

PUBLIC SECTOR-GOVT. JUSTICE.

1992 - ~~APRIL~~ MAY

Outrage over 'cover-up'

Own Correspondent and Political Staff

MARITZBURG — The passing of 11 death sentences yesterday on former police captain Brian Mitchell has been followed by demands for an independent, public inquiry into an alleged police attempt to cover up the fact that his members had murdered civilians

Passing sentence yesterday, Mr Justice Andrew Wilson reiterated his call — which the police have failed to act on — for a full independent inquiry into aspects of the Trust Feed probe, as well as the involvement of police officers in "counter-revolutionary" strategies.

He said the inquiry should be a public one and not an internal police inquiry as this could be controlled by those responsible for the "cover-up".

The inquiry must find out how high up the cover-up is," he said.

The ANC angrily rejected the internal inquiry being conducted by the SAP into the alleged cover-up in the initial investigation into the massacre, and echoed the call for an immediate independent investigation

attempted murder. He was granted leave to appeal. The special policemen were sentenced to 12 years' jail each, to run concurrently, for each count of murder. He further sentenced them to three years, to run concurrently, on each of two counts of attempted murder.

Judge Wilson said it should be ascertained which member of the SA Police "tipped off" a Kwazulu Police Colonel Mzimela and Brian Mitchell about the renewed investigation into the 1988 massacre last year.

It emerged during the trial that the former special policemen were warned to go into hiding, and Mitchell became aware on July 26 — days before his arrest — of the pending investigation by Major Frank Dutton.

Mr Justice Wilson said the inquiry should also include how far up the police "cover-up" had extended within the ranks of the SAP and in particular whether General Ronnie van der Westhuizen and other senior policemen named in court were part of such a cover-up.

Judge insists on Trust Feed probe

Mitchell, former commander of the New Hanover police station, was yesterday sentenced to death on 11 counts of murder for his part in the 1988 massacre of 11 people at a funeral wake in the Trust Feed area.

Special policemen Dumisane Ndwalane, Kehla Ntshane, Thabo Sikhosana and Marshall Khamhule were each sentenced to an effective 15 years behind bars for their part in the killing.

Judge Wilson also sentenced Mitchell to three years' jail on each of two counts of attempted murder. He was granted leave to appeal.

The special policemen were sentenced to 12 years' jail each, to run concurrently, for each count of murder. He further sentenced them to three years, to run concurrently, on each of two counts of attempted murder.

Judge Wilson said it should be ascertained which member of the SA Police "tipped off" a Kwazulu Police Colonel Mzimela and Brian Mitchell about the renewed investigation into the 1988 massacre last year.

It emerged during the trial that the former special policemen were warned to go into hiding, and Mitchell became aware on July 26 — days before his arrest — of the pending investigation by Major Frank Dutton.

Mr Justice Wilson said the inquiry should also include how far up the police "cover-up" had extended within the ranks of the SAP and in particular whether General Ronnie van der Westhuizen and other senior policemen named in court were part of such a cover-up.

Outrage over 'cover-up'

From Page 1

by carefully planning an operation to kill people whose sole fault was that they supported a legitimate organisation to which he personally was opposed. Further, he had involved the special constables who now faced long prison terms.

The judge said Mitchell's conduct, if his plan had succeeded, would have further contributed to the violence which unhappily existed in this country. Although he did not personally kill anyone, he was the person primarily legally and morally responsible for the deaths of all of them," he said.

The judge added he was satisfied this was a case where the need for retribution was extremely important.

Richard Lister of the Durban Legal Resources Centre said the court case had identified and laid bare "something we have been saying was happening in Natal for many years".

The centre had substantial evidence of collusion between the IFP and the SAP, he said. The centre had substantial evidence of collusion between the IFP and the SAP, he said.

Mr Lister alleged that there was also a high level of collusion between the IFP, SAP and Kwazulu Police in the Mpumalanga area. The centre had submitted "masses" of affidavits to the police on the matter but "it came to nothing", he claimed.

The ANC noted that its president, Nelson Mandela, had told an OAU meeting in Tanzania this week that the Trust Feed massacre had concretely identified the "third force" for the first time.

Mitchell showed little emotion as Judge Wilson passed sentence. The 34-year-old former police captain and father of three sat somberly, occasionally glancing up at the judge, as he outlined the court's findings on mitigating and aggravating factors. Members of his family were not among the spectators.

Mr Justice Wilson said it was difficult to imagine a killing where more aggravating factors were present. As station commander, Mitchell was the "guardian of safety" of all the people in the New Hanover area. He had abused his position.

JUSTICE FM 115/92

Feeding mistrust

252

The sentencing of five policemen this week for the murder of 11 people at Trust Feed near Maritzburg is just a part of a damning judgment that has severely dented the credibility of the SA Police and could result in some senior heads rolling. In mopping-up operations in the wake of the judgment, which ended last Thursday after about 80 days of evidence in the Maritzburg Supreme Court, Police Commissioner General Johan van der Merwe ordered two separate investigations.

One will centre on the activities of Riot Unit 8 in Maritzburg, which supplied the special constables who carried out the massacre. The other will probe the initial investigation, which failed miserably to bring the culprits to book. Those to come under the judge's fire were the Natal CID chief at the time, Brigadier Christo Marx, and the initial investigators, Lieutenant Patrick Wattrus and Captain Joseph van Zyl. All three were later promoted and transferred. Marx retired before giving evidence this year.

An apparent slip in the police promotions system, which allowed Lieutenant Brian Mitchell to be promoted to captain in April last year, is also to be probed by police.

Judge Andrew Wilson, sitting with two assessors, made lengthy mention of the initial investigation team's clear attempt to let the case die and be buried by the passage of time. But so far General Van der Merwe has made no reference to possible steps being taken against policemen who deliberately tried to sabotage the investigation by Captain Frank Dutton, who finally arrested seven of his colleagues.

Mitchell has been found guilty on 11 counts of murder and two of attempted murder. As the New Hanover station commander at the time, Mitchell ordered the Decem-

~~Continued~~

CURRENT AFFAIRS

FM 115/92 252

ber 3 1988 attack on a home in the nearby village. Special Constables Kehla Ngubane, Thabo Sikhosana and Marshall Khambule, and Special Sergeant Dumisane Ndwalane, were also found guilty of murder and attempted murder. Sergeant Neville Rose and Captain Jacobus van den Heever, of Riot Unit 8 in Maritzburg, were acquitted of all charges and their suspensions were lifted.

General Van der Merwe vowed in a statement on Friday that he would not tolerate or condone misconduct or any attempts at cover-ups. He said "We will endeavour to stabilise unrest-inflicted areas and ultimately bring peace and prosperity to these regions."

Hardly the mission that was in mind for Trust Feed during 1988, where Mitchell and the late Major Deon Terblanche, then head of Maritzburg's Riot Unit, hatched a plot to do the dividing while letting Inkatha do the ruling.

Despite General Van der Merwe's statement, however, it seems the police top brass have gagged the policemen involved, including Dutton, who was refused permission to talk to the Sunday press.

By his own testimony in February, Mitchell admitted to being the de facto local leader of government's Joint Management Committee security set-up and that his task was to oust the United Democratic Front-based Trust Feed Crisis Committee and replace it with a body that government could control.

He regarded the UDF as "enemies of the State" — a view held by many policemen at the time, he said — and intended the special constables to "attack and kill the UDF." He claimed it was a mistake that some of his men slaughtered innocent men, women and children taking part in an all-night vigil in the house. The people were mainly Inkatha supporters.

It has been speculated that Mitchell's men acted on faulty intelligence. But prosecuting attorney Anthony Irons suggested in cross-examination in February that Mitchell could have deliberately attacked Inkatha supporters to get the "weak" local Inkatha leader, Jerome Gabela, "fired up" in a campaign to drive out the UDF — who would then have been suspected of carrying out the crime.

The emergency regulations, plus a specific ban on journalists entering the area at the time or even covering funerals, led to initial reports claiming the attack was orchestrated by Inkatha vigilantes against non-Inkatha residents.

Will the legacy of what has been termed State-sponsored violence-mongering now be rooted from the forces with the vigour expressed by the police commissioner? ■

New limit on lower-court fines

Star 115192
CAPE TOWN — The maximum financial jurisdiction of magistrate's court fines would increase from R4 000 to R20 000 and that of regional courts from R40 000 to R200 000 from today, Minister of Justice Kobie Coetsee announced yesterday

252
Replying to the debate on his budget vote, he said the compensation to victims where a criminal act led to damage or loss would be increased from R5 000 to R20 000 in the magistrate's court and from R20 000 to R200 000 in regional courts — Sapa

REPUBLIEK
VAN
SUID-AFRIKA



REPUBLIC
OF
SOUTH AFRICA

Staatskoerant Government Gazette

R0,80 Prys • Price
R0,08 Plus 10% BTW • VAT
R0,88 Verkoopprys • Selling price
Butelands **R1,10** Other countries
Posvry • Post free

Regulasiekoerant
Regulation Gazette

No. 4861

Vol 323

PRETORIA, 1 MEI
MAY 1992

No. 13966

PROKLAMASIE

van die

Staatspresident

van die Republiek van Suid-Afrika

No. R. 41, 1992

INWERKINGTREDING VAN ARTIKELS 5, 6, 7, 14 EN 15 VAN DIE STRAFPROSESWYSIGINGSWET, 1991 (WET No 5 VAN 1991)

Kragtens artikel 16 van die Strafproseswysigingswet, 1991 (Wet No 5 van 1991), bepaal ek hierby **1 Mei 1992** as die datum waarop artikels 5, 6, 7, 14 en 15 van genoemde Wet in werking tree

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Kaapstad, op hede die Ses-entwintigste dag van April Eenduisend Negehoenderd Twee-en-negentig

F. W. DE KLERK,

Staatspresident

Op las van die Staatspresident-in-Kabinet

H. J. COETSEE,

Minister van die Kabinet

GOEWERMENSKENNISGEWINGS

DEPARTEMENT VAN JUSTISIE

No. R. 1274

1 Mei 1992

BEPALING VAN BEDRAE VIR DIE DOELEINDES VAN BEPALINGS VAN DIE STRAFPROSESWET, 1977

Kragtens die artikel van die Strafproseswet, 1977 (Wet No 51 van 1977), vermeld in Kolom A van die Bylae, bepaal ek, Hendrik Jacobus Coetsee, Minister van Justisie, hierby met ingang van **1 Mei 1992**, vir die doeleindes van daardie artikel, die bedrag daarteenoor vermeld in Kolom B van die Bylae

H. J. COETSEE,

Minister van Justisie

305—A

PROCLAMATION

by the

State President

of the Republic of South Africa

No. R. 41, 1992

COMMENCEMENT OF SECTIONS 5, 6, 7, 14 AND 15 OF THE CRIMINAL PROCEDURE AMENDMENT ACT, 1991 (ACT No 5 OF 1991)

Under section 16 of the Criminal Procedure Amendment Act, 1991 (Act No 5 of 1991), I hereby determine **1 May 1992** as the date on which sections 5, 6, 7, 14 and 15 of the said Act shall come into operation

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Twenty-sixth day of April, One thousand Nine hundred and Ninety-two

F. W. DE KLERK,

State President

By Order of the State President-in-Cabinet

H. J. COETSEE,

Minister of the Cabinet

GOWERNMENT NOTICES

DEPARTMENT OF JUSTICE

No. R. 1274

1 May 1992

DETERMINATION OF AMOUNTS FOR THE PURPOSES OF PROVISIONS OF THE CRIMINAL PROCEDURE ACT, 1977

Under the section of the Criminal Procedure Act, 1977 (Act No 51 of 1977), specified in Column A of the Schedule, I, Hendrik Jacobus Coetsee, Minister of Justice, hereby, for the purposes of that section determine with effect from **1 May 1992** the amount specified opposite it in Column B of the Schedule

H. J. COETSEE,

Minister of Justice

13966—1

SCHEDULE

COLUMN A	COLUMN B
Section 29 (1) (a) and (b)	R20 000
Section 29 (1) (d) and (e)	R50 000
Section 29 (1) (f) and (g)	R20 000
Section 46 (2) (c) (i), (ii) and (iii)	R20 000
Section 50 (1)	R1 500
Section 65I (3)	R20 000
Section 74 (1) (b) and 74 (2)	R20 000
Section 92 (1) (b)	R20 000 where the court is not the court of a regional division, and R200 000 where the court is the court of a regional division

No. R. 1276 **1 Mei 1992**

WET OP BESOLDIGING EN DIENSVoorWAARDES VAN REGTERS, 1989

WYSIGING VAN REGULASIES

Die Staatspresident het kragtens artikel 12 van die Wet op Besoldiging en Diensvoorwaardes van Regters, 1989 (Wet No 88 van 1989), die regulasies in die Bylae hiervan uitgevaardig

BYLAE

Woordoms krywing

1 In hierdie regulasies beteken "die Regulasies" die regulasies afgekondig by Goewermentskennisgewing No R 1324 van 23 Junie 1989, soos gewysig by Goewermentskennisgewing No R 850 van 16 April 1991

Wysiging van regulasie 10 van die Regulasies

2 Regulasie 10 van die Regulasies word hierby gewysig—

- (a) deur in paragraaf (a) van subregulasie (1) die uitdrukkings "R168" en "R84" deur onderskeidelik die uitdrukkings "R185" en "R95" te vervang, en
- (b) deur in subregulasie (3) die uitdrukking "R30" deur die uitdrukking "R35" te vervang.

Wysiging van regulasie 11 van die Regulasies

3 Regulasie 11 van die Regulasies word hierby gewysig—

- (a) deur in subregulasie (1) die uitdrukking "R200" deur die uitdrukking "R220" te vervang, en
- (b) deur in subparagraaf (i) van paragraaf (b) van subregulasie (2) die uitdrukking "R168" deur die uitdrukking "R185" te vervang

Wysiging van regulasie 13 van die Regulasies

4 Regulasie 13 van die Regulasies word hierby gewysig deur die uitdrukking "R72" deur die uitdrukking "R90" te vervang

No. R. 1276 **1 May 1992**

JUDGES' REMUNERATION AND CONDITIONS OF EMPLOYMENT ACT, 1989

AMENDMENT OF REGULATIONS

The State President has, under section 12 of the Judges' Remuneration and Conditions of Employment Act, 1989 (Act No 88 of 1989), made the regulations in the Schedule hereto

SCHEDULE

Definitie

1 In these regulations "the Regulations" means the regulations published by Government Notice No R. 1324 of 23 June 1989, as amended by Government Notice No R 850 of 16 April 1991

Amendment of regulation 10 of the Regulations

2 Regulation 10 of the Regulations is hereby amended—

- (a) by the substitution in paragraph (a) of subregulation (1) for the expressions "R168" and "R84" of the expressions "R185" and "R95", respectively, and
- (b) by the substitution in subregulation (3) for the expression "R30" of the expression "R35"

Amendment of regulation 11 of the Regulations

3 Regulation 11 of the Regulations is hereby amended—

- (a) by the substitution in subregulation (1) for the expression "R200" of the expression "R220", and
- (b) by the substitution in subparagraph (i) of paragraph (b) of subregulation (2) for the expression "R168" of the expression "R185"

Amendment of regulation 13 of the Regulations

4 Regulation 13 of the Regulations is hereby amended by the substitution for the expression "R72" of the expression "R90".

252

BYLAE

KOLOM A	KOLOM B
Artikel 56 (1)	R1 500
Artikel 57 (1) (a)	R1 500
Artikel 57 (5) (b)	R1 500
Artikel 112 (1) (a) en (b)	R1 500
Artikel 300 (1) (a)	R200 000 in 'n streekhof, en R20 000 in 'n landdroshof
Artikel 302 (1) (a) (ii)	R2 500 in geval van 'n regterlike amptenaar wat nie die substantiewe rang van landdros of hoer vir 'n tydperk van sewe jaar beklee het nie, en R5 000 in geval van 'n regterlike amptenaar wat die substantiewe rang van landdros of hoer vir 'n tydperk van sewe jaar of meer beklee het

SCHEDULE

COLOMN A	COLOMN B
Section 56 (1)	R1 500
Section 57 (1) (a)	R1 500
Section 57 (5) (b)	R1 500
Section 112 (1) (a) en (b)	R1 500
Section 300 (1) (a)	R200 000 in a regional court, and R20 000 in a magistrate's court
Section 302 (1) (a) (ii)	R2 500 in the case of a judicial officer who has not held the substantive rank of magistrate or higher for a period of seven years, and R5 000 in the case of a judicial officer who has held the substantive rank of magistrate or higher for a period of seven years or longer

No. R. 1275**1 Mei 1992****BEPALING VAN BEDRAE VIR DIE DOELEINDES VAN BEPALINGS VAN DIE WET OP LANDDROSHOWE, 1944**

1 Kragtens die artikel van die Wet op Landdroshowe, 1944 (Wet No 32 van 1944), vermeld in Kolom A van die Bylae, bepaal ek, Hendrik Jacobus Coetsee, Minister van Justisie, hierby met ingang van **1 Mei 1992**, vir die doeleindes van daardie artikel, die bedrag daarteenoor vermeld in Kolom B van die Bylae.

2 Goewermentskennisgewing No R. 1260 van 30 Mei 1991 word hierby herroep.

H. J. COETSEE,
Minister van Justisie.

No. R. 1275**1 May 1992****DETERMINATION OF AMOUNTS FOR THE PURPOSES OF PROVISIONS OF THE MAGISTRATES' COURTS ACT, 1944**

1 Under the section of the Magistrates' Courts Act, 1944 (Act No 32 of 1944), specified in Column A of the Schedule, I, Hendrik Jacobus Coetsee, Minister of Justice, hereby, for the purposes of that section determine with effect from **1 May 1992** the amount specified opposite it in Column B of the Schedule

2 Government Notice No R 1260 of 30 May 1991 is hereby withdrawn

H. J. COETSEE,
Minister of Justice

BYLAE

KOLOM A	KOLOM B
Artikel 29 (1) (a) en (b)	R20 000
Artikel 29 (1) (d) en (e)...	R50 000
Artikel 29 (1) (f) en (g)	R20 000
Artikel 46 (2) (c) (i), (ii) en (iii)	R20 000.
Artikel 50 (1)	R1 500.
Artikel 65I (3).	R20 000
Artikel 74 (1) (b) en 74 (2)	R20 000
Artikel 92 (1) (b).	R20 000 waar die hof nie die hof van 'n streekafdeling is nie, en R200 000 waar die hof die hof van 'n streekafdeling is

252

INHOUD				CONTENTS			
No		Bladsy No	Koerant No	No		Page No	Gazette No
PROKLAMASIE				PROCLAMATION			
R 41	Strafproseswysigingswet (5/1991) Inwerkingtreding van artikels 5, 6, 7, 14 en 15	1	13966	R 41	Criminal Procedure Amendment Act (5/1991) Commencement of sections 5, 6, 7, 14 and 15	1	13966
GOEWERMENSKENNISGEWINGS				GOVERNMENT NOTICES			
Justisie, Departement van				Justice, Department of			
<i>Goewermenskennisgewings</i>				<i>Government Notice</i>			
R 1274	Strafproseswet (51/1971) Bepaling van bedrae	1	13966	R 1274	Criminal Procedure Act (51/1971) Determination of amounts	1	13966
R 1275	Wet op Landdroshowe (32/1944) Bepaling van bedrae	2	13966	R 1275	Magistrates' Courts Act (32/1944) Determination of amounts	2	13966
R 1276	Wet op Besoldiging en Diensvoorwaardes van Regters (88/1989) Wysiging van regulasies	3	13966	R 1276	Judges' Remuneration and Conditions of Employment Act (88/1989) Amendment of regulations	3	13966

Trust Feed officer backs call for public inquiry

252

DURBAN — Major Frank Dutton, whose investigations led to the conviction of five police colleagues for the Trust Feed killings, has backed the call for a public inquiry into an alleged police "cover-up" attempt.

His investigation, as head of a nine-member team, led to the sensational trial which ended this week with the death sentence for former police captain Brian Mitchell.

Four special constables were sentenced to an effective 15 years' imprisonment for their part in the massacre.

In an interview at his home, Dutton said that when such an inquiry took place, he was likely to be called as a witness and that he would give evidence.

"I favour an inquiry as called for by Mr Justice Andrew Wilson. The more open the inquiry

the better, because it would satisfy the public."

Dutton said evidence in the trial supported the theory that a "third force" was involved in promoting violence in the country.

"Whether this is an isolated incident, I do not know. But what happened at Trust Feed supports this theory."

He said the image of the SA Police had been damaged and that while he had no major plans for a clean-up, he would provide leadership by example.

"The police must be apolitical and we should just do our jobs in investigating cases. For the police to regain their credibility, they must investigate cases more efficiently and bring to court the leaders who are involved in violence, no matter which faction they be-

FAROK KHAN

Members of the force must respect all the different peoples in this country."

Dutton said he believed that ongoing violence was the greatest threat to the country and perhaps the most difficult hurdle facing all its people.

He called for larger and more efficient police teams to crack down on violence and other crime.

Speaking about his Trust Feed investigation, Dutton said he and his team had had three months in which to crack open the case. They started working on it during August last year and the case opened at the Maritzburg Supreme Court on October 15.

252

"We had to work long hours under difficult circumstances. There were rumours about our safety, but that did not worry me too much. But I was concerned for the safety of my family."

"No pressure was put on me by any fellow police officers, with the exception of the incidents to which I testified," Dutton said.

A dedicated policeman, he was born in Warmbaths and went to school in Pretoria, after which he attended the Police College.

His first posting was to Greenwood Park police station in 1967. From there he was posted to Glendale, where he became a sergeant.

Dutton did a number of stints in the Caprivi Strip and also served on the Zimbabwe border

during the bush war.

In 1983, he was promoted to lieutenant and posted to Pine-town, where he was put in charge of the field unit.

During this time, he cracked a number of major cases, including those of a serial rapist and several murders, including one which led to former Kwa-Zulu Cabinet Minister Samuel Jarnile being convicted for murder and sent to jail.

When the special units were formed to investigate unrest, Major Dutton and his team were selected to probe cases in Durban and Maritzburg.

At the beginning of 1991 the team was sent to Wartburg to investigate allegations against Psychology Ndlovu, a KwaZulu Legislative Assembly member. This led to Ndlovu's conviction on culpable homicide charges.

Probe into court mysteries (252)

Political Staff

THE Transvaal Attorney-General is investigating claims of 40 criminal cases being mysteriously withdrawn at the Pretoria magistrates' courts

This was disclosed in parliament this week by the Minister of Justice, Mr Kobie Coetsee, who expressed concern at a report to this effect

The cases, apparently with-

drawn by prosecutors, seem to involve the Laudium area and offences ranging from murder to assault and drug-dealing

Mr Coetsee said his office had also made immediate inquiries after the matter was raised in the Justice debate by Mr Mahmoud Rajab, Democratic Party MP for Springfield, who expressed concern at what he called an "apparent

breakdown in justice"

He said the report alleged that no reasons had been given for the withdrawal of the cases

APR 21 1972
"What is of particular interest is that the local station commander, who investigated all these offences, is now, quite correctly, insisting that all the withdrawn cases be reopened and that the accused persons stand trial"

Govt 'shamed' by cop's early release

A FORMER KwaZulu police detective who was sentenced to 27 years for murder has been released after only nine months.

The decision to free him "shames this government", Lawyers for Human Rights (LHR) charged yesterday.

LHR said it would take up the release with President F.W. de Klerk and would call for a re-evaluation of Correctional Services Minister Mr Adriaan Vlok's fitness for the position.

Khethani Shange was sentenced in May last year for a series of murders and was described by the trial judge as a "beast".

A full explanation of the early release would be given in Parliament next Wednesday by Mr Vlok, his department said this week. (252) CT 2/5/92



LOOKING TO THE FUTURE: Human rights advocate Mr Sydney Kentridge prepares to address an LRC function on the organisation's road ahead. On his right is LRC national director Mr Arthur Chaskalson.
Photo: Eric Miller

By Justin Pearce

THE changing political climate has opened up new areas of work for bodies such as the Legal Resources Centre (LRC), human rights advocate Mr Sydney Kentridge said last week.

Speaking at a function to mark the first award of the Morris Zimmernan Scholarship, Kentridge paid tribute to the work done by the LRC since its formation in 1978.

The LRC was no longer confined to litigation, but could now take on the role of negotiator on behalf of communities for long-

Kentridge sees winds of change blow for LRC

SOUTH AFRICAN 2/8-7/5/92

term solutions, he said.

Originating in the repressive days of the Bf Vorster government, the LRC often challenged the influx legislation in terms of which the then Minister of Plural Relations and Development, Dr Andries Treurnicht, had near-total control over the lives of most South Africans

"These test cases showed how much could be done, without a bill of rights, by skilled lawyers," Kentridge said. "They also showed how an independent judiciary has a value that transcends the state of affairs in a country."

Kentridge said the denial of rights took place at the level of bureaucracy as well as legislation

He told of a case in which a woman who had a right to an identity book was told to "come back later" no fewer than 41 times. The LRC was able to intervene successfully in such cases.

The decline of legalised apartheid had meant a change in emphasis for the LRC's work, notably towards the right of black people to occupy rural land.

As the government showed more openness towards the needs of communities, the threat shifted to local authorities and farmers, Kentridge said. The LRC had successfully obtained interdicts to prevent these removals.

'Killer cops' face inquiry

252
STimes
3/5/92

Sunday Times Reporter
LAW and Order Minister
Hernus Kriel yesterday
said he had asked the Com-
missioner of Police to in-
vestigate allegations by a
Natal judge that South
African policemen com-
mitted murders.

Mr Kriel said Mr Justice
JM Didcott had been quo-
ted as having said that the
SAP had committed well-
planned murders and
crimes

"The standard of the
South African judiciary is
so high that I am convinced
that no judge would say
such a thing unless he had
the necessary proof," said
Mr Kriel.

"I have therefore
requested the Commission-
er of Police to arrange on
Monday to obtain the
necessary information
from the judge."

The police would investi-
gate the information with
all the power at their dis-
posal, Mr Kriel added.

In a speech at the Uni-
versity of the Witwaters-
rand on Wednesday, Mr
Justice Didcott said
enough had emerged from
various legal proceedings
to establish that some
crimes of violence and
planned murders had been
committed by policemen

His speech came on the
day a Mooiriver branch
commander, Lieutenant
George Nichas, 49, ap-
peared in court charged
with murdering two people
and attempting to murder
three others

The next day former
police captain Brian
Mitchell received 11 death
sentences in Maritzburg
for his role in the Trust
Feed massacre in 1988.

● See Brian Mitchell's date
with death — Page 7

COPS WITH NO CONSCIENCE

By FRED KHUMALO

WHILE survivors of the Trust-feed massacre jiggered for joy in the streets of Maritzburg after a white police commander was sentenced to death for mass murder, journalists were reporting some of the most searing comments ever made about SAP members by a South African Supreme Court judge.

Not only did Judge Andrew Wilson reject most of the mitigatory evidence offered for the killer Captain, 34 year-old Brian Mitchell, he went so far as to demand a total shake-up in the SAP.

He wanted an inquiry conducted by people independent of the SAP – perhaps a judge like himself – because, the police in this case had come across as unreliable witnesses

The judge had seen top officers – a major and a brigadier – refuse to answer in the witness box “for fear of incriminating themselves”, he had seen police documents prove to be unreliable and he’d heard Mitchell fiddle with the truth – even after a professed deepening of his Christian beliefs while an awaiting-trial prisoner

Judge Wilson had heard about internal investigations that seemed to float up the hierarchy and evaporate and he’d heard about how the notorious unit had actively fostered violence – especially against those who opposed the government

One would have been forgiven, listening to Judge Wilson, for believing that Mitchell was merely a symbol of deeper rot in the SAP

Songs of jubilation rent the air outside the court immediately after Judge Wilson imposed 11 death sentences on Mitchell.

In addition to the death sentences – one for each murder – Judge Wilson imposed an effective three years’ imprisonment on each of two counts of attempted murder

Mitchell’s co-accused – “special” constables Cyprian Ngunbane, 21, Thabo Petrus Sikhosana, 29, David Marshall Khambule, 26, and “special” sergeant Roy Ndwalane, 27 – were each sentenced 12 years in respect of each of the 11 counts of murder and three years

The people
jig for joy
but a judge
wants to
know more

for each of the two counts of attempted murder

However, their sentences will run concurrently, meaning an effective imprisonment of 15 years each.

After sentencing, some members of the Trust Feed community launched into an impromptu celebration outside the court, singing freedom songs and chanting slogans.

Among them was Nomagoli Zulu, a lucky survivor of the massacre on December 3 1988 in the rural settlement tucked away in the Natal midlands. The settlement is close to the small town of New Hanover and Mitchell was its station commander.

Zulu, now crippled, uses crutches to get up and about.

Describing Mitchell’s sentence as “appropriate”, Zulu added that the sentences on the “specials” were “a bit lenient considering the fact that they were the ones who actually pulled the triggers”.

Phillip Shange, a member of the UDF-inclined Trust Feed Crisis Committee which was the target of the SAP operation, said. “We expect more dirt to emerge should there be further investigations into police behaviour”

To this day, many people who fled Trust Feed at the time of the massacre have not returned home as they still fear attacks from Inkatha and the police

“We have become squatters in other people’s areas because of the police,” said Lucy Khanyile “We demand more investigations into police behaviour by bodies independent of police influence, so that

our safety is guaranteed. At the moment we can’t go back.”

Passing sentence Judge Wilson said it was difficult to imagine a killing that contained as many aggravating factors as this case.

He said he and the two assessors had not been impressed by the evidence of criminologist Irma Louise Labuschagne who testified in mitigation of Mitchell’s sentence

Judge Wilson said Labuschagne omitted the fact that Mitchell planned and led the attack

The judge said Labuschagne’s suggestion that Mitchell faced violence on a daily basis and was therefore vulnerable was grossly exaggerated

He said it was not necessarily true that Mitchell was a total victim of “Total onslaught” propaganda prevalent at the time.

Judge Wilson said he was confident that there had been a cover-up by members of the police after the massacre and he ordered an inquiry into:

■ The conduct of the first massacre investigating team headed by Capt Patrick Watrus;

■ Why Brigadier Christo Marx and Major Joseph van Zyl declined in the witness box to answer questions they believed might incriminate them;

■ Why the Commissioner of Police had seen fit to employ legal counsel for them,

■ Whether it is desirable for members of the police to involve themselves in the Joint Management Committees whose task was, according to Mitchell, to destroy organisations opposed to the government and to install those which supported government,

■ Why the police sided with – even murdered for – political organisations favouring the government (in this case Inkatha), and

■ Whether similar anti-UDF operations had been committed by the SAP’s Riot Unit

Judge Wilson said a police departmental inquiry into a cover-up as promised by the Commissioner of Police would not be enough

He said: “It (the inquiry) should be conducted by independent people... someone who can summons before him members of the police.”

Disbelief at release of 'killer cop'

STAR 41892

Political Correspondent

g
n
t
t
r-
r-
ie
ie
n
is
il-
g
e
e
is
h
il
n

CAPE TOWN — People living in KwaMashu "cannot believe" that killer KwaZulu policeman Khethani Shange had been released from prison after serving just nine months of a 27-year sentence for murder, Peter Gastrow, the Democratic Party, MP for Durban Central, said today.

Mr Gastrow has put questions in Parliament to Adriaan Vlok, Minister of Correctional Services, about Shange's release

Shange was convicted by Mr Justice Gordon in May last year for his part in a series of murders of suspected African National Congress sympathisers in KwaMashu. Shange was a detective-constable in the KwaZulu police at the time

Mr Justice Gordon described him as a "beast in a policeman's clothes who was one of the main players in the reign of terror in KwaMashu"

Mr Justice Gordon said Shange was an aggressive person who attacked his enemies first

and enjoyed being popular as a killer and having people fear him.

Mr Gastrow asked Mr Vlok on whose authority Shange was released, if any conditions were placed on him, and if this early release was official policy.

Mr Vlok has promised to reply on Wednesday.

Mr Gastrow said "We are keenly awaiting an explanation from the Minister. It defies all logic to see someone like this released. I just cannot imagine what explanation the Minister can come up with."



11 | 1 | 1 | 1

d Kriel sends officers to interview judge

DURBAN — Senior police officers hope to meet Natal Supreme Court Judge J M Didcott today to investigate allegations that, in his view, SA policemen had "committed murders and crimes of violence" (252)

However, it is believed that the judge, who is on long leave, is in Britain

In a statement at the weekend Law and Order Minister Hennis Kriel said Didcott had been quoted in media reports saying "Enough has emerged from various legal proceedings to establish that some crimes of violence, that some planned murders, have certainly been committed by policemen"

8/10 day 4/5/72
Own Correspondent

His criticism came in a speech delivered at Wits University last week after he had received an honorary doctorate (252)

Kriel said "I have therefore requested the Commissioner of Police to arrange on Monday to obtain the necessary information from the judge" (252)

Meanwhile Didcott has said the Minister should "read the court records" on police behaviour after being told Kriel had ordered police officers to interview him about his comments

The judge said "The Minister appears to have misunderstood my statements which were based on

legal records and not on any private knowledge"

In his speech Didcott said SA was paying the price for legislation which put the police force above the law, equipping it with vast powers and shielding its activities from scrutiny and indemnifying its members against accountability for unlawful behaviour

"We are paying the price for legislation which puts the police force above the law, or at the very least beyond the law's effective reach, equipping it with vast powers, shielding its activities from scrutiny and indemnifying its members against accountability for unlawful behaviour"

DP quizzes Vlok on policeman's release 252

ARG 4/5/92

Political Staff

PEOPLE living in Kwamashu near Durban "cannot believe" that killer policeman Khethani Shange has been released from prison after serving just nine months of a 27-year sentence for murder, Mr Peter Gastrow, the Democratic Party MP for Durban Central, said today.

Mr Gastrow has put questions in parliament to Mr Adriaan Vlok, Minister of Correctional Services, about Shange's release.

Mr Gastrow asked Mr Vlok on whose authority Shange was released, if any conditions were placed on him, and if this early release was official policy.

Mr Vlok has promised to reply on Wednesday.

Shange was convicted by Mr Justice Gordon in May last year for his part in a series of murders of suspected African National Congress sympathisers in Kwamashu. Shange was a detective constable in the Kwazulu police at the time.

Mr Justice Gordon described him as a "beast in a policeman's clothes".

Mr Gastrow said today: "There is no rational explanation I can imagine to let a hardline criminal loose on such a community after such a short period. I can only regard such action as reckless. It amounts to a condonation of criminal operations in society."

"People cannot believe it."

"We are keenly awaiting an explanation from the minister."

Vlok will tell why 'beast' was freed

Sowetan 4/5/92
CORRECTIONAL Services Minister Mr Adriaan Vlok will on Wednesday give a full explanation on why a policeman serving a 27-year jail sentence was released after only nine months.

A spokesman for the Department of Correctional Services at the weekend responded to reports on the early release of KwaZulu policeman Khetham Shange, who was jailed for a series of brutal murders and described by the trial judge as a beast.

The department described Shange as a "political prisoner" and said "Shange, like many other political prisoners, was released in terms of

Section 63 of the Act on Correctional Services"

"It can furthermore be mentioned that a question in this regard has been put on Parliament order papers. The Minister of Correctional Services will deal with this matter on Wednesday in Parliament when a full reply will be available."

Meanwhile, Lawyers for Human Rights have attacked Shange's early release and said it would refer the matter to State President FW de Klerk.

LHR said the release could only have occurred with the direct intervention of De Klerk, using the powers of the Correctional Services Act or the Constitution, or, by his Minister without his authorisation

(252)
LHR said the release shamed the Government and highlighted the need for an interim government to as early as possible. Shange's release was just a small part of a pattern of preferential treatment for convicted policemen, it said.

The matter was all the more extraordinary given the Government's continued refusal to release the remaining political prisoners.

LHR said it would refer the matter to De Klerk, the Chief Justice, the Goldstone Commission, the Peace Secretariat, Codesa and Vlok with a view to the redetention of Shange and to re-evaluate the fitness of Vlok for the position he holds - SA Press Association.

Mitchell to hang for Trust Feed murders

252

Sowetan 4/5/92

FORMER New Hanover police station commander Brian Mitchell was last Thursday sentenced to death on 11 counts of murder by a Maritzburg Supreme Court judge for the Trust Feed massacre

Special constables Dumisane Ndwane, Kehla Ngubane, Thabo Sikhosana and Marshall Khambule were each sentenced to an effective 15 years in jail for their part in the killing of 11 people at a vigil at Trust Feed in December 1988

Mr Justice Andrew Wilson passed the death sentence on Mitchell 11 times and sentenced him to three years imprisonment on each of two counts of attempted murder

The special constables were sentenced to 12 years' imprisonment each to run concurrently in respect of each count of murder. He further sentenced them to three years to run concurrently on each of two counts of attempted murder - effectively jailing them for 15 years

Wilson said in Mitchell's case aggravating factors far outweighed mitigating circumstances

He said Mitchell's case was one where the citizens of the country could demand the most severe form of punishment and "I am of the view that the death penalty is called for"

The court found Mitchell had planned to attack United Democratic Front supporters in an attempt to weaken that organisation and bolster Inkatha

Mitchell had, however, pointed out the wrong house.

The judge said he had not overlooked sentencing Mitchell to life imprisonment but this "would not be an adequate sentence in the circumstances of the case"

Sapa

*See pages 5 and 11

1
G
E
8
A
ite

Trust Feed probe 'sabotaged'

"I ENTERED the room and went through the doorway from which the young man had emerged."

"In this room was a bed which had obviously been slept in. There was a machine-carbine lying on the floor and a small notebook on the bedside table."

It was midnight, July 30 1991, the day Major Frank Kennan Dutton officially took over the Trust Feed investigations. He was at the "Whitehouse", a building in Mpumalanga township used by the police to house special constables.

Earlier that day, Dutton had driven to Pretoria to meet South Africa's CID chief, General Ronnie van der Westhuizen. He told the general that he knew the whereabouts of the special policemen implicated in the Trust Feed killings.

The old dockets were handed over to him, seemingly reluctantly. He was told that should he arrest any policemen involved, he should not oppose bail and ensure that they were all represented by a single advocate, so as to avoid conflicting versions in court.

This was the first hint of interference in his investigation. Unbeknown to Dutton, there had already been moves to sabotage the case. Captain Brian Mitchell had already been alerted to the fact that the Trust Feed investigations had been resurrected, and the special policemen who had carried out the massacre had been sent into hiding on Na-



MAJOR FRANK DUTTON

tal's South Coast

On arriving back at his base, a farm in Warburg, he roped in a team of eight detectives and planned their first move.

At 11 pm, they proceeded to Mpumalanga, to the "Whitehouse" where they expected to find the suspected special policemen.

The gates to the "Whitehouse", which is surrounded by a high fence, were locked. The detectives sounded a car's hooter, turned on their blue lights, and called out.

Eventually a young man came out of a side room. He said he would open the gate, but then disappeared up the drive, scaled the fence and ran off into the darkness. In time, an old woman came

out and opened the gates

In the side room, Dutton found the carbine and the notebook with the name BR Makhathini on it (Makhathini was one of the special policemen who had been dispatched to Trust Feed in 1988, he did not take part in the massacre, and was called to testify as a State witness).

The team then went to another section of the township where they found one of the accused special policemen, David Khambule (accused number 7), in bed with a girlfriend.

"I warned him in terms of Judge's Rules," said Dutton.

Khambule told the detectives that on July 26, a few days before the meeting with Van der Westhuizen, two KwaZulu government officials had arrived and taken him and the other special constables into hiding at an Inkatha chief's home on the South Coast.

The men had apparently been sent by a Colonel Mzimela in Ulundi, who had learned from senior SAP officers that the Trust Feed investigations were about to begin.

Khambule and Makhathini had returned from their hideout to visit their girlfriends.

The detectives proceeded to Chief Calakubo Khawula's home. Khawula invited them to search his home. They found no special policemen. Khambule called Dutton aside and told him that they had been staying in the tribal court. There, the detectives found special scr-

Some few 4/5/92

252

gant Roy Ndwalane (accused number 6)

Khawula was called to explain his conduct to the court. He said he had not been aware that the special policemen were wanted for a crime and thought that they had merely come for a friendly visit.

"I have so many policemen at my disposal to guard my home," he said. "They are supplied by the KwaZulu government. They are members of my KwaHlongwa tribe. They guard my home with G3 firearms and are trained to do so."

Statements

The arrested special constables subsequently made statements before a magistrate on August 2 1991. They admitted carrying out the massacre, but said they had been obeying Mitchell's orders.

That same day, Dutton visited the Maritzburg Riot Unit. He said when he informed the operational officer in charge of special constables, Captain Jacobus van den Heever, of the latest developments, the man's face dropped. "He went white. The expression fell from his face and he said to me 'Jy jok Di Kan nie wees nie'." Until this stage, Dutton did not have reason to suspect Van den Heever.

On the same day, Dutton received a warrant of arrest for Mitchell. Arresting him was one of Dutton's hardest mo-

ments

Thereafter, Van der Westhuizen and two CID top brass, a Colonel Langenhoven and a Captain Krivinger went to Natal from Pretoria and interfered with Dutton's investigation.

Among other things, they visited the accused policemen in prison, taking statements from them, contrary to standard legal procedures.

They were doing more than just assisting him, Dutton told the court. When asked if they were sabotaging his case, he cautiously answered "I viewed it as a possibility."

Despite this, Dutton persisted with the case, and by the end of August had arrested the two other special constables involved in the massacre, as well as Riot Unit operational officers, Van den Heever and Sergeant Neville Rose, who had made arrangements for special policemen to be taken into Trust Feed in 1988.

And so began the most significant prosecution in the history of South Africa's "black-on-black" violence. The trial told a tale of how a community living at peace was disrupted and an established residents' committee ousted.

The massacre, the court found, was the final event in a security operation to change the local government structure of the area, and put Inkatha in control. This indeed happened, at the cost of 11 innocent lives - *Sowetan Correspondent*

'I watched people's court killing'

By Philip Zoio *STAR 5/5/92*

A Vosloorus woman yesterday told the Rand Supreme Court how members of a Katlehong "people's court" carried out a decision to kill two youths by hacking them with pangas and setting one alight.

Leticia Hlahane, testifying at the trial of 16 Katlehong residents on three charges of kidnapping and two of murder, said that on December 26 1990 a group of men armed with pangas arrived in Vosloorus.

They chased a group of youths and returned with John Mashilo Tshabalala and Bhuti Windstone Mokoena, whom they assaulted, bound with wire and threw into a Toyota bakkie, Ms Hlahane said.

Travelling with a neighbour, Ms Hlahane followed the bakkie

to Freedom Square in Katlehong, where the youths had been locked in a garage.

The group had gathered outside to discuss their fate, Ms Hlahane said. She did not observe who then said the two youths had to be killed.

A third youth, also allegedly kidnapped by the group, was set free. Mashilo and Bhuti were brought out and Phillip Mashumini (30), Hendry Tsoane (37) and a 16-year-old youth began to hack at Mashilo with pangas, Ms Hlahane said.

Mashilo fell on the tar road. His attackers continued hacking at him, Ms Hlahane said.

David Motsweni (18) had then brought a bottle of petrol, which he threw over Mashilo. Albert Khumalo (26) set him alight, Ms Hlahane said.

The group had then turned

their attentions to Bhuti, who had been assaulted and already lost consciousness. The 16-year-old youth had taken a large concrete slab and dropped it on Bhuti's head. He had then turned Bhuti on his back and said: "This dog is not yet dead."

Bhuti died in Natalspruit Hospital on January 7.

Mr Mashumini, Mr Khumalo, Mr Motsweni, Mr Tsoane, Solomon Radebe (44), Walter Selombo (21), Chabedi Makae (18), Griffiths Moletsane (23), Samuel Nhlapo (21), Victor Mapeka (28), Abram Madlala (18), Lawrence Motsamai (19), Johannes Makae (22), Hendrik Maneybody (18), Simon Mathe (18) and the 16-year-old, all of the Motlounge district of Katlehong, have pleaded not guilty.

The hearing continues.

'Battalion is not barbaric'

STAR 515172 252
Members of 32 Battalion, accused of having murdered, raped and assaulted Phola Park squatters on the East Rand, were not barbarians and were not capable of such acts, the Goldstone Commission of Inquiry heard yesterday

The officer commanding the platoon on April 8 when the incidents allegedly took place, Captain Mark Hermansen, said the accusations were an exaggeration to discredit 32 Battalion

Residents claimed that on the night of April 8, members of 32 Battalion murdered two people, raped three women, assaulted 47 people and were involved in four cases of malicious damage to property and two cases of theft

Captain Hermansen said the troops involved did not have the opportunity to commit such acts and the measure of discipline among them would have prevented such acts. He did concede that members of the battalion had been found guilty in the past in disciplinary

hearings unrelated to the Phola Park incident

He said on the day in question several faction fights and other incidents of violence had taken place which could have been the cause of the residents' injuries

"Who says the same people who were injured are not involved in the campaign against us? I am not even sure if you will find any injuries under all those bandages if you take them off"

The officer who was in command of the two platoons at the scene, Lieutenant Frederik Hendrik Ras, testified that on the night in question 32 Battalion had come under heavy automatic rifle fire, and in the process a sergeant was wounded

Lieutenant Ras said he saw no violence except for what he termed incidents of "heavy handedness". These included a resident being pulled by his clothes after he ran into a soldier, a resident being tackled when he tried to run away and a resident being forced to allow a search of his person — Sapa

Bar now calls for probe of Trust Feed 'cover-up'

By Guy Jepson

252

The General Council of the Bar of South Africa has added its voice to the call for an independent inquiry into the "cover-up" in the initial police investigation into the Trust Feed massacre.

GCB chairman, advocate Milton Seligson, SC, said last night the controversy "profoundly" affected the administration of justice in SA.

"The confidence of the public in law enforcement and how the criminal justice system works is at stake."

"The GCB is therefore convinced that an independent inquiry, as called for, by Mr Justice (Andrew) Wilson, is desirable in the public interest."

Passing sentence in the Trust Feed murder trial on Thursday, Mr Justice Wilson reiterated his call for a full independent inquiry into aspects of the massacre probe, as well as the involvement of police officers in "counter-revolutionary" strategies.

At the trial, former New Hanover police station commander Captain Brian Mit-

STAR 3/5/92

chell was sentenced to death 11 times for his part in the 1988 massacre. Four special policemen were sentenced to an effective 15 years each.

Yesterday, Lawyers for Human Rights national director Brian Currin repeated the organisation's support for Mr Justice Wilson's call and said an independent probe could lead to the uncovering of "many cases" of police involvement in cover-ups.

Asked to react to calls for an independent inquiry, SAP spokesman Lieutenant-Colonel Reg Crewe said the police had nothing to add to the statement made by the Commissioner of Police, General Johan van der Merwe.

On April 23 General van der Merwe said he had instructed Lieutenant-General Basie Smit "to launch a thorough investigation into this matter with the view to possible criminal and/or departmental steps".

The general said he would not tolerate "unprofessional investigations or any attempts at a so-called cover-up".

Sowetan 5/5/92
16 men
charged
with ~~murder~~
murder

By SONTI MASEKO

SIXTEEN men, including a youth, appeared in the Rand Supreme Court yesterday on charges of murdering two men, one of whom was allegedly set alight in Katlehong in 1990.

They have pleaded not guilty before Mr JC Labuschagne to two charges of murder and three of kidnapping.

The accused are Mr Phillip Mashini (30), Mr Solomon Radebe (44), Mr Albert Khumalo (26), Mr Walter Selombo (21), Mr Chabedi Makae (18), Mr David Motsweni (18), Mr Henry Tsoane (37), Mr Griffiths Moletsane (23), Mr Samuel Nhlapho (21), Mr Victor Mapeka (28), Mr Abram Madlala (18), Mr Lawrence Motsamai (19), Mr Johannes Makae (22), Mr Hendrik Maneybody (18), Mr Simon Mathe (18) and a 16-year-old youth.

They are alleged to have kidnapped Mr Oupa Selepe, Mr Mashilo Tshabalala and Mr Buti Mokoena on December 26 1990 and took them to a house in Motloung Section where they were assaulted.

Tshabalala was allegedly doused with petrol and set alight. Mokoena, who was allegedly hacked with pangas, died in hospital on January 7 last year.

Selepe, who survived the attack, told the court he and the two dead men were kidnapped by a group of about 40 panga-wielding men who forced them into a van.

He said their captors locked them up in a garage while they held a meeting to discuss their fate.

Kriel broadens probe into Trust Feed case

CAPE TOWN — Law and Order Minister Hernus Kriel has bowed to public opinion that an internal police inquiry into the Trust Feed case was insufficient

He has appointed former Regional Court president Willem Krugel to oversee the investigation into alleged irregularities in the police investigation into the massacre. Krugel will report to the Minister

But Kriel has still not opened the investigation, as called for by politicians, to a full independent judicial inquiry

The presiding judge in the Trust Feed case, Judge Andrew Wilson, called for an inquiry into an alleged cover-up by senior police of police involvement in the murder

Bl Day 6/3/92
BILLY PADDOCK

of 11 people at a vigil

Kriel said he had made his decision after Lt-Gen Basie Smit, who headed the team investigating the alleged irregularities, had held talks with the Natal attorney-general, and after he, the Minister, had seen the relevant portions of the judgment.

"I decided to appoint a retired Regional Court president to analyse all the aspects that arise in the investigation as well as the evidence discovered during the investigation and then to inform and advise me of the necessary further steps I should take,"

Kriel said

Krugel takes up his appointment today and the investigating team has instructions to afford him all the necessary assistance. Use will be made of all the usual powers in terms of the Criminal Procedure Act and the Police Act to obtain the relevant evidence

Kriel said "Mr Krugel will compile an extensive report at the end of the investigation and, with the exception of those areas where further legal action may be taken, the report will be made public"

Sapa reports that Krugel is at present a consultant with Unisa's criminal and process law department

CAPE TOWN —The Cape Town Supreme Court yesterday ruled illegal a strike by members of the SA Commercial Catering and Allied Workers' Union at Kentucky Fried Chicken branches nationwide since December

The owner of 22 Kentucky Fried Chicken outlets

Court declares strike illegal

8/10/92 6/5/92
in the western Cape, Transvaal and Natal had applied to the court for an interdict restraining staff members from striking

252
SJ and M M Hlcove cc had asked the court to declare industrial action at

some branches illegal and to order workers back
Acting Judge H P Viljoen said "serious irregularities" took place during the strike ballot "Here the nature of the irregularities points to fraud rather than mistake." — Sapa

Legislation to stop excessive tracing charges

May 6/1992
ANDREW KRUMM

GOVERNMENT is introducing legislation to prevent tracing agents from charging excessive amounts for work done in connection with the state-run Guardians Fund. (252) (S) (S)

Some agents have been accused of duping heirs, who are unaware of their inheritance in the fund, by claiming exorbitant commission for arranging payouts.

The Estate Affairs Amendment Act 1 of 1992 will allow the Justice Minister to set a regulation tracing tariff and impose a fine or imprisonment for contravention of the regulations.

Andre Roothman of Sanlam Legal Research said unscrupulous tracing agents were demanding "hefty commissions of between 30% and 40% of inheritance" for tracing beneficiaries through the Master of the Supreme Court's office

Roothman said in terms of the Administration of Estates Act the Master had to publish an annual list of unclaimed amounts of R100 or more in the Guardians Fund

Unclaimed amounts are forfeited to the State after a period of 50 years

In February this year R357m remained unclaimed in the Guardians Fund.

During the Bill's second reading debate in February, House of Representatives MP A J Roper, who said he had been a victim of "unscrupulous agents", said government was not attempting to kill off an industry, but was trying to stem a "tide of malpractices"

The Amendment Act will amend the Administration of Estates Act, 66 of 1965, and the Maintenance of Surviving Spouses Act, 27 of 1990, coming into operation on a date which will be set by the State President

Probe hears of hostel violence

By Peter Wellman

Evidence of violence centred on Inkatha-supporting hostels around Johannesburg dominated yesterday's hearing of the Goldstone Commission of Inquiry in Pretoria.

Several witnesses said previously peaceful townships became flashpoints after Inkatha amassed supporters at hostels, which virtually amounted to using them as military bases.

The evidence, which is yet to be tested, will be challenged later. What the commission was doing was simply listening.

The purpose was to get an overview of violence in three areas — Alexandra, Greater Soweto and the Vaal Triangle — and then to decide how best to investigate it.

Mr Justice Richard Goldstone explained when proceedings began at 10 am an overview would be provided by "knowledgeable persons about violence in any particular area on a report basis (the process) is not inquisitorial or adversarial. When we have established what the issues are, we frame terms of reference relevant to a particular area."

Yesterday's business was not an inquiry in which the commission would make decisions or a finding, he explained.

As with an earlier hearing about 32 Battalion and Phola Park squatter camp residents, the initial hearing would not include cross-examination, people were free to give evidence as partisans, and the commission was open to suggestions on lines of inquiry.

A legal source said yesterday that this approach democratised the whole concept of a judicial commission of inquiry, while the commission retained its independence.

252 STAR 6/5/92
Obad Bapela, ANC branch secretary in Alexandra, spoke of the violence in March, April and August last year and this year. Each of these flare-ups had been preceded by a massing of Inkatha members in the hostels in Alexandra, he said.

He supplied details on some of the 9 000 people he estimated had been uprooted by the violence, including people living near Madala hostel in Alexandra whose homes had been taken over by Inkatha supporters. The commission ordered that their identities be kept secret until it was established whether they would give evidence under the protection of the commission.

"We are strongly of the view that traditional and cultural weapons are extremely dangerous if the men in the hostels were to be disarmed, further bloodshed could be avoided."

Opposed

Mr Bapela also said "We are strongly opposed to the notion of any particular area being declared exclusive to any political organisation."

Max Mosselman, instructed by the IFP on behalf of Alexandra hostel dwellers, did not enter a written submission.

He agreed with a suggestion that the area needed a local peace accord, but said negotiation and agreement were more important than recrimination.

Judge Goldstone interjected "Assuming the allegations on behalf of the ANC are correct, and people had left their homes because of victimisation, must the commission not investigate, and right those wrongs?"

Mr Mosselman replied "Rather the matter was discussed and negotiated. Hostel dwellers were displaced, too. We need the co-operation of all parties involved."

The Rev Liz Carmichael, of

the Alexandra Interim Crisis Committee, did not appear, but wrote in an eloquent submission "It does appear to me that the IFP has made an effort to gain an area in and around the M1 (Madala) hostel where it will be certain of a block of votes, rather than to run a political campaign of a more conventional kind."

"I do not mean to exonerate any other group. Extortion and intimidation does seem to have been practised, and in some form or other continues to be practised, by various civic and political bodies."

"... But I note, in the open attitude of the IFP in particular, a marked tendency to speak of 'our strongpoint' and 'our area' and to defend it."

She proposed a local peace accord, policing, upgrading and new housing to replace the hostel.

A police submission, read by Captain A G Brits of Kew, said the violence was a result of an ANC-IFP power struggle, and that the SAP had been in the forefront of peace moves.

The Rev Peter Moerane of the Vaal Council of Churches, and the ANC's Floyd Mashele, gave overviews of the Vaal Triangle and Greater Soweto.

They strongly linked hostels to violence, and a thread criticising the police was present in both submissions.

The commission was urged to find ways of getting police to search hostels and confiscate weapons more often.

This stung Colonel Alexander Stapelberg, commanding the Soweto Stability Unit, to take the stand and say several allegations against the police were simply not true, and that the police were doing their best.

Mr Justice Goldstone said the investigation would continue when a decision on what to do next was announced. This would be done as a matter of urgency.

1
H
E
R
A
L
D
1
6
2
1
9
2
P
A
R
T
I
C
I
P
A
N
T

ANC alliance slams Kriel and denies his allegations

THE ANC and its allies yesterday struck back at allegations against the ANC made by Law and Order Minister, Hernus Kriel at Codesa on Monday.

"We consider the statement a distorted selection of incidents meant to discredit the ANC and others participating in Codesa," ANC delegate Prof Kader Asmal said at a news conference at Codesa.

Kriel berated the ANC, accusing it of a lack of commitment to peace. He said certain political leaders in the alliance had lost control over their members.

Nine organisations at Codesa yesterday registered their strong disapproval of Kriel's document and called for it to be rejected.

"The document is an attempt to absolve government of any responsibility for violence in SA and tries to downplay the public outcry against Trust Feed," Asmal said.

He questioned the timing and venue of Kriel's pronouncements, accusing the Minister of trying to divert attention from the Trust Feed judgment and of trying to stall Codesa.

"Government can't be allowed to hold up proceedings by such unilateral acts of bluster. There are other forums to raise these issues, the national peace accord and at bilateral talks. Whatever the motivation on the last day, but one of the proceedings of working group one, the ANC's view is that the progress report to go to Codesa II must not be hindered by this step."

Although there were still outstanding issues which still had to be dealt with in the working group, Asmal felt there had been consensus on many of 16 issues on the working group's agenda.

The eight organisations which sided with the ANC on the Kriel document are Transkei government, Venda government, Inyanza National Movement, Intando Yesizwe, SACP, Labour Party, NIC/TIC, and the United People's Front. — Sapa

it yesterday. He has removed in connection with the bombing ANC exiles' children. The NP has in the issue of violence. Picture AP



Public to learn more about life behind prison bars

(252) ARG 6/5/92

MICHAEL MORRIS
Political Correspondent

FOR the first time, South Africans are to be given a fuller view of life behind the bars of the country's prisons

Minister of Correctional Services Mr Adriaan Vlok yesterday announced a more lenient approach to interviewing and photographing prisoners and reflecting prison conditions

The more flexible applica-

tion of the Correctional Services Act — applied very strictly until now — was intended as part of the campaign to combat crime, he told parliament

Mr Vlok also announced a system of "weekend passes" for carefully selected, low-risk prisoners

Speaking in the correctional services budget debate, Mr Vlok said the new approach to opening prisons to public scru-

tiny would be handled carefully

Interviews and photographs of prisoners would be allowed under certain circumstances

"Important reservations are that prisoners must agree to be interviewed and that the interview will not be to the disadvantage of the prisoner, his family, his treatment and his eventual re-integration into society

"A prisoner will still not be allowed to tell his life story

and to make money out of it"

Democratic Party spokesman on prisons Mr Mahmoud Rajab welcomed the policy which he believed would bring South Africa in line with all major democracies in the world

This "signals a happy end to decades of grim confrontation and we hope and trust that it heralds a new openness between the government and the public over the way our prisons are run"

Prisoners buy freedom for R600 MP

PRISONERS were bribing their way out of Johannesburg's Diepkloof prison for a flat fee of R600, Mr Tony Leon (DP Houghton) has claimed. ARC 6/5/92

Speaking in the debate on the Correctional Services Budget Vote, he said that in 1991, 81 awaiting trial prisoners had escaped from Diepkloof — known to inmates as "Sun City" — and none had been rearrested.

It was said a prisoner could bribe his way out for R600.

The 81 escapers represented two thirds the number of awaiting trial prisoners who escaped in 1991 and there was a rate of recapture of between 80 percent and 100 percent elsewhere in the country.

● Some prisoners will be allowed out at weekends to spend time with their families.

Provision for this was made in terms of the Correctional Services Amendment Bill tabled yesterday.

Prisoners who did not return from weekend leave would be deemed to have escaped from prison.

ers
ape
ers
nd
ra-
the
res
ere
son
in
ng-
uy
ere
nd
ga-
ide
ant
on
re-
re-
e-
out
—

... followed,
soon broken by screams of
pain and panic.

Bastia players who had
been warming up on the
pitch rushed to open security
fences, allowing trapped
spectators to escape.

Helicopters and ambu-

stop stamping their feet.

One official described the
excitement in the stadium as
ominous.

"The atmosphere had been
overheated by a sensationa-
list press and loudspeakers
bellowing out decibels,"
he said — Sapa-Reuter-AP.

... nearly 10 million at
yesterday's Vaal race meet

Flowering Braes, winner
of the fifth race, was the
only favourite to score in the
Pick 6 legs. Second-favourite
Divine Moon won the last
leg, carrying only one ticket,
and netted the lucky punter
a payout of R904 009

Trust Feed analysis begins

Staff Reporters (252)

STAR 6/5/92

A former Regional Court
president has been appointed
by the Minister of Law and
Order to analyse alleged
cover-ups by police into
their investigation into the
Trust Feed massacre.

Hernus Kriel announced
yesterday the appointment
of Willem Krugel with effect
from today

His announcement fol-

lowed criticism that police
were probing the claimed
cover-up internally, rather
than acting on trial judge Mr
Justice Wilson's repeated
calls for an independent pub-
lic probe.

Mr Krugel was the asses-
sor to Mr Justice van Dijk-
horst in the controversial
Delmas trial in 1988. Then,
the Appeal Court quashed
the convictions of five, ac-
cused on grounds of irregu-

larities.

Sapa reports that yester-
day Mr Kriel said he had
taken the decision to appoint

Mr Krugel after Lieutenant-
General Basie Smit, who
headed the team investigat-
ing the alleged irregularities
in the Trust Feed trial, held
talks with the Natal Attor-
ney-General, and after he,
the Minister, had seen the
relevant portions of the judg-
ment.

R

Win a midweek holiday at Sun City — Page 12



IFP under fire at

Violence hearing

Sowetan 6/5/92

252

SOWETAN CORRESPONDENT

EVIDENCE of violence centred on Inkatha-supporting hostels around Johannesburg dominated yesterday's hearing of the Goldstone Commission of Inquiry in Pretoria.

Several witnesses said previously peaceful townships became flashpoints

after Inkatha amassed supporters at hostels, which virtually amounted to using them as military bases. The evidence, which is yet to be tested, will be challenged later. What the commission was doing was simply listening. The purpose was to get

an overview of violence in three areas: Alexandra, Soweto and the Vaal Triangle, and then to decide how best to investigate it. Mr Obed Bapela, ANC branch secretary in Alexandra, began with violence in March, April and August last year and this year each of these flare-ups had been preceded by a massing of Inkatha mem-

bers in the hostels in Alexandra, he said. He supplied details on some of the 9 000 people he estimated had been uprooted by the violence, including people living near Madala hostel in Alexandra whose homes had been taken over by Inkatha supporters. The commission ordered that their identities be kept

secret until it was established whether they would give evidence under the protection of the commission. "We are strongly opposed to the notion of any particular area being declared exclusive to any political organisation." He also said he saw cultural weapons as dangerous.

Unrestricted punishment intolerable, court told

STATE 715792

Court Reporter (2) 252

Society can no longer tolerate the "unrestricted application of corporal punishment" to children, the Rand Supreme Court heard yesterday as a civil action against the Minister of Education and Culture, a headmaster and two teachers drew to a close.

The father of a schoolboy, who was caned five times after exposing himself to girls in his class in November 1989, has claimed R13 742 for his son's "excessive and unjustified" punishment. The parties cannot be named to protect the identity of the boy, who is now in Std 9.

P Daniels, appearing for the father, said the norms pertaining to corporal punishment of pupils was changing, and the caning was "hopelessly excessive and unjustified".

He told Mr Justice J V Lazarus that the issue was not whether punishment should have been administered, but the way in which it was meted out.

"The child had to undergo medical treatment. The court cannot hold that a grown man

in a position of authority can punish a prank to the extent that it requires medical treatment," he said.

The boy and his family had told the court he had lain in bed for a week, could not attend school for five days and had blue marks on his buttocks seven months after the caning.

J du Toit, appearing for the defendants, said contradictions in evidence by the family indicated that the extent of the boy's injuries were exaggerated.

The teachers were entitled to inflict corporal punishment for the offence, which would have justified expulsion.

Mr du Toit said the boy might have been sent to a psychologist because of the nature of his offence, and not the extent of his punishment.

The boy's family had overreacted by "leaping to conclusions" about the caning, but showed little concern for the offence, he added. The teachers had spoken to the girls involved and decided on the punishment, he said.

The hearing continues.

Hostel dwellers appear in court

TWO alleged train attackers from Soweto's Merafe Hostel yesterday pleaded not guilty in the Johannesburg Magistrate's Court to a charge of murder.

Mr Icam Mazibuko (24) and Mr Michael Mnguni (25) have been accused of murdering Mr James Tsotetsi on a train between Jeppe and George Goch stations last year.

The case was postponed to June 17.

They also appeared with another hostel dweller, Mr Phineas Tshabalala (24), on a charge of attempting to murder Mr Willy Khubekha at Jeppe Station on March 19.

The attempted murder case was postponed to July 6.

My troops
returned fire,
inquiry told

252
STAR 11/5/77
An SADF officer told a committee of the Goldstone Commission that members of 32 Battalion opened fire in Phola Park last month after they were shot at by unknown people in the area.

Lieutenant Frederik Hendrik Ras yesterday told the committee, chaired by Solly Sithole, that his men opened fire after one of them was hit by gunfire.

Lieutenant Ras said about 200 shots were fired by his men on that night. He had about 60 men under his command and each of them could have fired between three and four shots.

Asked if they took into consideration the fact that innocent people might be injured or killed during the shooting, Lieutenant Ras said they did.

"We did not have a guarantee that the other party would stop shooting if we withdrew."

The hearing continues.
— Pretoria Correspondent

Law body suggests probe into Trust Feed be done by judge

(252)
Biday 7/15/92
STEPHANE BOTHMA

THE General Council of the Bar of SA yesterday insisted that the public interest required a full, public investigation into an alleged police cover-up in the Trust Feed massacre

The investigation should preferably be presided over by a judge or retired judge of the Supreme Court, council chairman Milton Seligson SC said yesterday in reaction to the appointment of retired Regional Court magistrate and Broederbond member Willem Krugel

Seligson said the appointment of Krugel by Law and Order Minister Hernus Kriel fell far short of the criteria laid down by the council

The appointment of Krugel followed criticism of Kriel's earlier announcement that a top police team would investigate claims that police covered up investigations into the murder of 11 people by five policemen at Trust Feed in December 1988

Finding the five policemen guilty last month, Judge Andrew Wilson called for a full independent inquiry into certain aspects of the manner in which the initial investigation into the massacre was handled

Krugel, who could not be reached for comment yesterday, was reported to have defended his appointment as "being in line with claims by Wilson that the situation did not require a full public inquiry, but certainly one conducted by someone other than the police".

He described the Broederbond as a cultural and not a political organisation

Krugel's Broederbond membership caused controversy in 1989 when he sat as an assessor in the Delmas treason trial in which 11 UDF members were convicted

Krugel was reported yesterday to have defended his membership of the organisation by saying that when he had joined the Broederbond in 1973, he had been assured that in trying to enhance the position of his own people (the Afrikaners), he would not prejudice anyone in any way

"Many Broederbonders have done much to normalise matters in SA," he said

General Council members yesterday would not elaborate on Seligson's reaction and could not say if the council would take any action regarding Krugel's appointment

Court asked to act on corporal punishment

COUNSEL for the father of a Randburg schoolboy who it is claimed suffered medical and psychological damage after he was caned by a teacher, argued yesterday that it was the court's duty to regularise corporal punishment

Advocate P Daniels made this submission during closing arguments before Judge J Lazarus in the Rand Supreme Court *Biday 7/15/92*

The boy's father who alleges the caning was excessive and unjustified, is claiming R13 742 damages from the Education and Culture Minister, his son's headmaster, the

(252) SUSAN RUSSELL
former deputy headmaster and the teacher who administered the punishment

The boy, who was 15 years old and in Std Six at the time, was given six cuts on November 13 1989 after he exposed himself to a number of girls at his school

His father alleges the youth was unable to sit or lie on his back for a week and had to have medical and psychological treatment after the incident

However, the deputy headmaster who was present at the caning said the boy's offence bordered on expulsion

Killer policeman released for ANC, Inkatha — Vlok

(252)
Biday 7/15/92
BILLY PADDOCK

CAPE TOWN — Special circumstances prevailing in SA last year were the reason government decided to release former KwaZulu policeman Khethani (Richard) Shange, dubbed "the beast" by the trial judge, Correctional Services Minister Adriaan Vlok said yesterday

He said he could not explain any further why government had decided to release Shange 36 days after he was sentenced to 27 years

"It was done not only for Inkatha but also for the ANC and it was done for the good of the country, the benefits which we are already reaping today," Vlok said

He stressed that Shange was regarded as a special case and not as a political prisoner. He said government's special release policy for 1991 was clearly set out. His parole was the same as that pertaining to any other prisoner, Vlok said

DARIUS SANAI reports that Lawyers for Human Rights (LHR) National Director Brian Currin yesterday said Vlok's explanation was inadequate and "stank of political scandal".

Currin said LHR members were at a loss to work out how Shange could have been released under current law

Vlok said earlier this week that Shange's early release was due to a computer error, and that he should have been released at the end of May. Currin said this explanation was equally unacceptable

Vlok also said earlier that Shange was released as a political prisoner under Section 63 of the Act on Correctional Services. But Currin said Section 63 had "nothing whatsoever to do with the procedures established by the Groote Schuur and Pretoria Minutes to effect the release of political prisoners"

s PC's whose brains are deable without you needing for a major operation And it m and a leg

unique ChipUp Technology 386SX PC's performance can ed whenever you desire

l a standard Intel processor t No need to go through the procedure of replacing an l And no chance of compli-

cerPower 386SX is upgrade-on instructions per second dible 8.8 MIPS. While the can upgrade to either a full 80486 system And since hology, the CPU chips fit ecially-designed mother-

Doubts continue over Trust Feed probe

Political Staff

STAR 715792

252

Law and Order Minister Hennis Kriel gave the assurance yesterday that there would be no cover-up of other possible criminal activity by police officers in the Trust Feed massacre.

But his appointment of former Regional Court magistrate Willem Krugel to oversee the internal inquiry falls far short of the criteria laid down by the General Council of the Bar of South Africa.

Reacting to the announcement by Mr Kriel of a fresh probe into the murders, Bar chairman Milton Seligson, SC, yesterday said his council in-

sisted that the public interest required a full, public investigation, independent of the police, preferably presided over by a judge or retired judge of the Supreme Court.

"The GCB is therefore convinced that an independent inquiry as called for by Mr Justice Wilson (passing sentence in the Trust Feed case in which five policemen were found guilty of murder) is desirable."

Legal sources yesterday expressed surprise at Mr Krugel's appointment and pointed to his Broederbond membership.

Mr Krugel was an assessor in the marathon Delmas treason trial, which started in Pretoria on January 20 1986 and ended three years later with the conviction of 11 United Democratic Front members.

Counsel for the 22 accused objected to Mr Krugel's membership of the Broederbond. The presiding judge, Mr Justice van Dykhorst, refused to dismiss Mr Krugel, but later dismissed the other assessor, Professor W A Joubert, after he admitted to signing a statement in support of the UDF.

A respected senior advocate, who did not wish to be named, said he was surprised at the appointment of Mr Krugel to lead the investigation.

Mr Krugel defended his appointment, saying it was in line with claims by Mr Justice Wilson that the situation did not require a full public inquiry, but certainly one conducted by someone other than the police. Dismissing attacks on his Broederbond links, Mr Krugel said that what he had said when he disclosed his membership at the Delmas trial still stood.

"When I joined in 1973 I was assured that in trying to enhance the position of my own people, I would not prejudice anyone in any way."

"Many Broederbonders have done much to normalise matters in South Africa." Mr Kriel yesterday praised Major Frank Dutton, whose "excellent" detective work had led to five fellow policemen being convicted for the murder of 11 people in the December 1988 shooting. Evidence at the trial was that the Joint Management System

— part of the Government's security network operating at the time — had wanted to counter the UDF in the Trust Feed area and bolster Inkatha. This had raised concerns that top generals in the police and defence force who served in the JMS knew about the shooting before or after it took place.

Lieutenant-General Basie Smit and Mr Krugel are looking into the initial police investigation. Mr Kriel was asked yesterday, at the Government's weekly briefing on Codesa, whether

the Government had the political will to prosecute top generals if follow-up investigations pointed fingers at them.

Mr Kriel said "I want to put it categorically that if any new evidence comes to the fore that can prove there has been criminal action by any member of the SAP, I will not hesitate to act against such policemen. "It must be remembered that Trust Feed is a very unhappy occasion for the SAP — not only the mere fact that policemen did this, but the fact that the investigation did not proceed as it

should have proceeded. "But," Mr Kriel said, "it must also be remembered that in the final analysis it was a policeman who did the investigation that led to the court case and to the eventual conviction of fellow policemen."

After the Trust Feed judgment, Mr Kriel said, the top management of the police had met and decided that General Smit should handle the probe. "I was informed of this. I did reserve the right, and told them so, that I may request them to do something more substantial, more impartial." After consultation with General Smit, Mr Kriel said he had decided to appoint Mr Krugel to conduct his own investigation.

Kobie Coetsee adds to his host of legal reforms

(252)

LIMITLESS fines and/or 25 years behind bars await intimidators and drug merchants, in terms of announcements by Justice Minister Kobie Coetsee.

In the recent two-day debate on his department's budget, lawyers were also sharply rebuked, for sky-high legal fees as Mr Coetsee added to a host of legal reforms he has introduced to South Africa's legal system in the last few years.

He said attorneys-general would be given the power to issue certificates to identify cases of political violence and intimidation initiating a special, hastened criminal procedure.

The certificate meant both the State and accused had to present their cases "within a reasonable time". The State would be obliged to issue the accused with a summary of facts of its case.

Mr Coetsee said the presiding officer would have to limit the hearing to the bare issues. He therefore envisaged a special pleading procedure.

The accused may not be granted bail without written permission from the attorney-general, who could also cancel the bail of those allowed it.

On the possession of automatic machineguns, he said a magistrate would be empowered to make out warrants of arrest for those suspected of having information on the possession of such weaponry, including explosives.

A suspect could be held for questioning, but had to appear before a magistrate within 60 hours and once every 14 days after that "to establish whether further detention is necessary".

Penalties in the Intimidation Act would be stiffened to a limit of less than 25 years.

Where the law at present required the act of intimidation to have taken place before a crime was committed, it would in future need only for the intended target of that intimidation to register fear.

Turning to private armies, Mr Coetsee said that anyone involved in the control or administration of them, as well as participants in those forces, were affected.

Bona fide security services, neighbourhood watches, or other organisations could be exempted.

The police commissioner could warn offenders in writing, if they continued, it could be presumed they intended to break the law.

All of these measures to curb violence and intimidation would last for a year, Mr Coetsee noted. Parliament would have to renew them after that.

On drug trafficking, he said new offences would be created.

● Making or supplying substances knowing or suspecting that they were to be used in the unlawful manufacturing of drugs

● Possessing property knowing that it was the proceeds of drug-related crime and

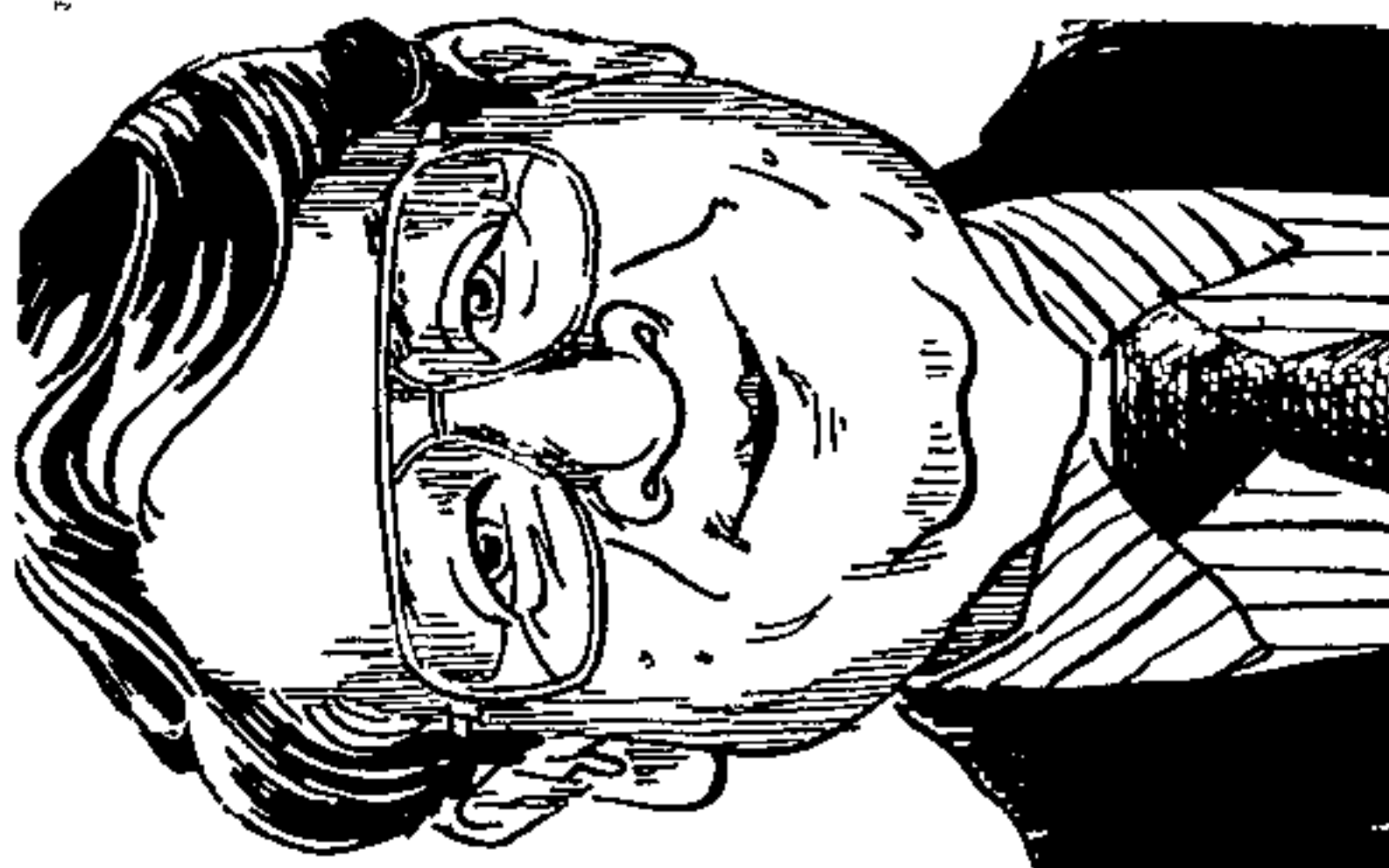
● Conversion of that property

Anyone convicted of offences in terms of the new Act faces any fine in the discretion of the court or to a maximum of 25 years.

Police powers of entering, search, seizure and detention for interrogation of people believed to be withholding any information would also be detailed.

Existing provision on forfeiture of property would be extended, and ways of recovering drug deal proceeds would be detailed. These measures were aimed at "depriving persons engaged in drug trafficking of the proceeds of their criminal activities and thereby eliminating their main incentive".

The new law would enable the government to sign the United



Tough steps planned by Minister Kobie Coetsee

National Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, which cleared the way for international co-operation against drug merchants.

Mr Coetsee further announced that foreign funding would be al-

lowed for political parties until six months after a general election in terms of a new, negotiated constitution.

Sunday movies would not be allowed, after the concession for last month's holidays, until Parliament debated legislation conferring the right to decide on them to local authorities.

Gambling for private gain would not be legalised, but games of chance aimed at benefiting education, health and welfare would, he said.

Magisterial fines were increased from May 1 to maximums of R20 000 in district courts (was R4 000), and R200 000 in regional courts (was R40 000).

On criticism of lawyers, Mr Coetsee said the issue of right of audience in the Supreme Court had been pending for too long. "The question arises whether the profession not be given a final opportunity to resolve their differences, whether the time has not arrived for the Government to take more definitive steps."

Urging attorneys and advocates to act urgently on this, he said he had asked the legal profession for its views on the right of appearance by attorneys in the Supreme

Court, and the reservation of certain work for attorneys.

"I am still awaiting a response," he said.

Mr Coetsee said he had in the meantime promoted pending legislation enabling attorneys to appear in the Supreme Court on pro deo matters and in divorce proceedings.

He was reacting to an indictment on the profession by Mr Tony Leon (DP Houghton), a lawyer, who said the profession needed to reform itself profoundly and urgently.

"Those of us who believe in the free market cannot complain of exorbitant advocates' fees. But what we can complain of are the closed shops, magic circles and cartels which go against the grain of free choice and accessibility to justice."

"I refer here to the monopolistic practices of advocates granting only themselves the right of appearance in the Supreme Court," he said.

Mr Leon said the Johannesburg Bar had in January voted 66 to 40 against even considering the principle of granting attorneys the right to superior court appearances. □

Kriel Sowetan 7/5/92 vows to reveal all

Sowetan 25/5/92
25/5/MAY

Correspondent
MINISTER of Police Mr
Hernus Kriel said yester-
day there would be no
coverup of other possible
criminal activities by po-
lice officers in the Trust
Feed massacre.

At the same time Kriel
praised Major Frank
Dutton, whose "excellent"
investigations had led to
five fellow policemen be-
ing convicted for the mur-
der of 11 people in the De-
cember 1988 shooting.

Evidence at the trial was
that the Joint Management
System - part of the Gov-
ernment's security network
operating at the time - had
wanted to counter the
United Democratic Front in
the Trust Feed area and
bolster Inkatha

This has raised concerns
that top generals in the po-

● To page 2

Trust Feed inquiry

Sowetan 7/5/92

● From page 1

lice and defence force who
served in the JMS knew
about the shooting before
or after it took place

Lieutenant-General
Basie Smit and retired re-
gional court magistrate Mr
Willem Krugel are looking
into the initial police inves-
tigation.

Kriel was asked yester-
day at the Government's
weekly briefing on Codesa
if the Government had the
political will to prosecute
top generals if follow-up
investigations pointed fin-
gers at them

Kriel said if new evi-
dence proved criminal ac-
tion by policeman, he
would not hesitate to act.

Cop held liable for man's death

252
Somafan
7/5/92

A JOHANNESBURG inquest magistrate yesterday ruled that a policeman was responsible for the death of a young Tembisa man who was shot through the head during a raid in December 1989.

The ruling followed chilling evidence by a witness on how, in the early hours of December 5 1989, Constable William Mothupi of Tembisa Police Station, held his service pistol against the head of Mr. Ralph Mokaba (24) and fired a shot

Instantly

The witness said the bullet went in below the left ear, came out through the right eye, grazed the wall and went out through a window

Mokaba died instantly

Mr VA Olivier ruled that Mokaba's death was caused by an act amounting to an offence by Mothupi

The finding would be sent to the Attorney-General to decide whether the policeman should be prosecuted for murder

Mokaba's case was conducted by Mr Ellém Francis of the Legal Resources Centre in Johannesburg

Mothupi and two of his colleagues had gone to a house in Tembisa about 3am on

By SONTI MASEKO

December 5 accompanied by another man

According to a witness, Mr. Clement Tshetlo, one of the people in the house, Greg Sithole, opened the door and Mothupi entered and immediately hit Sithole on his forehead with his firearm

He then went to Mokaba and asked him where he kept the knives. Mokaba, who was folding his arms and standing against a wall, did not reply

Mothupi then shot Mokaba on the left side of the head below the ear and assaulted Tshetlo, accusing them of rape

Tshetlo and Sithole were subsequently charged with rape but the charges were later withdrawn

Mothupi refused to answer questions yesterday, saying he feared incriminating himself

However, in a statement he made to a commissioner of oaths in October 1990 - 10 months after the incident - he had claimed that Mokaba had wrestled with him for his firearm

"I decided to shoot him because I realised he could disarm me at anytime and he would shoot me"

Parliament extends Indemnity Act

CAPE TOWN — The Indemnity Act was extended for another year with the approval of all three Houses of Parliament yesterday.

The Act, which was extended to May 17 1992 by the State President last year, needed the approval of all three Houses to be extended a second time.

Introducing the motion to extend the Act, Justice Minister Kobie Coetsee said so far 9 754 applications for indemnity or amnesty had been received.

Only 226 of these applications were still awaiting decisions by the indemnity committee, the Minister said.

The United Nations High

Commissioner for Refugees estimated there were still up to 10 000 exiles who wanted to return to South Africa.

The organisation said many of these would need to apply for indemnity from prosecution from criminal acts of a political nature (252) (252).

Without the extension, none of the applications already received, and pending a decision, would be able to be processed.

One of the reasons first offenders had been given amnesty at the same time as political prisoners was because many of them had been imprisoned for similar crimes, although not with the political motive

STAR 8/5792

'Hold me, I'm dying, my shot wife said'

252
2/1/83
Pretoria Correspondent

STAR 8/5/92,

A committee of the Goldstone Commission has heard how a Phola Park mother of three asked her husband to hold her in his arms before she died last month.

John Msimango yesterday told the committee — chaired by Solly Sithole — that his wife died after they were both shot while trying to go to sleep in their shack in Phola Park on April 8.

Mr Msimango said his wife — whose leg was severely injured during the shooting — had earlier gone to visit a neighbour.

When she came back she told her husband she had heard gunshots in a section of the squatter area. Because this was an area far away from them, Mr Msimango told his wife not to

worry

She later suggested they sleep on the floor and not on the bed. But before they could do this they were hit by gunfire. Mr Msimango was wounded below the knee and his wife in the leg.

He said they heard screams and people running near their shack and before they knew what was happening, they heard loud knocks on their door.

"I opened the door and saw a group of men in military uniform who immediately came into my shack," Mr Msimango said.

One of the men assaulted him with the butt of a rifle before he was thrown out of the shack.

"I told the men that my leg was injured but they did not care," Mr Msimango told the committee.

When he was thrown out of

his shack he went to seek help from one of his neighbours.

Because the area was cordoned off by members of 32 Battalion, most of the people were afraid to venture outside.

Mr Msimango told the committee that he waited for the men to leave before returning to his shack.

When he got there, his wife told him she had been raped and that their 12-year-old son, who was also in the shack, had been slapped in the face.

Mr Msimango said he tried to stop the blood flowing from his wife's injured leg but could not succeed.

A few minutes later his wife said, "Hold me, I am dying."

Because he was afraid to venture outside his shack, he waited until the next day before summoning help, Mr Msimango told the committee.

Millions may never be recouped

Govt officials

cheated and

lied judge

B1Dca7 8/15/92

252

252

CAPE TOWN — The now defunct Development Aid Department had been "rife with dishonesty and abuse", leaving a legacy of theft, corruption and maladministration costing millions in state funds that might never be recouped, the Pickard commission of inquiry has found.

In my view, the sooner the department and its satellites — the SA Development Trust and the SA Development Corporation — are physically dismantled, their staff transferred to all ends of the civil service earth and their functions distributed over as wide a spectrum as possible to as many other appropriate bodies as possible, with as few of the existing personnel moving over with the functions as possible, the better," Judge B De Villiers Pickard wrote in his report.

In similarly scathing language the judge catalogued, in his report tabled in Parliament yesterday, how a group of officials had enriched themselves through misconduct, bribery and theft.

His report was handed to government in September but not released. President F W de Klerk announced the abolition of the department in October and said that until police investigations were completed, the report would remain secret.

These investigations were now complete and, according to the ministry's former head, Regional and Land Affairs Minister Jacob de Villiers, about 20 dossiers were in the hands of the attorney-general.

De Villiers took over the department just before the inquiry was launched. The two previous Ministers responsible for the department were Stoffel van der Merwe and Gerrit Viljoen.

BILLY PADDOCK

De Villiers said only two members of the department, who were under suspension, were implicated in possible legal action. Others concerned were from the private sector.

In other instances officials who had been suspended were reinstated after being acquitted under the Public Service Act. Many of those concerned had now retired.

Pickard, referring to a Cabinet vote of confidence in what the department had done, said "It goes without saying that I do not share the alleged 'appreciation and confidence the Cabinet has in the expertise and high quality of service which officials of the Development Aid Department has rendered'".

He said self-preservation in the face of criticism had become "of primary importance, even to the detriment of the very cause itself".

Management was not up to its task, controls and control systems were grossly neglected and planning was inadequate.

Because of the weak record-keeping in the department, it would be impossible even to try to give an approximate figure of how many millions the state had lost. "I cannot put it better than to say that theft, dishonesty, fraud, negligence and irregular actions" resulted in losses "amounting to millions, if not billions, if it could be traced".

He said the time and money spent trying to trace the losses would result in higher costs than could be recouped. Pickard said malpractices had been covered up and whitewashed to such an extent.

To Page 2

'Cheated and lied'

B1Dca7 8/15/92

252

252

that the true facts were hidden even from the Minister. Indications were that about 10 officials were guilty of serious malpractices and criminal conduct.

There was ample evidence that these people — in co-operation with a number of different contractors, manufacturers, suppliers and others in the private sector — worked together in a corrupt manner to obtain benefits for themselves and those working with them.

Despite numerous investigations into and reports on the department's activities between 1984 and 1991, showing mismanagement and corruption, action was never taken.

He was under the clear impression that there was a reluctance to bring offenders to book.

Even police investigations progressed badly because people involved were in a position to make documents disappear and to intimidate lesser officials.

Sapa reports that the judge's other findings included that:

- A contract of R2m with the department was exceeded by about R12m and an R30 000 contract by more than R1m.
- A consultant had claimed nine hours' travelling time for each hour he spent on a departmental project;
- Some projects were grossly overused, such as powerlines at Soshanguve which were overloaded by up to 300% so they glowed in the dark, while other facilities such as an indoor stadium at Botshabelo and seven schools on the Makathum Flats were not used at all.
- A firm arranged and financed hotel

From Page 1

accommodation and a deep sea fishing expedition for a number of officials — who then claimed travel and subsistence costs as if they were at work elsewhere.

An official of the department hired an earthmoving machine to a private person, who then hired it back to the department.

Contractors were paid for houses that were never built.

Thousand of toilets were lying unused at settlement projects throughout SA in the wake of a toilet contract scam by two department employees.

R1.7m worth of wooden houses were bought for a resettlement programme in Ciskei when it was clear that the Ciskei government had already rejected them.

The daughter of the department's deputy director-general (development) had joined the department as an administrative assistant in November 1974 after qualifying as a teacher, had been a deputy director under her father since August 1989, "and will probably be promoted soon to director", and

A typist was promoted to deputy director because "she did grocery shopping for the director-general", helped decorate the kitchen at his home and collected his wife from the airport.

At a news briefing yesterday De Villiers said that there was obviously a lack of balance in the report because its terms of reference were to find what was wrong in the department.

If it looked at what was right, then there would have been lots of evidence of how much good the department had done.

Comment: Page 10

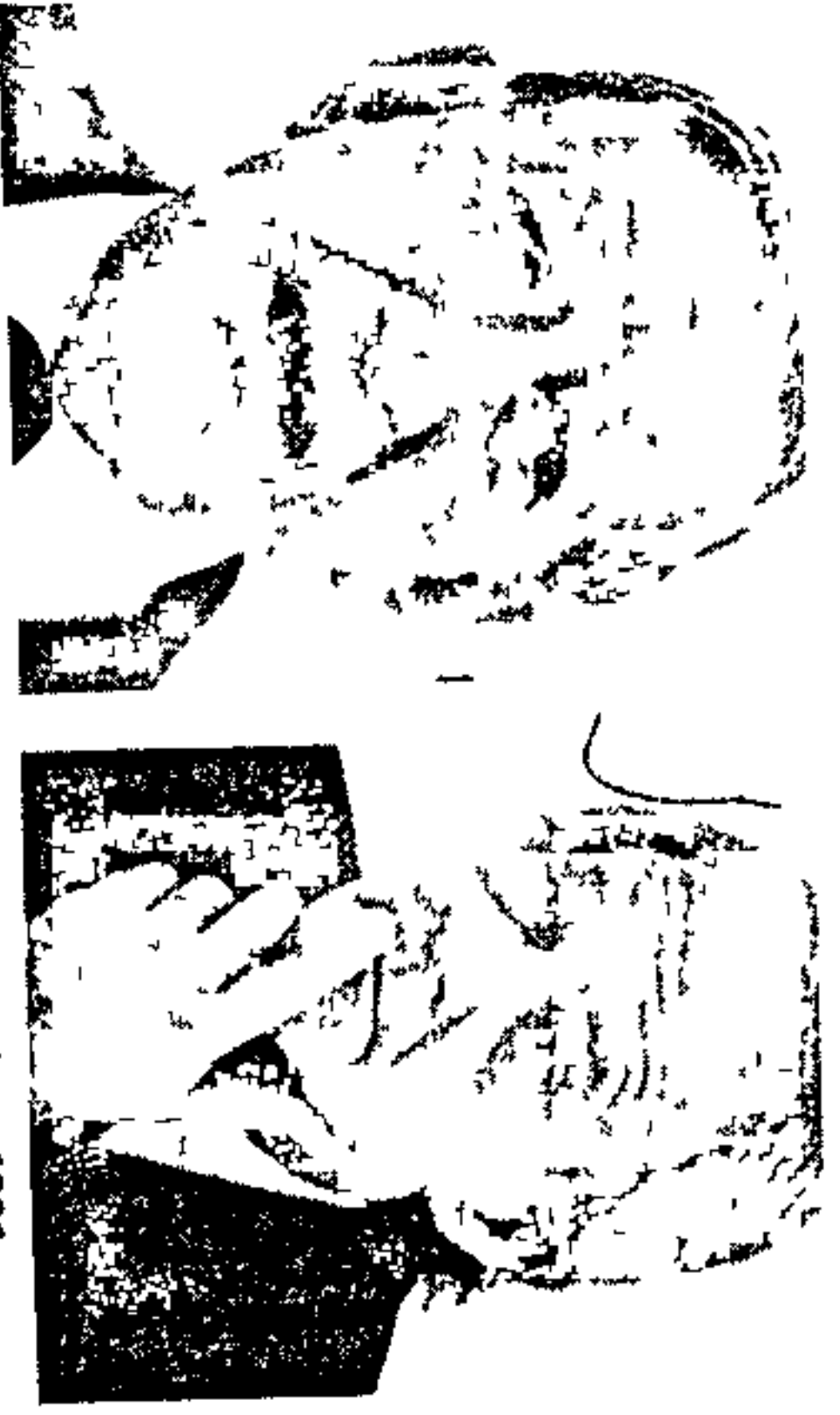
Billions Lost

Tale of huge theft,

Corruption in govt

By BARRY STREEK
Political Staff

A JUDICIAL commission yesterday exposed an orgy of corruption, theft and graft in a government running to billions of rands of taxpayers' money.



HEAD UNTIL 1984
Piet Koorhof

FROM 1990 to 1991
Stoffel van der Merwe

generally is so terminal by all that any effort to help it recover now will not be successful, and that the time has now arrived to turn off the life-support system."

Mr Justice Pickard, Chief Justice of the Giskei, said he did not share the confidence expressed last year by Mr De Villiers in the expertise and quality of officials in the department.

"Self-preservation and self-protection against criticism have become matters of primary importance even to the detriment of the very cause itself."

The commission said the corruption and mismanagement in the department involved "many millions, if not billions".

Among its findings were that:
● Senior officials had tried to suppress investigations into the department by auditor-general officials
● Department officials were given a free fishing trip by a company and then claimed expenses from the government.
● Thousands of toilets were involved had been erected even though they were not used.

The former director-general of the department, Mr Gilles van der Wall, is still employed by the government.
At a press conference yesterday afternoon, before the commission's report had been publicly released, Mr De Villiers denied that anyone was politically responsible for what had taken place.
His evaluation of the report was that "it comes out favourably and positively on all the office-bearers in the portfolio of Development Aid."

● R7m ghost town — Page 2

The Pickard Commission, whose report was tabled in Parliament yesterday, slammed the "dishonesty and abuse" in the Department of Development Aid, which was dissolved at the end of March.

The damaging exposures sparked an outcry in Parliament and have cast a cloud over the government's repeatedly proclaimed commitment to clean administration.

The Democratic Party said the government had again been involved in "a cover-up of incompetence" and the report had shown the department was "a massive gravy train" in which defects, dishonesty and abuse were rife.

The Conservative Party, which has called for a special debate in Parliament on the matter, said the political heads of the department at the time — Dr Piet Koorhof, Dr Gerrit Viljoen, Dr Stoffel van der Merwe and Mr Jacob de Villiers — had demonstrated they had been completely unable to end or restrict corruption.

Questions were being asked last night about the political credibility and future of Dr Viljoen who was the head of the Department of Education and Training at the time the irregularities exposed by the



HEAD FROM 1985 TO 1989 Questions were being asked last night about the political credibility and future of Dr Gerrit Viljoen, who was the head of the department at the time the irregularities took place

JUSTICE FM 8/5/92

Beyond a trial (252)

The death sentences received by former police captain Brian Mitchell last week, for his part in the Trust Feed massacre three years ago, are by no means the end of the matter. Hours after Judge Andrew Wilson handed

FM 8/5/92

CURRENT AFFAIRS

(252)

down the death sentence 11 times on the 34-year-old Mitchell in the Maritzburg Supreme Court on Thursday, statements came in endorsing his call for an independent inquiry into the alleged police "cover-up" and other questionable police activities.

Mitchell's co-accused — special constables Kehla Ngubane, Thabo Sikhosana, David Khambule and special sergeant Dumisani Ndwalane — were each given effective 15-year jail sentences for taking part in the murder of 11 people on December 3 1988.

Judge Wilson said the police inquiry called by police commissioner General Johan van der Merwe might not go far enough to satisfy the public where results are not made public. He recommended that an independent person be given powers to summons members of the SA Police and to have access to all documents.

The ANC Natal Midlands branch welcomed the judgment and sentence and felt "greatly vindicated in our assertion that the SAP, in collusion with Inkatha, have committed unspeakable atrocities against our people." It endorsed the judge's call for an independent commission of inquiry. "A police internal inquiry into the cover-up will be farcical since the police cannot be trusted to investigate themselves."

The ANC, however, rejects the death penalty and would have preferred a life sentence.

Judge Wilson made special mention of a Colonel Mzimela of the KwaZulu police who, it emerged in court, told the special constables to go into hiding after the massacre. He said it should be ascertained which member of the SAP "tipped off" the colonel and Mitchell of the pending investigation by Major Frank Dutton in July last year.

