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PUBLIC SECTOR-GOVT- JUSTICE

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JANUARY — MARCH

No gift from De Klerk for Nofomela

By ELIAS MALULEKE

WHILE two white policemen who hired themselves out as assassins relished their reprieve from Death Row, black police hit squad agent Almond Butana Nofomela spent a lonely sixth Christmas on the row.

He told City Press that, unlike freed political prisoners and police colleagues who have been reprieved by State President FW de Klerk, there was no special treat for him on Christmas Day.

He did not get any visit, nor did he join other Death Row prisoners in the prison church for prayers on Christmas.

Hopes dashed

Although his faith in God has been strengthened since he was convicted in 1986, he said his prayers had not helped him much.

He had hoped in vain that the State President would either commute his death sentence or reprieve him in time for a Christmas dinner with his family.

Instead he said that as the hours ticked closer, without word from De Klerk, he began to think again of the rope tightening around his neck.

Yet he says he has grown to accept death. "It is not that I'm scared of dying, it's that I don't want to leave my two kids, my parents, my three brothers and five sisters without a breadwinner. But if I must die, so be it," he said.

Nofomela still regards himself as a breadwinner although he has not been able to provide for his children for six years.

He said that although Lawyers for Human Rights had gone to great lengths to save his life, time was "running out".

Nofomela was sentenced to death in 1986 for the murder and robbery of Johannes Hendrick Lourences, a Brits farmer who was repeatedly stabbed by Nofomela and his co-accused.

He was given an 11th-hour stay of execution in 1989 after making sensational disclosures about his alleged police hit squad activities.

He said he was in an alleged police assassinator squad which was responsible for the murder of Durbar lawyer Griffiths Mxenge.

Last month he lodged an unsuccessful application to have his death sentence set aside and the trial reopened to consider new evidence.

Among other things, Nofomela claimed that he had been trained and taught to kill by his police handlers, and that a new trial could find a mitigating factor.

Bloemfontein Appeal Court Judge Nienaber turned down the application, saying Nofomela had told so many lies, for so long and on so many occasions, that little if any credence could be attached to his new evidence.

"Arrogance is not a mitigating factor and that he was a policeman was a distinctly aggravating factor," Nienaber found.

Nofomela said a report by Lloyd Vogelmann, a clinical psychologist, showed a positive prognosis for his rehabilitation.

He said other convicted policemen had been freed by the stroke of a pen.

Mass killer

He mentioned mass-killer Barend Hendrik Strydom, who had eight death sentences commuted, former capt Jack la Grange and Sgt Robert van der Merwe who also had double death sentences commuted and are now free.

"La Grange was not just an ordinary cop, he was a police commander who was found guilty of committing robberies and murders.

"Strydom stood in a court of law for the murder of eight people and proudly stated that he would kill again if given the chance. He showed no remorse for his deeds and got eight death sentences.

"Today Strydom is no longer in Death Row, he is almost like a free man because any day from now he can walk out and be united with his family.

"I was used, exploited and betrayed, but I do not want to cry over spilt milk, instead I again ask for forgiveness from all the people I have wronged and pray that they forgive me," he said.

Lawyers for Human Rights intend to petition De Klerk to free or commute Nofomela's death sentence. The ANC said it had called for a moratorium on executions.

Ex-judge Moodley has some tips for SA's Ombudsman

The Argus Correspondent

DURBAN — When Mr Justice P J van der Walt became South Africa's Ombudsman recently, he was not the first South African to hold such a post.

Nearly 10 years ago, Mr Justice Manivel Moodley, a former Durban schoolteacher who left South Africa to pursue a career in law, was appointed Zimbabwe's first Ombudsman after retiring as a judge of the High Court in Zambia.

Ironically, when Mr Moodley returned to Durban to start his retirement after serving as Zimbabwe's Ombudsman, Mr Van der Walt was taking office as watchdog for citizens in South Africa.

In his first interview since his return, softly-spoken Mr Moodley had some words of advice for Mr Van der Walt.

Given the history of racism in South Africa, he expected the floodgates to open for a torrent of complaints which had built up against government departments during decades of apartheid rule.

"At last, the South African public will have the power to bring bureaucratic bungling to the attention of parliament.

"Now, ordinary citizens will have access to somebody who should be prepared to handle complaints of unethical or incorrect behaviour like the withholding of pensions or unfair dismissal on the part of government officials.

"No system of government is complete without the establishment of the office of the Ombudsman.

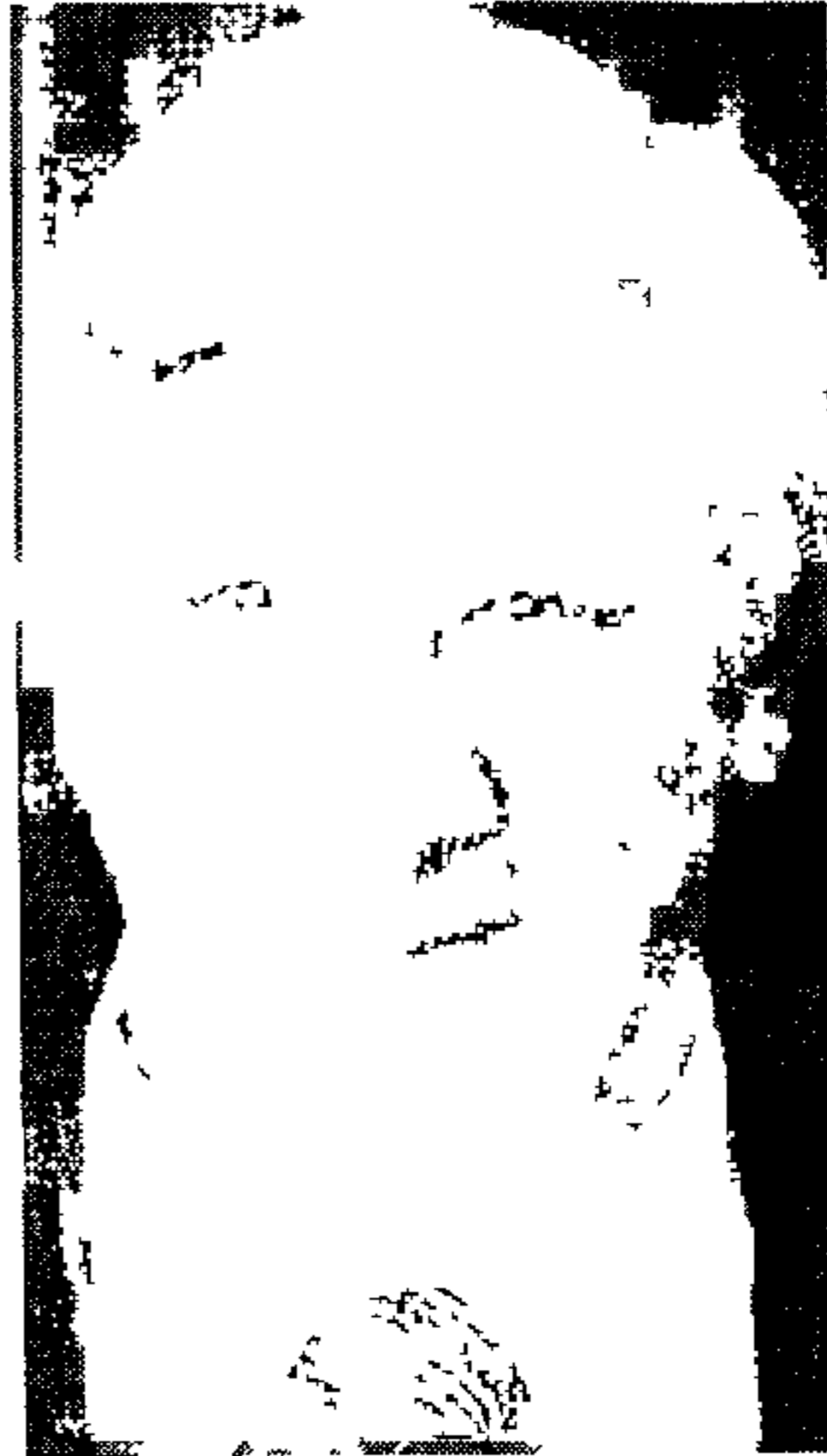
"This is the only way to provide the necessary checks and balances to ensure the public service acts in accordance with laid down standards and procedures."

Mr Moodley said that when he took office in Zimbabwe, he travelled the length and breadth of the country "to sell the concept of the Ombudsman's office."

"The new Ombudsman must not see his relationship with bureaucracy in any way being a long and uneasy one. His duty is to ensure the best possible relations with government departments.

"This is necessary because when complaints are lodged against the public service, it will be the duty of the Ombudsman to communicate them to the department or official concerned to ensure that justice is done."

Mr Moodley said that from his own



RIGHTING WRONGS: Mr P J van der Walt, South Africa's Ombudsman, who has been given some tips on the job by Zimbabwe's former Ombudsman, ex-judge Mr Manivel Moodley of Durban.

experiences in Zimbabwe, it was found there were cases where public servants were either ill-trained or ill-equipped. The inability on the part of such a person to comprehend and interpret correctly the rules or act expeditiously could result in injustices to the public.

Some of the things which resulted in injustices were delays, where citizens were expected to wait for responses for unwarranted periods, communication, especially in cases where there appeared to be a total inability on the part of officers to reduce answers into simple language, and, rough justice, where there was a blatant abuse of authority, by public servants.

Mr Moodley said it was important the public saw the office of the Ombudsman as made up of people with feelings, not just bureaucratic machines without emotions or fears.

For this reason, during his period as Ombudsman, he became known as Comrade Moodley.

"I hope the new Ombudsman in South Africa, too, will be regarded as a comrade and friend who is feared by none," he said.

Free legal defence for those without means

By Philip Zoio (252)

The legal system makes another breakthrough in bringing the law closer to the public today with the opening of a Public Defenders' Office in Johannesburg

A team of 10 public defenders, appointed by the Legal Aid Board, will from today appear free of charge for criminal accused in the Johannesburg Magistrate's Court who are unable to afford a lawyer

Senior public defenders Vivian Fortunat and Carol Bruyns are excited about the project "It's very necessary. Over 100 000 people are sent to prison each year without being represented," said Ms Fortunat

If the two-year pilot project

STAR 6/1/92.
succeeded, public defender offices would be opened throughout the country, she said

Posters advertising the office will be placed at all police stations servicing the Johannesburg Magistrate's Court, and at the court itself. "People can approach us from the moment of arrest," Ms Bruyns said

Since South African law does not offer the right to a phone call to those recently detained, family or friends can contact the Public Defenders' Office immediately after arrest at (011) 838-6655, or on the first floor of Cape House on the corner of Fox and McLaren streets

Ms Bruyns said the public defenders — all admitted advocates or attorneys — would first ensure that the accused could not afford a lawyer. They would

then take as many cases as possible that were serious enough to require representation

Since the Public Defenders' Office employed full-time staff, it would be more cost-efficient than the other Legal Aid Board system of instructing lawyers in private practice on individual cases and paying them for each appearance, Ms Fortunat said

The local public defender system is loosely based on the American system, in which every criminal accused is entitled to the services of a lawyer, but adapted to local circumstances, said Ms Fortunat

"I really hope it works. Our Appellate Division has stated several times that such a system is necessary for the fair administration of justice," she said

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Busy time for Ombudsman

South Africa's Ombudsman is being snowed under by public complaints — many of which do not fall under his jurisdiction.

Mr Justice van der Walt, appointed Ombudsman at the end of last year, said he has been inundated with calls and letters since he took office.

"A large number of complaints are from public servants — especially teachers — about employment conditions. Other grievances relate to services and improper property deals," he said.

— Pretoria Bureau

New courts Act in effect

Business Day Reporter

DEPUTY Justice Minister Danie Schutte yesterday announced that the Magistrate's Courts Amendment Act of 1991, which makes it possible for community-based assessors to be involved in conviction and sentencing, was in effect

Schutte was speaking at the opening of a Small Claims Court in Boksburg.

He predicted that South Africans would increasingly turn to the courts to enforce their rights

He said the Johannesburg Small Claims Court proved the popularity of the innovative legal concept, especially among blacks

Between June 1991 and December 1991, of 1 727 plaintiffs, 1 302 were black and 591 of them lived in Soweto

The planning of a Small Claims Court closer to Soweto had reached an advanced stage

Steps had been taken towards implementation of the Short Process Courts and Mediation in Certain Civil Cases Act of 1991, although no date had been set for this yet

"These will provide for the establishment of an alternative dispute adjudication procedure (mediation proceedings) as an alternative forum (short process courts)

aimed at the cost-saving and expeditious adjudication of certain civil actions

"It is aimed at increasing accessibility to the courts

"A short process court shall for all purposes be deemed to be a magistrate's court, with the exception that evidential procedures may differ from those of the magistrate's courts and that judgments or orders of the first-mentioned courts may not be appealed against

"After a notice has been issued subjecting the dispute to the mediation proceedings, the parties will appear before a mediator in chambers

"The mediator will interview the parties and attempt to bring about a settlement between the parties or to simplify the issues" If settlement was not reached the case could be continued in a magistrate's or short process court, depending on whether action had been instituted and whether the defendant consented to the latter court's jurisdiction

"The parties are entitled to legal representation at both the mediation proceedings and the proceedings in the short process court"

Hotel groups bid for Club Mykonos

LINDA ENSOR

CAPE TOWN — Two big hotel groups have made widely different offers to buy the Club Mykonos resort on the west coast, an informed source said yesterday.

Masterbond curators were considering both proposals, he said

Curator Arnold Galombik would not disclose details of the offers, nor whether they were considered acceptable

The successful party would take over the future development of Club My-

konos, including the half-built hotel, unsold stock and a vast tract of undeveloped land

Meanwhile, the provisional liquidators of Club Mykonos Langebaan Resort Managers, the management company which ran Club Mykonos, have handed over the running of the resort to the homeowners' association. The owners are funding operations out of their levies

A source said yesterday that the provisional liquida-

tors had run out of funds to run the resort. The share-block company, which had certain funds available, had offered to take over operations

In July 1991, just before its provisional liquidation, the management company ran at a loss of R289 765 and in August at a loss of R175 645. Court papers revealed net current liabilities of R1,9m and a negative equity of R1,28m. The company also owed CML Developers R2,2m for loans advanced

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Residents lash people's courts

Staff Reporter

IN an angry backlash against people's courts, a man was stabbed and a car burnt out in KwaNonqaba, near Mossel Bay, this week

Police said violence erupted at a community meeting in reaction to the sentencing to death and execution of two people by the court recently.

Two men were handed over to the police by residents

Police said yesterday in their unrest report that residents held

a meeting on Tuesday night to "discuss grievances" over recent people's court activities.

When a man attempted to explain to the residents what the courts did, they became enraged and stabbed him

The wounded man fled to a nearby municipal police post, where his attackers dispersed, after a warning shot was fired.

However, the crowd later returned with two other men allegedly implicated in people's

courts, and handed the suspects over to the police

"There seems to be a community backlash against the civics and the people's courts," a police spokesman said. *CT 9/1/92*

Attempts to speak to a local civic spokesman yesterday were unsuccessful.

The Western Cape branch of the ANC reported that one of their members had gone to Mossel Bay to investigate

Balancing the scales of justice

W/Mail 10/11-16/192

For more than a century
thousands of South Africans

have been judged — and
found guilty — without the
benefit of legal representation.
This imbalance is now being
addressed.

HUBERT MATLOU reports
on the first case taken up by
the Public Defenders' Office

UNEMPLOYED Portuguese immigrant Alvaro dos Santos stood silently in the dock as the charge sheet was read to him and translated by an interpreter at the Hillbrow Magistrate's Court on Tuesday.

As the sun penetrated the small packed courtroom, his wife Vanda and their 15-year-old daughter Patricia murmured at intervals — comforting each other, anticipating the unknown. Their expressions reflected a deep concern over Dos Santos, who keeps the home fires burning by doing part-time jobs. They sat desolate and lonely among a dominantly black and indifferent audience — feeling foreign in a foreign land.

Dos Santos (61), represented by public defender LM Koopasamy, appeared before Magistrate H Viana on a charge of driving under the influence of liquor. His alcohol consumption read 0,25, considerably exceeding the permitted 0,08 grams per 100ml. He pleaded guilty and was released on R500 bail. His case was remanded to February 18.

The Dos Santos, who stay in Joubert Park, emigrated from Portugal in 1982. Alvaro has been unemployed for the past 22 months. Speaking to *The Weekly Mail*, with

No trust without enough funds

By PHILIPPA GARSON

THE Standing Commission of Inquiry into Public Violence and Intimidation is in the throes of a funding crisis which, if not strenuously solved, could derail a pivotal arm of the National Peace Accord.

This view, expressed by Lawyer for Human Rights (LHR), has been backed by several lawyers at the commission who say that if funding is not made available for legal representation for the various parties and individuals testifying before it, it will fail.

The state has refused to step in to solve the crisis and Inkatha's legal representatives pulled out of the proceedings last month due to lack of funds.

Without legal representation, witnesses "simply don't talk", says LHR executive director Brian Curtin.

In a bid to ensure the success of the commission, LHR is in the process of setting up a trust fund and is appealing to big business for contributions.

The commission, headed by Mr Justice R Goldstone, began sitting in November after the National Peace Accord was signed by the govern-

ment, Inkatha and the African National Congress.

Its parameters were laid down by the Prevention of Public Violence and Intimidation Act, also passed late last year.

It is expected to investigate, among other things, allegations of security force involvement with Inkatha in fuelling violence and has been given a mandate to look at both cause and ways of preventing violence. Its findings will in all likelihood have far greater implications than those of previous commissions.

Unlike the others it was born out of a process of negotiation which included most of the relevant political actors. It's a highly credible commission and has the support of the majority of people," says Curtin.

Foreign embassies have so far contributed R1.5 million towards the kitty but a lot more will be needed if it is to be a success. "It is highly likely, the commission runs for some time — perhaps two years."

A sub-commission looking into the September/October 1986 violence began sitting on November 15 and is still hearing evidence on the first of the three incidences of violence

redress the need for free legal representation for the poor. Over a century, more than 100 000 people, particularly blacks, have been sent to jail without a proper hearing or legal representation.

The project is paid for by public and private funds, which cater for the services it renders and the salaries of its full-time staff.

The 10-strong team was initiated by a number of lawyers' organisations, including the Legal Resources Centre, Legal Aid Bureau, Black Lawyers

under scrutiny.

The new trust body set up by LHR will give legal funding to civic and other community-based groups but not political parties. The Tokozo Hostel Dwellers Association has been the first to receive and and the organisation is now being represented by the legal team formerly acting for Inkatha.

Curtin is disgusted by the state's refusal to offer funding. "It's incredible that the state refused. We asked them to set up a resource for funds and we made the point that the commission can't run unless all parties are represented. But the state said that no law makes provision for that."

Although the setting up of the commission was part of a joint state-Inkatha-ANC initiative, other countries frequently go so far as to fund anti-state litigation, notes Curtin.

"It is absurd for foreigners to pay for our future," he adds. "We need funding from South Africa and we appeal to South African businesses. An ongoing commission of this nature is a crucial practical arm in the process towards peace negotiations."

Association and the National Association of Democratic Lawyers Located two blocks away from the Johannesburg Magistrate's Court, at Cape House, the office is run by two advocates, Vivian Fortunat and Carol Bryuns, assisted by eight attorneys. There is also an interpreter.

Fortunat explained the 10 were selected from 138 applications, countrywide.

"Selection was made on the basis of candidates' commitment to community service. And all have been in prac-

tice for some time, and had abandoned their private practice for this new venture," Fortunat said.

The PDO employs full-time staff, making it more cost-efficient than the Legal Aid Board's system of instructing lawyers in private practice on individual cases and paying them for each appearance, she said.

Bryuns said her office would apply the LAB "means test" as a yardstick to determine which applicants qualify for assistance.

"This project is directed at people receiving the lowest income and the unemployed. However, this will be applied elastically on a case-by-case basis.

"We represent a client throughout the trial — from bail application to mitigation of sentence," Bryuns said. Although the office is a two-year pilot project confined to the Johannesburg Magistrate's Court, an exception was made with the Dos Santos case, which is being heard in Hillbrow. The project may expand to other areas of the country on the basis of its effectivity and success.

"This will depend largely on the volume of work and the amount of money used. The large turn-up of people for assistance would also count in favour of its continued existence," Fortunat said.

The project could use more publicity among the people who need its services. At the Johannesburg Magistrate's Court a poster reading "Be careful of Terrorist Bombs" welcomes people at the entrance. But no PDO poster — in any language — was in sight. People questioned said they had not heard of it.

However, by the middle of the week word must have spread, because the office had 30 cases on its list, ranging from fraud and robbery to malicious damage to property.

ANC denies court link

THE execution of two people and incidents of violence in Mossel Bay had nothing to do with any "kangaroo court" or ANC meeting, the ANC said last night.

Police said violence erupted in a backlash against people's courts after the two people were sentenced to death and then executed.

Western Cape regional executive committee member Mr Vincent Diba said residents had been protecting themselves against "criminal elements".

"The deaths happened after a group of men apprehended seven people who allegedly stole goods from houses in the JCC squatter community.

"The men were apprehended, taken to the police and released by the police on two occasions."

CCB murderer's plea for freedom is turned down

By ALINAH DUBE

AN application for the release of a Naboomspruit farmer and former Civil Co-operation Bureau member serving an eight-year sentence for murder has been dismissed with costs by a Pretoria Supreme Court judge

Zonderwater prisoner, Jacobus Leeb (30), who claims to have committed the crime for political reasons, brought the application before Mr Justice van Dykhorston on Friday

The prisoner conducted his own case

Leeb was convicted in the Transvaal Circuit Court during November 1989 for the murder of Mr Simon Snyders

Reading his statement to the court he said he was entitled to be released be-

cause of a number of political statements made recently.

He said he was convicted of a crime during his eight-year service to his country

Leeb added that he spent that period protecting the country and its people and that if his "former enemies" were being released from prison or receiving indemnity from prosecution, he was also entitled to be released

"The only motive for my actions was in the interest of security," he said

Van Dykhorston said departmental policy was that second offenders had to serve a third of their sentence before being considered for parole

He also pointed out that the court, excluding the Appeal Court, had no power to reconsider a sentence

Scouten 13/11/92

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Inquest into deaths of babies begins

LINDEN BIRNS and ANDREW KROMM

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AT LEAST two of the babies who died after receiving contaminated intravenous drips could still be alive today if drip manufacturer Sabax had warned hospitals its products might have been infected, a medical expert said yesterday *Birns 14/1/92*

Prof Alan Rothburg, deputy dean at Wits University's medical faculty and paediatrics head at the Johannesburg General Hospital, was testifying in the Johannesburg Magistrate's Court during the first day of the inquest into the deaths of at least 13 babies at two private hospitals in 1990

Rothburg was appointed by the inquest officers to investigate more than 40 infant deaths which occurred during those periods that might have been caused by infections in contaminated drips

Peter Soller, attorney for some of the families that lost babies, asked Rothburg if it was reasonable to presume that at least the last two infants who died, babies Webb and Hamel, would still be alive if Sabax had warned the Morningside and Park Lane clinics of possible contamination of admixture infusion drips

"Yes, if this was the case, and infusion (at the clinics) was infection-free, then the two babies would probably be alive today," replied Rothburg

Soller presented documents to the inquest which he said indicated that hospital staff were concerned about an apparent epidemic at their institutions. According to an affidavit, Garden City Clinic manager Dr Andre Nel had telephoned Sabax to report his concern and ask that the company take infection-control measures in its manufacturing process, said Soller.

He said Sabax quality control manager Keith Allen had reacted in a letter at the

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Inquest *Birns 14/1/92*

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time, saying that contamination "was not possible" at the company's admixture unit — where K Cocktails (which contain potassium), Non K Cocktails and Total Parental Nutrition packs were prepared

Newspaper reports from October 1990 showed that Sabax, which is owned by Adcock Ingram, was alerted to the possible implication one of its products was infected in an epidemic of infant deaths as early as April that year, but did not inform hospitals until September

Rothburg said newborn babies placed in intensive care and high care units were at high risk of picking up infections. "The sicker a baby is, the longer it stays in hospital and therefore is exposed to more risk," he added

In his investigations Rothburg relied mainly on nurses' notes and some test and X ray results, but was not privy to doctors' detailed notes of individual cases

He classified cases as weak, moderate and strong, based on the presence of the infection in individual babies, and that organism's presence in intravenous preparations administered to those babies. Cases

were strengthened if the same organism was detected in unopened drips from the same batch as those used on the babies

"Ideally what I'd like to see if I was trying to incriminate a fluid, I would need a baby that was doing well, and then a sudden deterioration occurring after the application of the fluid. Baby Stapelberg is probably the case closest to these conditions," said Rothburg

Only three out of the 13 cases brought to the inquest were classified as "moderately strong" by Rothburg. These were babies Stapelberg, Hamel and Webb. In most cases Rothburg found the infants were already infected before being exposed to the K- and non K Cocktail preparations

Soller told magistrate T J la Grange he had calculated the inquest proceedings would cost at least R200 000 a day and could last at least three weeks

At least 13 attorneys and advocates representing the families, the doctors, Clinic Holdings and Sabax are involved

Houghton's DP MP Tony Leon is part of the legal team representing Clinic Holdings, which might face claims from parents whose babies died

BIDEN
S/15/19/2

Criminal Procedure Act
THE Criminal Procedure Act is to be amended to allow for payment of an admission of guilt fine for an accused charged with failing to appear in court (30) (252)
A memorandum to the Bill says admission of guilt fines will not only alleviate the work load of the courts but will also save the accused inconvenience

New gatherings bill tabled

Political Staff

CT 15/1/92

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A BILL barring protest action and gatherings within a smaller area in the immediate vicinity of Parliament has been tabled.

A memorandum said a reduced area would allow better policing and reduce the potential for conflict.

The new bill also deletes the provision by which the Chief Magistrate of Cape Town can give permission for a demonstration within the defined area.

The proposed area is: Queen Vic-

toria Street from Museum Avenue to Wale Street. Wale to St George's Street. St George's to Longmarket Street Corporation from Longmarket Street to Barrack Street. Barrack to Copper Street. Copper to Commercial Street.

Commercial to Reumeester Street, Reumeester to Hope Street and then to Tunplain Street and on to Vrede Street. Vrede to St John's Street and St John's to Gallery Avenue. Gallery to Government Avenue, Government to Museum Street, and Museum to Queen Victoria Street.

Legal injustice is apartheid's legacy

Sowetan 16/1/92

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MORE than 80 percent of the people imprisoned by South African courts - most of them blacks - did not have legal representation at their trials, according to a leading human rights lawyer.

"Most of the unrepresented black accused are tried by white prosecutors and magistrates in a language which has to be interpreted to them because they do not understand," says Mr Arthur Chaskalson SC, national director of the Legal Resources Centre

"Many are illiterate and ignorant of the law and its formalities"

In his annual report published in the LRC's latest magazine, Chaskalson also highlights the fact that about 90 percent of South African lawyers are white

"They have in general provided efficient services to a small segment of the country consisting largely of the State and commercial sectors. On the whole, however, the legal profession has not met the day-to-day needs of the black community," said Chaskalson

"This is part of the legacy of apartheid and, like its other legacies, calls for urgent attention"

Although there are still more white law students graduating from universities than blacks, the ratio was shifting and the time would soon come when there would be more blacks than whites seeking entry into the profession, he added

FOCUS

By MONK



NKOMO

The legal profession, Chaskalson said, would have a crucial role to play in the future of the country "A legal framework is needed within which democracy and development can be promoted"

He added "The profession has the responsibility of helping to create that framework and, more importantly, of making it work"

"It can only discharge that function properly if it is able to transform itself from a small enclave within the privileged white community into a broad-based profession willing to tackle the social issues which will emerge during the transition to democracy, and the sub-

sequent period of reconstruction"

Chaskalson said while the legal profession continued to debate its future, two considerations bearing upon the acceptability of the legal system were central to this debate

The first was the admission of black law graduates to the profession and the second was improved access to justice. These issues were of particular importance because they had "racial overtones" which, if not resolved, would continue to harm the legal system, said Chaskalson

Women and black men, he added, had difficulty in finding a practice where they could serve their articles and each year a substantial number of law graduates were unable to enter the profession

At a recent conference attended by law organisations consensus was that the system of articles was no longer acceptable as the only route into the attorneys' profession

"Strong support was also expressed for the establishment of a public defender system and to make the legal process more accessible to the public," according to Chaskalson

A recent amendment to the Attorneys Act now enables institutions such as the LRC and university law clinics to provide articles to candidate attorneys

Chaskalson said in the short term, this amendment was important because it would pro-

vide more places for graduates to obtain articles, but in the long run it would be insufficient to meet the needs of the public and of the burgeoning and changing legal profession.

New structures needed to be created for this purpose

"Because of poverty, over 80 percent of the people imprisoned by South African courts do not have legal representation at their trials. As a result they have to defend themselves as best as they can"

"More often than not they lack the capacity to do this," Chaskalson said

He added that the Legal Aid Board had now established a pilot scheme under which public defenders would be employed in Johannesburg to defend poor people.

A number of organisations, including the LRC, had been asked to help plan this project which was now in an advanced stage and scheduled to be implemented early this year.

Chaskalson said throughout the period of apartheid young white men were required to spend periods varying between one and two years undergoing compulsory military service and thereafter to attend military camps at regular intervals

"In the post-apartheid era, different ways can be found of involving young people in serving their country. One way, as far as law graduates are concerned, is to require them to serve a period of internship in law clinics"

Goldstone praised for violence probe

3/Day 16/1/92
 PRETORIA — Widespread killings in taxi wars and violence on commuter trains will be investigated by a committee appointed yesterday by Mr Justice Goldstone as part of his national probe into violence.

Political parties and legal groups yesterday praised Mr Justice Goldstone for his hands-on approach to investigating violence through the Standing Commission of Inquiry into Violence and Intimidation, established last November in terms of the national peace accord.

The judge has, since his appointment as head of the commission, instituted five major investigations.

The latest probe, into taxi wars and train killings which have left scores of people dead in the last 18 months, will be headed by commission vice-chairman Adv DJ Rossouw.

He will be aided by commission members G Steyn, advocate M Ngoepe from the Pretoria Bar, and former Association of Law Societies president L van Zyl.

The probe was launched following requests by the national peace committee and the Cape Town peace committee.

The probe is empowered in terms of the peace accord to investigate violence and matters related to it, and has the authority to make recommendations to government on what steps to take to end the killings.

Police said yesterday taxi wars had been a feature of SA for about 15 years, and occurred all over the country. In the latest incident two people were killed near

Klerksdorp on Monday in a feud between rival taxi associations.

Lawyers for Human Rights (LHR) acting national director Achmed Motala yesterday praised the judge's "head-on tackling of violence", saying it was crucial that violence be brought under control before a new government took over.

Mr Justice Goldstone saw the urgency of resolving the problem of violence, and had the support of LHR and other non-governmental organisations, Motala said.

The ANC yesterday welcomed the appointment of the committee as a long overdue development following police failures to stop killings on trains and at taxi ranks.

Spokesman Saki Macozoma said the new committee, and others like it, had to introduce witness protection measures to ensure people would not be frightened to give evidence.

He said Mr Justice Goldstone had an excellent human rights record and was seen by the ANC as a judge of integrity.

The DP and the CP also welcomed the probe. DP justice spokesman Dave Dalling said the DP hoped government and its security forces would not attempt to obstruct the workings of the committee by destroying evidence.

Police appealed for witnesses to cooperate with the commission by coming forward to give evidence.

● Comment: Page 4

KENNISGEWING 48 VAN 1992
ADMINISTRASIE: VOLKSRAAD
**DEPARTEMENT VAN LANDBOU-
 ONTWIKKELING**

KENNISGEWING VAN VERGADERING VAN SKULDEISERS KRAGTENS ARTIKEL 22 (1) VAN DIE WET OP LANDBOUKREDIET, 1966

Hierby word 'n vergadering van ondergenoemde applikant en sy skuldeisers op die plek en datum hieronder genoem, belê, met die doel om skuldeisers in staat te stel om hul vorderings teen die applikant te bewys en 'n skikkingsvoorstel van die Landboukredietraad te oorweeg

J. H. SMIT,

Direkteur: Direktoraat Finansiële Bystand,
 Departement van Landbou-ontwikkeling

NOTICE 48 OF 1992

ADMINISTRATION: HOUSE OF ASSEMBLY
**DEPARTMENT OF AGRICULTURAL
 DEVELOPMENT**

NOTICE OF MEETING OF CREDITORS IN TERMS OF SECTION 22 (1) OF THE AGRICULTURAL CREDIT ACT, 1966

A meeting of the undermentioned applicant and his creditors is hereby convened at the place and date mentioned hereunder for the purpose of enabling creditors to prove their claims against the applicant and of considering a proposal for a compromise by the Agricultural Credit Board

J. H. SMIT,

Director: Directorate Financial Assistance,
 Department of Agricultural Development

Aansoek van Application by	Plek van byeenkoms Place of meeting	Datum en tyd Date and time
Dirk Jacobus Coetzee (Id. 351023 5029 001), van die plaas/of the farm Kameel, Posbus/P O Box 312, Bloemhof, 2660	Kantoor van die Landdros/Magistrate's Office, Hoopstad	21 Februarie/February 1992, om/at 09 00

(17 Januarie 1992)/(17 January 1992)

KENNISGEWING 49 VAN 1992
ADMINISTRASIE: VOLKSRAAD
**DEPARTEMENT VAN LANDBOU-
 ONTWIKKELING**

KENNISGEWING VAN VERGADERING VAN SKULDEISERS KRAGTENS ARTIKEL 22 (1) VAN DIE WET OP LANDBOUKREDIET, 1966

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J. H. SMIT,

Direkteur: Direktoraat Finansiële Bystand,
 Departement van Landbou-ontwikkeling

NOTICE 49 OF 1992

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J. H. SMIT,

Director: Directorate Financial Assistance,
 Department of Agricultural Development

Aansoek van Application by	Plek van byeenkoms Place of meeting	Datum en tyd Date and time
Dietlof Stephan Gabriel Maré (Id. 570213 5084 008), van die plaas/of the farm Mont Mare, Posbus/P O Box 1, Eerstegoud, 0701	Kantoor van die Landdros/Magistrate's Office, Pietersburg	27 Februarie/February 1992, om/at 09 00

(17 Januarie 1992)/(17 January 1992)

KENNISGEWING 50 VAN 1992

SUID-AFRIKAANSE REGSKOMMISSIE

Die projekkomitee oor strafoplegging van die Suid-Afrikaanse Regskommissie stel ondersoek in na die volgende onderwerpe

- * 'n Evaluering van bestaande strafvorme en nuwe moontlikhede, wat insluit die effektiwiteit van gevangenisstraf, alternatiewe vonnisse en strawwe vir jeugdige oortreders, met

NOTICE 50 OF 1992

SOUTH AFRICAN LAW COMMISSION

The project committee on penology of the South African Law Commission is conducting an investigation into the following subjects

- * An evaluation of existing forms of punishment and new possibilities, including the effectiveness of imprisonment, alternative sentences and forms of punishment for juvenile

inbegrip van 'n peiling van die gemeenskap se persepsie van die effektiwiteit van bestaande vorme van straf

- * Die gemeenskapsinspraak en individuele belange by strafoplegging, onder andere vergoeding van slagoffers
- * Voorvonnisprosedures, veral met betrekking tot jeugdige oortreders
- * Opleiding van voorsittende beamptes, onder andere inligting oor strafoplegging, die kurrikula van regs fakulteite, 'n permanente eenheid vir navorsing oor strafoplegging en empiriese werk oor strafoplegging
- * Die huidige effektiwiteit en toekomstige wenslikheid van die verkorting en verlenging van aanhouding deur die uitvoerende gesag
- * Voorkomende optredes ten einde misdaad te bekamp
- * Dekriminalisasie en depenalisasie van geringe misdade en nuwe vorms van straf

Die Kommissie ontvang graag voor 28 Februarie 1992 gemotiveerde skriftelike voorstelle vir die ontwikkeling, verbetering, modernisering of hervorming van die fasette van die reg

Die Kommissie se kantore is op die Agste Verdieping, NG Kerk Sinodale Sentrum, Visagiestraat 228, Pretoria. Korrespondensie moet asseblief gerig word aan

Die Sekretaris
Suid-Afrikaanse Regskommissie
Privaatsak X668
0001 PRETORIA

Telefoon (012) 322-6440 (Mev Kruger)
(17 Januarie 1992)

KENNISGEWING 51 VAN 1992

RAAD VAN HANDEL EN NYWERHEID

ONDERSOEK NA DIE BEWEERDE DUMPING VAN GEBREIDE TRUIE EN AKRIEL- OF MODAKRIEL-VESELS INGEVOER UIT OF AFKOMSTIG VAN DIE REPUBLIEK VAN SJINA EN KOREA

Die Raad van Handel en Nywerheid het 'n klag van die South African Worsted Spinners en Garment Knitters Association, Posbus 78416, Sandton, 2146, aanvaar waarna beweer word dat gebreide trui van akriel- of modakrielvesels indeelbaar by tariefsubpos 6110 30 20 vanuit die Republiek van Sjina en Korea op die Suid-Afrikaanse mark gedump word, waardeur wesenlike skade aan die Suid-Afrikaanse nywerheid berokken word of dreig om berokken te word

Die Raad van Handel en Nywerheid het besluit om invoer van die betrokke produk by tariefsubposte 6002 93 90 en 6117 90 90 ook by die ondersoek in te sluit aangesien die produk in halfvervaardigde vorm verkeerdlik by hierdie subposte geklaar word

Ten eiende die Raad van Handel en Nywerheid behulpsaam te wees met sy ondersoek na die oplegging van antidumpingregte op die betrokke produkte afkomstig van die Republiek van Sjina en Korea, word belanghebbende instansies versoek om binne 21 dae

offenders, including establishing the community's perceptions of the effectiveness of existing forms of punishment (252) (253)

- * The community's participation and individual interests in sentencing, *inter alia* compensation for victims
- * Pre-sentencing procedures, with special reference to juvenile offenders
- * Training of presiding officers, *inter alia* information on sentencing, the curricula of law faculties, a standing research unit on penology and empirical work on penology
- * The present effectiveness and future desirability of shortening and extension of detention by the executive
- * Preventive measures to combat crime.
- * Decriminalisation and depenalisation of petty offences and new forms of sentencing.

The Commission would like to receive, before 28 February 1992 reasoned suggestions in writing for the development, improvement, modernisation and reform of these facets of the law

The Commission's offices are on the Eighth Floor, NG Kerk Sinodale Sentrum, 228 Visagie Street, Pretoria. Correspondence should be addressed to

The Secretary
South African Law Commission
Private Bag X668
0001 PRETORIA
Telephone (012) 322-6440 (Mrs Kruger)

(17 January 1992)

NOTICE 51 OF 1992

BOARD OF TRADE AND INDUSTRY

INVESTIGATION INTO THE ALLEGED DUMPING OF KNITTED JERSEYS OF ACRYLIC OR MODACRYLIC FIBRE IMPORTED FROM OR ORIGINATING IN THE REPUBLIC OF CHINA AND KOREA

The Board of Trade and Industry has accepted a complaint by the South African Worsted Spinners and Garment Knitters Association, P O Box 78416, Sandton, 2146, Alleging that knitted jerseys of acrylic or modacrylic fibres, classifiable under tariff subheading 6110 30 20, originating in the Republic of China and Korea are being dumped on the South African market resulting in material injury or threatened material injury to the South African industry

The Board of Trade and Industry decided to include imports of knitted jerseys of acrylic or modacrylic fibres, imported under tariff subheadings 6002 93 90 and 6117 90 90 in this investigation owing to the fact that the product in semi-finished form may be incorrectly cleared under these subheadings

In order to assist the Board of Trade and Industry in its investigation into the imposition of anti-dumping duties on the products concerned, originating in the Republic of China and Korea, interested parties are invited to send written representations, comments or

Goldstone to take up **WMI** exposé

W/Media 17/11 - 29/92

Weekly Mail Reporter
MR Justice Richard Goldstone's decision to investigate *The Weekly Mail's* recent expose of Military Intelligence covert activities comes a month after the newspaper first approached him to look into the matter.

The Weekly Mail first approached Judge Goldstone, chairman of the standing commission of inquiry into violence and intimidation, in December with evidence of the Military Intelligence operation.

However, the matter gained momentum as more information emerged earlier this month and the judge asked *The Weekly Mail* to prepare a memorandum on the evidence for him.

This week, however, both Defence Minister Roelf Meyer and the African National Congress asked Judge Goldstone to take up the matter and he agreed to start hearings on February 4 in Cape Town.

The Weekly Mail has welcomed the inquiry. Inkatha Freedom Party president Mangosuthu Buthelezi, however, dismissed the report on the

grounds that the editor and staff of *The Weekly Mail* were "loyal sycophants of the ANC".

He subsequently issued a lengthy response, though he avoided commenting on the main thrust of the allegations of extensive South African Defence Force support and backing for Inkatha.

He said there were some "glaring mistakes and untruths" in the report that needed to be corrected.

He challenged the claim that *The Weekly Mail's* interviewee, Mboggen Khumalo, was "chief" of the IFP Youth Brigade, pointing out that he fell under the president, Musa Zondi.

He challenged the claim that Khumalo was an IFP central committee member, saying he had only attended meetings in his capacity as a Youth Brigade functionary. Inkatha, he said, had turned down consultancy services from SADF fronts and had no knowledge of their links with the military.

He also said "the IFP was never given R11 million by anyone".

Khumalo had said that an SADF front had offered to find this money for the IFP.

Buthelezi said Khumalo had been dissatisfied with the low pay he was receiving in the IFP and had applied for a job in the chief minister's office. "It was then discovered that Khumalo had a criminal record which made it impossible for the kwaZulu government to consider his application".

Khumalo is adamant that he left Inkatha because of his disillusionment with the organisation and has been approached three times since then to return to work for the IFP or the chief minister's office.

The ANC issued a statement saying neither Buthelezi nor State President FW de Klerk could be believed when they said they did not know of the relationship between Inkatha and the security forces.

The ANC Youth Brigade called on all IFP youth members to "abandon this sinking ship" and "join the popular march to freedom for the young lions of our country".

Parliament for the people

w/mca 17/11-23/11/92
By GAYE DAVIS, Cape Town

THE African National Congress will stage a "people's parliament" on Cape Town's Grand Parade to coincide with the opening of parliament next Friday — to be followed by a march to the House of Assembly where a notice demanding parliament's dissolution will be delivered.

Planned action by the Pan Africanist Congress, which intends kicking off its campaign against the Convention for a Democratic South Africa (Codesa) with a march through the city on the same day, is not expected to interfere with the ANC's plans, ANC officials said.

The ANC is expecting thousands to attend its event and has laid on bus and train transport from the townships and Boland areas. ANC regional chair Alan Boesak appealed to employers to allow workers to attend. He said the event would

demonstrate the ANC's commitment to Codesa, "which must lead to an interim government .. and a constituent assembly"

Smaller demonstrations, including a picket outside the Union Buildings in Pretoria, were planned for other centres on the same day, national campaigns co-ordinator Ronnie Kasrils said.

"The ANC has designated 1992 as the year of democratic elections. We are developing campaigns around the country so that activity will continue after next Friday," he said.

Cape Town's City Council will permit the march but a magistrate's go ahead is still awaited.

Meanwhile, the ANC has condemned the government for proposing a new Bill which will impose a total ban on demonstrations around parliament. At present marches may be permitted by a magistrate.

Evidence of mystery arrest

w/mca 17/11-23/11/92 252
By PHILIPPA GARSON

EVIDENCE pointing to the arrest of a possible hit-man by police after the Thokoza massacre of September 8 has come to light at the Goldstone Commission of Inquiry into Public Violence and Intimidation.

According to press reports at the time of the massacre — when unidentified men opened fire on Inkatha supporters going to a rally — one man was detained by police. But several people were removed by police that day for safety purposes and no mention was made of the arrest of a possible assassin — a "mystery" man carrying an AK-47.

w/mca 17/11-23/11/92
According to the statement of Thokoza IFP spokesman Oscar Msomi, coloured policemen wearing camouflage uniforms arrested a man carrying an AK-47 outside one of the houses where the shooting took place.

Policemen held for 'necklacing' fail to make court appearance

STAR 18/1/92

DURBAN — Journalists were kept guessing outside the Pinetown Magistrate's Court yesterday when seven members of the South African Police were expected to appear in connection with the alleged necklacing of a black youth under interrogation

Although reporters were initially told that the seven would appear, no court appearance took place. The reason later given by police was that the SAP members concerned had not had sufficient opportunity to arrange their defence.

On entering the court, the prosecutor, Farieda Mohamed, had in her pos-

CORRESPONDENT

session a charge sheet listing the policemen's names and ages

These were of six policemen and one policewoman, all based in Pinetown

The chief public prosecutor in Pinetown, Mrs E van Tonder, said she was unable to comment on the sudden decision not to proceed with the case and that it was up to the SAP to release a statement.

Mrs van Tonder said a charge had been laid and a docket was being investigated, but nobody had been formally charged

The man who made the allegation, Mr Mvusi Phiri (19), is in a serious condition with burn injuries in King Edward VIII Hospital

He filed a charge against the police with the SAP on January 15. He said the incident took place when members of the police were questioning him in connection with the alleged illegal possession of firearms.

SAP spokesman Captain Bala Naidoo said the seven SAP members were not officially charged in court yesterday because they had not had sufficient time to arrange for their defence counsels to be in court

'Friendly' Eugene

the court jester

252

SATURDAY 19/11/92

By CATHY STAGG

WHAT do you call an AWB man in a suit? The accused! This was the joke Eugene Terre Blanche shared with journalists who were covering his trial in Ventersdorp this week.

Mr Terre Blanche was in the dock in the Ventersdorp magistrates' court on Friday, where he was acquitted of eight charges including assault and malicious damage to property.

It had been alleged that he assaulted Mr William Mashiyi, 71, and six other people during a dispute over stolen sheep.

Mr Terre Blanche claimed he went to make a citizen's arrest. Although he took the alleged culprits to the police, he found himself on trial "It's the double standards that get me," he said during an adjournment.

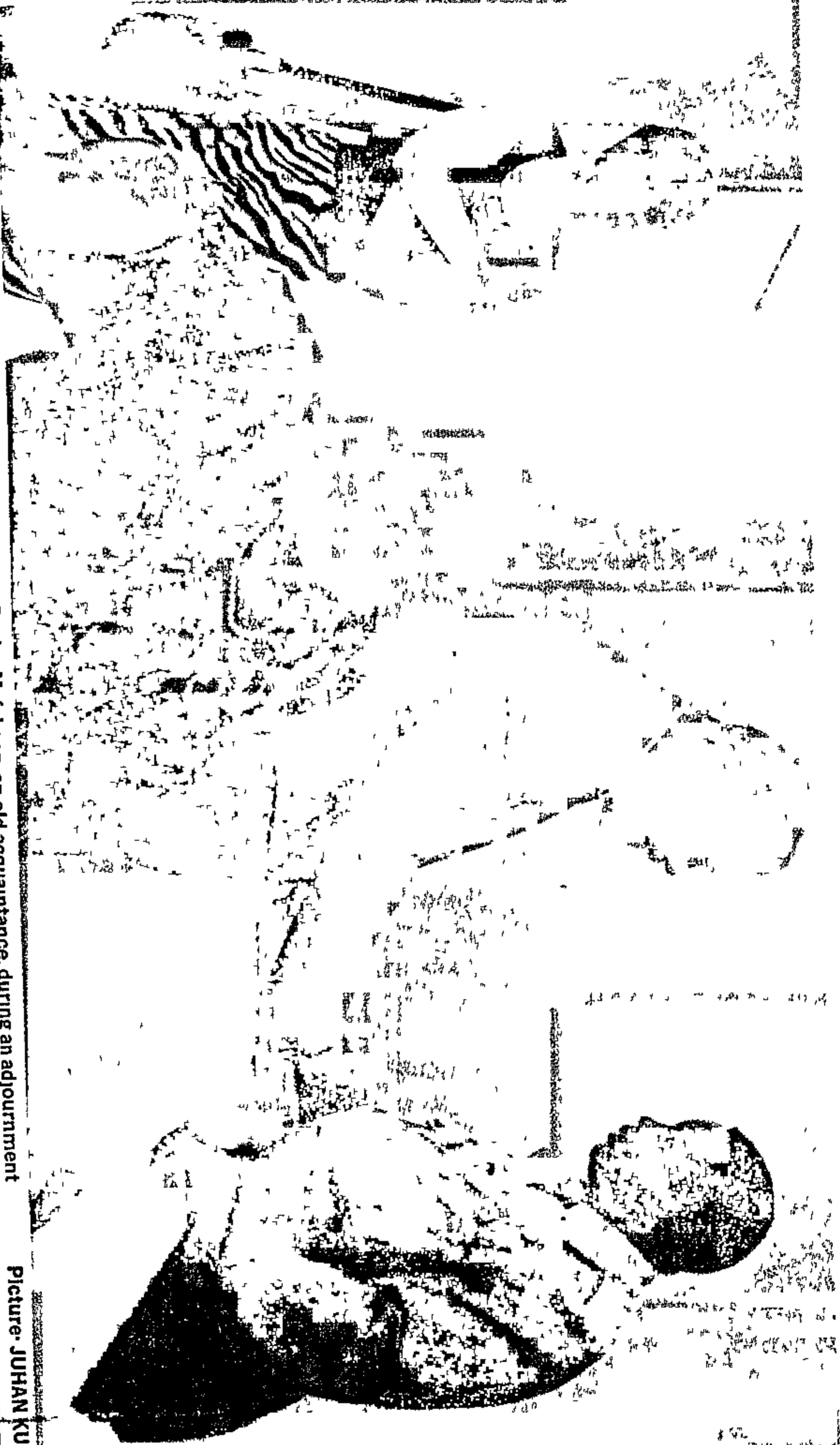
There was none of the usual AWB grandstanding

during the trial. There were no stormtroopers, no fiery oratory, no menacing atmosphere.

And inside the court there was no racial tension. During a break in the trial, a black man, wearing a grey safari jacket covered in medals, crossed the well of the court to shake hands with Mr Terre Blanche, who teased him about not knowing how to grow meales.

Mr Paulos Mofekeng said he had known Mr Terre Blanche for years. He lived on a neighbouring farm. There was no hostility as they chatted amiably. Mr Terre Blanche asked if it was Paul Kruger or King George who had given Mr Mofekeng a big silver medal.

Mr Mofekeng smiled, but did not reply.



Picture: JUHAN KUUS

LET'S SHAKE ON IT AWB leader Eugene Terre Blanche greets Paulos Mofekeng, an old acquaintance, during an adjournment

Youth alleges torture by farmers

21/1/92
A YOUTH who was allegedly abducted and tortured by two eastern Transvaal farmers in Driefontein before he was charged with trespassing, appeared briefly before a Wakkerstroom magistrate this week. (252)

Yusimuzi Phungwayo, 18, was not asked to plead and the case was postponed to February 13.

Police are still investigating allegations by Phungwayo that he was hung by his neck and wrist by the farmers to force him to admit stock theft.

B/Dog 20/1/92

31 priests in court (32)

THIRTY-ONE ministers of religion will stand trial in the Sebokeng Magistrate's Court today. The ministers will stand trial on trespassing charges which arose during negotiations on water and electricity supplies to the Vaal area in June last year. (252)

Unrest *Sowetan* cops to *21/1/92* appear *252* in court

By IKE MOTSAPI

THE assault and attempted murder case against four of the five policemen against former members of the disbanded Welverdiend unrest unit will be heard in the Carletonville Magistrate's Court next week.

The four policemen made their first court appearance on January 16 and the case was postponed until Friday January 31.

The four are constables JS Moremi, PD Matolo, E Nkosi and KJ Lebakeng.

Moremi is charged with attempted murder.

Matolo, Lebakeng and Nkosi face charges of assault with intent to do grievous bodily harm.

The fifth policeman, Constable JF Oosthuizen will be prosecuted for common assault at a later date.

Suspended

The five policemen were among 11 who were suspended after *Sowetan* submitted affidavits to police headquarters in Pretoria by residents of Khutsong township, alleging they had been tortured, given electric shocks, assaulted. They also told of missing detainees who they said had been murdered.

A high-level police investigation followed.

The unit has since been disbanded.

The chairman of the local ANC branch, Mr Dan Dzeku and Ms Sally Sealey of the Independent Board of Inquiry into Informal Repression helped the police to compile statements from witnesses.

The Attorney-General is still studying dockets relating to the other six suspended policemen.

Umkhonto member shot constable four times with AK-47 rifle, court told

By Melody McDougall
Vereeniging Bureau 21/1/92

The Vanderbijlpark Magistrate's Court was told yesterday that a man claiming to be a member of Umkhonto we Sizwe — the ANC's military wing — allegedly shot a young policeman four times with an AK-47 rifle during a robbery at a Vanderbijlpark wholesaler last month.

This evidence was given by Detective-Sergeant Pedro Peens of the Vanderbijlpark murder and robbery unit in opposition to a bail application by one of the two suspects in the case.

Both Tsepo Lengwati (27) and Arthur Mali (35) are facing charges of murder, attempted murder and robbery with aggravating circumstances. Neither have been asked to plead.

Their arrest follows a shooting in which Constable Sakkie Janse van Rensburg (21) was killed during an armed robbery at Price Club in Vanderbijlpark on December 30.

Another two suspects are

being sought in connection with the case.

Sergeant Peens said he had a prima facie case against Mr Lengwati and said he should not be freed from custody.

He told the court he had an eye-witness account and ballistic evidence that on the day of the alleged robbery Mr Lengwati had first shot the constable's service pistol out of his hand before shooting him in the chest and head.

He said the suspect was arrested shortly afterwards and taken to an office where he said he was a member of Umkhonto we Sizwe.

He also claimed that instructions to carry out the robbery at Price Club had been issued by Umkhonto headquarters.

Counsel for the defence, A Mayer, objected to this statement and requested it be struck off the court record.

Magistrate Jan van Staden ruled in favour of the objection and said the statement was inadmissible.

Continuing his testimony, Sergeant Peens said Mr Leng-

wati had been part of a group who shot and seriously injured two Soweto policemen a few years ago.

He was sentenced to 18 years in jail on Robben Island for the crime, but was granted amnesty and released from prison on April 30 last year after serving about two years of the sentence.

He added that the suspect lived with his mother in Soweto, owned no fixed property, and would definitely not attend his trial if granted bail. In addition to this, he also had knowledge of a contract out on the accused's life.

In support of his bail application, Mr Lengwati yesterday stated he was living with his mother and worked for the ANC's headquarters as a chauffeur.

He said he earned about R2 000 a month, but would be able to contribute only R1 000 towards his bail as the rest of the money was used to help his mother, who was employed as a domestic.

The hearing continues today.

Inquest magistrate's decision challenged

252

B (Day) 21/1/92

A LAWYER representing the families of 10 babies, whose deaths were allegedly caused by contaminated drips, told a Johannesburg inquest yesterday that he would ask a judge to decide whether the presiding magistrate had prejudiced the proceedings.

Attorney Peter Soller told the inquest into the 1990 deaths of 13 babies he would file for a notice of review on behalf of two of the parents to determine whether magistrate T J la Grange may have prejudiced inquest procedure.

Soller claims it was irregular for the inquest to have started without La Grange having all statements taken by investigating police.

He also claims that it was irregular for the magistrate not to have called paediatricians involved in the case to give oral evidence after he became aware, during the inquest, that they had material evidence other than that contained in the affidavits made to police.

Advocate A Bruwer, appearing for the paediatricians, last week said his clients had informed him they had further evidence, but told the court he would not breach confidentiality by disclosing its nature. Bruwer suggested the magistrate subpoena the paediatricians to testify.

However, La Grange informed the court

that any further evidence should be placed before the court in affidavits.

Soller, requesting clarification on the issue, yesterday introduced two affidavits from parents appealing to La Grange to call the paediatricians to testify and submit to cross-examination.

However, when the magistrate stood by his decision, Soller told the court he had no option but to file for a notice of review.

Yesterday paediatrician Dr Errol Gottlich testified that after the rapid deterioration and death of his ostensibly healthy patient, baby Stapelberg, in August 1990, he had "looked at the (potassium drips) as a possible implicating factor".

He said he had drawn samples from two drips fed to the baby and contacted the manufacturers Sabax, asking them to test for possible contamination. Gottlich was informed the samples had been collected, but heard nothing more from Sabax.

Contacting Sabax again 10 days later, he said the company had told him they received only one sample from a saline drip which proved to be free of contamination.

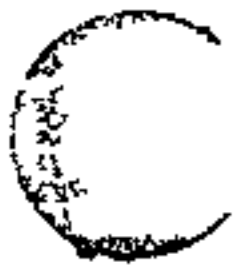
Saline drips are not implicated in the baby deaths.

Proceedings are scheduled to continue today.

ANDREW KRUMM



Reported & Distributed by ADPROM



Inquest into death after laser operation

STAR 22/1/92

By Gien Elsas
West Rand Bureau

252

An inquest into the death of a 43-year-old woman continued in the Roodepoort Magistrate's Courts yesterday after the post-mortem results showed the woman had suffered 11 perforations of the bowel and one perforation of the uterus after a laser "hysterectomy".

Patricia Ann Widzowski was admitted to the Presmed Clinic in Roodepoort on October 30 for a laser hysterectomy operation and would have been released later the same day.

The operation was performed by Dr Matti Kimberberg who used a YAG-type laser to perform the operation. During the operation, however, Mrs Widzowski started bleeding. Dr Kimberberg discovered a perforation in the uterus and immediately moved her to surgical theatre at Flora Clinic for a full hysterectomy.

Dr Kimber testified yesterday that he had decided to perform an endometrial abrasio as his patient did not want a full hysterectomy.

He used the laser technique as there were usually fewer side-effects, although, if there were perforation

during surgery, it would be more serious than if a scalpel had been used.

Dr Kimber told the court of the laser operation he performed and the necessary hysterectomy after the perforations had been found.

He described the "burn marks" he had seen in the small intestine and said they were caused by the laser as the wall of the uterus had been thinner than expected. He called in a surgeon to repair this damage.

Trauma

Dr Kimber said it was impossible that the upper abdominal trouble Mrs Widzowski developed was caused by the laser.

It was probable she had developed severe stress ulcers caused by the trauma her body had undergone in surgery and ICU. This finally caused her to collapse and die a month later.

In evidence on Monday, Dr George Huysamen, who was requested by Dr Kimberberg to assist with the operation at the Flora Clinic, said Dr Kimberberg had noticed multiple holes in the small bowel.

The two doctors repaired and sutured 11 perforations. Dr Huysamen said he thought the damage had been caused by a laser. Mrs

Widzowski seemed to respond to treatment but on November 10 she developed acute abdominal pain and, during emergency surgery, a blood clot was found in the stomach and the large intestine.

On November 27 she complained again of upper abdominal pain and her abdomen was extended. She suddenly collapsed and, despite intensive resuscitation, died.

Pathologist Dr Vernon Dennis Kemp determined the cause of death to be a result of intra-abdominal haemorrhage, following therapeutic procedure. He said there was extensive destruction within the abdomen with signs of surgical interference.

Mark Ashley Brand of the Protea medical trading division was the technologist who set up the laser machine. He said the purpose of the YAG laser light was to coagulate blood to stop bleeding and to vaporise a specific layer of tissue.

He controlled the output of the machine but the surgeon controlled the laser. They had decided to operate conservatively and had set the machine to 40 watts instead of 60. This meant that penetration into tissue should not be more than 7 mm.

The inquest was postponed to March 26.

Drip technician 'lackadaisical'

B/D ay 22/11/92

ANDREW KRUMM

A TECHNICIAN could have contaminated drips which allegedly caused the deaths in 1990 of 13 babies, a Johannesburg inquest heard yesterday

The court was told that during routine quality control tests conducted by drip manufacturer Sabax, technician Allan Davies regularly failed (40% of the time) to exercise the 'skills and procedures' required in terms of international norms

The skills and procedures required of Davies were integral to the company's quality control process, known as process validation, and necessary to maintain sterile conditions during drip production

Microbiologist Prof Margaretha Isaacson of the SA Institute of Medical Research, who yesterday offered evidence of her investigation into Sabax facilities, labelled Davies "inexperienced" and "lackadaisical" Isaacson said Davies was a potential source of infection

In her report, Isaacson said "although it was not shown there was a causal connection between Davies' skill and the contami-

nated products", he should be transferred to "less sensitive duties"

Reviewing quality control tests, attorney Peter Solier, representing 10 of the families which lost babies, said sterile conditions had been compromised on production equipment during testing

He said bacteria tests done in the cabinet in which the drips were produced showed contamination (252) (183)

During cross-examination by advocate Clive Cohen SC, representing Sabax, Isaacson said technicians' skills and procedures were "most important" in guaranteeing the sterility of the end product

Isaacson criticised Sabax testing procedures, saying neither drip components certified sterile by suppliers nor the Sabax end product were tested for contamination However, a body of opinion regarded these tests as unnecessary

The inquest continues today

Whites patrol squatter camp

B/D ay 22/11/92

A COMMITTEE formed by white residents of Chartwell on the North Rand has started 24-hour patrols of entrances to the Zevenfontein squatter camp to prevent more people moving into the area (34) (127)

Chartwell Action Committee chairman Mike Findlay said the committee had been authorised by the owners of the land to exercise control over numbers (84)

More than 100 truck and bakkie loads of building material had been prevented from entering the camp over the weekend, he said

Findlay claimed the committee was in contact with squatter leaders and there had been no incidents between the two groups

Last night a police spokesman could not confirm that a committee had been formed to patrol the entrance, but said police were patrolling the area and all was quiet - Sapa

Azayo vows to continue its campaigns

B/D ay 22/11/92

GAVIN DU VENAGE

THE Azanian Youth Organisation (Azayo) would continue to provide visiting artists with a "hot reception", president Thami Mcerwa said yesterday after his release from detention on Monday

Mcerwa was detained for more than a week in connection with the grenade

attack on the offices of the Paul Simon tour management before Simon's first concert two weeks ago

Mcerwa said his detention under the Internal Security Act was an attempt to intimidate Azayo

"We will definitely continue to use any means possible to stop the tour," he said last night "And any other artists can expect not

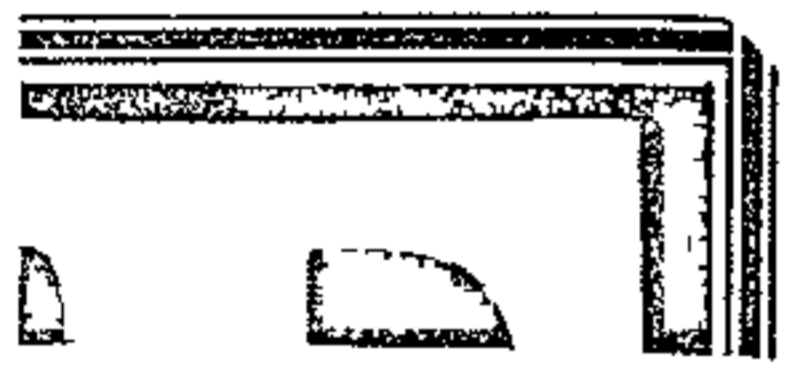
to get kidgloves treatment from us if they come here to make money" (177)

Mcerwa added, however, that Azayo would leave alone artists who contributed to black culture, such as American director Spike Lee, who arrives tomorrow to begin filming Malcolm X

But US rap group Snap which is planning a visit in a few months, could expect "a hot reception", he said

Police fired first shots, says A WB

B/D ay 22/11/92



Professor 'uncomfortable' with Sabax control system

By Philip Zorn

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A microbiology professor told the inquest on the deaths of 13 babies in 1990 that she would have been uncomfortable relying solely on Sabax's system of quality control, unless it were accompanied by physical evidence that drips were sterile.

