

PUBLIC SECTOR - GOVT. JUSTICE

1993

JANUARY - FEBRUARY

## Old friends make legal history

DURBAN — Two friends had their names written in South Africa's legal history books by becoming the first people of colour to be promoted to regional court magistrates by the Department of Justice.

Mrs. Krishnavennie Chetty, 36, of Reservoir Hills and Mrs. Jenarthenee Pillay, 35, of Desai-Nagar, started studying together at the University of Durban Westville in 1974.

ARG 21/92  
Their historic appointments were made by Deputy Minister of Justice Mr. Danie Schutte this week. Mrs. Chetty will be based in Durban and Mrs. Pillay at Stanger.

By FRED KHUMALO

# Hope that rivers of blood will stop flowing

**D**ESPITE the blood that flowed in Natal as the region succumbed to the grip of political violence in 1992, the year ended on a hopeful note with the recent signing of treaties in the warring areas.

Traditional hotspots ranging from the south coast region to the midlands have seen thousands of refugees flocking back to the homes they fled during the fighting. Yesterday's enemies are entering the new year singing a tune of peace.

While it is true that at least 30 deaths were reported in different parts of Natal over the Christmas period, it is notable that these emanated from family feuds and other "faction fighting" which is apolitical in nature.

The peace process gradually taking root in Natal is manifest in these developments.

In Brantville near Mooi River one of the hardest hit areas in the Natal midlands, both ANC and Inkatha supporters agreed to the appointment of an independent mediator to facilitate the local peace process this week.

The final Goldstone Commission report on the Mooi River-Brantville violence issued this week discloses that the Association of Law Societies has recommended Nico Coetzee as mediator and both parties are now to meet him.

The commission suggests that among his first tasks, the mediator should try once again to establish a local dispute resolution committee in the area, a step which has been tried in the past without success.

At the same time the new mediator should pay urgent attention to the social and economic problems of the area. Conflict in the township has been between the hostel dwellers - who are politically sympathetic to Inkatha - and township dwellers who support the ANC.

The Goldstone Commission has also suggested that international observers be invited to help smooth the peace process in the township.

Inkatha and ANC negotiating teams met this week to continue their series of preparatory talks for a possible summit between Nelson Mandela and Mangosuthu Buthelezi.

At the end of the meeting held in Durban on Tuesday, the two parties agreed to set up four ad-hoc committees to "expedite and accelerate the convening of the much awaited meeting between the leadership of both organisations".

This series of meetings - the first was on December 9 - will be resumed on January 15 to discuss what could be the final details for the crucial meeting.

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*ANC 252*

the various matters which have led to conflict between the two organisations.

Observers have pointed out that while the Mandela-Buthelezi meeting will not necessarily stop the violence, it will however set the tone for possible peaceful dialogue at national level between the organisations led by the two.

The fact the teams met and made some progress bodes well for the resumption of dialogue between the ANC and Inkatha.

In the south coast areas which have been making headlines as a result of the escalation of violence there over the past three years, peace treaties between the ANC and Inkatha have already borne fruit.

In Emsimbi just inland of Uvongo, thousands of refugees who fled the area a year ago as political violence escalated have already returned to the area.

Just before Christmas people from Emsimbi and other areas around Port Shepstone started rebuilding their homes and re-establishing friendships and bands of neighbourliness in communities that were torn apart by violence.

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While the Goldstone Commission has played an important role in identifying areas of conflict international observers from the United Nations and the Commonwealth Observer Group have also been instrumental in getting Inkatha and the ANC to the negotiating table at local level.

At present there are 28 foreign peace observers in Natal - from the Organisation of African Unity, the European Commission, the United Nations and the Commonwealth.

At the height of the south coast violence, Commonwealth Observer Group head Dr Moses Anafu took a bold step and brought together traditional chiefs, Inkatha, the ANC, local monitors and church people, the police, local businessmen and refugees to talk reconciliation, resettlement and reconstruction.

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While the situation appeared delicate at the beginning of the process, the negotiating parties confided in each other about each other's point of view - and a bond of trust and respect was built.

Prominent among those present at the peace deliberations were Chief Malakubo Kwaqula from Umzumbe, Chief Aaron Ndweleane and Chief Samuel Mavundla from the Port Shepstone area, and Chief Welington Hlangwa. Their participation in the peace process ensured its success.

The Goldstone Commission has heard how the chiefs had previously felt sidelined and thought the authority and power they exercised over their areas were put at stake by youths who wanted the ubukhosi (chieftancy) institution dismantled.

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Their involvement in the peace initiative was seen by many as a recipe for the success of the peace settlement.

And this week, the Goldstone Commission recommended that there be an undertaking by political parties and organisations to give due recognition to the role of tribal chiefs and to pay due respect to them. Their role should be defined and made a matter of public record.

After the peace deliberations in the south coast, a local dispute resolution committee for Umhumbulu was set up through the co-operation between the chiefs, the Commonwealth Observers and other interested parties.

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The climax of the initiative was a series of rallies held at different areas in Port Shepstone where Inkatha and ANC supporters burned the hatchet and shared each other's company, singing, dancing and embracing. Those who had fled their homes in the wake of fighting, returned home.

The United Nations Observer Mission, led by Ismail Steiner sees its role in SA at the moment as to "assist the parties in SA to bring about an effective end to violence and to create conditions for negotiations that will lead to a peaceful transition to that goal".

That aim, it seems, is almost being realised with the co-operation of the two warring organisations who are responding positively to the work done by independent, international monitors.

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While 1992 might have been annus horribilis (horrible year) to quote Queen Elizabeth II of Britain) for the majority of South Africans, Natalans - the first people in the country to bear the brunt of intercommunal violence on an alarming scale - have set the tone for peaceful negotiations that could see the long-awaited arrival of peace in the country in 1993.

# No 'Kei meeting with SA over Apla

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3/1/93

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A MEETING between the Transkei and South African governments before the homeland's Commission of Inquiry into the existence of Apla training bases in Transkei would be unwelcome, the homeland's military ruler said on Friday.

Responding to media reports that SA Foreign Affairs Minister Pik Botha was arranging a

meeting between the governments, Maj-Gen Bantu Holomisa said he had not been approached by South African officials. "I don't have any objection in principle to such a meeting, but I think such a meeting should take place after the Commission of Inquiry has published its findings as it (the meeting) could have an undue in-

fluence on the commission." In addition to the alleged existence of Apla bases in Transkei, the matter of South African attempts to destabilise the homeland would also be raised at a meeting with commission chairman Justice Richard Goldstone to discuss the commission's terms of reference.

The Transkei Commission of Inquiry will be run independently of the SA Goldstone Commission of Inquiry which was established under the National Peace Accord, to which Transkei is not a signatory. South African ambassador to Transkei Horace van Rensburg said reports that a meeting between the two governments may

assume the status of a leadership summit were a misinterpretation of a television interview with Botha. A Goldstone Commission committee, to be chaired by Gert Steyn, will hold a preliminary hearing on the location of Apla army camps, arms, ammunition and personnel in Port Elizabeth on Monday. — Sapa

# New act protects the A-G office

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AUG 21/93

■ The independence of the country's Attorneys-General is enshrined in a new law. Mr Frank Kahn took office this week as the Cape's first law enforcer completely protected from political interference.

## JOHN VILJOEN

Weekend Argus Reporter

THE Cape's number one law enforcer, new Attorney-General Mr Frank Kahn, has taken-up permanent office and will enjoy greater independence than any of his predecessors.

Mr Kahn, who has been acting Attorney-General since January and was made deputy Attorney-General in 1975, was sworn in by the Judge President, Mr Justice Gerald Friedman, this week.

In terms of the new Attorney-General Act, which came into effect yesterday, the Minister of Justice will no longer have the power to intervene in any of Mr Kahn's decisions.

He now enjoys independence shared by a few select officials like the Auditor-General, for example.

The new Act effectively removes the country's Attorneys-General from the rules of the Civil Service. They now report to parliament.

They enjoy similar status to judges in the sense that the State President appoints them and only he can cancel this.

The Director-General in the Department of Justice was able to discipline Attorneys-General and the Minister of Justice had the power in law to change their decisions.

The removal of the section which allowed Ministerial interference was a departure from the Act as it stood, outgoing Cape Attorney-General Mr Neil Rossouw said.

Under a succession of Ministers of Justice, the independence of Attor-

neys-General has been respected despite their having the power to interfere.

Mr Kahn, 52, was in the news during the past year for his crackdowns on rape offenders, taxis, gambling houses and commercial crime.

"Independence is a state of mind, rather than a piece of legislation. Politicians have always respected the independence of the Attorney-General," he said after his swearing-in.

"The Attorney-General is not the sum total of his successes or failures. The post is about doing the right thing, which is not always the popular thing."

"The post is a unique one in that he is in a Catch-22 situation. To be effective he is perceived to be a bit of an ogre — but we learn to live with that."

Mr Kahn takes over the post vacated by Mr Niel Rossouw, the former Attorney-General of the Cape.

Mr Rossouw has been given a new post in terms of the new Act.

In the process of enacting this new law the government also built into it the extra posts of Attorneys-General which are not connected to the various seats of the provincial division of the Supreme Court, Mr Rossouw said this week.

Under the new legislation, the State President can remove the Attorney-General only with the consent of the said Attorney-General. The State President can also give him specific duties.

Mr Rossouw said he had now become one of the so-called "floating" Attorneys-General.

He has been vice-chairman of the Goldstone Commission since its inception and is chairman of a committee of the commission investigating Cape Town's taxi war.

Mr Jan Swanepoel, who heads the office of Serious Economic Offences, is the other "floating" Attorney-General.

## Better role for A-G

THE ATTORNEY-GENERAL of the Transvaal, Dr Jan Adrian d'Oliviera, was sworn in in the Pretoria Supreme Court in terms of a new law. (252)

Dr d'Oliviera said the legislation did not mean he had greater powers, but that he had a far greater public responsibility. Sweten 41193

Meanwhile, the first Indian women to be appointed magistrates in regional courts in Natal have taken office.

The two - Mrs Kogie Chetty and Mrs Jenny Pillay - are magistrates in Verulam at present.

# Call for SA neighbours to co-operate in Apla probe

JUDGE Richard Goldstone has called on neighbouring countries to co-operate with his commission's inquiry into the activities of the PAC's military wing Apla. The commission begins hearing evidence in Port Elizabeth today.

The appeal, which echoes an earlier call by UN mission to SA chief Angela King, came as Transkei suggested Goldstone head a separate, Transkei government-appointed inquiry into Apla activities in the homeland.

Transkei has previously refused Goldstone access to the homeland, claiming that he is an appointee of President F W de Klerk and only accountable to the SA government.

Transkei leader Maj-Gen Bantu Holomisa said the homeland would today hand a formal diplomatic note to government requesting Goldstone's services "as a judge, not as part of the Goldstone commission".

RAY HARTLEY

Goldstone would be expected to appoint commissioners from the Transkei Bar Council, Holomisa said.

Goldstone said. "The commission would welcome and invite the co-operation of neighbouring states whose territories are alleged to be used by persons launching such attacks. Such co-operation could be by way of submissions, evidence or direct participation in the investigations and inquiries themselves."

He said government would be approached to assist in securing the co-operation of neighbouring countries in the investigation. Transkei's willingness to involve him in investigations into Apla activities in the homeland was "welcome".

"The manner in which the commission or I might be involved by the inquiries referred to by Maj-Gen

Holomisa and other matters referred to by statements made by him to the Press still require to be canvassed," he said.

"In this regard I would point out that the commission has no jurisdiction or powers in Transkei."

A police spokesman said yesterday no incidents involving Apla had been reported along SA's borders with Lesotho and Transkei over the festive season.

The spokesman said there were no plans to reduce the security force levels in the area despite the relative quiet there over the last 10 days.

Meanwhile, a weekend report said a consortium of Transkei businessmen and farmers were secretly negotiating to buy 22 farms along the homeland's border with SA.

The deal, said to involve about R47m had been under discussion since July 1992, the report said.

# 'Show and

# shock'

STAR 5/11/93

# strategy

Own Correspondent

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PORT ELIZABETH — The recent spate of attacks by the Azanian People's Organisation was part of its "show and shock" tactics, the Goldstone Commission has been told.

Danie Pretorius was making a submission on behalf of the South African Defence Force to the Goldstone committee — chaired by Gert Steyn — which is investigating Apla.

Pretorius said this type of warfare was waged against farmers and residential areas so that there would be reprisal by the authorities. Apla could then retaliate.

He said Apla had committed itself to the continuation of the armed struggle against the white community, police and security forces.

The Apla strategy was guerrilla war which entailed armed propaganda, attacks on military institutions and planning for the creation of liberated zones.

Their strategy, he said, showed a clear Maoist approach as more emphasis was placed on the struggle in the rural areas.

It was part of Apla's strategy that the political and military wings should work together with the strategy for the takeover of government based upon a two-pronged revolutionary model.

Weapons were being brought into the country by Apla members from abroad in an attempt to bolster the internal military structure.

Libya remained the main source of finance and training for the PAC.



# Strydom charges ANC executive

By Josias Charle

WIT Wolf and former death row prisoner Barend Strydom has laid charges of crimen injuria against a top African National Congress official and a University of South Africa criminologist

Pretoria police confirmed yesterday that Strydom laid charges at the Mooi Nooi police station near Brits on Saturday.

He laid charges against ANCPWV region media spokesman Mr. Ronnie Mamoepa and criminologist Erna

## ■ Criminologist and Mamoepa allegedly called him a psychopath: (252)

Labuschagne for allegedly calling him a psychopath in articles in the *Weekly Mail*, *Beeld* and *Citizen* newspapers

Strydom was convicted in the Pretoria Supreme Court in 1989 for killing seven blacks in Pretoria and a woman near Vereeniging

He was sentenced to death eight times but was set free last year under the general amnesty law concluded between the ANC and the Government.

Subpoenas for leaders if they refuse to testify on Apla

# Ultimatum to PAC

had no knowledge of PAC or Apla dissidents being flown in to testify.

The committee heard yesterday that the Azanian People's Liberation Army (Apla) carried out at least 41 terror attacks in South Africa in 1991 and 1992 and used Transkei as the base for its campaign

Counsel for the South African Police, Francois van Zyl, told the committee investigating the activities of the PAC's military wing that various attacks had been carried out on the instruction of the Apla high command in Transkei

The police had information from arrested Apla members and other sources that Apla members had undergone military training in Tanzania, Libya, Uganda, China, Zimbabwe, Egypt and Nigeria

Apla had about 120 trained members inside Transkei, although the number of members who had received "crash training" courses in the territory was not known.

Van Zyl named 10 towns in Transkei including Sterkspruit, Umtata and Butterworth, where Apla recruits had undergone "crash" training in the use of AK-47 and R-4 rifles, landmines,

● To Page 3 ●

The Goldstone Commission may subpoena Pan Africanist Congress leaders to testify in its special inquiry into the activities of the organisation's military wing, the Azanian People's Liberation Army.

This step would be taken if the PAC ignored requests to testify voluntarily, a spokesman for the commission said yesterday

This development came as the PAC claimed the Government had flown in Apla dissidents from abroad to testify before a committee of the commission sitting in Port Elizabeth.

The PAC said its intelligence sources had information that one of the two dissidents was Justice Nkonyana, a former Apla commander who was allegedly involved in the assassination of former PAC leader David Sibeko in Tanzania in 1979.

The organisation said this was part of a campaign to discredit Apla and the PAC

The spokesman for the commission said both committee chairman Gert Steyn and the chairman of the Goldstone Commission Mr Justice Richard Goldstone

## Ultimatum to PAC leaders

● From Page 1 ●  
grenades and 9 mm pistols

Apla members were ordered to commit robberies and to steal vehicles for sale in neighbouring countries to raise funds, he added

He told the committee, that the SAP had information indicating that evidence of Apla camps in the homeland was being destroyed

Referring to an admission by military ruler Major-General Bantu Holomisa that the Transkei Defence Force (TDF) had lent 9 mm pistols and ammunition to Apla and UraKhonto we Sizwe (MK) in April to protect

their leaders, Van Zyl said Transkei should submit those weapons for ballistic testing to see if they had been used in terror attacks

Apla had plans for more attacks on policemen, farmers and other civilians, he added, submitting that Apla's activities could not be divorced from the PAC

He presented a memorandum on behalf of the SAP, recommending that the committee,

● Investigate the location of Apla camps or training centres, the alleged training of Apla members in Transkei, the alleged signing of an accord between the TDF

and Apla, and the alleged supply of arms and ammunition to Apla by the Transkei authorities

● Subpoena all persons within its jurisdiction who may have information that could help the committee

● Request the Organisation of African Unity to prevent its members from assisting Apla and to pressure the PAC to end its policy of violence

● Request that Transkei stop supporting Apla at once

The Transkei government has turned down an invitation by Mr Justice Richard Goldstone for Transkei to give evidence to the committee

Own Correspondent

STAR 5/1193

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# Subpoena threat

# PAC

# faces

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*Sowetan 5/1/93*  
**By Themba Molefe**  
Political Reporter

**T**HE GOLDSTONE COMMISSION may subpoena Pan Africanist Congress leaders to testify in its special inquiry into the activities of organisation's military wing, the Azanian Peoples Liberation Army.

This step would be taken if the PAC ignored present requests by the commission to testify voluntarily, a spokesman for the commission said yesterday.

This development came as the PAC claimed the Government had flown in Apla dissidents from abroad to testify before a committee of the commission presently sitting in Port Elizabeth.

### Campaign to discredit Apla

The PAC told *Sowetan* that its intelligence sources had information that one of the two dissidents was Mr Justice Nkonyana, a former Apla commander who was allegedly involved in the assassination of former PAC leader Mr David Sibeko in Tanzania in 1979.

The organisation said this was part of a campaign to discredit Apla and the PAC.

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The spokesman for the commission said both committee chairman Mr Gert Steyn and the chairman of the Goldstone Commission Mr Justice Richard Goldstone had no knowledge of PAC or Apla dissidents being flown in to testify.

Only South African Police and SA Defence Force witnesses gave evidence yesterday.

The hearing will adjourn until Monday.

### Refusing to co-operate

Meanwhile, PAC publicity director Mr Waters Toboti said the organisation remained adamant that its information was true and that it would maintain its stance of refusing to co-operate with the commission even if subpoenaed.

"We have said in the past that the Goldstone Commission was appointed to inquire into public violence between rival political groups in which we are not involved.

"Secondly, the commission was appointed by the Government and is therefore not credible," he said.

● See also page 4

# Decision on judge's role in probe awaited

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STAR 6/11/93

By Bronwyn Wilkinson

Justice Minister Kobie Coetsee is expected to decide today whether to second Mr Justice Richard Goldstone to Transkei to head an independent commission of inquiry into the activities of the Azanian People's Liberation Army (Apla) in the homeland.

A formal request for the judge's secondment from Transkei military ruler Major-General Bantu Holomisa had been passed on to the Justice Ministry and was receiving urgent attention, Foreign Affairs Ministry spokesman Awie Marais said last night. A decision could be expected today.

A Port Elizabeth-based committee of the Goldstone Commission investigating the PAC's military wing went into recess yesterday to allow Transkei and the PAC to respond to evidence led on Monday by the SAP and SADF that Apla had

used Transkei as a platform for terror attacks in South Africa.

Sapa reports that committee chairman Gert Steyn said yesterday that Transkei consul-general August Mapasa had requested copies of the testimonies so that the homeland government could study them and respond.

But Holomisa continued his defiance of requests that Transkei give evidence to the committee, stating "Transkei will never testify before the Goldstone Commission."

He said the homeland was sticking to its decision to have its own judicial commission of inquiry into Apla activities — and into the "destabilisation of Transkei by the South African security forces" — headed by Mr Justice Goldstone.

He agreed that ballistics experts from neutral countries could test weapons lent by the Transkei Defence Force

to Apla and the ANC's military wing, Umkhonto we Sizwe, for the protection of their leaders in the homeland.

Before going into recess, the committee could find no evidence that the Government had flown in Apla dissidents from abroad to testify before the committee as had been alleged.

According to Sapa, Steyn said reports that the committee intended to subpoena PAC leaders were premature as the PAC had requested copies of the submissions made on Monday by the SAP and SADF. He expected the organisation to respond by Friday.

PAC publicity director Waters Toboti was quoted yesterday as saying the PAC was adamant its information was correct and that it would maintain its stand of refusing to co-operate with the commission, even if subpoenaed.

The committee will sit again on Monday.

# Investigation into Apla is adjourned

## ■ Chance for parties to respond to claims

THE GOLDSTONE Commission's committee investigating the activities of the Azanian People's Liberation Army has adjourned *Sowetan 6/1/93*

This is to give parties an opportunity to respond to testimony by the SA Police and SA Defence Force

Legal representatives of the police and the defence force said in testimony in Port Elizabeth on Monday that Apla had planned and carried out attacks from Transkei. The lawyers said the Pan Africanist Congress had to accept responsibility for its military wing's actions

The chairman of the committee, Mr Gert Steyn, said yesterday the Transkeian consul-general, Mr August Mapasa, had asked that the testimony be made available to him so that the Transkei government could study it and then decide on whether to respond officially.

The committee will sit again on Monday. - Sapa

# Death of

# woman:

# prison negligent

CAPE TOWN — Negligence by the prisons service caused a young woman's death after she was placed in a strait-jacket, a Cape Town magistrate found.

He said yesterday that a Pollsmoor Prison officer, several female warders and a district surgeon were irresponsible, inhuman and grossly negligent.

Carol Anne Meyers (20), kept in the restraining device for 23 hours, died in hospital of kidney failure and extensive internal bleeding on July 2 1989.

She had been put in the straitjacket after warders allegedly overheard her plans to commit suicide. She was serving two years for robbery and other offences.

Inquest magistrate Nigel Jones said Meyers was not allowed to use the toilet or exercise, and her complaints of discomfort were ignored.

The jacket was removed only after she complained of pain, but it was too late.

The magistrate criticised Wynberg district surgeon Dr Peter Fisher for ignoring certain regulations when asked to examine whether Meyers was fit for the strait-jacket. He had subjected Meyers to a superficial examination and then washed his hands of her.

The officer who called for the straitjacket, a Captain Muller, was in charge but had failed to see the relevant guidelines were followed.

The Supreme Court recently made it clear that orders could be refused when they were illegal.

Meyers would have survived had warders loosened the device with every visit to the prison nurse.

The magistrate ordered that copies of his findings be sent to the Attorney-General, the officer commanding Pollsmoor Prison, the SA Medical and Dental Council, the SA Nursing Council and the superintendents at Victoria and Groote Schuur Hospitals.

He asked that the superintendents at these hospitals prepare a full report on the treatment of people who had died in suspicious circumstances. This was for use by State pathologists before post-mortems. — Sapa

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INFLATION FM 8/1/93

## Supply-side discipline

The decline in the inflation rate stands out as one of the most encouraging achievements of a rather dismal and discouraging 1992. The bulk of the decline took place last year, which saw a 23% reduction in the annual rate of inflation from 14,3% in early 1992 to 11% now. It has taken six years for the authorities to get the rate down from its peak of 18,6% to its present level, which is of course still far too high.

It could well be argued that the political will to stabilise prices really fructified only after F W de Klerk became State President — and the steps necessary to do so were taken only when Chris Stals took over as Governor of the Reserve Bank.

The importance, politically and economically, of stable prices cannot be over-emphasised. No economic growth will be sustainable — even if all other obstacles are removed — unless it takes place against a background of reducing inflationary pressures.

The *FM* has expressed the view that momentum towards at least single-digit inflation will most likely be swifter now that the money supply growth is demonstrably under control. But that does not mean the battle is over. The time is not yet ripe for any relaxation of monetary stringency — such as it has been — despite the general decline in interest rates, the modification of wage claims, lower food prices and reducing aggregate demand.

Nor, however, does it mean that the recession should be intensified. The emphasis in official policy should begin to edge now towards encouraging supply to meet demand. That means, simply put, that there should be no increases in taxation — especially in Vat — until a further reduction in inflationary pressures is manifest.

Greater supply will also increase the proceeds of existing taxes, including that of Vat, which have been lower than expected because of declining business activity and which have aggravated government's financing problem.

Of course, the immediate need, to finance a budget deficit before borrowing, which at nearly 9% of GDP is dangerously close to getting out of control, will not disappear. It could be financed from long-term borrowings with little if any inflationary implication. But the cost of that borrowing would be material and lock the Exchequer into further levels of rising expenditure, which is the last thing any reasonable taxpayer would want.

The answer is fiscal discipline, especially greater control in the funds flowing without sufficient accountability to the TBVC dependencies. Or in a sustained programme of privatisation, the proceeds of which will help government over the difficult and, it is hoped, temporary period before adequate spending disciplines can be applied. ■

THE GOLDSTONE COMMISSION

FM 8/1/93

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## Fishers of men

The Goldstone Commission is rightly regarded, here and abroad, as one of the country's most needed and important institutions. After all, its primary focus is on issues vital to the ultimate installation of a political dispensation which respects the rights of every citizen.

Nothing could be more momentous in the long run for SA than an unimpeachable body which is — and which is seen to be — unbiased and rigorous in its pursuit of truth.

There are some areas of concern, however. It is a frequently quoted truism that if something must be done, the best method is to give it to a busy man. And certainly this seems to be the case with Justice Richard Goldstone, Judge of Appeal, chairman of the standing commission which takes his name, chairman of the Standing Advisory Committee on Company Law — along with a number of other positions in voluntary organisations.

On balance, it seems to us that Judge Goldstone is being asked to do too much. It cannot surely be beyond the wit of the authorities to ensure that he is left relatively free to concentrate on the smooth operation of his most important undertaking.

Another matter concerns the composition of the commis-

sion. There are five permanent commissioners who are supplemented by others assisting with the work of various subcommittees.

However, the permanent commissioners are all members of the legal profession. Is it right that a commission whose purpose is to inquire into endemic and widespread intimidation and violence should be comprised solely of lawyers? The implication is that only those legally trained are competent to express adequate judgments on matters which frequently relate not to law but to the composition of society itself — and to historic political injustices.

Perhaps we should beware of the trap of giving too much authority to *any* one sector and, consequently, of being constrained within one particular philosophy. There are many South Africans from other disciplines capable of exercising commonsense and integrity. It is counter-productive to ignore their potential.

If Bill Clinton's Cabinet has been designed to reflect America, it is no less appropriate for the Goldstone Commission to cast its net of membership widely indeed — drawing on the talent and expertise which, despite everything, SA continues to foster. ■

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VIOLENCE FM 8/1/93

**After the diagnosis**

**Mr Justice** Richard Goldstone's third interim report to President F W de Klerk on public violence reflects frustration at knowing the main causes of the strife but being powerless to break the vicious cycle. His commission again points directly at ANC/IFP political and territorial rivalry as the primary cause though it concedes there are aggravating factors

The judge's amazing work rate is reflected in the fact that he has produced nearly 12 specific reports since the second interim report at the end of April. Among them is the second report on the continuing IFP/ANC fighting at Bruntville in Natal

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Significantly, though the ANC and IFP have described the Bruntville findings as inadequate, they have agreed to the appointment of an independent mediator. He is Nico Coetzer who was suggested by the Association of Law Societies.

Other reports in the past eight months have included three on various aspects of the taxi and minibus wars; 32 Battalion's impact on violence at Phola Park; train and hostel violence, the Bisho massacre, planning and instigation of violence by the SAP in the Vaal area, violence in Thokoza; and allegations that Renamo soldiers are based in KwaZulu.

Goldstone points out that it is premature to discuss the impact of alleged unlawful activities and malpractices by SADF members on recent violence. However, he adds "Whatever that role, it is clear that a primary trigger of the current violence and intimidation remains the fight for territory by the IFP and the ANC.

"Other contributory causes continue to be socio-economic factors, suspicions and negative perceptions of the security forces by large numbers of blacks and whites, and the availability of sophisticated weapons"

What is interesting is the suggestion by the judge that further investigations into specific incidents of violence should be curtailed because they would gain little. However, this was probably prompted by his belief that the primary cause of the violence has now been clearly identified.

Instead, Goldstone advocates switching the commission's emphasis to broader inquiries such as:

- The alleged activities of the security forces, private armies and security firms in relation to public violence and intimidation,
- Unlawful importation, distribution, possession and use of firearms and explosives,
- The taxi industry in relation to public violence and intimidation; and
- The continuing train violence.

Goldstone adds "The commission would like to stress, however, that all its efforts will come to naught if all the appropriate political players in SA do not practice, exhibit and encourage in their supporters a culture of true tolerance and respect for opposing parties and policies."



# Tutu lashes govt, ANC on human rights

ANGLICAN Archbishop Desmond Tutu yesterday lashed out at human rights abuses by the government, the ANC and Apla which contradicted the "noble struggle" which veteran ANC activist Mrs Helen Joseph had symbolised.

Addressing thousands of mourners at a requiem mass for Mrs Joseph, Archbishop Tutu said alleged attacks by Apla on citizens in the Eastern Cape had to be condemned, but the government's rapid mobilisation following the killings showed "a black life is cheaper than a white life". He said the archbishop issued an impassioned plea for peace and tolerance, saying it was unacceptable that SADF officers, who had been fired for participating in a "third

force", would get large pension payouts. Revelations of acts of torture and assassination in ANC camps "dragged the struggle through the mud", and the perpetrators should be expelled from the ANC, he said. Speaking at the mass, Mr Nelson Mandela praised the veteran campaigner's work for "the right of every South African to vote for the

political party of their choice. "It is well known that Helen was not a Marxist and she was not a member of the SACP, but she worked with people who were because she was a democrat and believed in the freedom of political choice," the ANC leader said. Messages of condolence were received from the governments of Britain, the United States and

Canada. Mrs Joseph was buried in Soweto's Avalon cemetery in the same grave as fellow Federation of SA Women founder Mrs Lillian Ngoye. Mrs Joseph had been at the forefront of the struggle for human rights in South Africa for almost four decades until her death on Christmas Day at the age of 87 — Sapa

252

# Amnesty slammed

252

*Sowetan 8/11/93.*

## ■ ALS says release of 7 500 prisoners a disrespect of the law

THE EARLY release of 7 500 prisoners would lead to further disrespect for the law, the Association of Law Societies warned yesterday.

ALS president Mr Mervyn Smith said it would "bring about further lack of respect of the courts and the law in our country where crime and violence are principle problems".

He was reacting to the release of prisoners from January 18 because of overcrowded jails, as announced by Minister of Correctional Services Mr Adriaan Vlok on Wednesday

"ALS acknowledges the step to preclude certain types of hard-core offenders from the release, but believes any future release of prisoners in South Africa must be viewed cautiously"

Prisons authorities said they had taken steps to prevent a repeat of the Lucky Malaza fiasco.

Correctional Services chief deputy commissioner Lieutenant-General Henk Bruyn said prisoners who would benefit from Vlok's announcement had been screened

Malaza, a convicted murderer and bank robber, was freed last year after claiming he was a political prisoner entitled to freedom under an agreement between the ANC and the Government.

# Goldstone inquiry hamstrung

W/maail 8/1-14/193.

**A** GOLDSTONE Commission committee began hearing evidence on the Azanian People's Liberation Army (Apla) this week — but it remains highly doubtful it will be able to make a finding

A committee chaired by retired senior magistrate Gert Steyn heard submissions by the police and South African Defence Force. But both Transkei and the Pan Africanist Congress have refused to participate, and it remains unclear how any conclusion can be reached without them.

Transkei military ruler Major General Bantu Holomisa remains determined to hold his own Goldstone Commission, with a far wider brief than that of the Port Elizabeth inquiry.

The committee adjourned until Monday to allow the PAC and Transkei time to study the submissions and in the hopes they would agree to testify.

There has been intense speculation that the commission may subpoena PAC leaders to testify. However, Steyn has said this was "premature".

The political repercussions of such a step would undoubtedly make Judge Richard Goldstone think very carefully before taking it.

The PAC asked for copies of the submissions, but remained adamant it would not participate, and would defy any subpoena.

Holomisa described the hearings as a "kangaroo court", and said no information would be made available to it. He said he was prepared to have guns, loaned to the PAC for the protection of its leadership on visits to the homeland, submitted for ballistics testings by a neutral party.

Holomisa has asked for the secondment of Goldstone to head a Transkei inquiry, to which he wants members of the Transkei bar appointed. This inquiry will probe not only the claims of Apla camps and training in Transkei, but also the South African

*Refusals by the PAC and  
Transkei to participate in a  
Goldstone inquiry into Apla  
means the committee will  
have difficulty reaching a  
conclusion, reports*  
**SHADLEY NASH**

government's response to the issue, its "approach" to the PAC's unbanning, cross-border raids by the Afrikaner Weerstandsbeweging, and even the effectiveness of the National Peace Accord.

Commenting on the Port Elizabeth hearing, Holomisa noted that the police and defence force were "now

retracting former allegations that there are bases. They are now saying people had crash courses," he said.

Although Holomisa has said Goldstone has agreed to head the Transkei inquiry, no comment has yet come from the judge himself.

In their submissions this week, both the South African Police and Defence Force said that Apla terror attacks emanated from the Transkei and that the homeland was used to conduct "crash courses" for Apla. Francois Van Zyl, counsel for the police, identified at least 10 districts as areas where training of Apla members, sometimes at night under trees and at creches, have taken place.

Van Zyl said the police had information, from arrested Apla members

and other sources, that steps were taken to destroy evidence that Apla members were trained in the region. The police attributed 41 attacks in South Africa to Apla.

Counsel for the SADF, Dame Pretorius, said recent Apla attacks formed part of a strategy called "Show and Shock". He said the idea was to attack soft targets to extract reprisals and in this way identify the "enemy". The "enemy", once identified could be targeted for attack by Apla.

The SADF also alleges that Transkeian territory was used to train Apla members. "Apla is still expanding and creating its internal structures within the Republic of South Africa and recruitment and training is still continuing," he said — Pen.

# Find another judge, Govt tells Umtata

STAR 9/11/93 JOHN PERLMAN

THE South African Government has refused to second Judge Richard Goldstone to Transkei to head an inquiry there into the activities of the Azanian People's Liberation Army (Apla) and other matters.

Minister of Justice Kobie Coetsee yesterday said a committee of the Goldstone Commission had already begun hearing evidence in this regard, including charges that Transkei was the springboard for Apla attacks.

"Since Mr Justice Goldstone has an ultimate interest and responsibility in regard to his SA assignment, he cannot possibly divorce himself from his own commission. This could create a conflict of interests."

The request for Judge Goldstone's secondment had been made by Major-General Bantu Holomisa, head of Transkei's Military Council, who refused to take part in the Goldstone hearings on Apla which began in Port Elizabeth this week.

Coetsee said he had proposed to Transkei that a Transkeian judge or another South African judge be seconded instead to head Holomisa's proposed inquiry. This commission could then "make its report available to the Goldstone Commission for its consideration."

Holomisa last night criticised the South African Government for "playing politics and delaying the decision" but said he was grateful

"that they will recognise the findings and recommendations of our inquiry. At the beginning they were giving the impression that the only commission that could do this work is Goldstone"

Holomisa said his recommendation for a suitable judge "would be on Pik Botha's desk by Monday afternoon I hope after that the South African Government will stop playing politics. Within two weeks we should know where the truth lies."

The Transkei leader said he believed the Government had "twisted Goldstone's arm" — earlier this week he said Judge Goldstone had indicated a willingness to serve on the Transkei commission.

Judge Goldstone yesterday confirmed that Holomisa had approached him in December to "extend the Apla inquiry by hearing evidence in Transkei" and "to be personally involved". The judge said he "assumed the approach was made in my capacity as chairman of the commission"

● TO PAGE 2.



GENERAL HOLOMISA:  
No balaclavas.

## No judge

● FROM PAGE 1.

"At no time did I agree to head a separate commission of inquiry in Transkei," Judge Goldstone said "For a number of reasons I would not have agreed to do so. One of them is that I would have found myself in a situation where I had a possible material and unacceptable conflict of interests as chairman of a South African commission which has a committee already inquiring into the very same issue."

"I fully agree with the terms of the response given to the Transkei government by the South African Government"

In an unusual move yesterday, Holomisa took out a two-page advertisement in a morning newspaper, which outlined his envisaged terms of reference for

the commission. Holomisa also published a letter he said had been sent to President F W de Klerk on December 17, calling for such a commission.

Speaking from Umtata, Holomisa said he had decided to publish the documents because "people think we have been dragging our feet and not co-operating. We have now proved to the people of SA that we communicated with the president"

Holomisa said he had drafted new terms of reference because "Goldstone's terms are too narrow"

Last night he said he now expected the Government "to co-operate fully. They are the ones who alleged there are bases in Transkei. Now they can present their evidence and witnesses, but it will be in public and not in camera. No one will be allowed to wear balaclavas."

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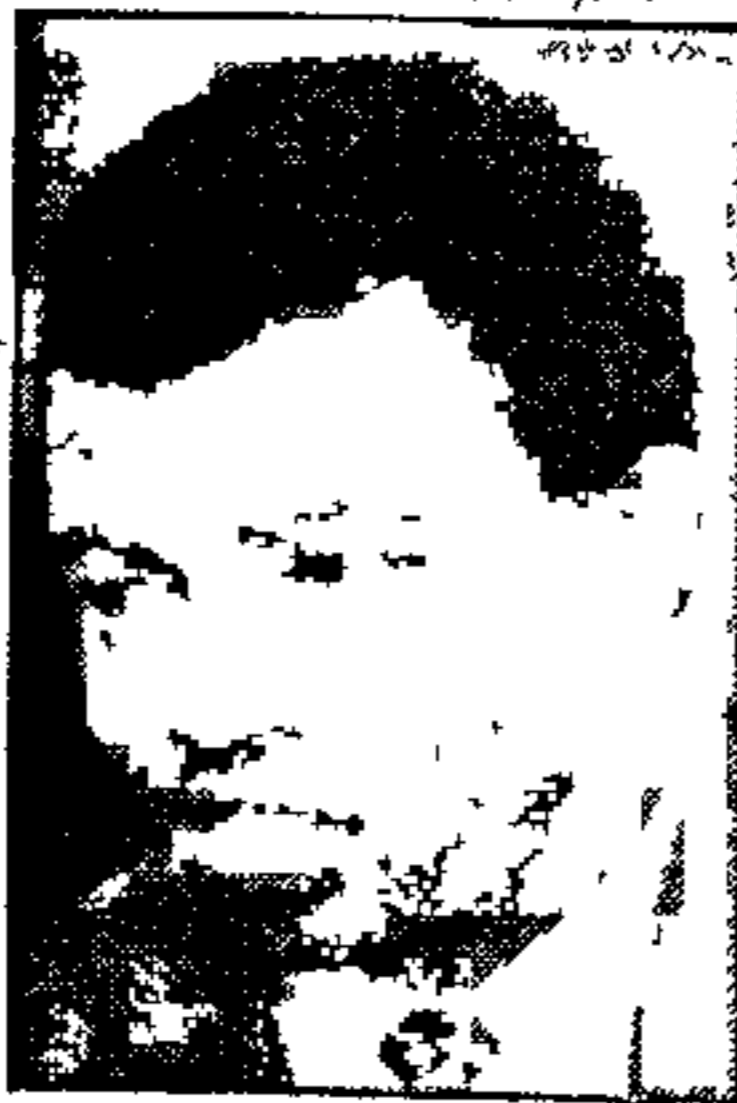
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STAR 9/11/93 252

STAR 9/11/93 252

**EVIDENCE** that Apla members were being trained to commit common crimes to finance their terror campaign in South Africa was presented to the Goldstone commission this week.

SAP advocate Francois van Zyl told the hearing in Port Elizabeth into Apla training camps that cash-strapped Apla members had been ordered to steal cars to be sold in neighbouring states and to commit robberies

252  
**Secret**

He said evidence that they had been trained "in the commission of armed robberies" in a camp in Tanzania had been provided by arrested Apla members.

Mr van Zyl listed 41 robberies and attacks — primarily in the Free State/Border area in the past two years — as the alleged result of this training.

He said Apla recruits like Christopher Neo Mohlomi,

# Apla terror raids aimed at raising funds, inquiry told

SI Times 10/1/93

arrested in connection with an AK-47 robbery at a Botshabelo store on February 22 1991, had confessed to being given military training abroad and sent to SA to carry out robberies and deliver the stolen money to his commanders.

In 1992, during a trial in the Harare regional court, Zimbabwean Police Force acting commissioner Augustine Chihuri admitted that he was part of a PAC racket to raise money by stealing vehicles in South

Africa and selling them on Zimbabwe's black market.

Said Mr van Zyl: "He also told the court the Zimbabwean Central Intelligence Organisation had secretly given the PAC the go-ahead to import stolen vehicles."

Referring to Apla's financial status, Mr D Pretorius, for the SADF, quoted Apla commander-in-chief Johnson Mhlambo as saying that countries that had previously assisted the PAC financially were refusing to do so because of its refusal to participate in the negotiation process.

## Medicine

Further indications that funds were dwindling emerged in a circular by PAC national organiser Maxwell Nemasivhanani to regional and branch secretaries which said branches had to supply logistical support to Apla, "cloth (sic), feed and accommodate the vanguard of the liberation army".

In another document submitted by the SAP, the regional chairman of the PAC in the Transkei, Mr G G Matshayana, advised members in his New Year's message for 1993 they would "definitely be wise if they started stockpiling basic foods and stop excessive spending".

And, in a letter to PAC leader Clarence Makwetu expressing the understanding that Apla always received 50 percent of "par-

ty funds", Apla's chief-of-staff Barney Hlatwayo, said money was needed for medical check-ups and treatment of most recruits who "come from the streets underfed, sick and naked".

In addition to the smuggling of cars out of South Africa, weapons were smuggled into South Africa hidden in the trucks of transport contractors or in the doors and petrol tanks of vehicles for crash training courses, Mr van Zyl said.

The police knew that Apla used routes via Botswana through the Ramatlabama border post and an air route from Lesotho to the Transkei, he added.

The SADF and SAP presented detailed submissions that Apla recruits had undergone training in Uganda, Libya, Ghana, Tanzania,

Egypt, Nigeria, Lebanon, Cambodia, Botswana and at least 10 venues in the Transkei. In China they received naval training and in South Africa night courses were held in a school and a creche, they claimed.

Mr van Zyl told the commission it was clear from information obtained from arrested Apla members and other sources that attacks on white civilians in the Eastern Free State and Eastern Cape had been carried out under the direct orders of the Apla High Command and regional command structures.

## Image

The SAP also had information indicating that an estimated 120 externally-trained members in South Africa and an unknown number who had received crash courses inside the country intended "executing more acts of terrorism aimed at whites and without any regard for who might be killed or wounded".

One of the reasons that Apla had stepped up terrorist activities was to enhance its image among the militant youth and draw support away from the ANC, Mr van Zyl submitted.

The commission, headed by former regional magistrate Gert Steyn, will resume tomorrow.

# Judge's arm was twisted by Bantu

JUDGE Richard Goldstone's delayed response to the Transkei's request that he be seconded to head an inquiry into Apla "indicates his arm has been twisted by his master", according to the homeland's military leader *Press 10/1/93*

Maj-Gen Bantu Holomisa said it was surprising that Goldstone, who had welcomed his proposed commission of inquiry last week, took so long to respond. (252)

"It is surprising that it took him so many days before he could refuse this offer. The timing of his refusal indicates his arm has been twisted by his master." (193)

SA Justice Minister Kobie Coetsee announced on Friday that Goldstone would not be seconded to the homeland because he was unavailable.

A Goldstone committee, chaired by Gert Steyn, began a preliminary hearing into Apla in Port Elizabeth on Monday. (193)

However, Holomisa welcomed the minister's proposal that another SA judge be seconded. He said a proposed name could be on Foreign Minister Pik Botha's desk by tomorrow afternoon.

Referring to his own commission, the general said SA Government and Defence Force officials would be subpoenaed to give evidence because they had made allegations about Apla's presence in the Transkei.

SA Military Intelligence chief Gen Joffel van der Westhuizen would be subpoenaed to testify on the alleged destabilisation of Transkei.

Holomisa said a precedent had been set with other Transkei subpoenas for South Africans being adhered to. - Sapa

# Rival taxi bodies in court bid to have members freed

Pretoria Bureau

Two rival taxi organisations yesterday brought an urgent application in the Pretoria Supreme Court against the Minister of Law and Order and a senior police officer for the release of 18 of their members detained near Pietersburg at the weekend **STAR 11/11 93**

The application, which was heard in Mr Justice M M Joffe's chambers yesterday and postponed to today, follows the arrest of 13 members of the RSA Taxi Association and five members of the rival Lehabile Taxi Association (LTA)

The men are being held in preventive detention after being arrested in connection with traffic violations

Both the taxi associations — citing Minister of Law and Order Hernus Kriel and the

head of the Far Northern Transvaal Crime Unit, Lieutenant-Colonel Charles van Wyk, as respondents — applied for the detentions to be declared unlawful and invalid.

In papers, LTA secretary Valentine Sekhukhune said he was told by telephone on Saturday afternoon police had arrested some members and confiscated their minibuses

He was told the arrests were linked to touting and traffic offences — but the men had been detained in terms of Section 50 of the Internal Security Act

The police, in papers before the court, said the arrests were aimed at curbing violence

One such incident had occurred on November 15 when four men shot eight people dead and wounded three. The hearing was due to resume at 2 pm today.

# 'Informers given weapons'

Own Correspondent

Police informers at John Vorster Square in Johannesburg are being armed illegally with pistols, allowed to raid the homes of suspects, and sometimes take part in the interrogation of suspects.

These allegations were made in a sworn statement by Chris Coetzee, a police spy from 1983

In an affidavit Coetzee — a coloured man — implicates several members of the South African Narcotics Bureau and the Langlaagte Dog Unit

The Sowetan newspaper forwarded the list of implicated officers to the police

Reacting to the allegations, Witwatersrand Police spokesman Lieutenant Wikus Webber said the claims would be investigated "with the utmost urgency"

According to Coetzee, informers were at times used against their will as domestics at the

homes of officers under whom they served, performing duties such as gardening and refuse removal

The informers also took part in searches for dagga, Mandrax tablets and liquor in the homes of "trapped" illegal dealers

In the process, the informers would steal expensive items such as rings, watches, cameras and liquor. He says officers in charge knew about this

Coetzee (44) is currently in hiding, fearing for his life, after quitting as an informer in December

He spoke of his experiences as a gun-toting spy, raiding she-bens on the Reef and being used against his will as a domestic servant at his boss's home in Turfontein, Johannesburg.

The man in charge of Coetzee has been promoted from constable to sergeant

Another informer, named in the affidavit as Marlin Kater, lives with the sergeant

Coetzee said he once made an arrest in the presence of his boss, whom he referred to as "baas"

Coetzee claims that

- Police encouraged informers to steal property and money during raids
- Police accepted bribes from detainees
- Police warned some illegal dealers of pending raids
- State vehicles were at times used privately
- Police visiting brothels at night left their service pistols with informers outside the premises
- Confiscated liquor stored at John Vorster Square was often stolen by the police themselves, using informers
- Coetzee claimed that he and Kater had guarded a police vehicle outside a brothel in the northern suburbs of Johannesburg while three policemen went to "enjoy themselves inside"





later permanent ... Richard Parents ...

# Webb faces charge

STAR 12/1/93

(252)

Former Civil Co-operation Bureau chairman Major-General Eddie Webb appeared briefly in the Johannesburg Regional Court yesterday.

He faces a charge of perjury in connection with an alleged admission he made during the Rand Supreme Court inquest into the death of Dr David Webster.

During the Webster inquest hearing Webb (52), of Lynnwood, Pretoria, was quoted as admitting that he had given evi-

dence that could have misled the Harms Commission inquiring into alleged death squads.

His evidence before the commission included denials of knowledge of plans to assassinate attorney Dullah Omar and journalist Gavin Evans. This was apparently to protect comrades in the covert CCB, an SA Defence Force unit.

Regional Court magistrate Mr F Booyens warned Webb to appear on February 26. — Sapa.

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STAR 12/1/93 (51) (52)

## Drips probe 'could be reopened'

STATE 12/1/93  
An inquest into the deaths of 13 babies who had received intravenous drips supplied by Sabax could be reopened if new evidence warranted it, Transvaal Attorney-General Klaus von Lieres said yesterday.

The inquest, held last year, found no one re-

sponsible for the deaths of 11 of the 13 babies. There was no finding on the other two babies (252)

Sabax chief executive Ian Strachan said the firm would co-operate with the authorities.

US-trained pharmaceutical technician Di Parker, who worked at

Sabax from 1984 to 1991, has said in a sworn affidavit that "sub-standard techniques" were applied in the Sabax admix unit.

Attorney Peter Soller has written to President de Klerk, asking for a presidential commission of inquiry. — Staff Reporter and Sapa

# Decision on Apla subpoenas delayed

By Helen Grange

(252) (12/11/93)

try from Uganda.

The Goldstone Commission will decide on Monday whether to subpoena members of the PAC and Azanian People's Liberation Army, following their refusal to appear before a hearing into Apla activities yesterday.

Explaining the PAC's absence, the organisation's political affairs secretary Jaki Seroke said at a press conference in Johannesburg that the PAC was discussing the matter with the Goldstone Commission's "principal, namely the regime", and therefore saw no need to attend the inquiry.

The Apla commander would respond on behalf of Apla should he think it necessary, Seroke said.

He said the Goldstone Commission had supplied the PAC with a copy of the police submissions concerning the organisation.

The submissions had outlined, among other things, the alleged locations of Apla bases in Transkei and 201 pseudonyms of alleged Apla trainee graduates about to be infiltrated into the coun-

The Star's Own Correspondent reports that during yesterday's Goldstone committee hearings in Port Elizabeth, SADF counsel Danie Pretorius said the PAC and Apla should be subpoenaed, but if no one came forward to give evidence, the committee should make a finding based on the information before it.

Counsel for the SAP also asked the committee to subpoena the witnesses. The police had a list of PAC and Apla members which it could make available.

● Law and Order Minister Hernus Kriel last night said the police would not testify before Transkei leader Major-General Bantu Holomisa's proposed commission of inquiry into Apla as the SAP had already testified on the matter before the existing Goldstone Commission.

Interviewed on TV1's *Agenda* programme, he said he was willing to accede to a request from Holomisa for access to the SAP's evidence given to the Goldstone Commission in Port Elizabeth last week.

LLOYD COUTTS

## PAC refuses role in probe of Apla

THE PAC yesterday refused to take part in a Goldstone committee investigation into the activities of its armed wing Apla, saying it saw no need to do so

The organisation told a news conference it had received an invitation to participate in the hearing in Port Elizabeth yesterday and had been asked to extend the invitation to Apla at its Dar es Salaam headquarters

The PAC said, however, that during a bilateral meeting with government in Botswana last year, it had agreed to continue talks on the armed struggle "in the broader context of a political solution". The matter had been on the agenda in bilateral talks "and we do not see the need to present ourselves to this commission", said PAC

secretary for political affairs Jaki Seroke.

Seroke said while there were no current

talks with government, channels of communication remained open

The Apla command would reply to the

commission's request for its participation

if it were deemed necessary. He said the

commission had informed the PAC it

would consider travelling to a neutral venue should Apla make such a request

He said the commission should not act as an inquisition into PAC affairs.

Sapa reports the Goldstone committee hearing preliminary evidence on Apla will sit next on January 18 in Pretoria.

# Gqozo told to produce evidence of 'plot'

GOVERNMENT yesterday called on Ciskei leader Brig Oupa Gqozo to hand over to the Goldstone commission evidence that Apla, Umkhonto we Sizwe and the Transkei Defence Force were secretly planning acts of terror

Earlier in the day Gqozo claimed he had "confirmed intelligence reports" which proved the three armies were plotting the violent overthrow of the governments of Ciskei and KwaZulu.

A Foreign Affairs spokesman said government encouraged Gqozo "to share the information he has with the Goldstone commission"

Government is believed to have been

~~125~~ (252) ~~252~~  
RAY HARTLEY

angered by Gqozo's decision to make the allegations at a Johannesburg news conference instead of presenting them to the Goldstone commission's Port Elizabeth hearing on Apla.

Gqozo said he had decided to keep his evidence from the commission because the SA public needed to be made aware of the plot, and Judge Richard Goldstone would be given documents only "on a very selective basis" if he requested them

He said MK, Apla and the TDF had met in Umtata shortly after Christmas to plan attacks on the governments of Ciskei and

KwaZulu "under the name of Apla".

Gqozo said SA security forces needed to take decisive action — possibly including military force — against the plotters.

The ANC, MK, Transkei military leader Maj-Gen Bantu Holomisa and the PAC yesterday dismissed Gqozo's allegations.

The ANC described Gqozo's statement as "a mixture of outright lies and pure invention. There are not now, nor have there ever been, MK bases in Transkei. The ANC and MK have never entered a pact with the TDF or any other body to launch a military offensive against Ciskei or KwaZulu," it said.

□ To Page 2

## Gqozo ~~125~~ (252) ~~252~~ From Page 1

PAC secretary for political affairs Jaki Seroke denied the conspiracy claims, Sapa reports. Gqozo was "flying a kite", he said. "It is clear that he has an axe to grind with the Transkei Military Council"

MK chief of staff Siphwe Nyanda demed any meetings, other than "normal contact", had taken place between MK, Apla and the TDF. "This is in breach of the spirit of the national peace accord. Such statements have only helped fuel violence in the past," he said.

Gqozo's allegations that SACP secretary-general Chris Ham had instructed MK commanders in Ciskei to attack the homeland's government using Apla disguises

were untrue as Hani no longer held any command position in MK, Nyanda said.

Holomisa accused Gqozo of conducting a propaganda campaign against Transkei in collaboration with SA security forces, Sapa reports. Gqozo was welcome to bring his evidence directly to Transkei, or to invite Transkei investigators to Bisho, he said.

Gqozo said he had not communicated with Holomisa over the allegations because "he will definitely deny them".

Inkatha spokesman Walter Felgate said Gqozo needed to present proof of the plot to Goldstone, because this was "one place where the evidence would have value".

● Picture: Page 3

LLOYD COUTTS

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Regional Court magistrate Mr F. Booyens warned Webb to appear on February 26 — Sapa.

**Divorce Act in focus**

A WORKING paper aimed at eliminating "obscurities and difficulties" in interpretations of the Divorce Amendment Act had been completed and distributed for general comment, the SA Law Commission announced yesterday.

Written comments or suggestions on the working paper should reach the commission by March 15, it said.

(252) ~~12/11/93~~  
Blom 12/11/93



# Cop informer fears for his life

By Abbey Makoe

Threats made after Coetzee makes allegations:

MR Chris Coetzee, the former police informer who this week made allegations about corruption by police at John Vorster Square, said yesterday he had received threatening telephone calls and feared for his life.

He said what had shocked him most was the fact that the telephone number at his present residence was not known to the police or many people.

Coetzee said the first call came from a man who identified himself only as Kelvin. The man told him: "I want to have your neck" and then hung off.

He said the second came from Captain Du Plooy, whom he knew as commander of the Narcotics Bureau at John Vorster Square.

Du Plooy wanted to meet him "at the earliest possible time", Coetzee said.

Yesterday afternoon another policeman phoned. This time it was a Sergeant Menthes, who said he was from the Narcotics Bureau. Coetzee said he asked his live-in partner to say he was not there.

Coetzee told *Sowetan* yesterday that he was still willing to testify in court.

about the allegations of police corruption at John Vorster Square.

In startling disclosures published in *Sowetan* yesterday, Coetzee - who said he was a police informer since 1983 - claimed informers were being armed illegally with pistols, allowed to raid the homes of suspects and sometimes took part in interrogations of suspects.

In an affidavit Coetzee implicated several members of the SA Narcotics Bureau and the Langlaagte Dog Unit. *Sowetan* has forwarded the names of the implicated officers to the police.

## PAC says no to Goldstone

By Themba Molele  
Political Reporter

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THE Pan Africanist Congress will not participate in the Goldstone Commission special inquiry into its armed wing, the Azanian People's Liberation Army, as it did not see any need to do so.

PAC secretary for political affairs M. Jaki Seroke said yesterday the decision was submitted to the commission on Friday after it received an invitation from the commission to testify at the committee hearing chaired by Mr Geri Steyn in Port Elizabeth.

"We have been asked by the commission to extend the invitation to Apla in Dar es Salaam. The commission informed us that it will consider travelling

*Sowetan*  
12/11/93  
Apla will reply to invitation by commission itself:

In a neutral external venue should Apla make such a request," Seroke said.

Addressing a news conference in Johannesburg, Seroke said Apla, which had also been asked by the commission to participate, would reply on its own behalf "if it so wished".

However, Apla chief commander Mr Sabelo Thama told *Sowetan* in an interview in Dar es Salaam that the commission was irrelevant as Apla cadres were being arrested, put on trial and sentenced and they would not co-operate with the commission.

Seroke said the commission had made its invitation to the PAC, South Africa, and South African Defence Force admissions to the committee

hearing

"These included alleged locations of Apla bases in the Transkei, 201 pseudonyms of alleged Apla trainee graduates who are about to be infiltrated into the country from Uganda, names of the alleged commander and his deputy in the Apla high command and the alleged relationship between the PAC and Apla leadership.

"In our response to the commission we said we were already discussing the matter with its principal, the regime and have agreed with it in Botswana to continue with talks on armed struggle in the broader context of a political solution," Seroke said.

## Public servants seek agenda

GERALD REILLY

(250)

PRETORIA — The 18 public service organisations — including six teacher bodies — representing more than 400 000 workers, have demanded an agenda before Friday's meeting with President F W de Klerk.

In his invitation to the organisations, De Klerk said service conditions would be discussed.

However, the co-ordinator of the caucus of 12 organisations, Anton Louwrens, said a December appeal to Administration Minister Org Marais for an agenda had gone unanswered, and without an agenda to assist preparations the meeting could be valueless — and some leaders feared it would be no more than a lecture.

Finance and Trade and Industry Minister Derek Keys, National Health Minister Rina Venter and Marais will also attend the meeting. *SIDM 12/1/93.*

Louwrens said government workers wanted urgent answers to uncertainties relating to job security, pensions and retrenchments.

"We want to know precisely how government intends cutting state spending in the public sector by 3% in the new financial year," he said.

# Futures exchange set to trade in red meat

THE SA Futures Exchange yesterday confirmed it was considering futures contracts in commodities such as red meat

Exchange CEO Stuart Rees said this was a direct result of the release of the Kassier report.

Rees said red meat would satisfy the criteria of a free market with a range of suppliers and consumers. Such a contract would take price uncertainty out of the market for meat buyers and producers.

"Buyers will be able to decide in advance what price they wish to pay for a commodity," Rees said.

Futures contracts allow investors to buy a product at a fixed price for physical or

TIM MARSLAND

cash delivery at a later stage. Contracts usually expire every three months.

On the Chicago Mercantile Exchange, the price of pork belly futures costs about \$75 for 50,8kg. The US agriculture department controls the standard and mass of the meat. Rees said similar standards would have to be set up in SA.

The exchange had evaluated 60 soft commodities but had decided red meat presented itself as one of the most likely candidates. An exchange report said meat at present was traded on an auction basis, with major markets at City Deep in Johan-

nesburg and Cato Ridge in Natal. There were more than 1 000 major buyers and a number of agents who sold the meat on behalf of farmers on a commission basis.

Rees said the development of the contract would take "some time", but would be done in conjunction with the market. The exchange was also evaluating linking up with Botswana and Zimbabwe on the contract.

An analyst said that on the Chicago exchange, live cattle was the most actively traded meat future. However, volumes had been declining over the past five years.

A major meat retailer said the contract would be good news for consumers.

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Meat

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# Battle over Apla probes a cat and mouse affair

By Esther Waugh  
Political Reporter

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The battle between South Africa and Transkei over commissions of inquiry into Apla reached near-farcical proportions yesterday with leaders from both sides refusing to appear before the other's commission

Law and Order Minister Her-nus Kriel said on Monday night the SAP would not testify before Transkei military ruler Major-General Bantu Holomisa's proposed commission of inquiry into Apla activities.

In turn, Holomisa said there would be no point continuing with Transkei's investigation unless the SAP gave oral evidence to support its allegations that Apla was training in the homeland.

The SAP had also to submit itself to cross-examination and inspections *in loco* of the alleged training bases.

Holomisa said from Umtata yesterday that he would send a diplomatic note to Pretoria seeking verification of Kriel's statement.

He confirmed he had received another diplomatic note from the SA Government on Monday informing Transkei that Mr Justice Richard Goldstone would not be seconded to chair the homeland's commission.

Instead, the Transkei Department of Justice would scout around for another South African judge to chair the commission

Holomisa said the homeland had no specific judge in mind, and that the possible names were not yet available.

# Squatters sue Minister over police shooting

Blom 13/1/92 GAVIN DU VENAGE (252) (210) (218)

A GROUP of squatters is suing Law and Order Minister  
Hernus Kriel for R60 000 in the Johannesburg Regional  
Court over an alleged indiscriminate shooting in Klip-  
town last year.

The 11 plaintiffs, all from the Racecourse squatter  
camp near Klip-town, were injured in February when  
police, in pursuit of a stolen vehicle, opened fire on  
people who they alleged were about to attack them.  
Ten people were injured with buckshot, and one man  
was arrested and held in prison for several days before  
being released without charges.

Dr Joseph Katz told the court he had examined the  
plaintiffs on the day of the shooting, and that all had  
metal pellets embedded in their bodies.

Some had wounds in their buttocks and the back of  
their legs, indicating they had been facing away from the  
policemen at the time, said Katz.

He said that although it was unlikely that these wounds  
would seriously impair the health of the plaintiffs, they  
could lead to constant pain, and treating them would in  
some cases cost more than R500.

In extreme cases pellets could enter an artery and  
cause severe complications, said Katz.

Appearing for the plaintiffs, H Diskin called several  
witnesses, including a seven-year-old girl who had been  
hit in the neck.

All denied that they had been part of a mob, as alleged  
by the police.

Hawker Obed Gwebu, 54, told how he was standing by  
his fruit stall when he was struck by shotgun fire. He said  
no warning had been given.

The case continues today.

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# Judicial system upgraded

Steps were being taken to streamline and improve judicial procedures — currently hampered by lengthy delays which were frustrating to the public and detrimental to the judicial system's image, Deputy Minister of Justice Dame Schutte, said yesterday.

Several measures had been taken to ensure the speedy adjudication of cases, including mobile courts, night courts, special procedures to expedite serious traffic cases, and speeding up of appeal procedures.

Measures aimed at the speedy adjudication of criminal cases in the Supreme Court had also been taken.

The Criminal Law Second Amendment Act provided attorneys-general with the opportunity, through the issue of a certificate, to declare certain violence-related crimes "special crimes".

— Staff Reporter

## Call for swift, effective justice

PRETORIA — Deputy Minister of Justice Mr. Danie Schutte said yesterday the public yearned for the speedy and effective trial and punishment of criminals, particularly murderers and robbers.

Speaking in Johannesburg at a presentation of long-service certificates to justice officials, he said courts should, for the sake of credibility, deal effectively with criminals by due court process and sentencing.

— Sapa

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# Child tells of police shooting

By Cyril Madlala

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SAP  
14/1/73

An eight-year-old Soweto girl yesterday told the Johannesburg Magistrate's Court that she was playing with her doll in the street when she was shot by members of the Soweto Internal Stability Unit in Kliptown.

Gloria Mthethwa said that when the firing started she was afraid to look around in case "these things" (pellets) struck her.

She is one of 11 people who are jointly suing the Minister for R60 000 after they were teargassed and shot on February 1 last year. Ten are claiming R5 000 each. The 11th, Victor Mbungu, is suing for R10 000 for wrongful arrest and imprisonment.

In reply, the SAP said members of the unit were following up information on two stolen vehicles. They had arrested some suspects when a crowd gathered round, freed one suspect and began stoning policemen.

The other plaintiffs are Obed Gwebu, Tshishi Mbatha, Sofia Mbatha, Orjo Letsholo, Yeli Skgoaelane, Johnson Zulu, Evaline Ndlovu and Florenah Nodisenjane.

The hearing continues



# IFF defends choice of advocate

STAR 14/1/73  
By Kaizer Nyatumba  
Political Reporter

The Durban advocate who yesterday released a report criticising the ANC's treatment of people in its prison camps in exile delivered a verdict "much favourable to the ANC" in another commission of inquiry three years ago, the International Freedom Foundation said yesterday.

Bob Douglas, SC, who was commissioned by the conservative IFF to conduct an inquiry into human rights abuses in the ANC's camps in exile, was employed by the ANC-aligned Congress of Traditional Leaders of South Africa in 1990 to investigate the causes of violence in the Natal Midlands.

IFF southern African branch director Russel Crystal — who is a National Party member of the President's Council — said that in that investigation Douglas had found that "for the specific period he was commissioned to study", the Inkatha Freedom Party was to blame for the violence.

Asked why the IFF had chosen Douglas to head its one-man commission, a senior IFF source who asked not to be named mentioned two reasons: Douglas's experience in conducting commissions of inquiry, and the fact that he was known to be "totally impartial and politically neutral".

A member of the Democratic Party, Douglas once stood — and lost — as a parliamentary candidate in Pinetown for the Progressive Federal Party.

According to the IFF source, Douglas, who admitted he was opposed to communism, has been a lawyer for about 30 years.

Although the source said the commission's terms of reference guaranteed Douglas independence and impartiality, the Durban-based advocate would not say how much he had been paid to conduct the inquiry.

He is married with two children.

# Gluckman: Inquest into custody death gets postponement

STAR 15/1193.  
By Cyril Madlala

An inquest into a death in police custody, in which the post-mortem was performed by controversial pathologist Dr Jonathan Gluckman, was postponed in Johannesburg Magistrate's Court yesterday because counsel for the police was ill.

Bongani Bethuel Maphumulo (31) died on December 13 1990 after handing himself over to the SAP's Soweto murder and robbery unit, which was investigating a theft charge against him.

The case was one of those referred to by Gluckman when he went public in July last year with allegations of police complicity in the deaths of prisoners in custody.

At the time, the police said Maphumulo had drowned in a swimming pool while attempting to escape.

However, both Gluckman and State pathologist Dr Michelle Forster indicated in their post-mortem reports that the death was caused by multiple injuries.

In his report, Gluckman stated "The demonstration of fracture of the hyoid bone is highly suggestive of manual strangulation."

Yesterday, counsel for the police J du Toit

asked for a postponement because his senior, Etienne du Toit SC, was sick and unavailable.

The delay was opposed by Dennis Kuy SC for the Maphumulo family, who said that as all the witnesses were available, including Gluckman and Forster, their evidence could be heard. Du Toit could cross-examine them later.

He said it was likely that the doctors will have left the country by the next court date as Forster was emigrating to New Zealand and Gluckman might be holidaying in France.

Magistrate C G de Lange said he was not prepared to continue without Du Toit and postponed the hearing to February 15

He apologised to Professor Derrick Pounder, who had travelled from the UK as an observer for the international secretariat of Amnesty International. Pounder is head of the Department of Forensic Medicine at Dundee Royal Infirmary in Scotland and chairman of the United Kingdom branch of Physicians for Human Rights.

He was in the country to meet with lawyers and medical experts to discuss Amnesty International's concerns regarding Maphumulo's case.

Jo-Anne Collinge perceives 'a lurid anti-communist gloss' to findings

# Gaps in third report on ANC camps

STML 151192

THE DOUGLAS Commission report on abuses in ANC camps is an uneven mixture of detailed first-person evidence of torture and killing, on the one hand, and political analysis which relies on much less stringent hearsay information, on the other.

On the question of establishing abuse, the study — sponsored by the International Freedom Foundation — corroborates and substantially expands the evidence set out in the ANC's own preliminary inquiry undertaken last year and in a more recent Amnesty International report.

To some extent the corroboration reinforces the veracity of all three reports, although it must be borne in mind that the coincidence of evidence is owed partly to the fact that some witnesses testified for all three inquiries.

Douglas's efforts to establish the thesis that the camps were the brainchild of the South African Communist Party and were but an instance of "the SACP taking con-

trol of the ANC in exile and using it for its own purposes" rest on far more shaky foundations. The only direct evidence of the SACP's role is the reference by witnesses to the actions of leading ANC communists at the camps and in the ANC security structures.

Commissioner Robert Douglas depends to a large extent on the views of Stephen Ellis, co-author of *Comrades against Apartheid*, because he is "satisfied that his (Ellis's) information on the role of the SACP in exile is about as accurate as one is likely to get."

The report, however, suggests that Douglas's political acumen does not equal his diligent legal application in gathering evidence of torture. For instance, he makes such obvious errors as referring to the student protest march of June 16 1976 as the culmination of the Soweto uprising rather than its starting point.

In chapter two of the report, Douglas concludes "without,

first-hand back-up evidence — that the ANC's security arm, the notorious Mbokodo, was set up by the SACP "under the tutelage of the KGB."

In chapter 8, he states "the idea, so I heard, to create Quatro (an ANC camp in Angola) came from none other than (Khmer Rouge leader) Pol Pot who, so it is claimed, murdered some three million of his fellow Cambodians."

In contrast to the strong evidence of torture, there is not a single witness's statement presented to back this assertion.

Statements such as these lend to the report a lurid anti-communist gloss, at odds with its legalistic methodology.

The Douglas Commission differs from both the ANC and the Amnesty reports in that it names those it concludes are responsible for abuses in the camps. Only in the case of 11 leading ANC and SACP figures does the report marshal the case against them. The other 50-odd people are

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simply listed. While the majority are mentioned in the published statements of witnesses, only a few are referred to by several witnesses. Douglas was unable to explain what level of corroboration of evidence was required in order for an alleged torturer's name to appear on the list.

Douglas said the IFF had allowed him to pursue his brief with professional independence. He admitted he was an anti-communist but said this had not interfered with his job as sole commissioner.

The IFF's southern African director, Russel Crystal, this week described his organisation, which has its headquarters in Washington, as "libertarian." At its launch in the region in 1986, the IFF professed support for rebel groups such as Renamo and Unita, and during the state of emergency actively opposed the United Democratic Front campaign for the ANC's unbanning. □

# Given weapons by ANC - witness

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By Michael Sparks

A witness told the Goldstone Commission yesterday that an executive member of the ANC had provided weapons for an attack on police in Piet Retief, while at the same time being involved in negotiations at Codesa 2.

Brandan Samson was giving evidence to the committee investigating attacks on police. He said NEC member Joe

Nhlanhla had told him to go to Piet Retief in the eastern Transvaal to find out the movements of policemen and later to return and attack them.

Samson told the committee he was given two handguns and an AK-47 in Nhlanhla's office at ANC headquarters in Shell House in Johannesburg in June 1992.

Samson was later convicted of illegal possession of arms and ammuni-

tion, but acquitted of threatening a policeman. He is due for release today after serving six months of his sentence.

When questioned by ANC counsel Azhar Cachalia, Samson said while he did not carry a membership card for the organisation, he regarded himself as a member.

● In a separate hearing into activities of the "third force", George Milaras, who had employed

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Mozambican Joao Cuna, said he had suggested to Cuna that he talk to the Vrye Weekblad, hoping it might give him personal security.

Cuna later claimed that a report that he had been paid to kill ANC activists was not what he told the paper.

The hearing was adjourned until Monday.

● Police said to add to violence - Page 6

# Top ANC man tied to attacks on police

Sapa and Weekly Mail Reporter

(252)

AFRICAN National Congress security chief Joe Nhlambhla personally armed three Umkhonto weSizwe fighters at the ANC headquarters in Johannesburg before they embarked on an investigation of policemen, the Goldstone Commission heard yesterday. W/Mail 15/11-21/11/95

Nhlambhla also told the cadres to report to him after their reconnaissance operation, so that plans for the execution of the policemen could be made, according to a self-proclaimed MK member currently serving a sentence for illegal arms possession.

Brendan Sampson told a Goldstone committee sitting in Pretoria and inquiring into attacks on policemen that Nhlambhla had instructed them to gather information on three policemen allegedly harassing ANC members in Piet Retief.

The witness said Nhlambhla organised for him and two colleagues to collect .38 and .45 pistols as well as an AK47 rifle and ammunition from Shell House, the ANC's Johannesburg headquarters.

He alleged Nhlambhla instructed him in June last year to kill any policemen who hindered their reconnaissance mission.

Thereafter, he claimed, he was to report back to Nhlambhla at Shell House, where further plans would be made to "execute" these policemen.

Sampson, who was arrested soon after he arrived in Piet Retief, is serving a prison sentence for possession of arms and ammunition. He was convicted in July.

Sampson said he was trained at an Angol in camp after he had met Nhlambhla in Lusaka, Zambia in 1986.

Under cross-examination, he admitted to ANC legal counsel Azar Cachalia that he was not a card-carrying, paid-up member of the organisation.

He explained that he had joined the ANC in 1986, when it was still banned. He did not require a card — a system introduced after the ANC's unbanning in 1990 — to prove his membership. It was in his heart, he added.

# Gluckman claims face test in court

w/mall 15/1-21/193 (252)

**Y**ET another delay in the inquest into the death in police custody of a robbery suspect, Bethuel Maphumulo, has left the questions about the cause of his death unanswered.

Maphumulo's death was one of those mentioned by independent pathologist Jonathan Gluckman when he revealed, in July last year, that "90 percent" of more than 200 post mortems he had performed on people who had died in police custody indicated the subjects had been killed by the police.

The inquest is the first judicial hearing for which Gluckman has prepared a report since his revelations. The inquest is viewed as a test of the validity of Gluckman's allegations, which were largely dismissed by Law and Order Minister Hernus Kriel.

In December, Kriel released the results of a police investigation into Gluckman's allegations. In a statement he accused Gluckman of making false allegations, saying of 118 cases taken from Gluckman's records, only 34 had died in police custody.

The inquest has generated tremendous international interest. Yesterday's hearing was attended Professor Derrick Pounder, the head of the department of forensic medicine at Dundee University, who was acting as an observer for the respected human rights organisation Amnesty International.

Maphumulo was arrested on December 11 1990 in connection with a robbery.

*Dr Jonathan Gluckman's  
claims that police have killed  
numerous suspects in custody  
will get a hearing at an  
inquest which has drawn  
international media attention.*

**PAUL STOBER** reports

Two days later he died in custody.

Maphumulo's attorney, Lawley Shein, said he was told by a Colonel Oosthuizen that Maphumulo had tried to escape but had been caught near the swimming pool, at Protea police station. Oosthuizen said Maphumulo had resisted arrest and in the resulting struggle had fallen into the pool and drowned.

However, post-mortems on the body revealed abrasions and bruises on Maphumulo's face, legs, and neck. Both the state pathologist and Gluckman recorded multiple injuries as the likely cause of death.

A relative of Maphumulo laid charges against the police, alleging that she and Maphumulo were beaten and given electric shocks when they were interrogated together about the robbery. The attorney-general ordered an inquest into the death when the post-mortem reports called into question the police version of Maphumulo's death.

The inquest, which was postponed because senior counsel for the SAP fell sick, will reconvene on February 15.

**T**HE *Weekly Mail's* new columnist, Dennis Davis, levels two charges at South Africa's advocates (*WM* December 11-17 1992): they are little involved in preparing the public for a new constitution, and are "simply" intent on preserving their own position

He himself does not put it that shortly The indictment staggers under the weight of cliché and invective. While judges "within the confines of their office" have been willing to "participate in discussions" concerning the "range of implications" for the legal profession of a Bill of Rights, the same cannot be said of the Side Bar (the attorneys) and "particularly" of the Bar.

The Bar journal *Consultus* is edited by "a former secretary of justice during the Vorster premiership" and is only noteworthy for its "intellectual inanity" and "breathtaking ignorance" in suggesting that practising advocates alone should be judges in general and constitutional judges in particular. The Bar's concern with constitutional education is "simply the preservation of privilege".

The first charge is that advocates do not participate in "discussions". To what does Davis refer? He does not tell us. Surely not the (closed) annual gatherings to which selected judges, academic lawyers and practitioners have been invited, nor the annual national gatherings on labour law. Those few members of the Bar who have been fortunate enough to receive invitations to the former have participated readily

If "discussions" is newspeak for symposiums organised by universities or by Lawyers for Human Rights (currently in fact led by an advocate and with many advocate members) then the complaint is equally ill-considered. If the complaint is not (as Davis has framed it) that advocates do not "participate" in such discussions, but that they do not organise them, then the criticism is still incorrect.

Fairly recently, the General Council of the Bar (GCB) organised a national conference for all advocates dealing with the anticipated new constitutional order and the role of advocates within it. It was addressed by prominent foreign constitutional lawyers, the Chief Justice, and the legal spokesmen for the African National Congress and the Pan Africanist Congress

The second charge levelled against the Bar is its self-interest. Advocates, it seems, want to be judges, and are determined to retain this park-like preserve of seigneurial privilege for themselves

The evidence offered for this charge is a little confused. It rests heavily upon a single editorial in *Consultus*. Read with the slightest care, the editorial does not imply that only advocates should become judges. The editorial was dealing with the proposed constitutional chamber of the Appellate Division. And as Davis is himself

# Advocates not just propping up the Bar

What is the role of advocates in devising and implementing a Bill of Rights? JJ GAUNTLETT, SC, takes issue with a *Weekly Mail* columnist

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obliged to admit in his article, that editorial does not even purport to reflect the views of South Africa's many constituent bars and their members!

There can be little doubt that many advocates in fact share the view of our present Chief Justice who, when addressing the national Bar conference, noted that where candidacies (marked by particular experience in practice or outstanding scholarship) exist outside the ranks of the Bar for judicial office, they must receive consideration

To rebut the charges dashed off by Davis is not to say the Bar is beyond criticism. But what the Bar has done, and does do, in this particular field deserves at least some mention.

●The GCB's Parliamentary Committee scrutinises all draft legislation before parliament and criticises it in detailed written submissions where these are thought to be warranted.

●In particular it has submitted full recommendations relating to the introduction of a Bill of Rights, and a subsequent comment on the Olivier Report.

●It has submitted memoranda on electoral systems and critiques on the recent indemnity legislation

●When Codesa was still in session, the GCB generally offered its services as a further resource in the constitution-making process.

●Various articles relating to aspects of the anticipated new constitutional dispensation have been published in *Consultus*.

●The GCB has also set up a Human Rights Committee.

●The GCB moreover participates with the Association of Law Societies and the Society of University Teachers of Law in a national legal education liaison committee.

●Doubtless more could be done. Members of the Bar are, however, single-practitioners.

Their lives are necessarily spent not in lecture theatres or libraries but in courts and their corridors trying to vindicate their clients' rights. They do not have the backing of firms or faculties.

They are by nature doers rather than thinkers. It would be naive to expect a concerted enthusiasm or indeed interest in rarefied planes of constitution-making from individual members of such a professional breed. As a teacher of law in three South African universities it is not my own recollection that even in law faculty tearooms (as Sergeant O'Sullivan ventured of the doctrine of *volenti non fit injuria* among the Irish) they speak of little else.

One last point which needs to be made relates to the characterisation of the editor of *Consultus*. It is true that JPI Coetzer SC made his career in the Department of Justice and ultimately became its head before he joined the Bar. It is not clear what point Davis wishes to make of this other than that Coetzer lacks political correctness.

It is surely not that "within the confines of his office" Coetzer held a high position under an administration characterised by a strenuous application of repressive legislation. The same point would then need to be made of the Chief Justice, and most South African judges. One way or another all those of us who have lived long years inside the whale — sworn constitutional fealty or accepted letters patent or professorships — must be found to suffer some taint.

If, however, Davis intends to impute an earlier lack of enthusiasm on Coetzer's part for a Bill of Rights, then the point is equally unhelpful. If Coetzer was formerly no fan of a Bill of Rights (and I do not know whether or not that is even so), then Davis should disclose to your readers that until recently he was himself a doughty opponent.

When Malcolm Muggeridge discovered religion late in life there was a debate as to whether he had truly seen light on the Damascus road, or simply fallen off his horse. The inquiry is really not very useful.

It is an unfortunate irony that the call for a "debate" should at its outset be marked by a tribal resort among us lawyers to the cultural weapons of pen and podium. Onlookers with even some acquaintance with the realities of legal practice must wonder at the seeming vocational restlessness of some lawyers and in particular, the jockeying for judicial jobs. They must struggle to relate this to the current unglamorous burdens of judicial office — from motion court to marathon murder trials rendered no easier by the spasmodic resort to activity by the current minister of justice and his colleague, the minister of prisons

The public at large may be initially entertained by the spectacle of these internecine attacks, but hardly educated, and at least in the way Davis intends

# Co-operation the key for Goldstone

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**G**ROENINK. Although your commission's work is highly praised in and outside South Africa, there has also been criticism. You pinpoint problems, but you have no powers to solve them, to enforce your recommendations, to arrest people.

**GOLDSTONE:** I wouldn't like to have those powers. If we had them, I think nobody would talk to us. We need to be accepted by all parties, so our recommendations won't be ignored. In fact, none of the major parties — I am not talking about the extremes — can afford to ignore them.

**Q** Which of your recommendations have been most successfully carried out?  
**A:** We had the police, the African National Congress alliance and the Inkatha Freedom Party — with one reservation, on traditional weapons — agree to rules for mass marches. Since that agreement there has been a lot less difficulty, less killing, during marches.

**Q** But you couldn't keep Brigadier Gqozo from shooting at the marchers in Bisho...  
**A:** That was quite different. Our recommendations did not apply to a situation where one party perceived a march as an invasion of his capital. The homeland issue is a question that politicians must resolve, though we have said that people must have the right to march wherever they want. Marching is the only non-violent political activity that blacks can engage in in this country. They don't have the vote, so what else can they do? We criticised the Ciskei authorities. But the specific recommendation on mass marches simply did not apply. Of course, we also made recommendations that were not carried out, like the ones on dangerous weapons and the fencing of hostels. But a sub-commission is looking into that now, and the Human Sciences Research Council will shortly issue a report on how host inmates perceive their situation.

**Q** To outsiders, it seems strange that

*Judge Richard Goldstone avoids giving interviews to the South African press. But he spoke frankly to a Dutch journalist.*

**EVELYN GROENINK.**

*The following is an abridged version of the interview, published in the Dutch weekly magazine Vrij Nederland this week.*

you investigate one institution — for instance the police — and then use that to investigate another. Right now, you want the South African Police to help investigate the kwazulu Police.

**A:** Yes. To think that we used SAP men to carry out the raid on Military Intelligence! In how many countries in the world could that happen? It is a great reason for optimism, because it shows that the whole peace accord structure can exist, can work.

**Q:** You mean you're not up against a monolithic bloc?  
**A:** Yes. Take Israel, you couldn't find a single Jewish judge, or Arab lawyer, who would be acceptable to the other side. Or Yugoslavia, or Northern Ireland. You won't find people who are acceptable to all sides. We have that very positive reason for optimism. In South Africa, all the major issues are capable of resolution. That is the fascination of South Africa for many foreign observers: that there is a prospect of success.

**Q:** You could interpret the fact that everybody is fighting everybody else as positive, of course.  
**A:** Goldstone: Absolutely, yes.

**Q:** But you could also be negative, and say that the SAP or the South African Defence Force could use your commission to get back at each other. Wasn't it the SADF that leaked dam-



**Judge Richard Goldstone... Has the power to pinpoint problems but not to enforce his recommendations**

aging information about the SAP? Couldn't it have been the SAP that leaked the existence of the MI's Directorate of Covert Collection (DCC)? It is hard to believe the Mozambican Joao Cunha led you to that...  
**A:** No. I have never had the feeling of being used in this way. The DCC revelation did come out of our own investigation. Absolutely.

**Q:** You did not, however, seize all the documents that you found in the DCC's office.  
**A:** You can't legally do that. To seize, you need evidence that there is something you are following up in those documents. We had evidence that, in

those specific files, a particular person was involved. That's why we asked for co-operation of the authorities in our further investigations. We didn't ask for extended legal powers — that has been misunderstood. What we wanted was for their people, and ours, to assess the institutions, their activities, their arms positions, together investigating through the front door, so to speak, instead of the back door. Then you don't have to raid... The SADF has, as you know, agreed to that, and so has Umkhonto weSizwe. And I hope to do the same with the kwazulu Police.

investigation into the SADF that you are conducting with General Pierre Strydom, you are looking into drawers everywhere?  
**A:** Yes. Together. Their people and ours.  
**Q:** Recently, random attacks have been directed at whites. Appalled as everybody is, it is also recognised that blacks have had to suffer this type of attack for a long time. I have heard people say that maybe now something will be done about the violence, as the victims are now whites.  
**A:** I don't believe the violence can be stopped until we have a legitimate, credible, acceptable police force. When the police go and investigate an attack on whites, all the people in the white community will co-operate with the police. But if an attack takes place in a black area, with black victims, there will be no co-operation. There will be at best suspicion, at worst fear. The reason why the police are more successful in solving white crime is not only because they are more eager to solve it — white police may not be as keen to investigate cases where the victims are black, but it is not only a racial thing. It would be an oversimplification to say that police only investigate cases where whites are victims.  
**Q:** People also believe that no real measures have been taken against the violence, because the government has not been interested in solving the problem.  
**A:** No. I don't accept the theory that the government is behind the violence. The violence is not in the interest of the government. If the negotiations process fails, then this government has failed.  
**Q:** In any democratic country, after so many scandals, the government would have resigned 10 times.  
**A:** Yes, but then you would have another government to take over.  
**Q:** You mean South Africa needs an interim government?  
**A:** Yes. I hope there will be one shortly.



# Gluckman claims face test in court

w/ mail 15/1-21/193

253

**Y**ET another delay in the inquest into the death in police custody of a robbery suspect, Bethuel Maphumulo, has left the questions about the cause of his death unanswered

Maphumulo's death was one of those mentioned by independent pathologist Jonathan Gluckman when he revealed, in July last year, that "90 percent" of more than 200 post mortems he had performed on people who had died in police custody indicated the subjects had been killed by the police.

The inquest is the first judicial hearing for which Gluckman has prepared a report since his revelations. The inquest is viewed as a test of the validity of Gluckman's allegations, which were largely dismissed by Law and Order Minister Hemus Kriel.

In December, Kriel released the results of a police investigation into Gluckman's allegations. In a statement he accused Gluckman of making false allegations, saying of 118 cases taken from Gluckman's records, only 34 had died in police custody.

The inquest has generated tremendous international interest. Yesterday's hearing was attended Professor Derrick Pounder, the head of the department of forensic medicine at Dundee University, who was acting as an observer for the respected human rights organisation Amnesty International.

Maphumulo was arrested on December 11 1990 in connection with a robbery.

*Dr Jonathan Gluckman's claims that police have killed numerous suspects in custody will get a hearing at an inquest which has drawn international media attention.*

**PAUL STOBER** reports

Two days later he died in custody. Maphumulo's attorney, Lawley Shein, said he was told by a Colonel Oosthuizen that Maphumulo had tried to escape but had been caught near the swimming pool, at Protea police station. Oosthuizen said Maphumulo had resisted arrest and in the resulting struggle had fallen into the pool and drowned.

However, post-mortems on the body revealed abrasions and bruises on Maphumulo's face, legs, and neck. Both the state pathologist and Gluckman recorded multiple injuries as the likely cause of death.

A relative of Maphumulo laid charges against the police, alleging that she and Maphumulo were beaten and given electric shocks when they were interrogated together about the robbery.

The attorney-general ordered an inquest into the death when the post-mortem reports called into question the police version of Maphumulo's death.

The inquest, which was postponed because senior counsel for the SAP fell sick, will reconvene on February 15.

# Spies pack their bags

S Times 17 11 93

By DE WET POTGIETER

TO LET 2 000 square metres of prime office space at Momentum Mews in the up-market Pretoria suburb of Lynnwood Ridge

The spacious premises on the fourth and fifth floors of the up-market office block are being vacated by the Directorate of Covert Collection, the top secret Military Intelligence section exposed by

the Goldstone commission's raid on November 11

The raid uncovered the nerve centre of the SA Defence Force's undercover operations and led to last month's purge of top-ranking officers by President FW de Klerk.

One of them DCC chief Brigadier Tolletjie Botha,

who signed the lease for the Momentum Mews offices on behalf of the MI front company, Arac

DCC staff are reported to be packing, but no one will say whether they are simply moving to a new location or whether the operation is to be disbanded. The two upper floors will be vacated by the end of February (251) (252)

Cross 17/1/93  
**'Attacking SAP is the PAC's policy'**

ATTACKING and murdering members of the SAP was PAC policy, a Goldstone committee heard in Pretoria this week (252)

Lt-Col Geles Nel told the committee, inquiring into attacks on policemen, the PAC had decided to give military training to more people in the country so they could attack the SAP (252)

He had learned this from informers, some of whom were "profile figures" within the PAC

Nel also presented as evidence a written statement by a convicted Apla member saying there was an informal military training base at Sterkspruit in the Transkei.

In testimony on another issue, self-proclaimed ANC and MK member Brandon Samson testified that he had been given firearms and ammunition by ANC NEC member Joe Nhlanhla

Samson said Nhlanhla had given him 38 and .45 pistols as well as an AK-47 rifle at the ANC's national headquarters at Shell House, Johannesburg, in June

He had been ordered to go to the conservative south-eastern Transvaal town of Piet Retief to monitor the movements of certain policemen who were apparently harassing local ANC members there.

Thereafter, he was to report back to Mr Nhlanhla to discuss the execution of these policemen, as well as of others who might be identified during the reconnaissance

Samson was arrested soon after his arrival in Piet Retief

Samson told the Goldstone committee that he was discarded by the ANC like a "used condom" before his trial at which he was sentenced to nine months' imprisonment

# Decision on Buthelezi soon

City Press  
17/11/93  
252

By **MONWABISI  
NOMADOLO**

THE whereabouts of Chief Mangosuthu Buthelezi's docket — whose fate is much awaited by the public — caused confusion this week at the Attorney-General's office

A decision is being awaited on whether or not to charge the Inkatha leader for defiantly leading a heavily armed protest march in Johannesburg despite a ban on the carrying of traditional weapons

When City Press phoned the office on Tuesday to inquire about any decision on the docket, A-G Klaus von Lieres and Wilkau said the docket had been handed to his office and we

## Officials duck and dive over arms docket

should "check with the senior prosecutor" (of Johannesburg)

Then on Wednesday morning a staff member from the same office, Kevin Attwell, phoned this newspaper to confirm that the docket had indeed been handed to the office by police

Attwell said Von Lieres could not have known about the docket as the

"computers were down" and it was handed in "just before Christmas when the A-G was on leave"

He said a final decision whether to prosecute Buthelezi had not been taken, adding this was "not very far" Attwell said this was to be an important decision "A lot is involved in this docket. It is not just an ordinary docket"

Police spokesman Capt

Eugene Opperman could not explain why the docket reached the A-G's office before Christmas when the incident took place in October "I can't explain the time delay," Opperman said, adding the docket had to go via the district and regional commissioners' offices

In October Buthelezi defiantly led two marches in Johannesburg and Durban, protesting against the ban on the carrying of dangerous weapons in public and the fencing off of Reef hostels

SAP regional commissioner Gen Gerrit Erasmus had turned down a request by march organisers to carry weapons in public. Buthelezi defied the ban and led the marches

1993 MAR 09

WASHPOST.COM



From the Democratic donkey is welcomed to Washington by hotel doorman Sandy Halley at the weekend for this week's inaugural festivities. Irene, who is really a mule, is slated to be hoofing it in the inaugural parade on Wednesday. Picture AP

## Webster murder inquest to resume today

THE inquest into the murder of Wis academic and human rights activist Dr David Webster resumes at the Raund Supreme Court today. Counsel representing the Webster family, the SADF, the police and former CCB members will make their final submissions to Judge M Stegmann. Webster was gunned down outside his Troysville home on May 1 1989. There has been widespread suspicion that Webster was assassinated by members of the CCB **18/1/93**

SUSAN RUSSELL

However, former CCB chairman Gen Eddie Webb, MD Joe Verster and other former members of the covert SADF unit who were subpoenaed to testify at the inquest denied any knowledge or involvement in a plot to kill Webster. A number of witnesses also implicated former CCB member Ferdi Barnard in the murder. During his testimony to the inquest Barnard repeatedly said he had no idea who was responsible for the murder.

## No respite from violence in Natal

18/1/93. RAY HARTLEY

THERE were no signs that violence was declining in Natal despite an apparent drop in Reef killings, independent unrest monitor Mary de Haas said yesterday. Politically motivated hit squad killings continued to plague Natal, although mass killings by masked gunmen, which had characterised the violence last year, seemed to be on the decrease, she said.

December had been "relatively quiet", but violence had picked up in January. Eskaweni remained tense and there were claims that attackers were people released on bail following violence-related charges, she said. The Goldstone commission's special investigative unit in Natal was "doing good work", but was prevented from investigating specific incidences by its brief, she said. The unit was empowered to seek out only general causes of violence.

Local communities had expressed confidence in the Goldstone commission unit and had shown more willingness to testify to it than to KwaZulu police, she said. Sapa reports that the body of a man who had been stabbed and then "necklaced" was found at Orlando West in Soweto on Saturday night.

Soweto police liaison officer May Herman Oosthuysen said the body was found in the veld next to a bottleshop. There were indications he had been stabbed at a nearby house and dragged into the veld.

Oosthuysen said the man's death could be linked to an incident at the house early on Saturday when a mother and two daughters were hacked to death by a pangawielding man in an alleged revenge attack. Two of the women died on the scene and the third died later in hospital.

Three people were killed in three other incidents on Saturday night.

A man was found shot dead in Kew, near Alexandra, a woman was shot dead in her kitchen in the violence-wrecked Beirut area of the township and a man was found stabbed to death in an alley in the township.



# Charge

## Barnard,

### inquest is urged

By Susan Smuts

STAR 19/11/93

The establishment of the Civil Co-operation Bureau's (CCB) region six was "criminal and amounted to a conspiracy to commit murder and other mayhem on the citizens of South Africa", the Dr David Webster inquest heard yesterday.

In his closing argument, Eberhardt Bertelsmann, SC, appearing for the David Webster Trust, said a strong prima facie case existed against dismissed CCB agent Ferdi Barnard. He called for several SADF officers and CCB agents to be charged for lesser crimes.

The inquest into the May 1 1989 assassination of the anti-apartheid activist and Wits anthropologist resumed yesterday after a six-week adjournment.

Evidence in the inquest has been concluded and Mr Justice Michael Stegmann is hearing argument from five legal teams.

Barnard was identified by Cornelius du Plessis, who helped draw up two identikit after witnessing the murder. The inquest heard Barnard had confessed to his former handler Lafras Luitjugh that he had fired the fatal shot.

He allegedly told his former employer, Willie Smut, and Smut's mother, Johanna Smut, how Webster's body "flew through the air" after he was shot. Willie Smut retracted his evidence as "lies", while his mother stood by her evidence.

● To Page 3

# Charge Barnard, other agents, inquest urged

● From Page 1

Luitjugh had denied to the Harms Commission into alleged police death squads that Barnard had made the confession.

Bertelsmann argued Luitjugh's motive during the commission had been to protect the State and the CCB, and said his evidence to the inquest should be accepted.

State advocate Janne van Vuuren and Peet Coetsee, SC, appearing for the Minister of Defence and the SADF, argued that there was no case against Barnard.

Van Vuuren argued that the witnesses who implicated Barnard were unreliable. He said Du Plessis's evidence was fraught with contradictions and Johanna Smut's evidence had to be weighed against her son's retraction.

Coetsee said the evidence to the inquest had proved that neither the military in general nor the CCB in particular had been involved in the murder.

During his employment with the CCB, Barnard was used only to

gather information, Coetsee said. Barnard had been fired some months before Webster's murder and there was no evidence that he had been incited by the military or the CCB to murder Webster.

Coetsee said the evidence led during the inquest could not support a finding that the SADF had brought about Webster's death.

Bertelsmann conceded there was no evidence to show Webster's murder had been an official CCB project.

However, the CCB had approved plans to "eliminate" advocate Dullah Omar and journalist Gavin Evans, both of whom had similar political profiles to that of Webster, he said.

The CCB's aims included "maximum disruption" of the enemy (defined as the ANC, PAC, SACP, Swapo and others). Its activities ranged from breaking a window to taking a life. Region six was responsible for activities within South Africa and other cells handled other coun-

tries, he said. The organisation had free access to weapons, including those of foreign origin.

It selected its own targets which could be "eliminated" on the authority of CCB chairman General Eddie Webb.

Other eliminations had to be authorised by the then chief of the SADF, General Janne Geldenhuys, or, if they were ANC members, by the then chief of the army, General Kat Liebenberg. Former Military Intelligence chief General Wilkop Badenhorst had to approve foreign operations.

Bertelsmann argued that CCB agents were incited to commit crimes on behalf of the organisation by military authorities. Agents were promised a salary, perks and immunity from prosecution.

Bertelsmann called for Webb, CCB managing director Colonel Joe Verster, region six manager Staal Burger and others to be prosecuted for incitement. He said others should

be charged with being accessories after the fact for hiding information about Barnard's confession. They included Luitjugh, Webb, Verster (who told the inquest he had wanted to shield the CCB and its members) and Badenhorst.

"The excessive secrecy which has surrounded the South African military in the past has proved a fertile breeding ground for the excesses which the court has been confronted with during the inquest," Bertelsmann said.

Van Vuuren said the police investigation had been prejudiced by the Harms Commission because witnesses with information about the murder had been subpoenaed and immediately denied any knowledge. The investigation team had done the best it could under the circumstances, he argued.

Jurie Wessels, appearing for Verster, and Piet du Plessis, appearing for Barnard, are expected to conclude their arguments today. The hearing continues

162 3044

# Criticism of commission withdrawn

STAR 19.11.93 252

Democratic Party (DP) justice spokesman Tony Leon yesterday withdrew his earlier criticism of the Douglas Commission, saying it had now come to his attention that advocate Bob Douglas had invited the ANC's national executive committee to respond to allegations against the organisation.

Leon, who last week said it was "procedurally unfair" for the Douglas Commission to have published serious allegations against named ANC leaders without allowing them the opportunity to refute the evidence presented against them, said it was now clear the ANC had been given this opportunity.

However, Leon expressed concern at the report's anti-communist rhetoric.

"The DP is also of the view that while the Douglas Commission was correctly concerned with grave human rights abuses, the report was hardly the occasion and place for vitriolic anti-communist rhetoric, regardless of its validity or otherwise," he said.

# Ferdi 'was the killer'

**T**HERE WAS MORE THAN enough evidence to justify a finding that former CCB agent Ferdi Barnard killed Dr David Webster, senior counsel argued in the Rand Supreme Court yesterday

Mr Eberhardt Bertelsmann, SC, for the Webster Trust, argued during the inquest into the activist's death that there was sufficient evidence to establish a prima facie case against Barnard.

He also argued that several senior CCB officers were accessories after the fact.

The inquest into the May 1 1989 slaying of the anti-apartheid activist resumed yesterday following a six-week adjournment.

Bertelsmann submitted in his closing argument that Barnard should be found guilty of firing the shot that killed Webster outside his Troyeville, Johannesburg, home because

- He had been identified in court as the

*Edwelan 19/1/93*  
**PRIMA FACIE** Lawyer says evidence suggests

Barnard killed anti-apartheid activist: *(252)*

murderer by a witness. The identification had been spontaneous and immediate,

- Barnard's handler, Lafras Luitingh, had testified that Barnard admitted to him that he had killed Webster in order to impress senior CCB officials,

- Evidence by former Military Intelligence Chief General Witkop Badenhorst that he had been informed of a rumour that Barnard was involved corroborated Luitingh's evidence,

- Evidence had also been given by witnesses that Barnard had access to a sawn-off double-barrelled shotgun.

"It is our submission that a strong prima facie

case has been established against Ferdi Barnard," Bertelsmann said.

He said evidence had also provided prima facie proof that several senior officers and the CCB attempted in various ways to shield the murderer because disclosure of his identity would have harmed the South African Defence Force and the CCB

He named Luitingh and General Badenhorst, who had deliberately attempted to mislead both the commission and the inquest and CCB managing director Colonel Joe Verster and CCB chairman General Eddie Webb

The hearing continues. - Sapa



# Five youths in court over doctor's death

252

*Soweto*  
FIVE Soweto youths charged with the murder of a Baragwanath Hospital doctor will stand trial in the Rand Supreme Court on April 26

Dr Stephan Walter (29) was shot dead in Diepkloof, Soweto, in September last year while driving on the M1 North highway close to

## ■ Dr Walter was shot in the head in his car in Diepkloof:

*19/1/93*  
Baragwanath The youths, all aged 16, also face a charge of attempted robbery with aggravating circumstances, two charges of unlawful possession of firearms and one charge of unlawful possession of ammunition

They had previously pleaded not guilty The State alleges that two youths approached Walter when he stopped at the traffic light, while the others waited nearby They shot him in the head after trying to open the door of his car

# Policeman tells of attacks on members

A POLICEMAN told a Goldstone committee in Pretoria yesterday that "high-profile figures" in the ANC had encouraged defence units to attack policemen in the Vaal Triangle last year.

Giving evidence to the inquiry into attacks on police, Captain Petrus Cilliers of Vereeniging said it was "clear that members of the ANC are involved in attacks on SAP members".

He said this was despite declarations by ANC leaders that it was not ANC policy to attack and murder policemen.

Cilliers said 16 policemen were killed and 31

*Sowetan 19/1/93*  
■ Cop claims top ANC leaders were out to discredit SAP:  
injured in 87 attacks between January and December last year

Police arrested 276 and charged 102 in connection with these attacks.

Cilliers said the ANC also tried to make policemen unpopular in the community by falsely accusing them of being involved in attacks on black communities

He said police uniforms and weapons were sometimes used during attacks to generate an

*(252)*  
atmosphere of hatred and mistrust against the police.

The PAC and its military wing Apla were also responsible for attacks, Cilliers said

He said there were 255 members in 21 self-defence units in Sharpeville, Sebokeng and Boipatong. Seven of the members were also cadres in the ANC's armed wing, Umkhonto we Sizwe. The hearing continues - *Sowetan Correspondent*

# Court orders arrest, family's lawyer quits

By Cyril Madlala

asked to leave

252 ~~Star~~ 20/1/93.  
An inquest into the death of a Soweto ANC activist was adjourned in the Johannesburg Magistrate's Court yesterday when the family's lawyer withdrew from the case after the magistrate ordered the arrest of a witness for perjury.

The inquiry is into the death of Vuyani Mabaxa, an executive member of the Diepkloof branch of the ANC Youth League and national organiser of the National Education, Health and Allied Workers' Union.

He was shot dead by police in Diepkloof in October 1991.

When the hearing began, Richard Spoor, for the family, objected to the presence of police witnesses in the courtroom while those for the family waited outside. The policemen were

James Gwebu told the court that he did not know Mabaxa, but had seen how he died. He said he saw three white policemen chasing Mabaxa on foot. Then a minibus appeared and stopped. A white policeman got out and shot Mabaxa.

When J Roos, leading evidence, pointed out to the witness that this differed from his statement to the police, Gwebu said the minibus had appeared later.

After questioning Gwebu, the magistrate, C J de Lange, ordered that he be arrested for perjury, which prompted Spoor to inform the court that he was withdrawing as he did not feel he could represent the family properly.

The hearing was adjourned to March 15.

# Barnard liable, inquest told

By Susan Smuts

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Counsel for Civil Co-operation Bureau managing director Colonel Joe Verster said yesterday that fired CCB agent Ferdi Barnard should be found liable for the murder of Dr David Webster

In his closing argument to the inquest in the Rand Supreme Court, Jurie Wessels urged Mr Justice Michael Stegmann to accept evidence that Barnard had confessed to his former handler, Lafras Luttingh, that he had murdered Webster on May 1 1989.

Luttingh's evidence was supported by Verster and CCB information officer Derrick Louw (an alias), both of whom told the court Luttingh had told them of the confession before the start of the 1990 Harms Commission on alleged death squads

Wessels asked the judge to reject the evidence of former Military Intelligence chief General Witkop Badenhorst and the SAP's General Krappies Engelbrecht who conducted an inter-

STAR 20/1/93  
nal inquiry after Webster's death

The two generals denied they had been informed of the confession. Badenhorst said he had investigated a rumour that Barnard had been involved but had found it had no substance

Wessels accused the generals of lying. He said Badenhorst and Engelbrecht had tried to cover up the investigation and had deliberately ignored evidence of Barnard's confession

He could not think why the generals had tried to cover up. They had contradicted each other's evidence and Wessels asked the judge to accept Luttingh's evidence that Badenhorst had threatened him when he had told the general about the confession

In stark contrast, Barnard's lawyer, Piet du Plessis, asked the judge to reject as unreliable evidence implicating his client

Du Plessis argued that the witnesses who had implicated his client in the murder had lied and conspired to make Barnard a scapegoat.

Du Plessis urged the judge to accept evidence by Badenhorst and Engelbrecht

He said the fact that the generals had not been informed of the alleged confession indicated that no confession had been made.

Du Plessis said the story about the confession had emerged only after his client had mentioned the CCB by name to the police while in detention in November 1989.

After Barnard's expose of the organisation, either Verster or CCB chairman General Eddie Webb had started the rumour

The rumour had hardened into a conspiracy during the inquest after Verster had been incriminated by Webb, Du Plessis argued

He said Verster, Luttingh and Louw had conspired to make Barnard the "fall guy"

Wessels pointed out that Louw had been subpoenaed at short notice by the judge (rather than the State), which made him an unlikely conspirator

# MK man on pledge by ANC

By Peter Davies

A man claiming to be a former Umkhonto we Sizwe member told a Goldstone Commission hearing yesterday that he had been promised "special training and a possible study bursary" if he went to Piet Retief to "mess up" and kill policemen. *STAR*

Brandan Samson was testifying in Pretoria to the committee investigating attacks on police. He said ANC national executive committee member Joe Nhlanhla had ordered him to Piet Retief to monitor certain policemen, and later to return and kill them. *20/11/93*

However, ANC lawyer Azhar Cachalia said the allegations against Nhlanhla and Samson's evidence would be proved to be "a tissue of lies".

Samson, who peppered his testimony with expletives, told the committee he was given weapons in Nhlanhla's office at ANC headquarters in Shell House, Johannesburg, in June 1992. He said only he and Nhlanhla knew about the mission.

Samson was arrested on the night he arrived in the eastern Transvaal town, and when he had approached Nhlanhla for legal help, he said the ANC man "Pontius Pilated" his way out of the matter.

Samson said he felt betrayed after his arrest. During interrogation he began to realise the police knew details of his mission. He had then decided to make a confession to a magistrate rather than the police.

The hearing continues today.

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Wednesday January 20, 1993 SOWETAN

**NEWS** Murder of anti-apartheid activist

**Cover up is alleged**

259  
328

Sowetan 20/1/93.

■ Submission by counsel at Webster inquest:

POLICE General Krappies Engelbrecht and former head of Military Intelligence General "Witkop" Badenhorst had deliberately covered up evidence during an internal investigation into the murder of anti-apartheid activist Dr David Webster, it was argued in the Rand Supreme Court yesterday

Mr Jurie Wessels, SC, appearing for former Civil Co-Operation Bureau managing director Colonel Joe Verster and CCB agents Lafras Luitingh and Derreck Louw, said in his closing argument at the inquest on Webster the two generals had also ignored vital evidence linking ex-CCB agent Ferdi Barnard to the murder

He argued a prima facie case existed against Barnard, a convicted murderer.

Engelbrecht and Badenhorst had chosen to ignore information they received from Louw and Luitingh in which it was disclosed that Barnard had admitted to Luitingh he had killed Webster to impress senior CCB officers

**Contradicted each other**

He argued that the evidence of generals Engelbrecht and Badenhorst was unacceptable as they had contradicted each other on several vital aspects

Badenhorst had also deliberately lied to the inquest when he said Barnard had never been employed by Military Intelligence. It later came to light after a raid by the Goldstone Commission on an MI office that Barnard had been in its employ in

1991 and Badenhorst had been behind his employment.

Wessels said the internal investigation by the two generals had been carried out in an extremely strange manner and lacked the thoroughness that one would expect from men in their position

He also argued that the contention by Mr Eberhardt Bertelsmann, SC, for the Webster Trust, that Luitingh and Verster should be charged with incitement and being accessories after the fact was without substance.

"To say that Verster or Luitingh kept quiet about what they knew, with the criminal intent to let a criminal (Barnard) escape from a murder, is preposterous and not borne out by the evidence." - Sapa



# CCB framed Barnard, attorney tells inquest

FORMER CCB operative Ferdi Barnard was first implicated in the murder of activist David Webster by the unit's chairman, Gen Eddie Webb, or by MD Joe Verster — and not because of a confession to his handler days after the shooting.

This submission was made by Barnard's attorney, Piet du Plessis, during closing argument at the Webster inquest in the Rand Supreme Court yesterday.

Du Plessis said evidence that Barnard had confessed to his former handler, Lafras Lutingh, days after the murder was false and part of a plot by members of the CCB's inner circle to frame his client.

Barnard himself has repeatedly denied that he made any confession.

Du Plessis said it was clear from the evidence that Webb or Verster had started the rumours after Barnard disclosed the existence of the

SUSAN RUSSELL

CCB during his detention under section 29 of the Internal Security Act. Barnard blew the lid off the CCB and made a number of false allegations about the unit after he was detained in November 1989 in connection with the murder of Swapo lawyer Anton Lubowski.

Du Plessis said it was clear that during the internal investigation into the CCB, Lutingh had told only former MI chief Gen Witkop Badenhorst that there was a rumour Barnard had been involved in the murder.

At that stage, Du Plessis argued, Lutingh was aware Barnard had alleged in his Section 29 statement that Lutingh himself was possibly responsible for Webster's murder.

Du Plessis said Lutingh then had the idea of spreading the rumour to incriminate Barnard.

Lutingh, he submitted, later devel-

oped the idea into a full-blooded confession by Barnard, which was the account he gave when confronted by his cousin, Adv Martin Lutingh, during the Harms commission inquiry.

This explained why neither Badenhorst, SAP Gen Krappies Engelbrecht or Verster had mentioned Lutingh's version of a confession until the current inquest.

Earlier yesterday, J Wessels, counsel for Verster, Lutingh and the CCB, submitted that it was clear Badenhorst and Engelbrecht had tried to cover up information during their internal investigation into the CCB.

Both Engelbrecht and Badenhorst denied during their evidence that Lutingh had told them about Barnard's alleged involvement.

Wessels said the evidence of both generals should not be accepted because they had contradicted each other on several material aspects.

Argument continues today

## Green belt needs its own authority, says Midrand

MIDRAND has broken ranks with five other town councils wanting to incorporate "green belt" land northwest of Johannesburg into their municipalities.

A Midrand Town Council representative yesterday told a government demarcation board hearing on the incorporation issue that the council now supported the establishment of a separate local authority for the green belt region.

The demarcation board is hearing argument over the application by the Krugersdorp, Roodepoort, Randburg, Sandton, Verwoerdburg and Midrand councils that the large area of rural land between their boundaries and the Magaliesburg be divided up between them.

Communities in the area, as well as the government-appointed local government affairs council (LGAC), have opposed the application.

Midrand is also involved in a dispute with Sandton over a strip of land between them, an issue on which the board will also make a finding.

Midrand town planning consultant Bob Warren told the board yesterday Midrand council backed the LGAC's suggestion that the green belt be administered by a separate authority, which would have several smaller councils and boards under it.

Warren said a new regional services council (RSC) should be created out of the Witwatersrand RSC to fund local authorities in the green belt and help provide infrastructure should the need for expansion arise.

It was "critical" that development on Midrand's western boundary was co-ordinated.

GAVIN DU VENAGE

Midrand's council had conducted a full assessment of the area beyond its western boundary.

The study showed that people living there were "90% in favour" of being incorporated into Midrand, should they have to become part of a local authority.

"Community bodies in this area rejected incorporation to any other local authority, specifically high-and-mighty Sandton," said Warren.

He said Midrand was in a position to provide all the necessary services and infrastructure for the area.

Speaking in his private capacity, Sandton councillor Frederick Ehlers said the proposed incorporation had little support among his ratepayers.

The move also did not enjoy the backing of all council members, but was a "representation by a vociferous few", he said.

LGAC representative Werner Zybrands said there was enough land in the PWV region to accommodate another 8-million people without using the green belt.

He disputed the councils' ability to administer and provide services to the area, as their budgets were already stretched.

Projects in Alexandra facilitated by Randburg and Sandton had been paid for through the Witwatersrand RSC, he said.

Ratepayers in towns such as Randburg and Sandton would either have to pay more or have to accept a lower standard of living if the incorporation proposals were accepted, Zybrands added.

## Schools hit by gang's protest

KATHRYN STRACHAN

SOWETO teachers and the Department of Education and Training (DET) have blamed a roving gang of youths for disrupting schooling in the Naledi area and driving principals away.

DET Johannesburg director of education provision Norman Malebane said the group — acting in the name of the Congress of SA Students (Cosas) — had moved from school to school since Friday intimidating principals and department heads.

A Cosas national executive committee member said while his organisation condemned the disruptions, it could not say whether the group was part of Cosas.

National Education Co-ordinating Committee spokesman Desmond Thompson said the NECC condemned the protest which, he said, appeared to be centred around pupils being refused admission if they did not pay their fees.

Malebane said that while the principals at eight Naledi primary schools and three high schools had been hounded out, other teachers were continuing with their classes. Activity at the 56 other schools in Naledi had not been disrupted, he said.

He said that principals had been afraid to return to school for fear of their lives, except for one who had been fetched and "reinstated" by his pupils.

The DET is planning a meeting with students' organisations and civic associations in the area to resolve the situation.

# Mandela in sanctions offer

WASHINGTON — ANC President Nelson Mandela said yesterday he was anxious to lift sanctions as soon as possible, but South African business would first have to promise to freeze retrenchments and hire more workers

If he could get such an assurance from companies, he told a news conference here, he would ask his executive to endorse calling off remaining international boycotts as soon as a date for interim government elections had been set.

He added that "once sanctions are lifted there is no reason why the World Bank and IMF should not get involved"

The current ANC sanctions policy was to wait until a new government had been elected, but mounting unemployment and the "threat of further retrenchments" made this untenable, Mandela said.

"It will be difficult to repair the economy if we wait until a democratic government is installed."

On the eve of President-elect Bill Clinton's inauguration, which he has been invited to attend by the Congressional Black

SIMON BARBER

Caucus, the ANC president had kind words for outgoing President George Bush

Bush had taken a "keen interest" in SA and had "done everything in his power to help", he said. He hoped the new president would continue this approach.

Deputy international affairs director Aziz Pahad could not confirm that Mandela would see Clinton or his Secretary of State-designate Warren Christopher during his five-day stay, but sounded optimistic that meetings would be arranged

In the meantime, Pahad said, Mandela was seeing US business leaders to encourage them to take a serious look at SA investment opportunities.

Mandela himself stressed the ANC's need for "resources" to help it mount an effective election campaign against the highly "organised and experienced" NP

On the status of negotiations, the ANC leader said the process was now moving forward smoothly.

# Lawyer quits as witness is arrested

AN ATTORNEY representing the family of an ANC member shot dead by police in 1991 withdrew from the inquest yesterday after a heated exchange with the magistrate and prosecutor

Richard Spoor, representing the family of Vuyani Mabaxa, resigned after magistrate CG de Lange ordered the arrest of a witness for perjury

The trial started late when the magistrate refused to allow policemen to testify first. When proceedings resumed, Spoor complained that certain witnesses had been asked to remain outside the court, while police witnesses were

LLOYD COUTTS

allowed to remain inside and listen to evidence

De Lange expressed irritation at the "pettiness going on here".

Roos told witness James Gwebu that his testimony contradicted a sworn statement made a year after the shooting

De Lange accused Gwebu of lying, and warned him about committing perjury. Spoor said he was dumbstruck by the prosecutor's allegation.

The magistrate ordered the arrest of Gwebu for perjury

Spoor withdrew from the inquest and De Lange postponed it to March 15.

poned it to March 15.

Mabaxa, 22, an ANC Youth League publicity official and Nehawu unionist was shot dead in Diepkloof. Police claimed he was shot after firing at police

Gwebu said in his evidence he had heard a gunshot on the morning of Mabaxa's death and had seen three policemen chasing him

A white policeman drove up to Mabaxa in a minibus and fired at him, said Gwebu. He fell to the ground. Roos pointed out to Gwebu that his statement had said Mabaxa had been shot by a black policeman on foot

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# Fraud

From Page 1 Sandton, Verwoerdburg, Sandton, Verwoerdburg, Sandton, Verwoerdburg





## Rand Bar speaks out

CT 2111 93  
JOHANNESBURG. — The holding of a judicial office was incompatible with membership of a political party or any other organisation with essentially political objectives, the Johannesburg Bar Council said in a statement yesterday.

The JBC, reacting to reports of a Supreme Court judge being on the Broederbond executive, said it was fundamental to the administration of justice that judicial officers not only be impartial but be seen to be impartial. Otherwise confidence in the judiciary and ultimately the administration of justice would be undermined. — Sapa (252)

# It's business as usual in the House (for now)

STAN 21/1/93  
PARLIAMENT as we know it will probably bid its farewell this year, but by the looks of things so far, it'll be business as usual until the brokers of the new South Africa prompt its metamorphosis

252  
If all goes according to plan, the coming parliamentary session will be the last of its kind. HELEN GRANGE reports.

With 1993 being the critical year of constitutional change, the media spotlight will shift from graceful Cape Town to Johannesburg, leaving MPs the less exciting job of rubberstamping amendment Bills — mostly uncontroversial — largely left over from last year

## Pioneers

If all goes well on the political front, however, Parliament's grandest gesture will be in passing legislation for the first laws basic to a transitional constitution

Indeed, it is possible a Government/ANC-agreed Transitional Executive Council could be written into law by June

But while Parliament awaits word from the new constitution pioneers, the show must go on with nuts and bolts legislation

Of biggest import will, of course, be Finance Minister Derek Keys's Budget, expected to introduce higher VAT and taxes to counter the rising national debt

Perhaps the most immediately controversial laws to be enacted during the pending session are those that constitute the new labour code

The Bills are aimed at introducing equity in labour conditions in all economic sectors. Most importantly, farm labourers will be legally protected for the first time

Predictably, the conservative farmer community, organised by the SA Agricultural Union, is opposing the new labour code

Hot debate is therefore expected before the deadline at the end of February, when the final drafts will be tabled

Also on the labour front is the Injured Employees Compensation Draft Bill, to replace the Workmen's Compensation Act. This law will tighten up insurance of employees or their dependants in the event of disablement. Most importantly, all employees will be insured, irrespective of their earnings, and compensation for occupational diseases will be more equitably provided

There are some laws on the cards designed to pull the reins in on those of us who live a little recklessly

The Road Traffic Amendment Bill of 1993, providing for a separation of the drivers' licence from the identity document, also provides for far more severe punishments for lawless driving, including automatic suspension

for serious offences

And in the Liquor Amendment Bill, higher penalties are proposed for liquor sales to minors and the opening of bottle stores on public holidays

Dog owners exercising little control over their pets will need to take cognisance of the Animal Matters Amendment Bill which, once passed, will enable the State to impose a fine of up to R40 000 or two years' imprisonment on the owner of a dog which attacks an innocent

The Department of Correctional Services will be tabling the Correctional Services Amendment Bill, designed to cover the loophole which saw the notorious Lucky Malaza erroneously released from prison as a political prisoner

The new law will provide "checks and balances based on sound legal principles", according to a department spokesman, although no details have yet been made known on exactly what these are

And gambling operators beware! Last year's Gambling Amendment Act, which caused such a stir that a moratorium on casino prosecutions was introduced, will probably come into effect in full force after January 31, the moratorium deadline

(The Act outlawed hard gambling, but the Howard commission into gambling has still to report on whether selective gambling should be allowed)

Other legislative changes on the agenda this year are geared toward deregulation

## Civilians

The Department of Law and Order will table the Police Amendment Bill to replace the Police Act. The objective is to provide for the employment of civilians. This new development is aimed at exchanging ranked police officers in management/administrative posts with civilians, freeing policemen to fulfil normal duties

There is a strong possibility that the Marketing Act, which empowers the existing marketing boards, will be amended in line with recommendations of the Kassier Committee into the marketing system

The committee proposed deregulation of the marketing and control boards and the curtailing of the extensive powers currently afforded to the boards and the Minister of Agriculture

Sowetan 21/1/93  
**Inquest reopened** (252)

THE inquest into the 1985 murders of Eastern Cape political activists Mr Matthew Goniwe, Mr Fort Calata, Mr Sparrow Mkonto and Mr Sicelo Mhlaui is to be reopened in the Port Elizabeth Supreme Court on March 1

The four were murdered near Bluewater outside Port Elizabeth while driving to a political meeting

# NEWS Grandmother shot dead while watering garden ● US gets new president

**Sowetan 21/1/93**  
**Inquest reopened (252)**

THE inquest into the 1985 murders of Eastern Cape political activists Mr Matheu Goniwe, Mr Fort Calata, Mr Sparrow Mkontso and Mr Sicelo Mhlau is to be reopened in the Port Elizabeth Supreme Court on March 1

The four were murdered near Bluewater outside Port Elizabeth while driving to a political meeting

## news in brief

### New black taxi group

FORMER senior executive members of the South African Black Taxi Association are among the directors of a new taxi group, Taximax, in Pretoria

Taximax spokesman Mr Shadrack Mthethwa said the new organisation was in no way a rival to Sabia. Its main objective was to assist all legal taxi owners in the Pretoria area, irrespective of their affiliation, and it had Sabia's blessing

Former Sabia executives who are Taximax directors are Mr James Chapman and Mr Enos Makena, who have both resigned

### 'Maintain sanctions'

LIFTING remaining sanctions against South Africa would be contrary to United Nations and Organisation of African Unity resolutions, and the legitimate demands of the majority of South Africans, the Pan Africanist

Congress said yesterday

The PAC was reacting to ANC leader Mr Nelson Mandela's suggestion that the ANC might support the lifting of sanctions if the SA business community boosted job creation

# Hail Bill, the new chief

## ■ New US president to use force when necessary:

**Sowetan 21/1/93**

WASHINGTON - Bill Clinton took charge as the 42nd president of the United States under sunny blue skies yesterday and proclaimed that "a new season of American renewal has begun"

The 46-year-old Democrat from the small southern state of Arkansas, dented by rivals as "Slick Willie" not long ago but now their commander-in-chief, took his oath of office as William Jefferson Clinton at 7pm South African time in an open-air ceremony on the steps of the Capitol Hill

Departing Republican George Bush looked on somberly

Hillary Clinton, in a classic royal blue coat and matching wide-brimmed hat, embraced her husband, who wore a dark blue suit and no outer

Bush, elected in 1988 and crushed last year in his bid for re-election, stepped forth to shake hands and exchange smiles with the man who made him a one-term president.

In an inaugural address laced with inspirational lines recalling former US presidents as diverse as John Kennedy and Ronald Reagan, Clinton said a new generation of post-Cold War leadership had taken command - ready to lead America and to meet the challenges of a still dangerous world, with diplomacy when possible, but with force when necessary

"Today a generation raised in the shadows of the Cold War assumes new responsibilities, in a world warned by the sunshine of freedom but threatened still by ancient hatreds and new plagues," Clinton said

He said America had entered a period of drift that "has eroded our resources, fractured our economy and shaken our confidence"

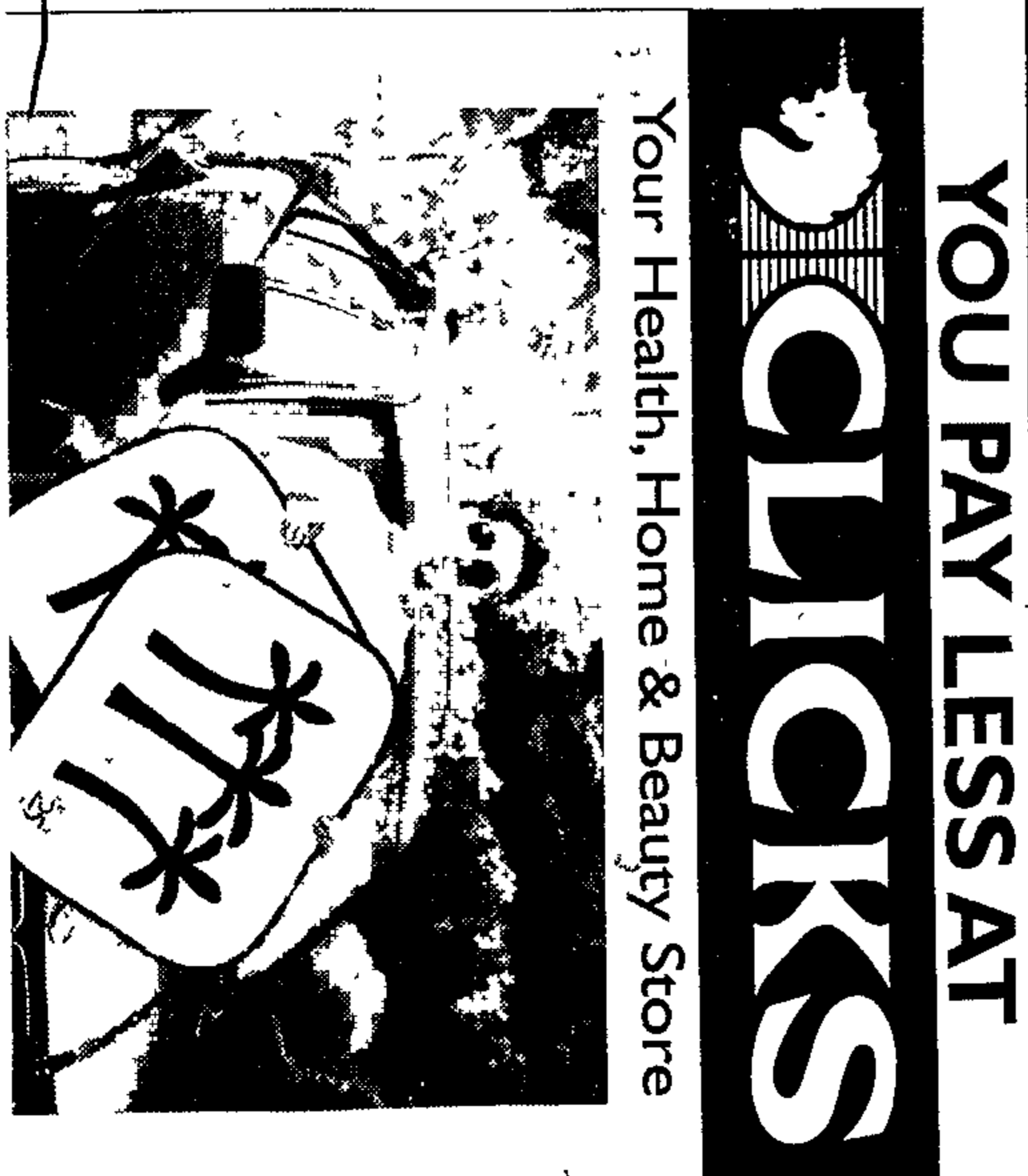
Then, in a line that the conservative champion Reagan could have uttered with no trouble at all, Clinton said "There is nothing wrong with America that cannot be cured by what is right with America"

"So today we pledge an end to an era of deadlock and drift - and a new season of American renewal has begun," he said - *Sapa-Reuters*

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# Minister must pay R23 000 — couple

By Cyril Madlala

A prominent couple in Johannesburg's art circles are suing the Minister of Law and Order for R23 000 for alleged assault, wrongful arrest and detention. Sculptor David Rossouw and his wife Kristine — former manageress of the Johannesburg Art Gallery shop — are claiming R8 000 and R15 000 respectively from the Minister in the Johannesburg Magistrate's Court.

Mr Rossouw's father is seeking a further R452 for damage caused to his vehicle which was used by the couple.

The couple, who were not married at the time, claim that in December 1989 they were stopped in Berea by SA Police members who broke the windscreen of their vehicle by hitting it with an unknown object.

Rossouw was allegedly "pulled, pushed and shoved" by the policemen who pointed a firearm at him. He was later detained at the Hillbrow Police Station.

Both, for the Minister, told the court yesterday that the police would testify that Rossouw was driving recklessly, and that when they attempted to arrest him he resisted.

They then used force "as was reasonably necessary" to effect the arrest, but Mrs Rossouw tried to prevent them from doing so.

The police admit that the couple were arrested without a warrant and detained at Hillbrow police station. They deny that this was unlawful.

The case continues today.

# Webster inquest 'mother of all lies'

252  
By Susan Smuts

STAR 21/1/93

The Dr David Webster inquest was "the mother of all lies and liars", former Civil Co-operation Bureau (CCB) operative Ferdi Barnard's lawyer said in his closing argument to the Rand Supreme Court yesterday.

Piet du Plessis asked the court to dismiss the evidence of several witnesses, including CCB managing director Colonel Joe Verster, who had implicated Barnard in the 1989 assassination of the Wits academic.

Argument was concluded yesterday and Mr Justice Michael Stegmann will deliver his finding tomorrow.

Eberhardt Bertelsmann SC, for the Webster Trust, and Jurie Wessels, for Verster, have called on the judge to find a *prima facie* case existed against Barnard

Peet Coetsee SC, for the Minister of Defence and the SADF, State advocate Jannie van Vuuren and Du Plessis have argued there was no case against the dismissed CCB agent

Du Plessis said Barnard had exposed the CCB while in detention in 1989 and had falsely implicated his former handler, Lafras Luitingh, of being involved in Webster's murder

Later, after CCB chairman Eddie Webb and CCB administrator Wouter Basson had given evidence which incriminated Verster, the CCB "inner circle" (consisting of Luitingh and CCB information officer Derrick Louw under Verster's leadership) conspired to make Barnard the scapegoat

The evidence by Webb and Basson showed the inner circle had given orders to their subordinates to carry out criminal deeds in the name of State security, he added

He asked the judge to reject

evidence by three sets of "lying witnesses". These were members of the CCB inner circle, eyewitness Cornelius du Plessis, who identified Barnard as the murderer, and Barnard's former employer, Willie Smit, and members of the Smit family

Smit, his mother Johanna Smit and his brother-in-law Andrew Voster told the court Barnard had told them he had killed Webster Smit later retracted his testimony

Bertelsmann argued that while Barnard should be found liable for the murder, several other CCB officers and SADF officials should be charged for crimes

Wessels argued the evidence showed Barnard had killed Webster, but not on orders from the sinister SADF wing. He accused two generals involved in an internal inquiry of covering up evidence and ignoring information that Barnard had confessed the murder to Luitingh.

# Goniwe inquest to reopen in March

By Kaizer Nyatumba <sup>STAR</sup>  
Political Reporter 21/1/93.

The inquest into the murder of United Democratic Front member Matthew Goniwe and three other eastern Cape activists in 1985 will be reopened in Port Elizabeth on March 1, it was confirmed yesterday.

The judicial probe, to be chaired by eastern Cape Judge-President N W Zietsman, was ordered by President F W de Klerk in May last year after sensational disclosures of an alleged "death warrant" signal sent from the SADF's Eastern

Cape Command to the State Security Council on June 7 1985, calling for the UDF activists to be "permanently removed from society as a matter of urgency"

The signal was signed by a Commandant L du Plessis, formerly of East London Command, and purported to record a conversation between then Brigadier "Joffel" van der Westhuizen and a former State Security Council (SSC) member, a Major-General van Rensburg.

The bodies of Goniwe, Fort Calata, Sparrow Mkonto and Sicele Mhlauli were found in the veld along an eastern Cape

roadside on June 29 — three weeks after the signal was allegedly sent.

Eastern Cape Attorney-General Michael Hodgen's office yesterday said he and two other Grahamstown advocates, J Marais and N Henning, would present evidence for the State when the inquest resumes.

After the May 8 disclosure of "the Goniwe signal" by Transkei military ruler Major-General Bantu Holomisa, De Klerk appointed Hodgen and a high-powered team to investigate the new allegations in preparation for a reopened probe under Mr Justice Zietsman.

# Legal, medical dilemmas in spotlight at congress

25

Aug 21/93

**ANDREA WEISS, Health Reporter**

A DOCTOR in a remote community comes across an accident and finds several teenagers seriously injured and bleeding profusely.

She knows that 25 percent of the teenage population is HIV positive and she will be at a small but real risk of getting Aids if she treats the injured without gloves.

Should she drive for help or roll up her sleeves and pitch in?

This is one of the legal and ethical medical dilemmas which has come under the spotlight at the Society of University Teachers of Law Congress in Stellenbosch.

In a paper on the medical practitioner's duty towards people with Aids, Professor D.J. McQuoid-Mason of Natal University said "as a general rule there was no onus on a doctor to treat

a person who was not his patient except in emergencies

But even in emergencies, if one accepted the principle that a doctor did not have to imperil his own life to save that of another, he would not be obliged to treat the patient if he could not protect himself.

● In a paper on euthanasia, Professor Jérolde Taitz of the University of Durban-Westville pointed out that a "Living Will" had no legal standing in South Africa.

This is a document drafted by supporters of voluntary euthanasia saying they should not be kept alive if there was no hope of recovery.

But Professor Taitz pointed out that such a document was not a will and did not have power of attorney.

At best it can be regarded as a written directive having no force of law," he said.



# New taxi association welcomed as 'healthy'

Star 21/1/93

Stan Hlopho

The formation of a new taxi body, Taximax, was yesterday welcomed as healthy competition by the giant Southern African Black Taxi Association (Sabta)

Sabta spokesman Mike Ntlatleng, yesterday, said Taximax — formed recently with two former Sabta executives James Chapman and Enos Makena among its directors — posed no threat to Sabta. Both resigned from Sabta last year amid controversy.

A Taximax spokesman said that the new organisation was not set up as a rival to Sabta. Its main objective was to assist legal taxi owners in Pretoria, irrespective of their affiliation.

Ntlatleng said competition would serve the interests of its membership and the industry. Asked about the resignation of top executives, he said problems which had plagued

the organisation had been resolved and the executives were looking forward to turning Sabta into a profitable organisation.

A meeting to resolve a dispute over the Durban/Johannesburg route between Sabta and Eagle Liner bus company was postponed until February 4 after talks deadlocked yesterday.

This followed allegations by passengers that gunmen had forced them to leave a Johannesburg-bound bus and board minibuses at twice the price of the bus trip.

Passengers who attended the meeting said they had been threatened and accused of supporting white businesses. Many of them had lost their luggage and food parcels.

A bus company spokesman said it was the right of passengers to choose their mode of transport.

# 'Poison' killer jailed for 15 years

A taxi driver who shot dead a former policeman and taxi owner from a rival faction, yesterday told a Springs Circuit Court that he committed the deed to "rid the community of poison".

Petrus Khumalo (38) was sentenced by Mr Justice JF Myburgh and two assessors to an effective 15 years' jail for the murder of Pascallas Mea of KwaThema and for unlawful possession of a firearm and ammunition. — East Rand Bureau

# 11 appear over R30-m gold theft

Star 21/1/93

By Anna Louw East Rand Bureau

Eleven former employees of Rand Refinery appeared briefly in the Germiston Magistrate's Court yesterday in connection with the theft of unwrought gold valued at more than R30 million.

The accused are Jan Botha (25) of Germiston; Jan Fourie (45) of Germiston; Louis Snyman (27) of Johannesburg; Johan Fourie (30) of Primrose; Johann Smit (21) of Springs; Edward Pieterse (23) of Pretoria; Rudolph Olivier (23) of Springs; Johan Volschenk (25) of Meyerton, a 17-year-old youth of Elsburg; Andries Swart (32) of Elsburg; and Henry Howell (26) of Rosettenville. 21/1/93.

Bail of between R1 000 and R5 000 was granted. Some were released on warning.

Two other former employees recently appeared in the Kempton Park Regional Court in connection with the same theft.

Jacques Jonck (23) of Heidelberg was jailed for nine years. Reuben Lezar (29) of Elsburg was jailed for five years.

The 11 accused will appear again in March — Sapa

# Accused 'not trusted enough to get guns'

Star 21/1/93

By Peter Davies

A Goldstone committee chairman investigating attacks on police yesterday told former Umkhonto we Sizwe member Brandon Samson it was unlikely that former ANC security boss Joe Nhlamhla had ordered him to Piet Retief, in the eastern Transvaal, to kill policemen because Samson was not trusted by the ANC.

Chairman Gert Steyn said, in Pretoria, that, despite Samson's insistence that Nhlamhla had provided him with weapons from ANC headquarters at Shell House in June last year, it was logically "dangerous to hand out weapons to people you don't trust".

Samson claims Nhlamhla ordered him to Piet Retief to monitor certain policemen, and later to return and kill them. He said only he and Nhlamhla, whom he referred to as "the old man" knew about the mission.

Samson admitted he had been considered a spy by the ANC after returning as a dissident from exile in 1991. He said that Nhlamhla had indicated his "case was still open" and that Samson must "show commitment to the movement" by "proving himself" on missions to Piet Retief.

He was also sent to Natal where he was to monitor the movements of alleged Inkatha man Pat "McGregor" Hlongwane. Hlongwane is the head of the returned exiles committee which campaigns on behalf of ANC dissidents.

ANC lawyer Azhar Cachahla said that Nhlamhla did not have the authority to dispatch weapons, and that Samson was lying.

Court records in Piet Retief indicated that Samson previously admitted he had received weapons from a man known as Mthobi.

Cachahla said Nhlamhla had admitted to "pumping into" Samson on a few occasions, but said they had never discussed any Piet Retief mission.

When quizzed by Cachahla, Samson said the ANC had an official and an unofficial policy towards the assassination of policemen.

He said the official version, as documented by Nhlamhla in Durban last year, was that the ANC opposed any campaign to kill policemen.

Samson insisted that this official policy was for "public consumption" and that there was an unofficial ANC policy which tacitly condoned attacks on policemen.



# Farmer's body found in pigsty: two go on trial

By Anna Louw  
East Rand Bureau

252 (b) STAR 21/1/93

A farmworker and the son of a domestic servant yesterday pleaded not guilty in the Springs Circuit Court to murdering a sickly 65-year-old Devon farmer, whose blood-spattered body was found in a pigsty feeding trough.

George Nogqala (30) and John Mahlangu (19) appeared before Mr Justice JF Myburgh and two assessors

They also pleaded not guilty to robbery with aggravating circumstances as well as illegal

possession of a firearm and ammunition

The trial is related to the death of Johan Godfried van der Merwe on his farm in the Devon district on September 17 1991

A neighbouring farmer, Johannes Green, said he went to feed his cattle which were on Van der Merwe's farm two days before the incident

Van der Merwe told him that he had hired Nogqala.

Green said that on the Tuesday morning he telephoned Van der Merwe but there was no reply, when there was still no answer at 5 pm he drove to the farm to investigate

He saw Van der

Merwe's bunch of keys on the inside of the kitchen door which was locked. Green said he knocked and called out but there was no answer, he looked outside but found nothing

He and another farmer met Van der Merwe's wife Maria on the farm road

They told her they suspected trouble at the house and requested her to get the police

The two men went to the house, found it unlocked and in disarray

A search for Van der Merwe continued until late that night and resumed in the morning.

Green said he found clothing which belonged to Nogqala, whom he

said was missing.

Warrant Officer Petrus Fourie said he arrived at the farmhouse at 5 am that morning. The farmer's wife showed him drops of blood on some rocks and at the gate of the fowl-run.

After a search the policeman said he found Van der Merwe's body in a feeding trough concealed under a pile of rocks and old tyres in the corner of the pigsty.

He said the farmer's hands were bound with wire and handcuffs with a SAP serial number engraved on them

Van der Merwe's feet were also tied with wire. The hearing continues

PEOPLE PROBLEMS?



# Lawyers berate Broeders

A SERVING Supreme Court judge's membership of a secret organisation such as the Afrikaner Broederbond was improper and incompatible with the proper administration of justice, the Johannesburg Bar Council said yesterday. *BIDM 2/1/93*

The council, in a statement, expressed concern about recent media reports that a Natal judge was on the executive council of the Broederbond.

"The Broederbond is a secret society which pursues objectives essentially political in nature. Accordingly, membership thereof by a serving judge is improper and incompatible with the proper administration of justice," council chairman Wim Trengove SC said.

He said it was fundamental to the administration of justice that judicial officers not only be impartial, but that

*(252)*  
STEPHANE BOTHMA

they be perceived by the public to be impartial.

"Any derogation from an unqualified public perception of impartiality will undermine confidence in the judiciary and will ultimately undermine the administration of justice itself," Trengove said.

It had long been recognised that the holding of judicial office was incompatible with membership of a political party or any other organisation with essentially political objectives.

The public would inevitably, rightly or wrongly, perceive a judicial officer who was a member of such an organisation, as committed to the furtherance of the objectives of the organisation to the detriment of his judicial duty of impartiality, Trengove said.

# ANC's election campaign shifts into first gear

LLOYD COUTTS

THE ANC's election campaign moved into first gear yesterday when its Witwatersrand regional executive committee announced plans to adopt a three-phase programme of action for a "mass-driven" election campaign. *BIDM 2/1/93*

ANC PWV region secretary-general Paul Mashatile said the campaign would be discussed and adopted at a general council in Mayfair, Johannesburg, on Saturday and Sunday.

The first phase would include the motivation of campaigners and consolidation of the ANC/SACP/Cosatu alliance, the mass democratic movement and the patriotic front, said Mashatile.

Phase two would include door-to-door campaigning, marches and house meetings aimed at recruitment and at disseminating information on ANC policy.

The third phase would mark the transition from the preparatory stage to a "Votes for All" campaign, encompassing subregional and regional conferences, rallies and public meetings focusing on unemployment, education, housing and health.

Throughout the phases the ANC PWV would redouble its efforts to create and consolidate peace initiatives in the region.

"Central to these meetings will be the issue of the climate of free political activity, political tolerance and peaceful coexistence of different organisations," said Mashatile.

"The successful adoption and implementation of this programme should ensure the broadest possible support for democratic forces led by the ANC and its allies to bring an end to more than 300 years of minority rule and usher in an everlasting peace and democracy for all South Africans," he said.

Thirty-three outstanding resolutions from an annual regional conference last year, including resolutions on the Peace Accord, socio-economic issues, self-defence units, VAT and food prices, the restructuring of the SABC, affirmative action relating to women and education would also be discussed, Mashatile said.

# DP to focus on domestic workers

THE DP has set out to inform domestic workers in Johannesburg's north-eastern suburbs of their civil, political and employment rights.

DP MP Tony Leon said yesterday the Houghton branch was holding a meeting for domestic workers on Saturday. He said organisers also sought to prepare domestics for the coming elections. *BIDM 2/1/93*

"We have arranged for a voter education play to be staged, which is a highly professional and entertaining drama staged by the Matla Trust ex-

LLOYD COUTTS

plaining how to vote and the importance of tolerance and peace.

"We will also provide a summary of the new legislation which is intended to bring domestic workers under the protection of the Basic Conditions of Employment Act. It is necessary to reconcile employer and employee needs and demands without causing job losses," Leon said.

The meeting will be held at the Norwood Primary School at 3pm.

# Council settles hostel dispute

CONFRONTATION between hostel residents from Thokoza, on the East Rand, and the local town council was averted this week when agreement on the occupation of the newly renovated Thokoza 1 hostel was reached.

The hostel recently underwent a R4m upgrade, Sapa reports.

The agreement was reached on Tuesday by the TPA, the council and the hostel residents' committee.

In terms of the agreement, those who had vacated the hostel during its upgrading should reoccupy it and undertake to bear its running costs.

In a joint statement the parties said a joint management committee — comprising representatives of the hostel residents, the council and the TPA

WILSON ZWANE

— had been formed to manage the hostel's finances. *(252)*

The committee would manage the hostel independently of the council and the TPA. It will decide on the date for reoccupation of the hostels and on new rentals. *(252)*

Tensions between the hostel residents and the municipality arose recently when the council barred residents from occupying the hostel until they had undertaken — in writing — to pay a 300% increase in rent.

Residents, who had paid R15 a month before they vacated the hostel, refused and threatened to gain entry to the hostel by force.

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# Ombudsman tackles 2 000 complaints in his first year

PRETORIA — SA's ombudsman, after a year in office, has opened up more than 2 000 files on specific complaints.

According to the Association of Law Societies journal De Rebus, Judge P J van der Walt's office receives 30 to 40 phone calls a day from complainants.

Complaints range from rezoning and ecological matters to the state of roads, financial wrangles — including complaints from married women about not receiving housing subsidies — to workmen's compensation cases and political detainees.

De Rebus says, however, that there are still several shortcomings in the Act governing the ombudsman. These include limitations on the types of matters he can investigate and his appointment by the President and not by Parliament.

There was a need to separate the ombudsman's office from the public service.

In terms of the Ombudsman Act of 1991, Van der Walt's title was changed from advocate-general to ombudsman and his

GERALD REILLY

powers and functions extended.

The society believes government departments, public servants and others were learning valuable lessons on accountability and the fact that they could be called to account for their actions.

De Rebus is concerned that a section in the Act which empowers individuals to voice grievances still requires that such complaints should result from someone being unlawfully enriched or advantaged.

This probably resulted from the institution's painstakingly slow evolution from an advocate-general's office, which was established to deal with issues such as the Information scandal.

De Rebus says there is no shortage of such issues in SA and the disclosures about fraud and maladministration in the homelands were good examples. But there should also be scope for complaints about other issues.

## ANC-DP joint working group put on hold

CAPE TOWN — The ANC and the DP failed yesterday to reach agreement on launching a joint working group to promote free and fair elections in the western Cape.

At a meeting yesterday the ANC backed off, for the time being at least, from an earlier commitment to set up a formal structure with

Political Staff

the DP to monitor the volatile political situation in the region and promote a culture of tolerance.

Yesterday's meeting between delegations led by ANC regional secretary Tony Yengeni and DP regional chairman Jasper

Walsh was arranged to discuss the proposed joint working group.

However, the ANC said the idea would first have to be canvassed with its rank-and-file membership and use should be made of peace accord structures to deal with crises as they arose.

## Renamo weapons dispute resolved

MAPUTO — Renamo, government and the UN had "amicably resolved" a dispute over a list of weapons Renamo had to give UN peacekeepers, a UN spokesman said yesterday.

The row flared up at a joint Ceasefire Commission meeting on Monday, where Renamo claimed it was unable to supply a detailed list of the weapons and ammunition its units would take to 20 assembly points where its fighters are to be garrisoned prior to demobilisation.

The reluctance to provide lists fed suspicion that Renamo might try to cache arms

ready for use should the rebels dispute future general election results.

It was agreed on Tuesday that Renamo would provide aggregate lists of all weaponry it possessed, without breaking the list down for each assembly point.

UN supervisors would check all weapons arriving at the assembly points against Renamo's total tally.

The peace accord's implementation is three months behind and it seems impossible to maintain the scheduled October 1993 date for Mozambique's first multiparty elections — Sapa-AFP.

# Evidence implicating ex-CCB man 'is lies'

THE inquest into the death of Wits academic David Webster had been the "mother of all lies and liars", former CCB operative Ferdi Barnard's attorney Piet du Plessis said in the Rand Supreme Court yesterday.

Making final submissions before Judge M Stegmann, Du Plessis said unreliable and contradictory evidence implicating Barnard as a key suspect, from witnesses who all had their own agendas and motives, had not established a prima facie case against his client.

He said evidence that Barnard had confessed to his former handler Lafras Lutingh days after the shooting, should be rejected as false.

It was clear, he argued, that members of the CCB's inner circle — which included MD Joe Verster, Lutingh and Derek Louw — had committed unauthorised criminal acts which they feared would be discovered after Barnard disclosed the existence of the covert unit in November 1989.

SUSAN RUSSELL

Barnard disclosed the existence of the CCB in a statement made while he was in detention under Section 29 of the Internal Security Act.

In the statement Barnard falsely alleged that Lutingh could have been responsible for Webster's murder. He also made a number of other false allegations about members of the "inner circle".

It was then that the "inner circle" began an intensive disinformation campaign against Barnard, Du Plessis said.

Verster's counsel J Wessels and the Webster family's counsel E Bertelsman have submitted that the evidence established a prima facie case against Barnard.

However, counsel for the SADF argued that no case had been established.

Stegmann said he would deliver his findings tomorrow.

## Defence committee proposal

MULTIPARTY control of the armed forces in SA during the transitional phase should be vested in a defence committee representing parties across the spectrum.

And a military ombudsman should be appointed who was initially accountable to the interim legislature, the Institute for Defence Policy proposed yesterday.

In addition, the establishment of a council of defence, a joint armed forces military council and an advisory committee on race relations and civic education were some of the changes in SA's military structure recommended by the institute.

The institute's proposals were not a blueprint on defence matters but should be viewed as subjects for wider discussion ahead of the resumption of multiparty talks, institute director Jakkie Cilliers said at a media briefing at Midrand yesterday.

The institute proposals are con-

STEPHANE BOTHMA

tained in the latest issue of its publication, SA Defence Review, which focuses on the concept and role of SA's armed forces and political control of defence in a democratic SA.

The institute is financially supported by the German Hans Seidel Foundation, Gencor Development Trust and the Anglo American and De Beers Chairman's Fund.

The essence of the proposals was a concept for armed forces based on the rule of law and on respect for human rights as enshrined in a future constitution and bill of rights, the institute said.

Some of the proposals had already been discussed and agreed on in principle by various groupings at Codesa, Cilliers said.

Cilliers said the proposed council of defence was a key element and should be established as soon as possible through multilateral talks.

# Police deny assault on sculptor

Stm 22/11/93.  
By Cyril Madlala

A policeman denied in the Johannesburg Magistrate's Court yesterday that police assaulted Kensington sculptor David Rossouw when he was arrested in December 1989, and said Rossouw's wife had assaulted a policeman.

Rossouw and his wife Kristine are claiming R8 000 and R15 000 respectively from the Minister of Law and Order for alleged assault, wrongful arrest and detention.

Rossouw's father is seeking a further R452 for damage caused to his vehicle, which was being used by the couple.

The Rossouws claim that in December 1989 they were stopped in Berea by SAP members who broke the windscreen of their vehicle.

Rossouw was allegedly "pulled, pushed and shoved" by the policemen. One allegedly pointed a firearm at him.

They were later detained at Hillbrow police station where his wife was charged with assault and for swearing at a policeman.

Sergeant Andrew Marambos told magistrate C van Niekerk that Rossouw had been driving so recklessly that there would have been a collision if the police vehicle had not swerved.

He said he identified himself as a policeman. The Rossouws deny he did this.

He told the court that there was a strong smell of dagga when he approached their vehicle, but when it was searched none was found.

He admitted that he was carrying his firearm, but said he had not drawn it.

Rossouw had resisted when he tried to arrest him "Reasonable" force, including wrestling him to the ground, was then used.

Marambos said Kristine Rossouw was very abusive, and tried to prevent Rossouw's arrest. She had slapped a policeman and was then arrested.

The police deny that the couple's arrest and detention was unlawful.

The case continues today.

STAR 221193

# Row over Broeder judge

By Brendan Templeton

Mr Justice W.H. Booysen's membership of the secret Broederbond organisation is causing growing concern in legal circles.

The Johannesburg Bar Council (JBC) and Lawyers for Human Rights (LHR) yesterday said his membership was incompatible with the judiciary's interests.

The Star disclosed last week that the Natal Supreme Court judge is an executive council member of the Broederbond.

The JBC said judges had an obligation to be impartial and to ensure they were perceived as impartial.

"The Afrikaner Broederbond is a secret society which pursues objectives which are essentially political in nature. Accordingly, membership thereof by a serving judge is improper and incompatible with the proper administration of justice," the JBC said.

LHR director Brian Currin said Mr Justice Booysen would have to resign from the Broederbond.

# MK-Apla plot to kill policemen, probe told

By Peter Davies

A Soweto police officer told a Goldstone Committee probing attacks on policemen yesterday that the ANC's military wing Umkhonto we Sizwe (MK), the Transkei Defence Force and the Azaman People's Liberation Army (Apla) had agreed last month to attack three homelands and the security forces under the banner of Apla.

ANC lawyer Azhar Cachalia vehemently denied the claim by Soweto crime information service co-ordinator Captain Petrus Grundling and said if necessary MK chief of staff Siphiwe Nyanda would give direct evidence to repudiate Grundling's claims.

Grundling said his information showed that Nyanda had told delegates at a report-back meeting in Transkei on January 5 that MK, Apla and the Transkei Defence Force had made the decision at a meeting last month in Butterworth, Transkei.

In terms of the decision, the South African security forces, Kwazulu, Ciskei and Bophuthatswana were to be attacked from next month.

However Cachalia said a "simple check" would have shown that Nyanda was off-

bound at ANC headquarters in Shell House on January 5

He said he had contacted Nyanda, who is attending the bilateral meeting between the Government and the ANC at a secret venue in the Transvaal, and Nyanda said it was the "first time he had heard of these serious allegations".

Although Grundling said he had relayed the information to his superiors, Cachalia said neither the Government nor the SAP had ever raised the matter.

Asked if there was a relationship between MK and Apla, Grundling said his informants had told him that MK had forged close links with Apla members to eliminate as many South African policemen as possible.

Grundling testified that 31 policemen had been killed in Soweto between July 1991 and December 1992.

The areas with the highest casualties were Meadowlands (17), Dobsonville (14) and Diepkloof (11).

During the same period, SAP members had been attacked 79 times and the houses of five policemen had been damaged.

The hearing has been adjourned until March 9.





# 'AWB accused intimidated us'

Vereeniging Bureau

Two State witnesses in a murder case against an AWB member yesterday told the Vereeniging Regional Court the accused had intimidated them

John Franklin Owens (44) appeared before Magistrate LP Virtue on a charge of murdering Jim Simini Gumbo in November 1991. It is alleged that Owens had tied Gumbo to a pole and severely beat him. Gumbo was also alleged-

ly savaged by a dog. Owens, of Tedderfield Smallholdings near Eikenhof, has not yet pleaded to the charge and was released on bail of R200 during an earlier court appearance.

Owens's son, Franklin Henry Owens (23), told the court that his father had tried to get in touch with him. He wanted his son to know that he was aware that his son and his father were going to testify against him.

Another State witness, Joseph Kunene, told the court that Owens was "bothering" him. He said the accused and other whites had followed him last week.

Defence counsel Advocate Gerrie Meyer argued that his client had not even been aware that Kunene would be a witness. When asked where his home was, Kunene said that he was afraid that Owens would "assault and molest" him.

# DP calls on judge to tell all

THE Democratic Party has called on Natal judge Mr Justice W H Booyesen to reveal if he is an executive member of the Broederbond

DP justice spokesman Mr Tony Leon said that if, as had been reported, Mr Justice Booyesen was a member he should either resign from the Broederbond or from the bench

A Johannesburg newspaper claimed yesterday that Mr Justice Booyesen was a serving member of the executive of

the Broederbond, the organisation which has shaped National Party thinking over the years

Mr Justice Booyesen should be allowed an opportunity to clarify his position, Mr Leon said

Mr Leon said the Johannesburg Bar Council had confirmed that a serving judge's membership of a secret, essentially political, organisation such as the Broederbond was improper and incompatible with the job

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CT 22/1/83

# ANC slams illegal arms

WILSON ZWANE

THE ANC said yesterday the carrying of illegal arms and ammunition by its members was contrary to its code of conduct which prescribed disciplined behaviour.

The organisation was responding to the conviction this week of its northern Natal administrator Bongani Msomi for the possession of illegal arms and ammunition.

The ANC said in a statement it did not condone such acts by its members. *B10AM 22/11/93*

"Our code of conduct specifies that our members should be disciplined and must not bring the name of the ANC into disrepute," the organisation said adding that no arms had been issued to members (since the armed struggle was suspended in 1990).

It stressed that before its members were condemned for possessing weapons illegally, their circumstances should be known. Empangeni was "notorious for the killings and harrassment of ANC members"

The ANC however encouraged its members, who felt their lives were in danger, to apply for licences to carry firearms. "Since discretion in such matters is in the hands of the police, there have been few positive responses."

The proliferation of arms, however, was of concern and needed to be combated, the ANC said

# DP calls for judge to quit

SUSAN RUSSELL

NATAL Judge WH Booyesen should resign either his judicial office or his executive position in the Afrikaner Broederbond, if his membership of the organisation was confirmed, DP justice spokesman Tony Leon said yesterday.

Leon was reacting to recent reports that Booyesen was a serving member of the Broederbond.

The Johannesburg Bar Council said in a statement on Wednesday that a serving Supreme Court judge's membership of a secret organisation such as the Broederbond was improper and incompatible with the administration of justice.

The Bar Council statement did not identify the judge referred to, but Booyesen has been named in news reports. *252 (22/11/93)*

Leon said Booyesen should be allowed to clarify his position. "Should his executive membership of the Broederbond be confirmed, the interests of justice suggest he should resign either his executive position and active membership of the Broederbond, or his judicial office."

● Comment: Page 10



31 December 1992

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T M de Villiers, R I du Preez  
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London

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# Trust's work won't stop after inquest

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**T**HE David Webster Trust says it will continue to probe the security forces' covert operations after Justice Michael Stegman makes his finding in the Webster inquest today in the Rand Supreme Court

Members of the trust say the inquest has acted as an important "truth forum" — uncovering a range of dirty tricks and cover-ups by senior government officials — and this work will not stop when the inquest ends.

Correspondence between the Civil Co-operation Bureau (CCB) and President FW de Klerk, copies of which are in the possession of *The Weekly Mail*, show intense anger from the unit's members towards the cabinet. This anger is likely to be the source of future revelations of official complicity in dirty tricks campaigns run by the security forces.

Wits University academic David Webster was shot outside his Troyeville home on May 1 1989. The inquest, which has lasted two months, has finally reached its climax.

The key question today is whether the judge will rule that CCB agent Ferdi Barnard, implicated by a string of witnesses as the man who pulled the trigger, should be charged for the murder.

Presenting closing arguments earlier this week, Barnard's attorney, Piet du Plessis, said witnesses were "unreliable and contradictory" and the inquest was "the mother of all lies and liars".

Eberhardt Bertelsmann, appearing for the Webster family, argued that there can "be no doubt" that Barnard was responsible for Webster's death.

The inner CCB circle — including former CCB managing director Joe Verster and Barnard's former handler, Lafras Luitingh — were accomplices to the killing on the grounds of incitement, he added.

Secret letters presented to Justice Stegman during in camera hearings where Verster was required to give evidence show that CCB members are threatening to defend their reputations by revealing evidence that will implicate cabinet members in the unit's covert operations.

*As CCB members threaten to defend their reputations by revealing damaging evidence, the David Webster Trust says it will continue its work after the inquest.*

By **JACQUIE GOLDING**

A letter states: "... unless the Webster inquest degenerates like the Harms Commission, where justice is a farce/joke, CCB members hold the right to protect themselves in the following ways:

- "Giving evidence concerning the orders handed to them to destroy files and documents.
- "Providing information pertaining to various orders and the release of funds in order to keep members of the Harms Commission in line ..."

There are further threats that the CCB will offer information concerning top-secret operations known only to South African Police General Basie Smit and other senior members of the police.

CCB sources say they are also in possession of information which will implicate former Defence Minister Magnus Malan in CCB operations that resulted in violence and numerous deaths.

Malan is now minister of forestry and water affairs.

The letters say the CCB has been "left in the lurch" by the South African Defence Force and its members have been forced to "exercise their rights outside the court and away from the public eye".

"This letter must not be seen as a threat," read the letter in Afrikaans, "but as an emergency call (*noodkreet*) from those who have been loyal to their commanders and instructors.

"It (the letter) must be read as a statement from people who refuse to be further manipulated to protect other entities ... especially since those entities, because of unprofessional behaviour, are responsible for the problems of the nation."



Ferdi Barnard

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# Security agents on edge, warns Barnard

STAR 23/1/92

JOHN PERLMAN  
Chief Reporter

FERDI Barnard, former operative of the Civil Co-operation Bureau and "prime suspect" in the inquest on the death of David Webster, yesterday said he would not be applying for indemnity because he did not believe he had done anything wrong, but warned of dissatisfaction among the country's intelligence operatives

Speaking at a press conference after the inquest, Barnard said there was "no doubt in my mind that any intelligence operative, even at the low level" would be able to give high-ranking officials in Government, the police and the military "a lot of discomfort"

### Low morale

Barnard said such operatives had information "which could relate to a number of matters, including murder".

He said the Government would be well advised to "keep them happy" He said morale was low at the moment because "people are being fired overnight I have information about generals in the SAP and the defence force who are working with the ANC to sell us out"

Barnard insisted he had been made a scapegoat in the Webster hearing and said further investigations should look "in the direction of

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STAR 23/1/92

## Barnard

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criminal elements" as Webster was thought to have uncovered details of an ivory smuggling racket. He said he felt "sorry" for Webster's girlfriend, Maggie Friedman. "I don't think she did anything to de-

serve what she's been going through, just like I haven't done anything to deserve what I have been going through"

Barnard said he would be celebrating his "acquittal" with a "couple of friends in the intelligence community We'll talk about old times and the old South Africa which we enjoyed very much"

# Visit vengeance for the camps ... on those proven guilty

THE stories which have emerged from the ANC detention camps are horrible. For months now, we have heard tale after chilling tale of arbitrary degradation, mindless cruelty and murder. That the ANC's security wing was guilty of these despicable acts is a matter of unchallenged historical record.

Like Swapo's "internal security" ghoulis deep in the African bush, the men of Mbokodo became paranoid and crazed — hundreds of impot Colonel Kurtzes playing roles in their own versions of *Apocalypse Now*, able and willing at a whim to visit unimaginable horrors on their victims.

Now that the magnitude of the crime is known, there are really only three questions to be answered. Will the perpetrators be punished? Will the victims be compensated? Will steps be taken to ensure that the Mbokodo can never re-surface, in any form?

The ANC says that the second of its commissions of inquiry into the tragedy of the detainees will deal with these issues once and for all. South Africans, black and white, demand that outcome without further delay.

But there is a wild element to the recriminations which have followed the revelations, and it is dangerous. In the report of the Douglas Commission — and much of the commentary it has inspired — unqualified, direct blame is attached to a variety of prominent individuals. This cloud will hang over them in the coming elections, the blight could even follow them to their graves. It is our duty to ask whether this public "sentencing" is just, for our society cannot exorcise itself of the shame of the camps by aping the arbitrary approach of the Colonel Kurtzes and executing the innocent along with the guilty.

I have looked very carefully into just one case: that of Joe Slovo. Advocate Douglas is un-

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23/1/83  
UNDERCURRENT AFFAIRS

SHAUN JOHNSON



THE report of the Douglas Commission convicts Joe Slovo of the most heinous crime, but fails to provide the evidence. It is our duty to ask whether this public 'sentencing' is just.

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equivocal on this subject: "I come to the conclusion," he writes, "that Joe Slovo, on the evidence, was responsible and accountable for the crimes committed by Mbokodo. He was the most powerful communist in the movement at the time. He was seen visiting the camps, including Quatro. He saw for himself what was going on and clearly must have approved of it." One would expect that such a damning statement would be made only on the strength of irrefutable evidence. I have searched the 64 page report in vain for such evidence.

Douglas tells us he interviewed about 100 witnesses. In his report he quotes from the heart-rending stories of 25 of them. Of those, two mention Joe Slovo.

Witness 22 says: "Joe Slovo visited Quatro, to my knowledge, during 1984. He visited the prison at night so that inmates would not recognise

him I might add that we had always had the highest regard for Joe Slovo, who was head of special operations. The fact that he could associate himself with the brutality of our imprisonment came as a great shock to me. I was told by the warders of his visit and recall their boasting of his being in their company."

Witness 23, who refused to swear an affidavit, says: "In my opinion all the top leadership of the NEC knew about the abuse of human rights that took place, especially Slovo, Tambo, Kasrils and Hani."

Nowhere else in the reams of evidence does Slovo's name appear. It does not require legal training for one to conclude that the case against him rests on hearsay evidence from an Mbokodo warder, who would have had an obvious interest in making such a boast, and the speculation of one other witness. Nevertheless Douglas states flatly that Slovo was seen visiting the camps (the plural is particularly gratuitous), therefore "saw what was going on" and "clearly must have approved of it". Suffice to say that I, as an ordinary citizen, would feel deeply aggrieved were I to be convicted of anything at all based on such leaps of logic.

Slovo swears that he never, ever visited an ANC detention camp. He has challenged anyone to come forward and testify that he was seen at one. On the principle of the assumption of innocence in the absence of proof of guilt, then, he surely has reason to question the findings against him.

You may or may not like Joe Slovo and what he stands for. That is irrelevant.

Everyone is entitled to a fair trial. And if justice is to be done to the wretched victims of the camps, then the right culprits must be properly identified. The Douglas report convicts Slovo of the most heinous crime. It fails to provide the evidence.

Prime suspect given benefit of doubt

# Open findings in Webster probe

SUSAN SMUTS  
and JOHN PERLMAN

THE inquest on the death of Dr David Webster has failed to establish who was responsible for the Wits University academic's murder.

"This inquest will not be content with any of the sacrificial lambs which have been thrown to it," said Mr Justice Michael Stegmann yesterday, as he delivered an open finding on the identity of Webster's assassin. *STAR 23/1/93.*

At the close of the seven-week judicial inquest on the 1989 murder of the anti-apartheid activist, Stegmann said no proof beyond a reasonable doubt had been established that prime suspect Ferdi Barnard had been responsible for the murder.



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He said, "In my judgment, Ferdi Barnard is at this stage entitled to the benefit of the doubt."

### Disappointed

Stegmann stressed that his decision was not final or binding "For the present, the truth has not been brought to light," he said

Maggie Friedman, Webster's girlfriend, said she was "a bit disappointed by the finding, but not surprised. But I am not prepared to say this is the end of it. Nobody has been found guilty but nobody has been found innocent either. There has not been a final binding decision.