The part played by the government's Joint Management Committee security system — which Mitchell used in Trust Feed to oust the United Democratic Front-aligned resident's committee — and Mitchell's involvement in setting up a rival Inkatha-based organisation, also need to be scrutinised, said the judge.

It is clear that the conspiracy of silence which Judge Wilson has spoken out against, backfired. Had the matter been thoroughly investigated at the time, and the policemen brought to trial, Trust Feed would by now be history — a case to refer back to in the event of similar crimes.

Instead, it has culminated into one of the most damning pieces of evidence of police involvement in political strife.

The saga continued on Saturday when Law & Order Minister Hernus Kriel said he had asked General van der Merwe to investigate allegations by another senior judge from Natal, Justice John Didcott, against the SAP.

The judge, in a clear reference to the Trust Feed case, was speaking at Wits University last Wednesday after receiving an honorary law doctorate. He said it was shocking that some policemen were "certainly" involved in violent crimes and murder, "acting in defi-

CURRENT AFFAIRS

(252)

FM 8/5/92

ance of the very law which you and I employ them to uphold. And that is especially shocking.

"We are paying the price, however, for legislation which puts the police force above the law, or at the very least beyond the law's effective reach, equipping it with vast powers, shielding its activities from scrutiny and indemnifying its members against accountability for unlawful behaviour," said Judge Didcott.

It was a truism, he added, that power corrupts and absolute power corrupts absolutely. "And that is exactly what we have seen in the case of some policemen. To reassert the law's control over the police force, to ensure that it, too, is governed in the future by the rule of law and tightly governed, is one of the most pressing tasks which lawyers should set themselves," he said.

□ Former Mooi River SAP station commander Lt George Nichas on Wednesday pleaded not guilty to murdering two people and attempting to murder three others in Bruntville township in 1990. He has been suspended from the force and is out on R3 000 bail. ■

Lawyers act on early release

B10 21
815192 STEPHANE BOTHMA

252

LAWYERS for Human Rights (LHR) was working on a court application relating to the early release of murderer Khetani Shange, the organisation said yesterday.

The possible court action followed investigations into the legal position regarding the re-arrest of prisoners released on parole, LHR director Brian Curren said.

Shange was released after serving nine months of a 27-year sentence for killing three members of an ANC supporting family in KwaMashu.

Legal sources said yesterday it was the right of any citizen to apply to a court to review the early release of a prisoner.

The row about the release of Shange deepened after Correctional Services Minister Adriaan Vlok admitted that Shange was not a political prisoner.

Vlok said in Parliament the release after nine months, and not a year, had been the result of an "administrative computer error".

Shange also had to sign an undertaking not to threaten family members of his victims before he was released.

assets which Chivaveu claimed to have

Caning case judgment reserved

JUDGMENT was reserved in the Rand Supreme Court yesterday in a R13 472 damages claim brought against the Education and Culture Minister by a Randburg man who claimed his son had suffered medical and psychological damage after he was given an "excessive caning". The boy was given six cuts by a teacher in November 1989 after he exposed his buttocks to a group of girls at his school.

252

Accused 'too sick' for court

AN ACCUSED in the trial of 11 men who allegedly went on a stabbing spree near Durban's beachfront in 1990, told a Durban Supreme Court judge yesterday he was too sick to attend court. Proceedings were halted for the day soon after the trial began. Howmore Ngcobo, who refused a medical examination, said "The illness has been given to me by God — God will make me better. God has told me I will be better at 3.41 this afternoon."

Brochures 'not pornographic'

THE Publications Appeal Board has found that brochures published by naturist Beau Brummel to market his nudist resort internationally were not pornographic or undesirable as found by the Publications Control Board. But police are continuing an investigation against Brummel. He was arrested in February in connection with allegedly possessing pornography.

REPORTS Business Day Reporters, Own Correspondent.

METAIR INVESTMENTS LIMITED



Reg No 05/31013/06
(Incorporated in the Republic of South Africa)

DECLARATION OF ORDINARY DIVIDEND No 42

NOTICE IS HEREBY GIVEN that a dividend of 74



Mandela to move

Sowetan 8/5/92
ANC president Mr Nelson Mandela is moving to the plush northern suburbs of Johannesburg, the organisation's publicity department said yesterday.

ANC spokesman Mr Saki Macozoma said for security reasons he was not willing to disclose the address or suburb of Mandela's new home.

He said Mandela had been subjected to threats to his life in the past.

"It is our fervent hope that in consideration of that reality and his need for privacy the media will exercise restraint and not give undue publicity to his address," Macozoma said.

Vlok's explanations inadequate - LHR

Sowetan 8/5/92
THE "feeble explanations" by Minister of Corrective Services Mr Adriaan Vlok for the premature release of killer Khethani Shange were "inadequate, confused and insulted the intelligence of the public", Lawyers for Human Rights have said.

LHR national director Mr Brian Currin said in Pretoria Vlok had said former KwaZulu policeman Shange had, "like other political prisoners", been released in terms of Section 63 of the Act on Correctional Services.

Shange served only nine months of a 27-year jail sentence for a series of murders, including that of a family and a three-month-old child in KwaMashu, Durban, 1990.

But, Currin said as far as he was aware Section 63 had nothing to do with the procedures established as a result of the Groote Schuur and Pretoria Minutes to

release political prisoners.

He said Vlok had indicated that the scheduled release date of Shange had been decided upon by Justice Minister Kobie Coetsee a mere 36 days after Mr Justice Gordon had told Shange there was "little hope for your reformation. You are, in my view, a beast in policeman's clothing" and that Shange would be "removed from society for a considerable period of time".

If Vlok's information was true, this demonstrated, at the very least, Coetsee's contempt for the judge's directive, Currin said.

LHR had requested lawyers to determine whether Shange could be re-incarcerated if he had been unlawfully released.

People at KwaMashu lived in fear of their lives since Shange's release and some had left the area, Currin said.

252

Goniwe probe called

Goniwe
FROM PAGE 1

political leaders under whose ministerial authority these officers operated"

Goniwe was a Cra-dock teacher and regional organiser of the UDF at the time

He and three political colleagues, Calata, Sparrow Mkonto and Sicele, Mlawuli, disappeared after they left Port Elizabeth for Cra-dock in June 1985, two weeks after the message was transmitted

Their burnt-out car was found behind a bush off the Addo road the next day. Five days later their charred bodies were found in a clearing between St George's Strand and Bluewater Bay

An inquest held in February 1989 found that their deaths were caused by a person or persons unknown

The alleged military signal, a copy of which Holomisa sent to De Klerk, said wide local and national reaction could be expected to the proposed action against Goniwe and his fellow-activists because of their importance to "the enemy"

The reaction could include "interdicts, such as recently with the disappearance of Godolozi, Hashe and Galela (Pebo officials), reaction of leftist politicians such as Molly Blackburn, protest, as in the case of Oscar Mpeha, in sympathy"

Military experts said last night that the alleged signal had been written on the standard military form and appeared to be authentic

However, they said the form could have been available to large numbers of military personnel

According to the form, the signal was sent by L du Plessis, the senior staff officer at Eastern Province Command

Military sources confirmed last night that an officer named L du Plessis, now retired, had been the senior staff officer, intelligence, at Eastern Province Command in 1985.

They also confirmed that Van der Westhuizen, who was in charge of Eastern Province Command in 1985, was now head of the SADF's Military Intelligence.

The form said the signal was sent from the Eastern Cape Joint Management Centre. Joint management centres at that time existed around the country, were invariably commanded by military officers and together formed the shadowy National Security Management System — now supposedly disbanded

Its ostensible aim was merely to co-ordinate security force and other Government action in the townships.

But it was widely suspected of involvement in actions, such as the Goniwe slaying, as part of the "total strategy" against the ANC's perceived "total onslaught"

Democratic Party President's Councillor James Selfe, an expert on the system, said yesterday that the latest accusations did not surprise him.

Selfe said the signal seemed authentic but that further proof was required

Other military experts said one way to establish the authenticity of the signal was to examine the signal logs of Eastern Province Command or the Eastern Province Joint Management Centre

The alleged signal was numbered 191 and it should be possible to establish from the log what signal had been sent under that number. Security sources expressed extreme scepticism about the alleged signal and said the security forces would hardly have committed such orders to writing



FW orders urgent

inquest into slaying

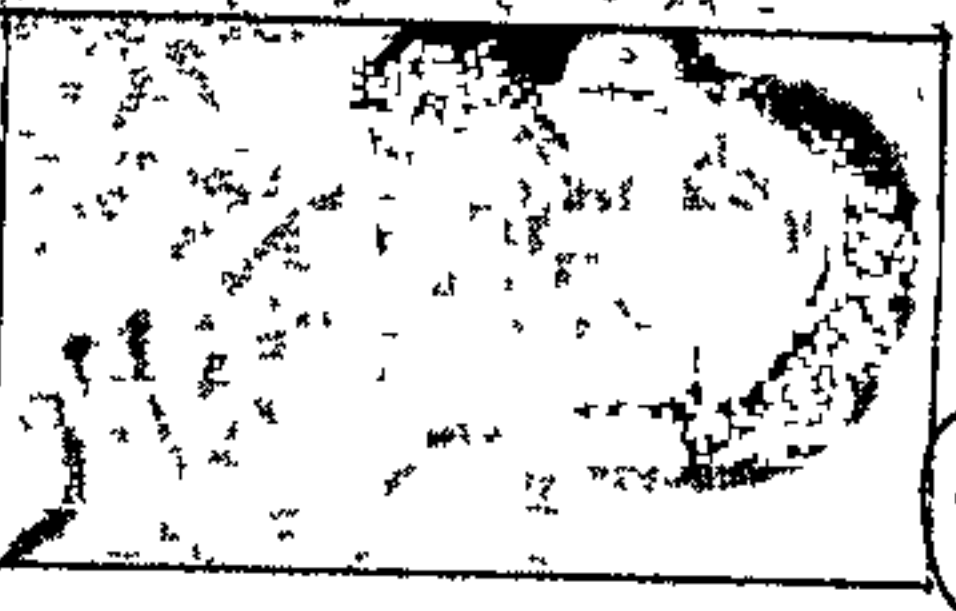
CAPE TOWN

President de Klerk last night ordered a new judicial probe into shock allegations that senior military officers ordered the 1985 assassinations of Matthew Goniwe and three other United Democratic Front activists.

De Klerk announced that the inquest into the deaths would be reopened and would be conducted by Eastern Cape Judge President NW Zietsman

He said the Government viewed the matter in an extremely serious light and that the eastern Cape attorney-general and senior police officers were already investigating the case "on the basis of extreme urgency"

De Klerk's swift move came after Transkei military leader General Bantu Holomisa on Thursday sent him a copy of an alleged signal from the then eastern Province SADF chief, Brigadier CP van der Westhuizen, to a General



MURDERED UDF activist Matthew Goniwe

PETER FABRICIUS Political Correspondent

van Rensburg in the secretariat of the State Security Council

The signal, dated June 7 1985, proposed that Matthew Goniwe, Mbolelo Goniwe and Fort Calata should be "permanently removed from society as a matter of urgency"

Two weeks later, Matthew Goniwe and three other members of the UDF-affiliated Cra-dock Residents Association were found dead in the eastern Cape

Holomisa demanded that the persons involved be brought to justice and that De Klerk insist that all the members of the State Security Council in 1985 publicly account for the disappearance of the

The ANC said there was now "compelling evidence indicating high crimes, of extreme gravity, on the part of members of the SAP and other security forces"

The ANC said "a large measure of responsibility also devolve on the

Crimes

The ANC said in a statement that the report carried in the New Nation "finally provides concrete confirmation of the worst fears of many democratic activists"

The ANC said there was now "compelling evidence indicating high crimes, of extreme gravity, on the part of members of the SAP and other security forces"

The ANC said "a large measure of responsibility also devolve on the

TO PAGE 2

STAR 915792

TOWN LIBRARY

Lack of balance in enforcing law - judge

252
STAR 9/15/92

OWN CORRESPONDENT

CAPE TOWN — A "lack of balance" in law enforcement was criticised by a Supreme Court judge yesterday when he condemned the jail sentence imposed last year on a woman for running a brothel.

Mr Justice H C Nel said time and manpower had been wasted in obtaining the conviction of Elphia Butler, of Welgemoed, Cape Town, while "roaring lions stalked outside".

Dozens of people were murdered every weekend, rape abounded and insurance premiums rocketed because of car theft and housebreaking.

The judge said "Yet those crimes are not thought as serious as masturbation for pay".

In setting aside Butler's eight-month sentence, Mr Justice Nel said the original trial had lasted 55 court hours over 18 months. Butler was found guilty of keeping a brothel at Sun Health in Burg Street between December 30 1987 and June 30 1989.

"In the salon, masturbation was provided on request by women. This was apparently seen by the police, the prosecutor and the magistrate as a terrible crime," said the judge.

"This is yet another example of the lack of balance one sometimes finds in law enforcement in South Africa."

But the running of a brothel was a crime, according to the law. Someone who ran a brothel was guilty of an offence.

Mr Justice Nel said Butler had taken part in the activities at the premises from time to time, but the question was whether that came down to participating in the "running" of a brothel.

"In my opinion she did not have control over the salon and the State did not prove its case beyond reasonable doubt."

Mr Justice Thring concurred. M Broeksma appeared for the State and D Uys for Butler.

Judge attacks wasteful brothel sex prosecution

ARG 9/5/92

(252)

A SUPREME court judge has slammed a "lack of balance" in law enforcement, criticising a jail sentence imposed on a Welgemoed woman last year for running a brothel.

Mr Justice H C Nel said time and manpower were wasted in obtaining the Cape Town Magistrate's Court conviction last year of Mrs Elphia Butler while "roaring lions stalked outside"

"Dozens of people" were murdered every weekend, rape abounded and insurance premiums rocketed due to car theft and housebreaking

Yet, the judge said, "those crimes are not considered as serious as masturbation for pay"

Before setting aside Mrs Butler's conviction and eight-month jail sentence on appeal yesterday, he said the original trial had lasted 55 court hours and ran for 18 months

LIBBY PEACOCK
Supreme Court Reporter

In January last year, Mrs Butler was convicted of contravening the Sexual Offences Act by keeping a brothel at Sun Health in Burg Street, Cape Town, between December 30 1987 and June 30 1989

"What happened in the salon was that masturbation on request was provided by women for pay. This was apparently seen by the police, the prosecutor and the magistrate as a terrible crime

"As far as I'm concerned, this is yet another example of the lack of balance one sometimes finds in law enforcement in South Africa"

He criticised the "tens of thousands of rands the lower court trial must have cost" and "the hours spent by highly qualified people in an attempt

to get a conviction"

But, the running of a brothel was a crime according to the law. Someone who ran a brothel was guilty of an offence

He said it was common cause that the only basis on which Mrs Butler could have been found guilty of running a brothel was if she had helped with the managing of the salon

Mr Justice Nel said Mrs Butler took part in the activities at the premises from time to time, but the question was whether this amounted to participating in the "running" of the brothel

"In my opinion, she did not have control over the salon and the State has not proved its case beyond reasonable doubt"

Mr Justice Thring concurred. Mr M Broeksma appeared for the State and Mr D Uys for Mrs Butler



FREEDOM BEFORE DEATH: Matthew Goniwe, right, Fort Calata, second right, and Mbulelo Goniwe, left, celebrate their release from detention in 1984. With them here is school head boy Madoda Jacobs

Goniwe's gruesome murder

S Times 10/5/92

By BILL KRIGE

stopped on the national road just outside the city on the night of June 27 1985

THE deaths of Matthew Goniwe, 38, a mild-mannered school principal with a steely resolve, and three colleagues were brutal moments which bore the hallmarks of assassination

Allegations that senior military officers ordered the killings spurred President FW de Klerk on Friday to order that the inquest be reopened and conducted by Eastern Cape Judge President NW Zietsman.

The information regarding the allegations was provided by Transkei leader General Bantu Holomisa who claims the State Security Council knew of the alleged killings

President De Klerk is now facing demands that the ministers who served on the council at the time — including Foreign Minister Pik Botha,

Justice Minister Kobie Coetsee, Minister of State Affairs Gerrit Viljoen and then Defence Minister Magnus Malan — should resign. The first three are key members of the NP's negotiating team at Codesa

But Mr De Klerk said the government had no knowledge of the alleged assassinations.

"Any insinuation that the cabinet or the State Security Council planned or approved murder or any other crime at any stage is devoid of all truth"

Forensic evidence presented at an inquest in Port Elizabeth in 1988 showed all the men were alive some time after Mr Goniwe's car was

Mr Goniwe's burnt-out car was found first. Then the bodies of Mr Sparrow Mkhonto and Mr Sicelo Mhlauli were discovered in thick coastal bush on the city outskirts.

Mr Mhlauli's right hand had been severed. He and Mr Mkhonto had been stabbed and petrol had been poured on their faces before they were set alight.

Two days later the press in Port Elizabeth was invited to join a police search for Mr Goniwe and fellow schoolteacher, Mr Fort Calata, 28

Within an hour their bodies had been found far apart in the thick bush. Both had been burnt.

State backs old faithful for Trust Feed inquiry

S1 Times 10/5/92.

By PETER MALHERBE

THE Broederbond chosen to head the Trust Feed probe, former magistrate Willem Krugel, has a long record of serving the state in sensitive positions

The Minister of Law and Order, Mr Hernus Kriel, announced this week that Mr Krugel, retired Northern Transvaal regional court president, would oversee the investigation into the alleged police cover-up of the Trust Feed massacre in Natal

The General Council of the Bar in South Africa has expressed reservations over the appointment, saying it would have preferred a judge to head the inquiry

During a lengthy career in the state's employ, Mr Krugel served as

● Chairman of the committee which investigated and ordered that former policeman Dirk Coetzee should resign from the police force with lowered rank for medical reasons. Mr Coetzee later made sensational disclosures

about alleged police hit squads,

● An assessor in the Delmas treason trial in 1986 which resulted in the conviction of 11 United Democratic Front members three years later. At the time objections were raised about Mr Krugel's membership of the Broederbond, but they were rejected by Mr Justice Van Dijkhorst

● Director of civil defence in South-West Africa in 1968 and 1969,

252
● Liquidator of 18 organisations which were declared unlawful in October 1977 in terms of the Internal Security Act. The action against the organisations came in the wake of the 1976 riots. All seized property and funds belonging to the organisations were administered by Mr Krugel

Among the banned organisations whose assets and liabilities Mr Krugel administered in 1977 and 1978 were the Black Parents' Organisation, Black People's Convention,

Black Women's Federation, the Christian Institute, National Youth Organisation, South African Students' Movement, South African Students' Organisation, Soweto Students' Representative Council, Black Community Programmes Ltd, the Union of Black Journalists and the Zamele Trust Fund

Mr Krugel, 61, refused to discuss his Broederbond membership this week, saying that "all that needed to be said has been said"

In a book about the organisation, *The Super Afrikaners*, Mr Krugel is listed as being a member. His position is given as regional magistrate and the address given is that of his home in Pretoria

Mr Krugel said he had been asked to serve on the Trust Feed inquiry, after being "invited to tea" on Tuesday by the Commissioner of Police, General Johann van der Merwe

Clamp on film fiddles

PARLIAMENT'S financial watchdog committee ruled this week that in future no one who benefits from film subsidies should have a say in designing schemes benefiting the local film industry.

The Joint Committee on Public Accounts made the decision after hearing how millions of rands were lost through the fraudulent use of state subsidies for the film industry.

Expose

The committee reported to Parliament that it was particularly concerned at weaknesses in the film subsidy scheme. These weaknesses, with the lack of control of claims received, facilitated irregularities over a lengthy period. The committee said it appreciated the steps taken by the Department of Home Affairs to expose the

MIKE ROBERTSON and HEATHER ROBERTSON

abuses and recover what money it could. It said several cases had been referred to the police for investigation. The committee said that because of the abuses, it had recommended that Home Affairs director-general Piet Colyn ensure that no one who benefited from the subsidisation of the making or distribution

of films and videos play a decisive role in the design or adaptation of subsidisation schemes.

The department reported last year that 193 films were involved in an investigation which dated as far back as 1985. Subsidies worth R11,5-million paid to producers on the basis of false, yet sworn declarations, have been reclaimed by the State Attorney, from 29

252

ST/Wee 10/5/92

film producers. In March 1991, 57 film files were referred to the police for investigation. The scams did not only involve producers. Certain distributors apparently supplied false box office returns to producers to receive a portion of the subsidy from them. Film-makers exploited loopholes in the tax break system which meant that tax deductions could be obtained from money

made on foreign marketing of films. Foreign marketing expenses were artificially inflated to create artificial tax losses. This was stopped in 1988 by the government. In 1989, the box office subsidy scheme was implemented by the government on the recommendation of the then South African Film and Video Institute. A Home Affairs source

this week revealed the names of companies which made use of the box office subsidy. Fraud investigations are still being carried out by the police.

The companies and films which used the box office subsidy are Brigadiers' *The Devil and the Song*, Philo Pretorius's *Brutal Glory* and *Circles in the Forest*, Thuis Heyns of Heyns Films for *Hostage* and Boet Troskie of Mimosa Film/Ace Film Corporation for *Back to Freedom*.

Flawed

Mr Willie Currie, a spokesman for the Film and Allied Workers' Organisation, said the fact that fraud occurred showed the regulation system implemented by the government was flawed from the start. He said the government announcement its involvement in the matter

Extend probe, De Klerk urged

STAR 115192 (252)

A leading human rights lawyer at the weekend urged President de Klerk to extend a judicial probe into the alleged army murder of a black activist to include 63 others possibly killed by security forces since 1981

Mr de Klerk on Friday instructed Supreme Court judge Mr Justice N Z Zietsman to examine an alleged military warrant for the 1985 assassination of anti-apartheid activist Matthew Goniwe and two others

The weekly newspaper New Nation on Friday published what it said was a copy of a handwritten order, issued two weeks before Mr Goniwe's murder, that the three should be "permanently removed from society as a matter of urgency"

"The Government views this matter in an extremely serious light. Justice will take its full course," Mr de Klerk said

Transkei leader Major-General Bantu Holomisa has also informed the Government by post that he is in possession of a file allegedly linking the Government and elements of the security services to black-on-black violence sweeping the country

Brian Currin, head of Lawyers for Human Rights, welcomed the reopening of the inconclusive inquest into Mr Goniwe's death, but said he did not believe Mr de Klerk had accepted "that something is amiss in the security forces"

"If there is any evidence that the security forces were involved in this killing, we must urge the president to reopen inquiries into the murder of 63 other activists who could have

been killed by the State between 1981 and 1989," he said

Mr Currin said lawyers submitted details of 64 assassinations, including that of Mr Goniwe, to an earlier judicial inquiry, which dismissed the suggestion of a State role

Mr Goniwe's widow, Nyameko, said on Friday she did not believe Mr de Klerk would sacrifice then Brigadier C P van der Westhuizen, now the general in charge of military intelligence, who is alleged to have ordered her husband's execution

"It will be police investigating police again," she said

ANC president Nelson Mandela said in a speech on Friday he would monitor Mr de Klerk's response to New Nation's publication of the alleged death warrant

Condemned

"In another country, the head of state would have condemned the action and gone to the extent of offering his condolences to the next of kin. Mr de Klerk did not do that," he said

ANC spokesman Dr Pallo Jordan said "This confirms the worst fears of many democratic activists. At the time, no one had the proverbial smoking gun. We now have that smoking gun"

In his letter to Mr de Klerk, General Holomisa said "A file detailing involvement of the NP Government and its security apparatus in destabilising, killing, financing and training and equipping killers in the black community has just landed on my desk..."

"The Military Intelligence, National Intelligence Service and the Police Intelligence have

been feeding you with wrong information on the black-on-black violence and then covering up their orchestration thereof"

He said he had information that pointed to "a white hand in the planning" and said he planned to share this with all black leaders

Mr Currin said Mr de Klerk's main responsibility was to ensure that police did not erase the tracks and protect the people behind the apparent political assassination

He said the recent release after nine months in jail of a policeman sentenced to 27 years for killing anti-apartheid activists illustrated the need to make police accountable

"That sort of dealing by politicians with police convicted of a crime signals to the police that it is okay to do this sort of thing," he said

Law and Order Minister Hernus Kriel instructed Judge Richard Goldstone to look into another newspaper's charge that a police hit squad was targeting ANC leaders

Mr Kriel said the Weekly Mail had told him of its report in advance and he promised any policeman guilty of illegal activity would be charged

The paper said ANC members were taken to a secret address where they were offered weapons and money to kill colleagues.

Several ANC officials have been killed in recent months and seven members of a pro-ANC family were killed in Sharpeville on April 18.

Opposition parliamentarians flayed the government on Friday for its record on political oppression and corruption — Sapa-Reuter

Probe other killings lawyer tells De Klerk

252

Sowetan 11/5/92

SA Press Association-Reuter

A LEADING human rights lawyer said at the weekend that President FW de Klerk should extend a court probe into the alleged army murder of Mr Matthew Goniwe to include 63 others possibly killed by security forces since 1981

cial inquiry, which dismissed the suggestion of a state role

rifice Brigadier CP van der Westhuizen, who is alleged to have ordered her husband's assassination

Mrs Nyameko Goniwe said on Friday she did not believe De Klerk would sac-

"It will be police investigating police," she said

De Klerk on Friday ordered a judge to examine an alleged military warrant for the 1985 assassination of Goniwe and two others

Mr Brian Curren, head of Lawyers for Human Rights, welcomed the reopening of the inconclusive inquest into Goniwe's death, but said he did not believe De Klerk had accepted "that something is fundamentally amiss in the security forces"

"If there is any evidence that the security forces were involved in this killing, we must urge the president to reopen inquiries into the murder of 63 other activists who could have been killed by the state between 1981 and 1989," he said

Curren said lawyers submitted details of 64 assassinations, including that of Goniwe, to an earlier judi-

FW inherits wages of death

STAR 12/5/92



PRESIDENT de Klerk, confronted with prima facie evidence of security force involvement in the gruesome murder of four activists in 1985, must feel besieged by the political ghost of his imperious predecessor.

Political forces unleashed by the "total strategy" doctrine espoused by P W Botha keep emerging to harass and haunt Mr de Klerk as he battles to negotiate a settlement with black leaders.

Mr de Klerk hardly had time to settle into office after assuming power on September 24 1989 when he had to cope with a major crisis generated by allegations of the existence of police death squads formed to counter the "terrorist onslaught."

Two ex-policemen, Almond Nofemela and Dirk Coetzee, precipitated the crisis, Nofemela with his dramatic death cell confession that he had served in a police death squad and Coetzee with his admission a few weeks later that he had been the commander of the same death squad.

These disclosures reverberated especially loudly because they occurred in the context of a long list

of assassinations for which the security forces were suspected of culpability, the latest of which had been the murder, on May 1 1989, of the anthropologist and anti-apartheid activist, David Webster.

The crisis was compounded within weeks Investigative journalists, and police under Brigadier Floris Mostert, in pursuit of Dr Webster's assassins, unearthed the existence of a secret military force, the Civil Co-operation Bureau, whose purpose was to disrupt and, according to later testimony, even eliminate the "enemies of the State."

Mr de Klerk, having initially tried to deflect cries for a judicial commission of inquiry to establish whether the government agencies did indeed run death squads, eventually appointed Mr Justice Harms to investigate politically motivated murders.

But the Harms report, which was released in November 1990, and which found that there was no evidence of police death squads, failed to defuse the crisis. As the judge himself admitted in his report "The commission has been unable to achieve one of its main purposes, namely to restore confi-

dence in a part of the state administration."

One reason for its failure was the refusal of CCB men to cooperate. They refused to supply their files to the commission, claiming that they had been destroyed and/or hidden according to a pre-arranged plan.

Mr Justice Harms concluded in part "The actions of the CCB have contaminated the security arm of the State. Their conduct before and during the commission creates suspicions that they have been involved in more crimes than the evidence shows."

The crisis of confidence in the security forces was exacerbated last year, when, in a sensational libel action involving General Lothar Neethling, Vrye Weekblad and the Weekly Mail, Mr Justice Kriegler found that Dirk Coetzee had been a reliable witness and that General Neethling had not told the truth.

The judgment effectively put the question of police death squads back on the agenda by neutralising Mr Justice Harms' finding that Coetzee could not be believed because, he was motivated by a deep hatred for the police

and was either "mentally unbalanced" or "prepared to fabricate evidence to achieve his own ends."

Then came the judgment in the Trust Feed trial, in which a police officer, Brian Mitchell, and four special constables were found guilty of massacring 11 black civilians in 1988, and in which the judge expressed the suspicion that some police officers had tried to cover up the killings.

The crisis has deepened further with the latest episode the publication of an alleged signal message from one military officer to another authorising the "permanent removal from society" in June 1985 of three United Democratic Front leaders, including the charismatic Matthew Goniwe.

Within a month of the purported signal message from the Eastern Cape Joint Management Centre to the secretariat of the State Security Council in Pretoria, the mutilated and partly burnt bodies of Mr Goniwe and four comrades were found in the veld.

Mr de Klerk has acted speedily in a bid to contain the latest crisis, ordering that the inquest into the deaths of Mr Goniwe and his comrades be re-opened. The appoint-

ment of the Judge President of the Eastern Cape, Mr Justice Zietsman, to preside over the resumed inquest is a sign of the importance which Mr de Klerk attaches to it.

The original inquest magistrate found that the four slain men had been murdered by "unknown persons." Whether Mr Justice Zietsman will be successful in identifying the killers remains to be seen.

Assuming that the signal message is genuine, it is a fair bet, judging from the obstructive behaviour of CCB men before and during the Harms inquiry, that the log book recording transmission of the message to the State Security Council will have disappeared.

What is known about the killings points, as Arthur Chaskalson, SC, argued before the original inquest court, to them being political murders.

Very few people knew that Mr Goniwe and his companions would be on the road from Port Elizabeth to Cradock on the night that they were intercepted and murdered, except people who had the power to tap telephones.

Mr Goniwe, who was urged to stay the night in Port Elizabeth, had said he would only stop for

police or traffic officers. Robbery was not the motive of the killers. Money was found on the body of one of Mr Goniwe's comrades, Sparrow Mkonto.

The killers went to great lengths to cover up their gruesome work, dragging the bodies of the four men into different places in remote veld, pouring petrol over their faces and setting it alight in a bid to prevent them from being identified. A false number plate was put on Mr Goniwe's car.

Forensic evidence suggested that the four men were still alive when they were taken out of Mr Goniwe's car, stabbed and shot, dragged to different places in Bluewater Bay near Port Elizabeth and then set alight.

To paraphrase Mr Chaskalson: the killers knew who they were looking for and where to find them, whoever they were, they were brutal. □

● Patrick Laurence, an assistant editor on The Star, is the author of "Death Squads. Apartheid's Secret Weapon".

SA's weekly average outstrips LA death toll

B10ay 12/5/92

Business Day Reporter

LAST MONTH's unrest death toll of 356 was 81 down on that for March, but was still the third highest monthly figure since July 1990, the Human Rights Commission (HRC) said yesterday.

Sapa reports an HRC statement said the average weekly toll was 83 "at a time when the 58 deaths in Los Angeles' week of riots and the circumstances surrounding them caused a world outcry."

It said 25% of the dead were women and children. The PWV area accounted for 250 deaths and Natal 86.

Police yesterday reported 16 deaths in PWV township violence on Sunday. In the worst single incident, five minibus occupants were shot dead in Sebokeng.

Yesterday's official unrest report said three people died in Vosloorus and one each in Katlehong, Alexandra and Soweto.

Vaal Triangle police spokesman Capt Piet van Deventer said 10 people died violently in the area on Sunday.

An SADF member was arrested yesterday and police are investigating a charge of attempted murder when a handgrenade exploded inside a police Casspir at Umlazi, injuring two policemen. A KwaZulu police spokesman said the incident happened when members of the SADF and the KwaZulu police were manning a roadblock.

KwaZulu police also reported that two men died when shots fired from a car at Esikhawini near Empangeni.

The Inkatha Institute's Violence Study Unit alleged yesterday that 14 separate attacks were made against Inkatha sup-

porters at the weekend.

Meanwhile, police hunting the killers of three whites whose charred bodies were found near Vosloorus on the East Rand have discounted the possibility that they had lost their way.

Police spokesman Col Dave Bruce said yesterday the man, Francois Pretorius, knew his way around the East Rand. He had a bullet wound in the head, Bruce said. The cause of death of the woman and the child had not been determined.

Police said a group calling itself Youth for Revolution had claimed responsibility for Sunday night's arson attack on the Dobsonville Town Council offices in Soweto and had threatened to assassinate councillors, policemen and soldiers.

The sealed statement was delivered to Sapa yesterday afternoon by two men, who disappeared by the time it was opened.

The Goldstone committee inquiring into 32 Battalion's alleged rampage through Phola Park expressed concern yesterday at the grueling questioning of a witness who lost his wife in the attack.

Committee chairman Solly Sithole adjourned the sitting until tomorrow so legal counsel could decide on a line of cross-examination which would not be too harsh on John Msimango.

His wife Nomatuse died after she was allegedly shot in both legs and raped by members of 32 Battalion on April 8. He was also shot in both legs.

LHR set to act on Goniwe paper

B10ay 12/5/92 (252)

PATRICK BULGER

LAWYERS for Human Rights (LHR) will ask President F W de Klerk to order an investigation into the deaths of 64 anti-apartheid activists if allegations of state complicity in the 1985 death of Cradock UDF activist Matthew Goniwe are correct.

LHR national director Brian Currin said yesterday that if forensic tests carried out on an alleged military warrant ordering Goniwe's death proved the document was authentic, he would ask that 64 other deaths be investigated.

His list includes Wits University anthropologist David Webster and Mamelodi doctor Fabian Ribeiro.

"At the time of the Harms commission (of inquiry into politically related deaths) I submitted an affidavit listing 64 people who had been assassinated between 1981 and 1989. The commission did not sit for

long enough for the matters to be investigated. We suspected that the state might have been involved," Currin said.

"If it appears that the Goniwe documents are true and accurate it will be a strong indication that the security forces were responsible for the murder of Goniwe and others. Then we would want the president to order the opening of all the cases."

He said forensic tests carried out on the documents by police should indicate whether they were valid or not.

An LHR spokesman said yesterday the organisation was examining the legal grounds on which the release of killer policeman Khethani Shange could be declared unlawful.

SMALL Claims

Courts are the newest courts in our legal system and are meant to help people who wish to settle small civil claims quickly, easily and cheaply.

Small claims courts provide refreshingly easy access to the law where many smaller claims, not exceeding R3 000 are heard by the court without costing the parties a lot of money in lawyers' fees.

These courts are constituted to hear only civil cases and in addition to the R1 500 limit, certain cases may not be heard. These include

- Claims against the State,

- Claims for damages in respect of defamation, malicious prosecution, wrongful imprisonment or arrest, seduction and breach of promise to marry,
- Claims based on cessation of transfer of rights,

How small claims courts work

Southern 12/5/92

252

SOUTH Africa's newest court, the small claims court, operates cheaply and conveniently. An article in *The Law and You*, a publication of the Students' Council of the University of the Witwatersrand explains how. SONTI MASEKO reports.

- Divorce,
- Interpretation and validity of wills,
- Claims in respect of a person's mental capacity, and

binding on each party. The commissioners, are not employed by the state. They are usually advocates or attorneys

Companies, corporations and associations may not litigate in these courts but may themselves be sued in them

Companies may not litigate, but may themselves be sued in the small claims courts

● Claims in which an interdict is sought
However, a person who has a claim for less than R1 500 against another is not compelled to institute that claim in a small claims court but may, if he so wishes, take their claim to a magistrate's court - although it will be much more expensive and time-consuming.

Since small claims courts are a recognised part of our court system, the judgments passed by the commissioners (the presiding officers in these courts) are valid and

who hear matters in the evenings after work. Proceedings usually begin at 4.30pm so the parties do not have to miss work. The reason small claims courts are so cheap and time saving is because of the way they operate. They are meant for the man in the street

No party may have an advocate or lawyer appearing for them in these courts but parties are free to obtain legal advice before the proceedings. Each party stands before the commissioner to present his or her case. Parties may not cross-examine each other but may, with permission from the commissioner, be allowed to ask each other questions. The commissioner will question both parties to satisfy himself if he is unclear about anything

there is not enough evidence for him to make a decision. The plaintiff may, however, bring a new action if he can get further evidence in support of his claim.

The court may pass a judgment whereby one party wins his case with costs. This means that the losing party has to pay these costs. Costs include court fees, the cost of issuing summons, and travelling expenses of the messenger of the court.

The commissioner may make a deferment order whereby the commissioner gives the defendant a certain date by which time he must have paid the plaintiff.

The winner in the case is the judgment creditor and the loser is the judgment debtor.

If the judgment debtor can pay immediately, then he will be ordered to do so. If not, the court will look into his financial position and decide on how payment should be made.

If the judgment debtor does not have money the court may order that some of his property be seized by the messenger of the court and sold to raise the money.

If the judgment debtor is to pay in instalments and does not pay, then the judgment creditor may go to the clerk of the court and get a warrant of execution. This warrant will allow the messenger of the court to seize the property of the judgment debtor and sell it to raise money.

The commissioner may decide not to pass judgment if he feels that

'Scared commuters gather in strongholds'

STAR 13/5/92
Violence on trains has forced commuters to create strongholds in coaches according to political affiliation, a committee of the Goldstone Commission heard yesterday

Captain Matthys Johannes du Plessis, commanding officer of the SAP's Mobile Unit at New Canada railway station, told a committee chaired by Gert Steyn that the formation of groups had often sparked trouble between opposing factions

"To show that the formation of these groups was a daily reality, there are train coaches specifically marked 'ANC', 'Metal church', 'Inkatha', 'IFP'

and so on," Captain du Plessis said

In his personal findings, a person identified himself with a group in a residential area, and this was continued in trains. The same people travelled together daily in the same trains and they started knowing and trusting each other, he said.

"Strangers are not trusted and are not easily accepted. As soon as the status quo on the train is disturbed, it could lead to a confrontation and sometimes violence."

Factors that could lead to the formation of groups were ethn-

city, language and culture, common political view, religious affiliation and security needs

Captain du Plessis showed the committee a documentary on trains which depicted the daily life of a commuter on the Soweto-Johannesburg route. It had a church group singing in one coach and a group shouting slogans and toyi-toying in another

The documentary also showed searches conducted by the police in which they found scores of weapons, including some that were adjustable and could be concealed — Sapa

HOUSE OF ASSEMBLY

INTERPELLATIONS

The sign * indicates a translation. The sign †, used subsequently in the same interpellation, indicates the original language.

General Affairs

State security council/security forces' assassinations

1 Dr Z J DE BEER asked the State President

- (1) Whether the State Security Council, its secretariat or any person serving thereon or any member of the South African security forces authorized or ordered the assassination of certain persons, whose names have been furnished to the State President's Office for the purpose of his reply,
- (2) whether he has ordered a judicial inquiry into the allegations made in a certain newspaper, particulars of which have also been furnished to his Office, if not, why not, if so, what are the relevant details?

B644E INT

The STATE PRESIDENT Mr Speaker, the reply is as follows. Firstly, the hon member evidently has not taken note of the press statement I issued on this matter last week. In that statement I said, among other things

The Government has no knowledge whatsoever of the alleged action and at no stage was this or similar cases discussed or considered by the Cabinet or the State Security Council. Any insinuation that the Cabinet or the State Security Council planned or approved murder or any other crime at any stage is devoid of all truth.

As far as the possible individual involvement of members of the security forces, the then Secretariat of the State Security Council or any other person is concerned, hon members are referred once again to last Friday's press statement. It mentions specifically that instructions had been given for the request to be reopened. In the meantime, the police investigation under the auspices of the Acting Attorney-General con-

cerned is proceeding unabated. Should the required evidence become available at an early stage, it goes without saying that preference will be given to a prosecution.

Secondly, I have not appointed a commission of inquiry into the case in question. Following discussions with me and in terms of his statutory powers, the Minister of Justice requested the Judge President of the Eastern Cape division of the Supreme Court to conduct the request. For all practical purposes, therefore, we are dealing with a judicial inquiry.

During the Second Reading debate on the Inquests Amendment Bill of 1990 the hon the Deputy Minister of Justice argued in support of the amendment to the effect that henceforth judges, too, would conduct inquests, that this new stipulation would reduce the need and desirability to appoint commissions of inquiry. The DP welcomed this extension to section 6 of the Act with enthusiasm. Hon members are referred to the Hansard of 27 April 1990.

Judicial commissions of inquiry are conducted within the framework of the Commissions Act and do not provide the most suitable means of determining the existence of criminal liability or otherwise. In the main the function of a commission is to identify deficiencies on the basis of specific facts and, for the purposes of Government, to recommend remedial measures. The case in question specifically concerns the determination of criminal liability and for that purpose an inquest is more appropriate. The amendment of the Inquests Act, to which I have already referred, was intended specifically to provide for streamlined action under the chairmanship of a judge in important and complex cases such as the one under discussion.

*There are good examples of results that have already been achieved. I refer hon members to the steps taken by Mr Justice Stafford in terms of this new legislation. It was action taken regarding the events in Sebokeng, which produced good results.

If we still remain in a dead-end street, irrespective of the urgent steps that have been and are being taken, or if no criminal prosecution follows—that would have been the first prize—I

shall consider the appointment of a commission at a later stage

Mr P H P GASTROW Mr Speaker, I speak on behalf of my leader, the hon member for Parktown who, as the hon the State President is aware, has gone to attend a Codesa meeting and is therefore unable to attend these proceedings

The response of the hon the State President still leaves numerous questions which need to be answered. Is the copy of the document which has appeared in the press, and which was addressed to the secretariat of the State Security Council on 7 June 1985, authentic?

Secondly, if it is authentic, will those officers who are directly linked to this document be suspended pending the outcome of the inquiry, inquest or commission?

Thirdly, will the inquest, but hopefully a full commission of inquiry, have to depend solely on the investigative force of the SA Police and Defence Force, or will there be power also to appoint independent investigators to assist?

Fourthly, if a full commission is appointed, which we urge the hon the State President to do, we urge him to expand the terms of reference so that they go beyond an enquiry of merely the death of Matthew Goniwe and the other three compatriots, to deal with a whole range of allegations of security force excesses during the eighties

Fifthly, will the inquest—or rather the commission which we hope for—when dealing with the investigation be entitled to access to documents of the SSC, the military and the SA Police Force, even if those documents are marked "secret"?

The hon the State President ought to seize this opportunity of the investigation and make it a full commission of inquiry in order to, once and for all, open up the ongoing festering sores of past excesses by the security forces against their political opponents

Allegations of murders, assassinations, poisonings and torture, deliberately practised during the eighties by elements in the security forces, carry on eating like a cancer into the fabric of our society. They sap our enthusiasm for a new South Africa because they raise doubt as to whether we are actually capable of arriving at a just society. The failure to come clean affects our self-respect as a nation. It affects the morale of

are. Therefore it would be presumptuous of me to judge it at this early stage. Indeed it is so that classified documents are to be treated as classified and that it is an alarming situation if such documents are removed

*Adv S C JACOBS It is of course an offence

*The STATE PRESIDENT Yes, and if we catch such person, he will be charged [Interjections]

†The hon member for Durban Central asked a whole series of questions. As an advocate he will understand that it would be wrong of me to try to give an account, in a piece-meal manner at this point in time, of facts which are being investigated right at this moment. I do not want to do anything today which can prejudice the law taking its course and which can hinder in any way whatsoever, the legal processes which would bring the perpetrators of this crime to book. We must do so, and that is also our aim

The hon member asked if there will be access to documents. I can give him the assurance that the Attorney-General already has access to all relevant documents whatsoever, whether classified or not. He then repeated the whole list of allegations. I agree with him that it is not in the interests of South Africa that the country be given a bad name through continuous and, more often than not, unsubstantiated rumours which are published. It is for this reason that I called upon anybody who has evidence of any crimes perpetrated by any member of the security forces, to please furnish me with it. If I receive such evidence, I shall once again act in the same determined way as I have done in this regard previously

Mr R V CARLISLE Mr Speaker, the hon the State President misses the key point. This issue does not turn just on Goniwe, Calata, Umkhonto and others. It turns on Webster and Lubowski, Solwandle and so many others. What the DP is calling for here is two last great acts on the part of the hon the State President. The first is the orderly and successful transition of this country to democracy, but in this specific case it is to flush out the sewers of apartheid for once and for all

An HON MEMBER It is a sewer speaking
Mr R V CARLISLE We say this not in the spirit of vengeance, not even of judicial vengeance,

but, as my hon colleague says, for the sake of the fact that the truth must come out if we are to go forward. The truth must come out, and not only the truth on the shameful record of the NP, but the truth of all of those victims. The hands of most players in this country have blood upon them. Let me say the following without asserting that it is true of the CP. When the CP supports the hon the State President on a matter affecting violence, he should know he is in the wrong [Interjections]

What we suggest, very simply, is that the hon the State President widens the scope of the investigation. He may argue that for this specific phase he would want to work with the instruments he has, fair enough, but he must widen the whole thing. Let us clean out the sewers now. What we suggest is that by negotiation an amnesty be established between the major players, and on that basis let us clean it out. We should institute an amnesty for the '80s to clean out the filth of the '80s. I really hope that the hon the State President is going to rise to this occasion—as I must admit, he has done in the past—so that we can get this sordid and atrocious chapter behind us in South Africa

Mr P H P GASTROW Mr Speaker, I wish to ask the hon the State President a question relating to matters which he should have direct knowledge of as an individual. Did he attend a meeting of the full State Security Council held in Port Elizabeth during the first quarter of 1985 in order to discuss the unrest? If so, what decisions were taken relating to the unrest?

South African society does not want revenge, but we want to enter the future with a clean slate. This applies not only to the State, which has the primary responsibility, but also, as my colleague said, to all the other actors who were involved, to the private armies, the homeland governments, the ANC and the UDF

We should all make an effort to put that era behind us, but a prerequisite is for this Government and its agencies to come clean and to clear away all the question marks. Until now it has refused to do so, and it still refuses to do so [Time expired]

*The STATE PRESIDENT Mr Speaker, it is absolutely untrue if the hon members are trying to suggest that we are shying away from having matters investigated when we have sufficient

evidence. At present there is an inquest under the chairmanship of a judge into the death of the late Mr Webster. Who took the initiative to appoint the Goldstone Commission? It was the ANC and others who struggled for four months before they accepted it.

As early as May last year we took the initiative to appoint an ongoing judicial commission of inquiry and to grant protection to witnesses who wanted to bring evidence before that commission. We want to stop violence, and we took comprehensive steps in that regard, but there should at least be some basic evidence.

Are the same incisive questions put to persons politically responsible for acts of terror over many years? No, such questions are not asked. The same demands are not made upon them.

I want to tell the hon members on that side that we are prepared to go into any matter on which *prima facie* evidence is available, to investigate any clues that can be investigated and arrive at the truth. We shall not hesitate to make use of judicial inquiries and judges in this regard, as the objectivity of such inquiries has to be beyond any doubt. It cannot, however, take place on the basis of rumours.

For years I was a co-opted member of the State Security Council. I can remember that I indeed was at a meeting in Port Elizabeth. During holidays we often met at places other than Pretoria or Cape Town. I cannot remember the specific date.

The point, however, is as follows. Never at any meeting of the State Security Council where I was present, and where any of my colleagues were present, did we plan or consider crimes, abductions or violations of the law. The matter that did indeed receive the continuous attention of the State Security Council during that first half of 1985 was how to stop the ongoing violence, and during that time we started thinking of the ultimate decision of declaring a state of emergency. [Time expired.]

Debate concluded

Air pollution: people's health/ecology

*2. Mr L. F. STOFBERG asked the Minister of National Health

(1) Whether her Department has any data on the effect of air pollution on people's

HOUSE OF ASSEMBLY

health and the ecology, if so, what are the relevant details.

(2) whether she will make a statement on the matter?

B614E INT

*The MINISTER OF NATIONAL HEALTH Mr Speaker, the hon member for Sasolburg asked a question here to which he surely wants a reply. The hon member is either displaying his ignorance or he deliberately put his question so vaguely that it is not possible to react to it specifically.

If he had taken a bit of trouble, the hon member would have established that the Department of National Health had undertaken more than 100 research projects over the past 15 years, specifically to obtain information on the effect of air pollution and high air-pollution levels on man's health. In the few minutes of an interpellation it is not possible for me to furnish the hon member with full particulars in respect of a great many investigations.

*Mr L. F. STOFBERG Mr Speaker, I appreciate the hon the Minister's reply. I do not want to ask more from her than she can give. [Interjections.] I do not want to make demands on her which she cannot comply with, but I think I have to point out to her that Sasol's motto is that it is one's duty to protect the environment, not one's choice.

Well done! Sasol's environmental policy is

Sasol glo dat die kwaliteit van die lug, water en grond beskerm moet word vir die volgehoue benutting van alle ekosisteme. Die behoeftes van huidige en toekomstige geslagte sal so-doende bevredig word, en dit sal hulle in staat stel om in 'n omgewing van aanvaarbare kwaliteit te leef.

†So far so good

*At the end of last year the following was reported in the *Vaal Ster* which circulates in the whole of the Vaal Triangle

Die eerste fase van die Vaaltrihoek se lugbesoedlingsgesondheidsstudie, waaraan meer as 9 000 kinders van 46 skole deelgeneem het, is onlangs afgehandel. Alhoewel dit volgens dr Petro Terblanche, hoof mediese navorser, in hierdie stadium nog te vroeg is om enige stellings of gevolgtrekkings te maak oor die newe-effekte van lugbesoedeling in die omge-

wing, is daar wel beperkte inligting beskikbaar.

Die eerste resultate van die buitenshuise lugbesoedlingstudies dui aan dat daar waarskynlik probleme is met die vlakke van vaste deeltjies—stof en rook—in die lug, asook osoon in sekere areas. Hoe vlakke van stufmeel is gemeet. Die resultate van die monitordige hoe vlakke van lugbesoedeling in die woongebiede waar steenkool verbrand word.

Die vraelyste toon dat die Suid-Afrikaanse kinders baie meer tyd buite deurbring as Amerikaanse kinders. Hierdie feit kan belangrik wees vir hulle blootstelling aan industriële lugbesoedeling en word tans verder ondersoek.

I have with me a report Sasol itself compiled, in which the following is said

Die vyfde reeks sesmandelkse stofmonsters is einde September 1991 afgehandel. Die algehele blootstellingskonsentrasies het toegeneem. Die risikokoers by Kole en As-aanleg het toegeneem. Die risikokoers vir Sasol Een-fabneek het toegeneem.

According to the second series of samples, dust exposure at the Cinder and Ash Plant is increasing progressively.

I therefore have to ask the hon the Minister this afternoon to tell us what her Department is doing to monitor all of the large enterprises, including Sasol, and to determine what is being done. What are the hon the Minister and her Department doing? Is she satisfied that there is an improvement in the situation? From the information which I submitted here this afternoon—and I have more—there is no improvement. As long as that hon Minister holds that particular position, there is a process of deterioration. [Time expired.]

Mr R. J. LORIMER Mr Speaker, today, as I drove into town, I listened to the car radio and heard a message to the effect that the citizens of Cape Town are to be warned that due to certain climatic factors the atmosphere in Cape Town would today be polluted beyond acceptable levels.

It is very nice to be warned, but one wonders what is going to happen as a result of that. This may be a very rare happening in Cape Town—I

am not sure whether it is or not—but as far as the Transvaal Highveld is concerned, especially during winter, this unhealthy level of pollution becomes the rule rather than the exception.

Industry burns up fossil fuels in large quantities, resulting in an ever-thickening layer of gases in the atmosphere. Millions of tons of sulphur dioxide, carbon dioxide, various nitrous oxides—these are particularly prevalent in the Cape area—are pumped into the air that we breathe. Inevitably this has a serious effect on the health of the people who have to breathe that air, as well as on the ecological balance.

Coal-fire power stations, Sasol One, Two and Three, various other industries such as Highveld Steel and Rand Carbide are all doing damage to the environment. If each of these were taken separately, the result would not have been so dangerous, but it is the combined tonnage of all these pollutants that has now become a threat to us all.

Firstly, one has to look at the greenhouse effect. These gases attract infrared radiation from the earth into the atmosphere. If the gas blanket were thinner, more infrared radiation would escape. However, as the gas layer gets thicker, so the heat of the atmosphere gets more intensive and the earth warms. This could result in a dramatically altered weather pattern, possibly major shifts of deserts and fertile areas, as well as a possible rise in sea levels.

We might have seen these major shifts begin already. I do not think we have the knowledge to judge at this stage. However, one thing we can be sure of is that this is damaging the ecological balance of our country. [Time expired.]

The MINISTER OF NATIONAL HEALTH Mr Speaker, we have to determine the acceptable levels, the time of exposure and what is safe for man. This is what it is all about. We most certainly use all the instruments at our disposal to determine this. The Department uses the standards are defined by the Environmental Protection Agency of the United States of America, which are considered the guide-lines for safe ambient levels in South Africa.

*I think the hon member for Sasolburg has just confirmed my point. He mentioned particulars of a report on Sasolburg. Why did he not in the first instance ask for an interpellation on the air-pollution levels in the Sasolburg area?

HOUSE OF ASSEMBLY

11

Dispute resolution alternatives urged

B/D am 13/5/92

SUSAN RUSSELL

LAWYERS should be ethically obliged to discuss with clients the possibility of using alternative methods of resolving disputes before resorting to litigating through the courts, Harvard law Prof Frank Sander said in Sandton yesterday.

He was speaking at a one-day conference hosted by the Alternative Dispute Resolution Association of SA (Adra) which was supported by the Institute of Directors in Southern Africa and the Attorneys' Fidelity Fund.

The conference was aimed at giving attorneys, business people and anyone else involved in dispute resolution a clearer understanding of available alternatives to the route through the courts.

Alternative dispute resolution originated in the US as a means of reducing the time and costs involved in civil litigation.

252

It makes use of methods such as mediation, arbitration and so-called "mini-trials" and has been successfully used to resolve disputes ranging from complicated commercial matters to community and domestic disputes.

Adrasa was formed last year with the objective of integrating alternative dispute resolution into the mainstream of legal practice and those involved have been promoting it in SA.

igene
1 had
tions

olice-
ibbed
ing a
on a
d Jo-
was
spital

d the
eman
ig on

rman
y the
ic in-
lence

en's
ented
con-
emo-
attal-
up

Three fight Esor's plan to rescue Eersteling

B/D am 13/5/92

MATTHEW CURTIN

THREE shareholders in the liquidated gold mine Eersteling, representing 0,08% of the company's equity, are opposing a rescue plan for the company in the Rand Supreme Court today. The disgruntled shareholders have won the support of the SA Shareholders' Association (Sasa)

Swiss-based Esor Establishment SA is planning to rescue the company liquidated last year with an R11m accumulated loss

Esor representative Stefan Hayden said yesterday "It seems strange that a few disgruntled shareholders should arrive at the last minute and attempt to jeopardise the rights of creditors and members and create further uncertainty in the lives of mine employees"

Eersteling faces claims worth R6,5m and has offered the company's major creditor, Standard Merchant Bank (SMB), 80c in the rand, and other creditors 90c. Creditors have unanimously accepted the scheme of arrangement, proposed in terms of Section 311 of the Companies Act

At a scheme meeting for shareholders, 78% accepted Esor's proposal that the company's share capital be consolidated from 80-million to 800 000 shares, with an issue of 7,2-million shares to Esor in pay-

ment for settling Eersteling's claims. Shareholders accepted an offer of 1c a share, with the option to receive one share for every hundred owned. Esor has said without its offer, creditors would receive 46c in the rand, and shareholders nothing.

At the members' meeting, 80 of Eersteling's 9 000 shareholders, holding 8-million shares, voted against the scheme, with shareholders owning 28,8-million shares voting in favour. Esor was able to vote for the scheme with the help of 25-million shares it acquired for R2 from SMB.

Three dissenting shareholders owning 65 000 shares have taken the matter further. They have submitted affidavits opposing the scheme. It was reported yesterday that Sasa chairman Issy Goldberg said shareholders should reject "the indignity of the offer". Goldberg said the dissenting shareholders were confident they could run Eersteling "even more profitably" than the liquidators. Eersteling has been run on a contract basis since its liquidation and turned in a profit of R900 000 between May 10 1991 and January 31 this year, but before interest payments of R800 000.



FW inherits the wages of death

Sowetan 13/5/92

THE President must deal with the fallout of 'total strategy' policy, writes Sowetan Correspondent PATRICK LAURENCE, the author of Death Squads: Apartheid's Secret Weapon.

PRESIDENT FW de Klerk, confronted with prima facie evidence of security force involvement in the gruesome murder of four activists in 1985, must feel besieged by the political ghost of his imperious predecessor.

Political forces unleashed by the "total strategy" doctrine espoused by Mr PW Botha keep emerging to harass and haunt De Klerk as he battles to negotiate a settlement with black leaders

De Klerk hardly had time to settle into office after assuming power on September 24 1989 when he had to cope with a major crisis generated by allegations of the existence of police death squads formed to counter the "terrorist onslaught"

Two ex-policemen, Almond Nofemela and Dirk Coetzee, precipitated the crisis, Nofemela with his dramatic death-cell confession that he had served in a police death squad and Coetzee with his admission a few weeks later that he had been the commander of the same death squad

These disclosures reverberated especially loudly because they occurred in the context of a long list of assassinations for which the security forces were suspected of culpability, the latest of which had been the murder, on May 1 1989, of the anthropologist and anti-apartheid activist, Dr David Webster



The crisis was compounded within weeks. Investigative journalists, and police under Brigadier Floris Mostert, in pursuit of Webster's assassins, unearthed the existence of a secret military force, the Civil Co-operation Bureau, whose purpose was to disrupt and, according to later testimony, eliminate the "enemies of the State"

De Klerk, having initially tried to deflect cries for a judicial commission of inquiry to establish whether the Government agencies did indeed run death squads, eventually appointed Mr Justice Harms to investigate politically motivated murders

Confidence

But the Harms report, which was released in November 1990, and which found that there was no evidence of police death squads, failed to defuse the crisis. As the judge himself admitted in his report "The commission has been unable to achieve one of its main purposes, namely to restore confidence in a part of the state administration"

One reason for its failure was the refusal of CCB men to co-operate. They refused to supply their files to the commission, claiming that they had been destroyed and/or hidden according to a pre-arranged plan

Harms concluded in part "The actions of the CCB have contaminated the security arm of the State. Their conduct before and during the commission creates suspicions that they have been involved in more crimes than the evidence

shows"

The crisis of confidence in the security forces was exacerbated last year, when, in a sensational libel action involving General Lothar Neethling, *Vrye Weekblad* and the *Weekly Mail*, Mr Justice Kriegler found that Coetzee had been a reliable witness and that Neethling had not told the truth.

The judgment effectively put the question of police death squads back on the agenda by neutralising Harms' finding that Coetzee could not be believed because he was motivated by a deep hatred for the police and was either "mentally unbalanced" or "prepared to fabricate evidence to achieve his own ends"

Then came the judgment in the Trust Feed trial, in which a police officer, Brian Mitchell, and four special constables were found guilty of the massacre of 11 blacks in 1988. The judge expressed the suspicion that some police officers had tried to cover up the killings

The crisis has deepened further with the latest episode: the publication of an alleged signal message from one military officer to another authorising the "permanent removal from society" in June 1985 of three United Democratic Front leaders, including the charismatic Mr Matthew Goniwe

Within a month of the purported signal message from the Eastern Cape Joint Management Centre to the secretariat of the State Security Council in Pretoria, the mutilated and partly burnt bodies of Goniwe and four comrades were found in the veld

De Klerk has acted speedily in a bid to contain the latest crisis, ordering that the inquest into the deaths of Goniwe and his comrades be re-opened. The appointment of the Judge-President of the Eastern Cape, Mr Justice Zietsman, to pre-

side over the resumed inquest is a sign of the importance which De Klerk attaches to it

Assuming that the signal message is genuine, it is a fair bet, judging from the obstructive behaviour of CCB men before and during the Harms inquiry, that the log book recording transmission of the message to the State Security Council will have disappeared

What is known about the killings points, as Mr Arthur Chaskalson, SC, argued before the original inquest court, to their being political murders

Very few people knew that Goniwe and his companions would be on the road from Port Elizabeth to Cradock on the night they were intercepted and murdered, except people who had the power to tap telephones

Robbery

Goniwe, who was urged to stay the night in Port Elizabeth, had said he would only stop for police or traffic officers. Robbery was not the motive of the killers. Money was found on the body of one of Goniwe's comrades, Mr Sparrow Mkonto

The killers went to great lengths to cover up their gruesome work, dragging the bodies of the four men into different places in remote veld, pouring petrol over their faces and setting it alight in a bid to prevent them from being identified

Forensic evidence suggested that the four men were still alive when they were taken out of Goniwe's car, stabbed and shot, dragged to different places in Bluewater Bay near Port Elizabeth and then set alight

To paraphrase Chaskalson the killers knew who they were looking for and where to find them, whoever they were, they were brutal

No misdeeds planned

STAR 14/5/92

- De Klerk

By Carina le Grange

President de Klerk yesterday categorically denied that either he or any of his colleagues planned "any misdeeds, kidnaps or contraventions of the law" at State Security Council (SSC) meetings.

He was addressing the House of Assembly in an interpellation debate during which he was urged to widen the scope of the judicial inquest into the deaths in 1985 of four United Democratic Front activists.

In replying to questions by Democratic Party MP Peter Gastrow on whether he had attended a meeting of the SSC held in Port Elizabeth in the first quarter of 1985 to discuss unrest, Mr de Klerk repeated his statement on Friday that any insinuation that the Cabinet or the SSC planned or approved murder was devoid of all truth.

The four UDF activists — Matthew Goniwe, Ford Galata, Sparrow Mkonto and Sicele Mhlauli — were assassinated in June that year.

A military signal document purporting to link the SSC with their deaths was published on Friday by the New Nation newspaper.

The same day, Mr de Klerk ordered a judicial in-

quest into the deaths under Eastern Cape Judge President N W Zietsman.

Mr de Klerk yesterday said he would consider appointing a judicial commission if this inquest proved inconclusive.

The controversy over the document continued yesterday, when widows of the victims spoke at a press conference in Johannesburg and as a former SADF officer, whose name appeared on the document, was tracked down in East London.

Nomonde Calata, Mbuyi Mhlauli and Sindiswa Mkhonto were visibly upset at the press conference.

Also present was Mr Goniwe's nephew, Mbulelo Goniwe, SACP chairman in the eastern Cape. He was also named in the document as one of those to be removed "permanently from society", but he escaped death.

Mr Goniwe said the families and the Cradock community — to which the assassinated men had belonged — rejected Mr de Klerk's judicial probe "since he himself (De Klerk) was implicated".

"We need a neutral commission of inquiry in which political organisations must play a role, possibly appoint-

● To Page 3

No misdeeds,

says FW

STAR 14/5/92

● From Page 1

ed by Codesa," he said.

The ANC insisted yesterday that the published document demonstrated beyond dispute that "murderous activities are integral to the strategy of the National Party Government to destroy its political opponents by fair means or foul".

A former SADF commandant, L du Plessis, whose name appears as the drafter of the Goniwe document, told Sapa yesterday he was bound by the Official Secrets Act.

The former Eastern Province Command officer said "It is an unfortunate position to be in. I am already in a lot of trouble." He confirmed he was at EP Command in 1985.

Mr du Plessis's signature appears on the Goniwe document, which allegedly recorded a conversation between former EP Command officer commanding General CP van der Westhuizen, and a General van Rensburg of the SSC secretariat.

General van Rensburg has not been traced, and General van der Westhuizen was not available for comment.

SACP general-secretary Chris Hanu said at the press conference that Mr de Klerk and his colleagues were collectively responsible for the deaths.

ANC spokesman Gill Marcus said "(General van der Westhuizen) who issued the instruction (to 'remove the men from society permanently') is now head of Military Intelligence. The responsibility of the Government is to find out how a man, who has issued these instructions, was promoted".

Feature of unrest is ANC, Inkatha rivalry



(252)
WILSON ZWANE

POLITICAL rivalry between Inkatha and the ANC was a common factor in recent violence in Alexandra, Soweto and the Vaal Triangle, the Goldstone commission has concluded from preliminary inquiries.

The commission would now concentrate on probing claims that thousands of people had been forced to flee from their homes during the fighting. *6/10am 14/5/92*

It would look into whether such people should be compensated for their loss, Judge R J Goldstone, chairman of the inquiry into public violence and intimidation, said yesterday.

In view of what had been established about ANC/Inkatha rivalry, Goldstone said his commission had decided no good purpose would be served by hearing many weeks of disputed evidence on the issue — and on police conduct during the violence.

The judge gave the assurance that adequate policing was still receiving the commission's attention, and that its Thokoza committee had been studying ANC/Inkatha rivalry.

"The commission has decided that what does require urgent investigation are the allegations that violence (in Alexandra, Soweto and the Vaal Triangle) has resulted in the displacement of thousands of people."

A special committee had been appointed to establish the facts

The committee would also consider whether people were legally or morally entitled to compensation for damages as a result of being forced to leave their homes.

Inquiry switches to 'displaced thousands'

ET 14/5/92

252

THE Goldstone Commission said yesterday that no good purpose would be served by hearing many weeks of disputed evidence about violence between the ANC and the Inkatha Freedom Party

It had decided that what did require urgent investigation were the allegations that violence had resulted in the displacement of thousands of people from their homes

"Some are alleged to have been physically ejected from their homes and others are alleged to have vacated them for reasons of fear and intimidation," the commission said in a statement

It had held preliminary inquiries into recent violence in Alexandra Township, the greater Soweto area and the Vaal Triangle on May 5

"Common to most of that violence is that political battle between the ANC and the IFP

"The commission has decided that no good purpose would be served by the hearing of many weeks of disputed evidence on the issue

Phola Park probe adjourns

PRETORIA. — The chairman of a Goldstone committee inquiring into 32 Battalion's alleged rampage through Phola Park, Mr Solly Sithole, adjourned the sitting yesterday to allow legal parties time to find common ground on how the investigation should proceed

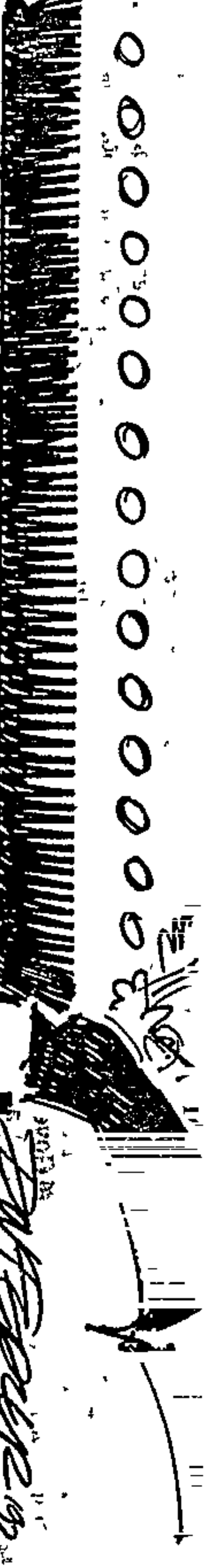
This follows a scathing attack by counsel for the battalion, Mr Barry Roux, on the committee for having "accepted 32 Battalion's overstepping its mark by facts outside the forum, probably after being influenced by reports in the media"

Mr Roux said he was warning the committee that an unhealthy situation would develop if counsel were not given the opportunity to cross-examine witnesses thoroughly. — Sapa

"Furthermore it is the same issue on which the Thokoza Committee has been hearing evidence for the past five months

"That committee is considering all of the relevant aspects of violence, including ways of curbing it"

The commission said that because of the eviction of people from their homes, a committee had been set up to establish the circumstances in which people might have been forced by violence or intimidation to vacate homes or hostels in Alexandra, greater Soweto and the Vaal Triangle



The Government is again in trouble over secrecy, writes Martin Challenor

More scandals await light of day

STAR 141972

(252)

EARLY in 1990, Khethani Richard Shange twice led attacks on the Gumede home 500 m from the local police station. Five people were murdered.

Mr Acting Justice Gordon convicted Shange of murder and three charges of attempted murder, jailing him for 27 years.

At the time, the Government was involved in intricate dealings with the ANC on the release of political prisoners. President de Klerk was anxious to complete the release because it was the last remaining precondition Washington had imposed before President Bush would lift sanctions.

It was also one of the demands the ANC said had to be met before they would enter into negotiations.

Included in the agreement between the ANC and the Government on the release of prisoners was a paragraph that said: "Whereas a large number of prisoners do not qualify for release according to the categories and the guidelines, cognisance is taken of the fact that the Government is

working on proposals for special and substantial remission of sentence which may include parole in certain cases." This is where the secrecy comes in.

The Government used this provision to release 41 security force members in jail, 13 ANC members, 10 IFP members and two old-age prisoners. There was, at the time, not a mention in the newspapers of the release of the 41 security force members — if there was, there is nothing in the newspaper libraries in Johannesburg, Durban and Cape Town to record the event.

Kobhe Coetsee signed the papers on July 4 last year to release Shange and the other security force members, but, in keeping with the Government's golden rule of "say nothing and hope nobody finds out", made no attempt to explain the fairness aspect.

Murder is murder. But if ANC murderers go free in the name of seeking a new South Africa, then the doctrine of fairness implies that people, on the Government's side who killed deserved equal

treatment. But what is hatched and enacted in secrecy becomes something devious.

Last week, Correctional Services Minister Adriaan Vlok, at the height of the row over Shange, said what Mr Coetsee should have said: "It was realised and accepted that there were still some prisoners in detention who became involved in criminality during the period of political violence and turmoil, and who also had to be dealt with in one or another way."

There was ample opportunity in July last year for the Government to explain its deeds, as much press coverage was given to prisoner releases.

There were reports at the time about two former Brixton Murder and Robbery Squad killers Jack la Grange and Robert van der Merwe going free. Questions asked in Parliament in February revealed that policemen Leon de Villiers and David Goosen, sentenced to death for the murder of a suspect on the banks of the Fish River near Cradock, also were released. Mr Vlok himself added the

names Viviers and Prinsloo to the list of freed security force members.

It was only when the DP started asking questions about Shange that the release of the 66 prisoners became known. Still, Mr Vlok has steadfastly resisted demands for a breakdown of the 66.

So far, eight of the 41 freed security force members are known. This leaves 33 scandals for the Government to live through, unless it gives the full disclosure that the DP is demanding.

Taxpayers will plough R51 million this year into the South African Communication Services. It has the express aim: "To promote effective communication between the Government and the population."

But things continue to go wrong. Mr Vlok said on May 7 this year that 1 248 political prisoners were released unconditionally. However, Mr Coetsee said previously on April 16 that 1 349 political prisoners had been released. They cannot both be right.

Inquiry switches to 'displaced thousands'

CT 14/5/92

152

THE Goldstone Commission said yesterday that no good purpose would be served by hearing many weeks of disputed evidence about violence between the ANC and the Inkatha Freedom Party

It had decided that what did require urgent investigation were the allegations that violence had resulted in the displacement of thousands of people from their homes

"Some are alleged to have been physically ejected from their homes and others are alleged to have vacated them for reasons of fear and intimidation," the commission said in a statement

It had held preliminary inquiries into recent violence in Alexandra Township, the greater Soweto area and the Vaal Triangle on May 5

"Common to most of that violence is that political battle between the ANC and the IFP

"The commission has decided that no good purpose would be served by the hearing of many weeks of disputed evidence on the issue

Phola Park probe adjourns

PRETORIA. — The chairman of a Goldstone committee inquiring into 32 Battalion's alleged rampage through Phola Park, Mr Solly Sithole, adjourned the sitting yesterday to allow legal parties time to find common ground on how the investigation should proceed.

This follows a scathing attack by counsel for the battalion, Mr Barry Roux, on the committee for having "accepted 32 Battalion's overstepping its mark by facts outside the forum, probably after being influenced by reports in the media"

Mr Roux said he was warning the committee that an unhealthy situation would develop if counsel were not given the opportunity to cross-examine witnesses thoroughly. — Sapa

"Furthermore it is the same issue on which the Thokoza Committee has been hearing evidence for the past five months

"That committee is considering all of the relevant aspects of violence, including ways of curbing it"

The commission said that because of the eviction of people from their homes, a committee had been set up to establish the circumstances in which people might have been forced by violence or intimidation to vacate homes or hostels in Alexandra, greater Soweto and the Vaal Triangle

Winnie hits at 'sexism' in SA

JOHANNESBURG — Mrs Winnie Mandela, who has been re-elected chairman of the PWV region of the ANC Women's League, said yesterday that the issue of sex discrimination had to be addressed with the same vigour and intensity as race discrimination

"Our male comrades must no longer be allowed to go about shouting their belief in a non-sexist South Africa when at their own homes they act as undisputed bosses who expect no opposition

"I wish that in this region we will be able to pioneer a more aggressive approach to women's liberation"

She was speaking at a news conference here yesterday where the new regional executive was introduced to the press

She also criticised the press and ANC members who spoke to reporters — Sapa

Six-day death toll 41 — HRC

JOHANNESBURG — The Human Rights Commission, an independent unrest monitoring group, claimed yesterday that 41 people had died and 44 others were injured in violence throughout the country between May 6 and 12

Meanwhile, Minister of Law and Order Mr Hernus Kriel told Parliament yesterday that more people had been murdered on trains during the first four months of this year than during the whole of last year

He said 106 people were murdered on trains between January

1 and April 26 this year Mr Kriel, replying to a question by Mr Jurg Prinsloo (CP Roodepoort), said 76 people were murdered on the trains in 1991

In its weekly report the HRC said vigilante-related actions had accounted for 30 deaths and 28 injuries, with incidents reported only in the PWV and Natal

In the previous week 48 deaths and 60 injuries had been recorded

The HRC said the number of arrests between May 6 and 12 trebled compared with the previous week, with 151 people be-

ing arrested up to Tuesday this week compared with 50 in the previous period

It claimed "hit-squad" activity accounted for one injury in Natal

In their latest report, police said yesterday that a man was killed by a group at Duncan Village in East London

● In Natal, an SADF spokesman said yesterday that 32 Battalion would not pull out of strife-torn Imbali township, Maritzburg, despite of calls by the community for it to do so — Sapa CT 14/5/92



'No evidence'

Mandi hits





GRIEVING WIDOW. Mrs Nombuyiselo Mhlauli, wife of slain Cradock community leader Sicelo Mhlauli, breaks down after a SACP-arranged Press conference in Johannesburg which called for a neutral and independent commission of inquiry into the deaths of the four UDF activists

State 'did not plan murders'

Sowetan 14/5/92

STATE President Mr FW de Klerk yesterday said at no stage did the State Security Council plan misdeeds or kidnaps at any meeting attended by him or any of his colleagues.

De Klerk was speaking during an interpellation debate in the House of Assembly where he was urged by the Democratic Party to widen the scope of the judicial inquiry into the 1988 deaths of four UDF activists

The DP had asked that the terms of reference of the inquiry must include a whole range of allegations of police and security force excesses in the 1980s and to "flush out the sewers of apartheid once

and for all"

De Klerk reiterated that any insinuation that Cabinet or the State Security Council planned or approved murder was devoid of all truth

He said police investigation under the auspices of the acting Attorney General concerned was proceeding

He said the fact that the Judge President of the Eastern Cape would conduct the inquest meant that "for all practical purposes we are dealing with a judicial inquiry"

An inquest was more suitable than a commission for determining criminal liability, which was what this matter concerned specifically

252

'Shots before soldiers arrived'

STAR 15/5/12
of the SDU have been involved

A witness who gave evidence in secret before the Goldstone committee inquiring into 32 Battalion's alleged rampage through the Phola Park squatter camp on the East Rand said yesterday that shots were fired before the soldiers arrived

In a report read by committee member Bob Tucker, the witness said a squatter camp self-defence unit (SDU) often went to an area known as A Section to test their firearms. This was done on the night of April 8 before the alleged involvement of the battalion in shootings

The witness also described a number of incidents in which members

of the SDU have been involved. These include a robbery outside Bethlehem, a shooting incident involving SDU members and three men travelling in a Rand Water Board minibus, and the abduction and subsequent murder of an Inkatha member who was abducted in Tokoza

The witness said that on the night of April 8 he heard shooting and investigated. He met an SDU member who told him to fetch his firearm to fight soldiers

The witness said he decided against the idea and went home, where he climbed on to the roof to see what was happening

He could not see much, but heard some shooting.

The witness said that on the morning of April 9, while standing on a street corner, he saw four black soldiers assault two residents.

He described an earlier shootout in the area when gunmen in a blue combi fired shots in the direction of Phola Park.

The gunmen left the vehicle and ran off. Residents saw one of the group carrying a firearm and attacked the combi.

The witness said the SDU used weapons such as axes, assegais and AK-47 rifles, but not heavy weapons such as rockets or hand grenades which 32 Battalion claimed to have heard

The sitting was adjourned until Monday. — Sapa

No move yet on govt scandal

81 Day 157992
THE Transvaal attorney-general's office had not yet decided whether to prosecute in five cases of alleged fraud involving officials of the defunct Development Aid Department, a spokesman said yesterday.

A decision was not likely before the end of this month, he said, adding that the six "best" cases, in which convictions were previously considered most likely, had already resulted in acquittals in the Pretoria Regional Court last year. In a further 17 cases involving the same witnesses, the attorney-general's office had decided not to prosecute.

If his office decided not to prosecute in the five pending cases, it would mean not a single official from the Development Aid

252
PATRICK BULGER

Department would have been found guilty of any wrongdoing. The Pickard report on the department found that millions in taxpayers' money had been lost through fraud.

The attorney-general's spokesman said the five cases involved "large amounts" of money, running into several hundred thousand rands. He said the officials facing charges ranged from high-level managers to office staff.

The spokesman said that in an earlier case, involving five charges of fraud relating to payouts for work allegedly not done but paid for by the department, the Pretor-

□ To Page 2

Scandal

81 Day 157992
A Regional Court heard that it was regular practice to pay for work before it was done. The accused argued that it had not been his intention to defraud the department and he was acquitted.

Another fraud case involving a department official was held back pending the release of the Pickard report. It was decided not to prosecute. A minor case had been referred to the Free State attorney-gener-

252
al for possible prosecution

252 □ From Page 1
BILLY PADDOCK reports that Regional and Land Affairs Minister Jacob de Villiers said a further report on the department might be forthcoming from Judge Pickard after the prosecutions.

He said the judge had indicated he would see how the prosecutions went, and might then draw up another report. However, this report would probably be confidential.

S
A

will open from Monday
May 18, in the mornings.
It is at the Dutch Reformed Church, 17 Oaklands Avenue, Orchards.

Stitch in time Margaret Freeman

STAR 157592
A-G refused leave to appeal

BLOEMFONTEIN — The Appeal Court has dismissed — with costs — an application by Witwatersrand Attorney-General Klaus von Lieres, SC, for leave to appeal against an order for costs made against him in a successful defamation action against Vrye Weekblad. The action against the

paper's owners, editor, printer and distributor arose from reports in Vrye Weekblad in January and February 1990.

Mr von Lieres had accepted a settlement tender of R15 000 and costs on a first claim, but rejected a tender of R5 000 on a second claim. — Sapa.

Fraud

THOHOY
"This is v cannot, b much mor ly spent time, a week dur a man stealing thousands a mine an club. Gabrie

66



The lash goes on (252)

Hurrah for revolution and more cannon-shot!

A beggar upon horseback lashes a beggar on foot

Hurrah for revolution and cannon come again!

The beggars have changed places, but the lash goes on (W B Yeats)

FM 15/5/92

The ANC has accepted the principle of detention without trial, at least for the period of an interim government. This can be seen in an April 27 submission to Codesa on emergency legislation, in response to Codesa working group proposals.

Brian Currin, executive director of Lawyers for Human Rights, reacted strongly when the FM drew his attention to the ANC document.

"It's a total disgrace. The ANC, whose leaders spent lengthy periods in prison without being tried, has now in principle agreed with government on this issue. To put it mildly, we are appalled. The ANC's attempt to humanise and justify detention without trial is pathetic and in fact smacks of complicity."

In the document, the ANC accepts that "provision should be made for the justiciability of the proclamation of a State of Emergency or unrest area." It then sets out procedures to deal with "detention or any denial of the right to liberty."

The ANC recommends that the maximum detention period should be 30 days, but then comes the catch "30 days — unless the reviewing administrative authority has reported before the expiry of this period that, in its opinion, sufficient cause for such detention exists."

It should immediately be clear that this language is reminiscent of the 90-day and 180-day security legislation introduced when John Vorster was Minister of Justice in the Sixties.

In theory there was a maximum detention period, in practice the incarceration could be renewed again and again.

If a detainee is held for more than three months, says the ANC document, then the detention will be reviewed "regularly" by a review board "presided over by a judge of the Supreme Court and comprising members

appointed by the relevant Minister." Such a review board, says the ANC document, shall have the power to order the immediate release of a detainee — but only "if continued detention is not reasonably necessary for the maintenance of law and order."

Again, there are uncomfortable precedents. The National Party was adept at replacing judicial (and, therefore, independent) review with administrative (and therefore State) review.

Even if a judge is appointed to an administrative authority, the State can easily get its way simply by making sure that it appoints the right individual judge. As for the board members appointed "by the Minister," there would never be any doubt about their allegiance.

Currin's attack is direct. "We thought they (the ANC) were opposed to the principle of being a judge in your own case. Why dispense with the independent judiciary?"

"Remarkably, there is no limit to the period of detention as long as government's review board is satisfied there is sufficient cause."

In the light of these startling recommendations, the ANC's attempt at reassurance rings hollow. "Detainees shall be entitled to make representations and submissions to, and to be represented at the proceedings of, the review board."

Equally meaningless are the clauses which provide that detainees should be informed of the reason for their detention, that a family member or friend should be notified, and that a lawyer of the detainee's choice may be consulted.

There appears to be a safeguard in the final clause of the document. "Notwithstanding the above procedures the remedy of habeas corpus shall be available to detainees."

But this is silly. The ancient doctrine of habeas corpus, whether in common law or on the statutes, essentially provides that anyone arrested must be brought before a court of law within a reasonable time (such as 48 hours), and then charged or released.

This is in direct conflict with the concept of administrative detention and it is difficult to take the ANC seriously when it claims that the one can exist alongside the other.

The Nationalist delegates at Codesa must be presumed to be happy with the contents of this chilling and legally ignorant document, as they have raised no public objections to it. Perhaps we should not be surprised. ■

125 MAY 1992

REPUBLIEK
VAN
SUID-AFRIKAREPUBLIC
OF
SOUTH AFRICA

Staatskoerant Government Gazette

R1,00 Prys • Price
R0,10 Plus 10% BTW • VAT
R1,10 Verkoopprys • Selling price
Butelands R1,40 Other countries
Posvry • Post free

Vol. 323

PRETORIA, 15 MEI
MAY 1992

No. 13995

PROKLAMASIE

van die

Staatspresident

van die Republiek van Suid-Afrika

No. 44, 1992

WET OP VRYWARING, 1990

VERLENGING VAN TYDPERK VAN WERKING

Kragtens subartikel (2) van artikel 4 van die Wet op Vrywaring, 1990 (Wet No 35 van 1990), en met die instemming van al drie Huisse van die Parlement, verleng ek die tydperk bedoel in subartikel (1) van die artikel hierby, met betrekking tot genoemde Wet in die geheel, vir 'n verdere tydperk van een jaar wat op 17 Mei 1993 eindig

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Kaapstad, op hede die Veertiende dag van Mei Eenduisend Negehoenderd Twee-en-negentig

F. W. DE KLERK,
Staatspresident

Op las van die Staatspresident-in-Kabinet

H. J. COETSEE,
Minister van die Kabinet.

GOEWERMENSKENNISGEWING

DEPARTEMENT VAN JUSTISIE

No. 1391

15 Mei 1992

KENNISGEWING VAN DIE STAATSPRESIDENT
VAN DIE REPUBLIEK VAN SUID-AFRIKA

KENNISGEWING VAN TYDELIKE VRYSTELLING
KRAGTENS DIE WET OP VRYWARING, 1990 (WET
No 35 VAN 1990)

Nademaal ek van oordeel is dat dit nodig is vir die bevordering van vreedsame konstitusionele oplossings in Suid-Afrika, verleen ek hierby kragtens die

322—A

PROCLAMATION

by the

State President

of the Republic of South Africa

No. 44, 1992

INDEMNITY ACT, 1990

EXTENSION OF PERIOD OF OPERATION

Under subsection (2) of section 4 of the Indemnity Act, 1990 (Act No 35 of 1990), and with the concurrence of all three Houses of Parliament, I hereby, in relation to the said Act as a whole, extend the period referred to in subsection (1) of that section for a further period of one year ending on 17 May 1993.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Fourteenth day of May, One thousand Nine hundred and Ninety-two

F. W. DE KLERK,
State President

By Order of the State President-in-Cabinet

H. J. COETSEE,
Minister of the Cabinet

GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE

No. 1391

15 May 1992

NOTICE BY THE STATE PRESIDENT OF THE
REPUBLIC OF SOUTH AFRICA

NOTICE OF TEMPORARY IMMUNITY UNDER THE
INDEMNITY ACT, 1990 (ACT No 35 OF 1990)

Whereas I am of the opinion that it is necessary for the promotion of peaceful constitutional solutions in South Africa, I hereby under the power vested in me by

13995—1

SANGWENI, Stanley
 SHOPE, Gertrude
 SKWEYIYA, Sidney Temba
 SLOVO, Joe
 TAMBO, Oliver Reginald.
 ZUMA, Jacob

SELEBI, Jackie/SELEBI, Jacob Sello.
 SISULU, Max
 STOFIE, Joyce
 STOFIE, N.
 ZULU, Lindiwe

252

PHYTOPHYLACTICA

Hierdie publikasie bevat artikels oor plantpatologie, mikologie, mikrobiologie, entomologie, nematologie en ander dierkundige plantplae Vier dele van die tydskrif word per jaar gepubliseer

Verdienselike landboukundige bydraes van oorspronklike wetenskaplike navorsing word vir plasing in hierdie tydskrif verwelkom Voorskrifte vir die opstel van sulke bydraes is verkrygbaar van die Direkteur, Landbou-inligting, Privaatsak X144 Pretoria, aan wie ook alle navrae in verband met die tydskrif gerig moet word

Die tydskrif is verkrygbaar van bogenoemde adres teen R12,50 (BTW ingesluit) per eksemplaar of R50 per jaar, posvry (Buitelands R15 per eksemplaar of R60 per jaar)

PHYTOPHYLACTICA

This publication deals with plant pathology, mycology, microbiology, entomology, nematology, and other zoological plant pests Four parts of the journal are published annually

Contributions of scientific merit on agricultural research are invited for publication in this journal. Directions for the preparation of such contributions are obtainable from the Director, Agricultural Information, Private Bag X144, Pretoria, to whom all communications in connection with the journal should be addressed.

The journal is obtainable from the above-mentioned address at R12,50 (VAT included) per copy or R50 per annum, post free (Other countries R15 per copy or R60 per annum).

Werk mooi daarmee.

Ons leef  daarvan.

water is kosbaar

Use it.

Don't abuse  it.

water is for everybody

bevoegdheid my verleen by artikel 1 (1) van die Wet op Vrywaring, 1990 (Wet No 35 van 1990), onvoorwaardelik vrystelling soos vermeld in artikel 1 (2) van voormelde Wet, aan die persone in die Bylae vermeld, gedurende die tydperk vanaf 18 Mei 1992 tot en met 30 November 1992.

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Kaapstad, op hede die Veertiende dag van Mei Eenduisend Negehonderd Tweenen-negentig

F. W. DE KLERK,

Staatspresident

Op las van die Staatspresident-in-Kabinet

H. J. COETSEE,

Minister van die Kabinet

section 1 (1) of the Indemnity Act, 1990 (Act No 35 of 1990), unconditionally grant to the persons specified in the Schedule, immunity referred to in section 1 (2) of the aforementioned Act for the period from 18 May 1992 up to and including 30 November 1992

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Fourteenth day of May, One thousand Nine hundred and Ninety-two.

F. W. DE KLERK,

State President

By Order of the State President-in-Cabinet

H. J. COETSEE,

Minister of the Cabinet

252

BYLAE • SCHEDULE

APPALRAJU, Premi

BUNTING, Brian Percy

CHOABI, Seretse

DE BRUYN, Sophia Theresa

DOLNEY, Helen

GANA, Martha Constance

HANI, Chris/HANI, Martin Thembisile

HUSSEIN, Mohamed

JOBODWANA, Zingisile Mtwezinhle.

KASRILS, Ronald.

KHUMALO, Aubrey M

LERUMO, Thabo

MAFISA, Rose Kgopotso

MAJOLA, Lulu.

MAKHASI, Edward

MARCUS, Gill.

MASEKO, Karel

MASINGA, France

MBEKI, Thabo

MJCABA, Andile.

MODISE, Joe.

MOLAPO, Cyril

MOLEFE, Dikgang Castro

MOLOI, Ntseke

MOLOTO, Busisiwe

MONGWALETSE, Leslie

MOTLATSIS, Hon

NETSITENZHE, Joel

NHLANHLA, Mmabatho.

NKONDO, Sankie

NOKWE, Fundile.

PAPERS, Patrick

QAWU, Pumla Desiree.

BHENGU, Sibusiso

BUNTING, Sonia Beryl

COLVIN, Louise

DLAMINI, Stephen

ETHMAHILL, Aboobaker

GODDEN, Edgar

HLUBI, Thuthukani

JELE, Joe

JORDAN, Pallo

KGOSITSILE, Keorapetse.

LEKOTA, Zephania

MADUNA, Penuell

MAGUNYA, Ben

MAKGOTHI, Henry

MALEBE, Edwin.

MASEKELA, Barbara

MASETLE, Dudu.

MAYSON, Cedrick Radcliffe

MFENYANE, Filanda Chramova.

MKANI, Sandile

MOKWENA, Timothy

MOLATHANYI, Tefo

MOLEFE, Jacqueline

MOLOTO, Papie Otukile

MONARENG, Oupa Ephraim

MORATHI, Tseke Cybrite.

MOTSWENYANE, Dedanizizwe Joseph

NDLOVU, J

NJANANA, Rhoda/PHECLA, Priscilla

NKONDO, Zinjiva

NOMOYI, Lizo.

PHEMBA, Bonakele

RADEBE, Vasco.

INHOUD			CONTENTS		
No		Bladsy No	No		Page No
	PROKLAMASIE			PROCLAMATION	
44	Wet op Vrywaring (35/1990) Verlenging van tydperk van werking	1	13995	44	Indemnity Act (35/1990) Extension of period of operation
	GOEWERMENSKENNISGEWING			GOVERNMENT NOTICE	
	Justisie, Departement van Goewermenskennisgewing			Justice, Department of Government Notice	
1391	Wet op Vrywaring (35/1990) Kennisgewing van tydelike vrystelling	1	13995	1391	Indemnity Act (35/1990) Notice of temporary immunity

Interdict against Weekly Mail averted

AN URGENT Supreme Court application by the Police Commissioner was averted yesterday when the Weekly Mail agreed out of court to amend an article on police covert operations it was to publish today.

Another police interdict against Vrye Weekblad newspaper succeeded in the Pretoria Supreme Court yesterday.

SAP Commissioner Gen Johan van der Merwe approached the court yesterday with an application interdicting the Weekly Mail from in any way publishing information about the existence of police "undercover operations and structures".

After reading the proposed article, SAP legal representative Sam Maritz SC indicated that the application would not be put before court and that the article could be published with certain amendments.

Weekly Mail editor Anton Harber said his newspaper would publish the story with

252
STEPHANE BOTHMA

the required amendments. These related to the identification of policemen believed to be involved in covert operations. The planned court action followed last week's exposure by the newspaper of covert police activities in the Vaal Triangle, including alleged attacks on township residents.

Court papers indicated that the commissioner intended asking the court for an interdict restraining the Weekly Mail from publishing details of the location of premises from which police were conducting undercover operations. It was also intended that the Weekly Mail be prevented from publishing pictures of these premises, photographs of any member of the SAP involved in the operations and any details which could identify policemen involved.

□ To Page 2

ANC move shock lawyers

Sowetan 15/5/92

VAD 252

THE agreement by the African National Congress to detention without trial during the interim government phase has shocked Lawyers for Human Rights.

LHR executive director Mr Brian Curran said yesterday that they were shocked to read that the

Sapa

African National Congress, whose leaders spent lengthy periods in detention "at the whim of misguided politicians and policemen, has now in principle agreed with the Government on this issue".

"They very magnanimously propose the right of

detainees to have their detention reviewed administratively within a period of 30 days of detention

"We thought they were opposed to the principle of being a judge in one's own case. Why dispense with the independent judiciary?"

"The 30-days at a time to a maximum of 90 days as long as the administrative authority is of the opinion

that sufficient cause for detention exists. That could easily be John Vorster's wording," Curran said

"Even after three months, the detainee has no access to the courts," he said

"Again, the detaining government will choose its own administrative review board, presided over by a judge appointed by, guess

who, the Minister

"Remarkably, there is no limit to the period of detention as long as the government's review board is satisfied that there is sufficient cause for detention"

"Maybe we should remind all participants that the international standard is 48 hours," Curran said

Untying the knot a piece of cake

IT HAPPENS every Friday at 10 am — hundreds of smartly dressed women gather around the divorce courts notice board in the Rand Supreme Court to study the day's roll.

Mostly, it's wives who gather in the cold confines of the building to see the legal axe fall on what was once a lifetime's commitment. Only the occasional husband is seen standing before a judge as a plaintiff.

In the next three hours, four judges will spend about five minutes on each case, asking routine questions which will be answered with routine correctness before the nuptial knots of an average 200 marriages are unravelled forever.

During the next 12 months, about 7 000 couples in the Transvaal will find themselves on the divorce treadmill, having five-minute discussions with a judge before leaving law courts free of each other.

That figure excludes the couples going through the Black Divorce Court, which is soon to be scrapped, and separation of couples married by tribal custom.

Harmful separations

The Supreme Court procedure is fairly painless

Most divorces are uncontested

The Divorce Act's term "irreconcilable differences" means that as soon as one spouse decides he or she wants a divorce, the other partner has few legal grounds on which to oppose it.

If a divorce is contested, it is usually over maintenance settlements, custody of children or visiting rights

Filing for divorce is so easy that the number of DIY settlements grows every year

Divorce experts fear that the easy,

Six-month
252
'cooling-off'

bid urged
Stark 16/5Pr2

GETTING a divorce is quick — the Supreme Court hearing takes five minutes — and cheap if you organise it yourself. But is it worth it? BRENDAN TEMPLETON reports.

casual passage of divorce results in unnecessary and harmful separations

All you need is R50 to pay for court costs, to ensure that your spouse has received notice, that he or she has 14 days to reply if living in the Witwatersrand area, that identity and marriage certificates are available, that you know the correct answers to the questions, and away you go

Johannesburg's divorce courts are usually crowded on Fridays, so it is easy to acquaint oneself with the procedure

Seats and aisles are packed as lawyers ask their clients "You are the plaintiff in this case? Were you married in community of property?"

Where does your spouse live? Is he/she permanently resident there? How long have you been married? Are there any children?

What were the problems in the marriage? Are you still living together? Who left the home? Have you tried to reconcile? Have you drawn up an agreement? Usually, the plaintiff quotes standard answers as reasons for the

break-up — "there was no communication", "we were continually fighting", "we had no respect for each other" and "irreconcilable differences"

Occasionally they take advantage of the chance to put the knife in for one last time, saying "he was always having affairs with other women" or "our sex life was terrible"

The procedure is simple for those seeking DIY divorce to master

You pay only R50 instead of between R1 500 and R3 000 in legal fees

Responsibilities

Family Advocate's Office head Frances Bosman points out that if a wife does not apply for maintenance during her divorce hearing, she forfeits the chance to do so for ever

Bosman says it is easy to overlook legal benefits and loopholes

Few know the difference between custody and guardianship or the responsibilities that go with them

One member of the couple is usually the dominant figure in the marriage and can unfairly influence the outcome of a DIY divorce in his or her favour

Advantages of divorce mediation and marriage guidance are also possibilities which could be overlooked through ignorance

Bosman is in favour of introducing a six-month "cooling-off" period between application for and granting of divorce to give couples time to think it over and to go through marriage counselling

Professor Wilma Hoffman of the University of the Witwatersrand's divorce mediation unit is more cautious about the introduction of a cooling-off period, saying it can help some marriages, but could also unnecessarily prolong the pain of disas-

Bosman says this true. "The law cannot guarantee a happy marriage — that is up to the couple"

Her office started in 1990. It aims to take children out of the conflict which might surround a divorce and, acting as the eyes and ears of the court, allows the judge hearing the divorce a chance to make an informed decision on a settlement.

The family advocate investigates — family background and tries to find the settlement which will best suit the children

He or she can start an inquiry at the request of the court or spouse, or if he or she feels it is necessary

The service is free and neutral

Divorce mediation offered by Hoffman's unit is available to couples who have already started divorce proceedings

trous ones

ANC: No jail without trial (252)

Staff Reporter

THE ANC yesterday said the organisation was "totally against detention without trial" and that they supported the principle that no one should be held for longer than 48 hours without appearing in court.

The ANC was responding to a statement released by the Lawyers for Human Rights in which the LHR said they were "shocked" about the ANC's agreement to detention without trial during the interim government phase.

This information was contained in a document submitted to Codesa's working group one on April 21.

LHR director Mr Brian Currin yesterday said the document clearly stated that detainees could be held for 30 days after which their detention would be reviewed.

The ANC said yesterday the reference to 30 days' detention referred only to a state of emergency.