Professor Margaretha Isaacson of the Institute of Medical Research said she believed that end-product sterility testing should have been conducted on the drips. She also felt that the sterility of additives, supplied to Sabax by other manufacturers, should have been verified through spot-checking.

But Professor Isaacson, who at Sabax's request presented a report on the company's admixture unit, said the firm's system of process validation was still the favoured method of quality control, despite the risk of human error.

The professor said she had believed Sabax without question when told that end-product sterilisation was not feasible because heat would make the solution unstable. She had found no evidence of wilful negligence by any Sabax employee, but one technician, Alan Davies, had been less painstaking than the others and had not improved his performance significantly with practice.

Counsel for 10 of the parents, Peter Soller, read out results of employee performance validations which stated that Mr Davies and Cynthia Wilson had repeatedly failed in aspects of bacterial hygiene maintenance. Sabax counsel Clive Cohen cross-examined Sister Puck Vellida, who on Monday testified that she was asked if she was crazy after suggesting to three Sabax employees that contaminated drips might have been responsible for infecting babies. The inquest continues.

STAR 22/1/92

Demos at supreme courts planned

By Thabo Leshilo
Political Staff

STAR 23/1/92
Describing Parliament as illegitimate and undemocratic, Mr Sexwale said efforts would be made to make the campaign a success "that future generations will live to cherish"

The Witwatersrand regions of the ANC/SACP/Cosatu alliance have unveiled plans to stage demonstrations at two supreme courts for two months to protest against the opening of Parliament tomorrow

Speaking at a press conference yesterday, ANC PWV chairman Tokyo Sexwale said pickets would be held outside the Pretoria and Rand supreme courts between January 24 and March 21 — the day of the Sharpeville massacre

The protest would coincide with the holding of a mock "people's parliament" at the Grand Parade in Cape Town by the ANC's western Cape region tomorrow

Protest organisers have urged employers to give workers time off to attend the "session", to be addressed by top ANC, SACP and Cosatu leaders

Mr Sexwale said the session of the "racist" Parliament was "irrelevant" and against the wishes of the majority of South Africans

Accusing Parliament of failing to stop or bring violence under control, Mr Sexwale added "The Nationalist Party Government, sitting in this Parliament, continues to sanction and channel funds for surreptitious anti-democratic operations"

"We demand nothing less than an interim government and a constituent assembly"

Baby deaths: court asked to subpoena two Medunsa doctors

STAR 23/1/92

By Philip Zolito

An attorney yesterday submitted an affidavit requesting a Johannesburg inquest court to subpoena two doctors from Medunsa Hospital, where at least 11 infants died of bacterial infections in two mini-epidemics in May/June and August/September 1990.

Peter Soller has asked magistrate T.J. le Grange to call Dr Geoff Ellis and Dr Ian Haye to testify at the inquest of 13 babies who were fatally infected in three Johannesburg private clinics in 1990.

Mr Soller, appearing for parents of 10 of the 13 babies, stated that blood cultures found the 11 infants who died at Medunsa Hospital in Ga-

Rankuwa had been infected by *klebsiella oxytoca*

Laboratory tests indicated that Sabax drips may have been implicated in at least some of these deaths, Mr Soller stated.

Sabax quality assurance manager Keith Allen said Sabax's tests in early June on 67 units of drip solution, taken from various batches, had shown no contamination.

Satisfied

Arthur Barnett, corporate planner for Sabax's owner, Adcock-Ingram, said Sabax had never carried out tests to determine whether its K-cocktail drip solution could be sterilised after the admixing process.

Mr Barnett said the studies had not been done because Sabax was satisfied their method of quality control complied with international standards.

In his affidavit, Mr Barnett said certain admixed products could not be sterilised because the chemical make-up of the additives could be changed if they were exposed to heat.

Mr Barnett denied that the statement referred specifically to the K-cocktail solution.

Counsel for the Morningside Clinic, B Burman (SC), told Mr Barnett that Sabax had informed two professors that end sterilisation by heat would have adversely affected the final K-cocktail solution.

The inquest continues.

Document is in place

Judge President ⁽²⁵²⁾ of E Cape retires

^{Aug 23/1992}
PORT ELIZABETH — The Judge President of the Eastern Cape, Mr Justice Donald Kannemeyer, has retired, bringing to an end a 24-year career on the bench

Mr Justice Kannemeyer, who turned 70 yesterday, said the most demanding task of his career was chairing a commission of inquiry into the 1985 police shooting of more than 20 people in Langa, Uitenhage

He was the sole member of the commission, investigating the deaths after police opened fire on people attending a funeral for an unrest victim — Eena

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Johannesburg yesterday... The period from mid-November until...

Conscription 'a drain on economy'

JONATHON REES (239)

CONSCRIPTION costs the SA economy vastly more than would the maintenance of a volunteer professional army by draining it of skilled labour and contributing to the brain drain, End Conscription Campaign economist Andrew Whiteford said yesterday. *B/Dam 23/1/92*

He said the resultant decline in economic productivity was a counter to SADF and Defence Ministry claims that SA could not afford a well-paid volunteer army

While a conscripted army was cheaper to the state, the real measure of military costs was the cost to the economy, Whiteford said

The economic cost of a national serviceman was not what the army paid him, but the income he lost by serving the SADF

Whiteford said conscription of young white men had been a significant contributor to the brain drain, and for each emigrating graduate the country lost both the cost of educating him, and his future earnings

The brain drain was estimated to cost SA up to R1bn annually, he said

Meanwhile our Political Staff reports Defence Minister Roelf Meyer yesterday entered the fray over the prosecution of people who failed to turn up for military service, categorically stating that they would be liable for court action

This contradicted a statement by Deputy Defence Minister Wynand Breytenbach, who had said prosecutions were being "left in abeyance" while the Gleeson Committee report was being considered

Sabax ignored directive on medical drips, inquest told

B/Dam 23/1/92

ANDREW KRUMM

MEDICAL equipment manufacturer Sabax did not comply with certain SABS sterility testing directives, a Johannesburg inquest into the deaths of 13 infants heard yesterday

The court was told Sabax had not observed an SABS directive requiring drip components be tested before being used in manufacture

Adcock Ingram corporate planner Arthur Barnett, testifying on behalf of subsidiary Sabax, said Sabax had subjected drip components to "visual inspection"

However, under cross-examination by Morningside Clinic advocate Bruce Burman he acknowledged that the company had "not tested suppliers' components nor had it inspected (supplier production) facilities"

Barnett said the company had "looked to the bona fides of suppliers" which certified the component products as sterile

The inquest also heard that Sabax performed neither intermediate nor final-product sterility testing during production of the implicated drips

Sabax quality assurance manager Keith Allen confirmed the company had "never considered" final-product sterility testing (252)

During cross-examination by attorney Peter Solter, who represents 10 families who lost babies allegedly infected by Sabax drips, Barnett conceded Sabax had not investigated the feasibility of heat sterilisation of final drip products

Burman then pointed out Sabax had led two microbiologists, who performed independent tests of Sabax facilities, to believe otherwise

The inquest continues

California bans lead wine wrappers

CAPE TOWN — Lead wrappers on wines exported to California must be removed by March 31 following a court ruling aimed at protecting consumers against lead poisoning

The state outlawed lead foil wrapping on wine bottles on December 31 last year, the Cape Chamber of Industries reported in its latest bulletin

"The move was to protect consumers from drinking wine with unacceptably high levels of lead," it said

Under a related order to be issued by the state, lead wrappers on wines imported into California must be re-

moved by March 31 (182)

Meanwhile, US red wine sales skyrocketed after a television report quoted scientists as saying cabernets could prevent coronaries

A market research organisation, Information Resources Inc, said in Washington on Monday sales of cabernet wines increased by 45% in the weeks following a television report in November about its apparent cholesterol-cutting properties

Scientists interviewed on the programme said red wine contained resveratrol which was believed to break up cholesterol — Sapa



Probe findings to be released

252 SIMON WILLSON

RECOMMENDATIONS arising from the Justice Department probe into alleged corruption at Cape Town's Inland Revenue office are to be made public.

Allegations of corruption and maladministration at the office first surfaced last year when an Inland Revenue deputy director, Trevor Foster, started legal proceedings against the Finance Department.

Foster, who also headed an Inland Revenue special investigations team, claimed the department had acted to prevent his promotion when he uncovered corruption in the Cape Town Inland Revenue office.

Foster won an undisclosed settlement and later resigned. B10 am 24/1/92

Finance director-general Gerhard Croeser said yesterday the "independent" investigation into Foster's allegations, being carried out by a senior Justice Department official in Cape Town, would be completed "as soon as possible".

Recommendations which did not infringe the statutory prohibition on disclosure of the tax affairs of taxpayers would be made public, Croeser said.

TPA invites ideas on squatters

8/Day 24/11/92
A WORKING group of all parties interested in the controversial low-cost housing strategy for the area north of Johannesburg is to be instituted, the Department of Community Development announced yesterday.

Deputy director-general of the department L Dekker said the working group, chaired by chief director of Physical Planning and Development of the Transvaal Provincial Administration P P C van der Hoven, would investigate and evaluate all proposals for a solution to homelessness in the area.

It would report to the Executive Committee of the TPA by March 31.

About the immediate problem of relocating the Zevenfontein squatters, Dekker said the community would be moved within a week.

"The TPA is urgently negotiating with especially the Randburg Town Council and the Sandton Town Council to try to find land closer to work opportunities and where basic ser-

vices could be provided. Dekker said more time was needed to evaluate proposals that had been received from interested groups up to yesterday morning.

"What is definite is that the community will be moved before the end of January. If a suitable site cannot be found closer to Randburg or Sandton, they will temporarily be moved to Diepsloot, the original site chosen for them."

Arrangements would be made for basic services to be provided at this site until a permanent site could be found.

"The present site at Zevenfontein is not suited. It has an adverse impact on the environment and the living circumstances are poor," he said.

Dekker said the issue of finding space for the influx of poor people was obviously sensitive and the working group had been introduced to hear proposals by all interested groups and individuals — Sapa

PW tapes subject of official probe

252 Political Staff
CAPE TOWN — Ombudsman Mr Justice Piet van der Walt confirmed yesterday he was investigating a complaint by former President P W Botha about the destruction of the tape-recording of his conversation with ANC president Nelson Mandela.

He could not say when the investigation would be completed. A spokesman for Botha said he had no comment.

The complaint concerns a recording made in 1989 of a conversation between Botha and Mandela, who at that stage was serving a life sentence. The recording was destroyed by the National Intelligence Service after notes had been made about the discussions. *8/Day 24/11/92*

Last year, Botha strongly criticised the decision to destroy the recording and said this had been done without his permission.

Inquest told of Sabax's delay in advising against drips

8/Day 24/11/92
DRIP manufacturer Sabax had not "considered" advising client hospitals to change their baby drips until five months after it was told its products could be contaminated, a Johannesburg inquest into the deaths of 13 babies heard yesterday.

Sabax was first informed by Garden City Clinic of possible drip contamination on 4 May 1990, but only stopped supplying the implicated products in late September 1990.

However, Sabax quality assurance

8/Day 24/11/92
ANDREW KRUMM
manager Keith Allen said bacterial tests on products removed from hospitals and performed by Sabax in June 1990 had found no contamination.

During cross-examination by Adv R Levine, representing Clinic Holdings — Garden City's holding company — Allen said a company representative had followed up incidents at Garden City Clinic and Johannes-

burg Hospital in May and June 1990. He confirmed the company had "not officially" considered advising hospitals to change to a heat sterilised product.

On Wednesday, corporate planner for Sabax's holding company Adcock Ingram, Arthur Barnett said Sabax stopped supplying the drips in late September after contamination was found in drips received by two babies who died at Morningside Clinic.

The inquest continues.

Clinics not culpable for eight baby deaths, court told

COUNSEL for three Johannesburg private clinics yesterday argued at the inquest into the death of 13 babies in 1990 that there was no evidence that the infants' infections followed any act or omission by clinic staff.

R Levin (SC), appearing for Park Lane and Garden City Clinics, said there was no evidence that the clinics were culpable for the eight fatal infections in the hospitals' neo natal units in 1990.

B Burman (SC) said that the evidence showed that the conduct of his client, Morningside Clinic, had been exemplary.

Clive Cohen (SC), Counsel for drip manufacturer Sabax, and State Advocate Tersia Roussouw, will make their submissions on Monday.

Peter Soller, appearing for 10 of the 13 parents, initially declined to argue. He reversed the decision

on instruction of one of the parents, Dr Adrian Webb, and will also present argument on Monday.

Acting on behalf of mother Cheryl Pritchard, Mr Soller yesterday lodged a second notice of review with the Supreme Court. He submitted his first notice of review after Mr le Grange declined to call all doctors who treated the babies. He now wants the Supreme Court to review proceedings to determine whether Magistrate T J le Grange should have received certain evidence.

Mr le Grange earlier refused to allow Mr Soller to cross-examine a Sabax employee on the statutory requirements for production of admixture solutions. Mr le Grange also declined to call as witnesses a

STAR
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PHILIP ZOIO
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pathologist and two doctors from Medunsa Hospital in Garankuwa, where about 11 babies allegedly died of bacterial infections in 1990.

The last witness, Park Lane Clinic paediatrician, Dr Richard Booth, told the court that one of his new-born patients had deteriorated rapidly after intravenous feeding on a K-cocktail drip. But he said he was never able to isolate the organism responsible for Ashley Pritchard's septicaemic death on August 8, 1990.

The illness of another of his patients, baby Rudi Hoffman, continued on a stormy course after he was given K-cocktail fluid on August 2, Dr Booth said. He said that he was on leave when baby Hoffman died later that month.

Questioned by Mr Soller, Dr Booth said it was the first time he had seen patients show such "a lack of response to very aggressive anti-biotic therapy".

CASH-strapped South African human rights lawyers are considering legal action against the defunct London-based International Defence and Aid Fund for outstanding debts totalling millions of rands.

And some have called on the ANC to apply pressure on Idaf's trustees to pay up. The anti-apartheid organisation — the major source of income for many South African human rights lawyers over the past 30 years — closed in April last year, leaving hundreds of lawyers with unpaid accounts.

A new organisation, the South African Legal Defence Fund (Saldef), has been established in South Africa to replace Idaf, but is not liable for the old debts.

Attorneys, who asked not to be identified lest they lost all chance of recovering their money, said they had disbanded partnerships, cut down staff, refused new human rights cases and diversified into criminal and civil work. Some attorneys are owed as much as R600 000.

A well-known Johannesburg firm, Priscilla Jana and Associates, reportedly owes advocates R187 385 and is on the verge of closing.

Cape Town human rights attorneys Mallinck, Röss, Richman and Closenbergh closed their public affairs sector three months ago.

Tragedy

Other leading law firms such as Bell, Dewar and Hall have reduced staff in their public affairs department.

Advocates said they were demanding money up front before accepting certain briefs.

A Johannesburg advocate who expects to write off thousands of rands said he was now turning down human rights cases.

"One would like to do the work, but one's fees would be at risk. The tragedy is that there remains a dire need for this kind of work."

Because it focuses largely on labour matters, Cheadle Thompson and Haysom has not been as hard hit as the smaller human rights-oriented practice.

But it, too, has had to turn down human rights

By DAWN BARKHUIZEN

cases when clients could not pay for themselves, according to a partner, Mr Norman Manoir.

"Naturally we hope we can continue this sort of work, but much depends on how much money Saldef can raise and how much local business will contribute," he said.

One of the few firms with a flourishing human rights department is Deney's Reitz. The department is funded by the partners themselves.

Mr John Smith, general secretary of the National Association of Democratic Lawyers, said: "It appears that Idaf's donors, due to certain ideas about South Africa, simply did not pay up at the end."

"Idaf has offered some lawyers proportional settlements, others nothing. As a result hundreds of lawyers here have been left with bills totalling millions. Some may have to close."

In the past Cheadle,

Thompson and Haysom has represented clients in some of South Africa's major treason trials, including the case against Moses Mayekiso and other Alexandra township leaders in 1987, and Eastern Cape district surgeon Wendy Orr, who brought an interdict to stop detainees from being assaulted.

Mallinck, Röss, Richman and Closenbergh has frequently represented the End Conscription Campaign.

Petition

Bell Dewar and Hall acted for certain accused in the Delmas treason trial and for Baragwanath doctors when the authorities refused to renew their contracts after they had signed a petition against conditions at the hospital.

Former Idaf trustees could not be reached for comment. Spokesmen for Saldef and the ANC were also unavailable.

Cash crunch for SA human rights lawyers

S Times

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SUNDAY TIMES, January 26 1992

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Faith in the rule of law

by KARIN SCHIMKE, Staff Reporter

THE Cape's new Judge President, Mr Justice Gerald Friedman, believes the rule of law will hold firm in spite of the increase in crime.

In a wide-ranging interview on the eve of his taking up his appointment — he replaces retiring Judge President Mr Justice George Munnik at the end of the month — Mr Justice Friedman spoke on justice in a new South Africa, sentencing and crime.

He said there was "a common cause among all the parties involved that the independence and integrity of the courts should be maintained".

"Adequate safeguards will be included in the new constitution which will ensure this," he said. He said the courts could not be blamed for the increase in crime. The inexplicably light sentences that were sometimes passed were a small proportion.

"By and large courts impose proper sentences based on all relevant considerations." He said the proposed right of the Supreme Court to test the validity of Acts of Parliament under a new Bill of Rights would drastically change the role of the courts in the new South Africa. "The proposed testing rights for the courts will be a very good thing for South Africa. Our system

is still based on the Westminster model where parliament is the absolute authority."

Mr Justice Friedman regards his appointment as a great honour. "I'm conscious of the tremendous responsibility the post carries with it, but I look forward to the challenges."

Turning to the backlog of cases in the Supreme Court, he said this problem could not be solved with the existing number of judges.

"The solution lies in the appointment of more judges or the creation of other court structures which will remove the present burden resting on the Supreme Court."

"I find it unsatisfactory that judges are expected to go from case to case without the time to collect their thoughts or to prepare themselves to hear and determine the complicated issues which come before them. I think justice suffers."

The length of time it took for judgment to be passed in civil cases was one of the symptoms of the lack of judges.

After the erection of four new courts to be opened on Thursday by the Minister of Justice Mr Kobhe Coetsee — there will be 19 courts in the Cape. However there are only 20 judges.

According to Mr Justice Friedman, the proposal to grant attorneys the right of appearance in the

Supreme Court was not a far-fetched idea.

"It is important that there should be a group of litigation specialists. Therefore I believe the bar must continue to exist, but not necessarily in its present form."

He said it was inevitable that, following the reforms in England, suitably qualified lawyers were going to be given the right of audience in the Supreme Court.

This was going to affect the junior members of the bar as it would mean that barristers (advocates) would have to have many years of experience.

Mr Friedman believes that with the number of black advocates entering law, the majority of the people in South Africa would regain confidence in the judiciary.

Judge Friedman was born in Knysna and studied law at the University of Cape Town where he graduated with a BA LLB degree in 1949. In 1975 he was appointed president of the Cape Bar Council and in 1977 he became a judge of the Cape Town Supreme Court.

His leisure time is spent playing tennis, going on walks and bird watching. He enjoys reading non-fiction but finds he has to read law books "to keep up". He is married and has four children.

Justice Friedman... common cause the... independence and integrity of the courts should be maintained.

Baby deaths: plea for more witnesses to be heard

By Zingisa Mkhumbane

Counsel representing 10 families in the inquest on the death of 13 babies filed a Supreme Court application on Friday, directing Johannesburg Regional Magistrate T J le Grange to allow doctors from the Medical University of South Africa (Medunsa) to give evidence

Counsel for the families Peter Soller said yesterday it was "invalid" for a magistrate to close a case without hearing all the evidence. He said although the magistrate closed the case on Friday and would hear closing argument only today, it was "not impossible" for the Supreme Court to order him to reopen it.

Mr Soller had earlier told the inquest that it was necessary to call the three Medunsa doctors — Professor Heather Crewe-Brown, Dr Geoff Ellis and Dr Ian Haye — to give evidence relating to tests they had done.

Professor Crewe-Brown would be especially invaluable as she had "so much information" about the tests. Before the magistrate could make a ruling, counsel for Sabax, Clive Cohen, SC, objected to the request saying it was not relevant and could not take the inquest much further. It could take up to three months for the Supreme Court application to be heard and Mr Soller said his clients did not have the money to bring an urgent application. The inquest continues.

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could make a ruling, counsel for Sabax, Clive Cohen, SC, objected to the request saying it was not relevant and could not take the inquest much further. It could take up to three months for the Supreme Court application to be heard and Mr Soller said his clients did not have the money to bring an urgent application. The inquest continues.



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**Bloed Street
bomb suspect**

not in court

STAR 28/1/92
Pretoria Correspondent

One of the rightwingers allegedly responsible for the Bloed Street bomb, Dr Lood van Schalkwyk, has provisionally forfeited his R5 000 bail after failing to appear in the Pretoria Supreme Court yesterday

Dr van Schalkwyk, along with two co-accused who last year embarked on a hunger strike, faced prosecution over the August 1990 bombing

His co-accused, Adrian Hendrickus Maritz (43) and Henry Guy Martin (49), forfeited bail in October, and warrants were issued for their arrest

Mr Justice Roos yesterday provisionally withdrew Dr van Schalkwyk's bail following a request by prosecutor Paul Fick

Dr van Schalkwyk, who was granted permission to visit relatives in the Carolina area subject to reporting to the police there, failed to adhere to this bail condition on January 22

Baby-deaths inquest: finding due today

By Phillip Zolo *Star 28/1/92*

Sabax should be found culpable on the totality of circumstantial evidence for the deaths of infants who contracted fatal infections in three private clinics in 1990, according to the attorney for 10 of the parents, Peter Soller

But Sabax counsel Clive Cohen SC yesterday argued at the Johannesburg inquest into the deaths of 13 babies that there was sufficient evidence for a finding that Sabax was not negligent and that no act or omission of the firm was causally connected to any death under investigation

A finding is expected today

'Sabax was negligent'

Mr Soller, addressed the court in respect of only one of the babies, Jacqueline Webb, who died in Johannesburg Hospital on September 20

He said Sabax was negligent and arrogant in failing to react to the first suggestions on May 2 1990 of contamination of admixture unit drips

Though they were the only people who knew their admixture solutions were not end-product sterilised, they did not alert clinics to the fears of contamination. The clinics were not given the opportunity to decide whether to switch to compatible sterilised products

He intimated in his argument that Sabax deliberately misled the clinics for commercial reasons and because the firm did not want anyone to find out there were problems with their products

Sabax, he said, also willfully led Professors Margaretha Isaacson and Anton van Rensburg to a false understanding that end sterilisation of K-cocktail (an admixed fluid) was not practical, knowing that no studies had been done to determine this

The professors compiled reports while believing that process validation was the only feasible method of quality control, he said

A finding that the drips were responsible for the infection, was the most likely of a set of possible conclusions, he added

All but two of the parents who testified that infections were the most severe they had seen were consistent with contamination through intravenous drips

'Sabax went to great lengths'

Mr Cohen said

In their preparation of admixture drips, Sabax had complied with internationally acceptable standards and had not breached any legal rule

He said the admixture unit's system of quality control, process validation, had been sanctioned by all the experts who examined procedures at the admixture unit "All of these experts exonerated Sabax from any hint of negligence in their admixture procedures," he said

Sabax had gone to great lengths to establish or to find the cause of contamination

He argued that contaminants, were more likely to have been introduced by additives than by failure of aseptic technique. This submission was supported by the evidence of reports of three experts, Mr Cohen said

Moreover, all the batches found contaminated after September contained Calcium Gluconate supplied from a single batch of the additive

It was very possible the babies had suffered continuing infections that they had each contracted before receiving the implicated drip solutions. All the babies were very sick on admission to the neo-natal units, where the risk of infection always existed

He argued that Heinrich Hamel, who died in Park Lane Clinic on September 20, showed signs of possible infection before the night of September 19

He disputed evidence that the baby was given Sabax K-cocktail that night. Jacqueline Webb had shown more serious signs of infection - including apnea attacks, circulation problems and jaundice - before she was fed on K-cocktail on the day before her death

The congruence in both cases between the contaminants found in the drip solutions and the bacteria found in the blood cultures, was insufficient to indicate that infection was contracted from the Sabax drips

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~~Unisa~~ ~~land~~
~~ownership~~
~~course plan~~

Pretoria Bureau 252

The University of South Africa (Unisa) is planning to train students in the legalities of land ownership and rights — in view of critical developments surrounding the land issue and the current lack of expertise in this field.

Three courses in Property Law are to be restructured to make them relevant to current land issues

One of the papers is to focus exclusively on ownership of land and related issues. Special reference will be made to aspects such as sectional title, property timesharing, shareblock schemes, retirement schemes, planning and control of land use

Part of the course will focus on the history of ownership, comparative law and theories of and criticism against ownership in the capitalist and socialist traditions.

A similar restructuring is envisaged for the existing optional LLB paper in Advanced Law of Property

No one liable for deaths of 11 babies

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SA Press Association

A JUDICIAL inquiry yesterday ruled that no one could be held responsible for the deaths through infection of 11 babies at three hospitals in Johannesburg in 1990

The presiding officer, Mr T le Grange, also found that contaminated intravenous drips supplied by Sabax company could not, on a balance of probabilities, be linked to the deaths of the babies

A finding could not be made on liability in the deaths of two other babies

Sowetan 29/1/92.
Precautions

Le Grange found there had been no negligence on the part of staff at the intensive care units of the hospitals and that he was satisfied that all reasonable precautions had been taken

He also found that Sabax had complied with international standards on the prevention of infection

The source of the infection which had killed the babies could not be determined beyond doubt, he said

Inquest court clears Sabax

B/day 29/1/92
A JOHANNESBURG magistrate yesterday cleared pharmaceutical manufacturer Sabax of negligence or culpability in the death of 13 infants between February and September 1990.

Reporting the findings of an inquest court which probed the baby deaths alleged to have been caused by contaminated drips, presiding magistrate TJ La Grange said "we find no evidence of negligence or culpa" on the part of Sabax.

"In respect of (11 of the babies) we find the deaths were not brought about by an offence on the part of someone," La Grange said.

He told the packed court that in the case of two babies, infants Hamel and Webb, the court could not "report a finding".

However, he said even though it had

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ANDREW KRUMM
been shown that certain drips had been contaminated, "on a balance of probabilities, Sabax products could not be linked to the deaths of babies Hamel and Webb".

La Grange said he had looked for three criteria in implicating the drips in the baby deaths. He said these were the presence of implicated bacteria in a specific baby's blood, in drips used to feed the baby and in unopened drips of the same batch fed to the baby. Babies Hamel and Webb were closest to these criteria.

La Grange said the court did not blame parents for their suspicions.

He pointed out that on the face of it, all babies had either received the implicated

□ To Page 2

Sabax

B/day 29/1/92
drips and/or displayed the same symptoms prior to death, which he said indicated "clearly something was happening".

But he said the court could not exclude other evidence such as possible underlying infections and clinical problems the babies could have had.

Absolving the hospitals (Park Lane, Garden City and Morningside clinics) and the paediatricians of negligence, La Grange said "we deal with omnipresent infections" which pose a risk.

Complimenting the hospitals for their infection control measures, he said the risk of infection could only be reduced, not eliminated.

La Grange said in the eyes of the reasonable man, the doctors and hospitals had exercised reasonable care.

Responding to the findings, Sabax CEO Ian Strachan said in the light of considerable adverse publicity, the company was

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"very pleased". He believed the findings had vindicated Sabax's reputation as a pharmaceutical manufacturer.

Park Lane Clinic GM Dr Gordon Cohen said although it was regrettable certain specific causes of death were never found, the findings had demonstrated the hospitals involved were in no way responsible for the baby deaths.

Sapa reports that at least two couples are to take civil action following the court's finding. Attorneys Rene Kruger Inc, representing Mr and Mrs Dudley Pritchard and Mr and Mrs Marco Flocchi, said in a statement their clients were of the view the inquest should not have terminated before all available evidence had been placed before the court.

The statement noted that there were two reviews to the Supreme Court contending that not all the available evidence was put before the court.

● Picture: Page 3

Sabax: 'Cannot base

STAR 29/1/92

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By Philip Zito

Nobody could be held responsible for the deaths of 11 babies in private clinics in 1990, a Johannesburg inquest magistrate found yesterday.

Mr T J le Grange and his two assessors were unable to make a finding in respect of the other two babies, Jacqueline Webb and Heinrich Hamel, both earlier described as "strong cases for unnatural death" by Johannesburg Hospital chief paediatrician Professor Alan Rothberg.

Mr le Grange found there was no evidence that Sabax, the manufacturer of the drip solutions given to all the babies before their deaths, had attempted to deceive anyone or "cover up" investigations into their products or facilities.

The court found that, rightly or wrongly, their admixture unit's system of quality control was in accordance with internationally accepted standards.

Expense

Mr le Grange said that a batch of admixture component calcium gluconate, which was used in all of the batches found contaminated after September, may have introduced the contamination.

The court also found that the Park Lane, Garden City and Morningside Clinics had not been negligent.

They had gone to great expense to find the source of infection and their system of infection control had been of a high standard.

Their paediatricians had all demonstrated a "high standard of professional conduct", Mr le Grange said.

The court found that it could not be proven on a balance of probabilities that any of the fatal infections were contracted through contaminated drips made by Sabax.

Mr le Grange said that he did not blame the parents for their suspicion that Sabax was culpable. "But we cannot base our

findings on their suspicions."

He said that all the babies had been ill when they entered neo-natal units and may have contracted infections from an environment in which a risk of infection was inevitable.

Although samples of the batch given to babies Hamel and Webb were found contaminated, the causal connection between the infusion of drip fluid and the fatal infections had not been established.

Mr le Grange said that baby Hamel was showing "obvious signs of respiratory distress" before he allegedly received K-cocktail fluid, and may have been suffering from an underlying infection.

It could not be established clearly that he received K-cocktail on the night before his death on September 20.

Baby Jacqueline Webb (died September 20) had suffered jaundice, poor circulation and three apnea attacks (arrested breathing) before and on September 19, Mr le Grange found.

Dr Martin Davis conceded that she may also have had a continuing infection before she received K-cocktail that evening, Mr le Grange said.

The three babies treated by Dr Richard Booth, Rudi Hoffman (died Aug 21), Ashley Pritchard (died August 8) and Roberto Flocchi (died August 23), were infected almost simultaneously, Mr le Grange said.

The court accepted the evidence of Professor Rothberg that there was no connection between their deaths and any Sabax product.

Linda Dila (died August 8), one of the babies classified as a moderate case for unnatural death, collapsed shortly after birth. Her clinical progression was consistent with infection before receiving from a Sabax drip.

The magistrate justified his earlier decision not to call the doctors who treated four of the babies by saying that their oral evidence would not have taken the case further.

Mr le Grange also said he did not hear testimony on 11 alleged deaths at Medunsa Hospital in Garankuwa because this evidence was irrelevant.

findings on suspicions?

Court's new scheme is 'a success'

By Helen Grange
Pretoria Bureau

Magistrates in the Pretoria area have sentenced 265 petty criminals to correctional supervision since the alternative sentencing option was introduced in the area in August last year.

Although 11 percent of these criminals did not comply with the curfews and restrictions imposed on them, the project — started as a pilot in the Pretoria/Wondeboom magisterial district — has been dubbed successful by the Department of Correctional Services.

Correctional supervision is to be implemented in the Cape Peninsula in March and in other parts of the country from April.

Director of Community Correctional Brigadier Gert Jonker, said although 11 percent of those sentenced in this manner had failed to comply with the prescribed conditions, authorities still had immediate control over the convicts as long as they remained in the magisterial district.

A few had slipped through the net and left the district — "but the percentage is small."

Strict

A "very small number" of the convicts had repeated petty crimes, but the Department still considered Correctional Supervision strict enough to prevent the majority from again committing crimes.

"We find the sentence fills their time quite amply. The sentence can only be passed if the convict has a fixed address in the community and can be cared for in some way," said Brigadier Jonker.

Correctional Supervision had only been in practice in Pretoria for five months and one of the convicts sentenced to this option had yet completed the sentence term, so it was difficult to accurately assess the success of the project, he said.

The sentence is directed at petty criminals and allows them to work in the community, free of charge, under constant supervision.

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(252) 381
ANC women's case dropped

Charges against Winnie Mandela and 15 others for obstructing traffic and hindering police in the execution of their duty on the morning of May 22 last year, were withdrawn in the Johannesburg Magistrate's Court yesterday.

The 16 were arrested during an ANC Women's League demonstration in central Johannesburg. Mrs. Mandela and two co-accused, Baleka Kgositsile (41) and Lindiwe Maseko (32), each paid a R50 admission of guilt fine for obstructing traffic during another demonstration on the same afternoon. — Court Reporter

14 held for 'people's court executions'

South 30/11-5/2/92.
By Makhaya Mäni and Sabata Ngcai

PROMINENT Mossel Bay civic leader Mr Terence Ndanda is one of 14 residents from the southern Cape town being held by police following the deaths of two alleged criminals.

The group, mostly squatters from the JCC squatter camp, have been held by police since the beginning of the year in connection with the alleged sentencing to death and execution of two people at a people's court in the camp.

One of the women arrested with the group but released later, Mrs Juha Welman, said squatters had been plagued since 1990 by six youths allegedly involved in crimes ranging from housebreaking to rape.

"The community had become sick and tired of the activities of the six

and last year we held a series of meetings and this is where we called the group to order," Welman said.

"I think the police themselves liked what the six were doing because when they were called in to stop or arrest them, they did — but surprisingly they were released the very same night," she said.

Welman alleged she was one of the gang's targets when they tried to set her house alight. They were apprehended by squatters guarding her house.

In another incident, a resident alleged the police arrived with three of the group one morning and attempted to kick open the door of the community's hall.

"This also sparked off anger in the community and we went to the police and asked for an explanation," Welman said.

"The police retaliated by arresting three of us. An angry group of about

300 people toyi-toyed to the police station and demanded their immediate release. They released them."

The ANC has blamed the police for the death of the two alleged criminals, following an investigation into the incident.

"If the police had acted in a competent and proper manner after the arrests of the three men, none of the incidents would have occurred," an ANC statement read.

While condemning the actions of those "who take the law into their own hands", the ANC acknowledged the right of people "to protect themselves against criminal elements if the police fail to do so".

The chairperson of the KwaNonqaba Civic Association in Mossel Bay, Mr Wilson Sijaji, said his organisation condemned in strongest terms "the criminal actions committed by those who wish to make life uneasy for other people".

BYLAE • SCHEDULE

Van Surname	Voorname Names	Geboortedatum Date of Birth
Banisi	Lottie	1959-02-13
Dikgacwi	Mogolodi Moses	1950-12-16
Fatyela	Amos Vakunjani	1963-03-03
Gologolo	Ernest	1963-04-14
Letebele	Peter	1973-10-21
Lugg	Hugh Murdoch	1958-07-03
Mabula	Eric Thabang Thulo	1962-05-08
Maitse	Pascalina Mapaseka	1960-04-15
Manzini	Victor Themba	1968-08-07
Mokgweetsi	Jacob Motsamai	1975-07-17
Ntshinga	William	1964-12-24
Sibeko	Monare Joyce	1960-09-26
Skhozana	Simon	—
Stone	Sithembile Laurington	1961-01-08

(31 Januare 1992)/(31 January 1992)

KENNISGEWING 93 VAN 1992

DEPARTEMENT VAN JUSTISIE

BEKENDMAKING VAN NAME VAN PERSONE WAT DIE INLIGTING BEDOEL IN PARAGRAAF (b) VAN GOEWERMENSKENNISGEWING No 3013 VAN 18 DESEMBER 1990 VERSTREK HET

Die Direkteur-generaal Justisie maak hierby vir algemene inligting in die Bylae bekend, die name van persone wat die inligting bedoel in paragraaf (b) van Goewermentskennisgewing No 3013 van 18 Desember 1990 volledig verstrek het, vir sover sodanige inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing, ten opsigte van die verlatting van die Unie of Republiek sonder 'n geldige paspoort of 'n permit of sonder magtiging by 'n ander plek as 'n toegangspoort, soos bedoel in paragraaf (a) daarvan, deur sodanige persone

NOTICE 93 OF 1992

DEPARTMENT OF JUSTICE

ANNOUNCEMENT OF NAMES OF PERSONS WHO FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (b) OF GOVERNMENT NOTICE No 3013 OF 18 DECEMBER 1990

The Director-General Justice hereby makes known for general information in the Schedule, the names of persons who furnished in full the information referred to in paragraph (b) of Government Notice No 3013 of 18 December 1990, in so far as such information relates to the granting of indemnity in accordance with the said Government Notice, in respect of the departure from the Union or Republic without a valid passport or a permit or without authority at a place other than a port, as referred to in paragraph (a) thereof, by such persons.

BYLAE • SCHEDULE

Van Surname	Voile voorname Full christian names	Geboortedatum Date of birth
Dhlahla	Vusumuzi Victor	1957-07-13
Dhlahla	Monica Ntombizodwa	1958-05-27
Duma	Enoch William Dumisa	1945-05-29
Goqwana	Salome	1962-12-16
Goqwana	Vincent	1954-12-26
Hlongwane	George Solane Reg	1940-06-06
Kume	Sthembiso Jeffrey	1962-07-15
Lamani	Ronnie Nceba	1950-02-18
Mabaso	David Phaundie	1957-07-19
Mafatshe	Saki Sello	1945-04-01



Van Surname	Volle voorname Full christian names	Geboortedatum Date of birth
Maibola	Britton Bunga	1938-11-11
Mathebula	Thomas Santos	1970-03-03
Mazibuko	Nkosinathi Vusani	1963-05-13
Mkhize	Freedom Siphwe	1967-02-24
Moroeng.	Rosey Kefilwe	1941-08-25
Ndaba	Sazikia	1973-07-24
Ngcobo	Andrew.	1958
Ngqobe	Lawrence Velile.. . . .	1940-07-07
Reschke	George	1966-10-08
Sano	Idrissa Kay	1970-10-10
Sibeko	Simon	1958-12-13
Tamela	Zico Zanencebe Zietsman	1966-09-21
Tyolweni	Mpumelelo Eric	1969-12-06

(31 Januarie 1992)/(31 January 1992)

KENNISGEWING 94 VAN 1992**ADMINISTRASIE: VOLKSRAAD****DEPARTEMENT VAN LANDBOU-ONTWIKKELING**

KENNISGEWING VAN VERGADERING VAN SKULDEISERS KRAGTENS ARTIKEL 22 (1) VAN DIE WET OP LANDBOUKREDIET, 1966

Hierby word 'n vergadering van ondergenoemde applikante en hulle skuldeisers op die plek en datum hieronder genoem, belê, met die doel om skuldeisers in staat te stel om hul vorderings teen die applikante te bewys en 'n skikkingsvoorstel van die Landboukredietraad te oorweeg

J. H. SMIT,

Direkteur Direktoraat Finansiële Bystand,
Departement van Landbou-ontwikkeling

NOTICE 94 OF 1992**ADMINISTRATION: HOUSE OF ASSEMBLY****DEPARTMENT OF AGRICULTURAL DEVELOPMENT**

NOTICE OF MEETING OF CREDITORS IN TERMS OF SECTION 22 (1) OF THE AGRICULTURAL CREDIT ACT, 1966

A meeting of the undermentioned applicants and their creditors is hereby convened at the place and date mentioned hereunder for the purpose of enabling creditors to prove their claims against the applicants and of considering a proposal for a compromise by the Agricultural Credit Board.

J. H. SMIT,

Director Directorate Financial Assistance,
Department of Agricultural Development

Aansoek van Application by	Plek van byeenkoms Place of meeting	Datum en tyd Date and time
Frederick White Dell (Sr) (Id. No. 190207 5022 000) en/and Frederick William Dell (Jr) (Id. No. 461018 5018 001), van die plaas/of the farm, Edina, Posbus/P O Box 62, Lindley, 9630	Kantoor van die Landdros/Magistrate's Office, Lindley	28 Februarie/February 1992 om/at 09 00

(31 Januarie 1992)/(31 January 1992)

REPUBLIEK
VAN
SUID-AFRIKA



REPUBLIC
OF
SOUTH AFRICA

Staatskoerant Government Gazette

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Vol 319

PRETORIA, 31 JANUARIE 1992
JANUARY

No. 13762

GOEWERMENSKENNISGEWING

DEPARTEMENT VAN JUSTISIE

No. 430 31 Januarie 1992

KENNISGEWING VAN DIE STAATSPRESIDENT
VAN DIE REPUBLIEK VAN SUID-AFRIKA

KENNISGEWING VAN TYDELIKE VRYSTELLING
KRAGTENS DIE WET OP VRYWARING, 1990 (WET
No 35 VAN 1990)

Nademaal ek van oordeel is dat dit nodig is vir die bevordering van vreedsame konstitusionele oplossings in Suid-Afrika, verleen ek hierby kragtens die 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 Februarie 1992 tot en met 17 Mei 1992

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Kaapstad, op hede die Eendertigste dag van Januarie Eenduisend Negehonderd Twee-en-negentig

F. W. DE KLERK,
Staatspresident

Op las van die Staatspresident-in-Kabinet

H. J. COETSEE,
Minister van die Kabinet

APPALRAJU, Premi
BUNTING, Brian Percy
CHOABI, Seretse
DE BRUYN, Sophia Theresa
DOLNEY, Helen
GANA, Martha Constance
HANI, Chris/HANI, Martin Thembisile
HUSSEIN, Mohamed

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GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE

No. 430 **252** 31 January 1992

NOTICE BY THE STATE PRESIDENT OF THE
REPUBLIC OF SOUTH AFRICA

NOTICE OF TEMPORARY IMMUNITY UNDER THE
INDEMNITY ACT, 1990 (ACT No 35 OF 1990)

Whereas I am of the opinion that it is necessary for the promotion of peaceful constitutional solutions in South Africa, I hereby under the power vested in me by 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 February 1992 up to and including 17 May 1992

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Thirty first day of January, 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

BYLAE • SCHEDULE

BHENGU, Sibusiso
BUNTING, Sonia Beryl
COLVIN, Louise
DLAMINI, Stephen
ETHMAHILL, Aboobaker
GODDEN, Edgar
HLUBI, Thuthukani
JELE, Joe

13762—1

JOBODWANA, Zingisile Mtwezinhle	JORDAN, Pallo
KASRILS, Ronald	KGOSITSILE, Keorapetse
KHUMALO, Aubrey M	LEKOTA, Zephania
LERUMO, Thabo	MADUNA, Penuell
MAFISA, Rose Kgopotso	MAGUNYA, Ben
MAJOLA, Lulu	MAKGOTHI, Henry
MAKHASI, Edward	MALEBE, Edwin
MARCUS, Gill	MASEKELA, Barbara
MASEKO, Karel	MASETLE, Dudu
MASINGA, France	MAYSON, Cedrick Radcliffe
MBEKI, Thabo	MFENYANE, Filarida Chramova
MJCABA, Andile	MKANI, Sandile
MODISE, Joe	MOKWENA, Timothy
MALOPO, Cyril	MOLATHANYI, Tefo
MOLEFE, Dikgang Castro	MOLEFE, Jacqueline
MOLOI, Ntseke	MOLOTO, Papie Otukile
MOLOTO, Busisiwe	MONARENG, Oupa Ephraim
MONGWALETSE, Leslie	MORATHI, Tseke Cybrite
MOTLATSI, Hori	MOTSWENYANE, Dedanizizwe Joseph
NETSITENZHE, Joel	NDLOVU, J
NHLANHLA, Mmabatho	NJANANA, Rhoda/PHETLA, Pricilla
NKONDO, Sankie	NKONDO, Zinjiva
NOKWE, Fundile	NOMOYI, Lizo
PAPERS, Patrick	PHEMBA, Bonakele
QAWU, Pumla Desiree	RADEBE, Vasco
SANGWENI, Stanley	SELEBI, Jackie/SELEBI, Jacob Sello
SHOPE, Gertrude	SISULU, Max
SKWEYIYA, Sidney Temba	STOFIE, Joyce
SLOVO, Joe	STOFIE, N
TAMBO, Oliver Reginald	ZULU, Lindwe
ZUMA, Jacob	

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KENNISGEWING 91 VAN 1992**DEPARTEMENT VAN MANNEKRAG**

WET OP ARBEIDSVERHOUDINGE, 1956

VERWYSING VIR VASSTELLING INGEVOLGE
ARTIKEL 76

Hierby word ingevolge artikel 76 (5) van die Wet op Arbeidsverhoudinge, 1956, bekendgemaak dat die werkgewer Entumeni Sugar Milling CC, van Ntumeni, Natal, kragtens artikel 76 (3) gelees met artikel 76 (1) van gemelde Wet die volgende vrae vir vasstelling na die Nywerheidshof verwys het:

(a) Of die werknemer Dudley Brain Harborth betrokke is of was by 'n boerderybedrywigheid in die landdrostdistrik Eshowe; en

(b) of die bedrywigheid van plaasbestuurder en van adviseur vir ander plaasboere onder 'n plaasbedrywigheid ressorteer of geressorteer het.

Belanghebbendes word hierby versoek om skriftelike vertoe in verband met die saak by die Nywerheidshof in te dien Sodanige vertoe, in drievoud, moet binne drie weke na die datum van publikasie hiervan by die Griffier, Nywerheidshof, Privaat Sak X54312, Durban, 4000, ingedien word

J. H. KRUGER,

Griffier

(31 Januarie 1992)

KENNISGEWING 92 VAN 1992**DEPARTEMENT VAN JUSTISIE**

BEKENDMAKING VAN NAME VAN PERSONE WAT VOLDOEN AAN PARAGRAAF (a) VAN GOEWERMENSKENNISGEWING No R. 936 VAN 24 APRIL 1991 EN DIE INLIGTING BEDOEL IN PARAGRAAF (b) VAN GENOEMDE GOEWERMENSKENNISGEWING VERSTREK HET

Die Direkteur-generaal Justisie maak hierby vir algemene inligting, in die Bylae hiervan, bekend die name van persone—

(a) wat lede van die African National Congress is, of wat, in die geval van persone wat nie sodanige lede is nie, die beginsels van vreedsame oplossings en ontwikkeling ooreenkomstig paragraaf (a) van Goewermentskennisgewing No R. 936 van 24 April 1991 onderskryf het, en

(b) wat die inligting bedoel in paragraaf (b) van genoemde Goewermentskennisgewing volledig verstrek het,

vir sover sodanige onderskrywing en inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing aan elke sodanige persoon ten opsigte van enige handeling bedoel in paragraaf (c) van genoemde Goewermentskennisgewing 'n Lys van die spesifieke handeling ten opsigte waarvan vrywaring deur elke sodanige persoon verwerf is, is vir inspeksie beskikbaar in die Kantoor van die Direkteur-generaal Justisie.

NOTICE 91 OF 1992**DEPARTMENT OF MANPOWER**

LABOUR RELATIONS ACT, 1956

REFERENCE FOR DETERMINATION IN TERMS OF
SECTION 76

It is hereby, in terms of section 76 (5) of the Labour Relations Act, 1956, notified that the employer, Entumeni Sugar Milling CC, of Ntumeni, Natal, has, in terms of section 76 (3) read with section 76 (1) of the said Act, referred the following questions to the Industrial Court for determination:

(a) Whether the employee, Dudley Brain Harborth, is or was engaged in a farming operation within the Magisterial District of Eshowe, and

(b) whether the activity of being a farm manager and an adviser to other farmers falls or fell within a farming operation.

Interested parties are hereby invited to submit written representations to the Industrial Court in regard to the matter. Such representations must be lodged with the Registrar, Industrial Court, Private Bag X54312, Durban, 4000, in triplicate within three weeks of the date of publication hereof

J. H. KRUGER,

Registrar

(31 January 1992)

NOTICE 92 OF 1992**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

(b) who have furnished the information referred to in paragraph (b) of the said Government Notice in full,

in so far as such subscription and information relate to the granting of indemnity in terms of the said Government Notice to each such person in respect of any act referred to in paragraph (c) of the said Government Notice. A list of the specific acts in respect of which indemnity has been acquired by each such person is available for inspection at the Office of the Director-General Justice.

BYLAE • SCHEDULE

Van Surname	Voorname Names	Geboortedatum Date of Birth
Banisi	Lottie	1959-02-13
Dikgacwi	Mogolodi Moses	1950-12-16
Fatyela	Amos Vakunjani	1963-03-03
Gologolo	Ernest	1963-04-14
Letebele	Peter	1973-10-21
Lugg	Hugh Murdoch	1958-07-03
Mabula	Eric Thabang Thulo	1962-05-08
Maitse	Pascalina Mapaseka	1960-04-15
Manzini	Victor Themba	1968-08-07
Mokgweetsi	Jacob Motsamai	1975-07-17
Ntshinga	William	1964-12-24
Sibeko	Monare Joyce	1960-09-26
Skhozana	Simon	—
Stone	Sithembile Laurington	1961-01-08

(31 Januarie 1992)/(31 January 1992)

KENNISGEWING 93 VAN 1992

DEPARTEMENT VAN JUSTISIE

BEKENDMAKING VAN NAME VAN PERSONE WAT DIE INLIGTING BEDOEL IN PARAGRAAF (b) VAN GOEWERMENSKENNISGEWING No 3013 VAN 18 DESEMBER 1990 VERSTREK HET

Die Direkteur-generaal Justisie maak hierby vir algemene inligting in die Bylae bekend, die name van persone wat die inligting bedoel in paragraaf (b) van Goewermentskennisgewing No 3013 van 18 Desember 1990 volledig verstrek het, vir sover sodanige inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing, ten opsigte van die verlatting van die Unie of Republiek sonder 'n geldige paspoort of 'n permit of sonder magtiging by 'n ander plek as 'n toegangspoort, soos bedoel in paragraaf (a) daarvan, deur sodanige persone

NOTICE 93 OF 1992

DEPARTMENT OF JUSTICE

ANNOUNCEMENT OF NAMES OF PERSONS WHO FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (b) OF GOVERNMENT NOTICE No 3013 OF 18 DECEMBER 1990

The Director-General Justice hereby makes known for general information in the Schedule, the names of persons who furnished in full the information referred to in paragraph (b) of Government Notice No 3013 of 18 December 1990, in so far as such information relates to the granting of indemnity in accordance with the said Government Notice, in respect of the departure from the Union or Republic without a valid passport or a permit or without authority at a place other than a port, as referred to in paragraph (a) thereof, by such persons

BYLAE • SCHEDULE

Van Surname	Volle voorname Full christian names	Geboortedatum Date of birth
Dhlahdla	Vusumuzi Victor	1957-07-13
Dhlahdla	Monica Ntombizodwa	1958-05-27
Duma	Enoch William Dumisa	1945-05-29
Goqwana	Salome	1962-12-16
Goqwana	Vincent	1954-12-26
Hlongwane	George Solane Reg	1940-06-06
Kume	Sthembiso Jeffrey	1962-07-15
Lamani	Ronnie Nceba	1950-02-18
Mabaso	David Phaundie	1957-07-19
Mafatshe	Saki Sello	1945-04-01

Lenasia gets court facilities

Pretoria Bureau (252)

Residents of Lenasia, west of Johannesburg, will have their own court facilities from Monday, the Justice Department announced yesterday.

For years, Lenasia residents have had to drive to Kiptown, about 12 km away, to attend court sessions.

As Kiptown Magistrate's Court was overloaded, cases often had to be postponed.

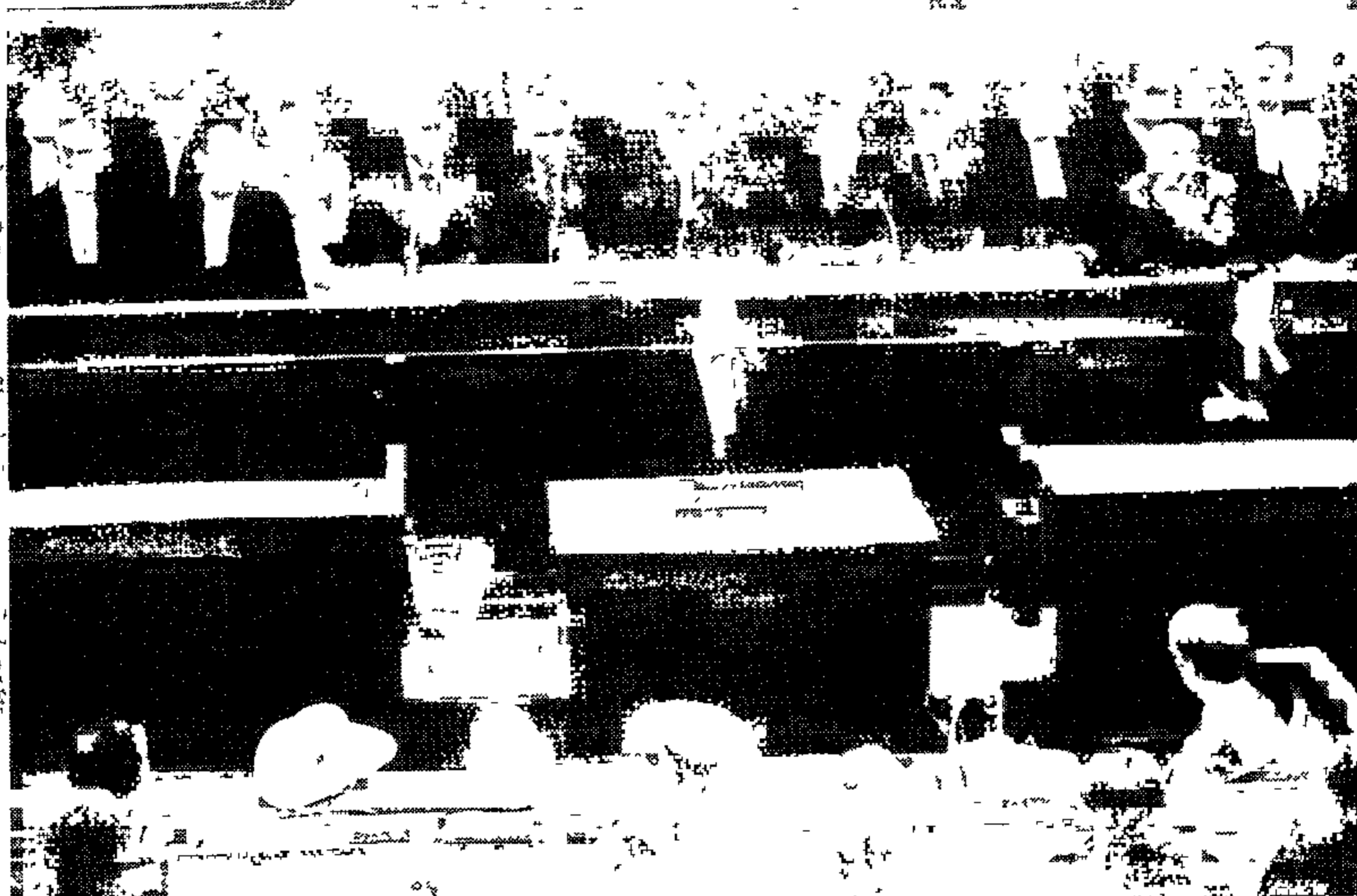
Completed

A R3,2 million court building has just been completed in Lenasia. Building started two years ago.

The building has four courtrooms, an underground block of cells, a credit office and fully equipped offices.

The court will hear criminal cases from the neighbourhoods of Lenasia, Eldorado Park and part of Kiptown.

Personnel from the Johannesburg Magistrate's office will render service.



INAUGURATION . . . Minister of Justice Mr Kobie Coetsee speaks in the Supreme Court yesterday at the opening of the extensions to the court. With him is the retiring Judge-President of the Cape, Mr Justice G G A Munnik, and other judges of the Cape Provincial Division.

Picture HAROLD KING

252 CT 3/1/92

Courts to be 'guardian of new constitution'

By RONNIE MORRIS
Supreme Court Reporter

THE courts will be the collective guardian of a new constitution, Justice Minister Mr Kobie Coetsee said yesterday at the inauguration of extensions to the Supreme Court.

"A new constitutional court, which in all probability will be a chamber of the existing Appellate Division, will be the supreme arbitrator," he said.

The ceremony was attended by all Cape Provincial Division judges, their clerks, advocates, attorneys and Supreme Court staff.

Mr Coetsee said the independence of the judiciary had been enshrined in the constitutional principle referred to as the separation of powers.

The courts, however, had no substan-

tive authority to review laws passed by Parliament, a fact which often drew criticism.

The South African constitutional philosophy was undergoing great change. "Our courts will have to be entrusted with the additional function of being the collective guardian of the constitution," Mr Coetsee said.

"It is imperative for a new dispensation to succeed that parliamentary sovereignty be replaced by constitutional sovereignty supported by a justiciable bill of fundamental rights."

Mr Coetsee urged all South Africans to take part in the debate on fundamental human rights.

He also praised retiring Judge-President Mr Justice G G A Munnik for his work in the Cape Provincial Division over the past 10 years.

Top cops clam up in court

By S'BU MNGADI

332 252
A POLICE general and a major this week halted proceedings in the Trust Feed mass murder trial as they feared their evidence might incriminate themselves. *CPM 2/2/92*

After giving evidence in the Maritzburg Supreme Court for two hours, Major Joseph van Zyl, who, with Pretoria-based Major-General Christo Marx, is a former investigating officer in the murders, refused to answer further "incriminating questions" without representation.

Captain Brian Mitchell, Captain Jacobus van den Heever, Sergeant Neville Rose and four former special constables face 11 counts of murder and eight of attempted murder in the trial.

Natal Attorney-General Mike Imber told Justice Wilson the Commissioner of Police had instructed that a senior counsel should represent police witnesses.

Marx was also called to the witness box and confirmed he had been advised to seek legal advice.

Granting the request, Wilson said it was the first time in his experience that senior police officers were not prepared to testify for the State without legal representation.

Van Zyl earlier admitted that he had not spoken to civilians at the scene of the crime, had not watched the police video, and had not read the investigation diary written by his predecessor, Captain Patric Wattrus.

The hearing resumes tomorrow.

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Judge slams jamming of the law



JUDGES HAVE BEEN EMASCULATED

Mr Justice George Munnik before his retirement this week

Picture TERRY SHEAN

A RETIRING senior judge, adding his voice to recent judicial attacks on government justice policy, has strongly criticised a law which, he says, has "emasculated" the Bench and has led to more violent crime.

Mr Justice George Munnik, Judge President of the Cape, who retired on Friday after 30 years on the Bench, was referring to the 1990 amendment to the Criminal Procedure Act which gave the Appeal Court authority to set aside a death sentence — even if the original sentence could not be faulted.

Other amendments have also broadened the discretion of judges in sentencing and provide for an automatic right of appeal for those sentenced to death.

Mr Justice Munnik, an advocate of the death penalty, said, "It's got to the stage where we might as well find an accused guilty, then leave sentencing to the Appeal Court."

He disclosed that "a number of judges" were upset by the amendment.

In August last year, the Deputy Judge President of the Transvaal, Mr Justice DT Curlews, branded the amendment "a deplorable piece of legislation."

"If the government wishes to do away with the death penalty, let it do so openly and immediately and not try to do so in this underhand way," he declared.

Murder

At the end of last month, Mr Justice Munnik's successor, Mr Justice Gerald Friedland, slammed the government's decision to prematurely release large numbers of common criminals, saying it was a matter of "grave concern."

Interviewed this week as he prepared to leave office, Mr Justice Munnik said the substitution of terms of imprisonment for the death sentence, in addition to the fact that there had been no executions in the past two years, "is not only emasculating judges, but helping to create the perception among ordinary people that the death sentence has been abolished."

"This, I believe, is contributing to the escalation of crime such as murder, rape and armed robberies in South Africa," he said.

There have been no executions in SA since February 2 1990, when State

Government policy has

emasculated ⁽²⁵²⁾ Bench, says

advocate of hanging ⁽²⁵²⁾ S11wms 2/12/92

By EVELYN HOLTZHAUSEN

President FW de Klerk declared a moratorium on hanging.

The moratorium expired when the new legislation was enacted six months later.

Since then, 124 people have been sentenced to death. None of them have been executed.

The amendment was introduced after heated debate over the number of executions in SA.

Democratic Party MP Dave Dalling claimed in Parliament in June 1990 that Mr Justice Munnik had initiated a "basically mounted" campaign to block the amendment.

Confused

"I warned them then that this would happen," said Mr Justice Munnik. "Now, as I predicted, a number of judges are extremely unhappy."

"They are confused and believe they have been emasculated."

Prior to the amendment, a death sentence could only be set aside if the Appeal Court found a judge had not properly exercised his discretion or that he had reasoned wrongly.

Support

Division there had on occasions been dissenting judgments in the same case, Mr Justice Munnik said.

"It's a bit of the luck of the draw," he said. "I do not believe the Appellate Division judges have really worked out a rationale for when they consider death the only proper sentence."

"What we have is a sentence changed after much anxious thought, or words to that effect."

A Department of Justice spokesman said, "I respect the opinion of the Honorable GGA Munnik, but remain convinced that in view of the severity and finality of the death sentence, the extension of discretionary powers of both provincial and appellate divisions of the Supreme Court in capital cases was in the interests of justice."

"The amendment enjoyed broad support in the legal fraternity and in parliament."

Mr Justice Munnik served in the Transvaal, the Eastern Cape and was the first Chief Justice of the Transkei Supreme Court before being appointed Judge President of the Cape Provincial Division in 1981.

He has been praised by jurists in Cape Town as an "exceptional administrator" who had "served with distinction".

Violence Intimidation Third Force

FIVE top jurists will meet in Cape Town on Tuesday to probe allegations that the SADF's "third force" is still operating.

The fact that all five members of the Goldstone Commission of Inquiry will be present is in itself significant. The commission under the chairmanship of Mr Justice Goldstone was set up in October last year to investigate public violence and intimidation — what causes it, who is involved and what can be done to prevent it. The commission only sits with all its members in matters of national importance. Usually, it sets up a regional or local committee, chaired by a commission member, and draws on the services of other lawyers.

This is the second time all five commissioners have been summoned to an inquiry. The previous occasion was to investigate a claim in December that two policemen had conspired to murder.

The commission's members are chairman Mr Justice Richard Goldstone, vice-chairman Mr Niel Rossouw, SC, and Miss Lilian Baqwe, Mr Solly Sithole and Mr Gert Steyn.

Currently there are five Goldstone committees investigating political violence and intimidation.

Their other work has been put on hold so that the commission members can be in Cape Town this week to hear evidence regarding allegations, published in the Weekly Mail on January 3, that SADF front organisations had trained township killers.

In the past three months, Mr Justice Goldstone, of the Appellate Division, has traversed the country to

The probe



JUDGE GOLDSTONE
A hectic schedule

S/Times 2/2/92

continues

By CATHY STAGG

hear evidence in various inquiries. Two weeks ago he was in Mooi River. Now he is in Cape Town.

And on February 17, in addition to supervising the commission's tasks, he will be in Bloemfontein to take his place on the bench for the start of the Appeal Court's sittings.

Although there is a marked difference between the work of the commission and normal court proceedings, the two are complementary.

This was illustrated by the way the commission handled an allegation, published in the New Nation on

December 10, that two policemen based at Schweizer-Reneke were part of a conspiracy to abduct and murder the chairman of the Ipelegeng Civic Association.

By December 19, the full five-man commission had met in private, accepted a tape recording as evidence, examined the policemen and the New Nation's informant.

Because it appeared that a crime had been committed, it referred the matter to the attorney-general of the Transvaal for further investigation.

An important spin-off of the Goldstone Commission has been that the presence of independent, impartial lawyers seems to promote

negotiation.

In the Thokoza inquiry, hostel dwellers who had never seen conditions in a squatter camp — and squatters who would never have ventured into a hostel — saw each other's living conditions as they accompanied commission members on an inspection.