"We will have to take it forward in whatever way. We will have to look at the judgment first, especially the legal aspects," she said.

Stegmann began his 4½-hour judgment by ruling on precisely what standard of proof the inquest would have to apply in reaching its findings. Contrary to the submission by the Webster family's advocate that the court had only to find that a case existed "on the balance of probability", Stegmann ruled that the evidence had to be "beyond reasonable doubt".

Stegmann said that although a veil of secrecy had been thrown around the security organs of the State, there was no basis for suspecting the involvement of Military Intelligence, the security police or the State Security Council in the murder. And while suspicion had come to rest on the CCB, neither the organisation as a whole nor the agents in its domestic branch, Region Six, had been shown to have planned or executed the murder.

### Scapegoat

Barnard had claimed he had been made a scapegoat after CCB managing director Colonel Joe Verster had been incriminated by former CCB chairman General Eddie Webb. In his turn, Verster claimed the CCB was being made a scapegoat for all crimes committed by the security forces, and had been "thrown to the wolves" by his superiors in the SADF.

One of the most serious allegations against Barnard came from his former handler Lafras Luitingh, who claimed Barnard had boasted only days after Webster's murder that he was the killer. Luitingh had denied this to the 1990 Harms Commission into alleged police death squads.

Luitingh's claims had "switched around like a weathercock", Stegmann said. He was a disinformation expert who was accustomed to falsehood, the judge said.

Stegmann said he had had difficulty in assessing the contradictory evidence by members of the CCB "inner circle". He said he could not tell whether the conflict was between truth and falsehood or different levels of falsehood. The inner circle, made up of Luitingh, Verster and CCB information officer

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Webster

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Derrick Louw (an alias), were skilled not only at lying but in the corroboration of their falsehoods, the judge said. There was no reason to accept their evidence above that of former Military Intelligence chief General Witkop Badenhorst and the SAP's General Krappies Engelbrecht, who conducted an internal inquiry after the murder. Jurie Wessels, who appeared for the trio, had accused the generals of covering up in the investigation. Verster had contradicted himself, and his evidence had to be treated with caution, the judge found.

He said he could not rely on the evidence by other witnesses who implicated Barnard, as their evidence was contradictory. They included Barnard's former employer Willie Smit, Smit's mother, and eyewitness Cornelius du Plessis.

The judge found there was also no evidence to improve Webster's murder had been authorised by the CCB. Without the

missing project files — which disappeared during the Harms Commission — it could not be proved it had targeted the Wits anthropologist. The diary of CCB administrator Wouter Basson (also known as Christo Brits) made no reference to the assassination, and it was unlikely the murder could have been planned without Basson's knowledge, the judge said.

He rejected an argument by Eberhardt Bertelsmann, appearing for the Webster Trust, that CCB officers had incited their subordinates to murder.

Stegmann said the investigation into Webster's death would continue. Friedman said she believed the inquest "as a whole had got a lot into the open, exposed things and put pressure on the State. The frustration of the Harms Commission was that this stuff couldn't be heard and aired.

"At least people now know the details of the allegations," Friedman said. "And I believe that the inquests into the deaths of Anton Lubowski and Matthew Goniwe will be held in a different atmosphere. This inquest has set a standard for greater openness."

STAR 23/1/93



## Racist remarks fly as AWB accused prepare for trial

By DAN DHLAMINI

RACIAL animosity again reared its ugly head in the Free State, but this time in a court of law, as AWB members openly insulted blacks and tried to bar them from the courtroom.

The incident occurred this week in the Welkom Regional Court where six AWB members - Roelf J Fouche, 19; Guillame C Loots, 39, Rudi G Rossman, 23, Andries C Odendaal, 32, Roelf J Jordaan, 30, and Cornelius Strydom, 36 - appeared on charges of housebreaking and theft of R134 000 worth of weapons and ammunition from the SADF armoury in Welkom.

Before the hearing commenced, AWB members occupied most of the seats in the small courtroom and refused to make way for some blacks who wished to attend the proceedings, despite pleas from the prosecutor, Dawid Appelgryn, who was cursed by the khaki-clad gathering.

Comments such as "kaffirboetie," and "hierdie kaffirs moet hier skoert, hierdie saak het niks met hulle te waai nie" (kaffirs must scam or get out of here. This case has nothing to do with them), were hurled at Appelgryn and the black audience.

*C/Pren* **Opposed 24/1/93**

The tense situation was defused by Regional Court Magistrate Andre Groenewald who decreed that AWB members should make way for other people, following Appelgryn's application.

Earlier, Welkom's control magistrate K Seaman had to put up notices prohibiting the public from entering the court premises carrying firearms.

Witnesses told City Press that AWB members, who attended the bail application hearing on Sunday night, entered the court building with firearms and AWB flags, despite the notices.

Five of the six accused were granted R3 000 bail each except for Odendaal whose application was successfully opposed by the State.

Their bail release follows their successful Supreme Court interdict against the police for holding them under Section 29 of the Internal Security Act.

In opposing Odendaal's bail application, Appelgryn said it was unlikely that Odendaal - who is linked with the bombings of Cosatu House in Pretoria in 1991 and the Verwoerdsburg and Krugersdorp Post Offices last year - would stand trial.

The prosecutor said Odendaal had skipped his R3 500 bail on two occasions and there was no guarantee that he would stand trial this time.

Appelgryn added that should the court decide to grant him bail it should be set at R15 000, after Odendaal said the AWB Legal Fund was prepared to pay R10 000 for his bail.

### Forced

In his defence Odendaal said he was not part of the planning of the arms theft and had been forced to take part in the operation.

Odendaal, who confirmed that during the break-in at the SADF he wore a black uniform normally used by the "Ystergarde", the armed wing of the AWB, denied that he was a member of the AWB armed wing. He said he was an ordinary member.

Regarding the bombing of Cosatu House and the two post offices, Odendaal told the court that he had an equal share in that crime.

He told the court that his trial was scheduled for March 8 and that he had applied for indemnity.

In turning down his bail application the magistrate said he was convinced that Odendaal, who was inclined to commit crimes with a political motive, would not stand trial.

The six men will appear in court on March 2 with bail conditions stipulating no communication with State witnesses.

Their lawyers, however, strongly objected to the bail conditions, saying the State must name its witnesses so that the accused can identify them.

# Change in law foils Webster inquiry

By CATHY STAGG

A RECENT change in the law was the reason an inquest judge failed to make a finding on murdered Wits academic and anti-apartheid campaigner Dr David Webster.

Summing up at the end of the marathon inquest, Mr Justice MS Stegmann said his finding had turned on two words — prima facie — which were intro-

duced into the Inquest Act on April 3 1992

Before then, legal counsel appearing at the inquest agreed, it had been necessary for the presiding officer to have proof "on balance of probabilities" to make a finding that someone was responsible for causing an unnatural death. The attorney-general could then decide whether to prosecute

But the new wording

changed this — and counsel for the parties represented at the Webster inquest debated vigorously on how it should be interpreted

Mr Eberhardt Bertelsmann, SC, who appeared for the late Dr David Webster's family, argued that the introduction of "prima facie" meant that the standard of proof was reduced to less than a balance of probabilities, which is the test for civil trials

But Mr Jannie van Vuuren, the Cape Town State Advocate, said the new phrase upped the test to the same one applied to a criminal trial beyond reasonable doubt

Justice Stegmann decided that Mr van Vuuren's argument was correct

If the judge had chosen to apply the broader test, his judgment indicated, then the suspicions voiced during the hearing would have led to a different result

However, Justice Stegmann stressed that his lack of a finding on who caused Dr Webster's death did not mean that the investigation was over

The instructing attorney for the Webster family, Mr Greg Nott, said yesterday he would discuss the outcome with his clients before a decision was taken on whether the matter would be taken on review

Commenting on the new development, Mr Jules Browde, SC, national chairman of Lawyers for Human Rights said "It

would be surprising if the requirement at an inquest was proof beyond reasonable doubt.

"An inquest is merely to establish if there is sufficient evidence to warrant a prosecution arising from an unlawful death. To make a finding beyond reasonable doubt would seem to supplant the need for a trial"

## Spy's secret gem deals

From Page 1

MLS bank executives became concerned about "irregularities" at the Pretoria branch of the bank and began investigating Mr Joubert was suspended and resigned soon afterwards

He and Mr van der Merwe, after the police

had been called in, then signed admissions of guilt and agreed to pay back the money irregularly raised from the bank

Mr Joubert confirmed these details this week but declined to comment further.

Mr Verster was nicknamed the Soldier of Ter-

ror during his trial in the Maritzburg Supreme Court 13 years ago when he was jailed for eight years on charges of terrorism, conspiring to commit murder, illegal possession of a firearm and of contravening the Defence Act

The prosecution claimed he had been hired as a mercenary by one of the factions in the Msinga area and had picked off 14 members of the opposing clan from a hilltop

He was acquitted on murder charges because the judge found it was possible that he had not taken part in the slaughter though he admitted to oiling and repairing the weapons of one clan

The SADF refused to comment

## Sloop sweeps up Rio lead

THE 17-year-old record for the Cape to Rio race is set to fall when the lead yacht, 21,34m sloop Broomstick, is expected to cross the finishing line at noon tomorrow — if present weather conditions hold.

A spokesman on board the fleet guardship SAS Drakensberg said the leading yachts were less than 300 nautical miles from the finish early yesterday afternoon.

## WEATHER

TRANSVAAL. Partly cloudy and warm but cool in the south and on the Highveld  
 FREE STATE and LISOOTHO. Partly cloudy and hot but cloudy and cooler in the north and east. Scattered thundershowers are expected  
 NATAL and SWAZILAND. Partly cloudy and hot with scattered thundershowers  
 EASTERN CAPE and TRANSKEI. Partly cloudy and hot over the interior with isolated thun-

dershowers in the north-east  
 WEST and CENTRAL CAPE. Partly cloudy and warm but cooler on the south-west and south coast with occasional rain

	High/Low	High/Low
Cape Town	0419/1021	1625/2269
Mossel Bay	0437/1031	1653/2245
Knysna	0459/1046	1703/2259
Port Elizabeth	0441/1038	1645/2252
East London	0445/1041	1650/2256
Durban	0445/1045	1650/2259
Walvis Bay	0423/1021	1638/2232

## Burgersdorp man drowns

A BURGERSDORP man, Mr Buks Marx, 33, drowned at Kidds Beach near East London yesterday

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# 'I was the Webster fall guy,' alleges Barnard

**By DESMOND BLOW**  
CONVICTED murderer Ferdi Barnard said this week he was the "perfect fall guy" to take the rap for the murder of Dr David Webster for the Civil Co-operation Bureau

He also lashed out at State President FW de Klerk for shunting the Indemnity Act through the President's Council

"He has done that to save people in high places, including Foreign Affairs I have seen documents," he told City Press after Judge Michael Stegmann found that the seven-week inquest into the death of Webster failed to establish who was responsible for his murder (252)

Barnard told the media he did not feel threatened that enemies in high places would "try to take me out"

"I know I have made many powerful enemies but they must remember that I am not isolated Everybody in security looks after one another Those of us who have been betrayed have taken precautions It will not be easy to take me out, but if something happens to any of us, certain evidence will become available," he said (C/Pren)

Stegmann ruled that so many lies were told during the inquest by members of the CCB, who were trained, skilled and accomplished deceivers, that he was unable to ascertain who was responsible for the Wits academic's murder (24/1/93)

He said that despite allegations that Barnard was the killer he had to be given the "benefit of the doubt at this stage"

Barnard said that certain members of the CCB had made him the scapegoat in order to protect themselves

"It was only at a late stage, after General Eddie Webb had fingered the CCB, that some of them turned on me They claimed that I had done the killing without orders so that I could ingratiate myself with them

"But not all the CCB were against me Some of the best people I have ever known were members of the CCB, and they would stand by you in any situation They are still friends of mine, but Joe Verster and Derek Louw - I don't know who he really is or where he comes from - invented lies about me, and my  
To Page 2

# Barnard is given benefit of doubt

From Page 1 (C/Pren 24/1/93) (252)

handler Lafras Luitingh and I had a personality clash from day one.

"The judge rightly found that Luitingh switched around like a weathercock. He denied to the Harms Commission that I had anything to do with the murder, but he told Judge Stegmann that I had boasted to him - only days after Webster's death - that I had killed him"

Asked why he thought friends like the Smits had agreed to give evidence against him, he said he had no idea.

"Some people couldn't take the strain. Willie Smit contacted me a couple of nights ago through a third party. He claimed he was intimidated by threats to make a statement against me, but I refused to see him and said if he had anything to say he must put it in writing"

Barnard also attacked the government, saying it had betrayed its operators. "They are busy with a witchhunt against us and it is not going to stop

here. (252) (C/Pren 24/1/93)  
"I have good information that MK has warned the government if they don't take the sting out of the intelligence community they are going back to the bush to fight again."

"The morale of the security forces is very low at this stage. I have information that a certain general in the defence force has very close liaison with the ANC."

Barnard said he did not believe that Webster was a threat to the government and did not warrant being killed

He also expressed sympathy for Webster's girlfriend, Maggie Friedman. "She is so small and frail, I really felt for her," he said

Maggie Friedman said she was disappointed by the verdict but not surprised.

She was pleased, however, that certain revelations had been made and felt it was not the end

"There is the Goniwe inquest shortly and in time the truth must come out," she said.

# Inquest fails to identify Webster's killer

310AM 25/1/93

THE inquest into the 1989 assassination of David Webster ended in the Rand Supreme Court on Friday with Judge M Stegmann finding that the available evidence had failed to establish the identity of the murderer

He emphasised, however, that although the inquest had not established who was responsible for Webster's murder, his finding was not final and the police docket would remain open

Stegmann said the seven weeks of evidence presented at the inquest had not established that Webster's murder was planned and executed by the now disbanded CCB

He said it was clear there had been a conspiracy to murder Webster, but there was no evidence to prove it had been a CCB project

The evidence had also failed to prove beyond reasonable doubt that

252

SUSAN RUSSELL

the prime suspect, former CCB operative Ferdi Barnard, was responsible for the murder "Barnard, at this stage, is entitled to the benefit of the doubt," the judge said

Stegmann also held there was no evidence of military intelligence involvement in the murder

Stegmann said he was unable to rely on the contradictory evidence implicating Barnard, which was given by former CCB members, Barnard's former employer Willie Smit and a witness, Corrie du Plessis

Barnard's former handler Laffras Luitingh testified that several days after the murder Barnard had confessed to him

CCB MD Joe Verster and operative Dereck Louw also gave evidence implicating Barnard

Barnard repeatedly denied that he was responsible for the murder or that he had made such a confession to anyone

Judge Stegmann described the CCB witnesses as people trained and skilled in the art of deception

"They are, to put it bluntly, professional liars"

The truth about the murder, he said, lay deeply buried

"I doubt any of the versions given reveals the whole truth"

Referring to the contradictory evidence given by members of the CCB's inner circle, Stegmann said it was quite possible that the court had been presented with conflicting falsehoods.

Verster's evidence had been characterised by "a calculated ambivalence", said the judge

● Comment. Page 6

Law 'threat to  
patient rights'

CT 25/11/93,  
252  
JOHANNESBURG —  
The Patients Rights Or-  
ganisation of SA (Prosa)  
has strongly condemned  
any legislation that gives  
medical service suppli-  
ers the right to make de-  
cisions for patients.

Their protest follows  
moves to allow big busi-  
ness and medical aids to  
run health maintenance  
organisations, which  
would enter into con-  
tracts with hospitals and  
pharmacies and employ  
their own practitioners.

The Medical Schemes  
Amendment Act is ex-  
pected to be approved  
by Parliament in Febru-  
ary or early March this  
year — Sapa

NEWS Call for independent inquiry

# ANC has 'right to reopen inquests'

Sowetan 25/1/93

252

By Mzimasi Ngudle

■ NO PROOF Official says he is

surprised at Webster death finding

**T**HE African National Congress reserved the right to reopen all inquests into political assassinations when it came to power, ANC PWV region chairman and national executive member Mr Tokyo Sexwale has said.

Opening an ANC PWV regional council meeting, Sexwale said he was surprised at Mr Justice Michael Stegmann's finding in the inquest into the death of Dr David Webster.

Sexwale said the inquest into the 1985 death of Mr Matthew Goniwe and three other Eastern Cape activists, Mr Fort Calata, Mr Sparrow Mkhonto and Mr Sicelo Mhlauli, may follow the same trend.

Sexwale echoed the words of Azanian People's Organisation (Azapo) publicity secretary Dr Gomolemo Mokae, who said:

"Azapo feels that, on attaining freedom and in as much as Jews were entitled to the Nuremburg trials, the

oppressed people of Azania will have the right to put on trial agents of the regime suspected of involvement in the killings of its opponents.

"The truth about the death of Steve Biko, Mapetla Mohapi, Onkgopotse Tiro, David Webster, Neil Aggett and many other opponents of the regime will only out through an independent commission of inquiry with no links whatsoever to the regime," Mokae said.

## 'Charade'

Mokae said no structure instituted by the current regime could review objectively the circumstances of the death of opponents of the regime.

"What we say is that the inquest was a charade," he said.

In the same vein the Pan-Africanist Congress said the inquest had made it clear that "the question of an inde-

pendent judiciary is a sham".

"Inquests into the death of Steve Biko and many others demonstrate this very well.

"Also the veil of secrecy surrounding the security forces will obviously make it impossible to bring the culprits to book," PAC secretary for political affairs Mr Jaki Seroke said.

At the close of the seven-week inquest, Mr Justice Stegmann said no proof beyond a reasonable doubt had been established that prime suspect and fired Civil Co-operation Bureau agent Ferdi Barnard had been responsible for Webster's murder.

Stegmann said that although a veil of secrecy had been thrown around the security organs of the State, there was no basis for suspecting the involvement of Military Intelligence, the security police or the State Security Council in the murder.

rect readings which showed a downward trend in viewership had cost M-Net millions in advertising, and that it was being under-read by as much as 30%

Last week the foundation released a statement saying that M-Net's Amps reading had declined, and the station had accepted the fact

A spokesman for M-Net said that it was not satisfied with the foundation's statement, as both parties had agreed that there were faults with the system

Research manager Heather Kennedy said there had been technical problems with the "people-meters", which in some instances had not been installed correctly and only recorded channels other than M-Net

The foundation had admitted behind closed doors that technical errors were present in the system and the body had undertaken to announce that steps were being taken to rectify the situation, Kennedy said

## DP calls for SABC unbundling

Business Day Reporter *252*

DP MEDIA spokesman Peter Soal yesterday called for the unbundling of the SABC.

In a statement, he said the corporation was monolithic in its structure and "all-embracing in its network of contacts and influence throughout SA" *BIDM*

"Entrepreneurs from all sections of the community must be given the opportunity to operate radio and television stations.

"The monopoly the SABC operates, in the form of three TV stations and many radio stations, should be reconsidered."

Soal said government should act as fast as possible on the proposed new SABC board "and act in a manner which will not be seen to serve its own narrow interests".

He said the recent speculation regarding the manner in which the new board was to be appointed highlighted public concern about the matter and underlined the need for government to consult widely and quickly on the issue *25/11/93*

"I have no doubt that while the new board must be politically neutral, in that its members must not be office bearers of any political party or organisation, the selection process must include politicians and citizens from all walks of life."

He said that for the board to enjoy the confidence of all people, it must represent the broad spectrum of SA society.

He said it was important that it ensures all SABC broadcasts be as unbiased and impartial as possible

"It would be grossly unfair and totally unacceptable for a political party or organisation to be put at an advantage over its opponents because it has influence or contacts in the SABC newsroom"

"The authoritarian and corrupt practices of the old SA must not be carried forward into the new," he said

Last week the CP said appointing judges to select new SABC board members would be no guarantee that the new board would be objective and independent.

Sapa reports that CP broadcasting spokesman Pieter Mulder said it was debatable whether there was any sense in parties such as the CP or Inkatha discussing the selection process for a new SABC board with Home Affairs Minister Louis Pienaar. It appeared from reports that the CP's fears about government/ANC collusion on the matter were justified, he said.

The CP had warned that, after Codesa's failure, the SAP, SADF and broadcasting would become targets of negotiation strategy, and this was what had happened

## Inquest fails to identify Webster's killer

*BIDM 25/11/93*  
**SUSAN RUSSELL**

THE inquest into the 1989 assassination of David Webster ended in the Rand Supreme Court on Friday with Judge M Stegmann finding that the available evidence had failed to establish the identity of the murderer

He emphasised, however, that although the inquest had not established who was responsible for Webster's murder, his finding was not final and the police docket would remain open.

Stegmann said the seven weeks of evidence presented at the inquest had not established that Webster's murder was planned and executed by the now disbanded CCB.

He said it was clear there had been a conspiracy to murder Webster, but there was no evidence to prove it had been a CCB project.

The evidence had also failed to prove beyond reasonable doubt that

the prime suspect, former CCB operative Ferdi Barnard, was responsible for the murder. "Barnard, at this stage, is entitled to the benefit of the doubt," the judge said

Stegmann also held there was no evidence of military intelligence involvement in the murder.

Stegmann said he was unable to rely on the contradictory evidence implicating Barnard, which was given by former CCB members, Barnard's former employer Willie Smit and a witness, Corrie du Plessis

Barnard's former handler Laffras Luntingh testified that several days after the murder Barnard had confessed to him

CCB MD Joe Verster and operative Dereck Louw also gave evidence implicating Barnard.

*252*  
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"They are, to put it bluntly, professional liars"

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● Comment: Page 6

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# Security firm to testify on attack at station

STAR 26/1/93

By Helen Grange  
Pretoria Bureau

252

Private security company Springbok Patrols has been called to testify today at the Goldstone Commission concerning its guards' actions during an attack on train commuters at Soweto's Mamlankunzi station on November 25

The attack, in which two people died and 36 were injured, took place just as an afternoon rush-hour train pulled into the station. The perpetrators — a group of men waiting on the platform — opened fire on commuters as they disembarked, according to a police report.

At the time, there were only three Springbok Patrols guards at the station, and in the chaos several shots were fired by them, their company has confirmed.

Two of the guards, giving evidence before a committee of the Goldstone Commission yesterday, said they had come on the scene only after the shooting had begun. No policemen were there.

Zola Mathika (25) said he had shot and killed two men. One had come towards him with a panga. The other was trying to

scale a fence to escape

He had shot to kill. After the first man was shot in the stomach, he fell backwards "giving his last kicks". Mathika said he had "blown the other one's brains out" after first firing a warning shot.

However, in a report afterwards from Springbok Patrols group managing director Mick Bartmann, based on the guards' stories, no mention was made of Mathika killing two men.

The report said only that a man wielding an axe was shot by Mathika, but that the man continued running and "disappeared". The other two guards had fired only warning shots.

Commissioner Gert Steyn said he wished to hear evidence on this from Bartmann today.

He also wanted evidence on a contradiction between the two guards' testimony that they were unable to identify any of the attackers and the company's statement that the guards had identified two of them in Hillbrow Hospital soon after the attack.

Police last week released four suspects held in connection with the attack after an identity parade. The Springbok Patrols guards were unable to identify any of the suspects.



# Judge upholds magistrate's bail ruling

THREE men, who are to stand trial in the Johannesburg Regional Court next month on charges relating to attacks on and explosions at the Meadowlands Hostel in Soweto, were refused bail by a Rand Supreme Court judge yesterday.

Johannes Xiba, 24, Petrus Buthelezi, 22, and Johannes Matee, 32, were refused bail by a Johannesburg magistrate.

In that application, police opposed bail on the grounds that Xiba, Buthelezi and Matee had been identified as participants in attacks on the Meadowlands Hostel.

The police, who alleged that Xiba and Buthelezi had received military training in Tanzania, said there were a number of witnesses who feared the three would dis-

SUSAN RUSSELL (252)

appear if they were let out on bail.

According to the police Matee had been a supervisor at Dantex Explosives and there were witnesses who would testify they had received military and explosives training from him. *BIDM*

Upholding the magistrate's decision to refuse bail, the judge said he could find no misdirection or incorrect conclusions on the part of the magistrate. *26/1/93*

Although he did not completely agree with the reasons given by the magistrate for refusing Matee bail, the judge said he was unable to find that this decision had been wrong.

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(rainbow)  
No 66/04972/06

## ANNOUNCEMENT

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# Kriel releases names of police reporting officers

PRETORIA — Ten "police reporting officers" who will deal with allegations of police misconduct have been appointed by Law and Order Minister Hernus Kriel, in line with the national peace accord. *BIDM 26/1/93*

The SAP said in a statement yesterday that complaints of police misconduct would be referred to a police reporting officer for investigation.

In terms of the accord, the Association of Law Societies and General Council of the Bar submitted to Kriel the names of three candidates for each region, from which he could make appointments.

The 10 officers are:

- Western Cape — Christoffel Pauw, a former prosecutor and advocate with the office of the attorney-general, now in private practice;
- Northern Cape — Mark Fletcher, an attorney in private practice;
- Free State — Johannes Roets, a legal practitioner with 43 years experience at the Justice Department;
- Eastern Cape — Henning Liebenberg, an advocate well known in legal circles in the region;
- Natal — John Melville, an advocate who formerly served in the Justice Department and has a wide experience of official and private enterprise;
- Eastern Transvaal — Jan Marais, a highly qualified legal practitioner well known in the area;
- Northern and Far Northern Transvaal — Prof P van Warmelo, appointed senior advocate a few years ago in recognition of his academic achievements;
- Witwatersrand — J Munnik, an advocate who has wide legal experience in local and overseas practices;
- Soweto — Kgomatso Moroka, a Supreme Court advocate and a woman with wide legal experience;
- Western Transvaal — Andries Huisamen, a former magistrate with the Justice Department — Sapa.

<sup>STAR</sup>  
**Verster to  
help Trust  
find killer**

Political Staff

27/1/93  
252

Former Civil Co-operation Bureau managing director Colonel Joe Verster says he has decided to give the David Webster Trust his "wholehearted" co-operation in trying to find the murderer of the anti-apartheid activist.

In an interview after the Webster inquest ended with an open finding, Verster was clearly smarting at being described by Mr Justice Stegmann as a professional liar.

He told The Star: "I haven't co-operated with the trust before, but now I will. I will try to find minutes of meetings, agendas, whatever they need to help solve this case."

"Until it is solved, it suits certain people to continue to smear me and the CCB."

Verster told the inquest that he knew that former CCB operative Ferdi Barnard had "confessed" to the killing of Webster to his former handler, Lafras Luttingh.

He claimed the continuing "campaign" by SADF generals and those close to the SAP was part of a conspiracy to force him to seek an amnesty.

# I was shot by guards, says train commuter

By Helen Grange  
Pretoria Bureau

51072  
27/11/93. (252)

A survivor of a train attack in Soweto in November told a Goldstone Commission committee yesterday he had been shot by a Springbok Patrols security guard as he scaled a fence.

Mr "C" (his name may not be published), a 23-year-old hostel dweller, told the committee he had been slashed at with a panga moments earlier as he tried to get off a train at Mlamlankunzi station on November 25.

The attack, in which two people were killed and 36 injured, was perpetrated by a group of men who opened fire from the platform, according to the police.

Describing his ordeal, Mr C said he fell to the floor of the coach when he heard shooting.

"I looked up to see passengers jumping out. Others got in, armed with knives and pangas.

"As I emerged from the train, a man was stabbing at me with a panga. He cut my finger."

Mr C said he scaled a fence and, looking back, saw a security guard pointing a firearm at him. He was shot in the neck by a guard.

On Monday, two of the three Springbok Patrols guards deployed at the station that day testified they had fired several shots during the chaos.

Zola Mathika said he had shot and killed two men. One of them had been scaling the fence when Mathika "blew his brains out".

The hearing into train violence, chaired by Gert Steyn, continues today.

# Azapo praises ex-cop

Sowetan 27/1/93.

## ■ No confidence in continuing charades:

(S) 252

THE Azanian People's Organisation yesterday praised former municipal policeman Mr Johnny Mokaleng for admitting his involvement in the murder of detainees.

Azapo publicity secretary Dr Gomolemo Mokae said in a statement that "the paramount guilt" belonged to the State which allowed "these excesses" to continue and was unwilling to come clean on its past sins.

"We have never had any confidence in charades like the one which was purported to be making an inquiry into the death of Dr David Webster."

### Evidence

Mokae was referring to the inquest last week which was unable to decide on who had assassinated Webster, based on the evidence placed before it.

Meanwhile, the ANC has called for the immediate establishment of an independent commission to probe Mokaleng's allegations.

It said details provided by the former policeman indicated there had been a systematic policy of torture, elimination of activists and mass burials in unmarked graves.



# 'Kangaroo court' six charged

Staff Reporter

SIX Khayelitsha Civic Association members who allegedly held a kangaroo court have appeared briefly in the Mitchell's Plain Magistrate's Court on charges of assault with intent to do grievous bodily harm and theft.

They have denied allegations that they were part of a mob that forcibly evicted SABC producer Mr Chris Poswa from his house in Khayelitsha, removed his goods and assaulted him last March after a kangaroo court found him guilty of an offence.

The accused are: Mr Anton Singile Vumazonke, 22, Mr Hertoz Olifant, 68, Miss Zoleka Pasiya, 24, Mrs Nomvelelo Sbefile, 59, Mr Edward Vumazonke, 25, and Miss Tamara Plaatjie, 34, all of Khayelitsha.

The hearing continues tomorrow.

Mr G S Classen was on the Bench, Mrs J F van Schalkwyk prosecuted and Mr R Rudolf appeared for the defence.

# Commuter safety 'not a top priority'

B/Drm 27/1/93

PRETORIA — The prevention of damage to Spoornet property was considered a higher priority by contracted security guards than the protection of commuters, the Goldstone commission heard yesterday

Springbok Patrols director Jacob van Zyl said the company's brief from Spoornet had been to ensure that buildings and equipment at railway stations in Soweto were safeguarded

Protecting commuters was "another thing", he said

Van Zyl was answering questions at the commission's hearings on train violence chaired by Gert Steyn

Asked why Springbok Patrols had presented two different versions of the events on November 25 last year — when two people were killed and 37 injured at Soweto's Mlamlankumzi station — Van Zyl said only the company's senior director Wahl

ADRIAN HADLAND

Bartmann could answer that.

Bartmann was on holiday in the Seychelles and could not be contacted, Van Zyl said

One witness of the incident, a hostel dweller from Nancefield, told the commission how he had escaped armed assailants in a train carriage only to be shot by a security guard.

The witness said two shotgun pellets had been removed from his neck at the Hillbrow Hospital after the incident.

The hostel dweller, known as Mr C in order to protect his identity, said he had been shot by a Springbok Patrols Guard wearing a green uniform

Van Zyl said however, that the company had ceased using green uniforms more than a year before the incident

The hearings continue.

# Action committee opposes Randburg council's vision

THE Randburg Town Council's vision of an amalgamated Randburg, Sandton and Alexandra by June 1994 has been strongly opposed by the Randburg Action Committee which has called for a referendum on the issue

In addition the committee, which consists of ratepayers, called for an election of a representative interim administration for Randburg with a mission statement "to make local government responsive and accountable to the community".

The full financial implications of an amalgamation had been kept deliberately from Randburg ratepayers who had not been supplied with budget proposals or cost estimates, Randburg Action Committee spokesman Harry Formanek said

A request by the committee for negotiations on a referendum had been rejected by the town council

The committee, which has no political affiliations, also called for an end to party-political propaganda by the council and the right of access by ratepayers to council minutes, files and budgets

The council in December accepted and implemented a "vision" that by June 1994 there would be an amalgamated munic-

STEPHANE BOTHMA

pality flowing from an efficient and effective single administration with a democratically elected and representative council made up of Randburg, Sandton, Mariboro and Alexandra.

Randburg's boundaries would be re-defined, a low cost and informal housing scheme would be started and the sub-region's "well-informed residents" would understand and support Randburg's direction

"It is noted that it is not possible at this stage to establish the cost implications for Randburg and consequently the eventual cost per household," the council minuted at its last meeting.

Formanek said a large group of Randburg ratepayers would attend tonight's council meeting in an attempt to persuade the council to call a referendum

However, a council spokesman said yesterday the issue of amalgamation was not on the agenda of tonight's meeting.

The spokesman said the possible amalgamation of the three councils still had to be discussed with Sandton, Alexandra and the people of the area

STW  
28/1/93  
**'Remove links to Justice Ministry'**

By Brian Sokutu

252

The National Peace Secretariat (NPS) budget should be removed from the Justice Ministry because of the ministry's "strong links" with the National Intelligence Service, the chief of the United Nations Observer Mission in South Africa (Unomsa), Angela King, said last night.

She said in Johannesburg, during an address to the Witwatersrand branch of the SA Institute of International Affairs, that this recommendation had already been made to the NPS.

The NPS, which works closely with Unomsa and other international observer missions in South Africa, was set up last year under the National Peace Accord and is responsible for establishing regional and local peace structures.

With the Justice Ministry solely funding the NPS, there could be a conflict of interests, said King. She recommended that the NPS set up a politically non-aligned body to control its budget.

### Threats

"The peace secretariat budget should be removed from any ministry," she added.

Asked why Unomsa could not help trace alleged Azanian People's Liberation Army bases in Transkei, King said her organisation did not have the military personnel. The search was the duty of the Government and the Goldstone Commission.

She said political violence remained the greatest threat to the new dispensation.

Describing the political situation as extremely delicate, King said key aspects of the violence were the carrying of dangerous weapons and political rivalry between various political organisations, particularly the ANC and IFP.

Others factors included the SAP's "failure" to prosecute the perpetrators of violence.

STAR 28/1/93

# More evidence of misconduct by MI

252

Pretoria Bureau

Further evidence of misconduct in the SADF's intelligence units has been unearthed by the joint investigation being conducted by the Goldstone Commission and SADF Chief of Staff General Pierre Steyn, it was reliably learnt yesterday.

The investigation began on November 27 after the Goldstone Commission raided a Military Intelligence (MI) base in Pretoria and seized documents disclosing that MI had employed former Civil Co-operation Bureau opera-

tive Ferdi Barnard in 1991.

Steyn was afterwards appointed by President de Klerk to launch an inquiry into all intelligence units of the SADF.

He has been assisted by Advocate Torie Pretorius of the Goldstone Commission.

A source involved with the probe indicated yesterday that enough evidence had been found to warrant the attention of the attorneys-general.

Whether the material was enough to justify prosecutions was up to the attorneys-general, he said.



# Goldstone to probe safety of commuters

STAR 28/1/93

By Helen Grange  
Pretoria Bureau

252

Steps taken by Spoornet and the SAP to safeguard the lives of commuters in view of the continuing bloodshed on trains will be scrutinised at a Goldstone committee hearing next week.

The committee, probing train violence, will be hearing closing argument from lawyers next Thursday on security shortfalls and ways in which Spoornet and the police could better protect commuters.

Evidence during an inquiry this week into a train massacre at Soweto's Mlamankunzi station on November 25 last year pointed to inadequate policing at the time.

The attack, perpetrated by a group of men firing from the platform into a rush-hour train as it pulled in, resulted in two deaths and 36 injuries, according to police.

It emerged in testimony that there were no policemen on duty at the station, and that three Springbok Patrols security guards hired to protect Spoornet property had useless two-way radios and therefore no means to call for back-up.

Several bullets, mostly warning shots, were fired by them during the chaos, with one of the guards testifying he had "blown one man's brains out".

However, such a killing could not be established afterwards.

Yesterday, Protea police station commander Colonel Paul Looock told the committee he had met ANC members of the Train Accord after the incident, and gained the distinct impression from them that they had eyewitnesses.

However, the ANC never produced them, and an identity parade of four suspects arrested by police was fruitless.

# Judge 'has right to be Broeder'

A PROMINENT member of the secret Broederbond organisation and SA ambassador to Bophuthatswana, Dr Tjaart van der Walt, has defended the right of a judge to hold membership of the Afrikaner movement as "not a conflict of interests"

The General Council of the Bar of South Africa has expressed concern at media allegations that Mr Justice WH Booyesen of the Natal Bench is an executive member of the Broederbond.

Dr Van der Walt, a former chairman of the Federasie van Afrikaanse Kultuurvereniginge, said membership of the Broederbond was no more con-

flicting than membership of the Lions or Rotarians.

Bar council chairman Mr B R Southwood, SC, said in a statement this week that it was fundamental to the administration of justice that judicial officers not only be impartial but that they be perceived to be impartial by the public at large.

The Afrikaner Broederbond is a secret society which pursued objectives which were essentially political in nature. The bar regarded membership of such an organisation by a serving judge as improper and incompatible with the administration of justice. — Staff Reporter, Sapa (252)

## NEWS "ANC shielded witnesses from co-operating" ●

# Train attack - 4 freed

Sowetan Correspondent

SUSPECTS in a train attack at Mlamlamkunzi station in Soweto during November last year had to be released because of lack of witnesses, a committee of the Goldstone Commission has been told

Lieutenant-Colonel Paul Looock of Protea in Soweto told the commission yesterday he had informed a meeting of the Train Accord Committee on January 13 this year that they had arrested four people but then had to release them

He said the only witnesses to the attack were three guards from Springbok Patrols who had earlier testified before the committee

Looock said an identification parade was held on January 22 and the four suspects had to be released afterwards

### ■ No witnesses to the crime, police officer tells Goldstone committee:

He said he was under the impression the African National Congress had witnesses to the attack and there was a discussion with ANC representatives at the meeting about protection for witnesses

He said in the past they had experienced difficulties with the ANC shielding witnesses from co-operating with the police

Committee chairman Mr Gert Steyn told the various legal representatives, who are due to present argument on February 4 and 5, to answer certain questions in their submissions

Among the questions were the improvements on trains, like the prototype train introduced by Spoornet on which

the legal representatives should comment. There was also evidence led that policing on trains was not always sufficient and police investigations were not always completed

A report was handed in on policing by the Witwatersrand Attorney-General and the committee wanted comment on that

Steyn also said the committee heard evidence on specific incidents of train violence in Daveyton and Mlamlamkunzi and he wanted to know any deductions the lawyers made from that. He also wanted to know whether any political party could be linked to the train attacks. The hearing will resume on February 4

# Interpreters lose out

■ Disadvantaged will benefit from State move:

By Alinah Dube (252)

FREELANCE interpreters are facing a bleak future following the appointment of State-employed interpreters in civil courts

In a circular dated January 15, the Department of Justice announced the move to make available free services of black interpreters in civil cases

Mr MS Moima, chief interpreter at

*Sowetan 29/1/93.*

the Pretoria Magistrate's Court, told *Sowetan* yesterday that civil matters had in the past been handled by freelance interpreters at the client's cost.

They earned R200 a day for Supreme Court and R150 for lower court cases

State-employed interpreters used to work in criminal courts

"The State is now relieving disadvantaged people of the burden of paying by providing a free service," Moima said.



**(b) Silver**

Mr R. L. de Lange  
 Mr L. M. Edwards  
 Mrs A. J. Engelbrecht (Gericke)  
 Mrs H. H. Martins  
 Rev L. Moolman  
 Prof. J. C. Poynton  
 Dr F. K. M. F. L. von Breitenbach

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**DEPARTMENT OF WATER AFFAIRS  
 AND FORESTRY**

No. 126

29 January 1993

**CORRECTION NOTICE**

The Afrikaans version of Government Notice No. 3289, which was published in *Gazette* No. 14435 of 4 December 1992, is hereby corrected as follows:

- 1 Substitute the name "Suidwes-Kaapse Waterraad" in the last sentence of paragraph (a) for "Suidwes-Kaapse-waterraad".
2. Insert the expression "1993" after the expression "1 Maart" in paragraph (b).

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**GENERAL NOTICES**
**NOTICE 73 OF 1993**
**DEPARTMENT OF NATIONAL HEALTH AND  
 POPULATION DEVELOPMENT**

The Director-General of National Health and Population Development has, in terms of section 29 (1) and (3) of the Human Tissue Act, 1983 (Act No. 65 of 1983), appointed Mr Robert Albertus Hamilton as Inspector of Anatomy for the Province of the Transvaal, with effect from 1 January 1993.

(29 January 1993)

**NOTICE 74 OF 1993**
**SOUTH AFRICAN LAW COMMISSION** 252

The problem the commission addresses in this working paper, entitled "**Jewish Divorces**", is an universal one which arises in all countries in which there are Orthodox Jewish communities. The problem is as follows: A divorce is only recognized as valid by an Orthodox Jewish community if the male spouse gives his wife a so-called "get" or letter of divorce before the Jewish ecclesiastical court, the "Beth Din". Until this occurs and notwithstanding the existence of a valid divorce order by the Supreme Court, the wife may not remarry according to the Orthodox faith, children born of a second marriage are regarded as illegitimate, etc

86860—B

**(b) Silver**

Mnr. R. L. de Lange  
 Mnr L. M. Edwards  
 Mev A. J. Engelbrecht (Gericke)  
 Mev. H. H. Martins  
 Ds. L. Moolman  
 Prof. J. C. Poynton  
 Dr. F. K. M. F. L. von Breitenbach

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**DEPARTEMENT VAN WATERWESE  
 EN BOSBOU**

No. 126

29 Januarie 1993

**REGSTELLINGSKENNISGEWING**

Die Afrikaanse weergawe van Goewermentskennisgewing No 3289, wat in *Staatskoerant* No. 14435 van 4 Desember 1992, gepubliseer is, word hierby soos volg reggestel

1. Vervang die naam "Suidwes-Kaapse-waterraad" in die laaste sin van paragraaf (a) deur "Suidwes-Kaapse Waterraad "
- 2 Voeg die uitdrukking "1993" na die uitdrukking "1 Maart" in paragraaf (b) in.

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**ALGEMENE KENNISGEWINGS**
**KENNISGEWING 73 VAN 1993**
**DEPARTEMENT VAN NASIONALE GESONDHEID  
 EN BEVOLKINGSONTWIKKELING**

Die Direkteur-generaal. Nasionale Gesondheid en Bevolkingsontwikkeling het kragtens artikel 29 (1) en (3) van die Wet op Menslike Weefsel, 1983 (Wet No. 65 van 1983), mnr Robert Albertus Hamilton met ingang van 1 Januarie 1993 as Inspekteur van Anatomie vir die provinsie Transvaal aangestel

(29 Januarie 1993)

**KENNISGEWING 74 VAN 1993****DIE SUID-AFRIKAANSE REGSKOMMISSIE**

Die probleem wat die Kommissie in hierdie werkstuk, onder die titel "**Jewish Divorces**", behandel, is 'n universele probleem en kom voor in alle lande waar daar Ortodokse Joodse gemeenskappe bestaan. Die probleem is die volgende. In die Ortodokse Joodse gemeenskap word 'n huweliksontbinding slegs as geldig erken indien die eggenoot 'n sogenaamde "get" of egskedingsbrief aan die eggenote gee voor die Joodse godsdienstige hof, die "Beth Din". Tot tyd en wyl dit geskied, en ondanks die bestaan van 'n geldige egskedingsbevel van die Hooggeregshof, mag die vrou, volgens die Ortodokse geloof, nie weer trou nie, sal kinders gebore uit 'n tweede huwelik as buite-egtelik aangemerkt word, ens.

These rules put the wife who has been divorced from her husband or who wishes to be divorced in a very weak position, since she is dependent on the goodwill and co-operation of the latter to get a religious "divorce". This system therefore lends itself to exploitation and women may be and are often in fact sometimes compelled to consent to unreasonable demands in respect of maintenance, custody of children or distribution of assets in order to obtain a "get".

The Orthodox Jewish faith is not capable of changing the above-mentioned rules in regard to a "get" and the question is whether legislation should not attempt to remedy this position: In other countries in which the same problem arises Jewish women are for the most part not assisted; where they are the results are not always satisfactory: for example to fine the recalcitrant husband or even to send him to prison may also be unacceptable. (222) (252)

The Commission believes after a thorough study and deliberation that legislation is indeed called for to avoid injustice. Furthermore, the said problem is not peculiar to the Jewish faith, it arises in other religious systems too. The proposal of the Commission therefor applies not only to the Orthodox Jewish faith, but to all situations where similar religious requirements exist.

The Commission proposes the following legislation: If it appears to the Supreme Court at the hearing of a divorce application that it is necessary for the parties to execute a religious "divorce" notwithstanding the granting of a decree of divorce by the court, the court may refuse to grant a civil decree of divorce until the religious "divorce" has been concluded. In extraordinary circumstances, however, and if it is in the public interest, the Supreme Court is to be competent to grant a final decree of divorce, for example where if it is clear that the spouse is abusing the religious procedure precisely in order to avoid a civil divorce and if the court is satisfied that the marriage has broken down irretrievably.

The Commission invites all interested persons and bodies to comment on the working paper or to make suggestions for the development, improvement, modernization or reform of this aspect of the law.

Reasoned comments in writing in respect of the proposals contained in the working paper should be addressed to the Commission not later than 30 April 1993.

The working paper, which is published in English only, is obtainable free of charge from the Commission on request.

The Commission's offices are on the Eight Floor, NG Kerk Sinodale Sentrum, 228 Visagie Street, Pretoria. Correspondence should be addressed to:

The Secretary  
South African Law Commission  
Private Bag X668  
PRETORIA  
0001

Telephone: (012) 322-6440 (Mrs P. Kotze)  
(29 January 1993)

Hierdie reëls plaas die eggenote wat van haar eggenoot geskei het of wil skei, in 'n baie swak posisie, want sy is afhanklik van laasgenoemde se goeie wil en samewerking om 'n godsdienstige "egskeiding" te kry. Hierdie stelsel leen hom dus ook tot uitbuiting en vroue kan, en word inderdaad soms, gedwing om tot onredelike eise met betrekking tot onderhoud, die bewaring van kinders of die verdeling van die bates toe te stem ten einde 'n "get" te kry.

Die Ortodokse Joodse geloof is nie in staat om bogenelde reëls met betrekking tot 'n "get" te verander nie en die vraag is of wetgewing nie die posisie moet probeer regstel nie. In ander lande waar dieselfde probleem voorkom, word die Joodse vrou meestal nie te hulp gekom nie; waar dit wel gedoen word, is die resultaat nie altyd bevredigend nie om die teensinnige eggenoot byvoorbeeld te beboet of selfs na die gevangenis te stuur, kan ook onaanvaarbaar wees.

Na deeglike studie en raadpleging meen die Kommissie dat wetgewing wel aangewese is om onreg te vermy. Daarbenewens is genoemde probleem nie eie aan met die Ortodokse Joodse geloof nie, maar ook aan ander geloofstelsels. Die voorstel van die Kommissie geld dus nie slegs vir die Ortodokse Joodse geloof nie, maar alle situasies waar soortgelyke godsdienstige vereistes bestaan.

Die Kommissie stel die volgende wetgewing voor. Indien dit by die verhoor van 'n egskeidingsaansoek vir die Hooggeregshof blyk dat dit, ondanks die hof se egskeidingsbevel, ook nog vir die partye nodig is om 'n godsdienstige "egskeiding" te voltrek, kan die hof weier om 'n burgerlike egskeiding te verleen, tot tyd en wyl die godsdienstige "egskeiding" afgehandel is. In buitengewone gevalle en waar die openbare belang dit vereis, word die bevoegdheid egter aan die Hooggeregshof gegee om 'n finale egskeidingsbevel te verleen, byvoorbeeld waar dit duidelik is dat die eggenoot juis die godsdienstige prosedure misbruik om 'n siviele egskeiding te vermy en die hof oortuig is dat die huwelik onherstelbaar verbrokkel het.

Die Kommissie nooi alle belanghebbende persone en instansies uit om kommentaar te lewer op die werkstuk en om voorstelle te doen vir die ontwikkeling, verbetering, modernisering of hervorming van hierdie faset van die reg.

Die Kommissie ontvang graag voor 30 April 1993 beredeneerde skriftelike kommentaar ten opsigte van die voorstelle in die werkstuk vevat.

Die werkstuk, wat slegs in Engels gepubliseer is, is op aanvraag gratis van die Kommissie verkrygbaar.

Die Kommissie se kantore is op die Agste Verdieping, NG Kerk Sinodalesentrum, Visagiestraat 228, Pretoria. Korrespondensie moet asseblief gerig word aan:

Die Sekretaris  
Suid-Afrikaanse Regskommissie  
Privaat Sak X668  
PRETORIA  
0001

Telefoon: (012) 322-6440 (mev. P. Kotze)  
(29 Januarie 1993)

# Leave spares dealer

STAR 30/1/93

## alone, SAP told

252  
STAFF REPORTER

THE Rand Supreme Court yesterday granted a Soweto vehicle spares dealer an interim interdict restraining members of the South African Police Vehicle Theft Unit from intimidating or assaulting him.

Mr Justice Percy Bledde ordered the officer commanding the vehicle unit at Jabulani and the policemen under him not to threaten, intimidate or injure Samuel Mkhwanazi, who trades in motor vehicle spares at Soweto's Emdeni Industrial Park.

In papers presented to court, Mkhwanazi alleged that one member of the vehicle unit had sprayed

markings on the wall of his premises, including "the 'swastika' symbol of the AWB".

He also alleged that two other officers from the unit had threatened "they would arrest me and lock me up unless I gave them R2 000. I argued with them, but in the end I decided to pay them this amount."

Mkhwanazi testified that an officer at the vehicle unit had threatened to kill him. He said he was suspected of dealing in stolen motor vehicle parts, which Mkhwanazi denies

# Judge quits the <sup>(252)</sup> Broeders

MARTIN  
CHALLENGOR

Weekend Argus  
Political Staff

NATAL Supreme Court judge Mr Justice W.H. Booysen has resigned from Broederbond and its executive council with immediate effect.

His membership was revealed in Press reports recently.

In a statement Mr Justice Booysen said he decided to continue as a member of the Broederbond after becoming a judge, because the Broederbond was a cultural organisation which excluded party politics.

"I know that many Freemasons and members of the Broederbond have served as judges whilst continuing to be members.

"During my years on the Bench I found that I was not influenced by my membership of the Broederbond and I have always striven to discharge my judicial functions impartially.

"However, when it becomes public knowledge that a judge is a member of any secret or confidential society different considerations arise.

Some members of the public may, wrongly but understandably, doubt the impartiality of the judge.

"I have accordingly with immediate effect resigned my membership," Mr Justice Booysen said.



# Ciskei's Bill of Rights may lead the way

In a series of landmark cases, courts in Ciskei have struck down decrees and laws which contradict the territory's Bill of Rights

In doing so, they are not only stripping away Brigadier Oupa Gqozo's autocratic powers one by one, but are also laying the foundation for a future enforceable human rights culture in the country, as a whole

At the heart of the rulings lies Ciskei's Bill of Rights and Responsibilities. Curiously, the repressive homeland has the most progressive — and justiciable — constitution in the country, drafted by civil rights lawyers during the early enlightened period of the Gqozo administration. Whether the military ruler likes it or not, it is there to stay.

Mr Keith Matthee, a lawyer who co-authored the constitution, is ecstatic. "It's extremely exciting because it's an investment for the future." The fact that Ciskei is soon likely to be absorbed back into South Africa was "irrelevant" to this achievement.

"This process is one of building up a Bill of Rights jurisprudence for the new South Africa," said Mr Matthee, who briefly served as Brigadier Gqozo's Minister of Justice until falling out with the military leader.

The Ciskei cases are adding to the body of precedents that courts will use, even in the new South Africa.

The process has gained its own momentum. The Bisho Supreme Court is currently considering an ANC application to have section 43 of Ciskei's National Security Act declared invalid. Under the law, unsanctioned public meetings have been banned by magistrates or broken up by the police.

Late last year, the Ciskei Appeal Court ruled that section 26 of the same security law — allowing for indefinite detention without trial — was in conflict with basic human rights.

Days later, the Appeal Court threw out sections of a decree which indemnified Brigadier Gqozo against all legal actions and damages claims against the government arising out of the Lennox Sebe era.

And in the weeks ahead, the same court will consider overturning another controversial de-

With little ado, courts in Ciskei are quietly establishing their authority and defending the first Bill of Rights in force in South Africa. A report from **PATRICK GODENOUGH** in East London

124 30/1/93

252

Brigadier Gqozo to avoid testimony before a politically explosive inquest.

The overturning of the detention legislation is especially significant. Ciskei now leads Transkei, Venda, Boputhatswana and the rest of South Africa, where laws equivalent to section 26 remain on the statute books.

The first known victim of Ciskei's detention laws was an intemperate soldier responsible for the collapse of a staff flying the Ciskeian flag at the homeland's independence celebrations in 1981.

The last, ironically, was a young security policeman detained late last month on suspicion of being an ANC member. In the intervening years, tens of thousands of people, mostly political activists opposed to the Sebe and Gqozo governments, fell victim to section 26.

A few months ago, the wife of a detainee brought the Supreme Court application to have the (detention) laws declared null and void. It has been found to be inconsistent with section three of the Bill of Rights incorporated in Ciskei's 1991 constitution. "No person shall be subjected to arbitrary arrest, detention or denial of bail."

Section 26 was the first piece of pre-1990 coup legislation in Ciskei to be successfully challenged. The decision has prepared the ground for further action against the alleged infringement of rights in homeland legislation inherited from South Africa.

Discrimination against women and corporal punishment are just two likely targets for creative lawyers in the region. The possibilities are endless.



Brigadier Gqozo

It is not just the baggage from the Sebe era that is being cleared away. Two decrees introduced by Brigadier Gqozo have also come under scrutiny.

An important clause in the constitution gives the Supreme Court competence to question the validity of any decree passed since the coup. In South Africa, Parliament remains sovereign and the Supreme Court can only challenge laws in terms of procedures followed.

Last year residents of the rural Chalumna area brought actions against the government for unlawful arrests and assaults by police just months before Mr Sebe was ousted.

A trial date had already been set when Brigadier Gqozo issued the decree indemnifying his government from liability in such actions. The decree was contested on the grounds it derogated from the right of a fair trial, entrenched in the Bill.

The Appeal Court is also considering a decree which makes Brigadier Gqozo "not compellable" to give evidence in court. Mr Charles Sebe, estranged brother of Lennox, and Colonel Onward Guzana, formerly Brigadier Gqozo's right-hand man, were shot dead by Ciskeian troops in January 1991.

The ongoing inquest into their deaths has heard allegations that the brigadier ordered, or at least incited, their deaths. Brigadier Gqozo made a series of increasingly frantic attempts to wriggle out of answering the accusations in court.

Apart from the decree, he submitted affidavits variously declaring his innocence and explaining his inability to attend the hearing. In this and in other cases, Brigadier Gqozo has

displayed a propensity to manipulate the constitution to suit himself. He even tried to have the Bill's entrenching clause itself overturned.

The courts have been unimpressed. Again, the Bill of Rights is the prism through which the decree is being scrutinised. The right of equality before the law, and the right to a fair trial. If the Appeal Court overturns the decree, Brigadier Gqozo will be subpoenaed to testify when the inquest resumes next month.

A noteworthy achievement of the Ciskei constitution is the unassailability of the Bill of Rights. It cannot be amended or repealed without a referendum achieving a majority of two-thirds.

"In the new South Africa we will have a Bill of Rights, which at the very least will incorporate the rights enshrined in the present Ciskei one," said Mr Matthee. "This is why what's happening in Bisho now is so important."

How this will effect the process of incorporation of Ciskei is not yet clear. In effect, the constitution's provisions mean that Ciskei can only be re-incorporated if a referendum is held, since re-incorporation will of necessity involve amendment, or rather abolition, of the Ciskei document. In practice, however, the importance of a swift return of the homelands will probably override any legalistic nitpicking on this issue.

The major challenge ahead is to make the Bill of Rights accessible to ordinary people. Ignorance must be overcome. The main restraint is financial. Lawyers have argued for the appointment of a Namibian-style ombudsman, accountable only to the constitution, who can bring actions against infringements on behalf of an entire class or group of people.

Meanwhile, the standards are being set. The right of dignity and equality before the law, of a free trial, of citizenship and privacy, of freedom of thought, expression, political activity, association and assembly, of education and employment, the protection of property, no death penalty, no detention without trial.

Ciskei may have a far more positive impact on the national constitutional process than many could have imagined.

Even Brigadier Gqozo should have no complaint about that.

# Review of hold on executions

252  
CT36/11.93

## Political Staff

THE government was reviewing the moratorium on the death sentence because of the growing number of murders, President F W de Klerk said yesterday.

ANC director of publicity and information Dr Pallo Jordan said the ANC was "utterly opposed to the death penalty".

In his opening address to parliament yesterday, Mr De Klerk said government was reviewing the moratorium on carrying out of death sentences.

He said this had been imposed with a view to negotiating a bill of rights.

However, he said the "wave of cruel murders" and prevailing disrespect for human life, and delays in the negotiating process, made it "very difficult for government to allow the moratorium to continue indefinitely".

At a briefing on Mr De Klerk's speech, Justice Minister Mr Kobie Coetsee said the government would not resume executions without negotiation. He said if the government's negotiating partners did not agree, "we will have to reconsider".

The last execution was in November 1989.

## Govt to clarify position on gays

THE government's position on gay rights will be clarified on Tuesday when it releases its draft bill of rights.

"We will have a position on this," Minister of Justice Mr. Kobie Coetsee said at a press conference yesterday.

Other parties could then react.

cr 30/1/93  
(252)

# Whites came in bakkies

## to hit us'

By **MONWABISI  
NOMADLO**

FOR three days a black, uneducated, rural woman was subjected to the sophisticated cut-and-thrust of legal cross-examination in a Johannesburg Regional Court.

Eventually the clearly exhausted woman had to be given a seat

Black members of the gallery were outraged. It was as if she was the guilty party, they fumed in the passageways during breaks.

If anything, Maria Dipela Kutoane, 49, was a victim of the events. Her common-law husband died allegedly at the hands of a white farming couple after a quarrel over dogs.

Kenneth and Lynn Finlay are accused of beating to death Molatudi "Lawaai" Lebeta, 58, at his house at a smallholding in Elandsfontein, 30 km south of Johannesburg, on Christmas Day 1991.

The charge: culpable homicide – or unintentional death.

The issue the white couple allegedly accused the black couple of letting their "kaffir" bitch mate with their dog.

The Finlays have pleaded not guilty.

So relentless was the Finlay's lawyer, that the magistrate had to ask the witness if she was tired and adjourned the proceedings for the day.

## Farmers' lawyer grills uneducated woman for days

Kutoane told how her construction worker husband died of injuries received in a fracas at the Finlay smallholding.

During Kutoane's evidence, the Finlays – especially Lynn – occasionally sniggered or shook their heads.

Was lawyer D Smit hoping to break the State's chief witness – and get his clients off the hook – on the basis of Kutoane's obvious lack of sophistication?

For Kutoane struggled to be "precise" with mea-

surements of distance, and seemed to have absolutely no knowledge of legal procedures – such as the difference between making a statement to the cops and her statements in court.

In fact, much time was spent in court on educating her on the basics of court procedure.

The court heard how the Finlays pulled up at the smallholding in a bakkie in the late afternoon at around 5.30 pm.

Lynn Finlay had informed Lebeta that she did not want her dog mating with his "kaffir dog".

### Reply

His reply? "Jy is ook 'n kaffir!"

The reaction? Kenneth Finlay called out to his wife to come to him and the two left without saying a word.

They returned later that day – with a horde of white men in a cavalcade of bakkies. Lebeta, Kutoane, co-worker Elizabeth, and a friend Frans Ramoshaba, had been sitting in Kutoane's house.

Kutoane said she peeped through the door, saw the bakkies and became alarmed.

Then the Finlays burst into the house. Lynn was armed with a sjambok and Kenneth was wielding a baton.

Lynn had said: "Ja Lawaai!", and started whipping Lebeta on the head. Kenneth had joined in, said Kutoane.

Pandemonium broke out as the blacks tried to flee the small room.

Kutoane said men in the group waiting outside bashed her husband on the head with a pick-han-

dle as he emerged from the house.

The badly injured Lebeta had run, stumbling and staggering, to Kutoane's employer's house, one Mr Collins.

While she was running after him the whites in their bakkies had roared past her giving chase.

At the Collins' house the group encircled Lebeta and beat him. She had heard her husband plead for his life.

That night Letaba's people had taken him to Lenasia Hospital where he was stitched up and discharged. Later in the night his condition deteriorated and he was taken to Baragwanath Hospital where he died the next day of brain and chest injuries.

Under cross-examination, Kutoane said she had not specifically seen the Finlays kicking her husband, but said they were definitely part of the group that assaulted him.

Kutoane said that the day after Lebeta was assaulted, the Finlays had returned, this time looking for the other black man, Frans.

When he could not be found she said they set their dog on Elizabeth while shouting encouragement.

On Wednesday the court went to inspect the room at the smallholding where Lebeta was assaulted to enable Kutoane to show the court what happened.

On the dog issue, Kutoane said it was the Finlay's dog who had come nosing around her house, and not the other way round.

# SA signs convention against torture

Political Staff

THE international convention against torture, which South Africa signed in New York yesterday, prohibits any form of physical and mental torture on a person to obtain information or a confession

It also obliges signatory states to take "effective legislative, administrative, judicial or other measures to prevent acts of

torture in any territory under its jurisdiction"

"No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political stability or any other public emergency, may be invoked as a justification of torture," the convention states

It adds "An order from a superior officer or a public authority may not be invoked as a justification of torture"

252 CI 30/1193  
The South African government refused to sign the "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" when it first came into force on June 26, 1987.

Yesterday, however, South Africa's ambassador in the United States, Mr Harry Schwarz, signed the convention, and a number of other international agreements on human rights, on behalf of South Africa

REPUBLIC  
OF  
SOUTH AFRICA



REPUBLIEK  
VAN  
SUID-AFRIKA

# Government Gazette Staatskoerant

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Vol. 330

PRETORIA, 31

DECEMBER 1992  
DESEMBER

**No. 14503**

## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE

No. R. 3432 252 31 December 1992

FUNCTIONS ASSIGNED TO ATTORNEYS-GENERAL IN TERMS OF SECTION 2A (1) OF THE ATTORNEY-GENERAL ACT, 1992 (ACT No 92 OF 1992)

Under the powers vested in me by section 2A (1) of the Attorney-General Act, 1992 (Act No. 92 of 1992), I hereby assign with effect from 1 January 1993—

(a) to Jan Abraham Swanepoel SC, appointed as Attorney-General in terms of section 2A (1) of the Attorney-General Act, 1992, the functions of the Director, Office for Serious Economic Offences, appointed under section 3 of the Investigation of Serious Economic Offences Act, 1991 (Act No 117 of 1991); and

(b) to Daniel Jacobus Rossouw SC, appointed as Attorney-General in terms of section 2A (1) of the Attorney-General Act, 1992, the functions arising from his capacity as member of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation, established by section 2 of the Prevention of Public Violence and Intimidation Act, 1991 (Act No 139 of 1991)

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this 11th day of December, 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

82012—A

## GOEWERMENSKENNISGEWING

### DEPARTEMENT VAN JUSTISIE

No. R. 3432 31 Desember 1992

WERKSAAMHEDE AAN PROKUREURS-GENERAAL KRAGTENS ARTIKEL 2A (1) VAN DIE WET OP DIE PROKUREUR-GENERAAL, 1992 (WET No 92 VAN 1992), OPGEDRA

Kragtens die bevoegdheid my verleen by artikel 2A (1) van die Wet op die Prokureur-generaal, 1992 (Wet No 92 van 1992), dra ek hierby met ingang van 1 Januarie 1993—

(a) aan Jan Abraham Swanepoel SC, aangestel as Prokureur-generaal ingevolge artikel 2A (1) van die Wet op die Prokureur-generaal, 1992, die werksaamhede van die Direkteur Kantoor vir Ernstige Ekonomiese Misdrywe, aangestel ingevolge artikel 3 van die Wet op die Ondersoek van Ernstige Ekonomiese Misdrywe, 1991 (Wet No 117 van 1991), op; en

(b) aan Daniel Jacobus Rossouw SC, aangestel as Prokureur-generaal ingevolge artikel 2A (1) van die Wet op die Prokureur-generaal, 1992, die werksaamhede voortspruitend uit sy hoedanigheid van lid van die Kommissie van Ondersoek insake die Voorkoming van Openbare Geweld en Intimidasie, ingestel by artikel 2 van die Wet op die Voorkoming van Openbare Geweld en Intimidasie, 1991 (Wet No 139 van 1991), op

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Pretoria, op hede die 11de dag van Desember Eenduisend Negehoenderd Twee-en-negentig

**F. W. DE KLERK,**  
Staatspresident

Op las van die Staatspresident-in-Kabinet

**H. J. COETSEE,**  
Minister van die Kabinet

14503—1

# Resolving

Star 12/193

# the people's

252

# problems

**S**OUTH AFRICA'S Ombudsman, Mr Justice P J van der Walt, might not have achieved a notably high public profile since he was appointed 14 months ago, but he has had his work cut out and accomplished several important breakthroughs

The veteran jurist, who still sits on the Bench of the Transvaal Provincial Division, has built up more than 2 000 case files on complaints from members of the public who claim they have been prejudiced by a civil servant or public body

His office receives between 30 and 40 calls a day, although many of these are from people he cannot help — mostly because their complaints fall outside his brief

The matters he has undertaken to investigate range from zoning and ecological concerns, roads, the actions of local authorities, and financial matters — including complaints about non-receipt of housing subsidies by married women — to workmen's compensation cases and political detainees

It was Mr Justice van der Walt who got the ball rolling on the recent Pretoria City Council corruption scandal, the subject of the ongoing Krugel Commission of Inquiry.

In this particular case, Judge van der Walt, who prefers settling disputes informally, recommended that a commission of inquiry be set up. It is the only case to date he has felt warranted such treatment

Most of the complaints laid before him are dealt with on the telephone and around discussion tables

That is the way he resolved a dispute between the SA Defence

---

South Africa's first Ombudsman, Mr Justice P J van der Walt, has been in office for just over a year. HELEN GRANGE spoke to him about his work.

---

Force and some former Civil Co-operation Bureau operatives over retrenchment packages. Indeed, former CCB managing director Joe Verster's recent trip abroad to "wrap up CCB business" was part of the agreement the judge mediated

(It is likely that, because of these resolutions, many of the court actions brought against the Government by former CCB agents will be withdrawn)

Public servants who suspect they have been short-changed or abused by the State constitute a good percentage of the Ombudsman's work, especially now that the budget for State expenditure has been slashed

"People will go to great lengths to get what they think is owed to them, whether it is justified or not," the judge says

These cases are usually quite easy to resolve informally. Mostly, all that is needed is some direction from someone in authority. The State departments involved are hardly ever obstructive and give their full co-operation, he says

On occasion, the judge's sympathetic ear is the only thing required. He says he gets a stream of calls from people with problems borne "of their own personality make-up"

"They just need a shoulder to cry on, and that's also part of this job"

Yet another aspect of the job is referring people with ordinary legal problems to the right places. "This role is very necessary, because people often don't understand how administrative channels work or where to go for legal assistance"

Isn't all this too much for one person to cope with? Judge van der Walt concedes he never expected such a volume of work when he was appointed SA's first Ombudsman by President de Klerk in November 1991

However, he and his two very busy legal assistants seem quite bouyant. There are, predictably, the satisfying times when a particularly poignant human drama is resolved

They recall the shocking financial state of an ill woman receiving no income while the Workmen's Compensation Committee was processing her claim. The Ombudsman managed to get her on to the State's disability pension register.

Under the new SA constitution, the Ombudsman will exist as a critical component of the pending bill of rights

Under the bill of rights, it is likely that several laws will be introduced to render racial or gender discrimination unlawful, giving the Ombudsman more clout in areas where his power is currently limited

● The Ombudsman's office can be reached by toll-free telephone number 0800-1120-40. His brief is to investigate cases of financial prejudice to government departments or dishonesty in the use of public monies by officials or bodies. He is also entitled to investigate allegations that the public in general is being prejudiced by maladministration relating to affairs of the State. □

Stear 18/19/93

South Africa can learn from precedents in a homeland, reports Patrick Goodenough

# Ciskei Bill of Rights sets pace

**C**COURTS in Ciskei are quietly establishing their authority and defending the first Bill of Rights in force in southern Africa.

In a series of landmark cases, they have struck down decrees and laws which contradict the territory's Bill of Rights.

In doing so, they are not only stripping away Brigadier Oupa Gqozo's autocratic powers one by one, but are also laying the foundation for a future enforceable human rights culture in the region as a whole.

At the heart of the rulings lies Ciskei's Bill of Rights and Responsibilities. Curiously, the repressive homeland has the most progressive — and justiciable — constitution in the country, drafted by civil rights lawyers during the early, enlightened period of the Gqozo administration.

Whether the military ruler likes it or not, it is there to stay. Gqozo has displayed a propensity to manipulate the constitution to suit himself. The courts have been unimpressed.

Keith Matthee, a lawyer who served briefly as Gqozo's Minister of Justice and who co-authored the constitution, is ecstatic. "It's extremely exciting because it's an investment for the future."

That Ciskei was likely to be absorbed back into South Africa soon was irrelevant to this achievement, he said.

"This process is one of building up a Bill of Rights jurisprudence for the new South Africa."

The Ciskei cases are adding to the body of precedent that courts will use, even in the new South Africa.

The process has gained its own momentum.

● The Bisho Supreme Court granted an ANC application to have section 43 of Ciskei's National Security Act declared invalid. Under the law, unsanctioned public meetings have been banned by magistrates or broken up by police. Significantly, the application was not opposed by the Ciskei

● Late last year, the Appeal Court ruled that section 26 of the same security law — allowing for indefinite detention without trial — was in conflict with basic human rights.

● Days later, the court threw out sections of a decree which indemnified Gqozo against all legal actions and damages claims against the government arising out of the Lennox Sebe era.

● And in the weeks ahead, the same court will consider overturning another controversial decree — passed by Gqozo to avoid testifying before the politically explosive inquest into the deaths of Charles Sebe, estranged brother of Lennox, and Colonel Onward Guzana, formerly Gqozo's right-hand man, who were shot dead by Ciskeian troops in January 1991.

The overturning of the detention legislation is especially significant. Ciskei now leads Transkei, Venda, Bophuthatswana and the rest of South Africa, where laws equivalent to section 26 remain on the statute books.

Since 1981, tens of thousands of people, mostly political activists opposed to the Sebe and Gqozo governments, have fallen victim

to section 26.

A few months ago, the wife of a Seyrnour detainee brought a Supreme Court application to have the law declared null and void. It has been found to be inconsistent with section three of the Bill of Rights incorporated in Ciskei's 1991 constitution. "No person shall be subjected to arbitrary arrest, detention or denial of bail."

Section 26 was the first piece of pre-1990 coup legislation in Ciskei to be successfully challenged. The decision has prepared the ground for further action against the alleged infringement of rights in homeland legislation inherited from South Africa.

Discrimination against women and corporal punishment are just two likely targets for creative lawyers in the region. The possibilities are endless.

It is not just the baggage from the Sebe era that is being cleared away. Two decrees introduced by Gqozo have also come under scrutiny.

An important clause in the constitution gives the Supreme Court

competence to question the validity of any decree passed since the coup. In South Africa, Parliament remains sovereign and the Supreme Court can challenge laws only in terms of procedures followed.

A noteworthy achievement of the Ciskei constitution is the unsalability of the Bill of Rights. It cannot be amended or repealed without a referendum achieving a majority of two-thirds.

"In the new South Africa we will have a Bill of Rights, which at the very least will incorporate the rights enshrined in the present Ciskei one," said Matthee. "This is why what's happening in Bisho now is so important."

How this will affect the process of incorporation of Ciskei is not yet clear. In effect, the constitution's provisions mean Ciskei can be reincorporated only if a referendum is held, since reincorporation will of necessity involve amendment, or rather abolition, of the Ciskei document.

In practice, however, the importance of a swift return of the

homelands will probably override any legalistic nipping.

The major challenge ahead is to make the Bill of Rights accessible to ordinary people.

Ignorance must be overcome. The main restraint is financial.

Lawyers have argued for the appointment of a Namibian-style Ombudsman, accountable only to the constitution, who can bring actions against infringements on behalf of an entire class or group of people.

Meanwhile, the standards are being set: the right of dignity and equality before the law, of a free trial, of citizenship and privacy, of freedom of thought, expression, political activity, association and assembly, the right of education and employment, the protection of property, no death penalty, no detention without trial.

Ciskei may have a far more positive impact on the national constitutional process than many could have imagined.

Even Brigadier Gqozo should have no complaint about that — Eastern Cape News Agency □

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# Charter

Star 2/2/93

# spells

(252)

# out

(252)

# rights

CAPE TOWN — The rights of detainees, women, and children feature strongly in the Government's long-awaited proposed Charter of Fundamental Rights, published today.

The proposed charter recognises that rights have been infringed under the present system of parliamentary sovereignty, and that the system has to be adjusted fundamentally to provide guarantees against future infringements.

In the introduction to the proposed charter, the Government said it was committed to a new constitutional dispensation in which the powers of the various branches of state authority were limited by, and subjected to, universally accepted norms.

In one of the first of 37 outlined points it recognises the most basic right to life, but retains the imposition of the death sentence as a permissible form of punishment for specific crimes.

According to Section Six of the International Covenant on Civil and Political Rights, the death penalty may be imposed on anyone over the age of 18 for "most serious crimes".

However, a future parliament may abolish the death penalty or later reimpose it if public opinion so demands.

The proposed charter says abortion is contentious and leaves it to a future constitutional court to decide on the permissibility of abortion "under given circumstances". The matter is regulated by statute at present.

The proposed charter also outlines citizens' and political rights. It emphasises that every citizen will have the right to:

- Dep't of Citizenship
- Exiled or expelled from the country
- Prohibited from returning

● To Page 3

# Charter of Rights published

Star 2/2/93

(252)

● From Page 1

to the country.

● Prevented from leaving the country.

● Denied or deprived of a passport. The proposal says the passport, once an "indulgence" on the part of the authorities, will now be a right on which a citizen could insist.

Political rights include the formation of free political parties, and free political activities. However, it may be necessary to prohibit or regulate participation in politics by people in the service of the State.

The right to privacy, private ownership, freedom of speech, movement, worship, meetings, demonstrations and petitions is also covered.

Certain minimum rights for detainees, calculated to prevent the abuse of power and inhuman treatment by authorities, are included.

Among others, it specifies they should be enabled to communicate, consult and be visited by a legal and medical practitioner, family or religious counsellor. It guarantees certain procedural rights aimed

at ensuring that justice is not only done, but manifestly and undoubtedly seen to be done.

The proposed charter also recognises and provides for the protection of the family unit, especially children.

The rights of employees and employers is also highlighted, with emphasis on the right to form and join unions and to take part, or not take part, in strikes. Employers' rights to require adequate acceptable service and lock out labour, apply the principle of "no work, no pay"

and terminate an employee's services under common law are included.

Separate legislation is to be drafted to remove statutory discrimination against women and provide for the promotion of equal opportunities and for the combating of domestic violence.

The proposals, based largely on the proposed Charter of Human Rights by the SA Law Commission (with a few adaptations), recognise the right of all to human dignity, physical and mental integrity. — Sapa

# NEWS: MP's grill FW de Klerk on deaths in detention held under Internal Security Act

## NP 'guilty of abuses'

By Ismail Lagardien  
Political Correspondent

*Sweker*  
2/2/93

PRESIDENT FW de Klerk was quizzed about the mysterious deaths and disappearances of detainees in South Africa by Members of Parliament in the house yesterday.

Speaking during the debate on the State President's Opening Address, the leader of the Democratic Party, Mr Zach de Beer, said the NP was guilty of the most gruesome human rights abuses.

The ANC-aligned Labour Party nailed De Klerk further, accusing him and his Government of the devilish dualism of preaching tolerance and reconciliation while the facts behind the death of people such as Stanzla Bopape and Steve Biko were being sealed behind a

Democratic and Labour Parties say Nats are sanctimonious about Bill of Rights:

wall of mystery.

Mr Llewellyn Landers, national Labour chairman, said the NP's plan of action to promote the concept of human rights in a Bill of Rights at this hour was laughable and sanctimonious for all the mystery that surrounds the killing of detainees.

"We find it strange, too, that a country which boasts one of the most effective and sophisticated intelligence networks in the world is unable to solve these mysteries."

"The National Party Government has an appalling record of human rights abuses committed during its 44-year rule - the abuse of human rights has developed into a culture and tradition

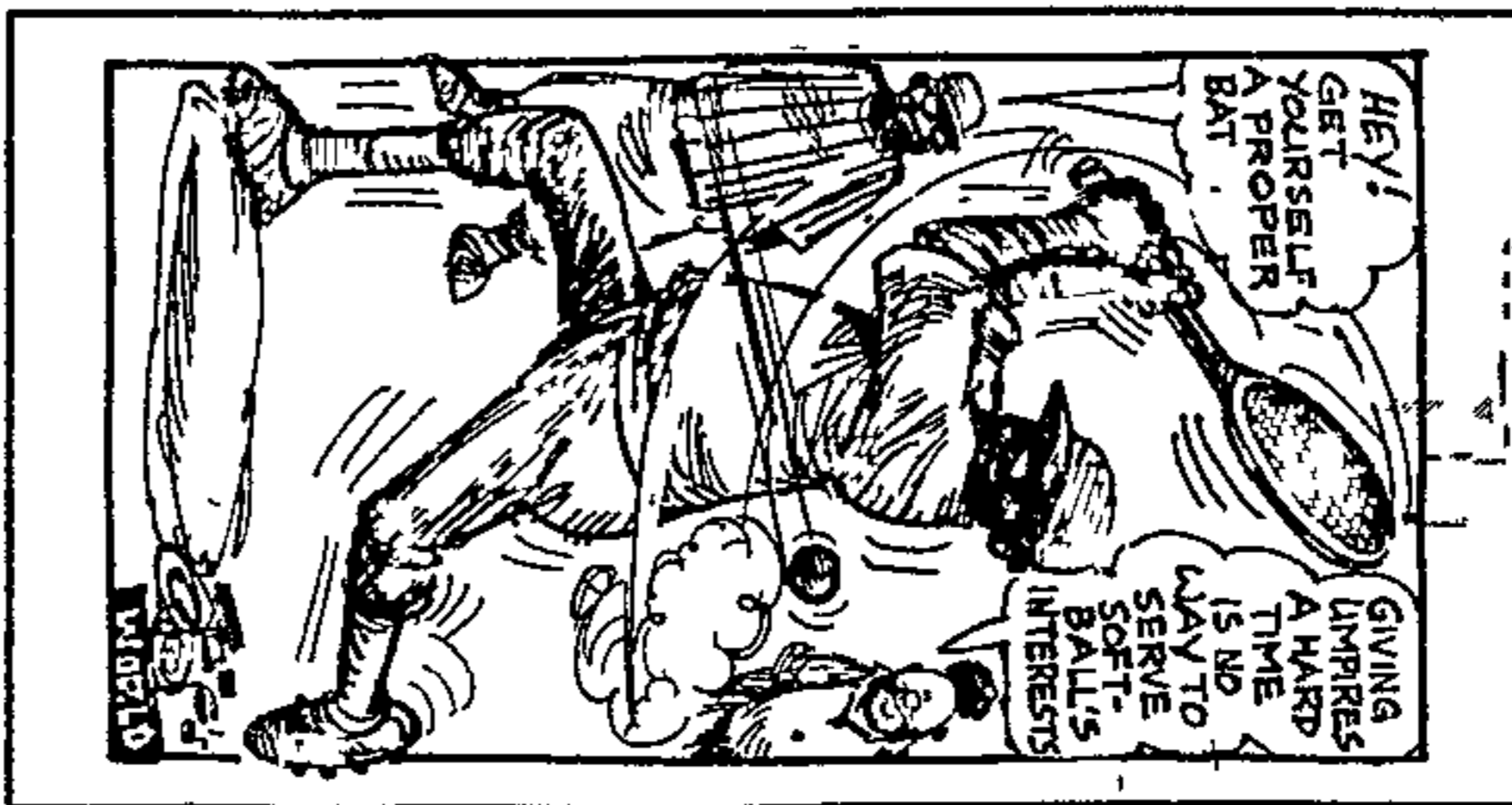
within the NP Government," Landers said.

The DP leader also referred to Biko's death and said the Government had to admit it was guilty of human rights abuses, possibly "order, in order" to prevent it from happening again.

De Beer and Landers both said that millions of South Africans would actually like to know what the military officers who were returned last December were guilty of.

The resurgence of interest in detainees who disappeared in prison or died while in custody comes after last week's flurry of activities after an ex-police-man said he knew where Bopape was buried. Diggings in the area revealed no graves.

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## Taximen Released

No charges put to them:

By Ainaah Dube

THE 55 taxi drivers who were arrested by police in the Pietersburg-Polgoterus areas early last month have been released without being charged.

Major Anna Vogel, media liaison officer for Far Northern Transvaal police, confirmed the taxi operators' release yesterday.

The 55 who were arrested on January 9 for permit offences and touting were held under the Internal Security Act.

The Lethabile Taxi Association and RSA Taxi Association brought an urgent application in the Pretoria Supreme Court seeking their release.

# Charter unveiled

# Human Rights

Document aims to protect freedom of ordinary citizen

APR 2/2/93 (252)

**TOS WENTZEL, Political Staff**

**WIDE** protection of the rights of ordinary citizens is laid down in a draft Charter of Fundamental Human Rights released by the government today.

The proposals include freedom of speech and issues such as the freedom to worship, meet, demonstrate and draw up petitions.

They emphasise that every citizen will have the right not to be.

- Deprived of citizenship
- Exiled or expelled from the country
- Prohibited from returning
- Prevented from leaving.
- Denied or deprived of a passport

Such a charter will be one of the cornerstones of a fully democratic constitutional system. The proposals are open to negotiation but the government said it felt such a charter must be in place during the transition to a new system.

There is to be a publicity campaign to explain the purpose and functions of human rights. Pamphlets will be distributed in 11 languages.

Under the charter, discrimination against women will be outlawed.

Other major points deal with

- Human dignity the State must respect everyone's dignity,
- Protection of life. everyone shall have the right to life. But there is no proposal to abolish the death penalty,
- Equality before the law everyone shall be equal before the law and entitled to equal protection,
- Political rights every citizen shall have the right to be politically active,

● Education Pupils will have the right to equal access to State or State-aided schools

Other proposed rights include

● The right to freedom of movement and residence and to work in any part of the country,

● The right of private ownership,

● The right of employees to form and join employees' organisations, to negotiate or bargain, not to be subjected to unfair labour practices, to work under safe and healthy conditions, to work reasonable hours and to receive reasonable remuneration;

● The right of prisoners to be held under dignified conditions and to be given the opportunity of consulting a legal or medical practitioner.

● The right of people who are arrested to be warned that they have the right to remain silent and of the consequences of making statements. The draft charter says they must not be detained for more than 48 hours before a court appearance and must be tried within a reasonable time

● The right to choose a language and the right to choose the language of communication with the State

The draft charter lays down that no law should regulate or authorise


- Physical or inhuman torture
- The creation of offences with retrospective effect

# 'Ghosts' return to haunt F.W.

Political Staff 

PRESIDENT De Klerk was reminded of his party's pernicious past in parliament when members raised the spectre of the mysterious deaths of detainees.

Speaking yesterday during debate on the State President's opening address, Democratic Party leader Dr Zac de Beer said the NP was guilty of the most gruesome human rights abuses.

 The Labour Party accused the president and his government of the "devilish dualism" of preaching tolerance and reconciliation while the facts behind the death of, among others, Stanza Bopape and Steve Biko were being sealed behind a wall of mystery.

LP national chairman Mr Llewellyn Landers said the NP's plan of action to promote the concept of human rights in a Bill of Rights at this hour was laughable.

# Rights bill rescinds past NP stand

By BARRY STREEK  
Political Staff

**LONG-STANDING** Nationalist positions on civil liberties have been dramatically scrapped by its draft Charter of Fundamental Rights, released yesterday

For years, the National Party detained and banned people without trial, it deported them, deprived them of their citizenship, refused to allow them to return to the country of their birth and denied them passports

All this has been overturned in the draft charter and without any reference to the NP's dubious record

Every citizen, the charter says, "shall have the right not to be deprived of his or her citizenship, exiled or expelled from the Republic, prohibited from returning to the Republic, prevented from leaving the Republic, which temporarily or permanently, or denied a passport or deprived thereof"

"While the issue of a passport was previously an indulgence on the part of the authorities, it now becomes a right upon which the citizen may insist."

Although the NP banned political movements, it now says every citizen should have the right to form a political party or join a political party. The draft charter also says: "Every person shall have the right to assemble and demonstrate with others peacefully and unarmed, and to draw up and present petitions"

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CT 3/2/93



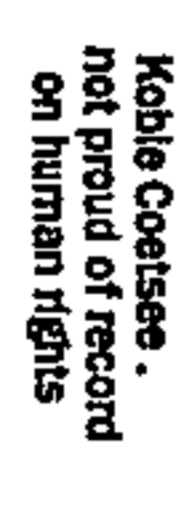
# Govt vision draws fire

(252)

The Government has spelt out its plan for a bill of rights, and first signs are that debate will rage long and hard — and with close attention to detail JO-ANNE COLLINGE reports.



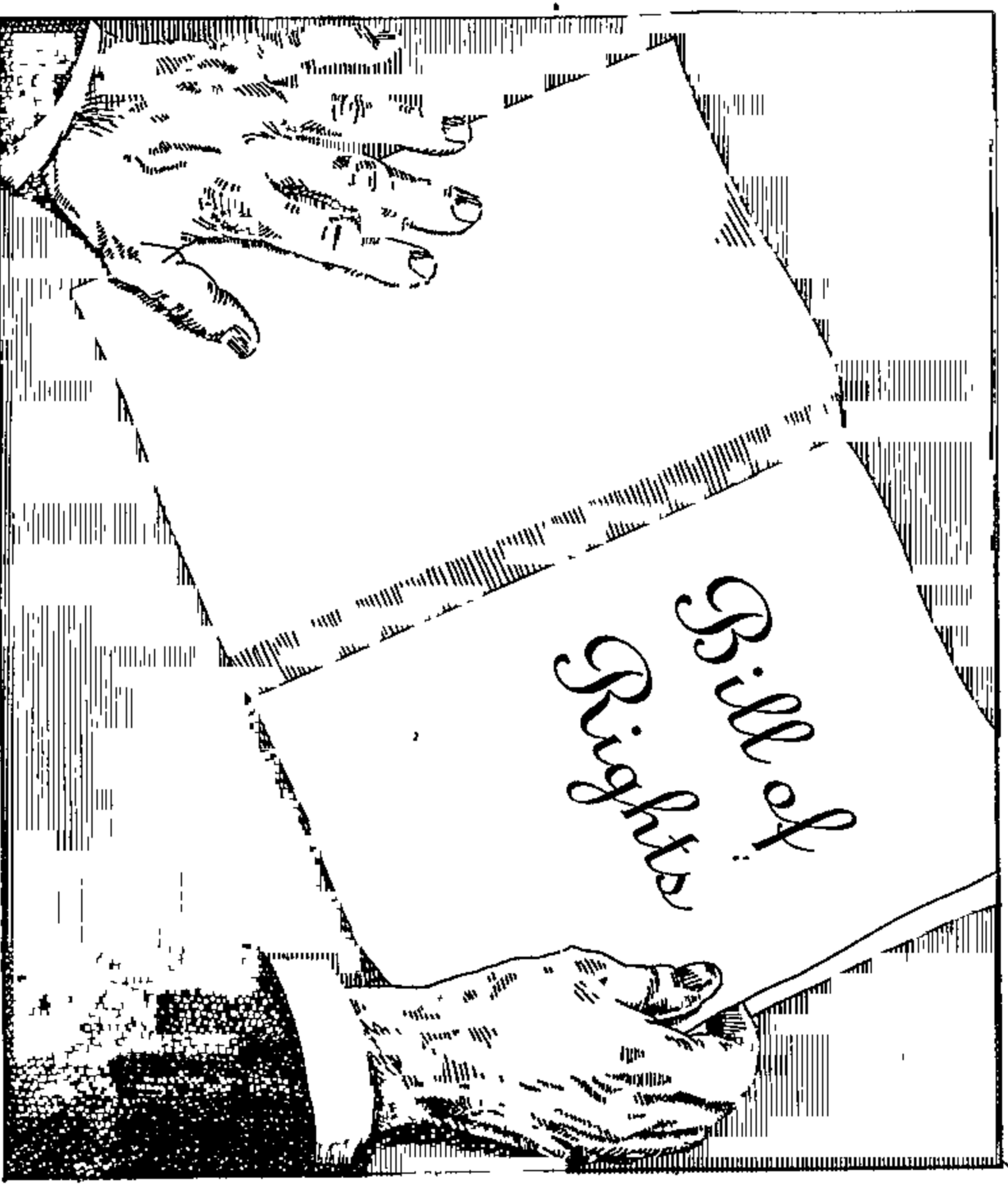
qualified as a party. Therefore, if a law were passed banning the UDF, it would not have been possible to seek to have this law struck down by the Constitutional Court.



The gender section kicks off with the statement that "all women shall be entitled to equal rights with men". Albertyn's comment was that "equality is not about women being the same as men".



She argued that women's rights should not be dealt with in isolation, but under the general "equality clause" which would cope more effectively with the compound form of discrimination encountered, for instance, by black rural women.



Undoubtedly the Government's bill addresses many of the critical issues, and the debate which has now just begun concerns vital sleights of verbal construction. The precise wording of the bill of rights is, after all, the yardstick which the Constitutional Court will use when it is asked to judge whether new laws and policies are constitutional or whether bureaucracies are treating citizens the way they should.

THE Government's proposal for a Charter of Fundamental Rights deals extensively with civil liberties and checking human rights abuses, but it shows a marked reluctance to endorse purposeful State intervention to overturn the patterns of privilege and poverty created by apartheid.

Even in the realm of human rights and gender discrimination, the proposal is not without controversy. The fact that the Government's bill of rights would countenance the promulgation of laws providing for up to 10 days' detention without trial has not escaped the critical gaze of lawyers.

So, a measure of scepticism greeted Justice Minister Kabile Coetsee yesterday when he declared, "We are not proud of our past record on human rights, but we do claim the privilege to change. We are using our power to bring about change and I think the State President should be recognised as the man who, by correcting the past, is working for the future."

Dullah Omar of the ANC's constitutional committee stated bluntly that imposing a bill of rights "in the current situation — where some have rights and others do not — is to entrench the rights of right holders and the rightlessness of the rightless".

Coetsee made it clear that it was not intended that the present Parliament pass this particular version of the bill of rights as law. All that was planned was that Parliament would commit itself in principle to a future bill of rights which the Government would like to see in force during the term of a transitional government.

But even as an initial negotiating proposal, the Government's document has drawn fire.

Dennis Davis, director of the Wits University Centre for Applied Legal Studies (Cals), described it as a "very free-market bill of rights" which was "trying to remove race as a central governing concept and to replace it by private power". He elaborated, "It entrenches private property and does not commit itself in any way to the transformation of the economy. There are no economic or social rights and there are not even directives of State policy on these matters — as there are in the Namibian constitution."

Davis highlighted the fact that the Government saw the function of a bill of rights purely in terms of regulating relations between the State and the individual, without any role to play in defining relations between private citizens.

If one took the clause prohibiting discrimination, therefore, State policy and arguably left non-State institutions free to discriminate — even to the extent of being constituted explicitly on the basis of race.

When it came to education, the proviso that the "parent community" would determine the religious tenor, the language of instruction and the general nature of the school was unacceptable, Davis argued. "It is clearly designed once more to ensure a kind of private control outside the ambit of the State."

The suggestion that property taxes had to be kept so mild as never to threaten any individual's ownership of property was yet another limitation of the State's role in redressing the legacies of apartheid, particularly the legacy of land hunger among black people.

Whereas the SA Law Commission had broken completely with the concept of "groups" and "communities" in its 1991 report, and had kept its eyes firmly on the individual, the Government had allowed the "group" concept to surface again.

The Government's bill of rights only goes so far as removing obstacles to affirmative action and — in contrast to the ANC — fails to actively promote the policy. Nonetheless, the Government links the notion of affirmative action to "groups". Davis said it was not impossible that this could be used not only to further the position of disadvantaged people, but also to preserve the privilege of other "groups".

While certain political rights are safeguarded under the Government plan, the protection extends specifically to "political parties".

Davis said the United Democratic Front would not have

# Govt's Bill of Rights published

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CT 3/2/93

## Political Staff

THE government yesterday published its proposed Bill of Rights which outlines considerable restrictions on state power, but falls short of addressing many contemporary constitutional issues.

The introduction of the bill would close a chapter of apartheid-style abuses of state power and introduce individual rights and freedoms previously unknown in South Africa

"The death-bed conversion of the National Party to those rights they systematically trampled on for 44 years is most welcome and refreshing," DP justice spokesman Mr Tony Leon commented yesterday

Justice Minister Mr Kobie Coetsee said at a media briefing that the NP's proposal, which still had to be negotiated with other political role players, was based on the proposed bill of rights suggested by the Law Commission

It includes protection of human dignity, physical and mental integrity, equality before the law, freedom of speech, assembly, worship, and children's and education rights

"No person shall be favoured or prejudiced solely by reason of race, colour, language, sex, religion, ethnic origin, social class, birth, political or

other convictions or disabilities or other natural characteristics," the proposed bill suggests

The only derogation of this right would be if the sole purpose of the discrimination was to further the development and advancement of specific communities or groups

The proposed bill of rights differs from the Law Commission's proposal by maintaining the death penalty

The commission suggested that the bill should not express itself on capital punishment

On private ownership, the bill says all people would have the right to acquire, possess, use and dispose of property

Only a court could deprive a person of his property

Women's rights feature prominently in the proposed bill, which would outlaw all laws with sex discrimination

The bill also addresses environmental rights, specifying that everyone would have the right not to be exposed to an environment dangerous to their health

Sapa reports that the Law Commission has said the government's proposed bill will be considered with proposals by other parties in its final report. It is hoped the commission's investigation will be completed by the end of the year

The ANC has provisionally rejected the draft bill

# Dossier on Star 3/2/93 councillor for A-G <sup>252</sup>

A commission of inquiry's findings on the relationship between a Pretoria city councillor, a property and petrol station developer, and a town planner will be submitted to the Attorney-General, Transvaal Administrator Danie Hough announced yesterday.

The Willem Krugel Commission said in its first report released in Pretoria that the councillor, Justus van Zyl, should "urgently reconsider his position as councillor" and should no longer participate in city council activities.

The commission found Van Zyl's relationship with property and petrol station developer Charl Nienaber and town planner Jan van Straten showed an "undesirable" and "improper" pattern, and pointed to "aspirations to enrich himself". There was however no evidence of bribery.

The inquiry was requested by Ombudsman Mr Justice P J van der Walt following allegations about maladministration and self-enrichment by councillors and officials in land rezoning applications.

The commission said no evidence was led implicating other councillors or officials in self-enrichment, abuse of power, corruption, bribery or maladministration.

The commission said Pretoria mayor James Leach's incomplete evidence exposed it to criticism, and it should be viewed with circumspection.

The commission was not convinced he had told everything he knew about each case, or had done everything possible to ascertain the facts before testifying.

It appeared Leach was worried about possible irregularities in the City Council, and about the information he supplied.

Several witnesses said Van Zyl was seen as a councillor who exercised "a strong influence regarding the success or failure of applications for rezonings for garage rights". — Sapa

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# Minister fumbles on rape query

CT 3/2/93 (252) 2/2/93

By ANTHONY JOHNSON  
Political Correspondent

JUSTICE MINISTER Mr Kobie Coetsee sparked a stir at an international media briefing yesterday when he appeared to condone marital rape.

Asked to clarify the government's stand on the prickly issue during a briefing on proposals for a Charter of Fundamental Rights, the minister responded "A man who lives with his wife would be in a position to say that he has certain marital privileges."

Amid gasps from the press contingent, Mr Coetsee hastily added that such privileges should be exercised "with the consent" of the wife.

He also said somewhat sheepishly that the issue was the subject of a lively debate.

Mr Coetsee was responding to a

question about the apparent contradiction between proposals in the formal charter and an accompanying pamphlet on women's rights.

The charter states that every woman should have the right "to her physical and mental integrity and in particular to legal protection against rape and sexual harassment."

The pamphlet states that in terms of proposed new legislation "a man who no longer lives with his wife and has sexual intercourse with her without permission, may may be charged with rape."

The pamphlet then adds that the new law would stipulate that a man who lives with his wife and has sexual intercourse with her without her permission could be charged with assault — not rape — and be liable for a sentence more severe than that handed down for common assault.

## Legal group aids Jewish divorcees

JOHANNESBURG. — The South African Law Commission is investigating possible legislation to protect Jewish women in South Africa from injustice in the event of divorce.

At present an annulment of a marriage in the orthodox Jewish community is valid only if the husband hands his wife a letter of divorce in a Jewish religious court, in spite of a final divorce order by a supreme court.

This system lends itself to exploitation, with unreasonable claims put to the wife relating to maintenance, protection of children and division of assets, the commission said.

Interested parties have been invited to submit proposals about the matter to the commission before April 30.

Sapa 03/2/73

Star 3/2/93

# Change in law may net Malaza

(252)  
Own Correspondent

CAPE TOWN — Murderer and bank robber Lucky Malaza, mistakenly freed with political prisoners in September, could yet return to jail

In his opening address to Parliament on Friday, President de Klerk, referring to prisoner releases, said. "Inasmuch as mistakes have been made, corrective measures are being taken."

Yesterday, Captain Bert Slabbert, spokesman for Minis-

ter of Correctional Services Adriaan Vlok, said the prisoners De Klerk was referring to were Lucky Malaza and former Kwa-Zulu policeman Khethani Shange, jailed for 27 years for murder and attempted murder but released in May after only nine months because of an "administrative computer error".

Slabbert said the corrective measure being taken was an amendment to the Prison Act of 1959, due to be passed this parliamentary session.

"We realised there was a shortcoming in the Act only when Malaza was mistakenly released

"We will not simply be able to pick up a former prisoner and throw him back in jail"

Slabbert said he thought the legislation would be retrospective and "in the process we could bring Malaza back."

Malaza is due to appear in the Soweto Magistrate's Court on February 26 for alleged possession of stolen goods

# Whipping may stop as govt signs treaty

Political Correspondent

THE government is considering the abolition of whipping as a form of punishment, the Minister of Justice, Mr Kobie Coetsee, disclosed yesterday. (S2)

The rethink comes in the wake of the government's decision last Friday to sign the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.

The convention was signed on behalf of South

Africa at the United Nations by ambassador Mr Harry Schwarz.

Mr Coetsee told a media briefing yesterday: "We have just signed the convention and we will have to consider the question of corporal punishment in due course."

The minister said the signing of the treaty did not automatically nullify laws pertaining to corporal punishment, but added: "We will have to apply our minds to the significance of having signed this convention."

## New charter in publicity drive

Political Correspondent

CT 3/2/93  
THE government would soon launch a nationwide publicity drive to bring the contents of its proposals for a Charter of Fundamental Rights to the people, Justice Minister Mr Kobie Coetsee said yesterday.

(252)  
He told a media briefing that he hoped the publication would "create a better understanding of what real democracy is all about".

The government would also distribute pamphlets in different languages on "Equality for Women" and "Fundamental Rights for All".

The government was also planning four conferences to publicise the need for a democratic culture in South Africa.

# Charter of rights proposes to bring an end to apartheid abuses

CAPE TOWN — Government yesterday published its proposed bill of rights, which outlines considerable restrictions on state power but falls short of addressing many contemporary constitutional issues.

Introducing it into law will close a chapter of apartheid-style abuses of state power and introduce individual rights previously unknown in SA.

"The death bed conversion of the NP to those rights they systematically trampled upon and whose existence they denied for 44 years is most welcome and refreshing," DP justice spokesman Tony Leon said.

Justice Minister Kobie Coetsee said at a news briefing that the NP's proposal, which still had to be negotiated with other political role players, was based on the bill of rights suggested by the SA Law Commission.

It included protection of human dignity, equality before the law, freedom of speech, assembly and worship, and children's rights.

"No person shall be favoured or prejudiced solely by reason of race, colour, language, sex, religion, ethnic origin, social class, birth, political or other convictions,

or disabilities or other natural characteristics," the proposal suggests.

The only derogation of this right would be if the sole purpose of the discrimination was to further the development and advancement of specific communities or groups.

The proposed charter emphasises that every citizen will have the right not to be deprived of citizenship, exiled or expelled from the country, prohibited from returning to the country, prevented from leaving

the country, or denied or deprived of a passport.

The charter differs from the Law Commission's proposal by maintaining the death penalty. The commission suggested that a bill of rights not express itself on capital punishment.

Certain minimum rights for detainees, to prevent the abuse of power and inhuman treatment by authorities, are included. Among others, it specifies they should be enabled to communicate, consult and be visited by a legal and medical practitioner, family or religious counsellor. The proposed rights provide that inhuman punishment may not be imposed on anyone.

On private ownership, the proposal says all people would have the right to acquire, possess, use and dispose of property. Only a court could deprive a person of his property. "Property may be expropriated for public purposes, subject to the payment within a reasonable time of an agreed compensation."

Women's rights feature prominently in the charter, which would outlaw all sexual discrimination, specifying that women

From Page 1

would be entitled to equal pay for equal work and not be discriminated against solely by reason of pregnancy.

It says abortion is contentious and leaves it to a future constitutional court to decide on the permissibility of abortion "under given circumstances".

The rights of employees and employers are also highlighted, with emphasis on the right to form and join unions and to take part, or not take part, in strikes, and to work reasonable hours and receive reasonable pay. Employers' rights to require adequate acceptable service and lock out labour, apply the principle of "no work, no pay", and terminate the services of an employee under common law are included.

Coetsee said the issue of which court would enforce the rights was still the subject of negotiations, although government favoured a division of the Appeal Court having this power.

He said about Rlm would be spent propagating the bill of rights to encourage a human rights culture.

From Page 1

While welcoming government's commitment to the concept of a justiciable bill of rights, Leon said there were several negative aspects to the proposals. The proposal was "laconic, terse and unsatisfactory" on the subject of equality before the law. It ignored the long history of race and sex discrimination in SA and contained no positive prohibition on the granting of public funds to those who did discriminate.

The failure of the proposals to enter the debate on the content of so-called second and third generation rights suggested that government thinking was seriously outdated, he said.

Sapa reports that in its initial reaction, the ANC rejected government's right to impose a bill of human rights in a situation of inequality, oppression and apartheid.

"To impose a bill of rights in the current situation where some have rights and others not, is to entrench the rights of right holders and the rightlessness of the rightless," constitutional committee member Dullah Omar said.

# Praise, criticism for draft Bill of Rights

(252)

By Peter Fabricius  
Political Correspondent

CAPE TOWN — The Government's draft Bill of Rights published yesterday has been widely welcomed, although grave reservations have been expressed about certain clauses such as a controversial one legitimising the death penalty.

The draft Bill proposes that the present sovereignty of Parliament should be surrendered to a Bill of basic rights justiciable by a constitutional court.

Justice Minister Kobie Coetsee said at a press conference yesterday that after the basic principles of a Bill of Rights had been approved by Parliament, the Government would table an omnibus Bill to expunge all laws from the statute book which fell foul of the Bill of Rights.

ANC secretary-general Cyril Ramaphosa said a Bill of Rights would enjoy legitimacy and authority only if it were drafted and adopted by an elected constituent assembly.

The draft Bill lists 37 basic rights, including the usual ones such as the right to life, to freedom of speech, to practise politics freely, to free worship, to equality before the law and fair trial, to free movement and free association.

It also enshrines the right of women to equality with men. But it has unusual features.

● Clause 4 says no person shall be deprived of life save in the



Tony Leon . . . disturbing that bill allows for death penalty.

execution of a death sentence imposed in accordance with Section 6 of the International Covenant on Civil and Political Rights.

● The right to personal freedom is also qualified by clause 23 (2) (a) which suggests that a person may be detained indefinitely pending being charged, while clause 37 (d) limits the period of detention to 10 days.

The Bill also enshrines the right of the individual to an unpolluted environment — an uncommon feature in Bills of Rights.

The women's rights clause has what has been described as an affirmative action clause, stating that the principle of equality of women should not disqualify laws aimed at achieving equality.

This was welcomed by Demo-

cratic Party women's rights spokesman Dene Smuts

DP justice spokesman Tony Leon last night welcomed much of the Bill but said it was disturbing that it made specific provision for the death penalty.

He criticised the provisions on equality before the law and free association for not expressly prohibiting the granting of public funds to institutions discriminating on racial grounds.

He also criticised the detention-without-trial provisions, saying the maximum detention period of 10 days was too long and that courts should be able to rule on the legitimacy of individual detentions.

Clause 9 enshrines the right to freedom of speech but adds that this shall not preclude the registration and licensing of media.

Coetsee said yesterday the Government would spend more than R1 million of taxpayers' money to promote its draft Bill of Rights — an announcement the DP criticised.

Asked why the right to abortion was not dealt with as a women's right, Coetsee said it was dealt with under the right to life section and that Parliament would have to decide whether women should have the right to abortion.

He denied that the Government's Further Indemnity Act of 1992 contradicted the provision in the Bill forbidding a government from indemnifying State officials for murder.

● Govt vision draws fire

# Pressure mounts on Govt to open casinos

Political Staff

the Labour Party has also called on Coetsee to review his decision

He pointed out that the Gambling Amendment Act specifically allowed Coetsee to extend the moratorium on closing casinos in anticipation of the findings of the Howard Commission.

CAPE TOWN — Pressure is mounting on Justice Minister Kobie Coetsee to change his mind on private casinos, allowing them to operate at least until the Howard Commission reports on gaming and gambling

House of Delegates members Amichand Rajbansi and Farouk Cassim are to seek an urgent meeting with Coetsee to present petitions and letters from employees and supporters of casinos

They had talks yesterday with Janine Jansen, a spokesman for casino staff. She has more than 4,000 signatures on a petition from staff and supporters and 233 letters from staff demanding that casinos re-open

Jansen, who is also seeking a meeting with Coetsee, estimates the number of casino staff put out of work at 62,000

She said Coetsee had to re-open casinos until the Howard Commission reported, warning that operations could be driven underground.

It was unfair that the Government allowed escort agencies to operate but not casinos, said Jansen.

Michael Hendrickse of

● Former Springbok rugby player and casino owner Martiens Louw was among the first arrested by police, who cracked down on gambling operations within 24 hours of the expiry of the Government's moratorium, reports Sapa

Louw, his wife and two others were arrested on Monday night for allegedly operating a casino in Meyerton, south of Johannesburg. They were warned to appear in court tomorrow

Police carried out "inspections" on casinos countrywide but had found most closed, said SAP spokesman Captain Burger van Rooyen

● Retrenched casino employees yesterday staged a protest outside Sandton City. A roulette table was set up and passers-by were offered free games. Signatures for a petition calling for legalised gambling were collected



46 FEB 1993



REPUBLIC OF SOUTH AFRICA  
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Vol. 332

PRETORIA, 4 FEBRUARY  
FEBRUARIE 1993

No. 14567

## GENERAL NOTICE

### NOTICE 119 OF 1993 DEPARTMENT OF JUSTICE

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#### ADVISORY COMMITTEE FOR THE DECRIMINALI- ZATION OF ROAD TRAFFIC OFFENCES

An Advisory Committee for the Decriminalization of Road Traffic Offences has been appointed by the Minister of Justice, in consultation with the Minister of Transport, in terms of section 3 of the Decriminalization Act, 1991 (Act No 107 of 1991), and commenced with its activities on 21 January 1993. The terms of reference of this Committee are to inquire into and advise the Minister on the necessity or desirability to replace certain offences in terms of the Road Traffic Act, 1989 (Act No 29 of 1989), and the Road Traffic Regulations enacted under this Act, with an administrative sanction.

Motivated recommendations, comments or representations with regard to the traffic offences which should be considered for the purposes of decriminalization, are being awaited by the Committee and must be submitted not later than **26 February 1993** in writing to the Secretary, Advisory Committee for the Decriminalization of Road Traffic Offences, Private Bag X81, Pretoria, 0001.

## ALGEMENE KENNISGEWING

### KENNISGEWING 119 VAN 1993 DEPARTEMENT VAN JUSTISIE

#### ADVIESKOMITEE VIR DIE DEKRIMINALISASIE VAN PADVERKEERSOORTREDINGS

'n Advieskomitee vir die Dekriminalisasie van Padverkeersoortredings is ingevolge artikel 3 van die Wet op Dekriminalisasie, 1991 (Wet No 107 van 1991), deur die Minister van Justisie, na oorleg met die Minister van Vervoer, ingestel en het op 21 Januarie 1993 met sy werksaamhede begin. Die opdrag van die Komitee is om ondersoek in te stel na en die Minister te adviseer oor die noodsaaklikheid of wenslikheid om sekere misdrywe ingevolge die Padverkeerswet, 1989 (Wet No 29 van 1989), en die Padverkeersregulasies uitgevaardig kragtens dié Wet, deur 'n administratiewe sanksie te vervang.

Gemotiveerde voorstelle, kommentaar of vertoe oor die verkeersoortredings wat in dié verband oorweeg behoort te word, word deur die Komitee afgewag en moet nie later nie as **26 Februarie 1993** skriftelik by die Sekretaris, Advieskomitee vir die Dekriminalisasie van Padverkeersoortredings, Privaatsak X81, Pretoria, 0001, ingedien word.

Star 4/2/93

## Reduction in violent deaths

The Human Rights Commission said yesterday 22 people died around the country in violence over the past week, a significant reduction in deaths from the previous week's political and labour unrest. The HRC said in its Weekly Repression Report 44 people died the week before in scattered violence in the PWV and Natal Province. Both regions experienced a marked decline in deaths.

(252) (~~252~~)

## Minority rights deal?

Political Correspondent

252 ARG 4/2/93

JUSTICE Minister Mr Kobie Coetsee says he has asked the SA Law Commission to investigate minority rights in its final report on a bill of rights.

He was addressing parliament last night on the Government's Fundamental Charter of Human Rights, which flows from a report by the Law Commission.

In its last report the commission said a bill of rights was not an appropriate place to insert group rights.

The government's charter of fundamental rights contains no reference to group rights and political commentators believed that this indicated that the subject was now closed.

# Council to study changes in liquor laws

ARG 4/2/93

**CLIVE SAWYER**  
Municipal Reporter

THE city council has launched a probe into changes to liquor laws and their implications for taverns.

The housing committee resolved last month to oppose the use of houses and flats in council estates as taverns, and said all applications should be referred to it and the town planning committee.

In a letter tabled at a town planning meeting yesterday, Deputy Minister of Trade and Industry Mr David Graaff said the government had no objection to the Liquor Board considering applications for tavern licences "in those residential areas traditionally occupied by members of the coloured community".

But customers would not be allowed to "take away", Mr Graaff said.

The committee asked for an investigation into existing contraventions of liquor laws, specifically by unlicensed taverns, and into proposed changes to the law.

● The committee was prepared to approve an application by Ohlssons Cape Breweries to put up a new silo at its Newlands site, but wanted an assurance this would be the last addition to the site.

Ohlssons said the new silo would blend in with its surroundings, but objectors, including Mr Owen Kinahan of the Josephine Mill and Mr M Keller of the Albion Mill Trustees, said the silo would be a further commercial and visual intrusion in an area which had been "blitzed" by development in the past few years.

## Bill may have financial implications

810mg 4/29/93  
PRETORIA — The introduction of a Bill of Rights could have significant financial implications for SA's criminal justice system, Transvaal Attorney-General Jan D'Oliveira said yesterday (252)

In an interview, D'Oliveira said once certain entitlements usually due to the accused had become entrenched as fundamental rights, new avenues for challenging aspects of legal proceedings would become available. (252)

This would place an additional burden on prosecutors and would have significant financial implications for SA's criminal justice system, he said.

"At present we do not test laws, we interpret and apply them"

While a few material changes could be expected in the conduct of a criminal trial, a "change of gear" was likely once the Bill had been agreed upon, he said.

"We will have to wait until we get an indication of what the Bill will contain before we start addressing its implications," he said.

D'Oliveira, who was appointed Attorney-General of the Transvaal in May last year, said the training of prosecutors and

ADRIAN HADLAND

improving the accessibility of his office to both victims and witnesses were key objectives of his tenure.

"For any system of justice to work, there must be real co-operation between the public, the police and the prosecutors," he said "My hope is that the political process will restore citizens' confidence in public institutions."

With white-collar crime on the increase, D'Oliveira believed businessmen had a responsibility to disclose information relevant to actions which undermined the country's economy.

"I can't prescribe a high morality for businessmen. It is an assumption, an axiom, that we rely upon. What is important is that where something goes amiss, disclosure must be forthcoming."

D'Oliveira said making known the accessibility and independence of the public service rendered by the Attorney-General's office and "doing everything to improve the quality of criminal justice" were critical to dealing effectively with rising criminality in SA.

# Sacob hails 'positive' economic rights input

3/10/93 4/2/93  
A FUTURE SA constitution should include a Bill of Rights which safeguarded human rights and freedoms that were universally accepted to be of an inalienable nature, the South African Chamber of Business said yesterday.

Commenting on government's proposed Bill of Rights, Sacob said it welcomed the positive contribution from major political participants, including government, on the question of a Bill of Rights, especially economic rights

"Sacob supports the concept that no one should be deprived of his property without due process of law and fair compensation. This is one important reassurance required for business and investor confidence in the future."

The CP rejected government's proposals because they provided only for individual rights within a unitary state, CP justice spokesman Fanie Jacobs said

The CP was disappointed that government had continued to ignore group rights, such as the right to self-determination of nations. This deficiency would create conflict rather than regulate it

Government was also naive to believe it could correct its past political faults with a charter of fundamental rights, or that a future ANC-SACP government would consider itself bound by such a charter

LP national chairman Luwellyn Landers said the NP's draft charter on human rights and its plan of action to propagate it was ludicrous

He said the NP needed to be educated in the protection of human rights

"The abuse of human rights has developed into a culture and tradition within the NP. Its draft charter and action plan has the potential and danger of delegitimising and devaluing the eventual Bill of Rights"

Azapo secretary-general Don Nkadi-meng said apartheid had so diminished the

252  
305/1  
integrity of the judicial system. The government's announcement of a justiciable Bill of Rights within the next 12 months failed to excite the black community.

"In any other society people would have hailed this development as a milestone in the protection of individual rights," Nkadi-meng said.

In spite of their integrity, white judges would always be viewed by blacks as oppressors.

LINDA ENSOR reports that the National Association of Democratic Lawyers' Western Cape spokesman Essa Moosa said government's charter was designed to entrench the rights and privileges of the beneficiaries of apartheid.

"The charter essentially provides for individual civil rights. No provision is made for socio-economic rights and only one short paragraph provides for environmental rights. The civil rights are meaningless to a people who suffer starvation, people who are plagued by illness, people who are homeless and people who are unemployed," he said.

Boerestaat Party leader Robert van Tonder said it was clear the existence and rights of the Boer people had been entirely overlooked. The Bill was full of high-sounding phrases but the important word "volk" had been avoided.

"The Bill will be nothing more than a waste of good paper, seeing that SA will this year, with the establishment of an interim government, take the final steps to a backward Third World state.

"African governments have without exception torn up all the nice little constitutional laws written for them, and the Bill reminds one of the nice psalms sung by those condemned to death as they walk towards the gallows," Van Tonder said. — Sapa

# focus on **human rights**

THE Government this week published its Draft Charter of Human Rights which is based largely on proposals made by the South African Law Commission

The Charter or Bill of Rights ensures that every person who is a registered South African citizen or body or legal group of people within the country have the rights contained in the charter

These rights are given in the charter as fundamental and inalienable unless so decreed by the highest court in the land — presumably a constitutional court

The rights described in the charter include freedom of speech, freedom to worship, meet, demonstrate and draw up petitions

In terms of the charter every citizen will have the right not to be

- Deprived of citizenship,
- Exiled or expelled from the country,
- Prohibited from returning,
- Prevented from leaving, or
- Denied or deprived of a passport

Other major points deal with

● Human dignity the State must respect everyone's dignity,

● Protection of life everyone shall have the right to life But there is no proposal to abolish the death penalty,

● Equality before the law everyone shall be equal before the law and entitled to equal protection,

● Political rights every citizen shall have the right to be politically active,

● Education pupils will have the right to equal access to State or State-aided schools,

● The right to freedom of movement and residence and to work in any part of the country,

● The right of private ownership,

● The right of employees to form and join employees' organisations, to negotiate or bar-

After over four decades of being the pariah of the world because of its Draconian apartheid laws, South Africa looks set to try and make amends with its proposed Human Rights Charter which **Ismail**

**Lagardien** sets out in detail:

*Soveten 4/2/93.*

gain, not to be subjected to unfair labour practices, to work under safe and healthy conditions, to work reasonable hours and to receive reasonable remuneration,

● The right of prisoners to be held under dignified conditions and to be given the opportunity of consulting a legal or medical practitioner,

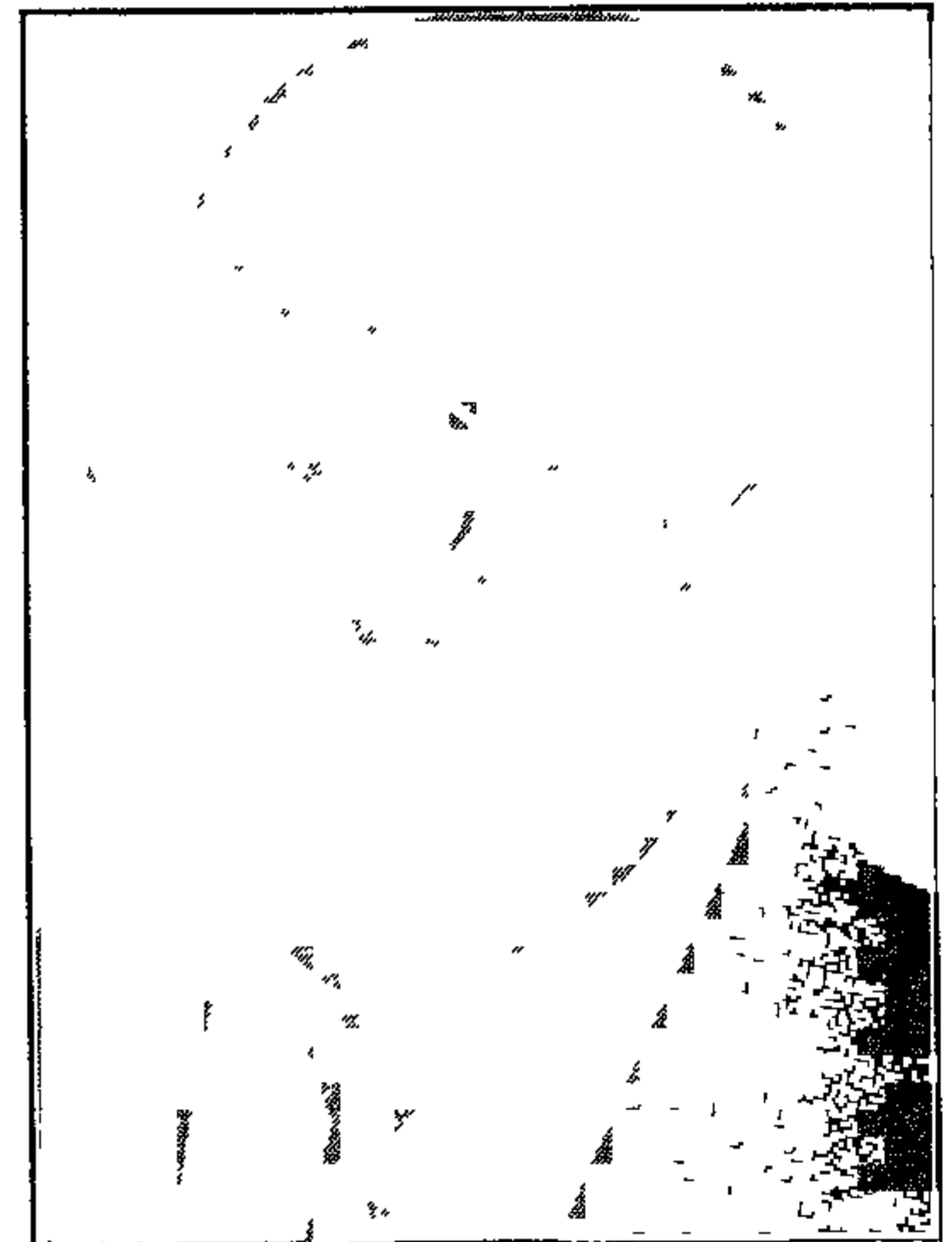
● The right of people who are arrested to be warned that they have the right to remain silent and of the consequences of making statements The draft charter says they must not be detained for more than 48 hours before a court appearance and must be tried within a reasonable time, and

● The right to choose a language and the right to choose the language of communication with the State

The draft charter lays down that no law should regulate or authorise

● Physical or inhuman torture,  
● The creation of offences with retrospective effect, and

● The indemnification of the State or people in its service for the unlawful killing or injuring of people



FW de Klerk ... introducing human rights.

**Applicant:**

The Commissioner for Customs and Excise, Private Bag X47, Pretoria, 0001

2. Amendment of the provisions under tariff subheading 4015 90 by the substitution therefor of the following.

Tariff Subheading	Description	Rate of Duty
4015 90 Other		15%
	[BTT Ref T5/2/7/5/1 (930007) (Ms R Martin)]	

**Applicant:**

The Commissioner for Customs and Excise, Private Bag X47, Pretoria, 0001

(Note. This application will result in the deletion of the subdivision of the tariff subheading and in a reduction in the rate of duty on diving suits, classifiable under tariff subheading 4015 90.10, from a rate of duty of 30 per cent *ad valorem* to 15 per cent *ad valorem*, and on other articles of apparel and clothing accessories of vulcanised rubber, classifiable under tariff subheading 4015 90 90, from a rate of duty of 20 per cent *ad valorem* to 15 per cent *ad valorem* )

3. Amendment of the provisions under tariff subheading 7103.10 by the substitution therefor of the following.

Tariff Subheading	Description	Rate of Duty
7103 10	Simply sawn or roughly shaped	kg free
	[BTT Ref T5/2/14/2/1 (930008) (Mr J. Gelderblom)]	

**Applicant:**

The Commissioner for Customs and Excise, Private Bag X47, Pretoria, 0001

(Note This application will result in the deletion of the subdivision of tariff subheading 7103.10 and a reduction in the rate of duty on precious stones and semi-precious stones, simply sawn or roughly shaped, classifiable under tariff subheading 7103 10.20, from a rate of duty of 25 per cent *ad valorem* to a rate of free, and the amendment of the statistical unit from gram to kilogram )

List 3/93 was published under General Notice 88 of 29 January 1993.  
(5 February 1993)

**NOTICE 109 OF 1993****DEPARTMENT OF JUSTICE** (252)

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 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

**Applicant:**

Die Kommissaris van Doeane en Aksyns, Privaat Sak X47, Pretoria, 0001

2. Wysiging van die voorsienings by tariefsubpos 4015 90 deur vervanging daarvan moet die volgende

Tariefsubpos	Beskrywing	Skaal van Reg
4015 90 Ander		15%
	[RTH-verw. T5/2/7/5/1 (930007) (Me R Martin)]	

**Applicant:**

Die Kommissaris van Doeane en Aksyns, Privaat Sak X47, Pretoria, 0001

(Opmerking Hierdie aansoek het tot gevolg dat die onderverdeling van die tariefsubpos verval en dat die reg op duikpakke, indeelbaar by tariefsubpos 4015.90.10 teen 'n skaal van reg van 30 persent *ad valorem*, en op ander kledingstukke en klerasiebykomstighede van ge vulkaniseerde rubber indeelbaar by tariefsubpos 4015 90 90 teen 'n skaal van reg van 20 persent *ad valorem*, tot 15 persent *ad valorem* verlaag word )

3. Wysiging van die voorsiening by tariefsubpos 7103.10 deur die vervanging daarvan deur die volgende.

Tariefsubpos	Beskrywing	Skaal van Reg
7103 10	Onbewerk of eenvoudig gesaag of ru-gevorm	kg vry
	[RTH-verw T5/2/14/2/1 (930008) (Mnr. J Gelderblom)]	

**Applicant:**

Die Kommissaris van Doeane en Aksyns, Privaat Sak X47, Pretoria, 0001.

(Opmerking Hierdie aansoek het tot gevolg dat die onderverdeling by tariefsubpos 7103.10 verval en dat die skaal van reg op edelstene en halfedelstene, eenvoudig gesaag of ru-gevorm, indeelbaar by tariefsubpos 7103 10.20, van 'n skaal van reg van 25 persent *ad valorem* tot vry van reg verlaag word en dat die statistiese eenheid van gram tot kilogram gewysig word.)

Lys 3/93 is by Algemene Kennisgewing 88 van 29 Januarie 1993 gepubliseer.  
(5 Februarie 1993)

**KENNISGEWING 109 VAN 1993****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 Goewermentskennisgewing No R 936 van 24 April 1991 onderskryf het; en



(b) who have furnished the information referred to in paragraph (b) of the said Government Notice in full, <sup>(252)</sup>  
 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

(b) wat die inligting bedoel in paragraaf (b) van genoemde Goewermentskennisgewing volledig verstrekket, <sup>(252)</sup>  
 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.

**SCHEDULE • BYLAE**

Surname Van	Full christian names Volle voorname	Date of birth Geboortedatum
Maxazi ... ..	Maxwell Gugulethu.. .. .	1967-07-19
Mofokeng . . . . .	Johannes Molatoli . . . . .	1957-10-15
Radebe ... ..	Moeketsi Jan ... .. .	1967-03-23
Seagodimo ... ..	Thomas Mabuwa .. . . .	1966-04-03
Ximba. ....	Thulani Douglas .. . . .	1969-07-05

(5 February 1993)/(5 Februarie 1993)

**NOTICE 110 OF 1993  
 FINANCIAL SERVICES BOARD  
 THE JOHANNESBURG STOCK EXCHANGE**

**NOTICE REGARDING  
 AMENDMENT OF RULES** <sup>(232)</sup>

- In terms of section 12 (6) of the Stock Exchanges Control Act, 1985 (Act No 1 of 1985), it is hereby notified that the Johannesburg Stock Exchange has applied to the Registrar of Stock Exchanges for approval to make amendments to its rules, as set forth in the Schedule hereto
- In terms of section 12 (7) of the said Act all interested persons (other than members of the Stock Exchange) who have any objections to the proposed amendments are hereby called upon to lodge their objections with the Registrar of Stock Exchanges, Private Bag X238, Pretoria, 0001, within a period of **30 days** from date of this notice.

**KENNISGEWING 110 VAN 1993  
 RAAD OP FINANSIËLE DIENSTE  
 DIE JOHANNESBURGSE EFFEKTEBEURS  
 KENNISGEWING BETREFFENDE  
 WYSIGING VAN REELS**

- Ingevolge artikel 12 (6) van die Wet op Beheer van Effektebeurse, 1985 (Wet No 1 van 1985), word hierby bekendgemaak dat die Johannesburgse Effektebeurs by die Registrateur van Effektebeurse aansoek gedoen het om goedkeuring om sy reels te wysig, soos in die Bylae hiervan uiteengesit.
- Ingevolge artikel 12 (7) van genoemde Wet word alle belanghebbendes (uitgesonderd lede van die Effektebeurs) wat beswaar het teen die voorgestelde wysigings, hierby versoek om hul besware binne 'n tydperk van **30 dae** vanaf die datum van hierdie kennisgewing by die Registrateur van Effektebeurse, Privaatsak X238, Pretoria, 0001, in te dien

**SCHEDULE**

**GENERAL EXPLANATORY NOTES**

- Words in square brackets ( [ ] ) indicate omissions from existing rules.
- Words underlined with solid line ( — ) indicate insertions in existing rules

**PROPOSED AMENDMENT TO THE RULES OF THE  
 JOHANNESBURG STOCK EXCHANGE**

**1. PROPOSED AMENDMENT OF RULE 5.210**

*Trading Procedures — Special bargains:*

5.210 5 210.4 In special circumstances considered to be exceptional where a broking firm acts on behalf of clients in a corporate restructure the President [General Manager] may exempt a broking firm from the provisions of 5 210.5 and 5 210 6 provided such approval is requested in writing and obtained prior to implementation of the deal [if in the absence of such an exemption the deal would not be consummated]

their colleagues ● Court told of superstition

# Taxi operations on hold until Monday

Sowetan 5/2/93

By Lulama Luti

■ **TAXI DISPUTE** Reef townships to be affected by suspension of taxi operations:

**A**LL TAXI OPERATIONS ON THE Reef have been suspended until Monday pending the outcome of talks between the parties involved in the taxi dispute.

Areas affected include Soweto, Alexandra, Western, Eldorado Park the East Rand and West Rand

Taximen decided at a meeting at the Central Methodist Church in Smal Street, Johannesburg, yesterday not to resume their operations

The decision was taken after they had held fruitless talks with the Johannesburg Traffic Department

Yesterday's meeting followed several incidents this week in which mini-bus taxis blockaded streets in the Johan-

nesburg city centre. The taximen were protesting against alleged harassment by Johannesburg traffic officers

The meeting took place under heavy police presence. No incidents were reported

ANC representative Mr Obed Bapela said talks with the traffic department would resume on Monday

He said they had also secured another meeting with Transvaal Attorney-General Klaus von Lieres und Wilkau

A report-back meeting would be held later on Monday

Yesterday angry taximen staged sev-

eral walkouts from the meeting, demanding the unconditional release of all impounded vehicles and their arrested colleagues

Bapela said as far as he knew, all 43 people who were arrested since Monday had been released either on R300 bail or on warning. He said of the 209 mini-buses which were impounded, 85 were released after an unknown benefactor had paid the fines.

Another 66 were reclaimed after their owners had paid R300 fines. Fifty-eight were still being held because the engine numbers had been tampered with

## Former editor Heard sues FM

Sowetan 5/2/93

■ **Article represented a bad reflection on his integrity:**

A R2,5 million defamation action brought by former *Cape Times* editor Mr Tony Heard against Mr Nigel Bruce, editor of the *Financial Mail*, has started in the Cape Town Supreme Court

Heard brought the action against Bruce and Times Media Limited after he took offence to a leading article published in the *Financial Mail* on January

17 last year.

In his particulars of claim, Heard said he was sacked without adequate, or any, reason being given. In the January 17 edition, a leading article under the title *Press Freedom Keeping the Public Interest*, said "It takes someone whose

somnambulant editorship of the *Cape Times* rivalled Rip van Winkle's nap to wake up with the flawed notion democratic elections are impossible here unless existing press ownership is fractured." Heard said the statements represented a bad reflection on his integrity.



**NEWS** Cabbies demand release of their

# Suspect 'tried to erase evidence in Pitje's murder'

*Southern 5/2/93*

252

**By Mzimasi Ngudle**

A POLICEMAN charged with the murder of Mr Legwai Pitje may have inflicted stab wounds in his eyes after the lawyer's death to erase evidence, the Rand Supreme Court heard yesterday

In its closing argument, the State said the policeman, Mr Rodney Motlatse, had failed to explain two stab wounds in Pitje's eyes after having admitted to having inflicted several other stab wounds

Earlier during the trial, a witness told the court of a superstition that a killer's picture remained in the eyes of the victim long after death

## Eyes gouged out

This was why some killers gouged out the eyes of their victims, believing they were destroying evidence

Ms Magnet van der Walt, for the State, argued that Motlatse should be found guilty of kidnapping, robbing and murdering Pitje

She said evidence showed that Motlatse had intended to kill Pitje to "silence him after assaulting him and

## Lawyer was stabbed in the eyes after his death:

robbing him of his watch and jewellery".

"He knew very well that Pitje would sue him and decided to silence him and later, in accordance with the belief, tried to erase all evidence that might assist in his arrest and subsequent conviction," she said.

Pitje, a former member of the Goldstone Commission, went missing on July 11 last year.

## Stab wounds

His body was found with several stab wounds at a desolate area in Kagiso.

Motlatse told the court that he and Pitje had fought over Pitje's car keys and jewellery

He admitted that when Pitje threatened to sue him, he took a knife out of his pocket and stabbed him several times

He denied knowing anything about wounds which a State pathologist said were inflicted after Pitje's death.

The trial continues.

Draft bill to outlaw discrimination at work and college

# Prison threat over sex bias

252  
9/25/93

Political Staff

SEXUAL discrimination will become an offence punishable by fines up to R5 000 or imprisonment if parliament approves draft legislation published today



**(Full) frontal attack on viewers**

GARNER THOMSON  
The Argus Foreign Service

LONDON — Britain's television programmers are pushing viewing acceptability to new limits next weekend with live nude chat shows, kinky games and sex quizzes and cabarets

Scheduled to coincide with Valentine's Day, Channel 4's three day "Love Weekend" is designed to test the climate established by Britain's relatively broadminded arts scene and a succession of high-minded programmes about sex by introducing the kind of no-holds barred, full-frontal programmes more familiar on New York's cable TV

The centrepiece of the weekend will be the live late night Naked Chat Show, co hosted by Richard Jobson and South African presenter Nina Myskow

Another South African, Cape Town born sex therapist Sara Dale, is expected to be a guest

Members of the audience will be encouraged to strip off for the chat show, although Jobson and Myskow have not yet decided whether they will follow suit

The producers say there will be no attempt to get members of the audience to flaunt their physiques — but, equally, no move to be coy

The Promotion of Equal Opportunities Draft Bill aims to prohibit discrimination on grounds of sex, marital status and pregnancy

It also provides for an Equal Opportunities Commission to promote equality and equal opportunity between the sexes

The draft bill is part of a government package to counter discrimination against women

It would make it an offence punishable by a fine of up to R5 000 and imprisonment of up to six months for discrimination against anyone as regards employment, pay, employment benefits and promotion solely on grounds of sex, marital status or pregnancy

But it makes exceptions where a job genuinely requires a person of a certain sex

The anti discriminatory provisions apply to employment and education institutions, although single-sex schools are exempted

The bill also outlaws sexual harassment, which is defined as making an unwelcome sexual suggestion, making an unwelcome request for a sexual favour or engaging in any other unwelcome conduct of a sexual nature in circumstances in which the other person believes a negative response would prejudice his or her employment or studies

Under the bill, sexually discriminatory practices would be deemed unfair labour practices under the Labour Relations Act

The Equal Opportunities Commission would be appointed by the State President to investigate discriminatory practices and recommend laws to remedy them

It may also draw up a code of conduct to ensure equality between the sexes, which may become binding if the government agrees

The commission may also hear complaints and refer them to the ombudsman or the Industrial Court

The bill proposes giving the relevant minister power to grant exceptions to all its provisions and would also allow "permissible discrimination" in favour of women — such as not obliging them to do military service



THEY'RE HERE: A smiling Curtly Ambrose, left, one of the fastest bowlers in Smuts Airport today

## Windies super team is 1

And Pakistanis are also due today for three-way tour

The Argus Correspondent

JOHANNESBURG — The West Indies cricket team, fresh from victories over Australia and world champions Pakistan, flew into Jan Smuts Airport soon after dawn today

They will be followed later today by Pakistan, who won the Sharjah Cup in Dubai yesterday by beating Sri Lanka in the final

The two visiting teams and South Africa will meet from next week in a series of 10 one-day matches for the Total International trophy

The West Indies, led by Richie Richardson, are without one of their star fast bowlers, Anderson Cummins, who has chicken pox. He will join the side in a week

The West Indies team looked tired after their nine-hour flight from Perth, but both Richardson and team manager David Holford said they hoped the historic visit would help towards solving South Africa's many problems

"We are willing, in whatever little

way we can, to lend support to the progress of political problems and movement that are taking place in South Africa," said Mr Holford

Richardson said he hoped the team's visit would help the cause of "unity and equal opportunity in this country"

The West Indians arrive fresh from a 2-1 test series victory over Australia as well as World Series Cup triumphs against Australia and Pakistan

They are scheduled to hold a light practice session at the Wanderers this afternoon and another tomorrow morning before attending the opening of a sports ground in Alexandra township

On Sunday they are to play a warm-up match against a Nicky Oppenheimer XI at Randjesfontein, in Midrand, before flying to Port Elizabeth on Monday where they will play their first match in the triangular against South Africa on Thursday

The team was met on the tarmac by the ANC's head of sport, Mr Steve Tshwete, the president of the National

Olympic Committee Mr Sam Ramsamy, the United Cricket Board manager

Bacher said the tour a catalyst to unite all

"You come to our times in our discussions and their fied country," said D.

"South Africa has we are moving post — and that to sign"

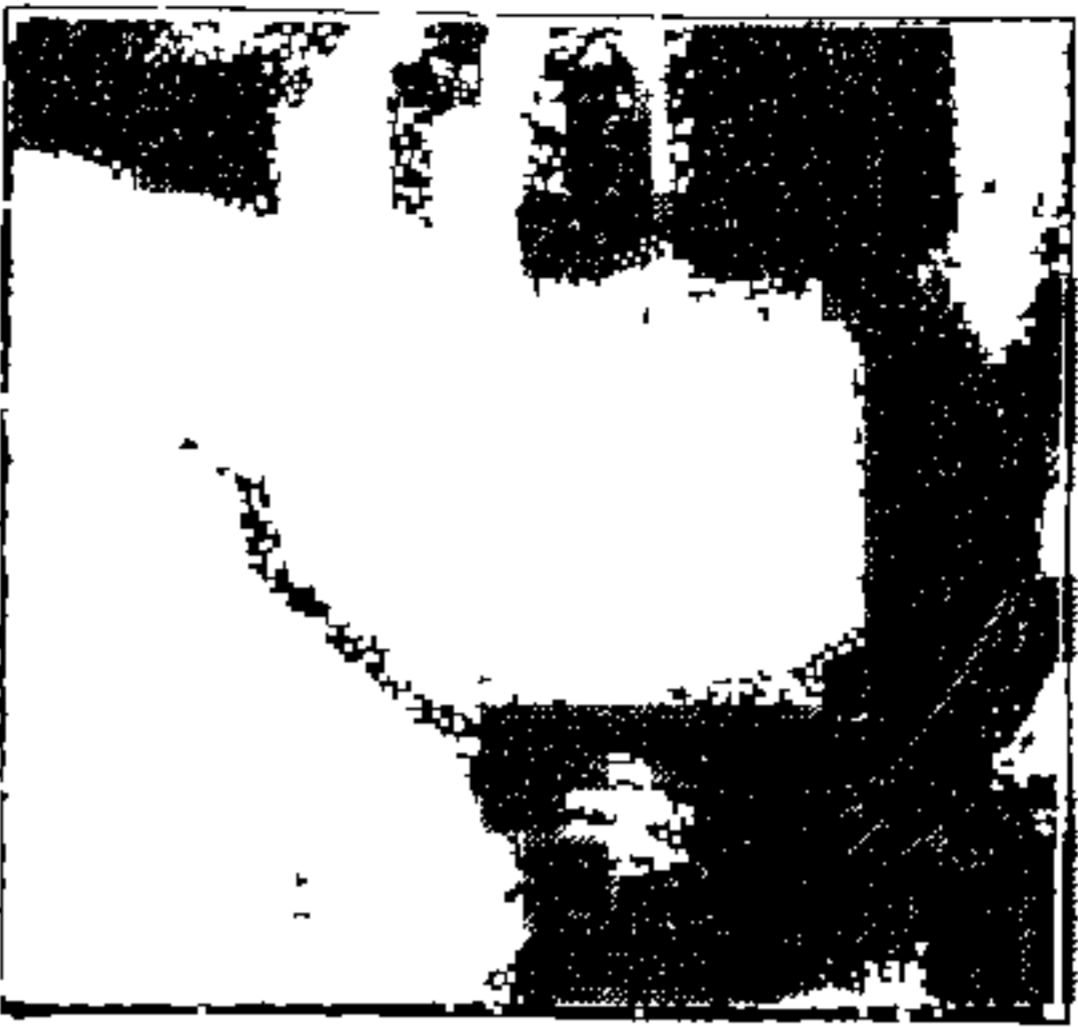
The presidents of and West Indies Mackerdhuy and Mr in London, where international Cricket and will arrive in row

Wes Hall, the fast bowler who is Tourism and Sport watch most of the Africa ● See

# Govt 'privatising discrimination'

Sowetan & Radio Metro

## Talkback



with Tim Modise

By Sipho Mthembu

THE BILL TO amend the Public Enterprises Act, 1994, which will allow the government to privatise public enterprises, is a step towards the realisation of the government's policy of privatisation. It is a step towards the realisation of the government's policy of privatisation.

### Public debate

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Star 5/2/93

# Some intelligence men to be prosecuted

By Peter Fabricius  
Political Correspondent

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CAPE TOWN — Some SA Defence Force intelligence personnel would be prosecuted during 1993, President de Klerk told Parliament yesterday

Replying to the debate on his opening speech, De Klerk answered criticism about the Government's response to Lieutenant-General Pierre Steyn's probe into alleged malpractices by SADF intelligence staff.

He denied the Government was involved in either a cover-up of wrongdoing or a witch-

hunt of SADF officers.

The Government could not expose all the activities of military intelligence as most of its work was necessary for the safety of the community

It was also determined to act according to proper judicial and departmental procedures

But if the Steyn investigation brought the necessary evidence to light, there would be prosecutions

If it was proved there was no substance to the allegations, those accused would be exonerated

De Klerk denied there was any contradiction in statements

by him and Defence Minister Gene Louw about the 16 military intelligence officers already suspended as a result of the Steyn inquiry

During the debate MPs had claimed De Klerk had originally announced the 16 were being suspended for wrongdoing, while Louw had later said many had merely been "rationalised"

De Klerk insisted yesterday that in his original announcement he had pointed out that some of the 16 had been retired for the sake of rationalisation, and others because they were held responsible for actions by subordinates.

# A death knell for rights (252)

Will Mail 5/2-11/2/93

**P**UBLISHED at the taxpayers' expense, the government has finally made public a proposed Charter of Fundamental Rights. Any Bill of Rights should seek to entrench the core values of society. It should be expressed in general terms, drafted in simple language and thus be accessible to all citizens. The more complex the wording of specific clauses, the more likely the possibility of complex and costly litigation and unexpected judgment. Furthermore, as has been illustrated by comparative experience, broadly phrased clauses allow for creative interpretation and jurisprudential growth.

The government's document ignores all these principles. It is a detailed document which contains provisions on a range of socio-economic concerns. The basic theme appears to be an attempt to ensure that the exercise of private power replaces race as the governing principle in the South African social system. Clause 2 sets this out clearly in that it provides that no provision of the charter shall be construed so as to create or regulate legal relations other than those between the state and a person. In short, private discrimination whether on the grounds of race or gender or religion, can continue and private bodies, however powerful, will be immune from constitutional attack. While the charter will enshrine core values, these will not extend to the private relationships.

This theme is continued in a number of other clauses. In dealing with education and training, the charter provides that the parent community of every state-aided school shall have the right to determine the medium of instruction and the religious and general character of the school. In this manner the charter will protect the privileges of certain communities, along the lines of the present Model C system.

Property may be expropriated but, in the event of a dispute, only after compensation according to its market value. Furthermore no person shall be subject to taxes on property which will have a confiscatory effect or which makes unreasonable inroads upon their enjoyment, use or the value of such property. Hence no land tax can be introduced nor practically can legislation be passed so as to redress the loss of land resulting from apartheid removals. No government will be able to afford to pay market related compensation; hence any land policy will be restricted.

The drafting of the equality clause, particularly that no person shall be favoured or prejudiced *solely* by reason of race or colour, is somewhat strangely worded and read together with the entrenched right of freedom of association might well make it difficult for legislation to be passed outlawing racial associations.

In dealing with affirmative action, the charter emphasises that special measures can be taken "for the sole purpose of furthering the development and advancement of specific communities, groups and individuals to enable them to develop and realise their natural talents and potential to the full". Unlike the Law Commission's draft of this clause, the government emphasises groups and communities, a formulation which is doubtless designed to ensure the preservation of so-called minority groups and their rights.

In keeping with the government's commitment to the rule of law, detention without trial is entrenched within the constitution in that, for example, legislation can be passed detaining a person for investigation for 10 days. The limitation clause which allows government to curtail fundamental rights is so vaguely drafted that it will be easy for a government to pass legislation curtailing the ambit of the charter.

In short, the introduction of this document would spell the death knell for constitutional government in South Africa.

# Whose rights are they anyway?

Always 5/2-11/2/92

**S**UPPOSING the government's proposed Bill of Rights were law and you found yourself barred from a privately owned holiday resort because of the colour of your skin

Since the government's charter says no one shall be prejudiced or favoured by reason of race, would you have a case against the racist resort owner?

Maybe, maybe not. The rights of individuals who don't want to associate with any "particular group" and those who want to form their own groups (Broederbonders, cry "hooray") are expressly protected. The main thrust of the charter is to protect people against state abuse of power. It's not intended to govern relations between individuals, although it does say any rights granted should be exercised without infringing on those of others.

Back at work, you and your mates decide to strike for more pay. Your right to do so is entrenched in the charter, right? Wrong. If you're employed in a "strategic industry" or, by the state, it's entirely taken away by a clause which goes far beyond that usually found in other countries' Bills of Rights, where the right to strike is curtailed for people in essential services only, and only when public safety would be put at risk.

Come polling day, you'd expect to be able to exercise your right to vote. But could you? Not necessarily. Nowhere in the charter is this most fundamental of rights entrenched. A note following the clause on political rights explains that actually taking part in elections, on the basis of one adult, one vote, "will be dealt with in the constitu-

*The government spent R1-million on its Bill of Rights — but taxpayers may find they paid to privatise apartheid.*

By **GAYE DAVIS**

tion itself"

Perhaps any government with a human rights record as deplorable as the National Party's should be applauded simply for coming up with a Bill of Rights.

But if the government genuinely wanted to stimulate debate with the charter, why spend more than R1-million of taxpayers' money to promote a document which, when it comes to the negotiating table, will be serving the interests of only one of the players?

Among his many criticisms of the charter, African National Congress constitutional expert Kader Asmal sees this as an abuse of public funds. If the government wanted to be even-handed, why not also circulate the Bills of Rights proposed by the ANC, the Democratic Party and the Inkatha Freedom Party?

"The fact that it only governs relations between the state and individuals is deceitful. Under the guise of freedom of association it will allow for the privatisation of apartheid," says Asmal.

In his view, the "real reason" for omitting the right to vote lies in the government's desire to have votes in local elections determined by property qualifications. "The charter is tendentious — using human rights language to obscure its real

252

purpose." Largely based on a report produced by the South African Law Commission (SALC) in 1991, the charter diverges from it in several key areas.

Capital punishment, which the SALC suggested leaving up to the courts to decide on, is retained for a future parliament to abolish if it wishes to.

And while every accused will have a right to legal representation, the charter adds that this must be at their own expense.

While the SALC suggested a state of emergency be imposed for a maximum six months and for the declaration itself to be ratified within three weeks by a two-thirds majority of the legislature, the charter holds no such checks or balances beyond allowing the supreme court to decide whether a state of emergency actually exists.

So, too, with detention without trial. The SALC suggested this be limited to seven days without a court order; the charter makes it 10 days. The ANC's Bill of Rights allows for detention without trial only under a state of emergency, while the charter makes no such distinction.

The SALC's provision for freedom of speech and information is diluted by a clause added to the charter which allows for the registration and licensing of newspapers and other media.

While the SALC was clear about no public funds going to a state-aided school which practised discrimination, the charter reserves the right of "parent communities" of such schools to decide the medium of instruction and their "religious and general character".

The SALC also entrenched the right of com-

pulsory primary education, while the charter hedges by linking the state's responsibility for this to "due regard for its financial means".

Asmal has dubbed it a "scabs' charter" — it entrenches an employer's right to sign on replacements when his workers go out on strike.

Professor Clive Thompson, director of the School for Advanced Legal Studies at the University of Cape Town, agrees — but reserves his sharpest criticism for a clause allowing employees the right to bargain either collectively or individually.

In his view, this undermines the system of collective bargaining based on a trade union recruiting enough employees to be representative, while a provision allowing workers the right not to be organised strikes at the heart of closed-shop agreements — "a fairly drastic thing to do".

Other "fine-sounding protections" for both employers and workers give the impression of even-handedness but in practice will be either unworkable or irreconcilable, says Thompson.

Women's rights — equal pay for work of equal value, no discrimination against married or pregnant women, the right not to be raped or sexually harassed — are dealt with in a specific provision and will be backed by legislation the government intends to introduce.

But a proviso that some of these rights might conflict with the customs of "indigenous minorities and tribes" and that it is not the intention to force "alien values" upon them caused concern, while other clauses were vague.

● See Law Column on PAGE 23



# Heard in the courts this week

w/maail 5/2-11/2/93

By GAYE DAVIS Cape Town  
THERE'S an irony in the R250 000  
defamation action former *Cape Times*  
editor Tony Heard has brought  
against his former employer, Times  
Media Limited, and *Financial Mail*  
editor Nigel Bruce

If argument led by his legal counsel  
in the Cape Supreme Court this week  
should win the day, the defence of fair  
comment — grounds on which an  
editor might successfully defend him-  
self in such an action — could be nar-  
rowed

Heard, now a freelance columnist  
covering southern African affairs, is  
suing over an article written by Bruce  
and published in the *Financial Mail* in  
January last year

Bruce's article, Heard contends,  
intended — and was so understood by  
*Financial Mail* readers — to mean  
that he was fired as *Cape Times* editor  
because he was incapable of doing the  
job, thereby injuring his good name  
and reputation

A subsequent apology published by  
the *Financial Mail*, which acknowl-  
edged his leaving his editorship for  
"reasons other than retirement",  
aggravated the original injury to his  
reputation, Heard says

TML and Bruce are defending the  
action on the basis that the article  
amounted to fair comment on matters  
of public interest and that the facts  
informing the comment were substan-  
tially true

Judgment has been reserved

# Rights charter

## 'good in parts'

252  
RAG 6/2/93

**M**OST of the traditionally accepted liberties are enshrined in the Charter of Fundamental Rights — but, the omissions and emphases assume meaningful proportions against the backdrop of the South African constitutional debate.

When political organisations author a bill of rights they usually do so with a worst-case scenario in mind; that they will be in opposition rather than government.

It is useful to look at this latest offering in that light, although with the qualification that this draft has been produced for transitional South Africa — perhaps, it is also a charter for power-sharing.

The most striking feature of the charter is the severance of the public from the private domain, and the protection it affords to existing private rights. Bills of rights are primarily devices to limit state power, and, in this regard, the charter is no exception.

However, there are other powerful (and vested) interests in society and these can be just as oppressive to the individual as the state.

The charter leaves bearers of "private" power virtually untouched, and by that token disempowers the future legislature from redressing the entrenched inequities of the past.

This is particularly problematic in the context of racially-acquired power and wealth in South Africa.

Rights to private property are protected and expropriation is made contingent on the payment of compensation based on the market value of land.

The counterpart drafts of the SA Law Commission and other bodies like the Afri-

■ THE government's Charter of Fundamental Rights is a document of mixed virtue and motive. On the one hand, it shows real movement, in government terms, on vital issues like equality and affirmative action, while on the other it appears as a rather disingenuous piece of electioneering. Its own preamble notes that it has been designed to "serve as a basis for coming negotiations", which begs the question: Which parts are fundamental and which are merely bargaining chips. An analysis by Professors **CLIVE THOMPSON** and **HUGH CORDER** of UCT.

can National Congress, as well as the more recent "Charter for Social Justice" produced by a group of Western Cape academics, appreciate that the land issue is a burning one and that competing claims will need to be adjusted on a more equitable basis, they suggest that compensation should be "fair" or "just" rather than market-related.

Again, although discrimination by the state is outlawed in the government's charter, there is almost nothing to prevent private persons and organisations from continuing to practise wholesale discrimination.

It is presumably no accident that while social-economic entitlements other than those concerned with property are generally not advanced in the charter, the inviolability of pension benefits has received a special mention (Section 21(1)).

The watershed of February 2 1990 has been captured in the charter. Civil liberties, the victim of successive National Party administrations for so many years, are now explicitly protected.

Equality is proclaimed as well as freedom of association, citizens' rights (not to be deprived of citizenship, not to be deported or denied a passport), freedom of speech, freedom of movement and the right to a fair trial. However, one sees a glimpse of the old order in the provision which allows for the limitation of fundamental rights.

Parliament may curtail rights where this is reasonably necessary "by virtue of state security, the safety of the public, the public order and interest, good morals, public health, the administration of justice and public administration."

Although this formulation is also found abroad, we know from bitter experience that something more protective is required domestically.

The SA Law Commission recognised this and said that no limitation should "derogate from the general substance of the right in question" and so did the drafters of the Namibian constitution when they insisted that any limitation should be consistent with the norms of a democratic society.

The charter's attempts to promote equality deserve comment. The relevant provision follows the sequence seen elsewhere. First, equality is enshrined, secondly, discrimination is outlawed and, thirdly, provision is made for affirmative action. Formal rather than substantive equality is found in the charter. Equal treatment, not equal benefit, is guaranteed.

This, in itself, undermines the scope of a future parliament and the courts to develop appropriate affirmative action policies.

Discrimination on account of identified characteristics ("race, colour, language, sex, religion, ethnic origin, social class,

birth, political or other convictions, or disabilities or other natural characteristics") is forbidden. Unless the envisaged constitutional court holds that one's sexual orientation is a "natural characteristic", discrimination against gay people will not fall foul of the law.

Affirmative action measures are usually designed to combat past discrimination. The charter accepts the notion of affirmative action on the narrowest possible basis, a legislative measure must be intended "for the sole purpose of furthering the development and advancement of specific communities, groups and individuals to enable them to develop and realise their natural talents and potential to the full."

This clause falls presumably into the category of bargaining chip.

On that most fundamental of issues, the right to life, the government has produced an uneven result.

It has, quite rightly, reserved the vexed issue of abortion for the deliberations of the future constitutional court. It could have done the same with respect to the death sentence, but instead has chosen to stipulate that judicial executions would be competent.

There is no doubt now that all the major political contenders have decided to recognise a future constitutional court as the ultimate check on political power and the final arbiter on a range of socially crucial issues.

That, in turn, means that the judges of the constitutional court will be drawn into the political maelstrom of transitional South Africa, and that the manner of their selection will be every bit as contentious as the content of the charter which they will be called upon to interpret.

■ Professor Clive Thompson is director of the School for Advanced Legal Studies at the University of Cape Town and Professor Hugh Corder is head of the Department of Public Law at UCT.

LEGISLATION

# Full text of draft Charter

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### From previous page

(f) to manage his or her business with a view to its economic viability and continued existence,

(g) to make use of alternative labour when necessary to maintain production or service,

(h) not to be subjected to unfair labour practices, including intimidation and victimisation

(2) Subsection (1) shall not preclude the prohibition of labour lock-outs in strategic industries and essential services, or the levying of contributions for and the management of provident funds

### Note

The comments under clause 19 also apply in respect of employers. All the rights in question are in harmony with modern labour law

### Social security

21 (1) Every person shall have the right to safeguard his or her existence or the existence of his or her dependants in the best possible manner by means of pension, medical, assurance or other providence

(2) The State shall not in any manner make any inroad upon the benefits of such providence

(3) Every person shall have the right to claim available state assistance to provide for essential subsistence and medical needs where he or she is unable to provide for such needs because of physical or mental illness or disability and where there is no person who is legally liable or who can legally be compelled to provide for such needs

### Note

This clause deals with the satisfying of certain socio-economic needs. In drafting the Charter the principle was adhered to that only those rights which can legally be enforced, that is, those which a court can compel the State to give effect to, should be in-

cluded by or under the authority of a court of law, or of a condition or order of a court of law regarding attendance at such court, bail with or without conditions, any sentence or punishment, or any related matter.

(f) detention of an accused released on bail and who is about to flee or of a witness evading service of a subpoena or who is about to flee,

(g) detention of a recalcitrant witness or of a witness who refuses to divulge information regarding an alleged offence,

(h) detention of a witness by order of a judge with a view to the protection of the witness or the proper administration of justice,

(i) detention of a person for the prevention of spreading infectious diseases constituting a threat to public health,

(j) detention of a mentally disordered or suspected mentally disordered person for observation or treatment,

(k) detention of a person alleged to be addicted to a narcotic substance or alcohol, for the purpose of an inquiry whether he is so addicted, or of a person who is so addicted, for the purpose of his rehabilitation

(l) detention of a person in connection with his or her unauthorised or alleged unauthorised presence or sojourn in the Republic or for the purpose of his or her deportation,

(m) detention of a person for the purpose of extradition, or of a court of law in connection with civil proceedings

### Note

This clause deals with the right of every person not to be deprived of his freedom and not to be subjected to coercive measures. Because the privation of freedom by the authorities must surely rank as one of the most serious infringements of a person's fundamental rights, it was regarded as necessary to spell out in detail the grounds upon which the authorities may detain someone. The other cir-

hours or the first court day thereafter after arrest, to be brought before a court of law, and to be charged or to be informed of the reason for his or her detention, failing which he or she shall be entitled to be released from detention.

(c) to be tried by a court of law within a reasonable time after arrest,

(d) upon good cause being shown, to be released from detention with or without bail

(2) Any infringement of the rights of an accused mentioned in subsection (1) shall not result in the setting aside of the proceedings unless on appeal or review the court finds that justice has not been done

### Note

The purpose of clause 25 is to ensure that the right to personal freedom of accused persons who are detained, will be affected to the minimum extent compatible with the needs of the administration of justice. The point of departure is that a person arrested must be brought before a court within 48 hours after which the court may watch over his freedom

### Fair trial

26 (1) Every accused shall have the right

(a) to a public trial by a court of law,

(b) to be presumed innocent until the contrary is proved,

(c) to remain silent during plea proceedings or trial and not to testify during trial,

(d) where he or she is not assisted by a legal practitioner, to an explanation of any possible consequences of any applicable presumptions and of his or her election to exercise his or her right to remain silent or not to testify,

(e) to examine witnesses testifying against him or her, to testify himself or herself, to call witnesses and to offer other rebutting evidence,

(f) to be represented by a legal practitioner at own ex-

### Forced labour

27 (1) Every person shall have the right not to be subjected to forced labour

(2) For the purposes of subsection (1) "forced labour" shall not include the following

(a) the performance of labour by a person serving imprisonment,

(b) the performance of community or other service by a person in terms of a sentence or an order of a court of law,

(c) the performance of compulsory military service,

### Note

By "forced labour" is meant labour which someone is compelled to perform under threat of punishment and to which he has not bound himself voluntarily

For the avoidance of possible doubt subsection (2) provides that labour performed under a sentence of a court, as well as compulsory military service or civilian service in their place thereof, is not regarded as forced labour

### Litigation

28 (1) Every person shall have the right to have any dispute settled by a court of law

(2) Every person shall have the right that the South African law, including the rules of the South African private international law, be applied in all proceedings before a court of law

(3) Subsection (2) shall not prevent

(a) judicial notice of the law of indigenous groups,

(b) the application in civil proceedings of the law of indigenous groups or the religious law of religious groups,

### Note

Subclause (1) recognises a person's basic right of access to the courts.

### Note

The civil law protects the right to privacy of people among themselves. But the authorities should also respect this right

The definition of this right in the clause is not exhaustive, but refers only to certain aspects thereof where the danger of infringement is greater, for example, the search of private property and the interception of post

The latter is permissible only for the prevention and combating of foreign intelligence operations, the unlawful trade in drugs and weapons, serious economic offences and the organised exploitation of women and children

### Art and science

31 Every person shall have the right to practise the arts and science

### Note

The State may not place any obstacle in the way of any person who wants to participate in the arts or science

### Environment rights

32 Every person shall have the right not to be exposed to an environment which is dangerous or seriously detrimental to the health or well-being of man, and the right to conservation and protection of the environment

### Note

In today's world these so-called green rights are considered important enough to be included. The vertical application of this right can be enforced against the State, which will prevent a rich-hunt against private entrepreneurs. However the recognition of this right will have an inhibiting side-effect on private entrepreneurs who regard the importance of conservation and protection of the environment

### Note

(b) to receive equal remuneration with men for work of equal value,

(c) not to be discriminated against solely by reason of her marital status or pregnancy,

(d) to perform juristic acts, to acquire rights and incur obligations, and to acquire and dispose of property,

(e) to her physical and mental integrity and in particular to legal protection against rape and sexual harassment

(4) A law shall be deemed not to be in conflict with the right to equality before the law if the object of the said law is

(a) to bring about equality between women and men,

(b) to protect women in certain types of work in the case of pregnancy or for other reasons inherent in their physical nature,

(c) to exempt women from compulsory military service, excluding service in a non-combatant or supporting capacity

### Note

Although the right to equality before the law is wide enough to protect women's rights inasmuch as it prohibits discrimination also on the ground of sex, a specific provision on women's rights may nonetheless be justified. It must be pointed out, however, that some of these rights, for example, an unqualified right to contract and to deal with property will be in conflict with aspects of the law, culture and customs of indigenous minorities and tribes, and that it is not the intention to force alien values upon them

The inclusion of these provisions regarding women's rights must be seen against the background of the conventions relating to women and to which the government subscribes. It is the government's intention to ratify these conventions in due course. Women's rights are formally settled in separate draft laws in which the remaining statutory discrimination against women is abolished and pro-

language and culture group in the Republic. This right will therefore mainly be enjoyed in group connection

### Limitation of fundamental rights

35 (1) A law referred to in section 1(2)(a) in terms of which a fundamental right is limited or the limitation thereof is authorised, shall be permissible only to the extent in which such limitation is reasonably necessary

(a) by virtue of state security, the safety of the public, the public order and interest, good morals, public health, the administration of justice and public administration,

(b) to uphold the rights and freedoms of others,

(c) to prevent or combat disorder, violence, intimidation or crime, or,

(d) to counter or deal with a threatening or actual natural disaster or the consequences thereof

### Note

The question whether the limitation of a fundamental right is reasonably necessary shall be justiciable by the Constitutional Court

In a modern society where it is the task of the law to strike and maintain a balance between the interests of the citizens on the one hand and those of the State on the other hand, certain rights must necessarily be limited or must yield *pro tanto*. For example, while the object of my right to privacy is that no one may enter my home without permission, the needs of the administration of justice may require that a police officer search my house in a specific instance to trace a criminal in hiding

The purpose of section 35 is to prescribe standards against which it can be determined if a particular limitation of a fundamental right is permissible. The legislature is strictly bound inasmuch as any limitation must be rea-

(a) the continued existence of the State or the safety of the public in the Republic or in a part of the Republic is threatened by an actual or threatening war or invasion, an insurrection or general riotousness, and

(b) the suspension of that fundamental right is reasonably necessary to ensure the continued existence of the State or the safety of the public

(2) The question whether a state of emergency as contemplated in subsection (1) exists, shall be justiciable by the Supreme Court

### Note

The suspension of a fundamental right is only at issue during a state of emergency. A first requisite is that there must be a state of emergency as defined in section 36(1)(a). Whether such a state of affairs exists, does not end with the opinion of the State President, as is the case at present. The Supreme Court is expressly authorised to verify the factual existence thereof. To this extent the existing law will be invalid or will be interpreted otherwise by the court

The other requisites of clause 36 can likewise be tested by the court. Thus it must be a fact, objectively seen, that the continued existence of the State is threatened, and that the suspension of the right in question is reasonably necessary to ensure the continued existence of the State

### Absolute prohibitions

37 Notwithstanding anything contained in this Charter no law contemplated in section 1(2)(a) shall regulate or authorise

(a) the physical or mental torture or inhuman treatment of persons,

(b) the creation of offences with retrospective effect,

(c) the indemnification of the State or a person in the service of the State for the unlawful killing or injuring of any person,

which are... have been avoided since the inclusion of such "rights" would only result in an enforceable and effective instrument being under-  
 Consequently the social security rights were not framed as claims which the individual has against the State, but as freedoms of the individual upon which the State may not encroach whether by legislation or otherwise. There is no obligation upon the State to realise these claims, but an obligation not to violate or endanger them. On the other hand there is nothing in the Charter that prevents the State from fulfilling its social obligations towards its citizens. These obligations the State must fulfil. But the extent to which the State provide social assistance to its citizens must be a political and not a legal matter.

**Free association**

22 (1) Every person shall have the right of free association.  
 (2) No person shall be prohibited or prevented from associating with any other person.  
 (3) No person shall be compelled to associate with any other person.  
**Note**  
 Certain objectives can better be achieved if a person organises himself with other groups, for example, societies. The right to do so is recognised.  
 The freedom of the individual who prefers not to associate with a particular group is expressly protected.

**Personal freedom**

23 (1) Every person shall have the right to personal freedom.  
 (2) Subject to the provision of section 37 a person may be deprived of his or her freedom only in the following instances and only in accordance with the procedure prescribed by a law of a competent legislature.  
 (a) detention of a person for investigation and trial on the ground of a reasonable suspicion that he or she has committed an offence,  
 (b) detention of an accused for or during his or her trial or for sentencing,  
 (c) detention of a person after conviction under a sentence or by order of a court of law,  
 (d) detention of a child by order of a children's court,  
 (e) detention of a person because of non-compliance or alleged non-compliance with the terms of process issued

**Detainees**

24 (1) Every person who is detained shall have the right:  
 (a) as soon as is reasonably possible to be informed in a language which he or she understands that he or she has the right to remain silent and that he or she is not obliged to make any statement, and to be warned of the consequences of making a statement,  
 (b) within a reasonable time, but not later than 48

**Accused**

25 (1) Every person arrested for the alleged commission of an offence shall have the right:  
 (a) as soon as is reasonably possible, to be informed in a language which he or she understands that he or she has the right to remain silent and that he or she is not obliged to make any statement, and to be warned of the consequences of making a statement,  
 (b) within a reasonable time, but not later than 48

**Rules of natural justice**

29 Every person shall have the right:  
 (a) to have the rules of natural justice applied in administrative proceedings where on the ground of findings of fact or of law, his or her rights or reasonable expectations are or may be infringed,  
 (b) that in such a case the reasons for any decision to be furnished on demand to him or her.

