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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, PRETORIA**

In the matter of:

Inquest No1/ 2017

REOPENED INQUEST: LATE AHMED TIMOL

INDEX TO ADDITIONAL NEWSPAPER CLIPS

NO	DATE	PUBLICATION	TITLE	PAGES	PAGINATION
1	1971-12-7	The Star	Essop case in court tomorrow?	1	1
2	1971-12--08	The Star	Essop: new court order	2	1-2
3	1972-12-10	Unknown	Affidavits Said: Essop's condition was 'critical'	1	3
4	1972-02-22	The Star	Court told of Essop's injuries	3	4-6
5	1972-02-22	Pretoria News	Essop: Scant information on forms	1	7
6	1972-02-23	Rand Daily Mail	Essop Injuries - Doctors	2	8-9
7	1972-02-25	Rand Daily Mail	Judgment in Essop hearing to be given today	3	10-12
8	1972-04-25	Rand Daily Mail	Mr Essop's father and mother outside the court	1	13

Essop case in court tomorrow?

Pretoria Bureau

A TEMPORARY order given by Mr Justice Margo in the Pretoria Supreme Court on October 29, restraining the police from assaulting Mr Mohamed Essop (21), a detainee held under the Terrorism Act, reached its return date today.

According to the court roll, the matter is due to be heard by Mr Acting Justice Bliss today, but it is not expected to come before court before noon tomorrow.

Mr Justice Margo, after hearing conflicting allegations about Mr Essop's condition in hospital, issued a temporary order restraining the police from assaulting him, interrogating him in any manner other than prescribed by law, and employing undue pressure on him.

The order was due to be made final today unless the respondents, including the Commissioner of Police, could show why this should not be done.

In addition to the order, Mr Justice Margo recommended that Mr Essop be examined by a doctor of his parents' choice in view of public disquiet in the wake of recent Security Police arrests.

were on the field.

The players found their jacket pockets had been rifled and about R50 taken.

Essop: new court order

NINE DOCTORS and nurses who, according to Mr I. A. Maisels, QC, have allegedly been withholding information about the Security Police detainee, Mr Mohamed Essop (21), will be subpoenaed to give evidence in the Pretoria Supreme Court on February 22 next year.

Mr Justice Bekker and Mr Justice Marais today extended a temporary order preventing the Security Police from assaulting Mr Essop, interrogating him unlawfully and applying undue pressure on him.

The purpose of the postponement — granted in spite of police objections — was to allow the procuring of evidence from the nine people.

Mr C. F. Eloff, SC (for the police) had asked that the order granted by Mr Justice Margo on October 29 be set aside.

Condemning the withholding of evidence about such things as the condition of Mr Essop, Mr I. A. Maisels, QC (for Mr Essop's father) said: "If this attitude is condoned then we had better close down court."

It appeared that "every possible obstacle" was being laid in his way to prevent him from placing evidence before the court, Mr Maisels said.

He was addressing Mr Justice Bekker and Mr Justice Marais on the return date of an order limiting the Security Police detainee, Mr Mohammed Essop (21).

On October 29, Mr Justice Margo granted a temporary order restraining the police from assaulting Mr Essop, interrogating him in any manner other than that prescribed by law or exerting undue pressure on him.

APPLICATION

The judge also recommended that a full investigation be held and that doctors of the parents' choice be allowed to see Mr Essop to allay the public concern.

He also ordered that the matron of the H. F. Verwoerd Hospital be present at today's hearing to reply to an allegation that she denied to Mr Essop's father that Mr Essop was a patient at her hospital.

The order was granted after an urgent application by Mr Ismail Essop, who told the court that he found his son in the H. F. Verwoerd Hospital, Pretoria, on October 27.

His son appeared to be very ill, was hardly breathing and

To Page 2, Col 2

ESSOP: SUBPOENA ORDER BY COURT

(From Page 1)

had blood clots and bruises on his chest.

Police denied they had tortured Mr Mohamed Essop. According to affidavits of doctors who were summoned by the police, Mr Essop was in a stuporous state and showing signs of hysteria. The doctors said there were no obvious signs of injury.

INVESTIGATED

Mr Maisels said Mr Justice Margo ordered the matter to be fully investigated by the return date. He added he would draw the judge's attention to certain aspects of the case before handing in notice of motion.

Summarising events which took place since the temporary order was given, Mr Maisels said in terms of paragraph five of the order a copy of the interdict was to be served on Mr Mohamed Essop.

"Then there began what seems to be a process of frustrating energy and effort on our part."

He said the detainee was entitled to be served with the order in terms of section six of the Terrorism Act.

On two occasions, service of the order on Essop was not made by the Deputy Sheriff.

The third time service was effected by the Sheriff because he courteously attended to the matter himself.

Mr Maisels said this could be explained by a misunderstanding on the part of a prison official, but no explanation had been given.

He said an affidavit by a Dr Wolf, a psychiatrist, stated he had consulted a Dr Law who had medically examined the detainee.

Dr Law said he furnished an affidavit, but no such affidavit had been filed, Mr Maisels said.

This was a very serious matter in the context of the present application. Mr Maisels said Mr C. F. Eloff (for the respondent) could say the application was based on hearsay—"but this is the only proposition," he said.

procedure available to us in our
Mr Maisels handed in a copy

of a letter sent to the State Attorney on December 2.

According to the letter, repeated attempts were made without success to interview possible witnesses. These people claimed they were warned by members of the Security Police not to make any statements to Mr Essop's legal representatives.

When Mr Maisels submitted he had received no reply to the letter, counsel for the Commissioner of Police, pointed out that a reply had, in fact, been given.

"This could be as a result of a postal delay," Mr Maisels said.

He was subsequently handed a copy of the replying letter, which he read to the court.

In the letter the State Attorney said he did not think it necessary for the Security Police to give the applicants written permission to interview possible witnesses.

This, Mr Maisels said, was another attempt to frustrate the detainee's parents, and indeed the court.

"It is the plain duty of the court to investigate the matter fully and obtain all the relevant evidence," said Mr Maisels.

"What is going on? Have we not the right to know?"

Mr Maisels said he was aware of certain provisions of the Terrorism Act. But it had never been suggested in the act that a patient's condition be kept secret.

"If this attitude is condoned, then we had better close down court," Mr Maisels said.