In gathering evidence, the commission also brings sides together. This was seen in Thokoza, Welkom and Mooi River, where people who had regarded each other with utmost suspicion have begun to communicate. Peace, admittedly fragile in places, is being restored by the commission's persistent probing of the causes of localised strife.

However, so far, most of the commission's witnesses have been found by lawyers acting for a particular interest group.

Members said they would welcome evidence of eye-witnesses not aligned to any particular group.

Although most hearings have been in public, evidence can be given in private.

The commission can only appoint committees chaired by one of its five members. And those five people have a phenomenal workload.

Apart from sitting much longer than normal Supreme Court hours, they also have to keep up to date with their colleagues' work by reading transcripts of evidence heard elsewhere in the country. And they also take part in probes into violence on a national level.

Workload

The workload problem was referred to in the commission's first interim report, issued on Friday.

Mr Justice Goldstone said there were other incidents of violence which ought to be probed.

However, there was simply not enough manpower to do so.

In the report, he made two suggestions. Firstly that committees need not be chaired by members of the commission and, secondly, that it should be possible to have committees of less than three people.

THOKOZA TOWNSHIP

THIS probe into violence in the East Rand township last September was the first to be appointed. Because Thokoza is seen as a microcosm of what is happening in other areas around the country, evidence will include the opinion of expert witnesses on how socio-political conditions affect violence.

Mr Solly Sithole, an advocate who practised at the Pretoria bar and was previously a law teacher at the University of the North, chairs the inquiry.

He is assisted by another commission member, Miss Lilian Baqwe, an attorney from Newcastle, Natal whose previous experience includes running a Legal Resources law clinic in Johannesburg.

They have been joined by former SA Perm MD, Bob Tucker, who returned to his previous career as an attorney to make a contribution to South Africa's "critical interim phase".

Massacre

The hearing began with an inspection in loco on November 18. Then the committee began hearing evidence at the Sinodale Centre in Pretoria, because some people had said they were afraid to be seen giving evidence in Thokoza.

THE WELKOM MINES

VIOLENCE at President Steyn Mine, which began on November 3 last year, led to the second committee.

Its terms of reference were approved by the National Union of Mneworkers, the owners of the mine, Freegold, and the SAP. These included the investigation of violence, the hostel system and the national stayaway called by Cosatu, Nactu and other organisations in November.

The chairman is commission member Mr Gert Steyn, a former Regional Court magistrate and the Port Elizabeth-based Presi-

dent of the Eastern Cape Regional Court.

He sat with Johannesburg advocate Mr Dan Bregman, SC, who has acted as a mediator in mine disputes, and an attorney, Mr Ray Zondo, a labour lawyer from Durban.

Evidence was completed on Friday, when the inquiry was postponed so that the chairman could attend the commission's sitting in Cape Town. Legal argument will be presented on February 19.

The committee will draw up a report for the Goldstone Commission, which

may make changes to the report before it goes to the State President.

A peace committee has been established on the mine comprising the different sections of the workforce, management, the police and SADF.

In the violence, 86 people died and fears were expressed that when Xhosa and Sotho workers returned to share the same hostels, further clashes might occur. But the "surprisingly positive" attitude when the peace committee was formed dispelled these fears.

DEMONSTRATIONS

THE third committee was established on December 6. Its aim is to investigate how

on January 14. An informed source said it was likely an

The hearing began with an inspection in loco on November 18. Then the committee began hearing evidence at the Sinodale Centre in Pretoria, because some people had said they were afraid to be seen giving evidence in Thokoza.

The committee heard that hostel dwellers held a march on September 8 and were fired upon by gunmen. This became known as the Inkatha massacre.

On September 29, civic association chairman Sam Ntuli was shot dead from a vehicle in a Mafia-style killing. After his funeral, on October 7, more people were shot as they left his house after the ceremonial washing of hands.

So far 31 witnesses, from the ANC, Civic Association of South Africa, East Rand Hostel Dwellers' Association, SAP and SADF have testified.

Their evidence has been transcribed and runs to more than 13 000 pages.

But Mr Sithole is also interested to hear from eye-witnesses who are not affiliated to any particular group.

Witnesses can telephone 012-320460 to arrange to meet Mr Sithole.

Complete anonymity can be guaranteed if necessary.

TRAIN AND TAXI VIOLENCE

ANOTHER national inquiry is being held into violence on trains and the "taxi wars".

It is chaired by Mr Niel Rossouw, SC, vice-chairman of the commission, assisted by another commission member, Mr Steyn, with advocate BM Ngoepe of the Pretoria bar, and Cape Town attorney and former president of the Association of Law Societies, Mr LS van Zyl.

Witnesses who want to give evidence can make an appointment to see Mr Rossouw by phoning 021-235508.

SADF FRONT GROUPS

THE Weekly Mail published allegations on January 3 that the SADF was funding "front organisations" which sponsored violence in black townships.

The next day Judge Goldstone asked one of the co-editors, Mr Anton Harber, to supply evidence.

On January 13 the Minister of Defence, Mr Roelf Meyer, and the ANC, both asked the commission to probe the allegations.

When the commission chairman issued a press release on January 14, the Weekly Mail's submissions were still awaited.

The hearing begins on Tuesday at the Sinodale Centre in Cape Town.

DEMONSTRATIONS

THE third committee was established on December 6. Its aim is to investigate how mass demonstrations should be organised and policed.

It is chaired by Judge Goldstone himself, assisted by commission member Mr Niel Rossouw, who was Cape Town's attorney-general and the dean of UCT's law faculty, Professor D Van Zyl Smut.

The committee is still sitting. Under this umbrella came the Mooi River/Bruntville inquiry. Violence erupted there on December 3 and 4 after a mass march.

The committee began hearing evidence

on January 14.

An informed source said it was likely an interim report on the Mooi River evidence would be sent to the State President.

At the end of the Mooi River inquiry, the judge, with the help of the National Peace Accord secretariat, brought together the IFP, ANC, unions, industry and business leaders, the town council, Natal Provincial Administration, church leaders, farmers, a representative of the the SAP and SADF and a deputy attorney-general.

A dispute resolution committee was set up and people re-pledged themselves to observing the peace accord.

BOMBAY



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District for Kriel

25-22

Justice Minister Kobie Coetsee is planning to create a magisterial district for Kriel, which has had its own municipality since July 1990. Interested parties can comment on the decision by writing to the Director-General Justice, Private Bag X81, Pretoria 0001 (Attention G J Jordaan) STAR 312192

Goldstone probe seeks wider scope

By Esther Waugh
Political Reporter

STAR 3/2/92
minimum of three people be appointed to committees and that a member of the commission should serve on every committee be removed

CAPE TOWN — The Goldstone Commission into Political Violence and Intimidation cannot investigate certain urgent issues because its terms of reference are too narrow, it was revealed on Friday

In its first interim report, tabled in Parliament, the commission recommended amendments to the Prevention of Public Violence and Intimidation Act which requires committees, appointed by the commission, to have at least three members, one of whom must be one of the five commission members

"All the members of the commission are at present serving on committees and consequently the commission at this stage is unable to inquire into several situations of violence which require its urgent attention," Mr Justice Goldstone said

The commission recommended that the requirement that a

minimum of three people be appointed to committees and that a member of the commission should serve on every committee be removed

Mr Justice Goldstone said it was too early to draw conclusions from information which had come to the attention of the commission. There was, however, no doubt that the existence of the commission served an important purpose

"The fact that there is an independent body which can receive and ask for information in an area which has hitherto been one of secrecy, in which rumours have abounded, is itself encouraging," he said

Since it was established in October, the commission had appointed four committees

● A committee into violence in Tokoza was established in October. The hearings were still in progress and the commission said it would be premature to comment on them at this stage

mine in Welkom. The hearings had not been concluded

● A committee was also set up to look into aspects of "mass action" On January 13 it heard evidence in Mooi River on violence and killings in the area in December. An interim report on urgent aspects of the Mooi River situation would be submitted to the commission today

● A fourth committee was set up last month to probe violence related to public transport

The commission heard evidence in December on an alleged conspiracy involving two policemen in the abduction and murder of the chairman of the civic association in Schweizer-Reneke. It decided there was prima facie evidence implicating the policemen

Azapo and the PAC had been invited to discuss the commission's concern about the organisations' attitudes to violence relating to the Paul Simon tour and murder of policemen

The commission would begin hearing evidence tomorrow on allegations that the SADF instigated township violence

†THE MINISTER OF TRANSPORT

Yes,

(a) As mentioned during my budget speech on the Transport Vote on 22 April 1991, I identified the functioning of the Multilateral Motor Vehicle Accidents Fund as an area that warranted closer investigation. Please refer to column 6017 of Hansard. Since then disquieting allegations have been made with regard to the Fund and the handling of claims against the Fund by its agents. The State President, following a preliminary report by the Auditor-General who has been asked by me to investigate the matter as a matter of urgency, at my request appointed a commission of inquiry into the functioning of the Fund and its agents and other parties involved.

(b) The Honourable Mr Justice D A Melamet has been appointed as chairman of the Commission and Messrs K G Raane and F S H Ochse as members. The Commission's terms of reference are set out in the Government Gazette of 15 November 1991, no 13634, volume 317.

(c) The Commission commenced its investigations during December 1991 and these are still in the initial stages. Provision is made in the terms of reference that interim reports may be submitted on urgent matters. It is anticipated that an interim report in respect of certain of these matters will be ready in the first quarter of this year. I will, where appropriate, make announcements on receipt of such report or reports.

†Adv J J S PRINSLOO Mr Speaker, arising out of the hon the Minister's reply, I want to ask him whether there is any estimate at this stage as to when the final report of this committee of inquiry will be available.

†THE MINISTER OF TRANSPORT Mr Speaker, it is for the judge to decide when it will be ready. We have requested him to complete it as soon as possible, but he has not committed himself to a date.

†Mr J J S PRINSLOO Mr Speaker, further arising out of the hon the Minister's reply, I want to know whether he would agree that the allegations about malpractices in respect of this fund

are of such a nature that they have far-reaching implications for people who have submitted claims against the fund and are not being paid out of the fund as a result of the alleged malpractices.

†THE MINISTER Mr Speaker, to date I have no knowledge of anyone who has not been paid as a result of the investigation into this fund. The fund is continuing to function normally, because there are sufficient funds at its disposal. The allegations are being made in particular against some of the agents of the fund and not against the fund as such, because the fund does not make the payments, they are made by the agents and are for the account of the fund.

In so far as it was possible for us and with the assistance of the Auditor-General we have been able to establish that this fund has enough funds at its disposal to carry on with its normal activities as in the past.

†Adv J J S PRINSLOO Mr Speaker, further arising out of the hon the Minister's reply, will he tell the House what steps have been taken against some of the agents who have been identified and are under suspicion and are being investigated by the committee at this stage before the final report of the committee is available?

†THE MINISTER Mr Speaker, the Minister of Transport has acted accordingly and has appointed persons within the Multilateral Motor Vehicle Accidents Fund to ensure that all payments are monitored and audited. Furthermore, as an interim measure, both the Auditor-General and the auditors of the fund concerned are exercising supervision while the allegations are being investigated. At this stage I cannot say whether the allegations are correct or not, and therefore we could do no more than what the law allowed us to do.

Mr R V CARLISLE Mr Speaker, arising from the hon the Minister's reply, may I ask him whether he would agree that an increase in the price of fuel is going to be necessary to bail the fund out?

THE MINISTER Mr Speaker, at this stage I am not sure what the commission is going to recommend about the fuel price, or whether or where we are going to get the money to make this a liquid fund in the future. I am not in a position

yet to say how we are going to fund that shortfall in the fund.

†Mr J J C BOTHA Mr Speaker, arising out of the hon the Minister's reply, I want to ask him, on the one hand, he can talk about making the fund liquid again, while on the other hand he talks about sufficient funds to carry on with the normal obligations of the fund.

†THE MINISTER Mr Speaker, what is interesting is that the shortfalls of the fund have been calculated actuarially. In other words, it is what is anticipated for the next number of years and not what is being paid out. [Interjections] There is quite a big difference between what is determined by the actuary and what is actually claimed. There have been accidents in respect of which claims still have to be made, because in terms of legislation any person has two years after the accident in which he can claim. Furthermore the fund is of such a nature that the actuary determines two years in advance what the possibility is, and that is the provision that is made and that has to be separated from the cash flow which has been and has to be paid out in respect of the claims already submitted.

Mobile/temporary courts

*2 Adv J J S PRINSLOO asked the Minister of Justice †

- (1) What was (a) the average daily amount spent by the State on operating the mobile and temporary courts introduced in the latter half of 1991 and (b) the average daily income from fines imposed by these courts,
- (2) whether the respective Attorneys-General were consulted on the introduction of the said courts before they were introduced, if so,
- (3) whether they recommended the introduction of these courts?

†THE MINISTER OF JUSTICE

(Reply partially laid upon the Table with leave of House)

For the purposes of a clear perspective, availability of the administration of justice and service to the public, the temporary establishment of mobile courts and standby courts which also sit

after hours at fixed points along main routes should be seen as a single project.

- (1) (a) Mobile Courts an average of R1 904,96 per court per day. Standby courts an average of R113,92 per court per day. In total an average of R2 018,88 per day.
- (b) Mobile Courts an average of R765,82 per court per day. Standby courts an average of R288,83 per court per day. In total an average of R1 054,65 per day.

The hon member must therefore not lose sight of the fact that the three mobile courts did not function in isolation, but in conjunction with the 79 magistrates' courts adjacent to the main routes, which were also on standby for 24 hours, on the same basis, for the hearing of cases. This project, which was launched during the holiday period, in its turn was supplementary to the system of night courts which has been operating since April 1991 at the main offices of the magistrates' courts. The necessity for this service is evident when it is noted that of the 1 622 cases which were heard during the period October to December 1991 in the mobile, standby and night courts, 754 were settled in December alone. This figure for December represents an increase of 184% in comparison with the figure for October and November. This becomes more significant if it is taken into account that the volume of court work usually shows a decrease during the December period. The significant role which the courts, which were placed on 24 hour standby along the main holiday routes, have played, together with the mobile courts, is apparent from the fact that the two projects alone heard 786 cases of various types during the period 13 December 1991 to 22 January 1992.

When calculating the cost-effectiveness of such an exercise, one inevitably has to take into account in the first place the fact that it contributed to the decrease in the death toll by 470 (40%) as against last year during the past holiday season. Converted into monetary value, this decline in deaths represents a saving of R200 million in state expenditure.

Whatever the contribution of these additional courts to this saving in lives and money, it is evident that it is substantially more than the R2 018,88 per day which the cost of operating these courts amounted to. Not included here is

the saving for accused persons, who, after a holiday, would not have to return to the place where the offence was committed, should they choose to defend the case. The astronomical amounts of money saved by insurance companies is also not included herein. During December/January 15 347 persons were prosecuted on the provincial main routes in all districts. 400 Persons were prosecuted for driving under the influence of alcohol, 48 for offences committed by pedestrians and 28 779 for other offences such as unlawfully stopping on freeways and for unroadworthy vehicles.

The mobile and standby courts, however, were not only employed with a view to traffic matters. Two of the mobile courts in particular were situated so that they could be seen to supplement existing magistrates' courts near unrest areas. The quantification of the deterrent effect of these or any other courts is understandably very difficult. It is difficult to say how many ships do not founder due to the warnings of a lighthouse. It would, however, be dangerous and irresponsible to remove the lighthouse for this reason. The fact remains that the number of incidents of unrest decreased by 8 283 (51%) in December 1991 compared with the corresponding period in the previous year. The attention of the Honourable Member is also drawn to the fact that this additional service was rendered by magistrates and their staff with their customary diligence and willingness to sacrifice, without in the least derogating from the administration of justice at their main offices. I thank them for this and would like to suggest that they also deserve the gratitude of the public of South Africa.

The advantages and disadvantages of each project as well as its effectiveness are evaluated against experience, as a matter of course. This is also the case with this project. It has for instance already been decided to move the mobile courts, i.e. the rolling courts, to districts where additional court accommodation is much needed. They are at present at Thokoza, Vosloorus and Marburg. The standby courts ceased to function after hours at the end of the holidays, except where night courts are still functioning at places where large court rolls necessitate this.

(2) The Minister of Justice is empowered under section 2(1)(h) of the Magistrates' Courts Act, 1944 (Act 32 of 1944), to designate at his discretion, places in magisterial districts where court sessions are

to be held. The project was launched with the co-operation of the Attorneys-General concerned. One of them attended the coming into operation of one of the courts.

(3) Falls away.

†Adv J J S PRINSLOO Mr Speaker, arising out of the hon the Minister's reply, I want to say, with respect, his reply did not say that it was the recommendation of the Attorneys-General and whether it had their approval. He said it was done with their co-operation. I should just like to ask whether he would not reply to that question specifically in the terms in which it was put.

†The MINISTER OF JUSTICE Mr Speaker, I do not know what the hon member is up to now. Does he doubt the merit of my decision? Then he must say so. It took place with the co-operation of the Attorneys-General and one of them was present at the opening of a mobile court. That is what I am prepared to say here.

†Adv J J S PRINSLOO Mr Speaker, further arising out of the hon the Minister's reply, paragraph (3) of the question specifically reads whether the Attorneys-General recommended these institutions. That is the question that I am asking. The hon the Minister is not replying to it, because co-operation and recommendation are two different things.

†The MINISTER Mr Speaker, many projects are undertaken that the Attorneys-General are involved in and that they have an interest in, which do not take place at their recommendation and which are not a reaction to their recommendation. This was an initiative that was undertaken after discussions with my colleague, the hon the Minister of Transport, who indicated to us that there is a large need for fast and effective judgement. Secondly, arising out of the peace conference, we said that we want to institute special courts that must be available to handle unrest situations. [Interjections.]

Its purpose was two-fold, and what I am now telling the hon member is not news. I emphasized it and when I opened the one court I gave this motivation. [Interjections.] The result that we obtained was fair and very reasonable. I challenge the hon member to attack the merit of the decision.

†Adv J J S PRINSLOO Mr Speaker, further arising out of the hon the Minister's reply, is it

correct that some of these courts stood empty for long periods, that no cases were heard, while the staff who manned them were withdrawn from nearby courts? *Hansard 14/2/92*

†The MINISTER Mr Speaker, that is correct, but a court does not catch people. A court sits and waits for work that must be done after policing, either by the traffic department or by the police. They do not produce it themselves.

It is true that there were times that the courts did not have work, but this happens in every rural town. Does the hon member now wish to argue that we must close his constituency's courts because they do not have work? I challenge the hon member to argue for it! Do it! [Interjections.] Perhaps he does not have the courage. [Interjections.]

However, these are the facts, and we then employed those officials in courts in nearby magisterial districts. It is a study and a project that definitely yielded dividends and it is worthwhile because we feel that we may have saved so many people's lives. I challenge the hon member to attack it. I actually think that it is a disgrace that the hon member questions a project that was aimed at saving people's lives.

†Mr F J LE ROUX Mr Speaker, on a point of order. I should like to suggest that the hon the Minister is only supposed to reply to the question and not to deliver a speech. [Interjections.]

†The SPEAKER Order! The hon the Minister may continue.

†The MINISTER If the hon member for Brakpan entices me to make a speech in order to open his members' eyes I cannot allow the opportunity to pass. [Interjections.]

†Adv J J S PRINSLOO Mr Speaker, further arising out of the hon the Minister's reply, what is the reaction of the Attorneys-General's offices to this experiment that he has now done for the first time? Are they in favour of it? Do they say it was a good thing or not?

†The MINISTER I said to the hon member that we are doing an evaluation. I shall invite the hon member for a cup of tea and I shall tell him what the evaluation is. [Interjections.]

*3 Mr J CHIOLE asked the Minister of Environment Affairs †

(1) Whether any research was done recently on the numbers of the various kinds of dolphin occurring off the Natal coast, if not, why not, if so, what do the findings indicate,

(2) whether the Government intends taking any steps in regard to the matter and/or findings, if not, why not, if so (a) what steps and (b) what amount has been budgeted for these steps? B5E

†The MINISTER OF ENVIRONMENT AFFAIRS

(1) Yes—research on various aspects of dolphins along the east coast of South Africa is being undertaken on an ongoing basis. Research findings were published in professional journals in 1987, 1989, 1990, 1991 and 1992. Thus far the research was mainly confined to bottlenose dolphins and the findings indicate a decline in the numbers of bottlenose dolphins inhabiting the Natal coast between the periods 1974-1978 and 1984-1988.

Research on other dolphin species and dolphin entangling in shark nets was and is also being undertaken and the findings are being published.

(2) Yes—all dolphin species are already fully protected by Section 25(5)(a) of the Measures for the Protection of Rook Lobster, Abalone and Fish, framed under the Sea Fishery Act, 1988 (Act 12 of 1988),

with regard to parts (a) and (b) of the question, the following research on dolphins are being directed and undertaken by persons employed by the State as part of their normal functions. The steps that are taken with regard to the protection of dolphins are based on the research findings. The researchers concerned *inter alia* further teach students, also internationally. It is not possible to quantify the amount.

Business interrupted in accordance with Rule 180C (3) of the Standing Rules of Parliament

National Transport Commission

*4 Mr J CHIOLE asked the Minister of Transport †

- (1) Who are serving on the National Transport Commission at present;
- (2) whether the composition of this commission changed recently, if so, (a) what was the nature of the changes and (b) (i) who served on the previous National Transport Commission and (ii) for what length of time did each of the permanent members serve on it;
- (3) whether members of the previous commission whose services were terminated were furnished with reasons for the termination of their service, if not, why not, if so, what reasons?

B6E

The MINISTER OF TRANSPORT

- (1) The following eight members presently serve on the National Transport Commission

Dr M F Mitchell Chairman and Acting Director-General Transport
 Mr R G Meyer
 Mr H J Claassens
 Mr J J Smit
 Mr G R Pauw
 Mr S Petersen
 Mr P M Chetty
 Prof S J Zondi

Dr C F Scheepers who has been appointed Director-General Transport as from 1 March 1992, will from that date be appointed chairman of the Commission

- (2) Yes, the composition of the Commission has changed with effect from 1 January 1992
 - (a) The membership has been decreased from ten to eight members. The powers, functions and duties of the Commission have been scaled down over the past year to such an extent that it now concerns itself primarily with matters regarding civil aviation and commuter subsidies
 - (b) (i) The following members served on the previous Commission

Mr R G Meyer Chairman and Director-General Transport

Mr J J Smit
 Mr H C van Zyl
 Mr B Slabbert
 Mr E F Nkisch
 Mr G R Pauw
 Mr J J S Germshuys
 Mr A M Brynard
 Mr H J Meyer
 Mr C J Grové

- (ii) The permanent members served on the previous Commission for the following periods
 - Mr R G Meyer — 1 October 1987 until 31 December 1991
 - Mr J J Smit — 1 May 1987 until 31 December 1991
 - Mr H C van Zyl — 1 October 1976 until 31 December 1991
 - Mr B Slabbert — 1 October 1971 until 31 December 1991
 - Mr E F Nkisch — 1 June 1977 until 31 December 1991

- (3) Yes, the members were informed that their periods of service expired on 31 December 1991 and that the demands of the changing transport environment have necessitated the re-composition of the Commission

Letter Acting Judge President, Natal

*5 Mr D J DALLING asked the Minister of Justice *Hansard* 4/2/92

- (1) Whether in July 1991 he received a letter from the Acting Judge President of Natal in connection with the release of criminals from prison, if so, *252*
- (2) whether he will disclose the contents of this letter, if not, why not, if so, what was (a) the content of the letter and (b) his response thereto?

B11E

The MINISTER OF JUSTICE

- (1) Yes
- (2) No. It is not practice to disclose the contents of correspondence addressed to me. In fact, the Honourable Member may wish to reflect whether his question, referring to the action of a court official, to wit a Judge President, is in order in terms

of Parliamentary convention. The Honourable Member is referred in this regard to *E May, Parliamentary Practice* (21st Ed.), p 291 and also p 288. *252*

The matter of release of prisoners, both under the amnesties announced by the State President and in terms of normal policy, was subsequently discussed at a conference held with the Chief Justice and all the Judges President

A mutual understanding was reached in respect of both the concerns voiced on behalf of the administration of justice and the particular demands on the Executive at a crucial stage in South Africa's development, when exceptional steps had to be taken in order to deal with the question of political prisoners and the necessity of an evenhanded approach as far as other prisoners were concerned

- (a) and (b) Fall away

Certain persons: potential threat

*6 Mr P G SOAL asked the Minister of Defence

Whether, with reference to his reply to Question No 26 on 19 February 1991, a certain person, whose name has been furnished to the South African Defence Force for the purpose of the Minister's reply, was identified by the Civil Co operation Bureau as a potential threat to State security, if so, (a) when, (b) for what reasons and (c) what is the name of this person? *Hansard* 4/2/92

B16E

The MINISTER OF DEFENCE

As was indicated in the reply to question number 26 of 19 February 1991, the findings of the Harms Commission had been referred to the Attorney-General for further investigation. The Attorney-General has indicated that the matter is still being investigated and it is therefore *sub judice* (a) (b) and (c) fall away

SABC: educational television service

*7 Mrs C H CHARLEWOOD asked the Minister of Education and Training

- (1) Whether, since the reply to Question No 23 on 9 April 1991, his Department has taken any further steps to establish, through the South African Broadcasting *Hansard* 4/2/92

Corporation, a full-scale educational television service to Black schools throughout the country, if not, why not, if so, (a) what further steps and (b) when is it anticipated that this service will commence,

- (2) whether he will make a statement on the matter?

B19E

The MINISTER OF EDUCATION AND TRAINING *Hansard* 4/2/92

- (1) No

(a) The establishment of a full-scale educational television service to Black schools country-wide cannot be afforded by the Department at this stage

The department is currently planning a project in co-operation with the SABC to assist standard 10 candidates with the aid of television broadcasts for two hours per day from 1 April 1992 to 30 September 1992

Furthermore the Department and the SABC are jointly planning a pilot television programme project which will be directed at pupils from standard 5-7, parents and teachers. The programmes will be broadcast during 1992

An interdepartmental committee is currently investigating all aspects of distance education. This includes, inter alia, educational radio and television

- (b) Falls away
- (2) Not at this stage

Single health department

*8 Mr M J ELLIS asked the Minister of National Health *Hansard* 4/2/92

- (1) Whether, since her reply to Question No 15 on 12 March 1991, her Department has taken any further steps to consider the administrative, financial and national health implications of a single department of health for South Africa, if so, what further steps, if not, why not, *cont-d*

Limit 'exorbitant' fees tracing agents charge - MPs

Most members of the Justice Committee supported legislation to be introduced to limit the fees that "unscrupulous" tracing agents charge to find beneficiaries of money in the State's Guardian Account.

Speaking in the second-reading debate of the Estate Affairs Amendment Bill, Deputy Justice Minister Danie Schutte said he realised tracing agents provided a valuable service in finding beneficiaries, but many charged exorbitant amounts of up to 40 percent for tracing them.

This sentiment was echoed by Arthur Roper (Ind Alra Park), Rosier de Ville (CP Standerton), Mahomed Cassim (Sol Norm), Michael Hendrickse (LP Schauderville) and Ray Radue (NP King William's Town).

Mr Radue said there was R357 million in the Guardian Account which, if not claimed in 50 years, would be forfeited to the State.

A fee of between 10 and 15 percent would be fair for tracing agents, but the precise fee had still to be worked out.

Amounts of more than R20 should be published in the Government Gazette annually in a bid to trace the beneficiaries.

Mr de Ville, Mr Cassim, Mr Hendrickse and Mr Roper felt R100 should be the minimum amount.

Both Mr Hendrickse and Mr Cassim said advertisements

should be taken out in the national Sunday press to give a broad range of people access to the information.

The NPP, LP and DP all supported the Bill.

Lester Fuchs (DP Hillbrow) asked Mr Schutte to look at shortcomings such as beneficiaries being less likely to become aware of their entitlements.

Replying to the debate, Mr Schutte thanked all MPs for their support. — Sapa

Policemen on trial over Sebokeng deaths

Vereeniging Bureau ^{STAR} 4/2/92

The nine policemen charged with murder in connection with the Sebokeng shootings on March 26 1990 are to stand trial in the Vereeniging Circuit Court from June 1 to 19

The charges against the policemen, all from the Vaal Triangle and Krugersdorp areas, followed a report by the Goldstone Commission of Inqui-

ry appointed to investigate the shootings

The policemen are Lance-Sergeant Sean van Rhyn (26), Constable Willem Joseph John van der Walt (22), former Constable Gideon Johannes Joubert (22), Detective-Sergeant James van der Mescht (21), Assistant Constable Samuel Lesikara (28), Assistant Constable Oujan Mohoboko (22), Assistant Constable Peter Khumalo (31), Assistant Constable Immanuel Ratomo

(26) and Assistant Constable Samuel Cekiso (29)

All are facing six counts of murder, one of attempted murder and an alternative charge relating to the negligent use of a firearm. None of them has pleaded to the charges yet.

The shootings were sparked after a 50 000-strong UDF gathering, which intended marching to Vereeniging on March 26 two years ago, was halted by police

OB men in court

Extradition proceedings began in the Johannesburg Magistrate's Court yesterday against three Orde Boerevolk members wanted by Namibian police in connection with an attack on an Untag building in 1987. Leonard Veenendal (24) of Utrecht, Natal, Darryl Stopforth (23) of Rosettenville, Johannesburg, and Horst Klenz (53) of an unknown address, face seven charges in Namibia including murder and escaping. They were remanded until February 17.

STAR 4/2/87

(152)

Crime: MP slams judge for hanging comments

(252)

AUG 4/1992

Political Staff

MR Justice Munnik has been sharply criticised by a Democratic Party MP who charged that he had done his fellow judges a disservice and insulted their intelligence

Hillbrow MP Mr Lester Fuchs was reacting to Judge Munnik's comments at the weekend on the reason for the increase in crime, and his support for the death penalty

Mr Justice Munnik's comments, he said, "show a lack of understanding for social processes"

"While it is the democratic right of Judge Munnik to support capital punishment, I believe that his statement that the Criminal Law Amendment Act of 1991 has led to the escalation of crime is incorrect and without foundation"

Mr Fuchs said extensive research worldwide — including studies by Amnesty International — had found the death penalty was not an effective deterrent in preventing murder and other serious crime

"If Judge Munnik has any empirical evidence

which is not anecdotal or conjecture, he should make it available as a matter of urgency.

"In addition I respectfully disagree with Judge Munnik that judges have been emasculated simply because the Appellate Division can now set aside a death sentence if the Division would not itself have imposed such a sentence

"Judges retain discretion in matters of this nature and I believe that Judge Munnik does his fellow judges a disservice and insults their intelligence by suggesting that they are confused"

Mr Fuchs said that the fact that fewer people had been sentenced to death by judges since the introduction of the Criminal Law Amendment Act "certainly does not reflect on the masculinity of the judges concerned as Judge Munnik seems to suggest"

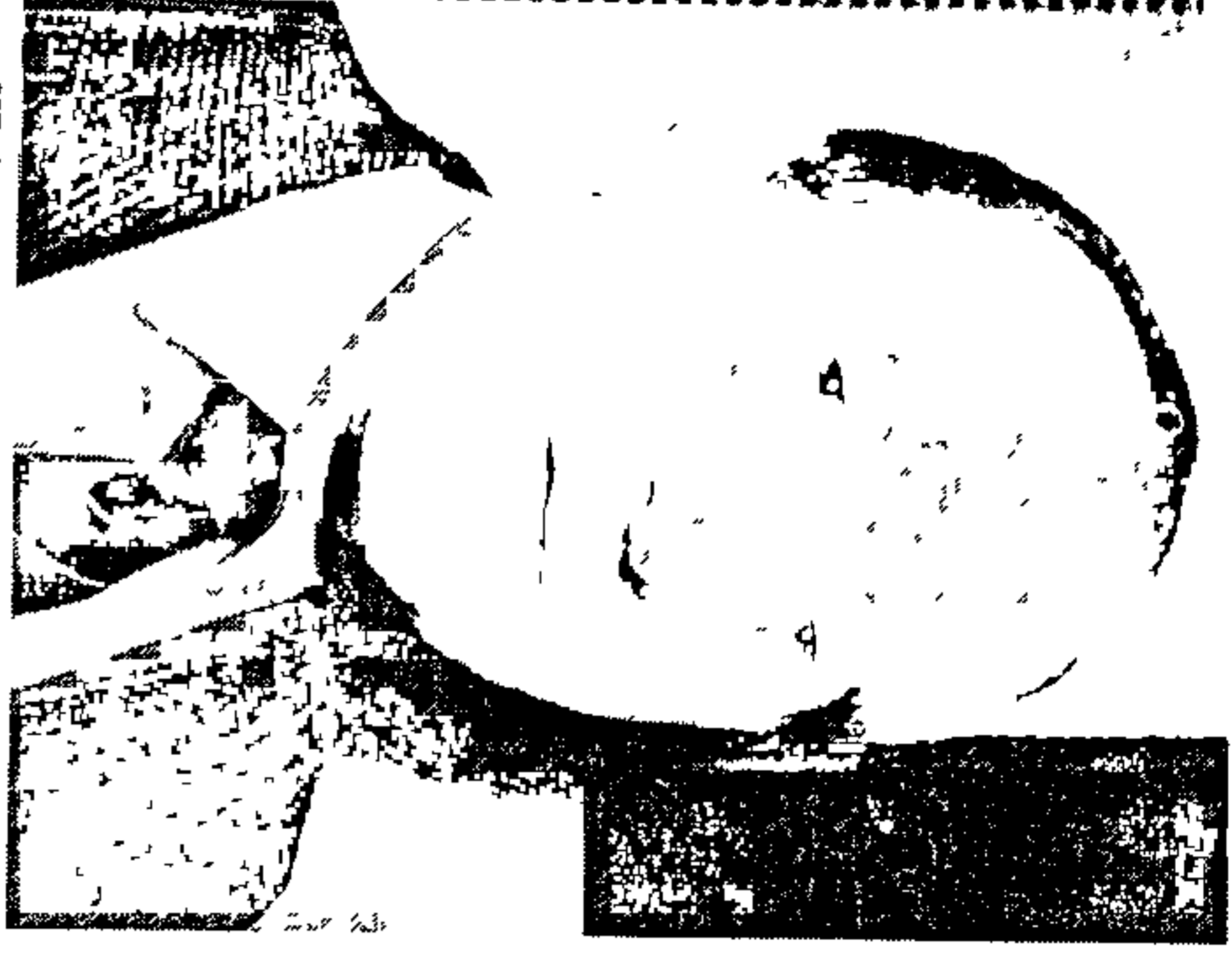
"There are many people, judges included, who believe the Criminal Law Amendment Act is a vast improvement on the previous position and I hope Judge Munnik will respect their views as well"

'No evidence of recent SADF funding'

8/10/94 ST/2/92

LINDA ENSOR

252



MR JUSTICE GOLDSTONE... will chair inquiry

CAPE TOWN — There was no evidence of current or recent funding by the SADF of front organisations involved in violence or intimidation, Mr Justice Richard Goldstone said yesterday.

Mr Justice Goldstone was commenting on the contents of a joint memorandum submitted to the Goldstone commission of inquiry into public violence and intimidation by the Weekly Mail, ANC, Cosatu, SACP, Media Defence Trust and Lawyers for Human Rights. There were no witnesses to lead this evidence, Mr Justice Goldstone said.

"However, the memorandum does contain allegations concerning serious violence and intimidation committed recently by persons trained in camps set up by organisations which were formerly funded by the SADF."

"The commission considers that these allegations should be investigated by a committee of inquiry as a matter of urgency," he said.

The commission has appointed a committee to be chaired by Mr Justice Gold-

stone which will begin hearing evidence today on the Weekly Mail allegations about front organisations sponsoring violence in black townships.

The first witness will be former Inkatha central committee member Mhongenani Khumalo. He will be followed by two Black Cats gang members, who have alleged they were hired to perpetrate violence.

Mr Justice Goldstone has ordered that the Black Cats remain anonymous in the interests of their personal safety.

Weekly Mail legal representative David Soggot SC submitted that while there was no specific evidence implicating the SADF in current funding of front organisations, there was general evidence in the memorandum which allowed the inference that this was still an ongoing process.

"Military Intelligence, which has set out on a strategic policy of fostering violence in black townships as part of a process of contra-mobilisation, is still bent on that strategy and there is nothing to suggest that the original plan has come to an end. "It is our case that such a strategic plan

on a national scale was devised," Soggot said.

In an interview, Weekly Mail editor Anton Harber welcomed the terms of reference of the commission but said that Mr Justice Goldstone was "plainly and simply wrong" about the lack of evidence of current SADF funding.

He said there was evidence which would emerge in the course of the inquiry and he expressed concern that the judge may have prejudged the issue. Funding of the front organisations was scheduled to continue to February 1994.

The SADF's legal representative, Carel Rabie, said the SADF denied responsibility for furthering violence in this situation and welcomed the commission's inquiry.

Mr Justice Goldstone said the committee would hear evidence on

- The whereabouts and relevant activities of about 200 persons allegedly trained at a base named "Hippo" in the Caprivi Strip during 1986 and thereafter at the Mkuze Camp in KwaZulu
- The joint memorandum brings up
- That 200 Inkatha men were trained in

wartfare and anti-ANC/UDF propaganda at these camps,

- The training and activities of a group in Wessleton, Ermelo, known as the Black Cats who are alleged in the memorandum to have been recruited for training by some of the Caprivi trainees and to have been responsible for numerous anti-ANC assassinations and attacks,
- The organisations if any, to which these two groups of people belong and who controls them,
- The present and recent operations of eight named firms, to the extent that they might be involved in recent or current public violence and intimidation

The memorandum alleges that a number of front organisations, acting on behalf of military intelligence and some with Inkatha links, were involved in the training and instruction of the trainees. It claims that about R165m in secret funds was channelled through them for these purposes.

- The role, if any, of the SADF in funding or assisting persons or organisations who had been found to have been involved with violence or intimidation

50-5
ISSI

Probe into violence linked to camps

Political Staff **STAR** 5/2/92

CAPE TOWN — A special committee has been appointed to urgently investigate allegations of violence and intimidation by people trained in camps set up by organisations formerly funded by the South African Defence Force.

This was announced by Mr Justice R J Goldstone in Cape Town yesterday when he opened public hearings of the Goldstone Commission into Political Violence and Intimidation. The four-man committee will report its findings to the commission.

Mr Justice Goldstone said the commission had received a joint memorandum on Thursday from the Weekly Mail, the ANC, the Congress of South African Trade Unions, the South African Communist Party, the Media Defence Trust and Lawyers for Human Rights.

"In the opinion of the commission, the memorandum contains no evidence which relates to current or recent funding by the Defence Force of such 'front organisations'.

"No other evidence or information has been placed before the commission concerning the allegations made by the Weekly Mail. There are consequently no witnesses whose evidence can be led before this hearing of the commission," Mr Justice Goldstone said.

However, the memorandum did contain serious allegations of violence and intimidation committed recently by people trained in camps set up by organisations formerly funded by the Defence Force.

"The commission considers that these allegations should be investigated by a committee of inquiry as a matter of urgency."

Mr Justice Goldstone said the committee's terms of reference were to inquire and report to the commission on:

- The whereabouts and relevant activities of 200 people allegedly trained at a base, named Hippo, in the Caprivi Strip during 1986 and thereafter at the Mkuze camp in KwaZulu

Evidence

- The training and activities of a group in Wesselson (Ermelo) known as the Black Cats
 - The present and recent operations of Creed Consultants in Durban, Dynamic Teaching cc in Port Elizabeth, Montage (formerly Go High) in Cape Town, Dia/Plus (formerly Joset Housing and Management Services) in Kimberley, Betapers in Louis Trichardt, Tsoja Enterprises (formerly Laborel Advisory Services) in Johannesburg, Topman Bestuursdienste cc, and Adult Education Consultants cc
- Mr Justice Goldstone added that the legal representatives of the Weekly Mail had requested that the evidence of three witnesses be led immediately.
- "They are Mbongeni Khuma-

lo and two members of the Black Cats whose identity they have requested to be withheld from the public."

The committee will start hearing the evidence today.

Because of the recent speculation in the media regarding the terms of reference of the commission, it had decided to make known its views, Mr Goldstone said.

The commission had been established in terms of the provisions of the Prevention of Public Violence and Intimidation Act and it could not lawfully operate outside the provisions of this Act.

"The primary function of the commission is to inquire into the phenomenon of public violence and intimidation, the nature and causes, and what persons are involved.

"It is also required to inquire into any steps that should be taken in order to prevent public violence and intimidation."

The commission is expressly precluded by the Act from inquiring into any particular occurrence which took place and ended before the commencement of the Act on July 17 1991.

However, Mr Justice Goldstone said this preclusion did not prevent the commission from hearing evidence and gathering information in connection with an occurrence before that date if, in its opinion, "it is necessary for the proper performance of its functions".

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Seven held over Munsieville 'people's court'

STAR 5/2/92
By Glen Elsas
West Rand Bureau (252)

Seven people were arrested in Munsieville on Monday in connection with an alleged people's court operating in the township.

They are expected to appear in the Krugersdorp Magistrate's Court today.

Captain Henriette Bester of the West Rand police said a group of people attacked the owner of a Munsieville home with fists and whips on Sunday afternoon because the man had walked out of a people's court hearing and had refused to accept the court's authority.

He resisted the attack

and the gang left with the threat that they would return.

At about 8 pm on Sunday the gang returned and, after stoning him, set his home and car alight causing damage estimated at about R35 000.

The name and address of the victim is being withheld to protect him.

Piet 'Skiet' denies charge

By Gien Elsas
West Rand Bureau

252

"My actions were clearly aimed at the State and not against the court," Piet "Skiet" Rudolph (53) stated when he appeared in the Krugersdorp Magistrate's Court yesterday on a charge of contempt of court.

The charge follows an earlier appearance for a traffic violation when Mr Rudolph refused to appear in front of a coloured magistrate and be prosecuted by a black prosecutor last year.

He was eventually acquitted on the charge of exceeding the speed limit when he appeared at a "white" court.

Mr Rudolph was charged with contempt for "illegally and purposefully eroding the dig-

STAR 5/2/92
nity, esteem and authority" of magistrate Joseph Jason, who had presided in that court, by demanding that Mr Jason recuse himself from the case because, Mr Rudolph claimed, he was an alien to South Africa.

He said his actions were a form of criticism against the political authorities and their policy and this could not be classified as contempt. He said that a large element of doubt had to exist at the court if his actions had, indeed, been contemptuous and against the law.

At no time had he doubted the professional ability of Mr Jason as a magistrate. Nor had he doubted the ability of the prosecutor. He had merely refused to stand in front of them as he could not be tried by "aliens".

Probe into violence linked to camps

Political Staff STAR 5/2/92

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Evidence

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- The present and recent operations of Creed Consultants in Durban, Dynamic Teaching cc in Port Elizabeth, Montage (formerly Go High) in Cape Town, Dia/Plus (formerly Joset Housing and Management Services) in Kimberley, Betapers in Louis Trichardt, Tsoja Enterprises (formerly Laborel Advisory Services) in Johannesburg, Topman Bestuursdienste cc, and Adult Education Consultants cc.

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NEWS IN BRIEF

UN challenge to govt

IN A move to stop government attempts to "break agreements", the United Nations High Commission for Refugees (UNHCR) in South Africa has decided to cover legal costs of a returned exile who appeared in court this week.

Mr Enoch Malatsi, 21, and two others appeared in the Dewetsdorp Magistrates Court in the Orange Free State on Tuesday on charges of assault and theft.

The UNHCR regards the arrest and charges as illegal and has called for the unconditional dropping of all charges. South 6/2-12/2/92

Malatsi, his brother Mr Ephraim Malatsi and Mr Benjamin Siyokeo allegedly assaulted a policeman and robbed him of his firearm on December 20, 1990.

The trial was postponed to February 7.

7 appear over 'people's court'

Southern 6/2/92

252

SEVEN people who allegedly operated a "people's court" in Munsieville are to appear in the Krugersdorp Regional Court today on charges of assault and malicious damage to property.

West Rand police spokesman Captain Hendriette Bester said the seven were arrested on Tuesday by the Unrest and Violence Investigation Unit.

It is alleged that about 2pm on Sunday, a group of people attacked the owner of a Munsieville home with fists and whips, because as an accused

By NKOPANE
MAKOBANE

at a people's court hearing, he walked out and refused to accept the court's authority.

"The man apparently resisted the attack and the group left his property, with the threat that they would return. That evening at 8pm the group returned, set his home and vehicle alight and stoned him. Damage to the home and vehicle is estimated at about R35 000," she said.

Three men appeared in court in the Mhala area in Gazankulu on Tuesday after they were arrested for possession of various Russian weapons.

A police spokesman in Pretoria said on Sunday members of the Crime Investigation Support Unit, acting on information in co-operation with the Gazankulu police, were deployed in the Mhala area.

Police seized one PPSH Russian machine gun, three VZ 23 machine pistols and 29 rounds, one Nugant Russian rifle, five AK-47 rifles, five magazines and ammunition.

Goldstone hears of imported assassins

252
B/day 6/2/92
LINDA ENSOR

CAPE TOWN — A direct link between the escalation of violence in townships around Maritzburg and the deployment in the area of 200 Inkatha gunmen trained in Caprivi was alleged at the Goldstone commission of inquiry into alleged SADF funding of front organisations to instigate violence.

Former Inkatha central committee member Mbongeni Khumalo said Inkatha's support in Maritzburg townships was almost nonexistent in 1987. Its support had been mainly in rural areas but with the dethroning of a number of chiefs and headmen, a large number of people had turned to the ANC.

In 1987, on their return from Caprivi, the 200 men — who were issued with KwaZulu police appointment cards while receiving salaries paid in cash at the offices of Inkatha — were allegedly taken to Maritzburg where they were placed under the direct control of Inkatha leaders.

"We saw immediately the worst kind of violence that has ever been seen in Maritzburg. People were brutally murdered, houses were burnt and there was great interference with the public transport system. Drivers were killed, the education system was completely disrupted and people were forced to openly align themselves with Inkatha. There was a forced membership campaign," Khumalo said.

A lot of ANC/UDF members were killed and Inkatha was able to regain its strength in Maritzburg, he said.

He said another group of about 40 people from the Maritzburg area had received training at a camp at Amatikulu in late 1990. He added that Inkatha members were encouraged to go for training.

Khumalo said he had heard of collusion between the security police, SADF and Inkatha in the attacks on the ANC in and around Maritzburg.

He also alleged the group of 200 had been used to mobilise school students to join Inkatha and to give military training to the Black Cats of Wesselton, Ermelo, at a camp at Mkhuze, allegedly equipped with SADF supplies.

In about June 1989, the Caprivi trainees were broken up. Some were sent to man KwaZulu police stations, others were attached to the riot unit under the KwaZulu police, and others were posted to guard government buildings in Ulundi. Ten men were left under the command of Chief Mangosuthu Buthelezi's personal assistant, M Z Khumalo.

Khumalo alleged that the SADF had given logistical support to those members not absorbed into the police force and, through a front organisation, Creed Consultants, had as late as December 1991 paid the salary of Daluxolo Luthuli, who was allegedly responsible for a number of murders of ANC members in greater Maritzburg.

In Wesselton, the SAP had allegedly used the trained and armed Black Cats members to attack houses and kill members of the community hostile to Inkatha.

Another act of alleged violence cited by Khumalo was the attack on an ANC funeral in Wesselton when Inkatha members allegedly sprayed bullets into the flag-bearer of the ANC procession and into the dead man's corpse. Khumalo said a high-ranking official in the KwaZulu Police Force had told him those arrested for the shooting by the SADF were released a few days later by the SAP after M Z Khumalo intervened. Confiscated guns were allegedly returned by the Ermelo SAP to the KwaZulu police.

Khumalo's statement was interrupted by Inkatha legal representative Louis Visser SC, who objected to hearsay evidence being submitted.

But Mr Justice Goldstone said the commission was not a court of law and the hearsay evidence had to be heard.

SADF legal representative Carel Rabie said the detailed nature of the evidence had surprised him and he asked for his cross examination of Khumalo to be reserved. The SAP also reserved cross examination.

Today two unidentified former members of the Black Cats gang give evidence.

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Damages ordered in squatter case

(12) Own Correspondent *(252)*

A NOORDHOEK man who sold his property to a Johannesburg couple for R950 000 without telling them a squatter settlement would be located adjacent to it, was yesterday ordered by the Supreme Court to pay them damages of R550 000.

In addition, Mr Justice J J Fagan ordered Geert Noordhof to pay all the legal costs of Barry Mayes and his wife, Helen *Bloom 7/2/92*

Mr Justice Fagan said it was a proper case to make such an order because the court had found fraudulent conduct on the part of Noordhof and because of the technical line taken by him in his defence

At the conclusion of his 2½-hour judgment, Mr Justice Fagan found Noordhof had "designedly withheld" information from the Mayes' regarding the squatter camp.

Evidence was that the Mayes', both insurance consultants, had been "delighted" when shown the property and subsequently put in an offer to purchase

At the time they were not aware that "certain squatter problems" had blown up in the Noordhoek Valley

SADF deployed Inkatha 'troops' to kill hearing told

Sowetan 7/2/97

THE deployment in the Maritzburg area of 200 defence force-trained Inkatha members resulted in unprecedented levels of violence, brutal murder and the disruption of education and transport.

Mr Mbongeni Khumalo, former personal assistant to Chief Mangosuthu Buthelezi, told the Goldstone Commission inquiring into public violence and intimidation this week that 200 hand-picked Inkatha members were given military training by the SADF in the Caprivi Strip.

They were taught, among other things, how to kill selected people, demolish houses, kidnap, collect intelligence and the use of psychological methods.

Replying to a question by Mr David Soggot, representing the ANC, Cosatu, and the SA Communist Party, he said the men were deployed in Maritzburg in 1987.

Referring to interference in an ANC funeral in Wesselton, he said he had been told that eight people armed with AK-47 rifles had been involved.

"They shot at the man carrying an ANC flag in front of the coffin. The people ran away."

The men opened the coffin, firing into it, and the man carrying the flag was fired on at close range. (252)

The men were arrested by the SADF and their rifles confiscated. But they were handed to the police, who released them after the intervention of Mr MZ Khumalo. Their guns were returned to the KwaZulu police.

Replying to a question about a secret Inkatha bank account at the Smith Street, Durban branch of First National Bank, he said the signatories were Chief Mangosuthu Buthelezi and Mr MZ Khumalo.

"No one else had access to the account - not the secretary-general, Dr Oscar Dhlomo or his successor, Dr Frank Mdlalose."

Khumalo said he had visited an Inkatha training camp at Nhlazantshe, near Vryheid in 1990 and early last year.

The staff collected information and their findings given to Buthelezi.

"The information was given to Mr MZ Khumalo to be used for purposes of hit squads." - Sowetan Correspondent

The tyranny of the vote

Martin Wolf, writing in the Lombard column in the London *Financial Times*, examines the paradox of a democratically elected government dedicated to suppressing individual freedom.

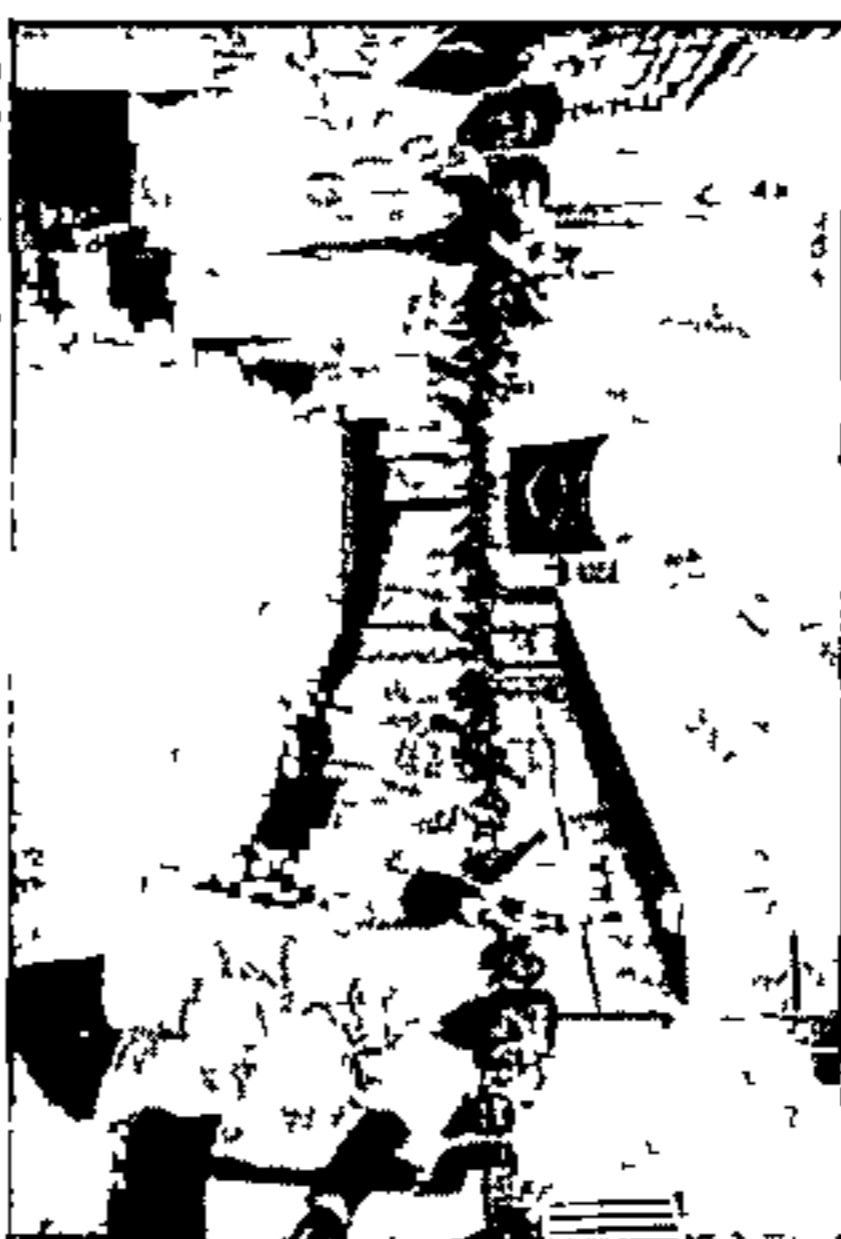
How should a liberal democrat react to the possible election of a government indifferent to individual human rights? Some of those who condemn the Algerian army's decision to prevent the election to power of the fundamentalist Islamic Salvation Front seem unaware that this is even a problem. But it is. The tyranny of the majority is still tyranny.

Suppose, for example, that a party dedicated to the physical extermination of a minority were on the verge of being voted into power. Would one condemn a force that prevented its election? The answer must be no. Nor is this an academic question. Though Hitler's National Socialists did not obtain an outright majority, they did obtain power through the ballot box, they did subvert the democratic process, they did exterminate several minorities; and, not coincidentally, they did start a war in which more than 50m people died.

Groups which intend either to subvert democratic politics or to suppress individual rights wholesale do not appear to be proper participants in such politics. This is the commonsense view, but it is one that can be given a deeper justification, rights of individuals are prior to those of the State, even if the latter is in the hands of a democratically elected government.

Among the reasons for defending individuals against democratically elected governments are the inherent defects of democratic

politics. No elected government can claim the informed consent of the electorate. Self-evidently, it does not possess the consent of those who voted against it. But it does not even possess the informed consent of those who voted for it. Many of the details of its programmes are, in practice, neither widely known nor generally understood, while many of the contingencies with which it has to deal are, in principle, unknowable.



Islamic fundamentalists claim to power is mandate from God

These points about democratic politics are at least as applicable to governments elected under proportional representation as to those elected under first-past-the-post electoral systems. Indeed, the programme of government is even more unknowable under prep, given the horse-trading inherent in coalition politics.

Yet there is a more fundamental reason for claiming the priority of the individual over even the democratic State. The case for democracy derives from that for the individual's right to choose how to vote. If a government is legitimate only if it reflects such

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choices, it must be because a prior right of individuals to choose endows it with legitimacy. But that principle cannot be restricted to politics. It derives from the inherent capacity of adult human beings to make choices. This right must apply with greater force where what is to be chosen is closer to the individual concerns of the chooser than are politics.

If the case for democracy derives from that for individual freedom, the proper domains of government are where individuals cannot choose for themselves or where their choices will damage other individuals. A democratically elected government dedicated to the suppression of individual freedom is a constitutional contradiction in terms.

What then should be the proper response of a liberal democrat to Islamic fundamentalism? The question to answer, an empirical one, is whether the election of such a government would impair fundamental individual rights, including, not least, that to cast a vote ever again. If, as seems likely, the impairment would be severe, then suppression of the election is not wrong, even though a still better solution than suppression would be a constitution that entrenches fundamental rights against government.

Naturally, fundamentalists would see it differently. But this is because their claim to power is a mandate from God. Since democracy is that of a mandate from the people, the two views are incompatible. It is doubtful whether any country in which a majority inclines towards a theocratic view of the State can be democratic. But this is not a problem that can be solved. It is a tragedy that has to be endured.

Commission told list of elite recruits 'missing'

CAPE TOWN — The list of about 200 recruits chosen for highly specialised training in Caprivi — considered vital for the security of the KwaZulu government — had gone missing, KwaZulu deputy police commissioner Brig Siphon Mathe told the Goldstone Commission yesterday.

And in a day of high drama "Mr A", an unidentified member of the Black Cats — a gang allegedly involved in anti-ANC violence in Wessleton, Ermelo — entered the commission room in a balaclava to give evidence. He spoke of living under threat of death if his identity became known.

Mathe disclosed that no individual files were opened for the recruits and no records had been kept of activities engaged in from 1986 to 1989 by those members of the group who were not initially absorbed into the KwaZulu police force.

Mathe said he was in the process of compiling a list of recruits and undertook to provide it and trainees' current positions by Tuesday.

A joint memorandum submitted to the commission by the Weekly Mail, ANC, SACP, Cosatu, Media Defence Trust and Lawyers for Human Rights alleges that the group of 200 took part in hit squad activities, fomenting violence and murdering people in the townships around Maritzburg.

LINDA ENSOR

Legal representative for these organisations, David Soggot SC, suggested it was "inconceivable" that the list of names of a specially selected unit vital for KwaZulu security was unfiled and that individual files on each recruit were not opened.

Mathe said the need for training arose due to the "dramatic intensification of ANC revolutionary activity" in 1985.

It was decided to send a group of about 200 "loyal young Zulus" (mostly Inkatha members) for training in VIP protection services. The KwaZulu police did not have sufficient funds to provide this training but Buthelezi's personal assistant M Z Khumalo said he would arrange sponsorship by a private company for them to be trained at a Caprivi camp.

Guerrilla

Mathe said Khumalo kept the details secret but he learnt subsequently that SADF Military Intelligence had provided the funds and training, presumably because "they were sympathising with us". He had made a "slip" in his affidavit when he said a Namibian security company had trained the recruits.

Mathe said he would be surprised to learn that the recruits were trained in demolition and urban guer-

rilla warfare. As far as he knew they were taught skills in VIP protection.

After being trained some were immediately used as bodyguards, others turned out to be "rotten potatoes" and were dismissed and the majority were kept at a camp in Mkhuzi until they could be trained for absorption into the KwaZulu police force.

Mathe emphatically denied they were kept at the camp for training as "hit squads", saying their main activity was to defuse school boycotts.

Soggot pointed to an anomaly that while there was a desperate need for specially trained bodyguards to ward off a revolutionary threat, it took about four years for the trainees to be absorbed into the police force. During this time they did almost nothing while receiving salaries of R900 a month paid in cash provided by Military Intelligence.

The Black Cats witness said 32 members of the gang had been trained at Mkhuzi by Inkatha and thereafter launched attacks on the Comrades, eventually gaining the upper hand in Wessleton. They were still led by Ermelo's Inkatha Youth brigade chairman Chris Ngwenya.

Mr A alleged the office of a local lawyer Steve Ngwenya was set alight at the suggestion of Ermelo SAP member Van Zweel. He said he did not report the Black Cats to the police as they would inform the gang.

Sabotage of investigation suspected, policeman says

Own Correspondent

MARITZBURG — The investigating officer into the 1988 Trust Feed murders, Capt Frank Dutton, admitted under cross-examination in the Maritzburg Supreme Court yesterday that he had considered the possibility that senior police officers from Pretoria may have tried to sabotage the renewed investigation last year.

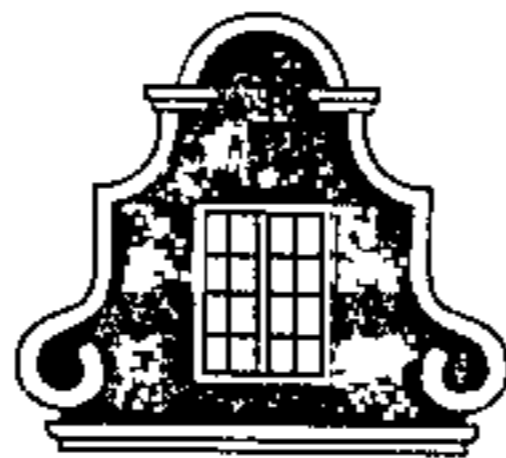
Replying to a question by defence counsel Robin Palmer concerning friction in the investigation, Dutton said the involvement of Gen van der Westhuizen and Col Langenhoven from the special investigation unit in Pretoria had put him in a difficult position.

It seemed at times as if they were taking over the investigation, he said.

Asked if he suspected they were trying to sabotage the investigation, he said he had considered it.

It also emerged from Dutton's evidence yesterday that the special constables implicated in the killings who joined the KwaZulu Police after the incident were given security clearance by security police in Maritzburg in April 1989. Warrants of arrest were issued for two of the special constables on January 6 that year.

The court was also told that it had been said at a meeting attended by Dutton and the former investigating officer, Major Joseph van Zyl, with General van der Westhuizen in Pretoria, that the case against Capt Brian Mitchell and the special constables was based on circumstantial evidence. Dutton was asked to ensure that one counsel was appointed for all the accused so there were no conflicting versions.



ENTEK INVESTMENTS LIMITED

(Formerly First National
Tea & Coffee Factories Limited)
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NOTICE TO SHAREHOLDERS

Declaration of Dividend No 28

Notice is hereby given that the Board of Directors has declared a dividend of R1,15 (1991 R1,00) per ordinary share of R2 for the current financial year, payable to holders of ordinary shares registered as such in the books of the Company on 21 February 1992.

The dividend has been declared out of the profits of the current financial year.

