern"

It is unusual for the Bar

Council to criticise a Supreme Court judge

The case involved Louis Trichardt farmer Jacobus Vorster, who caused the death of Mr Eric Sambo

The trial was heard by Mr Justice J J Strydom in Louis Trichardt Circuit Court in November. The council said it called for the record some time ago but it became available only recently

Vorster was accused of mur-

der but was convicted of culpable homicide after the State agreed to accept his plea of guilty to the lesser charge

Mr Justice Strydom sentenced him to five years' jail, completely suspended on conditions which included payment of R130 a month to the widow and children of the man he killed

Vorster was also fined R3 000 (or 12 months), payable at R250 a month over five years

The Bar Council said that if the community began to believe that such a crime could merit "so trivial a punishment the maintenance of law and order would be gravely endangered and no law-abiding citizen would be safe from violent and callous killers"

In another conclusion the statement said "The trial judge also took into account factors in mitigation of sentence of which there was no evidence or insufficient evidence"

When life lies in justice's hands

Pros and cons of capital punishment

252

Star 26/1/89.

BLOEMFONTEIN — No debate on the pros and cons of capital punishment should lose sight of the fact that the subject of each death sentence was a human being susceptible to trauma, OFS Attorney-General Mr T P McNally said in Bloemfontein yesterday.

At the same time, the introduction of emotive language was not helpful to the debate and the matter should be addressed dispassionately, he told the National Council of Women

Arguments in favour of the death sentence were the deterrence and the no-alternative-option arguments. Those who advocated the abolition of the death penalty relied on arguments on the nature of the punishment, and the unredeemable-error and the right-to-life arguments.

On the deterrence argument, Mr McNally said a deterred potential killer never surfaced to be counted, so the value of capital punishment as a deterrent could not be quantified scientifically.

What could be stated categorically was that the carrying out of a death sentence effectively deterred or prevented that particular person from committing another crime.

Life imprisonment was the first alternative option that presented itself, but this sentence was seldom used. Mr McNally said no record could be found that it had been imposed even once in the Free State in the period 1984-88. Judges' reluctance to impose sentences of life imprisonment might reflect an unwillingness to abdicate their sentencing responsibility in favour of a Minister of Justice whose identity, 10 or more years hence, was undeterminable and who would be advised by a board whose composition was undeterminable.

It might be questioned whether imprisonment of whatever duration was a suitable alternative for those accused who currently attracted the death sentence, he said.

Instinct to escape

Warders and prison populations also had rights to their physical integrity. To sentence a jail murderer, for example, to imprisonment in cases where he would currently be executed would be to return the murderer to the very milieu in which he had proved to be homicidal and to extend the period of time at which warders and fellow prisoners were at risk of death at his hands.

Mr McNally referred to the high incidence of jail murderers — 24 of the 59 people sentenced to death in the Free State from 1984 to 1988. Furthermore, desperado-type murderers had an instinct to escape which added risk to prison warders and the public at large.

On the unredeemable-error argument, it was significant that Professor Ellison Kahn, a leading

abolitionist, did not refer to any South African case where an innocent person had been hanged when he said there were several recorded cases where an innocent person had been sent to the scaffold. There was no such SA case on record.

Mr McNally said the possibility of error, if it existed, was made remote by the safeguards that were in place. All those involved in the process had to be ever vigilant to keep it that way.

On the right-to-life argument, propagated by human rights groups and heard strongly from the Nordic countries, Mr McNally questioned whether murderers, who are currently the subject of death penalties, did not forfeit their right to life. If an individual's person or property was under attack it was recognised in most jurisdictions that, in given circumstances, the attacker's life may be taken in self-defence. Capital punishment, so it might be argued, was a form of communal self-defence, said Mr McNally.

Extenuating circumstances

On the subject of mandatory as opposed to discretionary death sentences, Mr McNally said there was much more discretion in the build-up to the imposition of the mandatory death sentence than might at first have appeared to be the case.

In the 1984/88 period in the Free State, seven of the 59 death sentences passed were discretionary. Two were for rape, three were for robbery and two for murder with extenuating circumstances.

Mr McNally drew attention to the fact that 348 people were convicted of murder between 1984 and 1988 in the OFS, but only 53 of these were sentenced to death. For the remaining accused the court exercised its discretion to find extenuation and passed sentences other than death.

On the absence of an automatic right of appeal against the death sentence, Mr McNally said the trial judge — who had just found it proved beyond all reasonable doubt that the accused was guilty and, after anxious deliberation, sentenced him to death — had to apply the test of whether there was a reasonable prospect that another court might take a different view.

In practice, leave was refused more often than not. Of 38 people sentenced to death in the Free State in the four-year period 1984-87, leave to appeal was refused to 31 and granted to seven.

Mr McNally noted that the State President intervened in the case of only one of the 30 death sentences from the OFS referred to him for final consideration. Sparing use of the presidential pardon was to be welcomed if it indicated that preceding legal processes had succeeded to confine the death sentence to those for whom any lesser punishment would be inappropriate. — Sapa.

(252)

Bar Council expresses outrage at sentence

By Cathy Stagg and Peter Fabricius

An attempt is to be made in Parliament to have a judge impeached and the Johannesburg Bar Council has publicly condemned the judge concerned for the lenient sentence he imposed on a farmer who fatally injured a labourer by beating him with a stick.

The labourer was beaten while tied to a tree because he had run over and killed the farmer's dogs

Taking the most unusual action of issuing a public statement condemning the action of a judge, the Bar Council described the sentence as "so grossly inappropriate as to induce not simply a sense of shock, but one of outrage and concern"

A Progressive Federal Party MP, Mrs Helen Suzman, said today she would move a motion in the coming session of Parliament to have Mr Justice J J Strydom removed from the Bench

She said Parliament had the power to remove a judge from office under the Supreme Court Act

She intended taking action under this Act to remove the judge for his "outrageously lenient" sentence on the farmer, Mr Jacobus Vorster, in the Louis Trichardt Circuit Court in November

Accepted plea

The Bar Council said it had called for a record of the proceedings some time ago, but this became available only recently

Vorster was accused of murder, but was convicted of culpable homicide after the State agreed to accept his plea of guilty to lesser charge.

Mr Justice Strydom sentenced Vorster to five years' jail, suspended on conditions which included payment of R130 a month to the widow and children of the man he killed

He was also fined R3,000 (or 12 months' jail), payable at a month over five years.

The Bar Council said that if the community began to believe that such a crime could merit "so trivial a punishment, the maintenance of law and order would be gravely endangered and no law-abiding citizen would be safe from violent and callous killers"

The statement also said: "The trial judge also took into account factors in mitigation of sentence of which there was no evidence or insufficient evidence"

Mr Sambo was assaulted by Vorster and his co-accused, Petrus Leonard, on December 11 1987

Then he was tied to a tree on Vorster's farm. The assaults continued the next day

Besides beating and kicking Mr Sambo, Vorster hit him with a stick and Leonard beat him with a nylon rope

Then Vorster took Mr Sambo to the police. He died shortly afterwards of internal bleeding.

Leonard was also charged with murder, pleaded guilty to assault, was convicted of assault and sentenced to a fine of R500 or three months' jail.

The Bar Council remarked that the judge took into account evidence from a witness who was not cross-examined.

Waiting for the trial record was reason for delayed response

The Johannesburg Bar Council found it necessary to make the statement because the sentence was subject to widespread concern and many members of the Society of Advocates had expressed views and wanted the council to investigate, council chairman Mr Max Labe, SC, said yesterday.

The council's statement was read out to the press by Mr Labe, who felt it was the JBC's duty to comment on sentence.

There had been a delay be-

cause the Bar Council did not want to form any judgment based on press reports so had waited until it had the record of the trial. He stressed that the sentence was a matter for the judge's discretion and that had been a very difficult task.

The decision to issue the statement had been unanimous. ● Approached for comment by The Star, Mr Justice J J Strydom indicated through his wife that the council "could say whatever they wished".



Mr Max Labe

judge

Star 26/1/89

Bid to impeach 'tree death'

Sentence 'induces a sense of outrage' (5)

THE sentence imposed on farmer Jacobus Vorster for his part in the death of a labourer was "so grossly inappropriate as to induce not simply a sense of shock but one of outrage and concern", the Johannesburg Bar Council said in an exceptional statement yesterday.

Last November Vorster was given a wholly suspended five year sentence by Mr Justice J J Strydom in the Supreme Court sitting in Louis Trichardt.

Vorster's apparently light sentence got wide publicity and this and the judge's findings were harshly criticised

SUSAN RUSSELL

in the media

The chairman of the Johannesburg Bar Council, M Labe, SC, issued yesterday's statement at a Press conference in Johannesburg. He said the council did not usually comment on judgments, and in that sense their decision to issue a statement was exceptional.

"The Bar Council felt it was necessary to make a statement," he said, "because of the fact that the sentence imposed was the subject of widespread concern"

5/Dec 26/1989

Vorster and his co-accused Petrus Leonard were charged with murdering Eric Sambo by assaulting him on 11-12 December 1987.

They pleaded not guilty to murder, but Vorster pleaded guilty to culpable homicide and Leonard to assault. Their pleas were accepted by the State and they were convicted on the lesser counts.

Vorster was sentenced to five years imprisonment, the whole of which was suspended. One condition of suspension

© To Page 2

Sentence induces a sense of outrage

was that he pay Sambo's widow and children R130 a month for five years

Vorster was also fined R3 000 (or 12 months) but the fine was payable over five years at R250 a month. Leonard was fined R500 or three months imprisonment for assault.

The two men caught Sambo on December 11, 1987, and took him to Vorster's farm. They assaulted him and after kicking him while he was on the ground they tied him to a tree where he remained overnight. The assault was resumed the next morning after which Vorster took Sambo to the police. He died shortly afterwards.

The Bar Council statement said that according to a transcript of the judgment Mr Justice Strydom found it was Vorster's youth and rashness and a small amount of liquor which got him involved in the assault. In fact, the state-

ment said, Vorster was 22 at the time and worked his own farm.

Mr Justice Strydom also took into account the embarrassment which Vorster would suffer as a result of a criminal conviction.

"Apart from the fact that the record contains no reference whatever to any evidence along these lines, these considerations seem hardly relevant if compared to the fact that this person had been the cause of the brutal death of the deceased," the Bar Council said.

"If there grew up in the community a belief that such a crime could merit so trivial a punishment, the maintenance of law and order would be gravely endangered and no law-abiding citizen would be safe from violent and callous killers," the Bar Council said.

← From Page 1

Lon close R/£	3 months BA	Johannesburg Stock Exchange		
		All Gold BD Index	Indust BD Index	ISE Ov'II Index
4,2349	15,40	1085,2	2785,9	2189,0
NO MOVE				
4,1961	15,40	1085,1	2747,1	2169,0

Inquest court is told that detainee 'died needlessly'

By Jo-Anne Collinge

It was "as plain as a pikestaff" that detainee Mr Simon Marule, held in Modderbee Prison, had died needlessly, Boksburg inquest magistrate Mr M van Wyk heard yesterday.

The submission was made by counsel for the Marule family, Mr Eric Dane, who argued that anybody who hastened a death was criminally liable and any of four people, including three doctors, could have accelerated the death of Mr Marule.

Mr Marule (20) was detained in June 1986 and died in December 1986 while still detained at Modderbee Prison. He had died of a rare kidney disease.

COMPLAINTS

Medical evidence was that the disease could have been detected if urine and blood pressure tests had been done. He could then have been timeously treated and his death prevented.

Fellow detainees alleged they complained that Mr Marule had symptoms of sleepiness, headaches, stomach pains, difficult breathing and swelling.

Mr Dane submitted that the blood pressure and urine tests were the responsibility of the district surgeon, not the job of the medical assistant employed by the prison.

He said it was not clear whether Dr M W M Fletcher or Dr S B Dyson had done the examination. He said that Dr Dyson had attempted to place responsibility for the tests on the Department of Prisons because "he was aware such tests were fundamental and he was aware he had not done them".

The prison medical assistant, Lieutenant Lukas van der Westhuizen, had, according to evidence from former detainees, ignored their requests that Mr Marule see a doctor.

The persuasiveness of the detainees' evidence lay in the fact that the symptoms they outlined were exactly those caused by the rare kidney disease Mr Marule had, said Mr Dane.

Mr R Strydom, for the Minister of Justice, submitted that Lieutenant van der Westhuizen's overall care of detainees was good under difficult circumstances.

Mr L Wepener, for the Minister of Health, submitted that the failure to conduct urine tests might be an omission, but it could not be causally linked to the death of Mr Marule. It was only probable, not certain, that the disease could have been detected by tests in July.

The finding will be given on March 3.

January 27, 1989

'Wanted his views publicised'

Mellors jailed for kidnapping SACC woman

By Celeste Louw

Denzil Bruce Mellors (19) had gone to Khotso House, where a South African Council of Churches (SACC) employee was kidnapped, to draw attention to his viewpoints, a Johannesburg magistrate found yesterday when he sentenced Mellors to an effective five years' jail

Mellors, a former prison warden, of Hewitt Road in Brakpan North, was found guilty on charges of kidnapping, making a false bomb threat, theft of a firearm and illegally possessing ammunition

The magistrate, Mr P du Plessis, found that Mellors had gone to Khotso House on April 11 last year where he held Miss Beverley Fasser, an SACC secretary, hostage for more than two hours

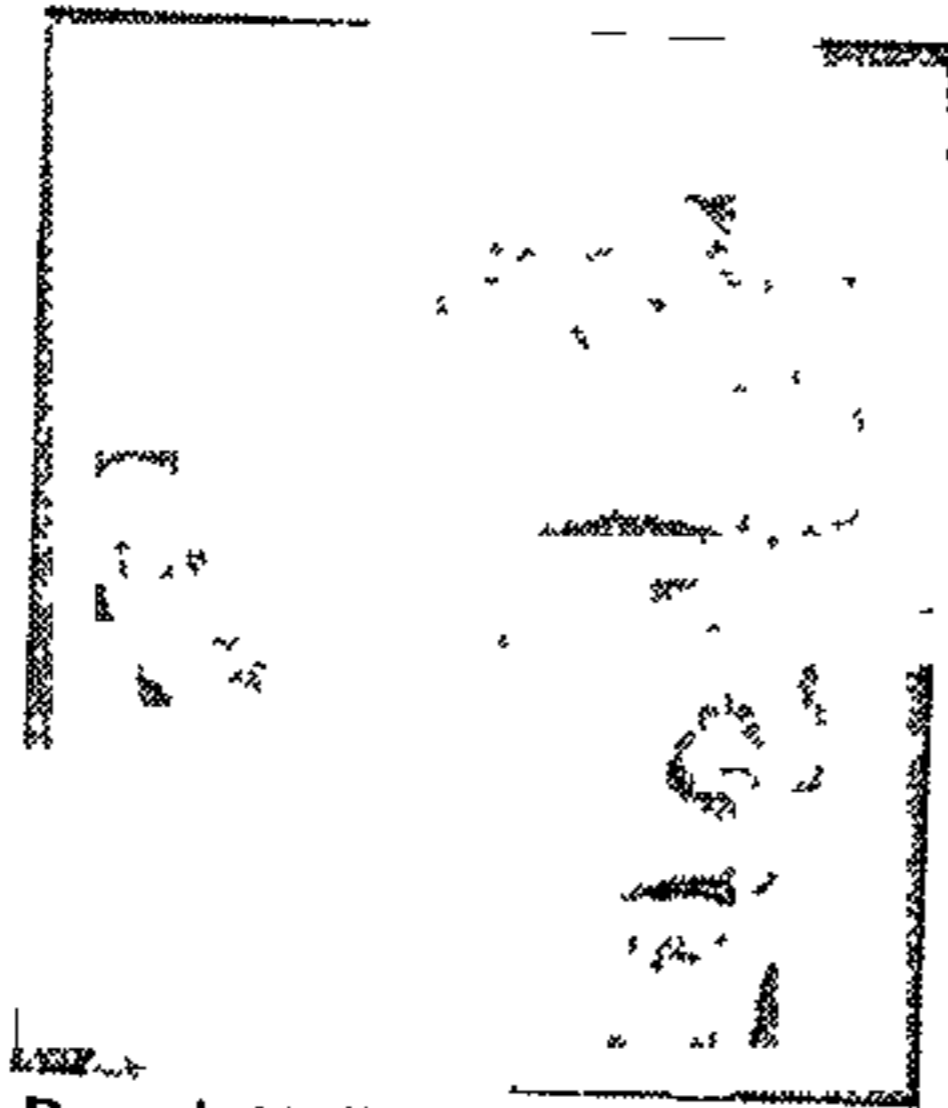
Mr du Plessis rejected Mellors's claim that he had gone to the SACC just to ask questions about the view of the Methodist Church on conscription

"You had reasons for going to Khotso House. You wanted to draw public attention to your standpoints," Mr du Plessis said.

The court heard that Mellors had realised that some church groups were sympathetic towards the ANC and the Freedom Charter

Mellors said he had taken out his gun because he wanted to ask questions about communism, but he was scared because people knew that he had previously assisted the police

"People must be deterred from demonstrations of this nature, whatever the cause may be," Mr du Plessis said



Denzil Mellors jailed for five years

Star 27/1/89 (252)

Mamelodi deaths: warning not heard

Pretoria Correspondent

A police sergeant yesterday told a Pretoria North inquest magistrate that he did not hear his superior issue a warning before teargas was fired on people outside the Mamelodi Administration Office on November 21 1985

Sergeant Leon Mouton said Brigadier Hertzog Lerm spoke to the crowd but he could not hear what he was saying

Sergeant Mouton was answering a question from Mr Morris Basslian, counsel for Mamelodi residents, during an inquest on 12 people who were shot following a march to the administrative office

The sergeant told the magistrate "Sergeant W P Theunissen and I received an order from Colonel Loots to detonate teargas generators."

STRANDED

They disembarked from a Casspir to detonate the generators and shortly afterwards were left stranded on the ground as the vehicle moved away to avoid teargas fumes fired from other Casspirs and drifting in its direction.

Sergeant Mouton said their Casspir moved in a circle to protect Sergeant Theunissen from a stone-throwing crowd. They ran and boarded the Casspir, which then moved away from the crowd

Sergeant Mouton, who removed bodies lying in some areas of the township, testified that one of the victims found in or near the administrative office premises did not have external injuries

He said there were two bodies in the vicinity of the office premises, but he was not sure whether one of the bodies was in or just outside the fence

The inquest continues

Suzman will seek support to impeach 'lenient' judge

Star 27/1/89
By Peter Fabricius,
Political Correspondent

The support of the two other Houses of Parliament is to be sought by Mrs Helen Suzman in her attempt to impeach a judge who gave a suspended sentence to a farmer for beating his labourer to death

Mrs Suzman, Progressive Federal Party MP for Houghton, said today it would not be easy to remove Mr Justice J J Strydom for his "outrageously lenient" sentence on Jacobus Vorster last year.

The Supreme Court Act stated that a judge could not be removed except by the State President "upon an address by all three Houses of Parliament praying for such removal on the grounds of misbehaviour or incapacity"

She would try to introduce an impeachment motion in the Assembly and would approach the two other Houses to introduce similar motions

'LONG HISTORY'

These impeachment addresses must be made in the same session of Parliament

"I don't underestimate the difficulty of impeaching this judge, but I am certainly going to try," she said

She added that Mr Justice Strydom had a "long history" and this would be brought into her motion. She said she had received calls from all over the world supporting her stand.

The Minister of Justice, Mr Kobie Coetsee, said it would be "inappropriate to comment at this point on the utterings of politicians on topics which obviously call for objective and proper deliberations"

The Johannesburg Bar Council has taken the unusual step of criticising the judgment of Mr Justice Strydom as "so grossly inappropriate as to induce not simply a sense of shock but one of outrage and concern".

Suzman

CAPE TOWN 27/1/89

wants

judge

impeached

Mrs Suzman

Own Correspondent

JOHANNESBURG — Mrs Helen Suzman said yesterday that she would seek to remove a judge who gave a suspended sentence and a fine to a white farmer who beat a black worker to death

Mrs Suzman said she would move a motion in Parliament to have Mr Justice J J Strydom impeached for what she said was an outrageously lenient sentence

She said Parliament had the power to remove a judge from office under the Supreme Court Act

The farmer, Jacobus Vorster, was sentenced last September after he tied black worker Mr Eric Sambo to a tree for two days, beating him to death because he had run over two of the farmer's dogs

Mr Justice Strydom sentenced him to five years' imprisonment, suspended on condition that he pays R130 a month to Mr Sambo's widow and children

He was also fined R3 000 payable in instalments. A man who helped Vorster beat Mr Sambo was sentenced to a R500 fine or three months in jail.

The Johannesburg Bar Council attacked the sentence saying it was "so grossly inappropriate as to induce not simply a sense of shock but one of outrage and concern"

The council said the sentence was "so trivial a punishment (that) the maintenance of law and order would be gravely endangered and no law-abiding citizen would be safe from violent killers"

Prison — community service ^{AKUS} option ^{27/1/87} on the way ₂₅₂

PRETORIA — The Department of Justice has decided there is a need for community service as an alternative to short-term imprisonment, Minister of Justice Mr Kobie Coetsee announced today.

Important provisions relating to this "alternative form of punishment" are published in the Government Gazette today.

The move has come about after a departmental task-group on the over-crowding of prisons conducted an inquiry into community service as a possible alternative dispensation in the South African criminal justice system, Mr Coetsee said

PRISON POPULATION

"The task group came to the conclusion that, due to the Republic's large prison population in comparison to other countries for which statistics are available, there is, particularly as an alternative to short-term imprisonment, a need for alternative options for punishment and that community service as such an option should be further developed"

To assist the court with the imposition of sentences and to establish a broad infrastructure for community service, co-ordinators have been appointed at all magistrates' offices to organise, develop and manage all matters in connection with community service, said Mr Coetsee

One of the functions of the co-ordinator would be to recruit organisations, institutions or people who would promote the interests of the community

The Minister appealed to such groups and people who could make a contribution to the community service project to approach the co-ordinators and make themselves and their facilities available

Lawyers see little hope of reopening controversial tree-death trial

252

LAWYERS say no channels exist for a retrial of farmer Jacobus Vorster, whose lenient sentence for killing a labourer caused a domestic and international outcry.

In a resurgence of widespread criticism have come calls for the impeachment of the trial judge

Vorster received a five-year suspended jail sentence for admitting the culpable homicide 13 months ago of Eric Sambo Co-accused Petrus Leonard was fined R500 for assault.

SUSAN RUSSELL

PPP MP Helen Suzman said yesterday she would move for Mr Justice J J Strydom's impeachment in the next session of Parliament.

This follows an exceptional step by the Johannesburg Bar Council in issuing a public statement criticising the lenient sentence imposed on Vorster by Mr Justice Strydom

Vorster was also fined R3 000 payable at R250 a month and ordered to

pay R130 a month to Sambo's widow.

The farm labourer died after being tied to a tree and beaten because he accidentally ran over Vorster's dogs with a tractor several weeks before.

Johannesburg Bar Council chairman M Labe SC said there was no avenue through which Sambo's family could have the case reopened.

He added "We are informed that the Attorney-General is not appealing the judgment We do not know the

reasons but it must be borne in mind that the A-G has only very limited right of appeal in criminal cases"

Mr Justice J J Strydom, when sentencing, took into account the "embarrassment" Vorster would suffer with a criminal conviction.

A spokesman for Justice Minister Kobie Coetzee said it would be inappropriate at present to comment "on the utterings of politicians on topics which obviously call for proper and objective deliberation"

ISAM OVER... Soweto hot seat... HIRDO

CORRUPTION: Judges want wider powers

AKAS 27/1/89

252

Political Correspondent
THE powers of the Advocate General may be extended to enable him to deal more efficiently with corruption and irregularities

Mr Justice P J van der Walt, the present Advocate General, today said that he had in the past suggested that the powers of the AG be increased, among other things to include a fuller Ombudsman function

Minister of Justice Mr Kobie Coetsee said today that he could not comment except to say that adaptations to the powers of the Advocate General had been "on the table" for a considerable time

A Department of Justice source confirmed today that a Bill providing for this was being considered but it had not yet been finally drafted

Full-time investigating personnel with powers to undertake sub-inquiries for the AG may be provided

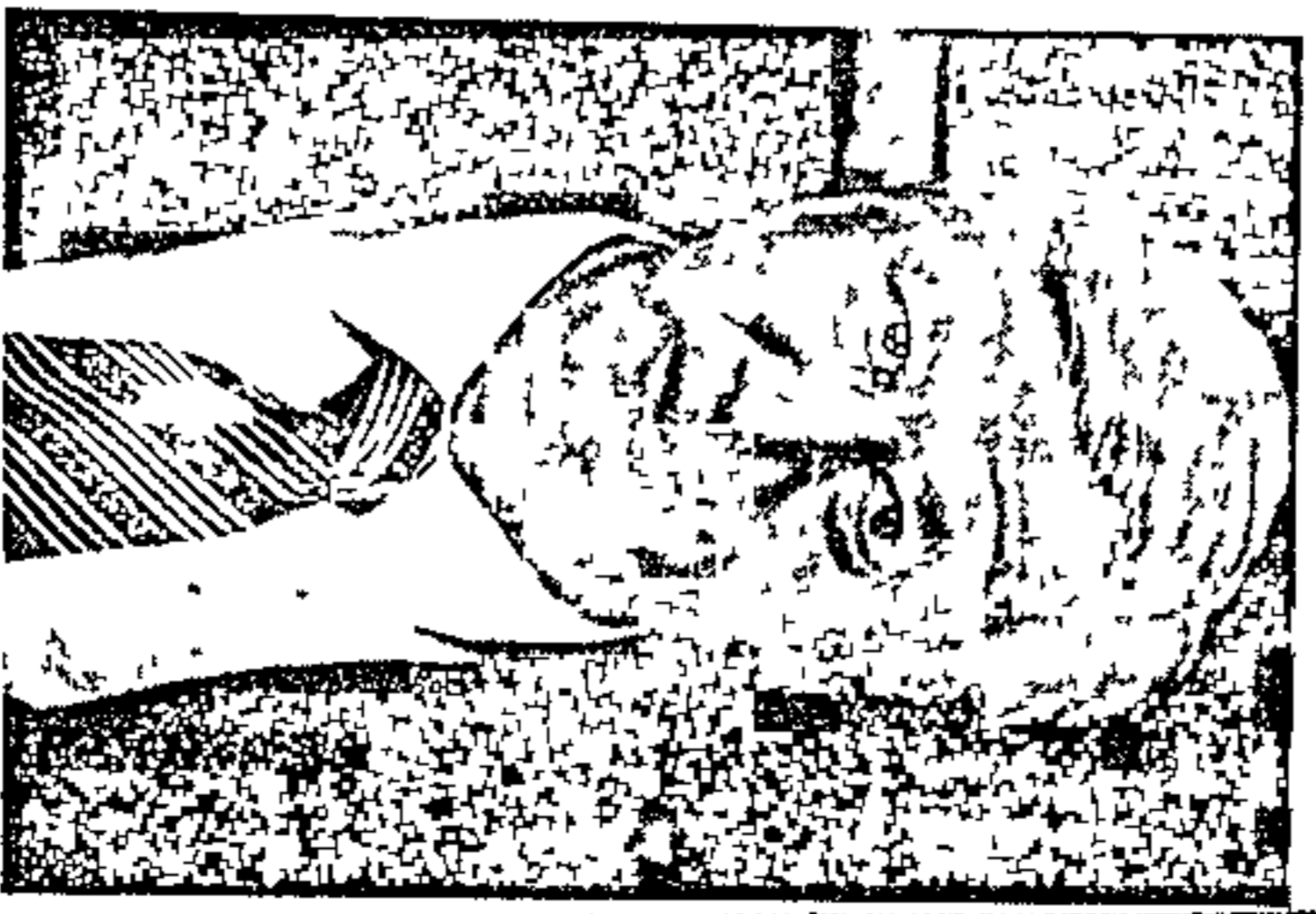
The new Bill, which will define new powers and functions for the AG, may be dealt with by Parliament this year

No final decision has yet been taken on the matter because there are differences of opinion in government circles

There is said to be concern in some circles that the AG and certain commissions of inquiry can develop into what has been described as "one-man inquisitions"

Several Ministers are known to be resentful about what they regard as unfair insinuations made about them in recent inquiries such as the Harms Commission

Corruption
The possibility of increased powers for the AG is against the background of widespread



Mr Justice P J van der Walt

Profit-taking trims industrials

By TOM HOOD, Business Editor

PROFIT-TAKING before the weekend shaved some share prices today after a week of mini-boom on the Johannesburg Stock Exchange

Fanned by the surging Wall Street share market, a share-buying euphoria sent prices up all week with investors chasing quality industrial shares

The value of industrials has rocketed by 10 percent so far this month

The industrial shares index eased two points early today after reaching 2158 points last night, a rise of 16 yesterday and 197 this month to the highest level since the 1987 crash

With a lower gold price today, the g.m shares index dropped 15 points and the all-market index lost 11



Picture DOUG PRIBBY, The Argus
COOLING CASCADE If may not have been summer's hottest day at 27 deg C, but hot enough yesterday for Ilse Meershoek, 17, of Marina da Gama to make a watery flick of her locks into a glimmering aquatic coiffure

EMERSON TPJ 9

General may be extended to enable him to deal more efficiently with corruption and irregularities.

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Several Ministers are known to be resentful about what they regard as unfair insinuations made about them in recent inquiries such as the Harms Commission.

Corruption

The possibility of increased powers for the AG is against the background of widespread concern about what appears to be an increasing incidence of corruption and irregularities.

In September last year Mr Coetsee expressed concern about the increasing phenomenon of corruption and bribery in South Africa.

At the Free State Nationalist congress, he committed himself to fighting corruption or bribery.

The AG can hold investigations but has so far preferred to have them in private. His reports are then tabled in Parliament.

Help people

It was understood today that the government's idea was not to turn the AG into a "super commission" which could prosecute people but rather to have it as a body which could first consider allegations of irregularities and could then investigate them or decide on the type of inquiry that would be necessary.

In some respects, new powers would also be to enable the AG's office to help ordinary people who have been wronged.

● Van der Walt to meet Pietie du Plessis today. See page 3.

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NO DEBATE on the pros and cons of capital punishment should lose sight of the fact that the subject of each death sentence was a human being susceptible to trauma, Mr T P McNally, attorney-general of the Orange Free State, said yesterday

At the same time, the introduction of emotive language was not helpful to the debate and the matter should be addressed dispassionately, he said in an address to the National Council of Women in Bloemfontein

Arguments in favour of the death sentence were the deterrence and the no alternative option arguments Those who advocate the abolition of the death penalty replied the death penalty relied on arguments on the nature of the punishment, the unredeemable error and the right to life arguments

Mr McNally said, on the deterrence argument, that a deterred potential killer never surfaced to be counted, so the value of capital punishment as a deterrent could not be qualified scientifically

Prevented

What could be stated categorically was that the carrying out of a death sentence effectively deterred or prevented that particular person from committing another crime

Life imprisonment was the first alternative option that presented itself, but this sentence was seldom used Mr McNally said no record could be found that it had been imposed even once in the Orange Free State in the period 1984-1988

Judges' reluctance to

To Kill or not to

Sowetan 27/1/89 252

FOCUS

impose sentences of life imprisonment might reflect an unwillingness to abdicate their sentencing responsibility in favour of a minister of justice whose identity, 10 or more years hence, was undeterminable and who would be advised by a board whose composition was similarly undeterminable, he said

It might be questioned, he said, whether imprisonment of whatever duration as a suitable alternative for those accused who currently attracted the death sentence

Warders

Prison warders and the prison population also had rights to their physical integrity To sentence a jail murderer, for example, to imprisonment in cases where he would currently be executed, would be to return the murderer to the very milieu in which he had proved to be homicidal and to extend the period of time at which warders and fellow prisoners were at risk of death at his hands

Mr McNally said this point found relevance in the high incidence of jail murderers — 24 of the 59 persons sentenced to death in the Free State from 1984 to 1988 Furthermore, desperado-type murderers had an instinct to escape which added risk to prison warders and the public at large

On the unredeemable

error argument, Mr McNally said it was significant that Prof Ellison Kahn — a leading South African abolitionist — did not refer to any South African case where an innocent person had been hanged, when he said there were a number of recorded cases where an innocent person had been sent to the scaffold There was no such South African case on record

Mr McNally said the possibility of error, if it existed, was made remote by the safeguards which were in place All those involved in the process must be ever vigilant to keep it that way

On the right to life argument, propagated by human rights groups and heard strongly from the Nordic countries, Mr McNally questioned whether murderers, who are currently the subject of death penalties, did not forfeit their right to life

If an individual's person or property was under attack it was recognised in most jurisdictions that, in given circumstances, the attacker's life may be taken in self-defence Capital punishment, so it may be argued, was a form of communal self-defence, said Mr McNally

On the subject of mandatory as opposed to discretionary death sentences, Mr McNally said there was much

more discretion in the build-up to the imposition of the mandatory death sentence than might at first have appeared to be the case

Attention

In the 1984/88 period in the Free State seven of the 59 death sentences passed were discretionary Two were for rape, three were for robbery and two for murder with extenuating circumstances

Mr McNally drew attention to the fact that 348 people were convicted of murder between 1984 and 1988 in the Free State, but only 53 (15 percent) of these were sentenced to death For the remaining 295 accused the court had exercised its discretion to find extenuation and passed sentences other than death

On the absence of an automatic right of appeal against the death sentence, Mr McNally said the trial judge — who had just found it proved beyond all reasonable doubt that the accused was guilty and, after anxious deliberation, sentenced him to death — must apply the test of whether there was a reasonable prospect that another court might take a different view

In practice, leave was refused more often than not Of 38 people sentenced to death in the

Free State in the four-year period 1984-7, leave of appeal was refused to 31 and granted to seven Of the 31, the chief justice granted leave to appeal to nine people (involved in three cases), but refused it to 22 others (involved in 10 cases)

Commuted

Of the 38 persons, eight had their sentences set aside on appeal, one's sentence was commuted by the State President and the remaining 29 were hanged

Mr McNally said it was interesting to note that the State President intervened in the case of only one of the 30 death sentences from the Free State referred to him for final consideration

A sparing use of the presidential pardon was to be welcomed if it indicated that the preceding legal processes had succeeded to confine the death sentence to those for whom any lesser punishment would be inappropriate

Timespan

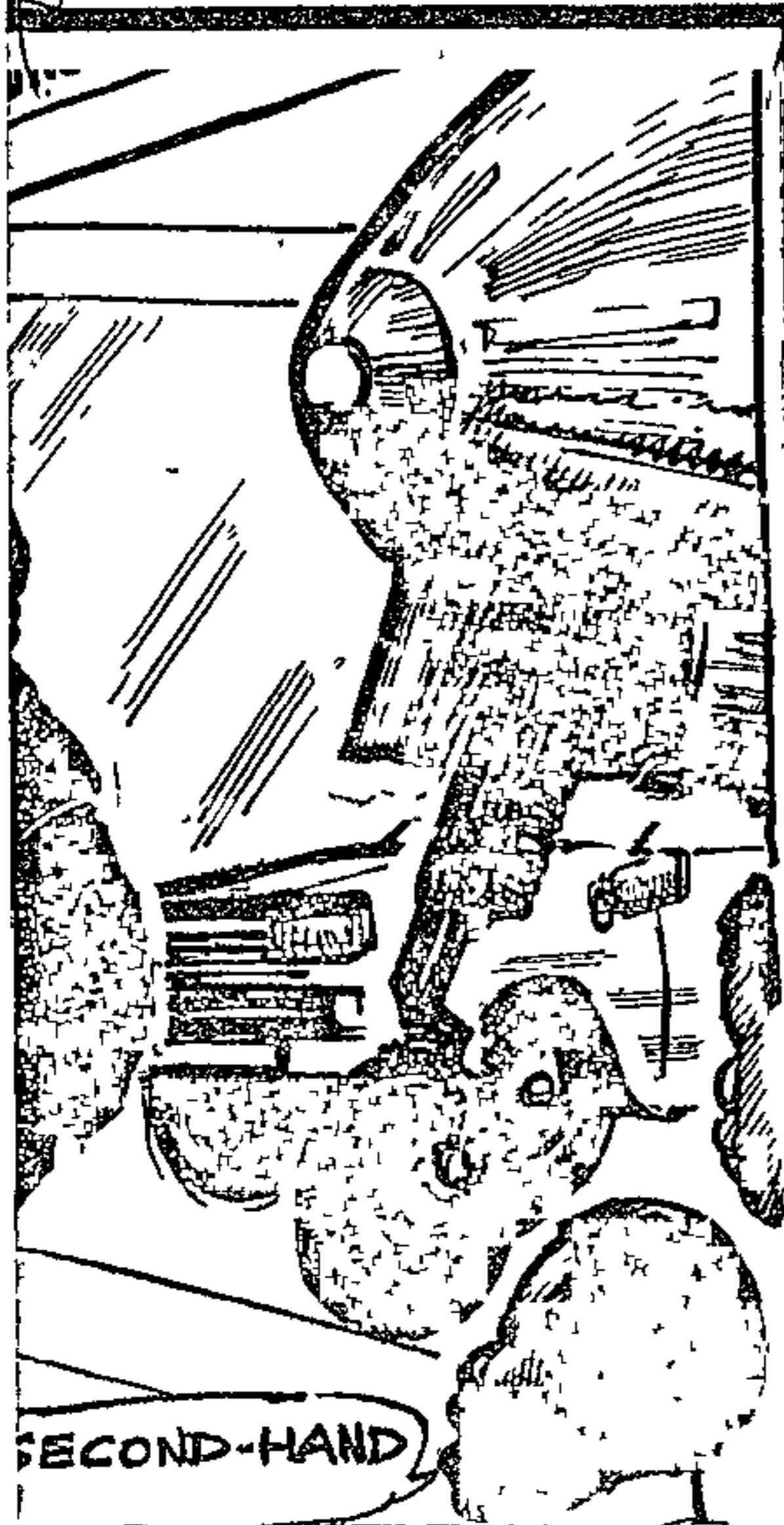
The timespan between the passing of a death sentence and its execution varied, depending, for example, on whether or not an appeal was involved Mr McNally found in his 1984/7 study that the period might be as short as five months. The longest period was 22 months

An analysis of the offences for which the 59 people were sentenced to death in the Free State in 1984-88 showed jail murders (24), robbery and murder with a robbery motive (19), rape and sex-related murders (5), family murders (2), murders with a revenge or grudge motive (3), murder that arose out of political unrest (3), murder as a result of labour unrest on mines (1) and other murders (2)

Four of the 59 were white One of the 59 was a woman whose appeal is pending

Analysed on a yearly basis, the figures were: 1984 6 death sentences, one reduced on appeal, one commuted and 4 hanged; 1985 4 death sentences, one reduced on appeal and 3 hanged; 1986 14 death sentences, 5 set aside on appeal (the accused being acquitted) and 9 hanged; 1987 14 death sentences, one reduced on appeal and 13 hanged

The 1988 figures show that there were 7 death sentences for murder with a robbery motive, 6 for jail murders, 3 for unrest-related murders, 2 other murders, one revenge murder and one mine unrest-related murder — Sapa



SECOND-HAND

The Media Council

THE South African Media Council is an independent body established to deal with various matters affecting media reporting and comment

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Complaints must relate to published editorial matter and should be lodged within 10 days of publication But late complaints may be accepted if good reasons can be advanced

The address is: The Conciliator / Registrar, SA Media Council, P.O. Box 5222, Cape Town 8000 Telephone: (021) 461-7117 Inquiries are welcomed

Political comment in this issue by Aggrey Klaaste and Sam Mabe Sub-editing, headlines and posters by Sydney Mailhaku All of 61 Commando Road, Industria West, Johannesburg

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Ex-Nat to lead treason defence

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

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

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

Accused

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

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

Among the accused are the alleged Soviet-trained com-

Academics meet ANC

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

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

By HAMISH McINDOE

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

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

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

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

Future

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

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

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

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

When plate collisions occur, the resulting lateral pressure can compress horizontal rocks into folds

Defending the guilty — lawyers in debate

Star 30/1/89
By TIM COHEN (252)

A debate about the ethics of defending a guilty accused is taking place in the pages of the attorney's journal *De Rebus*, sparked off by an episode of Hill Street Blues in which an accused told a public defender: "Yes, I shot and killed him, it's your job to get me out of it."

Mr Arno Botha wrote that he would not have been able to defend the Hill Street Blues accused, and invited responses from readers.

"I would find it in conflict with my duty as an officer of the court to rationalise at the end of the case that, although the accused admitted to me a serious crime, he should go free because the State had been unable to prove its case," Mr Botha wrote last year.

In a response in the latest edition of the journal, published by the Association of Law Societies (ALS), Mr E Bertelsmann SC writes about a case in which he had acted pro deo for a 19-year-old matriculant who had stabbed to death a classmate on a soccer field in 1973.

"My client borrowed a knife from a friend under the pretext of wanting to clean his nails, ran on to the field and stabbed the deceased in full view of some 50 eyewitnesses," he writes.

Without prompting, the client said he had intended to kill the deceased, had planned the attack and had asked his friend to give him the knife on two previous occasions.

He was appointed pro deo before having met the accused. "You will share my sentiments if I tell you that I did not appreciate these instructions at all."

"Should I advise my client to plead guilty to a capital charge of which he was indubitably guilty and in respect of which only his youth could act as a mitigating factor?"

In fact Mr Bertelsmann advised the accused to plead not guilty, but would not allow the accused to enter the witness box.

"It soon turned out the State's case had been prepared rather carelessly, presumably because of the fact that there was such a surfeit of evidence that my client had wielded the deadly weapon."

"In cross-examination, the three witnesses called by the State exhibited extreme discomfort about their visit to the shebeen, and whether correctly or not I do not know, created the impres-

sion my client had been drinking lustily with them.

"Upon the State having closed its case, I immediately closed my own and argued that my client was entitled to the benefit of the doubt on the grounds of the State's evidence that liquor had been consumed and the confession by at least two of the witnesses that an argument had ensued between the accused and the deceased."

"Although the court was obviously surprised by the closing of my case, my submissions were eventually upheld. My client was found guilty of culpable homicide and sentenced to five years."

Mr Bertelsmann asks whether he should have refused to defend the accused, or whether he should have advised the accused to plead guilty and make "a clean breast of it."

"Should I knowingly and purposefully have risked a death penalty, which was certainly a very real possibility? I do not think so."

Why? Because the State *must* prove its case beyond a reasonable doubt, he argues.

"It is not the function of defending counsel or attorney to assist the State, or to participate knowingly or unwittingly in a lowering of the standards of evidence and proof."

"The moment one allows moral or emotional considerations to intrude upon this terrain, one opens the door to an eventual acceptance of superficial investigation, superficial presentation of cases and a gradual, surreptitious acceptance of a standard of evidence which is less than ought to be required under all circumstances."

In the same edition, Mr K A Wilson, a member of the ALS Standing Committee on Legal Ethics, quotes British judge Lord Denning.

In an article in the 1955 *South African Law Journal*, Lord Denning is quoted as saying "A difficult question arises when the barrister gets to know during the trial itself that his client is guilty. If he then publicly announces his withdrawal from the case, it may seriously prejudice his client."

"It may therefore be his duty to his client to stay in the case, but his conduct in the case must be regulated by the higher duty not to be party to a lie. All he can do is to urge that the prosecution have not proved their case, for even the worst of criminals is entitled to require the case to be proved against him."

Victim 'kicked, dragged'

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A MAMELODI resident who was allegedly killed by a white policeman on the day of the 1985 shootings was also kicked and dragged along a concrete driveway before he was thrown into a police vehicle, an inquest magistrate heard yesterday.

This was said by two women who saw a policeman shoot at Mr Jerry Ngwatle inside the yard of a Section O home on November 21, 1985. The women were testifying before Mr J N Pretorius during an inquest into the shootings.

Both witnesses, Mrs Maria Malebelo Sibanyoni and Mrs Agnes Madiseng, said the man was shot at as he and

sowetan 1/21/85
other youths were running away shortly after they were approached by an armed policeman. They said as the youths were running in different directions, the policeman opened fire and Mr Ngwatle was struck by a bullet.

According to Mrs Sibanyoni, Mr Ngwatle had done nothing to provoke the policeman's action. She also said he did not carry a petrol bomb as was stated earlier by two policemen.

Mrs Sibanyoni said she was one of the people who marched to the administrative offices earlier on that day.



State quizzed on 'mob'

By THEMBA MOLEFE

LAWYERS for Human Rights yesterday called upon the Minister of Law and Order, the Commissioner of Police and the Attorney-General of the Transvaal to explain why the "lynch mob" which ran an Indian family out of their new house in Mayfair have not been arrested for terrorism and subversion

The organisation was reacting to the Sunday incident in which white residents of Mayfair West forcibly prevented the "Doyle" family from moving into the house

In a statement issued by the national director of the LHR, Mr Brian Curran, the organisation said 'Section 54 of the Internal Security Act provides *inter alia* that any person who with the intent to put fear or demoralise the general public a particular population group or the inhabitants of a particular area threatens to commit an act of violence is guilty of terrorism

Guilty

If simultaneously such a person causes encourages or torments feelings of hostility between different population groups or parts of population groups that person is guilty of subversion'

'Can you imagine what would happen if blacks were to brandish firearms at political rallies. Also the 'lynch mob' in Mayfair West were attending an unlawful gathering. Why were they not arrested?'

Unless racial discrimination is not only eradicated from our Statute Books but prohibited by law and unless the absolute equality of rights of all people is entrenched in a Bill of Rights South Africa will without any doubt be torn apart by racial conflict

Vote

'The racists and bigots will exploit laws as long as they remain on the Statute Books. Secondly, while only whites have the vote there can never be equality before the law. The Government has no need to placate the

Beer

black man in the street," said the LHR

The Black Sash said "We respond with disgust to the racial climate that exists in this country

"The National Party policy of discrimination is a breeding ground of fear, hate and suspicion which is growing daily in the white population against people of other colours

The fear is stimulated by the Government-

controlled media and until apartheid is scrapped and South Africans get on and live their lives together in a normal society this type of reaction will only intensify' the Black Sash said

• The South African Police Directorate for Public Relations in Pretoria said investigations into the incident were continuing and no arrests had been made

• See page 6

Victim 'kicked, dragged'

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CLEAR WINNER

True vodka was born in Poland where it was distilled to a level of purity unsurpassed in any other country. Wisla Wodka takes its name from the beautiful Wisla River the waters of which have long symbolized the indomitable spirit of Poland. It is in this tradition that pure Wisla Wodka is made and brought to you under license from J.A. Bacowski makers of fine vodka since 1782

Wisla Wodka

VODKA PRODUCED & BOTTLED UNDER LICENSE IN SOUTH AFRICA FROM J.A. BACOWSKI [ASZ]

Public gallery filmed before trial continues

By Tim Cohen

People attending the latest Delmas treason trial were filmed while sitting in the court's public gallery yesterday — an incident which has drawn strong criticism from human rights lawyers

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

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

Mr Brian Curran, the National Director of Lawyers for Human Rights, said yesterday the taking of a photograph was a violation of a kind of personal right, the right to privacy

But he added he was not prepared to say whether the action of the man was illegal

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

The filming would have been contempt of court had it taken place while the court was in session, but unless there was a directive from the Judge President prohibiting the taking of photos in court, the man's action was probably legal, he said

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

● See Page 2.

Strict security at start of latest 'Delmas' trial

By Paula Fray

There was strict security yesterday at the start of the latest "Delmas treason trial" where four alleged members of the African National Congress's military wing, Umkhonto we Sizwe, are appearing before the Supreme Court sitting in Delmas

Members of the public were bodily searched when they entered the building after passing through metal detectors

252 FILMED 252

At one stage, people leaving the court were searched

At first, men without ties were refused entry into court but police allowed them in after relatives of the accused arrived without ties

A glass partition — installed during the previous marathon "Delmas" trial — separated the public gallery from the dock and the bench

Despite the distance of

the trial from Mamelodi and Soweto, where the accused come from, there were about 100 family, friends, supporters and international observers in the gallery

Among them were Mr. Jan van Eck, independent MP, Mr Jay Naidoo, secretary-general of the Congress of South African Trade Unions, Dr Max Coleman and Father Smangalis Mkhathwa of the Human Rights Commission and a representative from the American Embassy

The four accused, dressed in dark suits, ties and light shirts were not handcuffed and gave clenched fist salutes as they entered the court

Members of the public responded with shouts of support

During the tea break, the accused pressed against the glass partition and spoke briefly with supporters before being led down to the cells

Sowetan 2/2/89
**Killing:
mother:
cries in
court**

By ALINAH DUBE
A MAMELODI mother

broke down and wept before an inquest she related the circumstances under which a man was shot dead by a policeman in the 1985 Mamelodi shootings. Mrs Agnes Madiseng broke into tears as she was being cross-examined by Mr Steven de la Harte, counsel for the police. She was testifying before Mr J M Pretorius during an inquest into an incident in which 14 Mamelodi residents were shot and scores injured on November 21, 1985. The woman told the court that she was present when Mr Jerry Ngwatle was shot at by a policeman. She said Mr Ngwatle was running away from the policeman and was hit by a bullet while he was inside the yard of a house opposite her home.

Threw

"After he was shot, Jerry fell down. The policeman who shot at him threw the keys of a police vehicle he was travelling in to his colleague before he went to where Jerry was lying. The policeman kicked Jerry hard as he lay bleeding on the ground. Although I did not notice which part of his body was being kicked, the policeman showed no mercy for him," the woman said wiping tears from her eyes.

Bled

Mrs Madiseng said the policeman started dragging Mr Ngwatle as he bled profusely. Shortly after she had said that she broke down and cried. The court went into a short adjournment to give her a chance to calm down. After the adjournment the woman was asked to explain why she cried earlier in court. She said: "The evidence have been giving reminds me of the circumstances under which Jerry died. I did cry on the day he was killed".

(Proceeding)

Inquest told of shooting

Soweto 27/1/89

By ALINAH DUBE

A PRETORIA North inquest magistrate, yesterday told that the police were not allowed to fire bullets into the air but had to aim at a target when dispersing a crowd.

This was said by Sergeant Dion Looths who fired at people during separate incidents in Mamelodi on November 21, 1985. He was being cross-examined by Mr Dikgang Moseneke, counsel for the families of the victims, before Mr J N Pretorius.

Policeman

The policeman told the court that about 3 500 people had gathered at the administration board offices when he arrived at 8,30am. He said the number of those present kept increasing as some showed black power salutes and -shouted "SAP go away."

Asked by Mr Moseneke if he happened to fire into the air at any stage, the witness said it was according to the police standing orders never to shoot into the air. He explained that the police had to aim at the target when shooting.

The inquest was postponed until June 19.

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Appeal over Ebrahim granted

Star 3/2/69 Staff Reporter (257)

An application by the defence counsel for leave to appeal against the judgment which held that Bethal treason trialist Ismail Ebrahim was subject to the jurisdiction of the court was granted by Mr Justice Daniels on Monday.

Defence counsel Mr H K Naidu argued that Ebrahim had been kidnapped from Swaziland and compelled to stand trial in South Africa.

According to a lawyer at Ms Priscilla Jana's office, the ruling meant the defence team could go ahead and appeal that the court should not have had criminal jurisdiction over Ebrahim.

The Star, in an earlier report from its Pretoria Bureau, did not mention the outcome of this application, and only mentioned one of the applications before the court, where judgment was reserved.

Judgment was reserved until February 6 on the application to make special entries and to appeal against conviction and sentence of Simon Dladla, and also against Ebrahim's sentence.

Dladla was found guilty of terrorism and sentenced to 12 years' imprisonment and Ebrahim, and a third accused, Acton Maseko, were found guilty of treason and received 20 and 23 years' imprisonment respectively.

Leave to appeal was not requested for Maseko, except to the extent that success in establishing the irregularities on the special entry could result in his conviction being upset, according to Mr Naidu.

Star 3/2/89

252 (1989)

By Helen Grange

Mayekiso 'did not favour courts'

A man accused of treason, Mr Moses Mayekiso, was not in favour of "people's courts" and his intentions were never to try and overthrow the state, the Rand Supreme Court heard yesterday

Mr Ricky Valente, former chairman of the Sandton management committee said this in evidence in the trial of Mr Mayekiso (38) and his co-accused, Mr Mzwanele Mayekiso, Mr Obed Bapela, Mr Richard Mdakane and Mr Paul Tshabalala, all from Alexandra

The five men are alleged to have attempted to usurp the authority of the State by establishing "organs of people's power" in Alexandra in 1986

Mr Valente, who had become friendly with Mr Mayekiso through various meetings he had arranged between the local

authorities and Alexandra representatives, said Mr Mayekiso had "only wanted to restore normality to the troubled township and to assist in its upgrading"

Mr Justice van der Walt Weren't attempts at redevelopment disrupted by unrest?

Mr Valente The unrest in 1986 was the trigger that forced redevelopment in Alexandra

He added that the redevelopment plans had involved expropriation of people's homes "The people couldn't accept that," he said

Mrs Refilwe Mashigo, a social worker in Alexandra, said that unwillingness by the police to

attend to reported crime had led to the initiation of the "Anti-Crime Campaign" (ACC), which was run by township youths

"At first we thought it was a good crime clean-up But people began to misuse it for their own benefits The adults disapproved of the ACC once it began sjambokking people," she said

The "people's courts" which arose were an angry response to the lack of response of the police to complaints. On one occasion, the army's assistance was enlisted after police refused to allow Alex residents to get water from neighbouring factories

The 'people's courts', Mrs Mashigo said, were not interfered with because adults were intimidated by the youths who ran them

Mrs Mashigo said that the attitude towards the Alexandra town councillors was of "disillusionment and bitterness" because of their failure to fulfill promises

This had led to the formation of "yard committees", "street committees" and "block committees" to give residents some direction in improving their conditions

"The ideas expressed by Mr Mayekiso at the first 'yard committee' meeting gave the residents some direction," she said

The "yard committees" were disbanded however after a "vigilante attack" believed to be launched by police supporters

The hearing continues

Harare conference on rights ⁽²⁵²⁾

By EDDIE KOCH and
PETER AUF DER HEYDE
in Harare

WMM/C
3/2-9/2/89

LEGAL academics from South Africa and a top-level African National Congress delegation attending a conference in Harare are this week discussing the need for a Bill of Rights in a post-apartheid society

Another key issue is the need to devise legal measures for the protection of human rights during the fight to build a post-apartheid society.

The conference has been dominated by discussion of measures that can be used by lawyers, as well as other democratic organisations, to contain the excesses of power practised by the South African government during the period of transition, said Frederick van Zyl Slabbert, co-director of the Institute for a Democratic Alternative for South Africa (Idasa).

A crucial issue of debate among delegates was the way the "human rights culture" that had been developed by anti-apartheid organisations could be used to create a new system of jurisprudence in South Africa

The rest of the conference will be devoted to a discussion of this in relation to the new constitutional guidelines adopted by the ANC last year

The ANC delegation to the confer-

ence, organised by Idasa at the request of legal academics in South Africa, included Albie Sachs, a member of the ANC's legal desk who survived an assassination attempt in Maputo last year

Issues on the programme included the ANC's demand for prisoner-of-war status for its fighters and the role of a free press in curbing the abuse of human rights during the State of Emergency, said Van Zyl Slabbert

Other issues were the inequitable distribution of land in South Africa and measures that can be taken by lawyers to correct this.

"The conference is a low-profile attempt to bring together South African lawyers from inside and outside the country in order to discuss pressing issues which relate to the present strengths and inadequacies of South Africa's legal system," said Hugh Corder, a member of the conference steering committee

People's courts founded 'in chaos'

JOHANNESBURG — It was against a background of disorder and chaos in Alexandra that the "people's courts" emerged.

This was the testimony of Prof Belinda Bozzoli, head of the Department of Sociology at the University of the Witwatersrand, who was testifying in the trial of Mr Moses Mayekiso and four others in the Rand Supreme Court yesterday.

Mr Mayekiso, general secretary of the National Union of Metal Workers of South Africa, is one of five men charged with treason, sedition and subversion.

The accused were all executive members of the Alexandra Action Committee. Mr Mayekiso, 38, Mr Paul Tshabalala, 38, Mr Richard Mzameni Mdakane, 29, Mr Obed Bapela, 28, and Mr Mzwanele Mayekiso, 22, have all pleaded not guilty.

Yesterday Prof Bozzoli described conditions in Alexandra at the time. She said both the youths and the adults in Alexandra regarded the SA Police and the municipal police as responsible for all the deaths following the six-day war in Alexandra during 1986.

Prof Bozzoli said there was a feeling of increased recklessness and militancy among the youths and crime became more prevalent in the chaos of the time. Residents responded by turning to the youths, who had already established the Anti-Crime Campaign. The youths would listen to their problems and mediate, and in this haphazard fashion the people's courts emerged.

Prof Bozzoli said that while the ACC had been seen as just by both youths and adults, the people's courts had never enjoyed this same respect and contained elements of violence from the outset. — Sapa

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Slain worker's family starves

by JAAP BOEKKOOI

Weekend Argus Correspondent
JOHANNESBURG. — The widow and five children of Mr Eric Sambo, the worker beaten to death by Levubu farmer Jacobus Vorster, 23, are living in near-starvation in a hovel in Venda

The Johannesburg Bar Council has unanimously condemned the suspended sentence and fine imposed on farmer Vorster, and warning has been given about a motion asking Parliament to dismiss the presiding Mr Justice J J Strydom

Meanwhile, Mrs Sarah Sambo, 36, is as usual cutting *morog* (wild spinach), gathering leaves and catching fish to feed her family in a small hut in the village of Mashau

For reasons which are not clear, Mr Justice Strydom — who fined Vorster R3 000 payable over five years for beating, kicking and whipping Mr Eric Sambo to death after tying him to a tree — did not make an order of payment to Mr Sambo's wife and children

Instead, he made a monthly R130 order in favour of Mr Sambo's girlfriend, Miss Mamaila Shilenga

Last visit

"I have never seen Mamaila and I cannot see why she should receive money for the death of my lawful husband who visited us every weekend," said Mrs Sambo

She only knows Vorster from hearsay, and from Eric's weekly descriptions of him "as a kwaai baas"

"I remember Eric's last visit to us when he looked fearful and said 'The baas wants to kill me'."

Miss Maria Sambo, younger sister of the dead man, said "Just before his death, Eric told us that the baas had promised he would kill him, no matter what — either by shooting him, or by running him down in his car — since he had accidentally run over two of his dogs with a tractor

"We've not eaten any meat since Eric died, only the fish which we catch, pap and veld plants. As you see, we are very thin and the children have had no new clothes

"I never saw Eric again, for



Mrs Sarah Sambo and her family, who are starving at their home in Mashau, Venda, after her husband was beaten to death by his farmer employer.

at the funeral they did not allow me to open the coffin. They said Eric was too badly bruised for me to look at him for the last time"

Mrs Sambo did not understand the moves to condemn the judge, but she said she was happy that Eric's death had not been forgotten

But Maria Sambo said "I am very grateful for all this protest against the lenient judgment

"Farm workers in this area are often abused, but to my knowledge my brother was the first one to die. This protest to Parliament will make farmers think twice before they assault their workers"

Mrs Sambo said "My neighbours are good to me and sometimes give me a piece of soap. Now they might help me

to visit my mother-in-law some distance away. She had a heart attack after Eric was killed"

The Vorster homestead is situated on the Louis Trichardt-Punda Maria road — just past a sign proclaiming "Last slaughter-house in the RSA" — and serves wens and liver specials.

Jacobus Vorster, who farms pecans and macadamia nuts, arrives at high speed in his expensive BMW luxury car

"I want to be polite to you. No pictures, please, and I'll discuss anything with you but the case," he says

"I realise I'm lucky, and that if the case had taken another turn I would now be in jail. Feelings have run high in this community and I have received threats. I have ignored them, however"

He is a young man with tanned hair and moustache, and a pleasant, open face.

Halogen floodlights surround the house — which also carries a CB antenna, and about 10 dogs roam the property

"That's all I want to say," Vorster says "It's been a difficult year for us and I will have to plant cash crops in the meantime

"I don't want to appear impolite, but some journalists have been here and written things that aren't true"

● This week the Johannesburg Bar Council said that, after studying the Vorster case, it had found Mr Justice Strydom's sentence at the Louis Trichardt Circuit Court in November "so grossly inappropriate as to induce a sense of shock and outrage"

Slain worker's family starves

by JAAP BOEKKOOI
Weekend Argus Correspondent
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Seheri to hang

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Sowetan 6/2/89

OUPA Alex Seheri, a self-confessed member of the African National Congress, was sentenced to hang for two murders committed in January 1987 after evidence led by his defence counsel that there were grounds for extenuating circumstances was turned down by a Rand Supreme Court judge on Friday.

The judge, Mr Justice W R O'Donovan and two assessors ruled that the court would not accept the contention of Dr A Nell, a clinical neuro-psychologist called by the defence counsel,

that Seheri suffered from a rare mental disorder known as the dyscontrol syndrome and that it influenced his actions on the night the offences were committed.

Seheri (34) was also sentenced to a total of 23 years for two counts of attempted murder, one count for the possession of a Scorpion machine pistol and one count for the possession of ammunition.

Mr O'Donovan ordered that the eight years for each count of attempted murder should run concurrently.

THE SOUTHERN AFRICAN PRESS

SUSAN RUSSELL

'People's courts were backed by adults'

THE People's Courts formed by the youth of Alexandra in 1986 were initially supported by many adults as a means to remedy lawlessness in the township at the time, sociologist Professor Belinda Bozzoli told the Rand Supreme Court on Friday

She was called to give evidence before Mr Justice P Van der Walt on behalf of treason traitor Moses Mayekiso and his four co-accused

Mayekiso, 38, Paul Tshabalala, 38, Richard Mdakane, 29, Obed Bapela,

28, and Mzwanele Mayekiso, 22, have all pleaded not guilty to treason and alternative charges of sedition and subversion

It is alleged they were involved in the formation of the Alexandra Action Committee, "organs of people's power" and "people's courts" in the township during 1985 to 1986

Bozzoli said those who were youths during the unrest of 1985 to

1986 had grown up in Alexandra during the period when the authorities had planned to remove family structures from the township and turn it entirely into a hostel town

She told the court the anti-crime campaign was initially started by the youth in Alexandra in response to the perceived ineffectiveness of the police

Initially the campaign seemed to be successful and had the support of

adults in the community

However, the anti-crime campaign was brought into disrepute by the activities of criminal elements who used it for their own ends

Many adults supported the people's courts as a means of remedying lawlessness.

Bozzoli said that unlike the anti-crime campaign, the people's courts were authoritarian from their inception and run in a brutal way

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The dilemma of doctors who bear silent testimony

A Johannesburg medical doctor may face jail tomorrow if he refuses to divulge the names of former detainees he has treated.

Dr Paul Davis was subpoenaed to appear before a magistrate in terms of section 205 of the Criminal Procedure Act and to hand over the medical records of former detainees he had treated.

Dr Davis, who must stand alone "in the witness stand with my conscience", epitomises the dilemma faced by doctors. Medical practitioners feel a moral responsibility to protect their patients' confidences, but doctor-patient confidentiality receives no legal protection.

If doctors are subpoenaed to reveal information about their patients, the law expects them to yield this confidential relationship to "the public interest". Should they refuse, they may face a jail term of up to two years.

Dr Davis's dilemma began when he was quoted as the unnamed source by reporter Jo-Anne Richards in an article in *The Star* in 1986. The article carried the findings of a study by a panel of six doctors who examined 47 released detainees. The doctors found 83 percent showed medical evidence of "physical abuse".

In 1987, Richards received a subpoena instructing her to reveal her source. Having given her promise to protect Dr Davis's identity, she felt she could not do so.

On April 10, she appeared before a magistrate and refused to reveal her source. The magistrate postponed the matter to enable the police to consider her sworn statement, which suggested the alleged ill-treatment of detainees could be investigated by the police without requiring her to break her ethical code.

Shortly after, she was informed the statement was

unacceptable to the police and she was ordered to appear again on April 24.

The day before her proposed appearance, Dr Davis freed her from her undertaking to protect his identity. He indicated his identity was already known to the police so it would be futile for her to be placed in jeopardy by protecting him unnecessarily.

He had delivered a paper on the study at the University of the Witwatersrand Medical School, sent an article on the subject to *The Lancet* (the British medical journal), and been interviewed on the subject in a film then being screened in Johannesburg "Witness to Apartheid".

In revealing Dr Davis's identity, Richards said in an affidavit she viewed the police action with a "degree of cynicism".

Star 2/18/87. INTIMIDATING

"The procedure of issuing section 205 subpoenas is, in my personal belief, used to intimidate journalists and inhibit them from undertaking properly their duties in the best interests of the public right to know the true facts," she said.

There had been occasions in the past where the identity of sources had been revealed to the police and these sources had then been detained, questioned and threatened, she said.

Dr Davis was originally subpoenaed to appear in November 1987. At the hearing, he challenged the validity of the subpoena and the matter was taken on review to the Supreme Court.

After hearing argument on the validity of the subpoena on October 31 last year, the Supreme Court Deputy Judge President, Mr Justice C F Eloff dismissed the application with costs.

Dr Davis was subsequently ordered to appear before a magistrate again tomorrow.

Dr Paul Davis ... epitomises the dilemma faced by doctors. Medical practitioners feel a moral responsibility to protect their patients' confidences, but doctor-patient confidentiality receives no legal protection.

Top ANC man's appeal is refused

PRETORIA — Senior ANC member Ebrahim Ismail Ebrahim, who was convicted of treason last year, was yesterday refused leave to appeal against his 20-year sentence when he appeared in the Pretoria Supreme Court. (252)

Mr Justice Daniels refused the application by the regional commander of the ANC in Swaziland and one of the first members of the ANC's military wing, Umkhonto we Sizwe.

Leave to appeal was also refused to Swazi citizen Simon Dladla against his 12-year sentence for terrorism and Acton Maseko's 23-year sentence for treason. Both were involved in terror attacks in Volksrust and Breyten in 1986.

— Sapa.

Twenty-four 10 MINUTE

Ramalepe died after ²⁵² police assault — inquest

Star 2/2/87
By Dirk Nel, Northern Transvaal Bureau

DUIWELSKLOOF — An inquest magistrate said here yesterday that the death of student leader Mr Mgwa-ko Frans Ramalepe on October 18, 1985, had been caused by "multiple wounds, and acts amounting to an offence of murder", inflicted by members of the Lebowa police who were on duty at the Bolevedu Police station on October 17.

According to earlier evidence, Mr Ramalepe was found seriously injured at Leeuwardraai after a clash between Lebowa police and rioting students.

Policemen who testified during the inquest denied allegations that Mr Ramalepe was assaulted after being arrested.

The inquest magistrate said the matter would be referred to the Attorney-General for a decision regarding possible prosecution.

No appeal for ANC members

Leave to appeal was yesterday refused in the Pretoria Supreme Court to a senior ANC member, Ebrahim Ismail Ebrahim, who was convicted of treason last year.

Mr Justice Daniels refused Ebrahim, a regional commander of the ANC in Swaziland, leave to appeal against his 20-year sentence.

Leave was also refused to a Swazi citizen, Simon Dladla, who provided help for the planting of landmines at Volksrust and Breyten in 1986, to appeal against his conviction on a charge of terrorism, as well as his 12-year sentence.

Mr Justice Daniels refused leave for certain special entries to be made in regard to Ebrahim, Dladla and a third accused, Acton Maseko, who was sentenced to 23 years imprisonment on a charge of treason.

Maseko was found responsible for the landmine attacks at Volksrust and Breyten in which eight civilians were injured — Sapa

Star 8/2/89

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Deterioration in 1988, says US report

SA's human rights situation criticised

By Neil Lurssen,
The Star Bureau

WASHINGTON — The human rights situation in South Africa continued to deteriorate during 1988, claims a new official United States report released today

During the year, it says, the South African Government took additional harsh measures to repress opposition to apartheid, including actions against non-violent political activity

The report, drawn up by the US State Department and submitted to Congress, is an annual look at human rights practices throughout the world. The purpose is to provide useful background material to Congress for dealing with foreign policy issues

The latest report sparked a controversy here before its release when word leaked out that it was critical of Israel's conduct in the occupied territories,

'Courts used to stifle activists'

The Star Bureau

WASHINGTON — The South African Government seems to be using the courts as part of its effort to stifle anti-apartheid activism, a new US government report says.

The report — the 1988 issue of an annual examination of human rights practices around the world — says: "It is increasingly evident that the SA Government sees long political trials as a means of keeping prominent activists out of circulation for extended periods of time, even if many are eventually acquitted."

It cites a study that found that 113 political trials were completed in 1987 involving 792 people, of whom 563 were acquitted or had the charges against them dropped. As of August 1988, there were 62 ongoing political trials involving 691 accused, the report says.

where Arab unrest is a daily occurrence

South Africa has one of the largest entries — 23 pages of fine print

The Soviet Union has 22 pages and Cuba has 16

It records in detail civil strife in South Africa, relying on official sources and unofficial monitoring groups for information

The report also assesses the role in human rights practices of institutions such as the judiciary, police and the military

It says "The Government has detained more than 30 000 people since the June 1986 declaration of the state of emergency. Monitoring groups estimate that only about 4 percent of those detained have been convicted of any criminal offences"

The Government's refusal to provide specific statistics or complete lists of those being held has made it difficult to confirm estimates of the number of detainees the report says

"Statistics on detentions failed to account fully for what appeared to be a common police tactic of detaining political activists, especially youths, and holding them for a few hours or overnight, during which they were interrogated, threatened, and often beaten.

"In addition, many people have been arrested on criminal charges during incidents of unrest. At least 2 000 people, many of them under the age of 18, were serving sentences for 'public violence' as a result of convictions stemming from incidents of political unrest"

The report says political violence in 1988 appeared to be at or above 1987 levels, but still below those of 1984-86

Clark reads Pik's letter on SA to Harare conference

By Robin Drew,
The Star's Africa
News Service

HARARE — South Africa made itself heard yesterday at the meeting of Commonwealth Foreign Ministers in Harare when a

letter from Minister of Foreign Affairs Mr Pik Botha was read to the Committee of Eight by Canadian Foreign Minister Mr Joe Clark

The letter, defending South Africa's record in the face of accusations that it was wrecking the economies of its neighbours and the lives of the people there, became the focus of media attention after Mr Botha referred to it at a press conference

The letter to Mr Clark had not been referred to the committee before yesterday

Mr Clark told an impromptu press conference that he had not tabled the letter before because he regarded it as one to him as Canada's representative

He described the letter as "very civil", and said he would reply to it when he returned

Kubus man guilty of cheque fraud

CAPE TOWN — Former "American kubus king" Mr Frans Jacobus Smit "Vloog" Theron was convicted yesterday after pleading guilty in the Supreme Court to cheque fraud 14 years ago

The bank concerned lost about R41 000, of which R40 000 was repaid by Theron in 1985

Last June Theron returned from the US after

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ARC 2/2/87

West keeps watch on

'Upington 25'

Political Staff

WESTERN diplomats are closely watching the outcome of a trial in Upington where 25 black people have been convicted of murder

"There are parallels with the Sharpeville Six," said one diplomat, who acknowledged intense interest in the proceedings. Defence lawyers were expected this week to lead evidence in mitigation.

The Upington 25 were convicted by Mr Justice J J Basson last year for the mob murder of a black policeman who was assaulted and set alight after being chased from his house on November 13 1985.

Like the Sharpeville Six, the Upington 25, thought to be the largest group convicted in a murder trial, were found guilty under the doctrine of "common purpose".

OUTCRY

The prosecution was unable to show that most defendants actually dealt the blows or lit the matches. They were convicted, however, because they were part of a crowd intent on killing the victim

A diplomatic source said there would be an international outcry if they were sent to the gallows

Evidence identified four of the 25 as primarily responsible for the assault on the policeman, Mr Lucas Sethwala. The group attacked him after police broke up a rally protesting against rent rises



Dr Paul Davis talks to the Press outside Johannesburg Magistrate's Court yesterday after a subpoena compelling him to give details of 40 detainees was dismissed

Picture ROBERT BOTHA

battle to find the Actstop

Day 9/12/89

PETER DELMAR

crowded it would be almost impossible to find Dayal a house there

The spokesman said Dayal had received no official notification of Meyer's offer to help

Homestead Park Residents' and Ratepayers' Association chairman Allan McCabe said any government attempt to settle the Dayal family in white Mayfair would set a precedent which would signal that the authorities had no intention of halting the greying of the area.

CP Johannesburg chairman Fred Rundle said white residents would strenuously resist an attempt to move Dayal into white Mayfair

PHYSICIAN Paul Davis was yesterday discharged from a subpoena requiring him to supply details of 40 former detainees he treated

The order to testify in the Johannesburg Magistrate's Court followed rejection last year of Davis's application to the Supreme Court to declare invalid the subpoena. A refusal to testify could have sent him to jail

Davis, of Johannesburg, was required to give details of an article in The Star on September 29 1986

It quoted an unidentified doctor — Davis — claiming 83% of a group of former detainees aged 14-45 showed evidence of physical abuse.

Davis told the court the issue of curbing assaults in detention was of great importance to him. He had approached the police, presented papers to the National Medical and

Order on doctor facing jail quashed

252

252

252

B/Day 9/12/89

BRONWYN ADAMS

Dental Association and drawn up guidelines for district surgeons

The flow of injured detainees seen by him, however, did not diminish

Davis said the only action left was to tell the Press

He said the avenue of reporting cases to police was not easy because police did not guarantee detainees' safety

Davis, asked for detainees' names and addresses, said all the files, except for five personal patients, were the property of the National Medical and Dental Association

The magistrate discharged him from the subpoena

Dental charges with...

and the mine to pay them one month's contravening the Act. Argument continues today.

Poster buying 'irregular'

POSTERS and bookmarks were bought irregularly from the son of Department of Education and training Deputy Director-General Jaap Strydom to counter school boycotts in Cape Town, the Van den Heever inquiry heard yesterday.

Assistant director Braam Olivier said the items were bought from Thinus Strydom for R4 368 to counter a "war situation" in Western Cape schools at the end of 1987.

Olivier said he gave the order to Strydom jun without following departmental procedures.

It was decided at a meeting in the DET Cape circle office, at which Jaap Strydom was "possibly" present, to buy the things from Thinus, Olivier said.

Miss Justice Van den Heever asked: "The meeting wanted to buy the stuff from Thinus?"

Olivier: "No, I don't think so."

Straight after the meeting he had ordered the posters and bookmarks from Thinus, who had been in the circle of offices, but not at the meeting, he said.

They arrived at the Cape offices "a day-and-a-half" later.

The inquiry is investigating alleged irregularities in the DET.

The same commission last year heard evidence about the DET's alleged irregular purchase of a R4,5m educational video system.

RIAAN SMIT

Right-winger's appeal refused

THE leader of the Boerestaat Party Robert van Tonder was unsuccessful yesterday when he appealed in the Johannesburg Supreme Court against a conviction for contempt of court.

Van Tonder had ignored a summons for a traffic offence because it was in English.

Van Tonder said he ignored the notice for a speeding offence because it contravened the Constitution Act which states that official notices must be in both official languages.

Mr Justice Weyers with Mr Justice Levy concurring refused the appeal.

Mr Justice Weyers found that the

notice to appear in court was not a notice as contemplated by the Act.

Van Tonder was issued the notice in October 1986 after he was caught driving at 78,8km/h in a 60km zone.

He ignored the notice but when he finally appeared in court on April 1 1987, he pleaded guilty to the traffic offence and was fined R40.

He was convicted for failing to appear in court on the date of the notice and cautioned and discharged.

Van Tonder appealed only against his contempt conviction.

SUSAN RUSSELL

Johannesburg hotel this week. They are (from left) Nat Mgudiwa, Manl Molele and Mangi Mthimkulu.

Pic. ROBERT MAGWAZA

TerreBlanche, Tutu face charges

Sowetan 9/2/80 (252)
THE Attorney-General for the Witwatersrand, Mr Klaus von Lieres Und Wilkau, has decided to prosecute Mr Eugene Terre'Blanche for charges of malicious damage to property and crimen injuria — and Mr Trevor Tutu for the same charges among others.

Mr von Lieres has further decided to prosecute Mr Willeboer Bruno Venter on a charge of crimen injuria following an incident last June when Mr Venter allegedly insulted Archbishop Desmond Tutu while boarding a plane at Jan Smuts Airport.

Disclosing the details of the charges at a Press conference this morning Mr von Lieres said Mr Terre'Blanche, the leader of the AWB, would be prosecuted as a result of the Paardekraal Monument incident on December 26 last year when Mr Terre'Blanche, accompanied by Sunday Times columnist, Jani Allan, allegedly drove his car into the monument's gates.

Mr von Lieres said the charge of crimen injuria arose

from allegations of Mr Terre'Blanche's "most insulting language to the police" at the scene.

The son of Archbishop Tutu, Mr Trevor Tutu is being prosecuted on three counts of crimen injuria following incidents which allegedly took place in Langlaagte in October last year, at Jan Smuts Airport on December 31 last year and at Kempton Park Magistrate's Court on January 3 this year.

Mr Tutu may face a maximum fine of R500 or 12 months or both on a charge of contravening the Police Act.

He is liable for a maximum sentence of 15 years imprisonment for contravening the Civil Aviation Offences Act.

Regarding Miss Joan Helen Rhodes, Mr Tutu's co-accused in the Jan Smuts Airport incident on December 31, Mr von Lieres has decided to have them tried separately.

No dates have yet been set for any other above trials.

Sequel to study of released detainees

Doctor no longer under threat of jail

By Jo-Anne Richards and Cathy Stagg

A Johannesburg doctor was yesterday freed from the threat of jail when he appeared before a magistrate to answer a subpoena.

Dr Paul Davys was subpoenaed under section 205 of the Criminal Procedure Act to hand over medical records concerning patients who are former detainees. He faced a possible jail term of up to two years if he refused.

During nearly an hour's questioning yesterday, Dr Davys told the magistrate, Mr J B van der Merwe, he no longer had any medical files relating to the patients who had formed the basis of his study on the medical condition of 40 released detainees.

Dr Davys subpoena followed an interview with reporter Ms Jo-

Anne Richards on the study which resulted in an article in The Star in September 1986. The study revealed that 83 percent of those treated between July 26 and October 31 1985 showed medical evidence of ill-treatment.

Obligation dropped

Dr Davys was not named in the article. Subsequently, Ms Richards was subpoenaed to reveal his name. Dr Davys later freed her from her obligation to protect his identity, saying the police already knew who he was.

Dr Davys told the magistrate yesterday he did not have the names, ages, addresses or occupations of the patients who had formed the basis of the study.

These patients were seen as a service by a group of doctors at Dr

Davys's rooms. They were referred by the Detainees' Parents Support Committee. Their files were kept apart from those of his regular patients and were later coded and stored by the National Medical and Dental Association (NAMDA).

He said of the five patients who later became his personal patients he could remember only two — one was called Peter, the other Daphne. They had specifically asked him not to record their surnames.

"I no longer have these files," he said. Asked why, Dr Davys said he had noticed on Monday that the files were missing. "I became concerned. I looked into it more deeply — I thought they may have been mislaid."

The prosecutor, Mr A van Wyk, said the police were conducting an investigation into the allegations made in the article, but this could only be successful if they had names, ages and addresses of alleged victims.

He asked Dr Davys why he did not report alleged assaults to the police. Dr Davys said it was not for him to prosecute the police on behalf of his patients.

Mr van Wyk. You knew where the alleged assaults took place? — Yes, Mr van Wyk. You knew the people who were the victims? — Yes.

Mr van Wyk. Could you not have made this information available to the police? — Dr Davys. Not without the patient's permission. I cannot do it unilaterally. I strenuously subscribe to the Hippocratic Oath.

Dr Davys said his concern had been to stop what was allegedly happening in detention. "I saw people who alleged they were bashed and battered and I found plenty of evidence to support this. I didn't know where to turn."

General approaches to the police by the medical association had borne no fruit, Dr Davys said. "So I went the more public route which, if you'll give me, had more effect."



Dr Paul Davys, accompanied by a friend, Miss Josephine Gon, arrives at the Johannesburg Magistrate's Court where he had been subpoenaed to give evidence about patients he had treated after their release from detention.

Van Tonder loses battle over language

By Helza Grange

The leader of the ultra-right-wing Boersatant Partt Mr Robert van Tonder, has lost his appeal against a conviction of contempt of court following his refusal to pay a traffic summons in 1986 because it was written in English.

Mr Justice Wevers yesterday dismissed the appeal, saying Mr van Tonder "wasn't entitled to a bilingual notice because it wasn't the type of public notice contemplated in the Constitutional Act".

Mr van Tonder launched the appeal after he had been fined R40 for a speeding offence and warned and discharged after he was found guilty of contempt of court on October 23 1986.

In what was regarded as a test case for the Afrikaans language, he said the traffic officer concerned had insisted on speaking to him in English, having ignored his request to speak in Afrikaans. Mr van

Tonder returned the summons to the officer once he noticed it was written in English.

Mr van Tonder failed to appear in court on the prescribed date and was later charged with contempt of court.

Mr van Tonder, known as a "taalbu" (indirectly translated as "fighter for the language"), argued to the court that the summons was invalid in terms of the Constitution, which stated that Afrikaans and English were the official languages and that all citizens had an entrenched right to use them.

COMPREHENSIBLE

It was also the obligation for all municipalities, town councils and public institutions to use both official languages.

"A public official must serve the public in the language of their choice. A State document must be comprehensible but this is not the

only reason a language must be upheld.

If comprehension is the only factor necessary then Afrikaans must be eliminated — because most Afrikaans understand English, although this is not the case in reverse," Mr van Tonder said.

He said the municipalities of Randburg, Sandton and Johannesburg were especially guilty of "holding Afrikaans in contempt".

"Their traffic departments accept that every motorist is an English speaker because all their tickets and summonses are issued in English. Even if Afrikaans is spoken to the traffic officer, he still writes everything in English."

To hold Afrikaans in contempt in such a manner affected Afrikaans' dignity and rights. By affecting the human rights of Afrikaans, the political parties in contempt were in contempt of their own Constitution, the party leader said.

The State says that if bilingualism had to be enforced, it would lead to absurdity. I say their argument is absurd," he said.

Mr van Tonder added that the Afrikaans language was being "silently eliminated" by the media and by the Constitution, the laws of which were not intended to have such an effect.

Woman jailed for fraud

Own Correspondent

BLOEMFONTEIN — A Bloemfontein woman, Anna Susanna Gertwida Martz (31) of Pellisser, has been jailed for an effective four years and three months after being found guilty in the Bloemfontein Regional Court of fraud and theft at three separate hearings.

She told the magistrate, Mr E J Engelbrecht, that she worked at OK Bazars as head of the postal section from March to April 1988.

She admitted taking R4 661 from postal payments which should have gone to the company.

In the second hearing before Mr N J Theron, she was convicted on four charges of fraud and theft committed while she worked at a garage at Koffiefontein in 1987.

On December 29 last year, while awaiting sentence of the first two charges, she defrauded Roland Bank in Bloemfontein of R2 000.

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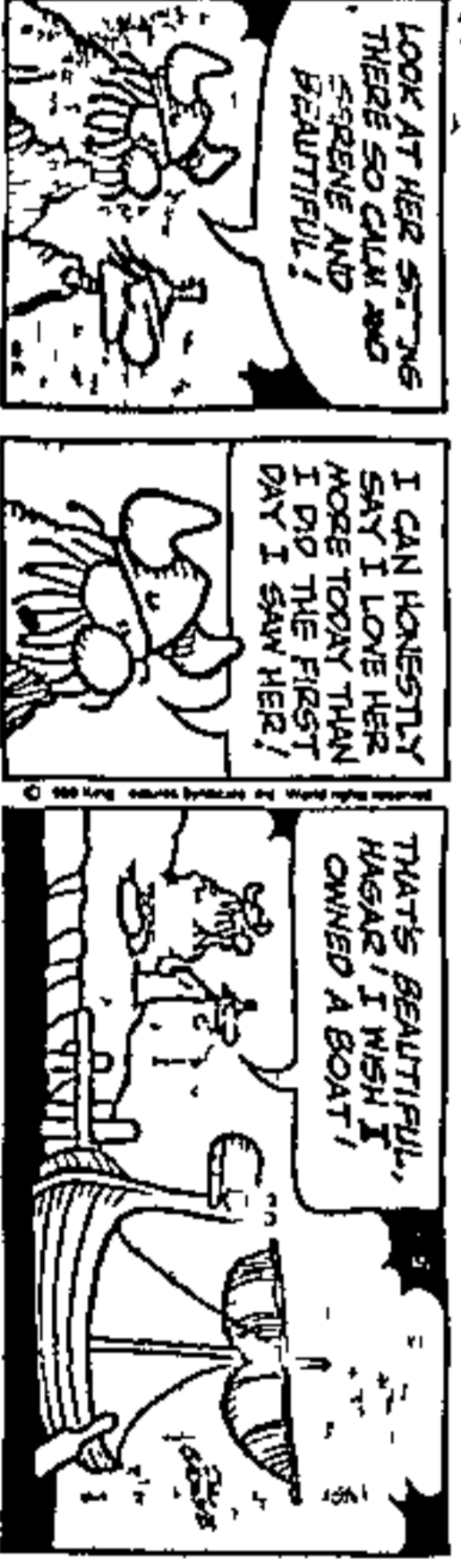
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STAG

HAGAR the Horrible

By Dik Browne



Mr van Tonder added that the Afrikaans language was being "silently eliminated" by the media and by the Constitution, the laws of which were not intended to have such an effect.

'State trying to use the courts'

From NEIL LURSEN of the Argus Foreign Service in Washington

THE South African government seems to be using the courts as part of its effort to stifle anti-apartheid activism, a new United States government report says

The report — the 1988 issue of an annual examination of human rights practices around the world — says "It is increasingly evident that the South African government sees long political trials as a means of keeping prominent activists out of circulation for extended periods of time, even if many are eventually acquitted."

It cites a study that found that 113 political trials were completed in 1987 involving 792 people, of whom 563 were acquitted or had the charges against them dropped

As of August 1988, there were 62 ongoing political trials involving 691 accused, the report states

"Recently published surveys also reveal a low conviction rate for those charged with public violence

According to government statistics, in the 1986/7 period there were only 1 746 convictions for public violence out of a total of 5 233 prosecutions"

The report says that while South Africa's high courts have traditionally maintained a high degree of integrity and independence, the power of the judiciary at all levels is circumscribed by stringent security legislation — tightened in 1988 — and by the jurisprudential principle of parliamentary sovereignty.

"Nevertheless, the courts have been the focal point for much litigation to counter human rights abuses," the report says.

"In some instances, the government has admitted abuses

and reached out-of-court settlements"

The report continues "There have been indications in recent years that the government has steadily increased its political influence over the judiciary.

"In an unprecedented step, the government in 1987 asked the Chief Justice of the Appeals Court to remain in his position past the mandatory retirement age of 70, apparently in order to prevent a more liberal justice from succeeding him

"In 1988 the Chief Justice did retire, and the government's appointment of his successor appeared to be without political bias.

There was evidence that under the former Chief Justice, important security-related cases were heard only by more conservative, pro-government judges.

Argus
9/2/89
323
252

252
NOVEMBER
10-16/2/89

From six years jail to freedom for ANC pair

By MUSA ZONDI

THE judge who sentenced the "Sharpeville Six" to hang has overturned a six-year jail term for two African National Congress members. The two were freed from prison this week.

Mr Justice WJ Human, referring to Mongezi Tshongweni and Vusi Thabete as "bright young men", found the magistrate had erred by not taking into consideration reasons given by them that led them to join the ANC.

He also found the magistrate had erred in sentencing the two as if they had performed acts on behalf of the ANC. Tshongweni, of Katlehong, and Thabete, of Tsakane, both 26, were convicted last year in the Her-

delberg Regional Magistrate's Court for being members of the ANC.

The court found they left the country in 1986 and joined the ANC. A second charge of furthering the aims of the ANC was dropped. They were sentenced to six years, with 18 months suspended.

Their sentence was cut from six years to four years with three and a half years suspended. They were freed because they had already served six months.

The two had left the country because they wanted to further their education, they told the court last year.

Their studies were interrupted by constant harassment by police because of their involvement in youth structures.

The magistrate had also erred in not taking into account the expert evidence of Community Agency for Social Enquiry director Mark Orkin, Justice Human said.

Orkin had argued that black schoolchildren had to "jump through many hoops" to succeed in life. They had to work hard to achieve good matric results but still faced the possibilities of being rejected by universities.

Tshongweni had to face the frustration of being a Transkeian when he could not take up employment be-

cause of his citizenship. "The saga of mounting frustration, anger and anxiety" led him to look for greener pastures, Orkin had argued.

Tshongweni had not joined Umkhonto weSizwe because of his belief that "violence inflicts lasting wounds irrespective of who inflicts it".

Tshongweni and Thabete "sought a more active involvement regarding social issues. They translated alternative politics into action".

The judge stressed that neither had performed actions for the ANC. Sentencing them, the magistrate, PJ Fourie, said "there was no evidence the accused wanted to be terrorists".

Cape lawyers 'shocked' at rise in court costs

CAPE TIMES 13/2/89
Staff Reporters

THE 35% increase in Supreme Court and Magistrate's Court tariffs announced recently by the Minister of Justice, Mr Kobie Coetsee, was in the public interest, the Association of Law Societies (ALS) has said

A statement by ALS president Mr Andries Geysler said the increase would "make the courts more accessible to the successful litigant, who will be able to recover all his costs where previously, because of low tariffs, he could not"

Mr Dullah Omar, Western Cape president of the National Association of Democratic Lawyers (Nadel), said that Nadel was concerned about the plight of the vast majority of people who were unable to afford the high cost of litigation and the cost of legal representation

"The increase comes to all of us — and particularly to the broader black community — as a great shock. More generally, it is part of the crisis in this country that increased costs always affect the poor the most. A way will have to be found to enable the poor to have access to the courts," he said.

● An announcement that the powers of the advocate-general were to be extended was welcomed by the ALS after the recent number of politicians, officials and others who have been found guilty of misusing their positions

The ALS urged the government to extend those powers where the advocate-general is in effect an ombudsman and has the necessary power to act as a public watchdog in cases involving the misuse of power or funds

Mr Geysler called for open inquiries where individuals or an organisation were accused of having committed an offence

Mr Omar said that extending the powers of the advocate-general would not curb bribery and corruption

"The system breeds these things and the only way to get rid of bribery and corruption is to change the rotten apartheid system," he said.

CA 7-173 14/2/89 (255)

Two officials suspended

Political Staff

TWO senior Department of Development Aid officials were suspended from duty in December last year after irregularities had been uncovered, the auditor-general, Dr Joep de Loor, said in his report on general affairs activities, tabled in Parliament yesterday.

Certain matters had also been referred to the police for investigation, Dr De Loor said.

R3,5 million had been recovered, but there was an amount of R592 808 outstanding.

Damages for shooting

Vlok ordered to pay Mamelodi youth R7 000

Pretoria Correspondent

The Minister of Law and Order has been ordered by the Pretoria Supreme Court to pay R7 000 to a 22-year-old Mamelodi-East youth who was shot in the back by police.

The mother of the youth, 66-year-old Mrs Linah Mashiane, who sued the Minister, had initially claimed R14 000 for wrongful and unlawful assault, ar-

rest and imprisonment, including malicious prosecution.

The mother of Mr George Mashiane — who was 19 when he was shot — said in court papers that her son was in a car which was stopped by police who shot the youth "while he was in the process of entering into a stationary police vehicle".

However, according to the police, the car had sped away when approached and after pulling it off the road, Mr Mashiane had attempted to flee and was shot by a constable "who was doing his duty as a police officer".

Mr Mashiane was admitted to hospital on December 8, 1985, where he underwent two operations to have a bullet removed from his kidney.

Charges dropped

He subsequently appeared in court four times until charges were withdrawn several months later.

Mrs Mashiane said her son had been unlawfully shot by the police and his detention and prosecution were without reasonable or proper cause.

Mr Mashiane, according to the claim, had suffered "severe pain" and he presently experienced discomfort and mild pain when bending forwards or backwards.

The Minister was ordered to pay the legal costs of the action.

Conmen draw R400 after auto card trick

Crime Reporter

A De Deur woman had R400 withdrawn from her account after her automatic teller card was stolen from her by two conmen in Hillbrow, Johannesburg, at the weekend.

Computer consultant Ms Grace Esbach was drawing money on the corner of Klein and Kotze streets on Sunday when she was approached by a man who asked her to help him with his card.

"He pointed at my feet and said there was a R2 note lying on the ground. When I looked his accomplice must have grabbed my card. At first I thought the machine had swallowed it but then I realised I had been had," said Ms Esbach.

Lawyers find 60 on death row in Umtata

UMTATA — More than 60 people are awaiting execution in Umtata Prison, the Umtata and District Lawyers' Association (Udla) said in a statement

Udla called on President Tutor Ndamase to commute the sentences of all condemned prisoners, particularly those sentenced in cases involving witchcraft

Udla's chairman, Mr Dumisa Ntsebeza, said in a statement that research by the association had revealed there were over 60 people on death row

If they were all in single cells, it was difficult to imagine how Umtata Prison could accommodate so many on death row

Many had been given the death sentence on the strength of a section of the Criminal Procedure Act which stipulated that witchcraft could not be held to be an extenuating circumstance in murder trials

Repealed

The section was recently repealed by a decree of the military government

"A practical way open for government to reduce the number of prisoners currently awaiting execution would be for the president to commute all death sentences which had been specifically imposed on the strength of section 283 of the Criminal Procedure Act," Mr Ntsebeza said

He said the military council's repeal of the section should give judges a free hand in deciding each case on its merits

In a society like Transkei, where 80 percent of the population was still illiterate or semi-literate, it was irresponsible for any administration to introduce legislation such as section 283 — Sapa

3/Day 14/2/89

British immigrant guilty of murder (252)

Own Correspondent

DURBAN — A British immigrant was found guilty in the Supreme Court yesterday of murdering an unarmed black student in an unprovoked attack.

Christopher Thomas Osborne, 25, was jailed for 10 years for the fatal stabbing of Bongani Raymond Sibisi on September 19 1987, after the court found that extenuating circumstances existed.

Seething

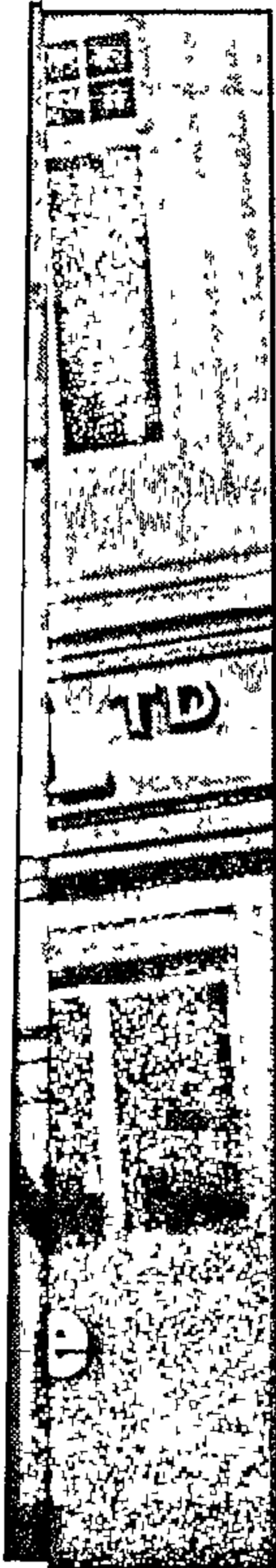
The court found that Sibisi had been strolling along Broad Street when he met Osborne and a friend.

Osborne was still seething with rage after an earlier encounter with Sibisi on the steps of the St George's Hotel, where Sibisi was staying, when they had accidentally bumped into each other and Osborne had started swearing at Sibisi.

The court found a scuffle developed during the second encounter and Osborne drew his knife. Sibisi, who was unarmed, tried to break away and Osborne stabbed him in a fit of fury as he turned.

Osborne was heard by a witness to say "You kaffirs are getting too white" shortly before fatally stabbing Sibisi once in the neck.

□ After the hearing a man claiming to be Osborne's brother threatened to "get the kaffirs".



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pointed out that if the body had been found and not handed over to police, or any information in this regard not con-

confidentiality, and referred Business Day to Mandela. She could not be reached.

RMS Syfrets in eviction row

DURBAN — Lawyers for Human Rights has said it intends fighting in court the property agents RMS Syfrets in an attempt to stop the eviction of two black women from a central city block of flats.

RMS Syfrets has given notice to their two white nominees to leave the Russell Mansions block. One of the nominees has been summonsed. *By Day 14/1/89*

One of the black women owns a clothing design business. She moved into the building in July last year. The other moved in in October.

RMS Syfrets property administration director Malcolm Wiltshire said he could not speak about the cases as they

were *sub judice*.

(252)
Meanwhile, police confirmed they were investigating a Group Areas complaint centring on a Pinetown property owned by the Church of the Province of SA.

The church applied to the Natal Provincial Administration last year for permission for the Rev Mervyn Singh to live in Lytton Crescent so he could be close to his church.

Although an NPA decision had been expected in the first week of January, an NPA spokesman said last week officials were busy with consultations and no decision had been made. — Sapa.

BUSINESS DAY, Tuesday, February 14 1989

Clear 'kaffirs' from court, says Wit Wolf Strydom

PRETORIA — Wit Wolf Barend Hendrik Strydom, 23, appeared in the Pretoria Magistrate's Court yesterday.

He entered the court and requested "Ek sal waardeur as die polisie die kaffers hieruit die hof verwyder" (I would appreciate it if the police would remove the kaffirs from court).



● STRYDOM

He raised his arm and said "Lank lewe apartheid" (Long live apartheid).

When the magistrate appeared in court, Strydom said he would appreciate it if his requests were adhered to, otherwise he would not carry on with the court proceedings.

The magistrate warned Strydom that the proceedings could carry on without his co-operation and that he could be charged with contempt of court.

The Attorney-General has referred the case to the Supreme Court for trial.

The hearing starts on May 15. Until then, Strydom will be held in custody.

Strydom faces eight charges of murder, 15 of attempted murder and one of pointing a firearm.

The murders took place in November last year when Strydom allegedly opened fire in Strydom Square, Pretoria.

One Indian, Suttar Karrim, 52, of Laudium, died in hospital and six

black people, including Selina Nkuna, 88, died instantly.

At an earlier court appearance, Pretoria district surgeon Dr Willem Pieterse said that Strydom was aware of what he had done, but he showed signs of a psychopathic personality.

Members of Strydom's family were in court yesterday. He greeted them all and kissed his mother.

Strydom was wearing khaki clothes and a tie with the old Transvaal Vierkleur flag as its design. — Sapa

IN PRICE

No evidence that youth's hods

Govt's urgent court move is contested

By Jo-Anne Collinge

Embarrassment caused to the Government by the forced removal of the Mogopa community "must rank as a novel ground" for the courts to treat as urgent an application for an order preventing them from re-occupying Zwartrand farm, near Ventersdorp

This was submitted by Mr Gilbert Marcus yesterday when he asked for the application to be struck off the roll as there were no grounds for treating it as urgent

He was appearing for two of four respondents, members of the Mogopa community living on the Reef and in the western

Transvaal, before Mr Justice Human in the Pretoria Supreme Court

The four were cited by the Minister of Agriculture and Land Affairs and the Minister of Education and Development Aid, in seeking an interim order preventing any additional Mogopa people from entering Zwartrand

The applicants also seek a final order authorising the demolition of shacks and the ejection of their occupants

Mr Marcus said the Appeal Court had declared the removal unlawful on a technical point and the removal had been carried out while a decision on the right of the community to an Appeal Court hearing was still awaited.

Judgment has been reserved until tomorrow

Investigation ordered into assault allegations

By Esther Waugh (252)

UPINGTON — Mr Justice Basson yesterday ordered police to investigate allegations of assault made by one of the Upington 25, Xolie Yona

The allegations follow a trip to Cape Town by Yona for medical examination at Grootte Schuur Hospital.

Mr Ian Farlam SC, counsel for the defence, told the court that a Dr Kesler of Upington examined Yona, who has been convicted of murder, in Upington and recommended that he be sent to Cape Town for an ECG and a Catscan. Yona was accompanied to Cape Town by two Upington policemen for an examination at Grootte Schuur Hospital on January 30.

Yona (25), a professional boxer and one of the accused who had been in custody since his arrest in November 1985, alleged that he left Upington on January 30 and arrived in Cape Town that night

The next day he underwent the test at the hospital and said he had complained to the hospital staff that he had not been fed. After his medical examination was completed Yona said the Upington police took

him to another police station in Cape Town from where he was later transferred by two white plainclothes police to another police station

Yona alleged that a black plainclothes policeman questioned him at the police station. He said that the policeman was joined by other SAP members

He alleged that he was.

- Punched in the stomach several times.
- Shocked after electrodes were attached to his head.
- After complaining that he was hungry, policemen wearing plastic gloves entered the room carrying a plate of faeces and instructed him to eat it. Yona alleged that he had refused whereupon he was handcuffed and the faeces was smeared over his mouth. He was then beaten in an attempt to force him to open his mouth.

Mr Farham told the court that a Major Mans of the Upington prison assured a defence attorney, Ms Andy Durbach, that Yona was not held in solitary confinement as was alleged by the accused.

Police interrogated suspect 'with a bag over his head'

Own Correspondent

DURBAN — A Port Natal policeman described yesterday how he removed a bag from a suspect's head after interrogating him and saw that his eyes were rolled back and vomit was coming out of his nose and mouth

Constable Hendrik Reyneke (24) and four other policemen earlier pleaded not guilty, before Mr Justice Shearer and two assessors at a Scottburgh sitting of the Supreme Court, to the murder on June 1 1987 of Mr Mdumiseni Shangase

The other accused are Sergeant Edward Smith (24), Constable Subusiso Sabela (35), Constable Siphon Masuku (27) and Constable Thembinkosi Mthombeni (30), all of the Firearms Unit

Constable Reyneke said he and five other policemen had been rounding up suspects to question them about the possession of unlicensed firearms used in faction fights and the theft of cattle

Mr Shangase and five others were taken to the

Bozana River to be questioned. Constable Reyneke had placed a cloth bag over his head and Mr Shangase had struggled. Four policemen were needed to restrain him. After he admitted he possessed a gun and was involved in cattle thefts, he lay still, Constable Reyneke said.

Placing a bag over a suspect's head during interrogation was an "everyday occurrence" intended to protect identities of informers and policemen, he said. Constable Reyneke denied the bag had restricted Mr Shangase's breathing, but admitted the action amounted to assault.

Mr Meiring put it to him that the reason they had decided to bury the body instead of taking it to the mortuary was that they knew Mr Shangase had died as a result of the interrogation.

Constable Reyneke said he did not know why Mr Shangase had died, but assumed he choked when he vomited.

The trial continues

Inquiry told of concern over order

Pretoria Correspondent

A witness at the Van den Heever Commission of Inquiry in Pretoria testified yesterday that he was worried that a large consignment of youth leadership course material and placards were bought from one company just before the end of the Department of Education and Training's (DET) financial year.

The commission has been appointed by President Botha to investigate alleged irregularities concerning State funds.

Mr Leon Schonken, then acting deputy director of DET's youth activities, said he was worried because the free-market system was not followed when buying the material, and quotations were not asked from other firms.

"To me, it was a sign of poor administration to order a large consignment of the material just before the end of the financial year."

Asked what he did about the fact that he, on several occasions, bought material from Mr Thinus Strydom's firm, Mr Schonken said he did nothing about it.

Mr Strydom is the son of Mr Jaap Strydom, deputy director-general of DET.

Mr Schonken said he bought other goods from Mr Strydom during the financial year, using an "old procedure".

Asked if he was not worried about using the old system, Mr Schonken said he was under the impression that there was nothing wrong with it so long as he did not buy more than the R6 000 grant from the department.

The inquiry continues

'Trojan Horse' case an SA first

252
Star 15/24/89

The families of two people killed in the "Trojan Horse" shootings in Athlone in the Cape in 1985 want justice. CLARE HARPER reports.

South Africa's first private prosecution for murder is scheduled to begin in the Cape Town Supreme Court on August 1 when 13 police and Defence Force personnel allegedly involved in Athlone's "Trojan Horse" incident will appear.

During the incident, in October 1985, policemen hid in wooden crates on the back of a South African Transport Services truck and drove down Thornton Road firing on stone-throwers. Two teenagers and an 11-year-old boy were killed.

Police at the time defended the "ambush" as a necessary technique to protect people using public roads in the area.

Both the Attorney-General for the Witwatersrand, Mr Klaus von Lieres, and the chairman of the Bar Council, Mr Max Labe, said yesterday they did not know of any modern private prosecution for murder, although Mr von Lieres said it might have happened before the introduction of the Attorney-General's office in the Cape in 1829.

Rare Situations

Private prosecutions only happen in rare situations and can only start once the Attorney-General has issued a certificate declining to prosecute.

Last year the Attorney-General of the Cape, Mr Daniel Rossouw, declined to prosecute anybody after an inquest court found that Lieutenant Douw Vermeulen and his task force were negligent and responsible for the deaths of Michael Miranda (11), Shaun Magmoed

(16) and Johanathan Claasen (18)

The attorney for the Magmoed and Miranda families said yesterday that the families felt the accused had to answer for their actions.

A private murder prosecution is identical to a normal criminal one, except the aggrieved party takes on the role of the State.

A major difference is that in a criminal trial the prosecution has the advantage of the Attorney-General's office and police investigators at its disposal.

In a private prosecution the plaintiff has to do all his own investigation

A-G can intervene

However, the accused have as much chance of being convicted of murder as they would in a normal criminal case, and the trial follows the normal criminal procedure.

The Attorney-General is empowered to intervene at any stage of the proceedings and continue the prosecution.

The families of the two dead children will have to pay their own costs, but if the prosecution succeeds, the accused or the State may be ordered to pay these costs. If it fails the private prosecutor may be ordered to pay the costs of the accused.

A further burden on the plaintiff is that in terms of the Criminal Procedure Act, he must deposit security for any costs the defence may incur, with a magistrate, before the prosecution can take place.

The families have deposited R10 000 with the chief magistrate of Wynberg for this purpose.

Interim order granted

Sowetan 12/2/89
THE RAND Supreme Court yesterday granted an interim order to striking Paper, Printing Wood and Allied Workers' Union members to allow them on the

premises of Memix Carbonless in Krugersdorp. (122) (122)

The company had sought an order to evict the about 100 striking workers from the premises (252)

The matter was postponed until Tuesday

The interim order grants access to the canteen by the strikers, after the company had refused them access

The order also demands that casual workers should not be threatened in any way

The legal strike, in its third day yesterday, centres on wage negotiations, stop order facilities and unfair dismissals — Sapa

Goniwe inquest resumes

THE INQUEST on four prominent community leaders, including Mr Matthew Goniwe, resumed in New Brighton Regional Court yesterday.

The presiding magistrate was Mr E De Beer. The inquest was a sequel to the death of Mr Goniwe, Mr Fort Calata, Mr Sparrow Mkhonto and Mr Sicelo Mhlawuli. The gutted car of the

four was discovered on June 28, 1985. They disappeared after leaving Port Elizabeth for Cradock after attending a United Democratic Front briefing the previous day. Their bodies were found five days after the car was discovered.

The bodies were found in a clearing between St George's Strand and Bluewater Bay.

Documents

Mr De Beer said there were four separate inquests in one matter because the facts were so closely related. He

would, however, make separate findings.

He said that after a perusal of all documents he had decided to have all the inquests at the same time and the next of kin had been notified.

Mr De Beer said the inquest was being held in the interests of the public in order to establish whether there had been any/and/or omission by any person.

Sowetan 16/2/89 (252)

SOWETAN Correspondent

...fall in years... were assisted in one shift between 6am and midnight.

Inquest into deaths of Goniwe and UDF colleagues resumes

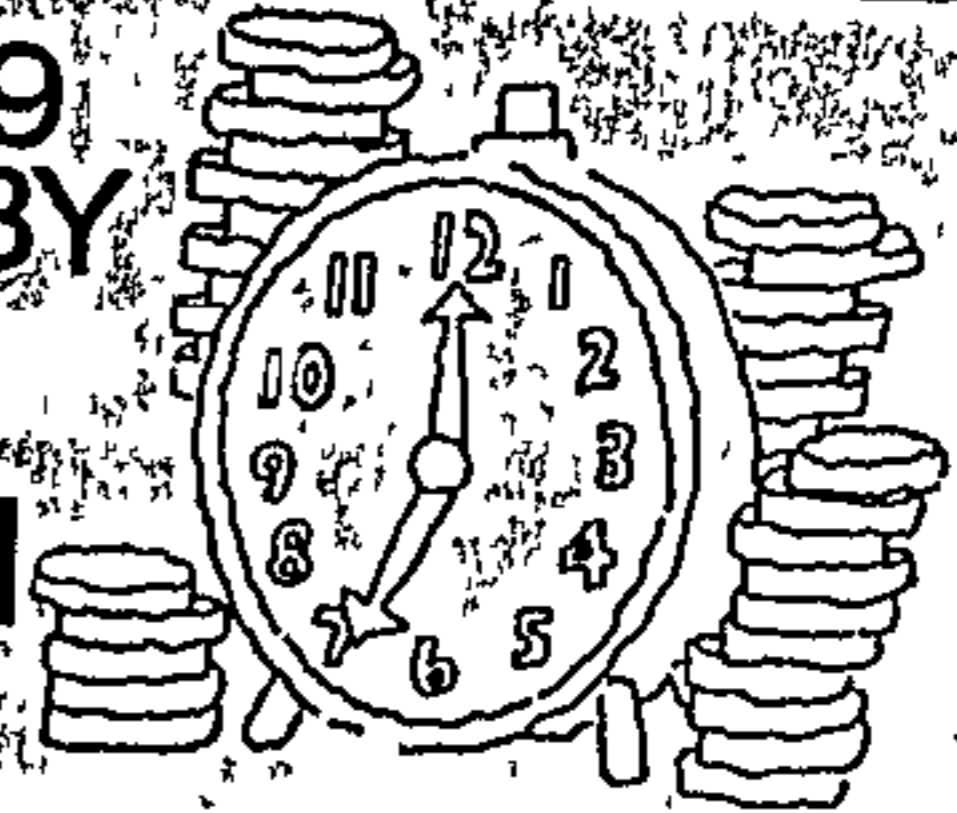
PORT ELIZABETH — The inquest into the deaths of four prominent community leaders and UDF members, including Matthew Goniwe, resumed in New Brighton Regional

Court yesterday. It was a sequel to the death of Goniwe, Fort Calata, Sparrow Mkhonto and Cicelo Mhlawuli who disappeared on June 27, 1985, after

leaving Port Elizabeth for Cradock after attending a UDF briefing. Their badly burnt bodies were found five days later. — Sapa.

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BUSINESS DAY, Friday, February 17 1989

Statement links priest with violence

Goniwe inquest told of petrol-bomb attack

PORT ELIZABETH — A statement in which a man allegedly described how he and others were ordered to take part in petrol-bomb attacks on the homes of UDF members was read out at the inquest of four prominent community leaders in the New Brighton Magistrate's Court yesterday.

Christopher Msonezi Dawe, 26, allegedly made three statements in connection with the death of Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlawuh.

The inquest is being held to determine the cause of the deaths of the four men.

Goniwe was chairman of Cradock, in Cradock, and a local teacher. The other three men have been described as UDF members.

Their bodies were found in the bush on the outskirts of Port Eliza-

beth in June 1985 after they had returned from a trip to Port Elizabeth. The car that they travelled in had been burnt out.

Dawe allegedly said in his first statement that he regularly went to the home of a Reverend Maqina in New Brighton during the first weeks after he joined Azapo in 1985. Maqina used to have regular political discussions

Moved

It was alleged in the statement that towards the end of March there was a clash between Azapo and the UDF at the Dan Qeque Stadium.

Not long after Dawe moved into Maqina's house, he saw white policemen go to the house in a hippo.

Maqina had said they could see the UDF killing "our people". They were told to kill UDF members

"one by one".

They were divided into groups, each of which had a leader.

Maqina used to give a particular leader a target to bomb.

Bombs came from Maqina who knew the addresses of the UDF men.

The first operation in which Dawe took part was at a UDF house.

A hippo picked him and others up at Maqina's house. They then went to the target house and the operation was a success.

The statement said they went back to Maqina's house, where they were staying.

Dawe said he received R80 a week — the first payment coming from Maqina. Another man gave the payments afterwards. Dawe and the others always called Maqina "our father".

Proceeding — Sapa

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He prefers reason to the truncheon

ALC 20/2/89

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By BRUCE CAMERON, Political Staff

MINISTER of Law and Order Adriaan Vlok has shown, unlike some of his predecessors, a preference for reason rather than the truncheon.

His change in style however has not led him to contemplate changing a set of laws and regulations which are among the most draconian in the world and far tougher than any powers held by his predecessors.

It was the immense powers that he holds that landed him in the position that sparked the hunger strike by detainees and led him to show an ability to negotiate and compromise which is not the hallmark of the National Party.

In another of the many contradictions of South African society even Archbishop Desmond Tutu commented after Thursday's talks that Mr Vlok had shown real compassion for the detainees.

The Archbishop was sure the compassion was not shown merely because of what could have been very painful political and international repercussions if a single detainee died.

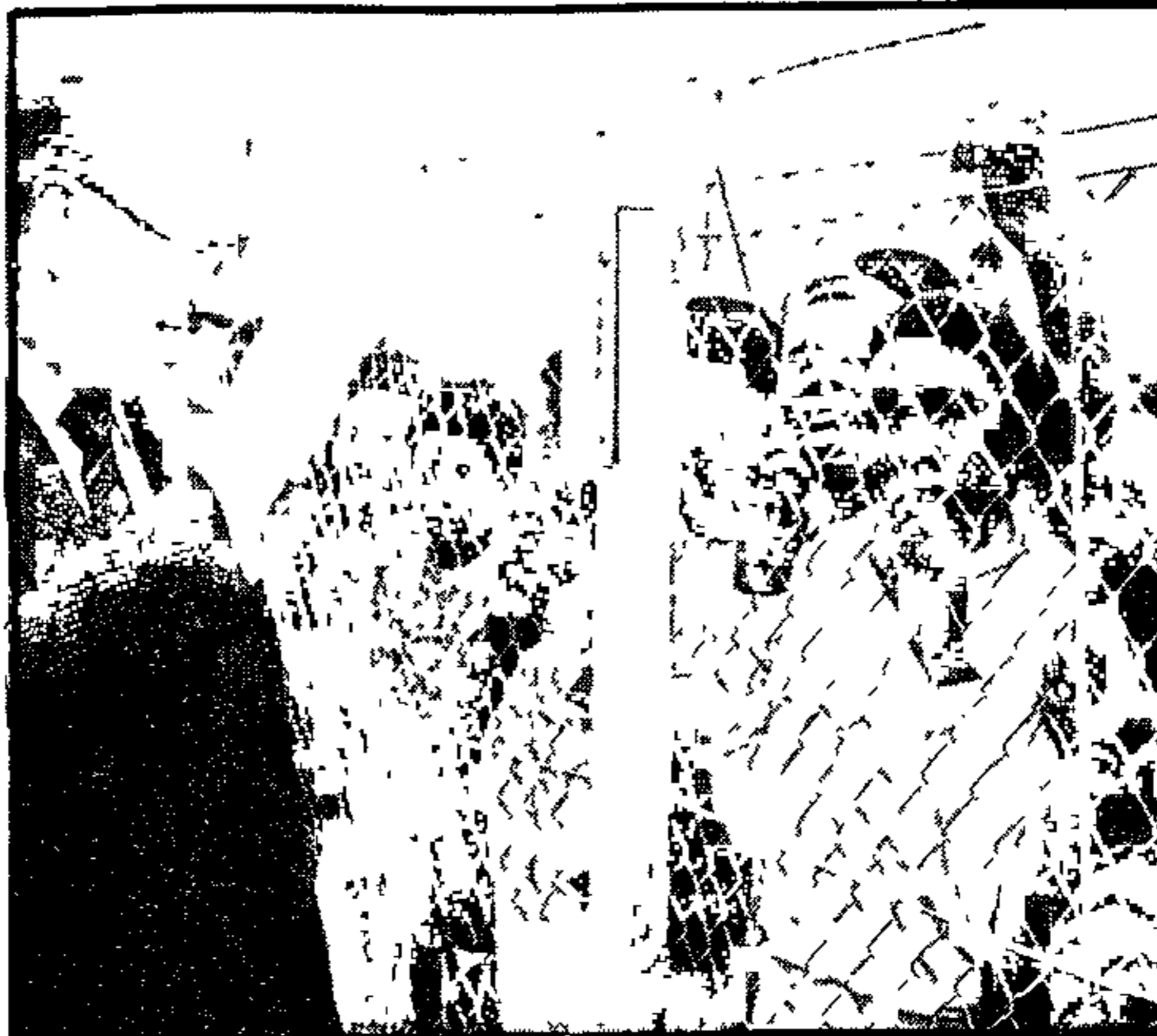
Mrs Helen Suzman, MP, who, as the Progressive Federal Party spokesman on law and order has seen a whole chain of police Ministers, although firmly critical of Mr Vlok for the laws he administers, says at least "unlike Jimmy Kruger, he was not left cold at the thought of someone dying".

Since taking over as Minister of Law and Order on December 1, 1986, Mr Vlok has attempted to instil a different

image of the police force

The end of 1986 had left the police with an international image of men with a quirt in one hand and a shotgun in the other chasing fleeing unarmed protesters through burning townships.

Against the



VLOK AT CROSSROADS ... "At least, unlike Jimmy Kruger, he was not left cold at the thought of someone dying" — Mrs Helen Suzman, MP

background of having to keep a lid on the growing anger to white domination and subjugation, Mr Vlok has tried to give the police a better image.

He was particularly concerned about the right-wing image the police were getting and also the perception that some policemen were placing themselves above the law.

Policemen were transferred, put out to pasture, while many others have been charged in court for excesses ranging from torture to murder.

At the same time he ensured police loyalty by moving among them, speaking to them as equals, joking with constables and spending Christmas Day visiting them. He is member of the police reservists and shows his identification with the force by often wearing basic police uniform — without rank.

A major publicity exercise was launched to depict policemen as "a friend of the people" to the extent of giving away bumper stickers with pictures of hearts and the exhortation to "Adopt a cop".

Unlike some of his predecessors who were wont to lock up newsmen rather than talk to them, Mr Vlok has rather welcomed association with the media, often arranging major press briefings to attempt to justify actions and to keep the public fully informed of those government actions.

But this has been against tough media regulations that have severely restricted the ability of newsmen to report the activities of the police in controlling unrest and, in fact, the unrest itself.

Mrs Suzman points out that Mr Vlok still however has to tackle the major problem and that is the elementary right of individuals not to be deprived of liberty unless duly convicted in a court of law.

Although his attitude to the hunger strike was welcome it was tardy. Some of the people had been detained for years and he had not shown his concern then.

Mr Vlok in style is also different from the previous police ministers. He meets anger and criticism with a joke, often giving the impression that he cannot be engaged in serious conversation.

One of his political opponents, frustrated with his style, once expressed a preference for his predecessors because "at least they took criticisms seriously".

But he does have the ability to be serious and, as he has now shown, the ability to enter into crucial and demanding negotiations.

He is extremely hard working, with his car being the first into the ministerial car park almost every day.

Mr Vlok has had a long association with the laws of the land from being associated with their practical implementation through to working for Mr John Vorster when he was Prime Minister.

Born at Sutherland in the Cape in 1937, he settled in the Transvaal after leaving school and joined the Department of Justice.

While working he studied part-time at the University of Pretoria for various legal qualifications, rising through the department from prosecutor to magistrate and later to under-secretary in the department's head office.

He was private secretary to former Justice Minister Mr P C Pelser before working for Mr Vorster.

It was while working for Mr Vorster that he developed a passion for politics.

In 1969 he left the public service for the private sector, entering politics soon afterwards when he was elected to the Verwoerdburg town council in 1972.

In April 1974 he was elected to Parliament as the MP for Verwoerdburg. Ten years later he was appointed deputy Minister of Defence with the added responsibility of Law and Order a year later.

The dual deputy position was seen at the time as part of a link in the security forces to fit in with the total strategy concept.

He played a major role in the formation of the national security management system which includes the Joint Management Committees which have been a major tool in overcoming the unrest.

CAPE TOWN 20/2/57

Judge: No comment on newspaper criticism

PRETORIA. — A Pretoria judge, Mr Justice JJ Strydom, on Friday declined to comment on a newspaper report claiming he had several criminal judgments against him when he was admitted as an advocate in 1951.

"I do not read newspapers and do not speak to newspapers. Those criminal judgments were before the court when I was admitted in 1951," he said.

The newspaper, Die Vrye Weekblad, claimed Mr Justice Strydom had six criminal judgments against him and had been sentenced to hard labour for the theft of a motor car at the time of his admission to the bar.

The judgments followed his activities in the Ossewa-Brandwag during the 1940s.

Mr Justice Strydom was recently involved in a controversy when he gave a farmer who killed a labourer a suspended sentence. — Sapa

Asvat suspects appear

TWO men appeared briefly before a Soweto magistrate yesterday on a charge of murdering political activist Dr Abu-Baker Asvat.

Mr Nicolaas Dlamini and Mr Cyril Mbatha, were not asked to plead and the case was postponed to the Johannesburg Magistrate's Court tomorrow.

Dr Asvat was gunned down at his Rockville, Soweto surgery on Friday, January 27. *Sowetan 21/2/89*

(252)

Two in court over doctor's death

By Jovial Rantao

Two men who allegedly murdered popular Soweto doctor Dr Abu-Baker Asvat yesterday appeared briefly before a Soweto magistrate

Mr Nicholas Dlamini and Mr Cyril Mbatha (no ages given) were not asked to plead and the hearing was postponed to tomorrow when they will appear

in the Johannesburg Magistrate's Court.

The men appeared before Mr E Muller. Mr H H Cowley appeared for the State.

At the hearing were Mr Abdul-Haz Asvat, father of Dr Abu Asvat, and members of the foreign press

VERMAAS ROW Minister summons A-G

Own Correspondent
JOHANNESBURG. — The Attorney-General of Transvaal, Mr Don Brunette, has been summoned to Cape Town today to discuss with Minister of Justice Mr Kobie Coetsee his decision provisionally to withdraw charges against Pretoria lawyers Mr Albert Vermaas and Mr Eugene Berg.

Mr Coetsee said last night that he personally would be seeing Mr Brunette about the issue

The minister's involvement comes amid an escalating row in the legal profession over the withdrawal of the charges

Mr Brunette said yesterday that he made his decision to withdraw the charges without seeing or requesting copies of evidence from the Harms Commission

The commission has been investigating the activities of Eurobank, a company formerly headed by Mr Berg and by Mr Vermaas since last November

'Changes picture'

Asked if he had considered the evidence heard by the commission last Tuesday that the whereabouts of at least R80m sent out of SA by Mr Vermaas was unknown, Mr Brunette said: "I have no knowledge of that. This information is something new

"I understood Mr Vermaas had a permit for R26m to buy spares and aircraft," he said

"If the Reserve Bank gave Mr Vermaas permission to send that much out of the country then it means he may have assets overseas far greater than we appreciate. This changes the whole picture"

Mr Brunette said he had based his decision on the simple fact that he could not render a charge sheet.

"I cannot draft an indictment unless that information is placed before me. I am not entitled to ask the commission for evidence. I cannot demand information from them. It is the commission's discretion to see what information to put before the Attorney-General"

Mr Brunette said he had not requested any copies of the commis-

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his evidence nor had he been given any, except for a portion of the commission transcript in December, when Mr Vermaas was arrested, which was sufficient to satisfy him that there was a prima facie case against Mr Berg and Mr Vermaas
"My difficulty was that I had nothing on which to base my decision." He

He said Mr Vermaas had used the criminal charges as a protection from giving evidence to the commission and provisionally withdrawing the charges he had hoped to afford Mr Vermaas the opportunity of testifying
"I could have asked for a longer postponement but then the liquidators would have been in the same position of having Mr Vermaas refusing to testify because of the criminal charges"
He said a provisional withdrawal of charges meant he could still be obliged to prosecute Mr Vermaas at a later date

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Mr Vermaas
2/2/89

TWO appear over killing

252

Soweto

21/2/89

TWO men, Jerry Richardson and Jabu Sithole, alleged bodyguards and members of the "Mandela United", appeared in the Protea Magistrate's Court, Soweto, yesterday charged with the murder of Stompie Moeketsi Seipei, and alleged abduction and assault of Stompie and youths who were with him, a police spokesman said yesterday.

The case was postponed until February 28 for further investigation.

Two youths, who were detained at the same time, were not charged and are to be released into the custody of their parents. — Sapa.

Kotai, Mrs L Belankulu, smuggling cars to Zimbabwe and Zambia

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THE only long-term solution to the "cruel and inhumane" system of detention without trial would be drastic amendments to South Africa's security laws, Lawyers for Human Rights' national director, Mr Brian Currin, said in Pretoria yesterday.

He said although LHR welcomed Law and Order Minister Adriaan Vlok's undertaking to review all detentions and release large numbers of detainees, Mr Vlok was addressing the symptoms

of a draconian system and not the cause. LHR called on Mr Vlok to urgently apply his mind to the issue, particularly to setting a maximum period of detention of possibly three months.

All detainees should also be afforded all the rights of awaiting-trial prisoners, Mr Currin said.