He asked that the matter be postponed to enable Mr Mohamed Essop to give evidence and to be examined by doctors of his parent's choice or to allow him to subpoena people who had refused to give information so that they could be called to give evidence in court.

Mr Eloff claimed there was "an attempt to create an atmosphere."

Asked why the Deputy Sheriff had been prevented from serving the court order on Mr Essop, Mr Eloff said: "This aspect has not been investigated. It is not relevant."

(Proceedings)

Mr J. A. Maisels, QC, and Mr G. Bizos (instructed by Cachiza and Loonani) appeared for Mr Essop. Mr C. F. Eloff, SC, and Mr T. Spoelstra (instructed by the State Attorney) appeared for the Commissioner of Police and Lieutenant Colonel P. J. Grayling, head of the Security Police on the Witwatersrand.

AFFIDAVITS SAID:

By CLIVE EMDON

Essop's condition was 'critical'

MR. MOHAMED ESSOP, a detainee held by the Security Police in terms of the Terrorism Act, was unconscious when admitted to a hospital in Johannesburg on October 26, according to affidavits before the Pretoria Supreme Court this week.

The affidavits also said Mr. Essop was in a "critical" condition when treated in secrecy in a Pretoria hospital later that same day.

The affidavits detail conversations between two attorneys and nurses of the two hospitals and the medical superintendent of the H. F. Verwoerd Hospital.

Evidence was given: ● that Mr. Essop was admitted unconscious to the Johannesburg General Hospital and was removed from there before visiting time the same day;

● that a nursing sister heard screams from a room in the H. F. Verwoerd Hospital where Mr. Essop was being treated the same night;

● that she saw a White man in a suit rush into the room with two pints of blood early the next morning;

● that she was told by two other nursing sisters, they did not think Mr. Essop would "pull through" and that he was in a "critical" condition the previous night.

● that a nursing sister had said Mr. Essop's mouth appeared burnt when she had seen him. This she later denied.

The affidavits by Mr. M. S. H. Cachalia, the instructing attorney for Mr. Ismail Essop, father of Mr. Mohamed Essop, and Mr. I. M. Ayob, an articled clerk in his firm, were before Mr. Justice Bekker and Mr.

Justice Marais in the Supreme Court on Wednesday.

The judges extended a temporary order preventing the Security Police from assaulting Mr. Essop, interrogating him unlawfully and applying undue pressure on him.

CRITICAL

The police opposed the order, which was made to allow evidence to be obtained from nine doctors and nurses who treated Mr. Essop in the two hospitals.

All will be subpoenaed to give evidence in the Supreme Court on February 22.

In an affidavit before the court, Mr. Cachalia said he and his partner, Mr. M. A. Loonat,

went to the "Hindu ward" of the Non-white section of the Johannesburg General Hospital on the afternoon of November 23.

There a staff nurse, Miss Rita confirmed Mr. Mohamed Essop was unconscious when admitted to the ward at 11 am on October 26. She also told Mr. Cachalia and Mr. Loonat that Mr. Essop was removed from the ward the same day, before visiting time.

INFORMED

"We informed her that we had been informed she had been requested on October 26, 1971, to prepare a bed for an unconscious patient in the ward. She confirmed that Sister Kolapen, together with other nurses whom she did not identify, assisted in undressing the patient and putting pyjamas on him in Room No. 1 of the Hindu ward," the affidavit read.

"Sister Rita confirmed that she was most definite about the fact that the patient was unconscious . . ."

When she was asked what injuries, if any, she had observed on the patient, she became anxious about the purpose of the questioning.

When told by Mr. Cachalia that he was enquiring for the purposes of obtaining a statement from her for the sake of legal proceedings instituted by Mr. Essop's father, she said she would have to obtain the permission of the matron first before she could give any information.

ADMISSION

Mr. Cachalia said he obtained Mr. Essop's admission number the same afternoon.

After making two arrangements to see the superintendent of the hospital, Mr. Cachalia and Mr. Loonat were told on November 23, by a Dr. Podias, who said she was the senior superintendent of the hospital, that they could not take a statement from Staff Nurse Rita "without a letter from the Security Police".

"She (Nurse Rita) is a provincial employee — you are definitely not entitled to obtain an affidavit from her without a letter from the Security Police," Mr. Cachalia said he was told.

The next day a Sister Kolapen said at the hospital that she was not prepared to answer questions about Mr. Essop "and said she did not want to get involved with the Security Police".

SCREAMS

Mr. I. M. Ayob, an articled clerk for the firm Cachalia and Loonat, said in an affidavit before the court that he spoke to a Sister Yvonne Ernest of the H. F. Verwoerd Hospital, who nursed a private patient in the Cassim Adam ward during the period October 26 to 28.

"From time to time she heard screams from the room. On one occasion during the night of Tuesday the 26th of October 1971, she had to summon Sister Amanda Khumalo from the Coloured ward to give Essop water, as he was asking for it.

"On the morning of the 27th of October at about 5.30 or 6 am she had seen a White man in a suit rushing towards Es-

sop's room in the ward with two bottles of blood. She did not see him emerge or the bottles being removed from the room," Mr. Ayob said in his affidavit.

"Sister Athalia Napo had told her on the evening of the 28th of October that a 'political detainee' had been admitted to the ward and that no one was to enter the room except herself and the night nurse Sister Amanda.

INSTRUCTIONS

"When questioned why no one was to enter the room Sister Napo said these were the instructions of the police."

Mr. Ayob said Sister Ernest told him: "Sister Napo and Sister Amanda had said that they did not think that he will pull through," and Essop's condition was "critical" on Tuesday.

"She had heard that a clerk who came to obtain details about the reasons for Mr. Essop's admission was told not to give these, but to mark his file 'investigation'."

Mr. Ayob said Sister Ernest was told by Sister Valerie Mohamed that the Medical Superintendent, Dr. Kenny, had promised Sister Napo a promotion if she did not disclose Essop's presence in the hospital.

OCCASION

"On a subsequent occasion, two days later on Thursday, when Essop was being taken away Valerie Mohamed had said that Sister Napo had said 'there goes my promotions', and Essop's presence in the hospital was common knowledge.

"Sister Napo had spoken about scratch marks on Essop's chest. She had told Sister Valerie Mohamed, in the presence of a police officer, that Essop's mouth appeared burnt."

"Sister Valerie Mohamed had told her (Sister Ernest) that Essop had a 'blue eye'."