Probe told of Black Cats' terror reign

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7/2/92

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Own Correspondent

CAPE TOWN — A member of the "Black Cats" — an Inkatha vigilante group — told the Goldstone Commission on Public Violence yesterday of a reign of terror unleashed on the black township of Wessington, near Ermelo

The youth, who may not be identified, said one attack was carried out on a lawyer's office at the suggestion of a policeman stationed in Ermelo

Another man, known as Sugar, who claimed to be a KwaZulu policeman, had trained and supplied the group with arms and taken part in attacks on ANC supporters

Feared

The youth said in his evidence-in-chief, which was read into the record by JJ du Toit, an advocate for the commission, that a policeman, one Van Zweel, suggested they burn the office of lawyer Steve Ngwenya

Questioned by Mr Du Toit, he said he longer took part in the Black Cats' activities

Asked why he did not go to the police, he said "In fact, I feared if I made any report to the police, before the end of the day people in the community would know I had been there. Police would simply inform the Black Cats"

The youth, who arrived at the hearing in the NGK Synod Hall wearing a balaclava, said the Black Cats started as an anti-crime "campaign" in Wessington in 1990

Some Black Cats began robbing people they were searching and leaders of the Wessington Action Committee called on them to stop their activities

In the middle of 1990 members sought refuge in the Ermelo offices of the Inkatha-aligned trade union, Uwusa

"An Uwusa official, Isaac Hlatshwayo, promised Black Cats leader Chris Ngwenya that we would be given help in our fight against Civic sup-

porters if we joined Inkatha"

Mr Hlatshwayo also arranged for a group of Inkatha men to come from Ulundi to "attend and protect" the funeral of a Black Cat held on the same day as that of an ANC member

"The ANC was shot at by the Ulundi men, including Nhlanhla, Cyril, Chief Nthungwa and Themba Zulu"

Two people were killed. One, Jabu Sibanyoni, was shot at close range by Nhlanhla

Thirty-two Black Cats were taken by Inkatha to Zululand for training in August 1990. They stayed at Ulundi for a while before moving to Mkuze training camp which was run by Daluxulo Luthuli, Jay Mletwa and Peter Msane

Inkatha officially launched itself in Wessington in February last year — soon after the group returned to the township

The Black Cats, who had since become Inkatha members, continued fighting "the comrades" in Ermelo

"We used pangas, knives and homemade guns as well as various firearms brought in by the man known as Sugar. Sugar carried an SAP card and a KwaZulu police card"

He said Sugar trained Black Cats members to use automatic firearms

"Sugar and other Black Cats carried out attacks on civic leaders and comrades, often with guns"

He said the Black Cats got the upper hand in Wessington, where they forcibly evicted people from hostels and replaced them with Inkatha supporters. They also assaulted and tore clothing off people wearing ANC emblems

Questioned by David Sogget, representing the ANC, Cosatu and the SACP, he said he knew that Sugar was a KwaZulu policeman

"But he carried a SAP identity card. He used to tell us he was a KwaZulu policeman operating in Natal. But we did not believe this because he had two IDs"

It has been more than two years since the hangman tightened his noose, but the death penalty debate is far from over, reports ROBERT BRAND, Weekend Argus correspondent in Pretoria.

Hangman's noose is

idle, but will it

be hung up for good?

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HERMAN Charles Bosman told the story of how he and a fellow-prisoner, both awaiting execution for murder, were reprimanded by a warden for laughing, making a noise and keeping other prisoners awake.

"If you condemned men don't stop this noise, you'll get into big trouble," he warned them. Which, of course, provoked only more laughter from two convicts facing the ultimate punishment.

But for the 295 prisoners still awaiting execution in South Africa the death penalty is no laughing matter, although there has not been a hanging for more than two years.

The hangman last tightened his noose on November 17 1989 and there is now good reason to believe there will never be another execution in South Africa, according to Brian Currin and Paula McBride — wife of condemned Magoo's Bar bomber, Robert McBride — of Lawyers for Human Rights (LHR).

Before the government's change of heart South Africa ranked with China, Nigeria, Iraq and Iran as the most energetic of nations still practising the death penalty.

Since 1910, 4280 people have been executed at an average rate of 53 a year, or one a week. Hanging reached a zenith in 1987 when 164 people met their end at the gallows.

On February 2 1990 President De Klerk announced a moratorium on hangings pending an investigation into legislation. The moratorium expired in July 1990, when certain amendments to the Criminal Procedures Act were approved by parliament.

These amendments did away with the mandatory death sentence, provided an automatic right of appeal to people sentenced to death, created a review panel to reconsider death sentences passed before the legislative amendments and provided for the right to petition the president to exercise his prerogative of mercy.

While the amendments came too late for the 53 people executed in 1989 and did not go far enough to satisfy the abolitionists' demands, there are several developments which offer a ray of hope for those still on Death Row, according to LHR.

Firstly, members of the legal establishment, including a Supreme Court judge, have started pointing out the inequities inherent even in the amended Criminal Procedures Act.

Mr Justice Curlewis, in a published response to an article on "hanging



judges", confirmed that judicial attitudes towards the death penalty played a material role in imposing or not imposing that sentence.

"Only an ignoramus or a person with little regard for the truth would deny this," he said.

Some judges, he said, were "at heart abolitionists" and would be less likely to impose a death penalty than others.

Mr Justice Curlewis's remarks have led to a call by LHR for another moratorium on executions and a public commission of inquiry into the attitudes of judges towards the death penalty.

Secondly, the Law Commission, a government-appointed body, published its Interim Report on Group and Human Rights in November last year, and refrained from making recommendations on the death penalty as the issue was considered too controversial.

It recommended instead that the issue be referred to a (not-yet-existing) constitutional court — a "middle course between the retention of the death penalty and the abolition thereof".

This finding made it politically untenable for the government to proceed with executions, according to Mr Currin and Ms McBride.

However, when the moratorium on hangings had expired, and before the Law Commission had published its

findings, the government announced in March last year that the gallows would be re-activated. The first person who was then given notice of his pending execution was Paul Bezuidenhout, an illiterate, retarded 19-year-old sentenced to death for a particularly brutal murder.

An application by LHR for a stay of execution pending further investigation of psychological evidence was refused by the Minister of Justice but granted by the Supreme Court one day before the date of execution.

Bezuidenhout is awaiting a response to a petition lodged with the Minister of Justice for reopening the trial.

Was this the death penalty's last convulsion? It certainly was the attempt by the government to proceed with the execution of death sentences. But the controversy is far from over.

Eastern Cape Attorney-General Dr Jan D'Oliviera, speaking at a debate organised by the Pretoria branch of LHR recently, pointed out that the majority of citizens still favoured the retention of the death penalty, according to several studies.

While the death penalty was no holy cow and could be abolished should circumstances permit, the upsurge in violent crime warranted its retention as an essential weapon to protect society, he said.

And in an interview published in a Sunday newspaper, the former Judge-President of the Cape, Mr Justice G G A Munnik, said the substitution of prison sentences for the death penalty and the fact that there had been no executions for more than two years was "not only emasculating judges, but helping to create the perception among ordinary people that the death sentence has been abolished".

"This, I believe, is contributing to the escalation of crimes such as murder, rape and armed robberies".

The Criminal Procedures Amendment Act was an attempt by the government to do away with the death penalty by stealth, Mr Justice Munnik argued.

"If the government wants to do away with the death penalty, it should do so openly," he said.

Human-rights bodies, church groups and many political parties would agree with that, albeit for different reasons.

And so would the 295 people on Death Row.

People's court — six are held

By MARTIN
NTSOELENGOE

SIX Munsieville men who allegedly attacked a man who refused to accept their verdict at a "people's court" appeared in the Krugersdorp Regional Court this week.

Appearing before Chris Eksteen were Elias Ngosini, 63; Wilson Ngele, 48; Danny Thupane, 20; Tefo Kolobane, 23; Labius Mzando, 39; and Thompson Modukanele, 31. They were not asked to plead and their case was postponed to February 18.

They were arrested in connection with the beating of a Munsieville man who refused to accept the authority of a "people's court."

The man was allegedly attacked by a group which hit and whipped him following his walkout from a "people's court" last Sunday.

After the beating they threatened to return. Later the same day a group of people allegedly set the man's home and vehicle alight and stoned him.

The six were arrested after the Unrest and Violence Investigation Unit found that there was a "people's court" operating in Munsieville.

The charge sheet did not detail the charges and the victim's name was not mentioned.

Massacre sequel: 12 in court

By MARTIN
NTSOELENGOE 252

THE massacre of 28 people at the Swanieville squatter camp by alleged Inkatha Freedom Party members was recalled in the Krügersdorp Magistrate's Court this week where 12 men appeared on counts of murder.

The 12 were not asked to plead before Magistrate M du Plessis and their case was postponed to March 9. They are out on R500 bail each.

Appearing before Du Plessis were Mzwanya Sithole, 43, of 391 Wattville Hostel, Benoni; Vumisani Majola, 35, Sizwe Majola, 48; Mphiwa Khanyile, 42; Bakethi Dlamini, 29; Bekokwakho Mdlalose, 39; Bekabantu Jali, 21; Payi Nhlapho, 49; Phillip Mlambo, 35; Alpheus Ndebele, 46; Bekezako Khumalo, 40; and Vilania Khuzwayo, 35.

Du Plessis said the court was waiting for the Attorney-General to decide whether they be charged in a lower court or a Supreme Court.

The 12 men were arrested after 28 people were killed by men wearing red headbands.

Police were allegedly seen escorting the men back to a Kagiso hostel.

Rape by security forces routine

SECURITY forces worldwide routinely rape and sexually assault female suspects and detainees, international human rights organisation Amnesty International said this week. (252)

An Amnesty report documents rapes carried out by security forces in 14 countries including assaults on pregnant women and young girls and called on governments to stop one of the most demeaning of human rights violations.

Amnesty lists reports of rape and sexual assault by security forces in India, Bangladesh, Indonesia, the Philippines, Guatemala, Peru, Chile, Mexico, Uganda, Senegal, Greece, Turkey, Israel and the United Kingdom. *clp/m 9/2/92*

Goldstone lashes out

THE ANC has reacted coolly to the Goldstone Commission's interim report on the violence in Mool River which laid part of the blame on its supporters.

"The interim report does not take us much further than what any reasonable person could speculate," said the ANC's Saki Macozoma. "We don't want to shoot the report down, but anyone who reads the papers would have come to a similar conclusion."

Blame

The report, tabled in Parliament on Friday, follows the investigations into incidents on December 3 and 4 at the Bruntville township outside Mool River where 19 people were killed in violent clashes between the IFP and the ANC.

"The blame falls squarely on the participants in attack and counter-attack, irrespective of which party they support," the interim report said.

Police, ANC, IFP and press under the whip

By CHARLES LEONARD

"Unless they come to the understanding that other people are entitled to have and express a view different to their own, that physical violence never changes people's convictions, and that tolerance and democracy are not just political slogans but norms actively practised, there will not be an end to violence at Bruntville."

Following many incidents of violence since the end of 1990, the report says that it "appears to be undisputed that IFP supporters launched two attacks on dwellers in Bruntville township", which left four people dead on December 3 1991 and 15 dead after the second attack the next day.

"It is also not undisputed that an IFP supporter, Nbuyiselwa Jophannes Mbatha, died from a gunshot wound sustained by

him on December 3 1991," the report said.

The commission also strongly criticised the police regarding their conducting raids without warrants, in plain clothes and in a vehicle bearing false number plates, saying it "should be prohibited forthwith".

"Such procedures, apart from being unlawful, cannot serve any proper or useful purpose and, in addition, can only fuel rumours and theories about a 'third force' being responsible for much of the violence in South Africa," the report said.

Regarding the build-up to the violence since 1990,

it said "there should have been more efficient and more sensitive leadership of the police and the security forces in the area".

"A suitable senior police officer should be appointed at Mool River as a matter of urgency and clear lines of command established

"The evidence suggesting and perceptions that members of the police force favour IFP supporters is a matter of concern and if correct will serve to aggravate negative attitudes towards the police by many members of the community that the police are serving."

The commission also called on the government to immediately determine a policy regarding the carrying of "cultural weapons". It said it was unacceptable that men could walk in the streets with sticks and spears when the law required that the weapons be confiscated.

Referring to press coverage of the events at Mool River the report concluded "Inaccurate and unchecked information and rumours were disseminated by both ANC and IFP spokespersons

"This was regularly reported in the newspapers. The commission recommends that political and other organisations should take cognisance that inaccurate reports of violence in themselves frequently result in escalation of violence

"The commission appeals to the leaderships of both organisations to exercise greater restraint and care in this regard." And on the media. "In these highly sensitive and volatile matters the Press also has a special duty to report the facts and to report them accurately and responsibly."

Balaclavas, Black Cats and Bad Potatoes

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A GROCERY list of words and names ranging from "bad potatoes" and "rotten eggs" to "Jeyfluid" and "Sugar" was used to describe youths involved in acts of violence in Kwa-zulu and the Eastern Transvaal to a committee of the Goldstone Commission of Inquiry which sat in Cape Town this week.

The "bad potatoes" were the undisciplined members of a 200-strong team of hand-picked Zulu youths sent for specialist SADF training in the Caprivi area. Others were described as "rotten eggs".

"Jeyfluid" was the nickname of a member of the sinister Ermelo township gang known as the Black Cats. "Sugar", the commission heard, is Sibusiso — alias Lucky Hlongwane — who allegedly carried a joint South African Police and Kwazulu Police identity card.

He is said to have dispensed arms, pangas and knives to the Black Cats who, the committee heard, acted as a roving Inkatha-aligned, anti-ANC hit squad.

These offbeat names, particularly Jeyfluid, brought smiles to the four-man committee appointed on Tuesday "as a matter of urgency" by Mr Justice Richard Goldstone, chairman of the Standing Commission into the Prevention of Public Violence.

The committee, which sat throughout the week in the NG Kerck's Synodal Centre in Queen Victoria Street, comprises Mr Justice

By EVELYN HOLTZHAUSEN

Goldstone, Mr Niel Rossouw, who is vice-chairman of the commission, Mr Gert Steyn, a member of the Commission, and Johannesburg attorney Seun Moshidi.

The committee was appointed to inquire into the whereabouts and activities of the 200 youths allegedly trained as Kwazulu VIP bodyguards at Hippo base in Caprivi in 1986. It is also looking into the activities of the Black Cats, who committed acts of violence from their base in Wesseltown, near Ermelo in the Eastern Transvaal.

The former acting national youth organiser of the Inkatha Youth Brigade, Mr Mtongeni Khumalo, said the group, comprising "men with short hair" who had been trained by the SADF at Hippo, travelled to Ulundi each month after their return to Kwazulu, where they

were paid an average of R900 each in cash.

Mr Khumalo said Inkatha President Chief Buthelezi's personal secretary, Mr MZ Khumalo, was responsible for recruiting and organising the group. He referred to the men as the "boys from the project" and handled their payments personally.

The deputy commissioner of the Kwazulu police, Brigadier Siphon Mose Mathe, confirmed that the 200 youths, hand-picked by Mr MZ Khumalo, has been sent for training at Hippo by Military Intelligence in 1986.

Some of them, though not officially members of the Kwazulu Police, had been issued with police appointment cards.

Brig Mathe denied under cross-examination by Mr David Soggott, SC — appearing for the ANC, Cosatu and the SA Communist Party — that the appointment cards had been is-



BLACK CAT... 'Mr A' with Advocate Paul Kennedy and Mr David Soggott, SC, after giving evidence

sued to help them in hit-squad activities.

Two "turned" Black Cats — who arrived for the hearings wearing balaclavas to hide their identities but gave evidence unmasked as Mr A and Mr B — said the gang had been formed in 1990 to fight crime. Later they began robbing people

they had searched for weapons, leading to complaints by local civic associations about their activities.

Mr A described how houses of civic association members had been burnt and how ANC supporters had been killed in attacks by the Black Cats, sometimes aided by Inkatha members from Ulundi.

He told how the office of a lawyer, Mr Steve Ngwenya, had been set alight. This was at the suggestion of a member of the SAP, whom Mr A identified only as "Van Zweel".

Mr A said the Black Cats eventually gained the upper hand in Wesseltown, evicting people from hostels and replacing them with Inkatha supporters.

On Friday Detective W/O James Meiel Wilhelm von Zweel denied in his evidence that he had colluded with the gang to perform acts of violence.

Cross-examination of the witnesses by lawyers acting for the SADF, the SAP, the Inkatha Freedom Party — represented by Advocate Louis Visser, SC, and Mr Soggott — was postponed until the committee reconvened in Pretoria on Tuesday, February 25.

Witnesses who are not affiliated to any group, and who saw violence — either in Thokoza last September or in connection with train violence or the taxi wars — can arrange to meet the chairmen of the committees investigating these incidents.

The phone number to make an appointment to speak to Mr Solly Sithole regarding the Thokoza violence is 012-3204640/1/2.

Mr Niel Rossouw, who chairs the committee investigating the taxi wars, can be contacted by phoning 021-235508.

unhanded litigations will be caused via to present because worker rights under a new constitution would be discussed, he said

will be used by the friends of the Johannesburg Art Gallery to improve the gallery facilities. Picture: BRIAN HENDLER

Commission told of incitement to war

LINDA ENSOR

CAPE TOWN — The SAP, Inkatha and municipal officials in Ermelo played a key role in inciting war between the alleged Black Cat hit squad and a civic association in Ermelo's Wesselton township, the Goldstone commission heard on Friday.

The allegations were made by two alleged Black Cat members, identified as Mr A and Mr B, in evidence before a committee of the commission chaired by Mr Justice Richard Goldstone. The committee is investigating allegations that the SADF funded front organisations to instigate violence in black townships.

Mr B said Black Cat members had been housed at municipal offices in Ermelo where a municipal sports organiser, Noah Mghobokazi, incited them to attack the houses of civic

members and supplied them with a 9mm pistol, pangas and knives

"The Black Cats then attacked members of the civic, assaulting them, injuring many people and stoning their houses," Mr B said

He said Mghobokazi also provided the gang with three hand grenades and a limpet mine. After this, a truck owned by a civic member and a business owned by an ANC supporter were bombed

Mr B alleged that there was close collaboration between three members of the Ermelo SAP — one whom he identified as Det WO James van Zweel and one as Botha — and Chris Ngenwenya, identified as the leader of the Black Cat gang and the Inkatha

Youth Brigade chairman in Ermelo

He said that in August 1990 eight Inkatha men came from Ulundi on the day of a funeral of a civic member. He saw two of them shooting at the crowd of mourners, some of whom were killed and many were injured. The Inkatha men also allegedly attacked houses with hand grenades. Afterwards the SADF arrested members of the Black Cats and Inkatha but they were later released

Previously Mr A testified that the Black Cats were taken by Inkatha to a camp at Mkhuzi for training

Detective Warrant Officer James von Zweel, testifying before the commission, denied allegations that he had incited the Black Cats to set alight the offices of local lawyer, Steve Ngenwenya

Police Act clause goes

Political staff

CAPE TOWN — Section 27(b) of the Police Act, which restricted reporting on police activities, was effectively scrapped on Friday when the Police Amendment Act Bill was passed at a joint sitting

Opposing the Bill, Cehill Pienaar (CP Heilbron) said his party could not support the Bill as it contained proof of government's desire to please the ANC

Jannie Momborg (DP Simon's Town) said Parliament owed those who had been prosecuted under the clause an apology



Judge in Bhanjee trial slams prisons for early release

6/10/92 11/2/92

SUSAN RUSSELL

THE Rand Supreme Court judge who last month convicted former National Soccer League PRO Abdul Bhanjee of stealing R7,4m from the league, yesterday strongly criticised the early release of criminals sentenced to lengthy prison terms.

Mr Justice M.J. Strydom made his remarks after Bhanjee's trial resumed for closing arguments on sentence. Bhanjee, who did not testify, pleaded not guilty, claiming he was entitled to the money as a 10% commission on sponsorships he obtained in terms of an agreement between himself and the NSL management committee.

The judge asked State counsel what he should make of the fact that prison authorities released criminals shortly after they had been given long prison terms. "What purpose will it serve if I send the accused to jail for any considerable period of 10, 12 or 15 years and after two years he is released by the prison authorities?"

"What must I do? Treble the sentence. I think should be imposed? I cannot treble the sentence and I cannot impose a sentence that the prison authorities think fit." State counsel Kevin Lawlor said he did not believe the court should be discouraged or hampered by seemingly irresponsible decisions by those administering prisons. In this particular case, Lawlor said, society demanded a lengthy prison term. "Society demands it, the court imposes it and the prison authorities do not have any regard for it," the judge replied.

Mr Justice Strydom also noted that Bhanjee had been able to steal the money because of the secrecy surrounding the millions of rands the SABBC had paid for TV rights to soccer matches since 1988.

The court heard earlier that Bhanjee took R5,7m of the total he stole from the annual amounts paid to the NSL by the SABBC. He then presented falsified contracts to the NSL management committee which reflected less than the SABBC had paid.

"What must I make of the fact that the SABBC saw fit not to make the amounts of sponsorship public?" the judge asked.

"This really opened the door for the accused to do what he did. That was public money was it not? They kept it secret from

those paying for licences."

The judge said he would have considered a suspended sentence at least in part, if Bhanjee had been frank with the court or shown some remorse.

"But as he sits there today he is still denying that he has stolen any money."

Mr Justice Strydom added that Bhanjee had remained silent throughout his trial, except to plead not guilty, had shown no remorse and been of no assistance to the court in deciding an appropriate sentence.

The judge will pass sentence tomorrow.

Picture Page 2

of criminals

Judge depllores early jail release

By Peter Davies



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STAR

11/2/92

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A Rand Supreme Court judge yesterday deplored the fact that some criminals sentenced to long prison terms for theft were being released after serving vastly reduced time in jail.

He said prison authorities had "no regard" for a stiff sentence. Mr Justice M J Strydom made the comments when the trial of former National Soccer League public relations manager

Abdul Bhamjee resumed in Johannesburg. Bhamjee, who has been found guilty of stealing more than R7.4 million from his employers, is due to be sentenced tomorrow.

The judge cited instances where criminals sentenced to lengthy prison terms for theft were released after serving a fraction of their time. He drew particular attention to the case of Zda Mahobe, former boss of the Sundowns soccer club, who was sentenced to 16 years in jail. His term was

reduced to 12 years on appeal, and he was released after serving less than four.

"What good will it do if I send the accused to jail for 12 or 15 years and after two or three years he is released by prison authorities? Must I treat the sentence I think is due? Society desires it (a stiff sentence), the courts impose it, prison authorities have no regard for it," he said.

Prosecutor Kevin Lawlor said that in passing appropriate sentences, courts should not be hampered by "seemingly irre-

sponsible decisions made by executives administering prisons".

Earlier, he had called for a lengthy prison term for Bhamjee. "Imprisonment is imperative, a lengthy term of at least 10 years is appropriate."

Yesterday the court heard Bhamjee had offered to pay back R2.2 million in monthly amounts of R30 000 over the next 6½ years, on condition that NSL chairman Keith Kunene and vice-chairman Ashwin Trikamjee give evidence in mitigation. For Bhamjee, advocate M

Cassim yesterday told the court that public perception would be better served if Bhamjee "as a man of initiative, could go and earn the money to put back into the coffers of the NSL."

Mr Justice Strydom said he could not take the repayment proposal into account when considering sentence.

He said "If the accused had shown remorse and been frank, I might have considered the alternatives. But he still denies stealing the money. He has remained silent throughout the trial. The only words to pass

through his lips were 'not guilty'. He has been of no assistance to me. He is only making this offer from a commercial point of view."

Mr Lawlor said the thefts had shown a pattern since Bhamjee pocketed his first cheque of R25 000 from Premier Milling.

"The amounts got larger and larger, indicating a person motivated by greed. He was in a position of trust, but systematically, year by year, he manipulated the cash flow situation. Support for frustrated judge

Sentencing: support for frustrated judge

STAR 11/2/92

By Monica Oosterbroek

Political parties and other organisations have come out in strong support of the Rand Supreme Court judge who yesterday deplored the early release of jailed criminals

Democratic Party spokesman, Tony Leon, said Mr Justice MJ Strydom was "quite right" in condemning the fact that some criminals sentenced to long prison terms were being released after serving vastly reduced time behind bars

Mr Justice Strydom made his observations when the trial of former National Soccer League public relations manager Abdul Bhamjee resumed in Johannesburg yesterday

Bhamjee, found guilty of stealing more than R7,4 million from his employers, will be sentenced tomorrow

Mr Leon said if the Ministry of Correctional Services continued to carry on giving prisoners general amnesty, the Government might as well close down the courts

"Their current policy on releasing prisoners is making a mockery of justice because the department is substituting their own sentences

"The Ministry have already admitted that the situation is out of control and they keep re-admitting released prisoners

'Smokescreen'

"It's like some kind of bizarre revolving door with the same people going in and out of jail"

Spokesman for the Human Rights Commission, Max Coleman, said the Government's policy of releasing prisoners was "a smokescreen" because they had not fulfilled promises to release political prisoners

Dr Coleman said over 60 000 prisoners had been released in the six months following President de Klerk's granting amnesty to first time offenders — nearly three quarters of the convicted prison population

"The Government thought that by doing this, the issue of political prisoners would be for-

gotten about — but it's a very heavy price to pay"

Black Sash regional chairman, Barbara Klugman, said the matter was very confusing and has called on the Minister to clarify the situation

"We want to know why people are being released early"

Sapa reports that Cape Law Society director Ingrid Hoffmann said slashing a judge's sentence makes the whole system of justice laughable

"The situation will probably get worse before it gets better because of the high crime rate and economic depression. We are concerned about it"

Reacting to the criticism, a spokesman for the Ministry of Correctional Services said that the policy of releasing prisoners was to be re-evaluated

The spokesman said that decisions to release prisoners were made on the recommendation of the Release Advisory Board under the chairmanship of a Supreme Court judge who was assisted by senior police officers and university professors in related fields

Injured labourer *Sowetan* sues Minister *13/2/92* Kriel for R600 000 *13/2/92*

By MONK NKOMO

A LABOURER who had his left leg amputated after being allegedly shot by police last year, has claimed R600 000 from the Minister of Law and Order, Mr HERNUS KRIEL

Mr Siphon Mbekebeke (26) who was employed at a mine in Rustenburg, alleges he was unlawfully assaulted by members of the South African Police at or near Paardekraal in Rustenburg on July 6 last year.

Penetrating

According to particulars of claim, Mbekebeke was allegedly shot in the left leg which resulted in pellets penetrating the posterior surface of his lower leg



HERNUS KRIEL

above the heels

His attorney, Mr Cyril Morolo, yesterday confirmed that they had already served summons on the Minister of Law and Order claiming R600 000 in damages

Mbekebeke said as a result of the alleged assault, he was admitted to the Paul

Kruger Memorial Hospital in Rustenburg where he received medical treatment from July 6 to September 20 last year

Plaintiff

According to his lawyers, Mbekebeke's left leg was operated on and later amputated. As a result of the alleged unlawful assault, the plaintiff has been permanently disfigured and disabled, experienced pain and suffering; suffered loss of amenities of life and loss of earning capacity, his lawyers said. (252)

Damages claimed were calculated as follows: General damages R346 000, future loss of earnings R204 000, future medical expenses R45 000 and past medical expenses R5 000

Goldstone hears of secret account

W/Week

112-

13/2/91

Evidence placed before the

Goldstone commission this week

about a secret Inkatha account

could be the key to unlocking the

extensive relationship between

security forces and Inkatha.

WEEKLY MAIL REPORTER

Buthelezi knew about secret SADF training

CHIEF Mangosuthu Buthelezi knew about the covert South African Defence Force training of 200 Inkatha youths, according to Brigadier Siphosiso Mathu, deputy commissioner of the KwaZulu Police.

Citing evidence to the Goldstone commission of inquiry late yesterday, Mathu said he had selected the group to protect Buthelezi and other cabinet ministers. He later said that Buthelezi's right-hand man, MZ Khumalo, had taken over and organised the training and funding for the recruits. He kept the source of training and funding for the men a secret, even from the Inkatha central committee.

Under cross-examination by Advocate David Soggett SC, Mathu said that Buthelezi as minister of police, knew about it.

Mathu also said that the recruits did not have files with the KwaZulu Police, even though President F.W. de Klerk himself has said that they were legitimately absorbed into the homeland police force after their special training. Mathu said a list of their names, ages and place of origin had been misplaced.

He promised the chairman of the committee, Mr Justice Richard Goldstone, that he would supply the list and a financial register at the beginning of next week.

At the beginning of the week, Justice Richard Goldstone, sitting with his full commission of five people, announced that the terms of reference for the hearings would be widened. While there was no direct evidence of current funding of violent activities by the SADF or its front organisations, he set up an inquiry into these fronts and the 200 Mkuze trainees.

The hearings continue.

● *The Weekly Mail* is represented at the commission by Paul Kennedy, instructed by David Dison. They also represent Lawyers for Human Rights and the Media Defence Trust. David Soggett SC is instructed by Norman Manonm and Peter Harris on behalf of the ANC, the Congress of South African Trade Unions and the South African Communist Party.

A SECRET account held by Inkatha Chief Mangosuthu Buthelezi, and kept hidden from his most senior officials, was used by the South African Defence Force's department of military intelligence (DMI) to finance trained killers, the Goldstone Commission of Inquiry into Violence was told this week.

It was an Inkatha account, but it was concealed from two successive secretary generals, Dr Oscar Dhlomo and Dr Frank Mtshalo. Former Inkatha official Mbongeni Khumalo described to the commission how the cheque book for the account was kept by Buthelezi's personal assistant, MZ Khumalo, in a special bag with the words "After signing by Chief Buthelezi, please return to MZ Khumalo."

Nobody but Buthelezi and MZ Khumalo had access to the account, Mbongeni Khumalo only knew about it because, as a trusted official, he had often been asked to carry the bag between the two men.

MZ Khumalo last year resigned from Inkatha after being implicated by *The Weekly Mail* in covert government funding of the organisation Mbongeni Khumalo, a former acting national organiser of the Inkatha Freedom Party Youth Brigade, resigned last year because of disillusionment with its links with the military.

The commission is sitting to hear evidence flowing from *The Weekly Mail's* reports that military intelligence (DMI) front companies were promoting violence.

The secret account — the same one used to channel security police covert funding for Inkatha rallies exposed in *The Weekly Mail* last year — could turn out to be the key to unlocking the extensive relationship between security forces and Inkatha.

Mbongeni Khumalo said the military paid money into the account for the wages of 200 Inkatha personnel whom they had trained. Several of the trainees became assassins.

Creed Consultants, a DMI front company in Durban, used the account to pay the men R900 each, a total of R180 000 a month.

President F.W. de Klerk has confirmed the military involvement in the training of the 200-strong elite Inkatha unit, but said it was intended to guard VIPs and government buildings.

But the former Inkatha Youth Brigade leader, who was personally involved in training of the unit and was a link-man with the military spon-

sors, this week named members of the unit involved in killings of African National Congress supporters. He also cited occasions when agents for DMI called Inkatha to pass on warnings that the men were in danger or under threat of arrest.

These men then hid at the Mkuze camp, one of three covert bases described by Mbongeni Khumalo this week as places where Inkatha and DMI or its front companies worked together.

Khumalo, speaking calmly and confidently, gave further details of many of the allegations he had made in *The Weekly Mail*. Lawyers for Inkatha, the police and the SADF reserved their right to cross-examine him.

On Thursday, the commission heard evidence from a member of the Black Cat gang in Ermelo — scene of much violence in the past two years — about reports in *The Weekly Mail* of DMI training of Black Cat members who were also Inkatha members.

Named "Mr A" to protect his identity, he explained how Black Cat members were recruited by Inkatha and, after staying at the United Workers' Union of South Africa (Uwusa) office in Ermelo, were taken to Ulundi and then the Mkuze training camp. "In the camp, we used beds with RSA painted on the bunks, received physical training, drilling, lectures in politics and such skills as how to abduct people or rescue our friends if attacked by the enemy," he said.

The Black Cats are still led by Chris Ngwenya, now Inkatha Youth Brigade chairman in Ermelo. Of the 32 Black Cats who went for training at Mkuze in 1990, about 25 are still active in Ermelo together with various others that they recruited, "Mr A" said.

Asked why he didn't report their activities to police, he said "The police would simply inform the Black Cats and say I had been to

Spare the rod and spoil the thief

MR JUSTICE Strydom's predicament in deciding on an appropriate punishment for thief Abdul Bhanjee has reignited the debate on how South Africa should be dealing with its criminals.

Deep frustration is evident among the three sectors responsible for catching, dispatching and latching them.

Police are angry at prison authorities for freeing convicts early — recidivism is extremely high (about 80 percent), they argue, and convicts are being released only to perpetrate more wrongdoing.

Judges are also fuming at the warders for reducing the penalties they mete out, eroding their authority and undermining their considered punishments.

But the courts do not escape indictment. Police have long been disgruntled with judges and magistrates who grant bail to suspects who frequently commit further crimes while awaiting trial.

Prison authorities seem frustrated at their lot. They have room for 83 000 charges about 97 000 are currently behind bars, at least 85 percent of whom are repeat offenders.

So lock ups are bursting, and growing fuller, as roughly 10 000 fallbirds are routinely released each month and replaced by 11 000 fresh from the courts.

Star 13/2/92

The police, prisons authorities and courts blame one another for the unsatisfactory position regarding released criminals, writes ALAN DUNN

South Africa, in an era of a global crime surge, holds the dubious distinction of having the world's second highest prisoner ratio, 357 people per 100 000, behind the US with 425.

Overloaded prisons mean bursting budgets as well — each prisoner costs R41,85, a day. Since there is no money to expand, prison facilities and wardens are stretched to cope.

Political sensitivities and a sense of loyalty prevent Government departments from mauling each other publicly. It takes judges and politicians, who are not bound by that un-written code, to air the dispute.

"What purpose will it serve if I send the accused to jail for any considerable period of 10, 12 or 15 years, and after two years he is released by the prison authorities?" Mr Justice Strydom pondered aloud on the Bench on Monday.

"What must I do? Treble the sentence I think should be imposed? I cannot treble the sentence and I cannot impose a sentence that the prison authorities think fit."

Police are muted in their on record remarks, but complain bitterly in private about the money and man-hours it takes to bring offenders to book, just to have them allowed back on the streets.

Retired police veteran Major-General Herman Stadler is reluctant to criticise, but believes early releases do contribute to the crime wave. He also thinks ready bail is a bugbear.

"It is a difficult situation and a definite problem for the police."

It was difficult for police to always gather the type of evidence courts needed to hear to keep suspects behind bars in the pre-trial phase. "The most valuable details were often gleaned after arrests and the initial court appearances, he said.

The closest the courts have come to receiving a public blast from the police occurred when General Johan van der Merwe, the Police Commissioner, spoke out last month on the death penalty.

"There is at present the perception in the world of crime," he said, "that the courts are hesitant to impose the death penalty or imprisonment."

Where this is indeed imposed, it is not carried out," he told reporters.

"Although this has not been determined scientifically, the SAP are of the opinion that this state of affairs plays an important role in the increase in crime."

He said police believed senseless, cold-blooded killings and the reckless manner in which armed robberies occurred had much to do with this.

On last year's early releases, where at least 50 000 convicts benefited, top prisons officials point out that the convicts were in any case only months away from freedom in the normal course of events.

There is no doubt, however, that Correctional Services was simply implementing a political decision prompted by the release of political prisoners.

They were giving effect to a bid by the Government to show an even-handedness between political and common convicts.

Critics have difficulty, however, in swallowing the line that prisoners gained only a few months "I know of cases where people served 20 percent of their jail terms," said Tony Leon, the Democratic Party MP for Houghton.

Certainly the startling episode of Stellenbosch farm manager Rudolf Rix (27), who achieved a hat trick of three different Government amnesties and served only six days for beating a labourer to death with a pick-axe handle, screams against the official assertion □

Star 13/2/92

FM 14/2/92

Way of the coward 252

If this government is still interested in governing, it should try a little harder to give that impression. The pleas of ordinary citizens and their political leaders evidently do not count for much; this week's sober but caustic remarks by a Judge of the Supreme Court might prove more difficult to ignore.

Soccer PRO Abdul Bhamjee was found guilty of stealing R7,4m from the National Soccer League. The State asked for a long prison sentence to be imposed. Justice M J Strydom asked what use that would be if the convicted person would be released in any case after a couple of years. "The prison authorities take no notice of heavy sentences," the judge told the prosecuting advocate. "Must I, therefore, give him a triple sentence?"

Such remarks from the Bench reflect widespread exasperation in the legal profession (and doubtless deep frustration among police) at the government's incomprehensibly lenient parole and amnesty policies. The Cape Law Society has described them as "making the whole system of justice laughable." Democratic Party spokesman Tony Leon comments that the Department of Correctional Services is, in effect, substituting its own sentences for those handed down

by judges and magistrates.

Last year there was outrage at the fact that thousands of criminals were being released long before their sentences were due to expire. Earlier this year, the Judge President of the Cape, Justice Gerald Friedman, expressed concern at the "wholesale and indiscriminate" release of prisoners serving long terms for serious crime — and warned that the authority of the courts was being undermined.

But only now, presumably shamed at last by Justice Strydom's remarks, has the Department of Correctional Services conceded that its policy needs to be reviewed, "taking changing circumstances into account."

What has changed? Perhaps someone should tell Minister Adriaan Vlok and his officials about the murderous car hijackings, rapes, assassinations, assaults on teachers and technicians, armed robberies and fraudulent dealings that make up an average crime day in our cities

Most of these criminals are never arrested — which makes it all the more ridiculous that the few who do get caught are let back on the streets so soon after being sentenced.

What are the Nats trying to do — make the country ungovernable for the ANC? ■

Moshoeshoe did not deserve to die, inquest told

AN anaesthetist yesterday told a Johannesburg inquest that he believed Miss Amelia "Pinkie" Moshoeshoe, who died after a liposuction operation in 1989, did not get the necessary care during and after the procedure.

Professor David Morrel, head of the Witwaterstrand University's anaesthesiology department, told prosecutor A Niell "That's the basic criticism. This patient didn't deserve to die."

Professor Andre Coetzee, head of Stellenbosch University's anaesthesiology department, earlier told the court that he did not believe that Dr Sydney Cohen, who had conducted the operation, had been negligent or had

breached any accepted medical practice.

He had followed a procedure that had worked many times in the past and had no reason to believe that this operation demanded a different approach.

Morrel said that with more specific post-operative instructions, nursing staff at Rand Clinic might have discovered Moshoeshoe's deterioration earlier.

The instructions told staff to phone Cohen if the systolic blood pressure fell below 90.

The nursing staff should have become suspicious about stable and normal blood pressure readings in a patient who had been showing other abnormal signs, Morrel said.

Focus on Buthelezi's main man

Weekly Mail Reporter

CHIEF Mangosuthu Buthelezi's right-hand man, MZ Khumalo, is to come under public scrutiny for the first time when the Goldstone Commission of Inquiry reconvenes later this month.

Khumalo, who has avoided the media since he emerged as the man responsible for the extensive links between Inkatha and the security police and the department of military intelligence (DMI) and was forced to resign from his position as Buthelezi's assistant, will face extensive cross-examination.

This week Khumalo found one of the Goldstone witnesses, Mbongeni Khumalo, and confronted him. Mbongeni Khumalo, a former Inkatha official, had been living at a secret venue since deciding to go public about Inkatha's links with the security forces. MZ Khumalo, however, located him and warned him that he was lucky not to have been killed while living in Ulundi.

Also under scrutiny will be the secret Inkatha account run by MZ Khumalo and Buthelezi. Mr Justice R. Goldstone has subpoenaed full details of the account for the past two years from First National Bank in Durban.

Since the account was used for the payment of money from the police and South African Defence Force to Inkatha, the records could provide the first full account of the extent of covert support for Inkatha. It could also show the extent to which Buthelezi himself was aware of this activity.

The judge has also ordered the DMI front companies that are still operating — and who have been accused of an involvement in township violence — to present their books and records.

Lay assessors will help to see that justice is done

w/ Mail 14/2-20/2/92
Introducing lay assessors to magistrate's courts is a step in the right direction — but numerous obstacles still need to be overcome.

By LINDA RULASHE

WHEN lay assessors are introduced next month in the magistrate's courts, South Africa's judicial system will take a step towards reflecting the concerns of the people it is designed to serve. But aspects of the system's implementation could alienate rather than incorporate these people.

From March 1, a magistrate will be able to summon assessors who, in the magistrate's opinion, have experience in the administration of justice or particular skill in a matter which is to be considered for trial. Either one or two assessors will be appointed.

Some members of the legal fraternity say, however, that it is not wise to leave the selection of lay assessors solely to magistrates, as they may be insensitive to certain needs and salient features of the community.

In terms of the law introducing the new system, a magistrate appointing lay assessors will have to take into account

- The cultural and social environment from which the accused person originates
- The educational background of the accused
- The seriousness of the offence of which the accused stands accused or has been convicted
- The extent or probable extent of the punishment which the accused will be given if he is convicted
- Any other matter or circumstances which he may deem to be indicative of the desirability of summoning an assessor or assessors

The executive director of Lawyers for Human Rights, Brian Currin, commented that provision must be made for the accused and defence counsel to argue against the appointment of certain assessors if they feel their appointment is not in the interests of justice.

Another idea that has been mooted is that the community concerned be involved in the selection process, but president of the



Brian Currin

Association of Law Societies Ed Southey said this procedure would be impractical. "Casting around for an assessor would waste time. Ideally, the matter should be dealt with as soon as possible."

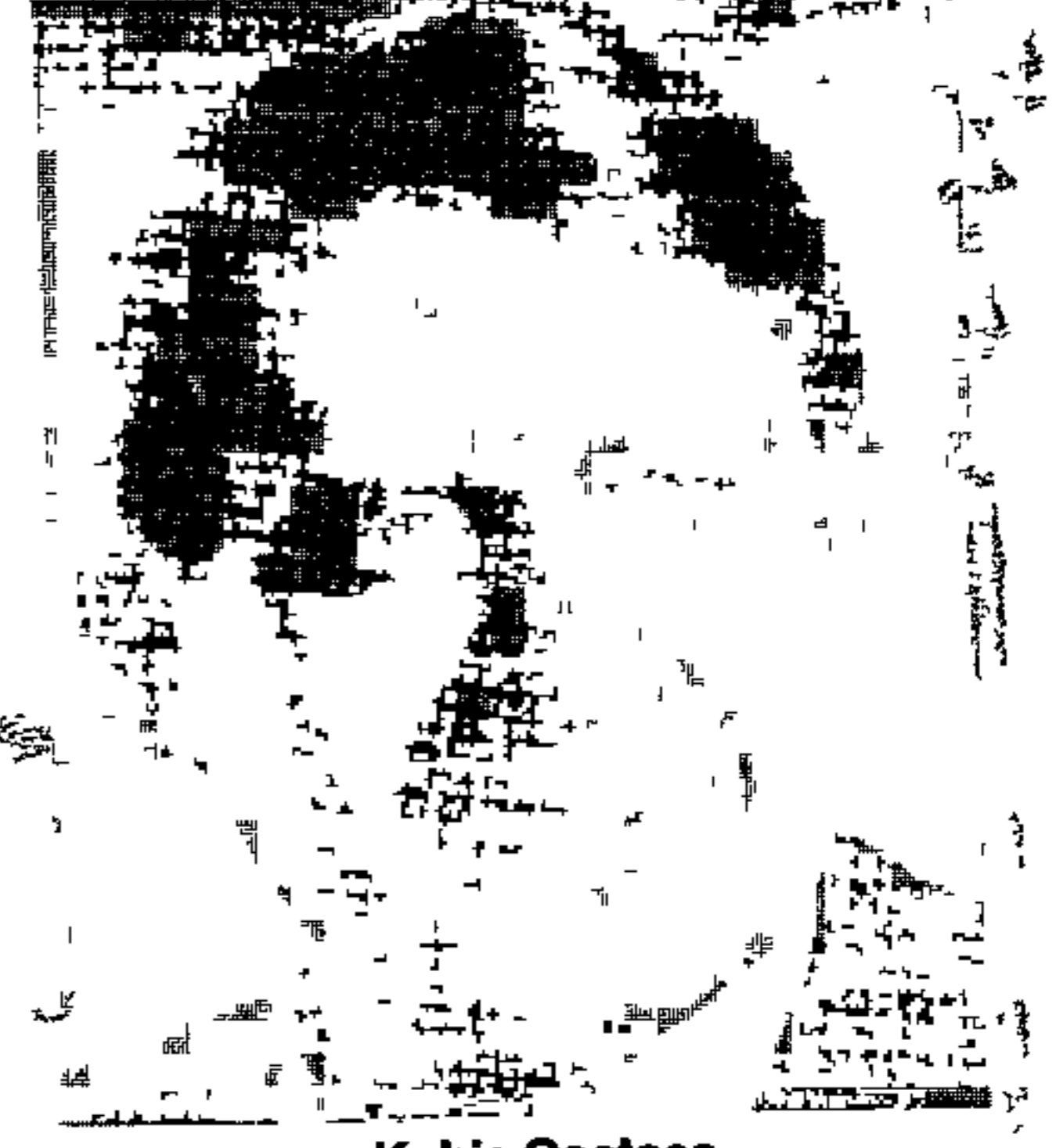
Southey suggested that each court have a semi-permanent panel of approximately 20 people with a presiding officer. "That way, people can be called upon when they are available."

The summoning of assessors may be considered by the magistrate before any evidence has been led — with the approval of the minister of justice — and when considering a community-based punishment, in respect of any person who has been convicted of any offence.

The general feeling is that ideally the assessors should participate from day one of a trial, and not be brought in only at the later stages when punishment is to be handed out. While it may be desirable to have assessors present at each and every case, this would be impractical most of the time.

"It is, nevertheless, a start in the right direction in involving lay people in judgments," said Southey. "Hopefully, the system will be expanded later to have assessors introduced from the beginning of the trial."

The publicity secretary of the National Association of Democratic Lawyers (Nadel), Krish Govender, said that while the system's introduction in the lower courts must be welcomed, proper consultation with the broad



Kobie Coetsee

community and their representatives would be essential for it to be successful.

"The introduction of lay assessors is but a small part of the many changes that are urgently needed to transform the judicial system from an apartheid institution to a non-racial, humane and just institution," Govender added.

"Nadel hopes that the authorities will take the necessary steps of consulting the people and their representatives and organisations before imposing changes from the top."

Minister of Justice Kobie Coetsee said the system's implementation would form part of an ongoing process of devising mechanisms and procedures to keep the legal system in step with contemporary needs.

"It should be borne in mind that the system is not entirely new, but only an extension of an already existing one," he said.

Lay assessors will need no formal legal qualifications, but they should generally be people of good standing within the community. The assessors may overrule the magistrate on questions of fact, but the magistrate will have the final say on legal questions.

If the accused is standing trial in a regional court on a charge of murder, the magistrate will be assisted by two assessors unless the accused requests that the trial proceed without them. In this event, the magistrate may still summon one or two assessors to assist him if he wishes.

Murder accused freed

CP Correspondent

C/Pren 16/2/92

A TRIAL in which 14 people were charged with the ritual murder of a 35-year-old woman ended dramatically this week when all the accused were acquitted.

Venda supreme court Judge DJ Le Roux found that the State had relied heavily on the confessions made by some of the accused. (252) (252)

However, the confessions had discrepancies and contradicted the medical report


The court was earlier told that a group of "comrades" collected some of the accused and took them to a school where they tortured them throughout the night to force them to admit killing Masindi Ngunubu

After making detailed confessions about the killing, the accused were taken to the headman's kraal where they were tried by a kangaroo court.

The kangaroo court condemned some of the accused to death but police rescued them and arrested them for murdering Ngunubu.

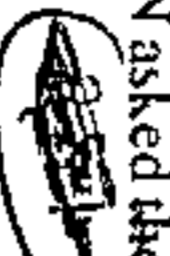
Subsequently, the five women and nine men - including the local headman and a businessman - were discharged.

THE MINISTER OF NATIONAL HEALTH

- (1) (a) R460,244 million and 
- (b) (i) R185 551 million and
(ii) R 18,087 million,
- (2) Department itself R409,920 million
local authorities and R204,640 million
other agencies R 18 153 million

Please note that the Department's budget was reduced due to the fact that the Chief Directorate Pensions was transferred to the Department of Finance with effect from 1 September 1990



SAP current strength

- 59 Mr A JLEON asked the Minister of Law and Order 
- (a) What is the current strength of the South African Police Force, (b) how many persons have joined the Police Force for the first time since 1 June 1991 and (c) in respect of what date is this information furnished?

THE MINISTER OF LAW AND ORDER B147E

- (a) 96 947
- (b) 4 581
- (c) 6 February 1992

Wendy Orr Interdict: settlements

66 Mr E W TRENT asked the Minister of Law and Order  


With reference to the out-of-court settlements resulting from civil actions taken against the Minister of Law and Order and the South African Police following disclosures relating to what was commonly known as the Wendy Orr Interdict, what were the (a) amounts paid to each applicant, (b) costs paid by the State as compensation for the legal costs of the applicants and (c) State's costs in this matter?

B156E

The MINISTER OF LAW AND ORDER

- (a) R120 500,00 was paid to 82 applicants
Compensation varies between R200,00 and R8 000,00 per applicant
- (b) R21 993,71 (provisionally)
- (c) R8 425,00 (provisionally)

THE MINISTER OF EDUCATION AND CULTURE

- 74 Dr W J SNYMAN asked the Minister of Home Affairs 
- How many births were registered in respect of the White population group in each calendar year from 1960 to 1991?

B185E


THE MINISTER OF HOME AFFAIRS

1960	76 300	1976	78 513
1961	75 725	1977	73 998
1962	76 581	1978	73 183
1963	75 569	1979	73 079
1964	76 781	1980	74 760
1965	77 342	1981	79 058
1966	79 426	1982	77 686
1967	81 635	1983	81 139
1968	84 100	1984	81 534
1969	85 758	1985	79 863
1970	88 368	1986	72 955
1971	89 115	1987	70 431
1972	89 890	1988	69 189
1973	89 965	1989	70 964
1974	83 224	1990	69 649
1975	79 811		

1991 Not available (Since the repeal of the Population Registration Act, 1950, statistics in this regard are not kept on the basis of population groups)

Own Affairs

Teachers/promotion staff: services terminated

4 Mr R M BURROWS asked the Minister of Education and Culture 


- (1) Whether any teachers and/or promotion staff falling under his Department had their services terminated with effect from 31 December 1991, if so, (a) how many and (b) for what reasons,
- (2) whether any of the above persons received additional pension benefits as a result of having their services terminated by his Department, if so, (a) what additional benefits, (b) who funded the additional benefits and (c) what total sum is involved,
- (3) whether he will make a statement on the matter? *cost*

B45E

THE MINISTER OF EDUCATION AND CULTURE

- (1) Yes, the information, however, applies as from 1 January 1992,
- (a) 1 769,
- (b) attainment of retirement age, medical reasons and rationalisation,
- (2) yes,
- (a) full pension benefits in terms of the pension regulations which state that in respect of abolition of posts and retirement on medical grounds, a maximum of 5 years may be added to a person's total years of service,
- (b) Department of Finance,
- (c) the information may be asked from the Department of Finance,
- (3) no

National Senior Certificate examinations results

5 Mr R M BURROWS asked the Minister of Education and Culture 

- (1) How many pupils at schools falling under the control of his Department (a) wrote, (b) passed, (c) failed, and (d) obtained matriculation exemption in, the 1991 National Senior Certificate examinations,
- (2) how many of these pupils obtained (a) A, (b) B, (c) C, (d) D, (e) E, (f) F and (g) other aggregate symbols in these examinations,
- (3) how many of these pupils passed in (a) Mathematics and (b) Physical Science in the above-mentioned year? B49E


THE MINISTER OF EDUCATION AND CULTURE

- (1) (a) 509,
- (b) 383,
- (c) 126,
- (d) 22,
- (2) (a) 0,
- (b) 6,
- (c) 45,
- (d) 163,
- (e) 219,

THE MINISTER OF EDUCATION AND CULTURE

- (f) 43,
- (g) 33,
- * (3) (a) 174,
- (b) 95
- * Higher Grade, Standard Grade and Lower Grade included. Information refers to full-time candidates only

Departmental schools utilised for other purposes

6 Mr R M BURROWS asked the Minister of Education and Culture 

Whether any schools owned or controlled by his Department are unutilised or utilised for purposes other than education, if so, (a) how many as at the latest specified date for which information is available and (b) for what other purposes were they being utilised?

B50E

THE MINISTER OF EDUCATION AND CULTURE

- Yes,
- (a) 11 as on 11 February 1992,
- (b) ten schools are presently in the process of being alienated. One school is being considered for education purposes

Non-White teachers' appointments

7 Mr A GERBER asked the Minister of Education and Culture 

Whether any non-White teachers have been appointed at schools under the control of his Department, if so, (a) at what schools, (b) how many and (c) in respect of what date is this information furnished?

B61E

THE MINISTER OF EDUCATION AND CULTURE

- Yes,
- (a) Dale College Boys' Primary School (King William's Town)
- Rondebosch Boys' High School
- The Settlers High School (Bellville)
- The Grange Primary School (Pretoria-maritzburg)
- North Crest Primary School (Durban)

Mobile courts saving lives, millions of rands

By Helen Grange
Pretoria Bureau

more than the money spent on the new courts

In addition, an astronomical amount was saved by insurance companies, Mr Coetsee said

The cost of mobile and standby courts set up over the last holiday period is R2 018,88 a day, and although penalties for these two courts average out at R1 054,65 a day, millions of rands are saved in the prevention of vehicle accidents

Justice Minister Kobie Coetsee, when he was assessing the newly instituted mobile and standby courts in Parliament this month, said the lives and money saved — as well as the saving for the accused in not having to travel to the place of offence — was substantially

consideration the fact that usually the volume of court work showed a decrease during December

The mobile and standby courts alone had heard a variety of 786 cases during December 13 until January 22

"One has to take into account the fact that it contributed to the decline of 470 (40 percent) in the road death toll during the holiday season

"When converted into monetary value, this decline signifies a saving of R200 million in state expenditure," Mr Coetsee said

During December/January, 15 347 people were prosecuted on the provincial main routes in all districts — 400 for driving under the influence, 48 for pedestrian offences and 28 779 for other offences such as unlawful

stopping on freeways or for unroadworthy vehicles

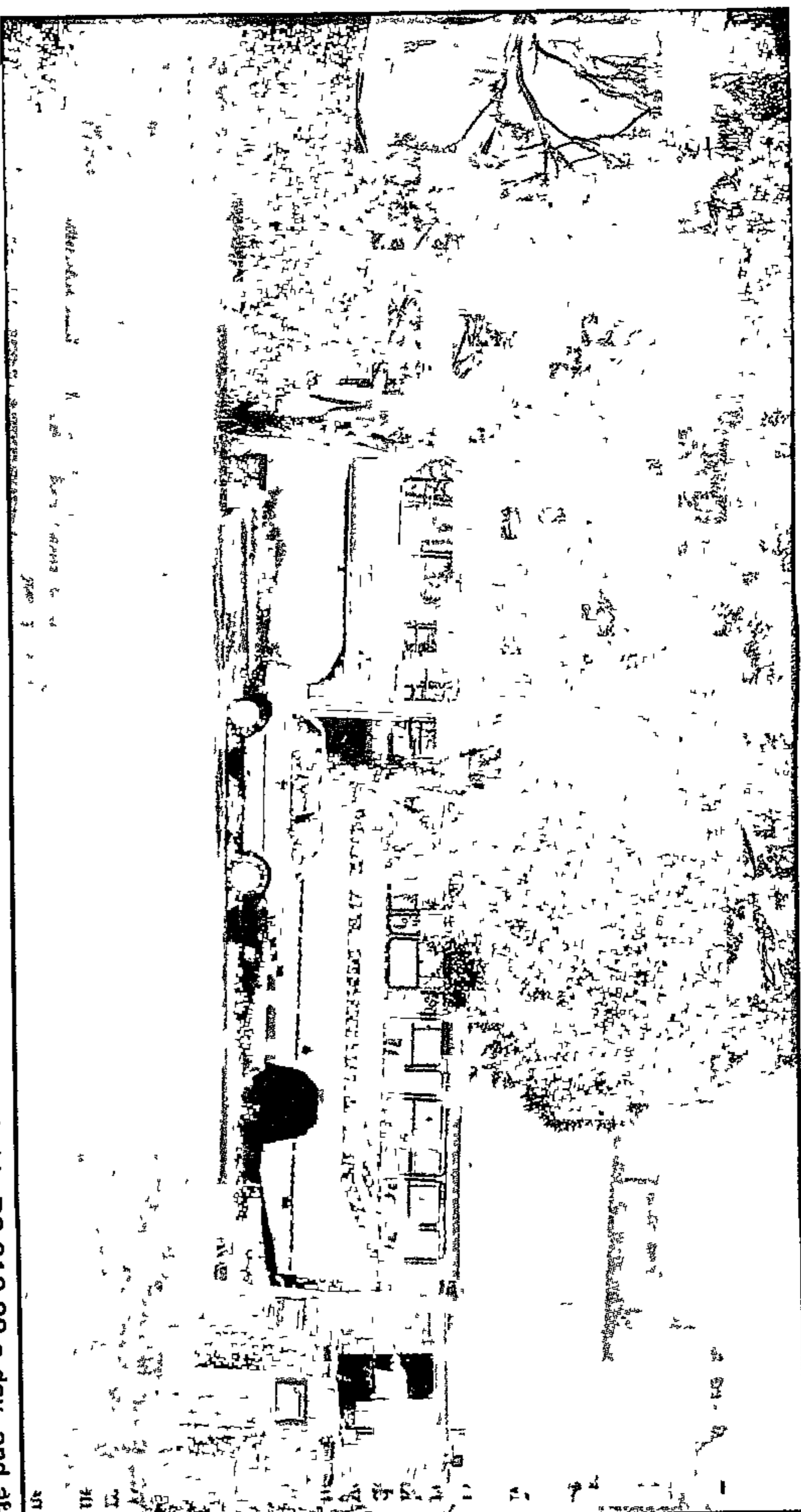
However, roadworthy offences were not the sole objective of the mobile courts

Two mobile courts were visibly supplementing magistrate courts near unrest areas

Move

Although it was difficult to determine the deterrent effect of these courts on unrest, incidents of unrest had declined by 51 percent in December compared with the same period last year

Mr Coetsee said the mobile courts would now move to districts where additional court accommodation was needed. The areas mentioned were Tokoza, Vosloorus and Marburg



Cost cutters — the cost of mobile and standby courts set up over the last holiday period is R2 018,88 a day, and although penalties for these two courts average out at R1 054,65 a day, millions of rands are saved in the prevention of vehicle accidents. Picture: Debbie Yazbeck

Decrease

This December figure represented an increase of 184 percent in comparison with the figure for October and November

The significance of this became evident when taking into

STARK 19/12/92 (252) Coetsee

Judge's plea to PAC chief

252

THE chairman of the Goldstone Commission investigating political violence has appealed to Pan Africanist Congress president Mr Clarence Makwetu to reconsider his decision not to appear before the commission

Sowetan 18/2/92
Mr Justice Richard Goldstone, in a statement issued yesterday, again asked Makwetu to meet the commission to discuss statements made by the PAC's military wing, the Azanian Peoples Liberation Army

At a Press briefing in Johannesburg yesterday, the organisation said the move was aimed at "pressuring the PAC to adopt the Codesa line"

"Appearances before the commission is an attempt to criminalise the just struggle of our people. The activities of Apla do not constitute public violence," the organisation said

The PAC said it was surprising that while violence associated with the Govern-

MOKGADI PELA and Sapa

ment, the African National Congress, Inkatha Freedom Party and the rightwing organisations' leaders had been summoned to appear before the commission

Goldstone, however, pointed out that the commission had no direct or indirect link with Codesa

Goldstone confirmed that he had informed Makwetu that if he refused to hold discussions with the commission, "it would have no alternative but to compel his presence at a public inquiry"

He said he invited Makwetu on January 9 to discuss the statements made by the Apla

On February 12 the general secretary of the PAC, Mr Benny Alexander, replied that neither Makwetu nor any member of the PAC national executive committee knew anything about the alleged activities of Apla and would therefore be in no position to help

Makwetu refuses to testify

Sowetan 19/2/92

PRESIDENT FW de Klerk, as commander-in-chief of the army, must be brought before the Goldstone Commission, PAC president Mr Clarence Makwetu said yesterday

Makwetu was invited by the commission to account for alleged violent activities of the PAC's military wing, the Azanian People's Liberation Army (APLA)

The PAC chief yesterday said that the same criterion which existed for him (Makwetu) to be summoned before Mr Justice Richard Goldstone, existed for the commander-in-chief of the South African Defence Force and the head of the South African Police.

There were more incriminating fingers pointed at the SAP and SADF in the violence that has swept the country in recent years, Makwetu said

"Does Justice Goldstone have plans to summon the commander-in-chief of the SADF, Mr De Klerk, to answer widespread allegations that his army was engaged in the most notorious activities against my people ..

"Is Judge Goldstone about to summon the so-called Commissioner of Police to account for the SAP's possible involvement in the train massacres on the Reef?" Makwetu said

He said that he considered the commission to be "a waste of time"

Makwetu adamant on refusal to testify

B10a 19/2/92 (252) (SEP) (AP)

CAPE TOWN — PAC leader Clarence Makwetu yesterday rejected the second appeal to testify before the Goldstone Commission of Inquiry into political violence and intimidation, and said he would rather go to jail.

"I reject the invitation to the Goldstone Inquiry if coerced by way of an order, I will refuse to attend. If I am threatened with imprisonment because of my actions, my answer must be that I have suffered many years in prison for my beliefs," he said at a news conference.

He said he did not doubt Mr Justice Richard Goldstone's personal integrity but the PAC regarded the laws of the country as illegitimate. It was also clear the principal perpetrators of the violence had not been brought to book.

The Harms Commission of Inquiry into the activities of the CCB and hit squads was a farce and Makwetu wanted to know if Mr Justice Goldstone was going to summon "the Commander-in-Chief of the SADF, President FW de

Klerk, to answer widespread allegations that his army is engaged in the most notorious activities against my people".

He also wanted to know if the SAP Commissioner would be summoned to explain the train massacres, the possible involvement of his staff and why violence continued despite the SAP signing the peace accord.

Makwetu's comments come just after Apla, the PAC's military wing, admitted ambushing and killing three municipal policemen in Katlehong on Monday.

Apla chief information officer Johnny Majozi was reported yesterday as saying that Apla would continue to target security force members until a constituent assembly was established.

Makwetu said his organisation had never disassociated itself from Apla, and called for the immediate establishment of a constituent assembly through proper elections.

Makwetu denied the patriotic front was moribund and said planning was still

on track for the review meeting of the 92 organisations at the end of April. No definite date had been set.

He said the PAC was still working with the ANC and other organisations to plan patriotic front meetings despite some of these organisations' participation in Codesa.

Sapa reports Makwetu's response to attacks on white teachers at Katlehong was that he condemned them if the teachers were attacked because they were white. There may however have been unknown "other reasons" for the attacks, he said.

"The PAC is not anti-white, it is just anti-white baaskap," he said.

ANI Swi

Farmers 'shock action' after s

ADRIAN HADI
FREE State farmers have convened next week to discuss security after a farmer was shot dead by armed intruders in the Free State yesterday morning.

Thys Martins, 46, a farmer living in the Free State, was shot dead after burglars in his kitchen.

The slaying, the sixth violent farm since December, had shocked the community into action, said Orange Free State Union representative Gerald Steyn.

The union has called a special



Codesa to review nine laws

CODESA will soon examine a host of laws restraining free political activity, including a law that enables government to expel from SA people unable to read and write a European language

Nine laws are due to come before a subcommittee of Codesa's working group 1, dealing with the creation of a free political climate, next week. The list has been drawn up by Lawyers for Human Rights' Law Reform Project and forwarded to Codesa. It is understood the legislation is also being reviewed by Justice Minister Kobie Coetsee.

The LHR list includes the Prohibition of Foreign Financing of Political Parties Act, the Secret Services Account Act, the Intimidation Amendment Act, the Disclosure of Foreign Funding Act, the Demonstration in or near Court Buildings Act, the Affected Organisations Act, the Gathering and Demonstrations Act, the Admission of Persons to the Republic Act and Section

PATRICK BULGER

205 of the Criminal Procedure Act (compels journalists to identify their sources) and Section 29 of the Internal Security Act (detention without trial)

Codesa sources confirmed that the laws would come up for discussion soon and that a subcommittee would make recommendations to amend or scrap them.

Yesterday's talks concentrated on the reincorporation of the TBVC states. Codesa sources said the issue was being delayed by an ANC-government disagreement on the restoration of SA citizenship to homeland citizens.

The ANC, which proposed yesterday that the homelands be incorporated immediately, is also calling for the immediate restoration of SA citizenship.

NP secretary-general Stoffel van der Merwe said yesterday the NP believed

□ To Page 2

Codesa

reincorporation should take place before SA citizenship was granted. He said there was little point in restoring citizenship when the citizens of the TBVC states had not yet decided on reincorporation.