LHR is a group of lawyers constantly monitoring the human rights situation in South Africa — Sapa

CPA 7m 22/2/89 252

No clemency yet for McBride

CLEMENCY for convicted Magoo's Bar car-bomber Robert McBride had not been considered "at this stage", the Minister of Justice, Mr Kobie Coetsee, said yesterday. He added that Mr McBride's legal representative had been given the opportunity "to have neurological tests done on him". Mr Coetsee, replying to a question by Mr Roger Hulley (PFP, Constantia), said he had received appeals for clemency in respect of the death sentence imposed on Mr McBride. Three people died in the Durban beachfront bombing.

...sister, Mathapeiro.

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(252)

Soweto

22/2/89

TWO men, Jerry Richardson and Jabu Sithole, alleged bodyguards and members of the "Mandela United", appeared in the Protea Magistrate's Court, Soweto, yesterday charged with the murder of Stompie Moeketsi Serpei, and alleged abduction and assault of Stompie and youths who were with him, a police spokesman said yesterday

The case was postponed until February 28 for further investigation.

Two youths, who were detained at the same time, were not charged and are to be released into the custody of their parents. — Sapa.

Lawyers slam State power over detainees

Sowetan 23/2/89

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By NAT DISEKO

THE National Association of Democratic Lawyers (Nadel), says it is clear from Minister Adriaan Vlok's statements that representation for the release of detainees now fall within the province of the government and not the courts.

Nadel said this in a Press statement yesterday. It said in a court case, lawyers and even the accused knew how to put forward a case that could possibly enable them to regain their liberty.

In the case of the executive (government) deciding on the denial or granting of an individual's liberty as compared to a court of law, requirements which had to be met to satisfy the Minister that a particular detainee be released were

not known, Nadel said. Nadel said the Minister's statement referred to "family circumstances" and the evaluation of "attitudes". The standards employed in arriving at decisions relating to the release or continued incarceration of a detainee were vague.

'So vague'

They were so vague, Nadel said, that they gave the Minister absolute arbitrary powers to release detainees or to continue denying them their liberty at his pleasure.

Nadel said: "In our view, the transfer of jurisdiction from the courts to the executive (Government) without spelling out criteria for evaluat-

ing the cases have created a serious legal uncertainty," Nadel called on the Minister to clear this doubt.

The organisation said it learnt with "shock" that Minister Vlok rejected an application for the relaxation of Mr Raymond Suttner's restrictions.

Nadel said "Mr Suttner is a senior lecturer in law at the University of the Witwatersrand and is a scholar of the first rank.

Mr Suttner spent two years in detention without trial and 18 months in solitary confinement. He has now been restricted to his house and is allowed only four visits a day. "In our view, these restrictions are dehumanising," Nadel said.

Mr Suttner is denied the following

- Access to the community scholars,
- Freedom of thought, conscience and the inalienable right to propagate his views,
- Freedom of movement and association.

No access

"Mr Suttner is not only a lecturer but a socio-legal philosopher who cannot practise his profession without access to the outside world," Nadel said.

Nadel said it believed hunger strikers did not only concern legal representatives of all prominent bodies such as Nadel, Lawyers for Human Rights and the Black Lawyers' Association to thrash out the question of detention without trial and restrictions on individuals.

Accused tells of struggle, shooting, at Asvat surgery

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TWO MEN appeared in the Johannesburg Magistrates Court yesterday charged with the murder of Azapo health secretary Dr Abu-Baker Asvat at his Rockville, Soweto, surgery on January 28.

Zakhele Mbatha, 21, of Soweto, pleaded not guilty to murder and robbery with aggravating circumstances. He pleaded guilty to being in possession of an illegal firearm and ammunition.

Toelana Dlamini, 20, of no fixed address, pleaded not guilty on all four

BRONWYN ADAMS

counts. He said he knew nothing at all about the incident. Mbatha said Dlamini had not been with him when Abu-Baker was killed. He had never seen him before the court hearing.

Mbatha admitted he had entered Abu-Baker's offices and had stolen R135. He said he had demanded money from Abu-Baker at gunpoint, but Abu-Baker had run towards him and tried to hold him. Mbatha had pushed him back and fired a shot at his feet in

order to stop him. Mbatha said someone had tried to open the office door and Abu-Baker had then held his legs.

Mbatha pushed him away, tried to loosen his leg, and shot him in the chest.

He said he had done this as Abu-Baker was much bigger than himself.

Mbatha said he did not know whether Abu-Baker was dead or not.

He said the office door opened, and a friend of his, Johannes, entered and kicked the doctor.

Mbatha said he put the gun to his own head as he wanted to kill himself.

He then tried to open the security door leading out of the office, but it could only be opened from the outside. When he saw someone on the other side of the door, he demanded they open the door at gunpoint.

Mbatha then called Johannes and told him to leave.

He said he did not know if Abu-Baker was dead at that time.

The case was postponed until March 7 in order for the State to collect further evidence.

AFRICANISTOPOLITAN

Cape Town
24/2/89

By CHRIS CAIRNCROSS

MINISTER of Justice Mr Kobie Coetsee has overruled the decision taken this week by Transvaal Attorney-General Mr Don Brunette provisionally to withdraw criminal charges against Pretoria attorney Mr Albert Vermaas.

It was also learnt last night that

• The case has been removed summarily from Mr Brunette's jurisdiction and given to Kimberley Attorney-General Mr Charl du Plessis

• Mr Brunette's instruction that bail conditions imposed on Mr Vermaas be lifted has also been partly rescinded — Mr Vermaas's passport has been confiscated

Legal circles described the development as an extreme case of official censure, and one without precedent

The development follows the summoning of Mr Brunette to Cape Town earlier this week to explain his decision to Mr Coetsee.

Official sources in Cape Town disclosed yesterday that the instruction that Mr Vermaas's passport be confiscated came from Home Affairs Minister Mr Stoffel Botha

At the time of going to press no official confirmation could be obtained. But a spokesman for Mr Coetsee's office did say that a full statement was being prepared and that various departments had to be consulted before it could be released

Harms Commission transcript

Meanwhile, it was learnt from the Harms Commission yesterday that Mr Brunette — seemingly on the instructions of Mr Coetsee — has requested a full transcript of all the evidence led so far concerning Mr Vermaas's activities

Presumably this evidence will be handed over to Kimberley Attorney-General Mr Du Plessis

Mr Brunette is on record as saying that his decision to withdraw charges against Mr Vermaas was made without considering any of the evidence submitted to the commission

Editor

His explanation for provisionally withdrawing charges was that he did not have sufficient evidence against Mr Vermaas on which to render a charge sheet, and that it could take months to do so

Mr Brunette also said Mr Vermaas had used the criminal charges laid against him as a pretext for refusing to give evidence to the Harms Commission. It is not yet clear whether, in the light of these most recent developments, Mr Vermaas will be asked again to appear before the commission

Harms: Special team appointed

Cape Times 25/2/89
Political Staff

252

A TEAM is to be appointed to conduct possible prosecutions which may arise from the investigation of the Harms Commission within the jurisdiction of the Attorney-General of the Transvaal, according to the Minister of Justice, Mr Kobie Coetsee, yesterday

In another development, the passports of Mr Albert Vermaas and Mr Eugene Berg have been withdrawn by the Minister of Home Affairs, Mr Stoffel Botha, on the grounds of information made available to him

The decision to form the special team follows discussions in Cape Town between the Transvaal A-G, Mr Don Brunette, and Mr Coetsee over the past few days

Mr Coetsee said new facets had been brought to the attention of Mr Brunette. These were currently being investigated and Mr Brunette had requested that the team be appointed.

Mr Brunette was called to Cape Town at the beginning of the week to explain why he had decided to provisionally drop charges against Mr Vermaas and Mr Berg

STOPMARRIERS

Sowetan 28/2/89

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TWO more people appeared before a Johannesburg magistrate yesterday in connection with the alleged murder of Mooketsi Stompe Sepei, a 14-year-old Tunahofe, Orange Free State, youth whose body was found in January between Noordgesicht and New Canada railway station, Soweto.

The names of 21-year-old Mr. Kautza Cebeluhlu, of Hamersdale, and a 16-year-old girl were added to the charge sheet of former bus driver of the Mandela United football club

He was Mr John Morgan (61), who appeared in court on Friday. The proceedings were held in camera

Murder

Mr P Bredenkamp postponed the case until March 10

In another case a fifth accused appeared in the Johannesburg Magistrate's Court, also yesterday, in connection with the murder of Mr Maxwell Spokes Ma-

• To Page 2

R500 bail granted

• From Page 1

Madondo in January this year

Mrs Dudu Chili (47), of Orlando West has pleaded not guilty to murdering Mr Madondo on January 13. The proceedings were held in camera

The magistrate granted bail of R500, but ordered that the conditions not be made public. The other accused are Mr Lerotodi, Ikaneng (27), Mr Nhlanhla Blankett (18), his brother Sandile (20) and Isaac Mazibuko (22)

They have also pleaded not guilty to the murder charge

Mrs DUDU Chili, a member of the Federation of Transvaal Women, hides her face behind a newspaper minutes after she had appeared before a Johannesburg magistrate on charges relating to the killing of Mr Maxwell Madondo, who was a member of the Mandela United Football Club. On her left is lawyer, Mr Hanly Vally. Pic MBUZENI ZULU

REPORTS, pictures and comments in this edition may be centered in terms of the Government's state of emergency

CHARLIE PARKERS
 233A BREE STREET
 (Between Wandersburg and George Streets)

THE FIRST AND LARGEST HAIR PERETT IN TRANSVAAL
 Promotion Feb. 25 to March 9

SUPER KURL
 STEP 1, 2, 3
R45 99
 5 litres

SUPER CURL
 Gel or Spray
R3 99
 250 ml

BLACK LIKE ME
 Twin Pack
R7 99
 12 X 250 ml

EASY WAVES
 Sets
R8 99

WINNING TOUCH
 Gel or Spray
R3 99
 300 ml

AMERICAN FLAIR SET
R7 99

Vermaas is back in dock

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By MANDY JEAN WOODS

IN an astonishing turn of events, Pretoria attorneys Mr Albert Vermaas and Mr Eugene Berg were yesterday charged again on the instructions of Transvaal attorney-general Mr Don Brunette.

This move comes just one week after Mr Brunette, in a shock move, provisionally withdrew charges of fraud, contravening the Banks Act and contempt of court, alternatively theft, against Mr Vermaas and Mr Berg on the basis that he did not have sufficient information to draft charge sheets.

Senior public prosecutor Mr Francois de Beer said that by arrangement, Mr Vermaas and Mr Berg appeared in Pretoria Magistrate's Court late yesterday afternoon and were charged with "several charges similar to their first charges".

No travelling

Mr Vermaas, 52, was given R10 000 bail and Mr Berg, 42, R5 000. Both men had their passports withdrawn last Friday by the Minister of Home Affairs, Mr Stoffel Botha, on the grounds of information made available to him by Mr Brunette, according to a statement released by the Minister of Justice, Mr Kobie Coetsee, on Friday.

Bail conditions imposed yesterday

Three hurt in blast near house

By PATRICK COLLINGS

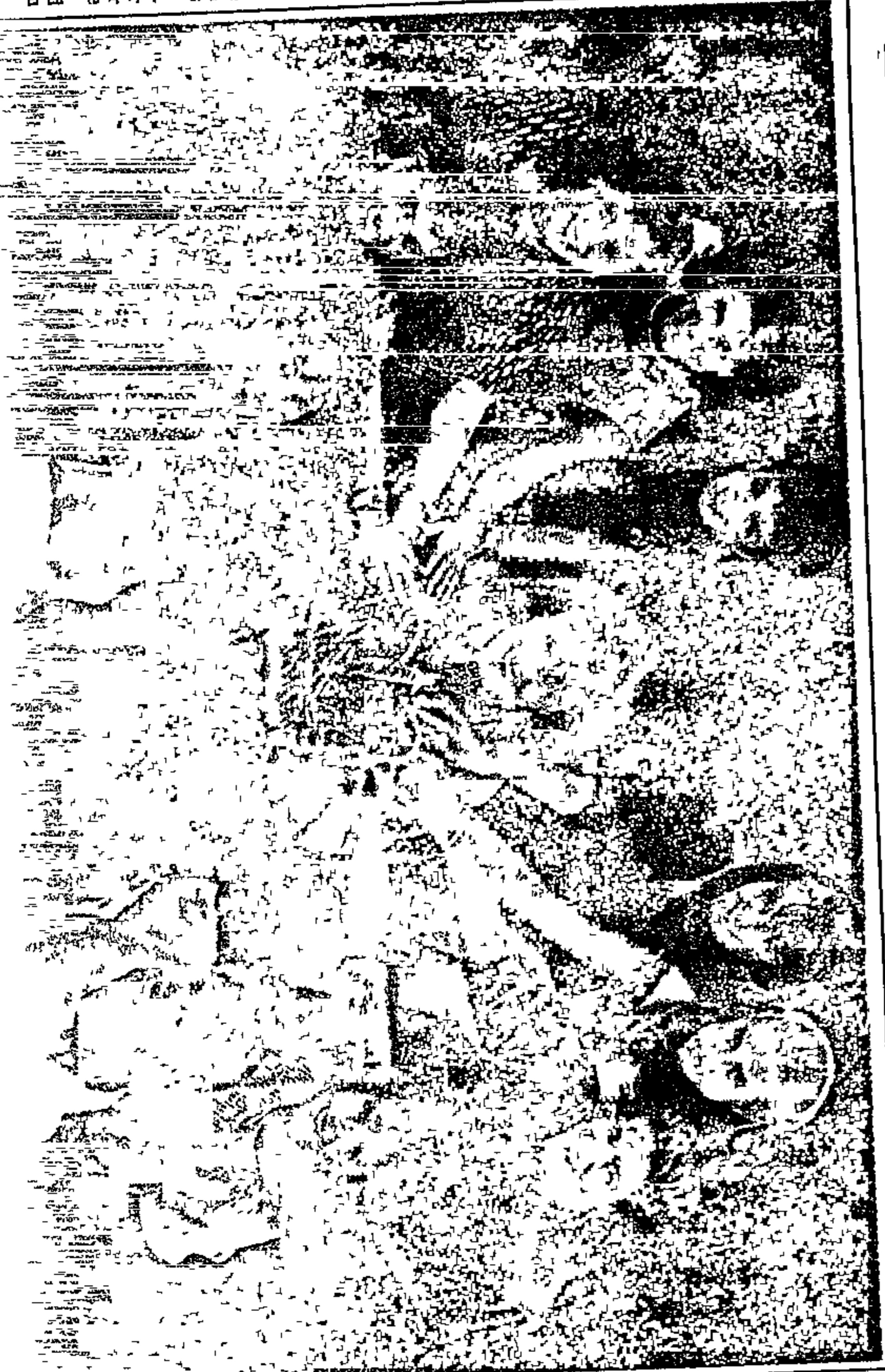
THREE people, including two 13-year-old girls, were injured when a handgrenade detonator exploded near one of the girls unearthed the device during rubble-clearing at a half-built house in Charlesville yesterday.

The injured were taken to Groote Schuur Hospital where two of the victims were discharged while one of the girls was kept overnight. A spokesman for the hospital said her condition was "stable".

Mr Charles Petersen, the grandfather of one of the girls, said members of his family and friends had gone to a half-built house in Michael Hendricks Street in Charlesville to clear up rubble.

His wife, Mrs Miriam Petersen, said her granddaughter Annelize and her son-in-law Mr Pieter Baumeis, 29, were inside the house when their neighbour's daughter Gail Kitchiff uncovered the detonator in the sand soon after 5.30pm.

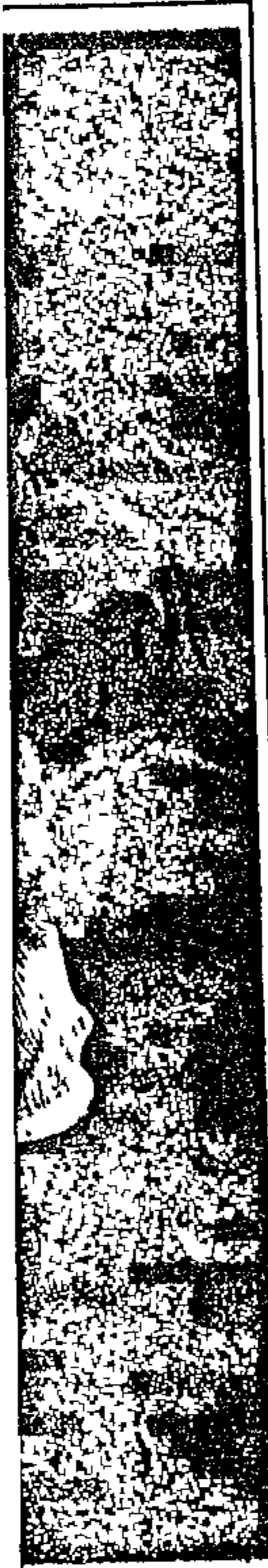
"She must have given it to Annelize who pulled something out causing it to explode," Mr. Petersen said.



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Cap Times
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By MANDY JEAN WOODS
IN an astonishing turn of events, Pretoria attorneys Mr Albert Vermaas and Mr Eugene Berg were yesterday charged again on the instructions of Transvaal attorney-general Mr Don Brunette.

This move comes just one week after Mr Brunette, in a shock move, provisionally withdrew charges of fraud, contravening the Banks Act and contempt of court, alternatively theft, against Mr Vermaas and Mr Berg on the basis that he did not have sufficient information to draft charge sheets.

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Bail conditions imposed yesterday stipulate that the men may not apply for any travel documents and may not go to any points of departure, such as harbours or airports, Mr De Beer said.

The charging again of Mr Vermaas and Mr Berg follows the shock move by Mr Brunette last Monday in which he provisionally withdrew charges against them because he said he did not have enough information to formulate charges.

On Wednesday, Mr Brunette was summoned to Cape Town by Mr Coetsee for lengthy discussions, and on Friday the minister announced that "new facets had come to the attention of Brunette which are at present being investigated".

In an interview last Thursday, Mr Brunette gave the following reasons for his decision:

- The simple fact he could not render a charge sheet.
- He had not had an opportunity to investigate or read "lots of evidence" still in the possession of the Harms Commission.

Mr Brunette also said he made his decision

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Cap Times 28/2/89
From page 1

without seeing... requesting copies of evidence from the commission. He said he was not entitled to request evidence from the commission — rather it was at the commission's discretion what information was put before the attorney-general. On Thursday the attorney-general

requested a transcript of the commission's evidence and by Sunday he had finished reading the 800-odd pages of commission evidence.

A commission spokesman said earlier that evidence put before it was available to all interested parties on request.

● The criminal charges should stand down for the civil charges (the liquidation and sequestration applications) and the findings of the commission — the commission will resume hearings tomorrow, the liquidation/sequestration applications are to be heard in the Supreme Court, Pretoria, today.

● He had been given a "totally incomplete" police docket which would take six months or more to complete. This could not be done until the commission had completed its investigation — police are still investigating charges against Mr Vermaas and, at his (Mr Brunette's) request, a special team of prosecutors is being established to conduct "possible prosecutions which may originate from the investigation of the commission".

● He would require a "lengthy postponement" — possibly more than six months — to formulate charges (It is reliably understood the public prosecutor requested a four-month postponement).

● Mr Vermaas had used the criminal charges as an excuse for not testifying to the commission or the inquiry convened by the provisional liquidators — Mr Vermaas has not given evidence to either the commission or the provisional liquidators during the past week.

Provisionally withdrawing charges, Mr Brunette said, meant he would have to charge Mr Vermaas and Mr Berg at a later date. He conceded then that under those circumstances, Mr Vermaas could still refuse to testify on the grounds that he could incriminate himself, as he had done since his arrest in late November.

Mr Coetsee is to answer questions regarding the "Vermaas affair" in Parliament today.

● On Friday the Cape Times and other newspapers reported that it was understood that the Vermaas case had been taken away from Mr Brunette and given to Kimberley attorney-general Mr Charl du Plessis.

Mr Coetsee was subsequently reported to have denied the reports.

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Own Correspondent

JOHANNESBURG. — A team of three or four advocates from the Transvaal Attorney-General's office would spearhead a "task force" to formulate prosecution charges against Pretoria attorneys Mr Albert Vermaas and Mr Eugene Berg, Transvaal Attorney-General Mr Don Brunette said yesterday.

Charges to be made by A-G 'task force'

He said he had assembled a team of his own staff. If necessary, others might be seconded to the team.

Mr Brunette's statement came after Friday's announcement by Justice Minister Mr Kobie Coetsee that Mr Brunette had asked him to constitute a special team to conduct possible prosecutions originating from the Harms Commission investigation, in his area of jurisdiction

Last week Mr Brunette provisionally withdrew charges against Mr Berg and Mr Vermaas because, he said, he did not have sufficient evidence on which to formulate charges and it could take months to do so. Two days later Mr Brunette met Mr Coetsee in Cape Town for lengthy discussions

In his statement on Friday the minister said: "New facts have come to the attention of Mr Brunette which are at present being investigated.

"The Home Affairs Minister has in the meanwhile, on grounds of informa-

tion made available to him by Mr Brunette, withdrawn the passports of Berg and Vermaas."

Mr Coetsee was reported to have denied reports he had taken Mr Brunette off the Vermaas case.

On Friday it was learnt in Cape Town that the case had been given to Kimberley Attorney-General Mr Charl du Plessis. Mr Du Plessis declined to comment on Friday

Mr Coetsee was unavailable for comment yesterday.

© The sequestration and liquidation application against Mr Vermaas and his company will be heard in the Supreme Court, Pretoria, tomorrow. The cases were postponed in December to give Mr Vermaas a chance to conclude the sale of his airline, Chief-tain Aviation Holdings, to an overseas buyer for R155 million. The effective date of the deal is February 28

© No impropriety implied in seizure — Page 5

Cops tell how bodies were found

By ALINAH DUBE

Sowetan 27/1/89
TWO policemen who testified before an inquest into the 1985 Mamelodi shootings yesterday said seven of the bodies of the people who were killed in the incident were picked up from different points in the township.

The policemen, Sergeant Leon Mouton and Warrant Officer John Coetzee, also told Mr J N Pretorius that their duty was to transport fatally wounded people to the Government mortuary after they were certified dead at the local day hospital and by an SADF official.

Inquest

The inquest is being heard in the Pretoria North Magistrate's Court following the death of 14 Mamelodi residents. Police and army members allegedly opened fire on the marchers on November 21, 1985.

According to Sergeant Mouton, the bodies of two males were found on the premises of the administration board offices. Another two female bodies were found near the Mamelodi West Kentucky Fried Chicken outlet and near the H F Pitje Stadium, respectively.

The policeman also told the court that three other bodies were found at the Mamelodi Police Station.

IMPEACHMENT

MP Mrs Helen Suzman is to try to impeach in Parliament a judge who gave a suspended sentence to a farmer for beating his labourer to death with a stick because he ran over his dogs.

Mrs Suzman, Progressive Federal Party MP for Houghton, said yesterday that Parliament had the power to remove a judge from office under the Supreme Court Act.

She said she intended taking action under this Act to remove Mr Justice J J Strydom for his "outrageously lenient" sentence on the farmer Mr Jacobus Vorster in the Louis Trichardt Circuit Court in November.

He was accused of murder but found guilty of culpable homicide and sentenced to five years jail suspended on certain conditions and also fined R3 000 (or 12 months jail).

Tied

He and a labourer assaulted Mr Eric Sambo on December 11 1987, then he was tied to a tree and assaulted and beat with a stick.

Mr Vorster then took him to the police and he died shortly afterwards of internal bleeding.

The Johannesburg Bar Council has taken the

Mrs SARAH Sambo . . . wife of the killed man.

unusual step of criticising the judgment of Mr Justice Strydom as "so grossly inappropriate as to induce not simply a sense of shock but one of outrage and concern."

Mrs Suzman said yesterday she welcomed the Bar Council's statement "I believe this is a matter which should be

taken up in Parliament and this is something I intend to do."

Meanwhile summons of a civil case for the dependants of Mr Eric Sambo are to be served on Jacobus Vorster before the end of February, attorneys acting for the family disclosed yesterday.

Suzman to seek judge's impeachment

By PETER FABRICIUS
Political Staff

MP Mrs Helen Suzman said today she would seek the support of the other two houses of Parliament for her attempt to impeach a judge who gave a suspended sentence to a farmer for beating his labourer to death.

Mrs Suzman, Progressive Federal Party MP for Houghton, said today that it would not be easy to remove Mr Justice J J Strydom for his "outrageously lenient" sentence on the farmer Mr Jacobus Vorster in the Louis Trichardt Circuit Court in November

The Supreme Court Act stated that a judge could not be removed except by the State President "upon an address by all three Houses of Parliament praying for such removal on the grounds of misbehaviour or incapacity"

She would try to introduce an impeachment motion in the House of Assembly and would approach the other two houses to try to persuade them to introduce similar motions. These impeachment addresses must be made in the same session of Parliament.

"I don't underestimate the difficulty of impeaching this judge, but I am certainly going to try," she said

She added that Mr Strydom had a "long history" and this would be brought into her motion

Today Minister of Justice Mr Kobie Coetsee said it would be "inappropriate to comment at this time on the utterings of politicians on topics which obviously call for objective and proper deliberations"

Vorster was accused of murder but found guilty of culpable homicide and sentenced to five years jail suspended on certain conditions and also fined R3 000 (or 12 months jail)

The Johannesburg Bar Council has taken the unusual step of criticising the judgment of Mr Justice Strydom as "so grossly inappropriate as to induce not simply a sense of shock but one of outrage and concern".

Mr Justice Strydom today remained unbowed by the criticism and said he had done his job, reports Sapa.

He said Mrs Suzman could "with pleasure" present a motion to Parliament to have him impeached

Concerning the sentence, Mr Justice Strydom said "As far as I am concerned, my function in the state process is completed.

"I have done my work and am not going to defend myself against allegations made by other people"

Chf 710145
20/1/89

Man killed, farm foreman fined

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Own Correspondent

PORT ELIZABETH — A former Cradock farm foreman who was alleged to have beaten a black man to death, was fined R200 (or 10 days) by the Regional Court here. He was convicted of assault.

Lourence Jacobus Prinsloo, 30, was charged with culpable homicide arising out of the death of Mr Mncedisi Alfred Bangani.

Mr Bangani died on December 23, 1987, allegedly of injuries he had received in an assault on Langkloof farm on November 26, 1987.

Prinsloo pleaded not guilty to the charge, and alleged that any injuries Mr Bangani received were inflicted when force was necessary to effect a lawful arrest for trespassing and house-breaking.

In his verdict the magistrate, Mr P Campbell, said there was evidence that after receiving complaints, Prinsloo had armed himself with a rifle and gone to confront Mr Bangani.

There was evidence that Mr Bangani was hit, kicked, trampled and struck with the rifle. Two labourers helped Prinsloo to subdue Mr Bangani.

Helpless

On his way to the police, Prinsloo was alleged to have kicked and trampled the bound and helpless Mr Bangani.

According to Prinsloo, he was involved in a "life-and-death" struggle with a person he suspected was a dangerous terrorist.

If this was true, Prinsloo was entitled to defend himself with whatever force was necessary, and the court had to acquit him of culpable homicide.

But the assault at the house occurred when Mr Bangani was helpless. Prinsloo's kicking him under the circumstances was unlawful and his attitude was perhaps shown by his remark that Mr Bangani was "still being cheeky".

He found Prinsloo guilty of assault with intent to do grievous bodily harm.

Miss G von Hasseln appeared for the state. Mr J Eksteen, instructed by Coetzee and Coetzee of Cradock, appeared for the defence.

Future probes to be held in secret?

JOHANNESBURG. — A cloak of secrecy may be thrown over future official "corruption and abuse of power" inquiries if the government proceeds with reported plans to expand the powers and functions of the advocate-general.

Inquiries by the AG are at present usually conducted behind closed doors, with his reports tabled later in Parliament. If he were to take over investigations such as those by the Harms Commission and James Commission, all evidence would be withheld from the public until his reports were tabled.

The government is considering increasing the powers and functions of the AG, reasoning that it would help him cope with the rash of corruption sweeping the country.

The advocate-general, Mr Justice PJ van der Walt, has also suggested an increase in his powers.

Nationalist newspapers reported yesterday, however, that there was apparently a difference of opinion at government level over expanding the AG's powers and that no final decision had yet been taken.

Legislation may be introduced this session to implement these intentions.

'Dirt under the carpet'

However, opposition politicians warned that the widening of the AG's powers should not be an excuse for "sweeping the dirt under the carpet".

Any attempt to keep inquiries into corruption secret or to hobble media investigations would be strongly opposed, said Mr Dave Dalling, Progressive Federal Party spokesman on Justice.

"Investigating corruption should properly be done by the Department of Justice and the AG, but the history of the Info scandals and other government improprieties showed the AG's office to be singularly inept, especially where senior government members were concerned."

The AG's reports up to now had been "disappointing" and had dealt largely only with petty matters. "His report on the Department of Education and Training was so wishy-washy that a further inquiry had to be launched later to do a proper job," he said.

Government sources have indicated that one of the reasons for expanding the AG's powers would be to avoid judicial inquiries such as the current Harms Commission, where public allegations are made against senior government members.

This is known to have embarrassed several top government members, including cabinet ministers.

— Sapa

CAPE TIMES 28/1/89

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Community service option in force soon

LEGISLATION passed two years ago providing for courts to impose community service sentences as an alternative form of punishment will come into operation on February 1, according to a notice in yesterday's Government Gazette, the Minister of Justice, Mr Kobie Coetsee, said yesterday.

In a statement, he said a departmental task group on the overcrowding of prisons had looked at community service as a possible alternative — particularly to short-term imprisonment.

It concluded that, due to the country's large prison population in comparison to other countries, there was a need in South Africa for alternative options to punishment.

In terms of the enacted legislation, community service would be performed under the supervision or control of a person, organisation or institution which would, in the opinion of the court, promote the interests of the community.

Provision was also made for state liability for damages arising from the performance of community service.

To assist the courts with the imposition of sentences and to establish a broad infrastructure for community service, co-ordinators have been appointed at all magistrates' offices to organise, develop and manage all matters in connection with community service, said Mr Coetsee.

Frightful arm of law reaches beyond grave

THE workings of the South African police were clearly demonstrated when a letter was written to a youth, in which he was warned that he would be restricted if he did not stop his activities

It was one of those stories which perhaps stirred a laugh and ended there. Unfortunately, it is so tragic that it should not be so.

I am referring to the case of Caiphus Nyoka, a Daveyton student leader. He was shot, dead by police in the back yard room of his home in August last year. Four months later, the same police write him a letter warning him to stop his activities lest severe restrictions be placed on him, and lest his name be added to the consolidated list of people who may not address gatherings or be quoted.

Indeed, he is required to supply the Department of Justice with reasons why his name should not be added to this list.

Clearly, Caiphus has not been involved in any activities for four months.

Information

If the police do not know this, and suspect that he is still involved in "activities", then there is something wrong with the system. One would assume that the police had gathered certain information (as they always say) before they went to Caiphus's home that night in August last year. I do not wish to go into the detail of that case, but there are still several unanswered questions over his death. Suffice it to say that he had 12 bullet wounds.

Did the police perhaps believe it was necessary to act on the basis of information, possibly supplied by someone in their network of informers who did not even know that Caiphus had died? Or was it the decision of somebody who is so callous that, knowing the circumstances of the youth's death, and knowing that his father must still be going through an agonising time trying to piece together the circumstances of his death, decided to cause further pain to the youth's family?

I suspect it was the first, and perhaps that once more demonstrates the dangers of the system of using informers who often simply provide information to justify their income.

The point is that often, dossiers are compiled on people on the kind of information the police get from such sources. Many have ended up being banned, or even detained for long periods, and who knows whether it is not on the basis of the same kind of information?

Suppose Caiphus had been well and alive, and had given

Write On!

Joe Latakomo



up involvement in student affairs and was living a quite uninvolved life for the past four months. Would he now have had to explain to the Department of Justice that he was a nice guy and that they should please not add his name to the consolidated list?

My feeling is that they would have banned him anyway. Such bans cannot be challenged in our law courts — except on technicalities — and he would have been punished in spite of the fact that he had long ceased his "activities".

One could, perhaps, have understood if Caiphus had died in any other manner. One assumes that the matter of his death is the subject of some inquiry or other, handled by the police themselves. Or is it a matter of the right hand not knowing what the left hand is doing? It most definitely seems so to my untrained mind.

In any other country, there would have been an outcry over this type of action by the police. There would have been demands for the highest authority responsible for this to resign. But, of course, this is South Africa.

It would be a miracle if somebody placed high would even accept responsibility and apologise to the family. No, you just don't get that kind of courtesy here.

Network

We know that here, people are picked up in the dead of night, and disappear into some police cell or other where they are held without recourse to the courts of law. After being held in jail, they are simply told one day that they are free to go home. No explanation.

It is interesting that the police often proudly speak of their informer network. Which is quite surprising, as witness how they announced that an informer had died with some policemen during a shooting mix-up in Soweto some time ago. Of course they could name him because they had no more use for him. And to hell with his family (which has denied that he was an informer, but the police insist he was).

But that is another subject altogether. Can we hope to see firm action taken on this issue, and for the matter to be raised in Parliament and answers sought to exactly what the circumstances of Caiphus's death were, and why it was that he was "warned" even when in his grave?

JUSTICE is not a cloistered virtue: she must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men — Lord Atkin.

THE plaintiff voice cries out, pleading to be heard "I was kidnapped from a foreign state. Nearly all the evidence given against me by the State witnesses was sheer fabrication. I wonder in the future whether (we) should bother to even stand trial."

It comes as a shock to realise that the appeal to history comes from a South African radical, not a dissident in Stalinist Russia or a rebel on trial in the Third Reich.

The speaker is Ismael Ebrahim. His words are contained in a 16-page statement compiled before he was jailed for 20 years in a recent treason trial. He drives home his point "As an oppressed nation, we can never regard our courts as places of justice in the moral sense of the word. We cannot divorce the courts from the apartheid structures."

Ebrahim is a long-standing foe of the Government. He does not offer an impartial assessment of the South African courts.

His is not a lone voice, protesting forlornly. It is part of a chorus of protest by political activists, stretching back to the denunciation of "white man's justice" by the founding president of the Pan-

SA justice under scrutiny as charges of racial prejudice are levelled against judges

Africanist Congress, Robert Sobhuze

An African National Congress anniversary statement, issued barely more than a fortnight ago, makes essentially the same point. It refers to "apart-hid courts", labelling them an "integral part of the machinery of repression".

It is pertinent to recall the attitude of the 22 accused in the Delmas trial, South Africa's longest treason trial which ended last month with the jailing of five men. They formally requested the presiding judge to recuse himself nearly 21 months before judgment, thus indicating their doubts about the fairness of the trial long pre-dated the verdict.

These charges of bias are rejected by Professor SA Strauss, professor of criminal law at the University of South Africa. Before recording his reply, however, it is important to take note of another aspect of South Africa's judicial system.

As Mr D D Mokgalle, an attorney, notes in the *Journal on Human Rights*: "Today there are some 130 superior court judges in South Africa. All are

PATRICK LAURENCE

white. Moreover, no black person has been appointed to the Supreme Court since its creation in 1910."

Generalising about judges, Professor John Dugard, director of the Centre for Applied Legal Studies, characterises them as "white Protestant males of conservative outlook who support the present political/racial status quo and often the National Party Government."

Moreover, Professor Dugard adds in another edition of the *South African Journal of Human Rights*, most judges have little contact with people outside their racial and class group, except on a master-servant level.

These observations lead to a vital question can white judges be impartial when sitting in judgment in trials where the accused are black men charged with trying to overthrow the existing order of which they are part?

Professor C R M Dlamini, of the University of

Zululand, is doubtful. He says "Our society being fragmented, judges still remain members of their respective communities and are often, albeit it unwillingly, affected by (their community) prejudices and preconceptions."

Scepticism about the quality of justice upheld by white judges is not confined to high-profile black activists, the lawyers quoted above contend, in their opinion, the doubts reach deep into black society to ordinary men and women.

Mr Mokgalle writes "It would be untrue to suggest that judges still enjoy the reputation for independence, racial impartiality and fairness in the black community that their brother judges enjoyed some 30 or 40 years ago."

Professor Dlamini refers to "a number of pronouncements which have emanated from the Bench that seem to betray a racial bias or, at least, the absence of total impartiality."

Professor Strauss says it would be "fair, proper and just" to have people of all races on the Bench,

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the Government, he adds, is keen to appoint black and coloured people as judges but for "a variety of reasons" has not been able to do so yet.

"It is true that judges are human and must be influenced to a certain extent by their cultural background," Professor Strauss concedes.

Professor Strauss acknowledges there are laws on the statute book which are unjust, some of which — particularly those placed there in the heyday of apartheid — reflect racial prejudice. But, he says, we are "mercifully moving away" from the era.

Conceding that some of the security laws are "very severe," he says "The job of the courts is to apply the laws. We cannot ignore laws."

Reacting to the charge that some judges are "pro-executive," he says "That may be so. But it is not the general trend. Generally speaking our courts have been objective."

On political trials he makes a number of points with rare exceptions they are held in open court, a number of "well-funded organisations" render assistance to the accused, defence counsel often includes "some of the best legal talent," judges frequently acquit the accused or, alternatively, convict them on lesser charges.

Professor Strauss concludes "The quality of people who man our Bench is very high. The selection process is a critical process. . . Some of the most capable lawyers are elevated to the Bench. They are men, are integrity, quality and wisdom."

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Human rights body to focus on SA

CP Reporter

THE next session of the United Nation's Commission on Human Rights - scheduled to begin in Geneva, Switzerland, next week - will focus on the South African situation

The commission will look at detentions, banings, restrictions, political trials, deaths in prison, executions and extra-legal repression in SA in order to help bring about a solution

The Johannesburg-based Human Rights Commission has compiled a comprehensive report that shows how the SA Government, through repressive methods, is trying to "draw together all varieties of means to neutralise or eradicate political activity which is opposed to apartheid"

The HRC notes that repression is still very much a feature of life in SA - the only difference being that opposition is being removed by more sophisticated and subtle means than in the past

The HRC says it has encountered considerable difficulty in finding accurate detention statistics, as the government is reluctant to release the names of detainees. This has been compounded by restrictions placed on organisations that monitor detentions

According to estimates supplied by the Centre for Applied Legal Studies, at least 5 000 people were held between June 1987 and June 1988, while another 300 to 400 were held under the Internal Security Act

The total number was pushed to 6 000 after 452 people were held in Bophuthatswana after the abortive coup in February last year. The HRC estimates that 1 500 of these are still being held

Hardest hit by detentions were pupils, students,

educationists, UDF members and community and political workers. Over 1 000 people were detained in the Maritzburg area between June 1987 and June 1988

The HRC says 17 organisations were effectively banned in February 1988. The newly-formed Committee for the Defence of Democracy was banned less than three weeks thereafter. About 30 former detainees were restricted within this period under the state of emergency, and a further 12 were restricted between June and October 1988.

Corbett warns on 'tampering'

CAP-70115 1/3/89 (252)

Staff Reporter

THE new Chief Justice, Mr Justice M M Corbett, said last night that he was against attorneys acting in the Supreme Court and against the concept of contingency fees — paying attorneys only for cases they win

These adjustments to the legal system have been under debate in legal circles with a view to reducing the cost of litigation and giving more people access to the courts

Mr Justice Corbett was speaking at the 50th anniversary celebration of the Association of Law Societies, at which the Minister of Justice, Mr Kobie Coetsee, was a guest

The judge said that the right of attorneys to audience in the Supreme Court would be discussed soon by the British government, but he would not want to be involved in the debate here at this stage

"I want to make one observation, however," he said "A lot of thought

must be given to a matter before long-established institutions are tampered with There are more ways than one to skin a cat."

Mr Justice Corbett said he was against the introduction of contingency fees, though the system could give access to the courts to people who were neither very rich, nor poor enough to qualify for legal aid

Contingency fees could work only under a system similar to that in operation in the United States, where the losing party did not have to pay his opponent's lawyer's fees

Furthermore, a contingency fee system would give free rein to irresponsible and sometimes blackmailing litigation

The premium on winning a case would become "corrosive of the maintenance of proper professional and ethical standards, and of the proper performance of an attorney's duties towards the court", Mr Justice Corbett said

Vermaas on R300m fraud

By CHRIS CAIRNCROSS

Coetsee calls for probe of Corruption Act defects

THE Minister of Justice, Mr Kobie Coetsee, has asked the South African Law Commission to investigate defects in the Prevention of Corruption Act.

He was acting after the Harms Commission had pointed out certain shortcomings in the act.

Mr Coetsee who was responding to a question from PFP MP Mr Dave Dalling in Parliament yesterday, said that at this stage the government was not considering tabling a white paper on the first two reports of the Harms Commission.

This was because the recommendations in the first two reports were well defined and had already been given effect to.

Mr Coetsee said various attorneys-general were considering possible charges in-

THE new criminal charges formulated against Pretoria attorney Mr Albert Vermaas by Transvaal attorney-general Mr Don Brunette amount to 22 counts of fraud involving some R300 million, while those against his co-accused, Mr Eugene Berg, amount to four counts of fraud involving some R18,5m.

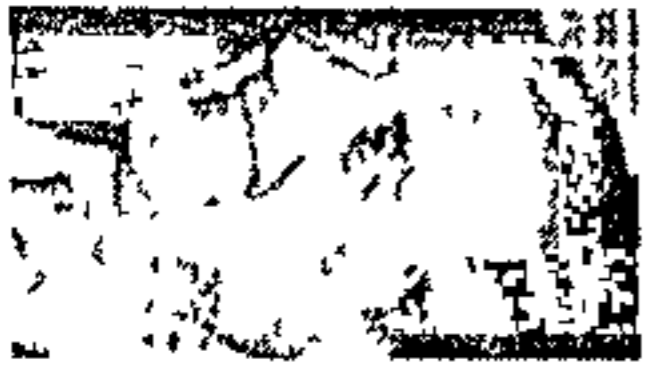
This is according to the charge sheet lodged at the Pretoria Magistrate's Court on Monday. The charges against Mr Vermaas and Mr Berg stem from evidence heard by the Harms Commission in Pretoria in November and December last year.

'Spurious and false'

The new charges follow Mr Brunette's decision a week ago to provisionally drop all charges against the two men Mr Brunette maintained he did not have sufficient evidence on which to render a charge sheet.

Mr Brunette's original decision was described in Parliament yesterday as spurious and false, having no basis in law and not in the interests of justice. This was said by PFP MP for Groote Schuur Mr Jan van Gend, who spoke during a mini-debate in which the Minister of Justice, Mr Kobie Coetsee, was called on to explain his involvement in the saga and why Mr Brunette had decided originally to withdraw the charges.

Mr Coetsee said Mr Brunette had first informed him that the charges had been withdrawn in the light of six civil cases involving Mr Vermaas and concerning sequestrations and liquidation, which were underway in the Transvaal. Mr Brunette subsequently informed him on Monday that in the light of information obtained in



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CHRIS CAIRNCROSS

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Political Staff

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Mr Coetsee said various attorneys-general were considering possible charges indicated in the first two reports.

The Law Society of the Cape was also considering the reports.

He added that "the finding of the commission in connection with certain political-ethical issues and the violation of the inter-state relationship with Ciskei were referred to the Speaker of Parliament and the Department of Foreign Affairs, respectively for possible action".

Mr Coetsee said that further investigation arising from the Harms Commission report would be "a matter of decision for the commission".



Mr Coetsee

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Mr Brunette subsequently informed him on Monday that in the light of information contained in evidence to the Harms Commission, he had decided to re-institute charges in a case now postponed to June 5

Mr Van Gend said during the debate that Mr Coetsee, by his conduct, had admitted that Mr Brunette's action in withdrawing the charges against Mr Vermaas was unwarranted and not in the interests of justice.

He said that in his view the action was "patently stupid" Every reason Mr Brunette had given for it had been both "spurious and false"

"They have no basis in law and are contradicted by the specific provisions of the Criminal Procedure Act and the Commissions Act, with which Mr Brunette, as attorney-general, must surely be familiar"

Mr Van Gend asked what had motivated Mr Brunette to withdraw the original charges and return Mr Vermaas' and Mr Berg's passports, observing that if ever there were two men who had pressing reasons to skip the country it was they.

"It could, of course, be that Vermaas' disappearance would allow a few of his friends in high places to sleep comfortably at night," Mr Van Gend said.

He added that Mr Vermaas was no ordinary criminal

"His underworld appears to be very much intertwined with the corridors of power and I would like to know why our ministers of finance, defence, foreign affairs and Economic Affairs and Technology and a number of top officials became embroiled in the affairs of this master of round-tripping and foreign-exchange fraud"

Mr Van Gend noted that both the department of foreign affairs and defence had conducted business with Mr Vermaas and that the Minister of Foreign Affairs, Mr Pik Botha, had admitted he and Mr Vermaas were close friends of many years standing

"Did our ministers really not see through this man? Were his criminal and other shady dealings not so patently obvious as to demand caution?" he asked

It appeared this was not so, for on Sunday, November 20 — the day before the Harms Commission was due to start its investigation into Mr Vermaas — Mr Botha arranged through the Min-

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ister of Finance, Mr Bar-end du Plessis, for Mr Vermaas to receive help and advice from a top Reserve Bank official, "presumably in connection with his fraudulent foreign exchange dealing"

During the debate, Mr Coetsee announced the names of the members appointed to the special team, under Mr Brunette, charged with investigating the Vermaas affair

They are deputy attorney-general of the Transvaal Mr Miller van der Merwe, who said he had been informed of his appointment by the Department of Justice only yesterday morning, Mr Jan Swanepoel, deputy attorney-general in Johannesburg, and Mr Francois de Beer, senior

Details of how they intend to carry out their task were not clear last night.

The re-institution of charges against Mr Vermaas and Mr Berg has caused the Harms Commission investigating foreign exchange contraventions to be postponed until today, a spokesman for the commission said

11 000 sign petition to spare Ccawusa member Ntombela

Bid to save death row unionist

MORE than 11 000 signatures have so far been collected for a petition to save a condemned member of the Commercial Catering and Allied Workers' Union of South Africa, a spokesman for the union said yesterday.

BY LEN MASEKO

A former Ccawusa shopsteward, Mr William Ntombela (33), was sentenced to death after being held responsible for the killing of two people in 1986. The incident occurred at the height of a strike at Nels Dair, where Mr Ntombela was employed until his dismissal in June that year.

A father of two, Mr Ntombela was a shopsteward at Nels when — in 1986 — about 1 000 employees of the company went on strike in protest against low wages, the state of emergency and working conditions. Nels workers

earned an average pay of R250 a month, at the time, according to the union.

On November 29 last year, Ccawusa's appeal against the death sentence failed after months of legal arguments and at great financial cost to the union.

A spokesman for the union said yesterday that the petition had been sent to the Minister of Justice, Mr Kobie Coetsee. More signatures were being collected by union officials as they battle

against time to save the Ccawusa member from the hangman's noose.

She said, "All our energy is being directed at saving the life of William and others on death row. We have seen with the Sharpeville Six that it is possible to stop the hangings, but only if we raise our voices."

Mr Ntombela's wife, Phillie, has left their village home in Nqutu, Natal, to be near her husband in Johannesburg. She visits him nearly every Saturday.

Mrs PHILLIE Ntombela (wife), Mrs Linah Ntombela (mother), Miss Thandile Ntombela (sister) and Kalzer Thibedi, the Johannesburg branch secretary.

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Alleged PAC man freed: State case not proved

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AN alleged PAC man, accused of terrorism and arson was acquitted on all the charges at the Johannesburg Regional Court yesterday.

Mr Nelson Phasha (27), of Mahwelereng was also acquitted of possession of arms, explosives and a Scorpion machine-gun which was allegedly concealed under a piece of paper when he was arrested at Kopfontein near the Botswana border in March last year.

He was also alleged to have burnt down the offices of the Tembisa Town Council in May 1986. The magistrate Mr T J la Grange said there was no evidence brought before the court that Mr Phasha had committed arson or was a member of the PAC.

The State had closed its case after three State witnesses, who gave evidence of the witnesses themselves. Mr la Grange also said the evidence of the witness could not be believed. The defence counsel led

by Mr Dikgang Mose-neke also decided not to lead evidence.

The magistrate accepted Mr Moseneke's submission that the State did not prove that the machine pistol found near Mr Phasha was in fact a firearm and not nearly a replica of it. There was also no proof that the bag found near the scene of the arrest belonged to Mr Phasha.

Mr Pasha was represented by Mrs D Mok-gatle of the Black Lawyers Association's Legal Education Centre.



A JOYFUL Mr Nelson Phasha after his acquittal on charges of terrorism yesterday.

11/3/87 . By Celeste Louw (252)

Mandela 'football': 2 more in court

A former Mandela United Football Club coach and a 17-year-old former club member appeared briefly in the Johannesburg Magistrate's Court yesterday on a charge of murder. It arises from the death of Stompie Seipei, who's body was found on January 7.

Mr Jerry Vusimusi Richardson (41) and the youth were not asked to plead.

Their names were added to the charge sheet of Mr John Morgan (61), a former busdriver for the football club, Mr Katiza Cebekhulu (21), and a 16-year-old girl who appeared in court on Monday.

The hearing was postponed to March 10. Bail for the two who appeared yesterday was refused.

Alleged PAC terrorist ~~(S)~~ acquitted ⁽²⁵²⁾

By Celeste Louw

star 1/3/89
Mr Nelson Phasha (29) was acquitted in the Johannesburg Regional Court yesterday on charges of being a member of the banned Pan African Congress, illegal possession of explosives and arson.

The State alleged that Mr Phasha, of Potgietersrus, attempted to smuggle explosives, pistols and other ammunition into the country on March 14 last year.

It was also alleged that he set the Sethokga Hostel alight and caused damage to the property of the Tembisa City Council on April 30 1986.

The magistrate, Mr T le Grange, found that the three State witnesses had given contradictory evidence.

GERALD REILLY

PRETORIA — Before legal institutions were interfered with there should belong reflection, the Chief Justice, Mr Justice Corbett, said last night.

Speaking at the Association of Law Societies 50th anniversary banquet in Cape Town, the Chief Justice voiced opposition to the contingency "no win no fee" system. He also indicated he had no intention of getting involved in the controversy of whether attorneys should be accorded the right

Chief Justice not keen on 'no win no fee' system.

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of audience in the Supreme Court. In the UK, the Lord Chancellor had proposed solicitors be permitted to argue before the Court of Appeal and the High Court. Another UK government proposal was that lawyers should be allowed to accept civil cases on a "no win no fee" contingency basis.

Mr Justice Corbett said traditional affi-

ludes and norms were being questioned and so-called reforms demanded. The reason given for favouring the contingency fee system was it catered for the need of litigants who did not qualify for legal aid. Proponents conceded it could only really work under a system such as in the US where the losing party did not have to pay his opponent's lawyers fees.

This gave free rein to irresponsible and sometimes blackmailing litigation which was exemplified in the US by the many malpractice suits brought against professional men. The Chief Justice said the tremendous premium on winning would have a corrosive effect on professional and ethical standards.

The silenced people of South Africa must not be forgotten

On February 24 it was one year since the State imposed restrictions on all the activities of 17 organisations, on the political activities of Cosatu, and imposed severe restrictions on the personal liberty of 18 individuals

At the time, many people both here and overseas expressed outrage at these actions

With hindsight, it is clear that this was the beginning of a new style of repression — one that was designed to avoid raising the hackles of the international community but which continues to silence effectively the Government's opposition

A further 15 organisations have been restricted and hundreds of

people live under restriction orders issued in terms of the emergency regulations. In all, 417 names are currently on the Consolidated List of persons who may not be quoted

Clearly, these methods of disabling political opponents are far less emotive than detention without trial and both for this reason and because of the piecemeal imposition of these restrictions, the protest against these infringements of human rights is hardly heard

Restrictions placed on individuals have differed, in some cases being tantamount to "house arrest". Many have been served with restriction orders on their release

HUMAN RIGHTS VIOLATIONS COMMISSION

from detention, finding themselves merely moving to captivity of a lesser degree.

Now, all that is necessary to inform people that they are restricted, is a notice in the Government Gazette. They are then laid open to criminal prosecution if they break the conditions of the restrictions whether or not they have even seen them. In all cases the restrictions drastically impinge on an individual's freedom of movement and association

Without trial, without even charges being laid, people have been deprived of their means of support, their families effectively deprived of breadwinners. The State does not offer compensation

The restrictions strike on a more personal level as well. Mr Thami Lumphoko now requires permission to see his daughter who lives outside of the area to which he is restricted. Others have actually been forbidden access to the areas in which their homes lie

Through the restrictions on mass-based organisations and by continuing to keep leadership figures out of the political arena, the Government

has hoped to stamp out co-ordinated resistance to rejected and repressive policies. The success of the three-day stayaway in June last year and the concerted boycott of the municipal elections under emergency conditions shows that the strategy has not worked

After the banning and restriction of the most outspoken of the student organisations, black schoolchildren are no nearer to finding their education acceptable

The Government must acknowledge that the man-in-the-street is not content with the status quo and removing organisations and leadership does not change his perception

With the strategy of imposing restrictions on individuals, rather than detaining them physically, the Government has blunted some international criticism

Not only can the numbers in detention be "safely" reduced, but those high-profile detainees with powerful friends abroad, can now be released, as has been the strategy in response to the hunger strike. The embarrassment can be avoided but at the same time the activist is neutralised

It is, however, a serious violation of human rights and we must not allow these silenced people to be forgotten, they are still imprisoned

They were used — judge

Four strikers face gallows for killings

11/3/89
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FOUR railway employees who murdered four non-striking co-workers during the 1987 Sats strike face the gallows after a Rand Supreme Court judge found yesterday there were no circumstances lessening their moral blameworthiness.

Four others

Mr Justice Spoelstra and two assessors unanimously found Wilson Matshu, Patrick Molefe, Takalani David Mamphaga and George Maungedzo guilty of murder with no extenuating circumstances.

The court found there were extenuating circumstances in the cases of four others also convicted of murdering the non-strikers.

Mr Justice Spoelstra said Bongisi Sibisi, David Dzevhe, Phineas Netshitungulwane and Mafemane William Rikhotso associated themselves with the killings but took no physical part in them.

SUSAN RUSSELL

Dzevhe was convicted on three counts of murder. The other seven were found guilty of all four.

Vhulani Joseph Mulaudzi, Kati John Sebopelo, Mulatelo Petrus Moremane, Jerry Rudolph Goodman and Albert Phuluwa were kidnapped from their workplaces on April 28 1987 and taken to Cosatu House.

There they were assaulted before being driven to a spot near Prolecon.

Phuluwa managed to escape but the other four were murdered and their bodies set alight.

Mr Justice Spoelstra said yesterday the court was convinced the strikers were used by Sarhwu to aid their goal of getting recognition by Sats.

The trial was adjourned until March 9 when sentence will be passed on the eight and their 16 co-accused who have been convicted on various charges of intimidation, kidnapping, attempted murder and assault.

INTRODUCE

488 Times 2/3/89

Vermaas estate sequestrated

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PRETORIA. — Mr Albert Wessel Vermaas's estate was finally sequestrated while his business empire — barring Eurobank — was finally liquidated by the Supreme Court here yesterday.

The orders, by Mr Justice Van Niekerk, brought to an end months of legal wrangling

Mr Vermaas is yet to face criminal charges allegedly stemming from the affair.

Transvaal Attorney-General Mr Don Brunette is in charge of a special task force that is preparing criminal charges against Mr Vermaas.

An action brought by Mr Vermaas to prevent him from being summonsed to be interrogated in terms of the Insolvency Act was postponed yesterday to March 14.

The court heard there were 661 intervening creditors claiming a total of R107 million from the Vermaas empire, while the total claim could come to R150 million.

Mr Justice Van Niekerk also turned down a "never-say-die" application from Mr Vermaas yesterday that an extension to close a contract to sell Chieftain Aviation Holdings to an overseas buyer be further extended.

Mr Vermaas said the creditors could have been reimbursed from the R155 million he would have received from the sale.

But the judge said there was no concrete information before the court about the deal. — Sapa

Argus

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Argus, Thursday March 2 1989 5

16 spared on Death Row

The Argus Correspondent

PRETORIA — Acting-President Chris Heunis has commuted 16 death sentences to jail terms varying from life to 10 years

The Death Row prisoners include Paul Setlaba, whose 11th-hour application for a stay of execution on November 23 last year was rejected by Mr Justice Eloff on the basis that a petition to the State President had no prospect of success

Hours before Setlaba, 25, was due to hang, the Minister of Justice, Mr Kobie Coetsee, granted him a stay of execution

His sentence has been commuted to 20 years

COMMENDED

The other prisoners, and their new sentences, are Johannes Witbooi, Shadrack Shikwambana, M Mthembu (life imprisonment), Mbuzeli Sheleni, Siphon Peter, M G Myaka, A J Ngcobo (20 years), Paulus Khoza, Samos Moropane, Elmon Sekgobela (18 years), Laurence Griffiths, M A Shabalala, K R Makgolane, C M Motlanthe (15 years) and Hlangani Maluleka (10 years)

Lawyers for Human Rights commended Mr Heunis and Mr Coetsee for "a bold initiative"

Lawyers praise mercy for 16 on death row

Sowetan 2/3/89

252

LAWYERS for Human Rights yesterday commended the acting State President and the Minister of Justice for the fact that 16 death row prisoners had been granted clemency for execution.

LHR's national director, Mr Brian Currin, said in a statement in Pretoria that included in the group had been Paul Setlaba, whose last-minute application for a stay of execution was rejected by Mr Justice Eloff on the basis that any further application or petition to the State President had no prospect of success.

"Literally hours before he was to hang, joint efforts by his attorney, Lawyers for Human Rights and the Society for the Abolition of the Death Penalty succeeding in persuading the Minister of Justice to order the stay of execution," Mr Currin said.

● Though saddened by the fact that two people had been hanged this year, the Black Sash Transvaal region was encouraged to hear that 16 people had been granted clemency, a Sash statement said yesterday. — Sapa.

Lawyers praise mercy for 16 on death row

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— Sapa

State alters Delmas charge to murder

Star 2/3/89
By Jo-Anne Collinge

In a twist at the end of the second Delmas treason trial, the State yesterday dropped the main charge of treason and pressed instead for convictions for murder and attempted murder against four self-proclaimed members of Umkhonto we Sizwe

The trial has drawn international attention because the accused have refused to plead to the charges and have refused to defend themselves, arguing that they are soldiers in the national liberation struggle and should not be tried in a South African civilian court

Pleas of not guilty were entered on their behalf when the trial commenced a month ago

Judgment by Mr Justice de Klerk began yesterday and is likely to be concluded

today

Whereas the original main charge of treason does not carry a mandatory death penalty, a murder conviction compels the judge to sentence the accused to death unless mitigating factors can be found

Since there was no defence evidence led, the State presented its argument on conviction soon after its last witness testified

Prosecutor Mr H Prinsloo asked that

- Mr Jabu Masina of Soweto be convicted on four counts of murder and 20 counts of attempted murder

The murder charges related to the killing of Sergeant Orphan "Hlubi" Chaphi — the man known as "Soweto's most feared policeman" — in 1978, the killing of kaNgwane opposition figure Mr David Lukhele and his sister-in-law in Mamelodi in 1986,

and the assassination of Mamelodi policeman Constable Sinki Vuma, also in 1986

The charges of attempted murder relate to the injury of Mr Lukhele's wife and to injuries caused during a limpet mine explosion in Silverton and a landmine explosion in Soshanguve

- Mr TingTing Masango of Mamelodi be convicted on three counts of murder and 20 of attempted murder, arising from the two deaths at the Lukhele home, the assassination of Constable Vuma and the Silverton and Soshanguve blasts

- Mr Neo Potsane of Soweto be convicted on two counts of murder and 20 of attempted murder, for the attacks at the Lukhele home, in Silverton and Soshanguve

- Mr Joseph Makhura be convicted on 20 counts of attempted murder

Schreiner: State drops treason charges

CAPE TOWN — The State yesterday withdrew treason charges against Jennifer Schreiner, Tony Yengeni and 12 other alleged ANC members

Prosecutor Hendrik Klem made the dramatic announcement shortly after the start of proceedings in the Supreme Court

He said the treason charge would be substituted by charges under the Terrorism Act.

Charges against Yengeni, Schreiner and Lumka Elizabeth Nyamza would relate to their allegedly receiving military training outside SA, he said

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Own Correspondent
BIDAM 2/3/89

In the original indictment the State alleged they were members of the "Western Cape machinery" of the ANC and were responsible for bomb blasts at Castle Court, the Athlone Magistrate's Court and D F Malan Airport toilets.

Both the State and defence counsel agreed the trial would start on March 8

Advocate "Lang David" de Villiers, SC, for the accused, said counsel could not give an undertaking

that the trialists would plead next week as they had not seen the new charges

Earlier 12 of the accused — two had been released on bail of R3 000 each — filed greeted the packed gallery with shouts of "Amandla" and "Viva ANC" as they filed into the dock

Sapa reports that police cordoned off a section of Keerom Street in front of the court

The crowd of about 150 who attended the hearing stood on the court steps and sang "freedom" songs until they were ordered to disperse

**U.S. ALLOCATES
ADDITIONAL VISAS**

(Usual criteria not applicable)

FOR GREEN CARD

BANK OF LISBON INTERNATIONAL LTD.

NOTICE

Increase in Finance Charge Rates

Bank of Lisbon International Ltd hereby gives notice that, with effect from 1st March 1989

PRETORIA — Lawyers for Human Rights have commended the acting State President and the Minister of Justice for the fact that 16 Death Row prisoners had been granted clemency from execution.

Ministers lauded over stay-of-execution move

had been executed, he said, noting that the average number of executions performed each month for the preceeding four years exceeded 10.

This meant that so far this year there had been a 1 000 percent decline in monthly executions.

"These statistics, viewed with the 16 clemencies, give us hope that the state is beginning to appreciate the need to review those laws in South Africa that have resulted in the execution of so many people."

The Black Sash Transvaal Region said that although it was saddened by the fact that two people had been hanged this year, it was encouraged to hear that 16 people had been granted clemency.

"We feel, however, that even better than this would have been an announcement of a moratorium on all hangings pending a commission of inquiry," a statement said.

"The Black Sash remains totally opposed to the death penalty."

National director of Lawyers for Human Rights, Brian Currin, said in a statement from Pretoria that one of the 16 in the group granted clemency was Paul Setlaba. Setlaba's last-minute application for a stay of execution was rejected by Mr Justice Eloff on the basis that any further application or petition to the State President had no prospect of success.

Executions

"Literally hours before he was to hang, joint efforts by his attorney, Lawyers for Human Rights, and the Society for the Abolition of the Death Penalty succeeded in persuading the Minister of Justice to order the stay of execution," Currin said yesterday.

In the past two months only two people

10 MINUTE X-WORD 7286

- | ACROSS | DOWN |
|---------------------------|----------------------|
| 1 Money-bag (5) | 2 Beneath (5) |
| 4 Steeple (5) | 3 Biper (7) |
| 10 Aged (7) | 5 Less colourful (5) |
| 11 Hungarian composer (5) | 6 Breathe (7) |
| 12 Courage (5) | 7 Intended (5) |
| 13 Twisting (7) | 8 Japanese city (5) |
| 15 Midday (4) | 9 Expiate (5) |
| 17 Soup (5) | 14 Formerly (4) |
| 19 Alcoholic drink (5) | 16 US State (4) |
| 22 Detail (4) | 18 Take back (7) |
| 25 Bull-fighter (7) | 20 Get better (7) |
| 27 Musical instrument (5) | 21 Fishing-boat (5) |
| 29 Stop (5) | 23 Rubbish (5) |
| 30 Zodiac sign (7) | 24 Giver (5) |
| 31 Read carefully (5) | 26 Fear (5) |
| 32 Cut (5) | 28 Fruit (5) |

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SOLUTION TO CROSSWORD PUZZLE No 7285
 — Across: 1 Doubled, 5 Hutch, 8 Press, 9 Oarsman,
 10 Hurricane, 12 Ass, 13 Engage, 14 Effigy, 17 Cos.

fact Lance Kaplan at

The boundaries of guilt

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mob is wrong.

David Unterhalter is a former lecturer in law at University College, Oxford, and now teaches legal studies at Wits. He argues that applying the doctrine of common purpose to the actions of a

I recently spoke to a group of foreign law students about the case of the Sharpeville Six (S vs Safatsa)

In that case, the Appellate Division held that accused persons who manifest an active association with a murderous mob may be convicted of murder where the mob succeeds in its common purpose to kill the deceased — even though none of the accused's actions caused the death of the deceased

I said to my audience that the case was wrongly decided, but that SA law was quite capable of producing just principles of criminal liability, even in politically charged cases of this kind. They were sceptical. Surely, they said, no other outcome was to be expected from conservative white judges ruling upon threatening events of political upheaval?

That is a very grave allegation. But it helps little to solemnly intone about the high virtues of our judiciary if their judgments do not command respect, whatever our differing political affiliations. The real issue is whether, on their record of decision-making, condemnation is warranted. Opinion is sharply divided on the merits of the decision in the Sharpeville Six case. Among lawyers, there are those who defend the decision as a justified application of an established doctrine to the consequences of mob action. Others criticise the doctrine of common purpose as a crude one, ill-suited to pinning down individual criminal responsibility for actions taken in a crowd.

Our common-sense intuitions are also mixed. If I lend my actions to a collective undertaking to murder, can I be heard to complain if that undertaking is successful? On the other hand, if my actions do not bring about the death of another, should I be convicted of murder, notwithstanding my hostile intent towards the deceased?

It is plain that these are not simple issues, but they are important ones. Already the implications of the Appellate Division's decision in the Sharpeville Six case are being felt in the lower courts. In the Supreme Court in *Upington*, the trial of 25 persons convicted of the murder of a municipal policeman continues (S vs Khumalo).

The presiding judge, Mr Justice Basson, found that 21 of the accused were guilty of murder as accomplices having actively associated themselves with a common purpose to

stone the house, drive the deceased from it and kill him. Four other accused were found guilty of murder as principal actors in killing the deceased. Now international attention is once more focused upon our courts to see whether evidence of extenuation will be accepted and the death penalty avoided.

Three preliminary points about the doctrine of common purpose should be noted. First, persons who join crowds and throw stones or make inflammatory statements are not blameless. The issue is simply the nature of their blameworthiness. Second, principles of criminal responsibility must apply generally. Responsibility should not depend upon the value of the accused's political objectives in acting as they did. Otherwise the trial degenerates into an occasion for pursuing and evaluating political causes.

Third, in other respected legal systems, the law of complicity sets out the liability of participants in a joint unlawful enterprise. In English law, Section 8 of the Accessories and Abettors Act, 1861, renders a person who aids and abets an offence liable as a principal offender. And there are English cases that make use of the idea of participation in a joint unlawful enterprise as a basis for liability (see *R vs Reid*).

Notwithstanding these observations, it is my view that the doctrine of common purpose in South African law cannot, as it presently stands, be justified. The morality of the criminal law is strongly wedded to the idea that we hold people responsible for what they have done and the harmful consequences that they bring about. What is troubling in cases such as those of the Sharpeville Six or *Upington 25* is that the actions of some of the accused, convicted of murder under the doctrine of common purpose, may have been wrong — but we find it difficult to describe them as murderous.

Throwing a stone or using threatening language is wrong, but when it does not bring about a fatal consequence it grates against our moral intuitions to call it murder. The problem with the doctrine of common purpose is that it fails to distinguish the blameworthiness of different actions.

What the doctrine of common purpose says is that if I actively associate myself with a mob, which I may do by overt conduct of a relatively trivial kind, and that mob has formed a common purpose to kill, and persons in the mob then do kill, the actions falling within the common purpose that brought about the death of the deceased will be attributed to me and render me liable for the murder.

To see why it is that this version of the doctrine is unacceptable, consider the central case of the doctrine of common purpose. A and B agree to kill X. Following the plan agreed upon, B goes out and does kill X. No one seriously doubts that while it is B's

action that brings about the death of X, both A and B are equally responsible, and the doctrine of common purpose allows us to attribute B's action to A to render him liable for the murder. We have no difficulties with the legal conclusion in this example.

However, where there is no agreement, but simply an active association with the common purpose of the mob, the basis of the accused's liability is much less clear. First, can a person share a common purpose with a mob? I think not. The mob is an abstraction; attributing a common purpose to it is anthropomorphism. The criminal law is not concerned with abstractions but with the responsibility of individuals.

A common purpose can only be formed between individuals. And though large numbers of people may come to share a common purpose, that must be established. For we know that individuals are just as likely to intend different things by their actions as to make common cause. What must be established is that a common purpose to kill existed between the accused and those who actually did the killing, unmediated by the mind of the mob — which is a metaphysical nonsense. In any group of people there may be more than one common purpose, and the acts of the killers may not fall within the scope of all of them.

The second point is this. Even if it is established that there was a common purpose to kill the deceased, is a person's active association with the actions of the crowd a sufficient basis for making him liable for those actions? Not necessarily. There are many different ways of participating in a crowd, not all identify a person with the common purpose in the same way, or at all. Quite frequently we endorse, support, or associate ourselves with another's actions without in any way wishing to adopt or assume responsibility for those actions.

So too I may act in the context of a crowd, but not thereby consent to be bound by the actions of those who would kill. That may come about simply because I support their reasons for acting, but do not wish to adopt those actions as my own because I am content with something less drastic, such as throwing a stone. Active association is a catch-all criterion of blameworthiness, unresponsive to the differences between people's actions.

Lawyers are creatures of habit. They take the legal concepts available and put them to use.

The danger is that they lose touch with a common-sense view of what is right. Our courts have applied the doctrine of common purpose, a perfectly respectable doctrine, to the accused's participation in a mob, and in doing so are wrong. They have thereby extended the boundaries of liability for murder too far.

Mawu application granted by court

3/3/89 Own Correspondent

MARITZBURG — A vice-president of the Industrial Court, Mr Pierre Roux, SC, had been unwise to take part in a seminar arranged by consultants who had advised BTR Industries, one of the litigants in a case Mr Roux was hearing, Mr Justice Didcott said in the Supreme Court in Maritzburg yesterday.

He granted an application by the Metal and Allied Workers' Union to set aside a 1987 decision of the Industrial Court here.

The Industrial Court in which Mr Roux was sitting with two other men at the time, dismissed a Mawu application calling on BTR Industries to recognise or negotiate with Mawu for the reinstatement of members dismissed on May 2 1985.

LEAVE TO APPEAL GIVEN

Mr Justice Didcott ordered that the matter be heard afresh by the Industrial Court, with people who did not sit in the previous application.

He granted BTR leave to appeal against his decision and for Mawu to cross-appeal on certain issues.

Mawu said the participation of Mr Roux in a seminar organised by Andrew Levy and Associates and his refusal to recuse himself from the hearing were such that justice would not seem to have been done in the perception of a reasonable lay person.

The judge said before Mr Roux received a request from Mawu's attorneys to recuse himself it might not have occurred to him that lay litigants could entertain a perception of bias.

However when he received the request "alarm bells should have been ringing" that he could jeopardise months of hearings, Mr Justice Didcott said.

Murder verdict

MURDER convictions were yesterday pronounced in the Delmas Circuit Court on three of the four members of Umkhonto we Sizwe who have refused to defend themselves on the grounds that they

are soldiers who should not be subject to a civilian court.

The three convicted men, who now face a mandatory death penalty unless they are able to prove extenuating circumstances, showed no emotion during the

SOWETAN Reporter

pronouncements of guilt, talking quietly in the box from time to time.

Reviewing in detail the State evidence against the four men, Mr Justice de Klerk declared that

Jabu Masina was guilty on four counts of murder and one of attempted murder; Tingting Masango was guilty of three counts of murder and one of attempted murder and Neo Potsane was guilty on two counts of murder and one of attempted murder.

The State case lasted a month. No evidence was presented on behalf of the defence, who dispensed with the services of an advocate, and no challenge was made to the admissibility of statements made by the accused.

It remains to be seen whether the three accused will present evidence in mitigation of sentence, or simply bow to the mandatory imposition of the death

penalty.

The convictions arise from the assassinations of Detective Sergeant Orphan "Hlubi" Chaphi in Soweto in 1978, Constable Sinki Vuma in Mamelodi in March, 1986; and KaNgwane politician Mr David Lukhele and his sister-in-law, Mrs Elizabeth Dlodlu in Mamelodi.

Stompie death: 3 more in court

Stompie
3/3/89 By Celeste Louw (252)

The names of a youth and two others were yesterday added in the Johannesburg Magistrate's Court to the charge sheet of the accused in the murder case of activist Stompie Seipei

Mr Kuyban Jabulani Khubeka (25) of Diepkloof, Mrs Xolisa Falatsi (35) of Pimville and a 17-year-old youth were not asked to plead

BIRTH CERTIFICATE

The three appeared in camera before Mr G van Wyk

Mr van Wyk ordered the father of the youth to produce his child's birth certificate at their next appearance to determine his age

The other accused are Mr Jerry Richardson (61), a former coach of the Mandela United Soccer Club, Mr John Morgan (61), a former bus driver for the club, Mr Katiza Cebekhulu (21) and two youths

All the accused will appear in court again on March 10

Spence 3/3/89



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Delmas 3 convicted of murder

By Jo-Anne Collinge

Murder convictions were yesterday pronounced in the Supreme Court sitting in Delmas on three of the four members of Umkhonto we Sizwe who have refused to defend themselves on the grounds that they are soldiers who should not be subject to a civilian court.

The three convicted men, who now face a mandatory death penalty unless they are able to prove extenuating circumstances, showed no emotion during the pronouncement of guilt. They occasionally talked quietly in the box.

Mr Justice de Klerk declared that Jabu Masina was guilty on four counts of murder and one of attempted murder, TingTing Masango was guilty on three counts of murder and one of attempted murder, and Neo Potsane was guilty on two counts of murder and one of attempted murder.

The State case lasted a month. No evidence was presented on behalf of the defence, who dispensed with the services of an advocate, and no challenge was made to the admissibility of statements made by the accused to magistrates and policemen.

It remains to be seen whether the three accused will present evidence in mitigation of sentence or simply bow to the mandatory imposition of the death penalty. The convictions arise from the assassinations of Detective Sergeant Orphan "Hlubi" Chaphu in Soweto in 1978, Constable Sinki Vuima in Mamelodi in March 1986, and KaNgwane politician Mr David Luhele and his sister-in-law, Mrs Elizabeth Dhudlu, in Mamelodi in mid-1986.

The fourth accused, Mr Joseph Makhura, was acquitted on all charges relating to these killings. He and his co-accused still face judgment on 19 counts of attempted murder and an alternative charge of terrorism relating to the planting of a limpet mine in Silverton in 1986 and a landmine in So-shanguve during the same year. Though convicted on four counts of

Neo Potsane . . . guilty.

Jabu Masina . . . guilty.

TingTing Masango . . . guilty.

murder, Masina was held to have carried out only one of the assassinations—that of "Hlubi", the controversial policeman of the 1976 Soweto uprising. He was convicted for the other killings on the grounds of conspiracy and common purpose with the actual killers. Similarly, Masango was found to have shot only Constable Vuima but to have conspired with Masina and Potsane in the killings at the Luhele home. It was he who had identified Luhele as a target and had sought African National Congress approval for Luhele's elimination. Potsane was found to have shot Luhele and his sister-in-law. Although she

was not a target, it could have been foreseen that she would be caught in the "rain of bullets" fired from his AK-47 weapon, which was "not known as a marksman's weapon", the judge said. The judge found that the statements of the accused to magistrates and policemen constituted confessions and contained "unambiguous acknowledgment" that they had committed the crimes. The fact that statements were mutually confirmatory and that they were supported by other State evidence provided the basis for his findings of guilt. Judgment is expected to be concluded today.

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16 reprieved

Political Staff

THE PFP has welcomed the reprieve of 16 condemned prisoners, whose sentences have been commuted to between 10 years and life imprisonment by Acting State President Mr Chris Heunis.

Mr Peter Soal, who has once again introduced a private member's motion calling for abolition of the death penalty, said he welcomed the action.

Among those reprieved was Paul Setlaba, who was sentenced to death for the murder of a woman during the consumer boycott in Colesburg. He will now serve 20 years.

Boraine's son is acquitted

CAPE TOWN — Mr Andrew Boraine, United Democratic Front executive member and son of Idasa co-director Dr Alex Boraine, was on Friday acquitted in the Cape Town Magistrate's Court of distributing or possessing 28 prohibited books at an Observatory bookshop.

Mr Boraine (29), of Bonan Road, Rondebosch, and his co-accused, Ms Nicky Rosseau (33), of

Belmont Road, Mowbray, pleaded not guilty.

They were acquitted of distributing 21 undesirable publications and possessing seven on February 19, 1985 at Open Books, Main Road, Observatory.

The magistrate, Mr MJC Tolken, said it was clear the books were kept separately from those available to the public. — Sapa

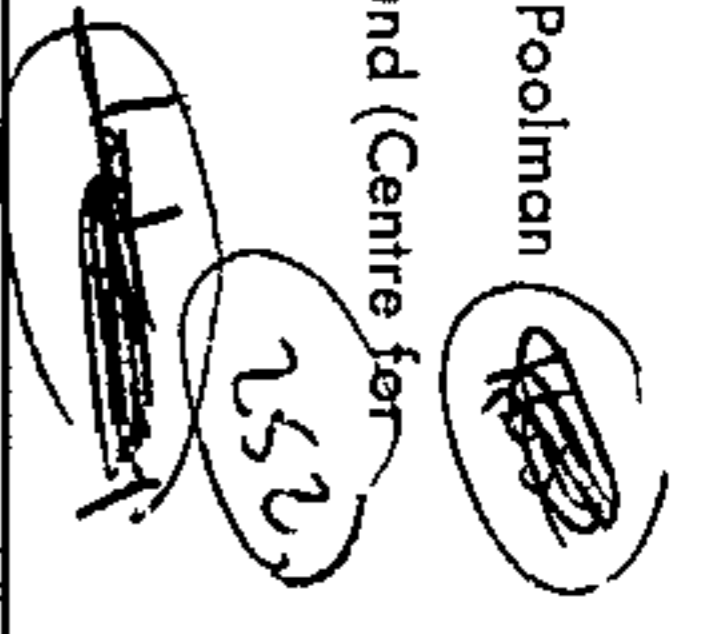
New Perspectives on South African Justice

The establishment of the Industrial Court in 1979 was initially greeted with scepticism, but has gained increased acceptance by both labour and capital. The court's caseload was less than 400 in 1983, last year the figure passed the 8 000 mark.

In *Equity, the Court and Labour Relations*, Dr Poolman examines the nature and scope of the functions of the Industrial Court including its role as a Court of Equity, applications for status quo orders, its arbitration, advisory and appeal functions and unfair labour practice.

Clearly set out with many cases cited and the relevant sections for the Labour Relations Act, this book will be welcomed by those involved in labour disputes and the law.

See 6/3/84.
Equity, the Court and Labour Relations, by T Poolman
(Butterworths R47,00)
Law and Justice in South Africa, edited by John Hund (Centre for Intergroup Studies)
Reviewed by MARK LEVIN



Law and Justice in South Africa is a collection of 14 scholarly essays which deal with important jurisprudential questions in today's South Africa.

"What is law? What is justice? What is the role of ideology in securing law and order?" These are some of the questions on which the writers express diverging opinions.

Many of the issues have been debated frequently in the past — access to justice, legal aid, the role of the judiciary — but here the writers often have a differing emphasis.

A topic about which less has been written is the unofficial justice system in the townships. It is one of great significance.

John Hund construes it as a form of social control that exists in pockets of anarchy where the formal legal system has no reach or control.

In such areas, the regime rules in terms of illegal police, illegal prosecutors and judges and other illegal officials.

Their ruthless legal system is regarded by the State as criminal. That their rules and sanctions are more severe than those of the State is well known. "Consequently, the dogma regarding the law of the State as the most powerful source of social control proves to be a myth."

Although for the more academically inclined, some of these essays deserve a wider public. Their relevance is such that they should not be ignored.

CHEF TUNITA
7/3/89
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Farmer in court after boy's death

JOHANNESBURG — A Free State farmer and two of his workers were arrested at the weekend after a 15-year-old teenager was allegedly tortured and beaten to death on a Heilbron farm.

Cheyana Radebe's body was found with a leather thong tied around his neck. The thong had been clamped in a vice in the store-room of the farmer's homestead, police said.

A police spokesman said Cheyana, of the farm Weltevreden, had been beaten savagely with a sjambok and assaulted with fists before he died.

The farmer, Mr Frans Smith, 47, appeared in Heilbron Magistrate's Court on the same day and was granted bail of R1 000. No charges were put to him.

The two workers, aged 21 and 35, were still in custody. — Sapa

The relative mapping of human rights

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Star 2/7/87

A new world atlas published in Paris rates the liberties experienced by citizens of different countries James Tomlins of The Star's Foreign Staff reports

PARIS — An unusual and unique "World Liberties Atlas" published in Paris this week awards South Africa high marks in many human rights sectors

Its general political map rates the country's situation as "relatively stable"

The atlas, the first of its kind, depicts most of Africa as the victim of despotic, dictatorial regimes, ruling corruptly and brutally

Zimbabwe is given the same rating as South Africa, with a dozen other African countries

They are coloured green, equal in Asia to India, Indonesia and Pakistan Two-thirds of Africa is the "undemocratic" navy blue, as is the Soviet Union, China and the East European communist bloc.

The atlas says those countries, like South Africa, coloured green are in "a relatively good stable situation but are having local troubles There is a lack of press freedom"

Other "green" countries are Benin, the Cape Verde Republic, Egypt, Gabon, Gambia, Ghana, Liberia, Senegal, Sierra Leone, Sudan and Tunisia

The West, in yellow, is listed in first place as having "generally good conditions"

Green countries come second out of five ratings

The fifth rating, in dark blue, is "unsatisfactory general situ-

ation with little if any press freedom", and includes Angola, Mozambique, Zaire and Zambia

Botswana, Lesotho, Namibia and Swaziland get the third rating

The atlas was published by Editions Arlea and edited by Jean-Claude Guillebaud, using 150 reporters and experts It has a preface by Rene Braumann, head of the Medicines sans Frontiers organisation which is active in the Third World

The weekly magazine *Le Point* commented in a review "We can already hear criticisms that the label 'relatively good' is hardly a fair description of the non-white situation in South Africa Naturally, this is so But this is a rating on only one map in the Atlas, and others show there is less censorship for blacks by Pretoria than there is for Czechoslovaks by Prague"

It noted that black people in South Africa had a higher educational and living standard than tens of millions of people elsewhere in Africa, Asia and South America

Le Point summed up "You are better off as a white man in Western Europe than in Eastern Europe, better off as a black in Senegal than in Zaire, better off as an Asian in Japan rather than in Cambodia"

THE president of the Pan Africanist Congress, Mr Zephania Mothopeng, has accepted an offer by leading British medical practitioners for treatment and possible operation depending on



By JOSHUA RABOROKO

Sowetan 7/3/87
tests to be carried out.

Mr Mothopeng has received numerous offers of medical treatment from governments and also from the foreign ministers of the Commonwealth.

Mr Mothopeng, who

was recently released from jail, has applied for a passport to travel overseas. He was optimistic the government will grant him the document

He regards the medical treatment he is to undergo in Britain as the primary reason for wanting to leave the country

Fall and rise of Soviet relations in Middle East

Mr Eduard Shevardnadze's Aeroflot jet was touched down in Damascus last week. Listeners to the BBC Arabic Service could hear archive recordings of Nasser's former president Amal Abdel Nasser and Nasser's former president Amal Abdel Nasser and Nasser's former president Amal Abdel Nasser at the inauguration of the Aswan Dam in 1964

The schedule whereby a programme about the Soviet Union and the Middle East concided with the visit of Moscow's most serious diplomatic foray in the region for 15 years was fortuitous. It had been planned long before the Minister's visit was announced. But it set the tour in historical perspective. The High Dam was the great monument to Soviet-Egyptian friendship and, by extension, to Soviet-Arab friendship, since Egypt was the largest and most important Arab country. It marked the high-water mark of a blossoming relationship. This began in the mid-1950s when the Soviet Union stepped in after the US refused to support Egypt's request for international finance for the dam.

Refrations never reached that level again. One took followed another. The defeat of Arab armies and Soviet weaponry in 1967, the humiliating expulsion of 15 000 Soviet military technicians and advisers from the Sinai in July 1972, and the completion of Egypt's 180-degree reorientation of foreign policy towards the US in 1973-74.

As Moscow turns to the last great unsolved conflict, CHARLES RICHARDS traces the fall and rise of Soviet fortunes in Egypt and the Middle East, from their nadir in 1974.

STAR 24/1/76

For the next 15 years the search for a Middle East peace settlement was the preserve of the US. But the high-visibility visit of Mr Shevardnadze to the Middle East has now aroused interest in how the Russians see their role after such a long absence from the region.

Historically, the Soviet Union has considered the Middle East a legitimate area of interest. Geographically so much closer to the region than the US, it resented the fact that the diplomatic running was made by its rival superpower.

However, it is clear that Moscow no longer considers the region an arena for superpower rivalry. States no longer have to make a choice between capitalist or socialist, reactionary or progressive.

Mr Muhammad Sid Ahmed, an Egyptian left-wing intellectual comments on this shift: "They are saying

there is no longer good and bad, aggressor and aggressed in the Middle East. All parties concerned have legitimate rights. Some parties have practices which are not legitimate. They are saying we can have neither Israeli occupation nor Palestinian terrorism."

In this new language of moderation and pragmatism, the Russians understand they will not supplant the US, but they feel that they are entitled to an equal role.

Moscow is using carrot and stick to moderate hardline positions. Soviet pressure has brought the PLO round to recognising Israel. The Soviet Union retains great economic leverage over Syria. By holding out the promise of improving relations with Israel, it may soften Israel's objections to entering negotiations.

There are, however, those in the Arab world who are apprehensive about where new Soviet policy may lead, particularly in improving relations with Israel. Some academics are concerned that detente between the superpowers might lead to a sort of Yalta, and imposed solution over the heads of the Arabs, and that Jewish emigration to Israel would be at the expense of Palestinian rights.



Israeli Foreign Minister Mr Moshe Arens (left) and his Soviet counterpart Mr Eduard Shevardnadze in close conversation in Cairo.

So far the US response to signs of increased Soviet activity in the region has been muted and defensive. President Bush advised a "prudent" approach. However, if the Bush administration fails to seize the new opportunities, it risks fuelling resentment in countries favourably disposed to it. Thus would only benefit a newly assertive and eager Soviet Union — The Independent

Lawyers ask for stay of execution

Staff Reporter

Lawyers for Human Rights (LHR) has made representations to the Minister of Justice requesting a stay of execution for two death row prisoners who are to be hanged on Thursday.

Mr Brian Currin, national director of LHR, said yesterday that neither Joseph Letsiri (23) nor Benfisius Sekgothe (22) had petitioned the State President for clemency, probably because their *pro deo* counsel was no longer practising.

The two men have been given notice of execution after being found guilty of murder, robbery with aggravating circumstances and attempted murder. They both applied for leave to appeal which was refused by the trial court and their petition to the Chief Justice was dismissed.

Mr Currin said LHR had studied the court record and other relevant documentation "Since all available remedies have not been exercised by the prisoners, we have made written representation to the Honourable Minister of Justice requesting a stay of execution pending their petitions for clemency to the State President."

"In view of the large number of clemencies granted in recent times, it is our view that every death row prisoner has an equal and inalienable right to put his case to the State President."

Bail would endanger lives of accused, court finds

Star 2/3/89
By Celeste Louw

Maxwell Madondo was murdered as a result of clashes between members of the Mandela United Soccer Club and people accused of his murder, a policeman told a Johannesburg magistrate yesterday

Detective Sergeant Jean van Zyl of the Soweto Murder and Robbery Unit said this during an application for bail by four people accused of the Madondo murder on February 13 this year

Mr G van Wyk refused

the application by Mr Andrew Ikaneng (27), Mr Sandile Blanket (20), Mr Isaac Mazibuko (22) and a 17-year-old youth

A fifth accused, Mrs Dudu Chili (47), was granted bail of R500 last week

Sergeant van Zyl told the court that members of the football club had tried to kill Mr Ikaneng by slashing his throat.

The accused then decided "to put things right with the soccer club".

The court heard how "Sponge" Sibusiso Chili

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grabbed Maxwell Madondo on February 13 when he had allegedly been beaten up with sticks and fists. Mr Chili allegedly dropped a rock on Madondo's head after he (Madondo) had been pelted with stones.

The accused allegedly carried Mr Madondo across the road and left him near "Uncle Tom's shebeen" where he died, Sergeant van Zyl said.

He told the court that the accused had fled because they feared revenge by members of the soccer club.

"There was an attack on Sponge's house where an innocent person died after being shot with an AK47 rifle. People inside the house also sustained burning wounds after petrol bomb attacks," the court heard.

Mr van Wyk found that the accuseds' lives would be endangered if bail was granted to them.

"It is known that the soccer club of Mrs Winnie Mandela conducted a reign of terror. They would not hesitate to eliminate people who go against their wishes," Mr van Wyk said.

● Mr "Sponge" Sibusiso Chili (24) and his 22-year-old brother Mpika have been added to the list of accused in the Madondo murder. They have pleaded not guilty to the charge.

Mr van Wyk postponed the hearing to April 4.

Asvat

accused

appear

By MANDLA
NDLAZI

THE two young men who allegedly shot and killed the anti-apartheid campaigner, Dr Abu-Baker Asvat were remanded in custody after a brief appearance in the Johannesburg Magistrate's Court yesterday.

They are Mr Zakhele Cyril Mbatha (21), and Mr Toelane Nicholus Dlamini (20) — both of no fixed abode. They appeared before Mr D J Dafele who postponed their case to March 28.

The State alleged they shot and killed Dr Asvat at his Rockville consulting rooms on January 27 and robbed him of R145. They are also charged with unlicensed possession of a firearm and ammunition.

Robbery

At an earlier hearing, Mbatha told a magistrate, Mr P Bredenkamp, that he shot and killed Dr Asvat. He said a man named Johannes had planned the robbery.

He said Johannes got to the scene and took R145 that they later shared. He said he did not know his co-accused, Dlamini, and that he was not involved.

Dlamini has pleaded not guilty to all the charges and Mbatha guilty of illegal possession of a firearm and ammunition and not guilty of murder and robbery.

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CLE

Student chief died of a 'head wound'

A DAVEYTON student leader, Mr Caiphus Nyoka (23), died from a head gunshot wound, a pathologist's report revealed as the second leg of the inquest into his death continued at the Benoni Magistrate Court yesterday.

Dr Len Anstey, the Nyoka family pathologist, said "at least 12

bullets struck Mr Nyoka — one in the hand, one in the neck, six in the chest, two on the right hand, one on the left elbow and one on the right forearm

"The fatal shot was unquestionably the shot in the head," the pathologist said

Dr Anstey also argued that the head wound might have been inflicted before others. The court heard that three bullets were found lodged inside Mr Nyoka's body

Earlier evidence before Mr J P Myburg was that Mr Nyoka was shot dead by the security police at his home on August 23, 1987. It was also said that the police had gone to Mr Nyoka's home to investigate allegations that he was in possession of "terrorist weapons"

At the time of his death, Mr Nyoka was the president of the SRC at Mabuya High School where he was a matric pupil. He was also a co-ordinator of the Transvaal Students Congress

A 21-year-old Soweto man, Mr Elson Monyokeng, who was sharing a bed with Mr Nyoka when the police arrived, also gave evidence. He said police woke them up and pushed him and two others outside the room after asking who, among them, was Caiphus

Mr Nyoka, he said, did not offer any resistance while the police were questioning them. He also said he did not see any knife in Mr Nyoka's hand, and anywhere inside the backroom they were sleeping in

'Forged papers' shock

Sowetan 8/3/89

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By MANDLA
NDLAZI

THE State relied on forged documents submitted in court to prove its R677327 theft case against ex-mayor of Thokoza and the former acting town clerk.

This was said yesterday

by ex-mayor Mr Gerald Mamabolo at a Johannesburg Magistrate's Court when he continued his arguments for an acquittal. He was on the witness-box since last Friday.

Mr Mamabolo (43) and Mrs Doris Thimane (40), are appearing before Mr I J J Luther. They have pleaded not guilty and are conducting their own defence.

POLITICS

Speaker turns down impeachment petition

By Day 9/3/89 252

CAPE TOWN — A petition for the removal of a Transvaal judge, Mr Justice J J Strydom, from the Bench was turned down in Parliament yesterday by the Speaker, Louis le Grange.

After points of order on the Speaker's ruling were raised by Helen Suzman and Harry Schwarz (both PFP), the Speaker said his rejection of the petition was "firmly based on practices of the past"

At the beginning of yesterday's session in the House of Assembly, Le

Grange noted the petition, asking for the removal from office of a Supreme Court judge in terms of the Supreme Court Act of 1959, had been lodged with the Secretary to Parliament for the Speaker's approval for tabling

The Speaker said he had declined to accept the petition, lodged on behalf of Suzman by the leader of the

Political Staff

PFP, Zach de Beer, for tabling in Parliament

The judge's name was not mentioned in the debate

However, Suzman announced earlier that she would submit a petition asking for the impeachment of Mr Justice Strydom

This followed widespread protests at the five-year sentence imposed by the judge on a northern Transvaal farmer, Jacobus Venter, who was found guilty of culpable homicide after the death of a farm labourer, who was beaten to death two months after he had run over two of Venter's dogs

Venter was ordered to pay R130 a month for three years to the labourer's widow

He was also fined R3 000, payable over five years, or 12 months' imprisonment

Venter's friend, Petrus Leonard, was found guilty of assault for his involvement in the crime, and fined R500 or three months' imprisonment

Suzman said after the Speaker's ruling yesterday that she would now

move a substantive motion asking Parliament to appoint a select committee to investigate the actions of Mr Justice Strydom

Both Suzman and Schwarz rose on points of order, asking the Speaker to reconsider his ruling

Suzman said it conflicted with the ruling given by the Speaker, Ernest Jansen, in 1935, when dealing with a motion for the removal of a Mr Justice Wessels, and negated the powers of Parliament in terms of the Supreme Court Act, which provided for the impeachment of a judge

Contrary

Schwarz submitted it was not open to the Speaker to decline or accept a petition from a member for a number of reasons, providing standing rules and procedures were followed.

He also said the Speaker was acting contrary to the rules and traditions of Parliament, and asked him to reconsider his ruling

Le Grange, however, said his ruling was based on previous rulings in 1926, 1945 and 1964, as well as the 1935 ruling

"The points of order are not well taken and are dismissed," he said

vating circumstances

Call to oust judge rejected

By BARRY STREEK *CME 1/1/89* 9/3/89
Political Staff

A PETITION for a Transvaal judge, Mr Justice JJ Strydom, to be removed from the bench was turned down in Parliament yesterday by the speaker, Mr Louis le Grange

Mr Le Grange said, after points of order on his ruling were raised by the Progressive Federal Party's Mrs Helen Suzman and Mr Harry Schwarz, that his rejection of the pe-

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tition was "firmly based on practices of the past"

The petition followed widespread protests at the five-year sentence imposed by the judge on a Northern Transvaal farmer, Mr Jacobus Venter, who was found guilty of culpable homicide after the death of a farm labourer beaten to death two months after he ran over two of Mr Venter's dogs

He was also ordered to pay the widow R130 a month for five years

In brief

117 hanged last year *Cape Times 9/3/89 252*

Political Staff

A TOTAL of 117 people were executed last year, nearly 60 less than last year, Minister of Justice Mr Kobie Coetsee said yesterday. During the same period 49 death sentences were commuted. Replying to a written question from the MP for Sandton, Mr Dave Dalling, the minister said 76 black men, 38 coloured men and three white men had been hanged in 1988. No women were executed

Suzman ¹⁹⁶⁵
to bring ^{9/3/89}
motion ⁽²⁵²⁾
about judge

Political Staff

MRS Helen Suzman said she would probably call today for a substantive motion in Parliament to discuss the conduct of Mr Justice J J Strydom, the judge she attempted to have impeached

This follows the rejection by the Speaker, Mr Louis le Grange, of her petition to have a parliamentary committee appointed to consider asking the State-President to remove Judge Strydom from office

Mrs Suzman's charged yesterday that "the judge's tendency to exercise extreme leniency, where the accused are white persons, and extreme harshness where the accused are black persons, violates the most elementary concept of impartial, colour-blind, justice"

BEATEN TO DEATH

Her claim was based on five of his judgments, including the controversial Louis Trichardt case where he gave a white farmer a suspended jail sentence and a fine after he tied a black labourer to a tree and beat him to death for running over his dogs

Mr le Grange said the racist tendencies referred to by Mrs Suzman could not be substantiated by referring to only five cases over a period of 15 years

● See page 9

Parliamentary Staff

A PETITION by Mrs Helen Suzman (PFP, Houghton) to have controversial judge Mr Justice JJ Strydom impeached by Parliament has been rejected by the Speaker, Mr Louis le Grange

Mrs Suzman submitted a petition asking for a parliamentary committee to be appointed to consider criticisms against Mr Justice Strydom and, if necessary, to ask the State President to remove him from office

Mr le Grange rejected the petition yesterday and said his full ruling would be contained in the parliamentary minutes today

Mr Harry Schwarz, PFP MP for Yeoville, contested the ruling and said by rejecting the petition Mr le Grange was pre-empting the function of Parliament

His point of order was dismissed

After Mr le Grange's ruling, Mrs Suzman said that she was now going to use the other avenues of parliamentary procedure open to her — to move a substantive motion asking Parliament to appoint a committee to investigate Mr Justice Strydom's conduct

This would have the effect of leading to a public debate on his actions

"Unprecedented"

In her petition Mrs Suzman said the criticisms against Mr Justice Strydom were based mainly on two judgments by him

One was criticised by the Appellate Division and another by the Johannesburg Bar Council "in the most severe and unprecedented terms"

Mrs Suzman said the first case on which her petition was based was the State versus Jacobus Vorster and Petrus Leonard heard in the Circuit Court in Louis Trichardt on November 1 last year

The two men tied a farm labourer to a tree and assaulted him extensively over a long period which resulted in his death

The reason the accused gave for the assault was that he killed a puppy with a tractor

Vorster was found guilty of culpable homicide and sentenced to a five-year prison term completely suspended for five years with one of the conditions being that he pay R130 to the deceased's family a month, with a further fine of R3 000 (or 12 months) payable in instalments.

"Leniency"

Leonard was found guilty of assault and fined R500 or three months prison

"Judge Strydom imposed sentences of such leniency that the Johannesburg Bar Council issued a statement describing the sentences as 'so grossly inappropriate as to induce not simply a sense of shock but of outrage and concern'"

In the case of the State versus Mgedesi and Others from March 9 to 13 1987 Mr Justice Strydom's death sentences were set aside by the Appellate Division on September 30 1988

In this case Mr Justice Strydom imposed the death sentence on three black men for murders committed during mine faction fights at the Vaal Reefs Gold Mine in February 1986

"The Appeal Court found that Judge Strydom's reasoning was 'fundamentally fallacious' and commuted the death sentence on two accused

"The conviction of the second accused was changed to one of 'assault



Mrs Suzman

Mr le Grange

to do grievous bodily harm' and a 30-day jail term was substituted for the death sentence and the third accused was, in fact, set free

"The Appeal Court observed that 'the trial court's failure to consider the evidence of each accused separately, constituted a serious misdirection'"

Mrs Suzman also detailed several other cases dating from the time when Mr Justice Strydom sat on the South West Africa Bench

In the case of Wood and Others vs Ondangwa Tribal Authorities and Another, in 1975, Mr Justice Strydom and Mr Justice Badenhorst dismissed the provisional judgment by Mr Justice Hoexter prohibiting the Tribal Authorities from publicly flogging political suspects

The judgment of Judges Strydom and Badenhorst was overturned in the Appeal Court by Chief Justice Rumpff

In the case of the State vs Louis Conrad Nagel in the Supreme Court on February 25 1981 the accused Nagel, a member of an anti-terrorist squad, shot dead a black man after an altercation in which he called out "Hello darling" to a white woman

Mr Justice Strydom accepted Nagel's plea that he thought the dead man was a terrorist, found him guilty of culpable homicide and sentenced him to six years prison, three years of which were suspended for three years, plus payment of R50 a month for five years to the family of the dead man

In another Supreme Court case on May 16 1981, three SWA Electricity Corporation security guards were accused of murder for assaulting a black man who later died in hospital

Assault

Mr Justice Strydom found them guilty of assault and imposed a fine of R400 or four months prison on one, and R600 or six months prison on the other two

Payment of the fines was suspended

Mrs Suzman said the outcry over the leniency of the sentences imposed by Mr Justice Strydom apparently contributed to his being transferred from the SWA branch to the Transvaal Provincial Division in 1981

Suzman plea for ousting of judge is rejected

Mrs Suzman said "It is contended that the facts and cases cited above, viewed not merely individually but in their totality, support the criticisms which have been levelled against the judge"

She said that according to the Supreme Court Act all persons appointed as judges had to take an oath swearing to "administer justice to all persons alike without fear, favour or prejudice"

"In the circumstances it is respectfully contended that the conduct of Mr Justice Strydom is of such a nature as to require that a Select Committee be appointed to consider the matter so that an appropriate address be forwarded from Parliament to the State President praying for the removal of Justice Strydom in order that the administration of justice may be upheld"

Ex-mayor guilty

TWO former members of the Thokoza Town Council were yesterday found guilty in the Johannesburg Regional Court on two charges of theft from the council involving more than R600 000

Mr I Luther found that former town clerk Doris Thinane (40) of Jabulani and a former mayor of Thokoza, Gerald Lethebe Mamabolo (43) were

guilty of depositing R513 083 in a banking account on April 16 1986 and an amount of R164 293 on June 5. The money belonged to the city council which was not aware of the account

Mr Luther found that the evidence given by the accused was improbable

An application for bail pending mitigation for the accused was refused

The hearing was postponed to April 11

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State death call despite extenuation

Strike-killing four 'should be hanged'

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b7 Dan 10/3/89

SUSAN RUSSELL

FOUR Sats employees who murdered four co-workers because they did not join the 1987 rail strike should be sentenced to death, even though the court had found there were circumstances which lessened their moral blameworthiness, the State argued in the Rand Supreme Court yesterday.

The State submitted that although the court had found extenuating circumstances existed in the case of the four, the death sentence should be imposed because of the brutality of the crime

Bongisi Sibisi, David Dzevhe, Phineas Netshitungulwane and Mafemane Rikhotso were among the eight men convicted of murdering the non-strikers on April 28, 1987.

Wilson Matshili, Patrick Molefe, Takalani David Mamphaga and George Maungedzo were convicted of murder with no extenuation

When no extenuation is found the court must impose the death sentence, but where there is extenuation, the presiding judge has discretion

Last week Mr Justice Spoelstra and two assessors found Sibisi, Dzevhe, Netshitungulwane and Rikotso had associated themselves

with the murders but took no physical part in them

The four murdered men were kidnapped from where they were working on April 28, 1987, and taken to Cosatu House

They were assaulted there before being driven to a spot near Prolecon where they were murdered, and their bodies set alight

A fifth man, Albert Phuluwa, was also taken to Prolecon but managed to escape

The defence has asked the judge to use his discretion and not impose the death sentence on Sibisi and the other three found guilty of murder with extenuation

It was argued that the issue of brutality, the basis on which the State asked for the death sentence, had already been taken into account during the extenuation proceedings

The brutality of the crime notwithstanding, extenuating circumstances were found in the case of Sibisi and the other three.

It was argued by the defence that eight other men convicted on counts of intimidation and kidnapping be given suspended sentences coupled with orders that they pay compensation to the families of the victims

Mr Justice Spoelsta will pass sentence this morning

'Justice violated': Call for judge's removal

CAPT. TINKS 10/3/89 252

By BARRY STREEK
Political Staff

MR Justice J J Strydom had a tendency to exercise extreme leniency where the accused were white people and extreme harshness where the accused were black, the Progressive Federal Party's Mrs Helen Suzman has contended in her attempt to have him impeached.

This tendency, she added in a statement released yesterday, "violates the most elementary concept of impartial, colour-blind justice".

"Furthermore, it does great damage to race relations within South Africa, invites and has led to condemnation of South Africa from abroad, thus bringing our much vaunted higher courts and system of justice into disrepute"

The Speaker, Mr Louis le Grange, turned down a petition from Mrs Suzman on Wednesday after saying he was of the opinion that she had not succeeded in establishing a prima facie case against Mr Justice Strydom of improper discrimination in criminal matters on the ground of the race or colour of the accused persons

The Speaker's reasons for turning down the petition were published in yesterday's House of Assembly minutes

He said Mrs Suzman's contention that the facts and cases cited in the petition,

viewed not only individually but in their totality, evidenced sufficient grounds for a finding of serious misbehaviour and incapacity on the part of the judge was "a general statement not capable of being regarded as a complaint"

However, the second contention of leniency to whites and harshness to blacks could be regarded as a specific and distinct complaint, he said

Mrs Suzman said her complaint was founded on the judicial behaviour and conduct of Mr Justice Strydom which "manifest serious misbehaviour and incapacity for office", warranting his removal from office by the President

Evoked criticisms

Mr Justice Strydom was appointed a judge in 1974 by Prime Minister Mr Vorster when Mr Jimmy Kruger was Minister of Justice, said Mrs Suzman

"He sat on the South-West African Bench for about eight years. When his appointment as Senior Judge there was imminent, the SWA Bar considered protesting against this appointment, at which stage he was transferred to the Transvaal Provincial Division

"The then Judge President, Justice Boshoff, refused to have him sit on the Bench. He was appointed chairman of the Group Areas Committee in 1981

"When Judge Boshoff was elevated to the Appellate Division, Judge Moll replaced him and he permitted Judge Strydom to serve on the Bench of the Transvaal Provincial Division"

The gravamen of the present charge involved, in particular, two decisions by Mr Justice Strydom in which his findings had evoked criticisms — by the Appellate Division in one case and by the Johannesburg Bar Council in the other — in the most severe and unprecedented terms

In the most recent case, Judge Strydom imposed sentences of such leniency on two Northern Transvaal farmers, Mr Jacobus Vorster and Mr Petrus Leonard, that the Johannesburg Bar Council issued a statement describing the sentence as "so grossly inappropriate as to induce not simply a sense of shock but one of outrage and concern"

In the case of the state versus Mgedesi and others, Judge Strydom imposed death sentences on three black men for murders committed during a faction fight at Vaal Reefs Gold Mine

"The Appeal Court found that Mr Justice Strydom's reasoning was 'fundamentally fallacious' and commuted the death sentence on two accused

"The conviction of the second accused was changed to one of assault to do grievous bodily harm and a 30-day jail term was substituted for the death sentence, and the third accused was, in fact, set free"

Two hanged
in Pretoria
for murder

PRETORIA. — Two murderers, Joseph Letsiri, 23, and Benfisius Sekgothe, 22, were executed here yesterday

More than 1,000 people have been executed in South Africa since 1980, according to a Black Sash research project which was released yesterday. The report says few experts believe that the present government will scrap capital punishment.

It says executions rose from an annual average of 21 between 1910 and 1947 to an all-time high of 164 in 1987. Of the total of 1,070 hanged since 1980, 67% have been black, 29% coloured, 3% white and 0.2% Indian — Sapa and Own Correspondent

Judge 'lenient to whites but very harsh to blacks'

6/Day 10/3/87 10/3/89

CAPE TOWN — Mr Justice JJ Strydom had a tendency to exercise extreme leniency where the accused were white people and extreme harshness where the accused were black, Helen Suzman (PFP) contended in her attempt to have him impeached.

This tendency, she said yesterday, "violates the most elementary concept of impartial, colour-blind justice

"It does great damage to race relations in SA and invites condemnation of SA from abroad, bringing our much-vaunted higher courts and judicial system into disrepute"

On Wednesday the Speaker, Louis le Grange, turned down Suzman's petition, saying she had not succeeded in establishing against Mr Justice Strydom a prima facie case of improper discrimination in criminal matters

He said Suzman's contention that facts and cases cited in the petition evidenced grounds for a finding of serious misbehaviour and incapacity on the



● LE GRANGE

Political Staff

part of the judge was "a general statement not regarded as a complaint"

In order for an MP to proceed by way of motion, a prima facie case would have to be established, and Suzman had not done this, the Speaker ruled

Suzman said her complaint was founded on the judicial behaviour and conduct of Mr Justice Strydom, which "manifests serious misbehaviour and incapacity for office," warranting removal from office by the State President"

Mr Justice Strydom was appointed a judge in 1974 by Prime Minister John Vorster, when Jimmy Kruger was Justice Minister.

"He sat on the Namibian bench for about 8 years and when his appointment as Senior Judge there was imminent, the Namibian Bar considered protesting against it, but he was transferred to the Transvaal Provincial Division

"The then Judge President, Justice Boshoff, refused to have him sit on the Bench. When Judge Boshoff was elevated to the Appellate Division, Judge Moll replaced him, and he permitted Judge Strydom to serve on the Bench of the Transvaal Provincial Division"

"Judge Strydom was appointed chair-

man of the Group Areas Committee in 1981

The gravamen of the present charge involved two decisions by the Judge in which his findings evoked criticism in "most severe and unprecedented terms" by the Appellate Division in one case, and the Johannesburg Bar Council in the other

In the most recent case, when Judge Strydom imposed sentences of such leniency on two Northern Transvaal farmers, Jacobus Vorster and Petrus Leonard, the Johannesburg Bar Council described the sentence as "so grossly inappropriate as to induce not simply a sense of shock, but one of outrage and concern"

Set aside

In the case of the State versus Mgedesi and others, death sentences were set aside by the Appellate Division after Judge Strydom imposed death sentences on three black men for murders committed during a faction fight at Vaal Reefs Gold Mine

"The Appeal Court found Mr Justice Strydom's reasoning was 'fundamentally fallacious', and observed the Trial Court's failure to consider the evidence of the accused separately, constituting serious misdirection," said Suzman

Suzman's fight for colour-blind justice

Sowetan 10/3/89

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FOCUS

SOWETAN Reporters

OPPOSITION MP Mrs Helen Suzman is to press ahead with new moves to debate the controversial actions of a judge following the ruling of the speaker, Mr Louis le Grange, rejecting her impeachment petition

Mr le Grange gave reasons for his ruling in the Parliamentary minutes tabled yesterday Mrs Suzman had submitted a petition asking for a Parliamentary committee to be appointed to consider charges against Judge Strydom and if necessary to ask the State President to remove him from office

She said Mr Strydom was "guilty of conduct in his judicial capacity amounting to misbehaviour or evidencing incapacity of a serious or material nature"

After Mr le Grange's ruling, Mrs Suzman said she was now going to use the other avenue of Parliamentary procedure open to her — to move a substantive motion asking Parliament to appoint a committee to investigate Justice Strydom's conduct

This would have the effect of leading to a public debate on his actions

THE murder case in which a Louis Trichardt farmer, Jacobus Vorster, tied farm worker Mr Eric Sambo to a tree and assaulted him for killing his puppy had a sequel in Parliament when Mrs Helen Suzman (PFP MP for Houghton) called for the removal of trial judge Mr Justice Strydom from office. This followed his controversial sentencing of Vorster to a five-year prison term completely suspended for five years; with one of the conditions being that he pays R130 to the deceased's family. He was further sentenced to a fine of R3 000 or 12 months' jail payable in instalments. Vorster was found guilty of culpable homicide and not murder.

Explaining his ruling, Mr le Grange said a racist tendency could not be substantiated by only five judgments, given during the period of 15 years, without indicating whether these were a substantial proportion of judgments given by the judge in that period

One of the two cases quoted by Mrs Suzman involved a civil matter, which was not relevant, and included only one case where the accused were black persons

No tendency to exercise extreme harshness could logically be inferred from a single case

As far as the controversial case of State versus Vorster and Leonard in the Louis Trichardt Circuit Court was concerned, he said Mrs Suzman's complaint related to the sentence only

Even if this case was an example of extreme leniency, it could not be taken as evidence of a tendency to leniency

When Mr le Grange made his ruling in Parliament yesterday, it was contested by Mr Harry Schwarz, PFP MP for Yeoville, who said that by rejecting the petition Mr le Grange was pre-empting the function of Parliament

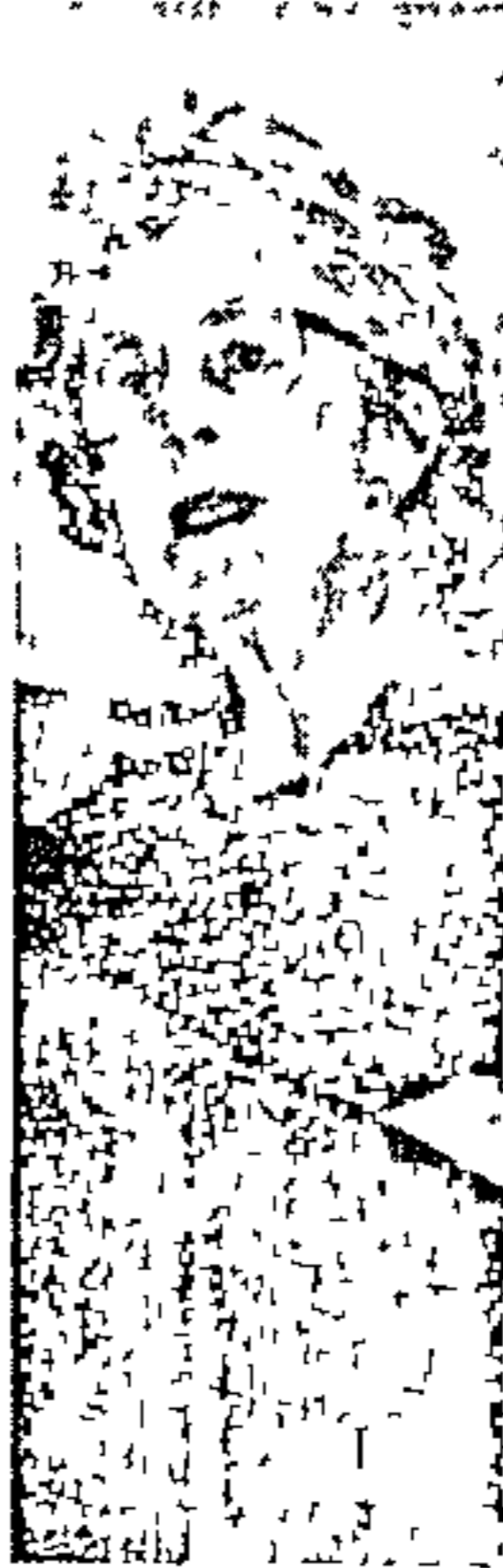
His point of order was dismissed

Leniency

In her petition Mrs Suzman said the charge against Mr Strydom was based mainly on two judgments by him

One was criticised by the Appellate Division and another by the Johannesburg Bar Council "in the most severe and unprecedented terms"

Mr le Grange dismissed Mrs Suzman's contention that in these and other judgments, Judge Strydom's tendency to "exercise extreme leniency where the accused are white persons and extreme



HELEN SUZMAN wants justice

harshness where the accused are black persons violates the most elementary concept of impartial colour-blind justice"

Mr le Grange said in his ruling that Mrs Suzman's statement "amounts to an accusation of partiality bias or prejudice based on the race or colour of accused persons"

Mrs Suzman had not established in establishing a prima facie case against Judge Strydom of "improved discrimination in criminal matters on the ground of race or colour of the accused persons"

Mrs Suzman said the first case on which her petition was based was State versus Jacobus Vorster and Petrus Leonard heard in the Circuit Court in Louis Trichardt on November 1 last year

"Judge Strydom imposed sentences of such leniency that the Johannesburg Bar Council issued a statement describing the sentences as "so grossly inappropriate as to induce not simply a sense of shock but of outrage and concern"

The council went on to say that "if there grew up in community a belief that such a crime could

merit so trivial a punishment, the maintenance of law and order could be gravely endangered and no law abiding citizens would be safe from violent and cruel killers"

In the case of the State versus Mgedesi and others — from March 9 to 13, 1987 — Mr Strydom's death sentences were set aside by the Appellate Division on September 30 1988

In this case Judge Strydom imposed the death sentence on three black men for murders committed during mine faction fight at the Vaal Reefs gold mine in February 1986

"The Appeal Court found that Judge Strydom's reasoning was "fundamentally fallacious" and commuted the death sentence on two accused

"The conviction of the second accused was changed to one of 'assault to do grievous bodily harm' and a thirty-day jail term was substituted for the death sentence and the third accused was, in fact, set free

Flogging

"The Appeal Court observed that the trial court's failure to consider the evidence of each accused separately, constituted a serious misdirection"

Mrs Suzman also detailed other cases dating from the time when Judge Strydom sat on the South West Africa bench

In the case of Wood and others v Ondangwa Tribal Authorities and another, in 1975, Judge Strydom and Judge Badenhorst dismissed the provisional judgment by Mr Justice Hoexter prohibiting the tribal authorities from publicly flogging political suspects

The judgment of Judges Strydom and Badenhorst was overturned in the Appeal Court by Chief Justice Rumpff

In the case State v Louis Conrad Nagel in the Supreme Court on February 25, 1981, the accused Nagel, a member of an anti-terrorist squad shot dead a black man after an altercation when called out "hello darling" to a white woman

Judge Strydom accepted Nagel's plea that he thought the dead man was a terrorist, found him guilty of culpable homicide and sentenced him to six years prison, three years of which were suspended for three years, plus payment of R50 a month for five years to the family of the dead man



Political comment in this issue by Aggrey Klaaste and Sam Mabe Sub editing headlines and posters by Sydney Matlhaku All of 61 Commando Road, Industria West, Johannesburg

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Black Sash study provides chilling insight into Pretoria's death row

Profile of the condemned ones

252

10/2/87

Esau Jabulani Nkosi is not one of the high-profile political figures on Pretoria's death row. He is one of those "ordinary" murder convicts whose life is likely to be ended without protest from the world beyond his prison.

He has been lifted from obscurity by the researchers of the Black Sash report on capital punishment, "Inside South Africa's Death Factory". The report tells the following story.

Nkosi is 30 years old. His criminal record started at the age of eight, when he was sentenced to five cuts with a light cane for stealing R20.

By the time he was 17 he had accumulated four convictions, for theft and assault, and been subjected to 22 strokes with a light cane.

He was never defended on any of these charges. He was the child of a single mother — a domestic worker — and there was no money for lawyers.

Although he was a juvenile, there was no attempt to send him to a school of industries or a reformatory.

On reaching the age of 18 — adulthood in the eyes of the

court — he was sentenced to 45 months for stealing goods valued at R2 000.

He was freed on parole after two years and soon convicted on six charges of housebreaking. His total sentence was 12 years, of which he served six before being released unconditionally in June 1985.

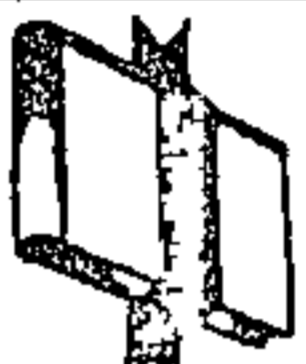
Head wounds

Four months later, at the age of 29, he was back in the dock facing murder charges with two other men. They all pleaded not guilty.

The charges related to the killing of an 84-year-old man, Mr Arthur Boshier, who died from head wounds after being attacked in his East Rand flat during a robbery.

There were no eyewitnesses to the attack. The three men were convicted of murder by Mr Justice Strydom on the basis of his reconstruction of events from statements made by two of the accused, testimony of the third, and medical and police evidence.

Nkosi's lawyer argued in extenuation that the men had gone to rob — not to kill — and had acted in the heat of the moment when they surprised the owner



JO-ANNE COLLINGE reports on a Black Sash study on capital punishment, entitled "Inside South Africa's Death Factory". It takes its name from an observation by human rights lawyer Mr Brian Curran. "Death row is like a factory. I find the whole place has been brutalised, dehumanised. It's a factory which produces corpses. To produce that product, a system is developed. The whole place is serviced. They provide food. They make gardens. They give notice of execution. They hang. And they bury."

in his darkened flat. The judge found no extenuating circumstances for any of the three and sentenced them to hang.

Nkosi was refused leave to appeal against the murder conviction and has now spent 20 months on death row.

Today the rigid distinctions between 'political' and 'ordinary' death row prisoners is being questioned, the report notes.

"The vast majority of death row prisoners are black — 97 percent of the 1 070 people hanged between 1980 and 1988 — and in many cases 'ordinary' criminals can also be seen as victims of apartheid," it states.

In the first place, there is a general acceptance that crime has strong roots in poverty and social deprivation. Many black South Africans, like Jabulani Nkosi, grow up in overcrowded, under-serviced, segregated black townships, they receive an

inferior education to white South Africans and experience job segregation.

"The second sense in which most death row prisoners are victims of apartheid is that they have been processed by a legal system which many — rightly or wrongly — regard as being slanted against blacks. For example, there is not a single black judge in South Africa."

The report attempts to draw a biographical profile of the typical prisoner on Pretoria's death row. And it examines the legal process which ended up on death row.

To construct the profiles, interviews were conducted with families, friends and lawyers of 26 death row prisoners. To assess the legal process, records of 40 condemned persons were examined.

The disadvantaged background of the average death row prisoner is clear and can be put

saying evidence in mitigation. It also means he is likely to be represented by an inexperienced advocate or by one whose practice has not been successful enough to render him too busy to do pro deo work.

● The brevity of the cases. One-third of these trials look less than a week to complete. One in 12 lasted just one day.

● The nature of the evidence on which conviction was passed. The evidence of a single witness was enough for a murder conviction in 10 percent of cases, circumstantial evidence sufficed in 5 percent, and a further 5 percent were found guilty solely on the basis of their own confessions — confessions which most claimed had been made under duress.

Several features of the legal history of those facing death give cause for concern, the researchers state.

● The heavy reliance on pro deo counsel. A total of 32 percent of the sample were represented in this fashion. The report points out that this means the advocate has no attorney to assist him, that he is paid only about R100 a day and that his fees do not allow him the expense of calling expert witnesses for life-

Common purpose

● The common refusal of leave to appeal. More than half the sample were refused leave to appeal by the trial court. Of those known to have petitioned the Chief Justice for leave to appeal, only 17 percent were successful and 35 percent had been refused.

● The prevalence of the doctrine of common purpose in murder convictions. Half the

sample were convicted on grounds of their association and identification with the actual killers and were not shown to have done the deed themselves. Death Factory' also records the less quantifiable affronts of the process of awaiting-death, imprisonment and of execution.

The bodies of those executed are the property of the State. Families are not allowed to see inside the coffins. They are not permitted to accompany the coffin in order to say prayers as the body is laid to rest.

While death row prisoners can have an unlimited number of visits, not once — even on the day before their hanging — do they get a "contact visit", one that would allow a last touch or embrace.

The horror induced by the death penalty is reflected in the fact that no death row inmates' family members wished death on Wit Wolf Barend Strydom, who is charged with last year's massacre of eight black people in Pretoria. "I can't say Strydom must be killed, because he is also a human being. I hate the death penalty," said Mr N S Son amzi whose brother, Bennet, has spent more than a year on death row.

10/1/89
Sixteen sentenced

SENTENCE on 16 South African Railways Harbour Workers' Union members convicted of murder will be passed today in the Rand Supreme Court.

This was said yesterday by Mr Justice T T Spoelstra, sitting with two assessors, after the State and the defence had argued at length on the question of sentence on the eight accused convicted of murder without extenuating circumstances and those found guilty of murder with extenuating circumstances and other charges (252) (17)

WELLS
COURT

Sowetan 10/3/89
Inquest
(262)

A SOWETO student, told an inquest into the death of student leader, Mr Caiphus Nyoka, that he heard the sound of a gunshot coming from the room where they were sleeping, after he and two other youths were ordered out of the room by police.

The police allegedly ordered Mr Excellent Mthembu (20), the witness, and two of his friends, Exodus and Elson to lie down on the ground as he tried to look towards Caiphus's room

2 hanged after appeal rejected 25

Staff Reporter *SAW 10/3/87*

Two Johannesburg men were hanged at the Pretoria Central Prison yesterday after the State President rejected an appeal for clemency

This brings to four the number of people executed this year compared to 21 executed during the same time last year, according to a spokesman for the Department of Justice.

The appeal was submitted by Lawyers for Human Rights (LHR) on behalf of convicted murderers Joseph Letsiri (23) and Benfisius Sekgothe (22)

Three Cape Town men, Jacob Khonzi, David Temba Kekané and Raymond Sonzi, are due to be executed on Tuesday, an LHR spokesman says. Letsiri and Sekgothe were convicted of robbing

and murdering a Johannesburg shopkeeper, Mr Ismail Hassim Sookaria (46), in his shop, Steeldale Outfitters in Electron, on October 14 1986

Sekgothe was also convicted of attempting to murder Ms Julia Kheila, who was found unconscious in the shop beside the body of the shopkeeper

An application for leave to appeal was refused by the trial court and their petition to the Chief Justice was dismissed.