**Note**

It has already been held that the two rules here under discussion ("no one may be a judge in his own cause", and "also hear the other side") form part of our law. In short, the latter rule means that before an administrative organ comes to a decision that may affect the interests of a citizen adversely, such organ must allow that citizen an opportunity to put his side of the case. These rules now become fundamental rights.

**Privacy**

30 (1) Every person shall have the right to privacy.  
 (2) A person's right to privacy is infringed also by entering or entering upon his or her property or place of residence or employment, by searching him or her, by seizing his or her property or possessions and by intercepting or obtaining information about his or her correspondence or other forms of communication.  
 (3) The interception of, or the obtaining of information concerning, the correspondence or other forms of communication of a person shall be permissible only in so far as it is authorised by a law of a competent legislature for the purpose of preventing and combating foreign intelligence operations, the illegal trade or trafficking in narcotics and weapons, serious economic offences and the organised sexual exploitation of women and children.

33 (1) All women shall be entitled to equal rights with men.  
 (2) No law shall in any matter relating to women discriminate, distinguish or restrict on the basis of sex if it has the effect of denying or limiting women's rights to equality with men in the political, economic, social, cultural, civil or any other sphere.  
 (3) Without derogating for the generally of the foregoing every woman shall have the right:  
 (a) to be elected to any public office for which she qualifies.  
 (b) to hold any office for which she qualifies.  
 (c) to be elected to any public office for which she qualifies.

**Culture and language**

34 (1) Every person shall have the right to use the language of his or her choosing and to participate in the cultural life of his or her choosing.  
 (2) Every person shall have the right of communication with the State in the official language of his or her choosing.  
**Note**  
 Underlying the right is the existence of more than one

**Suspension of fundamental rights**

36 (1) A law referred to in section 1(2)(a) in terms of which a fundamental right is suspended of the suspension thereof is authorised, shall be of force only during a state of emergency in which

**Note**

Notwithstanding provision in clauses 35 and 36 for the limitation or suspension of a fundamental right the legislature in terms of this clause absolutely prevented from authorising or permitting the abovementioned matters. Here it is of importance to note that during a state of emergency a person may not be detained for more than 10 days without leave of an order of a court.

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# Deceitful, says professor

252 ARS 6/2/92

**JEAN LE MAY**

Weekend Argus Reporter

**T**HE government's Charter of Fundamental Human Rights, published this week, went down like a lead balloon, with criticism from all sides of the political spectrum

Minister of Justice Mr Kobie Coetsee quickly picked up the unfavourable vibes, saying the government did not intend pushing it through in legislation this session

The most scathing criticism came from Professor Khader Asmal, who has the country's only chair in human rights (at the University of the Western Cape) and who described the charter as a "cynical, tendentious and deceitful exercise in public relations"

The professor, formerly of Trinity College, Dublin, is a member of the national executive of the African National Congress and helped to draft its constitutional proposals, so his criticisms could spell out the range of the debate once the negotiating forum gets around to discussing a Bill of Rights

Professor Asmal said the published proposals were tendentious because they used the language of rights to obscure their real purpose, which was to enable privatised apartheid to replace official apartheid

They were cynical because they would enable all kinds of discriminatory practices under the guise of free association, and they were dishonest because they pre-

■ The government's Bill of Rights is "a cynical, tendentious and deceitful exercise in public relations," says a Cape Town academic who is South Africa's only Professor of Human Rights.

sented uniquely National Party beliefs as "universally accepted legal norms"

"The Inkatha Freedom Party's charter is a far more balanced document than this," he went on "The government is, as usual, trying to control everything"

"But, I don't want the ANC to control everything, either A Bill of Rights should be a social compact to which the ANC, the National Party, the IFP, the PAC, the CP and the AWB can all subscribe and feel that it gives them protection, just as all Americans now feel that the American constitution gives them protection

"Admittedly, it took time there — 110 years to protect the rights of women and 150 years to protect the rights of blacks — but eventually even that fine jurist the late Thurgood Marshall, the first black to be appointed to the Supreme Court, could uphold it"

Professor Asmal said a Bill of Rights could not be an interim arrangement, adopted by either "an illegitimate parliament or an unrepresentative negotiating forum"

"The government's statement that such a charter 'must be in place during the transitional period' is unacceptable and unrealistic," he went on

For a Bill of Rights to be acceptable by everybody it had to be "openly debated, transparent in its procedures and adopted

through a mandate of the people"

Only a constituent assembly had the moral and legal authority to adopt such a vital constitutional document, in the context of agreed constitutional proposals

The landscape of South Africa was littered with bogus charters, as in Ciskei and Bophuthatswana, and we should not limit our future rights through a limited and party political document

Professor Asmal said some of the proposals in the document raised questions about the government's real commitment to basic human rights. These were

■ The absence of a right to vote,

■ The limitation of the charter to actions of the state, ensuring that private individuals and corporations could continue to discriminate,

■ The retention of capital punishment and the failure to make legal defence obligatory in criminal trials,

■ Ambiguous references to religious freedom,

■ Rigid and insensitive provisions relating to property and economic rights which would forestall any debate on removing the effects of apartheid,

■ Unique provisions relating to employers' rights which had no precedent in international law and which would form a Scab's Charter,

■ Ineffective provisions relating to women's and children's rights and the absence of any provision for disabled people,

■ Refusal to prohibit discrimination against homosexuals, and

■ Detention without trial for up to 10 days

The government would have to go back to the drawing board before it could place its proposals before the constituent assembly, said Professor Asmal

Mr Siroz Cachalia of the Centre for Applied Legal Studies at the University of the Witwatersrand said the publication of the document crystallised a key issue in the debate between the government and the ANC, relating to the interpretation of constitutionalism in a future South Africa

"The fundamental difference is that the NP sees the charter as an instrument to protect established private and class rights," he said

"They see it as an instrument for regulating relationships between an individual and the state, which will not apply to private individuals and corporations

"Much of it is very negative, such as its absolute failure to establish affirmative action. Moreover, the right to disassociate appears to give a green light to any individual or body which discriminates on grounds of colour. It would imply that private discrimination could not be challenged in the constitutional court"

Star 6/2/93

# Goldstone to (252) ~~(252)~~ probe arms cache claims

**THE discovery of an arsenal of arms in Natal dominates all-day talks, but Government and ANC sources say the crisis is over. Political Correspondent PETER FABRICIUS reports.**

CAPE TOWN — The Goldstone Commission is to probe Government allegations that the ANC's armed wing, Umkhonto we Sizwe, tried to smuggle a carload of arms into Durban via Swaziland.

The arrest of two alleged MK cadres at Golela with an arsenal of arms in a hidden compartment has thrown an unexpected spanner into the machinery of negotiations which were just starting to gathering momentum.

Foreign Minister Pik Botha called in foreign ambassadors here this week to tell them that the two alleged MK cadres had confessed to a magistrate that they had collected the arms in Mozambique on instructions from Sipho Daniel Joel Sithole, commander and commissar of MK in Natal.

He warned that the incident could jeopardise negotiations and urged the envoys to use their influence to prevent this. Later, Government and ANC sources indicated that the crisis had passed.

Yesterday the ANC's Southern Natal Regional Executive Committee said that MK Southern Regional Command "as a collective" was not involved.

Nor did any member of the regional committee have prior knowledge or involvement in the incident. The committee said it would investigate and take the appropriate disciplinary action but its investigation was being hampered because it was being denied access to its arrested cadres.

## Under duress

It could not rely on the confession of the two because it was "common knowledge that such confessions are extracted under duress".

Police sources said that access to the MK men was being arranged.

Then, in a brief statement, the ANC's head office in Johannesburg said it had received a communication from the Goldstone Commission, announcing its intention to investigate the allegations.

The ANC was as concerned as anyone to get to the root of

the matter and would co-operate with the commission's investigation.

The Government first raised the allegations in a meeting with the ANC to discuss the future of MK and control of its arms caches.

It is understood that the matter dominated the all-day meeting in Cape Town and almost caused a breakdown.

Later the mood improved when the ANC promised to look into the matter.

Afterwards Constitutional Development Minister Roelf Meyer and Law and Order Minister Hernus Kriel issued a statement announcing that the incident had been reported to the National Peace Committee and the Government had emphasised the need for a resolution of the problem of MK's continued existence, training, recruiting and arms control.

In its statement, the ANC Southern Natal regional executive committee said this was not the solution to the problem.

The solution was that all armed formation should be speedily integrated into a new defence force.

It accused the Government of using the incident to delay negotiations so it could cling to power.

# Wrong time for rights bill

<sup>SOUTH</sup> AFTER a lifetime of stripping South Africans of internationally recognised human rights, the government's announcement of its draft Charter of Fundamental Rights was presented as a complete turnaround of its past

But in their reaction, the ANC claimed the government's motivation was based on their desire to control the transition process and to present themselves as a friendly party to a future electorate

Speaking at a press conference after the draft Bill was unveiled on Tuesday, Mr Dullah Omar, member of the ANC's Constitutional Committee, rejected the right of the government to impose a Bill of Rights in a situation of inequality, oppression and apartheid

"To impose a Bill of Rights (BoR) in the current situation where some have rights and others not, is to entrench the rights of right holders and the rightlessness of the rightless

"A Bill of Rights, by its very nature, does not seek to bring rights to those who are without but rather to entrench the rights of those who

6/2-10/2/93.  
already have them," Omar said

One could only have a BoR in the context of a political order which was totally democratic, provided for democratic rule and included a multi-party process

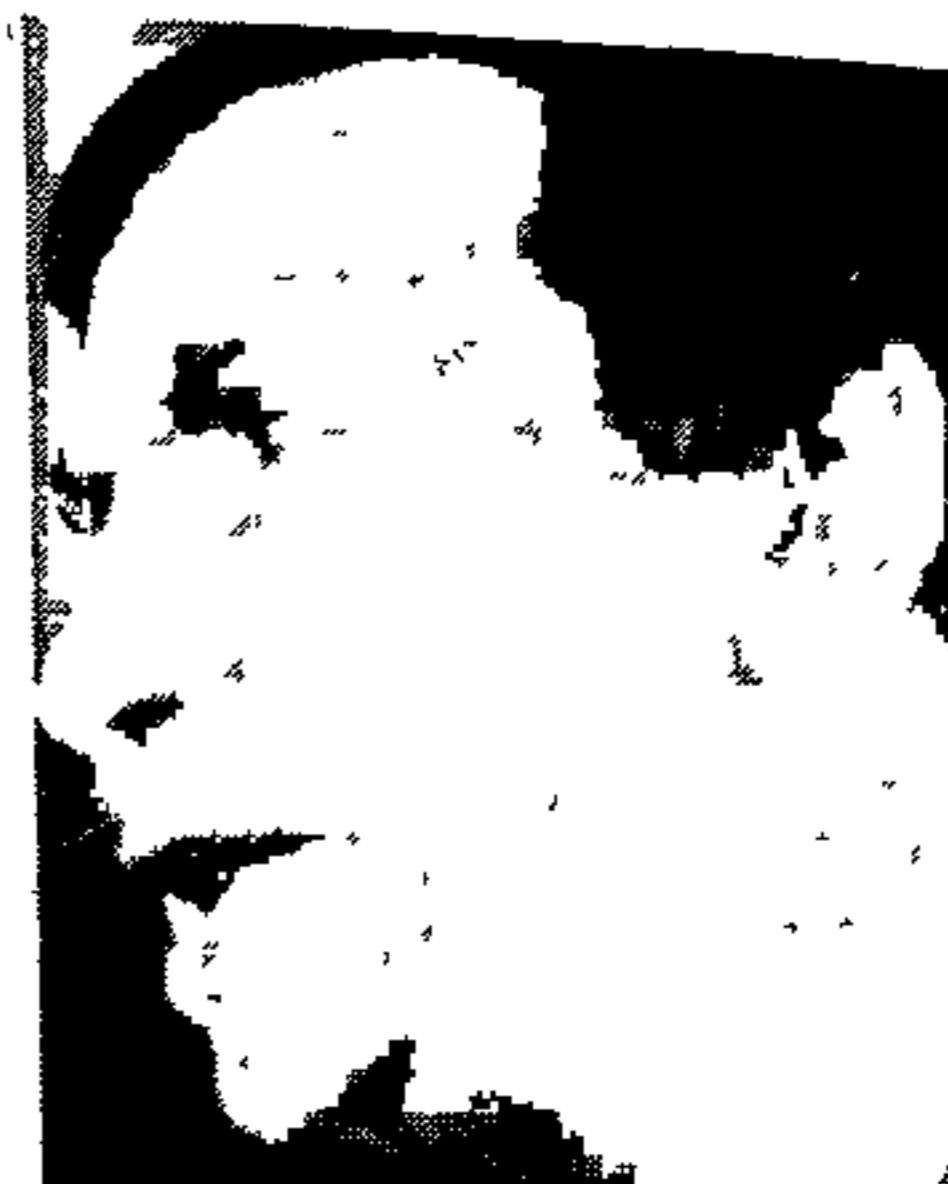
Omar drew attention to the fact that Bophuthatswana and Ciskei have a BoR and have existed within an apartheid bantustan framework

"Far from bringing rights to people, the repression of people there has continued," Omar said

He argued that to introduce a BoR in the context of an apartheid constitution was to abuse the concept of a BoR and diminish the value of such a document. This would lead to a situation where the populace had no respect for it

According to Omar, there was no room for a fully-fledged BoR in the transitional phase as it placed a great deal of power in the hands of the judiciary, which was still an illegitimate judiciary

"What we need in South Africa is a new constitutional court, differently constituted from the current judiciary with non-racial representation and which is geared to the pro-



DULLAH OMAR

tection of human rights

"Such a constitutional court could only come into being under a new constitution," he said.

● The Bill's draft provisions include the right of every citizen "not to be deprived of his or her citizenship, exiled or expelled from the Republic, prohibited from returning to the Republic, prevented from leaving the Republic, or denied a passport"

Although the NP banned a range of political organisations, it now says every citizen should have the right to form or join a political party — **Sapa and South Reporter**

252

# Court curbs spectacles discount boss

(252) [initials]

ST Times [Cape Metro] 7/2/93

Sunday Times Reporter

AN American-inspired campaign by a Cape Town optometrist to advertise spectacles at discounts of up to 50% has been stopped in a Supreme Court action by a threatened rival.

In terms of the temporary order against Spectacle Warehouse and its director, Mr Christian Faul, advertisements that were to have been carried by the Sunday Times Metro and SABC were cancelled on Friday night.

Mr Justice Thring said he had granted the application by Mr Rodney Murray Buchanan, an optometrist, because of the urgency of the matter, but would give his reasons later.

Mr Buchanan's business is metres away from Spectacle Warehouse in Access Park, near the Kenilworth Centre.

He told the court he had taken over a successful practice, which had built up "substantial" goodwill, and employed three people.

He claimed Mr Faul and Spectacle Warehouse were in breach of the rules governing optometrists and the by-laws of the South African Optometrical Association.

Mr Faul had told him last month that he intended to open a "discount optical superstore", a concept shaped by his experience in America.

## Unlawful

The first advertisements appeared in newspapers late last month and these were "a direct threat" to his practice and goodwill, Mr Buchanan said.

His lawyer had written to Mr Faul asking him to stop advertising and complaints had been laid with the SA Optometrical Association and the SA Medical and Dental Council.

The SAMDC had told him a disciplinary hearing might take four months to arrange, Mr Buchanan said.

He was prohibited from placing similar advertisements and could not compete on equal terms with Spectacle Warehouse, which was trading unlawfully.

A comment in a recent newspaper report, that optometrists "inflated" prices, had been "defamatory, untruthful and misleading", Mr Buchanan said.

Spectacles Warehouse and Mr Faul's claims of offering discounted prices were related principally to their products being inferior and cheaper, he claimed.

Spectacle Warehouse and Mr Faul have until February 25 to reply.



# WOMEN'S VOICES ABSENT IN BILLS ON EQUAL RIGHTS

252 BY CHARLENE SMITH

WOMEN will discuss three draft bills designed to curtail discrimination against them at a major conference of the Women's Coalition in Johannesburg this week.

Women's rights activists are not impressed that they were not consulted in the drafting of the bills released for comment by Minister of Justice Kobie Coetsee on Friday.

They are the Prevention of Domestic Violence Draft Bill, the Abolition of Discrimination Against Women Draft Bill and the Promotion of Equal Opportunities Draft Bill.

Cathy Albertyn of the gender research centre at the Centre for Applied Legal Studies at Wits said she was pleased women's issues were now on the political agenda, but it would require more than amending laws to redress the inequality of women.

She pointed out that in terms of existing labour legislation discrimination in the work place was already an unfair labour practice.

"It requires more than legislation. There is no state-funded shelter for battered women and yet it is estimated that around one in four women are battered."

Frene Ginwala of the ANC's gender committee said women should have been consulted to assist in the

drafting of the bills.

Another provision in the bills makes marital rape illegal in cases where the marriage relationship has broken down and the parties no longer live together. Magistrates will also be empowered to authorise the seizure of firearms to prevent domestic violence.

Under the Equal Opportunities Bill it will be illegal to discriminate on the basis of gender, marital state or pregnancy. Women will also have to get equal pay for equal work.

Sexual harassment will also be forbidden.

Nonetheless, discrimination will not be a crime. Victims may lay complaints with the Equal Opportunities Commission.

Other advances which are unlikely to cause women much excitement are the provisions that will now allow them to legally enter liquor stores and pubs, box or wrestle, and become underground miners.

Lawmakers have deftly stepped around the thorny issue of abortion where no changes will be made.

The bills will not be presented to Parliament as legislation at this stage. Should the draft legislation eventually be accepted, it would have to be phased in gradually and systematically, Mr Coetsee said.

# Judge hints at state lottery

C/Press 7/2/93

A NATIONAL lottery to raise funds for welfare, health and education - promoted and controlled by the state - is to be proposed by the Howard Commission

In a letter to President FW de Klerk on Friday, commission chairman Judge JA Howard said he would recommend that the 250 "formal" casinos and 1 750 gambling dens be shut down.

He said the public should be warned that no new lotteries would be tolerated pending the Commission's report.

In a statement issued on Friday, De Klerk said he had discussed the matter with Howard after questions had been asked during debate in Parliament on Thursday

Howard had written to De Klerk last week and gave permission on Thursday for his letter to be made public.

Howard said the 250 "formal" casinos and 1 750 salubrious gambling dens should not be allowed to continue.

"Nothing in the Commission's report will justify the continuation of such a state of affairs and an extension of the moratorium under the Gambling Amendment Act, 1992, could likewise raise false expectations on the part of a great number of people"

He said of particular concern were announcements by the Board of Executors and Games Africa that they intended to introduce national on-line lotteries by about April this year. The Operation Jumpstart organisation had also announced its intention to extend the area of operation of its Natal Lotto beyond the borders of Natal

"It is clear that these organisations are determined to antici-

pate the Commission's findings and attempt to corner the market ahead of other potential competitors

"They should be prevented from doing so because their lotteries would jeopardise the introduction of a single national lottery under state control and their lotteries could not be allowed to co-exist with such a single national lottery

"I respectfully suggest that a public warning be issued to the effect that . . . no new lotteries of any kind (including lotteries by or on behalf of welfare organisations) will be tolerated and that persons who establish, commence, manage or conduct any such lottery will be liable to prosecution under the Gambling Act.

"In particular, persons intending to establish national computerised lotteries, or to expand the

area of operation of such lotteries, should be warned that they will do so at the risk of prosecution and the loss of their investment"

Howard said he had considered a suggestion that the Gambling Act be amended to provide for a moratorium on prosecutions in respect of lotteries conducted by or on behalf of welfare organisations

"However, I have decided against it, especially since it might serve to raise expectations which turn out to be false in the light of the Commission's recommendations still to be made"

The continuation of so-called hard gambling (casinos) would lead to a similar situation

He hoped that the Commission's report would be completed by the end of next month - Sapa



# Beware jailers bearing the keys to freedom

2017  
(252)  
S/Times  
7/2/93.

**T**HE debate on the essential character of South African democracy, long delayed and often over-shadowed by more dramatic events, began almost surreptitiously this week when the government published its curious proposals for a bill of rights.

The document was dutifully welcomed as evidence of the transformation of the National Party, but it has been glossed over. The reason may be that the Draft Charter of Fundamental Rights, as it is rather pompously named, is couched in an unusual and bewildering idiom.

The American bill of rights begins by forbidding the state to make any law "respecting the establishment of religion or prohibiting the free exercise thereof", the German equivalent, the Basic Law, begins by saying simply, "The dignity of man shall be inviolable".

The government's charter starts off, in the legalistic style of apartheid-speak, by assigning rights to "every person, including, where appropriate, every legal person and every entity or body or group of persons which can be the bearer of rights".

Huh? What's appropriate, and what's inappropriate? What Nationalist trickery lies concealed in this tortured phraseology? Which bodies or groups can be the bearers of rights? Coming from people who have called oppression "separate freedom", or described the banning of students from universities as "the extension of university education", this pseudo-legalistic gobbledegook must spark a search for hidden meanings, hidden agendas, hidden purposes.

It is not language which will inspire trust.

The German Basic Law says, "Freedom of faith, of conscience, and freedom to profess a religion or a particular philosophy shall be inviolable"; the government's version says, "Every person shall have the right to profess and practise the religion of his choosing", but goes on to say this shall not preclude ministrations to the forces, the public service and other state institutions, religious instruction or exercise in schools, and religious broadcasts by

"an entity instituted by or under any law".

I would like to hear from lawyers how these two clauses are to be reconciled, but it seems to me that the first is qualified by the second, and that the primary right — the right of the state to propagandise a particular religion in schools or by television — takes precedence over the individual's freedom of religion.

Anyway, freedom of conscience is nowhere mentioned, and the right to profess a particular philosophy — say, atheism — is not recognised. Freedom of faith, in this context, seems to me no more than a pious protestation, carefully loaded in favour of the prejudices of the framers of the charter.

The freedom of speech clause, to take an example where I am more sure of my ground, is simply defective. I can understand that, given the national prejudices, the framers of the charter have not been guided by the American example which forbids Congress to make any law "abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble, and to petition the government for redress of grievances".

However, the German Basic Law says, "Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship."

**T**HE government's version, drawn up in arrogant disregard of the recommendations of the Conference of Editors and of the wording accepted by the Media Council as part of the Press Code of Conduct, says simply: "Every person shall have the right of freedom of speech and other forms of expression, and the right to obtain and disseminate information."

To this, however, is appended the right of the state to register and license newspapers, a clause which is bound to be violated, sooner or later, by pamphleteers, alternative newspapers and rogue publishers. It guarantees that, from the very first day, the press as a whole will be as seriously at war with this bill of rights as it was with Stoffel Botha in his oppressive heyday.

Not a word, incidentally, is said about freedom of opinion, which takes us back to the days of Galileo's gagging by the Roman Church.

There is worse to come: the American bill of rights forbids unreasonable searches and seizures, our version, trying to be clever, guarantees the inviolability of a person's home and forbids spying or wire-tapping under the right of privacy, except in cases of foreign intelligence gathering, or trade in narcotics and weapons, or "serious" economic offences, or prostitution.

**A**S the inclusion of serious economic offences suggests, the police have excessive powers in terms of this clause, but there is no mechanism to control their use of those powers, and the omission of any reference to treason seems to me to guarantee that, sooner or later, internal resistance to the government will be treated as though it were equivalent to foreign intelligence-gathering. If the drafting is sloppy, the thinking behind it is sloppier.

The list of objections to this charter is endless, and for an obvious reason: intellectual isolation from the democracies, and unfamiliarity with the concepts of a "culture of rights", renders the civil servants of the present regime unfit to carry out the task of drawing up a bill of rights.

The ANC's bill of rights, though I think it carefully omits some essential elements of a free society and is loaded with some silly ideals masquerading as rights, is at least cast in recognisable idiom, it draws on the experience and knowledge of an international community that has been struggling with the difficult questions of rights for two centuries. It is not something dreamed up amid the heady fumes of brandy and chops at a bosberaad.

President de Klerk is said to want a liberal democracy; if so, he needs the help of liberal lawyers, and of modern thinkers, to fashion a bill of rights that will not run the risk of strangling in its own eccentricities.

**KEN OWEN**

## IFP cautious over NP rights charter

ULUNDI. — The Inkatha Freedom Party has cautiously welcomed the National Party's draft Charter of Fundamental Rights, but added that while it was a step in the right direction, it did not meet the long-suppressed needs, wants, and aspirations of all the people of South Africa.

A statement issued by the IFP on Saturday added that the government proposal further did not protect social rights, the collective exercise of individual rights and the rights of social and cultural formations. — Sapa

CT 8/2/93

# FW warns of future misuse of rights

Q52

ARC 8/2/93

**TOS WENTZEL**  
Political Staff

PRESIDENT De Klerk today committed the government again to a future constitutional state with an enforceable Bill of Fundamental Rights in which the rule of law would be supreme.

He was opening the first regional conference of the International Bar Association to be held in South Africa.

The IBA is the world's largest organisation of law societies and international legal practitioners. It is being held in Cape Town in conjunction with the Association of Law Societies of South Africa (ALS).

Mr De Klerk said the government was awaiting comment and contributions to the draft Bill of Fundamental Rights from the legal profession in particular.

"We believe that the future Bill of Rights must and will inevitably become a cornerstone of longterm stability in our complex society.

"The legal profession can assist in assuring that the concept of such a Bill of Rights is not misused by politicians with ulterior motives.

"There is already broad consensus that the judiciary, in the transitional dispensation which we hope to install shortly as well as in the longer term, must be independent to a de-

gree which will put it beyond any risk of political manipulation. This should not be difficult because we already have a proud tradition in this regard."

Mr De Klerk said he believed the legal order in any country should provide the broad framework for orderly human activity.

On one hand it should guarantee individual freedom and stability. On the other hand it should remain in step with political, social and economic developments.

No legal system should be allowed to stagnate and there was always the room and need for improvement through reform.

"The challenge to the legal profession has never been greater. We are living in a technological era which constantly demands adaptation and innovation, also in respect of legal practice."

Interaction among legal practitioners on an international level had become indispensable to meeting the requirements of the modern world. The challenge was to bring the various legal systems closer into line with one another and with international norms and standards.

The need for legal reform had been recognised by the government and legal administrators for many years.

Star 8/2/93  
(252) (248)

# Lawyers urged to help unclog prisons

By Jo-Anne Collinge

Mr Justice Johan Kriegler of the Transvaal Bench has condemned the "internecine war for turf" among lawyers and urged that they begin to till barren legal land, assisting the mass of undefended and untried people who clog the country's jails.

During his keynote address to the annual meeting of Lawyers for Human Rights in Pretoria at the weekend, Kriegler argued the case for "barefoot lawyers", with "properly directed training" of 18 months or two years, to go into the criminal courts to advise unrepresented accused how to defend and test the cases against them.

He observed that whatever a future Bill of Rights contained, there would still be 20 000 awaiting-trial prisoners in jail every day — people who had been convicted of no crime

In addition, 70 000 people were jailed every year without the benefit of legal representation.

"I refuse to accept that it is beyond the combined talents of the profession to deal with the problem of the daily prison population," the judge said.

As a start, the legal profession could prepare and standardise curricula for "barefoot lawyers".

## Worsened

Improved defence should go hand in hand with a renewed focus on prisoners' rights.

Arguing that the outstanding role of lawyers was to defend the weak against the powerful, Mr Justice Kriegler contended there was no greater disparity of power than in jail. Therefore, lawyers should help ensure that the punishment of incarceration was not worsened by prison conditions.

He was appalled to find no voice raised to query the "dou-

ble bunk" plan that Correctional Services Minister Adriaan Vlok had posed as a solution to the overcrowding in prisons.

"Does this mean that he will double up on a single toilet for 30 prisoners and double up on a single shower for 30 prisoners?"

Former Zimbabwe Chief Justice Enoch Dumbutshena, in the second keynote address, said Zimbabwe had taken a chance after independence by appointing relatively inexperienced black advocates to the Bench in the interests of redressing past discrimination. Although some had proved unsuccessful, most had turned out to be excellent judges.

But the real pay-off had been elsewhere, said the judge. Justice, he reckoned, was not something that resided in Bills of Rights and constitutional courts, it had to be felt in the heart of society.

"From our humble background we lifted the belief of our people in justice"

# Court stops Education Minister's cost-cutting

CAPE TOWN — Teachers and parents won two Supreme Court interdicts yesterday to stop cost-saving measures at House of Representatives schools

After a three-week hearing, the court set aside a decision, with costs, by House of Representatives Education Minister Abe Williams not to appoint substitute teachers when staff went on long leave

The judges said Williams had been "high-handed and clearly unfair"

Parents and teachers had objected to the department's action, saying it threatened order in schools and would jeopardise education

The Union of Teachers' Associations of SA (Utasa), its president Arthur Vergotine, South Peninsula Senior Secondary School principal Brian Isaacs and two parents sought orders declaring the department's decision unlawful

The respondents were Williams and executive director Awie Muller

The department said in a circular in December it was unable to appoint substitutes for teachers on long leave. This followed a statement that all proposed cost-saving measures and the rationalisation of personnel would be stopped, the court heard

Substitute teachers were absolutely necessary for the orderly running of schools and to ensure proper education, the court heard

Vergotine said in an affidavit that the circular had disrupted the orderly running of schools and would cause unrest in the community. The department had assured parents last year that education standards would not be affected by the measures, which were withdrawn later

It also amounted to a breach of undertaking between Utasa and the department, he said

In a replying affidavit Muller said the measures would save the department R17m and it was a prerogative of the department to save money

But Judge Laurie Ackerman and Judge D G Scott ruled that the department had not given principals and Utasa a fair hearing before imposing rationalisation measures

The parties who brought the action planned to demand the immediate appointment of substitute teachers

Lawyers said the ruling would severely curb government's ability to unilaterally impose rationalisation measures in education

The ruling set an important precedent that enhanced the ability of parents and teachers to challenge rationalisation plans

The DP welcomed the ruling. Its Bokkeveld MP Cliff Nasson said the decision would help normalise education. He appealed to Williams not to introduce further measures that would harm education — Sapa

27/2/93  
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## Army 'will be open to gays'

Political Correspondent

THE ANC supports the right of gays to enter a future South African Defence Force

ANC constitutional expert Professor Kader Asmal said all discrimination on the grounds of sexual orientation should be outlawed in a future bill of rights

This meant that gays should enjoy the right to enter the security forces, the SABC or private employment without fear of discrimination, he said at a press conference



# Rule of law sovereign

## — De Klerk

Staff Reporter

THE government was committed to introducing a "Rechtstaat" — a constitutional state in which the rule of law was sovereign, President F W de Klerk said yesterday.

This would be coupled with an enforceable bill of fundamental rights, he said at the International Bar Association's first regional conference in South Africa.

The country's legal fraternity could provide vital help in shaping the bill of rights and ensuring it was not misused.

The government's proposals for a bill of rights were published on February 2. He believed the bill would become "a cornerstone of long-term stability".

Mr De Klerk said there was broad consensus that the judiciary should be independent to a degree that would put it beyond the risk of political manipulation.

# Future for SA law graduates 'bleak'

Staff Reporter

THE FUTURE for thousands of South African law graduates "looks bleak" as only about half can secure posts with legal firms to do their articles of clerkship.

This was disclosed yesterday by the president of the Association of Law Societies Mr Mervyn Smith, who said they were seeking ways to accommodate jobless students.

Mr Smith was speaking at the opening of the International Bar Association's first regional conference in SA, which is being held in the city.

"About 3 800 students will receive law degrees at the end of the year. We expect that only 1 500 will find legal firms who can accommodate them for their articles," Mr Smith said.

# Loopholes can lead to abuse

JOHANNESBURG. — A future government could place its opponents in mental asylums, or fund apartheid education, under the draft bill of rights.

Director of the Free Market Foundation Mr Leon Louw, said "Its purpose is to regulate the state, but there are loopholes."

Having stated that no person shall "prejudiced by reason of race, colour, language, sex, religion, ethnic origin, social class, political or other convictions or disabilities", the bill offers an escape.

A law would be acceptable if it "provides for special measures for the sole purpose of furthering the development and advancement of specific communities, groups and individuals".

Mr Louw is especially worried by clauses allowing for the detention of the mentally disordered, drug addicts and alcoholics. "They create detention without trial." — Sapa-AFP

# Reform of product liability laws inevitable, says judge

CAPE TOWN — Court actions by consumers claiming to have been harmed by certain products will be launched in SA sooner or later — and legal reforms on product liability are inevitable, the International Bar Association (IBA) heard yesterday.

Acting Judge Milton Seligson told the IBA regional conference that legal action by, for example, cigarette smokers suffering from lung cancer, would raise factual and legal issues of enormous complexity.

He asked whether claims for exposure to asbestos, or claims arising from the use of medicines or vaccines, could be adequately dealt with on the basis of traditional negligence principles.

“One is driven to the conclusion that statutory reform of the law in the area of product liability is not only desirable but inevitable,” he said.

“One envisages a statute along the lines of that adopted in the UK or Australia which substitutes strict liability for fault-based liability to compensate for loss caused by defective products.”

The enactment of such legislation would bring SA product liability law more or less into line with the law in the US, UK, Europe, Japan and Australia.

Association of Law Societies president Mervyn Smith told the conference fewer than half of SA's law graduates were able to serve their articles last year.

Access to the legal profession was one of the issues facing the SA legal fraternity. He said that in 1991, 2 303 law degrees were conferred on students at SA's 18 law

faculties but attorneys' firms were able to employ fewer than half of the graduates — 1 080 — as articulated clerks.

Last year 3 000 law graduates completed their studies but only 1 200 were able to find work as articulated clerks. “The future looks even bleaker. About 3 800 students will receive law degrees at the end of the year and we expect that only 1 500 will find attorney firms who can accommodate them for articles of clerkship.”

“The picture looks grim and it is evident that the present system of articles has to be reviewed. The society has perforce been obliged to focus its attention on the whole system of legal education and in particular that of providing articles,” Smith said.

Opening the conference President F W de Klerk said the legal profession could help in assuring that the concept of a Bill of Rights was not misused by politicians with ulterior motives.

SA had set constitutional goals which would have a profound effect on the country's legal system.

Government was looking forward to comment and contributions from the legal profession on the proposals for a Bill of Rights “because we believe that the future Bill of Rights must, and will, inevitably become a cornerstone of long-term stability in our complex society.”

Fortunately, there was already broad consensus that the judiciary, in both the transitional dispensation as well as in the longer term, had to be sufficiently independent to put it beyond any risk of political manipulation. — Sapa

# Cutbacks could hurt air force — Kriel

STEPHANE BOTHA

THE SA Air Force could be rendered ineffective if further government cutbacks forced the closure of more air bases and squadrons, SAAF chief Lt-Gen James Kriel said at the weekend.

Addressing a parade at Waterkloof Air Force base to celebrate the 73rd anniversary of the SAAF, Kriel said the mission declaration of the SAAF was the supply of professional and cost effective operational air capabilities, the securing of SA's air space and the rendering of assistance to other security forces.

“I have to stress that it would be impossible for the SAAF to uphold this declaration if forced to close more bases and squadrons,” he said.

During the past year, the SAAF had gone through a scaling down process which included the closing of bases at Hoedspruit and Pietersburg and the termination of 2 789 jobs.

buy uranium were among many world figures he had enjoyed interviewing, he said

# Rate cut

home loan rates.

Most banks' home loan rates are 16,75% while prime is at 17,25%.

Nedbank MD Richard Laubscher said the rate cut was a positive sign in the light of international rate cuts last week and lower inflation locally. “We will review our prime and home loan rates today.”

From Page 1

Standard Bank MD Mike Vosloo said “We have been anticipating a cut in Bank rate for some time so the move hardly comes as a great surprise. Obviously we will be looking at the situation today and will respond in due course.” Absa would review the situation today.

See Page 8

# Highveld

However, Boyd believed that during 1993 the bottom of the cycle affecting the group's results would be reached.

Vanadium pentoxide consumption remained at a low level in line with world steel production. The recommissioning of

From Page 1

to local contractors Highveld, Sarranacor and the Industrial Development Corporation (IDC) are equal partners. CE Fred Boshoff said a shortlist of the civil contractors included Murtrav & Roh-



SUSAN RUSSELL

THE provision of properly trained interpreters, some with special skills, is essential for the effective administration of justice in SA for a population without a shared mother tongue

This is the view of Johannesburg advocate Stephen du Toit SC, who has served as an acting judge in Namibia.

Writing in the advocates' journal *Consultus*, he said preconceived notions about what language should be spoken in court had to give way to justice considerations. The accused had to understand what was going on, as must the court, prosecution and defence counsel.

# Advocate calls for properly trained interpreters

No one should feel disadvantaged because of the language used in court.

"The need for a properly trained and skilled interpreting service is therefore obvious," he said

"Far too little seems to be done in SA to ensure the availability of skilled interpreters. There should be a special college for training interpreters so the requirements of justice can be served in a polyglot country," he said

Du Toit said interpreters should be

trained to have special skills in certain fields. He had sometimes heard mistranslations in European languages

"Such mistranslations may possibly occur with even greater frequency where the various Bantu or Khoisan languages are used," he said

Du Toit said there should be some sort of supervision of interpreters in courts

"The judge or magistrate can seldom understand every language spoken in his court," he said  
"It would be comforting if he knew

someone was looking over the interpreter's shoulder."

Du Toit said Namibia was an example where, in the interests of effective justice, the country's constitutional language policy was not adhered to

Namibia's constitution proclaims English to be the national language, but as Du Toit points out, Afrikaans is and has been the country's lingua franca

"The courts have been practical in their approach to accommodate this reality," Du Toit said



# Cop guilty of lawyer's murder

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Sowetan 9/2/93

**Sowetan Correspondent**

**■ DIRECT INTENTION** Matlotse to

**A** SPECIAL CONSTABLE WAS yesterday convicted of murdering Johannesburg lawyer Mr Legwai Pitje

The policeman, Rodney Matlotse (25) of Kagiso, Krugersdorp was, however, acquitted of kidnapping and robbery with aggravating circumstances

Mr Justice TD Cloete found Matlotse had a direct intention to murder Pitje when he stabbed him on July 12 last year. He acquitted Matlotse of robbing Pitje of his borrowed car, a gold watch and a diamond ring, but found him guilty of the lesser crime of theft

Co-accused Mr Mohali Motlhabi (24), also of Kagiso, was acquitted on

plead in mitigation of sentence today:

all counts

Motlhabi claimed Matlotse had stabbed and threatened him with a firearm to induce his co-operation. The judge found the State had not proved this version was not possibly true.

Pitje had been arrested but not charged with drunken driving the night before his death. When he was released from the Magaliesberg police cells, Matlotse drove his (Pitje's) car to Motlhabi's home.

The three men then visited other people where they ate food and drank beer. An argument broke out at one of the

houses and Pitje and the two accused left. Motlhabi told the court Matlotse and Pitje argued in the car. Matlotse attacked Pitje, stabbing him several times before gouging out his eyes.

Pitje's body was thrown into the boot, wrapped in a plastic bag and hidden.

The judge said he could not explain why Pitje had left the police station with Matlotse. Pitje was a lawyer who knew his rights and would have understood that he had not been charged and that there was no reason for Matlotse to escort him. The case was adjourned to today for argument.

## Azapo fumes at TV omission

**By Victor Metsamere**

THE omission of Azapo from the David Frost interview series was because "the SABC is afraid to let the organisation's ideas be heard by the rest of the world"

This claim was made by Azapo's presidential secretary, Mr Strini Moodley, yesterday

Meanwhile, callers to *Sowetan* yesterday wanted to know why the Democratic Party and the Afrikaner Weerstandsbeweging were, like Azapo, excluded from the CCV TV interviews.

Azapo also said Frost, who is scheduled to talk to Mr Nelson Mandela (ANC), Chief Mangosuthu Buthelezi (IFP), Mr Clarence Makwetu (PAC) and President FW de Klerk, was afraid

of the organisation

"Any journalist likes pliant interviewees rather than ones who challenge. There has been an ongoing conspiracy in all sections to suppress the ideas and opinions of Azapo," said Moodley.

The general manager of CCV TV, Mr Madala Mphahlele, and other top officials in the news department were not available for comment yesterday.

# Rights charter slammed by ANC

ARL 9/2/73 (252)  
DENNIS CRUYWAGEN, Political Staff

THE government's Charter of Fundamental Rights has been criticised by ANC constitutional committee member Professor Kader Asmal as an attempt to interfere with negotiations.

The document also came in for criticism from his constitutional committee colleagues, lawyers Professor Albie Sachs, Dullah Omar and Essa Moosa.

Professor Sachs said the ANC would not allow its hands to be tied by the charter.

He said the document throbbed with fear and not with the heartbeat of freedom.

He said "You cannot have temporary fundamental rights. Without the right to vote how can you say a bill of rights has any meaning?"

The charter was written "in the tone of somebody determined to have as much as possible of the fruits of privilege".

He said if Justice Minister Kobie Coetsee woke up as a farm labourer, a woman, or factory worker, he would not be happy with the charter.

Star 9/12/93

# Murder of Goldstone lawyer - man guilty

By Susan Smuts

A special constable was convicted yesterday of murdering Goldstone Commission advocate Legwai Pitje, but was acquitted of kidnapping and robbery, with aggravating circumstances.

Mr Justice T D Cloete found Seatile Rodney Matlotse (25) of Kagiso had a direct intention to murder Pitje when he stabbed him on July 12.

He acquitted Matlotse of robbing Pitje of his borrowed car, gold watch and diamond ring, but found him guilty of the lesser crime of theft.

Co-accused Mohali Abraham Motlhabi (24) of Kagiso was acquitted on all counts. Motlhabi claimed Matlotse had stabbed and threatened him with a firearm to induce his co-operation.

The judge found the State had not proved this version was not true.

Pitje had been arrested for alleged drunken driving the night before his death. When Pitje was released from the Magaliesburg police cells, Matlotse drove his (Pitje's) car to Motlhabi's home. The three men then visited other people and drank beer during their visits.

An argument broke out at one of the houses, and Pitje and the two accused left.

Motlhabi told the court Matlotse and Pitje argued in the car. Matlotse attacked Pitje, stabbing him several times.

Pitje's body was thrown into the boot. It was later wrapped in a plastic bag and hidden.

The case was adjourned until today.



# Govt rights bill slated by ANC

By ANTHONY JOHNSON  
Political Correspondent

THE ANC yesterday warned that the government's Charter of Fundamental Rights was "a serious obstacle to the negotiation process"

At a press conference yesterday the ANC's constitutional committee slated the document released amid much fanfare by the government last week as a charter for "torturers", "scabs" and "the rich"

ANC constitutional expert and NEC member Professor Kader Asmal said the ANC regarded the charter as an attempt by Justice Minister Mr Kobie Coetsee and his government to put a spoke in the wheel of constitutional negotiations

In response Mr Coetsee said the ANC's criticisms of the charter were superficial, non-academic, non-scientific and reflected the ANC's "great intolerance" towards anyone who differed from the organisation

Professor Asmal said the ANC would strenuously oppose any at-

## 'Charter for scabs and rich'

tempt by the government to have an interim bill of rights finalised at Codesa for introduction during the period of transition

A bill of rights should not be adopted by either an illegitimate Parliament or by an unrepresentative negotiating forum but by a democratically-elected constituent assembly, he said

The ANC singled out the following objections to the charter

- The absence of the right to vote.
- The limitation of the application of the charter to actions by the state, allowing private indi-

viduals and organisations to continue discrimination.

● The continuation of capital punishment and the absence of legal aid in criminal trials

● The provocative reference to affirmative action

● The refusal to separate church from state.

● The rigid and insensitive provisions relating to property and economic rights

● The unique provisions relating to employers' rights which will form "a scab's charter".

● The defective provisions relating to the rights of women, children and the disabled.

● The refusal to prohibit discrimination on the grounds of sexual orientation

● Detention without trial for up to 10 days "a charter for torturers"

● The absence of the right to freedom of conscience and restrictions on press freedom through possible licensing of the press

● Educational provisions which revive the discredited notions of group rights

25 CT 9/2/92

# Keep Justice Corbett, DP asks

By BARRY STREEK  
Political Staff

THE new Chief Justice should not be appointed secretly, as in the past, but openly in a procedure agreed to by all parties, the Democratic Party said yesterday.

"Openness is what is called for," justice spokesman, Mr Tony Leon, said. The Chief Justice, Mr Justice Michael Corbett, is to retire later this year, but Mr

Leon said he should be asked to stay on in an acting position until a new constitution was in place.

"Nothing could be worse than for the current government to appoint a new Chief Justice and then say goodbye."

This would place the position under political pressure, which should not happen, as all the constitutional proposals currently being considered gave the Chief Justice a significant role with considerable powers.

Mr Leon, MP for Houghton, has tabled a number of questions in Parliament about Mr Justice Corbett's pending retirement.

He has asked that consideration be given to asking the present Chief Justice to continue in office or for the appointment of a lawyer of stature outside the ranks of the current judiciary.

"It might be useful if the new Chief Justice is not currently a practising advocate or judge."

# Mix-up over witness protection document

CT 10/2/93 (252)

JOHANNESBURG — A Lawyers for Human Rights document on witness protection programmes, distributed at a press conference here yesterday, was meant merely for discussion within the LHR and was not official, the LHR said

The document, distributed to reporters by LHR regional organiser Mr Aubrey Lekwane during the news confer-

ence, said the human rights group would suspend its own witness protection programme because slow investigations and lengthy trials were taxing LHR financially — and cases often ended in acquittals

But in a later statement LHR national director Mr Brian Currin said "the document is not an official LHR document and its distribution was not authorised by the national directorate" "Some of the allegations

## LHR launches legal course

JOHANNESBURG. — A pilot para-legal training programme designed to help end violence has been unveiled by Lawyers for Human Rights

The first three-month course will train ANC members in mediation, negotiation, conflict resolution, court monitoring, peace monitoring techniques and legal issues relating to violence.

LHR national director Mr Brian Currin said members of other organisations would be eligible for future courses — Sapa

contained therein are correct, while others do not reflect the view of LHR," he said

Questioned later, Mr Currin reiterated that the document was solely for internal discussion within the LHR.

The document also expressed concern that credible evidence submitted to the Goldstone Commission had so far failed to result in any convictions.

— Sapa



# nation

Star 10/2/93

## Probe to be completed soon

Investigations involving former policeman Johnny Mokaleng — who alleged last month that police had murdered and buried detainees — should be completed in about a month. Police said yesterday a docket should be submitted to the Attorney-General next month. Mokaleng would face charges of fraud and perjury. (25)

# Judgment reserved in casino hearing

*252* *10/2/93*  
**DURBAN** — A Durban Supreme Court judge reserved judgment yesterday afternoon after hearing a second application by two casino operators to set aside a gambling ban which came into effect at the end of January.

The owners of Florida Road Entertainment and River Palace Leisure Industries asked Natal's deputy judge president, Judge John Broome, to set aside government's decision not to extend the moratorium on gambling.

They also applied for an order for Justice Minister Kobie Coetsee to reconsider his decision to disallow further gambling operations until he had afforded interested parties a fair hearing to state their case.

Yesterday's hearing came just over a week after a similar unsuccessful one by the same applicants in the Durban Supreme Court.

Yesterday Johan Ploos van Amstel SC argued that Coetsee had not granted casino owners and other interested parties a fair hearing before deciding not to extend the moratorium on gambling.

Casino owners had a right to trade and, apart from the general public, the Minister's decision was calculated to prejudice casino operators and deprive them of their livelihood, he argued.

Ploos van Amstel further submitted that it had been a legitimate expectation by casino owners that they be granted a fair hearing before the Minister decided to go ahead with the January 31 shut down.

Casino operators had expected, from statements made by Coetsee, an extension to the cut-off date pending the outcome of

the Howard commission's inquiry into gambling. Coetsee's decision not to do this had come as a shock, even to fellow NP MPs, he submitted.

Council for the Minister, David Gordon SC, disputed the argument based on legitimate expectation, saying casino owners were merely entitled to make submissions to the Minister. This did not mean they would be allowed to continue operations.

New legislation on gambling promulgated on November 6 had afforded casino operators the privilege of not being prosecuted until they had wound up their businesses by the end of January.

They were still operating illegally but had been granted indemnity from prosecution for that time period, said Gordon.

This had been done to allow other potential gaming entrepreneurs the opportunity to begin on an "equal footing" should new gambling legislation come about.

Many operators had deliberately waited for the outcome of the Howard commission before starting their businesses and it would be unfair to them to continue allowing illegal operations now.

The "transitional provision" not to prosecute gambling club operators until the end of January was also provided to allow casino employees time to find alternative employment.

Gordon further referred to an affidavit by Coetsee which stated that 250 "formal" and 1 750 "informal" casinos had sprung up last year and "no reasonable South African can expect the report of the Howard commission will support the unregulated proliferation of casinos" — Sapa

# Claims against attorneys on the increase, conference told

BIDAY 10/21/93

CAPE TOWN — There had been a substantial increase in the number of claims lodged against attorneys in recent years, Small Claims Court commissioner Des Williams told the International Bar Association regional conference yesterday.

Claims under the Attorneys' Fidelity Fund Professional Indemnity Insurance Scheme had increased from about 200 in 1987 to about 450 in 1991, he said.

Considering there were only about 8 000 attorneys in SA, this meant the annual number of claims represented more than 5% of the total number of attorneys.

The increase was part of a worldwide trend, attorneys were handling more work and were expanding into new areas of practice which carried greater risk and exposure to claims; and clients were becoming more demanding and more aware of their rights.

About 47% of claims in 1991 related to claims under the Motor Vehicle Accidents Act, 20% were conveyancing-related, 15% related to general commercial matters and 15% to general litigation matters.

SA attorneys had automatic cover under the fidelity fund scheme, and the limits of indemnity under the scheme had been increased considerably in recent years. But many legal practices needed substantial

(252) LINDA ENSOR

top-up cover, and some were obtaining cover of up to R1m of each claim.

"A further reason for obtaining additional cover is that the scheme no longer grants indemnity in respect of the provision of investment advice. Separate cover must therefore be arranged in respect of the provision of investment advice."

Williams urged law firms to institute malpractice exposure audits, as the adoption of risk management would "almost certainly lead to a major shake-up and revision of management, administration and professional procedures".

Prof Werner Ebke of the University of Konstanz School of Law in Dallas, Texas, said several common-law courts abroad were anxious to limit auditors' liability for negligence affecting people with whom they had no contract.

Deneys Reitz partner Michael Hart said that while SA auditors had had reasonably good claims experience until the end of the '80s, and underwriters had been willing to provide professional indemnity insurance for this market, there had been an appreciable increase in the number and size of claims brought against local auditors during the past five years.

in an effort to increase the chances of prosecuting perpetrators of violence in the region.

LHR director Brian Currin said the programme would counter the "top down" flow of authority in regional and national peace accord structures by "creating a culture of trust at grassroots level".

ANC PWV peace section co-ordinator Robert McBride said the training programme would increase the awareness among observers of the potential role their evidence could play in securing the conviction of perpetrators of violence.

Currin said the programme could also help to build trust between the police and communities that were often reluctant to give evidence to the authorities.

ANC PWV official Obed Bapela said the monitors would also be expected to "sift out bad elements in our organisation" in the course of their duties.

The programme would start on Saturday with a workshop on the causes and effects of violence, an LHR official said.

# High-tech anti-violence train put through test

BIDAY 10/21/93

RAY HARTLEY

A COMMUTER train equipped with high-tech security devices worth R1,4m was tested by the SA Rail Commuter Corporation (SARCC) yesterday after a delay while video monitoring equipment was improved.

The train, which has new violence-proof windows and doors, a video monitoring system, a public address system and radio communication between drivers and guards, was put through a two-hour test on the

Braamfontein-Krugersdorp line.

SARCC development engineer Brian Carver said the train had proved ready for service and would carry its first passengers between Johannesburg and Soweto by the weekend.

SARCC security GM Francois van Eden said the new train would cut down on the time it took to arrest those involved in violence as guards

would react immediately to incidents shown on closed circuit television.

Carver said the new video system, which consisted of 56 concealed video cameras on a 14-coach train and a monitoring booth, would cost R500 000 a train.

A further five trains would be equipped with the video system, which would then be evaluated thoroughly before a decision was made on whether or not to install the system on all trains, he said.

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# Judge calls for 'barefoot lawyers' to ease caseload

The Argus Correspondent

JOHANNESBURG — Mr Justice Johan Kriegler of the Transvaal Bench has condemned the "internecine war for turf" among lawyers and urged that they begin to till "barren" legal land, assisting the mass of undefended and untried people who clog the country's jails

During his keynote address to the annual general meeting of Lawyers for Human Rights in Pretoria at the weekend, Judge Kriegler argued the case for "barefoot lawyers", with 18 months' to two years' "properly directed training", to go into the criminal courts to advise unrepresented accused how to defend and test the case against them

He observed that "whatever a future Bill of Rights contains and whatever the composition of a constitutional court, we still will have — every single day — 20 000 people in prison who have committed no crime"

In addition to this enormous number of awaiting-trial prisoners, in any year there were 70 000 people imprisoned without the benefit of legal representation

"I refuse to accept that it is beyond the combined talents of the profession to deal with the problem of the daily prison population," he asserted. As a start, the legal profession could prepare and standardise curricula for "barefoot lawyers"

Improved defence should go hand in hand with a renewed focus on prisoners' rights

Mr Justice Kriegler observed caus-

atically that it was only when a tiny percentage of prisoners was set free that anyone showed the slightest interest in prisoners

Arguing that the outstanding role of lawyers was to defend the weak against the powerful, Mr Justice Kriegler contended that there was no greater disparity of power than in jail

Therefore, lawyers should help ensure that the punishment of incarceration was not exacerbated by the conditions of imprisonment.

He had been appalled to find no voice raised to query the "double bunk" plan which Correctional Services Minister Mr Adriaan Vlok posed as a solution to the overcrowding of prisons

"Does this mean that he will double up on a single toilet for 30 prisoners and double up on a single shower for 30 prisoners?"

Mr Justice Kriegler acknowledged that the legal profession had a socio-political role to play, but emphasised that it had a particular way of doing so "Not for us the heady slogans, for us the hard work"

Former Zimbabwean Chief Justice Enoch Dumbutshena, delivering the second keynote address, related that, after independence, Zimbabwe "took a chance" and appointed relatively inexperienced black advocates to the Bench in the interests of redressing past discrimination

Although some had proved unsuccessful, most had risen to the challenge of office and proved excellent judges

Star 10/2/93

# Programme seeks to help curb violence

By Bronwyn Wilkinson

A para-legal community training programme launched yesterday by Lawyers for Human Rights (LHR) and the ANC's PWV region could improve police-community relations and ultimately reduce violence, the organisations said.

The programme — the first of its kind — could also strengthen National Peace Accord structures by supplying valuable para-legal skills to the participants in those structures, the organisations told a Johannesburg press conference.

The first three-month programme, starting on Saturday, will train ANC peace workers

in the PWV in skills including mediation, negotiation, observation, documenting evidence and investigation.

LHR national director Brian Currin said although the programme had been suggested by the ANC's PWV region, it had no political bias.

He hoped it would prevent releases, for lack of evidence, of suspected political killers.

Witnesses to violence often became so confused that they were discredited.

He cited the case of the 1991 Sebokeng night vigil massacre, in which 38 people were killed. Seven men were charged, but were acquitted because there was insufficient evidence to convict them.

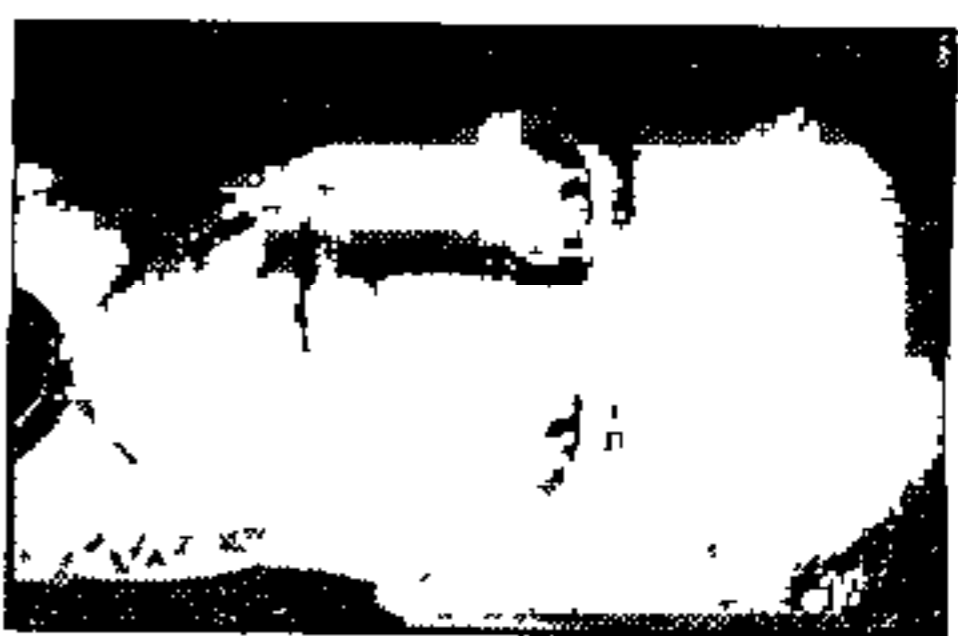


The Bench's integrity is at stake, says Mr Justice Richard Goldstone

Star 11/2/93

# Should judges speak out?

(252)



**J**UDGES should avoid becoming or giving the appearance of being committed to a political party or policy. They should not show prejudice against particular persons or groups of persons. They should not make comments offending generally accepted moral standards. They should avoid gratuitous controversy. These are the obvious cases.

There are, however, many hard cases. Frequently it is difficult to decide where moral precepts and standards end and where strictly political doctrine begins. In that area, in my view, if a judge is to err, it should be on the side of defending morality.

I do not believe that any South African judge speaking out against unjust or immoral laws, whether in or out of court, has made himself unfit to sit on the Bench. Indeed, I believe that judges who did so tended to preserve the integrity of the South African Bench.

For the same reason there can be no basis for criticising a judge for being a member of an association or organisation which fur-

thers the moral norms of society. I have in mind the SPCA, Nicro and, indeed, the South African Institute of Race Relations.

In a number of states in the United States of America there is a rule that judges should avoid membership of even the most praiseworthy and non-controversial organisations which espouse a particular position. In my view there is no warrant for that over-cautious approach.

Decent members of society will assume that judicial officers have strong views against criminal conduct and a convicted murderer or robber should not expect a judge to have neutral views concerning murder and robbery. Judicial officers, when sentencing criminals, express strong views on those subjects on a daily basis. That is hardly a ground for recusal.

Why should they not express these views in public off the Bench? It would enhance the integrity and credibility of the courts. Not the converse. So, too, any other principles of morality

which are of universal application.

In order to do so in South Africa judges have not needed to look to the precepts and principles of international law. They need have gone no further than our own common law. For there are to be found virtually all of the principles which are enshrined in most Bills of Rights. It is precisely those common law principles which were so frequently overridden by South African parliaments for more than a century.

I cannot imagine that it would be improper for a judge to speak out when Parliament or any public official acts in conflict with precepts of our own common law. On the contrary, it is more likely to be objectionable when he or she supports such conduct or even remains silent when confronted with it.

Particularly when the constitution is in flux and fundamental legal rights are being debated by the nation, the judges have a duty to join the debate. They are clearly well qualified to do so. If they enter that debate in a non-parti-

san manner they can hardly be accused with any justification of displaying bias or interfering with their independence or that of their colleagues.

Let me now draw some conclusions. In my opinion, a judge may freely speak in court on any topic strictly relevant to the matter before him. If appropriate he is entitled to criticise the law he is required to implement if, in his opinion, it offends against morality or justice. Indeed, in some cases it may be his duty to do so.

Off the Bench, in my judgment, a judge may freely speak about any topic relating to the law and the administration of justice. Where the area he chooses is controversial or has political overtones he should be especially careful and take into account the inadvisability of embroiling the courts in controversy.

The judiciary is subject to public criticism today more than ever before in our history — and not only in this country. This is to the good. It helps demystify the law and the judiciary. It also frees the

judges to the extent that in appropriate circumstances they can defend themselves.

The platform on which a judge should speak is no less important than the topic he chooses. I believe that a judge should restrict his off-Bench public addresses to academic, legal and other neutral venues. Clearly he should not appear in public on any platform which has the appearance of lending support to any political party or policy.

The question of judges heading commissions of inquiry is also one of some difficulty. Whether it is appropriate will depend on a number of factors. Not the least of them is the general public interest and the political and other circumstances generally prevailing at the time.

Having regard to my own involvement in commissions during the past two years it hardly behoves me to make further comments on this topic. I must leave that to other more objective commentators.

The answer to the question, "Do judges speak out?" is thus not a

simple "Yes" or "No". The decision is a matter of judgment, taste and good sense. The test is whether by speaking out the judge will compromise the Bench in general or himself in particular. Will it interfere or seem to interfere with the impartiality of the judge or impair the dignity and prestige of his office?

Where the answer to all these questions does not preclude speaking out, to do so will, I suggest, increase healthy contact between the judiciary and the public, enrich and educate audiences on matters on which judges have expertise and experience and will generally help to demystify the judiciary.

I would suggest that respect for the judiciary should be earned and should be the consequence of the integrity, fairness and ability with which judges conduct themselves both on and off the Bench.

These are extracts from the 36th Alfred Hoernle memorial lecture delivered by Mr Justice Goldstone to the South African Institute of Race Relations in Johannesburg last night. □

Star 11/2/93

# Judges urged to join debate

By Bronwyn Wilkinson

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independence of the judiciary

Judges had a duty to join the debate on fundamental legal rights, particularly when a nation was debating these in times of constitutional flux, Mr Justice Richard Goldstone said last night.

In his opinion, "a judge may speak freely in court on any topic strictly relevant to the matter before him"

It may be the judge's duty to criticise the law he was required to implement if, in the judge's opinion, it "offends against morality or justice"

Delivering the 36th annual Hoernle Memorial Lecture to the South African Institute of Race Relations in Johannesburg, Mr Justice Goldstone said judges were qualified to join the debate and, if this were done in a non-partisan manner, they could not be accused of displaying bias or interfering with the

Off the Bench, a judge may speak about any topic relating to the law and the administration of justice, but should beware of embroiling the judiciary in controversy, he said

● Should judges speak out? — Page 14



## Chief Justice won't retire

Political Staff

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THE government last night averted a major legal and constitutional crisis by announcing that the widely respected Chief Justice, Mr Justice Michael Corbett, would stay in office after his scheduled retirement in September.

President F W de Klerk said in a statement that Mr Justice Corbett had accepted an invitation to remain in office for "a further period".

ET 11/2/93

**T**HE topic of whether judges should speak out on "political" issues is one usually avoided in judicial, legal and public circles. It is avoided because it is sensitive and complex. Its sensitivity springs from a general and praiseworthy desire not to involve the judiciary in controversy, political or otherwise. Its complexity arises from the absence of any sensible rules or standards.

This sensitivity and complexity is no reason to avoid the subject. It is one which confronts many judges frequently — on and off the Bench. It is also one which deserves to be made part of the public debate.

SA Chief Justice Judge N Oglive Thompson addressed the issue in 1972, saying that "In the very nature of things, a measure of aloofness attaches to judicial office. A judge is not only required to be wholly divorced from politics, but also must, in civil cases, adjudicate between conflicting contentions and, in criminal cases, determine the guilt or otherwise of his fellow man. Consequently, it behoves a judge not only to conduct himself in a manner compatible with his office but also to endeavour to avoid creating, however unintentionally, any impression that he holds views which might, albeit perhaps unwarrantedly, be construed as evidence of some sort of prejudice regarding, or prejudging of, some issue which may subsequently fall for decision in his court."

In Britain there has been criticism of the involvement of judges in inquiries and commissions. The New Law Journal of February 18 1971 argued that "judicial involvement in inquiries of a highly political character is a comparatively recent development and therefore lacks the protection which a long-standing tradition sometimes confers on practices that are not in themselves beyond criticism."

Controversy and contradictory views are similarly to be found regarding the platforms on which judges should speak and the topics which they should address.

In SA, notwithstanding this conservative approach, some judges have spoken out. In 1979, the present Chief Justice Corbett told a human rights conference at UCT that "In many areas the freedom of the ind-

# Judges need not shy away from political issues

6/01/79 11/2/79

**RICHARD GOLDSTONE** (252)

vidual and his basic human rights have been severely curtailed. This is particularly evident in regard to such matters as the freedom of movement, equality of treatment, equality of opportunity, freedom of association, freedom from detention or arrest except by due process of law. We have to ask ourselves whether such curtailment actually promotes the common weal, to what extent dangers justify extraordinary measures and arbitrary powers, to what extent these dangers are not the product of our own socio-political system, to what extent the risk of injustice or of abuse of power can be, and is being, obviated, by checks and controls, and to what extent we do not tend in most of our thinking on the subject to identify with the interests of the white group in SA.



□ GOLDSTONE

Several other judges have spoken in public on matters concerning human rights and the administration of justice. Many judges, however, remained silent. In Minister of the Interior v Lockart and Others (1961) the question was whether the Group Areas Act empowered the executive to discriminate between members of different race groups. In terms of our common law such a power would not be attributed by a court unless it is given expressly or by implication in the statute concerned. No such power was given expressly in the Group Areas Act.

The Appellate Division held that it was clearly implied. Judge JA Holmes explained "The Group Areas Act represents a colossal so-

cial experiment. It necessarily involves the movement out of group areas of numbers of people. Parliament must have envisaged (this) whether all this will be for the common weal of all the inhabitants, is not for the court to decide. The question before this court is the purely legal one whether this piece of legislation impliedly authorises discriminatory results. In my view, it manifestly does."

decision, it is a matter of regret that from our highest court there was this bland and mechanical approach without comment on legislation that had already then caused misery and disruption to the lives of hundreds of thousands of South Africans. A word of regret, even if not condemnation, of a gigantic social injustice would not have been out of place.

Where does this discussion lead? Should judges speak out? The dangers referred to by Chief Justice Oglive Thompson are real and the consequences they wished to avoid are of fundamental importance to the independence of the judiciary. Judges should avoid becoming or giving the appearance of being committed to a political party or policy. They should not show prejudice against particular persons or groups of persons. They should not make comments offending against generally accepted moral standards. They should avoid gratuitous controversy. These are the obvious cases.

There are, however, many hard cases. Frequently it is difficult to decide where moral precepts and standards end and where strictly political doctrine begins. In that area, if a judge is to err, it should be on the side of defending morality. By doing so he or she will be protecting the judiciary's integrity. This is especially so in SA where the vast majority of the citizens have been without a vote and have not been represented in the Parliament which makes the laws our courts apply.

For the same reason there can be no basis for criticising a judge for

being a member of an organisation which furthers the moral norms of society. I have in mind the SPCA, Niro and, indeed, the SA Institute of Race Relations.

To express principles of morality of universal application, SA judges need have gone no further than our own common law. For there are to be found virtually all of the principles which are enshrined in most Bills of Rights. I cannot imagine that it would be improper for a judge to speak out when Parliament or any public official acts in conflict with precepts of our own common law. On the contrary, it is more likely to be objectionable when he or she supports such conduct or even remains silent when confronted with it.

I would suggest that, particularly when the constitution is in flux and fundamental legal rights are being debated by the nation, the judges have a duty to join the debate.

In my opinion, a judge may freely speak in court on any topic strictly relevant to the matter before him. If appropriate he is entitled to criticise the law he is required to implement if, in his opinion, it offends against morality or justice.

Off the Bench, a judge may freely speak about any topic relating to the law and administration of justice. Where the area he chooses is controversial or has political overtones he should be careful and take into account the undesirability of embroiling the courts in controversy.

The judiciary is subject to public criticism today more than ever before. Thus is to the good. It helps demystify the law and the judiciary.

**T**he platform on which a judge should speak is no less important than the topic he chooses. A judge should restrict his off-Bench public addresses to academic, legal and other neutral venues.

The question of judges heading commissions of inquiry is also one of difficulty. Having regard to my own involvement in commissions during the past two years, it hardly behoves me to make further comments on this topic. I must leave that to other, more objective commentators.

The answer to the question "Do judges speak out?" is not a simple "yes" or "no". It is a matter of judgment, taste and good sense.

□ This is an edited version of Judge Goldstone's Hoernle Memorial Lecture delivered last night at the SA Institute of Race Relations.

# 'Punish parties that contravene Accord'

Political Staff

The Government has recommended that political parties or movements which contravene the National Peace Accord should be punished.

This emerged during an interpellation debate in Parliament yesterday and follows President de Klerk's suggestion in his opening speech two weeks ago that the accord be strengthened and made enforceable.

Deputy Minister of Justice Danie Schutte told MPs yesterday that the Government was committed to strengthening the peace accord, but that it could not act unilaterally because the accord was the product of multilateral negotiations.

However, the Government has called for a review of the accord.

Among improvements that ought to be considered were:

- Effective sanctions which could be imposed on transgressors.
  - A more expeditious adjudicating procedure.
  - The involvement of non-signatory parties at local and regional levels.
- Democratic Party MP Wesel Nel said that while he recognised the Government could not tamper with the accord unilaterally, it had a special responsibility and it could act on its own volition on certain issues. These included granting local peace structures their own budgets.
- Shortcomings in the peace accord will be discussed at a meeting of accord signatories and chairmen of the regional dispute resolution committees. It was decided at a two-day meeting between the regional chairmen and the National Peace Secretariat.

# Court told of killing on train

By Susan Smuts

A Johannesburg train commuter, described to the Rand Supreme Court yesterday, how a fellow passenger was stabbed and beaten before being thrown out of a train on to the tracks where his body was sliced by the train's wheels.

Trevor Jabulani Ndlovu was giving evidence at the trial of Xolane Mnguni (27), of Soweto, who has pleaded not guilty to murdering Matso sale William Aphane on November 29 last year.

Ndlovu told Mr Justice J H Coetzee he saw Mnguni and another man chasing Aphane through the coach of the Naledi-Cleveland train. When they caught him, one of them said: "Hit him, this dog must die."

Mnguni stabbed Aphane with a sharpened object while the other man hit him with a knobkerrie.

Shortly before the train reached Doornfontein Station, the attackers pushed their victim under the train.

**24 sentenced to death** (252)

TWO whites and 22 blacks received the death sentence in criminal courts during the first 10 months of last year, the Deputy Minister of Justice, Mr Danie Schutte, said yesterday in Parliament

CT 11/2/93

BILL OF RIGHTS FM 12/2/93

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# Freedom starts with private property

**This week's** row between government and the ANC over a Bill of Rights indicates that public bickering will continue to characterise the negotiation process, in spite of claims by both sides that it is progressing well behind the scenes

It seems unlikely that the latest disagreement will bring talks to a halt. Nevertheless, it is an unhealthy basis on which to build mutual understanding.

The fact that much of the argument seems accessible only to lawyers — and specialised lawyers at that — does not help.

The average citizen easily grows bored with what seems like interminable nit-picking — and boredom could lead to cosy but dangerous deals being made between the main parties in smoke-filled rooms.

There is concern that liberty will not be served, if only because neither of the main parties is particularly liberal by temperament and because they might both be prepared to compromise too readily on matters of principle.

Justice Minister Kobie Coetsee announced government's proposals for a Bill of Rights, based on those of the Law Commission, last week amid much fanfare. It will be widely distributed — at taxpayers' expense — as a discussion document.

In essence, the Bill would outlaw nearly all the human rights abuses of which Nationalist governments have been guilty for 40 years.

But the ANC says that while some aspects are praiseworthy, others are unacceptable and could in fact entrench race-based privileges and unequal wealth distribution. The organisation says a Bill of Rights can be agreed on and entrenched only by an elected constituent assembly. Government wants an interim rights Bill in place until the formal transition to democracy.

However, the ANC argues — with some force — that an interim Bill guaranteeing equal rights would be nonsensical because most people would not yet have the vote — one of the most fundamental rights. What

the ANC wants instead is some form of transitional rights to level the playing fields to enable the election to be held.

ANC constitutional expert Kadar Asmal describes the government's Bill as "deeply flawed and fraudulent" and not even a sound

basis for further debate. He sees it as a serious obstacle to the negotiation process and an attempt by Coetsee to ensure that negotiations do not succeed.

Asmal's fellow constitutional committee member, Albie Sachs, says the Bill is "an election manifesto in legal form." Adds Sachs: "We've looked forward to a Bill of Rights as a document that will unite SA, but the timing, tone and content (of government's Bill) are all wrong."

In response to ANC criticism, Coetsee accused the organisation of superficial analysis of the Bill in an attempt to smother the debate on human rights. The ANC's contribution is neither academic nor scientific, Coetsee charged.

However, it's clear that fundamental differences between government and the ANC on

what should be protected in a Bill of Rights may be difficult to reconcile. For example, the ANC wants "private apartheid" outlawed, while government's Bill would in essence uphold the right to discriminate on the grounds of freedom of association.

In addition, the ANC wants the effects of apartheid — such as land ownership — redressed through a Bill of Rights, while government wants existing ownership protected. The ANC also wants minimum wages, job security and rights to education and housing entrenched in a Bill of Rights — but it is impossible to see how such rights can be enforced when they depend on objective material conditions. To include them in a Bill of Rights would simply discredit all the other clauses.

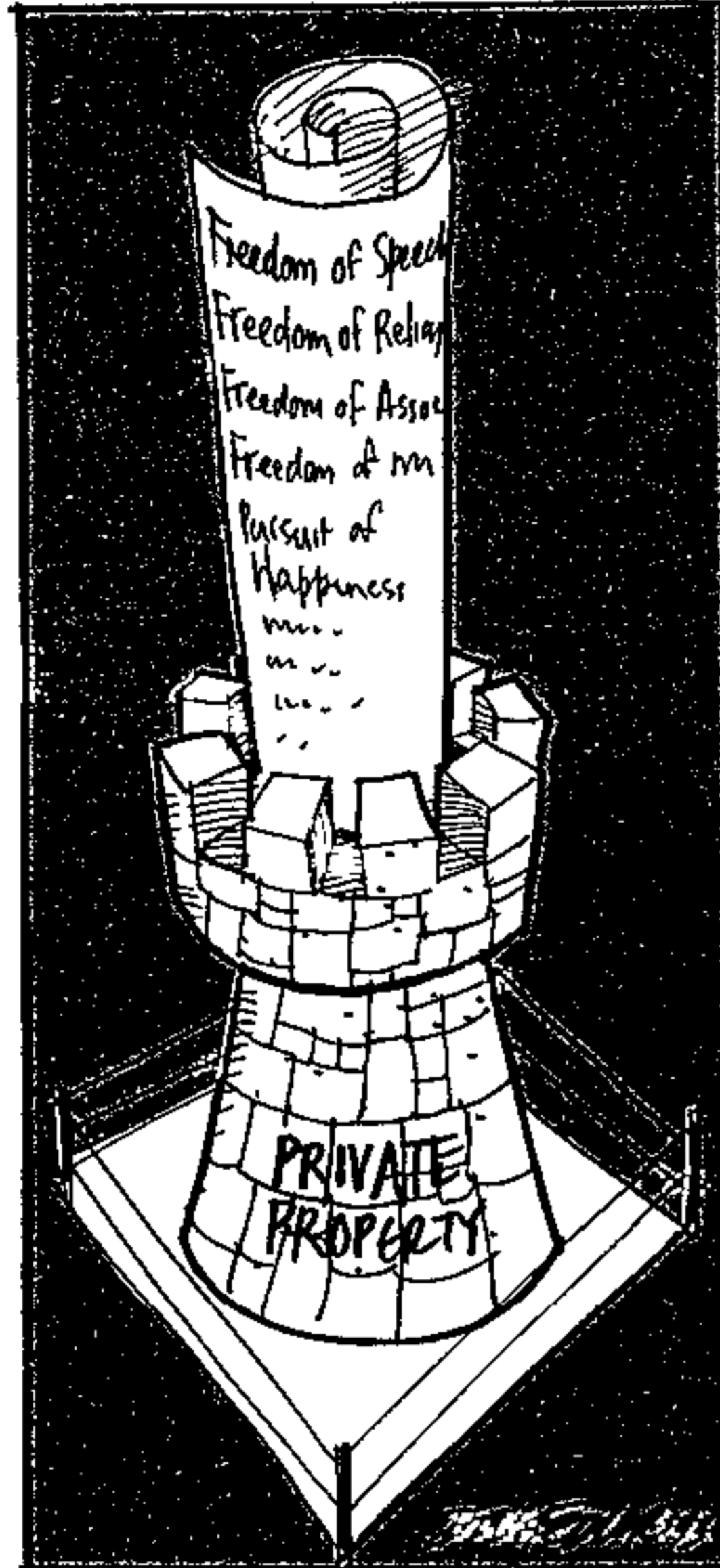
In the end, a solution might be to agree on an entrenched Bill of fundamental rights and freedoms — such as freedom of thought and expression, and freedom from arbitrary arrest — and then to deal with more detailed

issues through special commissions on land, housing, education and employment, and, if necessary, to entrench their findings in legislation.

What we would like to see more of is a passionate defence of private property. As John Locke, that great 17th Century pioneer of political analysis, understood well, the theoretical rights may be all very well and necessary but, without the entrenched and undiluted right of private ownership of property, the rest can be swept away.

The fact that this is decidedly not the view of the ANC does not undermine its validity.

It is no coincidence that the most successful, powerful and prosperous democracy on earth — the US — is also the one which has the greatest respect for private property. This is what underpins the survival of the abstract rights which the founding fathers found self-evident, not the romantic passion of human rights babble. ■





## Backing for Chief Justice

CAPE TOWN. — An invitation to Chief Justice Judge Michael Corbett to continue in office after reaching retirement age has been endorsed by ANC leader Nelson Mandela.

Mandela met Corbett in Cape Town on Wednesday. The ANC said it was pleased Corbett had accepted the invitation, "particularly given the wide respect and confidence he enjoys".

The DP also welcomed Corbett's further appointment. DP justice spokesman Tony Leon said "The Chief Justice will play a crucial role in spanning the great divide between the old legal and constitutional order and the new. We believe Mr Justice Corbett has the necessary qualities to be the bridge in this transition".

Society of Attorneys president Mervyn Smith welcomed Corbett's decision, saying the profession had always had a high regard for him. — Sapa.

## Politics claim in train case <sup>Star 12/2/93</sup> (11)

An Inkatha supporter accused of murdering a train commuter told the Rand Supreme Court yesterday he had been falsely implicated because of his political allegiance.

Xolane Mnguni (27) of Soweto has pleaded not guilty to murdering Matsosale William Aphane by forcing him under a moving train on November 29 1991 (25)

Mnguni said he had seen Aphane being chased by another man Aphane ran through the coach and jumped off the train

He said State witness Trevor Jabulani Ndlovu, who had earlier said Mnguni and another man had stabbed and beaten Aphane before pushing him under the train, had falsely identified him

Judgment was expected today. — Court Reporter.

# Tough line proposed on gatherings

Weekend Argus Correspondent

PRETORIA — A maximum fine of up to R4 000 and/or a year's imprisonment has been proposed by the Goldstone Commission for offences committed at gatherings, marches and pickets

The commission yesterday published a draft bill to consolidate legislation on public gatherings following its investigation into violence and intimidation regarding gatherings, marches and picketing.

Mr Justice Richard Goldstone said the inquiry was an "unqualified success" and the report "may be regarded as a reference work".

If the draft bill becomes law it may be necessary to consult with the governments of the self-governing territories to extend the law to those areas

Included in the draft bill are clauses pertaining to the carrying of dangerous weapons, incitement, violence, disguises and coercion

Police would be able to use force, including firearms and other weapons, to prevent anyone being killed or seriously injured during a demonstration, according to the draft bill

The Regulation of Gatherings published provides that a police sergeant or higher ranking officer may order police under his command to take steps to prevent anyone taking part in a demonstration — or anyone hindering or interfering with those taking part — from causing death or serious injury.

The police also will be able to order an illegal gathering to disperse within a time specified by a sergeant or higher ranking officer. If this does not happen — nor any preparations made to disperse — the officer may order its forceable dispersal without firearms or weapons likely to cause serious injury or death

The police will be able to make an urgent application to the Supreme Court for additional conditions for holding a demonstration if they have reason to believe the conditions imposed by a magistrate will not result in a peaceful and orderly gathering

A magistrate would be able to ban a gathering if reasonable grounds existed that there would be a serious threat to the safety of those taking part which could not be contained by the police, or if the gathering would result in disruption, injury or damage to property on a scale which was unreasonably disproportionate to the purpose of the proposed gathering — Sapa.

Star 13/2/73

# Goldstone won't investigate SADF

THE Goldstone Commission does not intend at this stage to conduct an investigation into the intelligence operation of the SA Defence Force. Announcing this in a statement yesterday, Mr Justice Richard Goldstone said a separate inquiry by the commission could affect an investigation by the Attorney-General of the Transvaal, Dr Jan de Oliveira, into possible criminal activities. Mr Justice Goldstone said the commission would continue to ensure it kept abreast of all relevant information.

It has also been reported from Port Elizabeth that

the United Nations and the Organisation of African Unity will be asked to halt assistance to Pan Africanist Congress-linked cadres should recommendations made by South African Police and Defence Force yesterday be adopted by the Goldstone Commission.

A commission committee was told in Port Elizabeth that the "people's war" of the PAC's Azanian People's Liberation Army was aimed not only at the security forces, but also at the white civilian population — Sapa

(252)

# Cops accused of driving over handcuffed suspect

**CHILLING** evidence that a handcuffed suspect was allegedly tied to a riot vehicle and then driven over was heard this week in the murder trial of four suspended eastern Cape policemen.

The four, Anton Maritz, 23, Adrian Muller, 30, Andre Barnard, 32, and Roeloff Kleyn, 30, are accused of murdering Sphiwo Ntluko on the night of July 23 last year in a deserted side-street near Port Elizabeth's Deal Party industrial area.

Maritz, a former lance-sergeant attached to the Port Elizabeth Internal Stability Unit, and the other three accused, all former members of the Humansdorp Crime Investigation Service, have pleaded not guilty.

They have all been suspended from duty pending the outcome of the case. Maritz has also pleaded not guilty to a charge of attempting to defeat the ends of justice.

Testifying before Mr Justice Kroon in the Grahamstown Supreme Court on Wednesday, PE district surgeon, Dr L E Krige, said a post mortem had revealed that Ntluko died as a result of "blunt force" applied to his head and chest.

His skull, his ribs on the left side of his body, his jaw and left upper arm had been fractured. He also suffered

Sunday Times Reporters

multiple abrasions and dislocations.

A member of the Port Elizabeth Internal Stability Unit, Constable N Willand, told the court on Thursday that the three Humansdorp policemen had summoned the unit's help because they had to take Ntluko to the townships to identify a second suspect.

Willand said that he, Maritz and other members of the unit accompanied the Humansdorp policemen.

Maritz allegedly drove the riot vehicle through the townships but Ntluko failed to point out the second suspect.

252 (251)  
**Shouted**

Const Willand told the court that Maritz stopped on a side-road near Deal Party. The policemen got out.

Willand said Maritz took out a belt, fastened the handcuffed suspect to the front of the vehicle, and told him in Afrikaans "Nou gaan jy f\*\*\*\* hard-loop".

He then allegedly got into the vehicle and drove over Ntluko.

When the trial resumed in the Port Elizabeth Supreme court on Friday, Sergeant W Cullis testified that he and the other Nyala crew members were

standing behind the vehicle after Maritz, who had earlier removed a length of safety belt from the vehicle, revved the engine and pulled off.

Maritz allegedly asked them whether they were not going to "run along", to which one of the policemen shouted that he did not want any part of what was happening.

Sergeant Cullis said he then asked if Maritz was "crazy" and inquired what would happen if the man fell. Seconds later he noticed a person under the vehicle, which then stopped.

He ran towards the Nyala and allegedly found Maritz, Muller, Barnard and Kleyn at the back.

Ntluko was bleeding and apparently dead, his hands still cuffed and attached to a bolt tied to the belt on the vehicle's front section, he said.

Sergeant Cullis told the court Maritz then allegedly radioed in that Ntluko had tried to escape and had been run over while he was being pursued.

Later, while he was accompanying Maritz and another colleague, who witnessed the incident, to their unit, Maritz allegedly told them he had his firearm and was prepared to use it if "things went wrong".

Maritz then told them to dispose of the belt and the bolt, which they threw away in two different parts of the city.

The trial continues.

# Supreme Court victory for poor

## LAWYERS WILL FIGHT CASES FOR FREE UNDER CHANGED LAW

**MANY** thousands of people will be entitled to free legal representation for bringing or defending civil claims in the Supreme Court.

This is thanks to a change in the law which comes into effect this month.

According to this change, anyone with assets of under R10 000 who wants to bring or defend a civil action in the Supreme Court may now ask the registrar to appoint an attorney. The attorney will then brief an advocate to fight the case — all free of charge.

At the moment, because of a strict means test, only people with assets of less than R1 000 are eligible for this help. As the limit is so low, few people can benefit from the law and most of those who do are penniless, would-be divorcees

By CARMEL RICKARD

From February 22, the Supreme Court rule 40 (*in forma pauperis*) will allow far more people to contest their rights in court. Public-interest lawyers welcome the change, but they want the state to launch an advertising campaign informing people of

their new rights. "Otherwise, how will they know they are entitled to go to the Supreme Court?" asks Lawyers for Human Rights director Brian Curran. Christof Heyns of the University of Pretoria's Centre for Human Rights Studies, says that, while the whole system of legal representation needs revision,

the changes are good news. However, he cautions, it won't work unless the new arrangement is widely advertised. "It's a step in the right direction, but not nearly a solution (to the problem of funding access to the court for civil cases)." Staff at the Durban Legal Resources Centre, driving force behind the

changes, have also welcomed the Supreme Court rules board's decision to change the means test. They are concerned about getting the word out as widely as possible because they believe the changes will allow people to fight for their rights on a far greater range of problems instead of only divorce.

Last year, the LRC suggested to the rules board (an autonomous body which makes rules for the Supreme Court) that a revision of the means test was essential. The board did not agree, so the LRC lobbied the legal profession. Attorneys and advocates backed the proposed changes. However, the

board still declined to budge. Now a new group of board appointees has ratified the R10 000 means test. The changes have been gazetted, and from next week lawyers and Supreme Court registrars predict "brisk business".

The changes represent a significant public-interest contribution from the legal community — attorneys and advocates will be doing the work for nothing, and will be paid only if their clients are awarded costs.

Dean of Natal University law school David McQuoid-Mason says lawyers should be praised for their willingness to increase the means test.

He predicts the change will be a useful back-up for the legal-aid system, which often runs out of funds before the end of the year.

## Test case opens door on police torture

By CARMEL RICKARD

A TEST case earmarked for the country's highest court could end police protection against surprise raids on police premises to search for instruments of torture.

Due to be heard first in the Maritzburg Supreme Court, the case concerns a 17-year-old detainee who alleges police took him to an empty farmhouse outside Estcourt used as a temporary SAP camp, where they tortured him with electric shocks. He wants court authorisation to

search the premises for the machinery and instruments used in the alleged assault — without first informing the police.

Lawyers acting for the detainee, Thulane Shoba, asked the court to order that Mr Shoba be temporarily released from prison into the custody of the deputy sheriff so he could show the way to the farmhouse and lead the search for the instruments he claimed were used to assault him. Normally, anyone bringing an action against the state or a state

official must give advance notice but, on at least five occasions in the last few years, the courts have agreed to allow unheralded searches to look for instruments allegedly used by police for torture.

In four of these cases, torture equipment was found. So far, however, the highest court, the Appellate Division, has not decided whether the courts are allowed to permit these surprise raids. Two years ago, it turned down an application to carry out

such a search. However, Chief Justice Corbett said he could not rule out the possibility of authorising a search in another "appropriate" case, when both sides could argue the issue.

The Shoba case is expected to give the Appellate Division the chance to consider the matter thoroughly: sacrificing the element of surprise, Mr Shoba's lawyers have decided to ask in open court for the search order so that full argument could be heard on the principle.



# A ramshackle edifice built on quicksand

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SI Times 14/2/93.

**B**EHIND the campaign for a bill of rights lies one of the saddest features of the apartheid era, the craven betrayal of South African common law by South African lawyers, not excluding eminent judges and judges of appeal.

As Mr Justice Goldstone remarked this week in the course of his Hoernle memorial lecture in Johannesburg, virtually all the principles enshrined in most bills of rights are to be found in our common law, unhappily, these principles proved useless when they were needed.

My first encounter with atrocity in the courtroom, and my first, small written protest about it, came in 1956 when I watched a magistrate sentence black men at the rate of one every 20 seconds on charges of "urinating in Carol Street", which ran alongside the beerhall.

There was nowhere else to urinate, but any man so brazen as to plead not guilty, was immediately remanded in custody for a fortnight to ponder on Western civilisation's complex taboos on bladder relief. Few denied their guilt.

Worse was to come, and travesties of justice were soon to reach into the Appellate Division, where, in a case cited by Judge Goldstone, Mr Justice Holmes decided that the legislature must surely have intended the atrocities that flowed from its colossal social experiment, and that was okay with him.

Faith in our judges, our courts, our judicial system, and, tragically, in our common law, has since eroded to the point where nobody, not even slavish admirers of Roman Dutch law like me, trust it to defend us against the state. The campaign for a bill of rights, after all, owes a good deal to the efforts of the Chief Justice, Mr Justice Corbett.

The trouble is that the task of drafting a bill of rights has fallen, on the one hand, to ANC lawyers deeply imbued with socialist ideas, and on the other hand to government apparatchiks, who, if they were not personally responsible for apartheid's legal monstrosities, are the inheritors of a tradition that violated the principles of the common law. It is no coincidence, it seems to me,

that the department of Mr Kobie Coetsee, Minister of Justice, which proved intellectually inadequate to the task of drawing up the principles of a general amnesty, has produced a "charter of fundamental rights" which is marked, above all, by intellectual shallowness. It is a shabby document.

The American bill of rights is designed to give effect to the idea that "all men are created equal (and) endowed by their Creator with certain unalienable rights", and to "establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty".

The German basic law, "animated by the resolve to serve world peace", establishes a "democratic and social federal state" in which all authority emanates from the people, and in which both the judiciary and the legislature are "bound by law and justice".

**T**HE first clause recognises that the dignity of man is inviolable, and puts on the state the duty to protect it, and the second clause acknowledges that "inviolable and inalienable human rights" are the "basis of every community, of peace and of justice".

The Indian constitution, drawn against a backdrop of inequality not altogether dissimilar to South African experience, begins by securing the ideal of equality, and by outlawing "untouchability", the Malaysian constitution starts by securing life and liberty, the Canadian charter is founded "upon principles that recognise the supremacy of God and the rule of law", the Irish bill of rights secures, first and foremost, equality before the law.

The South African government version is different. It rests, according to its introductory remarks, on the four principles of verticality, negative enforcement, curtailment of rights and justiciability. To these obscure ends, it begins by saying that both people and legal entities have rights, apparently in equal measure, and says that these rights may be abridged only "under the common law or by way of a law of a competent legislature".

On this firm base of bureaucratic obfuscation, the charter erects a ramshackle edifice. It promises some classical rights but not others — to life but not explicitly to liberty; freedom of expression but not of newspaper publication, freedom of religion but not freedom of conscience.

In passing, the charter confers on the police the right to hold a prisoner without trial for 10 days, which was long enough for policemen to kill Steve Biko, and adds some elements of law and of education policy. It takes care to secure for the state the right to limit the fundamental rights of its citizens where reasonably necessary to preserve state security.

The details, for the moment, don't matter nearly as much as the intellectual shabbiness. This is a document written by people who have only a passing acquaintance with the rights that lie beneath the "Western civilisation" which they profess to share — the rights that were enshrined in our common law, and violated by our legislators and our lawyers.

**T**HE German constitution uncompromisingly serves the ideals of peace, justice and the common weal, the Anglo-Saxon documents defend fiercely the ideals of liberty; the international charters — from the UN, and the Organisation of American States, and ASEAN — entrench the ideals of humanity and human dignity; all systems are rooted in democratic consent and operate under the rule of law. The South African version has "verticality".

The German constitution grants to all citizens "the right to resist any person seeking to abolish this constitutional order, should no other remedy be possible". The South African charter does the opposite: it grants to the state the right to abridge individual freedoms in order to protect itself. That is the crucial difference, and it speaks volumes for the intentions of the people who drew up the "Charter of Fundamental Rights".

**KEN OWEN**

# The town where the poor go to jail

STimes 14/2/93



**LIVING ON HANDOUTS** sisters Elizabeth and Susan Domingo with brother Alistair

A NORTHERN Cape municipality and its lawyers have been accused of callously squeezing money from destitute people they help put in jail.

Mothers and pensioners are among those rounded up in dawn blitzes in the town of Vryburg and driven to Kuruman jail 140km away — leaving starving families to find the cash to free them.

The municipality insists people are not jailed for debt, but for contempt of court — refusing to heed court orders to pay their debts.

“People are being pulled from homes and jailed without knowing they had to go to court,” claimed schoolteacher Mr Edwin Visagie, of the coloured township of Colridge.

To regain their freedom, debtors must arrange to pay not only their arrears to the municipality, but also all the costs of the legal process which put them behind bars.

This includes the fees of the attorneys who secured summary judgments against them and the costs of transporting them to Kuruman jail.

Bitter residents of Colridge — unemployment is



**EDWIN VISAGIE** ... ‘people are being hauled from their homes’

By **BILL KRIGE**

over 50 percent — struggle to pay municipal charges they claim are grossly inflated by the substantial perks of Vryburg officials.

They point out that the town clerk, Mr Isador Els, drives an Audi 500, bought under a subsidy scheme. Health inspector Theo Volschenck owns a BMW 5 Series and the town treasurer, Mr Cliff van Rensburg, a Mercedes 200E.

The purchase price of any one of these luxury vehicles, they say, would wipe out the debts of the entire community.

Now the mayor of Vryburg has vowed to end the jailings.

“I only heard about it yesterday and no one is as surprised as I am,” said Mr Chris Opperman. “You don’t throw someone in jail for being in arrears.”

## Contempt

He said he had been told 300 households owed money, only some of them to the municipality.

However, Mr Els said in a statement that 22 debtors had been jailed for contempt of court in the 10 days to January 21, but only eight had owed money to the municipality.

But in Colridge, and nearby Floradene, it is clear the axe has fallen often enough and residents said people had been deported to Kuruman jail as early as January 3.

In some streets virtually every fourth household has lost its nominal head to what people wryly call “the holiday home.”

In a two-roomed hovel, a tearful and anxious Elizabeth Domingo, 20, held her 17-month-old brother and

told how “the police and the attorney’s bakkie” came for her mother, Maria, early on January 11.

“My mother went to court on the date of her trial, but was told to go home as there was no case. She has a bad heart and our father left us a long time ago,” said Elizabeth.

Her mother was subsequently re-arrested. “We have no income. The neighbours give us a handful of flour when they can and sometimes a meal.”

She produced a letter written by her mother “Elizabeth,” it reads, “you must see if you can’t get money to pay the attorney. The debt is R500 and if I can’t pay it I can’t get out for a year. Elizabeth, are you satisfied that I must be here for so long with my illness? I close with tears in my eyes. Thank you.”

## EASING THE S-work prog-

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# are jail

(252)



**VISAGIE . . . 'people are hauled from their homes'**

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**EASING THE SQUEEZE . . . the mayor of Vryburg, Chris Opperman, would like to end the jailings and start a work programme for the jobless**

Pictures: COBUS BODENSTEIN

On the wall hangs a faded religious exhortation 'God is Love, God is Faith, God is True, God is Right' Not far away farmers were giving thanks for rain which, although it broke the drought, clogged township sewers and turned the streets into smelly quagmires

In another dwelling, jobless Sylvia Finnis supports two babies, both sickly, after her daughter, who had a job, was jailed for debt. The money was paid

by her fiancé and she was expected home at any time

According to Mr Fanie Wentzel, of the legal firm Du Plessis-Viviers, which has the Vryburg municipality account, the judgment had nothing to do with municipal debt. But Mrs Finnis's newest municipal account showed her arrears cut from R746 to R39, thanks to her daughter's fiancé.

In an interview Mr

Wentzel was unable to say how many people had been jailed for debt — "it could be 10 — it could be 10 000", he said. He refused to disclose his fee for each case except to say it was according to scales laid down by the Law Society of South Africa.

"Yes, they must pay the costs of the sheriff for transport to Kuruman, but the amount varies. It depends if there are 10 in the van or one," he said. "A jail has been built in Vry-

burg, there are tar roads and a tennis court, but it has never been used," he said

Mr Opperman defended the vehicle perks available to municipal officials as being in line with those stipulated by provincial ordinance for a municipality of Vryburg's grading

"We are going to see what we can do to help. I would like to get a programme started for the jobless people here," he said

# IFP killer sentenced to death

Sowetan 15/2/93

THE Rand Supreme Court on Friday sentenced an Inkatha Freedom Party supporter to death for the "callous and cruel" murder of a fellow commuter

Xolani Mnguni (27) was convicted of murdering Mr Matsosale William Aphane by forcing him under the wheels of the Naledi-Cleveland train on November 29 1991.

It is believed he is the first person to be convicted of murder since train violence escalated in 1990

Although Mnguni was a first offender - first offenders are not usually given the death penalty - Mr Justice JH Coetzee found it was the only appropriate sentence in this case

The judge commended eyewitness Mr Trevor Jabulani Ndlovu for his courage in testifying at the trial

"Ndlovu showed a great level of courage, integrity and civic duty

"If more witnesses conquered their fear of reprisals the killings would stop, because the

## ■ First murder conviction since train attacks began on Reef:

killers would know they would be brought to justice

### Licence to kill

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"The fear of death instilled in witnesses almost gives the killers a licence to kill," the judge said

Defenceless commuters were senselessly killed almost every day, and only because they belonged to organisations different to those of the killers, the judge said

Ndlovu had earlier testified in court how Aphane was stabbed and beaten before being thrown out of a train on to the tracks where his body was sliced by the train's wheels

He said he noticed Mnguni and another man chasing Aphane through the coach of the Naledi-Cleveland train

When they caught him, one of them said "Hit him, this dog must die" - *Own Correspondent*

# Women's equal rights may be law

Political Staff

THE long battle for equal rights for women, dating back to Olive Schreiner and the suffragette movement at the turn of the century, has almost finally been won in South Africa

The government's Draft Charter of Fundamental Rights, which was released yesterday, lays down that women will have equal rights and that men and women should receive equal pay for equal work.

A key figure in the multi-party National Coalition of Women, Ms Dene Smuts, the Democratic Party MP for Groote Schuur, commented yesterday: "The National Party learns fast when it is in its interests to do so"

With women forming the majority of potential voters in South Africa's first democratic elections, it is in the interests of all parties to nurture their support — and the NP has done so in the draft declaration

**Legal allocations**

OF THE R24m allocated to the Legal Aid Board during the past year R7,458m was spent on creating national peace accord centres throughout the country, Justice Minister Kobie Coetsee said in Parliament yesterday.

The secondment of 15 investigating officers to the Goldstone commission had cost R2,5m while R3,5m had been spent on the Justice Department's witness protection programme.

B. 1000 16/2/93

(2,52)

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234  
252

# Son was tortured, mom tells inquest

By Abdul Milazi

The mother of a robbery suspect who died in police custody two years ago, Margaret Maphumulo (46), told a Johannesburg Magistrate's Court inquest yesterday that police had assaulted and tortured her and her son before his death.

She said five policemen had given them electric shocks and "suffocated" them with a wet towel in a veld near Louis Trichardt.

Bethuel Maphumulo (31) died on December 13 1990 after handing himself over to the SAP's Soweto Murder and Robbery Unit, which was investigating a robbery charge against him.

Maphumulo said two white and three black policemen had come to fetch her at her house in Venda. They said Bethuel, accompanying the policemen, had told them he had given the stolen money to her.

She said she and Bethuel were then taken to a veld where the policemen tortured them.

Afterwards they were taken to the Protea police station where she was again assaulted before being taken home. Bethuel remained in police custody.

The next day, Protea police told her that Bethuel had drowned in a swimming pool while trying to escape.

The hearing continues.

# Conviction of guards urged

By Anna Louw  
East Rand Bureau

The State yesterday called for a murder conviction in the Delmas Circuit Court trial of three former Fidelity guards who allegedly hanged colleague Samuel Kganakga upside down from a tree, shocked his genitals with an electric machine, lit a fire under his head and shot him twice.

Elbie Leonard was presenting argument at the trial of Willem Oosthuizen (26), Johan van Eyk (37) and Hendrik Gerber (43)

who allegedly murdered Kganakga on May 21 1991 while they were members of a Fidelity Guards investigation unit. They had questioned Kganakga about the theft of R60 000 from the company.

The State said it was common cause that Kganakga's body was burnt and found days later with a hand chopped off.

Leonard said the court had to determine who had slain the guard. She said Gerber was not as innocent as he would like everyone to believe, and that Oosthuizen's version of what

happened was not credible.

The court was told that Gerber was clearly the leader of the group and had initiated the interrogation. Leonard said Van Eyk took part in the torturing and did not try to stop anyone else. "He is also the one who got rid of the body."

The defence called for a conviction as accessory after the fact for Oosthuizen and assault in the case of Van Eyk, adding that Gerber had at no time intended to kill Kganakga.

The hearing continues

- (1) Whether any land in the De Hoop nature reserve has been set aside for military purposes, if so, (a) what is the total extent of the land involved and (b) what will become of the rest of the nature reserve,
- (2) whether any portion of the land so set aside has been expropriated, if so, (a) for what purposes, (b) at what cost and (c) what is the extent of the land involved,
- (3) whether any area in this nature reserve is being or will be used for military purposes, if so, what are the relevant details? B3E

The MINISTER OF DEFENCE

- (1) Yes
  - (a) Approximately 18 000 hectares of the De Hoop Nature Reserve as it is known today of which only sections are used for military purposes. This ground, however, was not part of the De Hoop Nature Reserve. It was a rural area owned privately and used mostly as holiday estates, none of which were registered as private nature reserves. Only after expropriation were the properties added to the De Hoop Nature Reserve.
  - (b) It is managed as a proclaimed nature reserve.
- (2) Yes
  - (a) Military purposes
  - (b) About R10 million
  - (c) 18 000 hectares
  - (3) Yes. Parts of the area of 18 000 hectares which was added to the original nature reserve, will be used for armament development which is compatible with principles of environmental conservation. Inside the original De Hoop Reserve a 0,02 hectare site is being used as a calibration point.

General Law Amendment Act, 1992: coming into operation *(252)*

\*3 Mr D H M GIBSON asked the Minister of Justice

- (1) Whether section 8 of the General Law Amendment Act, 1992 (Act No 139 of 1992), has come into operation, if not, why not; if so, when, *(252)*
- (2) whether it has been brought to attention that South African political organisations that are not registered as political parties are allegedly collecting money in foreign countries to be used for political purposes in South Africa,
- (3) whether he will make a statement on the matter? B8E

The MINISTER OF JUSTICE

- (1) Yes, on 1 January 1993
- (2) Yes
- (3) A statement is not necessary

Tax deductions: payments/donations to educational institutions

\*6 Mr R M BURROWS asked the Minister of Finance

- (1) Whether, with reference to his reply to Question No 124 on 27 March 1992, he or his Department has as yet found a solution in regard to the deductibility of moneys paid by individual taxpayers for educational purposes at school or college level, if not, why not, if so, what are the relevant details,
- (2) what is the current tax policy regarding individuals and/or companies making donations to (a) tertiary institutions, (b) pre-primary schools, (c) primary schools and (d) secondary schools? B18E

The MINISTER OF FINANCE

- (1) It is not the intention to grant any tax relief in respect of school fees. On equity grounds there can be no justification for a tax deduction that would be of benefit to wealthy persons but would afford little or no benefit to the more needy. Furthermore, total Government expenditure on education, expressed as a percentage of both the budget and the gross domestic product, is already markedly

higher than that of countries at the same stage of development, and an increased contribution cannot therefore be justified, taking into account the manifold claims on the Exchequer.

(2) It is still not policy to allow donations to pre-primary or primary schools as a tax deductible item. The interdepartmental committee referred to in my predecessor's reply No 124 of 27 March 1992 was instructed to seek solutions to two problems currently being experienced in the application of section 18A of the Income Tax Act, namely

- (a) The system is being abused on an increasing scale, in that certain schools are partly converting their school fees into tax deductible donations
- (b) Under the SITE system, persons earning less than R50 000 per annum do not render tax returns and are thus unable to claim a deduction

The committee concluded that these problems cannot be satisfactorily resolved. The committee recommended in principle that individual donations to secondary schools also should not be tax deductible. I am accordingly obliged to consider this recommendation and possible alternatives

Judges: Freemasonry Movement/Afrikaner Broederbond *(252)*

\*8 Mr H D K VAN DER MERWE asked the Minister of Justice †

- (1) Whether his Department has made a survey in order to establish whether any judges are members of the (a) Freemasonry Movement and (b) Afrikaner Broederbond, if so, when,
- (2) whether there are any judges who are members of these organisations, if so, how many, in each case,
- (3) whether he will make a statement on the matter? B24E

†The MINISTER OF JUSTICE

- (1) No. I would like to draw the hon member's attention to the fact that already

during 1965 a judicial commission of inquiry into secret organisations was instituted. The commission found that none of the said organisations rendered itself guilty of any form of treason or infringement of attempts to obtain for itself domination, or of harmful or unlawful influencing of the administration of justice.

In the light of the fact that to my knowledge no information exists which suggests the contrary, there was no need for an investigation into the involvement of judges with one of these organisations

- (2) and (3) fall away

†Mr H D K VAN DER MERWE: Mr Speaker, the hon the Minister did not reply to my question, but arising out of his reply I should now like to ask him directly. Would the hon the Minister ask Mr Justice Goldstone, for example, whether is a member of one or both of these organisations?

†The MINISTER: Mr Speaker, I have put my policy viewpoint very clearly. There was an investigation into the particular organisations and in the absence of any indication to the contrary, namely that such organisations are damaging to the judiciary and/or conduct hostilities, I do not deem it necessary to put such a question to the judge.

†Mr H D K VAN DER MERWE: Mr Speaker, further arising out of the hon the Minister's reply, I should like to ask him whether he is aware that a certain judge resigned from a confidential organisation because—this is the impression we gained—he regarded it as unethical to be a member of such an organisation while also being a judge.

†The MINISTER: Mr Speaker, if a judge has resigned, giving certain subjective reasons, I cannot pass judgment on whether he should have remained there. It is his privilege to decide whether he wants to remain there or not, just as the hon member, Mr H D K van der Merwe, I gather, resigned from one secret organisation and joined another. It is done on the same basis. It is a matter of one's conscience and where one stands with respect of one's own personal experiences or feelings of guilt, one or the other [Interjections]

Mr L FUCHS Mr Speaker, further arising from the reply of the hon the Minister, does this mean he will do nothing to discourage members of the judiciary from joining secret organisations?

The MINISTER Mr Chairman, I am definitely not going to launch a witch-hunt in view of the statement of my policy which I have just made

Mr E W TRENT He did not ask for a witch-hunt!

Mr L FUCHS Will you discourage it?

The MINISTER Will I discourage it? What must I discourage? [Interjections]

Mr L FUCHS Will you discourage jurists from membership of or participation in such organisations?

The MINISTER I am not going to intervene in the private lives of members of the judiciary, because the moment I do that, I may perhaps be invited to tell them not to play polo because it is bad for the physique, or not to participate in tennis, because it gives them tennis elbow, or something of that nature. I am therefore not going to intervene in their private lives. We are talking about people who are mature and who were elected because they can adjudicate the facts. I leave it at that.

†Adv J J S PRINSLÖÖ Mr Speaker, further arising out of the last reply of the hon the Minister, should we now deduce that he is in opposition to the declared viewpoint of the Johannesburg Bar, for example, that membership of the Afrikaner Broederbond, for example, interferes with the image of the objectivity of judges?

†The MINISTER Mr Speaker, I am not in opposition to any person who differs from me. Personally, I hold the opinion that I do not interfere in private lives, and while those persons are convinced that they are serving the judiciary in an objective manner and that they are not harming South Africa's cause and especially are not prejudicing the judiciary and the bench, I am satisfied with that. We appoint people for their good judgement, and up to now I have not had any reason to think that South African judges cannot apply good judgement.

HOUSE OF ASSEMBLY

New questions

Ibhayi/Kwanobuhle: alleged irregularities

\*1 Mr J J WALSH asked the Minister of Law and Order

(1) Whether any investigations into alleged irregularities in the local authorities of Ibhayi and Kwanobuhle are in progress at present; if not, why not, if so, (a) what stage has each investigation reached, (b) when did these investigations commence and (c) what was the cost involved in each investigation as at the latest specified date for which information is available,

(2) whether he will make a statement on the matter? B5E

The MINISTER OF LAW AND ORDER

(Reply laid upon the Table with leave of House)

(1) Yes

Ibhayi's investigation

New Brighton CR279/3/88—Corruption and fraud against the Town Council

(a) The investigation has been completed and a report from the auditors is awaited

(b) March 1988

(c) The cost arising from the Ibhayi investigation includes the normal running costs for transport, personnel and office maintenance. At this stage it is impossible to give the ex-departmental expenses owing to the fact that the audit firm "Deloitte and Fouche" has not yet rendered their account for their investigation.

New Brighton CR28/8/90—Fraud against a council member

(a) The investigation has been completed and the case has been withdrawn because the person will be used as a state witness

(b) August 1990

(c) The cost arising from the Ibhayi investigation includes the normal running costs for transport, personnel and office maintenance. At this stage it is impossible to give the ex-departmental expenses owing to the fact that the audit firm "Deloitte and Fouche" has not yet rendered their account for their investigation.

New Brighton CR29/8/90—Fraud against a council member

(a) The investigation has been completed and will soon be heard in court

(b) August 1990

(c) The cost arising from the Ibhayi investigation includes the normal running costs for transport, personnel and office maintenance. At this stage it is impossible to give the ex-departmental expenses owing to the fact that the audit firm "Deloitte and Fouche" has not yet rendered their account for their investigation.

New Brighton CR31/8/90—Fraud against a council member

(a) The investigation has been completed and the decision of the Senior Public Prosecutor is awaited

(b) August 1990

(c) The cost arising from the Ibhayi investigation includes the normal running costs for transport, personnel and office maintenance. At this stage it is impossible to give the ex-departmental expenses owing to the fact that the audit firm "Deloitte and Fouche" has not yet rendered their account for their investigation.

New Brighton CR30/8/90—Fraud against an official of the Town Council

(a) Owing to a lack of sufficient evidence the case has been withdrawn by the Senior Public Prosecutor

(b) August 1990

(c) The cost arising from the Ibhayi investigation includes the normal running costs for transport, personnel and office maintenance. At this stage it is impossible to give the ex-departmental expenses owing to the fact that the audit firm "Deloitte and Fouche" has not yet rendered their account for their investigation.

New Brighton CR38/8/90—Corruption against officials of the Town Council

(a) The investigation has been completed and forwarded to the Senior Public Prosecutor for the drafting of chargesheets and the determination of a trial date

(b) August 1991

(c) The cost arising from the Ibhayi investigation includes the normal running costs for transport, personnel and office maintenance. At this stage it is impossible to give the ex-departmental expenses owing to the fact that the audit firm "Deloitte and Fouche" has not yet rendered their account for their investigation.

New Brighton CR326/1/91—Fraud against a council member

(a) The investigation has been completed and the case docket has been forwarded to the Senior Public Prosecutor for the drafting of a chargesheet and the determination of a trial date

(b) January 1991

(c) The cost arising from the Ibhayi investigation includes the normal running costs for transport, personnel and office maintenance. At this stage it is impossible to give the ex-departmental expenses owing to the fact that the audit firm "Deloitte and Fouche" has not yet rendered their account for their investigation.

HOUSE OF ASSEMBLY



*Hansard*

*Hansard*

here, was that taxis had to be banned and people forced to return to other modes of transport [Interjections] As long as the after effects of apartheid exist, we shall have to accept that those people live far away, where housing is available [Interjections] They must reread

\*Dr P J GOUS What about the free market? An HON MEMBER Oh, that hon member must keep quiet

\*The MINISTER They must reread what the Commission of Enquiry into Bus Transport said in 1983 with regard to taxis and buses, then they will know what it is all about

It is estimated that there are more than 120 000 of these minibus taxis on our roads. Some people estimate the number to be as high as 180 000, but I think that 120 000 is closer

\*Adv S C JACOBS You do not know how many there are because they are not registered

\*The MINISTER The most important fact is that we cannot replace 120 000 vehicles with a bus or train tonight, because there are no buses or trains where these services are being rendered

\*Dr W J BOTHA Who said that?

\*The MINISTER I say so! [Interjections] There is one important point which hon members must concede, and that is where do those people come from? They come from White areas, where some of them sleep at night, and then they travel to the city. There are no trains or buses to or from the northern suburbs of Johannesburg

\*Adv S C JACOBS That is not the point!

\*The MINISTER We must examine the facts at grassroots level. It is a very important point to examine the facts at grassroots level [Interjections] If there is no demand for more than 120 000 taxis, why do they exist? [Interjections] The most important thing is that they must be included in the planning. They are a part of the public transport system in South Africa [Interjections] [Time expired]

\*Mr F J LE ROUX Mr Speaker, on a point of order I understand that a mistake crept in with the speaking turn of the hon member for Rustenburg. Could you perhaps just allow him to finish what he was saying? Will you allow him a little extra time?

\*Mr SPEAKER Order! I am not aware of that. I shall just make sure. Yes, it is true that the hon member still has 23 seconds [Interjections] I grant him those 23 seconds

\*Dr W J BOTHA Mr Speaker, I said it was clear that the wooing of Black voters had started. However, the Government taxi passenger will mean that every subsidised taxi passenger will mean a vote for the Government. The reality is that many Black taxi-drivers are political commissars for the ANC, and spread the message of the ANC, not that of the Government, to their passengers [Interjections] In this way the Government will ultimately use White taxpayers' money to finance its own downfall. How stupid can a Government be! [Interjections]

Debate concluded

**Bill of rights: funding**

Mr A J LEON asked the Minister of Justice

(1) Whether the Government is providing funding for the promotion of the concept of a justiciable bill of rights for South Africa; if so

(2) whether parties and/or political organisations independent of the Government will be allocated funds for a bill purpose of promoting versions of the bill of rights which differ from the Government's Proposals on a Charter of Fundamental Rights, published on 2 February 1993?

B156E INT

The MINISTER OF JUSTICE Mr Speaker, a bill of fundamental rights will be the cornerstone of a new constitutional dispensation and even perhaps, as Mr Justice Warren Burger had expressed it, the harness for a constitution. For the ordinary citizen it will also be a document which will provide protection for his fundamental rights and which will enhance his quality of life

The Government has taken the initiative in publishing its proposals for a bill of rights, and it has taken the initiative to launch an extensive plan of action to promote the purpose and functions of human rights throughout the country. I want to emphasise the responsibilities they entail

*Hansard*

*Hansard*

For this purpose we have provided for an amount of R1,5 million which will be allocated, for various purposes, under the umbrella of the wider objective

\*Everybody knows its history. The SA Law Commission submitted its interim report in 1991. That report was the product of years of research and contributions by a large number of scientists, interested parties and political parties. Those political parties accepted in principle the necessity for a bill of rights in a constitutional dispensation. Some of them even said they wanted it immediately. However, the Government did not react to that report the way it normally reacts to commission reports, and as its custom and its duty. Accordingly the Government chose this moment in our history to react to it, because it is essential that it be made known what the present Government's reaction is to this very important commission report

It is important to note that the Government is not saying that these proposals are final. We are saying that they should be seen as proposals by the Government to stimulate a debate and to serve the purposes I have already mentioned. Therefore I think it is justified to use the taxpayer's money to promote the cause of a bill of rights, which we say will have to be the cornerstone [Time expired]

Mr P H P GASTROW You are promoting your own bill of rights!

Mr A J LEON Mr Speaker, we thank the hon the Minister for his customary generosity with taxpayers' money. He confirmed this for us this afternoon. The propaganda onslaught which the hon the Minister has launched with his concept of a bill of rights consists of the following elements: There is a seven-page panelled document—a pamphlet—which deals with the Charter of Fundamental Rights. There is also the 44-page document which the Government has published already and which is free on demand, from the Department of Justice, to any citizen of South Africa who might be interested. Then we have a somewhat garish, pink—and no doubt sexist, in colour at least—seven-panel glossy pamphlet entitled "Equality for Women". The hon the Minister of Justice has just confirmed that R1,5 million was going to spend for this purpose, and a fair amount has presumably already been consumed by publications of this kind

We want to ask the hon the Minister the following questions which, with all due respect, he has not answered this afternoon. Will the Government concede or will it not concede that it has published a draught of its own version, not as a final proposal, but, as he said, for the purposes of debate. It is not a White Paper, it is not draft legislation and it is not a Gazette. As the hon the Minister told us, it is simply a debatable proposal

The hon the Minister also told us that this was the natural outflow of the South African Law Commission's work, to which all political parties had access. However, will he not confirm that the proposals made in the Government's charter are highly controversial, extremely political and deeply debatable? I refer to just six instances in which the Government has radically departed from the Law Commission's proposals on a bill of rights: 1. The enshrinement of the death penalty. 2. The provision for detention without trial for a minimum of ten days. 3. The refusal to outlaw the provision of State funds to institutions which practise apartheid. 4. The watering-down of safeguards against the declaration of a state of emergency. 5. The proposal to licence the media. 6. The extremely wide and vague grounds on which a right promised in the charter may be suspended by the Government of the day

All those are fundamental departures from what the Law Commission said should be in a bill of rights, and those are only six examples. As the hon the Minister knows, we in the DP welcome the Government's five-minute-to-midnight or deathbed conversion to a bill of rights, something which we have been advocating since 1959. However, to suggest, as the hon the Minister has done this afternoon, that taxpayers should fund the propagation of this project, of its particular party viewpoint, is quite wrong

At least the hon the Minister was frank about it in 1989 when he told the NP's federal congress that the Government would be using this bill of rights "to lick the revolutionaries". It is clear, however, that South African taxpayers are unwillingly, and until today unknowingly, being harassed for this purpose. We believe that Government funding should be provided to all parties wishing to engage in the rights debate, and not just to the most recent converts to this noble concept. Will the hon the

come under the attention of the Department of Trade and Industry (2) All cases which come to the attention of the Department of Trade and Industry are, as appropriate, investigated in collaboration with concerns such as the South African Reserve Bank, the Commissioner of Customs and Excise, other departments, the Office for Serious Economic Offences, the Government Attorney and the Commercial Branch of the South African Police. Furthermore, external verifications of GEIS claims are undertaken by the Department on an ongoing basis.

(3) In regard to cases of fraud under the General Export Incentive Scheme, re-funds are demanded from claimants who have acted illegally and such cases are handed over to the Commercial Branch of the South African Police for further action. In cases where fraud is proven, exporters are deregistered.

#### Telkom: bad debts

\*27 Mr L FUCHS asked the Minister of Posts and Telecommunications (1) Whether Telkom had any bad debts during the period 1 February 1992 to 31 January 1993, if so, (a) what is the total amount involved and (b) how is this amount made up, (2) whether any portion of this amount is due to the premium rate (087) industry, if so, what portion? B104E

The MINISTER OF POSTS AND TELECOMMUNICATIONS

(1) Yes, Telkom had bad debts during the period 1 February 1992 to 31 January 1993

(a) As the figures for January 1993 are not as yet available, the figures quoted below are applicable to the period 1 January to 31 December 1992. During this period bad debts amounted to R65,0 million

(b) Approximately 98% of the above-mentioned amount represents tele-

phone debtors whilst the balance is made up by other telecommunication services

(2) Yes Part of the R65,0 million can be attributed to the 087 service. It is not possible to furnish a reliable estimate of the amount involved at this stage as the billing system does not provide detailed information in respect of calls made. There are, however, still a number of cases that are receiving attention but which have not yet been recorded as bad debts and where the amounts obviously include an 087 service component

#### Military Intelligence/self-governing territories: contact

\*28 Mr J A JORDAAN asked the Minister of Defence †

(1) Whether a previous head of Military Intelligence, whose name has been furnished to the South African Defence Force for the purpose of the Minister's reply, at any time established contact with any chief ministers of the self-governing territories, if so, what (a) is the name of such head and (b) was the nature and extent of the contact;

(2) whether any of his successors as chief of Military Intelligence continued this contact, if not, why not, if so, what are the relevant details? B105E

The MINISTER OF DEFENCE

(1) No, not while he was associated with Military Intelligence

(2) No. This is not a task of the Military Intelligence Division

#### Sentences: correctional supervision

\*29 Mr A J LEON asked the Minister of Correctional Services

How many persons had been sentenced to correctional supervision as at 31 December 1992? B107E

The MINISTER OF CORRECTIONAL SERVICES

During the period 15 August 1991 to 31 December 1992, 2 523 persons were sentenced to correctional supervision in terms of section 276(1)(h) of the Criminal Procedure Act, 1977 (Act 51 of 1977)

The number of persons whose sentences of imprisonment have been converted to correctional supervision by the court *a quo* or the Commissioner of Correctional Services respectively, in terms of sections 276A(3), 287(4) and 276(1)(i) of the Criminal Procedure Act, 1977 (Act 51 of 1977) for the period 15 August 1991 to 31 December 1992 is 523

The total number of persons who have therefore been placed under correctional supervision for the period 15 August 1991 to 31 December 1992 is 3 046

The hon member is also referred to my reply of 17 February 1993 in the House of Assembly to question number 17 for oral reply (see col 90)

#### Interception and Monitoring Prohibition Act: promulgation

\*30 Mr A J LEON asked the Minister of Justice

(1) Whether the Interception and Monitoring Prohibition Act, 1992 (Act No 127 of 1992), has been promulgated, if not, why not, if so,

(2) whether a judge of the Supreme Court has been designated to consider applications to monitor and intercept communications over telecommunications lines of individuals, if so, which judge,

(3) whether any applications to monitor any telephone or telecommunications line have been made, if so, how many as at the latest specified date for which information is available? B108E

The MINISTER OF JUSTICE

(1) Yes, on 1 February 1993

(2) Yes, the Honourable Mr Justice M T Stewart has been designated in terms of section 3(1)(a) of the Act

(3) Yes, for the period 1 to 10 February 1993 two applications were received in terms of the Act

#### Development Aid: disposal of toilets

\*31 Mr P G SOAL asked the Minister of Regional and Land Affairs

(1) Whether, with reference to his reply to Question No 7 on 3 June 1992, any of the toilets valued at approximately R15 million purchased by the former Department of Development Aid are not in use at present, if so,

(2) whether any further plans have been made to dispose of these toilets, if so, what plans,

(3) whether he will make a statement on the matter? B109E

The MINISTER OF REGIONAL AND LAND AFFAIRS

(1) and (2) The hon member is referred to the reply furnished to him on Question No 7 on 3 June 1992. As indicated, the original value of the 4 600 toilets which had not been used at that stage, amounted to ± R2 900 000 and not R15 000 000

The toilets concerned on former South African Development Trust land have been disposed of by means of allocation and/or by making them available to bodies for utilization in existing and developing formal and informal residential areas

(3) No

#### KwaNdebele: third report of Commission of Inquiry

\*32 Mr P G SOAL asked the Minister of Regional and Land Affairs

(1) Whether the Commission of Inquiry into the 1986 Unrest and Alleged Mismanagement in KwaNdebele has brought up a third report, if so,

(2) whether the Government has received the said report, if not, why not, if so, when (a) was it so received and (b) is it expected to be made public? B110E



**NEW COURT READY** . . . At the opening of the country's first full-time court for sexual offences were (from left) advocate Mrs Sandra Swart, Justice Minister Mr Kobie Coetsee, deputy attorney-general Ms Natalie Fleischack, Cape attorney-general Mr Frank Kahn, and (at the back) the Director-General of Justice, Mr Jasper Neet.

Picture ALAN TAYLOR

# SA's first sex offences court opens

By YVETTE VAN BREDA

THE country's first full-time court for sexual offences, initiated by the Cape attorney-general's office, was opened yesterday in the Wynberg Court by the Minister of Justice, Mr Kobie Coetsee

The Rape and Child Molestation court, possibly an international first, is expected to be

fully operational in 10 days

Yesterday Mr Coetsee said child rape had more than doubled in four years and last year 3 639 cases were reported compared to 1 707 in 1988. Although many of these offences went unreported, the rise in the reported cases was totally unacceptable, he said.

Last September Cape attorney-general Mr Frank Kahn

launched a broad initiative to assist rape victims. A rape committee, chaired by Mrs Sandra Swart, an advocate at the attorney-general's office, was formed, drawing members from the police, Nicro, Rape Crisis, UCT's criminology department, UWC's centre for adult education, Famsa, Lawyers for Hu-

LT 17/2/93 (252)  
The Cape has the country's highest rape rate, thus the court's opening in Wynberg. An effective once-a-week court in the Cape Town Regional Court will also continue to operate.

The court would also be used as a training ground for prosecutors.

# Swanieville suspects freed

■ LOGBOOKS VANISH Judge says the police

and state witnesses were unreliable:

252 (25) (25)

By Tsale Makam

**F**IVE men charged with taking part in the Swanieville squatter camp massacre of 28 people on May 12 1991 were yesterday acquitted because of lack of evidence.

They were charged with 28 counts of murder, one of public violence and possession of firearms. Sixty-seven other people were injured in the attack.

Yesterday in the Rand Supreme Court Mr Justice CJ Botha criticised the police's handling of the massacre.

He said the attack took place at night but the police only arrived at the squatter camp about 7am the next day and only reported the matter to their superiors at 9am.

Police had earlier told the court that five Casspirs sent to the squatter camp on the West Rand had in fact ended up at Krugersdorp police station because the policemen had suffered stomach cramps.

They said that on arrival in Swanieville they had met a group of about 1 000 men carrying an assortment of weapons and wearing red armbands and doeks and moving from Swanieville towards the Madala Hostel. Police said they then escorted the group back to the hostel.

The judge said he rejected the evidence of the police and that of the State witnesses because they were unreliable.

He said it was surprising that most of the vital police evidence, such as logbooks and files, had disappeared mysteriously when they were needed during the investigation.

He said it could not be proved conclusively that the police had assisted the attackers as some witnesses had claimed.

It was possible that the police were present at Swanieville during the attack because at that time a curfew had been imposed on the area.

If the police had video-taped the men they had escorted to the hostel it would be easy to identify and arrest those responsible.

Out of 1 000 attackers the police had arrested only seven, two of whom were later set free.

# Judge raps police as Swanieville murder accused acquitted

A RAND Supreme Court judge yesterday acquitted five men of murdering 28 Swanieville squatters during a dawn attack and criticised police for failing to take action more promptly to identify the killers.

Swanieville was an unrest area at the time of the attack on May 12 1991 and a curfew had been imposed.

Shortly after the attack police Casspirs intercepted a group of about 1 000 hostel dwellers leaving Swanieville and escorted them back to the Kagiso hostel nearby.

The armed group many of them wearing red headbands had killed 28 people injured 37 others and set fires to homes during the raid.

SUSAN RUSSELL

There were allegations at the time of collusion between police and the attackers.

Six Kagiso hostel residents and a seventh from Wattville hostel in Benoni were brought to trial. Two of them, Sire Majoja and Bhekowake Mdlatse, were acquitted during the trial after Judge C.J. Botha found that the State had failed to make a case against them.

Botha said it was a "scandal" that no few people were brought to trial.

He said if the first police on the scene

had mobilised the video unit immediately when they had encountered the group of hostel residents, there would have been a strong case against hundreds of people, if only for public violence. Instead they had had only a doubtful case against the seven.

It was not strange, the judge added, that the actions of the police had led to criticism and speculation.

He was critical of the fact that the police had encountered the group making its way back to the hostel at 7am when it was already ready light, but had failed to summon their commanding officer or the video unit immediately.

The judge said the police could not be criticised for escorting the group back to the hostel to avoid further conflict.

However, although the various police vehicles in the area were in radio contact with their operations room, the commanding officer and the video unit were informed of the incident only at 9.30am.

Acquitting the five, Botha said the court could not convict Yumisan Majoja, Joseph Khanyile, Bakers Dantini and Mzanywa Phash Sithole on the basis of the evidence of the witnesses who had identified them. The State had also failed to make a case beyond reasonable doubt against the fifth accused, Pheyl Mlango.

Star  
19/2/93  
**65 to appear  
over carnage  
at Boipatong**

(252)  
A total of 65 accused are to appear in the Delmas Circuit Court on April 13 in connection with the Boipatong massacre in which 41 people were slain in the Vaal Triangle on June 17.

Delmas has been selected because the Transvaal Circuit Court, based in the town, is best equipped to accommodate the trial.

The accused were all residents of KwaMadala hostel at the time of the massacre. Eight children and a pregnant woman were among the victims.

East Rand Bureau

Star 17/2/93

# W Rand massacre: 5 acquitted

(252)

By Susan Smuts  
and Brendan Templeton

Police came under sharp criticism from a Supreme Court judge yesterday when he acquitted five hostel dwellers of murder in the 1991 Swaneville massacre.

Twenty-eight people were massacred at dawn when about 1 000 armed Kagiso hostel dwellers descended on the West Rand squatter camp on May 12 1991.

Mr Justice CJ Botha acquitted the five men on 28 counts of murder in the

Rand Supreme Court.

He criticised the police for failing to make sure hundreds of the killers were brought to justice.

The judge said he could not exclude the possibility that policemen had taken part in the massacre.

The judge acquitted Vumisani Majola (37), Joseph Mphiwa Khanyile (51), Bakkers Dlamini (32), Mzanywa Flash Sithole (44) and Pheyi Mlango (54) of 28 counts of murder, charges of public violence and illegal possession of a machine-gun, fire-

arms and ammunition.

Earlier, co-accused Sizwe Majola (21) and Bhekowakhe Moffat Mdlalose (41) were discharged after the State closed its case.

The court heard that up to 1 000 men armed with pangas, firearms, knives and spears had murdered and injured residents of the West Rand squatter camp. The attackers, identified as Inkatha Freedom Party supporters by their red headbands, had also burnt houses and damaged property.

Mr Justice Botha said po-

lice were alerted more than an hour after the attack. By this time, the marauders had started to leave Swaneville.

The SAP escorted the men to Kagiso hostel, where they conducted a search and arrested three of the accused.

The judge said that although the police escort had probably averted further conflict, he could not understand why the police had not made sure they could identify any of the men at a later stage.

● To Page 3

Star 17/2/93

# Massacre: 5 acquitted

(252)

## ● From Page 1

The hostel was several kilometres away, the journey took a few hours, and daylight had already broken. The policemen had been in radio contact with the control room, yet they had waited until 9.30 am before alerting the commanding officer and the video unit.

"If the video unit had been mobilised earlier to video the attackers, the State would have had a watertight case against hundreds of men — albeit only on a charge of public violence," the judge said.

The State's case against all except Pheyi relied on unreliable witnesses.

Although the judge rejected argument from defence counsel As

Burger that the police had fabricated evidence against the accused, he said it was not strange that the police actions had led to criticism and speculation. These included rumours that policemen had taken part in the attack.

Swaneville and neighbouring townships had been declared unrest areas shortly before the attack. The night before the massacre, only one Casspir patrolled the squatter camp while five were "uselessly" left in Krugersdorp because policemen had upset stomachs, the judge said.

● The ANC has demanded a proper inquiry into the massacre and the failure of the police to find any of the killers. ANC spokesman Carl

Niehaus said the judgment showed police were either incompetent or involved in the killings.

IFP spokesman Kim Hodgson said police needed to ensure they acted impartially. "But that is very difficult in a society in transition."

● SAP spokesman Captain Nina Barkhuizen said today police would not comment until they had studied the court records which would be available in about a week. The judgment contained serious allegations against police, she said.

She said an internal investigation had been conducted by Unrest and Violent Crime Unit chief General Ronnie van der Westhuizen who had since retired.

# Cry for death penalty's return — Coetsee

STAR 18/2/93

252

CAPE TOWN — Minister of Justice Kobie Coetsee said in the House of Assembly yesterday there was a strong cry for the death penalty to be used again, and he was not going to apologise for a clause in the proposed Bill of Rights which retained it for specified crimes

He said the Government had taken the initiative to launch a plan of action on the function of human rights and

had provided R1,5 million for the project

“The Government is not saying these are firm proposals. We want to stimulate debate on the subject, and that justifies using taxpayers’ money to promote the cause of a Bill of Rights”

On the same basis as the Government had sponsored Codesa, it would be sponsoring the next multiparty talks

where other parties could present their ideas on the subject

Tony Leon (DP Houghton) said the Government, with its customary generosity, was using taxpayers’ money to launch a propaganda onslaught to promote its own Bill of Rights proposals

The DP welcomed the Government’s “deathbed conversion”, but it was wrong to

suggest the taxpayer should foot the bill for the Government’s particular version of such a Bill. All parties wishing to engage in the debate should be provided with Government funds

Jurg Prinsloo (CP Roodepoort) said the Government had a history of using State funds for NP political purposes. State money should not be used for party-political propaganda — Sapa



# ANC man tells court of torture

By Tsale Makam

252-229 Sowetan 18/2/93  
R500 000 ROBBERY Accused was

forced to incriminate top ANC men:

ONE OF THE THREE ANC MEN charged with murder and robbery involving more than R500 000 yesterday said a policeman forced him to incriminate senior ANC members in the robberies.

Mr Solomon Mqanqeni, who is appearing in the Rand Supreme Court with Mr William Makhosi and Mr Daniel Motaung, said a Captain Koekoemoer forced him to make a sworn statement saying he had committed the robberies on behalf of the organisation.

The three are charged with robbing the Southdale, Johannesburg, branch of Standard Bank of more than

R500 000 in May 1991 and of stealing a bakkie. They are also charged with a robbery at Corobrick in Nigel on November 25 1991 in which two men were killed.

## Traffic officer killed

The three are also accused of stealing a bakkie in Tokoza on March 12 last year and of killing a traffic officer in Alrode on March 27 the same year.

Mqanqeni told the court that Koekoemoer and other policemen had tortured him. Koekoemoer then gave

him names of people he had to incriminate.

Koekoemoer then said Mqanqeni should say in his statement to a magistrate "that the robbery money was to be given to (then) ANC chief of staff Chris Ham and Tokyo Sexwale who would then give the money to returned exiles".

Mqanqeni maintained that what he said in his statement was not true and he had simply repeated to the magistrate what Koekoemoer had instructed him to say. The case continues.

# Judge slates early release of murderer

Staff Reporter

A SUPREME Court judge has lashed out at the early release of a man serving a 10-year jail sentence who murdered a hairdresser months later

Mr Justice Berman said the person who had released Sindile Zweni should be troubled by his conscience "because an innocent man could still be alive today"

Mr Justice Berman was sentencing Zweni and his co-accused, Melvin Zweni and Johannes Williams, after they were found guilty of murdering and robbing Mr Mario Kaplan, 56, in Knysna in July, 1991, and illegal possession of firearms

He said Sindile Zweni had a shocking record of violence and was sentenced in January, 1990, to seven years' jail. A three-year suspended sentence came into operation a few months later

"Yet barely 15 months later he was released and out on the streets to commit this crime. This is a shocking case of premature release"

The judge called the murder of Mr Kaplan cowardly, brutal and shockingly savage

All the accused had previous convictions but he found that Melvin Zweni was less intelligent than the other two and he therefore sentenced him to an effective 30 years imprisonment on all the charges

Mr Justice Berman said none of the accused had shown any signs of remorse and must be made an example of to serve as a deterrent

After careful consideration he had come to the conclusion that Williams and Sindile Zweni "must be doomed to die behind bars"

He therefore sentenced them both to life imprisonment plus 10 years

NEWS State pathologist testifies that death was consistent with multiple injuries

# Mandela to address businessmen

18/2/93  
Leader told to take rest:

By Themba Molefe  
Political Reporter



ANC president Mr Nelson Mandela will address a R500-a-head fund-raising dinner at the Johannesburg City Hall tomorrow, a spokesman for the organisation has confirmed.  
On Tuesday, Mandela was advised by his doctors to take a "complete rest" after suffering from exhaustion.  
ANC chairman in the PWV region Mr Tokyo Sexwale said Mandela would address businessmen on the role of business during transition.

# Drowning ruled out in Maphumulo inquest

18/2/93  
Probably strangled before being thrown into pool:

By Mzimasi Ngudle



A STATE pathologist yesterday said it was unlikely that Mr Bethuel Maphumulo had died as a result of drowning as alleged by the police.  
Testifying during an inquest into Maphumulo's death in the Johannesburg Regional Court, Dr Michelle Foster said his death was consistent with multiple injuries.  
The doctor said after examining the body she had concluded Maphumulo had died as a result of multiple injuries. Foster catalogued numerous abra-

sions and injuries, including eight broken ribs and "neck" marks, on Maphumulo's body. She said these were "probably caused by manual strangulation".  
She said fractures on his neck and haemorrhages on his skin appeared to have been caused by "extensive, substantial force".  
Earlier, police Captain Henry Beukes said he was attacked by Maphumulo at the poolside after he escaped during interrogation at the Protea police station

on December 13 1990.  
Beukes said injuries in Maphumulo's body could have been caused by the "uneven paving" on which they struggled before they both fell into the swimming pool.  
Maphumulo died on December 13 1990 after handing himself over to the police who were investigating a charge of robbery. Maphumulo handed himself over to the police on December 11.  
Police said he escaped and threw himself into a swimming pool.





PIC LEN KUMALO

# anser

*Boekefer 18/2/93.*

**By Themba Molefe and Sontu Maseko**

**M**ANY BLACK POLITICAL ORGANISATIONS described the acquittals this week of five hostel dwellers charged with the 1991 massacre of 28 Swamenville squatters as a huge cover-up.

On acquitting the men in the Rand Supreme Court on Tuesday, Mr Justice CJ Botha criticised the police for failing to make sure the killers were brought to justice.

The ANC yesterday said the Goldstone Commission should investigate the role of the police before and after the massacre.

Spokesman Mr Carl Niehaus said it was clear that "all the evidence was available and the police did not do their work".

The Azanian People's Organisation said the verdict vindicated its position that nei-

ther the SAP nor the South African Defence Force were trustworthy.

Publicity secretary Dr Gomoletso Mokoae said: "As with the disappearance of evidence in the Boipatong massacre (on June 17 1992) this major cover-up is highly regrettable."

Pan Africanist Congress political affairs secretary Mr Jaki Seroke said the judicial system was open to abuse both by the State and the courts. It was not impartial, he said.

The Inkatha Freedom Party's Mr Themba Khoza said comment would be available only after the party had studied the full text of the judgment to decide whether it was fair.

Sapa reports that the SA Police said the judgment would be studied in order to ascertain what further steps should be considered to avoid recurrences "of this nature".

Swamenville residents were outraged. Elderly Mrs Jane Kgwebe (above), who lost her son during the massacre, grieved again when she heard the men were free.

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# Fear of the hostel mob lives on ...

*Sowetan 18/2/93*

**R**ESIDENTS OF SWANEVILLE, Krugersdorp relate a tragic incident which they say happened last December

A local hawkker had gone to Krugersdorp to stock up on vegetables

He came back running terrified and screaming at the top of his lungs "Here comes Inkatha, they are here, Inkatha is here!"

Men, women, young and old, and children, all fled the camp in different directions. It was broad daylight.

In the pandemonium a little girl, only eight, was drowned after she ran into a nearby swampy area. Her body was found two days later with the help of police divers.

No, the hawkker was not drunk, the women *Sowetan* spoke to yesterday said. He is an "M-Z" (member of the Zion Christian Church, known for its strict rules against liquor).

## Men in overalls

It transpired later, they said, that the man had seen a white man accompanied by a group of black men in red overalls. Actually they were employed by a contractor working in the area.

The mere thought of another attack so terrified the man that he abandoned his vegetables in a cart and ran to warn the residents.

December was about 18 months after that fateful morning on May 12, when 28 residents were massacred in their sleep, 67 others injured and maimed by hordes of men from the Kagiso Hostel. But the scars were still fresh.

The wounds reopened again on Tuesday when five men, accused of having participated in one of the country's monstrous incidents of violence, were acquitted on all charges.

Visiting Swaneville, one might be tempted to think that the scars are healing. On the face of it everything is normal, quiet.

However, survivors of the massacre were still shocked. They had heard it on the radio and were ultra sensitive to questions by outsiders on the issue.

Mrs Monica Sefetsi lost two members of her family.

Mrs Monica Mashlya was a lucky survivor. She ran through a group of men who had just fired a shot, killing her brother. She managed to escape but not before she was stabbed in the face.

An old woman, Jane Kguwe, lost her son who was a breadwinner. She was away at work when they killed him in his sleep.

We shall never know sleep again, said some of the residents vowing that they would send their children away in case their attackers returned one day.

We found a man who had survived and went to testify against the five

## ■ HOSTEL HATRED *Swaneville is still*

*haunted by horrors of the May 1991*

*massacre, reports Sonti Maseko:*



Jane Kguwe

We asked for his reaction to the news. He did not want to speak to reporters, he said angrily. What difference did it make?

The man was working furiously, cutting the grass outside his tiny yard, working so fast it seemed as if he did not want to have a moment to think.

## Hit by a bullet

He dismissed us with a wave of his hand which had been hit by a bullet on the night of the massacre.

"You, the Press, took our pictures and published our story. I went to the high court to testify. The Government contradicted me to my face, even though they had not been there, and told me the police were not present at the time when we were being killed."

Tell me, how do you escort a murderer back into his house and afterwards take him out and accuse him of murder? Will he not say you are framing him?" the man asked.

The man's name may not be published due to a court order.

And so the Swaneville trial has passed. Five men suspected to have been among hundreds who killed and maimed, looted and plundered, were acquitted.

Mr Justice CJ Botha ruled that it could not be proved beyond doubt that police aided the attackers. However, Swaneville squatters all tell a different story.

"The police told us to go to sleep," one woman said. "They said 'Julle moet nie skrik nie' (You must not be afraid). They said they would watch over us."

"I saw a hippo go down the street at 5am and I felt safe. Then I heard it drive past again and then there were sirens and we were being at-

"I saw a hippo go down the street at 5am and I felt safe. Then I heard it drive past again and then there were sirens and we were being attacked."

tacked," the woman said, referring to police reinforcements sent from Pretoria to patrol the area on the night of the attack.

The reinforcements, according to evidence in court, were not there at the time because they had all suffered from stomach cramps that night and had retreated to the Krugersdorp police station.

The police, however, said they had arrived at Swaneville at 7am on May 12 to be met by two groups of men leaving the squatter camp which was smouldering behind them, carrying radios, televisions and other items.

## Unable to arrest

They said they were unable to arrest the group as there were only five of them in one Hippo. However, it came up in evidence that the police video unit was not contacted until 9:30 that morning.

Whatever happened to the other elements of the case? Evidence by witnesses who claimed to have seen some of the accused men was rejected as unreliable by the court.

The statements made by some of the accused to the police were rejected as inadmissible in a trial-within-a-trial.

An application for the dismissal of the seven accused after the State had rested its case, acquitted a further five.

The weapons, an AK-47 rifle and a 9mm pistol, found by the police on three of the accused men were found to be irrelevant as they were never connected to any of the killings.

Although the police claimed to have confiscated a large number of weapons, assegais, pangas and knives from the hostel, these were never linked to any of the murders although a large number of the people murdered were said to have been hacked and stabbed.

Another piece of shoddy investigation by the police, the judge concluded on Tuesday.



Monica Mashlya



Monica Sefetsi

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# Outrage over Swanieville

RAY HARTLEY

LAW and Order Minister Hernus Kriel had to act decisively against officers whose negligence in investigating the 1991 Swanieville massacre had led to the acquittal of those accused of murder in the case, the ANC said yesterday.

ANC spokesman Carl Niehaus said police would suffer "a further loss of credibility" unless action was taken.

He said criticism of police reaction to the massacre by Judge C J Botha, who said it was a "scandal" that so few were brought to trial for the killings, provided more evidence that police should "urgently" be placed under multiparty control.

"There is a strong likelihood that the police were involved in Swanieville and then there was a cover-up," he said. There should be an independent inquiry into the police response to the massacre, in which 28 Swanieville squatters were killed, and the Goldstone commission should move quickly to investigate the SAP and SADF. Niehaus said the ANC was angry that the

murderers had not been brought to book despite the fact that there was "much evidence" as to their identities.

Police said the judgment would be studied to decide what steps would be taken to avoid recurrences "of this nature" Sapa reports.

Police pointed out that the Swanieville massacre happened before the Boipatong killings and steps had subsequently been taken to improve policing, including

- Contingency planning covering a wide range of unrest-related scenarios,
- A review of management structures of the internal stability division, and
- The deployment of an additional 900 policemen in the area.

But the police said it would require the wholehearted support of the community and the total involvement of all political leaders to stamp out the violence.

● Comment. Page 4

810 AM 18/2/93

(252)

610 May 18/2/93  
**Ex-MD told  
to repay loan**

**SUSAN RUSSELL**

FORMER African Bank MD and CEO Gaby Magomola has been ordered to repay R102 495 he borrowed from his former employees, in terms of a judgment granted against him in the Rand Supreme Court this week.

Judge H Daniels ordered Magomola to pay African Bank R102 495 plus interest of 22% a year from July 2 1991 to date of payment.

African Bank CE Jacobus Theron said in an affidavit the claim was for outstanding amounts which had been borrowed by Magomola under the bank's staff loan scheme.

Magomola had initially given notice that he intended opposing the application. But when the matter came to court this week the judge was told that Magomola would no longer oppose the application.

# SAP to examine judge's criticism

SM 18/2/93  
Crime Reporter

Police would hold a top-level examination of a Rand Supreme Court judge's criticism of the police investigation into the 1991 Swanieville massacre, the SAP said yesterday.

They had already implemented measures resulting in a great improvement in their response to outbreaks of violence, said an SAP statement.

It added that the SAP had "taken note" of Tuesday's judgment in which Mr Justice CJ Botha acquitted five men on charges of murdering 28 residents of the West Rand squatter camp.

The judge criticised police for failing to bring the culprits to justice.

Police said measures taken — which included increased police presence in trouble spots — had led to a "vast improvement in the police's reaction to subsequent massacres and other flare-ups in violence".

The steps followed recommendations made in July by British police expert Dr Peter Waddington, who criticised police over their investigation of the Boipatong massacre in which more than 40 people were killed in June.

According to the statement, some of the measures implemented included:

- Contingency planning covering a wide range of unrest-related scenarios.
- A review of the management structure of the Internal Stability Division (ISD) in the Witwatersrand and Vaal Triangle.
- The permanent transfer of an extra 900 ISD members to the Witwatersrand.

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# Detainee 'probably strangled'

STAN 18/2/93.  
A State pathologist yesterday told the inquest on the death of Bethuel Maphumulo that it was unlikely the suspected robber had drowned while in police custody in December 1990.

Dr Michelle Vorster testified in the Johannesburg Regional Court that, after examining the body, she had concluded Maphumulo had died as a result of multiple injuries.

It was submitted by police on Tuesday that Maphumulo drowned in a swimming pool after a fierce struggle between himself and a police officer, Lieutenant Henry Beukes.

The Maphumulo family's advocate, Dennis Cuny, put it to Beukes yesterday that his account of what had happened was not credible.

Cuny said it appeared to him the deceased was dead before he had been thrown into the pool and suggested he had probably been strangled during an interrogation session.

Cuny said the deceased had probably been thrown into the pool to make it look as if he had been drowned.

Beukes denied this was the case. — Sapa

# Trio guilty of horrifying murder

STAR 18/2/93

By Anna Louw,  
East Rand Bureau

252  
Three former security guards of Fidelity Guards were convicted yesterday in the Delmas Circuit Court of the grisly murder of a colleague

The colleague was tortured, hung upside down from a tree and his genitals were shocked with an electric apparatus before he was shot twice and burnt.

Mr Justice FCL Roos and two assessors found Willem Oosthuizen (26), Johan van Eyk (37) — son of a retired police general — and Hendrik Gerber (43) guilty of murdering Samuel Kganakga.

Kganakga was questioned by the accused on the day of his

death on May 21 1991 in connection with the theft of R60 000 from Fidelity.

His charred body, with two bullet wounds and one hand chopped off, was found three days later near a mine dump on the East Rand.

The judge said the court had been impressed by the State's two chief witnesses, Jack Nguana and Julius Khoza, two guards who were present during the killing.

He said it was in the interest of Gerber and Oosthuizen to blame each other, which they had done because they did not like each other.

This was reflected in an incident a month after Kganakga's death when Gerber had shot Oosthuizen in the shoulder at

the Fidelity Guards offices and left him for dead

The judge dismissed the evidence of Gerber and Oosthuizen as false.

He said they had wanted to keep the interrogation of Kganakga out of the public eye at all costs. That was why they had taken him into the bushes

The three accused had gone with the intention to torture Kganakga and had taken with them an electric apparatus and a bag to put over his head.

Van Eyk's refusal to testify had created a negative impression, and the three had had a common purpose in the slaying of Kganakga as well as in concealing the truth.

Argument in mitigation will be led today.

# Rights

151  
252

# bill 'to

CT/19/2/93

# outlaw

# racism'

## Political Staff

THE government's proposed Bill of Rights would prevent a future Parliament enacting racist legislation, Justice Minister Mr Kobie Coetsee said yesterday

He was replying to questions about whether the government intended to outlaw racism

Mr Coetsee said legislation already did so, and added that although the government's proposed bill did not criminalise racial discrimination, the equality clause would enable courts to invalidate racist practices

Argument that, by not criminalising racial discrimination the government was fostering it, was defective

He also said there was a surprising convergence of opinion between proposals by the law commission, the government, the ANC and Inkatha and an analysis of the similarities would be released soon

The government would also spend millions publicising a variety of proposed Bills of Rights to foster a human rights culture, Mr Coetsee said yesterday.

## Allocation of funds

In the face of criticism that the government intended using public funds to propagate its own proposals exclusively, Mr Coetsee said additional funds would be provided for the propagation of other proposals

He also called for proposals for the allocation of the funds, saying the government regarded the development of a human rights culture as extremely important, in line with the recommendations of the Law Commission

Additional funds outside the estimated R1,5 million allocation would be provided, Mr Coetsee said. Suggestions should reach the department within two weeks, he said

It was important the government foster the debate on the topic and if spending R10,5m on Codesa was justified, then spending public money on fostering a human rights culture was also acceptable.

Asked at a media briefing whether the government would suspend the propagation of its own proposal pending the inclusion of other suggestions, Mr Coetsee said momentum would be lost if it did

In any event, he said, other parties had been propagating their points of view on the subject for some time, so the government would simply be "levelling the playing field" by continuing its campaign

# Consumers may start using courts

By DAN SIMON

PRODUCT liability cases are expected to become a feature in South African law courts as consumers become more aware of their rights with regard to product defects or the physical harm caused by manufactured goods

This is the view of Cape Provisional Division Acting Judge Mr Justice Milton Seligson who addressed delegates attending the International Bar Associa-

tion's first regional conference in SA

Mr Justice Seligson said there only a handful of what could be termed "product liability cases" had been reported in SA since 1910

"Until relatively recently many products sold in this country, or at least some components thereof, were manufactured abroad. This created considerable difficulty for a consumer wishing to sue the foreign manufacturer."

However, this was changing as SA had

embarked on intensive industrialisation and large-scale manufacturing and marketing of manufactured goods

"Undoubtedly our courts will be faced sooner or later, as has happened in the US and the UK, with claims by consumers that cigarettes have caused lung cancer or the use of medical drugs or vaccines have caused physical or mental injury

"Such cases will raise factual and legal issues of enormous complexity", he said.

252 OCT 9 1968

# Impose death penalty for murder of policemen — MP

STAR 19/2/93.  
CAPE TOWN — The death sentence should be imposed on murderers of policemen, Douglas Gibson (DP Yeville) said yesterday.

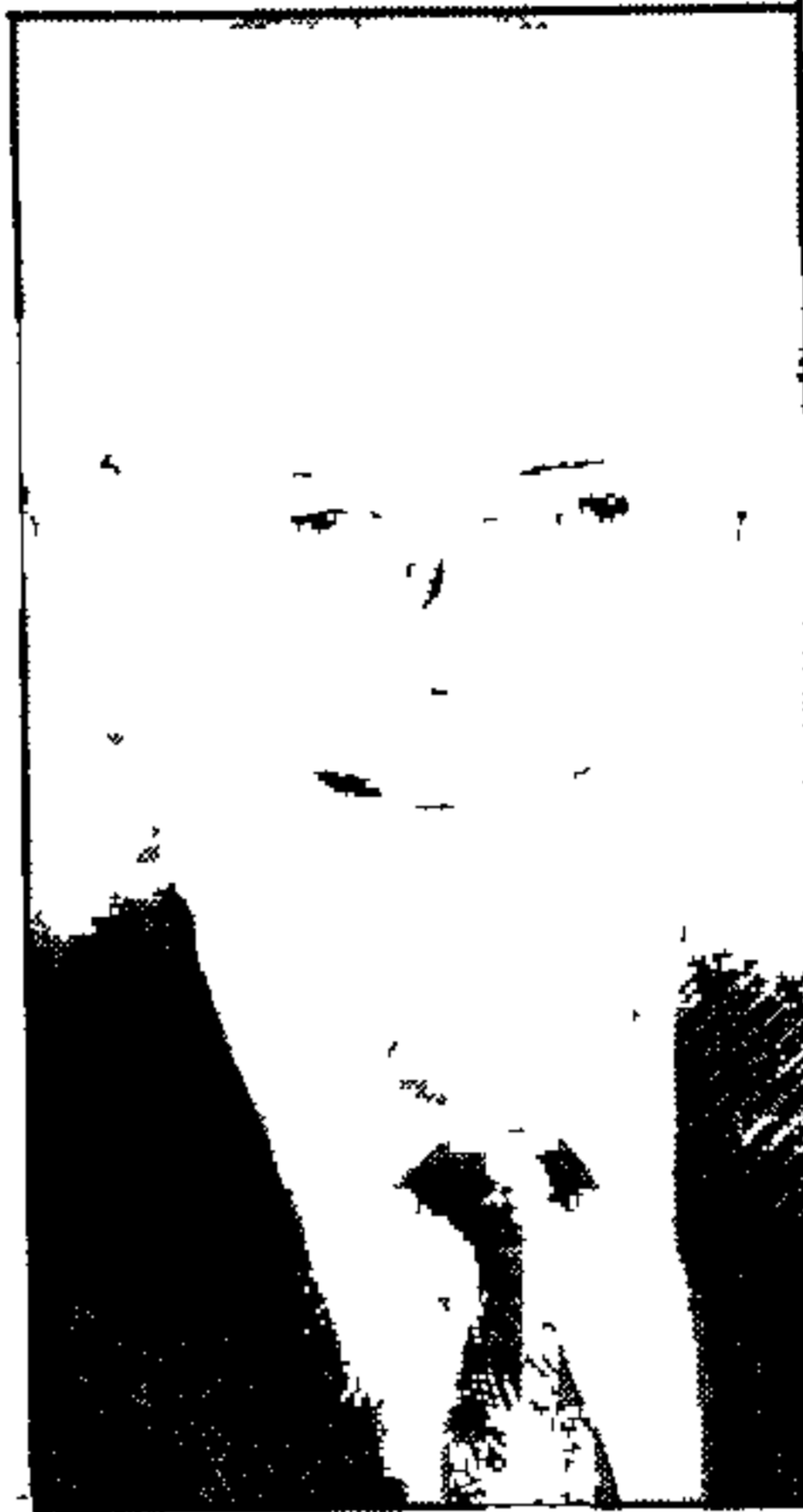
Speaking in debate on a private member's motion, he said "Society has to demonstrate that it is on the side of law and order and will not tolerate the systematic killing of those who protect it." The abolition of the death penalty was appropriate in stable democracies, but not in South Africa

"The death penalty," said Tony Leon (DP Houghton), "is not going to help. No one has been able to prove that the death penalty works as a deterrent"

While it could be seen as a short-term fix, the death penalty was no substitute for action the Government had to take to combat crime

Raymond Radue (NP King William's Town) said the death penalty could be revived in extreme cases as it was the only effective deterrent to cold-blooded murderers

The licence to kill for politi-



Douglas Gibson . . . hang the murderers of policemen

cal objectives should be removed sooner rather than later

His experience of the Azanian People's Liberation Army attack on the King William's

(252)  
Town golf club had given him insight into the suffering of many fellow South Africans "I empathise with their outrage"

Gibson said leaders should commit themselves to the peace process if they were to address violence responsibly. Their followers should be seen to be disciplined

The security forces had to accept their reform into friends of the people, and not oppressors or exploiters. The public had to start supporting members of the SAP and SADF

"Society cannot tolerate a situation where more policemen were killed last year than the total number of people murdered in the UK"

Earlier, Willem Botha (CP Uitenhage) said the crime wave had been caused by the Government's unbanning of the ANC and SACP and the release of murderers

The death penalty had been suspended and was no longer a deterrent. Criticism of the security forces by outsiders, terrorists and the Goldstone Commission had also tarnished their image, Botha said — Sapa

# 'SA must not repeat human rights abuses'

Political Staff

252

CAPE TOWN — South Africa must never repeat the infringements of human rights that characterised its past history, Justice Minister Kobie Coetsee said yesterday.

However, he stopped short of apologising for the abuse of human rights by the National Party Government that was a hallmark of the apartheid era.

Coetsee addressed a press conference yesterday on the Government's published Charter of Fundamental Rights, saying the Government wanted to create a culture of human rights in South Africa.

The Government would give financial help to other political parties and organisations that wanted to present their own Bill of Rights. It was open to suggestions on how this could be done.

Coetsee said the Government would release an analysis of the comparable provisions as put forward by the Law Commission, the Government, the ANC and the IFP.

"You will be surprised how close we are on fundamental issues," he said.

Asked whether the Government would apologise for its earlier record of human rights abuse, Coetsee said "Past infringements of human rights have brought us to the situation where we have to ensure this is not be repeated in the future."

# Govt human rights campaign

CAPE TOWN — Government would spend millions publicising a variety of proposed Bills of rights to foster a human rights culture, Justice Minister Kobie Coetsee said yesterday

In the face of criticism that government intended using public funds to propagate its own proposals exclusively, Coetsee said additional funds would be provided for the propagation of other proposals

He also called for proposals for allocation of the funds, saying government regarded the development of a human rights culture as extremely important, in line with the recommendations of the SA Law Commission

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19/2/93. (252)  
**TIM COHEN**

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ling the playing field"

In reply to questions about whether government intended to outlaw racism, Coetsee said legislation already did so and government's proposed Bill would prevent a future parliament enacting racist legislation

Government's proposed Bill did not criminalise racial discrimination, but the equality clause would enable courts to invalidate racist practices

Coetsee said the argument that, by not criminalising racial discrimination government was fostering it, was defective.

He said there was a surprising convergence of opinion between the law commission, government, ANC and Inkatha proposals and an analysis of the similarities would be released soon

## Brummel wins bungalow battle

RAY HARTLEY

GOVERNMENT has backed down on threats to strip the Beau Valley nudist resort of the 60 wooden bungalows that belong to nudists at the camp.

Nudist Beau Brummel said government inspectors had intended condemning the bungalows, claiming they did not meet official building standards. But an assurance was later given that this would not be done

The latest move comes in the wake of attempts by Brummel to open his resort to nudists of all races and sexual persuasions. Brummel said government inspectors had been called in by a faction of heterosexual nudists to condemn the restaurant on the property, but their plan backfired and their own bungalows were condemned.

Brummel said "fully clothed" officials had told him they would condemn the bungalows, but had subsequently backed down.

He shrugged off suggestions that his resort would have had to wrap up its affairs. "I've fought the Vroue Federasie, I've fought the dominees, and I'm going to fight this one"

## Inkatha starts wooing voters

19/2/93. (252)  
**WILSON ZWANE**

INKATHA has launched a massive campaign intended to woo at least 70% of the voters in Natal

Inkatha Natal organiser Senzo Mfayela said in an interview yesterday his organisation had formulated a programme through which it was hoping to get Natalians to vote for it in the coming elections

The programme included teaching people "who never voted before" how to vote, setting up election committees in areas where Inkatha had no branches, helping people obtain identity documents and canvassing support from the Indian community

As part of the programme, Mfayela said, Inkatha would go all

out to secure the co-operation of people who owned vehicles such as trucks and buses. These vehicles would be used to transport people to the polling stations.

Mfayela said funds which his organisation were channelling in the campaign came from sympathetic businessmen and members. To date, more than R100 000 had been obtained for the drive

Mfayela said he was not aware of plans to invite foreign experts to help Inkatha during its election campaign

MP Mike Tarr said recently Inkatha had the potential to win an election in Natal.

## Shot men's dependents sue Minister

**SUSAN RUSSELL**

THE dependants of two Soweto men allegedly unlawfully shot dead by police at the Avalon Cemetery, Soweto, in October 1990, are suing the Minister of Law and Order for a total of R190 000 in damages in the Rand Supreme Court

19/2/93. (252)  
Dorah Moloi and Marjorie Shezi are suing the Minister on behalf of their two young children. The women claim Mbuso Zulu, 23, and Zwelakhe Mzinyane, 20, were unlawfully shot dead, thereby depriving their children of their fathers' support

Moloi is claiming R100 000 in re-

spect of her son while Shezi is suing the Minister for R80 000 on behalf of her daughter, who was not yet born when her father was killed. Zulu's father Augustus Zulu, and Mzinyane's mother Antonia Mzinyane, are claiming R5 000 each from the Minister for the cost of their sons' funerals

The Minister is defending the claim.

Police claim the two men attempted to escape after being apprehended in connection with the unlawful possession of ammunition

# SA 'must never repeat its history on human rights'

## Political Staff

SOUTH AFRICA must never repeat the infringements of human rights that have marked its recent history, says Minister of Justice Mr Kobie Coetsee

Addressing a Press conference he stopped short of apologising for the abuse of human rights by the National Party government that was a hallmark of the apartheid era

Discussing the published Charter for Fundamental Rights, he said the government wanted to create a culture of human rights in South Africa

The government would give financial help to other political parties and organisations that wanted to present their own Bill of Rights

It was open to suggestions on how this could be done, and on how the various drafts could be collated into one publication

Some political parties were trying to create differences between the prevailing draft proposals when "there were no differences," said Mr Coetsee

● Other bills of rights to be aired, page 15



# news inbrief

## Coetsee <sup>(252)</sup> acts on Bills

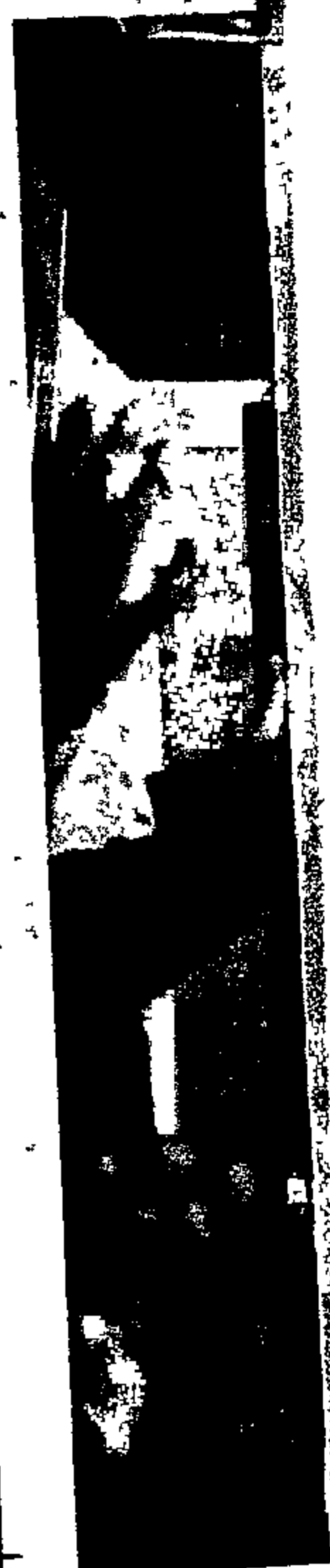
*Sowetan 19/2/93*

THE Government was prepared to fund the publication and promotion of the proposed Bills of Rights submitted by other parties, Justice Minister Mr Kobie Coetsee said yesterday. Speaking in Parliament, Coetsee said the Government was taking the participation of other political parties in human rights seriously.

## New forum <sup>(42)</sup> set up

*Sowetan 19/2/93*

ABROADER forum set up by the Johannesburg Traffic Department, transport unions, taxi associations, the South African Police and the Johannesburg City Council is to meet next Tuesday to discuss concerns surrounding the issue of taxis in the city.



# Moseneke <sup>(252)</sup> promoted <sup>(12/2/93)</sup>

■ Atteridgeville lawyer now SC:

*Saveman* 19/2/93

By Monk Nkomo and Josias  
Charle

PRETORIA-BASED advocate Mr Dikgang Moseneke has been promoted to Senior Counsel, it was confirmed yesterday

Moseneke, who lives in Atteridgeville and has been a lawyer for 17 years, confirmed the appointment.