Amnesty hits out at the govt

THE government has not taken firm enough action to end security force involvement in killings, torture and other abuses. Amnesty International charged this week. ^{CIPREN 11/15/92} (252) 11/15/92

The organisation expressed concern that the current climate of fear and high loss of life would continue until the government took steps to demonstrate that security forces members involved in human rights violations were brought to justice.

Pity the poor defendant

By RYAN CRESSWELL

252

AN OUTDATED rule is preventing lawyers from defending the poor for free in civil matters

The reason a poor person is defined as someone who does not have property — except for household goods, clothing and working tools — worth more than R1 000

The general council of the Bar, the Association of Law Societies and the

Legal Resources Centre feel this figure should be increased to R10 000

But the Rules Board for courts of law has refused to increase the amount

A spokesman for the Legal Resources Centre, Mr RJ Purshotam, said that over a nine-month period last year not a single defendant in the Durban Supreme Court had received free legal assistance — because nobody qualified

THE nickname that 32 Battalion soldiers earned in the Angolan war, "Os Terrivos", means different things to different people in South Africa.

To the SA Defence Force they are the bravest of the brave. This month the army conferred another 2 015 medals on the unit's members, describing it as "one of the great fighting units of the world".

To many township residents across the country they are truly "the terrible ones", accused of rape, killing, theft and assault.

Allegations of misconduct have dogged the unit since shortly after its arrival in South Africa in 1989. It arrived here covered in glory, the most decorated unit since World War 2, with five members awarded the Honoris Crux for extraordinary bravery.

The defence force bought the tiny northern Cape village of Pomfret to house the men, formerly leaderless FNL soldiers who had

32

COUNTING THE COST OF THE

THE Goldstone Commission has been occupied this month with allegations of atrocities committed by 32 Battalion in the East Rand squatter camp of Phola Park — but this is not the first time the Angolan-born soldiers have clashed with township residents. **CLAIRE ROBERTSON** reports

been "adopted" by the SADF in 1976.

By January 1990 they were in the townships — posted to Natal as a peacekeeping force in the war between Inkatha and the UDF in areas surrounding Maritzburg.

Here they proved to be enormously effective. After their first two months murders in the area dropped from 96 a month to just 13. But questions about the cost of

their presence began to be asked. Was the alleged assault of innocent civilians an acceptable price to pay for keeping the peace?

By May residents had accused the soldiers of attempted rape and of theft.

Church and political leaders decried their presence, but the SADF dismissed these fears as being based on the ANC's inability to influence the Portuguese-speak-

252



ing, foreign troops. Members of 32 Battalion are still in the area.

In February 1991 other members set up camp on a soccer field in Thokoza on the East Rand.

The allegations began again. Within weeks of their arrival they had incurred the displeasure of local people, according to the ANC Journal Mayibuye.

"They allegedly grab schoolgirls and fondle them in full view of military seniors," said a report in the magazine.

A sociologist compiling evidence for the Goldstone Commission in the area, Miss Sally Sealy of the Independent Board of Inquiry into Informal Repression, documented the following allegations:

● On March 28 this year two vehicles bearing members of 32

21 Times

Battalion raced into Khumalo Street, Thokoza, in pursuit of a car from which shots had been fired. The car sped away but the soldiers opened fire on a circle of houses, shattering windows, hitting walls and narrowly missing the head of Mr Samuel Mahlaba, who was changing a car tyre.

Five charges of damage to property and one of attempted murder were laid with the Thokoza police;

● On February 28 a police helicopter and 13 cars full of police arrived in Holomisa Park on the East Rand for a weapons search. Members of 32 Battalion also arrived in several Hippo and surrounded a youth who had been shot from the helicopter.

According to a witness, Mr Gerald Masete of the local ANC office,

the soldiers kicked and beat the youth, Similo Koth, 18, who later died. He was a well-known mentally retarded boy who earned his living collecting scrap iron.

● On April 6 Holomisa Park residents were patrolling their area, fearing reprisals for an attack blamed on local activists, when members of 32 Battalion arrived in three Hippo.

Soldiers opened fire without warning and shot Zulfani Ngolom, 27, in the back and injured Phumle Nphleni, Edward Ngunse and Vuyisile Gwebelele.

The SA Defence Force response to these allegations was "A spokesman for the Witwatersrand Command confirmed SADF involvement in one of the alleged incidents where members of

32 Battalion helped injured people, after unidentified gunmen shot at houses in Khumalo Street on the night of 28 March 1992.

"Twenty-five spent AK-47 cartridges were found at the scene. The other two allegations are unfounded and 32 Battalion involvement is strongly denied."

And then, on April 8, "all hell broke loose in Phola Park" as the Goldstone Commission was told recently.

In 70 affidavits, residents blamed murder, rape, assault and theft on members of the battalion. Residents alleged they were beaten with, among other instruments, iron pipes, sjamboks, cables, planks and a panga. Some victims were allegedly beaten unconscious.

In at least six cases they tell of white or other black soldiers pleading with the unit's members to stop the assault.

The soldiers later admitted to being "heavy-handed" in slapping and punching residents, the Goldstone Commission was told.

But "there might have been good reason for that", said Captain Mark Hermanson, commander of the platoon involved.

He said the reports could be an exaggeration to discredit 32 Battalion.

"We have a problem all over the country there are certain factions who do not want us in the townships," he said.

Political figures and factions clearly want the soldiers out of their areas at all costs. The SADF is determined to keep them there. Each is prepared to resort to propaganda — and the truth about the battalion lies somewhere in between.

TERIBLE ONES

Attorney-general calls for 'one-stop justice' (252)

Bl Day 18/5/92

WITWATERSRAND Attorney-General Klaus von Lieres und Wilkau wants a "one-stop" justice system where criminal courts could order the payment of damages in appropriate cases

STEPHANE BOTHMA

But not all cases were suitable for compensatory orders, Von Lieres said.

The Criminal Procedure Act provided for a magistrate to order an accused to pay compensation when appropriate, but the system was not often used, Von Lieres said at the weekend

The use of the system would take a great load off the small claims and civil courts. Complainants currently claimed damages from civil courts years after the completion of a criminal trial — with the resultant cost of two trials relating to the same incident

"The application of the system will lend credibility to criminal courts, and victims will feel they have been compensated for their losses," he said.

Von Lieres said the the Act also made provision for an order to pay damages on suspension of sentence. In most cases, he said, this type of order was the most effective

The Act was recently amended to allow regional magistrates to make damages orders up to R20 000.

"If the one-stop justice idea is to be implemented successfully, the police will have to be trained to take down the details of damages sustained as a result of criminal action when a police docket is opened.

In terms of the Act, complainants in a criminal matter could approach the State prosecutor to ask the magistrate for a compensation order.

"This method will ensure the amount of damages sustained is recorded on official court documents, and the prosecutor can argue for the appropriate damages order," Von Lieres said.

In most cases, where the accused was charged with crimes like malicious damage to property, theft, fraud or reckless driving, a damages order could be suitable.

Sabta calls for derailing of Masstran

THEO RAWANA

THE SA Black Taxi Association (Sabta) has rejected the proposed R1,5bn light rail transit system for Johannesburg as a costly, technologically intensive venture which would deny people much-needed job opportunities.

looking up to government for funds and that is unfair on the taxpayer at a time of economic downswing," Lebesse said.

Sabta public affairs manager Cyprian Lebesse said the Masstran system would directly affect the taxi industry, but the Johannesburg city council had not consulted this sector.

"SA should reject a venture whose setting up would mean bringing in technology when labour intensive schemes are called for," Lebesse said.

"The cost of the venture was R600m at the time of designing and by the time they have put up everything it will be more than R1bn. The council will be

Meanwhile, ADRIAN HADLAND reports that the city council has not agreed to the system going down Lous Botha Avenue

detailed planning has been undertaken by the council since the Transport Department released the Masstran feasibility study," he said

Davidson was reacting to claims made at a public meeting in Johannesburg that the Masstran proposal had excluded public participation and that properties would be expropriated

Davidson said an urgent meeting would be held with the Masstran Action Group, who organised this week's public meeting, as well as other representatives, "in order to clarify the position and to hear and address their concerns".

ped
to
the
on
as
ng
A
r
M
a

I
u
n
a
t
th
th
sa
h

JO
OR
rep
ndur
In
es w
enc
alu
in
sec
Ha
l d
all
re



Schools face insurance burden

KATHRYN STRACHAN

SCHOOLS will have to take responsibility for insuring their property and assets once the Model C system is implemented on August 1 — a development which is expected to increase fees significantly

With the "privatisation" of schools under the Model C plan, ownership of property and assets will be transferred to the school's governing council from the state at a nominal fee

Transvaal Education Department (TED) spokesman Willie van Staden said last week school governing bodies were concerned about the costs involved in insuring the assets, and premiums would make up a large part of school budgets

In an effort to minimise expenses, the department would continue to be liable for repairs in the case of dam-

age to permanent structures as a result of natural disasters, fires and other unforeseen occurrences, including terrorist attacks

Insurance broker John Haenen said schools would have to insure themselves from risks such as pupils injuring themselves, accidental breakage, vandalism and staff members' dishonesty. They would also have to insure valuable resources such as computer and media centres

However, schools were generally at low risk from fire because there was little electrical equipment and no smoking on school premises. This would enable insurers to charge lower premiums, he said

Beating in order but overdone — judge

SUSAN RUSSELL

TEACHERS who caned a Randburg schoolboy had been entitled to punish him with six cuts but used excessive force, a Rand Supreme Court judge said when he awarded R2 560 damages to the boy's father on Friday

In an action against the Education and Culture Minister, the parent claimed the headmaster and three teachers were responsible for his son having to receive medical and psychological treatment

The schoolboy, who was 15 at the time, was given six cuts in November 1989 after he exposed himself to a group of girls in a dare for money

His father sued the Minister and teachers for R13 472 for medical and psychological treatment, and pain and

suffering. He said his son had been unable to sit or lie on his back for a week, and was unable to attend school for five days

Judge J Lazarus said the boy had initially lied about what he had done, which justified the punishment. His case had also been exaggerated

"But none of this detracts from my view that the hiding given him was excessive" The judge said photographs showed blood blisters next to where the cane had struck

There was evidence, he said, that the teacher had stopped the caning after the fifth cut, but was ordered to continue by the deputy headmaster.

ton City

STEVE ENGLISH ADVERTISING 2649

Hostels seek talks on funds

WILSON ZWANE

HOSTEL residents will seek a meeting with government to discuss how money earmarked for upgrading hostels should be spent

Local Government and National Housing Minister Leon Wessels announced last week that government was making R296,6m available this year to improve hostels

It could not be established how much would be allocated to each province.

Transvaal Hostel Residents' Association chairman Joseph Kubheka said his organisation was happy with the money set aside for hostels

However, his organisation needed assurances that the money would be "spent properly" and in consultation with hostel residents, Kubheka said

"We will be requesting a meeting with Wessels within weeks to apprise him of our needs," he said

YOU know

NIC - from the bottom up. This forum could have its base in the factory floors where the union is representative, negotiations being between the union and the companies where solidly organised shop steward committees function. Such a forum must be carefully constructed to allow as much worker participation as possible - the central role devolving on individual shop steward committees - to avoid undue centralism and bureaucratism. 'Experts' would still be necessary, but the problem of expertise being vested in the hands of a few full-time officials could be avoided by as great as possible a use of 'worker experts'. Unlike the NIC, such a forum affords scope for the emergence of leadership from the shop floor - an essential aspect of union democracy.

To end, certain limitations to this article, which throws up more questions than answers, must be made explicit. There are three areas in particular that call for attention. The first is a more historical view of the NIC from its formation in 1944 up to to-day. This would illustrate in a more concrete fashion what has been pointed to in the article - the changes in the labour process resulting from struggles centring around technological change, job dilution and fragmentation. Tied up with this are the complexity of the class forces involved in the industry, a close analysis of the trade unions, both NIC parties and non-parties, organising in the industry is required. And, finally, closely related to this is the need for a much closer look at SELFSA and the employers it represents. This would facilitate a better understanding of the structure of the industry and the relative importance of its various sectors.

Footnotes

- 1 This is a case study of one particular industrial council, and no attempt has been made to generalise and draw conclusions applicable to other councils. Although all ICs are constituted in terms of the Labour Relations Act, they are of heterogeneous nature. Their scope of application may be regional or national, only one or as many as 14 trade unions may be parties to different councils.
- 2 The Amalgamated, Engineering Union (AEU - whites), the Amalgamated Society of Woodworkers (ASW - whites), the Iron Moulders Society (IMS - whites, coloureds and Africans), the S A Boilermakers' Iron and Steel Workers, Ship Builders' and Welders Society - S A's largest union (SABS - whites, coloureds and Africans), the S A Engine Drivers, Firemen's and Operators Association (whites), the Yster-Staal, en Verwante Nywerheids Unie (Y&S - whites) the Engineering Industrial Workers' Union ('coloureds') and its parallel, the National Union of Engineering

Industrial and Allied Workers' ('Africans'), the Radio, Television, Electronic and Allied Workers' Union ('coloureds') and its parallel, the Transvaal Radio, Television, Electronic and Allied Workers' Union (Africans), the S A Electrical Workers' Association (whites) and its parallels - the Electrical and Allied Trades Union ('coloureds') and the Electrical and Allied Workers' Union (Africans), and the CUSA affiliate, the Steel Engineering and Allied Workers' Union (SEAWU - African).

Apart from the SEAWU and from the recently formed parallel unions, these unions were mostly formed as craft unions, organising the more skilled workers especially artisans. Although the progressive but uneven fragmentation and dilution of work in the industry has led these unions to assume a more industrial nature, the historic dominance of craft unions, organising mostly whites and a minority of 'coloureds' on the NIC since its formation in 1944 is crucial to an understanding of the nature of the

Call for 'one stop' justice

JOHANNESBURG, - Witwatersrand attorney-general Mr Klaus von Lieres und Wilkau wants a "one stop" justice system where criminal courts could order the payment of damages in appropriate cases.

The Criminal Procedure Act provides for a magistrate to order an accused to pay compensation when appropriate, but the system was not often used, Mr Von Lieres said at the weekend. The act was recently amended to allow regional magistrates to make damages orders up to R20 000.

The use of such a system would take a great load off the small claims and civil courts, he said.

coming face to face with the limitations of in-house agreements negotiated with individual capitals

- 3 These include an Exemptions Committee to oversee exemptions from agreements granted to employers and 8 National Group Technical Committees reflecting the sectors of the industry and dealing with problems emerging from Agreements.
- 4 The NIC's agents are properly termed 'Designated Agents'. Whereas Agents have investigatory powers only in respect of employers party to the NIC, Designated Agents may investigate any employer in the industry.
- 5 Mr van der Walt of the SABS stated that employers are obliged to pay on average, something like R20 000 per month' as a result of NIC assessments.
- 6 Interview with Mr Berch ASW.
- 7 Ibid.
- 8 Interview with the an det Walt SABS.
- 9 For specific sectors, there are the Lift Engineering Agreement, the Agreement for the Radio Manufacturing Sector, the Agreement for the Radio, Refrigeration and Domestic Electrical Appliances Division, and the

SADF chief: 'Trial by media unfair'

CT 18/5/92 (254)

PRETORIA — The South African Defence Force had been subjected to an unfair "trial by media" following allegations that SADF members had assassinated Mr Matthew Goniwe and three other ANC activists, SADF chief General Kat Liebenberg said at the weekend.

In addition to publishing allegations that orders had been issued for the "removal" of the ANC activists in 1985, the media had criticised the SADF about the killing of academic Dr David Webster.

He said it was unfortunate that the Defence Force was being unfairly subjected to a trial by media, while an investigation was in progress.

By abiding by the rules applicable to such an investigation the SADF was left "defenceless".

"While I have the fullest confidence in the due process of law, I find the emotional, one-sided and at times offensive nature of the reporting on this matter disappointing."

The media allegations had been directed at Lieutenant-General C P van der Westhuizen, the SADF's Chief of Staff Intelligence.

General Liebenberg said it was unfortunate that elements of the media were not prepared to abide by the same rules and were not prepared to wait for the result of the legal process.

Immediately after allegations about the Eastern Cape killings were made public, President F W de Klerk had initiated a high-level investigation, General Liebenberg said. This investigation would probably lead to the reopening of the inquest presided over by Mr Justice Zietsman.

Webster killing claim 'not new'

Own Correspondent

JOHANNESBURG. — Reported claims by former CCB agent Mr Ferdi Barnard that he killed Dr David Webster were "rehashed versions" of old reports, Witwatersrand attorney-general Mr Klaus von Lieres said yesterday.

Mr Von Lieres said there was nothing new about the report because the evidence that Mr Barnard had confessed to killing Dr Webster on May 1, 1989 had already been submitted to the Harms Commission — which reported that there was no evidence to indicate that specific people had been responsible for the murder of the activist.

Mr Von Lieres said he had not been able to prosecute anyone on the basis of the evidence submitted to him.

David Webster Trust member Dr Max Coleman said many people were supposed to have heard Mr Barnard's claim, but he did not believe there was any hard evidence that would stand in court.

The same process had been initiated in the case of the murder of Dr Webster — even before these allegations were made public.

General Liebenberg said the Defence Force, and specifically the officers concerned, had co-operated fully and had provided affidavits to the Eastern Cape's acting attorney-general.

An overseas visit by General Van der Westhuizen had been cancelled so that he would be available for the investigation.

● The ANC Women's League in the Western Cape said yesterday that it was outrageous that the people who allegedly ordered the assassination of the four Cradock activists were still in positions of responsibility.

Sowetan 18/5/72 252

Webster's murder: Confession probed

POLICE are investigating an alleged confession by a former Civil Co-operation Bureau agent, Mr Ferdn Barnard, that he murdered academic Dr David Webster. Barnard has been long suspected by lawyers to be at least indirectly involved in the assassination.

A Sunday newspaper yesterday reported that Barnard first claimed he murdered Webster to his former CCB handler the day after the murder. The handler, codenamed "Yssel", allegedly told advocate Mr Martin Luitingh of the "confession".

Luitingh will give evidence in an inquest into Webster's death. A West Rand businessman, who told two police officers that Barnard had also confessed to him, will also be called on to give evidence.

Lawyers dealing with Webster's case are, however, not convinced the confession will bring anything new.

"We are not really learning anything new. This stuff has been bandied around for some time," said lawyer Mr David Dyson - *Sowetan Correspondent*



Colonel on trial for theft of State money

STAN 19/8/92
252

Court Reporter

The former commanding officer of a South African Army base yesterday went on trial on three counts of theft totalling R122 000.

Colonel Geoffrey Holland-Muter (39), who commanded Group 18 at Doornkop, has been accused of stealing separate amounts of R57 102 and R51 660 from the State or the SADF.

He also allegedly stole R15 000 from the Witwaterstrand Command officers' club.

Colonel Holland-Muter, who lives at Hartbeespoort Dam, pleaded not guilty to the charges put to him.

The first witness, police sergeant Adriaan Brooks, said the SAP had approved claims from the Chief of Army.

These claims were for the accommodation costs and mess fees of policemen who had stayed at Doornkop from May to November last year.

Accounts officer at Chief of Army, Major Eduard Morrison, said vouchers in respect of the mess fees were paid to Group 18.

It was the commanding officer's responsibility to have the money handed over to the mess via the base's administration officer, Major Harrison said.

The hearing continues.

Consult a lawyer before trouble starts, not after

STAR 1915/92

There are nearly 7 000 lawyers serving 30 million people in South Africa. Of these about 700 are advocates and the rest attorneys

A small number of lawyers work as university lecturers, judges, politicians and in public-interest law firms. The practice of law usually involves giving advice, drafting legal opinions, negotiating settlements or otherwise providing out-of-court legal assistance

In civil cases lawyers argue their clients' cases on both sides. In criminal cases lawyers for the accused try to show that their clients are not guilty

Advice

If a person has to appear in any court, it is important that he or she should get legal advice or assistance. Every person should have the right to be represented in court by a lawyer.

Many people think of seeing an attorney only after they get into trouble, but the best time to see an attorney is before the trouble happens. Advice on how to prevent legal problems is one of the most important services a lawyer can provide

People should think about seeing lawyers when

- Buying or selling houses
- Starting up businesses
- Thinking of marriage or divorce
- Making wills (docu-

Professor David McQuoid-Mason, Dean of Law at the University of Natal, discusses the role of lawyers in this extract from his series on "Street Law" (Juta, R15)

ments saying who they want to give their property to when they die).

- Signing important agreements ("contracts")
- Handling accidents involving injuries or damage to property.
- Needing bail and defending criminal charges.
- Bringing civil actions.
- Trying to collect money owed to them.

It would be expensive to see a lawyer every time a person has a legal problem. Some times a teacher, doctor, clergyman or friend may be able to help or advise.

Legal aid

If a person cannot afford a lawyer he or she should contact a university law clinic or the Legal Aid Board.

There are four types of practising lawyers in South Africa: advocates, attorneys, conveyancers and notaries public.

Advocates do different work from attorneys. They are also trained differently after they have finished their university studies. Attorneys may also qualify as conveyancers and notaries

Majority of unions open to all races

Political staff
 MORE than two thirds of SA's registered trade unions and all but four of the 50 unregistered trade unions were open to all races, Manpower Minister Piet Marais said yesterday.

Replying to questions tabled in Parliament by Arrie Paulus (CP, Gertie letonville), Marais said 127 registered trade unions were racially mixed.

A further 37 registered unions had white members only, 10 coloured members only, one Asian members only and 17 black members only. Two of the unregistered unions were for whites only and two for blacks only, while 46 were racially mixed.

This meant that there were 173 racially mixed trade unions and 59 racially segregated unions.

Marais said 613 strikes occurred between November 1 1990 and October 31 last year, involving 175 683 workers and a loss of 1 236 381 man days.

It was impossible to say how many workers of each race group took part in these strikes.

"The required information is not available because it is not a legal requirement that such information should be provided to the Department of Manpower on a racial basis," Marais said.

Indemnity board still hearing applications

APPLICANTS for indemnity from non-prisoners would still be considered by the indemnity board, the Justice Department confirmed yesterday.

This could result in people involved in officially sanctioned assassinations of anti-apartheid activists escaping prosecution.

The decision was discussed in bilateral talks between the ANC and government shortly before the Indemnity Act was extended last week to May 17 next year.

President F W de Klerk announced last July that applications for the release of prisoners in terms of the Groote Schuur and Pretoria minutes would cease that month.

However, a Justice Department spokesman said yesterday this ruling applied only to prisoners. Others could still apply to the indemnity board.

Hearings of and applicants to, the indemnity board are confidential.

However, a board spokesman said yesterday there had been applications from all sections of society.

TIM COHEN

The ANC, which has stated that it does not intend pressing for a Nuremberg-style war crimes tribunal, is concerned that its members will have to "confess" their "crimes", before indemnity is considered.

It is understood that ANC applicants have to apply for indemnity only for acts perpetrated to further ANC policy.

The same might apply to members of the security forces, although government has yet to admit that its members were involved in sanctioned covert actions.

A source said security force members feared that they might be held accountable for acts committed in terms of what they considered legitimate activities at the time.

The ANC is apparently sensitive to the threat to stability these members' concerns could pose.

If investigation into the deaths of Matthew Goniwe and three others in 1985 finds members of the security forces responsible, they may escape liability by applying for indemnity.

400 political prisoners still held, says HRC

19/15/92 STEPHANE BOTHEMA

MORE than a year after the agreed deadline for the release of all political prisoners, about 400 prisoners in jail, says the Human Rights Commission.

But a Correctional Services Department spokesman reacting to the HRC claim, said "All prisoners who committed political offences before October 8 1990, and defining political offences, have been released."

The HRC said in a statement yesterday that last year's mass release or parole of criminal prisoners — three-quarters of the convicted prisoner population — was intended to blur the distinction between criminal and political prisoners and to sweep the political prisoner issue under the carpet.

Criminal prisoner amnesties last year resulted in the release of more than 60 000 prisoners.

A statement by Justice Minister Kobie Coetsee in Parliament last month that the large-scale amnesties had been necessary to meet American conditions for the lifting of Comprehensive Anti-Apartheid Act sanctions, was confirmation of the link between criminal prisoner amnesties and the political prisoner issue, the HRC said.

The HRC had the names of 400 prisoners, judged during trial as political, who, to the knowledge of the commission, were still being held.

Of these, 169 were jointly audited by the HRC and the Department of Correctional Services as being candidates for release under the Pretoria agreement.

"Unfortunately the audit process was unilaterally and summarily suspended by the department last year, when still incomplete, and all efforts by us to resume the exercise have been rejected," the HRC stated.

At least 26 listed as dead in SAP's violence update

AT LEAST 26 people died and 24 were injured in political violence in the PWV region at the weekend and yesterday, police said.

Two killings were reported by police in the Vaal Triangle yesterday, and the Soweto Civic Association claimed one of its officials had been gunned down in Zola on Sunday.

Earlier, police detailed 23 unrest-related deaths on Friday, Saturday and Sunday.

Police raided Phola Park squatter camp, near Thokoza on the East Rand, yesterday for a second time in five days in what Witwatersrand liaison officer Capt Eugene Opperman described as "a continuous crime prevention" operation.

ANC spokesman Ronnie Mamoepa said at least eight armoured carriers drove into the settlement yesterday afternoon and shots were fired. Opperman said he had no knowledge of any shooting during the raid.

Vaal Triangle liaison officer Capt Piet van Deventer said that at 2am yesterday, at Sebokeng near Vanderbijlpark, police found the body of a man who had been hacked and

STEPHANE BOTHMA

stabbed before being set alight.

Also yesterday, at 5.08am, outside Sebokeng single-sex hostel No 4, a gunman with an AK-47 rifle opened fire on a minibus taxi, killing a man.

The Soweto Civic Association said its Zola branch chairman Ernest "Mtungwa" Mabaso was shot dead near his home on Sunday. Police were unable to confirm the shooting.

The police unrest report for the weekend said a man's body was found in the veld in Sebokeng on Sunday night. He had been shot several times in the head.

The report also told of sporadic incidents of violence near Kimberley and in Natal — including the bombing of a University of Natal chemical laboratory at 12.15am on Sunday. Damage to the building was extensive, but no one was injured.

According to police unrest figures, 11 people died on Friday, and three each on Saturday and Sunday.

Police reported yesterday the discovery of three more bodies in the Vaal Triangle on Friday, three on Sunday, and two on Monday.

In Alexandra, north of Johannesburg, the body of a man, and another injured man with severe hack wounds, were found.

In a separate incident a man was shot and wounded, and a woman was hurt when a group attacked her.

Van Deventer said that on Sunday night, two men burst into the home of a Sebokeng policeman, searched occupants and opened fire on the policeman. Both intruders were shot dead. The policeman was not hurt.

According to the official unrest report, police found a woman who had been badly burnt at the Ivory Park squatter camp near Tembisa, on the East Rand.

On Friday, in suspected taxi violence, police reported that one person was killed and three others wounded when unidentified men sprayed a minibus taxi with gunfire.

In another incident, Van Deventer reported that on Friday at 7.35pm, three youths died instantly when an unknown man opened fire with an AK-47 on a group of youths on a soccer field in Zone 12, Sebokeng. Six youths were seriously injured.

Barnett Sales

Auctioneers 334-5858/29-4881

2,5 MILLION RANDS OF RESTAURANT AND CATERING EQUIPMENT

Duly instructed by our clients, we will sell by Public Auction at our Warehouse No 13, Crucible Road, Herotdale, Johannesburg East, on Monday, 25th May at 10 am.

Buyers will find complete restaurants of goods including: Cutlery, crockery, tables, chairs, finger bowls, cups and saucers, platters, glassware, plates, dishes, banana boats, dishes, teapots, Espresso cups and saucers, knives and forks.

CATERING EQUIPMENT INCLUDES: 2 and 3-door underbar fridges, coldroom doors, stainless steel prep tables and wash-ups, chip fryers, grillers, refrigeration units, toasters, juice makers Bains Marie, milkshake machines, Swarna machines, Waffle makers, Hobart dishwasher plus lots more. Shopfittings include Bars, counters, shelving, panels, wall frames, bulkheads, timber, door frames, etc.

NB: This sale is a must for restaurateurs, all goods must be sold at this Auction. If necessary the sale will continue the next day. All goods are in good condition.

TERMS: Cash or bank cheques only. Registration prior to the sale. R500 deposit (refundable).

ON VIEW: Friday 22nd, 10-4 Saturday 9-12
BARNETT SALES, 32 Troye Street, Johannesburg Phones 29-4881, 334-5858 Fax. 29-4820.



J1190

Hospital chief in court on bribery and fraud charges

DURBAN — A former colleague of King Edward VIII hospital's suspended chief medical superintendent told a regional court magistrate yesterday that she was asked to pay R6 000 for a job at the hospital.

Dr Miroslawa Popis was giving evidence in the trial of Dr Justin Morfopoulos, who faces five counts of bribery, and one of attempted bribery with alternate charges of fraud, involving about R50 000. He pleaded not guilty.

Popis, a Polish immigrant, told the court she met Morfopoulos at the hospital in 1985 to inquire about employment but was told there were no posts.

She said that Morfopoulos later told her she could get a job if she paid R6 000 in cash, which would be given to someone "higher up", so she did this.

Popis also testified that in 1988 the accused asked her to pay R15 000 if she wanted to be successful in an examination to become a specialist.

It was further alleged that from 1986 to 1990 Morfopoulos fraudulently collected an annual cash donation of R5 000 from a Mr and Mrs A Joosab who operated a store at the hospital. They paid the amount for four years.

Morfopoulos allegedly told Mrs Joosab he could allow her to run a food kiosk in the hospital if she paid the NPA R25 000 once, instead of a monthly rental, and later made this R10 000.

It was alleged he was paid R7 500 as a result. The hearing continues today.

red eq of pæoddns st æarpm a,, pæddæd "A mndæd is sùpposæd to be pæd
 natural messages from the su-
 have the

claims, and the money would go to
the person who needed it
today

Ex-Nampak man in court

SUSAN RUSSELL 252
FORMER Nampak director Adrian Barker, 47, appeared briefly in the Rand Supreme Court yesterday on 19 counts of theft, fraud and corruption involving about R7,7m *Bloom*

He was not asked to plead and Judge G Gordon postponed the trial until September 15 1992

Barker is alleged to have committed the various offences from September 1986 to June 1990 while a director of Nampak Products Ltd and acting CE of Nampak Corrugated

The state alleges Barker, conspiring with one or more Nampak employees, stole R1 292 398 from a number of the company's branches

He also allegedly received one third of the equity of a close corporation called Corrugating Machinery Services plus R1 108 950 for ensuring that CMS obtained business from Nampak as a supplier of machinery and spares

Law group plan offers new damages approach

Blouay 19/5/42
A RECENT recommendation by the SA Law Commission could save millions of rands for victims of serious personal injury and other damages who often have to wait years for payment

The commission has made a preliminary recommendation that interest on damages and debt be awarded from the date the damages originated to the date they are paid

Currently, interest is payable only from the date the court makes an award — often four years or more after the date on which the injury or damage occurred

This has made it worthwhile for defendants or their insurers to defend large claims, many of which exceed R1m

Bell, Dewar & Hall attorney Andrew Mitchell said some insurance companies defended every large claim regardless of whether there was a valid defence, then settled at the doors of the court two to four years after the event

In the case of serious personal injury it could take 18 months to two years to accurately assess the consequences to the individual and calculate the amount claimable in respect of medical expenses, general damages and future loss of earnings

Once a claim was made, an insurance company could repudiate liability, and after receiving summons, immediately give notice that it intended to defend. It would take another 18 months to two years

252
SUSAN RUSSELL

to get to court, by which time the value of the claim was eroded by inflation and the plaintiff would have had to pay medical expenses out of his own pocket.

Often the plaintiff, faced with this and the prospect of also having to fund the litigation personally in the meantime, was forced to abandon the claim, Mitchell said.

He had calculated that in claims exceeding R150 000 it made good business sense for the defendant's insurers to fight claims rather than settle because generally they did not have to pay interest on the amount until judgment. The interest saved more than covered the costs of litigation.

Mitchell said implementation of the Law Commission's recommendation would make the process more fair because there would be a stronger incentive for defendants or their insurers to settle claims at the start.

The delay and cost in getting judgment on damages claims meant that, typically, the plaintiff received about 50% of the amount he or she would have received had the matter been settled at the outset.

If defendants or insurance companies had to pay interest on damages they would often find it not worthwhile to defend claims, and the money would go to the person who needed it.

The psychiatrist said Ngcobo displayed

Man in court over church fire

Sowetan Correspondent

A 33-year-old unemployed white man appeared in the Pretoria Magistrate's Court yesterday in connection with the deaths of eight children in a fire at a church in Sunnyside

The fire took place on March 12

No charges were put to Mr Johannes Stephanus Vorster and he was not asked to plead

Vorster, of no fixed address, appeared before Mr DVZ van der Merwe. The case was postponed to May 27

His appearance followed his arrest on Saturday in the Johannesburg suburb of Newlands

Police arrested the suspect after they had received information from a member of the public that a man who matched the identikit published in newspapers was in a Newlands pub

Vorster was being sought in connection with the death of eight street children inside the Elm Full Gospel Church building in Jeppe Street, Sunnyside, Pretoria, which was allegedly set alight on March 12 this year

The building, which served as a shelter for street children, was gutted about 1 30am while the chil-

dren were asleep

Those who died in the blaze included Enoch Mabunda (16), Magowa Makou (8), Sinkie Mnisi (16), Charles Aphane (12), Jacob Mahlangu (17), James Makwinda (16) and David Mokoena (13)

Police liaison officer Captain Marietjie Louw said the accused would be held pending the completion of investigations into the fire that killed the eight children

'Cover-up'

At the time of the incident, police said investigations by the fire brigade and forensic experts had revealed that no arson had been committed

Police intensified their investigations after Lawyers For Human Rights, which conducted its own investigations, accused the police of "a cover-up"

The organisation said their experts had found that the building was deliberately set on fire

Police then released identikit pictures of two brothers wanted for questioning regarding the alleged crime

Why cops did not disarm IFP men - evidence

Soweto 1915/92
FEARS of chaos at New Canada railway station near Soweto last Friday led police to decide against disarming Inkatha Freedom Party supporters, a committee of the Goldstone Commission was told yesterday

The IFP supporters, some of whom were armed with knobkerries and axes, were on their way to the World Trade Centre near Kempton Park where Codesa 2 proceedings were in progress

Captain Matthys du Plessis, a commanding officer at New Canada police station, told the commission that police either had

to disarm the men and cause chaos, or ask them to go back from where they came

"As we feared that there might be chaos if we disarmed them, we decided to prevent them from boarding the train and asked them to return where they came from," he said

Du Plessis said there were commuters waiting for trains at the station

"We gave them the option of leaving their weapons at New Canada railway station but they refused," he said

He said the men were then escorted back to where they came from

Hansard

†THE MINISTER OF LOCAL GOVERNMENT AND NATIONAL HOUSING

- (1) No but a document which deals with the involvement of local authorities in the establishment and maintenance of schools did in fact serve before the Council for the Co-ordination of Local Government Affairs on 27 March 1992. The Council decided to appoint a committee, including representatives of education departments, to advise it in this regard

(2) and (3) Fall away

Disappearance of certain person

*3 Mr L FUCHS asked the Minister of Justice

- (1) Whether an investigation has been conducted into the disappearance of a certain person, whose name has been furnished to the Minister's Department for the purpose of his reply, if not, why not, if so, (a) what are the circumstances surrounding this person's disappearance and (b) what is his name, (252)
- (2) whether he will make a statement on the matter?

B610E

The MINISTER OF JUSTICE

- (1) Yes The investigation by the South African Police is still continuing
- (a) Evidence regarding the circumstances surrounding the disappearance of Mr Sono is privileged and the particular Attorney-General is not prepared to disclose the evidence
- (b) Lolo Sono

(2) No

Mr L FUCHS Mr Chairman, arising from the answer of the hon the Minister, the question I have asked has absolutely nothing to do with the present charges against Mrs Winnie Mandela. I would like to know from the hon the Minister on what basis he suggests that the evidence is privileged

The MINISTER Mr Chairman, I do not know whether the hon member is still practising, but I assume he has been away from his practice for some time, otherwise he would not have asked the question [Interjections] I would like to refer him to Van Niekerk and I shall be translating as

Hansard

The MINISTER Mr Speaker, is the hon member suggesting that I should be his messenger or is he asking me because he is afraid of the hon the Minister of Law and Order? What is the purpose of his request? (252)

Limiting of private practice, legislation

*4 Mr M J ELLIS asked the Minister of National Health

Whether she intends introducing legislation limiting private practice for full-time hospital specialists, if not, (a) why not and (b) what is the position in this regard at present, if so, (1) when is it anticipated that such legislation will be introduced and (ii) what matters will be provided for in it? (252)

B611E

†The MINISTER OF NATIONAL HEALTH

No,

- (a) the Public Service Act, 1984 (Act 111 of 1984), limits it sufficiently and
- (b) measures have already been announced which enable registered medical practitioners, dentists and medical/dental specialists in the Public Service to participate in limited private practice.
- (1) and (ii) fall away

The State vs Chilo Winnie Mandela

*5 Mr L FUCHS asked the Minister of Justice

- (1) Whether, with reference to a statement placed on record during the trial in the matter of *The State vs Chilo*, particulars of which have been furnished to the Minister's Department for the purpose of his reply, he intends to (a) investigate and (b) charge (i) Mrs Winnie Mandela and/or (ii) any other persons or political organizations involved, if not, why not, if so, what are the relevant details, (252)
- (2) whether he will make a statement on the matter?

B613E

The MINISTER OF JUSTICE

- (1) (a) (i) and (ii)

The Attorney-General concerned has already requested the South

African Police to investigate the allegations in the statement and report to him

- (b) (i) and (ii)

The investigation concerning the allegations has not yet been completed. As soon as the investigation is completed, all relevant evidence will be submitted to the Attorney-General for his decision

- (2) No

Harmful chemicals, Kommetje

*6 Mr J H MOMBBERG asked the Minister of National Health †

- (1) Whether her Department has taken or is going to take any steps with regard to the harmful chemicals recently washed ashore on the beach at Kommetje, if not, why not, if so, (a) what steps and (b) when,
- (2) whether her Department has inquired into the origin of the chemicals concerned, if not, why not, if so, with what result,
- (3) whether she will make a statement on the matter?

B621E

†The MINISTER OF NATIONAL HEALTH

- (1) Yes,
- (a) the Western Cape Regional Services Council was contacted in connection with the collection and disposal of the containers, and enquiries were made as to the origin thereof and
- (b) immediately after news of the washing up of the containers was received,
- (2) yes, the chemicals are used for the fumigation of grain and most likely originate from a ship transporting maize. The Maize Board has been requested to ask via its overseas suppliers that crew members exercise more care,
- (3) no

ANC 'has nothing to hide'

The African National Congress will co-operate with human rights groups wishing to probe alleged disappearances, executions and torture of dissident members in exile, according to a senior official

Siphiwe Nyanda, chief of staff of the ANC's military wing Umkhonto we Sizwe, said the anti-apartheid group had nothing to hide

"Every individual who was executed was executed for a reason. Some of them had committed serious crimes and acts of banditry"

The London-based human rights group Amnesty International said it knew of at least six people whom the ANC was holding in Tanzania

Mr Nyanda, however, denied this charge — Sapa

STAT-201572

Fraud trials on 1992 roll involve millions

CAPE TOWN — Several trials involving millions of rands would be held this year following Office of Serious Economic Crimes investigations, government disclosed yesterday.

Three to be held in Cape Town included forex fraud involving about R130m, the Fundstrust case in which R65m was involved, and a case against a former Gilbeys employee involving R1,1m.

Three Johannesburg trials would involve about R18m.

After complaints from the public, government was preparing to appoint a commission to probe Mas-

terbond's collapse.

Government said it had taken several steps to counter fraud and corruption since President F W de Klerk had come to office

This included amending various laws, appointing commissions and an ombudsman, and the establishment of the Serious Economic Crimes Office.

As a result of the office's investigations, two Zenith Industrial Consultants employees, Nicholaas Greisel, 35, of Welgemoed, and Alan Latham, 43, of Constantia and former Retfin Finance MD Adriaan

Prakke, 35, would appear on 62 charges of fraud involving about R130m.

All three, who first appeared in court in May last year, were on R500 000 bail.

It was reported then that R350m was involved in foreign currency fraud — one of the biggest fraud cases in SA's history.

Government said the investigations against Hansie Campher and Barend Johannes Engelbrecht in the Fundstrust case, involving R65m, were at "an advanced stage".

It was hoped that the case would be completed by the end of the year.

The case against Marga-

ret Harding, formerly of Gilbeys, involving R1,1m was to be resumed at the end of the month.

The case of the State versus Blank, involving R10m and 49 charges of fraud, had been placed on the roll in the Johannesburg Supreme Court for October, while State versus Rheeder, involving R3m-R4m began on April 28 in the Transvaal Provincial Division of the Supreme Court.

Another case, State versus Fouche and Coetzee, involving R4m, would begin during October in the Witwatersrand Local Division of the Supreme Court, government said.

Political Staff

8/10/92 20/5/92

252

Women urged to guard their rights

252
A.M.C. 20/5/92

The Argus Correspondent

JOHANNESBURG. — A warning to women not to expect too much from a bill of rights or a women's charter came today from advocate Ms Frances Bosman, chairman of the Women's Bureau working group on *Women — and the Law*.

Ms Bosman, South Africa's chief family advocate, said no bill of rights could wipe away women's problems and "we must guard against raising their unrealistic expectations"

"The idea that a so-called charter of women's rights is the answer to all the problems experienced by women is a misconception," she said

Much could be said for the general clause suggested by the Law Commission which is akin to the position in the US.

Ms Bosman called for a new value system in our society.

She said there was very little discrimination against women specifically embodied in South African legislation — except that which applied to women working in mines underground or taking part in professional boxing and wrestling matches, and the retention of the marital power of the husband in marriages en-

tered into before 1984 (1988 for Blacks) although the basis for this was rather in the contractual relationship between the parties which came into existence before the legislation abolishing the marital power was passed.

"Most of the discrimination experienced by women in their homes and in the workplace could be ascribed to certain social, political, cultural and economic norms and value systems prevailing in South African society and, of course, the absence of an Act similar to the Sex Discrimination Act which applies in England.

"The law cannot change the hearts and minds of people. It cannot bring about a revolution of the heart and spirit. This can only come as a result of education and above all of the genuine acceptance by society at large of a new value system.

"This, above all, is what women should strive for — first to educate their children and instill in them love and respect for all fellow human beings and secondly to assert themselves in their homes, in the work place and in society in a dignified and responsible manner," she said.

... of Sex

Brothel busts: Police 'studying' criticism

POLICE are studying a judge's criticism that too much time and effort is being spent on combating prostitution rather than on acting on violent crimes, a police spokesman confirmed yesterday.

Supreme Court judge Mr Justice H C Nel recently slammed a "lack of balance" in law enforcement while criticising a jail sentence imposed on a Welgemoed woman last year for running a brothel.

The spokesman said police could not say if there would be a different approach to policing.

"Crimes like murder and rape are always a top priority but all crimes are investigated, including running a brothel, which is also a serious crime."

(252) C.F. 20/5/92

'Death sentence valid'

Blpaaf
20/5/92

STEPHANE BOTHMA

252

THE temporary suspension of the the death penalty should not influence the application of the law and death sentences should still be pronounced where appropriate, the Justice Department said yesterday.

Justice Minister Kobie Coetsee, reacting to criticism by Supreme Court judges of the suspension, said government believed the retention of the death penalty was "morally and legally sound"

The decision to suspend the carrying out of death sentences "for a reasonable period of time" was taken pending the outcome of discussions on an interim bill of fundamental rights, Coetsee said earlier.

The state's duty to safeguard citizens' interests should be included in the bill of rights, Coetsee said. "The courts will therefore continue to apply the law as it stands and pronounce death sentences where this is appropriate."

Rand Supreme Court judge M J Strydom this week questioned the suspension of the death penalty.

"Is the fact that the death sentence is not executed any longer not the cause of the frightening increase in these murders (of elderly people)?"

His question followed legal argument by advocates representing two murderers that their clients should not be sentenced to death — based on a statement last week by Judge Piet van der Walt that "the death penalty is only a sentence on paper".

Strydom remarked that Van der Walt's statement, if correctly quoted, demanded some attention.

'Army men beat me'

252
252
Sowetan 20/5/92
A WITNESS has claimed that members of 32 Battalion assaulted him and later raped his wife at Phola Park in the East Rand last month

Mr John Msimango yesterday denied before a committee of the Goldstone Commission that he might have been assaulted by people dressed in army uniforms or members of a self-defence unit.

He told the commission that he did not know what the duties of the local defence unit were.

"What happens in the area does not concern me and I am just staying there because it is nearer my work place."

Msimango said under cross-examination he was convinced the people who assaulted him on the night of April 8 were soldiers.

Asked how he could determine whether the people who assaulted him and raped his wife were soldiers or not as it was dark in his shack when the alleged assault took place, Msimango said he recognised them by the clothes they wore.

Earlier, Sergeant Hennie Olivier of the SAP's crime investigation unit, told the commission he arrived at Phola Park about 8 30am on April 9 - about 11 hours after the alleged assaults took place

He said he came across residents who had either their arms or heads bandaged. There were also a number of shacks with bullet holes

Most of the residents were not prepared to discuss with him what had happened in the area. "Only one resident, Mr Richard Rodgers, was prepared to discuss the issue with me."

Rodgers told him that he was asleep in his shack when he heard shots being fired

Inquiry into taxi war

252

Sowetan 20/5/92

THE Goldstone Commission committee investigating taxi feuds will be asked to investigate the taxi war in Tembisa and Ivory Park on the East Rand, the Midrand Taxi Forum said yesterday.

Forum spokesman and Midrand mayor Alan Dawson said the forum formed recently with 12 participating organisations found it difficult to con-

tain the feud between members of the Tembisa United Taxi Association and the Ivory Park Taxi Association.

The feud, apparently stemming from conflict over the routes used by taxi drivers of the rival organisations, has already claimed the several lives.

Mr Dawson said the conflict was "getting out of hand".

He said certain people were fanning the violence, and this could not be allowed to continue.

Shootings of taxi drivers are reported almost weekly. A police spokesman in charge of a unit investigating the taxi feud described the situation as serious.

Officials of Tuta and the Ivory Park Taxi Association could not be reached for comment.

HOUSE OF DELEGATES

QUESTIONS

Indicates translated version

For written reply

General Affairs

Attorneys struck off roll/admitted

27 Mr M RAJAB asked the Minister of Justice

- (1) (a) How many attorneys were struck off the roll in each province during the latest specified period of three years for which information is available and (ii) what are their names and (b) (i) how many attorneys were admitted to practice in each province during the above period and (ii) what are their names.
- (2) how many attorneys does his Department estimate will be admitted to practice during the next three years?

D120E

The MINISTER OF JUSTICE

The required statistics are not kept by the Department. In an attempt to be of assistance to the hon member the Association of Law Societies of the Republic of South Africa was approached. The following information regarding the respective law societies was received from the Association

A) *The Law Society of Transvaal*

- 1 Attorneys struck off the roll
1989—7
1990—14
1991—10

2 Attorneys admitted to practice

- 1 4 1989 to 31 3 1990—240
1 4 1990 to 31 3 1991—276
1 4 1991 to 31 3 1992—206

3 An estimated 250 attorneys per annum will be admitted to practice during the next three years

B) *The Law Society of the Cape of Good Hope*

- 1 Attorneys struck off the roll
1989—7

- 1990—9
1991—5

2 Attorneys admitted to practice

- 1989—135
1990—165
1991—200

3 By 1995, an estimated 300 attorneys per annum will be admitted to practice

C) *The Natal Law Society*

1 Attorneys struck off the roll

- 1989—2
1990—2
1991—3

2 Attorneys admitted to practice

- 1989—76
1990—63
1991—86

3 An estimated 80 attorneys per annum will be admitted to practice during the next three years

D) *The Law Society of the Orange Free State*

1 Attorneys struck off the roll

- 1 7 1988 to 30 6 1989—1
1 7 1989 to 30 6 1990—0
1 7 1990 to 30 6 1991—0
1 7 1991 to 14 4 1992—0

2 Attorneys admitted to practice

- 1 7 1988 to 30 6 1989—35
1 7 1989 to 30 6 1990—32
1 7 1990 to 30 6 1991—30
1 7 1991 to 14 4 1992—21

3 An estimated 30 to 33 attorneys per annum will be admitted to practice during the next three years

Own Affairs

Persons qualified as teachers

26 Mr M RAJAB asked the Minister of Education and Culture

- (1) Whether any persons qualified as teachers at the (a) University of Durban-Westville and (b) Springfield College of Education in 1989, 1990 and 1991, if not why not, if so, how many in each of these years

(2) how many of these teachers were employed by his Department in each subsequent year?

D123E

The MINISTER OF EDUCATION AND CULTURE

	1989	1990	1991
--	------	------	------

(1) (a) No Qualified at University of Durban-Westville	106	127	122
(b) Springfield College of Education	55	55	62
(2) No Appointed from			

Upgrading of educational posts

28 Mr K PANDAY asked the Minister of Education and Culture
With reference to his reply to Question No 12 on 30 March 1992 in regard to the upgrading of the posts of certain superintendents of education, school psychologists and education planners, on what dates (a) (i) did the relevant vacancies arise and (ii) were they filled and (b) did the relevant promotions become effective?

D130E

The MINISTER OF EDUCATION AND CULTURE

The following schedules apply to Question No 28 and Question No 29

Superintendents of Education

Promoted from Level 4 to Level 5	28(a)(i)	(ii)	(b)	29(i)
----------------------------------	----------	------	-----	-------

	Date of vacancy	Date filled	Date promotion effected	Experience	
1	G S Ibrahim	30/4/86	1/11/89	1/11/89	10
2	J Govender	1/1/86	1/11/89	1/11/89	2
3	L Nandoo	11/7/87	1/12/89	1/12/89	11
4	P Govender	1/12/89	1/12/89	1/12/89	11
5	A C Janssen	1/12/89	1/12/89	1/12/89	11
6	M A Padayachee	1/12/89	1/12/89	1/12/89	10
7	H B Singh	1/12/89	1/12/89	1/12/89	9
8	I Rawatlal	1/12/89	1/12/89	1/12/89	7
9	R Valjee	1/12/89	1/12/89	1/12/89	5
10	F R David	30/4/90	1/9/90	1/9/90	14
11	F Laban	1/9/90	1/9/90	1/9/90	12
12	K P Govender	1/12/89	1/9/90	1/9/90	9
13	P Nandu	1/2/91	1/2/91	1/2/91	11
14	M Persad	1/2/91	1/2/91	1/2/91	11
15	P Maharaj	1/2/91	1/2/91	1/2/91	9
16	S Balkisson	1/2/91	1/2/91	1/2/91	16
17	D D Nandoo	1/2/91	1/2/91	1/2/91	14
18	J Fakir	1/2/91	1/2/91	1/2/91	13
19	V Ramlal	1/2/91	1/2/91	1/2/91	7
20	S Ismail	1/9/89	1/2/91	1/2/91	11
21	D L Nandoo	1/9/90	1/2/91	1/2/91	11
22	S Pillay	1/3/90	1/2/91	1/2/91	5
23	D M Moodaly	30/4/90	1/2/91	1/2/91	5

1123

Hewnsard

THURSDAY, 21 MAY 1992

Hewnsard

1124

HOUSE OF ASSEMBLY

Number of persons sentenced to death

QUESTIONS

Indicates translated version

For written reply

General Affairs

Death sentences commuted

253 Mr P G SOAL asked the Minister of Justice

With reference to his reply to Question No 61 of 21 April 1992, what are the names of the persons whose death sentences were commuted in 1991?

252

B586E

The MINISTER OF JUSTICE

Dilizantaba V Nomnganga
Alfred Shongwe
Thoble Boss
Joseph M Malaza
Nelson N Boss
Skumbuyo Jantjies
Zachana Tseleng
Peter Anthony
Barend H Strydom
Patrick Maginda
Desmond Majola
Dickson Madikane
Mtutuseh Nqgandu
Oupa J Mbonane
Sibusiso S Masuku
Gilindoda Gxeakwa
Vuyani P Jacobs
Mithetheleli L Tozamide
Steven M T Daynam
Mfesi S Mposula
Phutumile Diabathi
Ringo Farland
Abraham Zeyo
Robert J McBride
David Meyers
Lawrence Ceku
Petrus M van der Merwe
Lipitsa R Lebella
Mottalepula Mabetha
Sipho E Mshela
David T Mkhize

HOUSE OF ASSEMBLY

1125

Hewnsard

THURSDAY, 21 MAY 1992

Hewnsard

1126

obtaining acceptance for the principle of a Bill of Fundamental Rights, the Government has deemed it fair, pending the outcome of discussions on a Bill of Fundamental Rights which will be applicable in the transition phase, to suspend the execution of death sentences which have not been commuted, for a reasonable period of time. The courts will continue to apply the law as it stands and pronounce death sentences where this is appropriate. The State President will also continue to

consider possible reprieves in those cases in which the Appellate Division confirms the death sentence, because it would be grossly unfair to keep prisoners who may benefit from a reprieve on death row. In this process decisions may be taken in the most extreme cases under the present law not to commute sentences of death. However, these sentences will not be carried out pending the outcome of negotiations on an interim Bill of Fundamental Rights

The MINISTER OF JUSTICE.

252

B587E

(1) (a) 90

(b) D Mokoena, S S Mbonane, M Z Nkosi, D M Motlana, I T Setat, J S Lephato, N D Kheo, F A Potwana, E Mandlazi, G Kgasoane, R Fakude, O P B Nkosi, J Mkhonto, G E Ngwegwe, L L Dada, E Rabodunyone, E Marais, P J van der Merwe, J Seonyane, D Jordaan, P Mosotho, S Masotho, M E Gcaba, A T Mlotshwa, B W Maphumulo, S Ndlovu, J Masego, L Mofokeng, J Biko, J Mnu, J T Mdebele, P Shoba, Z Mbotshwa, M H Byleveld, I Molefe, J M Dlanzi, B Nkosi, S I Marokoame, F Mafu, A Sibya, W M Mbeto, F S Kunene, D T Marasane, N Mpananga, J M Dlangi, M A Lophoko, A Thusi, D J Malunga, V D Hlaba, R M Tsalala, K Segoe, S S Molefe, D P Botha, A Smuts, V L Bartleson, N S Samuels, S S Nkambule, K Mszizi, P Ciske, C Pietersen, M Ngubane, N Kubayi, V Mangindi, D Ndlele, E N Wallie, W Herbert, G R Oak, R D Simpson, W Mhlango, S Molo, T Tshandu, R Mathonsi, P H van Rooyen, T B Masilo, P M R Mabaso, N Khanyle, M E Lushozi, C Francis, M Ngcobo, M Mjkwaa, A Masipa, E P Mashane, T G Ndlovu, N J Malepo, P K Sekwadi, T James, V Tsotsobe, P Sontsongo, P Mayani, K Magangula

(2) and (3) In a press statement of 27 March 1992 I indicated that in view of the progress that has already been made in

HOUSE OF ASSEMBLY

'IFP ordered silence even under torture'

STAR 21/5/92

252

Top Inkatha leaders at meetings at Soweto's Nancefield hostel in 1991 told supporters that if anyone was arrested for being in possession of guns or for murder, they should not say anything to the police, even if tortured

This was said in Pretoria yesterday by a witness, who may not be named, before a Goldstone Commission committee inquiring into violence on trains.

The witness said Inkatha Freedom Party members Themba Khoza, Musa Moyeni and Humphrey Ndhlovu told the meetings lawyers would be arranged for those arrested.

He said while living at Nancefield hostel from 1989 to 1991 he noticed Zulu leaders on various occasions addressing dwellers and encouraging them to fight ANC followers, especially because of attacks on IFP members in Tokoza at the time

The witness told the commit-

tee a reason for the violence was that Zulus did not want to be ruled by Xhosas

He said the attacks on trains stemmed from songs and slogans in coaches which insulted IFP leader Chief Mangosuthu Buthelezi. The songs were referred to at the hostel meetings.

The witness said that in 1990 he heard of a reward being offered by the police for information on illegal weapons

Later that year he went to Soweto's Protea police station where he met Detective Warrant Officer Sjula Sithebe, who was in the firearms unit and involved in the reward offer

"I was introduced to (a) Captain Kruger and I gave him information about people who were in possession of firearms. Acting on this information the police went to the hostel and found the firearms, and I was paid for the information"

He continued working for the police and attended many meetings at the hostel, some of which were addressed by Mr

Khoza. He said he volunteered to join a group that was prepared to use spears and pangas

He continued reporting people with firearms, and arrests were made as a result of his information. He also identified people who took part in attacks

The witness described a number of meetings at which plans to attack train commuters at railway stations were discussed, and how the attacks were carried out

He said that in November last year he was told by his cousin, who also lived in the hostel, that he (the witness) was to be killed because he was a police informer. He escaped through a window

Later he was told by his contact at the police that a Captain Vermaak had sold him out to the hostel dwellers

He said he was not paid R10 000 for information about a train attack in June 1991 nor R30 000 for additional information on a train attack in October the same year. — Sapa

Six of the best or the worst?

STAR 2/15/92.



Teachers are increasingly forced to tread a fine line in the blackboard jungle as irate parents turn to the courts and hostile pupils attack teachers.
By PHIL MOLEFFE
Education Reporter

Part of the guidelines read "Corporal punishment shall be administered only in extreme circumstances that require this type of disciplinary action. Such punishment shall be carried out in the presence and with the approval of the principal."

Abolitionists have decried the continued use of corporal punishment as brutal, barbaric and antiquated.

But there are still educators who belong to the old school of thought which subscribes to the adage "spare the rod and spoil the child."

Standards

A principal of a school in Eldorado Park, south of Johannesburg, says abandoning caning would adversely affect the tone of discipline in schools.

"Removing corporal punishment in schools is going to impoverish education and there will be a drop in standards," he said.

Most principals interviewed by The Star declined to have their names mentioned, for different reasons.

While headmasters of schools in coloured and white suburbs did not want to be identified because of departmental regulations, most township principals refused to have their names

mentioned for fear of reprisal.

Recent years have seen an increasing number of attacks on black educators and their property by "anti-authority" township pupils.

"I can no longer punish these kids because if I do so they will either attack me or petrol-bomb my house," said a Soweto headmaster.

In white or coloured schools the response was simply "We can't talk to the press because the authorities do not allow it."

"We follow the policy laid down by the Transvaal Education Department," was the cautious response of most principals.

The case of the Randburg father who sued the Education and Culture Minister, asking for R13 472, has sent shivers among educators, and their response to the use of the stick is carefully worded.

"Corporal punishment may be administered only by the principal and it has to be recorded," said a headmaster.

Some principals said this rule was sometimes ignored because it was difficult to instil discipline without using the cane.

"The cane should be used, but very sparingly and as a last resort," one said.

A principal of a high school in Eldorado Park said that if the

cane was not used at all, many pupils would have to be expelled.

This principal accused Democratic Party MP for Houghton, Tony Leon, of being an "arm-chair teacher."

"It is easy for him to say caning is barbaric because he is not in the classroom. He does not know the problems we have to go through," said the headmaster, referring to Mr Leon's remarks in Parliament on Monday.

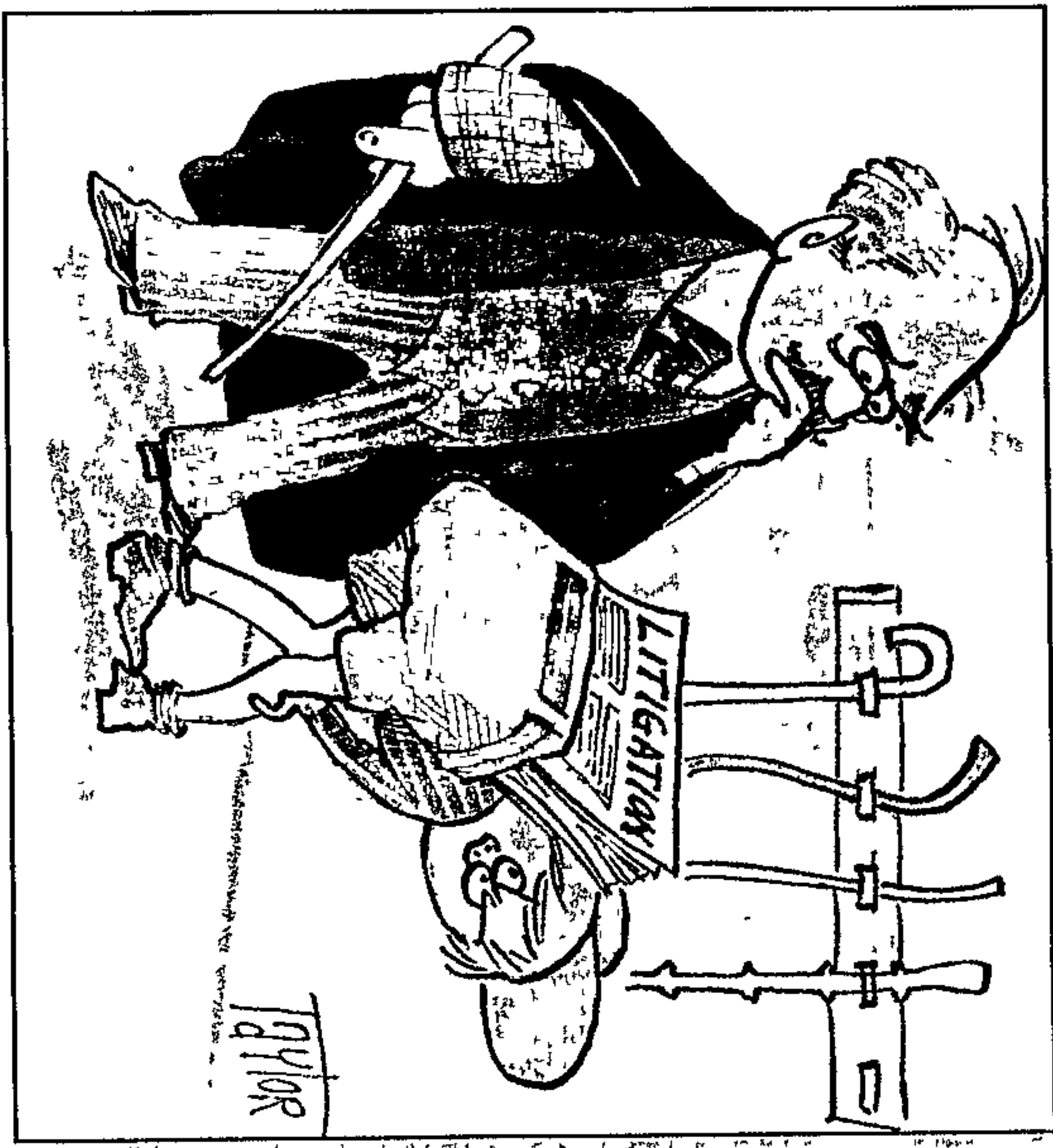
Renowned educationist and Soweto high school principal Thamsanqa Kamhule said corporal punishment should be administered only as a disciplinary measure and should not be applied excessively.

Mr Kamhule said principals who feared to speak openly about instilling discipline in their schools could be applying corporal punishment wrongly.

"Do not punish children for getting answers wrong. Corporal punishment should be used to discipline."

Known to be a disciplinarian, Mr Kamhule once punished the entire school — a total of 1 500 pupils — when he was headmaster of Orlando High School.

"Teachers should explain to pupils why they have to be punished and this must be done with sufficient justice," he said. □



'IFP ordered silence even under torture'

STAR 21/5/92

Top Inkatha leaders at meetings at Soweto's Nancefield hostel in 1991 told supporters that if anyone was arrested for being in possession of guns or for murder, they should not say anything to the police, even if tortured

This was said in Pretoria yesterday by a witness who may not be named, before a Goldstone Commission committee inquiring into violence on trains

The witness said Inkatha Freedom Party members Themba Khoza, Musa Moyeni and Humphrey Ndhlovu told the meetings lawyers would be arranged for those arrested

He said while living at Nancefield hostel from 1989 to 1991 he noticed Zulu leaders on various occasions addressing dwellers and encouraging them to fight ANC followers, especially because of attacks on IFP members in Tokoza at the time. The witness told the commit-

tee a reason for the violence was that Zulus did not want to be ruled by Xhosas

He said the attacks on trains stemmed from songs and slogans in coaches which insulted IFP leader Chief Mangosuthu Buthelezi. The songs were referred to at the hostel meetings.

The witness said that in 1990 he heard of a reward being offered by the police for information on illegal weapons

Later that year he went to Soweto's Protea police station where he met Detective Warrant Officer Sula Sithebe, who was in the firearms unit and involved in the reward offer

"I was introduced to (a) Captain Kruger and I gave him information about people who were in possession of firearms. Acting on this information the police went to the hostel and found the firearms, and I was paid for the information"

He continued working for the police and attended many meetings at the hostel, some of which were addressed by Mr

Khoza. He said he volunteered to join a group that was prepared to use spears and pangas

He continued reporting people with firearms, and arrests were made as a result of his information. He also identified people who took part in attacks

The witness described a number of meetings at which plans to attack train commuters at railway stations were discussed, and how the attacks were carried out

He said that in November last year he was told by his cousin, who also lived in the hostel, that he (the witness) was to be killed because he was a police informer. He escaped through a window

Later he was told by his contact at the police that a Captain Vermaak had sold him out to the hostel dwellers

He said he was not paid R10 000 for information about a train attack in June 1991 nor R30 000 for additional information on a train attack in October the same year — Sapa



Dive into your pocket and make a donation to employees Victoria Mall and M M Gooler

Respite for black property owners

STAR 21/5/92

Political Staff

CAPE TOWN — Untangling the bureaucracy of apartheid is proving a time-consuming business

The Government has been compelled to give black property-owners who bought land in the name of a white buyer more time to transfer the property into their own names

Provision for this was made in the Abolition of Racially Based Land Measures Amendment Bill that was tabled in Parliament yesterday

The Group Areas Act was repealed by the Abolition of Racially Based Land Measures Act that was passed last year

One of the provisions of the Act says the cases where black people bought their land in the name of white people in

conflict with the Group Areas Act were deemed "not to be an illegal transaction or a transaction which constitutes an offence"

The buyers and their fronts were given six months from when the Act came into effect on June 30 last year to request the Registrar of Deeds to transfer property from the front to the real owner

The six months ran out on December 31

A memorandum on the amendment Bill said the requirements of practice indicated that this period should have been longer, and "this Bill seeks to extend the period to two years"

"The extension is to be made with retrospective effect, so that there will be no interval in the currency of the authorisation granted"

Detained youths due home from Swaziland

STAR 21/5/92

MBABANE — A group of South African youths, who were detained after allegedly crossing illegally into Swaziland and claiming they were ANC members on their way to undergo military training, were expected to re-

turn home yesterday

This was according to a three-person ANC delegation which interviewed the 47 youths — who have been held in Swaziland's Big Bend prison for about two weeks — on Tuesday

At a press briefing yesterday, delegation leader Jackie Selebi said the youths had told him they had been recruited in Natal, although not through the ANC offices

Mr Selebi said his or-

ganisation was investigating

Some of those involved in the recruitment were known to the ANC, and at least one was a member, Mr Selebi added — Sapa

ALL ROADS LEAD TO THE CITY

BATHROOM BONANZA

WHITE OR COLOUR

R1300⁰⁰

VAT INCL.

The cost of rights is a loss of rights

Biday 2/15/92

252

**ROBERT VIVIAN
and RICHARD GRANT**

SA LAW Commission vice-chairman Judge P J Olivier was reported recently as expressing support "for justiciable 'second generation' rights — such as the rights to food, housing and medical services — despite the costs involved" (Business Day, April 30)

But what are the costs involved? A jurist should immediately recognise that the cost of "second generation rights" is the loss of first generation rights. This should be clear to anyone who gives the matter even the slightest thought.

First generation rights are the originals, the real ones.

These are the rights that protect the individual from intrusion by the government and other citizens: the right to own property and keep it, the right to life, liberty and security of person, the right to freedom of opinion and expression.

In essence, rights are those legal trumps that each individual holds, that allow each person to get on with his life and business. It is the right to say "no" to anyone who would interfere. Each person is thus granted a sphere of private action, in which he decides whether and on what terms others will be allowed to enter.

First generation rights, because they set boundaries that say "no", have also been given the unfortunate label "negative rights".

But this is not because they are bad. They are no more bad than having a lock on your door. Locks are negative only to burglars.

Second generation rights have, similarly, been called "positive rights", not because they are good, but because they give burglars the keys to your locks.

Interpreted this way, the "right to food", does not mean that you have the right to keep your own food. This gives you the right to other people's food. You violate other people's right to property. These so-called "human rights" are not rights at all but merely excuses to override first generation rights. That so many jurists fail to see this is a sad reflection on the current state of jurisprudence.

The costs are clearly obvious to an economist. If we have a right to food, then everybody else incurs a liability to provide food, a liability that can never be paid off. For example, if I

have a "right to food", it means that I can expect someone else to provide and serve the food for me. If that someone refuses, and if the right is justiciable, I can get a court order to force him.

Does that other person also have a right to be served his meals? If so, who has any incentive to produce any food? The answer is, unfortunately, no one. The end result of the enforcement of a "right to food" is the same as for collective farming: no incentive, a resort to force and chronic food shortages.

But this is only one such "right". Imagine how the world would look if we enforced the whole list: collective medicine, collective housing, collective everything. Perhaps the advocates of second generation rights are aware of this but just don't care. Judge Olivier was quoted as say-

"The answer to this is that if we are earnest about human rights and justice these sacrifices are called for, and that the stereotyped view of the state is outdated. If we have respect for human rights, then we can not only have respect for those rights that suit our pockets."

Coming from the vice-chairman of the Law Commission in a country undergoing massive constitutional change, such a statement is truly frightening. It shows that Judge Olivier prefers not to notice that actions have consequences. Instead he treats his "good intentions" as ends in themselves. Or perhaps he feels he can placate the mobs by telling them what they want to hear, even though his own actions will make them hungrier and more vicious.

We have come to expect demagogic politicians to exhibit what Prof Hayek labelled "the fatal conceit", arrogantly foisting the false promises of social engineering on a bewildered electorate. That is what apartheid was all about. But now we have a judge and a horde of so-called hu-

man rights advocates trying to open the way for the judiciary to do the same thing.

When this becomes commonplace, the judiciary as we have come to know it — founded on tradition, reason and the rule of law — will cease to exist. If and when that happens, we will have lost our last institutional anchor with reality. The intentions may well be genuine but the means of achieving them are nonexistent. When taken to their logical conclusion these "second generation" rights will cease to be exercisable for want of the means required. When everyone has the "right to food" there will never be enough food.

This is what happened in every country where the legislative structures approached socialism. The closer they got the poorer and more desperate their people got. The "people" were exalted, but each person was expendable. Similarly, when these well-intended but collectivist rights are enforced, each individual human's rights will be expendable.

□ Vivian is professor of Wits University's business economics department and Grant the research and publications director at the Free Market Foundation.

REVIEW

Soweto
**Help on
violence
needed**

21/5/92
257

THE Goldstone Commission has appealed for information on the displacement of people due the ongoing violence on the Reef.

Mr Justice Richard Goldstone yesterday said the Commission had already established a committee to investigate this

The committee needed information which would enable it to identify people who had been forced to leave their homes or hostels in Alexandra, Soweto and the Vaal Triangle

Thousands of people have apparently fled their homes in these areas in recent months

Anyone who could give this information is asked to write to the Secretary of the Commission, Private Bag X858, Pretoria, 0001 or fax (012) 320-3812 - Sapa

90 sentenced to death last year

(252)
NINETY people were sentenced to death last year, says Minister of Justice Mr Kobie Coetsee

In a written reply to a question from Mr Peter Soal (DP Johannesburg North) Mr Coetsee told parliament the courts would continue to apply the law and pronounce death sentences in spite of the suspension on the execution of those sentences

ARG 22/5/92
"The State President will also continue to consider possible reprieves in those cases in which the Appellate Division confirms the death sentence, because it would be grossly unfair to keep on death row prisoners who may benefit from a reprieve"

He said death sentences would not be carried out pending the outcome of negotiations on an interim Bill of Fundamental Rights — Sapa

Political killings soar in reform era

STAR 22/5/92
Political Staff

The rate of political assassinations in the reform era of the '90s is more than five times that which prevailed during the extremely repressive period of 1985 to 1989, says the Human Rights Commission

"During the short 28 months from January 1990 to April 1992, HRC records show a total of 119 political assassinations, over five times the rate of such murders during the emergency years," an HRC press statement released yesterday reads

The organisation argues that the toll "is evidence, if it were needed, that there are elements within State structures who have no interest in a peaceful advance to genuine democracy. There is therefore great urgency about placing them under the control of an interim authority representative of 'all South Africa's people'"



Murdered activist . . .
Matthew Goniwe.

The HRC's records for 1985-89 indicate there were 45 assassinations, five disappearances and 160 attempted assassinations of anti-apartheid activists

Activists

In relation to this era, the revelations concerning the assassination of Matthew Goniwe and three other Cradock activists in June 1985 "has

again raised the question of the role of the National Security Management System in the elimination of political opponents during the era of total strategy", comments the HRC

The organisation argues that there is no reason to believe that a large number of the assassinations in the '90s originate from a different source than those of the '80s

"Over 100 of these victims are clearly identifiable as belonging to the anti-apartheid camp, either as officials or members of organisations or as family members, friends and associates caught in the firing line."

Noting that the reform era has also been a time of extreme destabilisation, the HRC states: "This greatly increased tempo of political assassinations is in keeping with the escalation in the use of the method of 'low-intensity conflict' that has been employed to destabilise and frustrate the liberation struggle".

Meyer set to respond on assassinations

CAPE TOWN — The Government will give Parliament a full response next week to allegations that senior security force officers were involved in the assassination of activists

Minister of Defence Roelf Meyer gave the media this undertaking when answering questions at a weekly briefing on Codesa yesterday.

He said he would raise the matter in the debate on his budget vote next week and answer the allegations as completely as the sub judice rule would permit.

Mr Meyer was asked why the Government had not yet commented on the authenticity of documents alleging the official sanctioning of the assassinations of Matthew Goniwe and others

He was also asked whether he was able to give assurances that he had full confidence that his senior defence force officers had not been involved in sanctioning the assassinations.

He pointed out that there was a judicial inquiry in progress and "I have not had clear advice on the sub judice rule"

College students defy ultimatum to write test

By Mckeed Kotlolo
Pretoria Bureau

Students at the troubled Transvaal College of Education yesterday defied an ultimatum from acting rector Johan du Toit to write a test or face the closure of the college

A spokesman for the students' representative council said students reported for lectures as usual but did not write the test, scheduled to start at 7 20 am

"We reported for classes at 8 30 am as

usual and waited for lecturers to come, but they did not," the SRC spokesman said

She said 15 minutes later, the SRC approached Mr du Toit, who told them that lecturers had been intimidated and as result there would be no lectures for the day.

She said Mr du Toit would not say who had intimidated the lecturers, but said he, too, had been intimidated by the SRC vice-chairman at their Wednesday meeting

Students were given until noon to submit their proposed timetable to be handed over to the college council

Chief director of northern Transvaal schools Job Schoeman said the students had submitted the timetable as requested by the executive committee of the college council.

"We have studied it and also looked into a number of alternatives" Mr Schoeman said the recommendations had been sent to the college.

He also confirmed al-

legations of intimidation of lecturers and students who supported the new weekly test system

● Technikon Northern Transvaal students returned to class yesterday after a sit-in which began on Monday, according to technikon spokesman Willie Meyer.

The students were protesting against the admission of a student who allegedly did not have a matric certificate Mr Meyer said the matter had been resolved and the student's registration had been suspended

Some stars' charges provisionally dropped

A quiet stand for sanity

252

FM 22/5/92

A multinational panel of nine experts has been set up to provide guidance on how to handle political marches and demonstrations

This is the latest project of the Goldstone Commission of Inquiry into Public Violence

The task is urgent. More than half of 10 000 marches and rallies in the past two years were illegal. Though there was violence at only three of these, all were potentially explosive.

The chairman of the panel is Prof Philip Heymann, director of the Harvard Law School. Other foreign members include Lee Brown, Commissioner of the New York Police Department, and several academics from universities in Holland, England and Canada. Local members include Johan Olivier, senior research specialist at the HSRC's Centre for Conflict Analysis, and Don Foster, professor of psychology at UCT.

The ultimate aim — which has the support of the ANC, Cosatu, the SA Police and others — is to produce agreed rules and procedures for rallies, with specific reference to the role of the police. This will be vital in preparing for the first nonracial (interim government) elections, which could be held next year.

The panel will draft recommendations after a preliminary meeting in London later this month. They will be presented to a Goldstone committee in July and will then be subjected to a seven-day public hearing in Cape Town. It's expected that recommendations will be submitted to government as draft legislation.

Meanwhile, there is no let-up in the commission's primary task to investigate incidents of violence and intimidation and recommend ways to prevent them.

It's a daunting job. By last Monday, 863 people had died in unrest-related incidents this year, according to police figures. These deaths have occurred since the first Goldstone hearing took place. Yet it could be argued that the commission, headed by Justice Richard Goldstone and four permanent commissioners, is doing more than any other body to stem the bloody tide, simply by coolly studying the causes and symptoms.

The commission was established by President F W de Klerk towards the end of last year. Since then, it has been fine-tuned to include preliminary hearings, which provide

greater spontaneity and the opportunity for the main commission to be more focused in its investigations.

The commission has completed exhaustive investigations on violence at Mooi River and President Steyn Gold Mine. The Mooi River inquiry concentrated on violence which claimed 19 lives at Mooi River and neighbouring Bruntville in December last year. The commission slammed police strong-arm tactics; criticised them for bias in favour of Inkatha; and stressed the importance of confiscating traditional weapons. Law & Order Minister Hernus Kriel responded by saying several aspects were being investigated.

A police spokesman in Maritzburg said this week that there has been a substantial decline in violence in Mooi River since the Goldstone report. But he said he did not necessarily attribute this to the commission's findings.

Of the President Steyn violence, owner Anglo American expressed its appreciation for the speed with which the commission dealt with the issue — violence flared on November 1 last year and the report was completed by April 1. Anglo also said the recommendations were constructive and are at various stages of consideration or implementation.

The report recommended measures to alleviate pressures and tensions at the mine, a code of conduct; consensus over political and union activity, training of personnel for disciplinary meetings, and the appointment of an industry disputes ombudsman.

The commission also produced for parliament in February, an interim report on its general observations on public violence. The report found that it was too early to draw conclusions from the information that had been presented to it so far.

Goldstone committees are also investigating the taxi wars, train violence (particularly on the Witwatersrand), mass demonstrations and marches, hostel violence in Greater Soweto, Alexandra and the Vaal Triangle and allegations surrounding an alleged SADF-funded Inkatha training camp in the Caprivi.

The commission has in the last month conducted four preliminary hearings and last week announced it will hold another into claims of secret police training camps in the southern Transvaal — the first request for a

hearing by the SAP.

For the commissioners it is a punishing schedule. Yet Mr Justice Goldstone continues to fulfil his obligations as an Appeal Court judge and as chairman of the Standing Advisory Committee on Companies.

The commission isn't a court that punishes offenders. But it is a neutral but public venue where antagonists meet and express allegations — as well as hear each other's cause for complaint.

Ironically, it is probably the commission's lack of teeth which makes it effective. While there have been suggestions that the commission be empowered to prosecute, this could hobble it. It would mean sitting as a court, aloof and unable to negotiate with the warring factions, Goldstone himself would have to remain detached, like a trial judge. Commissions of inquiry don't work that way.

The commission decided from the outset not to grant press interviews or allow television cameras into the hearings. However, its hearings are conducted in public in all but exceptional circumstances.

This has quelled the tendency among some parties to make allegations that are extravagant and often inflammatory — but groundless. They now know that they will probably be called to account and exposed if they cannot produce facts to back up their claims.

Further impetus was given a month ago when the commission initiated preliminary inquiries into allegations of violence, rather than throwing its full weight into every request for a probe. At these inquiries, aggrieved parties present their case for or against a full-blown inquiry, supported by affidavits and documents, but excluding eyewitness testimony. At this stage, the claims are not put to any exhaustive test through cross-examination.

This process has two benefits: the commission can be more focused when it holds a full inquiry, and it forces the parties to put all their cards on the table immediately, rather than allow those giving evidence later the opportunity to tailor their submissions to counteract evidence already heard.

The bottom line is that the commission isn't there to point fingers but to scrutinise incidents in search of solutions.

It's a tough task with no quick fixes — but the only way is relentlessly to chip away at the problem.

Sharp rise in killings

Sowetan 22/5/92.

THE number of political assassinations since the start of the reform process in 1990 is five times that of the preceding five years, the Human Rights Commission revealed yesterday.

The HRC said in a report released yesterday that 119 people had been eliminated in "low intensity conflict" methods used "to frustrate and destabilise the liberation struggle".

The report points out that during the five years from 1985 to 1990, which encompass the years of the State of Emergency, 45 political deaths were recorded.

During the same period five people disappeared without trace and 160 attempted murders were recorded.

The figures for the 28 months from February 1990 to April this year were five

By MATHATHA TSEDU
Investigations Editor

times higher with 119 deaths.

Of these, more than 100 were "clearly identifiable as belonging to the anti-apartheid camp", some as officials, members or family members of activists.

The HRC said recent revelations in the media about alleged State involvement in the murders of activists raised questions about the role of the National Security management in the continuing killings.

The increased tempo of politically motivated killings was further evidence, "if it were needed", that elements existed within State structures which had no interest in a peaceful advance to genuine democracy, the HRC said.

Actress ...

THE STAR

STAR 221992
90 death sentences in '91 (252)

Ninety people were sentenced to death last year, Minister of Justice Kobie Coetsee said yesterday. In a written reply to a question from Peter Soal (DP, Johannesburg North) Mr Coetsee said the courts would continue to apply the law and pronounce death sentences despite the suspension on the execution of those sentences. "The State President will also continue to consider possible reprieves in those cases in which the Appellate Division confirms the death sentence, because it would be grossly unfair to keep prisoners who may benefit from a reprieve on Death Row." Death sentences would not be carried out pending the outcome of negotiations on an interim bill of fundamental rights, he added.

e

1
2
3
4
5



By LENA SLACHMUIJLDER

FOUR pages of excerpts of speeches by former African National Congress president Oliver Tambo broadcast on Radio Freedom from as early as 1985 laid the ground for the argument by the Inkatha Central Committee member Chief Muziwenkosi Blessed Gwala in Saturday's preliminary submissions to the Goldstone Commission.

"Let the people's war engulf the entire country" and "South Africa must go up in flames" were some of the lines selected by the northern Natal Inkatha Freedom Party leader to prove that the ongoing violence in the Empanjeni area was an African National Congress-orchestrated strategy.

On Friday, submissions were made pertaining to unrest in Umlazi and Imbali. On Saturday, the commission heard submissions in Empanjeni on the unrest in northern Natal. At the time of going to press, no decision had been taken by Mr Justice R Goldstone as to whether the commission will investigate these areas of conflict.

In all these areas, submissions by the ANC and IFP revealed radically polarised views of the ongoing unrest, presenting a formidable — if not impossible — challenge for any future

Mission Impossible for

Goldstone Commission

WVW and 22/5 - 24/5/92

commission. In all these areas, the ANC presented a legalist-orientated argument focusing intense and specific attention on the alleged bias of the security forces. In Umlazi, the ANC stated that the role of the kwaZulu Police in escalating the violence must be the terms of reference.

In Imbali, the ANC submission supported the four-day stayaway called in early May in support of the demand of withdrawal of all security forces from Umlazi. In Empanjeni, the ANC cited numerous allegations of both KZP and South African Police behaviour in support of IFP supporters.

In stark contrast, the IFP approaches in all three areas delved back into the "people's war" era of the late-1980s, claiming that the ultimate root of the present-day unrest is ANC-inspired. In Umlazi, IFP chairman R Mfeka referred to

school boycotts and intimidation that the security forces clearly could not stop. Mfeka continued to explain how counter-measures by Inkatha supporters were necessary to restore order to Umlazi township.

In Imbali, mayor and IFP chairman PE Ndllovu lashed out at the ANC stayaway as a flagrant violation of the National Peace Accord. Ndllovu said he regarded with suspicion the ANC's call for the removal of all of the security forces, in light of the recent onslaught of attacks against IFP officials and supporters in Imbali. Ndllovu's submission included an appendix listing 66 attacks against IFP leaders in Imbali since October 1991. Fourteen attacks on the person or property of kwaZulu Deputy Minister of Works VB Ndllovu were recorded during this time.

Security forces in all these areas pointed to the

main cause of unrest as "warring parties", as well as socio-economic factors, an increase in the availability of dangerous weapons, and "biased and inaccurate" media reports.

In a submission from the SADF Group 9 of Pietermaritzburg, Dudley Ward reeled off statistics and graphs highlighting the decline in unrest incidents since the introduction of 32 Battalion in Imbali.

Colonel Vuka Dube, district commissioner of the KZP for Umlazi, was reprimanded by Judge Goldstone for failing to prepare a submission, and was given the one-hour lunch break to prepare a statement.

In his statement, Dube denied any partial role being played by the KZP in the Umlazi unrest, supporting his view by saying "no criminal charges against the KZP have come to my attention".

In the Umlazi hearings, the ANC, SAP and Independent Law Enforcement Facilitators Office submissions concurred that any future commission should be confined to the shack areas of Chimora, Ekuthuleni, Zamani, Uganda, Malukazi and the T-section men's hostels. The IFP submission, presented by Mfeka, did not clearly specify the parameters of any future commission.

Silence greets detention without trial

Wmwezi 22/5-28/5/92

DEFENTION without trial — opposed for so long by the African National Congress, its allies and human rights groups — slipped back into South African life last week with no more than a murmur of public discussion.

Hidden in a mass of working group documents at the Convention for a Democratic South Africa (Codesa) was a barely noticed agreement by all parties on new guidelines for security and State of Emergency legislation. The delegates considerably narrowed the government's power to declare an Emergency, but allowed for only "certain procedural controls over detention without trial".

Last month, the ANC made a submission to Codesa that surprised human rights groups because it accepted that during transition the state had to have the power to declare an Emergency, and asked for only limited measures to protect against the kinds of abuses that were common in previous Emergencies.

It suggested that an Emergency be declared only "on the advice of a multi-party interim executive authority" and that this decision should be testable in court. They also asked that certain rights — the right to a legal remedy, freedom from discrimination, freedom from torture and freedom of religion — should be made "non-derogable even during a properly proclaimed Emergency or unrest area".

It added that security personnel should not be entitled to indemnities — one of the most controversial aspects of

Delegates at Codesa II, many of them former detainees, agreed to detention without trial — and no one protested.

By **ANTON HARBBER**

previous South African Emergencies. The ANC also requested certain rules to protect prisoners:

● Detainees and their families should be informed of reasons for their incarceration.

● Detainees should be entitled to consult with a lawyer of their choice.

● The names of those held and those released should be published.

● Detainees should be entitled to administrative review within 30 days of their detention and, if held for more than three months, to review by a board headed by a judge and chosen by the minister.

What surprised observers was how loose were these provisions. Many of the ANC negotiators had themselves experienced detention for long periods and received little relief from administrative reviews.

The final Codesa working group agreement did not even have these protections, saying only that there should be "provision for certain (unspecified) non-derogable rights ... and certain (unspecified) procedural controls over detention". They proposed no limitation at all on the length of detention.

Even more surprising was how muted was the protest from organisa-

tions, individuals and media which had always campaigned against detention without trial.

The exception was Lawyers for Human Rights (LHR), which issued a strongly worded call to the ANC to review its position, saying that the international standard for Emergency detention was 48 hours.

"The ANC's attempt to humanise and justify detention without trial is pathetic and in fact smacks of complexity ... The ANC should know by now that once administrative detention is provided for and regulated by law, access to the judiciary is a mere paper right," said LHR director Brian Curtin.

The Human Rights Commission issued a mildly worded appeal to Codesa not to allow any rights entrenched in a Bill of Rights to be suspended during an Emergency. "We are firm in our conviction that the only way to avoid sliding into the abuses of the past is to observe without reservation the individual's right to liberty ... Administrative detention must never again be substituted for conviction and imprisonment by a court of law."

The Black Sash has issued no statement, though it did make the issue the subject of a placard outside Codesa II last week and has raised the matter with the ANC.

The Bar Council and other lawyers' organisations have been silent. ANC negotiators defend their position by saying that they have made it very difficult for the government to declare an Emergency.

They said Curtin's criticism showed ignorance of the "context" of the ANC's submissions to Codesa. "We are totally against detention without trial ... Our principles and those of LHR coincide exactly."

"What our document to Codesa referred to was States of Emergency. Our document made it clear that these only applied in periods of war or such grave Emergencies as to threaten the life of the nation."

"We imposed severe restrictions including parliamentary supervision and supervision by the courts for the declaration of such an Emergency. The onus is very heavily against the declaration of an Emergency. If there is one, the controls have to be extremely stringent."

"If there is to be a State of Emergency," they concluded, "it is far better that there be stringent controls than that the law remains completely silent."

It is understood, however, that the issue has caused considerable debate behind the scenes within the ANC and there are a number of senior members who are extremely upset by this aspect of the agreement. Even some of those publicly defending the move are saying privately that they, and other ANC members, are unhappy with it.

"There was a furious debate," one source said. "And the line-up would have surprised you. Some of those who had experienced detention without trial were not on the side you would expect them to be on."

Juvenile justice

A WORKSHOP on the identification of training needs for social workers and public interest lawyers will be held at the University of the Witwatersrand on Saturday. ~~250~~ 252

The workshop will be hosted by the Community Law Centre of the Institute for Public Interest Law and Research, and it will focus on juvenile justice administration and the generation of proposals for the reform of the correctional-service system. *Sowetan 22/5/92*

Among the speakers are Professor MCJ Olmsdaal of Natal University, Ms Michelle Morris of the University of the Western Cape and an advocate, Mr M. Motshekga of the University of South Africa. - *Sapa.*

'SAP did not want to discuss Mail charges'

STAR 23/5/92

252

PRETORIA — Police sought to silence The Weekly Mail through a court order rather than discuss irregular police activities the weekly had uncovered, according to editor Anton Harber.

Harber, testifying before a preliminary hearing of the Goldstone Commission in Pretoria yesterday, said on Thursday May 14 he was informed of the police intention to seek an urgent interdict preventing publication of the story.

He was surprised as he felt the Minister of Law and Order and the Commissioner of Police had enough time to deal with the issue and to discuss the matter with him.

The Weekly Mail alleged certain policemen were involved in "covert operations" which included the elimination of certain activists in the Vaal Triangle, and that there were safe houses where recruits were interviewed.

Harber told the sitting that circumstances in which the investigation unfolded, the nature of the witnesses and the corroborating evidence were such that the team was confident there was sufficient reason to go to Press.

"The extent to which we went to scrutinise the information was exceptional. Our reporters spent six weeks, probing layer upon layer of official deceit and dishonesty."

Harber further told the sitting that, even after checks were made, the team kept open the

RAMOKOENA MATLALA

possibility that it was a legitimate police operation.

However, when senior Law and Order spokesman Brigadier Leon Mellet told a TV crew that a proper police operation would never operate in that way, "we decided there was clearly something amiss" and that it was time to publish the story.

Seriousness

On May 6, two days before the story was published, Harber said he personally telephoned Captain Craig Kotze, a spokesman for the Law and Order Ministry, informing him about the seriousness and nature of the story the weekly was about to publish.

"I thought it would be appropriate for us to discuss the matter before going to Press, with the Minister, his deputy or the Commissioner of Police. I offered to travel to Pretoria or Cape Town at short notice for this purpose."

Kotze telephoned him back to say he had raised the matter with the Commissioner of the Police whose sole response was that he would refer it to the Goldstone Commission and declined the request for a meeting.

"He also accused me of offering bribes of R50 000 to policemen to talk to reporters. I took offence at this suggestion and asked Captain

Kotze not to deflect the issue, but to realise its seriousness and raise it with the Minister as soon as possible. He agreed to do so and to phone me first thing the following morning.

He said Kotze only replied on Thursday evening when the paper was about to go to Press, saying neither the Minister nor his deputy would see Harber.

Kotze did not reply to questions faxed to him on May 6 prior to the publication of the first report on the matter, said Harber.

Earlier, Drew Forrest, who led the team of reporters in the investigation, told the sitting how the team managed to track down police officers allegedly involved in the "covert operations" through pager numbers supplied by witnesses.

Colonel Jan Potgieter, a senior police officer who gave evidence on behalf of the SAP, said the specifications of the Crime Intelligence Service of the police was public knowledge and "is and was" never a subject of secrecy.

However, allegations in the weekly's May report were being viewed in a serious light by the police who strongly denied any involvement.

Richard Goldstone, in adjourning the sitting, announced that a statement would be released by Monday after a decision from the committee on how the matter would be handled — Sapa.

Journalist's section 205 conviction overturned

STAR 23/5/92

IN A verdict which has far-reaching implications for the public's right to know and for journalists to protect confidential sources of information, the Rand Supreme Court yesterday overturned the conviction of The Star's Patrick Laurence under section 205 of the Criminal Procedure Act

This is the first time a conviction under the section, which compels journalists to reveal their sources of information, has been overturned.

Laurence was sentenced in March last year to 10 days' jail by magistrate Hein Verhoef for refusing to identify his source

252

SUSAN SMUTS

for a report published on February 12 last year. He was subpoenaed to give information concerning the disappearance of Gabriel Pelo Mekingwe, who was to have given evidence in the Winnie Mandela trial.

In a review of Verhoef's decision, Mr Justice R T van Schalkwyk (with Mr Justice W J van der Merwe concurring) said the subpoena had been sought and issued for the purpose of investigating Mekingwe's alleged kidnapping.

However, the magistrate's refusal to postpone the case at

the request of the defence must have been motivated by the urgency of tracing Mekingwe to give evidence in the Mandela trial, the judge said. This was enough to find his decision unlawful in the circumstances. The judge ordered that Laurence's trial was irregular and invalid, and set aside his conviction and sentence.

The Star's Editor-in-Chief, Richard Steyn, welcomed the court's decision. "It's a victory for the public's right to know and for journalism. I'm delighted for Patrick Laurence."

The judge found that magistrate J F Zeelie, who issued the

subpoena, had also been influenced by the Mandela trial. He set aside Zeelie's decision and declared the subpoena invalid. He ordered the magistrates to pay the costs of the review.

Prosecutor J Davidowitz, who asked for the subpoena, had been acting on instructions from the attorney-general's office, and his actions were not subject to review, the judge ruled.

Laurence also brought an appeal against his conviction and sentence, but this was not argued as it had been covered by the review.

Lawyer fights 'light verdict' on killer cops

STimes 24/5/92

By ROY RUDDEN

NATAL attorney-general Miké Imber has asked the Chief Justice to overrule a judge's refusal of an appeal by the State against allegedly light sentences imposed on five police who murdered a man

decision to do away with the deceased rather than face a possible charge of assault"

Last month Mr Justice Thirion rejected what legal experts described as a historic move by Mr Imber in that it was the first appeal to be launched under the new Section 316b of the Criminal Procedure Act, which enables the State to dispute Supreme Court sentences in certain circumstances

The chairman of Lawyers for Human Rights, Natal University senior law lecturer Mike Cowling, said it was clear that the attorney-general felt that the disparity between the sentences and what was considered to be the norm was "so wide as to induce a sense of shock"

Violate

The attorney-general's office confirmed that Mr Imber had therefore exercised his right to seek the Chief Justice's intervention. The next step was for the Chief Justice to designate two Appeal Court judges to consider Mr Imber's request

And on Mr Justice Thirion's criticism of politicians, Professor Tony Mathews, director of Natal University's centre for criminal justice, said it came at a strange time, "especially in view of the learned judge's silence during the time that those very politicians were constructing a political order now justly and universally regarded as an evil one"

Hotbed

Mr Imber's appeal followed a highly publicised case in March in which Mr Justice Thirion criticised "mealy-mouthed politicians", police generals and the media when he jailed the policemen for from two to eight years for the killing of Mr Mbongeni Jama last year to prevent him from laying an assault charge against them

Dealing with the judge's criticism of the media, Professor Mathews said "When those who are supposed to be the custodians of the law violate it in so horrendous a fashion, the case cries out for publicity"

Passing sentence, Mr Justice Thirion said these politicians had turned the country into "a hotbed of political intrigue, violence, double-talk and lawlessness" and that young policemen had to carry out their duties in such an atmosphere. It was natural that they would become insensitive to suffering

He criticised the news media for publicising crimes by policemen and said this might have contributed to "the accuseds'

Judge overrules magistrate

A RAND Supreme court judge this week upheld the right of a lawyer to refuse to use Afrikaans in court when ordered by a magistrate to do so.

Magistrate J van Wyk had convicted attorney Thokoane Post Moloto on contempt of court and sentenced him to 10 days' imprisonment or a R50 fine after a row on the language issue.

Judge Botha set aside Moloto's conviction.

This was a sequel to a row in a Germiston court in November last year when Van Wyk objected to Moloto cross-question-

ing State witness and Katlehong council employee Jacobus Coetzee in English during the trial of Paul Khanyile, the council's chief cashier. Khanyile was charged with defrauding the council of R132 000.

Coetzee, a TPA accountant, gave his chief evidence in Afrikaans.

When he began cross-examination Moloto started in English.

Van Wyk objected, enquiring whether the witness was Afrikaans-speaking. Moloto said he was.

Moloto: "Is it not true that you said you communicated with Mr Khanyile in English?"

Coetzee: "That's right."

Moloto: "To demonstrate the two of you un-

derstood each other, I am now going to cross-examine you in English."

A stalemate developed with the attorney insisting the witness needed an interpreter while the magistrate insisted the attorney needed an interpreter.