● A total of 117 people were executed in South Africa last year, the Minister of Justice, Mr Kobie Coetsee, said in the House of Assembly this week in written reply to questions from Mr Dave Dalling (PFP Sandton)

They were three white males, 38 coloured males and 76 black males

Of the total, 103 were hanged for murder, seven for murder and rape, three for rape, two for murder and robbery with aggravating circumstances and two for murder and attempted robbery with aggravating circumstances

Death sentences on 37 black men, one black woman, five white men, four coloured men and two Indian men were commuted during the year

Thirty-four blacks and 12 coloureds were hanged for crimes of violence against whites, two whites for crimes against blacks and one white for murdering another white — Sapa

Nyoka inquest witness tells of 'gun' sounds

By Abel Mabelane,
East Rand Bureau

A witness in the Benoni Magistrate's Court yesterday said he heard muffled sounds, similar to those of a gun, coming from the direction of the room of Daveyton student leader Caiphas Nyoka in the early hours of August 24 1987

A pathologist report said Mr Nyoka died from a gunshot wound in the head

Mr Excellent Mthembu told the court that he and two other young men were escorted out of Mr Nyoka's room at the back of his parents' house in the early hours of the morning by people he believed to be police "because they were armed with guns"

He said the men, after entering the room where they were all sleeping, demanded to know who Caiphas was "After Caiphas had identified himself the rest of us were ushered out of the room and ordered to lie flat on the ground about seven or eight metres away

"It was while I was lying there with the others that I heard this muffled sound, similar to that of a gun, coming from Caiphas's room,"

Mr Mthembu said

They were then taken to the Daveyton and Benoni Police Stations

Two students, Mr Sidney Khumalo and Mr Kaizer Bene, who were arrested outside the court on Wednesday were released the same day

Star 10/3/89

By Joe Openshaw

A Rand Supreme Court judge was yesterday asked to impose a discretionary death sentence on four of eight railway employees convicted of murdering four non-striking co-workers during the 1987 Sats strike in whose cases extenuating circumstances were found.

"The four were murdered cold-bloodedly and in an utterly gruesome and brutal manner," the prosecutor, Mr J J W Hays, said.

"The crimes are so serious, the repercussion so far-reaching and the revulsion and condemnation of the community so profound that the death sentence is the only fitting one," he submitted.

The four in whose case extenuating circumstances were found are Bongisi Sibisi (33), David Dsehve (30), Phineas Neshitungulwane (35) and Mafemane Rikhotso (30).

The four found guilty of murder with no extenuating circumstances are Wilson Matshili (33), Patrick Molefe (27), Takalani Mamphanga (25) and

Call for no mercy for Sats murders

George Magedzo (36)

Mr Hays also called for lengthy prison sentences without the option of a fine for eight other railway workers found guilty on various counts of attempted murder, kidnapping, assault and intimidation.

Suspended sentences which would allow the eight convicted of the less serious offences of culpable homicide, kidnapping, assault and intimidation to pay compensation to the families of the murder victims, were called for by Mr G Rautenbach, who with Mr M Luitingh, appears for the railway employees

Defence argued that jail sentences for the men would deprive the victims of compensation.

Sentence will be passed today.

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Sats Murders to hang

Star 11/3/87

252

A SUPREME Court Judge yesterday sentenced four railway workers to death four times each, for murdering four non-strikers during the 1987 Sats strike.

He also sentenced them to a total of 29 years' imprisonment on counts of attempted murder, kidnapping and intimidation.

The men were Wilson Matshli (33), who received the death sentence and three and five years to run concurrently, Patrick Molefe (22), death and five years, Takalani David Mamphanga (25), death and eight years, and George Mavedzo (36), death and five years.

They were among 16 railway workers found guilty of murder, attempted murder, kidnapping, assault and intimidation.

Set alight

The offences were part of a chain of events linked to the strike which culminated on April 28 when the four men, Mr Kati John Sebopelo, Mr Vhulani Joseph Mulaudzi, Mr Mulatele Petrus Moremane and Mr Jerry Rudolf Goodman, together with Mr Albert Phuluwa, were taken to Cosatu House and assaulted. They were then transported to the bush at Prolecon near Alberton, where they were murdered and their bodies doused with petrol before being set alight.

Mr Albert Phuluwa managed to escape with the aid of one of the convicted men, David Dzevhe.

Four of the men found guilty of murder with extenuating circumstances were sentenced to prison Bongisi Sibisi (33), eight years, David Dzevhe (23), five years, Phineas Neishtungulwane (25), 12 years, and Memana William Rikhoiso (33), eight years.

The prosecutor, Mr J J W Hays, had called for the discretionary death sentence for Sibisi, Dzevhe, Neishtungulwane and Rikhoiso, but the judge, Mr T T Spoelira, said they had not been physically involved in the murders.

The other eight men, found guilty of the lesser offences, were sentenced as follows:

Jacob Thalepo Machata (33), the

Cosatu House beatings recalled

JOE OPENSRAW

driver of the car which transported the victims to Prolecon and found guilty on four counts of attempted murder, four years imprisonment suspended for five years with a condition that he pay R2 000 compensation to the victims' dependants.

Daniel Candilizwe Mkhohlakoho (36), guilty on five counts of kidnapping and one of intimidation, five years suspended for five years, to pay R4 000 to dependants Freddie Muthisi (30), guilty of kidnapping Mr Albert Phuluwa, three years suspended for five years, to pay Mr Phuluwa R2 500 compensation Mr Wilson Mvshashano (34), guilty of assaulting Mr Phuluwa, one year suspended for three years, to pay Mr Phuluwa R500.

Intimidation

Johnson Mogesi (37), guilty of five counts of kidnapping and one of intimidation, six years suspended for five years and ordered to pay R4 000 compensation Johannes Toja Ngcobo (26), Transvaal regional secretary of S.A.R.W.H.U. and a member of the strike coordinating committee — guilty of intimidation — eight years suspended for five years and ordered to pay R10 000 compensation to the dead men's dependants.

Simon Mvlonomoni (31), guilty of five counts of kidnapping and one of intimidation, six years suspended for five years, to pay R4 000 compensation Michael Hlayeng (38), guilty of one count of kidnapping, three years suspended for five, to pay R2 500 compensation

Lawyers welcome clemency grants

JOHANNESBURG — The National Association of Democratic Lawyers yesterday welcomed acting State President Mr Chris Heunis's grants of clemency to 16 prisoners on death row.

The association also called on the government to stay executions and amend the law to place a ban on capital punishment.

A regional president of the association, Mr Mathole Motshekga, said groups monitoring death row welcomed the clemencies by Mr Heunis and the association observed that the state was beginning to appreciate the need to review the security laws which resulted in mass executions.

Mr Motshekga said, however, that contrary to expectations that there might be a change of heart in government circles on the death penalty, two prisoners were hanged on March 9 and three were due to hang on March 14.

The association was not persuaded that the grant of clemency to the 16 death row prisoners was proof of any change of heart on the part of the government.

"This act of clemency is possibly a twofold strategy by the government — to neutralise the popular campaign for the abolition of the death penalty which is led by Save the Patriots Committee, and to legitimise continued executions of 'non-deserving' prisoners," he said — Sapa

Squatters' legal action will cost R5m

By HAMISH McINDOE

LEGAL costs in a marathon damages suit brought against the Minister of Law and Order by township squatters who lost their homes during "unrest" are believed to be approaching a staggering R2,5-million — and the final costs are expected to be double this amount.

Attention focused on the trial's high costs this week when counsel for the squatters objected to a half-day court adjournment on grounds that legal costs of about R3 000 an hour were being rung up in the 18-month-old case.

The minister is being sued in the Cape Town Supreme Court for R200 000 by the Methodist Church of Africa and 21 KTC residents who lost their homes when the Peninsula squatter camp was attacked by "witdoek" vigilantes in 1986.

As matters stand, legal experts are highly sceptical that the trial will be over before mid-1990 — bringing the costs born by the State and the Legal Resources Centre (LRC), acting for the KTC residents, to nearly R5-million.

Concern over the cost of the action was raised by Mr Justice M R de Kock who

S/Times 12/3/89
said counsel's objection to the adjournment was not without substance.

Attorneys acting for the minister asked for the adjournment to prepare for the evidence of a key police witness.

Burden

Four State advocates and three advocates acting for the KTC families are involved in the trial, which so far runs to 11 000 pages of court records.

The LRC's national director, Mr Arthur Chaskalson SC, declined to comment on whether the centre had been forced to turn away potential cases because of the high legal costs incurred in the KTC damages suit.

"But obviously it's a heavy financial burden for us," he said.

In its last financial year ending March 1988, the centre operated on a R5-million budget of which R1-million was contributed by local companies.

The State Attorney's office also declined to disclose what the action had cost on grounds the information was "confidential".

On the basis that the case is running for 16 hours a week, the R200 000 being claimed by the KTC squatters equals nearly one month of legal costs.

The action is a test case for over 3 000 similar damages suits from KTC residents.

Grasping the nettle of a Bill of Rights

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S/Times 12/3/89

A BILL of Rights in a South Africa where the most fundamental of human rights are denied to the vast majority of the population sounds almost like a contradiction in terms

This stark reality did not escape the Law Commission, which, in its voluminous report released this week, calls for the speedy introduction of just such a code

In a sense the easy part is finished. The question that now begs to be answered is: How do you introduce a document which in essence guarantees the equality of each and every citizen into a society based on inequality?

In his report, Mr Justice P J J Olivier goes straight to the heart of the problem. A Bill of Rights cannot be grafted on to the present political system. To attempt this would be the death knell of the concept.

Perhaps the most crucial paragraph in the report

Dries van Heerden

assesses the SA Law Commission's dramatic recommendations



addresses the question of legitimacy. This can only be ensured by open acceptance of the Bill by the great majority of the population.

"A Bill of Rights will not be accepted as legitimate if the black people in South Africa are not given the vote. The present constitutional deadlock on the black vote will therefore have to be resolved to the satisfaction of all, if the Bill is to have credibility."

QED, and noble sentiments indeed. But has anyone bothered to tell the white electorate and the Government it has chosen?

The report is at pains to avoid prescribing specific constitutional models for a future South Africa. But there is no ambiguity when it lists the essential elements that should characterise such a dispensation.

Neglected

A free and open society, no discrimination whatsoever and respect for the rule of law — all aspects that have so often in the past been sadly neglected in the present system.

The spadework for the report was done in a rather peculiar way. The Government, resisting for very long acceptance of the protection of individual rights eventually relented in April 1986.

Justice Minister Kobie Coetsee requested the SA Law Commission "to investigate and make recommendations on the definition and

protection of groups rights" and added, almost as an afterthought, "the possible extension of the existing protection of individual rights".

One of the lasting contributions the report will make to the political debate is exactly the cogent way in which it shatters the myths surrounding the protection of the rights of groups and "minorities".

In a judicial sense there can only be talk of "group interests" and not of "group rights", it argues. What are generally regarded as group rights, such as cultural, religious and linguistic values, can be adequately protected as individual rights in a Bill.

Those who see in a Bill of Rights the continued protection of a minority's position of privilege should therefore think again.

A South African Bill should indeed "eliminate group definitions completely and therefore also enforced statutory classification".

The report shows clearly how a system has developed in which the rights of individuals had to play second fiddle to the preoccupation with the group concept.

"We believe that the adoption of a Bill of Rights would do much to make individuals in this country show more respect for one another's human dignity, which in turn would make for a stronger spirit of obedience to the law and restraint from acts that fo-

ment unrest and violence," it concludes.

The Olivier Report will fall on the fertile ground of an on-going debate on the feasibility of a local Bill of Rights that has been raging in legal circles.

Some of the best legal brains in the country are applying their minds to this subject and the report abounds in testimony from eminent judges like Mr Justice R N Leon and Mr Justice J M Didcott and academics like Professors Lourens du Plessis, Dennis Davis, C R M Dlamini and Johann van der Vyver.

Bophuthatswana took the lead in southern Africa with the introduction of its Bill and an independent Namibia will most probably follow suit. The kwaNatal Indaba drafted its own version and Assocom has openly declared itself in favour of the concept.

Elements

The Freedom Charter, although essentially a statement of political policy, does contain certain elements of a Bill of Rights and this was expanded on by the ANC in its Constitutional Guidelines for a Democratic South Africa, published last year.

Mr Justice Olivier's detailed draft of a possible South African Bill of Rights is a fascinating document spelling out in detail how the rights of individuals should be protected from the arbitrary and capricious actions of authorities.

To its credit the Olivier Report does not shy away from highlighting the obstacles that will be encountered in the process of introducing a Bill of Rights.

Noting that such a document "would call for a completely new orientation on the part of the population,

Parliament and the courts" it calls for a phased introduction of the Bill.

Phase 1 would be an acceptance in principle by Parliament that such a Bill would be adopted in the future.

Second, the way should be prepared by repealing or amending present legislation that is in conflict with the provisions of a Bill of Rights.

Referring to the Brazilian experience, Mr Justice Olivier proposes that an extensive educational process be launched to inform the population of the details and the advantages of such a document.

When this phase has been concluded the details of the Bill, as well as a future constitution for South Africa, should be negotiated.

The report is fairly vague on who should be involved in these negotiations, proposing that the Great Indaba, envisaged by President P W Botha, "or any other body that may come into being in the future with a similar mandate" should be involved.

Ratified

Finally, the new constitution as well as the Bill of Rights should be ratified by the population in "a single, general, open referendum".

The report is published as a working paper with the expressed intention that it should stimulate further debate. The response of the Government will be eagerly awaited.

One thing is certain. Such a serious call for the complete overhaul of the present political, legal and social system, coming from an august body like the Law Commission, can definitely not be ignored or allowed to gather dust on government bookshelves.

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Lawyers moot bill of rights

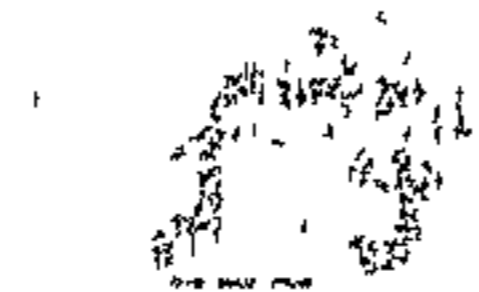
At Times 12/17/59

THE South African Law Commission has linked the introduction of a bill of rights in SA to a new constitution and universal franchise, according to a summary of the commission's working paper, which has been released in Pretoria.

The Minister of Justice, Mr Kobie Coetsee, had requested the Law Commission to investigate and make recommendations on group rights. Its final report will eventually be tabled in Parliament.

The commission said it was satisfied that the best way to protect individual rights in South Africa would be to introduce a bill of rights — but that such a bill would not be accepted as legitimate unless blacks were given the vote.

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botha to accept the peace



Theresa Player ... she's flying home from her mod

Law Commission calls for Bill of Rights in SA

THE South African Law Commission has called for a negotiated Bill of Rights protecting individuals from arbitrary State actions to be introduced as soon as possible

And the distinguished body urges the extending of an equal and equivalent franchise to all citizens — irrespective of race

The landmark report by the commission — established by law to advise the Government on legal matters and headed by two Appeal Court judges — was released last night

The remarkable document, drawn up by a working group of the Law Commission led by Mr Justice P J J

By DRIES van HEERDEN

Olivier, says "There is no way in which the withholding of the vote from black persons can be legally justified"

It urges the Government "to purge the statute books" of all discriminatory laws and to state its acceptance in principle of a Bill of Rights "as soon as possible after the tabling of the commission's final report"

Such a Bill should be the result of thorough negotiation and eventually approved "by the entire nation, regardless of race and colour"

Judge Olivier's task group was appointed in 1986 after

Justice Minister Kobie Coetsee requested the SA Law Commission to investigate and make recommendations on the protection of group rights in the present constitutional set-up

The Olivier Report is published as a working paper of the commission and comments are invited until the end of August after which a final report will be submitted to Parliament

The commission proposes a five-phase plan to introduce a Bill of Rights into South Africa

● Parliament should endorse the idea of such a Bill as part and parcel of a future

□ To Page 2

Bill of Rights call

□ From Page 1

constitution for South Africa,

● All legislation that is inconsistent with such a Bill should be summarily repealed,

● A massive educational programme should be launched to inform the public about the aims of the Bill,

● The actual contents of the Bill and the constitutional future of South Africa should be negotiated;

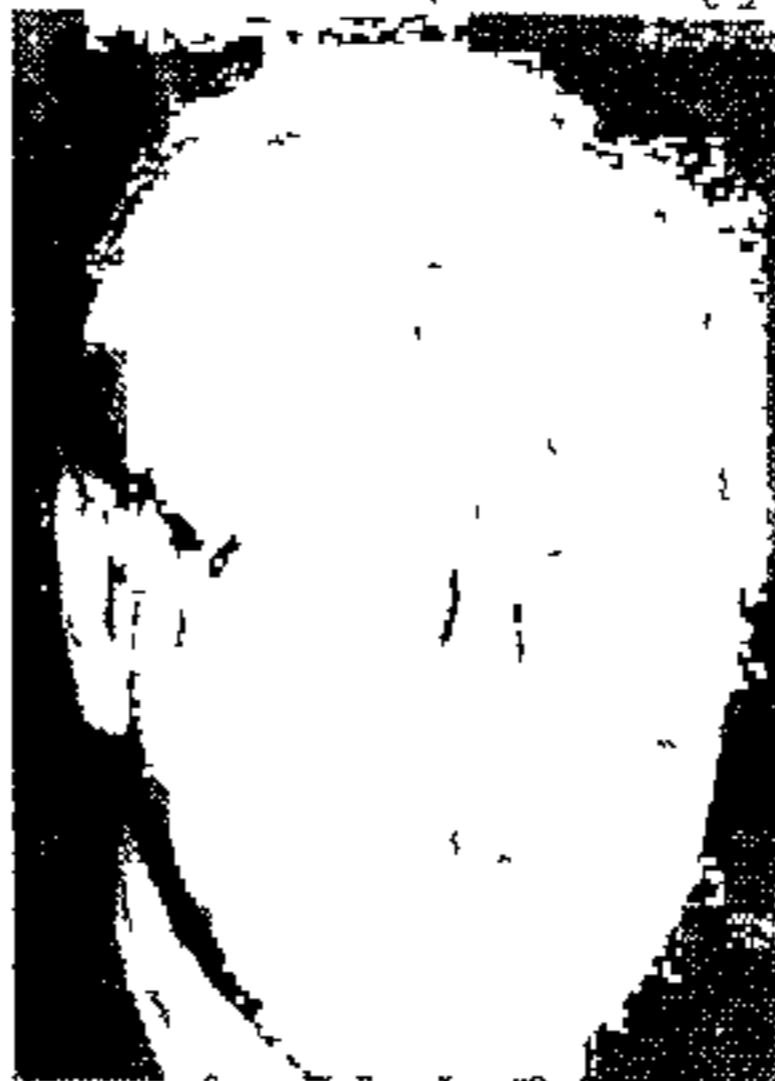
● The new constitution should be ratified by way of "a single, general, open referendum."

The report stresses that a Bill of Rights should be accepted by "the great majority of the population" and it will not gain legitimacy "if the black people in South Africa are not given the vote

"The right to vote is a fundamental human right that should be enshrined in the constitution and the creation of a parliamentary system that will satisfy everyone is therefore a prerequisite"

Referring to present laws on the statute books that "infringe basic human rights" the commission recommends that it should be repealed in lieu of the introduction of a Bill of Rights

"We consider that the purging of the statute books should go hand in hand with



MR JUSTICE OLIVIER
The vote for all races

the process of negotiation."

As an added safeguard the courts should be empowered with a substantive testing right to declare invalid any legislation or executive act inconsistent with the Bill of Rights.

Concerning security laws, the report states that there should be a balanced relationship between human rights and state security. Public order is not synonymous with state security

It is the extent to which the security of the State is threatened or endangered that determines the extent to which basic human rights should be curtailed

"Such a limitation must,

however, itself be limited. Even security legislation must not be unbounded

The commission states that while there should be protection of the interests and values of groups and minorities this should not mean a continuation of apartheid or minority privilege.

It comes out strongly in favour of voluntary association and the formation of "natural groups" as opposed to legally defined racial groups as is enshrined in the Population Registration Act

In a draft Bill proposed by the Law Commission it provides for a detailed set of human rights to be protected, including

● The right to human dignity and equality before the law,

● The right to privacy including a prohibition on the arbitrary entering and seizing of a person's property,

● The right to freedom of speech,

● The right to freedom of choice with regard to education and training,

● The right to freedom of movement,

● The right not to be refused a passport or be exiled,

● The right to private property;

● The right to assembly and peaceful demonstrations,

Equal voting rights needed for legitimate bill of rights

By 13p2/89
SUSAN RUSSELL

PRP law and order spokesman Helen Suzman yesterday gave her "whole-hearted approval" to the Law Commission's call for a negotiated bill of rights validated by a single, non-racial referendum.

The commission's proposals were published in a working paper released at the weekend. It is open for comment until August 31, after which a final report will be submitted to Parliament.

The report, compiled by Mr Justice Olivier, said that without the recognition of equal voting rights, a bill of rights

would not have credibility or legitimacy.

It also appeared to be necessary, for practical reasons, first to purge the statute book of provisions likely to be declared invalid by the courts. Once that had been done, a bill of rights could be put into operation without large-scale disruption of the courts.

Suzman said the report gave tremendous impetus to the movement towards the development of a bill of rights. "From what I have read, it is an enlightened document."

She cautioned, however, that it could not be assumed the commission's recommendations would be translated into reality.

"Parts of it will probably be approved in principle by government, but group rights are still all important to it. The commission gets away from entrenched

group rights, and there is a conflict there."

The commission comprises members of the judiciary, legal profession, academic lawyers, the magistrates' bench and Department of Justice officials.

In April 1986, Justice Minister Koble Coetsee asked it to investigate and make recommendations on the definition and protection of group rights, within the context of SA's constitutional structure.

The commission was also asked to look at the possible extension of the protection of individual rights, and the role of

commission

Bill of rights hinges on equal voting rights

Mr Justice Viljoen has since retired and is no longer chairman.

In its working paper, the commission said a bill of rights which protected individual rights and recognised an equal and equivalent franchise for all citizens was a necessity. The advantages far outweighed the alleged disadvantages and dangers.

The Supreme Court should have the right to test legislation and executive and administrative acts according to the bill of rights. If any of these conflicted with the bill of rights they could be declared invalid.

The commission considered it neces-

the courts

The seven-man commission was under the chairmanship of Appeal Court judge Mr Justice Viljoen. Another Appeal Court judge, Mr Justice van Heerden, was deputy chairman.

The other members were Mr Justice Olivier, senior government legal adviser G G Smit, Pretoria attorney Monty Knoll, Pretoria University law faculty dean Dawid Joubert and Johannesburg Regional Court president P Kotze.

● To Page 2

From Page 13/3/89

political group rights and other group values

The protection of minorities was also essential because to ignore their rights would invite endless conflict.

Cultural, religious and linguistic values should not be protected as group rights because a group was not a legal persona.

These rights should be protected in the bill of rights as individual rights and could be protected without identifying a group.

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CAPE TOWN 13/3/89
252

Bill of rights plan for SA hailed by many

Own Correspondent

JOHANNESBURG. — The national director of Lawyers for Human Rights, Mr Brian Curren, said the call by the Law Commission for a negotiated bill of rights is "probably the most profound and brave document ever produced by the SA government".

He said it would be a tragedy if the report, which gave the Freedom Charter and ANC constitutional proposals "a lot of space", lay and gathered dust.

He said the report was significant in that it created a starting point for a political solution in SA given the need for creative political developments to end the political stalemate in SA.

Mr Curren said that if the bill of rights recommendations were taken further by the government, it would do much to break down legitimate fears in blacks about bills of rights.

In Cape Town yesterday Professor Charles Villavicencio, head of the department of Religious Studies at UCT, said the proposed bill of rights was yet another moment and opportunity for peace. The government should declare its bona fides by creating conditions for open and honest debate, he said.

Solidarity leader Dr J N Reddy last night hailed the report and said it gave a "new hope for the future" for all South Africans.

Mr Peter Soal, the PFP information officer, welcomed the report and said it "was a vindication of what this party has been preaching for over 30 years".

● Suzman backs 'bill of rights' — Page 5

Suzman wants probe into (252) judge's actions

BIDA 13/3/89
Political Staff

CAPE TOWN — A motion calling for the appointment of a select committee to inquire into whether Mr Justice J J Strydom failed in certain instances to observe the oath he took when he became a judge was tabled in the House of Assembly last week by Helen Suzman (PFP Houghton)

Suzman wants the committee to investigate whether Mr Justice Strydom failed to observe the oath he took in terms of the Supreme Court Act of 1959 that he would "administer justice to all persons alike without fear, favour or prejudice" in terms of the law. Her motion cites two SA Supreme Court cases and three Namibian cases. It also says that a committee should investigate whether in failing to observe the oath Mr Justice Strydom "has done great damage to race relations and brought our much vaunted higher courts and system of justice into disrepute"

GERALD REILLY

PRETORIA — The Law Commission has pleaded for a negotiated bill of rights which would give expression to the needs, fears and aspirations of all South Africans

In a working paper released at the weekend, the commission stressed the need for such a bill "and to a large extent the goodwill needed to bring it about already exists

"Project leader in the investigation ordered by Justice Minister Kobi Coetsee into the protection of group rights and the role of the courts was Mr Justice Olivier.

"We consider the formulation of a bill and the purging of the statute book of provisions conflicting with a bill of rights

POLITICS

Call for a bill of rights for all

815
B 15
Bar 13/3/87

should go hand-in-hand in the negotiations

"The commission believed the legitimization of a new constitution, including a bill of rights, should take place by way of a single general open referendum which was not restricted and did not discriminate among voters of particular groups or races because this, like no other process, would give legitimacy to a constitution."

The commission's unqualified standpoint was that only the Supreme Court should be able to test the bill.

Because of the parliamentary sovereignty system, the courts were severely hampered in protecting individual and group rights in the face of legislation

which curtailed these rights

Evidence before the commission showed an almost universal acceptance and insistence that human rights be recognised and respected in SA.

The commission believed the necessity for such a bill far outweighed the alleged disadvantages and dangers

It also set out a range of "considerations" which made it necessary to provide better protection.

These included that the bill meet the requirements of the concept of the rule of law, that it met the social norms and expectations of the black population and that it strengthened confidence in the courts

(252)

The commission recommended a three-quarters majority of those entitled to vote and who had been elected directly by the electorate in Parliament should be needed for an amendment which in any way derogated from the rights granted by the bill

Recognised in the bill, too, should be equal and equivalent franchise for all citizens over 18, people of all races

"Like a refrain, the warning was sounded by numerous witnesses and contributors that a bill of rights must have unimpeachable legitimacy.

"Absolute fearless and equal treatment were essential or else the whole effort should be abandoned"

Sats four given death sentences

13/3/87

252

SUSAN RUSSELL

FOUR Sats employees were sentenced to death four times each in the Rand Supreme Court on Friday for murdering four co-workers who did not take part in the 1987 rail strike on the Rand.

The court found earlier there were no extenuating circumstances which lessened the moral blameworthiness of Wilson Matshili, Patrick Molefe, Takalani David Mamphaga and George Maungedzo.

When no extenuating circumstances are found, the court is obliged to pass the death sentence.

Four others, Bongisi Sibisi, David Dzevhe, Phineas Netshitungulwane and Mafemane Rikhotso, convicted of murder with extenuating circumstances, were given prison sentences ranging from five to 12 years.

They were also convicted on charges of kidnapping, intimidation and attempted murder and these were counted as one for the purpose of sentence.

These four were found by the court to have associated themselves with the murders and, to a lesser or greater extent, with the other crimes, but were not physically involved in the killings.

Mr Justice Spoelstra also imposed suspended sentences — ranging from three to eight years — on eight other strikers convicted of culpable homicide, intimidation, assault and the kidnapping of the non-strikers.

The suspensions are conditional on their payment of a total of R24 800 to the dependants of the four murdered men.

Mr Justice Spoelstra said there was a distinct likelihood that undue leniency might encourage, or at least not restrain, the accused or people in a labour environment from similar conduct.

An application for leave to appeal is expected later this month.

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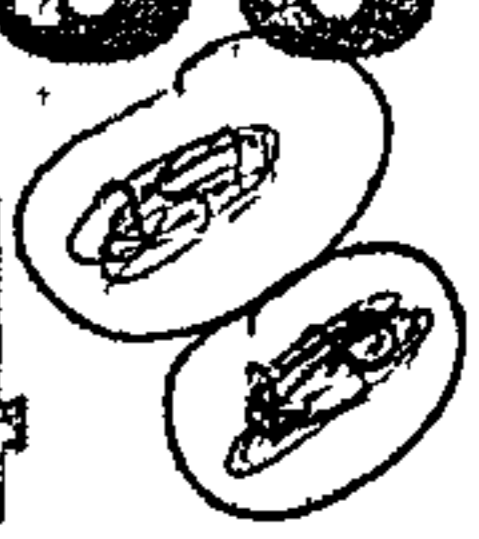
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Death sentence for Sarhwu 4

Sowetan 13/1/89



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By **MANDLA NDLAZI**
FOUR members of the South African Railways and Harbours Workers Union were on Friday given death sentences by a

Rand Supreme Court. Some of their co-accused received jail terms.

Shouted slogans filled the courtroom shortly after Mr Justice T T Spoelstra had pronounced the sentence and left the bench.

Those who were each sentenced to death four times and prison terms are, Wilson Mtshali (33), death sentence, three and five years to run concurrently, Patrick Molefe (22), death and five years, David Maphanga (25), death and eight years, and

George Magedzo (26), death and five years

They were among the 16 members of the South African Railways and Harbours Workers Union (Sarhwu) found guilty of murder, attempted murder, abduction, assault and intimidation.

The offences were part of a chain of events linked to a Witwatersrand strike of Sats employees which culminated, on April 28 1987 in the death of four men.

The dead men were Mr Joseph Mulaudzi, Mr

Joseph Sebopelo, Petrus Moremane and Mr Jerry Goodman. The one who escaped was Mr Albert Phuluwa.

Those who were sentenced for murder with extenuating were William Rikhotso (33), eight years; Bongane Sibisi (33), eight years, David Dzevhe (32), five years; and Phineas Netshitungulwane (25), 12 years.

The other eight were convicted of lesser charges.

Suzman backs 'bill of

Rights,

Mc Trips 13/3/89

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Own Correspondent

JOHANNESBURG.—Mrs Helen Suzman, the PFP's spokeswoman on law and order, yesterday gave her "wholehearted approval" to the Law Commission's call for a negotiated bill of rights validated by a single, non-racial referendum.

The commission's proposals were published in a working paper released at the weekend. It is open for comment until August 31, after which a final report will be submitted to Parliament.

The report, compiled by Mr Justice P J J Olivier, says that without the recognition of equal voting rights, a bill of rights would not have credibility or legitimacy.

It also appeared to be necessary, for practical reasons, to first purge the statute book of provisions likely to be declared invalid by the courts. Once that had been done, a bill of rights could be put into operation without large-scale disruption of the courts.

Mrs Suzman said the report gave tremendous impetus to the movement towards the development of a bill of rights. "From what I have read, it is a very enlightened document."

She cautioned, however, that it could not be assumed the commission's recommendations would be translated into reality.

"Parts of it will probably be approved in principle by the government, but groups rights are still all-important to them. The commission gets away from entrenched group rights, and there is a conflict there."

The Law Commission comprises members of the judiciary, legal profession, academic lawyers, the magistrates' bench and Department of Justice officials.

In April 1986 the Minister of Justice, Mr Kobie Coetsee, asked it to investigate and make recommendations on the definition and protection of group rights within the context of SA's constitutional structure. The commission was also asked to look

at the possible extension of the protection of individual rights and the role the courts should or do play.

The seven-man commission was under the chairmanship of Appeal Court judge Mr Justice G Viljoen. Another Appeal Court judge, Mr Justice H J O van Heerden, was deputy chairman.

The other members were Mr Justice Olivier, senior government legal adviser, Mr G G Smit, Pretoria attorney, Mr Monty Knoll, Dean of Pretoria University's law faculty, Prof Dawid Joubert and the president of the Johannesburg Regional Court, Mr P Kotze.

In its working paper the commission said a bill of rights which protected individual rights and recognised an equal and equivalent franchise for all citizens was a necessity. The advantages far outweighed the alleged disadvantages and dangers.

The Supreme Court should have the right to test legislation and executive and administrative acts according to the bill of rights. If any of these con-

flicted with the bill of rights they could be declared invalid.

A bill of rights would enable the courts to invalidate laws which conflicted with the bill and entrenched group rights such as the Group Areas Act and Population Registration Act.

The Supreme Court, however, was not able to put anything in the place of laws it had declared invalid. This could create confusion and uncertainty, and create the wrong impression there, was large-scale conflict between the legislature and the courts.

The commission recommended that for purely practical reasons it would be necessary to first purge the statute books of laws likely to be invalidated by the courts.

"Once that has been done, a bill of rights can be put into operation without large-scale disruption or a rush on the courts," the commission said.

The commission considered it necessary to distinguish between political group rights and other group values.

Lawyers hail 'bold' Bill of Rights report

By Tim Cohen

Lawyers have welcomed the "bold and forthright" report of the South African Law Commission which suggests that the introduction of a Bill of Rights should be linked to a new constitution and universal franchise

The report, which is the product of more than two years' work and is nearly 500 pages long, was requested by the Minister of Justice, Mr Kobie Coetsee

The document, already dubbed "remarkable", states "The present constitutional deadlock on the black vote will have to be resolved to the satisfaction of all if the Bill of Rights is to have credibility, for the simple reason that the right to vote is one of the fundamental human rights that must be enshrined in any constitution."

Delighted

Mr Andries Geysler, head of the Association of Law Societies, said that although he had not had an opportunity to study the report in detail, he was "delighted" by it because an attorney's primary function was to protect individuals' rights

He congratulated the Minister for requesting the report and the SA Law Commission for its "exciting ideas".

"We hope that the Minister will give the matter his direct and immediate attention"

Head of Lawyers for Human Rights, Mr Jules Browde, said the commission's report was "one of the most important documents that has emanated from a commission in the last 40 years"

"If some of the recommendations are implemented, they

could transform this country overnight

"From a human rights point of view, it is what we have been working for for years," he said

"Fundamental to us is the commission's suggestion that group rights are best protected by entrenching individual rights in a constitutional Bill of Rights"

The project leader of the investigation is Mr Justice P J J Olivier

Interested parties are invited to comment before the final report is laid before Parliament

It was released on Saturday and was welcomed by parties to the left of the Government, but it also reflected recent statements by National Party leader Mr F W de Klerk.

Professor Etienne Muremick of the University of the Witwatersrand law faculty said the report was a "deeply impressive document" which was "meticulously researched and very thoughtful"

"Although not everyone will agree with all the commission's recommendations, opponents in principle of a Bill of Rights will find it very difficult to resist the commission's principal arguments. The proposed Bill is not perfect, but it is invaluable as a charter for reconciliation."

Professor Johan van der Vyver of the University of the Witwatersrand said the commission's instructions were to investigate the feasibility of protecting group rights within a Bill of Rights regime

"It was quite clear as far as I was concerned that the Minister of Justice, Mr Kobie Coetsee, hoped that the human rights ideology could provide a front for perpetuating a political system

founded on race

"In that sense, the commission's report boomerangs rather dramatically against initial intentions

"It is quite clear that Judge Olivier quite rightly regards the perpetuation of apartheid in any form as being incompatible with the idea of human rights. Group rights can be adequately protected through the entrenchment of individual rights

"If South Africa is to have a Bill of Rights, we will have to concede the system of universal franchise irrespective of race, and until such time as such a political system is introduced, a Bill of Rights is simply not on

Constitution

"So what he is telling the Government is to get on with setting up a representative body to draft a new constitution for South Africa that would include a Bill of Rights"

The committee responsible for the document consists of Mr Justice G Viljoen (chairman), Mr Justice H J O van Heerden (vice-chairman), Mr Justice Olivier, full-time member of the commission, Mr G G Smit, SC, senior government law adviser and full-time member of the commission, Professor David Joubert, dean of the faculty of law at Pretoria University, Mr Monty Knoll, a Pretoria attorney, and Mr P J Kotze, president of Johannesburg Regional Court

Chairman of the Black Lawyers' Association, Mr Keith Kunene, said last night that the commission's suggestions "just about break the foundations of apartheid", but he was pessimistic about the Government's accepting them "in one gulp"

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Suzman will ask Parliament to investigate Judge Strydom

17/3/89
- By Peter Fabricius,
Political Correspondent

CAPE TOWN — Mrs Helen Suzman MP (PFP Houghton), who failed in an attempt earlier last week to have Transvaal judge Mr Justice JJ Strydom impeached by Parliament, on Friday made a further attempt to have him censured

Mrs Suzman gave notice in Parliament that she would move a motion today to appoint a parliamentary committee to investigate whether Judge Strydom failed in certain instances to observe the oath he took as a judge to "administer justice to all persons alike without fear, favour or prejudice".

In the motion, Mrs Suzman referred to a number of judgments handed down by Judge Strydom, including a case heard in the Circuit Court in Louis Trichardt in November last year against

Jacobus Vorster and Petrus Leonard.

The two men tied a farm labourer, who had allegedly killed a puppy, to a tree and assaulted him over a long period, resulting in his death.

Found guilty of culpable homicide, Vorster received a five-year prison sentence, suspended for five years with one of the conditions being that he pay R130 a month to the deceased's family. There was a further fine of R3 000 to be paid in instalments.

Leonard was found guilty of assault and fined R500 (or three months' imprisonment).

In her notice of motion Mrs Suzman said that as a result of the various judgments, Judge Strydom "has done great damage to race relations within South Africa and South West Africa, has caused widespread condemnation from abroad and has brought our much vaunted higher courts and system of justice into disrepute".

Call to investigate judge turned down again

Bl Day 14/3/87

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CAPE TOWN — A motion by Helen Suzman (PFP Houghton), calling for an investigation into conduct of a Transvaal judge, Mr Justice J J Strydom, was not admissible, the Speaker in the House of Assem-



● SUZMAN

bly Louis le Grange ruled yesterday. He ruled that the substantive motion, which called for a select com-

Political Staff

mittee to investigate whether Mr Justice Strydom had failed in certain instance to obey the oath he took to administer justice without fear, prejudice or favour, was not admissible and should be scrapped from the order paper

He said it did not comply with the procedure in terms of a ruling he gave last week, when Suzman submitted a petition calling for an inquiry into Mr Justice Strydom's conduct

Suzman then asked the Speaker to reconsider his ruling on the grounds that a substantive motion was the only way a Member of Parliament could criticise a Supreme Court judge.

She quoted various authorities on parliamentary procedure and said she had followed the recognised and historical method for an MP to criticise a judge.

The Speaker said he would consider Suzman's request and give his ruling this afternoon.

New Bill gives courts 'clear message' on sexual assaults

slow 14/3/89 252

Parliamentary Staff

South Africa's married women were being given greater protection against sexual assault from their husbands through the new Criminal Law and Criminal Procedure Act Amendment Bill, the Minister of Justice, Mr Kobie Coetsee, told Parliament yesterday

He said the new law did not abolish the existing immunity of the husband for rape of his wife, but the courts were being given a clear message that wives could not be assaulted sexually by their husbands with impunity

The Bill provides that if a man is convicted of assaulting his lawful wife in a way which, if they had not been married, would have resulted in a rape conviction, the court will regard this as an aggravating circumstance in passing sentence

Both the Conservative Party and the Progressive Federal Party opposed the Bill

Mr Frank le Roux (CP, Brakpan) said the Conservative Party had not been convinced the law would be effective

Concerns that an outright



Mrs Helen Suzman ... "a small tottering step forward".

charge of rape within marriage — the original, but later altered proposal in the Bill — would lead to an increase in the divorce rate, among other things, had not been allayed, he said

Mrs Helen Suzman (PFP, Houghton) said "This Bill introduces no real change in the existing law — husbands can continue to rape their wives, more or less with impunity"

She wished to place on record "my repugnance of the distinctly chauvinistic undertone of the



Mr Kobie Coetsee ... "greater protection for wife".

(select committee) report which implies its agreement with an archaic view of the wife's duty towards her husband"

"She is his chattel. She must make herself available, whether he is drunk or disorderly or whenever he feels the need for sexual intercourse"

It was, however, the PFP's contention that based on the "expert evidence" of the Law Commission's Project 45, which investigated women and sexual offences, "that a much more de-

termined change in the law was necessary

"We do not believe that marriage rights entitle a man to sexual intercourse at any time he pleases"

Mr D P A Schutte (NP, Maritzburg North) said the Bill sought tougher punishment where assault was linked with sex in marriage. There was an increase in this type of crime and the Bill was acceptable and just

Replying to the debate, Mr Coetsee said there had been uncertainty in the courts about husbands sexually abusing their wives during assaults

"If we do not do anything else today, we are at least bringing legal clarity that rape is a factor that must be taken into account in these cases"

While the Law Commission's recommendation that the husband's immunity be abolished was not accepted by the joint committee, the Bill nonetheless established the view that a wife's body could not be "subjugated" by a husband

This did not satisfy the "purists", but it was a "step in the right direction"

Nyoka inquest postponed ²⁵²

By Abel Mabelane, ^{14/3/88}
East Rand Bureau

Evidence in the inquest on Daveyton student leader Mr Caiphas Nyoka (23), who was shot dead in a room at the back of his parents' home, was closed in the Benoni Magistrate's Court yesterday.

The inquest was postponed to May 23 for argument by counsel for the Nyoka family and counsel representing the Minister of Law and Order, Mr Adriaan Vlok.

Mr Nyoka was shot dead in the early hours of August 24 1987.

A pathologist report said he died of a gunshot wound in the head.

A witness for the Nyoka family, Mr Exodus Nyakane, yesterday told the court that his head was covered with a bag and he was shocked during interrogation at the Daveyton Police Station.

During cross-examination by advocates for the Minister of Law and Order, Mr Nyakane said after a bag was put over his head he was hit on the nose and he bled.

He said electric shocks were also administered to his body after his hands were tied to a chair.

News 13/3/89

3 hangings brings total this year to 7

By Jo-Anne Collinge

252

The number of executions this year has risen to seven with the hanging of three young men in Pretoria yesterday, the Department of Justice has confirmed.

Another four executions are scheduled to take place on Friday, according to the Black Sash and Lawyers for Human Rights which monitor death row prisoners.

David Themba Kekana (22) and Jacobus Konzie (24), who were hanged yesterday, were sentenced in Cape Town in February 1987 for the murder of an 89-year-old man and the attempted murder of his wife during a robbery.

HOMOSEXUAL RELATIONSHIP

The third man hanged was Raymond Jabulani Shozi (32) who was sentenced in Durban for the killing of a 60-year-old man and a 29-year-old man. Evidence was that the older victim had been involved in homosexual relationships with both Shozi and the second victim.

A last-minute bid by Lawyers for Human Rights to obtain a stay of execution for Kekana and Konzie failed on Monday night. Shozi had been previously granted a stay of execution but further attempts to save him from the gallows failed, according to a Black Sash spokesman.

Among the men scheduled to hang on Friday are Esau Jabulani Nkosi (30) and Joseph Madonsela (29), who were tried in 1987 for the murder of an 84-year-old East Rand man Vusi Dladla, who was sentenced with them, died in 1988 while awaiting execution.

Le Grange rules against Suzman's bid

The Speaker, Mr Louis le Grange, yesterday ruled in the House of Assembly that a motion by Mrs Helen Suzman (PFP, Houghton) calling for a committee to inquire into the conduct of a judge was not admissible and should be scrapped from the Order Paper.

He ruled that the motion calling for a House Committee to investigate whether Mr Justice J J Strydom had failed in certain instances to obey the oath he took to administer justice without fear, prejudice or favour, was not admissible.

RECONSIDER 252

It did not comply with the procedure in terms of a ruling he gave last week when Mrs Suzman handed in a petition requesting an inquiry into Mr Justice Strydom's conduct.

Mrs Suzman asked Mr le Grange to reconsider his ruling disallowing the motion on the grounds that it was the only way a member of Parliament could criticise a Supreme Court judge.

She said that by handing in a motion she had followed the recognised and historical method of criticising a judge.

Mr le Grange said he would give his ruling on Mrs Suzman's request today. — Sapa

14/3/84
21 unionists
seek details
on charges

252
Twenty-one members of the Paper Wood and Allied Workers' Union refused yesterday to plead to various charges, including murder

The men appeared in the Johannesburg Magistrate's Court on 34 counts, including allegations of murder, attempted murder, assault, kidnapping and intimidation

They asked for more details relating to the charges before pleading

2) The prosecutor argued that they were not entitled to further particulars as they were at the preliminary hearing

When the magistrate ruled they were not entitled to more details, the men indicated they would pursue their application in a higher court

They will appear again on April 3

Plea for condemned 2

Sowetan 14/3/89

By **THEMBA MOLEFE**

LAWYERS for Human Rights yesterday lodged an urgent court application for a stay of execution on behalf of two of three men due to hang today for murder.

The two condemned men are Themba Kekana and Jacobus Khonzi, who were convicted of common law murder with Raymond Chozi.

The national director for LHR, Mr Brian Currin, said the organis-

ation had new evidence about the murder and that it was on the strength of this that counsel was briefed to lodge the application.

A stay of execution would enable lawyers to petition the State President for leave to lead the fresh evidence.

On March 9 two other

men, Benfisius Sekgothe and Joseph Letsiri, were executed in what the Save the Patriots Campaign said was hardly a month after "the atmosphere was abuzz with songs of joy" following the granting of clemency to 16 people on Death Row.

A campaign spokesman said "If the acting State President, Mr Chris Heunis, was able to grant clemency to 16 people what has stopped him

from doing the same to Letsiri and Sekgothe?

"What could stop him from doing the same for Chozi, Kekana and Khonzi? As a group concerned about the total abolition of the death penalty we wish to add our voice to those organisations calling for a moratorium on all executions.

"Mr Heunis, please let them live," the spokesman said.

We won't plead!

TWENTY-ONE members of the Paper Wood and Allied Workers' Union yesterday refused to plead to various charges, including murder. They demanded that the State give them more details relating to their cases.

The 21 are appearing in the Johannesburg Magistrate's Court on 34 counts including six allegations of murder, attempted murder, assault, kidnapping and intimidation.

The men, represented by Mr G Rautenbach, said they will pursue their application in a higher court following a ruling by the presiding magistrate, Mr D J Dafel, that they are not entitled to more details and that they should plead.

Mr Rautenbach said his clients were unable to plead and prepare their

Sowetan 14/3/89
Charge sheet is too vague, say unionists facing murder rap

By SONTI MASEKO

defence without fuller details about the alleged crimes

Mrs T Rossouw, for the State, argued that the men were not entitled to further particulars as they are at the preliminary hearing. He said more detailed charges could be given at a higher court with the jurisdiction to try them.

All are charged with the murder of Mr Fyzel Jappie, Mr Johannes

Abraham, Mr July Mahlaula, Mr John Lesering, Mr Udhan Singh and Mr William Rosenberg in Johannesburg last June 10. Some of the victims were assaulted and then thrown off trains, the State alleges.

Other offences were also allegedly committed during the same period of April 19 to June 10 last year. The men will appear again on April 3.

The accused are Michael Machepe (30), Jerry Rantekoa (41),

David Molebana (26), Sydney Dlamini (35), Zacharia Modise (33), Robert Mbatha (36), Simon Mandzera (29), Alex Ndaba (28), Stanford Gumbi (21), Godfrey Pooe (30), Patrick Galane (38), Lucas Malatji (33), Kenneth Mogale (25), David Koeberg (31), Franklin Hadebe (37), Frank Thabakgale (30), Elias Phasha (45), Joseph Sithole (26), Norman Makhubu, Eusfaile Ludidid (35) and Bonganiso Mazibuko (37).

Suzman's call to charge judge rejected

D 10am 15/3/89 (252) 3040
CAPE TOWN — The Speaker today rejected a point of order by Helen Suzman (PFP Houghton) that Parliament be allowed to criticise or lay charges against a judge.

Immediately after his ruling, and following a further attempt to raise points of order on the issue by party colleagues, she gave notice that she would move a motion tomorrow criticising Mr Justice J-J Strydom and "noting with dismay" the damage his judgments had done to race relations in SA and abroad.

The Speaker ruled that an MP should

not criticise or bring charges against a judge unless his conduct was so objectionable that he could be dismissed on the grounds of misconduct

However, he said his ruling did not say a prima facie case could or could not be made out against the judge concerned.

Suzman said justice should always be dispensed without regard for colour or race. The judge's approach had caused widespread condemnation abroad and brought SA's much-vaunted system of justice into disrepute — Sapa.

Heunis criticises ANC on link to violence

THE ANC's continued commitment to violence was the only factor that was keeping it from the negotiation process in South Africa, the Acting State President, Mr Chris Heunis, said yesterday.

Opening the KwaZulu Legislative Assembly he said the ANC's absence from the list of participants in the negotiation process was seen by some of the essential participants in the process as an obstacle to progress.

"On the other hand there are those whose participation is equally essential, who in turn do not see their way open to participate in the process if the ANC were to be present in the prevailing circumstances."

However, historically the ANC was a nationalistic movement which

had in the past suspended its own political activities in support of the national interest when South Africa was at war. Meanwhile, the KwaZulu Chief Minister, Mangosuthu Buthelezi, yesterday confronted Acting State President

Heunis with an urgent plea for the National Party to seek a white voters' mandate to free Nelson Mandela, scrap the Group Areas and Separate Amenities Acts and negotiate a non-racial democratic future for the country.

3 men executed

THREE men were executed in Pretoria yesterday bringing the number of executions this year to seven.

Two of the men were hanged after a last-minute plea for a stay of execution failed.

An urgent application for Dawid Temba Kekana (20), and Jacobus Konzi (22), was turned down by Mr Justice Kriegler.

The third man was Raymond Shozi (30), who

was twice sentenced to death for murder. — Sapa.

Warning

RESIDENTS of Protea North, Mapetla, Protea South, Phiri and the northern part of Chiawelo are warned that on March 29, between 8am and 5pm, the main water supply line in the area will be cut as a result of work on an additional supply line.

ANNESBURG

Parliamentary Staff

If the conduct of a controversial judge were such that he could not be dismissed on the ground of misconduct, then justice would not be served if Parliament "entertained" the matter, the Speaker, Mr Louis le Grange, ruled yesterday

His ruling is the latest development in attempts by Progressive Federal Party MP for Houghton, Mrs Helen Suzman, to have Transvaal Supreme Court judge Mr Justice J J Strydom impeached

"It cannot be doubted that Parliament is entitled to inquire into the manner in which judges fulfil their duties," Mr le Grange said

"Such inquiry should, however, not be lightly embarked upon and should in any case be founded on a clear and definite basis

Suzman in new move against Transvaal judge

SAW 15/3/89

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"It is obvious that a member who wishes to move a motion must be certain of his facts which must be properly formulated

"If, however, the conduct of a judge which is objected to is not of such a nature that he can be dismissed on the ground of misconduct, then I do not think it would be in the interests of the administration of justice for the House to entertain it"

such a case it should be left to public opinion and to the tact and common sense of the judge in question
Immediately after the ruling, which sparked several points-of-order from fellow PFP MPs, Mrs Suzman gave notice of a new motion she intended tabling today
It would call on Parliament to record its "belief that justice must always be dispensed without regard for the colour or race

of the individuals concerned"
It would also note with "dismay the approach of Mr Justice J J Strydom, which had done great damage to race-relations within South Africa and South West Africa, has caused widespread condemnation abroad and has brought our much-vaunted higher courts and system of justice into disrepute"

According to her motion, Mr Justice Strydom's approach was demonstrated by the judgments he had handed down in a number of cases

These included the State versus Jacobus Vorster and Petrus Leonard, the State versus Mgedi and others, Wood and others versus Ondangwa tribal authorities and others, the State versus Louis Conrad Nagel and the State versus Louis Edward Conradie, Jacobus J Havenga and Petrus Abel Nel

CM. Imp 16/3/89
31 rapists hang

Political Staff 252
THE Minister of Justice, Mr Kobie Coetsee, said yesterday that 31 people had been sentenced to death for rape over the past four years.

He said in reply to a question from Mr David Dalling (PFP Sandton) that 21 of those sentenced for rape were coloured, seven black, three white and none Indian.

Ellis Park ²⁵²
case three
acquitted ^{Soweto 16/3/87}

TWO people who were accused of murder, attempted murder and public violence arising from the Ellis Park incident were acquitted this week.

They are Mr Mackenzi Tshabalala (18) and a 16-year-old youth, both of Orlando East, Soweto.

Four other men are still on trial and judgment is expected today.

The trial arose from events on October 10, 1987 when unrest broke out.

98 group areas prosecutions last year

5tev 16/3/89
CAPE TOWN — Ninety-eight people were prosecuted last year for contravening the Group Areas Act, the Minister of Justice, Mr Kobie Coetsee, said in the House of Assembly yesterday

In a written reply to a question from Mr Jurg Prinsloo (CP, Roo-depoort), he said the figure for 1987 was three

Ten people were convicted for such offences last year, with a number of cases still being partly heard, and two in 1987

On January 31 this year, 77 dockets were still with the respective Attorneys-General for consideration

* * *
A total of 31 men had been sen-

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tenced to death for rape over the past four years, the Minister of Justice, Mr Kobie Coetsee, said

Replying to a question by Mr Dave Dalling (PFP Sandton), he said five coloureds and one white had been handed the death sentence for rape last year

Between 1985 and the end of last year, 21 coloured men, seven blacks and three whites got the death sentence for rape

No Indian men had been sentenced to death for rape between 1985 and 1988

* * *
Two white, 198 coloured and 445 black youths below the age of 18 were being held in custody as at December 31, 1988, the Minister of

Justice, Mr Kobie Coetsee, said yesterday in written reply to a question from Mr Jan van Eck (Ind, Claremont)

A total of 46 white, 568 coloured and 2 569 black youths aged 18 to under 21 years were being held at the same date

* * *
Government advertisements in the media containing messages from the State President had cost R455 653,52 between June 17, 1987 and March 15, 1989, the Minister of Information, Dr Stoffel van der Merwe, said yesterday in written reply to a question from Mr Frank le Roux (CP, Brakpan) — Sapa.

Attempts fail to save lives of death row two

By Jo-Anne Collinge

16/3/89 252
No further legal avenues are open to save two of the four men who are scheduled to be executed tomorrow, said Lawyers for Human Rights national director Mr Brian Currin

The two men are Joseph Madonsela and Jabulani Nkosi, who were sentenced for murder in 1987. They have been unsuccessful both in respect of their Appeal Court application and their petition to the State President.

"Since all their remedies have been exercised there is nothing more that can be done for them in law," Mr Currin said.

The other two men who have told they are to hang tomorrow are Khalaelwayo Gumede and Mfanozi Mthetwa, who were co-accused in a Natal murder trial and were sentenced to death in March 1987.

Gumede had not exercised his right to petition the State President for clemency, said Mr Currin, although Mthetwa had done so and had been turned down.

"In the circumstances, we have made representation to the Department of Justice requesting stays of execution in respect of both Gumede and Mthetwa pending the outcome of Gumede's petition.

"In our view the execution of Mthetwa prior to the consideration of Gumede's petition may adversely influence the State President in his consideration of the petition for clemency."

Five people have been executed in Pretoria in the past week.

Two men hanged in Pretoria (252)

ARCUS 17/3/89

PRETORIA — Two people were hanged at the Pretoria Prison today, a Pretoria Supreme Court official confirmed.

They were Joseph Madonsela and Jabulani Nkosi, who had been convicted of murder, robbery and housebreaking in 1987, according to Lawyers for Human Rights.

Two murderers who had also been due to be executed today were granted stays of execution so that the State President could consider a petition for clemency for one of them.

Lawyers for Human Rights said a petition for clemency would be lodged for Khalaelwayo Gumede. Fellow trialist Mfanozi Mthetwa's petition for clemency had been dismissed, but the Department of Justice also granted him a stay of execution. — Sapa

LAW COMMISSION REPORT

The human factor

The publication of the Law Commission's report on a South African Bill of Rights could turn out a seminal event in SA's political and

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17/3/89

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constitutional development Its recommendations — if accepted by government — would transform the current order

The statute book would need to be purged of all laws which conflicted with a Bill of Rights On the constitutional front, enactment would herald a fundamental rearrangement of power between the three arms of government — legislative, executive and judicial — with the latter prospering at the expense of the others

Admittedly, the document is only a working paper The commission will only submit its final recommendations to Justice Minister Kobie Coetsee once it has digested all the comment which the working paper elicits Closing date for comment is August 31

But it is the product of three years' work and must be viewed as the considered opinion of the seven commissioners — including two Appellate Court judges And since most interested parties have already given evidence, the final submission may be substantially similar to this one

The commission was asked by Coetsee to investigate and make recommendations on the issue of "group" and human rights within the current constitutional dispensation, and the role the courts have to play. Testimony to the commission from Michael Cowling of Natal University was firm "What is of great significance (if a rights Bill is enacted) is that the courts will enjoy their own measure of sovereign power, that is in the field of human rights — and in this sphere the courts will be supreme"

On human rights, the commission concludes with a draft Bill In international terms the list of rights to be protected is uncontroversial equality, personal liberty, the franchise, freedom of expression, freedom to assemble, to live where one wishes and leave one's country In SA, however, it is clear what an enormous step government would be taking if it made a commitment to such a Bill

But, as Professor Gerhard Erasmus of Stellenbosch made clear, there is good rea-

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son for government to welcome a Bill. "It is clear that a new political *modus vivendi* has to be worked out in factual circumstances which make the white minority uncertain of the way in which the authority of the State will be handled in the future After all, it is through the abuse of the authority of the State that individual and group rights are infringed Therefore whites should be particularly interested in future mechanisms that limit the authority of the State"

The most controversial and important aspect of the working paper is its treatment of the question of "group" rights Controversial because many see group rights as a transparent device by which government denies the rights of the majority Important, in that the commission's recommendations will be stillborn if they fail to persuade the government that a Bill of Rights will protect what government feels should be protected.

An important distinction is drawn between political group rights and other group values The latter include culture, religion and language Although these may be group values, the commission believes they "should not be protected as 'group rights,'" since a group is not a legal persona (and so can't enforce legal rights) These rights should be protected in a Bill of Rights by way of individual rights

The commission believed, however, that political minority group interests needed to be handled differently Here the issue is "the recognition of a group as an entity holding legally protected interest — whether it be a political party, an ethnic or a linguistic or cultural group In the nature of things every individual has the right to vote, but it is a group that claims a political voice

"The recognition of political minority rights therefore calls for the identification of those groups that have a just claim to a political say in the constitution This means that for constitutional purposes — for example, the composition of the legislature — it may be necessary to identify the politically relevant groups This may ultimately mean

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that there has to be an ethnic classification"
The commission then adds that the solution to the problem of political minority rights is not legal but political — hence beyond the ambit of the report It says, though, that such rights "give rise to a positive claim to representation and a joint say which must be recognised and entrenched in the constitution"

not," he added.

TGWU talks

THE Transvaal branch of the Transport and General Workers' Union holds its annual general meeting at the Johannesburg City Hall on Sunday. The meeting starts at 9am.

6/8/14
17/3/89

4 condemned

FOUR black people were due to be executed in the Pretoria Central Prison this morning, according to Lawyers for Human Rights spokesman Mr Brian Currin.

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5/8/14
17/3/89

Soweto 17/7/89

Three

THREE young men were yesterday sentenced to a total of eight years for public violence relating to disturbances outside Ellis Park Stadium on Kruger Day in 1987.

Sentencing them, Mr Justice O'Donovan, sitting with two assessors in the Rand Supreme Court said public violence was a serious crime that normally called for heavy sentences.

The three young men are Sidwell Ntuli (21), sentenced to two years, Matthews Mathopa (20), jailed for four years because he used a knife, and Clement Mokotedi (18), given two years. They are all from Orlando East in Soweto.

anseria Airport.

● Picture by John Hogg.

Students stay home after campus shooting

SA 17/3/87
Northern Transvaal Bureau

Students at the University of the North, near Pietersburg, stayed away from classes today, after clashing with a university security unit

Three students were injured yesterday, when a large group was intercepted by the security officers while they were trying to spread word of the planned boycott on the campus. Lebowa Police were summoned, but there was no unrest

One of the students injured when security officers opened fire is apparently in a serious condition, and has been

transferred to the Garankuwa Hospital

The injured students were Mr Solly Matlala, Mr Charles Puane, and Mr Alfred Dlamini

Earlier this week about 1 000 students staged a protest against the presence of lecturers who were members of the Conservative Party. Slogans carried by the students called particularly for the resignation of Professor Billy Botha, head of the Department of Business Economics, who is a Pietersburg Town Councillor

Student sources said the protest was aimed at achieving the dismissal of several staff members

of medical aid schemes, a spokesman for the board confirmed in Pretoria

The investigation would include the schemes of State and semi-State institutions

The probe was being conducted in terms of the provisions of the Maintenance and Promotion of Competition Act of 1979

The spokesman said the chairman of the Board, Dr Pierre Brooks, would not be available for comment until next week — Sapa

Stay of execution

SA 17/3/87
Own Correspondent (252)

Two convicted murderers, who were to be hanged this morning were yesterday granted a stay of execution by the Pretoria Supreme Court

Mr Justice Kriegler set aside the death sentence of Khalelwayo Gumede (20) and Mfanozi Mthethwa (23) pending the outcome of a petition to the State President

UACAP the Weekly

®



Women 'liberated' in SA law

1964 26/3/89 (252)
The Argus Correspondent

PRETORIA — THE 16-year-old South African Law Commission has modernised family law in this country, making it fairer for women and children, according to a spokesman for the commission.

"For some reason we just seem to have concentrated on "people law". We have revised family law and liberated women in South Africa," he said.

The commission has released a Group and Human Rights working paper.

The South African Law Commission, an independent statutory body, was established by an Act of Parliament and its members, as well as additional members, are appointed by the State President. It comprises a judge as chairman and six other members.

Advisory body

There is also a team of full-time researchers who do the commission's research in the majority of investigations, though sometimes outsiders are appointed to help.

It is primarily an advisory body whose activities include all aspects of the law while the renewal and improvement of the law is also an objective.

It has completed a total of 75 investigations, many which have resulted in new legislation, and is currently working on 22 investigations, said the spokesman.

This includes an investigation into the consequences of sex changes and surrogate motherhood.

Accrual system

The commission undertook to review the Law of Divorce which resulted in the legislation of a new Divorce Act which, among other things, did away with the fault principle.

One of its major projects was an investigation into the Matrimonial Property Act. This resulted in the institution of the accrual system, bringing South Africa in line with developments in the rest of the world.

The spokesman said the commission had also modernised and reformed the Interstate Succession Act

The spokesman said when the commission received a request to look into a matter, the field of investigation was sometimes changed. For instance, when it was asked to investigate the reporting of rape this was broadened into an investigation of women and sexual offences.

Requests for the commission to investigate a matter originate from government bodies, courts of law, academic institutions, professional organisations and individuals

The commission itself also identified aspects of the law which it thought should be overhauled, the spokesman said.



By KEN OWEN

CAL Trif 5
20/3/89

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Commission's bill of rights a way to the future

THIS country has lately been so full of surprises that I sometimes wonder whether we should not change its name right now — call it Azania and be done with it. At least we could look at it with fresh eyes.

It might help us to shed some obsolete assumptions, such as the notion — demonstrably false — that South Africa-Azania is so rigid that it will take a mighty revolution, on satellite television and in full colour, to overthrow apartheid. Or the companion notion, equally false, that we are becoming steadily more polarised.

The tenacity of such assumptions is remarkable, suggesting that they are emotional rather than rational. Any evidence to the contrary tends simply to be ignored because, one suspects, it upsets the ritual dance of good-guy bad-guy which is known to all true believers as "the fight against apartheid".

That, in any event, is the best explanation for the astonishing silence that has followed publication of the Law Commission's Working Paper 25, commissioned by the minister of justice, which "pleads" for a bill of rights, puts forward a draft bill and outlines a plan of action to implement it.

Laws that conflict

This plan of action calls for a joint sitting of Parliament, as soon as possible after publication of the commission's final report, to adopt a statement of policy accepting a bill of rights that will protect "generally accepted individual rights".

The joint sitting would be followed by the systematic purging of the statute book of laws likely to conflict with the bill of rights. Among them, the Law Commission itself has identified such favourite targets of the liberals as the security laws, including prolonged detention without trial, the Group Areas Act, the Population Registration Act and the Republic of SA Constitution Act 110 of 1983.

While this is happening, the commission suggests, the country should embark — with the help of churches and educational institutions — on an endeavour to educate the populace on the workings of a bill of rights. The final stages would be to negotiate a new constitution incorporating a bill of rights and to submit it to national referendum.

In short, the Law Commission has laid before the government the sort of programme for change which has repeatedly been suggested by sympathetic foreigners as the means to stop sanctions, re-integrate South Africa into the family of democratic states to which it once belonged and to bring down on our heads the mixed blessing of an international army of do-gooders and well-wishers.

Except for the first sketchy news reports, the idea has

commission on behalf of the Argus company, publishers of a chain of newspapers that have castigated the government for a generation, by its managing director, Peter McLean.

According to the commission's report, he said his company felt it necessary to recognise "group rights" because it was the only way white South Africans would accept majority rule and because otherwise the National Party would not even negotiate.

To this the commission appends its own, devastating, comment: "However, there is a danger that this (approach) could lead to further racial division. A better solution would be to try to protect group rights in such a way that there is no reference to race."

More important, the commission became convinced "that there is strong support in this country for the idea that individual human rights ought to be better protected", but that cultural, linguistic and religious interests must be protected as individual rights. It rejected the suggestion of special "group protection" of those interests.

This is a far more "liberal" stand than the position taken not only by McLean on behalf of Argus, but also by the political adviser to the unborn Democratic Party, Wimpie de Klerk. De Klerk in particular has been insistent on the need for the entrenchment *verskansing* in any new system of "language, education, church and community life".

There is, naturally, some outright opposition to the suggestion that the Nationalists start preparing the ground for a bill of rights. The ANC, says the commission, wants a bill of rights but insists that it cannot be introduced by a government or under a constitution which it regards as lacking legitimacy. It must emerge from the liberation struggle.

The ANC's anxiety at the prospect of having its clothes stolen by the Nats, of all people, is understandable, but that does not stop the government from purging the statutes of those laws which would block a bill of rights.

Anthony Mathews of Natal University put forward, some time ago, an innovative set of suggestions to bring the security system under control of the law. He called it a "qualified due process model" because it fell short of the standards of due process required in most Western systems. At the time, I supported him out of despair that — between the hammer of Nationalist rule and the anvil of black resistance — any truly civilised system could be maintained.

Debate shifted

Now the Law Commission has moved past us both and put forward a draft bill of rights which includes the right to freedom except on "lawful arrest or detention effected in order to cause him to appear before a court of law on the ground of a reasonable suspicion that he has committed a crime" or may do so. In addition, the commission says, such prisoners should be treated with dignity, informed of the charges against them, told of their right to remain silent and generally to be treated as a prisoner in any civilised country.

Cape Times

29 3/89

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been stonily ignored. Yet there was more to it. Far more exciting than the reform programme, however, is the fact that the Law Commission has based its recommendation firmly on the concept of individual rights, treating the notion of "group rights" as the sort of nonsense that should be left to politicians.

To put this in perspective, it may be useful to recall the evidence given to the government will react to a document that, in effect, overturns the Rabie Commission's appalling standards for the treatment of prisoners, commits the society to the repeal of racist legislation and shifts the debate from questions concerning the power of the state to questions about the right of the individual.

A heavy onus falls on political and other elites to deal with this report, and not to bury it from public view. For one thing, it confirms the observation made a few years ago by Charles Simkins during his seminal lectures on the reconstruction of South African liberalism that all South African communities hold basically liberal views.

For another, it offers an acceptable future. If this document were to be adopted as policy by the leaders of the Democratic Party, it would be pretty hard for any liberal to refuse to support them.

SA Law body 'frees women in SA'

By DEBORAH SMITH,
Pretoria Bureau

The 16-year-old South African Law Commission has modernised family law in this country, making it fairer for women and children, according to a spokesman for the commission.

"For some reason we just seem to have concentrated on 'people law' We have revised family law and liberated women in South Africa," he said.

Attention was recently focussed on the commission who have just released a Group and Human Rights working paper.

The SA Law Commission, an independent statutory body, was established by an Act of Parliament and its members. Additional members were appointed by the State President.

There was also a team of full-time researchers who did the commission's research in the majority of investigations, though sometimes outsiders were appointed to help.

It was primary an advisory body whose activities included all aspects of the law, while the renewal and improvement of the law was also an objective.

It has completed a total of 75 investigations, many of which have resulted in new legislation, and was currently working on 22 investigations, he said.

This included an investigation into the consequences of surrogate motherhood.

The commission undertook to review the Law of Divorce which resulted in the legislation of a new Divorce Act which, among others, did away with the fault principle.

ACCRUAL SYSTEM

One of their major investigations was into the Matrimonial Property Act. This resulted in the institution of the accrual system, bringing South Africa in line with developments in the rest of the world.

He said they also modernised and reformed the Interstate Succession Act which had resulted in a modern piece of legislation.

He said when the commission received a request to look into a matter, the field of investigation was sometimes changed. When they were asked to investigate the reporting of rape this was broadened into an investigation of sexual offences.

Requests for the commission to investigate a matter originate from Government bodies, courts of law, academic institutions, professional organisations and individuals.

The commission itself also identified aspects of the law which it thought should be overhauled.

Once an aspect of the law had been investigated the commission published a Working Paper which was released for comment.

The comment was studied and if necessary another Working Paper was compiled.

Finally a Draft Report was submitted to the Minister of Justice.

The spokesman said Government response to their investigations had been excellent. The present Minister Mr Kobie Coetzee's implementation record was exceptional, he said.

He said the commission had written to academics country-wide as they intended establishing a committee for all the branches of law. The idea behind the committees was for them to look into their field on a continued basis.

They could identify a need for reform and assist in the investigation and solutions for the problem area. This would broaden the scope of the commission and involve academics in the commission's work.

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21/3/89

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Court re-opens SWA murder case

WINDHOEK — The Attorney-General of Namibia, Mr Estienne Pretorius, is studying yesterday's Supreme Court ruling which invalidated a certificate issued to stop criminal proceedings against six security force members

The men were to stand trial on charges related to the death of a veteran Swapo member and former Robben Island detainee, Mr Immanuel Shifidi

"We are looking at the logistics to see if we are in a position to proceed with the re-opening of the trial," Mr Pretorius told Sapa

Mr Shifidi, 58, was stabbed to death at a Swapo political rally in Katutura township outside Windhoek on November 30, 1986

The daughter of the dead man, Miss Hilda Shifidi, brought an application last August to set aside the certificate

The Administrator-General, Mr

Louis Pienaar, acting on instructions from the State President, Mr P W Botha, issued a certificate in terms of the Defence Act halting criminal proceedings on March 18 last year against Colonel Johannes Vorster, Colonel Willem Welgemoed, Commandant Antonie Botes, Lieutenant Nicolaas Prinsloo, Corporal Eusebius Kashimba and Private Steven Festus

Violence

An inquest court heard that more than 50 troops of 101 Battalion stationed at Ondangwa in Ovambo were driven to Windhoek for the Swapo public meeting. The soldiers, in civilian clothing, were armed with knives, kieres and bows and arrows

Minutes after the meeting began it erupted into violence

After extensive police investigations, Mr Pretorius decided to

prosecute the soldiers on charges of murder and public violence

According to the charge sheet, there had been a conspiracy among the six men to disrupt the meeting

Colonel Welgemoed, commanding officer at the time of 101 Battalion, had received instructions from Colonel Vorster to send members of the battalion to the Windhoek meeting, the prosecution claimed

In its ruling yesterday, the Supreme Court — presided over by the Judge-President, Mr Justice Hans Berker, Mr Justice Johan Strydom and Mr Justice Harold Levy — declared the certificate invalid

● A spokesman for the office of the State President said no comment could be made on the judgment of the Windhoek Supreme Court before the full report of the judgment had been received and studied — Sapa

IN THE Windhoek Supreme Court ruling declaring invalid the State President's certificate stopping the Shifidi murder trial, separate judgments were delivered by Judges Strydom and Levy and by the Judge President, Mr Justice Berker. All concluded that the certificate should be declared invalid.

In his judgment, the Judge President noted that on the evidence of the post-mortem inquiry no person could have reasonably arrived at the conclusion that the killing of Shifidi was done in good faith by members of the South African Defence Force in the prevention or suppression of terrorism, even if the soccer field (where the public meeting had been held) could technically fall within the definition of "operational area"

If there was any evidence placed before the State President in conflict with the evidence given at the post-mortem inquiry (which had been accepted as correct), such evidence would have to be placed before the court to counteract the very strong and clear evidence at the post-mortem inquiry which had caused the attorney-

'Good faith' conclusion impossible

general to institute proceedings

In the Judge President's view, therefore, incomplete and biased information had been placed before the State President. The State President was required by the relevant legislation to consider a report by the Minister of Defence setting out the jurisdictional facts — in this case the circumstances of the death of Shifidi. On the balance of probabilities, this had not been done.

So the State President was not entitled to form an opinion on whether the action was done in the prevention or suppression of terrorism in an operational area and could not in law issue a certificate indemnifying

members of the Defence Force

In his judgment, Mr Justice Levy noted that the charge of murder arose from the fact that a group of soldiers were ordered to break up a meeting. He noted that the State President accepted the inquest magistrate's finding (that Shifidi had been killed as a result of unlawful acts on the part of a group operation to disrupt a political meeting). This amounted to a finding that the football field was not a place or area where the people concerned were employed at the time "to prevent or suppress terrorism".

Mr Justice Levy also places on record certain views in which he differs from Mr Justice Stry-

dom. He said a totally wrong impression had been created in a legal adviser's report to the State President that primitive weapons had been carried by Swapo members at the meeting, whereas in fact they had been carried by members of R101 Battalion.

If the State President had the true facts before him "I am satisfied his opinion is grossly unreasonable".

"I am satisfied that had the State President been told:

1. That a bona fide political meeting was being held

2. on a football field:

3. in a suburb of Windhoek

4. when the meeting was deliberately broken up by members of the military unit known as Battalion R101, wearing civilian dress

5. armed with primitive weapons, including bows and arrows, assegais and pangas, and that

6. as a result a person attending such a meeting was killed, ... he would not have formulated the opinion which he did. He could only have done so had he not applied his mind."

Poet Mbuli and wife get bail

SHOUTS of "Amand-
la" greeted poet Mzwakhe
Mbuli and his wife,
Nomsa, shortly after they
had stepped out of the
cells in the Protea
Magistrate's Court
yesterday.

Mr Mbuli was granted
R1 000 and his wife R500
bail

The couple briefly
appeared before Mr T F
Veldman on a charge
under the Arms and
Ammunition Act for
allegedly being in
possession of explosives

They were not asked to
plead and the case was
postponed to April 11

Sowetan 24/3/57
Their appearance
followed their arrest at
their home in Soweto on
Friday

And then there were nine . . .

A 18-year-old man appeared briefly before a Johannesburg magistrate yesterday in connection with the murder of 14-year-old Stompie Seipei.

There are now nine accused in the murder trial, after Mr P. Bredenkamp added the name of Mr Sibiso Brian Mabusa of Diepkloof to the charge sheet.

No formal charges were put to Mr Mabusa and he was not asked to plead *Guilty 2/1/87*

The other accused (some were members of the Mandela United Soccer Club) are Mr Jeremy Richardson (41), Mr John Morgan (61), Mr Katiza Cebekulu (21), Mr Jabulani Khubeka (25), Zolisa Falatr (35) and three youths.

The case was postponed to April 21.

29 years jail for ANC man

Soweto 21/3/89

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A 28-year-old Soweto man and member of the banned African National Congress was sentenced to a total of 29 years in prison after he was convicted of various charges under the Terrorism Act at a Johannesburg Regional Court yesterday.

The magistrate, Mr JS Lombard ruled that Robert Dumisani Mwandla of Mofolo Soweto will serve an effective 10 years in jail for terrorism and that his sentences on four other counts; four

By SONTI
MASEKO

years for membership of a banned organisation; six years for possession of firearm; two years for ammunition and seven years for explosives should run concurrently with the first.

Training

According to the State, Mwandla was a member of the ANC from 1984 until December 1987 and he received military training in Botswana

during January and February in 1984. Mwandla also made trips during this period between Botswana and the Republic to carry out missions for the ANC. These missions included identifying targets and finding sites for the establishment of arms caches in the Republic.

Star 21/3/89

We don't condone torture, say police

The South African Police say that allegations of torture made against members of the Brixton Murder and Robbery Squad are not borne out by convictions for assault

The Public Relations division of the SAP has stated this in reply to a series of questions telexed by The Star to police headquarters following widespread publicity regarding claims of torture made by prisoners

The SAP's reply follows a request that it comment on the Brixton Murder and Robbery Squad in view of a recent case in which Mr Justice P J van der Walt heard evidence from a Mr Colin Gemmell that he had been tortured by members of the Squad

The Star also asked questions relating to an out-of-court settlement in a civil case brought by Mrs Maphphu Maswanganyi — who alleged she was tortured — against the Minister of Law and Order, as well as a statement from the bench by Johannesburg magistrate Mr S W J Visagie that "every accused for the past eight years" had told of torture involving a wet sack over the head and electric shocks.

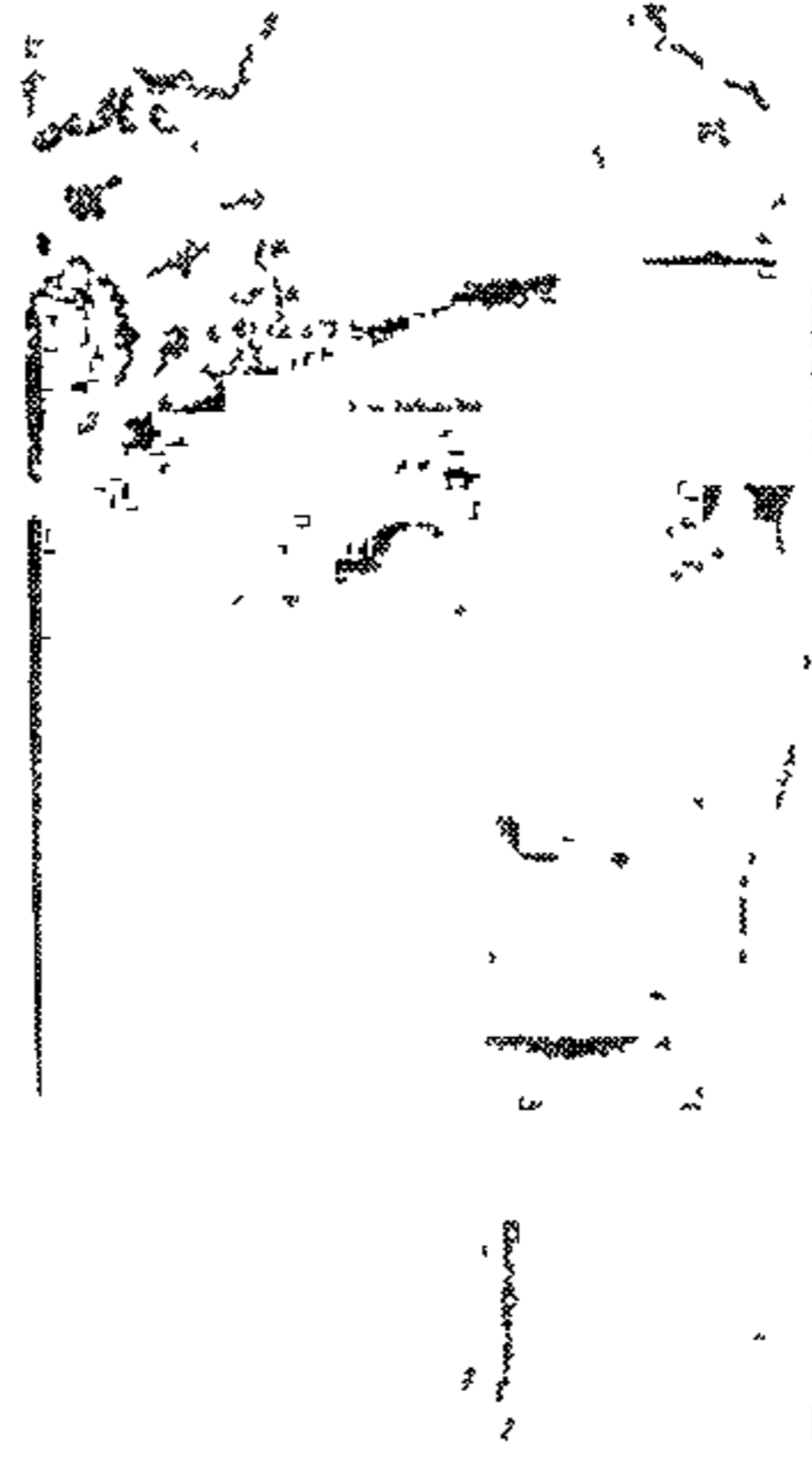
Questions asked by The Star:

- Has the SAP obtained the statements requested by Mr Justice van der Walt? The request was made by Attorney-General of the Witwatersrand Mr Klaus von Lieres
- Will there be an inquiry into the allegations made by the accused, in view of the seriousness with which the SAP views alle-

Although a judge and a magistrate have questioned the Brixton Murder and Robbery Squads' methods of interrogation, the police deny they use torture By **NORMAN CHANDLER.**



Mr Klaus von Lieres



Mrs Maphphu Maswanganyi.

gations of assault by members of the SAP?

● In view of an out-of-court settlement in the civil case brought by Mrs Maphphu Maswanganyi against the Minister of Law and Order, will there be any inquiry into the conduct of the members of the Brixton Murder and Robbery Squad? Will any action be taken against the police officers involved, and, if so, will such action be in open court or through a police inquiry?

● If there is to be no inquiry or action taken against the members of the squad, would this not be tantamount to acceptance by the South African Police that their behaviour is acceptable to the SAP, despite the declared

standpoints of the Minister of Law and Order and the Commissioner of Police on assault? While the Minister and the Commissioner have declared themselves against assault by members of the police force, what is the actual policy of the South African Police?

● Serious allegations have also been made against the Brixton Murder and Robbery Squad by a Johannesburg magistrate, Mr S W J Visagie, who said that "every accused for the past eight years" had told of torture involving a wet sack over the head and electric shocks. In addition, Mr Justice Irving Steyn also made allegations against the Brixton Murder and Rob-

bery Squad. In view of the allegations noted in paragraph 4, would the SAP be prepared to comment on whether or not the Brixton Murder and Robbery Squad is to be disbanded, reformed or re-established, in spite of the recent change in senior personnel?

The official reply of the SAP:

"The policy of the S A Police is that no member of the force is above the law. Transgressions of the law will not be tolerated or condoned. In cases of assault, one is dependent on the statement of the complainant. Once such a statement has been obtained, investigation can commence.

"As far as your questions relating to the Brixton Murder and Robbery Unit are concerned, the generalisation is not borne out by statistics on convictions for assault.

"We find it strange that if people are assaulted on a large scale by the Brixton Murder and Robbery Squad, as is implied in your telex, those that are assaulted do not lodge complaints.

"We are not prepared to comment on the out-of-court settlement referred to, save to say that the settlement was reached without prejudice of rights and without the police admitting liability.

"The record of the S A Police in investigating complaints against its own members is impeccable. There is ample proof in past incidents that where members have committed offences, justice has been seen to be done in open courts of law."

Parliament and Politics

In Brief

Official transferred

Cape Times 22/3/89

PARLIAMENT — A director in the Department of Education and Training, Mr J N Vermaak, had been transferred to another division, the Minister, Dr Gerrit Viljoen, confirmed here yesterday in reply to a question from Mr Schalk Pienaar (CP Potgietersrus) in relation to evidence before the Van den Heever Commission of Inquiry into the department.

Councils stay unchanged

PARLIAMENT. — Mr Piet Clase, Minister of Education and Culture, has no intention of changing the structure of provincial education councils, he told Mr Mike Ellis (PFP Durban North), who said the councils had become little more than a cover for the government's centralisation policy.

Twenty security 'lifers'

Cape Times 22/3/89 252

PARLIAMENT. — Twenty people were serving life sentences for security offences at the end of last year, Mr Adriaan Vlok, Minister of Law and Order, told Mr David Dalling (PFP Sandton).

'Murderer' no student

PARLIAMENT. — The former university student, Mr Fanyana Mhlambi, who is currently facing murder and robbery charges, was not a student at the University of the Western Cape when he was arrested, Mr Allan Hendrickse, Minister of Education and Culture in the House of Representatives, said yesterday.

Cost of keeping prisoner

PARLIAMENT. — It cost R13,28 a day to keep a prisoner in the 1987/88 financial year, Mr Kobie Coetsee, Minister of Justice, told Mr Dave Dalling (PFP Sandton).

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By ALI MPHAKI

Act of protest

NATIONAL and local church leaders will attend a dawn service and procession through the streets of Durban on Friday, as an act of protest against the suffering caused by injustice in South Africa.

Organised by the Durban-based ecumenical agency, Diakonia, the theme of the service "crucified for the truth" — will focus on detainees — particularly those on hunger strike

The sermon will be preached by Bishop Wilfred Napier, president of the Southern African Catholic Bishops' Conference



FROM LEFT: Stanley Mogoba, Victoria Gcabashe and Denis Hurley.

Among those to attend the service will be Reverend Stanley Mogoba of the Methodist

Church of Southern Africa, Archbishop Dennis Hurley, Roman Catholic Bishop of

Durban, and Ms Virginia Gcabashe, first vice president of the South African Council of

Churches

A spokesman for Diakonia said this service recalls Jesus Christ's sacrifice and suffering, and links it to the suffering of thousands of people who are working to bring about a just society

The service will start at 6.30am at the Central Methodist in Aliwal Street. A procession carrying crosses will leave from there and proceed up West Street to St Paul's where the service will conclude with prayer and singing

the time they arrived

ANC tape conviction upheld on appeal

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Soweto 22/3/85

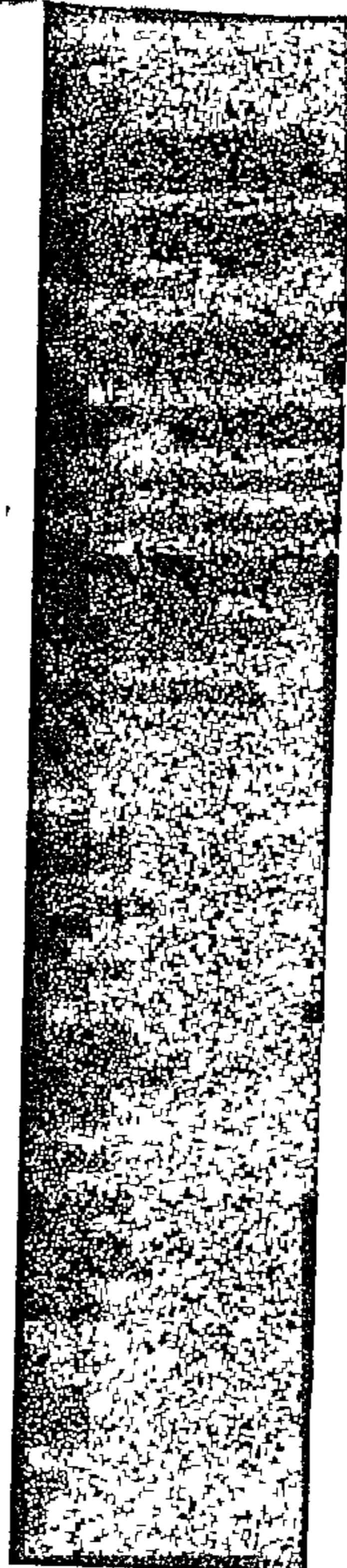
THE Appeal Court in Bloemfontein yesterday dismissed the appeal of Ezron Tsietsi Menze, of Diepkloof Extension, Soweto, against his conviction for possession of a prohibited publication at Johannesburg on April 19, 1985

The prohibited matter was a record cassette of an interview by Oliver Tambo, president of the African National Congress, on the situation in Southern Africa

Convicted

Menze was convicted by a Johannesburg Regional Court magistrate and sentenced to 18 months (9 months conditionally suspended) on July 27, 1985. On appeal to the Witwatersrand Local Supreme Court the conviction was confirmed, but the sentence was wholly suspended.

Yesterday Mr Justice Vivier, with the concurrence of Mr Justice Hefer and Mr Justice Steyn, found that Menze was correctly convicted



GREENWALDES ²⁵²5 ²⁵²5 GUILTY

^{Some from}
^{22-31 84}
FOUR members of the African National Congress and a supporter who attacked the houses of two senior policemen with hand grenades and AK-47 rifles in Mamelodi in 1986 and 1987, were yesterday convicted in the Pretoria Regional Court on two counts of terrorism.

Samuel Mokhubela (29), of Soshanguve, Thekiso Mogerane (31), of Vosloorus, Conrad Lekhumbi (28) and Sello Khota (34), both of Mamelodi, were found guilty on both counts that included the attack on the houses of Det Sgt Johannes Hlongwane and W/O W S Setole on February 17, 1986 and July 19, 1987.

Edwin Makwela, described as a supporter of the ANC, was acquitted on one count of terrorism.

The magistrate, Mr W J Fourie, also convicted Mokhubela of possession of a firearm and six rounds of ammunition without a licence. All accused had pleaded not guilty.

Mr Fourie described four of the men, except Makwela, as members of the ANC who had received military training. Makwela was a supporter of the organisation because weapons smuggled from outside the country were stored in his house where meetings and training of recruits took place, he said.

Mar 23/1989

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'No remorse' from 5 guilty of terrorism

Own Correspondent

A Pretoria Regional Magistrate found that five men, convicted of terrorism, showed no remorse for their deeds — and it was “no thanks to them” that no one had been killed in the armed attacks in which they were involved.

Four of the men were each sentenced to 10 years' imprisonment for terrorism. On a second charge of terrorism, all five were sentenced to prison terms ranging from five to eight years.

Before passing sentence yesterday, Mr W J Fourie said he had taken into account the time the men had spent in detention, their personal circumstances and involvement in the crimes.

Court findings showed four of the men were responsible for attacks on two policemen's houses in Mamelodi during February 1986 and July 1987.

Samuel Mokhubela (30), Thekiso Aaron Mogoerane (31), Conrad Lekhumbi (28) and Sello Stevens Khota (34), were all sentenced to 10 years' jail.

Mr Fourie said although Lekhumbi had not taken part physically in the attack, he had planned and initiated the attack and supplied the weapons.

POSSESSION OF FIREARM

Mokhubela was also convicted on two other charges of possession of a firearm and of ammunition, for which he received 18 months imprisonment — to run concurrently with the 10-year term.

For the second charge of terrorism, Mokhubela was sentenced to seven years in jail, of which two will run concurrently with the 10-year term. Mogoerane also received seven years, of which two will run concurrently. Lekhumbi was sentenced to eight years, of which two will run concurrently. Khota was sentenced to five years imprisonment, running concurrently with the 10-year term.

Motshela Edwin Makwela (35) was found to have allowed his home to be used as gathering place for the Mamelodi unit, housed recruits and allowed military training to take place on his property. He was sentenced to seven years imprisonment, of which two years were suspended for five years.

Judge lashes at kitscops training

THE short period of training of special constables and the fact that they were armed after only eight weeks training

has been criticised in the Supreme Court by Mr Justice Conradie.

Finding two special constables guilty of

assault and murder the judge said the crime had elements of provocation, bravado and a show of force. This phenomena

was unfortunately not unknown and occurred throughout the world where problems arose with undisciplined, poorly-trained public officials

"It often occurs that when officials are bestowed with a small amount of power it goes to their heads," the judge said

Mr Justice Conradie sentenced the two special constables who murdered a Crossroads man in front of his family to a total of 18 years in prison

Zwehlangile Swartbooi and Tuli Kampi were convicted of murder and assault following the shooting of Mr Mawethu Jevu in Crossroads in May, 1987.

ANC men get 7 to 18 years for terrorism

Sowetan 23/3/89

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By MONK NKOMO

FOUR members of the ANC and an active supporter of the organisation were jailed for terrorism charges for between seven and 18 years in Pretoria Regional Court yesterday

Conrad Lekhumbi (28) of Mamelodi, Samuel Mokubela (29) of Soshanguve, Thekiso Mogoerane (31) of Vosloorus and Sello Khota of Mamelodi were each convicted on two counts of terrorism. Edwin Makwela (35) of Mamelodi, the ANC supporter, was convicted on one count of terrorism.

Lekhumbi was jailed for 18 years, Mogoerane and Mokubela for 17, Khota for 15 and Makwela for seven. Mokubela was jailed for a further 18 months for being in possession of a firearm and six rounds of ammunition without a licence.

Passing sentence, the magistrate, Mr W J Fourie, said the first four accused had intentions to murder although nobody was killed during the handgrenade attack on the houses of Detective Sergeant Johannes Hlongwane and Warrant Officer W S Setole on February 17, 1986 and July 19, 1987 respectively.

Mr Fourie said none of the accused had shown remorse for the crimes. He also viewed terrorism as a very serious crime and said innocent people were being killed during the terrorist act.

The magistrate ruled that two years of the sentence of four of the accused should run concurrently. Two years of Makwela's sentences were conditionally suspended for five years. Mokubela, Mogoerane and Lekhumbi, who was described by Mr Fourie as the leader of the group, will each serve an effective 15 years in jail. Khota and Makwela will respectively serve ten years and five years.



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140 constitutions studied

'Universal voting a must in Rights Bill'

BLOEMFONTEIN — The South African Law Commission, in its working paper on group and human rights, had expressed the view that one of the basic clauses in a Bill of Rights should be universal franchise, Mr Justice Olivier, vice-chairman of the commission and project leader for the working document, said at a press conference in Bloemfontein yesterday.

The commission had expressed the view that a Bill of Rights would have no legitimacy or credibility without such a clause.

Mr Justice Olivier said that the proposals for a Bill of Rights were linked to a new constitution. The commission had made it clear that a Bill of Rights was part of the constitutional machinery of the country.

He said the proposals contained in the working paper would have a political impact, but there was also the reason that the values, rights and norms enshrined in a Bill of

Rights reflected some of the most valuable rights of all communities.

To identify the basic values that should be protected in a Bill of Rights, the most careful attention had been given to each of those rights and values.

On the question of the franchise, the committee had endeavoured to make an objective and comprehensive study of all political systems in the world. An analysis had been made of more than 140 constitutions.

The question of universal franchise had been given the most anxious legal and philosophical attention.

Mr Justice Olivier said that should such a Bill of Rights be accepted, the immediate legal effect would be that the sovereignty of Parliament would be curtailed, the Supreme Court would get a right of review — a testing right — on all legislative, executive and administrative Acts.

The Bill of Rights proposed

by the commission was therefore an honest and full-fledged Bill of Rights.

In response to a question on whether the proposals would not be "watered down" in negotiations after the submission of the report to the Government, Mr Justice Olivier said negotiation always entailed compromise.

It was foreseeable that in the process of negotiation, some of the principles would change and be adapted.

The commission had stated clearly that the Bill of Rights should be negotiated by all South Africans or their representatives. If not, the Bill, as part of a new constitution, would have no legitimacy or credibility.

The commission's last recommendation was that if consensus was reached through negotiation, the new constitution should be legitimised by a referendum that did not discriminate among voters of particular groups or races. — Sapa

Human rights study 'most important task'

Cape Times
24/3/89
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Mr Justice P J J Olivier

BLOEMFONTEIN — The study on Human and Group Rights that resulted in the Working Paper issued this month was the most important task undertaken by the South African Law Commission, as it affects the whole community, Mr Justice P J J Olivier, vice-chairman of the commission and project leader on the issue of human rights told the academic conference on the Working Paper in Bloemfontein this week

The commission worked openly and concealed nothing about what it did. When it took a point of view this was its honest opinion and was done fearlessly.

On the question of human and group rights it had made tentative proposals that had been published worldwide. Comments and suggestions were required before August 31, after which the final report would be compiled.

Voting rights

The commission hoped to start the debate on the proposals on an intellectual level, with the hope that it would continue in large and small groups countrywide. Discussion should be as wide and open as possible so that the commission had the assurance that the final report presented to the government would contain proposals that have been tested at high intellectual level.

Mr Justice Olivier told the academic representatives that the commission had concluded that one of the basic human rights that was universally recognised was equal voting rights, where there was no discrimination on the grounds of race, colour, sex or religion. There would be no credibility and acceptance of a Bill of Human Rights if that principle was not accepted.

The mere fact of recognition of uni-

versal franchise did not mean an end of the constitutional problem. "You have only said who the participating players are, you have not said how the game is to be played or who the management team must be", Mr Justice Olivier said.

All the Law Commission said was that the future dispensation must be negotiated. However, if there was not a basic consensus on a Charter of Human Rights, there could be no progress on the constitution of the legislative body — of whatever sort, the provision of administrative policy or the system of the law courts, which were all steps in the dispensation.

Honest standpoint

If consensus could be reached on basic values, it would be easier to reach consensus on other aspects of the constitution.

In the process to reach consensus on basic human rights norms, there was naturally a challenge to everyone to say, on an honest basis, where he stands, said Mr Justice Olivier.

The fact that the SA Law Commission had accepted, as an honest standpoint, that there must be a universal franchise did not mean that it had already written a constitution for South Africa. Its task stopped at human rights. If Parliament, after it received the final report, was of the opinion that human rights needed better protection in South Africa, it should, in principle — without compromising itself — make a statement that it was prepared to look at this issue.

An acceptance of a principle of universal franchise did not mean that constitutional models or possibilities were limited. It opened new vistas, Mr Justice Olivier said.

On the question of dissociation be-

tween groups, Mr Justice Olivier said that Clause 17 of the concept made provision for this. It recognised the right of dissociation but this was a private choice for individuals or groups. It could not be expected that the State should fund this choice.

Proud tradition

South African law had certain norms and values. Society must be true to its moral, ethical and aesthetic values. South African law is individual-oriented and did not recognise legal sovereignty of undefined or amorphous groups. These were practical realities. The values of the individual had to be protected to protect those of the group.

On a proposition that the courts would become politicised if a Bill of Human Rights gave them the right to test legislation, Mr Justice Olivier said South African judges had a proud tradition of independence. He did not think the possible politicisation of the courts was a valid argument against the institution of a Human Rights Act. The courts already had the right to express themselves about laws. A court could interpret a law and give effect to it and thereby politicise it.

Mr Justice Olivier suggested that a better system would be if there was a clearly defined guideline rather than a random interpretation — Sapa

Human rights:

SA the 'odd man out'

Staff Reporter

SOUTH AFRICAN lawyers hope that when the 50th anniversary of the Universal Declaration of Human Rights is celebrated, South Africa will no longer be the "odd man out", according to an editorial in the latest issue of De Rebus, the SA Attorney's journal.

Last year the 40th anniversary of the declaration was celebrated by countries around the world but as South Africa is not a signatory, "a distinction shared with Russia and Saudi Arabia", it was not celebrated here.

"That there are many countries who have signed the declaration, but whose practices fall far short of its ideals is no excuse for SA to continue to exclude itself from the community of nations in this important respect."

However, according to the editorial, "a human rights culture is developing in South Africa", and the SA Law Commission hopes to publish its working paper on a bill of rights this month.

In another article in the same issue of De Rebus, Johannesburg attorney, Mr Harry Barker, explains why SA lawyers should become involved in human rights. He says there is a challenge to the legal profession to ensure the availability of sufficient lawyers to represent those thousands standing trial daily who have no legal assistance because they are too poor to bear the cost.

This critical situation led to the formation in 1981 of Lawyers for Human Rights, whose objectives are "to uphold and strengthen in SA those human rights that are associated with the Rule of Law and the administration of justice".

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CMLC Times
28/3/89

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Trial linked to Ebrahim case

Soweto mother on terrorism charges

By Janet Heard

A Soweto mother appeared in the Bethal Magistrate's Court last week on seven charges under the old Communism Act and the Internal Security Act.

The charges include terrorism and furthering the aims of a banned organisation

Ms Pumla Williams of Pimville, who was 28 at the time of her arrest in June 1987, has pleaded not guilty to all charges

The trial, which began in December, has received scant press coverage and evidence has been heard in camera

She was arrested outside a supermarket near Baragwanath Hospital and held at Piet Retief in solitary confinement. Police later arrested her sister, two aunts and her mother.

They were all released except Ms Busi Tedile who was held under the Internal Security Act.

Ms Williams, who has a young child, was charged in September 1988 and transferred to Bethal.

It is believed the State tried to put pressure on her to testify in the recent Bethal treason trial of Ismail Ebrahim and others.

The State alleges Ms Williams was a

member of the Transvaal Implementation Machinery, responsible for acts of terror in the Transvaal and connected to a high command allegedly called Ehas Motsoaledi.

The group are alleged to have implemented machinery for reconnaissance in four farms in the Transvaal, and for placing land mines in various places.

The State alleges Ms Williams attended meetings where plans for these missions were discussed

The State also alleges she left the country in 1978 and that she infiltrated South Africa in 1986, and started a cell in Soweto on the instructions of Ismail Ebrahim.

In December, the State handed in a statement which they alleged she had made under oath. Ms Williams denied that she had made the statement, but the court accepted it and it was handed down as evidence.

Last week, members of her family were called as witnesses and one of them was arrested, then released on bail and charged with perjury.

A key State witness "Mr X", whose name cannot be revealed, testified last week. The case was postponed until today, when the defence team will cross-examine "Mr X".

Human Rights becomes urgent issue

ing in South Africa," as was indicated by the SA Law Commission's publication of a proposed Bill of Rights

In another article of the same issue, Johannesburg attorney Mr Harry Barker explains why it is imperative that South African lawyers become involved in human rights

He says there is a challenge to the legal profession to ensure the availability of sufficient lawyers to represent those thousands standing trial in our courts daily who have no legal assistance because they are too poor to bear the cost

Critical

This critical situation led to the formation in 1981 of Lawyers for Human Rights whose objectives are "to uphold and strengthen in South Africa those human rights that are associated with the Rule of Law and the administration of justice" and Mr Barker urges attorneys to join this organisation

SOWETAN REPORTER

SOUTH African attorneys hope that when the 50th anniversary of the universal declaration of human rights falls to be celebrated, South Africa will no longer be an odd man out, according to an editorial in the latest issue of *De Rebus*, the SA Attorneys' journal

Countries around the world celebrated the 40th anniversary of the universal declaration of human rights last year but not South Africa, which, together with Russia and Saudi Arabia, is not a signatory

However, according to the editorial, "a human rights culture is develop-

Sowetan 28/3/89

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Political Staff

CAPE TOWN — The British government has called for the release from jail on humanitarian grounds of Cape Town trade unionist Oscar Mpetha

It has recently made representations to SA's London ambassador Ray Killen for Mpetha's release

This has been disclosed in a letter to Anti-Apartheid Movement (AAM) chairman Archbishop Trevor Huddleston from C D Powell, private secretary to

UK calls for release of Mpetha

By David 29/3/87

British Prime Minister Margaret Thatcher

Mpetha, 79, was jailed in 1985 for five years after his appeal against conviction on terrorism charges was turned down by the Appeal Court in Bloemfontein. A diabetic, he has had one leg amputated and has recently suffered kidney problems as well as a lung infection.

Powell said in his letter to Huddleston that the British gov-

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ernment had been concerned about Mpetha for some time. "Our embassy in South Africa has made representations on Mr Mpetha's behalf on several occasions," he said.

"Mrs Lynda Chalker (Minister of State in the Foreign Office) raised this matter again with the South African Ambassador very recently and impressed upon him the need for the South African government to give urgent

consideration to Mr Mpetha's release on humanitarian grounds

"I can assure you that we will continue to urge the South African government to free him," Powell wrote

Earlier this month 115 British MPs signed a petition calling for Mpetha's release, and the AAM, together with several trade union movements, launched a campaign for his freedom

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Asvat case

Soweto 29/3/89

postponed

THE case against two men charged with the murder of popular Soweto doctor, Dr Abubaker Asvat, was yesterday postponed to May 11 pending the decision of the Attorney General.

BLOEMFONTEIN — The convictions and sentences of 10 people convicted of three murders and arson at Kubuse, in the Stutterheim district, on December 23 1985 were set aside by the Appeal Court here yesterday. Mxolisi Malgas, Michael Mam-bukwe and Lulamile Ana Maneli received triple death sentences on three murder counts, arising from an incident in 1985 when Nobanzi Yaze's house was set alight and she and her daughters, Nonceba and Nosisi, were burnt to death

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Judge overturns Stutterheim murder sentences

Duma Eric Jama, Julolo Nogala and Nkosinathi Kawa were imprisoned for 10 years on each murder count, Diza Nkohlha and Henry Priedt for 12 years and Myuyu Ndame and Lungile Bacela for 14 years. All 10 also received 18 months for arson. The sentences were concurrent.

The incidents took place at a time when a consumer boycott was enforced by "comrades".

Mr Justice Vivier found yesterday that all the appellants were wrongfully convicted on all four counts.

He said the trial court had found that all the men attended a meeting described by two witnesses and that a unanimous decision was taken at the meeting to burn the three women. All the appellants then accompanied the crowd to Yaze's house and

Yaze's house started, the inference was not justified that everyone there was in agreement with, or approved of, the crimes that were to be committed.

Judge Vivier said that he was of the view that the State evidence that identified the individual appellants as members of the mob present at the scene where the crimes were committed was so thoroughly unreliable that it should have been rejected "in toto" by the trial court — Sapa

IN BRIEF

Investigation pending, but shares rise

Vander Merwe

FREED FROM 3 DEATH SENTENCES

Cleared of killing three women

THREE Stutterheim, Cape men who were each sentenced to death three times have walked from death row free men after their successful appeal against their sentences and conviction.

The men — Mr Livingston Malgas (41), Mr Lulamile Maneli (32)

Mr Michael Mambe (32) — were sent to death row on October

**SOWETAN
Reporters**

6, 1987 after being sentenced to death three times for the murder of a Stutterheim woman and her two daughters

On Thursday they walked from death row after spending more than a year in Pretoria Central Prison.

The men were arrested shortly after the three women's murders on

December 23, 1985 and have spent almost three years in jail

Asked how they felt after their release, they said they still could not believe they were free at last

Mr Malgas said walking towards Church Square "It feels funny I can't tell you how I feel but it is strange seeing so many people"

Mr Mambukwe said it was "wonderful to breathe fresh air again"

Asked if they bore any grudges, Mr Mambukwe said "It worries me that there are innocent people who might hang"

Mr Malgas said, "I can't say how I feel - I am embarrassed since I have been taken out of my job for nothing"

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Sowetan
3/4/87

Vital witnesses silent, says State

By Cathy Stagg

The State submitted yesterday it had proved subversion or alternatively sedition in the case of trade unionist Mr Moses Mayekiso and four other men.

Mr A C Human SC was presenting argument before Mr Justice P J van der Walt in the Rand Supreme Court.

Mr D H Soggot SC, who appears for the five accused, is expected to complete his argument today.

The trial began on November 19 1987.

Mr Mayekiso (38), his brother Mr Mzwanele Mayekiso (22), Mr Paul Tshabalala (38), Mr Richard Mdakane (29) and Mr Obed Bapela (28) were arrested in June 1986 and accused of treason.

ACTION COMMITTEE

They all lived in Alexandra at the time of the alleged offences and were charged as a result of the activities of the Alexandra Action Committee.

Mr Human gave reasons why the State had not proved beyond reasonable doubt that the five men had committed treason.

He said that because of fear of reprisals if they testified, Alexandra residents were allowed to give evidence in camera and their identification was prohibited, but despite this vital witnesses refused to testify.

Others refused to testify for reasons best known to themselves and the State decided not to force the issue.

The hearing continues.

Mayekiso case: Treason charges dropped

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South Africa 4/4/87

THE State yesterday dropped the treason charges against trade unionist Mr Moses Mayekiso and four civic leaders.

This was announced in the Rand Supreme Court by Mr Chris Human (SC), appearing for the State, when he summed up the case against the five accused

Dropping the treason charges, Mr Human said some State witnesses gave evidence in camera due to fear of reprisal and violence. Some vital witnesses, he said, refused to testify. Others refused for reasons best known to themselves. "The State," said Mr Human, "decided not to force the issue and these potential witnesses were not asked to testify.

"Because of these and other difficulties encountered and after giving serious thought to the matter, ever mindful of the heavy onus resting on the State, we are of the opinion that the State has not succeeded beyond any reasonable doubt in proving treason against the five accused. Our submission will therefore centre around subver-

By **MANDLA
NDLAZI**

sion, alternatively sedition," said Mr Human.

On the question of subversion, Mr Justice P J van der Walt, who is on the bench, asked how a citizen who had no vote hoped to bring about constitutional change in the country.

Mr Human said it could be done through peaceful means and by negotiating with authorities. On sedition, the judge wished to know if there were seditious acts in the case against the five accused.

Mr Mayekiso (40), secretary general of the National Union of Metal Workers of South Africa (Numsa) is appearing with Mr Paul Tshabalala (32), Mr Richard Mdakane (39), Mr Obed Bapela (38) and Mr Mzwanele Mayekiso (22).

They have pleaded not guilty.

Alleged BPP member acquitted of treason

Own Correspondent
MMABATHO — Mr Wil- edly conspired to over-
liam Mataboge, an al- throw the Government of
leged member of the now Bophuthatswana on Feb-
banned People's ruary 10 1988. They are
Progressive Party, was alternatively charged
yesterday discharged in Under the Internal Secu-
the Mmabatho Supreme rity Act.
Court The State will call nine
Under a new indict- witnesses
ment the remaining eight The court adjourned
accused face charges of until today



SCENE of the alleged crime. Mr Eugene Terre'blanche (centre), at the gates of the Pardekraal Monument yesterday during the court's inspection in loco. With the AWB leader are some of his bodyguards.

Terre'blanche told police 'Go to hell,' court hears

Sowetan 4/4/89

A PACKED Krugersdorp Magistrate's Court heard yesterday how Mr Eugene Terre'blanche allegedly forced open the gate at the Pardekraal Monument.

He is appearing on charges of malicious damage to property and crimen injuria.

The AWB leader pleaded not guilty.

The State alleges he broke open the gates with his car and then insulted two policemen who were

SOWETAN Correspondent

called to the scene

The State alleges Mr Terre'blanche told the men: "Go to hell." (Vlieg in julle moere in)

During the court break, Mr Terre'blanche was

surrounded by bodyguards who even accompanied him to the toilet.

Sunday Times columnist, Ms Jani Allen, a key witness, arrived at the court with her Editor, Mr Tertius Myburgh.

She looked uncomfortable and tense

State advocate, Mr Zass van Zyl, questioned a man who saw the whole incident.

Mr Nico Kearney lives opposite the monument. He said he was in his garden at 8,15pm on December 27 when a white car with occupants stopped in front of the gates.

The driver revved the car and drove straight into

WE apologise to readers who missed their Sowetan yesterday. This was due to a breakdown at our printing plant. We regret the inconvenience.

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'Go to hell'

● From page 1
the gate. He reversed, and Mr Kearney ran inside to tell his children to note the car's registration. He told his wife to telephone the police.

He went back outside and saw a man standing at the gate fiddling with the chain.

After about 10 minutes, the man managed to open the gate, and drove into the grounds where he parked under a tree.

Ten minutes later a police van arrived. It was joined by two more vans and three cars

The court adjourned for an inspection in loco.

Four convicted for murder
of youth who defied boycott

Own Correspondent

MARITZBURG — A youth league leader and three others were yesterday convicted in the Supreme Court of murdering a student who defied a school boycott call

Ferrington Mpumelelo (23) died of multiple stab wounds near New Hanover in October 1987

The convicted are

youth leader Nkosinathi Zuma (25), Vukani Ngocobo (20), Solomon Luthuli (21) and an unnamed 17-year-old

Xholani Sikhosana (19) was acquitted

The court heard that the victim was suspected of being a spy. Extenuating evidence before sentencing began yesterday

Subversion judgment on April 24

Acquit Alex five, urges defence lawyer

By Cathy Stagg

Judgment in the trial of trade unionist Mr Moses Mayekiso and four other men will be given in the Rand Supreme Court on April 24.

Yesterday defence counsel Mr D H Soggot SC submitted that the State had not proved any of the charges against the five men and that they should be acquitted.

On Monday the State abandoned the treason charge but submitted that the men were guilty of subversion, alternatively sedition.

Refusal to testify

The accused are Mr Mayekiso (38), his brother Mr Mzwanele Mayekiso (22), Mr Paul Tshabalala (38), Mr Richard Mdakane (29) and Mr Obed Bapela (28).

They all lived in Alexandra at the time of the alleged crimes and were charged as a result of the activities of the Alexandra Action Committee (AAC).

Mr A C Human SC said among the reasons for the State abandoning the treason charge was the refusal of witnesses to testify.

Mr Soggot submitted it was a striking feature of the State's evidence on the AAC that there was not a single witness from the thousands of Alexandra residents who must have been involved with the various

AAC committees. One could infer that the failure to call witnesses on an alleged conspiracy was because the State's allegations did not match historical fact.

During the trial, which began in November 1987, the history of the township was traced and Mr Justice P J van der Walt heard in detail about conditions in Alexandra at the time of the alleged crimes.

The State sought to link the activities of the accused to ANC strategy. Various documents, found in the possession of the accused or at their homes, were placed before the court.

Renaming of streets was dealt with as was the way in which funerals had been conducted. The court was told about "people's courts" and how committees had been set up in township yards, streets and blocks.

Mr Soggot said there was no proof of the alleged conspiracy, supposedly motivated by the accused, to seize control of Alexandra and make it ungovernable.

Regarding rent and consumer boycotts, Mr Soggot said the evidence showed there was a debate during which people expressed approval or disapproval but the discussions had led to a dead end.

"The evidence proved the accused were not revolutionary or radical leaders imbued with revolutionary ideologies, but men rooted in their community who had set out to come to grips with political realities."

Briefing

The Star Wednesday April 5 1989



Five out of six black advocates eschew the Bench

Black advocates in Johannesburg face special problems, particularly in becoming judges, CATHY STAGG discovered in a series of interviews

The legal profession is concerned about the small number of blacks in its ranks and is working towards bringing more in.

The Johannesburg Bar, the largest in the country, has 381 practising members and of these six are black.

The number is soon to double because there are another six pupil advocates at present.

Interviews with each of the six black qualified advocates showed areas of agreement, but they were divided on whether it would be appropriate for a black person to become a judge.

Five were against the idea, and only one in favour.

The interviews showed that a special area of conflict among black professionals is the contrast between their peers, who tend to be traditionalists inclined to caution, and the black community, which expects black lawyers to be black first and lawyers second.

All agreed it would be totally unacceptable for a black person to be appointed as a judge on the grounds of race. Appointments should be made only on merit and at present none of them came close to being qualified.

However, assuming a black person with the necessary expertise and years of experience was approached, here are their views.

Mr Legwai Pitye has been at the Bar for eight years, the longest of the black advocates.

"In a normal society, I would welcome the idea, but you are account-

able to your people. It is possible a black judge could do a lot of good work in civil matters, on appeals and in non-contentious matters, but in certain cases he would feel awkward."

Mr Pitye said, mentioning freedom fighters.

The definition of terrorism is laid down. If the State proves it, the judge has to convict no matter his personal views.

Mr McCaps Motumele was in favour of a qualified black person becoming a judge although he emphasised the matter did not concern blacks and whites as such, but justice being seen to be done. He felt if the profession was sufficiently blended, wider representation would follow.

He has served as an assessor in a murder trial which in itself was a controversial decision.

Mr Modise Khoza said of this "A colleague sat as an assessor, which raised eyebrows. I sat in the gallery and could hear mumblings. The whole emphasis of the trial was off the accused — and on what a black man was doing up there with the judge."

"People believe the judiciary is identified with the ruling class and judges are forced at times to apply unjust laws."

"There are judges who challenge such laws when the laws are new," Mr Khoza said, "but once the loopholes are closed, there is no alternative."

He felt the black community was not ready for blacks to lend credibility to what is seen as an unjust system.

Mr Ismail Semanya said that if the status quo remained it was unlikely a black would realise a significant role in the legal sphere.

To build a reputation, one first had to get the cases to work on.

Big commercial cases were not fought by black advocates because the black community was not prominent in commercial matters, he said.

Ms Lucy Mahlula, the first black woman advocate, said that if a black person was appointed as a judge while apartheid laws were still on the statute books, it would be a problem for any black person aware of his identity to enforce those laws.

Mr R J S Mogaabe said a judge might be exempt from group areas because of his position but would have to enforce those laws and would find it embarrassing not to be able to dispense justice.

Mr Pitye said some black attorneys in Johannesburg who were black and radical in their politics were "white and conservative" when it came to briefing advocates.

He found the black attorneys in Natal and the Eastern Cape tended to be more supportive of black advocates.

But, he added, the Johannesburg Bar was the biggest in the country, with many illustrious counsel, so it was hard to make a name here.

He said he had never refused to represent white clients, but was seldom approached "I would like to be an advocate like any other," he said.

He summed it up for all the problems when he said that for all the problems, "I am still happy."

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Witness weeps at TerreBlanche trial

By Glen Elsas,
West Rand Bureau

A young woman who testified in the trial of AWB leader Mr. Eugene TerreBlanche yesterday burst into tears under cross-examination in the Krugersdorp Magistrate's Court.

Mr. TerreBlanche has pleaded not guilty to charges of malicious damage to property and crimen injuria.

It is alleged that he damaged the gates at the Paardekraal Monument, Krugersdorp, and swore at two policemen, following an incident at the monument involving *Sunday Times* columnist Jahl Allan in December last year.

Miss Wanda Kearney, whose family lives opposite the Paardekraal Monument gates, testified that her father had come inside after seeing a car drive into the gate. At his request, her mother called

the police and she and her brother noted the car's registration number. She saw a bearded man, dressed in dark trousers, and a light shirt, fiddling with something in the middle of the gate. At one stage, a woman climbed out of the car and spoke to him.

The man managed to open the gate. After closing the car's boot, he drove into the monument grounds. Mr. Johan Rousseau, for Mr. TerreBlanche, told Miss Kearney several times her evidence conflicted with her father's. Eventually Miss Kearney burst into tears.

After an adjournment to allow her to compose herself, Miss Kearney apologised for breaking down and asked whether she might withdraw as a witness. She said she could not remember in exact detail what had happened.

The magistrate, Mr. S. W. van Niekerk, refused her request.

Later in the cross-examination Miss Kearney again burst into tears and said she "could not go on like this", but defence counsel completed the cross-examination.

Mr. Jacobus Johannes van Aardt, a municipal employee and a member of the Paardekraal Festival committee, testified he inspected the gates on December 26 and found them closed and locked.

He called at the property again on December 28 and saw that the gates were bent and the welded areas cracked.

Mr. van Aardt testified that the festival committee had discussed the possibilities of replacing the gate but denied this was because it was in a poor condition.

The hearing continues.

AWB objects to blacks in court

The trial of AWB chief Mr. Eugene TerreBlanche was disrupted in the Krugersdorp Magistrate's Court yesterday.

The disruption came when AWB members objected to black people "taking our seats" in the courtroom and police searched the premises with dogs trained to find explosives.

About 100 black spectators who entered the court during a recess were told by AWB supporters they had no right to be present.

They had filed into the empty court during the tea break.

Upset AWB members protested and tried to claim back their seats. One elderly man refused to move up so that a black woman could sit next to him, saying "I refuse to sit next to a black."

...expected to ... to the National Party caucus

REPUBLICAN

bl Day 5/4/87

Call for acquittal in Mayekiso trial

THE State had been unable to call one person from Alexandra to testify that trade unionist Moses Mayekiso and his four accused had formed and fostered a subversive strategy for the township, because no such strategy existed, the Rand Supreme Court was told yesterday

This submission was made by defence counsel D Soggot, SC, at the close of his argument before Mr Justice van der Walt

Mayekiso, 38, his brother, Mzwanele, 22, Paul Tshabalala, 38, Richard Mdakane, 29, and Obed Ba-

SUSAN RUSSELL

pela, 28, have all pleaded not guilty to treason and alternative charges of subversion and sedition

The State alleged that as members of the Alexandra Action Committee the five were involved in the formation of people's courts, initiating and encouraging consumer and rent boycotts and a conspiracy to seize control of the township and render it ungovernable during 1985 and the first half of 1986

On Monday, the State conceded it had not proved treason against the five

(252) ~~(252)~~

However, State counsel A C Human, SC, submitted the alternative charges had been proved beyond reasonable doubt and asked for a conviction for subversion, alternatively sedition

Soggot argued the State was unable to prove subversion on the part of the five trialists or the committee and asked for an acquittal

Police search court with sniffer dogs

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Girl testifies she heard shots at Paardekraal

A YOUNG girl told a Krugersdorp magistrate yesterday at the trial of the A WB leader Mr Eugene TerreBlanche she saw a man with a beard at the gates of the Paardekraal Monument shortly before hearing two gunshots from inside.

SOWETAN Correspondent

Miss Wanda Kearney said she told police who had arrived in which direction they should go. Mr TerreBlanche is appearing on charges of malicious damage to

property and crimen injuria after an incident at the monument on December 27 in which *Sunday Times* columnist, Jani Allan was also involved. Miss Allan was not in court yesterday. Miss Kearney said she and her brother took the

Pushed her

car's registration number on the instructions of their father. She saw a man fiddling with the gate. He wore dark trousers, a light shirt and who sported a beard.

Miss Kearney said she saw a woman climb out of the car and talk to the man, who pushed her. The woman then got back into the car. Miss Kearney said the man eventually opened the gate and after putting

something into the boot of the car drove inside and parked under a tree. She heard a gunshot when she went to the corner to tell the police where to go. Walking back, she

heard another shot. Miss Kearney's father, Mr. Nico Kearney, a retired soldier who lives opposite the monument, told defence counsel Mr Johan Roussseau he saw a man drive into the gate at the monument and then fiddle with the lock.

Blacks at ET's trial upset AWB

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THE trial of AWB chief Mr Eugene Terreblanche was disrupted in the Krugersdorp Magistrate's Court yesterday after AWB members objected to blacks "taking our seats" in the courtroom and police searched the premises with dogs trained to find explosives.

Mr Terreblanche has pleaded not guilty to charges of malicious damage to property and

SOWETAN Reporter

crimen injuria after allegedly swearing at police investigating the smashing of gates at the Paardekraal Monument in Krugersdorp

Spectators

Yesterday about 100 black spectators who entered the court during a recess were told by AWB supporters that

they had no right to be in court.

The quiet, organised mass of people filed into the empty court during the tea break

Upset AWB members protested and tried to claim back their seats.

One elderly man refused to move up so that a black woman could sit next to him, saying "I

refuse to sit next to a black."

The mass of people remained quiet and well-behaved. All children under the age of 18 were told to leave as were those who were standing

Search

A police officer entered the court and ordered everyone out saying they wanted to search the courtroom

Several police dogs including explosives sniffer dogs were brought in to search the room.

(Proceeding)

tions were performed, the cause of death could not be established. For the Honourable Member's information it can also be confirmed that these findings were presented at the inquest

- (4) Yes (a), (b) and (c)

Investigation by the South African Police and the South African Prisons Service in terms of the provisions of the Prisons Act, 1959 (Act No 8 of 1959) and the Inquest Act, 1959 (Act 58 of 1959), were conducted as stipulated before the inquest was held by the Magistrate Cullinan on 24 January 1989

For the Honourable Member's information it can also be confirmed that the family — was notified of his death by the South African Prisons Service in terms of Prisons Regulation No 110(4) on 1 September 1988.

— was notified by the Public Prosecutor Cullinan of the inquest in terms of Section 7 of Act 58 of 1959 on 28 December 1989

Infants assaulted by parents

153 Dr M S BARNARD asked the Minister of Law and Order

- (1) How many cases of assault on infants by parents were reported in respect of each race group in each province (a) during the

Table with 5 columns: (a), (b), (c), (d), (e) and 5 rows: Westville, 14, 12, 23, 150, 17

NOTE Para (j) Since 1 July 1987 separate statistics have been kept in respect of ordinary theft and theft from motor vehicles. A decrease in ordinary theft may therefore be indicated

Chicken meat: imported

192 Dr F HARTZENBERG asked the Minister of Economic Affairs and Technology +

Whether South Africa imported any chicken meat in recent years, if so (a) how many tons

period 1 July 1987 to 30 June 1988 and (b) in 1988,

- (2) in how many cases in respect of each race group did the infant (a) die and (b) suffer serious injury as a result of the assault? B355E

The MINISTER OF LAW AND ORDER

Table with 5 columns: (1) (a), (1) (b), (2) (a), (2) (b) and 5 rows: Cape Province, Natal, Orange Free State, Transvaal

NOTE Statistics regarding the race of persons are not kept, therefore the total in respect of all race groups are furnished

Westville police station: cases reported

188 Mr R M BURROWS asked the Minister of Law and Order

How many cases of (a) murder, (b) culpable homicide, (c) assault with intent to do grievous bodily harm, (d) common assault, (e) rape, (f) burglary of business premises, (g) burglary of residential premises, (h) robbery with aggravating circumstances, (i) robbery, (j) common theft, (k) theft of vehicles and cycles, (l) possession of drugs and (m) dealing in drugs were reported in 1988 at the Westville police station in the Durban West police district? B435E

The MINISTER OF LAW AND ORDER

Table with 5 columns: (a), (b), (c), (d), (e) and 5 rows: 17, 486, 16, 42, 556, 47

(b) what was the value thereof, (c) on what date, and (d) why, in each case? B440E

The MINISTER OF ECONOMIC AFFAIRS AND TECHNOLOGY

Yes

Table with 4 columns: (a) metric tons, (b) free on board value, (c) 1985, 1986, 1987* and 5 rows: 187.6, 114.2, 7 169.3, R144 341, R75 976, R11 362 724

* Latest available

(d) In all cases to supplement shortages of chicken meat on the local market

Kokstad commonage* establishment of prison

193 Mr R W HARDINGHAM asked the Minister of Justice

- (1) Whether it is the intention of his Department to establish a prison on the Kokstad commonage, if so, when is it anticipated that construction will (a) commence and (b) be completed,
- (2) whether water and electricity facilities are available on this site at present, if so, to what extent, if not, why was this site chosen? B445E

The MINISTER OF JUSTICE

(1) Yes A new prison for 226 prisoners with the necessary infrastructure is envisaged

(a) and (b) Several factors and realities including the availability of funds, the relative urgency of other similar projects as well as functional considerations all play a role in the projections in respect of the date of commencement and construction period of projects of this nature and extent. The projection, at this stage is that the work will commence early in 1993 with a construction period of at least 24 months

(2) No The site was identified as the most suitable for the construction of a prison after all factors which normally apply in such cases were considered and the fact that the land was offered for this purpose by the Borough of Kokstad. The provision of water and electricity is being promoted by the Borough of Kokstad in consultation with the Department of Public Works and Land Affairs.