"She had at no time been allowed to see the patient Essop and she had not, in fact, seen him at all."

Mr. Ayob said he went to Sister Valerie Mohamed's Lau-

TO PAGE 9

Court told of Essop's injuries

Staff Reporter

THE SECURITY POLICE detainee, Mr Mohammed Salim Essop (21), groaned from time to time after being admitted semi-conscious to the Johannesburg General Hospital on October 26, a nurse told the Pretoria Supreme Court today.

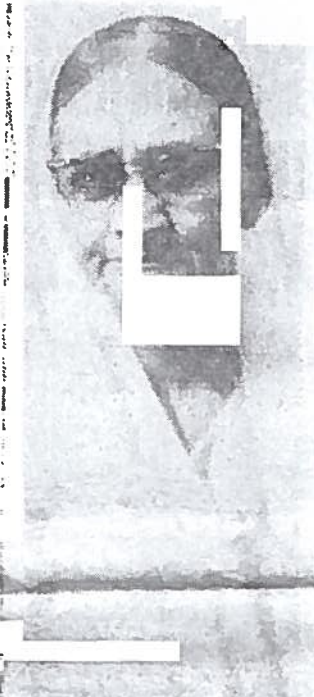
The neurosurgeon who examined Mr Essop on that day told the court the bruises and scratches on Mr Essop were superficial. He found no abnormality when examining him.

The two witnesses were among nine doctors and nurses subpoenaed to give evidence today on the return date of a temporary order preventing the Security Police from assaulting Mr Essop, interrogating him unlawfully and applying undue pressure on him.

At a previous hearing it was alleged that the Security Police had warned these witnesses not to make any statements to the legal representatives of Mr Ismail Essop, the detainee's father.

Mr C. W. Law, a Johannesburg neurosurgeon, told the court he had been asked to examine a patient in the Mus. Mr Essop at the Johannesburg General Hospital.

examining an Indian patient who was brought to the hospital by Mr Essop. Mr Law wrote a letter to the chief of the principal district surgeon, about Mr Essop's condition. Mr Law said Dr Kemp had asked him to conduct the examination.



Mrs Essop, the mother of Mohammed Essop, arriving at the court in Pretoria this morning.

"PUTTING ON"

Reading the letter in court today, Mr Law said he had difficulty in determining whether Mr Essop was "putting on."

He told the court Mr Essop did not co-operate with him while he conducted the examination. He said the patient's pulse rate was normal, his respiration variable and the "stiffness of his limbs appeared to be voluntary.

"I found no abnormality when examining the patient and the bruises and scratches on his body were superficial."

SORES

Mr Law said he found sores on Mr Essop's lips, which he believed were caused because he was fasting. Other injuries included a bruise below the right eye, a mark in the right ear, scratches on the chest, bruises on a knee and marks on the left upper arm.

He recommended that Mr Essop be transferred to Pretoria because he needed intravenous or trans-nasal feeding.

Being a neurosurgeon, the question of bodily injuries to the patient was of no concern to him. Although he had dealt with "innumerable" bruising cases of a medical-legal nature in his career, he could not speculate on the likely causes of the injuries in the Essop case.

The bruise below the right eye could have been a blow
(Continued on Page 12, Col 5)

Essop's injuries were superficial—evidence

(From Page 1)

transmitted by the rim of the patient's spectacles.

A mark found by Mr Law in the right ear was not necessarily a bruise as was mentioned in the letter to Dr Kemp. "It might have been a birthmark," Mr Law told the court. He said he used the word "bruise" loosely.

Mr Law said he could not explain scratches he found on Mr Essop's chest. He said Dr Kemp made notes of the examination.

Bruising on the right forearm was superficial and could have been caused by a fall. Bruising on the left upper arm might have been caused by being grabbed forcibly.

Mr Maisels: Could the injury in the left arm, right eye and the mysterious thing you found on the ear, be caused by a man being seized rather forcibly, and struck?

Mr Law: It is a possibility. He could not say if it was a probability or not.

CONSCIOUS

Mr Maisels asked whether Mr Essop was semi-conscious. Mr Law said it was difficult to establish his level of consciousness. He was not unconscious. He was conscious to a degree. He did not speak.

Because Mr Essop did not speak, a past history could not be obtained from him, Mr Law said.

In the letter to Dr Kemp from Mr Law before the court, it was stated: "The history is well-known to yourself," Mr Maisels said.

Mr Law said all Dr Kemp told him about the patient's history was that he was fasting on religious grounds and that he came from prison, Dr Kemp knew nothing else of the history, Mr Law said.

PSYCHIATRIST

He said he did not make a diagnosis of Mr Essop. "I suggested they get a psychiatrist. I did not think a head injury was responsible for his condition," Mr Law said.

Commenting to extracts from an affidavit by Dr Koch of the hospital to the effect that Mr Essop was "stuporous," Mr Law said the patient was not stuporous.

Mr Law denied he told Dr Koch Mr Essop was hysterical. What he told Dr Koch was that the possibility of hysteria could not be excluded.

"I was unable to determine what was the matter with that man," he said. He said he had merely been called in to determine whether there was any brain injury.

Mr Law said he refused to divulge details of his examination to Dr Z. Wolf, a neuro-psychiatrist consulted by Mr Essop's legal representatives, because he regarded the case as a "medical-legal matter." He had acted on behalf of the Security Police and Dr Wolf had not informed him that he made the inquiry on behalf of the patient's father.

Even if he had known this, it would have been "improper" for him to divulge information on the patient's condition to Dr Wolf.

Cross-examined by Mr Eloff, Mr Law said he did not think Mr Essop's condition was the result of a head injury.

The bruise below Mr Essop's right eye "was no larger than a man's thumb nail." He did not think it was caused by a fist blow.

Mr Law conceded that this area bruised more easily than other parts of the face. He could not determine whether it was an old or recent bruise mark, although it was an obvious one.

Mr Law said he was not qualified to say whether Mr Essop suffered from hysteria. For this reason he suggested that the patient be examined by a psychiatrist.

Staff Nurse Rita Vilakazi of the Johannesburg General Hospital said she was present when Mr Essop was admitted.

"I was asked to prepare a bed for a very ill man," she said. The person who asked her was Matron Botes.

Mr Essop was brought into the hospital on a stretcher in the company of two men who stayed with him. He was fully dressed.

"I am not very sure, I am not a doctor, but I think he was semi-conscious. We undressed him," Nurse Vilakazi said.