Moloto said he would be better able to cross-examine in English.

After lengthy legal argument, Van Wyk finally convicted Moloto of contempt of court.

In his verdict Judge Botha said he did not know what was meant by insisting that the attorney required an interpreter — whether it was to drive home to him that he was not as proficient in Afrikaans as he should be, or whether he and not the State should provide the interpreter.

Cipren 24/5/92

252

Mauku - Was Justice Served?

Soewetan 25/5/92

252

THE decision this week to convict and sentence Philemon Mauku was legally correct, his lawyer recognised. So was the decision to convict and sentence Nelson Mandela 28 years ago.

But in both instances a question remained: Was justice done?

Mandela was jailed for taking up arms in defence of his people. So was the 24-year-old Mauku. Neither of them ever actually fired a gun in anger.

Mandela's position today, viewed from the lofty vantage point of the negotiations in Codesa, is that "the armed struggle" belongs to the past.

Drawing a line between law and justice, a *Soewetan* correspondent reports on the jailing of a man who smuggled guns into South Africa.

Mauku's position, viewed from the crime and violence of Alexandra Township, is that bullets are the only argument to which the powers-that-be will listen.

Last Monday, at the magistrate's court in Brakpan, Mauku was sentenced to three years in jail for the illegal possession of two rifles. His argument, which the court re-

jected, was that he needed them to defend his community, which has been in a virtual state of war with Inkatha hostel dwellers and - as he sees it - their police allies since March last year.

Mauku himself used to be a hostel dweller, one of 3 000, he estimated in an interview last week, forced out by the Inkatha warriors when they moved into the township last February.

The hostel then became a sort of military barracks from which the Inkathamen launched raids on the community. They killed, they assaulted, they robbed, they kidnapped school-girls and gang-raped them. In September last year Mauku, who

had moved to the house of a relative, decided to set up a self-defence unit. He learnt he could obtain guns in neighbouring Mozambique, where military hardware is more freely available than food.

He bought two AK-47s at R1 600 each. On the way back he was arrested at a police road block.

Last week the "release Mauku" campaign was launched - not, however, by the ANC, but by a more radical group expelled from the ANC, called *Congress Militant*. Tensions have now arisen between the ANC branch in Alexandra and Congress Militant which go to the heart of

the ANC's biggest political dilemma: How to sustain support for peaceful negotiations among the grassroots when people in the townships are facing more death and uncertainty than when Mandela took up arms 31 years ago.

Sentiment in Alexandra is likely to be particularly militant in the light of the judiciary's response last year to an Inkatha leader arrested in possession of five AK-47s, a pistol, a home-made bomb and ammunition.

Themba Khoza was caught with the weapons in Sebokeng Township hours after a massacre in which 35 people died. He appeared in court and was acquitted. *The Independent*

Lawyer wins case against magistrate

By SONTI MASEKO

AN East Rand attorney convicted of contempt of court by a Germiston magistrate in November last year has had his conviction set aside by the Rand Supreme Court

Mr Post Thokoane Moloto of Tembisa, was convicted and sentenced to R50 or 10 days' imprisonment for contempt of court following a row with a magistrate over the use of an interpreter

The conviction was set aside early this month by Mr Justice C Botha with Mr H Daniels concurring

Moloto, defending a client, insisted on cross-examining an Afrikaans witness in English

When the presiding magistrate, Mr J van Wyk, suggested he use an Afrikaans interpreter, Moloto refused, saying that interpreters were used to aid witnesses

Moloto insisted he could better serve his client in English

The magistrate gave Moloto three options to use an interpreter, to cross-examine in Afrikaans or to withdraw from the case

Moloto refused to accept the options

The magistrate argued that Moloto's refusal amounted to contempt of court and sentenced him

The Supreme Court found that, "there is no question that his (Moloto) behaviour in court was courteous and he displayed a respectful attitude to the Bench"

Botha said the three options put to Moloto were not proper

Appeal against recusal order fails

BLOEMFONTEIN — The Appeal Court has upheld the Natal Supreme Court's decision that the late Industrial Court deputy president P E Roux should have recused himself in a dispute between the Metal and Allied Workers' Union (Mawu) and BTR Industries of Howick. (252)

The court dismissed, with costs, an appeal by BTR, Roux, M J Oosthuizen and C C de Witt, against a judgment that had set aside Industrial Court proceedings in the dispute, and which had referred the case back to be heard by a court that did not include Roux, Oosthuizen and de Witt.

The court also dismissed, with costs, a cross-appeal by Mawu and one of its members, Phillip Dladla, against the part of the lower court order which had awarded them limited costs, instead of the costs of the whole review application.

After Roux, the presiding officer in the proceedings, refused to recuse himself, the Industrial Court on September 9 1987 dis-

missed Mawu's application for an order that BTR had been guilty of unfair labour practices. The case arose from the dismissal of striking employees at BTR's Sarmcol plant on May 2 1985. *Blomay 26/5/92*

The application for recusal was made on the basis that Roux had attended and participated in a seminar arranged by a firm acting as consultant and adviser to BTR.

Judge J M Didcott set aside the Industrial Court decision in the Natal Supreme Court in 1989. He said the average litigant would have felt that, by participating in the seminar, Roux was displaying too great an association with the firm.

In the Appeal Court yesterday, Judge Hoexter said it appeared the lower court had reached that conclusion correctly. He said while the firm had played no part in the litigation, it played a crucial role in events that led up to the trial and shaped disputes that occupied the Industrial Court's attention. In Mawu's eyes, the firm was in the enemy's camp — Sapa



Crookes Brothers Limited

Co. No. 02/00290/06

GROUP RESULTS AND DIVIDEND DECLARATION

The audited results of the group for the financial year ended 31st March 1992 together with those of the previous year are

Amnesty is mooted

252

Sowetan 26/5/92

ISMAIL LAGARDIEN
Political Correspondent

A GENERAL amnesty and indemnity for all people who committed political crimes, including murder, could be invoked as a way to break with the past and immediately spur on negotiations.

Government sources have confirmed that discussions had taken place between the two parties and that an agreement could be reached soon, but warned that it was still premature to expect a breakthrough.

This could mean that the killers of Mr Matthew Goniwe and his colleagues, Ms Dulcie September, Miss Ruth First, Dr David Webster and Mr Griffiths Mxenge, to name but a few, might never be brought to court. But the perpetrators of these murders might make themselves known if protected by a general amnesty.

Government sources said yesterday that

the ANC requested that a general amnesty and indemnity be applied before a general election to people who had committed political crimes and who had not been released from prison or excused in terms of the Pretoria Minute.

The Government first rejected the idea, but following revelations on the Goniwe Killings has seen the merit in such a general pardon.

This could be a way for State President FW de Klerk to avoid having to take responsibility for any politically motivated murders from within the state security apparatus and for licence his predecessor Mr PW Botha gave the security forces.

General indemnity slammed

Sowetan 26/5/92

DEMOCRATS must oppose any general amnesty which equated the acts of those opposed to apartheid with those who maintained it through murder, abduction and torture, ANC jurist Professor Kader Asmal said yesterday.

He said this during his inaugural lecture as Professor of Human Rights Law at the University of the Western Cape.

It had been suggested that Brian Mitchell of the Trust Feed massacre was likely to be treated as a political prisoner and pardoned.

"We must guard against the govern-

ment-sponsored attempts to cover the liability of those who opposed apartheid to cover the liability of those who maintained apartheid through killings, disappearances and torture.

"To absolve the military of capital crimes, torture and ill-treatment through a general amnesty law which may emerge as part of the (negotiation) settlement, places its members above the law.

"This double standard in law enforcement cripples the equality before the law which underlie a future democracy and provides a hostage for the future," he said.

252

Court decides dispute

252
1883

Sowetan 26/5/92

THE Appeal Court yesterday upheld the Natal Supreme Court's decision that the Industrial Court deputy president should have recused himself in a dispute between the now-defunct Metal and Allied Workers' Union and BTR Industries

The court dismissed, with costs, an appeal by BTR, the late Mr PE Roux SC, Mr MJ Oosthuizen and Mr CC de Witt against a judgment that set aside proceedings of the Industrial Court in the dispute, and which referred the case back to be heard afresh by a court that did not include Roux, Oosthuizen and De Witt

After the late Roux, deputy president of the Industrial Court and presiding officer in the dispute court proceedings, refused to recuse himself, the Industrial Court on September 9 1987 dismissed Mawu's application for an order that BTR had been guilty of unfair labour practices

The case arose from the dismissal of striking employees

at BTR's Sarmcol plant on May 2 1985

The application for recusal was made on the basis that Roux had attended and participated in a seminar arranged by a professional firm that acted as consultant and adviser to BTR

In the Natal Supreme Court on March 2 1989 Mr Justice JM Didcott set aside the Industrial Court decision. He concluded that the average lay litigant - in the position of Mawu and its members - would have felt that, by his participation in the seminar, Roux was displaying too great an association with the professional firm

In the Appeal Court yesterday, Mr Justice Hoexter said it appeared that the lower court correctly reached that conclusion. The appeal must fail

Mr Justice Milne, Mr Justice Kumleben, Mr Justice FH Grosskopf and Mr Justice Goldstone concurred - SA Press Association

Massacre case

THE trial of eight men allegedly involved in the massacre of 38 mourners at an ANC funeral vigil in Sebokeng last year was postponed yesterday *Southon 26/5/92*

Mr Justice W Shutz adjourned the case until tomorrow because one of the accused failed to arrive for the hearing

The judge also ruled that a warrant be issued for the arrest of Harry Mamato (19) after the Vereeniging Circuit Court waited several hours for him to show up

The eight, believed to be members or supporters of the Inkatha Freedom Party, allegedly fired shots with an AK-47 rifle and threw a handgrenade at mourners at an ANC night vigil in Zone 7, Sebokeng, in January

Thirty-eight people were killed and eight injured

The accused, who are all out on bail, are Zebuse Khuzwayo (32), Aubrey Myeni (23), Aaron Mtshali (21), Daniel Mabote (22), Silwane Kubhcka (37), Thomas Lokhozi (28), Hunter Ndlovu (18) and Harry Mamato (19)

They face 38 counts of murder, eight of attempted murder and unlawful possession of firearms and ammunition

Mr K M ANDREW Mr Speaker, further arising out of the hon the Minister's reply, may I ask him whether he is saying to this House that nobody will be suspended from his post in the SA Defence Force as long as something still remains under investigation by way of an inquest or a court case? In other words, is he saying that until such time as rulings are made, nobody will ever be suspended from the SA Defence Force? If he is not saying this, is the inference not that the Government does not accept the evidence and is therefore not prepared to take any action?

The MINISTER Mr Speaker, it seems to be very difficult to explain this to the hon member. The point is that an allegation is contained in the report of *New Nation* I am saying that there is evidence to the contrary as well, but unfortunately I am not in a position to divulge that information to the House at this stage, because it has been presented to the Attorney-General of the Eastern Cape. That is the situation. In view of the fact that the Attorney-General is still conducting the investigation, I am not in a position to present that evidence now.

I am not saying that it would prevent steps being taken at any stage, if necessary. All I am saying is that according to the information I have available, and in terms of the general regulations of the SA Defence Force, the Chief of the SA Defence Force is entitled to act if he has sufficient evidence to do so, which is not the case in this particular matter.

Financial assistance to families of four deceased
*12 Mr K M ANDREW asked the Minister of Justice

Whether the families of Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Steelo Mhlauhi will be given financial assistance to enable them to have legal representation at the re-opened inquest into the deaths of the above-mentioned four men, if not, why not, if so, on what basis will the assistance be provided?

B672E

The DEPUTY MINISTER OF JUSTICE

If the families concerned require financial assistance they are welcome to approach the Director of the Legal Aid Board. The Legal Aid Board assists persons, who satisfy its requirements, to obtain legal representation.

HOUSE OF ASSEMBLY

As far as can be ascertained, the families of the deceased have not yet applied for legal aid.

Mr K M ANDREW Mr Speaker, arising from the reply of the hon the Minister, may I ask whether, given the abnormal circumstances of this case and the fact that it is a re-opened inquest, he believes that the stature and quality, in terms of experience and seniority, of the legal assistance that would come to the families by way of the Legal Aid Board would be adequate?

The DEPUTY MINISTER Mr Speaker, the Legal Aid Board is a semi-autonomous body. It will decide, possibly with the assistance of the attorneys, who will represent the families. It does not necessarily mean that it will be a junior advocate.

INTERPELLATION

The sign * indicates a translation. The sign † used subsequently in the same interpellation indicates the original language.

Own Affairs

Elderly citizens removed from residences

1 Mr J J WALSH asked the Minister of Housing and Works

- (1) Whether he is taking any steps to alleviate the problem of elderly citizens being removed from their residences as a result of *inter alia* sectional title developments, if not, why not, if so, what steps,
- (2) whether he will make a statement on the matter?

The MINISTER OF HOUSING AND WORKS Mr Speaker, the reply is as follows:

At present we are experiencing a very serious housing shortage amongst all population groups in South Africa. The recent De Looz Report confirmed this with indisputable facts. In respect of the White population group, the shortage is estimated at approximately 104 000 housing units and it is still growing. I am extremely concerned about this situation.

The biggest need in respect of low-income housing appears to be where the monthly income of a family is below R1 200 per month. It is a fact that many of these unfortunate people are aged

persons. This unfortunate situation can be attributed, *inter alia*, to the following causes: problems in the South African economy, which have led to a decline in economic activities at all levels, increasing unemployment at all levels of the South African community, the fast population growth, urbanisation and a tendency in the private sector to only cater for the middle-income and high-income groups. The last-mentioned aspect unfortunately leads to the conversion of normal housing units, especially flats, to sectional title units.

Legal protection for, *inter alia*, the aged lessee is granted by means of the Sectional Titles Act as well as the Rent Control Act, Act 80 of 1976. The basic elements for the protection of lessees are, firstly, that in terms of the Sectional Titles Act lessees must be granted the first option to purchase such units.

Certain restrictions are placed on the sale of the relevant unit for as long as the lessee occupies it. No conversions may be made without prior approval from the local authority. The lessee may continue to occupy the unit uninterrupted, subject to the stipulations of the Rent Control Act of 1976. I would like to state that the Sectional Titles Act is administered by the hon the Minister of Regional and Land Affairs.

This brings me to protection in terms of the Rent Control Act. Lessees have to comply with certain conditions of the Act. They have to be 70 years of age or older. The lessees should have reached this age at the time rent control was abolished, while continuing to have uninterrupted occupation. They have to fall within the laid-down income bracket, namely R1 250 per month for single persons and R2 000 per month for married couples.

The decision to phase out rent control was taken by the Government many years ago, and these reasons are still valid today. Reinstatement of rent control will not be considered lightly. However, where exploitation is proved, I will not hesitate to intervene. I would like to invite lessees who feel that they are being prejudiced to bring this to the attention of my department.

As far as the legal position is concerned, I want to tell hon members what is being done in practice to address and alleviate the serious housing shortage in respect of the Whites. I want to mention some of the steps we are taking. The

Development and Housing Board, acting on behalf of the department, is involved in the following [Time expired.]

Mr R V CARLISLE Mr Chairman, the hon the Minister says he is extremely concerned. What we want is not concern, but action. He gives a number of causes for his concern, but allow me to give him some others too.

Rent control has been phased out, but inflation and the restructuring of this economy as a result of the NP Government's maladministration have had as one result the increasing homelessness of both elderly people and single parents. Those who are not yet homeless live in the dreadful certainty that rapidly rising rentals and rapidly devaluing rand will sooner or later render them homeless as well.

The hon the Minister refers to sectional title and says this does not come under his particular portfolio. He obviously lives in the wealthiest constituency in the country.

He does not have these kinds of problems. Let me tell hon members how developers get around sectional title.

An HON MEMBER It is the first time you stand up for old people!

Mr R V CARLISLE Come and look at my constituency, friend.

They move people out of a block of flats until only the protected tenants are left on their own. They withdraw security and leave frightened people 70 years old and older all alone in the block. They soon go! Such a practice is not unlawful, but it is immoral and it is being done. Another tactic is to say they require the old person's flat for repairs. They tell them they can go off for six months and that when they come back they can have the flat back on new terms. That is allowable in terms of the Act. Where does the person go for six months? Who bears the expenses? They do that specifically to drive protected tenants out.

The next cause of this lies with the developers themselves. I want to say that that Government is far too prone to influence from the representatives of developers and builders in South Africa. They quiver when they hear the word Sapiro. I want to ask the Government to look after the interests of these old folk and single

HOUSE OF ASSEMBLY

Committee to probe secret SAP unit claims

252
STAR 27/5/92
By Peter Fabricius
Political Correspondent

The Goldstone Commission has appointed a special committee to probe allegations in The Weekly Mail about a special secret-police unit whose task was to carry out political violence.

Commission chairman Mr Justice Goldstone said the commission believed The Weekly Mail's allegations of actual criminal conduct by the police required more urgent attention and that they should be dealt with as a separate issue.

This was after the commission conducted a preliminary inquiry on May 22 into The Weekly Mail allegations.

The SAP denied the allegations and claimed that the unit was engaged in an undercover operation against gun-running.

Mr Goldstone said that, with the concurrence of Justice Minister Kobie Coetsee, he had established a committee to inquire into the allegations "concerning the planning or instigation of acts of violence by members of the SAP".

The chairman and sole member of the committee is R M Wise, SC, an advocate of the Johannesburg Bar.

Judge Goldstone turned down a request from the ANC, Cosatu and the SA Communist Party that — in addition to the investigation of specific allegations about police activities — that the commission should also probe the structure, training and activities of the "Criminal Information Service" and, in particular, covert operations.

He said this would require a specialist committee and weeks of preparation and evidence.

"The commission has on previous occasions stated its view that in order effectively to curb violence, it is necessary to have a police force which enjoys the confidence and respect of South Africans."

Statements from anyone who wished to testify before the new committee should reach the secretary of the commission at Private Bag X858, Pretoria 0001 by 4 pm next Wednesday.

LOCKING horns outside courts may smooth

STAR 27/5/92

252

Resolving disputes before resorting to court battles is an increasing legal trend, writes JO-ANNE COLLINGS.

ALTERNATIVE dispute resolution, which offers routes to resolving serious differences without locking battle in court, is finding increasing favour among lawyers. But will it take off in the world of business?

This question threaded its way through the recent conference on "Streamlined Justice" which was organised by the Alternative Dispute Resolution Association of South Africa (Adrasa) and attended by lawyers and businessmen.

The participation of leading business figures, such as Anglovaal chairman Basil Hersov, the Prame Group's Mervyn King, Basil Read chairman Leon Dison and Saab's Clive

Morkel, was indeed a form of endorsement of alternative dispute resolution — or ADR — to the imbated

But, with Adrasa formally constituted just a year ago, evidence is that ADR methods have much deeper roots and wider application in South Africa in the field of labour relations than other fields.

The Independent Mediation Service of SA (IMSSA), in existence for more than 10 years, is involved in hundreds of mediations, arbitrations, balloting and relationship-building exercises annually.

According to IMSSA director Charles Nupen, these interventions are mostly but not exclusi-

vely in the labour field; many are institutionalised in employer/union recognition agreements or industrial council procedures, and a single intervention may impact on hundreds of thousands of workers — for instance in the steel and engineering industry.

The construction industry has over the last 20 years evolved mechanisms to deal speedily and expertly with disputes arising from costly variations from construction contracts. Basil Read's Leon Dison — a civil engineer by profession — has

acted in such mediations/arbitrations between contractor and employer. He expressed the view that ADR techniques might add some sophistication to the civil engineering association's time-tested process — but the technical expertise of the arbitrator or mediator remained the critical factor.

The question remains whether ADR will graft readily to the world of commerce, where relationships are generally not as symbiotic as that between management and labour. As often happens, delegates

looked across South Africa's borders for pointers all the way to the United States where ADR began to be defined systematically about 15 years ago.

Harvard Law School's Professor Frank Sander played no small role in this and he offered the fruits of experience — throwing out more questions than answers.

Like all ADR proponents, he stressed that ADR was an alternative — not a substitute — for the courts. It helps to preserve the courts for those disputes for which they are uniquely suited

and needed". As a whole range of private adjudication, mediation and arbitration-type practices have developed, critical issues have emerged.

Professor Sander dealt with a handful:

- Should ADR be mandatory in certain types of cases? Should the courts refuse to hear specified civil actions until the parties had tried other means of settling? Professor Sander tentatively expressed the opinion that "as a first step, it's not a bad thing" but added that an obligation to attempt to reach an out-of-

court settlement was not a compulsion to actually settle.

- Who pays for ADR, especially if it is a mandatory step to litigation? Professor Sander made the allowance that ADR was cheaper than litigation, and where parties resorted to it voluntarily, there was little doubt they should pay.

But where courts ordered some form of ADR before proceeding to hear a case, there was a contradiction in expecting voluntary community groups or the parties themselves to foot the bill, Professor Sander observed.

In throwing out more questions than answers, Professor

Sander underscored the point made by IMSSA chairman Paul Pretorius at the outset of the conference that ADR, in its many facets, was a dynamic and partly formed attempt to address longstanding crises in the justice system — overburdened courts, made inaccessible by legal costs and, in South Africa, hamstringing by a lack of legitimacy.

Mr Pretorius argued that the present phase in South Africa was a "window of opportunity" which those concerned with the reform of justice should seize. In this context, he suggested, "the business community may be falling behind in protecting its own interests". □

justice system

Anger at remarks on rape

Damage unlikely, says magistrate

GRAHAM LIZAMORE, Staff Reporter

A STORM is looming over remarks by a Wynberg magistrate that a woman was unlikely to suffer psychologically after being raped and held captive for an entire night

The ANC Women's League and the Law Society of the Cape of Good Hope have expressed outrage at the magistrate's comments, saying he did not appear to make a distinction between intercourse and rape

When he sentenced a Guguletu man to seven years in jail for rape last week, Mr A P Kotze said he had taken into account that the woman had no permanent physical injuries and would be unlikely to suffer psychologically from her ordeal

Later when quizzed about his remarks, Mr Kotze said "You are dealing with a woman who has a child. She knows sexual intercourse. She's an adult woman, she can deal with something of this nature"

A spokeswoman for the ANC Women's League said the magistrate's remarks highlighted the "scandalous" neglect in the courts of issues affecting women and the neglect of women in South African society as a whole.

She said there was no excuse for such "barbarian ignorance" about the effects of rape on women

She said the case highlighted the almost total domination by men of the legal system and the urgency for drastic reform

The case underlined the need for women to organise around issues that affected their safety and status in society

She said the league demanded that the Department of Justice immediately clarify whether the sentiments expressed by the magistrate represented the department's point of view

The league also demanded that the Attorney-General appeal against the sentence imposed on the rapist so that a higher court could rule on the validity of the judgment

The league also insisted that the magistrate be ordered to recuse himself from all further cases involving sexual offences

Director of the Law Society of the Cape of Good Hope Mrs Ingrid Hoffmann said one of the most significant results of a rape was the enormous psychological impact it had on any victim, irrespective of what social structure she was from

"If the callous and insensitive statement attributed to Mr Kotze is correct, it is indeed surprising because a comment of this nature can affect the public perception about the administration of justice

"The public will think they cannot expect sympathy from the courts," she said

A spokesman for the Department of Justice said he could not comment on Mr Kotze's remarks, except to say that in South African law, judgments were based on precedents set by the Supreme Court and ultimately the Appellate Division

He warned against drawing conclusions without reading the magistrate's full judgment and pointed out that the Attorney-General could appeal against the sentence handed down by Mr Kotze

Last month the Acting Attorney-General, Mr Frank Kahn, launched an investigation into a court case in which a man was acquitted of rape because a district surgeon had not given evidence

Neither the Attorney-General, Mr Niel Roussou, nor Mr Khan was available for comment



Mrs Ingrid Hoffmann

Copyright © 1992 by the South African Press Syndicate

NIS head office costs rise R87m

Political Staff

A NEW head office complex for the National Intelligence Service (NIS) is to be built next year at an estimated cost of R145m at Rietvlei, near Pretoria

The estimated cost of the complex has escalated from R58m to R145m over

the past seven years — and tenders will only be called for in February

This was confirmed yesterday by a spokesman for NIS after a report about the increased costs of the com-

plex appeared in this week's edition of the Financial Mail.

The Department of Public Works said in a memorandum tabled in Parliament earlier this year that in the past year alone the estimated cost of the complex had rocketed by R53m from the R91,7m approved last year.

The Financial Mail reported that in replies to written questions a spokesman for the Ministry of Justice, which is politically responsible for NIS, said the figure of R91,7m was "unfortunately" incorrect and should have been R115,8m because of the cost of work that was not included "through an oversight".

And "further adjustments" were probable

The spokesman said the original estimate of R58m was made before accommodation requirements were finalised.

The Financial Mail said nearly R10m had been spent so far on preliminary work, including the provision of domestic services, civil engineering works and residential, technical and "other ancillary buildings"

The provisional tender date for the main complex was February next year

Praise for Hani's 'brave' confession

Staff Reporter

HUMAN rights organisations have hailed as "courageous" the admission by SACP chief Mr Chris Hani that the ANC was guilty of human rights abuses in their frontline detention camps.

The former uMkhonto weSizwe chief of staff said in an interview in the latest edition of "Work in Progress/New Era" there was a period when the ANC's security department targeted both innocent and guilty people in

their efforts to uncover South African government spies.

Civil Rights League chairman Professor Hugh Corder last night welcomed Mr Hani's "candour and courage" which came as "a blast of fresh air into a field generally marked by deceitful silence".

He said: "Without the government's acknowledgement of similar or greater misdeeds, there is little hope of establishing a better order."

Black Sash national vice-president Mrs Mary Burton said Mr Hani's "frank and courageous" admission of human rights excesses should be matched by the government.

She said: "If South Africa is to move into the future with confidence in its ability to find healing from wounds of the past, the full truth must be told, by the government, its security forces and its opponents."

The ANC had taken a step in that direction, she said. (252) OT 27/5/92

Review of 'rape wasn't harmful' case ordered

STATL 28/5/92

CAPE TOWN, — Acting Cape Town Attorney-General Frank Khan yesterday ordered an investigation into a case in which a Wynberg magistrate said rape was unlikely to have a psychological effect on a 24-year-old victim.

The magistrate, A P Kotze, made the remark when he sentenced a Guguletu security guard to seven years' jail last week for raping and holding the woman captive for an entire night

He said he had taken into account the fact that the woman had no permanent physical injuries and was unlikely to suffer psychologically from the rape

When a reporter questioned Mr Kotze later, he said "You are dealing with a woman who has a child she's an adult woman, she can deal with something of this nature"

The Law Society of the Cape of Good Hope expressed outrage at his comments, saying he did not appear to make a distinction between intercourse

252 and rape

Mr Kahn said as far as the Attorney-General's office was concerned, rape was far too prevalent in its jurisdictional area and was regarded in an extremely severe light because of, among other things, the psychological damage to the victim

He had instructed the senior prosecutor at the Wynberg Magistrate's Court to have the record of the case transcribed and submitted to his office immediately — Sapa

STAR 28/5/92
Mr Justice Goldstone has laid the main blame for political violence squarely on the African National Congress and the Inkatha Freedom Party.

After months of inquiry into the violence around the country, Judge Goldstone — chairman of the permanent judicial commission into the prevention of public violence and intimidation — issued an urgent appeal to ANC president Nelson Mandela and IFP leader Chief Mangosuthu Buthelezi to end the killing.

He said he was issuing an urgent interim report because he could not continue inquiring into violence "with judicial detachment" when urgent steps were needed to stop the violence.

No one other than the ANC and the IFP had the power to curb violence and intimidation effectively.

Mr Justice Goldstone said he could find no evidence of a third force.

He did not exonerate the security forces and identified one of the causes of violence as "a history over some years of State complicity in undercover activities, which include criminal activities".

It had to be accepted that individual policemen as well as ANC and IFP supporters had been guilty of serious criminal conduct.

The Government had failed to take sufficient steps to prevent criminal conduct by members of the security forces and the police.

But Mr Justice Goldstone added "Even if allegations against members of the security forces prove to be justified, such misconduct would not have been possible but for the ongoing battle between the ANC and IFP."

He said the commission had no doubt that the primary cause of the violence was the political battle between supporters of the ANC and of the IFP in their attempts to gain control over areas.

He called on the ANC and IFP to disarm their supporters — in an implicit reference to both the ANC's armed struggle and the IFP's insistence on carrying traditional weapons.

He called for an immediate ban on the carrying of dangerous weapons at any place.

Mr Justice Goldstone's remarks came in a general interim report on all his investigations to date — and a press statement on the commission's specific inquiries into the violence in Greater Soweto, Alexandra, the Vaal Triangle and in Imbali, Empangeni and Umlazi.

Law and Order Minister Hernus Kriel said last night that the commission's finding was "indisputable evidence of what the Government and the SAP have been saying all along".

He said the Government had noted the criticism of the security forces and would pay immediate attention to remedy the situation.

Mr Justice Goldstone said the general causes of the violence included: the socio-economic and political imbalances; a police force and army which had been "the instruments of oppression", the sudden legalising of black political organisations; the climate of political intolerance; single-sex hos-

● To Page 3 ■

Goldstone issues urgent call to end violence

ANC, IFP 'are to blame'

By Peter Fabricius
Political Correspondent



257

28/5/92

P.T.O.

ANC, IFP 'to blame for political violence' 252

STAR 28/5/92
● From Page 1

tels; an inadequately manned police force, and a history of State complicity in violence

He suggested several steps

- The deployment of an effective police presence in local communities to work closely with the dispute resolution committees of the National Peace Accord

- The police's new Internal Stability Unit seemed the only suitable branch for this role, working with justices of the peace when this office had been appointed under the peace accord

- The investigative functions of his commission on violence and intimidation would continue to be important in curbing violence. But the commission should be granted adequate

means and procedures for offering protection to witnesses.

- The widely held view that the KwaZulu Police was a private army of the IFP was a matter of great concern — as was disturbing evidence of unlawful action by senior members

- Recent activities by members of the ANC's military wing Umkhonto we Sizwe were also a matter for concern — especially the admission of a Transvaal MK leader that MK was unable to control its members.

- The SADF, SAP, ANC and IFP should establish committees to investigate allegations of public violence by members.

- All hostels should be fenced adequately and securely and a strong police presence should ensure that no arms were taken

in or out of hostels.

- The carrying of dangerous weapons should be outlawed everywhere

The IFP yesterday gave a guarded response to the finding. Central committee member John Bhengu said "I will say 'yes' in the sense that it is the two parties who are embroiled in violence against each other"

But he claimed it was the ANC — through the now-defunct UDF — which had started the fighting in Natal in 1985

The ANC said the statement "raises a number of critical issues at a time when the peace accord and its instruments face a critical evaluation"

The ANC said it had called an urgent meeting of its allies today to discuss the statement

Judge: death sentence decision long overdue

By Susan Smuts

252

STAR 28/5/92

The time is long overdue for a final decision to be made on the death sentence, a Rand Supreme Court judge said yesterday as he sentenced two men to death for murdering an elderly widow in her Emmarentia, Johannesburg, home

Mr Justice M J Strydom said the death sentence had not had the same deterrent effect as it had before executions were suspended in November 1990. By December 1991, some 265 prisoners were on Death Row.

Referring to a judgment by Mr Justice P J van der Walt in Pietersburg, the judge said it was "not civilised" to impose the death sentence when it would not be carried out for years. Such delays were inevitable considering the temporary suspension of executions.

Respectfully disagreeing with Mr Justice van der Walt, who imposed life imprisonment instead of death, the judge said he was bound by the law and had to sentence Simon Plaatjies (26) and Philip Masala (29) to death.

The men had strangled Joan Imrie by tightly tying a cord around her neck on July 29 last year. They were jailed for 15 years for robbery with aggravating circumstances.

Elderly people had become victims of evil-doers in recent years. Their attackers were rarely man enough to confront an old man or woman alone, and usually sought companions for their deeds, the judge said.

The judge said he had reason to believe Pretoria Central Prison could no longer accommodate all Death Row prisoners and they were being held in jails throughout the country.

The judge said he found two issues concerning the death penalty distressing.

Firstly, he was expected to impose the death sentence unless another sentence was appropriate. If predictions that the death sentence would be abolished were "prophetic words", why then was he expected to impose the death sentence, especially when it was not currently being imposed, he asked.

Sentencing someone to death was the most unpleasant duty of any judge, he added.

Secondly, if the death penalty was not abolished, mass executions would have to take place. This would mean Death Row prisoners would have to stand in line to be executed, which "would not be appropriate in a civilised country", the judge said.

The issue could not "be suspended in the air" indefinitely, and a solution should be found as soon as possible.

50 unrest deaths recorded in week

Fifty people were killed and 32 injured in the week from May 20 to 26, compared with the previous week's total of 61 deaths and 59 people injured, according to the latest repression report compiled by the Human Rights Commission. (252)

The report said vigilante actions in the PWV area and Natal accounted for 42 deaths and 24 injured.

Although the PWV

death roll of 38 remained constant (39 died the previous week), the Vaal region — and Sebokeng in particular — continued to be a flashpoint.

In Natal, the deaths dropped from the seven recorded last week to four this week. Four people were injured.

According to the report, action by security forces accounted for five injured and 414 arrests in the PWV, eastern Cape and Ciskei.

During a demonstration at the Department of Education and Training offices in Springs, 372 SA Democratic Teachers Union members were arrested.

The HRC said the SA Defence Force's 21 Battalion had yet again been involved in raids on East Rand townships, which had resulted in injuries to residents in squatter camps at Phola Park and Tamboville, as well as in Ratanda — Sapa

Mandela rejects findings

STAR 2915192

By Shaun Johnson and Esther Waugh

252

ANC president Nelson Mandela yesterday summarily dismissed the findings of the Goldstone Commission on the causes of violence in South Africa.

Opening the ANC's policy conference at Nasrec, near Johannesburg, Mr Mandela told nearly 800 cheering delegates that the report was "superficial".

On Wednesday, Mr Justice Richard Goldstone released to Parliament a bombshell report which said the primary cause for the ongoing violence was "political rivalry" between the ANC and the Inkatha Freedom Party.

Although he did not specifically exonerate the security forces — consistently accused of fomenting "black on black" violence — Mr Justice Goldstone's report was immediately interpreted by the Government as a vindication of repeated claims that its "hands were clean".

Mr Mandela went out of his way to avoid a personal attack on "the learned judge" but left no doubt that the ANC rejected the commission's conclusions outright.

Delegates told The Star this raised serious questions

"Mass action solution to deadlock" — Page 3

Mr Mandela said to prolonged applause "The (Goldstone) statement pre-empted the ongoing work of his own commission."

Describing the findings as "superficial", Mr Mandela said "To attribute the violence to political rivalry between the ANC and IFP is to ignore (the fact) that the rivalry has been fostered and manipulated by the South African Government and its security forces."

"Secondly, with regard to who holds the key responsibility for bringing the violence to an end — to place this responsibility on the ANC and IFP is to ignore the reality that it is the National Party regime which wields State power."

The ANC leader said the commission was still charged with, among many other things, investigating alleged military training by the SADF of at least 200 IFP members "who are still loose . . . conducting a reign of terror in the townships".

"It is also investigating secret funding by the regime of the IFP over a period of at least four years, and the involvement of the KwaZulu Police and the SA Police in Wesselton. The judgment in the Trust Feed massacre case is unmistakable proof that none of this can be dismissed as irrelevant or imagined."

Explaining his reasons for releasing the commission's findings on the causes of violence this week, Mr Justice Goldstone said the situation had become so serious that he could no longer continue merely to inquire with "judi-

But ANC delegates said yesterday they thought the judge had made "a fundamental error".

"It appears he doesn't understand that the current violence is all part of a process which began long ago," said a senior ANC member.

Sapa reports the IFP's permanent representative in London, Ben Skosana, said in a statement yesterday that the findings had put in doubt countless media reports blaming the IFP for violence while portraying the ANC as an innocent victim.

He said Inkatha would not have got involved if the ANC had not intimidated its political opponents, made townships ungovernable and killed those it called "sellouts" and "puppets".

Holomisa impeding Goniwe probe - A-G

STAR 29/5/92 (252)

PORT ELIZABETH — The investigation into the murders of United Democratic Front member Matthew Goniwe and three other political activists outside Port Elizabeth in 1985 is being impeded by the refusal of Transkei leader Major-General Bantu Holomisa to provide evidence he claims to hold.

This is according to Acting

Attorney-General of the Eastern Cape Michael Hodgen, who said good progress was nonetheless being made with the investigation. He said new evidence was being received continually.

Mr Hodgen was instructed by the Government to investigate the alleged involvement of the SA Defence Force in the murders after General Holomisa re-

vealed details to a newspaper concerning orders allegedly issued to a senior SADF member to eliminate the four activists.

They were found dead several weeks after the alleged orders.

Mr Hodgen appealed to people with information on the matter to contact him immediately — Sapa.

'Military explosives killed ANC lawyer'

By Susan Smuts

STAR 29/5/92

Military rather than commercial explosives were probably used in the portable cassette player which killed ANC lawyer Bheki Mlangeni, an inquest at the Rand Supreme Court heard this week.

Investigating officer Captain Andre Kritzinger told Mr Justice B O'Donovan that further tests would be conducted on the explosives. Samples taken of the packing in which the machine arrived did not match samples from South Africa and there was a "strong foreign connotation", he said.

The cassette player was apparently intended for Dirk Coetzee, a former captain in the SAP stationed at Vlakplaas where death-squad activities were allegedly planned. Mr Coetzee did not receive the parcel in London because he did not have money to pay the excess postage and it was sent to Mr Mlangeni, whose name appeared as the addressee.

Captain Kritzinger said he was waiting for a report comparing fingerprints of Mr Coetzee's former colleagues at Vlakplaas with fingerprints found on the cassette player.

Captain Kritzinger said he had arrived unexpectedly at Vlakplaas three months after

Mr Mlangeni's death although he had suspected much earlier the cassette player could have been sent from there.

Under cross-examination from G Rautenbach, appearing for Mr Mlangeni's family, he admitted he had met Lieutenant Kobus Klopper, who was stationed at Vlakplaas, the day before the visit. Lieutenant Klopper knew of the investigation.

Mr Rautenbach put it to him the visit was pointless because evidence which may have been there could have been removed.

Captain Kritzinger replied that clues could be found up to two years after an incident.

In a statement taken while he was in Weskoppies, self-proclaimed death squad member Ronald Bezuidenhout had named several policemen as possible suspects. Captain Kritzinger said he confronted the policemen concerned, but they denied any involvement in Mr Mlangeni's death.

He said a technical report comparing the bomb which killed Durban computer analyst Nic Cruise showed no similarities in the explosives.

He said he did not think it would be useful to obtain similar reports about the bomb which killed Ruth First, or the one which seriously injured Albie Sachs in Mocambique.

The hearing continues

Man injured in hostel blast

Crime Staff

A man was injured when Meadowslands hostel in Soweto was attacked twice by unknown gunmen yesterday.

The first attack, according to Soweto police spokesman Captain Govindsamy Mariemuthoo, took place at noon when an unknown gunman opened fire at the hostel. One inmate was in-

jured

He said the injured man was taken to Baragwanath Hospital for treatment.

In another attack later in the afternoon, a man threw a hand grenade into the hostel at about 2 pm. No one was injured.

Captain Mariemuthoo said policemen removed the grenade, which failed to explode, from the hostel.

Decide on death penalty — judge

STEPHANE BOTHMA (252)

A RAND Supreme Court judge on Wednesday urged Parliament to take a final decision on the death penalty, saying it was uncivilised to keep prisoners on death row for years.

Sentencing two murderers of an elderly Johannesburg woman to death, Judge M J Strydom said it was extremely upsetting that the Criminal Procedure Act expected him to impose the death penalty when executions were suspended

"The time is over-ripe that a decision be taken," Strydom said

He sentenced Simon Plaatjies, 26, and Phillip Masala, 29, to death for murdering Joan Emrie on July 29 last year by tying a cord around her neck and strangling her during an aggravated robbery, for which the pair each got 15 years. *8/Day*

He said 295 prisoners were awaiting execution at the end of last year.

"If the death penalty is not abolished in the future, mass executions will have to take place," the judge said. He agreed with an editorial in the SA Bar journal *Consultus* that this was not an option. *29/5/92*

The editorial said a possible solution would be the death penalty's abolition, but all race groups seemed to favour its retention.

Despite the controversy, Strydom said, he had to follow the law "In your case," he told the murderers, "the death penalty was the only appropriate sentence"

Comment: Page 10

Ex-mayor dies after necklacing

5/Day 29/5/92

FORMER Lekoa township mayor Esau Mahlatsi died yesterday after being shot and necklaced in Sebokeng in the Vaal Triangle, police said last night

Spokesman Capt Henriette Bester said police found Mahlatsi's charred body at about 4 45am in Moshoeshoe Street, in Section 13 of the township.

The motive for his murder and the identity of his killers were not known. Mahlatsi apparently survived several earlier attempts to kill him.

Soweto police last night reported that the Meadowlands hostel was attacked twice during the afternoon. At about noon an unknown man opened fire on the hostel. One man was injured in the incident

At about 2pm, a handgrenade was thrown at the hostel. Capt Govind-samy Mariemuthoo said the grenade failed to explode. Police were investigating both incidents

In a shooting incident in Hillbrow yesterday, one man was killed and two people injured when a gunman fired at their vehicle with an AK-47

The victims were sitting in a parked Mercedes-Benz in King George Street when the gunman fired about 18 shots at them from a blue minibus parked in front of the car. The minibus drove away after the shooting. No arrests had been made

On Wednesday Jubileno de Sousa, who ran a dry cleaning business in

LINDEN BIRNS

Main Reef Road, Benrose, was murdered at the George Goch mens' hostel in Jeppe De Sousa and one of his workers went to the hostel to collect clothes for cleaning

A man grabbed De Sousa while another man held a gun to his head. Police said De Sousa was shot in the face when the worker with him ran to get help

Sapa reports that the Human Rights Commission (HRC) said 50 people were killed and 32 injured between May 20 and 26. During the previous week 61 were killed and 59 people injured, the Human Rights Commission said.

Injuries

In a report released in Johannesburg on Wednesday, the commission said vigilante actions in the Pretoria-Witwatersrand-Vereeniging (PWV) area and Natal accounted for 42 deaths and 24 injured

Security force action accounted for five injured and 414 arrests in the PWV, eastern Cape and Ciskei.

The commission said the SADF's 21 Battalion had again been involved in raids on East Rand townships, which had resulted in injuries to residents in squatter camps at Phola Park, Tamboville and Ratanda.





Staatskoerant Government Gazette

R1,00 Prys • Price
R0,10 Plus 10% BTW • VAT
R1,10 Verkoopprys • Selling price
Buitelands **R1,40** Other countries
Posvry • Post free

*Regulasiekoerant
Regulation Gazette*

No. 4876

Vol. 323

PRETORIA, 29 MEI
MAY 1992

No. 14010

GOEWERMENSKENNISGEWING

DEPARTEMENT VAN JUSTISIE

No. R. 1510 29 Mei 1992

LANDDROSHOWE WYSIGING VAN DIE REELS VAN DIE HOF

Die Reelsraad vir Geregshowe het kragtens artikel 6 van die Wet op die Reelsraad vir Geregshowe, 1985 (Wet No 107 van 1985), met die goedkeuring van die Minister van Justisie, die reels in die Bylae gemaak

BYLAE

Woordomskrywing

1. In hierdie Bylae beteken "die Reels" die reels afgekondig by Goewermentskennisgewing No R 1108 van 21 Junie 1968, soos gewysig by Goewermentskennisgewings Nos R 3002 van 25 Julie 1969, R 490 van 26 Maart 1970, R 947 van 2 Junie 1972, R 1115 van 28 Junie 1974, R 1285 van 19 Julie 1974, R 689 van 23 April 1976, R 261 van 25 Februarie 1977, R 2221 van 28 Oktober 1977, R 327 van 24 Februarie 1978, R 2222 van 10 November 1978, R 1449 van 29 Junie 1979, R 1314 van 27 Junie 1980, R 1800 van 28 Augustus 1981, R 1139 van 11 Junie 1982, R 1689 van 29 Julie 1983, R 1946 van 9 September 1983, 1338 van 29 Junie 1984, R 1994 van 7 September 1984, R 2083 van 21 September 1984, R 391 van 7 Maart 1986, R 2165 van 2 Oktober 1987, R 1451 van 22 Julie 1988, R 1765 van 26 Augustus 1988, R 211 van 10 Februarie 1989, R 607 van 31 Maart 1989, R 2629 van 1 Desember 1989, R 186 van 2 Februarie 1990, R 1887 van 8 Augustus 1990, R 1928 van 10 Augustus 1990, R 1967 van 17 Augustus 1990, R 1261 van 30 Mei 1991, R 2407 van 27 September 1991, R 2409 van 30 September 1991 en R 405 van 7 Februarie 1992

356—A

GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE

No. R. 1510 252 29 May 1992

MAGISTRATES' COURTS AMENDMENT OF THE RULES OF COURT

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No 107 of 1985), with the approval of the Minister of Justice, made the rules in the Schedule

SCHEDULE

Definition

1. In this Schedule "the Rules" means the rules published under Government Notice No R 1108 of 21 June 1968, as amended by Government Notices Nos R 3002 of 25 July 1969, R 490 of 26 March 1970, R 947 of 2 June 1972, R 1115 of 28 June 1974, R 1285 of 19 July 1974, R 689 of 23 April 1976, R 261 of 25 February 1977, R 2221 of 28 October 1977, R 327 of 24 February 1978, R 2222 of 10 November 1978, R 1449 of 29 June 1979, R 1314 of 27 June 1980, R 1800 of 28 August 1981, R 1139 of 11 June 1982, R 1689 of 29 July 1983, R 1946 of 9 September 1983, 1338 of 29 June 1984, R 1994 of 7 September 1984, R 2083 of 21 September 1984, R 391 of 7 March 1986, R 2165 of 2 October 1987, R 1451 of 22 July 1988, R 1765 of 26 August 1988, R 211 of 10 February 1989, R 607 of 31 March 1989, R 2629 of 1 December 1989, R 186 of 2 February 1990, R 1887 of 8 August 1990, R 1928 of 10 August 1990, R 1967 of 17 August 1990, R 1261 of 30 May 1991, R 2407 of 27 September 1991, R 2409 of 30 September 1991 and R 405 of 7 February 1992

Amendment of the Table of Contents, the Index (Alphabetical) and rule 21 of the Rules

14010—1

- (b) deur subreel (2) deur die volgende subreel te vervang

“(2) Indien daar nie binne 10 dae na sodanige versoek sekuriteit verskaf word nie, kan die hof—

- (i) die verrigtinge opskort totdat aan die versoek voldoen is,
- (ii) gelas dat die eiser nie sekerheid hoef te stel nie,
- (iii) die aksie afwys, of
- (iv) na goeddunke 'n ander bevel gee ”

Wysiging van Deel I van Tabel B van Bylae 2 by die Reëls

6. Deel I van Tabel B van Bylae 2 by die Reëls word hierby gewysig—

- (a) deur in paragraaf 2 die uitdrukking “items (a), (b), (c), (d) of (e)” deur die uitdrukking “items (a), (b) of (c)” te vervang,
- (b) deur in item (m) van die Tarief na die uitdrukking “Bywoning van uitgestelde verrigtinge ingevolge artikel 65E (3)” die uitdrukking “of bywoning van aansoeke om opskorting van lasbrief uitgereik ingevolge artikel 65F (1) van die Wet” in te voeg,
- (c) deur in paragraaf (ii) van item (n) van die Tarief die uitdrukking “en korrespondensie” te skrap, en
- (d) deur paragraaf (iv) van item (o) van die Tarief te skrap

Inwerkingtreding

7. Hierdie reëls tree op 1 Julie 1992 in werking

- (b) by the substitution for subrule (2) of the following subrule

“(2) If security is not furnished within 10 days after such request, the court may—

- (i) stay the proceedings until such request is complied with,
- (ii) order that the plaintiff need not furnish security,
- (iii) dismiss the action, or 252,
- (iv) make such other order as it may deems fit ”

Amendment of Part I of Table B of Annexure 2 to the Rules

6. Part I of Table B of Annexure 2 to the Rules is hereby amended—

- (a) by the substitution in paragraph 2 for the expression “items (a), (b), (c), (d) or (e)” of the expression “items (a), (b) or (c)”,
- (b) by the insertion in item (m) of the Tariff after the expression “Attending postponed proceedings in terms of section 65E (3)” of the expression “or attending application for the suspension of a warrant issued in terms of section 65F (1) of the Act”,
- (c) by the deletion in paragraph (ii) of item (n) of the Tariff of the expression “and correspondence”, and
- (d) by the deletion of paragraph (iv) of item (o) of the Tariff

Commencement

7. These rules shall come into operation on 1 July 1992

Maak uself asseblief deeglik vertrouwd met die “Voorwaardes vir Publikasie” van wetlike kennisgewings in die *Staatskoerant*, asook met die nuwe tariewe wat daarmee in verband staan

Please, acquaint yourself thoroughly with the “Conditions for Publication” of legal notices in the *Government Gazette*, as well as the new tariffs in connection therewith

Wysiging van die Inhoudsopgawe, die Inhoudsopgawe (Alfabeties) en reel 21 van die Reëls

2. Die Inhoudsopgawe, die Inhoudsopgawe (Alfabeties) en reel 21 van die Reëls word hierby gewysig deur die uitdrukking "Antwoord" teenoor reelnommer 21 oral waar dit voorkom, deur die uitdrukking "Antwoord op verweerskrif" te vervang

Wysiging van reel 45 van die Reëls

3. Reel 45 van die Reëls word hierby gewysig deur die volgende voorbehoudsbepaling by subreel (4) te voeg

"Met dien verstande voorts dat die tydperk waartydens 'n vonnisskuldenaar aan 'n administrasiebevel onderhewig is, nie in ag geneem word by die berekening van enige van die tydperke waarna in hierdie reel verwys word nie "

Wysiging van reel 49 van die Reëls

4. Reel 49 van die Reëls word hierby gewysig—

(a) deur subreel (1) deur die volgende subreel te vervang

"(1) 'n Verweerder in 'n aksie of verrigtinge waarin 'n vonnis by verstek gegee is, kan binne 20 dae nadat so 'n vonnis tot sy kennis gekom het, met kennisgewing aan die eiser by die hof aansoek doen om tersydestelling daarvan en die hof kan as goeie redes aangevoer is en, behalwe waar verlof verleen is om as 'n *pro Deo*-gedingvoerder kragtens reel 53 te verdedig, mits die verweerder aan die eiser sekerheid gestel het vir die koste tot en met die verstekvonnissen en van so 'n aansoek, in 'n bedrag van R100, die verstekvonnissen tersyde stel met sodanige bepalings as wat hy goedvind. Met dien verstande dat die vonnisskuldeiser by skriftelike toestemming by die klerk van die hof ingedien, van die vereiste van sekerheidstelling kan afsien",

(b) deur subreel (2) deur die volgende subreel te vervang

"(2) Sodanige aansoek geskied by wyse van beedigde verklaring waarin die redes vir sy afwesigheid of versuim om 'n kennisgewing van voorneme om te verdedig of 'n verweerskrif af te lewer, asook die gronde van verweer teen die aksie of verrigtinge waarin die vonnis gegee is, kortliks vermeld word",

(c) deur die skraping van subreel (3),

(d) deur die skraping van subreel (7), en

(e) deur in subreel (13) die uitdrukking "(1) tot en met (9)" deur die uitdrukking "(2), (4), (5), (6), (8) en (9)" te vervang

Wysiging van reel 62 van die Reëls

5. Reel 62 van die Reëls word hierby gewysig—

(a) deur in paragraaf (a) van subreel (1) die uitdrukking "of werksaam" na die uitdrukking "woonagtig" in te voeg, en

2. The Table of Contents, the Index (Alphabetical) and rule 21 of the Rules is hereby amended by the substitution for the expression "Reply" opposite rule number 21 wherever it occurs of the expression "Reply to the plea"

252

Amendment of rule 45 of the Rules

3. Rule 45 of the Rules is hereby amended by the addition to subrule (4) of the following proviso

"Provided further that the period during which a judgment debtor is subject to an administration order shall not be taken into account in the calculation of any of the periods referred to in this rule "

Amendment of rule 49 of the Rules

4. Rule 49 of the Rules is hereby amended—

(a) by the substitution for subrule (1) of the following subrule

"(1) A defendant to an action or proceedings in which a default judgment has been given may within 20 days after the judgment has come to his knowledge apply to court upon notice to the plaintiff to set aside such judgment and the court may upon good cause shown and, save where leave has been given to defend as a *pro Deo* litigant in terms of rule 53, provided the defendant furnished to the plaintiff security for the costs up to and including the default judgment and such application, in the amount of R100, set aside the default judgment on such terms as it may deem fit. Provided that the judgment creditor may by consent in writing lodged with the clerk of the court, waive compliance with the requirement of security",

(b) by the substitution for subrule (2) of the following subrule

"(2) Such application shall be on affidavit which shall briefly set forth the reasons for his absence or default of delivery of a notice of intention to defend or of a plea, and the grounds of defence to the action or proceedings in which the judgment was given",

(c) by the deletion of subrule (3),

(d) by the deletion of subrule (7), and

(e) by the substitution in subrule (13) for the expression "(1) to (9)" of the expression "(2), (4), (5), (6), (8) and (9)"

Amendment of rule 62 of the Rules

5. Rule 62 of the Rules is hereby amended—

(a) by the insertion in paragraph (a) of subrule (1) after the expression "resident" of the expression "or working", and

INHOUD			CONTENTS		
No		Bladsy No	No	Page No	Gazette No
GOEWERMENTSKENNISGEWING			GOVERNMENT NOTICE		
Justisie, Departement van <i>Goewermentskennisgewing</i>			Justice, Department of <i>Government Notice</i>		
R 1510	Wet op die Reelsraad vir Geregshowe (107/1985) Landdroshowe Wysiging van die reëls van die hof	1	R 1510	Rules Board for Courts of Law Act (107/1985) Magistrates' Courts Amend- ment of rules of court	1 14010

Death penalty: 'Decide'

JOHANNESBURG. — The time is long overdue for a final decision to be made on the death sentence, a Rand Supreme Court judge said this week as he sentenced two men to death for murdering an elderly widow.

Mr Justice M J Strydom said the death sentence does not have the deterrent effect it had before executions were suspended in November 1990.

Referring to a judgment by Mr Justice P J van der Walt in Pietersburg, the judge said it was "not civilised" to impose the death sentence when it

(252) CT 29/5/92
would not be carried out for years. Such delays were inevitable considering the temporary suspension of executions

Respectfully disagreeing with Mr Justice Van der Walt, who imposed life imprisonment instead of death, the judge said he was bound by the law and had to sentence Simon Plaatjies, 26, and Phillip Masala, 29, to death.

The men had strangled Ms Joan Imrie to death in her Emmarentia home on July 29 last year. — Sapa

Time for decision on death penalty says Rand judge ⁽²⁵²⁾

The Argus Correspondent ARG 29/5/92

JOHANNESBURG. — The time is long overdue for a final decision on the death sentence, a Rand Supreme Court judge said as he sentenced two men to death for murdering an elderly widow in her Emmarentia, Johannesburg, home.

Mr Justice M J Strydom said the death sentence had not had the same deterrent effect as it had before executions were suspended in November 1990. By December 1991 about 265 prisoners were on Death Row

Referring to a judgment by Mr Justice P J van der Walt in Pietersburg, the judge said it was "not civilised" to impose the death sentence when it would not be carried out for years. Such delays were inevitable considering the temporary suspension of executions.

Respectfully disagreeing with Mr Justice van der Walt, who imposed life imprisonment instead of death, the judge said he was bound by the law and had to sentence Simon Plaatjies, 26, and Philip Masala, 29, to death.

The men had strangled Joan Imrie to death by tying a cord tightly around her neck on July 29 last year. They were jailed for 15 years for robbery with aggravating circumstances.

Elderly people had become victims of evildoers in recent years. Their attackers were rarely "man enough" to confront an old man or woman alone, and usually sought companions for their deeds, the judge said.

He said he found two issues concerning the death penalty "distressing".

Firstly, he was expected to impose the death sentence unless another sentence was appropriate. If predictions that the death sentence would be abolished were "prophetic words", why was he expected to impose the death sentence, especially when it was not at present being imposed, he asked.

Secondly, if the death penalty was not abolished, mass executions would have to be carried out. This would mean Death Row prisoners would have to stand in line to be executed, "which would not be appropriate in a civilised country", the judge said.

DEATH ROW 252
The following is a list of
deaths on the death row
of the State of Texas
and the reasons for their
execution.

SOME BELIEVE IN NUREMBERG TYPE TRIALS, OTHERS DON'T, BUT ALL WANT TRUTH AND JUSTICE

Justice is not merchandise for barter

Justice and truth belong to all the people of South Africa and political murderers — from all sides — should not walk away scot-free if the law is to regain any respect, argues PHILLIP VAN NIEKERK

HERE is a fear basic to the perpetrators of corrupt or evil regimes, that when their time comes they will be weighed in the balance like Mussolini's corpse and found wanting.

In South Africa that fear — or expectant hope on behalf of the victims — often takes the form of a vision of Nuremberg trials

But Nuremberg was unique — not just because the deeds of the Nazis uncovered at Buchenwald, Auschwitz and Belsen were overpoweringly evil

Those that stood in the dock at Nuremberg were the representatives of a pulverised nation occupied by the very powers that put them on trial

In South Africa, even if the liberation movement was so inclined, it does not have the means to stand in physical judgement of the National Party government. It makes strategic sense to settle for a compromise "deal"

This has given rise to a countervailing fear that the African National Congress could strike a deal that would — in the words of University of Cape Town political philosopher Andre du Toit — dishonour the memory of a David Webster, a Matthew Goniwe or a Rick Turner

Back in the euphoric autumn of 1990, Du Toit, delivering the first David Webster Memorial lecture, warned that one part of a larger political settlement might very well involve a general bilateral amnesty "the safe return and non-prosecution of ANC guerrillas in return for dropping charges against the hit squads and their political superiors"

It is apparent from the debate that has at last reached centre stage, that the jury is still out on what to do with our hard men — the killers and torturers on both sides

In his inaugural lecture as Professor of Human



General CP van der Westhuizen Why hasn't he been arrested yet?

Rights Law at the University of the Western Cape this week, Professor Kader Asmal, a member of the ANC's constitutional committee, gave 10 eloquent reasons why the book should not be closed on the past.

They are too lengthy to all be republished here, but they do address the fallacious assumption that it is all or nothing, the belief that if there are to be no Nuremberg trials, then everyone will walk off scot-free under a general amnesty

The assumption of no action seems to underlie the National Party's cavalier response to the allegations of security force misconduct



PW Botha He can't hide away from his accusers at De Anker

What was done in the past occurred under conditions of a war — it is said — and, in the interests of reconciliation and building the "new" South Africa, we should all forget, forgive and start anew

But even war has its rules

The recently published and horrific *Four Hours in My Lat: A War Crime and its Aftermath*, details how a company of American soldiers marched into a Vietnamese village in which there was not even evidence of a Viet Cong presence

They gunned down children running towards them for sweets, herded mothers and babies into bunkers and threw grenades after them, raped and sodomised girls and sliced open their vaginas with bayonets, beheaded and cut off the ears of villagers

Even given the larger immorality of US involvement in Vietnam, Lieutenant William Calley acted illegally — and was sentenced to life imprisonment. It bears comparison to the Khetham Shange case that he was paroled after four and a half months, and walked out a free man

Goniwe didn't even know he was in a war. He was never told that a roadblock on the side of a highway near Port Elizabeth was set up by an enemy whose military purpose was to permanently eliminate him and his three comrades from society

If General CP Van der Westhuizen ever surfaces and his defence is that it was "war", then he should be dealt with even more harshly because he posed under a veil of respectability and legality

Those like him used the vast resources of the state to target civilians who in no way could be described as soldiers

But the same argument of "special circumstances" crops up in the strangest places. Law and Order Minister Hennis Kriel attempted to explain away the events of the Trust Feed massacre by pointing that it took place in 1988 "long before the important step taken by the government on February 2 1990"

The Trust Feed case, because it took place in Pietermaritzburg, the cradle of the Inkatha-ANC civil war, has a special meaning

I visited Pietermaritzburg in those early days of the "civil war" in 1987 and 1988 and remember dozens of affidavits by witnesses detailing murders and other offences in which certain political leaders were repeatedly named

The criminal justice system was so impervious to ordinary black people that their only recourse in the courts was to fight for largely ineffective orders restraining the killers who were routinely discharged and released with a wink and a pat

This is not to deny that there were killers on both sides of the political divide. It was just that the notion that there was no arbiter, no higher authority, no justice, was deeply destructive of the fabric of community life

Law and order broke down because the police often chose not to defend the lives of ordinary people from criminal behaviour but instead to smash one political organisation and secure advantage for another

It was appalling to see ordinary people lose any hope that justice would prevail — and with it, any respect for the law. That legacy, once created, is hard to break

People are probably being killed this very day in a war that has burnt its way through the beautiful valleys of Natal

But stop and listen to what Kriel is really saying. He is implying that the police had a different agenda before February 2 1990

If that was the case, that security force action in Natal was purposeful and planned, we should be told what the agenda was

The question goes to the heart of the problem. The government is demanding — nay, expecting — amnesty without even having revealed exactly what it was that it did wrong: absolution without the confession

Disclosure is the absolute minimum that has been demanded in the newly democratised societies of Latin America and Eastern Europe where the state has committed crimes against humanity

Like the Chileans, who set up a Commission for Truth and Reconciliation, we must open the files to the fresh air, we must know everything and everybody involved, if we are ever to be in a position to close them

However, as Asmal pointed out the Chileans sought to sacrifice justice for truth in order to consolidate democracy, close the chapter on the past and avoid confrontation

The Chilean president said the experience of other countries had shown that rather than carry out the punishment for past crimes, the stability of the democratic system is the best guarantee

Try apartheid's executors for genocide

NELSON MANDELA, despite the outcry from the press, is technically correct in drawing comparisons between the genocidal tendencies of Nationalists and Nazis. Often, global comparisons are made between particular atrocities and the Holocaust which serve only to trivialise the latter rather than to focus attention on the former

Unfortunately, however, the Nazis do not have a monopoly on genocide. Hitler's was obviously the most ruthless, brutal and all-embracing attempt to eliminate a whole people, but others have sought to emulate him. The Nationalists have, for over 40 years, been pursuing a policy which is genocidal, according to the United Nations' definition of the term

Just as a person accused of murder cannot argue that he is not really guilty because he did not kill as many people as a serial killer, so a government cannot argue that it cannot be guilty of genocide because it has not killed six million people. There is definitely a difference of degree, but the comparison is valid in principle

The UN's Convention, which has been ratified by the majority of countries in the world, defines "genocide" as "any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such"

- (a) Killing members of the group,
- (b) Causing serious bodily or mental harm to members of the group,
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part...

What else has apartheid been all about? The object of the system was to assert white control over the black population, whatever the cost in terms of death, suffering and destruction

The "resettling" of millions of "superfluous Bantu" and "surplus appendages" was not only calculated to bring about the physical destruction of part of the population. It did. It destroyed not only their homes, their community, their livelihood, but also themselves

I saw some of them dying and counted the

Comparisons between the genocidal tendencies of the Nationalists and the Nazis are true, writes COSMAS DESMOND, former British director of Amnesty International

graves of others. The young died of gastroenteritis and typhoid because of the lack of proper water and sewerage, the old sometimes died simply of a broken heart. But the deaths were the direct result of a deliberate policy which affected only a racially defined part of the population. That is genocide

It might be described as "only" on a small scale. But it was total for the victims and their families. And nobody knows how many there were. Their numbers are doubtless still increasing as a result of the persistence of the conditions into which they were forcibly removed. It is also not known how many more there might have been. At Linchill, for example, my own research showed that 10 years after the removal the rate of population growth has halved — a fact no doubt welcomed by those who fear being overwhelmed by the sheer weight of black numbers

Many years ago, I submitted evidence on the effects of forced removals to the UN Commission on Human Rights. The chairman's reaction was that this constituted a "prima facie" case of genocide. He seemed more concerned, however, about being able neatly to classify the victims rather than with the fact that people were dying

It is hardly necessary, and there certainly is not space, to catalogue all the "bodily or mental harm" done to the black population under apartheid: the retarding of physical and intellectual growth through malnutrition, the underdevelopment caused by an inferior and perverted education system, the breaking up of families

by the migratory labour system, the lives ruined by harassment, imprisonment and torture

The overall effects of these and numerous other apartheid practices also constitute genocide. It could be argued that virtually the whole black population has suffered some bodily or mental harm, many are still enduring it

Finally, killing. The convention makes no mention of numbers, nor of the intention to eliminate the greater part of the group. Killing any members of an "ethnic or racial" group simply because they are members of that group is genocide

Not only the government but "public officials and private individuals" can be guilty of the crime. There can be no doubt about the guilt of the latter two. But has the government itself directly killed people because they were black? It has certainly done so indirectly. That in itself is sufficient to convict it

But I believe that the charge of genocide can also be substantiated in cases, like Sharpeville and Soweto, where black people have been killed as a direct consequence of laws to which only black people, and all black people, were subject. It will be claimed that they were shot because they were a threat to "law and order". But they were only a threat because they were subject to those laws and they were only subject to those laws because they were black

The current violence does not appear, on the surface, to be genocidal since members of the same "ethnic" or "racial" group seem to be killing each other. Killing political opponents may be equally reprehensible but is not "genocide". Nevertheless, as the present violence has its origin in the "total strategy", as much of it undoubtedly does, the killings are genocidal

The purpose of the "total strategy" was to subdue the black population by any means necessary, including killing. Some white activists also "needed to be eliminated", but that does not change the essential nature of the strategy

RG TYPE TRIALS, SOME DON'T. BUT ALL WANT TRUTH AND JUSTICE

Political killers shouldn't walk free

W/ment 29/5-4/6/92

252

● From PAGE 9

that there will not be violations of human rights in the future”

Yet, as he pointed out, in South Africa we have neither democracy to consolidate nor yet the truth. It is much too early for anyone to be forgiven.

“The exoneration of those guilty of truly heinous crimes perpetuates the culture of fear and intimidation that has prevailed in our country since 1948,” said Asmal.

“Time and again the apartheid state has bestowed immunities on police and military action and in so doing had debased the coinage of the law and encouraged state lawlessness.”

And even in Chile, said Asmal, “those who actually suffered were never consulted and the mothers of the disappeared never agreed with the president.” The Chilean courts got their courage back and have recently allowed challenges to the amnesty law and the prosecution of senior military staff.

In South Africa, we need reconciliation — but not

without justice

Goniwe, Fort Calata, Sparrow Mkonto and Sicele Mhlauhi were murdered.

That is a common law offence. You can charge somebody for it without calling it something fancy like Nuremberg trials.

Where is Van der Westhuizen and why hasn't he been arrested yet and charged for crimes which a now public incriminating document strongly suggests he was complicit in?

And if the trail of investigation leads to PW Botha, then he must also answer for his crimes.

What right do the police have to apprehend a car thief or why should I pay my parking fines if a mass murderer spends his days in retirement at De Anker?

These are not merely philosophical questions, but practical ones involving the need to rebuild respect for the law.

What the government has done is the opposite, with the early release of Shange — not to mention thousands of other criminals.

Minister of Correctional Services Adriaan Vlok

defended the decision to release Shange on the basis that it was part of a deal with the ANC.

Even if this is true — and the ANC has vigorously denied it — who told Vlok that the ANC has any more right than the government to forgive murderers and quietly send them back into the community?

Justice is not merchandise for barter between two political organisations, neither of whose hands are clean in the dispensation of human rights.

Nor is it revenge, as delicious a fantasy as it is to envisage PW Botha in the dock.

Nor is it an abstract concept, to be debated solely by eminent jurists and philosophers.

It is something that should be claimed by all of us, as ours. It is basic to the security and the liberty of every one of us. Its lack is why there is so little of either in our country.

The restoration of justice is the only way to combat the barbarism that is taking our country. Instead of being founded on forgiving the murderers, our “new” South Africa should be built on throwing the book at them.

Goldstone lets SAP, SADF off the hook

JUDGE Richard Goldstone has stunned political and legal observers with an interim report of his inquiry into violence that puts the blame largely on the political conflict between Inkatha and the African National Congress

The storm was exacerbated by the government not releasing the report for a month after it was submitted and turning its release to its own advantage. Since it was the only party with prior sight of the document, it was also able to put its own "spin" on it.

The report was signed on April 29 by Judge Goldstone, but only released by President FW de Klerk on May 27 with no indication of why it was delayed for a month when it dealt with urgent matters relating to current violence.

The report hardly deals with any of the evidence of South African Police and Defence Force involvement in violence or connivance with the Inkatha Freedom Party — such as the Trust Feed judgment and SADF secret training of Inkatha members — and appears to let the security forces off the hook. It blames only "individual policemen, ANC and Inkatha members".

Lawyers involved in the commission are concerned that it pre-empted some of the hearings currently under-

29/5-4/6/92

Judge Goldstone's interim

report puts the blame for the

current violence on Inkatha

and the African National

Congress. The government

has seized on the report as an

exoneraton of its security

forces. By ANTON HARBER

way as part of the inquiry and has caused a political storm that could jeopardise the future of the hearings.

The ANC and its allies announced immediately that they were "most concerned" and called an emergency meeting "to work out a considered response".

The IFP accepted the findings of the commission, signalling a relief that it did not take further blame for violence.

Law and Order Minister Herens Kriel said the report was "indisputable confirmation of what the government and SA Police had been saying all along.

"The entire world should now note that the SAP and SADF are not responsible for the violence, and are indeed doing everything possible to combat it," he said.

Inquiry into WM exposés

Weekly Mail Reporter

THE GOLDSTONE Commission has called a special one-person inquiry into revelations in *The Weekly Mail* that a national secret police operation has been linked to planned assassinations of African National Congress members.

After a one-day preliminary hearing last week, Mr Justice Richard Goldstone set up the inquiry under a senior member of the Johannesburg Bar, Advocate RM Wise. His brief is to enquire into the allegations published in the newspaper on May 8 and 15 "concerning the planning or instigation of violence by members of the SAP".

Wise will hear evidence from 15 June in Pretoria.

Weekly Mail co-editor Anton Harber, senior reporter Drew Forrest and Lieutenant General PJ Viljoen of the SAP gave evidence at the preliminary hearing.

In his report, Judge Goldstone said he had received "no evidence" to suggest the existence of a "third force" in the sense of a sinister and secret organisation orchestrating political violence on a wide front.

"No information has been received by the commission that could enable it to make any findings relating to a systematic or nationally organised campaign of violence." He does not deal with the evidence before him of, for example, policemen conniving with the Inkatha-linked Black Cat gang of vigilantes in Wesselson or secret SADF training for Inkatha men.

The report says that "the causes of the violence are many and complicated." It cites economic, social and political imbalances as a result of apartheid, a police force which has been an instrument of oppression, the sudden legalisation of political organisations, a climate of political intolerance and the involvement of the state for many years in undercover activities and criminal conduct.

However, it repeatedly points its finger at ANC and Inkatha supporters and their "serious criminal conduct" and calls on their leaders to end the killings. Leaders of the ANC, IFP,

SAP and SADF have "a heavy responsibility to control and impose discipline upon their members", Judge Goldstone says.

It singles out the KwaZulu Police and the "widely held view" that they are a "private army of the IFP". He expresses particular concern at evidence before him of "unlawful activities by senior members" of the KZP. However, he sees these allegations as under investigation and declines to comment further or make any recommendations about the KZP.

He also deals extensively with the issue of "dangerous weapons" being carried in public. He calls for it to be outlawed and says it is "quite unacceptable" that even the limited ban on weapons has been ignored by the IFP. "This constitutes provocative and unacceptable behaviour in any decent society (and) is calculated to create a climate of violence." He calls on the SAP not to allow it to happen again.

Judge Goldstone calls for "an effective police presence in local communities" and says that the new Division of Internal Stability is best suited for this work.

He calls for the commission to be granted "adequate means and procedures for offering protection to witnesses who testify before it".

Try apartheid's executors for genocide

NELSON MANDELA, despite the outcry from the press, is technically correct in drawing comparisons between the genocidal tendencies of Nationalists and Nazis. Often, ghb comparisons are made between particular atrocities and the Holocaust which serve only to trivialise the latter rather than to focus attention on the former. Unfortunately, however, the Nazis do not have a monopoly on genocide. Hitler's was obviously the most ruthless, brutal and all-embracing attempt to eliminate a whole people, but others have sought to emulate him. The Nationalists have, for over 40 years, been pursuing a policy which is genocidal, according to the United Nations' definition of the term.

Just as a person accused of murder cannot argue that he is not really guilty because he did not kill as many people as a serial killer, so a government cannot argue that it cannot be guilty of genocide because it has not killed six million people. There is definitely a difference of degree, but the comparison is valid in principle.

The UN's Convention, which has been ratified by the majority of countries in the world, defines "genocide" as "any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part...

What else has apartheid been all about?

The object of the system was to assert white control over the black population, whatever the cost in terms of death, suffering and destruction.

The "resetting" of millions of "superfluous Bantu" and "surplus appendages" was not only calculated to bring about the physical destruction of part of the population. It did. It destroyed not only their homes, their community, their livelihood, but also themselves.

I saw some of them dying and counted the

Comparisons between the genocidal tendencies of the Nationalists and the Nazis are true, writes

COSMAS DESMOND, former

British director of Amnesty

International

graves of others. The young died of gastro-enteritis and typhoid because of the lack of proper water and sewerage; the old sometimes died simply of a broken heart. But the deaths were the direct result of a deliberate policy which affected only a racially defined part of the population. That is genocide.

It might be described as "only" on a small scale. But it was total for the victims and their families. And nobody knows how many there were. Their numbers are doubtless still increasing as a result of the persistence of the conditions into which they were forcibly removed. It is also not known how many more there might have been. At Lindehill, for example, my own research showed that 10 years after the removal the rate of population growth has halved — a fact no doubt welcomed by those who fear being overwhelmed by the sheer weight of black numbers.

Many years ago, I submitted evidence on the effects of forced removals to the UN Commission on Human Rights. The chairman's reaction was that this constituted a "prima facie" case of genocide. He seemed more concerned, however, about being able neatly to classify the victims rather than with the fact that people were dying.

It is hardly necessary, and there certainly is not space, to catalogue all the "bodily or mental harm" done to the black population under apartheid: the retarding of physical and intellectual growth through malnutrition; the underdevelopment caused by an inferior and perverted education system; the breaking up of families

by the migratory labour system; the lives ruined by harassment, imprisonment and torture.

The overall effects of these and numerous other apartheid practices also constitute genocide. It could be argued that virtually the whole black population has suffered some bodily or mental harm; many are still enduring it.

Finally, killing. The convention makes no mention of numbers, nor of the intention to eliminate the greater part of the group. Killing any members of an "ethnic or racial" group simply because they are members of that group is genocide.

Not only the government but "public officials and private individuals" can be guilty of the crime. There can be no doubt about the guilt of the latter two. But has the government itself directly killed people because they were black?

It has certainly done so indirectly. That in itself is sufficient to convict it.

But I believe that the charge of genocide can also be substantiated in cases, like Sharpeville and Soweto, where black people have been killed as a direct consequence of laws to which only black people, and all black people, were subject. It will be claimed that they were shot because they were a threat to "law and order". But they were only a threat because they were subject to those laws and they were only subject to those laws because they were black.

The current violence does not appear, on the surface, to be genocidal since members of the same "ethnic" or "racial" group seem to be killing each other. Killing political opponents may be equally reprehensible but is not "genocide". Nevertheless, as the present violence has its origin in the "total strategy", as much of it undoubtedly does, the killings are genocidal.

The purpose of the "total strategy" was to subdue the black population by any means necessary, including killing. Some white activists also "needed to be eliminated", but that does not change the essential nature of the strategy.

● TO PAGE 10

10 THE WEEKLY MAIL, May 28

Try them for genocide

It is the government itself which has drawn the battle lines along racial lines and thus left itself open to the charge of genocide, even when it claims to be eliminating political enemies. Blacks, not members of political groups, have always been seen as the threat. The fact that some members of that group have been co-opted to do the dirty work does not excuse those responsible.

There is, therefore, a sound basis for Mandela's comparison. To what degree not only the government, but also public officials and even private individuals are guilty is a question which would be better left to a Nuremberg-type court rather than to the summary judgment of newspaper editors.

● Father Cosmas Desmond, author of *The Discarded People*, served as a priest in South Africa for 20 years. In the 1970s, while fighting against forced removals, he was banned and placed under house-arrest.

From PAGE 9

State spent R1,6m on cops' defence

THE Government spent more than R1,6 million to defend the five policemen who were found guilty of murder in the Trust Feeds massacre trial, the Minister of Law and Order, Mr Hernus Kriel, has said. *Stuur 2915192*

He said that the legal costs went to the State Attorney, one private attorney and seven advocates.

The accused who were found guilty of killing 11 people at Trust Feeds in Natal in 1988.

Former police captain Brian Mitchell was sentenced to death in the trial. Four special constables were each given 15-year prison sentences.

Secure all hostels advise Goldstone

By ISMAIL LAGARDIEN
Political Correspondent

THE Goldstone Commission has recommended - among other things - that all single men's hostels be fortified and that security checks be done at all entrances to the hostels.

The commission's second interim report, handed to State President F.W. de Klerk on Wednesday, blamed the ANC, the Inkatha Freedom Party and the security forces for the continued violence in the country.

He pointed out, however, that the conflict on the ground was primarily because of the "political bat-

tle between supporters of the ANC and of the IFP".

"Both sides resort to violence and intimidation in their attempts to gain control over geographic areas," he said.

The IFP on Wednesday gave a guarded response to the finding.

Inkatha central committee member Mr John Bhengu said "I will say 'yes' in the sense that it is the two parties who are embroiled in violence against each other".

He claimed it was the ANC - through the now-

defunct UDF - which had started the fighting in Natal in 1985.

But the ANC president, Mr Nelson Mandela, yesterday dismissed these allegations by Mr Justice Goldstone as superficial and as missing the point.

"Firstly, to attribute the violence to political rivalry between the ANC and IFP is to ignore that the rivalry has been fostered and manipulated by the South African Government and its security forces.

"Secondly, with regard to who holds the key re-

sponsibility for bringing the violence to an end - to place this responsibility on the ANC and the IFP is to ignore the reality that it is the National Party regime who wields State power."

Mandela told delegates at the opening of the movement's policy conference at Nasrec.

The Goldstone report said allegations of police, and by implication the Government complicity in the violence and overt support for the IFP in the conflict, were being investigated.

The commission also recommended that the Government place a blanket ban on the carrying in

public of all dangerous weapons.

"Even if the allegations against members of the security forces prove to be justified, such misconduct would not have been possible but for the ongoing battle between the ANC and the IFP," Goldstone said.

He also pointed out that "a matter of great concern" was the widely held view that the KwaZulu police were a private army of the IFP, and similarly disturbing were "recent activities" of members of the ANC's military wing Umkhonto we Sizwe.

"Organisations whose members are responsible for violence have a heavy

State, ANC and IFP blamed for violence

Sowetan 29/5/92

252

By ISMAIL LAGARDIEN
Political Correspondent
THE Goldstone Commission has blamed "three centuries of racial discrimination and over 40 years of an extreme form of racial and economic dislocation in pursuit of apartheid", for violence in the country.

Judge Goldstone on Wednesday delivered his second interim report to State President FW de Klerk at Tuynhuys, Cape Town.

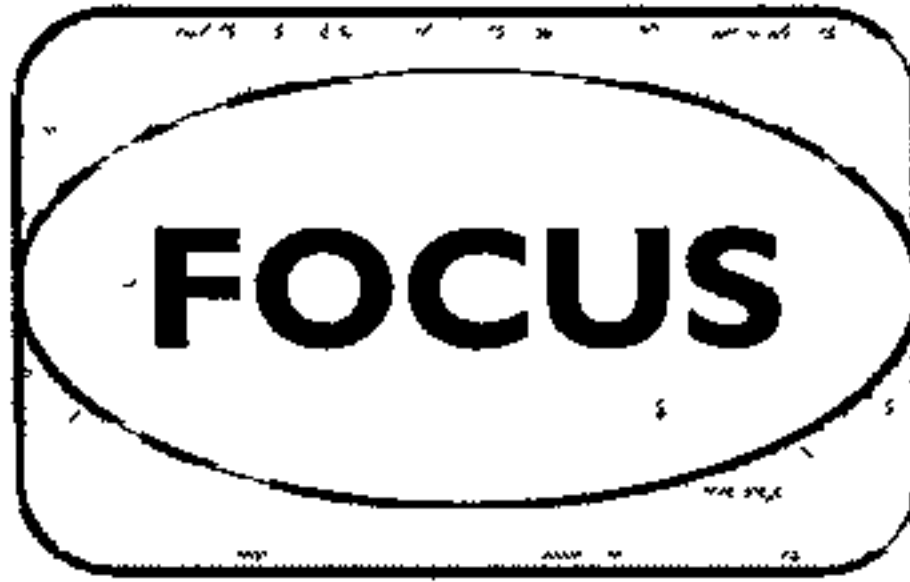
Justice Goldstone says his report is far from complete. Four committees are still hearing evidence and investigating very specific areas.

These committees are looking at specific incidents in Tokoza, the possible involvement of the South African Defence Force in violence, taxi and train violence, and mass demonstrations.

While in terms of its brief the Commission has three years in which to complete its work, Justice Goldstone explains in his report that the "significant escalation of violence in recent weeks" has caused the commission to re-evaluate its role and proceedings, hence the interim report tabled this week, only six months after the start of its work.

Investigating the causes of violence in the country, the commission's report explains that no evidence was found to corroborate the allegations of a "third force" operating in the country or that such a force was involved in the orchestration of violence in black communities.

The report does, however, not entirely absolve the security forces. Justice Goldstone explains that there are many causes of violence in the country, and that they



are primarily rooted in the historical injustices and complexities of apartheid and its security apparatus.

"The consequences of these policies on the black people of South Africa are well known and documented," Goldstone says.

This three centuries old subjugation today manifests itself in dogmatic intolerance and intense political rivalry between the country's two biggest black political organisations - the ANC and the Inkatha Freedom Party - and this was the "primary cause" of the violence in Natal and Transvaal, Justice Goldstone says.

In his critical report, based on evidence in open hearings before the six-month-old commission, Justice Goldstone concludes that both the ANC and the IFP "resort to violence and intimidation in their attempts to gain control over geographic areas" and that "it must be accepted that individual policemen and ANC and Inkatha supporters have been guilty of serious criminal conduct."

"The commission would like to stress that no one other than the Inkatha Freedom Party and the ANC have the power effectively to curb the violence and intimidation being perpetrated by their respective supporters.

"They should resolve to do so and to that end to harness fully and effectively the structures of the National Peace Accord," Goldstone says.

Both the ANC and Inkatha had been "over-hasty" in blaming each other for the violence, and "tardy", especially at the top leadership level, in taking steps to stop the violence by imposing discipline and accountability among members.

He also explains that even if allegations against members of the security forces proved to be justified, "such misconduct would not have been possible but for the ongoing battle between the ANC and the Inkatha Freedom Party".

There was thus a phalanx of factors which proved fertile for the unbridled spread of violence and chaos across the country, such as: "A police force and army which, for many decades, have been the instruments of oppression by successive white governments in maintaining a society predicated upon racial discrimination.

"This involves a police force and an army that for the majority of South Africans, the police and the army are not perceived as fair, objective or friendly institutions."

He believes that the reason for Government being blamed for the violence lies in the reality of the State's many years of "complicity in undercover activities, which include surveillance and intimidation."

This and what he calls "well documented" criminal conduct of individual members of the South African and KwaZulu Police "exacerbate the perception of so many people that the Government or its agencies are active parties responsible for the violence".

"As with the political parties referred to above, our recent history has been one in which the Government has failed to take suf-

ficient steps to prevent criminal conduct by members of the security forces and the police and to ensure that the guilty are promptly and adequately punished.

"It is a little wonder, therefore, that the situation of political violence and intimidation in South Africa is so widespread and its causes so many and so complex," he says.

This, almost holistic, conclusion does not, however, detract from some of the more specific of the root causes of the violence, such as the single sex hostels and the carrying of so-called traditional weapons, Goldstone says.

"The commission is convinced that the carrying of any dangerous weapons in public should be outlawed - whether in respect of political meetings or at any other place."

"In Natal it is predominantly members of the IFP who insist on this unacceptable practice. Other Zulu men do not find it necessary.

"The commission finds it quite unacceptable that even the limited ban on the carrying of weapons to political meetings has been ignored by the IFP on at least one occasion...

"This public flaunting of the law in the presence of a large SAP presence is unfortunate and should not be allowed to occur again in the future.

"Steps should be taken urgently to prohibit the carrying in public of any dangerous weapons at any time at all.

"This constitutes provocative and unacceptable behaviour in any decent society. It is calculated, furthermore, to create a climate of violence," Justice Goldstone says.

Political comment in this issue by Aggrey Klaaste and Joe Thlooe. Newsbills by Sydney Matlhaku. Sub-editing and headlines by Ivan Fynn. All of 61 Commando Road, Industria West, Johannesburg.
The reproduction or broadcast without permission of articles published in this newspaper on any current economic, political or religious topic, is forbidden and expressly reserved to Argus Newspapers Limited under Section 12 (7) of the Copyright Act 1978.

HRC slams Goldstone report

*Sowetan
29/5/92*

252

THE Goldstone Commission report displayed a profound ignorance or disregard for the historical record of the apartheid Government in its role as a destabiliser, the Human Rights Commission said yesterday.

The HRC was responding to the report which found the primary cause of the current violence in South Africa was the power struggle between the African National Congress and Inkatha Freedom Party

It also found there was no evidence of a Third Force

"It (the report) gives little weight to the effects of a securocratic mentality besotted with a total strategy approach during the

SA Press Association

80s and with a reform approach in the 90s which relies heavily upon destabilisation tactics

"With each new revelation that surfaces, the record of State manipulation becomes clearer and to ignore it is to shy away from addressing the real root causes of political violence in this country

"If the Goldstone Commission persists in producing such facile analyses of the political violence, it runs the severe risk of coming to be regarded as simply a Government infiltration of the peace accord," the HRC said

Preventing Goldstone from becoming another millstone

A SMALL knot of delegates to the ANC conference stood in the empty Nasrec hall — it was early on Thursday morning — whistling and shaking their heads in shocked unison

An ordinary-enough bunch of middle-ranking officials from ANC regions around the country, they were looking at the front-page newspaper reports on the findings of the Goldstone Commission of Inquiry into the violence.

It is no exaggeration to say they could not believe what they were reading. "But these guys are supposed to have been into the townships," hissed one, as if betrayed

Unlike many of its newspapers, white South Africa should not begin to crow too soon or too loudly over its apparent exoneration in the Goldstone report. The perceived "clean bill of health" is a chimera, and both events and history will record it as such

The general, shorthand perception — and this is a very different thing to the detailed contents of Mr Justice Goldstone's report — is now that the blame for South Africa's Cambodia-scale carnage can be apportioned as follows. 50-50-0. That is 50 percent ANC, 50 percent Inkatha, 0 percent State

Black South Africans — and their opinions matter — simply do not buy this. Few ANC supporters will seriously claim their organisation is not implicated in the national disgrace, but neither will they accept the extraordinarily simplistic interpretations of what Goldstone is supposed to have found and which sent the Government and much of the media into paroxysms of self-congratulation.

STAN
30/5/92
UNDERCURRENT
AFFAIRS

SHAUN

JOHNSON

252

BEFORE whites exult at the findings of the commission, they should realise that Government has not been given a clean bill of health.

And one of the main features of the new politics in South Africa is that now, it matters what black people think — even if they are not yet formally empowered.

One can't help feeling that at least in part, the current controversy is the result of a misunderstanding — as well as an attempt by anti-ANC forces to put words into Judge Goldstone's mouth he did not intend to utter.

It is notable that by the time the ANC conference opened, not even Nelson Mandela had seen a copy of the Goldstone report. His response was therefore to reports about the report, and he was careful to avoid a personal attack on "the learned judge"

In the report, the commission indeed identifies one of the causes of violence as "a history

over some years of State complicity in undercover activities, which include criminal activities", and it also cites "general causes" including "socio-economic and political imbalances, security forces which had been the "instruments of oppression", the sudden legalising of political organisations, and single-sex hostels

These, of course, are all clearly the responsibility of the State and its policies, and the ANC doesn't understand why it should have been singled out for blame in the press release. To my mind there are at least two great dangers attached to the Goldstone rumpus

First, the commission could begin to lose its crucial credibility within the society as a whole, and this would be a terrible loss. Second, the important practical proposals which Mr Justice Goldstone makes could become obscured in the acrimony over the allocation of "blame"

There is no doubt that the commission is right in calling on Mandela and Chief Buthe-zei to rein in their followers. Those who want peace will also applaud the unequivocal call for a total ban on the carrying of dangerous weapons and the suggestions regarding closer monitoring of flashpoints. But the State cannot be allowed to shirk its very real responsibilities

However one prefers to juggle the "blame percentages", the point surely is that no one's hands are clean, and all are going to have to take part in the washing thereof

South Africa, all of South Africa, needs the Goldstone Commission. The judge himself should denounce the cruder interpretations of his findings. In that way we might be able to prevent Goldstone from becoming a millstone

Mandela softens on Goldstone

STAR 30/5/92

252

ESTHER WAUGH and SHAUN JOHNSON

THE see-saw saga of the Goldstone report on violence took another dramatic turn yesterday when African National Congress president Nelson Mandela said he now regarded the report as "fair" but lambasted the Government for "scandalously" manipulating its contents.

At a press briefing during the crucial ANC policy conference at Nasrec, Mandela revealed that he had been given a copy of the full report only yesterday afternoon — two days after it was tabled in Parliament.

His earlier reaction had been in response to a short press release which was issued on Wednesday and which dealt with certain specific issues. After having had the opportunity to

read the interim report, however, he said he now thought it was "fair".

● See reports on Page 2 and "Undercurrent Affairs" and Editorial on Page 10.

"The commission has gone into the question of the causes of the violence in an objective manner. We would have

preferred it if he had gone further into the causes, (but) the commission tried to be objective."

On Thursday, following media reports alleging that the commission had laid full blame for the violence at the doors of the ANC and the Inkatha Freedom Party, Mandela firmly rejected these conclusions.

Since then, however,

he had telephoned Mr Justice Goldstone to explain the context in which he had made his remarks — a context ANC leaders describe as "near-hysteria" over the judge's apparent blaming of the ANC and IFP, and seeming exoneration of the security forces. "We got the distinct impression," Mandela said, "that the judge fully understood our position."

Speaking to Saturday Star at Nasrec yesterday

● TO PAGE 2.

Goldstone

FROM PAGE 1

day, Mandela said he now believed the report "would strengthen the ANC's hand in negotiations. It has clarified a lot of things, and in many instances has taken the same position (as the ANC). It will be difficult for the Government to refute charges (made against the security forces)."

Yesterday, Mandela said the ANC was "greatly disturbed by the gross discrepancies between the report and the (press) statement, as well as the role of the South African Government in propagating a view of the report which they knew was false."

Mandela said the report had been in the hands of the Government for four weeks, and it chose to concentrate attention on the press release so as to divert attention from the report. "We are deeply disturbed at the manner in which Government has manipulated the (press) release. We consider these actions by the Government to be scandalous and reprehensible in the extreme." The ANC leader added that Government Ministers had immediately seized on the press release in order to claim

that the commission had exonerated the security forces and the state from involvement in the ongoing violence. "In reality, the commission (report) states that part of the violence was attributable to state complicity in undercover activities, including criminal conduct on the part of the security forces," he said.

Saturday Star understands that the original intention of the commission was that the full report would be tabled and fully discussed in Parliament, rather than an abridged statement released to the public first.

In the ANC briefing, international affairs director Thabo Mbeki said it was notable that many of Mr Justice Goldstone's recommendations — on hostels and traditional weapons — had been raised by the ANC with President de Klerk last year, and never acted upon.

At the media conference, Mandela also revealed that the ANC supported the decision this week by the National Peace Committee to convene a meeting of all political leaders. He suggested that the Goldstone report be discussed at this meeting.

The ANC would be taking additional steps to control all its members, he said.

Comrades — Van Staden has earned

Goldstone row one big mix-up

STYL 30/5/92

JOHN PERLMAN Chief Reporter

A MONUMENTAL mix-up between the Goldstone Commission's latest interim report on public violence and a press statement reflecting the commission's position on other specific investigations was responsible for this week's confrontation between the ANC and the Government over who was responsible for political violence.

Initial reports suggested the interim report laid the blame for the violence at the feet of the ANC and the Inkatha Freedom Party, which it did not. This interpretation was seized on by government officials, who said Mr Justice Goldstone had vindicated the police's conduct during the violence.

The confusion arose when the Government released, four weeks after it was submitted, the second interim report of the Goldstone Commission at the same time as Goldstone issued a press release on progress with inquiries into violence in six specific Natal and Transvaal communities.

The two documents drew differing conclusions on issues that were not directly related. ANC leader Nelson Mandela reacted, on the basis of the initial interpretations of the commission's findings, by rejecting the interim report as superficial. It is thought that a call from Goldstone may have caused the ANC last night to retreat quickly from this position. Goldstone himself has refused to comment publicly on the row.

Last night the ANC blamed the Government for fostering the confusion between the two documents, as it had been in possession of the interim report for more than a month before making it public. This was done at the same time as Goldstone issued his press release.

Reaction could not be obtained from Minister of Law and Order Hennis Kriel, the man who first trumpeted the press report as exonerating the Government from allegations of being involved in political violence.

In its interim report, the Goldstone Commission did not exonerate the security forces of all responsibility for the violence, nor did it reach superficial conclusions on the issue, as charged by the ANC.

Press reports this week suggested that the commission had drawn an overall conclusion that the political violence was primarily due to rivalry between the ANC and IFP.

In fact, that charge was made in Goldstone's press release regarding six specific communities — Umhlanga, Empangeni and Imbali in Natal, and the Vaal, Soveto and Alexandra areas in the Transvaal.

Two documents on violence cause furore

Two documents on violence in six communities in Natal and Transvaal have caused a furore between the ANC and the Government. The ANC leader Nelson Mandela reacted to the interim report as superficial, while the Government blamed the ANC for fostering the confusion between the two documents.

THE GOLDSTONE 2nd INTERIM REPORT

The interim report of the Goldstone Commission, issued on May 27, was released on May 27. It was a surprise to many because it was the second interim report. The first interim report was issued on May 11. The second interim report was issued on May 27. The second interim report was issued on May 27. The second interim report was issued on May 27.

THE GOLDSTONE PRESS RELEASE

The Goldstone Commission has issued a press release on May 27. The press release stated that the commission had completed its inquiries into violence in six specific communities. The press release stated that the commission had completed its inquiries into violence in six specific communities.

He has interim report — that there was no "third force"

He has interim report — that there was no "third force" — dismissed the notion of a "single secret organisation orchestrating political violence on a wide front".

The commission has not, however, ruled out the possibility of smaller groups — possibly with right-wing links — acting covertly in more limited areas to foment violence.

The press release, they say, was intended to explain why the commission would not be setting up specific inquiries in the six trouble-spots.

The document says as much. "In the circumstances the commission has decided that no good purpose would be achieved by setting up multiple committees to inquire into specific allegations of past violence and intimidation in the areas in question. Such inquiries would necessarily be extremely lengthy and costly."

Political observers believe the heat of the debate around Goldstone's findings — and the consequent confusion over the two documents — is due in part to Mandela's strong criticism in Geneva and again in Helsinki of the Government's alleged role in the violence as well as the vigour of Kriel's statements in response.

PARIS — Iv

PARIS — Iv packing has been going to go on good English and play Becc Queen's, he being alumni.

French Open day. We enjoy the foot the grass.

The former has long fostered the US titles and US.

One of these due to pledge due to Umti Sam's leaving the Clubs.

It is doubtful year-old Lanc pake-of adman Grand Slam, winning the

R40 000 investment which theoretically earned higher interest.

But the Masterbond collapse meant McKean was no longer

month, Koos Jonker — a director of the company responsible for her poverty — wants to take delivery of a luxury, ocean-going speedboat.

The twist in the tale is that

Family unhappy about death probe

STAR
30/5/92

SUSAN SMUTS

252

THE investigation of ANC lawyer Bheki Mlangeni's death was not as thorough as it should have been, the Rand Supreme Court heard yesterday.

Though investigating officer Captain Andre Kritzinger had gone to great trouble to obtain statements from policemen implicated in the murder by media reports and by self-confessed police spy Ronald Bezuidenhout, Mlangeni's family felt "not everything which could have been done to find the culprits had been done", said the family's lawyer, G Rautenbach.

Death squad HQ

Mlangeni was killed on February 15 last year by a booby-trapped portable cassette recorder which blew up when he tried to listen to a tape. The recorder had been sent to former police captain, Dirk Coetzee, in Lusaka. Coetzee did not collect the parcel, which was then sent to Mlangeni, whose name appeared as addressee.

Kritzinger told Mr Justice B O'Donovan that the police had held several theories about Mlangeni's death. One was that Coetzee had sent the package "through his agents" to Mlangeni to draw attention to evidence he was giving in London (in the General Lothar Neethling-Vrye Weekblad defamation case).

Another was that the ANC wanted to get rid of Coetzee. Kritzinger said sources had told him that Coetzee "did not mean much to the ANC". However, this plot was unlikely.

Followed up

The police followed up only the theory that the parcel was intended for Coetzee and had possibly been sent by a former colleague at Vlakplaas, the alleged death-squad headquarters, he said.

Bezuidenhout had named policemen at Vlakplaas. Under cross-examination from E du Toit, appearing for the Minister of Law and Order, Kritzinger said Bezuidenhout had retracted his allegations, claiming they were "dronkpraatjies". Bezuidenhout had admitted he was a cough mixture addict.