Van der Merwe confirmed government and the ANC had moved substantially closer on the issue of regional government.

"The ANC, as far as I can gather, has shifted its position up to the point where it says that regional powers should be enshrined in a new constitution. We are now saying the same thing. I don't think it is

going to be easy to define those powers over the next two weeks," he said. While the NP might agree to the powers being defined in a constitution-making body, it was not averse to these powers being defined at Codesa.

He said a power-sharing formula remained one outstanding issue between government and the ANC, although ANC secretary-general Cyril Ramaphosa's comments in favour of a form of coalition government were regarded as important.

□ From Page 1

Jails 50% overcrowded

Robben Island prison reopened to help ease the squeeze

MICHAEL MORRIS
Political Correspondent

WESTERN Cape prisons are badly overcrowded, housing 50 percent more prisoners than they were designed for and the government has acknowledged concern about prisoner-warder ratios following the Valkenberg Hospital breakout

The maximum security political prison on Robben Island has been brought back on stream to absorb the surplus

Minister of Correctional Services Mr Adriaan Vlok said the prison population was "still within acceptable limits, but obviously we have to

watch the overcrowding situation. At this stage there is no serious problem. It is not unmanageable."

He acknowledged that the warder-prisoner ratio of one to six was "not good" and that the breakout at Valkenberg last week highlighted the need for prison officers to monitor their charges carefully

Western Cape prisons hold 18 000 people but are designed for 12 000

The percentage overpopulation, varying from prison to prison, emerged in answer to a written question in parliament to Mr Vlok by Democratic Party justice spokesman Mr David Dalling

Overpopulation at Pollsmoor in December was 14 percent in the medium B section, 48 percent in the medium A section and 69 percent in the maximum section

At Victor Verster, overpopulation in the maximum section was highest — 77,2 percent — and 68 percent in the medium B section and 58 percent in the medium A section

Mr Vlok confirmed that a pilot correctional supervision project — a probation-type community service scheme — would be launched in Cape Town next month to take off some of the pressure in prisons, and reduce costs

PAC raises a row over Goldstone commission

South 20/2-26/2/92

By Sabata Ngcai

A MAN claiming to be a "field political commissar" of the Azanian People's Liberation Army (APLA), military wing of the PAC, this week threatened Mr Justice Goldstone that he would be held responsible for any action against PAC president Mr Clarence Makwetu.

Makwetu refuses to testify before the Goldstone Commission of Inquiry into Public Violence, even if subpoenaed

APLA has distanced itself from the threats, saying the man was unknown to them and it was not their policy to target civilians

"APLA wishes to put it on record that Goldstone himself will personally be held responsible for any blood that will be shed as a result of his provocative and irresponsible actions," the man, identifying himself as Tafara Rafara, said

"The commanders of APLA will in no way restrain the forces on the ground from taking any action they deem fit in defence of president Makwetu and the whole PAC leadership"

The commission has appealed to Makwetu to testify or be subpoenaed about alleged violent activities of the PAC's military wing.

It is alleged that APLA killed a number of policemen in the last few months.

In their statement dismissing the threats to Goldstone, APLA's chief of information, Mr Johnny Majozo, admitted responsibility for the killings

Makwetu, however, denied allegations that APLA was involved in violence.

He said in Cape Town this week he could not expect justice from the commission "as it is an institution created by the racist illegitimate regime".

If he was threatened with imprison-



DEFIANT: PAC president Mr Clarence Makwetu

ment, his answer would be "I have suffered many years of imprisonment for my beliefs".

"The liberation of my people from 'baaskap' is an aim which I cherish, it is an ideal for which I am prepared to pay the price of incarceration."

Makwetu said it was clear that the principal perpetrators of violence had neither been questioned nor arrested.

"Does Judge Goldstone have plans to summon the Commander-in-Chief of the SADF, Mr FW. de Klerk, to

answer widespread allegations that his army is engaged in the most notorious activities against my people?"

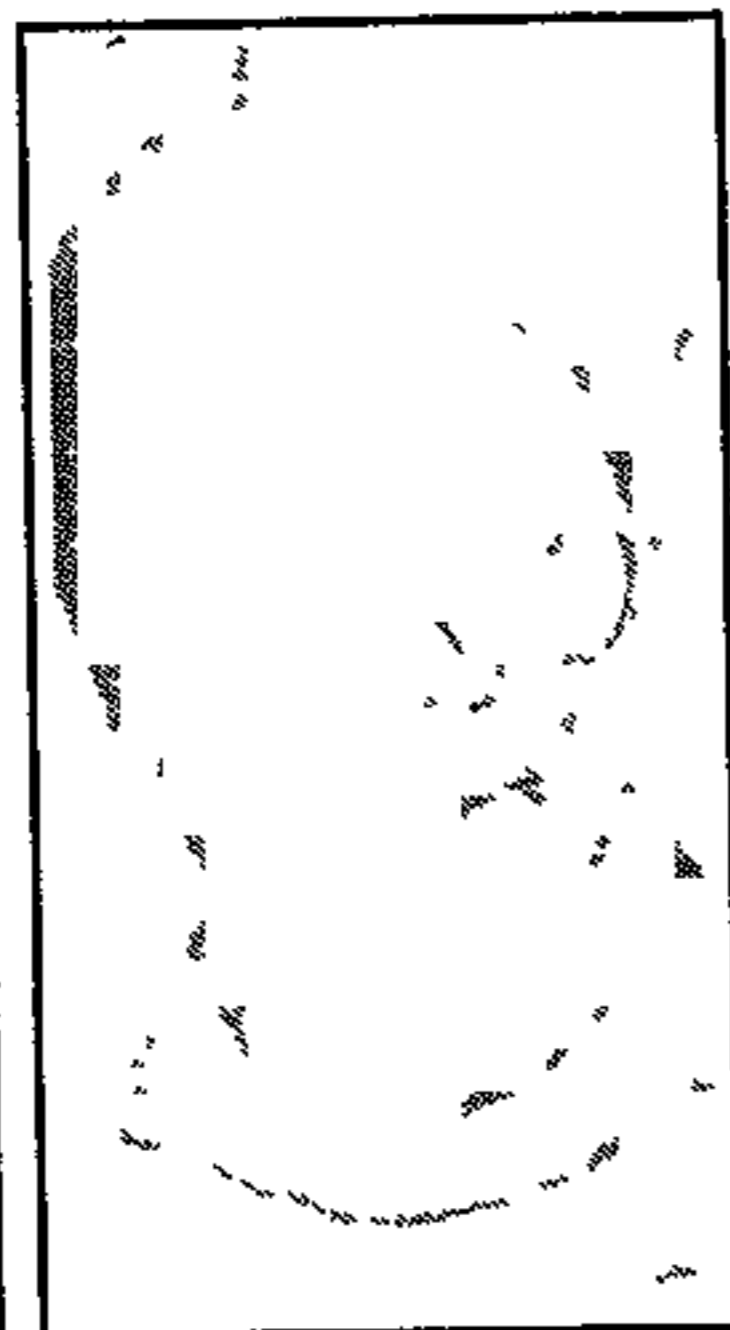
"Is Judge Goldstone about to summon the Commissioner of Police to account for the SAP's possible involvement in the train massacres on the Reef?"

"Are the presidents of the principal organisations involved in the violence being invited to testify why violence rages although they solemnly signed the Peace Accord?"

Azapo says 'no' to Goldstone

Southern 20/2/92

252



NEFOLOVHODWE

THE Azanian People's Organisation has rejected an invitation by the Goldstone Commission of Inquiry into violence and intimidation to testify about violence during the Paul Simon tour.

In a letter sent to the commission yesterday, Azapo secretary-general Mr Don Nkadimeng said the organisation's central committee had found no reason why its president, Mr Pandelani Nefolovhodwe, should testify before the commission.

The commission had invited Nefolovhodwe to attend a hearing and explain allegations of violence made by "an affiliated organisation" during the Simon tour.

After Azapo said the commission should identify the organisation, the commission sent it a newspaper article in which the

By MATHATHA TSEDU

Azaman Youth Organisation was quoted as saying it appreciated all forms of support in its efforts to disrupt the tour.

The article also referred to a grenade blast which rocked the offices of a company supplying Simon with a sound system.

In Azapo's letter to the commission yesterday, Nkadimeng said it was "history that all Azapo's demonstrations against the Paul Simon tour were peaceful, that Azapo's president was detained wrongfully and released without being charged and that the Azanian National Liberation Army had claimed responsibility for the explosions that accompanied the tour.

Apla denies threat on judge Goldstone

252

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Sowetan 20/2/92

THE Azanian People's Liberation Army yesterday distanced itself from the man who threatened bloodshed if PAC president Mr Clarence Makwetu was forced to appear before the Goldstone Commission of Inquiry.

In a statement from the Tanzanian capital Dar es Salaam, the PAC's military wing said the man was unknown to them and, furthermore, it was not its policy to target civilians.

The statement was issued by the organisation's chief of information Mr Johnny Majozo, who backed Makwetu's refusal to testify to the commission.

He said the Apla's high command had no knowledge of Tafara Rafara, who issued

the threats yesterday, claiming he was a political commissar in the organisation.

"It is definitely not Apla's policy to target civilians," Majozo said.

Apla has admitted responsibility for the murder of several policemen this year and warned more killings should be expected, despite an outcry from the black community.

In defending Makwetu's stance not to testify, Majozo said there was no way that Apla's "struggle" could be classified in the same way as township violence.

Makwetu has turned down a request by Mr Justice Goldstone to give evidence before the Commission, saying he would rather go to jail. - Sapa.



Top counsel in big fees rip-off

CT 20/2/92 (252)

Own Correspondent

JOHANNESBURG — Two senior Pretoria lawyers have been effectively barred from appearing in court and a third temporarily restricted following a Bar Council finding that they were guilty of misconduct by charging their clients "totally excessive and shocking" fees.

Advocates Mr Willem Burger, SC, and Mr Piet Kemp had their membership of the Society of Advocates terminated while advocate Mr Henrie Goosen's membership was suspended for three months, the Bar Council announced in a statement yesterday.

The three advocates have also had to repay more than R190 000 to the Pretoria state attorney. This was money deducted from the inflated fees they had charged the Defence Minister, the Chief of the SADF and Colonel Malcolm Kinghorn, who they represented during hearings surrounding applications lodged against their clients by three former Civil Co-operation Bureau members last year.

Although none of the lawyers had been struck off the roll, the termination and suspension of society membership was the strictest censure the

Bar Council could deliver, an advocate said.

In fact, it's as if the death sentence has been passed on their practice, he added.

Mr Burger has subsequently repaid R81 180 of the R123 480 he charged. Mr Kemp and Mr Goosen each repaid R54 720 of the R89 920 they each charged their clients.

According to the statement the three lawyers withdrew their appeals against the findings on October 24 and 25 last year, a day before the appeal was to be heard.

Hours not worked

The council found that Mr Burger and Mr Kemp had deliberately charged fees at a tariff per hour for hours which they did not work. Mr Goosen was found to have negligently charged fees at an hourly rate for time which he did not work.

Mr Burger and Mr Goosen were found guilty of misconduct in that in spite of the fact that their fees were calculated at an agreed tariff, they had not kept any notes or records of time spent working.

SA is 12-1 in

SYDNEY — Australia's legal sports bookmakers are giving 12-1 odds on South Africa in the betting on the nine-nation World Cup starting on Saturday.

The England team, riding high after thrashing New Zealand, has received strong support. Led by veteran opener Graham Gooch and powered by volatile

all-rounder Ian Botham has firmed from an 8-1 to be 7-2, second hind Australia at 12-1. Pakistan, white bowler Waqar Younis injured on Monday, is at 9-2. Two-time champion

Bush drops US loans ban on SA

CT 20/2/92

KNOXVILLE, Tennessee — President George Bush yesterday said South Africa had made significant progress in ending apartheid and authorised the Export-Import Bank to consider South African requests for loan guarantees.

The South African government may now apply for loan guarantees for the purchase of US goods entering South Africa, a White House spokesman said. The Bush administration is also willing to waive sanctions against Armscor if South Africa agrees to stop co-operating with Israel on the development of ballistic missiles, Assistant Secretary of State for Africa Mr Herman Cohen indicated this week.

He declined to say whether it was US policy to press South Africa to abandon its missile programme altogether.

Germany yesterday lifted sanctions against gold, steel and iron from South Africa. — Sapa-Reuters and Own Correspondent

World shudder at poor Bush result — Page 5

SADF lawyers censured for 'shocking' fees

252 ~~252~~ LINDEN BIRNS ~~252~~

TWO senior Pretoria lawyers have effectively been barred from appearing in court and a third temporarily restricted after the Bar Council found them guilty of misconduct for charging clients "totally excessive and shocking" fees.

Advocates Willem Burger, SC and Piet Kemp had had their membership of the Society of Advocates terminated, while advocate Henne Goosen's membership was suspended for three months, the Bar Council said in a statement yesterday.

The three had to repay more than R109 000 to the Pretoria State Attorney. This was money deducted from the inflated fees they charged the Defence Minister, the SADF chief and Col Malcolm Kinghorn, whom they represented during hearings on applications against their clients by three former Civil Co-operation Bureau (CCB) members last year.

Although none of the lawyers had been struck off the court's roll of advocates, the termination and suspension of their society membership was the strictest censure the Bar Council could deliver, said an advocate who asked not to be named.

"It's as if the death sentence has been passed on their practice."

Should Burger, Kemp or Goosen in the next three months attempt to represent clients in court, the Bar Council could bring an action to have them struck off the roll, he said. *6/Day 20/2/92*

Burger and Kemp also represented former Defence Minister Gen Magnus Malan, former SADF chief Gen Janne Geldenhuis and the SADF during the 1990 Harms Commission probe of alleged state-sponsored hit-squad activities.

Yesterday's decision on Burger, Kemp and Goosen was not related to the Harms Commission. It pertained only to the subsequent applications by three former CCB members — D Farrell, R Bosch and D du Toit — against Malan, the SADF chief and Kinghorn relating to the CCB's severance package offer.

The Bar Council described the fees the

To Page 2

Lawyers *6/Day 20/2/92* ~~252~~ ~~252~~ ~~252~~ From Page 1

three advocates charged as "totally excessive and shocking".

Burger had subsequently repaid R81 180 of the R123 480 he charged. Kemp and Goosen each repaid R54 720 of the R89 920 they had charged their clients.

According to the statement the three lawyers withdrew their appeal against the findings last October, a day before it was to be heard by the General Council of the Bar Appeal Committee.

The council found Burger and Kemp had deliberately charged fees at an hourly rate for hours they did not work. Goosen was found to have negligently charged fees at an hourly rate for time he did not work.

Burger was found guilty of misconduct in that, in spite of his fees being calculated at an agreed tariff, he had not kept record

of the amount of time spent working.

All three were found guilty of misconduct in that they drew up statements of account, or alternatively associated themselves with statements sent to their instructing attorneys, detailing the work undertaken and time spent on it, and for receiving payment based on those statements.

The council found that Burger and Kemp knew the statements of account were incorrect, but that Goosen had not checked his statements. Burger was also found guilty of misconduct for failing to attend the second day of the inquiry without the Bar Council's consent, and was therefore in contempt of the council.

Burger, Kemp and Goosen could not be contacted for comment yesterday.

Society STAR 20/2/92 expels SADF's advocates

By Helen Grange
Pretoria Bureau

Two advocates who acted for the Defence Force during the Harms Commission of inquiry into hit squad activities have had their membership of the Society of Advocates revoked and a third has been suspended because of gross overcharging at the time.

This is the most serious action which can be taken against legal men apart from being struck from the roll.

The Bar Council decided on Monday to immediately terminate the membership of Willem Burger SC and Piet Kemp and suspend Henrie Goosen's membership for three months in the light of the council's findings of serious misconduct by the three.

A Bar Council inquiry last year into their activities during the Harms Commission found that they were charging "totally excessive and shocking" fees.

The three lawyers were representing the Minister of Defence, Chief of the SA Defence Force and a Colonel Malcolm Kinghorn in an action brought against SADF personnel by former CCB agents D Farrell, R Bosch and D du Toit.

The termination and suspension of the advocates' membership of the Society of Advocates is seen in legal circles as a serious disciplinary step. Although they can still practise, they will be frowned on by the legal fraternity and will not be able to enjoy the benefits the society offers, a legal source said.

After the Bar Council inquiry last year, the three lawyers were ordered by the Bar Council to pay back the excess amounts charged.

Mr Burger has paid back R81 180, while Mr Kemp and

● To Page 2

Society expels advocates

● From Page 1

Mr Goosen have each relinquished R54 720 to the State Attorney.

In a statement yesterday, the Society of Advocates said the three had charged and received fees which could only be described as "excessive and shocking".

All three had charged fees at a tariff per hour for hours which they did not work, and Mr Burger and Mr Goosen had

failed to keep proper notes and records of the time spent.

Mr Burger and Mr Kemp had known that their statements of account were incorrect in various respects.

Mr Goosen had not ensured his accounts were correct before sending them out.

Mr Burger was found to be in contempt of the Bar Council for failing to attend a day of the inquiry without consent.

PAC threat to judge who heads violence commission

STAR 20/2/92
A man claiming to be a "field political commissar" of the Azanian People's Liberation Army (Apla), military wing of the Pan Africanist Congress, yesterday issued a warning to Mr Justice Goldstone that he would be held responsible for any action against PAC president Clarence Makwetu

"Apla wishes to put it on record that Goldstone himself will personally be held responsible for bloodshed as a result of his provocative and irresponsible actions," the man, who called himself Tafara Rafara, said by telephone.

The warning came only a day after Mr Makwetu himself vowed he would rather go to jail than testify on reported attacks on police by Apla operatives before the Goldstone Commission of Inquiry into the Prevention of Public Violence and Intimidation.

The commission is headed by Mr Justice Goldstone.

The caller purporting to be Mr Rafara warned "The commanders of Apla will in no way restrain forces on the ground from taking any action they deem fit in defence of president (Clarence) Makwetu and the PAC leadership"

There was no immediate comment from the Goldstone Commission or the PAC.

The PAC's secretary for foreign affairs, Patri-

cia de Lille, said by telephone "I can't help you on this issue I can only refer you to PAC's external headquarters where you can contact Apla."

Police said that at this stage they were not in a position to comment on the warning against Mr Justice Goldstone.

Mr Rafara said Apla supported the PAC's position that "an illegitimate and illegal regime cannot set up a legitimate commission and issue legal orders to our leader"

Mr Rafara also warned government on possible action against Mr Makwetu

"Apla wishes to warn the South African regime that any action taken by the Goldstone Commission against Comrade Makwetu will not be taken lying down by Apla forces and the people of Azania

"We of Apla can assure the racist regime that any action of humiliation against Comrade Makwetu will be too costly in terms of human life as it is bound to trigger the uncontrollable anger of the oppressed and humiliated people of this land"

Mr Rafara said the only solution to violence lay with the oppressed demonstrating their ability to defend themselves

He added that attacks on police were Apla's main campaign

A police spokesman said attacks on their men would not be tolerated
— Sapa

R630 500 payout for paraplegic

252

Soweto 21/2/92

A SOWETO man, who is a paraplegic after being shot by police and mauled by their dogs at a night vigil last year, has been awarded R630 500 damages in an out-of-court settlement by the Pretoria Supreme Court.

Pan Africanist Congress member Mr Harold Ntoso Hlatshwayo (24) of Mofolo Village, Soweto, was seriously injured during a night vigil for the organisation's late president, Mr Zeph Mothopeng, outside Uncle Tom's Hall in the early hours of November 3 1990

Shot by police

Hlatshwayo initially demanded R1 115 032 from the Minister of Law and Order after being unlawfully and wrongfully shot by the police

In summons served on the Minister, Hlatshwayo said as he lay injured on the ground, police set their dogs on him while they swore and laughed

He is now a paraplegic after sustaining a spinal cord injury, gunshot wounds in the buttocks, chest, right thigh and ankle. He

By MONK NKOMO

also sustained wounds to his arms, hands and ankle after being bitten by the police dog

Hlatshwayo's attorney, Mr Willie Serti, yesterday confirmed that the matter was settled out of court shortly before the matter was to be heard before Mr Justice van der Walt in the Pretoria Supreme Court on Wednesday afternoon

Expert witnesses

Serti said lawyers representing the Minister had offered to pay Hlatshwayo R630 500 in damages, the costs of two advocates and payment of qualifying fees for nine expert witnesses who were subpoenaed by him and his partners

Hlatshwayo was represented by two advocates, Mr Dikgang Moseneke and Mr Mojanku Gumbi, who were instructed by Serti, Mavundla and Partners.

The offer was made an order of court by Mr Justice van der Walt

Hlatshwayo was arrested shortly after he was shot and seriously wounded

Mr Ntuso, with his mother Mrs Malereko Ntuso, Mr Isaac Hlatshwayo (with goggles), and an on-looker after being awarded R630 500 damages by the Pretoria Supreme Court.

the body of a family member found dead at Nancefield Station in Soweto
Picture Joao Silva

Goldstone request to meet Azapo leader withdrawn

STAR 21/2/92

By Thabo Leshilo
Political Staff

(252)

The Goldstone Commission has withdrawn its request to Azapo president Pandelani Nefolovhodwe to come before it and discuss the alleged involvement of its youth wing, Azayo, in violence associated with the recent Paul Simon tour.

Mr Nefolovhodwe refused the request by the commission investigating violence and intimidation this week after the matter was discussed by a meeting of the organisation's central committee

In a letter turning

down the invitation, Azapo's secretary-general Don Nkadimeng told Mr Justice Goldstone that Azapo and its president were in no way linked to any acts of violence. Consequently the organisation "saw no need to involve themselves at this stage"

He also stated that responsibility for the hand-grenade blast at PA Sounds, the company that provided sound during the tour, had been claimed by the exiled Azanian National Liberation Army

In his letter, delivered to Azapo on Wednesday, Mr Justice Goldstone

said "In view of your assurance that Azapo and its president were in no way linked to the activities in question, the commission will take the matter no further"

Meanwhile, the commission this week renewed its request to PAC president Clarence Makwetu to come before it and account for activities of the Azanian People's Liberation Army (Apla)

Mr Makwetu has refused the invitation, saying he was not responsible for the actions of Apla — the PAC's armed wing — which included killing policemen

Magistrates will have assessors

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Sowetan

21/2/92

MAGISTRATES presiding over murder trials will soon have assessors

The change, which comes into effect on March 1 and is contained in the Magistrates' Court Amendment Act, is aimed at ensuring that justice is served

Mr Johan Botha, president of Cape Town Regional Court, said in terms of the amendment a magistrate could summon a maximum of two assessors at the start of a trial

In the case of a murder trial, the magistrate had to be assisted by two assessors, unless the accused asked to be tried without them

In making a decision, the magistrate had to consider the accused's cultural and social environment, educational background, the seriousness of the crime, the extent of possible punishment and any other relevant factors

Mr Brian Currin, national director of Lawyers for Human Rights, said that the move was a step in the right direction

It was important to assure that the accused and his legal representative could review the appointment of assessors, Currin said

People's problem-solver

W/maail 21/2-27/2/92
 South Africa's first ombudsman is more than a state watchdog and public problem-solver — he is also a confidant who often provides a shoulder to cry on.
By LINDA RULASHE

SOUTH AFRICA's first ombudsman, Mr Justice PJ van der Walt, is fast becoming a specialist in informal settlements.

Two weeks ago he was asked to mediate in the Zevenfontein fiasco and besides being involved in a similar issue in Gonubie, East London, he is also being inundated with complaints from landowners — and their informal tenants — in other areas.

However, squatter problems — which he terms tragic — are just a few of the many complaints with which he deals. Other common grievances centre on pension payments, unemployment and compensation benefits.

He has dealt with nearly 600 written complaints and 1 000 calls since the Advocate General Act was amended four months ago to accommodate an ombudsman.

After he was appointed acting advocate general in 1979 in the wake of the Info scandal, Judge Van der Walt (61) primarily probed complaints of unethical conduct in the handling of state or public funds.

Now his brief has been extended and the emphasis falls on complainants who believe they have been improperly prejudiced by public officials. His wider mandate also includes state conduct which may be lawful but improper in the eyes of the broader community, such as human-rights infringements.

A government watchdog over state corruption and problem-solver of complaints against civil servants or public bodies, he is also counsellor and confidant for the few who want to vent their frustrations or simply need a shoulder to cry on.

Ideally, he says, government bodies should be able to handle their own complainants. They should also have public relations departments whose numbers are well publicised. However, "the state bureaucratic machine is often unsympathetic when it comes to dealing with people and their problems. Government departments deal with too many people and they always get bogged down."

The judge says he receives occasional "weird" complaints, such as those from "the man who has written to me several times complaining that his inventions — including a rubbish trolley and a coin TV — aren't being registered. He often writes to me on envelopes. One time he sent me a letter on an envelope without a stamp on it."

"Then there was the man who phoned me up and told me there was someone 'out there' interfering with his brain waves. I told him that I didn't have extra-terrestrial jurisdiction."

Judge Van der Walt knows he can't please all of the people all of the time, but believes the reason some may never be satisfied with the way their problems are handled is because "they are the source of their own problems."

Highly regarded in legal circles as a fair-minded, principled judge, advocates and legal academics perceive him to be "bold" and "not afraid of anyone". Above all, he is commend-



Human touch ... Mr Justice PJ van der Walt

Photo GUY ADAMS

ed for his "human touch" — evidence of which is his willingness to answer the toll-free line at his office or to see complainants personally.

When he presided over the Moses Mayekiso treason trial in the late 1980s, he allowed Mayekiso's parents, who had travelled from Transkei, to visit him in the cells — surprising some observers as much as his remarks did when he acquitted Mayekiso and his four co-accused of treason and the alternative charges of subversion and sedition.

During the trial, the five men were alleged to have conspired with civic and youth organisations in Alexandra to seize control of the township and render it ungovernable during a period from 1985 to 1986. The state also attempted to prove that they were involved in the formation of organs of people's power, people's courts, consumer and rent boycotts, and campaigns against police and town councillors.

Judge Van der Walt found none of the alternative charges had been proved and the state dropped the main charge of treason when the trial resumed for argument on April 3 1989, conceding that it was unable to prove the charge beyond reasonable doubt.

Some of the judge's remarks during the trial were described as very liberal, among them his reference to the *Oxford Dictionary's* definition of democracy. He said blacks had no part in South African democracy because they could not vote for the members of parliament whose actions affected the lives of all citizens. "These facts are notorious and I have no need for evidence," he was quoted as saying.

He works as a judge in the mornings and as ombudsman in the afternoons, taking paperwork home after hours and on weekends. This way, coupled with the fact that he reads quickly, he doesn't drown himself in work as "that would be doing a disservice to the people I'm supposed to be helping."

While he doesn't allow one job to interfere with the other, a complainant's problem might eventually end up in court. "In that case, if I have to preside over the case, I will recuse myself," he says.

He believes his legal training has qualified him for his role as ombudsman. "If one can be of service in a related field without detracting from one's main services, then I think it's fine. The job is a necessary extension of one's judicial function and as judge I have become well equipped to handle the job. It has also taught me to be more objective."

He is not allowed to give direct legal advice — and says as ombudsman he often advises complainants to see a lawyer, if they can afford one.

He believes the judicial process has become cumbersome. "I have become disillusioned with the high cost of litigation, which has made the judicial system less accessible to many people."

Judge Van der Walt says he would like to carry on being ombudsman for as long as he can. Obviously someone else will have to take over the reins one day when he retires. But until then he will be content, "just as long as the desk is full."

Disbarred advocates still on state payroll

W/OK 21/2 - 27/2 | 92 (252)

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Weekly Mail Reporter
WHY does the state continue to hire advocates who have been shown to overcharge it by up to 300 percent?

Some of these advocates' even charged for work they did not do. Why then do they continue to get briefs at taxpayers' expense?

These are the questions being asked after this week's Bar Council action against three Pretoria counsel who were found last year to have hugely overcharged the minister of defence, the chief of the South African Defence Force and a Colonel Malcolm Kinghorn.

On Monday, William Burger SC and Piet Kemp were thrown out of the Bar Council of Pretoria and Henrie Goosen was suspended for three months. The evidence against

the three was overwhelming and the Bar Council's remarks damning.

Yet at least some of them continue to do work for the state. Kemp, for example, is currently representing the South African Police at the Goldstone Commission of Inquiry.

He charged R53 480 for a matter for which the Bar Council set a maximum fee of R25 200. He has paid back the difference. Burger paid back R81 150 of a R124 480 bill and Goosen R54 720 of a R82 920 bill.

The three were also charged with misconduct leading to this week's Bar Council disbarring. The council said all three had charged "fees which can only be described as totally excessive and shocking". Burger and Kemp were also found guilty of

charging fees for hours in which they did not work.

The ruling against them does not prevent them from working as advocates, but it does mean they cannot operate from the Bar.

There is no sign, however, that the state intends to stop using them. They all do a great deal of work for the security services.

The state is also using taxpayers' money to assist officials in taking action against newspapers who criticise them.

In many of the major recent civil actions by state officials against news papers — such as General Lothar Neethling's case against *The Weekly Mail* and *Frye Weekblad*, and Attorney General Klaus von Luers' case against *Frye Weekblad*

— the state is providing these individuals with the funds to challenge the papers in court.

Von Luers, who last week lost an appeal against the *Frye Weekblad* costs judgment against him, said in court that the understanding between him and the state was that he would personally pay if the judge ruled against him.

However, in the interim it is taxpayers' money that has allowed him the opportunity to attack *Frye Weekblad* in court.

In the Neethling case, this has run into millions of rands and cost continue to mount as Neethling — with state support — has taken the matter to the Appellate Division.

Further warnings on prisoner releases

By Helen Grange
Pretoria Bureau

STAR 2/12/92

Opposition to the early release of prisoners is becoming louder — with a warning that the law will not be respected if justice is not seen to be done

The Association of Law Societies (ALS) is the latest body to join the protest against early prisoner releases, bolstering the views of several senior policemen and two prominent judges

Meanwhile Adriaan Vlok, Minister of Correctional Services, announced in Parliament this week that the release advisory board looking into the issue of prisoner release policy is to be reconstituted as a national advisory board

The move effectively means co-opting more representatives from the legal fraternity who will be able to contribute to possible policy changes

Mr Vlok disclosed on Tuesday that jails were overcrowded by an average 15 percent

There were 123 overfilled prisons in the country

He said his department released about 10 000 prisoners a month, but it was receiving 11 000 from the court monthly

Action being taken included extending prisons and building new ones, transferring prisoners to less crowded institutions, granting special remission and opting for correctional supervision whereby a prisoner was freed but placed under strict control in the community

ALS president Ed Southey said that although his organisation was sympathetic towards prison authorities, there was an urgent need to resolve the problem through other means than merely early releases

Two judges, Mr Justice Diccott and Mr Justice Strydom, have agreed with this

Senior policemen have also expressed bitter frustration at the early releases, complaining that the effort made to arrest criminals is heavily undermined if they are back on the streets soon afterwards

Said Mr Southey yesterday

"The time and effort spent by various professionals in determining a suitable and just sentence is effectively overturned by an early release"

To uphold respect for the law, it was imperative that justice was seen to be done and that sentences imposed were served.

Some case could be made out for the early release of political prisoners when reviewing the political change in South Africa, but these remissions should not apply to ordinary common law prisoners, he said

The association felt that in principle, no convicted criminal who was sentenced to a term of imprisonment should come off scot-free, even where the total remissions by the state equalled or exceeded the jail sentence, Mr Southey said

Workers at the National Institute for Crime Prevention and Rehabilitation of Offenders (Nicro) feel the community may not be able to cope with the responsibility of controlling convicts sentenced to correctional supervision

Eight guilty of horror killings

City Press 23/2/92
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By DAN DHLAMINI

SPINE-chilling events at the Mshenguville squatter camp in Odendaalsrus, where four whites were murdered and set alight, unfolded this week in the Virginia Circuit Court.

Judge DJ Lombard sitting with two assessors heard how a white woman was stripped naked and begged for mercy while her eyes were gouged out with a knife and one of her breasts cut off, before her private parts were chopped with an axe

This was the evidence against Phillip Matela, 25, Mandlakapele Dlamini, 28; Dick Nhole, 18; Monare Moikabi, 26, Thami Hlobo, 26; Justice Segopa, 28; and three 16-year-old youths, by State witnesses whose identities were protected following a successful application by the prosecutor, Advocate Andre Becker.

The accused, who are defended by advocates Mike Naidoo and Essop Patel, chose not to give evidence under oath and eight of them were found guilty on all four counts of murder

In convicting the eight accused, Justice Lombard said the manner in which the four Odendaalsrus whites were murdered in Kutlwanong township, was atrocious and barbaric

He convicted Matela, Dlamini, Nhole, Moikabi, Hlobo, Segopa, and two 16-year-old youths, all of Kutlwanong, on all four counts of murder

Matela, Dlamini, Nhole and Segopa were also found guilty of malicious damage to property following the burning of the victims' car.

Another 16-year-old youth, who was not seen by any of the State witnesses at the scene of crime, was found guilty of common assault following his own confession, that he was under duress when he sjamboked one of the whites

Cornered

The incident occurred on September 29, 1990, at Mshenguville squatter camp where the accused and others cornered Shelly Erica Basson, Anthony Marc Casey, Johannes Petrus van Niekerk and Michael Frederick Belelie and started assaulting them for no reason.

Initially, 33 accused, mostly youths, and a woman had been charged

A male witness said he saw Dlamini and Segopa hold the white woman while Moikabi gouged her eyes with a knife while she screamed in agony

He said she was still alive when Dlamini cut off one of her breasts and Segopa chopped her private parts with an axe before they hurled her body on top of a burning car

He said another witness tried to help the driver of the car escape but the driver tripped and fell and was set alight by the mob.

Advocate Becker told the court he would oppose the defence application for extension of bail pending sentence.

Advocates Patel and Naidoo told the court they would call an expert witness to testify in mitigation of sentence tomorrow. Patel told City Press he was going to appeal against the conviction

Laws that encourage violence

S | Times 22/2/92

DEPUTY Minister of Law and Order Johan Scheepers this week gave notice of a new regulation to control the possession of dangerous weapons at political meetings

Lawyers for Human Rights believes it will not prevent the violence plaguing South Africa. Moreover, one must doubt whether it is intended to do so.

Let us begin with an incident. On January 18 this year 20 black men armed with an assortment of dangerous weapons were allowed by six policemen to board a train at Mayfair station.

Half an hour before, a person had been killed and three others injured in an attack on the same line. An hour later another person was killed on another Soweto line.

An SAP spokesman, asked for an explanation, said the police would have acted if there had been any threat to a member of the public.

What, in fact, is the legal position?

Section 2 (1) of the Dangerous Weapons Act 71 of 1968 states "Any person who is in possession of any dangerous weapon . . . shall be guilty of an offence, unless he is able to prove that he at no time had any intention of using such weapon . . . for any unlawful purpose . . ."

Even a layman can see that the police understanding of these provisions is incoherent and indefensible.

The proviso "unless he is

able to prove that he at no time had any intention of using such weapon for any unlawful purpose . . ." clearly means that when an accused is charged with a contravention in a court of law, he must prove to the court his innocent purpose in possessing such a weapon. However, mere possession will permit his lawful arrest and disarmament.

Are the police being coherent? If one traces the origin to the attitude, the disquieting suspicion arises that the intention of the police has been that certain people should be armed with dangerous weapons.

As Tony Leon of the Democratic Party said in Parliament this week "The police action in the past suggests at least a benign neglect by the state. At worst, it betrays something approaching a conspiracy: an official attitude of compliance ensuring one section — always the Zulu section — of our population arm themselves."

During the height of the conflict in Natal in 1990, lawyers acting for communities in that province implored the commissioner and the Minister (Mr Vlok) to disarm persons who carried spears, assegais, pangas or knobkieries in public.

The police response was

that the Dangerous Weapons Act did not empower them to do this. It was pointed out that if the police were in need of legislation to assist them, then the Natal Code, which had been in force in that province since 1891, made it an offence to possess these weapons in these circumstances.

Within a week, President F.W. de Klerk amended the code, making the bearing of these weapons in public lawful. The ruling was later set aside by the Supreme Court, but President De Klerk has appealed against this decision.

A flurry of regulations, promulgated under the Dangerous Weapons Act and under the Public Safety Act, have followed.

All are based on the premise that section 2 (1) of the Dangerous Weapons Act does not empower the police to arrest and disarm persons bearing dangerous weapons in public. All have the effect of making it lawful to carry such weapons in public generally; for the regulations identify only specific conduct which, if accompanied by the bearing of weapons, will constitute criminal conduct.

Just one example: a regulation of August 24 1990 makes it an offence to be in possession of a dangerous weapon, if one

is in a group gathered with the intent of attacking another person. It is also only applicable in an unrest area.

The legal implication is that this conduct is lawful in non-unrest areas. But the police do not need a regulation to prohibit this conduct. The common law has prohibited it from time immemorial, even in non-unrest areas.

Mr Scheepers now says a new regulation will be promulgated. It will prohibit the possession of assegais, spears and battle axes at political meetings. It is evident that knobkieries, pangas, "ceremonial axes" and iron bars will not be prohibited. The further legal implication is that possession of assegais etc is not prohibited outside these meetings. It also raises the question of what constitutes a political meeting.

Judge Goldstone has charged the police with being confused about the law's provisions. This last regulation will certainly not assist in clearing up any confusion.

One explanation, deeply disturbing to those who cherish law and legal regulation, is that the state has created a situation which, for reasons that should be explained to the public, is in accordance with their intentions.

● Mr Pitman is chairman of the Witwatersrand Region of Lawyers for Human Rights

Judges are overworked — Friedman

0724/2/92 (252)

By **RONNIE MORRIS**
Supreme Court Reporter

CAPE Supreme Court judges are overworked — often having to deal with cases which do not merit the attention of judges — and matters will get worse, the Judge-President, Mr Justice Gerald Friedman, warned yesterday

While he favoured the appointment of an additional four judges to the Cape Bench, he believed an alternative court structure should be created between the Magistrates' Court and the Supreme Court to lighten the burden on judges, Mr Justice Friedman said.

There was a waiting period of about 11 months before a civil trial could be heard and the backlog in cases would increase this year because 15 Full Bench appeals (heard by three judges) had been set down between May and August this year

To accommodate the Full Bench appeals, the daily 15 civil cases on the roll would have to be reduced and this would increase the waiting period

Cape judges were overworked and forced to go from one case to the next without having had enough time to prepare for a new case or adequate time to prepare their judgments

This caused a backlog of reserved judgments, Mr Justice Friedman said

"It's important for the quality of jus-

tice that judges should not be overworked but have adequate time to prepare for hearing and after the trial to consider their judgments. With the present workload it's not possible to achieve this"

He favoured an extension of the jurisdiction of magistrates or the Regional Courts because the Supreme Court often had to deal with cases which did not merit the attention of judges. Citing an example, he said motor accident claims were not difficult cases to hear but were time consuming and could be heard in the Magistrate's or Regional Courts

"The Regional Court has never dealt with any other but criminal cases and what I favour is that the Regional Court or some other structure of court between the Magistrate's and Supreme Court be created to deal with cases which do not really warrant attention of the Supreme Court"

A senior judge agreed with Mr Justice Friedman that four additional judges were needed to handle the heavy caseload. "The number of advocates at the Cape Bar has virtually doubled. However the number of judges has not kept pace," he said

Mr Justice J H Conradie agreed that the jurisdiction of the Magistrate's Court — last increased in 1987 — should be increased to deal with cases which should not be heard in the Supreme Court

Tension blamed for killings

THE tense situation in squatter camps could have led to the murder of four whites at Mshenguville squatter camp in Odendaalsrus, an expert witness told a Circuit Court judge in Virginia yesterday.

Dr Saths Cooper, former national director of the Institute for MultiParty Democracy, was giving evidence in mitigation of sentence in the trial of eight men - among them two youths - facing the death penalty. His evidence related to conditions in squatter camps that

Sowetan 25/2/92
BY SONTI MASEKO

could have triggered an unprovoked attack on the four whites who were murdered at Mshenguville in 1990

The convicted men are Phillip Matela (25) Mandlakaphel Dlamini (28) Dick Nhole (18) Jeremia Monare Motkabi (26), Thami Hlobo (26) Justice Segopa (26) and two youths. The eight, all residents of the squatter camp, were found

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guilty of murdering Mr Anthony Mark Casey, Mr Johannes Petrus van Niekerk, Mr Michael Frederick Beile and Ms Shirley Erica Bason.

The victims were hacked, stabbed and set alight by the accused in an attack described by the judge as "merciless, gruesome and barbaric"

Cooper testified that around the time the murders were committed, attacks on squatter communities on the Reef were taking place and residents in Mshenguville in Odendaalsrus had also feared an attack



New bid for 'more affordable' justice

PRETORIA — Short Process and Mediation Courts are to be introduced in South Africa this year as part of a legal reform process aimed at more affordable and accessible justice

This is confirmed by Justice Minister Kobie Coetsee in an interview due to appear in the March edition of the RSA-Policy Review publication of the South African Communication Services

"The underlying aim is for litigating parties to be able to settle a case under supervision of a presiding officer before the start of court proceedings

"The presiding officer may be an attorney, an advocate or a retired magistrate. The State pays part of the cost of the presiding officer and puts the necessary infrastructure at the disposal of litigants

"Should the dispute be settled, the outcome can be made an enforceable decree of the court. Even if the proceedings fail to produce a settlement, subsequent adjudication is still expedited by the elimination of issues in the course of the mediation process

"If all parties agree to it, the record of the mediation process can become part of the

subsequent proceedings in the Magistrate's Court"

Mr Coetsee said the development was the latest in a series of new courts, including mobile and small claims courts, which were all in line with a worldwide search for speedier and less costly ways of resolving disputes, with increased public participation and diminishing State involvement

He said the Short Process Court was a time-saving mechanism which would cut down the high costs of and long delays in litigation — the two main causes of inaccessibility to South African courts

It would provide an alternative forum to the conventional civil court, but with the same powers as a Magistrate's Court

"The appointment of adjudicators takes place on the same basis as that of mediators. Only advocates or attorneys with at least five years' practical experience, or people who have been involved in the tuition of law for that period, or retired magistrates with at least five years' experience in that capacity, are qualified for appointment as adjudicators

— Sapa

IFP 'is a mafia of murderers'

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Souefan 26/2/92

FORMER assistant national organiser of the Inkatha Youth Brigade Mr Mbongeni Khumalo yesterday told the Goldstone Commission of Inquiry that the IFP was a "murderous mafia".

Testifying under cross-examination at the Ned Geref Kerk Sinodase-sentrum in Pretoria, Khumalo said in spite of this, he went on TV and radio and said the opposite

The commission, chaired by Mr Justice RJ Goldstone, is investigating allegations of violence and intimidation by people trained in camps set up and funded by the South African Defence Force.

Khumalo admitted that "at times I am honest, and at times not". He, however, assured the commission that his testimony was honest.

Asked under what circumstances was he not honest, Khumalo said: "For instance, I observed that Inkatha was a murderous mafia, but I went on TV and radio saying the opposite.

"I was working - it was my job," he said.

Khumalo, who said he was an "active Inkatha organiser

Own Correspondent

with initiative", told the commission his ideological views at that time was different to what he held today

He was forced to resign in March last year because of a personality clash with his superior, he said

It was only in December when he read reports in the *Weekly Mail* that he decided to grant interviews to the newspaper supporting the allegations of SADF funding

"It struck me because the allegations were similar to what I had experienced while with Inkatha," Khumalo said.

Another witness, Captain Andre Marais, Ermelo area police commander, testified that two men were killed after two separate funerals attended by African National Congress and IFP supporters in Wesselton on August 11 1990.

Marais said two men, an Inkatha organiser and a KwaZulu police reservist, were arrested

But they were released after ballistics tests failed to link them to the murders

State asks for death penalty

By SONTI MASEKO

SENTENCE on eight men convicted of killing four whites at Mshenguville squatter camp in Odendaalsrus will be passed tomorrow in the Virginia Circuit Court

Mr Andre Becker, for the State, asked for the death sentence against Phillip Matela (25) Mandlakapheli Dlamini (28) Thami Hlobo (26) and Justice Segopa (26)

Becker said the four had the intention to kill the three men and a woman when they attacked the car in which the victims were travelling on September 29 1990

He also asked for punishment ranging from whipping and suspended sentences for four others, Dick Nhole (18) and three youths who were aged between 13 and 17 at the time

Counsel for the defence, Mr Essop Patel and Mr Michael Naidoo, told the court that death was not the only appropriate sentence

They said the chances of rehabilitation for

the men were good

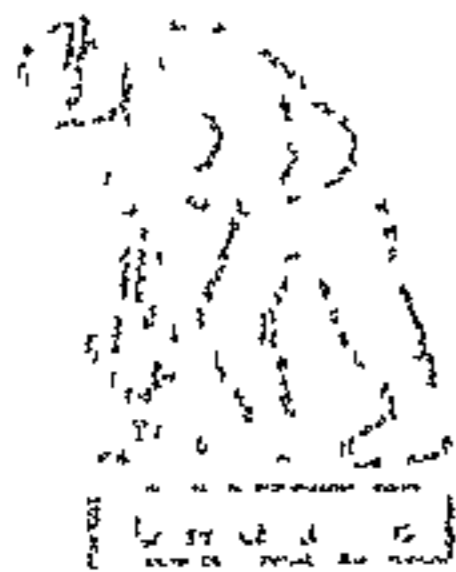
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They asked the court to accept the evidence of an expert witness, Dr Saths Cooper, a psychologist, who said the murders were committed by a frenzied mob and that the accused's sense of responsibility for their actions was diminished by a process known as deindividuation

Rumours of attacks

The accused were all residents of the squatter camp and during the time of the offence there was high tension and unrest following rumours that residents would be attacked

This point was opposed by Mr Justice DJ Lombard, who said no such evidence was placed before the court



Seven A-Gs to become politically independent

STAR 26/2/92

By Michael Morris
Political Staff

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3200

CAPE TOWN — South Africa's attorneys-general are to be made politically independent in terms of legislation tabled in Parliament yesterday.

The Attorney-General Bill makes the seven attorneys-general answerable to Parliament, removing them from the present risk of political manipulation.

It overtakes provisions in the Criminal Procedure Act which at present place attorneys-general under the direct "control and directions" of the Minister of Justice.

In the new Bill, the minister's powers are substantially circumscribed.

Furthermore, in contrast to the present procedure by which attorneys-general are appointed by the Civil Service Commission, only the State President will be empowered to make ap-

pointments in terms of the new legislation.

The president may suspend an attorney-general only for misconduct, continued ill-health or incapacity to carry out his duties, and must present the reason to Parliament. Parliament will be empowered to overturn the decision.

The Justice Minister will be restricted to "co-ordinating the functions" of attorneys-general and may only request information, or reasons for a decision, from an attorney-general.

Ministry sources said yesterday that this already applied in convention, rather than law. The new Bill would formalise the political independence of attorneys-general.

The six provincial attorneys-general and one local attorney-general, in Johannesburg, would, in turn, be required to report directly to Parliament each year.

Crowd dispersed at court

By Julienne du Toit

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STAR 26/2/92

KRIEL — Police dispersed about 30 indignant black people who had gathered at the Kriel Magistrate's Court to catch a glimpse of a man accused of killing two blacks during a shooting rampage last month.

Johannes Wilhelm Saunders (20) of the Eskom single quarters in Kriel, who pleaded guilty last month to stealing a pistol and killing two people, was to have appeared in court again yesterday.

However, a court official said Mr Saunders had been brought before the court for a postponement of the case last Friday to avoid any racial incidents.

A prosecutor said the court had heard there might be trouble at court yesterday, the official date set for his appearance.

The crowd that gathered outside the court just before 11 am was dispersed by policemen.

People in the crowd said they were family and friends of the two people Mr Saunders has pleaded guilty to killing.

"We don't want to cause trouble. I just wanted to see this man who killed my boyfriend," said Josephina Mphila.

The case has been postponed to March 10. Mr Saunders admitted at the start of the trial on January 27 that he had stolen a pistol to shoot blacks. He is on bail of R3 000.

Lying was part of job — ex-IFP man

STAR 26/2/92

A former assistant national organiser of the Inkatha Youth Brigade said he had observed Inkatha to be a murderous Mafia, but in spite of this, he went on TV and radio saying the opposite

Cross-examination of Mbongeni Khumalo, a top Inkatha official who resigned from the party, began when the Goldstone Commission of Inquiry resumed in Pretoria yesterday

Proceedings of the special committee, chaired by Mr Justice R.J. Goldstone, investigating allegations of violence and intimidation by people trained in camps set up and funded by the SADF, continued yesterday

Mr Khumalo, who admitted during questioning by Louis Visser, for Inkatha, that "at times I am honest, and at times not", said that despite this statement he assured the committee that his evidence before the inquiry was honest. Mr Visser asked him in-

what circumstances he was not honest

"For instance, I observed that Inkatha was a murderous Mafia, but I went on TV and radio saying the opposite I was working — it was my job," Mr Khumalo said

The special committee was appointed this month after a memorandum was handed to the commission by several parties, including the ANC and the Weekly Mail, claiming current and recent funding by the SADF of "front organisations"

Mr Khumalo, who labelled himself as a "very active Inkatha organiser with initiative" who had received assignments that would not be given to just any party supporter, told the inquiry that his ideological views at that time were different

Another witness, Captain Andre Marais, Ermelo area commander of the SAP Crime Intelligence Service, gave evidence yesterday about a shooting at Wesseltown in the incident on August

11 1990 between ANC and Inkatha supporters attending two separate funeral processions, two men were killed

Captain Marais said two men — an Inkatha organiser and a KwaZulu police reservist — were arrested, but after ballistics tests failed to connect them to the murders, they were released. During an SAP investigation the same day, more firearms were seized

Some of the firearms had SAP markings, but Captain Marais explained they were weapons given to the KwaZulu police force

In his evidence, senior KwaZulu policeman Brigadier Siphon Mathe said a group of 78 from a total of about 200 trainees allegedly given training at an SADF camp in the Caprivi Strip had been appointed aides to KwaZulu Chief Minister Mangosuthu Buthelezi or had been sent to Inkatha regional offices before being absorbed into the KwaZulu police — Own Correspondent-Sapa

Plan to ⁽²⁵²⁾ lighten judges' ^{MR 26/2/91} overload

SHARON SOROUR
Staff Reporter

THE government is moving to lighten the burden of overworked judges by creating a new civil court structure at magisterial level, says Minister of Justice Mr Kobie Coetsee.

He was reacting to warnings from the Cape Judge-President Mr Justice Gerald Friedman and other senior figures in the legal profession, that overworked judges were battling to keep up with the huge backlog of cases and that a crisis was threatening.

Mr Justice Friedman said that in addition to the appointment of new judges, there was a need for a court structure between the Magistrates and the Supreme Court.

Mr Coetsee said a Bill establishing a civil court structure in the magistrates' division with considerably increased monetary jurisdiction in civil cases and extended jurisdiction regarding causes of action, had been drafted.

While the "exclusiveness" of the Supreme Court should be preserved, the Bench had increased from 107 to 142 judges since 1983.

Unlimited expansion of the Bench would create the danger of burdening the Supreme Court with work "hardly meriting the attention of highly skilled and experienced legal manpower", as the Hoexter Commission found in 1983.

Mr Coetsee said other measures taken recently, or being considered, to alleviate the burden of the Supreme Court included:

- Legislation to enable registrars of the Supreme Court to give default judgments,

- Drastic curtailing of process in civil proceedings, like doing away with requests for further particulars,

- Increasing the jurisdiction of regional courts to try murder cases and the drastic increase in the criminal jurisdiction of regional courts to a R40 000 fine, and the power to sentence a person to a 10-years' jail,

- The introduction of compulsory pre-trial conferences was enjoying "high priority" in the deliberations of the Rules Board for Courts of Law.

Court rules on selective re-hiring

Sow 27/5/92

A RECENT Labour Appeal Court ruling on "selective re-employment" could have far-reaching consequences for the law relating to strike dismissals, according to Rhodes University legal academic Professor John Grogan.

Delivering his inaugural lecture, Grogan said the ruling, in the Borg-Warner case, might have given employers carte blanche to resort to selective re-employment in strike situations

Grogan said selective re-employment - when an employer dismisses a large number of workers and then re-hires only some of them - was a powerful strike-breaking strategy as it enabled the employer to get rid of "troublesome" elements in his workforce

The Borg-Warner case, currently on appeal to the Appellate Division, arose out of the dismissal in 1985 of 221 workers after they engaged in an illegal strike

Three months after the dismissals the company entered into a rehiring agreement with the National Automobile and Allied Workers' Union (Naawu)

The company re-employed 167 of the workers immediately and agreed to consider the balance, and other workers who had since been retrenched, for re-employment "as and when the need arises"

However, the company had proceeded "without explanation" to hire new employees in breach of the agreement

The Industrial Court ruled the breach constituted an unfair labour practice, and ordered the company to adhere to the agreement

However the Labour Appeal Court overturned the ruling on the grounds that the dismissed employees were no longer employees as defined by the Labour Relations Act

Grogan argued that the court erred by viewing the dispute as "solely" one between the employer and the former employees

"In reality, it was as much a dispute with the union, still recognised by the employer," he said

Grogan argued that Borg-Warner did not prevent the dismissed employees from proving that their dismissal was effected with selective re-employment in mind

He said Borg-Warner

"stands or falls" on the proposition that the unfair labour practice concept covered only disputes between "employers" and "employees" during the existence of the employment contract

"But I argue that the term 'labour practice' embraces a field wider than employment practice"

The legislature used the term "labour" precisely because it wished to embrace practices - such as the breach in Borg-Warner of an agreement between an employer and a trade union - which did not fall within the narrower confines of the employment contract

Grogan said there were indications in the Labour Relations Act that the legislature had seen selective re-employment as an unfair labour practice. He said the Act granted employees freedom to strike in support of a demand that the employer employ any person

"If the legislature recognises such a demand as a legitimate ground for in-

dustrial action, it is difficult to understand why it should deny the employees the right to pursue the same demand through the judicial route"

At the time the strike occurred at Borg-Warner, the Act provided for the establishment of conciliation boards at the request of employees in a case of refusal or failure by an employer to re-employ individuals

"It must surely have been intended that such a dispute could be referred to the industrial court for adjudication," he said

Grogan argued that the codified definition of "unfair labour" practice, introduced by the 1988 amendments to the Act, mentioned selective re-employment as an unfair labour practice.

He believed that, after dismissal the onus should be on employer to justify the basis for selection.

"If he cannot do so in terms of some justifiable criteria such as financial considerations or misconduct on the part of the em-

ployees not selected, the court should find that the dismissal was tainted by mala fides," he said

Selective re-employment should only be "held to be fair" where

● A considerable period had elapsed between the dismissal and the offer of re-employment, "assuming that no rehiring agreement was entered into before the dismissal";

● The workers themselves rejected the offer of re-employment,

● The strike had caused the employer such economic distress that a reduction in his workforce was justified "In such cases, the act should be viewed as an ordinary retrenchment";

● The workers not selected for re-employment were individually guilty of some misconduct other than striking, for example, violence or intimidation during the course of the strike. In such cases the employer should grant the employees a fair hearing. - Albany News Agency

Police^{S 1414}
captain^{27/12/92}
admits⁽²⁵²⁾
ordering⁽²⁵²⁾
killings⁽²⁵²⁾

PIETERMARITZBURG
— South African Police
Captain Brian Mitchell
admitted in the Su-
preme Court yesterday
he had ordered special
constables to kill United
Democratic Front
members in Trust Feed
in December 1988

Captain Mitchell, who
was testifying in his
own defence, said his in-
struction had meant to
convey to them that
they were to attack
groups of UDF mem-
bers, and not to break
into a house and attack
women and children

Although he had not
specified exactly where
the UDF members
would be, he said he
thought the special po-
licemen would have got
information as to which
were UDF areas in
Trust Feed from the
local Inkatha leader,
Jerome Gabela, with
whom they were stay-
ing. He denied he had
ever pointed out any
house for the special po-
licemen to attack

He told the court that
on the morning of De-
cember 3 1988, when he
saw who they had in
fact shot, he was
shocked

Revolutionary

The attack allegedly
resulted in the death of
11 people attending a fu-
neral vigil. Captain Mit-
chell, two other police-
men and four special
constables are facing
eleven charges of mur-
der and eight of at-
tempted murder as a re-
sult of the massacre

Describing the poli-
tics of the area in which
he was embroiled, Cap-
tain Mitchell said he
saw himself as a soldier
fighting in a civil war
and he was on the side
of the government. He
also sympathised with
Inkatha because they
never made areas un-
governable and he did
not perceive them to be
part of the "revolution-
ary onslaught"

When the judge asked
him if, as station com-
mander at New Han-
over, he considered it
proper to use special po-
licemen to kill UDF
members, Captain Mit-
chell said he felt he was
a soldier at the time of
a civil war

Asked if special po-
licemen were trained to
carry out the orders of a
senior officer, he re-
plied "Not unlawful
orders" — Sapa

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STAR 211492

Autonomy for AGs welcomed

By Michael Sparks

A Bill granting attorneys-general greater political autonomy, which was tabled in Parliament on Monday, has met with a favourable response from the attorneys-general of the Transvaal and the Free State.

Witwatersrand Attorney-General Klaus von Lieres und Wilkau welcomed the Bill, though he added there were a number of steps before it became legislation.

"I think the most valuable aspect of this new legislation is that it will be seen as additional assurance to the public of the political independence of the attorney-general's position," Mr von Lieres said.

This means that on an important case, an attorney-general could be called before a parliamentary committee, which Mr von Lieres regarded as a good thing.

Free State Attorney-General Tim McNally said that although he had not seen the latest version of the Bill, he supported it.

"I am in favour of anything that underlines the independence of the attorney-general," Mr McNally said.

The new legislation means that although attorneys-general are still appointed by the State President, they no longer have to conform to requirements applicable to civil servants.

NEWS IN BRIEF

BIDAN - 27/2/92 (252)
Attorney-General Bill

A BILL entrenching the independence of attorneys-general was tabled in Parliament yesterday. According to an explanatory memorandum, the Attorney-General Bill was intended to place the independence of an attorney-general beyond any doubt.

During his opening speech to Parliament on February 1, 1991, President F W de Klerk gave an undertaking that attention would be given to the status of attorneys-general

Policeman ordered Trust Feed killings

(25) Own Correspondent

MARITZBURG — Former New Hanover station commander Capt Brian Mitchell admitted yesterday that he instructed special constables in Trust Feed to attack "comrades" on the night of December 2/3 1988, resulting in the deaths of 11 people holding a wake in a house. *Blouay*

Last year Mitchell and co-accused Capt Jacobus van den Heever, Sgt Neville Rose and four former SAP special policeman pleaded not guilty to 19 charges of murder and attempted murder. But, on Tuesday Mitchell's advocate gave notice that he would amend his plea. *29/2/92*

Giving evidence before a stunned courtroom, Mitchell said he had regarded himself as a soldier engaged in a civil war in a situation where the comrades (UDF supporters) were enemies of the state "I saw myself as being on the side of the government I sympathised with Inkatha. They never made the areas ungovernable and they supported the government".

He said he was "shocked" when he arrived at the scene of the killings the next day and found women and children among the victims. He had told the Riot Unit head, the late Maj Deon Terblanche, 90% of what had happened — enough for him to have realised that he (Mitchell) was responsible.

Mitchell said the view that the situation amounted to civil war in which the UDF was the enemy was held by many policemen at that time. Police had become targets for attacks.

Evidence inconsistent, Goldstone tells brigadier

STAR 27/2/92

A senior KwaZulu policeman was yesterday told by the chairman of the Goldstone Commission of Inquiry into Public Violence and Intimidation, Mr Justice Goldstone, that his evidence was inconsistent and contradictory

Brigadier Siphon Mathe was giving evidence in Pretoria to the committee of the commission investigating alleged SADF funding of front organisations sponsoring violence

He provided details about a group of 200 people trained at a military camp in the Caprivi Strip. He said 78 of the 200 trainees had been issued with KwaZulu Police (KZP) identity documents on their return to KwaZulu although they were not "fully fledged" members of the force

Twenty-eight of them had been issued with firearms because they protected the chief minister. None of the other trainees had been given arms

Mr Justice Goldstone pointed out to Brigadier Mathe that during the sitting of the committee in Cape Town earlier this month he had testified that all 200 trainees had received KZP ID cards

"How could you make that mistake? Why did you give this evidence?" he asked. The brigadier was unable to explain

Asked if it were possible that other trainees could have been issued with firearms by the KZP without his knowledge, the brigadier said "It might be so. We are in the high ranks of the police. We do not know what is happening in the lower ranks"

He said it would be irregular if weapons had been issued against his orders. Other trainees were not issued with weapons because he had not seen any need to arm them

Mr Justice Goldstone said his replies were not consistent. The brigadier had said earlier that the reason for the trainees not receiving firearms was that they were not fully fledged

members of the KZP

Later the judge pointed out contradictory statements by the brigadier on the number of trainees incorporated into the KZP by June 1989

Brigadier Mathe said he had had "no idea" what was going on at the sitting in Cape Town

He had not had any legal representation there and had tried to help the commission by giving information at his disposal

"I was not guessing but telling the commission what I knew or thought I knew," he said

Counsel for the ANC, SACP and Cosatu, David Soggot, put it to Brigadier Mathe that the "postmaster in Ulundi would have done better"

The brigadier also came under fire from Mr Justice Goldstone for not providing the commission with information he had been asked for concerning the whereabouts and activities of those trained in the Caprivi Strip in 1986

The brigadier said he did not remember the request — Sapa

Goldstone to test blame for killings

Statements made by the African National Congress and the Inkatha Freedom Party blaming each other for the killing of four mini-bus passengers in Katilehong on Tuesday will be tested today by the committee of inquiry established by the Goldstone Commission, it was announced last night.

Mr Justice R J Goldstone said in a statement issued by the National Peace Committee that if the ANC and IFP statements were unsubstantiated and unsupported by fact, they were irresponsible and calculated to cause more violence.

The publication of such allegations by the press was also "highly questionable".

Mr Justice Goldstone said because of the tense situation in Thokoza, the committee decided to

find out from IFP and ANC leaders the basis for their statements.

"They will be examined by the committee in public, in the boardroom of the Perm Building, corner of Cress Avenue and Mam Reef Road, Edgardale, Johannesburg, at 11 am on Friday (today)".

Since December 1991, the committee has been hearing evidence on violence at Thokoza. Its members are S Sithole, Lilian Baqwa and Bob Tucker.

The ANC's Witwatersrand region spokesman, Ronnie Mamoepa, said his organisation welcomed Mr Justice Goldstone's announcement and would present the evidence asked for at today's hearing.

● A former personal assistant to Inkatha president Mangosuthu Buthelezi will testify for the first time before a committee of the Goldstone

Commission today.

The evidence of M Z Khumalo, who resigned from the Inkatha Freedom Party after the exposures in July last year of SA Police funding of Inkatha rallies and other irregularities, may prove central to the committee's findings.

Mr Khumalo's name has been raised by at least two witnesses testifying at the committee.

He has been linked in evidence before the commission to a group of 200 IFP members allegedly trained by the SADF in a military camp in the Caprivi Strip, as well as to Inkatha hit squads.

Former Inkatha Youth Brigade assistant organiser Mbongeni Khumalo said during cross-examination yesterday that except for Chief Buthelezi, M Z Khumalo, despite the latter's "resignation", remained the most powerful political figure in KwaZulu — Sapa.

Key IFP figure to testify before inquiry

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Sowetan 28/2/92

FORMER personal assistant to Inkatha Freedom Party president Chief Mangosuthu Buthelezi will testify for the first time before a committee of the Goldstone Commission of Inquiry into Public Violence and Intimidation today.