Mr Maisels: was he able to help you?—No.

She noticed a bruise or a scratch on Mr Essop's face but left him before he was fully undressed.

In reply to a question she said: "He was in pain."

Mr Maisels: Why do you say he was in pain? — Because he was screaming.

Mr Maisels: Was this constant screaming or from time to time? — From time to time.

She explained an entry she made on a document as: "It means the patient passed a lot of urine in bed."

GROANED

Cross-examined by Mr Eloff, Nurse Vilakazi said Mr Essop was not screaming but merely groaned. He lay tense in bed and she added: "I think he was hysterical."

She said she had seen hysterical persons before.

Sister S. Kulapen told the court she was a private nursing sister and was at the Johannesburg General Hospital when Mr Essop was brought in. She helped to undress him.

She said Mr Essop appeared ill. "I noticed a mark under his eye on the right side. There appeared to be a bruise at the bone."

The next witness, Sister Yvonne Ernest, said she was on duty at the Cassim Adam ward at the H. F. Verwoerd Hospital in Pretoria on October 26 at night.

A patient was brought into a private ward. She never saw him during his stay at the hospital. "I think police stood guard at the door of the ward," she said.

"One night a reporter from the Rand Daily Mail wanted to go into the room. I could not allow her to go in.

She said she once heard the sound of crying at night, but could not be sure it came from the private ward.

BLOOD

Sister Ernest said she saw a doctor enter Mr Essop's room during the early hours of the following morning.

Asked by Mr Maisels how she knew that the White man who entered the private ward where Mr Essop lay was a doctor, Sister Ernest replied: "I presumed he was a doctor as nobody else was allowed into the ward."

She said he had walked briskly, but denied that he was carrying bottles of blood.

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(3) of 3

Mr Maisels: Did he walk fast as if there was some urgency?

— Doctors usually walk fast.

She told the court that she learned who the patient was in the newspapers. She also read about the court case which followed Mr Essop's admission to hospital.

No questions were put to Sister Ernest in cross-examination.

After Sister Ernest had given evidence, the court adjourned for lunch.

The first was that issued to a patient when admitted to the casualty department.

"Is this issued in the normal way?" Mr Maisels asked. Dr Podlas said it was not. The document contained nothing but the name of the patient and a signature which Dr Podlas could not identify. Asked why no other details were entered on the document, she said: "Nothing else was given."

The next document handed in from Mr Essop's hospital file was signed by Dr Kemp. The form, said Dr Podlas, should contain what treatment, if any, had been given.

Since Dr Kemp was from the District Surgeon's office and not attached to the hospital he was not obliged to fill this in. The form was blank except for the signature.

Another document, stating the patient was the responsibility of John Vorster Square police, was handed in.

Dr Podlas said if the police brought in a patient he was known as a "departmental patient" and no further information about him need be entered in the form. "All we know is that he was brought in by the police," she said.

Mr Essop's treatment sheet, handed in next, was blank except for the signatures of Dr Kemp and Mr Law.

Sister Napo, of the Cassim Adam ward at the H. F. Verwoerd Hospital, said she was in charge of the ward when Mr Essop was admitted.

A man, whom she believed to be a member of the Security Police, told her to look after the patient. He did not say anything about other people being prevented from seeing Mr Essop.

When the detainee's father arrived and asked her whether his son was at the hospital, she went to the White man sitting in the detainee's room to find out what she was to do.

(Proceeding)

Mr Justice Marais and Mr Justice Theron were on the Bench.
Mr Maisels (instructed by Cachalia and Loomis), with him Mr G. Bizos, appeared for Mr Essop.
Mr C. F. Hoff, QC (instructed by the Deputy State Attorney), with him Mr T. J. Spoelstra, appeared for the Commissioner of Police and Colonel P. J. Greyling.

Essop: Scant information on forms

By a Court Reporter

NOTHING but the name and an unidentified signature appeared on the admission form of Mr Mohamed Salim Essop (21), the Security Police detainee who was admitted to the General Hospital last October.

This was stated in evidence by Dr H. Podlas in the Pretoria Supreme Court today on the return date of a temporary order preventing the Security Police from assaulting Mr Essop, interrogating him unlawfully and applying undue pressure on him.

Dr Podlas was the first of nine doctors and nurses subpoenaed to give evidence after allegedly being warned by members of the Security Police not to make any statements to the legal representatives of Mr Ismael Essop, the detainee's father.

Opening the hearing before Mr Justice Marais and Mr Justice Theron, Mr L. A. Maisels QC (for Mr Essop's father) said none of the nine subpoenaed medical people had so far been interviewed by Mr Essop's legal representatives.

Records

He intended leading the evidence of the doctor nurses in the order in which they had seen the detainee.

The first witness was Dr Podlas who told the court that she was the medical superintendent of the Johannesburg General Hospital in October.

She handed in the hospital's records on the detainee. After scanning the records, Mr Maisels began questioning her about the individual documents.

The first was that issued to a patient when admitted into the casualty department.

Pretoria News
February 22, 1972

p. 1
(front page)

Treatment

"Was this issued in the normal way?" Mr Maisels asked. Dr Podlas said it was not. The document contained nothing but the name of the patient and a signature which Dr Podlas could not identify.

Asked why no other details were entered on the document, Dr Podlas said: "Nothing else was given."

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(Proceeding).

ESSOP INJURIES

— DOCTORS

Detainee could have been assaulted

Staff Reporter

THE SUPREME COURT in Pretoria heard yesterday that bruising on a political detainee could have been consistent with an assault on him.

The court was told also that the police allegedly removed certain hospital documents relating to him after he had been treated at the H. F. Verwoerd Hospital.

This was said in evidence in Pretoria's Palace of Justice, before Mr. Justice Marais and Mr. Justice Theron, on the return day of a temporary order preventing the Security Police from assaulting an Indian man, Mr. Mohamed Salim Essop, 21.

The order also stops the police from interrogating Mr. Essop unlawfully and from applying undue pressure on him.

Yesterday the Chief District Surgeon of Johannesburg, Dr. V. Kemp, who is a lecturer in forensic medicine at the University of the Witwatersrand, told the court he was the first medical man to examine Mr. Essop on October 26 last year, at Security Police Headquarters at John Vorster Square, Johannesburg.