He said all the policemen named had co-operated with him and given him what he wanted.

The hearing continues

st

id,

ad

10

v
n
p
i
(2
o
a
w
M
d
p
h
lo
w
M
19
be
be
the
Kr
res
Ma
leg
act
A
the
mur
tion
mit
man
inqu

Courts can be 'agents for change in future'

252 ARC 30/5/92

JUDGES, lawyers and academics attended the UCT Department of Public Law's day-long seminar on the Appointment of Judicial Officers in the Future South African Constitution DAVID YUTAR highlights some of the topics discussed

FOR the vast majority of the people, respect for the legal profession was slightly above that for auctioneers

That is what Professor Kader Asmal, chair of Human Rights Law at UWC, told the conference Professor Asmal, who returned to this country after 32 years in exile, said there was a "need for a more accessible, open and transparent system" and that there should be a move away from the "magic circle" method of judicial appointment

Another speaker at the seminar, Professor John Dugard, from the School of Law at the University of the Witwatersrand and author of several works on international and constitutional law, predicted that under a new constitution, South African courts would be inundated with constitutional cases

"Judges of the Superior Courts will have to consider constitutional arguments even as courts of the first instance," he told delegates

Disaster

He said that in addition to the appointment of new judicial officers the "new jurisprudence will demand some re-education both of lawyers and judges"

Professor Dugard expressed support for the concept of appointment by a judicial appointments commission which would consist of representatives of the judiciary, the legal profession and the lay public He said it would be a disaster to appoint judges without legal training

"Unless some drastic legislative engineering was introduced, one can expect the Bar to remain much the same as at present. If so the Bench will remain predominantly male, white and middle class"

He said two solutions to this dilemma were for South Africa to follow the New South Wales and British examples, where the Bar has on occasion appointed senior junior advocates to the Bench or to appoint judges from the ranks of attorneys, people in public office and academics.

Professor Dugard appealed to the Bar to "be less obstructive in the appointment of junior counsel to the Bench to ensure greater representativity of women and blacks on the Bench"

Colonialism

On the issue of magistrates, Dr Loyell Fernandez of UWC told the seminar that because of their administrative work, magistrates were not able to devote enough time to their judicial work. "In urban areas, magistrates devote only five to 10 percent of their time to administrative work while in rural areas this figure is 70 percent."

Dr Fernandez said this was not a problem unique to this country, but typically "a legacy of colonialism" He went on "If a separation of powers were to occur, the public image of magistrates would greatly improve and even members of the Bar might show themselves willing to join their ranks"

Another problem, he said, was that while 98 percent of magistrates were white, between 60 and 70 percent of accused persons were black Magistrates should also be "far more in touch with the needs of the indigenous people and their customs and language"

He urged for a system enabling the public to have a part in the selection and appointment of magistrates

"It is important for the public to be part of the screening process They are the courts that shape public opinion and they have a special responsibility in South Africa, where the majority of the population are unrepresented, to ensure that the procedural rights of accused persons are protected"

A WYNBERG magistrate who showed a "dismissive attitude" to the damage suffered by a rape victim should recuse himself from all further cases involving sexual offences, says the ANC Women's League

The woman was raped and held prisoner by a security guard in an Athlone building for an entire night.

The magistrate, Mr AP Kotze, reportedly said during the rape trial last week that the woman was unlikely to suffer psychologically from the attack.

The ANC Women's League said his comment was "insulting and shocking"

In a statement the league said rape had been proven, time and

ANC slams magistrate for 'insulting' view of rape victim

South 30/5 - 3/6/92
time again, to cause great and lasting psychological damage to victims.

It said the magistrate's attitude was "crude and dismissive"

"It highlights once again the scandalous neglect of issues affecting women in our courts and our society as a whole .

"There is no excuse, in this day and age, for such barbaric ignorance about the effects of rape on women.

"The verdict in this case provides demonstrable proof of the dan-

gers of the almost total domination by men of the legal system"

The league demanded an immediate clarification from the Department of Justice on whether the sentiments expressed by Kotze represented those of the department regarding serious crimes

It also demanded that the attorney-general appeal against the sentence imposed so that a higher court could rule on the validity of Kotze's remarks.

Goldstone showdown

Cipres 31/5792.

By **DESMOND BLOW**

THE ANC, which had earlier attacked the Goldstone Commission's second interim report into the Prevention of Public Violence and Intimidation, has suddenly switched horses and accused the government of manipulating the report.

ANC president Nelson Mandela said that the ANC had now fully studied the Goldstone report and believed it to be fair and objective

In a statement at the weekend the ANC said there was a "gross discrepancy" between the statement issued and the actual report of the commission of inquiry

10 causes

The ANC claimed the government had propagated the view that the commission had found that the primary blame for the mushrooming violence was the ongoing battle between the ANC and the IFP

"While government ministers had stressed the commission's findings that the primary cause of the violence was the rivalry between ANC and IFP, in reality the report identifies more than 10 causes of the violence and at no stage suggests a so-called primary cause. In fact the first historical cause of the violence in the report is the apartheid system itself," said the ANC

Govt did a dirty on report, says ANC

The ANC claimed among the other causes given in the report was that the police force and the army have for many decades been the instruments of oppression by successive white governments.

The ANC claimed further that "the reality is that the commission states part of the violence is attributable to State complicity in undercover activities, including criminal conduct on the part of the security forces"

The ANC also stated that the report called for the SADF and SAP, like the ANC and the IFP, to take "measures to control and discipline their members".

All three principal players - the government, the ANC and the IFP - have tried to use the report to their advantage in the play for power.

The highly respected judge found that individuals in the ANC, the IFP and the security forces were all responsible for the mushrooming "serious criminal conduct"

He also said that no evidence had been placed before him to suggest

there was a "third force" involved in the acts of violence.

The judge did not find that no third force existed, but that the commission had received no evidence to suggest there was a sinister and secret organisation or group committing acts of violence in furtherance of "some nefarious political aim".

Although the report was signed by Judge Goldstone on April 29 it was only released by President FW de Klerk on May 27, a month later.

Right time

It is believed the government waited for an opportune time to release the report and put the blame firmly on Inkatha and the ANC, and decided to release the report after Nelson Mandela accused De Klerk of allowing the murder of people simply because they were black.

The IFP appeared to welcome the findings of the Goldstone Commission but also used the release of the commission findings to attack both the ANC and the security forces with "evidence" which had apparently been in their possession for several weeks

The Inkatha Institute claimed it had a list "provided by a highly placed informant within the ANC" of more than 50 SAP members countrywide who had been recruited by the ANC

★

GOLDSTONE SPELLS IT OUT: THERE ARE NO 'GOOD GUYS'

21 Times 3/15/92

252

2 SUNDAY TIMES, May 31 1992

THE government and the ANC both tried this week to seek political advantage from two Goldstone commission reports. Ironically, the reports indicted both for fomenting violence.

The row involving ANC leader Nelson Mandela and Minister of Law and Order Hennis Kriel obscured the fact that the commission in its first, and overall, report says: "Individual policemen, ANC supporters and IFP supporters have been guilty of serious criminal conduct."

It did not, as Mr Kriel claimed this week, exonerate the government and the police.

ANC president Nelson Mandela first condemned the interim report as "superficial", and then retracted the statement, admitting that there had been confusion between the two reports.

He said that "ANC/IFP rivalry has been fostered and manipulated by the government and its security forces" — a statement that was essentially supported by the commission's second report, which focused on violence in three areas of Natal and three areas of the Reef.

The commission, in its press release

By CHARLENE SMITH

on violence in the six specific areas, emphasised "that no one other than the IFP and the ANC has the power to curb the violence and intimidation being perpetrated by their respective supporters".

"Even if allegations against members of the security forces prove to be justified, such misconduct would not have been possible but for the ongoing battle between the ANC and the IFP."

In its overview, completed on April 29 and then submitted to the State President — but only released this week — the commission also accused the ANC and Inkatha leadership of being "tardy" in taking effective steps

to "stop the violence by imposing discipline and accountability among its membership".

The commission, while placing apartheid at the top of the list of five primary causes of violence, also lambasted the state for "complicity in undercover activities, which include criminal conduct", along with government failure "to take sufficiently firm steps" to stop such conduct and punish the guilty.

The commission has become the good guy/bad guy scorecard despite convincingly illustrating that there are no good guys.

The furor that erupted this week over the second interim report, and a four-page press release issued this week focusing on six trouble spots, raised government-ANC tensions

The second interim report noted that, though the commission has a three-year brief, "the significant escalation of violence in recent weeks" made the report necessary, even though conclusions had not yet been reached with a number of committees, including those on Thokoza; involvement of the defence force; taxi and train violence; and mass demonstrations.

Mr Werner Krull, press secretary to the Minister of Justice, Mr Kobie Coetsee, denied that they had done more than act as a conduit for a press release this week from Mr Justice Goldstone — a fact confirmed by the judge himself.

Mr Krull said the April interim

report had been issued three weeks after receipt by the State President because it first had to be translated. "If we had released it earlier it would have come out before Codesa 2, which could have caused other problems."

Reporting on causes of violence, the commission, in its second interim report, found there was no "third force" in terms of "a sinister and secret organisation orchestrating political violence on a wide front".

It suggests that causes of violence are "many and complicated and include the economic, social and political imbalances among the people of South Africa".

These are:
● The consequences of three centuries of racial discrimination and more than 40 years .. of apartheid

● A police force and army which for many decades have been the instruments of oppression by successive white governments ... (and which are) for many South Africans .. not perceived as fair, objective or friendly institutions.

● The unexpected and sudden legalising of large and predominantly black-supported organisations.

● A climate of political intolerance, particularly in the black community.

The report says these factors give "violence a fertile breeding ground". It notes that various elements have contributed to this, including criminals, an undermanned and poorly motivated police force, and single-sex hostels and squatter communities.

● IFP president Mangosuthu Buthelezi said yesterday that he was prepared to accept the finding of the commission that Inkatha had played a role in the violence.

Speaking at a rally at Vulindlela, near Maritzburg, he said he accepted that without the political will of the IFP and the ANC there would not be peace in South Africa.

New investigator into Asvat murder (252)

A NEW investigating officer has been appointed to investigate the murder of Dr Abu-Baker Asvat at the instruction of the Attorney-General of the Witwatersrand, Law and Order Minister Hernus Kriel said in parliament this week. C/Pres 31/5/92.

cause required a new minister of finance seem to know how South Africa

unmusical and I watch rugby I see a choreographer. But then there is this troupe of scabby bottle of bubbly in your honour



KADER ASMAL 'Warm person'

The gentle fighter for human rights

Stewart (Cape Town) 31/5/92 (152) Profile by EVE VOSLOO

PROFESSOR Kader Asmal, who was inaugurated this week as professor of human rights law at the University of the Western Cape — has been described as "a kind and gentle man with a formidable intellect and an unwavering commitment to his field"

"He is a very warm person," one of Professor Asmal's students said "And in his field he's the best"

Professor Asmal's knowledge and expertise was gained largely outside the country of his birth, which he left for about 30 years as a political exile.

During that time he obtained LLB and LL.M degrees from London University and became a barrister at Lincoln's Inn, London. He also has an MA from Dublin University. He lectured in law at Trinity Col-

lege, Dublin, finally becoming Dean of the Faculty of Arts (Humanities) there

Professor Asmal has lectured or been visiting professor at universities around the world and in 1983 won the Unesco prize for the advancement of human rights

He has published widely on different aspects of international law in countries as far afield as Israel, Lebanon, Ireland, Namibia and South Africa and on the role and future of the United Nations

He was also a founder member of the Irish Anti-Apartheid Movement and a vice-president of the International Defence and Aid Fund. He is also a member of the national executive committee of the African National Congress. Professor Asmal is married and

has two adult sons. His wife, Louise, is secretary of the Irish AAM.

In his inaugural address this week Professor Asmal spoke on "Victims, survivors and citizens. Human rights, reparations and reconciliation"

He said that UWC had instituted its Chair of Human Rights law at a time when the legal landscape in SA "remains littered with racist and discriminatory laws, the shameful detritus of a constitutional order which virtually denied the existence of the majority of our countrywomen and men"

He said South African society was wounded, divided and deeply scarred "We have a history of wars of annexation and extermination, slavery and racial discrimination

"Nevertheless the South African experience has also produced a vision of human relations that is the antithesis of the apartheid heritage

"This lecture is therefore a celebration of the alternative moral order which has played an indispensable part in the struggle for the freedom and dignity of the people of South Africa"

He said the struggle in South Africa was part of the worldwide struggle for freedom, equality and human rights for the victims of colonialism

"The liberation of South Africa and the removal of the legacy of apartheid will therefore provide the catalyst for the achievement by people of colour of a proper place in the sun, and their entry into a patrimony denied by slavery, racism, colonialism and exploitation"

SIMCO 32 BOARD STERN



Walkman bomb: Advocate slams slow detective

By MARTIN NTSOELINGO *252*

A HIGH-RANKING policeman was strongly criticised for failing to take prompt action after allegations that a human rights lawyer was murdered by a Vlakplaas-based SAP hit squad.

This emerged in the Rand Supreme Court this week in an inquest by Judge O'Donovan into the death of Godfrey Bheki Mlangeni.

Mlangeni died from head injuries in March last year when a miniature shaped explosive charge placed in the headphones of a "Walkman" cassette player exploded as he pushed the play button.

Former police Capt Dirk Coetzee, who fled to London after making hit-squad allegations, claimed Mlangeni was killed by the Vlakplaas hit squad. He was supported by Ronald Bezuidenhout, whose police credentials were denied by investigating officer Capt Andre Kritzinger.

Clues 9/11/92

Advocate G Rautenbach, for the Mlangeni family, criticised Kritzinger, saying if he had acted promptly he might have found clues pertaining to the murder.

Kritzinger said he only visited Vlakplaas three months after the murder, admitting the delay could have given a possible murderer sufficient time to destroy evidence.

He added he could not verify claims by Bezuidenhout as he could not trace him. He said Bezuidenhout had been an informer, but not a policeman.

Kritzinger said after Mlangeni's death he was appointed as the investigating officer. He had contacted the law firm where Mlangeni had worked and one of the lawyers agreed to help him.

Mlangeni had found the Walkman cassette player in a return-to-sender package addressed to Coetzee in Lusaka. It was collected by his Johannesburg law firm, purporting that Mlangeni, Coetzee's legal representative, had sent it.

Coetzee claimed shortly after Mlangeni's death that his former police colleagues were responsible.

Kritzinger said that during his investigations he had discovered the walkman bomb was meant for Coetzee and not Mlangeni. He said he had spoken to all the policemen mentioned by Coetzee and Bezuidenhout, but they all denied the allegations. Their fingerprints and handwriting also did not match.

Auditor's office and home were bugged for two months

SPY JAAP PHOENIX STAMPHOENERS



Mr. Justice Melamet

SPECIAL REPORT BY DE WET POTTEETER

STIMWEG 311579 Z

IN an amazing cloak-and-dagger operation, a mysterious secret agent tapped government telephones in an auditor-general's office for two months to monitor the Melamet Commission's investigation into the insurance industry.

The agent also tapped the home telephone of assistant chief auditor Mr Jaap Serfontein, who was on the verge of a breakthrough in his investigation of insurance giant Santam.

Mr Serfontein, the man credited with uncovering widespread corruption in the now defunct Department of Development Aid, was investigating alleged bad management, irregularities and unsatisfactory handling of third-party claims by Santam.

After transcripts of his conversations were handed to Mr Justice David Melamet, Mr Serfontein was taken off the case.

He was also
● Barred from hearings at which evidence concerning Santam, South Africa's biggest short-term insurance company, was put to the commission.

● Ordered to halt his investigation into Santam's role in the third-party industry and hand over 500 files in his possession.

● Escorted from the hearing in the Rand Supreme Court by a senior police officer on Mr Justice Melamet's instructions while cases involving Santam were being dealt with.

The transcripts of the telephone taps were given to the Johannesburg attorneys, Hofmeyer and Vander Merwe, that represented Santam at the commission and whose eminent senior partner, Mr Billy



WITH THIS RING, THE COMRADES WINNER SPED



ANC plan to curb foreign firms

By EDYTH BULBRING and BRIAN POTTINGER

THE ANC has proposed that a range of restrictions and conditions be imposed on foreign investments in South Africa under a future government. An investment code accepted at the organization's national policy conference yesterday puts affirmative action for both women and blacks high on the agenda when approving foreign investment.

Foreign investors may also be blocked from investing in certain "strategic" areas — land and natural resources, for example — and companies controlled by non-

Spy tapped phones (253)

From Page 1
 facting insurance assessors Henri Knouwds and Co, which handled the bulk of Santam's third-party claims, unless such conversations were authorised in advance and took place in the presence of another official from the auditor-general's office

Everyone involved in the Santam probe has denied ordering the telephone taps

Mr Willie van Wyk of Hofmeyer and Van der Merwe said Santam had nothing to do with the bugging of Mr Serfontein's telephones, but refused to say who had ordered the tap or disclose the source of the transcripts.

"All I am prepared to

say on behalf of my client is that I knew about the telephone tappings because I saw a transcript of the conversations," said Mr Van Wyk, adding "Why don't you ask the judge about it?"

Mr Justice Melamet would not reveal who had given him the tapes and transcripts of the conversations

"You shouldn't ask me. The commission did not authorise the eavesdropping," he said.

Professor Loots said he had been informed about it by the judge.

"My office was extremely unhappy to hear about this. We reject this kind of activity in the strongest possible terms," he said

Mr Knouwds said he had a number of telephone conversations with Mr Serfontein while assisting him with "technical advice" on the workings of the MMF.

"I rendered professional assistance after investigations by the auditor-general, the Melamet Commission and Santam found no irregularities in the way I conducted my business," he said.

Mr Philip Simpson, claims manager for Santam, said he knew nothing about the bugging.

The Sunday Times has been reliably informed that self-confessed former National Intelligence Ser-

vice agent and bugging expert Mr Clive Scholtz — who now works as a third-party assessor — was the man who did the tapping, but he has denied responsibility

"I've heard about it, and know that the judge was informed, but I wasn't involved," said Mr Scholtz

Mr Serfontein would not comment this weekend on the bugging

Last September, a Sunday Times investigation revealed that.

● Processing of third-party claims by Santam — which has a 40 percent share of the market — was held up for months, and sometimes years.

● In some cases, claimants were awarded R7 000 in compensation, but had legal costs of R200 000 and more to settle.

● Millions of rands were paid to insurance companies every month by the MMF without files being checked to verify the legitimacy or existence of claims.

● The MMF paid an estimated R24-million a year in payment of a R750 fee for each claim registered by insurance agents.

● In some cases, claims for as little as R450 were referred to assessors, although their standard fee of R2 000 a claim is nearly five times greater

Mr Serfontein found out about the telephone tap on February 3 when he was informed in a letter from deputy auditor-general Professor Bertie Loots that Santam had expressed "certain misgivings" to Mr Justice Melamet about Mr Serfontein's impartiality. These "misgivings" were based on transcripts of Mr Serfontein's bugged telephone conversations. The letter followed discussions in January between Professor Loots, Mr Pankie Lourens and Mr Justice Melamet. Mr Serfontein was also told to refrain from con-

MISGIVINGS

Mr Serfontein found out about the telephone tap on February 3 when he was informed in a letter from deputy auditor-general Professor Bertie Loots that Santam had expressed "certain misgivings" to Mr Justice Melamet about Mr Serfontein's impartiality. These "misgivings" were based on transcripts of Mr Serfontein's bugged telephone conversations. The letter followed discussions in January between Professor Loots, Mr Pankie Lourens and Mr Justice Melamet. Mr Serfontein was also told to refrain from con-

Furious

Sanlam is a subsidiary of the board of Santam. Van der Merwe, serves on senior partner, Mr Billy and whose emment ed Santam at the commis- der Merwe, that represent- neys, Hofmeyer and Van to the Johannesburg attor- telephone taps were given The transcripts of the late were being dealt with while cases involving San- Melamet's instructions police officer on Mr Justice Supreme Court by a senior hearing in the Rand ● Escorted from the files in his possession, industry and hand over 500 role in the third-party investigation into Santam's ● Ordered to halt his the commission, biggest short-term insur- ing Santam, South Africa's at which evidence concern- ● Barred from hearings



Vertical text on the left margin, likely a page number or column indicator, including the number '253'.

PUBLIC SECTOR - GOVT. JUSTICE.

1992

APRIL

252 **Accused forfeit bail**

THE bail of two right-wingers allegedly linked to explosions at schools and post offices in the Transvaal in January has been estreated in the Pretoria Magistrate's Court, and warrants for their arrest have been issued.

The men, Andries Stefanus Kriel and Andries Cornelus Oendaal, failed to appear in court yesterday. 6/Dec 1/4/92

Wits honours John Dugard

STAR 11/4/92

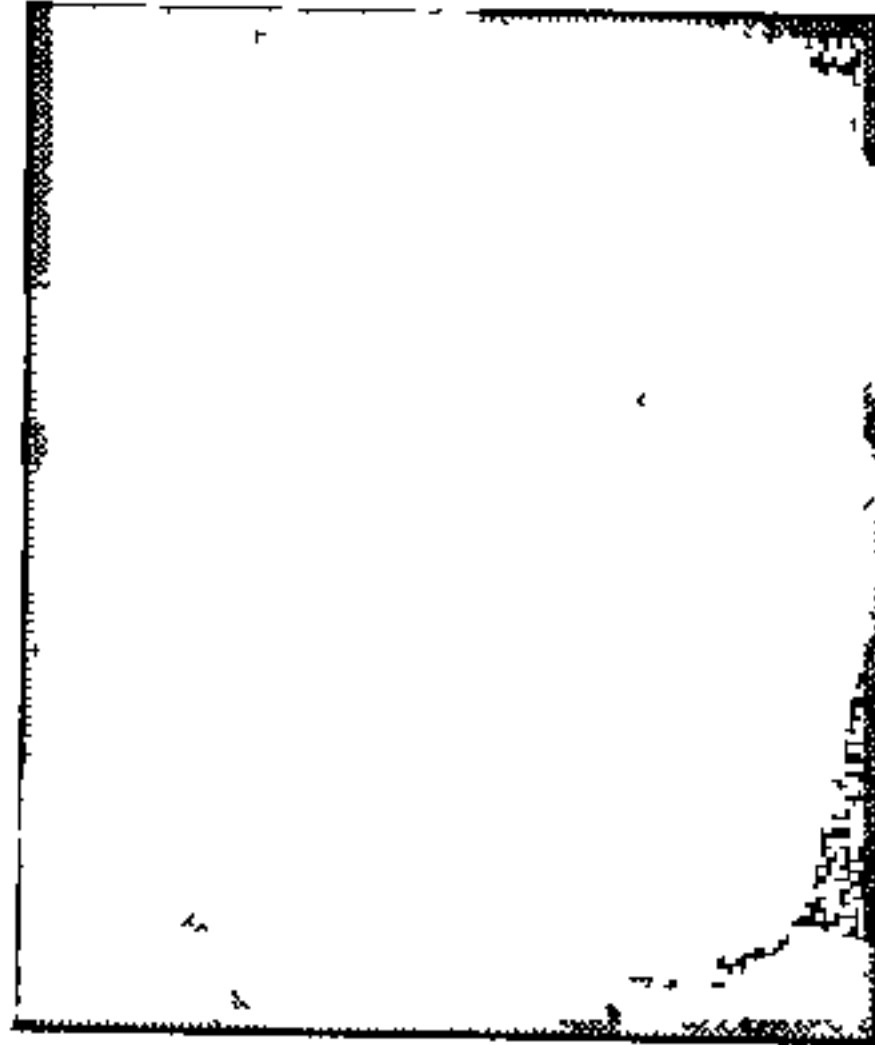
By Jo-Anne Collinge

Wits University academic John Dugard has been recognised for his contribution to the defence of human rights — the new library at the Centre for Applied Legal Studies has been named after him

The John Dugard Documentation Centre, housed on the west campus, is a specialised collection on constitutional and human rights and labour matters

Professor Dugard was director of the Centre for Applied Legal Studies from its inception in 1978 until the end of 1990, when he relinquished the post.

ANC secretary-general Cyril Ramaphosa, whose relationship with the centre was forged during his years in the trade union movement,



John Dugard . . . a fighter for human rights.

spoke warmly of the centre's lawyers who were "able to give their all in terms of fighting against laws which were intended to oppress the workers"

He recalled the centre helping the National Union of

Mineworkers chalk up its first legal victory — securing the right to refuse to work under unsafe conditions

This victory is one of many reported in "Fighting for Justice", a book on the first 12 years of the centre's existence, which was released this week

Mr Ramaphosa paid special tribute to Professor Dugard as the centre's guiding force during very hard years, as the central presence in a legal institution built on "a unique form of dedication and commitment"

The documentation centre's "opening" on Monday night was really a move to new premises

Established six years ago, it collects, organises and actively distributes material not readily available elsewhere

252

Hostel dwellers kill 4 in Alexandra ANC

B/day 1/4/92
STEPHANE BOTHMA

FOUR people, including a seven-year-old child, were killed and about 10 injured when groups of hostel dwellers entered houses in Alexandra yesterday and opened fire on residents, the ANC said

Two groups of about 10 men each moved into the township from the Madala hostel, entered private yards and the Dr Konak School and opened fire, an ANC Alexandra branch spokesman said

However, Witwatersrand police could confirm only that the body of one man with bullet wounds in his head was found in the township yesterday morning

The ANC said police were called to the scene and intervened when angry residents identified one of the gun-wielding attackers and assaulted him. The man was loaded into a police vehicle, the ANC said. Police declined to comment on the ANC's claim that they acted only once one of the men had been attacked

Sapa reports the ANC said in a statement it viewed the attacks as an attempt to disrupt the formation of an Alexandra dispute resolution committee

It also said a common trend was emerging between acts of violence in Meadowlands, Mzimhlophe and Alexandra. This

involved forcing people out of homes next to the hostels. These were then occupied by "elements hostile to the community"

The ANC said the attacks were aimed at "straining Codesa processes" with a view to strengthening the Inkatha/government call for Umkhonto we Sizwe to disband

Meanwhile Soweto police arrested two men who allegedly hurled a handgrenade at early morning commuters waiting at a taxi rank in Meadowlands yesterday

Nobody was injured in the blast, but a similar grenade and AK-47 attack at the same rank on Monday left one person dead and injured 13

Police could not say if the two attacks were linked

The taxi rank is next to the predominantly Inkatha-occupied Meadowlands hostel and the attacks were obviously aimed at instilling fear in Transvaal Inkatha supporters, Inkatha claimed

The grenade was thrown by a group of four men from the main entrance of the hostel, police said. The two alleged attackers were arrested after being pointed out to the police by witnesses

SAP to review Trust Feed investigation

MARITZBURG — Natal Attorney-General Mike Imber said yesterday the Commissioner of the SA Police would investigate the initial police inquiry into the 1988 Trust Feed massacre

Imber, who last October opened legal argument in the trial of seven policemen and former special policemen charged with the 11 murders, said he had been informed by the commissioner that a departmental inquiry had been instituted

Imber said there had been 75 court sittings and the evidence of 80 witnesses had

been led during the course of the trial. The period between the incident and evidence from witnesses "had caused havoc" with the testimony, he said.

Earlier yesterday the court was told by senior state pathologist Prof Jan Botha that from autopsy reports it appeared that five of the 11 Trust Feed victims did not die instantly. A sixth would have been capable of "short term" survival.

The hearing continues today

(252) Own Correspondent

W
e
le
x

e
p
st
of

h
gh
of
tes
ial

ed

n
la
on

K
C
it of I
r Sar
of
ume
cat
si
cul
ah

Sex-change laws pose problem for experts 252

Political Staff

ARG 1/4/92

SOUTH African law experts are still grappling with the problem of the legal sex status of people who have undergone medical sex changes.

This emerged in the report of the South African Law Commission tabled in parliament yesterday.

The problems of people who have undergone sex changes have been compounded by the legal problems over which sex they were.

One of the investigations by the commission is into the "legal consequences of sexual realignment and related matters".

The report said the Births, Marriages and Deaths Registration Act of 1963 provided

that the sex description of a person who had undergone a change of sex could in some instances be altered on the birth register.

The Act did not, however, regulate the consequences of a change in a sex description. "The present legal position is also somewhat uncertain in this respect."

"Persons who have undergone treatment to change their sex or outward sexual appearances are, like all other legal subjects, involved in legal relationships in which their status as members of one sex or the other often determines their rights and obligations in terms of those legal relationships.

"It is therefore necessary to examine the entire question of change of sex," the report said.

They lied - murder accused tells trial

Sowetan 11/4/92

ONE of the accused in the Trust Feed massacre trial said on Monday that residents of a house in Trust Feed, which was attacked on December 3 1988 leaving 11 dead and eight seriously injured, were lying when they said someone had "kicked open the door of the house".

Former special constable Mr Marshall Khambule said in the Maritzburg Supreme Court that although he had only been about three or four paces away from the door during the attack he could not see anything because it was so dark and he was concentrating on protecting himself

All four former special constables accused of murder and attempted murder have told the court they shot into the house from the outside and never entered the house

Assistant to the Attorney-General, Miss Rita Blumrick, asked him to explain how there was "an almost remarkable similarity" between the number of rounds used by him and his three colleagues and the number of wounds received by people inside the house, "considering it was so dark you could not even see three paces in front of you".

Khambule said he had realised after the attack that the house was very small and the people were crowded together

He said he had not known this at the time of the attack and had left the scene with the others without bothering to check if they had killed or injured anyone

The four have testified they left the house without reloading their weapons even though they were convinced they were attacking a UDF stronghold

Khambule said that at no time did he hear Captain Brian Mitchell, who ordered them to attack and surround the house in Trust Feed, use the word "kill".

He said he fired at the house when he heard shots because he felt his life was threatened as he had thought the shots were coming from inside the house

Blumrick then told the court that in an earlier statement Khambule had not been sure where the shots were coming from - inside or outside the house

Khambule told the court he had not considered whether the shots might not have been fired by his colleagues as their stated intention was to attack the house

Earlier in the day Khambule said he had been taught to listen to the commands of a superior officer at all times and that while he was serving in the SAP he would have even obeyed an order to shoot an innocent person walking across the street.

Dangerous

Miss Blumrick asked him if he would obey an order to shoot women and children even if he knew it was an illegal order

Khambule said he had not known any better while serving in the SAP

Asked by Mr Justice Wilson if he would shoot a little child if he was told to do so and if this was what he had been taught while training at Koeberg in the Cape, Khambule said children were different from an adult because they were not dangerous

"A woman can sometimes be dangerous but a child is never dangerous," he said

The six other policemen charged in the Trust Feed trial are Captain Jacobus van den Heever, Captain Brian Mitchell, Sergeant Neville Rose, Special sergeant Mr Dumisane Ndwalane, Mr Kehla Ngubane and Mr Thabo Sikhosana

Proceeding - Sowetan Correspondent

Fighting for justice

STAR 2/4/92

THE CENTRE for Applied Legal Studies at Wits University opened the John Dugard Documentation Centre this week and simultaneously released a book recounting the centre's first 12 years

Entitled "Fighting for Justice", it contains some ghost stories from the just-dead past

In the Johannesburg Commissioner's Court, Mr X from Rustenburg stands in the dock. As he admits to being arrested without an identity document, his plea is entered as "guilty"

Asked why he was in Johannesburg, Mr X responds "I was on my way to my aunt's place to tell her that her twins had died in Rustenburg"

Commissioner Why didn't you write or send her a telegram? I suppose there is no post office in Rustenburg?

Mr X My mother thought it is better for me to tell my aunt personally and to go back to Rustenburg with her (He also mumbles that anyway he cannot write)

Asked if he has anything to add before sentence, Mr X asks "Please phone my aunt"

Prosecutor There is no phone here

Commissioner I find no mitigating circumstances. R24 or 48 days

This trial took two minutes and 20 seconds, "Fighting for Justice" recounts

When CALS was founded in 1978, under the directorship of Professor Dugard, annual pass law arrests were peaking at close to 300 000 and the reoccupation of "white" group areas by disqualified black tenants had just begun

A legal holding opera-

The Centre for Applied Legal Studies' review recalls the grimness and the grit of the apartheid years. JO-ANNE COLLINGE reports.

tion against the mass prosecutions in both these areas, together with a focus on labour law and repressive censorship laws, formed part of the early work of CALS

Over the years CALS lawyers have been associated with memorable legal actions of the late apartheid epoch — the marathon Delmas treason trial, the Wendy Orr action against assault and torture of detainees, the inquiry following the Hlobane mining disaster, the commission on the Langa shootings, the unbanning of the Freedom Charter, the Appellate decisions declaring unlawful the forced removal of Mogopa, and the incorporation of Moutse into KwaNdebele

The centre's close work with trade unions and communities led to interesting expectations. In the 1987 mineworkers' strike, one of its lawyers was negotiating with the police, as the riot squad gathered purposefully across from demonstrators. According to "Fighting for Justice", a demonstrator summoned the lawyer to ask "Are you the lawyer the union has brought along to disperse the police?"

Litigation has only been a fraction of CALS's work. Teaching is another significant component — within the Wits Law School, as well as in the special winter/summer schools run for trade union members. Research and mediation/negotiation services have always been

strongly represented within CALS and become ever more significant in this phase of political transformation

Few institutions have been so consistently involved in researching, exposing and attempting to halt political bloodshed. It was CALS that published the first national study on the vigilante phenomenon in 1986.

CALS lawyers were among those who tried to use the courts to bring perpetrators of violence to book in Natal. One such case led to the establishment of the Complaints Adjudication Board in Maritzburg in 1988. And, as the Transvaal staggered to its feet after the mass killings of late 1990, CALS attorneys joined the back-room figures involved in forging the National Peace Accord.

Gender rights, gay rights, the right to citizenship and to conscientious objection, freedom of speech and association — all have been fought in past court battles, all present CALS a new challenge in the era of constitution-making. Some CALS staffers are directly involved in Codesa as advisers to various parties

In his introduction to the book, Dennis Davis — who became CALS's second director in 1991 — adds a few more challenges to the legal imagination. "In order to meet the demands of an economy which will be responsive to the needs of

all South Africans, lawyers will have to consider the present labour dispensation, alter company law to allow for more democratic participation in commerce and industry, and fashion a taxation system which will meet the enormous demands for economic reconstruction

"Public law must be developed in order to render the bureaucracy in general and the police in particular accountable to the population which they serve

"Very little attention has been paid to private law, particularly the area of family law, which will need to be reconstructed carefully in order to contribute to the end of gender discrimination. And perhaps the most pressing issue of all concerns the land and the demands of dispossessed communities."

Of course, few CALS achievements were solo efforts. Lawyers in private practice, public-interest law firms, trade unions and community organisations have almost always been an integral part of the action. Nevertheless, the record is considerable — for instance, almost 100 per cent success in appeals against Publications Act censors

Even a former KwaNdebele chief minister who stood firmly against giving women the vote and who was confident that "God is on our side" met his match. Women of KwaNdebele, assisted by CALS and other lawyers, took the matter to the Transvaal Supreme Court which declared the KwaNdebele constitution invalid and effectively doused the chief minister's dream of homeland independence □

(b) plantdoders met diuron as aktiewe bestanddeel, indeelbaar by tariefsubpos 3808 30 15, van 20 persent *ad valorem* of 300c/kg min 80 persent *ad valorem* tot 20 persent *ad valorem* of 1 580c/kg min 80 persent *ad valorem*.

[RHN-verw T5/2/6/2/5 (920065)
Mnr D. Potter]

Applikant:

Sanachem (Edms.) Bpk, Posbus 1454, Durban, 4000

Korting van die reg op:

Halwe velle van beesrasieer, met 'n eenheidsoppervlakte van hoogstens 1,075 m² en met 'n waarde vir belastingdoeleindes per vierkante meter van meer as 8 600c, vir gebruik as bodele of vir die bedekking van hakke

[RHN-verw. T5/2/8/1 (910390)
Ms H Claassens]

Applikant:

Skoesielvervaardigingsfederasie van Suid-Afrika, Posbus 23100, Port Elizabeth, 6009

Intrekking van die kortingsfasiliteite ten opsigte van:

1 Motorvoertuigonderdele en -toebehore waarop reg betaal is, mits plaaslike vervaardigde onderdele en toebehore, wat nie die waarde van die ingevoerde onderdele en toebehore (uitgesonderd die vreemde valutagebruik) oorskry nie en wat van 'n soort is wat aan dieselfde skaal van reg onderhewig is, deur die invoerder van sodanige onderdele en toebehore uitgevoer is (item 535 00/00 00/01 00)

[RHN-verw T5/2/17/3/1 (920030)
Ms I Metz]

Applikant:

Die Kommissaris van Doeane en Aksyns, Privaat Sak X47, Pretoria, 0001

2 Broomoksiniel gebruik as aktiewe bestanddeel in die vervaardiging van plaagdoders by item 306 09/29 26/01 00

[RHN-verw T5/2/6/2/5 (920104)
Mnr D Potter]

Applikant:

Sanachem (Edms.) Bpk, Posbus 1454, Durban, 4000

Lys 11/92 is by Algemene Kennisgewing 289 van 27 Maart 1992 gepubliseer

(3 April 1992)

KENNISGEWING 312 VAN 1992

DEPARTEMENT VAN JUSTISIE

BEKENDMAKING VAN NAME VAN PERSONE WAT VOLDOEN AAN PARAGRAAF (a) VAN GOEWERMENSKENNISGEWING No R 936 VAN 24 APRIL 1991 EN DIE INLIGTING BEDOEL IN PARAGRAAF (b) VAN GENOEMDE GOEWERMENSKENNISGEWING VERSTREK HET

Die Direkteur-generaal Justisie maak hierby vir algemene inligting, in die Bylae hiervan, bekend die name van persone—

(a) wat lede van die African National Congress is, of wat, in die geval van persone wat nie sodanige lede is nie, die beginsels van vreedsame oplossings en ont-

(b) herbicides with diuron as active ingredient, classifiable under tariff subheading 3808.30 15, from 20 per cent *ad valorem* or 300c/kg less 80 per cent *ad valorem* to 20 per cent *ad valorem* or 1 580c/kg less 80 per cent *ad valorem*.

[BTI Ref T5/2/6/2/5 (920065)
Mr D Potter]

Applicant:

Sanachem (Pty) Ltd, P O. Box 1454, Durban, 4000

Rebate of the duty on:

Half skins of bovine leather, with a unit surface area not exceeding 1,075m² and of a value for duty purposes per square metre exceeding 8 600c, for use as upper material or for covering heels.

[BTI Ref T5/2/8/1 (910390)
Ms H Claassens]

Applicant:

Footwear Manufacturers' Federation of South Africa, P O. Box 23100, Port Elizabeth, 6009.

Withdrawal of the rebate facilities in respect of:

1. Motor vehicle parts and accessories on which duty has been paid, provided locally manufactured parts and accessories which do not exceed the value of the imported parts and accessories (excluding the foreign currency usage) and which are of a kind subject to the same rate of duty, have been exported by the importer of such parts and accessories (item 535 00/00.00/01.00).

[BTI Ref. T5/2/17/3/1 (920030)
Ms I Metz]

Applicant:

The Commissioner for Customs and Excise, Private Bag X47, Pretoria, 0001

2 Bromoxynil, used as active ingredient in the manufacture of pesticides, under item 306.09/29.26/01 00.

[BTI Ref T5/2/6/2/5 (920104)
Mr D Potter]

Applicant:

Sanachem (Pty) Ltd, P O Box 1454, Durban, 4000.

List 11/92 was published under General Notice 289 of 27 March 1992.

(3 April 1992)

NOTICE 312 OF 1992

DEPARTMENT OF JUSTICE

ANNOUNCEMENT OF NAMES OF PERSONS WHO HAVE COMPLIED WITH PARAGRAPH (a) OF GOVERNMENT NOTICE No R 936 OF 24 APRIL 1991 AND WHO HAVE FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (b) OF THE SAID GOVERNMENT NOTICE

The Director-General Justice hereby makes knowns for general information, in the Schedule hereto, the names of persons—

(a) who are members of the African National Congress, or who, in the case of persons who are not such members, in terms of paragraph (a) of Government

252

wikkeling ooreenkomstig paragraaf (a) van Goewermentskennisgewing No R 936 van 24 April 1991 onderskryf het; en

(b) wat die inligting bedoel in paragraaf (b) van genoemde Goewermentskennisgewing volledig verstrekket het,

vir sover sodanige onderskrywing en inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing aan elke sodanige persoon ten opsigte van enige handeling bedoel in paragraaf (c) van genoemde Goewermentskennisgewing 'n Lys van die spesifieke handelinge ten opsigte waarvan vrywaring deur elke sodanige persoon verwerf is, is vir inspeksie beskikbaar in die Kantoor van die Direkteur-generaal Justisie.

Notice No. R 936 of 24 April 1991 subscribed to the principles of peaceful solutions and development, and

(b) who have furnished the information referred to in paragraph (b) of the said Government Notice in full,

in so far as such subscription and information relate to the granting of indemnity in terms of the said Government Notice to each such person in respect of any act referred to in paragraph (c) of the said Government Notice. A list of the specific acts in respect of which indemnity has been acquired by each such person is available for inspection at the Office of the Director-General: Justice.

252

BYLAE • SCHEDULE

Van Surname	Voorname Names	Geboortedatum Date of birth
Mahlalela..	Fish	1961-08-29
Mahlangu	Simon	1956
Makhubu	Phillip Dumisane	1970-04-02
Mashini	Richard Percy Fana	1966-04-22
Nkambule	Happy Arthwell	1972-03-17
Nkosi	Paul Philile	1965-12-09
Nkosi	Daniel Mtohi	1962-08-20
Selepe	David Beso	1974

(3 April 1992)

KENNISGEWING 313 VAN 1992

**DEPARTEMENT VAN BINNELANDSE SAKE
WETSONTWERP OP DRUKKERSNAME, 1992**

Die volgende Konsepwetsontwerp word hierby ter algemene inligting en vir kommentaar gepubliseer

Kommentaar moet voor of op **1 Mei 1992** aan die Direkteur-generaal, Departement van Binnelandse Sake, Mediasake, Privaatsak X114, Pretoria, 0001, gestuur word

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan

WETSONTWERP

Om sekere aangeleenthede in verband met drukwerk te reel; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg

Woordomskrywing

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet—

“**drukker**” iemand wat 'n saak dryf of bestuur wat drukwerk voortbring,

NOTICE 313 OF 1992

**DEPARTMENT OF HOME AFFAIRS
IMPRINT BILL, 1992**

The following Draft Bill is hereby published for general information and comment

Any comment should be forwarded to the Director-General Department of Home Affairs, Media Affairs, Private Bag X114, Pretoria, 0001 on or before **1 May 1992**

GENERAL EXPLANATORY NOTE:

- []** Words in bold type in square brackets indicate omissions from existing enactments
- Words underlined with a solid line indicate insertions in existing enactments

BILL

To regulate certain matters in connection with printed matter; and to provide for matters connected therewith.

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows

Definitions

1. In this Act, unless the context otherwise indicates—

“**printer**” means any person carrying on or managing a business which produces printed matter,

Trust Feed trial adjourned for judgment

Star 314192
Own Correspondent

MARITZBURG — The Trust Feed trial in which three policemen and four former special policemen are facing 11 murder and eight attempted murder charges, in connection with an incident in which a group of mourners were gunned down in December 1988, has been adjourned until April 21 for judgment

About 80 witnesses have been called to tes-

tify at the trial before Mr Justice Wilson and two assessors in the Maritzburg Supreme Court over a six-month period

During closing argument, Natal Attorney-General Mike Imber, SC, called for the conviction of former New Hanover station commander Captain Brian Mitchell as well as four former special policemen on murder charges

He submitted that the State had proved Captain

Mitchell took part in the planning and ordered the attack in which the victims died

However, Captain Mitchell's counsel has contended that he should be found guilty of culpable homicide. Captain Mitchell testified that he ordered the special policemen to attack UDF members and had not expected them to attack a house of mourners and indiscriminately shoot women and children

In response to claims by the former special policemen that they were acting under what they believed to be the lawful order of a superior officer (Captain Mitchell) to attack a house containing terrorists, Mr Imber said the actions of the special policemen in executing the massacre far exceeded what had been required of them. He submitted that their presence at Trust Feed that night clearly had an unlawful purpose

Thief's death sentence verified

Soweto 3/4/92
THE Appeal Court yesterday confirmed the double death sentence of a Soweto man for two murders.

But it has substituted imprisonment of 10 years for each of two other death sentences for robbery with aggravating circumstances of the murder victims

The four death sentences were imposed on Jacob Oupa Tloome of Moletsane by Mr Acting Justice B O'Donovan in the Rand Supreme Court on February 9 1989

The sentences were for the murder and robbery of Mrs Elizabeth Maria Agnes Ferguson at Rewlatch, Johannesburg, on November 26 1987, and the murder and robbery of Mr Nicolas Johannes van der Riet, at Roseacres, Johannesburg, on December 11 1987.

A petition for leave to appeal was previously refused by the Appeal Court, but the case had now been reconsidered under the Criminal Law Amendment Act of 1990

Yesterday the Chief Justice, Mr Justice Corbett said as far as the murder charges were concerned, there were a number of aggravating factors

In each case the murder was committed with robbery as the obvious motive in the home of the victim. The victims were elderly people, less able because of their age to offer resistance

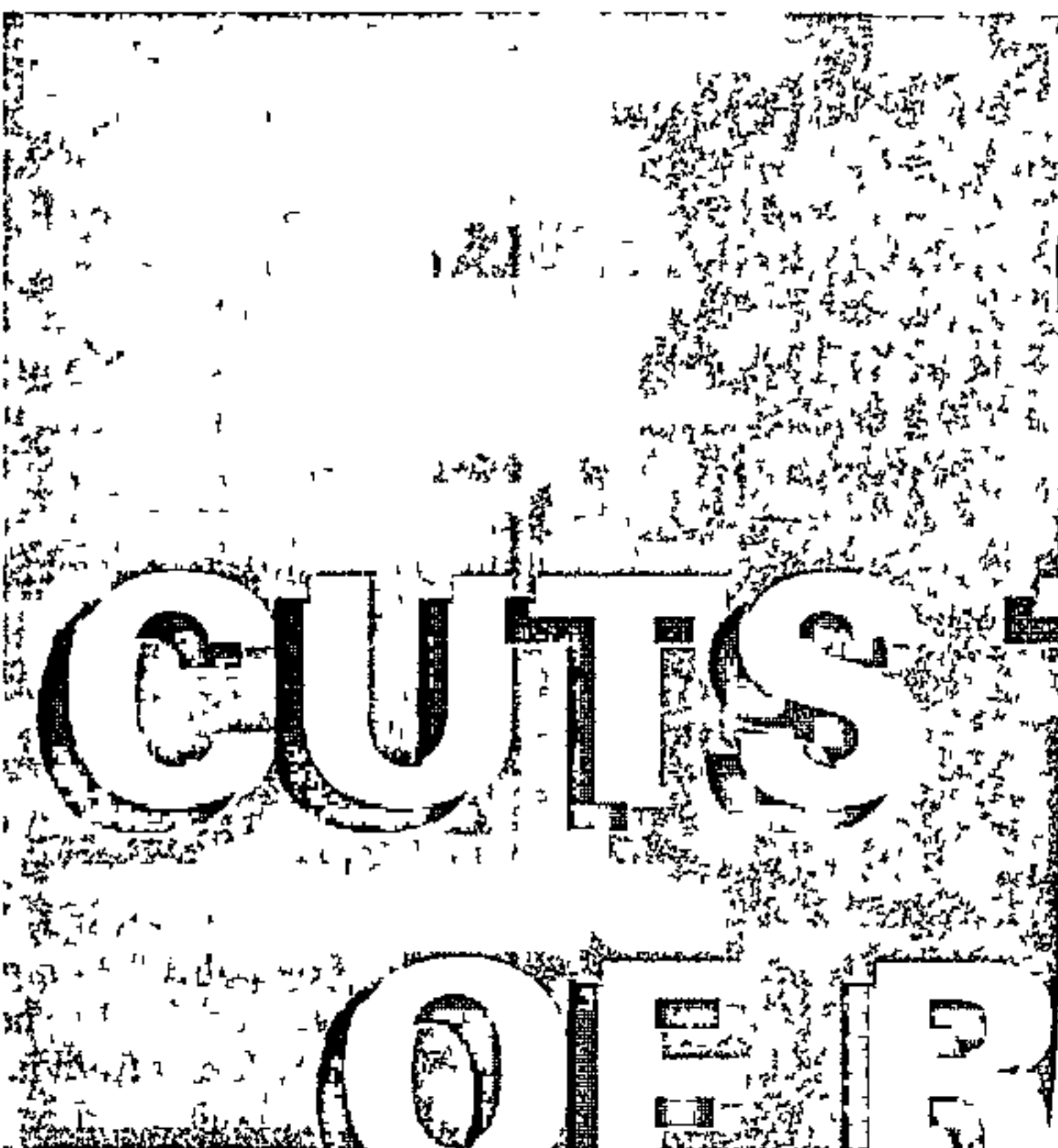
Tloome was known in the homes concerned (he had worked as a casual labourer for a plumber who had done work at the Ferguson home and was a part-time gardener for Van der Riet). It might be inferred that the victims were killed to prevent further identification and this was conceded by Tloome's counsel, said the judge

In each case Tloome gained access to the victim's home on what appeared to have been an untrue pretext. He attacked the victims ferociously, unexpectedly and without the slightest suggestion of provocation. Each victim

died a relatively slow and cruel death *Dolus directus* (a direct intent to kill) was the only reasonable inference, said the judge.

Another aggravating factor was that Tloome's criminal record revealed him as a hardened recidivist. Although his past offences mostly did not involve violence, these crimes often led to confrontation with the houseowner

Mr Justice Corbett said that the prospects of Tloome's rehabilitation and reform appeared to be very poor. The death penalty was the only proper sentence for the two murders. - *Sapa*



**'Feed' trial
postponed**

Scout on 3/4/92
~~54~~ 252

ARGUMENT in the Trust Feed murder trial - which is estimated to have cost taxpayers more than R2 million - was concluded in the Pietermaritzburg Supreme Court yesterday

Proceedings were adjourned until April 21 for judgment by Mr Justice Wilson and two assessors.

The trial commenced on October 15 last year and has lasted for more than 80 working days

The seven advocates representing the accused were all appointed by the State - *Sapa*.



Accused's acquittal leads to million rand civil claim

By GAYE DAVIS, Cape Town

THE government is facing a million rand damages claim from a Western Cape African National Congress executive member on grounds of malicious prosecution.

Mxolisi Petane was arrested in November last year by heavily armed policemen who surrounded the ANC's Cape Town offices in what the organisation condemned as a "melodramatic" manner.

Petane, along with a policeman and a Lagnya taxi driver, was later charged with the murder of a rival Webta taxi driver and the attempted murder of a number of other people during a shooting incident at the Nyanga taxi rank in October last year.

When he eventually appeared in the Cape Supreme Court last month, Petane refused to plead, saying he had been framed. He said he was writing University of South Africa exams at the Goodwood Showgrounds at the time the

offences were supposed to have been committed.

Despite this alibi, Petane's prosecution continued until last week, when he was discharged by Judge JJ Fagan, who found evidence by state witnesses to be "very weak", "untrustworthy" and containing "numerous material differences". So little value could be attached to evidence against Petane that no reasonable person could convict him on its basis, the judge said.

In a statement, the ANC said it regarded "with contempt" repeated attempts by the police — accused of partiality and bias in the conflict themselves — to "create the impression that the ANC is involved in violent activities in connection with the taxi war".

Instead, the ANC had played a key mediating role and had always "remained neutral and motivated only by the wish to bring about unity between the two warring factions", the statement said.

THESE WITNESSES KNOW WILLY KILLER COP WAS FREED

Own Correspondent

MARITZBURG — A Supreme Court judge here has demanded an explanation as to why a policeman sentenced to 27 years' imprisonment for murder was released nine months later.

Mr. Justice Thirion was reacting to an application by Natal attorney-general Mr. Mike Imber, SC, for leave to appeal against sentences of between two and eight years imposed by him in February on five

young policemen — William Basil Harrington, 22, Philemon Nhlanhla Madlala, 26, Frans Stephanus Erasmus, 22, Patrick Bhengu, 18, and Nkosenta Dlamini — for murder and attempted murder on grounds that the sentences were "startlingly inappropriate."

Mr. Imber submitted yesterday that Mr. Justice Thirion had underestimated the interests of society and pointed out that the victim — Mr. Mhongenani Jama — had been picked up, assaulted by the police-

men and killed for "no reason whatsoever" other than that he had become an embarrassment to them.

"He hadn't committed any offence," Mr. Imber said.

Mr. Justice Thirion asked the attorney-general why he should consider granting leave to the state to apply for an increase in the sentences when the men would probably be let out of jail "after a year or two."

"I don't see how an attorney-

general can quibble with my sentences when a person sentenced to 27 years' imprisonment for murder serves only nine months before being released on parole," he said.

Mr. Justice Thirion said he had written to Mr. Imber asking for an explanation concerning the case, which involved a policeman who shot people at a kraal.

He was convicted on May 29 last year of murder and three counts of attempted murder, was jailed for

an effective 27 years, and on February 14 this year he was released.

This made a mockery of the courts and administration of justice. It was not a case where the policeman would have qualified for release in terms of the State President's amnesty for political prisoners. Mr. Justice Thirion added.

Mr. Imber said he had taken the matter up with the prison authorities and it was being investigated.

Early releases 'mock justice'

252

ARG 4/4/92

Weekend Argus Correspondent

DURBAN. — The early release of criminals jailed and even condemned for heinous crimes was making a mockery of the administration of justice and bringing disrepute on court proceedings, Mr Justice Thirion said in the Supreme Court here yesterday.

The judge was hearing an application by the Attorney-General, Mr Mike Imber, for leave to appeal to the Appellate Division against the sentences of policemen who killed ANC supporter Mr Mbongeni Jama to prevent him laying a charge of assault against them.

He was throttled and shot between the eyes near Elands-kop in February last year.

Mr Imber said the sentences imposed — eight years' jail for

two men and two years' for two others — were too lenient.

Wilham Basil Harrington, 22, and Philemon Madlala, 26, were sentenced to eight years' jail and Patrick Bhenghu, 18, and Frans Stephanus Erasmus, 22, to two years here on February 28.

The judge reserved judgment on the application for leave to appeal. He asked why he should grant the application when criminals convicted of heinous murders were sentenced to death, after which their sentences were commuted and they were later released.

"A man sentenced to 27 years' jail for murder and attempted murder on May 29 1991 was released from prison on February 14 1992."

Mr Imber said this was not an isolated instance. In the Eastern Cape two men sentenced to death had their sen-

tences commuted to 20 years' jail and both had since enjoyed early release.

He said criminals who had not been convicted of political crimes were also being released.

He could not explain why they were being released early.

He said courts had often become impotent. Intimidated witnesses fled so that they did not have to give evidence. In other cases witnesses had been killed.

Mr Imber said the judge had considered the effect of publicity given by the Press to policemen's crimes and concluded that it may have contributed towards the decision by the accused to kill their captive.

Mr Imber said the judge had misdirected himself by coming to this conclusion in the absence of evidence to this effect.

The judge asked if it was not

a fact that the Press gave more publicity to policemen's crimes than those committed by others. Mr Imber agreed that it was so, and for the reason that people did not expect policemen to commit crimes.

The judge said that in the present case young policemen realised that they would receive much publicity if charged with assaulting an innocent man, and decided to kill him.

Mr Imber said the judge had misdirected himself by not testing his conclusions that the police experienced great difficulties in their tasks.

When passing sentence Mr Justice Thirion said that young policemen were often exposed to scenes of death and violence "as grisly as can be imagined". It was natural that they should become indifferent and insensitive to suffering.

By THEMBA KHUMALO

Cops called me a kaffir, claims advocate

PROMINENT Soweto advocate John Motata this week told a Johannesburg magistrate he was humiliated by the police and called "a kaffir who is pretending to be an advocate" after they arrested him for alleged drunken driving in February.

Motata, 44, was testifying in court on a charge of driving under the influence of liquor.

He said his ordeal started at about 11 pm on February 17 when he was returning from Atteridgeville in Pretoria.

He had problems with lights and could only switch on his bright lights.

Between Diepkloof and Orlando East in Soweto he was approached by a police vehicle that flashed its lights to protest against his bright lights. He responded by doing the same thing to indicate his problem to the on-coming police car.

Motata said. "When I stopped, the police shone a bright torch in my face and asked me how I drove. Before I could answer, one of them said I was drunk because I had beer in my car."

'Don't argue'

He said when he told them he was not drunk the policemen ordered him not to argue. Motata then requested that he be charged and released immediately, because he was defending a murder case the next day.

However, the policemen ordered him to get into their vehicle next to a dog cage, said Motata.

When he refused to do so, the police punched and slapped him several times. He said he realised the danger he was in and sat down next to the kennel.

The police drove him to Booyens Police Station where one of the two policemen grabbed him by his shoulder and said: "Here is a drunk kaffir who thinks he is an advocate."

A group of policemen who were in the charge office mocked him and one of them accused Motata of being so drunk he imagined himself to be an advocate.

Motata said he got angry with him and grabbed him by his front shirt.

The advocate approached a Warrant Officer Bates to lay a charge of assault, but other policemen told Bates not to listen to Motata because he was drunk.

Motata said. "Then the abuse continued and I realised that my protestations would get me nowhere." After nearly two hours of waiting he was taken to a district surgeon for a blood test.

When they arrived at the district surgeon's offices in Hillbrow a young man took his blood sample. When Motata asked for his name, the policemen told the doctor that he was drunk and should not take notice of him, Motata said.

He said the doctor appeared to be annoyed with him.

Back at the police station the police made him stand for long hours as they routinely abused him.

At around 6 am he asked Bates to give him the phone because he had the right to it. Bates dialled his number and when Motata's wife picked up the receiver Bates handed him the phone, said Motata.

Afterwards Bates warned him to appear in court and released him, Motata said.

6 guilty of murdering scabs

By MARTIN NTSOELENGOE

SIX men stood grim-faced this week as a Rand Supreme Court judge found them guilty of five murders, nine attempted murders, arson and the illegal possession of firearms.

Judge R du Plessis, assisted by two assessors, described the gruesome murders and intimidation of co-workers who refused to join an illegal strike at Haggie Rand on the East Rand.

The judge said this happened after five Numsa members embarked on an intimidation campaign, enlisting the services of a hired hitman, after they were fired when their strike misfired.

The six were found guilty of the murder of Bernard Marekane, Dugmore April, Meshack Bhekuyise Mabizela, James Mothokoa and Samuel Ntshuntsha. They attempted to murder Seth Mwenda, Abraham Mbatha, Peter Maponya, Mack Thabo, Johannes Mabaso, Elias Ntsibanyoni, Lawrence Maseko, Abel Matsabo and John Themba.

Richard Khazamula Ngobeni, 38, of Naledi, was found guilty of four counts of murder, eight of attempted murder, two of attempted arson and the illegal possession of a 9 mm pistol.

Jeffrey Siphon Mtshali, 34, of Moroka, was found guilty on a charge of murder and one of attempted murder.

Malvert Ngubane, 40, of George Goch hostel in Benrose, was found guilty on one charge of murder, seven of attempted murder, two of attempted arson and charges of illegal possession of a firearm and ammunition.

Malan Khumalo, 42, of Orlando East, was found to have participated in all five murders, nine attempted murders, two cases of attempted arson and possession of a 9 mm pistol, a 375 magnum revolver and ammunition.

Samuel Kgosiekolo Malepo, 39, of Katlehong, was convicted on a count of murder and two of attempted murder.

Coming to the hired hitman, Joseph Mdumiseni Bhengu, 25, of Nancefield hostel, the judge said he was guilty of two murders.

Language and the law could soon be in black and white

252 20 20

S/Times 5/14/92

The debate on which official language we should have ignores the fact that the legal profession has one all of its own, writes CATHY STAGG

THE sitcom *Going Up* is set in an attorney's office in the new South Africa. The last episode had the man who makes the tea, Jabu, interpreting potential clients' complaints

As students from a translation college expressed themselves in Pedi, Zulu, Tsonga, Venda — and sign language — he deftly condensed what they said.

The show may be a farce, but it illustrates a genuine problem faced by the law in this country. Serious suggestions have been made about language

The ANC's language policy would require public servants of the

future — including court officials — to be competent in the indigenous language spoken in their region.

PAC spokesman Ernest Mosenke, an advocate, has called for black languages to be included in the law degree curriculum. He questions how a judge or magistrate can refer to a witness's credibility when often only the interpreter's words have been understood.

The English Academy of Southern Africa

has also entered the fray and is hosting a conference at the University of Cape Town from July 1 to July 3 to air the debate.

Which language will be the official one is only one of the questions surrounding the language debate. But how many lawyers are aware that no matter which language they use, the way they use it also needs translation?

If a judge asks a question, to which the normal response is simply "yes", the reply is always "as your lordship pleases"

The opposition is referred to by lawyers as "my learned friend". For example "my learned friend has neglected to inform your lordship."

Which probably means "that old fat-head is trying to pull the wool over your eyes".

WHEN an advocate wants to disagree with the judge, the first words uttered are "with respect m'lord". If the advocate is being particularly pushy, then it is "with the greatest of respect, m'lord".

During a long trial, a judge snapped: "Yes, I know what that means. The more respect is referred to, the less is intended."



OFFICE PROBLEMS ... tea maker Joe Mafela takes on the role of interpreter in legal sitcom *Going Up*.

To complicate matters further, judges and magistrates are addressed differently.

Judges are "your lordship", magistrates "your worship" — not "your honour" as they are sometimes mistakenly called. In Afrikaans, a judge is "U edele", a magistrate "edelagbare".

ONE day in the Johannesburg magistrate's courts, a sales rep caught driving with his blood/alcohol level over the legal limit listened in confusion, hoping to discover what to call the magistrate.

Eventually, with visions of a suspended licence, a jail term or a heavy fine, the salesman got into the dock.

"How do you plead?" snapped the magistrate.

"Guilty, your your majesty!" he blurted out. The magistrate was so amused by his terror that he gave him a moderate fine.

It is hard enough to cope with courtroom language in your mother tongue. But add an

interpreter and things get really confusing.

In a Natal case an advocate was trying to discredit a police witness. He hoped his question would imply "undue influence", a term which covers bribes, threats or physical violence.

"Do you mean that after the accused had been in custody for 17 minutes, he gave you his entire version on a plate?" demanded the advocate.

The interpreter put the question to the witness and the answer came back "No, it wasn't my job to feed him."

WHEN it comes to language, lawyers have it easy. They may have to be fluent in English, Afrikaans and, in future, possibly an African language.

But imagine the weight of responsibility on the interpreters who not only have to translate the meaning of what a witness has said, but also the nuances. Whatever they earn, it is not enough.

First ANC treason trial judge dies

PRETORIA — Former chief justice Mr. Justice Frans Rumpff died at his home here on Saturday morning after a long illness. He was 79.

Mr Justice Rumpff was chief justice from 1972 to 1982. He was the presiding judge in the first treason trial involving the entire ANC leadership, in 1959.

The case lasted for three years, with all the accused acquitted.

After retiring, Mr Justice Rumpff chaired several commissions of inquiry, including one concerning the possible reincorporation of the Moutse area into KwaNdebele. He recommended, among other things, that this area remain part of South Africa.

Mr Justice Rumpff is survived by his wife, Monica, four daughters, 11 grandchildren and a great-grandchild.

He will be buried from the Paul Kruger Church here at 11am on Wednesday — Sapa

Lawyers set up new ethics body

Sowetan 7/4/92

252

A NEW organisation to encourage and maintain the standard of ethics among legal practitioners was formed in Pretoria at the weekend.

The body, which is known as the Southern African Progressive Legal Practitioners Association, was launched during a function held at a city hotel on Sunday. It is intended to cover lawyers in the entire Southern Africa including Tanzania, Malawi and Mozambique. Both the Botswana Law Society and the

By ALINAH DUBE

Reciprocity Committee of the Law Society of Swaziland have indicated interest in having dealings with the new body. Mr Thokwane "Post" Moloto, convening chairman of Saplepa, said one of their aims was to create a spirit of justice consciousness without a specific political ideology. "We want to participate in the administration of justice in the region, concerning the appointment of judges and magistrates and

the classification of courts. Racial discrimination in our courts also has to be discouraged by all court officials.

"The organisation intends to further address the issue of dual practise by some people in the legal profession. There are cases where you find that someone is an advocate in one country and at the same time a judge in a neighbouring state," Moloto said. The protection of consum

B/0009 7/4/92

ANC leaders accused

A HUMAN rights organisation declared yesterday it had sworn statements implicating top ANC leaders in the torture and execution of political prisoners.

The Frankfurt-based International Society for Human Rights (ISHR) called on Codesa to hear testimony alleging the ANC was still holding prisoners in Tanzania and Uganda, and that 500 people had disappeared in exile.

(252)



Probe plight of prisoners Codesa urged

Sowetan 7/4/92

THE German-based International Society for Human Rights has appealed to Codesa to investigate reports of political prisoners held by both the Government and the African National Congress

In a statement yesterday, the ISHR said it welcomed the work done by Codesa's Working Group 1, which has been given the task of "levelling the political playing field" in South Africa

However, the ISHR said it failed to understand why the question of political prisoners was initially dealt with as a bilateral issue between the Government and the ANC

"Noting that both the Returned Exiles Co-ordinating Committee and the Ex-ANC Detainees Committee have applied to Codesa's management committee to be heard, the ISHR questions why this has not been done"

The two committees are made up of former ANC prisoners. According to the ISHR, the lack of progress in Working Group 1 was delaying Codesa

It suggested that an impartial independent judicial inquiry be appointed, and report back to Codesa on the issue of political prisoners

"It has been alleged that the ANC is still holding prisoners in Tanzania and Uganda and that up to 500 people have disappeared in exile under the ANC"

The ISHR said it was in possession of "many" signed testimonies alleging torture, imprisonment, and killings, in which senior ANC figures had been involved

"The ISHR has appealed to the ANC to be allowed to visit (prisoner) camps, but the ANC has even refused to answer simple inquiries" - Sapa

Goldstone may be asked to probe East Rand deaths

THE Goldstone standing commission on public violence and intimidation will be asked to probe East Rand massacres which have left at least 29 people dead and more than 30 injured since the weekend

Speaking to journalists yesterday, Inkatha Youth Brigade leader Themba Khoza said his organisation had information the ANC planned to attack "all areas known to be supportive of Inkatha"

Khoza said six people — including an eight-month-old baby — were killed and 20 injured last night when a group of 300 armed men carried out an attack on Zonkhezizwe squatter camp, near Vosloorus.

Witwatersrand police spokesman Lt Wikus Weber put the figure of the dead at four and of the injured at 13

"We have information that the group, which has the backing of the ANC's Umkhonto we Sizwe (MK) was the same one that attacked Crossroads squatter camp (in Katlehong)

WILSON ZWANE

on Friday," Khoza said

At least 23 people were killed and 16 injured in the attack on Crossroads squatter camp

Weber confirmed the police were investigating the link between the two attacks

Khoza said his organisation had also learnt that Katlehong's Kwesine and Soweto's Mzimhlophe hostels were among Inkatha strongholds which the ANC planned to attack

"To show its commitment to lasting peace, the ANC should disband the MK," he said

He added that his organisation would ask Judge Goldstone's standing commission on public violence and intimidation "soon to investigate the East Rand attacks"

ANC PWV spokesman Ronnie Mamoepa dismissed the allegations as "utter nonsense"

In another development Goldstone said yesterday his commission's committee of inquiry into the prevalent

violence on trains would start its work on May 4

The committee was formed in February to

- Establish the nature and causes of violence and intimidation,
- Whether it aimed at the achievement of any political goal,
- What persons were involved, and
- What steps should be taken to curb or prevent it

Meanwhile sources said yesterday plans were afoot to establish a dispute resolution committee in Alexandra, where 14 people had been killed and scores injured since last Tuesday

Alexandra Peace Group official Tony Rutherford said all interested parties, including local branches of Inkatha and the ANC, have met to discuss forming the committee

"Further discussions will be held later this month. But an interim crisis committee has already been formed to restore peace in the township," Rutherford said

Doctor's killers 'just ordinary robbers' - cop

Sowetan Correspondent

LIEUTENANT-COLONEL Henk Heslinga, the man who led the police investigation three years ago into the murder of Dr Abu-Baker Asvat, remains convinced that the killers had "nothing to do with politics or Winnie Mandela".

Heslinga, then a captain attached to the Soweto Murder and Robbery Squad, yesterday said he remembered Zakhele Mbatha (21) and Thulani Dlamini (20), as "plain tribal trust people who came from the farms to Soweto".

He was reacting to allegations by State prosecutor Mr Janne van der Merwe who said he believed Dr Asvat's murder was not "an armed robbery or murder, but an assassination".

Heslinga said "I'm convinced it was ordinary robbery. I'm hundred percent convinced".

He said intense questioning of both men had failed to produce any evidence of their alleged links to Mrs Mandela.

Heslinga said prior to one of their initial court appearances, one of the accused - he believes it was Dlamini - had made a confession that he had received R35 000 from Mrs Mandela, "but after thorough investigations we found the confession was not the truth".

The prosecutor accordingly did not use the confession in court, Heslinga said.

A later visit to the pair on Death Row reinforced his belief that they were common criminals.

"I gave them a last opportunity. I said 'come clean now'. Both of them told me separately that they stuck to their story - they were never involved with Winnie Mandela or politics."

Delport pleads guilty

50 meter
8/4/92

252

ALLEGED mass killer Kallie Delport yesterday pleaded guilty in the Ladysmith Magistrate's court to murdering nine people - including his father - in the town in January

In a one-page statement read out to the packed Ladysmith court by his lawyer, Mr J Randalhoff, Delport said he had "full intentions to kill" his victims on January 19

Delport said he had been fully aware of the consequences and unlawful nature of his actions, which left nine people dead and 19 injured. He offered no defence.

After Delport had announced his guilt, the magistrate, Ms Fatma Moolla, adjourned the court for 15 minutes to read a report compiled by psychiatrists at Town Hill Hospital in Maritzburg. Coming back to the court, she asked if Delport understood his plea and postponed the case to May 26.

A strong contingent of policemen kept watch over the crowd at the court and nine armed policemen stood guard inside the packed courtroom.

Delport is charged with murdering his father, Martiens, on their Aloe Park farm, over money his father had been paid for cattle.

He then allegedly killed a domestic worker and set fire to the farmhouse before driving to town.

On the way to Ladysmith, he is alleged to have shot the man who had bought the cattle and his herdboys, before going on a shooting rampage in the town.

The Black Cats' reign of terror

So wefan 8/4/92

252



THE Goldstone Commission yesterday heard how members of the Black Cats gang went on a terror campaign in Wesselton, near Ermelo, last year

A former member of the gang, referred to only as "Mr A", told the commission that the Black Cats carried out attacks against members of the community, especially those linked to the ANC

The commission heard that the gang was involved in a number of shootings in the area and also assaulted residents

"Mr A" told the commission that the Black Cats were responsible for the death of at least two people who had links with the ANC

He revealed the names of the gang members allegedly responsible for the death of a man only known as December - who stayed in the local municipal hostel - and Ms Zini Shongwe

One of the men allegedly responsible for the death of December told him earlier that they were going to see him (December) at the hostel

The man later told him that they had killed December

Concerning Shongwe, "Mr A" told the commission that he was present when the attackers were selected

The aim was to kill Shongwe's son, Bobolimi Bobolimi was not at home and the gang members decided to attack Shongwe and her companion

Asked why he did not inform the police about the Black Cats activities, "Mr A" alleged that the police were working hand-in-hand with the gang

He told the commission that he decided to reveal the Black Cats activities to a Johannesburg-based weekly newspaper as he did not like what the gang was doing

'Cats' gang 'terrorised township'

(252)
STAR 8/4/92
Pretoria Correspondent

The Goldstone Commission has heard how members of the Black Cats gang went on a terror campaign in Wesseltown near Ermelo last year.

The gang's activities were yesterday revealed by an 18-year-old former member, referred to only as Mr A.

Mr A told the commission the Black Cats attacked members of the community, especially those linked to the ANC.

He said the gang was involved in a number of shootings in the area.

He revealed the names of gang members allegedly responsible for the death of a man known only as December, who stayed in the local municipal hostel, and Zini Shongwe who were shot last year.

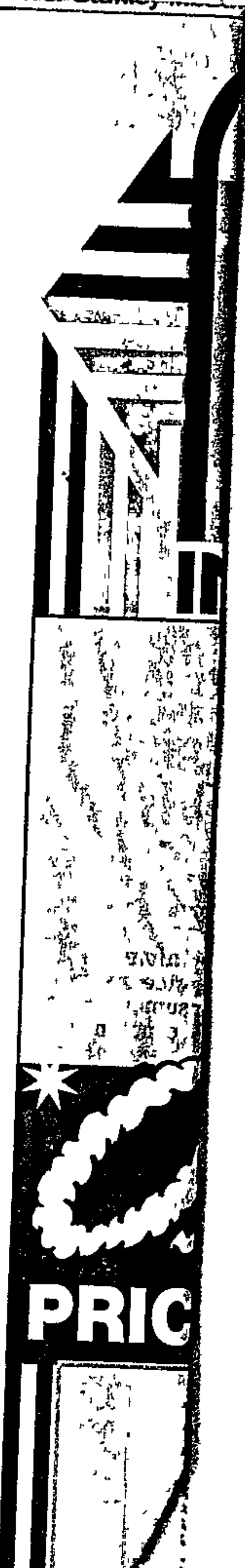
Mr A said he was there when gang members who were to go to Ms Shongwe's house were selected. The aim was to kill Ms Shongwe's son Bobolimi.

Bobolimi was not home and the gang members decided to attack Ms Shongwe and her male companion.

Asked why he did not inform the police about the gang's activities, Mr A alleged the police were working hand-in-hand with the gang.

The hearing continues.

y
d
s
d
ie
s-
at
ks
m
ss
y
or
n-
dr
ve
rs
er
a-
ng
00,
en
en-
te
fa-
m-
of
for
rg
on



'Gang paid for office fire'

Pretoria Correspondent

The offices of a Wesselton lawyer with ANC links were set alight on the instructions of a senior police officer, the Goldstone commission of inquiry has heard

The commission yesterday heard how Warrant-Officer van Zweek, instructed members of the Black Cat gang in Wesselton near Ermelo, to set the offices of lawyer, Mr Stephen Ngwenya, alight

The incident occurred after gang members were chased out of the township in 1990

A former member of the

gang — referred to only as Mr A — told the commission that Warrant-Officer van Zweek approached them while they were staying at the United Workers Union of South Africa offices

Warrant-Officer van Zweek gave them money for petrol and also offered them liquor and cigarettes

Mr A told the commission that three members of the gang volunteered to set the offices alight

The commission also heard Black Cat members were trained by Kwa-Zulu Police to handle firearms.

STAR 9/4/92

Rampage after 'KwaZulu training'

Pretoria Correspondent

252

The Goldstone Commission has heard how members of the notorious Black Cats gang in Wesselton near Ermelo went on the rampage after undergoing training in KwaZulu

Details of the Black Cats' activities were revealed yesterday by a former member of the gang, referred to as Mr B

Mr B told the commission that the Black Cats — backed by "a handful of graduates from the Caprivi Strip" — attacked ANC members and petrol bombed their homes and businesses last year.

The "Caprivi Strip gradu-

ates", who were from KwaZulu, frequently visited Wesselton

Mr B told the commission the attacks took place after the gang underwent training in the use of firearms in KwaZulu

The Black Cats were still carrying out attacks on residents in Wesselton and that the so-called "comrades" in the area were afraid of them

Another witness — referred to as Mr C, a former Inkatha member — said in a statement read before the commission he trained in Caprivi in 1986

The man, who has since joined the ANC, said he was approached by two Inkatha members in 1986 and asked if he was interested in joining the Kwa-

Zulu Police

Mr C told the commission that together with other young men, who supported Inkatha, he was flown to the Caprivi Strip where they spent the next few months undergoing training

They were supplied with camouflage uniforms and were given training in the use of firearms, explosives, and how to stage ambushes and launch attacks in urban areas.

Mr C said the men who trained them wore camouflage and some were known to them by their nicknames. It was not clear which defence force units they belong to as they did not wear badges or name tags

The inquiry continues

STAR 10/4/92

Ex-security cop guilty of murder

Sowetan 10/4/92 (252)

SAPA

FORMER policeman and security guard Lous van Schoor was yesterday found guilty on seven charges of murder and attempted murder and acquitted on 19 similar charges by an East London Supreme Court judge.

In a lengthy judgment, Mr Justice Lionel Melunsky found Van Schoor guilty of five murders, including that of 14-year-old boy Liefie Peters, and two attempted murders.

He was acquitted on 10 charges of murder and nine of attempted murder.

Van Schoor, a former security guard, had pleaded not guilty to 18 murder and 13 attempted murder charges.

He has been out on bail of R15 000.

Van Schoor ran his own company, Flash Security, in East London from 1984 to 1989 after a stint with Fidelity Guards and formerly with the South African Police.

In his testimony to the court last year, Van Schoor said in his capacity as a security guard he had

opened fire on suspected housebreakers in order to make arrests.

He had not intended to wound or kill them.

The prosecution followed a high-level investigation conducted by the office of the Attorney-General for the Eastern Cape, Dr Jan d'Oliveira, and a private investigation launched by human rights lawyers.

On November 27 last year 11 counts of attempted murder and assault against Van Schoor were withdrawn by the Supreme Court.

Judge: 'Tell why police are paroled early'

Own Correspondent

MARITZBURG. — It would be an evil day if the impression was created that imprisoned policemen were not made to serve their sentences in the same way as other offenders, Mr. Justice Thirion said here yesterday.

He said this in a reserved judgment in which he referred to two cases in which policemen served only a "fraction" of their lengthy sentences.

In one a policeman who had been sentenced to 27 years' imprisonment for murder and attempted murder had been released

after serving less than nine months.

In the other, two policemen whose death sentences for murder had been altered on appeal to 20 years' imprisonment had been released after serving three years.

When a policeman was released on special grounds before serving the "appropriate portion" of his sentence the Department of Correctional Services should give reasons.

Otherwise a mockery was made of the court's sentence, bringing the administration of justice and undermining public confidence in the ability of the court to see that

justice was done.

Mr Justice Thirion was refusing the attorney-general leave to appeal against sentences, from two to eight years, he had imposed on five policemen for murder.

There was no reasonable prospect of another court finding that the sentences were "so lenient or inadequate" that he could not reasonably have exercised his discretion, he said.

The accused were young men with no previous convictions and there was little likelihood that they would repeat the crime.

The sentences were long enough to express society's disapproval, but not so long as to cause them to lose the incentive to rehabilitate themselves.

Their motive, to prevent a man from laying a charge against them, while reprehensible, was less so than if they had killed for sadistic pleasure. They had feared prosecution, losing their jobs and adverse press publicity,

"The overall impression which they made on me was one of incomprehension and disbelief that they could have done what they did," Mr Justice Thirion said.

252

CS 10/4/42

NEW evidence of Inkatha leader Mangosuthu Buthelezi's links to men who were being trained by South African security forces at secret camps was led before the Goldstone Commission of Inquiry into Violence and Intimidation in Pretoria this week.

Two former "Black Cats" — once members of a pro-Inkatha gang still operating in the eastern Transvaal township of Wesselton, near Ermelo — faced a barrage of questions about their training and acts of terror.

Reference was often made to a *Weekly Mail* article in which "Mr A" and "Mr C" told of the gang's reign of terror and how they were encouraged, equipped and trained to carry out violence against African National Congress-linked targets by the security forces.

Giving evidence behind closed doors, Mr C said he was recruited to undergo extensive military training in the Caprivi after being recruited to join the kwaZulu police force.

He said his group had been told that they would be working for the chief minister and that Buthelezi himself had been introduced to the trainees on their return from the Caprivi.

Mr C said in his evidence this week that he was approached by two Inkatha organisers in January or February 1986. One of them, Thomson Xesibe, was at that stage a member of the kwaZulu police while the other, Mtwé Mofolo, was an Inkatha Freedom Party Youth Brigade organiser.

"They asked me if I would be interested in joining the kwaZulu police. They told me they were looking for people whom they knew and trusted and who had worked for Inkatha. They did not tell me where I would be trained. They told me I would be trained as a policeman."

The next morning he went to the Inkatha offices in Ulundi, as instructed, where he met Xesibe and Mofolo.

The same day they were taken to Nhlungwane, which is a camp site used by Inkatha members when they have rallies.

"Xesibe told the assembled youths that we were to be trained as kwaZulu policemen. Mofolo and a Mr Sibanda would talk to us about the IFP and the importance of Inkatha as an organisation. They also talked to us about the IFP constitution."

One evening the trainees were told they would be leaving the camp the next day but were not told where they were going to.

The next day they flew out in a green coloured plane to a camp in the Caprivi. There were approximately 100 trainees under the leadership of Daluxolo Luthuli, who was known as "the Commissar" and people with problems could go to him.

"He also participated in instructing us on the use of firearms, explosives and he lectured to us on the Inkatha constitution."

Mr C added "He would also talk about the ANC when giving lectures on the Inkatha constitution. He used to say that when he was with the ANC he was

'sold out' by members of the ANC."

"Right from the beginning we were divided into four platoons. Each platoon had its own instructor. All our instructors wore camouflage uniforms. At no stage did any of them give us any details about their real identities or who they worked for." The uniforms had no insignias or badges.

"The main part of our training involved instruction in the use of weapons which included the AK-47, the Uzzi, the G-3 and hand weapons such as the Browning pistol and Tokarev."

When they returned from the camp they carried on with part of their training and one day were told they were going to be working for the chief minister by a Mr Swart from Pretoria.

Approximately four days later Buthelezi came to the farm with Makhele Khumalo — his former personal aide.

"We were introduced to Chief Buthelezi as a group. He said to us that he was grateful to meet us. We were allowed to go home for two weeks and instructed not to tell our families where we had been."

Mr A told the commission the Black Cats had been instructed by a senior police officer, a Warrant Officer Van Zwiell to set alight the offices of Steve Ngwenya, an ANC attorney, during August 1990.

At the time the gang was sheltering in the offices of the United Workers' Union of South Africa (Uwusa) — Inkatha's trade union wing — after being chased out of the township.

Three members of the gang volunteered to do the job.

Mr A said Van Zwiell later gave them money for petrol and offered liquor and cigarettes.

He said he was not aware of any white policeman that had helped orchestrate a string of murders in the township, as mentioned in a *Weekly Mail* article in January, but that a number of acts — assaults, attacks, arson — "orchestrated by the police were not brought to court."

Gang members were taken from the Uwusa offices to Ulundi in minibuses, one of which was driven by a person Mr A only knew as "Da" or David, whom he believed to be a kwaZulu Police (KZP) member.

The gang stayed in Ulundi for approximately two months, where some Black Cats received weapons training.

Later, the gangsters were transferred to a Mkuze camp where a select group of about 22 were put through an intensive course in how to shoot with AK47s and 9mm handguns.

Mr A said he had received weapons training at Amalgulu camp later. The group returned to the township in March 1991.

Asked why he didn't inform the police about the gang's activities, Mr A alleged the police were working hand-in-hand with the gang.

He said he stopped going around with the Black Cats in January 1992 and then went to *The Weekly Mail* with information that he had about the gang.

The hearing continues on Monday

Buthelezi

pleased
to meet

Caprivi
trainees

Two former members of the
pro-Inkatha gang of the
Goldstone Commission of Inquiry

week of their training, attacks
and meeting Inkatha leader

Man reported by
LINDA RULASHE

Chaos as 198 men appear in court

THE Pretoria District Court had a marathon sitting on Wednesday night when 198 members of the Construction and Allied Workers Union appeared in connection with a charge of ignoring a Supreme Court order.

The men, all former employees of Sabrix, a brick manufacturing company, were fired by the company after staging a strike a few days ago

They were arrested late on Tuesday after the company's managing director, Mr Joseph Robbertse, had obtained a Supreme Court

order against them

This was after the men had earlier refused to leave the hostel, owned by Sabrix, at Boekenhoutkloof and Zandfontein

The men filled the public gallery as court workers tried to clear paperwork

This forced the court to sit until about 6 30pm

Two magistrates, a prosecutor, two interpreters, 25 policemen and clerks had to remain at work until the case had been dealt with

Magistrates Mrs C Walker and Mr M van der Spuy had to stay even longer as they signed the 198 warrants authorising the granting of the R100

bail set for each of the men
Preparations and paperwork for the case began at 10 30am The accused were brought to the courts at about 2 30pm

In between, State prosecutor Mrs MJ van Heerden and the policemen checked, rechecked and wrote out the charge sheets

Sovetan 10/4/92

252

1500

'Black Cats' reign of terror

Sowetan 10/4/92

(252)
(278)
(283)

THE Goldstone Commission yesterday heard how members of the notorious "Black Cats" gang in Wesselton, Ermelo, went on the rampage after undergoing training in KwaZulu.

Details of the gang's activities were revealed by a former member of the gang, who is referred to as Mr B.

Mr B told the commission that the "Black Cats", backed by "a handful of graduates from the Caprivi Strip", attacked ANC members and petrol-bombed their homes and businesses in 1991

The "Caprivi Strip graduates", who were from KwaZulu, frequently visited Wesselton

Mr B told the commission the attacks took place after the gang underwent training in KwaZulu in the use of fire-arms

The commission heard that the "Black Cats" were still carrying attacks on residents in Wesselton and that the so-called "comrades" in the area were afraid of them

Another witness - referred to only as Mr C and a former Inkatha Freedom Party member - said in a statement read before the commission he had been trained in the Caprivi Strip in 1986

The man, who has since joined the ANC, said he was approached by two IFP members in 1986 and asked if he was interested in joining the KwaZulu Police.

As it was always his aim to be a policeman, he indicated he was interested.

Mr C said he and other young men, who were supporters of the IFP, were flown to the Caprivi Strip where they spent few months undergoing training

They were supplied with camouflage uniform and were given training in the use of firearms, explosives and how to stage ambushes and launch attacks in urban areas Mr C said the men who carried out the training also wore camouflage uniform

It was not clear which defence force units the men belonged to as they did not wear any badges or name tags



Justice's concern over judges

(252)
POTCHEFSTROOM. — South Africa's Chief Justice, Mr M M Corbett, said yesterday he was very concerned that the country's judiciary was dominated by white men

"I would dearly love to see the imbalance rectified, but unfortunately I see no quick and ready solution."

He said he planned to begin a scheme for judges to "extend or refresh" their knowledge of specific branches of the law

Mr Justice Corbett was opening an international conference on a future Bill of Rights in

et 11/4/92
South Africa at the University of Potchefstroom.

The conference, attended by about 130 delegates, mainly lawyers, was organised jointly by Lawyers for Human Rights and the university's Department of Applied Legal Studies.

Mr Justice Corbett referred at length to the Law Commission report of last year and its proposal for the formation of a constitutional court with two chambers: General and constitutional.

"My personal view . . . is that the proposals have much to recommend them."

Mr Justice Corbett said one of the reasons mentioned by the Law Commission for a constitutional chamber was that as South African judges were almost entirely drawn from the white group, — "and because it is likely to remain that way for the foreseeable future" a large part of the population would not have confidence in the constitutional decisions of a court composed of such judges.

"A constitutional chamber . . . could, however, draw on other groups for its membership." — Sapa

Phola Park: Yes to probe

DEFENCE Minister Roelf Meyer will ask the Goldstone Commission to investigate the violence in the Phola Park squatter camp on the East Rand

Mr Meyer's announcement came after his meeting yesterday with the residents' committee and members of the ANC in Phola Park, three days after soldiers of 32 Battalion allegedly rampaged through the squatter camp, shooting, beating and raping residents

He said he would ask the Goldstone Commission to probe all violence in the settlement, including the most recent events

Residents had laid charges of rape and assault against members of 32 Battalion and police were investigating the allegations

By PETA KROST

"The army will co-operate fully," he said. He said that 32 Battalion would not be withdrawn from the area. However,

MIDNIGHT MADNESS

Page 5

the soldiers allegedly implicated "would be withdrawn from the area until the investigation is over"

The SADF, he said, would also conduct an internal investigation into what happened on Wednesday night

"The results of our inquiry will be presented to the police," Mr Meyer said.

This was the first time since the troops were deployed in the area in April last year that their conduct had been questioned, he said.

"Since then the general situation in Thokoza township has calmed down a lot

"We are proud of our soldiers and we want to make sure that the public is too," Mr Meyer said.

He appealed to all relevant institutions to help upgrade the conditions in Phola Park, which he said were "unacceptable"

"We will do whatever is necessary to rebuild a good relationship with the Phola Park community"

Killing: couple in court

S/Times 12/4/92
By SHARON CHETTY



KEN FINLAY outside the court this week
Picture: ROB HADLEY

A WHITE couple who allegedly beat a black man to death after their dog mated with his bitch appeared in court on murder charges on Friday. The case against Ken and Lynn Finlay was postponed during a brief hearing at the Vereeniging magistrate's court to May 12 for further police investigation and a decision by the attorney-general

Construction worker Molatudi "Lawaa" Lebeta, 58, was allegedly assaulted by the couple, an unidentified woman and three men last Christmas.

DENIED (252)

He was allegedly attacked with a sjambok and baton by the Finlays after they objected to his "kaffir dog" mating with one of their dogs.

Mr Lebeta died of injuries to his abdomen the next day in Baragwanath hospital.

The Finlays, who live on a smallholding in Elandsfontein, south of Johannesburg, pleaded not guilty to murder charges at a previous hearing.

They also face a civil suit of R50 045 brought by Mr Lebeta's common-law wife, Mrs Maria Kutoane, for loss of support, medical expenses and emotional suffering.

Judge rejects urgent application

SUPREME Court Judge WP Schutz has rejected an urgent application by suspended Diepmeadow director of housing Jooste Mothapo to prevent City Press publishing details of his alleged involvement in land allocations in Zone 4 Diepkloof

Mothapo and Sibongile Mazibuko, suspended legal adviser to the council, brought an urgent application in the Rand Supreme Court on Friday April 3, asking Judge Schutz to order City Press not to publish further reports naming them as officials involved in the allegedly fraudulent land deals in Zone 4

They claimed that City Press reporting of charges laid against them and other council officials by the council was defamatory

In his ruling denying the application, Judge Schutz said the courts must be loathe to stop the press in what he regarded as its duty to uncover corruption

He said corruption was prevalent and persons in public office who found themselves under fire simply had to bite the bullet and in due course recov-

er damages.

Schutz found there was no basis for urgency and that Mothapo's founding affidavit had been prepared in late March, but only brought to court on April 10

Mothapo and Mazibuko argued that by reporting that the council had laid charges against them, City Press had defamed them. They argued that "laid charges against" led the public to believe they were to be charged in court.

The judge found that it was not defamatory to say that charges had been laid with the police, and that the man in the street understood that charges were laid with the police to commence an investigation.

Costs were reserved pending the applicants bringing any action within 21 days

Since commencing the action to silence City Press, Mothapo and Mazibuko have been suspended from their jobs in the council.

A special council meeting on Wednesday suspended them pending the outcome of an investigation by the TPA into allegations of corruption and mismanagement in the council.

Holomisa defends MK, Apla

LIBERATION movements should ignore calls for the dismantling of their military wings, Transkei ruler Major-General Bantu Holomisa said in Umtata this week

Holomisa was addressing a seminar on the integration of military forces in SA, attended by senior officers from the defence forces of SA, Ciskei, Transkei, Venda and Bophuthatswana and members of the ANC's Umkhonto weSizwe and the PAC's armed wing Apla

"The call for the dismantling of the military wings of the liberation movements must be ignored. All must concentrate on the establishment of the interim government which will level the ground for the Constituent Assembly elections," he said

"When a new govern-

ment has been installed, serious talks about the integration of the armed forces can begin in earnest"

While deliberating on the future of the armed forces, all armies should brace themselves for the possible dispatching of an international peace-keeping force. Because, should Codesa participants agree on this, no rumblings of opposition would be tolerated from any quarter of the armed forces

Holomisa said the dominance of one group in the military forces did not augur well for the future stability of a democratic government, as that group could be tempted to act against the wishes of the majority.

"To reverse this odd situation, it is imperative that the system of recruiting presently employed

by the SADF be abandoned in favour of one encompassing the entire nation.

"If SA aims at being a stable society, the volunteer system should be embarked upon. This will lead to the emergence of a highly professional and efficient army," he said.

"We have reached a stage when foes have to fuse into a new force and forget the past with its rhetorical baggage. This requires the formulation of a new military tradition."

There was an urgent need for all forces to agree on an identified country to provide advanced training

The present SA government should offer an early retirement "package deal" to "securocrats" — Enews

'YOU SHREWD

KILLER'

SENTENCING of multiple-killer security guard Sybrand Lodewickus 'Louis' van Schoor, 39, was postponed for two months until June 15, in the East London Supreme Court this week.

Justice Lionel Melunsky said the postponement was "highly undesirable," but he understood the expert witness, a criminologist, needed time to prepare.

Despite strong opposition from the State, the court extended bail of R15 000 for the former policeman, who was found guilty of seven counts of murder and two counts of attempted murder.

Van Schoor's employer Edward Richards told the court that despite the fact that Van Schoor still believed that what he did was "right at the time", he did not believe he would not try to flee.

Judge (252)

C/Pres 12/4/92

rips off

guard's

'veneer'

of lies

Bail conditions now require Van Schoor to report to the police daily, except on Sundays.

A self-employed security guard contracted to various companies, Van Schoor followed up silent alarms triggered by burglars at business premises.

In some cases, he claimed protection from prosecution in terms of Section 49 of the Criminal Procedures Act,

which deems an arrest to be justifiable homicide in certain circumstances.

In his seven-and-a-half-hour judgment, the judge acquitted the father of six on 12 counts of murder and 11 counts of attempted murder.

Judge Melunsky said the onus rested on the defence in these instances to prove Van Schoor's actions met the requirements of Section 49.

Where Van Schoor pleaded self-defence - in terms of which he was empowered to use force if necessary to repel an unlawful attack - the onus rested on the State to prove beyond reasonable doubt that his actions were not reasonable.

Where, in a number of cases, the court found the evidence of state witnesses - many of them people who had been shot by the guard - unsatisfactory, Van Schoor was acquitted. This was in spite of concern over Van Schoor's version of events, or his conduct.

On several occasions Justice Melunsky voiced disapproval of Van Schoor's apparent propensity to shoot at torsos of suspects and to shoot at fleeing suspects more than once.

He remarked at one point on Van Schoor's apparent disregard for the sanctity of human life.

Assessing Van Schoor's evidence, the court noted that although many counts related to events of years ago (between 1986 and 1989), he did not seem to have difficulty in recollecting events or instructing counsel.

Van Schoor was observed to possess an innate shrewdness and an ability to adjust his evidence to suit the circumstances of each count.

He said: "After observing him closely for a number of days, we are convinced that the appearance of plausibility is often a veneer which, when penetrated, reveals a lack of candour and, sometimes, evasiveness."

Judge Melunsky also noted Van Schoor's willingness to enter premises, confront suspects and to shoot using hollow-point bullets without warning.

He said Van Schoor's background, including the fact he spent 12 years in the police force, suggested he could "hardly contend that he thought he was protected by Section 49". - Sapa, Enews

Back to school for judges

CP 12/14/92
SOUTH AFRICA'S
Chief Justice MM Corbett said this week he was concerned that the country's judiciary was dominated by white men.

"I would dearly love to see the imbalance rectified, but unfortunately I see no quick and ready solution."

He planned, though, to begin a scheme for judges to "extend or refresh" their knowledge of specific branches of the law.

Judge Corbett was opening an international conference on a future Bill of Rights in SA at the University of Potchefstroom.

The conference, attended by about 130 dele-

gates, mainly lawyers, was organised jointly by Lawyers for Human Rights and the university's Department of Applied Legal Studies.

Judge Corbett said: "We in this country stand on the threshold of a new constitutional era."

He said this era was likely to be "characterised by a written constitution providing for a truly democratic system for all the peoples of SA and containing a Bill of Rights which will help to ensure the existence of a just and open society."

He hoped that the new era would see the elimination of racial and all other forms of discrimina-

tion, the recognition of equality of opportunity before the law, and the protection of all the other individual rights and freedoms which are in this modern age regarded as being indispensable to the health, wealth and happiness of mankind."

He was more confident after the "Yes" vote outcome of the March 17 referendum.

"The momentous decision taken by white South Africans ... has not only set the correct course, but has also given immeasurable impetus to the process at Codesa.

"No doubt there is quite a long way to go."

- Sapa.

Advocate 'in kennel' to sue

By MARTIN NTSOELENGOE

TWO policemen who allegedly bundled a leading Soweto advocate into the dog kennel in their police-car could find themselves in the dogbox if a civil claim goes against them.

Advocate Nkola John Motata is suing the Minister of Law and Order for R65 000 after his acquittal on a drunken driving charge this week.

Motata said he was put in a dog's kennel, assaulted and called a "kaffir" who was pretending to be an advocate.

Motata, 44, of Mapepetla, Soweto, who filed his R65 000 claim before his case was brought to court, claims he was put in a dog's kennel in the police car, assaulted and called a "kaffir advocate" while being driven to the district surgeon for alcohol blood tests.

He was found not guilty on a count of driving while under the influence of liquor, reckless driving and alternatively driving a car while his blood alcohol content was over the legal limit of 0,08 ml.

In acquitting Motata, magistrate H Visser said evidence by the two policemen could not be relied on.

"There were contradictions and exaggerations by sergeants J Cey van Pittius and BS du Toit.

"Sergeant Van Pittius said Motata's car zig-zagged a number of times on the road, while Sergeant du Toit said the car swerved only once."

