

19 October 1982

INQUEST - LATE N H AGGETT

THIRD SUPPLEMENT TO REPORT DATED 12 JULY 1982

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This report supplements the report of 12 July 1982, as supplemented by our further reports of 8 September and 4 October 1982.

1. Further police evidence

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We have now heard the evidence of all the various policemen who were engaged in the interrogation of Dr Aggett and, in particular, the evidence of Lieutenant Whitehead who was in charge of the interrogation. It is impossible to be completely objective about the assessment of the evidence. We believe that there were so many inherent contradictions in the evidence that it cannot be accepted by the magistrate. The particular unsatisfactory features of the evidence are:

- (a) There is no satisfactory explanation for the long period which Dr Aggett spent in the interrogation room on the tenth floor of John Vorster Square from the late afternoon of 28 January onwards. Lieutenant Whitehead says that what he meant, in his affidavit, by "intensive interrogation" was simply that he decided, at that late stage, to reveal, for the first time, certain trump cards which he had against Dr Aggett.
- (b) Various of the witnesses say that the reason for the long period in the interrogation room was that Dr Aggett wished to "open his heart" and to get the interrogation over. But

different witnesses say that it was at different times that Dr Aggett decided to "open his heart".

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- (c) Lieutenant Whitehead can give no satisfactory explanation for the fact that the really damning evidence, which he is now giving about Dr Aggett "opening his heart", betraying his comrades and making a further written statement, was not mentioned in his original affidavit.
  - (d) There is no satisfactory explanation for the fact that, at a stage when really vital information was being elicited from Dr Aggett, policemen, who had not previously dealt with him; and who had no detailed knowledge of his case, were brought in in relays to take part in the interrogation.
  - (e) Certain further written material, in the handwriting of Dr Aggett, has now been produced. No explanation has been given as to why privilege was previously claimed in respect of this written information and why that privilege no longer exists. Certain of these writings by Dr Aggett indicate that the police made him take down a list of subjects upon which he had to amplify his previous statement.
  - (f) Lieutenant Whitehead has admitted that he was, at the time of the interrogation, principally concerned with other duties and that he took on the interrogation of Dr Aggett in addition to his other duties. There is room for us to argue that, because he had been observing the movements of Dr Aggett for the previous three years, he was dismayed at the prospect of his being released and took it upon himself, as a person only recently promoted to officer rank, to see whether he could not extract incriminating information from Dr Aggett.
  - (g) Lieutenant Whitehead has, to all intents and purposes, admitted that the words, "I am a supporter of the Marxist ideology and therefore I am a communist", which Dr Aggett inserted in his second statement, are the kind of words which Whitehead would have
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used. He has also admitted that the word "communistic", which Dr Aggett used in his second statement, is the kind of word which Whitehead would have used. Lieutenant Whitehead made a particularly poor showing when he was cross-examined about his having sent another policeman to search the home, in Somerset West, of Dr Aggett's parents. He claimed that, although he knew that the Aggetts did not share their son's political beliefs, he nevertheless suspected that they might be harbouring one Gavin Anderson, an associate of Dr Aggett's, for whom, according to Lieutenant Whitehead, the police were at that time searching. He was unable to satisfactorily explain why it was necessary for the police to attempt to bribe the servant of the Aggetts to produce information about their employers and why, when the local police were called in by a neighbour, he represented himself as being part of the police staff investigating the break-in.

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- (h) One of our detainee witnesses, Mr Naidoo, testified to having spent a long period under interrogation and torture on the tenth floor of John Vorster Square. The police denial of the torture is coupled with an allegation that he was suicidal at the time and that shifts of policemen were brought in to prevent the feared suicide. Despite the fears of suicide, no one thought of having him examined by a doctor.

We are able to argue strongly that the evidence of Mr Naidoo, in the light of the unsatisfactory police evidence, entitles the court to find that the police used on Dr Aggett methods similar to those used on Mr Naidoo.

2. The further evidence now tendered

In our earlier report, we mentioned how, during the hearing, the magistrate had put a time limit upon the submission of further affidavits. But further detainees were released after the time limit expired. Certain affidavits were previously

rejected on the ground that they did not show that the mistreatment had been suffered at the hands of the same investigational team which dealt with Dr Aggett. As the case has unfolded, we have been able to obtain further information about the policemen involved and the deponents to the earlier affidavits have made supplementary affidavits to establish that their mistreatment was at the hands of the same people who dealt with Dr Aggett.

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On Wednesday, 13 October 1982, the admissibility of the further affidavits was argued. Three of these further witnesses are able to give direct evidence of their observations of Dr Aggett during the last days of his life. These affidavits, and another four affidavits, deal with experiences suffered by the detainees at the hands of the same people who were concerned with the interrogation of Dr Aggett.

Our counsel argued that the magistrate must call these persons to testify.

The only arguments raised by counsel for the police against the calling of these witnesses were:

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- (a) That these affidavits were tendered after the expiry of the time limit set by the magistrate.
  - (b) If the witnesses are to be called, the proceedings would become interminable. He claimed that some nine policemen would have to be recalled as witnesses to deal with this further evidence and that a further 20 policemen would have to be called to rebut the evidence of these detainees.