He is the third black lawyer to be promoted to this position. The others are Mr Louis Skweyiya of Durban and Mr Ismail Mohammed, who is now a judge.

Moseneke became the youngest political prisoner when he was sentenced by the Supreme Court to 10 years imprisonment.

As an advocate, he has defended in many political trials.

**NEWS** Pathologist rules out drowning ● **Katlehong**

# Suspect did 'not drown'

Sowetan 19/2/93 (252)

**By Mzimasi Ngudle**

**Gluckman says Maphumulo died of strangulation:**

LEADING pathologist Dr Jonathan Gluckman yesterday told the Johannesburg Inquest Court that there was no evidence that robbery suspect Mr Bethuel Maphumulo died of drowning

On Wednesday, another pathologist, Dr Michelle Foster, said it was unlikely that Maphumulo had died of drowning

Gluckman, who performed the examination together with Foster, told the

court that Maphumulo died as a result of "manual strangulation"

He said the injuries sustained by Maphumulo could have led to a "cardiac arrest" which could cause instantaneous death

Under cross-examination by defence counsel Mr Dennis Kuy, SC, Gluckman said he agreed "substantially" with Foster's findings that Maphumulo died as a result of multiple

injuries

He said he could not explain the discrepancies between his report and that of Foster's

Gluckman said he was convinced his findings were correct despite the discrepancies pointed out by police counsel Mr Etienne du Toit

Maphumulo died on December 13 1990 after handing himself over to the police Proceeding

# Murderer 'must hang'

Sowetan 19/2/93

(252)

By Tsale Makam and Sowetan  
Correspondent

■ **OVER-CONTROLLED** State argues lawyer's

murder was 'calculated, vicious and cruel':

**T**HE MURDERER OF GOLDSTONE COMMISSION advocate Mr Legwai Pitje, former policeman Séatile Rodney Matlotse, should be punished with death, the State argued in the Rand Supreme Court yesterday

State advocate Magriet van der Walt told Mr Justice TD Cloete and two assessors the aggravating factors outweighed the mitigating factors

She argued that the murder was "calculated, vicious and cruel"

Matlotse (25) was earlier found guilty of

murdering Pitje on July 12 last year

His co-accused, Mr Mohali Abraham Motlhabi, was acquitted

## Suppressed emotions

Earlier during yesterday's hearing, a psychiatrist, Dr Yvonne van der Worm, described Matlotse as an "over-controlled" person who was overcome by his suppressed emotions

Under cross-examination, Van der Worm

said his behaviour did not constitute a "spur of the moment explosion" when he murdered the lawyer

Pleading in mitigation of sentence, counsel for the defence Mr Stefan van Rensburg said the murder was not preplanned

He also asked the court not over-emphasise the seriousness of the offence just because this was a "high profile case"

Sentence is expected today

# Suspect strangled — doctor

By Abdul Milazi

Robbery suspect Bethuel Maphumulo died as a result of "manual strangulation" while in police custody in Soweto, independent pathologist Dr Jonathan Gluckman yesterday told an inquest at the Johannesburg Magistrate's Court.

He said it was unlikely that Maphumulo (31) had drowned as was claimed by police earlier in the inquest.

Maphumulo died on December 13 1990 after handing himself over to the SAP's Soweto murder and robbery unit, which was investigating a robbery charge against him.

Gluckman, who was present when State pathologist Dr Michelle Vorster conducted the post-mortem on Maphumulo's body, said fractures on his neck and haemorrhages on his skin appeared to have been caused by "extensive, substantial force".

He said Maphumulo's body had numerous abrasions and injuries, including marks on his neck and eight broken ribs.

On Wednesday, Vorster told the inquest she had concluded Maphumulo had died as a result of multiple injuries.

Earlier Soweto police captain Henry Beukes told the inquest that he was attacked by Maphumulo after the suspect had escaped during interrogation. Beukes said he had found Maphumulo hiding near a swimming pool. During the ensuing struggle, they both fell into the pool.

Beukes said injuries to Maphumulo's body might have been caused by the "uneven paving" around the pool where they had struggled before falling into the water.

The inquest continues

**'Broeder query  
ignored' — LP**

JUSTICE MINISTER M. Kobie Coetsee has refused to answer a parliamentary question on whether it is appropriate for supreme court judges to hold office in the Broederbond, the Labour Party claimed yesterday. **CT 20/2/93**

LP national chairman and MP for Durban Suburbs Mr Luwellyn Landers said he tabled the question but was told that Minister Coetsee refuses to answer.

# The suspect,

# the policeman

# and the pool

Star 20/2/93.

**THE inquest held this week on the death of an armed robbery suspect in police custody carries a significance far beyond that of the death of one man, writes Chief Reporter JOHN PERLMAN.**

## Was it drowning or strangulation?

LIEUTENANT Henry Beukes of the Soweto Murder and Robbery Unit was there when Bethuel Maphumulo died, and he has an explanation for what happened — but the question is whether an inquest magistrate will believe it.

Maphumulo, a Soweto man suspected of armed robbery, heard that police were looking for him and gave himself up for questioning.

Two days later he was dead, on the eve of a court appearance at which his lawyers intended applying for bail. That was back in December 1990. The police explanation at the time was that Maphumulo had drowned in the Pretoria police station swimming pool after a fight with a policeman.

### Unattended

Post-mortem studies, conducted by State pathologist Dr Michelle Foster and by Dr Jonathan Gluckman, found that Maphumulo had multiple injuries and that the hyoid bone in his neck was broken.

For five days this week, a Johannesburg court, with magistrate C de Lange presiding, has tried to piece together what happened.

This case has resonances beyond the immediate details of what hap-

pened to Bethuel Maphumulo. It is the first judicial test of the claims and counter-claims of Gluckman and Law and Order Minister Hernus Krige, whose public row about deaths in custody is far from over.

Beukes, who at the time of the incident had spent 14 years in the force and was a warrant-officer, says Maphumulo was in his charge at the Pretoria police station after a fruitless trip to Venda in search of a missing cash-box. The phone rang in a nearby office and Beukes went to answer it, leaving the prisoner unattended in an unlocked room.

He says he heard a noise and went to look at Maphumulo, who was handcuffed at the time, had fled.

Beukes went in search of the fugitive — without his gun — and noticed that the gate to the station

swimming pool was open. He knew the fugitive was there — "Let's say it was an instinct", he told the court — entered, and was attacked by Maphumulo, who leapt out from behind the swimming pool filter, thrust his manacled hands over Beukes's head and began squeezing his neck.

"A terrific struggle" ensued, said Beukes, a large, fleshy man. He says he fell on top of Maphumulo and that Maphumulo somehow managed to get on top of him.

Using his knees, Beukes told the court, he then managed to flip Maphumulo over his head and into the pool. The handcuffs, however, remained clamped to his neck, and the momentum of Maphumulo was sufficient to hurl Beukes's 115 kg frame head over heels into the water — still face up.

The two men, still

linked by one handcuff, fought in water "up to neck-height", says Beukes. At one point Maphumulo forced his head under the water — "I thought I would die", Beukes says.

Then he broke free, throttled Maphumulo for "15 to 20 seconds" and "full of life and fighting", began landing punches on him. One blow knocked Maphumulo cold and he fell face-first into the water.

Beukes scrambled out, then got back into the pool to haul Maphumulo out — "It was my human duty," he said — and went to Lieutenant Johan Radley, his senior officer for help. However, Maphumulo was already dead.

Beukes told his story in vivid detail. The State prosecutor, Francois Roos, yesterday told the court he did not believe a word of it.

### Self-defence

He said the story of Maphumulo's escape was "strange", and medical evidence regarding his injuries was not consistent with what Beukes had described.

There was no question about the policeman acting in self-defence, Roos said the cause of death was "manual strangulation" by Lieutenant Beukes.

the district surgeon" the magistrate asked. Beukes, in Soweto, he is a black doctor. Beukes said, and I prefer a white doctor.

Kuny pointed out that while the affidavit from Beukes's doctor said he examined him at 11 am, Beukes's own pocket book recorded that he was in court at the time.

Later, both Foster and Gluckman testified that the mark on Beukes's neck which was allegedly caused by Maphumulo's handcuffs could not have been caused like that, notwithstanding the fact that police say one of the policeman's hairs was found

in the linking chain. The momentum of both men flying into the pool, Foster said, would certainly have injured Beukes's neck and could have broken it, had that indeed happened.

Etienné du Toit, counsel for the police, was highly critical of the pathologists' reports. During cross-examination he highlighted differences between what each of them had found.

Gluckman, for instance, recorded that six ribs were broken on one side, whereas Foster described them as on the other. Foster observed haemorrhaging in the eyes — which

Flipped into the water by Maphumulo's momentum — "The whole 115 kilos" Beukes replied that "anything can happen.

Kuny asked why he made no mention of choking Maphumulo in his account of the fight in his pocket book, but described it in his affidavit. "I put it to you that the only reason you put choking in was after you saw the post-mortem report."

However, Beukes insisted he had never seen the post-mortem report. Confronted with photographs of Maphumulo's injuries — which included eight fractured ribs — Beukes insisted that these

must have happened in the fight. The ribs, he said, could have been broken by "a man of my weight" falling on Maphumulo.

### Strangulation

Some could have been the result of blows, others caused by falling and fighting on rough ground. "It's strange, then, that you don't have any marks like that," Kuny said.

Du Toit argued was one of the classic signs of death due to lack of air, whereas Gluckman had not seen this.

Du Toit said that while both pathologists gave manual strangulation as the cause of death, neither had ruled out "dry drowning" — neurogenic cardiac failure.

Du Toit said that, if there were any other reasonable explanation for Maphumulo's death, Beukes should be entitled to the benefit of the doubt. He argued further that, if Beukes were found to have caused Maphumulo's death, this was in self-defence.

Beukes's own injuries were then subjected to further scrutiny. Kuny pointed out that Radley, the first man to see him, made no mention of injuries in his affidavit. "Why didn't you go to a private doctor and not to

**DP works on rights**

~~SECRET~~  
257

THE Democratic Party had appointed a committee chaired by Mr Tony Leon, MP for Houghton and the DP's spokesman on justice, to update and "formulate more precisely" the DP's Bill of Rights

CA 20/2/93

44' 20' 21'





ANC calls for an independent inquiry

# Police slammed in three cases

252  
ARCF 20/2/93

JOHANNESBURG. — Three criminal cases brought against Inkatha Freedom Party (IFP) supporters accused of taking part in three township massacres that left 79 dead ended the same way — all the suspects were acquitted and the judges criticised the police for not pursuing their inquiries adequately.

And the latest trial, which ended this week, prompted the African National Congress (ANC) to call for an independent inquiry.

On Tuesday in the Supreme Court Mr Justice C J Botha accused the police of negligence in their investigations after acquitting five IFP supporters of the killing of 28 people at Swaneville squatter camp, near Johannesburg, on May 12, 1991. The attack, the court heard, had been carried out by about 1 000 IFP

Judges have questioned the police role in three cases of township massacres, and now the African National Congress wants an independent inquiry.

**JOHN CARLIN**  
Weekend Argus Correspondent

hostel dwellers from the nearby township of Kagiso

Judge Botha, who said it was a "scandal" so few had been brought to trial, found the police had escorted the killers back to Kagiso — more than an hour away by foot — and could have arrested hundreds

He noted too that he could not exclude the possibility the police themselves had taken part in the massacre

In August last year another Supreme Court judge, Mr Justice Henry Daniels, found the police had deliberately botched a case against another five IFP supporters accused of carrying out a massacre in Alexandra township in which 13 died

Judge Daniels, who found the state case had been riddled with "contradictions and fabrications", said the police had lied in court under oath and had influenced other witnesses to do the same. Not only was the police version of what happened on the night in question "so strange as to be bizarre", the judge was amazed they had not carried out a procedure as basic as testing the one murder weapon they found for fingerprints.

Then in the third case seven IFP supporters were acquitted by a magistrate of shooting 38 ANC supporters, also at a funeral vigil, in Sebokeng township. The seven were iden-

tified by survivors within hours of the massacre, but, the magistrate said, the police had not brought a proper case against them.

Funeral vigils appear to be a favourite target of gunmen recruited by the ANC's enemies. The one notable exception came in a trial in Natal last April when five policemen, one of them a white police captain, were sentenced to death after being found to have colluded with the IFP in the killing of 11 people at a wake in Trust Feeds township.

The police said General Van der Westhuizen, now retired, had conducted an internal investigation into the police role in the Swaneville massacre. The general headed a special unit appointed to investigate political violence nationwide between early 1990 and the end of 1991, a period in which about 5 000 people died, yet his unit did not solve one case



# Human rights charter vital, says Schutte

PRETORIA. — The misuse of fundamental human rights and freedoms to promote lawlessness, criminality and anarchy, can never be allowed, Deputy Justice Minister Mr Danie Schutte said (252)

This was why the government's proposals for a charter of human rights provided for laws to ensure that fundamental rights and freedoms were enjoyed and exercised in an orderly and responsible manner,

he said at a farewell function for two regional magistrates in Cape Town yesterday

"This is where the role of the administrators of justice will become even more important. It will be the duty of the courts to ensure that the rights and freedoms are not excessively or unnecessarily interfered with by these laws"

Magistrates, regional magistrates and judges of the future would have to be able to deal

with the challenges and problems arising from a new constitutional dispensation

They would need strength of character and determination to administer justice in sometimes trying circumstances

"Probably the most significant development in a new dispensation, and one which will have far-reaching implications for the administration of justice, will be the introduction of a charter of fundamental rights

in which these rights and freedoms are clearly set out

Three basic rights and freedoms to be recognised and protected by a charter have been identified by the government.

These were the rights of people charged with offences to a prompt and fair trial, detainees to be treated humanely in accordance with civilised norms and that disputes with the state or with individuals be settled in a democratic way

# The slow-grindings, murky wheels of justice

STAR 20/2/93

JOHN PERLMAN  
Chief Reporter

TWO years and two months after his death, an inquiry into what really happened to Bethuel Maphumulo is finally under way. Maphumulo, a Soweto man who handed himself over to the Soweto Murder and Robbery Unit for questioning in connection with a cashbox robbery, died in the custody of the same policemen on December 13 1990.

The inquest before Johannesburg magistrate C de Lange is concerned with the facts surrounding Maphumulo's death and not the events that followed. Even so, evidence has emerged in the inquiry which suggests that the authorities may have been less than vigorous in their pursuit of the matter.

## Assault charge

This is based on more than just the long delay in the matter coming to court. The SAP's internal inquiry was assigned to an officer junior in rank to two of the policemen who were under scrutiny. Lieutenant A J Radley, now captain, and Warrant-Officer Henry Beukes, who were the two officers who headed the investigation into the cashbox robbery and who were both present at Protea police station when Maphumulo died.

Defective-Sergeant David Haarhoff was assigned to investigate three things. Maphumulo's death, a charge of assault

land by his mother Margaret, and the crimes in which he had allegedly been involved. A police representative said Haarhoff, who has now retired, was part of an investigating team led by a Lieutenant-Colonel Smuts. He said the investigation was now under the direction of a Major Coleman.

"It is not police policy to assign officers of junior rank to investigate the conduct of their seniors," the representative said. "However, it is quite impossible for the senior officer to conduct the investigation on his own, which explains why junior officers are called on to assist him with certain less important aspects of the inquest."

No documents from either Smuts or Coleman were submitted to the court. A full 10 months after the death, Haarhoff made an affidavit in which he detailed the progress he had made, a document presented to the court. Among the "less important aspects" he had handled was taking statements from five policemen at the centre of allegations.

Haarhoff said he had taken a statement from Beukes — who had since been promoted to lieutenant — and from four other policemen. He had not, according to his affidavit, taken any statement from Radley. Haarhoff had also neglected to make contact with Johannes Thabo Thabethe, who alleged in an affidavit that he was assaulted at

Protea police station and that Maphumulo was tortured at the same time in his presence.

Thabethe lives in Diepkloof, some 30 minutes' drive from Klipfontein. Haarhoff did, however, make the considerably longer trip up to Venda in a van attempt to get a statement from a woman known as "Misekwa" — whose involvement in the case seems peripheral. "Misekwa", who is Margaret Maphumulo's sister-in-law, is mentioned briefly in the court papers — she was there when Margaret was picked up by the police but was then sent away — and witnessed none of the alleged abuses.

Haarhoff concedes as much by saying "If it is really necessary to get her (Misekwa's) statement, I will make new arrangements and get the statement." Haarhoff also states that he spent some time tracing a black constable who had telephoned Margaret Maphumulo's husband in connection with the death. This man, he reported, had since beaten his wife's lover to death and was under psychiatric care.

The pocket books of Radley and Beukes for the period in question were not included in the court documents.

When these were requested, only Beukes's could be found. This book included a note that certain matters had only been recorded in Radley's (now missing) book.

Haarhoff's statement made no mention of having seen the post-mortem reports by State pathologist Dr Michelle Foster and by Dr Jonathan Gluckman, both of which recorded multiple injuries and a fracture to the hyoid bone in the neck, and which questioned the police explanation that Maphumulo had drowned in the police station swimming pool.

Haarhoff also had no progress to report on the assault charges Margaret Maphumulo laid soon after her son's death. She alleged she had been taken into the veld near Louis Trichardt, where she was kicked and tortured using electric shocks. She said she was assaulted again at the Protea station.

A doctor's examination of Margaret Maphumulo soon afterwards recorded 21 marks on her body — "multiple bruises and abrasions, neck, shoulders, back of chest, abdomen". In her affidavit she names one policeman and says "I can identify all the policemen when I see them." Yet Beukes told the inquest court he had never been questioned with regard to these allegations. His affidavit, taken by Haarhoff, makes no mention of it. Beukes said that in two years he had

not yet been called to an identification parade in this regard.

Bethuel Maphumulo's docket has gone back and forth between the police and the Attorney-General. On October 15 1991 the Ministry of Law and Order informed family lawyers that the "investigation has been completed". Five months later, SAP head office informed the lawyers that "the Attorney-General has given further instructions regarding the investigation to the police... It is now attended to." In July last year, 1992, SAP notified the family that "the Attorney-General has instructed that the inquest must be held".

## Patently false

Ironically, one result of the protracted investigation themselves in this case has been to leave Law and Order Minister Hernus Kriel both in the spotlight and in the dark. In his report responsibility for the allegations made by Gluckman lay with Kriel. Kriel was clearly given information on the Maphumulo case that was patently false. "During interrogation he jumped through a window and attempted to escape. He allegedly fell into a swimming pool near the office and drowned." Not one of the policemen, either in affidavits or in court, claimed that this was in fact what happened.



# Landmark ruling has spawned a new tool for censorship

**DAVID HOFFE** reviews the controversial Appeal Court decision to extend the privacy of companies and warns that a monster has been created

*S/Times 2/2/93*

**I**N A series of defamation cases over the last decade, culminating in a decision handed down this week, the Appellate Division has severely curtailed the free flow of information in this country.

It started in 1982 in the case of Pakendorf versus De Flamingh — a battle between the press and a private person. The courts came to the aid of the latter in no uncertain terms by determining that the press was strictly liable for what it wrote.

This means an individual can publish a defamatory statement about somebody else to any number of people, and escape liability if he has good grounds for doing so. He must also believe the truth of his assertions, and that it is important for others to know about them.

A newspaper, on the other hand, must guarantee the truth of its claims. For example, claims made on the basis of an impeccable and reliable source who later retracts would render the newspaper liable for damages.

There is a principle of law that affords some measure of protection to the press; some revelations are of such great moment that even the press need not guarantee their veracity.

The disclosures by Dirk Coetzee, published in the Vrye Weekblad, concerning hit squads and General Lothar Neethling, were found by Mr Justice Kriegler to fall into this category. This case is on appeal, and it remains to be seen whether our highest court endorses this principle. However, its application is fraught with difficulty: for how does one determine where the line is to be drawn?

An issue of public interest, that unruliest of horses, is, after all, merely a matter of opinion

In 1992, our Appeal Court ruled that "political bodies" are capable of being defamed and can legitimately bring actions for defamation. A political

**CHIEF JUSTICE CORBETT**

body is wider in concept than a political party, and includes, in addition to a political party, any body or organisation whose functions include attempting to influence state policies in any field — for example, nature conservation, economy or sport (these were examples given by the court).

So, leaving aside for the moment the ANC or the National Party, criticism of organisations as disparate as the Afrikaner Weerstandbeweging and the Campaign for Open Media can conceivably attract an action for damages, or worse, an injunction against publication.

Take a simple enough assertion, such as "The CP is a racist organisation". Irrespective of whether this is an expression of opinion or a statement of fact, it seems bizarre that it could ever be the subject of a debate before our courts.

This week, in the case of Sage Holdings Ltd v the Financial Mail, the Appellate Division, in a majority judgment delivered by Chief Justice Corbett, ruled that juristic persons — Masterbond, Supreme Holdings, Tollgate, the ANC, the SABC, Eskom, the AWB, the Broederbond, etc — have a right to privacy.

It was the traditionally-held legal view that only natural persons — the Charleses and Dianas of the world — had a right to privacy, because it was only someone with a body and a soul who could suffer the feelings of hurt and degradation that follow the invasion of his or her privacy.

A corporation, lacking a body to be kicked and a soul to be damned, could suffer no such feelings. Notwithstanding this, the court accorded a right of privacy to corporations, and, in so doing, created a somewhat curious species, namely the private fact about a public corporation.

The effect of the judgment is that, without consent and in the absence of overriding considerations of public interest, the publication of private facts about a public corporation is an invasion of that corporation's privacy, and can be interdicted at the suit of that corporation.

**W**HAT constitutes "private facts" — particularly in the case of corporate activity — is, of course, anybody's guess. But one can bet that the chief executive of a public corporation, such as Masterbond, will immediately cry "private facts" and take refuge behind Sage v FM when confronted with awkward and disquieting facts contained in a confidential memorandum leaked to the press.

A plea by the press of overriding public interest will be difficult to sustain. Where private information about a corporation is obtained under such circumstances, considerations of public interest permitting publication would, in the words of the Chief Justice, be a "rara avis". The public interest in favour of publication would, again in the words of the Chief Justice, "have to be very cogent indeed". A very difficult hurdle to cross. The financial affairs of Sage, a public corporation, are apparently not the sort of rare bird the Chief Justice had in mind.

An unfortunate consequence of this decision is that journalists in possession of private facts about public corporations will no longer seek comment before publication, for fear of having FM v Sage thrown at them. Unwittingly, I believe, the court has spawned a monster.

The injunction and the gagging writ could effectively replace the cruder forms of harassment that journalists have learned to live with. By filing suits, corporations and political bodies can stifle legitimate debate about their activities.

■ David Hoffe is co-author of the *Newspaperman's Guide to the Law*

enforcement supervised by legal processes, as distinct from those political . . . To expect from a bill of rights goods which it cannot deliver will not merely be futile but will subject it to strains damaging perhaps to its capacity to perform the work it can do well”

**F**OR the reasons so eloquently advanced above, we endeavoured to ensure that the government's proposals contain only rights that are enforceable in a court of law. That is why, as far as possible, ideals and directive principles were not included in the government's draft.

It must be noted that most of the wording of the various draft articles of the government's charter is identical, or virtually identical, to that of the proposed bill of rights of the South African Law Commission, a number of UN instruments on human rights, including the Universal Dec-

laration, § 115.

Clause 36 contains strict safeguards. First, whether there is an emergency threatening the continued existence of the state is a matter which can be objectively verified by the Supreme Court.

Secondly, the measures taken to suspend a fundamental right — eg, a law permitting detention for not more than 10 days during the existence of the emergency, must be reasonably necessary to ensure the continued existence of the state or the safety of the public.

The Supreme Court is likewise empowered to verify this requirement. By contrast it would appear that the ANC proposals provide for detention for months on end during an emergency, whereas the government's proposals restrict the period to 10 days.

It should be clear that the possibility of detention for up to 10 days as a temporary measure under exceptional circumstances is certainly not a "permanent feature of our law" . . . by not mentioning

**ANOTHER BARRK: Mr Kobie Coetsee . . . welcomes the serious debate of the government's draft proposal**

expressly the right to a fair trial”

Clause 26 under the heading "Fair Trial" contains provisions aimed at securing a fair trial that are probably more complete than any other bills or international treaties

● "The right to freedom of thought and conscience" In the American bill of rights there is no separate provision dealing with freedom of conscience. It is dealt with under religious liberty

● "The right to press freedom" This right is firmly protected by "freedom of speech" This clause is under review to further strengthen the position of the media

● "The right to legal assistance in criminal trials" An unqualified right to this effect is beyond the fiscal means of the state. The government is already funding legal aid to the amount of approximately R60-million

Professor Asmal's suggestion

**Picture: TERRY SHEAN**

This flows from a misconception as to the nature and role of a bill of rights. A bill of rights, inter alia, serves as a code of conduct for the government of the day. Its purpose is to prevent the authorities from infringing certain fundamental rights of the citizen, not to grant rights to or to impose duties on people vis-a-vis one another. The latter is the function of the ordinary law of the land

● "It is the only document of its kind that I have read which says categorically that its provisions will regulate relations only between the state and 'persons'"

The remarks above also apply here. To repeat the purpose of a bill of rights is to protect the people against the arbitrary use of political power. It is not designed to protect the citizens against the acts of their fellow-citizens. In the US, for instance, a number of civil rights acts, apart from the bill of rights, were passed to deal with the relationship of citizens mutually. The juridical nature of the bill will not be affected by an express provision regarding its purpose.

● "This is a charter for the status quo. Such an insight is fortified by the remarkably absolutist provisions relating to property rights, social security and what is described as 'participation in the economy'"

Professor Asmal does not indicate in what respect these provisions are absolutist. If he intends to convey that they are unrestricted, he is simply wrong

● "While rejecting other economic and social rights, the charter presents these in such rigid terms that they would subvert, if not destroy, the very rights they seek to protect."

No indication is given of what economic and social rights are rejected. If a right is to be protected, one naturally uses language best cal-

The government's proposals meet most requirements for a successful bill of rights. It contains the basic rights found elsewhere in successful democracies: the rights to life, of freedom and of expression, of a fair trial, of human dignity, of equality before the law, of physical and mental integrity, of work, etc

Furthermore, it is hardly surprising that, when one carefully and objectively studies the various proposals (including that of the ANC), they to a very large degree contain the same principles, although emphasis and wording may differ from one model to another

What I therefore find bewildering is the approach of the ANC and others who, rather than look for differences, ought to search for similarities and mutualities. An exercise to look for points of agreement is strongly indicated

I welcome the serious debate of the government's draft proposal

The Minister of Justice's draft bill of rights has been likened to a Rottweiler. Now

# COFFERS BITES BACK

S/Times 21/2/93

(252)

What Mr de Klerk proposes is a document that sounds very similar to the mother of all bills of rights, the one enshrined in the US Constitution since the 18th century — WASHINGTON TIMES, February 5, 1993.

**T**HE proposals referred to by the Washington Times are the same which have been a target of the most scathing invective in the Sunday Times recently. I refer to the attacks launched by Kader Asmal and Ken Owen.

Professor Asmal had to resort to the canine world — "this pup will turn into a Rottweiler" — and otherwise unpleasant growls to shield his disappointment that the ANC's proposals on a bill of rights will have to compete with a clearly formulated, enforceable bill of rights as proposed by the government. Ken Owen again seems to have been roused to "righteous indignation" at the National Party government that has dared to propose a bill of rights. I find him more amusing than impressive.

On drafting the proposals the government was mindful of comments by Mr Justice Didcott (quoted in JV van der Westhuizen and HP Viljoen's *South Africa (Butterworths 1988)* on the then available ANC Freedom Charter. He pointed out that many of the may I add, commendable) deals of the ANC — lowered prices, plentiful food, preventive health schemes, demolishing slums — belonged rather to a political party's programme and not to a bill of rights.

Mr Justice Didcott said I have great difficulty in... the commitment

laration of Human Rights, and the bills of rights of several modern states. So we are in most respects, with our "bewildering idiom", in good company.

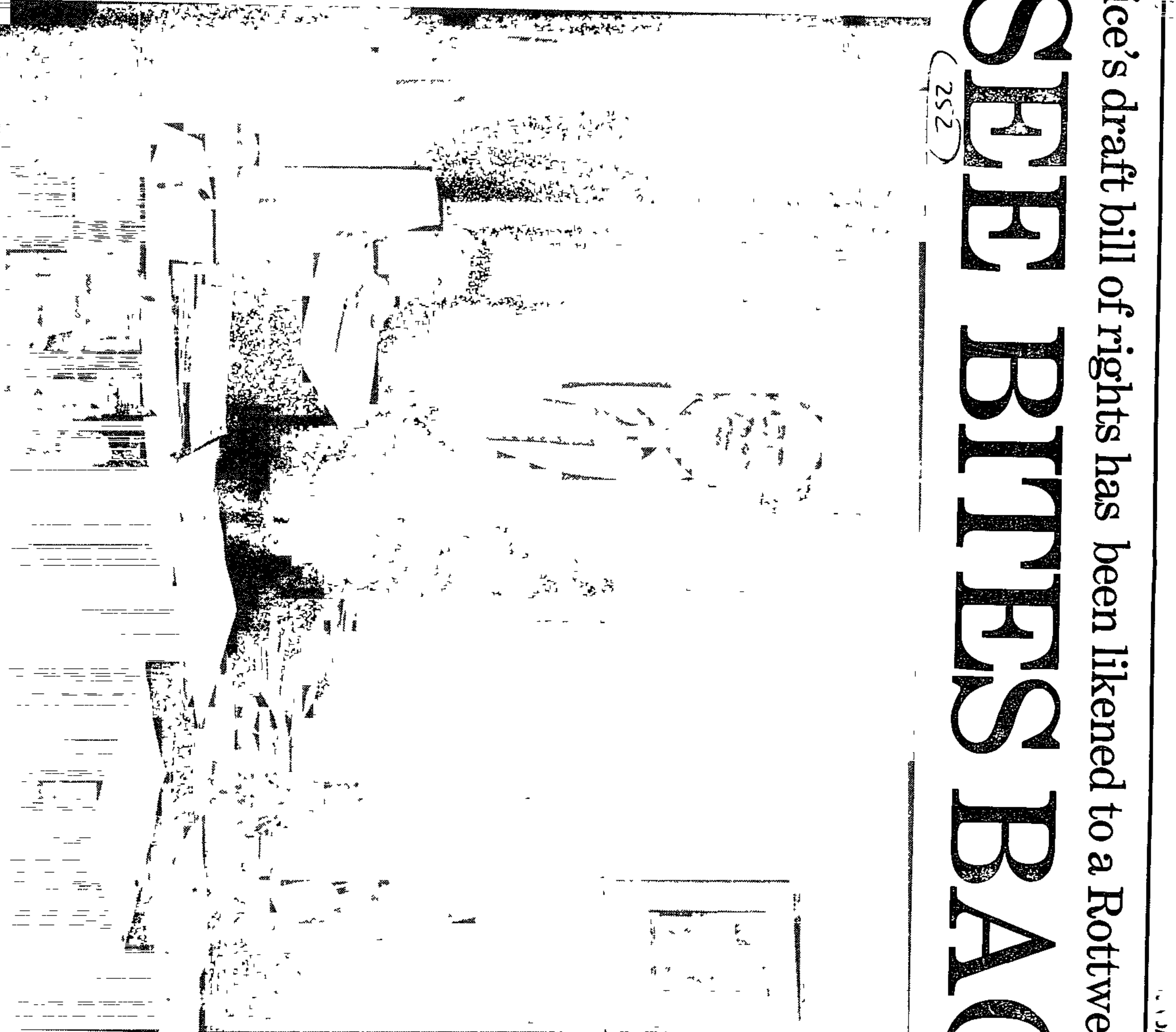
Some of the issues raised by Professor Asmal justify further comment. ● "the unique provision relating to the detention of witnesses"

This probably refers to a clause which reads "detention of a witness by order of a judge with a view to the protection of the witness or the proper administration of" If this is correct, the provision is not unique. In the US most states allow material witnesses to be held in custody or on bail awaiting trial.

● "The retention of capital punishment" The argument here seems to be that, because the ANC is in favour of the abolition of the death penalty and the government in favour of its retention, the charter is unacceptable. This is hardly tenable.

● "permitting detention for up to 10 days as a permanent feature of our law".

**C**LAUSE 37(d) (referring to the 10-day period), read with clause 36, contemplates detention in the event of war or during a state of emergency threatening the life of the nation. It is an article of general application to be found in a number of treaties — eg, the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter, the



culated to achieve that end. The fact that the language used is described as rigid presumably means that it is effective, and can hardly justify the accusation that such right will thereby be subverted or destroyed.

● "There is no active commitment to combat discrimination" The government's proposal is also criticised on the basis of not containing so-called horizontal operation — ie, among citizens. This allegedly implies that the government wishes to allow citizens to discriminate against one another on the basis of race or sex. This in turn implies that the critic wishes to see a regime where a future government will be able to intervene in private relationships by restricting free choice and free association.

All statutory discrimination will be forbidden by the government's proposed bill. In addition, the Human Rights Commission is destined specifically to play a meaningful role in monitoring possible discrimination at any level whatever.

● "Affirmative action is rejected because the document does not want to address the issue of past injustices"

**T**HIS accusation is totally unfounded. Clause 6 (3) provides in express terms for special measures to further the development and advancement of specific communities, groups and individuals notwithstanding the fact that such measures will be contrary to



# In pursuit of life, liberty and dignity

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S/Times 2/2/93.

**F**OR millions of South Africans the law has been less of a shield to protect them than a whip to cow them, and that whip has been wielded by lawmakers, by the executive branch of government and by the courts. This, in a nutshell, is the case for a bill of rights.

Or, to put it bluntly, the purpose of a bill of rights is to ensure that never again in this country will a policeman be able to say to a citizen "*Waar's jou pas, kaffer?*" and claim for such brutality the blessing of the law and the approval of all three branches of government.

A bill of rights exists to protect the individual citizen. Against the government. Against the judges. Against the common law where it is defective. Against statute law when Parliament betrays the people. Against the power elite. It is the shield of the weak against the strong.

All bills of rights rest on an idealistic premise in the American case, that all men are created equal and are endowed by their Creator — not by their government or their history or their common law — with inalienable rights to life, liberty and the pursuit of happiness.

The German wording is better. It says the German people acknowledge inviolable and inalienable rights to be the basis of every community, and of peace and justice. It puts on every state authority the duty to respect and protect the dignity of man.

The Namibian bill of rights similarly enshrines the rights to life, liberty and dignity, and puts on all organs of government the duty to uphold and respect these rights. The courts are instructed to enforce these rights. The Natal Indaba's bill of rights begins by declaring all people to be born free and equal in dignity and rights.

Life, liberty, dignity, human fulfilment, the protection of the law — these are the cornerstone concepts of any bill of rights worth the name. If South Africans are not to be condemned to another long struggle against their government, and if the institutions of government (including the judiciary)

are not to fall into even greater disrepute, then our bill of rights will have to begin by enshrining these concepts.

The perverted monstrosity produced by the government, which it calls a "draft charter of fundamental rights", begins by adulterating these concepts. It assigns "rights" against the state not only to individuals but, "where appropriate", to every entity or body or group of persons which can be "a bearer of rights".

The purpose is sinister. It sneaks into the constitution under the pretext of protecting individual rights, a device to entrench the privileges of political parties, corporations, political associations like the Broederbond or Inkatha, Eskom and Iscor and heaven knows what else.

Then it sets out to authorise the suspension or limitation of the rights of the individual in terms of the common law and by the legislature, the very institutions that have served as apartheid's instruments of oppression. It is a charter not for the common man but for the strong, the privileged, the clever; it is tailored for elites.

**M**Y criticisms of this frightful document have elicited from a number of readers a challenge to say plainly what I would like to see in a bill of rights, and my answer is this: it must begin with a statement of a national ideal — that all men and women are equally endowed with inalienable rights, and that the foremost of these are the right to life, to liberty and to dignity.

Secondly, the bill of rights must put on the organs of state the overriding duty to protect these rights, and it must create a special constitutional court — outside the distrusted structure of the courts which enforced apartheid — to which any citizen may appeal when he feels his rights have been violated. Citizenship must, of course, be secure.

I don't think it a good idea to elaborate the language of the bill of rights unnecessarily. The more complicated the document, the more easily clever lawyers will find ways, in the years to come, to pervert its meaning for pur-

poses never contemplated by our "founding fathers". But the classical rights — freedom of conscience and expression, of association, of movement, of assembly — need to be specifically enshrined.

**A**LSO, given our past, a South African bill of rights should spell out the right to equality before the law, and it should forbid discrimination on spurious grounds such as race and gender. And, since liberty is self-evidently not possible without property, there should be a powerful clause to protect property, permitting expropriation only for the common weal.

The government's charter includes an outrageous proposal to permit the police to detain people without trial for 10 days, which is long enough to invite torture, brutality and murder in the cells, it shows how deeply we have been corrupted since Mr John Vorster destroyed the right of *habeas corpus*. What we need is the opposite: a clause compelling the authorities to bring a prisoner before a court within 48 hours of arrest, and a prohibition on any cruel or unusual punishment.

An essential provision is that nobody must be deprived of any right — to life, to liberty, to property, to dignity, to sanctity of his home — except by due process of law. On this point I would like to see a debate among lawyers on the relationship of the bill of rights and the constitutional court to the rule of law. Whether the rule of law can, or should be, separately enshrined is a question on which I still have doubt.

Finally, we might, like the Germans, care to define our national ideal not simply as democracy but as social democracy, or we may wish to define language rights, but these are matters for political negotiation. The danger, of course, is that the bill of rights may be overloaded with political agendas which may cause it to fail, but that is another debate.

**KEN OWEN**

# Proposal for land claims court

JOHANNESBURG —  
The African National  
Congress has proposed a  
tribunal for land claims  
vested with powers to  
order the restoration of  
land to people dispos-  
sessed by forced remov-  
als

This proposal is con-  
tained in the organisa-  
tion's revised draft Bill  
of Rights made public on  
Saturday at the Interna-  
tional Solidarity Confer-  
ence here

The tribunal should be  
able to order compensa-  
tion for dispossession by  
forced removal as well  
as compensation for any  
redistribution of land  
"required to redress  
past imbalances"

The Bill of Rights  
would guarantee that  
men and women enjoy  
equal rights in all areas  
of public and private  
life

Also, disabled people  
would not be discrimi-  
nated against

The bill says children  
should be protected  
from economic exploita-  
tion and should not be  
permitted to perform  
work that threatens  
their education, health  
or moral well-being —  
Sapa



# Court frowns on breach of privacy

STAR 22/2/93

By Jo-Anne Collinge

The Appeal Court has ruled that only when there is an "overriding" public interest in a matter may a newspaper or magazine be permitted to publish information which has been obtained by means of invasion of privacy

The judgment was given recently in the appeal by Financial Mail (Pty) Ltd against an interdict granted to Sage Holdings (Pty) Ltd in the Rand Supreme Court in 1990, which prohibited the publication of an article concerning Sage Chief Justice M Corbett, in a majority judgment, dismissed the appeal and awarded costs against the Financial Mail

The disputed article was based largely on tape recordings obtained by the tapping of a Sage telephone line and from a confidential document concerning Sage, drawn up within the Allied Group Ltd. A Financial Mail journalist gained possession of both the illicit tapes and the document

Mr Justice Corbett, with Mr Justice M E Kurlleben and Mr Justice C T Howie concurring, found that a public company, no less than an individual, could suffer injury by virtue of a breach of privacy

But not all such intrusions or publications were unlawful, the judges observed. In distinguishing between "lawfulness and unlawfulness in this field, the court had to view the facts of the case in the light of the "general sense of justice in the community" and to weigh competing interests

If the nature of the informa-

tion obtained by invasion of privacy were such "that there were overriding grounds in favour of the public being informed thereof, the court would conclude that publication of the information should be permitted, despite its source and the manner in which it was obtained".

To illustrate such "overriding" public interest, the judges cited a British case concerning two technicians who left the employ of a company which made "intoximeters", instruments used by the police to measure alcohol intoxication. They supplied a national newspaper with documents showing that there were doubts about the accuracy of the intoximeter

A British appeal court ruled that the information, though unlawfully obtained "in flagrant breach of confidence", could be published because the public had a real interest in the accuracy of an instrument on which drunk-driving convictions rested

The Financial Mail, in contrast to the above case, had advanced no good reason as to why the public should have the information contained in the Sage article, the judges stated

The preservation of confidentiality within organisations was also a public interest of a high order, the judges reasoned. "I am old-fashioned enough to think that loyalty is a virtue that is in the public interest to encourage," said the Chief Justice

He held that the illicit tape recordings and the "leaked" confidential document prepared by Allied "stood on the same footing". It must have been clear to the journalist that his possession of this document was unlawful

# Charge cops, urges lawyer

*Sowetan 22/2/93*  
■ **INQUEST HEARING** Act or omission led to

Maphumulo's death, court told:

(252)

**By Mzimasi Ngudle**

**C**OUNSEL for the family of Mr Bethuel Maphumulo, who died in police custody, has requested that the magistrate ask the Attorney-General to charge the policemen involved in his death

Mr Dennis Kuny, who is appearing for the Maphumulo family, told magistrate Mr C de Lange in the Johannesburg Magistrate's Court on Friday that there was proof that Lieutenant Henry Beukes was involved in Maphumulo's death

Kuny was replying to a question by counsel for the police, Mr Etienne du Toit, who said it had to be proved that an "act or omission on the part of Beukes had led to the death of Maphumulo"

Kuny also criticised the police for their delay in investigating Maphumulo's death and said "Virtually nothing has happened since Maphumulo died two years ago"

"What happened is that two principal offenders have now been promoted Lieutenant Johan

Radley to Captain and Warrant-Officer Henry Beukes to Lieutenant"

He urged De Lange to find that Maphumulo's death was due to manual strangulation as shown by evidence and the reports of two pathologists, Dr Jonathan Gluckman and Dr Michelle Foster

Kuny said Beukes' version of what happened was so bizarre it amounted to a fairy tale

"His account does not accord with any logical rational reasoning or objective findings. Can Beukes explain why a man who had given himself up and was to appear in court should suddenly flee?"

"Beukes then tore his own shirt and wetted his clothes to feign a fight"

Earlier state prosecutor Mr Francois Roos said the story of Maphumulo's escape was "strange" and there was no question about Beukes acting in self-defence

Roos said the cause of death was manual strangulation by Lieutenant Beukes

Du Toit criticised the pathologist reports, calling them "a total mess"

The magistrate will make a ruling this week

# Sentencing of ex-cop today

*Sowetan 22/2/93. 252*  
■ Found guilty of murdering lawyer

**By Tsale Makam**

FORMER policeman Rodney Matlotse, who has been found guilty of murdering lawyer Mr Legwai Pitje, will be sentenced in the Rand Supreme Court today

Matlotse (25) was convicted two weeks ago by Mr Justice TD Cloete of killing Pitje (41), an advocate and member of the Goldstone Commission. He was also found guilty of robbing Pitje.

Matlotse's co-accused, Mr Mohali Motlhabi, was acquitted of all charges. Motlhabi told the court he was driving Pitje's car while Pitje and Matlotse argued. Matlotse stabbed Pitje several times. Motlhabi helped Matlotse put Pitje's body in a plastic bag and dump it in the veld.

He said he had tried to stop Matlotse from stabbing Pitje, who pleaded and begged for his life. But Matlotse jabbed him with the knife and forced him to drive on.

# My appointment not cosmetic, says Sheila

By Brendan Templeton

New Deputy Justice Minister Sheila Camerer does not believe her weekend rise in Government ranks was a cosmetic appointment to win votes in the next election

The former university Rag queen and Westdene, Johannesburg, city councillor yesterday said she was excited to be appointed to the position at a time when women's rights were coming to the fore in South Africa

Asked if she thought her appointment had been for appearances only, she said: "I would hate to think that. President de Klerk has said on television that National Party women want to be appointed on merit. I do feel that the fact that he has appointed me shows he is committed to equal opportunity"

He had informed the Rosettenville MP of her new post on Friday and Camerer said she had not been expecting it

"I am looking forward to working with (Justice Minister) Kobie Coetsee. He has done interesting things like introducing the Equal Opportunity Bill, the Family Violence Bill and the Elimination of Discrimination Against Women Bill"

Justice is not a new field to



Sheila Camerer ... from Rag Queen to deputy Minister.

her. She was a practising attorney and had been a member of the parliamentary joint committee on justice for several years, she said.

Camerer said she had always been a strong proponent of women's rights.

This may come as a surprise to some voters in Rosettenville. She told them during her successful 1984 bid for election as their representative on the Provincial Council: "A woman must go where her husband goes" She was explaining why she did not live in the southern Johannesburg suburb

# Massacre: appeal for bail refused

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~~252~~

DURBAN — The Supreme Court in Durban yesterday dismissed the bail appeal of nine Richmond murder accused who, with about 50 others, allegedly killed nine men, burned down 14 huts and damaged two vehicles during an attack in September at Genegeshe, near Richmond. Evidence was given during their initial bail application in Richmond that the nine sup-

5722 23/12/93

ported the ANC and that nine victims supported Inkatha. The court was also told that two potential witnesses had been killed. Dismissing the appeal, Mr Justice Booysen said people would lose confidence in the administration of justice if the accused, some of whom had been positively identified at identity parades, were seen at home.

There was a possibility that some would not stand trial. They could be over the border within hours if they absconded. The applicants were Thandukwazi Dlamini (18), Mandlenkosi Phoswa (44), Lolo Phoswa (22), Sonnyboy Nzimande (21), Salani Mbono (22), Muzokhanyayo Nxele (22), Mafuka Nzimande (33) and two youths — Own Correspondent.

# Policeman sentenced to death for killing lawyer

A FORMER special police constable who stabbed Goldstone commission advocate Legwa Pitje to death during an argument in July last year was sentenced to death for murder in the Rand Supreme Court yesterday

Judge T D Cloete, sitting with two assessors, found that Seatile Rodney Matlotse had formed the direct intention of killing Pitje when he stabbed him to death on July 12 last year

Describing the murder as "cruel, vicious and brutal" the judge said the death penalty was an appropriate sentence

Matlotse was also found guilty of stealing

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SUSAN RUSSELL

Pitje's watch, diamond ring and motor car after the murder

Pitje was murdered after he was arrested in Roodepoort for drunken driving

According to evidence Matlotse was on duty at the police station when Pitje was brought in, and the two men had left together some hours later

The stabbing occurred later during a argument between the two men

The judge said although the murder had not

been planned and was committed when Matlotse was angry, the aggravating factors outweighed those in mitigation

"Society regards a crime by a policeman, particularly a crime of violence, in a very serious light," Cloete said

Asked if he had anything to say before the death sentence was passed, Matlotse stood silently for about 10 minutes and then requested the court to show mercy

He also turned around and apologised to weeping members of Pitje's family sitting in the public gallery

*BIDAY 23/2/93.*

# Moseneke dons silk as third black SC in SA

Sowetan 23/2/93

By Joe Mdhlela

■ The 15-year-old sprout who returned to the court that put him away:

ALMOST a decade ago, a 36-year-old Pretoria attorney was admitted to the bar as an advocate of the Supreme Court of South Africa.

At about the same time, a caricature in a daily newspaper depicted an aged judge in spectacles. He was scratching his head as if trying to recall where he had seen the slightly built man he was about to admit as a barrister.

"I recall seeing you somewhere?" said the judge tentatively.

He was right, except that he had not seen the man "somewhere". The man had stood trial in his court and had been sentenced by him to 10 years imprisonment for sabotage 20 years before.

The cartoon strip was rather a comical, albeit heart-rending, depiction of events surrounding Dikgang Moseneke, his incarceration and his determination to rise to the top of his chosen profession.

The admittance ceremony took place at the Pretoria Supreme Court on July 19 1983.

The same court, 20 years before, had found him to be a saboteur and sentenced him to a prison term on Robben Island.

He was a mere 15-year-old sprout.

Last week Moseneke joined an exclusive club of barristers. As Senior Counsel he now wears silk, giving him the honour to have his name suffixed by the abbreviations SC, the equivalent of Britain's Queen's Counsel (QC).

Two other blacks who share this honour are Mr Louis Skweyiya of Durban and Mr Ismail Mohamed of Johannesburg.

Mohamed was promoted to the bench a few years ago.

Moseneke's elevation to Senior Counsel puts him in line for an appointment to the bench as a judge.

## Promotion

The 46-year-old Moseneke, who resigned his position as PAC second deputy president last December, had his promotion confirmed last week.

At 15 he was probably one of the youngest political prisoners to be incarcerated on Robben Island. He served the whole sentence until he was released in 1973.

On his release he was served with a five year banning order which remained effective until 1978.

Undaunted by his term in jail, he went on to pass the Standard 8 and matriculation examinations on the island. While serving his term, he graduated with Bachelor of Arts and B Juris degrees through the University of South Africa (Unisa) in 1969 and 1973.

Four years later he graduated with a Bachelor of Laws degree (LLB) from Unisa and served articles until he was admitted as an attorney in 1978.

Five years later Moseneke became an advocate, all along earning himself respect in legal and political circles.

Two years ago he was in the legal team that defended Mrs Winnie Mandela, who was charged with the abduction and assault of the child activist, 14-year-old Stompie Seipei.

Moseneke scored a legal victory in 1978, winning the right to practise as an attorney in South Africa after his loss of citizenship as a South African.

This came about when Bophuthatswana gained its so-called independence in 1977.

Moseneke had citizenship of the homeland forcibly imposed on him.

Moseneke proved that he was a South African and that he would never relinquish it for a sham citizenship.

After a lengthy legal battle, the full bench of the Pretoria Supreme Court reinstated his citizenship. He was then allowed to practise as an attorney.

Moseneke's victory was to become a test case for many Tswana-speaking South Africans who had lost their citizenship when the bantustan gained independence. Today Moseneke stands on the threshold of bigger things as a Senior Counsel.

His many struggles, both in the leadership of the PAC and for human rights, have contributed immensely to changing the country's political landscape.

Even his resignation from the PAC last December was received with shock, especially by the Africanists. But his promotion is certainly a victory for the disadvantaged people of this country.

**NEWS** Five activists die in police shoot-out ● ANC b

# ANC cries foul on killings of 'comrades'

Sowetan

23/2/93

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## ■ ANC Northern Natal asks Goldstone Commission to investigate deaths:

THE African National Congress' Northern Natal region has called for an immediate Goldstone inquiry into the deaths of four ANC members whom police said were killed in a shoot-out at KwaSokhuu

The ANC confirmed the four were armed but said they had not fired at the police

Those killed on Saturday were Ndwangu Cele, Ziba Ndlela, Bongani Mokoena and Zweli Mnguni. They were aged between 18 and 23

The SAP denied ANC allegations that policemen opened fire on "comrades" waiting at a bottle store to escort protesters home from a march against alleged

biased policing in the KwaMbonambi area

Instead, the SAP said a patrol came under fire from five men armed with AK-47 rifles. A handgrenade also exploded about 20m from their vehicle.

Police spokesman Captain Bala Naidoo said policemen opened fire on the suspects who fled into the bushes.

The shoot-out continued and policemen later discovered that four men had been killed

"Two of the deceased were members of the notorious Msweli gang,

who were sought by the police for the killing of Paul Vercaemmen," Naidoo said

—ANC leaders in Northern Natal called on Mr Justice Richard Goldstone to investigate.

ANC Northern Natal media officer Ziphoh Mkhize alleged policemen had "opened fire on these comrades for no reason"

"When they tried to escape policemen deployed at the back of the shops shot and killed them" — Sapa

# PAC and Azapo wooed

Sowetan 23/2/92

By Themba Molefe  
Political Reporter

THE African National Congress is to persuade the Azanian People's Organisation and the Pan Africanist Congress to join a multiparty preparatory conference ahead of the resumption of negotiations

This emerged yesterday at an ANC Press conference following a meeting with its Patriotic Front allies

ANC deputy president Mr Walter Sisulu said the organisation would invite the PAC and Azapo to join the prepara-

## ■ Invitation to return to fold before negotiations:

tory meeting to be held on March 5 and March 6

He said the two organisations would be asked to return to the Patriotic Front

The ANC meets the PAC tomorrow and Azapo on Thursday

### General elections

The ANC yesterday briefed its PF allies on the decisions taken by the ANC national executive committee

A statement said. "The meeting examined the state of the negotiation process, the proposals currently under consideration in bilateral meetings between the ANC and the Government and the forthcoming negotiations planning conference

"The meeting reaffirmed its commitment to a democratically elected sovereign Constituent Assembly and the need for general elections within the next 12 months"



# NEWS Five activists die in police shoot-out ● ANC briefs its PF allies

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*Sowetan* 23/2/93

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## MK inquest postponed

*Sowetan* 23/2/93

### Warrant to arrest policeman issued:

THE inquest into the death of Unkhonto we Sizwe cadre Mr Itumeleng Padi has been postponed to March 5.

Lieutenant Daniel Knoesler, who was present when police opened fire at Padi's home, killing him and his girlfriend Nokuzola Ncalo instantly, appeared in the Johannesburg Magistrate's Court yesterday.

A warrant for his arrest was issued earlier after he had failed to appear in court at a previous hearing.

Knoesler said he had opened fire because "it was dark and too dangerous".

Replying to the family's counsel, Mr Gys Rautenbach, Knoesler said Padi was holding a hand-grenade. Padi died in May 1991.

## Sakkor loses appeal

Taiwanese bagmaker must pay increased compensation to ex-employees: *Sowetan* 23/2/93

COMPENSATION of R210 000 should be paid to 282 former employees of a Taiwanese-owned plastic bag manufacturer, based in Pieterburg, the Pretoria Supreme Court has ruled.

The employees were ordered to vacate the property because of a Pieterburg council bylaw which prohibited workers from living at a place of employment. Workers, claiming accommodation at Sakkor's premises was a condition of their employment,

then went on strike and a dispute was declared. In August the Industrial Court ordered the company to pay its former employees R103 832. Sakkor appealed, claiming the amount was too high, and the Media Workers' Association of South Africa, on behalf of the former workers, lodged a cross-appeal, claiming the amount was too small. Mr Justice EL Goldstein ordered Sakkor to pay the employees R210 000 compensation and legal costs of about R5 000 — *Sapa*

# Death for Pitje's killer

By Tsale Makam

Sowetan 23/2/93.  
252

■ **ULTIMATE GRIEF** Weeping in the dock,

Matlotse begs attorney's family for forgiveness:

**T**HE KILLER of attorney Mr Legwai Pitje was yesterday sentenced to death by a judge in the Rand Supreme Court. Rodney Matlotse (25) was also sentenced to five years' imprisonment for stealing Pitje's car. His co-accused, Mr Mohali Motlhabi, was acquitted.

Mr Justice TD Cloete described the killing of Pitje (41) as a "callous and calculated murder".

After sentencing Matlotse the judge asked him if he had anything to say.

A weeping Matlotse said he was begging for forgiveness from Pitje's family.

He then said in a strained and barely audible voice:

"I can find no answer to what I have done. I do not know what happened to my mind at that stage."

Pitje's wife broke down and wept when Matlotse asked the dead lawyer's family and friends to stand up so he could ask for forgiveness. No one rose.

Matlotse turned, faced the family and said "I beg you to forgive me for what I have done." Pitje's widow shouted at Matlotse "Ag, shut up man."

The judge said the aggravating circumstances of the case far outweighed the mitigating factors.

He said Matlotse was capable of appreciating the wrongness of his actions and that as a policeman he was expected to maintain law and order.

Mr Justice Cloete also said the murder was

"cruel, vicious and brutal." He said the deep cuts on Pitje's fingers showed how he had struggled to save his life.

"The accused ignored pleas from the deceased who had pleaded 'Rodney, Rodney, please do not kill me.' His death was one of pain and terror," the judge said.

Matlotse's co-accused Motlhabi had testified that on July 12 last year Matlotse had, in the back of Pitje's car, stabbed Pitje several times. He put Pitje, who was still alive, in the boot of the car and stabbed him several more times.

He then gouged out Pitje's eyes because he believed that a murderer's image remained in the victim's eyes.

*Hansard*

Death sentences: police murders

\*18 Mr D H M GIBSON asked the Minister of Law and Order

Whether he intends recommending to the State President that death sentences be carried out upon persons convicted of killing members of the South African Police Force, if not, why not? B175E

The MINISTER OF LAW AND ORDER

No, but I would like to draw your attention to the Opening Address of the State President on 29 January 1993, in which he stated the following point of view

The Government is also reviewing its position on the carrying out of the death penalty. At present a moratorium on carrying out death sentences is in force with a view to the negotiation of a bill of fundamental rights

However, the wave of cruel murders and manslaughter, the prevailing disrespect for human lives and the delays in negotiation make it very difficult for the Government to allow the moratorium to continue indefinitely. Parliament will be acknowledged in the process of reconsideration

It is also my point of view that the death penalty must not be imposed and carried out in respect of a select group of persons who are the victims of murder, but that the death penalty should be applicable to the entire spectrum of society

*251*  
Danger pay: policemen

\*19 Mr D H M GIBSON asked the Minister of Law and Order

Whether members of the South African Police receive danger pay or any other form of inducement when they are stationed in areas of South Africa which are considered to be dangerous, if not, why not, if so, what is the nature of such pay or inducement? B176E

The MINISTER OF LAW AND ORDER

Yes. All members of the South African Police receive a non-pensionable allowance which was established to, among other things, compensate for general risks attached to their duties, continual contact with unde-

HOUSE OF ASSEMBLY

*Hansard*

The MINISTER OF TRADE AND INDUSTRY

Although it was anticipated that the amending legislation pertaining to the Estate Agents Act, 1976 (Act No 112 of 1976) would have been further during the 1993 parliamentary session, it was decided that owing to investigations into possible amendments to and consolidation of Acts relating to the alienation of land, amendments to the Estate Agents Act should be postponed until 1994

Lotteries allowed

\*21 Mr B B GOODALL asked the Minister of Justice

(1) When will the Government be in a position to announce whether it will allow lotteries in South Africa,

(2) whether he will make a statement on the matter? B178E

The MINISTER OF JUSTICE

(1) The State President appointed a Commission of Inquiry into Certain Lotteries, Sports Pools and Fund-Raising Activities under the chairmanship of the Honourable Judge President J A Howard on 23 September 1992 with the terms of reference, *inter alia*, to report on the desirability, in view of the prevailing financial, social and ethical values, of legalising lotteries. Indications are that the Commission's report may be completed by the end of March 1993. The Government will, as soon as the Howard Commission's recommendations are received, evaluate them and will then make its views known

(2) Falls away

Community service

\*22 Mr A J LEON asked the Minister of Justice

How many persons had been sentenced to community service as at 31 December 1992? B179E

The MINISTER OF JUSTICE

Statistics regarding the number of persons sentenced to community service have been kept since July 1989. For the information of

the hon member the following statistics are furnished

*252*

1 July 1989 to 30 June 1990	777
1 July 1990 to 30 June 1991	1 083
1 July 1991 to 30 June 1992	1 161

Statistics for the period 1 July 1992 to 31 December 1992 are not yet available

Prisoners: previous convictions

\*23 Mr A J LEON asked the Minister of Correctional Services

How many persons in South African prisons as at 31 December 1992 had been convicted of offences previously? B180E

The MINISTER OF CORRECTIONAL SERVICES

The exact information as required by the hon member is unfortunately not centrally available and can only be obtained by means of an expensive and manpower-intensive country-wide survey

A survey which was done on 31 January 1993 may possibly be of value to the hon member and the following information is provided

— Number of sentenced prisoners involved in the survey 34 718 (This represents 41% of the total number of sentenced prisoners countrywide on that day, viz 84 317)

— Number of prisons involved in the survey 70 (This represents 35% of all prisons)

Result of the survey

— Number of sentenced prisoners with previous convictions 22 957

— It was also found that 17 027 of the 22 957 prisoners with previous convictions had previously served a sentence or sentences of imprisonment

— Number of prisoners with no previous convictions 11 761

From this it is evident that

— ± 66% of the cases had previously been found guilty of one or more offences,

— ± 49% of the cases had previously served a sentence or sentences of imprisonment.

*cont to*  
HOUSE OF ASSEMBLY

STAR 25/2/93

## Bar calls for counsel funds

The Department of Justice should reverse its decision to reduce *pro deo* funds, the General Council of the Bar of South Africa (GCB) said yesterday. (252)

A GCB spokesman said 80 percent of the 2 million accused appearing annually in the criminal courts were not represented.

The GCB called on the Department of Justice to reinstate the previous system which provided all indigent accused in the Supreme Court with free legal representation. — Sapa.

# NEWS

## Cash for Neethling lawsuit

*STAR*  
**'big abuse'**

*25/2/93*  
By Peter Fabricius  
Political Correspondent

CAPE TOWN — The taxpayer has paid at least R688 319 — and possibly over R1 million — in legal fees to former police forensic expert Lieutenant-General Lothar Neethling to sue two publications which accused him of involvement in dirty tricks.

ANC Sandton MP Dave Dalling said the expenditure was a huge abuse of public funds.

Law and Order Minister Hernus Kriel told Parliament yesterday that the State had paid R688 319,91 up to February 18 this year for Neethling's civil defamation action against the Weekly Mail and the Vrye Weekblad — an action which he lost.

### Forfeit

Kriel said Neethling had so far not repaid any of the money. Only after the Appeal Court had passed judgment would the Government decide whether he had forfeited State protection in terms of Treasury instruction.

Dalling said the answers did not reveal the full facts.

By March 24 last year the State had already paid out R461 633,46 in legal costs and a further R120 000 as surety for counter-claims, arising from the civil actions.

Since then, the State had paid a further R688 319,91 for legal costs.

"In other words, well over R1 million has been paid on behalf of the taxpayer by the NP Government to promote General Neethling's civil action.

● Parliamentary reports

## POLITICS

### R1-m 'wasted' on Neethling's two libel cases

Political Staff

THE taxpayer has paid at least R688 319 — and possibly more than R1 million — in legal fees to former police forensic expert Lieutenant-General Lothar Neethling to sue two publications which accused him of involvement in dirty tricks

ANC Sandton MP Mr Dave Dalling slated the expenditure as an abuse of public funds, describing it as another case of state corruption.

Law and Order Minister Mr Hernus Kriel said in parliament that the State had paid R688 319,91 up to February 18 for General Neethling's civil defamation action against the Weekly Mail and Vrye Weekblad — which he lost

Mr Kriel was replying to questions from Mr Dalling, who said the answers did not disclose all facts.

He said that by last March the State had paid R461 633,46 in costs and a further R120 000 as surety for counter-claims

Since then the State had paid a further R688 319,91 in costs — "more than R1 million by the taxpayer. To favour one general in this way is to take the NP gravy train to the verge of the ridiculous"

### SACP backs ANC bid for power

Political Staff

THE South African Communist Party central committee has pledged its full support for the ANC's bid for a major victory in elections for a constituent assembly.

The decision was taken after the committee gave its general support for the "transition package" adopted by the ANC's national executive.

The SACP also resolved not to contest the elections on its own, but under the ANC banner, and to ensure the ANC's election platform was guided by a commitment to a thorough reconstruction of state structures, the economy and society.

### Rent, service arrears total R1,9-bn

Political Correspondent

RENT and service charge arrears in townships totalled more than R1,9-billion by the end of last year

Replying to a question by Mr Joseph Chiole (CP Pretoria West), Minister of Local Government and Housing Dr Tertius

us Delpont said Transvaal townships accounted for the bulk — more than R1,6-billion

Cape townships owed R166,7-million, those in the Free State R128,8-million and Natal R10,7-million

Of the total, local authorities — all in the Transvaal — owed Eskom R643,2-million

### Anti-smoking Bill to be tabled soon

AN anti-smoking Bill, to be tabled as soon as possible, will include a ban on the sale of tobacco products to people under 16, says Minister of National Health Dr Rina Venter

Replying to a question from Mrs Carole Charlewood (DP Umbilo) she said the measure was on the legislative agenda

for this session of parliament.

The Bill would control the use, sale and advertising of tobacco products and give the minister power to regulate the health warning on tobacco products and to prescribe the claims which could not be made in advertisements, Dr Venter said. — Sapa

### Hanging not 'selective'

THE Minister of Law and Order would not ask the State President for death sentences to be carried out on people convicted of killing policemen.

Replying to a question from Mr Douglas Gibson (DP Yeville), Mr Hernus Kriel said that the death penalty should

not be imposed on a particular category of killers

He also referred to the speech made by President De Klerk at the opening of parliament, in which he said the wave of murders made it difficult for the government to continue the moratorium on hangings. — Sapa

### Absent soldiers to be prosecuted

PEOPLE who had ignored call-up for January's national service intake would be prosecuted, said Defence Minister Mr Gene Louw.

In an oral reply to a question by Mr Rob Haswell (Ind Maritzburg North), he said prosecu-

tions were suspended until last year's amendments to the Defence Act were implemented

These gave potential objectors wider scope for refusal.

New call-ups had been issued once the 1992 Amendments had been instituted. — Sapa

### ANC explains stand to Cape

Political Staff

THE ANC today begins the task of explaining its constitutional package in the Western Cape, a region which opposed power-sharing at a meeting of the movement's national executive committee last week

Secretary-general Mr Cyril Ramaphosa will talk about lat-

est developments in bilateral talks with the government at a public meeting at UWC at 4 pm

And, at 5.30 pm, he will brief branch executive members behind closed doors

● ANC and government negotiators meet again on Tuesday and Wednesday

# Tears as son cheats gallows

By Brian Sokutu

Tears rolled down Martha Ncube's cheeks this week minutes after hearing her son would not be executed at Pretoria Central Prison.

Ncube, of Mamelodi West, Pretoria, was rejoicing at a decision by the Appeal Court to set aside the murder conviction and death sentence imposed on her youngest son, Philly.

"There were times I lost hope but I prayed daily for a positive outcome of the judgment." A Correctional Services spokesman said Ncube had been transferred to the Pretoria Local Prison to serve eight years for robbery.

This dashed hopes of him being re-united with his family.

"I thought the court had freed him," said Ncube's mother.

"The last time I saw him was last week when I brought him toiletries."

She learnt the good news when neighbours brought her a copy of an article in The Star.

Ncube was among five men arrested for the murder of Pretoria shopkeeper John Roussos, who was attacked in Waterkloof Glen on January 6, 1988

Five men were arrested, but Ncube escaped before the trial, to be re-arrested later. The other four were tried and convicted. One, Edward Tobie Qekisi, was sen-

Relieved Martha Ncube, whose son spent two years waiting to be hanged. He has been saved by the Appeal Court. Picture: Brian Sokutu

tenced to death and later lost an appeal against the death sentence.

Ncube was convicted by the Transvaal Supreme Court in 1990. He was sentenced to death for murder and eight years in prison for robbery.

Mr Justice Goldstone held it was not proved Ncube knew the nature of the arms carried by his companions, or that Qekisi had a hammer.

Commenting on the outcome of the appeal, Lawyers for Human Rights (LHR) spokesman

Andries Nel called on the Government to reconsider abolishing the death penalty.

"This once again demonstrates the unacceptability of the death penalty because there is always a possibility of an error," he said.



# ANC man guilty of 'revenge' kill

STAR 25/2/93.

By Susan Smuts

An ANC Youth League organiser was convicted yesterday in the Rand Supreme Court of murdering a Pan Africanist Congress (PAC) supporter and burning his corpse in a revenge attack for the slaying of a "comrade"

Washington Senti Thage (21) of Munsieville, Krugersdorp, had pleaded guilty to murdering Abinaar Ramphomane Mongwalwa on November 15 1991 during escalating conflict between the two political organisations in the township.

Two co-accused, Andries Monyai (30) and Joseph Malazi (20), had failed to appear in court.

Mr Justice M Stegmann ordered Thage's trial to continue and issued warrants of arrest for the others.

In his plea explanation, Thage said Mongwalwa had

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been killed because he and two friends had returned to Munsieville after being driven out by ANC supporters in December 1991.

Since their expulsion from the township, the PAC supporters had killed a "comrade", Joseph Koole, and had attacked and bombed the homes of other ANC members, Thage claimed.

Although a meeting between local ANC and PAC members had failed to agree on the terms for their return to Munsieville, Mongwalwa and his friends "were seen roaring around the township as if they'd been granted permission to return", Thage said.

Thage admitted he had acted in common purpose with the other "comrades".

The trial was postponed for evidence in mitigation of sentence.



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Vol. 332

PRETORIA, 26 FEBRUARY  
FEBRUARIE 1993

No. 14615

## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE

No. 338 252 26 February 1993

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 powers vested in me by 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 1 March 1993 up to and including 17 May 1993

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

**F. W. DE KLERK,**  
State President.

By Order of the State President-in-Cabinet

**H. J. COETSEE,**  
Minister of the Cabinet

APPALRAJU, Premi  
BUNTING, Brian Percy  
CHOABI, Seretse  
DE BRUYN, Sophia Theresa  
DOLNEY, Helen  
GANA, Martha Constance

94738—A

## GOEWERMENTSKENNISGEWING

### DEPARTEMENT VAN JUSTISIE

No. 338 26 Februarie 1993

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 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 1 Maart 1993 tot en met 17 Mei 1993

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Kaapstad, op hede die Ses-entwintigste dag van Februarie, Eenduisend Negehoonderd Drie-en-negentig.

**F. W. DE KLERK,**  
Staatspresident

Op las van die Staatspresident-in-Kabinet

**H. J. COETSEE,**  
Minister van die Kabinet

BHENGU, Sibusiso  
BUNTING, Sonia Beryl  
COLVIN, Louise  
DLAMINI, Stephen  
ETHMAHILL, Aboobaker  
GODDEN, Edgar

## SCHEDULE • BYLAE

14615—1

metro

# TV's Jordaan jailed

By Cyril Madlala

Former SABC TopSport director Hein Jordaan was yesterday sentenced in the Johannesburg Regional Court to an effective six years in jail for corruption and theft

He was convicted in December on four corruption charges involving R150 000 and one count of theft involving R797 120

I J J Luther sentenced him to two years in jail for corruption, and seven years in jail for theft, with three years suspended for five years

He is appealing against the sentence, and his R10 000 bail has been extended  
Jordaan was initially charged together with former National Soccer League public relations officer Abdul Bhamjee, and the court found they had stolen R797 120 from the SABC

Previously the court heard that Jordaan received a R390 000 cheque from Bhamjee "to take care" of him

The State alleged that Bhamjee took R390 000 for himself, and he was sentenced to eight years' jail in August. He is serving this sentence concurrently with 14 years for stealing another R7,3 million from the NSL.

The court rejected Jordaan's defence that he had borrowed the money from

Bhamjee  
Hans Borman, for Jordaan, asked the court to sentence him to correctional service

Asking the court to send Jordaan to prison, State advocate K Lawlor said the accused was motivated by greed and a desire to appear affluent

For sentence, the magistrate took into account that Jordaan was a first offender and that his was a serious offence.



Hein Jordaan appealing against sentence

STAR 26/2/93

SEE/ HAM 12

Handwritten notes and stamps at the bottom right of the page, including a date stamp '26/2/93' and some illegible scribbles.

# 'Appoint ombudsman' call

BIDAY 26/2/93  
PRETORIA — A local government ombudsman should be appointed to hear complaints or allegations of corruption within city or town councils, the Krugel commission heard yesterday.

Sandton councillor Frederick Ehlers told the commission that residents in his ward generally believed corruption was endemic within the council.

"The status of local government in the public eye is unacceptably poor," he said.

Ehlers, who was suspended from the Sandton council last year, ostensibly for objecting to tendering procedures, suggested the appointment of a special ombudsman to handle, specifically, local government-related complaints.

The Krugel commission was appointed last year to investigate allegations of corruption within the Pretoria City Council, but its mandate has since been extended to cover all local authorities in the Transvaal.

While dealing mainly with the question of whether councillors should be involved in property or development deals within

ADRIAN HADLAND  
252  
their own municipal boundaries, the commission is investigating also broader ethical issues.

Ehlers, a practising architect, said he had been offered inducements or commissions on several occasions to influence rezoning applications within Sandton.

"Obviously such temptations must also be put in the way of councillors who are quantity surveyors and engineers," he said.

Representatives from several municipalities, Raymond Loubser from the Engineering Council of SA, Unisa law professor Marius Wiechers and Vista University public administration professor Brian Botha all gave evidence yesterday.

The commission would reconvene next month, Willem Krugel said, to consider information from the Association of Law Societies and any outstanding contributions from interested parties.

An interim report would be circulated before the final report was presented to Transvaal Administrator Dame Hough.

## NEWS IN BRIEF

B/S/M 26/2/93 152  
**Councillors acquitted**

TWO Imbali councillors and a youth were acquitted yesterday of murdering ANC Natal Midlands leader S'khumbuzo Ngwenya, who was gunned down as he left a Maritzburg restaurant in February 1992.

Imbali mayor Phikelela Ndlovu, 56, his deputy Abdul Awetha, 54, and a youth, 16, were acquitted in the Maritzburg Supreme Court by Judge J H Combrink, who found ballistics evidence insufficient to link guns owned by the councillors to the murder.

# Bar hits out at funding decision

6/DAJ 26/2/93 (252)  
LOYD COULTTS

THE unilateral decision by the Justice Department to reduce funds available for pro deo defences could not be justified on any grounds, the General Council of the Bar of SA said yesterday.

Council chairman Brian Southwood said in a statement the move would result in grave prejudice to an affected accused and the regard in which the criminal justice system was held.

It conflicted with the right of every indigent person, charged with a serious offence to be furnished with free legal representation.

The council again calls on the Justice Department to reinstate the previous system in terms of which all indigents accused in the Supreme Court were provided with free legal representation.

Attempts by the council to have the decision rescinded had proved unsuccessful, he added.

Southwood said an estimated 80% of the 2 million accused who appeared in SA courts annually were unrepresented, and 100 000 were sentenced to imprisonment every year.

He said the problem could not be solved by the legal profession alone.

It requires an acknowledgement by government that the state has the primary duty of providing funding for public defenders, legal aid and other similar schemes which will ensure that all members of the community are able to protect their basic rights.

And it requires an act of will by the government... the day to ensure that such funding is made available. Unless such funding is forthcoming, the vital for injustice on a massive scale will continue and there will be an ever-diminishing regard for the criminal justice system," he said.

In a wide-ranging statement, the council also expressed its concern at other aspects of government legal policy.

Southwood said the council had noted with concern the failure by the department to prepare legislation necessary to create a new mechanism for the appointment of judges to the Supreme Court which would take appointments out of the political arena.

The council was also concerned about the department's failure to implement an undertaking by Justice Minister Kobhe Coetsee to remove the magistracy from the civil service.

It called on government to announce immediately steps taken against corruption and criminal acts and irregularities committed by state employees, and

It criticised the department's failure to prepare amending legislation providing for exiles with legal qualifications to be admitted to the legal professions.

## Former SABC official gets jail sentence

(252) MARIANNE MERTEN (240)

FORMER SABC TopSport director Hein Jordaan was sentenced yesterday in the Johannesburg Regional Court to an effective six years' imprisonment for theft and corruption.

He was released on bail pending the outcome of an appeal against the sentence.

Jordaan, 46, stole and unlawfully received a total of R797 000 of National Soccer League (NSL) money in a plan executed with the help of former NSL PRO Abdul Bhamjee. *BHAM 26/2/93*

Passing sentence, regional magistrate I J J Luther said Jordaan had abused his position of trust at the SABC.

"The fact that he shared the money with Bhamjee does not lessen the seriousness of the crime."

Although Jordaan was not a danger to society, he had been found guilty of a serious crime and must be punished, the magistrate said.

Jordaan had already been punished to a certain extent by being labelled a criminal and by having lost his job. His perception of himself had also changed completely, Luther said.

The court found that the nature of Jordaan's crime indicated desperation.

Evidence at the trial was that Jordaan had stolen the money because of personal financial difficulties.

In spite of argument by defence advocate J J A Bornman that a prison sentence was inappropriate because of Jordaan's social and business standing, Jordaan was sentenced to two years' imprisonment on four charges of corruption. On the count of theft he received a seven-year prison term, three years of which were conditionally suspended. Bornman told the court this was Jordaan's first clash with the law.

State advocate Kevin Laylor, in asking for a stiff prison sentence, said Jordaan had used the stolen money for luxuries and overseas trips for himself, his wife and children. He submitted that Jordaan had acted out of greed and not necessity.

Late last year Bhamjee was sentenced to an effective eight years' imprisonment for his part in the crime.

**NEWS** Municipal water rip-off expos

# Goniwe inquest to be reopened

*Sowetan 26/2/93. (252)*  
**■ Top SADF officers subpoenaed to give evidence:**

THE inquest into the death of Matthew Goniwe and three other Eastern Cape activists will reopen on Monday, almost eight years after the three men were murdered

The Port Elizabeth Supreme Court will hear testimony from three senior South African Defence Force officers implicated in a top secret military message calling for the "removal from society" of the four men. Retired State Security Council member Major-General FJ van Rensburg and Commandant Lourens du Plessis, formerly of Eastern Cape Command, have been subpoenaed

to appear from March 8

The SADF's Chief of Staff Intelligence, Major-General Joffel van der Westhuizen, will give evidence on March 16. Acting Attorney-General Michael Hodgen yesterday said he would table new affidavits, representations and papers collated over the past year at Monday's hearing

Counsel would then decide on whether further subpoenas should be issued. Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlaui were murdered near Port Elizabeth in June 1985  
 - *Ecn*

# Inquiry into man's death

*Sowetan 26/2/93.*  
■ **Plaatjies was found hanging on a tree:**

By **Isaac Moledi**

(252)

AN inquest is to be held into the death of a Mohlakeng, Randfontein, man who was given a pauper's funeral last year

West Rand police spokeswoman Major Henriette Bester confirmed yesterday that an inquest was to be held into Mr Henry Oupa Plaatjies' death

Bester said Plaatjies was buried after police could not establish his identity. Plaatjies (30) was found hanging on a tree by his trousers in a veld between Mohlakeng and Bekkersdal on July 26 last year

His mother, Mrs Henrietta Plaatjies, exhumed his body this week to give him a decent funeral. He will be reburied tomorrow



# Bar attacks pro Deo defence cuts

By Montshiwa Morole 252

STAR

26/2/93

About 80 percent of the two million accused who appeared annually in criminal courts were not legally represented and about 100 000 of them were sentenced to jail each year, the General Council of the Bar of South Africa (GCB) said this week

The council said in a media release that it was most concerned about the recent uni-

lateral decision by the Department of Justice to reduce the funds available for pro Deo defences in the Supreme Court. Accused requiring pro Deo representation in the Supreme Court were charged with the most serious offences and if convicted could be sentenced to death or long jail terms

The unjustified decision would result in grave prejudice to the accused and the regard in which the criminal justice system was held

"Most importantly, it conflicts with the right of every indigent person charged with a serious offence to be furnished with free legal representation. The GCB has objected to the department's decision and requested that it be reversed without success

"The problem of the unre-presented accused cannot be solved by the legal professions alone

"It requires an acknowledgement by the Government of the day that the State has the primary duty of providing funding for public defenders, legal aid and other similar schemes which will ensure that all members of the community are able to protect their basic rights

Among other matters raised by the council were

● The failure by the Department of Justice to prepare legislation to create a new mechanism for the appointment of judges to the Supreme Court Bench which would take such appointments out of the political arena

● The department's failure to implement the undertaking given by Justice Minister Kobie Coetsee that magistrates would be removed from the civil service to ensure their independence

# New law to allow police to re-arrest

CT 27/2/93

252

LEGISLATION is to be introduced this year to enable the authorities to re-arrest people who had been incorrectly released from prison, Minister of Correctional Services Mr Adriaan Vlok said yesterday.

The new clause follows the release of a convicted bank robber Lucky Malasa and convicted murderer Sindile Zweni, as "political prisoners".

Mr Vlok said that the government was highly concerned about the matter but it faced the "mammoth" task of checking all police and court records. He said the prisons were releasing between 10 000 and 11 000 people every month.

"If a person is released incorrectly, the law must make it possible for them to come back," he said.

He also stressed his department's extensive investigations into the issue would take a while to complete.

Yesterday the Department of Correctional Services said it had not concluded its investigation into Zweni's release.

Zweni took part in the murder of a Knysna hairdresser just three months after his release.

"It must be reiterated that if the prisoner was mistakenly released, the department will not hesitate to admit this," said Correctional Services spokesman Lieutenant-Colonel Barry Eksteen.

His case was being treated as a "matter of urgency". — Political Staff, Staff Reporter

# Outrage over six lashes for murder

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ARG 27/2/93

VUSI KAMA, Weekend Argus Reporter

A KHAYELITSHA teenager has been sentenced to six lashes and a suspended 30-month jail sentence by a Mitchell's Plain regional magistrate for murdering a sleeping man.

The sentence has been widely condemned by groups ranging from the ANC, the Democratic Party and Lawyers for Human Rights as "ridiculous, outrageous and totally beyond understanding".

Songezo Fayó, 19, of Site B, Khayelitsha, yesterday pleaded guilty to murdering Mr Khothayo Magalela, 28, while Mr Magalelo was asleep in his bed in June last year.

Sentencing Fayó, Mr W A De Klerk said the community would not expect Fayó to serve a jail sentence, as he was a young man, a first offender, and that he had been avenging himself against an older person who had injured him in an earlier assault.

The magistrate told Fayó "If you kill someone again within the next five years, you're going to jail for 30 months".

ANC regional chairman Dr Allan Boesak said he believed the magistrate's sentence would have been different if the victim was white.

"I cannot begin to believe that a magistrate thinks a murder was not significant in the community, simply because it happened in Khayelitsha."

He said the judgment showed that not only the government system needed "thorough reconstruction", but the judicial system as well.

Mr Tony Leon, the Democratic Party spokesman on justice, said the sentence was outrageous and trivialised the value of human life. The idea of lashes was "absolute medieval, if not barbaric", and the state would be more likely to appeal, he said.

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# Codesa judges given the push

SIT Times 28/2/93 (252)

By EDYTH BULBRING

THE two judges who chaired Codesa meetings have been dumped after objections from the government

This week's conference to plan the resumption of Codesa-style talks will be chaired by a rotating panel of seven political representatives.

Negotiators said the government was concerned about Mr Justice Ismail Mohamed's "left leanings" and Mr Justice Petrus Schabert's inability to sufficiently balance this influence

The compromise reached after this objection was that the meeting should be chaired by a seven-person panel.

There is widespread acceptance among parties that the two judges will also not be in the chair when full-scale Codesa talks resume.

Petty haggling of this nature dominated the run-up to the two-day meeting, which starts next Friday.

Questions about who should invite the parties, who should come, who should be in the chair, who should speak first, where they should sit and what should be discussed have been thrashed out in excruciating detail.

But an obstacle still to be overcome is Inkatha's negative view of the government's five-year power-sharing proposals. The issue will be discussed today at an

Inkatha central committee meeting. Government negotiators Roelf Meyer and Tertius Delpert will present the proposals to Inkatha leader Mangosuthu Buthelezi in the hope of getting his backing for the power-sharing plan.

The two ministers want to outline the proposals directly to Chief Buthelezi because the government is concerned that Inkatha negotiator Walter Felgate, who has been accused of misleading the Inkatha leader, will distort its position.

To prevent this from happening, the government managed to secure an invitation to the central committee meeting.

But there are indications that these efforts will be in vain as the Inkatha central committee already appears to have decided to reject the power-sharing deal.

Meanwhile, a Kwazulu government delegation, representing King Goodwill Zwelithini, will attend the planning conference — whether they are invited or not.

The Conservative Party and the Afrikaner Volksunie are also expected to attend.

The parties will discuss past agreements reached at Codesa and how they see future negotiations.

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# Prison case back in court

252 By CARMEL RICKARD  
UNHAPPY at being told to pay the highest compensation yet for unlawful detention conditions, Justice Minister Kobie Coetsee has asked the Appellate Division to overturn the order.

Prominent Cape Town ANC official Willie Hofmeyr, detained during the emergency in 1988, was held in effective solitary confinement during most of his 158-day detention and suffered several psychological and physical effects.

He brought an application in the Cape Supreme Court asking that the conditions

of his detention be declared unlawful. Mr Justice King awarded him damages of R50 000 plus interest and costs.

He found that the head of the prison allowed the security police to prescribe the conditions of Hofmeyr's detention.

In his argument to the AD last week, the Minister said the judge made a mistake when he ruled that the security police and not the head of the prison effectively took all the decisions about the conditions of Mr Hofmeyr's detention.

Judgment by the AD is expected within the next few months.

## Teacher walks to school in protest

(STimes [Cape metro] 28/2/93)  
FOR the past three weeks a 49-year-old Knysna teacher has been walking to his school, about 33km outside of Knysna, to protest against a recent DEC decision to cancel teachers' transport subsidies.

Mr Richard Africa, a standard four and five teacher at Buffelsnek Primary School, said: "This is a matter of principle to me. I will continue to walk until my employer, the Department of Education and Culture, provides transport for me or gives back our subsidies."

The withdrawal of teachers' transport subsidies is part of a DEC (HoR) rationalisation programme that was introduced at the beginning of the year. (257)

Buffelsnek Primary school is in the lush Knysna forest at the Buffelsnek Forestry Station and has 96 pupils from the forestry station and a nearby farm. (323)

Mr Africa said he has to buy two sets of tyres and two sets of shock absorbers every year because of the bumpy gravel road he has to travel to get to school. He said he spends about R500 a month on petrol.

"I refuse to use money from my salary to pay for wear and tear on my car and for petrol. I simply can't make a living if I do this."

Carrying his satchel, Mr Africa normally trudges along the Uniondale Road to school at about 5am.

"If I'm lucky I get a lift about 10km from school. I have not yet been late but it might be a problem in future."

His journey back to Knysna starts at about 1.30pm and he gets home at about 5pm.

Mr Africa said he wrote to inspectors, the DEC and the Minister's Council to highlight the problem, without anything being done about it. He said there were about 100 other teachers in the Knysna/Plettenberg Bay area who have to travel to school without subsidies.

If this continued teachers would be discouraged from applying for work at schools in rural areas, he said.

"The severest destruction will be done to children in rural areas as a result of the department's rationalisation programme," Mr Africa said.

DEC spokesman, Mr Hennie Jansen, said the department was not planning to reintroduce the subsidies.

Asked about the possible disruption at schools if more teachers walked, Mr Jansen said: "Teachers who are in earnest about their educational duties will act responsibly. The department has a duty to ensure that the required standard of tuition is given."

# Teachers: HoR has leave to appeal

(STimes [Cape metro] 28/2/93)

By AYESHA ISMAIL

THE Minister of Education and Culture in the House of Representatives, Mr Abe Williams, and his department were this week granted leave to appeal against a Supreme Court decision setting aside a departmental circular preventing school principals from appointing substitute teachers for those on leave.

The Supreme Court actions against Mr Williams and the chief director of education in the HoR, Mr Awie Muller, were brought by the Union of Teachers' Associations of South Africa (Utasa), South Peninsula High School principal Mr Brian Isaacs and two parents.

## Anger

The department's decision not to appoint substitute teachers has caused widespread disruption at HoR-run schools.

Pupils at several schools have not received tuition because there has not been enough staff.

The department will also not pay substitute teachers whose appointments have not been endorsed by the department — which has angered pupils and teachers more.

Several schools in the Peninsula protested out-

teachers," he said. "Because of the leave to appeal, the judgment is suspended and therefore the departmental circular informing principals not to appoint substitute teachers still stands."

Mr Jansen said, however, that the department would consider motivated applications to appoint substitute teachers.

On the non-payment of substitute teachers appointed by principals, Mr Jansen said the department could not accept liability for any teacher's salary if such a teacher's appointment was not endorsed by the department.

Chairperson of the South African Democratic Teachers' Union (Sattu) Ms Vivienne Carelse, described the minister's decision to appeal as "another delaying tactic".

side the offices of the department this month.

The minister's decision to appeal comes despite calls by political organisations not to do so as it would only prolong the education crisis.

Lawyers say it could take between two and six years before the appeal is heard in Bloemfontein.

Director of Communications for the Department of Education and Culture, Mr Hennie Jansen, said this week the department had obtained legal advice on the judgment and its interpretation differed from those of Utasa and other parties.

"The judgment places no obligation upon the minister and the department to appoint substitute

# Speak up for a free press

**CARMEL RICKARD argues that a Cape defamation case highlights the media's vulnerability to more court curbs**

ST Times  
22/2/93

~~225~~  
252

AFTER several stunning knockouts, press freedom has at last won a round. Cape Judge President Gerald Friedman has turned down a preliminary argument by former Cape Times editor Tony Heard in his defamation battle against Times Media Limited and Financial Mail editor Nigel Bruce.

Mr Heard's case against his former colleagues came after a scathing FM editorial last January, questioning his competence as an editor. This was followed by a biting "apology", and Mr Heard is now claiming R250 000 in defamation damages.

The FM admits its article "reflects adversely" on Mr Heard's editorial competence, and that the piece was intended to mean he showed "insufficient awareness, alertness and responsiveness to current issues".

However, TML and the FM argue these remarks are fair comment, and that the facts on which they were based were substantially true.

Before argument in the main case, Mr Heard asked the court to consider a technical legal point whether TML and the FM could use the defence of fair comment to justify their criticism. He argued that while the

FM claimed the facts on which the editorial was based were substantially true, there were no "facts" in contentious articles about him. Therefore, the defence should not be allowed.

The judge reviewed the circumstances under which a defence of "fair comment" could be raised, and said that normally the law required that the facts involved be contained or clearly indicated in the alleged defamatory material.

However, he accepted the ruling in several leading cases that under some circumstances, the facts need not be present in the material as long as the public can obtain the information without difficulty.

As an example, he took an author who published a literary work, thus inviting public comment. In such a case, "the facts" would consist of the literary work itself, "where the subject matter on which comment is made is available to the world at large".

The judge said the subject matter on which the comment was made in the Heard case could be found in the Cape Times, "the back numbers of which are available to any members of the public who wish to refer to them". The judge stressed that the

trial court, and not he, should decide whether "the average reasonable reader" would believe the criticism of Mr Heard's editorship to be justifiable or not.

His task was merely to rule on whether there were enough "facts" in the material to allow TML to raise a "fair comment" defence.

After discussing the contents of the FM editorial, he decided last week that there was a "sufficient substratum of fact" for the case to go ahead and for the trial court to consider the FM's "fair comment" defence.

Although the case is far from over, the Friedman judgment comes as a welcome break for the media after a series of court decisions curtailing press freedom.

Two in particular raise concern: that political parties, companies and other juristic persons can be defamed, and that they have a right to privacy.

Sections of the South African media enjoy an international reputation for robust comment and criticism, even if reporting of and access to fact have been controlled by draconian legislation.

Ironically, now that these laws are scrapped, eased or no longer implemented, the

courts, instead of Parliament, set curbs on comment and criticism.

Even more ironically, the exception to TML's "fair comment" defence was raised by a former editor with a justifiable reputation for commitment to freedom of the press.

Had he won this round, it would have been more than simply a technical knockout to Mr Heard. The press would have been the loser, with the courts tightening up on the use of the "fair comment" defence.

These restrictions could be permanent even a new bill of rights with strong guarantees of press freedom will not automatically lift court-imposed curbs. They must first be re-examined by the judiciary against the content of a bill, which makes strong and clear guarantees crucial.

But don't look for free press allies in government, political parties and business, which are all happy if the courts veil their affairs from open scrutiny.

That leaves only the media and the public. Their challenge is to speak up now and lobby the bill-makers if court clamps on press freedom are to wither under a new constitution.

# CCB's Webb in court

Sunday Times Reporter

(252)

FORMER CCB chairman Major-General Eddie Webb, 52, charged with perjury while giving evidence to the Harms Commission, appeared in the Johannesburg Regional Court this week.

During the inquest into the death of activist David Webster, he admitted that his evidence to Mr Justice Louis Harms might have misled the commission. He was not asked to plead and will appear again on April 7.

Stillies 28/2/73



# Goniwe inquest may reveal new evidence on hit squads

By PATRICK  
GOODENOUGH

*C/Press 28/2/93*  
*(SZA)*  
ALMOST eight years after Cradock activist Matthew Goniwe and three other activists were murdered, the inquest into their deaths is set to reopen in Port Elizabeth tomorrow. *(252)*

The Supreme Court will hear testimony from three senior SADF officers allegedly implicated in a top secret military signal calling for the "removal from society" of the four men.

Retired State Security Council member Maj-Gen FJ van Rensburg and Cdt Lourens du Plessis, formerly of Eastern Province Command, have been subpoenaed to appear on March 8. The SADF's Chief of Staff Intelligence, Gen CP "Joffel" van der Westhuizen, will give evidence on March 16.

Eastern Cape acting Attorney-General Michael

Hodgen said at this week's hearing he would table new affidavits, representations and papers gathered over the past year.

Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli were murdered near Port Elizabeth on June 27 1985.

Last month, Justice Minister Kobie Coetzee instructed the Judge President of the eastern Cape, Judge N Zietsman, to reopen the inquest.

In 1989, an inquest into the deaths was unable to identify the killers.

Observers expect the hearings will provide some new insight into the alleged operations of State-sponsored hit squads in the eastern Cape.

Former security policemen Dirk Coetzee was reported last year as saying he believed the security police, rather than the military, were involved in the killings of the Cradock Four.

PUBLIC SECTOR GOVT. — JUSTICE.

1993

→

MARCH — APRIL

# Goniwe, activists' inquest reopens

■ SADF officers to testify on the "removal" of the four men:

ALMOST eight years after Cradock activist Mr Matthew Goniwe and three other activists were murdered, the inquest into their deaths reopens in the Port Elizabeth Supreme Court today.

The court will hear testimony from three senior SADF officers allegedly implicated in a top secret military signal calling for the "removal from society" of the four men.

Retired State Security Council member Major-General FJ van Rensburg and Commandant Lourens du Plessis, formerly of Eastern Province Command, have been subpoenaed to appear

from March 8

The SADF's Chief of Staff Intelligence, General CP "Joffel" van der Westhuizen, will give evidence from March 16

Eastern Cape acting Attorney-General Mr Michael Hodgen said he would table new affidavits, representations and papers collated over the past year. Counsel would then decide on whether further subpoenas should be issued. Mr Matthew Goniwe, Mr Fort Calata, Mr Sparrow Mkhonto and Mr Sicelo Mhlauh were murdered near Port Elizabeth on June 27 1985 - *Ecn*

252

Sawetan 1/3/93

# Goniwe inquest reopens today

By Helen Grange

Today sees the start in the Port Elizabeth Supreme Court of the reopened inquest on the June 1985 death of East Cape activist Matthew Goniwe and his three activist friends

The inquest is the culmination of nine months of investigation, which began after President de

(252) Klerk's order in May to reopen the case in view of new evidence which indicated State security force complicity

(257) Goniwe, Fort Calata, Sparrow Mkhonto and Sicele Mhlauhi were found dead under bushes at the roadside on June 29 1985, two days after they went missing while travelling to Cradock.

Goniwe was a school teacher and activist in

(261) the United Democratic Front at the time.

(262) Last May, Transkei military leader General Bantu Holomisa released a "top secret" military document in which SADF Intelligence Chief of Staff, Major-General Joffel van der Westhuizen, was named as having issued a signal to "permanently remove" Goniwe from society. He was then a brigadier in East-

(263) ern Province Command

Former security operatives have since alleged that Goniwe's killing was carried out by a special SADF civilian unit called "Hammer", established by Van der Westhuizen in the early 1980s.

Last August, a farmer, Andre de Villiers — who was apparently leaking information on "Hammer" to the ANC — was shot dead

Northlands and Parkhurst Post Offices is not possible because of the structure of the buildings. The waiting applicants at these offices can only be accommodated as and when existing boxes become vacant. Provision will be made for sufficient boxes once present negotiations for

new hired accommodation for the Saxonwold Post Office have been concluded. Specific dates for elimination of the backlog at these offices cannot, therefore, be furnished. It should be mentioned that vacant boxes exist at Pinegowrie (72), Bramley (1 380) and Parklands (90).

## HOUSE OF ASSEMBLY

## THE MINISTER OF JUSTICE

## QUESTIONS

Indicates translated version

For written reply

General Affairs.

## Indemnity applied for/received

252

4 Mr D H M GIBSON asked the Minister of Justice:

(1) How many persons had (a) applied for and (b) received indemnity under the Further Indemnity Act, 1992 (Act No 151 of 1992), as at the latest specified date for which information is available,

(2) whether he will furnish particulars of the persons who received indemnity under the said Act, if not, why not, if so, (a) what are their names and (b) what crime or crimes did each commit? B7E

## THE MINISTER OF JUSTICE

(1) (a) Up to 22 February 1993, eight persons have applied for indemnity in terms of the Further Indemnity Act, 1992 (Act No 151 of 1992)

(b) The applications are still under consideration

(2) Falls away

## Indemnity Act, persons indemnified

15 Adv J J S PRINSLIOO asked the Minister of Justice

(1) How many persons were indemnified in terms of the Indemnity Act, 1990 (Act No 35 of 1990), up to the latest specified date for which figures are available,

(2) whether he will furnish a list of the alleged or proven crimes committed by these persons, if not, why not; if so, what are the relevant details? B34E

## THE MINISTER OF JUSTICE

No, (a), (b) and (c) fall away

(1) and (2)

It is not possible to determine how many persons have been indemnified in terms of the Indemnity Act, 1990 (Act No 35 of 1990), due to the fact that under Government Notice No 3014 of 18 December 1990, indemnity has been granted to any person in respect of certain acts which constitute an offence in terms of section 13 (1) (a) (i), (ii) or (iii), read with section 56 (1) (a) of the Internal Security Act, 1982 (Act No 74 of 1982). It is not known how many persons have acquired indemnity by virtue of the said Government Notice

Indemnity has been granted to—

- 5 220 persons who left the Republic in contravention of the provisions of section 2 of the Departure from the Union Act, 1955 (Act No 34 of 1955),

- 4 639 persons in respect of the undergoing of training as referred to in section 2 (1) (b) of the Terrorism Act, 1967 (Act No 83 of 1967), or section 54 (1) (ii), read with section 54 (7), of the Internal Security Act, 1982,

- 941 persons in respect of acts as mentioned in the Schedule to Government Notice No R 936 of 24 April 1991, and

- 174 persons in respect of acts such as housebreaking and theft, escaping from lawful custody, contempt of court and failure to do national service

The names of the persons to which the above-mentioned numbers relate, have been published in the *Gazette* from time to time

## Persons granted indemnity

24 Mr D J DALLING asked the Minister of Justice

Whether any persons were granted indemnity in terms of section 3 (1) of the Further Indemnity Act, 1992 (Act No 151 of 1992), up to and including 31 January 1993, if so, (a) how many, (b) what are their names and (c) for what offences was indemnity granted in each case? B53E

## THE MINISTER OF JUSTICE

No, (a), (b) and (c) fall away

**Chief Justice: retirement**

32 Mr A J LEON asked the Minister of Justice

(252)

- (1) Whether the present Chief Justice is due to retire, if so, when,
- (2) whether consideration has been given to the choice of a successor to the present Chief Justice, if not, why not, if so,
- (3) whether any (a) members of the judiciary, (b) members of political parties and organizations currently engaged in the constitutional negotiation process, (c) representatives of the organized legal profession and (d) academic lawyers have been or will be consulted prior to the appointment of a new Chief Justice, if not, why not,
- (4) whether consideration has been given to (a) requesting the present Chief Justice to continue in office, after the date on which he is due to retire, until the inauguration of a new constitution or (b) the appointment of a lawyer of eminence and stature outside the ranks of the current judiciary to the position of Chief Justice,
- (5) whether he will make a statement on the matter? B68E

**The MINISTER OF JUSTICE**

(1) to (5)  
I would like to refer the hon member to the press statement issued by the State President on 10 February 1992 in this regard. A copy is attached for the sake of convenience

EMBARGO ONMIDDELLIK  
PERSVERKLARING DEUR DIE  
STAATSPRESIDENT, MNR F W DE  
KLERK

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dien

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bestem om vanwee sy besondere onaf-  
hanklike en prominente rol in die oor-

**(b) Primary Schools**

	Number of Posts
Holungile	1
Ntwasahlobo	1
Sivile	3
Sombambisana	1
Sosebenza	1
Soyisile	1
Ummangaliso	2
Umtsha	24
Vuselela	1
Vusumoya	1
Vuzamanzi	2
Yomelela	1

**Secondary Schools**

	Number of Posts
ID Mkize	2
Kulani	2
Lagunya	1
Langa	2
Stembele Matsoso	1
Fezeke	1
Ikanvaletu	5
Nelson Mandela	1
Oscar Mpetsha	1
Bulunko	5
Intlanganiso	4
Luhlaza	2
Mahiso	1
Masyile	1
Mvuzenavuse	1
Thandokhulu	4

(c) 1 January 1993

**Unemployment Insurance Fund: amount paid**

81 Mr R V CARLISLE asked the Minister of Manpower

- (a) What was the total amount (i) paid into the Unemployment Insurance Fund in 1992 and (ii) paid out in benefits by the Fund in that year and (b) (i) to how many applicants were benefits paid and (ii) what actual or estimated number of such applicants was (aa) White, (bb) Coloured, (cc) Indian and (dd) Black?

**The MINISTER OF MANPOWER**

These figures are not available yet as they are still subject to auditing

**Unemployment insurance cards**

82 Mr R V CARLISLE asked the Minister of Manpower

- Whether any employers were (a) prosecuted and (b) warned in 1991 and 1992, respectively, for failing to keep their employees' unemployment insurance cards up to date, if so, how many in each category? B215E

**The MINISTER OF MANPOWER**

- (a) 1991 Yes, 8  
1992 Not yet available\*
- (b) 1991 Yes, 9 108  
1992 Not yet available\*

\*Note Figures have not as yet been audited

**Own Affairs**

**Students registered at various universities**

13 Mr P J GROENEWALD asked the Minister of Education and Culture +

How many (a) White, (b) Coloured, (c) Indian and (d) Black students (i) were registered and (ii) completed their studies for a degree at (aa) the Potchefstroomse Universiteit vir Christelike Hoer Onderwys, (bb) the University of Pretoria, (cc) the University of the Orange Free State, (dd) the University of Witwatersrand, (ee) the University of the Free State, (ff) the University of Natal in 1987, 1988, 1989, 1990, 1991 and 1992, respectively? B196E

**The MINISTER OF EDUCATION AND CULTURE**

Pertaining to (a), (b), (c), and (d) (i) and (ii) (aa), (bb), (cc), (dd), (ee), (ff) and (gg) the statistics were taken from the annual SAPSE reports of the institutions. Tables with the required information for the period 1987 to 1991 are attached. The information for 1992, however, is not available



REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

# Government Gazette Staatskoerant

Regulation Gazette

No. 5038

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Vol 333

PRETORIA, 1 MARCH  
MAART 1993

No. 14617

## PROCLAMATION

by the  
State President  
of the Republic of South Africa

No. R. 11, 1993

252

COMMENCEMENT OF SECTION 2 OF THE  
INQUESTS AMENDMENT ACT, 1991 (ACT No 8 OF  
1991)

Under section 10 of the Inquests Amendment Act,  
1991 (Act No 8 of 1991), I hereby fix 1 March 1993 as  
the date on which section 2 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  
February, One thousand Nine hundred and Ninety-  
three

F. W. DE KLERK,

State President

By Order of the State President-in-Cabinet

H. J. COETSEE,

Minister of the Cabinet

94940—A

## PROKLAMASIE

van die  
Staatspresident  
van die Republiek van Suid-Afrika

No. R. 11, 1993

INWERKINGTREDING VAN ARTIKEL 2 VAN DIE  
WYSIGINGSWET OP GEREGTELIKE DOODS-  
ONDERSOEKE, 1991 (WET No 8 VAN 1991)

Kragtens artikel 10 van die Wysigingswet op Gere-  
telike Doodsondersoeke, 1991 (Wet No 8 van 1991),  
bepaal ek hierby 1 Maart 1993 as die datum waarop  
artikel 2 van genoemde Wet in werking tree

Gegee onder my Hand en die Seel van die Repu-  
blik van Suid-Afrika te Kaapstad, op hede die Ses-en-  
twintigste dag van Februarie Eenduisend Negehon-  
derd Drie-en-negentig

F. W. DE KLERK,

Staatspresident

Op las van die Staatspresident-in-Kabinet

H. J. COETSEE,

Minister van die Kabinet

14617—1

metro

Star 2/13/93

# Taxi red tape cut, court told

(252)

(252)

(252)

By Philip Zoio

A senior Johannesburg Department of Transport official, charged with fraudulently approving taxi permit applications, altered 45 written Local Road Transport Board decisions because he wanted to cut red tape, his lawyer claimed in the Johannesburg Magistrate's Court yesterday.

Board secretary Gustav Vorster (28) has pleaded not guilty to 105 charges, including fraud, corruption and contravening the Road Traffic Ordinance.

His lawyer, Thys Kotze, told the court that Vorster admitted changing the board's decisions on applications for taxi permits.

But Vorster, who is charged with receiving money, burglar bars and groceries for the alterations, would deny in his evidence that anything had "passed under the table", Kotze said.

He said Vorster's actions, between September 1990 and August 1991, had been in line with the policy of the board and the department.

## Irregularities

"It is clear that the practice of *laissez-faire* issue of permits had become culture in the department. Permits were being issued left, right and centre," Kotze said.

Cornelia Wilsenach, a senior administration official in the department, said she discovered irregularities in the issue of taxi permits after being appointed to investigate the matter in December 1991.

She said applications for taxi permits were granted or rejected by the Local Road Transport Board. As secretary, Vorster would send a letter of approval or rejection to the applicant. A letter of approval would then be used to obtain the permit.

She said Vorster changed 45 of the letters, some to allow the applicants to collect permits for more taxis than approved, and others to allow the applicants to obtain permits when their applications had been rejected outright.

Kotze said 96 percent of rejected applications succeeded on appeal to the National Transport Commission, and that Vorster knew that his actions would cut red tape.

The hearing continues tomorrow.



Star 2/3/93

# Action sought on 'headache' Goniwe

By Helen Grange

PORT ELIZABETH — Matthew Goniwe became such a headache to the State in the months before his killing that the then-Minister of Police, Lous le Grange, was asked to consider possible actions which could be taken

## A chance to clean the slate — Page 13

against the eastern Cape activist, according to an affidavit handed to the Port Elizabeth Supreme Court yesterday.

The startling document was handed to the reopened inquest on the death of Goniwe and three activist friends on June 27 1985. The

hearing began yesterday.

The bodies of Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlawuli were found behind bushes on a road near Bluewater Bay two days after they disappeared.

Proceedings yesterday involved the submission to the inquest of piles of affidavits and papers — some top-secret military documents — by Eastern Cape Attorney-General Mike Hodgen.

In one affidavit, General P J Coetzee, a former commander of the SAP Security Branch in the eastern Cape and a member of the now-disbanded State Security Council (SSC), said a top-secret document was prepared on possible action to

● To Page 3

Star 2/3/93

# Act on Goniwe, police told

● From Page 1

be taken against Goniwe, to be considered by the Minister

The document, which detailed Goniwe's background, raised questions on whether he should be detained or reappointed as a teacher in Cradock, a post he had been dismissed from. Either way, there would be criticism, the document warned.

Other affidavits focused on the June 7 1985 signal sent by Eastern Province Command recording an order for Goniwe's "permanent removal from society".

A number of officers involved with the former administration of Eastern Province Command and SSC structures denied they ever saw or filed such a signal.

However, the man alleged to have received it, General J F J van Rensburg, a former SSC member, said in his affidavit the wording of the message "troubled" him.

The signal is alleged to have been sent by Brigadier "Joffel" van der Westhuizen, currently Military Intelligence chief of staff, who was then commander at Eastern Province Command and creator of a special SADF unit called "Hammer".

Van der Westhuizen said in his affidavit that if the signal existed, he did not remember it. It was possibly written with a view to long-term

detention, he added

A signalman at Eastern Province Command at the time, H J Pretorius, said he was personally responsible for sending the signal. It had been signed by Colonel Lourens du Plessis, also of Eastern Province Command. He said such a signal would have been kept for three months, then destroyed.

Du Plessis admitted he had the signal sent. It was a written record of a telephone conversation between Van der Westhuizen and Van Rensburg, he said.

Other affidavits and security documents handed to the inquest yesterday revealed widespread State concern about Goniwe's activities. He was the subject of a number of meetings by the Eastern Province Joint Management Centre, a notorious security structure set up by the P W Botha government.

Minutes of these meetings given to the inquest reflect the State's dilemma over how to deal with Goniwe's defiance. It is clear the State's concern was that he had enormous influence locally and internationally.

The inquest was adjourned for the rest of the week so counsel could peruse documents handed in and draw up a list of witnesses they want to take the stand. Van Rensburg is expected to testify first.

# High rates take their toll

By Sven Lunsche

The value of civil debt judgments against both individuals and businesses soared last year as high interest rates continued to take their toll.

According to Central Statistical Service figures released at the weekend, the number of debt judgments against individuals rose by 6.1 percent to 500 828 last year, involving a total of R2,82 billion, up 25 per-

cent from the previous year. More than 53 880 judgments were made against business enterprises, involving R444 million, 44.4 percent up on 1991.

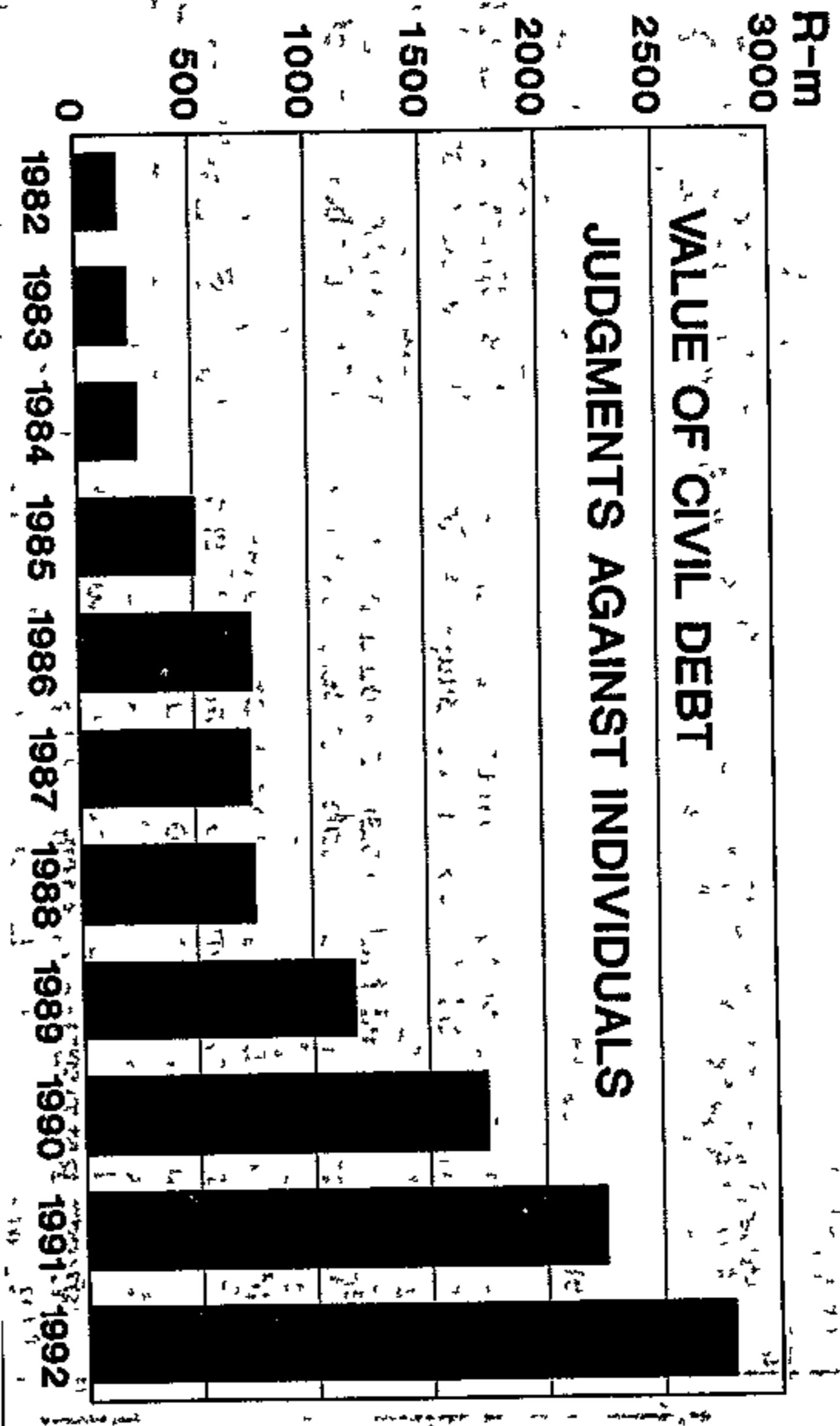
## Worst category

The average value of judgments against individuals was R5 636 (18 percent up on 1991) and against businesses R8 238 (up 27.3 percent)

According to Credit Guarantee economist Luke Doig, the worst overall category was defaults on instalment sale transactions, which soared 55.2 percent.

He warns that 1993 could still bring a consistently high number of civil debt judgments as previous recession have shown that an upward trend in civil debt takes between two to three years to respond to lower interest rates.

*Star 21/3/93 (252)*



# A chance to clean the slate

YESTERDAY saw the start of what will hopefully yield the solution to one of South Africa's ugliest enigmas — who killed Matthew Goniwe?

After nearly a decade since his disappearance on June 27 1985, an inquest into the death of the eastern Cape activist and his three friends looks certain to reveal far more satisfactory answers than the bland inconclusion of the first inquest in 1989.

The closing of that file on the grounds that Goniwe's death was caused by "a person or persons unknown" has become almost laughable in the light of evidence which has emerged since — evidence which has heavily implicated the State's security establishment and the clandestine operatives being used by it at the time.

The Goniwe affair has acquired huge political significance since the 38-year-old Cradock schoolteacher's body was found — two days after his disappearance — in a bush on an eastern Cape roadside between St George's Strand and Bluewater Bay, his face burnt beyond recognition.

The bodies of his three activist friends, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauhi were found in bushes nearby, their faces also burnt in what was taken to be an attempt to prevent their identification.

On the day of their disappearance, they had been driving from Port Elizabeth to Cradock after attending a United Democratic Front meeting. The next day, their burnt-out car was found behind a bush off the Addo road near Bluewater Bay.

Goniwe's death unleashed unprecedented anti-Government defiance by the now dis-

The mystery of who killed eastern Cape activist Matthew Goniwe has been weighing heavily on South Africa's national conscience for years. Yesterday saw the beginning of his second inquest and, with it, hope of cleaning the slate. HELEN GRANGE looks at the history of this intriguing case.



banded UDF and its then banned affiliates, the ANC and SA Communist Party.

Activists were convinced Goniwe, a regional organiser of the UDF, was "taken out" by the State because of his crucial role in the forming of street and area committee structures in the eastern Cape in the 1980s.

The day of Goniwe's funeral was the day on which the then President P W Botha declared the first State of Emergency. What followed is the sad legacy of oppression and bitter opposition which epitomised the rest of that decade.

"It was the murder of those four that set off the uprising in the rest of the country, especially the western Cape," Democratic Party defence spokesman James Selfe said recently.

Until last year, the Goniwe question brewed discontentedly without progress towards resolution.

Then, in May last year, Transkei military ruler General Bantu Holomisa released to the media a document recording a military signal made on June 7 1985 — ordering the "permanent removal from society" of Goniwe.

The "top secret" document was signed by a Colonel Lourens du Plessis, then of Eastern Cape Command.

It recorded a conversation in which "Joffel" van der Westhuizen, then a brigadier in Eastern Province Command (currently SADF Intelli-

gence Chief of Staff, told a Major-General J F J van Rensburg, a former State Security Council member, of the order to "remove" Goniwe. All three officers named will testify at the re-opened inquest.

After the "Goniwe signal" was exposed, a flurry of allegations surfaced as former eastern Cape security operatives ran to the ANC and others for protection and financial support.

It emerged that Van der Westhuizen had set up a clandestine civilian unit called "Hammer", and according to one of its alleged former members, it was this unit which intercepted Goniwe's car in a roadblock on the N2 near Port Elizabeth on the night he disappeared.

In August last year, Colonel Gert Hugo, a former senior Military Intelligence officer who claims he was acquainted with "Hammer" at the time, told the ANC and The Star of the unit's activities.

He described the unit as "a bunch of cowboys calling themselves Special Forces". It was "out of control" and was born in the early 1980s under the protection of President Botha's powerful State Security Council.

Jennifer du Plessis, a former police agent who had strong links with the Port Elizabeth underground at the time, made further claims to the ANC. She said that through her relationship with a former



New pain... Nyameka Goniwe, widow of slain activist Matthew Goniwe, is still looking for answers.

"Hammer" member, John Scott, she learnt that the Goniwe killings were a joint operation involving the SAP and SADF, but including "Hammer" members.

Scott, she said, had been instructed to pack special weapons cases for the operation. Among the weapons was a Gervarum 22, a rare sniper rifle found to have been used to shoot Mkhonto.

Another clue surfaced when Scott said he knew who drove Goniwe's car from the roadblock to Bluewater Bay. Scott said the driver's seat had been pushed back, indicating a much taller man than Goniwe had been the last to drive the car.

Things took on another baffling twist when, on August 17, an eastern Cape farmer, Andre de Villiers, was shot dead by four or five attackers. Before his death, a frightened De Villiers had apparently been leaking information for months on "Hammer" activities to his long-time friend Valence Watson, an ANC activist in the region.

Watson has claimed De Villiers was receiving death threats prior to the shooting. In his dying moments, De Villiers is said to have told his son the name of a man he believed was behind the attack, saying the motive was "political". The Goniwe inquest may also unearth clues to De Villiers' death, the reasons behind which remain a mystery despite the R10 000 to R50 000 reward offered by police. □

# Sentence of lashes may be appealed

Staff Reporter

CAPE attorney-general Mr Frank Kahn said yesterday he may appeal against a sentence of six lashes and a suspended 30 months imprisonment imposed on a teen-aged murderer.

Mr Kahn said he had called for the court records to be typed so they could be studied "with a view to appeal".

According to a weekend newspaper Songezo Fayo, 19, of Khayelitsha, admitted murdering, in June last year, Mr Kothayo Magalela while he slept.

The court found Fayo had stabbed Mr Magalela to avenge himself against an earlier attack, and sentenced him to six lashes and a further 30 months imprisonment suspended for five years.

The sentence has been slammed for being too lenient.

CT 2/3/93

# Goniwe signal missing

Sowetan 2/3/93

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**A** MESSAGE said to implicate South Africa's military intelligence chief in the 1985 murder of a prominent black anti-apartheid activist has disappeared, an inquest heard yesterday.

But Eastern Cape Attorney-General Mr Michael Hodgen presented affidavits to the inquest saying a military signal sent under the name of General Joffel van der Westhuizen did exist.

Hodgen submitted the documents when the State reopened the inquest in the Port Elizabeth Supreme Court into the murder of Matthew Goniwe and three other black activists, Sparrow Mkhonto, Sicelo Mhlauli and Fort Calata.

The new hearing was ordered by President FW de Klerk after the *New Nation* newspaper in May last year published what it said was a military signal calling for the "permanent removal" of Goniwe, his cousin Mbulelo Goniwe and Calata.

The first inquest ended in February 1989 after concluding the men had been killed by a person or persons unknown.

The alleged signal was sent under the name of Major-General Joffel van der Westhuizen, then head of the Eastern Province Command and now head of Military Intelligence.

Court sources said Van der Westhuizen could be called to testify.

Hodgen said investigators had been unable to find the message form and there appeared to be no break in the signal serial numbers.

But he submitted an affidavit from Defence Force signaller HJ Pretorius saying he recognised and had personally handled the signal that appeared in *New Nation*.

Hodgen said a man he identified as Lous



PW Botha ... set up the shadowy JMC.

Philipus Coetsee of the Defence Force had investigated for the force how the signal had reached the *New Nation*.

He said Coetsee had concluded the signal did exist. It would not have been filed but would be kept by the staff officer of the Joint Management Centre (JMC) in the Eastern Cape.

The JMC was a shadowy military-controlled network set up by former president PW Botha and reporting directly to the Cabinet.

Hodgen told the inquest Commandant Lourens du Plessis was JMC area staff officer at the time and had approved the signal message form. — *Sapa-Reuter*.

Vertical text on the left margin, possibly bleed-through or a separate column of text, including a large exclamation mark.

# Military signal on Goniwe missing

PORT ELIZABETH — A message said to implicate SA's Military Intelligence chief in the 1985 murder of Matthew Goniwe had disappeared, an inquest heard yesterday. But Eastern Cape Attorney-General Michael Hodgen presented affidavits saying a military signal sent under the name of Gen Joffel van der Westhuizen did exist. Sapa-Reuter reports the new hearing into the murder of Goniwe and Sparrow Mkhonto, Sicele Mhlauli and Fort Calata was ordered by President F W de Klerk after the publication last May by New Nation of what it said was a military signal calling for the "permanent removal" of Goniwe, Mbulelo Goniwe and Calata. The original inquest concluded that the men had been killed by persons unknown. The alleged signal was sent under the name of Van der Westhuizen, then head of the Eastern Province Command and now of MI Hodgen said investigators had been unable to find the message form and there appeared to be no break in the signal serial numbers. But he submitted an affidavit from SADF signaller H J Pretorius saying he recognised and had personally handled the signal that appeared in New Nation. Hodgen said Louis Philipus Coetsee of the SADF had investigated for the force how the signal had reached New Nation. He said Coetsee had concluded the signal did exist. It would not have been filed but

To Page 2

## Goniwe

810M  
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From Page 1

would be kept by the staff officer of the eastern Cape's Joint Management Centre.

Hodgen said Cmdt Lourens du Plessis had been JMC area staff officer and had approved the signal message form.

Van der Westhuizen, in his affidavit, denied ordering the killing. On the message, dated three weeks before the murders and referring to a telephone conversation between him and Maj Johannes Frederick Janse van Rensburg, he said "It is not in my handwriting and I did not sign it."

Van Rensburg said in his affidavit the signal was not an instruction for murder.

Our Port Elizabeth correspondent reports that Van Rensburg's affidavit said the signal had followed a meeting with the Co-operation, Development and Education Department, responsible for black education. It also disclosed that Goniwe, a teacher, was discussed at a meeting of the Secretariat of the State Security Council 20 days before his murder.

Van Rensburg said that during June 1985, when he was seconded to the secretariat, he had been approached by Jaap Marais of the department. Marais told him his department was experiencing problems in Cradock, specifically in relation to Goniwe, who had played a leading role in the unrest. When Goniwe's dismissal aggravated the situation, the department had considered reinstating him.

Van Rensburg said after the meeting with Marais, he phoned Van der Westhuizen for advice, which the latter undertook to forward "speedily." "I remember that

shortly after the telephonic conversation I received a written signal from the Eastern Province Command ...

Van Rensburg said he was leader of a working group which provided advice to government on introducing a state of emergency, which would facilitate detaining leading figures for lengthy periods.

The top secret signal read:

"1 Personal for Gen van Rensburg. Telephonic conversation Gen van Rensburg/Brig vd Westhuizen on 7 June 85.

"Names as follows: Matthew Goniwe, Mbulelo Goniwe (brother or nephew of BG (Matthew) Fort Calata.

"It is suggested that the above-mentioned persons be permanently removed from society as a matter of urgency.

"Local reaction as well as national should be expected considering the importance of these people, especially the first mentioned, for the enemy, for example:

"a) Interdicts such as in the case of the disappearance of (Qaqawli) Godolozu, (Siphopho) Hashe and (Champion) Galela (Pebco officials).

"b) Reaction from leftist politicians such as (the late) Molly Blackburn.

"c) Sympathy protests such as in the case of (ANC activist) Oscar Mpetha."

At the time the signal was sent, the three Pebco officials were missing. They have not been found. Mpetha was in detention.

The signal was signed by Lourens du Plessis. Van Rensburg said he had interpreted the signal in terms of detention.

The inquest resumes next week.

Star 213193

# Vermaas begins defence on 154 charges

Pretoria Correspondent

Former Pretoria attorney turned businessman Albert Vermaas, who has pleaded not guilty to 154 charges including fraud, theft and the contravention of exchange control regulations, has begun his defence in the Pretoria Supreme Court.

Vermaas, of Waterkloof, yesterday outlined the history of a number of business operations before Mr Justice Kirk-Cohen.

Some of these business operations have since been liquidated.

The more than 40 businesses

include construction companies and garages. Each had its own manager and staff.

The companies operated in areas including Natal, Kimberley and Ciskei.

Vermaas's trial resumed yesterday after it was adjourned on January 28.

The charges against him include 101 counts of fraud, six charges of theft, 15 contraventions of the Exchange Control Act, various charges of contravening the Companies' Act, seven charges of possessing firearms without a licence and various other charges relating

to the negligent loss of firearms.

The State alleges that Vermaas, practising as WA Vermaas and Company, had until November 1988 operated an investment scheme, obtaining short-term investments at high interest rates.

On receiving investments, Vermaas allegedly pre-dated cheques for the repayment of the capital amount and cheques in respect of interest.

The investments were allegedly initially deposited for Vermaas's credit at Volkskas Ltd.

It is also alleged Vermaas

has been the sole shareholder and director of the company Reef Acceptance.

This company allegedly received monies for investment between January and November 1988.

The State claims debentures were issued in respect of certain investments.

Vermaas himself is alleged to have obtained investments for his scheme, periodically offering new investors excessively high interest rates and seeing investments in the scheme growing considerably between 1987 and 1988.

Star 3/3/93

# No indemnities since Bill rammed through

252

## Political Staff

CAPE TOWN — Eight people have applied for indemnity under the Further Indemnity Act, Minister of Justice Kobie Coetsee said yesterday.

He was answering a question in Parliament by Douglas Gibson, Democratic Party MP for Yeoville

Coetsee said that up to February 22, eight people had applied for indemnity under the Act. The applications were still under consideration, so

no indemnity had been granted to date

Coetsee did not release the names of the eight who had applied, nor the nature of the crimes involved

## Urgent

The Further Indemnity Act was passed by the President's Council after it was defeated at a joint sitting of the three Houses in October because Solidarity voted against it

Gibson said yesterday "South Africa will recall the indecent haste with which the Bill was

rammed through Parliament last year."

The Government said at the time that the Bill was so urgent and so necessary that it had to go through the President's Council. Yet five months later no person had been indemnified.

"Why the almost indecent haste to pass the Bill? Why was the president prepared to damage his own reputation and that of the Government for nothing?" asked Gibson

In reply to a question from Jurie Prinsloo, Conservative Party MP for Roodepoort, Coetsee

said 5 220 people had been granted indemnity under the 1990 Indemnity Act after leaving South Africa illegally

## Training

Another 4 639 people had been granted indemnity after undergoing military training in a foreign country with a view to overthrowing the Government

Indemnity had been granted to another 1 015 people who had committed other crimes with political motives, Coetsee said.



# Inquest scant comfort for Gonive's wife

The Star Wednesday March 3 1993

By Helen Grange

Nyameka Gonive has grown weary. It has been nearly eight years since her activist husband Matthew was brutally murdered on an eastern Cape road-side. His killers have never been identified. Even now that the inquest on his death has been reopened with mounds of new evidence implicating the State's security establishment, she remains sceptical that the truth about the winter night of June 27 1985

will ever surface. Wearing sunglasses in the public gallery of Port Supreme Court on Monday, Nyameka took comfort from her old friends — widows of the men who died with Gonive. A dignified, and forged ahead

with her life after the tragedy. She moved from the sad meadows in Cradock and settled in Cape Town to give her two children a "decent life". She still lives and works there as a social worker to the eastern Cape and the replay in court of her husband's life and sudden death is emotionally exhausting — apart from the concern

from her beloved work. But she appreciates that the investigations have brought to light an unprecedented amount of State security information, mostly in the form of top-secret military documents. "Yes, I have faith in the rigorous approach by the investigation team to try and crack up these guys. I believe this is the

first case which really touches on the secrecy of the State. There has never been a culture of opening up. "But I suspect that next week (the inquest) resumes on Monday we'll hear there has ever been a political case like this one where family and friends end up happy with the result," she said.

The inquest is also draining on the resources of the widows of Sparrow Mkhonto, Fort Caba and Sicele Mblawuli. These men were travelling with Gonive when their car was intercepted at a security roadblock on their way back to Cradock from Port Elizabeth before they disappeared. They were found dead two days later. A quietly spoken Nombuyise to Mblawuli, whose husband had his hand severed in the attack, wished she did not have to relive the memories

Star 3/3/93  
**Commuter**

**tells trial of  
train killing**

By Susan Smuts

A man burst into a train coach and fired on commuters before three other men — armed with a kerrie, a hammer and a tomahawk — attacked passengers and threw them from the train, a witness told the Rand Supreme Court yesterday.

Alfos Lekhuwane told Mr Justice J Els he saw Albert Dlamini walk into a coach on the Katlehong-Germiston train on October 9 1991 and fire a shot at a man reading a newspaper. He said Dlamini walked through the coach while commuters ran to the back of the compartment and tried to hide under seats.

Dlamini (30) of Katlehong has pleaded not guilty to murdering three commuters, attempting to murder nine others, and to the illegal possession of arms and ammunition. The State alleges he was part of a gang which injured and killed passengers.

Lekhuwane said Dlamini had shot him in the leg. Three other men entered the coach and started to assault passengers. He did not mind being beaten as this was "better than dying". He said he saw Dlamini throw one man out of the train.

When Lekhuwane was asked to point Dlamini out to the court, he identified a man sitting in the public gallery, not Dlamini, who was seated in the accused bench. Lekhuwane explained he had earlier seen Dlamini in the public gallery talking to the man.

The hearing continues.

Star 3/193

# Murder charges dropped

By Jo-Anne Collinge

Four leading members of the Tokoza Civic Association are considering suing the authorities after the dropping of charges brought against them for the murder of one-time Phola Park leader Prince Mhlambi and four other young people in October.

Abraham Motaung, Philemon Mapatje, Gideon Letlolo and Jeremiah Motsieloa felt they had strong grounds to sue for unlawful arrest and malicious prosecution, civic association secretary Louis Sibeko said this week.

"We knew from the outset their prosecution was just a form of harassment. We are not surprised they have been cleared"

The prosecution of two others accused in the Mhlambi case, Paul Mokoena and Joshua "Yster" Mchunu, will continue.

They remain in custody and will appear in court in Alberton on March 25, when a date will be fixed for their trial in the Rand Supreme Court.

Road accident deaths, minibuses/other vehicles  
\*24 Mr J CHIOLÉ asked the Minister of Transport +

How many persons died in motor vehicle accidents in 1992 (a) in the Republic as a whole and (b) in which minibus taxis with Black drivers were involved? *B273E*

The MINISTER OF TRANSPORT

(a) In 1992 there were 428 751 collisions in which 10 103 people were killed,

(b) According to statistics provided by the Central Statistical Services no distinction is made between a minibus and/or minibus-taxi, as there is only one category, namely minibus/combi. Statistics as requested by the hon member are not kept in that format by the Central Statistical Services.

*Reply submitting reply to Oral Question No 18 on 24 February 1993, put by Mr D H M Gibson (col 215)*

\*18 Mr D H M GIBSON asked the Minister of Law and Order

Whether he intends recommending to the State President that death sentences be carried out upon persons convicted of killing members of the South African Police, if not, why not? *(252)* B175E

The MINISTER OF LAW AND ORDER

No, but I would like to draw your attention to the opening speech of the State President on 29 January 1993, in which he stated the following point of view

The Government is also reviewing its position on the carrying out of the death penalty. At present a moratorium on carrying out death sentences is in force with a view to the negotiation of a bill of fundamental rights

However, the wave of cruel murders and manslaughter, the prevailing disrespect for

human lives and the delays in negotiation make it very difficult for the Government to allow the moratorium to continue indefinitely. Parliament will be consulted in the process of reconsideration

It is also my point of view that the death penalty must not be imposed and carried out on a select group of persons, but that the death penalty should be applicable to the entire spectrum of society *(252)*

INTERPELLATION

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

Local government negotiating forum

1 Mr J WALSH asked the Minister of Local Government:

(1) Whether a local government negotiating forum is to be established, if so, what are the details of this forum,

(2) how is it envisaged existing local bodies, including Black local authorities and management committees, will be dealt with once local government ceases to fall under own affairs departments? *(252)*

B349E INT

The MINISTER OF LOCAL GOVERNMENT

Mr Charman, it is envisaged that a local government negotiating forum will be established on 22 March in terms of the rules and regulations with which I have furnished the hon interpellant and which I have also given to the CP

As far as dealing with local authorities is concerned, there are two aspects to be distinguished: firstly, the administration of local government as a general affair as from 1 April and, secondly, how it will be dealt with politically as of that date

With reference to the administration, the Commission for Administration has already reached an advanced stage in its investigation into the allocation of functions and the administrative capacity to deal with those functions. It should be borne in mind that the definition of local government as a general affair will affect the administration of the relevant legislation. It will not affect the contents of the legislation in question. The latter must be addressed politically, and should result in legislative amendments

I am of the opinion that we must find an acceptable formula to achieve newly constituted local government, through negotiations, so as to allow for elections which will designate the legitimate leaders. This should be achieved through a package approach as part of an inclusive process of reform

On the Government side we will, in the near future, table, for the purposes of negotiation, a package containing a series of reform measures. It speaks for itself that the elimination of racial references regarding voters and candidates would be the first step and, indeed, a cornerstone of such reform measures

Mr J J WALSH Mr Charman, the DP obviously welcomes the creation of this local government negotiating forum which has the prime function of thrashing out a system of local government acceptable to the majority of our citizens

We have also stressed that local government is of vital interest to the people, as it brings government down closer to the level of the people. Therefore it is a matter that has to be dealt with very sensitively

We are concerned about the process that has been outlined by the hon the Minister. We do not believe that the way in which the new forum is to be constituted, in terms of which one half of the members will be from statutory organisations and the other half from non-statutory organisations, is sufficiently going to represent the vast majority of our people

When reading the press statement made by the

hon the Minister, it becomes clear that central and provincial Government officials, over which the NP has control, have been involved. From the non-statutory side the prime organisation involved was Sanco, in which the ANC has a major influence. We believe that this forum is not setting out to deal with local government matters as such, but to define and draw up a constitution for local government

Political parties should have an input, which they do not at the moment because of the way in which this forum is to be constituted. The forum will be responsible to the national negotiating forum, which we believe to be right, and on that national body will be represented all the major political actors in the country. However, that will not be so, as I understand the make-up of the local government negotiating forum

The DP believes there should be a third component leg. It should comprise local authorities and people drawn from a political source. It must, for obvious reasons, comprise people who have been excluded in the past. Thirdly, it must also comprise the political actors who will be charged with drawing up a constitution for our country. We believe it does not do that, and therefore we are concerned

In dealing with the transition, the hon the Minister has not totally answered my question. He has constantly used the phrase "reconstituted local authorities". We would like to ask what he means by that. Before we get to our new constitution, clearly an interim step has to be taken during which other people have to be brought into local government

\*Mr A P OOSTHUIZEN Mr Charman, the first part of this interpellation deals with the establishment of a central local government negotiating forum. The hon the Minister has indicated here this afternoon that this forum is to be established on 22 March. There are only two reasons why the Government is establishing this negotiating forum. The first reason is that the ANC has insisted on this and that the Government has once again, as in the past, given way to the demands of the ANC

The second reason is that negotiation at local

## HOUSE OF DELEGATES

## QUESTIONS

Indicates translated version

For oral reply

General Affairs

## Restoration of expropriated land: Durban

\*1 Mr M RAJAB asked the Minister of Regional and Land Affairs

- (1) Whether an advisory commission on land allocation has been appointed to inquire, *inter alia*, into the restoration of certain land that was expropriated under the Group Areas Act and other land legislation, viz Block AK in the Greyville area, Durban, if so,

- (2) whether this commission has completed its task, if not, why not, if so, what were its recommendations in respect of this land,

- (3) whether these recommendations will be implemented, if not, why not, if so, when?

The MINISTER OF REGIONAL AND LAND AFFAIRS

- (1) Yes

- (2) Yes Block AK has already been allocated for a specific purpose and therefore claims in this instance can not be considered by the Advisory Commission on Land Allocation nor can it make recommendations to the State President in this regard

- (3) Falls away

Mr M RAJAB Mr Chairman, arising out of the hon the Minister's reply, I should like to ask him whether he is aware that the whole rationale behind setting up the Advisory Commission on Land Allocation was to make some form of reparation to those affected by the Group Areas Act? Could the hon the Minister tell us whether the Government intends to do anything about the people who were displaced from that particular area?

The MINISTER Mr Chairman, the hon member

HOUSE OF DELEGATES

ber for Springfield will remember that the identification of land which fell within the scope of the Advisory Commission on Land Allocation was specifically focused on land at the hands of the Government on 1 July 1991. This area does not fall within that category and therefore is not within the scope of the relevant Act. The committee of Parliament involved at that stage felt that the provisions of section 91 of the Act served the necessary purpose of salving the hearts and minds of people who had felt aggrieved as a result of the implementation of this Act in the past.

Mr M RAJAB Mr Chairman, I thank the hon the Minister for his very honest reply. Further arising out of his reply, however, I should like to ask him whether, quite apart from this particular section of the Act, the Government could do anything to make the kind of reparation the hon the State President had in mind?

The MINISTER Mr Chairman, to my mind what the hon the State President had in mind at that stage has been dealt with in the Act. In actual fact, that process has already been completed. However, the annual report of the Advisory Commission on Land Allocation, in which there was very good news, was tabled a week ago. It appears from the report that amendments to the Act may be necessary and we shall discuss this again at a later stage.

Mr A RAJBANSI Mr Chairman, further arising out of the hon the Minister's reply, could he tell this House the name of the present owner of this property? Is it the Administration House of Assembly? Is the hon the Minister aware that there is a dispute within the Durban City Council in respect of developing this land? If it is owned by the Administration House of Assembly, is he aware that that particular Administration regards all its assets as frozen, as they are going to be considered by this committee?

The MINISTER Mr Chairman, unfortunately, I do not have that information with me. If the hon member submits a question in writing, I shall gladly reply to it.

Laudium: actions against police officer

\*2 Mr M RAJAB asked the Minister of Law and Order

- (1) Whether the South African Police fully investigated the allegations made by a

police officer of the Laudium police station, whose name has been furnished to the South African Police for the purpose of the Minister's reply, before investigating this officer's action in terms of the Police Act, 1958 (Act No 7 of 1958), and taking action against him; if so, what are the relevant details, if not, why not,

- (2) whether representations have been made by residents of Laudium in respect of this officer, if so, what was the nature of these representations,

- (3) whether the Police took these representations into account before taking action against the said officer; if not, why not,

- (4) whether the Police have taken any further decision in respect of the retention of this officer at the Laudium police station, if so, what was that decision?

D48E

The MINISTER OF LAW AND ORDER

- (1) Yes

The allegations were comprehensively investigated and the case dockets, to which he refers, were again laid before the Senior State Prosecutor for reconsideration. Prosecutions were instituted in certain cases, whilst in other cases the Senior State Prosecutor stood by his previous decision.

- (2) Yes

The representations were that the officer acted in the interests of the community by making the allegations to the media.

- (3) Yes

- (4) No

Mr P NAIDOO Mr Chairman, arising out of the hon the Minister's reply, I should like to know whether any representations have been made by any politician to have the said officer disciplined.

The MINISTER Mr Chairman, I am not aware of any such representations. None have been made to me personally, but I do not know whether any politician has made such representations to the SA Police.

Mr A RAJBANSI Mr Chairman, further arising out of the hon the Minister's reply, is he

aware that officers who do their duty are subjected to political interference and intimidation in this particular area?

The MINISTER Mr Chairman, I have no reason to believe that there is political interference in police officers' carrying out of their normal duties. If that is the case, I should be pleased if it is brought to my attention, because it is the stated policy of the SA Police that they act fairly in an unbiased fashion, without political interference. I should be very interested to have proof of the contrary presented to me.

Mr M RAJAB Mr Chairman, further arising out of the hon the Minister's reply, I should like to ask him precisely what the allegations against this particular officer were. Why was he charged in terms of the Police Act?

The MINISTER Mr Chairman, this is a very difficult matter. What the police officer did, did result in certain actions being taken, which I think was a good thing.

On the other hand, we must be frank with one another. Law enforcement involves a family of departments. The hon member will understand that we work in close co-operation with the SA Police, the Department of Justice and the Department of Correctional Services. If officials from these departments start blaming one another in public and in the press, we will have chaos in this country.

That is why we have established channels through which policemen, if they have a problem, can go to a superior officer. From there the matter is taken further. The channels extend as far as the Commissioner of Police and, in some cases, right up to the Minister of Law and Order. We must keep to the discipline of not doing this kind of thing in public, but of keeping it in the family. I hope the hon member understands what I am trying to say.

*Reply substituting reply to Question No 2 on 17 February 1993, put by Mr A Rajbans* (Col 265)

Howard Commission: comments/guidelines

\*2 Mr A RAJBANSI asked the Minister of Justice

Whether he received any comments and/or guidelines from the Commission of Inquiry into Certain Lotteries, Sports Pools and Fund-Raising Activities (the Howard Commission)?

HOUSE OF DELEGATES

mission) prior to his recent decision not to extend the date for the closing down of certain gambling outlets, if so, (a) when and (b) what was (i) the nature of and (ii) his reaction to these comments and/or guidelines? D9E

The MINISTER OF JUSTICE

No The State President however received a letter from the Chairman of the Howard Commission In this regard I, wish to quote from my Affidavit in Case No 820/93, *Flo-rida Road Entertainment, River Palace Leisure Industries v The Minister of Justice, The Minister of Law and Order*, the following

At the time of the exercise of my discretion not to extend the moratorium against conviction, I was aware of the contents of the letter addressed by the Honourable the Judge President of this Division to the Honourable the State President " and

I inform the above Honourable Court that in the *bona fide* and proper exercise of my discretion I took the contents of the letter into consideration, but did not regard it as decisive "

INTERPELLATION

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

*Own Affairs*  
Employment of educators

1 Mr A RAJBANSI asked the Minister of Education and Culture

- (1) Whether she or her Department is taking steps to employ educators who obtained their qualifications in 1991 and 1992, if not, why not, if so, what steps,
- (2) whether she will make a statement on the matter? D51E INT

The MINISTER OF EDUCATION AND CULTURE Mr Charman, firstly, all educators HOUSE OF DELEGATES

who qualified in 1991 and 1992 were offered employment However, six and 29 of those who qualified in the respective years declined to take up their posts for various reasons

Secondly, the deployment of newly qualified educators is effected in accordance with prescribed criteria, due regard being had to the needs of the department In this regard I wish to focus attention on the following

Educators who qualified at the Transvaal College of Education were offered posts in that province Considering that the recruitment of staff in the outlying areas, for example in Ladysmith, Glencooe, Dundee and Dannhauser, has always proved to be difficult, educators from these areas were appointed to posts in their home towns Married female educators are given appointments in their marital home towns as it is the department's policy not to separate spouses Educators who have served many years away from their home towns are considered first for posts that are available locally In consequence, all resultant vacancies are offered to the remaining newly qualified educators

Mr A RAJBANSI Mr Charman, I am very pleased to note that the figure in respect of those who have not actually taken up the offer of employment is 35 This is a tremendous improvement on previous figures The only reason for this in my opinion is that the Administration offered a large number of educators early retirement This, of course, created vacancies

I also want to deal with that category of teachers in respect of which the department has indicated that it is under no obligation to employ them, because they undertook their studies at institutions at which no bursaries or financial assistance are offered by our Administration I am referring to the various universities at which students are studying in the directions in which we need them

There is a large number of Indian students—the hon the Minister is aware of this—who are linked to left-wing organisations and are embarking on a policy of affirmative action Their only hope of survival and of getting employment is the Administration House of Delegates

In addition to those 35 who have refused the offer of employment, is the hon the Minister

prepared to try to assist those who qualified, for example, at the University of Natal, the University of the Witwatersrand and other universities? Of course, there is a moral and a legal obligation to employ students who qualify at our colleges or at the University of Durban-Westville I do not believe, however, that the figure amounts to only 35 I believe the figure is much higher, if one examines the total number of students who qualified in 1991 and 1992

I want to compliment the head of the department and the officials [Time expired]

Mr P IDEVAN Mr Charman, the question of employing professionally qualified educators has become a hardy annual in recent years The problem does not appear to be as serious this year as it was in previous years, and that is a matter of some comfort [Interjections]

There is a dearth of professionally qualified teachers in the country as a whole Yet, ironically we find there is a surplus number of teachers in the department under the control of the House of Delegates, and apparently also in certain other departments

The solution to the problem can be found in a unitary system of education Such a unitary system of education cannot be applied if we have 14 separate departments of education in the country, but we must work towards a unitary system as soon as we can

Mr P NAIDOO Mr Charman, last week the hon the Minister's reply to an interpellation in this House bore no resemblance to what was actually happening in her department I trust that we are not witnessing a repetition of that debacle this week

We on this side of the House do not believe that individuals should be employed by the department simply because they are in possession of a qualification We believe the employment policies of this department should be needs-driven and not dictated by the number of takers on the market

I heard the hon the Minister when she said some 29 teachers had refused employment offered by the department As far as we are concerned, however, that is not good enough, because children who happen to be living in the remote parts of this country are just as entitled to good, qualified teachers as those who happen to be

fortunate enough to be living in the urban areas of the country

HON MEMBERS Hear, hear!

Mr P NAIDOO This hon Minister should give some consideration to offering incentives to teachers to take up positions in such far-flung areas When I talk about incentives, I am not talking about monetary incentives [Time expired]

Mr P IDEVAN Mr Charman, I wish to return to the problem of surplus teachers in the Department of Education of the House of Delegates It is necessary to discuss the issue of surplus teachers in this department with the organised profession in order to arrive at a feasible solution

Is it not sad that when certain departments in the country are crying out for qualified teachers, we have qualified teachers? This matter needs to be discussed with the various organisations and the various departments in order that these teachers can be utilised [Interjections]

When wisdom and common sense prevail, we shall be able to find a job for every qualified teacher in this country That can be done I want to reiterate that the various departments concerned must be consulted so that a unitary solution to the problem can be found [Time expired]

Mr A RAJBANSI Mr Charman, there are many qualified White teachers who do not have jobs The person we must really thank, even though he made a lot of blunders, is the former Minister of Education and Culture, because we do not have as large a number of teachers without jobs

I want to tell the hon the Chairman of the Ministers' Council that we want all Indian teachers to be given jobs now, because if affirmative action takes place, the Indians are going to lose out He must not sweeten his marble He has a responsibility to look after the community [Interjections] I am addressing myself to the hon the Chairman of the Ministers' Council We overrun our budget regularly and I believe he is holding this Administration to the allocation he does that, and if he restricts the appointment of teachers, he will have to swallow this sweet [Interjections]

The MINISTER OF EDUCATION AND CULTURE Mr Charman, in answer to the hon CONJ-D HOUSE OF DELEGATES

quest was dealt with by the Office of the State President

(a) Mr J van Zyl on behalf of the shareholders of Swisssburgh Diamond Mines (Pty) Ltd

(b) Swisssburgh Diamond Mines (Pty) Ltd

(2) No, as the South African Government denies all liability for the payment of such compensation

(3) No

**Executioner in service of Department**

\* 2 Mr S S OOSTHUIZEN asked the Minister of Justice †

Whether his Department has the services of a hangman at its disposal at present, if not, why not, if so, what (a) is his annual salary and (b) are the further relevant details?

C27E

†THE CHAIRMAN OF THE MINISTER'S COUNCIL (for the Minister of Justice)

Yes, the Department has the services of an executioner at its disposal. Because of the sensitivity of the matter no further particulars can be revealed.

**INTERPELLATION**

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

**Own affairs**

**Legal proceedings against Department**

\* 1 Mr C I NASSON asked the Minister of Education and Culture

(1) Whether, with reference to certain information furnished to the Minister's Department for the purpose of his reply, legal proceedings were instituted against his Department by a certain organization, school principal and two parents, if so, what was the finding of the court in these proceedings.

**HOUSE OF REPRESENTATIVES**

(2) whether the court concerned issued an order as to costs against his Department, if so, what were the costs?

C21E INT

\*THE MINISTER OF EDUCATION AND CULTURE Mr Speaker, the answer is that the court's finding is contained in a report consisting of 34 pages. The ruling of the court implies that a circular issued by the department on 22 December 1992 relating to the non-appointment of replacements is invalid. [Interjections]

Secondly, the answer is yes, but the costs have not yet been determined because all the orders as to costs that were made have been suspended pending the outcome of the appeal court. Does that hon member want to say "hear, hear!" again?

\*Mr C I NASSON Mr Speaker, the department would have had more money for the normal functioning of our schools if the hon the Minister had not been so wasteful with his education expenditure. [Interjections] As a taxpayer and a public representative I had to hang my head in shame when I read in last week's *South* about the hon the Minister's car telephone which cost R14 000, and that he receives a housing subsidy of R108 000 from the department while he wants to lay off approximately 4 000 teachers in order to save money for his department. [Interjections] Yes, after all, we do not receive housing subsidies.

It is ironic that the hon the Minister is introducing economy measures. The result of these economy measures is that the department has to incur greater expenditure in order to succeed with its economy measures. The hon the Minister could have [Interjections]

\*Mr SPEAKER Order! Hon members must give the hon member a chance.

\*Mr C I NASSON The hon the Minister could rather have used the R200 000, which the court case is allegedly going to cost him, to pay for textbooks for schools. Our schools have no textbooks and exercise books. No material is being

**HOUSE OF REPRESENTATIVES**

\*Mr P C MCKENZIE Mr Speaker, may I ask the hon member a question?

\*Mr C I NASSON No, Sir, I do not have time. The hon member for Bonteheuwel could have requested a turn to speak.

No material or supplies are being delivered at schools because the department has put a freeze on man orders being filled, since it has no money. [Interjections] The hon the Minister has now lodged an appeal against the court rulings. He is playing for time. This appeal will mean that the court costs will now amount to twice or three times the original amount. [Interjections] This amounts to the misapplication of very scarce funds.

It is also clear that the hon the Minister is playing for time. [Interjections] Once again I should like to appeal to [Time expired]

\*Mr B P CUPIDO Mr Chairman, it is very clear to us that this debate has not dealt with the question put by the hon member for Bokkeveld. His question was aimed at creating the opportunity for something to happen. What he wanted to happen has happened. He wanted to get at the hon the Minister in a personal capacity. That is regrettable. We stand on the threshold of great change in education. It is very important that we try to create the correct climate for the transition to the single education system we have been appealing for in this very House year after year. [Interjections]

It is truly regrettable that we should display our personal vendettas here. Perhaps the hon member is afraid of what appears in the newspaper, for example the finding about the irrelevance of the DP. [Interjections] I am not even referring to the LPSA. [Interjections] Cries of distress are going out. [Interjections]

\*Mr SPEAKER Order! Hon members may not make speeches from their benches. They must be called upon to speak. This applies specifically to the hon member for Schauderville. The hon member may proceed.

\*Mr B P CUPIDO My appeal to hon members of Parliament is that we should examine what we can do in respect of creating a climate and a

dispensation so that no one will be prejudicially affected in the process when we reach the point of a single education system for all, something we are all striving for.

Mr D M G CURRY Mr Speaker, what is important in this era of the transformation of South African society is the management of that transformation. It is clear that the NP is failing in this transformation process. [Interjections] We are now talking politics, because this it what has led to the situation in our community. This will be proved on the day the election takes place.

On Sunday night we had a taste of that. We had a taste of the community's reaction. We were told by the hon the State President that owing to the steps the NP had taken, 80% of the coloured people supported them and were going to vote for them. Where were they at the Civic Centre, in the heart of Cape Town, on Sunday night? [Interjections]

I have said to the hon the Minister that education is going to be a thorny question for the Minister who occupies that position. Therefore, the way in which that hon Minister deals with the process of transformation is going to be important.

Last year an Act was passed by Parliament which gave teachers the right to apply for retirement at an early age. We all supported this as a method by which the number of teachers in service could be decreased. Therefore further steps are now being taken to rationalise

I am getting tired of listening, here in Parliament, to how the Government Ministers waste money in their departments. Every day brings an exposure of their inability to manage their departments' finances, despite 40 or 50 years of NP rule. There is the case of Telkom. [Interjections] We were told that if they were privatised the telephone services would save us money. We would even get a better service.

\*Now we are all paying more for telephones. [Interjections] Now we are told we must pay more so that we can receive a better service. This is the party that is in control of these things.

**HOUSE OF REPRESENTATIVES**

# Young wins settlement from Pact

Star 31/3/98

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**Pretoria Correspondent**

Actress Gaynor Young yesterday reached a settlement with the Performing Arts Council of the Transvaal and seven of its employees in her civil claim for compensation following two days of negotiations between their legal teams.

In terms of an agreement between the parties, the details of the settlement are to remain confidential.

Pact also withdrew its opposition to a claim by Young for increased claims under the Workmen's Compensation Act, leaving the way for the Workmen's Compensation Commissioner to hear evidence from witnesses and to make a ruling on whether Young will receive more assistance with her medical bills and pension.

In submissions handed in as an exhibit before the commissioner and two assessors by Young's counsel, Peter Pauw, Pact accepted that "a dangerous situation was created" during a scene in the performance of *Camelot* on December 9 1989 at the State Theatre, which led to Young falling

18 m off-stage and sustaining injuries.

They also said the method Pact use to guard against accidents and injuries was to rely on rehearsals, actors' expertise and instructions given to them. Pact did not grant Young a full dress rehearsal before allowing her to play the part of Guinevere in the play.

Also, several Pact employees, including the director and assistant director of *Camelot*, were responsible for the safety of the actors on stage, the design of the set, and the implementation of safety mechanisms in terms of the Machinery and Occupational Safety Act.

As part of the agreement, Pact agreed to furnish Young with such documents and evidence as she may require in the hearing before the Workmen's Compensation Commissioner.

Pact will also, as far as possible, assist in arranging for an inspection in loco of the State Theatre.

The hearing continues today with Young's counsel leading evidence for increased compensation.



Star 4/8/93

### **Blast case heard in absentia**

The case of a Mozambican man, arrested after a grenade exploded outside the IFP offices in Johannesburg on Sunday, was heard in absentia in the Johannesburg Magistrate's Court yesterday. Jose Mahlaba, who was injured in the blast, is still in hospital. (22)



ANC spokesman Carl Niehaus, left, yesterday took part in a Campaign for Independent Broadcasting picket outside the SABC in Johannesburg. Similar protests were held in Durban and Cape Town. Picture: ROBERT BOTHA

**Demos over SABC board**

*8/10 AM 4/3/93*  
**LLOYD COUTTS**  
 DEMONSTRATIONS calling for an independent SABC board were held outside the corporation's offices in Johannesburg, Durban and Cape Town yesterday

The picket was called by the Campaign for Independent Broadcasting (CIB), which accused government of dragging its feet on the crucial issue. The current board's term of office expires this month.

The CIB is demanding a new authority, operating independently of government and any ruling party, to regulate the broadcasting industry. Yesterday a spokesman said Home Affairs Minister Louis Pienaar had agreed to meet them by January 20, but had since denied this.

The ANC yesterday welcomed President FW de Klerk's announcement at an SABC board banquet on Tuesday that the SABC was to be depoliticised, but said it contradicted official Ministerial positions.

Government appeared to be trying to prolong the present board's life, the ANC said.

*8/10 AM 4/3/93*  
**Allied 'threatened to sack ex-MD for opposing deal'**

**SUSAN RUSSELL**  
 FORMER Allied MD Kevin de Villiers told the Rand Supreme Court yesterday he had received threats of dismissal and been the subject of motions of censure after publicly opposing the proposed UBS takeover in favour of the FNB offer.

De Villiers said there had also been controversy among board members as to whether a clause entitling directors to make their opposition to the takeover public was applicable in his case.

De Villiers is a key witness in a R1.5m dispute between marketing company Tytherley Investments and Absa Tytherley MD Peter Mancer. Mancer is suing Absa for part payment of a R4.5m contract he concluded with De Villiers, involving Allied's sponsorship of SA yachtsman John Martin in the 1990/91 BOC race.

De Villiers and Mancer signed the agreement in September 1990, seven months before the UBS takeover and formation of Absa. Absa is defending the claim on the grounds that the agreement was never intended to be a valid contract.

It is alleged the agreement was a device created to enable Allied to unlawfully claim benefits. Mancer and De Villiers testified that the sponsorship agreement was a valid contract, and denied it was created as a tax dodge.

Absa counsel M Tselentis SC yesterday cross-examined De Villiers about the inclusion of the clause allowing directors to publicly oppose the proposed UBS offer. "It was very sporting of them," Tselentis

remarked

"Very correct of them, Mr Tselentis, not sporting at all," replied De Villiers.

"Once my position had emerged more clearly I tended to be excluded from negotiations," he said. "It was put in the hands of (Norman) Aldborough."

De Villiers said at that stage he had difficulty in getting board meeting memos, but there had been discussions about interpretation of the clause. He told the court there had been "long acrimonious debates", to which he was often not a party, about whether or not the clause applied to himself.

One interpretation had been that as group MD he was not a "normal" director and therefore not entitled to go public. "On my interpretation I was entitled to make my opposition public."

De Villiers added that from feedback he had he understood some board members had accepted his interpretation of the clause while others had not.

The court adjourned briefly when Mancer's counsel T Beckerling said his legal team had anticipated this line of questioning, but had been denied access to the Allied board meeting minutes from the takeover period.

After the adjournment Tselentis told Judge WJ Hartzenberg there had been misunderstanding between the attorneys acting for both parties and that the minutes would be made available.

# Accused 'paid to kill train commuters'

STAR 4/3/93

By Susan Smuts (252)

A man charged with attacking train commuters in 1991 said he had received guns and money to do his "work" from an East Rand hostel, a witness told the Rand Supreme Court yesterday

Alfred Dlamini (30) of Katlehong has pleaded not guilty to murdering

three commuters, attempting to murder nine, and illegal possession of a firearm and ammunition. He was allegedly one of a group which attacked commuters on a train to Germiston in October 1991

Witness Simon Komane told Mr Justice J Els he was an ANC supporter. He had been in-

jured in the attack and taken to hospital. On suspicion of having taken part in the violence, he was taken to Modderbee prison where he was put in a cell with Dlamini

Dlamini told him they would have to get lawyers because "we have been caught".

"He said that when we leave the prison we must

go and collect money. He said he had to collect R90 000. He said they had been given money and guns from the Kwesine hostel"

Komane said Dlamini told him he had attacked commuters because "it was the work they were given to do"

The hearing continues

Star 4/13/93

# False plate link to Goniwe

By Helen Grange

A false number plate found near slain activist Matthew Goniwe's burnt-out car on June 29 1985 belonged to a vehicle which, the year before, parked frequently outside the buildings housing the security police and Murder and Robbery Unit in Port Elizabeth, according to an affidavit in the Goniwe inquest.

The reopened inquest on the brutal killing of Goniwe and three other activists on an eastern Cape road on June 27 1985 began on Monday and is to resume next Monday in the Port Elizabeth Supreme Court

In an affidavit, Colonel Jacobus Jonker of the SAP outlined his discovery that the number plate — CB10627 — had picked up several parking tickets during 1983 and 1984 in Strand Street, next to Sanlam Building

The building housed the security branch and the Murder and

Robbery Unit, Jonker said

He added that the false number plate had been found near Goniwe's burnt-out car on June 28 1985.

During 1983, seven tickets were first issued to a Ford car, but later, tickets were issued to another Ford carrying the same number plates, according to an affidavit by Anna Stoltz of the Port Elizabeth Traffic Department

All seven tickets had been withdrawn by the senior State prosecutor at the time, she said

According to an affidavit by Lieutenant-Colonel Ronald Dawson, who ran the SAP's Eastern Cape Vehicle Unit at the time, the number plate concerned was not registered

Colonel Karel Britz of the SAP Murder and Robbery Unit has stated that during his investigations, he established that false number plates could be used under certain circumstances

He could not trace which false number plates had been used and when

~~252~~ (252) ~~252~~

Star 4/3/93  
**Actress's  
aid bid  
opposed**

Pretoria Correspondent

Actress Gaynor Young's bid for increased benefits from the Workmen's Compensation Fund continued with legal arguments by her counsel and the attorney for the Accident Fund

At the hearing in Pretoria yesterday before the Workmen's Compensation Commissioner, the legal officer for the Accident Fund — Herbert Rademeyer, who is also the first respondent in the legal battle — instructed Sam Maritz, who had been representing the Performing Arts Council of the Transvaal (Pact), to be counsel for the Accident Fund.

Peter Pauw, representing Young, argued that Rademeyer had no legal basis on which to oppose Young's application for increased compensation, because he had shown no interest prior to Pact withdrawing from the case to oppose the application.

He said Rademeyer should have filed a counter-claim after Young had made application for more aid.

Pauw argued that the commissioner could not delegate his powers to oppose the claim to Rademeyer

The hearing continues today.

Star 4/3/93  
20 252

# Families take fight to court

By Jo-Anne Collinge

The case of the tiny community of Khosis, who claim the right to live undisturbed on ancestral land in the middle of the army's vast P W Botha Battle School near Lo-hatla, comes before the Supreme Court, Kimberley, today.

Joseph Free, head of one of the 40-odd families who refuse to quit their land, will ask the court for an order ensuring peaceful and undisturbed occupation, free of SADF interference.

The applicants want to be allowed free access to their homes, over the most convenient routes.

They argue that hardship has been caused by the closing of certain gates to the camp since September last year, when an unsuccessful attempt was made to get the entire Khosis community to move to Jennhaven.

Start 4/3/93

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# Court told of cash for permits

## Court Reporter

A transport consultant yesterday told the Johannesburg Magistrate's Court that he paid thousands of rands in cash to a senior Department of Transport official for "granting" taxi permits.

Sunny Doorsamy told the court that he gave Gustav Vorster, then secretary of the Local Road Transport Board, R3 300 for the "authorisation" of 11 taxi permits.

The Local Road Transport Board, the body that officially approves or rejects local taxi

permit applications, had granted permits for only two of these taxis.

Cornelia Wilsenach, a senior administration official of the Department of Transport, told the court on Monday that before November 1991 the total cost of obtaining a permit was R110

Doorsamy said he also paid Vorster R600 for "granting" another two taxi permits. Neither of these permits was authorised during an earlier board hearing.

Doorsamy said he felt bad about paying Vorster for

granting the permits, but he wanted to keep his clients happy and stay in business.

He did not use the option of appealing to the National Transport Commission in Pretoria because this would have taken too long, Doorsamy said.

Vorster has pleaded not guilty to 105 charges, including fraud, corruption and contraventions of the Road Traffic Ordinance.

He allegedly committed the crimes between September 1990 and August 1991.

The trial continues.



metro

# Immigrants brought to SA illegally

Court Reporter

A Chinese businessman living in Johannesburg was convicted in the Johannesburg Magistrate's Court yesterday of unlawfully bringing 10 illegal immigrants into the country.

In his guilty plea explanation, Xie Yan (28) told the court that he knew he had not made the necessary arrangements when he brought the Chinese citizens into South Africa for a commission of between \$3 000 and \$5 000 (R9 000 and R15 000) per person.

The immigrants were first taken from Shanghai to Lesotho, then brought into South Africa between November 15 and December 29, last year.

After Yan had been found guilty on the charges, investigating officer Sergeant Andre Erasmus told the court that

the immigrants, who were only given transit South African visas, ended up stranded and without work.

"They could do nothing but sell watches on the streets," he said.

Erasmus said the immigrants' air tickets and passports were removed from them after their arrival in South Africa.

He said Yan himself was due for deportation, as his temporary visa had expired last December.

Yan's lawyer, F A Chester, said in mitigation of sentence that Yan had used most of the money earned through the scheme to help the immigrants find work and accommodation. He could only afford a fine of just over R5 000, Chester said.

The immigrants are due to be sent back to China tomorrow, Erasmus said.

Magistrate F Roets reserved sentence for tomorrow.



# Insights into 'total strategy'

W/Mail 5/3-11/3/923

By SHADLEY NASH Port Elizabeth DOCUMENTS submitted to the Goniwe inquest which began this week provide a fascinating insight into details of how the state waged its "total strategy"

Among the dozens of affidavits handed in was a copy of confidential minutes of a meeting of the Eastern Cape Joint Management Centre (JMC), which details the lengths PW Botha's government went to keep tabs on its taxpayers in the mid-1980s

Matthew Goniwe, the "problem teacher", the fact that coloured sportspeople were moving away from the South Africa Council on Sport, and even the arrival of three Taiwanese ships in Port Elizabeth harbour all these came under the scrutiny of the JMC at its meeting of May 23 1985

At one point, illuminating the influence of the securocrats over the SABC, the JMC decided to inform the corporation that programme scripts should first receive departmental approval



Matthew Goniwe

The documentation was handed to the Eastern Cape judge president, Mr Justice Neville Zietsman, at the start of the inquest on Matthew Goniwe and three other Cradock activists in the Port Elizabeth Supreme Court

The four activists were murdered in 1985. The inquiry was reopened after the *New Nation* last May published a signal message which recommended the "permanent removal from society" of Goniwe and others

The inquest adjourned until Monday to allow all parties to study the documents. Mr Justice Zietsman appealed for anyone with additional information to come forward

The affidavits reflected the close watch the government kept over Goniwe just weeks before his death

The "difficult" teacher was brought to the attention of military intelligence by the Department of Education and Training (DET), resulting in two signal messages about him being sent from Eastern Province Command to the Secretariat of the State Security Council

The first signal deals with a recommendation from the Eastern Province JMC at its meeting on May 23 1985 that suspended teachers Goniwe and colleague Fort Calata should "never again be reappointed"

The second signal message, the focus of the reopened

inquest, deals with the now famous passage recommending Goniwe's "permanent removal from society"

In various affidavits, security officials claim the phrase did not mean his murder, but rather his detention

The story begins when DET official Jaap Strydom approached the Secretariat of the State Security Council. In his affidavit Major General Johannes Janse van Rensburg — who was on the secretariat at the time — said Strydom told him the DET was experiencing "serious" problems in Cradock, specifically with Goniwe

Van Rensburg said Goniwe was an important leader and as such played an important role in the unrest situation in the area. He said the security problem in Cradock was so serious the DET had even considered reappointing Goniwe.