The evidence of Mr MZ Khumalo, who resigned from the IFP following exposures last July of police

funding of Inkatha rallies and other irregularities, may prove central to the committee's findings

Khumalo's name has been raised by at least two witnesses to the committee which is investigating alleged SA Defence Force funding of front companies fostering violence.

He has been linked in evidence before the commission to a group of 200 IFP members allegedly

trained by the SADF in a military camp in the Caprivi Strip, as well as to Inkatha hit squads.

Former Inkatha Youth Brigade organiser Mr Mbongeni Khumalo said during cross-examination yesterday that, apart from Buthelezi, MZ Khumalo was the most powerful political figure in KwaZulu.

"The resignation of Khumalo in July was not a resignation in total. He retains

a working relationship with and an influence over Inkatha," said Mbongeni Khumalo.

He said he suspected that MZ Khumalo still received a salary from Inkatha.

Mbongeni Khumalo admitted under cross-examination by counsel for the IFP and the KwaZulu government that he had no "personal experience" of the training of hit squads at these camps. - Sapa.

Squatters to die

**Death sentences for
murder of 4 whites
in Odendaalsrus**

Sowetan 28/2/92 (252)

By SONTI MASEKO

TWO men were yesterday each sentenced to death four times by a Virginia Circuit Court judge for the murder of three white men and a woman at Mshenguville squatter camp in Odendaalsrus. They are Phillip Matela (25) and Thami

Hlobo (26) and were among eight men, including three youths, who were found guilty of the common-purpose murder of the four whites. Mr Justice DJ Lombard said the two men, who lived

● To page 2

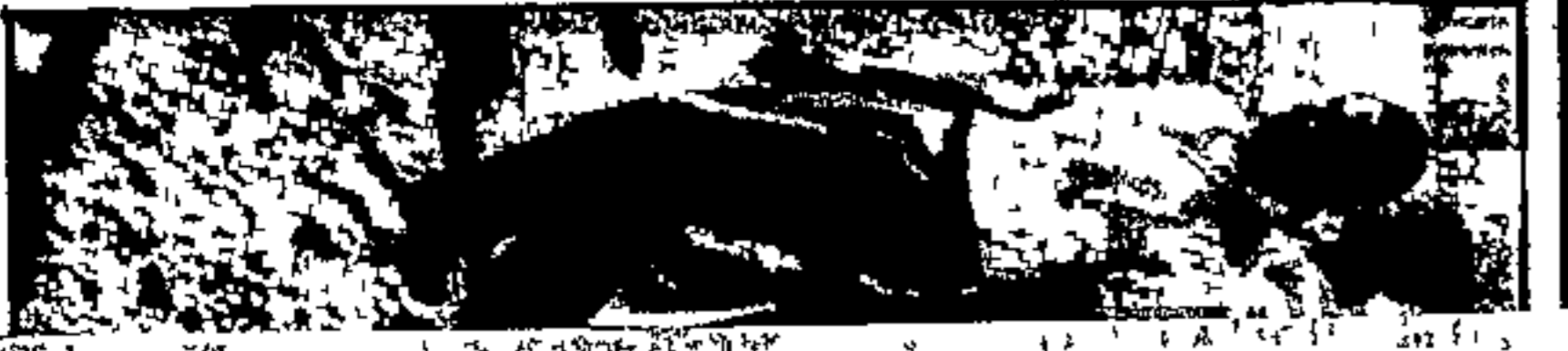
Two squatters to hang for murder

● From page 1

at the squatter camp at the time of the killings, were given death sentences because they had led the attack and had the direct intention to kill Mr Anthony Casey, Mr Johannes van Niekerk, Mr Michael Bejelic and Miss Shirley Basson at the camp in September 1990. Three of the eight, Mandlakapheli Dlamini (28), Muzge Morkabi (26) and Justice Segopa (26) were each jailed for 25 years.





The judge found that the three did not play a leading role in the murder but acted on the encouragement of others. However, Morkabi was found not to have physically taken part in the attack but incited and encouraged others in the crowd to attack the victims.

The judge said Morkabi, as an ANC marshal, could have played a positive role in restraining others from attacking.



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Sowetan
28/2/92

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Four youths, one convicted only of common assault, were given suspended sentences for their part in the murders. The court found they were minors, one of them aged 13 at the time of the incident.

Matela, Dlamini and Segopa were also each sentenced to two years imprisonment for malicious damage to property, relating to the car used by the victims and later set alight.

Passing sentence, Justice Lombard said the court had to impose severe sentences for the brutal manner in which the murders were committed. The victims were hacked, stabbed and their mutilated bodies thrown into the flames of their burning car.

He said the victims were innocent and helpless people. "There is one way the court can show it does not pay lip service in condemning such actions. It is by giving appropriate sentences befitting the crime you have committed," he told the men.

Goldstone to probe claims by ANC, IFP

Sowetan 28/2/92
STATEMENTS made by the African National Congress and the Inkatha Freedom Party blaming each other for the killing of four minibus passengers in Katlehong on Tuesday will be tested by the Goldstone Commission today, it was announced last night

Mr Justice RJ Goldstone said in a statement issued by the National Peace Committee that if the ANC and IFP statements were unsubstantiated and unsupported by fact, they were irresponsible and calculated to cause further violence

The publication of such allegations by the Press, if unchecked, was also "highly questionable", he said

Goldstone said because of the tense situation in the Tokoza, the committee decided to find out from IFP and ANC leaders the basis for their statements

"They will be examined by the committee in public, in the boardroom of the Perm Building, corner of Cress Avenue and Main Reef Road, Edgardale, Johannesburg, at 11am," he said.

Since December last year the committee

(252/287)
has been hearing evidence on violence at Tokoza. Its members are S Sithole, Lilian Baqwa and Bob Tucker

Meanwhile, **JOE MDHLELA** reports that the relatives of the men killed outside Phola Park near Tokoza disputed claims that the occupants of the ill-fated kombi were on their way to attack commuters

Ms Ntombenkulu Shabangu said it was not true to suggest that the men were on their way to attack train commuters

She said the occupants were on their way to work at the Rand Water Board at Glenvista near Kliprivier

She said her brother, Mr Doctor Shabangu, had for a number of years transported the murdered men to their place of work.

The others who died are Mr Benjamin Ngcobo, Mr Muzikayifane Ndwandwe and Mr Pat Manqele

Her version was corroborated by the company's general manager, Dr Tom Ramsden, who confirmed that there was an arrangement with the owner of the kombi to transport his employees to work.

MK cadre to stand trial over murder

252
Sowetan
28/7/92

A MEMBER of Umkhonto we Sizwe, who allegedly murdered a taxi driver and robbed him of his minibus, will stand trial in the Pretoria Supreme Court on July 27

Mr Siphon Mabena (31) of Mamelodi appeared before Mr M Kilian in the Pretoria Magistrate's Court on Wednesday on charges of terrorism, murder and robbery

His appearance followed the death of Mr David "Kimberley" Shongwe (33) whose bullet-riddled body was found in Brits on July 28 1990.

The minibus he was driving before he was murdered was later found at Hallmark Parkade in Vermeulen Street, Pretoria, packed with explosives

Mabena was yesterday not asked to plead Kilian told him that the trial would be held in the Pretoria Supreme Court on July 27 His bail of R30 000 was extended

By MONK NKOMO

The magistrate warned him to be in court at 8 30am, failing which a warrant for his arrest would be issued

A police spokesman recently confirmed that Mabena had applied for indemnity from prosecution through the ANC and said he could be indemnified on charges of terrorism but not on the murder and robbery charges

Shongwe, of Lesitlako Street, Saulsville, was allegedly robbed of the minibus taxi while operating in the township on the night of July 26

His body was found next to the Pelindaba-Hartbeespoort Dam Road about 5pm on July 28 He had a bullet wound in the head

Spotlight on kwazulu cops

By BEATHUR BAKER

W/week 28/2-5/3/92

THE kwazulu Police were under the spotlight this week at the Goldstone Commission of Inquiry into Violence, with evidence of a wide range of irregularities in their methods.

Tensions between the homeland police force, the SA Police and the SA Defence Force became apparent at the inquiry as the latter two tried to distance themselves from Inkatha and kwazulu activity.

At the inquiry into *The Weekly Mail's* revelations of extensive links between the SADF, Inkatha and township violence, it emerged that:



Star witness: The Weekly Mail's source, Mbongeni Khumalo, talks to advocate David Sogott SC at the Goldstone hearings. Photo: GUY ADAMS

Commission hears of KZP irregularities

From PAGE 1

●The KZP operated outside the homeland without notifying the South African Police that they were in their territory.

●KZP guns were handled irregularly by the assistant secretary of the kwazulu Legislative Assembly (KLA).

●The legislative assembly keeps its own arms cache of up to 30 guns for the use of KLA members and their bodyguards.

●Brigadier Sipho Mathe of the KZP was personally involved in the secret instruction of 200 Inkatha recruits who are accused of forming hit squads.

●Mathe was unable to give a full list of the alleged hit-squad recruits or information about their current where-

abouts, despite being given more than two weeks to do so. Mathe had previously said that 113 of the recruits were issued with police ID cards, but this week changed this to say there were only 28 of them.

●These recruits were given KZP ID cards even though they were not fully-fledged policemen.

Asked for details of the recruits, Mathe said: "I tried but failed to get those particulars."

Judge RJ Goldstone was scathing about Mathe: "You have given a number of answers which are not consistent. I am now asking you just to answer." David Sogott SC, for *The Weekly Mail*, added "If the postmaster in Ulundi were asked (to do) these operations, he would probably do it better. Mathe could not explain to the com-

mission why the youths had not as yet been incorporated into the KZP, despite the fact that there was a need for more policemen.

It also became apparent that kwazulu officials draw little distinction between their official activities and their party-political activities on behalf of the Inkatha Freedom Party.

MZ Khumalo, former personal assistant to Chief Mangosuthu Buthelezi, emerged as the man who took personal command of the 200 recruits. It was alleged that he is still active in Inkatha, despite having claimed to have resigned his position after the revelation of links between Inkatha and security forces.

Giving evidence about violence in Ermelo, Captain Andre Marans of the SAP revealed that in a raid on the local offices of the United Workers' Union

of South Africa (Uwusa), the Inkatha-linked trade union, the following were found:

●A 9mm parabellum, number NR 200190

●Two 9mm parabellum magazines

●Ten rounds of 9mm ammunition

●One 38 Taurus revolver, number NR 1045549

●Fourteen rounds of 38 ammunition

●One KZP reservist identity card

The Weekly Mail's main source of allegations of extensive links between Inkatha and South African Defence Force front companies, Mbongeni Khumalo, was extensively cross-examined this week. However, the Inkatha attack was directed at him personally and at his honesty, rather than the substance of his allegations.

Most of *The Weekly Mail's* allega-

tions went unchallenged. Mbongeni Khumalo testified about threats on his life since he spoke out about Inkatha.

The first was a 20-minute phone call from MZ Khumalo which turned nasty when, according to Mbongeni Khumalo, he refused to pledge his allegiance to the organisation. "He said that if I was responsible for the lie (Inkathagate), I would be killed."

After the appearance of a second story in *The Weekly Mail* in July 1991, Mbongeni Khumalo said he woke up one night to discover what looked like a government issue vehicle without registration plates parked not far from his house. Unfamiliar people surrounded his house.

He said the third incident occurred when he was on his way to Soweto and was accosted by MZ Khumalo

Massacre policeman turns to God

I w/mauf 28/2-5/3/92 . (252)

By VICKY QUINLAN Durban

A SOUTH African Police captain facing charges of murder and attempted murder following an attack on a house in Trust Feed, yesterday told a stunned Natal-Supreme Court gallery he had become a Christian while in prison and now planned to become a minister.

Prior to this revelation, Captain Brian Mitchell had admitted he had ordered special constables to kill United Democratic Front "comrades" in Trust Feed in December 1988. This resulted in an attack on a house in the area, in which 11 people died.

As a Christian, he said, it was important now for him to tell the truth. Mitchell is one of seven policemen charged with 11 counts of murder and eight of attempted murder for the attack.

He said his instructions to the special constables had meant to convey to them that they were to attack groups of UDF members, and not to break into a house and attack women and children.

Although he had not specified exactly where the UDF members would be, he said he thought the special policemen would have got information as to which were UDF areas in Trust Feed

from the local Inkatha leader, Jerome Gabela, with whom they were staying. He denied he had ever pointed out any house for the special policemen to attack.

He told the court that on the morning of December 3 1988 when he saw who they had attacked he was shocked.

Evidence was also heard about talks which took place at the Inkatha offices in Pietermaritzburg involving the head of the Riot Unit, Captain Deon Terblanche, Gabela and other Trust Feed Inkatha officials and Pietermaritzburg Inkatha leader David Ntombela.

Mitchell said his impression was that Gabela was told by Ntombela and Terblanche to launch an attack on the UDF in Trust Feed and he would be backed by special constables.

Mitchell admitted he had gone to the Trust Feed area on the night of December 3 to see what had happened regarding this attack so that in the morning he would know "what to expect" and be prepared to cover up if necessary.

Describing the politics in the area in which he was embroiled, Mitchell said he saw himself as a soldier fighting in a

civil war and he was on the side of the government. He also sympathised with Inkatha because it never made areas ungovernable and he did not perceive it to be part of the "revolutionary onslaught".

However, Mitchell said he perceived Gabela to be weak and, towards the end of November 1988, it was clear the UDF was "getting the upper hand" in Trust Feed.

On November 30 1988, six special constables were brought to New Hanover by a friend of Terblanche, Constable Willem de Wet, who told Mitchell these particular special policemen hated the UDF. De Wet and Mitchell then took them to Trust Feed.

He said on the night of the attack, he, Constable Jason Parton and reserve constable Stuart van Wyk had drunk a lot together.

Mitchell had suspected there would be trouble in Trust Feed following the arrest of 11 UDF men during that day. He conceded under cross-examination that these arrests, effected during a round-up of all men aged between 16 and 35 at a local sports field, were to render the UDF "sitting ducks" for the impending Inkatha attack.

Security now a top priority among whites

ONE in five whites in SA metropolitan areas took security measures last year, a Marknor poll shows *Blom*
28/2/92

In the Durban-Maritzburg area, nearly one in three installed some form of security measure. Port Elizabeth and East London residents followed with 22% installing systems. Next was Cape Town at 18%, followed by the PWV area at 17% and

Bloemfontein at 3%.

"The results reflect white South Africans' response to escalating burglaries and violent crime," Marknor director Peter Scott-Wilson said yesterday *(252)*

"One in 10 people plan to install security items in the current year. Over the past two years, one third of the white population has either installed or has planned to install some form of security" — Sapa

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Killers to die

VIRGINIA — Two men were sentenced to death yesterday for the murders of four people in the Mshenguville squatter camp in 1990 *(252)*

Philip Mathela, 25, and Phami Hlobo, 26, were sentenced in the Circuit Court in Virginia in the Free State, for killing four Oden-daalsrus residents, Anthony Marc Casey, Johannes Petrus van Niekerk, Michael Frederick Behele and Shelly Erika Basson *Blom*

Three other men, Mmandla Kapele Dlamini, 28, Jeremia Moikabi, 26, and Justus Segopa, 26, were each sentenced to 25 years in jail on the same charges

Three youths were sentenced to five years, suspended for five years

In sentencing, Mr Justice D J Lombard said the murders had been brutal, blood-thirsty and inhuman

Their participation in crime, despite warnings to stop, and lack of remorse, had served as aggravating evidence — Sapa *28/2/92*

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Former top Buthelezi aide to testify today

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PRETORIA — Inkatha president Mangosuthu Buthelezi's former personal assistant M Z Khumalo will testify for the first time before a committee of the Goldstone Commission of Inquiry into Public Violence and Intimidation today

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The evidence of Khumalo, who resigned from the Inkatha Freedom Party following the exposures in July last year of SA Police funding of Inkatha rallies and other irregularities, may prove central to the committee's findings

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Khumalo's name has been raised by at least two witnesses to the committee which is investigating alleged SADF funding of front companies fostering violence

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He has been linked in evidence before the commission to a group of 200 IFP members allegedly trained by the SADF in a military camp in the Caprivi Strip, as well as to Inkatha hit squads

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Meanwhile, former Inkatha Youth Brigade assistant organiser Mbongeni Khumalo said during cross-examination yesterday that except for Buthelezi, M Z

Khumalo remained the most powerful political figure in KwaZulu

"The resignation of Khumalo in July was not a resignation in total

"He retains a working relationship with and an influence over Inkatha"

He said he suspected that Khumalo still received a salary from Inkatha

On the issue of the 200 Caprivi trainees who allegedly also spent time at three other camps, Mkuze, Amatigule and Nhlazantshe, Khumalo admitted to the counsel for the IFP and the KwaZulu government, Louis Visser, that he had no "personal experience" of the training of hit squads at these camps

He said he had been present at a meeting with M Z Khumalo where he had told group leaders of the trainees that they would be going to Mkuze for some form of military training

He maintained that the Nhlazantshe camp near Vryheid was "started and sponsored" by the SADF

Proceedings will continue today — Sapa

Battered women: (252) Relief 'not refused'

Supreme Court Reporter CT 29/2/92

CAPE TOWN Supreme Court judges do not have a policy of preventing battered women from seeking court protection, said Mr Milton Seligson, SC, chairman of the General Council of the Bar.

Mr Seligson was responding to queries from the Cape Times after an investigation late last year showed that judges, seemingly unconvinced of the urgency of interdict applications brought by women against their husbands (in spite of allegations of a history of assaults), had struck cases from the roll and ordered that no costs be paid.

Mr Seligson said judges had assured him there was no "concentrated policy" to refuse relief to wives who brought interdict applications.

He said in a number of cases, the husband had not been given notice of the intention to bring an action against him. Some of the applications were coupled with an interdict to evict the husband from the common home and judges found this a severe measure without hearing the man's defence.

Lawyers sometimes brought applications where the matter was not urgent and judges felt this was an abuse of the legal process, Mr Seligson said.

'SADF spent millions on training youths for IFP'

STAR 29/2/92

PRETORIA — The SA Defence Force had sponsored the KwaZulu Government to the tune of millions of rands for the military training and salaries of a group of about 200 youths trained at a camp in the Caprivi Strip in 1986, a committee of the Goldstone Committee of Inquiry into Public Violence and Intimidation heard yesterday.

A former personal assistant to IFP president Mangosutho Buthelezi, MZ Khumalo, told the committee investigating allegations about the funding of front companies fostering violence that the SADF had paid for the six-month training of the group and had continued to pay their bridging salaries for

ADRIENNE CARLISLE

three years. He said Dr Buthelezi did not know the SADF was funding the project.

The intention was that the group would be incorporated into the KwaZulu Police for the protection of VIPs in the KwaZulu Government and the IFP. Due to lack of funds most of the group were not incorporated until July 1979.

During this time some of the group were sent to various IFP regional offices or the Chief Minister's office, where they acted as officers of the organisation.

Others underwent training at Koeberg as special constables and were hired by the SA Police for a number of months. In 1988, 96 trainees went to Mkuze for further training.

Mr Khumalo agreed that the amount for the training and bridging salaries amounted to millions.

He said he had not known until the end of 1987 that the real sponsor was the SADF. He had dealt with a security firm, Swart Security Services, who had trained the group. He had appealed to them to find a sponsor and they came up with a company called Richard's Appointments.

Payments by Richard's Appointments had been made into a "confidential" Inkatha account at First National Bank in Durban.

David Soggot, counsel for the Weekly Mail, ANC, and SACP, put it to Mr Khumalo that he had known all along the SADF was sponsoring the project. He also questioned Dr Buthelezi's alleged ignorance.

Mr Justice Goldstone told Mr Khumalo "Your lack of inquisitive-

ness boggles the imagination"

Mr Soggot said that if the Government had wanted to aid KwaZulu by strengthening its police force it could merely have increased KwaZulu's budget.

"I put it to you that at no stage was it the intention to co-opt the trainees into the KZP. The idea was the creation of hit-squads to further Inkatha politically."

Mr Khumalo denied this.

Mr Soggot it had been stated that most of the trainees had received KZP appointment cards while not yet members of the force. Would these "false cards" not have been very valuable to hit-squad members?

Mr Khumalo replied that he had already told the commission that he knew of no hit-squad in KwaZulu or Inkatha.

The proceeding continues on Monday — Sapa



SAP killings: judge lashes politicians

STAR 29/4/92

252

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DURBAN — Politicians, police generals who should put their medals away and get out into the field, and the media were lashed yesterday by a Supreme Court judge, as he jailed four riot policemen and special constables for murder.

Mr Justice Thirion criticised "mealy-mouthed" politicians who turned the country into a "hotbed of political intrigue, violence, double-talk and lawlessness".

It was in this atmosphere that the police had to try to perform their duties of maintaining law and order. "Young men are exposed to scenes of death and violence as grisly as can be imagined," he said.

It was natural that police should become demoralised and indifferent and insensitive to suffering.

They were given the most difficult police task — riot control — without proper supervision.

"I'm told there are now 250 generals in the police. I think the time has come that some of them can profitably put their medals in a drawer and go and see how police work is performed in the field and exercise proper supervision."

The media was also slammed for widespread

By creating a climate of lawlessness, political leaders have demoralised the police, the Supreme Court heard this week

OWN CORRESPONDENT

publicity given to crimes committed by policemen which was often "out of all proportion to the seriousness of the crime".

"I'm not so sure that this attitude of the media did not contribute to the accused's decision to do away with the deceased rather than face a possible charge of assault," he said.

Mr Justice Thirion imposed sentences ranging from two to eight years' imprisonment on four young riot policemen and former special constables for murder.

A third special constable was convicted of attempted murder and also jailed for two years.

He found earlier that William Harrington (22),

Frans Erasmus, Philemon Madlala (24) and a 17-year-old formed a common purpose to kill Mbongeni Jama after he was picked up by the policemen and assaulted in the van by some of the special constables and Harrington.

They then drove to a spot in a plantation at Elandskop, where after escaping he was again strangled with a belt by Harrington and later shot in the face by Madlala with a shotgun. The court was unable to find whether Mr Jama was already dead (as alleged by Madlala) or still alive when he was shot.

Rose, Special Sgt Roy Ndwalane, Special Constables Cyprian Ngunane, Thabo Sikhosana and David Khambule. Mitchell said he and Terblanche had arranged a meeting for November 30, 1988, between Gabela and David Nkomhela - described by the presiding judge as a "prominent jet tip" Gabela for not special constable approached him and told him they had shot people. Mitchell told the special constable that he must burn the Mbongwe's house. Advocates for the special constables said their clients would tell the court Mitchell took part in the shootings. The case is proceeding

Judge's death ends libel case

THE death of a Pretoria judge has ended a R12 000 defamation lawsuit he instituted against Argus and Brian Curran, director of Lawyers for Human Rights. Judge LL Esselen, who died earlier this month, had claimed the money from Curran and former editor of *The Star*, Harvey Tyson, after an article which appeared in the newspaper two years ago. Esselen had claimed the article said he was racially prejudiced in his judgment of a rape trial three years ago. Judge Hattingh of the Pretoria Supreme Court dismissed with costs this week two exceptions noted by the defendants to Esselen's claim, saying they disclosed no cause of action. He said in South Africa public policy did not militate against any right of a judge to sue for defamation - Sapa

Battle for KwaZulu

By S'BU MNGADI

A BLOODY feud has been raging at Esikhawini near Empangeni for the past six months as Inkatha and the ANC fight over the political soul of KwaZulu's heartland

Inkatha, backed by the KwaZulu-controlled Esikhawini Town Council, is making its last stand against ANC encroachment of the heartland. The ANC, on the other hand, frustrated at not having launched its northern Natal region since it was unbanned two years ago, is aggressively asserting itself.

Ironically, the two organisations signed the historic Lower Umfolozi Peace Accord in August 1990. The accord was violated by both organisations as soon as it was signed and it remains only on paper.

What makes Esikhawini unique is its proximity to the KwaZulu political capital of Ulundi

Inkatha this week admitted bussing in scores of hostel-dwellers from the Reef to attend the memorial service of a local Inkatha leader at Hlanganani Hall last Saturday. This was on the eve of an ANC rally, which was later

banned. Two people were shot and then burnt to death in their car as they drove past the hall. On Sunday, a man KwaZulu Police described as an Inkatha supporter was shot and killed outside his home in H-section.

The ANC has been attempting since October 1990 to hold a meeting at Esikhawini. Every attempt was resisted by the township manager and council.

After repeated attempts resulted in a successful court application, the ANC arranged a meeting for November 24, 1991. However, it never took place as the stadium was "occupied" by the IFP, culminating in the death of a local resident.

Last month, SA Communist Party general secretary and Umkhonto we-Sizwe chief-of-staff, Chris Ham, was prevented by police from entering nearby Enseleni to attend the launch of an ANC branch there.

Police later explained this was done for Ham's own security after about 3 000 heavily armed Inkathas had assembled at the entrance of the township.

11/3/92

11/3/92

Policeman falsified statement

S/Times

11/3/92

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By TERRY VAN DER WALT

A POLICE captain who opposed communism and saw himself as a "soldier in a civil war" falsified statements to protect himself, the police and the government, a court heard this week

Captain Brian Mitchell was one of seven policemen charged with 11 counts of murder and eight of attempted murder following a shooting at a home in Trust Feed near Maritzburg more than three years ago

Eleven men, women and children taking part in a night vigil were gunned down on the night of December 3 1988, but no arrests were made until late last year when Captain Mitchell and the other accused were rounded up by police acting on the findings of an

inquest

By the end of a week in the Maritzburg Supreme Court dock, Captain Mitchell had reduced his replies to three formats "It can be seen in that light," "I cannot comment on that," and, "I can't recall"

On Wednesday, his defence counsel, Mr Etienne du Toit, surprised the court by announcing his client would make admissions regarding certain "important matters"

Captain Mitchell admitted instructing special constables to attack the United Democratic Front, which resulted in the

massacre Earlier, witnesses had testified the victims were, in fact, Inkatha supporters

Reading between the lines of evidence files over the last three months and questioning Captain Mitchell on dozens of issues produced interesting results for prosecutor Anthony Irons

Captain Mitchell and his co-accused, Captain Jacobus van den Heever, Sergeant Neville Rose and special constables Roy Ndwalane, Cyprian Ngubane, Thabo Sikhosana and Marshall Khambule, have all pleaded not guilty

Captain Mitchell admitted to taking sides with Inkatha as he believed the IFP supported the government and was not involved in the "revolutionary onslaught"

He regarded the UDF, under whose banner the Trust Feed Crisis Committee worked, as "enemies of the state"

Captain Mitchell admitted to having discussions with Inkatha leader Jerome Gabela about forming an Inkatha-based organisation to counter the TCC The aim of the raid on December 3 was to "dislodge the UDF" from the area

Captain Mitchell also admitted to falsifying a police report following the massacre to conceal his part in it and throwing cartridge shells into the bush to conceal the fact that he had transported special constables into Trust Feed that night

The trial was adjourned until tomorrow

Settling disputes need not mean a battle in court

By CATHY STAGE

TOMORROW Miss Linda Macun, a young woman with no legal background, will become the first full-time director of a non-profit company aimed at providing an alternative method of resolving disputes

The company, Alternate Dispute Resolution Association of South Africa (Adrasa), uses Alternate Dispute Resolution (ADR) as an alternative to adversarial systems like the courts

Disputes need not have a winner-takes-all outcome ADR aims to resolve disputes without destroying relationships

Ask Miss Macun, 27, what it involves and she talks of various forms of arbitration, mediation, mini-trials and monitored negotiations

Most important, she said, was that people realised that court was not always the only option

ADR would suit cases that involved "continuing relationships" — such as disputes between business partners or landlords and tenants

Miss Macun said ADR had been a buzzword in legal circles for about 18 months

People in the profession were concerned about criticism that litigation was too costly and time-consuming for most people and they decided to establish Adrasa

Many companies overseas often include in contracts an undertaking that ADR procedures would be used before resorting to litigation, she said

Miss Macun quoted British and US experiences of the system, revealing that she has done her homework.

She has a varied background, which she believes will help her to make a success of her new post



MAKING PEACE . Linda Macun, who is the director of Adrasa

Picture: NEVILLE PETERSEN

She graduated from UCT in 1988 with a BA degree, majoring in history. She joined Andersen Consulting in 1989, designing and installing computer systems for banks. The jump from the arts to finance and technology was bigger, she said, than her latest move into the world of ADR. Her experience as a vice-president of the SRC and her involvement in welfare organisations at university had taught her how to deal with people. And, earlier, as a Rotary exchange student, she did a lot of public speaking.

'Buthelezi knew about SADF funding'

INKATHA president Mangosuthu Buthelezi knew of SADF salary payments to 200 Inkatha members trained in the Caprivi Strip in 1986, his former personal assistant said this week.

The one-time aide, Mr MZ Khumalo, resigned from Inkatha in July last year after the exposure of security police funding to the organisation, and made his statement on Friday to a committee of the Goldstone Commission in Pretoria. The committee is investigating alleged SADF funding of front companies fostering violence.

Mr Khumalo returned to the public eye for the first time this week after having disappeared from the political scene when he accepted the blame for talking a R250 000 handout during the Inkathagate scandal.

Scandal 1/3/92

His name had been raised by at least two witnesses as being the key figure in the second Inkatha funding scandal and in connection with alleged Inkatha hit-squads.

Stockily built Mr Khumalo, dressed in a navy-blue suit and striped tie, appeared confident as state prosecutor JJ du Toit read his statement on to the record.

But his composure crumbled when Mr David Soggott, counsel for the Weekly Mail, ANC and SACP, launched a machine-gun style cross-examination.

Mr Soggott: You said to the president (Dr Buthelezi) I'm going to put this proposal (to bridge finance

By CHARLES LEONARD

while the trainees get incorporated into the Kwa-zulu police) to the SADF?

Mr Khumalo: Yes.

Mr Soggott: Did he agree with that?

Mr Khumalo: Yes.

Mr Soggott: Are you sure of that answer?

"Yes, Mr Chairman."

Mr Khumalo answered through the commission chairman, Mr Justice

Richard Goldstone.

Mr Soggott then went into details of how the SADF sponsored the Kwa-zulu government to the tune of millions of rands for the military training and salaries of the group of about 200 Inkatha youths trained at the Hippo camp in Caprivi.

Handkerchief

"You have a very short memory," Mr Soggott accused Mr Khumalo at one point.

"You begged the SADF to give you money and told the president (Dr Buthelezi) and he approved."

A denial from Mr Khumalo was questioned by Mr Justice Goldstone, who referred to his earlier notes



MZ KHUMALO

Disappeared from the scene of the cross-examination and said "I made a note of what you said. MB (Mangosuthu Buthelezi) agreed to getting money from the SADF."

"I never told him it was

the SADF," said Mr Khumalo. "I knew he would have nothing to do with money from them."

Mr Khumalo, who said he was still close to the Inkatha president, admitted the SADF had paid for the six months' training the group underwent in 1986 and had continued to pay the salaries of the trainees for three years after that.

"Initially I was under the impression that a private security company would be responsible for the training," he said. "At a later stage, I became aware that the SADF was responsible."

He said the intention had been that the group would

be specially trained for incorporation into the Kwa-zulu police, where they would be used for the protection of VIPs in the Kwa-zulu government and Inkatha. Due to a lack of funds the majority of the group had not been incorporated until July 1988.

Initiated

The SADF also provided "bridging finance" for a further nine months, until March 1990, during the "incorporation" period.

Mr Khumalo said he had known until the end of 1987 that the real sponsor of the project was the SADF and that he thought it had been initiated by a security

firm, Swart Security Services, and a company called Richards Appointments.

Mr Justice Goldstone questioned Mr Khumalo's ignorance regarding the identity of the sponsor.

"Your lack of inquisitiveness boggles the imagination," he said.

Regarding the real aim of the project, Mr Soggott said to the witness "I put it to you that at no stage was it the intention to co-opt the trainees into the Kwa-zulu police. The idea was the creation of hit-squads to further Inkatha politically."

Mr Khumalo denied this. The hearing continues tomorrow.

Odendaalsrus pair sentenced to hang

By DAN DILAMINI

11/3/92

252

THE motive for the brutal murder of four Odendaalsrus whites, which resulted in two of the nine accused being sentenced to death and three others to a total of 75 years' imprisonment this week, remains a mystery.

All the accused elected not to testify about the circumstances which led to the killing and setting alight of Shelly Basson, Michael Beleine, Anthony Casey and Johannes van Niekerk, who had been on a drinking spree at Kutlwanong township's Mshenguville squatter camp on September 29, 1990.

Judge DJ Lombard, sitting with two assessors, gave the mob leader, Phillip Matela, 25, and Thami Hlobo, 26, an ANC marshal, the death penalty on all four counts because they had led the attack.

He said Hlobo, who did not physically take part in the killings, but had blown the whistle, a signal for the attack, could have stopped the killings because he was a marshal.

Mandlakapheli Dlamini, 28, Morare Moikabi, 26, and Justice Segopa, 26, were each sentenced to 25 years' imprisonment.

imprisonment after being found guilty of common-purpose to the murder.

Dick Nhole, 18, and two youths who had also been found guilty of the common-purpose to the murders were each given five years' imprisonment conditionally suspended for five years.

Another 16-year-old youth, who was convicted of common assault, was given a six months' suspended sentence.

Matela, Dlamini and Segopa were also jailed for two years, while Nhole was sentenced to one year's imprisonment suspended for five years, for

setting alight the deceased's car.

State witnesses, whose identities were protected, had testified the accused killed and set alight the four unarmed whites without provocation.

Matela and Hlobo's appeal against their conviction and death sentence is automatic, but Lombard turned down their application for leave to appeal against their prison sentences.

The judge also dismissed applications for leave to appeal by Dlamini, Segopa and Moikabi.

South African Press Photo

HOUSE OF DELEGATES

QUESTIONS

†Indicates translated version

For written reply

Own Affairs

Housing assistance to Indians

19 Mr K CHETTY asked the Minister of Housing

What amount was spent by the State in respect of housing assistance to the Indian population group in the latest specified financial year for which figures are available?

D77E

THE MINISTER OF HOUSING

In the 1990-91 financial year R181 119 418 was expended in respect of departmental and local authority housing projects from the Housing Development Fund and R17 200 000 from voted funds in respect of the First Time Home Owners' Subsidy Scheme

HOUSE OF ASSEMBLY

INTERPELLATIONS

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

General Affairs

Mobile courts

* 1 Mr J J S PRINSLOO asked the Minister of Justice

- (1) Whether he will comment on the legal validity of the procedures followed in the functioning of the mobile courts which were put to the test at the end of 1991, if not, why not, if so, what are his comments,
- (2) whether these courts were operated on a sound financial basis?

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*The DEPUTY MINISTER OF JUSTICE Mr Speaker, on behalf of the hon the Minister of Justice my reply is as follows Firstly, the procedure that was followed in the functioning of the mobile courts was in accordance with the law The places where the mobile courts held sessions were determined in terms of section 2(1)(h) of the Magistrates' Courts Act as places in existing magisterial districts for the holding of court sessions The Government notices in this regard, with which the State legal advisers complied, were published in the Gazette in terms of section 2(1) of the Magistrates' Courts Act I refer in this regard to Gazette 13691 of 12 December 1991

The courts functioned like any other court in the country which was instituted in terms of the Magistrates' Courts Act Magistrates, prosecutors, clerks of the court and interpreters were on duty at the courts, and rules of criminal procedure, the law of evidence and other procedures were complied with The Legal Aid Board made legal representatives available to the courts to give the accused legal advice, if they so desired Secondly, mobile courts were conducted on a sound financial basis A proper infrastructure was created in that a clerk of the court was made

available for the receipt of fines and bail, the takings being duly accounted for on instructions of the Treasury by means of receipts, the moneys securely locked in a steel cabinet, paid daily to the accounting departments of the seats of the local courts and accounted for in cash books and banked at the earliest opportunity

Supplementary to the reply of the hon the Minister of Justice to Question 2 on 4 February 1992, I should like to point out that the administration of justice is not a commercial commodity The functioning of the administration of justice cannot depend upon a profit and loss account in which rands and cents are a consideration Court cases cannot be quantified in advance, and the number of court cases brought to court and their duration can similarly not be determined in advance

If costs really have to be a consideration in the administration of justice, consideration will have to be given to abolishing periodic courts in remote places and places which are geographically difficult of access In this regard examples such as Tom Burke and the Saamboubrug in the district of Potgietersrus may be mentioned There are 182 of these periodic courts in the country

An aspect that I want to emphasise supplementary to the hon the Minister's previous reply is the value of the additional measures which were instituted in the field of the administration of justice From April 1991 to February 1992 in night courts alone 8 608 cases were heard, on which 4 395 judicial hours were spent Gauged at a norm of 1 000 hours per court per annum this figure represents 4,39 courts for which it will be unnecessary to incur expenditure for an increased staff complement and the creation of capital-intensive court facilities [Time expired]

*Mr J J S PRINSLOO Mr Speaker, I am sorry that the hon the Minister is not here himself to deal with this interpellation because what I am going to say also applies specifically to actions of the hon the Minister When I put questions to the hon the Minister at the beginning of this year's session for information on mobile courts, he was clearly tense, nervous and completely over-acted At that stage I wondered why The information that has since come to my attention with regard to the procedures followed at these mobile courts and the financial implications of

Gov HOUSE OF ASSEMBLY

the way in which the courts were run to my mind probably explained the hon the Minister's unease at the time

252 Firstly, I was informed that motorists who were stopped at nearby speed traps were not arrested, cautioned or charged to appear in court in terms of the Criminal Procedure Act in the case of at least one mobile court. Motorists who were stopped in these speed traps were simply requested by the traffic officers to accompany them and suddenly found themselves in court, without expecting it. Only in court the motorist was asked whether he would mind having his case summarily heard. I was also informed that motorists agreed to a man and in many cases also indicated clearly that—specifically because of the fact that they had already been brought to court—they felt it was better to settle the case.

The public defending counsel, about whom the hon the Deputy Minister spoke, according to my information was also practically permanently absent from these mobile courts and could therefore not furnish all these motorists with the necessary legal aid. This situation is a gross impairment of the individual's freedom of movement and his right to proper legal aid by his own legal representative.

Secondly, I was informed that three courts east of Johannesburg were operated on an unbelievably unsound financial basis, for example the public defending counsel's caravan at one court was visited only once by the defending counsel and she did not stay the night there either. In other words, the caravan was not used for the entire period although it was paid for.

At the official opening of the courts, the hon the Minister was supposedly asked by a reporter what the working hours of the courts would be and according to my informant after initially scrabbling about he decided on the spot for the first time that the courts would sit 24 hours a day. He clearly came to that decision for the first time there before the people present. The result of this was that court personnel were technically on duty 24 hours a day but in practice only admitted cases for trial during ordinary office hours. Nevertheless they were paid for the remaining time at overtime rates because they remained faithfully at their stations. [Time expired.]

Mr L. FUCHS, Mr Speaker, the DP believes that justice should be accessible to all people and that

it should be dispensed with the minimum delay. The maxim "justice delayed is justice denied" was surely one of the most important reasons for the implementation of the mobile courts in the first instance, and the DP certainly supports that concept.

Mobile courts were introduced for three reasons firstly, to try traffic matters summarily, secondly to deal speedily with unrest-related matters and, thirdly, to assist courts which may be overburdened by trying certain matters and by dealing with bail applications in the main. The introduction of the mobile courts was part of a package introduced by the department to make justice and law more accessible to the ordinary citizen. We commend the department for this initiative. In fact, we applaud this hon Minister and his department for introducing a range of law reforms which are of benefit to all citizens in South Africa, irrespective of colour. I suspect that is why the CP is unhappy about it. [Interjections.]

In December last year road deaths declined by 40% in comparison to the previous year, and in so doing, saved South Africa millions of rands. These courts were an unmitigated success and received support from organisations such as the Road Safety Directorate, the South African Black Taxi Organisation and the Long-Distance Taxi Organisation. The introduction of other mobile courts also proceeded without much difficulty at all.

The motion of the CP tends to suggest that money was being wasted in setting up these mobile courts. This assertion is incorrect. [Interjections.] Even if this were the case, the DP believes that there is no price too high for justice being made more accessible to the man in the street, and we refute the idea that the State should not be innovative in bringing the law closer to its citizens. [Interjections.]

The problem with the CP is that they do not want to go along with this because they think that it will be of support to the Black people. [Time expired.]

The DEPUTY MINISTER OF JUSTICE, Mr Speaker, I thank the hon member for Hillbrow for his support for this measure. Clearly one cannot quantify the use of courts in business terms and see whether the courts are profitable or not. The test must be, first of all, whether these courts expedited the judicial process, and

there is no question that the imposition of these courts definitely expedited the judicial process.

Mr J H VAN DER MERWE: You must see when you waste money! 252

The DEPUTY MINISTER: The other aspect is whether these courts have made a contribution to the reduction in road deaths, and there cannot be any doubt as far as that is concerned.

*The hon member for Roodepoort actually launched a personal attack on the hon the Minister. [Interjections.] The first few minutes were devoted to the way in which the hon the Minister replied to his previous question. I find it reprehensible that the hon member raised this matter in Parliament. [Interjections.] If the point at issue is procedures which were not complied with, that case can be taken on appeal. In any case, there were representatives of the Legal Aid Board in each of these courts to deal with people's cases. [Interjections.] To raise this matter here is definitely not fitting.

I want to state that mobile courts were a very great success and proof of this is to be found in the fact that representatives of the NRSC, as the hon member for Hillbrow mentioned, praised this initiative and said that it was a major reason for the decrease in the number of deaths on our roads. [Interjections.]

*Mr C D DE JAGER, Mr Speaker, I am very pleased to hear that the hon the Deputy Minister considers it to have been a very great success. What he failed to say, however, was that the proposal to introduce these mobile courts was made by me to the hon the Deputy Minister because there was a need for them. [Interjections.] Unfortunately the CP did not get the credit for this. We do not seek credit for this either because the operation of the courts was unfortunately introduced in such a way that they are subject to criticism. [Interjections.] But nobody can dispute the fact that the principle is a sound one. [Interjections.]

It is wrong, however, to bring a case and not to explain to the person involved what his rights are initially. [Interjections.] The accused should know that he need not be tried there, he is entitled to legal representation, he can initially request postponement and he is not under arrest when he is brought to court. When he is apprehended he should be cautioned and the choice left to him. Surely it is quite clear that he is

entitled to legal representation and that the public defending counsels present did not satisfy the need that existed.

However, nobody can dispute that these courts have possibilities if they are operated properly. It is a pity that the courts were operated in such a way that they did not meet the demands made of courts. [Interjections.]

*Mr J S PRINSLOO, Mr Speaker, I think the basis of the hon the Deputy Minister's problem is perhaps a comment which he made in his initial reply in which he said, and I am practically quoting him verbatim:

If costs really are a consideration in the administration of justice, remote courts will have to be abolished.

I think the first part of the sentence "If costs really are a consideration in the administration of justice" is highly inappropriate. Of course costs must always and in all respects be a consideration in the State administration. It need not necessarily be the only consideration. Nevertheless it should always be a consideration, and this is what went wrong here.

As my hon colleague from Bethal said, if the system is operated correctly it can do good. This is what this interpellation is about, namely that the hon the Minister who introduced the system did not ensure that all the arrangements were in place to ensure that the procedures were duly complied with, the courts functioned lawfully and were operated on a sound financial basis. This is the problem and it stems from the incompetence of the Government. It is not the fault of the administration of justice. It is not the fault of the people who proposed the system as a useful means to ensure road safety. Once again it is the weak Government's fault.

*The DEPUTY MINISTER OF JUSTICE, Mr Speaker, I should like to thank the hon member for Bethal for his more balanced attitude on this matter.

If there were certain procedures which were not complied with in specific cases—and that hon member depends entirely on hearsay evidence—give us those proposals. Give us the cases, and we shall investigate them. That hon member should not try to discredit a very good initiative by coming forward with such hearsay stories.

What about the matter of the profitability of the case? If profit is the only consideration, we must close all the courts in South Africa because courts are not profitable. But, let us take a look at the profitability. The point at issue here is mobile and stand-by courts which were implemented at the same time. There were three mobile courts and 79 stand-by courts and, if we consider them jointly, they yielded a profit of R10 000 per day to the State. (252)

Debate concluded

Barcelona Olympics: funds

2 Mr J H MOMBBERG asked the Minister of National Education

- (1) Whether he intends providing a certain sports body, the name of which has been furnished to the Minister's Department for the purpose of his reply, with funds to send a team to the Barcelona Olympics, if not, why not, if so, what are the relevant details,
- (2) whether he will make a statement on the matter?

B474E INT

The MINISTER OF NATIONAL EDUCATION Mr Speaker, the sports body to which the hon member for Simon's Town is referring is the National Olympic Committee of South Africa, Nocsa

The Government regards sending a South African team to Barcelona as a national priority which should not be dissipated by petty political squabbles. A team chosen on merit will have our full support, as well as that, I am sure, of the nation as a whole

Apart from moral support, the Government is also able and willing to offer financial support to any national Olympic team. The standard procedure for national controlling bodies for sport in South Africa is to apply to my department should they require financial assistance, and Nocsa is fully aware of this procedure. However, up to now no written application for funds has been made by Nocsa with a view to assisting them in sending a team to the Olympic Games in Barcelona

*However, my department took the initiative as early as last year and addressed a letter to Nocsa in which specific details were requested. This was

HOUSE OF ASSEMBLY

necessary to enable my department to provide for Nocsa in the Budget of the 1992-93 financial year and to assist them in their goal. Although I am aware that the letter was received by Nocsa, they have not yet responded in this regard.

It has always been the policy of my department to render financial support to the National Olympic Committee of SA on an annual basis, but such support can only be given when asked for. For political reasons some bodies prefer not to approach the Government. Their reticence needs to be respected in terms of the Government's general policy of respecting the autonomy of sporting organisations.

*As everyone knows, only limited State funds are available. For this reason I have to manage the available funds in a responsible way to the greatest possible advantage of the sportsmen and women of this country. For this reason I expect that applications for financial assistance for the promotion of sport should be fully motivated and that applications be accompanied by a detailed budget. I also expect sports bodies to which funds have been allocated to submit complete auditors' and financial reports to my department annually for inspection. Any national and macro-sport control body is free to approach the department for financial assistance, taking these conditions into consideration.

Because it is important that timely arrangements be made for Barcelona, I have recently extended personal invitations to the people in Nocsa and emphasised that we can start talking [Time expired]

*Mr J H MOMBBERG Mr Speaker, I am grateful for the hon the Minister's indication that he will in fact be prepared to make funds available

At present we have a totally abnormal situation in sport. For many years there was no opportunity for the Olympic team to go overseas. In America and in the Western countries planning for the collecting of funds during the next four years is started immediately after the end of the Olympic Games. This is a tremendously expensive undertaking. Because South Africa has been isolated up to now there has been no opportunity to collect funds.

Secondly, all participating countries can make use of the funds collected at those Games. We did not participate in the Seoul Games and

therefore there are no funds at present. I am aware of the fact that Nocsa has succeeded in getting a sponsorship of approximately R700 000, I think from the Pick'n Pay group, to send this team to Barcelona. Unfortunately this is not enough. We shall quite probably need an amount of approximately R2 million to get the team to Barcelona.

I agree with the hon the Minister that this should be applied for. I am also fully aware that a verbal application has quite probably been made. However, I want to make an appeal that we regard this question of Barcelona as a one-off situation. If we can participate in the Barcelona Games and if Nocsa can share in the television rights and sponsorships there should be a big enough nest egg to get us to Atlanta in 1996. State funds will definitely be required for this transitional phase. Therefore I really want to appeal to the hon the Minister to be more obliging in this regard.

*Mr D G H NOLTE Mr Speaker, the fact that South Africa and Parliament have until today been left in the dark by the Government and the hon the Minister in regard to State funds to Nocsa to send a so-called South African team to this year's Olympic Games is, of course, in itself an indictment of the Government and the hon the Minister [Interjections]

I do not believe it is only money from the State for the team that is to go to Barcelona that is at issue in this debate. As regards, for instance, the financing of visits by overseas sports teams to South Africa up to now, as well as visits abroad by South African teams, it is a fact that Nocsa and ANC representatives such as Steve Tshetwe and Ramsamy have in any case paraded as if it were the ANC and Nocsa that had advanced the money to make these tours possible.

Other than that this looks like a futile debate which the hon member for Simon's Town still wishes to conduct with the Government at this stage in connection with money to the ANC and the organisations which support it, such as Nocsa. I suppose one must tell this hon member that in spite of what the hon the Minister has told him in the debate here today, he can assume that Nocsa has acquired a substantial financial benefit from the Government in some way or other. The CP believes that this will be made known in due course.

This charge I level against the Government is substantiated by what the International Olympic Committee said after its visit to the hon the State President yesterday, as reported in today's *The Citizen*, namely

The question of assistance financially and the other spheres were discussed and this delegation was very happy with the outcome of the meeting.

How and how much financial assistance will therefore be given, is just as much of a mystery as the team that will ostensibly be selected on merit.

*The MINISTER OF NATIONAL EDUCATION Mr Speaker, I am glad that the hon member for Simon's Town is satisfied with the standpoint I have adopted here. I repeat the point I made, namely that the Government is willing and able to make a contribution, but that we cannot make a contribution if we are not asked for it. We have invited them on two occasions to come and talk to us so that we can make our contribution, as far as possible, but we are now waiting for a positive reaction from that side.

It seems to me that the hon member for Delmas does not like the idea of our participating in international competitions. It seems to me that he wants to be as peevish as possible. It seems to me that he did not enjoy the cricket in Australia either. It was the Azanian team that his hon leader talked about and for this reason he does not like it. He is so far behind, he is lagging 68,6% behind the opinion in South Africa.

For this reason I want to tell him that it is so much nonsense to adopt the standpoint that one does not want to give Nocsa money because one does not like the way in which Nocsa chooses the team or because Nocsa is a branch of the ANC.

There are five bodies in Nocsa. Of those five bodies only one represents the sporting body of the ANC. The others are Sanoc, the traditional body representing traditional sport, Cosas, representing traditional sport, the other is of course Sanroc, of Mr Ramsamy, which represents no sport. I am being quite frank about it [Time expired]

Mr R M BURROWS Mr Speaker, it is to be regretted that the hon member for Delmas saw fit to cast aspersions on the role certain individ-

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HOUSE OF ASSEMBLY

Govt legal reform plan 'inadequate'

By Helen Grange
Pretoria Bureau

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STAR 2/3/92

Legal bodies are concerned that the Government has not gone far enough in its legal reform programme, which today sees the implementation of two important changes to the judicial system.

From today, lay assessors can be used in court cases, and a new law tightening up maintenance payments will come into effect. These changes are the latest in a series of reforms

by the Department of Justice, which recently introduced mobile and small claims courts in an effort to make justice more accessible to the public.

Association of Law Societies (ALS) president Ed Southey said he was concerned that access to the profession was still hampered by strict rules of entry and restrictions on court appearance. To this end, the ALS was investigating the possibility of modifying the system of articles to allow people to enter the profession without serving articles or by serving only limited periods of articles. Discussions had also begun

with the Bar on extending rights of audience in the Supreme Court to suitably qualified attorneys, which would cut legal expenses.

The introduction of the special fee arrangement, whereby a lawyer would be remunerated at a higher tariff if successful, but not be paid if unsuccessful, went a long way towards assisting litigants, Mr Southey added.

Lawyers for Human Rights director Brian Currin said he was concerned that the new initiatives were directed more at speeding up prosecutions than providing legal accessibility in

the form of proper defence mechanisms for accused.

"The Justice Department should, simultaneously, be looking into how people can exercise their proper rights

"The right of appearance should be reassessed, so that law agents such as para-legals can provide a better legal service," he said.

Mr Currin added that firms of attorneys in small towns should be identified to make *pro bono* (free legal representation) contributions. "A mobile law office facility offering legal aid could be introduced to complement the mobile courts," he said.

Under the new Magistrate's Courts Amendment Act, lay assessors can be appointed from the accused's community — ensuring that courts consider factors such as the culture and background of the accused.

Under the new Act, maintenance payments can be paid directly to the beneficiary instead of to a Government institution. Courts can also issue orders for expenses such as arrear maintenance and medical expenses.

Short process courts and mediation courts are to be introduced later this year. The pur-

pose of these courts, Justice Minister Koba Coetsee said recently, is to try to settle civil matters informally without having to go through expensive court proceedings.

"The presiding officer may be an attorney, an advocate or a retired magistrate. The State pays part of the cost of the presiding officer and puts the necessary infrastructure at the disposal of litigants," he said.

An Ombudsman was appointed late last year to field grievances from the public concerning irregularities in the public and private sectors.

Court told of plot to kill UDF members

Sowetan - 2/3/92
THE Supreme Court in Maritzburg on Friday heard of a plan by the police and members of Inkatha to establish a rival organisation at Trust Feed to oppose the existing Crisis Committee

Under cross-examination by Mr Anthony Irons, for the State, Captain Brian Mitchell agreed with him that the aim of the organisation was to allow the State to have some control of the Trust Feed area

Mitchell and six other policemen face 19 charges of murder and attempted murder. The charges relate to the death of 11 men, women and children who were shot while holding a wake at Trust Feed on the night

of December 2/3, 1988

The prosecution alleges that after being approached by Inkatha leader Mr Jerome Gabela in November 1988, Mitchell and the late Riot Unit head, Major Deon Terblanche, and some Inkatha members held discussions during which it was agreed that police would carry out an attack to kill members of the United Democratic Front

The Crisis Committee to which Gabela and other Inkatha members were opposed, worked closely with the local Development Board (25) (26) (27)

The Development Board did not suit Gabela and the KwaZulu government

'SADF cash went on camp in KwaZulu'

STAR 3/3/92

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The SA Defence Force, through a front company, Richard's Appointments, spent between R200 000 and R300 000 on renovations to a camp at Makuze in KwaZulu to accommodate a unit trained in the Caprivi Strip, the former personal assistant to Inkatha Freedom Party president Chief Mangosotho Buthelezi, M Z Khumalo, said yesterday

Giving evidence in Pretoria to the Goldstone Commission of Inquiry into Public Violence and Intimidation on allegations of SADF funding of Inkatha hit squads, Mr Khumalo said the renovations had been carried out to accommodate a group of people who had been given training to become bodyguards

It was thought that the men could stay at the Makuze camp and, while there, undergo a course in political education. They would then go into the community and teach others

There was no budget for the renovations and the money was spent progressively, he said. Richard's Appointments also footed the bill for four vehicles

after some of the group from Caprivi had gone to Pretoria for a further course.

He said this group, about 30 of them, arrived back at Ulundi at about the same time as the main Caprivi group

The vehicles arrived at about the same time, but Mr Khumalo could not say whether they were driven from Pretoria by the group who were trained there

Mr Khumalo also said he met Dr Louis Pasques, head of an organisation called Adult Education Consultants (AEC), who wanted to discuss the formation of a multiparty democratic group. Dr Pasques was introduced to Mr Khumalo by Guy Boardman, of Creed Consultants, another alleged SADF front

Mr Khumalo said he had not heard Dr Pasques offer Inkatha R11 million. There was also no mention of any connections between AEC and Creed

Mr Khumalo's cross-examination by David Soggot, SC, — for the ANC, Weekly Mail, Cosatu and the SA Communist Party — was due to continue yesterday afternoon — Sapa

Trust Feed record not kept ~~by~~ captain

STAR 3/3/92

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Own Correspondent

MARITZBURG — The former station commander of the New Hanover police station, Captain Brian Mitchell, did not record the presence of the special constables who were taken to Trust Feed to "jerk up" a local Inkatha leader in December 1988 because he knew it was unlawful, the Supreme Court heard here yesterday.

Captain Mitchell was giving evidence for the fourth day in the trial of seven policemen who are facing 19 charges of murder and attempted

murder.

The charges relate to the death of 11 men, women and children who were shot while holding a wake at Trust Feed on the night of December 2/3 1988.

The six other accused are Captain Jacobus van den Heever, Sergeant Neville Rose and special constables Roy Ndwalane, Cyprian Ngubane, Thabo Sikhosana and Marshall Khambule.

They have all pleaded not guilty.

Captain Mitchell told Mr Justice Wilson and two assessors that he did not record the presence

of the special police constables because he saw that to be unlawful.

Asked if he recorded the fact that he was at Trust Feed on December 2 1988, Captain Mitchell said he did not and could not recall why he did not do it.

The court also heard how a photographer who was in the area on the day had had his film confiscated by the police.

Captain Mitchell said he saw Bryan Pearson in the vicinity of Trust Feed, but he did not see him take pictures.

He said Captain van den Heever spoke to Mr

Pearson while he (Captain Mitchell) sat in a minibus.

Asked why it was necessary to stop Mr Pearson, Captain Mitchell said he had seen him earlier and warned him to leave the area.

He said he again saw Mr Pearson when he (Captain Mitchell) was with Sergeant Neville Rose and Captain van den Heever.

The press was not allowed in the area because it had been declared an unrest area, Captain Mitchell said.

The hearing continues.

Prosecution rejects new

Mitchell plea

Own Correspondent

MARITZBURG — Trust Feeds trial accused Capt Brian Mitchell yesterday formally changed his plea in connection with 11 murder charges to one of guilty to culpable homicide

The plea was not accepted by the prosecution

Mitchell's amendment to his plea came at the end of his three-day testimony in which he admitted instructing special constables at Trust Feeds to attack or kill UDF members in the area in December 1988, but said he did not expect or intend them to shoot women and children attending a funeral vigil inside a house

His evidence was challenged yesterday by his co-accused, Kehla Ngubane, the first of four former SA special constables charged in the case to testify

Ngubane denied Mitchell instructed them to shoot members of the UDF but said he had pointed out the house in question and ordered them to shoot at "terrorists" inside Ngubane said he fired two shots into the house through a back window "We couldn't see inside," he told Mr Justice Wilson and two assessors

He alleged Mitchell had also fired a shot into the house through a window

Ngubane said when he and the other special policemen were fetched after the shooting, he alleged they were told to conceal their firearms and lie down in the kombi

He was told by some of the other special constables that they had been instructed not to return to work until further notice

The hearing continues

Some CP supporters in Brits will be saying 'yes'

"I VOTED CP in the last election, but I'll be voting 'yes' in the referendum I don't agree with what De Klerk is doing, but it's impossible to go back now. It's too late"

"I am a CP supporter, and I will vote 'no' in De Klerk's referendum The referendum stinks to high heaven If I have to fight in a civil war to protect my land, I will do so"

Thus speak the two voices of Brits one is conservative but resigned to what is happening in SA, the other is conservative but radically so, paradoxically willing to sacrifice all in a battle to save what remains of a white state

The first voice belongs to Estelle, who works in a video shop on the town's main thoroughfare, Murray Avenue Estelle has been a CP supporter, and says she agrees in principle with what the CP demands "But it is unrealistic to want that now," she says "We would all like to have what we had before, but it is not possible anymore"

Estelle says many other CP supporters — her family members included — think the same way as her They don't agree with the reforms, but they will vote "yes" They will vote "yes" because there is no other way, because they say they are frightened about what a reversion to economic and political isolation could do to SA.

If De Klerk had held a referendum on whether to embark on his reforms soon after the last election, would she have voted "yes" then? "No I think what has happened has been bad for the white people We aren't ready for these sort of changes. I don't think we ever will be."

Heleen works in a boutique 20m down the road — a pretty, lively young woman who speaks English with a faltering enthusiasm "I agree with half of what De Klerk has done, but I disagree strongly with the other

REFERENDUM

The voters' mood

In the run-up to SA's most crucial vote, Business Day is taking the pulse of white voters in towns and cities across the country. For the second article in the series, **DARIUS SANAI** spoke to residents of Brits.

half He musn't allow the ANC to tell him what to do. He musn't allow the black people to dictate to us"

Heleen will vote "no" in the referendum. "We need to have the right to live in white areas, to send our children to white schools They (black people) keep to themselves we want to keep to ourselves too.

"We're different" She shakes her head. "We're very different"

I ask Heleen if she thinks attitudes like hers could provoke a civil war "Yes, we will have many problems if there's a 'no' vote. There will be a hell of a fight, but I am prepared to fight It's not just the blacks who need satisfaction, you know."

Didn't she agree with democracy? "Yes, of course a democratic system is the best But we have a problem here there are more blacks than whites Perhaps," Heleen mused, "why not have a system where 10 black votes equal one white vote? Then it would be even"

Many Brits residents appear convinced of the unbreachable barricade between black and white, of a differ-

ence between races which, if not exactly biological, is entrenched so deeply it can never be overcome. Most interviewed said they would vote "no" more or less because of this conviction but a significant minority concurred with Estelle

Some locals will be voting "yes" out of conviction rather than resignation One, Marie, described herself as a "typical local housewife" as she spoke to me outside a supermarket "No-one's really happy with the situation at the moment," Marie said, "but unless we give De Klerk a chance the door that has been opened will be closed for good"

Marie has friends who are CP supporters who will be voting "no", but she says "Treurnicht is not a leader as far as I'm concerned" She voted NP in the last election, and agrees with what De Klerk has done "There was no other way out for SA He is a very brave man"

But a significant section of the Brits populace speaks with the voice of defiance. Mainly young, and male, they say they are prepared to fight for the future of what they see as their land "If the 'no' vote wins, we will fight If the 'yes' vote wins, we will also fight — in whatever way we have to," one heavy young man said.

Piet, one of the man's friends, said it was his generation, the young, poor white people, who would be voting "no" en masse, and who would be fighting with the greatest militancy "It's our future, and he's giving it away to the blacks And we can't buy ourselves into a smart area where there are no blacks — so we're going to fight for our town, and for our land," he said

But the streets of Brits gave their own answer to the white militants More black people were buying goods at the shop counters than whites For every white schoolgirl in a pony tail clutching a bag of sweets or a soft drink, there were three black schoolgirls doing the same

Council amalgamation plan looks set to falter

B/D ay 3/3/92

ADRIAN HADLAND

THE planned amalgamation of Bedfordview, Germiston, Katlehong and Palm Ridge into one greater Germiston city council looks set to falter this week.

A special council meeting tonight, called by Bedfordview's mayor John Lewis and supported by three other councillors, will reconsider the amalgamation.

Lewis said a majority of the Bedfordview councillors, following pressure from their wards and ratepayers, would seek to end the proposed amalgamation plans until relevant legislation was promulgated by a new government.

The creation of the greater Germiston city council, which has been negotiated over the past 18 months by the Southeast Rand Co-ordinating Committee, was due to occur on April 1 this year.

Germiston and Katlehong have already agreed to joining their councils which would have resulted in the Transvaal's second biggest city council after Johannesburg.

A poll aimed at registering support for the merger, due to be held in Bedfordview on March 18, would probably not take place, Lewis said.

Lewis explained that while the council agreed that amalgamation was desirable, it would prefer to delay it until Codesa had discussed the issue and a new local government dispensation had been formulated.

Bedfordview councillor Jennifer Warwick held a meeting last week to put amalgamation plans to residents.

The response, said Lewis, was "over our dead bodies".

Lewis and councillor Janet Semple, a signatory to the special council meeting request, are to face residents tomorrow on the issue.

"We believe we would just like to slow it all down a bit," said Lewis.

"It is a momentous decision and we do not believe there is consensus in Bedfordview to go ahead with the amalgamation."

Lewis said councillors were concerned about the financial implications of the merger.

He said the terms of the amalgamation agreement would have exempted Bedfordview from responsibility for debts incurred by Katlehong and Palm Ridge prior to April 1.

However, after this date that would no longer be the case.

"The Bedfordview council is committed and in favour of uniting with black local authorities but, at the same time, it must retain its autonomy until new legislation has been promulgated by a new government," Lewis said.