Police Act and Defence Act: prosecutions

197 Mr D S PIENNAAR asked the Minister of Justice +

(a) How many prosecutions for contraventions of (i) section 28 of the Police Act, No 7 of 1958, and (ii) section 143 of the Defence Act, No 44 of 1957, were instituted during the latest specified period of 12 months for which figures are available and (b) how many such prosecutions resulted in convictions? B474E

The MINISTER OF JUSTICE

Statistics of this nature are not kept by the Department. The Honourable Member is referred to my written reply to question No 35 of 1986

Central Energy Fund financing training project on behalf of Mossagas

202 Mr F J LE ROUX asked the Minister of Economic Affairs and Technology +

Whether the Central Energy Fund is financing a training project on behalf of Mossagas, Mossel Bay, if so, (a) what is the cost of the project and (b) how many (i) White, (ii) Coloured, (iii) Indian and (iv) Black persons are being so trained? B483E

The MINISTER OF ECONOMIC AFFAIRS AND TECHNOLOGY

Yes

(a) R75 million has been budgeted for the period 1988 to 1991 of which R37.5 million will be financed by the Central Energy Fund by means of an interest free loan

(b) (i), (ii), (iii) and (iv)

Approximately 11 000 persons will be trained in the abovementioned period but since the training is offered on an equal opportunity basis, the subdivision into racial groups cannot be forecasted. The following is a subdivision of the number of persons trained or in the process of training at the end of February 1989

Table with 2 columns: Race, Number and 4 rows: Whites, Coloureds, Indians, Blacks, Total

Persons employed with legal qualifications

209 Mr D J DALLING asked the Minister of Justice

(a) How many persons with legal qualifications were employed by his Department in professional capacities in the Republic excluding the self-governing territories, (b) how

many such persons were (i) White, (ii) Black, (iii) Coloured and (iv) Indian, and (c) (i) in which positions and (ii) where were these (aa) Black, (bb) Coloured and (cc) Indian persons employed, as at 31 December 1988?

B493E

The MINISTER OF JUSTICE

(a) 2 537	(aa) State Prosecutor	27	(cc) Verulam	10
(b) (i) 2 409	(bb) State Prosecutor	54	Chatsworth	5
(ii) 27	Magistrate	4	Scottsburgh	1
(iii) 61	Estate Controller	3	Durban	7
(iv) 40	State Prosecutor	28	Port Shepstone	1
(c) (i) (aa)	Assistant State Attorney	10	Ladysmith	1
(ii) (aa)	Articled Clerk	1	Pietermaritzburg	2
	East London	1	Pinetown	3
	Pretoria	2	Johannesburg	3
	Pretoria North	1	Camperdown	1
	Pietermaritzburg	1	Wynberg	2 (Malay)
	Johannesburg	5	Stanger	2
	Verulam	2	Empangeni	1
	Springs	2	Heidelberg (T)	1
	Wynberg	2		
	Stanger	1		
	Alberton	1		
	Durban	1		
	Benoni	1		
	Germiston	1		
	Krugersdorp	2		
	Greytown	1		
	Soshanguve	1		
	Evander	1		
	Moutse	1		
(bb)	Malmesbury	1		
	Cape Town	6		
	Bellville	4		
	Wynberg	18		
	Paarl	2		
	Worcester	1		
	Port Elizabeth	11		
	Vanderbijlpark	1		
	Johannesburg	6		
	Alberton	1		
	Alexandria	1		
	Evander	1		

Regional prosecutors and prosecutors

210 Mr D J DALLING asked the Minister of Justice

(a) How many persons in the Republic, excluding the self-governing territories, held the position of (i) regional court prosecutor and (ii) prosecutor, (b) how many such persons were (i) White, (ii) Black, (iii) Coloured and (iv) Indian, and (c) in which magistrates' courts were these (i) Black, (ii) Coloured and (iii) Indian persons employed, as at 31 December 1988?

B494E

The MINISTER OF JUSTICE

(a)	(i) 238	(c) (i) East London	1
	(ii) 718	Pretoria	2
(b)	(i) 847	Pretoria North	1
	(ii) 27	Pietermaritzburg	1
	(iii) 54	Johannesburg	5
	(iv) 28	Verulam	2
(c)	(i) 28	Springs	2
		Wynberg	2
		Stanger	1

The MINISTER OF JUSTICE

(a)	(i) 144	(ii) 782
(b)	Regional Magistrate	Magistrate
(i)	144	(i) 768
(ii)	0	(ii) 0
(iii)	0	(iii) 4
(iv)	0	(iv) 10
(c)	(i) Falls away	(i) Falls away
	(ii) Falls away	(ii) Wynberg
		(iii) Bellville
		(iv) Malmesbury
(iii)	Falls away	Stanger
		Verulam
		Chatsworth
		Wynberg
		(Malay)

Land and Agricultural Bank loans: applications

218 Mr R J LORIMER asked the Minister of Finance

(1) How many (a) Black, (b) White, (c) Coloured and (d) Indian farmers (i) applied for loans from and (ii) were granted loans by the Land and Agricultural Bank in 1988,
 (2) what was the total value of the loans so (a) applied for and (b) granted in respect of each of the above-mentioned population groups in that year?

B502E

The MINISTER OF FINANCE

1(a)(i)	1(b)(i)	1(c)(i)	1(d)(i)
None	3 871	25	11
1(a)(ii)	1(b)(ii)	1(c)(ii)	1(d)(ii)
None	3 156	21	6
Black farmers			
2(a) — Nil			
(b) — Nil			
White farmers			
2(a) — R681 490 183			
(b) — R509 147 300			

Wanted: a Bill of Rights

(252)



Henry Vorster is a partner at Hofmeyr van der Merwe. He lectures part-time at Wits and is author of the acclaimed LID thesis *The Parameters of Tax Planning*.

Commissioner for Inland Revenue Clive Kingon has reportedly accused taxpayers of becoming "morally sick" because so many try to "evade" payment of tax. Whether his assessment of taxpayer morality is correct is not the point. His outburst raises more serious questions, is to be regretted, and should be a matter of grave concern to government and responsible taxpayers alike.

One cannot hope for more telling evidence of the unhealthy attitude adopted towards taxpayers by senior tax collectors.

Kingon's abuses come at a time when taxpayer morale is at an all-time low.

It is not uncommon to see leading financial journals declaring that the integrity of the tax system has collapsed. Academic journals, usually restrained and disciplined, openly refer to Revenue officials as "bullies." Many taxpayers will know of numerous irritations, unjustified harassment and injustices suffered at the hands of over-zealous Revenue officials in recent times.

The restoration of tax morality and the integrity of the tax system will not be achieved by outrageously irresponsible exchanges between taxpayer and tax collector. Given the present adversarial relationship between taxpayer and tax collector, the interests of society would be better served by adherence to the basic rules to which tax laws should be administered.

Firstly, Kingon should remember that it

behoves the tax collector to maintain at least a semblance of impartiality. Ideally, of course, he should be uncompromisingly impartial in performing his administrative duties, particularly when he is endowed with wide-ranging discretions and the most awesome powers in the belief, sometimes unfounded, that they will not be abused. A tax collector, which is Kingon's primary role, should confine himself to collection of tax and not assume responsibility for protecting the tax base. On the score of impartiality, it seems, Kingon must fail.

Secondly, the perception should be instilled in taxpayers that there is at least an attempt on the part of tax collectors to be fair. It is fatal to assume, as Kingon seems to, that considerations of equity arise only in relation to the conduct of the taxpayer.

The conduct of the tax collector should, equally, stand up to scrutiny.

In this regard, too, Kingon and his department cannot escape at least part of the blame for the serious decline in tax morality. Many practices and interpretations applied by Revenue are patently unfair to the taxpayer. The failure, for instance, to abide by written rulings issued in the name of the commissioner and obtained by taxpayers on full and proper disclosure is inexcusable.

Thirdly, Kingon should accept, as our courts have, that the taxpayer is entitled, without moral censure, to avoid the payment of tax insofar as he legally can. It is to be expected that Revenue might be disenchanted with taxpayers' efforts in this regard but it must seek solace in the courts and not in public abuse of taxpayers. If taxpayers evade tax, they should be prosecuted. It is not for the commissioner to brand legitimate tax planning as evasion. If such efforts are not legitimate, let taxpayers concerned defend their actions in court.

In the final analysis, Kingon's perceptions of morality or legality represent his personal subjective view which a court of law might find to be incorrect.

Fourthly, taxpayer respect for the system, without which it cannot function properly, is best engendered by the example set by government and its administration. The tax system itself has in the past few years all too often been brought into disrepute by vague and ill-considered press releases, retroactive legislation and inept administration.

Furthermore, is there any justification for Revenue delaying thousands of assessments for years simply because no responsible official is willing or able to decide on a moot point of law? Tax treatment of foreign exchange losses is a case in point; there are several others. Government itself has shown too little respect for the equitable principles that are the very foundation of a tax system which enjoys the support of taxpayers.

Admittedly, Kingon has to administer legislation which is basically unfair, unnecessarily complicated and fraught with uncertainties.

It would be leading by example if he were to strive for a Bill of Rights for taxpayers and a blueprint for meaningful tax reform that would eliminate the need for press announcements and retroactive legislation.

All thinking taxpayers ought to welcome a tax system that is fair and equitable and administered efficiently and impartially. Such taxpayers ought to support all measures aimed at restoring tax morality and integrity. These goals cannot be achieved by mud-slinging, and taxpayer and tax collector alike should refrain from doing so.

Fortunately, it can safely be assumed that Kingon's opinion of his tax-paying public is not shared by all officials in his department.

Detention used to kill opposition

Detention without trial is a practice which ranks high on the list of universally condemned human rights violations. In the South African context, it is viewed as doubly indefensible on account of its role as one of the main props in the defence of the apartheid system against its opponents and detractors.

Since its first use during the 1960 state of emergency, detention without trial has served to isolate, intimidate and destroy the leadership of political activism against apartheid domination and in the past four years it has been employed on a mass scale to do the same to whole communities and rank-and-file membership of popular organisations dedicated to the demise of apartheid.

This arbitrary loss of liberty, independent of the jurisdiction of any court of law, has been experienced by an estimated 75 000 people over the years, in the name of the security of the State. This huge number is surely indicative, not simply of a handful of dissidents, but of mass opposition to an unjust and untenable system.

However, among the white public at large there has been a growing insensitivity to the issue of detention without trial which has even developed into a passive acceptance of its "necessity".

Severely jolted

But this complacency was severely jolted recently by the forgotten victims of emergency detention taking their lives into their own hands and declaring to the world that they were prepared to starve themselves to death rather than accept indefinite internment.

As a result, of their courageous action, there is now a greater awareness than at any time since 1960 of the evil meaning and moral unacceptability of detention without trial.

At the height of the detainees' hunger strike, when the authorities were beginning seriously to ponder on the catastrophic consequences in the event of detainees starting to die, there was considerable speculation as to the manner in which the State would react.

Some felt that the situation had the potential of securing the release of every detainee, perhaps the lifting of the state of emergency, and perhaps even the abandonment of detention without trial.

The release of all detainees still seems (at the time of writing) an achievable goal since the hunger strike continues in some jails and is only suspended in others.

In the meantime, by means of heavy restrictions, the status of detainees is being converted from incarceration within prison walls to incarceration within a web of prohibitions involving almost as much loss of freedom, and at no expense to the State.

This device is as old as detention without trial itself, but it is now being advanced to a pitch of perfection that must gladden the hearts of the Government's securocrat engineers.

CAP. Times
10/14/89
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DRA

Dropping of charges 'a gimmick'

Own Correspondent

JOHANNESBURG — Mr Justice Louis Harms has strongly criticised Transvaal Attorney-General Mr Don Brunette's decision to withdraw charges against Pretoria attorneys Mr Albert Vermaas and Mr Eugene Berg

In his report tabled in Parliament last week, he said Mr Brunette employed a "gimmick" which embarrassed the Harms Commission when he unexpectedly dropped the criminal charges.

The commission first became aware of Mr Brunette's action through reports published on February 20, in which Mr Brunette said he dropped the charges to give Mr Vermaas and Mr Berg a chance to testify before the commission.

Prosecution was always a possibil-

ity and Mr Vermaas and Mr Berg could have declined to answer incriminating questions in any case, said the report.

Mr Brunette's argument that he had not received any information from the commission on which he could base his decision was criticised by the judge

Mr Justice Harms sent a letter dated December 12 to Mr Brunette asking that Mr Brunette be specifically told "he can phone me if he needs any information about the commission's investigations".

No response was received to the letter but on February 24 — shortly after Mr Brunette met Justice Minister Mr Kobie Coetsee about the matter — a request for information was made by Mr Brunette, Mr Justice Harms said

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Brunette hits back at Harms

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JOHANNESBURG — It was Mr Justice Louis Harms's duty to make the Harms Commission's evidence on Pretoria attorney Mr Albert Vermaas available to the Attorney-General, Transvaal Attorney-General Mr Don Brunette said yesterday.

He was reacting to criticism in the Harms Commission report on Mr Vermaas levelled at his reasoning in dropping criminal charges against Mr Vermaas and Pretoria advocate Mr Eugene Berg.

Mr Justice Harms said in the report that Mr Brunette employed a "gimmick" which embarrassed the commission when the charges were suddenly dropped.

At the time Mr Brunette said that because he did not have any of the commission's evidence in his possession, he did not have any information on which to base charges.

When asked what had caused his change of heart a week later when charges were suddenly reinstated, Mr Brunette said "That came after discussions with the Minister of Justice"

1-3

Experts examine law in changing society

By Patrick Laurence

The Legal Resources Centre commemorated its tenth anniversary today in a sober mood of appraisal instead of with popping champagne corks

Its anniversary conference on the theme "Law in a changing society" got under way at the University of the Witwatersrand with an opening address by the Mr Arthur Chaskalson, SC, national director of the Legal Resources Centre

Other speakers will be Mr Justice Enoch Dumbutshena, Chief Justice of Zimbabwe, Mr Justice Michael Kirby, president of the New South Wales Court of Appeal, Australia, and Mr Sydney Kentridge, SC, one of South Africa's best known advocates

"The past 10 years have seen

an increasing awareness of the important role that the legal profession plays in demanding that rights be defined and protected," Mr Chaskalson said

"Much that in the past, went by default is no longer allowed to do so. We are slowly becoming a less closed society and increasingly those who exercise power are being called upon to account for the way in which power is wielded"

Mr Chaskalson acknowledged that fundamental aspects of life in South Africa were still affected by institutionalised racial discrimination. But he said "We are living in a changing society and we can look forward to a time when race will cease to be the determining factor in our lives"

day, April 12 1989

Govt called on to implement report

CAPE TOWN — DP co-leader Wynand Malan yesterday called on government to have the courage to implement the Law Commission's report on a Bill of Rights

He said the report was a monumental work which advocated a practical and accommodating approach.

Its recommendation for a five-phase programme for implementation might not be acceptable to fanatics and dogmatists, but that should not intimidate government

The first phase called for Parliament to support the concept of a Bill of Rights

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MIKE ROBERTSON

and Malan called on government to have the courage to do that

The report was one which had recommendations everybody could support

Malan called on all organisations which believed in a Bill of Rights, such as Inkatha, the ANC, the UDF and SACC, to support the report by Mr Justice Olivier and discuss the contents with the commission. The report provided a meeting point for opposing parties and he was sure Mr Justice Oliver

would welcome the opportunity to hold such discussions

He also called on government to appoint the commission to investigate the development of constitutional models which met the conditions of a Bill of Rights

Malan said he hoped a situation would not arise where groups such as Inkatha, the ANC and UDF would react favourably to the report, but government would not support proposals put forward by one of its own instruments. But, he had a feeling his hopes would be dashed

Sowetan 13/4/89

Plea to SWOP SON

GABORONE — The mother of a man in death row after being convicted for his role in the African National Congress, has sent an "SOS distress signal" to Botswana in a bid to secure clemency, the weekly Botswana newspaper, *The Gazette*, said yesterday.

Bopa, Botswana's news agency, reports that in a front page story, *The Gazette* says Mrs Doris McBride of Wentworth, Durban, is appealing to the Botswana Government to have her son, Robert John McBride (25), swapped with two South African commandos serving 10 years' imprisonment for their part in an attempted raid on Gaborone last year.

The two commandos, Johannes Basson and Theodore Hermensen, who were part of a seven-man raid team were arrested by members of the Botswana Defence Force near Gaborone in June

Letter

Mrs McBride is reported as having sent a letter to the president of the Student Representative Council of the University of Botswana, at the request of her son, who belongs to the ANC military wing Umkhonto we Sizwe.

Mrs McBride told *The Gazette* that she might be informed "any day" that her son would be hanged within seven days.

Spy

She said she had hoped her son would be exchanged with Olivia Forsyth, a South African spy who was captured by the ANC in Angola and later escaped, before seeking refuge in the British Embassy. She is now back in South Africa.

She felt that the prisoner swap deal with the Botswana Government "would be a good way" in which the Government of Botswana could exert pressure on Pretoria to secure clemency for McBride.

The Minister for Presidential Affairs and Public Administration responsible for security and justice, Mr Ponatshego Kedikilwe, said he had not yet seen the letter alleged to have been sent to the SRC — Sapa

By Esmaré van der Merwe,
Political Reporter

In the event of a September general election, voters have only until the end of May to register for the voters' roll.

The Director-General of Home Affairs, Mr Gerrie van Zyl, yesterday urged voters to notify the department of changes of address as soon as possible.

Although the date of the forthcoming election had not yet been announced, the Electoral Act stipulated which voters roll must be used for an election. That usually was the voters roll, which closed four

Voters told to register quickly

months prior to election day, Mr van Zyl said.

"It is therefore of the utmost importance that voters should report changes of address to the department immediately to ensure that their current addresses are included in the latest voters' roll."

"An urgent appeal is made to the public to assist the Department with

the compilation of up-to-date voters' rolls."

Notifications of change of address might be handed in at the nearest regional or district office of the Department of Home Affairs or at a municipal office.

A notification form was also placed inside the cover of a person's identity document.

Otherwise, changes of address might be reported by letter, stating full christian names, surnames, identity numbers and present residential and postal addresses.

Supplementary voters' lists were compiled only to correct administrative faults made by the Department.

Three due to be hanged on Tuesday

Three prisoners on death row at Pretoria Central prison have been notified they will be executed on Tuesday April 18, Lawyers for Human Rights (LHR) said in a statement yesterday.

The three are Lazarus Mance, John Ndlovu and Harry Ngcqobo. Mance and Ndlovu were convicted in the Rand Supreme Court of murder and robbery with aggravating circumstances. Their application for leave to appeal and their petition to the Chief Justice were refused.

PETITIONED

Although one of them has petitioned the State President for clemency, the other has not. LHR has therefore made representations to the Department of Justice that the execution of both be stayed, pending the outcome of the outstanding petition.

If the representation is unsuccessful, LHR will brief counsel to bring an appropriate court application, said LHR's national director, Mr Brian Currin. Ngcqobo was convicted of murder and robbery last year, and his application for leave to appeal was refused.

"Due to a misunderstanding, his counsel did not petition the Chief Justice for leave to appeal," said Mr Currin.

"In the circumstances, we have similarly made representations to the Department of Justice that his execution be stayed pending that petition."

Mr Currin said two of the three prisoners had not exercised all their rights, and if necessary, applications for stays of execution would be brought on behalf of all three — Sapa

It might be difficult to extradite Pegg

Crime Reporter

Proceedings to extradite Mr Stuart Pegg, a suspect in the R47 million Trust Bank fraud, from the United States may be complicated by the fact that he holds a British passport.

Mr Pegg was last believed to be hiding out in a Colorado ski resort with his wife and their four children.

South Africa has an extradition agreement with America. However, no such formal agreement exists with Britain.

It was said earlier this week that if Mr Pegg did not return to South Africa to stand trial, extradition proceedings would be instituted.

Mr Pegg is one of five men wanted in connection with the fraud which involved the "buying" of an aircraft worth more than R25 million and the purchase of emeralds worth R1 million and Krugerrands worth more than R19 million.

Three due to be hanged on Tuesday

stg 14/4/87

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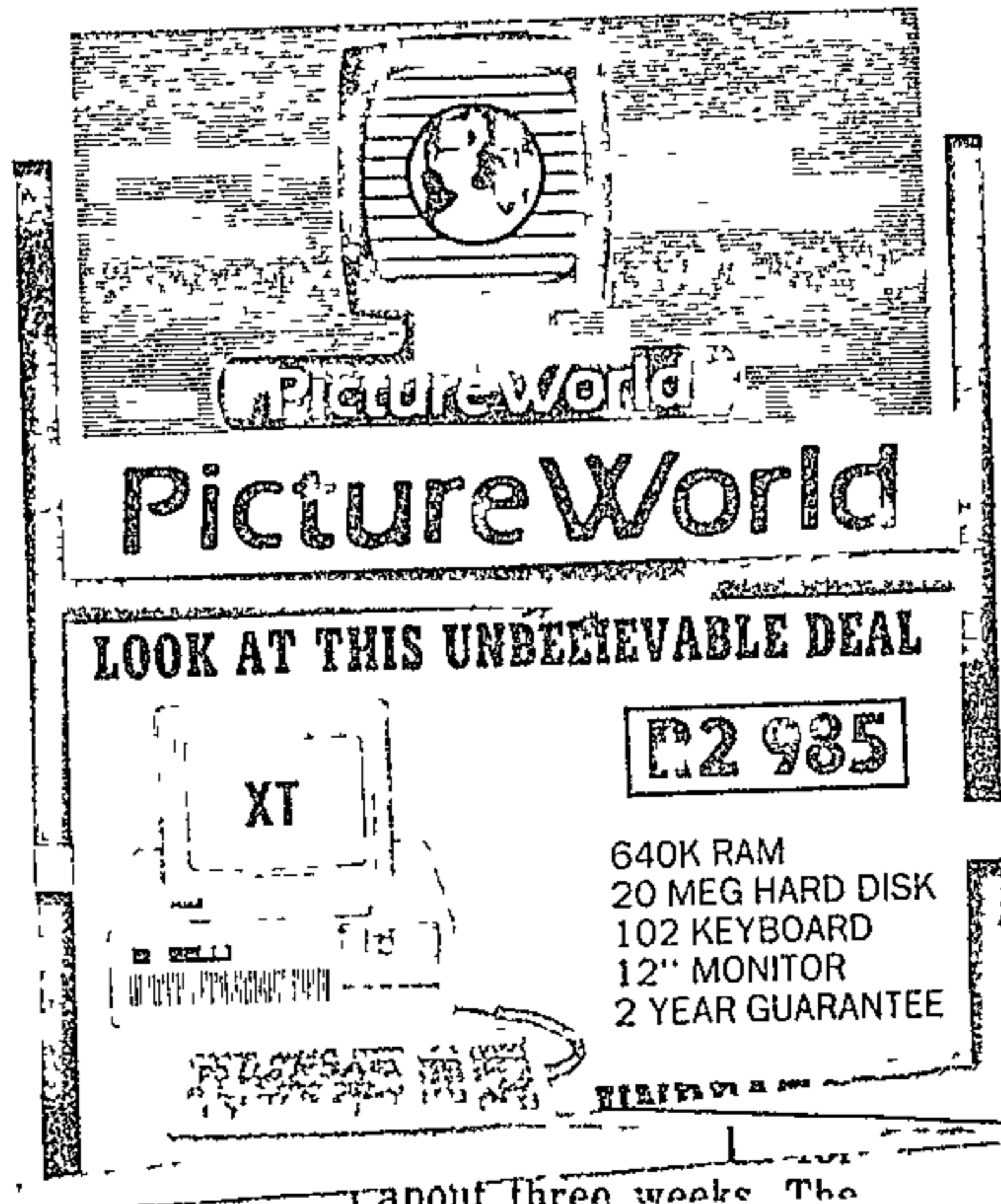
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Picture World

LOOK AT THIS UNBEEIEVABLE DEAL

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about three weeks The

ENVOY?

Minister to hear request

THE Minister of Justice, Mr Kobie Coetsee, has agreed to hear pleas for the release of imprisoned African National Congress leader, Nelson Mandela.

This emerged in a statement issued in Durban yesterday by the Minister of Home Affairs, Mr Stoffel Botha, after a third round of talks between South Africa and KwaZulu.

He said one of several obstacles impeding negotiations between

black and white was Mr. Mandela's continued incarceration. The KwaZulu delegation viewed it as restricting them from fully taking part in formal negotiations.

"Consequently arrangements were made for representatives of the KwaZulu delegation to place their views" before Mr Coetsee, and he had agreed to receive them.

No date for the meeting was given.

Somebody 14/4/89

PERRINI, MARTINOLI, OMEGA, PIRMA, PATRICK, RICCAMEERS, JORDAN, MADFEL

UK lawyers campaign for SA prisoners

14-20/4/89
BY NOËL BRUYNS *W.M.K.*

LAWYERS in Britain have launched a national campaign to save the lives of the more than 60 political prisoners on death row in South Africa.

They are also campaigning for prisoner-of-war status for African National Congress fighters captured in South Africa.

The campaign has the support of the London-based organisation, Southern Africa — The Imprisoned Society (Satus).

Geoffrey Bindman, a human rights lawyer, explained. "We are petitioning the House of Commons because our efforts to persuade the British government to intervene have failed. They have acted over some well-publicised cases, such as the Sharpeville Six, but they have failed to intervene in most cases."

"We want to get the message over to all MPs that Britain must act decisively to stop all apartheid executions. All of our experience confirms that Pretoria will move if the international pressure is sufficiently powerful," he said.

Last week, the issue of ANC fighters captured in South Africa came under the spotlight at a meeting staged by Lawyers against Apartheid on the theme of "The Liberation Struggle and the Law".

The meeting was addressed by international law experts, including South African Kadar Asmal, a senior law lecturer at Trinity College, Dublin. The South African legal profession was represented by Silas Nkanunu, national treasurer of the National Association of Democratic Lawyers.

The lawyers cited Protocol 1 of the 1949 Geneva Conventions, which applied to "armed conflicts in which people are fighting against racist regimes in the exercise of their rights to self-determination". In terms of the protocol, ANC guerrillas were entitled to prisoner-of-war status.



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B / Day 17/4/89 252
State asks for 13 death penalties

UPINGTON — The State has asked that no extenuating circumstances be found for 13 of the 25 defendants in the Upington 25 trial

The trial was postponed on Friday to May 22 for judgment on extenuation

The 25 have been convicted of murdering municipal policeman Constable Lucas Sethwala in 1985 in Upington's Paballelo

Own Correspondent

township on the grounds of common purpose Among the 13 are a 60-year-old mother of 10 children, Evelina de Bruin, and a former mayor of Paballelo, Kenneth Khumalo

If no extenuating factors are found by Mr Justice Jan Basson he will be bound to sentence the 13 to death

700 Vermaas creditors given delay of meeting

PRETORIA — More than 700 creditors representing R100m worth of claims against Pretoria attorney Wessel Albert Vermaas have won an urgent application against the Master of the Pretoria Supreme Court

Mr Justice Goldstein granted an order late last week overruling the Master's decision to hold a creditors' meeting on April 19 concerning Verco Holdings — Vermaas's holding company

The reason for the application, said Tony Michael, elected spokesman of 725 creditors, was that the creditors in the Vermaas and Eurotrust matters could appoint new trustees in terms of the Insolvency Act

However, the creditors who brought the application do not have a say in the Verco meeting because their money was invested with Vermaas or Eurotrust, and subsequently they could not elect new trustees.

Michael said it was not in the interest of these creditors to have the meetings as advertised in the Government Gazette

Michael said the creditors were unhappy with the existing provisional liquidators, Messrs Walter Edelstein, Brian Nel, Andre Hessels and Lewis Klopper — who were appointed on December 9 last year after Verco was provisionally liquidated, and after a judgment awarded against them in the Ciskei Supreme Court on March 3

The Master of the Supreme Court, B C Nell, had refused to postpone the Verco meeting until after the Vermaas and Eurotrust meetings, which were to be held on April 20 and 21 respectively

As a result of the court order, the Vermaas and Eurotrust creditors' meetings will be held on April 20, before the Verco meeting, which will enable the creditors to appoint trustees of their choice — Sapa

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Own Correspondent

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Death ²⁵² row 11 saved

• From Page 1

death sentences commuted to terms of imprisonment in 1988

The death sentences of the 11 men were commuted to

L Banzane (32) — 25 years' imprisonment, M M McDonald (23) — 20 years' imprisonment; T Dajee (24) — 20 years' imprisonment; J Masakala (29) — 20 years' imprisonment, J Modibedi (20) — 20 years' imprisonment; O F Moloi (19) — 25 years' imprisonment; R F Shezi (27) — 20 years' imprisonment; J J Stoffels (34) — 10 years' imprisonment; W Thomas (20) — 25 years' imprisonment, S L Bonki (21) — 25 years' imprisonment; and M C Makeleni (21) — 25 years' imprisonment.

Bonki and Makeleni are part of the Addo four who were sentenced to death according to the common purpose principle for the murder of an elderly farmer and his wife during June 1985.

Lawyers for Human Rights successfully brought an application to stay the execution of Harry Ngcobo, who was due to be executed today.

The five men who are scheduled to be executed are John Ndlovu, Lazarus Mance, Alpheus Thantsa, Makhezwane Menze and Ndumiso Siphenuko.

Ndlovu and Mance were due to be hanged today (Tuesday). According to Mr Curren: "Applications to stay the executions of Ndlovu and Mance were proceeding yesterday in order to enable Mance to petition the State President (for clemency)".

Ndlovu has already exhausted all avenues of appeal and the stay in his case is being requested in order to avoid prejudicing the case of Mance, who was his co-accused.

DEATH ROW 11 SAVED

Sowetan 12/1/89

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Reprieved by Botha



RW ... 27 sentences commuted.

ELEVEN death row prisoners have been reprieved by the State President bringing the number of those reprieved in 1989 to 27.

But five others are due to be hanged this week.

The men's death sentences were com-

muted on Friday to terms of imprisonment ranging from 20 years to 25 years' imprisonment.

During March, 16 men were reprieved by President Botha and received prison sentences ranging from 10 years to life imprisonment.

The national director of Lawyers for Human Rights, Mr Brian Currin, welcomed the reprieves and said: "Once again

the value of monitoring executions have been highlighted in that two of the people whose death sentences have been commuted were in fact due to be executed a few months ago.

A last minute stay of their execution was successfully brought by Lawyers for Human Rights on the basis that they were under age at the time of the crime.

"We subsequently instituted representations to the State President and lives have been saved."

Forty-two people, including the Sharpeville Six, and two former policemen, Jack la Grange and Robert van der Merwe, had their

• To Page 2

**TOWN CLERK
FACES SEVERAL
CHARGES - P4**

**REPORTS, pic-
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sored in terms
of the Govern-
ment's state of
emergency**

P.T.O.

cont. Times 18/4/89
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Eleven on Death Row reprieved

PRETORIA — Eleven prisoners on Death Row were granted clemency by the State President at the weekend — but three others were served notices of execution, Lawyers for Human Rights said here yesterday

This brings to six the number of prisoners awaiting death after being served such notices

The three new notices were served on Alpheus Thantsa, due to be executed tomorrow, and on Makhwezane Menze and Ndumiso Siphenuko, two of the Addo Four, due to be hanged on Thursday

LHR said they were investigating their cases

Meanwhile, LHR succeeded in obtaining a stay of execution for Harry Ngcobo, who was to have been hanged today, pending the outcome of a petition to the Chief Justice

LHR also succeeded yesterday in having the executions of Lazarus Mance and John Ndlovu, scheduled for today, stayed. Ndlovu has unsuccessfully petitioned the State President for clemency, but Mance has not

LHR said Mance's chances might be prejudiced if Ndlovu, with whom he was convicted for murder and robbery, was executed before his petition was considered — Sapa

Row over nameless hangman

Own Correspondent

LOS ANGELES — The hiring of an anonymous executioner, at a fee of \$15 000 (R37 500), to perform America's first hanging in 24 years, has led to a major clash between state officials and opponents of the death penalty

The dispute is over whether the hangman of murderer Charles Campbell should remain anonymous, as officials of Washington state wish, or whether his identity and qualifications should be disclosed, as the American Civil Liberties Union has demanded

Nov. 18/1981 (252)

Legal costs far too high — Ray Swart

High legal costs in South Africa continued to inhibit access to the courts and the Government should urgently address this problem, said Mr Ray Swart (DP, Berea)

Speaking during second reading debate on the Legal Aid Amendment Bill — supported by all parties — Mr Swart said “Access to the courts is still one of the problems that matters to the vast majority of our people”

He conceded that “various steps” — including the introduction of small claims courts — had been taken, but the situation was still far from satisfactory

“The high cost of litigation is still a matter of major concern. I believe there is a strong need to streamline procedure to bring access to the courts closer to the people, whether they can afford fees or not.

“If you go to any courts in South Africa, you will see hundreds of people milling around trying to sort out problems they very often do not understand and they cannot to afford to be represented

“This problem needs to be addressed urgently by the Justice Minister, his department and the legal profession,” he added

Clemency for 11 death row prisoners

3 scheduled to be executed this week

252

Star 18/4/89

By Jo-Anne Collinge

Three people, including two members of the Addo Youth Congress, are scheduled to be executed in Pretoria this week and two others were granted a stay of execution yesterday, according to Mr Brian Currin, national director of Lawyers for Human Rights (LHR).

The planned executions coincide with the granting of clemency to a further 11 death row prisoners, including another two Addo activists.

The granting of clemency by the State President was announced on Friday, Mr Currin said. It brings to 27 the number of condemned men spared by the head of State this year.

The scheduled execution of a sixth man, Harry Ngcobo, was stayed on Friday as a result of a Supreme Court action brought by LHR. The delay is to allow

Ngcobo to petition the Chief Justice for leave to appeal.

The three men who are scheduled to be executed are Alpheus Thantisa, Makhezwane Menze and Ndumiso Siphenuko.

John Ndlovu and Lazarus Mance were granted a stay of execution yesterday and Mance has until May 18 to petition the State President.

Ndlovu's petition was rejected by the State President, but after yesterday's order his execution will also be stayed.

Murder of farmer

The stay in the case of Ndlovu was requested in order to avoid prejudicing the case of Mance, who was his co-accused.

The two members of the "Addo Four" who are due to be executed are Menze and Siphenuko. They were sentenced in January 1987 for the murder of a farmer and his wife. The judge

found them guilty on the grounds of common purpose.

They were due to be executed on Thursday, while Thantisa had been informed he would be executed on Wednesday, Mr Currin said.

"We are presently investigating their circumstances and will make a further statement in due course about possible applications for stay of execution."

The two members of the Addo Four who were granted clemency are Similo Wonce and Christopher Makeleni.

Commenting on the act of clemency, Mr Currin said "We welcome it as a further positive step towards the eventual abolition of capital punishment in South Africa."

A total of 10 people have been executed this year, according to the Department of Justice. At least four stays of execution have been obtained administratively or through the courts.

LAWYERS CONDEMN INCORPORATION BILL

252 THEO RAWANA 18/4/89

LAWYERS and constitutional experts have condemned the Alteration of Boundaries of Self-Governing Territories Bill, calling it most regrettable.

The Bill, tabled in Parliament last week, denies the courts the right to inquire into or pronounce on the validity of the incorporation of land into a homeland.

Prof Marius Wiechers of Unisa's constitutional law department said yesterday the Bill made a mockery of the concept of self-governing territories.

Lawyers for Human Rights' national chairman Jules Browde said: "From experience the Minister wants to oust the jurisdiction of the courts only in cases where he feels the courts would find what he has done to be unreasonable."

Prof Johan van der Vyver of Wits University said the exclusion of the courts was regrettable.

CURRIN SAYS HE'LL LAY CHARGES

PRETORIA — Lawyers for Human Rights national director Brian Currin said he would drive to the Boksburg police station last night to lay charges against the city councillors who voted in favour of closing facilities in Boksburg to non-white people.

He told a news conference here yesterday the charges would be of subversion, in terms of the Internal Security Act of 1982, and called on people throughout the country who thought the application of the Separate Amenities Act fomented feelings of hostility between different race groups to do the same.

The Internal Security Act states that

“any person who with the intent to achieve, bring about or promote any constitutional, political, industrial, social or economic aim or change in the Republic... causes, encourages or foments feelings of hostility between different population groups or parts of population groups of the Republic shall be guilty of the offence of subversion and be liable on conviction to imprisonment for a period not exceeding 20 years..”

Currin referred to a statement by Constitutional Development and Planning Minister Chris Heunis, who said: “Government is committed to eliminate discrimination, as this cannot be justified or accepted in any way.” — Sapa.

SIPA 18/11/82

LSU

Suzman to query fine in Parliament

By Esmaré van der Merwe
Political Reporter

These political and legal scenes are being given to the case of two farmers who were each fined R1 200 for brutally assaulting a farm worker — who later died of brain haemorrhage

Louis Johannes Venter (35) and Pieter Marthinus Fouche (34), were tried in the Klerksdorp Regional Court last week

Mr Stephen Mononye had been tied to a tree and brutally assaulted by the two farmers who accused him of having stolen two cows. He later died of brain haemorrhage

The farmers were each

fining R1 200 or four months' imprisonment, plus a further six months' jail suspended for five years.

Venter and Fouche originally pleaded not guilty to charges of culpable homicide, kidnapping and two counts of assault. However, they later changed their plea to guilty on two counts of assault with intent to do grievous bodily harm.

The Democratic Party's spokesman on law and order, Mrs Helen Suzman, yesterday said she would definitely raise the matter in Parliament.

"This sort of sentence brings the South African judicial system into disrepute. I hope the

relatives of the dead man will be taking civil action," she said.

Mrs Suzman failed in an attempt last month to have Transvaal judge Mr Justice J J Strydom impeached by Parliament.

One judgment handed down by Judge Strydom involved a case, dubbed the "tree killing", heard in the Circuit Court in Louis Trichardt last year.

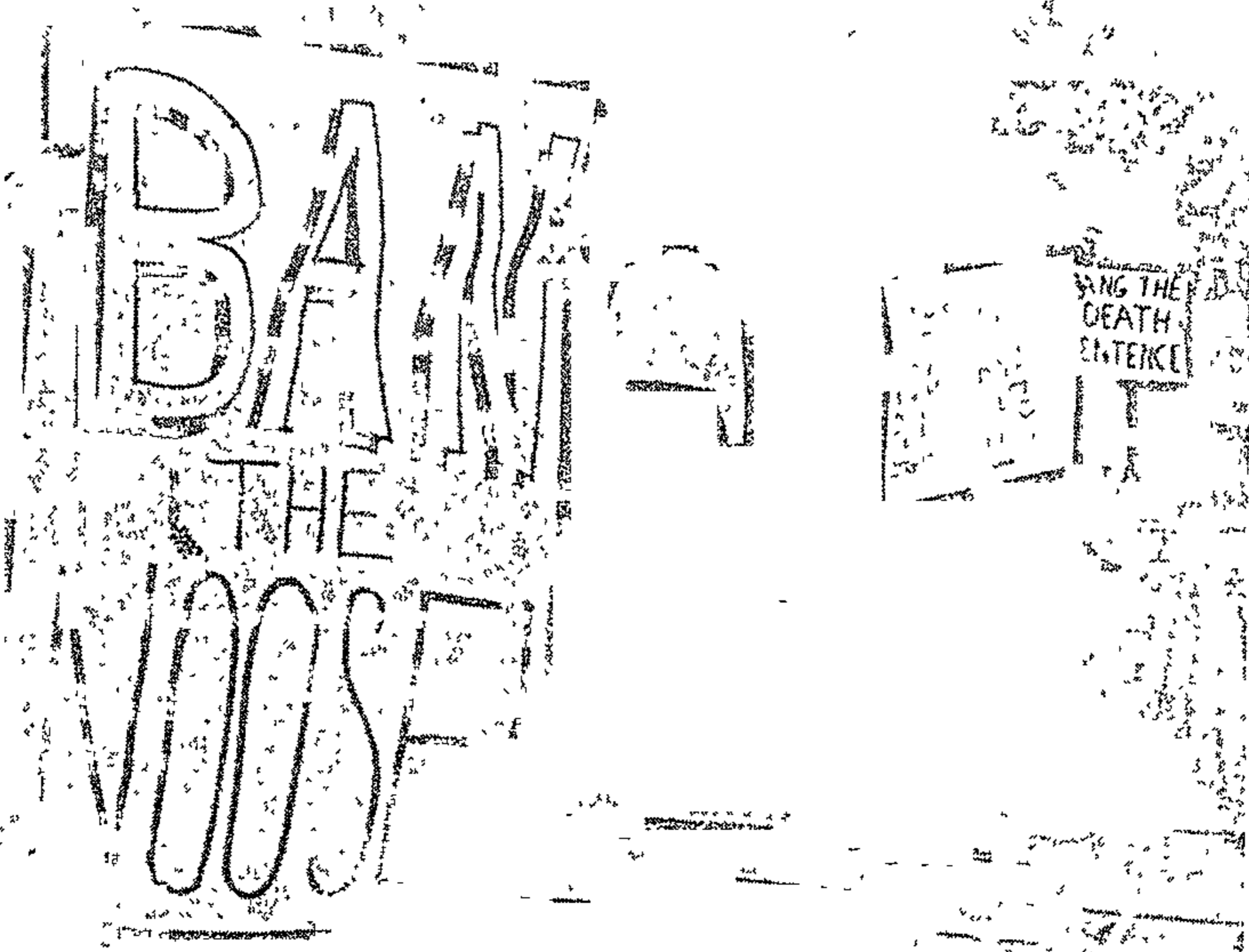
Jacobus Vorster and Petrus Leonard tied a farm labourer, who had allegedly killed a puppy, to a tree and assaulted him over a long period. He died as a result

Found guilty of culpable homicide, Vorster received a

five-year prison sentence suspended for five years. One of the conditions was that he pay R130 a month to the deceased's family, with a further fine of R3 000 payable in instalments. Leonard was found guilty of assault and fined R500 or three months' imprisonment

The leniency of this sentence, and others imposed by Judge Strydom, caused an outcry in political and legal circles

The Johannesburg Bar Council, which publicly criticised the sentence of Vorster and Leonard, said yesterday it would study the case of the State v Venter and Fouche before commenting.



Protesters hold a silent picket against the death sentence minutes before police order them to disperse from the Jan Smuts Avenue entrance to Wits University at 5 pm yesterday.

Picture by Herbert Mabuza.

Wits death penalty picketers dispersed

By Dawn Barkhuizen

Police yesterday ordered about 15 picketers protesting against the death penalty to disperse from the Jan Smuts Avenue entrance of the University of the Witwatersrand in Johannesburg in terms of the emergency regulations.

A police spokesman said the picket constituted an illegal gathering.

He said the picketers had been "entirely co-operative" and had dispersed without incident.

The picketers comprised representatives of

Lawyers for Human Rights, concerned students and members of the Society for the Abolition of Capital Punishment

The picket was held in protest against the scheduled execution of three men in Pretoria this week. The men due to hang are: Alpheus Thantasa, Makhezwane Menze and Ndumiso Siphenuko

Throughout the 30-minute picket, members remained silent and stood about 10 metres apart

The vice-principal of the university, Professor Peter Tyson, last night said the university supported the right of students to voice their opinions in an orderly manner



Rain comes through ceiling, windows, say angry pupils

By MICHAEL DOMAN
False Bay Bureau

AKC 20/11/89 252

DISGRUNTLED pupils at Zeekoevlei Senior Secondary School in Lotus River have written to The Argus to complain of ill-maintained classrooms which they fear will let a wet winter disrupt their education

Three letters signed by eight pupils and a fourth signed by "Students of Zeekoevlei" have all complained of more or less the same problems

The pupils complain of broken ceilings, windows, door handles and lights

One letter reads " . . . classrooms are not conducive to learning

"During winter it rains through the places where windows and ceilings are broken and classrooms are terribly cold"

Another says that pupils' education and powers of concentration might suffer as a result of their thinking more about how cold they are than about their work

The letters say that there is also a lack of sports fields, and a shortage of equipment which meant that pupils might not immediately understand certain experiments

The school is situated in 7th Avenue, Lotus River, and the letters allege that Zeekoevlei is being neglected because it is not on a main road

One letter reads "We have noticed that schools situated on main roads have received more attention as far as buildings are concerned. Even though we requested assistance from the Department of Education (and Culture) we have simply been told for the past three years that funds are not available for the improvement of our school

"What bothers us is that schools hidden in the backroads of townships all find themselves in the same position as we do.

Child's right

"Is it because we are out of the public eye that we do not receive the attention we need? Is it then true that 'out of sight is out of mind'?"

"The situation we find ourselves in does not lend itself favourably to the ultimate goals of education — the right of every child to be educated in a favourable environment"

House of Representatives spokesman Mr Thinus Dempsey said that there was no problem with windows, ceilings or the sports fields at the school

However, he said the 11-year-old school needed to be painted and had some door-handles missing, but the Department of Local Government, Housing and Agriculture, which paid for such improvements, did not have the funds available immediately

Mr Dempsey said: "This school has been given a high priority, but it all depends on funds"

"Every school has its problems and Zeekoevlei is not being neglected because it is away from main roads

"Schools next to highways also have broken windows."



Two killers hanged, another granted stay

The Argus Correspondent

PRETORIA — Two men, Ndumiso Siphenuka, 25, and Makhwezane Menze, 40, who were convicted of murdering a 72-year-old Eastern Cape farmer and his 65-year-old wife, were hanged this morning.

A third man due to be hanged today was granted a stay of execution

Siphenuka and Menze, former members of the Addo Youth Organisation, were sentenced to death on January 8, 1987

Alpheus Thantsa, of Pietersburg, who received a double death sentence in 1987 for killing a married couple, was granted leave to petition the State President by the judge who convicted him, Mr Justice Kirk-Cohen

The court had found that Thantsa murdered the elderly husband first and several days later killed his wife

The application for a stay was yesterday brought by Lawyers for Human Rights.

'Tree-killing' sentence to be raised in Parliament

176us
The Argus Correspondent *20/4/89*
JOHANNESBURG — A sentence in which two farmers were fined R1 200 each for assaulting a worker who later died of brain haemorrhage is coming under close political and legal scrutiny

The case of Louis Johannes Venter, 35, and Pieter Marthinus Fouche, 34, heard in Klerksdorp Regional Court last week, is fast earning the title of South Africa's second "tree-killing".

Mr Stephen Mononye was tied to a tree and assaulted by the two farmers who accused him of having stolen two cows. He died later.

The farmers were each fined R1 200 or four months' imprisonment, plus a

further six months suspended for five years

Venter and Fouche originally pleaded not guilty to charges of culpable homicide, kidnapping and two counts of assault. However, they later changed their plea to guilty on two counts of assault with intent to do grievous bodily harm.

The Democratic Party's spokesman on law and order, Mrs Helen Suzman, intends to raise the matter in Parliament.

"This sort of sentence brings the South African judicial system into disrepute. I hope the relatives of the dead man will be taking civil action," she said.

Three hang today

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Gowetam 10/4/87

THE National Association of Democratic Lawyers and the Mamelodi Youth Organisation yesterday criticised the State President, Mr P W Botha, for his refusal to reprieve three condemned prisoners who were due to be hanged in Pretoria this morning.

In statements released at a Press conference in Pretoria yesterday, the organisations said Mr Botha's refusal to spare the lives of the three revealed "the violent nature of the State".

The three are Alpheus Thantsa, Ndumiso Siphonyuko and Makhezwane Menze.

Thantsa was convicted for two murders and Siphonyuko and Menze for the murders of a farmer and his wife during 1987.

All were refused leave to appeal and their petitions were dismissed by the Chief Justice.

THE idea of equality before the law presupposed economic, social and political equality. And to achieve this, a massive "social engineering" programme must take place to create a just, democratic and non-racial state.

This was the theme of the papers delivered by distinguished speakers in the legal profession at Wits University last week during a conference to mark the Legal Resources Centre's 10 years of existence.

The two-day conference examined the work of the centre which was set up to help individuals and communities who otherwise would be unable to afford their legal rights. It also examined the role the law has to play in a changing society.

The common ground or assumption among the participants was that society was changing towards a democratic, non-racial state. Discussions also centred on the role the law would play in that society.

Issues of poverty and racism, the rule of law and a constitution encompassing a Bill of Rights were central issues dealt with by every speaker during each discussion forum.

Special guests included the Chief Justice of Zimbabwe, Mr Justice Enoch Dumbutshena, the President of the Court of Appeal in New South Wales, Australia, Mr Justice Michael Kirby, Johannesburg advocate and Judge of Appeal in Lesotho and Swaziland, Mr Ismail Mahomed, and the Johannesburg and London advocate Sydney Kentridge QC.

In an opening address, Mr Arthur Chaskalson, the National Director of the Legal Resources Centre, said the law in South Africa had been used both as an

Lawyers take a close look at the way justice works in SA

'Law used by politicians'

instrument of justice and of oppression. Lawyers were part of the process leading to the dismantling of apartheid. Professor Francis Wilson of the School of Economics at the University of Cape Town, speaking on the role of the law in creating and perpetuating poverty in the country, said the issue of poverty mostly concerned lawyers whose work involved not only dispensing justice but also with reducing the crime rate.

Poverty was a lawyer's



MR JUSTICE Enoch Dumbutshena, Chief Justice of Zimbabwe, at the Legal Resources Centre seminar in Johannesburg.

concern because, among other things, it prevented access to the legal system and it may cause crime. Where it is linked to deep inequality, it is a manifestation and cause of social injustice, he said.

Professor Wilson noted that about 50 percent of households in South Africa lived below the minimum level and in the "homelands" the figure was 81 percent. The infant mortality rate showed that 94 to 124 out of 1000 black babies born alive, died under the age of one, while the ratio for white babies was only 12.

Statistics of murder, rape and assaults also reflected that South Africa and particularly the townships and rural areas had higher incidents of these, when compared with other countries like the UK and the USA.

Apart from factors like the population growth, unemployment and inflation, poverty in South Africa was a man-made problem resulting from the land conquest in the form of the Land Acts of 1913 and 1936, slavery in the form of the influx laws, the migrant labour system and rural impoverishment.

POHIS

By SONTI MASEKO

Other causes of poverty were the colour bar practices in the mines, the differential public investment in education, health and housing and the crushing of the trade union movement, Professor Wilson said.

The question then arises on whether it would be sufficient to make the law colour blind after 300 years of discrimination, he said.

Mr D E Moseneke, an advocate and founder member of the Black Lawyers' Association, said the most direct impact of segregation has been the denial of development and the consequent impoverishment of the black people.

Land dispossession was a designed process of impoverishment, which, coupled with the taking away of the franchise, led to exploitation, Mr Moseneke said.

An appropriate land reform programme was needed, together with a government that would spend vast amounts on the disadvantaged.

"A true Rubicon will be one that presupposes unlimited extension of the most fundamental human rights," he said.

A call for the empowerment of the disadvantaged majority in the country was also made by advocate Dullah Omar, the president of the National Association of Democratic Lawyers.

Mr Omar, a human rights lawyer, said guidelines were needed to reduce the helplessness of the people.

"Lawyers should use methods of empowering the people to help themselves, like the role lawyers have played on the labour front," he said.

He said the changes in the last 10 years were not motivated by the desire to change, but were prompted by the economic needs of the country.

Zimbabwe's Chief Justice, Mr Justice Dumbutshena, speaking on building the rule of law, said that justice could be done in an emergent independent state only if the people's rights were protected by a declaration of human rights.

He said it was important for the judiciary in a new state to dissociate the past from the present so that it remained impartial.

In Zimbabwe, he said, political considerations did not interfere with the method of choosing judges. The judiciary included members from the Smith and the Muzorewa governments.

"There is no consideration given to political affiliations, otherwise I would not have been appointed a judge," he said.

Political comment in this issue by Aggrey Klaaste and Sam Mabe. Sub-editing, headlines and posters by Sydney Matlhaku. All of 61 Commando Road, Industria West, Johannesburg.

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Last message of hanged pair: carry on fighting

By MZIMKULU MALUNGA

THE EXECUTION of two members of the Addo Youth Congress yesterday morning has sparked new calls for the government to scrap capital punishment

The two, Ndimiso Siphenuka and Makhezwane Menze, were convicted of the murder of a farming couple, Koos and Myrtle de Jager, on the basis of the "common purpose" principle and sentenced to death on January 2 1987 in the Port Elizabeth Supreme Court

Shortly before their execution, their co-accused, Similo Monci and Mziwoxolo Makeleni (both 22 years old), had their sentences commuted to 25 years' imprisonment on the strength of their age. They were both under 21 when the crime was committed

The couple were murdered in their farm on June 17 1985 in the Kirkwood district of the Eastern Cape

Two other death row prisoners who were due to hang yesterday, Alpheus Thantsa and Mogamat Keraan, were granted a stay of execution a few hours before they were due to be taken to the gallows.

Thantsa's stay of execution was granted after the Lawyers for Human Rights national directorate brought an urgent application in the Pretoria Supreme Court on Wednesday to halt their execution. The organisation argued that Thantsa had not yet had the opportunity to petition President PW Botha for clemency.

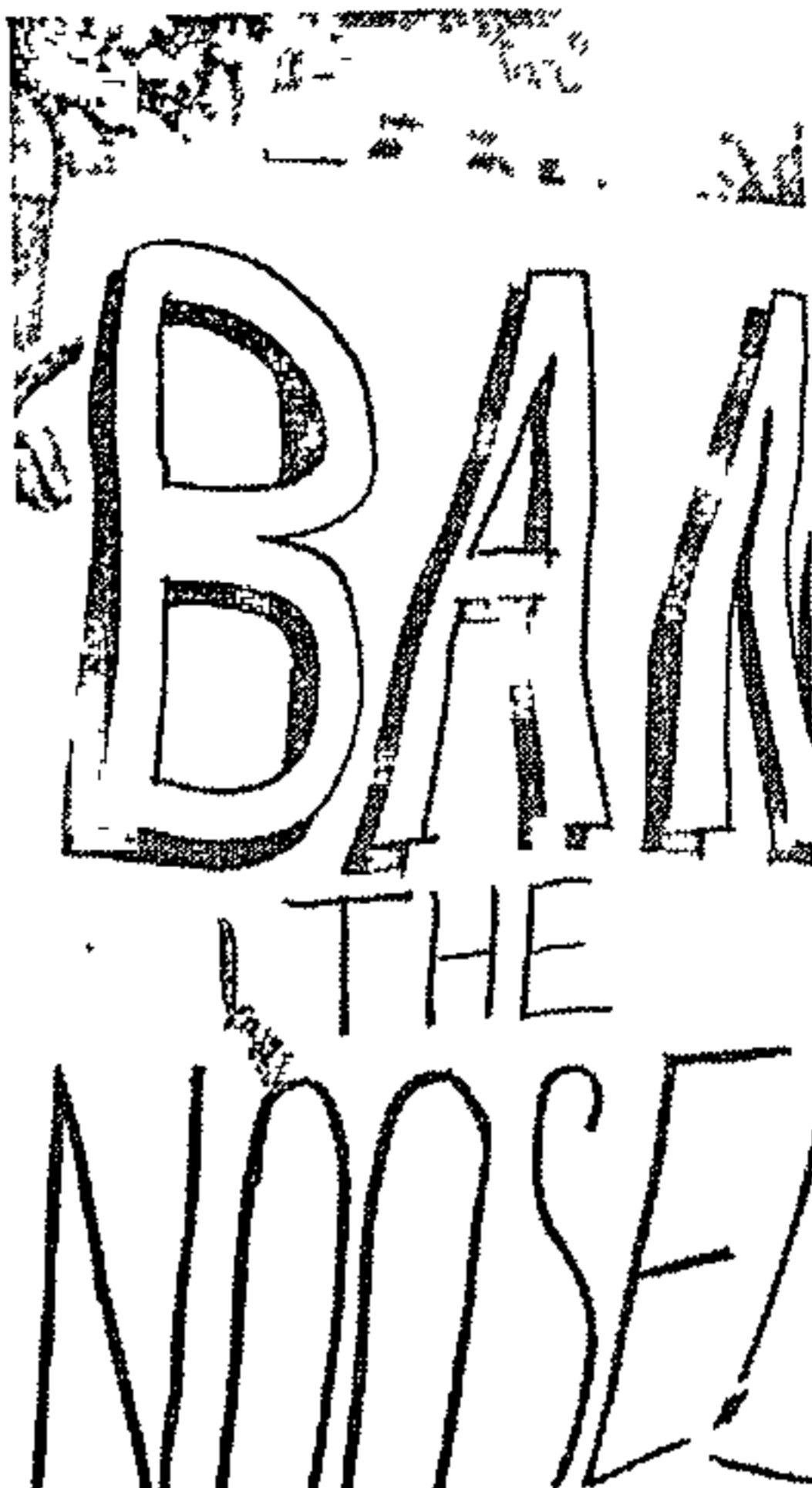
Keraan, who is from Cape Town, was saved from the gallows after his family appealed to an MP in the House of Representatives, who in turn made representation to Minister of Justice Kobie Coetsee.

Family members of Siphenuka and Menze, who saw them for the last time on Wednesday this week, said the two men had given them a message saying: "Don't cry for us, cry for yourselves. We know God is on our side and one day things will change in South Africa. Lastly, we call on our comrades to unite and carry on with the struggle."

Siphenuka's father, Freddy Siphenuka, said "I still feel that my son was innocent — it is an unbearable pain to see him being executed for a crime he did not commit

"Even the judge who sentenced him said he did not care whether he killed the farmer or not. He sentenced him to death just because he was in that area when the crime was committed"

Siphenuka lived with his parents, his two children and four brothers in the Kirkwood district. His father, a farmworker who earns R35 a week, now has to support the family on his own.



Placard at a Wits University protest against hangings this week

Picture. ANNA ZIEMINSKI, Afrapix

Menze lived with his widowed mother and three other people in Motherwell, outside Port Elizabeth. Through his work as a building contractor, he was the sole breadwinner for the family.

His bother, Zukile Menze, a former detainee and a member of the Addo Youth Congress, said: "My brother made it clear that the executions were meant to intimidate people from taking part in the struggle. He expressed hope that the people of this country would carry on with the struggle."

Calling for a moratorium on hangings, the the Save the Patriots Campaign said there were 68 people currently on death row for politically related offences.

The president of the National Union of Mineworkers, James Motlati, said his union wanted a commission of inquiry to look into the issue of the death penalty

Two NUM members, Tyelovuyo Mgedezi and Lucky Nomnganga, are presently on death row in the Pretoria Central Prison.

Southern Africa — The Imprisoned Society (Satis), a British-based anti-apartheid group, petitioned the British Assistant Secretary of State, Lynda Chalker, to intervene and save the lives of the two Addo youths.

In her reply, Chalker said intervention was unjustified and stated her government was only prepared to join calls for clemency in "exceptional circumstances".

"Our criteria are that the case must be clearly political, not criminal in nature and that there must be extenuating circumstances or grounds to doubt the fairness of the judicial process," she said.

Among the organisations which condemned the hangings were the South African Railway and Harbours Workers Union, the Detainees Aid Centre, Lawyers for Human Rights, Concerned Social Workers, the Organisation for Appropriate Social Services in South Africa and the National Association of Democratic Lawyers.

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CAPE TIMES 2/1/87
**Two of Addo
Four hanged** *(252)*

PRETORIA — Two members of the Addo Four were hanged at Pretoria Central Prison yesterday, bringing the number of executions for the year to 12, authorities confirmed.

The two were Ndumiso Siphenuka and Makezwane Menze

Lawyers for Human Rights (LHR) said all possible legal procedures had been exhausted — Sapa

Group Areas trial to go to Supreme Court

2/14/67
By Celeste Louw

A Johannesburg Regional Court magistrate yesterday granted an application for the hearing of two men, who allegedly contravened the Group Areas Act, to be referred to the Supreme Court.

The defence in the case of Mr Lawley Shein (34) and Mr Ravechand Ramjee (39) made the application to challenge the validity of the Group Areas Act.

The two men allegedly contravened the Group Areas Act when Mr Shein allowed Mr Ramjee to rent his house in Mayfair West.

The application was made by the defence on the grounds that it was unreasonable to charge the men for contravening the Act.

The court heard that the validity of the Act was last challenged in the Supreme Court in 1980.

Fur flies in Carletonville case

Businessmen take council to task in court

By Kaizer Nyatumba

The Conservative Party-controlled Carletonville Town Council's decision to enforce the Reservation of Separate Amenities Act was *ultra vires* and should therefore be declared null and void, three Carletonville businessmen argued in papers before the Pretoria Supreme Court.

The three businessmen, who brought the application on behalf of the Carletonville Chamber of Commerce on April 14, said the council had failed to consult the people or give them a chance to make representations.

The three businessmen are Mr Sorrel Geoffrey Waks, Mr John Billy Motsau and Mr Abdul Rhaman Bhamjee, and the respondents are the Carletonville Town Council and the mayor, Mr Gert Petrus Jacobs.

Mr Waks is the director of a timber and hardware company in the town, is a registered voter and ratepayer in Carletonville, and belongs to the local Chamber of Commerce.

In his sworn affidavit, Mr Waks asked the Supreme Court to declare the council's deci-

sions null and void or alternatively put them aside on the following grounds:

Obliged

① The town council, which was legally obliged to consult the people its decision was going to affect, had not done so.

② By putting public facilities in the town aside for the sole use of whites, the council acted maliciously because the decision was not in the interest of Carletonville residents, but was meant to further the CP's political interests.

The council's decision and its implementation were "unreasonable, unjust and discriminatory" to the people it affected.

The second applicant, Mr Motsau, of nearby Khutsong township, said the town council's decision upset him.

The third applicant, Mr Bhamjee, said he and his son used to play soccer in Protea Park in the town before it was reserved for whites only.

Carletonville management committee chairman Mr Koos Nel said the council had instructed its lawyers to defend its decision to reserve the use of public amenities to whites only.

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Stw 21/4/89

MERCY PLEA FAILS

TWO members of the Addo Youth Congress in the Cape were executed in Pretoria yesterday morning.

All possible remedies and legal procedures to save the two men — Ndumiso Siphenuka and Makezwane Menze — were exhausted.

The two were sentenced to death for the murder of a farmer and his wife in Kirkwood in the Karoo in 1985.

Lawyers for Human Rights (LHR) were however able to bring an application before court for a stay of execution of Alpheus Thantisa, who was also due to be hanged yesterday.

Mr Thantisa has two death sentences imposed on him following a conviction on July 27 1987 at Pietersburg.

Application was brought before Judge Cohen on the grounds that Thantisa had not yet had the opportunity to petition the State President for clemency. The application was granted.

Members of Azanyu hanged

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The national director of LHR, Mr Brian Curriñ, said he was saddened to learn that Siphenuka and Menze were hanged. "We repeat our stand based organisation,

that a commission be appointed to reconsider the whole question of the death penalty in South Africa," he said.

Meanwhile a London-based organisation,

Southern Africa — The Imprisoned Society (Satus), held a picket at South Africa's foreign office on Wednesday to demand that the execution of the two men be stayed.

Satus also appealed to the British Government to take urgent action to stop the executions, but with no success.

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Winn
23/4/89

JUSTICE

FOR ALL?

Fines show how cheap black lives are in SA says widow

20
23/4/81
By DAN DHLAMINI

A BLACK farm worker died after a brutal assault by two western Transvaal farmers - but they will not go to jail

Louis Venter, 35, and Pieter Fouche, 34, of Klerksdorp were fined R1 200 each (or four months imprisonment) and a further six months jail term was suspended for five years

The sentence, coming just months after Louis Trichardt farmers Jacobus Vorster and Piet Leonard got suspended sentences for beating to death farm worker Eric Sambo, has raised eyebrows.

It is believed that in both instances the farmers were acting within the Stock Theft Act, which empowers farmers to arrest suspects.

There are striking similarities in both the Klerksdorp and Louis Trichardt cases

The presiding judge in Louis Trichardt, Judge JJ Strydom, sentenced the accused Vorster to a suspended five-year prison term and an effective R3 000 fine for culpable homicide. He was also ordered to pay Sambo's widow R130 a month for five years

DOG SPARKS KILLING

Sambo was beaten to death for killing one of Vorster's dogs

Vorster admitted that he had punched Sambo with his fists, hit him with a stick and ordered four labourers to beat him with sticks - which they did. He also fired shots near the man to frighten him

Leonard, his accomplice, also admitted to hitting Sambo

They pleaded not guilty to murder and the State later accepted Vorster's plea of culpable homicide. Vorster was found guilty on that charge - which was followed by an outraged reaction from South Africa's legal profession, politicians and the man in the street

Venter and Fouche assaulted Stephen Mononye on March 16 last year for the alleged theft of two cows

The Klerksdorp court heard that Mononye had denied the charges while in agony before he died and the cows were later found

The events leading to the death of Mononye on that fateful day were recounted in court by a State witness, J Nyathu

He told the court that Mononye, whose hands were tied behind his back, had a rope tied around his neck and was severely sjambokked by the accused despite his repeated denials of theft

Nyathu described how Fouche had entered a room carrying Mononye on his shoulder. He threw Mononye onto the floor and warned Nyathu not to free him

Nyathu told the court that Venter and Fouche came back after ten minutes with three other farm workers, who were later ordered to carry Mononye to the bakkie. They refused

Earlier in the trial, the accused's version of the deceased's death was that Mononye's head had hit the windshield of the bakkie while he was wrestling with them in a bid to escape.

The cause of his death had been recorded as bleeding on the brain and the State did not prove beyond doubt that the accused were responsible for his death

The accused initially pleaded not guilty to culpable homicide, kidnapping and two counts of assault

The case was supposed to have started on Monday, April 10, but did not go ahead and, in a surprise move the following day, the accused changed their plea of not guilty to that of guilty to two counts of assault with intent to do grievous bodily harm

Prosecutor Leone Lemmer accepted the defence's offer to plead guilty to two counts of assault with intent to do grievous bodily harm to the deceased and David Ohfant

Pleading in mitigation of sentence, Advocate E Grey told regional magistrate PJJ Venter that Venter should not be sent to jail because his wife was a cancer sufferer and he regretted what he had done

Lilly Mononye, the dead man's widow, reacted angrily after judgment was passed

She said that the fact that the "well-off" farmers had been fined a total of R2 400 showed how cheap a black man's life was in this country

"Although this would not bring my husband back to life, I feel that a lengthy jail term would have been appropriate," said Mononye, with tears welling in her eyes

She said she earned a meagre salary as a domestic servant and found it difficult to maintain her four minor children

Mononye said she would seek legal advice and the Potchefstroom-based Northern Cape and Western Transvaal Council of Churches confirmed this week that she has approached them for assistance

In the strikingly similar Northern Transvaal case, Jacobus Vorster and Piet Leonard were initial-

ly charged with the murder of Eric Sambo, whom they beat up while he was tied to a tree

His crime? He accidentally killed his employer's dogs by driving over them

The State accepted Vorster's change of plea to guilty on a lesser charge of culpable homicide and Leonard's plea of guilty to assault

Vorster was given a suspended five years' jail term and was ordered to pay Sambo's widow R130 in 60 monthly instalments

Leonard was sentenced to a fine of R500 or three months' imprisonment

● Another case involving a farmer and two of his employees, who allegedly brutally murdered a 15-year-old boy, will be heard in the Heilbron magistrate's court next week

Frans Jacobus Smit, 47, Johannes Swebea, 35, and Patrick Mngwevu, 21, last week pleaded not guilty to murder before Magistrate RJ Steyn

BOY FOUND DEAD

The State alleges that they murdered 15-year-old Cheyana Radebe on March 4 this year by repeatedly assaulting him while a leather thong was tied around his neck

His body was discovered in the farm storeroom with a leather strip around the neck and sjambok weals all over the body

This week the veteran parliamentarian and human rights champion, Helen Suzman, who unsuccessfully attempted to have Judge JJ Strydom impeached over the Louis Trichardt case recently, commented on the Klerksdorp case

In a telephone interview with *City Press*, Suzman said "It's another instance of gross perversion of justice and can only bring the South African judicial system into disrepute both at home and abroad. I shall raise the matter in Parliament and I hope the widow will be provided with legal assistance in order to institute a civil action against the men who killed her husband"

The director of the Black Lawyers Association's Legal Education Centre, Justice Moloto, referred to the Sharpeville Six's case, saying that they had not lifted a finger to kill but had been sentenced to death merely because they were present when the crime was committed while the farmers who actually beat up Sambo and Mononye were given light sentences.

Parents in bid to save Delmas 4

By Jo-Anne Collinge

Families of four African National Congress men who have refused to participate in their trial in the Supreme Court at Delmas have instructed lawyers to lead evidence in mitigation of sentence in a bid to save their sons from the gallows.

The trial enters the sentencing phase tomorrow.

Jabu Masina, Neo Potsane, TingTing Masango and Joseph Makhura have stated they believe it inappropriate that soldiers of Umkhonto we Sizwe should be tried in civilian courts.

In a statement, their parents said they respected their sons' decision to refrain from participating in the trial.

However, they said, they felt it "essential that all South Africans should know the circumstances and events that compelled them to choose the path that they did. Accordingly we have instructed lawyers to place an argument in extenuation before the court."

Masina, Potsane and Masango have been convicted of murders which they carried out as part of an ANC assassination squad. The men they killed were policemen Sergeant Orphan "Hlubi" Chaphi of Soweto and Constable Sinki Vuma of Mamelodi, and homeland politician Mr David Lukhele.

Makhura has been acquitted on murder charges but convicted on other counts of attempted murder.

If no mitigating factors are found, the death sentence must be imposed on Masina, Potsane and Masango.

SA attacked for soaring number of executions

Pretoria Correspondent

Amnesty International, a British-based human rights organisation, has lashed out at the South African legal system in its latest report on the death penalty in the country

Their main criticism is that South Africa has one of the highest execution rates in the world.

In its latest report the organisation said 1 593 people were executed between 1978 and 1987

While executions exceeded 100 annually, the percentage of reprieves had declined

According to the report, the proportion of death sentences imposed by the courts and later commuted

by the State President rose from just under 10 percent in 1978 to 45 percent in 1983.

Since 1983 the rate had fallen steadily, with only 12 percent of those sentenced to death being reprieved in 1987

Amnesty International said the death penalty was increasingly imposed at political trials or trials for politically-related killings

"Defendants in these cases were often held incommunicado for long periods before being brought to trial. Some have been physically tortured, and statements they or others have made during prolonged periods of incommunicado detention often formed the basis of the prosecution's evidence against them," the report said

WHITE JUDICIARY

According to the report, death sentences were imposed disproportionately on blacks by an almost entirely white judiciary

Referring to murder trial statistics, the report said between June 1982 and June 1983, 81 blacks were convicted of murdering whites and 38 were hanged

During the same period 52 whites were convicted of murdering whites, of whom one was hanged

None of the 21 whites convicted of murdering blacks was hanged.

Referring to the independence of assessors, the report said "The judge selected the assessors, and certain assessors were repeatedly selected by the same judge. "This raised questions about the independence of assessors especially, as was often the case, when they were retired lawyers dependent on the position for income"

Referring to *pro deo* advocates, the report said court-appointed advocates received the minimum amount of time for consultation with the accused before the trial began

The system did not permit the appointment of a lawyer who, in the South African legal system, was crucial for the proper preparation of the defendant's case, the report added

... already been plunged
... environment," he said.

More court divisions rejected

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Blom 24/4/89 Political Staff

CAPE TOWN — Calls for the establishment of more local divisions of the Supreme Court, particularly in the southern Cape, the western Transvaal and non-independent homelands, have been rejected by the Hefer Commission. The commission, whose report was tabled in Parliament yesterday, recommended that no further local divisions of the Supreme Court be created or that divisions be established in the self-governing homelands, although legal provision has been made for this.

However, it did recommend that the Durban and Coast Local Division of the Supreme Court be given appeal and review jurisdiction on the same basis as the Witwatersrand Local Division.

The commission, whose sole member was Mr Justice J J F Hefer, an Appeal Court judge, found that there would be considerable difficulties and costs in establishing new local divisions of the Supreme Court.

BUDGET VOTE: AGRICULTURAL ECONOMICS AND MARKETING

PRESENTATION ACCORDING TO STANDARD ITEMS

Items	1989/90	1988/89
	R'000	R'000
Personnel expenditure	75 660	66 576
Administrative expenditure	15 238	15 895
Stores and livestock	9 679	9 392
Equipment	4 411	4 091
Land and buildings	—	—
Professional and special services	4 688	6 242
Transfer payments	176 325	211 567
Miscellaneous expenditure	2 750	2 353
Amount to be voted	288 751	316 116

Departmental and miscellaneous receipts, R25 000 000

1989/90 Officials earning R80 000 and more

1988/89 Officials earning R59 200 and more

Source: Estimates of Expenditure

ueq

MIKE ROBERTSON

POLITICS

Heunis explains? court curb

Bl Day 24 of 1999
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CAPE TOWN — Constitutional Development Minister Chris Heunis has tried to justify his department's attempt to deny courts' right to inquire or pronounce on government moves to alter homeland boundaries by saying their rulings can result in "administrative, political and legal chaos".

Heunis was responding to media inquiries about the alteration of Boundaries of Self-Governing Territories Bill. The Bill seeks to deny the courts the right to inquire or pronounce upon proclamations issued by government on the alteration or extension of homeland boundaries. He issued his statement on the same day that Justice Minister Kobie Coetsee said "our Supreme Court is the guardian of the rights of the

Govt considering ban

individual and the community".

The Bill seeks to invalidate a Supreme Court judgement last year preventing government from adding Botshabelo, a community of 400 000 near Bloemfontein, to the QwaQwa homeland. The Supreme Court based its decision on the ethnic incompatibility of the peoples of Botshabelo and QwaQwa, recognising differences in political development, lifestyle and culture.

One judge, Mr Justice Funder, spoke at length in the ruling of the judicial responsibility to safeguard the rights of people who have no official representation. He said "I would assume that a far-reaching step such as the incorporation of

Botshabelo would have been thoroughly investigated and planned. I would like to think this was so since an important and drastic constitutional step was taken changing the right, status and way of life of approximately 400 000 people who had no say in the matter whatsoever. This calls for the exercise by this court of the utmost vigilance and scrutiny since no other effective legitimate avenue may be available to safeguard the rights of those so affected."

Explaining why government felt the new Bill was necessary, Heunis said: "The history of various court cases affecting the boundaries of self-governing territories is well-known. When a proclaimed boundary is changed by way of a court action with retrospective effect, the result can be administrative, political and legal chaos. This is especially so if the court action takes place a few years after the boundary has been proclaimed."

Democratic Party spokesman Peter Soal described Heunis's justification of the Bill as cynical. It allowed government to do exactly what the judges had said they should not do in the case of Botshabelo. "It is a disgraceful disregard for the system of justice. When they don't agree with what the courts say, they take the rights of the court away."

Landmark acquittal may affect the prosecutions of other activists

By Cathy Stagg

Yesterday's landmark acquittal of trade unionist Mr Moses Mayekiso and his four co-accused is expected to have a ripple effect on several other prosecutions of activists who had formed street committees in black townships

This view was expressed today by Mrs Helen Suzman, Democratic Party spokesman on law and order. She said the judgment appeared to indicate that these activists would no longer face the deadly charge of treason.

It was always a relief to know that people were not facing the death penalty, she said.

In yesterday's judgment in the Rand Supreme Court, Mr Justice P J van der Walt acquitted Mr Mayekiso and his four co-accused of all charges.

JUDGE'S CONCERN

He expressed concern that so much time and energy had been spent on evidence — which had nevertheless had to be brought because the accused were charged with treason.

"A charge of treason should be carefully considered and very carefully re-considered before being brought," the judge said.

The trial began in October 1987. Mr Mayekiso (40), Mr Paul Tshabalala (32), Mr Richard Mdakane (31), Mr Obed Bapela (31) and Mr Mzwanele Mayekiso (24) were charged with treason, alternatively sedition, alternatively subversion.

During final argument in April this year, the State said the treason charge

had been abandoned because of insufficient evidence.

The judge said "In the spectrum of politics of our citizens — from black to white and from far left to far right, with their grievances and aspirations in most cases legitimate — most of these citizens are just striving for a better South Africa."

Four of the five accused were arrested in June 1986. Mr Tshabalala was arrested in January 1987. They remained in detention until December 12 1988 when the Attorney-General withdrew the certificate blocking their bail.

The judge found the State had not proved beyond reasonable doubt the guilt of the accused on a charge of subversion, sedition or any other competent finding. In his judgment he traced the background of Alexandra.

From 1912 until 1963 blacks could have freehold land in Alexandra. Then the Government decided to make it into a township for 25 000 single blacks and expropriated the freehold land.

Many people felt it was their birth-right to remain in Alexandra.

Between 1976 and 1979 organisations, including the Rev Sam Buti's Save Alexandra Party, persuaded the authorities to re-establish Alexandra as a family township.

Mr Buti's party won an election and became town councillors.

Although re-development took place in terms of a 1980 master plan, only a small section of the Alexandra community benefited while squalid conditions continued in "old" Alexandra.

"This clearly was why the community was dissatisfied and developed a lack of trust in authority," Mr Justice van der Walt said.

The old area had no water-borne sewerage, there was only one tap for every four to six dwellings and the roads were in exceptionally poor condition with no stormwater drains.

The judge saw this for himself.

A unique feature of Alexandra was the number of shacks erected on a stand designed to house one dwelling. The "yard" contained up to 15 families.

LOCAL PROBLEMS

The yard was the first unit in the organisation Mr Moses Mayekiso and his co-accused set up. Each yard was to have a committee, which would sort out local problems and report to street and block committees on larger issues.

Mr Justice van der Walt took judicial notice that blacks, unlike other population groups, had no vote to elect members of parliament.

In 1985/1986 violence flared up in black townships. Mr Buti's home was petrol-bombed in 1985 whilst he was mayor of Alexandra. Mr Michael Dirading was killed by a security guard at Jazz Stores in 1986. The army moved into the township on the day of his funeral and the "six-day war" followed.

The Alexandra Action Committee (AAC) was formed two days after Mr Dirading's funeral, on February 17, 1986.

In April there was a workshop in Thusong at which various organisations discussed what could be done about the situation in Alexandra.

The State relied on the minutes of this meeting to prove its charges because topics included the rent and consumer boycotts.

But the judge found the AAC minutes showed the accused were keen to involve the authorities in solving Alexandra's problems. This refuted any suggestion of subversion.

On April 22 1986 "radicals" were attacked by "vigilantes" during the night. It was a common belief that the vigilantes were the police or helped by the police.

The judge said the perception had substance and said it was a matter for regret the perpetrators had never been prosecuted.

... ranch, lives are still searching for... vered coins worth R2 million Stuart
... Krugarrands worth... and believe the remainder are honer

'Test case has been lost by State'

The acquittal of unionist and Alexandra activist Mr Moses Mayekiso on treason and other charges indicated the failure of the State to criminalise anti-apartheid opposition, major union groupings said.

ing up the problems of the people
"For us, apartheid and the cheap labour system should be on trial, not our leaders," said Mr Naidoo.
Mr Mayekiso told a media conference not only the accused, but "the

whole struggle towards a better society" had been on trial.
He added that he and his colleagues were "furious" at being kept in jail for periods of up to 2½ years, only to be acquitted later.

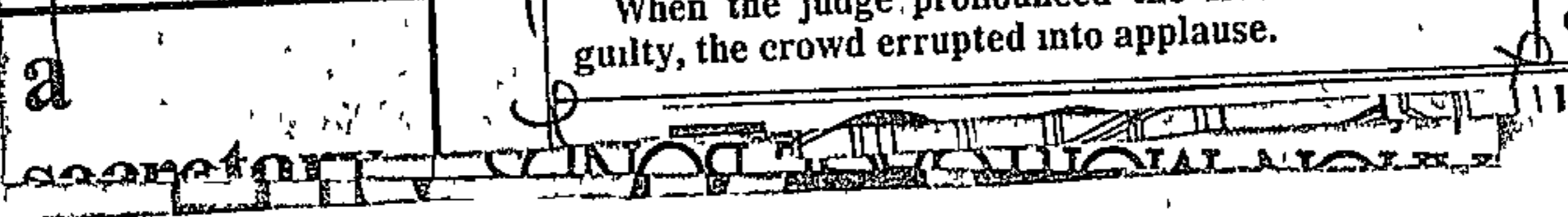
The general secretary of the Congress of SA Trade Unions, Mr Jay Naidoo, said the trial had been a test case for the State's attempts to criminalise our activities, particularly in respect of building organisations in the communities and tak-

Jubilant in crowded court

There was jubilation yesterday after the acquittal of Mr Moses Mayekiso and his four co-accused.
The courtroom was packed to capacity long before 10 am when judgment was due to begin. The crowd, jammed into the doorway at the back of the court, and two policemen battled in vain to prevent them forcing their way through.

When the judge pronounced the five accused not guilty, the crowd erupted into applause.

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Ref 14/89 (252)

By Jo-Anne Collinge

Families of four African National Congress men who have refused to participate in their trial in the Supreme Court at Delmas have instructed lawyers to lead evidence in mitigation of sentence in a bid to save their sons from the gallows.

The trial enters the sentencing phase today.

Jabu Masina, Neo Potsane, Tingting Masango and Joseph Makhura have stated they believe it inappropriate that soldiers of Umkhonto we Sizwe should be tried in civilian courts.

In a statement, their parents said they respected their sons' decision to refrain from participating in the trial.

However, they said, they felt it "essential that all South Africans should know the circumstances and events that compelled them to choose the path that they did. "Accordingly we have instructed lawyers to place an argument in extenuation before the court."

Masina, Potsane and Masango have been convicted of murders which they carried out as part of an ANC assassination squad. The men they killed were police Sergeant Orphan Chaphi of Soweto, Constable Sinki Vuma of Mamelodi and homeland politician Mr David Lukhele.

Makhura has been acquitted on murder charges but convicted on other counts of attempted murder.

If no mitigating factors are found, the death sentence must be imposed on Masina, Potsane and Masango.

Mine accused of strangling worker

Pretoria Correspondent

The State has closed its case in the trial of nine Witbank mine-workers facing a murder charge in the Pretoria Supreme Court

Following the death of a mineworker who allegedly did not heed a call to strike but went to work, the nine were charged with choking him to death

The accused are Mr Moses Nyakane (32), Mr Philemon Molo (27), Mr Jim Mogashoa (30), Mr Zingisile Siquala (30), Mr Jacob Mashiloane (29), Mr Piet Mahlangu (23), Mr Esan Vilakazi (37), Mr Thabiso Lethuoa (50) and Mr Elvis Mubi (23). They have pleaded not guilty.

The State alleged that on August 11 1987, at the Blinkpan Coal Mine near Witbank, the accused strangled Mr Joseph Mthimunya with two wire coat-hangers

After calling eight witnesses, the State yesterday closed its case

The hearing continues

252

Star 25/4/89

Inquest bars policeman

By Therese Anders
Highveld Bureau

Star 25/4/69
252

PIET RETIEF — An inquest court yesterday replaced a security policeman as the officer investigating the deaths of four suspected ANC members after it was disclosed that he had been involved in the shootings

The man replaced is Warrant-Officer Frederik Johannes Pienaar of the Piet Retief Security Police

The ruling was made by magistrate Mrs. H. Wilkens after applications by the legal representatives of the deceased's families

Application has also been made to have the inquest adjourned indefinitely on the grounds that it is improperly convened

CAME FROM SWAZILAND

A ruling is to be given on May 2

The inquest is being held on the deaths of four ANC suspects who were killed in the car in which they were travelling after entering South Africa from Swaziland last June 8

The dead are Mr Surendra "Lenny" Naidu (30), Miss June-Rose Nontsikelelo Cotoza (25), Miss Makhosi Nyoka (25), and Miss Lindiwe Mthemba (21). They were all originally from the Durban area

Representing the Naidu family, Mr

Zak Yacoob called the "conflicting" role of Warrant-Officer Pienaar as "absurd, obviously unjust, and almost amoral"

He said that if Warrant-Officer Pienaar was not replaced by an independent investigating officer, he would make an application to the Supreme Court to get the inquest set aside

He described the inquest as "fundamentally flawed"

Section 3 of the Inquest Act required that a policeman investigate a death occurring not by natural causes

"But the Act does not say 'including a policeman who may be a potential suspect or potential accused'"

He asked what confidence the court could have in the investigating officer when there had already been evidence that

● Repairs had been made to the deceased's shot-up vehicle before ballistic tests could be done

● The deceaseds' clothes had been burnt

● No photographs had been taken of the inside of the car

● Guns had not been sent for fingerprint analysis

Mr Yacoob also made application for all documents in the state prosecutor's possession to be handed in to the court

scribes the circumstances under which and the procedures applicable to the interception of telephone conversations. The hon member is given the assurance that the relative statutory provisions are at all times being strictly complied with and that no application for a telephone interception is granted for any other reason than for the maintenance of the security of the Republic,

(2) falls away

Crude-oil: purchasing contracts

*6 Mr J R DE VILLE asked the Minister of Economic Affairs and Technology

Whether contracts entered into for the purchase of crude oil and the prices paid for such oil are verified, if so, (a) by whom, (b) which Department or body handles the payments for such purchases, (c) who is responsible for inspecting the books of the SFF Association and (d) (i) who audits these crude-oil purchase transactions, (ii) by whom are these auditors appointed and (iii) on how many occasions were new auditors appointed over the past 10 years]

B687E

THE MINISTER OF ECONOMIC AFFAIRS AND TECHNOLOGY

(a) All prices and contracts are investigated and negotiated by the Board of Directors of CEF (Pty) Ltd. After the Minister of Economic Affairs and Technology has approved any contract, all accounting transactions are audited by the Auditor-General in accordance to the Central Energy Act, 1977 (Act 38 of 1977)

(b) SFF Association

(c) The Auditor-General

(d) (i) The Auditor-General

(ii) The Auditor-General
(iii) According to the Auditor-general no new appointments have been made over the past 10 years

*7 Mr W J D VAN WYK asked the Minister of Finance

Capitalization of inspection fees

HOUSE OF ASSEMBLY

(2) whether this inquiry has been completed, if not, (a) why not and (b) when is it anticipated that it will be completed, if so, (i) when and (ii) what were the findings,

(3) whether any precautions have been or are to be taken to avoid similar occurrences in the future, if so, what precautions?

B694E

THE DEPUTY MINISTER OF DEFENCE

(1), (2) and (3) The hon member is referred to my reply in this House to question number 13 of 14 February 1989

Mr Nelson Mandela: special treatment

10. Mr C J DERBY-LEWIS asked the Minister of Justice

With reference to his reply to Question No 50 of 28 February 1989, (a) why is the person in question, whose name has been furnished to the Minister's Department for the purpose of his reply, being accorded special treatment, (b) (i) what is the cost to the State of this special treatment and (ii) in respect of what period is this figure given and (c) what is the name of this person?

B711E

THE MINISTER OF JUSTICE

Mr Chairman, actually I should table the reply to this question in view of the fact that the hon member, Mr Derby-Lewis, is not present, in spite of the particular trouble one takes to give him his reply. I will nevertheless, seeing I have taken so much trouble, proceed to read the reply [Interjections]

(a) The treatment and circumstances of such persons are the result of the consideration of a variety of factors such as the period of sentence already served, prognosis, age, state of health, re-integration into the community and even sometimes other considerations which as in the past, I am prepared to share with Opposition Leadership on a personal and confidential basis and under given circumstances

(b) (i) (ii) Unfortunately a specific figure cannot be furnished as the cost-element involved in the circumstances and treatment of a specific person forms a varying portion of a great whole when referring to the unit cost per

(c) The same as furnished by the hon member.

Promotional film on SA

*11. Mr J R DE VILLE asked the Minister of Information, Broadcasting Services and the Film Industry

Whether his Department is planning to produce a promotional film on South Africa and its peoples for use on overseas television circuits, if not, why not, if so, (a) when and (b) what are the relevant details?

B718E

THE MINISTER FOR ADMINISTRATION AND PRIVATISATION (for The Minister of Information, Broadcasting Services and the Film Industry)

No This function is the mandate of Foreign Affairs

(a) Not applicable

(b) Not applicable

*12. Mr H J COETZEE—Foreign Affairs [Reply standing over.]

Mr S Bopape, investigation into disappearance

*13. Mr J VAN ECK asked the Minister of Law and Order

(1) With reference to his reply to Question No 1 on 11 April 1989 in regard to the investigation into the disappearance of Mr Stanza Bopape from police custody on 12 June 1988, what are the names of the members of the South African Police who accompanied the detainee in a police vehicle at the time of his alleged disappearance,

(2) whether he will allow the attorneys representing the family of the detainee who has disappeared to question the members concerned, if not, why not?

B736E

THE MINISTER OF LAW AND ORDER

(1) and (2)

HOUSE OF ASSEMBLY

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PLEAS FOR SILENT FOUR

FAMILIES of four African National Congress men who have refused to participate in their trial in the Supreme Court at Delmas have instructed lawyers to lead evidence in mitigation of sentence in a bid to save their sons from the gallows (252)

The trial enters the sentencing phase today. The four trialists — Jabu Masina, Neo Potsane, Tingting Masango and Joseph Makhura — will maintain their stance of non-participation. They have stated that they believed it inappropriate that

soldiers of Umkhonto weSizwe should be tried in civilian courts

In a statement, the parents of the Delmas 2 trialists, said they understood and respected their son's decision to refrain from participating in the trial

"However, we, as mothers and fathers, feel that it is our duty to alleviate their situation in any way possible. It is our firm belief that were it not for the system of apartheid our sons would never have left their beloved South Africa and would not be where they are today"



TRADE unionist Mr Moses Mayekiso is carried aloft after being acquitted of treason charges in the Rand Supreme Court yesterday.

Another operator is slain in taxi wars - see Page 2

Alex leaders acquitted

Sowetan 25/4/89

252

TRADE unionist, Mr Moses Mayekiso, and four civic leaders were found not guilty of all charges of treason and acquitted by a Rand Supreme Court judge yesterday.

By MANDLA NDLAZI

Shouts of "viva" filled

the courtroom as the excited crowd of spectators in the public gallery jumped from their seats and surged forward to shake hands

with the five men in the dock.

Mr Justice P J van der Walt expressed concern that so much time and energy was wasted in the trial of the five men, all

• To Page 2

Acquittal

Sowetan 25/4/89

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• From Page 1

members of the Alexandra Action Committee

The judge said the State had failed to prove beyond reasonable doubts that the accused were guilty of treason, subversion and sedition

The State had alleged that they attempted to usurp its authority by trying to seize control of Alexandra township.

the number of small shipping companies made it hard to track the route of oil cargoes around the world. — Sapa-Reuter.

A centrally-planned economy with little or no private property was not an environment in which the majority of business could operate successfully

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Minister 'wants to act unlawfully'

1/10/81
252
THEO RAWANA
CONSTITUTIONAL Planning and Development Minister Chris Heunis wanted a free hand to act unlawfully and unhampered by the control of the courts, Lawyers for Human Rights national chairman Jules Browde said yesterday.

Browde was reacting to Heunis's explanation of the Alteration of Boundaries of Self-Governing Territories Bill, which would deny the courts the right to inquire or pronounce upon government proclamations on the alteration or extension of homeland boundaries.

The Bill is an attempt to force the 500 000-strong community of Botshabelo to be incorporated into QwaQwa, in spite of a Supreme Court ruling last year overturning an earlier attempt.

Responding to media inquiries about the Bill, Heunis had said: "When a proclaimed boundary is changed by way of a court action with retrospective effect, the result can be administrative, political and legal chaos"

Browde said: "What the minister is asking for is a free hand to act unlawfully, unhampered by the control of the courts. If anything can lead to chaos, that can

"Our courts have often said that every legal power must have legal limits; otherwise there is dictatorship. That is what the minister is asking for."

Swapo appeals aired for guerrilla pull-out

1/10/81
VIN JACOBS

WINDHOEK — Swapo military commanders' pleas to guerrillas to return to Angola were broadcast for the first time last night over Namibian radio services, and similar helicopter-borne "skyshouts" are being amplified over Owambo's bushland.

Under an agreement with Angola, tape-recorded messages from Swapo's leaders are being broadcast across the territory in advance of a three-day military confinement to base offered by SA to induce a full guerrilla withdrawal from Namibia.

SA ordered the base restriction from 6pm tomorrow after Angolan officials said Swapo had complained its fighters in Namibia were reluctant to withdraw under threat of military pursuit.

Government spokesman Gerhard Roux said yesterday the Swapo tapes ordering the immediate pull-out had been handed over on Sunday.

It was not clear if UN or SA military helicopters and ground vehicles would be used to broadcast the appeals.

Officials have declined to estimate the number of Swapo fighters still in the territory, holding out for verification after this week's confinement. They say the military forces will remain in bases and SA will resume its withdrawal if Administrator-General Louis Pienaar is satisfied by UN monitors that all of Swapo's surviving fighters have reassembled behind the 16th parallel in Angola.

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Cosatu general secretary Jay Naidoo (left) greeted Alexandra treason trialist Moses Mayekiso as Mayekiso and four co-accused walked free from the Rand Supreme Court. Picture ROBERT BOTHA

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Judge urges care on charges

252
B 1 Day 25/4/89
SUSAN RUSSELL

GIVEN the spectrum of politics in our society — from black to white and far left to far right — a charge of treason should be carefully considered and reconsidered before being brought, Mr Justice van der Walt said yesterday

He was delivering his judgement in the Rand Supreme Court, acquitting unionist Moses Mayekiso and four others on charges of treason and alternative charges of subversion and sedition.

"It is a matter for comment and concern that so much energy and time was spent in the course of this trial on evidence made necessary and relevant by the charge of treason which has proved abortive.

"Treason is a crime in a very special category where the ideas and political aspirations of those charged are part of the issue," said Mr Justice van der Walt

He referred to statements in the

Press at the time of the alleged crime, attributed to Mayekiso, which formed part of the State's evidence.

He said the State had built up a persuasive case on these that might indicate a subversive intent and possible furtherance of certain events in the township.

Conditions

The judge added, however, that, taking conditions in Alexandra at the time into account and the Alexandra Action Committee's desire for political support, their evidence could not be rejected and might reasonably possibly be true.

He noted in particular Mayekiso's meetings with Alexandra's administrator Steve Burger and other local authorities.

"This in my view refutes any suggestion of a subversive intent"

The judge said a strong case had been made against Paul Tshabalala concerning his participation in the people's court at 31 7th Ave.

He added, however, that the single witness who testified on this was extremely poor and, while the court did not think Tshabalala had been completely truthful, his evidence that he had only mediated on domestic problems could reasonably be true.

The judge described the minutes of AAC meetings from its inception in February 1986 until its demise, with the arrest of four of the five in June that year, as the "most important part of the defence's evidence"

"Despite a faint suggestion by the State that it is not genuine, I'm satisfied on the evidence before the court that it is," he said

Judge acquits five union men of treason ⁵²



© MAYEKISO

NATIONAL Union of Metal Workers general secretary Moses Mayekiso and four co-accused walked out of the Rand Supreme Court free men yesterday after they were found not guilty of treason and alternative charges of subversion and sedition

Union members and officials who packed the court broke into song and danced when Mr Justice P J van der Walt acquitted the five

Mayekiso, 40, his brother Mzwanele, 24, Paul Tshabalala, 32, Richard Mdakane, 31, and Obed Bapela, 31, were alleged to have conspired with civic and youth organisations in Alexandra to seize control of the township and render it ungovernable in 1985 and the first half of 1986

All five were executive members of the Alexandra Action Committee (AAC), which was formed in February 1986 and dissolved after Mayekiso's ar-

SUSAN RUSSELL

rest in June that year

During the trial, which began in October 1987, the State also attempted to prove the five and the AAC were involved in the formation of organs of people's power, people's courts, consumer and rent boycotts and campaigns against police and town councillors.

Mr Justice van der Walt found that, on the evidence before him, none of the alternative charges had been proved

Dropped

The State dropped the main charge of treason on resuming the trial for argument on April 3, when they conceded they had not been able to prove it beyond reasonable doubt.

"In the final instance, sitting as a judge in this trial, I have no knowledge whatsoever of what actually took place in Alexandra

during the first half of 1986," the judge said

"The only knowledge I have since gathered was that from subjective evidence of a few of the many thousands of residents of Alexandra. The picture may be correct or completely different from the true facts"

Earlier, he said the five saw apartheid as wrong and unacceptable and tried to propagate their right as citizens of a democracy to have a vote and participate in some way in the electoral process leading to the appointment of a government

"The accused were involved in the trade union movement and adhered to socialist ideals

"There is no direct evidence involving the accused or the AAC in the planning or execution of the unrest, attacks on the police, resignation of town councillors, establishment of people's courts," he said

© See Page 2

8/Nov 25 74/89

Star 25/4/87 (252)

Amnesty hits out at SA death penalties

Pretoria Correspondent

The British-based Amnesty International has lashed out at the South African legal system in its latest report on death penalties

Its main criticism is that South Africa has one of the highest execution rates in the world.

The organisation said 1 593 people had been executed between 1978 and 1987.

The report said the proportion of death sentences imposed by the courts and later commuted by the State President rose from just under 10 percent in 1978 to 45 percent in 1983

But since 1983 the rate had fallen steadily, with only 12 percent being reprieved in 1987

Amnesty International said the death penalty was increasingly imposed at political trials, or trials for politically related killings

"Defendants in these cases were often held incommunicado for long periods before being brought to trial

"Some have been physically tortured, and statements they or others have made during prolonged periods of incommunicado detention often formed the basis of the prosecution's evidence against them," the report said

Trial statistics

It added that death sentences were imposed disproportionately on blacks by an almost entirely white judiciary

Referring to murder trial statistics, the report said that between June 1982 and June 1983, 81 blacks were convicted of murdering whites and 38 were hanged.

During the same period, 52 whites were convicted of murdering whites, but only one was hanged. None of the 21 whites convicted of murdering blacks was hanged

Referring to the independence of assessors, the report said "The judge selected the assessors, and certain assessors were repeatedly selected by the same judge

This raised questions about the independence of assessors, especially, as was often the case, when they were retired lawyers dependent on the position for income."

Referring to *pro deo* advocates, the report said court-appointed advocates received the minimum amount of time for consultation with the accused before the trial began

The system did not permit the appointment of a lawyer who, in the South African legal system, was crucial for the proper preparation of the defendant's case.

275 prisoners on death row — Coetsee

CAPE TOWN — Some 275 prisoners were on death row at the end of June last year, Justice Minister Kobie Coetsee said yesterday. Tabling his annual report in Parliament, Coetsee said 202 of the people on death row were black men, 51 coloured men, 19 white men and one an Indian.

Three more hanged in Pretoria
Three more hanged in Pretoria

PRETORIA — Three men were hanged here yesterday, bringing the total number of executions this year to 15

Two East London men, Mlandeli Bobby Lasiti, 30, and Mxolisi Barnse, 23, were convicted on charges of murder and robbery with aggravating circumstances

The third person executed was a Cape Town man, Leonard Adriaanse, 26 — Sapa

SA is
in a
war
252
Sowetan 26/7/89
From Page 1

in the light of this

Before a gallery packed to its very limits Masina stated "We are soldiers in a patriotic army struggling to establish democracy and peace"

He outlined the ANC history of non-violent struggle and stated that even after resorting to violence the ANC had attempted to regulate its conflict according to internationally recognised rules of war embodied in the Geneva Convention and protocols

Masina insisted that he and his comrades should be seen as prisoners of war

"There is a war going on in this country. The fact that it has in the main been confined to the townships does not alter the fact that South Africa is involved in a war"

ANC policy was still opposed to the harming of civilians, said Masina

He added "There may be situations where individual combatants go beyond policy and commit acts which cannot be condoned"

The statement conceded that some of the acts for which the four had been convicted had been committed without direct ANC instruction

More than 200 people attended yesterday's hearing and at each interval the court rang with ululating and cries of "Viva ANC"

(Proceeding)

S A I S I N A W A R

252
Sowetan 26/7/89

FOUR convicted African National Congress members stood in the dock in olive green battle dress yesterday morning and called on South Africans of all colours to "unite around the democratic perspective for which we are prepared to die."

They urged the building of "a new South Africa which must reflect our oneness" and in which human freedoms must be respected.

The plea made before a packed Delmas Supreme Court, was part of a statement read by the first accused, Jabu Masina.

Mr Justice de Klerk requested that the trialists' statement be delivered before he heard evidence in mitigation of sentence.

Three of the four men — Masina, Ting-Ting Masango and Neo Potsane — have been convicted of murder and

Soldiers of the ANC tell judge

face a mandatory death sentence, if mitigating factors are not established.

The fourth accused, Joseph Makhura, has been convicted on multiple counts of attempted murder.

Mr Justice de Klerk yesterday made the historic decision to allow counsel to lead evidence in mitigation of sentence on the instruction of families of the trialists.

The men in the dock are maintaining the

position that they are soldiers of Umkhonto we-Sizwe and will not participate in the proceedings of a civilian court.

Although the State opposed evidence being led on the families' instructions, the judge decided it would be "immoral" to refuse this.

He asked that the trialists read their statements so that he could construe evidence

To Page 2

UNITED Auto Workers president Mr Owen Bieber blasted South Africa's apartheid government for the "malicious and outrageous" prosecution of a key trade union leader, who was found not guilty on Monday of charges of subversion and sedition.

Moses Mayekiso, general secretary of the National Union of Metalworkers of South Africa (Numsa), and four co-defendants, were acquitted by Rand Supreme Court judge P.J. van der Walt at the close of a trial in Johannesburg that began in October 1987.

The South African authorities knew all along that Mayekiso committed no crime, but they jailed him for 901 days and subjected him to a long and costly trial to keep him from his crucial role as the leader of the second largest trade union in South Africa," Mr Bieber said. "Mayekiso should have been free to pursue his union's agenda of a better life for its members and their families, but instead he sat day after day behind the bars of apartheid's jails for crimes he never committed," the UAW president said.

Attention

The Mayekiso trial drew international attention because convictions would have widened significantly the government's ability to prosecute political opponents on treason and subversion charges for what has been considered allowable political dissent. Legal observers said



THE scene outside the Rand Supreme Court on Monday after the acquittal of the Alexandra leaders.

'A victory for all those who helped shine spotlight on Mayekiso trial'

that convictions would have wiped out the line between such dissent and criminal activity, subjecting a wide range of union, church and community activists to potential treason indictments for non-violent protest and organising.

The acquittals are a victory for the defendants, but also for all those who helped shine the spotlight of international scrutiny on this trial," Bieber said. "The UAW is proud to have been a part of the international campaign urging that justice be done in the Mayekiso case."



effort. Moses Mayekiso faced the horrible possibility of a hangman's noose," he said. "Today, he's a free man ready to carry on the struggle."

Mr Bieber convened a committee of prominent American judges and lawyers to monitor the Mayekiso trial shortly after it began in 1987.

Prominent

The committee includes a former justice of the US Supreme Court, three sitting judges on US courts of appeal, a former US attorney general, the district attorney of Brooklyn, NY, and a number of other prominent jurists. Benno Schmidt, Jr, president of Yale University and former dean of Columbia University Law School, went to South Africa on behalf of the committee in February to observe the trial first-hand. He met with the Judge presiding over the trial, as well as the Attorney General overseeing the prosecution, the defence lawyers, the defendants

Universal News Services Washington

and the Deputy Minister for Foreign Affairs and visited Alexandra township where the actions cited in the indictment allegedly occurred.

Mr Bieber yesterday sent a telex to South Africa's Minister of Law and Order strongly urging that the government not impose restrictions on the freedom of Mayekiso.

Bannings

In other "show" trials of prominent anti-apartheid activists, defendants who have been acquitted have quickly been placed under restriction orders, preventing them from meeting with groups of five or more, from giving interviews, travelling etc. "You have robbed Moses Mayekiso of his freedom for nearly three years, despite his

Mr Bieber urged your to place in following

Mr Bieber commended Judge van der Walt for his "outspoken judgment" which he said should be a reminder to South African authorities that treason, subversion and sedition charges should be brought casually.

He said his co-accused faced charges of treason, subversion and sedition for their efforts to bring township residents seeking improved living conditions

The state claimed they supported rent and consumer boycotts and so-called "people's courts".

Conditions had deteriorated seriously in Alexandra in 1986, in part because the Government hoped to relocate many township residents further away from Johannesburg.

Failure

The defendants were accused of organising yard, street and block committees to put pressure on the local town council to improve housing, health services, sewage disposal, crime control and transportation.

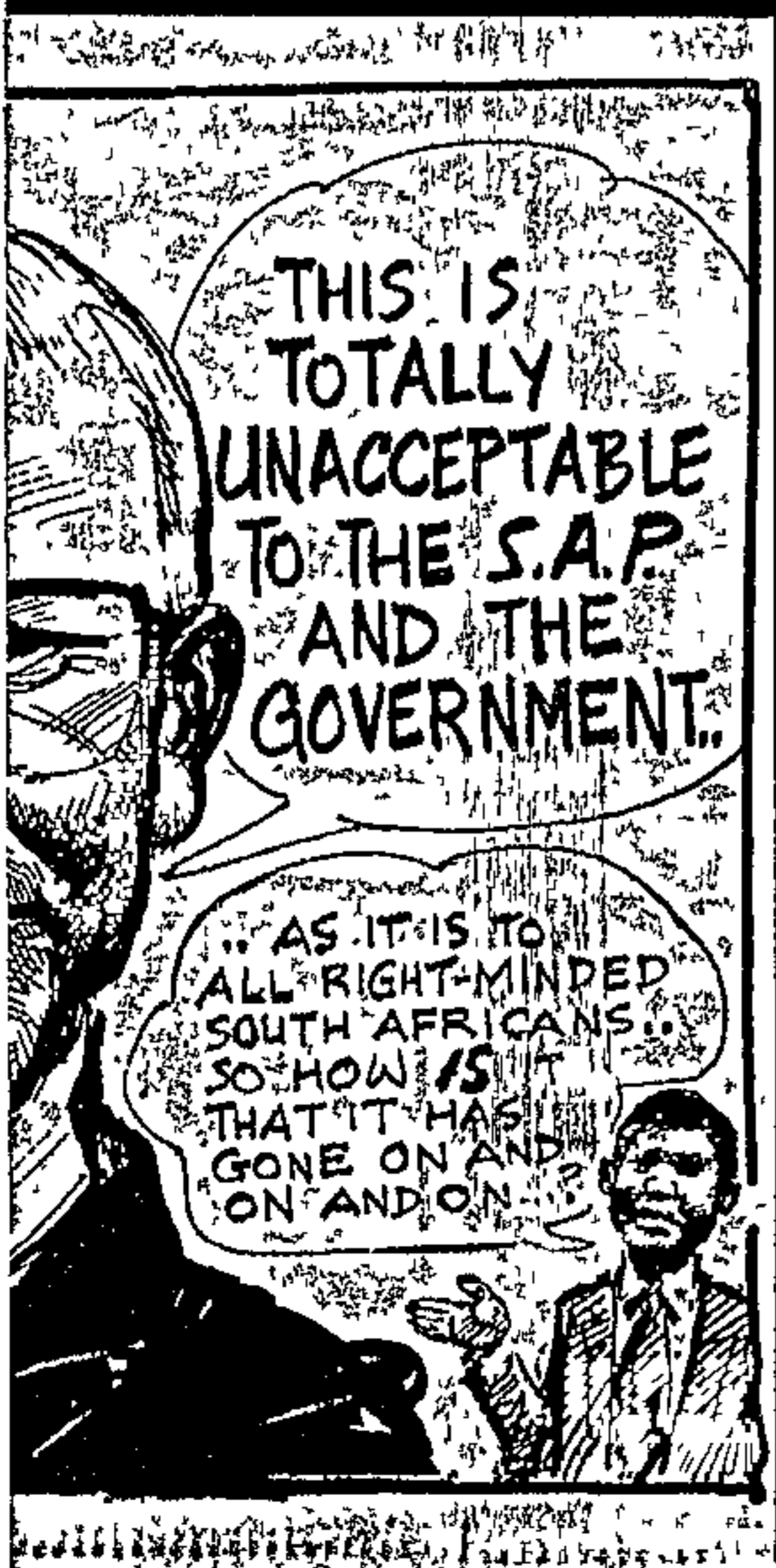
When final arguments opened in the trial on April 3, the prosecution acknowledged it had failed to prove the treason charges and moved that they be dropped. Monday's verdict of not guilty came on the remaining charges of subversion and sedition.

The UAW president had attempted to visit Mayekiso in John Vorster Square prison in August 1986, while he was detained without charge, but his request was denied.

Mr Bieber then met with South Africa's Minister of Justice in Cape Town to protest the detention.

The UAW sponsored a speaking tour earlier this month of Mayekiso's wife, Khola Far Detroit, Chicago, Washington and New York. Mayekiso also discussed the trial with Sen. Paul Simon, Democrat, Illinois, heads the Africa sub-committee in the Senate, and with Representative Howard Wolpe, Democrat, Michigan, who chairs the Africa sub-committee in the House of Representatives.

The Mayekiso case was the focus of a broad international campaign co-ordinated by the International Metalworkers Federation, a 14-million-member trade secretariat based in Geneva, the UAW and May of 1985 union Numsa, both are affiliated to the I.M.F.



Political comment in this issue by Aggrey Klaaste and Sam Mabe. Sub-editing, headlines and posters by Sydney Muthakuzi. All of the commando Road Industrial West Johannesburg.

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Stellenbosch 26/1/84

Hanging toll is now 15

252

THREE men were hanged in Pretoria yesterday bringing the number of hangings this year to 15

Two East London men, Mlandeli Bobby Lasiti (30) and Mxolisi Barnse (23) were convicted on charges of murder and robbery with aggravating circumstances

The court found no extenuating circumstances and the men were each sentenced to death twice on September 4, 1987

The charges resulted from an incident on October 29, 1985 when they murdered a Gonube shopkeeper, Mr J H Deetlefs (62). The victim's wife, Constance survived the attack

The third person to have been executed yesterday was a Cape Town man, Leonard Adriaanse (26)

He was sentenced to death on February 17, 1988 for the murder of Mr Mogamat Holtman (18)

Adriaanse was also sentenced to two years' imprisonment for the unlawful possession of a firearm and ammunition

'We are ready to die for our ideals'

By Jo-Anne Collinge

DELMAS — Four convicted African National Congress members stood in the dock in olive green battle dress yesterday and called on South Africans of all colours to "unite around the democratic perspectives for which so many people have already laid down their lives and for which we are prepared to die"

The plea — made before a packed Delmas Supreme Court — was part of a statement read by the first accused, Jabu Masina

Mr Justice de Klerk requested that the four men's statement be delivered before he heard evidence in mitigation of sentence.

Three of the four men — Masina, TingTing Masango and Neo Potsane — have been convicted of murder and face a mandatory death sentence if mitigating factors are not established.

The fourth, Joseph Makhura, has been convicted of attempted murder.

The murder convictions arise from the killing of Detective Sergeant Orphan "Hlubi" Chaphi — the man billed as Soweto's most feared policeman — in 1978, the assassination of Mamelodi policeman Constable Sinki Vuma in 1986, and the killing of kaNgwane poli-

tician David Lukhele and his sister-in-law, Mrs Elizabeth Dlodlu, also in 1986.

The attempted murders relate to a limpet mine blast near a supermarket in Silverton in 1986 in which at least 18 people were hurt and a landmine explosion in Soshanguve in which one person was injured

Mr Justice de Klerk yesterday gave an historic judgment which allowed counsel Mr Dennis Kuny to lead evidence in mitigation on the instruction of families of the four men

The men in the dock maintained the position that they were soldiers of Umkhonto we Sizwe and would not participate in the proceedings of a civilian court.

'IMMORAL TO REFUSE'

Although the State opposed evidence being led on the parents' instructions, the judge decided it would be immoral to refuse this.

"The court is concerned that justice should be done. It cannot be done unless the other side is heard.

"To the extent that counsel for the families can present the other side it is welcomed by the court."

He ask that the four read their statement so that he could construe evi-

dence in the light of this. 252

Before a packed gallery, Masina stated "We are not criminals, we are not murderers.

"I, myself, am the survivor of the Soweto revolt of 1976 where I suffered the trauma of seeing hundreds of innocent children and young people drop dead from police gunfire

"That event shocked us all into the realisation that the life of the black person has no value under apartheid and will have none until the system is destroyed"

He outlined the history of the ANC's non-violent struggle, saying that even after resorting to violence the movement had never turned away from the option of negotiation.

The statement included a phrase in the manifesto of Umkhonto we Sizwe, written in December 1961, referring to the hope that "our first actions will awaken everyone to a realisation of the disastrous situation to which the Nationalist policy is leading . . . so that both the Government and its policies can be changed before matters reach the desperate stage of civil war"

They added. "We mention, however, that the Silverton explosion (outside a supermarket) was entirely our own idea and that we were not acting under instructions from the ANC."

Masina said "We reiterate that it is contrary to the policy of the ANC to select targets whose sole objective is to strike at civilians."

Sometimes, he acknowledged, there might be "situations where individual combatants go beyond policy and commit acts which cannot be condoned"

The hearing continues.

© See Page 2

JSE to probe Elspark dealings

By Ann Crotty

The JSE has launched an inquiry into Ellis Park Stadium share dealings between April 11 and 19.

Brokers are to submit returns to the JSE committee by April 28.

In 11 deals last week, 785 000 shares changed hands with the price moving up 20c to 100c

The share was suspended last Thurs-

day and reinstated on Monday following an announcement that the Transvaal Rugby Football Union planned to buy out the minority shareholders.

TRFU president Dr Louis Luyt said the union's auditors had been appointed to ensure that no individuals connected with decision-making at EPS or the TRFU would make any profit on the sale of shares

rest of the Western world SA was the only country in the English-speaking world which did not allow accounting firms to advertise.

INTERDICT FILED AGAINST CCAWUSA

9/Day 26/4/89 SIPHO NGCOBO

EDWORKS Stores yesterday filed an urgent interdict in the Rand Supreme Court against the Commercial Catering and Allied Workers Union (Cawusa) requesting the strike by an estimated 1 000 of its workforce be declared unlawful.

Edworks Group MD Stewart Dodo said the application was filed at 2pm yesterday and Cawusa's senior official Salim Vally confirmed court action had been taken against his union.

An estimated 80 Edworks stores in the PWV area, Bophuthatswana and the northern Transvaal have been affected by the strike. Cawusa is demanding a minimum wage of R530 a month and an across-the-board hike of R125.

The hearing has been postponed until Friday, during which time Cawusa has agreed its members will not interfere with or intimidate any of Edworks' employees or any temporary staff or any customers, distributors, or other persons entering the company premises.

10 MINUTE X-WORD 7322

Hanging of 3 brings 1989 total to 15

Three men were hanged in Pretoria yesterday, bringing the total number of executions this year to 15

Two East London men, Mlandeli Bobby Lasiti (30) and Mxolisi Barnse (23), convicted of murder and robbery with aggravating circumstances, with no extenuating circumstances, were sentenced to death in 1987

The third person to be executed yesterday was a Cape Town man, Leonard Adriaanse (26), sentenced to death last year for the murder of Mr Migamat Holtman (18)

COUNSEL PLEADS FOR CONVICTED ANC THREE

THREE African National Congress men convicted of murder were "trying to bring about an integration rather than a disintegration of society" and they should not be sentenced to death simply because they had killed, counsel for the parents of the men in the Delmas Supreme Court dock argued yesterday.

Mr Dennis Kuy, SC, told Mr Justice de Klerk he was not asking him to condone the killings but to attempt to understand what the trialists had done "acting as soldiers in a war of liberation, under order"

The three who have been convicted of murder are Jabu Masina, Tingting Masango and Neo Potsane. Unless the judge finds that there were mitigating circumstances, he has no option but to impose the death penalty.

The men have refused to defend themselves at all stages of the trial, arguing that they should be treated as POWs and not tried in a criminal court. In an unprecedented move their parents this week instructed counsel to present evidence in mitigation.

Sentence will be passed at 9am today.

The fourth trialist is Joseph Makhura who, along with the rest has been convicted on multiple counts of attempted murder, arising from a limpet mine blast at Silverton and a landmine explosion at Soshanguve in 1986.

The persons assassinated by the first three accused were detective Sergeant Orphan "Hlubi" Chaphi killed in Soweto in 1987 — policeman Constable Sinki Vuma and Ka-Ngwane politician David Lukhele, both killed in Mamelodi in 1986. Mr Lukhele's sister-in-law was also killed.

Having led evidence of three witnesses, Mr Kuy argued that the judge's task was to decide whether there were factors present which — in the eyes of the average reasonable person — might diminish the moral blameworthiness of Masina, Masango and Potsane.

Court appointed advocates in bid to save lives of 3

Pretoria Correspondent

The Registrar of the Pretoria Supreme Court appointed two advocates in an 11th hour attempt to save the lives of three men who were hanged yesterday

The three condemned men had not yet exhausted all their legal avenues when they received notices of their executions last week

A spokesman for the Department of Justice confirmed that the Supreme Court's Registrar had appointed an advocate for two of the men

Petition for clemency

They are Paulus Dube (27) and Buthi Mokoena (25). The lawyer petitioned the State President to grant clemency to the two men

An advocate was also appointed for Raymond Ntshangase (36) and his petition was turned down the same day

A petition for the fourth man, David Millar (34), was turned down on February 10 this year

Dube and Mokoena were sentenced

to death on August 26 1988 on charges of rape and robbery with aggravating circumstances

Their trial resulted from an incident during the early hours of May 17 1987 at a Kliprivier smallholding where they raped a 60-year old woman.

Ntshangase and Millar were sentenced to death for the murder of a 66-year old Emmerentia woman, Mrs Doreen Geeringh, on June 26 1987

The four executions yesterday at the Pretoria Central Prison brought the number of hangings this year to 19.

On Tuesday three men were executed. A spokesman for the Department of Justice said the advocates were appointed for the condemned men "when it became clear that they needed legal advice"

The advocates were appointed by the registrar of the Supreme Court on the instruction of the Justice Department

According to the spokesman, the advocates' appointment was not unusual "but a natural consequence of the pro deo system available for condemned people"

Coetsee rejects calls to abolish death penalty

MKS 28/4/89

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By MICHAEL MORRIS
Parliamentary Staff

ABOLITION of the death penalty could give rise to a situation where the public lost faith in the efficacy of sentences for brutal crimes and took the law into their own hands, the Minister of Justice, Mr Kobie Coetsee, warned.

Replying to calls during the debate on the Justice budget for the abolition of capital punishment, or the amendment of legislation to allow judges to use their discretion, Mr Coetsee said opinion surveys showed most people supported the death penalty.

Considering crimes which "filled the community with a sense of horror", he said that if the death penalty was abolished, "it could give rise to a situation where a community loses faith in the courts and takes the law into its own hands".

Public opinion

Acknowledging the diversity of opinion on capital punishment, he said it was important to take stock of changing needs and the need to reform the law, and also take account of public opinion.

He said the government and the State President were "sensitive" to the matter. The subject ought to be approached with great circumspection and sensitivity and it should not be politicised.

Democratic Party spokesman on justice Mr Ray Swart said the circumstances in South Africa meant the death penalty "must be reviewed" and he urged Mr Coetsee to appoint a commission to do so.

He said a "staggering" 1 000 people had been executed in South Africa since 1980.

Civilised standards

Mr Swart said "I want to submit that at a time when we are at pains to show our own community and the international community that we are upholding civilised standards, the high incidence of executions gives credence to claims that we are a primitive society with primitive justice."

"The death penalty can never be the ultimate deterrent in South Africa, because the violence it seeks to deter is often the result of social conditions, feelings of frustration and oppression which are endemic in this society."

Mrs Helen Suzman (DP Houghton) called for a commission of inquiry into the deterrent effect of the death penalty.

Mr Peter Mopp (LP Border), who believed the death penalty "must go", suggested as an interim measure that judges be allowed to use their discretion in deciding when to use the ultimate sentence.



Mr Coetsee Mr Swart

Apartheid and Bill of Rights 'won't mix'

Parliamentary Staff

APARTHEID was irreconcilable with a Bill of Rights and if South Africa were to introduce one, there would have to be fundamental changes in government thinking and policy, said Democratic Party spokesman on justice Mr Ray Swart.

Speaking in the debate on the Justice budget, Mr Swart said: "Certainly so long as individuals are denied the right to voluntary association and are forced by legislation into groups and thereafter to suffer discrimination, as between one group and other, you will have a situation which is irreconcilable with the real operation of a Bill of Human Rights."

Mr S C Jacobs (CP Losberg) expressed concern that the Law Commission's report on a Bill of Rights excluded group rights.

He said only partition would ensure group protection. A Bill of Rights along the lines of the Law Commission's report would result in a "non-racial society, on the basis of one man-one vote."

Mr P C McKenzie (LP Bonteheuwel) said a Bill of Rights would be essential for the survival of "the new South Africa".

Coetsee rejects calls to abolish death penalty

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Mr Coetsee

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For Mr P C McKenzie (LP Bonteheuwel) said a Bill of Rights would be essential for the survival of "the new South Africa".

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Parliament and Politics

Suzman queries farmers' sentences

Political Staff

THE sentences handed down by a Klerksdorp Regional Court magistrate to two white farmers found guilty of assault with intent to commit grievous bodily harm was "grossly inappropriate", Mrs Helen Suzman said yesterday.

The black man whom they assaulted, Mr Medupe Steven Mononye, died

The farmers, Louis Johannes Venter and Pieter Marthinus Fouché, were each sentenced to a fine of R600 or four months, plus a further six months suspended for five years by Mr P J L Venter

Speaking in the Justice Vote, Mrs Suzman (DP Houghton) said the farmers had on March 16 suspected Mr Mononye of stealing cattle. They had abducted him,

tied him up hand and foot and brutally assaulted him with a sjambok.

Mr Mononye subsequently died from a brain haemorrhage, allegedly as a result of hitting his head against the windscreen of the vehicle in which they were transporting him during a struggle

Fouché and Venter, said Mrs Suzman, had pleaded guilty to a charge of assault with intent to commit grievous bodily harm after a charge of culpable homicide was dropped.

Mrs Suzman said several questions had to be answered.

- Why did the prosecutor allow the charge to be changed?
- What circumstances could possibly

have led the magistrate to impose such a grossly inappropriate sentence for such a brutal assault?

• What effect this "gross perversion of justice" would have on the concept of the black community on the impartiality of justice?

• What encouragement would it give to other "white bully boys" to take the law into their own hands?

• What further damage to the reputation abroad of the South African judicial system would this judgment cause?

Mrs Suzman said the question which the minister had to answer was whether he was going to allow the deterioration of the judicial system to go on unchecked



Mr. Coetsee

CME Times 28/4/87
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**Govt refuses
to scrap the
death penalty**

Political Staff

THE Minister of Justice, Mr Kobie Coetsee, yesterday effectively turned down calls for major changes to the law with regard to the death penalty.

He was responding to calls by members of the Democratic Party for the death penalty to be scrapped or for key changes to be made.

These included the automatic right of appeal to the Appellate Division and giving judges discretion as to whether to sentence a person to death (At present this is mandatory where no extenuating circumstances exist).

Calling for a judicial inquiry into the death penalty, Mr Ray Swart, the DP's spokesman on justice, said there was a powerful case for it to be reviewed in today's circumstances.

He said evidence elsewhere in the world had shown that when the death penalty had been abolished there had not been a significant increase in crime.

Mrs Helen Suzman said she had first called for a commission of inquiry 20 years ago as a lone PFP MP — and since then 1 839 people had been hanged in South Africa.

● Mr Coetsee also said that draft legislation would probably result from a report expected soon on the possibility of removing from people's records details of minor offences committed years before, when they were still young.

28/6/89
Law Journal
slates judge

DURBAN — A Transvaal judge's lenient sentencing last November of a young white farmer and his accomplice who attacked and killed a labourer who had ridden over his dogs, has again come under harsh criticism, this time in the latest edition of the South African law magazine, De Rebus.

Last November Mr Justice Strydom convicted Jacobus Vorster, 22, of culpable homicide, fining him R3 000 (or 12 months) and sentencing him to a wholly suspended five-year prison term.

The De Rebus editorial said. "We have considerable difficulty in understanding why the court permitted (Vorster) to walk away from the trial, to all intents and purposes a free man."

Judge speaks against death sentence

'They saw themselves as soldiers for justice'

By Jo-Anne Collinge

A person subjected to the "intense influence" of military training received in an ANC camp, who came to view himself as a soldier and freedom fighter and to whom even assassination was acceptable, would attach less blame to the act of killing than if he had not been so trained

This was the view expressed by Delmas Supreme Court judge Mr Justice M de Klerk during sentencing yesterday

The three ANC men convicted of murder in the Delmas 2 trial were persons trained in this manner. Because of the influences to which they had been subjected and the views they held the degree of moral blame that could be attached to their deeds was "appreciably reduced", he said

Differed

Therefore mitigating circumstances existed and the imposition of the mandatory death penalty on the three was not warranted.