He said the reappointment of Goniwe would have regional security implications and he therefore discussed the issue with General Joffel van der Westhuizen, now chief of staff intelligence but then a brigadier and officer commanding EP Command

Van Rensburg said he tasked a Brigadier Geldenhuys to form a committee to solve the Goniwe problem. He said the committee recommended that Goniwe could be reappointed, but should be banned to restrict his movements. This decision was to be communicated to the DET head office by Strydom

However, shortly after discussing the issue with Van der Westhuizen, he received a signal message from EP Command. Van Rensburg confirmed the contents of the message coincided with the document published by *New Nation*.

The question of Goniwe's re-employment was not the only issue to receive the attention of the JMC at its meeting. Under item 7 on the agenda, the JMC registered its objection to an SABC news overview on May 19 1985 on the schools unrest situation, describing it as being negatively handled. "The script must first be approved by the relevant department," the minutes stated

"Mr Verster (the SABC representative at the meeting) will communicate this recommendation to the SABC during a planned visit to Johannesburg," the minutes note — Pen

# Tracking the guns of Imbali

W/Mail 5/3-11 3/92 3

(252) (216)

*Despite hard detective work the state was unable to secure a conviction in the murder case against Imbali's mayor and a fellow councillor. But the trial raised more questions than it answered, reports **FRED KOCKOTT***

**H**OW many more people must die before the killers of African Natal Congress Midlands leader S'khumbuzo Ngwenya are brought to book? This is the question many people are asking after Imbali's mayor, a fellow town councillor and a councillor's son were acquitted in the Pietermaritzburg Supreme Court last week of murdering Ngwenya.

Ngwenya was gunned down as he left a Pietermaritzburg hotel after dining with friends on February 8 last year.

The prosecution's case was based on a 9mm cartridge case found at the scene of the killing and subsequently linked by a state forensic expert to parts of a 9mm Walther pistol belonging to accused number one, councillor Abdul Awetha. The pistol was from a batch of firearms that had been issued to councillors by the Imbali Town Council.

Forensic tests about a month after the murder ascertained that certain parts of Awetha's gun had been swapped with those of a gun belonging to Imbali's mayor, Phikelela Ndlovu, accused number two. The tests also found that the firing pin and barrel of Awetha's gun had recently been damaged, making it impossible to conduct a thorough ballistic examination.

However, the ballistic expert said marks left on the 9mm cartridge by the ejector and breech block of Awetha's gun were sufficient proof that the gun had been used at the scene of the crime.

It was concluded that the alterations and damage to Awetha's gun were designed to thwart ballistic examination and thereby destroy chances of the weapon being linked to the crime.

The defence called in another ballistic expert to refute these conclusions. Confronted by conflicting expert testimony, Mr Justice Combrink said it was impossible to find beyond reasonable doubt that there was a link between Awetha's pistol and the 9mm cartridge.

On the swapping of parts, the judge said this could have taken place while the councillors were cleaning their weapons. The damage to the firing pin and barrel could also have occurred accidentally.

The case against the councillor's

son — who cannot be named as he is still a minor — was based on a single eyewitness, whom the court described as untruthful. The court rejected evidence that he had seen the councillor's son reconnoitring the hotel where Ngwenya was dining, fleeing from the scene of the killing and jumping into a getaway car.

The trial raised more questions than provided answers. It is understood that detectives worked hard to solve this crime. Why then was the case presented to court so weak?

Although Awetha was apparently a suspect, detectives only received a warrant to search his home for firearms on February 20 — 12 days after the murder.

During the search, a 9mm Browning pistol was handed over to the investigating officer. Where was the Walther 9mm pistol, and why was it not hand-

ed over?

Detectives only found that Imbali town councillors all possessed 9mm Walther pistols in early March. The court did not ask how the detectives were not aware of this official supply of weapons while other policemen processed permits for these guns.

Giving judgment, Judge Combrink said Ngwenya's murder was part of a war between cowards who killed in the dark of the night. He ignored the testimony of Imbali superintendent Frederick Kelly that the Imbali violence sprang from conflict between the councillors and civic bodies supported by most residents.

Despite this evidence, the authorities empower, support and arm the councillors. According to evidence in the trial, the councillors have at their disposal a veritable armoury, including shotguns and pistols.

The judge did not comment on this evidence, nor the dearth of witnesses. He did congratulate the police for drawing up meticulous plans of the scene of the crime.

After the judgment, deputy attorney general Mike Roberts, who had led the prosecution, was granted an order that the guns be returned to the councillors.

A detective, formerly attached to the Pietermaritzburg riot investigation unit, once stumbled on evidence of a batch of 24 38 specials, purchased from Kings Sports by security police and distributed to Inkatha members in Imbali — all of them closely associated with town councillors.

The detective's investigations resulted in four of these weapons being connected to 17 murders in the township. In only two of these cases could convictions be secured.

Have the detectives who learned of the Walther 9mm pistols while investigating Ngwenya's murder checked whether past murders could be ballistically linked to these guns? The councillors are at the centre of the conflict in Imbali, and have been in possession of these weapons for about two years.

**S**OUTH AFRICA'S debate on a bill of rights has turned into a form of political duelling banjoes — without the musical treat. To date the African National Congress, the National Party and Inkatha have all put forward their versions of "fundamental" rights. The Democratic Party is belatedly preparing its own.

Rights have become barter commodities, while the apathy of the people whose interests are supposedly at stake can be measured in inverse proportion to the esteemed legal minds involved in dreaming up new rights.

The latest contribution, the ANC's updated draft bill, has just arrived in the mail. It is a "preliminary, revised version" to be put to the movement's policy conference for finality.

It is a cumbersome document, 24 pages long, consisting of 23 sections and numerous clauses and sub-clauses and points of explanation. Six of the sections have nothing to do with rights, but the procedures to be followed in the event of a state of emergency, when the president and a majority in parliament can suspend just about every civil liberty that the first 13 sections of the same document create.

The ANC draft points to the huge limitation to the discussion of bills of rights in South Africa — that it is not being conducted by flesh and blood people, but by political parties, backed up by bloodless lawyers to dot the i's, cross the t's and mangle the language.

A good litmus test of a bill of rights is always to look at the section on freedom of speech and information, because this is the one that political parties most often like to fool around with.

This is what greets one under article four of the ANC document: "There shall be freedom of thought, speech, free expression, and opinion, including a free press which shall report and comment fairly and respect the right of reply."

The constitutional requirement that the press "shall report and comment fairly" has been added since the last draft bill of rights in 1991.

What bothers one is that some of the finest legal minds in the country are involved. One would feel a lot better if this was the first draft.

The fact that they have come this far, lauded it through a number sub-committees and discussion groups, to still arrive at this formulation persuades one that the desire to muzzle the press is an extremely persistent strain in ANC thinking.

It is difficult to imagine that, after the legal experts have let this clause pass, an ANC policy conference, dominated as it would be by political activists, would feel a compelling need to argue it down.

It is not that one does not believe that a free press should report and comment fairly and respect the right of reply.

But as a legal colleague points out, the United States Supreme Court has made the point over and over again that some measure of abuse and error is inherent in every right. Freedom of speech cannot be restricted to what is deemed to be fair. Otherwise it wouldn't be free.

Besides, who will decide what is fair and what is unfair?

This provision takes one right back to the era of John Vorster and the Nationalist government demanding that the press be responsible, but not even Vorster or Stoffel Botha attempted to embed an authoritarian prohibition on "unfair comment" in the constitution of the country.

# Banging the rights drum (but the sound jars)



*On the programme are various bills of rights, played by South Africa's political parties. But the African National Congress and National Party strum to the same tune — which has little to do with ensuring people's rights*



By  
**PHILLIP  
VAN  
NIEKERK**

Under the ANC's bill of rights, allegedly devised to create greater freedom, the press will be less free than it is now.

What is equally disturbing is what the section on press freedom, like the NP bill of rights, leaves out. Having gone to great lengths to provide an exhaustive list of rights for the citizenry in the rest of the bill, there is no freedom of information provision, no right of citizens to have access to the records of government.

This is a provision that could really empower people and, given the justifiable concerns about corruption and abuse of power, make government much more accountable.

The ANC is not silent on this point. Instead, it proffers the vague and unenforceable "all men and women shall be entitled to all the information necessary to enable them to make

effective use of their rights as citizens, workers or consumers."

Who will decide what the limits of "necessary" and "effective" are? The only conclusion one can draw from this phrasing is that lawyers are capable of meaningless formulations when they need to put dud clauses into contracts.

One ought not to be too surprised. The ANC, as the probable future government, has never liked the media prying into its documents.

Last year, the commission of inquiry into the ANC's detention camps recommended that the movement release the internal report into the 1984 camps mutiny and the internal inquiry into the 1989 death of Umkhonto weSizwe commander Thami Zulu, which is still shrouded in mystery.

The release of both documents should be

regarded as being in the public interest. Still, nothing has been forthcoming.

It is notable that the key drafter of the Thami Zulu report, which by all accounts is a white-wash, is Albie Sachs, a member of the ANC constitutional committee.

But it is not only what is actually said in the phrasing of the bill, or left out, but the whole cumbersome litany of rights that makes both the ANC and the government's charters so problematic.

The core freedoms are diluted and weakened when lumped together with every imaginable right, such as equality in marriage (a section that could inadvertently outlaw ante-nuptial contracts).

Press freedom and the right to a fair trial are degraded to one of dozens of other rights, some enforceable, others not.

It's not that some rights are superior to others, it's just that they're of a different order. Why not create a special charter of social and economic rights, including the rights of trade union members, of children, of the disabled, the rights to shelter and jobs, as a progressive statement of intent for the new South Africa, separate from the practical and enforceable core civil rights?

There is much that is gratuitous in the ANC's document. For instance, there is this clause: "Legislation may provide for reproductive rights and rights associated with childbirth and child-raising may be respected." Do we really need to say this?

It is reminiscent of one Noah Webster, who was opposed to a bill of rights in the American constitution and sarcastically suggested that a clause be inserted saying "Congress shall never restrain any inhabitant of America from eating and drinking, at seasonable times, or prevent his lying on his left side, in a long winter's night, or even on his back, when he is fatigued from lying on his right."

The American Bill of Rights, an amendment to the constitution, has lasted more than 200 years. That is largely because its most empowering feature is that it is relatively short and the language is wonderfully clear and simple.

At the end of the day, the ANC has produced a document that seeks to set society in a strait-jacket of political correctness. It might win votes but ends up defeating the object of a bill of rights.

As the DP's Tony Leon says, both the National Party and the ANC have taken their political manifestoes and dressed them up as bills of rights. I hope he keeps that in mind when he draws up the DP's version.

The most ominous aspect is that there is a convergence between the ANC and the NP government in the ease with which the core rights can be derogated — in which, for instance, people can be detained without trial and censorship introduced.

As the new South Africa is unlikely to face a military threat from the outside, unless space-men from Mars invade, what we have is a blueprint for the crushing of internal dissent — and in the bill of rights yet.

Let us hope that South Africa does not yawn its way into the new era when the ANC and the NP together will share awesome power, having arrogated the right to themselves to suspend civil liberties with a minimum of fanfare.

**NEWS** We've had enough — sound men • Drug squad hunts escaped smuggler

## Court move to oust squatters rejected

*Sowetan 5/3/93.*

**By Josias Charle**

THE Pretoria Supreme Court has rejected an application for leave to appeal against an earlier decision to allow Zevenfontein squatters to settle on a piece of land in Diepsloot.

The appeal bid was brought by the Diepsloot Residents and Landowners' Association which is opposed to Zevenfontein squatters being resettled on a site in Diepsloot.

Mr Justice McCreath dismissed the application for an appeal by the white landowners with costs yesterday. In December last year he also rejected the landowners' initial application.

The action started last year with an application for an interdict restraining the Transvaal Provincial Administra-

■ **Development will begin at Diepsloot soon:**

tion from resettling the squatters on the proposed site.

Interns of the latest decision the TPA will now go ahead with plans to resettle the Zevenfontein community at Diepsloot.

In a statement released yesterday Transvaal MEC Mr John Mavuso said "The Zevenfontein community had lived in a state of uncertainty regarding their future and under unacceptable conditions with only the most rudimentary of services."

He said in terms of yesterday's judgment, the TPA would now set the physical development of the site in Diepsloot in motion.

## Cocaine drama at airport

■ **Nigerian citizen has operation after swallowing drugs:**

**Sowetan Correspondent**

A Nigerian citizen swallowed half a kilogram of cocaine packed in balloons at Jan Smuts Airport yesterday to try and escape arrest from police monitoring an incoming flight from South America.

Detectives rushed him to Hydromed Clinic where an emergency operation

was performed to get the drugs - worth R150 000 - out of his stomach.

But police were less successful when a Surinamese drug smuggler on the same flight, carrying cocaine worth R510 000, escaped after he had been arrested. The man broke free and fled into the parking area where he disappeared. Police confiscated the drugs.

# Music festivals face sound boycott

**By Kenosi Modisane**

**S**OUND hire companies have threatened a blackout on music festivals after last weekend's riots that caused more than R620 000 in damaged equipment at three shows.

Four major sound and lighting companies — Sound Hire Unlimited, Admusic, PA Sound Hire and Mega Music — warned yesterday they would withdraw their services from live shows. The threat to black out festivals fol-

■ **WILD MEN** Sound hire firms fed up with rioting fans and danger to lives:

lows last week's incidents when pop singer Brenda Fassie was billed to appear at four music festivals and failed to honour one at the Malamule Stadium in Gazankulu. She was also blamed for the chaos at the KaNyamazana Stadium in Nelspruit, allegedly pulling singer Rebecca Malope's band off the stage because she was in a hurry to honour another engagement.

Two engineers were seriously injured and equipment damaged in the rioting. Mr Derek Woolridge of Mega Music said "We see this as the beginning of the end for music festivals. What happened at the weekend shows greed, selfishness and disrespect for the paying public and because she was in a hurry to honour safety of the engineers."

## Alleged killer did not confess

**By Tsale Makam**

MR Albert Dlamini who is accused of leading an attack on train commuters in the East Rand on October 9 1991, did not make a statement to a magistrate, the Rand Supreme Court heard yesterday.

Major J Kruse, who took the statement, said as far as he was concerned it

■ **Sequel to attack on train commuters:**

was not a confession and that was why he did not take Dlamini to a magistrate to make a sworn statement.

Dlamini (30) is facing three charges of murder charges and nine of attempted murder. He has pleaded not guilty and is on a R2 000 bail.

Mr Ernest Hutchinson, for Dlamini, told the court that his client did not speak "a word of Afrikaans or English". Three witnesses have identified Dlamini as having been one of the attackers on the Kallehlong to Germiston train on that day.

**NEWS** We've had enough — sound men ● Drug squad hunts escaped smuggler

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# Allied board considered firing De Villiers in 1991

SUSAN RUSSELL

THE Allied board considered summarily dismissing MD Kevin de Villiers in early February 1991 for publicly supporting FNB in its battle with the UBS consortium for control of the group, but censured and reprimanded him instead because of the imminent merger.

This and other details of the FNB-UBS-led consortium takeover battle emerged from Allied board meeting minutes submitted as evidence in the Rand Supreme Court yesterday.

The minutes from the takeover period were put to De Villiers during his fourth day as a key witness in a R1,5m claim brought against Absa by marketing company, Tytherley Investments.

The R1,5m represents part payment of a R4,5m agreement, involving Allied's sponsorship of SA yachtsman John Martin in the 1991 BOC race, concluded between Tytherley investments MD Peter Mancer and De Villiers

Mancer and De Villiers signed the agreement on September 1990, some seven months before Allied merged with the UBS consortium to form Absa

Absa is opposing the claim on the grounds that the agreement was never intended as a genuine contract.

The banking group alleges the contract was a device to enable Allied to obtain benefits unlawfully under the Income Tax Act which allows exporters to claim deductions on marketing expenditure abroad.

Both Mancer and De Villiers have denied the allegations.

De Villiers also denied the contract was nothing but a sham designed to conceal the fact that a portion of the R4,5m was local advertising expenditure

Absa counsel M Tselentis SC also put it

to De Villiers that his evidence of harassment by the Allied board and his disagreements with them during the months prior to the takeover was incorrect

"Whatever differences there might have been during the second half of 1990 there is nothing which fairly can be described as harassment which arise from these minutes," Tselentis said

"I disagree," De Villiers replied  
One minute records the anger of Sage chairman Louis Shill and other members of the Allied board when they were informed that De Villiers had made photocopies of shorthand notes from which minutes were drawn up.

It noted that De Villiers was "clearly at variance with every member of the board" and Shill is recorded as saying a "parting of the ways should be considered"

The board had also found there were grounds for De Villiers to be summarily dismissed for publicly voicing his support for the FNB offer, but in view of the merger decided to censure and reprimand him instead

Referring to the minutes of the AGM where three directors were removed and where De Villiers opposed Shill's re-election, Tselentis asked De Villiers if it was correct that "Shill in defence of his nomination stated it was necessary to have a strong board of directors to keep you under control?"

"That's correct," replied De Villiers  
Referring to an internal investigation into allegations of insider trading, De Villiers said he had been interested in this inquiry because of the enormous increase in Allied share volumes during takeover negotiations

The case continues today.

# Massacre 'aimed to derail talks'

RAY HARTLEY

THE brutal slaying of six school children at Table Mountain near Maritzburg on Tuesday was a deliberate attempt to derail multiparty talks, Anglican Archbishop Desmond Tutu said yesterday.

Tutu's statement came as the third day of a massive police search for between five and seven gunmen who sprayed a bakkie with gunfire as it carried the children to school turned up nothing despite a R250 000 reward offered for information on the killings on Wednesday. BIDAM

"This is timed to derail important negotiations, such as the ones due this weekend (the multiparty planning conference)," he said after visiting the site of the killings.

Police spokesman Capt Henry Bhudram said the Table Mountain area appeared to be calm following the deployment of additional internal stability unit police there on Wednesday. 5/3/93

He said no incidents of violence had been reported there since the killing and no arrests had been made He could not confirm a report that the driver of the bakkie

had identified one of the killers.

Sapa reports Tutu was accompanied by SACC secretary-general the Rev Frank Chikane and several senior Natal clergymen on his visit to the area.

"We are all shattered and almost speechless to think anyone could find justification for mowing down children in cold blood," Tutu said

His delegation, which was later joined by UN observers, peace accord officials and unrest monitors, prayed at the scene.

The group visited the home of local Inkatha chairman Bernard Mkhize to pray and express condolences. Three of his children were killed in the attack.

Greeting Tutu's delegation, Midlands Inkatha leader David Ntombela echoed the view that those responsible for the massacre were opposed to the multiparty planning conference.

DP leader Zach de Beer said yesterday he was "appalled" by the killings.





Follow the leader . . . a Sadtu member leads teachers in a protest song as they leave the Johannesburg Magistrate's Court yesterday. Picture: Ken Oosterbroek

Star 5/3/93

# Schools crisis falls under Goldstone's scrutiny

By Helen Grange

(252)

The Goldstone Commission has turned its attention to the schools crisis and has requested submissions on the intimidation of teachers, a commission source said yesterday.

A "go slow" at schools has disrupted education in Soweto this year, and there have been frequent reports on the intimidation of teachers by pupils.

The commission's new focus was initiated last month when it said it had received disturbing information about a number of incidents of violence and intimidation involving teachers.

Meanwhile, the commission is expecting reports on inquiries it held last year, including probes into the Boipatong massacre and train violence.

An inquiry into attacks on policemen continues from Monday

in Pretoria, while in Cape Town the investigation into the smuggling of illegal arms into South Africa goes on today

The commission's recommendation on guidelines to prevent mass demonstrations and protests turning violent has been gazetted for further submissions

Current investigations by the commission's special investigation team are being kept under

heavy wraps, as the work is "too sensitive", a source said

It has also been established that the investigations into Military Intelligence is still in progress. It was launched in the wake of a raid on an MI building which revealed that former Civil Co-operation Bureau operative Ferdi Barnard had been employed by MI in 1991.

It is understood investigators are making good progress

Star 5/3/93  
**3 guilty of bombing store**  
(252)

PORT ELIZABETH — Three men have been convicted for the bombing of a farm store belonging to an ANC supporter near Patensie in the eastern Cape in January.

The three are Abraham Young (27), who is a member of the militant rightwing Afrikaner Weerstandsbeweging, Andre Vorster (38) and Frans van der Walt (35).

They appeared in the Port

Elizabeth Regional Court.

Two other AWB members — 33-year-old Barend Mostert and 52-year-old Petrus Lombard — were convicted on a charge of illegally procuring explosives. Mostert and Lombard were each granted R200 bail, but Young, Vorster and Van der Walt were refused bail. The explosion caused damage of R50 000, which destroyed the shop of ANC supporter Malcolm Hepburn — Sapa



# Inquest told of flight, ~~(S)~~ stabbing

By Helen Grange

The mother-in-law of Fort Calata, one of three men who died with Matthew Goniwe on June 27 1985, has claimed in an affidavit that a man told her he saw Calata run behind a tree after the car he was travelling in was stopped at a roadblock.

She said the man, Isak Speelman, told her Calata had run away after the occupants of the car were attacked.

The affidavit, along with others, was handed in to the reopened Goniwe inquest in Port Elizabeth Supreme Court. The inquest resumes on Monday.

Speelman, in a separate affidavit, has denied any knowledge of the deaths of Goniwe, Calata, Sparrow Mkhonto and Sicelo Mhlawuli, saying he was working at Coin Security in Cape Town from April 1985.

He added, however, that Calata's mother, Nomonde — whom he knew well from childhood — had asked him in 1987 to find out how the four men were killed. He had failed to find out and she was "very angry".

Calata's mother-in-law, Vivian McLean, has stated that Speelman came to her home soon after Calata's death and told her that, as a soldier based in Queenstown, he had been ordered to man a roadblock in Port Elizabeth.

At the roadblock, he saw a girl from Cradock

"When a vehicle approached the roadblock, he heard a girl say 'Hier's hulle' ... it was stopped and policemen and soldiers approached it. He said the occupants of the car were treated roughly and he told me that he saw soldiers and policemen assaulting the occupants," McLean's affidavit said

"As far as I recall, he said the occupants were assaulted with 'skerp goede soos messe'. I understand this to mean they were stabbed. He saw Fort Calata who, he said, ran behind a tree.

"The girl alerted the police and soldiers to the fact Fort was escaping. He said he then ran away because he did not want to see what happened next because he knew Fort."

Star 5/3/93

# Civics' leader denies fascism

By Mike Siluma

Dan Mofokeng has greatly irritated "white" political parties in the past week.

The general secretary of the southern Transvaal region of the SA National Civic Organisation (Sanco) incurred the wrath of both the Democratic Party and National Party by declaring Sanco would oppose their election campaigns in black townships.

DP MP Tony Leon said Sanco's stance — backed by Azapo — was evidence of "authoritarian fascism".

Who is the man who has stirred a political hornets' nest?

Before taking up his job at Sanco, Mofokeng worked as an organiser for two unions affiliated to the Congress of SA Trade Unions, and served on the federation's Witwatersrand regional executive.

He describes himself as "an ordinary member" of the ANC and Communist Party branches in Katlehong on the East Rand.

At 33 he has not been able to vote in a democratic election and looks forward to exercising this right.

Are he and fellow Sanco members a bunch of undemocratic fascists, as his opponents allege?



Mofokeng . . looking forward to voting.

"No," he says "Our understanding of democracy is that people should have the right to associate or not; to assemble or not; and to freely express their views without interference.

"But in South Africa today we have not yet arrived at that situation. For instance, our people still have to get permission for access to public venues from white town councils, the magistrates and the police."

Mofokeng believes the "white" parties should be allowed to campaign in the townships only once the political playing field has been levelled. This should be done through a transitional executive authority and making available "State resources" to all parties for campaigning.

Star 5/3/93

# Releases tie up council

(252)

By Helen Grange

The National Council on Indemnity — set up in October to indemnify people who committed politically motivated crimes — has found that the bulk of its work involves applications for release from prison, the Department of Justice said yesterday.

The council is at present dealing with 854 applications for release from prison and only 432 first-time applications for indemnity.

Some 348 cases are being examined a second time, in terms of the Further Indemnity Act of 1992.

In Parliament this week, the Democratic Party's Douglas Gibson said he had been told by the Justice Department that there had been only eight indemnity applications, and none had been granted.

The Ministry of Justice responded that a significant part of the council's workload involved dealing with release applications, and Gibson was under the mistaken impression that only indemnity applications were being processed.

The council had met nine times and meetings were scheduled well into June.

# SA lottery: Star 6/8/93 fears of a ~~(251)~~ (252) false start

WITH the findings of the Howard Commission of Inquiry into lotteries and gambling not expected until the end of March, one of the major players in the scratch card industry, Games Africa, has already taken steps to gear up for a national on-line lottery.

And a copy of an operating manual for the "intelligent terminal" — supplied to Saturday Star — has examples of lottery tickets for a game called Lotto Africa. The tickets, printed in Greece, carry Ithuba's logo and fund-raising number. The eight-page manual, printed in colour on glossy paper, carries the logos of both Ithuba Games — Games Africa's brand name — and Intralot, suggesting that it was specifically prepared for the South African company's use.

## Printing tests

Ithuba Games financial director Richard Biesheuvel denied that tickets had been printed. "We have been looking into lotteries, but nothing has been done," he said.

Later, Games Africa's director of communications, Yossi Schwartz, when told he had the tickets, said the company had "done some printing tests, but we didn't print a lot."

Schwartz said Games Africa had decided "who our partners will be" and said "a few terminals" had been imported "for our internal training programme".

Schwartz said no contract to buy machines from Intralot had been concluded. He said the steps taken were not premised on any indications from Government that they would get the lottery franchise.

Last year, Saturday Star revealed that Games Africa managing director Eytan Rechter had influence in high Government places. Rechter and his partner

## JOHN PERLMAN Chief Reporter

in a jewellery business, Shalom Shpilman, twice asked then-finance minister Barend du Plessis to get them out of difficulties with the Reserve Bank.

Rechter and Shpilman were given a financial rand facility on condition that they made jewellery and returned the profits to South Africa within 90 days. When details of returned export profits were not supplied, and customs intercepted a parcel containing gold and diamonds in separate packages, the concessions and access to gold supplies were withdrawn. Du Plessis intervened to restore them.

Last month, Mr Justice A Howard recommended the creation of a single national lottery and wrote to President de Klerk expressing concern that Games Africa and the Board of Executors planned to introduce national on-line lotteries by April.

They were "determined to anticipate the commission's findings and attempt to corner the market," Howard said. This would "jeopardise the introduction of a single national lottery under State control".

Howard recommended a public warning that "persons who establish, commence, manage or conduct any such lottery will be liable to prosecution under the Gambling Act".

A Justice Department representative said the law allowed operators to "buy the material, but the moment it is used as a gambling game it becomes an offence". He said printing tickets and buying machines was "a calculated risk that may well go wrong".

Board of Executors representative John Braithwaite said his organisation had made "no capital expenditure".

## Lieutenant strangled suspect

THE ANC yesterday demanded the immediate suspension and prosecution of the Soweto detective who an inquest court ruled had strangled armed robbery suspect Bethuel Maphumulo in 1990. *C Press 7/3/93*

The findings by magistrate CG de Lange - that Maphumulo's death was caused by Lt Henry Beukes' criminal conduct - warranted immediate action by police, the ANC said. *(252)*

Police have said Beukes would not be suspended until the Attorney-General made a decision.

Maphumulo handed himself over to Soweto police. Lt Beukes later claimed that he "drowned in a swimming pool" *(251)*

# Appeal for witnesses

*S/ Times*  
7/3/93  
252  
THE number of lawyers before the bench in the Port Elizabeth Supreme Court when the inquest into the death of the Cradock Four reopened last Monday almost equalled the number of people sitting silently in the small wood-panelled public gallery.

Outside the newly built building all was still — despite rumours that demonstrators might toyi-toyi through the white suburb of Central. But the locked front gate was the only sign that weighty matters were afoot inside.

Of the five top legal teams in Court E, the most visible was the Legal Resources Centre's owlish heavyweight, Mr George Bizos, assisted by Mr Mohammed Navsa and a tired-looking director of the Grahamstown office of the LRC, Clive Plasket, representing the families of the murdered men.

They were surrounded by a small army of large, black-robed men: Mr Dup de Bruyn SC and Mr Johan Wessels for the SAP, Mr Anton Mostert SC and Mr Barnard Knoetze for the SADF, and Mr Nic

Treurnicht, National Intelligence Service custodian of the newly opened top secret state files that now form part of the court record.

Translating a wad of affidavits as thick as the Johannesburg telephone directory from Afrikaans into English for five hours non-stop was the friendly deputy attorney-general of the Eastern Cape, Mr Mike Hodgen SC.

There are more than 50 affidavits — including one from Somerset East spring onion farmer Barbara Butters, who drove through a roadblock at Bluewater Bay outside Port Elizabeth on the night that Matthew Goniwe and his three comrades were murdered.

Sprinkled between them are minutes of a top secret State Security Council meeting, copies of SADF signals and security reports on the sacked Cradock schoolteacher and UDF activist.

In the public gallery, silent and sombre, were the widows of the victims. Nyameka Goniwe sat silent, her eyes shielded by sunglasses. Fort Calata's wife, Nomode; Sparrow Mkonto's widow, Sin-

diswe, and Nombulelo Mhlawuli, wife of Sicelo, sat with an old friend, Eastern Cape Black Sash stalwart Mrs Judy Chalmers, and regional ANC officials Linda Mti and Bongani Gxilishe.

When the inquest resumes tomorrow, the Eastern Cape Judge President, Mr Justice Zietsman, will be on the bench.

He opened the inquest with an appeal for more witnesses to come forward.

Anyone with relevant information was invited to approach any of the five legal teams or the Legal Resources Centre, which could arrange for evidence to be given under a number of different witness protection schemes.

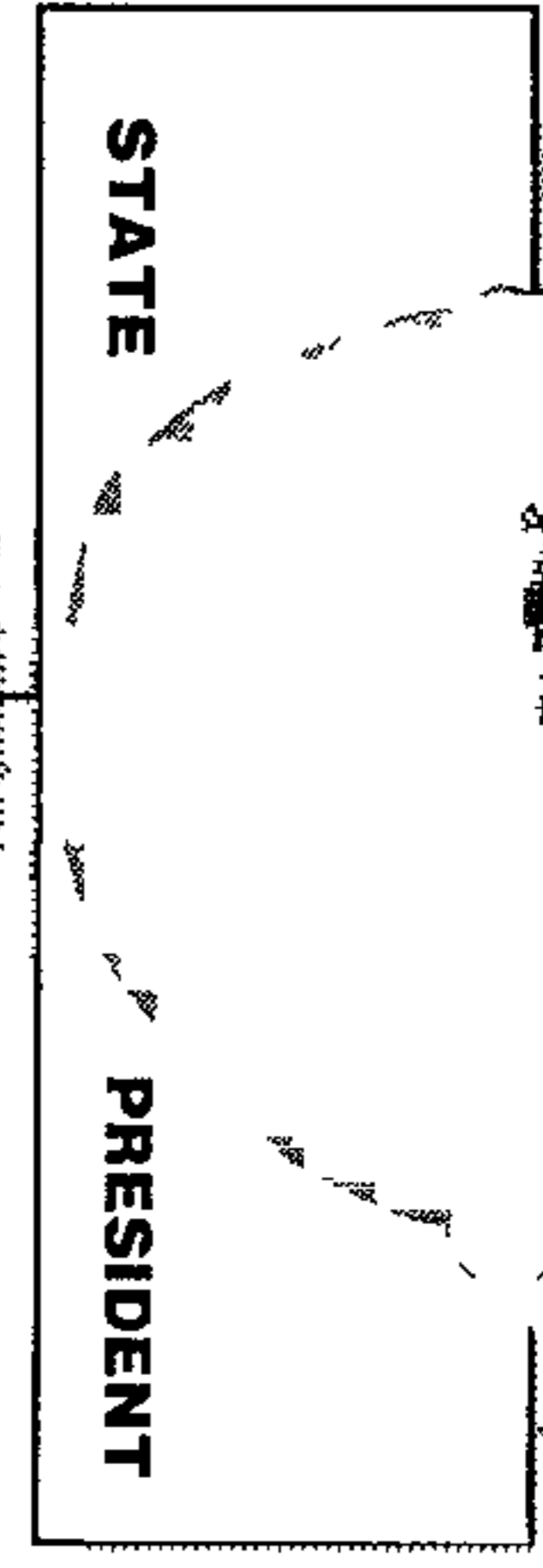
Mr Hodgen said yesterday that, depending on the individual circumstances, it might be possible for accomplices in the killings to apply for indemnity under the Criminal Procedure Act should they be prepared to testify.

He did not rule out the possibility of them also applying for political indemnity.

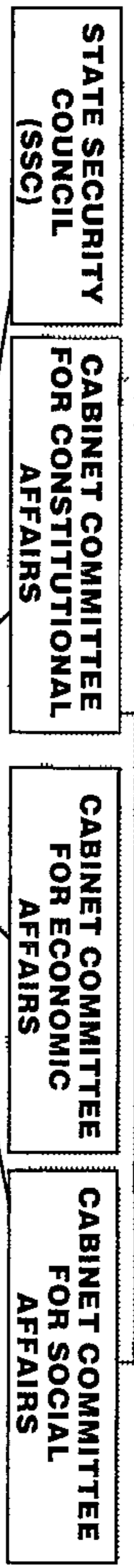
# THE PWM

# OCTOPUS

## NATIONAL MANAGEMENT SYSTEM



## CABINET



## WORK COMMITTEE

## SECRETARIAT OF THE STATE SECURITY COUNCIL (SSSC)

## INTERDEPARTMENTAL COMMITTEES

- \*Manpower
- \*Security
- \*Constitutional Affairs
- \*Security Forces
- \*Science & Technology
- \*Economic Affairs
- \*Cultural Affairs
- \*National Supplies & Resources
- \*Transport
- \*Civil Defence
- \*Community Services
- \*Telecommunications & Eskom

## JOINT MANAGEMENT CENTRES (11)

- SUB-JOINT MANAGEMENT CENTRES (± 60)
- MINI-JOINT MANAGEMENT CENTRES (± 350)
- LOCAL MANAGEMENT CENTRES

Stimmed  
1/13/93

252  
JMC

the UDF's threat to boycott the East London newspaper, the Daily Despatch, because of its poor coverage of UDF affairs.

While the meeting supported a proposal that more TV programmes should offer dialogue on matters affecting blacks, it roundly condemned as negative a news review shown the previous Sunday night by the SABC on the black school situation.

The school situation in Cradock was dealt with in three lines classes at Lingshale were still suspended, and there were growing demands for the reinstatement of Goniwe and Fort Calata.

That the EPJMC was, indeed, concerned about the Cradock situation is evident from its decision at this meeting.

Item 25 in the minutes states "A signal will be sent to the Secretariat of the State Security Council, for relay to the relevant Cabinet ministers, recommending that Matthew Goniwe and Fort Calata never be appointed as teachers again."

## STRATEGIES

Last — though clearly not least, given the JMC's brief — was item number 30 possibilities of terrorist attacks. The nine-line report noted that the highest probability was in Natal.

Also included in the hundreds of pages of affidavits, top secret memos and minutes of security meetings that form the basis of the state's case in the Goniwe inquest are the minutes of a June 7 meeting of the Joint Operations Centre, baby brother to the JMC.

Chaired by a senior police officer, this committee's discussions were deemed important enough to be classified SECRET.

On the agenda 20 days before Goniwe and his three comrades were brutally murdered were fears that a church service, at which the Rev Allan Boesak would preach, could spark a new wave of violence. The role of infiltrators in the State's counter-revolution is apparent from the minutes of this meeting. They had to be instructed to glean information about "commandos" rumoured to be launching attacks on police-

## ON THE AGENDA

men in the townships from a white Ford Escort and a light blue Peugeot 404, and to infiltrate "organisations" as part of covert action, moved to combat the escalating violence.

Among the top secret documents in the Goniwe file are minutes — retrieved from the NIS archives — of the State Security Council's meeting on June 10.

SECRET documents filed at the reopening of the Matthew Goniwe inquest in Port Elizabeth this week provide a rare insight into the "total strategy" devised to combat the "total onslaught" against South Africa in the 70s and 80s.

The branchhead of former State President PW Botha and his Defence Minister, General Magnus Malan, the National Management System was a giant octopus with tentacles reaching every corner of daily life.

Under the auspices of "state security", the vigilant custodians of peace and political power served on a myriad of committees with mandates that permeated every level of society.

Riots, boycotts, strikes and acts of terrorism were subjects for the closest analysis. But so, too, were sports fixtures, competitions, festivals and even weddings.

## SUPPORT

At the apex of this pyramid of snoopers was the State Security Council, chaired by the president. Its twin brief was to advise the government on the formulation and implementation of a national security policy to combat any threat to South Africa, and to determine intelligence priorities.

By mid-1985, as the "revolution" it was designed to counter raged in black townships across South Africa, the SSC's support structure came into its own.

Nowhere was the conflict more intense than in the Eastern Cape, home of school teacher and United Democratic Front leader Matthew Goniwe.

In his political power base, Cradock, the situation verged on anarchy, said former SSC strategic communications chief Adamus Paulus Stemmet in his affidavit to the Goniwe inquest.

As the townships burned, hundreds of carefully selected men and women worked tirelessly to identify flashpoints, subversive elements and security risks.

Among the life-threatening situations discussed at the Eastern

Province Joint Management Centre's monthly meetings from March to May were school netball tours, play festivals, library projects and the cost of bus tickets.

Chaired by the SA Defence Force's most senior officer in the region — Brigadier (now Lieutenant-General) Joffel van der Westhuizen, officer commanding EP Command at the time — the Eastern Province Joint Management Committee met monthly.

Uppermost on the March agenda was the situation in Goniwe's home township, Lingshale, Cra-

dock, where a total school boycott was in force.

Goniwe's name appears only once in the minutes of the meeting. At the end of item 7c, he is mentioned as the person influencing a number of teachers to refuse proposed transfers to Graaff-Reinet.

The meeting noted that the Cabinet was expected to make an announcement later in the day on the escalation of the SADF's role in dealing with the unrest. For the fortnight before, the SADF had been deployed in a support role

Most of the meeting focused on matters relating to the Communications Committee — quantity referred to, military-style, as COMCOM.

After briefly discussing newspaper reports on unrest in the preceding month, the meeting of four brigadiers, three colonels, three commandants, a major, a captain, two lieutenants, a doctor and a bevy of public servants turned their full attention to a population development programme planned for East London late in April, and another in Queenstown on May 1.

Three short lines of the minutes record that the revolutionary climate had deteriorated dramatically since 1984 Youth Year projects, on the other hand, warrant half a page.

Youth Year was again high on the EPJMC's agenda at its May 23 meeting.

Item No 6 on the agenda — the schools boycott — evoked grave concern. But the unrest and growth in rural areas was a red flag, attention as a red meat boycott in the Border area after the sacking of a number of abattoir workers, and

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Sunday  
Times  
7/3/13

One item on the agenda was deferred to the SSC's meeting in July. It dealt with responsibility for fire-fighting services at national level.

Possibly the most illuminating minutes filed with the Port Elizabeth Supreme Court last Monday are those of a special meeting of the Joint Operations Centre on June 19.

Chaired by Brigadier CA Swart of the SAP, the gathering of securocrats wasted little time in getting down to business — a soccer match between Kaizer Chiefs and Witbank Black Aces at the Boet Erasmus Stadium.

The plan for dealing with an expected riot when the sports arena disgorged the anticipated 35 000 people late on a Saturday afternoon would have done a general proud.

The rest of the meeting — the minutes cover little more than half a page — dealt with the education crisis and a women's meeting in the New Brighton Centenary Hall.

## Khosis lock-out

~~AN~~ application by the embattled Khosis community to stop SADF interference with the peaceful occupancy of their ancestral land was dismissed with costs this week in the Kimberley Supreme Court

The 40 families from the settlement situated in the middle of the SADF's sprawling PW Botha Battle School at Lohatla in the northern Cape have been fighting for the right to stay on their land and to have free access to it

Now two of the main gates have been locked and residents have to produce identification when entering or leaving the area. Visitors need permits from the SADF

Sunday Times 1/3/73





# nation

Star 8/3/93

## Goniwe inquest resumes

The reopened inquest into the deaths of four political activists in the eastern Cape in 1985 resumes in the Port Elizabeth Supreme Court today. One of the items to be examined is the controversial military signal which was apparently transmitted from Eastern Cape Command to the then-State Security Council suggesting that Matthew Goniwe, Mbulelo Goniwe and Fort Calata be "permanently removed" (252)

Star 813193

# 'Act against strangling' (252)

The failure of the SAP to suspend an officer who strangled a robbery suspect in custody would foster the attitude that policemen could get away with anything, Lawyers for Human Rights director Brian Currin said ( ) ● Page 5

# NEWS Objective of SA Police welcomed at International Women's Day

## Appeal to Goldstone

THE Goldstone Commission should investigate violence against women and its impact on efforts to promote peace, stability and political tolerance

This was the message from United Nations observer and regional Unomsa co-ordinator Angela Masithela when she addressed an International Women's Day rally at Alexandra in Johannesburg yesterday

Masithela, who spoke on behalf of Unomsa head of mission Mrs Angela King, said the National Peace Committee should consider amending the National Peace Accord to acknowledge specifically the critical role of women in the peace process and to enhance their participation in Peace Accord structures

### Probe violence against women and its impact on peace and tolerance:

"Regional and local peace committees and the parties and organisations participating in them should review the representation of women in these committees and their sub-groups with a view to achieving the full participation of women," Masithela said

Unomsa also welcomed the stated objective of the SA Police to improve police-community relations and said that the police should seek closer co-operation with women's organisations to enhance the status of women and prevent violence and intimidation against them, she said — *Sapa*



1

# Maphumulo family hails court ruling

Sowetan 8/3/93

(252)

By Musa Zondi

■ Suspect died after being strangled by policeman, magistrate finds:

THE family of Mr Bethuel Maphumulo, who was strangled by a policeman while in detention, are happy the magistrate proved a policeman killed their son because "most of the time they get away with it"

Mrs Gugu Maphumulo, the deceased's widow, said police had been telling them lies all along and they were grateful that the truth had come out at last

On Friday magistrate Mr CG de Lange ruled in an inquest court that Maphumulo was strangled by Lieutenant Henrie Beukes at the Protea police station in 1990. The court found the police

version was inconsistent with the medical evidence

Police had earlier said Maphumulo died after a scuffle with Beukes and had fallen into the pool and drowned

Maphumulo's aunt, Mrs Petronella Maphumulo, said they were happy that they had been proved right that their son was murdered. "The fact remains that Beukes killed him," she said

She recounted the ordeal of how he died. She said Maphumulo handed himself over to the police after he was informed police were looking for him on December 11 1990 and because he

was innocent

"Two days later he was dead"

She said police had taken him to Venda to his mother because they suspected he had left the alleged stolen money with his mother. The mother was staying in the homeland at the time

When the family went to court on December 13 they waited for him to appear only to be informed later by his lawyer that he was dead

The African National Congress and Lawyers for Human Rights have called for the suspension and prosecution of Beukes

## Call to charge policeman (252)

THE ANC has demanded the immediate suspension and prosecution of the So-weto detective who an in-quest court ruled had strangled armed robbery suspect Bethuel Maphumulo in 1990. *DIAM 183193*

The finding by magis-trate CG de Lange that Maphumulo's death was caused by Lt Henry Beukes' criminal conduct warranted immediate action by police, the ANC said in a statement on Saturday.

Police have said Beukes would not be suspended from duty until a decision was made by the attorney general.

Police yesterday confirmed that the magistrate's finding had been forwarded to the attorney general's office. — Sapa

## Fraud accused points at SADF

PRETORIA — Businessman Albert Vermaas claimed on Friday that senior SADF officials had negotiated with him over the use of military aircraft he had secretly bought from the US Air Force for the war in Angola. *BIDAY*

He had mainly talked to former Defence Minister Gen Magnus Malan, he told the Pretoria Supreme Court. *8/3/93.*

Vermaas, allegedly behind a fraudulent investment scheme which left more than 500 people destitute when it collapsed in 1988, also said government officials had used aircraft he had bought overseas with investors' money.

He has pleaded not guilty to 154 charges: 106 of them connected to fraud, six to theft and the rest for allegedly contravening exchange control regulations, the Income Tax Act, Bank Act, Companies Act, Insolvency Act and the Arms and Ammunition Act.

Vermaas said negotiations for the use of eight cargo planes by the SA Air Force in Angola had come about because Foreign Affairs had been using his aircraft.

Vermaas told the court about an intricate scheme to buy military and civilian aircraft in the US without his American partner being seen as doing business with a South African. — Sapa.

## Final evidence heard in R1,5m suit against Absa

SUSAN RUSSELL

FORMER Allied MD Kevin de Villiers said on Friday he might still have concluded a R4,5m sponsorship agreement even if marketing company Tytherley Investments had not agreed to perform two existing contracts for free.

De Villiers was testifying on the final day of evidence in a R1,5m claim brought against banking group Absa by Tytherley MD Peter Mancer

The validity of the contract, involving a number of Allied sponsorships for yachtsman John Martin in the 1991 BOC race, is central to the dispute between Tytherley and Absa.

De Villiers and Mancer signed the deal in September 1990 — seven months before a UBS-led consortium took control of Allied and formed Absa.

Mancer is claiming R1,5m as part payment of the R4,5m.

According to Mancer and De Villiers, Allied acquired the exclusive European TV advertising and marketing rights to the 1991 BOC yacht race from Tytherley for a price of R4,5m on condition that Tytherley performed two other Martin sponsorship contracts for free.

Absa is defending the claim, alleging that Mancer and De Villiers never intended to enter into a genuine contract.

The banking group alleges that the

contract was a tax dodge designed to enable Allied to unlawfully claim deductions to which it was not entitled.

It has also been alleged that R2,1m of the R4,5m was actually for local sponsorships and would not have qualified for the tax deductions.

Both Mancer and De Villiers have denied Absa's allegations

De Villiers spent four-and-a-half days under cross-examination in the witness box.

He said he might still have entered into the contract even if Mancer had not agreed to perform the other two sponsorship contracts for free.

"But I am not 100% sure I would have," he added

De Villiers said he had been looking for a better deal when he had negotiated the two free sponsorships with Mancer.

He said the tax concessions were important and the Allied would not have gone ahead with the sponsorship if they had not got a favourable ruling from the Receiver in this regard before signing the contract.

At the conclusion of De Villiers' evidence on Friday both parties indicated they would not be calling any further witnesses and the case was adjourned until tomorrow for final argument.

INTERIOR PLANTS CAPING



DEW

Star 8/13/93  
252

# Call for action over custody strangling

By Bronwyn Wilkinson  
Crime Reporter

The failure of the SAP to suspend an officer who strangled a robbery suspect in custody would foster the attitude that policemen could get away with anything. Lawyers for Human Rights director Brian Currin said yesterday

Magistrate C G de Lange found on Friday that Lieutenant Henry Beukes had strangled Bethuel Maphumulo at Protea police station in December 1990.

Currin said there was no culture of accountability within the police force and the failure to take action against Beukes would foster this attitude

Ministry of Law and Order spokesman Captain Craig Kotze said last night that the documents from the inquest had been forwarded to the Attorney-General for a decision whether to prosecute Beukes

Pathologist Dr Jonathan Gluckman said he was satisfied that one of the cases which had prompted him to go public with allegations that police were killing people in their custody had "turned out this way"

# Five years for man who duped aliens

STAR 8/3/93

252

By Philip Zoio

A Chinese man was sentenced on Friday to an effective five years in jail for the "calous and repulsive crime" of bringing 10 of his countrymen into South Africa and leaving them stranded.

Xie Yan (27) earlier last week pleaded guilty to and was convicted on 10 charges of unlawfully bringing illegal aliens into the country.

Passing sentence in the Johannesburg Magistrate's Court, magistrate F Roets said: "The manner in which you committed these crimes exhibits your blatant disregard for the fate of the people whom you assisted in entering the country

"You took their passports and air tickets and left them desperate"

He said it was obvious that the crimes had been carefully planned and executed

Yan had brought the immigrants from Shanghai to Lesotho and then into South Africa.

## Special unit

Investigating officer Sergeant Andre Erasmus had told the court that the entry of illegal aliens into the country was so "rife and prevalent" that a special police unit had had to be established to deal with the matter, Roets said.

Yan said he was paid between \$3 000 and \$5 000 (between R9 000 and R15 000) by each illegal immigrant

He said he knew he had not made the necessary arrangements to allow the immigrants to stay and work in the country

Roets suspended half of Yan's sentence for five years



# Judge Star 9/3/93 to probe election 252 violence

By Bronwyn  
Wilkinson

The Goldstone Commission is to set up an inquiry into ways of preventing violence before, during and after an election, commission chairman Mr Justice Richard Goldstone announced yesterday.

The judge said he hoped the inquiry would be a consultation with all South Africans on "a matter which is primarily their concern".

He also hoped to educate people on political tolerance, which was essential for a free and fair election.

The commission would investigate

- The rules of conduct and procedure (including policing and security) at public meetings

- The time during which voting should take place

- The location of polling stations.

- The security and policing of polling stations

- Vote-counting procedures.

- Relevant measures during the period after the election

The judge asked that non-governmental organisations, church groups and welfare organisations consult their constituents regarding the inquiry.

# Signal on Goniwe challenged

*B/D/M 9/3/93*  
PORT ELIZABETH — A signal sent from Eastern Province Command to the secretariat of the State Security Council ordering that three political activists, including Matthew Goniwe, be "permanently removed from society" could be interpreted as an order to kill, a former SADF general admitted to the Port Elizabeth Supreme Court yesterday.

Testifying at the inquest into the deaths of the "Cradock four", Maj-Gen Johannes Frederik Janse van Rensburg said the "uninformed" may have understood the signal as an order to kill.

The inquest into the killing of Goniwe and Fort Calata, Sparrow Mkonto and Sicele Mhlawuli was reopened by President F W de Klerk after the New Nation pub-

lished the signal last May. The signal was sent on June 7 1985 by Lt-Gen C P "Joffel" van der Westhuizen, then head of Eastern Province Command, and addressed to Van Rensburg, who was head of strategies in the secretariat of the State Security Council. It ordered that Goniwe, his brother Mbolelo and Calata be "permanently removed from society as a matter of urgency" (252)

Van Rensburg said he had understood the signal to mean the Goniwe brothers and Calata should be detained without trial for an indefinite period.

He conceded during cross-examination by George Bizos, counsel for the families of

□ To Page 2

## Goniwe *B/D/M 9/3/93*

the deceased, that the language had been careless and could have a double meaning. "Subjectively I knew what he was suggesting, but I knew the man on the street might have thought something underhand was going on."

This had concerned him at the time and he had decided training courses should be given in the correct use of language.

The "uninformed" man on the street might have interpreted the signal as an order to kill.

Bizos questioned whether the signal could have been an order to detain the Goniwe brothers and Calata because neither Section 28 nor 29 of the Internal Security Act made provision for the "permanent" detention of people.

Van Rensburg said he understood the signal to mean the three men should be detained for a lengthy period as Section 28 and 29 made provision for detention without trial and detention for questioning.

He said he received the signal only 10 days after it was sent because he had been chairman of a task group considering the implementation of a national state of

*(252)* □ From Page 1  
emergency "I first laid eyes on it (the signal) on June 17, 10 days after it was sent."

Calata, Goniwe, Mkonto and Mhlawuli were killed on June 27 while on their way to Cradock from Port Elizabeth where they had attended a UDF briefing.

Bizos put it to Van Rensburg that he was not being truthful as the signal was marked top secret and urgent.

Van Rensburg had claimed in an earlier affidavit to have received the signal "shortly after" a telephone call between himself and Van der Westhuizen on June 7, during which the "problem teacher" — Goniwe — had been discussed.

□ Transkei military leader Maj-Gen Bantu Holomisa said in Umtata yesterday he would disclose the contents of a file relating to alleged NP government dirty tricks at a news conference on Thursday.

Holomisa released a file last year detailing the alleged State Security Council signal concerning Goniwe. At the time Holomisa indicated he was in possession of another file — Sapa.

# Goldstone walks the other mile

Sowetan 9/3/93

252

2018

**S**EEKING WAYS OF CURBING potential violence during a national election will be the subject of a Goldstone Commission inquiry, chairman Mr

Justice Richard Goldstone said yesterday

Referring to South Africa's all-race election, which is expected to take place next year, he said he hoped the inquiry would be an effective consultation with all citizens to educate them on political tolerance

This was essential for a free and fair election and one unaccompanied by violence or intimidation, he added

The South African National Civic Organisation has threatened to disrupt township election campaigns by the

■ **PEACEFUL POLLS** Judge is deter-

mined to ensure violence-free elections:

National and Democratic parties

Two DP rallies at Cape Town townships have been disrupted over the past four months. The disruptions were blamed on the African National Congress and Pan Africanist Congress

A meeting addressed by State President FW de Klerk at Mitchell's Plain, near Cape Town, was also disrupted about a year ago, apparently by ANC members, while in October 1991 an address at the University of Pretoria by ANC leader Nelson Mandela was dis-

rupted by rightwingers

Goldstone has appealed to political parties and church, welfare, political and non-governmental organisations to consult with their members and "involve all of the people of South Africa in a matter which is primarily their concern"

He said the terms of reference would include the rules of conduct and procedure which should apply to public meetings by political parties and organisations" — *Sapa*

HOUSE OF DELEGATES

The MINISTER OF HOME AFFAIRS.

QUESTIONS

Indicates translated version

For written reply

General Affairs



Film subsidies

5 Mr M RAJIB asked the Minister of Home Affairs

(a) What amount was paid by the State to film producers in subsidies in respect of the 1992-93 financial year, (b) (i) to whom and (ii) for what films was it paid and (c) what amount was paid in respect of each film?

(i) Information is for the period 1 April 1992 till 23 February 1993

(ii) The amounts paid in respect of the films American Ninja IV and Oddball Hall, which were the subject of litigation, also include interest of R1 336 074,34 and R496 220,72 respectively

(iii) The following claims which have not been included in the schedule are now being processed for payment

Orkney Snork Nie  
Tough Luck  
The Angel, the Bicycle  
and the Chinaman's  
finger

R1 096 182,99  
R 897 921,70  
R 231 421,00

Producer	Film	Amount (R)
Toron Screen Corporation (Pty) Ltd	Die store van Klara Vljee	1 462 577,43
Toron Screen Corporation (Pty) Ltd	Taxi to Soweto	165 724,91
Toron Screen Corporation (Pty) Ltd	The Angel, the Bicycle and the Chinaman's finger	584 589,00
Toron Screen Corporation (Pty) Ltd	Sweet and Short	842 965,33
Electra Entertainment	Deadly Hunter (Hot Pursuit)	75 719,70
Sey Productions	No Hero (Cupid)	725 245,58
Scholtz Films	Paradise Road	1 500 000,00
Franz Marx Films	Prince van Pretoria	775 913,90
Ideal Films	Sarafina	2 280 249,32
L & O Leisureco	'n Pot vol Winter	647 718,72
Toron Screen Corporation (Pty) Ltd	Die nag van die 19de	6 108,43
Blue Bell Partnership	Voice in the dark	1 375,50
Koukus Troika	Oh Shucks here comes Untag	2 221,42
L & O Leisureco	Agter elke man	7 458,56
L & O Leisureco	The road to Mecca	2 082,09
Oddball Hall Management	Oddball Hall	1 479 692,72
American Ninja IV Management	American Ninja IV	4 898 570,55
Dit is lekker by die see (Edms) Bpk	Orkney Snork Nie—Die Movie	1 108 110,63
Heyns Film en Televisie (Produkies) (Edms) Bpk	Tough Luck	140 000,00
JF Films	Baby Brown, the Body, Raw Vengeance	188 575,48
Aim Productions	King of the road, Pinup Girl II	34 872,30
TOTAL		16 929 771,57

HOUSE OF DELEGATES

HOUSE OF ASSEMBLY

INTERPELLATIONS

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

General Affairs

Goldstone Commission: investigation of MI

\*1 Adv T LANGLEY asked the Minister of Justice

Whether the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation (Goldstone Commission) was instructed to investigate the Military Intelligence Division of the South African Defence Force, if so, who (a) gave such instruction to the Commission and (b) were involved in this investigation?

B354E INT

\*The MINISTER OF JUSTICE Mr Charman, the question indicates a possible misunderstanding, for reasons I shall now proceed to explain

On 18 November 1992 the hon the State President instructed Gen Pierre Steyn to investigate the intelligence functions of the Military Intelligence Division. Gen Steyn received instructions to take immediate control of all intelligence functions of the Defence Force, including those of the Military Intelligence Division and the intelligence arms of the four components of the Defence Force, to provide a comprehensive and in-depth analysis of all intelligence activities of the Defence Force and, in the light of this analysis and any recommendations he wanted to make, to report as soon as possible on the restructuring of these functions, and to obtain control over all the documentation of the Directorate of Covert Collection and make an in-depth analysis to see whether there had been any transgressions of the law or of Government policy.

This process could have served to support the inquiry by Mr Justice Goldstone, which was already in progress at that stage. The question that arises is where the Goldstone Commission comes in. The extent and nature of the involve-

ment of the Goldstone Commission in connection with this entire matter is set out very clearly in a joint statement made by Gen Steyn and Mr Justice Goldstone on 27 November 1992. This was just over a week after this date.

This statement made it clear that one very important central principle would apply with regard to the commission's involvement. The commission's interest would extend as far as was allowed by its mandate, namely to investigate public violence and intimidation and to report in this connection. In order to satisfy the commission that the information relevant to its mandate was available, the commission would have the necessary access in accordance with the provisions of the Act.

This was confirmed in the hon the State President's press conference on 21 December 1992. I quote the crucial sentence: "where information may become available relevant to its mandate". In that case the Goldstone Commission would be involved. It is very clear that the reason underlying this approach is the fact that the hon the State President views these as two instruments, one with the object of conducting an internal investigation and the other being the Goldstone Commission [Time expired].

Adv T LANGLEY Mr Charman, the hon the Minister is evading my question. I put the question to the hon the State President, and want to know why he is not replying to my questions himself. I shall tell hon members why.

On 11 November 1992 the Goldstone Commission conducted a raid on the Directorate of Covert Collection. An article in *Rapport* says there were two UN observers with Goldstone's team. My information is that there was one from the UN and one from Scotland Yard. They received access to DCC's files and made a beeline for the most valuable files any member of the intelligence community has. These are the files containing information about DCC's informants. *Rapport* said:

Hoogs geheime leggers wat die name van informante bevat sowel as die soort inligting wat hulle verskaf het en bedrae geld wat ontvang is, was eilike dae onder beheer van mense wat me die eed van ampsgeheime afgele het me.

Let us be frank with one another. This was COVERT INTELLIGENCE INFORMATION.

HOUSE OF ASSEMBLY

lapped up by overseas countries. One of them told a South African officer that he had never seen an organisation such as that operating its files to foreigners.

The hon the Minister knows that to have an effective intelligence organisation, one must have intelligence from the inner circles of the enemy. Any country that is threatened needs an effective organisation of that kind. South Africa is such a country at the moment. The ANC and the PAC are still recruiting people and sending them abroad. Illegal arms training is still taking place internally. MK's officers are receiving training in India and in East Africa. Tons of ANC weapons are stockpiled both inside and outside our borders. The hon the State President and the hon Ministers of Law and Order, Justice and Defence know that better than anyone else does.

A Government which, under such circumstances, undermines or weakens its intelligence organisations is guilty of utter madness. I can use no more emphatic word. That is exactly what the hon the State President and other sections of the South African intelligence community did. They know that I tackled them about this at the Presidency on 8 January. The message I received then was that I should not talk about these things. They are unmasking a component here and destroying it, because DCC has been destroyed.

*Rapport* reports that as a result of this, there has been a reduction of up to 500% in South Africa's ability to collect this kind of intelligence.

It is not only one's own people one is betraying, but also one's informants. Some of them are in the inner circles of the enemy, and if one betrays them they are lost, as are decades of work and money, which it would quite possibly take years to replace.

In this connection *Rapport* says [Time expired]

LI GEN R H D ROGERS Mr Chairman, the Goldstone Commission was established to prevent public violence and intimidation in South Africa. In judging the action of the commission in raiding the office of the Military Intelligence unit concerned, one must bear in mind that previous commissions of inquiry into the activities of Military Intelligence, such as the Harms

HOUSE OF ASSEMBLY

Commission, met with obstacles such as witnesses who refused to answer questions, evidence which had been tampered with and files which had just disappeared. The decision of the commission to act immediately can therefore be understood.

As a result of the information thus obtained, the hon the State President instructed Gen Pierre Steyn to investigate further, and on receiving his preliminary report, decided to take prompt action, and I quote

to bring to an end all illegal or unauthorised activities and malpractices which have come to light.

The DP is, and always has been, adamant that the SA Defence Force, like any other Government department, is accountable, through Parliament, to the people of South Africa for its actions. The fact that the hon the State President acted so promptly is therefore commendable [Interjections]

However, we feel that the hon the State President has not been open with the people of South Africa. Sixteen members have been given early retirement, yet we do not know whether they are guilty of any crimes, and if so, of what crimes. Seven more have been placed on compulsory leave, pending the outcome of further investigations. It is hoped that the public will be kept more fully informed of the outcome of these investigations.

\*THE MINISTER OF JUSTICE Mr Chairman, the hon member for Soutpansberg formulated the question in such a way that I could reply to him as I did. The answer to his specific question as to whether the Goldstone Commission was given instructions, however, is no [Interjections]

The inquiry is being led by Gen Pierre Steyn, whereas the Goldstone Commission's inquiry is related to its mandate. This may not be exceeded, to ensure that whatever is investigated and found in connection with violence and intimidation will be reported on within that framework. We held talks on 27 November, and a statement was issued in which it was confirmed that Mr Justice Goldstone would not exceed his mandate. That is his primary interest.

The fact remains that intelligence is the lifeblood of any fighting unit or defence force. It has its limits, however, and must be operated within

the correct framework of certain rules [Interjections] There is no organisation which is not subject to rules. By operating outside the framework of rules, one damages that organisation to a greater extent than one renders any service [Interjections]

\*ADV T LANGLEY One does not damage it, one betrays it, Kobie

\*THE CHAIRMAN OF THE HOUSE Order! The hon member for Soutpansberg must withdraw that statement [Interjections]

\*ADV T LANGLEY Mr Chairman, I said if what he said happens, it is treason.

\*THE CHAIRMAN OF THE HOUSE Order! No, the hon member for Soutpansberg must withdraw that.

\*ADV T LANGLEY Mr Chairman, I withdraw it.

\*THE CHAIRMAN OF THE HOUSE Order! The hon the Minister may proceed.

\*THE MINISTER The fact remains, there are demarcated spheres of operation here. In fact, on 12 February Mr Justice Goldstone issued another statement to the effect that he was not going to continue with a parallel investigation. He wants to allow Gen Steyn to conclude his investigation first, and if there are points of contact, he will take further cognisance. His field is a parallel interest which concerns intimidation and violence. In other words [Interjections]

\*THE CHAIRMAN OF THE HOUSE Order! I regret that the hon the Minister's time has expired.

\*THE MINISTER What about injury time, Mr Chairman?

\*DR W J SNYMAN Mr Chairman, the crucial question remains who carried out that raid on those offices. Was it not the Goldstone Commission? That is the question that is being asked.

The hon the Minister and the hon the State President used to be part of a Government which traditionally, for many years, consistently maintained the standpoint that it would not permit international involvement or interference in its domestic affairs. Now, judging from what the hon the Minister has said in his reply this afternoon, the Government has given in pitifully to international pressure.

Initially, when Mr Justice Goldstone made certain public statements and the hon the State President was abroad, this was greeted with opposition from every head of security and even from the hon the Minister of Defence, who, according to media reports, had declared a dispute with the Goldstone Commission. In less than no time however, an understanding and good co-operation arose between the hon the State President, his Government and the Goldstone Commission.

If the hon the Minister and the hon the State President now say there was no international involvement in the raid on the Army's Directorate of Covert Collection, I tell the hon the Minister that is not true. It cannot be true, and why not?

I have here a directive containing Resolution 772 of 1992, which states *inter alia*, and I quote only the following

It invites the Secretary-General to assist the strengthening of the structures set up under the National Peace Accord.

The Goldstone Commission is one of these.

In this directive to commandos, commanding officers are given detailed instructions on how UN observers should be able to accompany Defence Force operations and platoons, and even how they should be transported and protected. This is a tragic situation in South Africa's military history.

\*ADV T LANGLEY Mr Chairman, *Rapport* states *inter alia*

In veilighedskringe word gevrees dat die kloppag die Weernag se vermoë om inligting oor wapensmokkelaars en geweldpleging in te samel, 'n nekslag toegeedien het.

The hon the Minister did not reply to me! I challenge the hon the Minister and the hon the State President to appoint a parliamentary commission, chaired by a judge, to investigate the truth, the dates and the circumstances of the raid by the Goldstone Commission, which received its mandate from the hon the State President, on the offices of the DCC on 11 November, when Pierre Steyn was not even in the picture yet. I challenge the hon the Minister in the name of South Africa. I also challenge MPs who are sitting there as South Africans and citizens of this country to go to their caucuses tomorrow

HOUSE OF ASSEMBLY

Hansard

and force their Government to do this in the name of South Africa

(252) \*The MINISTER OF JUSTICE Mr Charman, the Goldstone Commission's investigating team was investigating allegations of police involvement in violence in Natal late in 1992 [Interjections] During the course of this investigation, the investigating team became aware of the existence and the address of a close corporation. It was only when the investigating team, accompanied by members of the police, had visited the aforesaid address and conducted interviews with people there, that they became aware that the institution had any link with the Defence Force, because it was a front organisation

To deduce from this, therefore, that this action on the instructions of the hon the State President was aimed specifically at the Military Intelligence Division, is misleading and a blatant misrepresentation. The commission came upon this in its investigation into violence in Natal, and the investigating team led it to a close corporation with an address which was maintained by a front. That is what happened

Sinister characters, to put it mildly, were involved in this

\*Mr H D K VAN DER MERWE Stuck to the truth

\*The MINISTER Sinister characters were involved in the gathering of intelligence

\*The CHAIRMAN OF THE HOUSE Order! The hon member Mr H D K van der Merwe must withdraw that allegation

\*Mr H D K VAN DER MERWE Mr Chairman, may I not ask the hon the Minister to stick to the truth?

\*The CHAIRMAN OF THE HOUSE Order! The insinuation was that the hon the Minister was not sticking to the truth

\*Mr H D K VAN DER MERWE That is true, and I withdraw it, Sir

\*The CHAIRMAN OF THE HOUSE Order! The hon the Minister may proceed

\*The MINISTER With regard to the actions of the hon the State President, he has a duty as head of the SA Defence Force, but also as head of the Government, unlike any attorney-general or any other prosecuting institution or manager

HOUSE OF ASSEMBLY

Hansard

in this country, when he deems it necessary to take preventative action in the greatest and best interests of that organisation, to do so. That is exactly what the hon the State President did with reference to certain reports that reached him and were deemed to be in the best interests of the country and the SA Defence Force. I want to state now that that action followed in consultation and in co-operation with the management of the SA Defence Force

Debate concluded

#### Reggie Hadebe: progress in investigation

2 Mr R F HASWELL asked the Minister of Law and Order

(1) Whether the South African Police have made any progress in the investigation into the alleged murder of Reggie Bhekunzi Hadebe on or about 27 October 1992, if not, why not, if so, what progress,

(2) whether the weapons of all those who knew Hadebe's movements on that day have been subjected to ballistic tests, if not, why not, if so, what are the relevant details?

B430E INT

The MINISTER OF LAW AND ORDER Mr Chairman, the subject of this interpellation is the murder of Mr Reggie Hadebe on 22 October 1992. The question that is being posed is whether any progress has been made in apprehending the murderer, and if not, why not? Unfortunately, I have to report that no arrest has been made as yet. Some progress, yes, although slightly in a negative sense or context in that a number of suspects have been eliminated. The investigation is, however, being hampered by a lack of clues and witnesses. The two eyewitnesses could not identify the attackers. The clues are limited to 11 7,62 cartridge cases, two 303 cartridge cases and one shotgun paper plug which were found at the scene of the crime. The ballistic investigation of the 303 bullet, which was found in the body of the deceased, was not successful owing to the fact that the damage to it was of such a nature that it could not be connected with the weapon used. In spite of a reward of R20 000, no positive information has been received

Hansard

The second part of the question deals with whether the SAP have investigated certain weapons. Not all the weapons in the possession of persons aware of Mr Hadebe's movements were seized, because there were no reasonable grounds to suspect that the owners of the weapons were indeed the suspects

The firearms of two IFP organisers at Isopu were seized, but could not be ballistically connected

Mr R F HASWELL Mr Chairman, the road which winds from Ixopo to Pietermaritzburg is lovely, particularly as it makes its tortuous way out of the Umkomas Valley. One of the hairpin bends requires a car to slow down drastically. It was here that Reggie Hadebe was expertly killed by the very first shot fired at the car in which he was sitting, in the front passenger seat

Who knew where Hadebe was sitting, in which car and when that car would drive by? I submit that it could only have been those who attended a so-called peace meeting in Ixopo earlier that day. Yet, nearly five months later, despite considerable police activity and the R20 000 reward mentioned by the hon the Minister, he can today only report virtually no progress at all

Do the SA Police not have an accurate inventory of all the guns in the possession of the gentlemen who attended that meeting? If not, it is no wonder that inconclusive results have produced inconclusive results and, of course, that the killers are still at large. One of the suspects, who was at that meeting and who had been charged with other murders, Nkosi Mkhize, has since died after complaining of a severe headache, but we await the results of that autopsy with considerable interest

However, my purpose in spotlighting this case is to urge the hon the Minister and the SA Police to redouble their efforts in this case, and double the reward, if need be, not just because Hadebe was an ANC leader or because IFP leaders may be implicated in the matter, but because Hadebe left a wife, Sibongile, and seven young children. They have to face each new day without him. We should do everything to avoid the pain and sadness which I see in their eyes, turning to bitterness because justice has neither been done nor seen to be done

The recent tragic and horrific events in the Natal Midlands show what can be done by the SA

Police when indeed no stone is left unturned. If the recent killings can be handed over to the Goldstone Commission, why not the Hadebe case?

I am not attempting to make political capital out of the violence in Natal [Interjections] Not at all. I am speaking on behalf of the family. I believe that all the children deserve this kind of thing. I would like to remind the House that two years ago I drew attention to the murder of Nkosi Maphumulu of Magongqo, or Table Mountain. We are suffering the tragic consequences of his death, the failure to bring his killers even to trial, and the fleeing from that area of virtually all ANC supporters. One year ago I raised the killing of S'khumbuzo Ngywenya. It took the State a year to bring the accused to trial [Time expired]

\*Adv C D DE JAGER Mr Chairman, I am afraid the implication here is that the Police once again did not do their duty. What upsets me even more, however, is the fact that we are dealing here with the insinuation—perhaps not unfounded—that the people serving on the peace committee may be the murderers, and that they are the prime suspects

Then one asks oneself whether these peace committees are not being misused to build power bases for each party in the name of so-called peace. I think it is time we totally reviewed the concept of the peace committees

I have said repeatedly, and we want to say again, that the time has come for us to get away from this idea of peace and get back to law and order. We will never restore law and order in this country as long as we allow the perception to exist that in some or other way a legitimate war is being waged and that peace must be made. We must have a final cut-off date and restore law and order

I predict today that it will not be possible to implement the death penalty in this country again, unless we arrive at that cut-off date, and unless we arrive at that cut-off date and restore law and order and do away with this so-called pseudo peace syndrome into which we have lapsed, we will never get law and order restored in this country

The MINISTER OF LAW AND ORDER Mr Chairman, in reply to the hon member for Pietermaritzburg South, I can give him the

HOUSE OF ASSEMBLY

# CCB men:

Star 9/3/93

# A-G ready

(252)

# to charge

By Jacques Pauw

The Attorney-General of the Cape is ready to prosecute nine former members of the Civil Co-operation Bureau (CCB) for sabotage and conspiracy to murder.

But the process is being delayed by the Department of Justice's Office for Indemnity which has not yet informed the operatives whether or not they have been granted indemnity for deeds of violence.

In a letter dated February 11, a member of the Attorney-General's staff, State advocate Janne van Vuuren, informed the Office for Indemnity in Pretoria that — after a two-year investigation — he was ready to bring charges against the CCB men. In the letter he asked whether they were going to be granted indemnity.

Van Vuuren said yesterday that he had not yet received an answer, but had to decide soon whether to proceed with the prosecution.

"I can make a decision only once I know whether they are to be granted indemnity or not," he said.

## Conspiracies

The nine are chairman General Eddie Webb, managing director Colonel Joe Verster, regional manager Staal Burger, operatives Ferdi Barnard, Galla Botha, Slang van Zyl, Chapple Maree, Wouter Brits and Isgak Hardien.

The possible charges date back to the September 1989 bomb explosion at the Early Learning Centre in Athlone, Cape Town, and conspiracies to murder ANC lawyer Dullah Omar and Johannesburg journalist Gavin Evans.

These are the first charges arising from the activities of the CCB, a clandestine South African Defence Force unit linked to the assassination and

bombing of various anti-apartheid activists.

It is three years since these activities were exposed during the Harms Commission's probe into hit squads.

The lawyer acting for Botha and Van Zyl, Piet du Plessis, said yesterday he was told by Van Vuuren that his clients would be charged and that the trial would start in April.

Du Plessis said Van Zyl and Botha had applied for indemnity in November 1990, but had not yet been informed of any decision by the Department of Justice.

## Unacceptable

He slammed the delay by the State and said it was unacceptable that his clients, who carried out instructions by their superiors, had to wait for more than two years to hear whether or not they had been granted indemnity.

In a letter to President de Klerk, Van Zyl and Botha say "It is incomprehensible why our applications have not yet been considered by your Government. It is with great shock that we learn that the Cape Attorney-General wants to prosecute us despite the fact that all our activities were approved by our superiors. You have deceived us."

Van Zyl admitted before the Harms Commission that he was involved in the bombing of the Early Learning Centre, the attempted murder of Evans and Omar and the planting of an ape foetus at the residence of Archbishop Desmond Tutu.

Botha admitted that he was involved in the Early Learning Centre bombing.

They say in their letter to De Klerk that they fully complied with all the stipulations of the Indemnity Act.

As far as The Star could establish, all the operatives except Verster have applied for indemnity.

# Court told of attack and murder on train

Star 9/3/93

By Susan Smuts

George Goch station

The third trial involving men accused of train violence began in the Rand Supreme Court yesterday when two Soweto hostel dwellers pleaded guilty to one count of murder and seven counts of attempted murder.

Icam Bongani Mazibuko (24) and Michael Mguni (26), both of Mapetla Hostel, pleaded not guilty to murdering Thapelo Johannes Tsotsetsi on the Germiston-Johannesburg train on October 17, 1991, and to attempting to murder seven other commuters.

## Victims

The State alleges the men were part of an armed group who attacked the commuters.

One of their alleged victims, Cecelia Hlezaphi Hlatshwayo, told Mr Justice WJ van der Merwe and two assessors she had seen a group of about 10 men board the train at the

George Goch station. Three of the men, who were armed with a panga and knobkerries, had come into her coach, where commuters were singing "freedom songs".

The men stopped when they saw Tsotsetsi and urged the commuters to continue their songs because "these people are not fighting", Hlatshwayo testified.

She said Mazibuko then hit Tsotsetsi with an iron weapon which had been screwed into his knobkerrie. Two other assailants joined the attack.

Tsotsetsi fell to the ground and the three men hit him repeatedly.

Mazibuko then attacked Hlatshwayo, who was pregnant at the time. Although she tried to defend herself, she quickly lost strength and fell to the ground. Mazibuko hacked her on her head.

She said the men alighted at the Jeppe station.

The hearing continues.



# Police deaths probe 'could go on for too long'

ADRIAN HADLAND

PRETORIA — The Goldstone commission's investigation into attacks on policemen could get so bogged down that useful conclusions were prevented, the commission heard yesterday.

ANC legal representative Azhar Cachalia said the investigation into up to 200 incidents, with witnesses and legal counsel being required from dozens of regions, could lead to the inquiry reaching "farical proportions"

"There is a great likelihood that this country will have a democratic government before this committee has made its recommendations," he said

The ANC opposed and condemned the many attacks on police officers but felt the commission should concentrate on uncovering general causes rather than initiating detailed investigations into every incident of the past two years, Cachalia said

Speaking at the resumption of the investigation, which adjourned in January, SAP legal representative Flip Hattingh said though the procedure could be unwieldy and cumbersome, it had to continue "If it takes nine months, so be it. The sooner we get on with it the better."

Hattingh said the matter had been referred to the commission by the State President "We cannot establish what the cause of the attacks is without examining who is responsible," he said

The reason much of the evidence led to date by the police legal team had been "hearsay" was that full testimonies from witnesses could interfere with pending criminal procedures, Hattingh said.

An SAP spokesman confirmed earlier this week that almost 300 policemen had been killed since early 1991

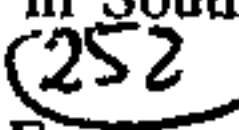
After a short adjournment, committee chairman Gert Steyn said that in view of the commission's mandate, the investigation would continue "as is"

Cachalia said the ANC had given the assurance that it would co-operate fully in finding solutions regarding attacks on security force members.

The Goldstone commission was one of the few credible vehicles left in the country and the ANC did not want to undermine its well-earned reputation, he said

The investigation continues until the month-end

### Legislation to be changed

DRAFT legislation to allow documentation from the TBVC states to be accepted as evidence in South African courts was published yesterday  (252)

A memorandum on the Documentary Evidence from Countries in Africa Bill said an existing statutory provision for admission of certain documents as evidence "upon their mere production" in civil and criminal proceedings applied only to documents originating in the Republic *Sowetan 10/3/93*.

### Ambushes to be probed

THE Natal Investigation Unit of the Goldstone Commission is probing the three ambushes near Maritzburg that have left 20 people dead, Mr Justice Richard Goldstone announced yesterday — *Sapa Sowetan 10/3/93*.



# Slain Goniwe 'was enemy'

Sowetan 10/3/93



**COUNTER ACTION** Former SADF general

tells inquest UDF activist was a revolutionary:

**U**NITED Democratic Front (UDF) activist Mr Matthew Goniwe had been a revolutionary and had been regarded as an enemy of the State, a former SADF general said at an inquest into his death yesterday

Major-General Johannes Janse van Rensburg said that in 1985 — the year Goniwe and Mr Fort Calata, Mr Sparrow Mkonto and Mr Sicelo Mhlawuli were slain — the South African Defence Force had believed itself to be involved in a revolutionary war

Organisations such as the UDF and African National Congress alliance were making the country ungovernable and the Defence Force

During the inquest by Mr George Bizos, SC, for the family of the deceased, Van Rensburg denied he had ever considered himself or any member of the SADF as above the law

"A defence force which regards itself to be above the law is extremely dangerous and I can't see that this would have been the prevailing

impression in 1985"

The inquest into the killing was reopened by State President FW de Klerk after the *New Nation* newspaper published a signal which was sent from the Eastern Province Command Secretariat of the State Security Council suggesting that three political activists, including Goniwe, be "permanently removed from society"

Van Rensburg told the inquest he could not remember what he had done with the written signal after receiving it. The signal could have been interpreted as an order to kill but he had known it was merely a suggestion that the Goniwe brothers and Calata be detained

Bizos put it to him that he had done away with the signal for sinister reasons and had tried to keep his options open by saying he could not recall what had happened to it.

The signal could not be interpreted as a desire to detain the three men, said Bizos, as it referred to three Port Elizabeth Black Civic Organisation officials who had "similarly been removed from society" The hearing continues — *Sapa*

SAW VV  
Sowetan 10/3/93,  
April 1 date for negotiations:

### Legislation to be changed ~~252~~

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Sowetan 10/3/93

# Ministers not told of army signal

By *span 10/3/74*

**PORT ELIZABETH** — Two Cabinet Ministers who were concerned about Matthew Goniwe and wanted the civic leader and teacher reinstated at his school, were not informed about the secret army signal which recommended his "permanent removal from society"; the Port Elizabeth Supreme Court was told yesterday.

The reopened inquest into the murders of Goniwe and three other men also heard the only man "in the security community" who had objected to Goniwe's reinstatement was the SADF officer who allegedly sent the signal, Brig Joffel van der Westhuizen, our Port Elizabeth correspondent reports.

Van der Westhuizen's "standpoint was that Goniwe should never again be employed by the Department of Education and Training (DET) in any post", Gen Johannes Janse van Rensburg told the court. Janse van Rensburg received the signal while he was the military officer seconded to the State Security Council in Pretoria

He did not inform then Deputy Law and Order Minister Adrian Vlok, who knew about the problems involving Goniwe and schools in Cradock. Neither did he communicate the signal to the Minister responsible for the DET, Gerrit Viljoen.

Janse van Rensburg was replying to questions by George Bizos, representing the families of the men. Bizos said Janse van Rensburg failed to inform the two relevant Ministers about the signal despite the fact the DET had indicated its preparedness to reinstate Goniwe as principal at his Cradock school, and that the SAP had indicated Goniwe should be reinstated conditionally.

Sapa reports Janse van Rensburg said he was unable to remember what he had done with the original document. He had either destroyed it, filed it or passed it on to National Intelligence official A P Stemmet to investigate the unnecessary "strong, careless and ambiguous"

language used in the signal. He said he had been so annoyed at the language that he had probably destroyed it. He said the "uninformed citizen" may have concluded it was a recommendation that Matthew and Mbolelo Goniwe and Fort Calata be murdered. He had understood the signal to be a recommendation that the three be detained for a long term.

Bizos said he suspected a more sinister reason for the disappearance of the original signal. He said the procedure which had to be followed before a classified document could be destroyed was so extraordinary that Janse van Rensburg could not have failed to remember if he had followed it. The destruction had to take place in front of the "holder of the register" and an independent witness and a "destruction certificate" had to be filled in and filed.

The general said such procedures were not followed "to the letter".

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## Public sector's pension/provident funds: investment

\*7 Mr B B GOODALL asked the Minister of Finance

- (1) What percentage of the funds available for investment in the public sector's pension and provident funds is being handled by the private sector,
- (2) whether there has been any change in the position regarding the investment guidelines for such funds since his reply to Question No 3 on 25 March 1992?

B335E

## THE MINISTER OF FINANCE

- (1) 8,12%
- (2) No

Mossgas project: cost

\*8 Mr R R HULLEY asked the Minister of Mineral and Energy Affairs

- (1) (a) What is the latest estimate for the final total cost of the Mossgas project and (b) in respect of what date is this estimate furnished,
- (2) whether he will make a statement on the matter?

B336E

## THE MINISTER OF MINERAL AND ENERGY AFFAIRS

- (1) (a) Total Project Cost—R10,7 billion Peak Funding—R11,1 billion, which excludes interest of approximately R950 million on foreign loans, payable by CEF
- (b) January 1993

- (2) No, a statement will only be made once the report of the Auditor-General on the economic viability of Mossgas has become available

Sasol: tariff protection

\*9 Mr R R HULLEY asked the Minister of Mineral and Energy Affairs

- (a) What, expressed in cents per litre, is the current rate of tariff protection extended to Sasol and (b) what was the total value of the protection tariff to Sasol during the 1990-91 and 1991-92 financial years, respectively?

B337E

HOUSE OF ASSEMBLY

## THE MINISTER OF POSTS AND TELECOMMUNICATIONS

No

- (a) and (b) The project has been expedited and is now expected to be completed during the first half of 1993

Will amended by Supreme Court: bequest to children

\*12 Adv J J S PRINSLOO asked the Minister of Justice †

- (1) Whether two judges of the Cape of Good Hope Division of the Supreme Court, whose names have been furnished to the Minister's Department for the purpose of his reply, ordered in a recent judgment that a provision in a will be amended so as not to limit the bequest contained therein to White children only, if so, what are the relevant details,
- (2) whether he intends taking any steps in this regard; if not, why not, if so, what steps,
- (3) whether he will make a statement on the matter?

B320E

## THE MINISTER OF JUSTICE

- (1) Yes The following information was obtained from the judgment in the application of *The Trustee of The Marsh Memorial Homes—Re The late William Marsh Will Trust*, which judgment was delivered on 5 February 1993

The late William Marsh *inter alia* made provision in his will for the establishment of a trust, which had to be applied to "founding and maintaining a home for destitute white children, upon the same principles as those of Dr Stephenson's Home in London"

The Court pointed out that over the passing years, through socio-economic changes, the number of white children eligible for entrance to the Marsh Memorial Homes had apparently decreased. There were, however, a number of children of different pigmentation in destitute circumstances, for whom the Marsh Memorial Homes would provide a sanc-

tuary, but could not do so because of the provisions of the will. In view of the needs of destitute coloured and black children, the trustee of the Trust applied to the Court in terms of the Trust Property Control Act, 1988 (Act 57 of 1988), *inter alia*, for the alteration of the will by deleting the word "white" in the relevant paragraph

The court held that in order to succeed with the application the applicant (trustee) had to satisfy the Court that—

- (a) the late William Marsh neither contemplated nor foresaw that a time would come when his charitable act in providing for a home for destitute children would be frustrated by a death of persons eligible to benefit therefrom as a result of a qualification imposed by him when he signed his will
- (b) the provision in question is in conflict with public interest

The Court granted the application on the statutory ground relied on and held that the particular provision in the will has brought about consequences which the late William Marsh neither contemplated nor foresaw and that—

it was clearly his intention to model the institution he had in mind on one in London to which he referred as "Dr Stephenson's Home". This institution is now known as the National Children's Home, it admits (and apparently always admitted) children of all races. It is today not possible for the Marsh Memorial Homes to function fully and properly upon the same principles as those of the National Children's Home, which it was the intention which the late William Marsh had in mind when signing his will. He certainly never foresaw that his expressed desire to provide here what Dr Stephenson had established in London would, a century later, be frustrated and become incapable of fulfilment because of a limitation on eligibility based on restriction which did not inhibit the good doctor who gave his name to a home in London for destitute children. It was to the care of destitute children that Dr Stephenson devoted his Home, it was

Cont  
HOUSE OF ASSEMBLY

for the same cause that the late William Marsh sought to make provision in his will

With regard to the requirement that the provision in question must be in conflict with the public interest the Court *inter alia* held that—

252 ~~253~~  
the interest of the public in this country, the inhabitants of which are mainly non-white in colour, cries out for the need to house and to care for destitute children, whatever their ethnological characteristics may be

- (2) No
- (3) A statement is not necessary

**Melamet Commission: transcriptions of telephone conversations**

\*13 Adv J J S PRINSLOO asked the Minister of Transport †

- (1) Whether he intends making public the contents of transcriptions of telephone conversations of a certain person, whose name has been furnished to the Minister's Department for the purpose of his reply, which were submitted to the Commission of Inquiry into the Affairs of the Multilateral Motor Vehicle Accidents Fund (Melamet Commission) in 1992, if not, why not, if so, (a) when, (b) in what manner and (c) what is the name of the person concerned,
- (2) whether he will make a statement on the matter? B321E

**The MINISTER OF TRANSPORT**

- (1) No, because I never received the transcriptions and their contents are therefore also not known to me
- (a), (b) and (c) fall away
- (2) No

**Unlawfully absent teachers' salaries**

\*14 Mr J M BEYERS asked the Minister of Education and Training †

- (1) Whether there are currently any teachers in the service of his Department to whom, while they are unlawfully absent from duty, teachers' salaries are still being paid, if so, (a) how many and (b)

what is the total estimated amount paid out monthly by his Department in respect of such teachers during the latest specified period of 12 months for which information is available,

- (2) whether he is constantly kept informed of developments in this connection, if not, why not, if so, what are the relevant details,
- (3) whether he intends taking any remedial steps in this connection, if not, why not, if so, what steps,
- (4) whether he will make a statement on the matter? B323E

**The MINISTER OF EDUCATION AND TRAINING**

A teacher who is unlawfully absent from duty is not entitled to the payment of a salary for the periods of absence

During the period of twelve months ending 28 February 1993 altogether 2 249 teachers were at some time or another unlawfully absent from duty. An amount of R1,895 million is at present being recovered from them

It happens from time to time that teachers stay away from service unlawfully and that information about such absences reaches the Department's regional offices after salary cheques have been issued. As soon as this is established, the payments for periods of unauthorised absence are disallowed. Such payments are recovered from the individuals without delay.

The administration of the salaries of personnel is according to Financial Regulations 1 (1) (g) and (i) issued according to the Exchequer Act, 1975, the responsibility of the accounting officer, who is accountable to Parliament. The Minister is therefore not constantly informed regarding the situation concerning the disallowances account.

The phenomenon of salary disallowances occurs in all departments. This phenomenon is exacerbated in the case of the Department of Education and Training since it employs a large number of personnel and administers schools country-wide and in isolated places. The Department introduced a new personnel and salary system during 1992, which improves the control over this problem. The

improvement of personnel administration is continuously attended to.

**Private accommodation of political office-bearers: compensation**

\*15 Mr P G SOAL asked the Minister of Public Works

With reference to the reply to Question No 33 on 23 February 1993, (a) when was the scheme introduced in terms of which compensation is paid to political office-bearers who occupy private residences as official accommodation, (b) why was this scheme deemed necessary, (c) subject to what conditions is approval given for a political office-bearer to reside in private accommodation and (d) what total amount was so paid to political office-bearers since the introduction of the scheme up to and including 28 February 1993? B324E

**The MINISTER OF PUBLIC WORKS**

- (a) From 1982 until 31 December 1990 individual requests were approved on an ad hoc basis. The present scheme, as dealt with in the answer to Question 33, has been in operation since 1 January 1991
- (b) Due to a shortage of official ministerial residences at the time and in view of the high cost of administering and maintaining the official residences, this optional scheme was approved to provide an equitable basis to compensate political office-bearers for expenses should they elect to use private dwellings as official residences
- (c) To qualify for full participation in the scheme, a private residence must be of similar status to official residences and comply with guidelines set by the Department of Public Works for evaluation purposes. In cases where comparative standards are not met after evaluation, the Minister of Public Works has been empowered by the Cabinet to approve a reduced compensation, after consultation with the Chairman of the relevant Ministers' Council or the Administrator where applicable
- (d) From 1982 to 28 February 1993 a total amount of R4 785 520,95 has been paid

N3 bypass road: Pietermaritzburg

\*16 Mr R F HASWELL asked the Minister of Transport

Whether a final decision has been made on the routing, construction and financing of the N3 bypass road at Pietermaritzburg, if so, what are the details? B327E

**The MINISTER OF TRANSPORT**

No. Three routes have been identified and evaluated from an environmental viewpoint. A draft report in this regard was submitted during December 1992. There are no real differences between the three routes and a decision regarding a route will be taken based on engineering principles.

In the meantime the Department is still undertaking the evaluation of the effects of fog conditions on the routes. This year was not favourable for this evaluation because fog conditions seldom occurred. This evaluation will most probably be done during the next rainy season.

Until the above-mentioned investigations are completed the Department will not be able to make any recommendation regarding a route to the South African Roads Board.

**City/town councils: Coloured/Indian representation**

\*17 Mr R F HASWELL asked the Minister of Local Government

Whether he intends introducing legislation in terms of which Coloured and Indian management and local affairs committees will be granted full representation on city and town councils, if not, why not, if so, what are the relevant details? B328E

**The MINISTER OF LOCAL GOVERNMENT**

Yes, but as part of comprehensive and negotiated reform steps

As I stated in reply to question 10 of 17 February 1993 and the Interpellation Question of the hon member for Pinelands on 3 March 1993 concerning the political management of the whole matter, an acceptable formula will have to be found in consultation with all interested parties and through negotiation, so as to arrive at restructured local authorities, COVET

Ministers

Questions standing over from Wednesday, 3 March 1993

\*3 Mr L F Stofberg—Foreign Affairs † [Withdrawn]

**Persons appearing in courts without legal representation** (252)

\*7 Mr L FUCHS asked the Minister of Justice—  
How many persons appeared in (a) (i) district and (ii) regional courts and (b) the Supreme Court in each province in 1992 without legal representation? B248E

**THE MINISTER OF JUSTICE**

(Reply partially laid upon the Table with leave of House)

Mr Chairman, I shall be tabling a very comprehensive reply. A summary of the reply highlights some of the facets, and I will now refer to them.

A total of 684 246 persons appeared in the lower courts without legal representation during 1992.

In this regard it is interesting to take cognizance of the fact that since 1990 there has been an increase of 34,2% (201 417) in the number of accused persons who appeared in the lower courts.

During 1992 34 413 more accused persons enjoyed legal representation than in 1990, representing an increase of 49% as against the number of accused persons who enjoyed legal representation in 1990.

Only approximately 16,6%, as against 17,5% in 1991, of the total number of accused persons who appeared in our courts without legal representation were convicted and sentenced to imprisonment.

The above information is indicative of the fact that in terms of our system of adjudicating criminal matters there are various intrinsic safeguards to prevent any miscarriage of justice.

The Government has always accepted the principle that a person who appears in court should enjoy legal representation. The Government consequently proposes in its Propo-

**Orange Free State**

(i) District Courts—47 419 persons

(ii) Regional Courts—4 462 persons

*Natal*

(i) District Courts—125 354 persons

(ii) Regional Courts—7 681 persons

*Cape Province*

(i) District Courts—245 462 persons

(ii) Regional Courts—24 719 persons

(252)

(iii) The number of accused persons who were eventually sentenced to imprisonment

1991	1992
154 312	150 890

From this it is evident that only approximately 16,6%, as against 17,5% in 1991, of the total number of accused persons who appeared in our courts without legal representation were convicted and sentenced to imprisonment.

(b) The required information in respect of the Supreme Court is not readily available. In order to obtain the information all court records would have to be scrutinized, which is not economically viable.

In order to place the above statistics in perspective, I would also like to furnish the following information:

(i) The number of accused persons who appeared in the lower courts

1990	1991	1992
531 259	706 753	703 455
56 073	69 329	85 294
587 332	776 082	788 749

(ii) The number of accused persons who were legally represented

1990	1991	1992
52 434	68 222	72 289
17 656	24 219	32 214
70 090	92 441	104 503

In this regard it is interesting to take cognizance of the fact that since 1990 there has been an increase of 34,2% (201 417) in the number of accused persons who appeared in the lower courts.

In spite of this, the percentage of accused persons who enjoyed legal representation has increased by 1,4%. Put differently, during 1992 34 413 more accused persons enjoyed legal representation than in 1990, representing an increase of 49% as against the number of accused persons who enjoyed legal representation in 1990.

The Government has always accepted the principle that a person who appears in court should enjoy legal representation. The Government consequently proposes in its Proposals on a Charter of Fundamental Rights that every accused shall have the right, *inter alia*—

- to be represented by a legal practitioner at his or her own expense,
- to be informed by the presiding officer regarding—
- (i) his or her right to be assisted by a legal practitioner, and
- (ii) the institutions that he or she may approach for legal assistance,

and to be given a reasonable opportunity to attempt to obtain legal assistance, and where he or she is not assisted by a legal practitioner, to an explanation of the possible consequences of any applicable presumptions and of his or her election



to exercise his or her right to remain silent or not to testify

These proposed rights of an accused, read with the other rights contained in clause 26 of the charter which should guarantee a fair trial, are merely a confirmation of the care applied by our judicial officers in order to assure that justice prevails in all cases. These rights are, as a matter of fact, more comprehensive than those in most existing charters

The hon member will agree with me that it costs money to grant an accused legal representation in a criminal trial. It is calculated that, in order to supply legal representation for each of the 684 246 accused persons who appeared without legal representation in the courts during 1992, an amount of R557 009 140 would have been needed. In this regard the Government has done everything in its power to render assistance and has, as a matter of fact, given more assistance than it initially undertook to do. Since the 1990-91 financial year the contribution by the State to the budget of the Legal Aid Board has increased by 38,7% to R56 514 000 for the 1992-93 financial year. This increased contribution is largely responsible for the increase of 49% since 1990 in the number of accused persons who have enjoyed legal representation. The hon member will further agree with me that given the prevailing economic climate it cannot be expected of the State alone to contribute in this regard. In an effort to involve the private sector the State undertook to contribute on a rand-to-rand basis to the establishment of a reserve fund out of which contingency commitments could be settled. This, however, did not realize since no significant contributions were forthcoming from the private sector. I am however of the opinion that it is absolute necessary for the private sector to assist the Legal Aid Board in this regard as well.

In the final instance I would like to refer to the system of the public defender. At my request the Legal Aid Board launched an investigation into the establishment of a public defender system. A pilot project, the funds for the implementation and operation of which are provided by the State, was launched on 2 January 1992 in Johannesburg. Two senior public defenders and eight public defenders were appointed (three advocates and

HOUSE OF ASSEMBLY

seven attorneys). To date 2 930 applications for legal assistance in the Johannesburg district and regional courts have been received by the Office for the Public Defender, in respect of which a total of 2 326 were successful.

The project would appear to be a success and several requests have been made for the extension of the project throughout the country. It is furthermore evident that in order to render a more effective service in Johannesburg, the number of public defenders in Johannesburg would at least have to be doubled. In order to expand the project on a national basis and to appoint the necessary public defenders, it is estimated that a further R50 million will be needed from the Treasury. In the prevailing economic circumstances these funds are just not available. The pilot committee is, however, convinced that everything possible must be done to ensure that the project is continued and even extended.

The pilot committee meets regularly and several options are under investigation to obtain funds and assistance from elsewhere. The following may serve as examples:

- (a) Negotiations are under way with several organizations and institutions, including organizations from abroad, in order to obtain funds. These negotiations have not yet been finalised and their outcome is unknown.
- (b) In an effort to provide more indigent people with legal aid, it was decided to involve candidate-attorneys and advocates undergoing pupillage in the activities of the Office. The first group of candidate attorneys started on 1 March 1993. No expenses are involved in this project for the Legal Aid Board (or the State). This project also serves to provide both candidate-attorneys and advocates with invaluable experience in the criminal courts.

#### New questions

##### Air pollution: Eastern Transvaal

\*1 Mr A A B BRUWER asked the Minister of National Health †

- (1) Whether steps are being taken to combat

air pollution (a) on the Eastern Transvaal Highveld and (b) in the vicinity of metal smelting works in this area, if not, why not, if so, what steps,

- (2) what are the names of the smelting works concerned? B239E

†THE MINISTER OF NATIONAL HEALTH

- (1) (a) and (b) Yes, all scheduled industries and metallurgical plants are fully equipped with air pollution control equipment. All industries and plants are monitored on a regular basis by the Department of National Health and Population Development and they have to submit written monthly reports to the Department. There are several ambient air pollution monitoring stations in the area and all the measured pollution concentrations are below any health hazardous levels.

- (2) Davsteel Cullinan  
Consolidated Metallurgical Industries  
Lydenburg  
Vanadium Technologies Steelport  
Tubatse Ferrochrome Steelport  
Ferralloys Machadodorp  
Columbus Stainless Steel Middelburg  
Middelburg Ferrochrome  
Transvaal Alloys Middelburg  
Thos Begbie Middelburg  
Ferrometals Witbank  
Highveld Steel Witbank  
Rand Carbide Witbank  
Transalloys Witbank  
Vantra Witbank

\*Mr A A B BRUWER Mr Chairman, arising out of the hon the Minister's reply, I should like to know from her whether she has any knowledge of the situation at the PMC mine in Phalaborwa, where copper poisoning has taken place to such an extent that even animals in the game park have died. Is she aware of this and what are they going to do about this situation?

†THE MINISTER Mr Chairman, the hon member can ask me a question on Phalaborwa. However, I was not given any information on Phalaborwa because this question was specifically about the Eastern Transvaal.

†Mr H J COETZEE Mr Chairman, further arising out of the hon the Minister's reply, is

she aware that the old mining shafts have now filled up after much rain, and that that water is now running into the Olifants River and polluting it?

†THE MINISTER Mr Chairman, I am sorry, but that question does not concern air pollution. It is about water pollution.

*Business interrupted in accordance with Rule 180C (3) of the Standing Rules of Parliament*

Farms/land near Hazzyview/Rust der Winter/Eshowe: future

\*2 Mr A A B BRUWER asked the Minister of Regional and Land Affairs †

- (1) Whether his Department has bought farms in the vicinity of Hazzyview from certain persons, whose names have been furnished to the Minister's Department for the purpose of his reply, if so, (a) what farms, (b) from whom and (c) what steps does his Department envisage in respect of these farms,

(2) what steps does his Department envisage in respect of the (a) sugar farms in the vicinity of Eshowe, Natal, that were previously managed by the South African Development Trust Corporation and (b) pieces of land at Rust der Winter which are owned by his Department? B241E

THE MINISTER OF REGIONAL AND LAND AFFAIRS

- (1) (a) Burgershall 21 JU
- (b) (i) Remainder of Portion 8 D G P Malan
- (ii) Portion 76 J F Labuschagne
- (iii) Portion 77 Luwell's Investments (Pty) Ltd
- (iv) Portions 115 and 92 San Coto-na Investments CC
- (v) Portion 122 J P von Landsberg
- (vi) Remaining Extent L Kotze
- (c) The Department of Agriculture is at present investigating the possibility of other than horticultural utilization of the land

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I think in this debate we should not focus on who those 200 doctors are, because they were acting within the terms of the present Act. What they did, was quite legal. I should like to repeat myself.

*Mr M RAJAB* Mr Chairman, may I ask the hon the Minister a question?

The MINISTER Mr Chairman, the hon member had his opportunity [Interjections]

The point he raised was that not mentioning these names gave the impression that all doctors were guilty of this. This is not what I implied. Mr M RAJAB The hon the Minister could then be guilty of being an accessory after the fact. The MINISTER Yes, and this is not what I implied. That is why I am saying that if doctors themselves would come forward and say that this is unacceptable, and would themselves defend the principle and investigate its soundness, it would be to their own benefit. Debate concluded

QUESTIONS

†Indicates translated version

For oral reply

General Affairs

Prison at Umzimto: tenders

\*1 Mr M RAJAB asked the Minister of Correctional Services

Whether, with reference to the reply to question No 1 on 29 April 1992, tenders for the building of the prison at Umzimto have been accepted, if not, why not, if so, (a) to whom was the tender awarded, (b) what is the cost involved and (c) when is it anticipated that the work on this prison will be completed? D49E

The MINISTER OF CORRECTIONAL SERVICES

Mr Chairman, at the outset I should like to say that I received certain requests in this regard from *inter alia* the hon member for Um-

zimto, and I hereby reply to the question as follows

No, an invitation for tenders was published in the Government Tender Bulletin of 5 March 1993. It is expected that the duration of the contract should not exceed 32 months and that construction should be completed during the 1996/7 financial year.

(a), (b) and (c) Fall away

Mr N SINGH Mr Chairman, arising out of the hon the Minister's reply, do I then take it that the planning phase has been completed? Secondly, previous plans included the construction of tennis courts, squash courts, a bowling green and other sporting facilities on this site. Are these facilities also included in the present tenders which have been called for?

The MINISTER Mr Chairman, as far as the second part of the hon member's question is concerned, unfortunately I do not have those specific particulars with me. I invite him to come and have a cup of tea with me and I shall give him that information [Interjections]

As far as the first part of his question is concerned, I should like to say that last year I replied to this question as

According to present planning the tender date is set for February 1993 and it is expected that the project will be completed by 1996, provided that sufficient funds are available

†The present tender date is 5 March  
†We are as near as possible

It will be completed by 1996-97

Mr M RAJAB Mr Chairman, further arising out of the hon the Minister's reply, for which I thank him, may I ask him whether, given the fact that so much time has elapsed since this particular prison was planned, and given the fact that our jails are overflowing, that particular jail would not be too small by the time it is fully operational?

The MINISTER Mr Chairman, this is a possibility, but this is unfortunately the situation that we are in. It takes quite a long time to do the planning and we have to wait for funds to become available. The possibility exists that the jail will be too small by the time it is completed

SAA: flights to/from India

\*2 Mr A RAJBANSI asked the Minister for Public Enterprises

Whether the South African Airways have applied or intend applying for permission to introduce flights to and from India, if not, why not, if so, what are the relevant details? D52E

The MINISTER FOR PUBLIC ENTERPRISES

The Managing Director of Transnet Limited replied as follows to the hon member's question:

No, the South African Airways does not intend introducing flights to India, as another South African airline has already been granted permission to operate services between the two countries

Braemar: death in prison cell

\*3 Mr M RAJAB asked the Minister of Law and Order

(1) Whether a certain person of Braemar in Natal, particulars of whom have been furnished to the South African Police for the purpose of the Minister's reply, was at any stage detained in a police cell during February 1993; if so, what is this person's name,

(2) whether this person was found dead in a cell one morning, if so, (a) in which police cell and (b) when was he (1) arrested and (ii) found dead;

(3) whether a pathologist's report has been received in regard to his death, if not, why not, if so, what were the findings? D73E

The DEPUTY MINISTER OF LAW AND ORDER

(1) Yes

Kader Shaik

(2) Yes

(a) Sowati

(b) (i) At 15:40 on 15 February 1993

(ii) At 05:15 on 16 February 1993

(3) Yes, the finding of the state pathologist

was that the cause of death of Mr Shaik was consistent with that of a heart attack. The histological report is still outstanding

Mr M RAJAB Mr Chairman, arising out of the hon the Minister's reply, could he please tell us whether the pathologist's report was, in fact, communicated to the family of the deceased?

The DEPUTY MINISTER Mr Chairman, to my knowledge this has not yet been done, because we are still awaiting the histological report as well

Islamic/Hindu marriages: legislation

\*4 Rev C PILLAY asked the Minister of Justice

(1) Whether he will consider introducing legislation to recognize Islamic and Hindu religious marriages, if not, why not, if so, when,

(2) whether he will make a statement on the matter? D76E

The DEPUTY MINISTER OF JUSTICE

(1) and (2)

A project dealing with Islamic marriages and related matters was placed on the programme of the South African Law Commission during July 1986. The project committee appointed for the purpose of the investigation considered a working paper. A copy will be handed to the hon member immediately after the question period. A study of comparative law is presently being conducted. All interested parties are welcome to submit proposals in this regard to the Secretariat of the Law Commission

Mr A RAJBANSI Mr Chairman, arising out of the hon the Deputy Minister's reply, is he prepared to tell us why the Government is dragging its feet on this, while the ANC and the IFP have officially announced that they will recognize these marriages, and while the NP recognizes that there is freedom of religion in this country?

The DEPUTY MINISTER Mr Chairman, there is no doubt as far as the commitment of the Government is concerned. The fact is that this project has been launched and is being conducted [Interjections]

*Hansard*

The CHAIRMAN OF THE HOUSE Order!

The DEPUTY MINISTER However, I want to agree with the hon member that it is taking far too long

Mr P NAIDOO *Chairman*, further arising out of the hon the Deputy Minister's reply, will he concede that the NP's attitude to the recognition of Islamic and Hindu religious marriages is in conflict with the charter of fundamental human rights recently released by the NP?

The DEPUTY MINISTER Most certainly not, Mr Chairman I invite the hon member, if he has any suggestions as far as these proposals are concerned, to make such suggestions

Mr A RAJBANSI Mr Chairman, further arising out of the hon the Deputy Minister's reply, is he aware of the fact that the hon member for Springfield and this House have raised this matter previously? The NP, however, is only interested in Indian votes They are not worried about our culture or religion

The DEPUTY MINISTER Mr Chairman, the fact is that this matter is in the hands of the SA Law Commission, which operates independently Consequently the Government cannot be accused in this regard I concede, however, that this matter should receive more prompt attention

#### INTERPELLATION

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

#### Own Affairs

Provision of low-cost housing

1 Mr A RAJBANSI asked the Minister of Local Government, Housing and Agriculture

- (1) Whether, with reference to *Remarks* remarks made by him on 17 February 1992 in respect of the provision of low-cost housing, he intends giving priority to the provision of such housing in cases where there is an urgent need for it, if not, why not, if so, what procedure will be followed in this regard,
- (2) whether he will make a statement on the matter?

HOUSE OF DELEGATES

The MINISTER OF LOCAL GOVERNMENT, HOUSING AND AGRICULTURE

Mr Chairman, the answer to the first question is yes In answering the rest of that question, my answer will overlap with the second question

I fully share the concern of the hon members of this House regarding housing for the homeless in the poorer sector of our community, and am totally committed to doing everything in my power to speed up our low-cost housing delivery programme with a view to providing as many housing units as possible within the parameters of financial and time constraints

I will deal more comprehensively with our achievements in the current financial year and our plans for the ensuing years during the discussion of my Budget Vote later this session However, I wish to give some indication of the steps I have taken thus far to accelerate the delivery of housing by virtue of certain circumstances

Unfortunately local authorities have taken up allocated funds relatively slowly during this financial year This had the disappointing effect of delaying the commencement of projects In an effort to minimise the negative effects of this phenomenon I have had very positive discussions with *inter alia* the Development and Services Board, which previously had a rather negative attitude in this regard I mention the Development and Services Board, because in actual fact their activities overlap with ours in many of the areas in which the poorer section of our community resides

Furthermore I have had weekly meetings with the management of the department with a view to accelerating the commencement of approved projects which have, for various reasons, been delayed I have also approved certain recommendations relating to staff appointments and the staff establishment structures of components of head offices and regional offices with a view to removing the department's staff towards increased productivity and efficiency

Since assuming responsibility for the housing portfolio, I have had discussions with some hon members of this House regarding *inter alia* the housing needs in their constituencies and I intend to proceed with this individualised approach of canvassing the subject with the remaining hon members as soon as possible

*Hansard*

after which I shall call a joint meeting [Time expired]

Mr A RAJBANSI *Chairman*, during the debate on the Additional Appropriation the hon the Minister and the hon the Chairman of the Ministers' Council made it very clear that the provision of low-cost housing in this country would be afforded priority

Statistics have shown, especially in our Indian community, that 80% of those on the waiting list belong to the low-income group Of course, with the repeal of the Group Areas Act and other legislation that controlled and inhibited our progress with regard to housing, those who belong to the self-help group will now be able to cater for themselves

What we need today is an announcement that certain projects will commence, because last year the hon the Minister of Finance announced the allocation of a special sum of approximately R35 million to the House of Delegates especially for housing for people in the low-income group Unfortunately the Ministers' Council could not show a single record of any worthwhile project for the low-cost income group in this country What we need today is an announcement that we can produce 5 000 units to the west of Chatsworth and 10 000 units in the Phoenix-Verulam belt What we are doing, however, is having too many soliloquies when what we need is action

What we expected today was a programme of action I appreciate the fact that the hon the Minister is a very hard-working person He has been very busy ever since he was appointed Minister of Housing earlier this year Nevertheless, we are going to point out to him certain shortcomings in our constituencies and I express the wish that every hon member of this House will suggest where certain projects can be undertaken in our respective constituencies

Wherever land is available, if it is intended for high-cost housing, I want to suggest to the hon the Minister that this be changed so that it can be used to provide homes for the people in the low-income group and also for those who qualify for self-help projects Vacant sites must be serviced and allocated to people so that they can build their own homes [Time expired]

Mr K CHETTY Mr Chairman, I fully endorse the sentiments expressed by the hon member for

Arena Park He comes from the same area as I do

I also have a great deal of respect for the hon the Minister of Local Government, Housing and Agriculture, whom I know to be a very hard-working Minister When it comes to the poorer section of the community in particular, he is always willing to go out of his way to assist them In this regard I must say a big thank you to him Whenever we go to him, he is willing to listen to us He is always at the service of the poor man

Mr M MOHANLALL [Inaudible]

Mr K CHETTY What I cannot understand, however, is that the officials in his department, and I know

Mr M MOHANLALL [Inaudible]

Mr K CHETTY Why don't you give your mouth a rest, man!

The CHAIRMAN OF THE HOUSE Order! The hon member for Chatsworth Central is on his feet I do not want any cross-border discussions or violations The hon member may proceed

Mr K CHETTY Thank you, Mr Chairman As I have just pointed out, the officials in the Department of Housing suddenly put the project at Croftdene—the hon the Minister and the previous Ministers' Council are aware of this—on ice I do not know why this happened We have people living in overcrowded conditions I invited the previous Minister of Housing, but he also failed to [Time expired]

The MINISTER OF LOCAL GOVERNMENT, HOUSING AND AGRICULTURE

Mr Chairman, I want to comment the hon member for Arena Park, because he placed two very important motions on the Order Paper of this Parliament during this session, both relating to issues that cannot possibly be more important than that of housing This interpellation too is widening our horizon, and perhaps giving us in-depth knowledge of the problems all of us have

As far as Phoenix, Chatsworth, the periphery of Durban, the Pinetown area and the Dassenhoek area are concerned, I am fully aware that projects have to be initiated Such projects are being considered at the moment and every available piece of land must be utilised specifically for the needy of our community as soon as possible

HOUSE OF DELEGATES

# Goniwe witness 'changed evidence'

Star 10/31/93

By Helen Grange

PORT ELIZABETH — General Johannes van Rensburg, the former State Security Council (SSC) member who received the military signal to "permanently" remove Matthew Goniwe from society, was told yesterday that he had changed his testimony to leave his options open as to the final destination of the signal.

Grilled by George Bizos, SC, appearing for the Goniwe family at the reopened inquest, Van Rensburg insisted he could not remember whether he had destroyed the signal or given it to a "Mr Stemmet", who worked under him at the SSC.

He has, however, conceded that the wording worried him. He testified on Monday that he had probably destroyed the signal, but yesterday said he probably gave it to Stemmet, who might have destroyed it.

After seeing the signal reproduced in the New Nation newspaper, Van Rensburg had phoned Stemmet to establish what had happened to it. Stemmet had said he remembered seeing it, but did not know where it was.

State's security establishment felt it was fighting a revolutionary war. Goniwe was one of the enemies in this war but it was not only the State that opposed him.

Today's Transkei military leader Bantu Holomisa will release documents promised to expose further "dirty tricks" by the security establishment.

# UWC expert to serve on A-G's rape task force

Education Reporter

262

UNIVERSITY of the Western Cape student counsellor Ms Evadne Abrahams has been nominated to serve on Cape Attorney-General Frank Kahn's task group on rape

Ms Abrahams said the nine-

ARG 10/3/93  
member group's priorities included improving services to rape victims at hospitals, including better monitoring of how they were treated

Rape victims could wait more than two hours at hospitals before being attended to and this

had to be speeded up, she said

The group also aimed to compile a list of woman doctors prepared to be on call to treat rape victims, she said

Ms Abrahams's work at UWC involves advising students on academic and other problems

# Law to muzzle vicious dogs

Political Staff

CAPE TOWN — Parliament yesterday cracked down on the owners of dangerous dogs — as well as people who arranged animal fights — by accepting the Animal Matters Amendment Bill

The Bill should become law within a few weeks.

People whose negligence led to their animals — particularly dogs — attacking people could be fined up to R40 000, and/or jailed for two years. The same penalties would apply to people organising or watching ar-

anged animal fights. In introducing the Bill in Parliament yesterday, Deputy Minister of Justice Danie Schutte said South Africa, like the rest of the world, had a dog problem

One of the major reasons for attacks by dogs on people lay in irresponsible dog-ownership. "Owners do not take the necessary precautions to safeguard other people against possible attacks by their dogs. In order to prevent such incidents, a culture of responsible ownership has to be promoted"

The Bill asks people "to take the necessary reason-

able precautions regarding how their animals are being kept or handled"

A court could make an order for the removal, custody, disposal or destruction of a dangerous animal.

Schutte said gaps in the law relating to dog fights were now being closed. It would be an offence to arrange an animal fight or even to watch one.

Responding to points raised by MPs, Schutte said that if handlers of a police dog or guard company dog were negligent, and their dogs bit someone, they could be criminally liable.

252  
CF 11/2/93

## CCB: Bid to delay indemnity

THE Indemnity Board was asked to delay a decision on granting indemnity for former CCB operatives until "after the Webster inquest", Cape attorney-general Mr Frank Kahn said last night.

A 1990 "task force" was appointed to investigate the activities of the CCB in the Cape

Eight former members of the now disbanded CCB have applied for indemnity under the 1990 Indemnity Act.

They are CCB chairman General Eddie Webb, regional manager Mr Staal Burger and operatives Messrs Calla Botha, Slang van Zyl, Ferdi Barnard, Chappie Maree, Wouter Basson (alias Christo Brits) and Isgak Hardien. Colonel Joe Verster has not applied for indemnity

The CCB has been linked to bombings and conspiracy to murder

# Goniwe signal a death order

Sowetan  
11/3/93

252

**A** SIGNAL MESSAGE SENT WITHIN the ranks of the Eastern Province branch of the Secretariat for the State Security Council ordered the death of Matthew Goniwe and two others, the

Port Elizabeth Supreme heard yesterday.

Colonel Lourens du Plessis, who drafted the controversial message, will today testify it was a death order for Goniwe, his brother Mbulelo and Fort Calata, his lawyer said

This directly contradicts evidence given by retired SADF General Johannes Janse van Rensburg, who insisted the wording of the message, which called for Goniwe's "permanent removal from society" was Du Plessis' responsibility, and only the activist's detention had been discussed.

In submissions made at the re-opened inquest yesterday, advocate Glen Goosen, said Du Plessis will testify that the message was authentic, that he had acted on the instructions of General Joffel van der Westhuizen and that the signal did in fact order the deaths of the three.

Goosen made these submissions during cross-examination of Janse van Rensburg, who was at the time seconded to the Secretariat.

The controversial signal message from Eastern Province Joint Management Centre was sent to him by Van der Westhuizen who is now the SADF's chief of Staff Intelligence.

At the time Van der Westhuizen was a brigadier heading EP Command and chairman of the EP Joint Management Centre



Widow Mrs Nyameka Goniwe arrives at court yesterday.

Goosen said the word "verwyder" (remove) contained in the message was broadly accepted in military circles at the time to refer to people being killed.

Goosen said the message was not the first time that the word "remove" was used in security circles and that it meant people must be killed.

Documentary evidence to support these submissions will be presented in court when Du Plessis takes the witness stand today. Janse van Rensburg repeatedly denied that the Secretariat was involved in any murders.

*Eena.*



Star 11/3/93

# 'Fortunat' if you have her

Word of this public defender's success has spread among poor

VIVIAN Fortunat, senior public defender at the Johannesburg Magistrate's Courts, is the best-dressed criminal lawyer in town

So she stands out like a model in those drab, off-white corridors where everyone else dresses as though they are afraid of being noticed

Fortunat (38) is one of two senior public defenders in an office of 10 who handled 2 000 cases last year, with a 60 per cent acquittal rate for clients who pleaded not guilty. And a 90 per cent success rate in bail applications

Word of their success has spread among the poor of the city who end up in court, and their help is constantly solicited by diffident people in the corridors who can't afford to pay for lawyers.

Her day often starts in the holding cells below the courts, among people without bail.

She darts down a flight of steps and bangs on a big grey steel door, which is opened by a policeman

Minutes later she's in the corridors again, talking to people as she hurries to Court 13 for a remand hearing, chicking along in high heels, with short steps because the floors are highly polished "A woman fell and broke her arm the other day," she explains.

After the remand (the prosecutor opposed bail for a minor crime, her client was released on warning), she was in a juvenile court on the top floor, pleading mitigation for a youth with a string of previous convictions. He was sent to a reformatory, not to jail

Fortunat's day is one of constant action, and impatience at delays. She would be hopeless at Chinese water torture, she would pour the whole bucket over the victim's head

The only time she slows down is when she stops doing her job

(252)

The public defender experiment of free, full-time lawyers for poor people in Johannesburg has now been in operation for a year. PETER WELLMAN takes a look at how it is working.

and starts talking about it

She applied for the job when the publicly funded, but independent, Legal Aid Board created the public defender system as a two-year pilot project for Johannesburg. Public defenders act only for people with an income of R500 or less (R1 000 for married couples), plus R150 for each dependant. They are allowed some discretion in this

She handles black and white clients, more or less in proportion to the national mix, and gives them all a total, driving commitment.

"What concerns me more every day is that the majority of the people are not educated, are certainly not legally educated and must have legal representation if they are to have trust in our legal system

"They simply do not know how to handle their defence, how to cross-examine, and a lot of evidence presented by the State is not challenged at all.

"To achieve fairness in our adversarial system of law, the dice must be equally weighted on both sides."

She feels strongly that the public defender system is better than the continuing alternative of *judicare*, which guarantees a free lawyer in the lower courts for those who cannot afford one, but not necessarily an expert in criminal law.

*Judicare* is similar to the *pro Deo* system in the Supreme Court

"The public defenders quickly build up skills in criminal law, and I think the accused, and the courts, are better served because of it," she says

She was supported by one of

Johannesburg's control magistrates, M E Muller, who said of the public defender system "It does assist us"

The Legal Aid Board is headed by Professor Nic Pretorius, a former Potchefstroom University law lecturer long associated with law clinics for the poor, who says. "The credibility of the law, the administration of justice, and civil society cannot allow any people to go into court unrepresented.

"Public confidence in the law is essential, especially with the new political dispensation that is coming"

The board began with helping in divorce and civil matters, but now 67 per cent of its cases are criminal ones, mostly in the magistrate's courts.

The Johannesburg pilot scheme is costing R2,5 million for the two years, says Pretorius. "For another R50 million or so we could run a national public defender system, it's a question of getting the money."

He has ambitious plans if the system is either continued after this year, or broadened to other centres

One is permanent lawyers in the holding cells and the remand courts. Another, which is about to happen, is that articled clerks and student advocates doing their pupillage be seconded to the public defenders office for a month at a time, but paid by their law firms □

● The Legal Aid Board has nothing to do with the privately funded Legal Aid Bureau. The bureau provides *pro Deo* representation, and other assistance, for poor people

on your side

Star 11/21/93

# Bill of Rights 'must curb State power'

By Zingisa Mkhuma

(252)

One of the most important challenges facing the legal profession in South Africa was to realise a Bill of Rights which ordinary people could use to assert their rights as citizens, SA Council of Churches vice-president Sheena Duncan said yesterday.

Duncan was delivering an Ernie Wentzel memorial lecture at Wits University. Wentzel, who died in 1986, was among the first people to be detained without trial. He was

also detained in terms of the 1960 state of emergency and again in 1963 and 1964.

Duncan said tens of thousands of South Africans who were detained under similar circumstances probably wanted restrictions on State powers of detention to be included in a Bill of Rights.

She said all governments needed the power to declare emergencies — in cases of wars, revolutions and natural disasters — but strict limitations on State power would wisely be incorporated in a Bill

of Rights.

People had to be taught to understand the Bill of Rights, to be able to claim their rights and to establish them by bringing cases to the Supreme or Constitutional Court, she said.

But she advised against putting "every single thing" that was perceived to be just in a Bill of Rights, saying this would succeed only in discrediting the entire exercise because it would be difficult to enforce.

"What we need is a Bill of Rights to protect us against predatory governments."

# Optics Spectator

17 - 30/4/1993

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## Goniwe signal was 'death order', court told

By Helen Grange

The SADF officer who drafted the signal ordering Matthew Goniwe's "permanent removal from society" will testify that it was a death order, the Port Elizabeth Supreme Court heard yesterday.

In a dramatic turn in the reopened Goniwe inquest, Glenn Goosen, counsel for Colonel Lourens du Plessis, formerly of Eastern Province Command, said his client would say the signal was sent at the instruction of then-Brigadier "Joffe" van der Westhuizen, and that it meant that Goniwe, Sparrow Mkhonto, Fort Calata and Mbulelo Goniwe — whose names appeared on it — should be killed.

Van der Westhuizen was the former officer commanding of Eastern Province Command at the time the signal was sent and is now a general and Military Intelligence Chief of Staff Goniwe, Calata, Mkhonto and Sicele Mhlawuli were murdered on June 27 1985, 20 days after the date which appeared on the signal.

Goosen made the submissions during his cross-examination of former State Security Counsel (SSC) member General Johannes van Rensburg Van Rensburg has denied the signal was a death warrant, saying it meant the men should be detained indefinitely (252)

Goosen charged "My client will say that the signal was sent on instruction from Van der Westhuizen and that he (Du Plessis) correctly reflected the instruction in writing. He will say it meant that Goniwe and the others should be killed."

Van Rensburg insisted, however, that the telephone conversation between himself and Van der Westhuizen on which the signal was based, included no mention of the words "permanent removal". They had spoken of detention only.

He told the inquest on Tuesday that Du Plessis had written the signal and that he knew Van der Westhuizen would not have used unclear language.

Goosen has also charged that the telephone conversation the signal was based on took place at 2 pm on June 7, 1985 — shortly after a special committee had met and recommended that Goniwe be reappointed to the teaching post he had been dismissed from.

Transker Military leader Bantu Holomisa is expected this morning to release several top-secret military documents which he says will prove the extent of "dirty tricks" being indulged in by the State during the 80s.

The inquest continues. ● Colonel opts for ANC-aligned advocate — Page 3



Star 11/3/93

# Surprise as colonel opts for new counsel

By Helen Grange ~~SEB~~ ber, has been tight-lipped about his unexpected appearance for Du Plessis on Monday. It is understood that SADF counsel Anton Mostert last week withdrew from representing Du Plessis. (252)

PORT ELIZABETH — The surprise move by a top SADF officer to turn to an ANC-aligned advocate to represent him in the Goniwe inquest has sparked speculation that his testimony will heavily implicate two generals in Goniwe's murder.

Colonel Lourens du Plessis, a former member of Eastern Province Command and the man who drafted the notorious military signal ordering the "permanent removal from society" of Matthew Goniwe, is being represented by former Port Elizabeth ANC official Glenn Goosen.

Goosen, an advocate and still an ANC mem-

ber, has been tight-lipped about his unexpected appearance for Du Plessis on Monday. It is understood that SADF counsel Anton Mostert last week withdrew from representing Du Plessis. (252)

Mostert is representing General Johannes van Rensburg, former State Security Council member, and General "Joffel" van der Westhuizen, former officer commanding of EP Command and currently Military Intelligence Chief of Staff. ~~SEB~~

Du Plessis confirmed the authenticity of the signal sent on June 7 1985 — before Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlawuli were slain.

Star - 11/13/93  
**Accused**  
~~252~~  
**lieutenant**  
**suspended**

Crime Reporter

252

Police have suspended Lieutenant Henry Beukes, who was last week found by a Johannesburg magistrate to have strangled Bethuel Maphumulo while in his custody, Soweto police spokesman Colonel Tienie Halgryn confirmed yesterday.

Halgryn said Beukes, who had been transferred to the SAP's Firearm Recovery Unit from the Soweto Murder and Robbery Unit after Maphumulo's death, had been told on Tuesday he had been suspended with immediate effect.

The decision came after magistrate C G de Lange found Beukes had strangled Maphumulo on December 13 1990

Police had claimed that Maphumulo drowned in the Protea police station swimming pool during an escape attempt.

The documents from the inquest on Maphumulo's death have been forwarded to the Attorney-General's office for his decision on whether to prosecute Beukes.

A spokesman for the office said yesterday that not all the documents had been received and the case could take until next week to investigate.

## Judges' order on 'racist' <sup>(252)</sup> will revealed

CAPE TOWN — Two Supreme Court judges had ordered a will altered last month so as not to limit a bequest to white children only, Minister of Justice Kobie Coetsee said yesterday

Replying to a question from Jurg Prinsloo (CP Roodepoort), he said the judgment had been delivered in the Cape Division on an application by the trustee of the Marsh Memorial Homes.

The late William Marsh had provided in his will for the establishment of a trust to be used to found and maintain a home for destitute white children on the same principles as those of a home in London

The judges noted that the London institution admitted and had apparently always admitted children of all races

"The interest of the public in this country, the inhabitants of which are mainly non-white in colour, cries out for the need to house and to care for destitute children, whatever their ethnological characteristics may be," the judges said. *STAR 11/3/93*

Coetsee said he did not intend to do anything about the matter. — Sapa

# ANC official on R283000 fraud charge

*Sowetan 11/3/93*  
■ **BAIL WRANGLE** Official allegedly put  
cash into his own accounts. (252)

**A**N ANC OFFICIAL yesterday appeared in the Johannesburg Magistrate's Court on fraud charges involving R283 000 after he allegedly made fictitious stationery purchases and deposited ANC cheque payments for the "goods" into his own business accounts.

Sakelo Llewellyn Ntule (33), a purchasing and stores officer in the ANC's treasury department, was arrested on Monday and faces 24 charges of fraud.

The State has offered Ntule bail of R10 000 but Ntule yesterday applied for a reduction to R4 000.

Ntule told the court he has no intention of fleeing and that he could justify his actions. Investigating officer Captain

Daniel Kriel said R10 000 was the lowest bail amount that would ensure that Ntule stood trial.

The State has alleged that Ntule set up three closed corporations of which he was the sole member.

Between December 1991 and December last year he allegedly made out fictitious purchasing orders and invoices purporting to represent stationery purchases made from the three closed corporations by the ANC.

Ntule then allegedly requisitioned cheques for payment to the closed corporations. The cheques were deposited into bank accounts opened in the names of three businesses, the State has alleged. Ntule was remanded in custody.

STAR 11/3/93.  
**680 000 in court  
without legal aid**

CAPE TOWN — A total of 684 246 people appeared in regional and magistrates' courts without legal representation last year, Minister of Justice Kobie Coetsee said in reply to a question from Lester Fuchs (DP Hillbrow). He said it would have cost R557 million to give them representation (252)



# Goldstone raid on MI base caused harm, says De Klerk

STAR 11/31/93

252

By Peter Fabricius  
Political Correspondent

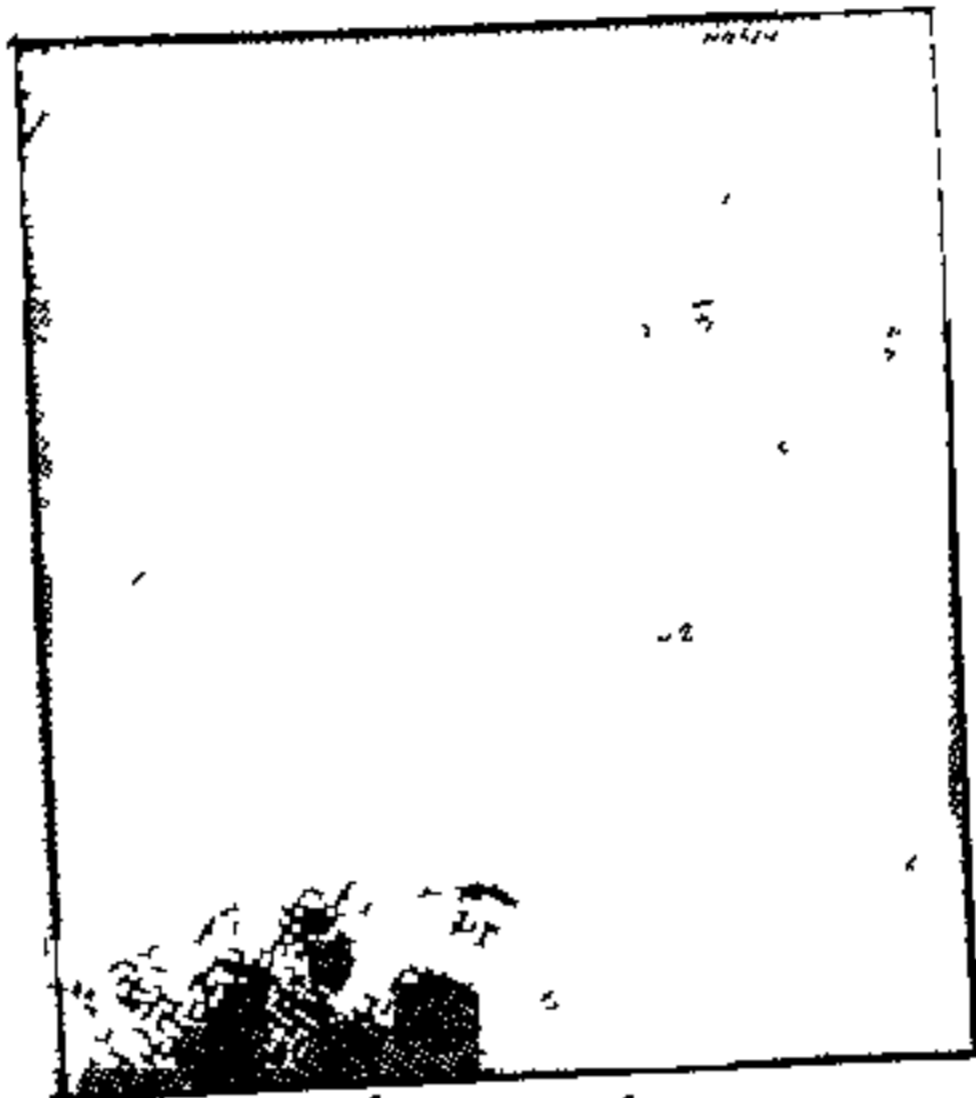
CAPE TOWN — The Goldstone Commission raid on a Military Intelligence base in November damaged the country's intelligence capability, President de Klerk has conceded.

If it were true that international observers on the Goldstone Commission had acquired access to classified security information, this was "wrong and regrettable", De Klerk said during question time in Parliament yesterday.

The Government had not known about the raid and had not authorised it. If he had known about it beforehand, he would have prevented it.

De Klerk was under fire from the Conservative Party during a 15-minute interpellation and later during the trial run of special question time during which he had to answer questions without notice.

CP Soutpansberg MP Tom Langley said the Goldstone Commission raid on the offices of the Directorate of Covert Collection (DCC) within Military Intelligence had given the United Nations and Scotland



F W de Klerk .  
accused of evasion.

Yard access to the secret service's most coveted information — the names of informants.

The raid had destroyed the DCC and betrayed its informants, some of whom had deeply infiltrated "the enemy".

Langley slammed De Klerk for allowing Mr Justice Richard Goldstone, chairman of the commission, to undertake the raid when he should have known that he was a "well-known leftist" who had been a political activist at university.

As a responsible judge, Mr Justice Goldstone should have realised what was happening

and terminated the raid as soon as he realised he had come across a Military Intelligence institution.

In separate replies, De Klerk and Justice Minister Kobie Coetsee said the Goldstone Commission had not been aware they were raiding a base of Military Intelligence until they got there.

The raid had come about as a result of investigations into the Natal violence which was part of the commission's brief.

This information led the commission to a certain address.

When the Government realised that, it had taken steps to prevent further intelligence information from coming out.

The Government did not want highly sensitive information to fall into the hands of foreigners.

De Klerk conceded that damage had been done by the raid.

He said that as far as he was aware, Judge Goldstone had not been personally present during the raid.

He dismissed Langley's demand for a commission of inquiry into the incident, saying he had all the facts at his disposal and did not think a commission was necessary.

*Bizarre evidence before inquest court names the SADF chief and a cabinet minister ...*



Defence Force chief 'Kat' Liebenberg

# Goniwe trail leads to the top

W/Mail 12/3-18/3/93

252

**A** BIZARRE plan to murder a homeland leader, described in documents handed to an inquest yesterday, has taken allegations of state involvement in political murder into the top ranks of the government.

An inquiry into the death of activist Matthew Goniwe and three others was yesterday handed a file of army telexes, minutes of meetings and other secret documents. These appear to link the country's most powerful soldier, General AG "Kat" Liebenberg, and cabinet minister Tertius Delport to a secret military operation known as "Project Katzen".

One element of Project Katzen was an instruction to "take out" a long-time government ally, Ciskei strongman Lennox Sebe, whose erratic behaviour had increasingly become an embarrassment to South Africa.

Delport, now minister of local government, was then a legal adviser to the army officers involved in drawing up Project Katzen.

The broad outlines of Project Katzen were also known to members of the State Security Council, who included then State President PW Botha and current State President FW de Klerk.

The key figure behind the alleged plan, the court heard, is General CP "Joffel" van der Westhuizen — the flamboyant intelligence chief also accused of ordering the Goniwe killings.

See PAGE 2



Named in the papers: Tertius Delport, now a cabinet minister, who was a legal adviser to the army officers behind 'Project Katzen'.

# Goniwe witness

## reveals

## secrets

Major-General Bantu Holomisa with a document he released to the Press in Port Elizabeth yesterday. The document allegedly includes a secret plan hatched by the SADF.



**E**XTRAORDINARY EVIDENCE OF AN SADF plot in 1986 to "remove" then Ciskei president Lennox Sebe and form a Xhosa resistance movement against the ANC was unexpectedly handed in to the Goniwe inquest yesterday.

The evidence was submitted to the Port Elizabeth Supreme Court by former Eastern Province Command officer Colonel Lourens du Plessis within hours of Transkei military leader Bantu Holomisa unveiling the same material at a press conference.

The Government said last night that the Cabinet and the State Security Council had never approved "illegal actions" or murder.

Lennox Sebe said in Johannesburg last night that he found out about the plan in 1986/87 and reported the matter to the South African authorities. After he had received another report on the matter, he contacted the South African ambassador to the Ciskei.

The ambassador told Sebe that it was a serious matter and he would leave for Cape Town to inform the Government.

The same night February 19 1987 Sebe said his house was attacked.

Sebe said he was not

shocked at the revelations, which included plans for a coup against his government and to "remove him".

"When things happen which is not part of any culture anywhere in the world you adopt a philosophical attitude. You leave it to time because time will expose them," he said.

The inquest has now been postponed to March 29 to give Du Plessis an opportunity to apply for indemnity from prosecution before he testifies and to allow legal counsel to study the dramatic new evidence.

Du Plessis, if granted indemnity, is expected to testify that the signal ordering

Matthew Goniwe's "permanent removal" from society was in fact a death warrant issued by General Joffel van der Westhuizen for merly of EP Command and currently Military Intelligence chief of staff.

Du Plessis will also testify with backing from the evidence that orders to "remove" people were common during the turbulent 1980s and that the term meant their assassination.

The Goniwe inquest will be determining the authenticity of the documents using a handwriting expert.

### 'State plot'

At a Press conference yesterday Transkei leader Major General Bantu Holomisa said a secret plan was hatched by the SADF's Military Intelligence which called for Ciskei politicians to be "taken out" or "permanently removed". Called Operation Katzen, the plan was launched to ensure future white supremacy by setting up internecine conflict. It also involved the intentional springing from prison of Ciskei security chief Charles Sebe.

● Background report pages 6&7

*Sowetan 12/3/93*

*252*

# Taxi trial witness gets bail

Star 12/3/93

(252)

The chairman of the Local Road Transportation Board appeared in the Johannesburg Magistrate's Court yesterday in connection with charges of perjury and defeating the ends of justice, after allegedly giving contradictory evidence in two taxi permit fraud trials.

Izak Landman (62) was released on bail of R100 and ordered to appear again on April 22. No charges were put to him.

The case against Landman follows his testimony in separate trials at which Department of Transport officials were accused of fraudulently altering taxi permit decisions made by the Local Road Transportation Board.

Two officials were convicted in the Germiston trial, in which Landman testified for the State.

Last week Landman testified in defence of Local Road Transportation Board secretary Gustav Vorster, who has been accused of 105 counts of fraud.

— Court Reporter.

Star 12/3/93  
**SAP defended  
as train bandit  
sent to prison**

By Susan Smuts

The police had done everything they could to solve a 1991 train attack, a Rand Supreme Court judge said yesterday as he sentenced an Inkatha member to eight years in jail for attempting to murder a commuter.

Various allegations had been made that the police had deliberately neglected their duties in investigating train murders, said Mr Justice J Els. However, he was satisfied the police probe in the case before him had been thorough.

The judge found Albert Dlamini (30) of Mazibuko hostel, Katlehong, guilty of attempting to murder a commuter on a Germiston-bound train on October 9 1991 and of illegal possession of a firearm and ammunition. Dlamini was jailed for eight years for attempted murder and two years for illegal possession of the gun and ammunition. The sentences are to run consecutively.

PORT ELIZABETH — The inquest into the deaths of UDF campaigners Matthew Goniwe, Fort Calata, Sparrow Mkonto and Sicele Mhlawuli was postponed yesterday to March 29 to give the Supreme Court time to consider new evidence

This evidence includes an affidavit submitted by former Eastern Province Command communications staff officer Col Lourens du Plessis, in which he claims the military signal calling for the "permanent removal from society" of three men, including Goniwe, had been an order to kill

Glenn Goosen, SC, for Du Plessis, supported the application for an adjournment as he said he needed time to put in an application for indemnity for his client, to enable him to testify fully. He would apply for protection under Section 203 of the

## New evidence <sup>(252)</sup> delays Goniwe case

Criminal Procedure Act

Du Plessis said in his affidavit that a 1986 SADF-inspired operation which planned the overthrow of the Lennox Sebe government in Ciskei as part of a "permanent" solution to unrest in the eastern Cape fell directly under the authority of then Army chief and present SADF chief Lt-Gen Kat Liebenberg

He said "Operation Katzen" was the brainchild of Lt-Gen Joffel van der Westhuizen, who had been head of Eastern Province Command in 1986. Van der Westhuizen and other officers had referred to the

To Page 2

## Goniwe <sup>BIDAM 12/3/93</sup>

possibility of having to kill Sebe, he said. Annexures to Du Plessis' evidence gave full details of the plan, which carries Van der Westhuizen's signature

Du Plessis, who sent the 1985 signal ordering the "removal" of the UDF men, said this had been an order to kill. "If there had been any other meaning other than that Mr Matthew Goniwe, Mbolelo Goniwe and Fort Calata should be killed, I would defi-

<sup>(252)</sup>  
 From Page 1  
nitely not have used the words 'permanently remove from society'," he said

Du Plessis rebuts claims contained in Van der Westhuizen's affidavit that neither he nor the Eastern Province Command had been involved in the plan to murder or in the murder of any person. He said the documents on Operation Katzen would further support this submission — Sapa

## UK journalist censured for

### Goldstone book

Weekly Mail Reporter (252)  
THE Foreign Correspondents' Association (FCA) was up in arms this week over an embarrassing alleged breach of ethics by the representative of one of the world's most famous newspapers, *The Times of London*.

There was an attempt to expel *The Times'* Michael Hamlyn from the association for allegedly reporting the details of an off-the-record briefing by Judge Richard Goldstone. Details of Goldstone's frank discussion with

journalists appeared in the paper on Sunday *Weekly Mail* 12/3-18/3/93.

The briefing, held last Thursday, was organised by the FCA, which was concerned that future briefings would be prejudiced by Hamlyn's alleged breach of the rules.

FCA members, however, are keeping mum about the incident, saying "the matter is being dealt with internally".

It is believed that Hamlyn has apologised and the FCA has submitted a formal apology to Goldstone.

Judge Goldstone's response was unknown to *The Weekly Mail* at the time of going to press.

Hamlyn declined to comment.

**Watch out for Africa South & East in The Weekly Mail Next Week**

# Colleges: An open and shut case

**D**ESPITE public commitments by the government to a single education department, three cabinet ministers have emphasised that in reality apartheid in education continues relentlessly.

Newly appointed Education Co-ordination Minister Pret Marais told parliament last week (in his capacity as minister of education and culture in the white House of Assembly) that two training colleges had been closed down last year.

This week, his colleague, Educa-

*W/M Mail 12/3-18/3/93*  
**Does the left hand know what the right hand does? Certainly not in the various education departments**

By IAN CLAYTON

tion and Training Minister Sam de Beer, who is still responsible for black schooling outside the 10 homelands, said about 75 000 applicants were refused admission this year to

## De Klerk remains silent on spying

**B**y PHILIPPA GARSON *W/M Mail 12/3-18/3/93*  
INKATHA Freedom Party central committee member Walter Felgate and eight other people were this week accused in parliament of being paid by the government to inform on various political parties.

Democratic Party MP Kobus Jordaan asked whether the government had for the past 10 years paid nine people — including Felgate, Bophuthatswana cabinet minister Rowan Cronje and United States constitutional advisor to the IFP Albert Blaustein — for information.

Jordaan said he raised the question this week because it was in the interests of the negotiations process to do so. "We are making use of the parliamentary channels at our disposal," he told *The Weekly Mail*. Jordaan insinuated in parliament that the three individuals mentioned were a "militarist DP is likely to pursue the matter in future parliamentary interpellations. State President FW de Klerk's eva-

training colleges for blacks. So while the white education department is merrily closing training colleges — and, according to Marais, 88 more white schools are due for closure this year — the black education department is turning away potential trainee teachers.

De Beer's department is also engaged in a large school-building programme — six more are to be erected in Khayelitsha alone this year — while Marais' department is still closing them down.

public interest, can be construed as admissions."

Three months later *The Weekly Mail* broke the Inkathagate scandal, revealing that the government, in particular the South African Police, had been funding the Inkatha Freedom Party.

Meanwhile both Felgate and Cronje have vigorously denied the allegations, challenging Jordaan to repeat the accusations outside the protective realm of parliament. Felgate has threatened to take legal action against Jordaan and Cronje has called on De Klerk to issue a clear reply to the allegation.

Martin Dolinchek, formerly a senior officer of the Bureau of State Security (Boss) and now working for the ANC, alleged in August 1991 that the state's intelligence services bolstered the IFP by providing direct security and surveillance services to the organisation. He said Boss set up an office in Empanangeni which, manned by nine people, was the link between Pretoria and Umtata.

Meanwhile Abe Williams, minister of education and culture in the House of Representatives, told parliament this week that six teacher training colleges catering for coloured students are under threat of closure. Involved are 1 155 students and 132 staff.

De Beer said about 75 000 applicants have been refused admission to colleges under his department's control. "Since a large number of persons applied to more than one college, it is impossible to say exactly how many persons were refused admission," he said enigmatically in reply to a question which was tabled in parliament by Democratic Party education spokesman Roger Burrows.

"There is no general shortage of teachers," De Beer said, "but there is a shortage of posts and fully qualified teachers in subjects such as mathematics, physical science, accountancy, biology, technical subjects, English and Afrikaans."

● The South African Students' Congress (Sasco) will meet De Beer on Monday, March 15, to talk about government subsidy cuts, provision of emergency funding for black students who can't pay the up-front portion of their university registration fees, and the possibility of writing off a R52-million deficit incurred by the end of last year by "historically black universities" whose students defaulted on their fees.

At the same time, Sasco says, its mass action campaign will continue, with "regional activities" on Monday.

● See Review/Education

# Grieving widow's journey of pain

St. Times 14/3/93

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By DAWN BARKHUIZEN

MATTHEW Goniwe's small, silent widow, Nyameka, wears dark glasses as she watches the man who received a signal recommending that her husband be "permanently removed from society"

"I wear the sunglasses because I want to keep some distance between him and me. I look at him and see him blush just like any other man. I wonder what kind of person he is, whether he goes home and embraces his wife

"But I don't want him to see me looking. I want to keep something of myself for myself," said the 41-year-old social worker who this week embarked on yet another journey of pain when the second inquest into the death of her UDF activist husband got into full swing in the Port Elizabeth Supreme Court

For Mrs Goniwe the wound is deep, as it is for

the widows of Fort Calata, Sparrow Mkonto and Sicele Mhlawuli, who were found butchered with Mr Goniwe on a roadside near Port Elizabeth in 1985

"The last inquest was such a circus," said Mrs Goniwe. "I am still so angry. Now time has brought me to terms with Matthew's death."

Mrs Goniwe travelled from her home in Cape Town, where she has worked since 1989, to attend the inquest.

"My first priority is my two children — protecting them from over-exposure," she said

"I believe we should not dwell too much on the past

"But I remember clearly the last time I saw Matthew. He was teasing me because I nagged him to sleep over in Port Elizabeth and avoid driving home late at night — just in case something happened."



# Tapes snag delays carnage inquiry

By CHARLENE SMITH

ANALYSIS of the tapes concerning the Boipatong massacre in July last year are still holding up the findings of the Goldstone commission into the deaths of 45 people in Boipatong

The tapes, which were partly erased — apparently in error by the SA Police — have part-recordings of police radio and phone traffic in the area before the evening of the massacre

The Goldstone commission initially first gave the tapes to a South African electronics company for analysis, and then withdrew them when it was discovered that the company was a major defence force contractor

## Refused

The tapes were then taken to Britain for an analysis that all parties involved in the hearing, including the ANC, SADF and SAP, considered woefully inadequate

Members of the commission then listened to the tapes, and it is believed they compiled a lengthy transcript of the communications on them. It is also believed that nothing of a dramatic nature is contained in the tapes. However, the commission refused to comment this week.

In November last year the commission gave the police the opportunity of obtaining an additional transcript of the tape by other overseas experts.

However, since then the Department of Foreign Affairs has had difficulty in finding a country willing to investigate the tapes.



# A bill of rights must forbid censorship

SI Times 14/3/93

**F**OR the next fortnight I shall be on the open sea, trying to suppress the peculiar nausea that comes from thinking about free speech in South Africa, so I am taking the liberty of responding at once to the views of Professor John Grogan of Rhodes which are published elsewhere on this page and which, in fairness, should be read first.

Without free speech, all other freedoms are vulnerable, and this debate should not be conducted among lawyers, trapped as they are in the byzantine conventions of the law, without regard to what happens in the real world of newspapering. Some red herrings must be identified and some fallacious assumptions removed.

The question at issue is the recent decision by the Appellate Division to forbid the Financial Mail to publish information which had been illegally acquired (not by the FM) from Sage Holdings — information which the editor deemed to be of interest to his readers, to Sage shareholders, to potential investors and to the public at large.

The first fallacy to be removed is that newspapers derive great benefit from publishing the fruits of investigations. They do not. The Rand Daily Mail and the Sunday Express went out of business doing investigations, at least some of which were of great public benefit, while newspapers that didn't touch investigative work still thrive.

The newspaper that wants to increase circulation (and few of them do) resorts to games and puzzles, or to giving dubious advice on achieving multiple orgasms or on making a million. Investigative work is difficult, costly, dangerous and usually stupefying to the readers. Newspaper editors do such work from a long tradition of public service, and profit-minded newspaper managers wish they wouldn't.

The second fallacy is that the newspapers are specifically harmed by gagging orders. They are not. The harm is done to readers, to the ideal of an open society, to democracy, to the culture of rights about which we hear so much. Newspapers usually sell more copies, and sometimes make more money, by publishing harmless trash. To cultivate

trashy newspapers, just put obstacles (like the law) in the way of serious ones.

Finally, there is the fallacy that newspapers deal in truth, or should do so. Only illiterates believe that what is found in print is necessarily true. The purpose of publication in an open society is not to certify truth, but to discover truth. It is to put facts in the open, where they may be challenged, and court gags can serve only to prevent discovery of the truth.

Then the red herrings: this case has nothing to do with the privacy of the individual, nor with the electronic snooping on Princess Diana, nor with theft. If people steal other people's industrial secrets, or their intellectual property, or spy on them with illegal devices, the laws against theft, plagiarism and illegal wire-tapping should be enforced. It makes no more sense to gag newspapers than to kick the dog.

As for the right of "privacy" with which "juristic persons" are suddenly endowed, I can only say that when Professor Tony Matthews wrote a book on the subject some years ago he found so few grounds for privacy in our law that he had to scratch around foreign legal systems for support. The right of privacy is, in this layman's view, very feebly rooted, and should be strengthened, but I doubt that laudable aim will be achieved by stretching privacy to cover up the holes in the law on industrial espionage.

**T**HIS, indeed, is the nub of the matter: the common law, as administered by the courts, has done precious little to protect ordinary South Africans, and has frequently served to oppress them. Lawyers don't like to discuss the subject much, but the unpalatable truth is that our courts, like the German courts during the Nazi period, have enforced wicked laws with diligence and ferocity.

During the apartheid era, neither liberty, nor basic human rights, nor life itself was protected by the law. Indefinite detention laws, which were a charter for torturers, survived for a quarter of a century, secrecy was ele-

vated into a shield for the general corruption of our society, and as for privacy — just think of the policemen raiding at dawn, spying on lovers, tapping telephones, opening mail and so forth. The courts upheld it all.

The exceptions, like Mr Justice Goldstone's judgment in the Govender case which effectively forbade many forced removals, were rare, and one must go back to the Centlivres court in the 50s, in this layman's opinion, to discover a time when the Appellate Division seemed wholeheartedly on the side of the common man. And Chief Justice Centlivres was reduced to campaigning uselessly, after his retirement, from public platforms.

**T**HIS is the background to the gagging of the Financial Mail, which differs in degree but not in substance from the government's decision in 1977 to ban publication of *The World*. Both were acts of censorship, and in my view the court's action was the more pernicious.

The banning of *The World* was a blatantly political act, which evoked counter-attack on political grounds, with political weapons: protest, public scorn, denunciation, hyperbole, even — when speech failed — violence. The gagging of the Financial Mail, an act clothed in the majesty of the law, is immune to such attack, and its pernicious effect is likely to last much longer.

This gagging, which comes as the apartheid restrictions on free speech are falling away, carries an unmistakable message: freedom of expression will not be secured in South Africa simply by the overthrow of a political tyranny; the power of the courts to impose censorship must also be curbed.

To achieve that we must face up honestly to the sad record of the courts under apartheid, and to the deficiencies of the common law in upholding the rights of the individual, and we must entrench in a bill of rights a clause that, quite simply, forbids censorship.

**KEN OWEN**

EAGER to ensure that its three "women's rights" bills become law by the end of this session, the government hastily organised a major national conference in Pretoria this week.

More than 700 people, mostly women, attended — many flown in on free tickets.

Rushing back home a few hours later, a number of frustrated participants wondered what the point had been.

The three bills, recently published in Parliament for discussion, deal with the prevention of domestic violence, the removal of a variety of discriminatory provisions still entrenched in certain laws, and the promotion of equal opportunities for women.

They make some important changes. For example, the bill on domestic violence applies equally to married couples and those living with each other "as if married" and makes it easier to obtain interdicts against a violent spouse.

However, there are also serious gaps in the drafts, some of them intentional — like the decision not to deal with abortion because it is "controversial". Critics also complain that women were not consulted before the

# SA'S WOMEN SHOULD NOT ONLY BE SEEN, BUT HEARD

STILES 14 3/93  
THE SUNDAY MORNING ASSESSMENT

If the government is serious about ending discrimination against women it should consult women, says **GARMEL RICKARD**

content was formulated Monday's conference offered participants a daunting agenda a welcome, an opening address and no fewer than five panels, each with three speakers, tea and lunch, all in just over five hours.

No space for questions, let alone comments. As a special concession, however, the chairman took a couple of written questions at the end of each section. When pressure to take part continued, the organisers agreed to extend the conference by an hour. The first question summed up the

concerns of many. Was this conference consultative or informative? If consultative, when was there time for "comment"? If informative, was it necessary to fly people in from all over the country instead of simply sending them documentation to read? Some of the official conference speeches were simply patter, alternately sycophantic and patronising. Then Wits law professor June Sinclair sliced through the waffle with her devastating analysis of the bills' flaws. Acknowledging that they abolished some important discrimination, she dealt at greater length with significant omissions.

Sections of the Black Administration Act were left untouched, even though they perpetuate the inferior status of African women married by customary law. The bill did not finally scrap the marital rape exemption, so that violent husbands who rape their wives cannot be charged with rape if they live under the same roof. The bill did not deal with abortion, leaving this issue for some no doubt desperate woman to raise before a future constitutional court. And it left intact less obvious discrimination — like the restrictive judicial discretion to divide property on divorce. As her list of complaints grew, so did the enthusiastic support. A standing ovation left no doubt that she captured the audience's feelings. However, debate about the bills does not end with their content. Punctuated as evidence of government

concern about human rights and equality for women, the timing and haste with which the bills were drafted and published — without prior consultation — must also be evidence of government awareness that women form 54 percent of the electorate. The government appears to hope that if the bills are enacted quickly, they will be a vote-catching sweetener in the anticipated elections. Strategic thinking is, of course, the business of politics, but the Pretoria conference shows that government officials do not understand how to consult. The random guest list left out key players, the lack of time for anything other than passive listening gave the impression that the organisers did not welcome real dialogue. And why were Justice Department officials, including the minister, the new deputy minister and the director-general, not on the panels to answer

those few questions which were allowed? Perhaps the biggest omission was not consulting the National Women's Coalition — 60 organisations around the country working together on a women's charter, among other projects. This is major research and, if the government wanted to know "what women want", the coalition would have been an obvious group to consult. What will happen to the bills? Clearly, if the government is determined, it has the power to ensure that they will be passed this session. But if the bills are forced through, the resulting legislation will satisfy no one: the government risks criticism rather than credit; women will lose again with inadequate laws. Since the government seems determined to go ahead, rather than leave the issue for a new regime, its best option now, and the best option for women, would be to refer the bills to the Law Commission (after appointing Professor Surclair as an ad hoc member). Then give the commission a brief to consult further and draft proposals ensuring real equality, taking into account the well-founded criticisms levelled at the present proposals.

SUNDAY TIMES, March 14 1993

# Secret probe ordered into Tollgate and subsidiaries

CAPE TOWN — A secret commission of inquiry into the affairs of the liquidated Tollgate Holdings group and its subsidiaries is to take place in terms of Section 417 of the Companies Act following an order handed down in the Cape Town Supreme Court on Friday.

The order was granted by Judge H L Berman after an application brought by Tollgate liquidators Bessie Bester and Tjaart du Plessis Bertrand Hoberman SC was appointed commissioner of the inquiry. In terms of the Companies Act, its proceedings and findings are confidential.

Meanwhile, an application for the provisional liquidation of the Paarl wine estate, Rhebokskloof, owned by a family trust set up by former Tollgate director and current Motor Racing Enterprises (MRE) MD Mervyn Key was postponed to March 24 in the Cape Town Supreme Court on Friday.

Key indirectly controlled a major share of the family trust, the court heard. Rhebokskloof's assets were said to include an historic Cape Dutch homestead, winery, two restaurants and winery and were worth about R10m, court papers said.

Absa brought the urgent application on the basis of alleged debts of about R20,6m, including an overdraft of more than R3,5m, a further R16m owed in terms of a preferential share option agreement entered into between Absa, Rhebokskloof sis-

LINDA ENSOR

ter company Parmalat Investments and Rhebokskloof, and a R1,1m guarantee for Parmalat.

Key's purchase of MRE from Tollgate Holdings for R6,63m last year is under scrutiny. Last week the Rand Supreme Court placed the financial affairs of MRE under control of Tollgate liquidators after they claimed that Tollgate had sold the company at below market value.

Absa corporate banking manager Johan Steyn claimed in papers that Absa, Parmalat and Genref had entered into an agreement in August 1992 in terms of which Genref bought a Parmalat preference share worth R15m from Absa. The agreement stated that Absa would have to buy back the share if Parmalat failed to declare a dividend, or pay Genref its share of the dividend, by February 26 this year.

No dividend was paid or declared and Absa was forced to buy the preference share from Genref for R15m plus R1m in interest. Absa had a separate counter put option with Rhebokskloof, obliging the company to buy the share from it if it had to buy it from Genref.

Steyn said Rhebokskloof had failed to buy the share when Absa had called upon it to do so.

## Many have no access to safe water

ONE in three SA residents did not have access to safe water while almost half lacked adequate sanitation, the Water Research Commission said in a statement at the weekend.

Commission research manager Charles Chapman said the biggest problem was informal settlements.

Not only were inhabitants in areas without safe water at risk of contracting diseases, but other communities were also threatened during periods of good rain as pollution was likely to spread to rivers and other

MARIANNE MERTEN

water sources. The commission had started examining the possibility of making appropriate technology available to affected communities and to involve them in water and sanitation management, a statement said. Alternative means of financing sanitation and water supplies, such as the use of prepaid water metres developed by the commission and Eskom, would also be examined. An Eskom spokesman

said although the installation of prepaid water meters was technologically simple, municipalities shied away from the legal implications.

The project had had to be put on the backburner because water, unlike electricity, was considered a basic human right of which nobody should be deprived, he said.

Education for correct water usage was essential because SA's limited water resources would be exhausted between the years 2020 and 2030.

# Rape task group's plea for help

ROGER FRIEDMAN  
Staff Reporter

THE Cape Town Task Group on Rape has called on the Department of Health and Welfare, the police and the Cape Provincial Administration to join the battle against rape.

Working from the premise that improved, empathetic and sympathetic handling of rape victims would lead to more rapes being reported and therefore more convictions, the committee was formed in August as part of a broad initiative by Cape Attorney-General Mr Frank Kahn to improve the lot of victims.

"Whereas the Department of Justice has been supportive of the initiative and pro-

gressive in its thinking by instituting the country's first sexual offences court in Wynberg, we feel its time other departments got involved," committee chairwoman Mrs Sandra Swart of the attorney-general's office said.

The committee, comprising representatives from the attorney-general's office and a broad range of organisations including Nicro, Lawyers for Human Rights and Famsa, has called on:

- The Department of Health and welfare to provide social workers to serve the sexual offences court;

- The police to form a central rape unit for the area served by the court and;

- The Cape Provincial Administration to provide a

"comfortable separate facilities" at provincial hospitals for rape survivors, particularly in hospitals in the vicinity of the sexual offences court.

The facilities should provide 24 hour sanctuaries for traumatised rape victims, while the police unit should preferably not be based at a police station, Mrs Swart said.

She said she was confident the calls to other government departments would not fall on deaf ears.

She expressed the committee's "sincere gratitude" to the justice department for setting up the Wynberg court. She promised the committee would be active in making

the new venture a success through the diverse expertise of its members.

A human rights lawyer, a psychologist, a doctor, crisis workers, social workers, prosecutors and community representatives served on the committee.

The objective of the sexual offences court, which started operating two weeks ago, was to co-ordinate the various disciplines involved in handling rape survivors and their cases.

It also aimed not only to ensure a smooth passage through the system for survivors, but eventually to incorporate an element of "victim aid" before and after trial, Mrs Swart said.

disclose more when Goniwe inquest resumes

# 'Shield witness from ex-mates'

*Sowetan 15/3/93*  
■ **GRAVE DANGER** Parties say cop who spilled

the beans at Goniwe inquest faces retribution:

By **Ismail Lagardien**  
Political Correspondent

(252) (11)

**I**N THE INTERESTS OF JUSTICE, the key witness in the Matthew Goniwe inquest, Colonel Lourens du Plessis, must be protected from "erstwhile vengeful colleagues lest he, too, be killed"

This is the blunt warning from political parties as the reopened Goniwe inquest goes into a two-week recess

The ANC, PAC and Democratic Party were in agreement yesterday in appealing to the State to provide protection for Du Plessis and to reveal further details and information of its shady operations against its political opponents

"The whole question of amnesty and the way it has been dealt with is despicable. We would like to see people like Du Plessis saying to the whole world what they did on instruction from the regime

"In the meantime he ought to be given

maximum protection from the killers that still operate within the SADF and SAP," said the PAC's secretary for information, Mr Barney Desai

The ANC's Ms Gill Marcus wanted to know whether the Minister of Local Government, Mr Tertius Delpert, and the South African Defence Force chief, General Kat Liebenberg, would be allowed to keep their jobs after having been implicated in the Goniwe case

The Democratic Party's Mr Peter Gastrow, who is active in the National Peace Committee, also believes that Du Plessis is under pressure and a worried man

"The only way that officials like those who have been directly implicated can come to the fore and tell the truth (about what happened) is if they're satisfied that they will be protected from erstwhile revenge-seeking colleagues"

Du Plessis is reported to be in fear of his life and has threatened to spill the beans about the murders of the Goniwe Four when the inquest resumes on March 29

# 'Green light for corruption'

ENTRUSTING a professionally disgraced person with a key position totally undermined the concept of open and clean administration, Democratic Party spokesman on justice Mr Tony Leon said yesterday

Reacting to the appointment of Mr Piet Kemp as Registrar of Patents and Trade Marks, he said "It makes a mockery of the government's stated commit-

ment to root out corruption and malpractice wherever it exists and is tantamount to giving a green light to professional misconduct of the most serious and reprehensible nature"

Mr Leon said Mr Kemp had been found guilty of misconduct by the Bar Council and had had his membership of the Society of Advocates terminated for overcharging the government

Mr Kemp was one of the two advocates who represented among others General Magnus Malan and former Minister of Law and Order Mr Adriaan Vlok at the Harms Commission hearings

"It is beyond our comprehension as to how this appointment has been approved," Mr Leon said — Sapa

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ET 16/3/93

# Land bar on councillors

252  
IS proposed  
15/07/93 16/3/93  
ADRIAN HADLAND

PRETORIA — Town councillors should be barred from either selling or buying rezoned land for five years to prevent local authority corruption, the Krugel commission heard yesterday

Former deputy director of the local government department Peter Auret told the commission that several amendments to the town planning and townships ordinance were required

This would "make it more difficult for councillors and officials to abuse their positions and enrich themselves unjustly", he said

The amendments would include a five-year clause concerning land subject to a rezoning or township establishment application as well as the referral to township boards of property deals in which councillors had a financial interest

Evidence on the question of local authority corruption will be heard today for the last time before a preliminary working document is drawn up, commission chairman Willem Krugel said

Once the document had been discussed, a formal report would be forwarded to the Administrator within the next few months

Also giving evidence yesterday was a representative from the Association of Law Societies

In the association's memorandum it was stated that councillors, officials and their relatives should not engage in contracts or applications in which they had a financial interest

Krugel said although all who gave evidence before the commission agreed on the need to prevent corruption, the means for achieving this were controversial and emotive

Possible legislation to prohibit councillors from being involved in land use applications or property development could be seen as discriminatory

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**50 000 sign petition** (282)

JOHANNESBURG — The Federation for Mental Health has presented a petition signed by 50 000 people to the South African Law Commission demanding that the rights of the mentally handicapped be included in a bill of rights.