EYE

Questioned by Mr. I. A. Maisels, QC, who is appearing for Mr. Essop's father, Mr. I. Essop, he said he found Mr. Essop sitting on the floor with his back to the wall. Bruising on his cheek could have been consistent "on a basis of probability" with an assault.

When the hearing started yesterday morning the court heard that nine doctors and nurses had been subpoenaed to give evidence in the action, after allegedly being warned by the Security Police not to make any statements to Mr. Essop's father.

The first witness, Dr. H. Podlas, a medical superintendent at the Johannesburg General Hospital last October, told the court that only the name and an unidentified signature appeared on Mr. Essop's admission form when he was admitted to the hospital.

She said that no other details were given on the admission form. She knew that Mr. Essop was "a Security Police case."

She had been at the hospital since February 1, 1968, and

acted according to the normal procedural rules. However, she said, if a patient were in hospital his relatives were entitled to know that he was there.

Mr. Charles Law, a neurosurgeon, said he was called in by Dr. Kemp to examine Mr. Essop. He saw him in the Muslim ward of the Johannesburg Hospital. He could not speak or co-operate, although his temperature was normal. There was no evidence of cyanosis.

He was told that Mr. Essop had been fasting. He found a bruise below the right eye, a mark on the right ear, scratch marks on the chest, bruising on the right arm and on the knees.

"As far as I was concerned, this was a medico-legal matter. This was not an ordinary medical case. I decided to transfer him as soon as possible to Pretoria for specialist treatment there," he said.

He was neurosurgeon and the bodily injuries were of minor concern to him. He did not know how the injuries could have occurred.

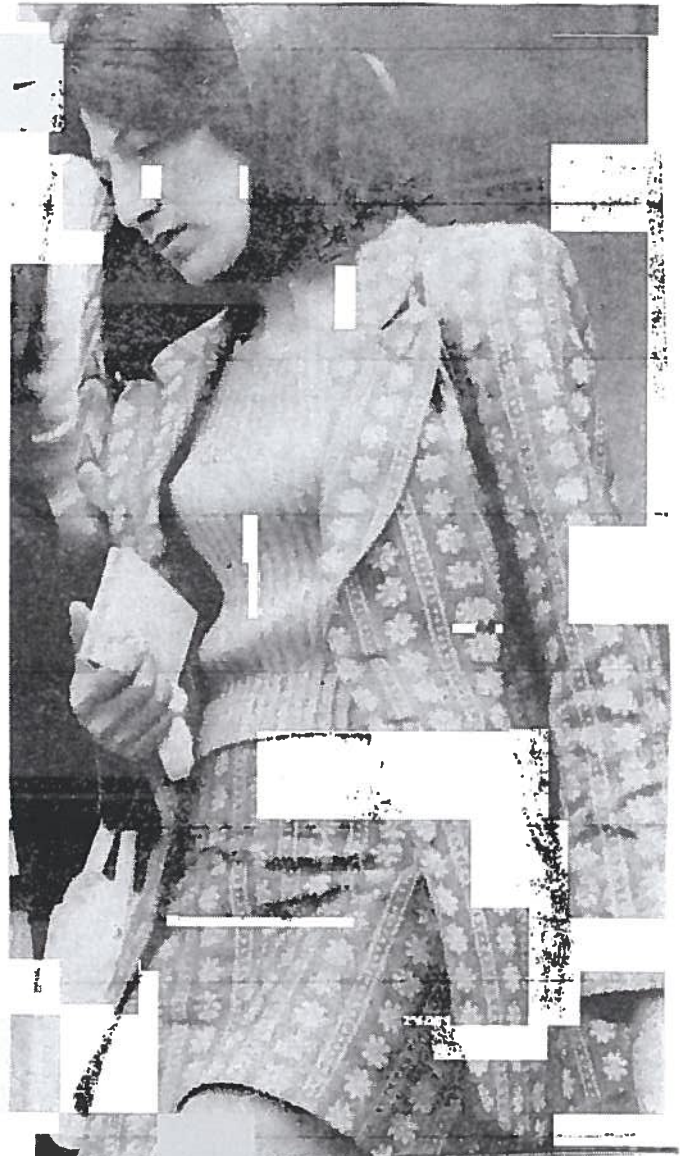
The bruise below the right eye, said Mr. Law, could have been consistent with the rim of Mr. Essop's spectacles being pushed into his cheek. The mark on the ear he called a "bruise" for lack of a better word.

In his medical career he had dealt with many bruises, but Dr. Kemp knew more about bruises than he did.

The eye bruise was not a so-called "shiner".

"I play tennis and I had a similar bruise when a tennis ball hit me on the spectacles, forcing the rim into my cheek", he said.

Mr. Maisels: Oh, I see. This means it was caused by a blow on the spectacles?



Sister Yvonne Ernest, who saw Mr. Essop in hospital

Mr. Law: This is only an impression.

Mr. Maisels: The bruise was caused by either a direct blow, or a blow on the spectacles being transferred to the eye? — It could also have been caused by walking into door.

He said the mark on the right ear could even have been a birthmark.

Questioned by Mr. Justice Marais, he said his main interest and concern was an investigation for possible head injuries.

Mr. Law said it was possible they could have been caused by Mr. Essop having been forcibly seized.

At this stage Mr. Maisels sought the leave of the Bench to call Dr. Kemp to give evidence.

Questioned further, Mr. Law said that when he saw Mr. Essop it was difficult to establish his level of consciousness. He was partly conscious, but was not speaking.

Dr. Kemp, said Mr. Law, had told him Mr. Essop was fasting on religious grounds. He was told also that Mr. Essop had been in prison. He spent about 20 minutes examining Mr. Essop, and also arranged for two X-rays to be taken.

THUMBNAIL

He added: "The scratches on the chest were of less importance to me. I am a neurosurgeon and I was acting as a neurosurgeon."

Questioned by Mr. C. F. Eloff, SC, for the respondents, Mr. Law said the bruise below the eye was about the size of a man's thumbnail.

"I did not think of it as a shiner. I know what a shiner is. In my young days I took part in a number of sports, including boxing.

"That area of the face has very little padding, and bruises easily. The ear bruise was not what I would call a through-and-through one — as if the ear itself had been gripped, showing the mark on both sides," said Mr. Law.

Questioned about the X-rays, he said he had asked for them to determine if there were any bone injuries. This was almost routine with him.

He recalled also that Mr. Essop had longish hair, and this was another reason for a skull X-ray.