However, assessors Mr L de Kock and Mr A Botha differed with the judge on the strength of the facts before court

And, Mr Justice de Klerk noted that while on questions of law the view of the judge prevailed, on questions of fact each assessor carried the same weight as the judge.

"I am bound by the majority



Two figures from the crowd that streamed from the Delmas Court — weeping, suppressing tears, talking in anger — after the death sentence was imposed on three members of the African National Congress. ● Picture by Stephen Davimes.

decision of this court and am obliged to impose the death penalty on all counts of murder," Mr Justice de Klerk said in closing

The judge and the two assessors agreed that conditions of deprivation and of widespread violence in the community as well as the factor of undergoing military training in a resistance movement could possibly be extenuating circumstances

But while the judge accepted the four men were influenced by these factors, the assessors argued there was "lack of evidence that their minds were influenced to the desired degree"

Jabu Masina, TingTing Masango and Neo Potsane — with Joseph Makhura, who was acquitted of murder but convicted

on many counts of attempted murder — refused to participate in the trial because, they said, they were soldiers of Umkhonto we Sizwe who should not be charged in a civilian court.

Before evidence in mitigation was led by counsel instructed by the accused's parents, Masanga read a statement from the dock on behalf of the group in which they reiterated they had perpetrated selected acts of violence "as soldiers in the army of the ANC acting generally under instructions and orders from our leaders"

"We, as soldiers of a people's army, struggle against a state which continues to deny the people's right to self-determination and which practises a policy of

apartheid which has been characterised as an international crime"

Mr Justice de Klerk said these statements, with statements made by the accused to police and magistrates, proved that the kinds of factors which expert witnesses speculated were likely to have influenced the accused, had in fact influenced them "The accused didn't become ANC soldiers overnight"

The men had received training over periods ranging from six to nine years

They were also led to believe that assassination of collaborators was justifiable because they were in a state of war. They were taught apartheid was a sin and therefore violence was acceptable in order to overthrow apartheid

The facts before the court indicated, the judge concluded, "that the accused accepted this indoctrination and saw themselves as soldiers fighting a war for justice and liberation".

Irrelevant

Whether this was objectively true was irrelevant, he added. What concerned the court in establishing mitigating factors was the subjective experience of the convicted

The assessors maintained the evidence was insufficient to establish this link. They, therefore, did not even express themselves on whether the extraordinary influence actually changed the moral position of the accused

Mr Justice de Klerk maintained that to establish this, the men who had carried out the assassinations had to be judged "in relation to the primary moral code which they accepted" since "their minds were influenced so that they no longer functioned as they would have without such influence"

He concluded the men had seen death as less reprehensible than they would have if they had not undergone ANC training and therefore all the requirements of establishing mitigating factors had been met

Veteran prays for condemned son

Slaw
28/4/89 By Jo-Anne Collinge

A South African war veteran stood up and preached at a prayer service for his condemned son, a self-proclaimed African National Congress soldier, who had been sentenced to death in the Delmas court just hours earlier.

Reformed Church preacher Mr Simon Potsane (69), father of Neo Potsane, stood with his row of World War 2 medals brilliant against his dark jacket. He said that the "Boers have failed miserably to do what God might have intended them to do here."

"They were supposed to have brought light to a land of darkness but they have planted bitter seeds that have made us turn away and think God does not belong to us

"Let us continue this fight, And let us call on the name of the Mighty One.

"What has happened will continue to happen. But let us not be weak. We are fighting a battle of liberation"

The families of the other condemned men, Jabu Masina and TingTing Masango, were present at the afternoon service held at the Central Methodist Church, Johannesburg.



A woman who fainted is carried out of a prayer service held in Johannesburg yesterday for those sentenced to death in the Delmas treason trial. ● Picture by Ken Oosterbroek

Death for 'Delmas Three' 252

By Jo-Anne Collinge

A Transvaal Supreme Court judge yesterday sentenced three African National Congress men to hang — against his own judgment but forced to do so by the views of the two assessors.

After the passing of sentence by Mr Justice MC de Klerk in Delmas, the packed public gallery erupted into powerful shouts of "Viva ANC" and "We will not let our comrades die".

The three condemned men — Jabu Masina, TingTing Masango and Neo Potsane — and the fourth accused, Joseph Makhura, faced the crowd briefly in their olive green military-style uniforms from behind the glass barrier that separated them

from the public gallery.

Right to the end of their trial they refused to mount a defence case, claiming that they were soldiers they should have prisoner of war status.

Their families stepped in and briefed counsel to present evidence in mitigation of sentence this week.

Mr Justice de Klerk was outvoted by his assessors, Mr L de Kock and Mr A Botha, on the question of whether mitigating factors were present in the murders. Only such a finding could prevent the mandatory death penalty.

Mr Justice de Klerk held the view that as soldiers trained in ANC camps the three men had

been exposed to influences which could — and did — alter their states of mind and change the moral framework in which they viewed killing.

This, he said, did not change their legal culpability but diminished their moral blameworthiness so the "mandatory death sentence is not applicable".

The assessors decided that while the accused had been exposed to influences which could have altered their moral guilt, there was "a lack of evidence that their minds actually had been influenced to the desired degree".

Outvoted in this manner, the judge passed the mandatory death sentence on Masina on four counts of murder, on Masango for three counts and on Potsane for two counts.

Makhura was sentenced to an effective 25 years for multiple counts of attempted murder arising from a limpet mine blast in Silverton and a landmine blast in Soshanguve in 1986. His co-accused were similarly sentenced.

Defence attorney Mr Peter Harris said he was "stunned that two assessors — one a retired magistrate and the other a retired official of the Department of Justice — should disagree with the judge's well-reasoned and meticulous judgment".

Govt urged to halt hangings

Political Correspondent Helen Suzman today called on the Government to declare a moratorium on hanging while it completed an investigation into the death sentence.

She was reacting to Justice Minister Mr Kobie Coetsee who said in Parliament that he was "open to suggestions" for revisions of the death penalty — although he was not prepared to scrap the death penalty itself.

These changes included an end to mandatory death sen-

tences for murder without extenuating circumstances and an automatic right of appeal against all death sentences.

Earlier Mrs Suzman said that if the two major changes were made there would be a dramatic decrease in the number of hangings — which totalled over 1800 in the last 20 years.

Mrs Suzman said it was unfair to continue hanging people who might escape the death penalty if these changes were made.

ANC 3 TO DIE

A TEAM of experts been appointed by Receiver of Revenue to investigate the Black industry which collecting cash revenue totalling about R1 billion or more without paying income tax. The appointment of the team has been confirmed by the Commissioner of Inland Revenue Mr Clive Kingon, who said his department was aware of the problem and that it was receiving immediate attention. It is estimated that revenue totalling R500 million is lost every year as a result of non-payment of income tax by the black tax industry. Estimates of the

THREE of the African National Congress men convicted in the Delmas Supreme Court of murder were yesterday sentenced to death.

Jabu Masinga, Tingting Masango, and Neo Potsane, were also sentenced to 25 years imprisonment.

A fourth man, Joseph Makhura, who with the others was convicted of multiple counts of attempted murder arising from a limpet mine blast at Silverton and a landmine explosion at Soshanguve in 1986, was sentenced to 25 years imprisonment.

The men appearing before Mr Justice de Klerk refused to defend themselves at all stages of the trial, arguing that they should be treated as PoWs and not tried in a criminal court.

In an unprecedented move their parents this week instructed counsel to present evidence in mitigation.

On Wednesday the court was told the men were trying to bring about "an integration rather than a disintegration of society" and they should not be sentenced to death simply because they had killed, counsel for the parents of the men argued.

Orders

Mr Dennis Kony, SC, told Mr Justice de Klerk he was not asking him to condone the killings but to attempt to understand what the trialists had done "acting as soldiers in a war of liberation under orders".

The people murdered by the first three accused were Detective Sergeant Orphan "Hlubi" Chaphu killed in Soweto in 1978, Policeman Constable Sindi Yuma and Kaniwane politician David

'Soldiers' refused a defence

Sowetan 28/4/89



MOTHERS in solidarity: Mrs Joyce Masina (right) raises her fist in salute to her son, Tingting, who was given the death sentence in the Delmas ANC trial yesterday. Pictured with her is Mrs Mufle Potsane, whose son, Neo, was also sentenced to death. They had attended a service in honour of the cadres held at the Methodist Centre in Johannesburg.

• To Page 2

Sowetan 28/4/89

ANC 3

• From Page 1

Lukhele, both killed in Mamelodi in 1986

Mr Lukhele's sister-in-law was also killed

Having led evidence of three witnesses, Mr Kony argued that the judge's task was to decide whether there were factors present which in the eyes of the average reasonable person might diminish the moral blameworthiness of Masina, Masango and Potsane

He said it was an "unfortunate fact" that the men were being tried in an all white court and whites "cannot begin to imagine" the circumstances of people growing up in the black townships

Nonetheless it was the task of the court officers to project themselves into those alien conditions

Mr Kony argued there had been evidence that during the 1976 period and again in 1985/6 conditions of extreme violence prevailed in the townships

In such an "orgy of violence" it was hard to know how to judge where moral responsibility began and ended, said Mr Kony

SOWETAN will not be published on Monday, May 1, but will be back on Tuesday with all the latest news and in-depth cover of top weekend sport.

Campaign set up for ANC 3

252 Sowetan 28/4/84

A CAMPAIGN will be launched to save the lives of the three ANC men who were sentenced to death by a Delmas judge yesterday, a lawyer representing the three said

Mr Thabo Molewa, speaking at a service to

honour the three men at the Johannesburg Methodist Centre, said no effort will be spared to save the men from the gallows

"There is going to be a new system within the next 10 years. And it is for that reason that when the doors of apartheid jails are thrown open, the three should still be alive," Mr Molewa said.

The three men are Jabu Masina, Tingting Masango and Néo Potsane.

Actions

Mr Molewa said events of 1976 and afterwards make the actions of the three men less blame-worthy.

"We are going to call meetings, go overseas do everything possible to save our brothers from the gallows," he said.

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If no extenuating circumstances are found in respect of the murders the death sentence is mandatory.

Three Delmas trialists to hang for murders, bomb

DELMAS: Three ANC guerrillas, who refused to participate in their murder trial because they claimed to be prisoners of war, were sentenced to death here yesterday for four killings and a bombing at a bus stop. *252*

Their only active role in the trial came on Tuesday, when one read a statement on behalf of his comrades.

In an unusual procedure, the men's families were allowed to present evidence in mitigation of sentence when the defendants refused to do so. The death penalty is mandatory after a murder conviction unless evidence shows there were mitigating circumstances.

Supreme Court judge Mr Justice Marius de Klerk found there were none and sentenced Jabu Masina, 36, Ting-Ting Masango, 28, and Neo Potsane, 27, to death for the murders of two black policemen, a black town councillor, and the councillor's sister-in law. The three also received 25-year prison sentences for attempted murder in connection with a limpet mine at a bus stop in 1986, in which 17 people were injured, and setting a landmine on a road mainly used by military vehicles.

A fourth defendant, Joseph Makhura, 26, was sentenced to 25 years in prison in connection with the bomb and landmine. — Sapa-AP. *010/26/4/87*

There are two sets of clues, but the answers are the same

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Three Delmas trialists to hang for murders, bomb

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A fourth defendant, Joseph Makhura, 26, was sentenced to 25 years in prison in connection with the bomb and landmine. — Sapa-AP 010-126/41-9

12/Day 28/4/89

POLITICS

252

Calls to scrap death penalty

Political Staff

CAPE TOWN — Calls for major changes to the law with regard to the death penalty were effectively turned down by Justice Minister, Kobie Coetsee yesterday.

He was responding to calls by DP members that the death penalty be scrapped or that changes be made.

These included

- The automatic right of appeal to the Appellate Division,
- Giving judges discretion as to whether to sentence a person to death — this is now mandatory where no extenuating circumstances exist.

Calling for a judicial inquiry into the death penalty, DP justice spokesman Ray Swart said there was a powerful case for it to be reviewed in today's circumstances.

He said evidence elsewhere in the world had shown that when the death penalty had been abolished there had not been a significant increase in crime.

Helen Suzman said she had first called for a commission of inquiry 20 years ago as a lone PFP MP — and since then 1 839 people had been hanged in SA.



MOMENTOUS HEARING Mr Justice Plat van der Walt presides TOP SECTION (from left) advocate Chris Human SC (State advocate), court stenographer, judge's registrar, court orderly, Nzwanale Moyo- (accused No 5), Mr Hadebe (interpreter) LOWER SECTION (from left) Obed Bapela (accused No 4),

Richard Mdaakane (accused No 3), Paul Tshabalala (accused No 2), Moses Mayekiso (accused No 1), attorney Amanda Armstrong, attorney Norman Mamom SC, advocate David Soggoi SC, advocate Nick de Vos Graphic THEA SOGGOT

Alex five rulings 'a turning point'

PATRICK LAURENCE

THE acquittal of Alexandra leaders on charges of treason, subversion and sedition by Mr Justice P J van der Walt has been hailed as a watershed judgment which may halt the steady increase in treason trials over the past 10 years.

The judgment was characterised by what legal observers saw as rebuke for attorney-generals throughout the country for pressing treason charges too readily against blacks who oppose the status quo.

Mr Justice van der Walt labelled the large amount of time which had to be spent on dealing with the charge of treason against Mr Moses Mayekiso and his fellow co-accused a "matter for comment and concern".

The State withdrew the treason charge in the closing phases of the mammoth trial having failed to call a single witness from the thousands of Alexandra residents to support its allegation that the five men in the dock — all leaders of the Alexandra Action Committee — had conspired to seize control of Alexandra and render it ungovernable.

spent more than 900 days in custody.

Noting the complexity of South Africa's "very strange society," Mr Justice van der Walt remarked that on the political front people might often use "intemperate language" but most of the time they were "just striving for a better South Africa".

Then came his implicit but unmistakable admission to the attorney-generals that a charge of treason should be carefully considered and very carefully reconsidered before being brought.

Since 1979, when 12 African National Congress men were charged with treason, the number of treason trials has risen steadily.

To quote recent data: In 1985, 55 people were charged with treason in seven trials, in 1986, 49 people were indicted in four trials, in 1987, 36 people were accused of treason in four trials last year.

Rebuke for A-Gs may stem flood of treason cases

excluding the 204 treason trials in Bophuthatwana — 54 people appeared in court on charges of treason in five trials.

The increase in treason trials in the decade since 1979 is all the more spectacular because there was an 18-year hiatus between 1961 and 1979 when there was not a single treason trial.

The state having failed to secure a single conviction in the treason trial of 1956-61 appeared to have backed away (only another charge).

Predicting that Mr Justice van der Walt's judgment may mark a turning point, legal observers pointed out that he is a senior judge (he is the Advocate General) and not one who falls into the liberal mould.

Russia's first pro boxing bout on May 10

LONDON — A professional boxing programme, believed to be the first held in the Soviet Union, will take place on May 10 in the Estonian capital of Tallinn, a boxing official said yesterday.

The programme, organised by the International Boxing Federation's (IBF) branch in nearby Finland, will include six bouts and feature a bantamweight battle between Frenchman Alain Lumroja and Anhti Junnumaa of Finland.

Mr Jon Robinson, the IBF's European representative, said in a telephone inter-

view that the Estonian program could set the stage for a world title fight later this year in Moscow.

"This is the first professional fight card put on in the Soviet Union," Mr Robinson said. "One of our promoters is trying to get a world title bout in August or September in Moscow."

The IBF, based in the United States, organised the first professional title fight behind the Iron Curtain in February in Budapest, Hungary. IBF officials said at that time they hoped for a title bout in Moscow this summer.

"The IBF-Europe is the baby brother of the world IBF organization, which is hoping for a world fight in Moscow," Mr Robinson said. "The IBF-Europe negotiated with the Estonians and we have gotten off the ground first of all."

The programme will be held at a 5 000-seat hall.

Robinson said the Lumroja-Junnumaa fight will be a title eliminator for the IBF European Continental bantamweight crown — Associated Press

of the SAC, summed up the feelings of many blacks when he declared that the judgment meant that anyone who was intelligent, articulate and opposed to apartheid risked being charged with treason.

The impact of Mr Justice van der Walt's judgment on black thinking was noticeable in a small way in the courtroom, when he first came in, most blacks refused to heed the summons to "rise in court" after the lunch break, when it was apparent that an acquittal was on the cards, at least half the black people rose when the judge re-entered the courtroom.

There was another significant aspect to Mr Justice van der Walt's judgment he took "judicial notice" that black people do not have the right to vote in parliamentary elections.

"While white citizens may have a democracy black citizens do not have a share in it," he said.

Mr Jules Browde SC, national chairman of Lawyers for Human Rights, commented: "That Mr Justice van der Walt took judicial notice of the fact that blacks do not have a say in the legislative process is, from a human rights point of view, a landmark statement."

Mr Justice van der Walt's remarks came, coincidentally, in the wake of the recommendation by the SA Law Commission report on human rights that the constitution should provide for a parliament or legislative assembly "within which equal and equivalent franchise can be realised by all people".

Public Sector Govt. - JUSTICE

1989

MAY - JUNE

Death penalty must go?

ABOLITION of the death penalty could give rise to a situation where the public lost faith in the efficiency of sentences for brutal crimes and took the law into their own hands, warned Minister of Justice, Mr Kobie Coetsee.

Responding to various calls during debate on the justice budget for the abolition of capital punishment, or the amendment of legislation to allow judges to use their discretion, Mr Coetsee said opinion surveys showed most people supported the death penalty.

Considering crimes which "filled the community with a sense of horror", he said that if the death penalty were abolished, "it could give rise to a situation where a community loses faith in the courts and take the law into their own hands".

Acknowledging the diversity of opinion on capital punishment, he said it was important to take stock of changing needs and the need to reform the law, and also take account of public opinion.

He said the Government and the State President were "sensitive" to the matter. The subject ought to be approached with great circumspection and sensitivity, and it should not be politicised.

Democratic Party spokesman on Justice, Mr Ray Swart, said the circumstances in South Africa meant the death penalty "must be reviewed" and he urged Mr Coetsee to appoint a commission to do so.

He said a "staggering" 1000 people had been executed in South Africa since 1980.

Mr Swart said "I want to submit that at a time when we are at pains to show our own community and the international community that we are upholding civilised standards, the high incidence of executions gives credence to claims that we are a primitive society with primitive justice."

Mrs Helen Suzman (DP, Houghton) called for a commission of inquiry into the deterrent effect of the death penalty in South Africa.

Mr Peter Moppo (LP, Border), who believed the death penalty "must go", suggested as "an interim measure" that judges be allowed to use their discretion in deciding when to use the ultimate sentence.

However, Mr J H Scheepers (NP, Vryburg) said the death sentence should be retained because the majority who were in favour of it could not be ignored.

Mr P C McKenzie (LP, Bonteheuwel) said capital punishment ought to be reviewed because the majority of the population felt "they are being dealt with by a court without having the means to influence the legislation".

More seek change in hanging laws

Staff Reporter

Capital punishment came under renewed pressure last week with more calls from parliamentarians and legal experts for it to be scrapped.

The respected South African Bar journal, *Consultus*, added its voice to calls for changes in the law regarding the imposition of the death penalty.

Writing in the latest issue of the journal, Mr J P J Coetzer SC, of the Pretoria Bar, called for the mandatory death sentence in murder cases to be abolished.

It should be left entirely to the court's discretion, as in other cases, to decide whether the death penalty or any other appropriate sentence should be imposed, Mr Coetzer said.

He believed if such a change was made, there would be a reduction in the number of people being sentenced to death.

"In fact, the number of death sentences imposed annually ought to be significantly reduced," he said.

Already this year at least 16 people have been hanged in South Africa. Last year 117 went to the gallows. The total since 1980 is 1 070.

Democratic Party MP Mrs Helen Suzman has called on the Government to declare a moratorium on hangings until it completes an investigation

Mrs Suzman was reacting to comments by Justice Minister Mr Kobie Coetsee that he was open to suggestions for revisions of the law regarding the death sentence. Mr Coetsee added, however, he was not prepared to scrap capital punishment entirely.

The changes Mr Coetsee mentioned included an end to mandatory death sentences in cases of murder where no extenuating circumstances were found and an automatic right of appeal.

Mrs Suzman believed if these changes were made there would be a dramatic decrease in hangings.

Rock and A Botha, on the question of whether there were mitigating circumstances, a finding which would have prevented the mandatory

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Mogopa tribe must await court decision on eviction

21 Day 21/5/89
PRETORIA — Judgment in the Mogopa hearing — in which the tribe faces an eviction order — was reserved last week by the Pretoria Supreme Court

Government brought an urgent application this year to have the remaining 70 members of the tribe evicted from the 3 840ha Zwartrand farm, in the Western Transvaal, which it has occupied since 1916

Mr Justice van der Merwe heard the tribe's land was expropriated by the State in 1983.

Sam Maritz, SC, counsel for the applicants — the Minister of Agriculture and Water Affairs and the Minister of Education and Development Aid — argued the farm belonged to government.

He said the tribe bought the farm in 1916, but after expropriation its members had been compensated and relocated to the Groot Marico district.

Counsel for the tribe, Jules Browde, SC, said expropriation of land by the state was "one of the most flagrant violations of human rights conceivable" He added the expropriation was invalid under the Development Trust and Land Act. Removals began in 1983.

The tribe's attorney, N R L Haysom, said in a letter to the court a demolition squad in 1983 destroyed three churches and a clinic and the bus service to Ventersdorp was terminated by a local magistrate. Pumps were removed to deprive people and cattle of water.

He added about the same time a magistrate at Ventersdorp threatened he would not pay pensions unless tribesmen moved. — Sapa.

Judge's decision will be important for appeal — Prof

Delmas judgment

B/Dcom 2/15/89
'unusual'
252

IT WAS unusual but not unknown for a judge to be over-ruled by his two assessors, as happened in the Delmas case last week, Unisa Criminal Law Professor Carel Snyman said last night

In the Delmas Supreme Court last week, Mr Justice M de Klerk sentenced three ANC men, Jabu Masina, TingTing Masango and Neo Pot-sane, to death for the murder of two black policemen, a black town councillor and the councillor's sister-in-law

The judge was outvoted by his assessors, L de Kock and A Botha, on the question of whether there were mitigating circumstances, a finding which would have prevented the mandatory

TIM COHEN and
DIANNA GAMES

death penalty

Snyman said assessors could over-rule a judge on a question of fact, not of law

"The fact that the trial judge found extenuating circumstances will undoubtedly be a very important factor in whether the appeal against the death sentence will succeed

Sensitive

"But even if the Appeal Court was of the opinion that there are extenuating circumstances, it may still legally impose the death

sentence," he said

Peter Harris, of the legal firm Cheadle, Thompson and Haysom, said "It is distressing that in a case of such a sensitive nature the two assessors, both of whom are ex-civil servants — one a retired magistrate and the other a retired Justice Department official — should disagree with the well reasoned and meticulous judgment of the presiding judge"

□ A Sapa-AP report published in Business Day on Friday said incorrectly the judge had not found any mitigating circumstances in imposing the death sentence Sapa later corrected the report, quoting Harris as pointing out the judge had found mitigating circumstances but had been outvoted by his two assessors

Mogona tribe must await



Why have so few political murder cases been solved, ask human rights organisations

Verdict: Killed by 'persons unknown'

Nearly four years ago, on a cold winter's night, Dr David Webster expressed concern at the disappearance of four anti-apartheid activists Mathew Goniwe, Fort Calata, Sicelo Mhlawuli and Thomas Mkhonto

Within 48 hours the charred bodies of the four men, all members of the United Democratic Front, were found in the vicinity of Bluewater Bay on the outskirts of Port Elizabeth

They had been brutally murdered. Forensic tests showed they had been shot and stabbed before their bodies were set on fire in a calculated bid to make them unidentifiable.

A false number plate was fixed to Mr Goniwe's car in an attempt to delay identification of its owner and hence the bodies of the four men who had travelled in it

In February 1989 inquest magistrate, Mr E de Beer, found that the four had been killed by "persons unknown".

Now Dr Webster (44) has become the latest victim of anonymous assassins. He was shot dead by an unidentified gunman on Monday as he opened the back of his bakkie. The gunman sped away in a white vehicle.

Ironically, before he was murdered, Dr Webster was working on a manu-

The apparently politically-motivated murder of senior Wits lecturer Dr David Webster on Monday appears to be another in a long list of such killings in South Africa. More

script for the Human Rights Commission, documenting recent assassinations of members of extra-parliamentary opposition. It included a list of eight people killed by "unknown persons".

The manuscript had not been released at the time of his death because, with a thoroughness typical of Dr Webster and the Human Rights Commission, it was being checked and re-checked for accuracy.

Suspicious

These preliminary findings do not have the status of inquest findings. There are enough inquest findings of that nature, however, to provoke suspicions among human rights activists that the killers — in the words of Mr Rory Riordan, director of the Human Rights Trust — "escape prosecution because the sympathy of the security forces precludes rigorous investigation".

Dr Webster, a university lecturer in social anthropology, shared one central trait with previous victims of unknown assassins. He was deeply committed to

the struggle for a nonracial society, using argument, persuasion and a dogged persistence to advance the cause he believed in.

More than a decade ago another university lecturer, Dr Rick Turner, was shot dead as he was looking out of the window of his home in Durban. He too strove for a new South Africa, having already incurred the wrath of the authorities who restricted him for his allegedly "subversive" activities.

Later a group of his friends and university colleagues hired a private detective to try to find the killer or killers. They did so in protest against the "consistent failure of the police to find and prosecute" people responsible for right-wing terrorism.

The Institute of Race Relations recorded in its survey for 1978 "Since 1964 there have been an estimated 1 600 such attacks with only two prosecutions".

An inquest court found that Dr Turner had been murdered by — in a phrase which was to be repeated regularly over the years — "persons unknown".

In November 1981 another anti-apartheid activist was brutally and

importantly, there is concern that so few of these cases have been solved by the police. **PATRICK LAURENCE** reports

mysteriously murdered. Former Robben Island prisoner and human rights lawyer Mr Griffiths Mxenge was found dead in a cycling stadium near Durban. His throat had been cut and he had been stabbed 45 times in the stomach.

Nearly two years later, the inquest court found that he, too, had been murdered by a person or persons unknown. His wife, Mrs Victoria Mxenge, swore that she would continue the search for his killers.

Informal inquest

But Mrs Mxenge, herself a lawyer, was unable to fulfil her pledge. On August 1 1985 she was shot dead outside her home. Just over a year ago, the inquest magistrate, Mr F M Vorster, found that she had been murdered by "an unknown person or persons".

The magistrate's finding provoked an outcry from Mrs Mxenge's friends and admirers. He refused to hold a formal inquest, settling instead for an informal inquest.

The difference is material in a formal inquest, witnesses — including the police — can be called and, more im-

portant, cross-examined. In an informal inquest the magistrate reads the statements submitted to him and makes a finding without hearing oral evidence in court.

Lawyers for the Mxenge family protested at the magistrate's decision, charging that the investigating police officer had not followed up a number of leads and that he had "not even begun to get to grips with the case". Their protests were in vain.

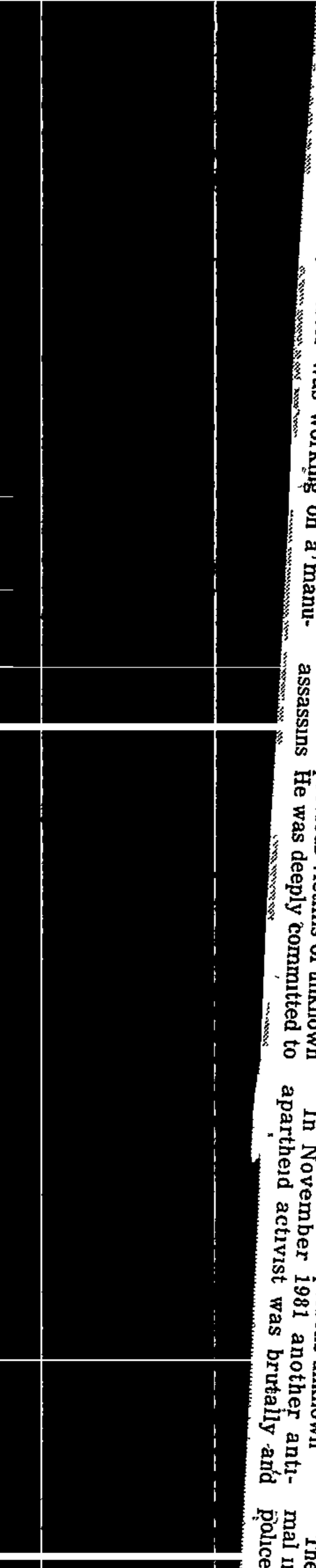
The killing of well-known anti-apartheid activists has been coupled with recurring attacks by unknown bombers and arsonists on buildings occupied by anti-apartheid organisations.

The most notable recent attacks on property are the mid-1987 bombing of Cosatu House, administrative centre of the Congress of South African Trade Unions, the August 1988 blast at Khotso House, headquarters of the South African Council of Churches, and the November 1988 fire at the Khanya House offices of the Southern African Catholic Bishops' Conference.

No one has been apprehended and charged with these crimes, causing the Human Rights Commission to conclude of right-wing terror attacks against anti-apartheid organisations "Disurprisingly few of these cases are brought to court or solved".



Murdered Dr Rick Turner was shot dead more than 10 years ago as he looked out of the window of his home in Durban.



NECKLACING 252

- 7 FREED *Soweto 3/1/89*

THERE was jubilation in the Rand Supreme Court on Friday when five men and two women were acquitted of a "necklace" murder

This came minutes after Mr Justice Solomon, sitting with two assessors, had given his verdict.

The accused were Mrs Thembi Lukhele, a 52-year-old mother of two children, Miss Phindile Sibeko (23), Mr Lucky Moya (19), Mr Isaac Ntshali-Ntshali (20), Mr Siphon Sitlato (20), and Mr Lucas Hlatshwayo (20), all of Zola 3, Soweto

They were accused of dragging shebeen queen

By **MANDLA NDLAZI**

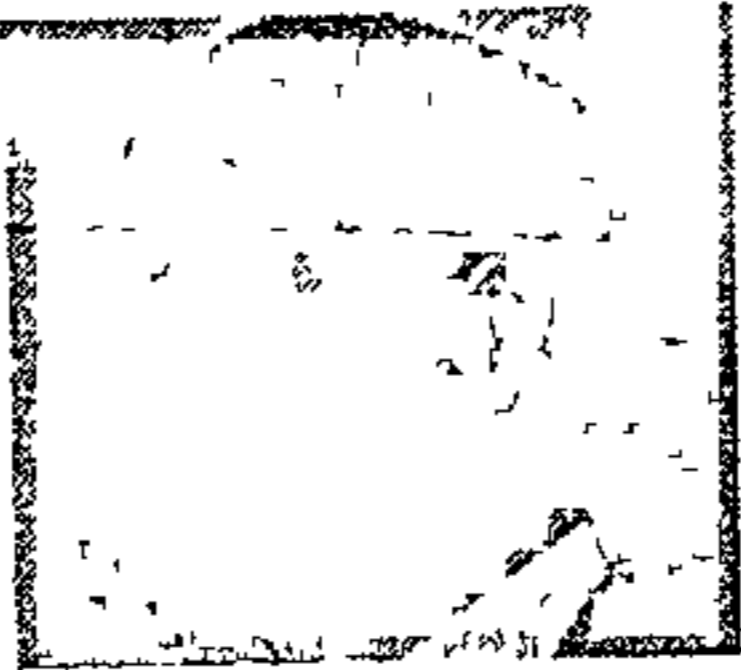
Lindiwe Flora Khumalo out of her house, hacking her with pangas and stoning her before putting a tyre around her neck and setting it alight at open veld in Zola 3, Soweto, on August 11, 1986. They had pleaded not guilty

Acquitting them, the judge said the State had not proved beyond reasonable doubt that they committed the crime

Rector

gives a
Soweto 3/4/89
warning

to loafers



PROFESSOR P Mokgokong.

THE rector of the University of the North, Professor P C Mokgokong said people who did not qualify and prepare themselves for a meaningful future, would find themselves jobless and roaming the streets in the next century

Prof Mokgokong addressed more than 2000 parents during a meeting held at the university, on Saturday

During the meeting the vice rector of the University, Mr M J Malatji, announced to the parents that the university would resume with lectures on the 10th of this month and also made it clear to the parents that the students left the university on their own and were at liberty to return to the campus since senior students were continuing with their studies on the campus

App Times 5/5/89 252

LHR concerned over notices of execution

PRETORIA — The civil-rights group Lawyers for Human Rights said it was distressed by the practice of the Department of Justice of giving notices of execution to prisoners who had not exercised all their legal remedies

On Tuesday night an advocate instructed by LHR obtained a stay of execution from Mr Justice Van Zyl for three men who were to have been hanged on Wednesday

LHR made representations for stays of execution to the Department of Justice earlier, when the organisation discovered that the condemned men had not exercised all their legal remedies. When it had not received a reply from the department by Tuesday afternoon, it sought the Supreme Court's intervention

A Justice Department spokesman said "The Department of Justice has on no occasion denied any person access to remedies which he may have" — Sapa

Act of Union 'basis of State lawlessness'

CAPE TOWN — The greatest historical act of lawlessness so far, as black South Africans and all democrats were concerned was the Act of Union itself, advocate Mr Dullah Omar, regional chairman of the National Association of Democratic Lawyers, said

Speaking on State lawlessness at the Institute of Criminology conference, "Towards Justice? Crime and State Control in South Africa", at the University of Cape Town this week, Mr Omar said union was "a creation of the British Parliament" that "laid the basis for white domination over blacks as an instrument of imperialist exploitation on the subcontinent.

At the same time it laid the basis for State lawlessness in South Africa."

He had derived the term "imperialist exploitation" not from any writings of the ANC, but from Nationalist literature before 1948.

Mr Omar said that to illustrate his point he wished to quote what one of the architects of the future Union, Cecil John Rhodes, had said in the Cape Parliament in June 1887

"I will lay down my own policy on this native question. Either you have to receive them on an equal footing, or to

call them a subject race

"I have made up my mind that ... we have to treat natives where they are in a state of barbarism, in a different way to ourselves. We are to be the laws over them. These are my politics and the politics of South Africa

"The native is to be treated as a child and denied the franchise. He is to be denied liquor also

"We cannot adopt a system of despotism — such as works so well in India — in our relations with the barbarians of South Africa."

Speaking about legislation like the Mines and Works Act of 1911 and the Land Act of 1913, Mr Omar said that land, the franchise and labour were the three key issues that had reduced blacks in this country to a state of "helplessness, rightlessness and poverty".

The opening of the diamond and gold mines had been made possible only through conquest, land dispossession and the denial of political rights to black people

On the Rule of Law, Mr Omar said State lawlessness was not a product of 1948, but that blacks had been the victims of State lawlessness "ever since Union and before". — Sapa



by VIEN HORLER, Weekend Argus Reporter

ONLY Iran and Iraq officially executed more people than South Africa between 1985 and mid-1988, according to a newly published report by Amnesty International on the death penalty world-wide

More than 537 South Africans were executed, according to the international human rights organisation, compared with 743-plus in Iran and "hundreds every year" in Iraq. Nine were executed in Namibia

The South African figures compare with 500-plus in China, 439 in Nigeria, 66 in the United States, 63-plus in the Soviet Union, 36-plus in Bangladesh, 24 in Zambia, 15 in Angola, 12 in Egypt, 11 in Zambia, nine in Japan, four in Cuba and two in Chile

(There were no figures available for some countries such as Afghanistan, while others, including South Africa, were marked with plus signs, indicating Amnesty "believes the true figure to be higher but is unable to give an exact number")

Countries in which no executions took place — many of which have abolished the death penalty altogether — included Australia, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom.

LESS predictably, there were also no executions between 1985 and mid-1988 in Argentina, Brazil, the Congo, El Salvador, Haiti, Israel, Mexico, Nicaragua, Panama, Peru, Rwanda, Sri Lanka, Tanzania and Turkey.

The Amnesty report, titled *When the State Kills*, updates a similar one published in 1979. It covers the 10 years between 1979 to 1988.

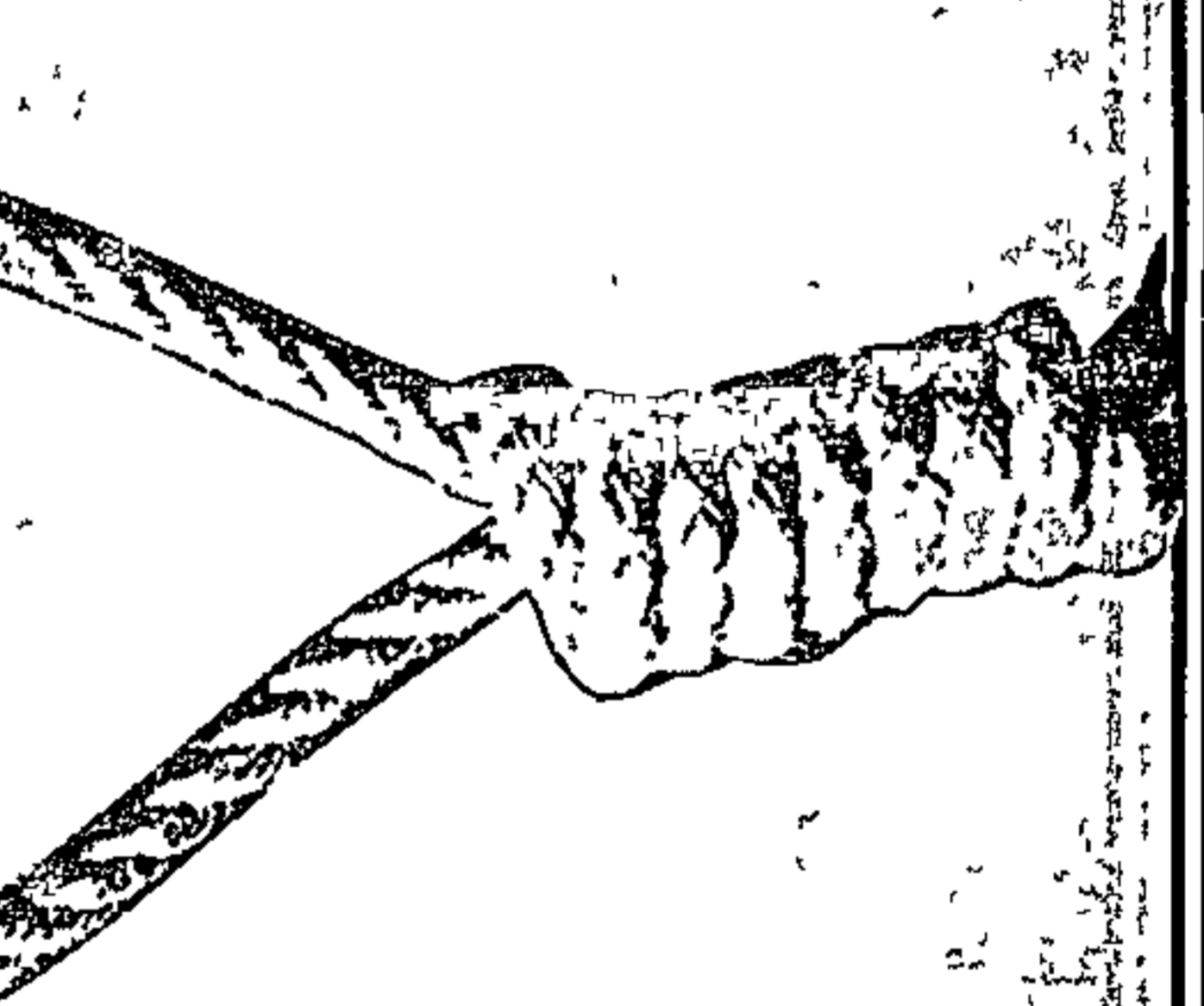
It says there has been an almost unbroken upward trend in the annual number of executions in South Africa in the past decade. Between 1978 and the end of 1987, the total sentenced 1 583 people to death, including at least 98 people in the four independent homelands, and the annual total exceeded 160 in every year except 1983.

IMPOSING the death penalty for political violence is as likely to increase acts of terror as to stop them, says Amnesty International.

In a report on legal executions round the world in the past 10 years the respected international human rights organisation has called for the abolition of the death penalty worldwide, saying it brutalises those involved, has not been shown to reduce crime or violence, and is frequently used disproportionately against the poor or ethnic minorities.

There is no evidence, says the report, that the threat of the death penalty will prevent politically motivated crimes or acts of terror. "In any event, the possibility of political martyrdom through execution may encourage people to commit such crimes."

It quotes a professor of criminology in Canada as saying, "Standard punishments, including



DEATH PENALTY

In 1987, 172 people were executed, the highest annual figure since Union in 1910. Of them, nine were white.

ONE of the most notable aspects of the use of the death penalty in South Africa is its disproportionate imposition on the black population (including people officially described as 'coloureds') by an almost entirely white judiciary, says the report, nothing

the existence of a single black judge in Botswana.

Recent research, corroborating research carried out in the late 1960s by Professor Bartend van Niekerk of Natal University, has shown that black defendants stand a greater chance than white defendants of receiving the death penalty, especially when the victim is white.

Unlike the death penalty, non-lethal punishments can reflect the values of the society rather than the values of the killer.

by VIEN HORLER, Weekend Argus Reporter

AMNESTY says that at the heart of the case for the abolition of the death penalty is the question of whether the State has the right to kill a human being in cold blood and with pre-

meditation

Over 537 hangings in SA between 1985 and mid-1988 — human rights report

"For example, between June 1982 and June 1983, of 81 blacks convicted of murdering whites, 38 were hanged, of 52 whites convicted of murdering whites, only one was hanged. None of the 21 whites convicted of murdering blacks was hanged, but 55 of the 2 208 blacks convicted of murdering blacks were hanged."

The report notes that most black people facing capital charges have to rely on a pro Deo defence because of poverty and that the system means they are usually defended by the most junior members of the bar who are poorly paid for their services. The system also does not permit the appointment of an attorney, crucial to the proper presentation of a case.

The report also notes that trials are conducted in English or Afrikaans, neither of which is the mother tongue of most black people, so that most black defendants have to rely on interpreters which, says the report, may put them at a disadvantage.

THERE have been an increasing number of death sentences imposed at political trials in the past 10 years. Defendants in these cases are often held incommunicado for many months and "may also be subject to torture."

The report said the doctrine of "common purpose" as applied in the case of the Sharpeville Six (who were granted clemency in November 1988) and interpreted by the Appellate Court, "spreads the net of criminal liability very widely, and raises the prospect of many death sentences being imposed in future trials arising out of political conflict."

Referring to Namibia, the report said 31 people had been sentenced to death between August 1977 and May 1988, of whom 14 were executed and 12 reprieved. Twelve of the 14 whose death sentences were commuted.

Some claimed they were tortured or ill-treated in police custody to make them confess.

cause they tolerate the crimes. Instead, it is because societies understand that they must be built on a different set of values from those they condemn.

"An execution cannot be used as condemnation killing. It is killing."

The report adds: "Unlike the death penalty, non-lethal punishments can reflect the values of society rather than the values of the killer."

"Whatever one's view of the retribution argument may be, the practice of the death penalty reveals that no criminal justice system is, or conceivably could be, capable of acting fairly, consistently and infallibly who stand live and who should die."

commit such crimes."

It quotes a professor of criminology in Canada as saying "Standard punishments, including the death penalty, do not impress terrorists or other political criminals who are ideologically motivated and dedicated to make sacrifices for the sake of their cause. . . . Moreover, terrorist activities are fraught with danger and the terrorist runs all kinds of deadly risks without being intimidated by the prospect of immediate death. Is it conceivable that he will be deterred by the remote and low risk of the death penalty?"

IT says execution for politically motivated crimes could lead to more publicity for acts of terror, drawing increased public attention to the terrorists' political agenda.

"Such executions may also create martyrs whose memory becomes a rallying point for their organizations.

"For some men and women convinced of the legitimacy of their acts, the prospect of suffering the death penalty may even serve as an incentive. Far from stopping violence, executions have been used as the justification for more violence as opposition groups have seized the opportunity to bolster their legitimacy by using in reprisal the same 'death penalty' that governments claim the right to use."

In the 1940s the British authorities in Palestine hanged several members of the underground Zionist Irgun movement after their convictions for bombings. Menachem Begin, former Irgun leader and later Prime Minister of Israel, reportedly told a British government minister that the hangings had "galvanized" his group, which hanged several British soldiers in retaliation.

The hangings, said Mr. Begin, "got us the recruits we wanted, and made us more efficient and dedicated to the cause. . . . you were not sentencing our terrorists to death, you were sen-

A for the abolition of the death penalty is the question of whether the State has the right to kill a human being in cold blood and with premeditation.

So far 35 countries have abolished the death penalty for all crimes, 18 for all but exceptional crimes, and 27 countries or territories no longer carry out executions even though officially retaining the death penalty.

"Some 80 countries, therefore — more than 40 percent of all the countries in the world — have abolished the death penalty in law or in practice."

But 100 countries still use the death penalty.

The report, titled *When the State Kills . . .*, says there can never be a justification for torture for cruel, inhuman or degrading treatment.

"If hanging a woman by her arms until she experiences excruciating pain is rightly condemned as torture, how does one describe hanging her by the neck until she is dead?"

"If administering 100 volts of electricity to the most sensitive parts of a man's body evokes disgust, what is the appropriate reaction to the administration of 2 000 volts to his body in order to kill him?"

"The physical pain caused by the action of killing a human being cannot be quantified. Nor can the psychological suffering caused by foreknowledge of death at the hands of the State.

"Whether a death sentence is carried out six minutes after a summary trial, six weeks after a mass trial or 16 years after lengthy legal proceedings, the person executed is subjected to uniquely cruel, inhuman and degrading treatment and punishment."

THE death penalty is a fundamental denial of human rights. The right to life is enshrined in the Universal Declaration of Human Rights.

"The significance of human rights is precisely that some means may never be used to protect

appropriate and inappropriate means is set aside in the name of some 'greater good', all rights are vulnerable and all individuals are threatened."

The report says the death penalty has never been shown to have any special power to meet any genuine social need.

It has been claimed that it acts as a deterrent, yet study after study in many countries has failed to find convincing evidence to support this.

AMNESTY says it is wrong to assume most murderers kill only after rationally calculating the consequences.

"Murders are most often committed in a moment of passion, when extreme emotion overcomes reason. They may also be committed under the influence of alcohol or drugs, or in moments of panic. . . . some people who commit violent crimes are highly unstable or mentally ill. In none of these cases can fear of the death penalty be expected to deter."

Of course once someone has been executed they will never repeat the crime. But this argument has its own problems, says the report. There is no way to be sure the prisoner would have repeated the crime if allowed to live.

The report points out that dangerous offenders can be kept safely away from the public with out resorting to execution.

"Humanitarian principles enshrined in both domestic and international laws prohibit the execution of the insane. If States have found incarceration to be an effective means of incapacitating insane-killers, why is it not possible to use it to incapacitate the 'normal' ones?"

And there is a major advantage to jailing rather than hanging offenders. "The mistakes which result from fallible judicial systems can be corrected, at least partially. The death penalty, on the other hand, takes the lives of offenders who might well have been rehabilitated

Call for SA to drop the whip as legal punishment

Staff Reporter 252

THE state should rethink the acceptability of legally imposing whipping as a form of corporal punishment, UCT law lecturer Ms Julia Sloth-Nielsen told about 150 students and academics at a conference on crime and state control at UCT yesterday

The two-day conference, organised by the department of criminology, heard papers by academics from all over the country, including Johannesburg human-rights lawyer Mr Fink Haysom on new policing strategies

Ms Sloth-Nielsen said the courts ordered more than 40 000 people to be whipped each year in South Africa and that most of these were juveniles

This practice clearly contravened international conventions on human

rights and had fallen into disfavour in most parts of the world

She argued that the state should set a precedent by making violent forms of punishment unacceptable

Brutal punishment inflicted at the state's behest created a climate in which recourse to personal violence against others became an authenticated mode of settling disagreements. This was evidenced by the way the Nyanga people's courts had increased lashings during 1986 when the level of "police brutality" in the townships had risen

The Criminal Procedures Act was amended in that year to include whippings for offences like public violence, arson and malicious injury to property

457 respondents pack Johannesburg court

8/5/87 By Cathy Stagg

There were scenes of chaos at the Rand Supreme Court on Friday when Mr Justice NM MacArthur had to deal with 457 individuals, each cited as a respondent in an urgent interdict launched by their employer.

The large crowd of workers, most dressed in blue dust coats, arrived at the Rand Supreme Court at lunch time.

Each person had to go through a security check to enter the building.

The crowd flowed upstairs to court 4C, which was soon packed. Even the area normally occupied by the clerk and orderlies was full.

It became clear the case could not be heard in the small room so the crowd was moved to a large ground floor court where there were still not enough seats and people stood shoulder to shoulder in the aisles.

From time to time someone would address the crowd.

The urgent application was brought by Lascon Lighting against the National Union of Metal Workers of SA (Numsa) and the

individual workers

The judge asked who was in court representing the union. A redheaded woman could be seen bobbing up and down at the back of the packed standing area.

The judge asked her to come forward. But Ms Ruth Edmonds said she was there only to observe, not represent the workers.

They did not have a lawyer.

"This is not going to be an easy task," the judge said.

He was told there was no one willing to speak on behalf of everyone else, although there was a delegation of six. The judge picked out one of them and told him to go to the witness box.

INTIMIDATION

"Where is the witness box?" the man asked and the sea of people parted so he could make his way there.

Speaking through an interpreter, Mr Enoch Mtjhale said they were told to come to court but did not know why and had not read the papers.

Mr B Doctor, who appeared for the ap-

plicants, said all previous negotiations had taken place in English. He asked for an interim interdict to restrain the workers from intimidating others and declaring the strike unlawful.

Another spokesman, Mr Peter Ngwenya, disputed that they had intimidated anyone. The judge said in that case, the interdict could not harm them.

In reply to questions he said they had not worked normally since Monday because management refused to let them speak to the newly appointed chief executive, a Mr Sutton.

The judge said the dispute could not be resolved that day and that the workers had to file papers setting out their side of the dispute.

The workers refuse to deal with the group human relations manager and want to speak only to the chief executive.

The judge advised the workers to approach the union or an attorney to represent them.

The interim interdict was granted and the matter postponed until May 23.

TENSION GRIPS CITY

PRETORIA was yesterday a distinctly nervous city as road traffic, apart from buses, was banned on Church Square as the hours ticked by before sentence was passed on mass killer Barend Hendrik Strydom.

From 7am, people were taking up vantage points on the lawns opposite the Palace of

SOWETAN Reporter

Justice where, at mid-morning, Mr Justice Louis Harms, sitting with two assessors, was to sentence Strydom for killing eight people and attempting to murder another 16 last November.

Police barricades were set up on roads leading into Church Square and

only peak-hour buses were allowed to enter the square

The police riot squad, some with dogs, began trucking in earlier than before during the eight-day trial, which has been described as one of the most sensational to have been heard at the supreme court in many years

The security precautions were being taken to prevent trouble immediately after Strydom was sentenced

There were fears that white right-wing groups would take advantage of the event to cause problems with hundreds of black people, many relatives of the dead and injured, who have been milling on the lawns opposite the courts each day of the trial

During the trial, threats were made to the Strydom family to the State advocate who is leading the prosecution, Mr Paul Fick SC, and to journalists covering the trial. A dead cat was sent to Mr Fick

An unidentified group has also contacted newspapers, saying that they would take action against extremist organisations. Police confirmed this week they were taking the threats seriously

At the court yesterday, there was again strict control of people

entering the building. Everyone was body searched and subjected to X-ray security measures. Journalists covering the trial were refused entry unless they carried valid 1989 Press cards.

Justice has been done say crowd

MOST of the predominantly black crowd which waited outside the Supreme Court for the outcome said they were happy with the sentence meted out to him

Many had smiles as news filtered through that Strydom had been sentenced to death

The first person to voice her feelings about the outcome of the case was one of the survivors of Strydom's shooting spree, Miss Belina Khumalo, who works as a domestic worker in Pretoria

Khumalo, who was hospitalised for two weeks after she was shot in the stomach by Strydom, said she was satisfied with the sentence and she would not have asked for anything more than that

"I still feel pain and inflammation in my stomach — a rude reminder of that frightening day I think justice has been done," she said

Mr John Matlala of Mamelodi said the outcome was satisfactory



A MEMBER of the crowd outside the Palace of Justice holds out a symbolic "hanging rope" after Strydom was sentenced.

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White youths guilty of murdering black boy

By Cathy Stagg

Two white youths were yesterday found guilty of the murder, with extenuating circumstances, of an eight-year-old black schoolboy

Shane Mitchell (18) and Timothy Lee Bedingfield (20) appeared before Mr Justice Roux

Mitchell threw a prefabricated hexagonal paving brick which killed Ronnie Pitso, who was walking with a group of schoolchildren on the Muldersdrif road in Honeydew north of Johannesburg on October 12 1987.

The stone cracked his skull and he died of brain damage.

Bedingfield was convicted on the grounds of common purpose

There was a plan to stone pedestrians and he did nothing to stop Mitchell when he "hurled the missile like a discus", said the judge

BUNKED

Mitchell was 16 years and 11 months old and Bedingfield three days short of 19 when they decided to "bunk" from the Florida High School They had a picnic with other teenagers at a pleasure resort and used Mitchell's stepfather's Land Rover

Two teenagers in the Land Rover allegedly threw bottles at pedestrians on the way to the picnic which could have provided the germ for later events

The accused said they smoked dagga and drank a lot of beer

Mitchell said he drank three 750 ml bottles of beer early in the morning and nine at the picnic The judge said this amounted to 27 cans and he did not believe it

On the way home the Land Rover stopped at a cafe and four boys loaded stones in the back of the Land Rover The judge said the question was why

It was against all probability that four people independently hit upon the idea unless there was some agreement

They drove off and one of the girls in the front saw a cyclist swerve She asked the boys at the back to stop throwing stones.

Then someone spotted the schoolchildren Mitchell threw the brick One of his friends said "Shane, Shane, you have hit him, there are brains on the road"

The State had proved despite the use of drink and drugs they knew what they were doing

Bedingfield also had a stone in his hand when Mitchell picked up the brick They knew that it was unlawful to stone people and this was a common purpose to commit an assault Neither cared if someone was injured or killed

Their youth, the mild influence of liquor and the interaction of one upon the other were found to be extenuating circumstances

The trial was postponed to May 22 pending a probation officer's report The accused were remanded in custody.

Guilty of murdering boy of 7

252 By MANDLA NDLAZI (Gla)

TWO white teenagers were yesterday found guilty of the murder of a seven-year-old black schoolboy in Honeydew, near Johannesburg, a year ago.

School in Honeydew on October 12, 1987. The judge said the State had proved that they acted in common purpose when the crime was committed. They knew that throwing stones could cause serious harm or injury.

Mr Justice Roux said in the Rand Supreme Court that the State had proved beyond reasonable doubt that Shane John Mitchell (18), and Timothy Lee Bedingfield (19), murdered Ronnie Pitso, a sub-A pupil at Van Zyl Sand Farm.

According to evidence, Ronnie was killed by a stone that struck him on the head. His brain spattered on the pavement.

• To Page 2

Verdict

• From Page 1

Mitchell and Bedingfield showed signs of restlessness soon after the judge had given his verdict. They were told they were to go to jail until May 22 pending the probation officer's report and evidence in mitigation of sentence. The judge said that the State had found there were extenuating circumstances regarding the ages of the two teenagers and that they were at a pleasure resort where they had beer and dagga before the murder was committed.

most heroic admiral

Judgment for four ⁽²⁵²⁾

JUDGMENT on the bail application for a seventeen-year-old youth appearing with three men on allegations of having attempted to kill eleven municipal policemen at the Phiri Hall, Soweto, last year will be given today *Soweto 10/5/89*

The three men are Mr Velile Zwane (22), Mr Clement Sobikwe (20) and Mr Lloyd Methula (28), all from Soweto

Star 10/5/59

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Suzman will ask House to censure Justice Strydom

Mrs Helen Suzman (DP Houghton) gave notice in the House of Assembly yesterday that she would move today that the House censure Mr Justice J J Strydom for sentences he imposed in a case last year which "are so outrageously insufficient as to amount to a gross perversion of the law".

Her notice of motion referred to the sentences passed on November 1 1958 in the Northern Circuit Court at Louis Trichardt in the case of the State vs Jacobus Vorster and Petrus Leonard.

Mrs Suzman said the sentence was within the discretion of the

judge and proper weight had to be given to the circumstances of the convicted person.

However, Vorster and Leonard had unlawful purpose and intent and the duration and brutality of their assaults had resulted in a man's death.

This, together with the natural indignation of interested persons and the community at large, (including black persons), had to be weighed against the "relatively trifling and in some instances non-existent mitigating factors taken into account by the judge", she said. — Sapa

Suzman move to censure judge

Parliamentary Staff

A SUPREME Court judge will today face charges in Parliament of grossly perverting the law by imposing too light a punishment on a white farmer who caused the death of a black worker.

Mr Justice J J Strydom's accuser will be Mrs Helen Suzman, Democratic Party spokesman on law and order, who has sought the impeachment of the judge.

Last November he conditionally suspended a penalty of five years' jail and fine of R3 000 (or 12 months) imposed on Jacobus Vorster, 23, for culpable homicide.

One of the provisos was that Vorster pay labourer Mr Eric Sambo's widow and children R130 a month for five years.

The Lous Trichardt Circuit Court heard that Vorster, originally charged with murder, beat Mr Sambo and tied him to a tree after he had killed one of the farmer's dogs and maimed another.

Mrs Suzman told the House of Assembly yesterday she would move today for the judge's censure.

She noted that while punishment was the judge's discretion, it should be seen in the light of the unlawful purpose of Vorster and an accomplice, Petrus Leonard, "coupled with the duration and brutality of their assaults".


The sentences imposed last November were so "outrageously insufficient as to amount to a gross perversion of the law," Mrs Suzman concluded.

Leonard was fined R500 (or three months).

The Johannesburg Bar Council found the sentence "so grossly inappropriate as to induce not simply a sense of shock but one of outrage and concern".

If the community began to believe such a crime could merit "so trivial a punishment, the maintenance of law and order would be gravely endangered and no law-abiding citizen would be safe from violent and callous killers".

It said further that the trial judge took into account mitigation for which there was no or insufficient evidence.



AWB leader Mr Eugene TerreBlanche arriving at the Krugersdorp Magistrate's Court yesterday, flanked by members of his organisation. Mr TerreBlanche is appearing on charges related to the damaging of gates at the town's Pardekraal Monument last December.

By Gien Elsas

The Krugersdorp magistrate presiding at the trial of AWB leader Mr Eugene TerreBlanche was expected to make known today whether he will dismiss the charges against Mr TerreBlanche or if the case will be continued

Mr TerreBlanche is appearing on charges of malicious damage to property and crimen injuria after an incident at the Krugersdorp Paardekraal Monument last December in which he and *Sunday Times* columnist Jani Allan were involved

Mr Johan Rossouw, for Mr TerreBlanche, yesterday applied for the dismissal of the trial after the State closed its case

He said that if it appeared there was no testimony that the accused had committed the crime, then the court could not

Call to dismiss AWB head's case

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Stew 10/5/81

find him guilty.

The defence submitted that the credibility of the State witnesses was a definite factor to be taken into account

If testimony implicating the accused was of such a poor quality that no fair person could find the accused guilty, then the court would be justified in dismissing the case

He said if the court believed it would be fruitless to continue with the trial, the case could be dismissed, sparing further costs, inconvenience and embarrassment to the accused

The court, on the other hand, had the right to call any person to testify if it believed such testimony was essential to making a correct decision.

Mr Rossouw was of the opinion Miss Allan should have been called by the State. The State had subpoenaed her and she was the one person who could objectively say what happened

Regarding the crimen injuria charges, it was clear to the defence the complainants only felt slandered by the accused's alleged remark months after he had apparently made them

Mr Zas van Zyl, for the State,

said it was normal for witnesses to forget smaller details months after an incident

He said the court could only arrive at one reasonable conclusion — that the accused did drive the car and that the car was first seen outside the gate and was later seen inside the grounds at the monument.

He said Miss Allan would not be an objective witness because she had been, after all, with Mr TerreBlanche that evening and it appeared they knew each other

● Mr TerreBlanche, who arrived at the court accompanied by khaki-clad AWB members, looked pale and shivered uncontrollably during the court proceedings. He said during a recess he was sitting in a draught and was very tired after many late night meetings

The hearing continues.



AWB leader Eugene Terre'Blanche surrounded by AWB members and his bodyguard outside the Krugersdorp Magistrate's Court yesterday. Picture ROBBIE BOTHA

Defence plea: dismiss AWB's Terre'Blanche

DEFENCE counsel in the trial of AWB leader Eugene Terre'Blanche yesterday called for a dismissal of all charges against him on grounds that some State witnesses had not furnished accurate and reliable evidence

The call came after the State closed its case against Terre'Blanche. His appearance follows an incident at the Paardekraal Monument in December last year, when he allegedly rammed two gates with his car and verbally abused two investigating police officers. He pleaded not guilty to a count of malicious damage to property and two counts of *crimen injuria*.

A packed Krugersdorp Magistrate's Court heard Johan Rossouw SC, for Terre'Blanche, tell the court that some State evidence, including eyewitness accounts, had been of such "poor quality" that no rational person could issue a guilty verdict.

In calling for a dismissal, Rossouw said evidence from Nicholas and Wanda Kearney, who both testified in April that they saw Terre'Blanche ram the monument gates with his car, was "totally unreliable" if not entirely untrue.

"Miss Kearney's uncontrollable outburst in the witness stand can only be ascribed to her flagrant contradiction of her father's evidence. She also expressed a need to withdraw all her evidence. It is our submission she was not telling the truth."

Rossouw said both did not only contradict each other but had also contradicted themselves.

DANIEL SIMON

"No fair court can attach any value to their evidence"

With regard to the two charges of *crimen injuria* laid by two police officers who confronted Terre'Blanche and Sunday Times columnist Jani Allan in the monument grounds, Rossouw said he found it very strange that they were only laid months after the incident.

He said the allegations only took on a criminal dimension when "politically inspired" Witwatersrand Attorney General Klause Von Lieres issued a press statement saying that in his opinion, the dignity of both policemen had been impaired.

Argument

Rossouw added that the evidence submitted by both Constable Colin Page and Constable Carlos Mitchell — who testified yesterday — was also contradictory, and that this empowered the court to dismiss all charges against Terre'Blanche.

In argument, Prosecutor Zas van Zyl said all the witnesses called by the State had been strong.

"It was clear for everyone to see"

He said the State had not called Allan to testify as she would not have corroborated the State's case.

Magistrate F W van Niekerk will give a finding today.

Court acquits AWB leader on all counts

Stw 11157e7 252

By Gien Elsas,
West Rand Bureau

Mr Eugène TerreBlanche, leader of the Afrikaner Weerstandsbeweging (AWB), was acquitted in the Krugersdorp Magistrates' Court yesterday on charges of malicious damage to property and crimen injuria.

The magistrate, Mr SW van Niekerk, found part of the testimony heard in the State's case "unbelievable and of no value"

Mr TerreBlanche had pleaded not guilty to the charges, which arose from an incident at the Paardekraal Monument last year in which the gates to the property were damaged by a car, a lock forced and two policemen sworn at.

Mr Terreblanche was accompanied by *Sunday Times* columnist Jani Allan at the time.

Mr van Niekerk said the court could not prove who had damaged the gate and the lock on the gate of the monument

Mr van Niekerk said there were three versions of why the police were called to investigate an incident at the scene and the court could not determine which was the correct version

Mr Nico Kearney, who lives opposite the monument, said he called the police as the gates were being broken

Constable Colin Page, who, with Constable Carlos Mitchell, went to investigate the complaint, said the police were called as two shots had been fired, while Constable Mitchell said they had been called to investigate a complaint of a drunk white man

When the policemen arrived at the scene they asked the accused whether he had a gun, but did not ask him whether he knew anything about shots

If Constable Mitchell's version that they were looking for a drunk white man was correct, why did they not see if the liquid in the bottle at the scene was alcoholic, or confiscate the bottle and act accordingly?

At no stage of the investigation did anyone ask Mr TerreBlanche how he entered the gates and if he broke the gates and the lock. The charges were never put to the accused.

The court could also not understand why Lieutenant Smit, the duty officer who took over at the scene, and Jani Allan were not called to testify. Both, according to the court, were cardinal witnesses.

Mr van Niekerk said, regarding the crimen injuria charge, that there had to be serious damage to a person's dignity and honour for it to succeed.

The court questioned whether either policeman was seriously tarnished when sworn at. If they had felt so badly slandered they would have insisted on laying charges straightaway, and would not have realised they were insulted and injured when the investigating officer approached them weeks later.

Mr van Niekerk concluded by saying that there had been enough facts before the prosecutor to warrant a trial. It sometimes happened, however, that these facts were watered down through cross-questioning and the case then became weak.

Applause as ET is found not guilty

By Melame Gosling

There was jubilation outside the Krugersdorp courthouse yesterday after AWB leader Mr Eugene TerreBlanche was acquitted of malicious damage to property and crimen injuria.

When the magistrate acquitted him, the AWB leader dropped his head and closed his eyes as if in prayer. Followers applauded and thronged around him.

Then the crowd surged out into the corridors with AWB members forming a circle around Mr TerreBlanche.

The guards marched with AWB and Vierkleur flags to the Victoria Hotel for a press conference.

Mr TerreBlanche said the court decision had shown the courts were above politics. He praised his followers and the hundreds of supporters in the SAP.

He said that in the coming election, with combined AWB and CP support, it was possible South Africa would have a new government.

"Next time we shall see each other in the Union Buildings, not in the courts," he said.

Source
Wit Wolf

WIT WOLF CASE MAN HARASSED

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UNIDENTIFIED khaki-clad thugs have been harassing a possible State witness in the Wit Wolf case in which seven black people were shot dead and 16 wounded, allegedly by a white man in Pretoria's central business district.

Mr Simon "Khorombi" Mkondoleli (33), has laid a charge with police after he was plucked from his car and threatened with a pistol in Pretoria West at the weekend.

He said khaki-clad whites in three cars, and a number of blacks who had apparently pointed him out, forced him off the road.

A scuffle ensued during which blows were dealt and received.

The assailants made off when a number of

black taxis stopped at the scene.

Mkondoleli reportedly disarmed Wit Wolf Mr Barend Strydom (23) in central Pretoria after the white man allegedly went on a shooting spree of black people on November 15 last year.

Strydom is scheduled to reappear in court on Monday, May 15.

Mkondoleli had earlier been assaulted when two whites tried to abduct him from a garage on February 4.

He has adopted a low profile and can only be contacted through intermediaries.

Mkondoleli said he could not understand what motivated the black assailants.

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DELMAS TRIALS IN NEW BAIL PLEA

A DRAMATIC sequel to South Africa's longest treason trial is imminent: the five men who were convicted late last year are continuing their fight for freedom from Robben Island.

The five have launched an application for bail pending the outcome of their appeal against conviction in the Appeal Court

and, if necessary, of a petition to the Chief Justice to widen the ground of their appeal

Their application for bail will be the seventh since the start of the trial per se in Jun. 1985

Originally 22 men were accused of treason — six were convicted of terrorism but given suspended sentences

The six earlier applications for bail, made between 1985 and 1988, resulted in all but three of the men being granted bail during the trial.

The same three men — Popo Molefe, Patrick Lekota and Moss Chikane — are applicants in the latest application

The five Robben Island prisoners involved in the seventh and arguably most dramatic bail application are Molefe, Lekota and Chikane, all senior members of the United Democratic Front at, or immediately before, their arrest — Tom Manthata, a stalwart of the Black Consciousness Move-

SOWETAN REPORTER

Ment and a field worker with the SA Council of Churches — and Gennu-muzi Malindi, a member of the Vaal Civic Association

Molefe, Lekota and Chikane were convicted of treason by Mr Justice K van Dijkhorst on November 15 last year. Molefe and Chikane were sentenced to jail for 10 years — Lekota, who had a previous conviction, was jailed for 12 years

As leaders of the UDF, the trio were found to have been part of the UDF policy to make South Africa ungovernable through "mass action by violent means against government institutions"

Like them, Manthata was convicted of treason. The judge, however, said in passing sentence "If the crime of treason can be notionally divided into categories his action would clearly fall in a less serious class"

He was sent to jail for six years

Malindi was convicted of terrorism as defined in the Internal Security Act for his role in events leading to the disturbances in the Vaal Triangle in September 1984

I'll never return, says Passtoors

CAPE TOWN — As a condition of her release, jailed ANC courier Mrs Helene Passtoors had to sign an undertaking that she would never involve herself in violence and never again enter South Africa or its neighbouring countries.

The full text of her undertaking was released by Minister of Foreign Affairs Mr Pik Botha last night. It reads

"I, Helene Passtoors, hereby solemnly declare that I will not in future, either alone or together with others, participate in the encouragement, planning or execution of any violent activities, or acts in support of such activities, directed against the Republic of South Africa or any other state in the southern African region or against any person or persons in the Republic of South Africa or in any of these states.

"I undertake not to enter the Republic of South Africa or any of its neighbouring states at any stage whatsoever.

"I hereby solemnly declare that I understand the contents of the above declaration."

(Signed) Helene Passtoors.

Mogopa residents win reprieve

By Jo-Anne Collinge

The group of die-hard residents of Mogopa, who some months ago reoccupied the Ventersdorp farm from which they were unlawfully removed in 1984, have won a reprieve from eviction.

In terms of a Supreme Court order issued last week, the group — numbering between 50 and 70 — could have been evicted any time after midnight last night.

Yesterday a spokesman for the office of the Minister of Development Aid indicated the eviction would not take place before the legal process had run its course.

"Should the people be granted the right to appeal, we will be awaiting the outcome of the Appeal Court hearing and will do nothing until then," he said.

The announcement has defused a tense situation, with residents bracing themselves for yet another eviction and foreign interest in the issue mounting.

At least two foreign diplomats visited the residents yesterday and foreign journalists have been there this week.

A spokesman for the Transvaal Rural Action Committee said a court date for the application for leave to appeal had not been set.

Marriage Star 11/15/87 courts soon 252

A Bill paving the way for the establishment of marriage courts, which would be based on the experience gained in small claims courts, would be published next week, Minister of Justice Mr Kobie Coetsee said yesterday.

Speaking in the debate on the Small Claims Courts Amendment Bill, he told Parliament the measure would provide a simplified alternative procedure to that in existing courts.

It was envisaged that members of the professions would preside in these courts and that they would be compensated for their services.

NOT SUFFERING

Mr Coetsee also said it was clear that magistrates' courts were not suffering as a result of the popularity of small claims courts.

At the moment, 15 000 cases a year were being heard in small claims courts, while the number heard by magistrates' courts had increased from 12 000 in 1986/87, to about 13 000 in 1987/88.

He appealed to the public not to abuse small claims courts by treating them as debt collection mechanisms. — Sapa.

On Monday, the world will focus on SA objectors

By GAVIN EVANS

THE plight of South African war resisters is to be the focus of International Conscientious Objectors' Day on Monday.

On May 15 each year, peace groups around the world highlight the situation of one country's objectors. This year, following the jailing of South African objectors David Bruce, Charles Bester and Saul Batzofin, South Africa has moved into the spotlight.

Campaigns for the release of the three men are being spearheaded by War Resisters International (WRI), a pacifist group representing objectors in 30 countries.

The WRI secretary, Howard Clark, is currently touring South Africa monitoring the situation of objectors. With him are Dutch objector Pieter van Reenen and black American Greg Payton, who served in Vietnam in 1967 and 1968, and later spent six months in prison for objecting to further service. Payton, 42, represents the organisation Vietnam Veterans Against War.

A third objector, from Hungary, was unable to obtain a visa.

For the past week, public meetings and concerts have been held around the country, focusing on the call for the release of Bruce, Bester and Batzofin, and for the extension of alternative service to moral and political objectors.

Conscientious Objectors Support Group representative Paul Bouille said they had also distributed 30 000 cut-out keys to be posted to the government "as a symbol of our call for the release of objectors".

5
12-18/189



WE WON'T FIGHT IN THE SADF
Cape Town objectors, here ranged behind former infantry captain André Zaaiman, explain their stand at one of several similar press conferences held simultaneously around the country last August.

Picture: ERIC MILLER, Afrapix

Among the activities being staged in other countries in support of South African objectors are a cycle tour through Germany and France, the public burning of call-up papers by South African objectors living in England, and in London the distribution of 19 birthday cakes by 19 19-year-olds to celebrate the 19th birthday of Charles Bester.

Figures provided by the WRI and AI suggest that the penalties faced by those refusing to serve in the SADF are among the harshest in the world.

The six-year sentences handed out to Bruce and Bester are longer than those recorded in any other country, according to AI figures. The next longest sentence was a four-year sentence for Greek objector Michalis Maragakis in 1987.

In addition, the six-year period of alternative service in South Africa is

longer than that imposed elsewhere, and the country's statutory maximum period of four years' conscription is also among the world's longest.

South Africa shares with San Marino, a tiny republic in northern Italy, the greatest age range during which people can be conscripted — from 16 to 55 years of age.

On February 23 this year, the European parliament passed a motion expressing support for South African objectors Dr Ivan Toms, Bruce, Bester and Batzofin. The motion also condemned the six-year sentence for South African objectors and expressed support for moves to make the option of alternative service available to all objectors.

According to AI and WRI research, 76 countries in the world have military conscription, and of these, 24 have some form of alternative service

for those unwilling to serve. Sixteen offer alternative service outside the military.

Over the past decade there appears to have been an international trend towards more lenient treatment of objectors. Since the 1970s, alternative service has been introduced in Spain and Portugal, and in more limited forms in Czechoslovakia and Greece, while the scope of alternative service has been extended in Poland, Hungary and Switzerland.

Argentina, Israel, Greece and the Soviet Union have shown greater leniency in their treatment of objectors over the last decade, with the trend being towards shorter prison sentences, AI reports indicate.

Conscription ended in the United States and Zimbabwe in the early 1970s.



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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Vol 287

CAPE TOWN, 12 MAY 1989

KAAPSTAD, 12 MEI 1989

No. 11859

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 906.

12 May 1989

No. 906.

12 Mei 1989

It is hereby notified that the State President has assented to the following Act which is hereby published for general information—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word —

No 47 of 1989: Legal Aid Amendment Act, 1989.

No. 47 van 1989: Wysigingswet op Regshulp, 1989.

50-26-100-1215789

Editor applies for order against police

252

POST NATAL news editor Mr Muhammed Rafiq Rohan (35), claimed in an urgent application to the Supreme Court, Durban, yesterday that he was being harassed, threatened and questioned against his will by a Security Branch warrant officer

citing the Minister of Law and Order and Warrant Officer T Fourie, Mr Rohan asked for an interim order that the respondents, or any person acting under their control, or in concert with Warrant Officer Fourie, be interdicted from questioning,

In an application

— Sapa

13/5/89

Whippings increased

BY BARRY STREEK

THE courts sentenced 40 933 people to whipping in the 12 months between July 1987 and June 1988, the Minister of Justice, Mr Kobie Coetsee, said yesterday.

This means that, on average 112 people a day were sentenced to corporal punishment during the 12 months.

Mr Coetsee's figures show that the number of people sentenced to whipping went up by 6 243 from the 12 months between July 1986 and June 1987 when 34 690 were sentenced to corporal punishment.

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A question of justice

TWO white farmers tied Stephen Mononye to a tree, then whipped, punched and kicked him to death because two cows escaped from a farm near Klerksdorp.

For the crime, farmers Louis Venter and Peter Fouche were last month fined R1 200 or four months' jail after the court accepted reduced pleas of assault.

After seeing her husband's killers walk from the court as free men Mononye's widow Lilly said: "This shows how cheap black lives are in this country."

In September 1987 a black farmworker, Eric Sambo, accidentally ran over and killed two dogs belonging to his white employer, Jacobus Vorster, in the Louis Trichardt area.

Vorster and his neighbour Petrus Leonard beat and kicked Sambo unconscious. They left him tied to a tree overnight and resumed the brutal assault in the morning, forcing other blacks to take part. Sambo bled to death.

Last November Leonard was fined R500 for his part in the killing. Vorster received a five-year suspended sentence and was ordered to pay the dead man's widow R120 a month for five years.

The judge said he took into account the embarrassment Vorster would suffer and said another reason for not jailing him was that 44 black workers on his farm might lose their jobs.

The government says it is proud of its judicial system's impartiality and independence. It vehemently denies charges that some judges are biased.

Veteran opposition MP Helen Suzman says: "The Mononye case is another instance of gross perversion of justice and can only bring the South African judicial system into disrepute, both at home and abroad."

She failed in her efforts to have the Sambo case judge impeached, but she found an ally in the influential Johannesburg Bar Association, who said the sentence imposed on the farmers was "so grossly inappropriate as to induce not simply a sense of shock, but one of outrage and concern".

University of Natal academic and legal expert Prof. George Devenish said: "It is surprising that the Attorney-General did not prosecute the farmers in the Supreme Court for murder."

"Sentences like this contribute towards making our system of legal justice suspect."

Civil rights leaders cite a long list of cases as evidence of court leniency towards whites convicted of killing blacks.

In 1987 Johan Breytenbach received an effective sentence of 30 months for driving his car into a park in

Govt is proud of impartial, independent law system

Pretoria and killing a sleeping black woman, Maria Rametsi, by repeatedly running over her.

In the same year a 17-year-old white youth was sentenced to six strokes with a cane and a suspended jail term for beating a black man to death with a baseball bat. The youth said he was angry after an argument with his girlfriend.

However, two blacks who left a white woman for dead and stole her car were sentenced to death last year.

A black gardener who strangled his employer was sentenced to death, while a domestic worker who helped in the murder was sentenced to 15 years imprisonment.

The Human Rights Commission said: "It would seem our courts regard the racial element in a white-against-black crime as an extenuating circumstance and in a black-against-white crime as an aggravating circumstance."

THE NOOSE

Amnesty International noted last month that the vast majority of the more than 1 250 people sentenced to hang in South Africa during the past decade were black.

It said: "In South Africa, death sentences are imposed disproportionately on black defendants by an almost all-white judiciary. Execution is most likely if the victim is white and the defendant black."

The Sharpeville Six were sentenced to hang for a murder they did not directly commit.

The judge used the doctrine of common purpose to determine that the accused were part of a mob which stoned and burned to death a black councillor in 1984.

President P W Botha commuted the sentences to long-term imprisonment after a local and international outcry. — Sapa.

Man fined R1 000 for killing burglar

CP Correspondent

THE Grahamstown Supreme Court this week fined a 56-year-old white man R1 000 or two years' imprisonment for killing a black man who tried to burgle his home.

Colin Mellvin Wesson, an occupational therapist at Fort England Hospital, was initially charged with murder, but the State accepted his plea of guilty to culpable homicide.

Pepsi Ndemka, a suspected burglar, died from a gunshot wound caused by Wesson after Ndemka had been apprehended by at least 20 residents in the area.

Judge Zietsman said the basis of Wesson's conviction was his negligence in using the firearm.

He had failed to warn the deceased not to run away and had shot into the ground rather than into the air.

If the bullet had not struck the

deceased, it could have ricocheted off a wall and struck a member of the public.

This amounted to a high degree of negligence, the judge said.

He found that Wesson acted on the spur of the moment and there had not been any intention to kill or injure the deceased.

Wesson was also sentenced to three years' imprisonment suspended for three years. — Ana

12/28/89 252

AWB men rejoice as ET is cleared

By SUSAN DENNY

MEMBERS of the rightwing AWB turned their leader's acquittal in court this week into an opportunity for a public demonstration.

AWB leader Mr Eugene Terre Blanche was acquitted this week of charges relating to an incident at the Paardekraal Monument in which he was alleged to have broken a gate and insulted two policemen.

The charges arose from an incident on December 27 last year. It was alleged that Mr Terre Blanche rammed the gates with his car and verbally abused two police officers. Damage to the gates was believed to be R1 500.

Before the hearing on Wednesday, several of the AWB's khaki-clad Aquila guards,

armed with batons, filled the court and guarded the door.

The magistrate, Mr S W van Niekerk, found part of the testimony heard in the State's case "unbelievable and of no value".

He said the court could not prove who had damaged the gate and its lock.

Mr Van Niekerk said there were three versions of why the police were called to the scene and the court could not determine the correct one.

After he found Mr Terre Blanche not guilty, his supporters clapped, shook his hand and sang a hymn.

Bombers to hang

TWO Umtata men, Ndibulele Ndzamela (28) and Pumzile Mayapi (23) each received a double death sentence in Umtata on Friday on two counts of murder arising from a bomb blast at the Mzamba Wild Coast Casino in April 1986.

Mr Anthony Hudson of Durban and a 13-year-old Bizana boy, Moffat Bhekuzulu Ntshane, died in the explosion. Ndzamela and Mayapi were also sentenced to 18 years' imprisonment on a charge of terrorism.

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Sovetan 15/5/86

Nicro to hold 'street law' courses for schoolchildren

By CLIVE SAWYER
Tygerberg Bureau

THE National Institute for Crime Prevention and the rehabilitation of offenders (Nicro) in the Tygerberg is to present "street law" courses for schoolchildren next month.

The courses will be presented at schools in Elsie's River and permission is being sought from the Director of Education to present the programme at white schools

Nicro spokesman Miss Paulie Roux said "We need this permission so that teachers, as trained volunteers, can present the course themselves"

If Nicro did not get permission from the director, courses would be presented after hours and during school holidays

The "street law" concept which comes from the US, is designed to teach ordinary people how certain areas of law affect them

The 10-week course covers the origin of law, how courts

work, what to do if one cannot afford a lawyer, consumer and credit laws, family law, the small claims court and the law affecting welfare, housing and employment

Tuition was by means of workshops

Books on street law were available from the University of Natal but were not much use without tuition

Courses for children were designed not only to teach them about the law but to develop cognitive skills as well

DRUGS

There was a high school drop-out rate in certain parts of the northern areas

"Drug abuse is also a major problem in the northern areas, just as badly as in the southern suburbs"

While Nicro dealt with the rehabilitation of offenders, statistics had shown 43 percent of people in prison in South Africa had been in a reformatory

There were 30 gangs in Elsie's River and they were a major influence in the community

"Nicro's aim is to help cut the youth crime rate in the northern areas"

Nicro also offered community service programmes and lectures on dealing with sexual abuse.

"Our problem is that we still have a low profile in the northern areas"

More information is available from Miss Roux, 930 3965

Ex-Bok golfer jailed

DURBAN — Ex-Springbok golfer Rodney John Mullen, 54, has been found guilty of the theft of R92 500 and jailed for five years

Mullen said that during 1987 and 1988, as sole member of Fourway Equity and Finance closed corporation, money entrusted to him for investment on the JSE was utilised for his own use

Potwa members freed

252
THREE members of the Post and Telecommunications Workers Association walked out of the Pietersburg Regional Court on Friday as free men after charges of sabotage were withdrawn against them.

So what 15/5/84
Mr Peter Mokoena, Mr Zet Maphanga and Mr Frank Phalane were arrested in 1987 during the nationwide strike by post office workers. They had pleaded not guilty to the charge of economic sabotage.

Lawyers slate the 'Boundaries' Bill

Star 15/5/84
By Jo-Anne Collinge

The Alteration of Boundaries of Self-Governing Territories Bill is "nothing short of constitutionally subversive", says Lawyers for Human Rights national chairman Mr Jules Browde.

His comment was one of a range of harsh criticisms levelled by lawyers against the Bill, which is to be considered by a parliamentary committee this week.

The Bill gives the State President unfettered powers to incorporate communities into self-governing homelands and expressly provides that the courts may not pronounce on the validity of any proclamation by which the State President seeks to carry out these powers.

Mr Browde explained why his organisation viewed the measure as constitutionally subversive "It exposes as a lie the Government's professed respect for legality and the rule of law," he said.

"More particularly it violates sacred principles long established by our courts and, indeed, by courts the world over

"First, it is the essence of any civilised legal system that all legal power must have legal limits, otherwise there is dictatorship. Secondly, and equally fundamental, is the principle that no person may take the law into their own hands"

Mr Browde observed that various Cabinet Ministers had boasted of the independence and standards of the South African judicial system. Yet, in this Bill, the Government was "seeking a mandate from Parliament to act in defiance of the law, unhindered by the 'inconvenience' of judicial control".

Lawyers for Human Rights called upon the Government to withdraw the Bill in its entirety.

Mr Geoff Budlender, Johannesburg director of the Legal Resources Centre, said that the Bill sought to "legalise previous unlawful conduct" on the part of the State President.

The National Association of Democratic Lawyers noted that the Bill accorded the State President powers to incorporate areas into homelands merely "if he deems it expedient".

Courts sentence 112 people a day to whippings 252

Political Staff

CAPE TOWN — The courts sentenced 40 933 people to whipping between July 1987 and June 1988, Justice Minister Kobie Coetsee said last week.

This means on average 112 people a day were sentenced to corporal punishment during the 12 months.

Coetsee's figures show that in spite of many calls for the abolition of corporal punishment, the number of people sentenced to whipping went up by 6 243 from the previous 12 months, when 34 690 were sentenced to corporal punishment.

He was replying in Parliament to Ray Swart (DP-Berea).

Coetsee's figures show 964 whites were sentenced to corporal punishment during the 12 months, as were 267 Indians, 11 461 coloured people and 25 983 blacks.

Fedtraw member accused

A MEMBER of the Federation of Transvaal Women appeared in the Johannesburg Magistrate's Court yesterday on a murder allegation arising from the death of a man associated with the Mandela Football Club.

Miss Dudu Chili (45) who is out on R500 bail, appeared with five men and a teenager before Mr P. H. Brëdenkamp. No evidence was given and the case was postponed to June 27 for the Attorney General's decision.

The other accused are Mr Andrew Ikaneng (23), Mr Isaac Mazibuko (22), Mr Nhlanhla Blanket (18), Mr Sandile Blanket (22), Mr Sibusiso Chili (24) and Mr Chili (22), all of Orlando West.

The State alleges they murdered a Mandela "Football Club" associate, Mr Maxwell Spokes Madondo who was stoned, stabbed and hacked with pangas at or near Uncle Tom's Hall in Orlando West, on January 13, this year.

Wit Wolf smiles and sniggers at his accusers

Strydom involved in 'love triangle'

STC 16/5/89
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By Norman Chandler,
Pretoria Bureau

A smiling and sniggering Mr. Barend Hendrik Strydom was yesterday identified by five State witnesses in Pretoria's Palace of Justice as the man who fired at passers-by in Strijdom Square, Pretoria, in November — and he was also implicated in a love triangle involving a friend's wife.

Three hours after expressing his love for Mrs Mariana Beukes, Mr. Strydom allegedly fired at 22 people.

Seven died and 15 were injured, while an eighth person is said by the State to have been shot dead by Mr Strydom (25) a week earlier.

It was also claimed in evidence yesterday that the former policeman — self-styled leader of the Wit Wolf organisation — was a member of the Afrikaner Weerstandsbeweging (AWB) and would "gladly shoot blacks".

Love letters

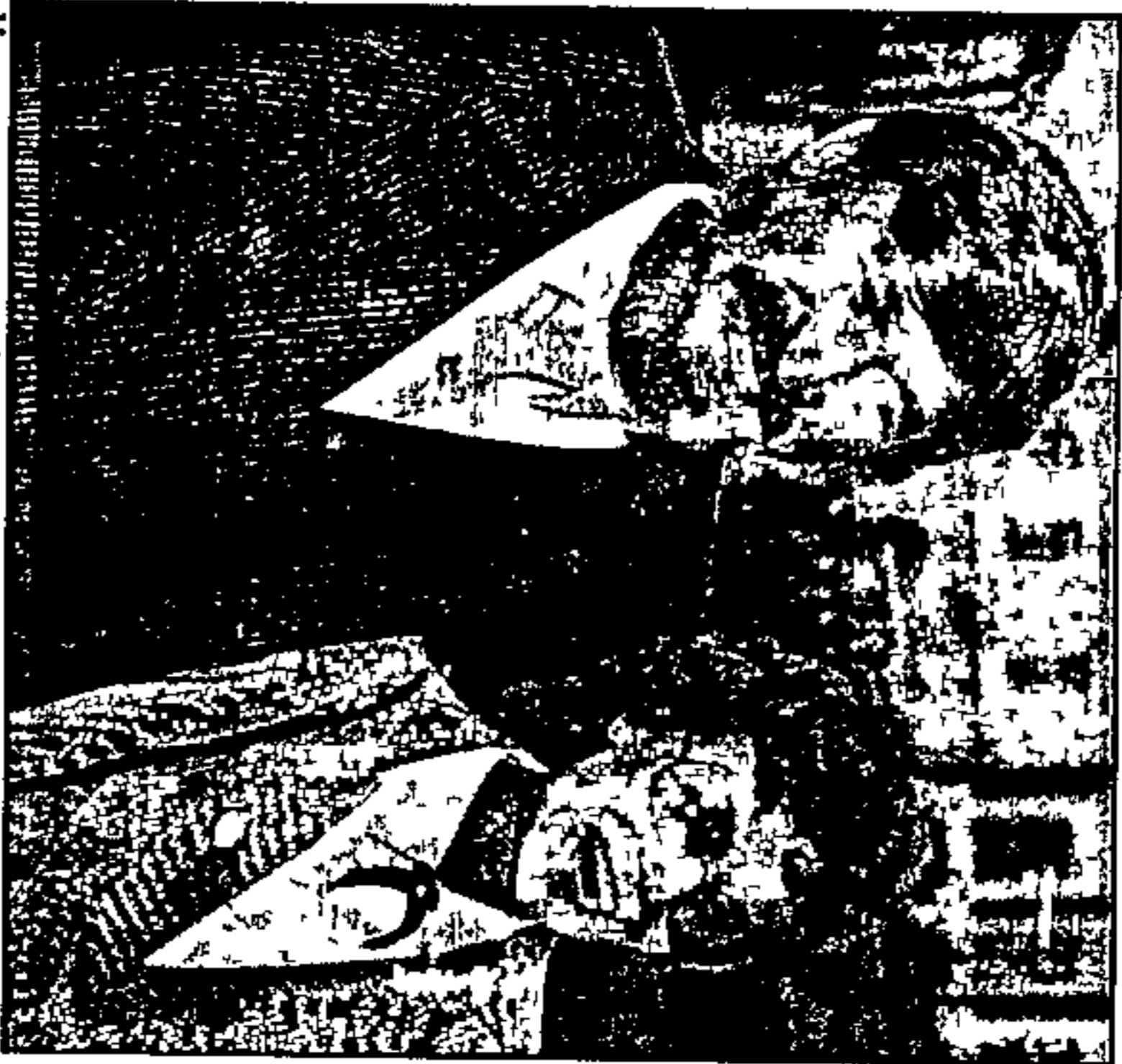
A number of AWB supporters, wearing ties and lapel insignia of the organisation, were in the court's public gallery yesterday.

A smiling Mr Strydom heard love letters, written by himself and Mrs Beukes, and patriotic tracts, read out in court by State advocate, Mr Paul Fick.

He also smiled broadly at State witnesses as they pointed him out to Mr Justice Harms as the man they allege shot at people in Strijdom Square.

Each time witnesses pointed at him, there were gasps from a crowded public gallery.

State witnesses who were former colleagues in the police force testified about Mr Strydom's attitude at work and his political ideals, while others



Happy parents... Mr and Mrs Nic Strydom, the parents of Mr Barend Strydom, smile outside the Palace of Justice.

spoke of his demeanour when he shot at them.

Witnesses said that at Strijdom Square on November 15 last year Mr Strydom smiled while shooting randomly at black people.

Mrs Beukes' husband, Mr Gerhardus (Rhodie) Beukes, said "Barend, or 'Wolfe' as we call him, said he would gladly shoot blacks, but did not elaborate."

"I think he was serious probably wanted to start a riot."

Mr Justice Louis Harms, sitting with two assessors, heard that Mr Strydom was a member of the AWB while a constable in the South African Police.

Detective Constable Albertus Joubert, a former colleague, said "Barend never mixed with his colleagues but was friendly and

very pleasant. He dissociated himself from blacks and, for him, only one group existed, the AWB."

Mr Strydom was aware he was not allowed to belong to the AWB while a policeman.

Dramatic evidence of the love triangle came when Mr Fick questioned Mr Beukes, of Tamarisk Flats, Pretoria West.

Mr Strydom's address on the witness sheet is also listed as Tamarisk Flats.

Mr Beukes told Mr Justice Harms he had suspected an affair between his wife and "Wolfe". His suspicions were confirmed when letters and other documents came to light on the day of the shooting.

His wife gave him the documents after hearing about the shootings and telephoning him.

Mr Beukes said that at about 11 am on November 15 last year, Mr Strydom ate with him at a restaurant and said to him "What would you say if I said I was having an affair with your wife?"

Mr Beukes said he did not reply.

Describing the events leading up to the killings, Mr Beukes said he, his wife, their son and Mr Strydom had a braai at the Poutains resort near Pretoria on November 13.

A day later (the day before the shootings took place) they went for an evening stroll.

Told of affair

Mr Strydom refused an invitation to join them, and when they returned to their flat in Pretoria West they saw him drive off. He had a suitcase of clothing with him.

Mr Strydom returned later, and the following morning, November 15, Mr Beukes said goodbye to Mr Strydom as he (Mr Beukes) went to work.

Mr Strydom and Mr Beukes met again at about 11 am, when Mr Strydom told him he was having an affair with his wife.

The next time he saw Mr Strydom was when the police brought him to the family flat.

Mrs Beukes said she met Mr Strydom at Nigel in 1986, and told the court as far as she knew he was a member of the AWB.

She said they had been very friendly during the time she lived in Nigel.

On November 8 last year, she left the family home to go to her father's house in Nigel, and again met up with Mr Strydom. She was having marital problems at the time.

She and Mr Strydom travelled back to Pretoria together. "On Sunday, the 13th (of November), he asked me to have



Helping hand... a detective carries Strijdom Square victim Mr Geelbeek Mabenga up the stairs leading to the Palace of Justice

● Pictures by Peter Morey

P.T.O.

Witnesses point out smiling Strydom as mass murderer

● From Page 1

an affair with him I hesitated," she told the court.

At 11 30 am on November 15 Mrs Beukes received a telephone call at her place of employment Mr Strydom had asked to see her.

He arrived at her work at about 2 pm that day, wearing civilian clothes, and handed her a packet.

Various letters and documents were read into the court record by Mr Frick.

These included a love letter written in an exercise book, as well as political tracts calling for the Vierkleur flag to again be raised.

Other tracts included attacks on "communists and their liberal supporters", and a statement that the first shots in the "Third War of Independence" had been fired.

In earlier evidence yesterday, Miss Lizabeth Tsotetsi, of G25 Wheeler's Farm, told Mr Justice Harris that she and her friend, Martha Mosikgi, were awakened on the night of November 8 last year by someone kicking at their door.

The person called out in Afrikaans "Open up."

She opened the door and a man in camouflage dress "like that worn by the police" demanded to know who lived there.

He entered and searched under the bed, and then ordered the two women to leave the house.

"He told us to lie on our stomachs. We kneeled, but he again told us to lie on our stomachs," Miss Tsotetsi told the court.

"While we were doing so, he shot me in the left shoulder and I fell. My friend ran off, and as he tried to shoot at her, I got up and ran off as well."

Miss Tsotetsi said she vaulted a barbed wire fence and banged on the door of house G1.

When the occupants refused to open up, she searched, crying, for somewhere to hide.

She found a dog kennel and crawled inside.

"I didn't know where the man had gone to," she said.

Miss Tsotetsi said that because of the dark, she was unable to identify the man who had shot her and her friend.

Another witness, Ms Emily Sakola, of G1 Wheeler's Farm, said she heard two shots being fired, and saw a woman lying on the ground.

The hearing continues

Trial of
'Wit Wolf'
Barend
Hendrik
Strydom



WAS SHOT

WAS SHOT

Sowetan 16/5/89

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Court told of an 'affair'

A MARRIED woman told the Pretoria Supreme Court yesterday she rejected a request from "Wit Wolf" Barend Strydom to have an affair with him two days before the Strydom square shooting.

Mrs Mariana Beukes of Tamarisk Flats, Maltzen Street, Pretoria West, was giving evidence in the trial of Mr Strydom, who pleaded not guilty to eight charges of murder, 16 of attempted murder, and a

• To page 3

ONE of the Strydom Square shootings victims, Mr Geelbool Mabena (45), on a wheelchair he has been confined to since he was shot in Pretoria last year. Helping Mabena into a taxi is his wife, Virginia, and the man who stopped the alleged killer in his tracks on that fateful day, Mr Khorombi Mulhandelell Mabena was in court yesterday.

PIE MBUZENI ZULU



Strydom 'affair'

• From Page 1

charge of pointing a firearm

The charges stem from shooting incidents in November last year at the Wheeler's Farm squatter's camp near De Deur and at Pretoria's Strydom Square.

The court heard Strydom had moved into the flat Beukes occupied with her husband, Constable Rhodie Beukes, and their child.

Strydom had asked to move in while he was awaiting his first pay cheque from Santam Bank, where he worked in the car repossession department.

Beukes said two days later, on Tuesday, November 15 — the day

of the shooting, Strydom gave her a packet of letters.

He delivered it to her at work, at Venter and Van Wyk Property Brokers at the Salu Building, at 2pm. This was an hour before the shooting incident, and he was dressed in civilian clothes.

The court heard that Strydom later wore a police camouflage outfit during the shooting spree.

Beukes said Strydom appeared "a bit heart-broken, and that he wanted to cry," when he delivered the documents.

A number of witnesses yesterday pointed out Strydom as the "smiling" assassin who had shot them an hour later.

Victim hid in kennel

A WOMAN from the Wheeler's Farm squatter's camp near De Deur told the Pretoria Supreme Court yesterday how she was shot in the shoulder

by a khaki-clad gunman who ordered her from her shack.

Mrs Liesbet Isotetsi, testifying in the murder trial of "Wit Wolf" Barend Strydom, could not

however identify the gunman in court yesterday. She said it had been dark when he arrived at the shack.

Strydom, clad in a light-brown three-piece suit, and looking relaxed, pleaded not guilty before

• To Page 2



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Sowetan 16/5/87

Woman hid in kennel

• From page 1

Mr Justice Louis Harms and two assessors, to eight murder charges, 16 of attempted murder and one of pointing a firearm.

He yawned once while pleading to the charges, and smiled when Mr Paul Fick, for the State, recounted how Strydom allegedly told *Beeld* newspaper that he would have shot State President Mr P W Botha, at the Pretoria City Hall had Botha announced Nelson Mandela's release.

Tsotetsi said she thought it was the police when someone kicked on her door and ordered her in Afrikaans to "open up" at 10pm on November 8 last year

A man wearing a police camouflage uniform, and carrying a firearm and torch, ordered her and Martha Mosikidi, who had been sleeping with her in the shack, outside, after searching the structure

When Tsotetsi refused to lie on her stomach outside the shack, the gunman ordered her to stand against him, with her back to him

He then shot her through the left shoulder, and the bullet emerged at the front of her body.

Both she and Mosikidi ran away, but Mosikidi was hit and killed

Tsotetsi scaled a fence and hid in a kennel, and was later hospitalised

Fick said psychologists found that Strydom was not mentally disturbed at the time of the Strydom Square shooting.

The court was marked by heavy security yesterday, and policemen thoroughly searched all those who entered the building

Strydom's parents sat near him, in seats reserved for the defence team.



RELATIVES and friends of Pretoria victims on their way to court. Strydom appeared for allegedly killing eight blacks and attempting to kill 16 others. (252)

Earlier Strydom admitted in the Pretoria Supreme Court that he possessed a firearm and ammunition and that he had been at Strydom Square on November 16 last year, when 22 people, seven of whom died, were shot.

Wearing an off-white three-piece suit, and a blue tie with the "Vierkleur" flag on it, Strydom (23) entered court at the Palace of Justice yesterday smiling as he walked into the dock from the court cells

Defence counsel, Mr Johan Engelbrecht, handed in several admissions, in which Strydom admitted to possessing a firearm and ammunition, and also admitted to being on Strydom Square on November 16, 1988, the day of the killings

Strydom further admitted that 22 people had been shot on that day and seven had died

Woman tells of being shot

Strydom pleads not guilty



● STRYDOM

PRETORIA — A woman from the Wheeler's Farm squatter camp near De Deur told the Pretoria Supreme Court yesterday how she was shot in the shoulder by a khaki-clad gunman who ordered her from her shack

Liesbet Tsotetsi, testifying in the murder trial of "Wit Wolf" Barend Strydom, could not, however, identify the gunman in court. She said it had been dark when he arrived at the shack.

Strydom, clad in a light-brown three-piece suit and looking relaxed, pleaded not guilty before Mr Justice Louis Harms and two assessors, to eight murder charges, 16 of attempted murder,

and one of pointing a firearm

It is alleged he went on a killing spree in Pretoria's Strydom Square on November 15 last year

He yawned once while pleading to the charges, and smiled when Paul Fick, for the State, recounted how Strydom allegedly told the Beeld newspaper he would have shot State President P W Botha at the Pretoria City Hall had Botha announced Nelson Mandela's release

Tsotetsi said she thought it was the police when someone kicked her door and ordered her in Afrikaans to open up at 10pm on November 8 last year

A man wearing a police camouflage uniform, and carrying a firearm and torch, ordered her and Martha Mosikidi, who had been sleeping with her in the shack, outside after he had searched the structure

When Tsotetsi refused to lie on her stomach outside the shack, the gunman ordered her to stand against him, with her back to him

He then shot her through the left shoulder, and the bullet emerged at the front of her body

Both she and Mosikidi ran away, but Mosikidi was shot and killed

Fick said psychologists found that Strydom was not mentally disturbed at the time of the Strydom Square shooting

Evidence also emerged of Strydom's relationship with a policeman's wife

Const Gert Beukes told the court that on November 15 last year — the day Strydom allegedly gunned down black people near Pretoria's Strydom Square — he had lunch with Strydom

Strydom was then still clad in civilian clothes, and not in the police camouflage uniform he wore at the time of his arrest

Beukes said Strydom had asked him earlier that day what he would do if Strydom was having an affair with his wife, Mariana. He replied that he and his wife had decided Strydom should find other accommodation — Sapa

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B/Dan/16/5/84

BLOEMFONTEIN 16/1/84

FREE STATE AWB HEAD ARRESTED IN TAR INCIDENT

BLOEMFONTEIN — AWB leader in the Free State Kobie Ackerman, of the farm Rondebult, Senekal, was one of seven men granted bail in the Welkom Magistrate's Court on Sunday, after an incident on Saturday in which mayor Gus Gouws was tarred and feathered.

Magistrate A. Groenewald granted the seven bail of R200 each and ordered them to be present in Welkom yesterday for an identification parade.

The other six are H J Crouse, of 15 Craib Avenue, Riebeeckstad, Welkom; T J Ackerman, of 10 Karreboom Avenue, Brandfort; A S Kriel, of 22 Beethoven Avenue, Rodenbeck, Bloemspruit; J Botha, of 19 Suzette Street, Welkom; S E Terblanche, of Theunissen; and T J S Nel, of 30 Romeo Street, Bedelia, Welkom.

One of the men is alleged to have been armed with a pistol.

Welkom's unique R250 000 gold mayoral chain was damaged in the attack, which occurred shortly after Gouws officiated at the start of a multi-racial marathon for handicapped people.

The seven men were initially detained under the Internal Security Act, but were later charged with public violence — Sapa.

'Delmas 2' trial - condemned seek leave to appeal

Stw 17/5/89. (252)

By Jo-Anne Collinge

Attorneys acting for three members of an African National Congress assassination squad condemned to death in the recent "Delmas 2" trial are to apply for leave to appeal against the sentences imposed on the men by a reluctant Transvaal judge

Mr Peter Harris of the firm Cheadle, Thompson and Haysom confirmed he had received instructions to set the appeal process in motion. No date had been set for the application to be heard.

The mandatory death penalty was imposed on three of the four men in the Delmas 2 trial when two assessors outvoted Mr Justice de Klerk.

The judge was of the opinion that the background of township conflict and the training that the three men had received as African National Congress soldiers could and did influence them in such a way as to constitute mitigating factors.

UNIQUE

In a judgment unique in South African legal history, Mr Justice de Klerk took the view that the imposition of a mandatory death sentence was not appropriate because factors existed which diminished the men's moral responsibility for the killings they had carried out.

But the two assessors, Dr A Botha and Mr L V de Kock, were not satisfied that it had been factually established that the men actually were influenced to the requisite degree.

The condemned men are Jabu Masina and Neo Potsane of Soweto and TingTing Masango of Mamelodi. The fourth accused, Joseph Makhura, was sentenced to an effective 25 years for multiple counts of attempted murder.

The Delmas 2 trial was noteworthy as much for its conduct as for its outcome. Throughout, the accused refused to participate, claiming it was incorrect for soldiers of the ANC to be tried in a civilian court.

They mounted no defence and evidence in mitigation was presented on the instructions of their families.

WEDNESDAY

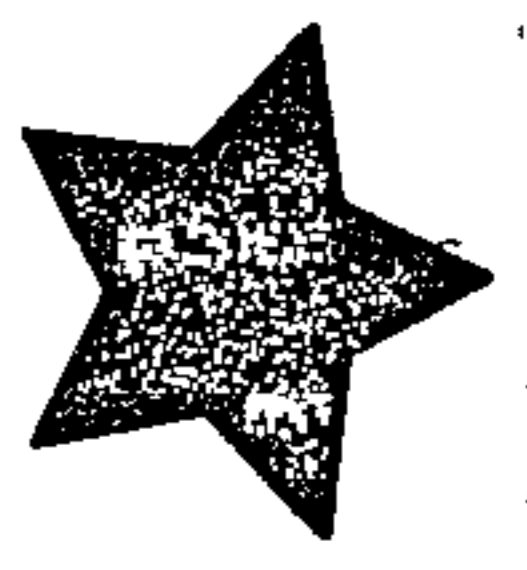
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Survivors describe killer's bloodthirsty rampage

By Norman Chandler

Graphic descriptions of the carnage in Strydom Square, when Barred Hendrik Strydom shot 22 people at random were heard in the Pretoria Supreme Court yesterday.

Mr Isaac Shabangu, a taxi driver, said he had been shot through the hands when he tried to defend himself by throwing his hands over his head.

Mr Alfred Thlomeane said he saw his brother David and Ms Selina Ngema shot dead.

Mr Alfred Thlomeane said he saw his brother David and Ms Selina Ngema shot dead. Ms Maria Chirinda said Strydom had rubbed the barrel of his gun against her cheek, then shot a woman standing next to her.

Mr Samuel Gunter said when he saw Strydom run down Vermeulen and Prinsloo streets in central Pretoria, firing as he went, he thought at first it was a policeman dressed in camouflage uniform, chasing a suspect.

"I was waiting for the traffic light to change when I saw a black man near me. The person fired twice at the black man, and what amazed me then was that the man (the accused) ran three metres further down Prinsloo Street and fired at another."

"This particular black man actually stood aside to allow the man in camouflage dress to pass by. He shot him twice. The person fell in front of me, and then the man in camouflage dress looked at me and smiled."

As he was being put into a yellow police car, a crowd of black people advanced, saying, in Afrikaans: "Gee hom aan ons. Ons sal hom reg sien (Give him to us. We will see him right)."

Earlier the court was told by the investigating officer, Lieutenant Hendrik Viljoen, of the Pretoria Murder and Robbery Squad, that when Strydom heard that a person wounded in the Strydom Square shootings had died, he said, "That sounds better, but it is not enough."

Lieutenant Viljoen said Strydom showed no remorse.

He said Strydom told him that he had carried out at Deur on November 8, during which a woman was killed, had been a

practise run".

Lieutenant Viljoen handed into court a written statement made by Strydom.

The statement contained the aims and objects of the Wit Wolwe organisation, which Strydom said had been formed in Pretoria on February 16 1988.

The Wit Wolwe, he wrote, had been formed to fight "the ANC/SACP alliance and all front organisations" and to promote the AWB (the Afrikaner Weerstandsbeweging).

The Wit Wolwe also supported the release of Nelson Mandela so that he "with his comrades, can be blown off the Earth".

The hearing continues.

Lucky survivor... taxi driver Mr Isaac Shabangu points to the bullet hole in his cap.

Lucky survivor... taxi driver Mr Isaac Shabangu points to the bullet hole in his cap.

Two pleas in mitigation today

Tearful Wit Wolf guilty of 8 murders

Stew 17/1/89

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By Norman Chandler, Pretoria Bureau
It took little more than 30 minutes yesterday for Mr Justice Louis Harms and two assessors to find Barend Hendrik Strydom, the self-styled "king of the Wit Wolwe", guilty of murder and attempted murder during his orgy of shooting in Pretoria in November.

Today, his father and a psychiatrist will take the witness stand to plead in mitigation of sentence.

Strydom, who was accused of eight murders, 16 attempted murders, and pointing a firearm, heard Mr Justice Harms say to a hushed court that "it is clear the accused committed the murders as well as the attempted murders".

As he added "We find the accused guilty on all charges", there was a stampede for the door as people in the public gallery surged into Church Square to spread the news.

One of the murders, and an attempted murder,

were committed at Weiler's Farm squatter camp near De Deur in the Vaal Triangle on November 8. The others were in the Strydom Square area of Pretoria on November 15.

Strydom, the man who smiled at his 22 victims as he gunned them down on Strydom Square, and who shot the others during a "practice run" at the squatter camp to see if he was able to kill people, was visibly distressed as he left the dock in the Palace of Justice shortly after 3 pm.

He was no longer smiling and joking with his father, Mr Nicolaas Strydom of Heidelberg, or with the defence.

He removed from the lapel of his three-piece beige suit various AWB insignia. One indicated that he was a member of the Aquila bodyguard.

Another was a special honour badge presented to him by the AWB leadership.

Tears were close to the surface as he gave a last wave to his father.

His stepmother, Mrs Daphne Strydom, had not appeared in court at all yesterday, in marked contrast to her all-day attendance on Monday, the first day of the trial.

The dramatic finale to the second day of the trial, originally set down for 12 days, came after the lunch recess when Mr Paul Fick, SC, the State advocate, summed up the prosecution case and asked for Strydom to be found guilty.

"The case against the accused is overwhelming," Mr Fick said. "All witnesses said they noticed nothing strange about him."

"He planned what he did. It is clear that he wanted to commit murder by shooting. He knew what he was doing."

The defence, led by Mr J Engelbrecht, did not offer immediate counter-arguments.

Mr Justice Harms took 35 minutes to sum up evidence and at 3 08 pm pronounced Strydom guilty.

Mr Engelbrecht then asked for an adjournment until today at 10 am to allow him to consult his client.

Cuba says 400 troops leaving Angola each day

By John Ryan,
The Star's Africa
News Service

HARARE — Cuban troops are withdrawing from Angola at the rate of nearly 400 a day — despite delays in the implementation of UN Resolution 435 in Namibia.

A source in the Cuban Embassy here says a shuttle system has been in process for some weeks, with aircraft flying to Havana almost daily. Each aircraft carries between 350 and 400 troops.

"We are eager to get our men home," the official said.

He was unable to say how many troops had already been repatriated. That figure, he said, would have to be supplied by the

Untag monitoring forces in Luanda

The source said most of the troops in Angola would be flown home.

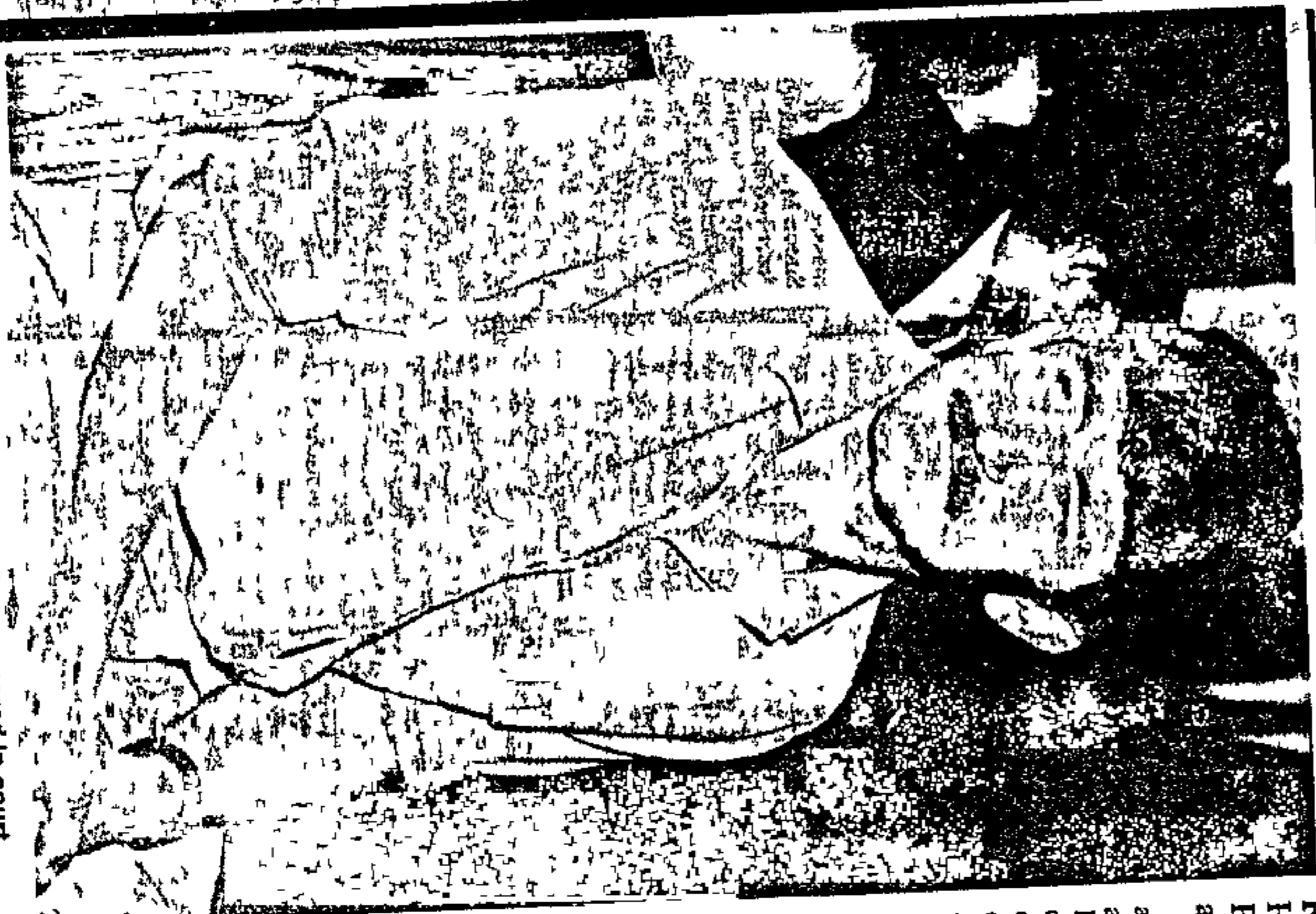
In January, the Cubans surprised many people who were sceptical about their intention to comply with Resolution 435 by completing the first phase of the negotiated withdrawal process 10 weeks ahead of schedule.

Three thousand troops were repatriated during the first two weeks of that month, although the deadline for them to have left was April 1.

Cuba faces the task of sending home an estimated 50 000 troops in 30 months, with half of them scheduled to leave within 10 months.

STRYDOM GUILTY

Mass killer convicted on all counts



Barend Strydom when he first appeared in court.

FORMER policeman and self-confessed "Wit Wolf" Barend Hendrik Strydom, who went on a rampage killing eight people in Pretoria last year, was convicted on all counts of murder and attempted murder in the Pretoria Supreme Court yesterday.

In a dramatic move after the lunch adjournment Mr Paul Fick, announced closure of the State case. He called for the conviction of Strydom as charged.

Fick submitted that evidence before court showed that Strydom had planned the murders he committed. He said most of his victims were shot in the lungs and chest and that he should have foreseen that they could be killed.

He referred to a document submitted in court outlining what the "Wit Wolves" stood for.

Motive

He said that the writing declared "Wit Wolves ons het gedood" (White Wolves we have killed). He said the fact that the "Wit Wolves" indicated the killings in their document showed that this motive had been planned.

Mr Justice Harms, sitting with two assessors referred to the evidence of Lieutenant Henric Viljoen who said Strydom had referred to the killing at Whalers

● To Page 2

By ALINAH DUBE

Guilty satisfied

From Page 1

Farm near Vereeniging as "merely a practice to see if I was in the physical condition to kill people".

Viljoen, an investigating officer in the case, also told the court that Strydom told him that he felt nothing for his victims.

He said the accused appeared to have had no emotions or guilt feelings although he had apparently killed selectively and knew what he was doing.

Judge Harms also said in the light of the three reports made by psychiatrists appointed by court, State and the defence it was clear that Strydom had a direct intention to kill.

The psychiatrists found that Strydom was fit to stand trial.

After he was told that about five people had died following the shooting at the Strydom Square, the murderer allegedly said "Ek het k k gesket" (I have shot badly) while he smiled at the policeman.

Another policeman, Lieutenant Hendrick Kotze had testified that Strydom said "I shot many kaffirs at Strydom Square", shortly after his arrest. Defence counsel Mr Johan Engelbrecht, did not argue his case yesterday.

After judgment he asked for a postponement until this morning. The hero of the massacre, taxi driver Mr Simon Mukondoleh (32), described in court how he arrested Strydom on November 15, last year.

"When I saw the accused with a gun in his hand, and had heard shots, I followed him into a shop where he was loading his firearm.

"I tapped him on the shoulder and told him, Baas, daardie baas roep jou. As he turned around to look I grabbed his gun and pointed it at him," Mukondoleh testified.

Witwolwe leader Strydom found guilty of mass murder

THE self-styled leader of the Witwolwe, Bar-end Hendrik Strydom, was found guilty of mass murder and numerous counts of attempted murder in the Pretoria Supreme Court yesterday.



● STRYDOM

Mr Justice Harms, sitting with two assessors, found Strydom, 23, guilty on eight counts of murder, 16 counts of attempted murder and a charge under the Arms and Ammunitions Act. Strydom pleaded not guilty to the 25 charges on Monday.

The verdict was given when the State closed its case and the defence declined to lead evidence. The charges on which Strydom was found guilty stem from two incidents in November last year when he went on two shooting sprees armed with a 9mm pistol. In the first incident on the night of November 8, Strydom arrived at the Wheeler's Farm squatter camp at De Deur, near Vereeniging, and shot dead a woman and wounded another after waking them up. In evidence, Pretoria murder and robbery investigating officer Lt Hendrik Viljoen told the court yesterday that Strydom told him the incident had been a "practice run" to see if he was "physically and mentally" capable of shooting people. He said "Strydom told me he had felt capable and felt nothing about shooting the people."

The second incident took place shortly before 3pm on November 15. Strydom, dressed in camouflage gear, parked his car in Prinsloo Street and walked to Strydom Square in Church Street armed with his 9mm pistol, two loaded magazines and pockets full of loose bullets. He systematically set about shooting 22 people that day in central Pretoria streets, leaving seven dead and 15 wounded — some critically. Survivors, who testified in court of their experiences on Monday and yesterday, said he smiled before shooting them at close range. The court heard that Strydom was surprised and arrested in a Struben Street shop by Ateridgeville taxi-driver Simon Mhukondeleki who grabbed Strydom's gun and held him at gunpoint until the police arrived.

DANIEL SIMON

81 Day 17/5/87

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Strydom guilty

Mhukondeleki said he surprised Strydom while he was loading bullets into a magazine. He said "I tapped him on the shoulder and said, 'Sorry baas daardie man wil met jou praat'."

"When he turned, I grabbed his gun and held him until the police came."

He said that Strydom told him "Jy het my."

A police search of Strydom found 206 loose bullets stuffed in his pockets, a box containing more bullets, a dagger and his 9mm pistol.

Constable Adriaan Bester, who arrested Strydom at the shop, said he led Strydom to his car around which a large crowd had gathered. The crowd, which became unruly, was dispersed after demanding that

Strydom be handed over to them.

Bester said Strydom appeared normal and waved and smiled at people in the streets while being driven to Pretoria murder and robbery unit headquarters.

The court also heard from Lt Hendrik Kotze that on meeting Strydom at the HQ shortly after the shooting, Strydom told him he had just shot "kafirs."

He said "He said he was the leader of a cell of the Witwolwe and was not scared of going to jail as he would not be hanged."

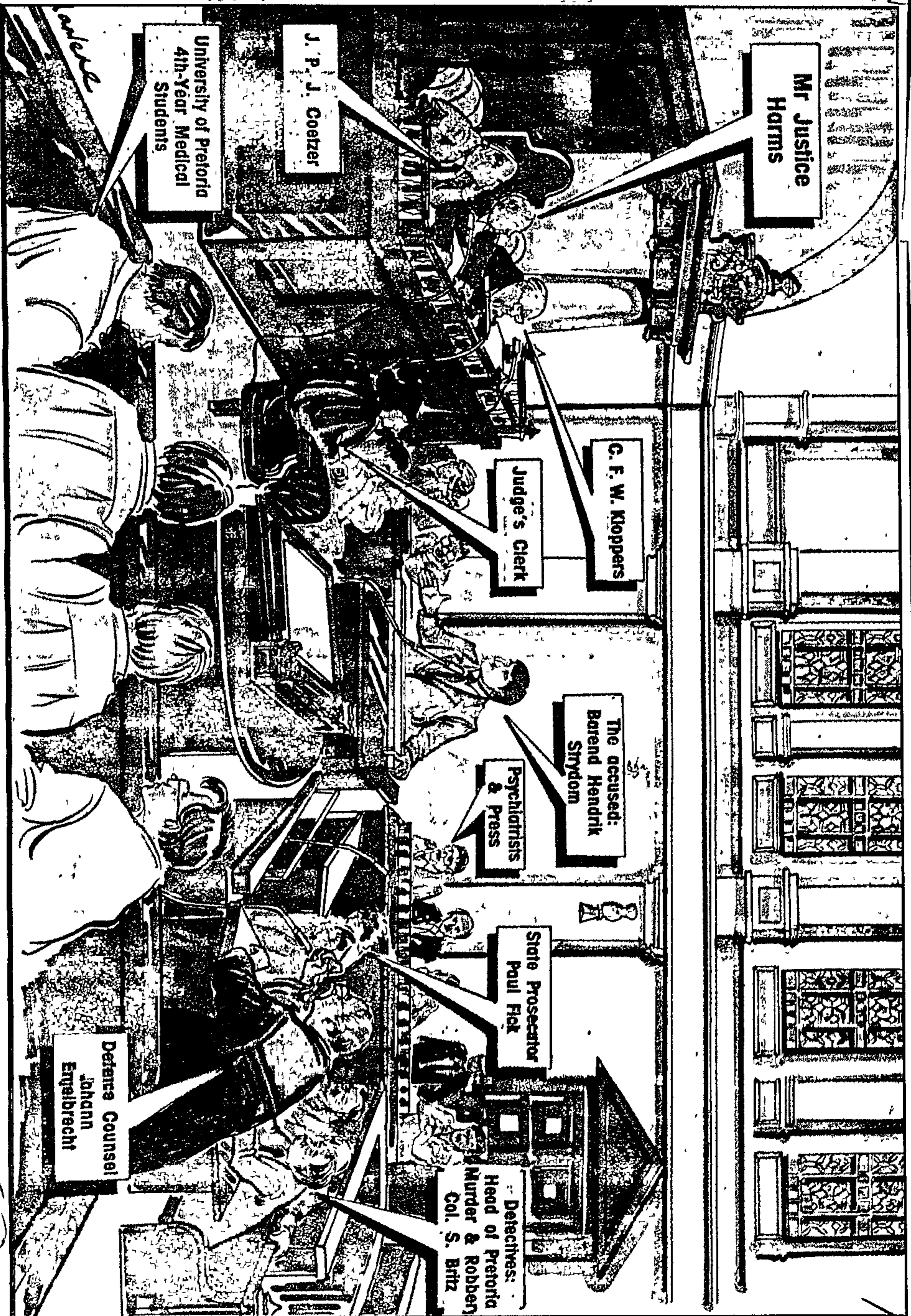
"He said P W Botha would open his cell door if he was jailed."

"When the accused asked how many people died, I said four or five."

"Strydom smiled and said 'Ek het kak geskiet'."