CT 16/3/93

Star 16/3/93

# Row over 'disgraced' advocate

(252)

By Peter Fabricius  
Political Correspondent

CAPE TOWN — The Government has been severely castigated for appointing "disgraced" Pretoria advocate Piet Kemp to a top official post after the Bar Council had found him guilty of misconduct.

DP justice spokesman Tony Leon said Kemp's appointment as Registrar of Patents and Trade Marks "makes a mockery of the Government's stated commitment to root out corruption and malpractices".

Leon said the Bar Council had found Kemp guilty of misconduct and the Society of Advocates had terminated his membership for overcharging the Government while working for the Minister of Defence.

His fees were found to be "totally excessive and shocking".

"What is even more alarming is that at the very time of his appointment, the General Council of the Bar has an application pending for his removal from the roll of advocates, which is the most extreme form of professional censure and condemnation which can be levelled against a practising advocate in South Africa."

Leon said both Minister of Trade and Industry Derek Keys and Director-General Stef Naude had supported Kemp's appointment.

This was "tantamount to Government giving a green light to professional misconduct of the most serious and reprehensible nature".

Leon said it totally undermined the concept of an open and clean administration, and urged the Government to reconsider the appointment.

# 'Disgraced' lawyer given top government posting

Political Staff

THE government has been castigated for appointing "disgraced" Pretoria advocate Mr Piet Kemp to a top official post after the Bar Council had found him guilty of misconduct

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Mr Leon said that both Minister of Trade and Industry Mr Derek Keys and Director-General Mr Stef Naude had supported Mr Kemp's appointment

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## Further probe into baby deaths ruled out

Health Minister Dr Rina Venter will not open a commission of inquiry to further investigate the death of 13 babies put on drips manufactured by Sabax

In a letter yesterday to Peter Soller, the attorney representing the families of the babies, Venter said "I am of the opinion that a commission of inquiry as suggested by you is neither necessary nor warranted"

She added that the Attorney-General was also investigating the issue

However, Witwatersrand Attorney-General Klaus von Lieres said he was not investigating the original deaths that occurred between February and September 1990. An inquest last January had found no one was responsible for those deaths

He said he was investigating

an affidavit by former Sabax employee Diane Parker in which she alleged that "sub-standard techniques" were used in manufacturing the drips

The probe included the deaths of eight more babies last September, but they had died of a different bacteria, he said

Soller said Venter's decision was "catastrophically disgusting". — Staff Reporter

# Goldstone to probe KwaZulu Police role in violence.

ADRIAN HADLAND

PRETORIA — The role of the KwaZulu Police in incidents of public violence and intimidation would be investigated by a committee of the Goldstone commission, it was announced yesterday.

Information uncovered by the commission's multinational Natal team, headed by Maj Frank Dutton, had persuaded the commission to undertake a fuller inquiry, Judge Richard Goldstone said.

Among the incidents to be investigated was the murder of ANC Natal Midlands deputy chairman and NEC member Reggie Hadebe. He was shot dead last October

when a car carrying ANC officials from a peace meeting in Ixopo was ambushed. Goldstone said the committee would look into "the conduct of the KwaZulu Police with regard to the investigation into the murder of Reggie Hadebe".

Headed by advocate Malcolm Wallis, the committee was already looking into the possible causes of public violence and intimidation in the Natal/KwaZulu region excluding ANC-Inkatha rivalry.

The six incidents to be investigated by the committee at this stage include, the failure of the KwaZulu Police to rearrest two murder suspects who had absconded but whose whereabouts were known; the lack of progress in a case in which uniformed policemen were alleged to have shot and killed a Kwamashu resident; and the recommendation of an Inquest magistrate in 1990 that a senior KwaZulu officer and several of his men be charged with murder and defeating the ends of justice.

Goldstone said KwaZulu Police Minister Mangosuthu Buthelezi had assured the commission of the police force's assistance

Cachalia was cross-examining Brig Stefanus Abrie, who said that between July and December last year, 98 private homes of SAP members and 61 police stations had been attacked. Statistics indicated violence against the security forces was still occurring on a widespread, and in some instances escalating, basis, Abrie said.

He added that ANC leaders in the Natal Midlands area had been particularly prone to inciting their members to attack the police. Cachalia replied that the Natal Midlands leadership had always been the ANC's strongest critics

Intimidation  
252

## Govt defends Kemp decision

Political Staff

A JUDGE and three senior members of the Pretoria Bar had unanimously supported the appointment of controversial Pretoria advocate Mr Piet Kemp, SC, as Registrar of Patents and Trade, the government said yesterday.

Mr Kemp had properly disclosed to the selection committee his punishment by the Pretoria Bar Council "and, broadly, the reasons for his punishment", director-general of Trade and Industry Dr Stef. Naude said yesterday. (252)

Dr Naude said his department was fully satisfied with Mr Kemp's competence and his abilities for the post.

Star 17/3/93

# Goldstone probes KwaZulu Police

By Bronwyn Wilkinson

A committee of the Goldstone Commission is to probe the conduct of the KwaZulu Police (KZP) in violence, including the assassination of two Natal ANC leaders, commission chairman Mr Justice Richard Goldstone announced yesterday.

This follows investigations by the commission's Natal team into allegations and complaints about the KZP

Six of these complaints, including the assassinations of ANC Newcastle chairman Professor Hlalanathi Sibankulu and ANC Midlands deputy chairman Reggie Hadebe, would now be handed over to a committee of the commission for inquiry, Goldstone said

Goldstone said KwaZulu Chief Minister and Minister of

Police Mangosuthu Buthelezi and KwaZulu Police Commissioner Lieutenant-General R. Durrant had said they would cooperate with the inquiry

The committee will investigate, among other things,

## Ambush (252)

- The KZP's conduct with regard to its investigation into the murder of Hadebe on October 28 last year. Hadebe was shot dead in an ambush on a car carrying ANC officials from a peace meeting in Ixopo, near Maritzburg.

- The conduct of the KZP relating to the murder of Sibankulu, whose charred body was found in his burnt-out car in Madadeni, near Newcastle, on November 12. Sibankulu disappeared from his home the previ-

ous day.

- The possession of an AK-47 rifle by a Constable Ngubane in August last year and the KZP's investigation into this

- The failure of the KZP to re-arrest two murder suspects whose whereabouts were known to the KZP after they absconded from custody. The suspects had been arrested in connection with fatal rifle and grenade attacks on two houses in Kwa-Makhuta in March 1990.

- The lack of progress in the KZP investigation into a case in which uniformed KZP members allegedly shot dead a Kwa-Mashu resident in 1990.

Goldstone said a committee of the commission was already investigating causes of violence in Natal and KwaZulu other than the rivalry between supporters of the ANC and IFP

# Serfontein's Star 17/3/03 documents confiscated

Staff Reporter

(25)

Documents relating to alleged corruption in the Department of Justice were confiscated from the home of former assistant chief auditor Jaap Serfontein on Monday, police said yesterday.

Police on Monday also raided The Star offices in Johannesburg and Combined Artists' Carte Blanche building in search of documents, but found nothing.

Serfontein, who conducted a three-month audit at the Department of Transport last year, allegedly found that there was widespread corruption and his results were published in The Star in February and broadcast on M-Net.

According to a police spokesman the raids were conducted in terms of the Protection of Information Act.



# Goldstone appeals for information

61074 18/3/93 ADRIAN HADLAND (252)

PRETORIA — The Goldstone Commission appealed yesterday for further information on the possible role of Umkhonto we Sizwe (MK), as well as private security firms, in violence and intimidation in SA

The appeal follows an announcement earlier in the week that the commission would begin a full inquiry into incidents of violence and obstructing justice involving the KwaZulu Police.

Until all public and private armies had been investigated, the public would not be satisfied of their innocence, Judge Richard Goldstone said

The commission has already completed a probe into the activities of the PAC military wing Apla, and is still involved in the government investigation into SADF intelligence functions

Details and submissions were still needed on groups with a capacity for violence — including the rightwing SA Republican Army, MK and private security firms

“If any person wishes to furnish relevant factual information anonymously, or if any person or witness requires protection for any period of time”, they should contact the commission, the statement said

Goldstone said the preliminary inquiry into Apla activities was complete and a report would be issued soon

Allegations that members of the SAP and KwaZulu Police were involved in incidents of public violence or intimidation were being looked into, and the commission had been given full access to the activities and intelligence functions of the SADF, the statement said

“Public violence and intimidation in SA will not be effectively curbed until all SA public and private security forces and armies have been investigated,” it added

In the current inquiry into attacks on police officers, the commission heard yesterday that no politically motivated attacks had been carried out by ANC members on the SAP in the western Cape since 1990

Western Cape SAP member Lt Cornelius Matthee agreed with ANC legal representative Azhar Cachalia that not a single confirmed incident had been reported. Only one person with “vague Umkhonto we Sizwe connections” had been implicated in violence against police and he had also attacked ANC members, Cachalia said.

Warrant-Officer Andreas Steenkamp agreed under cross-examination that no confirmed information existed by which any recognised executive member of the ANC in the western Cape could be accused of instigating members to attack the police

The investigation continues

‘Fear must be addressed’

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# Private armies, security firms to be probed

By Bronwyn Wilkinson (252)

The Goldstone Commission is to investigate the possible involvement of private security firms and private armies — including Umkhonto we Sizwe (MK) and the Boere-Republikeinse Leër — in public violence and intimidation, commission chairman Mr Justice Richard Goldstone announced yesterday  
Goldstone said the United Na-

tions had adopted recommendations on curbing violence in South Africa made by UN Secretary-General Boutros Boutros-Ghali in August  
The recommendations included that the commission investigate the functioning and operations of several agencies, including the SADF, SAP, MK, the Azanian People's Liberation Army (Apla), the KwaZulu Police and private security firms  
Goldstone said violence could

not be curbed until all public and private armies and security companies had been probed.  
A committee investigating the activities of Apla — the PAC's military wing — had completed its preliminary inquiry and the findings would be made public soon  
The commission had been given access to information regarding intelligence functions of the SADF, and the commission was investigating allega-

tions of the involvement in violence of the SAP and KwaZulu Police, Goldstone said.  
He asked people with relevant information on public and private armies or security firms to furnish details to the commission. Information could be given anonymously by telephone on (012) 320-4640  
The commission would consider the submissions and decide what action was appropriate, the judge said.

**W**HEN the Constitutional Committee of the African National Congress began the task of drafting the Bill of Rights in September 1990, there was no election on the horizon. Our task was to prepare a document which would become the fundamental anti-apartheid statement and we were specifically told that it had to be inclusive, addressed to all South Africans, and not simply an ANC negotiating text.

This process did not take place in a vacuum. The history of struggle in our country, the rights claimed and gained in struggle and the international context provided the inspiration for our drafting. We drew on the internationally accepted rules established by a series of human rights documents and conventions, beginning with the Universal Declaration on Human Rights of 1948, and culminating with the Convention on the Rights of the Child, in 1989, developments in which some of us had participated but from which apartheid South Africa had been isolated.

**M**ore important, we drew on the remarkable record of the liberation movement's own culture, texts developed over a period of 50 years. First, there was the historic 1943 Bill of Rights, a unique and precocious document drafted by the ANC in the crucible of the struggle against fascism and Nazism. The Freedom Charter, adopted in Kliptown in 1955, is the greatest source of any Bill of Rights in our country. It did not indicate how the rights it proclaimed were to be guaranteed but it did set out a firm vision of an apartheid-free future.

In the light of the degenerate behaviour of the apartheid regime and in the midst of the horrors of the state of emergency, the ANC in its January 8 statement of 1987 declared its commitment to a Bill of Rights that would be justiciable. As a result, in 1988, the national executive committee issued the constitutional guidelines which gave an important position to a Bill of Rights.

These guidelines were extensively discussed inside and outside the organisation, which enriched the text. The comments received insisted on discrete treatment of women's rights, vigorously proposed that social and economic rights be spelt out

# ANC Bill was not drafted in a vacuum

W/Mail 19/3 - 25/3/93

*It's not just 'bloodless lawyers' who will decide our rights, says ANC executive member **KADER ASMAL**, taking issue with Phillip van Niekerk's recent assessment of the organisation's draft Bill of Rights*

The poacher makes the best gamekeeper



specifically and that access to land receive fuller attention. These comments provided the insights for the draft Bill of Rights published in November 1990.

**S**uch a background is necessary to counter Phillip van Niekerk's choleric attack (*WM* March 5-11) on the ANC's draft Bill of Rights. Our debate is not being conducted exclusively by political parties and "bloodless lawyers" — some of whom have been detained and imprisoned in the past. The latest draft was not adopted in February 1993, to coincide with the National Party proposals, but in May 1992, following a special conference of more than 500 delegates. An editorial error concerning the date on the cover may have induced Van Niekerk to believe that the ANC and the regime have chartered a hegemonic course to fix the human rights agenda.

Nothing could be further from the truth. We do not want an "interim" Bill of Rights, as the government does, because it will be

illegitimate and a logical absurdity. We have consistently stated that only a constituent assembly could adopt such a document, openly and through a transparent process where some of the issues Van Niekerk refers to could be debated. Lawyers have a limited role to play in such a process.

Such a debate would show the basic differences of opinion between the two sides on the following issues: the abolition of capital punishment, outlawing discrimination on the ground of sexual orientation, legal aid in criminal cases, establishing freedom of the press as a constitutional right, the indivisibility and inter-dependence of rights so that there is no conceptual marginalisation of economic and social rights from political rights, ensuring that rigid provisions on property rights do not become a licence for maintaining the race-free status quo and combating discrimination actively.

**T**here is a need for a genuine debate on human rights because world views and theories of reconstruction and development are relevant. But such a discourse is not helped by quoting the egregious Tony Leon as an authority on motivation or by raising "Aunt Sallies" as Van Niekerk does.

One example of such an "Aunt Sally" will suffice, and this concerns the declaration of a state of emergency. When our November 1990 draft was published, *The Weekly Mail* criticised the ANC for not identifying the circumstances when rights could be derogated when there was a frontal assault on the institutions of the state.

This we did in 1992, on the basis that not only Martians may wish to destabilise a new democratic order. We followed the international debate now enshrined in the Syracuse Principles and proposed the most restrictive provisions on the state's competence to abrogate certain rights when fear stalks the land. Rights are not self-enforcing. A new Constitutional Court will interpret all restrictions and determine the constitutionality of state action. Van Niekerk ought to have contrasted the apartheid regime's statist and Draconian approach to this area.

●Kader Asmal is professor of Human Rights Law at the University of the Western Cape and a member of the national executive committee of the ANC.

B1007 19/3/93

**Charges withdrawn**  
CHARGES against Johannesburg conscientious objector Luis Miras for refusing to complete a period of community service were withdrawn by a Johannesburg magistrate yesterday after the attorney-general failed to give a decision on whether or not to proceed with the prosecution, the End Conscription Campaign said.





Goldstone commission chairman Judge Richard Goldstone, left, national peace secretariat chairman Antonie Gildenhuys, centre, and national peace committee chairman John Hall at the launch in Johannesburg yesterday of the national peace accord's new logo, top, and its "peace in our land" theme

Picture ROBERT BOTHA

# 'Controlled' accord funds

RAY HARTLEY

GOVERNMENT supported the "structural autonomy" of peace structures, but wished to maintain proper financial management of peace accord funds, Deputy Justice Minister Dame Schutte said yesterday.

Speaking after the launch of the accord's new logo and theme, he said signatories of the national peace accord needed to put aside preconditions and meet urgently for the sake of peace.

"If leaders are not prepared to talk to one another for political reasons and on the other hand are putting up preconditions, that's just not good enough," he said.

The new logo and theme were unveiled by peace committee chairman John Hall, secretariat chairman Antonie Gildenhuys and Goldstone commission chairman Judge Richard Goldstone.

"At this time in SA, we need a peace psychosis Everybody in this country desires peace more than anything else," Hall said after the

Hall said the media was the accord's "single biggest ally", but peace structures did not "expect the media to be passive in their support for the accord".

Goldstone said peace had to come from people on the ground and not only from leadership. He appealed to people who witnessed violence to come forward with information on the perpetrators.

Schutte would not confirm that government was considering giving the Home Affairs Department overall responsibility for peace structures, but said it made sense to have peace structures fall under one department. The national peace committee is administratively accountable to the Justice Department while the peace secretariat is accountable to the Constitutional Affairs Department.

## Forensic experts inspect grave site

STEPHANE BOTHTMA

SAP forensic experts yesterday scoured the site of what appeared to be the shallow grave of an adult in the backyard of the Messina police station.

Police spokesman Johan Mostert said a murder docket had been opened following the discovery by construction workers on Wednesday.

He said the body appeared to have been buried between one and four years ago.

It would be up to the forensic experts to decide whether further excavations at the police station were warranted, Mostert said.

6/10 PM 19/3/93

6/10 PM 19/3/93



# 27 gain freedom under Further Indemnity Act

STAR 19/3/93

Political Staff

(252)

CAPE TOWN — At least 27 people have been released from jail in terms of the Further Indemnity Act passed late last year, Minister of Justice Kobie Coetsee said yesterday.

The applications for release had been considered by the National Council on Indemnity, which was set up under the Act.

Coetsee was answering a question in Parliament put by Tony Leon (DP Houghton).

Coetsee said that up to March 3, 10 people had applied for indemnity from prosecution. They had asked to be excused of the crimes of sabotage, kidnapping, culpable homicide, theft, unlawful possession of a grenade, unlawful possession of firearms and ammunition, murder, attempted murder and malicious damage to property.

At the same time, 348 applications for indemnity submitted before this Act came into effect, and made in terms of earlier



Kobie Coetsee . "442 people sentenced to death"

legislation, had been referred to the National Council for its recommendation.

● A total of 442 people had been sentenced to death between 1989 and 1992, Coetsee said yesterday in a written reply to Dave Dalling (Ind Sandton).

During 1992, 59 death sentences had been commuted.

# Amnesty act: 10 apply

Political Staff (252)

TEN people had applied for indemnity in terms of the Further Indemnity Act up to March 3, Justice Minister Mr Kobie Coetsee said yesterday.

Replying to a written question from Houghton MP Mr Tony Leon, the minister said no one had yet been indemnified.

Mr Coetsee said that 348 applications for indemnity, submitted before the Further Indemnity Act (FIB) came

CT 19/3/93  
into effect, had also been referred to the National Council on Indemnity

The council started its work on November 12, 1992, and had so far dealt with 129 applications as a result of which 27 people had been released.

Offences for which release or indemnity had been applied included sabotage, kidnapping, culpable homicide, theft, unlawful possession of a grenade and the unlawful possession of fire arms and ammunition.

FM 19/3/93. CURRENT AFFAIRS

ian roles to counter the "total onslaught" by whatever means possible — and, it seems, didn't even bother consulting the highest political decision-making bodies

President FW de Klerk's government came close last week to compounding what is already a sickening episode by justifying the "extraordinary powers and unconventional strategies" used during that era — but denied Cabinet or State Security Council knowledge or approval of any illegal actions, including Van der Westhuizen's alleged plan

The reopened inquest into the 1985 deaths of eastern Cape activists Matthew Goniwe, Fort Calata, Sparrow Mkonto and Sicelo Mhlawuli, was told last week that the military signal stating the need to "remove" Goniwe permanently from society was effectively a death sentence

SADF Col Lourens du Plessis was a senior staff officer at Eastern Province Command in 1985 when he sent the signal to Gen Frederik van Rensburg of the State Security Council secretariat in Pretoria. It was sent on the instructions of Van der Westhuizen (then a brigadier in charge of EP Command). Col Du Plessis said in an affidavit handed to the inquest that the words in the signal would not have been used if they were not intended to mean Goniwe and Calata should be killed. He has applied for indemnity against prosecution

*continue ->*

GONIWE INQUEST FM 19/3/93

## Total shock

**Shocking evidence** pouring out of the Goniwe inquest in Port Elizabeth, and related allegations last week of plans by the current head of Military Intelligence (MI), Gen Joffel van der Westhuizen, to manipulate homeland politics grossly, epitomises the moral decay that characterised P W Botha's reign

Under Botha's militaristic patronage, politically naive SADF planners usurped civil-

In earlier evidence a frightening picture emerged of how deeply involved the military had become in countering black resistance to apartheid in the eastern Cape in the mid-Eighties. Bureaucrats apparently went directly to the leaders of clandestine military groups, rather than civilian or police structures, to solve political "problems" such as disruptions at black schools or township activism

Van der Westhuizen's role in the region was highlighted by a detailed plan he allegedly compiled to overthrow former Ciskei leader Lennox Sebe and install his brother Charles as head of an anti-ANC Xhosa homeland comprising Ciskei and Transkei. The documents were released last week by Transkei's military leader Bantu Holomisa. The Goniwe inquest was immediately adjourned until March 29 to allow police and lawyers to study the implications of Van der Westhuizen's alleged plan

Government spokesman David Steward accused Holomisa of political opportunism and said that neither the Cabinet nor State Security Council had ever discussed or considered Van der Westhuizen's alleged plan or anything similar

Holomisa's claims have again focused attention on Van der Westhuizen's position. He was a surprise survivor of De Klerk's purge of senior officers in November. In an interview at the time he said he would not quit in the face of scandalous allegations about MI and was convinced that his men acted correctly (*Current Affairs* November 27).

"I see no reason why I or any member of my organisation should now resign as a result of this onslaught (the outcry over MI activities). If anyone contravened (the law) he should be punished, but I am convinced that we acted correctly," said Van der Westhuizen. "I have no problem with testifying about my so-called involvement with the Hammer unit (an MI operation in the eastern Cape) or with the Goniwe murders or with anything else that's attributed to me. I know what I've done and what I have not done"



Star 19/3/93

# Taxi drivers selfish, greedy - Goldstone

By Bronwyn Wilkinson (252)

Groblersdal taxi drivers' lawlessness and greed were at least partly responsible for taxi wars in the eastern Transvaal town, a committee of the Goldstone Commission has found.

The committee investigating taxi wars said in its fourth interim report yesterday that minibus taxi operators in the area were selfish, greedy and involved in a power struggle.

The committee found that some of the causes of the taxi war in Groblersdal were particular to that area, but some were common to the taxi industry throughout South Africa.

The Groblersdal taxi war exploded over routes and taxi

ranks in 1991, resulting in several deaths.

The Groblersdal Town Council had provided a taxi rank and had tried to negotiate for peace, but some of its moves, made with the best intentions, had only exacerbated the problem.

The council had withdrawn from negotiations after they proved fruitless.

The Groblersdal war had several causes, the committee said.

There was an overpopulation of minibus taxis and "poaching" (where drivers operate on routes for which their permits do not apply) was common.

Taxi operators showed a general reluctance to abide by the rules and the prevalence of firearm attacks showed a culture of

taking the law into their own hands.

The high degree of greed, intolerance and selfishness bedevilled attempts at mediation.

Taxi operators were charged up to R5 000 in some cases to belong to taxi associations and this increased economic pressure and competition.

The committee recommended that fair but firm and consistent law enforcement that was sensitive to the situation was needed to combat the culture of lawlessness.

"Minibus operators are subject to the law just like every other citizen," the report stated.

Mediation had to be encouraged between the warring taxi associations.

# Goldstone to probe Hadebe slaying

By FAROUK CHOTHIA

**JUDGE RICHARD GOLDSTONE'S** announcement that his commission is to probe the kwaZulu Police has raised specific questions about the KZP's conduct with regard to the assassination of key African National Congress Natal Midlands leader Reggie Hadebe.

Judge Goldstone this week announced that his commission's Natal investigation team had looked into complaints against the KZP and it felt that six of the cases needed further probing.

He said a sub-committee of the commission would investigate the "conduct" of the KZP in relation to the murder of Hadebe, the right-hand man of Natal Midlands boss Harry Gwala. Hadebe was killed in

an ambush in the Ixopo area while returning from a peace meeting with Inkatha.

Curiously, the case is being investigated by the South African Police, which has so far made little visible progress.

University of Natal academic John Aitchison said the statement had stoked speculation that the commission suspected the KZP either of hampering the SAP probe, or that KZP officers were implicated in the murder.

Pietermaritzburg South MP Rob Haswell said in parliament last month there was "considerable circumstantial evidence, if not significant leads" for the SAP to follow.

He said Hadebe had been killed by a bullet fired from a G3 rifle, and

that G3s, according to evidence submitted to Goldstone, were issued to chiefs. Two chiefs — one of whom was charged with murder in another case but acquitted, while the other is a kwaZulu cabinet minister — attended the meeting with Hadebe on the day he was killed. (252)

Other suggestive circumstances were that the car in which Hadebe was travelling had never previously been used in the Ixopo area; the assassination took place on a hairpin bend, the slowest part of the road between Ixopo and Pietermaritzburg; and that Hadebe was killed by the first bullet fired — strongly suggesting the assassins knew where he was sitting. (123327)

w/m ail 1913 - 2573/93

# Kemp appointment on hold

THE controversial appointment of Pretoria advocate Mr Piet Kemp as Registrar of Patents and Trade Marks was suspended yesterday

Mr Kemp, a Senior Council, was found guilty of misconduct by the Bar Council and his membership of the Society of Advocates was terminated for over-

charging the government

The General Bar Council of South Africa has also brought an action in the Supreme Court for his removal from the roll of advocates

The DP strongly criticised his appointment this week

The government earlier this week defended his appointment,

but said yesterday it had been unaware at the time of the Bar Council's application for him to be removed from the roll of advocates

Dr Stef Naude, director-general of trade and industry, said the application came to the department's notice only this week.

(252) CT 20/3/93

THE confident, combative tone in which Kobie Coetsee invited critical comment on his "Charter of Fundamental Rights" is most unfortunate.

The charter begins, in typically parsimonious spirit, not with a statement of fundamental rights, but with provisions circumscribing its application. It uses a strained language more appropriate to ordinary legislation than to a society's founding constitutional document.

Coetsee seeks to justify certain clauses in the government's charter on the basis of similar provisions in international instruments such as "The International Covenant of Civil and Political Rights".

Unfortunately, the reliance on international precedent does not extend to the jurisprudential framework which underlines modern human rights instruments. The minister claims that a bill of rights "serves as a code of conduct for the government of the day".

By contrast, modern human rights instruments grant rights to citizens and are seen not simply as shields but also as swords.

## Sword

As the distinguished comparativist Mauro Cappelletti has written, "traditional human rights... have proved to be largely inadequate if not accompanied by that further human rights revolution which is reflected in what has been called the human rights of the second generation, that is social rights. To exclude social rights in a modern bill of rights... is to forget that the modern state has generally enlarged its reach and responsibilities into the economy and the welfare of the people."

The government's charter is certainly not a sword to provide citizens with the rights to which Cappelletti refers.

The issue in a situation of grotesque inequality is surely not whether rights should have a welfare content, but rather on the most appropriate mechanism to secure these rights.

Coetsee's charter goes further than merely excluding welfare rights, it inappropriately casts free enterprise economic policies as fundamental rights.

# No, it's not a rottweiler, but a shark and dinosaur

252

St Times

21/3/93

## FIROZ CACHALIA and DENNIS DAVIS argue that the government's proposed charter of rights brings bad old habits to a new debate

The charter provides that property may be expropriated for public purposes subject to compensation at market value. By contrast, the Law Commission draft upon which Coetsee claims the charter has been based, provides for just compensation.

This formulation would allow a court to award compensation after a careful consideration of the equities, namely the respective claims of the state, the owner as well as the person who lost property possibly as a result of apartheid removals. The government's formulation effectively precludes initiatives to deal with the moral and legal claims of those who lost their land pursuant to government removal policies.

Similarly, the charter provides that every person shall have the right not to be subjected to taxes on property which will have a confiscatory effect or make unreasonable inroads upon the enjoyment, use of value thereof. The sheer scope of this clause is clearly designed to preclude a land tax but it could well destroy the existing system of rates and taxes.

In the field of labour law, the charter threatens the post-Wiehahn achievements. Notwithstanding the princi-

ple of collective bargaining, the charter affords individual employees the right to circumvent collective agreements.

The provision concerning education and training provides that every state-aided tertiary educational institution should have the right to determine the medium of instruction and the religious and general character of such educational institution. The intention appears to preserve state-funded Christian national schools and tertiary institutions such as Stellenbosch University, which appear determined to maintain their existing privileged status at the state's expense.

The most objectionable provisions of this charter are arguably those which are calculated to immunise racial exclusion and subordination over a field which could include sports clubs, residential areas and restaurants. The "free association" clause read together with Clause 2(2) which amounts to an interpretative instruction to a constitutional court to strike down anti-discriminatory legislation, is intended to entrench the private right to discriminate.

It is not our view that the state should be empowered

willy-nilly to interfere with the membership choices of voluntary associations.

However, where there is a compelling social interest, for example in overcoming racial and gender subordination, it should do so. Indeed, unlike the American bill of rights the government's charter will afford no protection to private parties aggrieved by restrictive racial arrangements and unlike the German constitution, which has been interpreted to apply to private institutions that perform public functions, the government's charter seeks to erect a Chinese wall between the state and society.

The provisions of the government's charter dealing with criminal injustice are also disquieting. The minister's interpretation of Clause 37, which deals with detentions, is either disingenuous or reflective of cavalier reading. The effect of the clause, clear detention for up to 10 days, is sanctioned by his bill, only for periods of detention of more than 10 days will the courts' supervisory role come into operation.

This provision is unique in the international context and reflects a steadfast commitment to authoritarianism.

## Doubtful

The charter is also remarkable for the provision of detention "for investigation" and of witnesses "who refuse to divulge information" regarding an alleged offence. The minister's supposed human rights charter constitutionalises wide powers of detention without trial, makes no provision for inadmissibility of illegally obtained evidence and generally undermines the right of the accused.

A bill of rights without a right of access to the courts is a rather doubtful exercise.

The freedom of speech clause is an insult to the very idea as it provides for the licencing and registration of newspapers, a clause incompatible with press freedom.

Kader Asmal is wrong on one point — the bill is not a rottweiler — it is a poorly drafted combination of a jurisprudential dinosaur and a political shark.

□ Firoz Cachalia and Dennis Davis are with Wits University's Centre for Applied Legal Studies

**KEN OWEN IS ON LEAVE**

LINDA ENSOR

CAPE TOWN — JSE-listed Hosken Consolidated Investments (HCI) is suing three former Tollgate Holdings (TGH) directors, including former chairman Julian Askin, for more than R33m on the basis of an indemnity they signed. (252) (252)

This emerged in papers presented in the Cape Town Supreme Court on Friday in support of the urgent provisional sequestration application brought by Absa against former TGH director Mervyn Key.

Key, former chairman of Motor Racing Enterprises, is facing charges of fraud, foreign exchange contraventions, forgery and uttering involving about R13m

Key was provisionally sequestered with debts said to total R26,53m. He did not

## HCI <sup>BIDM 22/3/93</sup> sues former Tollgate directors

oppose the order, obtained by Absa on the basis of an unpaid, R311 831 overdraft, a R20,7m suretyship for the debts of his provisionally liquidated Rhebokskloof wine estate and a R5,5m TGH loan

These debts excluded the R33m plus interest which HCI is claiming from Askin, Key and former TGH executive director Lawrie McIntosh, on the basis of a signed indemnity for a put option obliging HCI to buy 1,9-million TGH shares at R14,38 each (R27,3m) from Absa, as well as interest of 18,5% on this amount from April 8, 1992. An additional R5,9m plus interest is also

□ To Page 2

## HCI <sup>BIDM 22/3/93</sup>

claimed

The debt allegedly arose from an agreement signed in February 1991 and was taken over by HCI when it assumed responsibility for Duros Group's obligations to Volkskas Bank.

Absa instituted legal proceedings against HCI in December to recover the money equivalent of the shares which had no value after TGH's liquidation. HCI in turn instituted proceedings against the three former directors

Meanwhile, it emerged from the papers that Askin played an active role in preventing the implementation of security clauses of a R5,5m loan agreement between TGH and Key

Court papers showed that Askin instructed TGH's lawyers, Sonnenberg Hoffmann & Galombik, not to implement the security clauses of the loan agreement pending Key's sale of Rhebokskloof which was then under negotiation. This meant that TGH's loan of R5,5m made in July 1992, about five months before to the group's provisional liquidation, was an unsecured loan

In terms of the agreement, a general

<sup>(252) (252)</sup> From Page 1  
notarial bond worth R3m should have been executed over Key's movable assets in favour of TGH, and a suretyship as well as a R5,5m second mortgage bond over its immovable property should have been executed by Rhebokskloof in favour of TGH.

Absa regional GM Dudley Davies said the R5,5m had been "misappropriated" from TGH. He contested the R39m estimate of Key's assets made in June 1992 as overstated, saying the provisionally liquidated Rhebokskloof, which Keys had valued at R28,2m, was hopelessly insolvent and had a realistic value of R9,37m.

Davies submitted documents to court to prove that Key had forged a letter from the Formula One Constructors' Association (Foca), which holds the international rights to Grand Prix motor racing events, in order to get Reserve Bank approval for the export of \$4,3m (about R13m).

The allegedly forged letter was dated May 1991, when MRE was still owned by TGH, and referred to negotiations between Askin and Foca.

Adv Gavin Woodland told the court Foca had never requested the money.

# 30 000 judicial whippings last year

Political Staff

MORE than 30 000 people were given whipping sentences last year without the option of a fine or imprisonment, Minister of Justice Mr Kobie Coetsee has said.

Although South Africa's signing of a UN convention against cruel and inhuman punishment could conflict with the application of corporal pun-

ishment, it should be noted that corporal punishment kept juveniles out of jail, he said.

Mr Coetsee, who was replying to a question tabled by Mr David Dalling (ANC, Sandton), said 30 337 people had been sentenced in 1992 to corporal punishment only.

Another 5 286 were sentenced to whipping and partially suspended imprisonment, and 122 to corporal

punishment and imprisonment which was not suspended.

South Africa had signed the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on January 29 this year.

Mr Coetsee said the mere signing of a convention did not mean the signatory was bound by its provisions.

Signing the convention reflected "a sincere intention to ratify the convention at some stage when the possibility of any reservations, as well as the question as to the continued application of corporal punishment, will have to be addressed".

"This point of view is also in line with that embodied in the government's proposals on a charter of fundamental rights," he said.

CT 22/3/92

# PEOPLE'S LIVES Is it possible to redress past wrongs and harmonise indigenous law?

# In a jam...

Sweeten 22/3/93. (252) ~~252~~ ~~252~~ ~~252~~

## BLUNDER Cruel law discards women.

By Sizakele Kooma

**T**HU CAMI, they tampered with the traditional legal system and left black women in a jam. When an opportunity arises to redress their blunder they refuse to take it.

The Government deliberately omitted making changes to the indigenous law in the proposed Draft Bill on Discrimination against Women.

All the Minister of Justice, Mr Kobia Coetsee, could say was that the South African Law Commission was still considering ways in which common law and indigenous law could be harmonised.

The hardships that "well-intentioned whites" caused black women were heralded by the amendment to the Administration Act in the 1920s.

Black women married by civil law found themselves in the worst position. The law subjected them to the marital power of the husband. They could also no longer share in the resources of the marriage.

Although specific recognition was given in the amendment of the Matrimonial Act in 1988 for example the prevention of a man who was married by civil law to take another wife by customary law, a lot still needs to be done towards the emancipation of black married women. Issues which need attention in indigenous law include:

- Property rights,

- Rights of succession, and
- Recognition of the customary marriage as marriage.

The status of black women with regard to indigenous laws has been a hotly debated issue since the release of the proposed legislation.

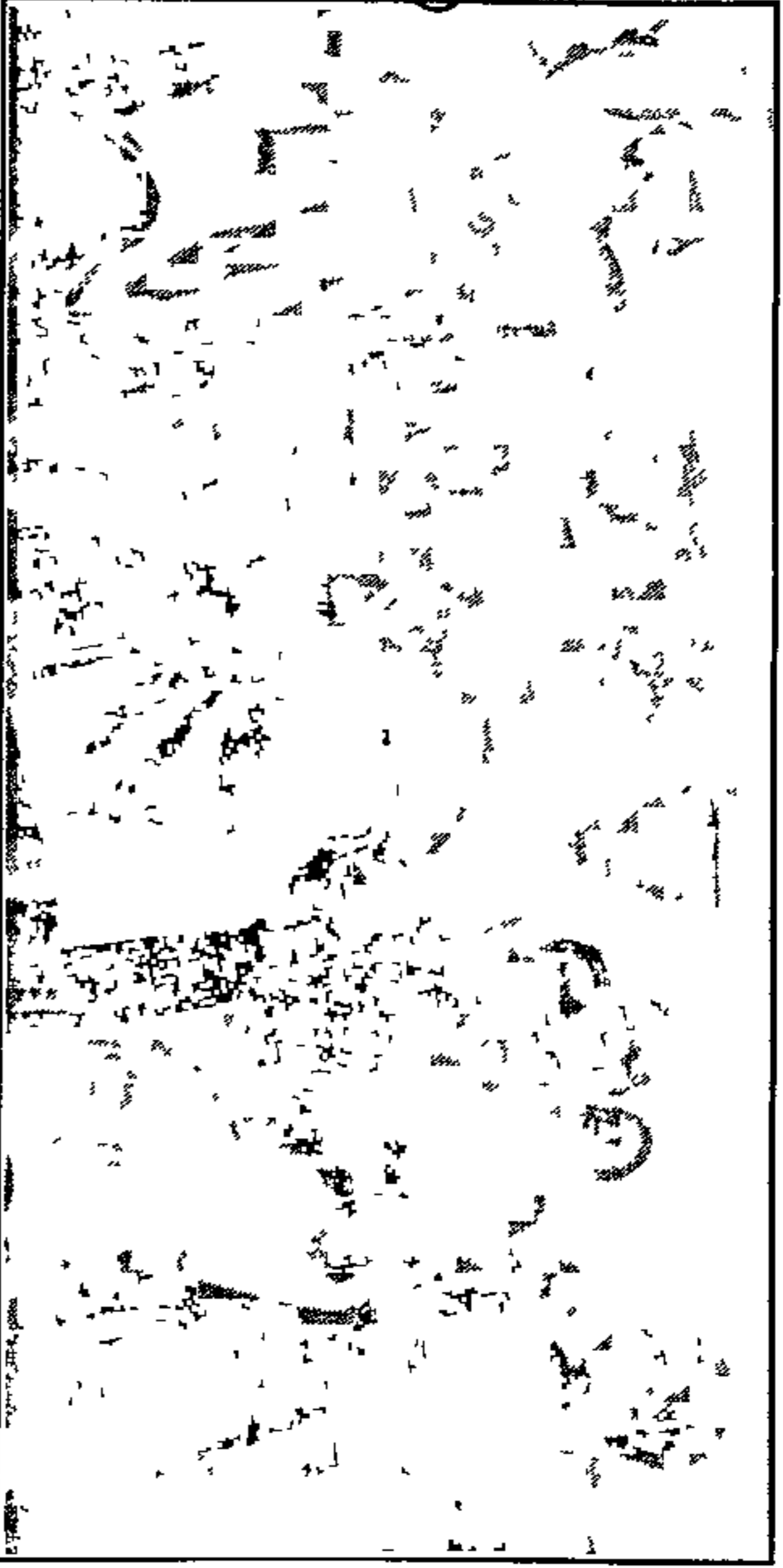
While some sectors believe that indigenous law should be overridden by South African law, others believe that they should be given equal status.

Speaking at a conference on women and a charter of fundamental rights Professor Joan Church, of the University of South Africa, said the Government should not use culture to discriminate against sections of the community.

She said provisions aimed at protecting fundamental rights in respect of the population as a whole should imply in spite of indigenous law, since the latter was only considered to be a special law.

Church said the Western systems of law played a large part in distorting and exploiting indigenous law. They wiped away the democratic aspects of traditional African society and law by emphasising vertical power and patriarchies. Another speaker at the conference, lawyer Lillian Baqwa, said it was unfair for the Government not to consider the role of the "indigenous woman" played in providing for the family.

Professor Dawid van Wyk, also of Unisa, pointed out that sweeping the issue of customary law under the carpet would not make it disappear.



If protest alone could convince the Government of women's frustrations with oppressive laws at home and in their jobs, they would have it - from these women and millions of others.

### Comments

• The Department of Justice has extended the date for comments on the proposal for a Charter of Fundamental Rights to March 31.

### Hotline

• Comments should be sent to the Director General, Department of Justice, Private Bag X81, Pretoria, 0001.

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# ANC firms up policy on regional function

THE ANC ended a crucial meeting on regionalism on Saturday night in Johannesburg with a firm commitment that a future constitution should provide for a maximum of 10 regions

Attended by more than 200 delegates and observers from 14 regions countrywide, the decisions of the ANC national consultative conference on regional policy now becomes part of the organisation's political firmament

"This is now official ANC policy as this was a special conference called to deal with the issue after we had to postpone several meetings on the matter last year," said Zola Skweyiya, legal and constitutional affairs spokesman

Noting that regional policy could only be finalised as an integral part of a national democratic constitution, ANC delegates decided that such a constitution would set out the powers, functions, roles and responsibilities for all three tiers of government

Final and binding decisions on regions, including their powers, functions and boundaries, should be decided upon by the constituent assembly, which draws up the new constitution, the conference decided

The resolution said a future constitution should provide for a maximum of 10 regions, a compromise for some delegates who wanted eight.

It called for elections for regional representations in a constituent assembly on the basis of electoral regions, "preferably the

four provinces based on the 1910 constitution"

The conference rejected "attempts by the Nationalist government to unilaterally restructure regional and local government policies and administrations"

The 10 regions accepted by the conference, with a rider that they could become eight entities should certain areas wish to join with others, were: the western Cape, eastern Cape, Border/Kei, Natal, Free State; northern Cape; western Transvaal, Pretoria/Witwatersrand/Vaal, eastern Transvaal, and northern Transvaal

Conference sources said northern Cape and western Transvaal regions might merge, as might Border/Kei and Eastern Cape regions

ANC secretary general Cyril Ramaphosa said the policy was adopted unanimously

Meanwhile, more than 50 anti-apartheid movements, development agencies, church bodies and trade unions are to campaign for international supervision, monitoring and verification of elections in SA

The initiative will be launched today by the UN-designated International Day for the Elimination of Racial Discrimination

The liaison group of EC Anti-Apartheid Movements said in London the appeal would mobilise opinion in support of a sizeable presence by the UN in conjunction with other intergovernmental bodies — Sapa

## Stealing a march on opposition

THE ANC was hoping that an early campaign start would give it a decisive advantage in coming elections against opposition that had experience and superior resources, ANC PWV chairman Tokyo Sexwale said yesterday

The regional election campaign was launched last month and the ANC yesterday unveiled its new regional flag at rallies across the PWV

Sexwale said in an inter-

RAY HARTLEY

view that the ANC's PWV region would get a "sizeable portion" of the R300m the ANC planned to raise for its election campaign

"We need as many people as possible to put up money because without a proper constitution, in which everybody has participated, people won't respect the first law of the country. And in that case, they wouldn't respect criminal law either," he said

The northern Transvaal, eastern Transvaal, Border, Transkei and OFS regions of the ANC would not face much election opposition, but the PWV was where most opposition parties had their headquarters and an organisational presence

"The NP and other parties are strong on admini-

stration and management, the ANC is strong on support. We would like to transform that political support — with good management — into voter support," Sexwale said

Sexwale said the election campaign would be the ANC's "biggest mass action ever. This time we are not putting pressure on government, we are removing the government," he said

He was unambiguous about the ANC's election platform in the region "It is about winning power — the power that all along they have tried to get through marches, petitions and the armed struggle. We want a transfer of power to a democratic elected government. The election is about commencing the process of reconstructing lives," he said

## 'Dismal' human rights year

GAVIN DU VENAGE

THE past year has been gloomy for human rights in SA, the Human Rights Commission says in its annual review

It said security force covert operations, vigilanteism and repressive state legislation "continued to notch up a litany of human rights violations and abuses"

Retaliatory action compounded the situation, and "attacks on policemen and innocent civilians did nothing to advance the cause of human rights in SA", it said

These activities led to the deaths of more than 3 500 people, 35% more than during the previous year

The report noted the deaths of 280 train commuters, 129 policemen and 97 political activists

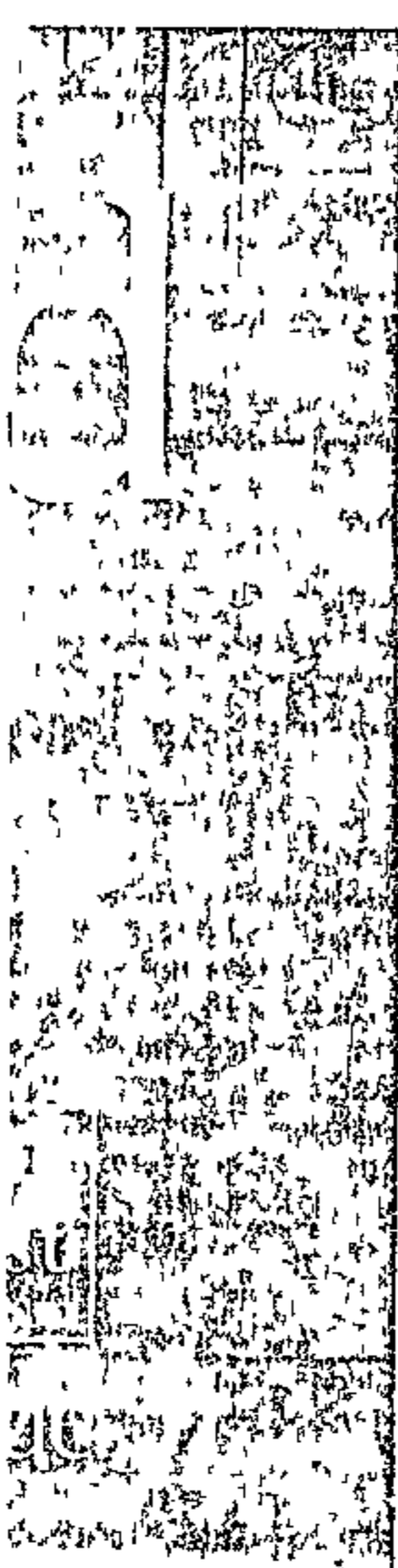
More than 120 deaths in police custody were recorded, most taking place before the deceased came to trial

During the year, 58 magisterial districts were declared unrest areas, more than during the State of Emergency in 1985/6. More than 450 people were detained without trial, the commission said

Political arrests stemming from democratic protests continued apace. More than 10 000 such arrests took place, accompanied by the deaths of 160 people

At least 200 political trials involving 4 000 people took place. The review listed 250 political prisoners

About 300 people were on death row, many of whom had been there since hanging was suspended in 1990. In spite of this, another 34 death sentences had been passed down in the past year, the commission said





# Fears over legal standards

Staff Reporter

252

21 22/3/93

THE legal profession in South Africa fears that a new government may do away with the system of articles and open up legal practice to anyone with a law degree.

"This could lead to a reduction in legal standards to the detriment of the public, as has happened in Zimbabwe and Namibia," Mr E R Liefeldt, director of UCT's School for Legal Practice, said yesterday.

He said law graduates were experiencing increasing difficulty in finding articles with legal firms — a re-

quirement for admission as an attorney.

He said attorneys were reducing the number of graduates taken into articles, as articulated clerks — now called candidate attorneys — are a considerable expense for the first six to 12 months of their articles.

The Association of Law Societies was taking steps to improve the situation, one of which was to establish full-time schools for legal practice, to enable graduates to obtain practical legal training and make themselves more marketable to the profession.

# Goldstone hears again of ANC/SAP distrust

B10PM 23/3/93

252 (10) 257

ADRIAN HADLAND

PRETORIA — The uncertainty and suspicion which have characterised the relationship between the SAP and the ANC was highlighted again at a Goldstone commission hearing yesterday

Echoing previous testimony, police officers giving evidence to the commission confirmed that few channels of communication existed between the two organisations for preventing violence or identifying perpetrators' motives or political allegiances.

In evidence before the commission, Capt Johan Böning of the SAP said Bongani Khaba — who is charged with throwing a handgrenade at a police Casspir in September last year, injuring 14 people — was believed to be an ANC leader

However, Böning agreed with ANC legal advisor Azhar Cachalia that the only grounds for proposing Khaba was an ANC leader had been "people in the area held him in high regard" and that ANC supporters had attended his trial.

Böning confirmed that Khaba had never spoken at a political meeting, and it was not known whether in fact he had ever attended one. But he was assumed to be an ANC leader due to his standing in the community

Cachalia expressed surprise that where people who claimed to be members of the

ANC were believed to have carried out attacks on the SAP, the ANC was not requested to confirm the suspect's membership

Neither was the ANC approached when the police had been given information in advance that some alleged ANC or MK members were planning attacks

Cachalia said he was concerned that the police accepted as fact details which had not been verified even though those details could portray the organisation in a negative light

"When you come to a commission such as this and make an allegation, is it not important that you try and confirm that information which you have?" Cachalia asked Böning

Sgt Daniel Day of the Benoni SAP said four murder suspects had admitted membership of the ANC or MK following an incident in the eastern Transvaal last year. He added that he had not attempted to establish the truth of their claims, nor knew whether other branches of the SAP had followed up the matter

The committee, chaired by Gert Steyn, has been investigating the causes of escalating attacks on security force members over the last two years

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# Education bodies plan to avert universities' collapse

*B/DAM 24/3/93*  
 EDUCATION organisations said yesterday they would take urgent steps to prevent the "financial collapse" of black universities, including appealing to President F W de Klerk to intervene.

The National Education Co-ordination Committee (NECC) told a news conference that outstanding fees for last year at black universities exceeded R50m and thousands of students had insufficient funds to register for this academic year.

A forum representing seven black universities, the NECC, the Independent Development Trust, the Kagiso Trust, the Education Development Trust and the Bursary Council of SA was formed two weeks ago to address the crisis and to salvage the 1993 academic year.

At a meeting yesterday, the forum

**STEPHANE BOTHMA**

decided to meet major funders of black universities to develop a collective approach to funding financially disadvantaged students. Thereafter, it would meet De Klerk to secure his support for, among other things, the correcting of the historical imbalances in government funding arrangements.

The forum also decided to hold a number of donor conferences with key international institutions and the private sector, and to establish a committee of experts to visit black universities to identify ways of strengthening institutional capacity.

NECC general secretary James Maseko told the news briefing that the 1993 academic year had already been lost to several thousand stu-

dents who could not attend classes until registration fees, which they could not afford, were paid.

He said although white universities were also experiencing problems, by comparison the problems at black universities were acute.

"Some are literally unable to pay salaries and to provide basic services," he said.

Maseko said the forum would have talks with the IDT and the Kagiso Trust before a possible meeting with De Klerk.

The trusts and government are black universities' major funders.

The universities facing financial problems are those of Zululand, of Durban-Westville, the North, the Western Cape, Fort Hare, Transkei, Venda, Bophuthatswana and Medunsa.

## Zevenfontein squatters halt TPA talks until demands met

*B/DAM 24/3/93*  
 THE Zevenfontein squatters have called off all resettlement talks with the Transvaal Provincial Administration (TPA) until a wide range of demands — including the immediate incorporation of the relocation sites into Randburg and Randfontein municipalities — are met.

Other demands are the supply of new tents to squatter families, a mobile clinic, toilet facilities to each family, an office building for leaders of the community and additional water tanks to be erected at the current Zevenfontein site.

If these demands were

**STEPHANE BOTHMA**

not met by Friday, the squatters would march on the office of the President, squatter spokesman Mathole Motshekga said.

A request by the TPA to discuss development plans of the Diepsloot resettlement area had been rejected on the same grounds, Motshekga said.

He said no talks would be held with the TPA unless the demands were met.

About 680 squatter families will be moved from Zevenfontein to Diepsloot.

TPA spokesman Piet Wilken said the decision by the Zevenfontein community was regrettable, but the TPA would continue with the planning of the Diepsloot site.

He denied the TPA had been dragging its heels over the relocation of the squatters, and said the planned resettlement date of March 31 had been delayed by a temporary Supreme Court interdict issued after a court action

late last year by Diepsloot residents.

This had halted the development of the Diepsloot site.

Although the court found in favour of the TPA to continue with the resettlement of the squatters, Diepsloot residents appealed against the court finding.

They had lost the appeal, but had until March 25 to petition the Chief Justice to reverse the appeal court finding.

Until then, Wilken said, the TPA's hands were tied.

"We are committed to find a solution and regard the Zevenfontein community's participation in planning the Diepsloot site of the utmost importance," he said.

About the incorporation of the Diepsloot and Nietgedacht sites into existing municipalities, he said the administrator was awaiting the recommendations of the Demarcation Board — which recently met on the extension of municipal borders in the area.

## Mpofu faces fraud charge

*B/DAM 24/3/93*  
**STEPHANE BOTHMA**

FORMER ANC welfare department deputy head Dalu Mpofu's career at the Johannesburg Bar could hinge on the outcome of his trial on a fraud charge.

Mpofu was admitted as a pupil to the Bar two weeks ago, but was arrested earlier this week on a charge of attempted cheque fraud involving R50 000.

Johannesburg Bar Council chairman Wim Trengove SC said Mpofu immediately informed the council about his arrest on Monday. *(25)*

"If he is found guilty, we would definitely take action," said Trengove.

It is alleged that Mpofu illegally issued a R50 000 ANC cheque to a fictitious person and attempted to lodge it in a bank account. But a law firm brought this to the police's attention.

Mpofu appeared briefly in the Johannesburg Magistrate's Court on Monday, but no charges were put to him and he was not asked to plead. The matter was postponed to April 22.



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FROM ONLY

# LA Law attracts too many to legal career

(252) AUG 24 13/93

**JOHN VILJOEN**  
Staff Reporter

LAW graduates are in oversupply — partly because the legal profession has been glamorised by television programmes such as LA Law, says the new President of the Association of Law Societies

Mr Dave Asherson, 43, began a one-year term in the post at the association's annual meeting in Cape Town this week

The plight of law graduates unable to find jobs as articled clerks was just one of the major issues facing the association, said Mr Asherson, a partner in a Durban law firm.

South Africa's 18 law schools were producing 3 000 prospective attorneys each year, many attracted to the profession by exaggerated images of glamour and big money.

"Nobody tells people when they start that it may be difficult to get articles. Being an attorney is hard work and the rewards aren't what

they are made out to be," Mr Asherson said.

"The LA Law-type glamour does not exist"

But while many would-be lawyers could not get articles, thousands of accused people passed through South Africa's lower courts undefended, partly because of the "hopelessly inadequate" legal aid system, he said.

The association was striving to improve access to justice for the man in the street and this was one of the reasons for its efforts to win attorneys the right to appear in the Supreme Court

Negotiations were under way with the Bar and the Minister of Justice "Hopefully we'll reach a sensible solution," Mr Asherson said

Citizens would benefit through cheaper access to the Supreme Court if attorneys had the right to appear there, he said

Discussions were also taking place with important parties on constitutional issues affecting the future of the legal profession, he said

It was important for lawyers to play a meaningful role as a new dispensation emerged

One constitutional matter of concern to the profession was how judges were to be appointed, he said

The association was also concerned about how returning exiles with law degrees from foreign universities should be accommodated in the South African system

It was not clear how many returns there would be, but their fate would have to be discussed, he said

Mr Asherson believed an Attorney's Fidelity Fund should be established to protect people from the dishonest use of trust funds

Dishonesty occurred in every profession and the fund would have a clear advantage for people who placed money in the care of attorneys

But the association did not hesitate to take action against "black sheep" in the profession, he added



Picture: ANDREW INGRAM, The Argus.  
**IN CHARGE:** Mr Dave Asherson, new president of the Association of Law Societies. One of the major challenges he is facing is the plight of law graduates unable to find jobs.

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(252) FILE 24 | 3/93

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Picture **ANDREW INGRAM**, The Argus

**THE MINISTER FOR ADMINISTRATION AND TOURISM**

- (1) Yes, differentiation occurs in respect of the house owner allowance scheme and the Government Service Pension Fund on the basis of gender.
- (2) no, any officer or employee employed in terms of the provisions of the Public Service Act, 1984 (Act 111 of 1984), or the provisions of any of the Services Acts can, if a self-governing territory—
- (a) experiences such a need,
- (b) requests it,
- (c) regards the relevant officer or employee as suitable,
- in terms of section 14 (3) (a) of the Public Service Act, 1984, with his consent, be seconded to the service of a self-governing territory for a particular service or for a stated period,
- (3) no

Transnet: new Braamfontein offices

\*16 Mr R V CARLISLE asked the Minister for Public Enterprises

Whether Transmed moved into new offices in Braamfontein recently, if so, (a) for what reasons, (b) what is the monthly rental paid in respect of the new offices, (c) what was the monthly cost of occupying the offices in Park Chambers as at the latest specified date for which information is available and (d) how are the offices previously occupied by Transmed now utilized? B496E

**THE MINISTER FOR PUBLIC ENTERPRISES**

The Managing Director of Transnet Limited replied as follows to the hon member's question

Yes

- (a) Transmed centralised in one administrative office in Braamfontein with effect from 1 January 1990. Ten regional offices and one head office were closed and all administrative functions are controlled from one central office. The annual savings amount to R6,8 million
- (b) R213 000

HOUSE OF ASSEMBLY

(c) Park Chambers is the property of Transnet and the information requested is unfortunately not readily available

(d) Eight offices were rented from the private sector. Three offices which are the property of Transnet are currently occupied by other departments of Transnet

**SAP: civil claims**

\*17 Mr C W EGLIN asked the Minister of Law and Order

- (1) Whether any State moneys paid out in respect of civil claims against the South African Police since 1 January 1988 have been recovered by the Police or from members of the Police allegedly responsible for actions that gave rise to civil suits in respect of which these State moneys were paid out, if so, what amount was recovered since that date up to the latest specified date for which information is available, if not, why not,
- (2) whether any attempt has been made to recover any of these moneys, if not, why not, if so, what are the relevant details? B497E

**THE MINISTER OF LAW AND ORDER**

(1) Yes

An amount of R4 009 671,14 was recovered from other departments and institutions

The following amount was recovered from the responsible members of the South African Police

Civil Claims	R1 356 647,15
Legal Expenses	R433 020,06
<b>Total</b>	<b>R1 789 667,21</b>

24 March 1993

(2) Falls away

Attorney-General Act: request for information

\*18 Mr A E DE WET asked the Minister of Justice

Whether he has at any time requested any attorney-general in terms of section 5 (5) (a) of the Attorney-General Act, 1992 (Act No 92 of 1992), to furnish him with information or a

report with regard to any case dealt with or handled by that attorney-general in the performance of his duties or the exercise of his powers, if not, why not, if so, (a) when and (b) in respect of which cases? B498E

**THE MINISTER OF JUSTICE**

Section 5 (5) of the Attorney-General Act, 1992 (Act 92 of 1992) provides that I shall coordinate the functions of the attorney-general and may require an attorney-general to furnish me with information or a report with regard to any case, dealt with by him in the exercise of his duties or powers

The purpose of this provision is, *inter alia*, to enable me to perform certain functions prescribed by law and convention. In this regard attention is drawn to the following—

— Section 111 (1) of the Criminal Procedure Act, 1977 (Act 51 of 1977), gives me the power, in the interests of justice, to order that an offence which has been committed in the area of jurisdiction of one attorney-general, shall be tried in the area of jurisdiction of another attorney-general

— If I deem it in the interests of the administration of justice I can direct that the trials be heard together in one centre

— I am furthermore empowered, in terms of section 148 of the Criminal Procedure Act, 1977, which deals with cases having a bearing on public safety or the maintenance of law and order, to request the State President to constitute a special superior court to try such a case

— In order to answer questions in Parliament and otherwise in connection with the functions of attorneys-general

— Although the independence of the attorney-general is now entrenched by law, this does not mean that I may not from time to time have discussions with them on administrative issues or issues which have a bearing on management policy. Co-ordinating discussions which have a direct bearing on co-ordination and effective administration do take place and, in my opinion, still bear testimony of the good working relationship which exists between the various attorneys-general and myself

In order to exercise these powers, I am de-

pendent on information regarding the circumstances and the facts of the case, which I obtain from the attorney-general concerned

Attention is also drawn to the fact that in terms of section 5 (6) of the Attorney-General Act, 1992, attorneys-general are requested to submit a report to Parliament regarding their activities

Since attorneys-general institute prosecutions on behalf of the State and consequently render a service on behalf of the community, they must also be able to be called to task should they not perform their functions or should they not do so properly. Hence section 4 of the Attorney-General Act provides that an attorney-general may in certain instances be removed or suspended from office by the State President at the request of Parliament. By convention I, as Minister of Justice, am responsible to Parliament and the State President for matters relating to the administration of justice, and for that reason section 5 (5) of the Attorney-General Act authorizes me to request certain information from an attorney-general

Since it has always been clear that an attorney-general performs his functions fearlessly and independently, I do not intend to request information or reports from the attorney-general in a way which may possibly have the effect that their independence may be infringed upon

**SADF commandos: assistance to SAP**

\*19 Mr L FUCHS asked the Minister of Law and Order

With reference to the reply to Question No 18 on 19 February 1992, what was the outcome of the investigation conducted to determine the ways in which Commandos of the South African Defence Force could be used to assist the South African Police in combating crime? B501E

**THE MINISTER OF LAW AND ORDER**

The Defence Amendment Act, 1992 (Act 132 of 1992) was promulgated on 6 July 1992, and, as a result thereof, the South African Defence Force can also be utilized for the maintenance of essential services, including the maintenance of law and order and the prevention of crime in co-operation with the

HOUSE OF ASSEMBLY

*[Signature]*  
 ruary 1993 and instructed pupils to leave their classrooms daily at 11 00 These actions were presented as protest against the payment of examination fees by 10 candidates and to force the Government to do away with these fees

As a result of these actions no significant education took place at primary and secondary schools in Soweto for the period 15 February 1993 to 26 February 1993

- (3) No
- (4) No

**Road Traffic Act: amendment**

\*11 Mr L FUCHS asked the Minister of Justice

- (1) Whether his Department was consulted by the Department of Transport in respect of the proposed insertion of a new subsection (5) in section 122 of the Road Traffic Act, 1989 (Act No 29 of 1989), if so, what (a) are the details of this consultation and (b) was his or his Department's response,
- (2) whether he will make a statement on the matter? B420E

**The MINISTER OF JUSTICE**

- (1) Yes

(a) On 29 April 1992 and 13 July 1992 my Department formally commented on the Bill On the latter date comments obtained from the various Attorneys-General were also brought to the attention of the Department of Transport In addition hereto officials from my Department and representatives of the Attorneys-General of Transvaal and the Cape attended a demonstration of the apparatus concerned on 8 September 1992 in Pretoria Various discussions followed and on 9 February 1993 the Attorneys-General of Transvaal and of the Cape personally attended a demonstration of the apparatus in Cape Town

(b) Although the principle in respect of the establishment of a more efficient method to expedite the process by which drunken drivers are being brought before our courts of law, is

supported, practical problems were foreseen with the application of the provisions concerned and they were brought to the attention of the Department of Transport

(2) Yes After discussions between myself and the Minister of Transport, the latter indicated during the Second Reading debate of the Bill that the provision concerned would not be put into operation before the Department of Justice had submitted proposals to obviate the practical problems which are foreseen It is expected that the Attorneys-General will soon give a co-ordinated opinion on possible solutions

**Transnet: employment policy**

\*12 Mr J CHIOLE asked the Minister of Public Enterprises +

- (1) How many (a) Whites and (b) Non-Whites were taken into employment by Transnet during the period 1 April 1992 to 15 March 1993,
- (2) whether, since 1 January 1990, any policy guidelines in respect of the employment of applicants containing a reference to the race of an applicant have been in existence or have been furnished to any employment offices, if so, what are the relevant details,
- (3) whether he will make a statement on the matter? B484E

**The MINISTER FOR PUBLIC ENTERPRISES**

The Managing Director of Transnet Limited replied as follows to the hon member's question

- (1) (a) 271 } (15 April 1992 to 15 February 1993)
- (b) 385 }

(2) Yes Since August 1991, Transnet has been following a recruitment policy whereby business units have to obtain the approval of its Management Board for the employment of White applicants

(3) Yes Transnet Limited is a public company with a Board of Directors As such they manage their own human resources affairs It is one of Transnet Limited's

business goals to become an equal opportunity company To reach this goal it is imperative that the recruitment of White people be addressed From January to July 1991, eight times more Whites than Non-Whites were recruited by the Company This led to the implementation of the above-mentioned policy to inhibit the historical benefit enjoyed by Whites in terms of recruitment

As can be seen from the statistics supplied in part (1) of the reply, this goal is being successfully addressed by Transnet's Management

**SAPS/ADF: criminal conduct of members**

\*13 Mr C W EGLIN asked the Minister of Justice

Whether the criteria applied or discretions exercised by the Attorneys-General in deciding whether to prosecute members of the South African Police or Defence Force for alleged criminal conduct are the same as those applicable to the general public, if not, (a) why not and (b) in what respects do the criteria applied and discretions exercised in respect of the Police and the Defence Force differ from those applicable to the general public? B489E

**The MINISTER OF JUSTICE**

Attorneys-General have for decades followed the guide-lines laid down in *Beckenstrater v Rother and Theunissen, 1955 (1) SA 129 (A D)*, when deciding to prosecute or not According to this authority the criterion is whether the prosecuting authority has a reasonable and probable cause for prosecuting, to wit that he has such information at his disposal as would lead to a reasonable man to conclude that the accused is probably guilty of the offence as charged

Attorneys-General apply this criterion fearlessly and independently in all cases that come before them for decision, and, what is more, this criterion would and should apply to members of the South African Police and the Defence Force and the public alike There is no evidence to the contrary

**Self-governing territories: territorial allowance**

\*14 Mr R M BURROWS asked the Minister for Administration and Tourism

- (1) Whether he or the Commission for Administration has been approached to eliminate the so-called territorial allowance paid to seconded public service personnel in the self-governing territories, if so, (a) by whom was he or the Commission approached and (b) what was his or the Commission's response to this approach,
- (2) whether he or the Commission intends eliminating this allowance, if not, why not, if so, when,
- (3) whether this allowance is paid to any South African public service officials who were previously classified as Black and have been seconded to self-governing territories, if not, why not, if so, what are the relevant details,
- (4) whether he will make a statement on the matter? B491E

**The MINISTER FOR ADMINISTRATION AND TOURISM**

- (1) No, (a) and (b) Fall away,
- (2) no, the possible abolition of the payment of the National State territorial allowance depends on constitutional developments,
- (3) yes, the National State territorial allowance is payable to all South African public servants who are seconded to the self-governing territories,
- (4) no

**Public service: gender/race distinctions**

\*15 Mr R M BURROWS asked the Minister for Administration and Tourism

- (1) Whether any conditions of service, including remuneration packages, in the public service are racially or gender distinctive, if so, which conditions of service,
- (2) whether only persons previously classified as White can be seconded to the service of self-governing territories, if so, why, if not, what is the present policy in respect of the secondment of people of colour,
- (3) whether he will make a statement on the matter? B494E

**THE MINISTER FOR ADMINISTRATION AND TOURISM**

- (1) Yes; differentiation occurs in respect of the house owner allowance scheme and the Government Service-Pension Fund on the basis of gender.
- (2) no, any officer or employee employed in terms of the provisions of the Public Service Act, 1984 (Act 111 of 1984), or the provisions of any of the Services Acts can, if a self-governing territory—
  - (a) experiences such a need,
  - (b) requests it,
  - (c) regards the relevant officer or employee as suitable,
- (3) no

**Transnet. new Bramfontein offices**

\*16 Mr R V CARLISLE asked the Minister for Public Enterprises

Whether Transmed moved into new offices in Bramfontein recently, if so, (a) for what reasons, (b) what is the monthly rental paid in respect of the new offices, (c) what was the monthly cost of occupying the offices in Park Chambers as at the latest specified date for which information is available and (d) how are the offices previously occupied by Transmed now utilized? B496E

**The MINISTER FOR PUBLIC ENTERPRISES**

The Managing Director of Transnet Limited replied as follows to the hon member's question  
Yes  
(a) Transmed centralised in one administrative office in Bramfontein with effect from 1 January 1990. Ten regional offices and one head office were closed and all administrative functions are controlled from one central office. The annual savings amount to R6,8 million  
(b) R213 000

report with regard to any case dealt with or handled by that attorney-general in the performance of his duties or the exercise of his powers, if not, why not, if so, (a) when and (b) in respect of which cases? B498E

**THE MINISTER OF JUSTICE**

Section 5 (5) of the Attorney-General Act, 1992 (Act 92 of 1992) provides that I shall coordinate the functions of the attorneys-general and may require an attorney-general to furnish me with information or a report with regard to any case, dealt with by him in the exercise of his duties or powers  
The purpose of this provision is, *inter alia*, to enable me to perform certain functions prescribed by law and convention. In this regard attention is drawn to the following—

- Section 111 (1) of the Criminal Procedure Act, 1977 (Act 51 of 1977), gives me the power, in the interests of justice, to order that an offence which has been committed in the area of jurisdiction of one attorney-general, shall be tried in the area of jurisdiction of another attorney-general
- If I deem it in the interests of the administration of justice I can direct that the trials be heard together in one centre
- I am furthermore empowered, in terms of section 148 of the Criminal Procedure Act, 1977, which deals with cases having a bearing on public safety or the maintenance of law and order, to request the State President to constitute a special superior court to try such a case

In order to answer questions in Parliament and otherwise in connection with the functions of attorneys-general  
— Although the independence of the attorney-general is now entrenched by law, this does not mean that I may not from time to time have discussions with them on administrative issues or issues which have a bearing on management policy. Co-ordinating discussions which have a direct bearing on co-ordination and effective administration do take place and, in my opinion, still bear testimony of the good working relationship which exists between the various attorneys-general and myself  
In order to exercise these powers, I am dependent on information regarding the circumstances and the facts of the case, which I obtain from the attorney-general concerned  
Attention is also drawn to the fact that in terms of section 5 (6) of the Attorney-General Act, 1992, attorneys-general are requested to submit a report to Parliament regarding their activities  
Since attorneys-general institute prosecutions on behalf of the State and consequently render a service on behalf of the community, they must also be able to be called to task should they not perform their functions or should they not do so properly. Hence section 4 of the Attorney-General Act provides that an attorney-general may in certain instances be removed or suspended from office by the State President at the request of Parliament. By convention I, as Minister of Justice, am responsible to Parliament and the State President for matters relating to the administration of justice, and for that reason section 5 (5) of the Attorney-General Act authorizes me to request certain information from an attorney-general  
Since it has always been clear that an attorney-general performs his functions fearlessly and independently, I do not intend to request information or reports from the attorneys-general in a way which may possibly have the effect that their independence may be infringed upon

**SADF commandos: assistance to SAP**

\*19 Mr L FUCHS asked the Minister of Law and Order  
With reference to the reply to Question No 18 on 19 February 1992, what was the outcome of the investigation conducted to determine the ways in which Commandos of the South African Defence Force could be used to assist the South African Police in combating crime? B501E

**The MINISTER OF LAW AND ORDER**

The Defence Amendment Act, 1992 (Act 132 of 1992) was promulgated on 6 July 1992, and, as a result thereof, the South African Defence Force can also be utilized for the maintenance of essential services, including the maintenance of law and order and the prevention of crime in co-operation with the



*Hansard*

*Hansard*

the event of flights not adhering to these procedures, the necessary legal steps will be taken against them

You will understand that when such aircraft leave South African airspace, no further control can be exerted upon them. In addition, any attempts by Government without proper cause to inhibit or frustrate private commercial concerns from engaging in their legitimate day-to-day business in Southern Africa, including commercial transactions with Angola, run the risk of legal proceedings being instituted against the South African Government

The South African Government will not support any party which opts for a military solution in your country, nor will it support any party which attempts to obtain advantages which are inconsistent with the democratic process

It is also my opinion that the only way ahead in Angola at this juncture, is for the two parties to engage in dialogue, under the auspices of the United Nations, and that the Bicesse Accords be urgently reactivated with a view to their full implementation

Please accept, Your Excellency, the assurances of my highest consideration

F W DE KLERK

His Excellency  
Mr Jose Eduardo Dos Santos  
President of the Republic  
of Angola

ANGOLA

APPENDIX F  
MEDIA RELEASE BY DEPARTMENT CIVIL AVIATION  
MONITORING OF CIVILIAN FLIGHTS WITHIN THE RSA AND OVER BORDER FLIGHTS

With reference to recent press reports implying that flights within the RSA and across its borders can take place in an uncontrolled manner, the Department of Transport would like to

inform the public of the regulatory requirements pertaining to all pilots

A flight plan shall be filed in respect of

- (a) all flights to be conducted in controlled or advisory airspace. Provided that this requirement shall not apply in respect of a local flight, a flight crossing an airway or advisory route at right angles or a "Visual Flight Rules" flight entering or departing from an aerodrome traffic zone or control zone, from or to an unmanned aerodrome, and where no other controlled or advisory airspace will be entered during the flight;

- (b) an international flight;
- (c) all flights in the public transport operation or public transport of cargo operation categories, and
- (d) a flight for which alerting action is required

These flight plans have to be filed not later than 30 minutes prior to departure with an Air Traffic Control centre. In respect of over-border flights, any State may define additional requirements such as an application to land or overfly its territory up to 7 days prior to departure

It is also a requirement in terms of both the Domestic and the International Air Services Acts that any proposed air service to be carried out for reward may only take place once a license has been issued by the appropriate body

It is therefore not true to state that there will be no record of movements at all although some information may only be obtained after the fact

It is of course true that the Civil Aviation Authority is not able to prevent people from breaking the law. However when this happens incidents are investigated and where appropriate prosecutions are made. In addition there are formal communication channels to pilots for example the Notice

*Hansard*

to Armen (Notam) system whereby on 27 February 1993 pilots were reminded of regulations pertaining to the conveyance of armaments on board civilian aircraft. The industry is to a large extent also self-regulating in the sense that unauthorized operations are reported when they occur.

The Department therefore disagrees in the strongest possible terms with the sentiments expressed in recent newspaper reports on this subject

Noenleput: Inquest

\*4 Adv J J S PRINSLOO asked the Minister of Justice †

- (1) Whether, with reference to the reply of the Minister of Law and order to Question No 8 on 17 June 1992, an inquest has taken place in respect of the death at or near Noenleput in the Kalahari in November 1991 of two persons, whose names have been furnished to the Minister's Department for the purpose of his reply, if not, why not, if so, (a) what was the result of this inquest and (b) what are the names of the persons concerned;
- (2) whether he will make a statement on the matter? B429E

THE MINISTER OF JUSTICE

(Reply partially laid upon the Table with leave of House)

The details regarding this question are well known and can be found in official court documents. I could easily follow the usual practice of simply telling the hon member that these court documents are accessible to him and leave it at that, which would perhaps not be very courteous of me, as I know he is very busy and does not have the time to do that little bit of research. Whatever the case may be, I should like to point out the following facts in answer to the hon member's question.

- (1) Yes. The Attorney-General, Kimberley declined to institute a prosecution after studying the relevant dockets and an inquest into the circumstances of the deaths therefore had to be conducted

Regional Magistrate C T G Jacobs was appointed to hold the inquest. The formal inquest in terms of the Inquest Act, 1959 (Act 58 of 1959), was finalized on 12 November 1992

- (a) and (b)

The findings of the regional court magistrate in terms of section 16 of the Inquest Act, 1959, as reflected by the record of the proceedings, are supplied hereunder with regard to the three persons killed in the event,

- (i) JURGEN MATTHEWS WHITE, a 22 year old male

- (a) Date of death 7 November 1991

- (b) Cause or likely cause of death  
Loss of blood due to penetrating projectile wounds through the chin and body obtained during an armed encounter with the South African Police who lawfully pursued the armed deceased

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- (c) Whether the death was brought about by any act or omission prima facie involving or amounting to an offence on the part of any person. In the light of the fact that there was no acceptable evidence of how the wound under the chin of the deceased was sustained, the court was not in a position to make a finding as to who caused or administered it

- (ii) JOHANNES JURGENS GROBELAAR, a 19 year old male

- (a) Date of death 7 November 1991

- (b) Cause or likely cause of death  
Rupture of the brain, neck, pectoral girdle and lung due to various bullet wounds sustained during an armed encounter with the South African Police who lawfully pursued the armed deceased

- (c) Whether the death was brought about by any act or omission

*prima facie involving or amounting to an offence on the part of any person* In the light of the fact that there was no direct evidence of how the wound under the chin of the deceased was sustained, the court was not in a position to make a finding as to who caused or administered it

(iii) DAANTJIE BARENS, a 23 year old male

(a) Date of death 7 November 1991

(b) Cause or likely cause of death Internal and general loss of blood due to a penetrating projectile wound through the chest

(c) Whether the death was brought about by any act or omission *prima facie involving or amounting to an offence on the part of any person* On the available evidence it cannot be determined who was responsible for the death of the deceased when he was fired upon by armed persons, while he was assisting the South African Police as a tracker

The findings of the inquest were brought to the attention of the Attorney-General, Kimberley, who indicated that no further steps were considered by him

(2) A statement is not necessary, since this answer is itself too long in any case

#### Navy: affirmative action

\*5 Mr A S BEYERS asked the Minister of Defence †

(1) Whether, with reference to certain statements allegedly made by a spokesman of the South African Navy on the radio programme Monitor on or about 4 March 1993, the Navy has decided to increase the percentage of Black employees in the Navy as against employees of other race groups, if not, what are the relevant details of the statements on

HOUSE OF ASSEMBLY

ing White persons by persons of colour would be discriminatory, and this is certainly not the case

†Dr W J SNYMAN: Mr Chairman, further arising from the hon the Minister's reply, I would like to know whether MK members who have for instance been trained elsewhere overseas, and who return and join the SA Defence Force, will be accommodated within the command structure of any section of the Defence Force by means of affirmative action

†The MINISTER Mr Chairman, there is no such policy In most cases one would not even know whether such a man is an MK member or not

I can tell the hon member that 11 new Black members have been recruited since 1991 According to tradition few Blacks were interested in the Navy before 1991 I accept that in the years to come more interest will probably be shown, and those cases will, like all other cases, be dealt with on merit

#### MRC buildings erected

\*6 Dr F H PAUW asked the Minister of National Health †

Whether the South African Medical Research Council at any time erected buildings, established an innovation fund and/or invested funds without complying with the required legal provisions or obtaining ministerial or Treasury approval for doing so, if so, (a) (i) when, and (ii) why, in each case and (b) what is the total amount involved? B432E

†The MINISTER OF NATIONAL HEALTH

Yes,

(a) (i) and (ii) and (b)

Erection of buildings

In order to make provision for specific and motivated requirements, the MRC applied to the State to (a) erect a building in Pretoria to be used as a regional office and (b) to carry out certain extensions to the head office complex in Parow

The regional office in Pretoria was completed in November 1988 at a cost of R9,1 million

The extensions to the head office complex in Parow, which consisted of additional office

space, computer accommodation and conference facilities, were completed in September 1991 at a total cost of R0,4 million

Concerning both building projects, correspondence with the Department of National Health and Population Development commenced during 1983 and submissions and motivations were provided On the grounds of these submissions and motivations, the Department of Finance gave financial backing to both these projects

The Department of National Health and Population Development, as well as the Departments of Finance, State Expenditure and National Education, through the Committee of Heads of Scientific Councils, was at all times aware of the whole project The only legal provision which was not complied with, was that formal ministerial approval for the project was not obtained This omission has in the mean time been addressed and is in the process of being corrected

#### Innovation fund

In terms of Framework Autonomy, it is expected from scientific councils to initiate own income supplementary to the basic financing provided by the State by means of commercialisation actions and initiatives

In order to establish a management framework whereby requests for support with regard to these projects could be accommodated and managed, it was decided to earmark an amount of R1 million from the general reserves of the MRC for this purpose The calculated interest on the R1 million can be utilised annually to support research projects with a market potential

In the general and management documentation of the MRC this earmarked amount is referred to as the "Innovation Fund" merely to identify such fund There is however no money for fund which is separately invested and it remains a part of the MRC's General Reserves

As this "Innovation Fund" is purely a management aid establishing financial guidelines whereby awards can be made, the management of the MRC was of the opinion that it did not represent a "Fund" as intended by section 12 (5) (c) of the MRC Act, 1991 (Act 58 of 1991)

You will agree that legislation for the compulsory wearing of protective headgear cannot be introduced before production to approved SABS specifications is made compulsory by legislation.

Many difficulties will have to be overcome before legislation can follow. In the case of motorcyclists legislation with regard to the compulsory wearing of crash helmets was introduced after specifications for crash helmets were set by the SABS. The reaction from the public towards this legislation was positive because the voluntary wearing rate of crash helmets was already 70 percent at that time.

**Department persons retired/reappointed**

140 Mr J CHIOLÉ asked the Minister of Transport †

- (1) (a) How many persons who occupied posts in the top three levels of posts in his Department retired in 1992 and (b) in respect of each of these persons, (i) what post did he or she occupy and (ii) when did he or she retire;
- (2) whether any of these persons have been reappointed in the service of his Department since their retirement, if not, why not, if so, (a) to which posts and (b) what, in each case, was the total gross monthly remuneration in respect of salary and pension and other benefits as at the latest specified date for which information is available? B346E

**The MINISTER OF TRANSPORT**

- (1) (a) None
- (b) (i) Falls away
- (ii) Falls away
- (2) (a) Falls away
- (b) Falls away
- (c) Falls away

**Supreme Court: serving judges**

183 Mr D J DALLING asked the Minister of Justice

(a) How many judges, including judges of appeal, were serving on the Supreme Court

Bench in the Republic as at the latest date for which information is available, (b) as at 1 February 1993, how many of these judges were (i) holding permanent posts and (ii) not White and (c) what are the names of the judges referred to in subparagraph (b) above? B126E

**The MINISTER OF JUSTICE**

- (a) 146 as at 1 February 1993
- (b) (i) 137
- (ii) One. The services of the hon Mr Justice I Mahomed of the Transvaal Provincial Division of the Supreme Court of South Africa, has been made available to the Republic of Namibia to serve periodically until 15 December 1993.

(c) 1 The Honourable Chief Justice M M Cobett

- The Honourable Justice
- 2 CP Joubert
- 3 GG Hoexter
- 4 AS Botha
- 5 H J O van Heerden
- 6 J J F Hefer
- 7 E M Grosskopf
- 8 J W Smalberger
- 9 H H Nestadt
- 10 W Vivier
- 11 A J Milne
- 12 M E Kumlleben
- 13 J P G Eksteen
- 14 F H Grosskopf
- 15 R J Goldstone
- 16 P M Nienaber
- The Honourable Miss Justice
- 17 L van den Heever
- The Honourable Justice
- 18 J A Howard
- 19 J J Kreek
- 20 C F Eloff
- 21 E K W Lichtenberg
- 22 N W Zietsman
- 23 G F Redman
- 24 H C J Fleming
- 25 D J Curlewis
- 26 J J Fagan
- 27 J J Broome

- 28 D L L Shearer
- 29 J M Didcott
- 30 P J van der Walt
- 31 H J Press
- 32 D J H le Roux
- 33 L A Rose Innes
- 34 H P van Dyk
- 35 P W Thirion
- 36 M D J Steenkamp
- 37 C T Howie
- 38 J J Basson
- 39 D M Williamson
- 40 A J Lategan
- 41 N S Page
- 42 A P van Coller
- 43 K van Dijkhorst
- 44 S W McCreath
- 45 P H Teburt
- 46 W H Booysen
- 47 F C Kirk-Cohen
- 48 D A Kotze
- 49 T T Spoelstra
- 50 J F Janse van Rensburg
- 51 A J Heyns
- 52 J C Kregler
- 53 A B M Wilson
- 54 G Leveson
- 55 P J Schabert
- 56 A M van Niekerk
- 57 L F Weyers
- 58 J P Malherbe
- 59 E H Stafford
- 60 M S Stegmann
- 61 W J Harzenberg
- 62 N M MacArthur
- 63 H L Berman
- 64 H C Nel
- 65 B Galgut
- 66 J W Edeling
- 67 D J Lombard
- 68 M P Jennett
- 69 R M Marais
- 70 W J van der Merwe
- 71 D H van Zyl
- 72 H Daniels
- 73 G A Hattingh
- 74 P J J Olivier
- 75 F Kroon
- 76 M J Strydom
- 77 R J W Jones
- 78 L T C Harms
- 79 J P Roux
- 80 J F Ludorf
- 81 J M C Smit
- 82 J A Erasmus
- 83 E L King
- 84 R T van Schalkwyk
- 85 M C de Klerk
- 86 E L Goldstein
- 87 A P Beckley
- 88 J H Conradie
- 89 S Selikowitz
- 90 J H Coetzee
- 91 A J du P Buys
- 92 J G Foxcroft
- 93 S J Myrhardt
- 94 A R Erasmus
- 95 J C H Jansen
- 96 H G Squires
- 97 J H Hugo
- 98 J D M Swart
- 99 J H Combrink
- 100 P E Strecher
- 101 G A Alexander
- 102 W E Cooper
- 103 C Botha
- 104 G van Coppenhagen
- 105 D G Scott
- 106 B R du Plessis
- 107 D Marais
- 108 F C L Roos
- 109 M M Joffe
- 110 K R McCall
- 111 P Levinsohn
- 112 T Grobbelaar
- 113 J C Labuschagne
- 114 R H Zulman
- 115 R P McLaren
- 116 W P Schutz
- 117 C B Cillie
- 118 I W B de Villiers
- 119 P C Combrink
- 120 C Plewman
- 121 P A M Magrid
- 122 L S Melunsky
- 123 W A van Deventer
- 124 G A Kuhn
- 125 G F Wright
- 126 I Mahomed
- 127 J F Myburgh
- 128 T D Cloete
- 129 W G G Thring
- 130 N V Hurt
- 131 J J Neegen
- 132 L I Goldblatt
- 133 P Bleden
- 134 N D van der Reyden
- 135 F D J Brand
- 136 J E I s
- 137 L W H Ackermann

Star 24/3/93

# FWW to get tough with Apia

By Peter Fabricius  
Political Correspondent

## Scathing attack on Transkei leaders expected

President de Klerk is expected today to launch a scathing attack on the Transkei government which is reported to have been implicated by the Goldstone Commission for providing support for terror attacks attributed to the Azanian People's Liberation Army (Apia)

De Klerk is to address a joint session of Parliament and then a press conference to make a statement which Government sources say will be "very important".

It will include tough security measures against Apia and possibly some political action to deal with its political wing the Pan Africanist Congress

According to some speculation, De Klerk may announce that the Government will refuse to continue negotiating with PAC until it denounces its position on Apia's armed struggle.

It is not clear what action, if any, De Klerk will take against Transkei although the Government has in the past not ruled out the possibility of hot pursuit raids and financial sanctions against the homeland which is dependent upon South Africa for most of its budget.

De Klerk is coming under increasing pressure from his MPs and constituency to take firm action to prevent further attacks. The Goldstone Commission today releases the report of its investigation into Apia's alleged involvement in a series of terror attacks on whites since last year.

The Government had accused the Transkei government of harbouring Apia terrorists and informed sources say that the Commission has condemned this mission.

This will provide the basis for De Klerk's statement. Apia is widely suspected of responsibility for at least some of the attacks and the PAC has refused to confirm or deny this.

De Klerk is also expected to make announcements on other matters including recent allegations in the American press that South Africa has been stockpiling nuclear weapons.

Parliamentary opposition parties yesterday called on the Government to exclude the PAC from negotiations unless it distanced itself from the attacks.

But extra-parliamentary parties, including the ANC and the IFP, warned that would be a bad tactical move as violence next to be addressed at the negotiating table.

A Conservative Party statement claiming De Klerk and Mandela met on Monday was confirmed by the ANC. Parliamentary pressure

## FWW to get tough with Apia

From Page 1

has been mounting for stronger action against armed attackers, to bar the PAC from talks if it failed to distance itself from Apia attacks, and to bring back the death penalty.

Both the Democratic and Conservative parties issued strong statements yesterday saying that if Apia was found to be responsible for armed attacks — with the blessing of the PAC — the PAC should be cast out of negotiations.

De Klerk has also been receiving feedback that supporters are enraged. King William's Town MP Ray Radue, who survived an Apia attack last

year, said: "This is the most fearsome I have felt the heat of the public's response to be for a long time. MPs are picking it up throughout the country. Something must be done if we want to forestall a race war, or the possibility of people taking the law into their own hands."

DP defence spokesman General Bob Rogers said "no decent citizen can countenance such barbarism".

And CP Uitenhage MP Willem Botha warned whites in the eastern Cape would take the law into their own hands if the Government failed to take strong action.

Sapa reports from Ventersdorp that a group of AWB members, including policemen and SADF personnel, have formed an underground unit to carry out reprisal attacks for the murder of innocent civilians.

Reacting yesterday, Eugene TerreBlanche said he and his general staff were not responsible for the formation of the "retribution unit" and would not accept responsibility for any of its actions.

A document giving details of the unit, said it comprises AWB and commando members who had received specialist training in the SADF and police. All were acquainted with guerrilla warfare and tracking terrorists.

3 :

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*Hansard*

*Hansard*

The DEPUTY MINISTER: Neither the hon the Minister of Finance nor I was involved. We are paying specific attention to this matter. There are provisions in other countries. In Germany, for example, a tax is levied on society for the purpose of donations to religious institutions in the country. That is one possibility. There are various possibilities to consider. However, we are in the process of discussing this with the Bible Society as a result of this question, and we are open to submissions. We have not taken a decision as yet, but we intend to do so before the end of this session of Parliament to enable us to address the issue in the end-of-session legislation.

Mr P NAIDOO Mr Chairman, further arising out of the hon the Deputy Minister's reply, is he aware that it was never the intention of the questioner to have our Christian brethren denied this concession?

The DEPUTY MINISTER Mr Chairman, I am here to answer the question, not to discuss the intention of the questioner.

Mr N SINGH Mr Chairman, arising out of the hon the Deputy Minister's reply, is he prepared to recommend to the hon the Minister of Finance that the discussions which are being contemplated be held with other religious organisations as well, and not only with the Bible Society of South Africa? As the hon the Deputy Minister has indicated, it is not the society which benefits, but the donor.

The DEPUTY MINISTER Mr Chairman, if the hon member requests this, we shall do it. The hon member is welcome to begin such talks from his side.

*New questions*

**Cato Manor: new academic hospital**

\*1 Mr M RAJAB asked the Minister of National Health  
Whether a decision has been taken by the Cabinet in respect of the building of a new academic hospital at Cato Manor in Natal, if not, why not, if so, what are the relevant details?  
D96E

The MINISTER OF NATIONAL HEALTH:  
Yes, the Cabinet approved that—  
— the development of a new academic

*Hansard*

*Hansard*

(3) It should be pointed out that unauthorised expenditure not of necessity implies a loss of money. With reference to the so called "Project Samoesa" there was no loss to the State.

Mr K PADAYACHY Mr Chairman, arising out of the hon the Minister's reply, can he tell this House whether "Project Samoesa" is in any way connected with the Indian community?

The MINISTER Mr Chairman, I do not know whether this "Samoesa" is edible or not, but the project in fact concerns a retrenchment arrangement with members or ex-members of the SA Defence Force. This did not involve a colourful adventure, but merely refers to an agreement. What happened is that these people were jobless, had no income and wanted an advance on the retrenchment package they were to be paid. This money was paid prior to its being authorised. Nothing was lost; in fact, the balance was paid to them.

Everything was authorised afterwards and the matter was within the scope and limits of the organisation. The first payment of the advance was just slightly early. The matter served before the Joint Committee on Public Accounts which scrutinised it very carefully and approved it fully. This whole project was terminated more than a year ago.

Mr N SINGH Mr Chairman, further arising out of the hon the Minister's reply, is he prepared to tell this House whether any members who were involved in covert operations such as "Project Samoesa" are holding any assets of the State in lieu of payment due to them?

The MINISTER Mr Chairman, I cannot reply fully to the hon member, because I am not sure exactly what the situation is. However, we are at present endeavouring to reclaim certain assets from members who were placed in charge of such assets. Basically everything has already been sold. To the best of my knowledge there are two or three outstanding cases, but these are in any case very close to completion.

**Durban Regional Court: murder charges withdrawn**

\*3 Mr P NAIDOO asked the Minister of Justice  
(1) Whether charges of murder against two

persons, whose names have been furnished to the Minister's Department for the purpose of his reply, were withdrawn in the Durban Regional Court recently, if so, (a) when, (b) why and (c) under what circumstances,

(2) whether the matter has been investigated by his Department, if not, why not, if so, what were the findings?  
D117E

The CHAIRMAN OF THE MINISTERS' COUNCIL (for the Minister of Justice):

(1) Yes

(a) On 15 February 1993  
(b) and (c)

The charges of murder were withdrawn because the public prosecutor concerned was led to believe that all witnesses but one were absent from court. He accordingly applied for a postponement, which the regional court magistrate refused. The public prosecutor therefore had no option but to withdraw the charges.

(2) Yes. The matter was investigated immediately by a senior public prosecutor. It transpired that the public prosecutor concerned was brought under the wrong impression as to the availability of two key witnesses. The accused were then immediately summonsed to appear in court on 30 March 1993 on the same charges.

Mr P NAIDOO Mr Chairman, arising out of the reply given by the hon the Chairman of the Ministers' Council, is the Department of Justice contemplating disciplinary action against the prosecutor for what is clearly a lapse in the manner in which an individual should be conducting one's duties?

The CHAIRMAN OF THE MINISTERS' COUNCIL Mr Chairman, I have not been briefed on this point. I should like to refer this question to the hon the Minister of Justice and to provide a reply in writing.

Mr A RAJBANSI: Do not answer questions next time! You know further questions will be asked. Simply refuse to answer questions on behalf of hon Ministers!

CT 25/3/13  
**146 judges**

**one not white**

(252) Political Staff (M)

SOUTH AFRICA had 146 judges in February this year but only one of these was not white, Minister of Justice Mr Kobie Coetsee said.

In reply to a question tabled in Parliament by Mr David Dalling (ANC, Sandton), he said that 137 of these judges held permanent posts.

The only judge who was not white was Mr Justice Ishmael Mahomed of the Transvaal Provincial Division

# MPs urge return of hanging to stem tide of violence

MICHAEL MORRIS and  
TOS WENTZEL, Political Staff  
PRESIDENT De Klerk, who  
faces strong pressure from  
hawks in the cabinet to take  
firm action, has been told by  
his MPs that supporters are en-  
raged by the alleged Apla cam-  
paign of violence.

King William's Town MP Mr  
Ray Radue, who survived an  
Apla attack on a golf club in  
the town late last year, said:  
"This is the most fearsome I  
have felt the heat of the pub-  
lic's response to be for a long  
time MPs are picking it up  
throughout the country.

"Something must be done if  
we want to forestall a race  
war or the possibility of people  
taking the law into their own  
hands."

Mr Radue issued a statement  
with Jeppe MP Mr Hennie  
Bekker, calling on Mr De Klerk  
to review the moratorium on  
hangings.

Mr Radue said "The legisla-  
tion is in place. It is up to the  
executive to review the situa-  
tion on hangings and to bring  
back the death penalty.

"This is widely supported in  
the NP caucus and the public is  
screaming for it. I can tell you  
that a number of eminent  
judges have phoned me to sup-  
port the return of the death  
sentence."

Democratic Party defence  
spokesman General Bob Rog-  
ers said violence had "reached  
a new low with the senseless,  
sickening attacks on children  
and passing motorists" and "no  
decent citizen can countenance  
the continuation of such barba-  
rism."

General Rogers added: "If it  
can be shown that Apla are re-  
sponsible, then the PAC leader-  
ship is called upon to state pub-  
licly and unequivocally where  
they stand on this issue and  
whether they support these in-  
stances of cold-blooded mur-  
der."

"If so, the DP insists that the  
PAC no longer be allowed to  
take part in the constitutional  
negotiations."

# MIPs to debate death penalty — FW

(25)

CT 25/3/93  
Political Staff

PARLIAMENT is to hold a special debate on the death penalty and National Party members are to be given a "free vote" — in which they will not have to toe the party line — President F.W. de Klerk announced yesterday.

He told a press conference yesterday that he personally favoured the death penalty but felt it should only be applied "in a limited sense".

Earlier, speaking in his special address to Parliament, he said the "wave of cruel murder and homicide" made it difficult for the government to maintain the present moratorium on death sentences.

"The government will approach Parliament at the first possible occasion to give members the opportunity to indicate their viewpoint."



# Mining 'will kill' St Lucia habitat

ADRIAN HADLAND

PRETORIA — Opencast mining at St Lucia would result in major, irreparable damage to the habitat, an international wetlands monitoring body has found

In a report issued yesterday, the Convention on Wetlands of International Importance (Especially as Waterfowl Habitat), or Ramsar, said the mining operation would significantly alter the soil characteristics, dune structure and beaches of the area

"The SA authorities should consider whether, in view of the importance of the St Lucia system, the application to exercise mining rights should be refused on principle," the report concluded

SA was one of the original seven contracting countries which established the Ramsar convention in 1971

St Lucia is one of 12 SA sites on the Ramsar list detailing wetlands of international importance

Conducted in May last year by Ramsar experts, the survey indicated it would not be possible to reconstitute the original vegetation at St Lucia by rehabilitation measures.

The elevated water table as a result of mining would affect the beaches and seaward face of the dunes of the barrier, and also the wetlands of the eastern shores, it said.

Tourism would be affected as the proposed mining

would take place at the gateway to St Lucia, causing a "long-term drop in the popularity of the area"

It would also be impossible to restore the original dune structure. It must be doubted, the report said, "whether a complex dune forest which has grown up over millenia can ever be really reconstituted with such an altered dune structure and soil composition"

The Ramsar mission said its report did not seek to interfere with, "pre-empt or supplant the national process" under way

The Environmental Affairs Department said the report "may be presented to the review panel or indeed used as a supplementary document by the Cabinet when it reviews the findings of the EIA".

Sapa reports that Parliament's refusal to deal with a Bill to outlaw mining at St Lucia and 11 other internationally recognised SA wetlands has been condemned by the Campaign for St Lucia

The Joint Committee on Private Members' Legislative Proposals deferred consideration of the Wetlands Conservation Bill until after the review panel's report

The Bill would have given effect to the Ramsar provisions

## Key Family Trust's debt is R20,8m, says Absa

BIDA M 25/3/93 WINDA ENSOR

CAPE TOWN — Absa brought an urgent application in the Cape Town Supreme Court yesterday for the provisional sequestration of the Key Family Trust set up by the provisionally sequestrated Mervyn Key.

Judgment on the application will be handed down by the court today.

Absa regional GM Dudley Davies said the trust had bound itself as surety and co-principal debtor to Bankorp for the liabilities of Key's Paarl wine estate, Rhebokskloof and its sister company Parmalat investments.

The only asset of the trust was its stake in Rhebokskloof and Parmalat. The total debt to Absa was R20,8m, Davies said.

The trustees of the trust are Key, his father Cedric Key, who is in Australia, and former Tollgate director Lawrie MacIntosh, who is believed to be in London

Meanwhile Key's Paarl wine estate Rhebokskloof was provisionally wound up without opposition in the Cape Town Supreme Court yesterday

# Hangings should begin again - State President

CAPE TOWN — President de Klerk would vote yes when MPs were asked whether hangings should begin again

De Klerk, a former lawyer, told a press conference yesterday that he believed the death penalty — in a limited sense — should be part of the judicial system

Earlier he told Parliament that in the light of the continuing violence in the country, the Government had decided to test MPs' opinions as soon as possible on whether death sentences should be carried out

Hangings were suspended some time ago pending debate on how the death penalty should

be dealt with in a Bill of Rights

MPs would be given an opportunity to speak in a special debate in Parliament, and according to De Klerk National Party Members would be allowed to vote freely according to their own convictions

Replying to a question at the press conference, he said he had always believed that the death penalty should be part of the legal system

He approved of recent reforms which no longer compelled a judge to sentence a person to death for certain offences if no extenuating circumstances were found — Sapa

SEP 25/13/93

# No more info on Goniwe - Govt

(252)  
CAPE TOWN — The Government had already made all documents on covert activities related to the Goniwe inquest available to the Eastern Cape Attorney-General, President F W de Klerk said yesterday

Replying to a question from Roger Burrows (DP Pinetown) during the State President's question time, he said the Government had shown through the inquest that it did not want to hide anything

"We have nothing more to disclose," he said

"We want to get to the truth."

It was unfortunate that it had taken so long and that further delays had since been caused, but the judicial process was often like that.

"The delays were not caused by Government"

The inquest investigators and the judge should be given a chance to perform their duties

In a follow-up question, Burrows asked De Klerk if he was

saying that he had released all documents on covert activities to the Attorney-General, including those in the possession of Transkei military leader Major-General Bantu Holomisa

De Klerk said Holomisa was playing politics and he could not be certain whether the documents Holomisa had released had been "doctored" or not

It was Holomisa's duty to make all the documents at his disposal public immediately — Sapa

# Homebuyers

Star 25/3/93

## Find a friend



252

Thousands of low-income black families have fallen victim to swindlers when trying to buy homes. They are now being promised a fair deal and protection from exploitation, reports MICHAEL CHESTER

**ATTORNEY** Brian Leveson adds new names every week to the blacklist he keeps within quick reach at the offices of Lawyers for Human Rights (LHR) in Johannesburg.

The dossier is a rogues gallery of scores of pin-striped conners and fly-by-night builders who have been tracked down as culprits behind scams that have swindled millions of rands out of low-income black homebuyers.

The blacklist is the first reference to be checked by Leveson, director of the LHR housing rights unit, when he picks up the legal cudgels on behalf of dislodged families who arrive in an almost daily stream to seek help when their dreams of a new home have turned into financial nightmares.

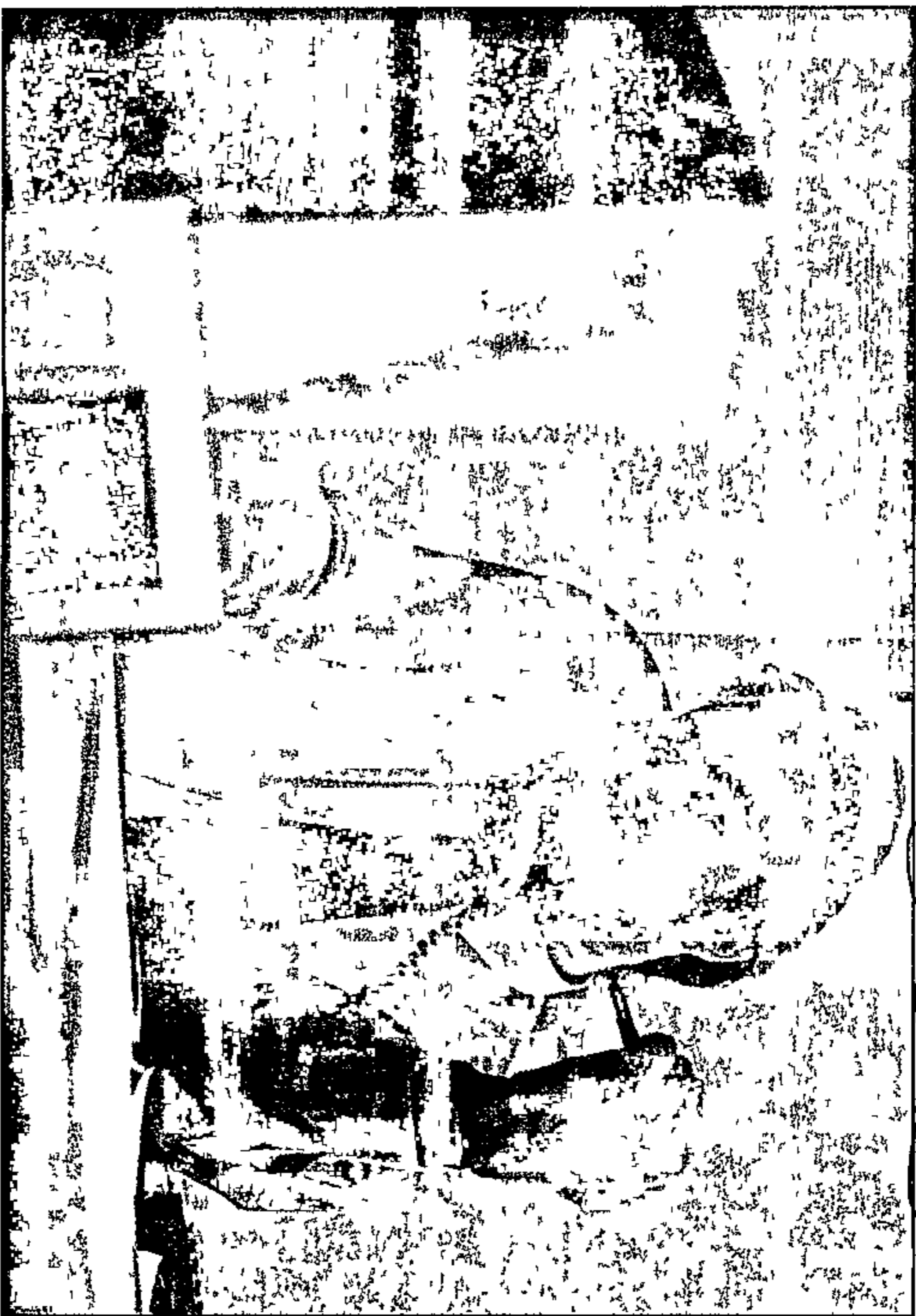
Leveson has lost count of the number of legal battles he has fought in the courts or taken to the Harmful Business Practices Committee. However, a recent rough calculation put the number of homebuyers who had been ripped off in a web of exploitation and corruption at more than 5 000 — with losses running at more than R10 million and still climbing.

No fewer than 3 500 bulging files spell out the details of thousands of couples whose life savings have been lost by financial trickery — or contractors who saddled homebuyers with houses on the point of collapse under sagging roofs and cracked walls from shoddy workmanship.

"What adds to the tragedy," said Leveson, is the look of utter despair on the faces of couples who have tried to buy a first real home for their families — and have fallen into traps laid by operators who have spotted their desperation and exploited it to the hilt.

By now, he has been able to draw the typical profile of the average victim: a low-income wage-earner struggling to keep a whole family going on about R50 a month anxious to offer a wife and three dependants (children and/or relatives) a better future than a squatter camp or backyard shack but handicapped by no more than a Std 4 education when it comes to pulling a signature on complex paperwork.

LHR have by no means been



**Fight against exploitation**  
Victim of scams in the low-income housing market. About 5 000 homebuyers have been ripped off.

**Brian Leveson of Lawyers for Human Rights answers an appeal for help from yet another victim of scams in the low-income housing market.** About 5 000 homebuyers have been ripped off. Picture: Joao Silva

alone in the battle against skulduggery. Alarm over the growing number of scams operated by ruthless builders and landlords has also been voiced on several occasions by the Urban Foundation which warned in its latest annual review:

"The exploitation of low-income families desperate to resolve their own housing needs is seriously undermining civil society. It is imperative that a new culture is created in South Africa — a culture which upholds the right to a fair deal in the purchasing and rental of housing."

The Legal Resources Centre was in the vanguard of volunteers to join forces when the foundation announced a special project to search for new answers. In turn support was rallied from across the entire socio-political spectrum.

The outcome has been the launch of a brand new combined initiative by legal, business and social experts determined to thwart unscrupulous operators. The promise of a square deal

for future homebuyers came nearer with the creation in Sandton yesterday of the Housing Consumer Protection Trust, with backing from a formidable list of key players in political and community affairs whose terms have been frayed by the scale of fraud in the low-income housing market.

"As matters stand," said the trust in a first salvo, there are endless instances of hard-earned savings being stolen, and dreams shattered by unscrupulous operators. We mean to call a halt to the exploitation."

The warning, it stressed, was intended to be heard by all the main players in the housing business — developers, contractors, landlords, land speculators, Government officials, estate agents and financial brokers.

New alerts were sent out to homebuyers about such risks as suspicious building contracts, sub-standard construction work, buying land from anyone without proof of legal ownership — and coercion into signing financial deals that pushed household budgets into danger zones.

The focus of the Trust, explained Alistar Rendall of the Development Action Group will be on a four point action plan:

- Introducing legal mechanisms to ensure that low-income families have adequate and reasonable protection against undesirable practices backed by amendments to current legislation
- Appointing a new ombudsman and a special arbitration panel to settle disputes over housing deals
- Intervening in the market process to encourage higher standards of behaviour within the low-income housing market — monitored by teams of independent, licensed building inspectors
- Extending legal services and consumer education to help low-income families become more discriminating customers who can enforce their housing rights and ultimately prevent their own exploitation. That goes hand-in-hand with the setting up of homeowner advice offices and access to legal services.

The SA National Civic Organisation, among the front-running supporters, said the Trust intended to not only address but also resolve what had become a grave problem.

"It will do much to empower low-income families to demand a fair deal," said a spokesman. Matthew Neil, chairman of the Co-ordinating Committee of the National Housing Forum, added:

### Exploitation

"Consumer exploitation must be very high on the agenda throughout the process of negotiating a new housing plan for the country. It is receiving the forum's highest priority and many parties welcome the new initiative."

The Trust summed up "In today's gross overcrowding of existing houses, and with the growth of spontaneous settlements in all major urban areas and a proliferation of backyard shacks, the quality of life of communities is being seriously undermined."

"Against this background many low-income families will explore whatever means possible to secure access to shelter."

"As desperate consumers, often with inadequate education and inadequately informed about the workings of the housing market, they are vulnerable to exploitation."

"The Trust intends to introduce homebuyers to a whole package of protection measures. Racketeers — beware!" □

# Holomisa rejects Star 25/3/93 commission findings

The Transkei has rejected the preliminary findings of the Goldstone Commission into the activities of the Azanian People's Liberation Army and denied its territory has been used as an Apla springboard

Military leader Major-General Bantu Holomisa also denied the commission's finding that Apla members were receiving training in Transkei

"Transkei is not being used as an Apla springboard," Holomisa said in a telephonic interview from Umtata yesterday "They (Goldstone Commission) must bring the evidence"

He said the Goldstone Commission report, in which only the SA Defence Force and SA Police accepted invitations to make submissions, was a "one-sided story"

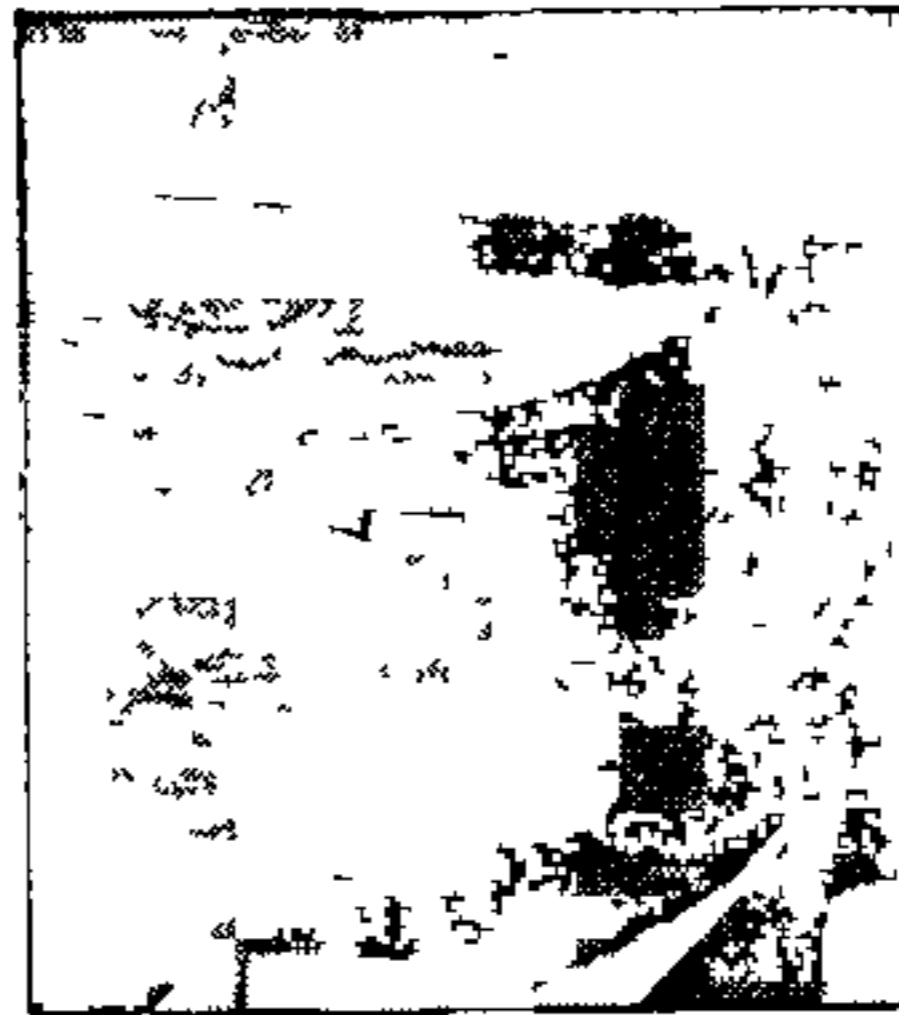
"Apla members are also not receiving training in the Transkei," Holomisa said

"The Transkei government is adamant that there are no Apla bases in Transkei," he said in a separate faxed statement

The Transkei still upheld its non-aggression pact with South Africa, he said in the interview

Asked about the commission's finding that Apla's internal High Command was based in Transkei, he said the PAC and other liberation organisations were unbanned in 1990 and their members were free to go where they wanted

The Goldstone committee recommended that Transkei be asked to respond to the SADF and SAP allegations "and if



Bantu Holomisa . . . denied Apla members were receiving training in the Transkei

they are confirmed or not denied to bring pressure to bear on the Transkeian authorities to prohibit the use of any part of their territory as a springboard for attacks against South African citizens"

The Goldstone findings vindicated the Transkei's stand that the inquiry was a "kangaroo court", Holomisa said in the statement

The Transkei found it hard to regard Goldstone as an eminent judge, especially because he did not personally preside over the inquiry into Apla, he said

"We reject the findings of the Goldstone Commission which condemn Transkei in view of the untested evidence"

He advised the South African Government to talk to the PAC and other organisations to reach a mutual agreement that all parties cease hostilities — Sapa

# Gluckman tells of cell death findings

Stom 25/3/93  
By Abdul Milazi

An ANC Youth League member died of a brain haemorrhage associated with external injuries and not of an epileptic attack as police claimed, pathologist Dr Jonathan Gluckman told an inquest court in Oberholtzer yesterday.

Nixon Phiri (16) of Khutsong, Carletonville, died on January 16 1990 while he was being interrogated at the Welverdiend Police Station.

Gluckman said that when he examined Phiri he found evidence of bleeding in the inner brain. There were five abrasions on his head.

There were multiple minor abrasions on his body and his lungs were congested with blood, which could have been caused by manual strangulation.

He also found a "large amount of free blood" in Phiri's stomach.

● Two members of the ANC Youth League-affiliated Khusong Youth Congress, who were detained together with Phiri, were shot dead within three days of each other in Carletonville a year ago.

Pule Mothopi was killed on March 4 and Thomas Tshabala on March 7.

Police claimed the deaths occurred during unrest-related incidents.

The inquest continues today.

# Don't help Apia, urges Goldstone report

Star 25/3/93

All nations should withhold assistance to Apia which, like the Pan Africanist Congress, propagated the armed struggle, a committee of the Goldstone Commission said in a report yesterday.

The committee, under chairman Gert Steyn, said there was a direct relationship between the Azanian Peoples Liberation Army and the PAC, which was responsible for ensuring that Apia was supplied with arms, equipment and money.

Apia made no secret that its policy was to kill policemen, white farmers and whites in general.

The committee also found that Apia's internal High Command for South Africa was

based in Transkei, which was being used as a springboard for attacks into South Africa.

Furthermore, the SAP had informed the committee it had received information that Apia planned further attacks.

The committee recommended that all parties engaged in the effort to reach a negotiated settlement should pressure the PAC and Apia to suspend the armed struggle and to join the search for a peaceful negotiated settlement.

The PAC controlled Apia's budget, the committee found.

The international community should also ascertain from the Tanzanian government its response to allegations that Apia members were being trained at a formal base in the country.

The committee also requested the South African Government and all political groups in South Africa to ascertain from Transkei authorities their response to allegations that Apia members were being trained there and that the territory was used as a springboard for attacks.

The SAP said Apia had about 120 members in South Africa who had undergone military training abroad. The number of recruits locally was not known.

The SAP estimated that Apia had about 2 700 members abroad, most of whom were in Tanzania. This included women, children and people working on agricultural projects.

The committee said much of the submissions were hearsay

but that it was careful to have regard only to hearsay that could be regarded as reliable.

While all interested parties were publicly invited to make submissions, only the police and the South African Defence Force had responded.

Goldstone Commission chairman Mr Justice Richard Goldstone said in a covering letter the commission hoped that the Transkei authorities, the PAC and Apia would reconsider their attitude, in which case the proceedings would reopen.

If no response was forthcoming, these parties could not be heard to complain that the provisional findings were regarded as conclusive by local and international communities.

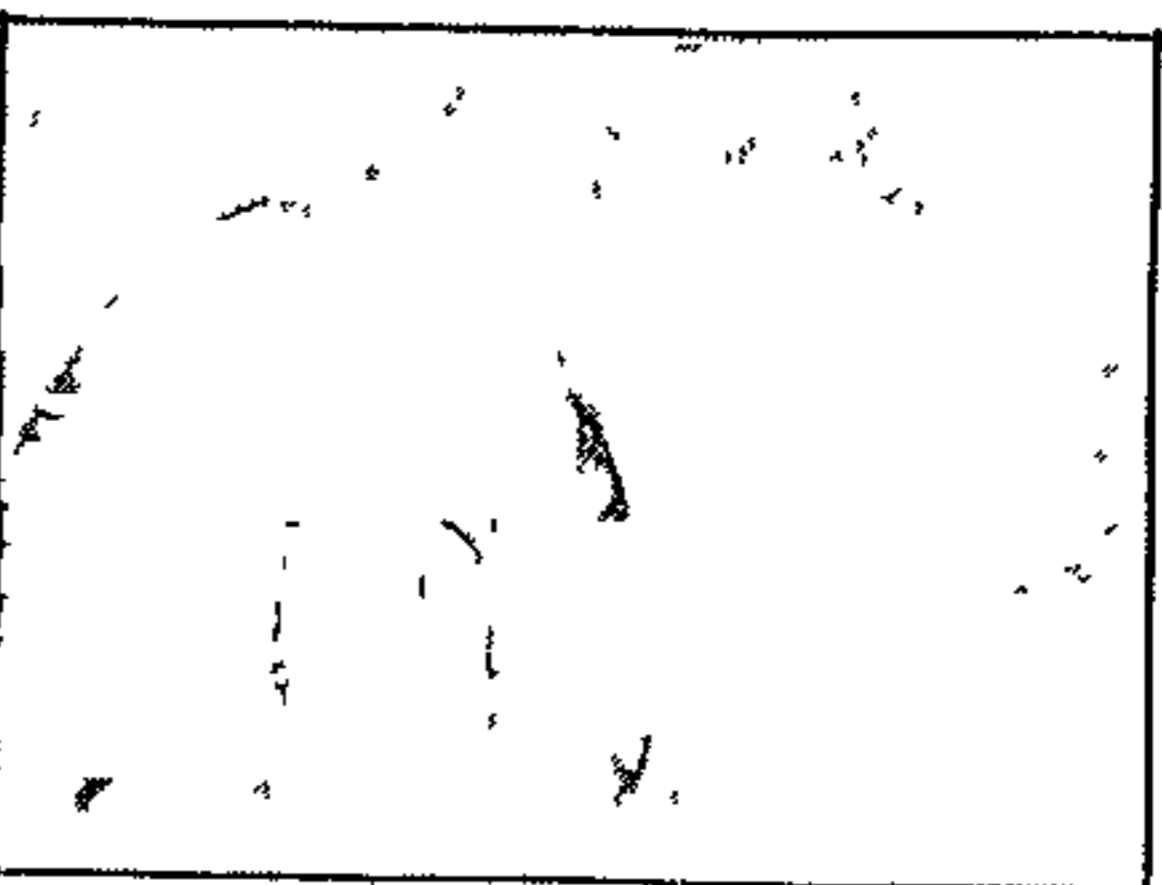
Documents before the com-

mittee showed that Apia was responsible for the execution of the PAC's military policy as decided by the Military Commission.

It was believed that at least three members of the Military Commission were also members of the PAC's National Executive Council. They were Johnson Mlambo, Joe Mkhwanazi and Thobile Gola.

It was further alleged that PAC president Clarence Makwetu, and the first deputy president, Johnson Mlambo, served on the Apia High Command.

It was also alleged that apart from in Tanzania, Apia members received training in other African countries, eastern Europe and Asia — Sapa



PAC leader Clarence Makwetu allegedly served on the Apia High Command

# Wide-ranging responses to FW, Goldstone

By Esther Waugh  
and Kaizer Nyatumba

(252)

The PAC came under heavy fire yesterday — in the Goldstone Commission's preliminary findings on Apla and President F W de Klerk's address to Parliament — but its leaders would not comment on the charges last night.

PAC sources said the organisation would hold a press conference today after studying the commission's report and De Klerk's speech.

Transkei military ruler Major-General Bantu Holomisa last night rejected the Goldstone Commission's preliminary findings on Apla which implicated his government.

In its response to De Klerk's announcements, the ANC expressed concern over the Government's as yet undisclosed 10-point plan of action to stabilise "problem areas".

The organisation said the arrests of 18 unnamed Apla cadres raised concerns about detention without trial, and said they should be charged or released immediately.

The ANC called on the Government to give public guarantees that no coercive measures would be used to extract information. Their names should be released immediately and their families informed so that they could arrange proper defence for the Apla cadres.

It reiterated its principled opposition to the death penalty.

"President De Klerk could demonstrate his serious intent to make addressing the question of violence the major priority on the agenda by acting against those who were implicated. Despite the recent revelations (Military Intelligence chief) General Joffel van der Westhuizen and (Local Government Minister) Dr Tertius Delport remain in their posts," the ANC said.

Responding to the Goldstone Commission's report, Holomisa said "The Transkei Government is adamant that there are no Apla bases in Transkei. Since South Africa refused the offer to send a judge to head the

(Transkei Government's proposed) Commission of Inquiry into Apla, we regard the matter as a closed affair."

Referring to 12 secret SADF files he has in his possession, Holomisa said they show that some covert activities have been executed since De Klerk came to power in 1989.

Lawyers for Human Rights director Brian Currin said Parliament as it was presently constituted had no moral right to debate the death penalty and decide on it unilaterally.

"The (execution) of the death sentence in the circumstances will probably be more inflammatory than constructive," Currin said.



# Execution a hanging question

BY CHRISLOWW

WJWent 26/3 - 1/4/93.

BROAD support is sought by the government for the reimposition of the death penalty following an unprecedented wave of cold-blooded murders in the country, including the recent attacks attributed to Apla.

The death penalty was suspended by President FV de Klerk during his February 2 1990 speech in which he announced the unbanning of all political organisations. The moratorium was kept in place pending the completion of an interim charter of fundamental human rights which will be in effect during the transition phase.

Although parliamentary consent is not necessary to revoke the moratorium, De Klerk announced on Wednesday that the issue will be debated thoroughly in parliament before a decision is taken.

His announcement followed a press release by National Party MPs Hennie Smit (chairman of the NP's law and order study group) and Ray Radue (chairman of the study group on justice) in which they pleaded for the reimposition of the death sentence.

In his announcement De Klerk said that NP MPs — now dominating all three houses of parliament — would be allowed to vote on the

issue according to their conscience.

(252)

Nat MPs are, as a rule, expected to toe the party line, although similar "conscience votes" have in the past been allowed, for instance, where liquor laws were concerned.

According to party officials there is a very strong feeling among ordinary MPs that the death penalty should be brought back.

This will definitely be supported by the Conservative Party and some individuals in the Democratic Party, making it a foregone conclusion that parliament will overwhelmingly vote for the revoking of the moratorium. However, tensions may be created if the extra-parliamentary groupings, and more specifically the African National Congress, could not be persuaded to support the continuation of hangings.

De Klerk has already indicated that the government will embark on "an intensive consultation process with leaders of extra-parliamentary parties and organisations" to solicit their support.

Last year alone 20 135 people were murdered in South Africa.

The ANC was not available for comment at the time of going to press.

● See PAGE 22

# Women's place in the House

BY STEPHEN LAUFER

WJWent 26/3 - 1/4/93.

RILED by the all-male composition of the planned multi-party forum, women from across the political spectrum plan to disrupt next Thursday's crucial management committee meeting which is preparing for the talks.

The demonstration is being planned and co-ordinated by African National Congress Women's League leader Baleka Kgositsile. She hopes that women from all 26 parties involved in the negotiations and other women's groups will take part.

Inkatha women appear to be interested in participating, but at least some National Party women say they neither believe in demonstrations, nor that many women are currently up to the job of governing the country.

What has made ANC women and their allies particularly livid is the flippant response by male negotiators to proposals for an expansion of the negotiating forum to accommodate a female adviser from each of the participating groups.

This would give women a more direct voice in the process than under Codesa II, where a gender action committee was the only forum for women's issues.

The proposal, adopted by the ANC executive, was put forward by secretary general Cyril

Ramaphosa at last week's meeting of the facilitating committee preparing full talks.

He was met by loud jeers from the all-male group around the table, says Kgositsile, as well as comments such as "We are all here on merit!" and "This is reverse discrimination!"

The ANC Women's League wants to put the point more forcefully to the negotiators when they meet again next Thursday.

They plan a 1 000-strong "welcoming committee" for negotiators arriving at the World Trade Centre and are looking at including women advisers, at least temporarily, in sympathetic delegations.

Says Kgositsile: "If we knew that the negotiators were all sleeping in one place the night before, they'd get a very early visit."

Lilly Coetzer, wife of Springs MP Piet Coetzer and a National Party Women's Action Committee activist, says she doubts members of her organisation will participate.

"We don't believe in demonstrations, we prefer to find other ways of putting pressure. I believe that if this country is to uplift itself, women will do it. But I feel that most women are not yet up to standard. Women must be chosen on merit. "We don't want puppets appointed."



**C**ONFIRMATION that the South African government built weapons of mass destruction over a period of 15 years, dismantled them before it signed the Nuclear Non-Proliferation Treaty, and lied throughout, is the clearest argument yet for a Freedom of Information Act.

Secrecy and lack of accountability in government has resulted in a state rotten with corruption, an incompetent and often murderous police force and an army given to illegality. By the time we get to hear about the deeds committed with taxpayers' money, it's usually too late to stop them or hold anyone accountable.

In the United States, after the publication of the Pentagon Papers and Watergate, a Freedom of Information Act was introduced. It was an acknowledgement that no matter how effective the constitutional guarantee of freedom of speech and expression was, it did not bestow the positive right of access to government records.

One of the basic skills a journalist in the United States is coached on is how to make freedom of information applications. You can apply for information about CIA activities, FBI reports on individuals, including yourself, or minutes of secret meetings, if you can prove they are in the public interest.

It can be a lengthy procedure, but at the end of the day you usually get what you need. Any citizen is afforded the same right.

Contrast this with the absence of an enforceable right in Zimbabwe for the press to peruse Sally Mugabe's will, even though she was a public figure supposedly bound by a leadership code that limited the amount of property she could own.

If there is one thing we need right now, as paper shredders in the Union Buildings hum through the night, it is a Freedom of Information Act.

The Goniwe inquest in Port Elizabeth has been a revelation of how the evil intent of those in power was graphically recorded in black and white. It speaks volumes for their arrogance, that they believed the material would never fall into unfriendly hands. Yet they have left potential goldmines for the journalist, the historian and the citizen that should be discovered as soon as possible and preserved.

**U**nlike Germany, where the files of the Stasi were eagerly grabbed, no one here is forcefully demanding that the government open its files.

The politicians aren't much help. Not the African National Congress, nor the National Party nor the Inkatha Freedom Party have included an adequate freedom of information clause in their respective draft Bills of Rights.

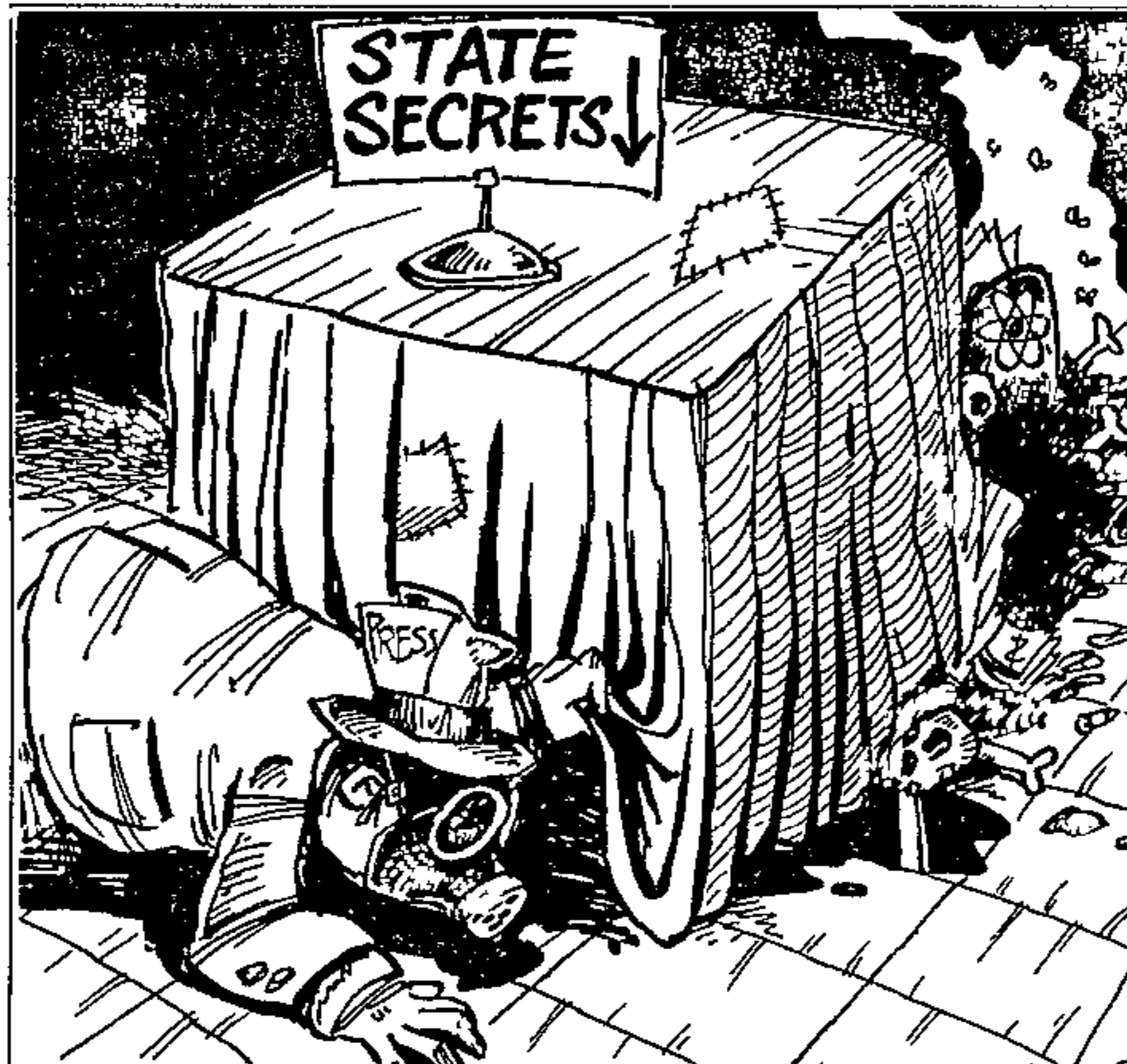
Not even the Conference of Editors, in their draft free press clause to Codesa last year, made any but the barest mention of freedom of information ("Everyone has the right to freely inform himself"). They focused largely and predictably on the negative freedoms, mainly freedom from censorship.

Despite a statement in favour of diversity of information, the formulation of their clause would protect the status quo — a media market skewed towards the more affluent in largely white suburbs, which has grown ever more ideologically homogenous and less representative of the population at large.

Of course, the editors were promptly ignored anyway, because all the draft Bills of Rights — the NP, the ITP and the ANC — have fairly major

# Whose information is it anyway?

w/maud 26/3-1/4/93



*It's time to rip away the cloak of secrecy which surrounds government — and certain private sector institutions. A Freedom of Information Act would grant citizens a positive right to knowledge.*



By **PHILLIP VAN NIEKERK**

qualifications on press freedom

Instead of being in the forefront of the clamour for access to government records, there is hardly a whimper of protest from editors.

Perhaps some small relief might yet come from the Democratic Party's Bill of Rights that is now close to completion. David Unterhalter, one of the lawyers working on the draft, says that whether or not to include a clause on freedom of information is still being debated.

The difficulty, he says, is that that the DP is committed to putting only basic principles in the Bill, to keep it simple, uncluttered, and enforceable. Freedom of information legislation in the US — which is not part of the constitution — is heavily detailed, particularly in the rules of enforcement.

The converse, as Unterhalter points out, is that if freedom of information is not inserted into a Bill of Rights now, it is doubtful whether it will get

into law. Freedom of information is not likely to top the list of the ANC or the NP's legislative priorities in a new parliament.

If that is so, South African democracy would be impoverished. The right to knowledge is as empowering as the right to vote.

The aim of a freedom of information law should not be simply to make government more transparent, but to enshrine knowledge as a right superior to other potentially conflicting rights, such as private property. That is still a remote concept.

Among the lesser sins of the NP's mismanagement of the country in these last days of Rome is that of the R75-million generously granted to the Human Sciences Research Council in the Budget, R6-million will service the interest on a building.

The assumption, no doubt, is that the general public doesn't mind wasting valuable research money on an obscene neo-classical bureaucratic

edifice in downtown Pretoria, which architect Alan Lipman describes as a "second-hand fake of a fake."

After all, the HSRC, despite being publicly funded, has never viewed the general public as its client. It spends millions each year on research that never sees the light of day, or that goes for the exclusive use of government departments, corporations or paying clients.

Before the collapse of Codesa 2, only the NP and the DP had access to HSRC opinion polls that revealed that 25 percent in an election would certainly block the ANC and its allies in a constituent assembly, while one third would be risky.

The immediate cause of the deadlock at Codesa 2 — the dispute over percentages — bore a suspiciously close resemblance to the HSRC's figures.

The modus operandi of the HSRC is but one more symptom of the absence of a tradition in South Africa of believing that access to information is a right.

It is more tricky, but no less crucial, with private organisations that glean information of social value.

The Urban Foundation, for instance, has over the past decade produced some of the best demographic material on South Africa, but except for occasional carefully packaged presentations, the raw data is kept protectively under wraps.

The Centre for Policy Studies, on the other hand, sets the condition that a purchaser of research has to publish the material within three months, or the centre reserves the right to publish it itself. This would be a handy guide for the other think-tanks.

Freedom of information would be a direct challenge to the "intelligence"-gathering industry which is booming in these uncertain times. Though one suspects they could do as well by reading the newspapers, corporations pay a lot of money to risk analysts and other information traffickers to tell them about the socio-political environment for their investments.

**W**hat do they do with this information once it is no longer of strategic value? Can you buy information as you buy a car and retain it until you choose to sell it? Obviously it can't be compared. If somebody steals your car, you don't have a car anymore. If somebody finds your research in a library, you lose nothing.

What if someone makes a scientific breakthrough that holds the promise of a cure for Aids? It would be immoral, indeed criminal, to withhold such material from the general scientific community.

We are living in an age when enormous strides are being made in information technology. Apart from the inherent danger of television and the electronic media trivialising democracy, it is getting easier and easier to put a vast amount of information at ordinary people's disposal.

Why not include in a Freedom of Information law a requirement that every city open a library in which pertinent public information is fed into a data base, and provide officials to help anyone wanting to access that information? Like the right to vote, it would be free.

Redistribution of information cannot be countered by the arguments that it would be robbing Peter to pay Paul, or that it would be too costly.

Roll on the revolution, I say. The information revolution.

# Surrogate mums: Controls call

Political Staff

(252)

THE South African Law Commission (SALC) has proposed legislation to control surrogate motherhood

And it wants written surrogate motherhood agreements to be confirmed by the Supreme Court before they may be executed

26/3/93

The Law Commission also wants a ban on payment to surrogate mothers — except for expenses incurred in connection

with the confirmation and execution of the agreement

In its annual report tabled yesterday the SALC states that it would be impractical to ban surrogate motherhood

The report proposes that surrogate motherhood be permitted for married couples in cases where the wife, for medical reasons, is irreversibly incapable of giving birth

The gametes of both commissioning parents should be used or the gametes of

one of the parents and a donor — not the surrogate mother or her husband

The SALC said the Supreme Court must receive conclusive evidence regarding

● The physical and psychological suitability of the surrogate mother,

● The psychological suitability of the commissioning parents to accept parenthood of the child, and

● The interests of any descendant or adopted child of the commissioning parents

LAW & ORDER

**Probe welcomed**

252

Fm 26/3/93.  
A committee of the Goldstone Commission is to investigate the KwaZulu Police in connection with several incidents of violence in KwaZulu. This week Mr Justice Richard Goldstone announced that the committee would investigate six complaints, including the assassinations of ANC Newcastle chairman Hlalanathi Sibankulu and ANC Midlands deputy chairman Reggie Hadebe.

The committee that will look into the homeland police force is already probing possible causes of violence in Natal and KwaZulu, other than the rivalry between Inkatha and the ANC. The latest probe follows investigations by the commission's Natal team into complaints against the KwaZulu Police.

The KZP was established in early 1980 with a few hundred members, some of them transferred from the SA Police. When the force started it was under the control of KwaZulu Minister of Justice C J Mthetwa, but Inkatha leader and KwaZulu Chief Minister Mangosuthu Buthelezi soon took it over. The force grew steadily and now has nearly 4 000 members in five large police districts.

Goldstone says both Buthelezi and the KZP police commissioner, Lieutenant General Roy Durning, have given assurances that they will co-operate with the inquiry. In December the KZP's commanding officer of

**CURRENT AFFAIRS**

legal services, Lieutenant Colonel Patrick Reed, told the commission the force would welcome any investigation.

KZP spokesman Colonel Moses Khanyile goes even further and says the force has no problem with an investigation and has always encouraged people who felt they were wronged to come forward and speak to the Goldstone Commission or the National Peace Accord.

But on the ground there are indications that the KZP is at odds with a large part of the community it is expected to serve. In November Legal Resources Centre's Richard Lyster said at an Idasa conference on policing that the force gave a new meaning to the term "a law unto itself". He added that he had acted for victims of KZP police violence for several years.

Recently a magistrate recommended a

murder probe into the KZP and another slammed the conduct of the force at the end of an inquest. In November unrest monitors in Natal submitted a memorandum to the Goldstone Commission, UN and OAU calling for a judicial inquiry into the KZP.

Khanyile says political strife has made policing difficult in certain areas and some policemen have been killed in the past few years.

# Phiri's time of death 'not important'

By Gien Elsas  
West Rand Bureau

252

A senior policeman investigating the death of a 16-year-old activist during interrogation did not think it necessary to establish the time of death or speak to the interrogating officer, a Carletonville inquest heard yesterday.

Now retired, Lieutenant-Colonel Lucas Daniel van Heerden said at the inquest into the death of Khutsong Youth

League activist Nickson Phiri that he was the senior officer on duty the day Phiri died.

Phiri died at the Welverdiend Police Station on January 16 1990

Van Heerden, who said he was stationed in Potchefstroom at the time, told magistrate Charmaine Potgieter he was called to the Welverdiend station to determine whether police negligence had contributed to Phiri's death

He spoke to the station's commanding officer who had been called by a Constable van

Jaarsveld of the Welverdiend police when Phiri had collapsed during interrogation.

The commanding officer, a Warrant Officer van Graan, said the constable had told him Phiri had started breathing heavily while being questioned. He had started shaking and had fallen, unconscious, from a chair

Questioned by advocate Stephen Joseph for the family, Van Heerden said his job was to see if the police had acted negligently

He had not felt it necessary

to speak directly to the constable who was questioning Phiri when he died. He also did not think it was important to ascertain the time of death or to mention, in his statement, that he had examined the body

Joseph said one would expect the police to speak directly to the people who were present when a person died to ascertain exactly what had happened

Van Heerden replied "In this case it was not necessary. The branch commanding officer told me and this is how it happens in practice"

He said he examined the body

and could find no marks to indicate that there had been negligence on the part of the police

Joseph said that two doctors had found at least 10 external abrasion marks on the body and added that Phiri's right eye had been bruised "I saw nothing," Van Heerden reiterated

He also did not see foam and blood around Phiri's mouth. Joseph said that this was strange as there had been testimony that there was foam, mucus and blood coming out of Phiri's mouth.

The hearing continues today

# SAVE UP BRONN

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**KARIN SCHIMKE, Staff Reporter**

**SOUTH** Africans, angry and distressed at violence and crime, have dramatically changed their attitude towards the death penalty.

In an overwhelming response to a phone-in poll yesterday, The Argus readers said a resounding YES! to re-introduce hanging

In all 1 008 calls were answered, but reporters were unable to handle hundreds more.

In stark contrast to similar polls in 1989 and 1992, 97 percent of callers said they were for capital punishment

In 1989, only 273 readers responded — 134 for the death penalty being scrapped and 139 against

Last March, just 150 called and 74 percent were for the death penalty

Although the provision is still provided there has been a moratorium on hanging since February, 1990.

A special debate on the issue is to take place in parliament and for the first time National Party MPs will be given a "free vote" — the right to express personal opinions

Grounds for bringing back hanging cited by readers yesterday included its deterrent effect, the cost to taxpayers of keeping criminals in prison and escalating and uncontrollable crime and violence which was "destroying the country"

Mr Bernard Tuffin said capital punishment was society's only self-defence.

Another caller said it might reintroduce respect for the law.

Murder, especially of police and soldiers, terrorism, rape and child molestation ranked high on the list of crimes that deserved the death sentence, callers said.

"The punishment has never fitted the crime in this country," said a caller from Sea Point. "Anarchy reigns in this country. We have our backs to the wall and something ought to be done."

"In the Transkei people are punished according to the crime they commit, and look how low the crime rate is there."

Several readers called for public hangings

"People will think twice before committing a violent crime if they see others being hanged for the offence," said Mr Itsaan Petersen of Belgravia

Mr Roger Jenkins of Bellville agreed "The death penalty must be seen to be done"

Many readers felt strongly that death was too soft a punishment for rapists and child molesters. "For crimes as heinous as these, emasculation is the answer," said Mrs Betty Jacobs of Boston

Mr David Quintal of Caledon, who said he was a Christian "If they are prepared to kill, they must be prepared to lose their own lives. At the moment we are just allowing these animals to kill innocent children, and rape"

Mrs Marge Bolter said the death penalty should be brought back because of black on black violence "So many of the potential young black leaders are being killed senselessly, and by the same token, so are our policemen"

Mrs E Borges said she had lived in Angola for 21 years and had seen how lawlessness could destroy a country "Bring back the death sentence," she said

That's how South Africans feel about re-introduci

THE ARGUS



## Road to 'non-racial, non-sexist' bench

TRANSFORMATION of the South African judiciary must be swift, orderly and dignified, African National Congress constitutional specialist Albie Sachs said yesterday (25)

Professor Sachs, who is with the University of the Western Cape Law Centre, delivered a paper — "Towards a non-racial, non-sexist judiciary in South

Africa" — at a legal conference at Brackenfell yesterday

"We have to South Africanise all South Africans," he told delegates MAY 27/3193

This meant that all South Africans should be represented on the Bench, bringing all their life experiences, language skills and wisdom for solving problems with them

This would improve judicial performance. The highest possible standards were required. It must not be a code for keeping black people and women off the Bench, rather it meant capacity building and rapid advancement for those presently kept out

"Reactionaries will criticise us whatever we do," Professor Sachs said

# Appeal lost on Hofmeyr award

**BLOEMFONTEIN.** — The Minister of Justice yesterday lost an appeal against an award of R50'000 damages to ANC Western Cape official Mr Willie Hofmeyr when the Appeal Court here dismissed the application with costs.

The award was made by Mr Justice E King in the Cape Supreme Court on August 22, 1990.

It was for deprivation of Mr Hofmeyr's rights, impairment of his dignity, mental anguish, discomfort and humiliation, and contumelia to a substantial degree, when he was held in solitary confinement.

He was detained under the Emergency Regulations on April 22, 1988 and was held in the police cells at Caledon Square until May 3, 1988. Thereafter he was held at Pollsmoor Jail until his release on October 6, 1988. — Sapa

ET 27/3/93 (252)



# Future judiciary must represent all

TRANSFORMATION of the South African judiciary must be swift, orderly and dignified, ANC constitutional specialist Professor Albie Sachs said yesterday.

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This would improve judicial performance and ensure the highest possible standards. It meant capacity-building and rapid advancement for those presently kept out.

"Reactionaries will criticise us whatever we do," he said.

"What we should worry about is what the ordinary people think. And they will expect the new society to give them the best, not pompous mediocrity."

Prof Sachs expressed concern about "balkanising" the judiciary and legal profession if proposals for rigid regional autonomy are accepted.

"Justice should be the same in all parts of the country. We should not have a fragmented judiciary with separate law reports for different regions.

"Nor should there be separate forms of criminal law or commercial law or tax law. We don't want people skipping over the borders to escape their obligations. We want South Africans to have the same basic rights and duties wherever they are." — Sapa

# Justice Minister loses appeal <sup>(252)</sup> against Willie Hofmeyr award

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he was held at Pollsmoor jail until he was released on October 6 1988.

At the time of Mr Hofmeyr's detention he was in his mid-30s and was a final-year LL B student at the University of Cape Town.

Yesterday Mr Justice Hoexter said that at the trial a large body of evidence was produced on behalf of Mr Hofmeyr about the effects of the conditions in which he was held on his physical and mental health.

The evidence was given by Mr Hofmeyr, his father who visited him in prison and two of his legal representatives who consulted him during his detention.

The nature of the testimony was comprehensively reviewed by Mr Justice King. It was not challenged in cross-examination and no evidence was led on behalf of the minister to counter it.

Mr Justice Hoexter said that as to the resultant deterioration in the health of Mr Hofmeyr there was no good reason to differ from the trial judge's acceptance of the evidence and his findings based on it.

In this case there was no complete isolation of Mr Hofmeyr from all human society. He was permitted occasional and limited access to other people. He was, nevertheless, subjected over many months to a substantial degree of isolation.

The judge said the evidence amply demonstrated the detention to which Mr Hofmeyr was subjected was an infraction of his basic rights and, in particular, of his right to bodily integrity.

He was neither a convicted nor an awaiting-trial prisoner.

The judge said it was unnecessary to decide whether the deprivations of Mr Hofmeyr in regard to lack of indoor exercise, the ban on books and magazines and the absence of a portable radio in his cell were of such a nature that, singly or cumulatively, they would have supported an action for damages based on injuria.

Essentially these three deprivations underscored and exacerbated the hardships and tribulations of effective solitary confinement.

The trial judge, after an appraisal of all the relevant facts, considered R50 000 to be an appropriate award of damages.

There was no reason to interfere with his award, said Mr Justice Hoexter.

Mr Justice Smalberger, Mr Justice Grosskopf, Mr Justice Goldstone and Mr Justice Nicholas, an acting-judge of appeal, concurred — Sapa.

## Zac and hanging

DEMOCRATIC Party leader Dr Zac de Beer personally favours the death sentence for use in aggravated circumstances, but the party itself has no official policy on capital punishment.

Dr De Beer and Mr Colin Eglin, chairman of the DP parliamentary caucus, said last night that while the party had no policy on capital punishment, individual MPs' views would be expressed during a forthcoming special parliamentary debate.

For the first time MPs will be given a "free vote" — the right to express personal opinion.

Yesterday The Argus incorrectly presented Dr Zac de Beer's personal view as party opinion.

# Boy in court for brutal murders

C Press 28/3/93

By DAN DHLAMINI

THE arrest of a white 17-year-old teenager last week could throw some light on the mystery disappearance of a 25-year-old black mother and her 12-year-old daughter in the western Transvaal

## Panic after hacked corpses found on rightwing farms

(252)



Maria Kwakwa and her daughter, Johanna Makena, were reported missing on February 21 this year. Their mutilated remains were discovered last Wednesday on Geyserspan farm in Koster, which belongs to rightwinger Piet Botha

According to the police, Kwakwa and Makena had their throats slit and their ears cut off before they were burnt and buried

The alleged murderer of the woman and her daughter was not asked to plead when he briefly appeared before Koster magistrate JP Potgieter this week

Potgieter referred the teenager to Sterkfontein Hospital for 30 days' mental observation before postponing the case to April 21

In another case, police confirmed the body of Rampoto April Mooketsi, 80, who had been reported missing since March 7, was discovered with a broken neck and minus a hand in a ditch on Piet Roux's farm in the Lichtenburg area

Police spokesman Lt J Degenaar said the old man apparently broke his neck when he fell in the ditch. Degenaar said the man's hand was perhaps devoured by wild animals. Police said they could not link the two incidents. The Ventersdorp-Lichtenburg-Koster area, where the bodies have been discovered, is regarded as a rightwing stronghold

vaal black communities Their fears have been compounded by threats of vengeance from the rightwingers after a number of white civilians have been killed

Freddy Nthabiseng, a spokesman for the Kgotsong Empowerment and Legal Aid Centre (Kelac), and a para-legal working under lawyers for Human Rights, said farm labourers, in the western Transvaal and Free State are forever in a state of panic, especially at night

Nthabiseng said many cases of rightwing brutality on farm labourers had been reported to Kelac

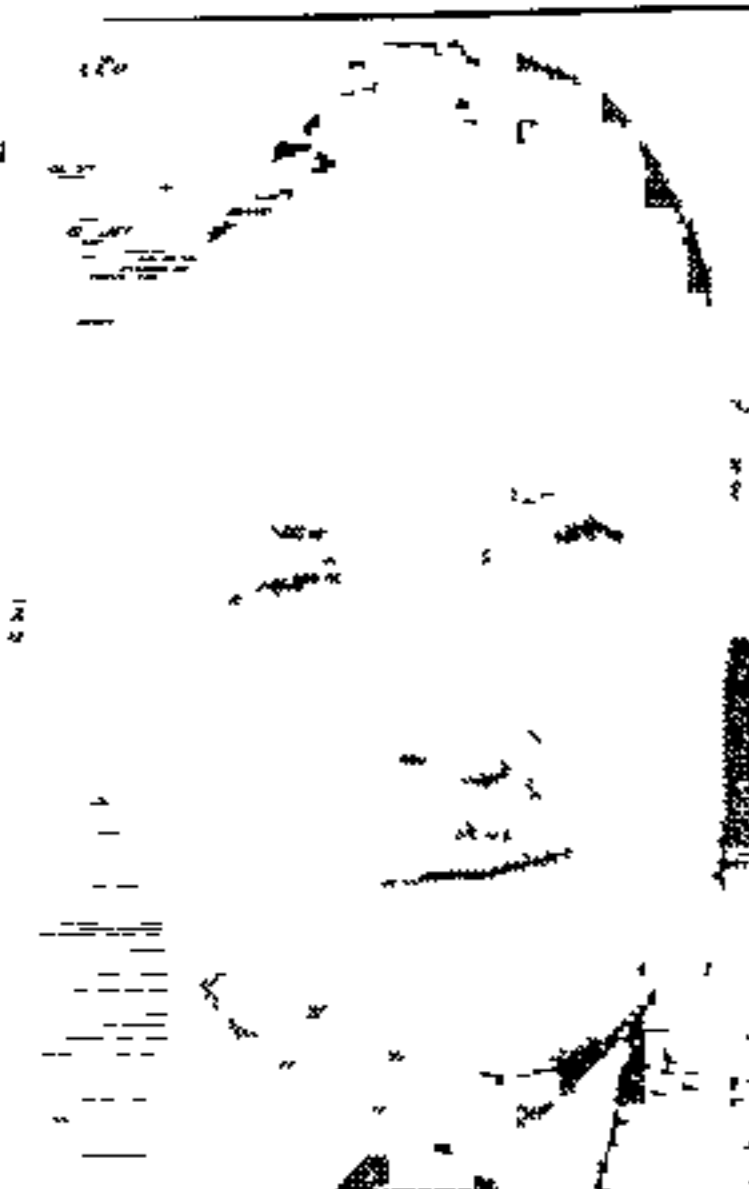
252  
28/3/93  
**Plea for legal clout**

THE Women's Bureau has appealed to the Minister of Justice to pass his Draft Bill on Domestic Violence into law as soon as possible

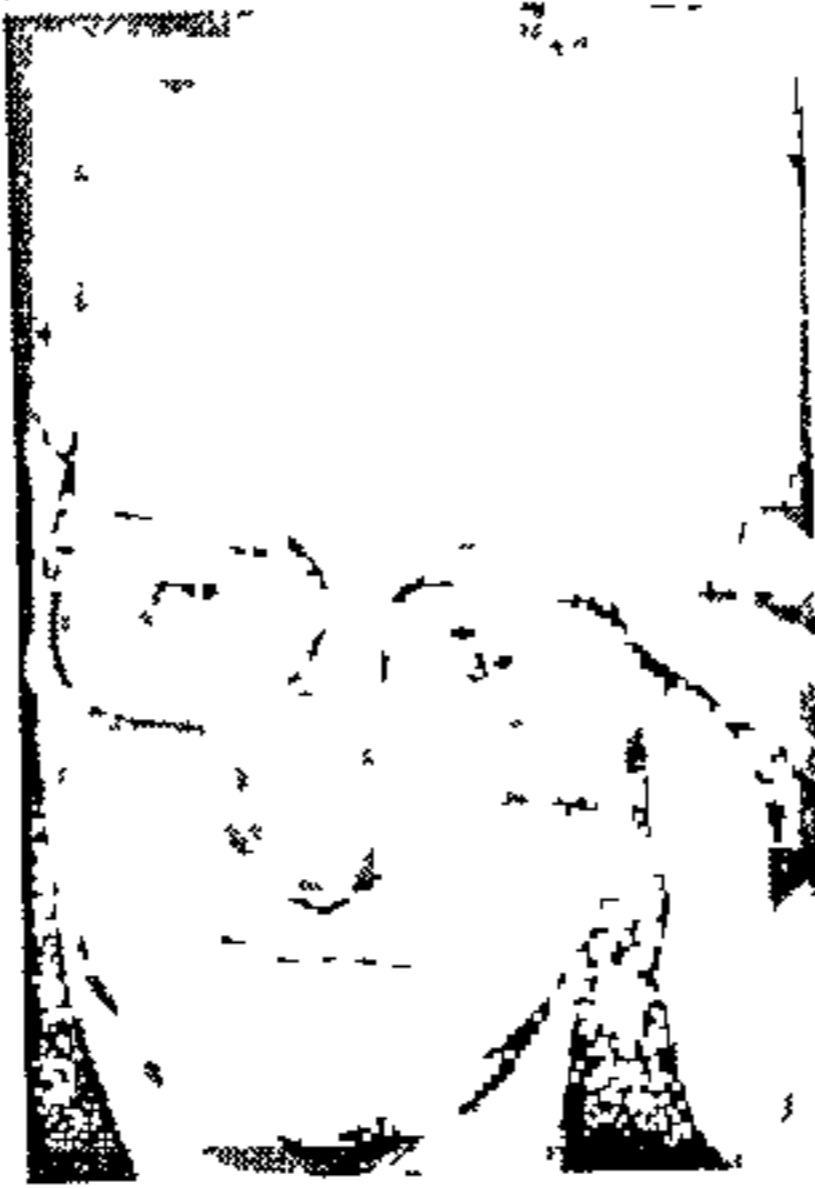
Domestic violence was increasing, the bureau said this week

It recommended that the Bill should include legislation on marital rape. S. (Time) (Cap. 16)

The bureau has sent a report to Minister of Justice Kobie Coetsee urging that regulations be drafted to make it possible for a "spouse cohabitee" to have immediate access to a magistrate at any time of day and night in urgent cases. Sapa  
2-8/3/93

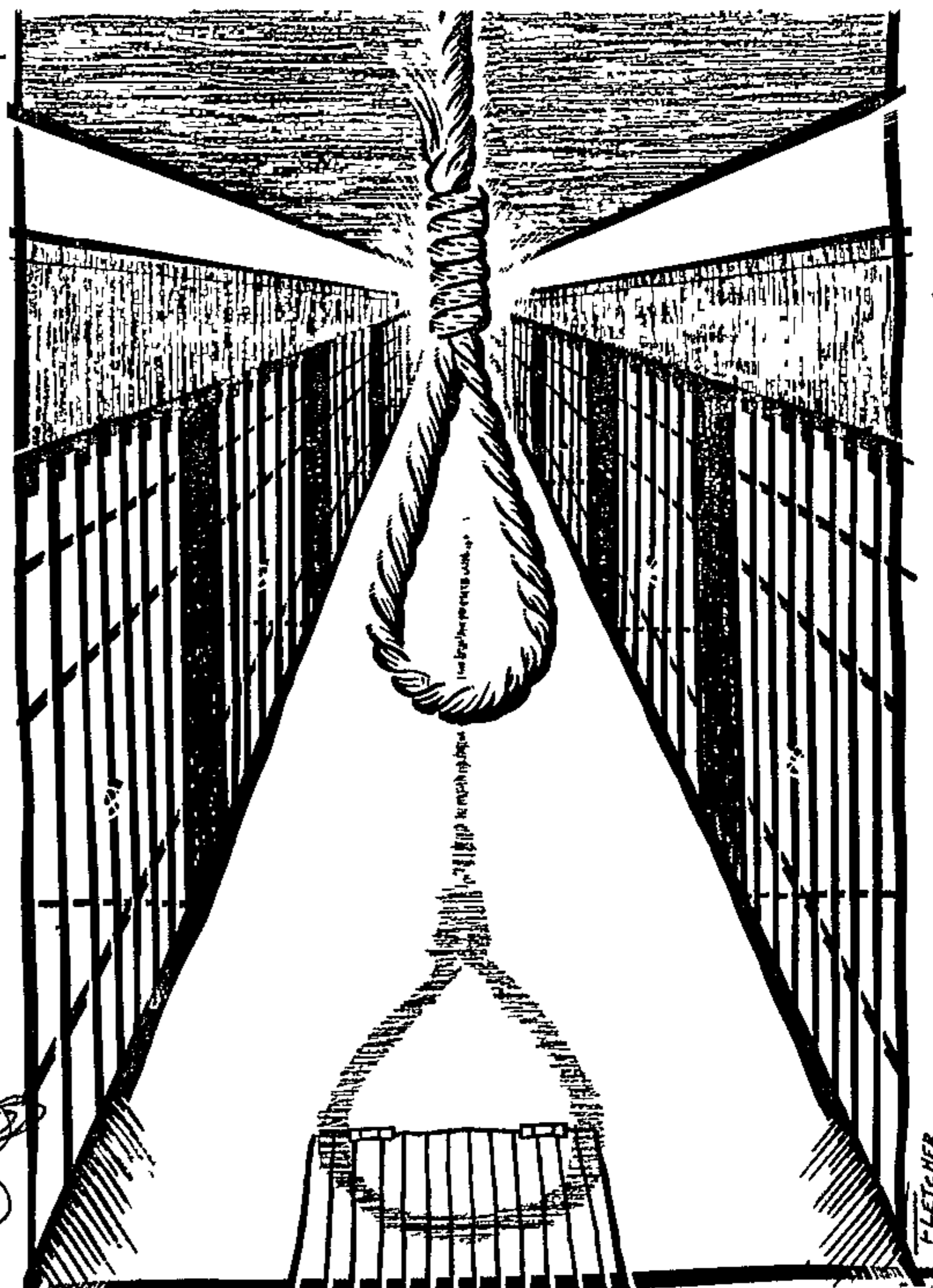


LEFT Pik Botha, who would not comment on which way he would vote, is known to oppose the death penalty



RIGHT Adriaan Vlok, former Minister of Law and Order, says he favours retaining the death penalty

By NORMAN WEST Political Reporter



A POLL taken this week showed that more than 200 out of 308 Members of Parliament would probably vote in favour of hanging as the ultimate form of punishment

And while most Cabinet ministers preferred not to disclose their preference for or against hanging in a Sunday Times poll, Law and Order Minister Hernus Kriel said bluntly "I will vote in favour of the retention of the death penalty"

His predecessor Adriaan Vlok echoed his sentiments "I am in favour of hanging," he said One of the few Cabinet members likely to vote against hanging is Foreign Minister Pik Botha who has privately expressed his opposition to the death penalty Mr Botha would, however, not comment this week on the way he would vote

President FW de Klerk on Wednesday expressed himself in favour of the death penalty, saying he believed it "should be part of the legal system and retained in a limited sense"

Mr de Klerk announced this week that MPs would be given a chance to vote for or against the death sentence in a forthcoming poll

However, almost all NP MPs polled at random — white, coloured and Indian — spoke in favour of a return of hanging

Conservative Party MPs were also unanimously in favour of hanging But among the DP members there was a difference of opinion

There are 308 MPs in Parliament. Of the 178 white MPs, 100 are members of the NP, 23 out of the 45 Indian MPs belong to the NP as do 45 out of the 85 coloured MPs This gives the NP a strength of 168 out of 308

With the almost guaranteed support of all 36 members of the CP voting in favour of hanging, the death penalty advocates in the NP will enter the voting with a "best scenario" of 206 votes

Mr de Klerk's first coloured Cabinet Minister Jac Rabie and chairman of the Ministers' Council in the House of Representatives, favours the return of executions

"I believe the moratorium on hanging has to a great extent encouraged hooliganism Society demands appropriate retribution for certain aggravating crimes Killers of innocent people and

# IT'S 'YES' FOR THE HANGMAN

252  
S/Times 28/3/93

vulnerable children, rapists and child molesters are among the kind of barbarians that deserve nothing less than the gallows," Mr Rabie said

On the other hand, the first Indian Cabinet Minister and chairman of the Ministers' Council in the House of Delegates, Dr Bhadra Ranchod, gave an emphatic "no" to hanging

Dr Ranchod, a nominated MP and internationally renowned jurist and founder member of Lawyers for Human Rights, said capital punishment was no deterrent for crime

"But no civilised society should tolerate people who kill innocent people Such barbaric behaviour deserves the harshest of punishments and that, in my view, should be imprisonment for life, not the death sentence"

Speaking in his special address to Parliament, Mr de Klerk said the "wave of cruel murder and homicide, the current disrespect for human life and the delays in the negotiation process" made it difficult for the government to maintain the moratorium on death sentences

Mr de Klerk said a motion would be introduced in Parliament shortly to debate the issue of whether the moratorium on the carrying out of executions should be extended, or terminated

NP members would be allowed a "free vote"

He promised intensive consultations with the other major political players on

the question, but the ANC has already stated it would scrap hanging when it came to power

Conservative Party spokesman on Justice, Mr Jurg Prinsloo, said the CP "as a party" was in favour of the death penalty The CP had not decided whether to allow its members a "free vote" or to vote "as a caucus"

Democratic Party leader Dr Zac de Beer said his members would also be allowed a "free vote" according to their individual consciences

"I know that many of my chaps are in favour of the abolition of the death penalty My view is that it should be retained only for special circumstances where the crime is an aggravated one"

DP justice spokesman Tony Leon said he would continue to oppose capital punishment

PLETNER

# The political capital in capital punishment

S/ Times 28/3/93

(252)

THE government's decision to allow MPs to vote on whether the present moratorium on judicial executions should continue is both utterly illogical and politically transparent

While I write from the point of view of someone opposed to the death penalty in principle, I would argue that the following facts illustrate the above point abundantly.

South Africa's execution rate skyrocketed from the late 70s to 1987, when 181 people were hanged in that year alone. In response to an international and domestic campaign, the government was forced to announce a moratorium on the carrying out of already-imposed death sentences from November 1989, pending a review of the law by Parliament.

## Reduced

Parliament duly amended the Criminal Procedure Act in 1990, reducing the number of capital offences and making several important procedural reforms which introduced some safeguards into the criminal justice system which precedes an execution.

The most important changes were that the death penalty would only be imposed if aggravating circumstances were found to be present, and that an automatic right of appeal was instituted.

The case of every prisoner on Death Row has been reviewed by senior judges in the light of these changes, and many sentences have been reduced to long terms of imprisonment as a result.

Those on Death Row who have exhausted their legal remedies and have been refused clemency by the State

## HUGH CORDER says that President FW de Klerk is cynically exploiting the current climate of fear for short-term political gain

President are, in a legal sense, now "eligible" for execution

However, when the Department of Justice let it be known (in late 1992) that hangings were to resume, the public outcry, particularly by the ANC, caused the Minister of Justice to deny such plans and to extend the moratorium, this time pending the coming to power of a transitional government.