He had suggested, on examining Mr. Essop, the possibility of hysteria. He had suggested that Mr. Essop be transferred to Pretoria where he could have specialist attention by Dr. Guldenpfennig, who was better able to distinguish hysteria.

It was possible, said Mr. Law in reply to more questions from Mr. Maisels, that the arm bruise could have been the result of a firm grip being taken of it.

EXPERT

Mr. Maisels: What's a shiner?
Mr. Law: The bruise below the right eye.

You told us earlier that you were no expert on bruises. — That is so.

Can you hazard anything relating to the force of the blow? — He had a mark. I have seen this sort of mark quite often. It could have been caused by a blow.

Sister Rita Villakazi, an African nurse, said she was a staff nurse at the Johannesburg General Hospital last year when Mr. Essop was brought in. Matron Botes asked her to prepare a bed "for a very ill man."

She was helped by another sister and two nurses.

Mr. Essop was brought in on a stretcher. There were two men with him. She learnt later they were police officers.

Mr. Essop did not say anything. He was dressed in a jacket, shirt, trousers, underpants, shoes and socks.

Sister Kolapen said she was a private sister and saw Mr. Essop in October last year in a private ward in the Johannesburg Hospital. She helped undress him and put him to bed. She could not say if he was conscious or semi-conscious.

"All I was concerned about was getting him comfortable and into bed. I don't know anything about his condition, but he was clearly ill," she said.

Another nurse, Sister Yvonne Ernest, said she remembered seeing men on guard on Mr. Essop at the hospital.

NOISE

A Rand Daily Mail reporter wanted to go into the ward on the first night Mr. Essop was there, but he was not allowed.

She heard a noise during the night. She did not know where it came from. It was a cry and could have been anywhere in the ward.

Mr. Maisels: Did it come from where this person was supposed to be?

Miss Ernest: I think so. I am not sure.

An African sister at the H. F. Verwoerd Hospital, Sister K. Napo, told the court she had never before known a case in which she had been given instructions to say that a certain patient was not there.

The bed letter in Mr. Essop's case said he was a Security Police political detainee.

He was clothed when admitted to the hospital.

She helped undress him. She noticed nothing in particular, but she did see that he had "a rubber glove" attached to his genitals.

She did not remember seeing any scratch marks on him. She thought she would have noticed a bruise below his right eye if there were one.

Asked about the "rubber glove", she said some hospitals used them. She removed it.

While in hospital Mr. Essop was fed at regular intervals. He was not force-fed. He could sit up and take food. But most of the time he slept.

When he came in he was "crying", she said. But after a time he stopped.

JACKET

She spoke to the other nurses and told them that "the men" there — a reference to the Security Police — did not want anybody to go into the ward. She was given instructions not to allow any people in.

Replying to Mr. Eloff, she said Mr. Essop was in her care for three days. She checked on him frequently.

On the Wednesday, when his father was there, she remembered seeing Mr. Essop on the bed. She did not see a bandage on his navel.

He had on a hospital jacket. He did not look "terribly ill", and was breathing normally. There were no bruises over his chest.

Mr. Eloff: If there had been a very slight bruise on his cheek, would you have seen it?

Sister Napo: I think I would have. I don't remember seeing any scratch marks on his chest.

Mr. Essop was then moved by the police. Asked if she recognised any of the Security Police in court, she pointed out Colonel J. du Preez.

LETTER

After Mr. Essop was taken away, she found the police had taken with them his temperature chart and prescription sheet.

Mr. Maisels: You told his father a lie when you spoke to him and said his son was not there.

Sister Napo: Yes. I told him that on the instructions of the police.

Why was it necessary to lie? What did you have to hide? Can you suggest anything? — I cannot suggest anything.

She did not see a mark on Mr. Essop's face. Nor scratches on his chest, or bruising on his right forearm.

Questioned by Mr. Eloff, she said that if a patient was transferred to another hospital it was customary for a doctor to send a letter with him.

It was not customary for hospital records to be taken away.

Dr. Kemp, senior lecturer in forensic medicine at the University of the Witwatersrand and District Surgeon at Johannesburg, said he was called to Security Police headquarters at John Vorster Square on October 26 to see Mr. Essop.

He found him in an interrogation room. He was sitting against the wall on the floor.

There was one other person in the room. He examined Mr. Essop and made notes of his findings later.

Mr. Essop was in a semi-conscious state and appeared to be in a condition of hysteria. He arranged for Dr. Law to see him.

He noticed the injuries on the right forearm, below the knees, below the right eye and on the lobe of the ear. There was also a bruise on the lower lip.

All the injuries were of a minor nature.

Questioned about the "rubber glove" on Mr. Essop's private parts, he said that it was probably a catheter. "He was clearly in distress," he said.

He tried to find out what had happened. He spoke to a person in the interrogation room but he would not be able to recognise him again.

The hearing continues today.

Rand
Daily
Mail

February 23,
1972

p. 2

continued
from p. 2.

9

JUDGMENT IN ESSOP HEARING TO BE GIVEN TODAY

Staff Reporter

JUDGMENT will be given today in the Pretoria Supreme Court on an application to prevent the Security Police from assaulting an Indian medical student, Mr. Mohamed Salim Essop, 21, who was arrested on October 22, last year, and who is still being detained by the Security Police.

After hearing argument by Mr. I. A. Maisels, QC, for the detainee's father, Mr. I. Essop, and argument by Mr. C. F. Eloff, SC, for the Commissioner of Police and the Divisional Commissioner of the Security Police in Johannesburg, Mr. Justice Marais and Mr. Justice Theron, said they would give judgment at 10 am.

Mr. Eloff asked the court to find there was insufficient evidence to support the applicant's allegation that his son had been assaulted by the Security Police while being detained by them.

NOT UPHELD

Mr. Eloff submitted that Mr. Essop's evidence about his son's alleged injuries had not been upheld by the evidence of Dr. H. M. Guldenpfenning, a Pretoria neurosurgeon who had examined his son.

Mr. Eloff asked the court to dismiss the application with costs, plus the costs of two advocates.

He also asked the court to find that the second respondent, Colonel P. J. Greyling, Divisional Commissioner of the Security Police at John Vorster Square, was a necessary witness.

Major J. H. Fourie of the Security Police continued his testimony when the hearing continued yesterday.

He said he had only mentioned events relating to Mr. Essop to a senior officer at a later stage.