While they had both said Motata had blood-shot eyes, his vision was blurred and his speech slurred, the district surgeon found very little wrong with him.

The doctor had also testified that Motata's blood pressure and pulse was normal, although his dress was in a mild state of disarray.

Defence counsel A



ADVOCATE HAS HIS DAY Nkola Motata after his acquittal.

Mendelow QC, argued that Motata's clothes were a little rumpled because he had travelled from Pretoria to Johannesburg.

The magistrate said he accepted that Motata's eyes were slightly red for reasons unrelated to alcohol consumption.

Motata told the court that on February 17 last year he was returning from a funeral in Pretoria when stopped by the police at the Orlando East and Diepkloof boundary. He had consumed three beers that day.

He said a vehicle had flicked its lights at him — a signal to dim his brights, but his lights only worked on bright.

He pulled over to the side and stopped as a safety precaution and saw that the oncoming vehicle was a police car.

Two officers, from the Langlaagte Dog Unit, told him he was under arrest for reckless driving and being drunk at the wheel.

When he told the officers he wanted to drive in his car, they started assaulting him.

He said he was then forced to sit in the dog cage in the patrol car and driven to the Langlaagte Police Station.

At the station he was called a "dronk kaffer" who was pretending to be an advocate.

MAN

SYBRAND "LOUIS" VAN SCHOOR's convictions are for the following murders:

● Count 17, April 26 1987: Thembesile Sambato, shot in the vicinity of Marley Sales, Magnolia Road. Mr Sambato died of a bullet wound which damaged his left lung and heart.

The court found that Mr Sambato was not trying to escape when shot and that Van Schoor's version of the events was a lie

● Count 21, July 26 1987: Edward Soenies shot when Van Schoor found him "trespassing" on the premises of Simba Quix in Magnolia Road on a Sunday afternoon

● Count 25, July 14 1987: Mbulelo Masiza shot inside the Stirling High School Mr Masiza sustained three wounds, two in the chest.

The court rejected as a fabrication Van Schoor's contention that he shot Mr Masiza in the chest while he was running backwards along a corridor.

● Count 29, July 11 1988: Liefie Pieters, 12, and a 16-year-old companion found by Van Schoor inside a Wimpy Bar on the Esplanade. He shot and killed Liefie, claiming the two had attacked him with knives. Mr Justice Melnsky condemned the shooting of a child and found that Van Schoor had claimed to have been injured by one of the two teenagers to justify having shot boys of that age.

"It is quite clear the accused knew they were children ... we doubt (the boys) stabbed the accused or tried to do so."

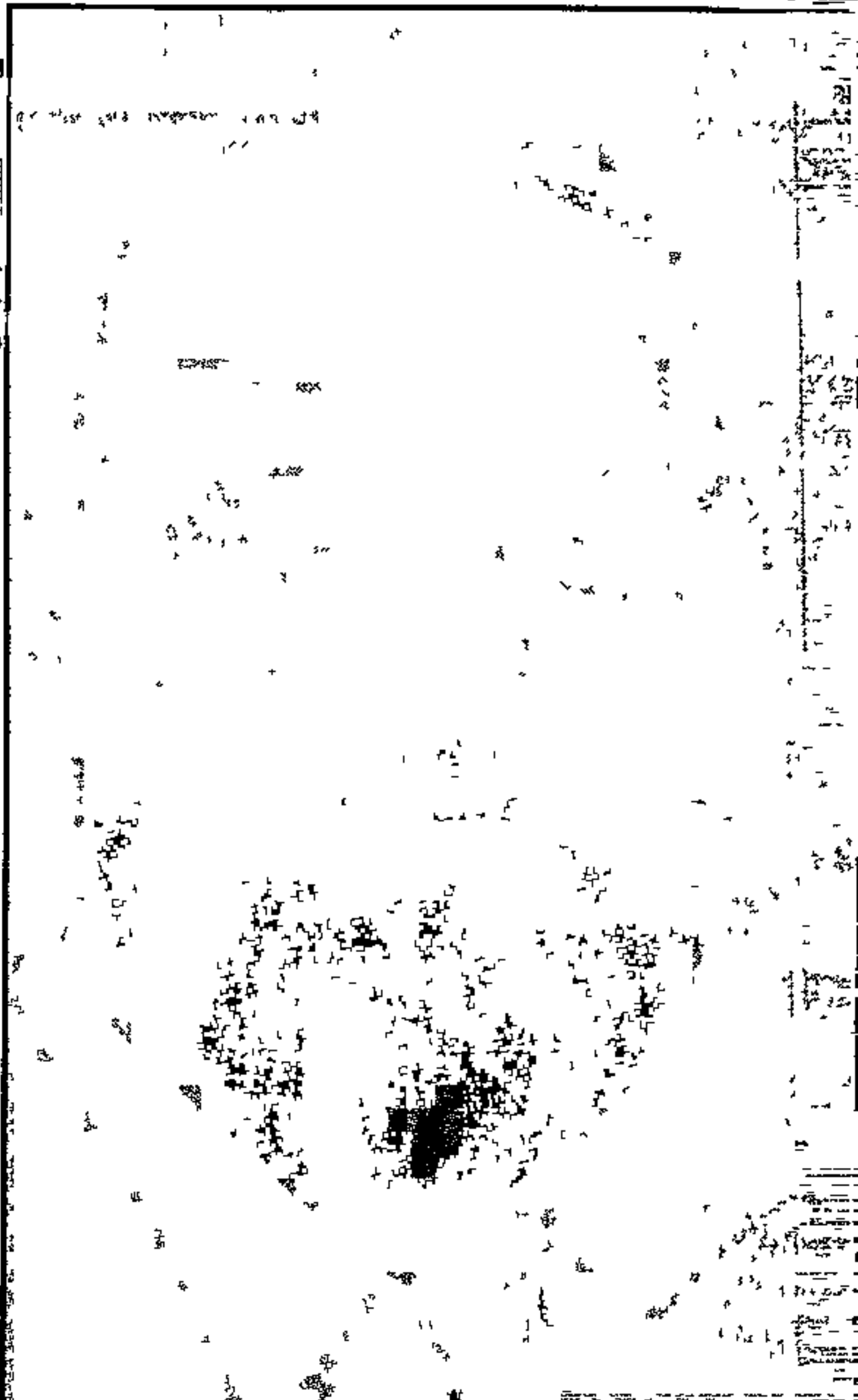
Testifying on what happened that night, John Swartbooi, 16, said he and Liefie had scaled a wire cage which housed gas bottles to break into the Wimpy Bar

The boys found the till empty. Swartbooi, whose demeanour in the witness box was described by the judge as "impressive", saw a torch light outside and the youths ran from the restaurant section and hid

About 10 minutes later, the toilet door behind which he was hiding was kicked open and Van Schoor told him: "Bushy, come out." He did so and was joined by his young friend.

He claimed Van Schoor ordered them to turn around and face the sea. He was then shot three times. Twice he heard Van Schoor telling him to "get up". He did once but couldn't the second time and then he lost consciousness.

He spent two months in hospital. Liefie Pieters died of a single bullet wound in the back which fractured a rib and penetrated his liver.



GUNMAN ... Louis van Schoor, killer of 41 peo

GRIM DOSSIER OF KILLER GUNMAN

S/Times 12/4/92

The court dismissed Van Schoor's account of an apparent scuffle inside the restaurant, calling him an astute person with a nimble mind who had the opportunity to arrange the scene if he wanted to.

● Count 37, January 29 1989: Ntozeliziwe Paliso shot on the premises of National Food Distributors in Wilsonia.

The court found Van Schoor had made no attempt to shoot at the lower part of Mr Paliso's body.

● Count 38, April 23 1989: Sontica Casamba shot inside Perks (Amper) Sons Auctioneers in Caxton Street. The court rejected Van Schoor's version of this incident as manufactured and false.

● Count 40, May 28 1989: Nkosiyabo Ntsiniso, shot at the premises of Mike's Tavern, Marina Glen, East London. Van Schoor had fired one or two shots at the fleeing man, who was only seven or eight paces from him. Mr Ntsiniso was hit twice.

The attempted murder convictions are: Count 14, January 18 1987: Bongani Mila, shot after breaking into a house in Vincent Gardens. Van Schoor saw Mr Mila inside the house and fired at him from outside.

Count 30. John Swartbooi, 16, wounded during the Wimpy Bar incident

Van Schoor — who will be sentenced on June 15 — had pleaded not guilty to 19 murder and 21 attempted murder charges.

WHO GOT AWAY WITH MURDER

POLICE hailed him as "a bloody efficient security guard". A court prosecutor said East London needed more like him. Give him a medal" suggested a member of the public. Bumper stickers proclaimed: "I Love Louis."

But on Thursday, Mr Justice Melunsky found that former policeman Louis van Schoor had an "apparent disregard for the sanctity of human life" and was "not a respecter of truth".

Van Schoor, a high school dropout, joined the SAP at the age of 16 and remained a constable for almost 13 years before quitting to become a freelance burglar-alarm investigator.

Quickly earning himself a reputation in the business, Van Schoor opened Fish Security in 1985.



At that stage he had killed twice — once as a policeman in 1978 and again in a neighbour's farm in 1983.

But on May 9 1986, shortly after being awarded a R10 000-a-month contract to investigate silent alarms, his firm was a killer started with the death of housebreaking suspect Wankiso Boy Jack behind a clothing store. By the end of October 1989, Van Schoor's victims numbered 41. Thirty-nine were shot dead in the space of 30

SPECIAL REPORT by DOMINIC JONES and BILL KRIGE

STEWARDS 12/4/92
months — an average of one every three weeks.

Investigators say Van Schoor, 40, married four times and the father of six children, also wounded at least 64 others. All his victims were black, at least five no older than 16, and one man was in his 60s.

By contrast, security companies in larger centres reported that if one of their guards killed once in his career, it was a lot.

Customarily dressed in shorts and a T-shirt, Van Schoor always carried a gun, sometimes loaded with deadly hollow-nosed bullets. Faced with a fleeing suspect, he never hesitated to draw his firearm.

He never fired warning shots. As a policeman, he had been trained to aim low. But, as a security guard, his victims were mostly hit in their upper bodies. Often, he shot them more than once and, in at least three cases, more than six times.

After each shooting, Van Schoor would summon the police — usually members of the CID. He knew most force members in the city.

Of the hundreds of policemen who carried out initial investigations into the Van Schoor shootings, only one

appears to have done a thorough job.

The others admit they never treated Van Schoor as a suspect in a possible crime, despite the fact that people were killed. Police officers often showed disregard for the lives of the victims. One has admitted that he did not bother to check if two of Van Schoor's victims were still alive because he did not want to dirty his uniform. The men died.

Police did nothing to test Van Schoor's version of events, which was either that he had fired in self-defence or that he was forced to shoot to prevent the suspect escaping arrest.

EVIDENCE

According to evidence, Van Schoor's statements about what had occurred were often not compiled according to procedure and not made under oath.

Yet on the basis of these unlawful, scanty and unchallenged statements, inquest court magistrates cleared Van Schoor of culpability, without ever placing him under oral examination.

Even after scores had died by his hand, magistrates never saw fit to call him to explain his actions. There has been evidence that survivors claimed as early as 1987 that Van Schoor had attempted to murder them. Their claims fell on deaf ears. Evidence has also been heard that

throughout Van Schoor's killing spree, he was never criticised or even cautioned by a single policeman, court official or magistrate.

But it was the disturbingly high number of people killed that prompted former East Cape attorney-general Dr Jan d'Oliveira to launch an investigation of all 41 killings and 64 shootings. That investigation, preceded by a wave of press reports almost three years ago, bore fruit this week when Van Schoor was found guilty of seven murders and two attempted murders. He was acquitted of 23 other charges.

On most of the counts, Van Schoor based his defence on Section 49 (2) of the Criminal Procedure Act, which allows the shooting of suspects who are trying to flee the scene of a serious crime if there is no other reasonable way to prevent escape.

Mr Justice Melunsky said Van Schoor was "experienced in giving evidence and sufficiently well-versed in the law and intelligent enough to appreciate the niceties of this case".

Outside the court, the 1,88m-tall, powerfully built Van Schoor dodged a small crowd of mainly black onlookers gathered near a bakke sporting a rear window sticker bearing his portrait and the words "I Love Louis". The court noted factors concerning Van Schoor's conduct brought to its attention by the prosecution, including

his apparent failure to contact the police at the earliest opportunity at break-ins, his willingness to enter premises and confront suspects; the fact that he was not averse to using hollow-point bullets, his propensity for firing shots in rapid succession, and his usual failure to fire a warning shot.

AMBIT

Mr Justice Melunsky also commented on the defence's submission that, except in one count, Van Schoor's conduct was not queried, that he was never told he had acted incorrectly and had thus deemed his actions lawful.

He said Van Schoor's background, including the fact he spent 12 years in the police force, suggested he could "hardly contend that he thought he was protected by Section 49".

It was true his actions were hardly ever queried, but as far as the court could judge this was because, in his statements to the police, Van Schoor had attempted to bring himself within the ambit of a legitimate and legal defence. There was not a shred of evidence to suggest Van Schoor misunderstood the legal position or that he had thought he acted correctly. Van Schoor's bail of R15 000, was extended until sentencing, which was postponed pending a criminologist's report in mitigation.

Key trial records 'still intact'

By GUY OLIVER

THE Ministry of Justice has denied any records of "historical importance" had been destroyed since the 19th century after the ANC this week called for a halt to the destruction of trial records

In a statement the ANC said it was a regular procedure to destroy records after five years and called for a moratorium on their destruction "until such time as their historical merit has been independently ascertained"

ANC Western Cape assistant secretary Mr Willie Hofmeyr said South African history was seen from a white perspective and trial documents would contribute to the "re-writing of our history" to include all South Africans

'Duplicated'

Without an accurate record of history, "it will leave us open to real distortions" in the future, he said

The Department of Justice spokesman said he failed to understand the ANC's concern

He said the department "was not aware of any record of a trial of any importance since the 19th century being destroyed without it having been duplicated during legal research or reported in the official law reports"

The records remain accessible to the public and researchers, he said

Judge wants racial imbalance rectified

THE Chief Justice, Judge M Corbett, has expressed concern about SA's judiciary being dominated by white men — but has ruled out "positive discrimination" as a way of bringing about a different racial mix

8/10 am 13/4/92
Speaking at a conference on SA's Bill of Rights at the University of Potchefstroom at the weekend, Corbett said he would dearly love to see the imbalance rectified "But unfortunately I see no quick and ready solution"

The two-day conference was organised by Lawyers for Human Rights and the university's applied legal studies department

Judging was not an easy task and required a blend of experience and a range of abilities, said Corbett

"It will inevitably take time before suitably qualified men of other race groups and women of all race groups are available for judicial appointment," he said

The problem was not unique to SA, and he quoted a notice by the Lord Chancellor of England, Lord Mackay of Clashfern,

TIM COHEN

who stated that he appointed candidates who seemed qualified to fill judicial posts, regardless of party, sex, religion or ethnic origin

Lord Mackay said although he would like to see more women and more members of other ethnic groups on the bench, there were not enough candidates from these groups who were suitable for appointment

"Nothing would be worse for the reputation of the judiciary in this country than for me to lower the standards for appointment to the judiciary simply to ensure a different racial or sexual mix," said Mackay

"It is worth stressing that it is not a function of the judiciary to be representative of the population as a whole. What is important is that judges should be appointed from among those best qualified to do the job and that they should be appointed on merit alone"

In 10 or 20 years' time the British Bench should look very different in terms of racial and sexual composition, said Mackay

Affirmative action 'must be legalised'

8/10 am 13/4/92
AFFIRMATIVE action, applied by law under a new constitution, would be a major guarantee that majority rule operated fairly to the benefit of everyone, ANC constitutional affairs committee member Albie Sachs said on Friday

Speaking at a conference on a Bill of Rights for SA at Potchefstroom University, Sachs said the inequalities produced by racist legislation would not go away simply because the laws

SUSAN RUSSELL

which enforced them had been repealed

The main beneficiaries of affirmative action would undoubtedly be those who had suffered most under apartheid

However, affirmative action should not be seen as a punitive or retributive measure against those who benefited from apartheid, nor should it be seen as being "anti-white"

"At the same time," said Sachs, "the whites cannot use the principles of non-racism to enable them to hold on forever to the 87% of the land which they obtained by racist methods"

"Nor are they entitled to monopolise for all time the commanding heights of business, and the foothills as well"

Whites would have to forgo their privileged status as the beneficiaries of government policies

'White male obstacle' to rights bill

STAR 13/4/92

By Michael Sparks

252

The existing make-up of the judiciary — being predominantly white and male — was a stumbling block to any future bill of rights, Chief Justice Michael Corbett said in Potchefstroom last week.

Opening a conference on the interpretation of a future bill of rights for South Africa at Potchefstroom University, Mr Justice Corbett said this had prompted a Law Commission report to recommend a constitutional chamber, which would help overcome the problem.

There is no "quick and ready solution", he said "It will inevitably take time before suitably qualified men of other race groups and women of all race groups are available for judicial appointment I may say this is not a problem which is unique to South Africa"

But he added that while the need to diversify the Bench was more urgent in South Africa, "the dangers of an undue lowering of standards are manifest"

"It harms not only the administration of justice in general, but also the person concerned himself if he finds, and others find, that he is not up to the job"

Mr Justice Corbett said there appeared to be general consensus among the parties at Codesa concerning the principle of a bill of rights and many of the provisions it should contain

He spoke of three advantages of a bill of rights in South Africa, and said these became clear in the light of

what had happened elsewhere in the world

"The first is that our bill of rights is a modern instrument, fashioned by the South Africa of today. We will thus, to begin with at any rate, be spared the fundamental differences of approach which have divided constitutional lawyers in the US in regard to an instrument that is in substance 200 years old," he said.

The second advantage was that those entrusted with interpreting the bill would have "an instrument which sets forth specifically and in some detail the various rights and freedoms which are to enjoy protection"

The third advantage stemmed from the late creation of a bill of rights "Modern bills of rights have much in common, and it seems likely that many of the provisions of the future South African version will be founded upon, or at least bear close resemblance to, corresponding enactments in other parts of the world," Mr Justice Corbett said

The Law Commission report recommended that all citizens of the country over the age of 18 be allowed to vote, regardless of race or colour, "a universal norm, without which the bill will have no credibility or legitimacy"

The South African Government had not reacted favourably to notions of a bill of human rights nearly two decades ago because "the policy of apartheid represented the antithesis of the fundamental values normally enshrined in such a bill of rights", Mr Justice Corbett said

Commission told of threats

252

Sowetan Correspondent

KWAZULU Police recruits who underwent training in the Caprivi Strip were warned that they would "catch the first bus" if they divulged details concerning their training, the Goldstone Commission was told yesterday.

Sowetan
Mr Vitalis Mncunu, a former special constable attached to the KwaZulu Police, told the commission that the warning was issued by a Captain Langeni and a senior Inkatha official.

14/4/92
Asked what Langeni and "Mashwabane" meant when they issued the warning, Mncunu said this meant that

whoever divulged information concerning the Caprivi Strip training would be killed

Mncunu, who is in custody after being arrested for the murder of two men in Pinetown in March this year, told the commission that he was afraid of the two men, especially Langeni

He said he was recruited by the two after he was charged with the murder of another man, Mr Itoto Dlamini in 1987.

He was taken to Mkuze and later to the Caprivi Strip where he underwent training

Buthelezi's assistant 'paid hit-squads'

W/Mail 16/4-23/4/92

THE former personal assistant to Chief Mangosuthu Buthelezi — MZ Khumalo — was actively involved in paying the salaries of the 200 ex-Caprivi trainees and spiriting away those sought for murder by the South African Police

These startling details came to light this week at the Goldstone Commission, currently hearing evidence on *The Weekly Mail's* allegations regarding Inkatha hit-squads

In his testimony before the commission, ex-Caprivi trainee Vela Mchunu, who has been linked to a string of murders in kwaZulu/Natal, sketched a picture of on-going top-level Inkatha involvement with the trainees that con-

tradicts earlier evidence given by kwaZulu Police (KZP) Brigadier Siphon Mathe and MZ Khumalo

However, Mathe and Khumalo's testimony to the commission confirmed that when the trainees returned from Caprivi they were not employed by the KZP but paid from a secret Inkatha account funded by military intelligence and that access to this account required the signatures of both Khumalo and Buthelezi

Currently facing charges on two counts of murder and implicated in several other murders, Mchunu's "CV" gives credence to claims that the trainees were used for shadowy, hit-squad type purposes and were issued

Further evidence of Inkatha involvement in hit-squad activities was revealed at the Goldstone Commission this week.
By PHILIPPA GARSON

with false identities or hidden away when the heat was on

His story also confirms that the 200 men were absorbed into the kwaZulu police without official induction, were given false KZP identity cards, signed by Mathe and issued by Inkatha official Khumalo, and not the KZP, and paid a

monthly salary by Khumalo at the Inkatha offices in Ulundi

Khumalo, referred to at the commission by Mchunu as "Mashobane", resigned as Buthelezi's right-hand man after the Inkathagate scandal, but he confirmed in evidence to the commission that he is still a member of Inkatha's central committee

Mchunu is due to appear in court in June for the murder of two men near Pinetown about two months ago

Facing at least four other murder charges, Mchunu's name came up in the trial last year of Samuel Jamile, ex-kwaZulu deputy minister of interior and central committee member now serving a life sentence for murder and

attempted murder Mchunu allegedly committed at least one murder acting under Jamile's instruction

Mchunu was fetched from his prison cell in Durban to give evidence before the commission this week on his training in Caprivi — known as "Israel" — in July 1986 and his and the other trainees' subsequent activities

Numerous allegations, to the effect that the 200, after receiving training, were deployed around Natal and further afield as Inkatha hit-squad members, have been made

Mchunu (26) told how he and the other trainees were warned that if they ever disclosed details of their training they would "catch the first bus", which meant he would be killed

The alleged killer told how he had been recruited for training by local Inkatha leader Joseph Mabaso in Hammarsdale in 1986. On his return from Caprivi six months later, Mchunu said he, "along with about 12 or more (trainees), was issued with guns by Mashobane to act as security guards in Hammarsdale

There Mchunu shot dead Robert Dlamini, a brother of one of his fellow trainees, Bhekis Dlamini. The murder charge and a charge of being in possession of an unlicensed firearm were withdrawn at the Camperdown magistrate's court in 1987. His kwaZulu police appointment card, issued to him and the others "by Mashobane" some time after returning from their training, was then taken away from him, and he was dismissed from the force, Mchunu testified

At first, during the evidence led by commission advocate JJ Du Toit, Mchunu implied his relationship with Mashobane and the KZP came to an end after he was charged with Dlamini's murder

But under cross-examination by advocates Louis Visser (SC) acting for Inkatha and David Soggot (SC) acting for *The Weekly Mail*, a far more sinister picture unfolded of how Mashobane later hid Mchunu and the other security guards after they were implicated in the murders of the three unionists in Mpopophoni in December 1986. The murders triggered extensive violence in the area

Mchunu also told how he was later issued with a false KZP special constable card under the name of Alfred N Masango, the identical name of another Caprivi trainee who Mchunu testified was today working as a kwaZulu policeman in Ulundi. This is despite speculation in certain quarters that Masango was in fact murdered by his own colleagues

Mchunu first told the commission he visited Mkuze camp (where alleged military training of Inkatha youths took place) because he was unemployed and had nothing better to do. However he later said "When I said initially that I was visiting Mkuze I was not there on my own. They took me there to go and hide — Mashobane and Captain Langeni — that is where we were hiding with the people who were (implicated in the crimes) at a place called Trust Feeds. They (four SAP kitskonstabels) have also been caught

Mchunu described how he and the others implicated in the Mpopophoni murders were first hidden in a dingy back room behind Mashobane's shop in Ulundi, where he would deliver food at night to them. Mchunu says he was later taken to Mkuze

Mchunu told how he was issued with the new police card with a false identity and a machine gun when he became a security guard for a headman, Ndlovu, in the district of Ixopo in 1991

Justice R Goldstone turned down a request by Inkatha's advocate Visser that none of the names which cropped up in the commission be published on the basis that this would render reporting meaningless

The hearing continues on June 1

Inquiry into the soldiers' rampage

By DREW FORREST

UNRULY elements within Phola Park's defence unit may have set the spark for the 32 Battalion "riot" in the East Rand squatter camp last week.

The Weekly Mail last week lifted the lid on a leadership controversy in Phola Park in which members of the defence unit have played an active role. There are reports of an armed seizure of power and a subsequent reign of terror against residents

Given the ferocity of the battalion's reaction — one person was killed and 100 hurt in an alleged hours-long orgy of shooting, beating, rape and plunder — it seems likely the soldiers were shot at by squatters, as the SADF has claimed.

Sources say the apparent hysteria of the largely Angolan battalion was atypical. "They've polished their marbles since the war in Angola," one commented. "They seem to have behaved with restraint during the recent Nancefield violence and in Natal."

Phola Park's defence unit was almost certainly responsible for the AK-47 attack on a passing minibus on February 26 in which four inmates of the nearby Thokoza hostel were killed. The four were members of Inkatha's United Workers Union employed at the Rand Water Board, but evidence put before the Goldstone Commission strongly suggests the attack was unprovoked

A spokesman for the settlement's new leadership, Zinusile Mathiso, this



Assaulted by army Phola Park residents show some of the injuries inflicted by 32 Battalion. Photo: KEVIN CARTER

week denied his committee had been installed by force and insisted no-one had fired on the soldiers. He declined to elaborate, saying he did not want to prejudice a planned meeting with the ousted leaders

But *The Weekly Mail* understands that the ANC and its armed wing, Umkhonto weSizwe, are worried about the defence unit's lack of discipline

The question of what 32 Battalion was doing in the area remains. The Goldstone Commission is to investigate this, but the likelihood is that it was conducting an arms sweep. Phola Park squatters all say the soldiers kicked down shack doors and demanded to know where weapons were hidden before assaulting them with pipes, rifle butts and pangas

The raid appears to form part of an emerging pattern of SADF weapons searches in ANC-supporting black settlements. Last Friday the SADF combed the Mandela squatter camp, in Bekkersdal on the West Rand, for arms, sparking complaints of widespread abuse

A member of the ANC's regional executive committee, Sonwabo Ngonini, said he was woken at 1am by white soldiers and two blacks in balaclavas wanting to search his house for weapons

With them was another ANC man, Zola Jakuya, who had allegedly been forced to point out Ngonini's house. He was covered in mud — he claims he was made to roll in a ditch — and said in Xhosa "They have already killed me". Ngonini understood this

to mean he had been badly beaten. Ngonini said when he pointed out that only policemen with warrants were empowered to conduct a search, he was abused and threatened in Afrikaans. During the illegal search which followed, R260 belonging to his mother disappeared

Also assaulted, Ngonini said, was branch committee member Douglas Mqina, together with numerous other shack-dwellers. When the search failed to yield results — large holes were dug in Mqina's shack floor — Mqina and Jakuya were "abducted" to the SADF base outside the township, where they were "tortured" before being released at noon the next day

Earlier in the week, Bekkersdal's

● To PAGE 5

Black Cat leader Ngwenya gunned down

By PHILIPPA GARSON

THE notorious leader of the Black Cat gang from Wessleton and the mother of one of the Black Cats who has testified before the Goldstone Commission were killed early this week.

According to police, Black Cat leader Chris Ngwenya was gunned down at about 7.30pm on Sunday "by unknown men (who) fired shots with an AK47 rifle at him. He was hit in the head and died"

Police say the mother of "Mr A", who has testified to the commission that Black Cats were given weapons training in Inkatha's Mkuze camp, was apparently stabbed in her bed 15 minutes later. Her throat had been slit

Proceedings at the commission were interrupted by news of the

Wessleton violence and advocate Piet Kemp, acting for the South African Police, announced that "the events were of such concern to the SAP that they have decided to appoint an independent investigator to look into the violence"

Kemp added that the investigation was also prompted by allegations that certain members of the SAP based at the Ermelo police station were implicated in the Wessleton violence

Reports of the sequel of events are still garbled with the Black Cats preventing entrance to their stronghold of Wessleton Extension where the murders took place

A Lawyers for Human Rights employee, acting on reports that the houses of the Black Cats giving evidence to the commission were being

destroyed, visited the area with some of the witnesses on Tuesday afternoon. He and some of the witnesses were stormed by an angry band of Black Cats who rushed out of their dead leader's house, brandishing pangas and a pistol

The LHR employee described the incident as "extremely frightening. I am just glad we're still alive". He and his companions went to the Ermelo police station to request a police escort. Police, he said, then refused to search the gang leader's house for arms, despite being requested to do so

The LHR employee said the Black Cats jeered at local ANC activist John Mndebele and told him in the presence of the police that he would be dead by Friday night

A terrified Mndebele, who has

received countless threats on his life, was trapped inside his house during the week with the brothers of Mr A who have fled their home. Several members of the gang reportedly encircled the house at strategic points. Despite a commitment from the police that they would guard his house, no police presence was spotted


The SAP issued a statement saying that "precautions (were) being taken to protect the lives of all inhabitants of Wessleton. The area is intensively patrolled by police"

Responding to reports that the lives of certain people were still being threatened, Judge Richard Goldstone asked whether protection would be offered by the SAP. Kemp responded that "that matter will also be addressed"

Inquisition of peace & truth

Sowetan 16/4/92

252



How YOU get a chance to say your peace...

Sowetan is inviting its readers to use this page every Friday to talk peace, to suggest solutions and to celebrate peace efforts across the land. The focus of this page will be on peace. Write to the editor and talk peace. Our blood-soaked land needs your voice, your effort.

THE Goldstone Commission of Inquiry has become known as the "Inquisition".

It is a reputation built on an uncanny ability to cut through dense political rhetoric and downright lies to extract the truth.

It is also the success story of the National Peace Accord signed on September 14 last year.

The commission, chaired by Judge Richard Goldstone, is unusual if compared to previous commissions of inquiry.

Its strength lies in its broad terms of reference and its "teeth" - powers to compel witnesses to answer questions and to "search and seize".

The commission has been set the daunting task by the Peace Accord to "inquire into the phenomenon of public violence and intimidation in the Republic, the nature and the causes thereof and what persons are involved therein".

"It is acknowledged that it is desirable that the Commission should be able to be seen to independent and non-partisan," says the accord.

The commission's work since has covered three broad areas

It has investigated specific areas of violence as in Thokoza and at the President Steyn Mine

The commission has set up inquir-

The Goldstone Commission has become the "success story" of the Peace Accord.

It has established a

superb track record in its

inquiries into violence,

cutting through dense

political rhetoric and lies to

get to the truth, reports

MOEGSIEN WILLIAMS:

res into mass demonstrations respecting the fundamental democratic right of freedom of assembly

It has also played a "fire brigade" role in defusing explosive situations like the violence in Mooi River, Natal, and the IFP's "alarmist" allegations of a campaign of terror being planned by the ANC on the Reef over Easter

The commission has a superb track record to date and enjoys exceptional credibility among all political groups, the security forces and the various



Judge Richard Goldstone

communities in which it had conducted inquiries

There is a general consensus that the success of the commission can be attributed to the qualities of Judge Goldstone himself.

He appears to have impeccable credentials with the Government, State agencies and black political groups like the ANC

He is widely respected in legal circles as "a very able lawyer", "a careful man" and "passionate

about his work"

He is also extremely careful about the commission's work and in the nicest way refused to grant Sowetan an attributable interview this week

Judge Goldstone was born in Boksburg and was admitted to the Johannesburg bar in 1963

He was appointed a judge to the Transvaal Provincial Division of the Supreme Court in 1980 and Justice of Appeal last year

He has a reputation on the bench

as a crusader

His rapier-like inquiry and "non-nonsense" approach have been felt by black political movements and the Government

Judge Goldstone is ably assisted by Cape Attorney-General Niel Rossouw, a law graduate of Stellenbosch University

He joined the Department of Justice in 1959 and served as prosecutor and later as State Advocate in Cape Town, Bloemfontein, Maritzburg, Johannesburg and Kimberley

He was behind the probe into the activities of the sinister Civil Co-operation Bureau of the SADF

The other members of the commission are attorney Lillian Baqwa, Advocate Masakazi "Solly" Sithole and former magistrate Gert Steyn

Newcastle based, Baqwa was the first black woman to be admitted as an attorney by the Natal Provincial Division of the Supreme Court

Sithole, based in Pretoria, joined the Pretoria Bar in 1988. He was a lecturer at the University of the North from 1973 to 1987

Steyn served as Regional Court President of the Eastern Cape until the end of last year

He joined the Department of Justice in 1949 and served in a number of areas including Johannesburg, Pretoria, Benoni and Thaba Nchu

Black Cat leader Ngwenya gunned down

By PHILIPPA GARSON

THE notorious leader of the Black Cat gang from Wesselsfont and the mother of one of the Black Cats, who has testified before the Goldstone Commission were killed early this week.

According to police, Black Cat leader Chris Ngwenya was gunned down at about 7.30pm on Sunday by unknown men (who) fired shots with an AK47 rifle at him. He was hit in the head and died.

Police say the mother of "Mr A", who has testified to the commission that Black Cats were given weapons training in Inkatha's Mkuze camp, was apparently stabbed in her bed 15 minutes later. Her throat had been slit.

Proceedings at the commission were interrupted by news of the

Wesselsfont violence and advocate Piet Kemp, acting for the South African Police, announced that "the events were of such concern to the SAP that they have decided to appoint an independent investigator to look into the violence".

Kemp added that the investigation was also prompted by allegations that certain members of the SAP based at the Ermelo police station were implicated in the Wesselsfont violence.

Reports of the sequel of events are still garbled with the Black Cats preventing entrance to their stronghold of Wesselsfont Extension where the murders took place.

A Lawyers for Human Rights employee, acting on reports that the houses of the Black Cats giving evidence to the commission were being

destroyed, visited the area with some of the witnesses on Tuesday afternoon. He and some of the witnesses were stormed by an angry band of Black Cats who rushed out of their dead leader's house, brandishing pangas and a pistol.

The LHR employee described the incident as "extremely frightening. I am just glad we're still alive". He and his companions went to the Ermelo police station to request a police escort. Police, he said, then refused to search the gang leader's house for arms, despite being requested to do so.

The LHR employee said the Black Cats jeered at local ANC activist John Mudebele and told him in the presence of the police that he would be dead by Friday night.

A terrified Mudebele, who has

received countless threats on his life, was trapped inside his house during the week with the brothers of Mr A who have fled their home. Several members of the gang reportedly encircled the house at strategic points. Despite a commitment from the police that they would guard his house, no police presence was spotted.

The SAP issued a statement saying that "precautions (were) being taken to protect the lives of all inhabitants of Wesselsfont. The area is intensively patrolled by police."

Responding to reports that the lives of certain people were still being threatened, Judge Richard Goldstone asked whether protection would be offered by the SAP. Kemp responded that "that matter will also be addressed".

16/4 - 23/4/92

252

that a letter — which had been addressed to DP leader Zach de Beer from the exiles' committee — should be placed before Codesa's management committee

Marcus says the internal commission which was appointed by Mandela to investigate alleged torture is carrying on with its work. Its findings will be made public ■

THE LAW FM 17/4/92

Clipping the clerks (252)

The SA Law Commission has extended its 1986 proposals on judicial review to oblige administrators and tribunals at every level to give reasons for their decisions and to act reasonably. This would mean that unless an authority, from the Cabinet down, gave reasons for administrative decisions it might be deemed unreasonable and subject to review by the courts.

Lawyers argue that under the present system, the judicial review process is bedevilled because there is no obligation on any authority to furnish reasons for actions. If the commission's draft Judicial Review Bill becomes law, it will compel authorities to act more fairly and to justify decisions. It will also give SA the most extended code of judicial review in the English-speaking world.

With SA in transition, cynics might claim that the new proposal is simply aimed at ensuring safeguards against administrative fiat by a new populist government (even if the measure is a good idea in itself). To be fair, however, this project was started by the Law Commission six years ago.

Though seen at the time as an essentially fine piece of work, the commission's 1986 draft Judicial Review Bill was fundamentally flawed because it specifically excluded judicial review of State policy. This provoked an outcry from lawyers who were invited to make written proposals. However, the project was postponed due, apparently, to the imposition of the State of Emergency.

In that period, the Appellate Division under Chief Justice Rabie handed down a number of highly controversial judgments in the field of administrative law, by interpreting the emergency powers of the State President in a very wide, literal sense. That approach contrasted starkly with that of the Natal Provincial Division, for instance, which took a very narrow interpretation of such powers.

The Appellate Division's approach, says Webber Wentzel partner Peter Leon, appeared to subvert the general principles of SA administrative law. Leon, an administrative lawyer, makes these points in a memorandum to the Law Commission on behalf of the Association of Law Societies.

Examples of a judicial attempt to assist the government of the day in dealing with what was seen to be a civil war, says Leon, are the 1988 decisions in *State President vs the United Democratic Front*, *Minister of Law & Order vs Dempsey*, *Omar vs Minister*

of *Law & Order* (1987), and *Van der Westhuizen vs UDF* (1989).

Leon says the most notorious of these decisions is *State President vs UDF*. Here the Appellate Division held that the presence of a certain "ouster" clause prevented judicial review of subordinate legislation. This was despite its decision two years earlier (*Minister of Law & Order vs Hurley* 1986) in which an ouster clause was regarded, correctly, as no bar to action that was invalid.

The courts, says Leon, have since the late-Fifties deliberately restricted judicial review. The Appellate Division took the view that it was not the court's job to interfere with State policy. In one Group Areas Act case the court held that, though the Act was inherently discriminatory, it was part of a "massive social experiment" in which the court would not interfere.

This approach of the courts meant that they would not interfere with the policy of apartheid.

This deliberate policy of judicial restraint affected detainee rights, group areas cases, issues of State security, as well as other areas of administrative law, such as the right to hear the other side (*audi alterem partem*). A notorious example was the 1966 case involving the International Defence & Aid Fund when the Minister of Justice banned it without a hearing.

The Appellate Division was also restrictive in the area of unreasonableness. In a series of decisions involving the old National Transport Commission in the Seventies, argues Leon, the court basically undermined the doctrine of unreasonableness in administrative law. This had the effect of implying that as long as an administrative act had legal form, its substance did not matter.

If the proposed Judicial Review Act came into force, it would affect the granting of liquor licences, mining permits and permits granted to airlines under the Air Services Licensing Council. Passports could not be declined or aliens deported without good reasons. Any tribunal would have to be circumspect about its decisions, administrative arbitrariness would end and Ministers would have to act carefully.

In terms of the Law Commission's proposals, judicial review will be possible on any of the following grounds:

- Breach of the principles of natural justice — such as not allowing a fair hearing;
- If the party making a decision was not authorised to do so,
- If conditions and procedures required by law had not been observed;
- There was an error of law or fact in making the decision,
- The decision was made on the basis of no evidence, and
- The decision was unreasonable or arbitrary.

This would be good news for lawyers because it could prompt a large amount of judicial review litigation. But that would perhaps be worth the price if the proposed Act also made for better government. ■

Ex-cop who made killing his business

By Claire Keeton

~~18/4-23/4/92~~
18/4-23/4/92

LIEFIE PETERS IS DEAD. Thembisile Sambato is dead. Edward Soenies is dead. Mbulelo Masiza is dead. Ntozelziwe Paliso is dead. Sontica Casamba is dead. Nkosiyabo Ntsimiso is dead.

Murdered by Sybrand Louis van Schoor. And another 30 people from East London, all black, died at the hands of the killer security guard and former policeman

Last week an impassive Van Schoor was found guilty in the East London Supreme Court of the seven murders above and of two attempted murders

He was found not guilty on another 12 counts of murder and 11 counts of attempted murder in one of the biggest murder trials in South African history.

For most of the counts on which he was acquitted, Van Schoor found protection under section 49 (2) of the Criminal Procedures Act, which deems the killing of a suspect at the scene of a crime in certain circumstances "justifiable homicide".

Section 49 allows the shooting of a suspect if he or she is found at the scene of a crime — including petty theft — where trespassing is involved and the suspect flees or resists arrest

On July 11, 1988, Liefie and a 15-year-old friend broke into a Wimpy Bar outlet.

Inside, the boys saw a torchlight on the wall. Van Schoor had arrived at the restaurant armed with a gun. The boys, trapped, hid in the toilets. But Van Schoor found them and ordered them to face the sea.

Liefie was shot in the back. He fell down. His friend moved nearer and Van Schoor shot him in the right leg. He fell but Van Schoor ordered him to stand up. When the boy struggled to his feet, Van Schoor shot him in the right buttock. He collapsed again and was told to stand up again. He could not and lost consciousness.

Later he was found outside the building with a third gunshot wound in his chest. He was taken to Frere hospital.

Liefie died. In his defence, Van Schoor claimed two people lunged at him and then fled down a passage. He said he shouted at the intruders to stop but they split up and he chased the one closest to him.

Van Schoor claimed he was wounded by a steak knife in the wrist and that he had been having back problems. He said his assailants were running away and he fired a few shots at them to stop their escape.

Passing judgment, Mr Justice Lionel Melunsky said there was "no doubt the accused knew he was shooting at young boys" and that he fabricated evidence to cover up this knowledge.

"I have difficulty in accepting that the boys attempted to stab the accused," said the judge.

"One boy was 12 and the other barely 15. Both were slightly built while the accused is powerfully built and physically fit.

"He pretended it was dark because he did not want to admit he knowingly shot at young children."

The judge accused Van Schoor of inventing a back injury to justify shooting the youths

Melunsky concluded that Van Schoor had not shown that the death of Peters was justifiable homicide nor that it was necessary to shoot the boys to prevent their escape.

Prior to this marathon trial, initially involving 19 counts of murder and 21 counts of attempted murder, an inquest into Peters' death cleared Van Schoor.

The magistrate ruled that the shooting was justified under section 49

Van Schoor wounded up to 100 people from May 1986 to August 1989, when he worked as a self-employed security guard contracted by various companies

But police and prosecutors testified his actions were correct in inquests into 25 of the deaths. In April 1990 — after 39 deaths — an inquest ruled he was criminally liable for the death of Ntozelziwe Paliso

Now he has been found guilty of multiple murders. His sentencing has been postponed until June 15 to allow a criminologist to prepare expert evidence in mitigation

The judge said the postponement was "highly undesirable" but unavoidable. Meanwhile Van Schoor's R15 000 bail has been extended despite fierce opposition from the state **Elnews**

World waits for outcome of Trust Feed murder trial

DAY OF JUDGMENT

By FRED KHUMALO

INTERNATIONAL media interest will focus on the Maritzburg Supreme Court on Tuesday where judgment will be passed on seven policemen facing 11 charges of murder and eight of attempted murder.

When the trial started last year, it attracted the world's attention, not only because the murders emerged from ANC-Inkatha political conflict, but because among those accused were three white senior officers, one of whom allegedly masterminded the murders.

In the dock are Captains Brian Mitchell and Jakobus van den Heever; Sgt Neville Rose; special constables Cyprian Ngubane, Thabo Sikhosana, David Khambule and Special Sergeant Roy Ndwalane.

They have all pleaded not guilty. The trial - which has cost the State R2-million in court documents and court officials' fees - took a dramatic turn when Mitchell admitted in court that he had ordered the accused black special constables to kill UDF supporters in Trust Feed, a black reserve near New Hanover on December 3 1988.

The killings had allegedly been planned by Mitchell in conjunction with Jerome Gabela, chairman of Inkatha in Trust Feed.

Mitchell told the court that on December 2, police besieged Trust Feed and raided houses known to be inhabited by UDF members, took possession of all weapons they found and detained 11 members of the organisation.

This was to make the UDF stronghold vulnerable to Inkatha

attacks, Mitchell testified.

However, on December 3, Mitchell himself decided to go to Trust Feed to make sure the job had been done.

He then ordered the constables, whom he fetched at the home of IFP leader Jerome Gabela, to go and kill the UDF.

But this plan to eradicate the UDF in Trust Feed took an unexpected turn when 11 people were killed - including members of Inkatha. Among the victims were children aged four and nine, while most of the others were elderly women.

Court officials and journalists were shown a video taken by the SAP video unit showing corpses of those killed, some with their intestines protruding.

The court has heard how Mitchell, with the help of the late Major Deon Terblanche, tried to cover up and botch the investigation into the murders.

An initial investigation, headed by Capt Patrick Wattus, was later handed over to Major Johan van Zyl, but it did not bear fruit as no suspects could be found.

Justice Andrew Wilson, the presiding judge, has been vocal in dismissing some aspects of the investigation as a cover-up attempt.

The special constables have alleged that after finishing the job, they were whisked out of Trust Feed, taken home to Mpumalanga and told to hide.

They later joined the KwaZulu Police and were stationed in the township near Hammarsdale where Van den Heever was stationed at the SAP base.

The judge expressed shock when

he learnt that the security police withheld information to the KZP relating to the fact that the special constables, who had applied for jobs with the homeland force, were being sought by the SAP in connection with the murders at Trust Feed.

In 1991 when the second investigation headed by Capt Frank Dutton started, the special constables were again instructed by their seniors in Ulundi to hide and were taken to Chief Calalakubo Khawula in Umzumbe, the court has been told.

Dutton's investigation finally led to their arrest.

The special constables have alleged that when they attacked a house in Trust Feed, they had been acting under Mitchell's instructions and had been told to kill terrorists in the house.

During their training the constables were told to obey orders from their seniors and could not tell an unlawful command from a lawful one, they had said in court.

They said they had been used as pawns by the forces fighting to maintain the status quo on the one hand and forces opposed to the government on the other.

As Mitchell said in his testimony: "I felt as a soldier, at that time, in a civil war... I felt entitled to kill the UDF."

The cover-ups mentioned during the trial also point to the fact that the war against those perceived as enemies of the State had been sanctioned by officers high up in law enforcement structures - officers like Terblanche who took information and many secrets with him to the grave.

CIP news 19/4/92

252

ANC
S/Times 19/4/92
denies
attack
plan

By CHARLENE SMITH

THE ANC has dismissed as "monstrously false" claims that members of Umkhonto we Sizwe's PWV command discussed attacking four hostels last month

The allegations were made to the Goldstone Commission of Inquiry into the Prevention of Public Violence and Intimidation in unsigned statements by two police informers, who claim they were present at the MK meeting

Police say the two feel "in jeopardy of their lives" and would not meet commission members.

Immediate

Commission chairman Mr Justice RJ Goldstone said on Thursday that, in view of the seriousness of the allegations, the ANC had been "requested to arrange for a suitable representative of MK to attend the hearing and to give evidence on oath concerning the allegations"

Barbara Hogan, of the ANC's PWV branch, said the organisation immediately investigated the allegations

"We examined the minutes of the meeting. No such issue was brought up"

The Goldstone Commission is expected to adopt a new procedure at next week's hearings to speed up the process of hearing allegations of violence and intimidation. It is expected that before starting the Phola Park inquiry it will hold a preliminary inquiry to survey allegations, then draw up the terms of reference for the committee to investigate

WHY DR MANDELA SAID NO TO CHANCELLOR LEON

MANDELA biographer Fatima Meer disclosed this week that — at Nelson Mandela's request — she had tried to persuade Natal University to replace its chancellor, Mr Justice Leon, as the one to bestow an honorary doctorate on him.

She was responding to charges put to the Sunday Times by academic and legal sources that she had

BY ROY RUDDEN

helped stir up a threatened boycott of the ceremony by students

This was not true, said Professor Meer.

However, she confirmed that she had alerted Mr. Mandela to the fact that Mr. Justice Leon was the judge who had sentenced ANC activist Andrew Zondo to death for the 1985 Aman-

zimtoti bomb blast.

Five people, including two children, were killed and scores were injured in the supermarket blast.

As there were no extenuating circumstances (a finding subsequently confirmed by the Appellate Division), Mr Justice Leon was legally bound to apply the death sentence.

Mrs Meer, a former professor of sociology at

the university, who gave evidence on extenuation at the trial, subsequently wrote a book sympathetic to Zondo.

She said: "When I alerted Nelson he was shocked and asked me to do everything I could to save him the embarrassment of receiving an honorary degree at Leon's hands."

"This was clearly unacceptable because An-

dr. Zondo would go down in history as a national hero of the people's struggle."

She had then met "three relevant senior members" of the university staff and had told them about her concern.

Two of them had agreed with her.

Although the procedure had already been cleared with the chairman of the ANC's Southern Region, Mr

Jeff Radebe, it was undertaken to consult him again

"It was quite extraordinary," said Mrs Meer.

"Jeff Radebe repeated that there was no objection to Ray Leon officiating.

In the event, Mr Justice Leon did officiate at last Saturday's graduation ceremony. But Mr Mandela was unable to attend because of "reasons of state."

WHEN the Society for the Abolition of the Death Penalty in SA was relaunched in Johannesburg in 1988, the man chosen as inaugural guest speaker was a former member of the Natal Supreme Court, Mr Justice Ramon Leon.

The choice was fully justified, for the society heard possibly the most scathing indictment of the death penalty ever delivered by a South African judge.

He told of the agonies, the sleepless nights, the pain of self-doubt when he had been compelled, through lack of extenuating circumstances, to send convicted murderers to the gallows.

He recounted horror statistics.

● In the United States 343 people (of whom 25 were executed) had been wrongly convicted of capital crimes this century.

● In South Africa, between 1983 and 1987, 627 people had been executed. In Britain, which has a far greater population, it took half a century to hang the same number.

● Again in South Africa, an abolitionist's poll of members of the Bar in 1988 showed that 78 percent of respondents believed it was possible for an innocent person to be hanged for murder.

Mr Justice Leon described how the possibility of judicial error in South Africa was further compounded by the *pro deo* system, which often involved inexperienced and sometimes incompetent defence counsel, and the imprecise nuances involved in the use of interpreters.

"The death sentence is a relic of a barbarous age; it should be abolished," he said in a speech which made headlines in a country where 164 people had been hanged the year before. This was four more than in Iran, with a population of 47-million, and 32 more than in China, with about 1 000-million, he pointed out.

Mr Justice Leon's onslaught against the death penalty was devastating but not unexpected. It was his status as one of the country's most distinguished liberal jurists that led to his choice as inaugural abolitionist speaker.

It was the same status, plus his outstanding presidencies of the University of

SUNDAY PROFILE

'Hanging judge' is an outspoken abolitionist

Natal's SRC and Convocation, that had led to his election in 1983 to the chancellorship of his alma mater.

Here his tenure was so illustrious that the senate amended its previously unbending six-year time-limit rule to enable him to stay on as chancellor for a further term.

From the viewpoint of events at the university last week, there was a certain irony involving his election in 1983. The other nominees for chancellor were Alan Paton and the then jailed Nelson Mandela.

(Alan Paton withdrew from the nomination because of certain pressures in which Mrs Winnie Mandela was involved. Mr Mandela was screened out by the selection committee because he would not have been able to officiate from prison.)

But the greater irony was that this eminent liberal judge, with a record of landmark decisions that overturned some of the apartheid regime's most callous and inhumane legislation, was last week branded a "murderer" and a "hanging

judge" by callow student members of a society that could only have benefited from his humane and distinguished presence on the Bench.

This is the judge whose historic judgment in 1985 overturned the state's notorious detention-without-trial clause in section 29 of the Internal Security Act which led to the release of Diakoma director Paddy Kearney. It was a courageous decision which emasculated one of apartheid's most vicious Acts beyond repair, a brother judge told me this week.

This is the judge who had long before, in another landmark ruling in 1972, overruled a lifelong blanket ban imposed on the magazine *Scope* because it had, inter alia, shown a picture of a fully dressed black man and a white woman embracing in a New York park.

This is the judge, with a human rights record that will long dominate the history of South African jurisprudence, who was last week branded a murderer and a



M^R JUSTICE LEON: Sleepless nights

hanging judge.

Why, therefore, was he branded a murderer and a hanging judge? Because, search as he could, he was unable to find extenuating circumstances in the case of Andrew Zondo, an ANC activist who had placed a bomb in a rubbish bin in a busy Amanzimtoti shopping centre — killing five people, including two children, and injuring scores of others. The law had left him no option but to sentence Zondo to death.

The student demonstration was ostensibly to protest over a man like Ramon Leon being chosen to bestow an honour on Nelson Mandela. It was clearly designed to humiliate the university authorities against whom a handful are engaged in an unthinking adolescent rebellion.

But, with Mr Mandela announcing at the last moment that he could not receive his honorary doctorate on that day because of "reasons of state" (and then spending the day in Natal hotels), there is little doubt whom it is they succeeded in humiliating.

Roy Rudden

Unionist STAR 20/0/92. sentenced to 14 years' jail

By Susan Smuts

252

Trade unionist and PAC member Sithembele Khala was sentenced to 14 years in jail following his conviction in the Rand Supreme Court on Thursday for armed robbery and attempted murder

"I am greatly disappointed that a person, who had such great potential, could throw away his career in the way you have done," Mr Justice E le Grange told Khala

Khala is general secretary of the Media Workers Association of South Africa, a member of the national council of the PAC, and a member of several other organisations

The judge rejected Khala's claim that he had been kidnapped and forced to drive a getaway car during a bank robbery on March 28

He was injured during a shootout between the police and the robbers and was arrested with another alleged robber who later escaped

"The account of the abduction is strange and bizarre. It is difficult to accept that a gang of robbers who had planned the robbery in detail should risk the success they venture by kidnapping a stranger and forcing him to drive the getaway car," the judge said

Khala was sentenced to 14 years in jail for the armed robbery and five years for a common purpose attempt to murder a policeman during the shootout. The sentences are to run concurrently

He was acquitted of two other counts of armed robbery, two of attempted murder, and illegal possession of arms and ammunition

Leave to appeal was granted and bail was set at R30 000

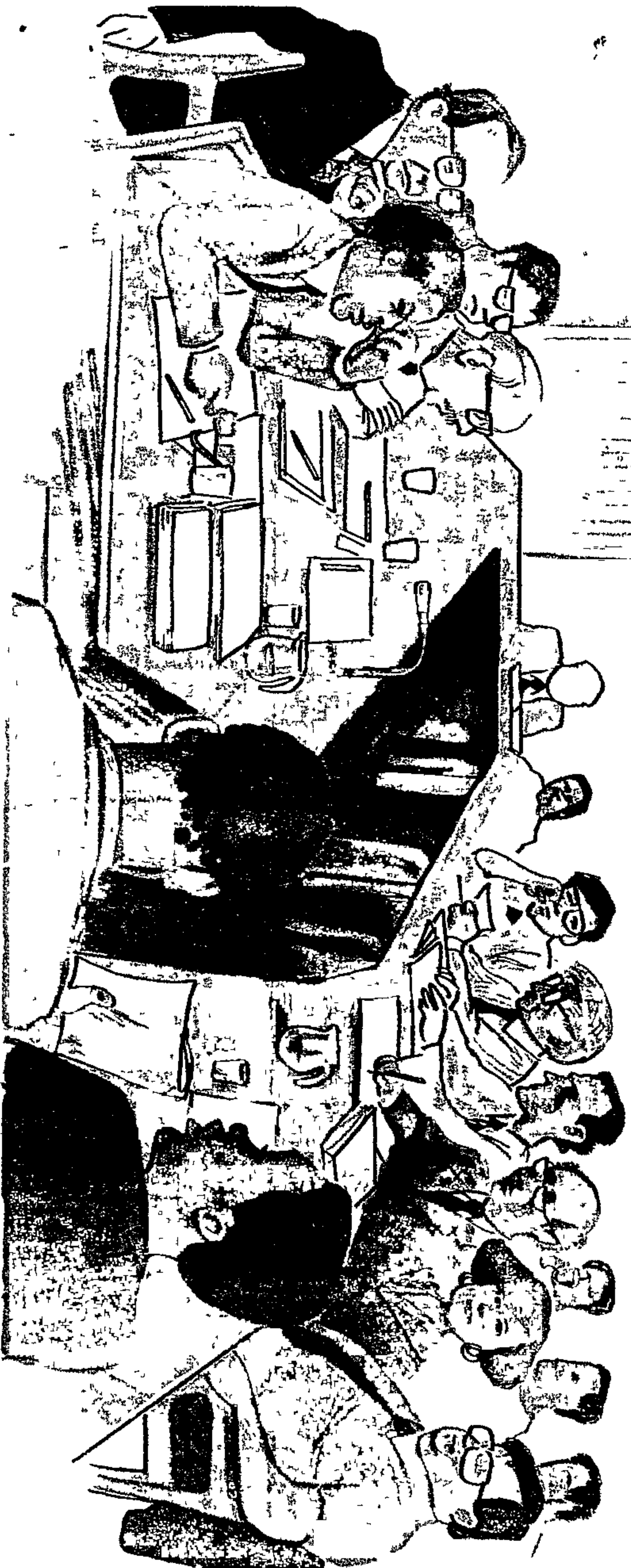
31 condemned men reprieved

ALTOGETHER 31 death sentences were commuted in 1991, the Minister of Justice, Mr Kobie Coetsee, has said in reply to a written question by Mr Dave Dalling (DP Sandton) *20/4/92*

Of these, 26 were black men, one an Indian man, two were white men and two were coloured men.

● Altogether, 755 people were sentenced to community service in the 1991 calendar year.

Sapa (252)



Seeking the truth the Goldstone committee of inquiry sitting in Pretoria (from left) Seun Mashidi, Judge Richard Goldstone, Gert Steyn (shirt-sleeves) and Niel Rossouw (Foreground) Interpreter Simon Skosana, witness Alfred Masango (Right) David Soggot, SC (striped shirt), and other members of various legal teams. Illustration Nicky Taylor

Curious clues to the Inkatha commndrum

A man found with a pistol and machine gun tells the Goldstone inquiry into violence he was only going to buy shoes, writes PETER WELLMAN.

THE GOLDSTONE inquiry into violence unfolds in a chatty way, like someone reading a good thriller.

Everyone stands when Judge Richard Goldstone and his three committee members walk in, but the advocates are in shirt-sleeves even though the air conditioning works briskly.

There are ashtrays but there is no smoking — only plenty of water and glasses on the long desks in the NGK Synd building in Pretoria.

The commissioners are seated imposingly behind a higher

desk but no one calls the judge "Your Lordship" — here he is the chairman of a committee of inquiry, set up by the commission he also chairs, into political violence.

The atmosphere may be informal but the business is serious, and fascinating. Is it true that the SADF trained Inkatha members to use AK-47s, and are they now Inkatha hitmen, as alleged by the Weekly Mail?

David Soggot, SC, leading a legal team representing the ANC, SA Communist Party, Co-satu, the Weekly Mail and

others, cross-questions a witness, and one exchange is a gem. "Why did you go out on the day in question with a machine gun in your briefcase and a pistol in your belt?"

"People knew I had the (machine-gun) in the briefcase, and the pistol was to stop it being stolen," is the reply.

Mr Soggot remonstrated gently. "But you were just going to buy a pair of shoes."

Then the rougher side of what the Goldstone commission is about gradually emerges. The witness, awaiting trial for mur-

der, and implicated in another three, said he did not feel safe because people knew he was a KwaZulu policeman.

The witness apparently had two names Alfred Masango and Vela Mchunu.

Mr Soggot's questioning lasted all morning and by lunchtime, when the committee adjourned until June 1, he seemed satisfied he had obtained evidence that after six-months' training in the Caprivi Strip, Inkatha members were paid by

Inkatha and operated in groups back in Natal.

The issue of remuneration emerged when the judge said "How did you get paid while you were at Hammarsdale?"

"We were taken by vehicle to the Inkatha office in Ulundi."

"How much?"

"R400 plus rent."

The paymaster, he said, was "Mashobane" — a clan name for M Z Khumalo, a personal aide to KwaZulu Chief Minister Mangosuthu Buthelezi.

The witness, who said various members of the ex-trainees were today in the KwaZulu police force, said he had been a

special constable and agreed his KZP identity card was a fake.

When his group returned to Natal they were armed and received instructions almost daily. There were several other highlights last week, such as when the witness described death threats against his group if they told others about their training.

The inquiry has been briefly adjourned because Judge Goldstone has other commission business to deal with before a month on the Appellate Division in Bloemfontein during May. □

STAR 201492

252

ship of prohibited organizations was granted without applications having to be submitted in this regard. It is, therefore, not possible to determine how many persons have acquired indemnity in respect of this offence. Furthermore, various persons have acquired indemnity in accordance with more than one category.

The number of persons who have already acquired indemnity for categories of offences, other than membership of unlawful organizations are as follows:

- Illegal departure from the country 252 5 144
- Undergoing training in contravention of statutory provisions 4 625
- Various other specified offences 921

(3) The staff required for the indemnity process is increased or decreased depending on the frequency of applications and the work load. At present a total of 26 persons are permanently charged with the indemnity process. This does not include the staff in the employ of the Department of Correctional Services concerned with the release of prisoners.

(4) No. The existing staff component is capable of handling the current work load expeditiously.

Death sentences commuted

61 Mr D J DALLING asked the Minister of Justice 252

How many death sentences in each race group were commuted in 1991?

B149E

The MINISTER OF JUSTICE

- 26 Black men
- 1 Indian man
- 2 White men
- 2 Coloured men

Members of Cabinet, experience/qualifications

77 Dr W J BOTHA asked the State President

(a) Which members of the Cabinet are experts in respect of the portfolios held by them, (b)

what practical professional experience does each Minister have in respect of his portfolio and (c) what are the qualifications of each?

The STATE PRESIDENT

Your attention is drawn to the fact that Cabinet Ministers are public figures who serve as the political heads of departments and not merely on the basis of their formal or practical training and professional experience, but quite frequently on the basis of their general experience and skills.

In addition, the *curricula vitae* of Ministers, being public figures, are readily available and include particulars of their professional training and experience, and I am not prepared to provide these personal particulars.

Applications for indemnity - two persons

101 Mr L FUCHS asked the Minister of Justice

- (1) Whether he has received any applications for indemnity from two persons, whose names have been furnished to the Minister's Department for the purpose of his reply, if so, (a) what are the names of the persons concerned and (b) what was the outcome of these applications,
- (2) whether the Government intends releasing either of these two persons?

The MINISTER OF JUSTICE

(1) (a) The provisions of the Indemnity Act, 1990 (Act No 35 of 1990), do not apply to persons already sentenced. Such persons can, however, be granted remission of sentence by the State President.

Applications for release have been received from the persons mentioned by the hon member

- (b) In accordance with an undertaking by the Government, all applications for indemnity, immunity or release are treated with the utmost degree of confidentiality. The required information can therefore not be disclosed, other than by the applicants themselves.

(2) Only one test is applied in considering all applications for indemnity or release and that is whether or not, objectively speaking, the offences concerned satisfy the guide-lines for defining political offences. It is the Government's contention that all prisoners whose offences positively fall within the guide-lines have already been released.

The persons referred to do not fall within the South African definition of a political prisoner and they will therefore not be released as such. Like all other prisoners they fall under the responsibility of the Minister of Correctional Services who informed me that the duration of their term of imprisonment is subject to the provisions of the Correctional Services Act, 1959.

Justice Department employees

126 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 1991?

B325E

The MINISTER OF JUSTICE

(General remark. The statistics below will be updated soon and will be dealt with during the Vote of the Minister when it will be shown that the positive policy of the Department has now started to show meaningful results.)

- (a) 2 998
- (b) (i) 2 810
 - (ii) 58
 - (iii) 75
 - (iv) 55
- (c) (i) and (ii)(aa)
 - Pretoria 6
 - Pietermaritzburg 3

Johannesburg

Vereham

Springs

Wynberg

Soshanguve

Durban

Benoni

Munzini

Krugersdorp

Oodendaalsrus

Tzaneen

Greytown

Mouse

Kimberley

Vanderbijlpark

Empangeni

Witbank

Potgietersrus

King William's Town

Kempson Park

Magistrate

King William's Town

Stanger

Johannesburg

(bb) Prosecutor

Uppington

Paarl

Cape Town

Bellville

Wynberg

Lanngsburg

Worcester

Port Elizabeth

Witbank

Johannesburg

Springbok

Evander

Caledon

Mossel Bay

Vanderbijlpark

Ceres

Roodpoort

East London

Goodwood

Grahamstown

Malmesbury

Wellington

George

Queenstown

Relief Staff

252

<i>Magistrate</i>			
Subdirector			
Inspection Services (Departmental Inspector)	1	Assistant State Attorney	2
Wynberg		State Attorney, Durban	1
Queensdown	3	State Attorney, Johannesburg	1
Krugersdorp		Justices of the peace	
Johannesburg	1	127 Mr D J DALLING asked the Minister of Justice	
Kuils River	1		
Port Elizabeth	1	(a) How many (i) male and (ii) female justices of the peace of each race group are there in each province and (b) in respect of what date is this information furnished?	
<i>State Advocate</i>			
Attorney-General, Cape Town	1		
Attorney-General, Johannesburg	1		
<i>Estate Controller</i>			
Master of the Supreme Court, Cape Town	1		
<i>State Law Adviser</i>			
Head Office, Pretoria	1		
(cc)			
<i>Prosecutor</i>			
Camperdown	1		
Kranskop	1		
Verulam	5		
Chatsworth	5		
Durban	9		
Scottburgh	2		
Pietermaritzburg	2		
Pinetown	2		
Johannesburg	2		
Dannhauser	1		
Kimberley	1		
Stanger	1		
Soshanguve	1		
<i>Magistrate</i>			
Durban	1		
Verulam	7		
Stanger	1		
Ladysmith	1		
Chatsworth	3		
Pinetown	1		
Port Shepstone	2		
<i>State Advocate</i>			
Attorney-General, Johannesburg	1		
Attorney-General, Durban	2		

In an effort to be of assistance to the hon member, the following information for the period 1 July 1990 to 30 June 1991 was obtained from the Central Statistical Services

	Male	Female	Total
Prosecuted for infanticide	31	12	43
Convicted of infanticide	17	11	28

Legal Aid Board: financial obligations

146 Mr D J DALLING asked the Minister of Justice

(a) What were the unpaid (i) financial and (ii) contingent financial obligations of the Legal Aid Board as at 31 January 1992 and (b) what cash funds did the Board have at its disposal as at that date?

The MINISTER OF JUSTICE.

(a) (i) There were approximately R5 000 accounts on hand which still had to be taxed and paid. Calculated at an average amount of approximately R744,00 for each account, the outstanding amount is more or less R11 million. This was due to a backlog of approximately 14 weeks regarding the payment of accounts. Due to the institution of special measures, the backlog should be overcome during the second half of April 1992.

(ii) Available information and calculations done by actuarial consultants indicate that the Board should receive accounts of about R59,7 million in respect of pending cases over the next six or more years.

(b) On 31 January 1992 the Legal Aid Board had R14 783 400,00 available. This figure includes the balance of funds granted, interest earned, legal and costs recovered and the obligatory contributions that successful litigants have to make from financial advantages they received. (Since 1 April 1989, 5% of the financial advantage received by litigants who have made use of legal aid, must be paid over to the Legal Aid Board.)

The allocation of an additional

R10 706 000,00 out of the contingent reserve brings the total amount allocated by the Government for the financial year that ends on 31 March 1992 to R35 206 000,00.

The Legal Aid Board will be able to meet all its financial obligations which is payable in the present financial year with the available funds.

Legal Aid Board: legal aid services suspended

147 Mr D J DALLING asked the Minister of Justice

Whether any legal aid services were suspended by the Legal Aid Board in 1991, if so, (a)(i) which services and (ii) for what period and (b) why were these services suspended?

The MINISTER OF JUSTICE.

No legal aid services were suspended by the Legal Aid Board in 1991 in the sense that all for certain cases under specific provisional steps were excluded from the Legal Aid Board's legal aid scheme.

Certain prescriptions which the Legal Aid Board included in its legal aid manual in 1988, to ensure that funds are appropriated for worthy cases are, however, still in force. These prescriptions pertain to legal aid for appeals in criminal and civil matters and determine that aid will not be granted unless the Director of the Legal Aid Board is convinced that there is a reasonable prospect for success on appeal.

Legal aid for claims justiciable in the Small Claims Court was also not granted in 1991.

The policy that authorization for instructions to advocates for appearances in lower courts and instructions to senior advocates only be given by the Director in exceptional cases, was maintained in 1991.

The restrictions that were imposed on money payable to legal practitioners in April and December 1988 were maintained during 1991 in the following matters:

- * Divorces and related cases
- * Petitions and applications after the imposition of the death sentence
- * Industrial court cases

Hansen

Hansen

The restrictions pertaining to these matters, were as follows

Divorce and related cases

The maximum tariff paid was R750,00 if one attorney was involved and R1 000,00 if two attorneys were involved, provided that if permission was granted for the institution or defence of interlocutory actions, legal costs therefore could have been allowed in addition to the legal costs for the main action, provided further that the legal costs for the interlocutory action were restricted on the legal aid tariff to a maximum amount of R500,00 if one attorney was involved and R750,00 if two attorneys were involved

The Director has a discretion to increase the latter fees in appropriate circumstances

A further qualification on this restriction is that an attorney is free to present a bill of cost drafted on an attorney-client basis to the Legal Aid Board. If this is done, the bill is taxed by the Legal Aid Board and the taxed bill minus 20% is payable to the attorney

Petitions after the imposition of the death sentence

Legal costs pertaining to petitions and applications after the imposition of the death sentence, were restricted on legal aid tariffs to a maximum amount of R500,00 per petition or application

Industrial court matters

If proceedings in terms of section 43 of the Labour Relations Act, 1956 (Act 28 of 1956), were not instituted, the amount payable for each consultation will be in accordance with the prescribed tariff mentioned in scale C of the Magistrates' Courts Rules, minus 20%. If the Magistrates' Courts Rules, minus 20% of the above-mentioned Act were instituted, the amount payable for each consultation will be in accordance with the prescribed tariff mentioned in scale C of the Magistrates' Courts Rules, minus 20%, but only to a maximum amount of R500,00. If the legal aid mandate was extended to include section 46 proceedings in terms of the Labour Relations Act, 1956, the amount payable will be in accordance with the prescribed tariff mentioned in scale C of the Magistrates' Courts Rules,

252

minus 20%, but only to a maximum amount of R250,00. The Director of the Legal Aid Board has the authority to grant legal aid in meritorious cases and to increase or remove restrictions

The above restrictions were an effort by the Legal Aid Board to keep its expenses on legal cost within the bounds of its budget, and to utilize the available funds for the benefit of as many needy people as possible

Number of magistrates/regional court magistrates

173 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 magistrate and (ii) magistrate, (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 1991?

252

B406E

THE MINISTER OF JUSTICE

(General remark The statistics below will be updated soon and will be dealt with during the Vote of the Minister when it will be shown that the positive policy of the Department has now started to show meaningful results.)

- (a) (i) 171
- (ii) 843
- (b) Regional Court Magistrate
 - (i) 171
 - (ii) 0
 - (iii) 0
 - (iv) 0
- Magistrate
 - (i) 815
 - (ii) 3
 - (iii) 9
 - (iv) 16

Hansen

Hansen

(c) Regional Court Magistrate—None

Public Prosecutor Separate statistics in respect of regional and district prosecutors are, therefore, no longer kept. On 31 December 1991, 1 052 officials held the rank of Public Prosecutor

- (i) King William's Town
- Stanger
- Johannesburg
- (ii) Subdirectorate Inspection Services
 - Wynberg (3)
 - Queenstown
 - Krugersdorp
 - Johannesburg
 - Kuils River
 - Port Elizabeth
 - (iii) Durban
 - Verulam (7)
 - Stanger
 - Lady Smith
 - Chatsworth (3)
 - Pinetown
 - Port Shepstone (2)

252

- (b) (i) 902
- (ii) 55
- (iii) 62
- (iv) 33
- (c) (i) Pretoria
- Pietermaritzburg
- Johannesburg
- Verulam
- Springs
- Wynberg
- Soshanguve
- Durban
- Benoni
- Mutunzi
- Krugersdorp
- Oodendaalrus
- Tzaneen
- Greytown
- Moutse
- Kimberley
- Vanderbijlpark
- Empangeni
- Witbank
- Poigeterrus
- King William's Town
- Kempson Park
- Total

Number of prosecutors/regional court prosecutors

175 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 1991?

B418E

THE MINISTER OF JUSTICE

(General remark The statistics below will be updated soon and will be dealt with during the Vote of the Minister when it will be shown that the positive policy of the Department has now started to show meaningful results.)

- (a)(i) and (ii)
- Since 1 January 1991 regional and district court prosecutors have been united in one component under the authority of a Senior

- (ii) Umpington
- Paarl
- Cape Town
- Bellville
- Wynberg
- Langsburg
- Worcester
- Port Elizabeth
- Witbank
- Johannesburg
- Springbok
- Evander
- Caledon
- Mossel Bay
- Vanderbijlpark
- Ceres
- Rooopoot
- East London
- Goodwood
- Grahamstown

Court

Hansen

TUESDAY, 21 APRIL 1992

Hansen

(iii) Campersdown
Kranskop
Verulam
Chatsworth
Durban
Scottburgh
Pietermaritzburg
Pinetown
Johannesburg
Dannhauser
Kimberley
Stanger
Soshanguve
Total

1
1
1
1
1
2
2
2
2
1
1
1
1
1

252

Number of persons sentenced to community service

176 Mr D J DALLING asked the Minister of Justice

How many (a) White, (b) Coloured, (c) Indian and (d) Black persons (i) attended and (ii) successfully completed courses in (aa) functional and (bb) legal training provided by the legal training branch of his Department in 1991?

The MINISTER OF JUSTICE

(aa) Functional Training

- (a) White
 - (i) 1 165
 - (ii) 1 165
- (b) Coloured
 - (i) 19
 - (ii) 19
- (c) Indian
 - (i) 14
 - (ii) 14
- (d) Black
 - (i) 252
 - (ii) 252

Hansen

TUESDAY, 21 APRIL 1992

Hansen

What was the (a) total potential capacity of, and (b) enrolment in, (i) primary and (ii) secondary schools in each province in the first term of 1992?

Hansen

B428E

The MINISTER OF EDUCATION AND CULTURE

	TED*	CED*	NED*	OFSED*
(a)	(i) 293 500	154 590	80 009	52 244
	(ii) 217 448	133 500	61 166	34 871
(b)	(i) 303 454	126 606	60 497	42 500
	(ii) 190 407	105 565	40 146	28 861

* Only permanent accommodation was taken into account to determine the potential capacity

Pre-primary education: revised policy

54 Mr R M BURROWS asked the Minister of Education and Culture

- (1) Whether his Department has a revised policy in respect of the provision of pre-primary education to children of all races of the pre-school year, if not, why not, if so, what is this policy,
- (2) whether this policy is uniformly applied throughout South Africa, if not, why not,
- (3) whether his Department has made this policy public, if not, why not, if so, (a) when and (b) in what manner?

B429E

The MINISTER OF EDUCATION AND CULTURE

- (1) Yes, public pre-primary schools are now allowed to implement Model B or C. This will enable them to determine their own admission policy. Pre-primary classes which are accommodated in the buildings of a primary school, function according to the model which is applicable to the school concerned.
- (2) yes,
- (3) yes, with regard to Model C as with ordinary public school education and with regard to Model B,
- (a) November 1991,
- (b) information documents were made available to schools

Subsidies to pre-primary schools

55 Mr R M BURROWS asked the Minister of Education and Culture

Hansen

(a) What amount was provided in each provincial education department for subsidies to pre-primary schools in 1991, (b) how many schools in each province received such subsidies in that year and (c) what policy was followed in each of these departments regarding the payment of this subsidy?

The MINISTER OF EDUCATION AND CULTURE

	(a)**	(b)
Cape	R19 022 985	170
Natal	R15 510 345	96
OFS	R8 556 016	81
Transvaal	R6 893 400	187

(c) the policy as laid down on 30 March 1990 in the "Regulations relating to the Registration, Classification and Subsidization of Private Pre-primary Schools", promulgated in terms of the Education Affairs Act (House of Assembly), Act 70 of 1988

* Only pre-primary schools controlled by the Department and registered private pre-primary schools receiving a per capita subsidy

** Estimated amount as on 20 March 1992, the financial year ends on 31 March 1992

Ten schools' pupil numbers

56 Mr D J DALLING asked the Minister of Education and Culture

Hansen

In respect of each of the 10 schools the names of which have been furnished to the Minister's Department for the purpose of his reply, (a) how many pupils were there in each grade and standard as at 1 February 1992 and (b) how many of these pupils were (i) White and (ii) not White?

The MINISTER OF EDUCATION AND CULTURE

Statistics of this nature are not normally kept. According to a survey done to answer the question the following applies

'Some SAP members reject outside help'

By Jo-Anne Collinge

The Independent Board of Inquiry into Informal Repression (IBIR) says it is hampered in implementing the aims of the National Peace Accord by the negative attitude of some members of the South African Police to "outsiders" assisting them.

"One of the essential elements of the National Peace Accord is the impartiality of the police and their willingness to accept help from organisations and individuals working in various communities," the IBIR report for March records.

"Our experience is that we have been unable to assist members of the SAP to the best of our abilities due to their negative attitude towards 'outsiders' assisting them."

Police repeatedly used the media to encourage witnesses to come forward and assist with investigations, the IBIR report observes. "When attempts are made to facilitate this, we often find ourselves arrested or accused of tampering with or changing statements."

Captain Steve van Rooyen of the police division of public relations reserved comment on the allegations, saying he would like to see the full IBIR report before responding.

The following examples of friction between board members and the SAP are cited in the report. **Stg 21/4/92**

- An IBIR researcher involved in investigating the shooting of an ANC member in Sharpeville was allegedly "accused by a member of the SAP, in front of an Inkatha Freedom Party hos-

tel, of being involved in the burning down of IFP houses in the area."

● During the course of the Goldstone Commission hearing on Tokoza, an IBIR researcher was accused by counsel for the SAP of telling witnesses not to co-operate with the police. The report states that this researcher was persistently followed by two white men in a minibus while she was taking statements from potential witnesses.

● At Carletonville, where the IBIR has assisted a police investigation of alleged torture and extra-judicial executions by the Welverdend unrest unit, no fewer than nine people who participated in the investigation or who laid a complaint against local policemen were arrested and/or charged in a court of law.

"To date two people have had their charges withdrawn following a recommendation by the Attorney-General, two were acquitted and one was discharged following the presentation of the State's case."

The IBIR report states that Carletonville residents are beginning to ask what is the price of co-operating with the investigation. "Witnesses have been threatened and warned that they are 'not far off from the mortuary'."

The board's researcher and the local ANC chairman were told that a certain suspended policeman had plans to eliminate them as they were the cause of the suspensions of members of the force, the report claims.



Victim . pensioner Miriam Rabi, holding the remains of a petrol bomb, looks out of a window at her house in Sharpeville Picture George Mashinin

Trust Feed ruling to be passed today

Sowetan 21/4/92

252

JUDGMENT will be passed today on the most significant prosecution the State has brought in the history of South Africa's so-called "black-on-black" violence.

The testimonies and the evidence of seven policemen charged with murdering 11 people in Trust Feed in Natal not only shed light on what happened in the tiny rural township three years ago, but also exposed covert forces behind the political violence which has plagued Natal for years.

The judgment will not only deal with the seven accused policemen in the dock but is also expected to focus on evidence high-

lighting the existence of a "third force" which has transformed South Africa's social landscape into a hotbed of violence, political double-talk and lawlessness.

The trial told of a massive cover-up which let the alleged killers roam free.

It also told of apparent attempts by senior ranking criminal investigation officers to sabotage the investigations when they were taken on by a team of rank and file detectives in August 1991.

What is Mr Justice Wilson going to say about all of this? Will he order more investigations?

What is more important, is what clout will his judg-

ment have? What will happen to the team of detectives which, it is believed, could play a crucial role in ending the political violence and bring to book those who created this legacy?

What will happen to KwaZulu MP Mr David Ntombela who, according to evidence, took part in the planning of the security operation in Trust Feed?

He has been implicated in the killings before, and prosecuted.

If the accused policemen are convicted and sentenced to long terms in jail, will they be released after serving a fraction of their sentences?

Khala sentenced to 14 years in jail

Sawfan 21/4/92. (252)

THE Rand Supreme Court has sentenced trade unionist Mr S'thembele Khala to an effective 14 years' jail for armed robbery and attempted murder

Mr Justice le Grange on Thursday rejected Khala's defence that he was abducted and forced to take part in a robbery. He described Khala's defence as "strange and bizarre".

Khala (35), general secretary of the Media Workers Association of South Africa, had earlier testified that a group of men abducted him from the basement of a Johannesburg hotel on March 28 1990

He said they forced him at gunpoint to drive their getaway car to rob the Fox Street, Johannesburg branch of Nedbank

The judge said it was unlikely that robbers who had planned a crime with detailed attention to every aspect of it would force a stranger to drive their getaway car, knowing they could not depend on his loyalty and that he could sabotage the whole expedition if he got the opportunity

Khala was also found guilty by common purpose for the attempted murder of Constable Theodore Piro of the John Vorster Square Robbery Reaction Unit

The judge sentenced him to five years jail for the crime. The sentence will run concurrently with the 14 years for robbery

Khala was acquitted of the armed robbery of a Caravelle minibus and the robbery of the Germiston branch of Standard bank on February 28 the same year

He was granted leave to appeal against the conviction and sentence. He was also granted bail of R30 000 pending leave to appeal

Mnguni was petrol-bombed about 3am yesterday.

Man in court over Free State murders

(252) By SONTI MASEKO (252)

THE trial of a Free State man who allegedly killed four whites and said he wanted to "cut off the hand of apartheid" begins in the Bloemfontein Supreme Court today. *Sowetan 2/4/92*

Mr Gabriel Mahakoe (42) allegedly murdered a white farmer, a Mr Engelbrecht, and three members of his family in Verkeerdeval on December 22 last year.

He has pleaded guilty.

Mahakoe will be represented by a black pro deo counsel from Johannesburg after he rejected the services of a white advocate

At an earlier hearing, Mahakoe admitted to breaking into the home of the Engelbrechts

"I went to sit in the holy (front) room, where a kaffir is not allowed to sit, and waited. The devil helped me and they came

"I wanted to cut off the hand of apartheid. Unfortunately I only cut off the fingers. That day I wanted to kill 20 to 50 people," he said



Trust Feed judge calls for inquiry

STAR 22/4/92

Own Correspondent 252
and Sapa

MARITZBURG — Mr Justice Wilson yesterday began delivering judgment in the trial of seven Natal policemen facing charges arising from the the killing of 11 people at Trust Feed, near Maritzburg, in December 1988

The judge criticised much of the evidence led by the accused and their witnesses as "unsatisfactory".

He also called for a public inquiry into an alleged cover-up of the case by senior policemen

Mr Justice Wilson told a packed courtroom there had been sufficient evidence in early investigations into the massacre to arrest former New Hanover station commander Captain Brian Mitchell

"This in itself would call for

some form of public inquiry"

The judge said officers involved held ranks as high as brigadier and said they should all be subject to "some form of inquiry"

Earlier yesterday, Mr Justice Wilson said the public should be made aware that regulations broken by the police in the past "will no longer be condoned"

The seven policemen on trial are Captain Jacobus van den Heever, Sergeant Neville Rose, Captain Brian Mitchell, Special Sergeant Dúmisane Ndwalane and Special Constables Kehla Ngubane, Thabo Sikhosana and Marshall Kambule

The State alleges that Captain van den Heever and Sergeant Rose were involved in planning an attack on residents of Trust Feed while Captain Mitchell was present in the area when the special policemen carried out the killings on

the night of December 3 1988

The attack was aimed at United Democratic Front supporters in an attempt to get them out of the Trust Feed area, to strengthen Inkatha support there, evidence has shown

On the night of the massacre, however, a house was chosen which Captain Mitchell said he believed was in UDF-supporting territory but was in fact a group of people (some of them Inkatha supporters) mourning the death of a family member

All the policemen have pleaded not guilty to murder.

Mr Justice Wilson said much of the evidence led by Captain Mitchell pertaining to the night of the murder was not true

He referred to contradictions in his evidence and said these were totally unacceptable

He will continue judgment today A verdict is expected this afternoon or tomorrow

Court told of assaults during police raid

By Susan Smuts

Star 22/4/92

A large contingent of policemen looking for robbers stormed into a house in the middle of the night, arrested all the occupants and assaulted them repeatedly, the Rand Supreme Court heard yesterday

Elizabeth Lambo was giving evidence in a trial within a trial to determine the admissibility of statements made by two men accused of robbing a security van of a payroll outside the Coronationville Hospital on August 31 1990

Themba Makwanyana (26) of Meadowlands and Mvuso Mchunu (20) of Soweto have pleaded not guilty to armed robbery, four counts of murder,

attempted murder, attempted robbery, kidnapping and car theft

Mrs Lambo told Mr Justice J C Labuschagne and two assessors that she and Mr Makwanyana had been sleeping in the dining room of a house in Soweto on the night of 2-3 September 1990. In the small hours she heard a knock at the door

"I don't know who opened the door, but many policemen charged into the house with torches and guns. I saw them storm down on Themba (Mr Makwanyana)

"They hit him and kicked him. They took him to the kitchen and continued to assault him. Then they tied his hands behind his back with electric

wire," she said.

One of the policemen hit her on the back of the head with a gun, she added

She was taken outside where she saw the other people who had been staying in the house. Mr Mchunu was among the crowd. The police were hitting everyone, Mrs Lambo said

They were arrested and taken to a police station. Mr Makwanyana was taken to an office. When he returned he had blood on his face and a mark on his eye. His torso was wet, she told the court

The men have claimed they were assaulted and tortured by the police to force them to confess to the crimes

The trial continues

252

Reform is needed if courts are to protect the environment, reports Jo-Anne Collinge

Uphill legal battle for better world

STAR 22/4/92

252

CONCERNED citizens who imagine the courts will lend themselves to defending the public good by halting environmental destruction are in for a rude awakening, says Cheryl Loots, a law lecturer at the University of the Witwatersrand.

Such public-spirited people are likely to find that the courts believe they lack "standing" to bring a civil action, Mrs Loots writes in the latest edition of Rights, the Journal of Lawyers for Human Rights.

One of the major problems with regard to the enforcement of environmental law by civil remedy is that the courts will not allow a party to claim relief in the public interest.

If you want to seek an interdict to halt environmental destruction, or get the courts to review an ad-

ministrative decision likely to cause harm to the environment, you would have to be able to show a direct interest — that is, that you would be adversely affected by a wrongful act or administrative decision, or that your legal rights might be infringed.

What the courts are not prepared to countenance is the 'ideological plaintiff' who alleges no personal right or personal injury, but comes to court on the basis that s/he is claiming relief in the public interest," says Mrs Loots.

It is also not clear what kind of adverse effect would be considered strong enough by the courts to allow the action to proceed.

The state of the environment affects all persons who live in that environment. Problems relating to macro-government such as the

diminishing ozone layer affect all mankind. Other environmental problems affect only those persons physically present in a particular area. The more widespread the problem the more difficult it is likely to be for an individual to establish that he is affected.

The going gets even rougher when the threatened object is a tree or a river or a class of animals. In the United States, writes Mrs Loots, since the publication of an article entitled "Should trees have standing — toward legal rights for natural objects", objects like rivers or trees have been cited as plaintiffs in a number of cases, but always in tandem with a recognised legal person.

"In South Africa it is not likely that the courts would ever allow a plaintiff of this nature to be cited

as a party, though there is certainly no reported case in which this has been tried."

But there is an aspect of the United States legislation which would facilitate legal action in defence of the environment if it were incorporated into South African statutes the "citizen suit clause".

Says Mrs Loots "Some American statutes completely open the doors of standing in that they grant a right of action to any person irrespective of whether s/he has an interest, while other citizen suit clauses give a right of action only to interested parties."

In addition, if the right to enjoy environmental quality were written into the law, this would go a long way to establishing *locus standi* in a court of law. □

Man defies 'Boer judges'

Southern 22/4/92

252



Man defies 'boer judge'

From page 1

Mosupye was called from the Pretoria Bar after Mahakoe had rejected a white pro deo counsel.

The proceedings resumed before lunch when charges of murder, attempted murder and robbery with aggravating circumstances were read to Mahakoe.

But he closed his ears with his fingers and refused

to plead. The judge entered a plea of not guilty.

Mahakoe has also forbidden his defence counsel from participating in the proceedings by cross-examining witnesses.

The judge advised Mahakoe to think seriously about his decision and reminded him that he was facing very serious charges.

Mahakoe retorted by telling the judge that he was wasting his time.

THERE was pandemonium in the Bloemfontein Supreme Court yesterday when a man accused of the murder of four whites refused to be tried by a "Boer judge".

Mr Gabriel Mahakoe (42), who earlier confessed to have killed four whites "to cut off the hand of apartheid", told Mr Justice DA Kotze that he wanted a black judge, a black prosecutor and a black defence counsel.

An application, filed by his defence counsel Mr Dennis Mosupye, to have the judge and two as-

By SONTI MASEKO

sors and the prosecutor to recuse themselves, was rejected by the court.

When the judge ruled that the trial would have to proceed as there were no black judges in South Africa, Mahakoe shouted at him "You white man, I said I do not want to speak to you I do not want to hear anything from you. That's all".

He then walked down the stairs to the cells below the courtroom, shouting he respected the court but "Ek is bare, bare, bare jammer (I'm very, very, very

To page 4



Cops' attitude is holding up aims of Accord

Sowetan 22/4/92

THE Independent Board of Inquiry into Informal Repression is hampered in implementing the aims of the National Peace Accord by the negative attitude of some policemen to "outsiders" assisting them.

In its March report, the IBIR says "One of the essential elements of the National Peace Accord is the impartiality of the police and their willingness to accept help from organisations and individuals working in various communities

"Our experience is that we have been unable to assist members of the SAP to the best of our abilities due to their negative attitude towards 'outsiders' assisting them"

The board says police repeatedly used the media to encourage witnesses to come forward and assist with investigations, but "when attempts are made to facilitate this, we often find ourselves arrested or accused of tampering with or changing statements"

Police spokesman Captain Steve van Rooyen reserved comment on the allegations, saying he would like to see the full IBIR report before responding to its claims

The following examples of friction between board members and the SAP are cited in the report

- An IBIR researcher involved in investigating the shooting of an ANC member in Sharpeville was allegedly "accused by a member of the SAP, right in front of an Inkatha Freedom Party hostel, of being involved in the burning down of IFP houses in the area"

- During the course of the Goldstone Commission hearing on Tokoza violence, an IBIR researcher was accused by counsel for the SAP of telling witnesses not to co-operate with the police

252
Sowetan Correspondent

The report says this researcher was persistently followed by two white men in a minibus while she was taking statements from potential witnesses

"Whenever the researcher entered a house the kombi parked a few doors away. When the researcher left the house, the kombi then parked outside the house where the researcher had just been"

In Carletonville, where the IBIR has assisted a police investigation of alleged torture and extra-judicial executions by the Welverdiend unrest unit, no fewer than nine people who participated in the investigation or laid a complaint against local policemen were arrested and/or charged in a court of law

"To date two people have had their charges withdrawn following a recommendation by the Attorney-General, two were acquitted and one was discharged following the presentation of the State's case"

The IBIR report says Carletonville residents were beginning to ask what is the price of co-operating with the investigation

"Witnesses have been threatened and warned that they are 'not far off from the mortuary'. The board's researcher and the local ANC chairman were told that a certain suspended policeman had plans to eliminate them as they were the cause of the suspensions of members of the force"

The IBIR concludes in relation to Carletonville that "despite the best intentions by senior police officers to investigate police irregularities, the attitude of their more junior colleagues often leaves much to be desired"

Judge again critical of massacre probe

Own Correspondent

MARITZBURG — Mr Justice Wilson reiterated his strong criticism of the police investigations into the 1988 Trust Feed massacre during a judgment hearing in the Maritzburg Supreme Court yesterday.

There was a deplorable lack of co-operation between the KwaZulu and South African Police, the judge said during the second day of his judgment.

He was referring to incidents after the massacre on December 2 and 3 1988 when four special policemen and their personal files had disappeared without trace.

Subsequent to the killing of 11 people at a funeral vigil at Trust Feed, about 40 km outside Maritzburg, the four special policemen had joined the KwaZulu Police (KZP)

The investigating officer at the time, Captain Frank Dutton, had been unable to trace the men's personal files however, despite repeated attempts to do so. After eventually tracing the

four constables, Captain Dutton managed to obtain their files only after personally travelling to Ulundi. This illustrated a "deplorable lack of co-operation between the KZP and the SAP", Mr Justice Wilson said

The seven policemen on trial are Captain Jacobus van den Heever, Sergeant Neville Rose, Captain Brian Mitchell, Special Sergeant Dumisane Ndwalane and Special Constables Kehla Ngubane, Thabo Sikhosana and Marshall Kambule

All the policemen have pleaded not guilty to murder.

Mr Justice Wilson said the video unit from the police had filmed the scene, but did not seem to want to help the investigation. For instance, they did not film broken windows or the walls or the floors or the curtain which divided the room to see where the gunshots went, but concentrated on the bodies of the deceased — which had all been carried out of the house.

He said, therefore, the photographs and videos were "completely useless" as evidence.

Referring to Lieutenant Patrick Watruss, who was in

charge of the initial investigation, Judge Wilson said he was either "totally incompetent" or just not interested in investigating the case.

Referring to a police witness, Captain J P van Zyl, the judge said that during the court case Captain van Zyl had asked if he could be represented by a police attorney.

"I have never, in all my years on the bench, experienced a police officer calling for legal representation in this way. In my view it seemed Captain van Zyl had obviously been covering up evidence before the court."

He added that during Captain van Zyl's investigation from December 1988 to July 30 1991 there were things that Captain van Zyl did not do. For example, he did not enter evidence of spent cartridges which were found in the house and which were found to be SAP issue

When Captain Frank Dutton took over the investigation it took him two days to arrest two of the special constables and two weeks to arrest all four

The judge's final decision is expected today

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

252 STAR 23/4/92



Police cover-up 'must be probed'

Sowetan 22/4/92

252

THE judge presiding over the Trust Feed massacre trial in Maritzburg yesterday called for a public inquiry into an alleged cover-up of the case by senior policemen.

Mr Justice Wilson began his judgment yesterday into the alleged involvement of seven policemen - two captains, a sergeant and four special policemen - in the killing of 11 people attending a night vigil in Trust Feed, near New Hanover in December 1988.

Justice Wilson told a packed courtroom there had been sufficient evidence in early investigations into the massacre to arrest former New Hanover station commander Captain Brian Mitchell.

"This in itself would call for some form of public inquiry."

The judge said officers involved held ranks as high as brigadier and said they should all be subject to "some form of inquiry".

He also said inquiries should be carried out in other cases where members of the SAP were involved in unlawful offences.

Justice Wilson said the public should be made aware that regulations broken by the police in the past "will no longer be condoned".

He criticised initial investigations into the massacre, saying these had not been done properly.

The seven accused men are Captain Mitchell, Captain Jacobus van den Heever, Sergeant Neville Rose, Special Sergeant Dumsane Ndwane and special constables

Kehla Ngubane, Thabo Sikhosana and Marshall Khambule

The State alleges that Van den Heever and Rose were involved in planning an attack on residents of Trust Feed while Mitchell was present in the area when the special policemen carried out the killings on the night of December 3 1988.

The judge said evidence had shown that the attack was aimed at United Democratic Front supporters in an attempt to rid them from the Trust Feed area, and to strengthen Inkatha Freedom Party support there.

On the night of the massacre, however, Mitchell pointed to a house which he said he believed was in UDF supporting territory.

But people in the house were in fact a group of mourners, some of them Inkatha supporters, who were mourning the death of a family member who had died of natural causes.

All the policemen have pleaded not guilty to murder.

Justice Wilson spent most of yesterday on evidence led by Mitchell and said much of it was not true.

He constantly referred to previous statements and later contradictions by Mitchell, and said much of these were totally unacceptable and highlighted his complete disregard for the truth.

The judge also remarked that much of the evidence led by the accused and their witnesses was unsatisfactory.

He will continue his judgment today and a verdict is expected this afternoon or tomorrow - *Sapa*.

Phola Park: claims to be probed

STAN 23/4/92 (252) (278)
The Goldstone Commission, which yesterday held an inquisitory hearing into the SA Defence Force raid on Phola Park residents, said it had requested the Tokoza Committee to urgently establish the facts relevant to the allegations made by residents.

Mr Justice Goldstone said in a statement yesterday the committee would also establish the medical facts concerning the injured residents and two injured SADF members

However, he said the committee would not investigate "each of the many alleged cases of criminal conducts" as it would be time consuming and could prejudice police investigations into the allegations.

However, the committee would attempt to ascertain why members of the SADF's 32 Battalion entered Phola Park on April 8, and whether they did misconduct themselves, Mr Goldstone said.

The commission had

also requested its counsel, Advocate J J du Toit, to meet members of the battalion who entered Phola Park and obtain a first-hand account of the events from them

The commission has already received affidavits from most of the residents of Phola Park who allege criminal conduct on the part of certain members of the battalion.

Advocate S Sithole will chair the Tokoza Committee — Sapa.

Police Were incompetent or uninterested, says Just Feed judge

MARTZBURG — Police officers were either incompetent or uninterested in investigating the massacre of 11 people at Trust Feed in 1988 properly, the judge in the trial of seven Natal policemen accused of the murders said yesterday.

In the second day of his judgment in the Martsburg Supreme Court, Judge Andrew Wilson strongly criticised the initial police investigation into the killings.

The seven accused are Capt Jacobus van den Heever, Sgt Neville Rose, Capt Brian Mitchell, Special Sgt Dumsane Ndwalane, and special constables Kella Ngubane, Thabo Sikhosana and Marshall Khambule. The early investigations were carried

out by Capt Patrick Warruss, Capt J P van Zyl and Brig Christo Marx. The judge said it was clear the investigators were either "incompetent or not interested" in investigating the case properly.

Wilson said Warruss had carried out superficial investigations at the scene of the massacre; and he and the other investigating officers had made no attempt to investigate the probability of police involvement in the killings.