Since November 1989, therefore, no one has been hanged at Pretoria Central Prison.

A further effect of the new criminal justice procedures is that the number of death sentences imposed by the Supreme Court has been drastically reduced: only 20 people were sentenced to death in the first seven months of 1992.

On the constitutional front, the government is engaged in negotiations with many parties, the most important of whom, the ANC, has firmly stated its intention of abolishing the death penalty in its draft bill of rights.

The lifting of the moratorium now will mean that people who were sentenced to death at least four years ago, and whose crimes have nothing at all to do with the present violence, will be hanged forthwith.

To make matters worse, several "political" prisoners

on Death Row have already been released — such as McBride and Strydom — while one person who is likely to be executed is Almond Nofomela, whose last-minute confessions in 1989 led to early exposure of death squad activities.

The continuation of the moratorium, on the other hand, will not prevent a judge from imposing the death sentence on anyone found guilty of any of the appallingly callous and brutal crimes of violence committed recently: it is only the execution of the sentence which will be postponed, pending a new constitutional dispensation which must finally take a stand on the continued existence of the death penalty.

These are the facts.

If one adds to these the following persuasive considerations, I find it hard to believe that any thinking MP could vote for the lifting of the moratorium.

## Tainted

It has never been proved that the death penalty has a deterrent effect in regard to crimes such as murder, most of which are committed in the heat of passion or a drug- or alcohol-affected state.

Even more so, then, it is extremely unlikely that anyone acting from a genuinely held political belief who is engaged in violent activities

will be deterred from cold-blooded murder by the existence of the death penalty, especially when such a person could possibly qualify for indemnity under some future political settlement.

Such people have decided on their course in advance and accepted the risk of death in the process of committing their heinous crimes.

Second, this decision is being made by an entirely inappropriate body. The tricameral Parliament is largely discredited and illegitimate, and the government is tainted by widespread financial corruption and alleged complicity in murderous deeds. That the government should act unilaterally in this way, without consulting its partners in negotiations, is astonishing.

## Cheap

Third, in the same speech, the State President admitted to being party to a Cabinet which developed nuclear weapons for use against the "enemy". Thus the same people who bewail the effects of political terrorism were prepared to cause horrendous human suffering on a grand scale in order to protect an unjust system.

The cynical exploitation of South Africa's climate of fear for temporary political gain by Mr de Klerk and his colleagues is transparent and sickening.

This government has always regarded human life as cheap. It would like us to believe that it has changed its views, with all its human rights trappings and talk of change. One remains utterly unconvinced.

□ Hugh Corder is Professor of Public Law at the University of Cape Town.

**KEN OWEN IS ON LEAVE!**

on Wednesday this week.  
Desiree said the SABC

person who had to  
Nxasa told City Press

quality of her English ne  
said "If you want more

screens, she will still be  
heard on Radio Metro



**ATTORNEY...Thekwane Moloto.**

# Attorney in landmark ruling

By **MONWABISI NOMADOLO**

*City Press  
28/3/93*

LEGAL history was made this week in a landmark judgement involving a well-known East Rand lawyer and officials of the Benoni Magistrates Court

The Pretoria Supreme Court ruled that a magistrate cannot be an attorney-general (to decide whether to prosecute

or not), a witness in the same case and also the presiding officer in any case of contempt of court

The appeal case was a sequel to a contempt of court summary conviction and R200 or 50 days imposed on attorney Thekwane Moloto on July 4 1991 while he was defending a criminal case





# Lawyers' fidelity fund won't pay out

S Times

28/3/93

(252)

By CARMEL RICKARD

THE multi-million rand lawyers' Fidelity Fund, intended to guarantee the safety of public money held in attorneys' trust accounts, does not always live up to expectations

Continuing problems experienced by Durban businessman Bernard Lancaster illustrate the shortcomings of the fund and the need for the law to be changed.

Under the Attorneys Act, the fund is used to reimburse clients who put their money in a lawyer's trust account, but lose their money because the attorney steals it.

The law says quite plainly that the fund will give money back in case of "theft". As the law stands, it does not cover losses because of

malpractice or negligence.

When he sold his Johannesburg home in May last year, Mr Lancaster arranged for Transvaal attorney Frank Meaker to see to the registration and hold the funds until transfer had taken place.

However, when he tried to get his money back after transfer, Mr Meaker was unable to deliver. He told Mr Lancaster he had paid out a large cheque from his trust fund on the strength of an incoming cheque, which was later returned by the bank

Expensive, year-long legal

correspondence has so far proved fruitless. Since he did not get the money from his previous house, Mr Lancaster had to take out a much larger bond than he intended, and must make greater monthly repayments than he can afford.

Mr Lancaster said that early on in the course of efforts to get his money back, his lawyers were informed by the Fidelity Fund that they would not pay him out because "theft" had not been involved.

The Transvaal Law Society also appeared unable to help Mr Lancaster. He even took the matter to the Supreme Court. The judge ordered Mr Meaker to pay Mr Lancaster's claim and referred the

matter back to the Transvaal Law Society, which has begun disciplinary proceedings against Mr Meaker

Now the Fidelity Fund has told Mr Lancaster he must begin steps to have Mr Meaker's estate sequestrated. A letter from the fund two days ago said that once Mr Lancaster had gone through this step the fund would consider reimbursing him the money which had been "stolen"

For Mr Lancaster, this is still unsatisfactory. It would involve further delays and costs, and at the end of the process there is no guarantee the fund would rule the money had been "stolen" and pay up.

Lawyers say Mr Lancaster's case illustrates the need for a change in the law. If guarantees to the public are to mean anything, the law must ensure the safety of a client's money held in trust, even if it is not stolen in the strict definition of the word

It must also ensure a client is not out of pocket trying to get the money back. In Mr Lancaster's case, a fund official could not give a guarantee.

He said the fund would "in all probability consider reimbursing Mr Lancaster all the legal costs he had incurred" since he first started trying to get his money back a year ago

## Views

However, he stressed the fund would only pay should the board determine that the money had indeed been "stolen"

Mr Lancaster said he did not know how much longer he could continue fighting the matter.

"I have run out of money and there are times I feel like giving up. My views on the legal profession in this country are, however, unprintable"

# Life in the shadow of the gallows

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S/Times 28/3/93

Sunday Times Reporter

A CLIMBING kapok, a weed notorious for strangling suburban plants, withers round coils of razor wire, ducks waddle round a little pond in sight of the gallows, and from inside Death Row the sound of men's voices well out in a deep, sombre hymn

They haven't sung as loudly and deeply since the last person was executed in 1989, when a moratorium was announced on hanging. This week, in response to Apla attacks against whites, President de Klerk said he would ask Parliament to vote on whether executions should resume

## Soccer

More than 400 people swell Death Row beyond its capacity in Pretoria. Other criminals sentenced to death are in maximum-security prisons around the country.

The field that Death Row inhabitants have been allowed to play soccer on for the past two years has been ploughed to make room for more cells.

Visitors to Death Row first go through a complex where the men are searched. Women leave handbags in lockers. Next to it are garaged the windowless vehicles that bring in maximum-security prisoners and which remove their bodies after hanging.

While prison guards watch from towers, visitors walk across a concrete expanse past neat gardens to the large wooden door with its polished brass knocker.

A warden unlocks the door and lets them into a waiting-room where other warders sit censoring prison mail and screen the Bibles, books and maga-

zines brought in for prisoners.

Once searched and their details noted, visitors pass through two other large barred gates to get to the visitors area, just below the gallows.

Under the kindly administration of Pretoria maximum-security prison's present commander, Major C Steynberg, prisoners have been able to get reading material other than the Bible. They have been allowed to play soccer, watch videos and go to literacy and numeracy classes first started by political prisoners and now run by warders — more than 95 percent of the inmates on Death Row have had little or no schooling.

Thabo, 23, is one such prisoner. He came to Death Row in June 1986. Originally from the Eastern Cape, he was a car mechanic who was approached by two men to drive them to a suburb.

One man had apparently worked for the woman whose house they planned to burgle. Thabo was instructed to wait in the car. The men disappeared into the house and murdered the woman.

## Accessory

Not long after, Thabo, who says he did not know of the events inside the house, was arrested and charged as an accessory to the murder, receiving the death sentence along with the other two.

Thabo is confused by the recent turn of events. He asks: Is it just the whites who are going to vote, or will the ANC vote too?

When told it is only the whites, coloureds and Indians in Parliament who could vote, he hung his head and groaned.

# SA AMNESTY GROUPS LAUNCHED

By CARMEL RICKARD (252)  
ANGELS or devils? Amnesty International has taken on super-human proportions over the years

But this week it appeared in human form. Two staff members from the international secretariat in London arrived to inaugurate three fully fledged Amnesty groups, the first such groups in this country.

The Amnesty committees in Port

Elizabeth, Durban and Maritzburg may now issue statements in the name of the organisation and will play a full part in world-wide Amnesty activities "Pre-groups" in Cape Town, Johannesburg, Pretoria and Pietersburg are working towards that status. During their visit, Kenyan Joseph Gitari and Sara Hagel from England will meet all seven groups

Mr Gitari said it had not been possible to set up groups in this country until now because political repression would have made it difficult, if not dangerous, for committees to operate. *STimes 28/3/93.*

Local Amnesty groups will campaign against the death penalty, deaths in police custody and extra-judicial executions.

# 'Killers want us to bail 'em out of jail!'

By FRED KHUMALO

RESIDENTS of eKwandeni, near Hammarsdale, are being forced to raise R36 000 towards bailing out 18 members of a "people's court" charged with murder

But the residents of the informal settlement outside Mpumalanga township are not keen on the idea of securing the release from prison of "these people who will be murdering us tomorrow in the name of justice and order in the area"

The 18 people are part of a group of 20 arrested for the February 21 murder of Jabulani Sithole.

Two members of the people's court are out on R2 000 bail each, but the rest are behind bars as their families have failed to raise bail money

## Crack down

"Now the ones that are out are going around with their friends, knocking on doors and asking us to contribute money towards the bail," said a resident

Residents claim members of the "people's court" are above the law and have gone unpunished when caught breaking into people's houses

Residents have reported the matter to the KwaZulu Police in Mpumalanga and they have promised to crack down on the "people's court"

Jabulam Sithole was murdered

## Knocking on doors to collect the cash

at 3 45 pm in full view of the township, allegedly by members of the "people's court".

Sentences at the "people's court" range from a few lashes with sjamboks for minor offences such as theft, to death by stabbing for murder or rape

It is not clear what Sithole's "crime" was

The "people's court" has been blamed on the existence of a group of youngsters who call themselves "comrades" who have taken upon themselves the responsibility to maintain "law and order" in the settlement.

While Mpumalanga burned as a result of Inkatha-ANC violence four years ago, eKwandeni remained unscathed

Now that Mpumalanga has re-

turned to relative peace following the burying of the hatchet between the ANC and Inkatha - thanks to ANC chairman Meshack Hadebe and his Inkatha counterpart Siphon Mlaba - residents are guarding the peace jealously

ANC chairman Meshack Hadebe said it was sad to see people trying to stir trouble in peaceful eKwandeni. He added that youngsters who called themselves "comrades" were not engaging in their activities with the blessing of the ANC.

"These perpetrators of shameful deeds are criminal elements who benefit from disorder and chaos," said Hadebe.

He said the ANC did not approve of "people's courts"

Hadebe urged people to report to the ANC branch executive committee any incidents of harassment.

He said people should not pay money to people who were not sanctioned to collect funds from the community by the ANC

"It is on very rare occasions that we appeal for funds from the community. Only people hand-picked by the executive committee and carrying letters signed by us can collect funds," he said

The local ANC branch executive committee was due to have a meeting with the community on the "people's court"

CP Press 25/3/93

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■ RENEGADE'S RIGHTS

Don't tangle with the 'boss':

By Takalani Madima

**T**HE NATIONAL UNION of Mineworkers is reported to have expelled 21 renegade members some time late last year. Does a trade union have the right to expel a member? Can a union say "We do not want to associate with you because your unbecoming conduct is detrimental to our interests". The principle source of the right of association is the International Labour Organisation. Other sources are the Universal Declaration of Human Rights, International

# Unions draw line for members

Covenant on Social Economic and Cultural Rights International Covenant on Civil and Political Rights Regional instrument for our continent is the African Charter on Human and People's Rights known as the Banjul Charter

Human rights' instruments as they are called, guarantee the workers' right to associate with like-minded people in an association for the protection of economic and other interests

**Freedom of association**

It is illegal to forbid workers to belong to a trade union or to punish them for doing so. There are certain categories of workers whose deprivation of this right remains compatible with international labour standards.

What concerns us in this article is whether a worker, who the law of the land has accorded the right to join a trade union, can be lawfully denied that right at the insistence of fellow workers.

The Num case is a good illustration, so is that of Cheall versus the United Kingdom. Mr Cheall was expelled from his trade union (Apex) because he had joined it without getting a clearance from his former union (ACTSS). The expulsion was in accordance with the Bridlington Principles (to which both unions are signatories) which states that "No one who is or has been a member of any affiliated union should be accepted into membership in another union without inquiry of his present or former union".

Cheall challenged his expulsion in a civil action on the grounds that it was contrary to the European Convention on Human Rights which states that "everyone has the right to freedom of assembly and freedom of association with others, including the right to form and to join trade unions for the protection of his interests".

**Allowed to appeal**

The tribunal ruled against Cheall. He was allowed to appeal. Apex counter-appealed and the House of Lords decided that "freedom of association can only be mutual, there can be no right of an individual to associate with other individuals who are not willing to associate with him".

Cheall took the matter to the European Commission on Human Rights. They arrived at the same conclusion, reiterating that the right to join trade unions was a special aspect of freedom of association which protects first and foremost against state action. It said that the right to form trade unions involved the right of trade unions to draw up their own rules.

This right is also protected by Convention 87 of the ILO. Trade unions therefore remain free to decide, in accordance with their own rules, the question concerning admission to, and expulsion from the union.

The Num constitution states that "should a member, in the opinion of his branch committee, conduct himself in a manner detrimental to the interests of the union and its members, his membership and benefits may be suspended or he may be expelled from the union".

The right to belong to the trade union of one's choice is not absolute. Freedom of association is not intended to benefit just the individual but the collectivity as well.

As the Num constitution points out, before an expulsion can be effected an inquiry is held which affords the member the opportunity of defending himself.

The constitution makes provision for appeal.

● The writer is senior research officer, labour, Centre for Applied Legal Studies, University of the Witwatersrand

## FACTS ABOUT BTH BUS TARIFFS



Since Bophuthatswana Transport Holdings (BTH) announced its tariffs increase of 15% effective from 29 March 1993, many inquiries were received pertaining to how much bus tickets really cost.

The following is a number of examples of prices of 5 day weekly tickets. The prices represent the portion that the passenger pays after subsidy has been calculated.

**1. HAMMANSKRAAL AREA**

Botlhaba Tswana Transport:  
Telephone: (01464) 78360

All prices are from the relevant zones to the centre of Pretoria (Central Business District)

	5 Day	Per Trip	Per Day
Zone 1: Temba/Bosplaas	R20,40	R2,04	R4,08
Zone 2: Stinkwater/Makapanstad	R26,90	R2,69	R5,38
Zone 3: Haakdoornlaagte/Kgomo-Kgomo	R27,70	R2,77	R5,54
Zone 4: Pankop/Bultfontein	R31,50	R3,15	R6,30
Zone 5: Skipadfontein/De Putten	R32,90	R3,29	R6,58
Zone 6: Ngobi/Vergelegen	R31,70	R3,17	R6,34

The following prices are for trips to Brits.

	5-Day	Per Trip	Per Day
Zone 1: Haakdoornlaagte/Bultfontein	R30,30	R3,03	R6,06
Zone 2: Lekgonyane/Jericho	R24,20	R2,42	R4,84
Zone 3: Maboloka	R23,60	R2,36	R4,72
Zone 4: Letlhabile	R20,80	R2,08	R4,16
Zone 7: Ga-Rankuwa	R20,70	R2,07	R4,14
Zone 8: Bapong	R23,10	R2,31	R4,62
Zone 10: Hartbeesfontein	R25,30	R2,53	R5,06

**3. MABOPANE AREA**

Batswana Gare Transport:  
Telephone: (01461) 23311

The following prices are for trips to Pretoria CBD.

	5 Day	Per Trip	Per Day
Zone 9: Klipgat/Madidi	R30,40	R3,04	R6,08
Zone 10: Shakung/Molletswane	R33,20	R3,32	R6,64
Erasmus	R23,60	R2,36	R4,72

The following is for bus trips to Valhalla

	5-Day	Per Trip	Per Day
Zone 1: Whiston old	R33,40	R3,34	R6,68

The eastern Cape, transformed into a time-bomb because the Government had failed to meet demands by residents, exploded in the 1980s — sending shivers down the spines of the country's securocrats

Something had to be done, they realised, whether overtly or covertly, to crush the massive anti-apartheid campaigns staged in the townships of Langa in Uitenhage, New Brighton, Zwide and Kwazakhele in Port Elizabeth, and Limgelhe in Cradock

It was the epoch that saw the mushrooming of United Democratic Front (UDF) affiliated student, civic, youth and teacher organisations — filling the void left by the banning of the ANC in 1960

In Port Elizabeth, protests to back short- and long-term demands by residents reached a head in 1983 with the formation of the Kayamandi (now Ibhaya) Town Council (KTC), led by the controversial Tamsanga Linda, now one of Ciskei military leader Brigadier Oupa Gqozo's advisers  
Linda once enraged blacks in Port Elizabeth by taking over

# Goniwe inquest could shed light on F Cape cauldron

Star 29/3/93

The Goniwe inquest resumes in Port Elizabeth today. BRIAN SOKUTU takes a look at the seething cauldron that was the Eastern Cape in the '80s, during the time of Matthew Goniwe.

an eight-roomed house in Veeplaas, after its previous occupant Alice Mavela, a widowed mother of seven, was evicted

Under pressure from residents, Linda, the man who found himself always at loggerheads with activists, was forced to leave Port Elizabeth in 1986 — where he was under constant police guard

Bodies such as the Port Elizabeth Black Civic Organisation (Pebeo) led by Gqadawuli Godolozu, Champion Galela and Sipho Hashe, were formed to

air grievances on matters such as rent hikes and inadequate services

Pebeo implemented street and area committee structures in the region — an initiative by the late Cradock civic leader Matthew Goniwe, who was found murdered on June 27 1985 with three fellow UDF activists Sicele Mhlawuli, Sparrow Mkonto and Fort Calata

The street and area committee structures, dubbed by security policemen "alternative structures of the ANC and the

SACP", held house meetings and helped residents to join civic organisations

The three Pebeo leaders vanished without trace a month before the killing of the four Cradock activists. Then came President P W Botha's declaration of a state of emergency

Pebeo president Godolozu, secretary-general Hashe and organising secretary Galela disappeared on May 8 1985 when they went to meet an overseas visitor at the HF Verwoerd Airport, now renamed Matthew Goniwe Airport by ANC supporters in the area

In April 1982 Congress of South African Students (Cosas) leader Sipho Munkhulu and fellow activist Topsy Madaka disappeared without trace.



Matthew Goniwe . . . Inquest reopens today.

Munkhulu was suing the then police Minister Louis le Grange for R150 000 in damages, after a five-month solitary confinement detention in terms of Section 6 of the Terrorism Act

He started complaining of pains in his feet and stomach on the day of his release on October 20 1991. He was paralysed two days later. With his hair falling out, Munkhulu was rushed to Livingstone Hospital in Port Elizabeth, from where he was later transferred to Groote Schuur

Medical tests showed that he had been poisoned with thallium, a chemical substance

On April 14 1982 Madaka drove Munkhulu, who was in a wheelchair, for treatment to Livingstone Hospital. It was the last time the two men were seen alive

New light on the disappearance of Munkhulu was shed in 1990 by former police hit squad commander Dirk Coetzee, on the eighth day of the Harms Commission of Inquiry, sitting in London. Coetzee testified that Munkhulu was "exterminated" by the security police

With the Goniwe inquest resuming in Port Elizabeth today, there is hope in the eastern Cape that what really happened to all these activists will eventually be revealed



Star MOVE

**NEWS** Retired army waits for indem

# State Security officials set to testify

*Sowetan 29/3/93*  
TWO former State Security Council officials will testify in the Goniwe inquest when it resumes in the Port Elizabeth Supreme Court today

They are Adamus Stemmet and Brigadier Kiewiet Geldenhuys, both formerly from the secretariat of the State Security Council

A third witness, J Vermaak, formerly of the Department of Education and Training, is also expected to take the stand

The acting attorney-general for the Eastern Cape, Mike Hodgen, said that retired army officer, Colonel Lourens Du Plessis, who was expected to give evidence, was still waiting to hear whether he would be given indemnity

■ Goniwe inquest resumes today: (252) ~~304~~

and would not, therefore, testify yet.

The witnesses will be giving evidence in an inquest on Cradock activists Matthew Goniwe, Ford Calata, Sparrow Mkonto and Sicelo Mhlauhi who were murdered at the height of the civil unrest in the 1980s

Meanwhile, the ANC is planning a big march to coincide with the restart of the inquest. ANC regional media spokesperson Phila Nkayi said the march will be led by Steve Tshwete, a national executive committee member

The march is not intended to disrupt the court proceedings - ECNA

**NEWS** Expert does not remember message ● Teac

# Signal 'not destroyed'

Sowetan 30/3/93

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■ Goniwe witness believes controversial signal still exists:

IT was unlikely that the controversial Goniwe signal message was destroyed, a former State Security Council communications expert told the Port Elizabeth Supreme Court yesterday.

Testifying at the re-opened inquest into the June 1985 slayings of Matthew Goniwe and three other United Democratic Front activists, Mr Adamus Paulus Stemmet said he did not believe the signal had been destroyed.

Stemmet, now retired, was head of strategic communications in the secretariat for the State Security Council at the time the signal was drafted.

He told the hearing that if the signal message had been destroyed an offence would have been committed.

Stemmet said he could not remember seeing the signal message.

He said if Major-General Frederik Janse van Rensburg, at the time on the Secretariat of the State Security Council, had given him the signal message he would have noted the language used and would have used it for training purposes only.

## Dramatic language

Referring to the wording used in the signal, Stemmet said the army used "dramatic language" in some of its messages.

He said if such language was encountered in messages it had to be brought to his attention. Stemmet said it was his task to conduct training to ensure that such language was not used in future.

He said he saw the signal in the *New Nation* newspaper and that the contents were familiar. However, he did not remember if he saw the original signal himself or whether he was just told of its contents. Stemmet said Janse van Rensburg told him about the signal but did not give it to him. He said he could not remember seeing the signal.

Commenting on earlier evidence by Janse van Rensburg that it was possible the message was left with Mr Stemmet, he said this was "unlikely", although the signal could have been in a file which passed his desk.

However, Mr Stemmet said he did not remember when he came across the contents of the message. — *Ecna*



STAR 3/13/93

# Police epilepsy death claim untrue — mother

By Abdul Mikazi (252)

An ANC Youth League member who allegedly died of an epileptic attack while in police custody, did not suffer from epilepsy, his mother, Maria Phiri (40) told an inquest in the Oberholtzer Magistrate's Court yesterday.

Nixon Phiri (16) of Khusong, Carletonville, died on January 16, 1990 while being interrogated at the Welverdiend Police Station.

His mother said a police statement that she had admitted that her son suffered from epilepsy was untrue. She had

not made any such statement.

A witness arrested with Phiri, Ishmael Booysen (22) told the court he had seen three policemen assaulting Phiri. They had kicked, punched and shocked him.

Pathologist Jonathan Gluckman testified earlier that he found evidence of bleeding in Phiri's inner brain, abrasions on his head, multiple minor abrasions on his body and lungs congested with blood, which could have been caused by manual strangulation.

The inquest continues.

Star 3/18/92

# Goniwe signal would have met with objections

By Helen Grange (252)

**PORT ELIZABETH —** The notorious signal ordering the "permanent removal" of eastern Cape activist Matthew Goniwe was never placed before a committee investigating Goniwe because there would have been vehement objections and queries, George Bizos SC told the re-opened inquest yesterday.

Cross examining a former Department of Education and Training (DET) official Johannes Vermaak, Bizos pressed the question of whether the signal's content had been mentioned at a committee meeting held within hours of the signal being sent from Eastern Province Command on June 7 1985.

## Bodies

Twenty days after the signal was sent for the attention of General Johannes van Rensburg of the State Security Council (SSC) Secretariat, Goniwe, Fort Calata, Sparrow Mkhonto and Sicelelo Mhlawuli were found murdered on an eastern Cape roadside, their bodies mutilated.

Van Rensburg testified earlier this month that he had verbally related the signal to the committee, chaired by a Pieter Geldenhuys and attended by the then Deputy Law and Order Minister Adriaan Vlok.

He said he had told the committee of the security establishment's conviction that Goniwe should be detained on a long-term basis, which he insisted was what the words "permanent re-

moval" meant. The reason he had not tabled the actual written signal — which was based on a telephone conversation he had with former EP commanding officer General "Joffel" van der Westhuizen that morning — was because it only arrived at his office more than a week later, Van Rensburg said.

Vermaak, testifying that he had attended the Geldenhuys committee meeting on June 7 with his superior, former DET secretary Jaap Strydom, said he could not recall whether any suggestion of Goniwe's detention was made.

Asked how he would have reacted if the signal was tabled, Vermaak said he and Strydom would have strongly objected and questioned what it meant.

"That's precisely why it was not placed before the committee," Bizos retorted.

Vermaak, pressed on how he would have interpreted the words "permanent removal" finally conceded his most likely interpretation would have been "to kill".

He added, however, that he was, as a former education official, not familiar with military terminology.

Vermaak said the DET's standpoint at the time on the Goniwe problem was that he should be re-appointed to the Cradock teaching post, he had been suspended from. This, they argued, would have solved the crippling school boycott which resulted from his suspension.

# Military signal had sinister meaning

■ Top security official testifies at Goniwe inquest:

*Sawefam 3/3/93*

*252*

THE MILITARY signal calling for the "permanent removal from society" of Matthew Goniwe and two other political activists had a sinister meaning if read in its entirety, the former head of the State Security Council's secretariat of strategic communication, Adamas Stemmet, said in Port Elizabeth yesterday.

Stemmet was giving evidence in the inquiry into the deaths of Mr Goniwe and three other United Democratic Front activists

Stemmet said if the author of the

signal had meant anything sinister, he did not understand why it had been sent to the SSC which did not deal with such matters and had no executive authority

He did not believe it was a recommendation that Goniwe and the others be killed. Stemmet conceded that his department's function sometimes included spreading disinformation

Communication committees of joint management centres had also been involved in discrediting certain organisations by spreading disinformation, he said. *Sapa*

Star 3/3/43

# Respect life, says Camerer

CAPE TOWN — All political leaders involved in negotiations had to develop a human rights culture and respect for the right to life among their supporters, Sheila Camerer (NP Rosettenville) said yesterday.

Speaking during the first reading debate on the Budget in Parliament, she said parties who did not support human rights and the right to life should be placed beyond the pale.

(252) The ANC had suspended the armed struggle, but ANC leaders had to explain emerging evidence of continued MK complicity in political violence and to condemn such involvement.

The Azanian Peoples Organisation and the Pan Africanist Congress had to seriously reconsider their continued commitment to the armed struggle. — Sapa

## Legal bodies support ANC call on judges

**GERALD REILLY** 252  
 PRETORIA — Legal authorities yesterday supported the ANC's call for more black judges but stressed the dangers of an affirmative action programme which ignored essential qualifications and experience.

The ANC this week condemned the present system of appointments to the bench as "racist, sexist, illegitimate and non-representative".

Johannesburg Bar Council chairman Wim Trenchgrove said the council was encouraging blacks to obtain the needed qualifications to join the ranks of advocates as a background for possible appointment to the bench.

He said the number of blacks in the law profession had not kept pace with the substantial black student component at law schools.

Association of Law Societies (ASL) director-general Andre van Vuuren said part of the solution lay in granting attorneys the right of audience in the Supreme Court.

# Concern over new child labour laws

*Bloom 31/3/93*  
 THE practice of child labour was on the increase in SA and proposed new legislation threatened to exacerbate the problem, the Network Against Child Labour claimed yesterday.

Jackie Loffell, the organisation's convenor, said proposed regulations covering the issue of labour in the Child Care Act would further entrench and expand exploitation.

She said a storm had broken between the Department of Health and the network, which had been fighting to block the practice and the introduction of new clauses in the Child Care Act.

The network comprises a wide range of welfare, legal, labour and church bodies.

In terms of guidelines approved by a working group, convened by the Department of Health, employers will be permitted to hire children aged 12 to 15 years for pocket money, subject to a set of restrictions on hours and conditions of work.

But the network has contested the clause on the grounds that it would allow too many loopholes.

The guidelines were unenforceable and the addition would exempt sectors, such as supermarkets, which had been barred from employing children under 15, Loffell said.

The organisation recently disassociated itself from the working group because, despite its objections, the controversial

**KATHRYN STRACHAN**

clause was endorsed.

By far the most exploited were children working on farms, said Loffell.

"Farm children who stood to profit by the recent extension of industrial legislation to cover agriculture, will, if the guidelines come into force, remain completely vulnerable."

The SA Agricultural Union had been actively lobbying government to retain the practice, she said.

A Health Department spokesman said he could not comment because the matter was sub judice.

Loffell said it was difficult to establish the extent of the problem because employers, parents and children were reluctant to report the practice.

But in 1985 the International Labour Organisation reported the figure to be at least 60 000 and it had grown since then.

She said the issue of child labour was complicated, because many families depended on the wages brought in by children. The network was campaigning for adequate social security grants so that families would not have to depend on child labour, as well as universal free education.

Aside from being allocated on racial lines, social security grants were in practice difficult to obtain and only available to the destitute, she said.

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## IX LIMITED

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### FINANCIAL RESULTS for the year ended 31 December 1992

ip in respect of the year ended 31 December 1992 are as follows:

Eighteen months ended 31 December	
1992	1991
(673)	(8 624)
2 763	2 698
3 436	(11 322)
70	(275)
3 506	(11 047)
—	(1 431)
3 506	(9 616)
896	(8 211)
2 610	(17 827)
(31,2)	(87,4)
1 250	11 000

Consolidated balance sheet		
ROCO's	1992	1991
<b>Capital employed</b>		
Shareholders' interests	17 827	20 493
Long-term liabilities and provisions	10 089	10 419
	27 916	30 912
<b>Employment of capital</b>		
Land and buildings	12 000	12 000
Fixed assets	14 410	16 319
Current assets	16 708	14 985
Current liabilities		
- interest bearing debt	6 169	5 156
- other	9 033	7 239
	15 202	12 395
Net current assets	1 506	2 593
	27 916	30 912
Net asset value per share (cents)	158,5	182,2
Number of shares in issue (OOO's)	11 250	11 250

## SAP reassigns manpower to aid operations

**GERALD REILLY**

PRETORIA — Police would strengthen their operational manpower by transferring personnel from purely administrative duties to the operations division, police commissioner Gen Johan van der Merwe said yesterday.

He said the basis of a plan to use manpower more efficiently was to achieve a clear division between operational and administrative activities.

Operational division members engaged in purely administrative work would be transferred back to the operational division.

Civilians would take their place. The programme also applied to retired members re-employed as temporary workers. They were given the opportunity of transferring to civilian posts.

# Goldstone inquiry told of poor police work

B/DAY 3/13/93 (252)

ADRIAN HADLAND

PRETORIA — As a detective-constable specialising in politically motivated crimes, Thabo Masilo knew he was a prime target

The policeman told the Goldstone commission yesterday he always kept a hosepipe rigged to a tap in his Sebokeng house — in case someone decided to lob a petrol bomb through his window.

On June 7 last year the expected happened and Masilo was able to extinguish the fire with the hosepipe. However, damage of about R9 000 was caused and Masilo moved to a flat in Vereeniging.

In evidence to the commission earlier this year, Brig Stefanus Abrie told the Goldstone inquiry into attacks on police that the private homes of 98 SAP members and 61 police stations had been attacked with stones, petrol bombs or firearms between July and December 1992.

During the same year, five police officers were killed in their homes, two dying after the structures were set alight.

But evidence given by a number of police officers from the Vaal Triangle yesterday suggested that investigations in the violence-torn region — even into the

deaths of colleagues — were being hindered by confusion, bureaucracy and an environment not conducive to normal police procedures.

Const Stephen Matshidso was assaulted and then set alight in March last year, allegedly by members of a self defence unit in Sharpeville.

As in other investigations mentioned yesterday, the docket was passed from one policeman to the next with little progress.

When a suspect, Shadrack Chaka, did eventually appear in court, the investigating officer was elsewhere and Chaka was released. No bail was required and Chaka disappeared.

Committee chairman Gert Steyn described the case as a "mess" and he urged police lawyers present to look into the matter.

ANC identification cards produced by suspects were also rarely checked or copied for verification, the commission heard, while key witnesses were permitted to give untaped oral evidence in lieu of signing affidavits.

# Signal 'most likely' a death order

**PORT ELIZABETH** — The most likely interpretation of the signal recommending the "permanent removal from society" of Matthew Goniwe and two other United Democratic Front campaigners was that they be killed, a former senior Department of Education and Training official said yesterday.

Former DET community communications deputy director-general Johan Vermaak told the Port Elizabeth Supreme Court inquest into the killing of Goniwe and three other political campaigners the signal could also be interpreted to mean the men should be permanently jailed or put under house arrest.

Vermaak participated in a task group in June 1985 appointed to decide whether Goniwe should be reappointed to his post as a teacher in Cradock.

Vermaak said Goniwe was regarded in security circles as an enemy of the state and they seemed opposed to his reappointment. However, the DET had regarded his reappointment as central to defusing the unrest situation in Cradock and the rest of the eastern Cape.

Children in Cradock had boycotted their schools for more than 15 months. The task group, which included DET, SADF and SAP members had unanimously agreed to

recommend Goniwe be reappointed. George Bizos SC, for the victims' families, told Vermaak the signal was sent from Eastern Province Command to the State Security Council (SSC) secretariat for presentation to the task group.

According to a former witness, head of the secretariat's strategies branch Gen Johannes Janse van Rensburg, the signal had never been presented to the group because it had somehow been delayed. By the time it arrived the group had already completed its task.

Vermaak said although he was not familiar with military terminology the most likely interpretation was that it was a recommendation that Goniwe, his brother Mbolelo and Fort Calata be killed. He said if that had been the document's intention he and his DET colleague Jaap Strijdom would have objected strongly.

Bizos said he would submit to the court that this was the reason why the document had never reached the task group.

Earlier a former head of the secretariat's strategic communications branch Adamus Stemmet also conceded the signal could have a sinister meaning. But he denied it could have been a recommendation that the three be killed as the SSC did not deal with such matters. The signal, allegedly sent by the then head of

Eastern Province Command Brig Joffe van der Westhuizen to the SSC on June 7 1985, stated the permanent removal of important people like Matthew and Mbolelo Goniwe and Calata could lead to national reaction as had happened when three Port Elizabeth Black Civic Organisation officials had disappeared.

The three Pecco officials referred to in the signal, Gagawali Godolozzi, Siphso Hashe and Champion Galela, are still missing.

Van der Westhuizen, now Military Intelligence head, has denied knowledge of the signal. Glenn Goosen, SC for former Eastern Province Command staff officer and alleged author of the signal Col Lourens du Plessis, said Du Plessis would testify that it was a recommendation they be killed.

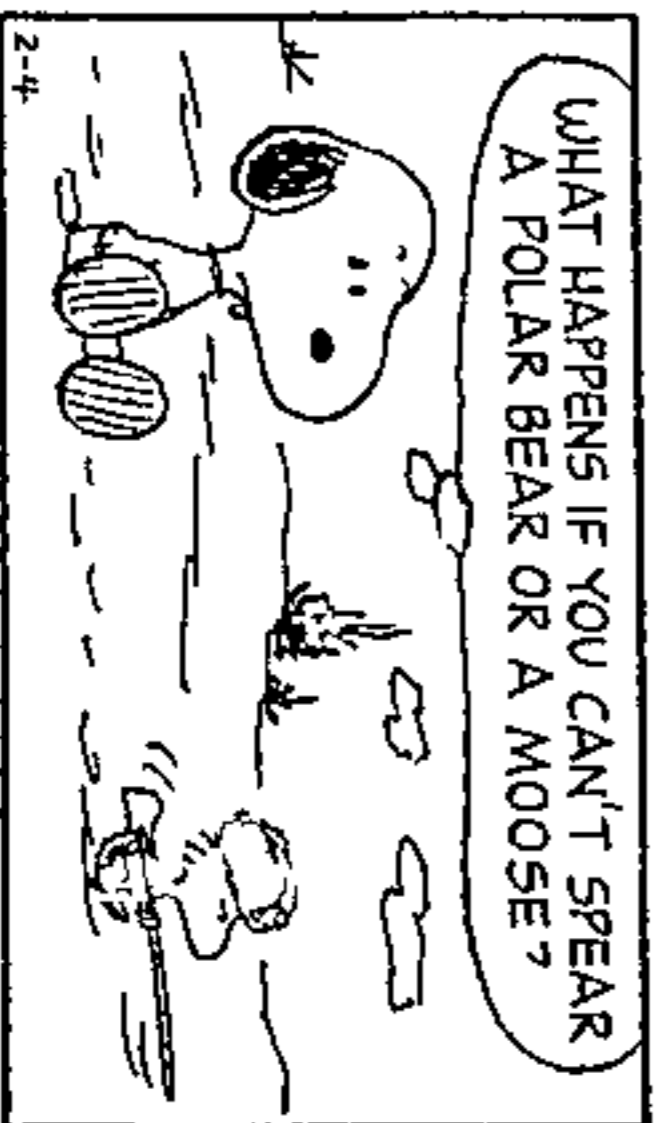
"I would say he is not telling the truth," replied Stemmet. Stemmet told the court he had not felt morally obliged to inform those investigating the death of Goniwe and the others that the signal had existed.

Goniwe, Calata, Siceo Mhlawuli and Sparrow Mkonko were killed 20 days after the signal was sent.

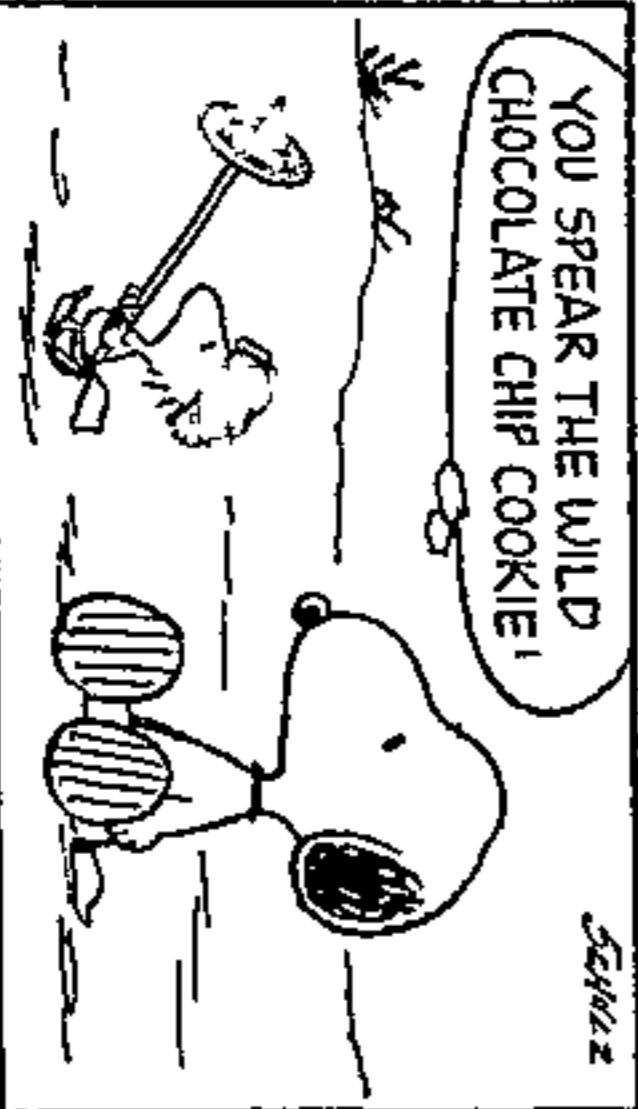
Three years later when an inquest was held in 1989 Stemmet had still not considered it his duty to make his knowledge public — Sapa

## PEANUTS

By Charles Schulz



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## Viva's R15m helping hand

**THE VIVA Trust** had given more than R15m to welfare organisations since its formation in 1991, National Council for the Physically Disabled SA chairman Willem Steenkamp said in Johannesburg yesterday.

Speaking at the handing over of R520 000 to 37 beneficiaries, Steenkamp said Viva Trust was "principally run by the disabled for the disabled and consequently very little money is lost along the way".

A trust statement said that the organisation had allocated R2,3m to national welfare organisations yesterday.

National Council for the Physically Disabled in SA chairman Willem Steenkamp puts the finishing touches to cheques worth R520 000 which were distributed to welfare organisations yesterday.

Picture ROBERT BOTHA



# Court hears debate over two words

■ The meaning of 'remove' and  
'permanent': *Sowetan 11/4/93*

THE definition of the words "remove" and "permanent" were again the focus of evidence led at the Goniwe inquest yesterday

Counsel for the SADE, Mr Anton Mostert, SC, offered no less than four dictionary definitions of the word "verwyder" (remove) during his cross-examination of Mr Johannes Vermaak, former DET deputy director of community communications

Mostert's submissions were challenged by Mr George Bizos, SC, counsel for the families of Mr Matthew Goniwe and three other UDF activists, whose murders in June 1985 are being probed at the inquest

Bizos submitted that the controversial words "permanent removal" (from society) contained in the signal message must be read together

Mr Justice Neville Zietsman, who is presiding over the reopened inquest, asked Vermaak, a former Afrikaans teacher, what he would understand by an instruction that a pupil be permanently removed from a school

Vermaak said that this implied the pupil was to be expelled from the school and could not return — Pen



# I saw blacks being stabbed, court told

STAR 1/4/93

252

Four whites, who allegedly abducted three black men and killed two of them near the Arabie Dam in the north-eastern Transvaal more than two years ago, appeared in the Pretoria Supreme Court yesterday.

John van Heerden, a Groblersdal roads department employee, testified against three friends - security guards Louwtjie du Plessis (24), Fanie du Plessis (26) and Douglas Schwartz (29), all of Marble Hall.

The three, with their co-accused Herman Duvenhage, also of Marble Hall, have pleaded not guilty to charges of abducting Rickson Shurrinda, Diagwane Lloyd Ntsoane and Paswane

Fred Magashoa in Marble Hall in the early hours of November 29, 1991 and murdering Ntsoane and Magashoa by assaulting and stabbing them.

Fanie du Plessis, the only one to make a statement, said he had seen Schwartz stabbing two black men but had played no part in the abduction and murders.

He told the court he could do nothing to help them as he was afraid of Schwartz, who was always armed and aggressive

Van Heerden said he and the four accused had been drinking at the Marble Hall Hotel. They later drove to a shebeen, where he heard a shot being fired.

He admitted he had slapped some of the black men who came to his vehicle after the shot was fired.

"After this we drove back to Marble Hall. Outside a bottle store I saw Louwtjie, Douglas and Herman loading three blacks into the back of their bakkie. Douglas climbed into the back with the blacks

"We drove to the Arabie Dam. About 10 km outside Marble Hall, Louwtjie stopped. He climbed out and said Douglas had almost shot him.

"We started driving again. Fanie and I followed the others in my bakkie. We parked at the Arabie Dam, where we waited for a long time...

"Fanie and I walked towards the embankment. On the way we met Douglas. Fanie asked him what he had done with the blacks. Douglas said he had cut one's throat and had thrown the

other one into the dam"

He reported the matter to the police, Van Heerden said.

Shurrinda, who managed to escape from his abductors, but broke a leg in the process, told the court how he was forced into the back of a vehicle after listening to music on a street corner with a group of men.

One of the abductors forced him and two other men to lie down in the back of the vehicle.

At some stage during the subsequent trip, Shurrinda said he heard a banging noise. One of

the men with him said he was being killed. The vehicle stopped and the man with them got out.

Shurrinda heard their abductors saying they were going to kill them. He became frightened, and managed to jump from the back of the bakkie after they had driven off again.

"I ran away immediately, but caught my foot on a rock and fell down. I stayed there on the ground until the next morning, when I managed to get a lift back to Marble Hall."

He could not identify any of his abductors because it was dark and he did not understand Afrikaans well. The trial continues — Sapa



Anglo American chairman Julian Ogilvie Thompson at the opening of the Sagewood Education Centre in Midrand yesterday. Picture GARTH LUMLEY

## Co-operation 'symbolises new hope'

*BIDAY 11/4/93*  
THE opening of the R11m Sagewood Education Centre in Midrand yesterday symbolised the reawakening of SA's desire to take charge of education as the key to national survival, Peninsula Technikon rector Franklin Sonn said yesterday.

The co-operation developing between business and communities was a first step towards economic revival and a sign of hope for SA, he said at the opening of the Anglo American-funded complex.

Anglo chairman Julian Ogilvie Thompson said Sagewood was a good example of what "a handful of people can do when they believe in an ideal, hard work, and overcome odds which would have deterred the more faint-hearted".

The centre started as a community project with 16 nursery and Grade One pupils

KATHRYN STRACHAN *SB*

in 1985. It now has 300 pupils and offers nonracial, holistic education at four levels: nursery, primary, secondary and adult.

Sonn said the intense interaction between business and communities — not just the provision of resources — had raised hopes. It had produced joint development strategies and programmes which served SA's interests.

Pupils and teachers should not sacrifice long-term educational development for short-term political gains. "No matter how big our frustrations may be, we must not declare the right to learn expendable. There will be no freedom for the uneducated and the unskilled in a new and increasingly technological SA."

## Language in Goniwe signal was 'unusual'

*BIDAY 11/4/93*  
PORT ELIZABETH — The language used in the signal ordering that Matthew Goniwe and two other political campaigners be "permanently removed from society" was unusual, a former Air Force general and member of the State Security Council said yesterday.

Maj-Gen Johan Geldenhuys told the Goniwe inquest in the Port Elizabeth Supreme Court that SADF members tended to use "exaggerated" language, but it would be unusual for such language to be used in the Air Force.

Geldenhuys chaired a committee in June 1985 to decide whether Goniwe should be reappointed to his teaching post in Cradock. The court had been told earlier the security forces were against his reappointment and believed it would have been better to detain him.

The committee included SADF, SAP Security Branch and DET members.

Geldenhuys denied he or the committee had received input from the Eastern Province Joint Management Centre. He said at no stage had council secretariat strategies head Gen Johan van Rensburg told the committee the management centre recommended that Goniwe be detained.

Van Rensburg has testified he passed on the management centre's views to the committee on June 7 after a telephone conversation with then Eastern Province Command head Brig Joffel van der West-

huizen. He said Van der Westhuizen had subsequently sent him a signal recommending the "permanent removal from society" of Goniwe, his brother Mbolele and Fort Calata.

Geldenhuys said if the signal had been put before the committee he would have remembered it.

George Bizos, SC, for the victims' families, submitted to Geldenhuys that the reason he remembered the signal had not been put before the group was because he recognised it as an order to kill the three men.

The general denied this and said he interpreted the signal as a suggestion that the three men be permanently detained.

"In my wildest dreams I can't believe anyone would write a signal saying 'please kill these three people' and then send it to the State Security Council, of all places."

Bizos retorted "It was never brought to the attention of the committee, it was not filed, and it disappeared without trace, and yet you do not interpret it as a death warrant?"

The general said he could not interpret it in that way because in the context of the committee's task it could be interpreted only as a suggestion they be detained.

He conceded that, out of context, it could have been "interpreted differently".

Zietsman postponed the inquest to May 17. — Sapa

# 86 laws must go to end land rights apartheid

AR 6/1/4/93

## Political Correspondent

EIGHTY-SIX laws administered by 21 government departments will have to be scrapped or changed to remove the last vestiges of apartheid from legislation on land rights

This emerges from the first report to parliament of the Advisory Committee on Non-Racial Area Measures

The committee was established last year in terms of the 1991 Abolition of Racially-Based Land Measures Act to advise the President on ridding land-related legislation of racial measures

The committee says it has drawn up a provisional list of "primary and secondary" legislation that might have to be repealed, amended or adjusted.

"The list identifies 86 laws, which are administered by 21 departments of State, for further investigation. These laws vary from a single provision in an Act containing a reference to a certain area, or the SA Development Trust, to an Act in its entirety."

The body advises the President.

# Hani urges commission probe

THE SACP fully agreed with Inkatha that the Goldstone commission should investigate allegations made by Solomon Mqanqeni that armed robberies were instigated by SACP general-secretary Chris Hani and ANC PWV regional chairman Tokyo Sexwale, Hani said yesterday. *B109M*

At a media conference Hani and Sexwale denied they were involved in any way in criminal activity, and accused the SAP of "stage-managing the whole operation to discredit us and our organisations in the run-up to elections". *114193*

Last week Mqanqeni, in a statement allegedly taken under duress, alleged that the two leaders ordered a series of armed robberies during 1991 and that the loot of R1m was handed to Sexwale.

Mqanqeni and his alleged accomplices escaped from custody on the evening that the statement was presented to the Rand Supreme Court.

Hani said the SACP will on Goldstone as a "matter of urgency" to set up an

252 172 100  
BILLY PADDOCK

inquiry to investigate the unprofessional conduct of the SAP investigating officers who never visited them to investigate the allegations, the circumstances surrounding the escape of Mqanqeni, and any possible complicity of Law and Order Minister Hennis Kriel.

SACP central committee member Jeremy Cronin said that since the Markinor survey in January this year showed Hani to be SA's second most popular political figure after ANC president Nelson Mandela there had been a campaign of character assassination.

In response to the SACP allegations, W/O Andy Pieke said that it was ludicrous to believe the escape was stage-managed. The SAP was investigating the matter to its fullest capability.

However, he said until any of the 16 escaped prisoners were rearrested it would be difficult to establish exactly what had occurred.

oors of Albert Pierrepoint, Britain's last official hangman, reveal a stolid but not insensitive man. He believed he was serving society and saw himself as a professional — but he was also concerned to preserve the dignity of the condemned man. At no stage of his career, he said, did he suffer from nightmares.

Abolitionists claim that the death sentence has no deterrent effect, and this seems to be borne out by research in various countries. But there is no way of proving this: we cannot know how many people, who might have committed a capital crime, desisted because the punishment was death rather than imprisonment. In any case, the abolitionists tend to miss the point: when the cry goes up in favour of hanging, what is being expressed is not a belief in deterrence but a visceral desire for revenge.

What may well have a bearing on deterrence is the perceived ability of the police to catch murderers, obviously the kind of punishment is irrelevant if the criminal believes he will never be caught. In SA there are additional factors at present, such as talk of the liberation struggle, "one settler, one bullet" and revolution, as well as visions of possible future amnesty.

The main moral objection advanced by abolitionists is that capital punishment is "barbaric" and "uncivilised". This is a Politically Correct objection at present and is

therefore usually accepted without question — but it remains an assertion rather than an argument and it does not get us very far in the discussion about whether to bring back the noose.

De Klerk probably erred in allowing parliament to vote on the issue, at a time when he is trying to court the extra-parliamentary ANC through the minefield of transition. The fact that parliament will almost certainly vote in favour of resuming executions will only make things worse. De Klerk will then feel bound to accept the verdict of MPs, even though his entire policy is now predicated on the fact that parliament is not representative. He has made unnecessary trouble for himself.

If De Klerk does bring back hanging, it will not be for profound criminological reasons. It will be out of political desperation. He cannot afford to appear impotent and he may feel a drastic symbolic gesture is necessary. The lawyers and sociologists will complain loudly, the average man will not. ■

moved to take the law into their own hands, they usually do so not in order to understand the criminal and rehabilitate him, or to hand him over to the police, but to kill him. It is a view of criminals as sinners, not misunderstood rejects from an unfriendly society.

Judicial sentencing in the First World aims to achieve several things: punishment, revenge, rehabilitation, removal of a threat from society. When a crime arouses fierce and bitter emotions, the urge for vengeance — "justice," as many would have it — becomes uncontrollably strong. This was the case with the attack on a family car at Eikenhof, the murder of six children on their way to school in Natal, and the IRA bomb which killed two children in the English town of Warrington. Emotions are also fuelled by the general perception that rehabilitation is mostly a fiction and (in SA) that government has been eagerly emptying the jails of psychopaths.

A woman who plots to murder her husband, a man who kills as he robs a bank — such people are vile criminals, but their humanity may still be faintly discernible. But a ruthless terrorist who guns down children has, in the common mind, put himself beyond the reach of civilised values, he has slipped below the level even of animals. Why should he not be removed from society?

This is why President De Klerk, sensing the public mood, has warned that the three-year moratorium on executions may be lifted. The sociologists and human rights lawyers tend to look at things differently, of course, to the point where some of them are accused of caring more for the criminal than the victims.

The main practical argument against capital punishment is obvious and very powerful: an execution cannot be reversed if the convicted person is subsequently proved innocent. One such travesty in the Fifties was a prime factor in the abolition of capital punishment in the UK. Timothy Evans, an illiterate truck driver, was hanged for a murder almost certainly committed by serial killer John Reginald Christie — the "strangler of 10 Rillington Place".

Another argument advanced by abolitionists is that there is no satisfactorily humane method of execution. But this is not surprising: execution is by definition violent and terrifying — which is surely an element of whatever deterrent effect it may have.

An extension of the argument about method is that society is brutalised by cold-bloodedly taking a life. But society at large is uninvolved, it is certainly not fastidious about whether a murderer is dispatched by hanging, firing squad, guillotine, garotte, lethal injection or being thrown off a cliff. The mothers of Warrington, when interviewed after the IRA bomb, were able to suggest far nastier methods.

The executioners themselves may well be affected adversely by their grim task — but presumably they only take the job in the first place because they have some mysterious kind of psychological immunity. The mem-

DEATH PENALTY (252)

**For the chop?** Fm 2/4/93

"The people shall govern" is one of the traditional ANC slogans, expressing a romantic vision of democratic practice. When it comes to discussion of capital punishment, however, even the most dedicated believers in the will of the people rapidly discover second thoughts.

It has been accepted over the years that the majority of ordinary South Africans, black and white, favour the death penalty. On Tuesday, in a random poll, 85% of Radio 702 listeners who called voted in favour of the death sentence. In Britain, opinion polls consistently support the restoration of hanging for certain crimes.

Capital punishment has an Old Testament simplicity about it, a brutal clarity in its exaction: punishment of the individual, revenge by society. When individuals are

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## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE

No. R. 588 252 2 April 1993

ATTORNEYS ACT, 1979

#### AMENDMENT OF REGULATIONS

The Minister of Justice has under section 81 of the Attorneys Act, 1979 (Act No 53 of 1979), after consultation with the Chief Justice of South Africa and after consultation with the presidents of the various societies, made the regulations in the Schedule

#### SCHEDULE

##### Definitions

1. In these regulations "the Regulations" means the regulations published under Government Notice No 638 of 23 April 1937, as amended by Government Notices Nos 830 of 23 May 1940, 1206 of 21 July 1944, 1613 of 30 July 1948, 1048 of 10 July 1959, 833 of 13 October 1961, 2113 of 28 December 1962, 2022 of 11 December 1964, 1726 of 5 November 1965, R 1065 of 4 June 1982, R 872 of 24 April 1987, R 1708 of 7 August 1987, R 1936 of 23 September 1988, R 1350 of 30 June 1989 and R 346 of 22 February 1991

##### Substitution of regulation 1A of the Regulations

2. The following regulation is hereby substituted for regulation 1A of the Regulations

"1A (1) Zimbabwe and, subject to the provisions of subregulation (2), the Republic of Namibia are approved and designated for the purposes of section 13 (1) and section 13 (1) (a) (ii) of the Attorneys Act, 1979 (Act No 53 of 1979), respectively

1212—A

## GOEWERMENSKENNISGEWING

### DEPARTEMENT VAN JUSTISIE

No. R. 588 2 April 1993

WET OP PROKUREURS, 1979

#### WYSIGING VAN REGULASIES

Die Minister van Justisie het kragtens artikel 81 van die Wet op Prokureurs, 1979 (Wet No 53 van 1979), na raadpleging met die Hoofregter van Suid-Afrika en na oorlegpleging met die presidente van die verskillende ordes, die regulasies in die Bylae uitgevaardig

#### BYLAE

##### Woordomskrywing

1. In hierdie regulasies beteken "die Regulasies" die regulasies afgekondig by Goewermentskennisgewing No 638 van 23 April 1937, soos gewysig by Goewermentskennisgewings Nos 830 van 23 Mei 1940, 1206 van 21 Julie 1944, 1613 van 30 Julie 1948, 1048 van 10 Julie 1959, 833 van 13 Oktober 1961, 2113 van 28 Desember 1962, 2022 van 11 Desember 1964, 1726 van 5 November 1965, R 1065 van 4 Junie 1982, R 872 van 24 April 1987, R 1708 van 7 Augustus 1987, R 1936 van 23 September 1988, R 1350 van 30 Junie 1989 en R 346 van 22 Februarie 1991

##### Vervanging van regulasie 1A van die Regulasies

2. Regulasie 1A van die Regulasies word hierby deur die volgende regulasie vervang

"1A (1) Zimbabwe en, behoudens die bepalings van subregulasie (2), die Republiek van Namibie word vir die doeleindes van artikel 13 (1) en artikel 13 (1) (a) (ii) van die Wet op Prokureurs, 1979 (Wet No 53 van 1979), onderskeidelik goedgekeur en aangewys

PTO

14719—1

Star 21/4/93

## Amnesty comes to Jo'burg

(252)

An Amnesty International group was last night started at the University of the Witwatersrand

Two members of the International Secretariat, Joseph Gitari and Sara Hagel, told students that while there were still many injustices and violations of human rights in South Africa, they wanted to encourage human rights activists to fight against violations also happening in the rest of the world

Other Amnesty International (AI) groups have been formed in Pretoria, Maritzburg, Port Elizabeth and Durban.

As far as their activity in South Africa was concerned, Gitari said the Government knew of Amnesty International "although they would probably rather not".

AI brought out a report on violence committed by the state against individuals in a report called "State of Fear" —  
Staff Reporter

# TALKS fail: 'Kei cordon remains

Sowetan 2/4/93

By **Ismail Lagardien**  
Political Correspondent

**T**HE SADF'S RING OF STEEL around Transkei remains after crisis talks between military ruler Major-General Bantu Holomisa and President FW de Klerk failed in Cape Town last night

The Government confirmed last night that the blockade would continue despite an undertaking

by Holomisa that he would institute a commission of inquiry into "preliminary" findings by the Goldstone Commission that the Azanian People's Liberation Army was operating from the homeland

The meeting follows Transkei's refusal to co-operate with the Goldstone Commission on Apla's alleged activities

De Klerk told Holomisa he rejected Holomisa's reference to the Goldstone Commission as a "kangaroo court"

"I reject your attack on the integrity, objectivity

and fairness of the Goldstone Commission Its

credibility and acceptability internationally and in South Africa are beyond doubt," De Klerk said

He told Holomisa that his failure to co-operate with the Goldstone Commission would result in "a very serious situation"

A cool and relaxed Holomisa said after yesterday's meeting that he had told De Klerk that Transkei's Chief Justice Beck would, in consultation with Justice Goldstone, lead a commission into alleged Apla activities in the Transkei

"We even went further to say (that) both

forces, policemen in particular, must work hand in hand to beef up or bring the evidence to this proposed inquiry which is going to be headed by the Transkeian chief justice.

Holomisa said that he had no objections to co-operation with Goldstone, but the Government had always insisted that Transkei was independent and that the homeland was therefore not bound by any laws or commissions in South Africa

Nevertheless, he said, the Transkei would confirm with a diplomatic

note that the commission would be instituted



Major-General Bantu Holomisa  
... Goldstone a kangaroo court.



# Holomisa agrees to Goldstone probe

Star 2/4/93

(252)

By Peter Fabricius  
Political Correspondent

CAPE TOWN — The crisis in Transkei/South African relations was largely defused yesterday when Transkei military leader Bantu Holomisa agreed that the Goldstone Commission could play a part in probing claims of Apla military activities in the homeland

After a "straight-talking" two-hour meeting in Cape Town, in which President de Klerk gave Holomisa a dressing down, a compromise seems to be on the cards

De Klerk warned Holomisa that the moment of truth had arrived in dealing with violence. The Government would not hesitate to take "appropriate action" when its citizens were threatened.

Holomisa announced to the press afterwards that he had decided to appoint Transkei's Chief Justice to probe the Apla allegations

But, in an important concession, Holomisa — who has so far refused to acknowledge the

Goldstone Commission — said the Chief Justice would work with other structures, including the Goldstone Commission

Foreign Minister Pik Botha welcomed Holomisa's move as "very hopeful" although he indicated that at the meeting Holomisa had not spelt out his readiness to co-operate with the commission

But Holomisa said afterwards that complete agreement had been reached and the crisis had been defused

De Klerk kicked off yesterday's meeting by severely dressing down Holomisa.

Transkei's failure to co-operate with the Goldstone Commission would create "a very serious situation," he told him

Holomisa's accusations against the SA Government had nothing to do with the Goldstone Commission's findings on Apla. "The only rational response" was for Transkei to co-operate with the commission and put before it all the evidence at its disposal

De Klerk said Holomisa "ought to know" that he, De Klerk, had not given orders for certain Apla members in Transkei to be "wiped out" as Holo-

misa claimed.

"And to make matters worse, you threatened the South African Government and the South African people. You said that we will have to man each and every white home inside and outside Transkei, because you won't be responsible if the people retaliated

"Let me make it clear that if South African citizens inside or outside Transkei are harmed or their property is damaged or destroyed as a result of the actions or omissions of Transkei Government, I will hold you and your government responsible

"It cannot be in the interest of the people of Transkei to imply that if you do not get your way, whites will be murdered."

De Klerk said he was disturbed by Holomisa's description of the Goldstone Commission as a "kangaroo court" and rejected his attack on its integrity, objectivity and fairness

De Klerk stressed that Mr Justice Goldstone himself and not the Government, had taken the initiative to investigate Apla, on the UN Security Council's recommendation.

# DET official compiled 'profile' of Goniwe

By SHADLEY NASH Port Elizabeth  
AN indecisive, manipulated man of not above average intelligence — that's how top Department of Education and Training officials viewed Cradock activist Matthew Goniwe in 1985.

The officials also regarded Goniwe, who was at the time a teacher, as being "indebted" to the "children, parents and community" of Cradock for a 15-month "sacrifice" for him during the school boycotts.

This profile of the brutally murdered United Democratic Front activist was compiled by the former deputy director of Community Communications in the DET, Johannes Vermaak.

Vermaak, former head of Strategic Communications on the Secretariat Adamus Stemmet, and an Air Force general seconded to the Secretariat, General Pieter Johannes Geldenhuys, gave evidence in Port Elizabeth this week in the reopened inquest into the deaths of Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauhi.

The DET assessment of Goniwe was contained in handwritten minutes, read before the inquest this week, which Vermaak compiled after he and senior DET official Jaap Strydom met Goniwe in Cradock on May 24 1985. The purpose of the meeting was to discuss Goniwe's position with the DET and the ongoing strife in Cradock schools.

After the meeting, which was held a day after the Eastern Province Joint Management Centre — headed by General "Joffel" van der Westhuizen — had recommended that Goniwe should never be reappointed, Vermaak compiled Goniwe's "profile".

In the minutes Vermaak said Goniwe gave them the impression that he did not have an above average intelligence level, that he was not the "brain behind everything" because he hesitated when answering their questions and could not take immediate decisions.

The purpose of the meeting, Vermaak wrote, was to establish if Goniwe was "militant or peaceful", if he was arrogant and if he would publicly support violence.

But during June, a task group set up by the State Security Council (SSC) on the instruction of then deputy minister of defence and police Adriaan Vlok convened another task group, headed by General Pieter "Kiewiet" Geldenhuys, to decide Goniwe's future.

In court this week Geldenhuys denied that his group requested input from the Eastern Province JMC as earlier claimed by a South African Defence Force officer, also seconded to the SSC, General Johannes Janse van Rensburg.

EP Command sent the controversial signal ordering the "permanent removal from society" of Goniwe and others. Geldenhuys testified that he had not seen the signal message and that it was not placed before the task group.

He confirmed that opposition in the task group to Goniwe's reappointment came from a Colonel McDonald of the South African Police.

He also conceded under cross-examination by counsel for the families of the slain men, George Bizos SC, that if the signal message was tabled before his task group he would have wanted a full explanation on it.

However, his interpretation of the words "permanent removal from society" was that Goniwe had to be detained for a long time. Geldenhuys conceded that the language used in the signal was "unusual" if it meant Goniwe had to be detained.

Stemmet testified that he could not remember if he had seen the signal message, but that he had been told of its contents. He said the common use in security circles of jargon like "eliminate", "destabilise" and "take out" was undesirable —  
Ecna

# 86 apartheid laws listed

PARLIAMENT — A list of 86 laws that have to be scrapped or amended to remove the last vestiges of apartheid in legislation on land rights has been drawn up by the Advisory Committee on Non-Racial Area Measures

CT 2/4/93

# MY VIEW

## Michael Lapsley Chaplain of the Cape Town-based Trauma Centre for Victims of Violence and Torture

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PRESIDENT FW de Klerk is appealing to a very base kind of blood lust in calling for the reintroduction of the death penalty. His motives have nothing to do with justice but instead, have everything to do with revenge, racism and electioneering.

It is not accidental that his call came in the week the NP started their election campaign. This, and the disclosure of their nuclear arsenal, were the opening two shots of the NP's election drive.

It is not accidental either, that De Klerk's call came at a time when people from the white community started to become victims of the senseless random killings.

Since February 1990, there has been more bloodshed in the country than at any time in South Africa's history.

While several thousand blacks have fallen victim to horrendous acts of violence, it was only when a few whites also became the victims of these horrendous acts that calls to reintroduce the death penalty are being heard.

This cry was not heard when widespread violence affected only black communities.

The fact that there now is a cry from the white community and their political leadership, points to a racist motivation.

For years many of us campaigned against executions of any nature. While I believe many people were given a death sentence because they committed violent acts against apartheid, it is also true to say that the scale of ordinary crime is a product of the horrific society we have built.

It is no coincidence that the vast majority of those on death row are black, poor and illiterate. It illustrates the point of circumstances giving rise to violent crimes.

Crime levels must be attributed to people's socio-economic environments.

Also, the evidence shows that being sentenced to death also relates to the race of the victim and the perpetrator.

If the victim is white, the chances are far greater that the perpetrator will be sent to death row than if the victim is black.

Apartheid, in its entirety, is an option for death carried out in the gospel of life.

From its foundations built on violence one can also point to deaths in detention, starva-

*When De Klerk brings back the death penalty, he is completing the cycle of death in South Africa'*



tion in the Bantustans as well as the death penalty as being a few examples.

Apartheid attempted to kill the soul of a people. It killed their dignity and it amounted to spiritual and physical murder.

In District Six for example, old people who had been forcibly removed, just gave up on their lives and died. They had been spiritually broken, like those who fell in love across the colour bar and committed suicide rather than endure hardships their situation gave rise to.

Death row itself caused people to die a thousand times over. People spent years and years of their lives sitting and waiting to die.

The psychological torture involved on death row is barbaric — so too is the act of execution itself.

There are also cases of people who were executed — while later evidence came to light proving their innocence.

South Africa also uses "common cause" as a sufficient reason for people to be executed. It has been enough to be part of a crowd where life was taken, to be sentenced to death.

It is in the context of this legacy, that De Klerk wants the death penalty reintroduced.

It is significant to look at societies that have abolished the death penalty and denied themselves the right to take life.

In Nicaragua, the Sandanistas abolished the

death penalty when they came into power in 1979 — after waging an armed struggle

So too in Namibia. The independent government constitutionally denied itself the right to take life. In a country which has known so much death, Swapo proved the moral superiority of what they were struggling for above what they were struggling against.

Similarly, the ANC has shown itself to be morally superior to the government by taking a stand against the death penalty.

When De Klerk brings back the death penalty, he is completing the cycle of death.

He reflects the moral psychosis of the white community that is calling for revenge. He should look to create a more just society.

Another aspect is that De Klerk and his illegitimate parliament do not have the moral right to make these kinds of decisions.

It does not matter if the majority of MPs are in favour when they debate the issue — they have no moral right to decide on the eve of a transitional government.

Even if they were to bring in executions now, it would certainly not deal with the current violence.

Those executed will be people who committed crimes four to five years ago. If people are arrested for more recent crimes and sentenced to death, it will still be two to three years before they face execution.

By that time, there is every likelihood that a new government will be in place, and will be positioned to reverse decisions made now.

Historically, there is no evidence that the death penalty is a deterrent to crime. Certainly in South Africa, this has not been true.

I am not saying people should not be punished for their crimes. There is no doubt that serious crimes deserve serious sentences.

One does not want a situation where people kill and rape, only to freely walk the streets a few years later.

The answer however, lies in creative ways of rehabilitating people. This is one thousand times more important than the issue of punishment.

There needs to be a complete re-education of state machinery and the approach hitherto taken to criminals moulded by society.

# The case for traditional courts

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HOLOMISA

The president of the Congress of Traditional Leaders of South Africa, **Patelkile Holomisa**, argues that there is a role for traditional courts in a future judicial system:

**W**ITHOUT finching, the Congress of Traditional Leaders of South Africa (Contralesa) maintains that traditional courts (or traditional leaders' courts) do have a future which will not compromise democratic principles.

It is nobody's fault that only the African aristocracy produces traditional leaders, but this "defect" can be cured if laws ensure that traditional leaders at all times deal fairly with all people living under their jurisdiction — without regard to race or colour.

In communities where women are precluded by custom from becoming traditional leaders, the same requirement must hold. Traditional leaders, who preside over the traditional courts, must act impartially when dealing with affairs affecting women.

The traditional leader acquires his position without being elected. He is decreed by custom and birth to be the leader.

Heredity and the fact that he comes from the correct lineage confer legitimacy. This is unlike Western democracy where legitimacy is conferred by popular elections.

But the fact that the traditional leader is required to act in the interests and according to the wishes and the will of the people, ensures that he does not undermine the democratic rights of his people.

Where he does violate these rights, a mechanism ought to be formulated to ensure that he is brought into line.

There are other attributes attached to the institution of traditional courts — attributes which are appreciated by communities which cherish their traditional values and norms.

The test of whether to continue with traditional courts or not, lies with whether or not communities consider themselves as having so developed and become so sophisticated that they no longer see the need for it.

We would thus like to warn that the issue be treated with caution and wisdom so as to, inter alia, avoid a Somalia-type situation where we have warlords who exploit the division of the nation along clan or ethnic lines

*It is nobody's fault that only the African aristocracy produces traditional leaders'*

It goes without saying that the traditional leader, as a human being, is not necessarily endowed with congenial wisdom.

He relies heavily on the counsel he gets from recognised and respected elders of the community whenever he is called upon to perform his duties.

The traditional court comprises the traditional leader, who presides, and councillors, who normally come from the ranks of lesser chiefs or so-called headmen and people who are either appointed by the traditional leader or elected by the community.

Needless to say, the element of appointment will have to be done away with in favour of elections.

### How the courts work

Proceedings are held at all times in open court.

One of the councillors leads the witnesses for both parties — this is the case in civil and criminal trials.

Other councillors and members of the public are given a chance to examine and cross-examine the parties and their witnesses.

The parties are allowed to cross-examine each other and each other's witnesses.

The proceedings are conducted in a relaxed and somewhat informal manner. At the end of the hearing, the chief and councillors confer among themselves on the evidence that has been led.

They reach a verdict and agree on a fine or an award in damages in favour of the successful party.

The traditional leader, either by himself or through one of the councillors, pronounces the verdict and the punishment to be meted out or the compensation to be paid.

The parties are free to appeal against the verdict and/or the punishment if they are not

satisfied.

The court of appeal can in certain cases be the court of the senior traditional leader or king of the community, particularly where the case involves customs and traditions.

Normally, however, "appeals" are heard in a magistrate's court where the case is heard afresh without regard to the previous hearing.

Usually however, the parties are satisfied with the outcome of the proceedings because in the course of the trial suggestions are put to the litigants as to whether or not they would be satisfied with one or another course of action.

Criminal and civil cases are tried in traditional courts. Criminal cases that do not call for terms of imprisonment or heavy fines. With regard to civil cases, the determinant is the amount of compensation to be paid by the wrongdoer.

Custom and tradition usually influence the decision of the court and the amount to be paid.

Traditional courts do not send the guilty to jail nor do they impose heavy fines. The courts are interested in the conclusion of amicable settlements that will satisfy both parties and the restoration of harmony in the community.

The aim is to avoid acrimonious litigation which can result in the exacerbation of bad relations as is usually the case in the western legal system.

Traditional courts cannot escape the impact of technological and economic developments. Consequently the types of disputes that arise call for sophisticated arguments.

There is thus a need for the officers of the traditional courts to improve their level of education, and to undergo some form of legal training to improve their skills so that dispute resolution will be enhanced.

This would obviate the need to take matters to the common law courts when the disputes are not of a intricate nature.

Accordingly, rather than try to abolish, side-line or ignore these forums, it is in the interests of the traditional communities that these courts be retained and improved.

# Bench must be bias-free

CARMEL RICKARD says judicial officers must be required by law to resign from secret organisations and political parties

THE recent case of a Natal judge stung by public censure into resigning from the Broederbond raises the wider issue of what organisations a judicial officer may belong to after appointment.

Members of the legal profession say it is well known that there are some judges who continue active involvement in secret organisations such as the Broederbond or the Freemasons, while others pursue covert membership of political parties. Justice Minister Kobie Coetsee recently said that membership of the Broederbond was a personal and private matter like one's golf club. But is he correct?

Codesa co-chairman Mr Justice Petrus Schabert, a former member of the Broederbond, approached by the Sunday Times this week, said he had resigned from the organisation before accepting an appointment to the Bench. In his opinion no judge should hold office in any secret organisation or any political party.

"It is in principle incompatible with the office and calling of a judge, who must serve the whole community, to be a member of a secret or semi-secret society," he said. "This also applies to membership of political parties

and organisations." Other members of the profession broadly agree with his position.

However, since in practice some judges do not appear to adhere to these guidelines, perhaps the time has come to make resignation from secret societies and political parties a statutory prerequisite for appointment. This principle should be extended to cover all judicial officers, including members of the magistracy and the proposed constitutional court.

Beyond the question of party membership, there also needs to be public debate on how far judges should step out of their traditional seclusion. In the past the judiciary has been urged to keep aloof from society, but some of its members now question this view. They argue that judges must understand the real world so that court decisions take into account the experience of ordinary people.

Last month Mr Justice Richard Goldstone canvassed the issue in a major speech. He suggested that no judge could be criticised for being a member of an organisation "which furthers the moral norms of society". However, he concluded that judges would have to decide for themselves whether

speaking out (or, by implication, joining certain organisations) would compromise the impartiality of individuals concerned or the judiciary as a whole.

Unfortunately, the line is not always easy to detect. For example, one prominent judge resigned all high-profile positions he held in the Dutch Reformed Church when appointed to the Bench, though he still attends church regularly. Others by contrast feel free to take leading roles in their church, whatever the denomination.

If membership of organisations "furthering the moral norms of society" is praiseworthy, no eyebrows should be raised about a judge being a trustee of an organisation such as the Legal Resources Centre. But what about a judge heading a sports body which subsequently finds itself in severe controversy?

Club membership also raises difficult questions. After appointment, should a judge continue membership of a club which does not allow women to join, or black people or Jews?

As Mr Justice Goldstone said, the subject is difficult because there are no "senior" rules, or standards which can be laid down in order to offer guidance in dif-

ferent cases." Under a new political dispensation in this country, judges are unlikely to be appointed, US-style, after thorough public scrutiny. A system of private interviews with an appointments committee including members of the profession, politicians and representatives of the lay public seems more likely.

While society should not impose standards of political correctness on potential members of the judiciary, perhaps the law should require full disclosure to the appointments committee of all membership and offices held by a prospective judge. However, this does not solve the problem of what organisations are appropriate for a judge to join after appointment.

The answer might be a code of ethics or practice drawn up by a judicial services commission. Such a code would need great flexibility to balance opposing tensions on the one hand, the fundamental demand for judicial independence, on the other, the growing sense by members of the profession and the public that the judiciary must be more open, and that judges should be more involved in the community.

*Stimes*  
**Illegal guns**  
POLICE have announced a 90-day indemnity from prosecution for people handing in illegal fire-arms and ammunition. The arrangement will however only be applicable where people hand in firearms and ammunition of their own free will, said SAP Commissioner General Johan van der Merwe (252)

# Goniwe inquest considers real meaning of 'removal'

By DAWN BARKHUIZEN  
WERE it not for the deadly seriousness of the business at hand, parts of the inquest into the 1985 death of East Cape activist Matthew Goniwe could have assumed comic proportions in the Port Elizabeth Supreme Court this week.

Gone was the ghastly image of the slightly-built Cradock schoolteacher's faceless, burnt body found in the scrub near Bluewater Bay, along with those of Fort Calata, Sparrow Mkonto and Siculo Mhlawuh.

Instead, the court busied itself with lengthy discussions on the Afrikaans language and the use thereof, the subtleties of which seemed lost on the entire front row of the shrunken public gallery.

People here were all either feigning sleep, praying or deep in contemplation with their eyes closed.

Referring to four dictionaries, one in Dutch, Anton Mostert, SC, for the SADF, spent several hours debat-

ing the meaning of the words "permanently removed from society".

The phrase occurs in a military signal sent on June 7 1985 from EP Command in Port Elizabeth on the instruction of the commanding officer, the then Brigadier Joffel van der Westhuizen, to a member of the Secretariat of the State Security Council (SSSC), General Hans van Rensburg.

It was sent three weeks before the Cradock four died.

Removal — "verwydering" in the original text — had a number of meanings, Mr Mostert told the court. One dictionary offered "Verwydering . schijnbare afstand van een planee tot de zon".

There were also figurative meanings, like "Die dame het die blompot verwyder van die tafel".

"Permanent" was a relative word and often not that long-lasting, said Mr Mostert, "as any man would know who paid his

wife's hairdressing costs for a 'permanent wave'".

Retired SAAF officer, General Kiewiet Geldenhuys, seconded to the SSSC in 1985 and head of the task group that recommended Matthew Goniwe be reinstated as a schoolteacher, said the expression was not typical SAAF language.

Said East Cape Judge President Neville Zietsman "You mean to remove somebody from an aeroplane could be dangerous?"

## Parachute

General Geldenhuys "Yes, unless he had a parachute".

Belying what was on the surface an interminable week of minutiae, two strong lines of argument have emerged.

On the one hand is the premise that the June 7 signal was a recommendation that Goniwe be killed, and a warning that there could be an outcry from the international community and left-wing activists as happened after three other PE activists had disappeared.

On the other hand lies the postulation that the signal, now missing, was an innocent, albeit badly worded, recommendation that Goniwe, his brother Mbulelelo and Fort Calata be banned or detained.

The inquest will resume on May 17.



# Call to put bite on economic crime

5 Times 4/4/93

LAWYERS are debating sweeping changes to the way the law is applied to economic crimes

One of the most controversial suggestions is that the right to remain silent be scrapped

It has also been suggested that the profitability of crime should be thwarted by making criminals repay those who were ripped off

Stripping criminals of their assets should include those not directly acquired through crime

## Secrecy

If culprits deliberately dragged out their trials, they should be made to pay for wasted court time

It is not only the crooks who are the target of the suggested changes

It has been suggested institutions with internal controls so slack that it is easy for crime to take place should contribute to the cost of investigations

These startling changes have been suggested by leading members of the

By CATHY STAGG

legal profession at recent seminars, some of which were convened by attorneys — while South Africa's first symposium on economic crime was hosted by auditors KPMG Aiken and Peat in February

Attorney-General for the Witwatersrand Klaus von Lieres, SC, who spoke at the February conference and the chairman of the Transvaal Law Society's criminal law committee, Mr PC Langenhoven, who hosted a symposium last month, both attributed SA's sick society to decades of secrecy

Sanctions-busting led to the idea that rules were there to be bent or broken — which led to a breakdown in moral and ethical values.

Mr Langenhoven called for more money and manpower to be made available to combat economic crime

Mr von Lieres criticised

organisations which chose not to act against criminals because it was time-consuming and costly — allowing crooks to get off scot-free

But while prosecuting criminals was essential, he suggested it was more cost-effective to prevent crime

He called for a proactive crime prevention campaign instead of an apathetic reactive attitude

Head of the Office for Serious Economic Offences Jan Swanepoel, SC, also called for more private-sector involvement in combating economic crime

## Easier

One of the weaknesses of our legal system is that, in the private sector, there is no legal duty to report economic crime

He recommended imposing a duty to report economic crimes on state departments, corporate bodies and professions such as accountants and auditors

Both he and Mr von Lieres called for the law to be adapted to make it easier to get evidence when the crime had been partly committed outside South Africa

Mr Langenhoven said the recommendations put forward would be discussed by a committee to be formed soon

# PAC's Benny leaves talks to answer licence charges

By BERENG MTIMKULU

IF the multiparty talks in Kempton Park were crucial for Benny Alexander's Africanist followers, so was the warrant of arrest issued when he failed to appear in the Johannesburg Regional Court court this week.

"It would be insensitive to issue the warrant of arrest given the significance of the Kempton Park multiparty discussions in which the accused (Benny Alexander) is a participant," argued defence counsel Moses Mavundla before magistrate C. Benade.

PAC secretary-general Alexander was this week forced to leave the talks to appear in court on charges of alleged forgery of an identity document, driver's licence and a traffic offence.

The charge sheet alleged the forgery and fraud arose from an incident on November 27 last year when Alexander was stopped by traffic officers on the M2 East and allegedly produced a forged identity document.

Alexander earlier failed to appear before the court as he was a PAC

Mavundla argued that the talks were significant to the country and would also have a bearing on the courts.

"The court has reason enough to rule in the interest of the accused," argued Mavundla as he opposed the warrant for Alexander's arrest.

State representative N Erasmus contended that there had been sufficient time for Alexander to have applied for further postponement since the summons was served two weeks ago.

Mavundla asked the magistrate to take into consideration the nature of the talks and their significance to the country.

He said, "The court must balance the interests of the society which is dependent on those talks. Causing disruption of those talks, with due respect to the court, would be naive."

Benade issued the warrant of arrest which was withdrawn after the lunch adjournment when Alexander attended court.

The case was postponed to June 9, delegate at the political forum held at the World Trade Centre this week.

# Killer takes secrets to grave

Clipped 4/19/93

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By FRED KHUMALO

AT least 50 people were killed in the Esikhawini area from August last year — and the name of 21-year-old Nhlakanipho Mathlengu Mathenjwa was linked to most of them.

But whether Mathenjwa was to blame for most of these murders may never be known.

On Tuesday he was blasted away by the Kwa-Zulu Police.

Police say Mathenjwa, who was a Std 8 pupil at Moyeni High School and a former Inkatha Youth

Brigade secretary for Esikhawini, was gunned down trying to grab a policeman's weapon.

He was being questioned in connection with last Sunday's murder of Const Blessing Mngayi and two other people in the northern Natal township.

Mathenjwa, who appeared in the Mthunzini District Court on attempted murder charges last October, revealed a criminal record dating back to when he was nine-years-old. His first conviction was for stabbing another boy.

At the age of 14 he was convicted of culpable homicide.

Mathenjwa, the fourth child in a family of eight, takes to the grave many secrets relating to his involvement in a spate of murders and the formation early this year of a gang which has been wreaking havoc in the township, committing murders and robberies.

The trail of murders and attempted murders linked to Mathenjwa include the slaughter of eight people in Esikhawini on August 26 1992 by men reportedly

wearing balacavas and armed with automatic weapons.

He was also facing five attempted murder charges for an attack he allegedly launched on ANC activist Bheki Ntuli's house later that night.

While out on bail on the Ntuli attempted murder charge, Mathenjwa allegedly took part in the murder of five members of the Gabela family in Esikhawini on December 1 1992, in which seven-year-old Mahle Gabela was also killed.

After his arrest by the KwaZulu Dog Unit for the alleged murder of Const Mngayi and two others he was held briefly at Esikhawini Police Station.

He was later transferred to Sundumbuli and questioned about his involvement in the policeman's death and other alleged criminal activities of his gang.

Police say that while he was being taken to Port Durmford — where he said he would point out his accomplice's hideout and the weapon used in killing the policeman — he tried to grab a policeman's gun and was killed.

# Phiri's Cypress death is 4/4/93 probed again (252)

By DAN DHLAMINI

THE inquest into the death in detention of a 16-year-old Carletonville branch ANC Youth League member, which was concluded last year, has been reopened.

Nixon Phiri of Khut-song township died on January 16 1990 while being interrogated by a Sgt Van Jaarsveld at Wel-verdiend Police Station which activists renamed the "House of Horrors".

At an informal inquest last year the police were exonerated when their version that Phiri died of epilepsy was accepted by the Attorney-General.

This week, Maj. J. du Preez, told the inquest Phiri's mother had confirmed in a statement her son suffered from epilepsy.

This was, however, flatly denied by Marja Phiri, 40, who said she never made a statement to that effect.

Pathologist Jonathan Gluckman testified earlier that Phiri's death could have been caused by manual strangulation.

Ishmael Booyen, 22, who was arrested with Phiri, told inquest Magistrate C Potgieter how he had seen three policemen punch, kick and subject Phiri to electric shocks.

Potgieter adjourned the inquest until April 7.

Any decision on capital punishment puts Govt in a no-win situation, writes Franklin Zimring

# Hanged if we do — or we don't

STAR 5/4/93

(252)

**T**HE furious debate about hangings in South Africa is both similar to the events that marked the end of capital punishment in most of the industrial Western countries and profoundly different.

The big difference is that hangings are not an isolated issue of criminal justice but rather a threat to the whole process of negotiated political transition.

A no-win situation now confronts a State President who suddenly must use the hangings issue to prove to the ANC that the Government has changed under the National Party while reassuring conservative whites that the power structure they fear is being dismantled, is really still the bedrock of the administration.

Maintaining two such inconsistent images is not going to be possible. With no politically safe course to follow, President de Klerk must choose which of the two governmental images is the most important to sustain.

In this way the question of hangings quickly implicates the most basic political issue of government in the transition.

How the death penalty acquired so much political baggage is partly a product of the symbolic character of capital punishment in all

modern governments, and partly the result of the special importance that the suspension of hangings has assumed for the South African regime.

The suspension, that started in November 1989, had many of the characteristics common to governments in the transition to permanent abolition.

The decision was taken by a political leader in the face of widespread public sentiment in favour of the death penalty. This is typical of the pattern in Europe and the Commonwealth countries, where public opinion favours the death penalty by margins of 2 to 1 and remains resistant to change for almost a generation.

Research found the same public sentiment South Africa now experiences in Germany, England, the United States and Canada.

What is remarkable about capital punishment as an issue in the democratic West is that abolition becomes permanent in the teeth of such public opposition whenever the political leadership stands firm.

No incumbent government has ever lost an election as a result of not executing; instead, there is usually low level public dissatisfaction that turns eventually to support as abolition becomes

more palatable. This process can take 25 years to come full circle.

One way that public sentiment is deflected by industrial democracies in the process of abolishing the death penalty is that the *de facto* end of execution long precedes the formal commitment to abolition. Abolition becomes more palatable when it is a series of smaller shifts rather than one discernible great step.

Like South Africa in 1989, the end of executions in most countries is announced as a suspension or experiment, or is not acknowledged as a formal policy at all. This is a method of breaking abolition up into a series of steps so that no single event can be identified as the end of executions.

Early in the process, the *de facto* stoppage of executions can be explained as not all that significant. Years later, when the time comes to formally end the penalty, leaders can point out that the effective end of executions was a long-achieved fact.

In Belgium, for example, the last execution of a civilian occurred more than a century before formal abolition.

De Klerk's characterisation of the 1989 shift as a suspension, and the periodic flirtations with resumption of hanging since then,

were methods of encouraging the perception that fundamental changes in policy had not yet occurred.

But this strategy was not a success in South Africa because the 1989 policy shift was much more abrupt than in the industrial democracies. Usually, there is a long downward trend in executions before suspension is announced. South Africa had one of the world's higher rates of execution almost to the moment of the 1989 suspension.

The end of executions was easy to notice. The discontinuity in policy was more like the end of the death penalty in eastern European countries such as Hungary, Czechoslovakia and Romania, where State-sanctioned killings were suddenly outlawed as part of the process of rejecting the authoritarian communist regimes.

What made the suspension of hangings unusual and important in South Africa was that this sudden change in policy was the action of a government changing itself rather than the product of change in government. The end of hangings in a nation where apartheid had been enforced at the end of a rope was an important symbol of the government's willingness to change itself.

Here was a concrete demonstration to the ANC that the old order could be changed by negotiation — a palpable forbearance by the Government of a power it had recently used regularly against its enemies.

This symbolism puts the hangman at centre stage in South African politics and gives De Klerk no safe way out in 1993.

The conservative whites demand hangings as evidence that the old authority structure of the government remains, while the ANC places a priority on the continuation of the suspension as evidence that the government is willing and able to change.

The debate about hangings is thus a dispute about whether the leopard has really changed his spots.

The ANC will see letting a discredited tricameral parliament decide to resume hangings as the central body of an illegitimate power structure reclaiming its most drastic power.

This seems to them much like saying that only pickpockets should have the power to draft the laws defining and punishing theft. The current parliament is, in this view, precisely the wrong way to decide what limits should be placed on government power.

Meanwhile, the Apia guerrillas would look on the resumption of hangings by the National Party government as a major victory, because they will have proved that the current Government is unwilling to change its authoritarian character. Killing of white farmers is designed to provide the Government into demonstrating that its true loyalties lie with the old order. The first hangings in South Africa in the 1990s will be an unqualified win for Apia.

In seeking to break down the trust relations between the ANC and the National Party government, Apia has joined forces with the AWB and other elements of the hard right in South Africa. The extreme Left and extreme Right have different reasons for wishing to show through hangings that the current government is not truly committed to change.

In this peculiar South African autumn of 1993, the hangman has become the special friend of all who hate the negotiations for change. □

● Franklin Zimring is Simon Professor of Law at the University of California (Berkeley) and visiting scholar at the Criminal Justice Research Unit of Unisa.

STAR 8/4/93 (250)

## Webb seeks indemnity

Former Civil Co-operation Bureau chairman Eddie Webb was granted a postponement yesterday of a case involving perjury, pending an application for political indemnity. His lawyer, O de Meyer, told the Johannesburg Magistrate's Court that Webb was to have pleaded guilty to the perjury charge yesterday but decided about two weeks ago to apply for indemnity. Magistrate Mr J B Esterhuizen set a provisional postponement date for April 22.

# Report on deeds bribes given to A-G

By BARRY STREEK  
Political Staff

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2/8/93

THE report of the departmental inquiry into alleged irregularities and bribery at the Cape Town Deeds Office has been handed to the Attorney-General, the director-general of Regional and Land Affairs, Mr Coenie de Villiers, said yesterday

The report had also been handed to the Personnel Administration Directorate of the department to consider internal disciplinary measures

The departmental investigation had now been completed, he said

"To make the investigation as complete as possible talks were also held with former Registrars of Deeds, the Law Society of the Cape of Good Hope and a member of Parliament"

The investigation also looked into Masterbond, but could not investigate it fully as the irregularities did not originate from within the public service.

It had been decided to refer the matter to the Attorney-General for further investigations or actions

One officer in the Deeds Office had already been relieved of his supervisory duties and given less important work.

No one had responded to appeals to the public for information, Mr De Villiers said

# No soldiers prosecuted

By IAN CLAYTON

NO member of 32 Battalion has yet been prosecuted for assault, rape or murder after its raid on the Phola Park squatter camp, despite an urgent call for this by the Goldstone Commission in June last year.

This was disclosed in parliament this week by Minister of Defence Kobie Coetsee. He said the police had opened dockets about the alleged criminal conduct by 32 Battalion members but the number of dockets was unknown. *W/Mau 2/11-15/11/93.*

The Phola Park incident took place on April 8 1992. The South African Defence Force defended 32 Battalion, but its claims were rejected by the commission — which also said the Phola Park self-defence unit had tried to involve the SADF in a war.



ONE of the first occasions electricity was used for capital punishment it was recorded on celluloid in a 1903 Edison short called *Electrocuting an Elephant*.

This classic from the film archives shows the execution of Topsy, a circus elephant. Her crime was that someone had given her a cigarette to smoke, burning the tip of her trunk — the most sensitive part of an elephant. An anguished Topsy picked the man up, tossed him in the air, and flung him to the ground.

According to American film-maker Errol Morris, it was common practice in the early part of this century to execute circus elephants deemed to have been "bad". This was vividly recorded in an obscure book called *I Loved Rogues*, by George Lewis and Byron Fish, which contains pictures with captions such as "Black Diamond seemed to know he was taking his last walk" and "After 170 shots by the firing squad, Diamond finally goes down".

Morris was fascinated by Dr James Grigson, a Dallas psychiatrist, who for more than 15 years appeared for the prosecution in a stream of murder trials, persuading juries that accused individuals were incurable sociopaths. He acquired the nickname Dr Death for the numbers of people he had sentenced to death.

In an interview with *The New Yorker* magazine, Morris — director of *The Thin Blue Line*, about a miscarriage of justice in Texas, and *A Brief History of Time*, based on Stephen Hawking's book — said he intended to make a documentary on Dr Death, using the tale of elephant executions as a form of metaphor for the death penalty.

South Africa, of course, has witnessed its own elephant executions recently. Two Pilanesberg bulls, one of whom tragically killed a tourist, were turned into vulture fodder last week.

The Texas capital punishment code that was the hallmark of Dr Death's professional findings — that the state executes murderers only if it is 100 percent certain they will kill again — may or may not have been applied in this elephant case. Perhaps the remedy would have been a dentist rather than a shot through the brain — one of the great beast's mouths, opened after death, revealed a giant abscess.

The real reason for the killings, a ranger explained to me, was to appease the tourists, who wanted to be sure they were safe in the park, which is a valid explanation for a business like a game park.

Is it a good enough reason for executing people in the wider game park — or is it circus — that is South African society? President FW de Klerk, whose announcement that he wants parliament to bring back capital punishment has unleashed an intense debate on the subject, thinks so. And, with 292 people under sentence of death, De Klerk is capable of pulling a lever that would turn Dr Death green with envy.

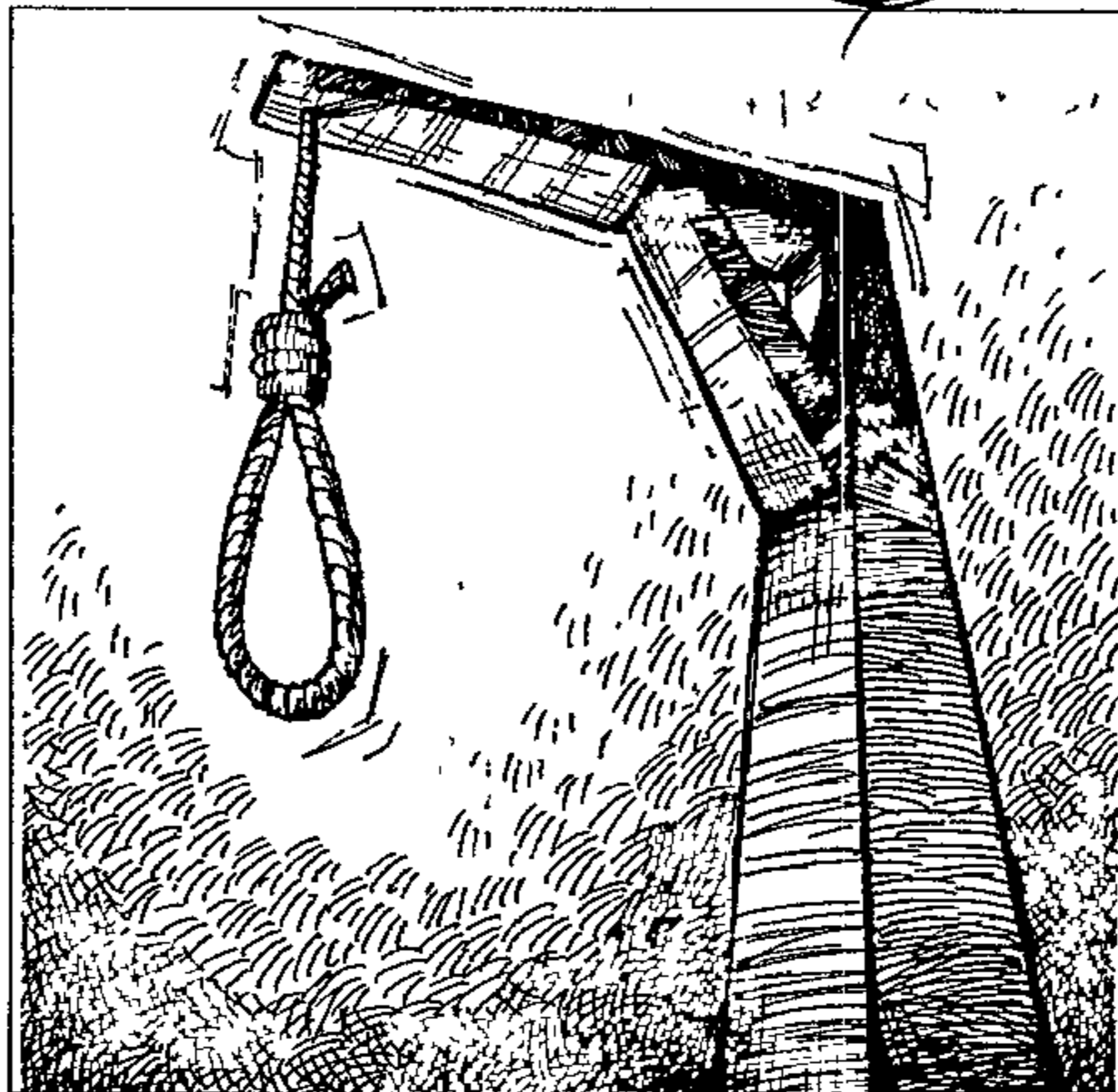
Yet De Klerk must know that reinstating the death penalty would be as useful as electrocuting every elephant in the Kruger Park in ending South Africa's freewheeling violence.

That requires other measures: massive reform of an incompetent police force, the installation of a legitimate government capa-

# Will De Klerk be SA's Dr Death?

Wilmant 8/4-15/4/93

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*Isn't it a bit rich that a government which released thousands of violent criminals back into society before they had completed their sentences now wants to crack down on crime by reintroducing the death penalty?*



By  
**PHILLIP  
VAN  
NIEKERK**

ble of governing effectively, strict gun control, and vastly expanded economic opportunities.

Bringing back capital punishment has more to do with the National Party wanting to project itself as the party of law and order: kill a few more people to show how tough you are. Win a lot more votes.

De Klerk is not the first to make political capital out of this issue. During last year's American election campaign, Bill Clinton returned to Arkansas to ensure that a convicted murderer was executed, so that the Republican campaign would never be able to portray him as a limp-wristed liberal wimp.

The flip side is what George Bush did in 1988: he painted the Democratic challenger, Michael Dukakis, as soft on crime, using an advertisement of a black man going through a "revolving door", based on the case of Willie Horton, who was released on parole in Mas-

sachusetts, skipped the state and raped a woman in Maryland.

Law and Order Minister Hermus Kriel must have studied the enormous effectiveness of that campaign in his endeavours to portray Umkhonto weSizwe as a band of criminals.

Crime is an issue made for the National Party: an acceptable synonym for *swart gevaar* in the white suburbs, and a seemingly non-political phenomenon that includes among its victims most law-abiding people in the townships.

It is a rich turnabout of reality, since this is the government that during the past two years has set loose an awesome collection of hand-dits, brigands and mass killers into our midst. This is the government that saw fit to release Barend Strydom, whose absence of remorse for randomly gunning down seven black pedestrians in Pretoria is breathtaking.

Then one can speculate who set loose bank robber Solomon Mqanqeni hours after he told the Rand Supreme Court that he gave half of his loot to Chris Hanu and Tokyo Sexwale at African National Congress headquarters at Shell House. Which is the flaw in the story?

Anyone familiar with the ANC knows that Sexwale works out of PWV regional headquarters and Hanu works at the Communist Party headquarters on the other side of town. What was he doing paying them out at Shell House?

Whatever the truth of another murky episode, the image of Hanu as the kingpin of Johannesburg's crime wave has passed into white mythology alongside the belief that the ANC wants to farm the Kruger Park and to steal one third of their wealth when it comes to power.

The government, of course, is not the only party that continues to endorse killings as a vote-winner. Pan Africanist Congress negotiator Barney Desai told the multi-party conference last week, with a great sense of indignation that anyone should have suggested otherwise, that it was not his party's policy to kill women and children.

The assembled delegates — the vast majority of them adult men — did not appear comforted at this assurance.

The Justice Department doesn't do too well on equality of the sexes either. Of the 292 people who stand to be executed if De Klerk's motion goes through, there are no women.

Perhaps someone in the National Party should look into this matter and see whether they can't attempt to win votes on two counts — bringing back the death penalty and setting a policy that at least a quarter of the executees every Friday be women.

Despite a quota system beefing up their representation to one per delegation, the only woman I can recollect addressing the multi-party conference was Thenjiwe Mthintso, of the South African Communist Party, whose contribution was one of the most articulate.

In the emerging new politics, Mthintso, Joe Slovo and the Indian Congress' Firoz Cachalia — and some veterans of the parliamentary process such as the Democratic Party's Ken Andrew — are showing flashes of a far richer national debate than the National Party-dominated white parliament has been capable of over the years. That is evident even in the rather dull gloom and the sometimes exaggerated cordiality of the World Trade Centre.

What a pity then that De Klerk has chosen the tricameral parliament as the venue for deciding on capital punishment, one of the most basic of human rights issues, particularly as the vast majority of people on death row are black.

If we are to have a parliamentary debate on capital punishment, we should wait until the elected national assembly is constituted, when all voices and shades of opinion — even the pro-elephant lobby — can be heard.

When you're out enjoying yourselves this long weekend, think seriously about the question of executions. After all, it is Easter.

# Mass killing trial goes on screen

By SHARON CHETTY

FOR the first time in South African legal history, spectators will be able to see justice being done from outside a courtroom.

On Tuesday, the case against 65 men accused of being involved in the Boipatong massacre last June starts in the Delmas circuit court.

The trial — which could take up to two years — is expected to attract huge public interest.

The proceedings will be relayed to spectators outside the courtroom by means of a closed circuit television system.

The aim of the system is to allow as many people as possible to witness the trial, said Transvaal deputy attorney-general John Welsh.

Last June 41 people — including a pregnant woman and eight children — were killed during an attack on residents of Boipatong in the Vaal Triangle.

## Protest

The men charged with the massacre were all living in the Kwa Madala hostel at the time.

The massacre drew international attention, and derailed multi-party talks when the ANC pulled out of negotiations in protest against the killings.

The trial has been moved from the Vereeniging regional court to Delmas — 80km east of Johannesburg — as the circuit court has more facilities.

Mr Welsh said a partition blocking witnesses from view for their own protection could be erected once the trial gets under way.

On Thursday, Court D in the single-storey building on the corner of Dolomiet and Prier streets in the little Highveld town was a hive of activity as workmen completed renovations to the public gallery.

In the wide corridors outside the courtroom, two alcoves have been fitted with TV monitors and wooden benches as viewing points.

# Public servants in the dock

A FAR-REACHING report and draft Bill, newly tabled in parliament, could liberate the public from decades of public service tyranny, secret decisions and lack of accountability.

The Bill follows three years of detailed international research by the South African Law Commission and proposes changes which could make this country's public service among the most open and accountable in the world.

It would allow members of the public, affected by government administrative decisions, to challenge those decisions in the courts.

Officials, challenged by a member of the public, would be obliged to supply reasons for their decisions. If they did not give reasons, the courts would presume the decisions unreasonable and therefore set them aside.

At present, the courts may review only certain administrative decisions and on limited, mainly procedural, grounds. Officials do not have to supply reasons, and usually refuse to do so, even if asked.

## Interests

Under the Law Commission's proposed Bill, the decisions of any organ of state could be challenged, from the State President down. Any minister, official, committee, council or any other body that makes a decision could be called to account by the public.

Members of the public "aggrieved" by a decision or whose interests were affected by it, could bring a legal challenge within 90 days of becoming aware of the decision.

They could ask for the relevant authority to give written reasons for the decision, or go straight to court without asking for reasons.

Under special circumstances a court might

Bill aims to end secret decisions by bureaucrats

By CARMEL RICKARD

extend this 90-day limit to a year if the judge involved believes those complaining about an administrative decision could not, reasonably, have been expected to bring a challenge within the three-month limit. If reasons were requested, the authority would have 90 days to reply.

The only official whose decisions would be exempt from court review would be the attorney-general who could not be questioned about a decision to prosecute since this decision would in any case be tested by a trial court.

However, by implication, an attorney-general who decided not to prosecute, could be asked for

reasons — a major development.

Under the Law Commission's proposals, a court could set aside a decision on a number of grounds, the most important of which would be that "no reasonable organ could have made the decision".

## Decisions

In the past the courts would have had to find "gross unreasonableness" before they could set aside a decision.

Senior members of the legal profession have welcomed the Bill, saying they had felt for years that public servants should be obliged to give reasons for decisions.

They said the quality of decisions would be likely to improve significantly if the Bill became law. "Just knowing you might have to justify a decision to a court will concentrate the mind and ensure you take a well-reasoned decision."

However, the Bill could face serious opposition from two different directions.

Inside parliament members of the political elite have become used to ruling through a bureaucracy rarely called to account for its decisions. It will be difficult for bureaucrats to accept and support an end to nearly 50 years of such power.

One indication of the government's reluctance to accept judicial review is the fact that it has not accepted a clause guaranteeing the right to such a review which appears in the Law Commission's proposed bill of rights.

Outside parliament ANC lawyers have already said they oppose extending the power of judges to review administrative decisions.

They claim this could frustrate attempts by a new government to bring

about equality. They do not want an unelected judiciary to have the right to thwart decisions of an elected legislature.

This is currently one of the most debated legal issues in political circles. Opponents of judicial review fear judges, lacking sympathy for the ideals of a new regime, could make the country ungovernable by continually setting aside decisions with which they disagree.

Supporters of judicial review say the public has suffered from a closed and unaccountable bureaucracy for many years.

## Chances

They would prefer to take their chances with judges, who must give reasons for any decisions they take, rather than suffer any longer an unaccountable public service hiding behind secrecy clauses.

Attorney Peter Leon, who gave evidence about the proposed Bill to the Law Commission on behalf of the Association of Law Societies said the draft was "an outstanding contribution to South African law".

National director of the Legal Resources Centre Geoff Budlender was more cautious. He approved the wording of the Bill which allowed a challenge to a decision 90 days after a member of the public "became aware of the decision" rather than 90 days after the decision was made.

S/ Times 11/4/93

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# Ex-CCB boss in perjury indemnity bid

SUNDAY TIMES 11/4/93

By KURT SWARTZ (252)

ATTEMPTS to avoid prosecution for perjury could fall within the ambit of South Africa's indemnity laws, the Department of Justice said this week.

The question was raised when the attorney of former CCB chairman Major-General Eddie Webb told the Johannesburg Regional Court on Wednesday that his client, charged with making conflicting statements under oath, was to apply for political indemnity.

The charges arise from differing statements made by General Webb to the Harms commission into politically-related killings and to the inquest into the assassination of Wits academic and political activist David Webster.

At the Webster inquest, General Webb admitted his evidence to Mr Justice Louis Harms might have misled the commission.

The alleged perjury involved a denial of knowledge of plans to assassinate journalist Gavin Evans and human rights activist and advocate Mr Dullah Omar.

When General Webb appeared in court on Wednesday, his attorney, Mr Oelof de Meyer, asked for a postponement because of the indemnity bid.

Mr de Meyer undertook to provide proof — by 9am on April 22 — that an indemnity application had been lodged and to reveal for what misdeed it was being sought

# Mamelodi's kangaroo justice

By ELIAS MALULEKE

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CARPENTER and cabinet maker Simon Bohale, 36, of Mamelodi West, was hauled before a "people's court" at the Umthombo Combined School last week and sternly warned that he would be banished from the township if he did not give his clients "satisfactory service".

Bohale protested that he was not the guilty party, and produced a signed contract to prove it, but the young "judge" threatened to un-

leash "comrades" on him as he was "becoming cheeky".

Bohale was not given a chance to state his case and when he tried to explain the misunderstanding between himself and a client, he was ordered to shut up.

He was told that if he failed to pay the client R1 200, his business would be boycotted and he would be banished from the township.

It was the third kangaroo court "judgment" against Bohale in less than six months.

In the first incident, he was or-

dered to refund a client her deposit and burn a kitchen unit after she complained that she was no longer interested in the unit.

On a second occasion a client took delivery of a kitchen unit and after using it for six months, she refused to pay. When Bohale demanded his money she complained to the "people's court" which ordered him to refund her instead.

Bohale said he has tried to discuss the issue with members of the ANC and the Mamelodi Civic Association, but to no avail.

CIPress 11/4/93

# Attorneys appearing in Supreme Courts advocated

By Norman Chandler  
Pretoria Bureau

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The Association of Law Societies (ALS) is spearheading a move to give attorneys access to the Supreme Courts as part of the process of adaptation by the legal profession to changing conditions in South Africa.

David Asherson, new president of the association, says the move is part of the challenges facing the legal system in the future, and that the profession will not be isolated from other challenges.

"If we hope to meet the aspirations of all, we may need to re-examine some of the firmly held views and standards regarded as the cornerstones of our profession for many decades," Asherson says in an article in the latest edition of attorneys' publication *De Rebus*.

Lawyers need to continue playing a leading role in society and in the determination of any future dispensation in South Africa, and he sees it as significant that prominent attorneys have been appointed to assist the Goldstone Commission and other peace initiatives.

Negotiations to allow attorneys audience are taking place between the ALS, the General Council of the Bar and the judiciary.

Only advocates are able to appear before a Supreme Court judge. Attorneys are currently restricted to appearing in magistrates' and other lower courts.

Asherson says the ALS believes "suitably qualified attorneys" should, in the public interest, have right of audience in the Supreme Court, although not all members of the South African Bar agree.

If the move is successful, the ALS says it does not want an amalgamation of the legal profession because "it is important to maintain a strong and independent Bar".

Asherson adds "In these times, where change has become a matter of course in so many areas, attorneys will need to think laterally and be flexible if they are to maintain their rightful place in society.

"We may all be required in the near future to adapt our thinking to suit the needs of the law (and) constitutional law will become an area in which attorneys will need to equip themselves."

Asherson also says the lack of employment opportunities for candidate attorneys needs to be discussed.

More than 3 800 legal degrees are conferred each year by 18 South African law faculties but there are insufficient positions available, due partly to the economic situation.

"I am not sure where the answer lies, but perhaps there is an urgent need for universities and the profession to consult to try to achieve some form of reasonable balance between the number of graduates and the number of opportunities."

SEA 12/4/79

Capital punishment relies on not seeing the victims as people, says Etienne

Star 13/4/93

# Racism's iniquitous relativism

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**W**HEN it set about reforming capital punishment in 1990, the Government imposed a moratorium on executions. A year ago, after completing various procedures, it announced its readiness to resume hangings.

By then, however, the legitimacy of capital punishment had become an issue in the constitutional process, and there was a wave of protest. The Government seemed to accept that it would be wrong to pre-empt the constitutional process by reopening the gallows.

Announcing an extension of the moratorium, the Minister of Justice undertook that, although death sentences would continue to be passed, they would "not be carried out pending the outcome of negotiations on an interim Bill of Fundamental Rights."

The inquiry of executing people who might emerge from the constitution-making process with an entrenched right to live was plainly not then lost on the Government.

Since then, Inkatha has joined the ANC in proposing that capital punishment be outlawed by the Constitution, and the election of

the constituent assembly, which will decide the question, is apparently only a matter of months away.

The constitutionality of capital punishment is therefore an even livelier issue now than it was when the Government agreed to maintain the moratorium.

Why, then, is the Government indifferent now to the iniquity of killing people the entrenchment of whose right to live may be imminent? Why so keen now to restore the hangman?

The Government implies that the tide of violent crime calls for a more effective deterrent than imprisonment. But the case has simply not been made that the death sentence is more effective.

No one doubts that the fear of hanging deters crime. But lifetime imprisonment is an awful punishment, and it deters crime too. No one has yet proved that the death sentence does the job better.

In the choice between the two, therefore, it must surely be a decisive consideration that the one permits the effect of an erroneous conviction to be reversed, and the other does not.

Nor should we underestimate

the probability that some who might be hanged are entirely innocent. The most respected courts in the world have made mistakes.

And our courts' heavy reliance upon translated evidence, and upon confessions, which are easy to coerce and hard to prove coerced, multiplies the likelihood of mistakes.

All of which weakens even further the case for the immediate execution of people who might be saved by a considered determination, in the constituent assembly, of the constitutional controversy over capital punishment.

In that controversy, three major positions have emerged. The ANC and Inkatha want to make executions unconstitutional.

The Government seeks, as an exception to the right to life that its draft Charter of Fundamental Rights appears to affirm, to preserve Parliament's power to authorise capital punishment.

The Law Commission is somewhere in the uncommitted middle. It affirms the right to life, but it would permit the legislature to "circumscribe" the right if that is "reasonably necessary for consid-

erations of state security, the public order and interest, good morals, public health, the administration of justice, public administration, or the rights of others or for the prevention or combating of disorder and crime."

This is a promiscuously general menu of excuses for ignoring a right that the commission professes to consider fundamental.

The practical effect of this "Solomonic solution", as the commission so modestly describes it, would be to empower the constitutional court to settle the status of the death penalty on no more substantial a ground than that it likes it or dislikes it.

The latitude to be given the court is so ample, and guided so loosely by principle, as to make the decision hardly more than a matter of the judges' personal pleasure.

It is surely far better to face the question of principle is the death penalty compatible with our reasons for wanting a new Constitution?

The principal reason for a new Constitution is to create the conditions essential for democracy.

The plainest challenge facing South African constitution-makers trying to do that is how to counter racism, which in this country has been democracy's nemesis.

Racism says that some people are not entitled to the treatment that the racists claim for themselves, in virtue of their own humanity, as their natural due. Racism says that some people are not entitled to vote, to live where their communities have been settled for generations, to the kind of schooling and hospital care that, for themselves, the racists take for granted.

In the minds of the racists, there can be only one justification for these iniquities that their victims do not belong in the category of full humankind.

That makes racism share something profoundly important with capital punishment. It is impossible thoughtfully and deliberately — judicially — to condemn a person to die unless you perceive him or her to be less than fully a person. So racism and capital punishment both depend upon denying the personhood of people. Each, moreover, breeds the disdain for

humanity that fosters the other.

Our race laws bred the kind of contempt for the humanness of people that made it thinkable to hang 164 human beings in a single year. And systematic State killing fosters the contempt for people that reinforces racial prejudice.

Democracy cannot flourish in South Africa unless racism is eradicated.

To achieve that, the Constitution has to root out all racism's supportive cousins. The death penalty, because it fosters the disdain for the humanity of people upon which racism rests, is conspicuously such a cousin.

The case for inaugurating our new democracy by forswearing an official death machine, and affirming the full humanity of every South African, is a powerful one.

The constituent assembly will give South Africa its first opportunity reflectively to consider that case in a representative forum.

How can it possibly be right to determine the mortal fate of the hundreds of humans on Death Row before we have settled this question? □

Etienne Muremuk is Professor of Law at Wits University.

# Boipatong: men to stand trial

Sowetan 13/4/93.

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A GROUP of Inkatha Freedom Party supporters from KwaMadala Hostel in the Vaal Triangle will appear in the Delmas Circuit Court today in connection with the Boipatong massacre on June 17 last year

More than 40 people were killed when a large group attacked residents that night in the Vaal township

The case was initially heard in the Vanderbijlpark Magistrate's Court and dragged on for months

More than 10 people, who were originally accused of the killings, have had charges against them withdrawn. Most of those who will appear in court today are out on bail

## ■ KwaMadala Hostel inmates to appear in the Delmas Circuit Court today:

The killings prompted the African National Congress to temporarily suspend bilateral talks with the Government

The massacre also widened the rift between the ANC and President FW de Klerk, who had to flee the area when angry youths threatened him with violence during a visit to the township at the time



By JEREMY SARKIN  
and ALFRED COCKRELL  
of the Civil Rights League

WHILE these last days of empire are replete with strange occurrences, it is hard to think of anything stranger than the government's recent decision that the discredited tricameral parliament is the appropriate body to settle the controversy regarding the moratorium on judicial hangings. As a political strategy, this seems akin to taking a vote among first-class passengers as to how the lifeboats on the Titanic should be allocated.

There were 1 088 executions in South Africa in the 10-year period 1981-1990. These statistics peaked in 1987 when no fewer than 181 executions took place.

This spiralling rate of judicial hangings was brought to an end by President F W de Klerk's speech on February 2, 1990, in which he announced that there would be a moratorium on all executions until such time as parliament had considered "reforms" to the system of capital punishment.

These promised reforms were eventually embodied in the Criminal Law Amendment Act of 1990. The primary innovation was the replacement of the mandatory death sentence for murder with a system in which the imposition of the death penalty would be in the discretion of the trial judge. A number of secondary reforms were also introduced in order to improve the appeal and review procedures involved in the reconsideration of a death sentence. Finally, a panel was created to review the sentences of all those who were on death row as at February 2, 1990.

### No legitimacy

As a result there have been no executions in South Africa (not counting the TBVC states) since November 17, 1989. This situation may well change in the near future in the light of the government's announcement that it intends to allow the tricameral parliament to decide on whether or not the existing moratorium on executions should continue.

We in the Civil Rights League wish to stress that at this stage our objection to the ending of the moratorium focuses solely on the institutional competence of the

# Minority may not decide on death penalty



F W DE KLERK: Placed a moratorium on judicial hangings on February 2, 1990.

present parliament. Not to put too fine a point on it, this is a discredited institution which possesses no legitimacy whatsoever in regard to an issue of such major constitutional significance.

South Africa has at present no Bill of Rights, and the flurry of attempts to put drafts on the negotiation table continues at such a pace that there is still no clarity regarding what our future Bill of Rights will eventually say about the death penalty. It would surely be premature to prejudge such a highly divisive issue at a stage when no checks exist on the powers of parliament.

While the avowed intention of reintroducing executions might be to reduce the level of violence,

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a much more urgent need is for the establishment of a human rights culture in this country. The level of violence is politically related, and as such requires a political solution. It should be obvious to even the least cynical observer that the government is batting around an issue of great constitutional importance in order to score cheap political points.

### Policy decision

At a time when so many policy issues are "up for grabs" in the new South Africa, it is astonishing that a racially-based parliament elected by a small minority of the population can arrogate to itself the power to make this sort of human rights decision. Before a decision can be taken about such a fundamental right, there has to be widespread, educated and informed debate on the issues involved. In addition, a mechanism such as a constitutional court needs to be in place in order to act as a check on all decisions that have an impact on civil rights.

The reintroduction of state executions is a policy decision that should be made by a democratically elected legislature within a human rights culture and with testing powers vested in an independent court of human rights. All those who are serious about their democratic commitments should demand that the moratorium on hangings be retained until such time as a fully democratic society exists.

□ *Jeremy Sarkin and Alfred Cockrell are members of the Committee of the Civil Rights League, an organisation founded in 1948 to promote human rights in South Africa.*

A ... republic

Star 14/4/93

# Torture inquiry kicks off

By Kaizer Nyatumba  
Political Correspondent

The second ANC-appointed commission of inquiry into allegations of torture in the organisation's prison camps in exile has started gathering evidence in the form of affidavits and will hold hearings next month, according to commission head Dr Sam Motsuenyane.

Motsuenyane said the commission, whose appointment by ANC president Nelson Mandela followed recommendations of the organisation's first commission headed by ANC advocate Louis Skweyiya, had made progress so far.

Advocates Vincent Maleka and Richard Moleko had been gathering evidence

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The former National African Federated Chamber of Commerce leader said the probe — comprising himself, former UK judge Margaret Burnham and Zimbabwe advocate David Zamthiya — would begin holding hearings to test evidence from May 10.

He called on people with any information which might be helpful to his commission to contact him at Khotso House in Johannesburg.

Motsuenyane said that unlike the three others before it, his commission would give people accused of human rights violations an opportunity to respond to the allegations against them.

Motsuenyane said he and his fellow commissioners would visit Tanzania towards the end of May to try to trace missing people who had not yet been accounted for.

The commission would compile its report and submit it to the ANC around the middle of June.

## Charges withdrawn in Boipatong trial

DELMAS — The State yesterday withdrew all charges against 27 of the Boipatong massacre accused and postponed the case against the remaining 47 to May 10

Though no charges were put to the suspects in the Delmas Circuit Court, prosecutor A de Jager said the 47 remaining accused, mostly residents of the KwaMadala hostel in the Vaal Triangle, would face more than 100 charges, including murder, attempted murder, public violence and malicious damage to property.

The case stems from the June 17 1992 attack on Boipatong residents in which 41 people were killed

All barring one of the remaining 47 accused were again released on bail, and have to report to the Vanderbijlpark police station each Monday

The hearing was held in camera with only lawyers, reporters and two UN observers permitted to follow the proceedings from behind a glass partition — Sapa.

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## Sixteen deaths still unsolved

CAPE TOWN — The police had still not detained, arrested, charged or convicted anyone in connection with the assassination of 16 anti-apartheid campaigners, Law and Order Minister Hernus Kriel told Parliament yesterday. *BOM*

These unsolved cases included the murders of Natal University academic Richard Turner, Cradock community leader Matthew Goniwe and Wits University academic David Webster. *14/4/95*

Police had also not arrested or charged anyone in connection with the bombing of 12 buildings which housed anti-apartheid organisations in different parts of SA.

Kriel was responding to questions tabled by Peter Soal (DP, Johannesburg North) in the fourth consecutive year Soal has raised the issue in Parliament. On each occasion he has been told police have not made any progress in their investigations

"Nobody has as yet been charged or convicted in connection with these murders as there is no evidence to implicate any person," Kriel said.

He also said no one had been detained,

### Political Staff

arrested, charged or convicted in connection with the 12 bombings. *(25)*

Soal also tabled questions about the fatal stabbing of Durban attorney Griffiths Mxenge outside his home in 1981 and the murder of his wife, Victoria Mxenge, who was hacked to death outside the same home in 1985. *(25)*

He also asked about the murder of Goniwe's three Cradock colleagues — Sparrow Mkhonto, Fort Calata and Sicelo Mlawuli — who were abducted and killed on the Grahamstown-Port Elizabeth road in 1985.

Kriel was questioned about the bombing of Cosatu House in Johannesburg in May 1987; Khotso House, the headquarters of the SA Council of Churches, in Johannesburg in August 1988; Khanya House, the headquarters of Southern Africa Catholic Bishops Conference, in Pretoria in October 1988, Community House in Cape Town in August 1987, the offices of Grassroots newspaper in Cape Town in October 1985; and various other buildings.

## Former detainees owe State R200 000

CAPE TOWN — Former detainees owed the State more than R200 000 for the costs of unsuccessful court applications, Law and Order Minister Hernus Kriel said yesterday. *BOM 14/4/95*

The total outstanding value in 15 cases was R204 522,21.

Kriel, who was replying to a question tabled in Parliament by Hennie Bester

### Political Staff

(DP, Green Point), did not give details of which former detainees or former banned people still owed money to the State. *(25)*

Kriel said that in five cases civil proceedings had been instituted by the state attorney, and the writing off of the debt was being considered in five cases

where the debtors had not been traced. *(25)*

In four other cases, the debtors were already paying without any steps being taken, while in one case the debtor had requested the writing-off of the debt. Although this request had been referred to the Treasury, its decision was not yet known, Kriel said

# Police assaulted me, says killing suspect

Own Correspondent (252)

MARITZBURG — A 19-year-old Sinathing man, being held in connection with the murders of six schoolchildren at Mboyi, Table Mountain, last month, told a Maritzburg magistrate yesterday he had made a confession to a magistrate because he had been assaulted and threatened by police

Sibusiso Zulu, who admitted

being an active member of the ANC, denied all knowledge of the crime when he appeared before Duncan Robertson with co-accused Jeremia Qeda (33) during a bail application yesterday.

Zulu yesterday on several occasions declined to reply to questions by State advocate Jurie Strydom, saying he was acting on the advice of his legal representatives not to answer questions which might incrimi-

nate him or prejudice his trial

He refused to reply when Strydom asked him to explain the apparent contradiction that, on the one hand, he claimed to know nothing about the offence while, on the other, he feared he might incriminate himself

The hearing was adjourned until today, after the courts were evacuated at midday due to violence which accompanied Chris Hani memorial services

Star 15/4/93

## Probe into 'abuse of power'

Mr Justice Richard Goldstone has announced that a committee already established in Natal-KwaZulu will hold an inquiry into allegations of power abuses by members of the SA Police in the Mooi River, Estcourt and Ladysmith districts, arising out of events surrounding the burning down of the Bruntville hostel. The public hearing will be held at the Mooi River Farmers' Association on Grantley Farm, Mooi River, at 10 am on April 19.

(252)

# Independent experts will join assassination probe

By Bronwyn Wilkinson and Anna Louw

Two independent international experts are to be appointed to the SAP team investigating the assassination of SACP and ANC leader Chris Hanu, Justice Minister Kobie Coetsee announced last night.

He said in a statement that Attorney-General Klaus von Lieres and Wilkau had sent him a message saying the appointment of international experts might allay public fears of a cover-up in the inquiry.

"It also provides a guarantee for the most comprehensive investigation possible," Von Lieres had said.

Von Lieres said the re-

quests for him to consider the addition of one or two independent experts came from the ANC, Police Commissioner General Johan van der Merwe and the National Peace Secretariat (NPS).

Yesterday Von Lieres agreed to the requests and asked the NPS to identify two appropriate people as soon as possible.

Justice Ministry spokesman Werner Krull said it was likely that at least one expert would come from London's Scotland Yard.

Several ANC and SACP leaders have charged that Hanu could not have been killed by a lone gunman and have alleged that the police have not tried to arrest

more people.

Earlier yesterday, Van der Merwe placed an embargo on information about the police investigation.

Witwatersrand police liaison officer Brigadier Frans Malherbe said this was because all information about the investigation had been given a political connotation which, he said, was hampering investigations.

Polish immigrant Janus Jakub Waluz (40) was arrested shortly after Hanu was shot dead outside his Dawn Park, Boksburg, home on Saturday. He appeared in the Boksburg Magistrate's Court on Tuesday and was remanded to May 12.

Star 15/4/93  
**New A-G for eastern Cape**

President de Klerk has appointed Leslie James Roberts, SC, as Attorney-General of the eastern Cape with effect from May 1, the Ministry of Justice has announced. Roberts joined the Department of Justice in 1970 as a prosecutor at the magistrate's court in Johannesburg. He was promoted to Deputy Attorney-General of Natal in April 1980, and was appointed Senior Counsel a month later.

(252)



## More Boipatong arrests expected

Star 15/4/93  
By Esther Waugh  
Political Correspondent

More arrests will follow in the investigation into the Boipatong massacre, says Transvaal Attorney-General Dr Jan D'Oliviera.

He said more "main players" were identified during preparations for the trial of 74 people accused of carrying out the Boipatong massacre of July 17 1992 when KwaMadala Hostel residents attacked township residents, killing more than 40 people. (22)

Charges of murder against 27 of the 74 Boipatong massacre accused were withdrawn in the Delmas Circuit Court on Tuesday. No reasons for the withdrawal were given in court.

However, D'Oliviera yesterday told The Star that "practicalities of conducting a court case of such magnitude" necessitated focusing on the "main players". (252)

Those against whom charges had been withdrawn had, however, not been given "a clean bill of health" The State could prosecute them in a separate trial or add them to the existing trial, he said.

# Boipatong accused acquitted

By Mzimasi Ngudle

TWENTY-SEVEN of the seventy-four Boipatong massacre accused went free when charges against them were withdrawn in the Delmas Circuit Court on Tuesday.

The acquittal follows that of more than 10 other people who were also originally accused of the killings. The earlier group was released last year.

The case was postponed to May 10 after the defence asked for more time to consult with some of the accused who were arrested after the initial group.

One accused was kept in custody while bail conditions for others were modified.

Instead of reporting twice a week at Vanderbijlpark police station they will now only report on Mondays.

Mr Justice Smit turned down the request of defence counsel Mr Rean Strydom that the case be heard in Vereeniging.

He said transport to ferry the accused to Delmas would be provided and also cited security as one of the reasons why the trial should be heard in Delmas.

The accused are facing charges of

murder, attempted murder, public violence and malicious damage to property.

More than 40 people, including a pregnant woman, were killed when a large group of alleged Inkatha Freedom Party supporters from the Kwa-Madala Hostel attacked residents in Boipatong on June 17 last year.

The killings led to the African National Congress pulling out of negotiations amid allegations of police complicity.

The IFP has promised to pay legal costs provided it is allowed to instruct its own lawyers.

Two charged with killing...

# 'Lieutenant threatened, *Star 16/4/93* beat me'

By Philip Zoio

252

A Soweto woman told a Johannesburg inquest court yesterday that a policeman beat her after telling her that he had killed her husband and would kill her too.

Nonhlanhla Cindi told the court that Lieutenant Henry Beukes was one of a group of policeman who forced her to sign a statement supporting the claim that her husband fled from police before he was shot dead in 1989.

Earlier this year Beukes was found by an inquest court to have strangled a suspect in custody. He was subsequently suspended from duty.

Cindi was testifying at the inquest of Fani Cindi, who was killed at his Zola 1 home on December 20 during police investigations into the armed robbery of a cash payroll.

Cindi said she and her husband were sleeping when policemen entered her property. They banged on the doors, and when her husband opened the kitchen door, he was pulled outside. The door was then shut. She then heard a number of shots fired.

Beukes said in a statement to the inquest that Mr Cindi was shot after trying to escape over the wall.

The suspended lieutenant is expected to testify today.

# Minister seeking statutory sanction for peace accord

Blom, 16/4/93

(252)

BILLY PADDOCK

~~252~~

CRIMINAL statutory sanction should be incorporated into the peace accord's code of conduct to strengthen it, Home Affairs Minister Danie Schutte said yesterday

Speaking at a media briefing in Pretoria he said the code for political parties should be given statutory sanction and, in certain cases and in line with the Goldstone commission proposals, be invested with criminal sanctions.

He said government had called for an urgent meeting of the national peace committee to look at measures to stem politically inspired lawlessness, strengthen the accord and convene a meeting of all its signatories

All signatories had a responsibility to come forward with proposals to avoid a recurrence of Wednesday's riots, Schutte said

At the same briefing, Justice Minister Kobie Coetsee said the Goldstone commission's draft Bill on the Regulation of Gatherings and Demonstrations was nearly ready to be put to Parliament

He said that the period for comment on the draft Bill, drawn up by the commission after its investigation into the prevention of public violence, had almost lapsed

He was certain the commission would now proceed with the final draft of the Bill, which would receive top priority from government.

The provisions of the draft Bill, published for comment in February, include

- The police being able to use force, including the use of firearms and other weapons if necessary, to prevent death or injury during a demonstration;
- Organisers of demonstrations being liable for damage which took place before, during or immediately after such a demonstration, and
- Strict conditions for the conduct of participants in gatherings or demonstrations.

In response to questions, Coetsee said criminal law in SA did not acknowledge political motive as an excuse for murder. Prior to October 1990 prisoners could apply for indemnity and therefore Chris Hani's alleged killer, Janus Waluz, would not get indemnity if he were sentenced for the killing.

He rejected "third degree treatment" to extract information from a still silent Waluz

Coetsee said government had noted statements by a senior political leader in the PWV area (believed to be ANC PWV regional leader Tokyo Sexwale) that normal legal processes should be circumvented to allow the people to try to convict Waluz

"If this is a correct reflection of the official point of view of that individual then it is a deplorable approach. It actually questions that party's commitment to democracy," he said.

ANC official Pallo Jordan yesterday denied the ANC had ever officially linked government to the assassination. "What we have said is that government and agencies of government were involved in a disinformation campaign against Hani"

The appointment of foreign and independent experts to assist in the police investigation into the killing guaranteed that no cover-up was possible.

Meanwhile, Acting Law and Order Minister Tertius Delpert said the new steps announced by President F W de Klerk on Wednesday to prevent marches becoming violent supported the idea of free political participation and orderly demonstration

The steps included the declaration of further unrest areas, particularly on the Witwatersrand, an increase of 3 000 men for the security forces and an insistence that the law be strictly adhered to for all future marches

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persons to be members of the Slums Clearance Court for the consideration of matters relating to the Indian population group. The term of office of such members is from 1 April 1993 to 31 March 1994

**Chairman.**

Mr S. J. Mundhree

**Members.**

Mr D. Naicker

Mr H. N. Marsh

**Alternate member:**

Mr W. W. Walsh

(16 April 1993)

aangestel het as lede van die Slumopruimingshof vir oorweging van sake wat op die Indierbevolkingsgroep betrekking het. Die dienstermyn van die lede is vanaf 1 April 1992 tot 31 Maart 1994

**Voorsitter:**

Mnr S. J. Mundhree

**Lede.**

Mnr D. Naicker

Mnr. H. N. Marsh

**Alternatiewe lid:**

Mnr. W. W. Walsh

(16 April 1993)

**NOTICE 324 OF 1993**

**DEPARTMENT OF JUSTICE**

ANNOUNCEMENT OF NAMES OF PERSONS WHO HAVE COMPLIED WITH PARAGRAPH (a) OF GOVERNMENT NOTICE No 501 OF 6 MARCH 1991 AND WHO HAVE FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (d) OF THE SAID GOVERNMENT NOTICE

The Director-General, Justice hereby <sup>(252)</sup> makes known for general information, in the Schedule hereto, the names of persons—

- (a) who are members of the African National Congress of Umkhonto we Sizwe, or who, in the case of persons who are not such members, in terms of paragraph (a) of Government Notice No 501 of 6 March 1991 subscribed to the principles of peaceful solutions and development, and
- (b) who have furnished the information referred to in paragraph (d) 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 in respect of the undergoing of training in contravention of the provisions of section 2(1) (b) of the Terrorism Act, 1967 (Act No. 83 of 1967), or section 54 (1) (ii), read with section 54 (7), of the Internal Security Act, 1982 (Act No 74 of 1982), as the case may be

**KENNISGEWING 324 VAN 1993**

**DEPARTEMENT VAN JUSTISIE**

BEKENDMAKING VAN NAME VAN PERSONE WAT VOLDOEN AAN PARAGRAAF (a) VAN GOEWERMENSKENNISGEWING No. 501 VAN 6 MAART 1991 EN DIE INLIGTING BEDOEL IN PARAGRAAF (d) VAN GENOEMDE GOEWERMENSKENNISGEWING VERSTREK HET

Die Direkteur-generaal Justisie maak hierby die name van persone vir algemene inligting, in die Bylae hiervan, bekend—

- (a) wat lede van die African National Congress of Umkhonto we Sizwe 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 Goewermentskennisgewing No 501 van 6 Maart 1991 onderskryf het; en
- (b) wat die inligting bedoel in paragraaf (d) van genoemde Goewermentskennisgewing volledig verstrek het,

vir sover sodanige onderskrywing en inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing ten opsigte van die ondergaan van opleiding in stryd met die bepalings van artikel 2 (1) (b) van die Wet op Terrorisme, 1967 (Wet No. 83 van 1967), of artikel 54 (1) (ii), saamgelees met artikel 54 (7), van die Wet op Binnelandse Veiligheid, 1982 (Wet No. 74 van 1982), na gelang van die geval

**SCHEDULE • BYLAE**

Surname Van	Full christian names Volle voorname	Date of birth Geboortedatum
De Jonge	Klaas	1937-09-05
Gola	Timothy Thobile	1950-12-07
Mehlomakulu	Sydney Mabala	1933-04-02
Mkhize	Patrick Norman Themba	1961-03-02
Mongale	Sheron Moipula	1971-03-12
Moyo	Annaias	1958-01-06
Mseleni	Thobile Wiggett	1952-06-11
Nqamlana	Philip	1968-03-20
Pule	Edwin Freddie	1959-04-11
Seagodimo	Thomas Mabuwa	1966-04-03
Sejake	Nimrod Naphtali	1920-08-12
Strauss	Johan	1973-04-30
Zuke	Zandi Gibson	1962-05-02

(16 April 1993)

# Identity crisis for Koboie

SITINGS

18/4/93

## CARMEL RICKARD says the Law Commission is distancing itself from the government's draft bill of rights

WRITING in the Sunday Times last month defending his draft bill of rights, Justice Minister Koboie Coetsee said the government's proposals were, in the writing, virtually identical to those of the South African Law Commission.

Readers might well have concluded that the government's draft proposals for a bill of rights had the blessing of the Law Commission.

However, the commission issued a statement last week which makes it obvious that there has been no collusion. The statement distances the Law Commission from all the other proposals on the table — although it is only the commission's relationship to the government's draft which is at issue.

The commission says it issued the statement to avoid "any uncertainty or confusion".

It says it has not been involved in preparing any of the proposed charters which have been released since its own document was published in 1991, but that these newer proposals will be considered when the commission's final report on human rights is prepared. Apart from the government's suggestions, the com-

mission must consider at least four other drafts from the ANC, KwaZulu, a group of Cape academics and from the Democratic Party, whose proposals are still being finalised. However, none of these parties, apart from the government, has directly or indirectly claimed a relationship with the proposals of the commission.

Reading between the lines, it is plain that the commission issued its statement to stress its independence of the government and to distance itself from the government's proposals.

During its 20-year history, the commission has not seen eye to eye with the government on a number of important legal issues. For example, from the very beginning, the commission has been firmly opposed to the idea of group rights embedded in a bill of rights, while the government continued until very recently to champion this concept.

In 1989 the commission came out in favour of an equal and equivalent franchise for all citizens and a justiciable bill of rights — certainly not government policy at the time. In 1985, the commission recommended

that marital rape should be come a crime. The government refused to accept that recommendation.

A closer look at the bills of rights proposed by the commission and the government shows important differences between them.

Three examples illustrate the significance of these differences. The commission's proposed bill contains a provision dealing with the franchise. It says that every citizen over 18 years has the right to vote. This clause has been deleted in the government's proposals.

Instead the government's bill contains a number of other provisions, for example giving every citizen the right to form and join political parties and to stand for election. However, the government relegates the franchise question to the constitution. The problem is that constitutions can be more easily changed than bills of rights, and in the government's formulation the vital issue of the franchise can be subject to the political process. There seems no clear explanation as to why the government has not given an open and unqualified commitment to an equal franchise in its draft bill of rights

as the Law Commission did in its proposals.

A second major difference is that the government simply dropped the provision in the commission's draft bill of rights allowing a judge to review any decision of the state bureaucracy. This is an extremely important issue for the public, particularly given the lack of civil service accountability and its tendency towards secrecy.

A final example is the provision for detention. The commission will not tolerate detention for longer than 48 hours except during a state of emergency. If an emergency is declared, detainees may be held for a maximum of seven days after which they must be charged or released. The government's proposals by contrast allow detention for up to 10 days as a matter of course, even when there is no emergency.

There are indeed similarities between the drafts of the government and the Law Commission. But legal experts say there are also differences so fundamental that for Mr Coetsee to suggest that proposals are virtually identical, misleads the public and does the Law Commission a serious injustice.

# Riot cops off scot free

By DAN DHLAMINI

POLIO victim White Mbitsa shook his head in disbelief this week when three riot unit policemen who assaulted and tortured him two years ago were given suspended sentences.

No action has been taken against them yet, and they are still continuing with their normal duties.

Said western Transvaal Police spokeswoman Lt Belinda Kleynhans "The three will retain their jobs until the SAP makes a decision about their future."

In sentencing Petrus Matolo, 38, Kabelo Lebakeng, 22 and Ephraime Nkosi, 31, to a fine of R1 500 or three months' jail each, magistrate LP Vertue said the injuries sustained by Mbitsa were not serious, and he had instituted a civil action against the police.

He said the incident occurred at a

time when policemen were being killed and their houses burnt. He added the commanding officer of the unit had to retire early because of stress.

Earlier Mbitsa, who is an ANC member, told the court that the trouble started when the trio, accompanied by a white policeman, took him from his home in April 1991, saying he knew where comrades had hidden arms. They also demanded that he should take them to his brother who was wanted in connection with a murder.

He said they assaulted him and gave him electric shocks. Four of his teeth were knocked out.

His ordeal ended two days later when he was released without being charged. It was then that he laid a charge of assault and instituted a R10 000 lawsuit against the police.

252/110 C/P/Nov 18/4/93

# Horror as 27 suspects freed

By MARTIN NTSOELNGOE

THE withdrawal of charges against 27 men who were to stand trial along with another 74 suspects for the murder of 41 people in Boipatong last year, has the Vaal community feeling angry and scared.

State prosecutor A de Jager gave no reasons for the withdrawal of charges at the Vanderbijlpark Regional Court, while the remaining 74 men were not asked to plead before Judge MJ Smit and two assessors. The case was postponed to May.

A few Vaal residents, who attempted to gain entry into the court, became angry when told by police that the case was in camera.

Outside the court crowds expressed dismay when they heard that charges against 27 of the men had been withdrawn.

Said Joel Khobi from Boipatong: "The trial is a sham, it is going to end up like the Alexandra and Swameville trials.

"It is obvious that police acted in collusion with the attackers on the night of the massacre."

Sebokeng sales repre-

sentative Allison Banda added. "How can we have confidence in the police when they use guesswork?"

"It seems police arrested any person they came across in KwaMadala Hostel. Police were not serious and their actions show that they attempted to appease the international community. Why were the murderers not arrested on the same day after the killings?"

De Jager said the 74 would face more than 100 counts including murder, attempted murder, public violence and malicious damage to property.

The case is a sequel to June 17 last year, when 41 people were brutally murdered in Boipatong township.

Although there were no incidents outside the court this week, police cordoned off the road leading to the building. The accused, who attempted to hide their faces, arrived from the Vaal in a bus.

Defence counsel Strydom unsuccessfully applied for the trial to be transferred to the Vereeniging courts, after submitting that the daily trip may be risky for the accused.



REPUBLIC  
OF  
SOUTH AFRICA



REPUBLIEK  
VAN  
SUID-AFRIKA

# Government Gazette Staatskoerant

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PRETORIA, 19 APRIL 1993

No. 14753

## GENERAL NOTICES

### NOTICE 351 OF 1993 DEPARTMENT OF JUSTICE (252)

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 known for general information, in the Schedule hereto, the name of a person—

- (a) who is a member of the African National Congress, and
- (b) who has furnished the information referred to in paragraph (b) of Government Notice No R 936 of 24 April 1991 in full,

in so far as such subscription and information relate to the granting of indemnity in terms of the said Government Notice to 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 such person is available for inspection at the Office of the Director-General Justice

## ALGEMENE KENNISGEWINGS

### KENNISGEWING 351 VAN 1993 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 naam van 'n persoon—

- (a) wat 'n lid van die African National Congress is, en
- (b) wat die inligting bedoel in paragraaf (b) van Goewermentskennisgewing No R 936 van 24 April 1991 volledig verstrek het,

vir sover sodanige onderskrywing en inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing aan die persoon ten opsigte van enige handeling bedoel in paragraaf (c) van genoemde Goewermentskennisgewing 'n Lys van die spesifieke handelingte ten opsigte waarvan vrywaring deur die persoon verwerf is, is vir inspeksie beskikbaar in die Kantoor van die Direkteur-generaal Justisie.

## SCHEDULE • BYLAE

Surname Van	Full christian names Volle voorname	Date of birth Geboortedatum
De Jonge	Klaas	1937-09-05

Star 20/4/93

# Pietie

## guilty (252) of fraud

Pretoria Correspondent

Former Manpower Minister Pietie du Plessis has been found guilty in the Pretoria Supreme Court of fraud.

Du Plessis pleaded guilty yesterday to a new charge sheet of 17 charges after the original 62 charges were withdrawn against him. His case was postponed to May 28 for sentencing.

Du Plessis admitted selling assets in five companies at inflated prices to a company, National Properties Ltd (Natprop), in which he had an interest. Listed shares were then issued in payment for properties.

Concerning two of the companies, he admitted to contracting to sell shares to Natprop, knowing that he could not deliver them because they had been pledged to financial institutions as security for loans.

Du Plessis's former co-accused, his son Johan and Jan Lombard, will appear today on 62 fraud charges involving about R53 million.

Another former co-accused, Dr Judex Oberholzer, who was found guilty on two charges of fraud in December and sentenced to a fine of R180 000 or 10 years' jail, will appear as a State witness.

# Youth corps plan has FW's backing

CAPE TOWN — President F W de Klerk yesterday backed widespread calls for urgent measures to address SA's so-called lost generation of marginalised youth

Speaking during the State President's Budget vote, De Klerk said imaginative steps were needed. Archbishop Desmond Tutu, ANC president Nelson Mandela and slain SACP general secretary Chris Hanu had made proposals concerning the "lost generation".

Government had instituted a working group to examine the problem, which had already completed important preliminary work, De Klerk said. Government was ready to co-operate with all those able to contribute and would pursue the proposal in bilateral and multilateral discussions.

The DP welcomed De Klerk's indication that the idea of a peace or youth corps might be taken up. MP Dene Smuts said such a corps could be named after Hanu, who had advanced the idea of a peace corps in the days before his death.

De Klerk also said government would ask the national peace committee to organise the holding of a countrywide moment of silence in remembrance of all the victims of violence.

He said government would call for an urgent meeting of the peace accord signatories to discuss the crisis in the country.

De Klerk said Hanu's death had plunged SA into crisis and that the radical forces unleashed by the event had placed multi-party negotiations and the economy in the firing line.

He warned that the latest spate of racial killings could spark "a devastating conflict" in SA. He invited all parties inside and outside of Parliament to band together to pull the country "like a piece of burning wood from the fire which threatens".

Hanu's killing had revealed in the star-

kest terms the dangers which confronted SA when passions and violence were permitted to determine events, instead of negotiations and reason.

The climate of hope and good expectations that had prevailed two weeks ago had been overshadowed by concern among some and anger among others.

"Emotions which vary from anger to fear, from aggression to despair, are threatening to destroy the hopes of all peaceloving South Africans," De Klerk said.

The tendency to seek the solution to all the country's problems in politics and a new constitutional dispensation was shortsighted, he warned.

"Violence is also fanned by the economic and social problems of our society."

He called on all leaders to prevent any further disruption of education and to tackle the issue of unemployment.

Extending a hand to the ANC/Cosatu/SACP alliance, he said a solution to the pattern of violence and murders lay within the grasp of the leaders taking part in the negotiating process.

But De Klerk attacked its plan to engage in a six-week mass action campaign, which he said would release new tension and anger. It would also undermine national and international confidence in the economy and damage the prospects of a better life for hundreds of thousands of South Africans.

There was no need to put pressure on government to proceed rapidly with negotiations or to move quickly towards the establishment of the transitional executive council and the setting of an election date for a constituent assembly.

Government was committed to the process and the target dates now demanded were the dates which it had itself already set, he said.



Mourners cling precariously on yesterday's burial of slain SA

## Probe into aftermath

PRETORIA — The Goldstone commission is to hold a preliminary inquiry in Pretoria into the violence which erupted during and after the Chris Hanu mass protest on Wednesday April 14.

The preliminary inquiry will begin at the Sinodale Centre Buildings in Visagie Street, Pretoria at 9am on April 29, commission chairman Judge Richard Goldstone said yesterday.

People with relevant information were requested to submit details in writing to the Secretary of the Commission, Private Bag X858, Pretoria, 0001 not later than noon on April 26. People who wished to remain anonymous or required protection for any period, were asked to phone the secretary at (012) 320-4640.

Goldstone said the commission regretted and condemned the many acts of violence, deaths, injuries to people, and the damage to property in the aftermath of the assassination of SACP general secretary Chris Hanu.

"Each of these acts was a victory for the perpetrator of the murder and those who support such conduct calculated to derail the peace process."

The commission called on all South Africans to heed the call of their leaders for disciplined, dignified and peaceful demonstrations. — Sapa.

# DP walks out after 'gesture of solidarity' is spurned

CAPE TOWN — The DP and Solidarity walked out of Parliament yesterday when the Speaker refused a request to postpone proceedings "as a gesture of sympathy and solidarity" until the end of Chris Hanu's funeral.

Angry opening exchanges of the debate on President F W de Klerk's Budget vote were also marked by the expulsion from the chamber of CP MP for Stilfontein Piet Groenewald.

He had interjected "bulls--t" during comments by Speaker Eli Louw on regret over recent violence.

When De Klerk rose to speak he addressed a joint sitting without DP or Solidarity members present. There were no Labour Party members but one did wander in and take a seat during proceedings.

The sitting began with a point of order from MP for Groote Schuur and DP whip Dene Smuts, who asked that the business of Parliament be suspended until 5pm.

"It is our view that it would be inappropriate to pursue the business of Parliament this afternoon as if April 19 were just another day in the life of SA," she said.

"It is inappropriate to meet as members of the tricameral Parliament, representing those who have the privilege of the

vote, when millions of our fellow unenfranchised South Africans mourn the death of a leader of unique abilities."

Solidarity MP for Southern Natal Kisten Moodley said his party concurred.

However, Louw ruled that on such a sensitive issue a decision could not be taken unilaterally by the Speaker.

He should have been approached collectively by party leaders or whips and as this had not happened he could not accede to the DP request. All DP members present then left the chamber amid sharp exchanges with the CP.

When De Klerk opened his debate he said the fact that Parliament was sitting should not be interpreted as insensitivity.

If Parliament was true to its traditions and character it should use the opportunity offered by the debate to discuss Hanu's death in a sympathetic, constructive and dignified manner.

Parliament had not been suspended following the deaths of other individuals and to do so now could be more divisive than conciliatory, he said.

Sapa reports the MPs returned to the chamber at 5pm when the funeral had ended.

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# No indemnity for assassin

CARE TOWN — President F W de Klerk yesterday specified a new and final cutoff date for criminal indemnity which would bar SACP leader Chris Hani's murderer from escaping liability (30/4)

De Klerk told Parliament there was no question that Hani's murderer would be considered for indemnity. Government was resolutely against indemnity for crimes committed after October 1992.

In terms of the Indemnity Act, the cutoff date for indemnity for political crimes was October 8 1990. The Further Indemnity Act made provision for further indemnity, without specifying a date (1/4/93)

Responding to ANC president Nelson Mandela's speech at Hani's funeral, De Klerk said he was against shifting this date to beyond October 1992 — when the Further Indemnity Act was promulgated. He said Mandela's criticism of the Further Indemnity Act was misplaced, as Mandela's own followers had been far and away the biggest beneficiaries of the Act.

The Act was at no stage intended to offer a licence to kill; it was intended to close the book on SA's violent past, he said.

De Klerk denied Mandela's claim that

TIM COHEN (252)

his first action in response to Hani's death was to call a meeting of the State Security Council. He said his first response was to issue a statement which expressed condolences to the family and friends of Hani and to call for maximum restraint.

De Klerk said he had spoken on the phone to Mandela and had assured him of the full co-operation of government and police. It was only when it became clear that the ANC planned massive mass action that the State Security Council had met.

Only after the ANC failed to control its followers in three cities did he announce further steps to protect the public.

"Did the ANC expect the government to stand idly by and watch with its arms folded while riotous behaviour led to destruction and killing and filled so many of our people with despair?"

Responding to Mandela's call for a date for a democratic election, De Klerk said government was also filled with a sense of urgency regarding the installation of transitional executive councils and a government of national unity.

have their role re-defined to focus on the following duties

- (a) overseeing teaching practices
- (b) monitoring learning outcomes
- (c) organising orientation courses
- (d) planning diagnostic tests
- (e) conducting criterion-referenced tests
- (f) disseminating printed resources
- (g) planning for 1994 to ensure growth, especially at secondary level

(2) The overall goal in this policy shift is not to scale-down the Department's commitment to Eastern languages but to raise it to a higher level by stressing its curriculum identity

In pursuit of this objective, the various chairpersons of Departmental Subject Committees of Eastern Languages have been asked

- (a) to sustain and intensify the drive to give Eastern languages their rightful place in the curriculum, and
- (b) to prepare, as a matter of urgency, updated syllabuses, especially for the Senior Secondary Phase to be tabled before a national core curriculum committee which is working on language policy for a unitary system

Dr K RAJOO Mr Chairman, arising out of the hon the Minister's reply, I should like her to tell us how many students were studying languages in 1992, when there were 460 Eastern-language teachers, and in March 1993, when there were 644 full-time and part-time teachers?

The MINISTER Mr Chairman, I do not have those figures at my disposal at the moment, but I shall supply them to the hon member

Mr T PALAN Mr Chairman, further arising out of the hon the Minister's reply, can she tell us how many retired educators are employed as full-time language promoters? If she does not have the answer at hand, I shall be happy to receive it later

The MINISTER Mr Chairman, I do not have the answer at hand I shall supply it to the hon member in due course

HOUSE OF DELEGATES

Mr G MARI Mr Chairman, further arising out of the hon the Minister's reply, could she tell us whether there are any schools under the jurisdiction of her Department that do not have language promoters?

The MINISTER Mr Chairman, I am not certain of the answer to that, but I am under the impression that all the schools have language classes I shall confirm that in writing, however

Dr K RAJOO Mr Chairman, further arising out of the hon the Minister's reply, I should like to know whether she intends bringing back a 51-year-old teacher, an administrator in the Department of Education and Culture, who accepted early retirement owing to a burn-out clause, back to the Department of Culture as a director

The MINISTER Mr Chairman, I have no such intention The posts are about to be advertised and if that gentleman applies and is found to be suitable for the position, naturally he will be given the job At the moment I have no such intention, however

Mr A RAJBANSI Mr Chairman, further arising out of the hon the Minister's reply, and in respect of the last question posed by the former Minister of Education and Culture, will the hon the Minister agree that the reason for the retirement of that gentleman might be differences he had with the former Minister?

Council of Durban-Westville: appointments

\*7 Mr M RAJAB asked the Minister of Education and Culture

- (1) Whether any persons have been appointed to the council of the University of Durban-Westville in terms of the provisions of the University of Durban-Westville Amendment Act, 1993 (Act No 51 of 1993), if not, why not, if so, (a) what are the (i) names and (ii) qualifications of the said persons and (b) what criteria were used by her Department in making these appointments,
- (2) whether she or her Department has received any representations and/or recommendations in regard to these appointments, if so, from whom,
- (3) whether she will make a statement on the matter?

DINE

The MINISTER OF EDUCATION AND CULTURE

- (1) No

The University of Durban-Westville Amendment Act, (House of Delegates) 1993 (Act 51 of 1993) will only come into operation on a date to be fixed by the State President by proclamation in the Gazette and therefore appointments to the Council cannot be made at this stage

- (a) (i) and (ii) fall away
- (b) falls away
- (2) No
- (3) No

Mr A RAJBANSI Mr Chairman, arising out of the hon the Minister's reply, firstly, did anybody from the Ministers' Council do a private deal with anybody from the University of Durban-Westville to avoid implementing the provisions of the Act passed by the House? Secondly, in the light of the fact that the coming into operation of that legislation is going to be delayed, would it not have been wise for the hon the Minister to have withdrawn that Bill?

The MINISTER Mr Chairman, there was no private deal The truth of the matter is that Dr Mintie and Mr Kathrada as well as the hon the Chairman of the Ministers' Council approached me

Mr A RAJBANSI Approached you?

The MINISTER Yes They approached me with the suggestion that the effects of this Act be deferred, because the transition clause in the Act would cause difficulties in the transition from one council to another, and time was needed for affairs to be tidied up before the new council took over In response to that, and because the transition clause had been inserted in the Act at the insistence of the law advisors, I acceded to their request and subsequently wrote to the hon the State President in this regard

Mr M RAJAB Mr Chairman, further arising out of the hon the Minister's reply, could she tell us, firstly, in what capacity the two gentlemen she referred to approached her and, secondly, whether that was her intention when she

supported the passage of the Bill in this Chamber just three or four weeks previously?

The MINISTER Mr Chairman, I had no clear intention of doing so then At that stage, however, I could not withdraw the Bill, because the hon member for Cavendish, who had been responsible for the discussion on the Bill, was adamant that it go through

QUESTIONS

Indicates translated version

For written reply  
General Affairs

Attorneys struck off roll/admitted to practice

27 Mr M RAJAB asked the Minister of Justice

How many attorneys (a) (i) were struck off the roll and (ii) admitted to practice in each province in 1992 and (b) is it estimated by his Department will be admitted to practice in each province in 1993, 1994 and 1995, respectively?

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 various Law Societies of the Republic of South Africa were approached The following information was received

(A) The Law Society of Transvaal

- (a) (i) Attorneys struck off the roll in 1992 10
- (ii) Attorneys admitted to practice in 1992 347
- (b) It is estimated that there will be an annual increase of 16% of the total number of attorneys admitted to practice during 1993, 1994 and 1995

(B) The Law Society of the Cape of Good Hope

- (a) (i) Attorneys struck off the roll in 1992 4
- (ii) Attorneys admitted to practice in 1992 232

HOUSE OF DELEGATES

(b) It is estimated that the total number of attorneys admitted to practice will increase with approximately 30 persons per year during 1993, 1994 and 1995

(C) *The Natal Law Society*

(a) (i) Attorneys struck off the roll in 1992 8

(ii) Attorneys admitted to practice in 1992 96

(b) It is estimated that 125 attorneys per

*252*

year will be admitted to practice during the years 1993, 1994 and 1995

(D) *The Law Society of the Orange Free State*

(a) (i) Attorneys struck off the roll in 1992 2

(ii) Attorneys admitted to practice in 1992 49

(b) It is estimated that 50 attorneys per year will be admitted to practice during the years 1993, 1994 and 1995

HOUSE OF DELEGATES

QUESTIONS

Indicates translated version

For written reply

*General Affairs*

Electricity in schools

16 Mr M RAJAB asked the Minister of Education and Culture:

(a) What (i) number and (ii) percentage of (aa) public, (bb) Government (cc) community and (dd) State-aided schools falling under her Department does not have electricity at present and (b) in respect of what date is this information furnished? D109E

THE MINISTER OF EDUCATION AND CULTURE

(a)	(i)	(ii)
Public Schools	(aa)	No school under this Administration is designated as a public school
Government (State Schools) Community	(bb)	2 0,462%
	(cc)	No schools under this Administration is designated as a community school
State-aided Schools	(dd)	Nil N/A

(b) Date of Information 1993/03/12

Students at teacher-training colleges

18 Mr M RAJAB asked the Minister of Education and Culture:

How many students (a) enrolled at teacher-training colleges under the control of her Department in each province in 1992 for the (i) first, (ii) second, (iii) third and (iv) fourth year of their studies and (b) (i) entered for, (ii) passed and (iii) failed their examinations at the end of their (aa) first, (bb) second, (cc) third and (dd) fourth year at each of these colleges in that year? D111E

THE MINISTER OF EDUCATION AND CULTURE

(a)	(i)	(ii)	(iii)	(iv)
Natal	(i)	186	147	121
	(ii)	158	84	80
	(iii)	134	66	63
	(iv)	93	21	21
Transvaal	(i)	185	127	84
	(ii)	157	84	66
	(iii)	134	66	21
	(iv)	93	21	21

Teachers employed at schools

22 Mr M RAJAB asked the Minister of Education and Culture:

(a) How many teachers are employed at (i) primary and (ii) secondary schools under the control of her Department and (b) in respect of what date is this information furnished? D128E

THE MINISTER OF EDUCATION AND CULTURE

(a)	(i)	(ii)
Primary Schools	(i)	6 344
Secondary Schools	(ii)	5 824

- (a) (b) and (c) fall away
- (2) (a) No
- (b) No
- (c) Yes
- (i) On a continuous basis
- (ii) None Transelan Conference Centre is the property of Transnet Limited
- (iii) For meetings, seminars and conferences
- (iv) Mr B T Popperwell during 1984
- (3) No
- (a) and (b) Fall away
- (4) (a), (b) (i) and (ii) No
- (5) No.

## HOUSE OF REPRESENTATIVES

## INTERPELLATION

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

*General Affairs*

State Security Council: judicial commission of inquiry

1 Mr L T LANDERS asked the Minister of Justice

- (1) Whether, in view of the alleged involvement of the State Security Council in political destabilization and the murders of certain political activists, he will give consideration to recommending the appointment of a judicial commission of inquiry to investigate the activities of this council and its arms, if not, why not,
- (2) whether he will make a statement on the matter?

C83E INT

The MINISTER OF JUSTICE Mr Chairman, this question could perhaps be interpreted as one suggesting that the State Security Council itself has been involved in activities aimed at destabilising the country. It suggests that murders have been committed. I want to take this opportunity to censure and condemn the hidden suggestion contained in this question [Interjections] I must reject it in the strongest possible terms.

I furthermore want to emphasise that nowhere has any evidence been presented, nor has any allegation to that effect been proven. In other words, there is no basis for this question. The activities of the State Security Council have been aired on a number of occasions in the press. This includes how it is organised and what its statutory activities are and should be. It is clear from the Act in terms of which this body was founded that its functions are purely of an advisory nature and that it has no executive functions.

During November 1989 the hon the State President did away with the National Security Management System, as it was known at that time, and placed the emphasis on political control and

co-ordination. At the same time the hon the State President indicated that the State Security Council would continue to execute its statutory function, as stated in the said Act, and that the Ministers who were members of the State Security Council would constitute a Cabinet Committee for Security Matters which would operate in a manner similar to that of other Cabinet committees [Time expired]

Mr L T LANDERS Mr Chairman, we have taken note of the hon the Minister's reply, but it is now a well-known fact that a senior member of the State Security Council, Gen Joffel van der Westhuizen, the Chief of Military Intelligence, has been accused of having ordered the murder of Mathew Goniwe and his three comrades in what has been described as a "message of death". Whilst this may be the subject of a reopened inquest, there still remain too many unanswered questions and too many allegations about other acts of political destabilisation and political murder, all of which point unerringly to the State Security Council.

The nature of these allegations and their seriousness lead us to the conclusion that an independent judicial commission of inquiry into all the activities of the State Security Council would possibly provide us with some semblance of the truth. Documents in our possession, as well as in the possession of the media, reveal that the same Gen Joffel van der Westhuizen also ordered the permanent removal of President Lennox Sebe through a four-phase programme which involved a *coup d'état* in Ciskei. This secret operation was called Project Katzen and must have had the approval of the State Security Council and, incidentally, also implicates senior Cabinet Ministers and, in particular, the hon the Minister of Local Government.

It concerns us that this important organ of the State is implicated in this way and has, as a result, been described, *inter alia*, as the killing machine. It concerns us, furthermore, that senior members of the Cabinet are also implicated. We want to ask the hon the Minister whether the Government intends to go on issuing denials in the face of the damning accusations before us.

Of equal concern is the allegation which was made in a BBC documentary in January this year that South Africa's military intelligence used disinformation to turn Ciskei's military leader, Brig Oupa Gqozo, against the ANC, an

act which led directly to the Bisho massacre. All these facts point directly to the State Security Council's involvement in these acts. We want to ask to what extent this has had an impact on the political violence South Africa has experienced and is still experiencing.

Another important senior member of the State Security Council who has been implicated in these allegations, is the Chief of the SA Defence Force, Gen Kat Liebenberg.

\*Mr S D FISHER: Mr Chairman, time and again in the past, allegations such as those made by the hon member for Durban Suburbs regarding the State Security Council's involvement in murders and assassinations have been proven to be wrong. I want to refer to the case of Dirk Coetzee and Nofemele, of whom it was suggested that they were part of a hit squad. Once again an investigation proved this to be untrue. Dirk Coetzee made this allegation after he became a member of the ANC. That is exactly what happened here today. [Interjections]

The Webster murder was investigated. The investigation was finalised, and once again there was no evidence of involvement on the part of the Government. [Interjections] I do not blame the hon member for Durban Suburbs for putting this question today. How else would he and his party gain prestige in the eyes of the ANC? [Interjections] I refer him and his party to a report that appeared in *Die Burger* this morning. A Coloured member of the ANC, in his uniform with all his insignia on it, was attacked by Black members of the ANC. He was told that the Coloured people and the Whites were going to be driven into the ocean. Those hon members are also going to be driven into the sea. [Interjections]

Regarding this question I want to refer to the press release issued by the hon the State President on 8 May. I quote what [Time expired]

Mr M A HENDRICKSE: Mr Chairman, there is an urgent need in South Africa to move forward to a democratic state. However, before we can do that we must expose the can of worms which has infected our society for so long. If the hon the Minister of Justice has nothing to hide, if he is innocent, why does he not appoint the judicial commission of inquiry? [Interjections] The fact that there is no evidence as yet is because they are sitting with the evidence. I

HOUSE OF REPRESENTATIVES

want to remind the hon member for Mitchells Plain that the Webster inquiry found that evidence was destroyed by members of the CCB. That is why there was no evidence. It does not prove that the State was never involved. [Interjections]

Col Horak of the SA Police gave evidence that the SA Police were responsible for the hand-grenade attack on the home of the hon the leader of the LPSA. Those allegations have yet to be disproved. Now the hon the Minister says they have nothing to hide. If they do not have anything to hide, if in fact their hands are as clean as he wants to make them out to be, why does he not appoint this judicial commission of inquiry? We must now wait until all the evidence is destroyed so that the court, as in the case of the David Webster inquiry, has to find that there is no evidence! The public has a right to know. They cannot shut us up. We have a right to know! Criminals must stop investigating themselves. This Government cannot investigate itself. Apartheid has been responsible for the death of thousands. The State Security Council has been the vehicle for killing thousands of people in this country.