This was in November and after the initial court application in the case. He did not make a statement but only discussed Mr. Essop verbally.

Mr. Maisels: You know that the allegation has been made that this man, Mr. Essop, was

Assault not proved—SC

assaulted while he was in the custody of the police?

Major Fourie: I have heard about it now.

I repeat the question. You know that the allegation has been made that this man was assaulted while in police custody? — I read about it in the newspapers.

He made no statement to any other police officer. He knew he would be one of the people involved if an assault in fact did take place.

He had no consultation with counsel or the State Attorney until Wednesday morning. He was told then that he might be called to give evidence.

He did not take the allegation of assault on Mr. Essop seriously because Mr. Essop was not in his custody the whole time.

MATTRESS

He interrogated Mr. Essop on occasions between the afternoon of the Saturday after his arrest until the Sunday morning. From time to time Mr. Essop went to sleep. When he did he slept on a mattress on the floor of an ordinary office at John Vorster Square.

Mr. Maisels: You mean the office where the interrogation took place?

Major Fourie: I don't know what you mean by interrogation. That was where we chatted.

Do you know the meaning of the term? — Yes, it is to "ondervra".

When Mr. Essop wanted to go to sleep he was allowed to do so.

Mr. Maisels: When this happened you just sat there quietly?

Major Fourie: Yes.

Mr. Maisels asked if the statement made by Mr. Essop

during his questioning could be put to the court. Mr. Eloff objected and Mr. Justice Marais said that all the court wanted to see was the statement, and not its content.

Mr. Eloff gave the assurance that the statement was in Mr. Essop's own handwriting. For many reasons he claimed privilege for the document, he said.

Mr. Justice Marais suggested that it be placed in Major Fourie's possession and Mr. Eloff said: "I must insist that it be in his possession only."

He handed the statement to Major Fourie, who held it up for the court to see. It was a seven-page document, written in Mr. Essop's own handwriting, he said.

He said that at one stage during the questioning Mr. Essop dropped to his knees.

"I warned him he could hurt himself that way," he said. "I do not deny that he fell. It is possible that he hurt himself then."

He first staggered against a safe, and then fell against a big electric fan, falling to the floor. His knees simply gave way under him.

FAINTED

"I thought at first that he had fainted. He collapsed suddenly and sank to the floor. He said he wasn't hurt and I did not notice any injuries. If there had been injuries of any gravity I would have noticed them," said Major Fourie.

When he made his report to the senior officer, a Colonel Du Preez, he did not know about a medical examination which had been carried out on Mr. Essop by the Chief District Surgeon of Johannesburg, Dr. Kemp. He heard about this for the first time on Wednesday when Dr. Kemp gave evidence about it in court.

No written statement was ever taken from him by any investigating officer as to what had happened to Mr. Essop.

Major Fourie said he had read about Dr. Kemp's evidence, and his statement that there could have been an assault, in yesterday's Rand Daily Mail. When given a copy

Rand Daily Mail February 25 1972 P. 2



Major Fourie, who saw Mr. Essop fall while under questioning.

of the newspaper in the court he paged through it but said he could not find the reference.

He left Mr. Essop at 7 am on the Sunday. He saw "absolutely no bruises on him."

Mr. Essop had very long hair. He had no reason to examine him.

Questioned by Mr. Eloff he said: "There was no reason to examine him. He had real hippie-style hair — women's hair."

Major F. Coetzee, of Security Police Headquarters in Pretoria, was called to testify and entered the witness box carrying two men's shirts.

COLLARS

He said it was discovered on January 18 this year that an effort had been made to smuggle a coded message to Mr. Essop in the collars of the shirts — which were being sent to Mr. Essop by relatives while he was in prison.

Mr. Maisels objected to this evidence and said that what had happened on January 18

was not relevant to the litigation before court.

Mr. Eloff said: "This is merely to illustrate the reasons why very specific precautions are taken in connection with detainees. This is why no access was allowed to him.

"If the other side can point a finger in various directions, then in fairness we should be allowed also to cover a wide field.

"This shows that, even when the smallest access is allowed, how it can be abused. How efforts can be made to smuggle him messages in a shirt collar."

Mr. Maisels said he withdrew his objections for the time being. But he could not see what the relevance of the evidence was. He would, however, address the court on the evidence again at a later stage.

Major Coetzee handed in to the court photographs of the alleged message.

He said they were "not really coded. They appeared to be in Indian language."

Mr. Maisels said he thought that what would really have been relevant was the shirt Mr.

Essop was wearing when he was taken to hospital.

Major Coetzee said he imagined that this was back in possession of Mr. Essop's family, after exchanges of clothing.

In argument, Mr. Maisels said the evidence about the shirt was "almost comic". As far as he could see he could not make out what the marks in the collars were. They could have been laundry marks.

"I ask that this evidence be consigned to the oblivion it deserves".

The history of the litigation was in fact very simple.

Mr. Essop was detained at some time on the night of October 22-23, and when he was detained he had no injuries. If Major Fourie were to be believed, he was not injured when he stopped his particular interrogation.

Mr. Justice Marais: You mean no visible injuries, Mr. Maisels.

Mr. Maisels said there was no evidence that Mr. Essop cried out in pain. If a person bumped himself, it was safe at least to assume that he could at least say an "ouch".

BELATED

In fact, the only evidence given about him in this regard was that he complained about a stomach pain.

The belated attempts of the Security Police in evidence on the injuries sustained by Mr. Essop must be viewed with the greatest suspicion.

Why was the statement by Dr. Kemp withheld until the last moment in the case, he asked.

In the original papers filed by the respondents there was not one word about Dr. Kemp having seen Mr. Essop.

"I suggest that there have been deliberate attempts to suppress the evidence of Dr. Kemp from the court. The examination and statement were not mentioned when the matter came originally before Judges Bekker and Marais.

"What I find most inconceivable is that the evidence was not placed before the court on the return day of the order last year".

Evidence given by the police showed clearly "that they are scratching around for an explanation".

There was clear evidence that Mr. Essop had no visible injuries when detained. But after he had been in police custody from one to four days he was examined by Dr. Kemp.

Mr. Essop was the only person who could tell exactly what

had happened. And he was not allowed to tell the court.

"I submit that the evidence given by the police in this court shows utter contempt for the court, or at least that it is being deliberately hidden that this man was assaulted," said Mr. Maisels.