□ From Page 1

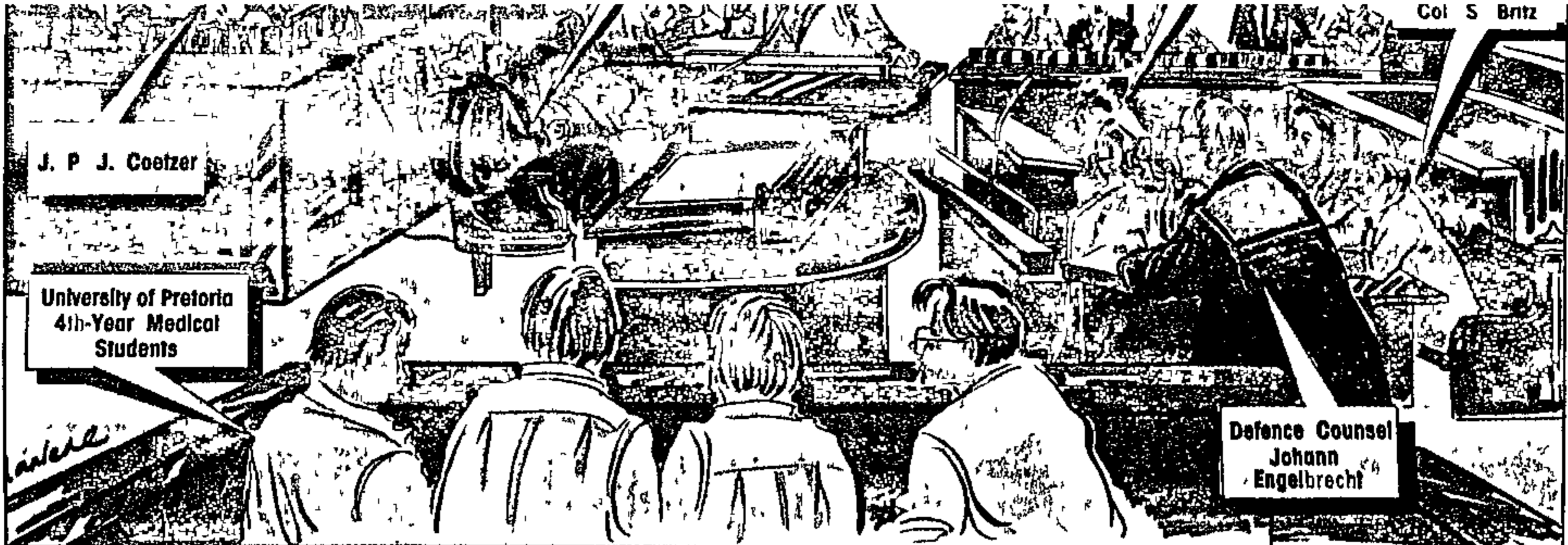
81 Day 17/5/87



An artist's impression of a scene at the Strydom trial in the Palace of Justice, Pretoria.

Spur 18/19/54

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An artist's impression of a scene at the Strydom trial in the Palace of Justice, Pretoria

Sacred vow before killings

By Norman Chandler,
Pretoria Bureau

Mass murderer Barend Hendrik Strydom, who killed eight people and wounded 16 in November, told the Pretoria Supreme Court yesterday that he would do it again if he had the chance.

"What I have done is absolutely correct," he said in reply to a question from his defence counsel, Mr Johan Engelbrecht.

"It is right. It is correct. It was not wrong. It was the right thing to do."

It was an answer that shattered the calm of the public gallery, which had listened all day to a barely audible Strydom describing his life, his political ideals, and why he killed so many people.

Strydom was found guilty on Tuesday of murdering eight people and attempting to murder 16 — all his victims were black — during an orgy of killing on Pretoria's Strijdom Square on November 15, and at De Deur south of Johannesburg a week earlier.

He said De Deur had been a "practice run" to see if he could actually kill people.

A card-carrying member of the AWB, Strydom outlined step-by-step his movements from the day he left the employ of Santambank on November 7 to when he was caught eight days later after gunning down 22 people in the heart of Pretoria.

He said that killing a woman and wounding another at the Weiler's Farm squatter camp at De Deur was not important.

"I had my eye on November 15, so I did not attach much importance to November 8."

Strydom, who spent all of yesterday in the witness box, and will be back today, said that on November 8 he went to the Voortrekker Monument outside Pretoria and privately re-enacted the Vow of the Covenant, which the survivors of the Battle



Waiting for news — a section of the large crowd outside the Palace of Justice yesterday.

Strydom prayed at Voortrekker shrine

of Blood River had taken after their defeat of the Zulus.

Then he set off for the Vaal area and checked out the area round Weiler's Farm.

That night he knocked, then kicked on the door of a house. Two women opened it and he ordered them to lie on their stomachs.

Strydom said "They probably thought I was going to shoot them. They were kneeling. I was emotionless. I shot one of them. She fell, and the

other ran away. I emptied the remainder of my magazine at the houses, family houses there was no specific reason for going to that house. It was only an exercise."

Strydom told Mr Justice Louis Harms that it was necessary — "to see if I could shoot people and if there was any revulsion inside me"

Mr Justice Harms asked "And was there?"

Strydom "There was no revulsion"

He drove to Heidelberg, his home town, and prayed, and then prayed all day on November 9 and 10 before going back to Pretoria.

The judge asked if he was praying for a sign to say he should or should not go on with what he was doing "You didn't pray for a sign that said you shouldn't go on?"

Strydom "That is correct."

Recounting the events of November 15, the 23-year-old rightwinger said he chose Strijdom Square because of its symbolism with apartheid. The square was named after former Prime Minister Mr Hans Strijdom.

"It was chosen because the world would see that Strijdom Square was a symbol"

He had worn camouflage dress because he wanted to show black people that "camouflage could only be worn on very special occasions, such as fighting terrorists"

Asked by Mr Engelbrecht what he was thinking about when reaching the square, Strydom said "I wanted to take a drastic step"

"I wanted to get my hands on the people who were that day at the Supreme Court — people such as Allan Boesak."

On the day in question, Strydom believed that there were a number of leading extra-parliamentary critics of the South African Government at the Pretoria Supreme Court.

He said that when he had completed his attacks at Strijdom Square, he wanted to shoot others — "If I had had enough ammunition," he added laughingly.

I prayed for approval from above for my plan
See Page 9

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STERLING SILVER CROSS	NO

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JEWELLS
RANDSBURG 787-2108

New tariffs for Soweto announced

By Montshiwa Moroke
The Mayor of Soweto, Mr Sam Mkhwanazi, yesterday announced new proposed electricity and service charges.

The figures were due to go to the full council today, but Mr Mkhwanazi said the new charges had already been implemented and accounts would be sent out at the end of the month.

Details of the new tariffs were released to the media hours after members of the council had met a Soweto people's delegation as part of the ongoing talks in an

attempt to resolve the two-year old rent crisis.

Announcing the new charges, Mr Mkhwanazi also said the council had had "many rounds of talks with many groups."

The figures for monthly electricity tariffs are R30 for Jabavu 1-3, Orlando East, Mofolo South and Klipspruit two rooms. The rest of Soweto will be charged a uniform R50.

Other charges will be R17,50 for improved flats and R12,50 for unimproved flats.

Service charges will be R15 for

Jabavu 1-3; Orlando East, Mofolo and Klipspruit two rooms and R17,50 for some parts of Dube. The highest tariff — R37,50 — is to be paid in areas such as Plumville (Selection Park) and Protea South Extension.

The rest of Soweto will pay R22,50.

Tariffs of R52,50, R72,50 and R92,50 are to be paid for different flats in Chiawelo and Jabulani.

Women in hostels in Zondani and Orlando West are to pay R8,50 and R6,50 respectively.

Don't go to SA, rugby players told

LONDON — Sports Minister Mr Colin Moynihan has urged British rugby players not to go to South Africa later this year.

In a letter to the rugby union, Mr Moynihan "discouraged contact with South Africa"

See Back Page

'Bitch, Boozer' quit soaps

The Star's Foreign News Service

CANNES — Joan Collins confirmed yesterday that she has quit "Dynasty" — and that the show had "run out of steam and the public has had enough of it."

The glamorous star also predicted that she would never make another soap, and that the era of high-cost glitzy shows was over. "Except for afternoon soaps, I think you'll find they will soon be a thing of the past."

Miss Collins (56), described her career as Alexis as "eight ex-

traordinary years" but recent scripts had been below par.

And down at the ranch, Sue Ellen is being written out of "Dallas" because her real-life drinking habits have driven her to several clashes with JR.

Larry Hagman is reported to have given Linda Gray an ultimatum over her drinking, and recently, she fell on set. That, apparently, was the final straw for Hagman and he reportedly told her in front of other members of the cast "You drunk, you don't deserve what you earn."

Wit Wolf recalls 'wonder on faces'

Pretoria Bureau

The man who called himself "king of the Wit Wolwe" yesterday described to the Pretoria Supreme Court the reactions of people in Strijdom Square as he shot them during his rampage.

"All I can remember about the attack is the wonder on their faces. My smile was a friendly one. I am a friendly person."

He shot 22 people at the square, six of whom died instantly and another died in hospital. Most of the survivors have positively identified him.

Answering questions from State advocate Mr Paul Fick, SC, during cross-examination, Strydom said he had paid his annual membership to the Afrikaner Weerstandsbeweging in 1987 but his court appearance had resulted, in terms of the AWB's constitution, in his membership being ended. He denied there was any association between his Wit Wolwe group and the AWB.

'COMPARABLE WITH ANC'

Strydom denied what he had done was comparable with African National Congress attacks.

Mr Fick asked "The action you took and the action taken by the ANC is one and the same?"

"No, it is not murder that I committed," he said. Probing his political views, Mr Justice Harms and Mr Fick asked Strydom to detail whom he regarded as communist. He said Archbishop Desmond Tutu, Dr Allan Boesak, the Rev Allan Hendrickse, Mrs Winnie Mandela, Mr Govan Mbeki, Dr van Zyl Slabbert, Dr Alex Boraine, Mrs Helen Suzman and Dr Denil Worrall were communists.

The hearing continues.

Restrictions

The Star is being produced under the severe restrictions of the emergency regulations.

Present way is burden on taxpayers

Explore new forms of sentencing - judge

By Sue Olswang

The South African courts should explore alternative forms of sentencing, Mr Justice J Trengove, national president of Nicro said this week.

This was so because the present system of imprisonment, which did not always effectively rehabilitate offenders, was an "oppressive burden" on taxpayers.

He was addressing an "alternative sentencing" workshop of Nicro (South African National Institute for Crime Prevention and Rehabilitation of Offenders) in Johannesburg

"There are approximately 105 000 offenders in South African prisons on any one day, with each prisoner costing taxpayers in excess of R10 a day," Mr Justice Trengove said

"Many of these offenders are serving short sentences, usually about six months, but experience has shown that a six-month sentence usually has little effect. It is seldom an adequate deterrent, and it severely reduces the chance of rehabilitation"

Mr Justice Trengove said the South African courts are keen to explore alternative forms of sentencing which could prove to be more adequate and more cost-effective.

"Imprisonment by itself is not a satisfactory form of punishment in the long run because it doesn't always help to effectively rehabilitate the offender."

According to the judge, there were 191 000 convictions in the South African magistrate's and regional courts from October 1986 to December 1988. He said only 30 000 of these offenders were granted totally or partially suspended sentences.

Community service

Of these only 2 500 came with "positive conditions" - such as community service orders or compensation to their victims.

"Only 54 of the 2 500 offenders were granted community service orders, and I believe there is still a lot of scope for our courts to investigate alternative forms of sentencing," Mr Justice Trengove said.

A community service order (CSO), says Nicro, is a form of sentence imposed on certain offenders by the courts as a condition of a postponed or suspended sentence. Provision is made for this in terms of Section 297 (1) of the Criminal Procedures Act No. 51 of 1977.

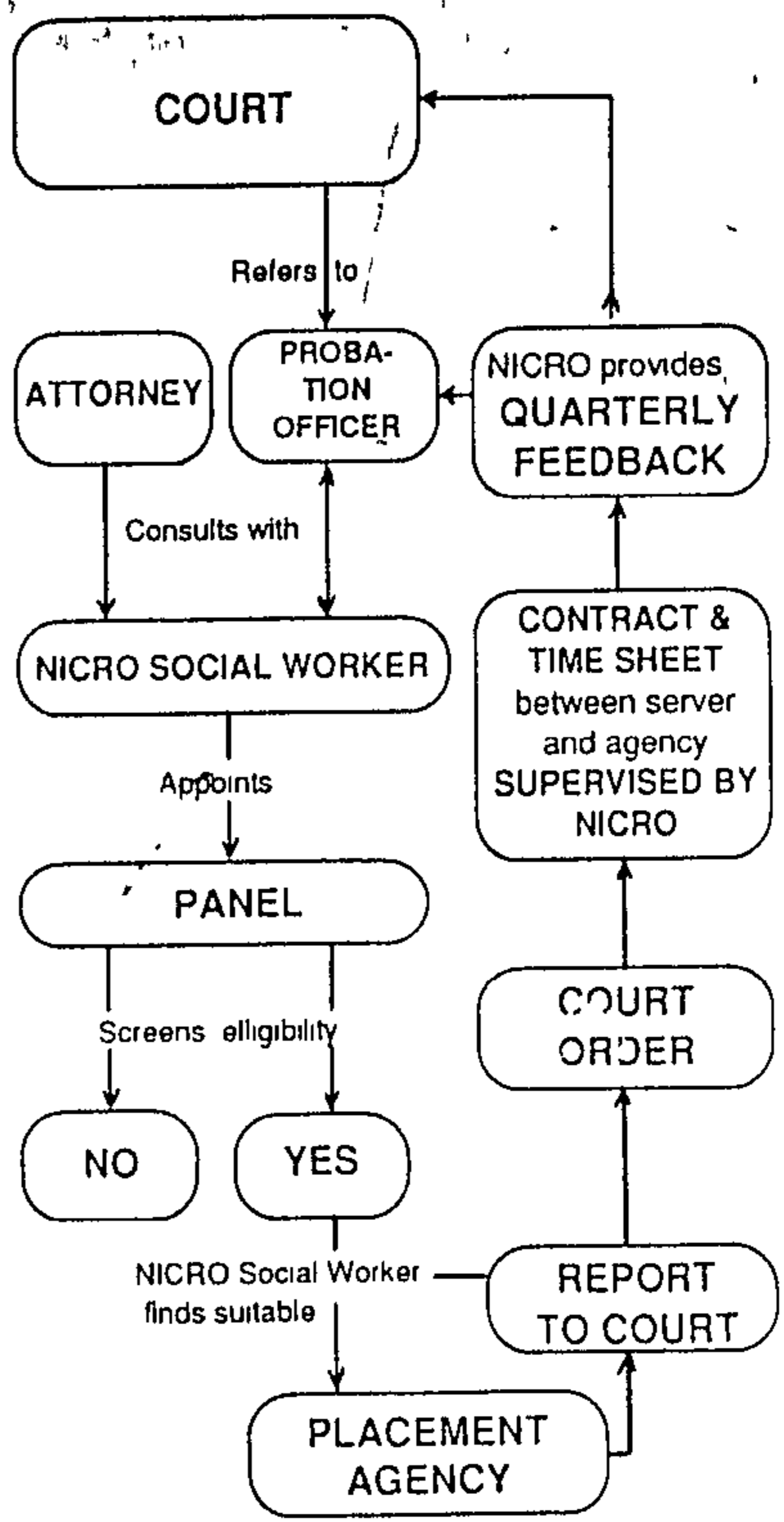
Nicro are the catalysts in effectively implementing and monitoring the CSO system in South Africa

Their concern is with the over-crowding of prisons and the humanitarian principle that, in special circumstances, certain offenders can be more effectively rehabilitated without the trauma of prison.

One of the benefits of CSO is that the offender remains in society and does not have to face the problem of reintegration. The offender is also able to maintain his employment, thus minimising the cost to taxpayers, and overcrowding in prisons is reduced

In addition, the offender can make reparation to society for the harm done by rendering unpaid service to organisations in need of voluntary help.

Some of the objectives of CSO are to provide a positive form of punishment which will be beneficial to both the community and the offender, and to provide an alternative to imprisonment while maintain-



ing the confidence and credibility of the courts and the public.

Community services is an alternative sentencing option to imprisonment for all race groups, but it is not suitable for every offender.

Offenders who are suitable, according to Nicro, are people who are over 15 and who are willing to undertake community service and be motivated to assist the community and thereby provide reparation.

The offender must also indicate some evidence of stability, such as a settled home address and/or permanent employment. In addition, the offender might show evidence of social under-achievement.

Offenders who are not suitable for community services are those who suffer from serious psychological disabilities or someone who has been charged with a sexual or excessively violent crime.

Also not suitable are those offenders who display severe addiction to drugs and/or alcohol. Offenders who display an inability to assume responsibility, or who have no time to undertake community services are also not suitable.

STRYDOM

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BOASTS

Soulton 18/5/89
I will do it again

MASS murderer Barend Hendrik Strydom (23) yesterday told a Pretoria Court judge that he had planned the murders he committed.

By ALINAH DUBE



PROUD parents, Ruth and Josiah Maseng, with not one but four bundles of happiness. The couple has five other children.

Quads born at Bara

THE staff at Baragwanath Hospital was yesterday thrilled to have a set of quadruplets born there for the first time in twenty years.

The quads, three girls and a boy, were born on Tuesday to Mrs Ruth Maseng of Zeerust.

Mrs Maseng and her husband, Josiah, have five other children.

By SONTI MASEKO

The babies were born four weeks prematurely through normal delivery. Dr M M Boreiro, who delivered the babies said they had expected Mrs Maseng to have a Caesarian delivery, but she beat us all," he said. The first baby, the boy,

was born on the way to the theatre while Mrs Maseng was being wheeled through the hospital corridors. The second and third babies were delivered in a sitting position, when the mother was moved to the theatre table, the doctor said.

• To Page 2

He added, "I will do it again"

Before giving evidence in mitigation before Mr Justice Harms and two assessors, Strydom refused to take the oath but confirmed that what he would say in court would be the truth.

The murderer told the court that what he did was correct. Something drastic had to be done to show the world that there are still boers who are prepared to fight for survival and the maintenance of Christian, Protestant beliefs.

Strydom, who was on Tuesday convicted on eight murder counts and 16 of attempted murder, said he thought it was God's will that he should protect Christian morals in South Africa.



BAREND STRYDOM

The court heard that he went to the veld and the Voortrekkerhoogte monument before the De Deur farm shooting incident near Vereeniging and the Strydom Square massacre in Pretoria last year.

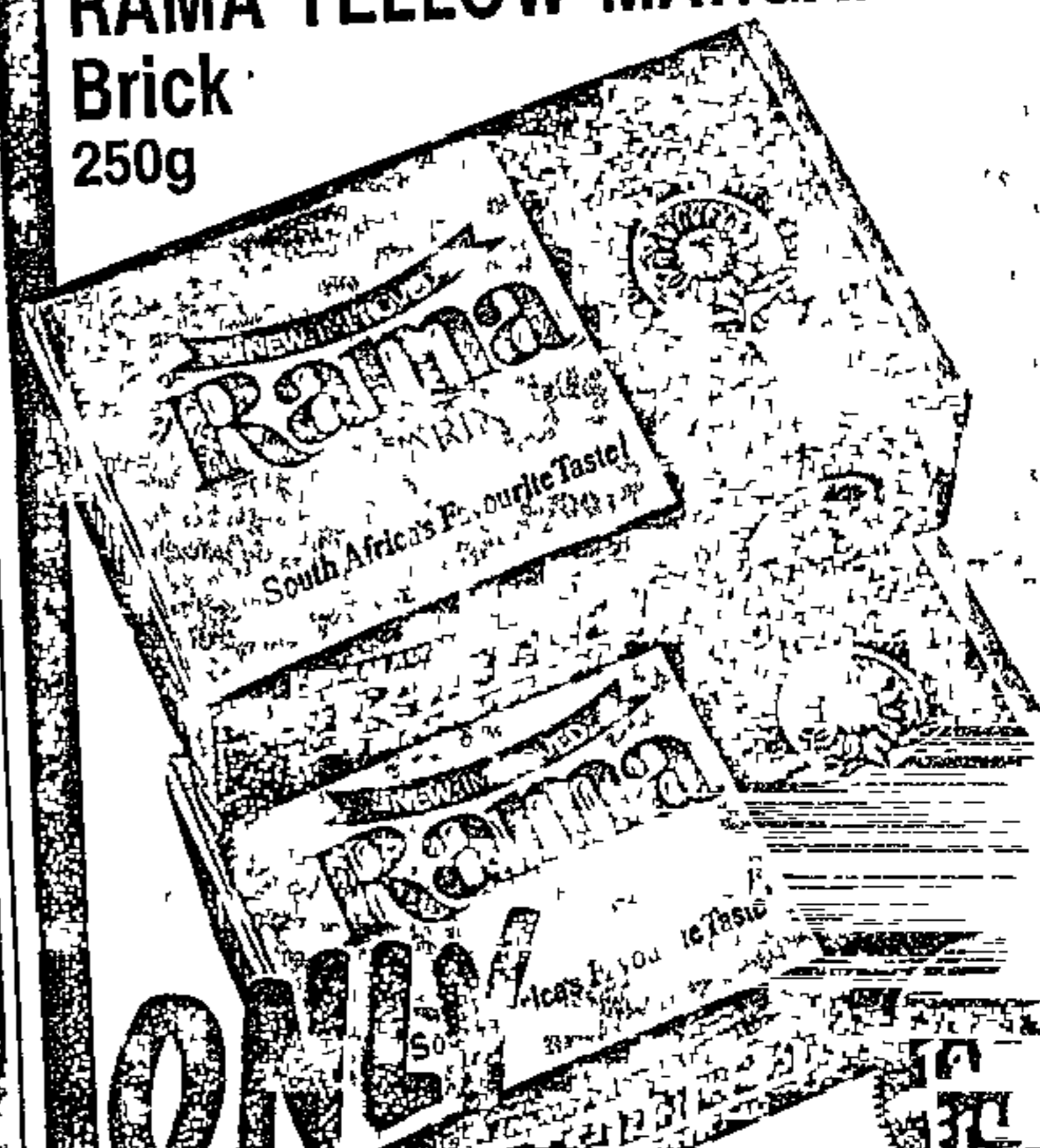
He said he went there to pray for guidance from God.

"I did not want to kill for honour. I had to confirm with God whether to proceed with my plan or not. I also meditated," he said.

In both cases, the killer continued to smile and occasionally burst

• To Page 2

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determine the exact
death.

month.

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Talks on N Tvl strike

THE strike by over 1 200 Zebediela citrus workers enters its 15th day today with management having agreed to negotiate with legal representatives of the workers, the union announced yesterday.

Nactu's Pietersburg organiser, Mr Moss Mphahlele, said the two, with worker representatives and possibly the union, were to meet at a hotel in Potgietersrus last night

The meeting followed

By MATHATHA
TSEDU

a Supreme Court application on Monday in which the workers restrained management from evicting them from the compounds.

Lawyers

A team of top black advocates, including Mr Dikgang Moseneke, Mr M C Motimele, and Mrs Francis Davis, assisted by the litigation officer of

the Black Lawyers Association (BLA), arrived in the Northern Transvaal yesterday afternoon for the meeting.

The workers stopped working on May 3 demanding the recognition of their union, the National Union of Farm Workers, and wage increments. The workers say they earn R60 per month with those having over 30 years experience earning R165 per month.

18/5/69
Sovietan

DO YOU HAVE MONEY AVAILABLE?

Suzman moves to ⁽⁷⁵²⁾ censure judge

MRS Helen Suzman (DP Houghton) gave notice yesterday she would move today that the House censure Mr Justice J J Strydom for sentences he imposed in a case last year which "are so outrageously insufficient as to amount to a gross perversion of the law".

Suzman 14/5/89
Weight

Her notice of motion referred to the sentences passed on November 1, 1988 in the Northern Circuit Court at Louis Trichardt in the case of the State v Jacobus Vorster and Petrus Leonard.

Mrs Suzman said the sentence was within the discretion of the judge and proper weight had to be given to the circumstances of the convicted person.

However, Vorster and Leonard had unlawful purpose and intent and the duration and brutality of their assaults had resulted in a man's death.

Gross

When this, together with the natural indignation of interested persons and the community at large (including black persons), were weighed against the "relatively trifling and in some instances non-existent mitigating factors taken into account by the judge the sentences in this case are so outrageously insufficient as to amount to a gross perversion of the law," Mrs Suzman said — Sapa.

'I prayed for approval from above for my pla

Boers fight to survive

Star 10/1/89 (252)

Pretoria's Strydom Square massacre took place because "something drastic had to be done" to protect Christian morals in South Africa, the Pretoria Supreme Court was told yesterday.

Giving evidence in mitigation after being convicted on eight charges of murder, 16 of attempted murder and one of pointing a firearm, self-styled "Wit Wolf" chief Barend Hendrik Strydom told the court of his life, his ideals and his reasons for the Strydom Square massacre

Barend Strydom told the packed courtroom that he killed his victims because he wanted to "show the world out there that there are boers on the southern tip of Africa who are prepared to fight for survival and the maintenance of Christian, Protestant beliefs"

Several days before the bloodbath on November 16 last year, Strydom camped on a farm near Heidelberg, where he meditated and prayed to God for clarity regarding his decision to gun down innocent civilians

"I planned to kill the people a week before and just went away for a few days to make things right with God," he said

"I wanted to gain clarity that my plan would not be an extension of my own ego, but that it had been approved from above"

Strydom, a former policeman based at Nigel and De Deur, testified that when he had attended farm schools in his youth he had taken an interest in rightwing politics

When asked why he had adopted conservative politics at such an early age, Strydom smiled and said rightwingers were the only people at that time capable of defending the country

Model state

He said it was possible his father's political views might have influenced him, particularly in the instilling of national pride and honour

He said he believed in a model state for South Africa, and the people to live in such a state would be similar to those who had been on the Great Trek of 1838 - "All those who trekked to form a new nation", he said

Asked if he had any idea of what apartheid actually meant, Strydom told the court that he had "a basic idea" and he believed in defending the white minority

He had espoused his political views in letters sent to the State President, as well as in correspondence exchanged

with the British Prime Minister, Mrs Margaret Thatcher, and former US President Mr Ronald Reagan

He had also written to black leaders within southern Africa, and received replies from them asking him to stop writing in such a vein

Strydom described Bophuthatswana as "five or six pieces of lappies (cloths)"

He told the court the Security Police, as well as National Intelligence Service, had visited him and asked him not to write letters to prominent politicians.

He said he was "shocked" about the 1983 constitutional proposals of the National Party (a reference to the tricameral system) and said that as far as he was concerned, strong action was not being taken against communism in general and "against communists operating in South Africa".

Strydom said communism was an evil plot hatched by Karl Marx and satanically inspired to rule the world and demolish Christianity

He declined to name organisations which he regarded as communist, but later said the United Democratic Front (UDF) was such a body

Strydom emphasised how he himself acted at all times in terms of his Christian feelings

He told how he came to lose faith in the SAP's ability to maintain law and order after the country's north-eastern border had "been left unattended for two weeks"

He had been doing one of his four stints of border duty at the time, having done duty in the Swaziland and Mozambique areas

He said SADF forces were withdrawn from the townships to guard the borders, while the police guarding the borders were redeployed in the townships

This switchover, he said, preceded the Amanzimtoti bomb incident, landmine blasts in the Transvaal and the successful smuggling of weapons into the country by convicted traitor Helene Passtoors, who was last week released to the Belgian authorities

This chain of events led to Strydom questioning the viabil-



Mass killer Barend Strydom before Mr Justice Louis Harms

ity of the system, and his dissatisfaction with the Government grew even greater.

He believed the police force had been politicised and saw the establishment of an all-Boer state as the "only solution with the least conflict"

Strydom told how his "Volkstrots" (pride in one's people) had first been shaped at field schools, while he was in Std 8

He also told how he wanted to become an actor to propagate his political beliefs.

Strydom said he was shocked that the Government had released a person such as Mr Govan Mbeki, who was imprisoned with Nelson Mandela - "and particularly when he said on his release that he was still

a communist"

He also said he did not like Mrs Helen Suzman, retiring Member of Parliament for Houghton

He said he was shocked, while acting as a policeman in an unrest situation in Duduza township, near Nigel, when he saw that rioting blacks had made a fire between the legs of a white nurse whom they had killed

"The sight of the glowing coals between her legs was shocking," he said

He thought the blacks had made the fire at her reproductive organs to show their contempt for whites' right to reproduce and exist

He said this made him see

"how little regard blacks for boere" He added "This gusted and shocked me"

He claimed the Duduza aims were to attack a busy nurseryschool which added to his disgust blacks

Alluding to the Westdene disaster, he said the bus driver should have for what he did to the children.

Racial basis

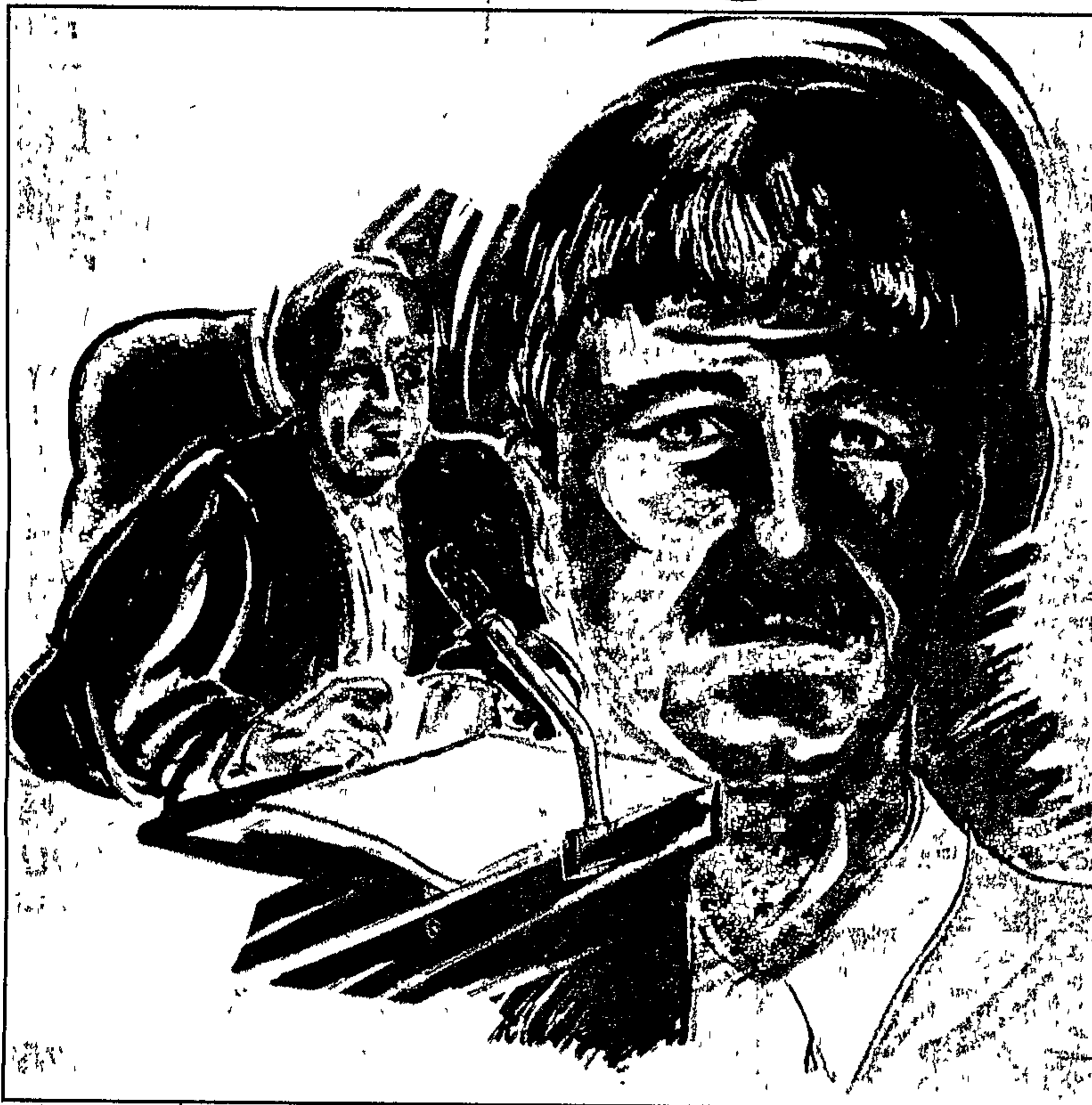
He referred to the schoolbus which went Westdene Dam as heroes heroines, and said the children had "come off scot free" murdering the children

approval from above for my plan to kill people'

t to survive - Strydom

Star 18/5/87

252



Mass killer Barend Strydom before Mr Justice Louis Harms.

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Alluding to the Westdene bus disaster, he said the coloured bus driver should have hanged for what he did to the schoolchildren.

Racial basis

He referred to the victims of the schoolbus which went into Westdene Dam as heroes and heroines, and said the driver had "come off scot free" after murdering the children

He had helped the Herstigte Nasionale Party (HNP), the Conservative Party and the AWB during the 1983 referendum — and his political activities had affected his school work

"I felt at this time that the moment had come that a young man such as myself, a young man with dreams of a future, could not see a future ..." he told the court

He said that his view of the Great Trek was that there was a racial basis for it (white domination and a white state) and that "I feel as a white that there is now no future for a white skin (in South Africa)"

Asked by Mr Justice Harms to explain the symbolism of the

Great Trek, Strydom replied that the Trek was "a symbol of how people can survive"

"Desmond Tutu and the Reverend Allan Boesak have done more harm to the community than good and despite the fact that they support the ANC, the Government allows them to move freely," Strydom said

He thought that President P W Botha and NP leader Mr F W de Klerk believed that the "ANC is the only legal government in South Africa"

Strydom referred to a police general who opposed this idea and told how the general was transferred to Israel where he underwent an anti-riot course

Hinting at to what led to the Strydom Square massacre on November 16 last year, Strydom said a friend of his, a former Rhodesian, had told him that if the then Rhodesian army had killed more innocent blacks they would have achieved more

Strydom testified regarding a photograph taken of himself in which he held the head of a black man in one hand and a knife in the other, after the black man had been decapitated when a truck rode over him.

The picture, which he wanted to enlarge and inscribe on it the words "ANC beware", led to an investigation by the security police, he said.

Strydom said he was arrested and certain political documents were confiscated from his police barracks at De Deur, where he was stationed at the time

In spite of his political views, Strydom said he did not express them verbally while in the police force, but believed the way he acted and spoke made it clear to colleagues that he supported rightwing ideals and the AWB

Strydom also told the court how in February 1987, in Heidelberg where he was posted, he hoisted the Vierkleur flag and folded up the national flag. He then waited for action.

About an hour later police arrived and arrested him, saying that they had been tipped off by The Star newspaper

Departmental steps were taken and he was warned

He also told of his first day at De Deur, after being transferred from Heidelberg, when he and 16 colleagues were given "steaks that filled their plates" For days afterwards the food was "marrowy"

Strydom said he wrote a letter to the Minister of Law and Order, complaining about the food

He was summoned and warned that this was against police regulations

'Soldier of God and Fatherland' modelled himself on a Nazi

Strydom was stalking Tutu

By Norman Chandler,
Pretoria Bureau

Nov 19/5/84

252

Pretoria mass murderer Barend Hendrik Strydom said yesterday he had been stalking Archbishop Desmond Tutu, the Archbishop of Cape Town, and international church leader Dr Allan Boesak when he shot down 22 people in central Pretoria last November.

The two churchmen were, he believed, at the city's Palace of Justice attending a trial of an extra-parliamentary government opponent.

Strydom is now on trial for his life at the Palace of Justice. He said his attempt to kill the church leaders was to "give a message" to the National Party, which was holding a congress in Pretoria at the time.

He yesterday described himself as a "soldier of God and the Fatherland," and said he modelled himself on Nazi saboteur Robey Leibbrandt.

He also astonished the court when he said he had "got the idea to shoot people" from a book on how early settlers at the Cape had shot Hottentots — "if people could do that, you can see why I could, too", he said.

The sensational evidence came as Strydom completed more than eight hours in the witness box in mitigation of sentence.

Psychiatric evidence

The 23-year-old former policeman was found guilty on Tuesday by Mr Justice Louis Harms, sitting with two assessors, of having killed eight people and attempting to murder 16.

His father, Mr Nicolaas Strydom, followed him in the witness box pleading in mitigation for his son, and next to be called by the defence will be psychiatrists. The trial is unlikely to end before the middle of next week.

Seven of Strydom's victims were murdered in Strydom Square on November 15. The eighth victim died a week before during a "practice" run Strydom held at the Weltevreden Farm squatter camp near De Deur, south of Johannesburg.

Asked by Mr Justice Harms whether the central city carnage was his own idea, Strydom, who said he "only loved white people", claimed that he had been ordered to go on the rampage by "the executive of the Wit Wolwe".

The accused was then asked: "How do you see your future? What sort of leadership position were you likely to have been given had you gone on with your plans?" (in earlier evidence yesterday he said a mini-war was planned to eliminate the African National Congress).

Strydom said he saw himself as a "soldier of God and the Fatherland" and that he modelled his life on General Christiaan de Wet (a Boer leader of the South

Group of 10 claim to be new hit squad

Pretoria Correspondent
A group claiming to be former soldiers and policemen, who said they had formed a hit squad, have threatened to exterminate "undesirable elements" like mass murderer Barend Strydom.

A man who identified himself only as "Bob", claiming to be a highly trained former "reccé" soldier, telephoned The Pretoria News and said his group was "tired of guys like Strydom messing around in our politics".

"Whether they're ANC or AWB, we're going to start using their own tactics on them, we'll take them out."

The hit squad consisted of 10 men highly trained in combat techniques, he said.

A police spokesman said the claims would be investigated and police would do their utmost to identify any people involved in such activities.

TV viewers will enjoy sports feast

There's a sporting bonanza this weekend and viewers have a tantalising choice

SABC will screen the Santam-bank Currie Cup rugby match between Transvaal and Northern Transvaal at Ellis Park



Archbishop Tutu on 'hit list' of Mr Barend Strydom



Dr Boesak among those Mr Strydom planned to murder



Mr Justice Harms believe in the fifth Commandment?"

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Strydom said he saw himself as a "soldier of God and the Fatherland" and that he modelled his life on General Christiaan de Wet (a Boer leader of the South African War), Robey Leibbrandt (former South African boxer who infiltrated the country as a Nazi saboteur during World War 2) and Jopie Fourie, who was executed for his part in the 1914 rebellion.

He added that he could not really anticipate what his future held.

"I don't really know," he said. "I believe that the State President will pardon me."

Mr Justice Harms asked "Do you believe in the Fifth Commandment (Thou shalt not kill)?"

Strydom said he did, but added that it was right to kill someone in certain circumstances. This was a contradiction of what he said in evidence on Wednesday, and he was asked by Mr Justice Harms why he had changed his mind.

He replied that "in a war situation it is right."

'Old lady'

Mr Justice Harms asked Strydom why he had shot to death "the old lady" (a reference to one of the victims who had died in Prinsloo Street, Pretoria).

Strydom replied "To my mind, they are not people. They are not white."

He was again asked questions yesterday about his attitude to the police as well as the ANC.

Strydom said that as far as the ANC was concerned, they (the ANC) wanted to eliminate all whites.

Mr Johan Engelbrecht called Colonel Carel Brits, head of Pretoria's Murder and Robbery Squad, who told the court that investigations had revealed there was no such organisation called the Wit Wolwe.

The hearing continues.



Archbishop Tutu ... on 'hit list' of Mr Barend Strydom.



Dr Boesak ... among those Mr Strydom planned to murder.



Mr Justice Harms ... "Do you believe in the Fifth Commandment?"

Pick

Rhythm

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Saturday

Saver

Extenuating circumstances found 'with reluctance'

Two guards sentenced to 15 years for murder

By Cathy Stagg

Two security guards had, despite their position of power, sought people of another race to terrorise and kill, a Rand Supreme Court judge said yesterday, sentencing them to 15 years' jail

Mr Justice Roux, who sat with two assessors, found Joseph Jurgens Deysel (28) of Witpoortje and Edward George Pelser (29) of Roodepoort North guilty of murdering Mr Inocencio Maxaxe near Azaadville on August 9 1987

Out of character

It was with reluctance, the judge said, that he and his assessors found extenuating circumstances in a borderline case

Mr Justice Roux said a judge would perhaps one day find that consuming alcohol was aggravating, but he went along with the long tradition which held that someone who had been drinking sometimes acted out of character

Both men were of low intelligence, the

court heard, but the judge said intelligence had nothing to do with knowing the difference between right and wrong

Mr Justice Roux said he intended preventing the two accused from doing something similar again and hoped it would send a message to people in a similar position

The two security guards had been on duty at about 9 pm on August 9 1987 when they came upon three men walking home. Two men, who later testified as State witnesses, escaped but Mr Maxaxe was assaulted until he cried out and fell to the ground. He was put into the back of a vehicle and driven away

Only the accused could reveal what had happened after the State witnesses lost sight of the van

Mrs Sandra Deysel, wife of one of the men, said both men's clothes were blood-stained when they returned the next morning. They told her a story of helping a black man who had been stabbed. Later she overheard Pelser ask her husband what they would do if the man died. She asked them

what they meant, and her husband said they had assaulted and driven over a man

Mrs Deysel testified despite her husband's threats to kill her if she discussed the case

Mr K H Botma, who worked with the two accused, found blood in the back of the van and asked Deysel what had happened. He replied that they had knocked down a dog. When Mr Botma said that he had also found material, and that dogs did not wear clothes, Deysel said they had killed a man.

The court unanimously found the accused to be liars. The judge said the Pelser and Deysel families had conspired to invent evidence to try to save the accused

The court found Deysel's brother Manie had threatened Mr Maxaxe's roommate, Mr Fabio Mebebe, who went to the security firm to make inquiries. The judge noted that Deysel knew where to stop when Mr Mebebe asked to be taken to the place in the veld where Mr Maxaxe was beaten

The accused did not rob but intended to harm Mr Maxaxe for no reason

... yesterday in full Voortrekker dress. "I am here representing the mothers of the children," she said. "Never before has the Boervolk been united as they are united now. It shall be one for all and all for one."

AWB cloud hovers over trial

By Norman Chandler

19/5/89 Star 19/5/89
The influence of the Afrikaner Weerstandsbeweging hung over the Supreme Court trial of Barend Hendrik Strydom yesterday when his father Nicolaas took the witness stand to plead in mitigation.

Mr Strydom, sen, told the court he was a former regional leader of the AWB in Heidelberg, and had instilled his political beliefs and values into his son.

In court was a large number of AWB members as well as Mrs Marie van Zyl, founder of the Kappiekommando. She wore full Voortrekker dress.

Mr Strydom said his first wife had shot herself when their son, whom he called "Hendri", was 18 months old. His present wife, Daphne, was also right-wing. Mr Strydom had been a member of

the Herstigte Nasionale Party but had joined the AWB when it was founded.

He said politics have been "bread and butter in our house" and his son had attended political meetings with him from the age of 15 and had shown a great interest in politics and the questions posed at meetings.

The only meetings he had ever attended were those of the HNP, the AWB and the Conservative Party.

● At the end of the hearing yesterday, Mr and Mrs Strydom were allowed to leave the court building through a side door in order to escape dozens of newspaper and TV photographers waiting in front of the building. With the Strydoms were nine AWB bodyguards who had stuck close to both of them all day.

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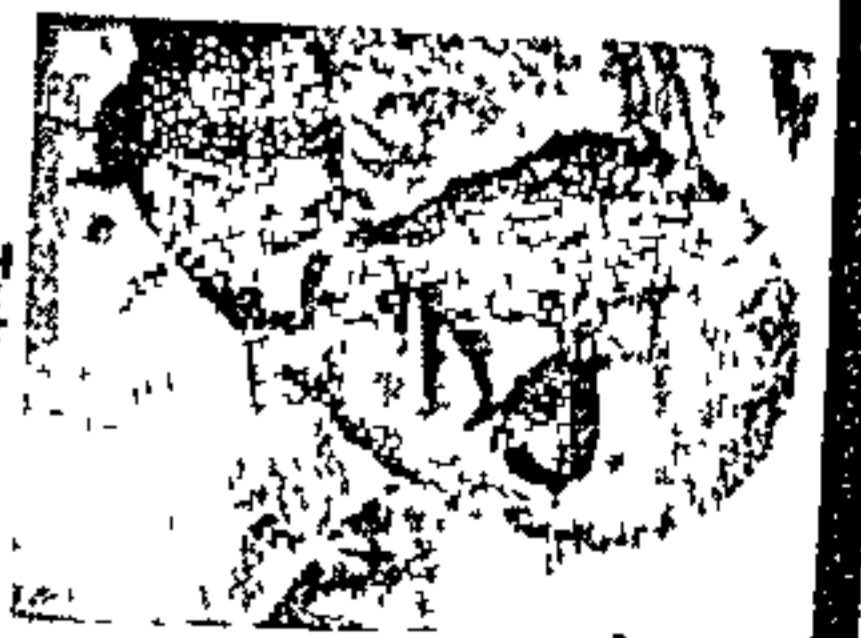
10

TARRANTS

Archbishop Tutu and Reverend Boesak

Southern 19/5/84

252



Tutu.

Trial of 'Wit Wolf' Barend Hendrik Strydom



MASS murderer, Barend Strydom, had planned to go to the Pretoria Supreme Court to finish off his "mission" by killing Archbishop Tutu and Reverend Allan Boesak, the Pretoria Supreme Court heard yesterday.

By ALINAH DUBE

Tutu and Boesak were attending the Delmas treason trial at the time, which was being heard in the Supreme Court. He said this in evidence in mitigation before Mr Justice Louis Harms and two assessors. He was testifying on the fourth day of the trial

which has hit news headlines nationwide. Two people wearing Voortrekker gear attended yesterday's proceedings. Many of those who came to hear the outcome of the trial had to remain in Church Square as they could not gain entry into the courtroom.



Boesak.

Strydom said that after shooting several black people at Strydom Square, he was going to gun down others at random on his way to Church Square. He said both Tutu and Boesak

To Page 2



Crowds outside the Palace of Justice in Pretoria yesterday.

WIT WOLF

From Page 1

were said to be attending the Delmas treason trial on the day of the massacre.

"I intended to kill more blacks at Church Square where terrorists gather. I wanted to attract attention and show the ANC who the Wit Wolves were," he said.

Strydom said he wanted his plan to kill the black people to coincide with the

National Party congress which was taking place in Pretoria at the time. He also wanted to force the ruling party to review its constitution of reform plans.

He claimed that after he ruthlessly gunned down innocent people he saw himself as a soldier of God.

As he went on a rampage leaving his victims lying in pools of blood, the self-confessed "Wit Wolf" said he shot selectively so as not to harm white people. He said he saw that there were no whites in a shop in which he later fired at people.

The mass killer said he did not shoot every black person in sight. There had to be survivors who would later relate "that day's story".

Judge Harms said the

massacre of November 15 last year was planned at a meeting of White Wolves. Although Strydom had referred to himself as the leader of the group, he denied this yesterday.

He said he was a leader of the movement's cell. Mr Paul Fick, advocate for the State, submitted that Strydom was pompous and was also trying to appear as significant — a suggestion the killer rejected.

Asked by Fick to state what motivated him to commit the murders, he replied "It was not murder. Deep in my heart I believed my actions were justified. I still do."

His desire to kill blacks, he said, increased after his former employer, Sasol III, announced a decision to appoint blacks to managerial positions. He said he resigned in protest against the integration of blacks and whites. Blacks, he said, were not acceptable in the Boer state he envisaged.

I disobeyed Wit Wolwe orders

DANIEL SIMON

RIGHT-WING mass murderer Barend Hendrik Strydom, disobeyed "Wit Wolwe orders" by starting his massacre of blacks at Strydom Square instead of at Church Square, where the Delmas treason trial was taking place on November 15, last year, he told a packed Pretoria Supreme Court yesterday.

Strydom, 23, was giving evidence in mitigation of sentence before Mr Justice Harms and two assessors, who found him guilty on Tuesday on eight counts of murder, 16 counts of attempted murder and an Arms and Ammunitions Act charge.

The charges arose from two shooting sprees he went on in November last year. The first incident took place at the Wheeler's Farm squatters camp at De Deur where he shot dead one woman and wounded another before his major showdown in central Pretoria streets on November 15 where he systematically killed seven people and wounded 15 others.

Strydom told the court he was instructed by the Wit Wolwe's chief director to "get" Archbishop Desmond Tutu and the Rev Al-Ian Boesak, who were attending the trial in the Pretoria Supreme Court.

Mass-killer Strydom

Asked how he got his orders, Strydom said as a cell leader of the Wit Wolwe, he often discussed the shooting of blacks with other Wit Wolwe cell leaders.

"Some specific targets were discussed, including the November 15 one." "It was decided unanimously at one of the meetings by three of us that I would do the shooting at Church Square on that day."

Strydom, who has claimed to be the leader of the Wit Wolwe, said he did not follow his chief director's orders because of a strong police presence at the court.

"The shooting at Strydom Square was my own idea. I decided to start there to

□ From Page 1

□ To Page 2

Strydom's 'orders'

Inn
"Strydom said that he and fellow Wit Wolwe threw a teargas canister during the gathering and phoned a newspaper claiming the Wit Wolwe were responsible."

"Strydom said he and fellow Wit Wolwe also threw a teargas canister into a multi-racial Hillbrow club when I questioned him on its location in the area, he could not answer. After other investigations and more questioning I determined the Wit Wolwe do not exist."

He added that Strydom had told him lots of different stories

□ Besides a large black spectatorship in the public gallery, yesterday saw for the first time an attendance by the AWB's Aquila guards and a husband and wife dressed in Voortrekker clothing.

The Aquila guards were called in to protect Nicolaas and Daphne Strydom after an incident outside the court on Wednesday when Daphne hit a black Press photographer in the face with her handbag when he tried to photograph her at close range.

Numerous blacks who witnessed the incident had become angry.

The case continues today

NEWS

Where's the justice — or isn't there any, ask

IT WAS a small news item. But it was of major significance to the growing debate over South Africa's judicial system.

The three African National Congress fighters — Jabu Masina, Neo Potsane and Ting-Ting Masango — who were condemned to death for murder in the "Delmas 11" trial are to appeal, the news report said.

They have signed papers authorising their lawyers to go ahead, a spokesman for the instructing firm of attorneys told Saturday Star yesterday.

There is normally nothing unusual about convicted men appealing, particularly when they are sentenced to death.

But the appeal of these men contrasts with their original statement to the trial court before Mr Justice Klerk, Marus de Klerk.

They declared at the time "We refuse to participate in the proceedings of a court founded on injustice and oppression (It) cannot function separately

from a political system based on skin colour."

Defining themselves as ANC soldiers, they said "We should not stand trial in a civilian court."

The men have apparently changed their minds, presumably, in part at least, because of Mr Justice de Klerk's widely acclaimed judgment.

Mr Justice de Klerk found that the trio had been subjectively influenced by their training as ANC soldiers and by their belief that they were "fighting a war for liberation and justice;" consequently, he concluded, there were extenuating circumstances and the death penalty need not be imposed.

In the sensational climax to the trial, however, Mr Justice de Klerk was overruled by his two assessors.

The relevance of the trial appears to be that, even from the ANC perspective, one cannot make blanket judgments about the judicial system or the judges that serve on it.

There are good judges and bad judges, equally,

THE judicial system has been criticised by political activists in recent months. PATRICK LAURENCE offers a personal appraisal.

There are good judgments and bad judgments. It is, however, a matter of record that expressions of scepticism about the nature of justice in South Africa are growing in number and intensity.

Thus, in January, the ANC treason trialist, Ismael Ebrahim, stated, "I wonder in the future whether we should bother to even stand trial. As an oppressed nation, we can never regard our courts as places of justice in the moral sense of the world. We cannot divorce the courts from the apartheid structures."

At about the same time, the ANC in its anniversary statement spoke of "apartheid courts", labelling them an "integral part of the machinery of repression". Earlier, during the mammoth "Delmas 11" treason

trial before Mr Justice K van Dykhorst, the 22 accused formally asked for his refusal, signalling their contention that he was prejudiced against them.

Criticism of the judicial system, however, is not confined to political activists who, their opponents argue, want to bring the entire system of justice into disrepute as part of their propaganda war against the established order.

Thus, to cite an example, Professor John Dugard, director of the Centre for Applied Legal Studies, noted in a dispassionate analysis that the vast majority of judges are "white Protestant males of conservative outlook who support the present political/racial status quo."

A black lawyer, Mr D M Mokgalle, remarks in another article "It would be untrue to suggest that judges still enjoy the reputation for independence, racial impartiality and fairness in the black community that their brother judges enjoyed some 30 or 40 years ago."

But, if the judicial system has shortcomings, the remedy is not to reject it in toto, the solution is, rather, to seek redress of the deficiencies.

Mr Justice de Klerk's judgment, and the acquittal of Mr Mose Mayekiso and his four co-accused in the "Alexandra trial" by Mr Justice P J Van der Walt a few days before, highlight two important points.

● For all its defects the judicial system still produces judgments which satisfy even the stern tests of political activists who charge that the apartheid ethos has seeped into the judiciary.

● White judges are not necessarily hostile to the plight of the black underclass and the strivings of their leaders.

What is required is not unqualified condemnation but targeted criticism against specific judgments and particular aspects of the judicial system.

One thinks of the campaign by the retiring MP, Mrs Helen Suzman, to have Mr Justice Strydom impeached.

many South Africans

Stompie trial: 9 bail applications

252  **PAT DEVEREAUX** *Star 20/5/89*

BAIL applications for key suspects linked to the controversial murder of child activist Stompie Mokhetsi Seipei, are expected to be made in the Johannesburg Magistrate's Court next Tuesday, according to their legal representative

The nine people expected to stand trial for the murder of the 14-year-old Tumahole activist include members of Mrs Winnie Mandela's soccer club. The accused have been held in custody since their arrest

Their legal representative, Ms Cathy Satchwell, yesterday said bail applications would be made for her clients. Among the nine are the team's former soccer coach, Mr Jerry Richardson (41), the bus driver for the soccer team, Mr John Morgan (61), Mr Jabulani Khubeka (25), Mr Sibusiso Mabuza (18) and Mrs Xolisa Falati (35) and three youths

It is not known whether the ninth accused, Mr Kaizer Cebekhulu (21), will appear with them on Tuesday as he is undergoing psychiatric observation

The trial of the nine accused follows the murder of Stompie, the Free State child activist whose body was discovered on January 7 this year after he was allegedly abducted and assaulted by members of the soccer team at Mrs Mandela's Soweto home

This incident created a political furore which led to anti-apartheid groupings, including the United Democratic Front and the Congress of South African Trade Unions, accusing the soccer team of waging a "reign of terror" in the townships and calling for Mrs Mandela to distance herself from the team's activities

The trial is not likely to commence until further investigations have been completed, but it is believed that Mrs Mandela will be called as a witness to the events surrounding the death of the young activist

'Madness' to murder policeman

UPINGTON — The only defendant in the "Upington 25" trial to be found guilty of attempted murder yesterday testified he must have been mad if he had taken part in the murder of a municipal policeman in 1985

Enoch Nompondwana, 34, was testifying in extenuation of sentence

On Friday Mr Justice Basson sentenced 14 of the accused to death.

Nompondwana was the first black manager of a salt-processing works in Upington, and yesterday his former employer, Brian Sutherland, told the court Nompondwana's family still received half his salary every month because he believed his former employee was innocent

Nompondwane said teargas fired to disperse a meeting called to protest against high rents in Upington's Paballelo township had caused him to become "aroused on a low level"

He feared the use of live ammunition by police to disperse the 3 000-strong crowd on the soccer field After teargas was used,

252 Own Correspondent

an "unrest situation" resulted, he said

Clinical psychologist G E Meyer said the finding by the court did not correspond with the results of personality tests he had conducted on Nompondwana "Enoch is not somebody who would have done something like that at the end," he said

Replying to a question from Mr Justice Basson, Meyer said there was no sign of any political motive in Nompondwane's action

In his testimony, Nompondwana described how he was affected by teargas fired to disperse the protest meeting "I was frightened The gas burned my eyes and one had to flee," he said

Meyer said the climate of aggression, agitation and violence at the time of the murder could be advanced as reasons why Nompondwane could not be held responsible for his action

Defence lawyers said sentences on the other defendants were expected on Friday

Sowetan 22/5/89

Union men get reprieve

SOWETAN Reporter

TWO trade unionists on death row have been granted a reprieve by President Botha.

National Union of Mineworkers members, Tyelovuyo Mgedezi had his death sentence commuted to 20-years imprisonment and Commercial Catering and Allied Union of South Africa member, Mazazile William Mntombela's sentence was commuted to 25-years imprisonment.

The two men's reprieve was confirmed by a spokesman for the Department of Justice.

Meanwhile Lawyers for Human Rights said in a statement issued in Pretoria seven condemned prisoners received notices of their execution scheduled for next week.

Three of them, Oupa Josias Mbonane, Sibusiso Senele Mosuku and Anto Koen, are due to be hanged on May 24.

Mbonane and Mosuku were convicted and sentenced for the necklace murder of a Soshanguve policeman in February, 1986.

The national director of Lawyers for Human Rights, Mr Brian Currin, said initial investigations indicated that the two men had exhausted all their legal remedies but their attorneys were reviewing their case.

Anton Koen was convicted and sentenced in June 1988 for murder on an elderly Port Elizabeth woman.

"He too has exhausted all his remedies and it

would appear that execution is inevitable," Mr Currin said.

Four other men, Simon Mbatha, Abraham Mngomezulu, Patrick Mosomi and James Henry Cohen, are scheduled to be executed on May 25.

Cohen was sentenced to death on charges of murder and robbery in September 1988.

"Although he was granted leave to appeal, he refuses legal representation and has expressed the wish to be executed," Mr Currin said.

Strydom hopes for clemency

Source: 22/5/89

SMILING killer Barend Hendrik Strydom continues the fight for his life in the Pretoria Supreme Court today.

Despite being convicted of eight murder charges and 16 attempted murder counts, the right wing mass murderer shows no remorse, adding that if granted the opportunity he would kill again. He also said he firmly believed President P W Botha would grant

him clemency.

On November 8 last year, Strydom (23), of Pretoria West, drove to Wheeler's Farm, a squatter camp in De Deur. Dressed in full police camouflage outfit and armed with a 9 mm Baretta pistol he entered a shack where, after ordering the occupants, two women, to lie down he shot them, one fatally.

That evening the former police constable

and AWB member drove to a farm in Heidelberg where he prayed and meditated for three days, he claimed.

"I wanted to get clarity that what I was about to do was right in God's will. I just wanted to make things right with God."

Three days later on November 15 Strydom, wearing the same

● From Page 2

Strydom

● From page 1

camouflage outfit and carrying two extra magazines and a 20 cm dagger, went to Strydom Square in Pretoria's city centre.

The mass murderer, who subscribes to high Christian morals and supports extreme right wing views, said the Bible justified the killings.

"I did not commit murder, but merely exercised my rights as a member of the Boerevolk," he said.

Seven to hang in Pretoria this week

Staff Reporter

Seven people on Pretoria's death row, including a Soweto man convicted of murdering an alleged informer during a work stayaway, have been told that they are to hang later this week, according to Lawyers for Human Rights.

Abraham Mngomezulu of Naledi, Soweto, is among the group. He was convicted of the killing of an alleged informer in April 1987, when a stayaway was called in Soweto to protest against rent evictions.

He was earlier granted a stay of execution but late last week was informed that he would be hanged later this week. Sources who visited the prison at the weekend said they added that he had already been moved into the death row cells.

Oupa Josias Mbonane, Sibiso Senel Mosuku and Anton Koen are due to be executed on Wednesday, according to Lawyers for Human Rights.

Mngomezulu, Simon Mabatha, Patrick Mosomi and James Henry Cohen are due to be executed on Thursday.

Sources said in addition to Mngomezulu, two others in the group of seven convicted for offences committed in a context of political upheaval in Mamelodi were due to be executed. One is Mbonane. The name of the other is not known.

Since the international outcry over the Sharpeville Six, few people have been executed for politically related crimes. Within the last month there has been a departure from this, with the hanging of two of the "Addo Four".

If the three are executed this week, speculation in human rights circles that there has been an informal moratorium on hangings of "political" cases, will have been proven false.

Two trade unionists were reprieved last week. National Union of Mineworkers member Tyelovuyo Mgedezi had his sentence commuted to 20 years and Mazazile Mntombela of the Commercial, Catering and Allied Workers' Union had his sentence commuted to 25 years. — Staff Reporter-Own Correspondent

DANIEL SIMON

Blacks not seen as people Strydom's father

THE trial of Wit Wolf mass murderer Barend Hendrik Strydom resumes in the Pretoria Supreme Court today and evidence in mitigation of sentence is expected to be heard from a psychologist

On Friday, Nicolaas Strydom, the father of Strydom told the court he (Nicholaas) viewed blacks as animals and not as people

His son "Hendri", 23, who was found guilty by Mr Justice Harms and two assessors last Tuesday on eight counts of murder, 16 counts of attempted murder and an Arms and Ammunitions Act

charge, expressed the same views during his testimony

He has been found guilty of killing a woman and wounding another at the Wheeler's Farm squatter camp at Deur near Vereeniging on November 8 last year during a "practice run", before running amok and shooting seven people dead and wounding 15 others in central Pretoria on November 15

Strydom, snr, an AWB member and a former CP candidate, told the court that he had right-wing leanings and that political discussions at home were discussed like "bread and butter issues

"My political discussions at home centred around a pursuit of Afrikaner freedom, and a Boerevolkstaat I considered my family to be a 'normal Boer family' and did not let them oppose my political views

"I often told my family that for the whites to survive we needed a Volkstaat not a publike staat"

Strydom, snr, told Mr Justice Harms that the "white race" originated from Israel, while the "black" was an animal. However, he told the court that today's Jew was not really a "white person"

He said he never actually determined whether blacks were "animals or humans" but that he had books which stated that blacks were animals

In earlier testimony, the court heard that "Hendri's" mother had committed suicide with a revolver while sitting with him on a bed when he was 18-months old

"I found wife lying on the bed with Hendri near her. He had marks on his neck. I called for help but she died shortly afterwards"

He said after the shooting, his son went to live with his grandmother until moving back with him and his new wife at the age of six. While at his grandmother's, his son's hair was put in "curlers" because, his grandmother would have preferred a granddaughter

Strydom, snr, said "My son also went into a 'death trance' before he was 18-months-old and was hospitalised for two months. He also suffered from blackouts"

He said the only thing he knew about the Wit Wolwe was from what he had read in the newspapers

Move to save death row trio

AN urgent application is to be brought before the Pretoria Supreme Court today for a stay of execution against three political activists convicted of killing policemen and an informer.

By JOSHUA RABOROKO

This was confirmed yesterday by a spokesman for the Lawyers for Human Rights who said in two of the cases different arguments have since been brought to the attention of the lawyers Sibusiso Senele Masuku and Oupa Josiah Mobonani, who are due

to hang tomorrow, were convicted and sentenced for the necklace murder of a Soshanguve policeman in February 1986. The national director of lawyers, Mr Brian Currin said initial investigations indicated that the two men had exhausted all their legal remedies, but their attorneys were reviewing their case

Abraham Mngomezulu of Soweto was convicted and sentenced to death for the murder of a police informer in Pretoria. He is also due to hang tomorrow.

Meanwhile the Federation of Transvaal Women has joined several organisations in calling for a petition to protest the hanging of the trio.

Clinical psychologist called by the defence tells judge

STRYDOM BORDERLINE

Sowden 23/5/87

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GAASE

By ALINAH DUBE

A CLINICAL psychologist yesterday told the Pretoria Supreme Court that mass killer Barend Strydom's thinking was above average.

Testifying for the defence, Professor J A K Erasmus told Mr Justice Harms and two assessors that Strydom had an above average IQ of 116.

Although the accused's thinking was above average, he appeared to be on the border of being normal and abnormal.

The witness said Strydom's condition which could not be diagnosed could be "certifiable" in future.

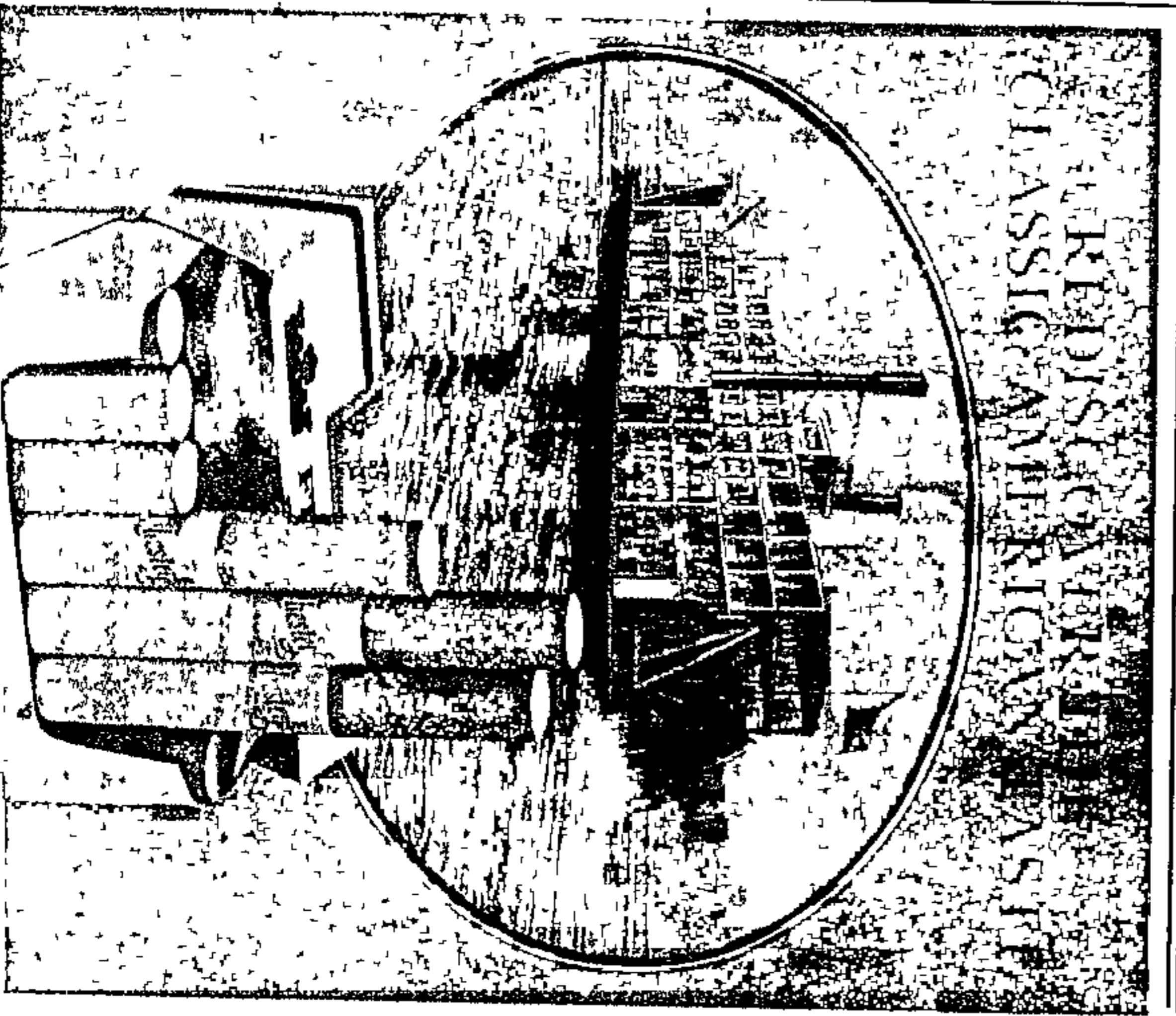
His presence at the time of his mother's suicide was said to be part of many factors which influenced the



BLIND Mrs Maria Mathonsi is led by her son, Jerry, to the trial of her husband's murderer, Hendrik Strydom, at the Palace of Justice in Pretoria. Mr David Mathonsi was among Strydom's first victims in central Pretoria last year.

Pic LEN KHUMALO

• To Page 2



Killer 'is on the edge'

Sowden 23/5/87

• From page 1

killer's behaviour
The court heard that he was indoctrinated with far right-wing ideologies and left with no room for alternative thinking

Erasmus said he interviewed the self-confessed Wit Wolf and AWB member and his parents for nearly 18 hours. According to him, Strydom's grandmother put curlers in his hair and gave him dolls to play with when he was young.

Erasmus agreed, however, that it would be pure speculation to conclude that the grandmother's behaviour had an effect on Strydom.

Erasmus told the court "The accused stood no chance but to accept his father's rigid and extreme right-wing political views. The crimes he committed had no effect on him. He obviously did not show any signs of tension, anxiety or guilt feelings" (Proceeding).

Star 23/5/89

(252)

Killer scored zero on guilt ratings — expert

Barend Strydom is 'a borderline case'

By Norman Chandler,
Pretoria Bureau

Mass killer Barend Hendrik Strydom, on trial for his life in the Pretoria Supreme Court, could have stopped himself from continuing with his rampage of terror had he wanted to do so, the court heard yesterday

Strydom did not smile once as clinical psychologist Professor

Johan Erasmus, giving evidence in mitigation of sentence, said he was a borderline case between normal and abnormal

In a reference to Strydom's right-wing political attitudes, he added the accused was a messenger (he did not identify for whom) "whether he goes to jail or dies. It was done for publicity it was important, it was important politically."

Strydom regarded himself as a potential folk hero. He knew exactly what he was doing at De Deur and at Strydom Square, Pretoria, when he killed eight people and attempted to murder a further 16 last November

At the end of day six of the sensational trial, Strydom heard Professor Erasmus of the University of Pretoria describe him as not being mentally ill

No feeling

Professor Erasmus's overall opinion was that Strydom did not show abnormally high paranoid tendencies, his feelings of hostility against others were normal although his feelings of aggression were suppressed

He had a score of zero in psychiatric tests with regard to feelings of guilt, "a total which only appears in people who project their blame and rationalise their feelings of guilt"

Professor Erasmus said psychiatric tests had not shown any definite diagnostic pattern

There were a number of factors which made up Strydom's attitude to what he had committed — enmity, aggression and fanaticism were three. He also had no feelings for his victims.

"He believed himself to be a soldier fighting a war," Professor Erasmus said

He believed that if he were caught he would be released by a right-wing group which was going to take over the Government. "He would be released just like African National Congress people had been released"

Mr Justice Harms asked about Strydom's capability to plan what he had carried out, adding "a person had killed another in cold blood".

Professor Erasmus. "I do not think he was unable to plan what he did."

The judge "Was he in full control of his own intentions? Could he have stopped had he wanted to do so?"

Professor Erasmus "He could have stopped"

Asked whether Strydom had any psychological malfunctions, the witness said he did not have "an identifiable, psychological malfunction"

He added that what took place could be classified as "self-aggrandisement and political motivation"

Strydom could be a borderline case in terms of paranoia, but that was "not absolute", he told the court "I cannot say this person had no problems, my interpretation is we have reached a point where normality and abnormality meet"

Strydom was said to show paranoid tendencies. These were not abnormally high

But he did have personality problems and there was the likelihood of a total personality breakdown in about two years

(Proceeding.)

Seven 'due to hang this week'

Staff Reporter

Seven people on Pretoria's death row, including a Soweto man convicted of murdering an alleged informer during a work stayaway, have been told that they are to hang later this week, according to Lawyers for Human Rights

Abrahan Mngomezulu of Naledi, Soweto, is among the seven. He was found guilty of killing an alleged informer in April 1987, when a stayaway was called in Soweto to protest against rent evictions

He was earlier granted a stay of execution but late last week was informed he would be hanged this week, said sources who visited the prison at the weekend. They said he had al-

ready been moved into the death row cells

Oupa Josias Mbonane, Sibusiso Senel Mosuku and Anton Koen are due to be executed tomorrow, according to Lawyers for Human Rights

Mngomezulu, Simon Mabatha, Patrick Mosomi and James Henry Cohen are due to be executed on Thursday.

DEPARTURE

Sources said in addition to Mngomezulu, two others in the group of seven convicted for offences committed in a context of political upheaval in Mamelodi were due to be executed. One is Mbonane. The name of the other is not known

Since the international outcry over the Sharpeville Six, few people have been executed for politically related crimes. With in the last month there has been a departure from this with the hanging of two of the "Addo Four"

If the three are executed this week, speculation in human rights circles that there has been an informal moratorium on hangings of "political" cases will have been proven false

Two trade unionists were reprimanded last week. National Union of Mineworkers member Tyelovuyo Mgedezi and Mazazile Mntombela of the Commercial, Catering and Allied Workers' Union — Staff Reporter. Own Correspondent

Death threats as Strydom trial draws to a close

By Norman Chandler,
Pretoria Bureau

Journalists and mass killer Barend Hendrik Strydom's step-mother have received death threats during his trial in the Pretoria Supreme Court

A man, who said he was Strydom's friend, yesterday threatened reporters when he said: "I will knock all those reporters off their thrones"

Mrs Daphne Strydom said yesterday threatening calls had been received and that was the reason why, last week, she had left court via a back door.

Mr Wim Cornelius of the Strydom defence team confirmed receiving threats which were being taken seriously

Mrs Strydom was last week surrounded by members of the Afrikaner Weerstandsbeweging's Aquila bodyguard. The AWB men were still in evidence, but in smaller numbers yesterday

The Star's Pretoria Bureau and other newspapers were telephoned last week by a man claiming to be a former "reccé" who said that former soldiers and policemen were determined to take action against people on the political Right and Left

The man, who refused to be named, promised early action and specifically named Strydom "and his friends" as being a threat to stability

● See Page 3.

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The case continues today

Strydom 'a borderline case'

PRETORIA - Mass murderer Barend Strydom had so many personality disorders that he could be placed "on the border between normal and abnormal", a clinical psychologist said yesterday

Dr J A K Erasmus, for the defence, told the Pretoria Supreme Court that he could not, however, say whether Strydom was completely normal - "and I cannot say whether he is completely abnormal"

Strydom was a perfectionist, and planned the Strydom Square murders with the same meticulous care as had tried to plan his life, Erasmus said

Strydom did not believe he had committed any crime, and believed that his actions had been "those of a soldier" because "SA is in a state of war" His political outlook was "rigid" and "naive".

Sought affection

His own identity was vague, and he had to find it in politics. Psychometric tests had shown that Strydom had an IQ of 116, an animosity rating of 10 (the SA average is 4,8), much suppressed aggression, entered human relationships on an intellectu-

al level rather than an emotional level, and tended to be aggressive towards women

He was also a suspicious person who sought affection

Strydom had a poor perception of reality He had identified so strongly with his father that he had very little of his own personality

Strydom exhibited defective thinking, such as seeing the ANC as a front for the Broederbond

"The crime is explicable on the basis of his personality," Erasmus said

Erasmus also told the court he found it strange that Strydom asked him whether he would get his gun back If he was ever freed Strydom should know as a former policeman that he would not be considered fit to carry a gun

Strydom smiled and slowly shook his head, as though he could not understand the rationale of this

Erasmus said the Wit Wolwe organisation was probably a "flight of fantasy" to hide deep-seated feelings of inferiority Its fabrication could also point to loneliness - Sapa

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MD9184

SADF to spend R43m on base

Editor in court today

6/10/87 23/5/87
BUSINESS DAY editor Ken Owen is required to give evidence before a secret inquisition today on the murder of four team leaders, in spite of his request that the Section 205 inquiry should be a public hearing.

Owen has been called to give evidence before a Johannesburg magistrate following the publication of a special report in Business Day on the killing of four Western Holdings team leaders three years ago.

The killing of the four miners was witnessed by hundreds of people, but no one was charged for their murder.

Business Day's legal adviser said last night the prosecution had indicated they intended to ask that the inquiry take place behind closed doors. The legal adviser has been instructed to argue for an open and public hearing.

10 mine killing inquiry tapes missing

OFFICIAL tape recordings of the Bregman inquiry, which could contain at least three witnesses' accounts identifying the alleged murderers of four Western Holdings mine team leaders in July 1986, were taken by police from the mine on Friday

But 10 of a total of 43 tapes recorded during the 13-day Bregman inquiry in August 1986 were not among those found in a store room at Western Holdings last week, an Anglo American spokesman said yesterday

It was not known where the 10 missing tapes were, she said

A Welkom police spokesman would not confirm yesterday that 33 tapes,

RIAAN SMIT

containing the bulk of 66 hours of evidence heard during the open inquiry, had been handed over to police on Friday

Notes of the three witnesses' evidence taken during the inquiry were released to Business Day two weeks ago after the failure of repeated attempts to obtain the tapes from Anglo, a lawyer representing the National Union of Mineworkers, and the recording company in Bloemfontein.

The witnesses' evidence comprises a

maximum of four tapes. The Anglo spokesman could not say whether the four tapes were among the 10 missing tapes

Police told Business Day in April they were satisfied the tapes of the inquiry proceedings did not contain possible leads to solve the four executions in the arena of the hostel at No 6 Shaft on June 12 and 13 1986

When questioned 10 days ago about the progress of the police investigation into the executions, Welkom police liaison officer Maj Johan Fouché told Business Day "You know what the black man is like. He does not talk to you. It is in his tradition"

MINISTER REJECTS STRYDOM CENSURE

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MINISTER of Justice Mr Kobie Coetsee yesterday rejected Mrs Helen Suzman's motion of censure against Supreme Court judge Mr Justice J J Strydom, warning that justice would not be served if Parliament acted as a higher court.

Suzman's "remedy" is "altogether wrong, inappropriate, ill-conceived, will create a precedent and will detract from Parliament and legal dispensation alike"

The motion was also strongly opposed by the Conservative Party.

Evil

"It will be an evil day if a judge is to fear every time he passes a sentence that the next morning he may read in the newspaper that the honourable member for Houghton proposes to censure him. That will be downright intimidation and interference with the judiciary," said Coetsee.

He said that, without defending the sentence in the Leonard and Vorster

the com" was that it was the first time a white man — Vorster, one of the accused — "is to work for five years to support a black woman" If he were jailed, "he would have experienced a lesser degree of humiliation" While one could argue the amount of compensation — R130 a month for five years — was inadequate, the principle of compensation could not be faulted

Lenient

He challenged the DP to say whether it would agree with a proposal to empower the attorney general to appeal against sentences if he considered them too lenient

Interjecting, Mr Harry Schwarz (DP, Yeoville) asked "If you had that power, would you have recommended a review of this sentence?"

Coetsee "Yes"

Mr Coetsee responded that it was not parliament's duty to serve as a higher court

Mr Ray Swart (DP, Berea) said there had been widespread public

case, adding "But the judge should not be allowed to escape public indignation. Parliament itself must make its feelings known. This is not a motion for impeachment, but of censure. In this case it is more than justified because in this case Judge Strydom has tarnished the reputation of the court

"Honourable members who vote against this motion are perpetrating a disservice to Parliament and the courts of justice by giving the green light to Judge Strydom in continuing on his merry way in handing down his judgments," said Suzman

PLEA NOT TO HANG REFUSED

252
Sowe fan
24/5/89

AN urgent application for a stay of execution by a political activist sentenced to death for the necklace murder of a policeman in 1986, was dismissed in the Pretoria Supreme Court yesterday.

The application was brought by Sibusiso Zanele Masuku, who, together with Oupa Josiah Mbonani were due to hang this morning

Those men were due to be executed together with another activist Anton Koen. Masuku's application was brought by

By MONK NKOMO

Advocate De Wet Marais assisted by Nano Matlala

Mr Acting Justice Human dismissed the application which called for further investigation after one of the State witnesses allegedly confessed to having given false evidence during the trial

"This is an exercise in futility", the judge said. Leave to appeal before a full bench was refused.

A prayer service for seven men due to be hanged this week was held at St Albans Cathedral in Pretoria at 1pm yesterday. The four who are due to be executed tomorrow are Abraham Mngomezulu, Simon Mbatha, Patrick Msomi and James Cohen.

Among the people who attended the service was Xolani Moses

Stuurman (29), of KwaNobuhle township, Uitenhage who was released from death row on Monday morning

Stuurman spent 15 months in the death cell after being convicted of murdering Monwabisi Reginald Fananyo, an alleged police informer in 1985. Interviewed yesterday Stuurman said although he was happy to be freed "my fellow comrades are dying in there almost every day"

Stuurman said he was informed by a prison official about 110am on Monday that his application appealing against the conviction and sentence had been successful.

"I phoned my parents this morning to inform them that I have been freed and that I am on my way home", Stuurman said

Strydom — no remorse

BY ALINAH DUBE

TWO welfare officers and a psychologist yesterday told a Pretoria Supreme Court judge that mass murderer Barend Strydom (23) was proud of the crimes he is charged with and had shown no remorse.

The three were called by the State to give evidence to determine what drove the AWB member and former policeman to gun down innocent black people late last year. Evidence for mitigation of sentence is being led before Mr Justice Harms and two assessors.

Strydom has been found guilty of the murder of eight people and attempting to murder 16 others.

The murderer said his actions were meant to attract attention and to show the African National Congress that his group, the White Wolves, meant business. A senior clinical psychologist at the Weskoppies Hospital, Professor Abraham Coetzee, testified that

Strydom had an eccentric personality. He defined the convicted killer as a person who did not follow the norms of society.

He said although he regarded Strydom as someone who fantasised a lot, he was not mentally deranged. He said that Strydom had his "own style" of doing things but that his reasoning was within the borders of being normal.

Mrs Wilma Lemmer, a welfare officer, testified that the accused's intention to massacre black people was a means to start a war. She said although Strydom would not say he felt no remorse, he pointed out that he would kill again if

DEAD BLACK CAT

• From page 1

Church Square, where Fick also has his office.

A message from the "Wit Wolwe" was scribbled on a birthday card addressed to the prosecutor and said, in Afrikaans, "Your day has come."

The parcel was found by a clerk on the stairs of the AG's office, who said the police were called in as it was a "suspicious looking box, which could have been a bomb."

"I cut the card off which was addressed to Mr Fick, but did not open the parcel. I was told by police that it contained a dead black cat," the clerk said.

Head of Pretoria Murder and Robbery Squad Colonel "Suiker" Brits, confirmed the incident was being investigated, adding that the story was "not appropriate at this stage."

Meanwhile journalists and mass killer Barend Hendrik Strydom's step-mother have received death threats during the sensational trial in the Pretoria Supreme Court.

A man, who said he was Strydom's friend, on Monday threatened reporters when he said "I will knock all those reporters off their feet."

He did not elaborate but his remark was taken by journalists to be a threat.

Mrs Daphne Strydom said threatening calls had been received and that was the reason why, last week, she had left the court precincts via a back door.

Mr Wim Cornelius, a member of the Strydom defence team, confirmed that threats had been received and were being taken seriously.

Mrs Strydom was last week continually surrounded by members of the Afrikaner Weerstandsbeweging's Aquila bodyguard movement.

he had a chance. Another welfare officer, Mrs Elizabeth Smith, also testified for the State yesterday. She

said Strydom was a loner and was very "long-winded" in his description of events (Proceeding)

Barend Strydom



252

SOWETAN

Building the Nation

WEDNESDAY MAY 24 1989

LATE FINAL

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Bizarre death threat to Strydom case prosecutor

BLAGK CAT DRAVA

252

A BIZARRE death threat in the form of a parcel containing a dead black cat was sent to the State prosecutor in the "Wit Wolf" trial, Mr Paul Fick.

Fick, who is being escorted daily by the police to and from the Pretoria Supreme Court where Barend Hendrik Strydom was last week convicted, confirmed the incident yesterday

The parcel was left on the steps of the Attorney General's office on

● To Page 2

SOWETAN Reporter



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MANNIE SOE JEWELLERS

HOUSE OF ASSEMBLY — For nearly an hour yesterday it seemed as if government members were determined to treat Helen Suzman with all the respect due to a corpse, a person who had stuck thorns in their side for 36 years but who now, in view of her imminent political demise, should be afforded a tolerant silence

It was her last parliamentary debate

Justice lacking

She came out fighting (which is the only way she knows how to, especially when taking up the case of the underdog — in this instance a black man beaten to death by two farmers who got off with suspended prison sentences), but it takes two to tango, even with a livid 71-year-old woman

Justice Minister Kobie Coetsee himself set the tone, conceding he would have appealed against the lightness of the sentences had he had the power to do so, but in the next breath criticising the member for Houghton's attempt to have the judge censured

It must have seemed to Mr Coetsee a safe way to remain on amicable terms with Mrs Suzman on what, after all, was a sentimental occasion. He has more than once expressed his admiration for her. She in turn, only a few weeks ago, described him, compared with 40 years of justice ministers, as "the best of the bunch". Praise indeed, even if (her words) that wasn't saying much

Then Harry Schwarz rose to speak, and suddenly everybody knew they were in a real debate and not a funeral procession. You could almost hear relieved government members priming their guns

Helen would be going out with a bang, after all

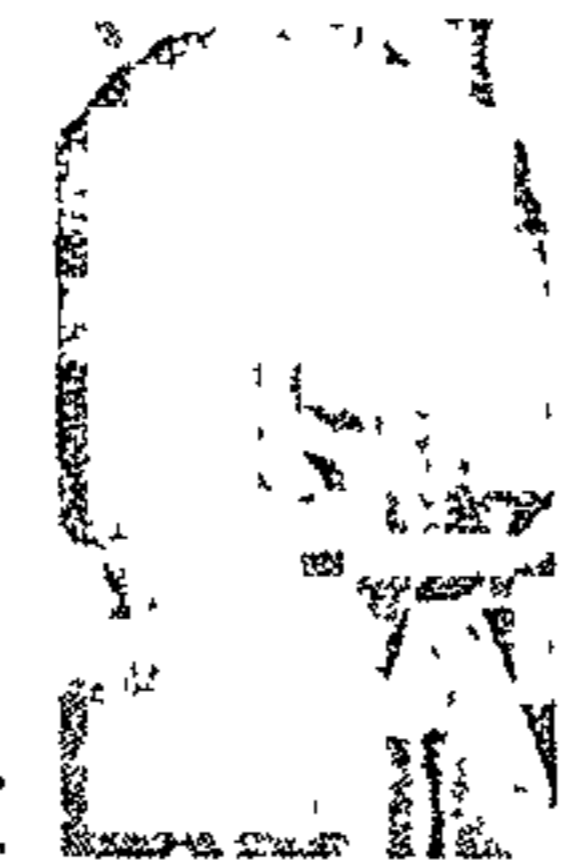
"Whether that man was white or black is irrelevant," cried the member for Yeoville passionately. "Justice is colour-blind and our country won't tolerate that

Helen Suzman bows out with a bang



Notes in the House

by JOHN SCOTT



Mrs Helen Suzman Mr Kobie Coetsee

kind of behaviour"

Jacobus Delport of Sundays River now clearly felt unconstrained by sentimental niceties, presuming he had them in the first place.

"I question the motive behind this motion," he challenged.

"What's the motive? Say what it is," shouted Mr Schwarz

At this point Andre Fourie of Turffontein asked the Chairman if Mr Schwarz were allowed to call a member a coward

"Yes, I said if he won't state the motive he's a coward," ad-

mitted Mr Schwarz

Now there was one point of order after another, when Democratic Party members decided Dr Delport was getting away with references to other court cases while Mrs Suzman had been prohibited from doing so

"The motive for this motion cannot be other than blindly to bring South Africa's judicial system into disrepute," said Dr Delport "And as for the member for Houghton, this was her final disservice to South Africa"

That was how Nationalists used to talk in the old days Mrs Suzman must have felt 15 years younger

There was uproar in the Democratic Party benches

"A disgraceful performance," they shouted.

John Malcomess of PE Central rose to question a member's right to accuse another of disservice to South Africa

"A sick mind," called Mr Schwarz

Mrs Suzman announced she wasn't even going to reply to Dr Delport, which took care of him. Instead she turned her attention on the minister who was the best of the bunch. Perhaps to make amends for his party colleague, he put reasonable-sounding questions across the floor

Last word

Would the DP support him if he gave the Attorney-General the power to review inappropriate sentences? he asked

"No," she replied

"Why not?"

"Because we don't trust you, that's why"

Any more questions?

"I say it's members who vote against this motion who are perpetrating a disservice — not only to Parliament but to the courts of justice in South Africa," she declared "It enables Judge Strydom to carry on his merry way, handing down racist judgments."

It was the last word. And, fittingly, South Africa's grand lady of Parliament had it.

CAPL- Tink 29/5/89 252

Judge censure bid

Political Staff

A MOTION censuring Mr Justice J J Strydom for imposing sentences on two men at Louis Trichardt which were "outrageously insufficient as to amount to a gross perversion of the law" was defeated in the Assembly yesterday.

Both the National Party and the Conservative Party voted against the motion.

It was the first time since Union in 1910 that such a motion had been debated in the House of Assembly

Introducing the motion, Mrs Helen Suzman, making her final speech in the House, said that the case arose from the death of Mr Erick Sambo, who

had been "literally beaten to death" by Jacobus Vorster and Petrus Leonard

The assault, she said, had lasted two days

Vorster had pleaded guilty to culpable homicide and Leonard to common assault — these pleas had been accepted by the prosecutor

Mr Justice Strydom had sentenced Vorster to five years' imprisonment, suspended for five years, and instructed him to pay the dead man's widow R130 a month for five years.

He was also fined R3 000 (or 12 months), the fine to be paid in equal instalments over 12 months.

Leonard was fined R500 (or three months)

Mrs Suzman said the inadequacy of the sentence had

been criticised by the Johannesburg Bar Council and in the official attorneys' journal De Rebus.

Mrs Suzman said that it might well be asked whether Mr Justice Strydom should ever have been appointed to the bench, asking whether he had adhered to the oath he had sworn "to administer justice to all persons alike without fear, favour or prejudice, and as the circumstances of any particular case require".

Replying to Mrs Suzman, the Minister of Justice, Mr Kobie Coetsee, said he would have appealed against the sentences imposed by the judge if he had had the power to do so.

He proposed an amendment

to the motion, effectively scrapping it, on the grounds that Parliament should not act as a court of appeal.

Mr Coetsee said that while he did not hold a brief for any particular judge, he did hold one for the judiciary as a whole and Parliament should not lose sight of the fact that the administration of justice represented the third leg of government and should therefore have a clear understanding of its rights and duties

It would, he said, be an evil day when each time a judge passed a sentence, he were to read in the newspapers the next day that Mrs Suzman was going to propose a motion of censure against him

This would amount to intimidation of the judiciary.

tion of local ...
Urgent appeal against execution of 3 fails

PRETORIA. — An urgent application by Lawyers for Human Rights (LHR) to stay the execution of three men scheduled for today was yesterday refused by the Pretoria Supreme Court. An advocate would consult with an advocate to establish whether the law provided for an appeal to be lodged with the full bench of the Pretoria Supreme Court.

Two of the men, convicted of necklacing a policeman in 1986, are Oupa Josias Mbonane and Sibusiso Senele Masuku, while the third is Anton Koen, convicted in 1988 of the murder of an elderly woman. A spokesman said LHR

Four others due to be executed tomorrow — Simon Mbatha, Abraham Mngomezulu, Patrick Mosomi and James Henry Cohen — had exhausted all their remedies, but that last-minute efforts were being made for a stay of execution, he said. — Sapa

Apr 24 1989 252

Bomber has renounced violence, says mom

Own Correspondent

DURBAN — The Magoo's Bar bomber, Robert McBride, has renounced violence in his petition for clemency to the State President, Mr P W Botha, according to his mother, Mrs Doris McBride.

She said her son had expressed remorse and regret over the terror attacks he carried out Durban, including the tar bomb which claimed three lives on the beachfront and for which he received a triple death sentence in 1987.

Mrs McBride also said she

was grateful to the State for giving her son permission to get married on May 10 in the Pretoria Central Prison.

She said some people in jail had to wait many years to get married. Her son and Paula (the couple have previously asked that her maiden name not be disclosed) sought permission after deciding to get married during August last year.

The application was handled quickly and humanely, she said.

"I am thankful to the State for giving us the chance of having some happiness I am very

happy that Robert married Paula. We cannot talk about him without mentioning her, especially since she has been with him daily since he was sent to Pretoria Central Prison.

"She is an excellent girl and we love her dearly," said Mrs McBride. She said the couple met in Durban.

Mrs McBride said she had been informed on Sunday night that the couple were married.

Meanwhile, the family are now waiting anxiously for a reply to McBride's plea for clemency from the State President.

Community

mentary boy, the

Mar 24/51 87

Experts disagree about mental state

Hot debate over sanity of Strydom

By Norman Chandler,
Pretoria Bureau

The decisive battle to establish whether mass murderer Barend Hendrik Strydom was sane or not when he murdered eight people and tried to kill a further 16 last November brought a dramatic confrontation between expert witnesses in the Pretoria Supreme Court yesterday

The defence's Professor Johan Erasmus says Strydom is a "borderline" case, with the emphasis on him having been abnormal at the time of his rampage of terror, while the State's Dr Abraham Coetzee says the accused was "well within the parameters of normality"

Dr Coetzee added "I classify him as normal . . . eccentric but normal My tests say to me there is nothing wrong with this man."

Both expert witnesses took the stand yesterday Also giving evidence were two community workers, one of whom told the court that Strydom was "definitely not certifiable" judging from evaluation tests she had performed

Strydom, 23-year-old former policeman, was found guilty last week by Mr Justice Harms and two assessors of having carried out the crimes in Pretoria on November 15 and a week earlier at a squatter camp near De Deur, south of Johannesburg.

Slanging match

Testifying in mitigation yesterday, top clinical psychologist Professor Johan Erasmus, of the University of Pretoria, was asked by Mr Paul Fick, SC, whether the essence of his evidence was "anything is possible" It set the scene for what at times amounted to a slanging match between legal representatives

Mr Fick questioned him on whether Strydom held Nazi saboteur Robey Leibbrandt and Afri-



Barend Hendrik Strydom . . .
"not influenced by group"

kaner rebel Jopie Fourie to be heroes

Professor Erasmus conceded that it was possible, and Mr Fick then asked "Do you agree with me that anything is possible and that that is the sum total of your evidence?" (the professor was on the witness stand all day on Monday)

Professor Erasmus replied "No, I don't"

Professor Erasmus agreed with Mr Fick that Strydom's life was centred on politics although Strydom did not envisage a formal political future for himself.

Expert witness Dr Coetzee described Strydom in his evidence as being "slightly paranoid, but nothing definite" and that evaluation tests had indicated he functioned well on an intellectual plane

Dr Coetzee, head of psychology at Weskoppies Hospital, Pretoria, said he did not think Strydom had a personality problem and also did not think, as claimed by Professor Erasmus, that he would have a personality breakdown within two years.

He told the court in support of his argument that Strydom was normal "Strydom said to me in an interview that he could get the

death sentence (for the crimes), or get sick and die, or be found guilty by the court He also said he could be released, or else a war could break out"

Strydom had also said that if found guilty, he would receive a pardon from the State President

"He knew well what the dangers were (to him) This viewpoint of his is not pathological, but is within the normal"

Dr Coetzee said that, in his opinion, Strydom was at the time of the killings in full control of his intentions.

He said that what Strydom had done was what he believed in, and that it had been important for him in terms of ideology

Mr Justice Harms asked whether Strydom's identity with a group (a reference to right-wing organisations) could have influenced his ideology and his thinking

Dr Coetzee "In terms of some groups, there may be people who possibly think like him, while there are others who definitely do not"

Mass hysteria

Mr Justice Harms "Do you see that if a group looks inward at itself, it is right Those looking in from the outside see something a bit strange?"

Dr Coetzee "Yes, that is correct"

Asked by Mr Engelbrecht what effect a group would have had on Strydom, Dr Coetzee said he could not give a scientific answer to the question

Mr Justice Harms "Is it perhaps mass hysteria?"

Dr Coetzee "The group's handling of a matter could have a role on how it affects an individual member The group has a specific role, as a mass The accused was not part of such a group (massa)."

(Proceeding)

Suzman's motion to censure judge rejected

Star 4/15/59 252

The Minister of Justice, Mr Kobie Coetsee, yesterday rejected Mrs Helen Suzman's motion of censure against Supreme Court Judge Mr Justice J J Strydom, warning that justice would not be served if Parliament acted as a higher court

The veteran Houghton MP, who is retiring after 36 years in Parliament, argued the first motion of censure to be brought against a judge since 1910

Mrs Suzman, making her final speech in Parliament, argued that Judge Strydom should be censured for the sentences passed on Louis Trichardt farmer Jacobus Vorster who beat a labourer, Mr Erick Sambo, to death

Mr Justice Strydom sentenced Vorster to five years wholly suspended for five years, to a fine

of R3 000 or 12 months in prison, and was instructed to pay R130 a month to Mr Sambo's widow and children for five years

Mrs Suzman also mentioned other cases tried by Mr Justice Strydom "It may well be asked whether this man should ever, indeed, have been appointed to the Bench"

Responding, Mr Coetsee said "It will be an evil day if a judge is to fear every time he passes a sentence that the next morning he may read in the newspaper the Honourable Member for Houghton proposes to censure him That will be downright intimidation and interference"

Speaking at the end of the debate, Mrs Suzman said "MPs who vote against this motion are perpetrating a disservice to Parliament and the courts"

May 24 1989

Capital punishment protesters removed from outside prison

Two hanged, two get reprieve

By Norman Chandler, Pretoria Bureau

Star 24/5/89

252

A group of protesters opposed to capital punishment were removed from outside the Pretoria Central Prison early today soon after two men were hanged.

In a further development two other men on Death Row were given an 11th-hour stay of execution in the Pretoria Supreme Court late last night.

Those hanged today were murderers Anton Koen and James Cohen

Koen (21) was found guilty on May 30 last year and was sentenced to death on June for a murder and robbery, with aggravating circumstances, in Ladysmith. The victim was Mrs Anna Susanne Hut-ton (75).

Cohen was convicted of the murder on June 5 1987 in Newcastle of Mr Thomas Johannes Bolton (57).

The two men given a stay of execution at 9 pm yesterday in an application brought by the Lawyer for Human Rights organisation were Oupa Josias Mbonane (20) and Sibusiso Senele Masuku (22)

Constable 'necklaced'

They were convicted of the murder of Mr Madimetsa Jonas Lehutso (32), a South African Police constable

Constable Lehutso was "necklaced" on February 21 1986. Six protesters outside the prison stood holding placards saying "Clemency for Masuku", and "Don't die with our brothers".

The protesters stood outside the prison from just before 7 am until police removed them at about 7 30 am

Initially there was confusion over whether the group of protesters — who refused to give their names — had been arrested or not

It was later found that they had been removed from the scene by police, but not arrested

Ten anti-apartheid organisations petitioned the State President at the Union Buildings yesterday and demonstrated against the execu-tions of Masuku and Mbonane

The leader of the delegation, Dr Nico Smith of Mamelodi, said a Union Buildings official, Mr Botha, had promised to telefax the contents of the petitions to the State President in Cape Town.

Released from death row

Present at the Union Building yesterday were representatives of the Black Sash, Nusas, Save the Patriots Campaign, SA Council of Churches, families of the condemned men, the Komonoma organisa-tion and the International Federation of Mothers

With the delegation was Mr Xolani Moses Stuurman (29) who was released yesterday morning from his death row cell in Pretoria Central prison after 15 months

Mr Stuurman told reporters he had won his appeal in the Appel-late Court in Bloemfontein on Monday after being convicted for the necklace murder of Mr Mnwabisi Reginald Fanayo

After the presentation yesterday, the more than 50 people who chanted slogans and sang freedom songs outside the Union Building moved to St Albans Cathedral for a prayer service for clemency.

At Wits University yesterday, speakers called for abolition of the death penalty, calling it an infringement of human rights

LRH national director Mr Brian Currin said the death penalty was the ultimate cruel and degrading punishment, and violated the right to life. The penalty was often used as a way to silence opposi-tion or racial ethnic, religious and underprivileged groups

Mrs Paula McBride, wife of convicted ANC bomber Robert McBride, now under sentence of death, was given a standing ovation when she described the horror experienced by death row prisoners

State drops terrorism charges

Star 2/15/84 By Jo-Anne Collinge

(252)

The State yesterday dropped its terrorism case against South African Youth Congress president Mr Peter Mokaba (30) after keeping him in jail as a detainee and awaiting-trial prisoner for more than 14 months

Mr Mokaba stepped from the dock in Pietersburg Regional Court and sat among supporters in the public gallery as his two co-accused, Malebane Elifas Tswai (28) and Sam Thabo Masemola (29), pleaded to the charges

After the hearing Mr Mokaba said he feared he might pay for his freedom with his life

Mr Mokaba said he had always protested that he was innocent of the allegations made against him — that he had acted as a "supervisor" for the ANC and had instructed Tswai to transfer weapons from one hiding place to another, had supplied handguns to someone and had instructed

this person to train other people in the use thereof, and had given Masemola limpet mines to hide

Mr Mokaba was held incommunicado for several months in terms of section 29 of the Internal Security Act. During this time, it was alleged in an urgent application to the Pretoria Supreme Court, he was assaulted by police, threatened with death and kept manacled for days on end

Tswai pleaded guilty to participating in the activities of the banned ANC, by acting as a courier for it and by assisting one of its members to transfer some AK-47 assault rifles from one storage place to another. Masemola pleaded guilty to transgressing the Explosives Act by burying a parcel containing two limpet mines

Both were found guilty on these counts. They were discharged on all other counts, including the terrorism charge

Sentence will be passed on Friday

7.1
1.2

7.1

7.1

Editor Owen asks for public inquiry

Business Day editor Mr Ken Owen appeared before a Johannesburg magistrate yesterday after receiving a subpoena ordering him to give information regarding murders at the Western Holdings Mine in 1986.

It followed after articles which appeared in *Business Day* in which Mr Owen attacked the police for not solving the case. The magistrate ordered that the procedures be held in camera because it was an inquiry and not a court hearing. "The information given goes into a police file and is part of police procedure," he said. Mr D Dison, for Mr Owen, said his client wanted to be questioned in public and did not want to be part of a secret inquiry. The magistrate found that the grounds for which a review could be granted were limited and refused an application for an adjournment.

RCW 28/1/84 (252)

Two face gallows for Upington mob death

CAPE TOWN — A judge yesterday ruled that no extenuating circumstances could be found for two of 25 people facing the gallows for killing a policeman

Kenneth Khumalo (32), a former mayor of the Paballelo township outside Upington, and Tros Gubula (30) were convicted of murder by Mr Justice Jan Basson in April 1988 along with 23 other Paballelo residents

Defence lawyer Mr Anton Lubowski said the judge had effectively sentenced the two to death

NO DISCRETION

"If he found no extenuating circumstances he has no discretion according to the law and is bound to sentence them to death," he said

The 25 are due to be sentenced next week

The defence had called expert witnesses to testify the 25 were strongly influenced by the police feargassing of protesters in the township just before the policeman was hacked and kicked to death by a mob.

CONTROVERSY

"It is difficult to believe that people could be provoked by the teargas. Through their actions they had made the use of teargas necessary," Judge Basson said

The trial has stirred controversy worldwide because several of the defendants were convicted on the doctrine of common purpose — as were the "Sharpeville Six", whose death sentences were commuted last year — Reuter

Hangings protested

252
25/5/67
SEVEN of the eight people held for questioning after a protest outside the Pretoria Supreme the Pretoria Central Prison yesterday morning have been charged and will appear in court "soon," a police spokesman said.

The spokesman said the seven — five men and the seven — five women and two men — had been charged with attending an unlawful public gathering

He added the eighth person held for questioning had also been released — Sapa

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SOWETAN Thursday May 25 1989

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TWO WHITE MEN HANGED

TWO white men were hanged in Pretoria yesterday morning — and two stays of execution were obtained on behalf of two political activists due to have been executed yesterday.

A Lawyers for Human Rights spokesman in Pretoria said one of the men executed yesterday, James Henry Cohen, was due to have been hanged today but had apparently asked the date to be brought forward.

The second man hanged yesterday was Anton Koen, convicted and sentenced in June 1988 in Port Elizabeth for the death of an elderly woman.

The stays of execution were obtained by the LHR for Oupa Josias Mbonani and Sibusiso Senele Masuku, who were convicted and sentenced for the

necklace murder of a black policeman in 1987 in Soshanguve.

In a statement issued yesterday, LHR national director Mr Brian Currin said the stays of execution were issued on Tuesday night by the Minister of Justice, Mr Kobie Coetzee.

He said that in the course of the LHR's monitoring programme, the organisation was presented with fresh evidence which it felt questioned the court's finding on Masuku's participation in the crime.

"We regard this as a significant victory for justice and human rights," Currin said, adding the spirit in which both the Chief Justice and the Minister of Justice attended to the counsel's urgent representations was commendable.

STRYDOM SENTENCE TODAY

Sowetan 25/5/89

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MRS Maria Moalusi faced with funeral expenses for two family members.

SENTENCE in the "Wit Wolf" Barend Strydom mass murder case will be passed today at 10am, Mr Justice Louis Harms told the Pretoria Supreme Court yesterday.

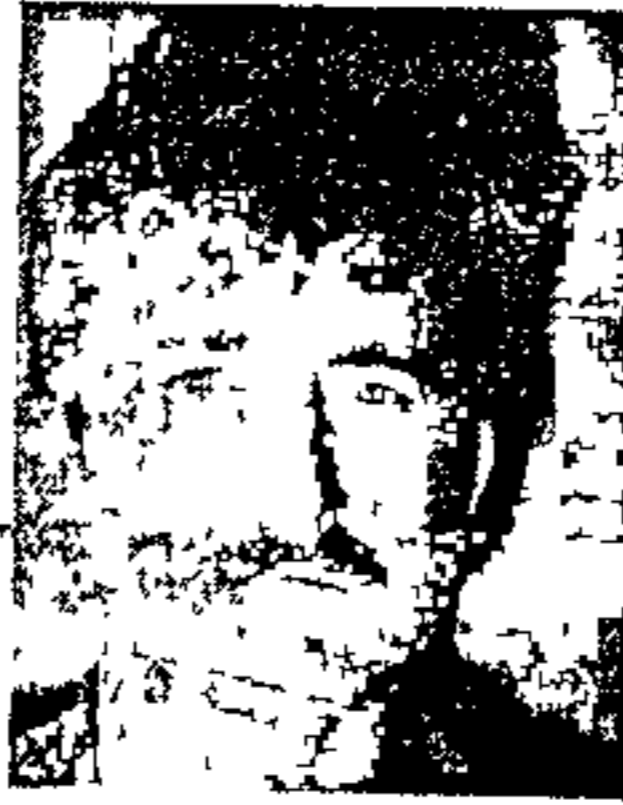
He was speaking immediately after the counsels for the defence and the State concluded their arguments on mitigation.

The court would be compelled to pass the death sentence, following Strydom's conviction of eight murder and 16 attempted murder counts, unless it identified extenuating circumstances.

State counsel Mr Paul Fick said yesterday all the factors indicated that there were no such circumstances.

Defence counsel Mr Johan Engelbrecht told Justice Harms and two assessors there was "an overwhelming indication that there were factors and circumstances that influenced the accused in such a manner that his conduct should be viewed with lessened blameworthiness".

Fick said Strydom's



BAREND STRYDOM

frustration at the slow pace of political developments could not be acceptable as an extenuating circumstance.

Strydom had been in the police, and was old enough to distinguish between right and wrong.

Not a single psychiatric test had shown that he had been unduly influenced by his father.

Strydom had a will of his own.

"His idea that blacks are not people and that they may be shot at comes from no rightwing

Fick said Strydom's

Sowetan 25/5/89

Strydom

• From Page 1

organisation, but is his own."

Strydom had had feelings of guilt after the shootings.

Fick added the mere existence of a mental abnormality could not be accepted as an extenuating factor — the abnormality should be substantial.

He said the courts ruled in the Harris-Park station bomb blast case and the Robert McBride case that political motives were unacceptable as mitigatory factors.

There were "astounding" similarities between the Strydom and McBride cases, Mr Fick said.

McBride was coloured, also 23, and had also been influenced by his father, but to a much greater degree than Strydom.

McBride had been raised by his father to hate whites, and both McBride and Strydom wanted to initiate wars.

All the factors in the trial pointed to an absence of any extenuating circumstances, he said.

• To Page 2

Protesters held outside prison

CAP TMS 25/5/89 252

PRETORIA — Police detained a group of protesters outside Pretoria Central prison yesterday while two men were being hanged inside

The placard-carrying demonstrators were protesting against capital punishment

The Minister of Justice, Mr Kobie Coetsee, gave one man, Sibusiso Senele Masuku, 22, a last-minute stay of execution

Masuku and his co-accused, Oupa Josias Mbonane, 20, were scheduled to be executed yesterday for the necklace murder of a Soshanguve policeman, Constable M Lehutso, 32

The two men hanged yesterday were Anton Koen and James Henry Cowan

Koen was convicted and sentenced in June 1988 in Port Elizabeth for the death of an old woman

A further three men are scheduled to be hanged today — Sapa

Two look sure to be hanged

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S. M. M. 2. 15/84

A JUDGE ruled that no extenuating circumstances could be found for two of 25 who face the gallows for killing a policeman

Kenneth Khumalo

(32) — a former mayor of Paballelo outside Upington — and Tros Gubula (30) were convicted of murder by Judge Jan Basson in April 1988 along with 23 other Paballelo residents

Information 'was available to police'

Editor gives details on mine murders

Staff Reporter

Information on the 1986 murders at Western Holdings gold mine published by *Business Day* was also available to the police.

This point was made in a newspaper column yesterday by the editor of *Business Day*, Mr Ken Owen, after he was subpoenaed on Tuesday to give evidence before a Johannesburg magistrate on his newspaper's reports.

The magistrate refused *Business Day's* application for a public hearing, upholding the State's submission that the public did not have a right to attend the hearing as it was part of a police investigation.

Mr Owen was subpoenaed following publication of two investigative stories quoting eyewitness accounts of "executions" at Western Holdings in July 1986 and a recent column in which Mr Owen criticised the Minister of Law and Order for the police's failure to solve the crime.

After Mr Owen's appearance in court, two *Business Day* reporters were subpoenaed to furnish police with further information.

According to the newspaper, four mine leaders were executed at No 6 Mine Hostel in front of 2 000 other mineworkers

Yesterday, Mr Owen named the sources for the stories as

- A report compiled by Mr Dan Bregman, SC, in which he named witnesses, who, in turn, named killers. The names were not published in the newspaper "to avoid jeopardising police investigations"

- Several miners present at the murders who were interviewed by a reporter at the mine
- The police themselves

"The newspaper reports were based on the sort of information that the most cursory inquiries by any police officer must have yielded," Mr Owen wrote yesterday.

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SA judiciary 'must be open to all races'

By David Braun,
The Star Bureau

WASHINGTON — The South African judicial system had to be more open to people of all races if it were to play a bigger role in the peaceful solution of the country's problems, Transvaal Supreme Court Judge Mr Justice Richard Goldstone said here yesterday.

He was addressing the Carnegie Endowment for Peace in Washington on the role of the judiciary in the South African state of emergency.

He said if there were to be a peaceful solution in South Africa the law would have to play a substantial role.

Fortunately, South Africa had a tradition of independent courts and judges, but the system would have to be opened more, he said.

ONE BLACK JUDGE

He said "Only one woman has been appointed a judge in the history of the Supreme Court and we have had only one black judge, who served as an acting judge for three months."

The judge said the present system of senior counsels was also limited. Only two non-whites had made it to the rank of SC in South Africa.

Judge Goldstone defended himself and South Africa's judges for taking part in the South African legal system by saying the courts did offer real opportunities for oppressed people to get their rights. The fact that the courts had retained their jurisdiction over certain matters in spite of the state of emergency acted as a brake on the police who knew they might be called upon to justify their actions in court.

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State asks for death, defence pleads for extenuation

Security tightened for sentencing of Strydom

252 SK 25/1/89

A huge security blanket was thrown over central Pretoria today for the sentencing of mass killer Barend Hendrik Strydom

Police barricades were set up on roads leading into Church Square and only peak-hour buses were allowed to enter

From 7 am, people were taking up vantage points on the lawns opposite the Palace of Justice where today Mr Justice Louis Harms, sitting with two assessors, was to sentence Strydom for killing eight people and attempting to murder another 16 last November

The Police Riot Squad, some with dogs, began trucking in earlier than usual during the eight-day trial, described as one of the most sensational to have been heard at the Supreme Court in many years

The security precautions were being taken to prevent trouble immediately after the sentencing of Strydom

Death threats

There were fears that white right-wing groups would take advantage of the event to cause problems with hundreds of black people, many relatives of the dead and injured, who have been milling on the lawns opposite the court building each day of the trial

During the trial, death threats were made to the Strydom family, to the State advocate who is leading the prosecution, Mr Paul Fick, SC, and to journalists covering the trial. A dead black cat was sent to Mr Fick

An unidentified group has also contacted newspapers, saying that it would take action against extremist organisations

Police confirmed this week that they were taking the threats seriously

At the court today, there was again strict control of people entering the building

Everyone was body searched and subjected to x-ray security scans

Journalists were refused entry unless they carried valid 1989 press cards. Radio journalists were also barred if they carried recording equipment into the court

The killer of eight people sat looking pale and drawn when Mr Justice Harms told a packed Pretoria Supreme Court yesterday he would sentence him this morning

The State has asked for the death sentence

The defence has pleaded for the judge, sitting with two assessors, to find extenuating circumstances

Mr Justice Harms told the court yesterday afternoon that he would give his verdict from 10 am today

Mr Johan Engelbrecht, Strydom's counsel, told the Bench yesterday that Strydom had seen the act that he committed last November in central Pretoria and at De Deur as being "on the black enemy"

He added "He regarded whites as being sold out. He sees himself as a soldier in a war situation. He sought, through going to the veld at Heidelberg, solace through the Lord

"He is relatively young. There are factors which should be taken into account. Maybe he did not have the same objectivity as perhaps another person of his age group

"His views were influenced by these factors the influences must be taken into consideration as mitigating or extenuating circumstances"

Mr Engelbrecht argued that Strydom's views were not thought out by

himself but by events in his parents' home

There was overwhelming evidence of the varying factors pertaining to the family household and to the family's attitude about them

Mr Fick said there were no extenuating circumstances

He conceded in his summing up of the State's case that there were background problems, and he said that Professor Johan Erasmus, a clinical psychologist who testified for the defence, had also gained that impression

Mr Fick said it was his clear impression that in evidence given by the accused's father, Mr Nic Strydom, he had been "fighting for his son"

He said Strydom's right-wing background, with its attitude that

blacks were not people and "could be shot as animals", was symptomatic of that effort. But it was "Strydom's own attitude and not necessarily the father's"

Mr Fick said Strydom was found to be mentally normal within the medically defined limits "He is a man who is a perfectionist."

Mr Fick closed the State's case at just after midday after a brief cross-examination of the last defence witness, Dr Henri Olivier.

Dr Olivier said he could not see any signs of a psychotic problem in Strydom. Neurological tests were in "normal limits"

He said Strydom was "in a position to note what he was doing"

Dr Olivier told the court that Strydom, a 23-year-old, former police man, had been quite definite that he was the leader of the Wit Wolwe right-wing organisation.

Dr Olivier said Strydom had told him that the killing of a woman and

wounding of another at De Deur was "done on his own initiative"

Dr Olivier said Strydom saw his actions at Strydom Square, Pretoria, and at a squatter camp at De Deur as propaganda for his organisation

The Wit Wolwe had been formed when Strydom had left the police force "because a few things needed to be done", Dr Olivier quoted Strydom as saying

The ideals of the organisation were to halt communism, promote Christianity and further the ideals of a Boerestaat.

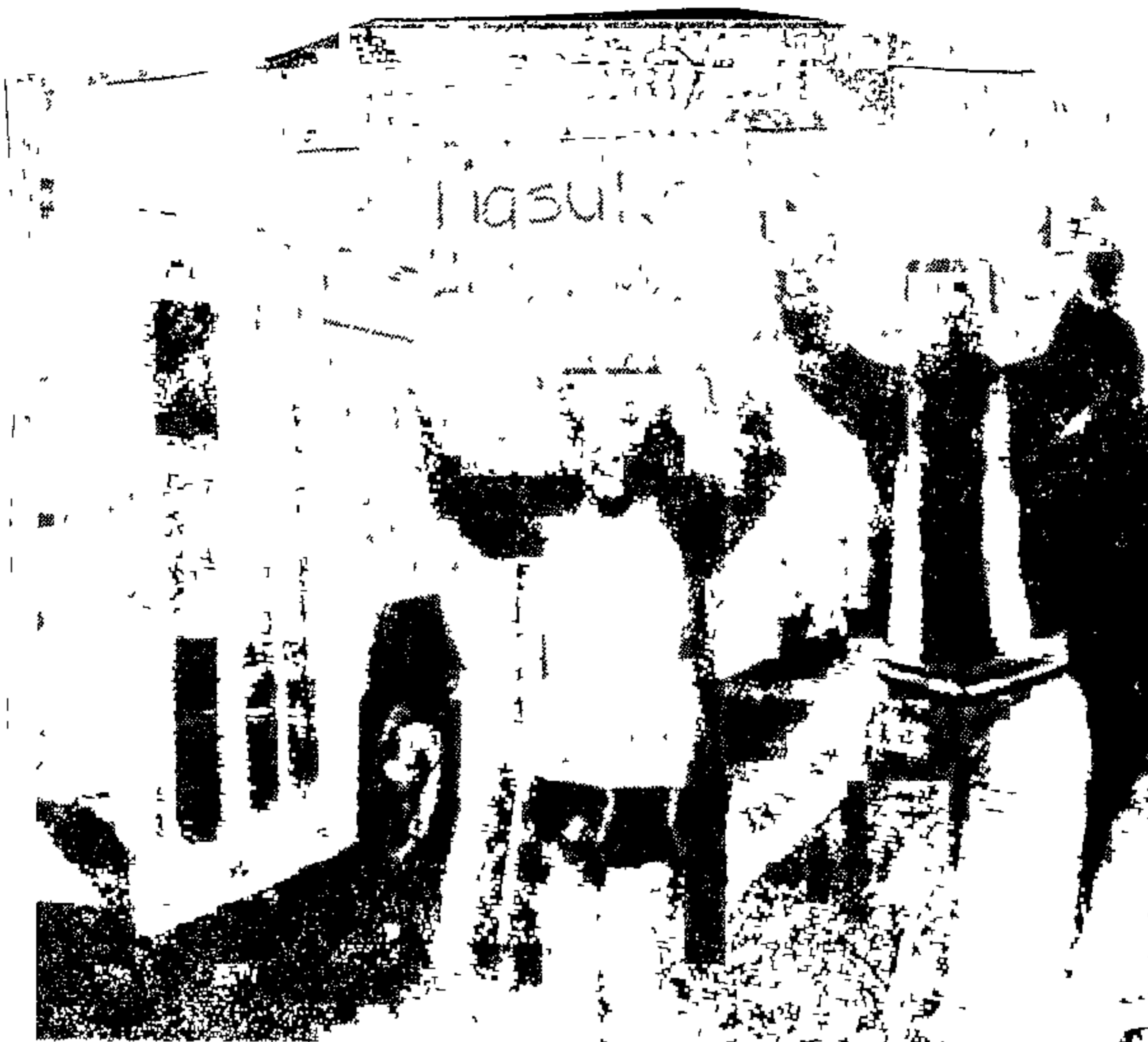
Dr Olivier, reading from a report compiled after 20 hours of extensive investigation into Strydom's attitudes, said Strydom had told him he had not hesitated when he saw black people at Strydom Square

He knew he had shot them, he knew which parts of the body he had struck, "and was very pleased at all times throughout the operation that no whites had been hurt"



Still smiling . . . Mr and Mrs Nic Strydom, the parents of Barend Strydom, leave the Palace of Justice yesterday.

By Norman Chandler,
Pretoria Bureau



Clemency pleas . . . part of the protest held outside Pretoria Central Prison yesterday morning.

Last-minute stay of execution

By Melanie Gosling

The Minister of Justice, Mr Kobie Coetsee, ordered a last-minute stay of execution for convicted murderer Sibusiso Masuku late on Tuesday night after an urgent application was made by Lawyers for Human Rights.

Oupa Josias Mbonani, convicted with Masuku for the murder of a Soshanguve policeman in February last year, automatically received a stay of execution as well, LHR national chairman Mr Brian Currin said yesterday.

Two men were executed at Pretoria Central Prison yesterday. A Department of Justice spokesman said they were Anton Koen, convicted of murder, and James Cohen, sentenced to death for murder and robbery.

Mr Currin described the stays for Masuku and Mbonani as a "significant victory" for justice and human rights.

"The spirit in which both the Chief

Justice and the Minister of Justice attended to counsel's urgent pleas and representations is commendable," Mr Currin said.

Mr Currin said LHR received fresh evidence at the weekend, which questioned the court's finding on Masuku's alleged participation in the crime.

The evidence was handed to Masuku's counsel who lodged an urgent application for a stay of execution pending an application to the State President for leave to lead this fresh evidence.

On Tuesday Mr Justice Human rejected the application, which he described as a "futile exercise".

Said Mr Currin "As a final resort it was decided urgently to petition Chief Justice Corbett and simultaneously to make representations to the Minister of Justice. The papers were telefaxed to the Minister and shortly afterwards he ordered the stay of execution."

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BUSINESS DAY, Thursday, May 25 1989

Stays of execution for two

PRETORIA — Two men were hanged yesterday morning — and two stays of execution were obtained on behalf of two political activists due to have been executed. A Lawyers for Human Rights (LHR) spokesman said one of the men executed, James Henry Cohen, was due to have been hanged today but had apparently asked for the date to be brought forward.

The second man hanged was Anton Koen, convicted and sentenced in June 1988 in Port Elizabeth for the murder of a woman.

The stays of execution were obtained by the LHR for Oupa Josias Mbonane and Sibusiso Senele Mosuku, who were convicted and sentenced for the necklache murder of a policeman in 1987, in Soshanguve — Sapa

SINCE calling Minister of Law and Order Adriaan Vlok rude names a fortnight ago, I have been telephoned or visited by a police general, two brigadiers, a colonel, two lieutenants and a warrant officer bearing a subpoena. The ostensible purpose of all this police activity is to discover where Business Day obtained descriptive information about four murders committed three years ago at Western Holdings gold mine before about 2 000 onlookers.

Business Day's sources for its reports on the murders were three

- Firstly, notes and a report compiled by Dan Bregman SC (and at times an acting judge) soon after the murders, in which he named the witnesses, who in turn named killers. These names were withheld from publication in Business Day in order to avoid jeopardising police investigations.

Tape recordings

Bregman conducted a 13-day public inquiry into disturbances at the mine, in the course of which he gathered voluminous information about the murders. The tape recordings of the evidence lay gathering dust until last week, when they were seized by the police. By then, 10 of 43 tapes were missing.

- Secondly, a number of miners who were present at the time of the murders were produced by the mine management to be interviewed by a reporter at the mine. The mine management also provided an office for the reporter to use for these interviews. They would surely do the same for any policeman.
- The police themselves supplied some details, including the name of a man in prison for a later killing.

Murder inquiry goes behind closed doors

KEN OWEN

In other words, the newspaper reports were based on the sort of information which the most cursory inquiries by any police officer must have yielded. Nevertheless, the police insisted — until I insulted their Minister — that they could find no leads to solve the murders.

This attitude of defeatism evaporated very rapidly once the Minister had been (as the Commissioner of Police put it) belittled, giving way to an extraordinary display of energy and determination.

- A succession of police officers contacted me, demanding to be given information gathered by Business Day. In each case I said the newspaper was unwilling to act as an information-gatherer for the police, but pointed out that the police had the power to subpoena the staff of the newspaper if they wished to do so.
- The Commissioner of Police complained to the Newspaper Press Union that I had offended the terms of the agreement between the SAP and the NPU, and threatened to suspend all ties with Business Day.
- A subpoena was delivered to my office by a warrant officer, supervised by a colonel and a lieutenant, which ordered me to appear before

a magistrate to declare all I knew about the murders. The subpoena contained a warning: "Failure to comply with this order may render you liable to arrest and sentence."

- In court, the prosecutor insisted on a secret inquiry, and an application by my lawyer to have the inquiry held in public was dismissed, so was an application to appeal to the Supreme Court to review that decision. The Press and public were evicted and the hearing proceeded in secret.

South African editors have endured so much prosecution and persecution down the years, they face so many laws and prohibitions, and they are so often convicted for the crime of trying to tell the truth, that they have in the past been dubbed "the criminals in charge of newspapers". So none of this was entirely new to me.

Nevertheless, I left the courtroom utterly bewildered. I cannot remember a more pointless or unnecessary inquisition: why had Business Day reported on this murder? (Well, why not? Is it a crime now to discuss murders in this country?) I trotted out the obvious reply that it was surely a matter of public interest that the police had failed to solve a murder case with 2 000 witnesses.

The inquiry offered me no opportunity to elaborate, if intimidation of potential witnesses to murder is so effective as to defeat the best

efforts of the police, then what law is left to us? Who, then, governs? To whom must one turn if one's child, or parent, or sibling, is murdered? Do we need a different police force — an equivalent of the FBI or Scotland Yard — to handle cases that defeat the SAP?

Nobody asked these questions, but they should be raised — if not by the newspapers then by the Opposition MPs in Parliament. They are serious questions about the condition of the country and the effectiveness of its rulers. A government which cannot enforce the common law is not a government but something in the nature of a set of warlords.

Bewildering

The remaining questions put to me were as bewildering: did I check the work of the reporters? (No, I have staff to do that.) Did we have the names of witnesses to the killings? (Yes, some but not all the names produced by the Bregman inquiry). And so forth.

Then it was all over. I had been asked only what the police could — and should — have asked Bregman and the mine management. Indeed, if they had read the newspaper closely, and with intelligence, they could have learned as much from the published reports as from questioning me.

What was the purpose? Why the secrecy? Why the involvement of a general, two brigadiers, a colonel, two lieutenants and a warrant officer in this long-cold case of murder? I haven't the faintest idea.

But soon afterwards, the police were demanding to question two of Business Day's reporters. The show, it seems, will go on.