He said evidence by the investigating officers that they had attempted to trace and arrest the four special constables who had carried out the killings was false. The judge also hit out at the SA Police

for instructing that Van Zyl be represented by a senior counsel while giving his evidence. Never in his career, the judge said, had a State witness, who was also a police investigating officer in a case, "invoked protection of the law". This indicated that Van Zyl must have known he was concealing information on the case from the court.

"There has been no precedent for behaviour of this nature," the judge said. The instruction that Van Zyl be represented by a senior counsel had ultimately come from the Commissioner of Police, Wilson said. It was strange for the commissioner to try to assist an officer who had "on the face of it, acted improperly".

The investigating officer at the time, Capt Frank Dutton, had been unable to trace the men's personal files, despite repeated attempts to do so. After eventually tracing the four constables, Dutton managed to obtain their files only by travelling to Ulundi to do so, the judge said.

Referring to events after the killing, when the four special policemen and their files disappeared without a trace, the judge said there was a deplorable lack of co-operation between the Kwazulu and SA Police. The four had joined the Kwazulu Police after the killing.

The investigating officer at the time, Capt Frank Dutton, had been unable to trace the men's personal files, despite repeated attempts to do so. After eventually tracing the four constables, Dutton managed to obtain their files only by travelling to Ulundi to do so, the judge said.

Judge Wilson also reiterated a call he made on Tuesday for public inquiries to be held in cases where police officers had behaved irregularly.

Judgment continues today.

ANDREW KRUMM reports that the Law and Order Ministry has said it will study the judgment and the call for a public inquiry before deciding on a course of action.

Spokesman May-Gen Leon Mellet said "If Judge Wilson points out any wrongdoing on the part of police, we will certainly correct it."

Mellet said police could not condone unlawful actions by its members — Sapa.

Police probe soldiers' conduct

PRETORIA — Charges are being investigated against nine SADF members after they were pointed out at a police identification parade following an alleged assault of Phola Park residents earlier this month.

A police representative told the Goldstone Commission in Pretoria yesterday the charges against 32 Battalion members ranged from rape to theft and assault.

32 Battalion officer Maj Albie van Eeden, at a preliminary hearing of the commission to determine terms of reference for an inquiry into the incident at Phola Park, Thokoza, strongly denied the troops under his command had assaulted and raped Phola Park residents on April 8.

However, he conceded that troops could have been hard-handed with residents because they did not co-operate after shots were allegedly fired from Phola Park at an SADF patrol. He said the patrol had returned the fire, and later picked up "X" number of spent AK-47 cartridges in Phola Park. Two SADF members were injured in the exchange of fire.

Sally Ann Sealey, a senior researcher for

the Independent Board of Inquiry, said according to residents, the SADF members had embarked on a house-to-house search after they had allegedly been shot at.

"None of the people from whom we have taken statements or whom we have interviewed heard gunfire on that evening prior to the arrival of the SADF in Phola Park."

Shack dwellers said the soldiers had assaulted them, in many cases without conducting any search for weapons, hitting them with rifle butts and beating them with sjamboks, bats, iron pipes, pick-handles and sticks. Sealey said 25 to 30 limbs had been broken.

"Some residents reported being assaulted twice by different groups of soldiers."

"Several residents reported that the screaming and shooting continued all night."

According to the statements, four women — one of whom died — were raped and a large number were indecently assaulted.

Sealey thought that more women had been raped but were afraid to report this.

□ To Page 2

Soldiers

"All the rapes were perpetrated by soldiers at gunpoint and were accompanied by assaults and foul language."

"In most cases, the rape was preceded by a soldier pointing a firearm at the victim's private parts."

Both legs of one rape victim were fractured by bullets fired from outside her shack. Her husband was assaulted and dragged outside, and when he eventually re-entered the shack, she told him the soldiers had raped her. Her underpants had been removed. She died from loss of blood at dawn, said Sealey.

Judge Richard Goldstone said that after

considering yesterday's evidence, the commission would frame the terms of reference for an inquiry into the incidents.

WILSON ZWANE reports a police spokesman said the identification parade was "one of the many" which would be held in Thokoza.

The Human Rights Commission said in a statement yesterday 61 people had been killed and 45 injured in the past week. In an apparent reference to an attack on a house in the Vaal Triangle township of Sharpeville, it said the week's incidents "showed a noticeable increase of attacks in which large numbers of unsuspecting residents were killed in their homes."

□ From Page 1

Phola Park: Cops probe 37 charges

Sawfem 23/4/92

POLICE are investigating 37 charges, including rape and assault, against several members of the 32 Battalion who were pointed out at an identification parade this week.

The charges follow a raid by the battalion at the Phola Park squatter camp on April 9.

Two people were killed and about 100 assaulted. Property was stolen and damaged during the raid.

The details of the charges were revealed in Pretoria yesterday by Mr P Hattingh, SC. He was representing the police at the preliminary inquiry of the Goldstone Commission into events at Phola Park on that day.

Hattingh said 32 of the 240 men on parade on Tuesday were identified "and of these 32 only nine were positively identified as having been on duty at Phola Park that day".

Another witness, Miss Sally Ann Sealy, a researcher with the Independent Board of Inquiry, said she helped to take statements from the victims.

By **MONK NKOMO**

In another case, an old woman was dragged out of a shack while "her young daughter was raped", said Sealy.

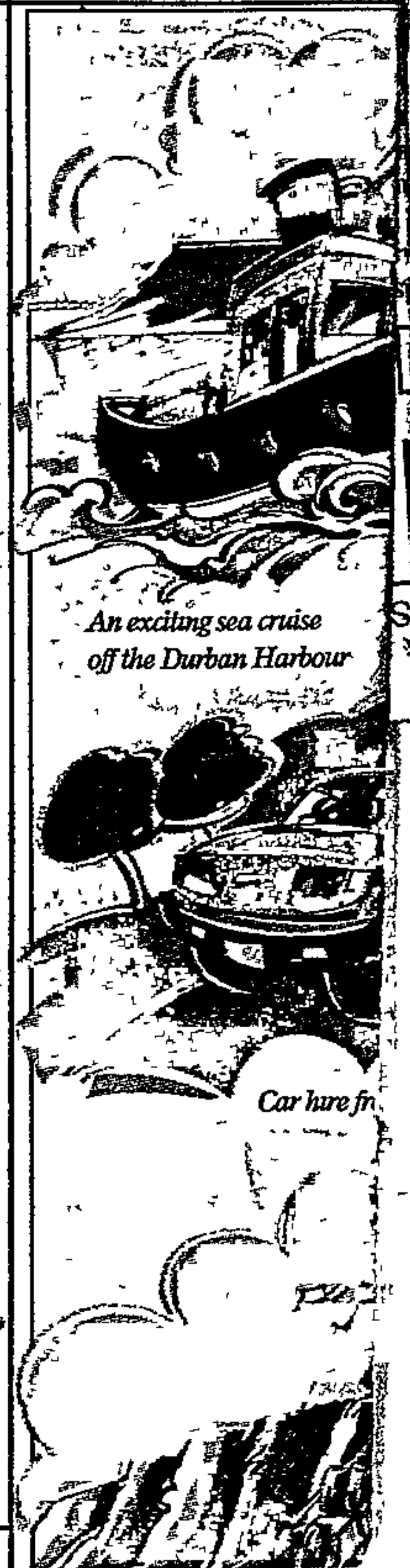
Major Petrus van Eeden of the SADF told the inquiry that two SADF members, including a certain Mpande, were wounded when unknown persons fired at their battalions at Phola Park during the night of April 9.

Van Eeden denied allegations that members of the battalion had raped and assaulted squatters that night.

"The relationship between the 32 Battalion and Phola Park residents had been good and healthy since they started operations there on August 7 1990," he said.

Responding to questions, Van Eeden said although the troops had gone to investigate sporadic shootings, nobody had been arrested. He conceded that, by returning the fire, SADF members could have seriously shot and wounded innocent people.

The commission will be chaired by an advocate, Mr Solly Sithole.



Judge is critical of cop probe

252
Sowetan Correspondent

Sowetan 23/4/92
MR JUSTICE Wilson reiterated his strong criticism of the police investigations into the 1988 Trust Feed massacre during a judgment hearing in the Mantsburg Supreme Court yesterday.

Referring to the role of the seven accused, he said it was hard to believe that policemen did not take steps to guard the house where the massacre had occurred and prevent the public from having access to the bodies.

The seven policemen on trial are Captain Jacobus van den Heever, Sergeant Neville Rose, Captain Brian Mitchell, Special Sergeant Dumisane Ndwalane and Special Constables Kehla Ngubane, Thabo Sikhosana and Marshall Kambule.

Mr Justice Wilson said it was clear that numerous people were in and out of the house where the massacre had taken place, even before the police arrived. He said the video unit from the police had filmed the scene, but did not seem to want to help the investigation. They did not film broken windows or the walls or the floors or the curtain which divided the room to see where the gunshots went, but concentrated on the bodies of the deceased.

These bodies had all been carried out of the house and were lying in a straight row and mostly covered by blankets.

Mr Justice Wilson said it was obvious from survivors' accounts of the massacre that at no time during the pandemonium could the dead people have laid themselves out in a neat row during or after the shooting.

He said therefore the photographs and videos were "completely useless" as evidence.

Investigation

Referring to a police witness, Captain JP van Zyl, he said that during the court case Van Zyl interrupted his testimony and asked if he could be represented by a police attorney.

Said the judge: "I have never in all my years on the bench experienced a police officer calling for legal representation in this way. In my view it seemed Van Zyl had obviously been covering up evidence before the court."

He said that during Van Zyl's investigation, from December 1988 to July 30 1991, he was satisfied that Van Zyl had obtained a list of names and addresses of the special constables. He had also requested accused No 1, Van den Heever, to get the special constables' firearms for ballistics tests.

However, there were things that Van Zyl did not do. He did not read the investigative diary when he took over the case. He did not make any entries until December 26 1988. He did not question accused No 2, Rose, who was in charge of the special constables, or accused number one, who was their commanding officer.

He did not enter evidence of spent cartridges which were found in the house and which were later discovered to be South African police issue. He did not ask the KwaZulu Police for their assistance in finding the four special constables who openly lived in Mpumalanga. He did not question officers connected with payment of wages and finally did not find out the whereabouts of the special constables.

When Captain Frank Dutton took over the investigation it took him two days to arrest two of the special constables and he had arrested all four in two weeks.

Proceeding.

Murder accused swears at judge

Sowetan 23/4/92
252

A 14-YEAR-OLD girl yesterday described in the Bloemfontein Supreme Court how her mother and three other members of her family were shot dead in their Verkeerdevlei, Free State, home in December last year

Giving evidence in the murder trial of Mr Gabriel Mahakoe (42), Elizabeth Smit said she and her sister pleaded with the man to spare their lives

"My sister and I were begging him, saying 'Please, do not shoot' The man fiddled with the gun and a shot went off, hitting my mother in the head," she told Mr Justice DA Kotze

Smit, a survivor of the shooting, said her mother Mrs Helena Smit, her sister Michele Smit and her grandparents Willem and Sophia Engelbrecht were shot and killed two days before Christmas

Mahakoe (42) disrupted court proceed-

By SONTI MASEKO

ings again yesterday when he refused to cooperate He also swore at the judge, calling him a fool

At one stage he jumped out of the dock in protest against the continuation of the trial

Mahakoe refused to sit in the dock He instead sat on the stairs in the courtroom and closed his ears so as not to hear the evidence

"*Ek hoor niks nie Ek prop my vingers in my ore (I don't hear anything, I stick my fingers in my ears),*" he shouted at the judge

Earlier, he said to interpreter Mr Fumanile Seshuba "Tell this man I say 'Voetsek, f off and his court'," and addressed the judge himself.

Missing people have no legal protection

By MZIMASI NGUDLE

252
Sowetan
23/4/92

MR MATTHEWS Goniwe, Mr Godolozzi Qaqawuli, Mr Siphon Hashe and many others are still missing.

Mass arrests followed by mass disappearances is a typical South African experience

Missing people who end up in the custody of the State which later denies any knowledge of their fate or whereabouts is also the ghost that haunts the United Nations Human Rights Commission

The UN Bulletin of Human Rights looks at the problem in its latest review on the subject by Mr Tione van Dongen, a member of the United Nations Working Group on Enforced or Involuntary Disappearances

Only eight percent of 28 000 missing people in 45 countries have been traced - dead or alive

These figures are obviously disconcerting and the solutions are as elusive as ever

The problem, Van Dongen says, is that disappearance on its own is not proscribed by any single human rights norm

"Rather, one has to turn to other human rights standards, such as those prohibiting arbitrary arrest and detention, denial of due process, habeas corpus, ill-treatment and torture as well as arbitrary execution

"One can readily see why disappearance would be an attractive technique to many governments bent on repressing subversion or stifling dissent"

Political price

He observes that although disappearance may be a convenient technique of repression, once resorted to, the political price will be paid indefinitely.

"One would like to think that this had a preventive effect, coupled as it is with enhanced awareness of human rights as a legitimate subject of international concern."

He says that the attractive nature of the tag of the political price has prompted the Working Group to adopt a much more simpler format in handling individual cases of disappearances

"Precisely what sets disappearances apart from other human rights violations is that the missing person becomes a non-person, placed outside the precinct of the law

"The individual is left to the whims of the State and the law may become a mere fig leaf, barely covering the unabashed abuses of its agents," he says.

As a minimum the group requires the name of the disappeared, the date and place of the disappearance, an indication of forces considered responsible and of steps, if any, taken to find out what happened

The group will address a letter to the government concerned, asking it to look into the matter and to inform the group of the results

The group's method, which is also its weakness, is that it is humanitarian rather than accusatory.

NEWS IN BRIEF

6/10/91 24/4/92
Death penalties upheld

THE panel reviewing death sentences imposed on 123 people before September 1991 had recommended that 62 would probably have had the death penalty imposed in spite of subsequent reforms, the Justice Department disclosed yesterday in a report tabled in Parliament. (252)

The panel was appointed to review death sentences imposed before the Criminal Procedure Act was amended in which all avenues of appeal had been exhausted

(252) **More legal aid granted**

THERE was a 45,8% increase to 35 410 in the number of legal aid applications granted by the Legal Aid Board last year, said the board's 1990/91 annual report tabled in Parliament yesterday.

The report said a committee had been established to launch and monitor a pilot project in Johannesburg on the feasibility of a public defender system for SA.

6/10/91 24/4/92

Vakvereniging:

Transport and General Workers' Union, Posbus 9451, Johannesburg, 2000

Die prosedure voorgeskryf by paragrawe (b), (c), (d), (e) en (f) van artikel 19 (2) van die Wet op Arbeidsverhoudinge, 1956, moet gevolg word in verband met 'n beswaar wat ingedien word

G. C. PAPENFUS,

Assistent-nywerheidsregistrateur
(24 April 1992)

Union:

Transport and General Workers' Union, P O Box 9451, Johannesburg, 2000

The procedure laid down in paragraphs (b), (c), (d), (e) and (f) of section 19 (2) of the Labour Relations Act, 1956, must be followed in connection with any objection lodged

G. C. PAPENFUS,

Assistant Industrial Registrar
(24 April 1992)

KENNISGEWING 380 VAN 1992

DEPARTEMENT VAN JUSTISIE

BEKENDMAKING VAN NAME VAN PERSONE WAT DIE INLIGTING BEDOEL IN PARAGRAAF (b) VAN GOEWERMENSKENNISGEWING No 3013 VAN 18 DESEMBER 1990 VERSTREK HET

Die Direkteur-generaal Justisie maak hierby vir algemene inligting in die Bylae bekend, die name van persone wat die inligting bedoel in paragraaf (b) van Goewermentskennisgewing No 3013 van 18 Desember 1990 volledig verstrek het, vir sover sodanige inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing, ten opsigte van die verlatting van die Unie of Republiek sonder 'n geldige paspoort of 'n permit of sonder magtiging by 'n ander plek as 'n toegangspoort, soos bedoel in paragraaf (a) daarvan, deur sodanige persone

NOTICE 380 OF 1992

DEPARTMENT OF JUSTICE

ANNOUNCEMENT OF NAMES OF PERSONS WHO FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (b) OF GOVERNMENT NOTICE No 3013 OF 18 DECEMBER 1990

The Director-General Justice hereby makes known for general information in the Schedule, the names of persons who furnished in full the information referred to in paragraph (b) of Government Notice No 3013 of 18 December 1990, in so far as such information relates to the granting of indemnity in accordance with the said Government Notice, in respect of the departure from the Union or Republic without a valid passport or a permit or without authority at a place other than a port, as referred to in paragraph (a) thereof, by such persons

BYLAE • SCHEDULE

Van Surname	Volle voorname Full christian names	Geboortedatum Date of birth
Banda	Jabulani Eric	1958-03-07
Gumede	Christian Langalinye	1960-12-10
Hlatshawayo	Hughes Mduduzi	1932-12-04
Legasa	Drake Serero	1952-09-30
Makhabane	Joseph Leatsoa	1957-11-04
Maleka	Tokologo Aaron	1954-07-06
Malinga	Itumeleng	1962-06-15
Manamela	Dipuo Gloria	1963-05-30
Manamela	Solomon Solly Kgabo	1957-08-18
Marymoloa	John G	1958-03-05
Matsimela	Herman R	1954-05-27
Mketi	Trevor Xola	1956-01-06
Mohppi	Peter Valentine M	1964-11-24
Molefe	Mohlalani Vernon	1962-02-14
Mosa	Motzumi	1957-02-05
Mpuqa	Michael Mawushe	1960-07-28
Mseleni	Thobile Wigggett	1952-06-11
Msimang	Mavuso Muzi	1941-10-19

Van Surname	Volle voorname Full christian names	Geboortedatum Date of birth
Ndongeni...	Zolile Harrison	1966-09-16
Nduli	Stanley Bongani	1954-11-27
Ngcobo.	Reginald Siphon	1946-01-13
Ngira	Bhekisisa	1965-11-22
Nhlaphe	Meshack	1957-12-05
Ondala	Zolisa	1971-09-07
Phitlo	Didimalang	1958-01-06
Sekhudu	Simon Boetie Kotopi	1960-12-06
Shaheed	Nasif Moshin Abdal	1954-10-20
Sigcu	Clifford Linda	1961-12-03
Trevelyan	Gavin David	1943-01-31
Tshabalala	L T Msondeki	1966-01-09
Zenzile	Haylett Thozamile Wantu	1957-06-26

(24 April 1992)

**KENNISGEWING 381 VAN 1992
DEPARTEMENT VAN JUSTISIE**

BEKENDMAKING VAN NAME VAN PERSONE WAT VOLDOEN AAN PARAGRAAF (a) VAN GOEWERMENSKENNISGEWING No. R 936 VAN 24 APRIL 1991 EN DIE INLIGTING BEDOEL IN PARAGRAAF (b) VAN GENOEMDE GOEWERMENSKENNISGEWING VERSTREK HET

Die Direkteur-generaal Justisie maak hierby vir algemene inligting, in die Bylae hiervan, bekend die name van persone—

(a) wat lede van die African National Congress is, of wat, in die geval van persone wat nie sodanige lede is nie, die beginsels van vreedsame oplossings en ontwikkeling ooreenkomstig paragraaf (a) van Goewermenskennisgewing No R 936 van 24 April 1991 onderskryf het, en

(b) wat die inligting bedoel in paragraaf (b) van genoemde Goewermenskennisgewing volledig verstrekket het,

vir sover sodanige onderskrywing en inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermenskennisgewing aan elke sodanige persoon ten opsigte van enige handeling bedoel in paragraaf (c) van genoemde Goewermenskennisgewing 'n Lys van die spesifieke handelinge ten opsigte waarvan vrywaring deur elke sodanige persoon verwerf is, is vir inspeksie beskikbaar in die Kantoor van die Direkteur-generaal Justisie

NOTICE 381 OF 1992

DEPARTMENT OF JUSTICE

ANNOUNCEMENT OF NAMES OF PERSONS WHO HAVE COMPLIED WITH PARAGRAPH (a) OF GOVERNMENT NOTICE No R 936 OF 24 APRIL 1991 AND WHO HAVE FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (b) OF THE SAID GOVERNMENT NOTICE (252)

The Director-General Justice hereby makes known for general information, in the Schedule hereto, the names of persons—

(a) who are members of the African National Congress, or who, in the case of persons who are not such members, in terms of paragraph (a) of Government Notice No R. 936 of 24 April 1991 subscribed to the principles of peaceful solutions and development, and

(b) who have furnished the information referred to in paragraph (b) of the said Government Notice in full,

in so far as such subscription and information relate to the granting of indemnity in terms of the said Government Notice to each such person in respect of any act referred to in paragraph (c) of the said Government Notice. A list of the specific acts in respect of which indemnity has been acquired by each such person is available for inspection at the Office of the Director-General Justice.

Van Surname	Voorname Names	Geboortedatum Date of birth
Bani	Mongezi	1968-06-14
Dondola	Joseph Zola	1963-02-24
Dyubele	Vusile Bunga	1961-06-15
Ford	Andrew	1940-11-13
Ford	Henry Arden	1964-10-02
Jack	Makhaya	1965-01-01

Van Surname	Voorname Names	Geboortedatum Date of birth
Mabaso	Lungisani Bekezela	1962-01-12
Madolo	Mnoneleli	1970-11-11
Mpondo	Buyisile	1963-03-23
Ntelezi	Mzukisi	1973-01-05
Philip	Gideon	1964-03-26
Viljoen	Kevin Andrew	1963-06-18

(24 April 1992)

KENNISGEWING 382 VAN 1992

DEPARTEMENT VAN MANNEKRAG

WET OP ARBEIDSVERHOUDINGE, 1956

REGISTRASIE AS VAKVERENIGING

Hierby word vir algemene inligting bekendgemaak dat die SALSTAFF (i) met ingang van 14 April 1992 ingevolge artikel 4 (7) van die Wet op Arbeidsverhoudinge, 1956, as 'n vakvereniging geregistreer is ten opsigte van administratiewe personeel in diens van die Suid-Afrikaanse Lugdiens, in die Republiek van Suid-Afrika

(24 April 1992)

NOTICE 382 OF 1992

DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

REGISTRATION AS A TRADE UNION

It is hereby notified for general information that the SALSTAFF (i) has with effect from 14 April 1992, in terms of section 4 (7) of the Labour Relations Act, 1956, been registered as a trade union in respect of administrative staff employed by the South African Airways, in the Republic of South Africa.

(24 April 1992)

RAADSKENNISGEWINGS

RAADSKENNISGEWING 80 VAN 1992

MUNISIPALITEIT VAN KAAPSTAD

WYSIGING VAN DIE REGULASIES VAN DIE BEHEER VAN DIE STRAND EN DIE SEE WAT BINNE DIE REGSGEBIED VAN DIE MUNISIPALITEIT VAN KAAPSTAD GELEE IS OF DAARAAN GRENS

Die Munisipaliteit van Kaapstad het ingevolge artikel 10 (1) van die Strandwet, 1935 (Wet 21 van 1935), saamgelees met die kennisgewing ten opsigte van die voorgestelde wysiging van die Regulasies vir die Beheer van die Strand en die See binne die regsgebied van die Munisipaliteit van Kaapstad gelee is of daaraan grens soos gepubliseer op bladsy 154 in *Staatskoerant* No 12111 van 29 September 1989 en met die goedkeuring van die Uitvoerende komitee aan die provinsie die Kaap die Goeie Hoop, die regulasies gewysig deur die eerste Bylae deur die volgende Bylae te vervang

BYLAE

MUNISIPALITEIT VAN KAAPSTAD

EERSTE BYLAE TOT DIE REGULASIES OPGESTEL Kragtens Artikel 10 van die Strandwet, 1935 (Wet 21 van 1935), soos gewysig

A TARIEFGELDE—Pawiljoene en swembaddens

Bewaarplek	R0,35	
	Februarie tot November	Desember tot Januarie
Boekies, swem (10 kaartjies per boekie)	R	R
Kind, 16 jaar en jonger	9,00	9,00
Volwassene	23,00	43,00

BOARD NOTICES

BOARD NOTICE 80 OF 1992

CITY OF THE MUNICIPALITY OF CAPE TOWN

AMENDMENT TO THE REGULATIONS FOR THE CONTROL OF THE SEA-SHORE AND THE SEA SITUATED WITHIN OR ADJOINING THE AREA OF JURISDICTION OF THE MUNICIPALITY OF CAPE TOWN

The Municipality of Cape Town has, in terms of section 10 (1) of the Sea-Shore Act, 1935 (Act 21 of 1935), read with the notice in respect of the proposed amendment to the Regulations for the Control of the Sea-Shore and the Sea situated within or adjoining the area of jurisdiction of the Municipality of Cape Town as published on page 154 in *Government Gazette* No 12111 of 29 September 1989 and with the approval of the Executive Committee of the Province of the Cape of Good Hope, amended the said regulations by the substitution for the first Schedule of the following Schedule

SCHEDULE

CAPE TOWN MUNICIPALITY

FIRST SCHEDULE TO REGULATIONS MADE UNDER SECTION 10 (1) OF THE SEA-SHORE ACT, 1935 (ACT 21 OF 1935), AS AMENDED

A TARIFF OF CHARGES—Pavilions and swimming baths

Valuables	R0,35	
	February to November	December to January
Books, bathing (10 tickets per book)	R	R
Child, 16 years and under	9,00	9,00
Adult	23,00	43,00

**DEPARTEMENT VAN HANDEL EN
NYWERHEID**

No. 1127

24 April 1992

WET OP STANDAARDE, 1982

**VOORGESTELDE WYSIGING VAN DIE VERPLIGTE
SPESIFIKASIE VIR DIE VEILIGHEID VAN GLOEI-
LAMPE**

Hierby word kragtens artikel 16 (3) van die Wet op Standaarde, 1982 (Wet 30 van 1982), bekendgemaak dat die Minister van Handel en Nywerheid en vir ekonomiese Koordinering, van voorneme is om die verpligte spesifikasie vir die veiligheid van gloeilampe, gepubliseer by Goewermentskennisgewing R 2719 van 23 November 1990, te wysig soos in Bylae uiteengesit

Die doel van die wysiging is om die vereistes vir sekering in sekere lampsoorte te verslap.

Enige persoon wat beswaar wil maak teen die Minister se voorneme om hierdie wysiging aan te bring, moet sy skriftelike beswaar voor of op die datum twee maande na publikasie van hierdie kennisgewing indien by die Direkteur-generaal, Suid-Afrikaanse Buro vir Standaarde, Privaatsak X191, Pretoria, 0001.

BYLAE

**WYSIGING VAN DIE VERPLIGTE SPESIFIKASIE VIR
DIE VEILIGHEID VAN GLOEILAMPE**

Onderafdeling 3.2: Skrap die eerste sin en vervang dit deur die volgende

'n Gasge vulde gloeilamp met 'n aanslag van 200 V of meer moet, behalwe in die geval van hardeglaslampe, soos paraboliese gealumiseerde weerkaatslampe (PAW-lampe), 'n sekering in minstens een van die inleidrade hê

DEPARTEMENT VAN JUSTISIE

No. 1112

24 April 1992

**INSTELLING VAN 'N HOF VIR KLEIN EISE VIR DIE
GEBIED THABAZIMBI**

Ek, Daniel Pieter Antonie Schutte, Adjunkminister van Justisie, handelende namens en in opdrag van die Minister van Justisie—

- (a) stel hierby kragtens artikel 2 van die Wet op Howe vir Klein Eise, 1984 (Wet No 61 van 1984), 'n hof vir die beregting van eise ingevolge genoemde Wet vir die gebied Thabazimbi in,
- (b) bepaal hierby kragtens genoemde artikel Thabazimbi as die setel van genoemde hof, en
- (c) bepaal hierby kragtens genoemde artikel Thabazimbi en Northam as plekke in daardie gebied vir die hou van sittings van genoemde hof

D. P. A. SCHUTTE,
Adjunkminister van Justisie

**DEPARTMENT OF TRADE AND
INDUSTRY**

No. 1127

24 April 1992

STANDARDS ACT, 1982

**PROPOSED AMENDMENT OF THE COMPULSORY
SPECIFICATION FOR THE SAFETY OF INCAN-
DESCENT LAMPS**

It is hereby made known under section 16 (3) of the Standards Act, 1982 (Act 30 of 1982), that the Minister of Trade and Industry and for Economic co-ordination intends to amend the compulsory specification for the safety of incandescent lamps published by Government Notice R. 2719 of 23 November 1990, as set out in the Schedule

The purport of the amendment is to relax the requirements for fuses in certain types of incandescent lamps

Any person who wishes to object to the intention of the Minister to effect this amendment shall lodge his objection in writing with the Director-General, South African Bureau of Standards, Private Bag X191, Pretoria, 0001, on or before the date two months after publication of this notice

SCHEDULE

**AMENDMENT OF THE COMPULSORY SPECIFI-
CATION FOR THE SAFETY OF INCANDESCENT
LAMPS**

Subsection 3.2: Delete the first sentence and substitute the following.

Except in the case of lamps made of hard glass, such as parabolic aluminized reflector lamps (PAR lamps), a glass-filled lamp rated at or above 200 V shall have a fuse in at least one of the lead-in wires

DEPARTMENT OF JUSTICE

No. 1112

24 April 1992

**ESTABLISHMENT OF A SMALL CLAIMS COURT
FOR THE AREA OF THABAZIMBI**

I, Daniel Pieter Antonie Schutte, Deputy Minister of Justice, acting on behalf and by direction of the Minister of Justice—

- (a) hereby, for the area of Thabazimbi, establish under section 2 of the Small Claims Courts Act, 1984 (Act No 61 of 1984), a court for the adjudication of claims in terms of the said Act,
- (b) hereby determine under the said section Thabazimbi to be the seat of the said court, and
- (c) hereby determine under the said section Thabazimbi and Northam to be places in that area for the holding of sessions of the said court

D. P. A. SCHUTTE,
Deputy Minister of Justice

252 STAR 24/4/92

Affirmative action vital for peace, says judge

By Michael Sparks

Affirmative action was needed — even at great financial cost — to ensure lasting peace in South Africa, Mr Justice Pierre Olivier, vice-chairman of the SA Law Commission, said in Johannesburg yesterday.

“Affirmative action may be discriminatory, but it is in a sense healthy, because the elimination of inequality will bring peace. which makes these sacrifices a small price to pay,” he said.

“If we have respect for human rights, it must not just be those rights which suit our pockets.”

The judge, who headed the Law Commission's report on a Bill of Rights, was the

main speaker at a Bill of Rights seminar, organised by the Department of Justice, at Goudstad Teachers' Training College.

He said that if South Africa was earnest about the need for a Bill of Rights to protect all its people, then the “haves” would need to make great sacrifices for the benefit of the “have nots.”

Since groups competed for political dominance as a means of protecting themselves, they needed to be given the assurance that their rights would be protected in the form of a Bill of Rights.

It was necessary to educate and prepare all citizens to understand their rights and obligations in terms of such a Bill.

MK leaders testify before commission

By Mckeed Kotlolo
Pretoria Bureau 24/4/92

Two senior Umkhonto we Sizwe (MK) commanders on Wednesday denied allegations that an MK meeting on March 25 had decided to attack four Inkatha Freedom Party hostels in the Transvaal

But they admitted the ANC's military wing did not have absolute control over its members.

MK political commissar Oupa Monareng and PWV chief of personnel Sydney Mpilo were testifying before the Goldstone Commission in Pretoria following allegations by two police informers who had earlier claimed they had attended an MK meeting at the ANC's head office in Johannesburg where a decision had been taken to attack the IFP hostels

Mr Monareng said members at the meeting

did suggest that MK should attack the hostels because they felt their lives were threatened

However, the suggestion was turned down by the leadership because the armed struggle had been suspended and MK had become more involved in mass action

Mr Monareng, however, told the commission that members "could do their own thing" without the mandate of the leadership

The commission also heard that the PWV regional headquarters was not empowered to take such decisions. Only the national leadership had such powers

Mr Mpilo said MK was bound by the Groote Schuur and Pretoria Minutes and the D F Malan Accord to the suspension of the armed struggle

He said MK had no right to commit soldiers to action that would be detrimental to these

Recruit tells of 'bus to death'

PRETORIA — KwaZulu police recruits who underwent training in the Caprivi Strip were warned they would "catch the first bus" if they divulged details of their training, a sitting of the Goldstone Commission heard yesterday.

Mr Vitalis Vela Mncunu, a former special constable attached to the KZP, told the commission

the warning was issued by a Captain Langeni and a senior Inkatha Freedom Party official known to him as "Mashwabane".

Asked what Capt Langeni and Mashwabane meant when they issued the warning, Mr Mncunu said this meant that whoever divulged information concerning the Caprivi Strip training would be killed.

Mr Mncunu — who is in custody after being arrested for the murder of two men in Pinetown last month — said he was afraid of the two men, especially Capt Langeni.

He was recruited by them after he was charged with the murder of another man, Mr Itoto Dlamini, in 1987.

He was taken to Mkuze and lat-

er to the Caprivi Strip, where he underwent training together with other recruits, he said.

Mr Mncunu said that after his training he was appointed as Chief DJ Ndlovu's guard in the Ixopo district. His services were terminated after the shooting of the two men in Pinetown.

The hearing continues — Sapa

Mitchell and 4 others guilty

CT 24/4/92

251

Own Correspondent

MARITZBURG — Brian Mitchell, a former captain and New Hanover police station commander, and four former SAP special policemen were convicted in the Supreme Court here yesterday on 11 counts of murder and two of attempted murder

Mr Justice Andrew Wilson said Mitchell, 34, led the four special policemen to attack a house in Trust Feed, where 11 people, including seven women and two children were killed in December 1988, and gave the signal for the attack to start by firing two shots into the house

The four convicted special policemen are Kehla Cyprian Ngubane, 21, Thabo Petros Sikhosana, 29, Dumisani Roy Ndwane, 27, and David Marshall Khambule, 26

Two other policemen in charge of special policemen at the time of the killings, Captain Jacobus van den Heever, 36, and Sergeant Neville Rose, 35, were acquitted after the court found the state had not proved the case against them beyond a reasonable doubt.

Mr Justice Wilson, who sat with two assessors, rejected evidence by Mitch-

ell that he simply dropped two special policemen in Trust Feed on the night in question with instructions to join up with two colleagues and attack groups of "comrades" (UDF supporters) at large in the area. The probabilities were overwhelmingly in favour of Mitchell's having led the group of special policemen to a target which he had selected, perhaps mistakenly

He said there was no evidence, however, nor did it seem probable, that Mitchell desired the death of the actual victims (mourners holding a funeral vigil). The fact that the occupants of the house concerned may not have been the people he believed them to be did not affect his guilt, however.

The judge acquitted Mitchell and the former special policemen on six of the eight counts of attempted murder where survivors were not wounded. He said the court was satisfied the attackers had aimed at their victims and that it was not a "general shooting at random" although it had been their intention to kill all inside the house.

Evidence in mitigation of sentence will be led on Monday.

● Police chief orders 'cover-up' probe — Page 2



MURDERER . . . Former police captain Brian Mitchell was found found guilty of murder in the Maritzburg Supreme Court yesterday.

"When I get Kepler, the game is mine Bad luck man — and come again"

son) and the boys fought back, and it augurs well for West Indian cricket"

the grass, shaking his head "I still don't believe it," he said, again and again.

Face of defeat . . . Mike P

Trust Feed police guilty of murder

STAR 24/4/92

252

Own Correspondent

MARITZBURG — Five of the seven policemen charged with murdering 11 people in the Trust Feed massacre were found guilty in the Maritzburg Supreme Court yesterday.

Former New Hanover police station commander Captain Brian Mitchell led four special policemen in the attack on the house in Trust Feed, Natal, where 11 people, including seven women and two children, were killed in December 1988, the court found.

He had given the signal for the attack to start by firing two shots into the house.

Mr Justice Wilson and two assessors convicted Mitchell (34) and the four former SAP special policemen, Kehla Cyprian Ngubane (21), Thabo Petros Sikhosana (29), Dumisani Roy Ndwane (27) and David Marshall Khambule (26), of 11 counts of murder and two of attempted murder.

Evidence in mitigation will be led on Monday.

Two other policemen in charge of special policemen at the time, Captain Jacobus van den Heever and Sergeant Neville Rose, were acquitted after the court found

Screams did not stop attack — judge

the State had not proved the case against them beyond a reasonable doubt.

There was a strong police presence at the court yesterday and members of the public were searched before being allowed to enter the public gallery.

Mr Justice Wilson rejected evidence by Mitchell that he merely dropped two special policemen in Trust Feed with instructions to join two colleagues and attack groups of "comrades" (UDF supporters) at large in the area.

The judge said there was no evidence, nor did it seem probable, that Mitchell desired the death of the actual victims (mourners holding a funeral vigil). The fact that the victims might not have been the people he believed them to be, however, did not affect his guilt.

The court accepted the evidence of the special policemen that Mitchell pointed out the house and participated in the attack.

The judge said the original defence by the special policemen, that they had been following "superior orders"

to attack a house containing terrorists, would be an "extremely difficult one to believe in the circumstances of this case". It was clear this defence could only be applicable where such orders were legal.

The four were intelligent men and despite their statements that they believed they were attacking terrorists, the court did not believe they could ever have thought that they were justified in opening fire at night on people in a house who were doing them no harm.

The court found that at least two of them had entered the house and deliberately shot people in it after they were pointed out by torchlight. "We are satisfied that there was screaming and groaning from the women and children, and that all the special constables must have been aware of it. Despite this they persisted with the attack at a time when they could no longer have believed — if they ever did — that it was terrorists they were attacking."

The judge acquitted Mitchell and the special policemen on six of the eight counts of attempted murder, in which survivors were not wounded. He said the court was satisfied the attackers had aimed at their victims and that it was not a "general shooting at random".

● Commissioner of Police General Johan van der Merwe said yesterday SAP headquarters had taken note of the judgment, reports Sapa.

In a statement, General van der Merwe said he had already instructed Lieutenant-General Johan Swart, divisional chief of the Internal Stability Division, to thoroughly investigate Riot Unit 8.

Regarding calls by Mr Justice Wilson earlier this week for a public inquiry into the investigating officers in the case who had acted irregularly, General van der Merwe said "As regards the initial investigation into the Trust Feed case, I have instructed Lieutenant-General Basie Smit to launch a thorough investigation into this matter with the view to possible criminal and/or departmental steps.

"I will not tolerate or condone unprofessional investigations or any attempts at a so-called 'cover-up'."

Groups can be banned

ET 24/4/92 Political Staff

(252)

POLITICAL parties could still be banned if they tried to achieve their political aims through violence, the Department of Justice warned yesterday, although the decision could be appealed.

"Owing to the fact that there are still organisations trying to achieve their political goals by violent means, provision continues to be made for the declaration of organisations to be unlawful," it said in its annual report tabled in Parliament yesterday.

Such a banned organisation would be given the reasons for the declaration and it could apply to the Supreme Court to have the order set aside

Crowd demand entry to 'apartheid' trial

BLOEMFONTEIN. — Riot police were called to quell a protest by about 300 blacks outside the Supreme Court here yesterday after they had been refused entry to the building to attend a murder trial.

The crowd demanded to be allowed into the court building in Fountain Street to support Verkeerdevlei resident Mr Gabriel Mahakwe, 43, who allegedly killed four whites "to cut off the hand of apartheid".

"You people are saying the book of apartheid is closed. But why are you refusing us entry to the court, while allowing white people?" one of the crowd shouted at the policemen

"We are aware that by not allowing

us to enter you are intending to destroy the vibrant spirit of Mahakwe."

The standoff ended without incident and the crowd eventually dispersed

Earlier this week, Mr Mahakwe interrupted his trial to tell Mr Justice Kotze he wanted a black judge and a black prosecutor.

Mr Justice Kotze adjourned the proceedings to allow Mr Mahakwe to confer with his lawyer, after informing him there were no black judges in the country and that the attorney-general had the authority to appoint whomever he preferred to prosecute.

The trial is continuing. — Sapa

Biko lawyer speaks at UCT

Staff Reporter

252

CT 24/4/92

IF the new South Africa did not require the services of the Legal Resources Centre it would be "unlike any other government in the world", distinguished lawyer Mr Sydney Kentridge, QC, said last night at UCT

Mr Kentridge, who appeared for the Biko family during the inquest into the death in detention of Black Consciousness leader Mr Steve Biko in September 1977, was delivering an address entitled "The casework of the Legal Resources Centre A reflection of South African society"

He said that since the organisation was

founded in 1978 it had "extended the frontiers of law" in South Africa, in the absence of a bill of rights, by using the only laws available at the time

The services of the LRC would not be needed in the new South Africa if the police were "everyone's friends" and governments and bureaucrats did not abuse their powers

Dividing his time between the United Kingdom, where he practises at the bar, and his "several" visits a year to South Africa, Mr Kentridge flies back to England next week

On his return he will attend an opera, "Biko", by Priti Paintal and Richard

Fawkes, which premieres in Birmingham. Mr Kentridge said he had "no idea how the life of the man" had been set to music, but was "very interested to see it"

He added that "it is hard to believe it was nearly 15 years ago" he appeared for the Biko family at the inquest

Speaking to the Cape Times after his address, Mr Kentridge said he had seen his assertion of five years ago that South Africa's future would be decided by negotiation and not revolution come to fruition

However, he said he had envisaged that the negotiations would have taken place closer to the turn of the century

LM Radio. Opening times are 10 am to 10 pm on public holidays and weekends. During weekdays the festival will be open from 5 pm to 10 pm. Entrance fees are R6 for adults and R3 for children

'Murder suspects ANC members'

By Guy Jenson
Crime Staff

252 2098
24/4/92

Police yesterday claimed three suspects arrested in connection with the murder of a policeman in Alexandra last month were members or supporters of the ANC and called on the movement to control its followers

On the night of March 31 Warrant-Officer Bogatsu Pilani was dragged from his vehicle in London Street, stabbed in the side, shot in the head with his service pistol and set alight

Three suspects — a 26-year-old man named by

police as Happy Mahlango and two 17-year-old youths — were arrested on April 13

They appeared in a Randburg court on April 15 on a murder charge. They were remanded in custody until the case resumes on May 27

At a press conference yesterday police Lieutenant-Colonel Dave Bruce said "The three accused in this case are self-admitted members of the ANC"

ANC spokesman Wally Mbhele said the ANC was not aware of members being arrested in connection with the policeman's murder

But he added "It is fascinating to note how police are capable of making speedy arrests when a policeman is killed while they have failed to bring to book those responsible for the countless murders of ANC activists, community leaders and township residents in general"

Colonel Bruce said many organisations "continually and in contravention of the National Peace Accord" accused the SAP "without justification" of involvement in the violence

He appealed to these organisations to control members

**62 may still
be executed** (262)
CITIZEN 1/4/92

SIXTY-TWO people still face the gallows in spite of recent reforms about the death penalty

This was revealed by a panel which has reviewed the death sentences imposed on 123 people before September 1991 when the reforms were introduced

Forty-four other prisoners would probably not have had the death penalty imposed. Seventeen other cases have been referred to the Appeal Court or the State President

WEEKLY MAIL

R2,50 (including VAT) ★ Southern Africa: R2,50, excl tax

★ Zimbabwe. Z\$5,00, incl tax

Volume 8, Number 17. April 24 to 29, 1992



Real-life Le Carré

A new book exposes a chapter in Western spy history so bizarre Le Carré would not have imagined it

PAGE 19



Never-never land

The new Disneyland in Paris represents a delicate balance between Yankee commerce and purist Gallic scorn

PAGE 14



Who'll run the world in the 21st century?

PAGE 17



The Sixties returned briefly to the Maluti mountains at Easter, where vintage hippies engaged in painting themselves in mud and pagan dancing while listening to the eardrum-bruising strains of Harley Davidson, above. The heavens were less enthusiastic and drowned out the racket with a torrential downpour. See PAGE 31

Photos: GUY ADAMS

Zach, follow Div's advice: No anger

WHEN the Progressive Party split away in 1959, United Party leader Sir De Villiers Graaff called for "no rancour or bitterness". That's a good guideline for the Democratic Party today, faced with a rebel split to the African National Congress. After all, when it comes to party splits and mixed fortunes, Colin Eglin and Zach de Beer have seen it all

PAGE 23

Towards the next innings

The lessons South African cricket has learned ... very quickly ... from Barbados

PAGE 20

Down hell road at Easter

Reporter RAY NXUMALO gets into a taxi with a madcap driver and his over-talkative passengers for a hair-raising Easter drive along South Africa's most dangerous highway

PAGE 10



No-one knows how the Zion church's millions of members will vote. But one could get a shrewd idea from the applause on Easter Monday ...

PAGE 20

A judge links police to murder

w/ mail 24/4 - 29/4/92



After this week's milestone

Trust Feed verdict, claims of

state-sponsored violence can no

longer be dismissed as rumour

IN this week's landmark judgment in the Trust Feed case, the court accepted that security forces played a central role in driving a peaceful community into violence and lawlessness.

Until now, the government has dismissed the mounting evidence from around the country of security forces provoking and planning violence

But Mr Justice Andrew Wilson's hard-hitting findings this week should put an end to that. The court ruled that senior policemen had worked with Inkatha warlords to plan and execute the attacks.

It became clear during the trial that Trust Feed was not an isolated case. "The specials (riot police) had been used before," one of the central witnesses said repeatedly.

The Pietermaritzburg police also engineered an elaborate cover-up which would have succeeded if not for the determined efforts of a detective who stumbled across the evidence while working on another case.

PAGES 2 and 3

A DRAMATIC court case in Pietermaritzburg has proven — with evidence strong enough to be accepted by a judge — that the security forces have played a central role in transforming parts of Natal into hotbeds of violence and lawlessness.

Convicting a police station commander and four "special" policemen of 11 murders and two attempted murders in the rural Natal township of Trust Feed, Judge Andrew Wilson said this week that the 1988 massacre was the final event in a planned security force operation to disrupt the community, oust an established residents' association and give Inkatha control of the area.

Until now, the government has denied the validity of evidence of security forces provoking and planning violence and taking sides in local conflicts. But Judge Wilson's hard-hitting findings this week — at the end of a five-month trial — should put an end to that. In a detailed three-day judgment, he showed that senior policemen had worked with Inkatha members to plan and execute the killings, and had then engineered an elaborate cover-up.

It also became clear during the trial that such activities were commonplace. "The special policemen had been used before," one of the central witnesses said repeatedly.

Judge Wilson said it was clear that the planning of the operation involved at least the head of Pietermaritzburg's Riot Unit, the late Major Deon Terblanche; the head of Inkatha in Pietermaritzburg, kwaZulu MP David Ntombela, and station commander Lieutenant Brian Mitchell, who worked closely with the security police and had "considerable experience in working with riot units." Mitchell was also a key member of the Joint Management System, a central government network responsible for national security.

The judge also said the plans resulted in a special force being furtively dispatched to Trust Feed in late November 1988 to assist an Inkatha member, Jerome Gabela, in taking control of the area. Gabela had already been set up as chairman of a "landowners' committee" in opposition to the existing residents' association, a legal body recognised by regional planners.

In a subsequent security operation on December 2 1988, members of the residents' association were targeted and detained. That night a curfew was declared and their homes were razed.

In the early hours of the next morning, Mitchell picked up four special policemen armed with pump-action shotguns surrounded a house where 19 people had gathered to hold a religious service. The policemen opened fire through the back windows and front entrance of the home, killing women and children. Then two of them went inside and, aided with a torch, conducted a room-to-room killing to finish off the occupants.

The incident was then covered up and the residents' association blamed for the attack. Members and supporters of the association could never set foot in Trust Feed again, and Inkatha took over the township.

Mitchell was subsequently promoted to the rank of captain and was transferred to Ladysmith. The special policemen were given security branch clearance and joined the kwaZulu Police force.

In time the matter appeared buried and, like most stories of Natal's war, bound to be forgotten.

But then, in July last year — almost three years after the event — a rank-and-file team of detectives stumbled upon information about the massacre. Within two days of taking on the investigation, Captain Frank Dutton and his team had started arresting policemen.

And so began the most significant prosecution in the history of South Africa's so-called "black-on-black" violence. More than 80 witnesses testified, including residents of Trust Feed, survivors of the massacre and numer-

Landmark verdict links the police to killings

The hard-hitting judgment convicting five policemen who were involved in the Trust Feed massacre should put an end to official denials of security force instigation of 'black-on-black' violence. FRED KOCKOTT reports



The position of the bodies in the second room

Photo: Court records

It took just one honest cop

THREE years after the Trust Feed massacre, the police investigation had got nowhere. Until Captain Frank Kennan Dutton was called in.

"By the first weekend I had become very suspicious that there'd been a cover-up," he said.

The trial started when a team of rank-and-file detectives were investigating the alleged crimes of a member of the kwaZulu Legislative Assembly and came upon evidence of murderers being hidden within ranks of the kwaZulu Police (KZP). They also stumbled upon information about the whereabouts of the special policemen implicated in the Trust Feed killings three years previously. They had not "disappeared". They were also in the KZP.

Dutton took up the Trust Feed connection. A gentlemanly cop in his early forties, Dutton was one of that increasingly unusual crowd — the straightforward, honest policeman interested

in capturing the criminals wherever they were.

In taking on the investigation, Dutton ended up battling against unknown elements in the underground security establishment. There were also apparent attempts from the highest level of the Criminal Investigation Department (CID) to sabotage his investigations and there were times when he and his team feared for their lives.

During the trial, it emerged that Dutton was suspected to be on a hitlist. A detective, Captain Clifford Marian, who was formerly involved in political investigations, was asked whether he had warned Dutton about this.

Marian remained silent for a while, then answered: "I can't remember."

Yet, within weeks Dutton had arrested and brought to trial not only the special policemen who carried out the attack, but the man who instructed them as well as two riot unit "opera-

tional officers" who made arrangements for the special policemen to be transported to Trust Feed.

Now there is a question-mark over the future of Dutton's unit and fears that it — the one group with a chance of getting to the bottom of Natal violence — is already being disbanded. All the detectives have already been moved from the base from where they were conducting their investigations.

The MP for the area, Pierre Cronje, has raised the matter with the minister of law and order, but is still awaiting clarification.

Natal academic Mary de Haas, who is closely associated with the community, has written to the commissioner of police about the matter. She says she has learned that investigations were being taken from Dutton's team and given to the Greytown CID branch which handled — and bungled — the original Trust Feed investigation.

Of most concern to Judge Wilson was the cover-up of events in Trust Feed. He said that from the very first day a wealth of evidence pointed to the possibility that policemen were involved. Yet the original investigating officer, Captain Patrick Wattruss, had made no record of the evidence, including the discovery of a spent shotgun cartridge of the kind specifically manufactured for the police. "No exhibits whatsoever," the entry read on the investigation diary.

Wattruss testified that he had never seen a cartridge of that kind before. Despite this, said Judge Wilson, he had made no inquiries about it or attempted to establish who the manufacturer was. A week later, when two more similar cartridge cases were found in the vehicle that Mitchell had been using on the night of the massacre, Wattruss put them in his briefcase. "I attached no significance to them," he said.

The court heard that on December 20 1988, police reservist Stuart van Wyk had approached Wattruss to find out

whether any progress had been made in the investigation. When Wattruss replied that no progress had been made, Van Wyk told him that he and a constable, Jason Burton, had spent the night of December 2 drinking with Mitchell and had later accompanied him to Trust Feed.

They saw Mitchell pick up two special policemen from Gabela's home and drop them near a burning shop. The two special policemen disappeared into the darkness and Mitchell drove off in another direction, leaving Burton and Van Wyk at the store. Minutes later, at about 3am, they heard gunshots from the direction above the store.

Mitchell returned shortly thereafter, as well as a special policeman carrying a torch. While returning to the police station, Burton and Van Wyk saw spent cartridges lying on the floor of the police van. Mitchell subsequently threw these out of the vehicle window. When they returned to Trust Feed at daylight, they discovered that there had been a massacre at the Sithole home, above the burnt store.

Burton and Van Wyk said they had decided to make statements. Wattruss immediately reported to Brigadier Christo Marx, head of the CID in Natal. The dockets and statements were handed over and the investigation was taken out of his hands.

Judge Wilson said "no efforts whatsoever" were made to get in touch with the special policemen, who were at home all this time and in contact with the riot police. There was a complete lull in the investigation and nothing was recorded on the investigation diary for several days.

Brigadier Marx, his deputy, Colonel Willem van Zyl, and Greytown's CID commander, Captain Joseph van Zyl, all denied that they were in possession of the dockets. Marx said Colonel Van Zyl had it. Colonel Van Zyl said Captain Van Zyl had it. Captain Van Zyl did not know who had it.

"We are driven to the conclusion that Brigadier Marx was seeking guidance elsewhere at the time," said Judge Wilson.

Marx subsequently made a statement in March 1989, in which he gave reasons for accepting a statement by Mitchell and rejecting those of Burton and Van Wyk, and outlined difficulties facing a prosecution. Judge Wilson said this appeared to have been designed to bring an end to the investigation and cause an inquest to be held, at which the verdict would be that the massacre at the Sithole home was committed by unknown persons.

Only two more entries were ever made on the investigation diary: "Obtained a list of names and addresses of special constables" and "Instructed Captain Van den Heever to obtain their firearms".

After a ballistic report positively connected two of the special policemen to the massacre, the case was quashed.

Although warrants for their arrest were issued, these were not circulated as required. In due course clearance was given by the Pietermaritzburg security branch for the special policemen to be recruited into the kwaZulu Police force, where they remained until they were arrested by Dutton in August last year.

The court also heard that there were attempts by the country's most senior CID officials to sabotage Dutton's investigations.

THE WEEKLY MAIL

Published by M&G Media, Pty Ltd, 104
Fredrick and Smal streets,
Johannesburg
Printed by Caxtons, cnr Bloomberg
and Commando roads, Industria
Editorial comment in this issue by
Anton Harber. Newsbills by Irwin
Manom. Headlines and editing by
Laura Yeatman. All of 104 Fredrick
Street, Johannesburg
Phone Editorial 334-2400
Fax 334-2905
Advertising fax 334-0747

A judge links police to murder

w/ mail 24/4 - 29/4/92

(252) ~~(251)~~ ~~(251)~~

*After this week's milestone
Trust Feed verdict, claims of
state-sponsored violence can no
longer be dismissed as rumour*

IN this week's landmark judgment in the Trust Feed case, the court accepted that security forces played a central role in driving a peaceful community into violence and lawlessness.

Until now, the government has dismissed the mounting evidence from around the country of security forces provoking and planning violence.

But Mr Justice Andrew Wilson's hard-hitting findings this week should put an end to that. The court ruled that senior policemen had worked with Inkatha warlords to plan and execute the attacks.

It became clear during the trial that Trust Feed was not an isolated case. "The specials (riot police) had been used before," one of the central witnesses said repeatedly.

The Pietermaritzburg police also engineered an elaborate cover-up which would have succeeded if not for the determined efforts of a detective who stumbled across the evidence while working on another case.

252/251/251

P.T.O.

The man who turned a haven into hell

W. mail 29/4 - 29/4/92

Keeping the peace was never Captain Brian Mitchell's objective when he arrived at Trust Feed

Feed By **FRED KOCKOTT**

TRUST FEED was once a peaceful haven. That was before the arrival of Lieutenant Brian Mitchell in early 1988.

A residents' association, the Trust Feed Crisis Committee (TCC), had successfully resisted government plans to develop Trust Feed into a whites-only residential area. It worked closely with the regional planners and, among other things, established a clinic for the area.

It had won recognition as the representative of the community. This did not suit an Inkatha landowner in the area, Jerome Gabela, nor kwaZulu government officials. They wanted control and sought the assistance of the Joint Security Management System, a central government security network, to establish an organisation to take over Trust Feed.

Mitchell, promoted to captain, who had close ties with the security police and was centrally involved in the Joint Security Management System, was transferred to the district to take command of the local police station in New Hanover.

The court heard how Gabela was used as a pawn to establish a Landowner's Association in opposition to the TCC.

Mitchell conceded that this was a security strategy. "In other words," remarked prosecuting attorney Anthony Irons, "you set up an organisation which supports the government of the day and you oust the one which would not follow the same principles."

"That is what happened," Mitchell responded.

And so began a power struggle. The court heard how a community, ostensibly living at peace, was torn asunder by squabbles which eventually took on a political overtone. The TCC became labelled "UDF" — a front for the then outlawed African National Congress.

Mitchell told the court Gabela had lacked backbone in dealing with the "UDF" and he had decided to "jack him up and get him to be more forceful." "Can we take it you mean a little more violent?" Irons asked. "In other words he must conduct attacks to oust the UDF in the area?"

"That's what eventually happened. That's correct," said Mitchell.

The court heard that Mitchell took Gabela and two other Inkatha members from Trust Feed to a meeting with the former head of Pietermaritzburg's Riot Unit, the late Major Deon Terblanche, and kwaZulu MP David Ntombela.

At the meeting it was decided that six special policemen would be dispatched to Trust Feed to act as an "assistance force" for Gabela.

Riot Unit officers (accused numbers one and two) Captain Jacobus van den Heever and Sergeant Neville Rose made the arrangements.

The arrival of the special policemen was not recorded. They were posted in civilian clothes at the homes of three Inkatha members. Police declared Trust Feed an operational area and barred journalists from entering Trust Feed.

In a massive police operation the next day, Friday, December 2 1988, all the young men of Trust Feed were rounded up, gathered on a sports field, and 11 supporters and members of the TCC detained. Police searched the homes of people perceived to be UDF-supporting and confiscated any weapons that could be used to ward off attacks.

"So, those capable of defending the area were detained and Gabela was left to use the special constables to launch an attack. The aim was to make it easy for Inkatha to wipe out the UDF once and for all," the presiding judge, Mr Justice Wilson, said.

"Yes," Mitchell replied.

According to residents, a curfew was also declared that night and people warned to stay indoors as police would be operating in the area.

The deputy Inkatha chairman, John Nxumalo, said he went to bed that night "feeling quite happy." Before he got into bed, he noticed that the local shop belonging to the chairman of the TCC had been set alight.

The homes and properties of all but two of the 11 people detained were razed that evening. No one was killed in these attacks. Most residents had already fled. But at the Sithole home, house TF 83, a group of 19 people had gathered to hold a wake for an old man who had died of natural causes.

"People were preaching in turn," said Francisco Mathonsi.

"There was praying and singing," said Phillip Makhoba.

The service ended after midnight, and people made arrangements to sleep. The men bedded down in the first

Five found guilty of murder

THIRTY years after the event, Captain Brian Mitchell and four special policemen were yesterday found guilty of 11 murders and two attempted murders at a Trust Feed home.

"Mitchell not only pointed out the house but gave the signal for the attack to start," said Mr Justice Andrew Wilson.

He said it was perhaps a mistake that this house was pointed out but when Mitchell gave instructions his intention was that all the occupants be killed.

Mitchell and the special policemen were convicted of 11 counts of murder and two counts of attempted murder. Charges of attempted murder related to six survivors, who were not injured, were dropped.

The two Riot Unit "operational officers", Captain Jacobus van Heever and Sergeant Neville Rose, who arranged for the special policemen to be taken to Trust Feed, were acquitted as the state had not proved beyond reasonable doubt that they had known of the plans to kill people.

room, women and children in the second and third. In accordance with Zulu custom, the candles remained burning in respect for the deceased. It was this house that was attacked by four of the special policemen, at 3am. Mathonsi and Makhoba lived to testify.

They were not at the Sithole home when the room-to-room killings took place. They heard gunshots — lasting several minutes — but did not know exactly where the shootings were taking place.

At daylight, as they walked to the Sithole home, they saw a crazed person running away from the house, zig-zagging in a funny manner.

At first they thought he was the local lunatic. But as Mathonsi lowered his eyes from the roof of the house to the entrance, he saw a human head protruding from the front door. Half the man's head had been blown away by a shotgun blast. Inside the house, bodies lay all over the place.

As they picked their way across the floor, thick with blood, they heard a groan. Makhoba's wife, Ida, sat pressed against the wall, her forehead leaning on the face of a dead friend. She was trapped under bodies which had fallen on top of her and saved her life.

Nearby, another woman lay dead, a shotgun cartridge stuck in her nose, protruding from her nostril.

Two little boys also lay dead, lying next to each other, curled up in the foetal position. "There were many *doppies* (spent shotgun

Continued on PAGE 4

P.T.O.

»» SATIN LEAF ««

SATIN SMOOTH

»» SATIN LEAF ««

Special Mild



Only carefully selected light Virginia leaf can yield a truly mild yet satisfying cigarette. This special leaf, satin-smooth in texture with light-bodied mildness, is reserved for Satin Leaf Special Mild.

MILDNESS AND GOOD TASTE TOGETHER

LUXURY SMOKING FROM COURTLINCH OF LONDON MAKERS OF THE WORLD'S MOST EXCLUSIVE CIGARETTES

MADE IN SOUTH AFRICA

KING SIZE CIGARETTES

The Weekly Mail will be published a day earlier than usual on the following dates: May 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31.

He turned a haven into hell

w/mom 24/4-29/4/92

●From PAGE 3

cartridges)," said Mathonsi. At some stage unclear to the court, such evidence implicating the police was cleared away from the scene.

A contingent of policemen met in Trust Feed that day, including the head of Natal's Criminal Investigation Department, Major General Christo Marx, and the head of Pietermaritzburg Riot Unit, Major Terblanche. Arrangements were made for the special policemen to be furtively ferried out of Trust Feed.

A police video, more appropriate for a piece of propaganda about blacks killing blacks than for documenting evidence, was also filmed. Relatives and friends of the deceased were made to carry out the bodies and lay them before a camera to allow a policeman to finger and probe the wounds while he talked into the microphone.

Medical evidence indicated that the wounds were all caused by shotgun blasts fired from point blank range. The court learned that most victims were in fact Inkatha members.

Why was this house attacked? Mitchell said it was a mistake. He said he had gone into Trust Feed

after midnight to see whether the special policemen had done their job and wiped out the "UDF". He said when he arrived, he was not satisfied that enough had been done. He subsequently picked up the special policemen, dropped them off in the area, instructing them to attack the UDF.

"I did not expect the specials to attack and kill groups of comrades ... When there is violence, women and children normally flee. Women and children are not enemies of the state."

Such was Mitchell's testimony. He took the rap for the killings and said it was a spur of the moment decision to use the specials. "I thought. They have been used before. Why not use them here?"

However, the state prosecution argued that Mitchell was covering up, and the attack on the Sithole home was deliberate and part of a security strategy to disrupt the community.

"It was a specific target which you attacked," Irons told Mitchell. "You have said that Gabela lacked backbone, and that he needed to increase violence in the area. Would an attack on an Inkatha household at an

Inkatha wake not have fired him up and achieved your desired purpose? Would that not have pushed him into action and forced the crisis committee out of the area?"

"You see those special constables attacked only one house. They went straight up and attacked a particular home. No other attacks were carried out. Were they not acting under your instructions directly?"

"I don't know why they went and attacked that house," Mitchell responded. The court was told that the day after the massacre, Gabela and Nxumalo called a meeting in which they blamed the chairman of the TCC for the attack.

Trust Feed was never the same again. From that day onwards, residents who could not produce Inkatha membership cards were not welcome. Many were too scared to enter Trust Feed, even if it were just to collect their belongings. Their homes were subsequently looted and many were destroyed.

In terms of what was set out to achieve, the operation was a success. Inkatha gained control of Trust Feed. To this day, members and supporters of the residents of the TCC have never returned to their homes.

A DRAMATIC court case in Pietermaritzburg has proven — with evidence strong enough to be accepted by a judge — that the security forces have played a central role in transforming parts of Natal into hotbeds of violence and lawlessness

Convicting a police station commander and four "special" policemen of 11 murders and two attempted murders in the rural Natal township of Trust Feed, Judge Andrew Wilson said this week that the 1988 massacre was the final event in a planned security force operation to disrupt the community, oust an established residents' association and give Inkatha control of the area

Until now, the government has denied the validity of evidence of security forces provoking and planning violence and taking sides in local conflicts. But Judge Wilson's hard-hitting findings this week — at the end of a five-month trial — should put an end to that. In a detailed three-day judgment, he showed that senior policemen had worked with Inkatha members to plan and execute the killings, and had then engineered an elaborate cover-up

It also became clear during the trial that such activities were commonplace. "The special policemen had been used before," one of the central witnesses said repeatedly

Judge Wilson said it was clear that the planning of the operation involved at least the head of Pietermaritzburg's Riot Unit, the late Major Deon Terblanche, the head of Inkatha in Pietermaritzburg, kwaZulu MP David Ntombela, and station commander Lieutenant Brian Mitchell, who worked closely with the security police and had "considerable experience in working with riot units" Mitchell was also a key member of the Joint Management System, a central government network responsible for national security

The judge also said the plans resulted in a special force being furtively dispatched to Trust Feed in late November 1988 to assist an Inkatha member, Jerome Gabela, in taking control of the area. Gabela had already been set up as chairman of a "landowners' committee" in opposition to the existing residents' association, a legal body recognised by regional planners

In a subsequent security operation on December 2 1988, members of the residents' association were targeted and detained. That night a curfew was declared and their homes were razed

In the early hours of the next morning, Mitchell picked up four special policemen armed with pump-action shotguns surrounded a house where 19 people had gathered to hold a religious service. The policemen opened fire through the back windows and front entrance of the home, killing women and children. Then two of them went inside and, aided with a torch, conducted a room-to-room killing to finish off the occupants

The incident was then covered up and the residents' association blamed for the attack. Members and supporters of the association could never set foot in Trust Feed again, and Inkatha took over the township

Mitchell was subsequently promoted to the rank of captain and was transferred to Ladysmith. The special policemen were given security branch clearance and joined the kwaZulu Police force

In time the matter appeared buried and, like most stories of Natal's war, bound to be forgotten

But then, in July last year — almost three years after the event — a rank-and-file team of detectives stumbled upon information about the massacre. Within two days of taking on the investigation, Captain Frank Dutton and his team had started arresting policemen.

And so began the most significant prosecution in the history of South Africa's so-called "black-on-black" violence. More than 80 witnesses testified, including residents of Trust Feed, survivors of the massacre and numer-

Landmark verdict links the police to killings

W/Mail 24/4 - 29/4/92

The hard-hitting judgment convicting five policemen who were involved in the Trust Feed massacre should put an end to official denials of security force instigation of 'black-on-black' violence **FRED KOCKOTT reports**



The position of the bodies in the second room

Photo: Court records

It took just one honest cop

THREE years after the Trust Feed massacre, the police investigation had got nowhere. Until Captain Frank Kennan Dutton was called in.

"By the first weekend I had become very suspicious that there'd been a cover-up," he said.

The trail started when a team of rank-and-file detectives were investigating the alleged crimes of a member of the kwaZulu Legislative Assembly and came upon evidence of murderers being hidden within ranks of the kwaZulu Police (KZP). They also stumbled upon information about the whereabouts of the special policemen implicated in the Trust Feed killings three years previously. They had not "disappeared". They were also in the KZP.

Dutton took up the Trust Feed connection. A gentlemanly cop in his early forties, Dutton was one of that increasingly unusual crowd — the straightforward, honest policeman interested

in capturing the criminals wherever they were.

Viewed in totality, the testimonies not only shed light on what happened in Trust Feed three years ago, but also on a security strategy to divide communities and planned violence to disrupt communities.

From Mitchell, the court heard that members of the Riot Unit had previously assisted Inkatha by unlawful means to take over areas. He said the entire force of special policemen was created as part of a counter-revolutionary strategy

"The specials played an important role," he told the court. "They were taken from the community and placed back in the community to act as a wedge against the comrades." In other words, said Judge Wilson, to act against the United Democratic Front and African National Congress.

The court heard evidence that special policemen were recruited for the police by Inkatha leaders in each area. They

in capturing the criminals wherever they were.

In taking on the investigation, Dutton ended up battling against unknown elements in the underground security establishment. There were also apparent attempts from the highest level of the Criminal Investigation Department (CID) to sabotage his investigations and there were times when he and his team feared for their lives.

During the trial, it emerged that Dutton was suspected to be on a hitlist. A detective, Captain Clifford Marian, who was formerly involved in political investigations, was asked whether he had warned Dutton about this.

Marian remained silent for a while, then answered "I can't remember."

Yet, within weeks Dutton had arrested and brought to trial not only the special policemen who carried out the attack, but the man who instructed them as well as two riot unit "opera-

Of most concern to Judge Wilson was the cover-up of events in Trust Feed. He said that from the very first day a wealth of evidence pointed to the possibility that policemen were involved. Yet the original investigating officer, Captain Patrick Watruss, had made no record of the evidence, including the discovery of a spent shotgun cartridge of the kind specifically manufactured for the police. "No exhibits whatsoever," the entry read on the investigation diary.

Watruss testified that he had never seen a cartridge of that kind before. Despite this, said Judge Wilson, he had made no inquiries about it or attempted to establish who the manufacturer was. A week later, when two more similar cartridge cases were found in the vehicle that Mitchell had been using on the night of the massacre, Watruss put them in his briefcase. "I attached no significance to them," he said.

The court heard that on December 20 1988, police reservist Stuart van Wyk had approached Watruss to find out

whether any progress had been made in the investigation. When Watruss replied that no progress had been made, Van Wyk told him that he and a constable, Jason Burton, had spent the night of December 2 drinking with Mitchell and had later accompanied him to Trust Feed.

They saw Mitchell pick up two special policemen from Gabela's home and drop them near a burning shop. The two special policemen disappeared into the darkness and Mitchell drove off in another direction, leaving Burton and Van Wyk at the store. Minutes later, at about 3am, they heard gunshots from the direction above the store.

Mitchell returned shortly thereafter, as well as a special policeman carrying a torch. While returning to the police station, Burton and Van Wyk saw spent cartridges lying on the floor of the police van. Mitchell subsequently threw these out of the vehicle window.

When they returned to Trust Feed at daylight, they discovered that there had been a massacre at the Sithole home, above the burnt store.

Burton and Van Wyk said they had decided to make statements. Watruss immediately reported to Brigadier Christo Marx, head of the CID in Natal. The dockets and statements were handed over and the investigation was taken out of his hands.

Judge Wilson said "no efforts whatsoever" were made to get in touch with the special policemen, who were at home all this time and in contact with the riot police. There was a complete lull in the investigation and nothing was recorded on the investigation diary for several days.

Brigadier Marx, his deputy, Colonel Willem van Zyl, and Greytown's CID commander, Captain Joseph van Zyl, all denied that they were in possession of the dockets. Marx said Colonel Van Zyl had it. Colonel Van Zyl said Captain Van Zyl had it. Captain Van Zyl did not know who had it.

"We are driven to the conclusion that Brigadier Marx was seeking guidance elsewhere at the time," said Judge Wilson.

Marx subsequently made a statement in March 1989, in which he gave reasons for accepting a statement by Mitchell and rejecting those of Burton and Van Wyk, and outlined difficulties facing a prosecution. Judge Wilson said this appeared to have been designed to bring an end to the investigation and cause an inquest to be held, at which the verdict would be that the massacre at the Sithole home was committed by unknown persons.

Only two more entries were ever made on the investigation diary. "Obtained a list of names and addresses of special constables" and "Instructed Captain Van den Heever to obtain their firearms".

After a ballistic report positively connected two of the special policemen to the massacre, the case was quashed.

Although warrants for their arrest were issued, these were not circulated as required. In due course clearance was given by the Pietermaritzburg security branch for the special policemen to be recruited into the kwaZulu Police force, where they remained until they were arrested by Dutton in August last year.

The court also heard that there were attempts by the country's most senior CID officials to sabotage Dutton's investigations.

whether any progress had been made in the investigation. When Watruss replied that no progress had been made, Van Wyk told him that he and a constable, Jason Burton, had spent the night of December 2 drinking with Mitchell and had later accompanied him to Trust Feed.

They saw Mitchell pick up two special policemen from Gabela's home and drop them near a burning shop. The two special policemen disappeared into the darkness and Mitchell drove off in another direction, leaving Burton and Van Wyk at the store. Minutes later, at about 3am, they heard gunshots from the direction above the store.

Mitchell returned shortly thereafter, as well as a special policeman carrying a torch. While returning to the police station, Burton and Van Wyk saw spent cartridges lying on the floor of the police van. Mitchell subsequently threw these out of the vehicle window.

When they returned to Trust Feed at daylight, they discovered that there had been a massacre at the Sithole home, above the burnt store.

Burton and Van Wyk said they had decided to make statements. Watruss immediately reported to Brigadier Christo Marx, head of the CID in Natal. The dockets and statements were handed over and the investigation was taken out of his hands.

Judge Wilson said "no efforts whatsoever" were made to get in touch with the special policemen, who were at home all this time and in contact with the riot police. There was a complete lull in the investigation and nothing was recorded on the investigation diary for several days.

Brigadier Marx, his deputy, Colonel Willem van Zyl, and Greytown's CID commander, Captain Joseph van Zyl, all denied that they were in possession of the dockets. Marx said Colonel Van Zyl had it. Colonel Van Zyl said Captain Van Zyl had it. Captain Van Zyl did not know who had it.

"We are driven to the conclusion that Brigadier Marx was seeking guidance elsewhere at the time," said Judge Wilson.

Marx subsequently made a statement in March 1989, in which he gave reasons for accepting a statement by Mitchell and rejecting those of Burton and Van Wyk, and outlined difficulties facing a prosecution. Judge Wilson said this appeared to have been designed to bring an end to the investigation and cause an inquest to be held, at which the verdict would be that the massacre at the Sithole home was committed by unknown persons.

Only two more entries were ever made on the investigation diary. "Obtained a list of names and addresses of special constables" and "Instructed Captain Van den Heever to obtain their firearms".

After a ballistic report positively connected two of the special policemen to the massacre, the case was quashed.

Although warrants for their arrest were issued, these were not circulated as required. In due course clearance was given by the Pietermaritzburg security branch for the special policemen to be recruited into the kwaZulu Police force, where they remained until they were arrested by Dutton in August last year.

The court also heard that there were attempts by the country's most senior CID officials to sabotage Dutton's investigations.

THE WEEKLY MAIL

Published by M&G Media, Pty Ltd, 104 Frederick and Smal streets, Johannesburg
Printed by Caxtons, cnr Bloomberg and Commando roads, Industria
Editorial comment in this issue by Anton Harber. Newsbills by Irwin Manolm. Headlines and editing by Laura Yeatman. All of 104 Frederick Street, Johannesburg
Phone: Editorial 334-2400 Fax: 334-2905 Advertising fax: 334-0747

Control of cadres 'not guaranteed'

STEPHANE BOTHMA

SENIOR members of the ANC's military wing, Umkhonto we Sizwe, told the Goldstone commission yesterday they could not guarantee absolute control over cadres

Testifying about a meeting last month at Umkhonto's PWV regional headquarters, at which it was alleged a plan was hatched to attack Inkatha-occupied hostels, political commissar Oupa Monareng admitted that such a suggestion had been made but denied that any decision had been taken on it.

"Anybody can do his own thing without the mandate of the leadership," Monareng told the commission. Monareng was among those asked to testify about events at the meeting after police supplied the commission with two written statements made by informants

The informants said it was decided at the meeting that Umkhonto would attack Inkatha hostels in four Transvaal areas

The two informants feared for their lives and therefore refused to disclose their names to the commission, Judge Richard Goldstone said.

Police act
6/24/92
in wake of
Trust Feed

PRETORIA — Commissioner of Police Gen Johan van der Merwe said yesterday police headquarters had taken note of the judgment handed down by Judge Andrew Wilson in the Trust Feed case

In a statement, Van der Merwe said he had already instructed divisional chief of the Internal Stability Division Lt-Gen Johan Swart to thoroughly investigate the SAP's Riot Unit 8 and to report on its activities as soon as possible

Regarding calls by Wilson earlier this week for a public inquiry into the investigating officers in the Trust Feed case who, the judge said, had acted irregularly, Van der Merwe said a thorough investigation into that aspect would also be launched

"As regards the initial investigation into the Trust Feed case, I have instructed Lt-Gen Basie Smit to launch a thorough investigation into this matter with the view to possible criminal and/or departmental steps

"I will not tolerate or condone unprofessional investigations or any attempts at a so-called 'cover up'," he said.

He nevertheless expressed confidence that in general, investigations were properly conducted

"I wish to conclude by saying that I will not tolerate or condone misconduct by members of the SAP. On the other hand, I urge the public to support the police in maintaining law and order and to report any allegations against members of the SAP to the relevant command corps"

Van der Merwe promised the police were moving all out to stem unrest in various areas, thereby bringing peace and stability to the country.

"It is thus regrettable that individual members, who harboured misguided beliefs, chose to act outside the law. In this case (Trust Feed), justice has taken its course," he said — Sapa

● Comment: Page 6

Crime 'was ingenious'

Own Correspondent

CAPE TOWN — Regional magistrate J D Huggett yesterday described as "in-

IOIL
dt
is
o
2b
d
d n

poster
espose
s will b
gistered
end of 6

epublic
sted to lo
it will be r
the pun
holders

pa
dr
th
pr
I
w
n
l
w
te
R
R
H
w
a
I
w
t
d
h
h
o
h
T
th
g
c
ta
b
I
T
st
fi
P
II
w
P
g
ly
p
p
te
m
P

Human rights a top priority

Sowetan 24/4/92

252



POST-APARTHEID
South Africa must be governed by principles of national independence and a respect for human rights, Professor Kader Asmal of the University of Western Cape, said yesterday

Speaking at a conference held at the headquarters of the Council for Scientific and Industrial Research

By **MONK
NKOMO**

near Pretoria, Asmal said the constitution must have a more comprehensive chapter on international relations

This, he said, would have to emphasise the country's presentation of itself as a

responsible member of the international society

Kader, who is also an executive member of the ANC, said except for the purposes of self-defence, "no military contingent under the direction or control of the state may be deployed outside the state without the authorisation of the national assembly"



MURDER

5 Cops guilty

Source from 24/4/92

252

FIVE of the seven policemen charged with murdering 11 people at Trust Feed in December 1988 were found guilty in the Maritzburg Supreme Court yesterday.

Mr Justice Andrew Wilson acquitted Captain Jacobus van den Heever and Sergeant Neville Rose on all charges

Justice Wilson said the State had failed to prove beyond doubt that they had been directly involved in the killings

The five convicted were former New Hanover police station commander Captain Brian Mitchell, Special Sergeant Dumsane Ndwalane and special constables Kchla Ngubane, Thabo Sikhosana and Marshall Khambule

They were all found guilty on 11 counts of murder and two counts of attempted murder

Death of people

Referring to Mitchell, the judge said he did not accept the policeman's evidence that he had not directly participated in the attack

Instead the judge had accepted the evidence of the special policemen that Mitchell had fired the first two shots into the house where the massacre had been carried out

He said there was no evidence that Mitchell had desired the deaths of the specific people

inside the house but "we are satisfied he desired the death of people in the house he pointed out"

He said the fact that those who died in the shooting might not have been supporters of the United Democratic Front, as Mitchell had thought them to be, did not affect the police officer's guilt

Referring to the special policemen on trial, the judge rejected their arguments that they had carried out the attack while acting on legitimate superior orders

Self-defence

Justice Wilson said the fact that two of the special constables had amended this argument during their trial, to suggest that they were acting in self-defence during the shooting, had made his verdict easier

The judge added that it was clear that a defence on the grounds of acting under superior orders could only be applicable when such orders were legal

The special policemen could never have believed that what they were told to do and the circumstances under which the killings took place, were legal

The judge said the special policemen must have known that what they were doing, was wrong

Cops found guilty

Source from 24/4/92

From page 1

"We don't believe they could ever have believed it was justified to open fire on a house of people doing them no harm"

He said he was satisfied that at least two of the special policemen had entered the house and deliberately shot the people inside

The special policemen had continued shooting even though they were aware of the screaming and groaning coming from the women and children inside

"Despite this, they persisted in the attack. This at a time they could no longer believe, if they ever did, it was terrorists they were attacking," the judge said


He was referring to evidence that Mitchell had told them the house was occupied by terrorists.

ADPINES CIRCLE
E'S OK HEADLINE
NEWS
DINES ON HEAD
S ON HEADLINE

“We don't believe they could ever have believed it was justified to open fire on a house of people doing them no harm”
He said he was satisfied that at least two of the special policemen had entered the house and deliberately shot the people inside

The special policemen had continued shooting even though they were aware of the screaming and groaning coming from the women and children inside
“Despite this, they persisted in the attack. This at a time they could no longer believe, if they ever did, it was terrorists they were attacking,” the judge said
He was referring to evidence that Mitchell had told them the house was occupied by terrorists.

Cops found guilty
Source from 24/4/92
From page 1



ADP
EACH
All Varieties

SAVE 19¢

OWT

Oxtail Soup

FOR ALL YOUR QUERIES
PHONE OUR TOLL FREE NO
0800-112025 (118)

We're there for you!

PRICES VALID TO SUNDAY 26 APRIL. SOME STORES MAY LIMIT QUANTITIES

Cops called to quell court demo

252

Sowetan 24/4/92

RIOT police were called to quell a protest by about 300 blacks outside the Bloemfontein Supreme Court yesterday after they were refused entry into the building to attend a "racially-motivated" murder trial.

The crowd demanded to be allowed into the court building in Fountain Street to support Verkeerdevlei resident Mr Gabriel Mahakoe (43), who allegedly killed four whites "to cut off the hand of apart-

heid".

"You people are saying the book of apartheid is closed.

"But why are you refusing us entry to the court, while allowing white people?" one of the crowd shouted at the policemen.

"We are aware that by not allowing us to enter you are intending to destroy the vibrant spirit of Mahakoe," he added

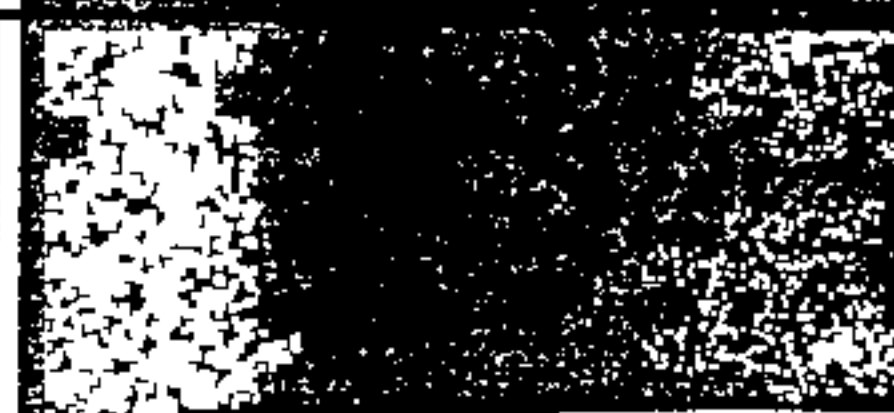
The protest ended without incident and the crowd eventually dispersed

For two days in succession this week Mahakoe interrupted his trial to tell

Mr Justice D Kotze he wanted a black judge and a black prosecutor

Kotze adjourned the proceedings to allow Mahakoe to confer with his lawyer, after telling him there were no black judges in the country and that the Attorney-General had the authority to appoint whoever he preferred to prosecute

The trial was postponed to next month. - SA Press Association.



Trust Feed five found guilty

252

MARITZBURG — Five of the seven police men charged with murdering 11 people at Trust Feed in December 1988 were found guilty in the Maritzburg Supreme Court yesterday. *B10cm 24/4/92*

Judge Andrew Wilson acquitted Capt Jacobus van den Heever and Sgt Neville Rose on all charges, saying the State had failed to prove beyond doubt that they had been directly involved in the killings.

The five convicted are former New Hanover police station commander Capt Brian Mitchell, Special Sgt Dumisane Ndwalane and Special Consts Kehla Ngubane, Thabo Sikhosana and Marshall Khambule. All were found guilty on 11 counts of murder and two counts of attempted murder.

Referring to Mitchell, the judge said he did not accept the policeman's evidence that he had not taken part directly in the attack, instead he accepted the evidence of the special policemen that Mitchell had fired the first two shots into the house.

Wilson said there was no evidence that Mitchell had desired the deaths of the specific people inside the house, but "we are satisfied he desired the death of people in the house he pointed out".

Referring to the special policemen on trial, the judge rejected their arguments that they had carried out the attack while acting on legitimate superior orders.

Such a defence could be applicable only

To Page 2

Trust Feed *B10cm 24/4/92* *(252)* From Page 1

when the orders were legal.

The special policemen must have known that what they were doing was wrong. "We do not believe they could ever have believed it was justified to open fire on a house of people doing them no harm."

The judge was satisfied that at least two of the special policemen had entered the house and deliberately shot the people. They had continued shooting even though they were aware of the screaming and groaning coming from the women and children inside.

"Despite this, they persisted in the attack. This at a time they could no longer believe, if they ever did, it was terrorists

they were attacking," the judge said.

Delivering his judgment, Wilson said there had been a clear attempt by senior policemen to interfere with the administration of justice in the case.

He said two of the special policemen facing charges had given statements to a magistrate. After their arrest, the pair had been visited in prison and further statements were taken from them by two senior police officers — contrary to instructions issued by the attorney-general.

"This is a clear attempt to interfere with the administration of justice which I trust will be properly investigated with the assistance of the attorney-general." — Sapa

Bail us out plea to Codesa

Souk: 25/4-30/4/92

By Justin Pearce

CODESA has been approached to intervene on behalf of people who must pay hefty legal costs arising from action brought against the state for human rights abuses.

The people and organisations affected are Dr Allan Boesak and the Mandela Birthday Committee, Mrs Rashida Parker, Ms Audrey Gunn, a group of 77 prison warders; and the Police and Prisons Civil Rights Union (Popcru); and SOUTH's deputy editor Mr Rafiq Rohan.

They are being forced to pay the legal costs for their cases in spite of the lifting of repressive legislation, the indemnification of political prisoners, and a general recognition of the human rights principles on which the applications were based.

Cape Town lawyer Mr Essa Moosa presented the cases to Working Group I of Codesa, which deals with removing obstacles to negotiation. He did so after representations to the appropriate cabinet ministers proved unsuccessful.

Inappropriate

Moosa pointed out that all the actions resulted from people challenging state abuses of basic human rights. The applicants were trying to uphold the same principles that most parties now want included in a future Bill of Rights. It was therefore inappropriate for the state to demand the payment of legal costs by the applicants.

• In 1989 the celebration planned at UWC by the Mandela Birthday Committee was banned by the Regional Commissioner of Police. The committee and member Dr Allan Boesak appealed against the ban, which was set aside in the Cape Supreme Court. The state appealed against this decision, and the Appellate Court reversed the Supreme Court ruling. Legal costs in the case amount to R24 718,58 for which Boesak and the committee are still liable. The Minister of Law and Order has refused to waive the costs.



PAY UP! Ms Audrey Gunn received legal costs demand

Photo Yunus Mohamed

• Printer Mr Allie Parker was detained under Emergency regulations in June 1987 and in January 1988, in connection with the printing of political pamphlets. On the first occasion the police also closed his business and ordered his staff to leave the premises. His wife Mrs Rashida Parker brought an application to the Cape Supreme Court to declare the detention and closure unlawful. Her application was successful, but was reversed in a decision by the Appellate Court and costs were awarded against Mrs Parker. After the second arrest, Mrs Parker again brought an application

to the Supreme Court, which declared Mr Parker's detention to be lawful and awarded costs against Mrs Parker.

• In 1985 Ms Audrey Gunn brought an urgent application to the Cape Supreme Court for the release of her daughter Ms Shirley Gunn, who was then being held under Section 29 of the Internal Security Act. The application was dismissed with costs. Shirley Gunn was subsequently released and charged with a minor offence for which she was acquitted. Representation has been made to the Minister of Law and Order to waive the costs. The mat-

ter is still under consideration. Audrey Gunn, who is liable for the costs, is living on a pension.

Discrimination

• 77 prison warders from Pollsmoor brought an application to the Supreme Court to review the appointment of a presiding officer who was conducting a disciplinary enquiry involving the 77 applicants. The enquiry followed action by the Police and Prison Civil Rights Union (Popcru), of which the 77 are members, to protest against discrimination and injustices in the Department of Correctional Services. The applicants made their case on the grounds that the presiding officer was not legally competent to hold the enquiry. The case was dismissed with costs.

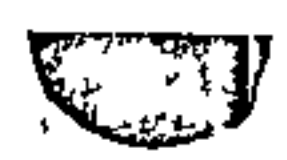
• Disciplinary procedures were pursued against these and other members of Popcru, a total of approximately 834 people, in connection with protest action against human rights abuses. The group comprises members of the SAP, who were all dismissed, and prison warders who were either dismissed or suspended.

• In 1989 Mr Rafiq Rohan was arrested in connection with Umkhonto weSizwe operations. While in detention Rohan applied for a restraining order to prevent the investigating officer from harrasing and illegally interrogating him. The court issued an interim order but in 1989 the application was dismissed with costs.

Rohan was indemnified and released together with other political prisoners in May 1991, after which he received a letter from the State Attorney demanding payment of legal costs which he claims he is not in a position to pay.

Moosa's application for Rohan to the Minister of Law and Order was passed on to the South African Police, who said that the matter could not be dealt with until Moosa had spelt out the full details of his client's financial position.

252 (229) (25)



Judge wants Gabela charged for his role in mass murders

By FRED KHUMALO

THE name of IFP leader David Ntombela cropped up again during judgment in the Trust Feed mass murder trial, raising suspicions that he might be called in as a witness if Jerome Gabela is charged for his role in the conspiracy that led to the death of 11 people.

"He (Gabela) was clearly an accomplice and was warned accordingly," Judge Andrew Wilson said this week as the trial neared its end.

Gabela is an IFP chairman in Trust Feed and the court has not only raised its suspicions about his role in the massacre, but it labelled him an "unreliable witness" who lied to protect himself from being implicated.

Judge Wilson said he was of the opinion that Gabela was an unsatisfactory witness, and like W/O Wilson Magadla who testified for the state earlier on, he was for Gabela being charged.

The conspiracy against the UDF in Trust Feed, the court heard, had been engineered at Marawa House, the IFP headquarters in Maritzburg, in the presence of Ntombela, Gabela, his vice-chairman Johan Nxumalo, Capt Brian Mitchell and the late Major Deon Terblanche.

Not only was it felt that Gabela should be "jerked up" during the discussions, it was also agreed that his house was going to be used as a launching pad for the attack on the UDF, the court heard.

But in his testimony, Gabela did his utmost to

hide his role in the conspiracy, saying he had not been present during the discussions where it was agreed that special constables were to be brought to his house to help him in his fight against the UDF.

Nor was he aware that the special constables had attacked a house on December 3, 1988, he testified.

Gabela's testimony was riddled with contradictions. At one stage, after telling the court he had not been aware police were behind the attack on a house in which 11 people were killed, he told the court that after learning of the massacre, he had gone to Mitchell to ask how it had come about that "our people" - meaning IFP members - had been killed, and not UDF supporters.

Many other names of prominent IFP people have been cropping up during the trial, linking them to a concerted campaign to crush the UDF in Trust Feed.

Among those mentioned during the trial were prominent leader Ben Jele, KwaZulu deputy minister of works Velaphi Ndlovu and former KwaZulu legislative member for Hopewell Pius Shange.

Gabela told the court he had been informed by Ntombela that there were members of the SAP involved in covert operations to aid the IFP against the UDF.

The court accepted this part of the evidence as it tied in with what had been said by Mitchell on the role of some members of the police force in clandestine pro-IFP operations.

Riot cops in court after unit probed

By DAN DHLAMINI

A PROBE into the notorious Waverdiend Police Riot Unit resulted in the appearance this week of three of its members in the Carletonville Magistrate's Court.

Const Petrus Matolo, 33, of Tladi, Soweto, and Det. Serg. Ephraim Buli Nkosi, 32, of Ikageng, Potchefstroom, briefly appeared before magistrate JJP le Grange, charged with theft and with pointing a firearm.

They were not asked to plead, and the case was

postponed until May 6

The assault charge case of Const Samuel Nkambele, 28, of Khutsong, was postponed to May 12

Other policemen attached to the unit are also expected to appear on May 12

Their appearance follows an investigation by the SAP - assisted by the Independent Board of Inquiry into Informal Repression and the ANC's Carletonville branch - following allegations of assault, attempted murder and torture.

LIES . . . LIES

and more LIES!

CLIPPER 26/4/92

By FRED KHUMALO

FORMER SAP special constable David Khamhule shook his head then bowed it as Maritzburg Supreme Court judge Andrew Wilson found him and his four colleagues — one a senior white officer — guilty of multiple murder.

The "specials" (not cops) murdered 11 times and attempted to twice, the judge found.

Two cops were acquitted on all counts.

Most of the dead were elderly women, but they included a four-year-old and a nine-year-old. An 18-month-old infant was also seriously injured.

Khamhule was reacting to Judge Wilson's verdict on the Trust Feed massacre on December 3, 1988.

The guilty are Capt Brian Mitchell, special constables David Khamhule, Captain Ngubane, Thabane Sikhosana and special sergeant Roy Ndvalane.

Wept

As the judge made his finding, Mitchell's mother wept quietly in court.

Capt Jakobus van den Heever and Sgt Neville Rose, accused number one and two respectively, were acquitted. The State could not prove its case beyond reasonable doubt.

Under veil of 'secret ops' a judge finds murder and deceit!

Were they lucky? We will probably never know.

The case — a monumental saga — cost taxpayers over R2-million in legal fees and dragged on for seven months.

But what a chilling and detailed insight into the Natal violence it provided!

This was a story which plunged below the murky surface of the SAP's covert operations.

The public caught a rare glimpse of members of the SAP actively stocking up violence between Inkatha and the ANC.

Sentencing is on Tuesday.

Judge Wilson was nothing but scathing on judgment day.

He said Capt Mitchell had shown disregard for the truth and several aspects of his evidence were rejected as "grossly improbable" — in spite of his sudden conversion to Christianity during the trial.

Earlier this year Mitchell stood in the witness box and piously announced that he was studying to be a priest and "with the grace of God" was going to tell all the truth.

But Judge Wilson found that Mitchell gave his counsel "deliberately false" evidence.

Mitchell told the court that during the early hours of December 3, 1988, he had indeed taken the constables from a house in Trust Feed and instructed them to go and kill members of the United Democratic Front elsewhere.

He denied being at the scene of the massacre or that he took a part in the room-to-room shooting of mourners — many of them Inkatha members — attending a vigil for an man who died of old age.

Mitchell's tale was rejected. Instead, Judge Wilson accepted the evidence of the constables who had said Mitchell pointed out the house he had searched.

By pointing out the house he had searched, Mitchell signified that he had fired the first two shots into the house.

Judge Wilson rejected the claim of the constables that they were only following orders.

He said as "highly intelligent people" who read newspapers regularly, they should have known that the instruction was illegal and should have refused to carry it out.

Some members, it emerged, were the perpetrators of what has come to be called "third force" violence — massacres and assassinations carried out by unknown forces.

The police evidence had also revealed how force members were only too willing to cover up the job — about their secret activities.

Mitchell told the court that his late superior Major Deon Terblanche, the head of the Maritzburg Riot Unit, had told him that there were members of the police force who operated clandestinely, helping Inkatha in its fight against the UDF.

The pair had seen the UDF as an enemy of the State. He and Terblanche had devised the "open" behaviour shown in the case to call for public inquiry.

It had been a matter of grave concern that, in spite of mounting evidence in the Trust Feed massacre against Mitchell, he was transferred to a position of higher responsibility and was promoted to the rank of lieutenant. Senior officers had known Mitchell was lying.

Yet Judge Wilson was still able to find a batch of honest cops.

He commended Capt Frank Dutton's team of detectives who took over after the failure of the first team to secure convictions.

It had taken the new team only two days to get the remaining arrests and two weeks to finish the job.

LIES . . . LIES

and more LIES!

CIPRES 26/4/92

By FRED KHUMALO

FORMER SAP special constable David Khambule shook his head then bowed it as Maritzburg Supreme Court judge Andrew Wilson found him and his four colleagues – one a senior white officer – guilty of multiple murder

The “specials” (riot cops) murdered 11 times and attempted to twice, the judge found

Two cops were acquitted on all counts.

Most of the dead were elderly women, but they included a four-year-old and a nine-year-old. An 18-month-old infant was also seriously injured.

Khambule was reacting to Judge Wilson's verdict on the Trust Feed massacre on December 3, 1988

The guilty are: Capt Brian Mitchell, special constables David Khambule, Cyprian Ngubane, Thabo Sikhosana and special sergeant Roy Ndwalane

Wept

As the judge made his finding, Mitchell's mother wept quietly in court.

Capt Jakobus van den Heever and Sgt Neville Rose, accused number one and two respectively, were acquitted. The State could not prove its case beyond reasonable doubt

Under veil of 'secret ops' a judge finds murder and deceit!

Were they lucky? We will probably never know

The case – a monumental saga – cost taxpayers over R2-million in legal fees and dragged on for seven months

But what a chilling and detailed insight into the Natal violence it provided!

This was a story which plunged below the murky surface of the SAP's covert operations

The public caught a rare glimpse of members of the SAP actively stoking up violence between Inkatha and the ANC

Sentencing is on Tuesday

Judge Wilson was nothing but scathing on judgement day.

He said Capt Mitchell had shown disregard for the truth and several aspects of his evidence

were rejected as “grossly improbable” – in spite of his sudden conversion to Christianity during the trial

Earlier this year Mitchell stood in the witness box and piously announced that he was studying to be a priest and “with the grace of God” was going to tell all the truth

But Judge Wilson found that Mitchell gave his counsel “deliberately false” evidence

Mitchell told the court that during the early hours of December 3 1988, he had indeed taken the constables from a house in Trust Feed and instructed them to go and kill members of the United Democratic Front elsewhere.