He referred to evidence by Colonel P. J. Greyling, Security Police chief at Johannesburg's John Vorster Square, in which he said he had only read of the earlier judgment in the matter by Mr. Justice Margo in the witness box in court this week.

In this judgment Mr. Justice Margo had granted the requested court order and said he felt it would be a good thing if the police inquired fully into the allegations of assault to vindicate themselves.

If Colonel Greyling were really to be believed — "and I use the word if" — it is inconceivable that he only read that judgment this week. It shows the contempt in which he holds the court.

Dr. Kemp, in his evidence, had said that the marks on Mr. Essop's face could have been caused by an assault. Colonel Greyling had originally called in Dr. Kemp and had seen Mr. Essop being taken away to hospital on a stretcher.

But, if his evidence was true, it was difficult to conceive that he had never called for an inquiry into what had happened to Mr. Essop.

REPETITION

"This evidence is patently and demonstrably false. It was said that Mr. Essop was moved to Pretoria for better treatment there. Colonel Greyling also spoke of doing this because he did not want a repetition of Goldreich and Wolpe.

"Colonel Greyling said that this particular week was a bad one at John Vorster Square, what with people falling out of windows and so on. But this fall only happened on the day after Mr. Essop was taken to hospital."

The inference was clear, said Mr. Maisels — and this was that Colonel Greyling knew well what had happened.

Mr. Essop's father had received an anonymous telephone call from someone in Pretoria to say that his son was in hospital. It was known that strict instructions were given at the hospital not to tell about Mr. Essop's presence there.

Why? he asked. Why had the person who gave these instructions not been called to testify before the court.

"Colonel Greyling, this kind-

● TO PAGE 15

② of 4

2
Rand Daily Mail February 25, 1972 p.15

• FROM PAGE 2

ly bid man, should have as an act of human decency told the father that his son was ill. One would have accepted this as a matter of decency — even from the Security Police," he said.

Evidence was that the father looked through a hospital fanlight and saw his son lying on a hospital bed. There was the evidence of the nurses that the son looked ill and was in a patently distressed condition. The father saw him in suspicious circumstances. Using there with what appeared to be a bandage on his stomach and not breathing normally. He saw bruise and blood marks on his son's body.

SUSPICIOUS

"Under these circumstances there is no reason to blame him for coming to court to seek relief, claiming that his son had been assaulted. His main concern was his son's welfare and he was fully entitled to ask that his son be seen by some eminent medical man. There are many eminent

specialists in Johannesburg and they are not secret agents from Moscow or some sort of terrorists," said Mr. Maisels.

"Why were we not allowed to do that? Why? Were they afraid we would try to pass some secret message? I reject this suggestion with the contempt it deserves."

SCRATCHES

Returning to the subject of the alleged shirt messages, he said the marks could be laundry marks. The police claim was just plain nonsense.

Influence had been given by Professor H. von Praag Koch, the District Surgeon of Pretoria, about scratches on Mr. Essop's body, but that other than that he had seen no signs of injury.

But said Mr. Maisels, he had not been given the opportunity to question Professor Koch in court. Why did he not see

JUDGES TO DECIDE ON ESSOP

ASSAULT ORDER AFTER

A THREE-DAY HEARING

bruising or, if he did, why did he not mention it?

"This is all part and parcel of the concealment of the respondents," he said.

NOT CALLED

Mr. Essop, said Mr. Maisels, had clearly been assaulted. There was real evidence of an assault. But by whom? The people who knew about this assault had not been called to testify.

It had been claimed that Mr. Essop was "shaming" semi-consciousness when questioned. He could also, as other testimony suggested, have been in a state of hysteria.

Mr. Maisels submitted, again, that injuries sustained by Mr. Essop — principally bruising of the cheek, a cut on the lip and bruising of the ear, were sustained while he was in police custody.

INJURIES

The fact that Mr. Essop had a hairy face might have softened the blow. It had also been suggested that the injuries were self-inflicted. But how did one inflict an injury inside his ear?

The police knew by November 3 at the latest that there were injuries. But no statement was taken from Major Fourie.

Major Fourie, in fact, said he did not know until he was in court on Wednesday morning that he might be called to testify.

It was inconceivable, police regulations or no regulations, and with all the publicity which had accompanied the case, that the question had not been asked in official quarters how Mr. Essop came by the injuries.

INCONCEIVABLE

"The whole police story is riddled with these sort of improbabilities," said Mr. Maisels. The court was faced with a very simple position. It had been proved that Mr. Essop was assaulted by the police and his relatives were entitled to seek relief in court.

Mr. Maisels asked for confirmation of the rule, and costs — including costs on an attorney-client basis.

This was a case where he felt he was entitled to ask this. The respondents had deliberately misled the court. They had deliberately given false information to "that unfortunate sister" at the H. F. Verwoerd Hospital, instructing her to file about the presence of Mr. Essop there.

The police had relied on "smear evidence" and one would have thought that this — if ever there were a case where the respondents would welcome a full inquiry — was such a case.

"Instead, the respondents put every possible obstacle in our way, including two deliberate attempts to thwart the serving of the order on Essop," said Mr. Maisels.

"The time has come when the court should show that such conduct by the police authorities cannot be tolerated," he said.

VAGUE

Starting his argument just before lunch, Mr. Eloff — for the respondents — said that the case as presented now differed substantially from that as it was put last year. It appeared as well that Mr. Maisels was conducting some sort of witch-hunt against the police.

Originally, only the vaguest allegations had been made, and it had been difficult in the

short time available to answer them fully. But now there were specific allegations about bruises.

Nowhere had it been indicated which witnesses specifically to call. It was unreasonable that the State should suddenly be called on to call a variety of witnesses to cover all the moments of a detention.

The second respondent, in particular, had directed himself only at the broad allegations made originally by Mr. Essop senior.

Mr. Justice Marogo, in making his comments about an inquiry into the matter, had not specifically stipulated, this in his order. But, in any case, he was not empowered to turn an ordinary court case into a commission of inquiry. The case at present related to events which happened months ago.

GOOD HEALTH

Mr. Eloff said, when asked by Mr. Justice Marais, that there was no evidence before the court now about Mr. Essop's condition.

But evidence could be brought to show he was in good health, said Mr. Eloff.

Rand Daily Mail February 25, 1972 p. 15



Mr. Essip's father and mother outside the court.