Mass-killer Strydom to be sentenced today

BAREND Hendrik Strydom, the smiling mass murderer, will be sentenced in the Pretoria Supreme Court today after being found guilty last Tuesday on eight counts of murder and 16 counts of attempted murder committed in November

Mr Justice Harms, sitting with two assessors, announced this yesterday afternoon after State and defence closed their cases in mitigation of sentence

Since the start of the trial the court has heard evidence from survivors of Strydom's two shooting sprees, which started at the Wheeler's Farm squatter camp at De Deur on the night of November 8, be-

B10427784
DANIEL SIMON
 before his major showdown in central Pretoria on November 15

On November 8, in what was described as a "practice run", Strydom shot dead one woman and wounded another with a 9mm pistol. The court heard he shot the two to see if he was "mentally and physically capable" of shooting black people

Strydom told the court that, after meditation and prayer on a farm near Heidelberg, he did not receive a "sign from God" indicating he should not carry out his plan in Pretoria

After killing seven people and wounding 15 others on November 15, Strydom's 9mm pistol was taken from him in a Struben Street shop by Atteridgeville taxi-driver Simon Mhukondeleki

Police evidence was that Strydom acted normally and expressed regret that the death toll was not higher. He told police he had just shot "kaffirs" and that he was the leader of the Wit Wolwe

Evidence from Pretoria Murder and Robbery chief Col "Suiker" Brits was that, after investigations, he was satisfied the

□ To Page 2

Sentence today

"Wit Wolwe" did not exist. Strydom told the court he would "kill blacks again" if he had another chance and that he did not see his actions as a crime.

Strydom said he started the shootings at Strijdom Square instead of Church Square, where the Delmas treason trial was taking place. He did this to lure police away from the court before making his way to Church Square to "get" Archbishop Desmond Tutu and the Rev Allan Boesak, who were attending the proceedings.

Strydom's father told the court he brought up his son in a climate of far right-wing politics. Strydom Snr, an AWB member, said his son "Hendri" attended right-wing meetings from the age of 15.

He said his son witnessed his mother commit suicide when he was 18 months old and that when he went to live with his

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 □ From Page 1
 grandmother, she had put curlers in his hair and gave him dolls to play with. Strydom Snr also told the court that "whites" were descendants from the Israelites and that blacks were "animals". His son expressed the same sentiments while on the witness stand.

In closing the defence's case yesterday, attorney Johan Engelbrecht pleaded extenuating circumstances, saying Strydom's upbringing and his rigid right-wing political views played a major role in shaping his personality.

In his summary, SC State prosecutor Paul Fick said there were no extenuating circumstances as Strydom had been found normal by two psychologists, a psychiatrist and two social workers

Fick added that Strydom knew he had committed crimes and that he killed the people for "political reasons"

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Business Day reporters subpoenaed

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BUSINESS DAY reporters Riaan Smit and Siphon Ngcobo were subpoenaed on Tuesday to furnish police with information about the public executions of four mine team leaders at Western Holdings gold mine, near Welkom, in July 1986.

The subpoenas were served in terms of Section 205 of the Criminal Procedures Act.

Their articles on May 11 quoted eyewitness accounts of the executions. Three witnesses named alleged murderers during evidence they gave to an inquiry three weeks after the killings.

Business Day Reporter

Police have said they did not attend the inquiry. Last Friday, Western Holdings officials handed police 33 of the 43 tape recordings of evidence made during the 13-day inquiry. Ten of the tapes are inexplicably missing.

The inquiry, by advocate Dan Bregman SC, probed disturbances during the week preceding the deaths during the weekend of July 12 and 13 1986.

● See Page 6

SMALL GASP FROM WIT WOLF

HENDRIK Barend Strydom stood impassively as Mr Justice Harms sent him to the gallows before a packed courtroom

A small gasp was the only sound in the court when the death sentences were imposed

Sowetan 26/5/81

**SOWETAN
Reporter**

Seconds later 23-year-old Strydom sipped a glass of water and quickly left the dock — his father, Mr Nic Strydom and his wife Daphne left sitting in his courtroom, emotionless

While sentence was

being given before a packed courtroom, Strydom often shook his head, disagreeing with what the judge was saying

Filed

Court C was filled with more than an hour before sentencing started — mainly with officials

from the Supreme Court and police, predominantly white — all seats and standing places taken

Strydom's stepmother, Mrs Daphne Strydom was tense, Strydom's father, Nic, sat with his hands clasped in front of him, obviously resigned to the outcome of the trial

Minutes before court started, the accused was led into the dock, wearing a beige suit and light blue shirt, the Vierkleur flag absent from his dress for the first time since the trial began nine days ago

Strydom's lawyers, Mr Wim Cornelius, and defence counsel, Mr Johann Engelbrecht spent several minutes with the accused before sentencing.



Star 15/5/89

Movement towards a post-apartheid society

HELEN GRANGE reports on the quiet, spontaneous change presently occurring in ethnic patterns in Witwatersrand suburbs — an irreversible trend away from apartheid

The irreversible progression towards a post-apartheid South Africa can be witnessed most clearly by the slow "greying" of white suburbs surrounding Johannesburg's inner core, much of which has gone unnoticed while the spotlight remains on Hillbrow and Mayfair

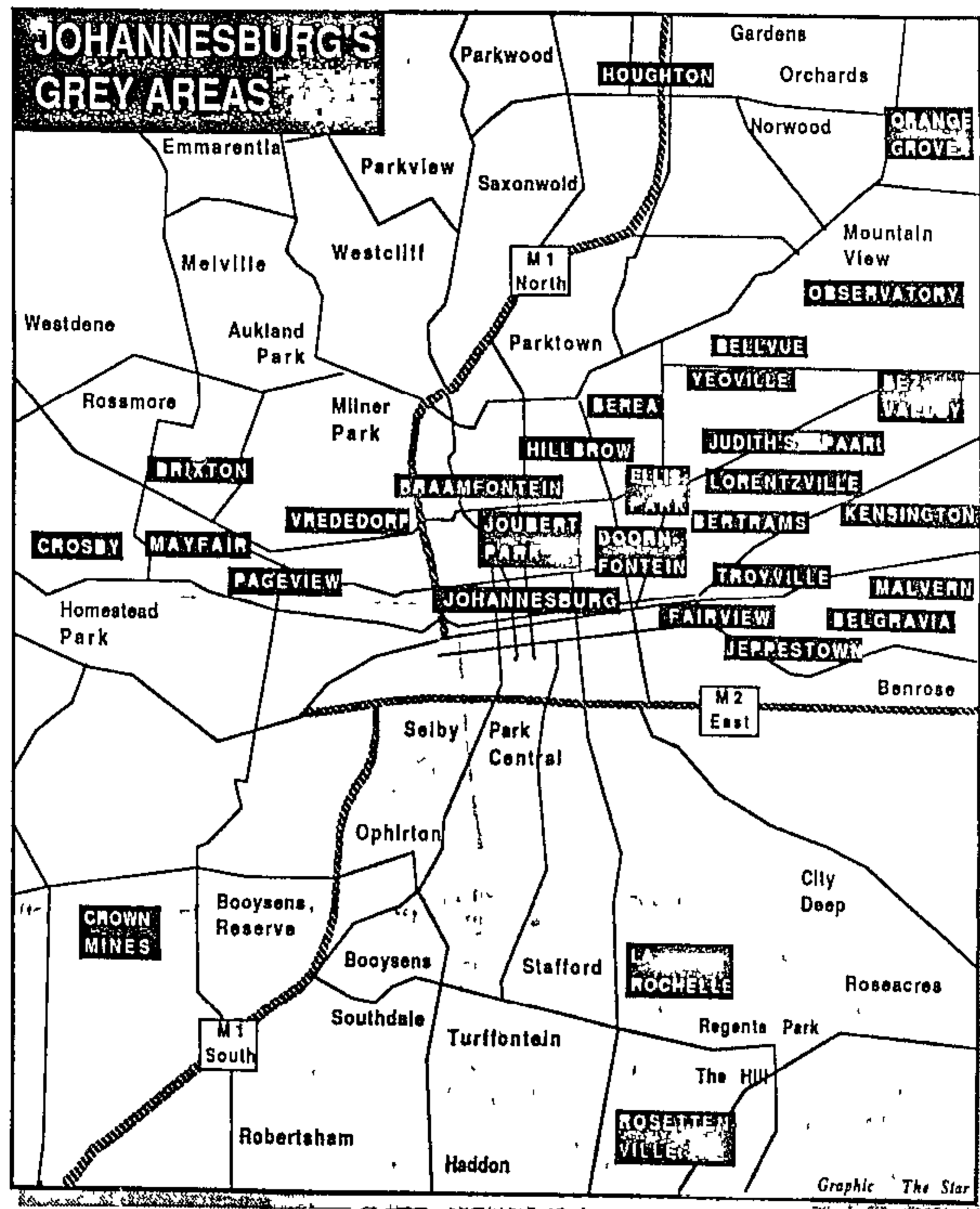
Over recent years, most of Johannesburg's immediate suburbs have become "grey", in spite of the continued enforcement of the Group Areas Act. And the process is speeding up in the light of the government's apparent leniency towards mixed areas, demonstrated in Hillbrow and Mayfair which accommodate an increasing black and coloured community

In the ever-widening circles of mixed-race suburbs, the following areas are included: Belgravia, Judiths Paarl, Bez Valley, Joubert Park, Fairview, Troyville, Braamfontein, Malvern, Pageview, Orange Grove, Observatory, Kensington, Yeoville, Bellevue, Berea, Bertrams and Houghton

The fact that almost every suburb in greater Johannesburg has become a "grey area" to a greater or lesser extent seems to have been accepted to some degree by government authorities

Chairman of Johannesburg's management committee Mr Jan Burger said recently "For all practical purposes, apartheid is dead in this city. At this stage, the reality is that Hillbrow, Mayfair and several other suburbs are de facto mixed"

The spread of mixed suburbs is shown by the recent earmarking by the Free Settlement Board of Mayfair and two large tracts of northern Witwatersrand land as, probably, South Africa's first areas



of mixed residential ownership. However, apart from government moves towards opening areas to all races, grey suburbs are arising from the response to strong market forces, according to Mr Theo Coggin, director of the Institute for Race Relations. "There is an immense demand by blacks and coloureds for housing, while there remains an oversupply of housing for whites. It is only natural

that people will move to where housing is available. "Land owners have responded to these market forces accordingly," he says. Although blacks, coloureds and Indians initially infiltrated those areas which were least resistant to mixed living — namely Johannesburg's immediate suburbs and the "liberal" northern suburbs — mixed races can also be seen today in

some of the southern suburbs, such as Rosettenville and La Rochelle. Actstop spokesman Mr Mohammed Dangor says the housing market was forced to adapt to changing trends after the 1976 "chicken run", when many houses in white suburbs were left unoccupied. "With seven million people short of housing in this country, it is inevitable that even the

most conservative white suburbs with housing space will be infiltrated by people of other races," he said.

But according to Mr John Fick, chairman of the Department of Development Studies at Rand Afrikaans University, it is unlikely that most Johannesburg suburbs will follow the same pattern as Hillbrow and Mayfair, which have experienced a "scale tip" in terms of ethnic mix.

"Most other white suburbs accommodate a very small population of other ethnic groups, and as long as these suburbs remain predominantly white, even legal changes will have little impact," he says.

There was a natural tendency for people to live among their own, a phenomenon which had been illustrated in America where, if 12 to 20 percent of a white suburb became occupied by another ethnic group, whites would move out and the area would eventually be dominated by that group, he said.

The occurrence of a stable, fully integrated area over time was rare and it would be interesting to observe the outcome in areas such as Berea and Yeoville, where an increasing colour mix was becoming evident.

Mr Fick pointed out that the future of these areas would be determined by whether whites would begin to move out, leaving space for further infiltration.

In wealthy, upper class suburbs such as Houghton, however, the prospect of a significant ethnic mix coming about was remote, he said, considering the fact that blacks living in these areas belonged to a limited high-income group.

Mr Fick said even the complete abolition of the Group Areas Act would not cause a substantial change in current neighbourhood ethnic patterning.

"At present, neighbourhood patterns are developing spontaneously and once this process has started, little can be done to control it," he said.

Graphic: The Star

THE finality of it all has come home to the Wit Wolf — the self-proclaimed “soldier of God and the fatherland” who, single-handedly, wanted to wrest South Africa from every imaginable enemy and kill as many black people as he possibly could.

Barend Hendrik Strydom, 23-year-old former policeman, was sentenced to death in the Pretoria Supreme Court yesterday by Mr Justice Louis Harms, sitting with two assessors, after a nine day trial

The man who wanted to be regarded as a folk hero by his “volk” will die on the scaffold at Pretoria Central Prison, unmourned by the families of eight black people he murdered in cold blood during a fanatical rampage of carnage through the central city streets of Pretoria and the muddy, sad streets of a grubby squatter camp

Strydom had earlier been pronounced normal within the usual medical parameters. Eccentric but normal was the official verdict, while the defence argued he was on the “borderline” between normal and abnormal

In the latter days of the trial his attitude had been a total contrast to the smiling, sniggering, waving, handshaking, kissing Strydom who had seen witness after witness positively identify him as the man who shot them down

He spent most of last week smiling at each person who identified him

Outside the court building yesterday, hundreds of people milled to await the verdict

Horror

Riot police were there in force, as always. The ultra right wingers of the Afrikaanse Weerstandsweging (AWB) were there, as always

The impassive black survivors of the horror which was Strydom Square at 3pm last November 15 were there, as always

In the court room yesterday, the 150-odd available seats in the public gallery were filled by black people and Strydom’s legion of supporters, just as they have been through long hours of chilling accounts of how he went about “his job” and through psychiatric evidence which came to one conclusion he was sane

He knew what he was doing, was able to pinpoint to psychiatrists where he had actually shot people and in what parts of the body, and would do it again if he had the chance, the psychiatrists said he told them

Strydom confirmed it himself when he told the court that he would commit the same act



Pretoria Bureau

“because they were the enemy”

He also told the court that he believed he would not die if caught and sentenced

Psychiatrists said he believed the State President would pardon him, that a new right wing government would take over the country and release him, and that he would also be released in the event of war

He saw the court case and his capture as propaganda

Hatred of blacks and all things viewed as “communists” was the dominant theme nurtured at home, at church, at school, at veldskool, at political meetings of a diverse group of right wing organisations, and among some policemen

The AWB, the Herstigte Nasionale Party, the Conservative Party and groups on the political fringes were

which was “selling out the whites”

It also featured on the ties he and his father wore every day, and for the first two days of the hearing, in the form of a metal badge on his lapel

Other adornments to his suit included the badge of the Aquilla movement of the AWB and an honour insignia in the shape of the Voortrekker monument

There was nothing but praise for right wing organisations

Animals

Mr Robert van Tonder, founder of the Boerestaatkomitee (now known as the Boerestaat Party) was in court and sat in the well of the court with the Strydom family



APOSTLE OF HATE POLITICS

Sarkar 26/5/89

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Strydom: apostle of hate politics

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Southern
28/1/69

• From Page 6

police followed by psychology tests which, the court heard, "meant the police were already worried about him"

There was a threat against the sovereignty of South Africa from just about every corner, the court was told. The ideal for South Africa was a return to the values of the era of the Great Trek 150 years ago

A "Boerestaat" was what was needed, and there was much support from Strydom and his father for the formation of a whites-only state in the Transvaal, Free State and Northern Natal

The State President, Mr PW Botha, the Archbishop of Cape Town, the Most Rev Desmond Tutu, the

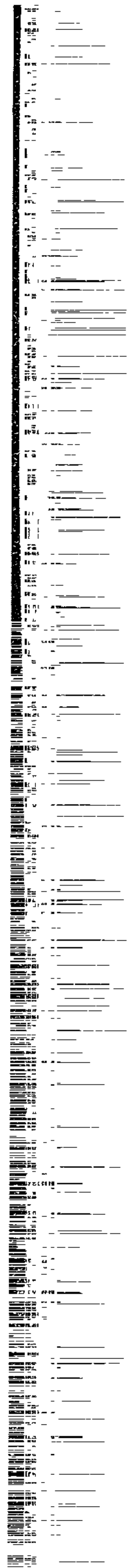
president of the World Alliance of Reform Churches, Dr Alan Boesak, outgoing Member of Parliament for Houghton, Mrs Helen Suzman, the African National Congress, the South African Communist Party, the black man in general and many other people and organisations were nothing but communists

Tutu and Boesak were the people whom Strydom said he had been stalking when he started his mini-war in Strydom Square

He intended to shoot the two religious leaders in Church Square, in the heart of Pretoria, and right outside the Palace of Justice — the same place where, yesterday, he was sentenced for his rampage which killed men and women quietly going about their business

And, as witnesses told the court, he smiled, lifted his gun, and shot them

In some cases, not just once, but three times. And then casually lopped off to find the next unsuspecting victim — and a date with destiny



Message

The trial was a litany of old-style hate politics. The arguments of another era were given time and time again as the trial became more of, as Strydom said, a way of getting the message of the right wing across to the general public.

mentioned during testimony.

The flag of the old Transvaal Republic, the Vierkleur, was also prominent. Strydom had, he told the court, hoisted the flag outside the Heidelberg town hall to show his contempt for the South Africa of today and for the Government

immediately behind the defence benches.

Blacks were nothing but animals, said Strydom's father, Mr Nicolaas Strydom, a former policeman from Heidelberg, Transvaal. The accused nodded approvingly as his father gave his evidence.

The State, in its summing up of evidence, said that the attitude generally was one of "blacks were not people and could be shot as animals."

Strydom himself told the court of how he had held up the severed head of a black man, killed in a road accident, and had photographs taken so that the ANC could be scared into submission.

It earned him an investigation by the

Fined R500 for stayaway call

UCT law student and former secretary of the Gardens Youth Congress, Julian Snitcher, has been fined an effective R500 by a Cape Town magistrate for distributing pamphlets on June 2 last year that contravened the emergency regulations.

Snitcher (24), of Tamboerskloof, son of a prominent Cape Town attorney, pleaded not guilty to a charge that he distributed pamphlets containing a subversive statement on the Strand Street footbridge on June 2

Protest at Bill

The pamphlets, produced under the auspices of the Gardens Youth Congress of which Snitcher was secretary at the time, called for a work stayaway on June 6, 7 and 8 last year in support of a protest at the Labour Relations Amendment Bill then before Parliament.

Snitcher's evidence was that he was not aware of the contents of the pamphlets before they were delivered to his home and that he was not aware the pamphlet's wording contravened the emergency regulations.

Magistrate Mr M J C Tolken rejected this evidence on Tuesday saying "The accused before the court is not an uneducated person He is a final-year law student and he was the secretary of the Gardens Youth Congress

"I find it strange that the contents of the pamphlet

were never discussed at the meeting The decision was taken two weeks before June 2."

Mr Tolken said he was satisfied beyond reasonable doubt Snitcher not only scattered the pamphlets but also knew they contained a subversive statement and were illegal.



SENTENCED TO DEATH IN 8 TIMES

Sowetan 26/5/89 (252)

SOWETAN Reporters

MASS murderer, Barend Hendrik Strydom was yesterday sentenced to death on all eight counts of murder.

He was also sentenced to a total of 30 years imprisonment for the attempted murder of 16 other people and for pointing a firearm.

Strydom, a 23-year-old former policeman who claimed to be leader of a right-wing organisation called the Wit Wolwe, was impassive when sentenced, and sipped from a glass of water.

He left the crowded courtroom without a glance at his parents, Mr and Mrs Nic Strydom, of Heidelberg.

The Strydom parents sat slumped and dejected in their seats in the well of the court. There were no tears at that stage. With them was their church minister, the Rev. J. H. Schreuder, of the Nederduitse Hervormde Church, Heidelberg.

Strydom is to apply for leave to appeal against the death sentence imposed on him.

His legal counsel Engelbrecht, confirmed Strydom would be appealing against the sentence imposed on him by Harms.

In a tense Pretoria Supreme Court, Mr Justice Louis Harms

• To page 3

REPORTS, pictures and comments in this edition may be censored in terms of the Government's state of emergency.



Barend Strydom waving on his way to Death Row in a police car yesterday.

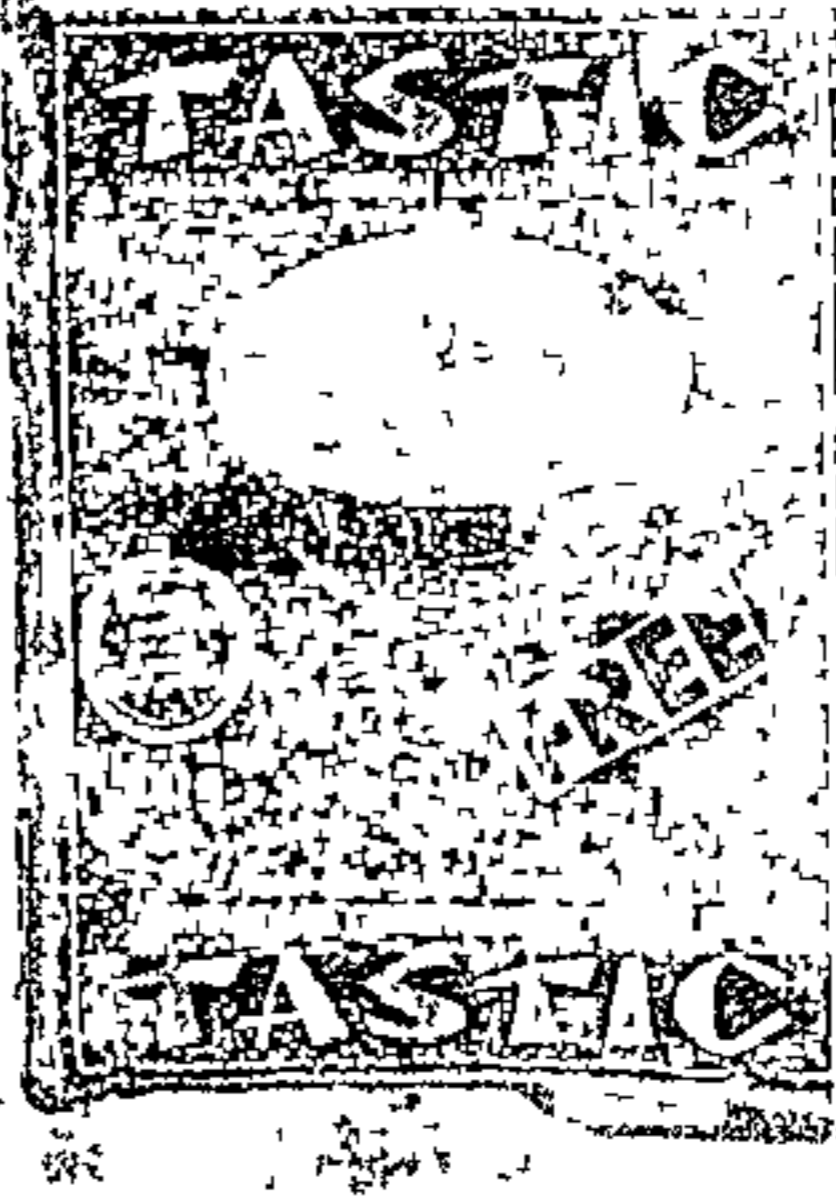
PHOTO: CHARLES HYMAN

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• From page 1

called him "nothing less than an assassin I have never in all my life heard of such cold-blooded acts"

The judge added "It was for purely political reasons that he did what he did He was prepared to do an exercise run on other people

"He wanted to be a folk hero He was worse than any terrorist He laughed in their faces as he shot people"

Mr Justice Harms caused a stir in the packed public gallery when he publicly thanked Pretoria taxi driver Mr Simon Mukondoleli for his unselfish act in apprehending and disarming Strydom on Strydom Square last November 15

He said it was an act which deserved to be rewarded — "he really

Strydom gets 8

needs to be thanked"

The judge said that "if there is one message I want to convey it is that mass murder and racial murder will never be tolerated in this court"

Moments before handing down sentence, Mr Justice Harms said it was difficult to sentence a man like Strydom, "particularly with your potential But you chose your destiny You definitely had no remorse for your actions, and have said you would do it again"

In a 58-minute judgment, Mr Justice Harms said that he and his two assessors, Mr J P J Coetzer and Mr C F W Kloppers, were unanimous in their decision

In his judgment, Mr Justice Harms said that there were factors which had to be taken into consideration

These included his mental capabilities, his family ties, his religious upbringing and his political viewpoint

The court had found he had an overall view of politics and other subjects, and that he "was political"

He added "An important aspect of this case has been his association with his parents, and particularly his father who is more of a patriot than is Strydom himself

"His father had strong political views and passed those on to his son It could have been an unhealthy influence"

Mr Justice Harms said that Strydom was the "basis of his political views"

Saetan 26/5/87

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HERO SIMON MOBBED

A LARGE crowd stood in stunned silence outside the Pretoria Supreme Court building as mass killer Barend Strydom was whisked away with sirens wailing, in a police van.

Mr Justice Louis Harms has just handed down the death penalty, eight times, to the Wit Wolf leader for the murder of eight people.

"He deserved the death sentence", said Mr Simon Mukondoleli, the hero who apprehended Strydom during his shooting spree on November 15 last year.

Mukondoleli was one of hundreds of people who anxiously awaited sentence outside the court yesterday morning amid a strong police presence at Pretoria's Church Square.

No sooner had the death sentence been passed than the ecstatic crowd mobbed Mukondoleli, congratulating him on his bravery. Taken by surprise, the hero darted off into the Pretoria News building with the crowd chasing after him.

Mukondoleli later claimed that his "timely retreat" had saved him from being kidnapped by two whites who had joined the crowd.

"The two whites, who seemed very angry, said I deserved to die too", he said, folding his arms

By ALINAH
DUBE and
LEN MASEKO

Tempers flared as black people ran after him protesting against the planned attack. The hero, in his attempt to flee, climbed into a taxi which was parked at the corner of Paul Kruger and Vermeulen streets.

Mukondoleli said when he realised that the white men, were after his blood, he jumped out of the taxi and ran into the Pretoria News building, where he sought refuge.

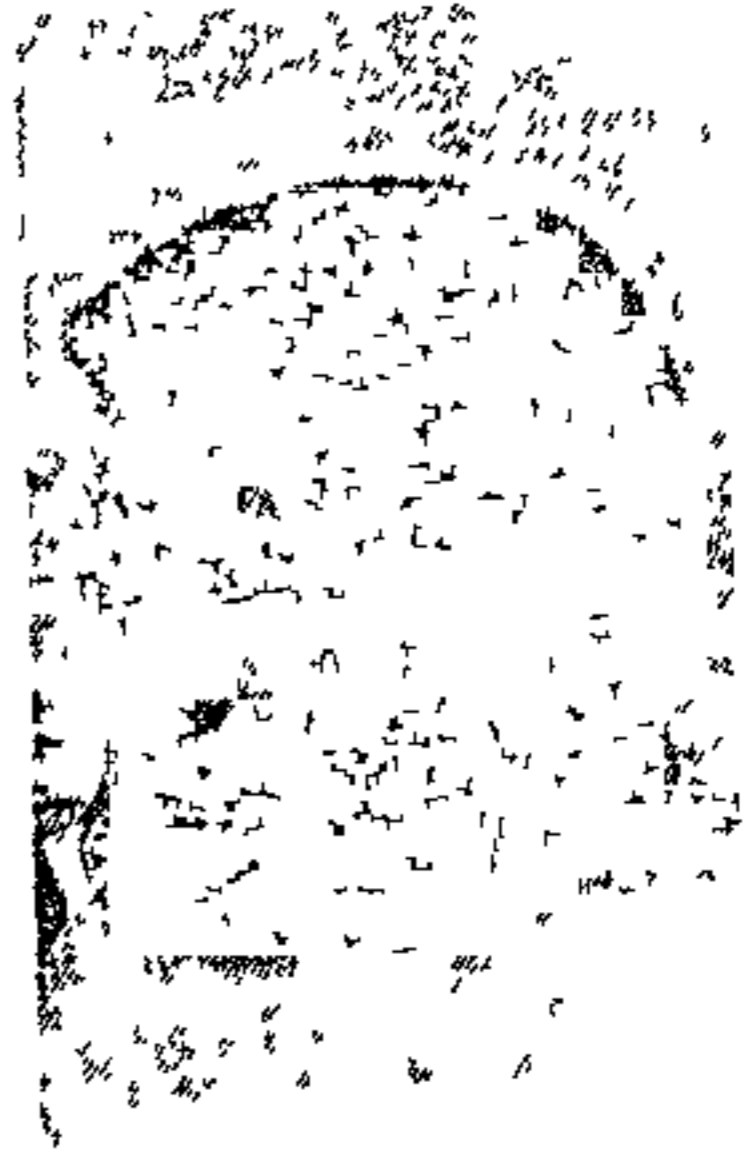
Mukondoleli said he was aware that some of the white people wanted to eliminate him for having stopped Strydom from killing more people. Although he would not say much about his future plans, he admitted that he would have "to keep a low profile".

The crowd continued their vigil outside the court building hours after the sentencing, apparently hoping to get a glimpse of Strydom's parents. But this was all in vain as the Strydom couple appeared to have side-stepped the battery of journalists and the crowd by using the back

entrance.

Earlier police escorted a lone protester off the Church Square after she displayed a placard with the words "Moordenaars doen dit in die galg" (Murderers do it on the gallows) and "Roet die kappie kommando en die Wit Wolf uit" (Eliminate the Kappie Kommando and the Wit Wolf).

She raised her arms in a victory salute while being led off the stairs of the court for questioning.



Mukondoleli ... kidnap threat.

Boerestaat Party begins a petition

By Helen Grange

The Boerestaat Party has launched a petition requesting a reprieve for mass murderer Barend Strydom.

Mr Robert van Tonder, leader of the party, said in a statement that "all well-wishing organisations would be approached for their co-operation".

"The Barend Strydom event illustrates the tragedy of our 'boerevolk'."

"It is not Strydom who should have stood as the accused, but Mr P W Botha and his whole Cabinet," Mr van Tonder said.

DESPERATE

He said the Government were the people who created the "desperate conditions in which boere find themselves".

"The continual murders of our elderly, the influx of blacks into our towns and cities, the impoverishment of our people, the numerous thefts and assaults, and the uncertainty over our future is a result of the sell-out policy of the Government," he said.

Barend Hendrik Strydom, a "sensitive Boere-patriot", had converted a feeling of desperation into action.

Stw 26/5/59 (252) ~~252~~

Sentence is just, say most

Strydom's death 'will not cure evil of apartheid'

Pretoria Correspondent

The Transvaal chairman of the National Association of Democratic Lawyers, Mr M Motsheka, said in reaction to Strydom's death penalty: "He is a victim of apartheid and the crimes he committed and the sentences imposed on him are the product of apartheid."

"Sentencing Strydom to death will not cure the evil of apartheid."

The National Director of Lawyers for Human Rights, Mr Brian Currin, said "The death penalties imposed on Strydom add further impetus for our campaign against capital punishment."

"We find it ironical that the very same state with its racist policies that have poisoned the minds of millions of South Africans, should reserve for itself the right to execute one of their own victims."

Smiles

The publicity secretary of the Five Freedoms Forum, Ms Gael Neke, said "The Five Freedoms Forum does not agree with capital punishment and has not changed its stand in Strydom's case."

Most of the predominantly black crowd which waited outside the Supreme Court for the outcome said they were happy with the sentence.

Many smiled as news filtered through that Strydom had been sentenced to death.

The first person to voice her feelings about the outcome of the case was one of the survivors of Strydom's shooting spree, Miss Belna Khumalo, a domestic worker.

Miss Khumalo, who was in hospital for two weeks after being shot in the stomach by Strydom, said she was satisfied with the sentence and she would not have asked for anything more.

"I think justice has been done," she said.

Mr Joseph Mogale of Soshanguve, one of the curious people who milled around the Church Square, said the outcome of the case would help restore faith in South Africa's judicial system.

Mr John Matlala of Mamelodi said the outcome was satisfactory. The nation should be protected against people like Strydom. Bereaved family members of the victims of Strydom's shooting spree would be at rest knowing that justice had been done, he said.

Another comment from the Church Square spectators came from Mr Eric Mashamaite of Soshanguve, who said Strydom's case was another test for the judicial system of the country and the outcome proved that justice still prevailed.

Mr Riaan le Roux, a student from Pretoria, said justice had been done and people should learn from the Strydom trial what racism could do.

A young man who roamed the area the whole morning, distributed a pamphlet which claimed the Third Boer War had started with the Strydom Square massacre.

Mrs Rina Mans said that as an Afrikaner she could not agree with what Strydom had done and agreed with the sentence.

Mr John Tucker, a student, said the sentence was just.

Mr Jaco Burger said Strydom got the sentence he deserved.

A killer who thought he would not die for his crimes

Strydom's date with death

Stam 26/1/57

NORMAN CHANDLER reviews one of South Africa's most sensational trials

The finality of it all has come home to the Wit Wolf — the self-proclaimed "Soldier of God and the Father and" who, single-handedly, wanted to wrest South Africa from every imaginable enemy and kill as many black people as possible.

Barend Hendrik Strydom, 23-year-old former policeman, was sentenced to death in the Pretoria Supreme Court yesterday by Mr Justice Louis Harms, sitting with two assessors, after a nine-day trial.

The man who wanted to be regarded as a folk hero by his "volks" could die on the scaffold at Pretoria Central Prison, unmourned by the families of eight black people he murdered during a fanatical rampage of carnage through the central city streets of Pretoria last November 15 and the sad streets of a grubby squatter camp.

Strydom had earlier been pronounced normal within the usual medical parameters Eccentric but normal was the State's verdict, while the defence argued he was on the "borderline" between normal and abnormal.

Riot police

Outside the court building yesterday, hundreds of people milled to await the verdict.

Riot police were there in force. The ultra right-wingers of the Afrikaanse Weerstandsbeweging (AWB) were there. The impassive black survivors of the Strydom Square horror were there.

In the courtroom, the 150-odd available seats in the public gallery were filled by black people and Strydom's legion of supporters, just as they have been through long hours of chilling accounts of how he went about "his job" and through psychiatric evidence which came to one conclusion he was sane.

He knew what he was doing, was able to pinpoint to psychiatrists where he had shot people



Part of the 500-strong crowd outside the Pretoria Supreme Court today waiting to hear the fate of "Wit Wolf" Barend Strydom.

Picture by Erienne Rothbart.

and in what parts of the body, and would do it again if he had the chance, the psychiatrists said he told them Strydom confirmed it himself when he told the court that he would commit the same act "because they were the enemy".

He also told the court he believed he would not die if caught and sentenced.

Psychiatrists said he believed the State President would pardon him, that a new right-wing government would take over the country and release him, and that he would also be released in the event of war.

The arguments of another era were given time and time again as the trial became more of, as Strydom said, a way of getting the message of the right-wing across to the public

He saw the court case and his capture as propaganda.

Hatred of blacks and all things viewed as "communist" was his dominant theme nurtured at home, at church, at school, at veldskool, at political meetings of a diverse group of right-wing organisations and among some policemen.

The AWB, the Herstigte Nasionale Party, the Conservative Party and groups on the political fringes were mentioned during testimony.

The flag of the old Transvaal Republic, the Vierkleur, was also prominent. Strydom had, he told the court, hoisted the flag outside the Heidelberg town hall to show his contempt for the South Africa of today and for the government which was "selling out the whites".

It also featured on the ties he and his father wore every day, and for the first two days of the hearing, in the form of a metal badge on his lapel. Other adornments to his suit included the badge of the Aquilla movement of the AWB and an honour insignia in the shape of the Voortrekker Monument.

Mr Robert van Tonder, founder of the Boerestaatkomitee (now known as the Boerestaat Party) sat in the well of the court with the Strydom family immediately behind the defence benches.

Blacks were nothing but animals, said Strydom's father, Mr Nicolaas Strydom, a former policeman from Heidelberg, Transvaal. The accused nodded approvingly as his father gave this evidence.

The State, in its summing up

of evidence, said that the attitude generally was one of "blacks were not people and could be shot as animals".

Strydom himself told the court how he had held up the severed head of a black man, killed in a road accident, and had photographs taken so that the ANC could be scared into submission.

There was a threat against the sovereignty of South Africa from just about every corner, the court was told. The ideal for South Africa was a return to the values of the era of the Great Trek 150 years ago.

A "Boerestaat" was what was needed, and there was much support from Strydom and his father for the formation of a whites-only state in the Transvaal, Free State and northern Natal.

The State President, Mr P W Botha, the Archbishop of Cape Town, the Most Rev Desmond Tutu, the President of the World Alliance of Reform Churches, Dr Allan Boesak, outgoing Member of Parliament for Houghton, Mrs Helen Suzman, the African National Congress, the South African Communist Party, the black man in general, and many other people and organisations were nothing but communists.

Archbishop Tutu and Dr Boesak were the people whom Strydom said he had been stalking when he started his mini-war in Strydom Square.

As witnesses told the court, he smiled, lifted his gun and shot them. Then he casually loped off to find the next unsuspecting victim — and a date with destiny.

Right-wing revenge attacks feared

Judge, counsel under protection

Star 26/5/89
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Mr Justice Louis Harms, his two assessors, and the members of the prosecution team involved in the sensational trial of mass killer Barend Hendrik Strydom have been placed under police surveillance for an indefinite period.

The judge yesterday sentenced the fanatical assassin to eight death sentences for murdering eight people on Strijdom Square, Pretoria, and at De Deur last November.

A police spokesman declined today to deny or confirm that Mr Justice Harms was being protected, saying "It is not our policy to comment on police activities"

It is understood that there is concern that right-wing political agitators may attack the judge and his associates following the passing of the death sentence.

Apart from Mr Justice Harms, the others under protection are assessors Mr J P J Coetzer and Mr C F W Kloppers, State advocate Mr Paul Fick, SC, and his assistant, Miss Joan Adams.

Earlier in the trial, Mr Fick received a dead black cat in a box at his offices close to the court. He was immediately placed under police protection and was escorted to and from the Supreme Court on each succeeding day of the trial.

Yesterday, police were sent early to Mr Fick's offices to ensure his safe arrival at the courtroom.

Strydom, the 23-year-old former policeman, who claimed to be the leader of a right-wing organisation called the Wit Wolwe, was impassive when sentenced.

His parents sat slumped and dejected in their seats in the well of the court. With them was their minister, the Rev J H Schreuder of the Nederduitsch Hervormde Kerk in Heidelberg.

In a tense Pretoria Supreme Court, Mr Justice Louis Harms called Strydom "nothing less than an assassin".

"I have never in all my life heard of such cold-blooded acts."

The judge added "It was for purely political reasons that he did what he did. He was prepared to do an exercise run on other people. He wanted to be a folk hero."

"He was worse than any terrorist. He laughed in their faces as he shot people."

By Norman Chandler,
Pretoria Bureau

It is understood that his lawyers are studying the summing up by Mr Justice Harms and will petition for an appeal to be heard by a full bench of the Appellate Division.

Mr Justice Harms gave no indication yesterday whether he would allow an appeal. He said in his judgment that there were no extenuating circumstances.

The judge caused a stir in the packed public gallery when he publicly thanked Pretoria taxi driver Mr Simon Mukondoleli for his unselfish act in apprehending and disarming the killer near Strijdom Square on November 15 last year.

He said it was an act which deserved to be rewarded. "He really needs to be thanked."

The judge said. "If there is one message I want to convey, it is that mass murder and racial murder will never be tolerated in this court."

The court had found Strydom had an overall view of politics and that he "was political".

He added. "An important aspect has been his association with his parents, particularly father... who had strong political views and passed those on to his son."

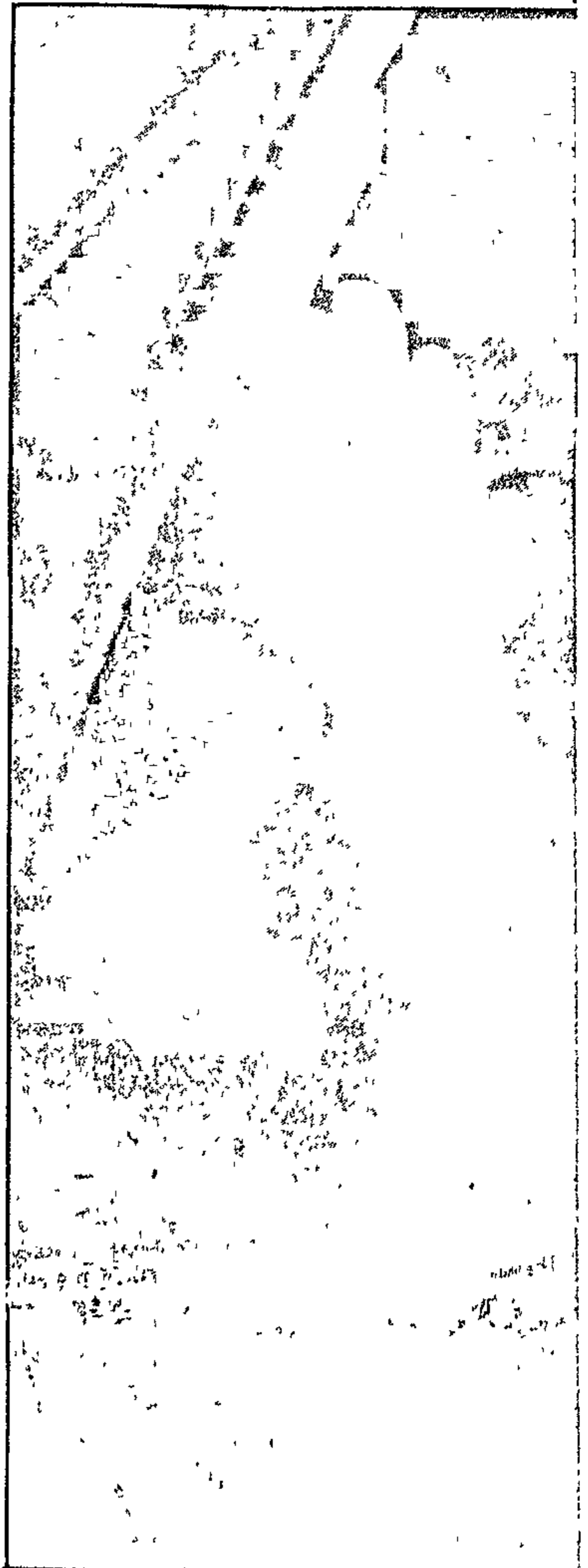
Strydom was an extreme right-winger and the only people in his view were the whites.

But the "psychiatric evidence presented here showed he was, not certifiable, was normal."

"We find that there are no deficiencies in his mind, there is no disability of the mind."

Mr Justice Harms said he and the assessors were unanimous in their decision.

● See Pages 3 and 11.



Mass murderer... Barend Strydom

Scenes at Wit Wolf trial recall sentencing of Nazi

Pretoria Correspondent

The Pretoria Supreme Court was overflowing and people had come from all over South Africa to hear the judgment

Extra chairs had been carried into court and hundreds of spectators stood outside the building to catch a glimpse of the accused

The date was March 11 1943. Sydney Robey Leibbrandt was in the dock awaiting the death sentence

More than 46 years later, on May 25 1989, the scenes at the Supreme Court were similar

"Wit Wolf" Barend Hendrik Strydom — who claimed to have modelled his life on Leibbrandt's — received the death penalty on eight murder charges

The Leibbrandt trial had set new legal records. At that time it was the longest criminal trial in South African history. The record totalled more than 2 000 pages, nearly 200 witnesses were called and between 150 and 200 documents and 200 other exhibits had been handed in.

Leibbrandt refused to give evidence. He gave the Nazi salute when entering the court on the first day. Several spectators responded.

Strydom's trial has set legal records as well — the ex-policeman is the first person ever to receive the death sentence eight times.

At his first appearance during November last year

in the Pretoria Magistrates' Court, Strydom (23) also refused to partake in the proceedings.

However, Strydom changed his mind and saw the trial and his testimony as a means to spread propaganda about his political ideals, Mr Justice Harms said.

The State had called 33 witnesses in the Strydom trial, while the defence only called four people.

The cardinal testimony in Strydom's case rested on that of a State psychiatrist and psychologist, as well as a clinical psychologist called by the defence.

Strydom, who was described as a normal but eccentric person, was declared fit to stand trial, and it was found that pathologically there was nothing wrong with him. His psychologist had concluded that he bordered on abnormal.

TREASON

Strydom killed for "volk en vaderland", he said, while Leibbrandt had committed treason for "volk and Fuhrer". Both saw themselves as national heroes and said they had struck blows for the "boerevolk".

When asked whether he had anything to say in mitigation before sentence was passed, Leibbrandt said "I first wish to make a statement and then address the Afrikanervolk."

Mr Justice Schreiner replied "You may not address the public, you have only the right to address the court."

"If you continue to address the public the court will have you removed and the proceedings will continue in your absence. We have no wish to interfere with your rights, but you must not use this occasion for a propaganda speech."

Mr Justice Harms had determined in Strydom's case that his greatest motive for committing the Strydom Square massacre was for propaganda.

After Leibbrandt was sentenced to death he exclaimed "I greet death."

SENTENCED

"Die Vierkleur hoog, (Raise the Vierkleur high)" is what step-mother Mrs Daphne Strydom said shortly after Strydom's sentence.

● Amid wailing sirens and with a motor police escort, mass murderer Barend Strydom was whisked away from the Pretoria Supreme Court yesterday.

A crowd of about 500 people and scores of international and local press and television crews swarmed over Church Square for hours as they waited for sentence to be passed.

"He got death," yelled a man as he rushed out of court.

The announcement was met with little reaction.

"Well, what did you expect?" said one woman.

Sentence today on 14 of Upington 25 murder accused

By Dawn Barkhuizen

Sentence will be passed on 14 of the accused, the total for which no extenuation has been found, in the "Upington 25" trial today after the presiding judge found no extenuating circumstances for a further four accused yesterday

Earlier this week Mr Justice J Basson found extenuating circumstances existed in the cases of 11 of the residents of the Upington township of Paballelo convicted of the November 1985 murder

They will be sentenced towards the end of next week, their legal representative said

Rejecting argument by the defence that the four had been subjected to crowd forces, Judge Basson yesterday found the actions of

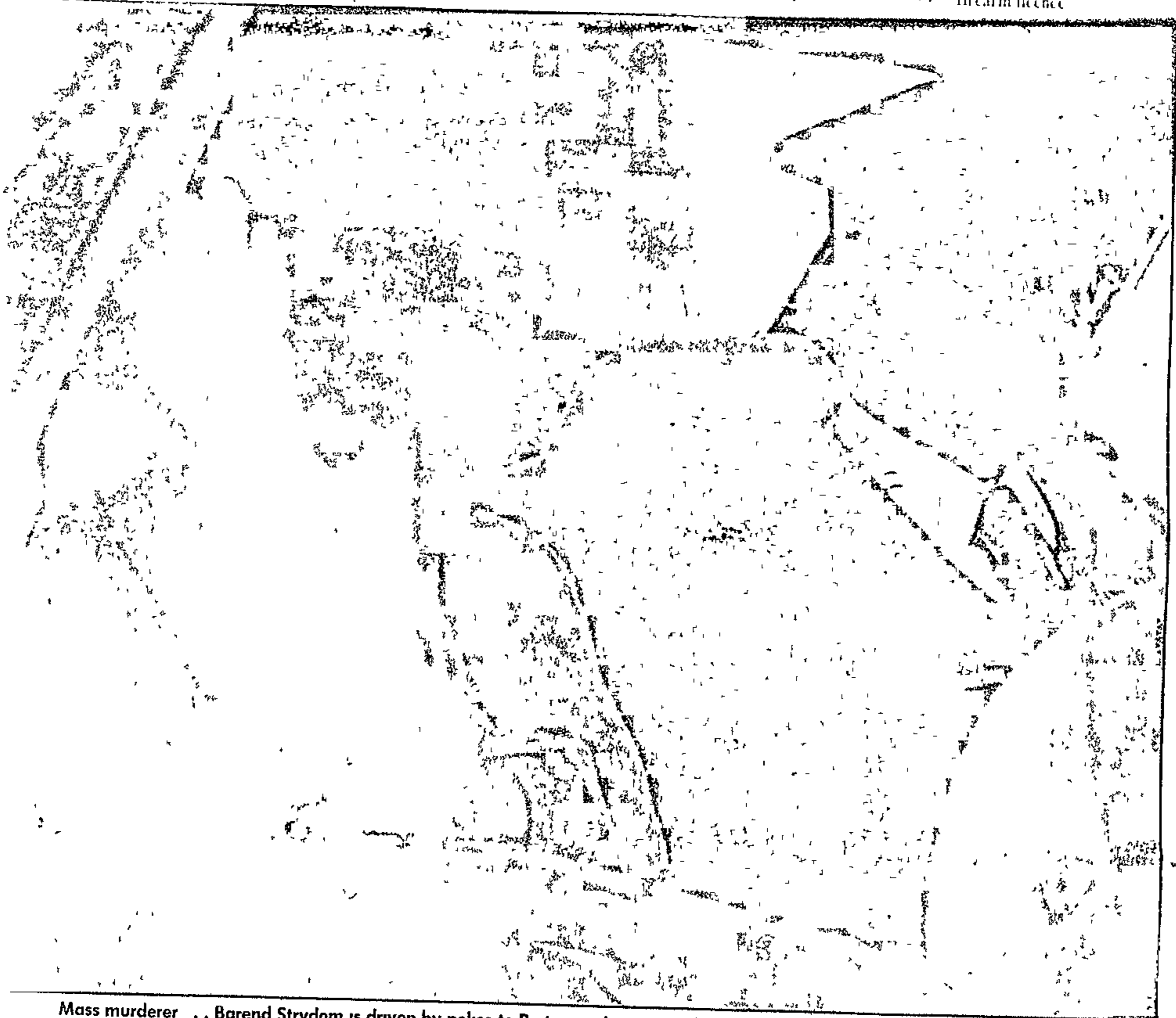
Evelina de Bruin (about 63) and her common law husband, Gideon Madlongwolwane (about 60), Xolile Yona (24) and Albert Tywilli (27) to be without extenuation.

An application that all 25 be sentenced together on compassionate grounds was refused yesterday.

Earlier this week Judge Basson found that no extenuating circumstances existed in the cases of Kenneth Khumalo, Tros Gubula, David and Andrew Lekhanye, Myner Bovu, Zuko Xabendlini, Justice Bekebeke, Zonga Mokgatla, Wellington Masiza and Booi Japhta

Those for whom extenuation has been found are, Abel Kutu, Elisha Motshiba, Ronnie Masiza, Barry Bekebeke, Xoliswa Dube, Elizabeth Bostaande, Geoffrey Sekiya (24), Sarel Jacobs (23), Roy Swartbooi (23), Neville Witbooi (21), and Ivan Kazi (22)

Extenuation has been found mostly on the basis of youth and low intelligence



Mass murderer . . . Barend Strydom is driven by police to Pretoria prison yesterday after being sentenced to death eight times

Strydom clowns around at end of sensational trial

Barend Hendrik Strydom played the clown at the end of his sensational mass murder trial

Yesterday, waiting for Mr Justice Louis Harms to enter the packed courtroom to pass sentence, Strydom moved around the elongated accused's dock, shaking hands, smiling and kissing his step-mother

Minutes before the judge and assessors entered at 10 am, he moved to the centre of the dock

He put on a poker face and surreptitiously pulled out a sign numbering him as accused Number "1" from the front of the dock and hung out another sign identifying him as accused "5"

He kept the grim face for a few seconds, then it wrinkled into a broad smile as he shared the joke with those who noticed it, his eyes screwed to slits. He hung out the Number "1" sign again.

Reporters said they had never seen so many people squeezed into the courtroom

FRANTIC JOURNALISTS

Police eventually barred even reporters from the court, but later admitted the frantic journalists after Mr Justice Harms had apparently given special permission for them to throng the front of the court

Strydom listened closely to the sentencing, his face impassive. He gulped some water immediately afterwards, coughed, and was quickly escorted down the stairs to the basement cells seconds after the judge adjourned the hearing

The rest of the people in the court remained motionless, watching him

Minutes later, Strydom was taken to Pretoria prison in a convoy of police vehicles and traffic police outriders with sirens wailing

Strydom told the court earlier he did not expect to be executed, because he expected the State President to "unlock his cell". — Sapa

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THE CAPTAIN

uniform

le the court by a uniform, and his

Monday 26/5/89

Three executed in Pretoria yesterday

THREE men were executed in Pretoria yesterday, bringing the total number of people hanged this year to 26, a Lawyers for Human Rights (LHR) spokesman said yesterday.

However, the LHR made it clear their figure of 26 differed from the Justice Department's figure of 24.

The LHR said those who were sent to the gallows yesterday were Abraham Mngomezulu, 23, of Soweto, Simon Mbatha and Patrick Msomi, whose addresses and ages were not given.

Mbatha's legal representative, attorney Krish Naidoo, said yesterday his client did not physically take part in the murder but was found guilty on a doctrine of common purpose.

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SIPHO NGCOBO

The court found that he was the mastermind behind the murder," said Naidoo. Mngomezulu was convicted on November 25 1987 for taking part in the murder of an alleged police informer in 1986.

Mngomezulu had been due for execution in July last year, but his lawyers secured a stay of execution for him.

The lawyers' last bid to save Mngomezulu from the gallows failed last Friday when President P W Botha turned down the application for clemency.

Mbatha was convicted of murder on August 1 1988 while Msomi got a double death sentence for murder on August 30 1988.



Simon Mhukondeleki talks to the Press

Picture REUTERS



The crowd awaiting the outcome of Barend Strydom's trial

Picture ROBERT BOTHA

'Hero should be rewarded'

DANIEL SIMON

ATTRIDGEVILLE taxi-driver and former policeman Simon Mhukondeleki yesterday expressed delight when Mr Justice Harms sentenced Wit Wolf mass murderer Barend Hendrik Strydom to death on eight counts of murder committed in November

Mhukondeleki, a folk hero since he single-handedly apprehended Strydom, said black people and some whites would be happy with the sentence

Before passing sentence, Mr Justice Harms told the court he wanted to thank Mhukondeleki for "preventing" more killings. Talking to Strydom, he said "He confronted you and disarmed you under dangerous circumstances. He should be rewarded"

Mhukondeleki, however, has been harrassed several times by right-wing elements and his life was threatened yesterday when group of men confronted him in Church Square and threatened to kill him

Wit Wolf is sentenced to death

Hundreds line up to await outcome of Strydom trial

HUNDREDS of people converged on Church Square and stood for hours outside the Pretoria Supreme Court yesterday morning to await the outcome of Wit Wolf mass-murderer Barend Hendrik Strydom's nine-day-old trial

Police, who had anticipated the large gathering, arrived in considerable force to see that strict security precautions taken since the trial began were maintained

Dozens of policemen formed a human chain and numerous police vehicles were parked in a straight line on the pavement directly across the street in front of the court building as a barricade

However, police had to act several times and force large numbers of people off the street when traffic around the square was disrupted

When word got out that the death sentence had been passed, there were no anticipated shouts of jubilation

Instead, the crowd remained silent and watched a police escort leave the court at high speed to take Strydom to the Pretoria Central Prison death row

Handing down sentence, Mr Justice Harms said the evidence before the court pointed out that Strydom had left all his places of employment — the SAP, the Oranje Werkers and Sasol 3 — for political reasons

He said Strydom had left his last job at Santam Bank as he had already formed his plan to commit the Pretoria killings

"The De Deur killings were not committed for political reasons. They were committed

DANIEL SIMON

ted by Strydom to see if he could carry out his plan and not get 'cold feet'

Harms described Strydom as "nothing more" than a modern-day assassin who killed on political grounds

Strydom had killed the people in an "unfeeling and cold-blooded manner" that he had never experienced or heard of before

"The court could not take the accused's age into consideration as there was nothing childish about the crimes

"The accused acted in an adult way. Everyone can have beliefs, but they must not subject them forcefully on others

"He did everything for politics, he wanted to be a hero"

Harms said the fact that Strydom smiled when he shot his victims further exacerbated the situation

"He planned the killings carefully and wanted to start a mini-war. He has shown no remorse and said he would kill again if he had another chance"

Harms said that from all the facts available, the court could find no extenuating circumstances

Harms, looking Strydom in the eye, said: "It is difficult to sentence a person with your potential. You had potential but you destroyed it. Mass murders or race murders will not be tolerated in this court.

"You cannot be rehabilitated as you have said you would repeat the crimes. You planned the crimes on a large scale and are a danger to the community. I will keep you permanently out of the community"

JUSTICES DAY

AY, MAY 26 1989

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A TIMES MEDIA PUBLICATION

The day the smiles stopped for mass murderer Strydom

MASS murderer Barend Hendrik Strydom — described by Mr Justice Harms as a modern-day political assassin — was convicted and sentenced to death eight times in the Pretoria Supreme Court yesterday morning, for eight murders he committed in Pretoria and a De Dour squatter camp in November.

Mr Justice Harms, sitting with two assessors, also sentenced Strydom to an effective 30-year prison term for 16 counts of attempted murder and pointing a firearm. Strydom, 23, stood unsmiling and sipped water as the death penalty was handed down, before making his way briskly down

By 19 May 26/57 day
DANIEL SIMON

to the cells from the packed courtroom, for his journey back to Pretoria Central Prison

Shortly before proceedings started, a different Strydom entered the court. He was cheerful and full of smiles as he greeted his family, friends and supporters. He even had time to read a three-page letter given to him by a supporter.

In his hour-long summary before passing sentence, Mr Justice Harms said the court found Strydom to be a "cool, calm and collected" person who was not easily

influenced. It found that Strydom had "strong and rigid" political and religious beliefs instilled in him at a young age.

- Reports Page 2
- Comment Page 6

"We know his father's strong influence, possibly unhealthy, was a major factor in shaping his personality and that his father was the origin of his political beliefs."

Mr Justice Harms said Strydom's decision to commit the killings stemmed from the political beliefs he got from his father

The killings, however, could not be linked to his father, as Strydom had never discussed his "plans" with him because he would not have approved.

"It was Strydom's opinion that a Boerevolksstaat could only emerge if drastic action was taken and that is why he carried out the killings. The motive for the killings was propaganda for a volksstaat."

□ Sapa reports from Pretoria that Strydom is to apply for leave to appeal against the death sentence imposed on him.

His legal counsel, Johan Engelbrecht, confirmed Strydom would be appealing against the sentence.

'NECKLACE MURDER': PW SAVES WHITE KILLER FROM HANGMAN

w/k Argus 27/5/87 252
PRETORIA.— The only white man in South Africa to be sentenced to death for a "necklace murder" has had his sentence commuted by President Botha.

Henry George Burt, 33, was sentenced to death on May 20, 1987 for murdering a policeman, Sergeant Jacob Boti Ndimande, 25.

A spokesman for the Department of Justice said Burt's death sentence was commuted yesterday to 20 years' imprisonment.

Burt was condemned after the body of Sergeant Ndimande was found on a gravel road near Hennops River on June 6, 1986. A tyre had been placed around his neck and set alight.

President Botha also granted clemency to seven other Death Row prisoners: J Jantjies, 33, commuted to 20 years; W Kwetane, 21, commuted to 25 years; S M Ngubo, 36, to 18 years; J M Buthelezi, 46, to 18 years; S Sabelo, 39, to 18 years; V W Khuzwayo, 24, to 20 years, and S P Mtini, 24, to 25 years.

Plea for men 'in war of liberation'

By Jo-Anne Collinge

Three African National Congress men convicted of murder were "trying to bring about an integration rather than a disintegration of society" and they should not be sentenced to death, counsel for the parents of the men in the Delmas Supreme Court dock argued yesterday.

Mr Dennis Kuny SC told Mr Justice de Klerk he was not asking him to condone killing but to attempt to understand that the three men had been "acting as soldiers in a war of liberation, under orders"

The three men convicted of murder are Jabu Masina, TingTing Masango and Neo Potsane. Unless the judge finds that there were mitigating circumstances, he has no option but to impose the death penalty

Refused to defend themselves

The men have refused to defend themselves at all stages of the trial, arguing that they should be treated as POWs and not tried in a criminal court.

In an unprecedented move their parents this week instructed counsel to present evidence in mitigation

Sentence will be passed today

A fourth man, Joseph Makhura, has with the others been convicted of multiple counts of attempted murder arising from a limpet mine

blast at Silverton and a landmine explosion at Soshanguve in 1986

Killed by the first three men were Detective Sergeant Orphan "Hlubi" Chaphi, in 1978, and Constable Sinki Vuma, and a kaNgwane politician, David Lukhele, in 1986. Mr Lukhele's sister-in-law was also killed

Mr Kuny argued that the judge's task was to decide whether there were factors present which, in the eyes of the average reasonable person, might diminish the moral blameworthiness of Masina, Masango and Potsane

The judgment of the "reasonable man" should be seen in the context of the black community where the killings took place, he said

It was an "unfortunate fact" that the men were being tried in an all-white court and that whites "cannot begin to imagine" the circumstances of people growing up in the black townships.

Nonetheless, said Mr Kuny, it was the task of the court officers to project themselves into those alien conditions.

Mr Kuny argued there had been evidence that during 1976 and again in 1985/6 conditions of extreme violence prevailed in the townships. In such an "orgy of violence" it was hard to know how to judge where moral responsibility began and ended, said Mr Kuny.

He observed that when the policeman known as "Hlubi" was killed in 1978, Masina had carried out an act "which was met at the time with a certain amount of public approval".

Mr Kuny argued that the men were not like ordinary criminals. "They face their fate with a great deal of courage and determination"

Executing them, would have no deterrent value. "People who act with the kind of courage that these people do are not going to be deterred by the death penalty"

The prosecutor, Mr H Prinsloo SC, said the men had "planned, cold-blooded murders" which they had carried out in pursuit of their political objectives

He said that if extenuation were found in this case it would mean that people could "commit murder left and right" and simply claim that they were trained ANC members acting on instruction.

State appeals against speed trap acquittal

By Cathy Stagg

The State has applied for leave to appeal against the judgment in which Mr Ivor Wells of Pretoria successfully challenged his conviction and fine resulting from being trapped by camera on a freeway.

Mr Klaus von Lieres, SC, the Attorney General for the Witwatersrand Local Division enrolled the application in the Rand Supreme Court yesterday.

He asked Mr Justice L le Grange to postpone the matter to a date to be arranged between the parties. Mr Von Lieres also asked the judge to note an application to possibly lead further evidence.

In March Mr Wells, a Pretoria attorney, appeared in person before Mr Justice T T Spoelstra and Mr Acting Justice D A Bregman.

Mr Wells was trapped on January 26, allegedly doing 137km/h on the N1 freeway in Randburg — a 120km/h zone — by a camera known as the Travello Mark 4.

20 judges honour advocate

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Pretoria Correspondent

There were solemn moments in A Court at the Palace of Justice yesterday in memory of "a man of innate sweetness" — Mr Ivon Lytton Grindley-Ferris

Twenty judges and more than 60 advocates paid their respects to Mr Grindley-Ferris, who practised as an advocate for 56 years at the Pretoria Bar. He died on Saturday after a stroke. Mr Grindley-Ferris,

manifested outstanding qualities and was loyal to his profession, said Judge President Mr Justice Moll.

The chairman of the Pretoria Bar Council, Mr IWB de Villiers, said. "The Bar was his life. He never spoke an unkind word about others."

Born in 1906, Mr Grindley-Ferris matriculated at Christian Brothers' College in

Kimberley in 1922. After getting a BA in law at the University of Pretoria, he went to Trinity College at Cambridge University for his LLB and was admitted to the Inner Temple in London in 1932.

Mr Grindley-Ferris was a keen sportsman.

On his return to South Africa he was admitted to the Bar in 1933 by his father, the late Mr Justice Ivon Grindley-Ferris

Is death cell Wit Wolf's final lair?

PATRICK LAURENCE

THE cell door in death row slammed shut at an inauspicious time for Barend Hendrik Strydom, the young white former policeman who smilingly shot unarmed black civilians in the belief that he was starting the Third Boer War.

He spent his first day on Death Row yesterday, having been sentenced to death on eight counts of murder by Mr Justice Louis Harms on Thursday.

Had he joined the queue of about 275 condemned men in Death Row 30 months earlier, his chances of escaping the hangman would have been markedly higher. Until then the execution of a white man for killing black people was a rare event.

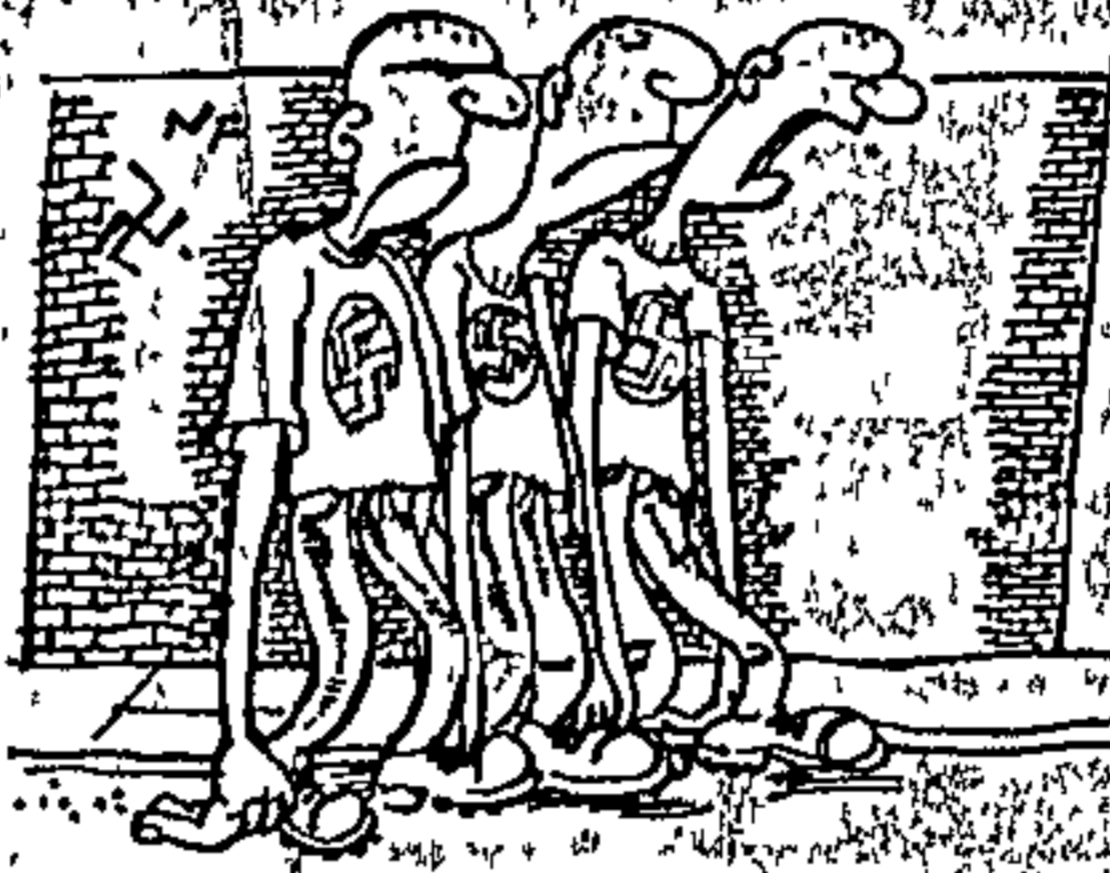
Since 1910

Writing more than a decade ago, Professor John Dugard, director of the Centre for Applied Legal Studies, observed of executions in South Africa since 1910 "No white has yet been hanged for the rape of a black and only about six whites have been hanged for the murder of blacks."

The position remained unchanged until late in 1987. In the past 30 months, however, three white men have been hanged for killing black people: Johan Wessels, George Scheepers and Anton Stoop. Like Strydom, all were young.

On November 26 1987, Wessels was hanged for his role in the murder and rape of a young black woman, Ms Elizabeth Mokoena. Wessels was only 18 when the killing took place. Scheepers was hanged on the same day for his part in the murder and rape of another black woman, Ms Ginny Goutseone. He was 22 at the time of the crime. On January 20 1988 Stoop, aged 23, was hanged for the murder of Mr Willem Mthutang.

Mr Justice Harms found that Strydom (23), a right wing zealot dedicated to the establishment of



"Our blood must be kept pure."

a Boer state and a member of the neo-fascist Afrikaner Weerstandsbeweging (AWB), was motivated politically when, in broad daylight, he went off his murderous spree on November 15.

Firing at point blank range, and smiling as he did so, he killed seven black people, including an 80-year-old woman, for "taking up oxygen".

Looking on, so to speak, was the giant sculptured head of former South African Prime Minister JG Strijdom, idolised by most Afrikaners as the "Lion of the North" for the strength of his convictions. Prime Minister Strijdom had stood unabashedly for white baasskap.

Before opening fire under the granite eyes of the bust, Strydom undertook a trial run to see whether he had the stomach to carry out his homicidal mission.

A "dedicated member of the Hervormde Kerk", Strydom had prayed for a sign from God not to proceed with his fatal plan, thus making God, in Mr Justice Harms's phrase, an accomplice.

Noting that Strydom was neither mentally disturbed nor deficient in terms of the law (his IQ was between 112 and 116, according to evidence), Mr Justice Harms said "The only causal connection relevant to the murders is his political outlook and hatred."

The judge labelled Strydom's political thinking as that of the extreme far right, adding "He champions the Afrikaner people to the exclusion of all other races. He is filled with a dread of black domination and that of communism and the fall of Christendom."

When he started his

shooting spree in the precincts of Pretoria's Strydom Square, it was to start the "Third War of Freedom" for a Boerestaat, the first two "Wars of Freedom" having been fought against Britain to preserve the 19th Boer republic from British imperialism.

As the judge put it: "The accused believed that he was acting in self-defence because a state of war existed between the African National Congress and white Christian Protestantism. The accused also believed that the ANC was not identifiable (hence, presumably, his random killing of black people)."

But in South Africa political motivation in crime leading to loss of life has rarely saved the perpetrators from the gallows. Since the execution of the ANC fighter Solomon Mahlangu 10 years ago, several of his comrades have been hanged for their role in armed action in which people have died.

Significantly the prosecutor in Strydom's trial, Mr Paul Fick, cited the case of Robert McBride, the ANC insurgent responsible for the 1986 Magoos bombing in Durban which killed three people, he described the similarities in the two cases as "amazing" and argued that Strydom should be sentenced to death just as McBride was two years ago.

Strydom has since joined McBride on death row.

Recalling that Strydom had smiled at his victims as he shot them, Mr Justice Harms concluded that he was worse than any of the terrorists who had preceded him on their way through the courts to await their fate.

The trial and conviction of Strydom inevitably focused attention on the AWB. The ideology which motivated Strydom came in large measure from the AWB, Strydom and his father, Mr Nic Strydom, were both members, although, in terms of the AWB constitution, Strydom's membership lapsed when, while he was reloading his pistol, he was arrested by the police.

The question in most people's minds now is whether the Government will proscribe the AWB, given the informative role its uncompromising ideology had played in Strydom's actions.

Understanding

Almost immediately after Strydom was arrested and his AWB membership had become public knowledge, AWB leader Eugene Terre-Blanche, labelled him an "unfortunate man" who had "acted entirely on his own volition but I can understand the immense frustration someone like him feels when his security and all that he holds dear are threatened."

Mr Justice Harms made two pertinent points in his judgment.

● "We want to state clearly that the accused's religious or political views, or any organisations with which he had a bond, are not on trial."

● Later, dealing with the influence of the AWB-supporting Mr Nic Strydom on his son, the judge said "His (Strydom's) murders can be traced back to politics and his politics to his father. But the murders cannot be traced back to his father, directly or indirectly."

The decision of whether to proscribe the AWB in light of the evidence heard before the trial is primarily political.

At the time of the massacre, the Minister of Law and Order, Mr Adriaan Vlok, banned the minuscule neo-Nazi Blanke Bevrydingsbeweging (BBB), although there was no evidence of a link between it and Strydom's actions.

His action, however, was seen as evidence of moving against an easy target to give the appearance of tough action.

12/1/1989
28/5/89

Outcry

set to

follow

death

for 14

By HAMISH McINDOE

THE 14 death sentences handed down in the Uppington murder trial are set to unleash a storm of international protest similar to the furore over the "Sharpeville Six".

The 14 were sentenced by Mr Justice J J Basson in the circuit court at Uppington on Friday for their part in the mob killing of a black policeman during township violence in 1985.

As with the Sharpeville Six, the Uppington trialists were convicted on the doctrine of "common purpose".

Extenuating circumstances were found in the case of the other 10 accused. They are due to be sentenced tomorrow.

Another accused, Enoch Mopondwana, 30, was convicted of attempted murder and he will also be sentenced tomorrow.

Hang

The South African Council of Churches, which groups Anglican and Methodist churches, yesterday described the Uppington sentences as an outrage "that only the apartheid system can produce".

Lawyers said it was the biggest single group sentenced to hang for a crime in recent South African history.

In its statement, the SACC said "The church believes that all life is God-given and should not be taken away, even by judicial means".

"South Africa cannot afford to hang her citizens at the rate at which hangings are presently taking place".

The national director of Lawyers for Human Rights, Mr Brian Currin, repeated his call to Minister of Justice Kobie Coetsee to hold a commission of inquiry into capital punishment.

Assocom gives nod to tolls, but sets limits

By Lloyd Coutts

The Association of Chambers of Commerce and Industry (Assocom) has conditionally agreed to road tolls

In a statement released yesterday, Assocom said the re-introduction of the Road Fund was the most efficient and equitable way of maintaining roads and providing additional facilities. However, it accepted that funds allocated by the Minister of Finance might be insufficient.

It agreed to the tolling of roads on the understanding that this would be regarded as a short to medium-term method of funding new roads and facilities, and made several conditions:

- The road network as it existed on January 1 1988 be regarded as inviolate as far as tolls were concerned
- Tolls applied to new facilities only

and not to any road in existence on January 1 1988, unless agreed to.

- Cross-subsidisation was opposed and therefore Assocom did not condone the levying of a toll on one road to finance another.

- Once the capital costs had been amortised, the toll could be retained to finance maintenance.

- Where a new facility was provided, the existing road would become the alternate road.

- A proportion of the tolls collected must be re-invested in the industry to finance roads and maintenance.

- In all instances where Government planned to introduce a toll on a road or other facility, the private sector and the general public must be consulted.

- A mechanism must be established for negotiations in the event that these principles are not adhered to.

Three men are executed in Pretoria

Three men were executed this morning at Pretoria Central Prison.

They were Patrick Jabulani Msomi (31), who was convicted in September 1988 for the robbery and murder of a 58-year-old woman in Johannesburg, Simon Mbatha (35), convicted in August last year on three charges of theft, the murder of two men near Alberton in 1987 and possession of firearms and ammunition, and Abraham Mngomezulu (no age given), convicted in 1987 for the murder of a police informer in Pretoria. — Staff Reporter.

Sowetan 27/5/87

(252)

NECKLACE CASE WHITE WON'T HANG

THE only white man in South Africa to be sentenced to death for a "necklace murder" has had his death sentence commuted by the State President.

Henry George Burt (33) was sentenced to death in the Pretoria Supreme Court on May 20 1987 for murdering a 25-year-old black policeman, Sergeant Jacob Johannes Boti Ndimande

A spokesman for the Department of Justice confirmed that Burt's death sentence was commuted to 20 years' imprisonment

Burt's death sentence was imposed after the burnt body of Sergeant Ndimande was found on a gravel road near Hennops River on June 6 1986. A tyre had been placed around his neck and set alight

The State President has also granted clemency to seven other death-row prisoners

They are: J. Jantjes (33), commuted

to 20 years' imprisonment, W Kwetane (21), commuted to 25 years; S M Ngubo (39), to 18 years, J M Buthelezi (46), to 18 years; S Sabelo (39), to 18 years, V W Khuzwayo (24), to 20 years and S P Mtini (24), to 25 years' imprisonment on two counts

Condemned man's vow

Sowetan 29/5/89

REPORTS, pictures and comments in this edition may be centred in terms of Government of

ONE of the 14 sentenced to death in the Uppington trial on Friday claims that he is innocent

Before sentence was passed, Kenneth Khumalo told the court: "I know I am innocent. A lot that was said against me was fabricated lies."

"I wish the judge to live longer to see me walking free in the streets of South Africa."

As Mr Justice Basson passed

sentence, the 14, apparently resigned to their fate, said "thank you" in turn. Relatives in the packed public gallery wept

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The 14 are Kenneth Pinkie Kumalo, Eric Tros Gubula, David Lekhanyane, Myner Gudlanu Bovu, Zuko Zabendlini, Andrew Lekhanyane, Justice Bekebeke, Zonga Mokhatle, Wellington Masiza, Boy Jafta, Evelina

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Condemned

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• From page 1

Sowetan 29/5/89
de Bruin (60), Gideon Madlongolwane, Xolile Yona and Albert Tywilli

The case against the other 12 accused, where mitigation was found, was postponed until today

294 got
death sentence
in 1988

Political Staff

DEATH sentences were passed on 294 people last year

The Minister of Justice, Mr Kobie Coetsee, who was replying to questions in Parliament from Mr Ray Swart (DP, Berea); said seven people were still awaiting execution on May 18

Another 287 people were in death row on that date

All these cases were "in various stages of the post-sentence process. In most of the cases appeals are pending"

Mr Coetsee said 227 of these people involved black men, 40 coloured men, 13 white men and five Indian men

One black woman and one coloured woman had also been sentenced to death

Mr Coetsee, in reply to another question by Mr Swart, said 213 people were sentenced to death last year. He added that 118 of them were refused leave to appeal

Three sentences were altered or reduced by the Appellate Division, one conviction was reversed by the Appellate Division, 17 sentences were commuted by the State President and 11 were executed

Asked how many people were defended by pro Deo counsel at trial or appeal, Mr Coetsee said that to get the information all court records would have to be examined, "which is not economically feasible"

Argus (252)

Monday May 29 1989 3

Apology Judge Human

THE Stop Press edition of The Argus on March 16 last year carried a report on various aspects of efforts to secure a reprieve from the gallows for the "Sharpeville Six" who were found guilty of complicity in the mob killing of Mr Jacob Dlamini.

The report covered developments surrounding the case in South Africa and abroad. It dealt with various moves by lawyers, government spokesmen and opposition MPs and included editorial comment in the London newspaper The Times on political and judicial issues surrounding the trial and verdict. Although the judge was not named, it has been drawn to our attention that The Times criticism was unduly excessive and reflected unfairly on the trial judge, Mr Justice Human, of the Transvaal Division of the Supreme Court.

The Argus wishes to say categorically that in reflecting the wide range of views in its report on a matter of intense public interest, it was never intended to bring the judiciary into disrepute or to reflect in any way on the integrity of Mr Justice Human or to prejudice his good name.

The Argus and its editor unreservedly withdraw any innuendoes, incorrect or unfair statements which may have arisen from the report and apologise to Mr Justice Human for any inconvenience or embarrassment which the publication of the article may have caused him.

Skv 29/5/89

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Accused find an outlet making models

Upington 12 will be sentenced today

Staff Reporter

The remaining 12 members of the Upington 26 will be sentenced today for their part in the 1985 murder of a policeman

On Friday 14 members of the group were sentenced to death by Mr Justice J J Basson

They are Kenneth Pinkie Kumalo, Eric Tros Gubula, David Lekhanyane, Myner Gudlani Bovu, Zuko Zabendlini, Andrew Lekhanyane, Justice Bekebeke, Zonga Mokhatle, Wellington Masiza, Boy Jafta, Evelina de Bruin, Gideon Madlongolwane, Xolile Yona and Albert Tywilli.

Mitigating factors were found for the other 12

The 26 people make up the largest group convicted of murder in a South African court

Although only one of the accused inflicted the fatal blows, 25 residents of Pabalello township have been convicted of murder under the principle of common purpose.

The trial has elicited international interest for its similarity

to the Sharpeville Six trial

Model-making has become a means to while away the time for many members of the group

First were simple boats, next came pleasure cruisers and then elaborate ocean liners, all built out of matchsticks

One of the most prolific model makers was Justice Bekebeke (24), who was found to have inflicted the fatal blows. His first project was a huge boat, which he made for his mother as a Christmas present

The idea caught on. Xolile Yona, a former boxer, became known as the "ox-wagon king" for his Great Trek miniatures

Boris Becker

The former town treasurer, Kenneth Humalo (33), also on trial, made a magnificent church out of clothes pegs for his wife. The model is a replica of the Roman Catholic church in Pabalello with pews made from suckers, birthday candles on the altar and bright gift wrapping on the walls

Another of the 26 is an accomplished artist. Elijah Mashoba (24) has spent much of the trial drawing and painting the characters in the courtroom

Nicknamed Boris Becker, because he excelled at tennis, Mashoba made his first boat from about 14 000 matches

Psychologist Professor Graham Tyson described him in evidence as "an outstanding young man - a quiet, studious and talented person active in church activities whose behaviour appears exemplary. His involvement in the murder is totally out of character, suggesting that he was responding to strong situational forces"

Many of the models are presently on exhibition at the Baxter Theatre in Cape Town and are being sold to raise funds

Ms Beverley Runciman, regional chairman of the Black Sash, which organised the exhibition said

"It is incredible to see the upsurge of creativity and beauty that has come out of a very barren and hopeless place"

May 29 1989

Death sentences are product of a 'deprived, racist society'

ALAN FINE

BAREND Strydom and the 14 Upington people sentenced to death on Friday were products of their society, and SA would not solve anything by hanging them, Wits University's Edwin Cameron said on Friday

Cameron, an advocate attached to the Centre for Applied Legal Studies, said the death sentences handed out in both cases showed the inability of SA's legal system to deal adequately with social pressures and strains

Strydom, and the Upington 25 — many convicted on grounds of common purpose for the killing of a policeman — were victims of a deprived and racist society, he said

"The horror of what Strydom did cannot be compared to the actions of the Upington people. But both cases show up shortfalls in our system of justice

"The very monstrousness of Strydom's crime is a reflection of the poisons white South Africans are brought up on. The Upington accused were the victims of that same system. The fact that they are at opposite poles of our society should not mislead us," Cameron said.

DP spokesman on justice Helen Suzman said "This is the Sharpeville Six all-over again. — common purpose, ex-

cept the numbers are greater" Sapa-Reuter reports that the South African Council of Churches described the Upington sentencing as an outrage "that only the apartheid system can produce"

A member of the Upington 25's legal team said they would be appealing against both conviction and the death sentence

"We believe the evidence presented to find extenuating circumstances was sufficient to allow Mr Justice Basson to unlock himself from mandatory imposition of the death sentence," she said

The remaining accused, for whom extenuating circumstances were found, are to be sentenced this week

The defence will then bring an application to appeal

The 14 Paballelo residents sentenced to death were Kenneth Khumalo, Tros Gubula, brothers Andrew and David Lekhanyane, Myner Bovu, Zuko Xabendlini, Justice Bekebeke, Zonga Mogatla, Wellington Masiza, Boy Japhta, Evaluna de bruin and her husband Gideon Madlongolwane, Xolila Yona, and Albert Tywill

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29/5/89

Sats 4 given leave to appeal.

(240) SUSAN RUSSELL (252)

FOUR railway workers who were sentenced to death four times each for murdering four colleagues during the 1987 Sats strike were granted leave to appeal in the Rand Supreme Court on Friday.

Wilson Matshili, Patrick Molefe, George Maungedzo and Takalani Mamphaga were sentenced to death in March this year.

The court found there were no extenuating circumstances.

Another striker who was convicted of murder was given leave to appeal against his 12-year prison sentence.

Phineas Netshitunglwane was one of four found guilty of murder with extenuating circumstances and given prison sentences ranging from five to 12 years.

Vhulani Mulaudzi, Kati Sebopelo, Mulatelo Moremane, Jerry Goodman and Albert Phuluwa were kidnapped by strikers and taken to Cosatu House on April 28 1987.

They were assaulted before being driven to a spot at Prolecon. Phuluwa escaped but the four others were murdered and their bodies set alight.

The appeal is expected to be heard towards the end of this year.

PROCESSION TO THE GALLOWS

DURING the past week alone five people were executed, and on one single day — Wednesday — three people were hanged by the neck until dead

HANGING

According to Lawyers For Human Rights, seven people on Pretoria's death row were informed last week that they were to be hanged during the week.

One of the people — Abraham Mngomezulu who was convicted for the the killing of an alleged informer in April 1987 when a stayaway was called in Soweto to protest against rent evictions — was initially granted a stay of execution, but two weeks ago he was informed that he was to be hanged the following week and was promptly moved to death row

The week also saw the sentencing to death of 15 people — first the mass murderer Barend Strydom, and then the next day 14 of the so-called Uprising 25 accused who were found sentenced to death when Mr Justice Basson found no extenuating circumstances in the "common purpose" murder of a municipal policeman, Mr Lucas Sethwala

These two rather different cases have focused attention again on what for decades has been a perennial and emotive issue in this country — the nature and acceptability of the death sentence, that ultimate absolute and irrevocable form of

MORE than 1 500 people were executed in South Africa in the nine years between 1978 and 1987; only in Iran and Iraq were more people sentenced to death, according to Amnesty International. Last year alone there were 117 executions, according to figures supplied by Lawyers for Human Rights. Staff Reporter DAVID YUTAR looks at the issue of the death penalty and the campaign against capital punishment.

ment and retribution which, whatever one thinks, has been invoked by courts in this country on an astonishing scale

According to a newly published report by Amnesty International entitled *When the State Kills*, only Iran and Iraq officially executed more people than South Africa between 1985 and mid-1988

Between 1978 and 1987 a total of 1 593 were sentenced to death in South Africa and during this period the number of death sentences imposed exceeded 100 every year.

In 1987 there was a peak during which more than 170 people were executed (of whom nine were whites) making this the highest number of executions for any one year since union in 1910

The international human rights organisation claims that more than 537 South Africans were executed during this period compared with 743 in Iran and several hundreds every year in Iraq.

According to Amnesty 35 countries have hitherto abolished the death penalty for all crimes, 18 have abolished it for all but certain exceptional cases and a further

27 countries, whilst officially retaining the death penalty as a form of punishment, no longer actually carry it out

In Britain the death penalty was abolished in respect of all but certain 'exceptional crimes' in 1965. There have been no executions in Britain since 1964. There have been four attempts since the 1965 Abolition Act to try and resuscitate the death penalty, but every time these attempts have been rejected with a greater majority

In the United States some 36 states presently provide for the imposition of the death penalty in cases of murder with aggravating circumstances.

During the period from the beginning of 1985 until mid-1988 a total of 66 people were executed in the USA. During the same period a total of 539 or more people were sent to the gallows in South Africa

In a nutshell although some 80 countries — or more than 40 percent of the world's nations — have abolished it either in law or in practice, some 100 countries still use the death penalty



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return on all death sentences until the commission has published its report.

He points out that the society is also asking for an automatic right of appeal where the death sentence has been imposed (something which does not exist at present) and adequate legal representation under some kind of legal aid for those on trial for capital offences. Many of those accused sentenced to death are represented by *pro deo* counsel in terms of the existing system

Professor Corder says the society which held vigils throughout the city last week as a protest against the death penalty in South Africa, intends to hold further vigils in the future. He points out that it was mere coincidence that last week's vigil was held a day after the sentencing of Barend Strydom

He was also critical of the fact that while the media gave front page publicity to Barend Strydom, relatively little publicity (except in *The Argus*) was given to the fact that the "Uprising 14" were likewise facing the prospect of the death sentence

Speaking about the death sentence in South Africa, Professor Ellison Kahn who is National President of The Society for the Abolition of the Death Penalty, that no matter how much one was horrified by certain crimes, the death penalty remained "a moral issue" and that

was immoral for society to hang anybody". "The blood is on all our hands. We could rather incarcerate these people for the rest of their lives," he suggested

He pointed out that the death penalty was so uncertain in its application and that during the last few years there had been a substantial increase in the number of reprieves granted. There were 16 reprieves in March, 11 by mid-April and another eight in May, bringing the total to 35 since the beginning of the year

Another worrying aspect of the application of the death penalty in South Africa is the widespread suspicion that black accused are (for a host of reasons including perhaps the fact that the judiciary is exclusively white) more liable to receive the death penalty than are their white counterparts. The Minister of Justice, Mr Kobie Coetsee has recently claimed that opinion polls have shown that most people favour the death penalty

He suggested that were it to be abolished, "it could give rise to a situation where a community loses faith in the courts and takes the law into its own hands"

Obviously there is very little common ground between this point of view and that of the abolitionists and unless some unexpected development takes place, the latter are going to have to prepare for a long and uphill battle in pursuing their

The Society For The Abolition of the Death Penalty has for some time campaigned vociferously against its use in this country.

Regional Chairman of the Society says that they intend to continue to press (the society has done so just recently) for a commission of inquiry into the death penalty and a simultaneous moratorium

Professor Hugh Corder,

Readers' verdict on death sentence

Staff Reporters

READERS are divided on whether the death penalty should be retained. In a phone-in poll on whether capital punishment should be abolished, 134 callers wanted it scrapped and 139 wanted it retained.

Reasons most often given in favour of capital punishment were based on the principle of an eye for an eye or the issue of taxpayers having to carry the financial burden of prisoners.

There were a few callers who demanded public hangings as an extra deterrent.

Others, like Mrs Lisa Holm of Goodwood, called for the death penalty to be applied also to convicted rapists and drug runners.

"The law is very lenient in this country," she said. "They do not make a habit of capital punishment at all."

Scriptural reasons were given by Mr Howard Lucas of Claremont, Mr A Allie of Elsie River and an unidentified man.

The man who did not identify himself quoted from Numbers 35 verses 30 to 33 where it states that a man who killed another should himself be put to death, but not on the testimony of only one witness.

Mr Allie, who professed to being a Muslim, said if God's laws were upheld more strictly in society, there would be less crime.

Mr Lucas said God gave the State and authorities the permission to put to death a person who has committed premeditated murder.

● Procession to the gallows — page 13.

Those against the death penalty gave reasons ranging from the "death penalty is barbarous" of Mr David Hicks of Plumstead to the conclusion that nobody had the right to take a life of Mrs Tessa Geynt of Sea Point.

Mrs Francis Whitehead of Kenilworth, a member of the Black Sash Regional Executive, said she felt the death penalty was yet another case of violence resulting from apartheid rule.

"It does not serve as a constraint against violent behaviour, but rather as a prime example of violent behaviour," she said.

Mrs Mariette de Decker said the death penalty should be abolished, because a person should always have a chance to make good.

"If the person is dead, that can't happen," she said.

PHONE-IN POLL

Mrs Miriam Ebrahim said it should not be abolished.

"If somebody has killed another person, he should hang it as immaterial what his colour is," she said.

A man who called from Mitchell's Plain but did not want to be identified for fear of retribution, said the people who called for the abolition of the death sentence should "come and live in the townships".

"RIDICULOUS"

"It is the same as saying 'Do not put thieves in jail, because it does not stop theft' and that is ridiculous," he said.

Another person who did not want to be identified, but named himself as Eugene, said gangsters took pride in being sent to jail.

"Tell those who call for the death sentence to be abolished there are poor people here in the Cape Flats who do not have burglar alarms or cars with which they can go out," he said.

"The law is too soft. The poor have to worry every time they go outside at night."

Dr H Mullajee of Mitchell's Plain said he did not think it should be abolished entirely, but only where politics was involved.

"They should only have the death sentence when criminal intent has been proven. Even the Wit Wolf should be spared, technically speaking, because his was a political action."

"He has been brought up to think the way he does by the National Party's policies," Dr Mullajee said.

Other comments from readers included

● Mr Theo Mabusela of Khayelitsha "I am very much against capital punishment on moral grounds because no one has the right to kill. Above all

(Turn to page 3, col 1)

Press curbs

In terms of the emergency regulations reports, comments and pictures may be restricted.

INS

P.T.O.

White 'necklace' murderer saved from gallows

THE only white man to be sentenced to death for a "necklace murder" had had his death sentence commuted by the President, the Sowetan reported yesterday.

It said Henry George Burt, 33, was sentenced to death in the Pretoria Supreme Court on May 20 1987 for murdering Jacob Johannes Boti Ndimande, 25.

A Department of Justice spokesman had

confirmed Burt's death sentence had been commuted to 20 years' imprisonment.

Clemency had also been granted to seven other death row prisoners: J Jantjes, 33, commuted to 20 years' imprisonment, W Kwetane, 21, commuted to 25 years, S M Ngubo, 39, to 18 years, S Sabelo, 39, to 18 years, V W Khuzwayo, 24, to 20 years, and S P Mtini, 24, to 25 years. — Sapa

Durban advocate is top contender

Indian tipped to be first black judge

Star 31/5/89
252

Own Correspondent

DURBAN — Legal circles and the political arena are abuzz with strong speculation that a senior Durban advocate, Mr Hassan Mall, is to become the country's first black judge

However, indications are that a number of extra-parliamentary organisations will exert substantial pressure on Mr Mall (63) — who was appointed an acting judge amid much controversy in February 1987 — to refuse the position

According to Democratic Party MP Mr Pat Poovalingam, following questions raised in Parliament last year over the absence of black judges on the Bench, the Minister of Justice, Mr Kobie Coetsee, made a discreet approach to Mr Mall recently

Said Mr Poovalingam "For political reasons or under pressure from the Natal Indian Congress, Mr Mall decided not to take up the offer"

It is now understood that Mr Coetsee, who is currently under intense pressure to appoint a black judge to the Bench, is to make another approach to the senior advocate

If Mr Mall decides to accept, his income is set to exceed R135 000 a year, following indications that an announcement on increases in judges' salaries was to be made within the next month

Contacted in Bisho, Ciskei, where he is involved in a murder trial, Mr Mall said he had not been approached and therefore could not comment on the issue

Since his one-month appointment as Acting-Judge for the Durban Supreme Court last year, Mr Mall has been seen as a firm contender to become the country's first black judge

In the course of his lengthy career, Mr Mall, who was banned for five years in 1962 while serving as secretary of the South African Indian Congress and the NIC, was the first black to practise as an attorney after "dual practices" of attorneys-cum-advocates were stopped in 1934 and the first Natal Indian to take silk and become a senior counsel in 1978

Another possible contender for the position is Mr Ismail Mohamed, SC

But it is believed that his involvement — and success — in high-profile political and human rights trials make him an unlikely candidate

Move welcomed

The Chairman of the General Council of the Bar of South Africa, Advocate Ralf Zulman, said if Mr Mall were to be appointed, the move would be warmly welcomed

In addition, Mr Zulman said he would welcome it if people of "various political persuasions" were appointed to the Bench

The liaison officer for the Minister of Justice, Major D J de Villiers, said he could not confirm whether Mr Mall had been approached.

New Bill provides for full pay for retired judges

NR 645
1/6/87

By DON HOLLIDAY
Staff Reporter

257

RETIRING Supreme Court judges will be paid the same salary as their serving colleagues for the rest of their lives, in terms of a Bill tabled in Parliament.

Under the present dispensation, judges who retire at the age of 70 receive a pension proportional to their years of service and equal to their salary on retirement after 15 years' service. In addition, they receive a gratuity proportional to years of service, with a maximum gratuity after 20 years in a specific office.

A judge is obliged to retire on turning 70, with a choice of retirement after 65.

In addition, judges are entitled to 4½ months' long leave after every four years' service and it is established practice in the provincial and local divisions of the Supreme Court to limit the terms of session of the courts to a total of 36 weeks a year.

The Bill provides for the establishment of the principle that a person

appointed as a judge, remains so for life and, in place of the present pension arrangements, continues for the rest of his or her life to receive the same salary as serving colleagues, or proportional to them.

After a judge's death, the surviving spouse would continue to receive 66.6 percent of the monthly amount.

It also provides for the removal of a judge from active service on reaching the age of 70 if he or she has completed at least 10 years' active service, otherwise on completion of 10 years' active service. However, a judge who at the age of 70 has not yet completed 15 years' active service, may continue to do active service until completing 15 years' active service or until attaining the age of 75.

If a judge were to elect not to accept the new dispensation, he or she could retire on the existing dispensation.

The Bill makes provision for the reduction of judges' long leave to 3½ months.



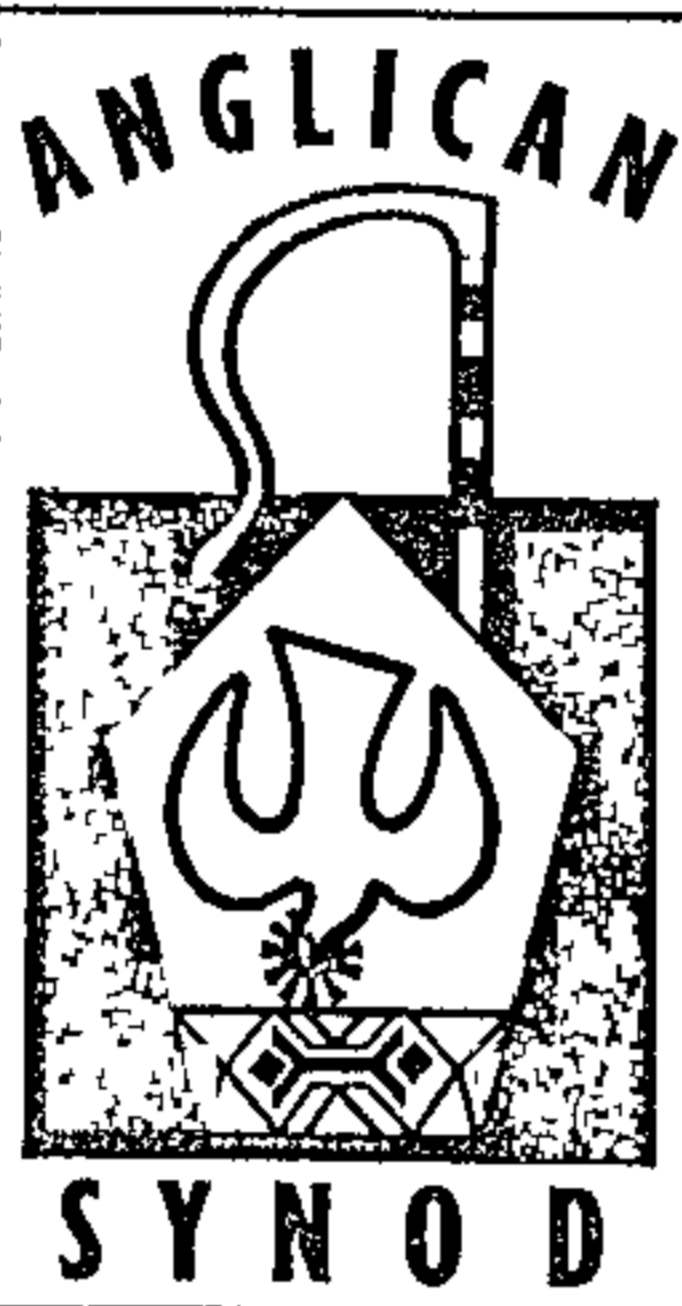
Archbishop pleads for life of Wit Wolf

ARGUS 1/6/89 (18) 252

The Argus Correspondent

DURBAN. — Archbishop Desmond Tutu said here today that he forgave mass-murderer Barend Strydom and called for his reprieve

"I forgive him for what he has done. It is not easy, but this is what we are called to do. If we cannot forgive, what hope is there for this country?" he said in an interview.



Wit Wolf Strydom received the death sentence eight times in Pretoria for killings in the street.

Last night the controversial archbishop called for the reprieve of Strydom and the Upington 14 at the opening of the Anglican provincial synod at St Thomas's Church here.

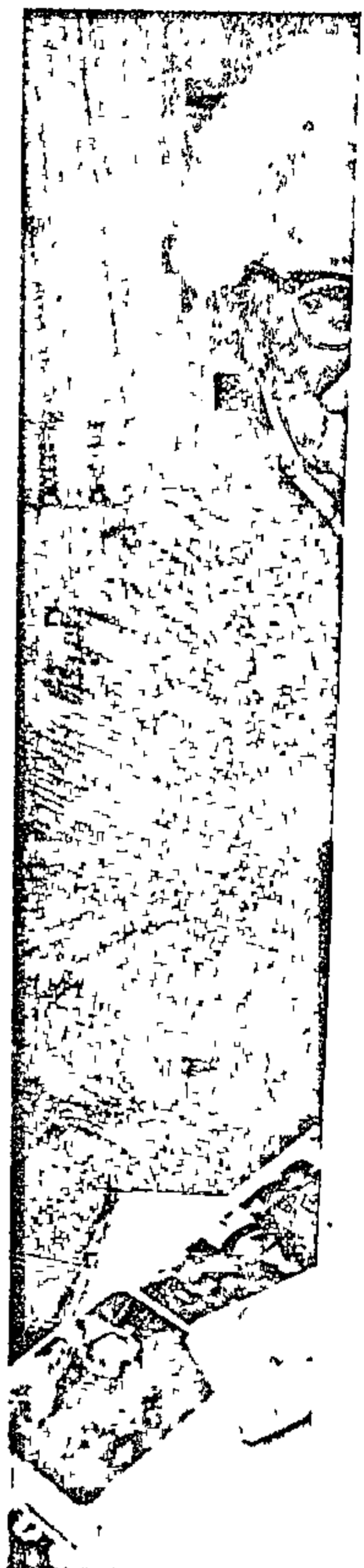
In his text the archbishop called for the abolition of the death penalty and for an amnesty for all those on Death Row.

Interviewed today he said: "We are not allowed to take the life of another — no matter what he has done.

"We have to find another form of punishment. Punishment is not meant to be merely punitive. It should also be rehabilitative.

"I would not like to see anyone hanged, including Barend Strydom"

Archbishop Tutu said Strydom was really a product of "a ghastly upbringing" in which he was indoctrinated to hate



Mandela FC case men ask for bail

A BAIL application, by two brothers on a murder charge arising from the death of a man who was associated with the Mandela United Football Club has been postponed to June 27.

The hearing was before Mr P H Bredenkamp in the Johannesburg Magistrate's Court.

The brothers are Mr Sibusiso Chili (24) and Mr Mpika Chili (21), the sons of Mrs Dudu Chili (45), a member of the Federation of Transvaal Women.

In his request for a postponement, Mr G Rautenbach, for the defence, said an essential witness for the defence was not available. The two brothers are in custody.

Hacked

The murder allegation arises from the death of Mr Maxwell Madondo who was allegedly stoned, stabbed and hacked with pangas at or near Uncle Tom's Hall in Orlando West Soweto on January 13 this year. Madondo was associated with the Mandela United FC.

The brothers are charged together with their mother Mrs Chili and four other men: Mr Andrew Ikaneng (23), Mr Isaac Mazibuko (22), Mr Nhlanihla Blanket (18) and Mr Sandile Blanket (22) all of Orlando West.

Terrorism accused is granted bail

CAPE TOWN — There was excitement in a packed gallery in the Supreme Court on Tuesday when terrorism accused Miss Gertrude Fester was granted R3 000 bail after spending more than a year in custody

Loud cheers went up and a group of people sang and danced in the street when Miss Fester came out of the court building. Mrs Freda Fester wept as she held her daughter, who was mobbed and kissed by well-wishers.

Mr H Klem, SC, for the State, made the surprise announcement that the Attorney-General had on the basis of new information withdrawn his objection that Miss Fester, co-accused of Mr Tony Yengeni and 12 others, be allowed bail.

In terms of her bail conditions Miss Fester must supply the investigating officer with her present address and any subsequent change within 24 hours, report to the Maitland police station every day between 5 and 8 pm when the court is not in session and not interfere with witnesses.

An inquiry into the refusal of Mr Bongani Jonas, formerly known as Mr X because he was to be a state witness, to testify, was then held.

Mr A M Omar, for Mr Jonas, said Mr Jonas's

case would be that it would be humanly impossible for him to testify. It may be necessary for the court to decide if that was a just excuse.

Mr Jonas said the reasons for his refusal to testify were complex because South Africans were living in two worlds, that is, a world of the oppressor and that of the oppressed

He would never be able to live with himself or his conscience and his family would never be able to face members of the oppressed community if he testified, he said (252)

During the time that he had been held under Section 31 (as a possible state witness) he had not been able to sleep and experienced struggles within himself. After he told the court on April 18 of his refusal he had managed to sleep without using sleeping tablets, Mr Jonas said.

His 72-year-old father, a security guard, was a Christian and respected member of society and would never be able to face his congregants if he testified. He would also betray himself, his family and his community if he did so, he said

His youngest brother, a Std 9 pupil, would be humiliated if he testified and his sister, a student at the University of Transkei, would have to repudiate him if he testified

Another brother, Andile — he is in detention — was a teacher and a leader in the community and would also be betrayed if he chose to testify, Mr Jonas said.

"Should I testify I would betray my own human dignity because our struggle is not just a struggle for political power but also a struggle for human dignity"

The events that shaped him in his childhood included seeing his shaking parents pleading with police during a pass raid

He had also been forced to abandon his second-year BA Admin (personnel) studies at Fort Hare University during 1980 class boycotts, Mr Jonas said.

The trial continues today. — Sapa

10 to be hanged in the next week

A total of 10 people on death row have received notices that they are to hang in the next week, claims a spokesman for the Save the Patriots Campaign.

The spokesman said that four people were due to be hanged tomorrow morning and a further six on Tuesday.

The information had been received from a regular visitor to death row, she said. Details, such as the names of the 10 and whether they had exhausted all legal channels of defence, were still being investigated, the spokesman added.

It is understood that Lawyers for Human Rights, which has secured stays of execution in several cases, will be working on the cases of the 10.

Tutu pleads for Strydom's life

16/8 Own Correspondent 252

DURBAN — Anglican Archbishop Desmond Tutu said in Durban yesterday he forgave recently convicted mass murderer Barend Strydom and called for a reprieve of his death sentence.

"I forgive him for what he has done. It is not easy, but this is what we are called to do. If we cannot forgive, what hope is there for this country?" he said.

Opening the Anglican Provincial Synod at St Thomas's Church in Durban last night, Archbishop Tutu called for the reprieve of Strydom and the Upington 14, the abolition of the death penalty and an amnesty for all those on Death Row.

● See Page 6M.



President Bush... due to talk to Mrs Thatcher today.

SA may be on agenda when Thatcher meets Bush

The Star Bureau
11/6/89
LONDON — Southern Africa could be on the agenda as US President George Bush and Mrs Thatcher get down to intensive talks at Downing Street today.

Observers say the agenda is reasonably open, although a priority will obviously be discussion of developments at this week's crucial Nato summit. The Middle East question is also expected to surface.

The superpowers are being urged to take their co-operation on Angola and Namibia one step further and combine on an initiative to resolve the problems of other countries in the region,

notably Mozambique and South Africa

Mrs Thatcher believes her anti-sanctions stance has given her vital leverage with Pretoria, a point she will be keen to underline to President Bush.

Mr Bush flew into London last night for a whistle-stop visit to Britain, his first as President

He had come from a meeting with West German Chancellor Helmut Kohl in Mainz, where he called on the Soviets to tear down the Berlin Wall and end what he described as the "tragic division" of Europe.

"That wall stands as a monument to the failure of Communism," he told a cheering crowd

Tiddles the trout routs piranhas

The Star Bureau

LONDON — Tiddles the rainbow trout has been sent away from an aquarium after leaping nearly a metre into a neighbouring tank and gobbling up six man-eating piranhas at a cost of about R240

Staff at the aquarium in Watchet, Somerset, assumed that Tiddles was fighting for his life against the 17 piranhas in the tank and frantically scooped him out. But the 3.6 kg fish wasn't even scratched by his savage opponents

Restrictions

The Star is being produced under the severe restrictions of the emergency regulations

Editor-in-Chief of The Star refuses to divulge sources

The security police are demanding the name of a highly placed source who provided statistics for an economic article in The Sunday Star

The Editor-in-Chief of The Star, refused to name the source and has been reminded that he may be summonsed to appear before a magistrate for interrogation in secret

Failure to answer questions under a section 205 subpoena could result in his being jailed until the matter is resolved.

This possibility follows the use of section 205 against the editor of *Business Day* who was forced to answer questions (and was refused a public hearing) after he had attacked

the Minister of Law and Order, and accused the SAP of incompetence

"These cases are a gross misuse of a legal mechanism which, in itself, is a dubious instrument," The Star's Editor-in-Chief said today. "There is no way we can reveal our source. In any case, he is a highly placed, responsible citizen who is doing his job — legally.

"But all of us need to challenge the increasing abuse of power by government departments

"The abuse of power, including the misuse of section 205, has become so prevalent that the State no longer seems to understand the implications of its actions," he said.

The latest case arises out of two Sunday Star finance reports that are nearly four months old

One report criticised the Minister of Economic Affairs draft Bill on minerals

The second report was an authoritative article revealing how South African minerals were boosting an ailing economy and "adding gloss to South Africa's 1989 economic prospects".

But police told a Sunday Star finance reporter that some of the statistics in the second article had not been put before the Minister of Economic Affairs before they were published.

"To hell with the Minister," responded an irate Sunday Star financial reporter (in rather more blunt Afrikaans)

He had incorrectly been approached at his home at night by the police.

The Editor-in-Chief asked to see the police when they visited the reporter the next day and informed them that the reporter had nothing to do with the article, that they should not have approached him but his superiors, and that The Star would under no circumstances reveal the source

● Details and comment — See Page 2.

ACTIVITIES
table it read "We can't wait any longer Bury us together!"
the child noticed that
ran to get help from a

30 FACE SERIOUS CHARGES

SOWETAN Thursday June 1 1989

Page 9

THIRTY-ONE men appeared in the Johannesburg Magistrate's Court on several charges of murder, attempted murder, assault with intent to do grievous bodily harm, abduction and intimidation. Relating to a strike by furniture employees last year.

Their appearance is a sequel to a strike by furniture workers last year. They are facing 17 counts of abduction, five of intimidation, five of murder, four of attempted murder and three of serious assault.

They appeared before Mr P H Breckenkamp and

were not asked to plead. Twelve were released on

bail of R500 each and the rest will remain in

custody until June 30. Those out on bail were

warned not to interfere with state witnesses.

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Winnipeg
2-8/6/89
'Laughing' killers get 10 years' jail

TWO young white men who "laughed" after one had thrown a stone which killed an eight-year-old child were yesterday sentenced to 10 years' jail for murder.

Shane John Mitchell (18) was convicted after he threw a paving stone at a group of school children, hitting Ronnie Pitso on the head. In the words of a witness, the child's brains were "lying all over the road"

Timothy Beddingfield (20) was convicted of murder on the basis of the common purpose principle

The court earlier heard that on October 12 1987, Beddingfield and Mitchell had played truant from school with

several friends. They went to the Swartkops pleasure resort, where they had a braai and drank beer. While driving to and from the resort, the accused threw stones at passers by to "sting" them.

Passing sentence, Mr Justice J Roux took into consideration that the two were drunk at the time of the killing. He said they were more likely to be rehabilitated in a prison than in a reformatory

Maria Pitso, the mother of the child, burst into tears after sentencing, and had to be helped from the court. She said the sentence was too light, and that it would not bring back her child

Strydom must not hang - Tutu

ARCHBISHOP Desmond Tutu called for reprieves for mass killer Barend Strydom and the 14 Uppington people sentenced to death for the killing of a municipal policeman

Addressing the opening service of the Anglican Church's provincial synod in Durban, he also commended Inkatha's initiative to end the Natal violence, as well as the positive responses of the United Democratic Front and Cosatu

He made his comments in off-the-cuff

additions to his prepared text

In the text, he called for the abolition of the death penalty and for an amnesty for those on "death row"

He added "I include even 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

"I hope (too) that we will add our voices to those who will campaign for a reprieve for the Uppington 14"

COMPETITION COMPETITION

Star 2/6/89 (252) ~~252~~
White youths 'did not care who was killed'

2 get 10 years for killing black boy

By Cathy Stagg

Shane John Mitchell and Timothy Lee Beddingfield were yesterday each sentenced to 10 years' jail for murdering an eight-year-old black schoolboy

Mr Justice Roux said in the Rand Supreme Court yesterday Ronnie Pitso had been part of a group of schoolchildren innocently walking home

They had not provoked the two youths — they had merely attracted their attention

"Mothers and fathers have every right to expect that children can walk home in the faith that they will not be bludgeoned down as this child was"

Ronnie was walking with a group of fellow pupils on October 12 1987 when Mitchell, Beddingfield and a group of friends drove past. They had played truant and had a picnic where alcohol and dagga were used. Some of them had picked up stones to

throw at pedestrians

Mitchell threw a 2 kg paving brick which hit Ronnie, cracking his skull

Beddingfield was convicted on the grounds of common purpose. There had been a plan to stone pedestrians, and the judge found he did nothing to stop Mitchell, who hurled the missile like a discus. Beddingfield also had a stone in his hand

They were convicted of murder with extenuating circumstances on May 8. Sentence was postponed for reports from social workers and psychologists

Rejected

After expert evidence yesterday, the judge said he was grateful for the assistance of the experts, but what they had to say was no surprise

He rejected the submission of both defence counsels that the two youths should spend a cou-

ple of years attending a reform school. The court heard that they would be allowed to leave the institution for school holidays after six months of satisfactory behaviour

The judge said rehabilitation could take place in prison. He did not believe a reform school was the place for criminals

Regarding the accused's personal circumstances, he said they were both young. Mitchell, now 18, was a month short of his 17th birthday at the time of the crime. Beddingfield, now 20, was three days short of 19

Both had unfortunate family backgrounds, and while he took this into account, he was sure if one delved into the background of every criminal there would be something unfortunate

The judge said he had not heard anything which convinced him that an unfortunate background entitled anyone to drive on the back of a Land Rover and throw rocks to "batter this unhappy child" to death

The demands of the community were important, in the case and jail was the solution

The judge could see no difference in the moral culpability of the two accused. "You planned it, discussed it, selected rocks, sighted those children at a long distance, and I don't think it mattered to you which one was maimed or killed. That behaviour cannot go unpunished"

Mr M C Erasmus, instructed by Terblanche and du Preez, appeared for Mitchell. Mr M Wagener, instructed by Rutledge MacCullum, appeared for Beddingfield

Funds promised for action on lake road

A Boksburg based industry, Colgate-Palmolive, has undertaken to fund legal proceedings against Boksburg's town council to have a road opened to "all or any class of traffic", the civil rights organisation, Lawyers for Human Rights (LHR), said yesterday. *SAT 21/6/87*

The road, adjacent to Boksburg's lake, was closed after the town council, controlled by the Conservative Party, decided last year to reserve the lake for whites only, LHR said.

Whites are permitted to use the road to reach picnic spots and recreational facilities along the lake front. A recent inspection of the lake showed the only black people present were men selling ice-cream.

LHR's national director, Mr Brian Currin, said Dr Karl Hechter-Schultz, a retired property owner and developer and a prominent citizen, had already issued the proceedings against the council.

"Colgate-Palmolive have very generously undertaken to support this application and to meet the applicant's legal costs," Mr Currin said.

In his supporting affidavit, Dr Hechter-Schultz said the lake had always been used as a public park and the road had been used by members of the public to obtain access to the park, until it was closed by the council.

Dr Hechter-Schultz said people had a common right to the use of the lake and the council was not entitled to close the road, which had been used by the public for more than 30 years. —
Sapa

Woman and three men are executed

Teenager's killers

sent to the gallows

Star 2/6/89



By Mekeed Kotlolo,
Pretoria Bureau

252

Four people were executed in Pretoria today, including Sandra Smith, a Cape Town woman convicted of the murder of a 16-year-old girl

A spokesman for the Department of Justice confirmed the execution at Pretoria Central Prison of 22-year-old Smith, the first South African woman in two years to go to the gallows

Smith, whose accomplice, Yassiem Harris (19), was also hanged today, was sentenced to death in December 1986 for the murder of Jamaine Abrahams in the Wynberg district

Tortured teenager

Smith and Harris allegedly tortured the teenager to extract information about the hiding place of jewellery and cash in her home

The teenager's body bore 28 stab wounds, three with such force that they penetrated the marrow of her spine, and a 12 cm slash across her throat, which severed her windpipe, neck muscles and arteries

Smith's father, Mr David Esau, pleaded for her to be spared, saying that if it were possible he would offer himself for execution in his daughter's place

Smith's three sons, Clinton (7), Matthew (5) and Howard (2), live with their grandmother and had twice visited their mother on death row, Mr Esau said

Also executed today were Michael Erasmus (24) and Jacob Ndaba Erasmus was convicted in Cape Town in September 1987 for the murder of a cellmate whom he strangled. He was also charged with attempted sodomy

Ndaba was convicted in Vanderbijlpark on April 20 last year on five counts of murder, house-breaking with intent to steal, rape, theft, unlawful possession of a firearm, attempted robbery with aggravating circumstances and attempted murder

Three other prisoners have been informed that they will be executed in the next week, according to Mr Brian Currin, national director of Lawyers for Human Rights

This will bring the total number of executions this year to 33

Discounting the first two months of this year, when there were two hangings, the rate of executions for 1989 is now close to the average monthly rate for this decade (about 10 a month), despite an upsurge in public opposition to capital punishment

Masa 'must state policy on human rights'

Medical Reporter

The Medical Association of South Africa (Masa) must clearly and positively state its policy on human rights, ethics and discrimination in medicine or face possible academic sanctions, the association's chairman, Dr Bernard Mandell, has said

In his annual report, Dr Mandell said Masa's failure to take a stand on human rights and relat-

ed issues might also result in expulsion from the World Medical Association and in the inevitable deterioration in medical education followed by the lowering of the standards of primary health care for the whole population

Dr Mandell said the subject of medical ethics was assuming increasing importance within the local medical community.

"This decisive change in the pattern of medical debate indicates a more progressive and healthier trend in the approach of the professional towards ethical issues. In the past, thoughts and words have been dominantly concerned about incomes and the rights of doctors within the community, possibly ignoring the rights of the community and the human dignity of individuals," Dr Mandell said

HUNGER STRIKES

He said the most important issues under discussion this past year had been detainees and their detention without trial, hunger strikes and fragmentation of health services

"The association plays a vital role in the former, insisting that the physical and mental health of detainees be maintained

"Success has been achieved but the escalation of hunger strikes within the detention system severely taxes the ethical independence of doctors treating such patients," said Dr Mandell

Strydom appeal 'any day now'

Sowetan 2/6/84

252

AN application for leave to appeal against "Wit Wolf" Barend Strydom's death sentence on eight murder charges would be lodged any day now, a spokesman at the offices of his advocate, Mr Johann Engelbrecht, said yesterday

She said papers had already been typed, and were ready to be lodged in the Pretoria Supreme Court

Strydom was sen-

tenced to death last week on eight counts of murder, arising from the assassination of seven blacks and an Asian in Pretoria and at De Deur in November last year

Strydom's attorney, Mr Wim Cornelius, said all legal avenues would be followed if necessary

Anglican Archbishop Desmond Tutu has called for a reprieve for Strydom and all those on death row, including the Uprising 14, saying, "if we cannot forgive, what hope is there for this

country"

Strydom told Mr Justice Louis Harms — who also chairs the Harms Commission — that he would repeat his actions if afforded an opportunity

Strydom's father, Nic, a former policeman, like his son, told the court he had not made his mind up yet whether blacks were humans or animals, and that he had books stating they were animals

Strydom will turn 24 on July 15 — Sapa

252
Cape Times 2/6/89

Wit Wolf to lodge appeal

PRETORIA — An application for leave to appeal against Wit Wolf Barend Strydom's death sentence on eight murder charges would be lodged any day now, a spokesman at the offices of his advocate said yesterday.

Strydom was sentenced to death last week on eight counts of murder arising from the assassination of eight people in Pretoria and at De Deur in November last year.

Anglican Archbishop Desmond Tutu has called for a reprieve for Strydom and all those on death row, including the Uprising 14, saying "If we cannot forgive, what hope is there for this country?"

Upington 25 case

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. *Southern 2/6/89*

10 years for murder

A WOMAN wept in the Rand Supreme Court yesterday after two white youths were sentenced to ten years each for the murder of her child.

Mrs Maria Pitso said she had wished the two youths, Timothy Lee Bedingfield (20) and Shane John Mitchell (18) had been sentenced to death, not because of their colour but because they had killed her son, Ronnie (8), a schoolboy at a farm school in Honeydew.

In summing up before

By MANDLA
NDLAZI

sentence, Mr Justice Roux said he had considered all the points raised by the defence team in mitigation of sentence. He said he also took into consideration their age and circumstances that led to the crime they committed. He also considered their family background. They were part of a group of school children who played truant on October 12 1987 and had

a picnic at Swartkops. They both had alcohol and dagga on that day.

They drove home in a Land Rover along Muldersdrift Road in Honeydew. It was decided much against the other pupils in the vehicle to throw stones at pedestrians. Mitchell threw a pavement stone at Ronne, hitting him on the head and fracturing his skull. Bedingfield watched Mitchell throw the stone and did nothing to stop him.

Sawetun 2/6/89.

Four hang today

FOUR people are due to hang in the Pretoria Central Prison today

One of them will be the first woman to hang in two years, Lawyers for Human Rights said yesterday. ~~252~~ ~~253~~

Another three prisoners were notified that they would hang next Tuesday

The four, due to hang today, Sandra Smith and her co-accused Jasin Harris, Michael Erasmus and Jacob Namba were notified last Friday about the executions

In the past 10 days, 14 people were given notices of execution. Of the 14, five have been executed and two stays were granted, Mr Brian Currin, the national director of the association said

Smith and Harris were convicted of murder and sentenced to death in Cape Town in December 1986. Their application for leave to appeal and later their petition to the Chief Justice were refused. Their petition to the State President for clemency was turned down

Erasmus was convicted of murder and sodomy and sentenced in September 1987 in Cape Town, while Namba, convicted of five counts of murder was sentenced to death in April last year

Currin said it seemed that the four had exercised all their rights, but added that the association was still investigating

Star 3/16/89 ~~Star~~ 252 Pressure stays in search for killers

HUMAN rights activists have pledged not to let up on pressuring the police to find Dr David Webster's assassins

It is five weeks since Dr Webster was gunned down outside his house

And despite the release of detailed identikits by the police there seems to have been no further progress in the case

Scepticism

Yesterday, Five Freedoms Forum chairman Mr Mike Olivier was sceptical about how seriously the investigation was being taken by the police.

"I am sure they don't have to look too far to find killers who use such sophisticated assassination techniques," he said

His organisation — of which Dr Webster was a former executive member — would not allow the matter to rest in the police files as had happened with past mysterious hit squad attacks

Police yesterday remained tight-lipped about the progress of their investigations

Asked to comment on the release of new identikits of the alleged assassins because further witnesses had apparently

PAT DEVEREAUX

come forward, Captain R A Kruger said police will attempt to improve on the existing identikits.

The investigating officers were hoping alterations from additional witnesses will be better than the identikits already available

"And if it is deemed to be in the interests of the investigation, the new identikits will immediately be released," said Captain Kruger

This week a booklet of Dr Webster's article entitled "Repression and the State of Emergency" written with his lover, Ms Maggie Friedman, was published.

The booklet, dedicated to Dr Webster, outlines "a steady tempo of kidnappings and assassinations of anti-apartheid activists".

61 cases

According to figures compiled by the Human Rights Commission and by Webster himself, 61 anti-apartheid activists have been assassinated inside South Africa since 1978.

In 60 of these cases no one had been arrested or charged.

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 3/6/84*.

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

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



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

'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

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 sentencing after 13 men and one woman — a 60-year-old moth-

er 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 town-

ship 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 1200 hours of community service over a period of 40 months

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

A CALL to halt all executions until a judicial commission has been appointed to investigate South Africa's death penalty system has been made by Professor Dennis Davis of UCT's law faculty.

He was speaking at a meeting organised by the Society for the Abolition of the Death Penalty in Rondebosch on Monday night

The meeting focused on the "Uppington 14" who were sentenced to death for murdering a municipal policeman, Lucas Sethwala, in November 1985. The remaining 12 in a group of 25 accused received sentences ranging from civic duty to eight years' imprisonment

Rejected

Professor Davis said calls for a judicial commission of inquiry into the death penalty had been rejected by the Minister of Justice

"Former Chief Justice Rabie and senior advocates have called for the abolition of the death penalty

"I would like to see a moratorium placed on all executions until such time as a judicial commission has been appointed"

Professor Don Foster of UCT's psychology department said some courts had recognised the political nature of such events of which the accused were convicted

Trigger

But since 1985, 43 death sentences had been handed down in nine cases involving collective violence. The role of the authorities, the events triggering the violence,

SOWETAN Correspondent

social conditions, poor education and lack of facilities had been discounted, Foster said

"Courts must look at the historical background and political context which facilitate crimes of political passion"

A researcher at the Institute of Criminology at UCT, Ms Desiree Hanson, said it was important that the community's attitude to the death penalty be taken into account

"Eighty-seven percent of the Paballelo residents we surveyed were opposed to the death penalty. They expressed uncertainty about the accused's guilt. However, the survey was moved inadmissible," she said

Strain

The instructing attorney in the Uppington trial, Ms Andy Durbach, said the strain of the trial had been too much for some relatives of the accused

"A woman who has two sons on death row had a heart attack," she said

"Condemned Evelina de Bruin's sister, Mrs Martha Malgas, had a stroke when her sister was sentenced. De Bruin is the only woman on death row

"I would like every judge to visit people on death row," she added

End executions call

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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 doctrine 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."

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Strydom in bid to beat gallows

'Wolf' to ask for leave to appeal today

By Norman Chandler,
Pretoria Bureau

Barend Hendrik Strydom, the 23-year-old assassin who was sentenced to death eight times in the Pretoria Supreme Court, today applies for leave to appeal against the sentences.

Mr Justice Louis Harms found there were no mitigating circumstances when he sentenced Strydom 10 days ago.

In papers being presented to the Supreme Court today, Strydom's defence team, led by Mr Johan Engelbrecht, says it does not accept that there were no mitigating circumstances regarding the psychiatry and psychological aspects of evidence led during the sensational nine-day trial.

Former policeman

Lawyers acting for Strydom, now on death row in Pretoria Central Prison, are to lodge papers at 9 am today.