Inkatha education linked to SADF 252

PRETORIA — Creed Consultants, who ran political education courses for a group of elite Inkatha bodyguards, were paid with money given by Richard's Appointments who were linked to the SADF, the Goldstone Commission of Inquiry heard yesterday.

IFP president Mangosuthu Buthelezi's former personal assistant M ZN Khumalo said this in testimony to a Committee of the Inquiry into Public Violence and Intimidation.

The committee, sitting in Pretoria to hear allegations of SADF funding of Inkatha hit squads, was told that Creed was not paid out of Inkatha coffers.

Khumalo denied allegations that Guy Boardman of Creed had called to warn members of the elite unit to

go into hiding or that police were looking for them.

At a previous hearing a former Inkatha Youth Brigade organiser alleged these incidents had occurred.

Khumalo told the committee the SADF, through Richard's Appointments, spent between R200 000 and R300 000 on renovations to a camp at Makuze in Kwa-Zulu to accommodate the unit trained in the Caprivi Strip.

It was thought the men could undergo a course in political education while at the Makuze camp, from where they could go into the community and teach others.

Richard's Appointments also footed the bill for four vehicles when some of the group from Caprivi had

gone to Pretoria for a further course.

Khumalo also admitted attending meetings with Louis Pasques, head of Adult Education Consultants, who wanted to discuss the formation of a multi-party democratic group. Pasques was introduced to Khumalo by Boardman.

Khumalo said he had not heard Pasques offer Inkatha R11m.

There was also no mention of any connections between AEC and Creed.

The hearing was adjourned after David Soggot SC — for the ANC, Weekly Mail, Cosatu and SA Communist Party — said he had just received documents concerning Khumalo.

The committee sitting resumes today — Sapa.

Damages action to go on in spite of death

The Argus Correspondent

(252) ARG 3/3/92

PRETORIA. — An action for R120 000 damages by a Pretoria judge, who died earlier this month, will continue following the dismissal of arguments by the defendants that a judge has no rights to claim damages for defamation.

Mr Justice Esselen, who died on February 3, claimed damages from the national director of Lawyers for Human Rights, Mr Brian Currin, the Argus Printing and Publishing Company Ltd and the Star's then editor-in-chief Mr Harvey Tyson

The judge claimed he was defamed in an article, written by Mr Currin, which appeared in the Star on March 27, 1990. He claimed Mr Currin implied that courts discriminated on racial grounds when convicting or sentencing

of the

Cop knew action was against law

Sowetan 3/3/92

FORMER station commander of the New Hanover police station Captain Brian Mitchell did not record the presence of the special constables who were taken to Trust Feed to "jerk up" a local Inkatha leader in December 1988 because he knew it was unlawful, the Mantzburg Supreme Court heard

(252)
Mitchell was giving evidence yesterday for the fourth day in the trial of seven policemen facing 19 charges of murder and attempted murder.

The charges relate to the deaths of 11 men, women and children who were shot while holding a wake at Trust Feed on the night of December 2 1988

The six other accused are Captain Jacobus van den Heever, Sergeant Neville Rose and Special Constables Roy

Ndwalane, Cyprian Ngubane, Thabo Sikhosana and Marshall Khambule. They have all pleaded not guilty

The court also heard how a reporter who was in the area on the day had had his film confiscated by the police.

Mitchell said he saw Mr Brian Pearson in the vicinity of Trust Feed, but did not see him take pictures. Van den Heever spoke to Pearson while Mitchell sat in a minibus

Asked why it was necessary to stop Pearson, Mitchell said he had seen him earlier and warned him to leave the area. He saw him for the second time when he (Mitchell) was with Rose and Van den Heever

Sowetan 3/3/92
The Press was not allowed in the area because it had been declared an unrest area, he said.

Court confirms death sentence

252

THE Appeal Court in Bloemfontein has confirmed the death sentence of Peter Mokoena of Sebokeng for the murder of Constable Michiel Burger Odendaal

The policeman was killed at Rietspruit on November 4 1986

Sowetan 3/3/92

Mokoena was convicted by Mr Justice Coetzee in the Transvaal Supreme Court on May 5 1988. He lost an appeal in the Appeal Court on June 1 1989.

His case is one of those that have had to be reconsidered by the Appeal Court, after the Review Panel - constituted under the Criminal Law Amendment Act of 1990 - found that it was probable the death sentence would still have been imposed had the amended law been in effect when Mokoena was tried and his appeal heard the first time - *South African Press Association*

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Farmhands to hang

Sowetan 31/3/92
TWO QwaQwa men received a double death sentence in the Bloemfontein Supreme Court yesterday for the murder of a Senekal farmer and his wife early last year (252)

Mr Justice Beckley, sitting with two assessors, said in passing judgment that the accused, Petrus Tshabalala (27) and John Mokoena (34) had gruesomely murdered the defenceless couple, Mr and Mrs Johannes Wium, both 60 years old, on their farm Erfstuk

The court heard that the accused, who earlier had pleaded not guilty, were employed on the farm - *Sapa*

Accused tells court of attack

Own Correspondent

MARITZBURG — Trust Feed trial accused and former SAP special constable, Kehla Ngubane, denied yesterday that he was a member of Inkatha and said he and the other special constables were trained not to be involved with politics.

Mr Ngubane is one of seven policemen and former special policemen charged with 11 counts of murder and eight of attempted murder in connection with an incident in which men, women and children were shot dead while attending a funeral service in a house at Trust Feed during the night of December 2/3 1988.

Mr Ngubane alleged yesterday that former New Hanover station commander Captain Brian Mitchell had instructed him and three other special policemen to attack a house with "terrorists". He denied evidence by Captain Mitchell that he instructed them to attack and kill members of the United Democratic Front.

He admitted he was resident in an Inkatha stronghold, Woody Glen at Hammarsdale.

Mr Ngubane has told the court he personally fired two shots "blindly" into the house. He could not see inside because it was dark.

Survivors of the massacre testified during the State case that some of the attackers had entered the house with torches.

Mr Ngubane said Captain Mitchell had pointed out the house and told them to shoot.

Mr Ngubane said he and co-accused Dumisane Ndwalane and Captain Mitchell went to the back of the house.

"I heard a knock... then I heard a voice asking 'Who is that?' Another voice responded: 'We are the police.' The lamp was then put out. A gunshot went off, then gunshots went off all over, also in front."

Mr Ngubane said Captain Mitchell fired a shot through a window into the house, then handed the gun back to Mr Ndwalane and left.

"I fired two shots through the back window. Mr Ndwalane also fired."

Afterwards they picked up the cartridges as instructed. The hearing continues.

But he says De Klerk's reforms are bound to end in chaos "He is trying to do something unnatural, to make us all live together. And he will fail, because we will never do that"

Anita Erasmus owns a small bill-tong shop in the centre of Pietersburg. She says she becomes angry even when she thinks of the referendum, but that she will vote in the "only way possible" — "no"

"I agree with nothing De Klerk has done," Anita says. She acknowledges there will be problems if there is a majority "no" vote because reforms have gone so far already "But there will be problems whichever way the vote goes"

"We can't say 'yes', because this is the last chance for white people in this country." She had started to say "Africans", but changed to "white people". did she think whites were

now a community?"

"Yes, of course we are. We must live under our own government and they must live under theirs"

Erasmus, like most of the women I spoke to in Pietersburg, said she was not the type of person to fight in a civil war, but said she would do whatever she had to to stop what she saw as the inevitability of an ANC government "I don't hate the blacks. If there's someone I hate it's De Klerk and we are going to stop him."

The men who live and work in Pietersburg, compared with those on nearby farms, tend to be less conservative. An estate agency owner, a restaurateur and an accountant all told me they would vote "yes". But all

get things more organised "Their 'yes' votes would be conditional."

Hans Pieterse, who owns a local car dealership, echoed Bert and Sophie's sentiments by complaining about the mess SA was in. But he went on to say he would be voting "no" — and claimed most of his clients, local farmers, would vote "no" too

His comments were very similar to those of a Pietersburg gun shop owner "Things have got to change, we can't go back. But the CP knows better what to do for us during the change. De Klerk is just giving everything to the blacks"

The older, less affluent generation seems to be what unites Pietersburg and Tzaneen the "no" generation that will vote to fight against what they see as a betrayal of the Volk

Report by D Sanai, TML 11 Diagonal St, Job

Film body slams telecommunications move

GOVERNMENT's decision to establish a Commission for Telecommunications paid lip service to the process of negotiations at Codesa, the Film and Allied Workers' Organisation (Fawo) said yesterday.

Fawo general secretary Willie Currie said in a statement that Home Affairs Minister Gene Louw seemed hell-bent on proclaiming legislation regardless of what Codesa might decide about the future of broadcasting in a transitional period

"If the Minister recognises that a process of negotiation is taking place in SA, he should not merely inform Codesa of a government decision"

According to Fawo there had been broad consensus for over two years that government's authoritarian control over broadcast regulation should be transferred to an independent regulatory body

It said government's own commission outside of Codesa or interim government processes would have no credibility

Government should make it clear whether the decision-making forum on the future of broadcasting and telecommunications was Codesa or the Department of Home Affairs, Currie said — Sapa

Comment: Page 8

The best boss

KATHRYN STRACHAN

THE search is on for SA's top boss as nominations open for the Best Boss Award

Organisers Edlcom Personnel Consultants and Career Success magazine say they are again looking for a "special boss who, apart from his or her specific skills in the business world, also excels in relations with employees"

Trust Feed accused sketches attack

Minister Pik Botha

MARITZBURG — Trust Feed trial accused and former SAP special constable Kheba Ngubane denied yesterday that he was a member of Inkatha and said he and the other special constables were trained not to associate themselves with politics

Ngubane is one of seven policemen and former special policemen charged with 11 murders and eight attempted murders in connection with an incident in Trust Feed where men, women and children were shot dead while attending a funeral vigil during the night of December 2, 1988

Ngubane alleged that former New Hanover station commander, Capt Brian Mitchell, instructed him and three other special policemen to attack a house with "terrorists" at Trust Feed that night

Ngubane said he and co-accused Dumsum Ndwane were woken at about 1.30am by an "aggressive" Mitchell who instructed them to get their firearms and follow him. He dropped them at a junction near

Own Correspondent

Mbongwe's Store and later returned with two other special constables, Thabo Sibbonsana and David Khambuleni

They then proceeded to house 83 in Trust Feed Ngubane said he, Ndwane and Mitchell went to the back of the house

Mitchell took Ndwane's firearm "I heard a knock. Then I heard a voice enquiring 'Who is that?' Another voice responded 'We are the police.' The lamp was then put out. A gunshot went off, then gunshots went off all over, also in front"

Ngubane said Mitchell fired a shot through a window into the house, then handed the gun back to Ndwane and left

"I fired two shots through the back window Ndwane also fired at the same window. I don't know how many shots" Afterwards they picked up the cartridges as they had been instructed to do

The hearing continues

EX-CE Walter Pugh on fraud charges

FORMER East Rand Colliery CE Walter Pugh appeared in the Rand Supreme Court yesterday on charges of fraudulently obtaining R14.3m in fiancés, which he allegedly used to buy and export gold in contravention of ex-

SUSAN RUSSELL

change control regulations Pugh, 57, of Craighall Park, Johannesburg, and co-accused Ian Meadows, 45, of Parktown North, Johannesburg, are both charged with 28 counts of fraud and exchange control contraventions

Neither was asked to

Pugh's counsel Max Hodges SC was unavailable because he was busy with the fraud trial of former Interboard chairman Ed Dutton

Pugh also needed time to prepare his defence, which included consultations with people overseas

The judge urged Meadows, who appeared without



Hit squad evidence 'hearsay'

6/10/92 4/3/92
PRETORIA — A witness to the committee of the Goldstone Commission investigating allegations made by the Weekly Mail admitted yesterday he had no first-hand knowledge of hit squad training or activities by Inkatha members

Mbongeni Khumalo, one of the main sources for the Goldstone Commission of Inquiry setting up a committee to investigate allegations of possible SADF involvement in training an alleged Inkatha hit squad, said under cross-examination by Louis Visser SC, for Inkatha, he had heard about training from members of a group who had spent six months in the Caprivi Strip to become bodyguards

He had never seen the men trained in any skill that would define them as a hit squad member nor had he seen any activity that could be linked to a hit squad

He had heard about the evidence of the training of 200 people for special guard duties when he gave the group lectures in political education.

Earlier yesterday Inkatha president Mangosuthu Buthelezi's former personal assistant M Z Khumalo said he knew one of the Caprivi trainees had been involved in the killing of a student. He said he did not

252 (116) (116) (116)
know the victim was a member of the PAC

Another of the trainees, Daluxolo Lathuli, was in the employ of Inkatha. His salary had been paid by Richard's Appointments, an alleged front for the SADF, up to 1989 and Inkatha had paid him since then.

□ Mr Justice Goldstone said yesterday that PAC president Clarence Makwetu would not be required to give evidence.

Instead, the commission is considering whether the issue which led to Makwetu's highly publicised refusal to appear before the commission — violence by trained and armed people — should itself be the subject of an inquiry.

"Until a decision is taken and the terms of reference for such an inquiry have been finalised, the commission considers it would be inappropriate to enforce the attendance of a witness from only one group which may have relevant evidence.

"To do so could give rise to a perception of partiality on the part of the commission," Mr Justice Goldstone said.

But he gave notice that, should such an inquiry be held, the commission would not hesitate to use its power to compel the attendance of anyone considered by it to have information. — Sapa

I had no first hand info

Sowetan 4/3/92

AB
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- ex-IFP man

A FORMER Inkatha Freedom Party national youth organiser Mr Mbongeni Khumalo yesterday admitted he had no first-hand knowledge of hit squad training or activities by IFP members.

Testifying before the Goldstone Commission of Inquiry in Pretoria, Khumalo said he had heard about the training from members of a group who had spent six months in the Caprivi Strip to become bodyguards

Activity

Under cross-examination by Mr Louis Visser, SC, for the IFP, Khumalo said he had never seen the men trained in any skill that would define them as hit squad members nor had he seen any activity that could

SAPA

be linked to a hit squad

He heard about the training of 200 people for special guard duties when he gave group lectures in political education

Earlier yesterday, Mr MZ Khumalo, former personal assistant of IFP president Chief Mangosuthu Buthelezi, who resigned in the wake of allegations of SA Police funding, told the committee he knew one of the Caprivi trainees had been involved in the killing of a student

He said he did not know the victim was a member of the Pan Africanist Congress

He said another trainee, Mr Vela Ntuli, who disappeared in 1986, had been implicated in the death of a Congress of South African Trade Unions worker at

BSR near Maritzburg

Another trainee, Mr Daluxolo Lithuli, was in the employ of the IFP, Khumalo said

His salary came from Richard's Appointments, an alleged front for the SADF, up to 1989

Khumalo denied he had sent five of the trainees and three cooks to break a strike

"Bizarre"

He told Mr David Soggot, SC, for the Weekly Mail, that he thought it "bizarre" that he would do so

He had sent the men as he wanted them to be employed. He said they were prepared to work on the mines

Only one was still employed in Secunda

The hearing continues today

PAC chief no longer required at inquiry

Pan Africanist Congress president Clarence Makwetu will not be required to appear before the Goldstone Commission of Inquiry into Public Violence and Intimidation, commission chairman Mr Justice R J Goldstone said yesterday.

Instead, the commission is considering whether the issue which led to Mr Makwetu's highly publicised refusal to appear before the commission should itself be the subject of an inquiry.

"Until a decision is taken and the terms of reference for such an inquiry have been finalised, the commission considers it would be inappropriate to enforce the attendance of a witness from only one group which may have relevant evidence.

"To do so could give rise to a perception of partiality on the part of the commission," Mr Justice Goldstone said.

But he gave notice that, should such an inquiry be held, the commission would not hesitate to use its power to compel the attendance of any one considered by it to have information and who refused to appear voluntarily.

"The primary endeavour of the commission is to put an end to the violence which is plaguing our country. It is a cause for regret that the PAC is unwilling to join in that enterprise on the pretext that the commission has no legitimacy," he said.

In reference to Mr Makwetu's refusal to appear before the commission, he said an informal approach had been made to Mr Makwetu.

"Informal discussions have been held with other parties. The PAC chose to make a public issue of the approach made to it" — Sapa

Death squad murders soared last year — report

By Jo-Anne Collinge

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Assassination squads were "rampant" last year, eliminating no fewer than 60 political activists — three times the number killed in the previous year, says the Human Rights Commission.

In its annual Human Rights Update — 1992, a mainly statistical summary, the HRC reveals continually high levels of "informal repression" — that is, action taken by various groups without statutory authorisation to thwart political expression.

In contrast, "formal repression", which is exercised by the State with the authority of law, is shown to have fallen considerably.

However, the HRC insists that the incidence of certain categories of formal repression is still unacceptable. For instance:

● It records 100 deaths resulting from security force action in 1991 and 700 injuries. The 1990 figures were 300 deaths and 3 000 injuries. "While the deaths and injuries inflicted by the security forces are still at an unacceptable level and

are to be deplored, nevertheless it is clear that the censure of their methods by various commissions of inquiry has had its effect," the HRC comments

● Close to 9 300 arrests arising from political action are recorded by the HRC, the majority resulting from mass protests being viewed as illegal gatherings

● There were 298 prisoners on Death Row at the end of last year, according to the HRC count. In all, 85 people were sentenced to death during the year, only one for a political offence

While 53 political prisoners were released from Death Row during 1991, 13 persons regarded by the HRC as political offenders remained in the death cells

● Apart from Bophuthatswana and Ciskei, detentions dropped sharply in 1991. Bophuthatswana accounted for 262 and Ciskei for 704 of the total number of 1 093 detentions recorded by the HRC in Greater South Africa in 1991

Outside of the TBVC states, legislative reform saw the period of security detentions significantly curtailed

● The HRC recorded no deaths in security-law detention but noted 10

deaths of prisoners held under the common law "in politically related circumstances"

● The HRC's count of the number of political trials completed in 1991 remains high, at 575. But the organisation observes that sentencing has become perceptibly lighter. It adds that "convictions for minor crimes continue as the police use the courts to carry out political harassment"

In the area of informal repression, hit squad assassinations of carefully targeted political figures have shown the most dramatic increase. But the overall toll is still a mere fraction of the 2 000 deaths "judged to be related to vigilante-created situations"

The HRC uses the term "vigilantes" to refer to forces which arose from attempts by various homeland administrations and black local authorities to defend their vested interests. Both the deaths inflicted by such forces and losses which they sustain in counter-attacks are included in the toll

The HRC also notes that so-called "right-wing actions" caused far fewer deaths than vigilante formations last year — 21, with 178 injuries

Chief of economic offences unit named

DEPUTY Witwatersrand Attorney-General Jan Swanepoel SC has been appointed director of the newly formed Office for the Investigation of Serious Economic Offences

Swanepoel will be granted the same status as an attorney-general

The office has not yet started operating, but an announcement on its operations is expected later this week from Justice Minister Kobie Coetsee

Coetsee is also expected to use the occasion to announce the appointment of a new Transvaal attorney-general. The position was left vacant last year with the retirement of Don Brunette SC

Swanepoel, assisted by three State advocates, will be based in Pretoria and there will be a similar office in Cape Town

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STEPHANE BOTHMA

The office will not take over existing commercial crime investigations but will concentrate on new cases

Swanepoel and his staff will work closely with the SAP Commercial Branch and a police brigadier has been seconded to work in the Cape Town office

Swanepoel, currently representing the State in the Pretoria Supreme Court fraud trial of businessman Albert Vermaas, last year headed the State team in the prosecution of Winnie Mandela on charges of kidnapping and assault

The office was formed in terms of the 1991 Act on the Investigation of Serious Economic Offences

Farm raid yields no evidence

Sowetan 5/3/92

THE Goldstone Commission into Violence and Intimidation has conducted a nine-hour helicopter-borne raid on a hit squad training camp at a farm in the Transvaal, but came up empty-handed.

Mr Justice Goldstone ordered the investigation after an attorney acting for the African National Congress told the commission that an informant had identified the farm near Heidelberg where he and other men trained as members of a hit squad.

In a statement yesterday, Mr Justice Goldstone said he had submitted an urgent report on the investigation to President FW de Klerk last Saturday.

The information was, however, false.

In its report the commission said it accepted the *bona fides* of the ANC and its attorneys in providing the information to the commission.

"These events again demonstrate the danger of relying upon unchecked reports concerning public violence and intimidation and it is hoped that the public and the media will take due notice of this danger," the report said.

The informant alleged that he and others were involved in the murder of train commuters on the Witwatersrand. He also gave the ANC the address of the farm, the owner's name, the names of white and black instructors, the number of vehicles used on the farm and the nature of the 30 trainees'

quarters.

The ANC's attorney told the commission neither he nor the ANC had reason to doubt the accuracy of the information but had no means of verifying it.

The commission had received the information last Thursday afternoon and by that evening it was decided that the farm should be raided. Two members of the staff of the commission, Mr JJ du Toit and Lieutenant-Colonel H Heslinga, requested assistance from the police as the informant had told the ANC that the farm was guarded by armed men.

Du Toit briefed a large unit of the police on the precise nature of the operation at 4am last Saturday.

They moved to the farm with the support of some 52 policemen and nine police helicopters. They had the support of a medical doctor and paramedics and a paramedic helicopter," the report said.

Du Toit was accompanied by two attorneys acting for the ANC and two ANC officials.

"The information given to the ANC was false. The informant was brought to the area of the farm and led Du Toit and the police to two other farms. Again his allegations were proved to have no factual basis. After some nine hours the operation ended," the report said - *Sowetan Correspondent*



GOLDSTONE

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F. I. C. C. U. V. K.

Hit squad informant proves no hit with police or startled farmer

By Day 3/12
LINDEN BIRNS

A HEIDELBERG farmer had a rude awakening on Saturday when scores of policemen and 10 helicopters descended on his property early in the morning.

The police had been told the farm might be a secret training camp for members of a hit squad specialising in attacks on train commuters. But their information proved to be wrong.

The raid followed a tip-off given to the Goldstone Commission of inquiry into public violence and intimidation by an informant to the ANC, who claimed he had been trained in terror techniques at the farm.

The informant furnished the ANC with precise details of the farm, its owner, the names of black and white instructors, the number of vehicles based at the farm, the nature of the sleeping accommodation for 30 trainees, and other information.

The ANC's attorney passed on the details to the Goldstone Commission. While the ANC had no reason to doubt the accuracy of the information, it could not verify it.

On Thursday night the Goldstone Commission decided the information and seriousness of the allegations warranted use of the commission's search and seizure powers, and a raid was ordered.

Because the informant had said the farm was under armed guard, the commission requested SAP assistance.

The following morning Lt-Col Henk Heslinga was given a general briefing of the operation, but was not given any details regarding the location of the farm or the nature of the activities alleged to be taking place there.

At 10.30 on Saturday, the large SAP unit was given a detailed briefing. Under the

control of Gen J. J. de Swart, a force of 52 policemen, 10 helicopters, a doctor and paramedics then swooped on the farm — which turned out to be just that — a farm.

The ANC's informant led the police to two other farms, but again his allegations were shown to be false.

After nine hours the operation was called off.

SAP spokesman Capt Burger van Rooyen said last night the informant had not been held for questioning, but could be questioned soon.

ANC spokesman Sakri Malcozoma said

last night the informant was not a member, but was probably involved in a plot to discredit the organisation, said was the subject of a major disinformation campaign.

In a statement yesterday the Goldstone Commission said it accepted the brief of the ANC and its attorneys in providing information to the commission.

It hoped the incident had demonstrated the commission's resolve and ability to inquire into public violence and intimidation.

Victims 'killed blindly by cops'

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sewefan 5/3/92
THE Maritzburg Supreme Court was told how victims of the Trust Feed massacre were "shot accurately" by people firing blindly in a dark room

This evidence was given under cross-examination by Mr Cyprian Ngubane, one of the seven policemen facing 11 charges of murder and eight of attempted murder

The charges arise from the death of 11 men, women and children who were shot at a Trust Feed wake on December 2/3 1988

The other accused are Captain Jacobus van den Heever, Sergeant Neville Rose, Captain Brian Mitchell and special constables Roy Ndwalane, Thabo Sikhosana and Marshall Khambule

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Call for public mercury probe

B1 Day 6/3/92
Own Correspondent

DURBAN — The bitter war of words between the environmental watchdog body Earthlife Africa and the Thor chemical company ended with a brief truce yesterday — with both organisations demanding government set up a full judicial commission of inquiry into the Cato Ridge mercury pollution row

At a news conference in Maritzburg, Earthlife said there was still too little information available about the issue — and this could be solved only by having a public inquiry

The organisation also accused the Water Affairs Department of withholding the results of continuing tests on the water quality of the Mngweweni Stream

Challenging the department to release the test results, Earthlife said "We can only assume the evi-

dence is too damning of both their and Thor's activities"

Thor MD Steve van der Vyver and a spokesman for the Water Affairs Department in Pretoria could not be reached for comment yesterday Van der Vyver has already called for a judicial commission of inquiry into the row

□ The Thor Chemicals case heard recently in Amsterdam brings sharply into focus the need for urgent legislation giving South Africans the right to information

Earthlife said its Right to Know campaign launched last year has already won the support of a number of organisations, including the Chemical Workers' Indus-

trial Union, the SA Rivers Association, the Merewent Ratepayers' Association and the recently formed Environmental Lawyers Association

"Environmental activists throughout the country have come up against the impenetrable walls of officialdom whenever they seek to investigate cases of illegal dumping, air pollution, water pollution, herbicides and pesticides damage and animal abuse," the spokesman said

"We need legislation not to prevent us from knowing what's going on but legislation like the US's Freedom of Information Act that will give us the right to know

"In SA for political reasons we have an overall attitude of government in secrecy which has spun off into all sorts of government departments"

Group Limited

December 1991

1991 are as follows

Six months ended	Year ended
31/12/90	30/06/91
R'000	R'000

Court's power is disputed

B1 Day 6/3/92 WILSON ZWANE (252)
SA's magistrates' courts were not empowered to try cases involving offences committed abroad, the Johannesburg Regional Court heard yesterday.

Arguing in a case involving billions of rands in fake promissory notes, Advocate Johan Rousseau said the Magistrate's Court Act did not confer any powers on magistrates to try cases involving offences committed abroad.

Rousseau was appearing for Ben Armstrong, who together with Gordon Webb, is charged with fraud involving R3,7bn in fake promissory notes. The notes, which gave the United Bank of SA and the SA Reserve Bank as debtors, were allegedly cashed at the Union Bank of Switzerland.

Ruling on whether the court has jurisdiction to try the case will be given today.

Goldstone told of SADF 'front'

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15/04/92

PRETORIA — Creed Consultants, which was allegedly an SA Defence Force front, was now working full-time with the SADF, the committee of the Goldstone commission of inquiry into public violence and intimidation heard yesterday

SADF counsel Pierre Rabie told the committee that Creed Consultants was, since March last year, only lecturing unformed members of the SADF.

He would not give any comment on whether Creed was an SADF front in 1989 when it was lecturing Inkatha members

Creed was privatising and was also used by the public and SADF in 1989 and 1990.

Rabie said this in reply to a query from David Soggot, SC, for the Weekly Mail, as to whether Creed was Rabie's client

He said Creed was not his client but he was working to dispel the notion that Creed might have been working on behalf of or as an agent of the SADF

Rabie said Creed had given lectures to forces going into unrest areas to prepare them for their task

Inkatha counsel Louis Visser, SC, said nothing had come to light to show that what had happened in the past had led to current violence.

Although the committee investigating the Weekly Mail allegations of SADF involvement in the training of hit squads was allowed to investigate past incidents, the ambit of the Goldstone Commission of Inquiry into the Prevention of Violence and Intimidation was to examine incidents which occurred after July 17 last year.

Even though no evidence of current violence or intimidation had been presented, the commission must "not paint ourselves into a corner" by refusing to listen to evidence from before the period the commis-

sion was set up to investigate, committee member Gert Steyn said

The committee and counsel are to hold a meeting today in which the direction of the investigation is to be discussed.

During the cross-examination of Mbongeni Khumalo, a former Inkatha Youth Brigade organiser whose allegation of Military Intelligence involvement in the training of Inkatha members led to the setting up of the committee, Rabie produced a transcript of an interview with Khumalo on the PWV area's Radio 702 on January 27 this year.

In it, Khumalo said the lectures, given by Creed Consultants, had been "legitimate" and in no way militaristic.

Yesterday Rabie accused Khumalo of having applied for a job to Ciskei leader Brig Oupa Gqozo.

Khumalo admitted having a meeting with Gqozo on November 8 last year but said he had not asked for a job.

Rabie then produced an unsigned letter, allegedly drafted by Mike Davis of Creed Consultants, in which Khumalo referred to the meeting and said Gqozo's African Democratic Movement (ADM) should act as a catalyst to bring together SA pragmatists so "the future of South Africa will be better than its past"

Khumalo denied speaking to Davis or asking him to draft a letter to Gqozo.

Khumalo was also insistent that Creed was responsible for the "hit squad" training of Inkatha members in the Caprivi in 1986 although it had only been registered as a closed corporation in February 1989.

He insisted that he visited Creed's offices in 1988 in a building in Pinetown.

Rabie produced a copy of the lease which showed that Creed had only moved into the building on March 1 1989.

The hearing continues today. — Sapa

Ex-IFP man 'asked Gqozo for a job'

A CHIEF witness in the committee of the Goldstone Commission of Inquiry, Mr Mbongeni Khumalo, was yesterday accused of having applied for a job with Ciskei's military leader, Brigadier Oupa Gqozo

The committee is investigating allegations that the South African Defence Force provided certain members of the Inkatha Freedom Party with training in hit squad activities

Sowetan 6/3/92
The committee was told that Khumalo, former leader of Inkatha Youth Brigade, held a meeting with Gqozo on November 8 last year

Khumalo told the committee he had not asked for a job from Gqozo, but had discussed "general issues" with him

Mr Pierre Rabie, for the SADF, then produced an unsigned letter allegedly drafted by Mr Mike Davis of Creed Consultants, in which Khumalo referred to the November 8 meeting

In the letter, Khumalo said Gqozo's African Democratic Movement should act as a catalyst to bring South African pragmatists together

He also suggested starting training programmes

On Wednesday Rabie accused Khumalo of being "reckless with the truth" when he could not remember details of his employment record at two Durban refineries

The hearing continues. - Sapa

Trust Feed cop seeks plea change

By VICKY QUINLAN

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TRUST FEED murder accused Captain Brian Mitchell changed his plea in the Natal Supreme Court this week to one of guilty to 11 counts of culpable homicide and not guilty to eight counts of attempted murder.

His plea change, which was not accepted by the prosecution, came after he admitted he had ordered special policemen to kill United Democratic Front supporters in the Trust Feed area. He denied he had participated in any attack himself or that he had intended the policemen to attack a house or kill women and children.

Mitchell was, however, accused of firing at least two shots into the house during the December 1988 attack. The allegation came from accused special constable Kehla Ngubane, who has begun testifying in his own defence.

Ngubane said he, Mitchell and special constable Dumisani Ndwalane had been standing outside a window of the house with their shotguns pointed through the window. Mitchell had fired the first two shots using Ndwalane's shotgun after which the two special policemen shot blindly at the occupants.

It was put to him that most of the dead were accurately shot in the chest or head and it was impossible to shoot that accurately while shooting blind. Ngubane, however, insisted he had not been able to see what he was shooting.

He insisted he had not heard any screams from the 18 occupants once the shooting had started and said he heard other shots but could not tell if they came from inside or outside the house.

Ngubane was reminded of evidence already heard from a survivor of the attack — that the occupants had screamed so loudly they could be heard outside — but Ngubane reiterated he had heard nothing

Judgment reserved in newspaper appeal

STAFF 7/3/92

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ENID RHODES

BLOEMFONTEIN — The Appeal Court has reserved judgment in the appeal brought by the Cape Town newspaper The Argus against an order to pay damages to Dr Oscar Dhlo-

mo. In his former capacity as secretary-general of Inkatha, Dr Dhloomo sued The Argus, and Joe Latakomo, former editor of the Soweto, for defamation in reports published in the Sowetan in April 1986.

The reports followed a conference of the National Education Crisis Committee in March 1986.

Damages of R7 000 were awarded in the Witwatersrand division of the Supreme

Court by Mr Justice M S Stegmann when he found on July 10, 1990, that there was no consideration of legal or public policy to prevent an organisation which was, or resembled, a political party from suing for defamation.

Mr Justice Stegmann held that The Argus and Mr Latakomo had conveyed, by implication, that Inkatha was guilty of criminal conduct by inciting its members, or alleged members, and the Amabutho impi to assault the NECC organisers and delegates at the con-

gress. Mr Latakomo was withdrawn as an appellant last year.

The main question in the appeal was whether a political organisation was entitled to sue for defamation.

For The Argus, Mr B E Doctor, SC, with Mr G J Marcus, argued that there were overwhelming considerations of public policy which militated against a political organisation being afforded the right to sue for defamation.

He submitted that the lower court had miscon-

ceived the nature of freedom of expression in a democratic society.

It was submitted that Mr Justice Stegmann's characterisation of defamatory attacks made by political spokesmen on their opponents as "irresponsible" was both unfounded and impractical.

A defamatory attack that was true was less defamatory, but it did not follow that it was "irresponsible" to

make it

There was a further difficulty that a defamatory statement might be true, but that the maker might not have evidence, admissible in court, to prove it.

Mr Doctor argued that the law of defamation was intended, primarily, to provide a remedy for injury to individual reputation. In the present case, no individual member of Inkatha could have instituted action, due to the absence of reference to individual plaintiffs.

By instituting action in

the name of the organisation, and by implication of all its members, Dr Dhloomo had essentially sought damages for group defamation. There were sound reasons of public policy that militated against such actions.

Mr M Daley, for Dr Dhloomo, said the issue was if Inkatha, being a non-trading corporation and political body, ought to be denied the right to sue for defamation on the grounds of public or legal policy.

He submitted that the bal-

ance between the right of freedom of speech and the right of reputation of a political body such as Inkatha could, similarly, be achieved by allowing a greater level of criticism than would be permitted of a non-trading corporation that was not a political body.

To deny a political body like Inkatha the right to sue for defamation would create a situation in which freedom of speech could and would be abused.

The appeal was heard by the Chief Justice, Mr Justice Corbett, Mr Justice Hefer, Mr Justice Hefer, Mr Justice Grosskopf and Mr Justice Goldstone — See

Judge's attack was singularly inopportune

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STAR 7/3/92

MR JUSTICE Thirion's outburst over politicians — traditionally a legitimate target of criticism — was ill-timed, to say the least, writes A S MATHEWS. Where was the judiciary when the unjust laws responsible for the situation were created? Silent. And now those very politicians are trying to create a more just society.

AN OUTBURST of the kind to which Mr Justice Thirion gave expression last Friday in the Jama murder trial is so rare as to be noteworthy simply because it was made.

In this case, the content and context of the judge's pronouncements, reported last week by the Saturday Star, make the event especially remarkable, if not mind-blowing.

It is unusual, in this country at least, for judges and politicians to lambaste each other publicly.

The judiciary, in particular, has been cautious about venturing into the political thicket.

When a judicial officer throws such caution to the winds it is certainly an occasion to sit up and react to the spectacle.

Though politicians are by profession a legitimate target of criticism, this attack is surprising as it came when the politicians — at least those to whom Mr Justice Thirion was obviously referring — have been doing much better than in the past four or five decades.

They have begun the necessary but immensely difficult process of dismantling an unjust, discriminatory and repressive system and of setting society on the road towards an inclusive democracy.

This piece of judicial criticism comes at a strange time, then, especially in view of the learned judge's silence while those very politicians were constructing a political order now justly and universally regarded as an evil one.

This is not to say that the politicians deserve no criticism for their current handling of the present ills of our society.

The point is that because their present-day policies are a vast improvement on what went before, the judicial attack seems singularly inopportune.

The accusation that our politicians are "mealy-mouthed" is rich in the extreme.

During the period in which security-force lawlessness was being given legislative backing, if not encouragement, the judi-

ciary (with one or two very exceptional cases) was mealy-mouthed at best.

More usually it was silent.

Instead of urging the Government and the generals to control security-force lawlessness, the judiciary not infrequently launched scathing attacks on academic lawyers who warned against court complicity in the destruction of the rule of law.

The Government, to its credit, has begun to repeal the statutes which pushed the security forces beyond the pale of law.

I venture to suggest, with the usual acknowledgement of respect to the Bench, that judges encourage politicians to continue this process until all organs of government are brought within the sphere of the rule of law.

As the learned judge suggested, the security forces have an immensely difficult and frighteningly dangerous task.

However — and this point is crucial — they will not be aided in that task by lawless behaviour.

On the contrary, it is that very behaviour which has undermined their legitimacy and made them the target of murderous attacks.

The only way out of the vale of death into which policing has been drawn is the restoration of legality and the regular habit of policing according to the standards of strict professionalism and impartiality.

One final point: this was scarcely the right case for a complaint from the Bench about excessive publicity for police misconduct.

The case involved the planned and brutal murder of a defenceless prisoner who happened to be on the wrong side of the political divide.

When those who are supposed to be the custodians of the law violate it in so horrendous a fashion, the case cries out for publicity.

● The author is director of the Centre of Criminal Justice, University of Natal, Maritzburg. This article first appeared in the Natal Witness.

Commission comes up daisies

PRETORIA Sunflowers and Barberton daisies yesterday appeared in evidence before the committee of the Goldstone Commission investigating Weekly Mail allegations of South African Defence Force funding of Inkatha hit squads

The reference to flowers was an indication that Creed Consultants, an alleged SADF front, did not give Inkatha members "inflammatory" lectures

Mr Pierre Rabie, for the SADF, asked Mr Mbongeni Khumalo — a

CT 7/3/92
former Inkatha Youth Brigade organiser and one of the chief sources of Weekly Mail allegations — if Mr Khumalo remembered the analogy in lectures that South Africa was like a Barberton daisy with little common ground in the centre and it was desirable for South Africa to become like a sunflower with a lot of common ground in the centre. Mr Khumalo, who had organised the personnel to attend the courses, said he did not remember this

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When asked about the training 200 Inkatha members received on the Caprivi Strip in 1986, Mr Khumalo said the instruction included training in the use of AK-47s, hand machineguns, grenades and shotguns

Mr Rabie denied that Creed had given any training to any of the 200 Caprivi trainees or that training courses given in 1989 and 1990 had espoused an eye-for-an-eye approach

The committee adjourned to April 7 — Sapa

Amnesty slams cops

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BY THEMBA KHUMALO

AMNESTY International has tarred the police and IFP with the same brush and blamed them for much of the township violence in its report to the United Nations. *CIPres 8/3/92*

Quoting several incidents of violence involving the ANC and IFP supporters, the report accused the police of being reluctant to intervene, especially when the ANC was on the receiving end

Amnesty, a human rights watchdog body, concluded its investigation after a month's visit to South Africa late last year.

The report says that although much political violence appears to result from conflict between the ANC and the IFP, Amnesty was concerned that members of the police and military had been directly responsible for some of the killings

"At the very least the security forces were indirectly responsible by colluding with the IFP," it said

Report to UN says police fanned violence

There was overwhelming evidence "that the security forces favour Inkatha and are against the ANC and its allies. This has resulted in killings and other human rights violations".

It cited an attack by alleged IFP supporters on Swanieville squatter camp last year as a classic example of police and IFP collusion. Twenty-nine people died and

scores were injured during the attack.

The report said: "The police did not respond to pleas for assistance from camp residents.

"On the contrary, witnesses have stated that policemen in uniform and white men in plainclothes actively took part in the attack. Although 12 men were subsequently charged with 29 counts of murder, no police have been suspended from duty pending an investigation into their conduct at Swanieville."

The report also said the killing in December last year of 18 Bruntville township residents in the Natal midlands was another example of police collaborating with the IFP.

During the attack by alleged IFP supporters, who were armed with an assortment of sharp weapons, witnesses said they saw police and military vehicles in the vicinity.

"The security forces failed to intervene, except to fire teargas at the embattled residents," said the report.

It said in an attack nine hours later by as many as 1 000 IFP supporters, the security forces again failed to intervene while the assailants attacked houses and brutally murdered residents. Among the dead were two pensioners in their 70s, nine women and two children who were six and eight years old.

"An opposition member in parliament who visited the scene expressed incomprehension and disbelief at the security forces' failure to contain these attacks in daylight," the report said.

It said police complicity was not limited to incidents involving Inkatha. Witnesses identified police among attackers who raided the homes of ANC supporters in Khayelitsha in Cape Town between July and September last year.

Despite President de Klerk's public commitment to investigate vigorously all allegations of unlawful activity of the security forces, Amnesty continued to receive numerous reports of security force involvement in torture, extra-judicial executions and human rights violations - which resulted neither in the suspension of security force members implicated nor prosecutions, the report said

Activists and witnesses who made statements against the police were allegedly harassed, threatened with death and falsely charged and, in some cases, shot and wounded by suspended policemen, the report added
Asked to comment, spokesman for the State President's office Casper Venter asked City Press to refer the Amnesty report to the Goldstone Commission of Inquiry into Violence

Judge erred by ignoring seriousness of cops' crime, says A-G

SENTENCES 'LENIENT'

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C/P news 8/3/92

By S'BU MNGADI

IN an unusual showdown between a judge and the State, Natal Attorney-General Mike Imber has given notice that he intends to apply for leave to appeal against what he described as "startlingly inappropriate" sentences given in the Maritzburg Supreme Court last Friday to policemen convicted of murder.

In that trial, Judge Thirion sentenced four policemen to a total of 24 years' imprisonment for murdering ANC supporter Mbongeni Jama, who was strangled and then shot in a plantation in February last year.

Thirion had lashed out at politicians, police generals and the media during his judgement.

Imber this week said the judge erred by not giving due weight to the seriousness of the crime committed by the policemen: special constable Philemon Madlala, a 17-year-old special constable, candidate riot policeman Frans Stephanus Erasmus and William Basil Harrington.

Imber stated in his papers that the sentences were all "startlingly inappropriate" particularly in view of the fact that the crime was premeditated murder and that the apparent motive for killing was to prevent Jama from laying an assault charge against the policemen.

Imber said the judge erred in not giving sufficient regard to the fact that those convicted were policemen in a position of authority over Jama and with a duty to protect him. He said the judge misdirected himself in finding that the media might have played a part in motivating the accused to act as they did, gave too much weight to the interests of the accused, and in the absence of any evidence found that the accused had witnessed traumatic scenes which influenced them.

Last Friday, Thirion sentenced Harrington and Madlala to eight years in jail, Erasmus was jailed for six years and a 17-year-old special constable, for two years.

The judge criticised "mealy mouthed" politicians who, instead of fulfilling promises of a new SA, had turned the country into a hotbed of political intrigue, violence, double-talk and lawlessness" where life in the townships was short and cheap.

Insensitive

"Young men are exposed to scenes of death and violence as grisly as can be imagined", the judge said.

"It was natural that police should suffer from a demoralising effect and become indifferent and insensitive to suffering.

"Without having been given the opportunities of ordinary police work the accused were 'thrown into riot control

"I'm told there are now 250 generals in the SAP I think the time has come that some of them can profitably put their medals in a drawer and go and see how police work is performed in the field and exercise proper supervision.

The media was also slammed for widespread publicity given to crimes committed by policemen, often "out of all proportion to the seriousness of the crime".

Thirion had said the media's attitude might have contributed the policemen's decision to "do away" with the accused.

Killing: Minister must pay

CITY PRESS, March 8, 1992

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By SIBUMNGADI *clp/ep* 8/3/92

A MARITZBURG Supreme Court judge has ordered Law and Order Minister Hermus Kriel to compensate relatives of Bruntville resident Sibusiso Samuel Madela, who was shot dead in the township near Mooi River on June 16, 1990.

The action was brought before Judge President Howard by Madela's parents, Albert and Agnes Madela, and Plumzile Mhlanzi, the mother of the dead man's young child.

The amount of damages will be decided later, but the three relatives have claimed a total of R64 000.

SAP reservist Steven Naidoo told the court he was present when Mooi River branch commander Lt George Nicholas fired at people in Bruntville.

This sharply contrasted with Nicholas's evidence at an inquest hearing into Madela's death in November last year.

At the inquest, Nicholas did not say Naidoo was among policemen who were present during the shooting incident. He said the police fired rubber bullets, shotguns and pistols at an unruly Bruntville crowd when they believed their lives were in danger.

Inquest magistrate J J Augustyn found that the police were not responsible for the death of Madela.

Called to give evidence for the Minister in the Supreme Court this week,

I lied to inquest, cop admits

Nichas admitted under cross examination that he had lied at the inquest.

He said his statement to the inquest hearing omitted that he was accompanied by Naidoo at the time of the shooting.

He made the decision to lie along with a Col Du Plooy who was the investigating officer in the matter.

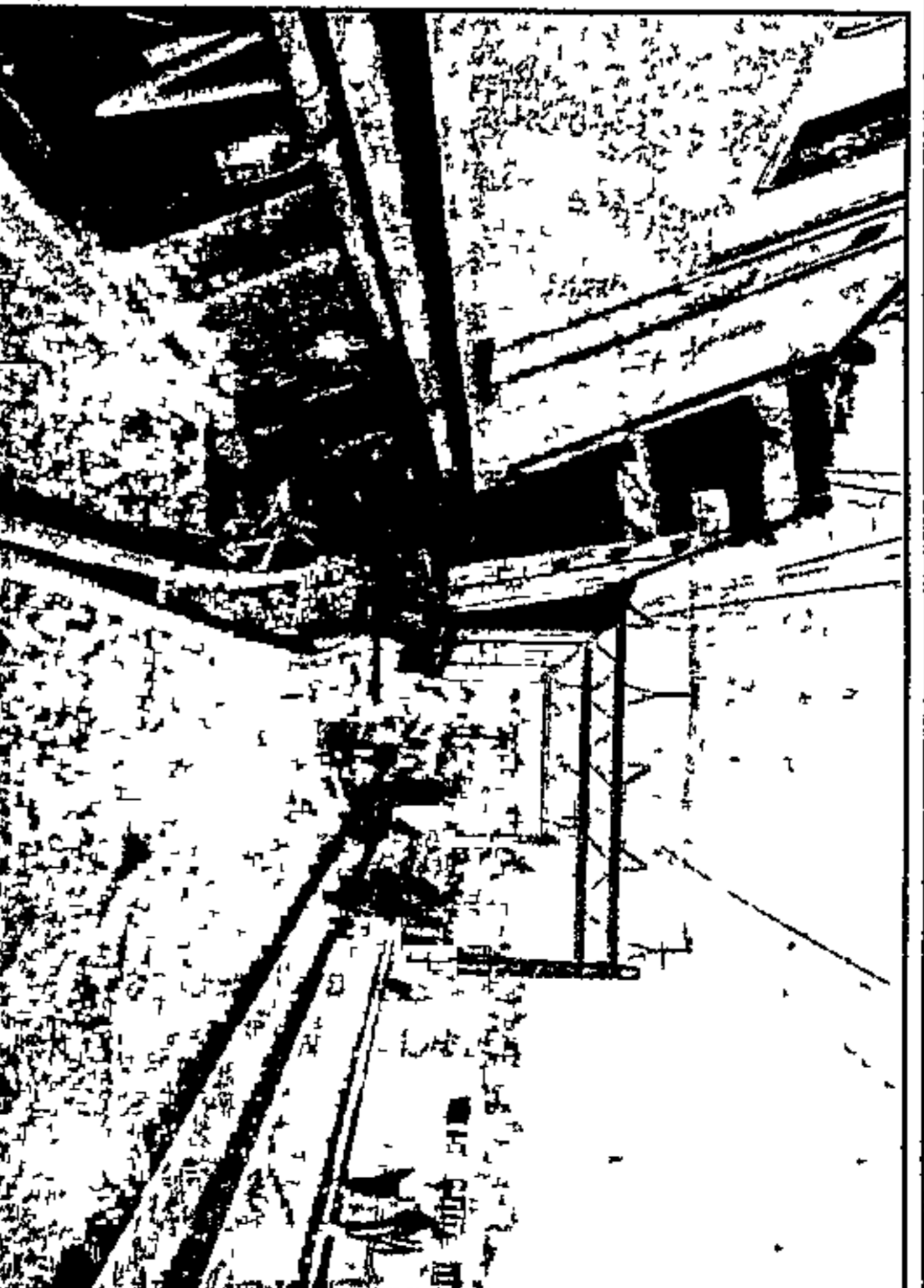
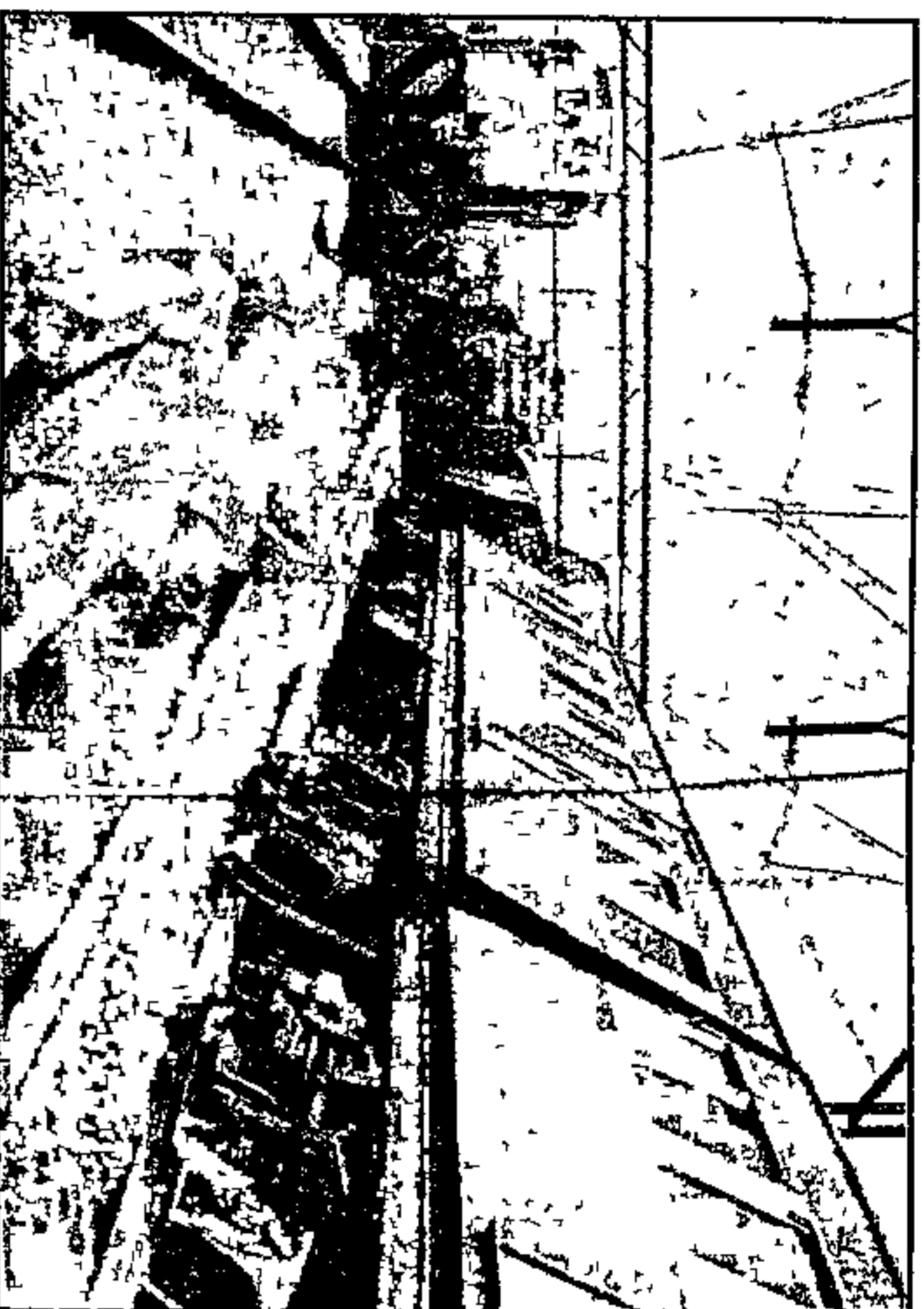
In papers before the court, the Minister said police were forced to fire at about 200 people gathered in Main Street, Bruntville, after the crowd had attacked and assaulted policemen. He said they were acting in self-defence.

An action by another Bruntville resident, Mabutho Zaca, who was injured in the leg by a shot from a policeman on the same day, is proceeding after the Minister admitted liability. Zaca is claiming R25 000.

Meanwhile, Nicholas appeared in the Mooi River Magistrate's Court last week in connection with two counts of murder, including that of Madela.

No charges were put to him and he was not asked to plead.

Magistrate T Gerber adjourned the case to April 29.



CROSSED LINES ... These two trains collided between Miamankunzi and New Canada on Thursday morning causing a delay on the line. The drivers of the trains escaped unhurt and neither train had passengers. A railway official at the scene said the trains were en route to Orlando when one of the drivers failed to stop at a red light. Spooniet public relations officer Hulbert van Tejlinden said passenger coaches had been affected. By Friday morning services were back to normal. ■ Pic: MAC MOONOSI

CALLNET

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Judgment reserved in Argus case

Civren 8/3/92
JUDGMENT has been reserved in the Bloemfontein Appeal Court in the appeal by the Argus Company which was in an earlier case ordered to pay R7 000 damages to Dr Oscar Dhlomo.

In his former capacity as secretary-general of Inkatha, Dhlomo sued the Argus and former Sowetan editor Joe Latakomo for defamation in reports published in April 1986.

The reports followed a conference of the NECC in March 1986.

The agreed damages were awarded against the Argus in the Witwatersrand Local Supreme Court on July 10, 1990.

Judge Stegmann had found that there was no reason to prevent a political party from suing for defamation.

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Stegmann held that the Argus and Latakomo conveyed, by implication, that Inkatha had been guilty of criminal conduct by inciting its members, or alleged members, to assault the NECC organisers and delegates at the conference. — Sapa

More
5/1/92
QUICKS
8/3/92
MISCELLANEOUS
1/1/92

By EVELYN HOLTZHAUSEN

A JUDGE summoned the Commissioner of Correctional Services to court this week to seek assurance that the murderer he was about to jail would serve a reasonable portion of his sentence. (252)

Mr Justice Steenkamp, of the Northern Cape division of the Supreme Court in Kimberley, has joined a growing number of judges who believe the early-release policy is making a mockery of sentencing and subjecting the courts to ridicule. (253)

In court this week, Mr Justice Steenkamp said convicts were sent to jail for 10 years but released after serving only two or three years.

He said he was aware of the "good work" which had been done by the Department of Correctional Services, but the recent spate of releases and amnesties granted to prisoners had led to "great anxiety among judicial officers and the community at large."

S/Time 8/3/92
Farce

"However well intentioned, the policy has led to the administration of justice being viewed as a farce and has made it an object of ridicule.

"There are hopeful signs that steps are being taken to revise this policy and I accept that, in future, amnesty will not be granted indiscriminately.

"The administration of justice must never be jeopardised by political expediency," he added.

The judge made his comments just before he sentenced Pieter Williams to 10 years in jail for the murder of 28-year-old Hercules Johannes Viljoen.

Mr Justice Steenkamp had earlier summoned the Commissioner of Correctional Services, Lieutenant-General WH "Willie" Willemsse to court.

The commissioner was not available but the regional commissioner of Correctional Services, Major-General Gerrie Malan, told the judge that departmental policy on amnesty and parole was "under review".

Advice

Criticism by judges of the early-release policy is believed to have led, in part, to a statement by the Minister of Correctional Services, Mr Adriaan Vlok, on Thursday that all short-term prisoners would serve at least a third of their sentences.

Mr Vlok said that as the level of "criminality" in South Africa had become completely unacceptable, he had acted on advice from the Advisory Release Board to amend prison release policy.

Meanwhile, Natal attorney-general Mike Imber may petition the Chief Justice if he is denied leave to appeal against allegedly light sentences given by Mr Justice Thirion to five policemen last week.

Mr Imber's appeal is the first to be launched under new 1990 legislation enabling the state to dispute decisions by the Supreme Court in certain circumstances.

Cop is a bit fuzzy on the law *CP/10/82/92*

TRUST Feed accused and special constable Kehla Ngubane this week told the Pietermaritzburg Supreme Court he did not remember being taught during his six weeks' training to differentiate between lawful and unlawful instructions. (25)

However, after being questioned by Justice Wilson, Ngubane conceded he knew he must obey the law. He was testifying at the trial of seven policemen charged with murder and attempted murder following the December 1988 attack on a house in Trust Feed during which 11 people died.

Floral talk at inquiry

THE Goldstone Commission committee investigating *Weekly Mail* allegations of SADF funding of Inkatha hit squads this week heard about sunflower, Barberton daisies and national service.

The reference to flowers was an indication that Creed Consultants, an alleged SADF front, did not give Inkatha members "inflammatory" lectures. *C/P/Pres 8/3/92*

SADF lawyer Pierre Rabie, cross-examining Mbongeni Khumalo, a former Inkatha Youth Brigade organiser and one of the chief sources of the *Weekly Mail* allegations, asked if Khumalo remembered the analogy in lectures which said South Africa was like Barberton daisy with little common

ground in the centre and it was desirable for South Africa to become like a sunflower with a lot of common ground in the centre.

Khumalo, who had organised the personnel to attend the courses, said he did not remember this.

Khumalo claimed MZ Khumalo, the former personal assistant to IFP leader Mangosotho Buthelezi, was the leader of a hit squad, but was not able to corroborate this.

He also admitted his "evidence" of police collaboration with Inkatha in Wesselton near Ermelo was based on a conversation he had with a resident.

The committee has adjourned to April 7. — Sapa

ANC applies or interdict

by THEMBA KHUMALO

THE ANC southern Natal region has applied for a court interdict to stop KwaZulu Police from harassing its supporters in Durban's Umhlanga township, according to the region's chairman, Jeff Hadebe. (25)

He said the interdict would be heard in the Durban Supreme Court tomorrow or Tuesday.

Violence is on the rise in Natal following the gunning down of top Inhlanhla official Winnington Mankomo. C/PRES 8/3/92

The interdict coincides with the discovery of an alleged plot to kill Hadebe and Moses Mankomo, general secretary on the National Union of Metalworkers of S.A.

However, Hadebe said he was not aware of the plot.

Sasol is blamed for deaths

AN INQUEST hearing has found Sasol 3, and four of its engineers, criminally responsible for the deaths of 12 people in a devastating fire at its installation near Secunda on January 30 1989.

The accident at Sasol's Synthol plant — which caused damage of R50m — is regarded at the most expensive industrial accident in SA history

Sasol spokesman Jan Krynauw said his company had taken note of the inquest findings. *Bloem 9/3/92*

The Chemical Workers' Industrial Union (CWIU) said in a statement at the weekend the finding on the accident came a day after seven of the widows had settled their claims against Sasol 3 for a total of more than R1m

The union said inquest magistrate C van

WILSON ZWANE

Niekerk and two assessors on Friday found that the deaths of the 12 people were caused by the negligence of Sasol 3 and four of its engineers

"The magistrate found that there was a total disregard of certain regulations contained in the Mines and Works Act in that unsuitably qualified persons were allowed to control and regulate maintenance of the plant," the union said *(252)*

It said it was found that modification to a pipeline, which had ruptured, was not brought to the attention of suitably qualified people who were in a position to assess the consequences of such modification

"The magistrate found that although an

To Page 2

Sasol *Bloem 9/3/92*

inspection some 10 months after the modification showed that the pipeline had deteriorated to such an extent that it had to be replaced, no corrective action was taken

"As it was, the court found that the modification led to the failure of the pipeline and the fire," the CWIU said

The union said although it welcomed the finding, laws governing safety and health in the workplace had to be changed so that

(252) From Page 1

workers were involved in the setting and maintaining of safety standards.

The union also demanded the prosecution of Sasol 3

"The matter, of course, will go to the attorney-general for his perusal," Krynauw said, declining to comment further

Former Transvaal Attorney-General Don Brunette said it took up to a month for inquest reports to reach the attorney-general's office

Transvaal judges condemn their new cells

TRANSVAAL judges are up in arms about what they say are inferior and inadequate chambers provided for them in the new multimillion-rand Pretoria Supreme Court building

Most of the judges are refusing to move from their spacious, wood-panelled chambers in the historic Palace of Justice on Church Square unless their complaints are addressed.

Several feel so strongly about the situation that they are considering forming an association, or a judges "union", to present their grievances to Justice Minister Kobie

6 Day 9/3/92
STEPHANE BOTHMA

Coetzee They believe such an association will also be able to tackle other problems they have encountered

Although the existing judges' chambers were old and far from adequate, they were preferable to the new ones, a source said.

Judge President Frik Eloff said at the weekend he was aware that "all" the Transvaal judges were dissatisfied with the "pokey little rooms" being provided in the new court building. He acknowledged that most would refuse to vacate their

current chambers

"The new chambers are unsuitable to the requirements and status of a judge, are just not adequate and do not permit adequate furnishings," Eloff said

The original design of the building has been significantly altered by the building norms committee which advises the Public Works Department

The general appearance of the building was disappointing and did not suit the image of a Supreme Court, said Eloff

The size of the new chambers — de-

□ To Page 2

Judges

signed to accommodate 40 judges on five floors — has been reduced from 36m² to 26,5m²

Compared with the accommodation provided for senior magistrates in the division, and the judges' chambers in the recently built Bophuthatswana Supreme Court, it was quite inferior, Eloff said.

Judges often received senior counsel and large groups of people in their chambers and the space allocated did not allow for such meetings. The large legal libraries required by judges could not fit into the built-in bookshelves provided.

"Appeals have been made to the Public Works Department to do something about the matter, which is still under consideration," Eloff said.

Sources said at the weekend that time was running out for the department to rectify the situation as the building was scheduled for completion at the end of

November this year

Department of Works spokesman Andre Meiring said talks were held with the Judge President and a few other judges on February 27. At the time it was believed the issue had been settled, said Meiring.

Although the building was nearly finished, it was not too late to make changes to the judges' chambers if discussions indicated the need for this.

His department, in consultation with the Justice Department, was addressing the issue and hoped to resolve it soon. The matter would be dealt with by the Public Works director-general and his counterpart in Justice.

Meiring said Public Works did not deal directly with the "user" of a government building — in this case the judges — but with the "user department", which was Justice. A final decision on the chambers was likely this week.

□ From Page 1

Cops tried to 'cover up tracks'

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Sowetan 10/3/92

Sowetan Correspondent

FORMER Special Constable Thabo Sikhosana told the Maritzburg Supreme Court yesterday that about a week after he took part in the attack on a house at Trust Feed in which 11 people were killed his firearm was taken away and he was told to "run away and hide"

Sikhosana is one of seven policemen appearing before Mr Justice Wilson and two assessors, charged with 11 counts of murder and eight of attempted murder arising out of the attack on December 3 1988. All seven have pleaded not guilty.

With Sikhosana are Captain Jacobus van der Heever, Captain Brian Mitchell, Sergeant Neville Rose, Special Sergeant Dumisane Ndwane and Special Constables Kehla Ngubane and Mr Marshall Khambule. Sikhosana, who was giving evidence in his defence, told the court that Rose had gone to his house to fetch his (Sikhosana's) firearm.

Rose told him the firearm was being taken from him so that it could be checked. He also advised him to run away and hide. At the time he believed the sergeant had said this "because they wanted to cover themselves as they might be implicated in the matter".

Sikhosana said he did not go into hiding. Rose and Van den Heever had brought him and the other special policemen who had taken part in the attack in Trust Feed back to Hammarsdale. (Proceeding)

BTR Dunlop verdict due today

SA's longest strike by more than 900 BTR Dunlop workers could be closer to resolution if an Appeal Court hearing today rejects BTR Dunlop's appeal against a 1989 Supreme Court decision in favour of the union

The Supreme Court decided the president of the Industrial Court should have recused himself as he had associated himself socially with BTR management. BTR wants that decision set aside so the Industrial Court judgement — that the dismissal of strikers was legal — would hold

Ex-BTR worker and Numsa organiser Philip Dladla said the majority of workers dismissed in 1985 were still unemployed, meeting regularly and demanding their jobs back.