Mr L T LANDERS: Mr Chairman, why is the hon the Minister setting himself up as judge and prosecutor in this regard? In the introduction to this interpellation he said that no crime had been committed. How does he know that? How does he know that no crime has been committed? [Interjections] Clear evidence has been produced and allegations have been made, yet he decides for this country that no crime has been committed. In yesterday's debate the hon the State President said, and I quote from his unrevised Hansard:

No party has the right to commit a crime or to take part in violence, and any party which wishes to do so is the subject of investigation and will be the subject of investigation.

We want to know from the hon the Minister whether this includes members of the State Security Council, or is he saying to this House that it is the Government's position that the council is above the law or a law unto itself.

As we move into the new South Africa it is important that we should be clear in our minds, absolutely certain, that such nefarious activities have come to an end. We on this side of the House are not convinced that such activities

have stopped. [Interjections] As long as such destabilising activities continue there will be unrest in this country. [Interjections] For example, who threw the hand grenade at the house of the hon member for Swartkops? [Interjections]

\*The CHAIRMAN OF THE HOUSE: Order! The hon member for Belhar must please contain himself.

Mr M A HENDRICKSE: Mr Chairman, I want to remind the hon the Minister that the inquest into the death of Matthew Goniwe and others was reopened, not because of the Government's actions, but in spite of the Government's silence on the issue. It was solely because Comrade Bantu Holomisa revealed that the South African State Security Council was involved. [Interjections] that we know about this, and not because of what the Government did. [Interjections]

\*The CHAIRMAN OF THE HOUSE: Order! The hon member for Manenberg must please contain himself. The hon member for Schauderville may proceed.

Mr M A HENDRICKSE: Mr Chairman, the revelations were made in spite of what the Government wanted. When the first inquest was held, the S A Police and the South African Government were quiet. They never revealed the information which the State Security Council had at its disposal. The inquest was held only because of the revelations made by a third party, not the Government. [Interjections] [Time expired]

\*The MINISTER OF JUSTICE: Mr Chairman [Interjections] I would like to ask for some injury time. [Interjections]

\*The CHAIRMAN OF THE HOUSE: Order! The hon member for Dajosaphat must please contain himself. The hon the Minister may proceed with his reply.

\*The MINISTER: Mr Chairman, the fact remains that the State Security Council consists of a few Ministers and a few heads of departments. Gen Van der Westhuizen has never been a member of the State Security Council. He may have been a member of the management mechanisms in the regions, but that is another matter altogether. The hon member spoke here as if Gen Van der Westhuizen was a member of the State Security Council. In other words, he got his facts wrong before he started.

Secondly, it is true that the inquest was activated by a report that was based on a signal. That is in fact so. However, the person who decided that it had to be carried out immediately was the hon the State President. I assisted him. In addition, the hon the State President appointed a judge president to reopen the inquest and to conduct it in its entirety.

Thirdly, the documents of the State Security Council and all minutes are accessible to the judge conducting the inquiry and to the attorney-general dealing with it on his behalf. They have already been furnished with documents. [Interjections]

\*The CHAIRMAN OF THE HOUSE: Order! The hon member for Addo must contain himself. The hon the Minister may proceed.

\*The MINISTER: at their request, as well as any documents that they may require, with the exception of the documents that were stolen. We would have provided them with those as well. I want to repeat categorically. [Interjections] Mr Chairman, I ask you to oblige me, please.

\*The CHAIRMAN OF THE HOUSE: Order! The hon members for Heidedal and Addo must please contain themselves. [Interjections]

\*The MINISTER: The point that has to be made is that they have free access to all Government documents and that they have to decide what they want to use.

The following important point that I must make in the short time at my disposal is that South Africa has a situation of violence that it has to control at this stage. Does that mean that I can have the LPSA investigated in connection with the bomb explosion at Amanzimtoti? That is actually what it boils down to. [Time expired]

\*Mr P A C HENDRICKSE: Mr Chairman, may I address you? [Interjections]

\*The CHAIRMAN OF THE HOUSE: Order! That concludes the interpellation. We now proceed with questions. [Interjections] I want to make an appeal to the hon member for Addo. I assume that he will co-operate with me so that we can conclude proceedings. He must not keep on talking when we have finished talking.

\*Mr P A C HENDRICKSE: Mr Chairman, may I address you?

HOUSE OF REPRESENTATIVES



Howard

Howard

these transgressions, if not, why not, if so, what, in each case, was the (a) name of the (i) person and (ii) organization, (b) amount involved, (c) penalty imposed and (d) cost to the State of prosecuting the prosecution;

The MINISTER OF JUSTICE.

- (3) whether any amounts have been recovered in this regard, if so, what amounts, (1) 1990 1991 1992  
 (a) Yes 4 Yes 7 Yes 5  
 (b) Yes 1 No No
- (4) what is the total amount involved in (2) Yes, only persons and/or organizations from the private sector are involved and the information is as follows:

(a) Name (persons and/or organizations)	(b) Amount involved	(c) Penalty imposed
1990 J Gebhard	Actual loss R2 million Potential loss R4 million	3 years' imprisonment of which half was suspended Acquitted
R Moringer, U Feitich, Allied (1991) Ltd L G Porter 1991	R5,5 million R5 million	3 years' imprisonment
M Harris EIDutton A L Coetzee, H S Coetzee, Ple R de Bruun, J Marais W A Vermaak 1992	R17 million R165 million R35 million R72 million	7 years' imprisonment Trial still in progress Trial still in progress.
M Joannou, M C Kelly	R11 million	5 years' imprisonment which was set aside on appeal A new sentence has not yet been imposed
M A Jaquesson N Gnesel, A E Pranke	R103 million ± R80 million loss in re- serves ± R134 million in total in- volved	7 years' imprisonment Trial still in progress

- (d) The required information is not readily available
- (3) R17 million has been recovered in respect of the State v M Harris, R11 million in respect of the State v M Joannou and M C Kelly and R15 million in respect of the State v W A Vermaak
- (4) The required information is not readily available

HOUSE OF ASSEMBLY

Howard

Howard

case, (i) what is the amount involved and (ii) (aa) who is leading, and (bb) what is the duration of the investigation and (c) what costs had been incurred by the State in this regard up to the latest specified date for which information is available,

The MINISTER OF JUSTICE

- (b) (1) Yes (a) 18 Cases

(i) Amount involved	(ii) (aa) Who is leading the investigation	(bb) Duration of investigation
R1,7 million	Commercial Crime Unit of the SA Police	3 years
R1,6 million	"	3 years
R6,25 million	"	18 months
R40 million	"	18 months
R20 million	"	18 months
R32 million	"	2 years 4 months
R5 million	"	1 year 5 months
R179 million	"	1 year 5 months
R2,278 million	"	8 months
R8,5 million	"	1 month
R6 million	"	± 3 years
± R350 million	OSEO*	1 year
± R600 million	OSEO	10 months
± R56 million	OSEO	5 months
± R60 million	OSEO	10 months
± R17 million	OSEO	2 months
± R400 million	OSEO	2 months
± R15 million	OSEO	2 months

\* Office for Serious Economic Offences

- (c) The required information is not readily available.
- (2) (a) and (b) The required information is not readily available

Legally qualified persons employed

141 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 persons employed, as at 31 December 1992?	(c) (i) (aa) State prosecutor	(c) (i) (ab) State Advocate	(c) (i) (ac) State Controller	(c) (i) (ad) Candidate State Attorney	(c) (i) (ae) State Law Adviser
	84	9	1	1	1
	Magistrate	Magistrate	Legal administration officer	Registrar	Registrar
	2	2	2	2	2
	State prosecutor	State Advocate	State Controller	Candidate State Attorney	State Law Adviser
	96	12	12	1	1
	Magistrate	State Advocate	State Controller	Candidate State Attorney	State Law Adviser
	12	12	1	1	1
	Magistrate	State Advocate	State Controller	Candidate State Attorney	State Law Adviser
	96	12	12	1	1

HOUSE OF ASSEMBLY

- (cc) State Prosecutor 58  
Magistrate 16  
Regional Magistrate 2  
State Advocate 5  
Senior State Advocate 1  
Assistant State Attorney 3  
Family Advocate 1

White	1990	1991	1992	% increase since 1990
Black	2 475	2 810	2 815	13,74%
Coloured	43	58	96	123,26%
Indian	70	75	113	61,43%
	43	55	86	100%

Since 31 December 1990 till 31 December 1992 the number of legally qualified officers belonging to other race groups has increased from 156 to 295 (89%). On 31 December 1992 238 (21%) of 1 118 posts of State Prosecutor were filled by officers of other race groups

Regarding the appointment of legally qualified people in the Department it is emphasized that the requirements for appointment of all applicants, regardless of sex of the population group to whom the person concerned belongs, are the same. The only factor taken into account in the consideration of an application is a candidate's suitability for employment, measured against the requirements of the post concerned

Number of prosecutors

145 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 1992?

The MINISTER OF JUSTICE

(a) (i) and (ii) Since 1 January 1991 district

HOUSE OF ASSEMBLY

(ii) The officials of the Department are being employed country wide

Statistics in respect of persons with legal qualifications in the Department, excluding the self-governing territories, who were employed in professional capacities on 31 December of the respective years, are as follows

and regional court prosecutors have been united in one component under the authority of a Senior State Prosecutor. Separate statistics in respect of district and regional prosecutors are, therefore, no longer kept. On 31 December 1992 1 118 officials held the rank of State Prosecutor.

(b) (i) 880 (iii) 96  
(ii) 84 (iv) 58

(c) The officials of the Department are being employed country wide

The following number of Whites/Blacks/Coloureds and Indians was employed in the capacity of State Prosecutor for the past three years ending on 31 December:

	1990	1991	1992
White	938	902	880
Black	41	55	84
Coloured	64	62	96
Indian	26	33	58
TOTAL	1 069	1 052	1 118

The number of state prosecutors belonging to other race groups has increased from 156 in 1990 to 238 in 1992, an increase of 55%. On 31 December 1992 238 (21%) of the 1 118 posts of State Prosecutor were filled by officers of other race groups

Number of magistrates

146 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 1992?

The MINISTER OF JUSTICE

(a) (i) 171 (ii) 904

(b) Regional Magistrate

(i) 169 (iii) —  
(ii) — (iv) 2

Magistrate  
(i) 867 (iii) 12  
(ii) 9 (iv) 16

(c) The officials of the Department are being employed countrywide.

The following number of Whites/Blacks/Coloureds and Indians was employed in the capacity of Magistrate/Regional Magistrate for the past three years ending on 31 December

Magistrate	1990	1991	1992
White	811	815	867
Black	2	3	9
Coloured	5	9	12
Indian	11	16	16
TOTAL	829	843	904

Regional Magistrate	1990	1991	1992
White	152	171	169
Black	—	—	—
Coloured	—	—	—
Indian	—	—	2
TOTAL	152	171	171

Appellate Division of Supreme Court: serving judges

182 Mr D J DALLING asked the Minister of Justice

Whether he will furnish particulars of the current serving members of the Appellate Division of the Supreme Court, if not, why not, if so, (a) what is the (i) name and (ii) date of appointment of each such member and (b) what was the age of each of these judges of appeal as at 1 February 1993?

The MINISTER OF JUSTICE

Yes

The current serving members of the Appellate Division of the Supreme Court are as follows

(a) (i) Name	(ii) Date of appointment as member of the Appellate Division	(b) Age as at 1 February 1993
The Honourable Chief Justice M M Corbett	01 06 1974	69 years
The Honourable Mr Justice CP Joubert	10 07 1977	67 years
GG Hoexter	09 06 1982	68 years
AS Botha	09 06 1982	64 years
HJ Ovan Heerden	16 12 1982	61 years

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(a) (i) Name	(ii) Date of appointment as member of the Appellate Division	(b) Age as at 1 February 1993
J J F Hefer	01 07 1984	61 years
E M Grosskopf	01 04 1985	62 years
J W Smalberger	16 12 1985	56 years
H H Nestadt	01 12 1986	60 years
W Vivier	01 12 1986	59 years
A J Milne	01 01 1988	63 years
M E Kumleben	08 03 1988	65 years
J P G Eksteen	01 05 1988	68 years
F H Grosskopf	01 05 1989	61 years
R J Goldstone	01 10 1990	54 years
P M Nienaber	01 10 1990	60 years
The Honourable Miss Justice L van den Heever	01 11 1991	66 years

**Illegal strikes: charges/convictions**

201 Mr H J BESTER asked the Minister of Justice

How many workers in each race group were (a) charged with and (b) convicted of illegal strikes and related conduct in 1991 and 1992, respectively? B450E

The MINISTER OF JUSTICE:

The required information is not readily available. Moreover, statistics for crimes committed by each race group are no longer kept separately. In an effort to be of assistance to the hon member, the following statistics for the period 1 July 1991 until 30 June 1992 were obtained from the Central Statistical Services:

- (a) The total number of persons charged with illegal strikes and related conduct 47
- (b) The total number of persons convicted of illegal strikes and related conduct 39

**Attorneys/advocates in civil cases: fees contingent on outcome**

205 Mr A J LEON asked the Minister of Justice

(1) Whether a decision has been taken that fees charged by (a) attorneys and (b) advocates in civil cases may be made con-

Bar's annual meeting during July 1993 (248) (ii) (aa) and (bb) It is expected that the Bar will, as usual, issue a media statement regarding the matter after its annual meeting. The ALS has already issued a media statement in this regard on 26 March 1992. The system where a special fee arrangement applies can be used by all attorneys and advocates

(2) No It is a domestic affair which is dealt with by the Bar and ALS themselves

(3) A statement is not necessary

**Correctional supervision: sentences**

214 Mr D J DALLING asked the Minister of Justice:

How many persons were sentenced to a form of correctional supervision in each month during the period 1 April 1992 to 31 January 1993? B131E

The MINISTER OF JUSTICE:

1992	1993
April—91	January—416
May—106	
June—122	
July—119	
August—1 007	
September—257	
October—366	
November—489	
December—447	

**SAP: private prosecutions**

256 Mr H J BESTER asked the Minister of Justice:

(a) How many requests from civilians or their attorneys were received by each of the attorneys-general for certificates of *nolle prosequi* in respect of the institution of private prosecutions against members of the South African Police in 1988, 1989, 1990, 1991 and 1992, respectively, and (b) how many such certificates were issued in each of these years? B598E

The MINISTER OF JUSTICE:

Separate statistics regarding the request for the issuing of certificates of *nolle prosequi* in respect of the institution of private prosecutions against members of the South African Police are not readily kept by the attorneys-general. However, in an attempt to be of assistance to the hon member, the following available information was obtained from the attorneys-general. According to this it appears that one application was received in Cape Town in 1988, while two applications were received in Johannesburg in 1989 and two applications in Pietermaritzburg during 1992. Certificates of *nolle prosequi* were issued in the cases of Johannesburg and Cape Town. With regard to Pietermaritzburg one application was withdrawn by the applicant and the other application is still being considered.

274 Mr R V CARLISLE asked the Minister for Public Enterprises

(1) Whether Transnet commissioned the building of a conference centre at Broedstroom in the Transvaal recently, if so, (a) when, (b) at what cost and (c) for what purpose, if not,

(2) whether Transnet (a) purchased, (b) hired and/or (c) made use of such centre recently, if so, (i) when, (ii) for what consideration, (iii) for what purpose and (iv) from whom was it purchased, hired or obtained for use,

(3) whether any consideration in this regard has been paid to a certain company and/or trust, the names of which have been furnished to the Minister's Department for the purpose of his reply, if so, (a) what amount and (b) for what purpose, in each case,

(4) whether any (a) employees and/or (b) (i) spouses, and/or (ii) other family members of employees had or have any interests in the company and/or trust referred to in paragraph (3), if so, what interests,

(5) whether he will make a statement on the matter? B632E

**The MINISTER FOR PUBLIC ENTERPRISES**

Transnet Limited has furnished the following reply to the hon member's question

(1) No

drought was largely responsible for the lower surplus on the current account because this led to an increase in imports and a drop in the exports of agricultural products. In turn, leads and lags in foreign payments and receipts contributed to the larger capital outflow. These speculative capital movements were generally related to the appreciation of the USA dollar on international markets and the availability of funds on the domestic market. There were also certain repayments of maturing long term debt while no new loans were negotiated in this period.

(2) No

**Capital outflow**

\*5 Mr J CHIOLÉ asked the Minister of Finance + What was the total net (a) long-term and (b) short-term capital outflow out of the Republic since 1 January 1990 up to the latest specified date for which figures are available? B590E

**The MINISTER OF FINANCE**

- (a) The total outflow of long-term capital amounted to R6,2 billion during the three calendar years 1990 to 1992
- (b) The total outflow of short-term capital (including unrecorded transactions on the current as well as the capital account) amounted to R9,3 billion in the corresponding period

**Diepkloof Prison: grievances/demands of employees**

\*6 Mr D J DALLING asked the Minister of Correctional Services.

- (1) Whether the authorities at Diepkloof Prison were recently handed a memorandum setting out various grievances and containing certain demands by members of the South African Police and a certain civil rights union, the name of which has been furnished to the Minister's Department for the purpose of his reply, if so, (a) when, (b) what specific and/or general (i) grievances were set out, and (ii) demands were contained, in this memorandum and (c) what was his Department's response to this memorandum;
- (2) whether he or his Department intends taking any steps pursuant to this memorandum; if not, why not; if so, what steps? B628E

**The MINISTER OF CORRECTIONAL SERVICES**

- (1) Yes
- (a) 20 March 1993
- (b), (i) and (ii)
- (c) and (2)

A copy of the memorandum is attached for the hon member's convenience.

The Department has taken note of the standpoints which were raised by the particular organization. In this regard it should be mentioned that in reaction to a letter from the particular organization containing similar standpoints to those contained in the memorandum, an invitation was issued on 18 February 1993 to discuss these standpoints with the Deputy Commissioner Personnel Services. To date there has been no reaction to this invitation. It should however be categorically stated that this particular organization is not representative of the members of the Department of Correctional Services and consequently cannot be recognized as or act as a mouthpiece for the members of this Department. On the contrary, many members of this Department totally distastate themselves from this organization.

It is this Department's policy to have discussions with its personnel in cases where specific grievances have been brought to the attention of management or where members indicate that they have a problem which they would like to discuss. However, the grievances in this memorandum are vague and lack a factual basis with the result that it is not possible to react specifically to

each supposed grievance. In general all managers are continually sensitized to give a hearing to, attend to and resolve the grievances of their members within reasonable limits. With regard to the demands mentioned in the memorandum it should be mentioned that some time ago the Department of Correctional Services took the initiative to evaluate its labour relation arrangements with a view to possible future adaptations to the present systems.

In the normal course of events Departmental policy makes provision for members to have access on a well-ordered basis via the command structure to the highest level—even to the Minister.

Furthermore, all members of the department have unrestricted access to the Ombudsman.

I would like to reconfirm the invitation which was extended on 18 February 1993 and request that it be utilized. After such a discussion the Deputy Commissioner concerned will give me a full report whereafter further action will be considered.

**POPCRU**

**Police and Prison Civil Right Union**  
**Polisie en Gevangenis Burgerregte Vereniging**  
(Established in Nov. 1989)

1st Floor, Office 7	P O Box 260100
Darragh House	Excom 2023
Wanderers Street	Phone (011) 294200
Johannesburg 2000	Fax (011) 294200
	20 MARCH 1993

Memorandum to the Commissioner of the Department of Correctional Services

We, the members of POPCRU in the Transvaal Region are very much dissatisfied about the attitude of the Department of Correctional Services whenever we voice our demands. This Department has failed to address our problems from as early as 1990. The Pietermaritzburg issue is a proof of that. Unless this Department addresses our problems satisfactory the conflict-confrontation

will continue to exist. The channels of communications that are imposed on us have been a failure, the workstations have never taken off the ground because they are undemocratic and have been unilaterally formed to serve the interest of the management.

POPCRU is seen by members of both the department of the Correctional Services and Police Department as an adequate structure to address their problems at workplaces. We are informed by our reliable source that you refuse to recognise POPCRU because it is an affiliate of APPLA and that our closeness to Cosatu gives you problems. How misinformed are you. We wish to state categorically that we are apolitical and independent. Dismissing us whenever we complain will not deter us. Many other people have paid much regrettable prices for the truth.

We therefore demand

- (1) Recognition of POPCRU
- (2) Unconditional re-instatement of warders dismissed in Pietermaritzburg with immediate effect
- (3) 30% increase across the board
- (4) Better working conditions
- (5) The stopping of victimisation and harassment of POPCRU members
- (6) Freedom of Association
- (7) Stop unilateral restructuring of the Department
- (8) Stop the retrenchment of black POPCRU members in the form of the so-called Board of Inquiries

We expect response soon  
**KENNETH MTHOMBENI**  
**REGIONAL SECRETARY**  
Forward to Peace and Justice!

**Complaint in terms of Protection of Information Act**

\*7 Mr D S PIENAAR asked the Minister of Justice +

- (1) Whether, with reference to the reply by the Minister of Law and Order to Question No 77 on 16 March 1993, the attorney-general concerned has received the docket in respect of the complaint lodged by Mr O J F Hartung in terms of

the Protection of Information Act, 1982 (Act No 84 of 1982), if not, why not, if so, when,

- (2) whether any persons were prosecuted as a result of the above-mentioned complaint up to the latest date for which information is available, if not, why not; if so, what are the relevant details,
- (3) whether he will make a statement on the matter? B634E

**THE MINISTER OF JUSTICE.**

- (1) Yes The docket was received by the Attorney-General, Pretoria, on 13 January 1993
- (2) No After thorough consideration, the Attorney-General, Pretoria, decided not to institute a prosecution against the Goldstone Commission or any of its members or officials
- (3) No

**Unemployment figure**

\*8 Mr A GERBER asked the Minister of Manpower†

- (1) What was the unemployment figure for the Republic as at the latest specified date for which information is available,
- (2) whether his Department has made a projection to determine what this figure will be at the end of 1993, if not, why not, if so, what is the relevant figure,
- (3) whether he will make a statement on the matter? B638E

**THE MINISTER OF MANPOWER**

- (1) The Department has only statistics available on the number of persons that register with the Department The registered unemployment figure for December 1992 is 318 729 persons The global unemployment figure for the Republic, however, is not recorded by the Department of Manpower This function falls under the Central Statistical Service of the Department of Home Affairs
- (2) No It does not fall within the jurisdiction of the Department of Manpower
- (3) No

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certificates are issued, if not, why not, if so, what is the nature of this control,

- (2) whether two colleges, the names of which have been furnished to the Minister's Department for the purpose of his reply, offer courses in respect of which certificates are issued to successful candidates, if so, what in broad outline are the relevant details of such courses,
- (3) whether his Department exercises control over the standards maintained in respect of these courses, if not, why not; if so, to what extent,
- (4) in terms of what statutory provisions and/or regulations do the said colleges function,
- (5) whether he will make a statement on the matter? B635E

**THE MINISTER OF NATIONAL EDUCATION**

- (1) No The Department of National Education is only responsible for the development of general policy, and does not have a brief to monitor or enforce the execution of policy
- (2) Enquiries have shown that both the colleges offer courses which lead to recognised certificates in certain countries, but which do not form part of the Minister of National Education's general policy Should these colleges offer pre-tertiary programmes which do form part of the Minister of National Education's general policy, candidates would only be able to earn the applicable certificate if they wrote the relevant examinations conducted by examination bodies recognised by the South African Certification Council (SAFCERT) In the case of tertiary programmes this would have to be done by agreement with either a technician, which could then lead to certification by the Certification Council for Technician Education (SERTEC), or with a university, which undertakes its own certification within the terms of the Minister of National Education's policy

- (3) Falls away
- (4) There is no specific act for registering private colleges Private colleges do not

have to register in terms of any education act However, it is possible for private colleges offering technical college programmes to register as private technical colleges in terms of the Technical Colleges Act, 1981 (Act No 104 of 1981)

The above questions all point to the need for greater discipline, control and co-ordination in the area of non-formal education One possibility for achieving this is to extend the functions of SAF-CERT and SERTEC in order to conduct national certification as well as accreditation

- (5) No

**Missile Technology Control Regime: RSA participation**

\*12 Mr C W EGLIN asked the Minister of Foreign Affairs

- Whether, with reference to the reply to Question No 10 on 20 May 1992, any further discussions have taken place in respect of South Africa's participation in the Missile Technology Control Regime, if not, why not, if so, (a) when and (b) what was the (i) nature, (ii) content and (iii) outcome of these discussions? B642E

**THE MINISTER OF FOREIGN AFFAIRS**

- (a) Yes During September and December 1992
- (b) (i) The September meeting was an informal consultation while the December meeting was a technical discussion
- (ii) During the informal bilateral consultations in Washington in September 1992, regarding adherence to the Missile Technology Control Regime (MTCR), the South African delegation suggested that technical discussions be held on the commercial viability of South Africa's space programme as well as on the potential of converting existing South African space launch vehicle technology into a ballistic missile programme

A United States delegation comprised

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**Kalkheuvél: farm sold by SADF**

\*9 Mr P H DE LA REY asked the Minister of Defence †

- (1) Whether the South African Defence Force was involved or had an interest in the recent sale of Portions 174 and 175 of the farm Kalkheuvél 493 JO, if so, (a) how did such involvement or interest arise, (b) what was the selling price and (c) how was the proposed sale advertised,
- (2) whether the property was sold by tender, if not, why not; if so, what are the relevant details,
- (3) whether the Defence Force was the owner of this farm, if so, how was the farm acquired? B639E

**THE MINISTER OF DEFENCE**

- (1) No
- (2) and (3) Fall away

**Minister of HD: overseas expenses paid by State**

\*10 Adv C H PIENNAAR asked the Minister of State Expenditure †

- Whether his Department was responsible for the payment of an amount of R12 199,32 in respect of expenses allegedly incurred by a former Minister of Education and Culture of the House of Delegates, whose name has been furnished to the Minister's Department for the purpose of his reply, in respect of motor car transport in September and October 1991 during a visit to London, if so, (a) why, (b) what is the name of this Minister and (c) what are the details of the above-mentioned (i) expenses and (ii) visit? B640E

**THE MINISTER OF STATE EXPENDITURE:**

- No
- (a), (b) and (c) fall away

**Private colleges offering academic courses**

certificates

\*11 Mr A GERBER asked the Minister of National Education †

- (1) Whether his Department exercises control over private colleges that offer academic courses in respect of which cer-

What is definitely true is that all information to which the court has access, through the Acting Attorney-General, will be made available. I have stated unequivocally that such information is available. It is for the court, through Mr Justice Zietsman, to decide whether they are going to use the information contained in minutes, notes or whatever they may decide is relevant. It is for them to decide whether these are relevant to the inquest, and not for us to submit documents at random. We make the documents available and they read, study and investigate them and decide what to take to court.

Gen Holomisa, through the offices of a person seemingly unknown at this stage, got hold of a number of files. Some of these files have been submitted to the court. If these files are of assistance in arriving at the truth, let it be so. However, we should decide whether we have confidence that Mr Justice Zietsman will arrive at the truth. Yes, we do. Do we have confidence that the Acting Attorney-General will investigate and to submit to the court whatever he may decide is relevant? Yes, we do.

For these reasons I again want to state emphatically that whatever they may decide is relevant will be submitted to the court in order for it to arrive at a decision. Every avenue can be investigated and all documents are accessible.

Mr E W TRENT Mr Chairman, further arising out of the hon the Minister's reply, in which he gave us an assurance, does this mean that all documents, from those of the JMC right up to those of the State Security Council, are accessible to the court to have a look at?

The MINISTER Mr Chairman, all documents are accessible. I want to give the assurance unequivocally, and such documents have already been studied and a decision has been taken on what documents should be submitted. If the hon member were to inquire from the court, he would find that such documents have already been made available to the representatives of the various interested parties.

*Ministers*  
*Question standing over from Wednesday, 31 March 1993*

\*2 Mr E W TRENT—National Intelligence Service † [Transferred to State President ]  
HOUSE OF ASSEMBLY

*New questions:*

Goldstone Commission: terms of reference

\*1 Adv T LANGLEY asked the Minister of Justice:†

- (1) What is the purpose of the terms of reference of the Goldstone Commission;
- (2) whether he will make a copy of these terms of reference, including any amendments thereto, available to the House, if not, why not; if so, (a) when and (b) in what way? B560E

†The MINISTER OF JUSTICE:

(1) For the information of the hon member attention is drawn to the fact that the complete terms of reference of the Goldstone Commission are contained in section 7 of the Prevention of Public Violence and Intimidation Act, 1991 (Act No 139 of 1991), which has been in operation since 17 July 1991. These terms of reference are general ones dealing with the issue of violence and intimidation. It is however, possible for the commission to be given, to formulate and to be requested to carry out specific tasks within the framework of these statutory terms of reference. I do not know how many requests have already been received to which the commission has decided not to react. What I do have before me is a list of the large number of assignments that it has already undertaken within this framework relating to with violence and intimidation. As this is a very long list, I shall mention only a few of the assignments on it, but the full list will be laid upon the Table.

- Investigation into acts of violence on 3 and 4 December 1991 at Bruntville, Moorriver
- Investigation into acts of violence on 3 November 1991 at President Steyn Goldmine, Welkom
- Investigation into the alleged involvement by 32 Battalion in the violence at Pholapark on 8 April 1992
- Investigation into taxi violence

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- Investigation into violence on trains
- Investigation into the circumstances under which persons could have been forced to vacate their homes or hostels in the Alexandra area, the Greater Soweto area and the Vaal Triangle.
- Investigation into the shooting incidents at Bisho, Ciskei on 7 September 1992
- Investigation into incidents of violence at Alexandra, the Vaal Triangle, Umlazi, Empangeni and Pietermaritzburg
- Investigation into allegations by the ANC that Renamo soldiers were involved in hut squad activities in KwaZulu.
- Investigation into the conducting and policing of mass actions and demonstrations.
- Investigation of the Azanian People's Liberation Army regarding its camps, weapons and operational activities
- Investigation into certain allegations in newspapers and magazines in so far as it relates to the incidence of public violence and intimidation.
- Within the framework of its terms of reference, namely to investigate the incidence of public violence and intimidation, to take cognizance of intelligence activities of the South African Defence Force
- Investigation to the origin of recent serious and violent attacks on the SAP. This was a special request by the hon the Minister of Law and Order
- Investigation into ways and means of preventing the illegal importation, distribution and use of firearms, ammunition and explosive devices in the furtherance of political violence in South Africa
- Investigation into the incidence of violence in various areas in Natal

Investigation into acts of violence in Slovo Park squatter camp in Boipatong on 17 and 18 June 1992

Investigation into the handling of investigations of incidents of violence by the KwaZulu Police

Envisaged investigation into ways and means of curbing the potential for public violence and intimidation in and in relation to a national election

Envisaged investigation to the role, if any, played by armed formations and groups regarding public violence and intimidation

Envisaged investigation into incidents of violence following the death of Mr Chns Hani.

(2) (a) and (b)

Although the Act concerned has been on the Statute Book and freely available since 27 June 1991, a copy of the section concerned is attached for the sake of convenience. This will save the hon member the trouble of looking up the Act himself.

†Adv T LANGLEY Mr Chairman, arising out of the hon the Minister's reply, and with special thanks for his concern to save me trouble, I want to ask him whether "Investigation into the Directorate of Covert Collection" also appears on that list of his [Interjections]

†The MINISTER Mr Chairman, we have been through this process before, and I pointed out to the hon member at that stage that with reference to violence and intimidation the Goldstone Commission has access to the general investigation which is being conducted by Gen Steyn into the functions and activities of the DCC and of the intelligence community of the SA Defence Force. That is the arrangement.

Only when it is related to violence and intimidation with regard to South Africa does it become relevant and worth investigating. That is why the Goldstone Commission issued a statement to say that they are now sitting back a little so that Gen Steyn can complete his investigation first, and if there are findings that are indicative of a contribution to violence and intimidation they will be interested again. That is the essence of it.

†Adv T LANGLEY Further arising out of the hon the Minister's reply, the hon the Minister is wrong, as he was wrong in his reply during the interpellation, when I pointed out to him that the investigation of the Goldstone Commission took place

†The CHAIRMAN OF THE HOUSE Order No, I cannot allow the hon member to enter into an argument with the hon the Minister The hon member must limit himself to questions

†Adv T LANGLEY Mr Chairman, I am only sketching the background

He is wrong, as he was wrong when I pointed out to him that the investigation of the Goldstone Commission took place long before Pierre Steyn became involved in the matter I now ask the hon the Minister again whether that list that he so wittily read out to me contained an instruction to the Goldstone Commission to investigate the DCC That is all that I want Yes or no? [Interjections]

†The MINISTER Mr Chairman, the hon member Mr H D K van der Merwe now looks like a cat with seven whiskers as if he has made a great discovery [Interjections] It is extremely simple The hon the State President and I have pointed out that after certain matters had been brought to their attention which led to their moving in on a house where there were no arrests but an investigation was conducted, they ascertained that it was the DCC's front organization or rather house

That is what they found Immediately thereafter the Goldstone Commission received its instruction in respect of that matter, as defined by the hon the State President, and accepted it as such That is why it took place afterwards Beforehand there was the investigation and the matter of the gaining of access

The hon the State President has expressed his viewpoint on whether the gaining of access was completely desirable or not That is another question which we can debate The essence of the hon member's question is, however, what Mr Justice Goldstone is investigating with regard to this matter I have answered him

†Dr W J SNYMAN Mr Chairman, further arising out of the hon the Minister's reply, I want to ask whether the chronological order of events was not that a statement was first made

by the Goldstone Commission and that Gen Steyn became involved afterwards?

†The MINISTER Mr Chairman, Mr Justice Goldstone, Adv Pretorius and others gained access to the house which was used as a front or a shelter or whatever, but was really the offices of a front organization, something that is completely normal in the intelligence world He made a statement afterwards which was made available to me

The trail is connected with certain characters who were employed by the DCC The fact is that that statement was made as a mere statement of fact of what they had found He did not state in it that he was going to investigate this and that He only said that he had gained access and had come upon a trail after certain persons reported to him about events in Natal He said that he had come upon that situation and that is what had happened

The events were sensational because everybody then knew that there was such an investigation and that they had come upon a DCC front organization He therefore did not say he would do this and that and the next thing The conditions and extent of his investigation with regard to intelligence matters were made known afterwards However, at first he only stated the facts

†Dr W J SNYMAN Mr Chairman, further arising out of the hon the Minister's reply, I want to know whether it is not the practice that a commission appointed by the State President should report back to its principal and should not make press statements

†The MINISTER Mr Chairman, it is not unknown for commissions from time to time to make statements as they progress That is not strange [Interjections] Whether it was desirable or not could be debated Hon members must remember that this is not an ordinary commission It is a commission that focuses on violence and intimidation on a continual basis It is desirable for it to publicise its reports via the hon the State President These reports are made available to all interested parties immediately However, it is not an ordinary commission in that sense

We can debate the desirability or not of his having done it [Interjections] If he had not done it there would have been a news item that there was a movement Then it would have

been a news item and there would have been no explanation [Interjections] What he did was to state the facts. [Interjections] 252/539

†The CHAIRMAN OF THE HOUSE Order The customary number of supplementary questions has already been put

Supreme Court: powers for administrative reviews

\*2 Mr D J DALLING asked the Minister of Justice.

- (1) Whether he or his Department has received a report from the South African Law Commission relating to the powers of the Supreme Court in respect of administrative reviews, if not, why not, if so, when,
- (2) whether the report will be made public, if not, who not, if so, when,
- (3) whether the Government intends taking any steps pursuant to this report, if not, why not; if so, what steps;
- (4) whether he will make a statement on the matter? B563E

THE MINISTER OF JUSTICE.

Mr Chairman, in view of the length of this reply I would like the privilege of tabling the answer to the question However, I would like to give a short summary of the answer

The question relates to administrative law and to whether the views of the South African Law Commission will be translated into legislation The answer is yes, that is the intention

Secondly, and this is the gist of the response, we will not be inventing new legislation The Bill we envisage is actually a codification of the existing rules relating and pertaining to administrative law

Let me explain Administrative law pertains to the validity of executive actions and decisions Furthermore—this is now real progress—we have a recommendation from the South African Law Commission that within a certain time limit the decision-maker must furnish the reasons for taking a decision We support that very strongly, we are getting the State apparatus in line and we will be approaching Parliament for legislation very soon

Reply laid upon the Table with leave of House

- (1) Yes The South African Law Commission's Report on the Investigation into the Courts' Powers of Review of Administrative Acts, Project 24
- (2) The Report was tabled in Parliament on 1 April 1993
- (3) The Government has already evaluated the report Legislation in this regard will be introduced in Parliament shortly
- (4) The draft Judicial Review Bill, as contained in the South African Law Commission's report, is based on the general policy that the existing grounds for judicial review should be codified and that such codification should be open and susceptible to extension and development by the courts The codification envisaged by the draft Bill includes the statutory inclusion of the prevailing grounds for judicial review and extends the scope of review to include grounds which up until now have not been recognised by the courts, namely, questions of law, questions of fact and unreasonableness The existing grounds for review have been developed by the courts over the years This development has taken place on an *ad hoc* basis with the result that to a large extent these grounds have become "a number of unrelated pre-scripts" There is consequently a need for some form of classification

The draft Bill in clause 2 goes further and provides that notwithstanding the provisions of any other law, a person who is aggrieved by or whose interests are affected by a decision of an organ, can, in writing, request such organ to furnish reasons for its decision This right to insist for reasons for a decision will thus be applicable to all administrative acts by an organ All existing legislation which provides that reasons for a decision are not required to be furnished, will also have to be repealed

This draft Bill complements the Government's Proposals on a Charter for Fundamental Rights, and in particular sections 28 and 29, which have a direct bearing on the Supreme Courts' inherent

jurisdiction to review administrative acts. The Government is of the opinion that the control of administrative actions by the courts, will play a major role in the protection of the individual's right in a future South Africa

It has further come to my attention through press reports and as a result of a workshop on "Administrative Law for a future South Africa", which was held at the University of Cape Town last month, that the ANC is strongly opposed to the proposals contained in the South African Law Commission's Report. They argue that judicial review could frustrate attempts by a new government to introduce affirmative action. These opponents to judicial review apparently fear that judges in a future South Africa will set aside the new government's decisions, which infringe on individual's rights, and by so doing, make the country ungovernable.

I would like to quote from the "workshop's" final working document in which the recommendations of the three day discussions are contained. The following proposal was, amongst others, accepted (page 3 paragraph (u) (c)).

In evaluating whether a decision is lawful, procedurally fair and justifiable, due weight shall be given to the principles of good governance and the need to empower all public authorities to undertake programmes to undo apartheid and remedy social, political and economic disadvantages.

The ANC, in section 2, paragraph 26 of its proposed Bill of Rights provides that every individual must have a constitutional right to review an administrative act of his rights, powers or a reasonable expectation are violated by it. The ANC now suddenly adopts a resolution which totally undermines this principle and it declares that it is in favour of a discretionary affirmative action clause.

It is clear that the ANC only pays lip-service to the principle of judicial review and a Bill of Rights and does not realise that the unbridled use of power undermines the principle of the rule of law.

The Government on the other hand is of the opinion that, in a healthy democratic society, the rights of individuals and the legality of administrative acts which infringe those rights, should only be determined by the courts.

**Draft Judicial Review Bill**

\*3 Mr A J LEON asked the Minister of Justice.

Whether the Government intends (a) publishing, and/or (b) introducing legislation to give statutory effect to, the draft Judicial Review Bill prepared by the South African Law Commission; if not, why not, if so, when will the said (i) bill be published and/or (ii) legislation be introduced? B577E

**The MINISTER OF JUSTICE**

Mr Chairman, a similar question was received from the hon member for Houghton. I ask leave to deal with this question in the same way.

(Reply laid upon the Table with leave of House)

The draft Judicial Review Bill forms a part of the South African Law Commission's report on the Investigation into the Courts' Powers of Review of Administrative Acts, Project 24, which has been tabled in Parliament on 1 April 1993. The Government has already evaluated the report. Legislation in this regard will soon be introduced.

The draft Judicial Review Bill, as contained in the South African Law Commission's report, is based on the general policy that the existing grounds for judicial review should be codified and that such codification should be open and susceptible to extension and development by the courts. The codification envisaged by the draft Bill includes the statutory inclusion of the prevailing grounds for judicial review and extends the scope of review to include grounds which up until now have not been recognised by the courts, namely, questions of law, questions of fact and unreasonableness. The existing grounds for review have been developed by the courts over the years. This development has taken place on an *ad hoc* basis with the result that to a large extent these grounds have become "a number of unrelated prescripts". There is conse-

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It is clear that the ANC only pays lip-service to the principle of judicial review and a Bill of Rights and does not realise that the unbridled use of power undermines the principle of the rule of law. The Government on the other hand is of the opinion that, in a healthy democratic society, the rights of individuals and the legality of administrative acts which infringe those rights, should only be determined by the courts.

*Business interrupted in accordance with Rule 180C (3) of the Standing Rules of Parliament*

**Import cover**

\*4 Mr J CHOLE asked the Minister of Finance +

- (1) (a) What was the import cover for (i) May 1992 and (ii) January 1993 and (b) what are the (i) reasons for and (ii) implications of the difference between the May and January figures,
- (2) whether he will make a statement on the matter? B589E

**The MINISTER OF FINANCE**

- (1) (a) The ratio of the Reserve Bank's gross foreign reserves to the import of goods and services (import cover) declined from 1,8 months in May 1992 to 1,4 months in January 1993, while the corresponding ratio of the net reserves decreased from 1,7 months to 1,3 months over the same period.
- (b) This decline was caused largely by the weakening in the country's gross reserves since August 1992, which was in turn the result of a temporary deterioration in the surplus on the current account and an increase in the outflow of capital. The severe



mine the minimum price is the very issue that I wish to refer to here. The hon member said we should not interfere with the rules of the professional councils or associations he referred to. I think we should emphasise that the professional councils are there to supervise the standard of services and that the standard of services should at all times serve the public's interests. However, these councils should not get involved in the creation of measures for the protection of the professions that are prejudicial to the public. It has been brought to my attention that the Optometric Association has approved an increase of between 50% and 60% in the price of contact lens material. We shall have to take a serious look at this kind of practice. I think it is important to accept the principle that the interests of the man in the street should come first, but that the supplier of the professional service should also be in a strong position so that he can receive proper compensation for his professional services.

What I object to is the fact that he makes money out of the material that he supplies, not the professional function that he performs. Here I also refer to certain dispensing doctors. The emphasis should always be on the professional function and not on the materials used to provide specific services.

Mr R M BURROWS Mr Chairman, it is perhaps appropriate that you, and all the participants in this interpellation, have to use spectacles. It does raise the question, raised in the minds of the public outside: Is the cost all of us have incurred, in terms of having the medical scheme supply those spectacles, in accordance with a set minimum tariff? That is why I think we were pleased to hear the hon the Minister say that it is against the spirit of the Competition Board's report that a minimum is being set.

It is also appropriate to refer to last year's twelfth annual report of the Competition Board, in which reference is made to optometrical services and, in particular, the *Van der Westhuizen v. Scholtz and others* case concerning pharmacies, as cited as follows:

Apart from restrictions on advertising and price competition, the extent of certain types of work reservation is allegedly not in accordance with modern circumstances and technology. Optometrical services are in various respects analogous with those of a pharmacist

HOUSE OF ASSEMBLY

with all the professional boards to see to it that we do not resort to protective measures in order to protect the various professions.

\*It is important that we compel the professional councils to deliver services of a certain standard and that we heed the recommendations of the Competition Board. We are doing that. Therefore, what the hon DP members had so say was not news to us. It was not new either. We have been engaged in this process for the past year. In each discussion that I have had with the various councils, we looked into this matter in order to ensure that any restrictive or protective measures are eliminated as far as possible.

Hon members can rest assured that the Government accepts its responsibility in this regard. One of the principles that we announced two years ago was to make services affordable for the public.

This includes all these extensive steps, for example the deregulation of various laws and quite a number of functions that are being carried out by the professional councils at present.

I am absolutely convinced that, in the first place, we have the interests of the man in the street at heart.

\*Mr J H HOON What about the woman in the street?

\*The MINISTER The woman in the street is included in "the man in the street".

I think we should bear in mind that the persons we are referring to are people who underwent advanced technical training. Therefore, we should maintain the necessary balance when looking at these matters. The professional fees that they are entitled to should also be worthy of their profession. [Time expired]

Debate concluded

#### QUESTIONS

†Indicates translated version

For oral reply

General Affairs

State President

Question standing over from Wednesday, 31 March 1993, when it was put to the then Minister

of the National Intelligence Service as Question No 2 (Ministers)

#### Goniwe: reports of State Security Council

\*1 Mr E W TRENT asked the State President †

Whether, in view of the disclosure of certain secret minutes during the judicial inquiry into the alleged murders of Messrs Matthew Goniwe, Fort Calata and others, he will disclose information in respect of the deceased as contained in (a) all internal reports and inputs of certain persons and organizations, particulars of which have been furnished to the Office of the State President for the purpose of his reply, to all sections of the Secretariat of the State Security Council and (b) reports and inputs of that Secretariat to the former National Joint Management System (NJMS) and the State Security Council, if not, why not, if so, what are the relevant details?

B512E

The MINISTER OF JUSTICE (for the State President)

(a) and (b) The Government is prepared in principle to co-operate with the Acting Attorney-General of the Eastern Cape, who is investigating the matter, and to furnish him with any relevant documents in its possession. In this connection, the Government has already made minutes of the State Security Council available to him.

Mr E W TRENT Mr Chairman, arising out of the hon the Minister's reply, may I ask him whether the letter written by Col Van der Westhuizen to the then head of the Defence Force regarding a certain Operation Katzen was received by the former head of Defence Force, and if so, whether he replied to it. If he did, what was his reply? These are documents which were made available by Gen Holomisa and which appear to be genuine.

The MINISTER Mr Chairman, let me make it clear that we cannot have an inquest or inquiry alongside the inquest which is being conducted by Judge President Zietsman at the moment and which has been postponed until 17 May. We cannot have a parallel inquest or inquiry, or for that matter cross-examination as we are now having

contd  
HOUSE OF ASSEMBLY

What is definitely true is that all information to which the court has access, through the Acting Attorney-General, will be made available. I have stated unequivocally that such information is available. It is for the court, through Mr Justice Zietsman, to decide whether they are going to use the information contained in minutes, notes or whatever they may decide is relevant. It is for them to decide whether these are relevant to the request, and not for us to submit documents at random. We make the documents available and they read, study and investigate them and decide what to take to court.

Gen Holomisa, through the offices of a person seemingly unknown at this stage, got hold of a number of files. Some of these files have been submitted to the court. If these files are of assistance in arriving at the truth, let it be so. However, we should decide whether we have confidence that Mr Justice Zietsman will arrive at the truth. Yes, we do. Do we have confidence that the Acting Attorney-General will investigate and to submit to the court whatever he may decide is relevant? Yes, we do.

For these reasons I again want to state emphatically that whatever they may decide is relevant will be submitted to the court in order for it to arrive at a decision. Every avenue can be investigated and all documents are accessible.

Mr E W TRENT Mr Chairman, further arising out of the hon the Minister's reply, in which he gave us an assurance, does this mean that all documents, from those of the JMC right up to those of the State Security Council, are accessible to the court to have a look at?

The MINISTER Mr Chairman, all documents are accessible. I want to give the assurance unequivocally, and such documents have already been studied and a decision has been taken on what documents should be submitted. If the hon member were to inquire from the court, he would find that such documents have already been made available to the representatives of the various interested parties.

Ministers

Question standing over from Wednesday, 31 March 1993

\*2 Mr E W TRENT—National Intelligence Service † [Transferred to State President]

New questions

Goldstone Commission: terms of reference

\*1 Adv T LANGLEY asked the Minister of Justice†

- (1) What is the purpose of the terms of reference of the Goldstone Commission;
- (2) whether he will make a copy of these terms of reference, including any amendments thereto, available to the House, if not, why not, if so, (a) when and (b) in what way?

†The MINISTER OF JUSTICE.

(1) For the information of the hon member attention is drawn to the fact that the complete terms of reference of the Goldstone Commission are contained in section 7 of the Prevention of Public Violence and Intimidation Act, 1991 (Act No 139 of 1991), which has been in operation since 17 July 1991. These terms of reference are general ones dealing with the issue of violence and intimidation. It is however, possible for the commission to be given, to formulate and to be requested to carry out specific tasks within the framework of these statutory terms of reference. I do not know how many requests have already been received to which the commission has decided not to react. What I do have before me is a list of the large number of assignments that it has already undertaken within this framework relating to with violence and intimidation. As this is a very long list, I shall mention only a few of the assignments on it, but the full list will be laid upon the Table.

- Investigation into acts of violence on 3 and 4 December 1991 at Bruntville, Moorover.
- Investigation into acts of violence on 3 November 1991 at President Steyn Goldmine, Welkom
- Investigation into the alleged involvement by 32 Battalion in the violence at Pholapark on 8 April 1992
- Investigation into taxi violence

Investigation into violence on trains

Investigation into the circumstances under which persons could have been forced to vacate their homes or hostels in the Alexandra area, the Greater Soweto area and the Vaal Triangle

Investigation into the shooting incidents at Bishop, Ciskei on 7 September 1992

Investigation into incidents of violence at Alexandra, the Vaal Triangle, Umhlati, Empanjeni and Pietermaritzburg

Investigation into allegations by the ANC that Renamo soldiers were involved in hit squad activities in KwaZulu

Investigation into the conducting and policing of mass actions and demonstrations

Investigation of the Azaman People's Liberation Army regarding its camps, weapons and operational activities

Investigation into certain allegations in newspapers and magazines in so far as it relates to the incidence of public violence and intimidation

Within the framework of its terms of reference, namely to investigate the incidence of public violence and intimidation, to take cognizance of intelligence activities of the South African Defence Force

Investigation to the origin of recent serious and violent attacks on the SAP. This was a special request by the hon the Minister of Law and Order

Investigation into ways and means of preventing the illegal importation, distribution and use of firearms, ammunition and explosive devices in the furtherance of political violence in South Africa

Investigation into the incidence of violence in various areas in Natal

Investigation into acts of violence in Slovo Park squatter camp in Bopatong on 17 and 18 June 1992

Investigation into the handling of investigations of incidents of violence by the KwaZulu Police

Envisaged investigation into ways and means of curbing the potential for public violence and intimidation in and in relation to a national election

Envisaged investigation to the role, if any, played by armed formations and groups regarding public violence and intimidation

Envisaged investigation into incidents of violence following the death of Mr Chris Ham

(2) (a) and (b) Although the Act concerned has been on the Statute Book and freely available since 27 June 1991, a copy of the section concerned is attached for the sake of convenience. This will save the hon member the trouble of looking up the Act himself.

†Adv T LANGLEY Mr Chairman, arising out of the hon the Minister's reply, and with special thanks for his concern to save me trouble, I want to ask him whether "Investigation into the Directorate of Covert Collection" also appears on that list of his [Interjections]

†The MINISTER Mr Chairman, we have been through this process before, and I pointed out to the hon member at that stage that with reference to violence and intimidation the Goldstone Commission has access to the general investigation which is being conducted by Gen Steyn into the functions and activities of the DCC and of the intelligence community of the SA Defence Force. That is the arrangement.

Only when it is related to violence and intimidation with regard to South Africa does it become relevant and worth investigating. That is why the Goldstone Commission issued a statement to say that they are now sitting back a little so that Gen Steyn can complete his investigation first, and if there are findings that are indicative of a contribution to violence and intimidation they will be interested again. That is the essence of it.

ns ● Expert to probe Hani murder

# Top London cop to probe Hani murder

■ Churchill-Coleman joins investigations team:

LONDON Metropolitan policeman, Commander George Churchill-Coleman, flies in today to join the team investigating the murder of SA Communist Party general secretary Mr Chris Hani

Churchill-Coleman, former head of Britain's anti-terrorist branch, is one of two foreign experts expected to participate in the probe into Hani's assassination

Witwatersrand Attorney-General Klaus von Lieres und Wilkau said Churchill-Coleman was nominated by the British Government after it was approached for assistance

A statement by the British Embassy

in Cape Town said Churchill-Coleman's nomination had been accepted by all the parties.

The statement said he would be met at Jan Smuts Airport by Dr Antonie Gildenhuys, chairman of the National Peace Secretariat.

"The British Government are pleased to have been able to respond to this request (for investigative assistance) from the National Peace Secretariat, and are confident that Commander Churchill-Coleman, who is a police officer with outstanding experience in the field, will be able to make an important contribution to the investigation into this tragic event," the statement said.-- Sapa.

Source: 2/4/93

252

# Youth 'not killed by blows'

32/4/93  
A State pathologist yesterday disputed independent pathologist Dr Jonathan Gluckman's findings in the post-mortem on West Rand ANC Youth League member Nixon Phiri (16), who died in police custody two years ago. (252)

Dr Phillip Kemp told an Oberholzer inquest court that Phiri, of Khutsong outside Carletonville, could not have died of brain haemorrhaging associated with external body injuries as was earlier claimed by Gluckman. Kemp said he could not ascertain the cause of death because "there was nothing in the post-mortem which pointed at a specific cause of death".

Phiri died on January 16 1990 during interrogation while in police custody at Welverdiend police station.

Kemp said Phiri had died of unnatural causes, but it "certainly" was not through being subjected to physical blows to the head and body.

The inquest was postponed to May 4 — Staff Reporter

# Nothing to hide in Hani probe - SAP

Star 22/4/93

(252)

By Helen Grange

Every step of the investigation into Chris Hani's assassination will be closely monitored by the two world-class police experts from Britain and Germany.

Former Scotland Yard anti-terrorist branch head Commander George Churchill-Coleman arrived yesterday and Dr Ralf Kruger, former head of the State Bureau for Criminal Investigation of Baden-Wurtemberg in Stuttgart, arrives tomorrow.

Churchill-Coleman, after snatching a few hours of rest yesterday, was given a comprehensive picture of the current state of investigations, which have unearthed what is believed by police to be a right-wing conspiracy with international links.

Witwatersrand police liaison officer Brigadier Frans Malherbe said at a press conference yesterday that the two officers would monitor SAP investigations.

"They will be in constant contact with the investigation team and will be present at all times," Malherbe said.

He added that the SAP welcomed the foreign monitors as the SAP "has nothing to hide".

The investigators would report any problems they had with the SAP investigation to the Attorney-General, but they would not be making public



Vast experience . George Churchill-Coleman.

statements as they would be bound to secrecy, he said.

Churchill-Coleman, currently head of the London Metropolitan Police fraud branch and the longest-serving commander of the anti-terrorist branch, was responsible for co-ordinating anti-terrorist steps throughout Britain.

"I shall be getting down to work immediately," he told reporters on his arrival. He was pleased to be in South Africa, but wished his visit were under different circumstances.

The commander will be assisted by Detective-Inspector Michael Jones of the Metropolitan anti-terrorist branch.

Churchill-Coleman joined the Metropolitan Police in 1960 after serving in the army and Surrey police. A career detective with little academic background, he climbed steadily through the ranks without the assistance of a "fast-track" graduate entry.

He commands strong loyalty from juniors and won a reputation for patient, painstaking evidence-gathering.

Kruger, nominated by the German government to serve on the team, is a former judge, public prosecutor and senior police officer.

He has been one of Germany's most outstanding criminal investigators, with much experience in fighting extremist and terrorist activities.

Until March last year he was head of the State Bureau for Criminal Investigation of Baden-Wurtemberg in Stuttgart. From 1986 to 1988 Kruger served as head of Baden-Wurtemberg's State Office for the Protection of the Constitution. In both offices he co-ordinated police investigations against serious crime, weapons transactions and terrorist attacks.

Kruger's brief is the same as that of Churchill-Coleman.

The ANC's Matthew Phosa yesterday welcomed the experts' arrival, saying it was in line with the demands of the ANC alliance that the international community should ensure everything possible was done to "get the murderers (of Hani)".

# HRC not aligned — director

THE Human Rights Commission (HRC) distanced itself yesterday from political affiliation, saying it was an independent organisation monitoring political repression, violence and other human rights abuses in SA.

Responding to a report in Business Day, HRC director Satoora Sadek said suggestions that the commission was aligned with the ANC were incorrect.

"The HRC is committed to the universal declaration of human rights and uses it as a guiding document. We are certainly not bound by the programmes or policies of any political party or organisation."

She said the assumption that the political affiliation of a few of the organisation's commissioners affected the work of the HRC was flawed. Commissioners were elected on the basis of their human rights records, and represented communities af-

By Day 22/4/93  
LOYD COURTS

ected by political violence

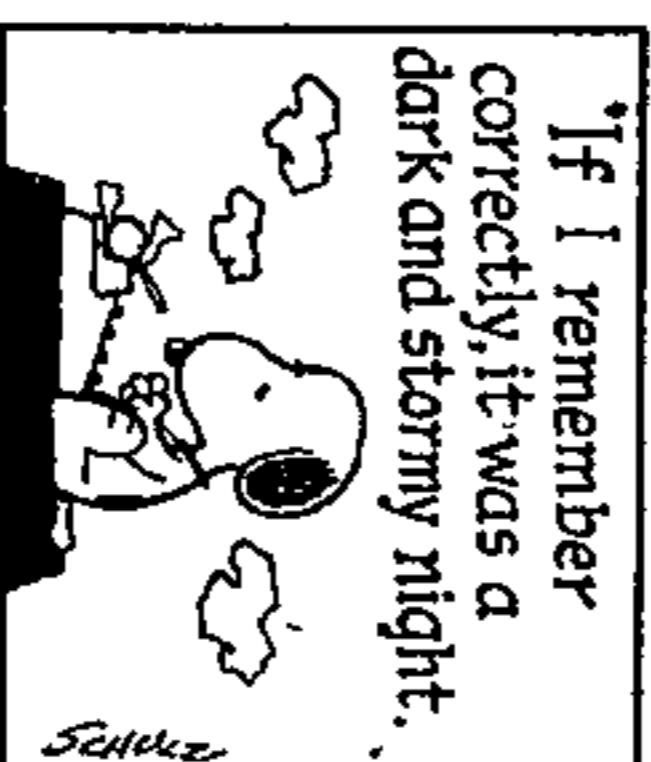
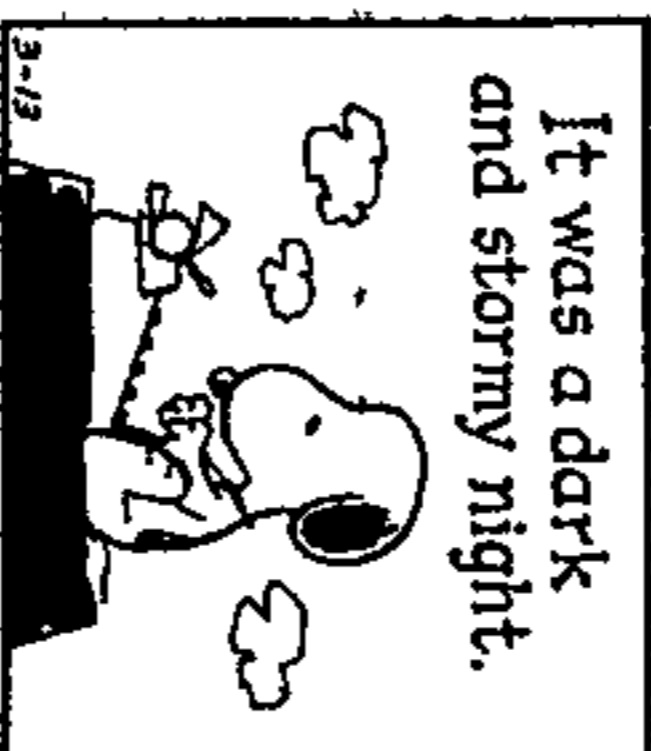
The HRC interacted with political organisations on an information-gathering basis only.

"Our statistics, and our analysis of these statistics, are based on comprehensive incident reports received from a variety of sources, including newspapers, the police, independent monitoring groups, members of various communities and political parties. This information is made public through the HRC's publications... which are distributed, on request, to a wide range of interested persons, media and parties."

Subscribing organisations reflected a wide range of political opinion, and included organisations like the Institute for a Democratic Alternative for SA and the SA Council of Churches.

## PEANUTS

By Charles Schulz



## Plan to stop N2 attacks

CAPE TOWN — Police are considering erecting tents at certain turn-offs along the N2 highway passing Cape Town townships and D F Malan Airport after stoning and petrol bomb attacks on passing vehicles. Police said yesterday armoured vehicles would be deployed at most of the trouble spots on the N2, especially the turn-offs to the townships and near D F Malan Airport.

Maj Attie Laubscher said security forces in Natal were making use of tents pitched at strategic places and manned by the police and Defence Force to stabilise unrest areas and that this strategy could be used on the N2 should the attacks not abate.

He also said police were investigating a charge of attempted murder or alternatively reckless and negligent driving after a 33-year-old Verwoerdburg man drove into marchers at Beaufort West on Tuesday. — Sapa.

## Education finances 'under urgent review'

CAPE TOWN — Drastic cuts in the state's financial contribution to education has prompted a new financing policy, severe restrictions on foreign students and the possibility that government will allow private universities.

The National Education Department's annual report tabled in Parliament yesterday showed that the state's contribution to schools' budgets had decreased to 75,3% from 90,9% last year.

The cash shortage had also led it to decrease its contribution to university budgets to 67,6% from 84,7%, the report notes. The drop in funding levels had placed stringent management demands on all institutions concerned, and led to in-depth rationalisation, innovation and the mobilisation of other income sources.

As a consequence, a new financing policy has become an urgent necessity, the report notes. Among options under consideration are a review of the subsidy formula for universities and technicons, a review of general policy for the subsidisation of private schools and a review of tax deductions for educational institutions. The increasing numbers of students at universities and technicons had placed

TIM COHEN

enormous financial burdens on the state. Interested parties had submitted representations to the Minister requesting that the establishment of private universities be made legally possible.

The universities' and technicons' advisory council was investigating the feasibility of private universities and technicons "as a meaningful option in the provision of tertiary education", the report says.

There had also been an "enormous demand" from foreign students for study opportunities at tertiary institutions following a policy adopted in 1986 approving the admission of foreign students.

Amended policy, including the procedures that potential foreign students have to follow to study at SA universities and technicons, was determined during the year under review, it said.

According to the new policy, students from Namibia, Zambia, Zimbabwe, Malawi, Lesotho, Swaziland and Botswana would be considered as foreigners.

Foreign students would not, under normal conditions, be admitted to undergraduate or pre-diploma studies at SA universities and technicons.



# Two killed: white youth faces charge

■ Woman's body buried on farm:

By Abbey Makoe

A 17-year-old white boy appeared in the Koster Magistrate's Court yesterday in connection with the gruesome murder of two black women in Geyerspan early this year.

The youth, who may not be named because of the Child Protection Act, appeared before Mr JP Potgieter.

He was remanded into police custody until April 28. He was not asked to plead and no charges were put to him.

His appearance is a sequel to the police discovery on a farm where he worked of the body of a woman murdered and buried.

The youth was also arrested following the discovery of another woman's body on a rubbish dump.

She was reportedly found with her throat slit. The body was decomposed and partly eaten by a wild animal.

The suspect's parents were not in court.

Attempts by the prosecutor, Miss JC Kruger, to contact them by telephone failed.

The State indicated it was seeking accommodation for the suspect at a psychiatric institution for observation.

Star 23/4/93  
**CCB boss  
in court** (252)

Former Civil Co-operation Bureau chairman Eddie Webb yesterday appeared on a perjury charge in the Johannesburg Magistrate's Court, where he submitted documents indicating that he had applied for political indemnity. Magistrate J B Esterhuizen ordered Webb at his last appearance to provide proof of his indemnity application.

Webb's perjury charge follows his evidence at the David Webster inquest, where he told the Rand Supreme Court that he misled the Harms Commission of Inquiry on the CCB

The case was postponed to June 23. — Staff Reporter.



Star 2314193

## Fewer than 20 pc had a lawyer

Fewer than 20 percent of accused who stand trial in district and regional courts have legal representation and more than 100 000 undefended people are sentenced to prison terms every year, according to the 1991 Legal Aid Board report. However, the board managed to help more than 57 600 people in court cases in 1991 — an increase of more than 62 percent over 1990. (252)

# news in brief

## Dali Mporu in court

LAWYER Mr Dali Mporu appeared briefly in the Johannesburg Magistrate's Court yesterday on allegations of fraud involving R50 000

He was not asked to plead and the case was postponed to June 8. He is out on warning

*Sowetan 23/4/93*

(25)

Star 23/4/93

# 'Murder admitted before Aids death'

PORT ELIZABETH — Before dying of Aids an Umkhonto we Sizwe member allegedly admitted shooting Addo businessman Andre De Villiers, the Port Elizabeth Supreme Court heard yesterday.

Testifying in the murder trial of alleged MK member Tamsanqa Mali and his co-accused, Lindile Stemele, Port Elizabeth detective Lieutenant Henry Trytsman said MK member Xolani Ncinane made the admission in a statement after being arrested.

Ncinane, a co-accused in the murder with Mali and Stemele, died of an Aids-related illness before the trial.

De Villiers was gunned down outside his farmhouse near Addo on August 17 last year. He was allegedly giving the ANC information on hit-squad activities.

Mali and Stemele have both pleaded not guilty to the murder charge. They have also pleaded not guilty to two charges of attempting to murder De Villiers's wife Elizabeth and his son Louis, and to a fourth charge of attempted robbery or conspiracy to commit robbery.

Lieutenant Trytsman, a member of the Port Elizabeth

Murder and Robbery Unit, told the court that Ncinane's statement was made before those of Mali and Stemele. The statement corroborated those made later by the Mali and Stemele.

Defence counsel Glen Goosen accepted the accuracy of the statements and said he was satisfied that they were made freely and voluntarily.

The statements indicated that Ncinane and another alleged MK member, Kenneth Kabayi, who is being sought by police, had allegedly fired all the shots at the scene of the murder.

The commander of the Port Elizabeth Murder and Robbery Unit, Major Johannes van Heerden, testified that 21 members of his unit had investigated a possible political motive to the murder.

He said this followed a statement by De Villiers's son Louis who had alleged that, before his father died, he had said the incident was a "political set-up", that Dave Mandel was involved, and that ANC member Valence Watson had information to this effect.

Mandel is a Port Elizabeth businessman and a former partner of Andre De Villiers, while Watson is an ANC member and an old family friend. — Pen.



### African Charter collection

■ A SPECIAL collection of articles, books and other material on the African Charter on Human and Peoples' Rights is being set up at the Centre for Human Rights, based at the University of Pretoria. It is hoped the collection, the only one in the country dealing with this important document, will serve as a resource on the African Charter for lawyers, academics, human rights and community organisations, as well as other non-governmental organisations. Authors of books or articles dealing with the African Charter are welcome to submit copies for inclusion in the special collection.

Contact The Librarian, African Charter Collection, Centre for Human Rights, University of Pretoria 0002 Phone (012) 420-3034; Fax (012) 43-4021

*Renewal  
Wimal 23/4-29/4/93*

lived in the house for decades and regard the house as the family home.

The regulations governing the townships were designed to give effect to

which the supreme court has ruled on whether the councils are entitled to cancel these tenancies.

Judge Michael Stegmann ruled that

# A woman's place is in the home

*Review Law Supp to Woman*  
THE case of Enoch Toho has had an unexpected but important side-effect that will bring great benefits from divorce. The wife is entitled to a share of this asset. The husband cannot simply dispose of the house.

Under the old township regulations it was almost impossible for women to have a house allocated to them. Virtually all township houses were allocated to men. Their wives were recorded on the housing permits as their dependents.

The result was that women had no control at all over the family home. In the Toho case, Judge Michael Stegmann ruled that the tenancy of a council house is an asset in the joint estate of a couple married in community of property. This means that on divorce, the wife is entitled to a share of this asset. The husband cannot simply dispose of the house. As most black marriages have been in community of property, the judgment will affect most rented township housing. Similar regulations apply to housing in the rural townships, and also to the allocation of land in rural areas. The Toho judgment seems to apply to these situations as well.

The Toho case is therefore an unexpected but important victory for women's rights to housing.

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# Curbing corruption in the councils

252  
~~26/6/93~~  
~~27/6/93~~  
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Review (Law suppl) to W/mail  
 23/4 - 29/4/93.

**M**ANY thousands of tenants of council houses in townships country-wide have been given new security of tenure, following a test case in the Rand Supreme Court.

The judgment specifies the circumstances under which the lease of a council house can be cancelled, and will help curb the power of corrupt officials

The case involved Enoch Toho, who was allocated a house in Diepmeadow, Soweto, during 1978. In April 1989, the Diepmeadow Council cancelled his lease without warning. It allocated the house to his ex-wife who had left the family home some years earlier, and then sold it to her. Suddenly, after living in the same house for 11 years, Toho and his family were without a home.

Enoch Toho's situation was far from unique. About half of the houses in Soweto — more than 60 000 — are owned by the local city council. Nationally, the figure is more than 300 000. In many cases, the people concerned have lived in the house for decades and regard the house as the family home.

The regulations governing the townships were designed to give effect to

A court decision ensures that councils can no longer merely evict tenants — many of whom regard the building as the family home — and allocate the house to another person

By **GEOFF BUDLENDER**

apartheid policies. However, they had an important benefit for residents because they gave some security of tenure to tenants of council houses.

In 1989 the regulations were repealed by a reform measure, the Conversion of Certain Rights to Leasehold Act. Many councils saw this as giving them the right to cancel tenancies, and allocate the houses to other people. They started doing just that, and soon allegations of corruption were widespread.

The case of Toho was the first in which the supreme court has ruled on whether the councils are entitled to cancel these tenancies.

Judge Michael Stegmann ruled that

the only grounds on which the council could cancel the tenancy is the tenant's failure to pay the rent. As the council had relied on other grounds in cancelling Toho's tenancy, the court ruled the council's actions were invalid.

The consequences of the case are important to the Toho family and many others whose leases are cancelled by a council. But the case has another even more important long-term result.

In response to the widespread demand of civic associations for the transfer of rented houses to the tenants, the government has announced a "sales discount" scheme. In effect, the scheme will allow most tenants to obtain ownership of their homes for free.

The result is the motive for corruption has grown. The allocation of a tenancy by the council amounts in practice to the transfer of a valuable asset, because in time the tenancy will be transformed into ownership of the house. If councils are able to cancel tenancies at will, one can expect this to take place on a large scale.

The judgment in the Toho case makes it clear that councils cannot act in this way. In limiting the grounds on which leases can be cancelled, the judgment will mean security of tenure to the vast number of tenants of black councils.

At the same time, work is proceeding on the "transfer of houses". This has been a central demand of the Soweto Civic Association. A sub-committee of the Central Witwatersrand Metropolitan Chamber has worked out proposals dealing with fair legal mechanisms for transfer of ownership of council houses.

The Toho judgment will help ensure that when township houses are transferred to the tenants, it is to the people entitled to them, rather than to those who are in favour with the councils.

Attorney Raymond Tucker and Legal Resources Centre staff appeared for Toho.

● Geoff Budlender is the national deputy director of the LRC.

## A woman's place is in the home

*Review (Law suppl) to W/mail*

THE case of Enoch Toho has had an unexpected but important side-effect that will bring great benefits for women.

Under the old township regulations it was almost impossible for women to have a house allocated to them. Virtually all township houses were allocated to men. Their wives were recorded on the housing permits as their dependents.

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The Toho case is therefore an unexpected but important victory for women's rights to housing.

**J**UDICIAL review in modern South Africa is no longer a matter of arcane interest to public lawyers.

Traditionally, administrative lawyers have tried to create a system of legal control over government by analysing when public authorities act beyond their powers.

However, judicial review in a constitutional law sense is concerned essentially with legislative policy.

Constitutionally sanctioned judicial review, in an entrenched Bill of Rights, takes lawyers and judges into the very heart of policy-making.

It is precisely because of this that at the University of Cape Town's recent

international administrative law conference, African National Congress constitutional lawyers Albie Sachs and Kadar Asmal expressed strong reservations about the constitutional propriety of judicial review in a post-apartheid South Africa.

At this gathering of distinguished administrative lawyers, Sachs and Asmal, while professing a classical approach to constitutionalism, voiced disquiet about the appropriateness of the judiciary exercising wide powers to invalidate statutes (or administrative action) under a new constitution.

According to Sachs, not only must the issue of judicial review itself be reviewed, but in the South African context, should be seen against the "popular struggle against apartheid".

Taking this populist, non-lawyer, view further, Sachs argues that judges should not assess the content of a Bill of Rights, as "judges owe loyalty to the constitution".

While criticising lawyers' "obsession with doctrinal nuance", Sachs argues that in assessing judicial review, "we have to try to imagine who will be reviewing whom in the future".

Sachs clearly does not believe that, in the context of the ANC's New Deal, judges should be anything but mechanistic automatons of the constitution.

In prose that is nothing if not blunt, Sachs states "The (ANC's) draft Bill of Rights embodies an attempt to constitutionalise the foundations of a government programme not dissimilar to the New Deal".

"Our fear is that judicial review based on knee-jerk statism could make the country as ungovernable under democracy as mass action".

The whole tenor of Sachs' contribution is one in which the courts are seen, not as the disinterested guardians of the constitution, but a potential menace to the socio-economic plans of an ANC government elected on a programme of radical social reform.

This is deeply ironic, given the ANC's strictures of the South African judiciary's performance during the era of grand apartheid, where the Appellate Division cynically upheld the policy of forced removals

under the Group Areas Act in the 1961 Lockhart case as "a colossal social experiment and a long-term policy. It necessarily involves the movement out of group areas of numbers of people throughout the country".

Sachs' views are, however, neither recent nor unique. They reflect an illiberal mistrust of the judiciary. It was after all, the British Labour Party's Nye Bevan who warned the English judiciary on the back of Attlee's Labour landslide over Churchill in 1945 that he would brook no "judicial sabotage of legislation" introduced to create the welfare state.

This led the English courts into a 15-year era of substantive formalism, what Sir William Wade has described as "judicial blacksliding" into an extended (administrative law) depression.

Asmal's views are not dissimilar. Claiming that judicial review could, by immobilising government, lead to the disempowerment of the majority, Asmal remarks, "the new jurisprudence must therefore be based on an economic and social reality which is peculiarly South African — in which the relationship between the individual and the state will have little to do with 19th century liberalism and much to do with multinationals".

The fact that the modern doctrine of judicial review originated in the 17th century as a conscious judicial effort by the court of King's Bench to restrain the excesses of Star Cham-

ber, does not appear to have occurred to him.

Consistent with his philosophy, the ANC's 1992 draft judicial review clause in its proposed Bill of Rights is essentially formalistic — concerned not with substance, but with procedural impropriety ("irregularity abuse of authorities (gross) unreasonableness").

By contrast, the Law Commission's draft Bill of Rights proposes to entrench, constitutionally, the right of everyone to judicial review of "any subordinate legislation and any executive act and any administrative act".

Given its authoritarian history, the government, in its proposed Charter of Rights, merely proposes to entrench constitutionally a person's right to natural justice, although unlike the ANC, it also proposes making an authority's reasons for decisions mandatory.

"*Quis custodiet custodes ipsos?* (Who will guard the guards themselves?)" asked the Roman poet, Juvenal, rhetorically 2 000 years ago. According to Sachs and Asmal, it will not be the judiciary under a new constitution, but parliament.

Looking back at our sorry history since 1948, that should give all of us much cause for concern.

●Peter Leon is a partner in Webber Wentzel, a past chairman of Lawyers for Human Rights and a former tutor in public law at the universities of Cape Town and Cambridge.

# Judicial review: Public lawyers at the heart of making policy

Africa's courts be a help or a hindrance to a government attempting radical social reform? PETER LEON looks at judicial review in the light of a changing constitution



# Warning issued as Star 23/11/93 policemen sentenced

(257) (250)  
By Susan Smuts

People in uniform should not misuse their positions to undermine the rule of law, a Rand Supreme Court judge said yesterday, sentencing two military policemen for "cruel assault of a helpless victim".

Barend Willem Strydom (32) of Roodepoort was sentenced to 18 months jail, with six months suspended for five years, and Johann Heinrich Wilhelm Maree (27) of Roodepoort was sentenced to 18 months, suspended for five years.

They had assaulted Raymond Ndima at the Doornkop military base on May 10 1991.

Mr. Justice R van Schalkwyk found Maree had been influenced by Strydom, his senior, who had initiated the assault.

Ndima's body was found in the veld near the base on May 15 1991.

The men were earlier acquitted of murder but the judge voiced suspicions of a cover-up by military personnel.

The accused were bigger men than Ndima, whom they had assaulted for 15 minutes.

Although the men had expressed remorse, the judge found they had assaulted Ndima for pleasure. Their crime demanded retribution, he said.

The judge refused to allow Strydom's application for leave to appeal against sentence, but extended his bail pending a petition to be submitted to the Chief Justice.

Judges' 'secret' links must go

Political Staff

OPPOSITION MPs yesterday called for a ban on judges' memberships of 'secret' organisations — specifically the Broederbond (252)

Hillbrow MP Mr Lester Fuchs said the statement by Minister of Justice Mr Kobie Coetsee, that he would not meddle in the private lives of judges, was influenced by his own membership of the Broederbond and was in "bad taste"

Star 24/11/93

## German investigator arrives

GERMAN investigator Dr Ralf Kruger arrived at Jan Smuts Airport yesterday morning to help monitor the investigation into the assassination of SACP general-secretary Chris Hani.

His arrival follows that of British policemen Commander George Churchill-Coleman and an assistant earlier this week

The three were invited to South Africa by Attorney-General Klaus von Lieres und Wilkau after a request by the ANC alliance, which voiced misgivings about local police impartiality.

(252)  
The authorities have emphasised that the SAP remains "firmly in control" of the investigation — Sapa.

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# Massive changes on way for courts

ET 24/4/93  
252

By BARRY STREEK  
Political Staff

WIDE-RANGING reforms to court proceedings, including an independent group to appoint magistrates and an inquiry into whether attorneys could appear in the Supreme Court, were announced yesterday by the Minister of Justice, Mr Kobie Coetsee.

He also announced a plan for divorces to be heard in both Magistrate's and Supreme Courts, and a trial project to simplify the hearing of commercial disputes with shorter procedures and expert judges.

Announcing these reforms during the debate on his vote in Parliament, he said the creation of an independent Magistrates' Commission would be en-

trenched in the Magistrates' Bill, which he tabled yesterday.

Mr Coetsee said the Magistrates' Commission would have a Supreme Court judge as chairman.

## Salaries

Its members would be two regional court presidents appointed by their peers, two chief magistrates designated by their peers, the Chief Director of Justice College, one attorney and one advocate designated by the professional bodies, two magistrates designated by the Magistrates' Association, and a Department of Justice official.

The commission would ensure the appointment, promotion, transfer and discharge of magistrates, that no improper influenc-

ing or victimisation of magistrates took place and compile a code of conduct for magistrates

The salaries of magistrates would be set in consultation with the commission. Also, magistrates could only be suspended on the commission's recommendation

Mr Coetsee said a commission of inquiry would be appointed on whether attorneys should be granted the right of audience in the Supreme Court.

He said the 1929 law providing for separate divorce courts for black people would be scrapped.

As it had become clear that the Supreme Court was not necessarily the only court suitable for divorces, provision was being made for a family court in the lower court structure, he said

...ative member Mr. Raymond





**JUSTICE DONE . . . Amos Madonsele can smile again following court action against the policeman responsible for shooting him in the back six years ago, leaving him paralysed from the waist down.**

■ Pict THULANI SITSOLE

# R1-million for paralysed cop victim

BY COLLETTE CAINE

AMOS Madonsele started making plans for his future this week.

For the first time since being shot in the back by police six years ago, Amos knew he could make plans for the future which he has had to put on hold.

He won his claim against the police for damages suffered as a result of the shooting in December 1986. Amos was shot and paralysed by a policeman who was chasing robbers near Delmas.

His lawyers are now calculating the amount of his claim, which will be more than R1-million.

The week before the case was due to start in the Rand Supreme Court, the police

offered to pay Amos R250 000 in an out of court settlement.

His lawyers advised him his claim would amount to at least four times the offer if he won his case.

Amos decided to take his chances before a judge "because I know I did nothing wrong", he said.

His parents, domestic workers Betty and Joseph Mketwa, stood behind him.

"I have had 11 children and I never thought I would live to see one of them suffer in the way Amos has suffered in the past six years. We had to fight for what is right," his mother said this week.

Amos' plight was reported in City Press last August after his doctor referred him to the newspaper for help because his legal

claim was taking so long and his condition was deteriorating due to lack of appropriate medical care.

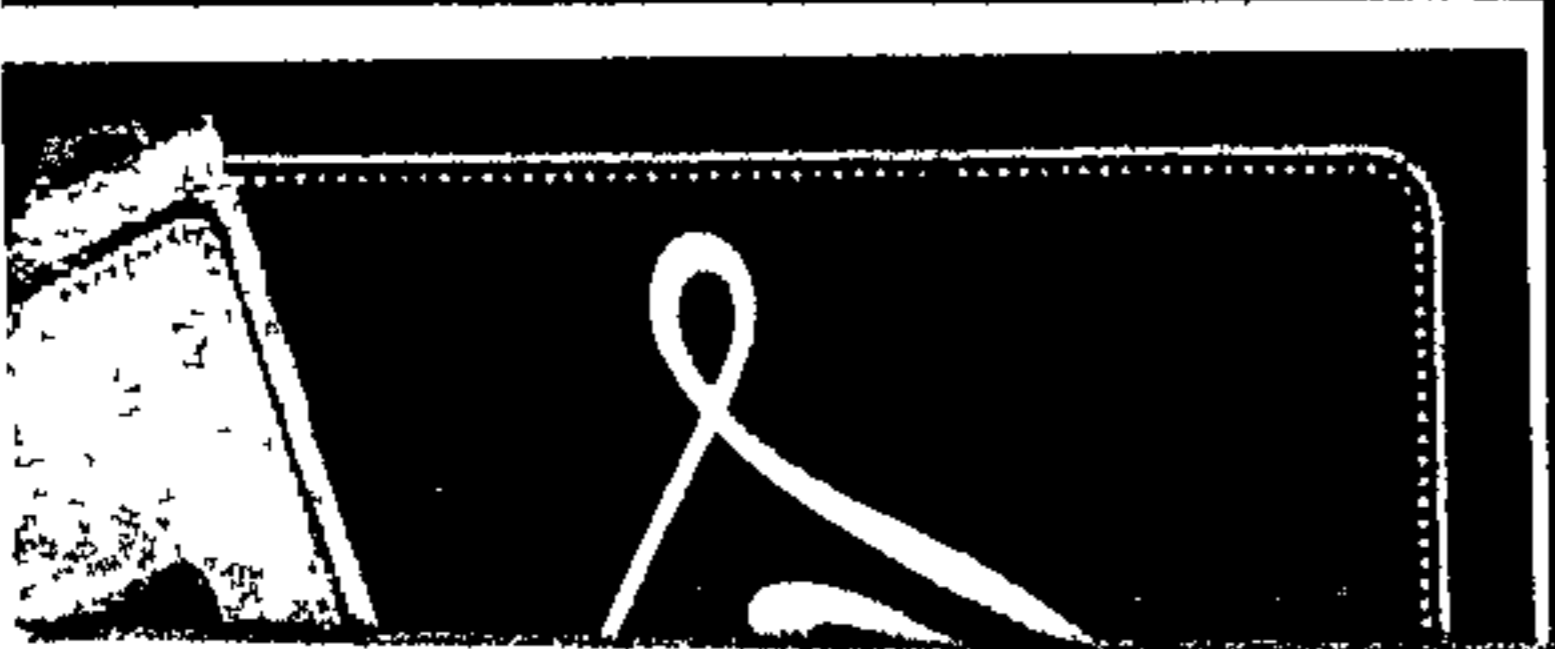
Since the 1986 shooting, which left him paralysed from the waist down, Amos has spent a lot of time in Natsiprunt Hospital - one operation after another to repair the damage caused by three shotgun pellets which severed his spine and damaged his internal organs.

His former attorney, Robert Mahlangu, handled the case after the shooting, without getting to court.

With help from City Press and Johannesburg attorney Mirrow Dwork and Roul-Jedges Incorporated, who specialise in per-

■ To Page 2

P.T.O



# Legal Aid Board faces expensive challenge

Star 26/4/93

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A new constitution, encompassing human rights, posed a big challenge to the Legal Aid Board, already battling to meet a record increase in the demand for its services, according to the board's 1991/1992 report.

The report said the Legal Aid Board did not by any means meet the demand for legal aid among the indigent.

"Most South Africans cannot afford such assistance and support, and unless they are assisted in gaining access to legal services, they are forced to forgo the enforcement or protection of their rights."

There was an acute shortage of legal representation in criminal cases, and fewer than 20 percent of the accused standing trial in district and regional

courts had been helped by legal representatives.

It was estimated that more than 100 000 undefended accused persons were sentenced to jail each year.

"Also in other fields such as civil cases, labour law and administrative law, the current legal aid dispensation cannot meet the great demand for legal aid," the report said.

"A sound legal aid dispensation, giving needy people a high-quality service, was important for the successful implementation of a new constitutional dispensation based on the sovereignty of the law.

Applications granted for criminal cases alone in 1991/2 represented 2 734 applications more than the entire case load the year before.

The upsurge was attributed

to the poor economy, cutbacks in other legal aid projects, increased awareness of the board's services, growing crime, improved policing, and the board's increasing legitimacy in the eyes of black South Africans.

The board had been allocated R24 500 000 by the Treasury for 1991/2, but the sharp increase in the demand for its services had led to a further R9 million being appropriated for legal costs.

A projected 124 050 people were expected to be granted legal aid applications in 1992/3, and 176 740 by 1996/7.

The report said 27 436 cases had been closed in the year under review, each costing an average of R740. Legal costs amounting to R1 601 348 had been recovered. — Sapa

## Surge in radio stations appears to be imminent

TIM COHEN

CAPE TOWN — Hundreds of radio stations could take to the air sooner than expected, with a new broadcasting dispensation looking imminent. Home Affairs Minister Danie Schutte said at the weekend there appeared to be widespread support in negotiations for a new dispensation for electronic broadcasting.

The current parliamentary session could see the introduction of legislation instituting the new system, following its ratification in negotiations.

The proposed new structure would introduce policy guidelines for public and private electronic media.

It is believed the policy guidelines will include stipulations that the electronic media should include a certain amount of local content and adopt an even-handed approach to political matters, which could effectively exclude political parties from owning radio stations.

Schutte denied that the policy stipulation was an infringement of Press freedom, and said the electronic media used a public asset — the airwaves.

The legislation would also introduce a new licensing authority and an independent media commission, which would police the media to ensure it maintained the principles set out in the Act.

## Argus defends 'area' inserts

SUSAN RUSSELL

PUBLICATIONS inserted into The Star aimed at advertisers and readers in particular areas of the Witwatersrand were supplements and did not fall within the definition of free or local newspapers, the Rand Supreme Court heard last week.

This submission was made by Argus Holdings counsel D Fine SC in an application brought against the company by one of its subsidiaries, CTP Ltd (Caxton).

CTP is asking the court for an order restraining Argus from publishing free or local newspapers in SA and Namibia which they allege is in breach of restraint agreements between the companies made in 1980 and 1985.

The company is also seeking an order prohibiting Argus from publishing a series of regular "focus" publications aimed at particular areas of the Witwatersrand and inserted into The Star.

CTP allege that the Focus publications are an attempt to by-pass the restraint agreement and encroach on Caxton's free "knock and drop" market.

Argus opposes the application on the grounds that the disputed publications are not free or local newspapers, but supplements. The company also contends that the

restraint agreements are so wide as to be unreasonable. Fine argued on Friday that the publications in question were an activity that his client would never have forsaken under the restraint agreements because local companies were very important as far as the company was concerned.

He also argued there was a great deal of ambiguity about the definition of regional and local when referring to newspapers. The Focus publications, he said, covered areas which were in some instances far larger than local regions.

Fine cited the example of one area targeted by a Focus publication which was made up of four areas each of which had its own Caxton publication. It was submitted that the court had to decide when a newspaper stopped being a regional publication and became local.

"We do not accept that these supplements fall within the term free separate or local newspaper," Fine told the court.

The application, which was originally due to be argued over one-and-a-half days, was postponed until May 17.

DAILY NEWS



Star 26/4/93

# More protection sought for workers

Claire Gebhardt (262)

Workers are at the bottom of the heap when a company goes bust — and the Law Commission is currently looking at ways of protecting them

Les Cohen of liquidator Westrust has revealed that millions of rands of wages owing to workers are going down the drain as liquidations soar.

He told delegates to a Credit Guarantee conference last week that 99 percent of firms which "go bust" had already hogged all the assets by notarial bond or cessation, leaving nothing for

employees

Economic fraud had reached such unprecedented levels that it necessitated the Law of Insolvency being reviewed, he said

"The Law Commission is currently investigating legislation which will protect employees' wages and this might be to the prejudice of both secured and unsecured creditors."

With liquidation "brutal and harsh in terms of unemployment", an alternative form of judicial management, such as the Chapter 11 in the US, should be sought

A spokesman for the Law Commission has confirmed that

the protection of workers is being reviewed.

Employees rank below secured creditors and preferred creditors such as the Receiver of Revenue.

In July 1984, the commission recommended that employees be paid after the cost of sequestration and administration and before the Receiver of Revenue and others

The proposal has not yet been implemented, but would now form part of a wider investigation

Cabinet approval would be needed before new legislation could be passed



# New court to speed up actions

STEPHANE BOTHMA  
and SUSAN RUSSELL

Blom 26/4/93

252

A COMMERCIAL court aimed at reducing the time taken to finalise civil actions and which should significantly cut litigation costs, had been established in Johannesburg, Justice Minister Kobie Coetsee announced at the weekend.

The decision to establish the new court was taken by Transvaal Judge President C F Elloff in consultation with fellow judges, advocates and attorneys practising in the Witwatersrand local division.

Coetsee said in a statement that a procedure had been drawn up to create a swift and efficient method of handling trial disputes which could be classified as commercial actions.

The procedure was based broadly on the practice followed by the commercial court in England, said Coetsee.

The new procedure would enable parties involved to apply to the Judge President to have their dispute classified as a commercial action. The Judge President would nominate a judge to hear the matter well before the trial date. The judge would meet with the parties in chambers before the trial to deal with and rule on many of the matters currently dealt with in separate procedures.

The trial judge would set a trial date there and then in consultation with the Supreme Court Registrar.

Coetsee said the idea of the commercial court was to do away with unnecessary and time consuming formalities as far as possible and bring disputes to trial on the real and essential issues, avoiding the byways of interim procedural disputes and delays.

The judge would also have a considerable knowledge of the matter prior to trial.

Coetsee believed the new procedure would be welcomed by the commercial and industrial community.

He stressed, however, it did not mean commercial matters would get priority in the legal process.

"The problem of delays in the hearing of Supreme Court actions has, I know, been a matter of general concern for some time, and I would not like it to be suggested that commercial disputes are now going to receive some sort of extra priority in the Witwatersrand Local Division," he said.

The Johannesburg Bar Council yesterday

welcomed the move. Chairman Wim Trengove SC said: "We feel that it fulfills a very real need in the manner in which substantial commercial litigation is dealt with by the courts," he said.

"Substantial commercial cases will be referred to a panel of five experienced commercial judges who will then have a wide discretion to determine the manner in which these cases are to be adjudicated."

Trengove said the commercial court would be able to provide parties with all the advantages of arbitration.

Our political staff reports from Cape Town that Deputy Justice Minister Shella Camerer disclosed on Friday that implementation of the Decriminalisation Act meant certain statutory offences would be removed from criminal law.

So, appearing in court for parking offences could be a thing of the past by August.

Camerer said it had been estimated that if parking offences in Johannesburg alone were decriminalised, it would free up four courts for more important work.

She said that progress had been made on finding a suitable "sanction" for parking offences and final proposals would be made before the end of August.

COMMERCIAL

PARADE



# Death penalty issue 'up to voters'

PRETORIA — Political parties should not tamper with the status quo on the death penalty without ensuring they are acting in accordance with the will of the majority of the population, the latest issue of the SA Bar journal Consultus says

GERALD REILLY

The journal said the death penalty had a strong emotional element because of the horrifying increase in murders and other violent crimes in SA

The current uncertainty which arose from the suspension of the death penalty was undesirable. The journal said the general public should decide on the continued existence of the penalty and not the politicians or the courts

It was almost unthinkable therefore that it should be abolished simply because certain politicians or a few judges thought that abolition would be in the interests of the country, it said

If public opinion favoured the retention of the death penalty this should be reflected in a bill of rights, it said

In an editorial the journal made it clear that it had not taken a definite stand on the death sentence as a form of punishment.

The proposed bill of human rights should be worded to place decisions on the continued existence of the penalty outside the jurisdiction of the courts

There was a reasonable possibility that in a future SA, the death penalty could be declared unconstitutional, it said

Such a decision should rest with the general public and those who were at the receiving end of murderers and robbers and not just with a few judges

This was especially so "if we persist with the idea of a constitutional court and if it is largely manned by academics and other legal experts appointed directly to the court, and who would have little or no practical experience in criminal courts"

(52)  
1/11/73  
LAW

## Call for judges to 'throw off shackles'

PRETORIA — The judicial arm of government should shake itself loose from its current isolation and put forward views on matters affecting the administration of justice, says an editorial in the SA Bar journal, *Consultus*.

The time was ripe for the administration of justice to be separated from the public service and for the establishment of a council of justice, it said.

The question was who should take the initiative, as it was doubtful whether politicians would do so.

"Although when it suits them, they like to boast about the independence of the judiciary, in practice they prefer to keep the courts under their thumb and keep

GERALD REILLY

them in check so that members of the bench, although apparently independent, will always believe the politicians have the overall say," the editorial said.

Someone outside the sphere of politics should take the initiative to ensure that when the new constitution was formulated, adequate measures were built in to place the independence of the judicial authority beyond any doubt. The Chief Justice was the obvious person.

It suggested a post of president of the Appeal Court be instituted so the Chief Justice could devote attention to activities outside the court.

51  
8/10/93  
27/4/93

# 3 plead not guilty to killing journalist

Sowetan 27/4/93

By Abbey Makoe

THREE men charged with the murder last Friday of SABC journalist Mr Calvin Thosago pleaded not guilty in the Vereeniging Magistrate's Court yesterday

Mr James Tlhobane (25), Mr Ezekiel Tyobeka (22) and Mr Lawrence Hlatshwayo (21), all of

■ Not at murder scene — claim:

(252)

Sharpeville, appeared before Mrs L Victor

Tlhobane said he was at work when the alleged crime took place

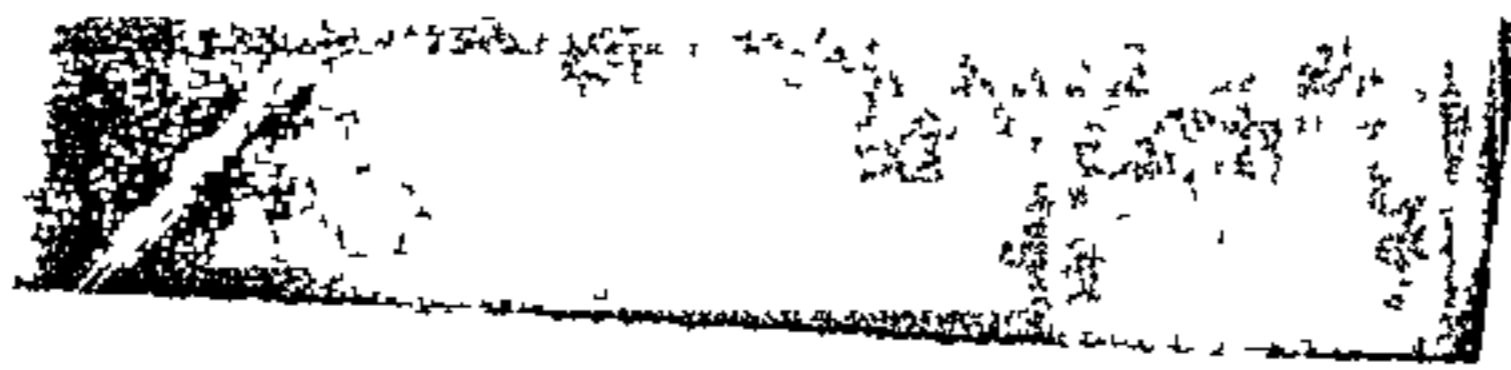
His co-accused also said they were not at the scene of the crime

The men were remanded to May 3

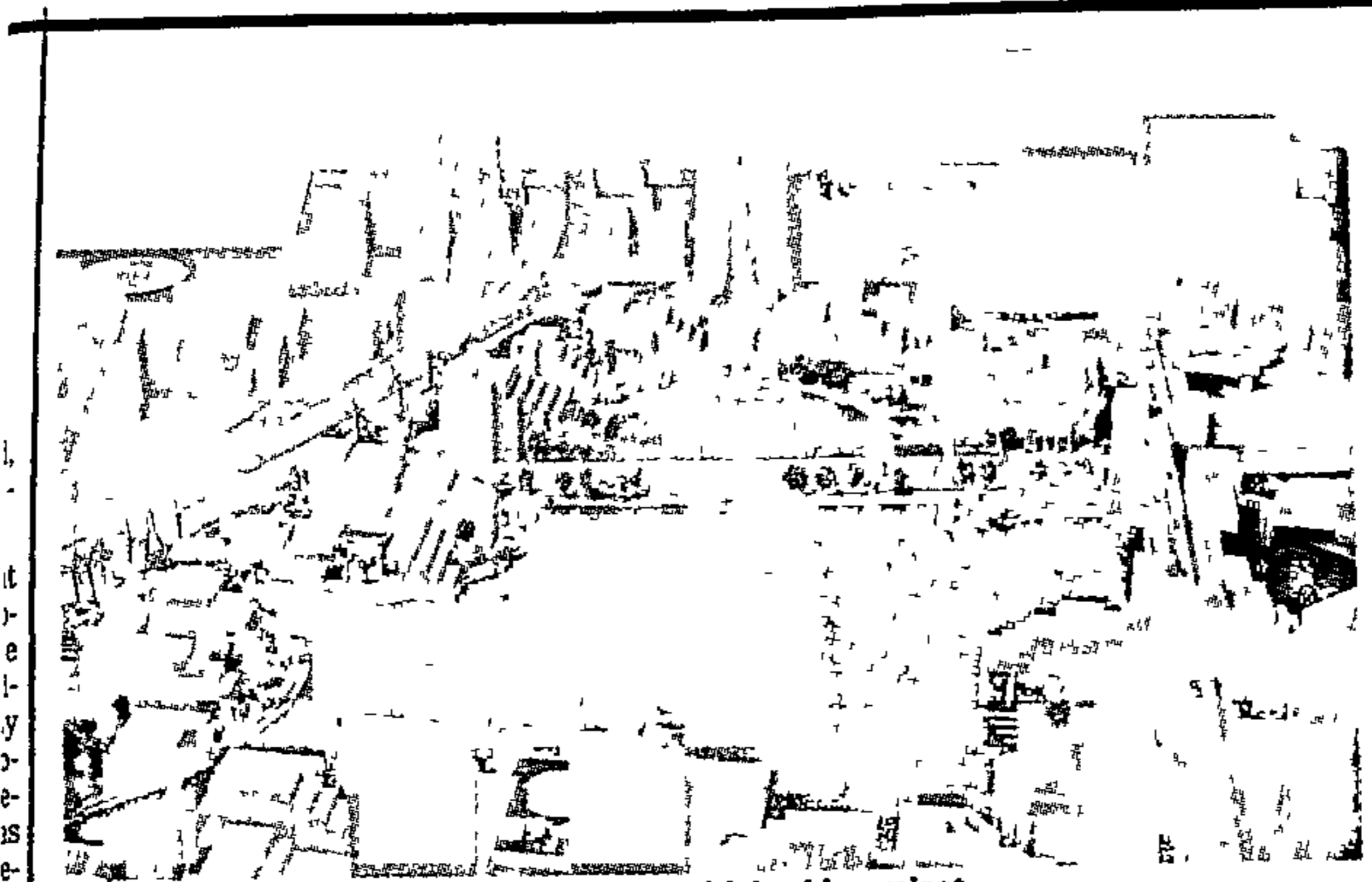
The three applied for bail and Mr Louis Venter, for the State, opposed the application

Hlatshwayo told the court he had a witness who would support his claim that he was not at the scene of the crime

However, when asked by the magistrate to give the name and address of the witness, Hlatshwayo said he did not know his name and address



BUSINESS



Model of proposed lakeside project.

## Palace of Justice revamp in offing

The restoration of the Palace of Justice on Pretoria's Church Square — which has housed the Transvaal Supreme Court in recent years — will begin in July

The project is expected to take 18 months to two years to complete, says a Public Works department spokesman

The department says many of the original offices in the building have been

converted into courtrooms over the years, but completion of the new Supreme Court building behind the palace in Vermeulen Street this month will satisfy the need for court accommodation

A major part of the restoration project will involve restoring original office accommodation. However, four courtrooms, including the original three, will be

retained

The department says the project will entail many specialist contracts, including the replacement of stained glass windows and the restoration of mosaic floor. The existing pressed ceiling and the external timber doors and windows will also be replaced and stonework repaired

The building will have to be completely rewired

nals to live in **KPMG Aiken & Peat**

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# Compensation sum in question

BIDAY  
27/4/93  
THE Labour Appeal Court will resume a case in July concerning excessive compensation for constructive dismissal granted by the Industrial Court

The amount granted far exceeded the existing standard maximum of six months' salary laid down by the Industrial Court, a legal source said

The source said the decision suggested liability for compensation was "open-ended", unlike other countries in which the party found to have committed an unfair labour practice was liable for compensation

In the UK, in which similar labour jurisdiction exists, maximum compensation is capped and may not exceed £10,000

This case was taken to the Industrial Court in September 1992 by a warehouse manager who maintained that Amalgamated Beverage Industries (ABI) had forced him to resign under pressure from the Food and Allied Workers' Union

During his first month of employment, treated as a probationary period in compliance with company policy, the union expressed its unhappiness with his appointment

This stemmed from an incident at a previous employer, involving police action during industrial unrest, for which the manager was acquitted

on all charges of complicity after arbitration

The company extended the manager's probationary period by two months with his consent.

During this period the union threatened to embark on national strike action if the manager's employment continued

As a result, the manager was asked to consider resignation

The Industrial Court found that the manager had been constructively dismissed and looked at the question of compensation

In the calculation, presiding officer Arthur de Kock examined the plaintiff's prospects of re-employment as well as his past and future loss of earnings

He ordered the company to pay R308 756 — equivalent to more than six years' salary because the manager was in his early 50s and therefore had diminished chances of finding alternative employment

The source said that ABI would contest the court's finding and the compensation award

The company was prepared to take the case to the Supreme Court if the Labour Appeal Court ruled against it.

252  
ERICA JANKOWITZ

# Goldstone tells of a readiness to help

Own Correspondent (25)

CAPE TOWN — There was a growing realisation that a representative government would need support and investments from the international community, Mr Justice Richard Goldstone said yesterday.

The chairman of the Commission of Inquiry into the Prevention of Public Violence and Intimidation held a press conference in Cape Town following a private visit to the United States, during which he had meetings at the United Nations, the State Department, and with senior members of the US Senate and House of Representatives and the World Bank.

The message he was

given at all of these meetings was a readiness to furnish non-partisan assistance for South Africa during transition, and more so when a transitional executive council was in place.

"Above all it was the even-handed and non-partisan nature of the offers of support which were so evident and which I believe should be brought to the attention of the South African public," he said.

Mr Justice Goldstone also had a private meeting with United Nations security council president, Ambassador Markar of Pakistan.

At this meeting and the others, the offers of assistance were made in unequivocal and generous terms.

indication of whether they are in fact going to play a role [Time expired]

\*The MINISTER OF HOME AFFAIRS Mr Charman, I believe the hon member for Groot Schuur made a positive contribution, and this also applies to the advantages she mentioned

I merely want to mention the fact that up to 60 000 ID documents are being issued by this department at this stage, and that soon this figure will increase to 90 000 This is proof that this department is doing everything it possibly can at the moment

\*An HON MEMBER: Per month?

\*The MINISTER: I am talking about per week. [Interjections] As a result, 85% of possible voters already have those identity documents

I want to suggest that in the context of Africa, in which it is calculated that 60% is a very high percentage, this percentage is already a very good indication at this early stage of the thorough work that is being done by this department

As far as the election is concerned, detailed planning is already being done in regard to the number of ballot boxes that will be needed The number is 7 700 I can tell hon members that thousands of ballot boxes have been and are being manufactured in preparation for this [Interjections]

I nevertheless believe that the hon member for Durban Central did have a point It think it is important that we should reach a decision on the structure of these issues as soon as possible, and this should take place at the multiparty conference as soon as possible If it does not take place at that conference, the Government will have to take the initiative  
Debate concluded

QUESTIONS

†Indicates translated version

For oral reply

General Affairs

Kynsna forest: elephants

\*1 Mr J CHIOLÉ asked the Minister of Water Affairs:†

HOUSE OF ASSEMBLY

is a popular place of call and is traversed by walking and hiking trails The events in the recent past when the actions of elephants resulted in loss of life have again drawn attention to this important aspect Once the State has been exempted to its satisfaction from claims, the relocation programme can commence

Factory production

2. Mr J CHIOLÉ asked the Minister of Home Affairs:†

(1) Whether the 6 to 9 period moving average of the physical volume of factory production is showing a downward trend, if so, (a) since what date and (b) what was the percentage decrease during the period 1 May 1989 up to and including 31 December 1992;

(2) whether he will make a statement on the matter? B592E

†The MINISTER OF HOME AFFAIRS

(1) (a) The 6 to 9 period moving averages of the physical volume of manufacturing production show a downward trend since approximately the end of 1988

With the official publication of the monthly physical volume of manufacturing production a 13 period weighted moving average, after the effect of seasonal variation has been eliminated, is calculated (the so-called Henderson curve) According to this data the volume of manufacturing production showed a decrease of 9,7% from October 1988 through to July 1992, after which it increased by 1,8% Over the period October 1988 to December 1992 the decrease was 8,0%

(b) 7,8% (according to the aforementioned 13 period weighted moving average)

(2) No

Criminal proceedings: open court

3 Mr A J LEON asked the Minister of Justice:†

(1) Whether he or his Department has received proposals from the South African

Law Commission on draft legislation relating to circumstances in which criminal proceedings may not take place in open court, if so,

(2) whether he intends introducing legislation to amend section 153 of the Criminal Procedure Act, 1977 (Act No 51 of 1977), with a view to giving effect to these proposals, if not, why not, if so, when,

(3) whether provision will be made in such legislation for an intermediary to act as a shield between court processes and child witnesses in respect of crimes relating to child abuse; if not, why not; if so, what provision;

(4) whether he will make a statement on the matter? B643E

†The MINISTER OF CORRECTIONAL SERVICES (for the Minister of Justice).

(Reply partially laid upon the Table with leave of House).

(1) Yes In its Report on the Protection of Child Witnesses the South African Law Commission proposed that a new section (section 153A) be inserted in the Criminal Procedure Act, 1977 (Act 51 of 1977), to *inter alia* provide that—

(a) a child under the age of 18 years who testifies be assisted by an intermediary, and  
(b) a child under the age of 18 years may give evidence elsewhere other than in an open court

(2) No It is not intended to amend section 153 of the Criminal Procedure Act, 1977 The proposals of the South African Law Commission have already been effected in sections 1 to 3 of the Criminal Law Amendment Act, 1991 (Act 135 of 1991) which on account of technical reasons have not yet been put into operation.

(3) Yes Above-mentioned legislation already provides for this Section 3 of the Criminal Law Amendment Act, 1991, inserts section 170A in the Criminal Procedure Act, 1977, whereof the relevant part determines as follows

HOUSE OF ASSEMBLY



**‘Evidence through intermediaries**

170A. (1) Whenever criminal proceedings are pending before any court and it appears to such court that it would expose any witness under the age of eighteen years to undue mental stress or suffering if he testifies at such proceedings, the court may, subject to subsection (4), appoint a competent person as an intermediary in order to enable such witness to give his evidence through that intermediary.

(2) (a) No examination, cross-examination or re-examination of any witness in respect of whom a court has appointed an intermediary under subsection (1), except examination by the court, shall take place in any manner other than through that intermediary.

(b) The said intermediary may, unless the court directs otherwise, convey the general purport of any question to the relevant witness

(3) If a court appoints an intermediary under subsection (1), the court may direct that the relevant witness shall give his evidence at any place—

- (a) which is informally arranged to set that witness at ease,
- (b) which is so situated that any person whose presence may upset that witness, is outside the sight and hearing of that witness, and
- (c) which enables the court and any person whose presence is necessary at the relevant proceedings to see and hear, either directly or through the medium of any electronic or other devices, that intermediary as well as that witness during his testimony

**(4) Statement**

It is with pleasure that I announce that the actions regarding the implementation of sections 1 to 3 of the Criminal Procedure Amendment Act, 1991, which have the object of protecting child witnesses, by *inter alia* providing that a

child under the age of 18 years who testifies be assisted by an intermediary and may give evidence elsewhere than in an open court, have now progressed to such an extent that the sections can be put into operation on 30 July 1993

Actions regarding the purchase and installation of expensive and sophisticated equipment (which includes television sets and cameras, microphones, earphones, speakers, amplifiers and sound-dividers) had to be completed before section 1 to 3 could be put into operation. Such equipment, all of which is not readily commercially available and had to be custom made according to specifications, has been purchased after being properly tested and approved by the South African Bureau of Standards. The equipment will be installed in 10 supreme courts and in 59 magistrates' courts across the country (A list of these names is attached to the reply.) Installation of the equipment will commence in the near future and it is anticipated that installation will be completed during July 1993

The determination of categories or classes of persons who are competent to be appointed as intermediaries will also be effected on 30 July 1993 by notice in the *Government Gazette*

**COURTS WHERE EQUIPMENT WILL BE INSTALLED**

Supreme Courts	Durban
Bloemfontein	East London
Grahamstown	Cape Town
Johannesburg	Pietermaritzburg
Kimberley	Pretoria
Port Elizabeth	
<i>Chief Magistrates' Courts</i>	
Cape Town	Only at Regional Court
Port Elizabeth	Only at Regional Court
Wynberg	Only at Regional Court
Bloemfontein	Only at Magistrates' Court
Versilam	Only at Regional Court
Pretoria	Only at Regional Court
Durban	Only at Regional Court
Johannesburg	Only at Regional Court
Randburg	Only at Regional Court
Kempston Park	Only at Regional Court

Germiston	Only at Regional Court
Pietermaritzburg	Only at Regional Court
Pretoria North	Only at Magistrates' Court
Kimberley	Only at Regional Court

**Decentralized offices of Regional Courts**

Welkom	Potchefstroom
Belhelem	Krugerdsdorp
Kroonstad	Klerksdorp
Harrismith	Boksburg
(Klipskool)	Vryburg
Virginia	Upington
Sasolburg	East London
Scottburgh	Wynberg
Ladysmith	Paarl
Port Shepstone	Worcester
Eshowe	George
Empangeni	Oudshoorn
Vryheid	Bellville
Newcastle	Queenstown
Germiston	Middelburg (C)
Randburg	Beaufort-Wes
Rooodepoort	Middelburg (TV)
Vanderbijlpark	Witbank
Randfontein	Ernelo
Springs	Pietersburg
Nigel	Nelspruit
Kempston Park	Rustenburg
Benoni	

**Johannesburg: rapid rail transit system**

Mr P G SOAL asked the Minister of Transport

(1) Whether, with reference to his reply to Question No 5 on 19 February 1992, any research has been undertaken regarding the financial aspects of a rapid rail transit system for Johannesburg, if not, why not; if so, (a) by whom, (b) what was the (i) nature and (ii) extent of this research and (c) what were the findings,

(2) whether the data pertaining to this research is available to the public, if not, why not; if so, in what manner? B646E

**THE MINISTER OF TRANSPORT.**

(1) Yes

(a) By the South African Roads Board in collaboration with interested bodies such as the Department of Finance, the Transvaal Provincial Administration, the relevant regional services councils, the Johannesburg

City Council, JOMET, ORMET, private business organisations as well as public and private transport organisations. Full details of the organisations and people consulted appear in volume 1 of the study report

(b) (i) A full feasibility study into a mass transit system for Johannesburg. This included, among other things, a further six transportation alternatives of which several variations were tested. Four modes of transport, namely transport by train, bus, taxi and also private transportation were included

(ii) A comprehensive study covering all relevant modes of transport and also consideration of financial, economic, environmental, operational, institutional and legislative implications of various transport strategies. The study started during February 1989 and came to an end towards June 1991

(c) The complete findings are contained in the study report and cannot readily be summarised

(2) Yes, the report comprising 9 volumes is available from the Department of Transport or from the Central Witwatersrand Regional Services Council, which is responsible for the implementation of the findings as it deems fit

**Sasol fuel**

Mr G C ENGEL asked the Minister of Mineral and Energy Affairs

(1) What percentage of the fuel sold in the Transvaal over the latest specified 12-month period for which information is available was petrol blended by Sasol,

(2) whether any additional pipeline costs are incurred in respect of the transportation of petrol to be sold in the Transvaal, if so, (a) what did these costs amount to per litre as at the latest specified date for which information is available and (b) how were these costs made up,

## 'Thugs' were his target

Own Correspondent

MARITZBURG — Nkanyezini massacre accused Mabhungu Dladla, 23, said in the Maritzburg Supreme Court yesterday he did not think he was attacking innocent people when he opened fire on a minibus taxi with an R1 rifle in March this year.

He believed those in the taxi were "thugs" who had killed Inkatha-linked schoolchildren in an ambush a few days earlier.

Ten people were killed and three others wounded in the attack.

He told Mr Justice Howard and two assessors yesterday that when the shooting stopped — he had emptied his R1 rifle magazine — he heard women crying and realised there had been a "mistake".

It had not occurred to him there could be innocent passengers in the taxi.

His co-accused Nkayiso Wilfred Ndlovu (on whose instructions, he claims, he and another man Sifiso Mkhize took part in the attack) said the occupants would be those responsible for killing the children.

Ndlovu had said there should be no survivors.

Cross-examined by State advocate Les Roberts SC, Dladla said he could not remember replacing the gun's magazine.

In testimony yesterday, Ndlovu denied allegations by Dladla and said he was not present at the attack.

The hearing continues



THE  
BREAKWATER  
LODGE

IN THE HEART OF  
CAPE TOWN'S  
V & A WATERFRONT

FROM ONLY

# Fear for farmer's safety is mounting

MARITZBURG — Fears are mounting for the safety of Camperdown farmer Alex Kalafatis, 45, who is believed to have been abducted from his farmhouse by armed attackers early yesterday.

By late yesterday a team of about 50 policemen had combed an area within a 50km radius of the farm but there was no sign of him, nor of his Mercedes-Benz — a cream 1979 300D, registration NC 7889.

Police spokesman Col Willie van den Berg said Kalafatis was apparently a karate expert who could have been expected to defend himself.

"We can only assume there were a number of attackers with weapons. We have found no blood in the house at all."

Van den Berg said there was no sign of a struggle but it was clear from tyre tracks outside the garage that Kalafatis arrived home and must have been overpowered before he could get into his house.

"The safe was unlocked and three firearms are missing, as well as a hi-fi set and various other small items," he said.

In another incident in Natal, a man was shot dead and two children seriously wounded following a hand grenade attack on a house at Patheni, Richmond, early yesterday. Police said several men armed with AK-47s, R4s and shotguns launched an attack on a house in the strife-torn township, raking it with gunfire.

Own Correspondent

In other incidents, police said a man was shot dead in Ladysmith's Ezakhem township in the Natal Midlands on Monday. Police also found the body of a man in Shembe outside Durban on Monday, and another who had been shot on Sunday in nearby Ntuzuma.

Sapa reports that police arrested 10 men and found a large cache of firearms and ammunition at Mehlomnyama in the Port Shepstone area.

RAY HARTLEY reports that the Wits Vaal peace committee officially launched a 24-hour toll-free telephone service to collect information on violence at the opening of its new Braamfontein headquarters yesterday.

The service would provide the committee with information on violence as it occurred, and give callers access to information on how to contact peace officials and the police, committee spokesmen said.

LINDA ENSOR reports that the government-funded social relief fund to assist the victims of violence had already spent R4m to assist about 4 000 families.

Chairman Ben Piek said yesterday about R3,8m was still available for allocation to registered, non-government relief organisations and the fund had also embarked on a campaign to raise private sector funding.

## 'Regime' killed Tambo, says Yengeni

CAPE TOWN — ANC Western Cape head Tony Yengeni led students in the emotive MK song "Kill the Boer" during a heated memorial service for Oliver Tambo at UWC yesterday — and then said the former acting ANC president had not died of natural causes, but had "been killed by the apartheid regime".

Yengeni's remarks were last night described as "provocative" by government, while the ANC said it was reviewing songs from the past which did not reflect the organisation's "nonracial policy".

Yengeni, addressing a capacity-filled hall, also saluted ANC militant hardliners Winnie Mandela and Harry Gwala, the Natal Midlands leader.

He sniped at the ANC leadership, saying it was losing touch with the grassroots.

"We must strengthen our mass-based structures because it is a dangerous mistake to leave your future in hands of

Own Correspondent

leaders of the organisation," he said.

He said it was wrong to spread the view that Tambo died of natural causes.

"It must be made clear that he was killed by the apartheid system and the De Klerk regime must take responsibility."

ANC spokesman Ronnie Mamoepa said the ANC would review songs that did not reflect its nonracial policy.

While the song led by Yengeni at UWC was one of the songs sung in the past, there was a need for it and others to be reassessed in the light of ANC policy and the negotiation process, he said.

Government spokesman David Steward said the song was "seriously provocative" and conflicted with the search for a negotiated political settlement.

Yengeni said later the song could not be translated literally.

(3) whether he will make a statement on the matter? B689E  
 THE MINISTER OF MINERAL AND ENERGY AFFAIRS.

(1) During 1992, 75% of all petrol sold in the Transvaal was manufactured by Sasol's synthetic plants. If Sasol's production through the Natref crude oil refinery (in which it has a 63,64% shareholding) is added, the volume of petrol manufactured by Sasol as a percentage of sales in the Transvaal increases to 90%. A portion of Sasol's fuel production from crude oil is also sold in the Free State, Northern Cape and Northern Natal.

(2) Sasol and Total, the latter having the balance of shareholding in the Natref refinery, who supply almost 100% of the fuel sold wholesale in the Transvaal, are responsible for the cost of distributing these fuel products by pipeline and other modes of transport from their plants in Secunda and Sasolburg to the various depots which constitute the total market.

(a) Detail regarding specific cost elements is company confidential information.

(b) Falls away

(3) No.

**Medicine: parallel importation**

\*6 Mr M J ELLIS asked the Minister for National Health and Welfare:

(1) Whether, with reference to a press conference held by her on or about 11 March 1993, she intends proceeding with allowing the parallel importation of medicine; if not, why not; if so, (a) for what reasons and (b) what does the parallel importation of medicine involve;

(2) whether the same registration requirements will apply to parallel imported medicine as are applicable to locally manufactured medicine; if not, why not;

(3) whether steps will be taken to combat the importation of counterfeit medicine; if not, why not; if so, what steps;

(4) whether the economic and legal implications of parallel imported medicine have

HOUSE OF ASSEMBLY

been assessed or will be assessed before parallel importation is allowed, if not, why not; if so, what are the relevant particulars? B690E  
 THE MINISTER FOR NATIONAL HEALTH AND WELFARE.

(1) Yes,

(a) parallel importation is already possible as the Medicines and Related Substances Act, 1965 (Act 101 of 1965) does not prohibit this and

(b) a parallel imported medicine involves the registration of that medicine, which is the same medicine as that already registered by the original applicant for use in South Africa, by a different applicant. The parallel imported medicine should also originate from the same manufacturing facility as the previously registered medicine, or from manufacturing facilities belonging to, or falling under the control of the parent company;

(2) no, because parallel imported medicines are the same medicines as those which are known in South Africa; the data of which are already on file with the Registrar of Medicines. Regulation 15, which sets out the format of an application for registration, will have to be amended accordingly;

(3) no, no specific steps are necessary as the medicine registration process lends itself to the combating of the importation of counterfeit medicines,

(4) no, the legal implications have not been assessed as these are the responsibility of the applicant in each case. The economic implications are under discussion at the moment.

**Air pollution**

\*7 Mr M J ELLIS asked the Minister for National Health and Welfare:

(1) Whether air pollution reached unacceptable levels (a) at any city centres and (b) in any regions in the Republic in 1992; if so, at which city centres and in which regions;

(2) whether any steps were taken in this regard; if not, why not; if so, what steps in each case? B691E  
 THE DEPUTY MINISTER FOR NATIONAL HEALTH AND WELFARE.

(1) (a) and (b) Yes,  
 Cape Town, Vaal Triangle region, Edenvale, Kempton Park and Modderfontein region, as well as unelectrified urban areas,

(2) yes,  
 Cape Town

The nitrogen oxide levels were exceeded a number of times. Monitoring of the pollutant concentrations and research into the occurrence thereof are being carried out. The pollutant mainly originates from motor vehicles. Control thereof by means of catalytic conversion will be considered when lead-free fuel becomes available

**Vaal Triangle region**

High levels of particulate pollution are experienced during the winter months. Research is carried out to identify the main sources. Improved control of industrial sources is being continued but smoke from domestic coal combustion can only be reduced by the use of alternative forms of energy such as electricity

**Edenvale, Kempton Park and Modderfontein region.**

An excess of particulate pollution was experienced a number of times. Investigation into the sources causing the high levels is being carried out. Industries in the area are, however, still engaged in reducing their emissions

**Unelectrified urban areas.**

No control can be exercised before alternative forms of energy such as electricity are in general use. Investigation into alternative fuels which will be less polluting are also being carried out

**Goldstone Commission: reports**

\*8 Mr L FUCHS asked the Minister of Justice:

(a) How many reports of the Commission of

Inquiry regarding the Prevention of Public Violence and Intimidation (Goldstone Commission)\* have been submitted to the State President to date and (b) what is the title of each of these reports? B692E  
 THE MINISTER OF CORRECTIONAL SERVICES (for the Minister of Justice).

(Reply partially laid upon the Table with leave of House)

(a) Nineteen (19)

(b) 1 First Interim Report

2. Interim Report on the Violence at Mooi River

3. Report of the Second Committee appointed to inquire into the Violence at the President Steyn Gold Mine in Welkom

4. Second Interim Report

5. Report to the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation from the Committee established to inquire into the involvement of 32 Battalion at Phola Park

6. First Interim Report to the Commission by the Committee investigating Public Violence and Intimidation in the Taxi Industry

7. Interim Report of the Committee appointed to inquire into Train Violence

8. Second Interim Report to the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation from the Committee established to inquire into the Taxi Industry

9. Interim Report on the Violence in Hostels

10. Report on the Bisho Incident

11. Report on the Planning or Instigation of Acts of Violence by members of the South African Police in the Vaal Area

12. Report on the Inquiry conducted by the Committee of Inquiry into the Violence at Tokoza

HOUSE OF ASSEMBLY

13 Final Report on the Violence at Mooi River *(252)*

14. Third Intern Report *(252)*

15 Report to the State President on an investigation by the Commission's Natal Investigation Team into Allegations of the Presence of Renamo Soldiers in KwaZulu

16 Third Intern Report to the Commission by the Committee inquiring into Public Violence and Intimidation in the Taxi Industry

17 Report to the Commission by the Committee appointed to inquire into the Organization and Conduct of Mass Demonstrations

18 Fourth Intern Report to the Commission by the Committee inquiring into Public Violence and Intimidation in the Taxi Industry

19 Report of the Committee conducting a Preliminary Investigation into the Activities of the Azanian People's Liberation Army (APLA).

**Banking groups: assistance by Reserve Bank**  
\*9 Mr K M ANDREW asked the Minister of Finance

- (1) Whether the Reserve Bank rendered any assistance to two banking groups, the names of which have been furnished to the Minister's Department for the purpose of his reply, during the latest specified 5-year period for which information is available, if so, (a) what are the names of these banking groups and (b) (i) what were the terms and conditions of this assistance and (ii) why was it rendered;
- (2) whether the said terms and conditions have been adhered to by the parties concerned, if not, why not, if so, to what extent?
- (3) whether he will make a statement on the matter? B695E

**THE DEPUTY MINISTER OF FINANCE**

(1) and (2) As lender of last resort, the Reserve Bank provides financial assistance to banks on a regular basis. The normal banking business code applies to such transactions.

HOUSE OF ASSEMBLY

namely that transactions between the Reserve Bank and its clients cannot be disclosed to third parties. *(252)*

**Banking groups: audited accounts**  
\*10 Mr K M ANDREW asked the Minister of Finance

- (1) Whether two banking groups, the names of which have been furnished to the Minister's Department for the purpose of his reply, submitted audited accounts in respect of the period 1 January to 31 March 1992, if not, (a) why not and (b) what steps were taken or are to be taken in this regard; if so,
- (2) whether these audited accounts have been made public, if so, when, if not, why not;
- (3) what are the names of the banking groups in question? B696E

**THE DEPUTY MINISTER OF FINANCE**

- (1) Audited financial statements for the following companies have been submitted to the Registrar of Companies in respect of the period to 31 March 1992

- Amalgamated Banks of South Africa Limited ("Amalgamated Banks"),
- ABSA Bank Ltd

Only the financial statements of Amalgamated Banks, a listed public company, have been sent to its shareholders

- (2) Bankorp Holdings Limited and Bankorp Limited are wholly owned subsidiaries of Amalgamated Banks. The formal annual general meetings of Bankorp Holdings Limited and Bankorp Limited will take place before 30 June 1993. When the financial statements of these companies are sent to their holding company (sole shareholder), copies thereof will simultaneously be lodged with the Registrar of Companies

**Press freedom**

\*11 Mr P G SOAL asked the Minister of Defence  
Whether, with reference to the reply by the

then Minister of Home Affairs to Question No 7 on 18 March 1992 regarding legislation allegedly detracting from the free flow of information and restricting the Press from reporting, any steps have been taken or are being contemplated in respect of the repeal or partial repeal of certain Acts, particulars of which have been furnished to the South African Defence Force for the purpose of the Minister's reply, if not, why not, if so, (a) what steps and (b) when? B693E

**THE DEPUTY MINISTER OF DEFENCE**

The Government supports the fundamental principles of media freedom and the free flow of information. A Bill of Fundamental Rights should contain such a stipulation which is entrenched in a constitution—in the interim and finally. Laws administered by the SA Defence Force will have to be amended step by step to adapt to such a Bill of Rights and a changing security environment. This last-mentioned statement however allows for the standpoint that certain information, which could be of advantage to a potential enemy, will be worth protecting according to the universally accepted principle in this regard.

Mr P G SOAL Mr Chairman, arising out of the hon the Deputy Minister's reply, may I ask him if he would please bring the contents of that reply to the attention of the hon the Minister, because that hon Minister was a member of Working Group 1 at Codesa last year, and supported the repeal of these Acts.

**INTERPELLATION**

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

**Own Affairs**

**Registration for military service: principals**

1 Mr E W TRENT asked the Minister of Education and Culture  
Whether principals of high schools are

required to assist in the registration of 16-year-old White males for military service in the South African Defence Force, if so, why, if not, what is the position in this regard? B720E INT

**THE DEPUTY MINISTER OF EDUCATION AND CULTURE** Mr Chairman, I want to say at the outset that compulsory military service for White males is not under discussion today. If hon members want to discuss this they should participate in the Defence debate.

What is under discussion, however, is whether headmasters of schools are rendering assistance to the Defence Force by registering 16-year-old White males for military service. Yes, they are. As a matter of fact, they have done so since 1968, and I am under the impression that many headmasters regard this as a duty to their country. Proof of this is that of the 38 355 forms dispatched to 776 schools, 14 840 have already been returned from 385 schools. It is very important, however, to point out that they give this assistance on a voluntary basis. They are not obliged to do so. When a school does not give its co-operation, the matter is handled by the individual pupils themselves.

I find it unfortunate that the hon member created a false impression in his press statement that was released on 20 April. In this press statement the hon member said that the NP Government was attempting to force school principals to become agents of apartheid [Interjections]. I have here the original circular. Let me quote from it:

As in the past, this office is dependent on your kind co-operation. It would be appreciated if the completed registration forms could be forwarded.

There is no question whatsoever of enforcement. I think the party leadership should take disciplinary steps against the hon member for broadcasting a wrong impression [Interjections].

Mr E W TRENT Mr Chairman, I am very glad that the hon the Deputy Minister referred to my press statement. I know that this practice has been in progress for many years. To use schools as a means of applying racial discrimination once again demonstrates how totally insensitive the Government is.

HOUSE OF ASSEMBLY

## NEWS Court told of Baragwanath doctor's death

# Youths on murder charge

A 16-YEAR-OLD youth accused of murdering Baragwanath Hospital doctor Stephan Walter claimed yesterday he knew nothing about guns, except seeing them being used on TV.

Giving evidence in camera in the Rand Supreme Court, the youth said he knew from TV that people sometimes died when they were shot

He said guns did not always go off when pointed at people on the small screen.

He claimed he did not know how a gun was fired.

### ■ 16-year-old claims he doesn't know how to fire:

The youth and four of his co-accused have pleaded not guilty to murdering Walter on September 28 last year. He claimed the gun went off accidentally during an attempted car hijacking in Diepkloof.

The youth, who allegedly fired the fatal shot, said he became frightened when he saw Walter reaching for a gun as he and the other youths tried to open the door.

In his testimony before Mr Justice

MC de Klerk, he, however, said Walter held something in his hand. The youth said he thought it might have been a gun. *Sowetan 28/4/93*

Walter's alleged gun was not mentioned in a statement made to the police.

The youth blamed the court interpreter for differences between his evidence before the court and his earlier version, saying the interpreter had misunderstood him.

# Big aid offers for reformed SA, says judge

252  
■ Goldstone brings message of hope:

*Sowetan 28/4/93*  
THE United Nations, the United States Government and the World Bank have promised generous and non-partisan aid for the political transition in South Africa, Goldstone Commission chairman Mr Justice Richard Goldstone said yesterday.

Addressing a Press conference in Cape Town following his visit to the United States, he said the offers of help were non-prescriptive and reflected the international community's wish to ensure the success of South Africa's first democratic government.

Goldstone said foreign experts could be called in to help the commission's inquiry into the prevention of violence and intimidation during South Africa's first nonracial elections.

During his two-week trip, the judge met members of the UN Security Council, the UN Special Committee on Apartheid as well as senior officials in the US State Department and World Bank, and legislators in the US Senate and House of Representatives.

"My strong impression is that there are many good and positive benefits waiting for South Africa as soon as a representative and legitimate transitional executive council is in place, and even more so when we have a government of national unity."

The powerful US anti-apartheid lobby had substantially transformed itself into a strong pro-democratic South Africa campaign which supported all South Africans working for a peaceful and democratic country.

Goldstone said financial aid from the World Bank and the International Monetary Fund was virtually assured provided South Africa moved rapidly toward a political settlement — *Sapa*.

# Police oppose bail move

*Southern* 28/4/93

By Themba Molefe  
Political Reporter

**FURTHER INVESTIGATION** Police want Supreme Court order to extend detention of CP executive member Clive Derby-Lewis:

**P**OLICE ARE to apply for an order in the Pretoria Supreme Court tomorrow to further detain senior Conservative Party member Mr Clive Derby-Lewis under Section 29 of the Internal Security Act

Derby-Lewis was detained at his Krugersdorp home on April 17 in connection with the assassination of South African Communist Party general secretary Mr Chris Ham

Derby-Lewis' wife Gaye was also detained in terms of the same Act on April 21

According to Witwatersrand regional police commissioner Brigadier Frans Malherbe, Gaye Derby-Lewis' son, Mr Herman Graser, has made two urgent applications to stop the detention of the couple

"We are obviously opposing the application as we believe the couple is still needed for further

investigation, Malherbe said He would not elaborate Mrs Derby-Lewis' 10-day detention in terms of the Act will expire on Saturday

Malherbe said one option was to charge the Derby-Lewis but investigations were at a critical and "sensitive" stage Again, he would not elaborate

Mr Derby-Lewis was arrested after prime suspect Polish immigrant Janus Waluz "eventually co-operated" with the police Waluz was arrested minutes after he allegedly shot Ham at his Dawn Park, Boksburg, home on April 10

Malherbe confirmed the firearm which killed

*(PS)* *(S)* *(S)*

Hani was allegedly supplied by Derby-Lewis

The investigation into Hani's assassination is being closely monitored by former head of Scotland Yard's anti-terrorist branch, Commander George Churchill-Coleman, and Dr Ralf Kruger, former head of the State Bureau for Criminal Investigation of Baden-Wuerttemberg in Stuttgart, Germany

Witwatersrand Attorney-General Mr Klaus von Lieres und Wilkau said this week that he was studying documents supplied by the police and would decide later whether to charge Derby-Lewis and his wife

metro

# Police threatened to kill son

Star 29/10/93

By Philip Zoio

Brixton Murder and Robbery Unit detectives tortured a 59-year-old man and threatened to kill his son on the same morning that the son died by falling seven storeys from a block of flats, a Johannesburg inquest heard yesterday.

Victor Manuel was testifying at the inquest of his son, also named Victor Manuel, who died of head injuries on July 29 last year.

He told the court that earlier that day police had told him they would kill Victor when they found him.

In a statement, Manuel said six men arrived at his house in Westbury and introduced themselves as Brixton detectives.

They demanded to know where his son was, saying he was wanted for murder and robbery.

When Manuel and his wife denied knowledge of their son's whereabouts, they were assaulted and accused of lying, he said.

He said one man then told him "Just as you're hiding your son, we are going to kill him."

Police deny that these threats were made.

The couple were then arrested, and later brought to the Brixton Murder and Robbery Unit.

Manuel said he was taken to an upstairs room, where he was ordered to strip, then bound to a chair. A bag was placed over his head to inhibit

his breathing, and he was given electric shocks.

"I was screaming from the excruciating pain I was suffering," he said.

Afterwards, Manuel and his wife waited in the charge office.

Later their son was brought into the police station and taken upstairs. His father and mother left after he had been led out of the building a while later. "That was the last time I saw my son alive," Manuel said.

Warrant Officer Dalingebo Maxwell Thangu, who was with Victor when he died, told the court that the suspect took police to Cresthill Mansions to identify an accomplice. Victor's feet had been cuffed at the time, he said.

On the stairway, between the seventh and eighth floors, he looked up and saw some of his colleagues leaning over the railings.

He then heard that Victor had thrown himself over the railings, although he did not see what had happened, he said.

The hearing continues



# Elections must be legitimate judge

CAPE TOWN — All South Africans who want peace should ensure that the first nonracial election is legitimate, Chairman of the Goldstone Commission, Mr Justice Richard Goldstone, said yesterday. (25)

"If the first election is not legitimate, we are in big trouble. Even if there is violence and intimidation, the level should be such that it does not destroy the election's legitimacy," he said in an address to the Cape Town Press Club.

The Commission was going to set up an inqui-

ry into the potential for public violence and intimidation in a national election and would be following the same procedure as its investigation in marches and public gatherings.

It would be an important exercise in democracy and discipline, as submissions would be called for in which members of the public could express opinions on subjects including how meetings should be held and who should do the policing.

It was hoped submissions would also be made

by political parties, the SAP, the departments of Justice and Home Affairs and international bodies in South Africa.

"We have asked them to say what they see as their role in the election and what the rules and regulations should be. The proposed Electoral Commission can then accept or reject these suggestions.

The input would then be examined by a panel of experts.

"We can perform an important service to the Electoral Commission if we can make recommen-

dations which are the result of public debate and consultation"

He said people tended to honour agreements more readily when the agreements were reached after democratic consultation — as had happened in the many peaceful marches and demonstrations that were held after the death of Chris Ham.

He had not received any requests for the Commission to become permanent, even after the installation of a new government — Sapa

**NEWS IN BRIEF**

**Young witnesses**

JUSTICE Minister Kobie Coetsee told Parliament yesterday that measures aimed at putting child witnesses at ease while giving evidence, would be put into operation from July 30. The new measures would allow witnesses under 18 to give evidence in an informal setting out of court.

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# Mass action to go ahead if govt fails to meet demands

6/10/93 29/4/93

THE ANC/SACP/Cosatu alliance yesterday said it would press ahead with plans for mass action unless government met its demands by the end of May

WILSON ZWANE

The alliance said it believed finality had to be reached on an election date, a transitional executive council and joint control of the security forces.

the process of finalising our mass action plans for the Western Cape but you can rest assure that consumer boycotts figure high on the agenda."

It said if government acted "irresponsibly" and continued to drag its feet beyond May, "a complete review of the negotiations will have to take place".

Yengeni did, however, give his assurance that consumer boycott action would not simply be directed at all white-owned businesses. "We will focus on specific areas of business," he said

The organisations added that unless government met their May deadline, a programme of action, which would include a boycott of taxes and national strikes, would be embarked upon

Yengeni said the mass action campaign would also be focused at the grass roots level of specific areas of power, such as local government, health services and the education crisis

The first phase had begun with regional actions. These included consumer boycotts, marches, demonstrations and occupations. The far right would be made a special target of regional mass action, including consumer boycotts, as well as international campaigns against those supporting them abroad

Our Durban correspondent reports that Natal is bracing for a month-long deluge of marches, rallies and city blockades by the alliance.

May Day would launch these regional programmes and alliance speakers would address more than 70 rallies throughout the country

No stayaways have been planned yet.

Our Cape Town correspondent reports that ANC regional chief Tony Yengeni said yesterday that the alliance would include a consumer boycott in its mass action campaign in the western Cape.

Maritzburg looks set to become the focus of most of the rolling mass action, beginning with a lunchtime memorial service in Market Square in the city at noon today to mark the death of the ANC national chairman Oliver Tambo.

Speaking at a May Day rally news conference yesterday he said. "We are still in

The events of the past three turbulent weeks have given impetus for what the alliance calls "the final push" beginning on Workers' Day.

□ Sapa reports from Cape Town that President F W de Klerk said a rolling mass action programme was in order as long as it was conducted with great responsibility.

## Witnesses corroborate massacre accused's alibi

MARITZBURG — Two men gave evidence in the Maritzburg Supreme Court yesterday supporting the alibi of Nkanyezini massacre accused, Nkayiso Wilfred Ndlovu, 20, for the duration of an attack on minibus passengers that left 10 dead and four wounded

Own Correspondent

his version Ndlovu alleged that Dladla had arrived at his residence on the evening in question with a shotgun and had asked him to keep it. Ndlovu said he had concealed it behind a wall

Ndlovu denied that he took part or was present when the minibus was ambushed on March 5 allegedly to avenge the killing of Inkatha-affiliated schoolchildren a few days earlier.

Dladla had also indicated a place across the river and had said he had concealed other firearms there, Ndlovu said. He later pointed out the spot to police who recovered an AK-47 rifle and an R1 rifle.

He denied evidence by co-accused Mabhungu Absalom Dladla, 23, that he provided the firearms and forced Dladla to take part in the attack

Les Roberts, SC, yesterday urged the court to convict Dladla and Ndlovu. He described Dladla as a "clearly lying witness" and said the version offered by Ndlovu was extremely improbable. Ntombela and Mkhize's evidence should not be relied on as they were clearly "sympathetic" to Ndlovu and vague about events

In evidence before Natal's Judge President Howard, Ndlovu said he had been at the home of Bonginkosi Ntombela in the company of KwaZulu policeman Michael Mkhize, on the day of the incident

Judge Howard is expected to deliver judgment in the case today

Ntombela and Mkhize gave evidence supporting

## Warning on timber use

MARIANNE MERTEN

THE Water Affairs and Forestry Department warned yesterday that at current levels of consumption SA's natural timber resources would be exhausted within 30 years.

It said about 30% of the population depended on wood as its primary energy source. It projected that from 2000, about 8.3 million tons of firewood would be consumed every year.

For this reason, said Water Affairs and Forestry Minister Japie van Wyk, the department would move from promoting commercial timber growing to rural forestry extension schemes. This shift in emphasis was "a matter of necessity"

The department had identified more than 3000 rural forestry projects to be implemented over the next decade. The success of the projects would, however, lie in community involvement and not with policymakers

## Addo killers found guilty

Own Correspondent

PORT ELIZABETH — An Umkhonto we Sizwe member and another man were found guilty in the Port Elizabeth Supreme Court yesterday of murdering Addo farmer and businessman Andre de Villiers.

They will be sentenced today. The State has asked for a minimum of 20 years' imprisonment.

De Villiers was gunned down outside his farmhouse on August 17. Shots were also fired at his wife Elizabeth and son Louis.

Umkhonto member Tamsanqa Mali, 23, and Lindile Stemele, 25, were convicted on a count of murder, two counts of attempted murder and a charge of attempted robbery.

Judge Van Rensburg said there was nothing in the evidence to suggest that the motive for De Villiers's killing was political.

Sapa reports the court found that another accused, Xolani Ncinane, who died earlier this year of AIDS, and a fourth man, Kenneth Gabayi, had fired the shots that killed De Villiers. Gabayi is still at large.

# Murder suspect dies in Natal shootout

B/DAY 29/4/93

Own Correspondent

DURBAN — Police tracking three killers who shot dead a man in his Winklespruit home on Natal's south coast early yesterday came under "heavy fire" from residents in the nearby Umgababa area who thought they were being attacked.

Hearing the exchange of gunfire between police and the three suspects, residents began shooting, forcing police to take cover. In a subsequent shootout with police one of the suspects was killed.

Earlier, Desmond Badenhorst, 34, was shot dead at his home. The suspects stole a hi-fi set, video recorder and some clothes. Some of the items were recovered.

Durban murder and robbery detectives have begun a major manhunt for the remaining suspects.

A search involving 100 policemen and soldiers is also on for Camperdown farmer Alex Kalafatis, 45, whom police believe was abducted from his farmhouse by gunmen early on Tuesday. A R20 000 reward has been offered for information leading to Kalafatis's whereabouts.

A man suspected of murdering farmer's wife Sandra Swanepoel at Letsitele near Tzaneen in the northern Transvaal yesterday was shot dead by police while resisting arrest, a police spokesman said. Three other suspects were arrested and two AK-47s and a 9mm Tokarev pistol confiscated.

Swanepoel, 37, was shot dead in her bedroom after her husband Johannes was at-

tacked outside their house.

Sapa reports that six men were remanded after appearing briefly in the Durban Magistrate's Court yesterday in connection with a gang shooting in which four people died at the weekend. The six, of Maphumulu near Durban, were arrested soon after residents in the Tongaat area were terrorised on Saturday night.

East Rand police have arrested two more suspects in connection with Monday night's Katilehong attack on Worldwide Television News cameraman Sam Msibi.

Police spokesman Maj Ida van Zweek said murder and robbery unit members arrested the two men after Msibi's car was found in Thokoza. Six men were arrested earlier in connection with the incident, in which Msibi was shot five times. All eight suspects are to appear in the Alberton Magistrate's Court today.

In the Border region, a suspect in last Thursday's murder of Det-Sgt Ian Richardson of East London was shot dead by police and a second suspect arrested.

Meanwhile, Cape Town town clerk Graham Lawrence said Khayelitsha's municipal services would be suspended as guarantees of safety for council workers appeared to have been ignored.

Khayelitsha traffic chief Graham Bell and a colleague were injured when their vehicle was stoned by crowds yesterday, and a lorry was set alight.

# More attorneys may join bench

BLOOM 29/4/93

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LINDA ENSOR

CAPE TOWN — It was likely that senior attorneys and legal academics would be eligible for appointment to the bench in the new SA to ensure that judges were drawn from a wider community, Judge Pat Tebbutt of the Cape Supreme Court said yesterday

Speaking at a Mount Nelson Breakfast Club function, Tebbutt said greater community participation in all facets of the judicial process would be the fundamental principle underlying changes made in the future SA legal system.

There would have to be a greater number of judicial officers of all races and in order to achieve this judges would have to be drawn from a wider cross section of the legal profession, including senior attorneys and academics. Presently there was only one black judge in the Transvaal, one in Bophuthatswana and one in Transkei, and only two black senior counsel in SA.

A corollary of this development would be the abolition of the two branches of the legal profession, namely advocates and attorneys, to create one unified profession.

Greater community participation in the administration of justice could also be achieved by the appointment of more

black assessors in criminal cases, though Tebbutt hoped that this would not involve the return of the "undesirable" jury system.

He believed the inevitable incorporation of a Bill of Rights in a new constitution would mean a greater role for the courts in the legislative process.

"It will be the law, as applied by the courts, to test future legislation which may, or may appear to, conflict with such a Bill of Rights."

In the past the courts had had an interpretative role vis-a-vis legislation rather than the policymaking role played, for example, by the US Supreme Court.

US judges acted as guardians of the Bill of Rights and as adjudicators with the power of judicial review of legislation.

Tebbutt thought it likely that in SA the Bill of Rights would be watched over by a special constitutional court, including judges, academics and experts.

Finally, he considered it likely that the emphasis in sentencing in a new dispensation would be on rehabilitation of offenders rather than retribution.

# Changes to involve all in legal system

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ARG 29/4/93

**KARIN SCHIMKE**  
Staff Reporter

CHANGES in the legal system are imminent and the major difference between the old and the new will be the participation in all facets of the law by all citizens, says a senior Cape Supreme Court judge.

Mr Justice Pat Tebbutt told a breakfast club meeting in Cape Town that one of the most important changes would be the involvement of the courts in the legislative process

"Instead of legislation being based on the principle of the sovereignty of parliament — with no testing rights by the courts — it will in future be based on the Rule of Law"

The enactment of arbitrary and discriminatory laws would not happen in future

Mr Justice Tebbutt said it was likely that a bill of rights would

be watched over by a special constitutional court

"The composition of the court is, therefore, most important and I foresee it including not only some of the present judges with special knowledge and expertise in constitutional law, but other people such as academics with similar knowledge and specialisation, and constitutional experts drawn from a cross-section of all racial and political groups"

This system would require what was already becoming a pattern in South African courts a greater number of judicial officers of all races

To meet these changes it was likely there would be alterations to the structure of the legal profession.

This would mean the amalgamation of the Bar (advocates) and the Side-Bar attorneys)

"Indeed, on Saturday Minister of Justice Mr Kobie Coetsee announced that he would be appointing a one-man commission of inquiry into whether attorneys

should be granted the right of audience in the Supreme Court"

The topic of the alteration of the present structure was one of great debate in legal circles, he said

Another change that was already taking place was the reformation and rehabilitation of offenders — preferably in their own communities — rather than prison sentences

"Judicial officers are encouraged to make greater use of fines, suspended sentences, community service and the form of sentence introduced in 1991 known as correctional supervision

"In this the offender can be placed under house arrest, can be obliged to perform community service, be monitored by the Department of Correctional Services and be obliged to undergo rehabilitation programmes"

Mr Justice Tebbutt said the central theme for all changes in the legal system was participation by all citizens

Star 30/4/93  
**Call to impose  
death sentence**

**MARITZBURG** — The prosecution has called for the death sentence to be imposed on the killers of the 10 occupants of a minibus taxi which was ambushed in reprisal for the killing of six Inkatha schoolchildren at Table Mountain last month.

Deputy Attorney-General Les Roberts, SC, said this type of violence had to be stopped.

Earlier Mr Justice Howard convicted IFP supporters Mabhungu Absolom Dladla (24) and Nkayiso Wilfred Ndlovu (21) of 10 murder and six attempted murder charges. — Own Correspondent

# Demos: strict controls urged by Goldstone

Star 30/4/93

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By Charmeela Bhagawat

The Goldstone Commission of Inquiry into the Prevention of Public Violence and Intimidation has called on the Government to institute stricter legislation governing public gatherings and demonstrations.

In a lengthy report submitted to President F W de Klerk yesterday, the commission suggested a draft Bill, dealing with marches, gatherings and pickets, be considered and passed by Parliament.

The commission recommended that mass demonstrations and marches were matters of such urgency that the subject should not be deferred, and legislation — which should also apply to the self-governing states — was desirable even before the completion of the pres-

ent period of transition

The report stated that conveners of gatherings or marches should give at least 10 days notice. However, the period could be shortened if all responsible officials agreed.

The report recommended that the exact and complete route be made clear to all officials and local authorities if necessary. Where no local authorities exist the local magistrate should be given details.

It emphasised that the conduct of people attending gatherings was important and no person involved should say things which would incite violence or hatred between racial, cultural and religious groups.

The commission recommended that permission for gatherings be refused if there was reason to believe that participants' lives would be in danger, or that violence could erupt causing widespread chaos and damage.



Star 30/4/93  
**Institute to  
aid Goldstone  
Commission**

CAPE TOWN — An institute to monitor public violence, backed by a computer information service, is to be set up under the auspices of the Goldstone Commission.

The Institute for the Study of Public Violence was announced by Mr Justice Richard Goldstone and Norwegian Foreign Minister Johan Jorgen Holst yesterday.

The Norwegian government has granted about R2 million and the services of two computer consultants. (252)

Mr Justice Goldstone said the institute would "play an important role" by helping his commission to operate more efficiently. (252)

Holst said: "After wide consultations, the mission identified a need for a fully comprehensive and well co-ordinated computer-based information system relating to incidents of public violence and intimidation."

The objectives include to collect, analyse and publish information about violence; to provide the Goldstone Commission with a tool to carry out its mandate and to create a credible data base. — Sapa.

# Youths guilty of doctor's murder

SUSAN RUSSELL

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BIOM 30/4/93

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FIVE Soweto teenagers who took part in the fatal shooting of a Baragwanath doctor during a robbery attempt last year, were found guilty of murder in the Rand Supreme Court yesterday

The youths, whose ages ranged from 15 to 17 at the time, attacked Stephan Walter in his car at a Diepkloof intersection on September 28 last year.

Walter was shot in the head by one of the teenagers and died in hospital later that day

The youths admitted they had been waiting for a vehicle to rob so that they could sell the wheels. They

fled after the shooting

The youths pleaded guilty to attempted robbery with aggravating circumstances.

Due to the youth of the five accused, Judge MC de Klerk ordered that the trial be heard in camera

The court rejected their evidence that they knew nothing about firearms or that the pistol in the possession of one of them was loaded with bullets

The judge also rejected the evidence of the youth who fired the fatal shot that the gun had gone off acci-

dentally  
De Klerk rejected the youth's evidence that the pistol went off after he got a fright, thinking that Walter was reaching for a firearm of his own

But, he added, even assuming this had been the case, shooting at Walter would still have been unlawful because the doctor would have been entitled to protect himself.

The youth, he said, had intended to shoot Walter and the other four must have foreseen that someone could be killed

The trial has been postponed for evidence in mitigation

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(252)

From Page 1

# Open Supreme Court to us, say attorneys

(252)

ARC 30/4/93

## ■ Inquiry may end 'elitist' separation

The Argus Correspondent

JOHANNESBURG. — A 10-year fight by attorneys to be allowed to appear before the Supreme Court, restricted to advocates, will soon be studied by a commission to be appointed by Justice Minister Kobie Coetsee.

Many attorneys contend a break-away from the restrictive British divided Bar system to the European/American "one profession system" would lead to a significant reduction in legal costs for the public as well as opening up the current elitist legal set-up to all players

South Africa was one of a few countries still using the monopolistic British legal system, said Johannesburg Attorneys' Association chairman Johan Preller

● It meant attorneys were restricted to appearing in the lower courts, but were forced to hand over to advocates once the matter exceeded R20 000 when it had to be heard in a Supreme Court

● Mr Preller said a clear case of duplication of costs occurred because attorneys were restricted to liaise with the client, do the administrative work and prepare the pleadings. But advocates had to sign the pleadings

If some 8 000 attorneys had the right of appearance, it would lead to a significant reduction in legal costs, specifically in thousands of unopposed divorce cases

This would not only free advocates to concentrate on complicated legal cases, but allow the public to choose their representative

● Another contentious issue was that attorneys had to guarantee advocates' fees, which Mr Preller said amounted to acting as "collecting agencies"

● Attorneys wanted to see changes to the current "elitist" situation where judges were chosen by the Minister of Justice from the ranks of about 160 Senior Counsel (SCs)

"It is interesting to note there are probably more judges than senior advocates in the country," he said.

Chairman of the Johannesburg Bar Council Wim Trengove welcomed the commission which advocates had urged for a long time

He said both branches of the profession agreed on the continued existence of a strong Bar, but strong differences existed on the right of audience in the Supreme Court

The Hoexter Commission had concluded it was not in the public interest that attorneys appear in court, he said



REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

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## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE

**No. R. 760** **30 April 1993**

ASSIGNMENT OF CERTAIN POWERS, DUTIES AND FUNCTIONS OF MINISTER OF JUSTICE TO MINISTER OF LAW AND ORDER

It is hereby notified that the State President has under the powers vested in him by section 26 of the Republic of South Africa Constitution Act, 1983 (Act No 110 of 1983), assigned the administration of the provisions of the Internal Security Act, 1982 (Act No 74 of 1982), which entrust to the Minister of Justice any power, duty or function, to the Minister of Law and Order with effect from **1 April 1993**.

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## GOEWERMENSKENNISGEWING

### DEPARTEMENT VAN JUSTISIE

**No. R. 760** **30 April 1993**

OPDRAG VAN SEKERE BEVOEGDHEDE, PLIGTE EN WERKSAAMHEDE VAN MINISTER VAN JUSTISIE AAN MINISTER VAN WET EN ORDE

Hierby word bekendgemaak dat die Staatspresident kragtens die bevoegdheid hom verleen by artikel 26 van die Grondwet van die Republiek van Suid-Afrika, 1983 (Wet No 110 van 1983), die uitvoering van die bepalings van die Wet op Binnelandse Veiligheid, 1982 (Wet No 74 van 1982), wat aan die Minister van Justisie 'n bevoegdheid, plig of werksaamheid toewys, met ingang van **1 April 1993** aan die Minister van Wet en Orde opgedra het

14780—1

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<b>GOVERNMENT NOTICE</b>			<b>GOEWERMENTSKENNISGEWING</b>		
<b>Justice, Department of</b>			<b>Justisie, Departement van</b>		
<i>Government Notice</i>			<i>Goewermentskennisgewing</i>		
R 760	Republic of South Africa Constitution Act (110/1983) Assignment of certain powers, duties and functions of Minister of Justice to Minister of Law and Order	1	14780	R 760	Grondwet van die Republiek van Suid-Afrika Opdrag van sekere bevoegdhede, pligte en werksaamhede van Minister van Justisie aan Minister van Wet en Orde
					1 14780

# Addo murder robbery not politics

By BEVERLEY GARSON

*Wm cut 30/4 - 6/5/93*  
THE motive for the murder of Addo businessman Andre de Villiers was armed robbery, not politics, the Port Elizabeth Supreme Court found this week.

Convicting Umkhonto weSizwe member Tamsanqa Mali (23) and Lindile Sterele (25) of murder, Justice J van Rensburg said apart from a statement by the dying De Villiers that "this is a political set-up", nothing had been placed before the court

*252*  
to suggest a political motive. Before dying of wounds sustained in an ambush outside his Addo farmhouse, De Villiers also told his son, Louis, that a former business partner was involved in the "set-up" and that Louis should ask a family friend and ANC member about it.

Before he was killed, De Villiers offered to provide information about the activities of the SADF's Hammer Unit — which has been linked to the Matthew Goniwe murder — and

other covert state operations. The judge also convicted the men of attempting to murder De Villiers' wife, Elizabeth, and son, Louis, and of attempted robbery with aggravating circumstances. A fourth man, MK member Kenneth Gabayi, is being sought by police.

Mali and Sterele had pleaded not guilty. Another accused in the case MK member, Xolani Ncinane, died of an Aids related illness before the start of the trial. — Pen

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**GENERAL NOTICES****NOTICE 353 OF 1993****DEPARTMENT OF NATIONAL HEALTH AND POPULATION DEVELOPMENT**

REPRESENTATIVE ASSOCIATION OF MEDICAL SCHEMES SCALE OF BENEFITS IN RESPECT OF SERVICES RENDERED BY PRIVATE HOSPITALS AND UNATTACHED OPERATING THEATRE UNITS

The following corrections should be made to General Notice 1096 of 1992, published in *Government Gazette* No 14448 dated 4 December 1992

**S. J. ROODT,**

Chairman. Representative Association of Medical Schemes

Page/Bladsy 71 — Please add/Voeg asseblief by

182 Non chargeable items in Wards, High Care wards and all Intensive Care Units/Gratis items in Sale, Hoesorgsale en alle Intensiewe Sorgeenhede

Disposable Patient Controlled Analgesia Pumps **NOT** conforming with the requirements of item 230 / Wegdoenbare Pasient Beheerde Analgesië Pompe wat **NIE** aan die bepaling van item 230 voldoen nie

Page/Bladsy 75 — Please add/Voeg asseblief by

181 Non chargeable theatre items (which would always include the equivalent to the items named)/Gratis teater-items (wat altyd die gelykwaardige van die genoemde item sal insluit)

Disposal Patient Controlled Analgesia Pumps **NOT** conforming with the requirements of item 230 / Wegdoenbare Pasient Beheerde Analgesië Pompe wat **NIE** aan die bepaling van item 230 voldoen nie

(30 April 1993)

**ALGEMENE KENNISGEWINGS****KENNISGEWING 353 VAN 1993****DEPARTEMENT VAN NASIONALE GESONDHEID EN BEVOLKINGSONTWIKKELING**

VERTEENWOORDIGENDE VERENIGING VAN MEDIESE SKEMAS: VOORDELESKAAL TEN OPSIGTE VAN DIENSTE GELEWER DEUR PRIVATE HOSPITALE EN LOSSTAANDE TEATEREENHEDE

Die volgende verbetering moet aangebring word aan Algemene Kennisgewing 1096 van 1992, gepubliseer in *Staatskoerant* No 14448 gedateer 4 Desember 1992.

**S. J. ROODT,**

Voorsitter. Verteenwoordigende Vereniging van Mediese Skemas

**NOTICE 354 OF 1993****SOUTH AFRICAN LAW COMMISSION**

The South African Law Commission hereby releases its working paper entitled "Jurisdictional Lacuna in the Supreme Court Act 59 of 1959" The working paper deals with the question whether a jurisdictional lacuna exists in the Supreme Court Act In this working paper the Commission concluded that a jurisdictional lacuna does exist in the positive law and that it should be remedied by an appropriate statutory amendment.

The Supreme Court should be empowered to authorise an attachment or arrest to—

- (i) confirm jurisdiction where the cause of action arose in one division and the property which can be attached or person to be arrested is in another division,
- (ii) found jurisdiction where the cause of action arose neither in the division in which the *incola* plaintiff is resident or domiciled nor in the division in which the property or person to be attached or arrested is to be found

The Commission invites all interested persons and bodies to comment on the working paper in question or to make suggestions for the development, improvement, modernisation or reform of this aspect of the law

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**KENNISGEWING 354 VAN 1993****SUID-AFRIKAANSE REGSKOMMISSIE**

Die Suid-Afrikaanse Regskommissie stel hiermee sy werkstuk getitel "Jurisdiksionele leemte in die Wet op die Hooggeregshof 59 van 1959" vry Die werkstuk handel oor die vraag of daar 'n jurisdiksionele leemte in die Wet op die Hooggeregshof bestaan. Die Kommissie het in hierdie werkstuk tot die gevolgtrekking gekom dat daar wel 'n jurisdiksionele leemte in die positiewe reg bestaan en dat die leemte uit die weg geruim moet word deur 'n gepaste wetswysiging Die Hooggeregshof behoort die bevoegdheid te verkry om 'n beslaglegging of inhegtenisname te magtig om—

- (i) jurisdiksie te bevestig waar die eisorsaak in een afdeling ontstaan het en die eiendom waarop beslag gelê kan word of die persoon wat in hegtenis geneem word, in 'n ander afdeling is,
- (ii) jurisdiksie te vestig waar die eisorsaak nóg ontstaan het in die afdeling waarin die *incola*-eiser woonagtig of gedomisileer is, nóg in die afdeling waarin die eiendom is waarop beslag gelê word, of die persoon is wat in hegtenis geneem word

Die Kommissie nooi alle belanghebbende persone en instansies uit om kommentaar te lewer op die onderhawige werkstuk of om voorstelle te doen vir die ontwikkeling, verbetering, modernisering of hervorming van hierdie faset van die reg

It would be appreciated if written comments or suggestions could reach the Commission by **31 May 1993** at the address given below

The working paper is obtainable free of charge from the Commission on request

The Commission's offices are on the Eighth Floor, NG Kerk Synodal Centre, 228 Visagie Street, Pretoria  
Correspondence should be addressed to:

The Secretary  
South African Law Commission (252)  
Private Bag X668  
PRETORIA  
0001  
Telephone. (012) 322-6440 (Mrs P. Kotze)

(30 April 1993)

### NOTICE 355 OF 1993

#### DEPARTMENT OF LOCAL GOVERNMENT AND NATIONAL HOUSING

COUNCIL FOR THE CO-ORDINATION OF LOCAL GOVERNMENT AFFAIRS: APPOINTMENT OF PERSONS OR INSTITUTIONS FOR PURPOSES OF MEMBERSHIP

I, Jacobus Tertius Delpport, hereby notify for general information that, in terms of the powers vested in me by section 3 (3) (h) read with section 14 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983), I hereby appoint the following persons as members of the Council for the Co-ordination of Local Government Affairs for a term ending 31 December 1993:

Councillor F C Lourens  
Mr A. S. Khan.  
Mr A. G. Abader  
Mr M. A. Jaffer

**J. T. DELPORT,**  
Minister of Local Government  
(30 April 1993)

### NOTICE 356 OF 1993

The Department of Finance announces hereby that transfer documents for registration in respect of the undermentioned Republic of South Africa Internal Registered Stock must be lodged with the office of this Department at 301 Abattoir House, 50 Hamilton Street, Arcadia, Pretoria, **not later than 14 Mei 1993** to qualify for the interest payment on 15 June 1993

The registration of transfer documents thus handed in will be finalised on 25 May 1993 whereafter the registers will be closed until the date of the interest payment.

Internal Registered Stock, 6,5 Per Cent, 1994 (R031).

Internal Registered Stock, 8,25 Per Cent, 1999 (R045)

Internal Registered Stock, 14,50 Per Cent, 1993 (R134)

(30 April 1993)

Dit sal waardeer word indien skriftelike kommentaar of voorstelle die Kommissie teen **31 Mei 1993** by onderstaande adres bereik.

Die werkstuk is op aanvraag gratis van die Kommissie verkrygbaar.

Die Kommissie se kantore is op die Agtste Verdieping, NG Kerk Sinodale Sentrum, Visagiestraat 228, Pretoria. Korrespondensie moet asseblief gerig word aan:

Die Sekretaris  
Suid-Afrikaanse Regskommissie  
Privaatsak X668  
PRETORIA  
0001  
Telefoon (012) 322-6440 (mev. P. Kotze).

(30 April 1993)

### KENNISGEWING 355 VAN 1993

#### DEPARTEMENT VAN PLAASLIKE REGERING EN NASIONALE BEHUISING

RAAD VIR DIE KOORDINERING VAN PLAASLIKE OWERHEIDSAANGELEENTHEDE: AANWYSING VAN PERSONE OF INSTELLING VIR DOELEINDES VAN LIDMAATSKAP

Ek, Jacobus Tertius Delpport, maak hiermee vir algemene kennis bekend dat ek, kragtens die bevoegdheid my verleen by artikel 3 (3) (h) saamgelees met artikel 14 van die Wet op die Bevordering van Plaaslike Owerheidsaangeleenthede, 1983 (Wet No. 91 van 1983), die volgende persone aanstel as lede van die Raad vir die Koordinering van Plaaslike Owerheidsaangeleenthede vir 'n termyn eindigende 31 Desember 1993:

Raadslid F. C. Lourens  
Mnr A S Khan.  
Mnr A. G. Abader  
Mnr. M. A. Jaffer

**J. T. DELPORT,**  
Minister van Plaaslike Regering.  
(30 April 1993)

### KENNISGEWING 356 VAN 1993

Die Departement van Finansies maak hiermee bekend dat oordragdokumente vir registrasie ten opsigte van die ondergemelde Republiek van Suid-Afrika Binnelandse Geregistreerde Effekte **nie later nie as 14 Mei 1993** by die Departement se kantoor te Abattoirhuis 301, Hamiltonstraat 50, Arcadia, Pretoria, ingelewer moet word ten einde vir die rentebetaling op 15 Junie 1993 te kwalifiseer

Die registrasie van oordragdokumente aldus ingehandig sal word op 25 Mei 1993 gefinaliseer word waarna die registers tot die dag van rentebetaling gesluit sal wees.

Binnelandse Geregistreerde Effekte, 6,5 Persent, 1994 (R031)

Binnelandse Geregistreerde Effekte, 8,25 Persent, 1999 (R045).

Binnelandse Geregistreerde Effekte, 14,50 Persent, 1993 (R134)

(30 April 1993)