They are applying for leave to appeal against the sentences imposed on Strydom, a former policeman, who last November went on a rampage of death through the streets of Pretoria and at Weiler's Farm squatter camp at De Deur, south of Johannesburg.

He shot dead eight people — seven in central Pretoria on November 15 — and attempted to murder 16 others. He was also charged with pointing a firearm.

For the charges of attempted murder and of pointing a firearm, Strydom was sentenced to an effective 30 years' imprisonment.

In addition to the eight people killed, Strydom wounded 16. All the victims were black.

It is not yet known when the review of sentence will be held, but it could take several days or weeks.

During Strydom's trial the courtroom was filled to capacity, mostly with survivors of the Strydom Square massacre and members of the Afrikaner Weerstandsbeweging (AWB). The latter initially attended court wearing AWB insignia. Strydom himself wore, for some days, insignia of the Aquila bodyguard movement, attached to the AWB.

A self-styled leader of a right-wing terrorist group called the "Wit Wolwe", Strydom described himself as "a soldier of God and the Fatherland".

Evidence indicated that Strydom, described by State psychiatrists as "normal" and by defence witnesses as "on the borderline", had decided to start a Third War of Independence (in South Africa) against blacks.

He and his father, Mr Nic Strydom of Heidelberg, indicated in evidence that blacks were "not people but animals". When his father said this during evidence in mitigation, Strydom nodded his head in approval.

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Zaire sends message on Upington 14

By Esmaré van der Merwe,
Political Reporter

The plight of 14 people recently sentenced to death in the "Upington Trial" has been taken up by the President of Zaire, General Mobutu Sese Seko.

The country's Minister of Foreign Affairs, Mr Karl Bond Nguza, yesterday told journalists at Jan Smuts Airport that he had conveyed a message from President Sese Seko regarding the 14 people to President P.W. Botha at a meeting in Cape Town on Sunday.

He refused to reveal details of the message before reporting back to President Sese Seko, saying "I cannot play with human beings' lives".

However, he had received a "very clear answer" from President Botha, and regarded his short visit to South Africa — the first follow-up on the historic meeting between the two African statesmen in October last year — as very successful.

Other issues discussed with President Botha and South Africa's Minister of Foreign Affairs Mr P.W. Botha had been the position in southern Africa following the implementation of the regional peace plan and "some problems concerning (South Africa's) internal politics".

'EVOLUTION IN MENTALITY'

Mr Nguza said he had been encouraged by the "evolution in mentality" which was taking place in South Africa, particularly National Party leader Mr F.W. de Klerk's viewpoint that the time had come for meaningful negotiations between white and black on the future.

Although he did not have a mandate to talk on behalf of banned organisations such as the ANC and PAC, all Africans shared the same attitude towards apartheid.

More could be achieved through talks than through efforts to isolate South Africa internationally. The settlement in Namibia and Angola had illustrated what could be achieved through negotiation.

He welcomed Mr P.W. Botha's recent suggestion of a Marshall Plan for southern Africa. Mr Nguza said national reconciliation in Angola was of great importance to all in the region.

"We cannot discuss security and peace in the region without the Republic. Whether one likes South Africa's internal politics or not, one has to talk to South Africa."

Asked whether ANC leader Nelson Mandela's release had been discussed, he said South Africa should find solutions to its internal problems.

However, he hoped President Sese Seko had "contributed in this field".

Two due to hang today reprieved

Pretoria Bureau 252

Two men due to be hanged at the Pretoria Central Prison this morning received last-minute stays of execution

Michael Morris (24) and Desmond Uithaller (26) were reprieved. A third man, Mxolisi Isaac Tshogoyi, went to the gallows

The West German embassy, the Innesdale Steering Action Committee and various Members of Parliament petitioned the State President for the reprieve of Morris and Uithaller.

They had been found guilty of the murder of a policeman, housebreaking with intent to rob, three charges of attempted murder, theft, and unlawful possession of a firearm and ammunition.

stay 6/16/89
Morris was further convicted of robbery with aggravating circumstances and was sentenced to an effective 23 years' imprisonment

Uithaller was further sentenced to an effective 34 years' imprisonment

AGGRAVATING

Mxolisi Isaac Tshogoyi, who was hanged today, was convicted on March 31 last year in Cape Town of the murder of 39-year-old Mr Michael Tsili, who was shot with a revolver

Tshogoyi was also found guilty of robbery with aggravating circumstances, unlawful possession of a firearm and ammunition.

He was also sentenced to 12 years' imprisonment.

12 face death penalty for necklace murders

Star 6/16/89

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Own Correspondent

GRAHAMSTOWN — Twelve Mdantsane men face the death penalty after being found guilty on five counts of murder without extenuating circumstances

The men were part of a group of 16 who were found guilty in the Bisho Supreme Court of the necklace murders of five youths, who had allegedly killed the brother of one of the men.

The 12 were also found guilty of one count of attempted murder

Mr Justice J Heath yesterday found extenuation for four of the 16 because they were under the age of 18 at the time of the offence.

During the trial the court heard how a group of Mdantsane resi-

dents abducted the youths during February 1987

Five burnt bodies were later found at a place where old cars were dumped.

In his judgment the judge said even though only a few of the convicted men had been involved in actual violence, there was enough evidence to convict them of murder using the common purpose principle

"In the totality of the evidence, all the accused associated themselves, not only with the abductions, but with what happened at the scene of the old cars," he said

The accused had all pleaded not guilty to the charges

Judge reprimands Brigadier During

CAT 7115 6/6/87

(252)

By RONNIE MORRIS
Supreme Court Reporter

A COURT could not be expected to uphold the cause of a litigant who entered its portals with dirty hands, a Supreme Court judge said yesterday

Mr Justice H L Berman was giving judgment on an application by Brigadier Roy During, Divisional Commissioner of Police, for leave to appeal against the setting aside of his banning of the Rally for Democracy in the City Hall last year

The application was refused

Brigadier During banned the meeting — called by Mr D M de Jong and the Gardens Youth Congress (Gayco) — in terms of the emergency regulations on October 19 last year

At the hearing of an urgent application at his home that evening, Mr Justice Berman set the ban aside after he found that Brigadier During had failed to apply his mind properly and

had acted in bad faith

Mr Justice Berman said yesterday he did not doubt the correctness of his original finding that Brigadier During had deliberately delayed notifying the organisers until hours before the meeting

Furthermore, the brigadier had attempted to mislead the court into believing that affidavits prepared in advance of the Gayco application and filed by him after the suit was brought were genuinely "replying" affidavits

Mr Justice Berman said Mr L Visser, SC, for the brigadier, had sought to account for the brigadier's "unacceptable conduct" by saying the brigadier had known what Gayco would say, having had considerable experience

If that had been the case, the brigadier should have been frank with the court, the judge said

Mr Deon Insh instructed by Ms Christina Burger of E Moosa and Associates, appeared for Mr De Jong and Gayco. Mr Visser appeared with Mr J L U van der Hoven and was instructed by the state attorney

Policemen killed suspect

Sowetan 6/6/89

**SOWETAN
Correspondent**

TWO policemen and a civilian were found guilty of culpable homicide in the Supreme Court sitting in Witbank on Monday following the death of a suspect who had been assaulted in a Middelburg police station

Mr Justice van der Merwe found that Constable Karel Jacob Erasmus (26), Constable Marthinus Gerhardus van Deventer (22) and Hermanus Pelsner (30), had assaulted Mr Patrick Nkosi (26), on the night of January 31 last year in the Mhluzi police station

Mr Nkosi had died of brain damage hours later in the Middelburg Hospital

A third policeman, Warrant Officer Falaza Phineas Maluleka, was found to be an accessory after the fact.

Mr Nkosi had been taken to the Mhluzi police station for questioning after the disappearance of Warrant Officer Maluleka's firearm while he was off-duty

Mr Justice van der Merwe said evidence had been given by witnesses who had seen Erasmus and Pelsner slapping Mr Nkosi's head, banging it against the wall, throwing him to the floor, kicking his head and stamping on it

Erasmus and Pelsner

the incident.

Van Deventer had also admitted in a statement that he had taken part in the assault

(Proceeding).

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Death row 2 escape the noose

Pretoria Bureau

Two men who were to be hanged at Pretoria Central Prison yesterday got last-minute stays of execution

Star 216/89
Michael Morris (24) and Desmond Uithaller (26) had their executions stayed after a decision by Minister of Justice Mr Kobie Coetsee

The men's legal representatives were given seven days to petition the State President for clemency

Mxolisi Isaac Tshogoyi went to the gallows.

The West German Embassy, Innesdale Steering Action Committee and various MPs had petitioned the State President for the reprieve of Morris and Uithaller.

They had been found guilty of the murder of a policeman, housebreaking, three charges of attempted murder, theft, and unlawful possession of a firearm

Morris was also convicted of robbery with aggravating circumstances and sentenced to an effective 23 years' jail

Uithaller was sentenced to an effective 34 years' jail

Tshogoyi was convicted last year in Cape Town of the murder of Mr Michael Tsili (39)

Editor appears in Cape court

252
Own Correspondent

CAPE TOWN — The managing editor of *South* newspaper, has appeared in the Cape Town Magistrate's Court on an allegation that he or his newspaper contravened the 1987 emergency regulations.

Mr Rashid Ahmed Seria (38), of Surry Estate, was not formally charged.

The State alleges he and *South* newspaper contravened the emergency regulations on May 11, 1988 by publishing an article entitled "It's 1985 in the Schools Again", with news and comment on a school boycott.

Mr D Gihwala, for Mr Seria, has lodged an objection to the charge which will be heard on July 17.

Mr M J C Tolken was on the bench and Mrs Alicia van den Bergh appeared for the State.

Condemned (257) man gets his trial reopened

By Cathy Stagg

The State has reopened the trial of a man who was convicted of murder and sentenced to death in September 1987

Joseph Chidi is appearing before Mr Justice L le Grange and two assessors so that the single witness, on whose evidence the conviction was made, can be re-examined by the court

Mr Joseph Chabedi made a statement to a member of Lawyers for Human Rights, Mr Raymond Tucker, in which he said he had lied in court because the police had beaten him up

When he first appeared before the court he said he saw the role the accused played in the killing of a Tembisa town councillor, Mr Moyene

In a sworn statement to Mr Tucker, Mr Chabedi said he did not see the events as he was moving furniture at the time.

It is understood the retrial will last at least 10 days

It is likely both the defence and the State will call witnesses
The hearing continues



COMMENT

South 8-14/6/89 252

The Public Safety Act, in terms of which the emergency regulations are promulgated, is a diabolical law

And nowhere in the history of humankind have diabolical laws ever led to the resolution of problems or peace. To the contrary, they have always caused death, bloodshed, lawlessness, repression and terror — a description apt to the South African situation of today.

We agree with Minister of Law and Order Adriaan Vlok that the revolutionary climate is "too high"

It will remain so as long as laws such as the Public Safety Act and a tome of others continue to be applied to protect the privileges of a minority against the wishes of the majority of the people in our country

The state of emergency has done little else but put a lid on a boiling cauldron — suppressing the political, social and economic aspirations of the majority. It has caused lawlessness and chaos, and has given security forces a licence to crush all resistance to apartheid and exploitation

In today's edition of SOUTH, reasonable, peaceful and democratic-minded South Africans call on the Nationalist government to end this senseless carnage and misery by lifting the state of emergency — now!

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 constituted 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 appli-

cants 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.

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.

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 Bophe-long 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"

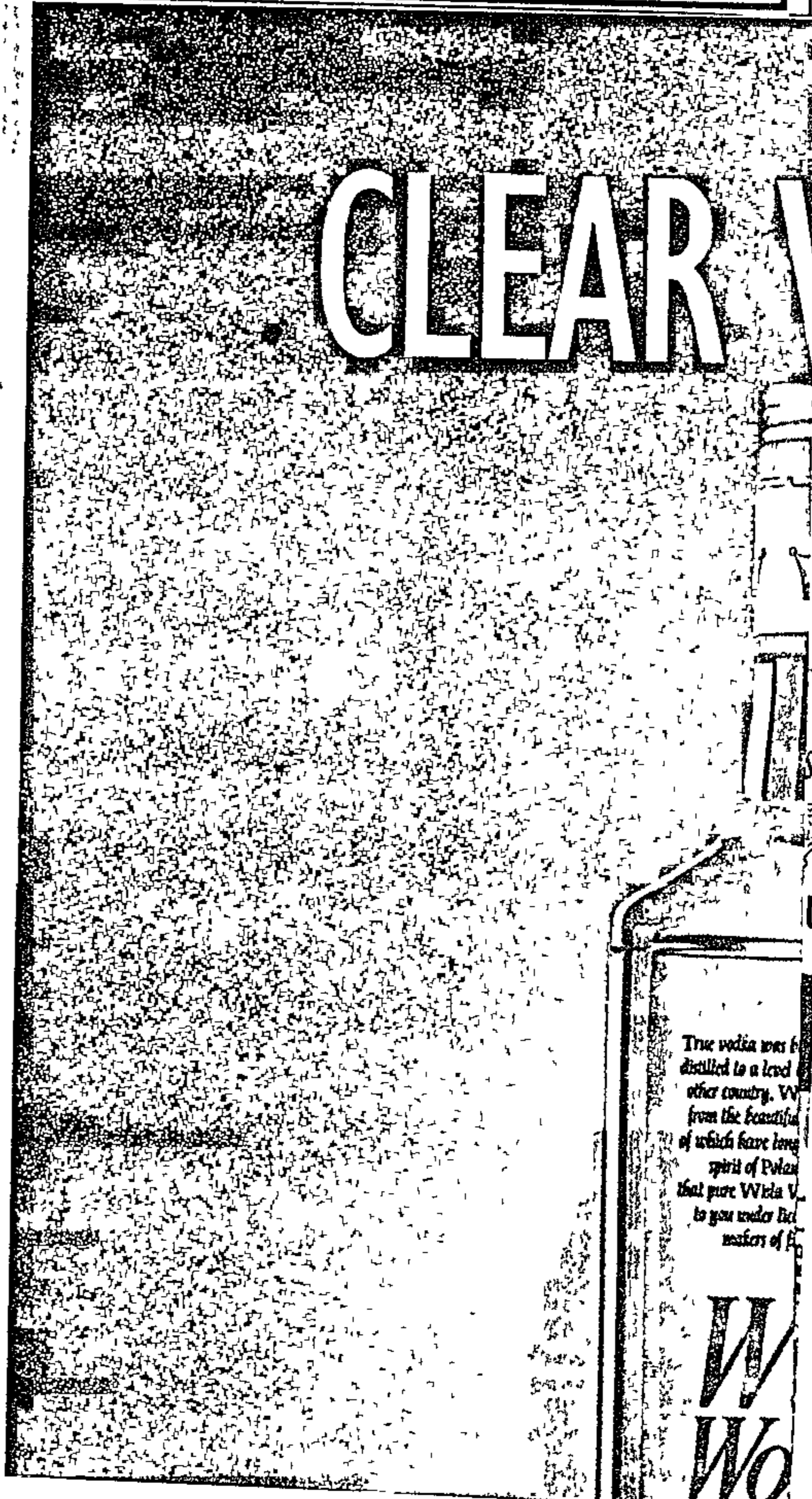
Kruger identified nine organisations — the ANC, the UDF, the Natal Indian Congress the Congress of South African Trade Unions

SOWETAN REPORTER

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"

Watch out for SOWETAN
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True vodka was distilled to a level other country. VV from the beautiful of which have long spirit of Poland that pure White V. to you water like makers of

W Wo



Launch of clemency campaign for Upington 14

By DALE KNEEN
 Staff Reporter

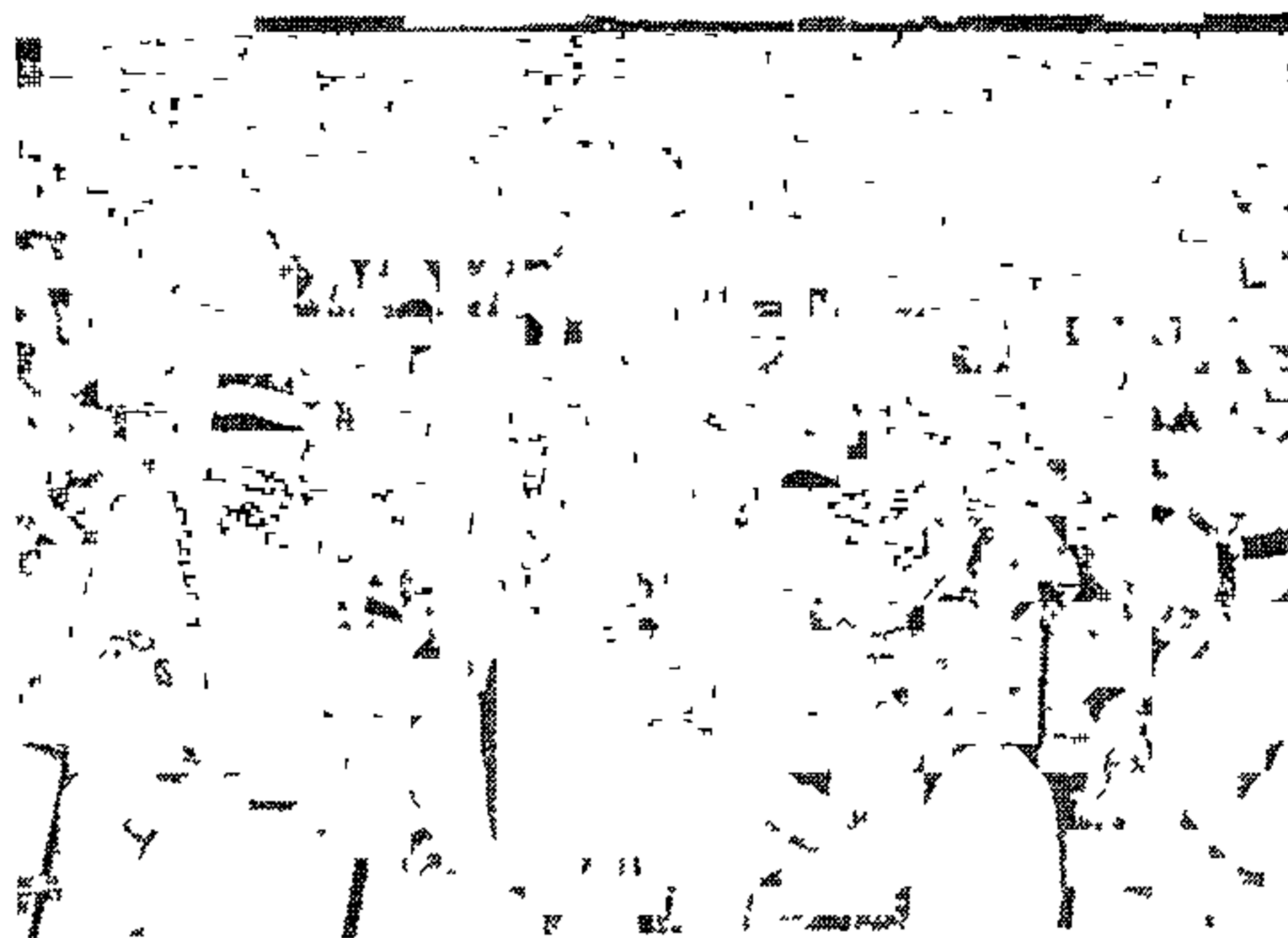
A CAMPAIGN to save the Upington 14, who face the gallows after being found guilty of the murder of a Paballelo municipal policeman, has been launched in Cape Town.

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 meet-



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

ing 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

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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Vol. 288

CAPE TOWN, 9 JUNE 1989

No. 11931

KAAPSTAD, 9 JUNIE 1989

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1192

9 June 1989

No. 1192.

9 Junie 1989

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word.—

No. 77 of 1989. Judicial Matters Amendment Act, 1989

No. 77 van 1989. Wysigingswet op Geregtelike Aangeleenthede, 1989

Man held over lies in court

A WITNESS whose lies in court sent Joseph Chidi to death row was arrested for perjury after he had testified at the reopening of the trial in the Rand Supreme Court, it was disclosed yesterday.

Joseph Chabedi (22) was arrested on Wednesday and was due to have appeared at the Kempton Park Magistrates Court yesterday.

By MANDLA
NDLAZI

Witness Mr Moscow Malatji told the court yesterday that Chabedi lied when he said they were together at the scene of crime when Tembisa councillor Mr Gideon Moeng was burnt to death on May 7, 1986. He said he was angry and unwillingly came to

court

Chabedi had testified at the trial of Chidi who was convicted and sentenced to death in September 1986 for the alleged murder of Moeng

Chidi had appeared with two other men, Victor Bembe, who was sentenced to 17 years and Jimmy Thulare, who has since disappeared

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The trial was reopened after Chabedi had made a statement to a member of Lawyers for Human Rights, Mr Raymond Tucker, in which he said he had lied in court because police had beaten him up

The condemned man, Chidi, is appearing before Mr Justice le

• To Page 2

Held for court lies

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• From page 1

Grange and two assessors for the re-examination of Chabedi's evidence that resulted in his conviction and sentence. He is represented by advocate J Unterhalter (SC) instructed by attorney, Mr G H Asmal.

(Proceeding)

Campaign⁽²⁵²⁾ on to save Upington 14

CAPE TOWN — More than 3 000 people packed Cape Town City Hall last night to witness the launch of a campaign to save 14 Upington residents from the gallows

The "Upington 14" were all sentenced to death two weeks ago for the murder of a municipal policeman.

The rally was organised by the National Association of Democratic Lawyers

Seven family members of the "14" were on the stage during the rally.

There was standing room only in the city hall as people crowded on to the stage behind the speakers and into the boxes and balcony.

Professor Dennis Davis, a UCT law lecturer, said he had been asked not to criticise the judgment handed down in the Upington case because of the impending application for leave to appeal

But in reference to the decision by the Appeal Court to uphold the decision made by the judge in the Sharpeville Six trial, he said that in his opinion the court had made a "fatal legal error" in using — as in the case of the "Upington 14" — the doctrine of common purpose to find the defendants guilty of murder

An accused in another trial, Ms Gertrude Fester, read a statement condemning the arbitrary death sentences handed down on the doctrine of common purpose — Sapa

BOOST for human rights

HUMAN rights in South Africa have received a boost in the form of a recent Appellate Division finding, which has been welcomed by academics as representing a change of direction.

Mr Justice J A Hoexter found that part of a NGK minister's restriction order, which forbade him from attending any gathering criticising the government, was "a drastic inhibition of the appellant's rights of freedom of association and freedom of expression".

The judge said that the Minister of Law and Order, in making the condition, had abused his discretion "by an unsupported abridgement of the appellant's rights".

The condition was declared void.

In terms of his order the Rev Abraham Visagie, a former detainee, was restricted to the magisterial area of Middelburg, was forbidden to take part in the activities of several organisations, to write anything for publication, or attend any gathering at which the government was criticised.

He challenged the order in the Grahamstown Supreme Court, but his application was dismissed with costs. He took his case to the Appellate Division, and Mr Justice Hoexter's judgment was handed down last week.

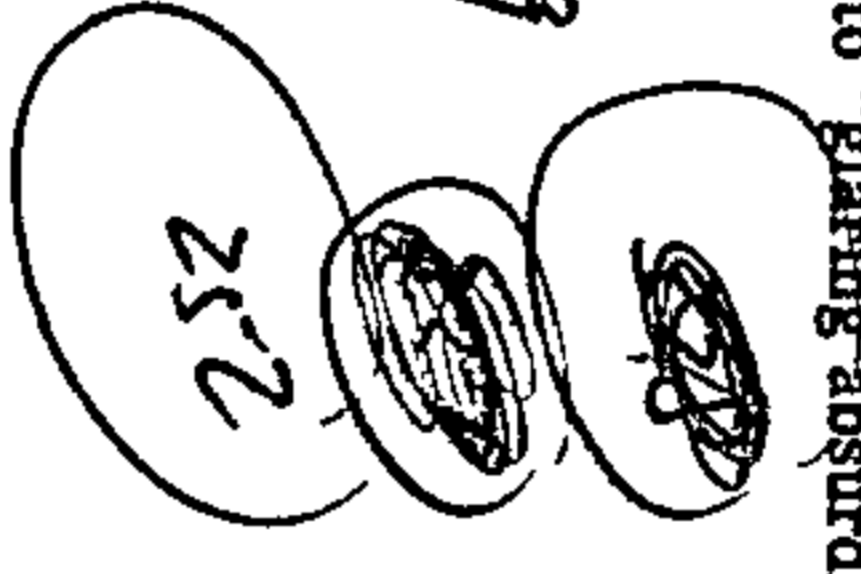
The judge said the condition that Mr Visagie

BY VIVIEN HORLER and PETER AUF DER HEYDE
Weekend Argus Reporters

Judge's finding welcomed by academics

could not attend any gathering criticising the government could lead to "glaring absurdities".

W/le ARK 4 5
10/6/89



the Appellate Division, and most of them are regarded as fairly conservative. But this judgment seems to indicate a change of approach we would not have expected a year ago.

THE finding came in the wake of a series of Appellate Division decisions which refused

to exercise any judicial control over the state of emergency.

"This culminated in the UDF judgment of last year in which the Appellate Division found that the President could make just about any regulation and, effectively, however vague it was the courts did not have the power to overrule them."

He said the finding was important for another reason. "If it heralds the beginnings of a new trend, it will mean much closer judicial supervision of the emergency regulations. It will mean the courts will begin to look more closely at a range of police and executive action taken under the emergency."

Professor Hugh Corder, head of Public Law at UCT, said: "The finding is significant in the sense that this kind of lead from South Africa's highest court will inevitably have some kind of influence on the lower courts if those who are restricted challenge their orders in the future. It's a strong statement in favour of the right of the association."

He added: "This finding by Hoexter is an indication that at least some members of the Appellate Division are moving towards a greater appreciation of individual human rights."

Supreme Court Reporter

AN INTERIM interdict was granted in the Supreme Court against a Khayelitsha headman, restraining him or his servants from participating in, encouraging or permitting unlawful attacks on a resident

The headman, a Mr Kwali and persons under his control, were further prevented from entering the home of the resident and convening any form of informal court. He was directed to read the court order to every participant of the informal court.

In an urgent application yesterday, Mrs Eunice Mamphlele Peter said

a dispute arose between her and Ms Noth-

Informal courts stopped by court

On May 8 Ms Mchilize arrived at her home with a special constable who told her Ms Mchilize had laid a charge concerning money she owed Mrs Mchilize. She was then driven to Mr Kwali's home where she appeared in "court" and was fined R250, Mrs Peter said.

Mr Justice G Friedman presided. Mr Siraj Desai, instructed by Mr W Hofmeyr, of Mallinckrodt, Hess Richman and Closenberg Inc, appeared for Mrs Peter.

Case Times 10/6/87

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Employee

Cape Times 10/6/89

Argus settles out of court with judge

ACTING Supreme Court judge, Mr Acting Justice WJ Human has received an undisclosed sum of money in damages from the Argus Printing and Publishing Company and the editor of the Argus, Mr Andrew Drysdale, after an alleged defamatory article last year concerning the "Sharpeville Six"

The action, for R120 000 damages, had been set down for a four-day hearing starting yesterday in the Cape Town Supreme Court, but was removed from the roll after the parties reached a prior out-of-court settlement.

Mr Acting Justice Human of Pretoria was the trial judge who imposed the death sentence on the Sharpeville Six and alleged in papers that the article, published on March 16 last year, had damaged his good name and reputation as a judge

The action was defended, with Mr Drysdale contending it was contrary to public policy to permit a judge to recover damages in an action for damages based on the publication — Sapa

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ACCUSED INNOCENT



A WITNESS told a Rand Supreme Court judge that he did not see Joseph Chidi the day a huge crowd stormed and stoned the Tembisa township home of councillor Mr Gideon Moeng.

He said he saw Jimmy Thulare, Victor Bembe and a man called Bheki jump over a fence of a house nearby as they ran towards Moeng's home

He was in the yard of his girlfriend's home when he saw the crowd and later stood inside near the window when he saw the three men jump over the fence

Mr Ephraim Motaung said this on Friday when cross-examined by the prosecutor, Mr S Chetler, at the re-opened trial of Joseph Chidi who was brought to court from death row.

Chidi is appearing before Mr Justice Le Grange and two assessors for the re-examination of State witness Joseph Chabedi's

Witness tells court

evidence that led to his conviction and death sentence for the alleged murder of Moeng on May 7, 1986 in Tembisa.

The trial was reopened after Chabedi had made a statement to a member of the Lawyers for Human Rights, Mr Raymond Tucker, in which he said he lied to the court because the police had beaten him up. He lied when he told the court that he had seen Chidi set alight councillor Moeng

He said he did not see Moeng being burnt and he was not aware if Chidi was present when Moeng was burnt, or that Chidi took part in any way in the attack on Moeng

Chabedi claimed he was

assaulted by police in a statement he made to a member of Lawyers for Human Rights, Mr Raymond Tucker

Mr Tucker then warned him that he could be arrested and charged with perjury for having told lies Chabedi, according to the statement said he was willing to face the consequences.

"I have been deeply troubled ever since I gave the evidence and have been extremely worried that an innocent man could be hanged as a result of my false evidence," said Chabedi in the statement

Chabedi was arrested last Wednesday and charged with perjury after the re-examination of the evidence he gave at the previous trial of Joseph Chidi.

Chidi was convicted and sentenced to death for the murder of Councillor Gideon Moeng on May 7, 1986 in Tembisa, on the strength of Chabedi's evidence



'Kangaroo' court: Headman restrained

By DON HOLLIDAY
Staff Reporter

A CAPE TOWN domestic worker has been granted an urgent interdict in the Supreme Court restraining a Khayelitsha headman, who allegedly convened a "kangaroo" court, from assaulting her or convening such a court.

Mr Justice Friedman last week ordered that the headman, a Mr Kwali of Site C, prevent people under his authority from interfering with the woman, Mrs Eunice Mamphela Peter.

Mr Kwali allegedly conducted the tribal court under the direction of Khayelitsha mayor Mr Mali Hoza, according to papers before court.

An affidavit by Mrs Peter contained allegations of practices in the kangaroo courts which included

- A woman being fined R1 000 because her son had allegedly impregnated a girl, and
- A woman being whipped by four men.

Mrs Peter said a dispute over payment for the private sale of clothing had arisen between herself and her former sister-in-law, Miss Nothembile Mchilize.

On May '8, Miss Mchilize arrived at her home with a spe-

cial constable armed with a shotgun

"He informed me that Nothembile had laid a charge against me concerning the outstanding amount on the dresses," she said

She was forced to accompany the policeman to Mr Kwali's home, where a court was being held

There were about 30 people waiting for their cases to be heard. One person was fined R500 for an "offence"

"Much money was collected in the course of the proceedings by (Mr Kwali). It was then handed over to his daughter or to members of the homeguard who took it to a side room"

Mrs Peter was called and ordered to pay a R250 fine as soon as possible.

As she left the court she saw a girl whom she knew being whipped by four men

On June 5 she appeared again before the "court" when she could not raise the money.

She was given until yesterday to make the payment or she would have to appear in "court" again

She said she feared she would be assaulted if she appeared again

The return date is June 16

Will TV eye peer into our courts?

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 Stenberg, 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.

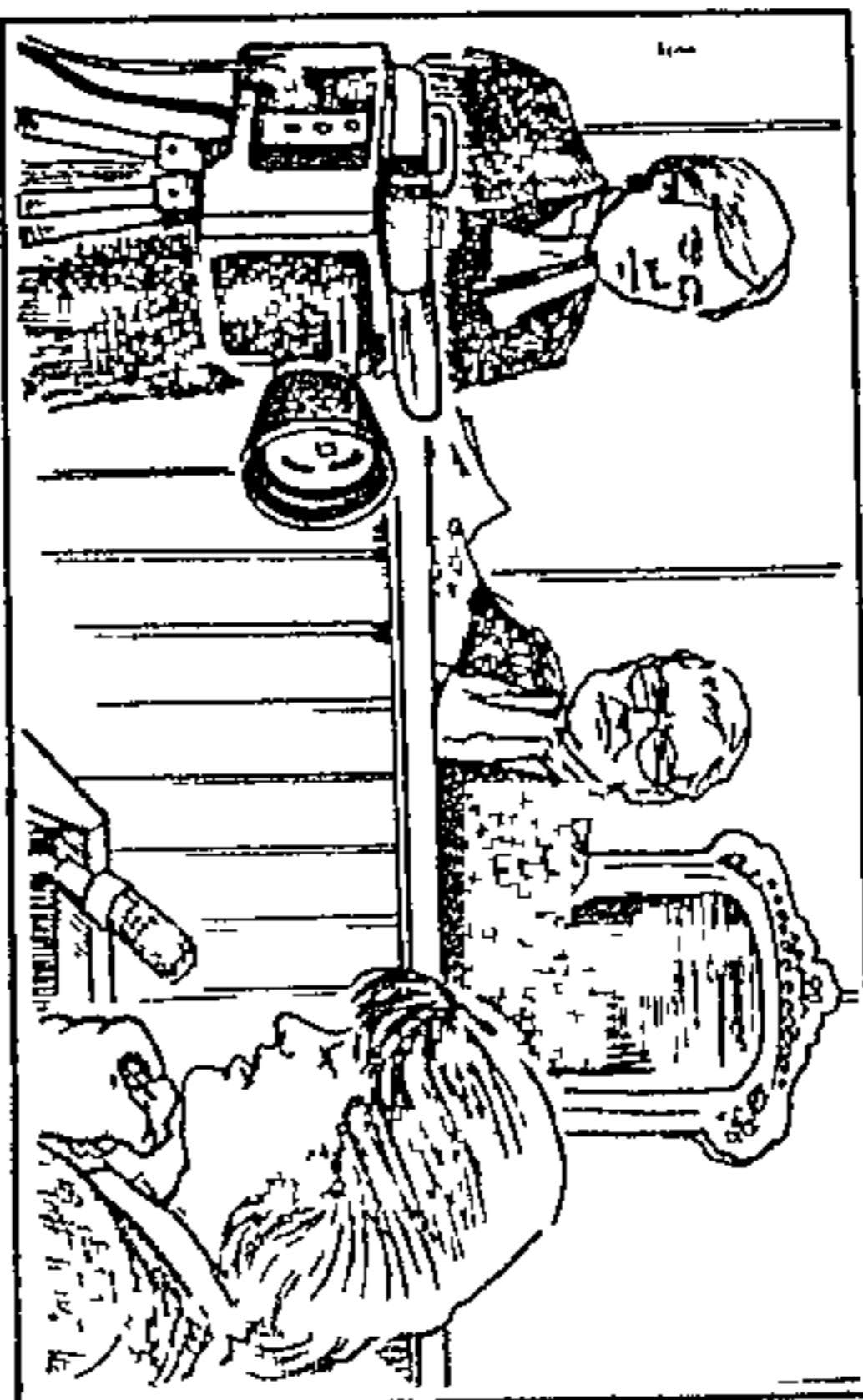
This point is accepted by all camps in South Africa's legal fraternity, but when the prospect of TV trials is looked at more carefully in the South African context, scepticism runs high.

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".

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.



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 summoned 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 lawyer, 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."

Dama's four months with INKAWA-PA-ROKOROKO

COUNCILLOR KILLING

JOSEPH Chabedi spent some time helping a Tembisa trader's son in moving furniture on the day Councillor Gideon Moeng was killed, a witness told the Rand Supreme Court yesterday.

Mr Adam Makgalakane, who manages his father's shops in the townships, said on that day he was asked by a woman called Fatima to move her furniture to Mangweni Section. He asked Chabedi and a man called Edward to help him.

Makgalakane said he used his father's vehicle. They made about five trips, having started at about 9.00am until, about 6.00pm.

Chabedi left about mid-day after the first load and he never saw him again on that day.

By **MANDLA
NDLAZI**

until he closed the shop, he said.

Makgalakane was giving evidence at the re-opened trial of Joseph Chidi who was convicted

and sentenced to death for the alleged murder of Moeng Chidi's trial before Mr Justice Le Grange and two assessors was re-opened to re-examine Chabedi's evidence that led to Chidi's conviction and sentence in September 1987.

Chabedi had said at the previous trial he saw Chidi attack and set Moeng alight. Later, he made a statement to a member of Lawyers for Human Rights, Mr Raymond Tucker, in which he said he had told the court lies.

He claimed he had been assaulted by the police.

(Proceeding)

Flak flies as mixed group of pupils tackles human rights issues

By Winnie Graham

Can freedom of speech be abused and result in a violation of other more important rights?

This is one of many points 145 pupils of all races from 30 high schools on the Witwatersrand and Pretoria debated at length recently at a workshop organised by the Black Sash Education Committee. They met at a Johannesburg school to discuss the Universal

Declaration of Human Rights

The main aim of the workshop was to bring together pupils from different backgrounds to exchange ideas on human rights

DEBATE

A spokesperson for the Black Sash said article 19 of the declaration, which states that "everyone has the right to freedom of opinion and expression, in-

Star 19/6/87

cluding the freedom to hold opinions without interference, and to seek, receive and impart information and ideas" prompted lots of debate

The pupils were divided into heterogeneous groups of five (some boys, some girls, some black, some white) and asked to make a list of what they would expect to find in the declaration. Once they had done this, they were given a copy of the declaration in its

original form for comparison.

A leading lawyer discussed the implications of South Africa's decision not to sign it.

The workshop included a lively question time and an evaluation session

Educationists and youth leaders who would like to organise similar workshops should contact the Black Sash Education Committee



balanced reform package.

By accepting the permanence of black citizens

Strydom's bid to obtain leave to appeal postponed

STW 14/6/89

Pretoria Bureau

~~251~~

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The bid by mass murderer Barend Hendrik Strydom to obtain leave to appeal against eight death sentences has been postponed by a day.

Strydom (23) was to have applied to the Pretoria Supreme Court today but the date has been changed until tomorrow.

Strydom was found guilty in the Pretoria Supreme Court by Mr Justice Louis Harms of murdering eight people and of the attempted murder of a further 16 during an orgy of violence in central Pretoria and at the Weiler's Farm squatter camp near De Deur in November last year.

Attorneys welcome Law Commission's proposals on rights

By Cathy Stagg

The South African Law Commission's working paper, "Group and Human Rights", has been welcomed as restoring the legal profession's reputation as one of the rightful and most important proponents of human rights in South Africa.

An editorial in the attorneys' journal, *De Rebus*, says the paper restores confidence in the legal fraternity to take responsibility for the propagation of the rule of law in this country.

The Law Commission consists of members of the judiciary and legal profession, academic lawyers, magistrates, and Department of Justice officials.

It has drawn up a working paper which argues for the protection of individual human rights in South Africa by means of a Bill of Rights. It concludes that a workable and broadly accepted Bill of Rights can, and should, be introduced within the present political set-up.

The document sets out a broad framework within which it would have to fall if it is to be acceptable and effective.

The *De Rebus* editorial says the report displays a consistent bias in favour of legalism and legal idealism, balanced by an appreciation of the realities of the South African situation as reflected in the evidence before it.

"The working paper wisely suggests that 'political group rights, that is to say, the question of the legislature's composition, should be protected in the constitution itself, subject to the principle of equality,'" *De Rebus* says.

● The working paper was prepared under the direction of Mr Justice Pierre Olivier, the Law Commission's vice-chairman. It is not the commission's final view and only when comment on it and further suggestions have been evaluated will the commission reach a final conclusion and submit it to the Minister of Justice, Mr Kobie Coetzee.

Witness weeps

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some ten
14/1/87

A RELATIVE of murdered councillor Gideon Moeng wept in the Rand Supreme Court yesterday saying she was afraid she would be arrested if she told the court she was with Joseph Chabedi the day Moeng was attacked

Mr Justice le Grange, sitting with two assessors, assured Mrs Fatima Fafudi, a highly expectant mother, that she would not be arrested if she told the truth.

Fafudi (29) was giving evidence at the reopened trial of Joseph Chidi, who was brought to court from death row. Chidi was convicted and sentenced to death in September 1987 for the alleged murder of Moeng on May 7 1986 in Tembisa

His co-accused, Victor Bembe, was sentenced to 17 years. Another man, Jimmy Thulare, disappeared after the State withdrew charges against him

Fafudi said Chabedi was with her and Mr Adam Makgalakane when they moved her furniture and other belongings from Mangweni Section to her parents home at Mfuyaneni Section in Tembisa. It was

the day Moeng was killed

Chidi's trial was reopened for the re-examination of Chabedi's evidence in the previous trial

The trial was reopened after Chabedi had told Mr Raymond Tucker, a member of Lawyers for Human Rights, that he had told lies in his evidence at the previous trial because police assaulted him

Bail is granted

Source from
14/6/87

By ALINAH DUBE

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MR DONSIÉ Khumalo, the general secretary of the Congress of South African Trade Unions in the Northern Transvaal, was granted bail of R3 000 in the Pretoria Magistrate's Court yesterday.

The bail application was made before Mr W A J van Zyl following Khumalo's arrest on June 1. He and Miss Grace Dube and Mr Ignatius Jacobs are facing charges relating to the breaking of the restriction orders imposed on them after their release from detention.

The charges include failure to report to the police and being absent from home on the night of March 29 when they allegedly staged a sit-in at the British Embassy in Pretoria.

Before granting him bail, the magistrate warned Khumalo to bear in mind that he was still a restricted person.

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.

Wolf fights for life ⁽²⁵²⁾

MASS killer Barend Hendrik Strydom's application to appeal against his eight death sentences has been postponed by one day

The legal battle to save his life will start today in the Pretoria Supreme Court when an application to appeal against his death sentences will be heard

The former policeman and Afrikaner Weerstand Beweeging member was sentenced to death eight times

Sowetan 15/6/87

erep y... r'...

MINISTRY OF CAPTIVITY
PO BOX 1000
PRETORIA

Dear Mr. Barend...

This is to advise you that your application for a stay of execution has been granted. You will be allowed to remain in custody under supervision for the year.

Yours sincerely,

W. J. VAN DER MERWE

Curbs under fire

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THE Human Rights Commission said yesterday it viewed the reimposition of the state of emergency with deep regret.

Government said political violence had decreased as a result of emergency measures.

breath they speak of the imperative of such an emergency in order to contain the 'intense revolutionary climate' "

In a statement the commission said the move was a "blatant" contradiction since the

"The Government has again contradicted itself by speaking of the decreased levels of violence that has been a by-product of the emergency. In the same

The commission said it was "gravely concerned" at the renewed restrictions on anti-apartheid activists

Sowetan 15/7/67

Leave to appeal refused to mass killer Strydom

Mass killer Barend Hendrik Strydom (23) was yesterday refused leave to appeal against eight death sentences imposed on him by Mr Justice L Harms last month.

The former policeman, who murdered eight people last November, was not in the Pretoria Supreme Court to hear the application.

Mr Justice Harms said the grounds for the appeal had been that Strydom's father, Mr Nicolaas Strydom, had influenced his son with far right-wing views and also that psychological evidence presented in court was arguable.

Strydom's lawyer, Mr W Cornelius, said a petition would be presented to the Chief Justice for leave to appeal. A clemency petition would also be submitted to the State President — Pretoria Bureau



GOVERNMENT GAZETTE

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VOL 288

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KAAPSTAD, 16 JUNIE 1989

No. 11959

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1280

16 June 1989

No. 1280

16 Junie 1989

It is hereby notified that the State President has assented to the following Act which is hereby published for general information —

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word —

No. 88 of 1989. Judges' Remuneration and Conditions of Employment Act, 1989

No 88 van 1989 Wet op Besoldiging en Diensvoorwaardes van Regters, 1989

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 Curran, 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 repeivers 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 re-launched 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 gallows over the years became

steadier stream by the time of the township rebellions of 1984/6. Voices were raised in protest.

Foremost among the protesters 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 Commis-

sion, lists the names of 66 people on Death Row for "politically-related reasons".

They do not include the Uppington 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 murdered of a municipal policeman, although only one man struck the fatal blow.

The trial and execution of politically-motivated offenders re-

ffects 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.

PATRICK LAURENCE

Hangings and reprieves: An arbitrary justice

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W/6 AR645 17/6/89

ON the film circuit at present is *A Cry In The Dark*. It deals with the so-called "dingo-baby" case in which mother Lindy Chamberlain was wrongfully convicted of the murder of her infant daughter.

After serving part of a life sentence, Mrs Chamberlain was released from prison. Although justice was finally done, the legal process had made a terrible mistake, having inflicted horrendous torture on a woman who had already suffered the torment of losing a child.

But Mrs Chamberlain is alive and re-united with her family. Had Australia not abolished the death penalty in 1985, Mrs Chamberlain would have been executed.

ACCORDING to Amnesty International's recent report on the death penalty, South Africa ranks with China, Iraq, Iran and Nigeria as carrying out the highest rate of executions in the world. For a country which enjoys a legal system based on Roman-Dutch law, South Africa is in an unfortunate company.

After all, our legal system is based upon clear principle and the death penalty is anything but certain. In short, it is too arbitrary and enormous a punishment to be part of a civilised system of criminal justice.

In South Africa, evidence of the arbitrary nature of the death penalty has been cited over many years. Recently Judge Ramon Leon observed that from his experience some judges find extenuating circumstances more easily than others.

He went on to say that "I know judges who impose the death sentence not infrequently and I know one judge who has been on the Bench for some years who has never passed the death sentence".

By PROFESSOR DENNIS DAVIS, Associate Professor of Commercial Law at UCT and national director of the Society for the Abolition of the Death Penalty

Research soon to be published by two UCT academics indicates that considerable differences do exist in the percentages of death sentences passed by judges in the Cape.

Judge Leon also noted that "it is not easy for a white judge to put himself in the shoes of a black accused". Moreover, attorneys are not involved in the *pro deo* system which means that the investigative process is significantly "reduced".

The Amnesty International report contains disturbing figures in this connection. Between June 1982 and June 1983, of 81 blacks convicted of murdering whites, 38 were hanged. Of 52 whites convicted of murdering whites only one was hanged. None of the 21 whites who were convicted of murdering blacks was hanged, but 55 of the 2 208 blacks convicted of murdering blacks were hanged.

There are a number of reasons why these discrepancies exist, yet the image of racial imbalance remains, raising major questions concerning the possible arbitrariness of the system.

In his speech Judge Leon also raised the questions of the composition of the court which could make a difference. The recent cases referred to as *Delmas 2* and the *Uppington 25* are illustrative.

In the *Delmas* case Judge de Klerk found that extenuating

circumstances existed by virtue of the political commitments of ANC guerillas who were charged with murder. The judge did not apply an absolute test for moral blameworthiness to decide whether extenuation existed, but rather asked whether the moral commitments held by the accused reduced their moral culpability.

By contrast, in the *Uppington 25* case, Judge Basson appeared to reject the accused's argument that the very socio-political conditions in Pabellelo and the perceived police repression were grounds for reducing moral blameworthiness.

Accepting Human Science Research Council researcher Dr de Kock's evidence that the incidents in Pabellelo were part of the national attack against government structures, Judge Basson appeared to adopt a far less relative test of moral blameworthiness than had Judge de Klerk.

When a country imposes so final a punishment on so regular a basis, the least that can be demanded is that the system is certain. Yet, as the Lindy Chamberlain trial illustrates, all criminal justice systems can be uncertain, incorrect and unjust.

Those that don't have capital punishment can at least partially redress their mistakes.

Doubtless we will be told that the State President can reprieve and indeed mercifully he has acted more this year than in previous years.

But if world or conservative white opinion is not aroused, the chances of a reprieve are far slimmer. In any event, a reprieve is the most arbitrary of all acts. Far better not to have the death penalty than to put an added burden on one human

Upington 14 (252) campaign ~~SA~~

A CAMPAIGN to Save the Upington 14 will be jointly launched in Johannesburg on Wednesday by the South African Council of Churches and the Save the Patriots Campaign. *Sowetan 19/6/89*

The Rev Frank Chikane and family members of the Upington 14 will address a meeting which will be held at the Central Methodist Church between 12 and 2pm.

The campaign aims to generate public support for the abolition of the death penalty

Strydom appeal

Sowetan 19/6/89
MASS killer Barend Hendrik Strydom was refused leave to appeal against eight death sentences imposed on him by Mr Justice Louis Harms last month.

The 23-year-old former policeman, who murdered eight people and attempted to murder a further 16 in an orgy of violence in Pretoria and at a squatter camp last November, was not in the Pretoria Supreme Court to hear the appeal bid.

The hearing was only attended by counsel for both parties.

Mr Johan Engelbrecht, the leader of the defence team, told Mr Justice Harms that there were reasonable grounds that another court would have reached a different finding on the matter.

Opposing, Mr Paul Fick SC, the state advocate, said there were no reasonable grounds and that the death sentence was no reason for appealing, nor were their grounds to believe that another court would have reached a different finding.

15 years jail for murder of cop

Sowetan 19/6/89 252

A MAN who poured petrol over a policeman and set him alight was sentenced

By **MANDLA
NDLAZI**

to 15 years' imprisonment for murder by a Rand Supreme Court judge.

Daniel Thabiso Mokoena (20), of Tembisa was sentenced for the murder of Constable Mathee-Thomas Modau, of the South African Transport Services, who died in Tembisa Hospital on July 13, 1986 after he had been attacked the previous day at a local shebeen.

Constable Modau was hiding in a toilet from where he was pulled out, had petrol poured over him and set alight. Mokoena was sentenced to a further two years for having assaulted another

Sats policeman, Mr Petrus Vilakazi, with intent to do grievous bodily harm.

His co-accused, Stanley Mokomane (20), was sentenced to two years for having assaulted Constable Modau with intent to do grievous bodily harm, and another two years for the assault on Constable Vilakazi.

They were both found not guilty of having robbed the two policemen of their service revolvers.

The judge found there were extenuating circumstances when he sentenced Mokoena on Thursday.

The two had pleaded not guilty.

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SOWETIAN Tuesday, June 20, 1989

Page

THREE CONVICTED OF TERRORISM

THREE men have been convicted of terrorism by a Rustenburg magistrate.

By SONTI MASEKO

ist Congress, by Mr M D de Wit

The men, Norman Molo (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 African

Molo 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, scorpiion 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 Rangewo in Yugoslavia.

The other witness, Mr Y, told the court that he and Molo 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

Man shot in head 'to protect the innocent'

Star
21/6/84 Pretoria Correspondent

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A policeman's concern for the safety of innocent people resulted in him shooting a Mamelodi man in the head

This emerged yesterday in evidence by Captain Hermanus Arnoldus le Roux at the inquest into the deaths of 12 Mamelodi residents in 1985.

The inquest is being held in the Pretoria North Magistrate's Court

Answering a question by Mr Morris Basslain, who represents the victims of the shootings, Captain le Roux said he had been afraid to aim his rifle at the man's legs because the bullet would end up in somebody's house, where it might injure innocent people

He denied an allegation by Mr Basslain that the reason he shot the man in the head was that he wanted to kill him

"My intention was to stop the man from throwing a second rock at the Buffel," the captain said.

Asked why he did not fire a warning shot, Captain le Roux said it would not have served any purpose

The policeman told the inquest that the lives of the people in the defence force vehicle had been in danger and it was his duty to protect them

"The first rock the man threw hit the left hand side of the Buffel and I shot at him while he was about to throw a second one at the vehicle because I was convinced the lives of the defence force members were in danger."

Asked why he specifically shot at that man, Captain le Roux said he was convinced that he was the one who threw the stone at the Buffel because he had kept him under surveillance for a few seconds. The man was also nearer to him, the

captain said

Captain le Roux said the defence force vehicle, which was travelling at between 10 km/h and 15 km/h, did not stop after it was hit

He could not say how the occupants reacted after the Buffel was hit, or whether they fired any shots, alighted or increased speed

He could also not remember whether the security force members had been wearing safety helmets

(Proceeding).

Lawyers urge experts probe on hanging

Sowetan 21/6/89 ZS2

LAWYERS for Human Rights have urged the Human Sciences Research Council to research informed opinion about capital punishment.

The organisation's request came after a HSRC report on the public's attitude to the death penalty was published.

According to the researcher, Dr Keith Smith's findings the majority of South Africans favoured capital punishment.

for Human Rights, said the organisation was not surprised by the HSRC's findings

Law Commission's proposals scrutinised

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CMT-TPB 21/6/81

THE South African Law Commission project group, under the guidance of Mr Justice P J J Olivier, has produced a working paper which, if implemented, would give a welcome boost to protecting human rights in South Africa

The paper is firmly for protecting individual rights but rejects group rights, while proposing language, religion and culture safeguards

The proposed bill of rights (which runs to 33 articles) includes almost all the rights routinely included in the "classic liberal" rights charters: rights to life, spiritual and physical integrity, privacy, legal personality, family integrity, free speech, free movement, private property, free association, free assembly, personal freedom and safety and some very detailed provisions relating to the rights of people arrested or detained

Certain freedoms are also provided for: freedom from any discrimination and from slavery or forced labour

Some of the more controversial proposals, perhaps, are the rights to private property and to disassociate, as also article 30, which allows limitation in the interests of the security of the state, public order etc but subject to the courts. Most laudably, the commission tackles practical implementation of its proposed bill, linking it to the prior repeal of



CORDER

DAVIS

By HUGH CORDER and DENNIS DAVIS
UCT Law Faculty professors

all discriminatory legislation and administration and the negotiation of a new constitution based on universal franchise

Economic basis

While acknowledging the generally positive approach of the commission, there are many points of constructive criticism which could be made to strengthen and clarify this approach

First, the economic basis of the commission's proposals although the report claims a bill of rights is not the proper place for propagating a particular economic system, it follows the views cited in the report by Gavin Relly that "a bill of rights must include adequate guarantees of the right to acquire, own and dispose of property"

The report suggests "ownership is one of the most basic aspirations of all South Africans" and that "even those who would like to see a redistribution of wealth would also like to have the right to property protection afterwards"

In short, the commission's recommendations

in this regard show a clear commitment to a free enterprise economy which, while doubtless encouraging free marketers, will run counter to the political programmes of mass democratic movements

Second, the commission holds that "It is common cause that the human rights guaranteed in a bill of rights can never apply absolutely and without limitation"

This statement is not without merit. For example, the right to freedom of speech or expression cannot be wide enough to allow citizens to advocate racism. Similarly, the state's duty to ensure a high standard of public health, prevent crime and to administer justice fairly will inevitably lead to a limitation or infringement of certain rights

Proposed method

However, our view is that there are certain human rights which can apply absolutely, which should never be limited or infringed. These are at least the following: the right to life, the right to

human dignity and equality before the law, the right not to be held in slavery

Third, the proposed method of enforcement of a bill of rights in this country must be considered. The Law Commission rejects the idea of a special constitutional court and opts for the proposal that "the Supreme Court should apply the bill of rights and that the normal process of law should apply". In doing so, the commission reveals its confidence in the South African Bench

We maintain the commission seriously underestimates the crisis of confidence in the judiciary among the population in the context of protecting human rights

Finally, some attention must be paid to the language or discourse employed by the commission

Other groups

When viewed in its entirety, the report appears to present a model of a liberal democratic society as illustrated by the above recommendations. At the same time there are suggestions of another, less liberal, theme running, particularly insofar as its treatment of group rights is concerned

It notes that everybody should have the right to disassociate from other groups and individuals, it finds that the "protection of minorities in this country is essential since to ignore the rights of minority groups would be to invite endless conflict"

In this context, the report's language could be seen to approximate the discourse of the state in the post-P W Botha era

In sum, we would propose that, taken at face value, the liberal *bona fides* of the commission be accepted and that all references to group protection in the constitution be scrapped

Police captain tells Mamelodi inquest

WHY I SHOT

MAN IN THE

HEAD

A POLICEMAN'S concern for the safety of innocent people resulted in him shooting a Mamelodi man in the head.

This was said yesterday by Captain Hermanus Arnoldus le Roux at the inquest into the deaths of 12 Mamelodi residents in 1985

The inquest is being held in the Pretoria North Magistrate's Court

Answering a question by Mr Morris Basslain, who represents the victims of the shootings, Le Roux said he was afraid to aim his rifle at the man's legs because it would end up in somebody's house

SOWETAN Correspondent

where it might injure innocent people

Le Roux denied an allegation by Basslain that the reason he shot the man in the head was that he wanted to kill him

My intention was to stop the

man from throwing a second rock at the Buffel," he said

Asked why he did not fire a warning shot, Le Roux said it would not have served any purpose.

The policeman told the inquest that the lives of the people in the Defence Force vehicle were in

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Sowetan 21/6/89

Shot in the head

From Page 1

danger and it was his duty to protect them

"The first rock the man threw hit the left hand side of the buffel and I shot at him while he was about to throw a second one at the vehicle because I was convinced that the lives of the Defence Force members were in danger"

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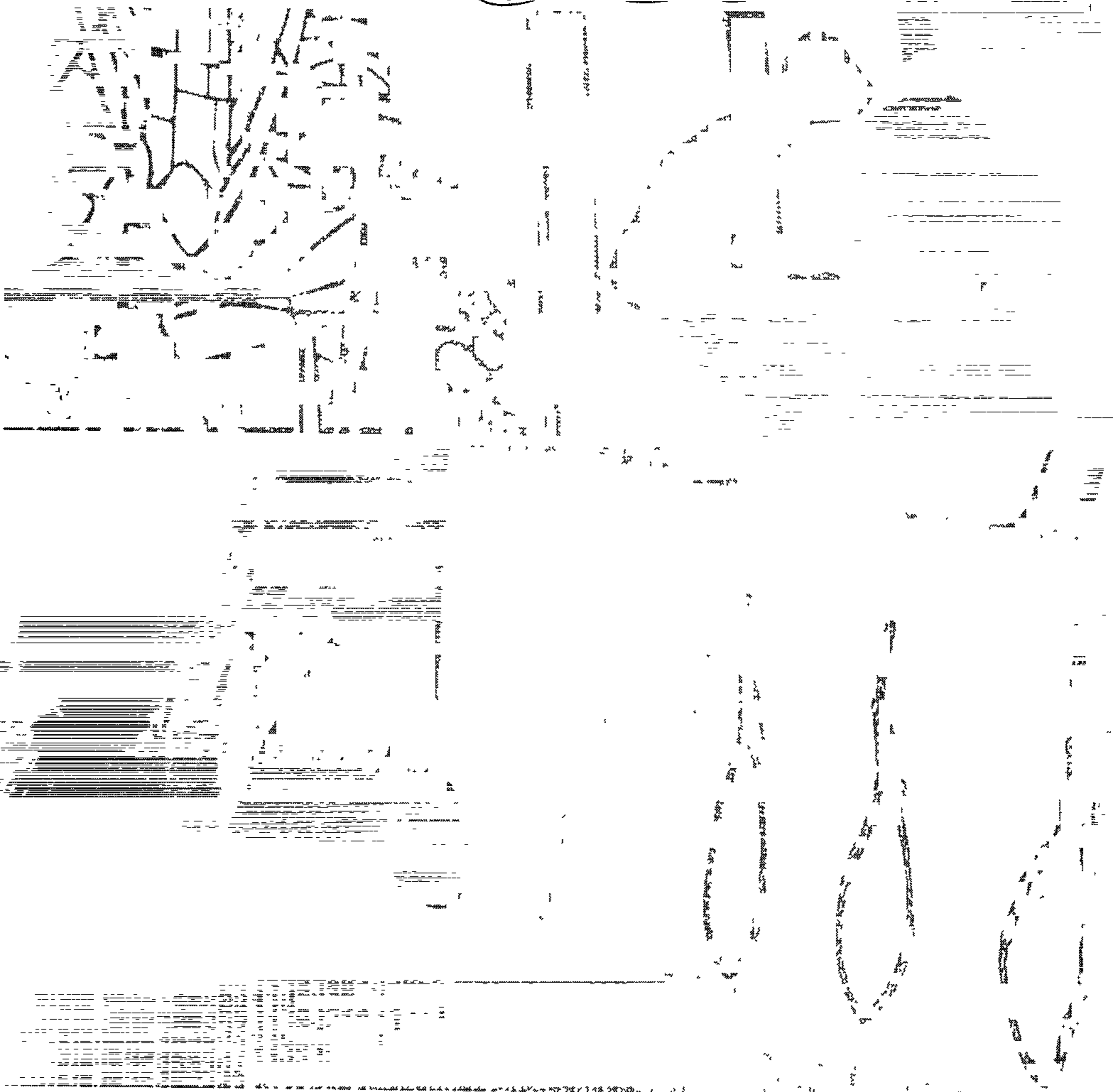
Le Roux said the Defence Force vehicle, which was travelling at between 10km and 15km, did not stop after it was hit by the rock

He could not say how they reacted after the Buffel was hit by the rock or whether they fired any shots alighted from the vehicle of increased speed

(Proceeding)

> per 22/6/87.

(252) (~~304~~ (~~28~~))



The Rev Frank Chikane addresses the crowd at the prayer service for the Upington 14 sentenced to death. (Above) The stained glass window of the church opposite a fist-waving member of the audience. ● Pictures by Ken Oosterbroek.

By Jo-Anne Collinge

Hundreds of people attended a Johannesburg prayer service in solidarity with the Upington 14, condemned to death in a single trial last month for the murder of a policeman, and with the estimated 290 other inmates of Death Row in Pretoria

About 20 family members of the Fourteen attended the ceremony, which ended with a singing throng moving through Smal Street Mall with about a dozen police in pursuit. There were no violent incidents and it appeared that no arrests were made.

The South African Council of Churches general secretary, the Rev Frank Chikane, addressed the service, arguing that there were reasons over and above the Christian concern for the sanctity of life which caused him to call for an end to executions in South Africa.

He emphasised that the law itself in South Africa allowed policemen and other officials to act against human rights. Political deci-

State has no right to kill, says Chikane

sions in South Africa were made on the basis of negating human rights and preserving the privileged few, he said

"Because we are a violent society no organ of the State has the right to execute anyone — because the State itself is violent," said Mr Chikane.

People in the community were brutalised by officials acting with the force of law — their schools were raided as well as their homes, they were detained, released without charge and re-detained

It was small wonder that youths subjected to such treatment began to think that the

best way to solve their problems was to resort to violence, he said

Youth representative Mr Peter Mokaba noted that the Upington 14 had been convicted according to the legal concept of common purpose — because they had associated themselves with the mob which killed the policeman, not because they themselves had inflicted the fatal injuries

If the same doctrine were applied to Wit Wolf Barend Strydom, Mr Mokaba said, the death penalty should "apply to the apartheid regime as a whole"

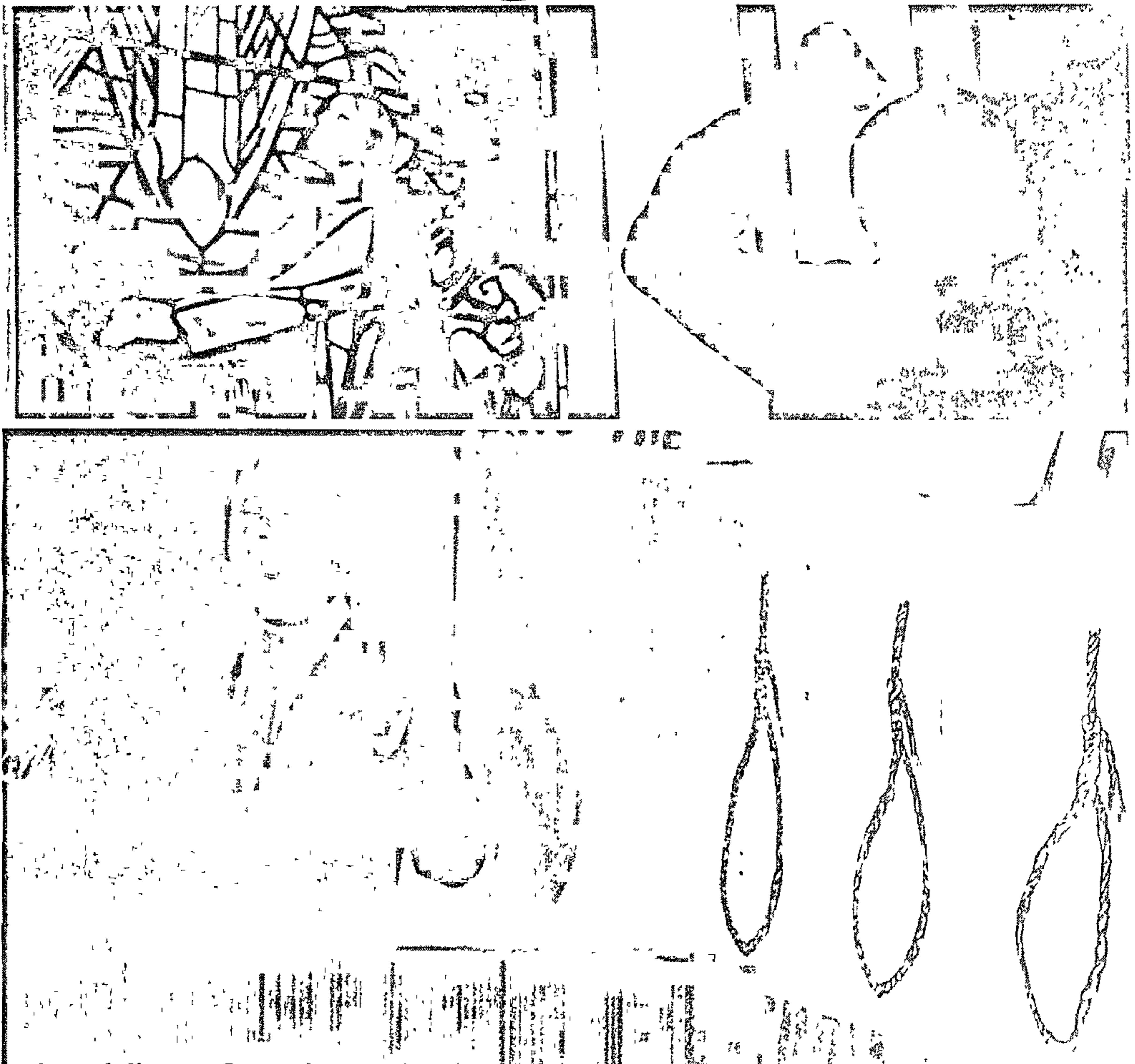
Therefore, Mr Mokaba said, the youth did not call for the execution of Strydom but for an end to the system of apartheid.

He called on the international community to campaign vigorously to save those on death row. Mr Mokaba said that international business interests claimed they remained in South Africa to save lives "Let them stop the hangings" Mr Mokaba challenged

5 Feb 22/6/89.

(252)

~~SP4~~ ~~SP4~~



The Rev Frank Chikane addresses the crowd at the prayer service for the Upington 14 sentenced to death. (Above) The stained glass window of the church opposite a fist-waving member of the audience.

© Pictures by Ken Oosterbroek

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I acted lawfully, captain tells court

By Mckeed Kotlolo, Pretoria Bureau

The inquest into the November 21 1985 Mamelodi shootings yesterday heard a police officer, who allegedly shot and killed two people, say he would not be prosecuted for their deaths.

Captain Hermanus Arnoldus le Roux was giving evidence at the inquest into the shootings during which at least 12 people were reported killed and scores of others injured

Asked by Mr Morris Basslian, for the families of the dead, if he was aware of the fact that he could be prosecuted for the deaths of the two people he said he shot on the day of the shootings, Captain le Roux

said he would not be prosecuted

After Mr Basslian had explained to Captain le Roux that he was not referring to his feelings about the deaths, but that legally he could be prosecuted, Captain le Roux replied: "Yes, but I am not worried about being prosecuted because I acted lawfully."

Captain le Roux earlier this week told the inquest he shot a man who was throwing stones at a passing army vehicle from the roof of a house in Block B, Mamelodi, and another man who threw stones at his Casspir on the morning of November 21 1985. He said he later identified the bodies of the two men at the mortuary.

He said that he shot the man who was

standing on the roof of the house because he was trying to throw a second rock which could have injured members of the Defence Force inside the army vehicle

He said further that, from his experience of unrest situations while he was stationed at Pretoria Moot, "the rioters aim at the people and not the vehicles".

The captain said the army vehicle was still in front of the house where the man was standing when he threw the first stone, and he could have hit it with his second throw

The legal representatives of the families requested an adjournment until today so they could bring a witness to give evidence about the rooftop shooting.

87cv 22/6/89

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'VIOLENT UPRISING UNLIKELY'

Sausan
22/6/84

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A TOP expert on the African National Congress and chief defence witness in mitigation at the Broederstroom 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

Stop the murder of children - Chikane

By ALI MPHAKI

THE South African Government has murdered enough black children and has no right to continue murdering them, said the Rev Frank Chikane.

The secretary-general of the South African Council of Churches told this to a service of solidarity for the Upington 14 held in Johannesburg yesterday.

The Upington 14 were convicted for the murder in November 1985 of a municipal policeman, Mr Lucas Sethwala, who was necklaced. The legal doctrine of common purpose was applied in their conviction.

Chikane said it was disheartening for our society to legally murder so many people in a year, adding that "this exercise of murder must come to an end."

Lost

He appealed to all churches to ensure that no single life is lost on the basis of what he termed injustice. "The law in this country has become a law of injustice and for that reason the courts are part and parcel of the repressive machinery of the State," he said.

Chikane, who shared the stage with Miss Maureen Lekanyane, a sister to two of the 14 now on death row, added that the right to life is the most precious of human rights.

"We have a Government whose constitution



MAUREEN LEKANYANE

is to maintain the interests of the minority by using violence. And because of that our people are bound to use violence," Chikane said.

He added that he no longer has confidence in the judicial system of this country because "it represents the evil and sickness of apartheid."

Chikane appealed to the international community to continue exerting pressure on the South African Government to grant clemency to all those on death row.

Victims

"The majority of all those on death row are victims of apartheid," he said.

In a brief speech, Lekanyane, whose two brothers Andrew (29) and David (25) are among the 14, said her family has taken all to God in prayer.

Handwritten scribbles and the number '252' are visible over the main headline.

Killing: Court hears cop 'not worried'

A PRETORIA North inquest magistrate yesterday heard a policeman say he was not worried about the possibility of being in the shooting and killing of Mamelodi

Sowetan 22/6/84
By ALINAH DUBE

residents.

Captain Hermanus Arnoldus le Roux was testifying during an inquest into the killing of Mamelodi residents on November 21 1985

He was being cross-examined by Mr Morris Basslian, counsel for families of the victims

Asked if he was aware that he could have been prosecuted for murder, the policeman replied "I am not worried about the

possibility of being prosecuted"

When Mr Basslian insisted that he should answer the question correctly, Captain le Roux agreed that he was aware of the fact but quickly pointed out that his actions — at the scene of the shootings — were within the law

He said "I therefore take it as a fact that I am not going to be prosecuted for murder"

The hearing continues

EDITOR BROKE SECURITY LAW

AN apartheid-busting swim has been planned for the Hillbrow pool at 11am today.

About 12 members of Actstop and the Democratic Party intend staging a demonstration dip to prove there is no law preventing blacks from swimming in municipal pools in the city, said DP council leader Mr Tony Leon

He said there was no by-law ruling that Johannesburg's pools were "whites only" and the

Protest swim 'plain stupid'

Sowetan 22/6/89
swim would establish this fact

The demonstration has been labelled "stupid" by Johannesburg management

committee chairman Mr Jan Burger

He said "Their mid-winter swim is just plain stupid as the Hillbrow pool is open to all races. The management committee instructed the head of the parks department to open Hillbrow in May and if the group is looking for a showdown they will be disappointed

"With all respect to the DP and Actstop, they are acting like a lot of loonies"

MAX du Preez, editor of the *Vrye Weekblad* was found guilty by a Johannesburg magistrate yesterday of contravening the Internal Security Act. He was given a six-month jail sentence, suspended for five years, for quoting a listed person in the newspaper.

Du Preez's conviction follows a report in *Vrye Weekblad* November 11 issue on the Leverkusen conference in West Germany in which Soviet, South African and ANC academics took part

Magistrate Mr P H Bredenkamp said it was not prohibited for a third person to take notice of the viewpoints of various organisations, but actual remarks by a listed person were not allowed

Quoted

The court found that the newspaper quoted Joe Slovo, the general secretary of the South African Communist Party and a member of the ANC's national executive committee

"Du Preez should have taken steps to prevent the publication of the article," said Mr Bredenkamp "The court finds that he acted negligently"

Suspended

"When the media wants to report on matters that involve state security or law and order, it should be done in a responsible, reasonable manner," he said

Wending Publications, publishers of the *Vrye Weekblad* were fined R1000, also suspended for five years, on the charge

The company was warned and acquitted on four counts of publishing the newspaper when it was not registered

Class boycott ends

(2)
WINDHOEK — though no statistics were yet available, official sources in Northern Namibia indicated yesterday that pupils were beginning to return to school at the end of a month-long class boycott

The stayaway, affecting about 170 000 pupils in the Ovambo region, has ended without demands by either pupils or authorities being met

Among the students' demands was that

members of the former SWA police counter-insurgency unit, Koevoet, be removed from the police force

The Administrator-General, Mr Louis Pienaar, threatened to close all schools in the region until the end of the year unless pupils reregistered, accompanied by a parent or guardian

They had to undertake to refrain from political activities on school

premises both during and after school hours

The secretary of the Ovambo administration, Mr Frans Viljoen, is reported to have said earlier "no conditions are being imposed for pupils and students to return to classes"

He declined to comment on the school situation, saying an official statement would be issued later

The Namibia National Students Organisation has called on the thousands of boycotting pupils and students to return to school, adding that the call to end the boycott should not be seen as a failure on the part of the student movement in realising their demands — Sapa

Winter school

THE Soweto College of Education Educational Committee is hosting a Winter School which will cater for Std 9 and 10. Classes will be held at the

college until June 30

The registration fee is R10 and those wishing to attend should register by today June 22

D.I.'s INN

Police captain asks State for new advocate

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.

State wins plea for 'Broeder 3' delay

Pretoria Bureau

23/1/8

There was dramatic contest in the Pretoria Regional Court yesterday when the State asked for a four-month postponement in the "Broederstroom 3" hearing.

Magistrate Mr W van den Bergh and the defence argued against prosecutor Mr Frans Roets, who had asked for a post-

ponement 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 SE (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.

Star B/6/89 (252)

Not all hope gone for 274 on death row

By Jo-Anne Collinge

Not one of the 274 people on death row in Pretoria can be executed, Lawyers for Human Rights say, because none of their cases is complete

The organisation has intervened on several occasions recently to obtain stays of execution for condemned people on the ground that they have not exhausted all legal avenues of defence open to them

SIGNIFICANT

The Lawyers for Human Rights director, Mr Brian Currin, says the South African Prison Services's willingness to furnish information on death row occupants was "the most significant development" in monitoring capital punishment since monitoring began here

"Since all 274 cases have not been finalised, and none of the prisoners may be executed, this would be an opportune time for the Government to declare a moratorium on all executions and to establish a commission of inquiry to investigate the capital punishment system in South Africa," said Mr Currin

He said that on June 19 there were two women on death row — both black

Rive death: 2 given R500 bail

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CAPE TOWN — A man and a youth who appeared in the Wynberg Magistrate's Court in connection with the murder of author and lecturer Dr Richard Rive, were each granted bail of R500 yesterday. Mr Vincent Aploon (22), of 63 Safram Street, Bonteheuwel, and a youth (17), of Westridge, Mitchells Plain, were not

asked to plead.

Their appearance follows the death on June 4 of Dr Rive (59), in his Windsor Park home, Heathfield. He had been stabbed several times.

A condition of their bail is that they report to their nearest police station every Wednesday and Saturday night. The case was postponed to July 19.

274 IN WAIT ON DEATH ROW

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Sowetan
23/6/89

THERE were 274 people on Death Row in South Africa as at mid-June this year, according to the Execution Monitoring Programme of Lawyers for Human Rights.

Besides two black females, the remaining 274 are all men.

Of the total number on Death Row, 223 are black, 35 Coloured, 11 white and five are Asian.

Remedies

According to SA Prisons Service, the fates of the prisoners on Death Row has not yet been decided and they may not be

By ALI MPHAKI

executed

The Prison Service said that in most cases legal remedies were still available and were being explored by prisoners and their legal representatives.

In the majority of cases appeals to the Appeal Court were pending and in other cases representations or petitions for clemency were being prepared for submission or have been submitted to the State President

Mr Brian Currin, national director of LHR, said he believed this was a major breakthrough in

the recognition of the rights of Death Row prisoners and hopefully a step towards the establishment of a commission of inquiry to investigate the capital punishment system in South Africa

Commission

He said since all 274 cases have not been finalised, and none of the prisoners may be executed, this would be an opportune moment for the Government to declare a moratorium on all executions and establish a commission.

"We call on all abolitionists to publicly support this plea," he said.

Soweto 23/6/89

Cop's plea

THE inquest into the deaths of Mamelodi residents was yesterday postponed to Tuesday to give a policeman who has admitted killing two men time to appoint his own legal representative.

The inquest is being held in the Pretoria North Magistrate's Court

The magistrate, Mr J P Pretorius, postponed the case after Captain Hermanus Arnoldus le Roux told the court of his intention to appoint a lawyer. He said although counsel representing the police, had been appointed and was present at the hearing, he preferred his own lawyer.

Advocate A C le

Roux represents the police (252)

The policeman also said he was unable to attend the proceedings today and Monday as he was a sickly man and was due for a medical check-up.

The inquest is a sequel to the killing and wounding of Mamelodi residents on November 21 1985 during a march. Although the official figure of those killed stood at 12 the shootings were reported to have claimed more lives.

Earlier Captain le Roux admitted he shot and killed two Mamelodi residents, Mr Paul Mavimbela and Mr Moses Motsei.

Judges to meet

ANC

Call Times 23/6/89

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By MALCOLM FRIED
SOUTH AFRICAN Appeal and Supreme Court judges, legal academics and lawyers are set to meet ANC members during a secret conference in Britain, starting today.

The South Africans will be the most high-powered local legal personalities to have contact with the ANC

Confirmed as participants are Mr Justice A J Milne and Mr Justice J W Smalberger of the Appeal Court, Mr Justice J J Fagan of the Cape and Mr Justice J M Didcott of Natal, Professor Den-

nis Davis and Professor Hugh Corder of UCT, Professor Laurie Ackermann of Stellenbosch, Professor John Dugard of Wits and Mr Arthur Chaskalson, SC

Sources said yesterday that several other lawyers from around the country were also part of the South African delegation.

Those named had all left for overseas by early yesterday and most are not expected to return for at least a week.

The conference, organised by world-renowned legal theorist and Oxford University don Professor Ronald Dworkin, is due to last from today until Sunday

Invitations to the event, to be held at a venue in Oxfordshire, were confidential and the ar-

rangements kept strictly secret. Officially, it was planned as an international jurists' seminar. However, it has been reliably learnt that ANC members will also be present.

Relatives of several local participants said the meeting had been long in the planning and meticulously organised

"Obviously, the judges particularly did not want anyone knowing in advance what was coming," said one source

All the South Africans are regarded as political liberals

Mr Justice Didcott has made a series of pronouncements and judgments which, a range of lawyers believe, have made him

To page 2

From page 1

Judges

highly unpopular with the government

Professor Ackermann, a former Supreme Court judge, resigned from the bench to take up a chair in human-rights law at the University of Stellenbosch

Professor Davis, Professor Corder and Professor Dugard are also all active in human rights

This latest meeting is the third in a series of encounters this month alone between the ANC and South Africans

The first took place at the beginning of June in Lusaka when a large number of representatives from organisations — including Cosatu and the UDF — met the entire ANC national executive

The second meeting, also in Lusaka, was between members of the United Democratic Universities' Staff Association — representing 18 of the 20 South African campuses — and members of the ANC executive

And, next week, a fourth meeting is due to take place when the biggest single group of white South Africans fly to Lusaka for a series of talks. Topics will range from educational matters, local government and forthcoming events in South Africa

The ANC is not directly connected with organising the Oxfordshire conference

Judge backs human rights

Sunday Times Reporter

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THE deputy chairman of the South African Law Commission yesterday emphasised the importance of guaranteeing individual human rights

In his address to a meeting of Lawyers for Human Rights, Mr Justice P J J Olivier said.

"The negation of individual human rights, in any country, gives rise to endless conflict

"The claim to the protection of individual human rights is one based upon very deep-

seated moral, religious and judicial considerations and is much more fundamental than party political considerations," he said at the meeting held at the Pretoria Club

"It is false to construe a conflict between individual and so-called group rights, since they represent both sides of the same coin

"There is presently a golden opportunity for all those who strive for human rights to co-operate in the spirit of mutual respect and understanding," he said

S/Times 25/6/67

Dialogue with judges 'not ANC initiative'

LONDON — The African National Congress's dialogue with sections of the white South African Establishment had taken a remarkable turn, with members of the ANC meeting a group of Supreme Court judges at a private conference in the Oxfordshire countryside, the *Guardian* reported yesterday

The newspaper said "With membership of the ANC a criminal offence in South Africa, and with judges habitually passing death sentences on ANC guerillas, the meeting, funded by the Ford Foundation, is being seen as a significant part of the ANC's new efforts to explore ways of negotiating with Pretoria in whatever forums are available"

"An internal ANC document

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star 26/6/89
considering options for the peaceful dismantling of apartheid has been circulated within South Africa"

The *Guardian* said leaks in the South African press about the conference had annoyed the organisers

"Under the title, 'The Concept of Law in South Africa', it has been arranged by Professor Ronald Dworkin, the American professor of jurisprudence at Oxford University"

The *Guardian* quoted Prof Dworkin as saying "This is not an ANC initiative I have invited these people personally It is a very distinguished academic gathering I put the proposal to the Ford Foundation which thought it would be a worthwhile exercise" — Sapa.

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Reports on law conference misleading - Chief Justice

Two ANC men at UK law conference

THE conference in Britain was not a cloak to cover a secret meeting between South African judges and the African National Congress, the Chief Justice, Mr Justice M M Corbett, said.

He said "I refer to reports that have appeared in the South African press concerning the conference being held at Newnham Park, Oxfordshire, this weekend. These reports are, I am satisfied, totally misleading in regard to the nature and purpose of the conference."

"It is a small private symposium of approximately 40 participants. It has been convened and organised by Professor Ronald Dworkin, professor of jurisprudence at the University of Oxford. The object of the symposium is to discuss on a scholarly and academic basis legal problems and issues which are of particular relevance to South Africa."

"It affords, inter alia, an opportunity for the South

African participants to argue the case for the South African judiciary, its probity and its independence. The symposium is not open to the press. The participants include practising and academic lawyers and a number of judges from South Africa and other countries."

"Judges from other countries include an eminent British law lord, two English High Court judges, a justice of the United States Federal Court of Appeals and a Commonwealth Chief Justice. All participants have been individually chosen and invited to the symposium by Prof Dworkin."

"If there are persons present who have connections with the African National Congress, then that is coincidental. There may for that matter be other persons present with very different political leanings. No participant has been invited as representative of any body or group."

"Nobody is there representing anybody. The judges attending the conference do not represent the judiciary, or the South African government, for that matter. Nobody at the conference is representing any political organisation. I have spoken by telephone to certain of the judges attending the conference and am satisfied as to these facts."

"I do not believe that attendance of this conference by the South African judges concerned will in the smallest degree compromise their judicial impartiality or independence. I am further satisfied that it is a bona fide conference undertaken in a serious spirit to discuss and debate the matters to which I have referred."

"There is no substance in the suggestion that it is a cloak to cover a clandestine meeting between South African judges and the African National Congress."

LONDON — The Guardian yesterday revealed more details of the conference in Oxfordshire in which South African judges, legal academics and members of the ANC took part at the weekend.

The newspaper pointed out that in South Africa membership of the ANC was a criminal offence and that judges had passed death sentences on ANC guerrillas.

The Guardian said leaks in the South African press about the conference had annoyed the organisers.

"Under the title, The Concept of Law in South Africa, it has been arranged by Professor Ronald Dworkin, the American professor of jurisprudence at Oxford University."

The paper said the ANC was represented by Mr Zola Skweyiva and Mr Nathaniel Masemola of the organisation's legal department.

The Guardian quoted Prof Dworkin as saying "This is not an ANC initiative. I have invited these people personally. It is a very distinguished academic gathering. I put the proposal to the Ford Foundation which thought it would be a worthwhile exercise."

Sapa

Star 27/6/89 (252) (251)

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 taken into account.

Mr I G Farlam, SC, said the house was stoned, tear-gas 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 whereabouts, 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

June 27 1989

Justice dept silent on corruption probe 'involving millions'

8/27/16/89.

The Department of Justice yesterday refused to elaborate on reports of alleged corruption involving "millions of rands" in the Department of Development Aid.

The deputy attorney-general of the Transvaal, Mr B J Bredenkamp, was quoted as saying that investigations by the Auditor-General's office involving 10 suspended officials and a number of contractors had "only scratched the surface"

Investigators

A Justice Department spokesman said that as investigations were continuing it was not possible to comment on "the accuracy of the report or the extent of the irregularities"

"When the investigation has been completed the Attorney-General

will decide whether to prosecute."

Mr Bredenkamp said earlier that 29 irregular transactions over a two-year period from 1985 to 1986 had been uncovered

The Auditor-General's office was still investigating the preceding and following years, and Mr Bredenkamp had called police investigators to his office to discuss their progress

Development Aid Director-General Mr Gilles van der Wall said the full scope of the irregularities had already been uncovered

The investigations revolved around orders for goods such as 10 radio masts costing R5 000 each which had allegedly not been delivered by contractors, or were only delivered two or three years later

— Sapa

Killing of student 'unjustified' 252

8/27/89
The findings of the inquest into the death of Daveyton student leader Mr Caiphas Nyoka, shot by members of the East Rand Riot Reaction Unit in 1987, will be given at the Benoni Magistrate's Court on July 12.

Yesterday, counsel for the family asked that Mr Nyoka's death be ruled premeditated and unjustified. Counsel for the Minister of Law and Order asked that the evidence of witnesses against the police be rejected because they had lied. — East Rand Bureau

Battle for lives of the Uppington 14

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COUNSEL for the defence of the Uppington 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.

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 Uppington 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

SOWETAN Correspondent

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

~~REB~~

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AG will not act on Boksburg

THE Witwatersrand Attorney General has declined to prosecute the Boksburg Town Council against which Lawyers for Human Rights laid charges of subversion in terms of the Internal Security Act.

LHR's national director, Mr Brian Curtin, said the A.G.'s decision had been conveyed to him by a Lieutenant de Villiers of the SAP's security branch.

LHR was also considering a private prosecution will be considered," said Curtin.

"I presently await the A.G.'s alternative forms of legal action against town councils and other bodies which promoted racism — Sapa

of a private prosecution will be considered," said Curtin.

Leader was 'deliberately' killed by SAP lawyer

Sowetan 27/6/87

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.

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

By SONTI MASEKO

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.

**'Mandela FC'
trial delay**

Sowetan 26/6/89

THE trial of seven people charged with the murder of Mr Maxwell "Spokes" Madondo, a member of Mandela United FC, was yesterday postponed to August 2, pending the decision of the Attorney-General

(252)

The seven, Mr Andrew Ikaneng (23), Mr Isaac Mazibuko (22), Mr Nhlanhla Blanket (18), Mr Sandile Blanket (22), Mrs Dudu Chili, Mr Sibusiso Chili (24) and Mr Mpika Chil (22), appeared at the Johannesburg Magistrate's Court

Mrs Chili is out on bail while the other accused will remain in custody

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Sawetun 28/6/89

Mother demands R10 000 from Vlok

THE mother of a 17-year-old youth who was allegedly shot and wounded by a white policeman in Mamelodi early this year, is claiming R10 000 from the Minister of Law and Order Mr Adriaan Vlok.

Joey Sithole, of Mamelodi East, was shot on the left arm while playing a game of ludo with friends in the backyard of his home about 10pm on January 20, his mother Mrs Maria Sithole, alleges in papers filed in the Pretoria Magistrate's Court.

According to the particulars of claim, the policeman, who allegedly arrived at the scene of the shooting in a kombi, wrongfully and unlawfully shot at Mrs Sithole's son.

Plaintiff's attorneys yesterday confirmed summonses were served on the Minister.

Man gunned down - witness

A MAMELODI man lay calling for help after he was gunned down while standing on the roof of a lavatory, a Pretoria North inquest magistrate heard yesterday.

Mr Stephen Selepe said this in a statement submitted at the inquest into the deaths of 12 people on November 21 1985.

Selepe said he and Mr Moses Tsitsi Motsei, a man who was shot and killed by Captain Hermanus Arnoldus le Roux, were running away from the scene where teargas had been fired.

Both of them were part of a crowd to be addressed by local mayor, Mr Zikhali Ndlazi.

Selepe and Motsei were in the company of an unknown youth when they ran to his home. He said none of the people he was with did anything illegal.

"We ran into the yard and climbed the roof of a lavatory," he said.

"I heard many shots being fired. I heard Moses calling for help," he said.

EX-MAYOR IS (252) *Sowetan 28/6/57* GUILTY - STATE

A FORMER mayor of Pabalo township in Upington had been identified by four people while he attacked the house of a man who was later killed by a mob.

This was heard in the Kimberley Supreme Court in a rebuttal by the State to an application for an appeal by the convicted Upington 14

Advocate T B van Rensburg, who represented the State in the appeal application, opposed the application and said Mr Justice J J Basson ruled correctly in convicting and sentencing the accused as he had done

He said accused number seven, represented by advocate E D Boshoff, had been seen three times, and had on two occasions passed close to a Mr Douglas Khambule,

SOWETAN Correspondent

a councillor, who had identified him. Van Rensburg said nothing new had been revealed in the application.

He said Boshoff's client had been seen carrying a five litre container with petrol shortly before the deceased had been doused and was set alight

"He had had the can with the single purpose of wanting to kill the deceased. Even if he had been sentenced more severely, the court would still not have erred," said the prosecutor

He said the accused had been a prominent person in Upington

Earlier in the application, advocate Boshoff said he would appeal against the conviction and

sentence of his client in view of State witness Mr Douglas Khambule's suspect evidence during the trial. He also said a Mr Sutherland and his wife's evidence had not been adequately discussed by the presiding officer in his judgment

Sutherland had told the court he had managed to identify a person who had run past in a split second (0,75 seconds)

"Khambule was acquainted with most of the accused, but he had pointed out only two of them. Teargas had also been used at three places, and at the group of people who had pelted the house in which the deceased had been, with stones

"Two containers had been used to douse the deceased with petrol," said Boshoff

Judge refuses appeal

CAPL. Trinit
28/6/89

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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 applica-

tion 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.

'People's saviour' linked to kangaroo courts

IN his campaign during the October municipal elections, Mali Hoza promised prosperity for the thousands of impoverished residents of Khayelitsha

He also said he would provide decent houses for the thousands of people in living in the township's shanty areas. His aids said he would usher in a "new dawn".

In interviews, Hoza, a man of few words, dismissed his critics who claimed he was a government puppet. "Judge me by my deeds. We'll work as hard as we can. The road we have covered so far has been very difficult," Hoza said at his glittering mayoral investiture in February this year.

But in his short rule, Mali Hoza's name has been linked to several applications in the Supreme Court which alleged acts of terror against residents by homeguards of the Lingeletu town council. Residents claim that the homeguards, a shadowy group usually

disguised with balaclavas, are responsible for a spate of assaults, malicious damage to property and murders in the township in recent months.

They are usually armed with sticks, pangas, sjamboks and, residents claim, guns.

Their key other activity is operating a "kangaroo court" where residents are tried and, if found guilty, allegedly sjambokked or fined.

Residents have made allegations that the homeguards also operate at night to allot properties.

So far the Supreme Court has issued several interdicts restraining Hoza and the homeguards from assaulting residents and from conducting "kangaroo" courts.

In April Hoza undertook not to attack Ms Lucia Manyakanyaka and Mr Henderson Mguni, who claimed that their houses had been ransacked by armed homeguards and about R400 stolen.

Mkaza claimed he had been assaulted by the homeguards who instructed him to accompany them but he had refused.

The homeguards left but later returned, surrounded his house and

In his campaign in the municipal elections last year, Mali Hoza billed himself as the saviour of the people of Khayelitsha, the sprawling shanty township about 35 kilometres from Cape Town.

He promised relief and prosperity to the hard-pressed community.

But eight months after donning the township's mayoral chain, Hoza's name has been linked to a reign of terror conducted by his much-feared municipal homeguards.

His name has been linked to numerous court applications brought by residents who wanted the homeguards restrained. A SPECIAL WRITER reports:

assaulted the occupants. They also broke the windows of the house.

In May Hoza gave another undertaking to keep his homeguards on a leash after pupils of Malizo High complained that they had been beaten up and prevented from attending or having access to school premises.

Fadana, a teacher at Malizo, said the pupils had grievances which had not been resolved because of alleged high-handed actions of the principal, Miss Constance January.

For two weeks Hoza's men, armed with sticks, manned the school gates and prevented pupils from entering the premises.

Those who did were beaten and chased from the school.

Allegations of assault and the use of "kangaroo" courts predates Hoza's assumption of the mayoral chair.

In August 1987, SOUTH reported that about 20 residents were beaten and fined a total of more than R1000 in a "kangaroo" court.

The victims reported the matter to the police, but no-one was arrested.

Recently Mrs Eunice Peter, a domestic worker, was granted an interdict in the Supreme Court against a Site C strongman, one of Hoza's men, from assaulting her or convening a kangaroo court.

Peter claimed in court that she was fined R250 which she was ordered to pay as soon as possible.

She also said she saw a person being fined R500 for an offence and another girl was whipped by four men.

Democratic Party MP for Claremont, Ian van Eck, accused Hoza and his "bullyboys" in Parliament of using violence and intimidation to coerce people into agreeing to his policies.

He also said people were being dragged to "kangaroo" courts presided over by the mayor and his men. "Convicted" people were fined or sjambokked.

Hoza's ascendancy to power has been clouded with controversy. During the runner-up to the elections, his opponents, the Joint Action Committee, claimed Hoza was being given preferential treatment by the authorities.

The committee, among other things, claimed they had been told by Cape Provincial Administration (CPA) official, Mr Graham Lawrence, to negotiate with Hoza regarding their problems. This was denied by the CPA.

Another source of discontent, which resulted into a Supreme Court action, was the CPA's decision to treat squatter camps and core houses as a single ward.

The applicants, the Ikapa Town Council, argued that Hoza would easily win as squatters outnumber the people in the residential areas.

They also argued that it would be inappropriate for a squatter leader to govern over a residential area. Judgment on the matter is still pending.

Hoza began to build his base after April 1985 when he became the first squatter leader to take up the government offer of a move to the controversial Khayelitsha.

In terms of the deal, Hoza and his followers were given rights to live in the area and also work in the Peninsula for 18 months.

Like thousands of others, Hoza came to Cape Town as a migrant worker and had previously stayed at Langas single male quarters.

He moved to Crossroads in 1981 after being harassed by Administration Board officials for pass law offences.

'A thousand years of injustice'



A sneaked picture at a Khayelitsha "kangaroo court" as an unidentified resident (in front), bleeding from the head, leaves

Ordeals relived

Peter said Mpongwana fined her R150 on top of the R100 she owed Nothembile. She was told to go and raise the money and pay it to Mpongwana as soon as possible.

She was unable to raise the amount by the end of the month and the homeguards again arrived at her house on June 5 and took her to the "court".

Mpongwana asked Peter why she had not paid her fine and she explained she did not have the money. She was told to pay the money by 9am on Sunday June 11 and warned that she would be arrested if she did not pay in time.

Peter then decided to seek the protection of the Supreme Court as she feared that she would be assaulted and seriously injured if she went back to the "kangaroo court".

The court ordered Mpongwana to respond to Peter's allegations by June 16. He failed to do so and a final order will now be granted.

Meanwhile, Peter was summoned to appear again before the kangaroo court on June 17. She was advised by her lawyers not to appear.

SINGLE mother Ms Phindiswa Bekizulu, 20, said she was still struggling to pay off a R100 fine after she had been found guilty of street fighting.

She claimed two women from the neighbourhood had visited her at her shack and provoked her.

"They started the fight. But because I had beaten them, the court found me guilty of assault and fined me R100."

The court ruled that she pay the fine in monthly instalments of R20.

A 49-YEAR-OLD mother who could not pay a fine imposed by a "kangaroo court" is seeking court protection against the "magistrate" who presided over her case.

Mrs Eunice Mamphela Peter of Site C in Khayelitsha is seeking urgent relief by way of an interim interdict restraining Mr Nkwali Mpongwana from assaulting her.

Mpongwana is one of the "magistrates" at the informal courts.

Peter submits that the imposition of the "kangaroo courts" on the people of Khayelitsha is unlawful.

In papers before the court, Peter claims that on Monday June 5 she was summoned to one of the controversial courts in Section B, where she was assaulted by men she believed to be

headmen or members of the homeguard operating in Site C.

Peter claims that people who deny their guilt are usually beaten up until they confess, whereupon they are heavily fined. There is no opportunity of a proper hearing.

In March this year Peter was approached by Nothembile Mchilize who asked her to sell dresses for her. She was promised R160 a month for this work.

Peter sold all the dresses in two weeks, but because she had given credit to other people, she still owed money to Nothembile. In addition, Nothembile did not keep her promise to pay her.

The following month Peter received more dresses from Nothembile. Many people asked for the dresses and promised to pay later. But she did not receive payment and a dispute arose between herself and Nothembile.

One evening in May, Nothembile arrived at Peter's home with a special constable who had informed her that Nothembile had laid a charge against her concerning the outstanding amount on the dresses.

She was driven to Mpongwana's house which was referred to as a "court" by the special constable. The homeguards, said Peter, were extremely rude and often shouted at the people summoned to the court.

She witnessed four homeguards whipping a young woman whom they claimed had been insolent when they fetched her at her home earlier.

While she waited for her turn, Peter listened to the proceedings and saw how people were fined. Someone was fined R500. All the money collected was handed over to the homeguards or to Mpongwana's daughter, who took it into a side room.

THE government is turning a blind eye to Khayelitsha's "kangaroo courts", despite these courts operating in blatant contravention of the emergency regulations.

This is the opinion of legal experts who say the "kangaroo courts" are being used by Khayelitsha's notorious homeguards to wield enormous power over a terrified community.

Several interdicts restraining Lingeletu West "mayor" Mali Hoza and his homeguards from assaulting or intimidating Khayelitsha residents are already pending in the Supreme Court, Cape Town. More are likely to follow.

The interdicts were brought by residents who claim they were illegally tried and sentenced in Hoza's "courts", and ordered to pay fines.

They also claim they were assaulted by the homeguards under the guise of "sentencing or punishment".

The assaults varied in form and severity, ranging from smacks and kicks to severe whippings and beatings.

Mr Graham Lawrence, chief executive of the Lingeletu West Town Council, told SOUTH he was aware of the existence of kangaroo courts in Khayelitsha.

"I have worked among the black people nearly all my life and I have seen how they are suffering. So I am not going to allow these kangaroo courts to continue," he said.

Dr A Rabie, public relations officer for the Cape Provincial Administration, said complaints about kangaroo courts were a matter for the police.

The CPA would never associate itself with the principles of informal courts, she said.

"If any member of a local authority is found guilty in a court of law for participating in informal courts, this Administration will take appropriate action," she said.

City lawyer Peter Volmink believes Hoza and his homeguards should be charged with sedition.

He said other crimes committed in the name of kangaroo court "justice" included robbery, extortion, intimidation and defeating the ends of justice.

By using violence against residents or threatening them with violence while seizing their property, the homeguards were

Justice is a dirty word in the vast squatter camp of Khayelitsha. As the power struggle intensifies between the Committee of Ten, an affiliate of the Khayelitsha Joint Action Committee, and the homeguards of "mayor" Mali Hoza, attacks and assassinations are becoming an everyday fact of life. Against this backdrop, the notorious "kangaroo courts" have added a new dimension of fear. Several residents have now taken recourse to the Supreme Court to protect themselves from the "justice" of the Kangaroo "courts". DOCTORSON TSHABALALA takes an inside look at the notorious system of "Kwa-Hoza":

guilty of robbery, said Volmink.

By subjecting residents to pressure which forced them to submit to the seizure of their property, the homeguards were also guilty of extortion, he said.

Volmink said the actions of the homeguards and their headman also potentially constituted intimidation as defined by the Intimidation Act of 1982.

Such an offence is punishable by a fine of up to R20 000 or an imprisonment of a period not exceeding 10 years.

Justification

Khayelitsha's "kangaroo courts" had no legal justification for their existence, said Volmink.

"The established courts of the land are staffed by personnel who have been trained to deal with civil disputes in the community.

"The existence of these informal courts undermines the proper administration of justice and is therefore a punishable offence.

"The state of emergency regulations also declares that the advocacy of unlawful courts constitutes a 'subversive statement', which is punishable by a stiff fine and, or lengthy periods of imprisonment.

"Sedition consists of a number of people gathering together with the intention of impairing the authority of the state by defying or subverting the authority of the government.

"A case could arguably be made that the existence of the informal courts in Khayelitsha defies or subverts the authority of the judicial arm of the state," said Volmink.

The "travesty of justice" meted out in these courts was in "flagrant contravention of the emergency regulations".

Although the existence of the

kangaroo courts constituted serious offences, it appeared that no definite action had been taken by the police in arresting those responsible for the running of these courts.

This was in sharp contrast to the action taken by the police against the comrades involved in the "people's courts".

Mr Vincent Saldanah, a member of the National Association of Democratic Lawyers (Nadel), said there was no comparison between Hoza's kangaroo courts and the people's courts.

Mr Bulalani Ngcuka, an executive member of Nadel, said Hoza's kangaroo courts were illegal in terms of Section Five of the emergency regulations.

A spokesperson for the South African Police said the police were not aware of kangaroo courts operating in Khayelitsha.

Tolerate

"We would not tolerate these 'courts' if we were aware of them," he said.

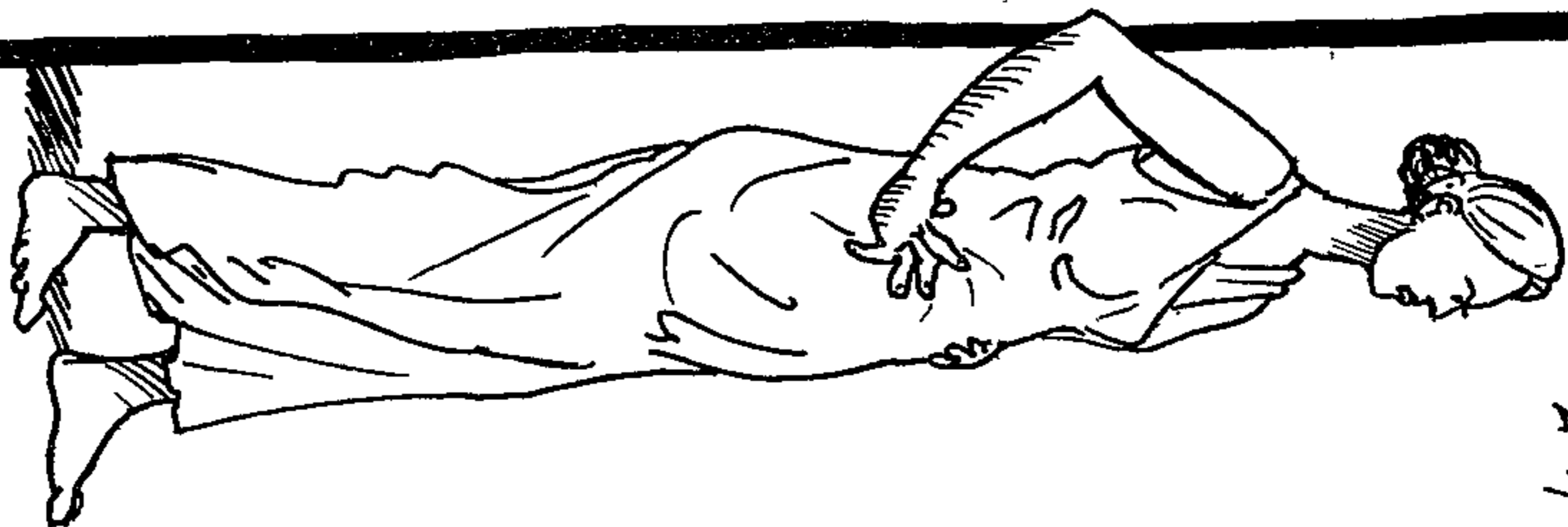
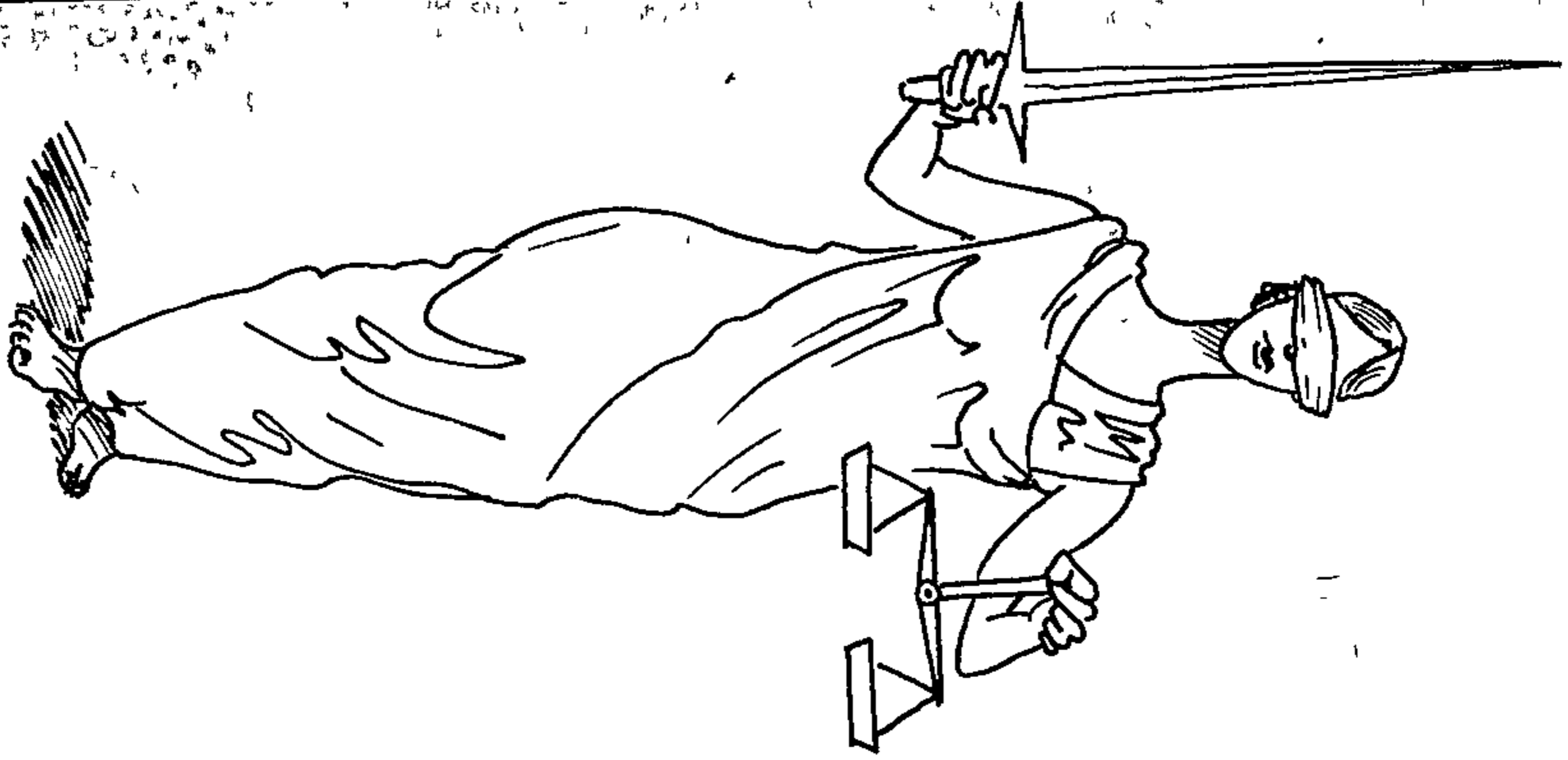
He said no arrests had been made in connection with the murder of Committee of Ten treasurer, Mr Zolani Dala, and the assassination attempt on the life of Khayelitsha Joint Action Committee leader, Thomas Ngwane.

Ngwane was attacked at his home on March 5, allegedly by Hoza's bodyguards accompanied by Lingeletu West municipal police.

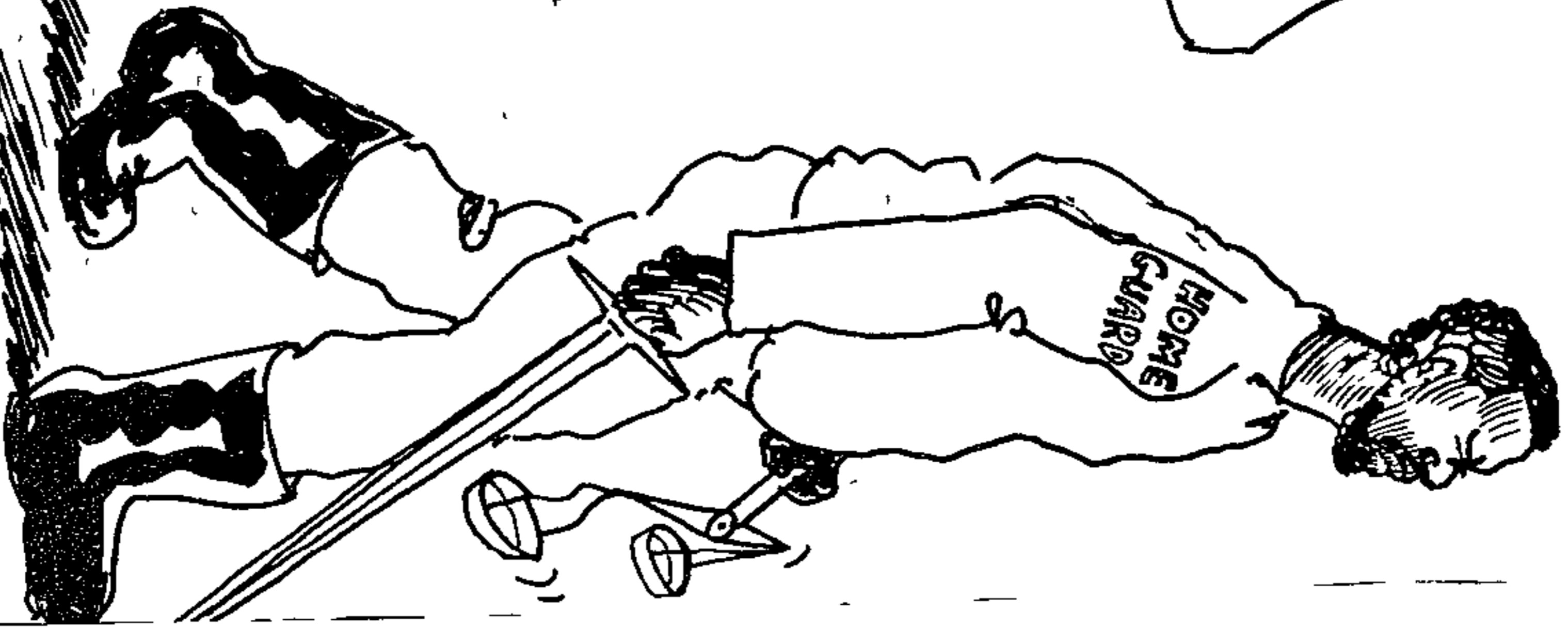
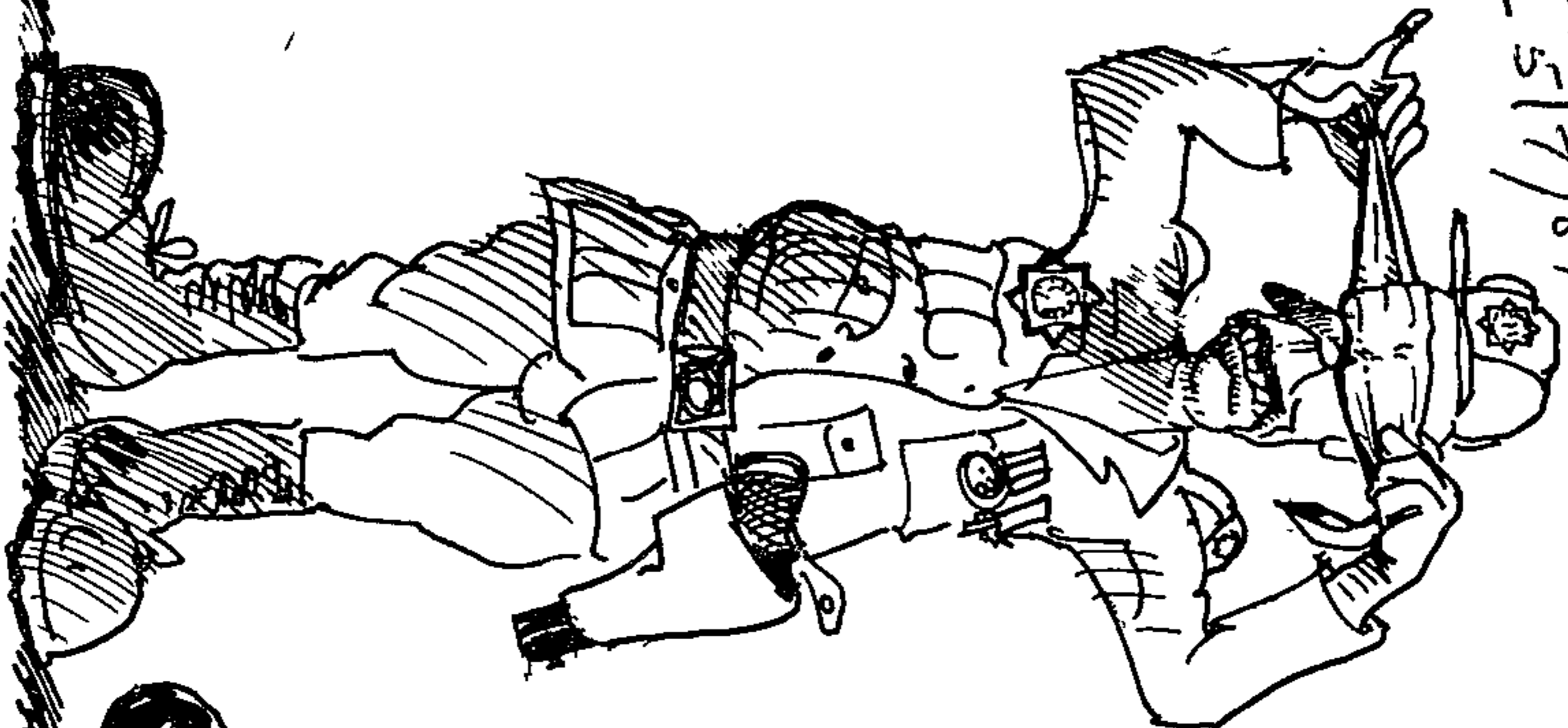
He was allegedly hacked with pangas before being shot in the knee for refusing to accompany the men to a kangaroo court to face trial for his activities as KJAC leader.

Dala was shot at point-blank range on May 28 by a man known to be a member of Hoza's homeguard.

BLIND JUSTICE



(252) South
29/6-517/89



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29/6-5-7/89

South

Beaten because of his love for a woman

A 33-year-old Khayelitsha man this week claimed he was assaulted by homeguards because he had declared his love for a woman also dated by a headman.

Speaking from his hospital bed on Wednesday, Mr Herbert Chuchu Sralarala relived the attack in which he was allegedly assaulted by a headman and 10 homeguards.

Sralarala, a painter whose wife and children live in Transkei, said that after breaking off their relationship the woman took him to the "kangaroo court" because he had demanded she refund money he had spent on her.

"When I proposed to Ncedeka she did not tell me about her friendship with the headman I only discovered about

it a week later," said M Sralarala.

The alleged assaulted took place at the headman's home in Section C last Friday where he was allegedly tried by the headman and another homeguard with the woman present.

After being told by the "court" to leave her alone because she did not love him anymore he promised he would keep away from her.

Over the weekend he was twice fetched and taken to the headman who once again questioned him about whether he still loved the woman.

Then he was allegedly punched and assaulted with iron bars, sticks and sjamboks by the headman and

several homeguards who also took part in the attack.

Describing how one of the allegedly attempted to strangle him Sralarala said: "I thought they were going to kill me I pleaded for mercy and asked for forgiveness I promised to leave the woman alone."

Speaking about his helplessness, Sralarala said: "I do not have the power to change the government or its authority

"I also do not I have the power to suggest to it what to do about the homeguards whom seem to be given the power to torment the community.

"But how long are we going to suffer under these men?"

NP is willing to negotiate rights

Political Staff

The National Party is prepared to introduce a Bill of Human Rights only as part of a future negotiated constitution

But it has set as a key objective an intention to give "content to the overall judicial and structural protection of groups in constitutional structures"

In its plan for the next five years the NP says a democratic system could only be maintained if it protected individuals, preserved group values and guarantees the political rights of groups by a credible system which should enjoy maximum support

The plan referred to the recent South African Law Commission report on a Bill of Rights

The Commission had recommended a Bill of Rights which would protect individual rights and group values such as culture, religion and language

It said the political rights of groups should be protected in the constitution

Policeman 'eliminated leaders'

252 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. *Stu 29/16/87*

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

Stu 29/16/87
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.

Cop shot to kill!

A POLICEMAN yesterday told a Pretoria North inquest magistrate that he shot four Mamelodi residents because he wanted to eliminate leaders.

Captain Hermanus Arnoldus le Roux said his victims were three men and a woman. He was being cross-examined by Mr Morris Basslian, counsel for the families of the victims, during an inquest into the mass killing of Mamelodi residents on November 21 1985.

He testified that he shot and killed a middle-aged man who was about to hurl a missile at an army vehicle. He said the man was standing in a "throwing position".

The policeman said he considered the man to have been a leader because he had seen him on several occasions emerging and later disappearing near the corner of a house in Section C.

Although he did not aim at a particular part of the man's body, Le Roux said the man was struck by a bullet on his right upper body.

Asked by Basslian why he decided to shoot at the man, Le Roux said "Because he was a leader

By ALINAH DUBE

I doubt that I would have fired had I not seen the man earlier."

When requested to say if he had also fired at other leaders on that day, he answered: "Yes, I gunned down another two men and a woman. I wanted to eliminate leaders."

Basslian asked that the

court should adjourn until this morning for an inspection in loco to be conducted at the scene of the shooting. This was after Le Roux had denied the shooting took place at house 755 in Block C.

The advocate said the inspection would enable the court to realise that

the house Le Roux was pointing out to cameramen on a video film before the court, was the one he has refused to accept as the scene of the incident in his evidence.

The policeman also disagreed that the man he killed was Mr Paul Mavimbela.

The inspection takes place in Mamelodi this morning.

You can stay as you are for rest of your life or you can

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MAINSTAY

INTERNATIONAL



Court order against town committee

Call Times
29/6/89

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Staff Reporter

THE Lingeletu West Town Committee has been ordered by the Supreme Court to take the necessary steps to ensure that "kangaroo courts" are not held

The order follows an urgent application brought by Mrs Francina Matiwane and her son, Mr Luthando Matiwane, for an order restraining the committee and one Mr Magqaza from assaulting them or "convening any form of informal court" or imposing any punishment

Mr Justice H L Berman further ordered that the town clerk, Mr Graham Norman Lawrence, should read the court order to all the committee's employees, all the councillors and then report to the Supreme Court

He ordered that Mr Magqaza be restrained from assaulting the Matiwanes and from convening any informal court until a final order is made. The costs of the suit will stand over until then

In an affidavit, Mr Matiwane said he had been fetched at home by members

of the council and asked why his mother had not appeared in "court"

He was taken to a place resembling a prison cell and was asked why his mother had not paid a fine relating to his "having seduced and rendered my girlfriend pregnant"

They threatened to whip him if he did not return to "court" on June 17 accompanied by his mother, he said

Mrs Matiwane told the court in an affidavit "I am not liable in law for the act of my son, who is now a major. But I fear that the threats made to my son will be carried out and I may also be arrested and kept in custody"

In an affidavit Mr Lawrence, chief executive officer of the Lingeletu West Town Committee, said that the committee had duties of a municipal and not of a judicial nature

He denied that the committee had a court or conducted court proceedings. He said anyone driving a committee vehicle to the Matiwane house had done so without the committee's authority

Mr Justice Berman said Mr Lawrence's affidavit was totally inadequate

Small claims but there's a big chance of winning

352
WMOJL
20/6-8/7/89

THE number of cases heard in the smalls claims courts has more than doubled in the three years' of the courts' existence

The courts handled 3 000 cases last year — compared with 1 473 in 1987. They dealt with everything from ill-fitting wedding dresses and squabbles between neighbours to wrongful dismissals and breach of contract.

So far this year, the courts have heard 1 192 cases.

The 41 small claims courts in South Africa are a boon to the consumer, as their services are free, easy to use and accessible to anyone.

They were set up in 1986 in response to an urgent need to make justice more accessible and affordable.

One group which has taken advantage of the system is domestic workers. The courts, which sit between 5pm and 9pm from Monday to Friday, hear an average of 20 to 22 cases a week in which domestic workers sue their "madams". On average, 11 out of the 14 daily cases have been brought by domestic servants — and they usually win.

In fact, most of the people who take their cases to the courts win. Of the 80 to 85 cases heard in the courts each week, appellants win an average of 65.

The courts, which handle claims of up to R1 500, are run by 150 voluntary commissioners. These are advocates or attorneys who have been practising for at least seven years.

They serve as "judges" in civil claims. But their role is vastly different from the role of judges in courts of law. They play an "inquisitorial" and investigative role and are able to cross-examine witnesses and request further evidence.

The courts are far more informal than courts of law, so that people can bring lawsuits without the assistance of lawyers.

One commissioner told the *Weekly*

By KIM CLOETE

Mail, that about 98 percent of the judgements are on claims for money. Complaints about newly-bought faulty appliances and second-hand vehicles are high on the list of claims.

Others include broken labour contracts, failure to comply with building contracts, unfinished alterations and exorbitant building material costs.

The courts handle civil claims of all types, but may not pass judgement in matrimonial matters, the interpretation of wills, defamation damages or wrongful arrest or imprisonment.

Cases of seduction or breach of promise to marry are also off limits.

One judgement concerned an ill-fitting second-hand wedding dress. A commissioner said a young bride had recently sued a bridal shop owner for selling her a second-hand dress which was too small and did not match her headdress. She won the case.

The entire process — from writing a letter to demanding payment from the debtor, to the judgement — lasts about six weeks, a substantially shorter time than cases heard in magistrate's courts.

The plaintiff (or creditor) has to write a letter of demand to the debtor, setting out his intended course of action and giving the debtor 14 days to pay.

Failing a response, he is entitled to institute an action. A summons may be served personally or by the messenger of the court at a cost of R9.

Once in court, the commissioner may order the debtor to pay the money in instalments or may authorise a warrant of execution against his property.

The plaintiff does have recourse if the debtor does not pay him after being ordered to do so in court. The creditor may, after 10 days, have a warrant issued by the clerk of the court.



REPUBLIC OF SOUTH AFRICA
REPUBLIC VAN SUID-AFRIKA

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Vol 288

PRETORIA, 30 JUNE 1989
JUNIE

No. 11996

PROCLAMATION

by the

State President of the Republic of South Africa

No. R. 110, 1989

REMUNERATION OF JUDGES

Under the powers vested in me by section 2 of the Judges' Remuneration and Conditions of Employment Act, 1989 (Act No. 88 of 1989), I hereby determine the rate, as indicated in the attached Schedule, at which salaries are payable to Judges with effect from 1 April 1989

Given under my Hand and the Seal of the Republic of South Africa at Wilderness on this Twenty-second day of June, One thousand Nine hundred and Eighty-nine

P. W. BOTHA,
State President

By Order of the State President-in-Cabinet

H. J. COETSEE,
Minister of the Cabinet.

SCHEDULE

Designation of office	Salary per annum
Chief Justice of South Africa	R198 000
Judge of Appeal	R182 500
Judge President	R181 000
Deputy Judge President	R177 000
Judge	R175 000

PROKLAMASIE

van die

Staatspresident van die Republiek van Suid-Afrika

No. R. 110, 1989

BESOLDIGING VAN REGTERS

Kragtens die bevoegdheid my verleen by artikel 2 van die Wet op Besoldiging en Diensvoorwaardes van Regters, 1989 (Wet No. 88 van 1989), bepaal ek hiermee die skaal, soos in die meegaande Bylae aangedui, waarteen salarisse met ingang van 1 April 1989 aan regters betaalbaar is.

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Wilderness, op hede die Twee-entwintigste dag van Junie Eenduisend Nege-honderd Nege-en-tagtig.

P. W. BOTHA,
Staatspresident.

Op las van die Staatspresident-in-Kabinet

H. J. COETSEE,
Minister van die Kabinet

BYLAE

Naam van amp	Salaris per jaar
Hoofregter van Suid-Afrika	R198 000
Appèlregter	R182 500
Regter-president	R181 000
Adjunk-regter-president	R177 000
Regter	R175 000

SOWETO AN Friday June 30 1989

French govt to help 14

THE French Government would do all it can to ensure the lives of the 14 were spared, the French National Assembly was assured in Paris this week.

Mrs. Edwige Avice, a Minister delegate of the Foreign Ministry, was answering a question in the National Assembly, the text of which was released by the French Embassy in Pretoria yesterday.

Avice said the 14's lawyers would petition the Chief Justice, after an application to appeal had been turned down.

"The French Government, which never ceased to work in this direction, wishes and requests that the appeal be granted and that all the legal proceedings be respected

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