### 3. The adjournment

It had previously been arranged that, because of other commitments of the magistrate, of the assessor and of our counsel, the hearing would, on 13 October, be postponed until Monday, 25 October 1982. When the court adjourned, after the

argument on 13 October, the magistrate announced that he would give his ruling on Monday, 25 October. He gave no indication of what his ruling would be but, quite frankly, we do not see on what ground he can decline to call the further witnesses. If we are correct in this, it is not unlikely that he will, during the intervening period, cause subpoenas to be issued so that the matter can proceed again on 25 October.

4. Other witnesses

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Apart from the further detainees and the policemen who may be called to rebut their evidence, we still have to hear the evidence of the investigating officer who took the statements from the various police witnesses and, presumably, the magistrate who visits John Vorster Square from time to time will also be called.

At the end of the day, we will hear the evidence, on psychological matters, of Professor Plomp and of our psychological adviser, Professor Vorster.

5. Forecast of time

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In the light of all that has been said above, our forecast is that the hearing will last a further three weeks from Monday, 25 October, that there will then be a postponement for the preparation of argument and that argument will probably take a further week. The transcript now runs to 2 500 pages and the exhibits comprise approximately 500 further pages.

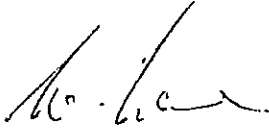
6. Final note

At the time of completing this report, we hear that the magistrate is calling the District Surgeon, Dr Jacobson, to testify about his

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examination of certain detainees. We have no indication of his attitude on the question of the other witnesses.

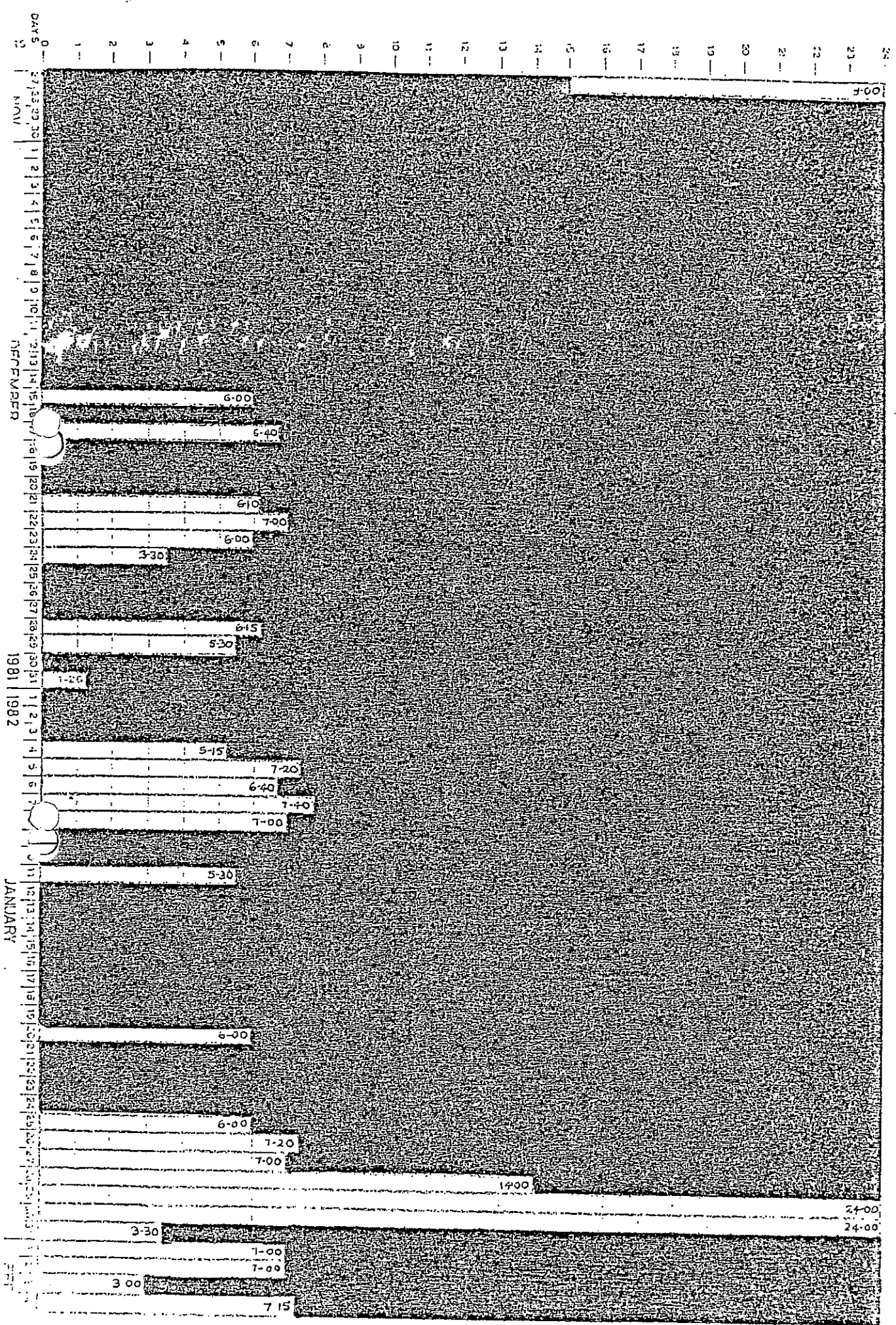


W LANE  
BELL DEWAR & HALL  
19 October 1982

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# DETENTION OF NEIL AGGOT 27-11-81 TO 5-2-82



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8. Possible length of further proceedings

We remain of the view that our estimate of six weeks for the further proceedings is probably somewhat conservative.

W LANE  
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2 July 1982