He denied being at the scene of the massacre or

that he took a part in the room-to-room shooting of mourners – many of them Inkatha members – attending a vigil for an man who died of old age

Mitchell's tale was rejected. Instead, Judge Wilson accepted the evidence of the constables who had said Mitchell pointed out the house he had selected. It was only perhaps then that the signal to start the attack by firing the first two shots into the house

Judge Wilson rejected the claim of the constables that they were only following orders

He said as “highly intelligent people” who read newspapers regularly they should have known that the instruction was illegal and should have refused to carry it out.

Judge Wilson found it remarkable that the accused could deliver such vastly conflicting accounts and that they seemed highly determined to obtain each other's conviction

But, what was most disturbing about the case was Judge Wilson's findings on the role of the SAP in the violence – generally acknowledged to have reached warlike proportions in Natal at the time

Some members, it emerged, were the perpetrators of what has come to be called “third force” violence – massacres and assassinations carried out by unknown forces

The police evidence had also revealed how force members were only too willing to cover up to lie – about their secret

activities

Mitchell told the court that his late superior Major Deon Terblanche, the head of the Maritzburg Riot Unit, had told him that there were members of the police force who operated clandestinely, helping Inkatha in its fight against the UDF.

The pair had seen the UDF as an enemy of the State

He and Terblanche had devised the “operation”

Judge Wilson was disturbed enough by the behaviour shown in the case to call for a public inquiry

It had been a matter of grave concern that, in spite of mounting evidence in the Trust Feed massacre against Mitchell, he was transferred to a position of higher responsibility and was promoted to the rank of lieutenant

Senior officers had known Mitchell was lying

Yet Judge Wilson was still able to find a batch of honest cops

He commended Capt Frank Dutton's team of detectives who took over after the failure of the first team to secure convictions.

It had taken the new team only two days to start making arrests and two weeks to finish the job

Uprooted tribe put through courts again

By DAN DHLAMINI

THE Barolong Ba Modiboa's second attempt to reclaim their land near Potchefstroom this week landed many of the tribesmen in court again

Barolong Action Committee chairman John Ntsimane, 56, and 74 others - including 24 minors - appeared before Potchefstroom magistrate Davie de Jager, charged with trespassing on municipal land.

They were not asked to plead and the hearing was postponed to May 12. Charges against the minors were withdrawn, and the R30 bail granted to each adult was extended.

The hearing was a sequel to the incident on Good Friday when the tribe moved to New Machavi - also known as Matlwang - and allegedly violated terms of an agreement with the Potchefstroom Town Council.

According to the agreement the tribe was given permission to visit Matlwang from April 16 until noon on April 20 to clean their forefathers' graves.

When the agreement was violated the town council charged the tribesmen with trespassing.

Last year 23 Barolong tribesmen who tried to re-occupy Matlwang from where they were uprooted in 1971, were arrested.

Hospital disrupted

By STAN MHLONGO

SEBOKENG Hospital was brought to the brink of a standstill this week as hundreds of employees toyed around the hospital grounds in protest against shoddy practises and alleged apartheid at the hospital.

The march, led by the ANC Youth League, SACP and National Education Health and Allied Workers Union (Nehawu) members, brought hospital life to a halt.

Addressing the crowd, ANC Youth League official Sakhawe Khumalo called for

- Separation of maternity and assault patients in ambulances to avoid embarrassing the expectant mothers;
- Lower ambulance tariffs, cheaper patient fees, and exemption from payment for pensioners, the disabled, the terminally ill and the unemployed;
- More ambulances;
- A living wage for hospital workers, and
- An end to racially segregated hospitals.

st
NI

ar.

otted by
but the
when or-
Wheeler
at them

of the
as taken
hospital
guard.
s in an-
hat took
hery in

th
at
ing
D
mal
and
aal
far
s
misa-
tions
o
nod
suec
at to
era.
tion
th
W
S
S
da.
S
un
pere
s
tks
to
a
in
g
bi-
ers
by
of
nat
le
su-
vi-
sto
the
J
SE



REPORTS: TERRY VAN DER WALT

IN HIS judgment in the Trust Feed massacre trial this week, Mr Justice Andrew Wilson accused the police of covering up both the murder of 11 people and police involvement in the killings. These are the points he made:

- "A distressing feature of the trial was that, as it progressed, it became clear that the evidence of senior policemen could not be accepted, and that official records produced from the files were suspicious or wholly unreliable";

- Referring to the fact that in January 1989 Lieutenant Brian Mitchell told Natal's top CID officer, Brigadier Christo Marx, that he was not prepared to make a statement or answer any questions relating to the incident, and was not suspended from the force as a result, Mr Justice Wilson said "This, in our view, would, in itself, call for some public inquiry into the conduct of the officers concerned";

- It was "surprising" that Mitchell, an officer who had "deliberately concealed things from his seniors" should then be promoted to captain in April 1991,

- The judge found it difficult to believe Brigadier Marx's insistence that there was no need to investigate the police as there was no evidence to suggest their involvement. Evidence in court had shown that the attackers had announced themselves as police, and police-issue weapons had been used,

- Regarding the initial investigation, Mr Justice Wilson said he was at a loss to understand why, when statements from witnesses were made available on December 14, the police investigators were not instructed to get the identities of the special constables involved,

- Brigadier Marx was on leave between December 12 and 23 that year but statements from witnesses were brought to his house and he gave instructions to his second in command, Colonel Willem van Zyl, Greytown CID chief Captain Joseph van Zyl and a Lieutenant Myburgh of the Murder and Robbery Squad that the case must be "carefully investigated" But the judge "found no evidence to suggest it was",

- He asked why Mitchell was not questioned immediately on the discrepancies in his reports about the incident and why there was a "complete lull" in the

investigation between December 14 and 19, and nothing recorded in the investigation diary for several days.

Brigadier Marx, Colonel Van Zyl and Captain Van Zyl all denied having the docket at that time.

"We can think of no valid or legitimate reason for this and are driven to the conclusion that Brigadier Marx was seeking guidance elsewhere at this time," Mr Justice Wilson said, without elaborating.

- Only on December 30 did Brigadier Marx get a statement from Sergeant Neville Rose of Riot Unit 8 in Maritzburg, who was not a suspect at the time. (Sergeant Rose was acquitted this week of any part in the killings)

Even though the special constables were attached to this unit, Brigadier Marx made "no efforts whatsoever" to find out where they were or how they could be traced — and all the while they were at home and in contact with

the unit, said the judge,

- It took almost four months before a statement was taken from Mitchell. When Mr Justice Wilson asked Brigadier Marx why there had been such a long delay, the brigadier said it was because he had spent time tracing the special constables

"This appears to be grossly improbable," the judge said,

- "On January 1 1991, Brigadier Marx was promoted to lieutenant-general and transferred to Pretoria. He spoke with Captain Frank Dutton (who eventually cracked the case) and it would appear that he did not mention to the investigating officer that Riot Unit members were stationed in Trust Feed at the time of the crime," Mr Justice Wilson said,

- A ballistics report which connected two of the special policemen to the shooting was never followed up,

- Warrants for their arrest were issued but these were not circulated according to police procedure, the judge said,

- Police clearance was gained for the special constables to be recruited by the Kwazulu police after the massacre, and "apparent attempts were made to interfere with the course of justice"

These related to a shadowy Kwazulu colonel who told one of the accused, Mr Marshall Khambule, to go into hiding late last year because the investigation had started up again,

- Mr Justice Wilson questioned the lack of cooperation between the SAP and the Kwazulu Police in investigating the case.

The

SUNDAY TIMES 26/4/92

cover-up

THE TRUST FEED TRAVESTY

TRUST Feed is a small black community near Greytown in the Natal midlands — the scene of ongoing political violence.

On the night of December 2 1988 a police curfew was in place. The local store had been set on fire and a resident injured in an earlier attack. But in tiny shack TF 83, the Sithole household was concerned only with an all-night vigil for patriarch Alfred Sithole, who had died of natural causes.

As is the Zulu custom, candles were lit in all three rooms where the 19 men, women and children were huddled on the floor with blankets pulled over them.

In the early hours of the morning there was a bang on the door and, when one of the men asked who was there, the reply came. "We are the police!"

The door was smashed open and two special constables burst in, shooting as they moved among the mourners

Widow Mrs Sidedewu Sithole, 68, wailed: "Look, my children, there has been a death in the family . my old husband has died" She was shot dead

Running

There was loud screaming from the women and children. Mrs Ida Hadebe, 47, recalls that it was so loud, in fact, it was "even bursting through the roof".

A woman shouted forlornly "Here I am dying with my children!"

Everyone was running around not knowing where to hide as shots were fired by the two constables inside the house and two others positioned outside the windows

Mrs Hadebe had been sleeping under a window when she was shot, and landed on top of 25-year-old Miss Fikile Zondi, who was also wounded.

When Mrs Hadebe tried to move a gunman said "There is another one moving" and a shot rang out, hitting her in the left leg.

"There is a head rising, strike it" and another shot exploded, hitting another living target.

As quickly as it happened it ended and all went quiet

One of the attackers said in Zulu "We have struck the dogs, we have finished off the dogs" before leaving the house

The massacre

SITimes - 26/4/92
252 (35/1/76)

Fikile Zondi then made a mistake which cost her her life. She said to Ida Hadebe, who was still slumped on top of her: "Move, they have already left."

Hearing this, one of the attackers stalked back into the house and opened fire on the two women, killing Fikile and wounding Ida three times in the shoulder. Daybreak revealed the true horror of what had happened. There were bodies all over the place, blood was everywhere and there was even a bullet wound in the stomach of the dead man to whom they had all come to pay their respects

Two little boys, Musi Shangase, 4, and nine-year-old Nkanyene Shangase, were among the dead, who included seven women and two men. Ida was taken to hospital with another injured victim, Mrs Noma-goli Zulu, 50

Captain Brian Mitchell — the man who had not

only ordered the attack, but who fired the first shots at the targeted house — set about destroying evidence and trying to distance himself from events

The special constables were sent home but still received pay cheques for a month, and in some cases two months, afterwards

In court this year Captain Mitchell finally told the shocking truth he had planned the operation to help Inkatha oust the United Democratic Front-based Trust Feed Crisis Committee (TCC).

Testified

He said it was a "mistake" that the special constables had attacked an Inkatha household, that he had wanted them to "attack and kill the UDF", whom he regarded as "enemies of the state"

Two days before the massacre, six special constables were posted at the homes of three Inkatha

members and were in civilian clothes. Two of them, who did not take part in the attack, testified against their colleagues

Police declared the area an "operational zone" and barred journalists from Trust Feed. The next day, the day before the massacre, police carried out a massive operation, detaining 11 supporters and members of the TCC and confiscating weapons from homes

Mr Justice Wilson told the court that this was clearly intended to remove those who could defend the community against an attack planned by Captain Mitchell

When the special constables gave evidence, their defence was that they were acting on orders, but the court rejected this on the basis that they would have had to be legal orders. In this instance, they were clearly not

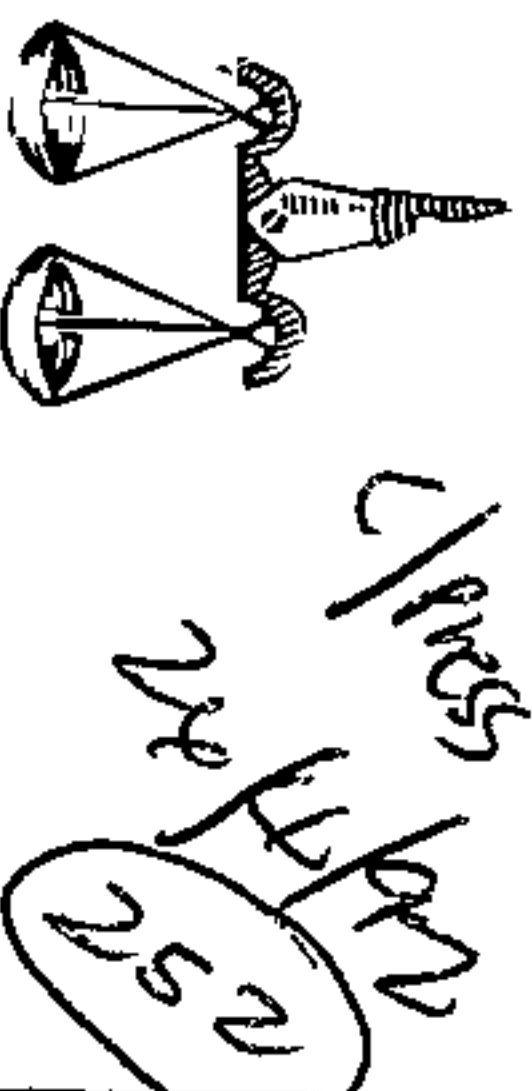
The trial resumes for pleas in mitigation tomorrow

■ need to redress racial imbalance in the law can be gleaned from his experiences in Botswana and Bophuthatswana, two jurisdictions where he practises

He points out the both Botswana and Bophuthatswana have overwhelmingly black populations.

"Both are committed to democratic principles and have a Bill of Rights entrenched in their Constitutions. In some respects, therefore, they resemble the SA of the future. Both countries have a marked racial imbalance in their judicial officers."

When Lever started his legal practice in Botswana 12 years ago, there was only one local Motswana who held the most junior magistracy



All the other magistrates were expatriates, mainly from the United Kingdom and Sri Lanka.

The Chief Justice at the time was a black person, Hayfron-Benjamin from Nigeria, "but the remaining judges were white."

Today two of the Botswana High Court judges are black while the other three judges are white.

"The black judges, both past and present, are or were expatriates and were not drawn from the society over which they adjudicate," writes Lever

Bophuthatswana, he points out, always had more black and local magistrates than Botswana. It also has a local person Registrar of the Supreme Court, which Botswana has never had

"Of the eight trial judges in Bophuthatswana, only one is black and he is not a native Motswana

"Despite the racial imbalance in the bench, the issue of redressing the racial balance has never surfaced as an issue in either Botswana or Bophuthatswana," Lever continues

Lever argues that the lesson to be drawn from this is that there is no inherent need for racial balance

"In most countries of the world, judges are not a mirror reflection of the composition of the population from whence they are drawn and there is good reason for it"

For one thing, he adds, an inclination for learning and expertise in the law are not uniformly diffused throughout the community

On the other hand Lever points out that the reason why a racial imbalance has become crucial in SA "is principally because the law was systematically used as the prime instrument of racial oppression"

Yet it was the judges who fought this misuse of the law

He cites prominent Advocate Sydney Kentridge who pointed out at a recent Bar conference that the bench in SA "stood as a bastion against apartheid"

Lever continues: "One must indeed marvel at the ingenuity of judges who succeeded in attributing the most benevolent of motives to legislators whose pernicious intentions had been well known."

But when the last bit of this ingenuity had been used up, Lever goes on, the fact remains that tens of thousands of people were forcibly removed from their homes

Large numbers were imprisoned for minor offences, individuals debarred from certain occupations, in-

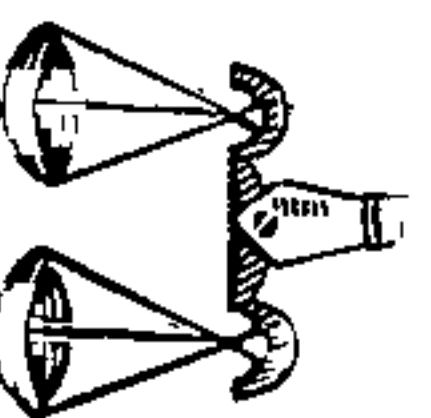


A large part of the population feels that the courts are an instrument for the protection of white privilege and that they are so alienated from the feelings of blacks that they cannot be expected to understand them.

ly in the case of natives,

■ That minor offenders are too heavily punished, particularly natives;

■ That serious offenders are too heavily punished with scandalous inadequacy, except in the case of natives



"There you have it," Lever points out. "The simple answer to the question 'why is there a need to redress the racial imbalance in the law', is that in racist societies there is a need to redress racial imbalance

"A large portion of the population feels that the courts are an instrument for the protection of white privilege and that they are so alienated from the feelings of the blacks that they cannot be expected to understand them"

Lever asks whether the need to redress the racial imbalance can be avoided by judges proclaiming "we are now good guys and we have a Bill of Rights in our pockets?"

Lever cautions us, "This is wishful thinking. In the first instance, the Bill of Rights is not a panacea for all our problems.

"Furthermore, in neither Botswana and Bophuthatswana has the Bill of Rights fulfilled the high hopes expected of it"

equalities in pay were permitted and security legislation was designed to stifle political opposition "as well as other hurts inflicted which could not have taken place without the sanction of the courts"

Apart from the deliberate use of the law as an instrument of racial oppression, there was also a bias in the treatment of blacks, Lever writes

Contrary to the belief that the idea of the unfair

treatment of blacks in the courts originated with Natal legal academic Barond Van Niekerk, it was Advocate Harry Morris who made crucial observations

It was Morris "who practised many years before most of us, knew or thought he knew what a 'Bar' was", according to Lever

Morris observed that SA's legal troubles were,

■ Too many prosecutions for trivial matters, especial-

In a democratic country there is no need for a racial balance on the bench. But in SA the racial imbalance has to be corrected, argues lawyer Henry Lever, because the law was used as an instrument of racial oppression.

Writing in the SA Bar Journal

Consultus, Lever argues that once a fully democratic SA has been established, the racial composition of the bench should no longer be of importance.
ZB MOLEFE reports.

Blacks on bench can fix racist bias

CP 26/4/79 2

252

SENIOR COOPS TRIED TO SABOTAGE INVESTI

Times 26th April

EVIDENCE that was led earlier in the 80-day trial also suggested there were attempts by the country's most senior CID officials to sabotage the investigation by Captain Frank Dutton and that was he was on a hit-list

Captain Dutton came up against unknown elements in the security establishment and he and his team feared for their lives, the court heard

In February, Captain Clifford Marian, who once investigated political cases, was asked in court whether he had warned Captain Dutton that he was on a suspected hit-list

Captain Marian remained silent for a while and then answered "I can't remember"

Among some of the amazing things Mr Justice Wilson heard over the months in court were

● A witness, New Hanover Reserve Constable Stuart van Wyk, told the court threats had made him uneasy about giving evidence

● An initial investigator in the case, Captain Patrick Watrus, did not bother to follow up leads in his investigation, view the video of the massacre or question Captain Mitchell, because he had not suspected him

● A 16-year-old survivor of the massacre told the court she had not been questioned by the police about the attack and another survivor was not asked his name or address when he reported the incident that day to

the Warburg police station

Another dramatic turn in the case came in February, when another im-

investigator, Captain Joseph van Zyl, took advantage of the court break to telephone the SAP legal services department in Durban to get legal counsel. Brigadier Marx also received assistance

Granting their request, Judge Wilson said it was the first time in his experience that senior officers were not prepared to give evidence for the state without legal representation

● Captain Van Zyl admitted he had not spoken to any civilians at the scene of the crime and had not watched the SAP video made by the investigation team

● Neither had he read the invest-

gation diary written up by his predecessor, Captain Watrus

Captain Van Zyl could also not explain why he had made no record of a conversation with a group comprising one of the accused, Captain Mitchell, Captain Watrus and another person, while trying to establish the whereabouts of the constables

He said the decision not to record the meeting had been his own

Mr Justice Wilson then said "In other words, a cover-up." Captain Van Zyl went on to say he had also not let Brigadier Marx know about visits to the Riot Unit and to the Mpumalanga police station while making inquiries about the whereabouts of the special constables

Mr Justice Wilson retorted "This is incredible"

Days later, Captain Dutton told the court that Captain Van den Heever, who was in charge of Riot Unit 8, "was visibly shocked" when told two special constables under his command had been arrested

Captain Dutton said at that point he did not suspect Captain Van den Heever and asked him for the personal files of the six special constables involved

The investigating officer said Captain Van den Heever told him he no longer had them and they had been "destroyed" Captain Dutton insisted he knew Captain Van den Heever had them in

his office, but was then told other detectives had them

Captain Dutton said "I told him this was not true as I had seen some of them"

"I walked towards the office and he accompanied me I went in first and there were two or three black administrators present

"I asked one of them for the file on Khambule I noticed he was not looking at me, but past me I turned around and caught Captain Van den Heever shaking his head The administrator then told me he did not have the file

"I went to the cabinet and drew the file of Khambule myself and said I wanted the rest. The administrator then drew them all"

GATTION

After judge blows lid off massacre scandal

INCOVERT

THE SAP has gagged all police officers involved in the Trust Feed massacre cover-up.

Even Captain Frank Dutton, the brave detective who defied death threats to bring seven of his colleagues to trial, was refused permission to speak to the Sunday Times, although he said yesterday he was willing to do so.

Also gagged were the three senior officers implicated by a judge in the cover-up

Capt Dutton, 42, began investigating police involvement in the massacre of 11 people on December 2 1988 after stumbling across evidence early last year. Contacted yesterday at Warburg, Natal, where he heads the Riot Investigation Unit, Captain Dutton said he was involved in the case, Capt I court.

Under the cover-up, he said, officers assisting me were taking "control over" the impression were Lieutenant-General trying to "Basie Smut, head of the Investigation Crime Combating Unit, or replied "I could approve interviews against untried in the security element and he feared for his own safety. Mr Justice Ar-

In February 1989, the cover-up was exposed by the Maritz report. In February 1989, the cover-up was exposed by the Maritz report. In February 1989, the cover-up was exposed by the Maritz report.

In February 1989, the cover-up was exposed by the Maritz report. In February 1989, the cover-up was exposed by the Maritz report.

In February 1989, the cover-up was exposed by the Maritz report. In February 1989, the cover-up was exposed by the Maritz report.

In February 1989, the cover-up was exposed by the Maritz report. In February 1989, the cover-up was exposed by the Maritz report.

In February 1989, the cover-up was exposed by the Maritz report. In February 1989, the cover-up was exposed by the Maritz report.

The judge has called for a public inquiry into the actions of the three men, all of whom have since been promoted

Retired

● Lieutenant Patrick Watrus is now a captain with the detective branch at Greytown,

● Captain Joseph van Zyl has been promoted to major and is commander of the detective branch in Moroka, Soweto,

● Brigadier Christo Marx, former head of the CID in Natal, was promoted to lieutenant-general on January 1 last year and transferred to Pretoria, where he retired before giving evidence at the trial.

On Friday, General Van der Merwe said he had instructed Lt-Gen Smut to probe the initial police investigation into the Trust Feed case with a view to possible criminal or departmental steps

General Van der Merwe did not indicate whether the investigation would extend to the role of SAP officers who attempted to sabotage Capt Dutton's case

Giving evidence in the Maritzburg Supreme Court in February, Capt Dutton

□ To Page 2

STimes 26/4/92

Police gagged

From Page 1

said he had been instructed to go to Pretoria on July 30 last year to meet General Romme van der Westhuizen, former head of the SAP's special investigation units. Also there were Brig Marx and Capt Van Zyl

Captain Dutton told the court that General Van der Westhuizen had said he felt that the case against Capt Brian Mitchell, who ordered the massacre of the women and children, and the special constables who assisted him, was based on circumstantial evidence.

In his view there was very little chance of a successful prosecution — especially if the accused were defended by a capable advocate. Capt Dutton testified

But Capt Dutton persevered with his inquiry later, when he reported back to Capt Van Zyl that two of the special constables had confessed to taking part in the attack on Mitchell's orders, Capt Van Zyl responded "Hell, that's bad."

After that, a Colonel Langenhoven from Pretoria and General Van der Westhuizen personally involved themselves in the case, Capt Dutton told the court.

Under cross-examination, he said, "I had superior officers assisting me in fact they were more than assisting me. At times they were taking the investigation over."

Under cross-examination, he said, "I had superior officers assisting me in fact they were more than assisting me. At times they were taking the investigation over."

Under cross-examination, he said, "I had superior officers assisting me in fact they were more than assisting me. At times they were taking the investigation over."

Under cross-examination, he said, "I had superior officers assisting me in fact they were more than assisting me. At times they were taking the investigation over."

THE TRUST FEED TRAVESTY
Page 7

burg Supreme Court this week when he convicted SAP captain Brian Mitchell and four special constables of murdering 11 people at the Natal Midlands settlement of Trust Feed.

The behaviour of three senior police officers who took part in the early stage of the investigation was questioned by Mr Justice Wilson

Wilson

305 PORT
others
wellers,
he Watch
Bundy s.

YOUR DAY

HSR/B-20072

'Wolf' refus-

Mass killer

demands

Cipres 26/4/92

black judge

By **DESMOND BLOW** (252)

SELF-CONFESSED killer Gabriel Mahakoe, 42, dubbed the "Swart Wolf", told a Bloemfontein judge this week he was a fool and to "voetsak, f... off (you) and your court".

Mahakoe refused to be tried by a "Boer judge" and demanded a black judge and a black prosecutor. He also refused to sit in the dock.

He sat on the stairs of the court with his fingers in his ears so as not to hear the proceedings.

Mahakoe was dubbed the "Swart Wolf" because he is alleged to be a killer of whites - similar to "Wit Wolf" Barend Strydom, a killer of blacks.

This week 300 riot cops were called to control 300 black protestors outside the Bloemfontein Supreme Court after they were refused entry into the building.

Strydom went on a killing spree in Pretoria in November 1988, gunning down 24 blacks - eight of whom died - saying he did not regard blacks as people, and adding he would have killed more.

Mahakoe too said he did not regret what he had done. He admitted killing four whites, but said he had wanted to shoot 20 to 50.

"I wanted to chop off the hand of apartheid, but I only chopped off the fingers," he said.

Mahakoe said he was helped by the devil and he wanted to kill the "kaffir, baboon, dog that we are called".

Earlier Mahakoe told the court he had told his victims when he killed them on 23 December 1991. "You will forgive me, because I am not killing you but that thing."

Kaffir

He admitted to four murders and one attempted murder, but denied robbing the family of a vehicle and goods valued at R22 000.

"How can I rob people who are dead? I did not rob them, but went to kill them."

Earlier Mahakoe told the court he had gone into the farm homestead Grootstry and found a rifle beside a bed.

He loaded the rifle and fired a shot to bring everyone into the house.

He then went into the "holy room where a kaffir is not allowed to sit, and waited for them" - farmer Willie Engelbrecht, 71, his wife, Bettie, 69, their daughter Lena Smit, 39, and their two granddaughters Michelle, 11, and Lizelle, 14.

When they came into the house Mahakoe said he shot them, saying "Africa must come back!"

Afterward he saw that Lizelle, lying under her mother, was not dead.

"I hit her with the butt of the rifle."

This week Lizelle told the court how she survived. She said she had pulled her sister into a wardrobe after her grandparents were shot, but the door would not close.

"I heard my mother plead. 'Please, we have small children. I will give you the keys to the cars and money'."

Mahakoe replied. "Missus, let go of your handbag." Her mother was then pushed into the wardrobe and they were shot.

She felt a bullet crease her hair and they fell out. Later, Lizelle staggered three kilometres to a neighbour who alerted the police who tracked Mahakoe down by helicopter.

When he was picked up near Bloemfontein, Mahakoe said: "This is a political crime. I must be arrested."

On Wednesday Judge BA Kotze halted the trial to send Mahakoe for mental observation.

ES
T
R
I
B
U
T
E

More granted legal assistance

(252)
Political Staff CT 27/4/92

THERE was a 45.8% increase to 35 410 in the number of legal aid applications granted by the Legal Aid Board last year, according to the 1990/91 annual report of the board tabled in Parliament recently.

The applications granted represented 37.4% of all applications submitted. Of all applications received, 18.5% were referred to the state and other institutions, 20.3% were pending and 23.8% were refused.

Board assistance enabled a young man from Soweto, who lost his sight after being hit by a rubber bullet fired by the police to institute legal action against the minister of law and order and get a settlement of R250 000 plus costs.

There was a sharp 82% increase to 21 253 in the number of applications granted for legal aid in criminal cases and such grants represented 60% of all applications approved — the highest percentage in the board's history.

"The board welcomes this phenomenon since it is of the opinion that the biggest and most acute need for legal assistance in South Africa exists in the field of criminal justice," the report said.

There was a relatively small increase of 11.8% in the number of applications granted for civil cases, including divorce and Industrial Court cases.

The report said progress had been made with the planning of the investigation into the feasibility of a public defender system for South Africa. A committee had been established to launch and monitor a pilot project in Johannesburg.

Cops' trial goes on

The Maritzburg Supreme Court will today hear evidence in mitigation of sentence of the five policemen convicted last week of murdering 11 people during an attack at a house in Trust Feed, Natal.

The five include former New Hanover police station commander, Captain Brian Mitchell, and four former SAP special constables, Khehla Cyprian Ngubane (21), Thabo Petrus Sikhosana (29), Dumisani Roy Ndwalane (27) and David Marshall Khambule (26).

Mr Justice Wilson and two assessors found that Mitchell led the attack where the 11 dead people, mourners who were holding a night vigil were massacred, in Trust Feed on December 28.

Seven of the victims were women and two were children. The five were also convicted on two counts of attempted murder.

The court also dismissed the original defence of the four special constables that they had followed orders of their superiors to attack a house containing terrorists. The judge said this defence could only be applied where such orders were legal. *Sowetan Correspondent*

Goldstone Committee to inspect Phola Park

By Mckeed Kotlo
Pretoria Bureau

252

253

STAT 28/4/92

The Goldstone Committee investigating the alleged brutality of members of SADF's 32 Battalion on Phola Park residents earlier this month, is to conduct an inspection in loco in the area on Thursday afternoon

Committee chairman Solly Sithole announced this during yesterday's seating in Pretoria. The hearing was postponed until tomorrow morning.

Mr Sithole said the inspection in loco would be conducted at 2 pm.

Mr Sithole granted the postponement after Advocate Barry Roux, act-

ing on behalf of some members of the 32 Battalion, told the committee he needed time to consult his clients on the question of why they entered Phola Park on the night of March 8, 1992.

Advocate Roux said he would be ready to continue with the hearing after the consultation.

1 of the 10 people who died in
test incidents on Sunday were
led by police who returned fire
er being attacked in three inci-
ts

Foreign Affairs department
ensure that Katina P captain Trifon Kalatzaikis and five
crewmembers be returned to Mozambique to assist with an
official commission of inquiry into the incident

A spokesman for the Department of Foreign Affairs
could not be reached for comment.

Alliances 'may strengthen teachers'

8/17/92 28/4/92
NEW alignments among teachers' associ-
ations that cut across racial and ideologi-
cal lines might strengthen the position of
teachers in future, the SA Institute of Race
Relations said in a publication released
yesterday

Monica Bot, author of The Politics of
Teacher Unity, said in the SAIRR publica-
tion important developments over the past
few years had been the formation of the SA
Democratic Teachers' Union and the
National Professional Teachers' Organisa-

tion, and the government's acceptance of a
single education system

She said the willingness on the part of
teachers' associations to co-operate and
form alliances was crucial, because it in-
volved associations which until recently
operated along racial lines

Another advantage of such co-operation
was that "teachers will have to compro-
mise on certain differences and to accept
the inevitability of others, which will lead
to moderation", Bot said. — Sapa

Mitchell 'indoctrinated'

MARITZBURG — Indoctri-
nation of former SA Police
captain Brian Mitchell dur-
ing his police training re-
garding the dangers of
communism was cited yes-
terday as a motivating fac-
tor in the 1988 Trust Feed
murders

This emerged from a re-
port by a senior criminolo-

8/17/92 28/4/92
Own Correspondent
gist from Unisa, Irma La-
buschagne, who gave
evidence in mitigation of
sentence on Mitchell's be-
half before Judge Andrew
Wilson and two assessors
yesterday.

Labuschagne said at the
time Mitchell joined the

252
SAP in 1976, recruits were
confronted with the "total
onslaught" ideology.

"This perception (whe-
ther right or wrong) was
ingrained in young and sus-
ceptible minds. Commu-
nists were the enemy — to
be fought by any means"

The hearing continues to-
day

Language warning

GERALD REILLY

PRETORIA — SA Law Commission vice-chairman Judge Pierre Olivier yesterday warned politicians not to ignore minorities' language rights in a new SA if they wanted to avoid a potential source of conflict.

Addressing an HSRC conference on language and law, he said politics and political parties "come and go, but the claims of cultural and linguistic groups remain forever".

He said 6,1-million people (15,66%) had Afrikaans as their mother tongue. There were 3,4-million (8,08%) whose home language was English. Zulu was spoken by 8,5-million (21,61%); 6,9-million (17,44%) spoke Xhosa; 3,6-million (9,11%) Tswana and 3,4-million (8,7%) North Sotho.

Olivier said to prohibit an individual from using his own language appeared contrary to basic freedoms.

He said the ANC draft bill of rights implied the government of the day would be able to choose an official language.

The question was, could SA afford a new official language every four or five years, Olivier said.

B/10/192 28/4/92

oil
ing
h
m
ri
me
so
t
w
C
me
ear
mu
rn
ed
for
l
VC
the
anc



ANC lawyers

on police board

THREE prominent human rights lawyers, some closely associated with the ANC and its various affiliates, have been appointed to a police board set up under the National Peace Accord last year.

The three are top ANC lawyer Mr Matthews Phosa, the movement's negotiator Mr Pius Langa and anti-apartheid activist Mr Nicholas "Pink" Hayson

Phosa is a member of the ANC's legal team and has been involved in talks between the Government and the ANC on the implications of the termination of the armed struggle. They have been appointed by Minister of Law and Order Mr Herens Kriel to the board along with several members of Parliament, academics and other legal personalities.

The Minister of Law and Order announced the members of the board yesterday. The board's task, as defined by the National Peace Accord, is to review the training and working of the police in a bid to bring communities and police closer together.

The board will also make recommendations to the Minister of Law and Order on policies relating to the

Political Correspondent

training and efficient functioning of the police.

In terms of the National Peace Accord, the board will research and consider representations from the public on these issues.

The board's recommendations will be made public if this will help reconcile the interests of the community with those of the police.

Senior police staff appointed to the board include Lieutenant-generals HPM de Villiers, AB Conradie (Chief of the CID), Basie Smit, Louwrye Malan and J Swart.

The names of the rest of the board members are former Attorney General of the Transvaal Mr Don Brunelle (chairman), Democratic Party MP Mr Peter Gastrow, sociologist Dr Clifford Shearn, Miss Janne Rauch of the University of the Witwatersrand psychology department, Stellenbosch University sociologist Ms Elena van der Spuy, Professor Thomas Coetzee of the Potchefstroom University, and Johannesburg attorney Mr Izak Steyn.

Members of the homeland police appointed to the board are brigadiers KS Zwane (KamNgwane), MJ Thubane (KwaNdebele), MA Malele (Lebowa), Colonels MH Koahela (QwaQwa) and PM Mathe (Gazankulu) and Lieutenant-Colonel DJ Muller (KwaZulu).



NICHOLAS HAYSON

DP seeks independent Trust Feed probe

STAR 29/4/92
CAPE TOWN — The Democratic Party has rejected the internal police inquiry into police involvement in the Trust Feed massacre and has demanded an independent probe

DP law and order spokesman Peter Gastrow said Law and Order Minister Hernus Kriel's appointment of an internal in-

quiry was a "totally inadequate response to a matter which fundamentally affects the credibility of the police in the eyes of the public"

Mr Gastrow disclosed that the Speaker of Parliament, Eli Louw, had turned down a request by DP chief whip Roger Burrows for the Trust Feed

case to be debated in Parliament. The grounds Mr Louw gave were that the case should remain sub judice until sentence had been passed.

Mr Kriel said no other mechanisms were available and that throughout the world, police investigated police — Political Correspondent

'Killer' sent for

mental observation

One settler, one bullet, Mahakoe tells judge

By SONTI MASEKO

SELF-confessed multiple killer Mr Gabriel Mahakoe was last week ordered by a Bloemfontein Supreme Court judge to undergo mental observation following days of his open defiance and confrontations with the judge.

Mr Justice DA Kotze, sitting with two assessors, decided on Thursday that Mahakoe (42), who confessed to having killed four whites "to cut off the hand of apartheid," should be examined by a panel of two psychologists, one of them an independent practitioner.

On Thursday Mahakoe, who had expected to be sentenced, shouted at the judge "of jy gee my tien of jy gee my a honderd hangpale, ek gee nie om nie, laksman" (Whether you sentence me to death 10 or a hundred times, I don't care, hangman) "

Sowetan 27/4/92

252

From the first day of his trial, Mahakoe has demanded that he be tried by a black judge and a black prosecutor. He has rejected the judge and his assessors as "Boers".

The ruling by the court that the Bench would not recuse itself and that there was no black judge in the country brought the worst out of Mahakoe last week. He protested throughout his trial and refused to remain in the dock and shouted abuse at the judge, telling him to "Go to the sea".

'Hard-headed'

At one stage, he tore up an entire album of photographs of evidence and threw the pieces of paper into the air.

Mahakoe became very angry when the court found him to be "hard-headed," and was led out of the court shouting at the judge "Moeme se ek is taankop, jy is self 'n taankop, jy is die taaste, laksman" (Don't say I'm hard-headed, you

too are hard-headed, you are the hardest)

His behaviour, plus aspects of evidence before the court, made the judge change his earlier ruling that Mahakoe was competent to stand his trial.

The judge said he found Mahakoe's behaviour, in the face of such serious charges, to be like that of a naughty boy.

"It is hard to believe that an adult person, a man in his right mind can act in such a senseless manner," Justice Kotze said.

However, despite all the disruptions, the court heard the evidence of State witnesses. The prosecution has closed its case.

Much is still unknown about Mahakoe, whose outbursts in court have attracted attention. Who is he and what prompted his actions?

Were, as Mahakoe claims, the deaths of the Verkeerdevelei farmer, Mr Willem Engelbrecht, his wife, daughter and granddaughter political mur-

ders'?

Was he consciously aware that he was killing people or, as he says: "I was killing apartheid?"

What the court has, which does not amount to evidence, is a chilling confession he made before a magistrate shortly after he was arrested.

Enigma

Mahakoe remains something of an enigma. Hopefully, psychologists' reports may throw more light on Mahakoe.

He tells the court he went into the house of the Engelbrechts, scattered things around in their bedroom to lure them. The Engelbrechts were not at home at the time.

He found a firearm in the house, which he loaded and, to test it, fired a shot through a window.

He then waited for the family in the living room. "My purpose was to kill", Mahakoe said in a statement to the magistrate. The prosecutor, Mr Tim

McNally, said Mahakoe was an ordinary criminal. He went into the house to steal and when the owners arrived, he killed them and then drove away in their car.

State witness Elizabeth Smit, a 14-year-old girl who survived the attack, did not confirm Mahakoe's statement that as he shot his victims, he told them he was killing apartheid.

However, Mahakoe in his statement pleaded guilty to four counts of murder, and one of attempting to murder Smit, but denied the charge of theft.

As for the man himself, he continued to shout at the judge during the three days of the trial last week, he said even if he was sentenced to death "blacks will continue to kill whites, we will not stop there, we will burn you in your houses as long as the situation in South Africa does not change.

"If you won't go to the sea, then I say to you "One settler, one bullet."



Mr Gabriel Mahakoe has been sent for psychiatric observation.

'Send killer captain to Death Row'

STAR 29/4/92

Own Correspondent

MARITZBURG — The four former SAP special constables convicted of the 1988 Trust Feed massacre will not face the death sentence, but the State has called for the ultimate penalty to be imposed on former SAP captain Brian Mitchell (34), who gave the orders for the massacre.

Indicating yesterday that he will not impose death on former special policemen Kehla Ngubane, Thabo Sikhosana, Dumisani Ndwalane and David Khambule, Mr Justice Andrew Wilson said they could consider themselves very lucky that all they faced was a long period of imprisonment.

That they acted under the orders, albeit unlawful orders, of a commissioned officer did make a difference, he said.

He also commented on the brief police training given to special constables, saying that to send people into the field with lethal weapons after only six weeks of training showed a sad lack of judgment.

Sentence will be passed at 10 am tomorrow.

Mitchell's advocate, Mr Etienne du Toit, SC, pleaded with Mr Justice Wilson not to impose the death sentence on the former station commander.

Referring to strong emotions witnessed during the

Trust Feed constables face jail

trial and to "emotional press reports", he said "judicial aloofness" would bring about the realisation that the destruction of an individual was not called for in this case, in spite of the brutality of the offence.

The political motive behind the killing was mitigating, as well as the fact that

DP seeks independent Trust Feed probe — Page 2

Mitchell was not naturally aggressive or wicked.

Mitchell, also, did not seek the death of women and children holding a funeral wake, he said.

Mr du Toit was asked by the judge how it could be mitigating that Mitchell had gone to the "wrong" house and whether it was less heinous to kill "comrades" (UDF supporters), as Mitchell had intended, than to kill anyone else.

Mr du Toit responded that in Mitchell's perception the comrades were the enemies

of the State, and that it would be morally less blameworthy than shooting women and children.

"He believed that the people in the house had to be killed in the interests of the country, however distorted that belief may be when objectively viewed," Mr du Toit said.

Mr du Toit also submitted Mitchell did not play a major "physical" role in the attack.

The judge, however, said that in his view it was not mitigating that Mitchell had left the special policemen to "do the dirty work" and face the risks while he walked away. "It was a cowardly act". He regarded the fact that Mitchell was a policeman in charge of the special constables as aggravating.

Calling for the death sentence for Mitchell, State advocate Anthony Irons said that according to the court's findings, the violence in the Trust Feed area at that time was largely due to Mitchell's own doing.

It was also aggravating that he had abused his position of trust and the power and influence that went with it and misused people under his control.

After the attack he had simply walked away, returning only hours later.

His subsequent involvement in covering up the incident was an indication that he felt no remorse at that stage, although he was then aware of the identity of the victims, added Mr Irons.



Inquest to probe Webster murder

STAR 29/4/92

252

By Shirley Woodgate

On the eve of the third anniversary of the assassination of anti-apartheid activist David Webster outside his Johannesburg home, an inquest has been announced into the circumstances surrounding his death

And last night a University of the Witwatersrand residence was named after the inspired academic, who was gunned down in a street in Troyeville on May 1 1989

Yesterday the Attorney-General of the Witwatersrand said he would ask for a Supreme Court judge to conduct the inquest after a legal task force, created a year ago to further investigate the case, had failed to uncover any relevant and admissible facts

Speaking after the official opening of the David Webster Residence on the Wits campus, Dr Webster's girlfriend Maggie Friedman said that in the changed political climate, this might be the last chance to reveal the facts to a fresh inquest — which would have more chance of uncovering the truth than the restricted Harms Commission

The keynote speaker, David Webster Trust trustee Glen Moss, flatly blamed the killing on individuals associated with one of the State's destabilisation units

Claiming the police had made less headway in identifying those responsible for the killing than had Dr Webster's friends and a few journalists, Mr Moss hinted that "perhaps these apparatuses of the State charged with investigating his death did not wish to find out"

He said the legacy of the State's "awesome violence", both actual and threatened, which had characterised the period when Dr Webster had been killed, was now being reaped

Silent grief . . . David Webster's girlfriend Maggie Friedman and veteran anti-apartheid activist Helen Joseph at Wits yesterday evening. Picture: Jacob Rykloff

Bill of Rights key to future constitution

KATE OWEN: Danays Reitz

THE international community has given concrete shape, albeit in many different ways, to the idea that every individual has fundamental rights that must be respected by the state

The protection of the individual's rights has become a universal demand and is recognised even where no enactments, conventions or treaties exist under positive law

It has become part of the modern international legal consciousness and of the contemporary law of nations

SA, on the other hand, although its heritage of Roman Dutch Law provides a benign framework for the protection of human rights, at the moment has no Bill of Rights nor is it a signatory to the Universal Declaration of Human Rights

Moreover, in the apartheid years, statutory enactments effectively ousted the courts' ability to protect individual human rights, notably in the areas of personal liberty and freedom of speech and of association.

There has been a marked difference in the approach of SA courts to the administration of justice with regard to common law questions and to statutory prescriptions

Where Acts are concerned, the courts have consistently applied the principles of parliamentary sovereignty and have generally acquiesced where an Act infringes one or more of the recognised human rights

On the other hand, as far as common law questions are concerned, SA courts have been consistently resourceful and creative. They have taken the best principles from the works of old writers and adapted

them to the needs of the time

It has now been generally recognised by most players in the negotiation process that a Bill of Rights is an essential element in the Constitution for a new SA

The ANC has produced a draft Bill of Rights which, it is fair to say, relies heavily on the 1955 Freedom Charter

It gives considerable attention to social, economic and educational rights (the so-called second and third generation rights). Not surprisingly it is these articles that generate the most controversy

Investigate

The present government requested the SA Law Commission in April 1986 to investigate and make recommendations on the definition and protection of group rights in the context of the SA constitutional set-up and the possible extension of the existing protection of individual rights, as well as the role of the courts

Since the initial working paper was produced in 1989, the government has, in the face of criticism, moved away from the concept of group rights towards the protection of individual rights only.

It is expected, nevertheless, that the National Party will take a stand against the recognition of second and third generation rights.

In the meantime, our common law is steadily being freed from the statutory shackles of apartheid legislation, in 1990 the Reservation of Separate Amenities Act was the first major pillar of apartheid to fall, the notorious 1913 Black Land Act, the Popu-

lation Registration Act and the Group Areas Act were all repealed in 1991 and provisions allowing for detention without trial were severely curtailed. In addition, positive legislation has been passed such as the Upgrading of Land Tenure Rights Act and the Less Formal Townships Development Act

Apart from the existing constitution, with its restricted franchise, the major pieces of legislation inimical to human rights which remain are the Self Governing Territories Act, the Education and Training Act and the Black Local Authorities Act.

Although the legislation reserving 87% of the land for 13% of the people has been repealed by the Abolition Act, the question of land is still very much on the agenda as many people feel the repeal of the Land Acts in itself cannot deracialise land ownership

On the one hand, there are claims for restoration of land to communities and individuals who were forcibly removed from land they had long occupied, or who were expropriated in terms of apartheid legislation (such as the erstwhile freehold owners in Alexandra, the victims of a vain attempt to reserve Alexandra for single-sex hostels)

In these cases there is an easily appreciated moral right on the part of the claimants, the claims are limited and very often the land is still held by the State

On the other hand, there is a call for re-distribution of land to redress the historic imbalances of apartheid

This issue is clearly more difficult to resolve as there

is an almost unlimited class of claimants, the claims conflict with existing rights of ownership which were, as far as the present owners are concerned, legitimately obtained, and, of course, the key question is how far the clock should be turned back. A line must be drawn somewhere to avoid an infinite regression

The government has recently set up an Advisory Commission on Land Allocation to hear claims to land and to advise the State President. It is chaired by a retired Judge, Mr JTH van Reenen and includes the following commissioners: Prof N J J Olivier, Prof R E van der Ross, Mr M J Kotze, Dr D C Krogh, Prof H Ngubane, and Bishop T W Ntongana. After initial hesitations, and dissatisfaction over the process by which the commissioners were appointed, many communities which were forcibly removed have now decided to put their cases for the restoration of their land to the commission in the hope of getting it back

Negotiations

In Alexandra, many of the ex-owners whose land was expropriated (often after the property had been in the same family for up to three generations), stayed on as tenants on their original properties. They have recently been involved in negotiations with the Transvaal Provincial Administration and the Alexandra City Council and other interested parties in an attempt to recover their old properties. Crucial to the outcome of these negotiations is a solution for the many statutory tenants, and the shack-dwellers who are crowded onto the old erven with no claim in law to be there.

Looking pretty on paper is just not good enough

Bloom

29/4/92 252
ETIENNE MUREINIK
 Wits Law School

WILL the Bill of Rights really protect human rights? This question is one many South Africans are asking, and it is a fair one

Elsewhere, some of the most elegant charters of rights have on enactment become ornaments of law, commanding only obedience, not obedience. Others have been discarded in the dustbin of military government

Nor are the portents much more encouraging here

The National Peace Accord, heralded as the model for the constitutional process, plainly has more appeal on paper than in practise

Translate

Much the same fate awaits our Bill of Rights unless we notice now what is necessary to translate the designs in abstract documents into real constitutional rights To do that, we need a clear conception of how constitutional protection works when it does work

A Bill of Rights is not a document with an obvious reach The breadth of most constitutional rights is far from self-evident

Take, for instance, free speech, a core member of any respective list of constitutional rights What constraints does it permit on defamation, or on the liberty to arouse a crowd to a frenzy of racial hatred?

Or take the right to equality, without which the

next constitution cannot be imagined

Does it mean treating all equally, regardless of previous privilege or disadvantage, or does it mean trying to remedy previous inequalities? Upon the answer to that hangs the future of affirmative action

Some of these kinds of questions may be resolved in the working of our Bill of Rights, but many more will be left open for judicial decision The cases that decide them will determine the real content of the Bill of Rights

Those cases will bring under review laws and decisions that appear to conflict with the constitutional rights in the Bill But the apparent conflict will only trigger the court's inquiry, not determine it

In court, the protagonists of each such law or decision will try to justify it Particular protections against defamation will be said to be justified by necessity, or by liberty, or by other principles recognised in the Bill Job quotas for blacks will be justified as fostering equality, rather than violating it.

Some of these justifications will prevail, others will fail But much more important than the outcome will be the character, if the Bill of Rights works properly, of the inquiry

Rules now taken for granted will have to be justified, in argument, before a sceptical court Laws

hitherto unassailable just because Parliament has authored them will be open to scrutiny, a scrutiny they will survive only if the principles upon which they depend are persuasive And if Parliament has to justify itself, no lesser body will be able to avoid accountability

The result will be a pervasive shift away from the authority of institutions, towards the authority of reason The real value of an effective Bill of Rights is that it fosters an enterprise of justification Every law, every government decision, will under challenge have to be explained and defended

Climate

The authority of no decision maker will put it beyond the need to supply reasons The effect, if the Bill of Rights takes root, will be to foster a climate hostile to arbitrariness, to abuse of power, and to official self-interest. It is this which is the essence of constitutional protection.

But this, too, is why constitutional protection is so fragile An enterprise of justification cannot survive outside a culture of justification And perhaps the most enduring of apartheid's legacies will be the culture of authority which it has bequeathed

The decades of deference to the sovereignty of Parliament, to the power of officials, have entrenched an ethic unfriendly to the enterprise of justification We



ETIENNE MUREINIK

take it as natural to have the law laid down for us, without reasons.

If constitutional protection is to flourish, a climate of critical scrutiny has to supplant that ethic And that means cultivating the instruments of critical scrutiny: the courts, although they will have to work hard to overcome their own ingrained tendencies to respect authority just because it is authority; the media, which are more searching than they used to be, but could question further and better; and education

It is the quality of education, more than anything, which will determine whether a culture of justification emerges here that can sustain proper constitutional protection.

And of the educators with that burden, the most important are the universities

It is pre-eminently the responsibility of the universities to nurture the relentless, never-satisfied, kind of questioning that fosters a culture of justification

It is therefore frightening that the government displays so poor an appreciation of the importance of the universities Every Budget brings new cuts, at least in real terms, to university funding

It is true, of course, that other sectors of the educational system are in grave neglect, and require large increases in funding

It does not follow, however, that those increases have to be made at the expense of the universities

Cherished

A Bill of Rights reserves the fundamentals cherished by a society for constitutional protection, and makes them sacrosanct

The instruments necessary to make constitutional protection a reality should be equally sacrosanct

Government ought to be building them up, not running them down

Unless the trend is reversed, we may well end up with a Bill of Rights which is pretty on paper, and useless in practise

Ev
an
re
co
in
on
cl
ac
in
ho
ha
tu
do
wo
lic
ce
of
Co
ne

Cops accused of a cover-up at Trust Feed

Sowetan 29/4/92

252

● From page 17

asked Mitchell for help in solving political problems between landowners and tenants in the area. Mitchell, he said, had said that it would not help to arrest anyone because the police would simply release them and it was better for them to be killed.

Gabela, a state witness who has been indemnified from prosecution, said he understood the constables were going to launch an attack on the home of the Mbongwa (a key member of the UDF-aligned Trust Feed Crisis Committee) family.

October 21: Gabela gives details of the political conflict in the Trust Feed area at the time of the killing, confirming that the community was broadly divided into the Inkatha-aligned Landowners Association and the UDF-leaning Trust Feed Crisis Committee.

He said that he had asked Mitchell for help in getting firearm licenses for defence against attacks by the UDF and the TFCC.

October 22: Mr Justice Wilson remarks more than once that he had the impression that Gabela was attempting to minimise his own role when testifying against the seven policemen.

October 28: A former SAP special constable alleges that four of his colleagues, now on trial for murder, told him that they had fired shots into a house pointed out to them by Mitchell.

State witness Mr Selby Mkhize said that he was one of six special constables taken to the Trust Feed area and asked to do guard duty at a home on December 3. That night he heard gunshots.

Mkhize said that he was advised to hide by Sergeant Neville Rose. He said they were picked up from the area the following day by Captain van den Heever and Rose and ordered to hide their firearms and lie down on the seats and, when they were dropped off at their homes, leave their firearms in the vehicle.

November 8: An SAP reservist, Constable Stuart van Wyk, tells the court that Mitchell was drunk hours before the massacre, that he did not appear shocked at the discovery of the bodies and that he threw shotgun cartridges out of a police van window just before the bodies were discovered.

Armed men

He said Mitchell went to Gabela's house for a meeting where they met two armed men described as special constables. At a burning shop two armed men disappeared.

Mitchell disappeared and Van Wyk and a Constable Burton stayed at the blaze. About 15 minutes later the two constables heard three powerful gunshots followed by a series of muffled ones. When they asked Mitchell if he had seen the smoke or heard the gunshots, he said they were imagining things, Van Wyk testified.

November 20: Mr Justice Wilson calls for an investigation of possible "gross abuse of power" under the state of emergency by certain policemen in 1988.

November 22: Two survivors of the massacre describe their terrifying ordeal when gunmen opened fire on the house.

Victim Mrs Ida Hadebe, who was on crutches, said she heard the attackers enter the house and move from room to room shooting the occupants. She had covered herself with a blanket.

At about 3am she heard a knock at the door. People inside asked who was there. She said the response was "we are the police", followed by another knock and then the sound of gunshots. Another survivor, Mrs Nomagoli Zulu, said that her husband and sister died in the attack.

November 26: Shocking video footage of the bodies blasted by shotguns in the massacre are shown in court and prompts Mr Justice Wilson to express his horror at the way dead men, women and children were exposed to the public.

A police unit video recording depicted the victim's blood-spattered bodies, first lying sprawled across the floor of the house and then being carried outside in blankets and put on the grass outside where their exposed wounds were filmed.

The judge apologised to family and relatives at the "heartless way" the victims had been taken out in full public view.

November 27: Chief pathologist for Natal and university professor Jan Botha testifies that the wounds on the bodies of the 11 dead showed that most of the shotgun rounds had been fired at distances ranging from one to three metres from the victims. Most had been killed outright, but some had remained alive for some time before they died, he said.

January 24 1992: An SAP investigating officer who said in court that he left no stone unturned in his investigation of the Trust Feed massacre is questioned closely about the irregularity of the investigation he conducted.

Same morning

Captain Patrick Watruss, who arrived at the house on the same morning of the attack, said he found no substantial evidence in the house which could be linked to the shootings. Mr Justice Wilson remarked that it was evident there was a cover-up in regard to the evidence found in the house of the killing.

January 30: General Christo Marx and Major Joseph van Zyl, an investigating officer in the Trust Feed murders, halt proceedings when they are advised by the SAP not to continue with their evidence for fear of incriminating themselves.

February 4: SAP captain Frank Dutton tells the court that he kept records of his daily investigations because he suspected a cover-up in the case. Dutton is appointed investigation officer after Van Zyl was taken off the case. He also said that Van den Heever was visibly shocked when he learned of the arrest of the special constables who allegedly carried out the attacks on the house.

February 17: Van den Heever denies that he accompanied Rose to Trust Feed to pick up the special constables after the December 3 attack.

February 27: Mitchell says he has turned to God and has decided to tell the truth. He takes the rap for having given instructions to special constables to attack the UDF.

He told the court of a plan by the police and local Inkatha members to establish, even by violence, a rival organisation to the Crisis Committee. However Mitchell says he ordered the special constables to find UDF members and that he did not desire the death of women and children.

March 2: Mitchell changes his plea to guilty of culpable homicide.

Firing blindly

March 3: Special constable Kehla Ngubane said he and other special policemen had been firing blindly into a darkened house at the time of the attack, even though most of the victims were accurately shot in the chest or head.

March 31: Attorney-General Mr Mike Imber announces that the Commissioner of the SAP will institute a departmental inquiry into the initial police investigations into the Trust Feed massacre. Justice Wilson describes the special constables as "deliberately scheming witnesses".

April 2: The trial is estimated as having cost the taxpayer more than R2 million.

April 23: Justice Wilson delivers his verdict. Mitchell and the four special constables are found guilty on 11 counts of murder and two of attempted murder. Rose and Van den Heever are found not guilty.

SOWE LAIN WENNESDAY 29/11/92

DECEMBER 5 1988:

Newspapers report that 11 people, including six women and two children, were gunned down in a house in Trust Feed near New Hanover over the weekend

The attack happens at the height of violence which had swept the area since November 1988. The victims were at a prayer vigil when they were brutally gunned down. They are identified as four-year-old Muzi Shangase, Nkanyenti Shangase (9) Mrs Zetho Shangase (29) Mrs Dudu Shangase (36) Mrs Mahadebe Ntuli (40) Mrs Sikile Zondi (25) Mrs Marietha Xaba (45) Mrs Sara Njoka (66) Mr Alfred Zitha (44) Mrs Sdedewu Sithole (60) and Mr Mseleni Ntuli (60). Police refuse to allow media access to Trust Feed

Power
December 7: Chief Mhlabunzima Maphumulo (who was gunned down in 1989) tells mourners at the funeral of the Trust Feed 11 that the South African Police have the power to end the violence in the area
Police bar journalists from the funeral after a foreign television crew is chased out of the area by a group of vigilantes
December 9: An Inkatha lawyer claims the victims were members of Inkatha.

The plot that led to the Trust Feed massacre

So we follow 29/11/92

252

October 23 1989: An inquest magistrate rules that police might have been involved in the massacre and once again refers the papers to the Attorney-General, who initially declined to prosecute.

New Hanover magistrate Mr A Freese said there was circumstantial evidence placing suspicion on Special Constable David Khumbule and Special Sergeant Dumnisani Ndwalana and "possible complicity" on the part of Lieutenant Brian Mitchell, the former station commander of New Hanover

August 3 1991: The two former SAP special constables charged with the murder of the Trust Feed 11 tell the New Hanover Magistrate's Court that the station commander at New Hanover, a Lieutenant Mitchell, had instructed them to attack a house where "terror-

The Trust Feed trial, documenting one of the most brutal slayings in Natal's five-year history of violence, has reached its climax in the Maritzburg Supreme Court. For the first time evidence was led to show police complicity in the violence and attempts to establish, even by violence, a rival organisation to the existing United Democratic Front-aligned Trust Feed Crisis Committee. Last Thursday, Mr Justice Andrew Wilson declared that former New Hanover station commander Captain Brian Mitchell and four special constables were guilty of 11 counts of murder and two of attempted murder. The trial lasted 80 working days and cost the taxpayer more than R2 million. Mr Justice Wilson took four days to deliver judgment. Mitigation and sentence is to follow. Sowetan Correspondent VASANTHA ANGAMUTHU looks back on the case that took four years to solve.

ists' were hiding
The court was told that after the incident the special constables were told to disappear and they then joined the KwaZulu Police
A newspaper reports that a white SAP captain is arrested in connection with the massacre
September 14: Seven former policemen are indicted to the Supreme Court to stand trial on 11

counts of murder and eight of attempted murder in a case in which the State alleges assassinated not unit commander Major Deon Terblanche was also implicated
Appearing briefly in the New Hanover Magistrate's Court on September 13 were Lieutenant Jacobus van den Heever, Mitchell, Sergeant Neville Alexander Rose, Ndwalane, Kehla

Ngubane, David Khumbule and Petros Sikhosana
The State alleges that during November 1988, Inkatha leader Jerome Gabela and Mitchell discussed the possibility of obtaining police assistance in killing members of an opposing group in the area
In Maritzburg, discussions took place between Mitchell, Terblanche and

members of Inkatha in which it was agreed that members of the police would carry out the envisaged attack
Thereafter Terblanche or some other SAP member instructed Lieutenant Van den Heever, who was the officer in command of certain special policemen, to arrange for special members of the police force to carry out the attack
It is alleged that Van den Heever, who was the officer in command of certain special policemen, was to arrange for special members of the police force to carry out the attack
It is alleged that he in turn instructed Rose, who was a section sergeant, to find six special policemen for the operation and on November 30 instructed Ndwalane to select five special constables to assist him in "doing duties" at Trust Feed (Terblanche was shot dead by one of his staff, Constable Roy Ngcobo in March 1990)
Ngcobo was later shot dead by a member of the Maritzburg Murder and Robbery Unit)
October 15: World attention is focused on the Maritzburg Supreme Court when seven policemen - including two captains - go on trial for the 1988 murder of 11 people at Trust Feed before Mr Justice Andrew Wilson and two assessors
October 16: All seven accused plead not guilty
The AG remains adamant - Captain Brian Mitchell will not be granted bail despite his offer to be placed under virtual house arrest.
October 17: The four special constables claim they took part in the attack under the command of Mitchell and felt obliged to carry out his instructions
October 18: Inkatha leader Jerome Gabela testifies, claiming that Mitchell threatened to kill him if he talked about the "accident". Gabela said that all the people killed had been Inkatha supporters and since Mitchell had offered to help Inkatha, he went to speak to him about the incident
Gabela said in 1988 he

To page 18

P.T.O.

**Apartheid
rebel now
advising
at Codesa**

SINCE it was established in the early '60s, the firm Cheadle Thompson and Haysom has become synonymous with numerous landmark cases in SA labour and public interest law

Many of these decisions have charted the trade unions' and employees' struggle for recognition and paved the way for the destruction of apartheid.

The firm has also played a major role in public interest and human rights cases.

Successive states of emergency gave rise to a number of Supreme Court challenges which resulted in significant advances being made in such areas as Press freedom, freedom of association, detainees' rights and treatment of political prisoners

The firm was also involved in major treason trials, such the Moses Mayekiso trial, as well as other high profile political trials of anti-apartheid leaders

However like many other law firms, Cheadle Thompson and Haysom has found the needs of clients have changed in keeping with the recent political and socio economic changes in the country

This has meant that the firm has had to change and extend the services it offers

Through the firm's association with financial and political leaders, relationships have formed which involve continuing negotiations and legal advice This includes general commercial practice, as well as property law, and conveyancing

Media attorney Amanda Armstrong says the firm has a burgeoning media department which represents a number of publications nationally and internationally

Members of the department are involved in the commission which is formulating policy for a new broadcasting dispensation

Cheadle Thompson and Haysom is also involved in constitutional and administrative law

In this respect the firm advises a number of organisations and has two of its partners and a third member of its staff advising at Codesa on a full time basis

Among its new clients are a number of foreign governments, international development bodies, international organisations and trusts

**Cor
cud**

ONE of the leading corporations Edward Naland has published new guidelines to meet the demands of both legal professions

Of particular interest to the constitutional and administrative law departments is its revamp of industrial relations

Senior partner Katz says the sphere of industrial relations remains one of excellent services in corporate law

This includes tax work, restructuring and acquisition

However,

ad
pg
in-
aw
ise
ec-
in-
st,
tal
les
is-
en-
ith
he
vet,
wn
icy
ful
on-
may
ov-
is a
d to
atly
king
is
gal-
con-
and

S
ele-
rac-
work
and
mos-
mu-
t to
grun-
here
ed by
unre-
ation
oole.
it we
the
iners
turn,
con-
the
d suc-
k
ent of
stent
was a
hieve-
ure"
llums
wily in
ealised
norm-
techno-
y pre-
and it
rmous
ys, has
firm to
control
ie feed-
d save
f helps

**DO INC.
ON LAWYERS**

Kobie Coetsee's swan song a little out of tune

DIRK HARTFORD

NUMEROUS practitioners in the mediation industry have serious problems with former Justice Minister Kobie Coetsee's swan song — the Short Process Courts and Mediation in Certain Civil Cases Act.

While mediators are generally happy with a law covering the field, they believe the Act does not succeed in its aim of providing alternative, creative and cheaper methods of resolving disputes.

IMMSA director Charles Nupen says a law is necessary to provide statutory sanction for the mediation process, to set standards and to provide protection for the mediator.

But he says representations from a range of organisations operating in the field were ignored when the Act was drafted. Consequently the Act "undermines the fundamental tenets of mediation".

IMMSA — the oldest mediation organisation in SA with over 120 mediators operating nationally — says the procedures outlined in the Act are not true mediation.

"Mediation is a process which is voluntary in its essence and which remains

voluntary throughout the mediation procedure," says IMMSA. But in terms of the Act, the procedure is voluntary only at its inception. After that, parties to mediation could be legally affected by, for example, refusing to attend a mediation session.

Another of IMMSA's criticisms is that parties to mediation must have the right to select the mediator. The Act says mediators can be allocated and this "seriously undermines the mediation process".

Also, mediation should not be limited to resolving disputes which fall within the jurisdiction of the Act as it does not have a broad enough scope. For example, labour, commercial and Supreme Court disputes fall outside the Act.

Lastly, IMMSA says the Act makes no provision for protecting the confidentiality of disclosures of parties to mediation. One of the primary purposes of the law should be to provide the mediator and parties with statutory privilege.

"This could be done by defining what a mediator and mediation is, and defin-

ing the circumstances under which a mediator will be protected from having to testify regarding events at the mediation."

Simon Garvey of the Centre for Dispute Resolution says the Act fails to differentiate between the roles of a mediator and an arbitrator. "It seeks to tie up practitioners in an autocratic and inflexible manner which is in absolute contrast to the spirit of mediation."

Criticisms like these have been echoed by mediation practitioners like the Bar Council, the Association of Law Societies and the Resolutions Board.

However, Justice Department spokesman Pieter du Randt says the organised legal profession has given its support to the Act. "As far as I know there have been no particular requests for amendments to the Act. But if there is a need for changes, the department will look into them."

Du Randt says a pilot project under the Act is being implemented in Pretoria, but at this stage no definitive information on its implementation could be supplied.

re
to
of
is
in
at
is
is
we
th-
is-
is-
A),
to-
ic-
dy
ed
aw
ral
ed
me
is
ro-
ed
m-

Bl/day 29/4/92

252

planned attorneys



THE high cost of litigation and the often long delays before the final resolution of a dispute by the courts has led lawyers and business to look for other ways of solving disputes.

Alternative or Appropriate Dispute Resolution (ADR) has grown out of this need to find quicker, often less expensive methods of resolving disputes to the satisfaction of all the parties involved without resorting to the courts.

ADR originated in the US and is now also practised in the UK and elsewhere, including more recently SA.

Recognising the advantages ADR offers clients, a number of SA law firms have within the last year established ADR centres. ADR includes a wide range of dispute resolution procedures ranging from voluntary and non-binding settlement procedures like mediation and conciliation to mandatory, binding arbitration.

Beating the costs of court with resolution

In mediation a specially trained third party acts as a go-between for the parties to a dispute.

He facilitates the parties in reaching accord as to how they will resolve their dispute.

The mediator is not a judge and does not make any award, although he might suggest how the dispute might be resolved.

Conciliation is similar to mediation and the third party will tell the parties how he thinks they should resolve their dispute.

His views are not binding on the parties. In arbitration the parties choose an impartial third

person to hear their matter and agree in advance to abide by his award.

Arbitration can be conducted with varying degrees of formality and can avoid the delay and expense of conventional litigation.

ADR offers disputing parties a flexibility they would otherwise not have once they resort to formal litigation.

Various ADR procedures can be devised so that the process best fits the dispute and the parties involved.

There are instances when there is no chance of resolving a dispute without resorting to formal litigation in court.

ADR cannot be used in criminal cases.

Depending on the circumstances of the dispute, ADR can facilitate a settlement at almost any point in a law suit, even the day before trial.

According to Tim Trollip of Webber Wentzel, which opened its ADR centre in March last year, ADR can be used in almost any dispute, especially if there are more than two parties involved.

It is ideal for inter-corporation disputes such as breach of contract, community disputes and labour disputes, as well as engineering, construction, patent and trademark disputes.

There are a number of advantages to the parties which would not be the case if their matter went to court.

For a start, they may choose the person who is to preside over their matter. This is especially important in highly specialised technical disputes.

A judge might not have the necessary technical knowledge of the issues in dispute whereas in ADR the parties can nominate an expert from their particular field.

ADR is confidential because the matter is heard behind closed doors. Trollip says ADR also has the advantage of offering a win-win situation in

which both parties achieve satisfaction instead of win-lose, as is the case when the trial judge is called to make a decision in favour of one of the parties.

A measure of the success of ADR in the US is that in 1988 it was estimated that 61 of America's leading corporations saved an estimated \$49m in legal costs by employing alternative dispute resolution techniques.

Settlement rates vary. An organisation, Alternative Dispute Resolution Association of SA (ADRASA), has been established to promote the concept and practice of ADR in SA.

It is a professional body which has been approved by the Association of Law Societies and the General Council of the Bar.

ADRASA was registered as an association in June 1991 and membership is open to lawyers, other professionals and interested persons in industry, commerce and other fields.

NUM in the have: for Kobl - th and Civil W/ eralli cove have ceed alter ches ing: In Nup sary san: pro: and for B tor gar fiel Act que mu nel ? dia 1992

Five hospital killers Give cop death sentence

Shoot out plea

BY SONTI MASEKO

Their convictions are a sequel to a botched robbery in August 1990 of a Volkskas bank security van delivering salaries of staff at Coronation Hospital.

Yesterday the prosecutor, Mr Gustav Roth, asked for the death sentence to be imposed on the two for what he described as a "cold-blooded and merciless" murder of the policemen and guards. Makwanyana and Mchunu were part of a group of six men who took part in the robbery attempt

● To page 2

Cops' residents' deaths as Sabrokenj burns

Call for death sentence

● From page 1

The van carrying about R428 840, arrived escorted by a police car

The group, armed with AK-47 rifles and a handgun opened fire, killing Constables Mathys Johannes Thompson and Robert Emmanuel Goddard

The van tried to make a U-turn to escape but more shots were fired and two other occupants, Mr. Cornelius Johannes Havennga and Mr Petrus Jacobus Pretorius, were wounded and later died Another

occupant of the van, Mr. Jacobus Pieter Botha, was seriously wounded

Roth said three of the men were in their twenties when they were shot at by a group of six men, including the accused, in the yard of Coronation Hospital

Makwanyana and Mavuso were also found guilty of attempted robbery and attempted murder but acquitted on a charge of car theft and two counts of robbery of gun service pistols from the policemen

The two men received judgment in chains yesterday

THE State has asked for the death penalty to be imposed on two Soweto men found guilty of the murder of two policemen and two security guards during an attempted robbery at Coronation Hospital in 1990.

Rand Supreme Court judge Mr Justice JC Labuschagne is expected to pass sentence today on Themba Makwanyana (33) of Nancefield hostel and Mvuso Mchunu (20) of Meadowlands.

252

252

Sowetan 29/4/92



Fees rise at hospitals

THE TPA's increased hospital tariffs which come into effect on May 1 could affect the poor but a revised ambulance tariff system could bring relief to some patients.

MBC for Health Services Mr Fanie Ferreira said in Pretoria yesterday that the revised ambulance tariff system was not a general increase.

"In some cases the new system will result in an increase and others a decrease of tariffs," he said.

Ferreira said patients classified under hospital (H1) and who did not enjoy cover from medical schemes would pay less for ambulance transport over 50km (R10 instead of R15 a trip).

Patients classified as H2 and H3 would pay R3 and R5 more respectively for the

Sowetan Correspondent

same distance. Hospital tariffs had not been adjusted for outpatients in community hospitals, and minor adjustments had been made for academic and regional hospitals for H2 and H3 patients.

In community hospitals tariffs for patients from H1 to private were raised to between R19 an admission and R184 a day, and in academic and regional hospitals they were raised to between R24 an admission and R234 a day.

Fees for services such as theatre, intensive care, high care, maternity cases and community and primary health care for the various categories were increased by up to 50 percent.

Inquest into Webster's death

THE Attorney-General of the Witwatersrand Local Division will request that a Supreme Court judge be appointed to hold an inquest into Dr David Webster's death.

Webster was killed on May 1 1989 at his home in Troyeville, Johannesburg. His death was widely blamed by anti-apartheid forces on "hit squads".

In a statement yesterday, the office of the Attorney-General of the Witwatersrand said a legal task force was created a year ago to investigate the case.

The statement said: "Regrettably, during its year-long investigations, the legal task force was unable to uncover any further relevant and admissible facts.

"Thus, the position is that we clearly have an unlawful act but no accused, the various investigations having failed to obtain evidence identifying the perpetrator(s)." - Sapa

No study

507 10795100
7845711 07121011

Death penalty call in Trust Feed case

Blomay 29/4/92 (252)

MARITZBURG — The four former SAP special constables convicted of the 1988 Trust Feed massacre will not face the death sentence, but the State has called for the ultimate penalty to be imposed on former SA police captain Brian Mitchell, 34, who gave the orders for the killings

Indicating yesterday that he would not impose the death sentence on former special policemen, Kehla Ngubane, Thabo Sikhosana, Dumisani Ndwalane and David Khambule, Judge Andrew Wilson said they could consider themselves "very lucky" that all they faced was a long period of imprisonment.

Sentence will be passed at 10am tomorrow

Mitchell's advocate, Etienne du Toit, SC, pleaded with Judge Wilson not to impose the death sentence on the former station commander for the sake of retribution alone

The political motive behind the killing was mitigating as well as that Mitchell was a first offender and did not pose a future danger to society. He was not naturally aggressive or inherently wicked and did not seek the death of women and children

Own Correspondent

holding a funeral wake, he said

Du Toit was asked by the Judge how it could be mitigating that Mitchell had gone to the "wrong" house and whether it was less heinous to kill "comrades" (UDF supporters), as Mitchell had intended, than to kill anyone else Du Toit responded that in Mitchell's perception the comrades were the enemies of the State and it would be morally less blameworthy than shooting women and children asleep in a house

Du Toit also submitted Mitchell did not play a major "physical" role in the attack. The judge, however, said in his view it was not mitigating that Mitchell had left the special policemen to "do the dirty work"

Du Toit said Mitchell was heavily intoxicated and his level of aggression was increased due to the alcohol

Calling for the death sentence for Mitchell, State advocate Anthony Irons said according to the court's findings the violence in the Trust Feed area at that time was largely due to Mitchell's own doing It was also aggravating that he had abused his position of trust and the power and influence that went with it.

Kriel covering up, says Gastrow

Blomay 29/4/92 (252)

CAPE TOWN — Law and Order Minister Hernus Kriel was trying to cover up the Trust Feeds massacre because he refused to appoint an independent inquiry, DP spokesman and newly appointed member of the multiparty police board Peter Gastrow said yesterday

In a statement he said Kriel's response of appointing a departmental inquiry was "totally inadequate".

The public had lost confidence in closed departmental inquiries where

the police investigated the police and where findings were not made public. The DP therefore called for an inquiry headed by a person of integrity from outside the police

Gastrow also slammed the way the sub judice rule was used in Parliament, saying the Speaker had turned down numerous requests to urgently discuss the Trust Feeds case

ANC urged to explain arrests

STEPHANE BOTHMA

THE NP and Inkatha joined yesterday in calling on the ANC to explain why two of its senior members were armed and wearing police uniforms when arrested at the scene of an alleged murder at the weekend. *Blomay*

NP secretary-general Stoffel van der Merwe said the arrest of Mandla Mazobuko, vice-chairman of the ANC's Evaton branch, and ANC member Sitembiso Radebe called the organisation's integrity into question. *29/4/92*

Mazobuko and Radebe were dressed in police uniform jackets and armed with a Russian-made handgrenade and a 9mm pistol when they were arrested by police in Sebokeng on Friday.

The arrests took place after shots were fired at a private car, resembling an official SAP vehicle. The shooting left one man dead and another injured.

Mockery

A third man, carrying an AK-47 rifle, escaped from the scene.

The NP called on the ANC to investigate and to tell the people of SA why their operatives were impersonating policemen.

Inkatha Youth League leader Themba Khoza said the arrests made a mockery of a "third force" theory as propagated by the ANC.

He said the arrests exposed the myth that the ANC had nothing to gain from perpetrating acts of violence. It also exposed ANC allegations of collusion between the IFP and security forces in destabilising SA as lies.

ANC information and publicity director Pallo Jordan said the matter was being investigated. "If the allegations are true, the matter is in the hands of the courts."

Massacre: Do not hang Mitchell, lawyer urges

Odwefan 29/4/92

COUNSEL for former New Hanover police station commander Brian Mitchell closed evidence in mitigation of sentence in the Trust Feed trial yesterday.

Mr. Etienne du Toit, SC, called for a lengthy jail term to be imposed on the policeman, instead of the death sentence.

He urged Mr Justice Andrew Wilson not to simply take the severity of Mitchell's crime into account when he passes sentence later this week, but to consider the circumstances under which Mitchell acted on the night he and four special policemen killed 11 people at Trust Feed.

Du Toit said Mitchell was not an inherently bad person but saw himself as "a soldier of war" on the night of the attack.

He said Mitchell was a first offender and would never repeat his crime and it was therefore unnecessary to execute him.

He said mitigating circumstances in the case outweighed the aggravating circumstances and he called for a lengthy jail term rather than the death sentence.

Justice Wilson, however, interrupted him saying evidence had shown that at the scene of the event on the night of December 2 1988 "he certainly acted wickedly and viciously", adding he had planned a deliberate operation to kill people.

Du Toit said Mitchell's motive was politically inspired and should thus serve as a mitigating factor.

The judge again interrupted saying: "There wasn't a political motive, there was a belief that what he was doing was in the interests of the country."

Evidence in mitigation of sentence of the four special policemen will continue - Sapa

Webster inquest raises hopes that truth

STAR 30/4/92

252

A GUNSHOT shattered the quiet Sunday morning in Troyeville, Johannesburg, on May 1 1989 when David Webster, returning from a shopping expedition, was shot dead by unknown gunmen who were lying in wait in a white car.

He was killed only days after completing a report on assassinations and abductions by "South African Contras", which was to be presented to the United Nations.

On Tuesday this week the Attorney-General of the Witwatersrand said he would ask that a judge be appointed to conduct an inquest into Dr Webster's death after a legal task force, created a year ago to fur-

ther investigate the case, had failed to uncover any relevant and admissible facts.

The shot that killed Dr Webster (44), an anti-apartheid campaigner and senior University of the Witwatersrand lecturer, was fired from a heavy-calibre weapon shortly after he and friend Maggie Friedman returned home at 10 20 am.

Ms Friedman said "David was letting the dogs out of the back of the car when another car drove past I thought it had backfired. Then I saw David staggering."

Shock and outrage followed his death, with liberal politicians and organisations blaming shadowy hit squads and

"terrorists acting under Government protection."

Ms Friedman said Dr Webster's main involvement over the years had been assisting detainees and fighting detention without trial.

The Webster Trust, established after the murder, raised R150 000 towards a reward for information. It was never claimed.

Shortly before his death, Dr Webster wrote "Assassinations are used as one of the methods of controlling Government opposition when all other methods, such as detention or intimidation, have failed. It is a very rare event indeed when such assassinations are ever solved."

Tomorrow it will be three years to the day that activist academic Dr David Webster was assassinated — yet in spite of many leads, no one has been charged for his murder. LOUISE BURGERS reports.

Commenting on the inquest, Ms Friedman said on Tuesday that in the changed political climate, this might be the last chance to reveal the facts to a fresh inquest — which would have more chance of uncovering the truth than the restricted Harms Commission.

David Webster Trust trustee Glen Moss on Tuesday blamed the killing on individuals asso-

ciated with one of the State's destabilisation units.

In May 1989 mass murderer Barend Strydom claimed his Wit Wolwe had killed Dr Webster. Police said they were investigating. But police admitted at the end of 1989 that investigations into the murder had reached a "cul-de-sac".

In the past two years, however, police hit squads, the cov-

ert Civil Co-operation Bureau, right-wing terror organisations, Johannesburg City Council spies and Military Intelligence have all been blamed for Dr Webster's murder.

In November 1989 police investigated whether Irishman Donald Acheson, held in Namibia in connection with the death of Swapo official Anton Lubowski, was linked to Dr Webster's death.

Then police detained former police sergeant Ferdie Barnard in terms of the Internal Security Act after statements by Mr Acheson.

At the end of 1989 Military Intelligence was linked to Dr

Webster's murder after Mr Barnard claimed to be under its control. Another member of Military Intelligence, Calla Botha, was also detained, followed by former policeman, "Slang" van Zyl.

Then five rightwingers were held after being found in possession of a hit list. All were freed due to lack of evidence.

The Harms Commission concluded that there was no evidence that the CCB had anything to do with the murder.

Allegations surfaced in 1990 that former Brixton Murder and Robbery Unit commander "Staal" Burger was the leader of a cell in a secret SADF organisation suspected of being

involved in the murders of Mr Lubowski and Dr Webster.

In February 1990 The Star handed the police the names of a five-man hit-team it believed had assassinated Dr Webster.

The Johannesburg City Council spied on Dr Webster six months before his death, according to secret documents released to The Star. And a witness told the Hiemstra Commission that a special unit made up of Military Intelligence and Johannesburg City Council security officers was responsible for the assassination.

Family and friends of the slain academic hope that the inquest will at last bring the truth to light. □

will be revealed

Kidnap by

'comrades' described

STAR 30/1/92
By Susan Smuts 252

A man who was set free by a "people's court" told the Rand Supreme Court yesterday how he and two of his friends were assaulted by a group of about 40 panga-wielding "comrades", forced into a vehicle and later locked in a garage. His friends were killed and set alight.

Oupa Job Selepe was giving evidence in a trial in which 16 men, including one youth, have pleaded not guilty to three charges of kidnapping and two of murder.

He told Mr Justice J C Labuschagne and two assessors he had been drinking with a group of friends in a deserted house when a group of men armed with pangas and axes arrived.

The three men were allegedly taken to the Motloung district in Katlehong, where they were locked in a garage.

"After a while the comrades opened the door. They said I knew nothing and could go. They took Mashilo (Tshabalala) and Bhuti (Mokoena) outside and David Motswem (one of the accused) hacked them on the head with a panga."

Mr Selepe, Mr Tshabalala and Mr Mokoena were allegedly kidnapped on December 26 1990. Mr Tshabalala and Mr Mokoena were allegedly set alight. Mr Tshabalala died of head injuries and burns, and Mr Mokoena of lung failure and head injuries.

The trial continues.



Mrs Sarah Sambo with her daughter Cecilia. She was paid R16 000 this week by a farmer who killed her husband Eric.

Widow paid R16 000 for hubby's death

BY MATHATHA TSEDU

THE Northern Transvaal farmer who killed a labourer four years ago for accidentally killing his dog has paid R16 000 to the widow in an out-of-court settlement.

The Levubu farmer, Mr Johannes Vorster, made the payment to the labourer's widow, Mrs Sarah Sambo, this week.

Sambo's lawyer, Mr Peter Reynolds, yesterday confirmed the settlement.

Vorster was found guilty of culpable homicide by the Louis Trichardt Circuit Court in 1988 following the brutal killing of Mr Eric Sambo.

Evidence at the trial was that Vorster and a white friend, Mr Johannes Leonard, had accosted Sambo in the street two months after the death of the puppy.

Sambo was attacked and driven to Vorster's property, where he was assaulted while tied to a tree. The two farmers and other

friends had a braai as they beat Sambo, who died the following day in a police cell, where Vorster had dumped him.

During the trial, the judge ordered Vorster, who was given a suspended sentence, to pay R130 a month for five years to Sambo's girlfriend, Xilenge, who was with him when accosted.

No order was made in respect of Sambo's wife and five children.

Reynolds said the money paid by Vorster followed a civil case brought by the widow. She had initially claimed R60 000.

● To page 2

Widow

Continued from page 1

Sambo last year received R54 000 from readers of the *Sun* newspaper in London, who were touched by her plight.

Sambo said this week she was grateful to *Sowetan* for the assistance it gave her.

Sowetan was the first to carry the story of Sambo's murder. It caused an international outcry and drew even more publicity after the passing of sentence.

Law on legal
issues ⁽²⁵²⁾ must
be changed'

CAPE TOWN — Government

had to introduce legislation to open up the legal profession and make representation more accessible to the public, Tony Leon (DP Houghton) said in Parliament yesterday

In the debate on the Justice Budget Vote, Leon, an attorney, said the closed-shop practice of only allowing advocates to appear in the Supreme Court should be done away with. If the profession would not do this, legislation had to be introduced to allow attorneys appearance rights.

The system of providing public defenders for indigent accused could be improved on by using final-year law students.

About 500 public defenders would be able to defend the approximately 100 000 accused who could not afford representation at a cost of about R25m a year — a figure which could be cut considerably if final-year students were used.

Routine conveyancing matters should also be deregulated and the public be allowed to do these transactions themselves.

The loss of revenue to the state could be made up by levying additional revenue stamps on certain civil actions.

Lawyers should also be allowed to receive a portion of damages in lieu of fees in civil actions — allowing "more people to have their day in court"

— Sapa.

00%

KE

Judge presents case for 'second tier' rights

TIM COHEN

SA LAW Commission vice-chairman Judge P J J Olivier last week expressed support for justiciable "second generation" rights — such as the rights to food, housing and medical services — despite the costs involved

"There is not much point in telling the poor, jobless or the illiterate that they have freedom of speech if they are starving or dying of exposure or a treatable disease," the judge told a seminar on human rights at the Goudstad College of Education

First generation rights, such as the rights to life, liberty and a vote, evolved in Western countries during periods when their acquisition enabled citizens to prosper by using their initiative and talents

But in the Third World, the idea of human rights evolved under circumstances of enormous population pressure, poverty, unemployment and underdevelopment.

Those countries had developed the view that fundamental rights also included state provision of food, housing, employment and medical care, he said

Some Western lawyers argued that these rights were not enforceable by the courts and were, therefore, not "rights" According to this argument, they belonged in the programmes of political parties, or in a set of non-enforceable guidelines

"The response to this is that the argument is formalistic. If there is a need for a right to be recognised, the law should find a procedure for its realisation, even if this means reforming the existing procedure"

It was also contended that the recognition of second generation rights was socialistic and would demand great economic sacrifices of the state and of those citizens who were self-supporting

"The answer to this is that if we are earnest about human rights and justice these sacrifices are called for and that the stereotyped view of the state is outdated. If we have respect for human rights, then we cannot only have respect for those rights that suit our pockets"

Olivier said that there was a great need for human rights education among politicians and ordinary people confronted by violence and those who had benefited from circumstances of the past

He said in the past whites opposed the idea of a Bill of Rights when it suited them, now they were seizing on it as a means of protecting themselves against the demands of the previously oppressed majority

Trust Feed killer 'showed no remorse'

Weekly Mail Reporters and Sapa

THE Natal Supreme Court this week came down hard on the argument that South African Police members involved in political killings could still be regarded as dedicated policemen.

In a trial that set a new benchmark in the independence of the judiciary from the police, the court made it clear that an example had to be made of senior officers who conspire to defeat the ends of justice.

The training of special policemen for six weeks before sending them into the field was also raised as a matter of concern.

Mr Justice Andrew Wilson on Monday firmly rejected evidence in the Pietermaritzburg Supreme Court that Captain Brian Mitchell, leader of the Trust Feed massacre, was a "normal, caring, respectable" person and a dedicated policeman.

Mitchell and four special policemen were last week found guilty of murdering 11 people and attempting to murder two others at a funeral wake in Trust Feed, near Pietermaritzburg, in December 1988.

Judge Wilson was responding to evidence in mitigation by University of South Africa criminologist Irma Labuschagne. Her 35-page report emphasised Mitchell's situation during the time of the attack when he regarded himself as a soldier fighting against the threat of communism.

The judge also rejected various other elements of the criminologists' assessment, including assertions that

- Mitchell was under the influence of alcohol on the night of the massacre.

- He had acted on the "spur of the moment".

- He had been known as a "negotiator".

- He had accepted full responsibility for his action.

- He was a caring and respectable person and had shown great remorse for his actions.

"I don't recall any remorse for those he intended to kill," the judge said.

State prosecutor Anthony Irons said it was difficult to find mitigating circumstances in Mitchell's case other than his clean criminal record and the fact that he was under the influence of alcohol on the night of the massacre.

Aggravating factors included the violence in the Trust Feed area which was largely his own doing.

Argument in mitigation of sentence in the Trust Feed trial closed on Tuesday with the state calling for the death sentence to be imposed on Mitchell and life imprisonment for the four special policemen.

Irons said that, although it was Judge Wilson's final decision on Mitchell's fate, the aggravating factors in his case outweighed the mitigating ones. It was his "unfortunate duty" to submit that the only sentence that should be imposed was death.

Referring to special policemen David Khabule, Dumisani Ndwalane, Khehla Ngubane and Thabo Sikhosana, Irons said the mitigating factors in their favour called for a "lengthy, if not life" imprisonment.

Evidence led during the trial and subsequent judgment found that Mitchell had actively supported the Inkatha Freedom Party in the Trust Feed area and had waged a campaign to oust United Democratic Front supporters — whom

he regarded as communists — from the area. "He was in a position of trust, he had power and influence and he abused it," said Irons.

Mitchell had caused the special policemen to be in the area at the time of the massacre, had misused them and had directly participated in the attack by firing the first two shots at the house where the massacre took place.

The former station commander had then left the "specials" to continue the killings "while he callously continued destroying houses in the area".

He returned to Trust Feed several hours later, to cover up his involvement and showed no remorse at that time, Irons added.

Irons said mitigating factors in favour of the specials included their ages at the time of the attack and the fact that they were carrying out orders — although not legal — by a commissioned officer.

He said their fairly low standards of education and the extremely short period of their training as policemen also had to be taken into account.

● TO PAGE 3

No remorse...

w/mail 30/4 - 1/5/92

● From PAGE 2

252

Judge Wilson interjected at this stage that the training of special policemen for six weeks before sending them into the field was a matter of concern.

In earlier mitigation, a psychologist who delivered a report on the four "specials" said the SAP had been negligent in selecting two of them as policemen.

Counselling psychologist Frederick Toerien said he had conducted tests on the four and found that the abilities of two of them were too low to allow them to perform police duties.

"The selection and screening procedures of the SAP were, therefore, in my opinion, so poor in this case that it amounts to negligence, and some of the responsibility therefore rests on the poor selection procedures."

Defence counsel for Mitchell, Etienne du Toit, SC, urged the judge to take Mitchell's circumstances into account when passing sentence as he had regarded himself as a "soldier of war" at the time and had wanted to eliminate UDF members in the interests of his country.

He closed evidence in mitigation by calling for a jail term to be imposed instead of the death sentence.

Du Toit said Mitchell was a first offender and would never repeat his crime and it was therefore unnecessary to execute him. Mitchell was not a violent, aggressive or inherently wicked person, he said.

Judge Wilson, however, interrupted him saying evidence had shown that at the scene of the event on the night of December 2 1988, "he certainly acted wickedly and viciously", adding he had planned a deliberate operation to kill people.

Du Toit said Mitchell's motive was politically inspired and should thus serve as a mitigating factor.

The judge again interrupted, saying "There wasn't a political motive, there was a belief that what he was doing was in the interests of the country."

● Law and Order Minister Hernus Kriel's appointment of a departmental inquiry into irregular conduct by policemen in the Trust Feed massacre case was a totally inadequate response to a matter which fundamentally affected the credibility of the police in the eyes of the public, the Democratic Party said in a statement on Tuesday.

DP law and order spokesman Peter Gastrow said the least that could have been done was to appoint credible people outside the police force to take part in the investigation.

"The public has lost confidence in closed departmental investigations where the police investigate the police, and where the findings are not made public."

The DP called for an inquiry to be headed by a person of integrity from outside the police force with the findings to be made public.

Kriel had said on Monday night that an experienced police investigation team had been appointed to conduct "a thorough investigation into any unlawful conduct or other irregularities by members of the police connected with this matter".

The team would consider "all aspects in view of possible criminal and/or departmental steps — irrespective of who might be involved."

"The law will take its course and the investigation will be conducted in close consultation with the attorney-general's office," Kriel said.



Baby shot in Phola Park raid

LLOLUVO STUKTEZI claims her baby, Thomboqolo, was shot by police during a clash between security forces and Phola Park residents on Tuesday *Wimail 30/4 - 7/5/92*

She said policeman barged into her shack demanding to know where her husband was and shouting, "where are the men, show us where the men are" She said after this a shot went off, and a bullet passed through Thomboqolo's arm

A spokesman for the residents — only willing to identify himself as "Doctor" — said armed policemen drove into the camp shortly after midday, going around questioning residents about "specific males."

"Soon after they stopped alongside a group of men seated outside one shack, the shooting started. We do not know what happened, but people just fled in all directions." According to "Doctor", residents did not return fire, and sporadic shooting continued until nearly 3pm, when the police left, taking nine men with them. "Doctor" said three people were wounded and one killed during the raid.

Police liaison officer Captain Ida van Zweel said on Tuesday nine people were taken for questioning by police "conducting investigations in the area" in connection with crime and the killing of a policeman. One young man was shot in a shoulder, she said.

Photo KEVIN CARTER

We're just a bit heavy handed, says captain

Wimail

30/4 - 7/5/92

The captain of 32 Battalion says his soldiers were just being 'heavy handed' in their raid on Phola Park three weeks ago

By LINDA RULASHE and RAYMOND NXUMALO

THE definition of assault took on new meaning yesterday during the Goldstone Commission investigation into the alleged misconduct in Phola Park of members of 32 Battalion three weeks ago.

Responding to allegations of assault, Captain Mark Hermanson said his troops were just being "heavy handed" on the night of April 8 when Phola Park residents were allegedly raped and assaulted. One person died and several were injured. Damage was also done to property.

Hermanson, "who was not on the ground" at the time of the battalion's clampdown, said he believed his troops had only slapped, punched and dragged residents around — which to him was not assault. He believed assault to mean something like kicking a person with a booted foot.

Despite the incident, which resulted in several injured residents being admitted to Natspruit Hospital, Hermanson supported the action of his troops.

"There might have been good reasons for that," he said. The reasons, he explained, could include a person resisting arrest and trying to escape.

"I am happy with my soldiers' behaviour," he said.

According to evidence given by the captain, his men were acting on a tip given to him by an unnamed informant who said a gun was hidden in one of the huts in Phola Park.

The captain initially looked confused when asked to establish the exact time and circumstances surrounding a series of gunshots from the camp, which then prompted soldiers to return fire.

Despite not being able to identify where the shots were coming from, the soldiers had indiscriminately shot back in the dark. Hermanson said the soldiers had been acting within the law by exercising their right to defend themselves.

"You did then authorise those actions, did you not," asked counsel for the victims, Stephen Joseph SC. "Yes, I did," replied Hermanson.

"Is it not wrong to fire on a criminal running away in a crowd?"

Hermanson admitted it was. Joseph then retorted that, on April 8, Hermanson probably knew that if they

had missed the man firing those shots, there was a great chance that they would have hit a hut instead.

Asked why he didn't withdraw his troops and wait on the perimeter of the camp until morning before investigating, Hermanson said "We couldn't withdraw as the troops were being fired on and there was no protection for my men."

Joseph replied "But you felt safe enough to enter houses and ask residents questions?"

According to the captain's evidence, the first round of shots from the camp was heard around 9pm. Twenty-five soldiers were sent into the camp on foot, accompanied by a Buffel.

Earlier, Hermanson had told the commission sub-committee that most of his troops spoke Portuguese and the Phola Park residents spoke Xhosa.

"Why do you think most of the residents spoke Xhosa?" asked Joseph. "I had read in the newspaper that they are Xhosa-speaking," was the reply.

Joseph then asked how the soldiers could then communicate with the residents, who were not informed of their rights when their huts were broken into.


Hermanson replied he believed that some of the residents were English and Afrikaans speaking.

Joseph asked how the captain had expected the residents — whom Joseph described as "some of the most unfortunate people of our country" — to be proficient in three languages.

Hermanson was asked repeatedly about the authenticity of a statement submitted to the commission. The statement did not have crucial details about the 200 rounds of ammunition that were fired that night, and did not deal with Hermanson's admission that the soldiers had acted in a heavy-handed manner.

He explained that his legal advisers had chosen not to include those aspects in the statement.

- SUCCESSFUL R1 145 MILLION RIGHTS ISSUE
- LOWER EARNINGS PER SHARE IN DEPRESSED MARKETS
- DIVIDEND INCREASED BY 8%
- NET ASSET VALUE PER SHARE BASED ON
 - GENCOR MARKET VALUE 1 019 CENTS
 - GENCOR UNDERLYING ASSET VALUE 1 299 CENTS



GENCOR BEHEREND

Interim results for the six months to 29 February 1992

Six months ended February	1992	1991	Percent change
	Unaudited	Unaudited	
Attributable income R million	306	416	(26)
Earnings per share cents	43,3	58,8	(26)
Dividends per share cents	14,3	13,3	8
Net assets per share cents			
- Based on Gencor market value			
- at end of February	1 019	993	
- at 22 April 1992	965		
- Based on Gencor underlying assets			
- at end of February	1 299	1 178	
- at 22 April 1992	1 236		

Gencor Beherend Beperk is an investment holding company with a 54.8 percent interest in Gencor Limited. Shareholders are referred to Gencor's interim results which are also published today.

Interim dividend

An interim dividend in respect of the year ending 31 August 1992 of 14.3 cents per ordinary share was declared on 20 January 1992, payable on 29 May 1992 to shareholders registered on 31 January 1992.

An interim report giving more detailed information will be mailed to shareholders. Copies may also be obtained from the Secretary at the address given below.

On behalf of the board
 M H Daling
 B P Gilbertson

Gencor Beherend Beperk
 (Reg No 53/01008/06)

General Mining Building
 6 Hollard Street
 Johannesburg 2001
 (P O Box 61820
 Marshalltown, 2107)

23 April 1992