DIRK HARTFORD

He said their dismissal had a devastating effect on Howick as BTR Dunlop was the major employer there. But the union had organised a T-shirt and agricultural co-op which had provided income for some

Dladla said Numsa's campaign to get the dismissed workers reinstated had been one of the biggest waged by the union movement. This included

- Numsa representatives attending BTR's general meeting every year to put the strikers' position,
- An international tour by a drama group of Sarmcol workers, and
- Solidarity action by Dunlop workers in SA and abroad

Man's questioning 'vigorous'

MARITZBURG — The investigating officer into the 1988 Trust Feed massacre, Capt Frank Dutton, admitted in the Maritzburg Supreme Court yesterday that he had "reservations" about the manner in which accused Thabo Sikhosana was interrogated by a Pretoria colonel before making a statement to a magistrate last year.

The interrogation was carried out by a Col Langenhoven in the presence of Gen van der Westhuizen, a Capt Kritzinger, as well as Dutton while W/O Wilson Magadhla acted as interpreter.

Counsel for Sikhosana, Robin Palmer, contended his client's statement was not made freely and voluntarily, and should not be admitted as evidence.

Dutton agreed that he told State advocate Anthony Irons a day after the statement was taken by the

8/10 ay 10/3/92 252
Own Correspondent
magistrate that Irons should obtain another statement from Sikhosana because he felt undue pressure might have been exerted on Sikhosana.

Dutton described the interrogation of Sikhosana as "vigorous" Langenhoven was angry about certain aspects of Sikhosana's statement concerning events at House 83 Trust Feed where the killings took place, and suggested Sikhosana was lying.

Dutton said he had reservations about an incident where Langenhoven admonished Sikhosana not to lie and, pointing to Van der Westhuizen, told him he was in the presence of a general and should not be untruthful. He agreed that Sikhosana's version of events changed "in certain respects" during the interrogation.

He said before Langenhoven interrogated him, Magadhla had said Sikhosana was prepared to make a statement to a magistrate but Langenhoven decided to question him first.

Dutton admitted that he had regarded this as "unwarranted interference" on the part of the colonel.

He had also been unhappy that Van der Westhuizen had paid a visit to accused Capt Brian Mitchell. He felt it was not the correct procedure.

He denied suggestions by Sikhosana that other policemen also took part in the interrogation resulting in his becoming "confused" and said Sikhosana never conveyed to him that he was "fear stricken" and could not speak freely before being taken to the magistrate.

The hearing continues.

Accused told to 'run away and hide'

MARITZBURG — Former Special Constable Thabo Sikhosana told the Supreme Court in Maritzburg yesterday that about a week after he took part in the attack on a house in Trust Feed in which 11 people were killed his firearm was taken away and he was told to "run away and hide"

Mr Sikhosana is one of seven policemen appearing before Mr Justice Wilson and two assessors, charged with 11 counts of murder and eight of attempted murder arising out of the attack on December 3 1988. All seven have pleaded not guilty.

With Mr Sikhosana are Captain Jacobus van der Heever, Captain Brian Mitchell, Sergeant Neville Rose, Special Sergeant Dumisane Ndwane and Special Constables Kehla Ngunane and Marshall Khambule.

Mr Sikhosana, who was giving evidence in his defence, told the court that Sergeant Rose had gone to his house to fetch his (Mr Sikhosana's) firearm.

Sergeant Rose told him the firearm was being taken from him so that it could be checked.

Sergeant Rose advised him to run away and hide. He believed at the time that the sergeant had said this "because they wanted to cover themselves as they might be implicated".

Mr Sikhosana said he did not go into hiding.

Replaced

Sergeant Rose and Captain van den Heever had brought him and the other special policemen who had taken part in the attack in Trust Feed back to Hammarsdale.

At Hammarsdale Sergeant Rose had replaced the ammunition they had used at Trust Feed.

The investigating officer into the massacre, Captain Frank Dutton, admitted yesterday that he had "reservations" about the manner in which Mr Sikhosana was interrogated by a Colonel in the SA Police from Pretoria before making a statement to a magistrate last year.

The interrogation was carried out by a Colonel Langenhoven, in the presence of General van der Westhuizen, a Captain Kritzing, as well as Captain Dutton's wife W/O Wilson Magadhia acted as interpreter.

Counsel for Mr Sikhosana, Robin Palmer, contends the statement concerned was not freely and voluntarily made and should not be admitted as evidence.

Exerted

Captain Dutton agreed yesterday that he told State advocate Anthony Irons the day after the statement was taken by the magistrate that he (Mr Irons) should obtain a 119 statement from Mr Sikhosana as soon as possible because he felt undue influence may have been exerted on Mr Sikhosana to make the original statement to the magistrate.

Capt Dutton described the interrogation of Mr Sikhosana by Colonel Langenhoven as "vigorous" and said the colonel shouted and became angry. Colonel Langenhoven was angry about certain aspects of the version related by Mr Sikhosana concerning the actual events at House 83 Trust Feed where the killings took place and suggested to Mr Sikhosana that he was lying.

Captain Dutton said he was concerned when at one stage Mr Sikhosana said he feared he might be assaulted although he was reassured immediately by Colonel Langenhoven.

He agreed that Mr Sikhosana's version of events changed "in certain respects" during the interrogation.

The hearing continues.

Man's questioning 'vigorous'

810 am 10/3/92 (252) ~~321~~
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Own Correspondent
magistrate that Irons should obtain another statement from Sikhosana because he felt undue pressure might have been exerted on Sikhosana.

Dutton described the interrogation of Sikhosana as "vigorous" Langenhoven was angry about certain aspects of Sikhosana's statement concerning events at House 83 Trust Feed where the killings took place, and suggested Sikhosana was lying.

Dutton said he had reservations about an incident where Langenhoven admonished Sikhosana not to lie and, pointing to Van der Westhuizen, told him he was in the presence of a general and should not be untruthful. He agreed that Sikhosana's version of events changed "in certain respects" during the interrogation.

He said before Langenhoven interrogated him, Magadhla had said Sikhosana was prepared to make a statement to a magistrate but Langenhoven decided to question him first.

Dutton admitted that he had regarded this as "unwarranted interference" on the part of the colonel.

He had also been unhappy that Van der Westhuizen had paid a visit to accused Capt Brian Mitchell. He felt it was not the correct procedure.

He denied suggestions by Sikhosana that other policemen also took part in the interrogation resulting in his becoming "confused" and said Sikhosana never conveyed to him that he was "fear stricken" and could not speak freely before being taken to the magistrate.

The hearing continues

New Supreme Court offices 'too small'

Pretoria Correspondent

(252)

day STAR 10/3/92

Supreme Court judges have handed down a sharp judgment on their "bird cage" offices in the new multimillion-rand Supreme Court building.

The new court building, under construction opposite the Palace of Justice on Church Square, will cost an estimated R54 million, but judges say their new chambers are inadequate.

"Most of the judges would prefer to remain in their old chambers in the Palace of Justice," the Judge President Mr Justice Eloff said yesterday

Mr Justice Eloff said "Judges could not be cooped-up in bird cages"

"It is often necessary for a judge to hear an urgent application in his office and therefore he needs enough office space to accommodate the lawyers

"Under certain circumstances during court proceedings it is often also necessary for a judge to discuss matters with up to 10 people in his office," he said

"The accommodation was totally insufficient and given the requirements and status of

a judge the new chambers are unsuitable and inadequate."

The original design of the new building has been altered drastically by the norms committee which advises the Public Works Department and chambers have been reduced from 36 sq m to 26,5 sq m.

Mr Justice Eloff said the general appearance of the new building was disappointing and did not suit the image of a Supreme Court

He said the exterior finishing would originally have been more attractive than the present brick finish

Jurist
Idasa

252

guest

Sowetan
10/3/92

THE secretary-general of the International Commission of Jurists, Mr Adama Dieng, will be a guest of the Institute for a Democratic Alternative for South Africa from next Monday

A statement said Geneva-based Dieng, of Senegal, would be visiting the universities of Pretoria, Potchefstroom, Durban-Westville and Natal as part of a regular programme of visits to South Africa by African leaders organised by Idasa

He would speak about the struggle for human rights in South Africa and procedures for establishing a culture of human rights - Sapa

FREED ANC bomber Jeremy Seeber, 25, has no regrets about blowing up a busy Johannesburg hotel bar and says: "I would do it again under the same political circumstances."

Seeber, who wants to work for the "future government", was given a suspended 10-year sentence on Friday after being found guilty of attempted murder and unlawful possession of explosives

He now intends seeking a full pardon, because he does not believe he should be punished at all

He regards himself as an ANC "soldier" and dismissed his victims as "casualties of war"

But businessman Henning Snyman, one of three men hurt in the mini-limpet blast at the Devonshire Hotel in Braamfontein at lunchtime on September 26 1986, said yesterday

"If he was a soldier, he should have taken his courage in both hands and attacked armed forces.

"Attacking innocent and unarmed civilians is not an act of war — it's an act of cowardice

"This was a brutal and calculated act I hate Jeremy Seeber, what he stands for and anyone who resorts to such means in the name of politics"

Six years after the blast, East Rand businessman Mr Snyman still suffers pain daily, has had to give up all his sport and has a fear of crowded places

His back was injured when the bomb exploded in a first-floor toilet off the hotel's Long Bar, frequented by Wits University students and businessmen



JEREMY SEEBER

Shortly after leaving the Johannesburg magistrate's court on Friday, Seeber said he found it "ironic" that he had been tried "by the system I was recruited to destroy"

"I have been through the criminal system and I expected to have the book thrown at me — but I still don't believe I should have been punished," he said

"This was not a personal vendetta My only regret that I was forced into a position where I had to take action to demonstrate my support for the ANC and my disapproval of the South African system — but under the same political circumstances, I'd do it again"

SITIMES - 11/3/92

Seeber is not certain what the future holds

Military

"So much has changed in the past six years I think things are pretty well mapped out, and I don't believe we will see a return to the circumstances of the time

"We are dealing in constitutional politics instead of revolutionary politics, the government has gained a status of credibility it hasn't had before and I think it would be counter-productive to revert to the policies of yesteryear," he said

He is still a member of the ANC's military wing, Umkhonto we Sizwe, and was not surprised that MK chief of staff and SA Communist Party secretary-general Chris Hanu testified on his behalf

"Chris is a good man, that's why he is chief of staff He looks after his soldiers," he said.

For Mr Snyman, life has never been the same since the day he went for a lunch-time beer in the Long Bar

Two compression frac-

**Victim
still in
pain
says: I
hate the
coward**

tures to vertebrae have healed — but he suffers pain every day of life, and his condition is deteriorating

He cannot sit comfortably for more than an hour — a problem for a man who travels extensively and attends lengthy meetings as part of his job.

He told the court this week that he had just put his beer down in front of him when there was a massive explosion When he regained consciousness, he was three or four metres from where he had been sitting

Yesterday, he said he was "extremely bitter"

Violence

"Before that day, I also felt that things weren't right in this country Now we are negotiating — but it's not the bombs that led to talks Bombs don't soften people, they make them harder

"I am in favour of negotiations — but not with people who aren't prepared to stop using violence

"That is like negotiating with a gun at your head

"It means that at any stage innocent people could become expendable again Is that a democratic society?"

Mr Snyman said without the support of his wife, he would not have been able to cope with the after-effects of his injuries

"The pain is worse at times than others, but it's always there

"When Seeber planted that bomb, he was a married man himself How could he do something like that without thinking about how the families of his victims would suffer?

"For 18 months after his bombing, I wasn't even able to have a normal sex life"

ANC bomber: I'd do it again

252
BY CATHY STAGE

Raped woman sues cops

Sowetan 11/3/92

(252) 

A BLACK mother of two is suing the Minister of Law and Order for damages totalling R170 000 after she was allegedly raped by a white policeman two years ago.

The woman alleges in papers in the Pretoria Supreme Court that she was raped by Mr C van Jaarsveld, based at Ficksburg police station in the Free State, in September 1990

Since the incident, which allegedly took place while she was in custody, the woman has been receiving psychiatric treatment and taking anti-depressant drugs to cope with emotional problems resulting from the rape

The lawsuit is being pursued on the strength of her psychiatrist's report that her life had been disrupted and shattered by the alleged sexual assault by the policeman

Before the incident, the woman was ambitious, hardworking and studying to improve her qualifications, according to the report

By SONTI MASEKO

But she had since postponed her studies due to lack of concentration, anxiety alternating with feelings of anger and irritability, depression and bitterness

As a result of her emotional state, she had also developed tension headaches, ulcers, weight disturbances, hypertension, palpitations and was unable to sleep

From being an outgoing person, she had become a loner and preferred to stay home and be alone at work. She shunned contact with her colleagues because of feelings of shame and fear of being judged

The case has been postponed so the woman can be interviewed by a State psychiatrist

Kriel pays boy R1,5-m

Sowetan 11/3/92

THE Minister of Law and Order, Mr Hernus Kriel, has agreed to pay R1,5 million to a 17-year-old youth partly paralysed by police gunfire during the 1989 defiance campaign against beach apartheid.

Attorneys acting for Xavier Robertson accepted the Minister's out-of-court-settlement on Monday, Stellenbosch lawyer Mr Glynn Williams said in a statement.

Robertson was hit by a rubber bullet when the protests against segregated beaches spilled over into the Rusthof township near the Strand in August 1989.

The Minister's offer for a settlement was made without prejudice.

The settlement included agreement that the Minister would pay part of Robertson's costs - *Sapa*.

Massacre accused tells of 'disturbing' interrogation

STAR 11/3/92

Own Correspondent

252

MARITZBURG — Whenever he tried to tell the truth about what happened at Trust Feed on the night of the massacre of 11 people, a police officer interrogating him interrupted and told him he was lying, former special constable Thabo Sikhosana told the Supreme Court in Maritzburg yesterday.

Mr Sikhosana, one of seven policemen appearing before Mr Justice Wilson and two assessors on 11 counts of murder and eight of attempted murder arising out of the massacre, was giving evidence in his defence.

He told the court that because of the interrogation by the officer, a Colonel Langenhoven, he was disturbed, and as a result a statement he later made to a magistrate contained untruths.

The statement was handed in to court as evidence yesterday after Mr Justice Wilson ruled that it was admissible.

Mr Sikhosana — who has told the court he took part with other special policemen in the attack on the Trust Feed house in which 11 people died on December 3 1988 after being told there were terrorists inside —

was questioned about the statement which is in conflict with his evidence in chief.

Cross-examined by Francois van Zyl, counsel for one of the other accused, Captain Jacobus van den Heever, Mr Sikhosana said he had told untruths to the magistrate because he had been "disturbed" as a result of the prior interrogation by Colonel Langenhoven.

When interrogated by Colonel Langenhoven he had attempted to outline what had happened at Trust Feed, but the colonel kept interrupting him and telling he was lying.

He said Colonel Langenhoven became angry when he (Mr Sikhosana) said Captain Brian Mitchell, the local station commander — also one of the accused — had been with the special policemen when they went to the house. He had said that was a lie.

Appearing before Mr Justice Wilson are Captain van den Heever, Captain Mitchell, Sergeant Neville Rose, Special Sergeant Dumisane Ndwane, and Special Constables Kehla Ngubane, Marshall Khambule and Mr Sikhosana. They have all pleaded not guilty.

The trial continues.

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Cop 'forced to tell untruths'

252

Sowetan 12/3/92

**Sowetan
Correspondent**

WHENEVER he tried to tell the truth about what happened the night 11 people were the massacred, an officer interrogating him told him he was lying, a witness said yesterday.

Former Special Constable Thabo Sikhosana was giving evidence in his defence in the Maritzburg Supreme Court

Sikhosana is one of seven policemen charged with 11 counts of murder and eight of attempted murder arising out of the massacre at Trust Feed

Appearing before Mr Justice Wilson are Captain van den Heever, Captain

Mitchell, Sergeant Neville Rose, special sergeant Mr Dumisane Ndwane, and special constables Mr Kehla Ngubane, Mr Marshall Khambule and Sikhosana

They have all pleaded not guilty

Sikhosana told the court that, because of the interrogation by the officer, a Colonel Langenhoven, he was disturbed and as a result a statement he later made to a magistrate contained untruths

The statement was handed in court as evidence yesterday after the judge ruled that it was admissible

It had been the subject of

a trial within a trial this week when defence counsel clashed over its admissibility

After the judge's decision, Sikhosana was questioned about the statement which is in conflict with his evidence in chief

Cross-examined by Mr Francois van Zyl, counsel for one of the other accused, Captain Jacobus van den Heever, Sikhosana said he had told untruths to the magistrate because he had been "disturbed" as a result of the prior interrogation by Colonel Langenhoven and because he believed the statement he made to the magistrate would be sent back to Langenhoven

When interrogated by Langenhoven he had attempted to outline what had happened at Trust Feed, but the colonel kept interrupting him and saying he was lying

One of the things the colonel had said was a lie was when he (Sikhosana) had said that when he approached the house in Trust Feed with the other special policemen, he had first knocked on the door and had heard a shot from within

Langenhoven had already been told by others that when they got to the house they kicked open the door and had gone inside, Sikhosana said
(Proceeding)

Minister STAR 12/3/92 must pay

R78 170 (252)

By Susan Smuts (252)

A fruit hawker won damages of more than R78 000 from the Minister of Law and Order yesterday for an injury which he suffered when he was shot by police during unrest in Evaton in 1984.

Johannes Selebalo's life as a casual worker and driver ended when he was shot through the leg on September 3 1984.

He claimed R113 370 from the Minister.

In the Rand Supreme Court yesterday, Mr Justice Botha awarded Mr Selebalo R78 170.

During the trial, the Minister admitted general damages of R32 500 and future medical expenses of R14 000.

The judge awarded past loss of income of R11 670 and future loss of income of R20 000.

Blast suspects fail to appear in court

Pretoria Correspondent

Warrants have been issued for the arrest of two rightwingers, allegedly responsible for sabotaging post offices, who failed to appear in court yesterday

Only two of the four men allegedly responsible for blasts at post offices in the Transvaal appeared before Pretoria Regional Court magistrate BJO van Schalkwyk.

Failed 12/3/12

Prosecutor T Viljoen told the court that Andries Stefanus Kriel (47), of Kaallaagte Street, Waverley East, Pretoria, and Andries Cornelius Odendaal (27) of Mamba Street, Brits, who failed to appear yesterday, had apparently not kept their bail conditions since February

Miss Viljoen said these conditions included reporting to the police daily, not leaving the

magisterial district of Pretoria and notifying the investigating officer of any change of address.

Petrus Jacobus Judeel (33), formerly of Kraanvoel Street, Brits, and Dirk Jan Hattingh (52) also of Brits, were present.

Mr Judeel said he had changed address and asked that he be allowed to move around the whole PWV for working purposes.

"Is that work to put up posters?" Mr van Schalkwyk asked. A voice from the public gallery replied. "Part of it is".

Granted

According to Mr Judeel, he erects thatch lapas

Mr van Schalkwyk granted the alteration to Mr Judeel's bail conditions

The case was postponed to March 31

The R3 500 bail of Mr Judeel and Mr Hattingh was extended

HOUSE OF ASSEMBLY

QUESTIONS

Indicates translated version

For written reply

General Affairs

Valkenberg hospital

117 Miss M SMULTS asked the Minister of National Health

- (1) (a) How many psychiatric patients escaped from the maximum security unit at the Valkenberg Hospital during February 1992, (b) for how long was each of them at large, (c) how many patients (i) is this unit intended to accommodate and (ii) were accommodated there at the time and (d) how many (i) medical and (ii) nursing posts at this hospital were vacant at the time of the escape,

(Handwritten initials)

- (2) whether any patients escaped from this hospital during the preceding 12-month period, if so, (a) how many, (b) when and (c) for how long was each of them at large,
- (3) whether, during the 12-month period preceding this incident, there was any increase in the number of persons referred by the courts to this hospital for observation, if so, to what extent?

(Handwritten initials)

The MINISTER OF NATIONAL HEALTH

- (1) (a) 32 escaped on 17 February 1992, (b) by 18 February 1992, 30 patients were recaptured while two awaiting trial are still at large, (c) (i) 65 and (ii) 90 and (d) (i) 4 and (ii) 22,
- (2) yes, (a) 1, (b) middle 1991 and (c) less than 24 hours,
- (3) yes, from an average of 33 to 43 per month

B303E

HOUSE OF ASSEMBLY

QUESTIONS

Indicates translated version

For written reply

General Affairs

Number of persons without legal representation

44 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 1991 without legal representation? *(252)*

The MINISTER OF JUSTICE

B77E

The statistics hereunder are only with regard to more serious criminal offences. Statistics with regard to minor offences, for example stationary traffic offences, are not included in the data. The required information regarding the Supreme Court is not readily available. To obtain the information all court records will have to be scrutinized which is not economically feasible

Transvaal

- (a) (i) District Courts—215 135 persons (ii) Regional Courts—11 130 persons
- Orange Free State
- (a) (i) District Courts—61 148 persons (ii) Regional Courts—5 110 persons

Natal

- (a) (i) District Courts—120 031 persons (ii) Regional Courts—7 152 persons

Cape Province

- (a) (i) District Courts—242 217 persons (ii) Regional Courts—21 718 persons

It is important to take cognizance of the fact that our system of adjudication of criminal matters provides for various intrinsic safeguards to prevent miscarriages of justice and this means that accused appearing in courts are

not necessarily prejudiced by a lack of legal representation. Consequently only approximately 20 percent of the large number of accused which appeared in the courts without legal representation were convicted and committed to prison. *(252)*

Assault complaints: prisoners against prison warders

100 Mr L FUCHS asked the Minister of Correctional Services

- (1) (a) How many complaints relating to assault were made by prisoners against prison warders in 1989, 1990 and 1991, respectively, and (b) how many prison warders were (i) charged with and (ii) convicted of assault on a prisoner in each of these years,
- (2) in respect of 1989, 1990 and 1991, respectively, (a) how many prison warders faced disciplinary hearings arising out of an assault on a prisoner, (b) how many prison warders were dismissed for assaulting prisoners and (c) what other forms of disciplinary action was taken against such prison warders?

B260E

The MINISTER OF CORRECTIONAL SERVICES

With reference to the information for 1989 and 1990 respectively, I refer the hon member to my written reply of 9 April 1991 to question number 180 in the House of Assembly (Hansard col 902-904). Regarding 1991, the information is as follows:

- (1) (a) A total of 1 426 complaints of alleged assault were received and registered

The Department of Correctional Services regards every complaint of alleged assault on a prisoner by a member of the Service, no matter how petty, in a very serious light. In terms of the Departmental Orders, every complaint of alleged assault is registered in the appropriate register and properly investigated by the Commanding Officer.

Likewise, assaults on personnel by

(Handwritten initials)
HOUSE OF ASSEMBLY

its normal course
 In total, 422 prisoners were injured to such an extent as a result of assaults by fellow-prisoners that they had to be referred to prison hospitals or hospitals outside of prisons. These assaults took place at the following prisons

- Leeuwkop Maximum
- Port Shepstone
- Pollsmoor Maximum
- Pollsmoor Medium A
- Pollsmoor Medium B
- Genl J C Steyn
- Port Elizabeth Male
- Port Elizabeth Female
- Victor Verster Maximum
- Victor Verster Medium A
- Waterval Medium B
- Middelburg (Tvl)
- Obiqua
- Nylstroom
- Ficksburg
- Grootvlei Medium
- Ladybrand
- Senekal
- Fort Beaufort
- King William's Town
- Pietermaritzburg Medium A
- Umnzinto
- St Albans Maximum
- St Albans Medium A
- Warmbokveld
- Zonderwater Medium A
- Zonderwater Medium B
- Kroonstad Medium A
- Kroonstad Medium B
- Staart van Paardeberg
- Barberton Medium A
- Barberton Medium B
- Barberton Maximum
- Nelspruit
- Bavanspoort Maximum
- Grootvlei Maximum
- Brandvlei Maximum
- Caledon
- Helderstroom Medium
- Durban Female
- Groenpunt Medium
- Johannesburg Female
- Krugersdorp
- Klerksdorp

Rustenburg
 Bethlehem

Criminal trials in 1991

115 Mr A J LEON asked the Minister of Justice
 (1) How many criminal trials were conducted in (a) regional and (b) district magistrates' courts in South Africa in 1991,
 (2) in how many such trials was the accused not legally represented?

252

B279E

The MINISTER OF JUSTICE

(1) The statistics hereunder are only with regard to more serious criminal offences. Statistics with regard to minor offences, for example stationary traffic offences, are not included in the data. The required information regarding the Supreme Court is not readily available. To obtain the information all court records will have to be scrutinized which is not economically feasible

- (a) Total number of accused 69 329
- (b) Total number of accused 706 753
- (2) (a) Total number of accused not represented 45 110
- (b) Total number of accused not represented 638 531

It is important to take cognizance of the fact that our system of adjudication of criminal matters provides for various intrinsic safeguards to prevent miscarriages of justice and this means that accused appearing in courts are not necessarily prejudiced by a lack of legal representation. Consequently only approximately 20 percent of the large number of accused which appeared in the courts without legal representation were convicted and committed to prison

Sentences

128 Mr L FUCHS asked the Minister of Correctional Services
 How many sentences were handed down in the years ended 31 December 1988, 1989, 1990 and 1991, respectively, in respect of the provisions of (a) section 54(2)(a), (b) section

54(2)(c) and (c) section 54(2)(d) of the Prisons Act, No 8 of 1959?

B329E

The MINISTER OF CORRECTIONAL SERVICES

With reference to the periods ending on 31 December 1988, 1989 and 1990 the hon member is referred to my written reply of 5 March 1991 to question number 64 in the House of Assembly (Hansard col 357-358). The information with regard to the period 1 January 1991 to 31 December 1991 are as follows

- (a) In 3 308 cases prisoners were reprimanded
- (b) In 27 930 cases prisoners were sentenced to the deprivation of one or more meals on any one day
- (c) This represents 6,9% of the total number of prisoners admitted to South African prisons from police and courts during the calendar year 1991
- (c) In 44 cases corporal punishment not exceeding six strokes was imposed in respect of convicted male prisoners

SAA: personnel

134 Mr A J LEON asked the Minister for Public Enterprises
 (1) What total number of (a) Whites, (b) Blacks, (c) Coloureds and (d) Asians was employed by the South African Airways (i) as apprentices, (ii) as technical staff, (iii) in the administrative services, (iv) as cabin crew (excluding pilots) and (v) as pilots as at the latest specified date for which figures are available,

(2) whether the Airways intends to increase the Black component of its staff, if so, what are the relevant details?

B335E

The MINISTER FOR PUBLIC ENTERPRISES

The Managing Director of TRANSNET LIMITED has furnished the following information in reply to the hon member's question

- (1) (a) (i) 336
- (ii) 1 804
- (iii) 4 914
- (iv) 1 431
- (v) 550
- (b) (i) 19
- (ii) 597
- (iii) 1 034
- (iv) 36
- (v) 0
- (c) (i) 19
- (ii) 144
- (iii) 96
- (iv) 45
- (v) 0
- (d) (i) 17
- (ii) 4
- (iii) 15
- (iv) 18
- (v) 1

(2) SA Airways is constantly revising its employment policy to ensure that a better composition of its staff complement is obtained

No lawyers for majority

Political Staff

ONLY 11.9% of the 776 082 accused in regional and district magistrates' courts last year had lawyers, the Minister of Justice, Mr Kobie Coetsee, revealed yesterday

(252)

He told Parliament that 683 441 of the accused were not legally represented.

ET 17/3/92

These excluded people who were charged with minor offences, such as statutory traffic offences

80 prison warders found guilty of assault

CAPE TOWN — Last year, 80 prison warders were found guilty of charges of assault on prisoners in courts and departmentally, Correctional Services Minister Adriaan Vlok said yesterday.

Although 1 426 complaints of alleged assault by warders were received and registered in 1991, 889 were found to have no substance after thorough investigation and the Attorney-General had refused to prosecute in 153 cases

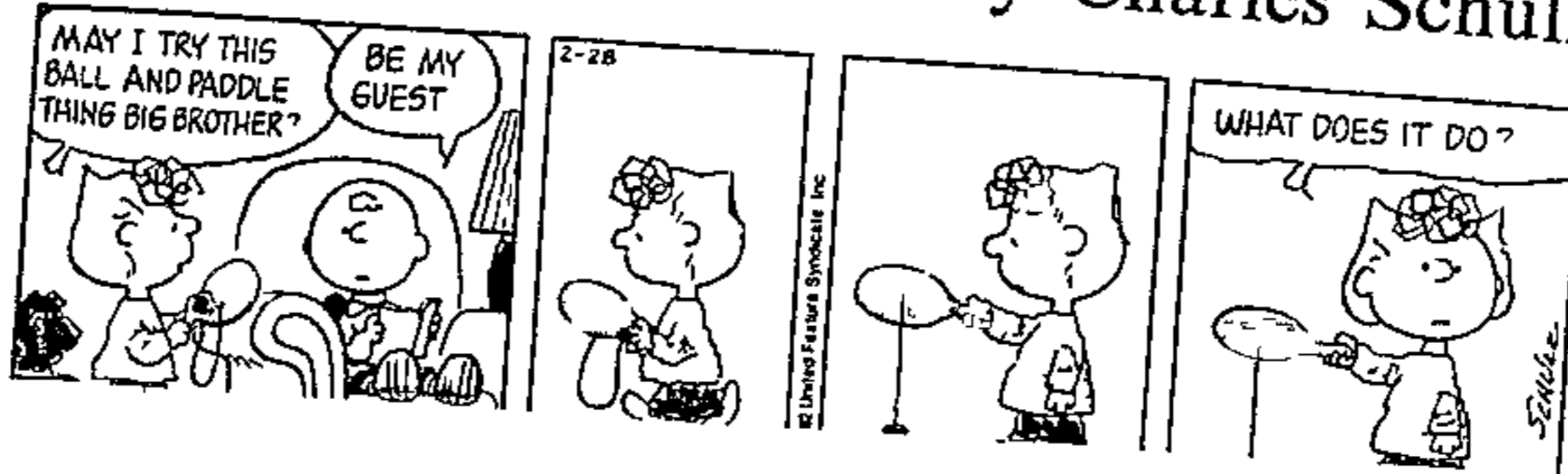
17/3/92
252
Political Staff

Vlok, replying to a question tabled in Parliament by Lester Fuchs (DP, Hillbrow), said that apart from those charged, the remaining cases were still being dealt with on December 31 last year

He said 63 members were charged in public courts due to complaints of assault on prisoners and 24 members were found guilty

PEANUTS

By Charles Schulz



Policeman 'purposely fired low'

STAR 19/3/92

Own Correspondent

252
MARITZBURG — One of seven policemen charged with the murder of 11 people and eight counts of attempted murder at Trust Feed on December 3 1988 told the Maritzburg Supreme Court yesterday that he had purposely fired low during an attack on a house because he knew the "terrorists" inside would be on the ground to avoid being shot

Former Special Sergeant Dumisane Ndwalane said he had intentionally done so to kill whoever might be lying low
Under cross-examination, Mr

Ndwalane reiterated earlier testimonies by two of the special constables that no one entered the house at Trust Feed during the attack

He also said he could not hear anyone in the house before, during or after the attack even though Mr Justice Wilson reminded him that the medical evidence showed "some of the people took a long time to die"

Mr Ndwalane earlier said he was "surprised and afraid" when he was woken by Captain Brian Mitchell during the fight and told "we are going to the house where the terrorists are"

He said he did not ask Cap-

tain Mitchell what they were going to do because he seemed to be in "a very aggressive mood"

Mr Ndwalane said Captain Mitchell had told them to surround the house, shoot and pick up all their spent cartridges

In reply to a question from Francois van Zyl, defence counsel for Captain Jacobus van den Heever, Mr Ndwalane said he did not know what procedure the other special constables followed and did not know how many rounds they fired

He said he followed Captain Mitchell to the back of the

house where Captain Mitchell broke a window with the barrel of a gun and fired two shots into the room

Mr Ndwalane was unable to tell the court the exact number of shots he had fired into the room and which windows he fired into

Mr van Zyl suggested to Mr Ndwalane that because of the accuracy of the shooting, there was a light on in the house that he could see the people he was shooting and that he consequently knew they were not terrorists

The hearing continues

SAP, military police cleared in murder case

STAR 17/3/92

252

CSA

MARITZBURG — Individual members of the SAP and Military Police implicated in the February 1991 assassination of Chief Mhlabunzima Maphumulo were cleared of all blame yesterday when an inquest hearing found that unknown people were responsible for the killing.

In a lengthy judgment given in the Maritzburg Supreme Court, the judge said it was clear Chief Maphumulo had a number of enemies.

However, no motive was established which would cast suspicion on any particular group or person and no finding could be made as to the identity of his murderers.

Referring specifically to the testimony of key witness Siphon Madlala, who claimed he was part of a security forces hit squad which killed Chief Maphumulo, the judge said he and the assessors were satisfied Mr Madlala's version was false.

The judge said corroboration for Mr Madlala's evidence implicating the security police in Maritzburg could be derived from the evidence of Lucky Mntambo, who claimed to be a member of a hit squad.

Mr Mntambo was judged to have been "an even worse witness than Mr Madlala".

Evidence by the SAP and Military Police witnesses was, on the whole, convincing.

Mr Justice Page said much of their testimony was supported by an immense amount of documentary evidence from many sources over many years and it was beyond the realms of reasonable possibility that this was part of an immense conspiracy to discredit Mr Madlala.

Speaking about the evidence of one Warber, a security policeman whom Mr Madlala had implicated in the assassination, the judge said there were no features in Mr Warber's evidence which made him doubt it. The judge said the issue of Mr Warber supplying arms to Inkatha officials in Imbali was a "red herring" in the inquest.

The formal findings of the inquest were that the deceased was Joseph Mhlabunzima Maphumulo; the cause of his death was damage to both lungs and the arch of the aorta and damage to the brain caused by gunshot wounds, the date of his death was February 25, 1991 and his death was brought about by a murder committed by persons unknown — Sapa

Landmark ruling on cash-strapped farmer

252
Own Correspondent *(Signature)*

STAR 17/3/92

CAPE TOWN — A new precedent has been set in a Cape Supreme Court ruling that has saved a prominent Karoo farmer from ruin

An application for the provisional liquidation of Stapleford Estates, an 80 000 ha property in the Graaff-Reinet district owned by Haldane "Flip" Murray, was turned down by the court

Reprieve

This landmark ruling has saved Mr Murray from losing his farm and could lead to the reprieve of many other cash-strapped farmers all over the country.

The court decided that the farm's debts of almost R8 million be suspended and ruled that creditors may take no legal action for between six months and

two years against a farmer judged by the Agricultural Credit Board to have a reasonable chance of recovery

A certificate of protection in terms of Section 21 of the Agricultural Credit Act was placed before the court and the application by First National Bank (FNB) for provisional liquidation against Mr Murray's farm was withdrawn from the roll

Cover

Regardless of the amount involved, the certificate of protection covers companies and farmers who might be able to pay off debts at a later stage

The certificate does not protect insolvents

The Cape Supreme Court effectively re-affirmed its decision when it turned down an application from the bank to reinstitute its earlier action

Witness tells of massacre horror

252
SPM
17/3/92

Own Correspondent

MARITZBURG — A witness in the Trust Feed trial sobbed yesterday when she told the Supreme Court here what she had found when she arrived at a house in which 11 people were massacred.

Defence witness Gertrude Mgwaba said she had gone to the house the night before with a friend to join the people taking part in a funeral vigil there.

Although there was singing in the house, no one opened when they knocked. Mr Mgwaba said she and her friend, a Mrs Mkhize, spent the night at Mrs Mkhize's sister's home nearby.

Explosions

During the night, she heard explosive sounds from the direction of the vigil house. Next day, she went to the house when she heard a woman screaming.

Mrs Mgwaba was overcome with emotion when trying to tell the court what she found at the scene. After drinking some water and wiping away tears, she said she was able to see through the open door into the house where the bodies of dead people lay.

Mrs Mgwaba was called as a witness for Thabo Sikhosana, one of seven policemen charged with 11 counts of murder and eight of attempted murder arising from the massacre on December 3 1988.

The trial continues

Maphumulo: Court clears policemen

252

Dwifan 17/3/92

MEMBERS of the security forces implicated in the assassination of Chief Mhlabanzima Maphumulo were yesterday cleared of all blame when an inquest hearing found that unknown people were responsible for the killing.

In a lengthy judgment given in the Maritzburg Supreme Court, the judge said it was clear Maphumulo had a number of enemies, many of whom would have been happy to see him dead.

No motive was established which would cast suspicion on any particular group or person and no finding could be made as to the identity of his murderers.

Mr Justice Page said he and the assessors were satisfied that the evidence led by key witness Mr Siphso Madlala was false and that no reliance could be placed on it.

Madlala had claimed he was part of a hit squad which assassinated the chief.

"We therefore find ourselves back in the position in which we were before he testified," the judge said.

While Madlala had initially appeared to be a "quick-witted man with well-developed powers of expression", a different

picture emerged under cross-examination.

Mr Justice Page said Madlala found himself in conflict with every other witness on every point.

The judge said corroboration for Madlala's evidence implicating the security police in Maritzburg could be derived from the evidence led by Mr Lucky Mntambo, who had claimed to be a member of a security police hit squad.

However, Mntambo was judged to have been "an even worse witness than Madlala".

It was concluded that in the light of the "appalling quality" of his evidence, no reliance could be placed on it.

The judge said it followed that his evidence in no way strengthened that of Madlala's.

Evidence by police and military police witnesses were, on the whole, satisfactory and convincing, he said.

He said much of their testimony was supported by an immense amount of documentary evidence from many sources over many years. It was beyond the realms of reasonable possibility this was part of a conspiracy to discredit Madlala.

'Kaffir' jibe lawyer to pay 252

Sowetan

11/3/92

By MONK NKOMO

A WHITE attorney who threatened a freelance court interpreter with assault and called him a "kaffir" has been ordered by the Pretoria Supreme Court to pay him an undisclosed amount in damages.

Mr Peter Johannes Kemp, an attorney who practises in Pretoria, was ordered by Mr Justice Van Zyl on Friday to pay damages to Mr Lesiba Seema for defaming him.

Seema, of Block G, Soshanguve near Pretoria, initially claimed R20 000

in damages from Kemp. He is a freelance interpreter in the Pretoria Supreme Court.

Mr Thomas Masase, of Willie Sebati and Associates, a firm of attorneys who represented Seema, yesterday confirmed that the judge had ruled in their client's favour.

"Both parties agreed not to disclose the amount," Kemp was ordered to pay, Masase said. He added that

Kemp was also ordered to pay the costs.

Seema told the court that Kemp threatened and called him "jou kak kaffir" at his offices in Capital Park on October 17 1990. He had gone there to collect fees for services rendered for Kemp.

In papers submitted in court, Seema said Kemp wrongfully, unlawfully and maliciously said the defamatory words in the presence of Mr Moses Kgapola.

Cops must pay for defaming woman

By MONK NKOMO

Sowetan 18/3/92

AN Atteridgeville woman who was called "a bitch and a drunkard" and unlawfully arrested by three policemen in the township three years ago, has been awarded R17 500 in damages by the Pretoria Supreme Court.

Atteridgeville Council for unlawful arrest and defamation by three members of the local police. In court papers she said the three council policemen, who were drunk, stopped her at the corner of Tiale and Seiso streets about 7pm on September 28 1989.

She was on her way to a reception to welcome the US Ambassador to South Africa, Mr Lacy Swing. The three policemen jumped out of their truck, surrounded her car and one of them pointed a firearm at her.

In her testimony, Kweyama said the three policemen swore at her, "calling me a bitch and a drunkard".

She was frog-marched to the truck and driven to the Venbe police station in Saisville. Kweyama said the police drove recklessly and she rolled on the floor as the truck negotiated turns.

"It was most humiliating since I was well dressed, going to a reception," she said. The Deputy Judge President of the Transvaal, Mr Justice Curlewis, ordered the Atteridgeville Council to pay Kweyama R17 500. He also ordered the council to pay her legal costs.

Mr Willie Sertu represented Kweyama. The case, which was heard for four days, ended on Friday when the judge remarked that the police witnesses had told the court a pack of lies.



The matter is now in the hands of the Attorney General. If there is any unhappiness about the manner in which this matter has been investigated, it is the right of any hon member to contact the Attorney General in question and say that he objects, as the hon member for Sandton stated, against the sloppy investigation of the matter. He can ask that the matter be investigated properly, and that allegations against the police be investigated in the light of any facts which the hon member for Claremont might have.

The information at my disposal, however, is that the SA Police could not prevent this incident. That incident did not take place during the day and in front of everyone.

I do not want to discuss the merits of the incident with the hon member today. This matter is subject to legal proceedings have been instituted and a trial will take place, and if the hon member wants to discuss the matter further, I can inform him fully. I therefore invite the hon member to visit me in my office. I will give him all the facts, but in an interpellation such as this we cannot discuss a complete case with 350 statements. If the hon member is not satisfied with the results of the trial, or if he has more allegations against the SA Police, he can also come forward with that matter. Our doors are open to him.

Debate concluded

QUESTIONS

Indicates translated version

For oral reply

General Affairs

Questions standing over from Wednesday, 26 February 1992

Cinema shows on Sundays

*3 Mr A J LEON asked the Minister of Justice

- (1) Whether he has given consideration to repealing or amending the legislation governing the prohibition of commercial cinema shows on Sundays, if so,
- (2) whether it is the intention to repeal or amend the legislation in question during

HOUSE OF ASSEMBLY

the current session of Parliament, if not, why not,

- (3) whether he will make a statement on the matter? B200E

†THE MINISTER OF JUSTICE

(1), (2), and (3) Legislation in general is the subject of constant investigation and evaluation to ensure that it meets with public demand. That is indeed also the position with the legislation concerned. In this regard I have in the past amongst others conducted numerous discussions with representatives of the film industry on the issue of the exhibition of films on Sundays and public holidays. It always took place in a responsible manner and in good spirit with mutual understanding for each others views.

During these discussions the possibility was raised that the power of the Minister of Justice in the Prohibition of the Exhibition of Films on Sundays and Public Holidays Act, 1977, to grant consent for the exhibition of films on Sundays for any consideration, be devolved to local authorities. In view of the fact that various Sunday activities are at present being regulated by provincial or local enactments, the Government has now accepted the principle that the power to regulate on an issue of this nature, be devolved either to provincial and/or local authorities. Consideration is at present being given to a framework within which such devolution may take place.

Mr A J LEON Mr Chairman, I should like to ask a supplementary question arising from the reply of the hon the Minister of Justice. While I am grateful for the information that this is now going to be devolved to local authorities in due course, perhaps the hon the Minister could just address two aspects of this.

On a national level at least M-Net and SABC-TV currently allow films to be shown on Sunday evenings. That has national implications and is tolerated. Surely the same principle should be allowed with regard to movie houses and cinemas operating nationally. [Interjections]

The second aspect is this. Currently, as we debate this question here in Parliament, there is a cinema chain in Goodwood, Cape Town, which in contravention of this particular law, is showing films on Sundays without prosecution. [Interjec-

ions] I know a lot of hon members here will enjoy. [Interjections]

The CHAIRMAN OF THE HOUSE Order! I cannot allow hon members to make supplementary statements. I can only allow them to put supplementary questions. [Interjections]

The MINISTER Mr Chairman, I was going to remark that had we been in court of law, I would have asked the Chairman to rule that the first remark be removed altogether from the record since it is argumentative and superfluous. Secondly, as to the second point the hon member made.

The CHAIRMAN OF THE HOUSE Order! I would have concurred with my hon learned friend. [Interjections] The hon the Minister may continue.

The MINISTER I accept your verdict, Mr Chairman.

As to the second point, is the hon member going to lay a charge? [Interjections] If he is not going to lay a charge, we obviously have to take cognizance of that situation, but the hon member must surely then consider whether it is relevant or not, although it does support my approach that a local authority is in the best position to gauge what the sentiments of a local community are. [Interjections]

Mamelodi persons killed

*7 Mr P G SOAL asked the Minister of Law and Order

Whether, with reference to the inquest into the deaths of certain persons killed in Mamelodi on 21 November 1985 and the reply to Questions No 12 on 5 March 1991, the South African Police will disclose the (a) contents of the statement made by and (b) identity of the witness that was traced on 15 February 1991, if not, why not, if so, what are the details? B249E

The MINISTER OF LAW AND ORDER

(a) and (b) No, the Attorney General decided that the statement provided by and the identity of the witness traced, at his request, should not be disclosed.

Questions standing over from Wednesday, 4 March 1992

Prisoners injured

*1 Mr A J LEON asked the Minister of Correctional Services

How many persons serving terms of imprisonment were injured accidentally in 1991? B253E

†THE MINISTER OF CORRECTIONAL SERVICES

During 1991, 5 228 prisoners sustained injuries. This represents approximately 1,29% of the total number of prisoners admitted to South African prisons from police and courts during the 1991 calendar year. These statistics include, *inter alia*, injuries sustained in work situations and participation in sport.

The Department of Correctional Services does everything possible to prevent accidents and injuries to prisoners. The safe custody of prisoners implies, *inter alia*, the prevention of accidents and injuries. With due consideration of safety measures comprehensive instructions and precautions exist to ensure that prisoners do not injure themselves or other prisoners during work, recreation or otherwise. Where appropriate, the stipulations of the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983) are complied with.

When prisoners participate in organised sport it is done under supervision and as far as is possible, preventative measures are also taken to prevent prisoners from being injured.

Every injury sustained by a prisoner is properly recorded and should the circumstances under which it was sustained or the nature of the injury necessitate it, a comprehensive enquiry is held into the incident. If necessary remedial/preventative steps are instituted.

It is standing practice that every prisoner who sustains an injury is seen by a doctor in order that he may receive the necessary medical treatment.

Should a prisoner sustain an injury during the accomplishment of his work or during participation in organized sport he is covered by the stipulations of Prisons Regulation 107.

Social pensions cancelled

*2 Mr M J ELLIS asked the Minister of Local Government and National Housing

HOUSE OF ASSEMBLY

pleted according to the initial planning

(ii) (aa) Falls away,

(bb) It is expected that the project will be finalized during the second half of 1993

Number of persons sentenced to community service (252)

*6 Mr A J LEON asked the Minister of Justice How many persons were sentenced to community service during the 1991 calendar year?

B380E

The MINISTER OF JUSTICE

755

Relocation of ore-terminal: PE

*7 Mr E W TRENT asked the Minister for Public Enterprises

(a) What is the estimated cost of relocating the Port Elizabeth ore-terminal to another convenient site and (b) in respect of what date is this estimate furnished?

B381E

The MINISTER FOR PUBLIC ENTERPRISES

The Managing Director of TRANSNET LIMITED replied as follows to the hon member's question

(a) The relocation of the existing ore loading facility (equipment, etc) to another site within the Port Elizabeth environment has not been considered. The cost of such a move has also not been determined.

The moving of the facility to Saldanha Bay has been considered and the estimated cost to provide additional facilities is approximately R135 million which does not make the project economically viable.

(b) The estimate with regard to the shifting to Saldanha is at 1990/91 cost levels.

Cango Caves concerts/moss

*8 Mr J VAN ECK asked the Minister of National Education

(1) (a) On what date was the first concert held inside the largest chamber of the Cango Caves and (b) (i) how many per-

HOUSE OF ASSEMBLY

sons had attended concerts in this chamber, and (ii) how many persons (excluding concert-goers) had visited the Cango Caves, from the date of the first such concert up to 31 December 1991

(2) whether any unusual growth of moss has been noticed in the Cango Caves, if so, (3) whether any steps have been taken to establish the cause of this growth of moss, if not, why not, if so, with what result?

B385E

The MINISTER OF NATIONAL EDUCATION

In terms of the Cango Caves Ordinance, 1971 (Ordinance 5 of 1971) the Cango Caves fall under the jurisdiction of the Oudshoorn Municipality. According to the Municipality the replies to the questions are as follows

(1) (a) 1964

(b) (i) 15 000

(ii) 4 471 806

(2) No

(3) Falls away

INTERPELLATION

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

Own Affairs

Schools: restricting admissions

Mr R M BURROWS asked the Minister of Education and Culture

(1) Whether he intends to prevent schools in his Department from restricting admissions on a racial basis, if not, why not, (2) whether he will make a statement on the matter?

B344E INT

The MINISTER OF EDUCATION AND CULTURE Mr Chairman, in his address at the opening of Parliament on 1 February 1991 the hon the State President said the following (Hansard, col 15)

If we wish to create a future South Africa without discrimination and with equality of

opportunity, this will have to be true of education as well. However, distinctive or autogenous education, conducted with Government assistance within a single system for those who desire it, has to remain an option.

That is how we see the future and that is what we are working for. Our efforts will undoubtedly be given tremendous momentum by the outcome of yesterday's referendum.

In regard to this process the hon the State President also said that the present educational system shall and must be changed.

Work on this is being done on the political and educational levels. In the meantime education has to continue in an orderly manner. At this point in time the admission of pupils is still regulated by the present Constitution 1 am referring to section 14 and paragraph 2 of Schedule 1 to the Republic of South Africa Constitution Act, in which it is stated that education at all levels is the own affair of a population group.

Since the present Constitution and provisions referred to are still valid, admission according to population group is legally still possible. I have no authority to prevent schools from applying the provisions of the Constitution of the country. The reply to the hon member for Pinetown's question is therefore as follows: Firstly, no, because I have no authority to do so, and secondly, no.

Mr R M BURROWS Mr Chairman, I am pleased that the hon the Minister referred to the historic referendum of yesterday and the overwhelming landslide vote for reform. I would also like to mention the hon the State President's speech at 15 00 today in which he made reference to the historic turning point and the getting rid of apartheid that this referendum signified. [Interjections] It is on precisely that point that the hon the Minister sticks. Apartheid is like pregnancy, in that one cannot be half pregnant. One is either pregnant or not pregnant. One either has apartheid or one has no apartheid. [Interjections] If one is going to have closed schools, one still has apartheid. [Interjections] The key question—and this is true for all of those hon members—that they are going to have to address is whether their schools are open or closed, not whether they received a Yes or a No [Interjections] If own affairs is to go and to go soon, as we understand, then it is perfectly

possible that section 14 and Schedule 1 of the Republic of South Africa Constitution Act will disappear, and we will be very pleased. [Interjections] However, it still remains a possibility that schools could apply racial restrictions on admission. One must draw attention to the reasons why they should not, and in this respect I would like to refer to the Interim Report on Group and Human Rights of the SA Law Commission, in which the following quote from the De Lange Report of 1983 appears:

However, differentiation also rests purely on the basis of race or colour, which cannot be regarded as relevant for inequality of treatment.

Then they go on to propose a new draft article 10 for a bill of human rights for South Africa which would contain the following clause:

Everyone has the right to freedom of choice with regard to the available public educational and training institutions and fields of study. Provided that—

(c) no state school or state-aided school or institution for education and training shall refuse to admit a pupil or student merely on the ground of his or her race, colour, religion or ethnic origin,

Less than three weeks ago the hon the Minister of Justice said that this country should get an interim bill of rights in the near future. I am now asking the hon the Minister of Education and Culture to commit himself to what the interim bill of rights may say and to state categorically that it is the policy of the NP that no State school or State-funded institution should be able to refuse racial admission restrictions. That is the keypoint. The hon the Minister should commit himself to a goal, he should commit himself to getting rid of apartheid and to promoting open schools. Today is the perfect day to do so. He has 68% of the country behind him to do so. [Time expired.]

*Mr A GERBER Mr Chairman, the hon member for Pinetown raised a very important matter this afternoon on which we want a clear and unequivocal reply from the hon the Minister. Up to now we have accepted that what the Government had in mind was a new education system in which race would play no role regarding admission to schools. However, it was also accepted at the same time that the present traditional admis-

CONFIDENTIAL

HOUSE OF ASSEMBLY

Questions standing over from Wednesday, 11 March 1992

Hospitals/clinics theft of medicines
 *1 Mr M J ELLIS asked the Minister of Health Services and Welfare

- (1) Whether any instances of theft of medicines from hospitals and clinics under the control of her Department occurred during the course of 1991, if so, (a) from which hospitals and clinics and (b) what is the value of the medicines stolen,
- (2) whether her Department is investigating these thefts, if not, why not, if so, with what result,
- (3) whether she will make a statement on the matter? ~~B314E~~ B314E

The MINISTER OF HEALTH SERVICES AND WELFARE

- (1) Yes
 - (a) Parowmed Pharmacy in Parow Day Hospital
 - (b) R1 680,00
- (2) Yes, the theft was reported to the South African Police on 24 July 1991, reference number MR331/07/1991. No arrest has been made yet and no stock has been recovered
- (3) No

Business interrupted in accordance with Rule 180C (3) of the Standing Rule of Parliament

New Question

*1 Mr R M BURROWS—Health Services and Welfare [Question standing over]

For written reply

General Affairs

Certain security firm

- 106 Mr M J ELLIS asked the Minister of Law and Order
- (1) Whether a certain security firm, the name of which has been furnished to the South African Police for the purpose of the Minister's reply, has at any stage been

Crime ~~B277E~~ Arrests

Attempted housebreaking	33
Possession of suspected stolen property	70
Possession of housebreaking implements	11
Theft	2
Robbery of vehicles	62
Theft of vehicles	31
Possession of unlicensed firearms	3

Norwood police station establishment

116 Mr A J LEON asked the Minister of Law and Order

- (1) Whether he will furnish the (a) total allocated and (b) actual strength of each rank in the current establishment of the Norwood police station situated in the Johannesburg North police district, if not, why not, if so, (i) what are the relevant details, (ii) how many temporary members are there on the current establishment of this police station and (iii) in respect of what date is this information furnished,
- (2) whether any steps have been and/or are to be taken specifically to increase the strength of this police station, if not, why not, if so, (a) what steps and (b) when? B280E

The MINISTER OF LAW AND ORDER

- (1) (a) and (b)

No, it is not in the interest of the members at the relevant police station, and policing in general, to furnish information of this nature. I am, however, prepared to inform the honourable member personally and confidentially in this regard

- (2) (a) and (b)

An additional 15 members have been appointed at Norwood since 15 May 1991. The expansion of the establishment of the South African Police, which has already been announced, will be utilized in order to expand the establishment of Norwood during the next placement from the training colleges

Hillbrow police station

130 Mr L FUCHS asked the Minister of Law and Order

- (1) What is the estimated population served by the Hillbrow police station over the latest specified period of five years for which information is available,
- (2) whether he will furnish details on the staff and vehicle complement at the Hillbrow police station, if not, why not, if so, (a) what was the (i) staff and (ii) vehicle complement at this police station as at the latest specified date for which information is available, (b) (i) how many of these policemen were (aa) White, (bb) Coloured, (cc) Indian and (dd) Black and (ii) what were their ranks in each case and (c) how many policemen are on foot patrol in Hillbrow (i) by day and (ii) at night,
- (3) whether it is envisaged to increase the complement of policemen at the Hillbrow police station in 1992, if so, what percentage increase is envisaged? B331E

The MINISTER OF LAW AND ORDER

- (1) Dec '87 Dec '88 Dec '89 Dec '90 Dec '91
136 974 138 482 140 026 141 608 143 227
- Statistics are kept only in respect of the month of December
- (2) (a), (b) and (c)

No, it is not in the interest of the Force in general and the members at the relevant police station, to furnish information of this nature. I am, however, prepared to inform the honourable member personally and confidentially in this regard

(3) An increase of personnel at police stations is subject to investigations by the Division Efficiency Services of the South African Police. Such investigations are at present in an advanced stage, but figures and percentages are not yet available. The recently announced expansion of the Force will not only supplement Hillbrow's strength, but will also ensure greater visible policing in the entire Witwatersrand area

Murder 16 persons

131 Mr P G SOAL asked the Minister of Law and Order ~~B252~~ ~~B252~~

HOUSE OF ASSEMBLY

HOUSE OF ASSEMBLY

Whether, with reference to his reply to Question No 27 on 27 March 1990 and Question No 55 on 15 March 1991, any persons have been detained, arrested, charged and/or convicted in connection with the alleged murders of 16 persons, whose names have been furnished to the South African Police for the purpose of the Minister's reply, if not, why not, if so, (a) what are the names of the persons (i) detained, (ii) arrested, (iii) charged and/or (iv) convicted in connection with each of these alleged murders and (b) in respect of what date is this information furnished?

252 B332E
THE MINISTER OF LAW AND ORDER

No, nobody has yet been charged or convicted for the alleged murders, because no evidence could be obtained to connect anybody with the cases

- (a), (i), (ii) and (iv) Fall away
- (b) 9 March 1992

Note

As a result of Mr Dirk Coetzee's confession regarding the murder on Griffiths Maenge, a warrant for his arrest was issued. The warrant of arrest was cancelled on 1 October 1991 by the Attorney-General of Natal Alfred Nofomela, who was condemned to death, also alleged that he was involved in the murder of Griffiths Maenge. The Attorney-General of Natal intended to institute charges against Nofomela, but the charge has been preliminarily withdrawn. Nofomela also appeared before the Harms Commission in connection with his and Dirk Coetzee's allegations. The ruling of the Judge is common knowledge.

Prostitution

135 Mr M J ELLIS asked the Minister of Law and Order

- (1) How many women were arrested for prostitution during the course of 1991,
- (2) whether these women were tested for sexually transmitted diseases, if not, why not, if so, how many of them were found to be HIV-positive?

B339E

THE MINISTER OF LAW AND ORDER

- (1) 2 061

HOUSE OF ASSEMBLY

(In my reply to Question No 17 on 14 May 1991 the case reference was given as Louis le Grange Square CR(A) 479/1/91)

The investigation of the cases Algora Park CR(A) 5/9/88, New Brighton CR(A) 34/8/90 and New Brighton CR(A) 35/8/90—fraud—has been completed. The Attorney-General declined to prosecute.

Regarding the cases New Brighton CR(A) 279/3/88—corruption against the Town Council and New Brighton CR(A) 36/8/90—corruption against an employee of the Town Council, the investigation has not been completed.

- (2) whether any interim reports have been received, if so, what are the relevant details,
- (3) whether (a) any charges have been laid as a result of the above investigation and (b) any of those charged have appeared in court, if so, (i) what charges and (ii) against whom have they been laid and (iii) what are the names of those who have appeared in court,
- (4) whether any of these persons have been convicted, if not, why not, if so, what are their names?

B355E

THE MINISTER OF LAW AND ORDER

(1), (2), (3) and (4)
Because of the number of cases involved and the various stages of the investigation, it is not possible to answer the question point by point but rather as a whole.

The investigation of the following cases has already been completed

- New Brighton CR(A) 28/8/90—fraud
- New Brighton CR(A) 29/8/90—fraud
- New Brighton CR(A) 38/8/90—corruption
- New Brighton CR(A) 327/1/91—fraud
- New Brighton CR(A) 328/1/91—fraud
- New Brighton CR(A) 329/1/91—fraud
- New Brighton CR(A) 282/1/92—extortion
- New Brighton CR(A) 30/8/90—fraud
- New Brighton CR(A) 31/8/90—fraud
- New Brighton CR(A) 326/1/91—fraud
- Louis le Grange Square CR(A) 491/1/91—fraud

Attorney-General at present for his decision
In the following cases the accused have already been found guilty and sentenced

- New Brighton CR(A) 32/8/90—the State versus Philda N Msimango—fraud
- New Brighton CR(A) 33/8/90—the State versus Maxolix F Sosi—fraud

In the case Louis le Grange Square CR(A) 522/9/90 Jacobus Johannes Nieman was charged with corruption. He was acquitted as the State could not prove corruption to the satisfaction of the court.

Ore-berth, Port Elizabeth

143 Mr E W TRENT asked the Minister for Public Enterprises

- (1) (a) What is the capital investment of South African parastatal bodies in the ore-berth in Port Elizabeth Harbour and (b) in respect of what date is this information furnished,
- (2) (a) what is the life-span of the mechanized system currently in use at this ore-berth, (b) when is it due for refitting and (c) how much will this refitting cost?

B356E

THE MINISTER FOR PUBLIC ENTERPRISES

The Managing Director of TRANSNET LIMITED has furnished the following information in reply to the hon member's question

- (1) (a) R21,9 million
- (b) As on 11 February 1992
- (2) (a) The remaining economic life-span is approximately 15 years
- (b) Refitting/maintenance is done on a continuous basis
- (c) Approximately R3 million is budgeted under operating expenditure for refitting/maintenance per year

Port Elizabeth Airport

144 Mr E W TRENT asked the Minister for Public Enterprises.

253 Ceul
HOUSE OF ASSEMBLY

Media man's counsel seeks judge's recusal

Biday
18/3/92

SUSAN RUSSELL

(252)

THE trial of Media Workers' Association of SA (Mwasa) general secretary Sithembele Khala on armed robbery and attempted murder charges resumed in the Rand Supreme Court yesterday with an application for the recusal of the presiding judge

Khala, 35, through his counsel, asked Judge Le Grange to recuse himself on the grounds that the trade unionist did not believe he was getting a fair trial

It is alleged Khala was a member of a gang which committed two armed robberies at a Germiston branch of the Standard Bank and a branch of Nedbank in the centre of Johannesburg in March last year.

Nedbank was robbed of R198 613 in the first robbery, while the robbers took R104 130 from the Standard

Khala has pleaded not guilty to three counts of robbery with aggravating circumstances. He has also pleaded not guilty to charges of attempting to murder three policemen who were shot during the Johannesburg robbery

According to the indictment, Khala was captured after being wounded in a shootout with police

One of the gang who was captured by police has since absconded. The others are still at large

Both the State and the defence brought in senior counsel yesterday to argue the application for Le Grange's recusal

Counsel for Khala, D A Naser SC, submitted that the judge had "entered the arena" himself by cross-examining the unionist while he was in the witness box.

Naser also submitted that the way Le Grange conducted certain lines of questioning had led Khala to believe he would not receive a fair trial

He earlier emphasised the application for recusal was not an attack on Le Grange's integrity

State counsel Kevin Attwell SC, who opposed the application, said there was no indication anywhere in the proceedings thus far to indicate that the judge had closed his mind on any aspect. He submitted also that Le Grange's questions to Khala had been to assist the trade unionist and to protect him from what the judge considered to be unfair questioning by the State

Le Grange reserved judgment.

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There was no need to hide, claims Trust Feed accused

8/Day 18/3/97
Own Correspondent

TRUST Feed trial accused, former special sergeant Dumisani Ndwalane, yesterday told the Maritzburg Supreme Court he saw no need to go into hiding after the killings as he and his companions had "done nothing wrong" in attacking terrorists who were the enemies of government.

He told Judge Wilson and two assessors that when he read an article in *Ilanga* newspaper concerning the deaths of people at Trust Feed soon after the incident, he did not connect it to the attack in which he and three other special constables took part because the article did not refer to "terrorists".

It was suggested to him during cross-examination by defence advocate Francois van Zyl (for Capt Jacobus van den Heever) that his saying he (Ndwalane) was told by former Maritzburg Riot Unit head Maj Deon Terblanche and New

Hanover station commander Capt Brian Mitchell that they were to attack terrorists was untrue.

Ndwalane denied this.

The seven policemen and former special policemen — Van den Heever, Sgt Neville Rose, Mitchell, Kehla Ngubane, Thabo Sikkhosana, Ndwalane and David Khambule — are charged with the murders of 11 men, women and children at a funeral vigil in House 83, Trust Feed, during December 1988.

Ndwalane denied yesterday that there was candlelight in the house at the time of the attack.

He also denied that some of the gunmen had entered the house and fired shots inside, that he knew exactly who he was shooting at, and that the victims were not terrorists.

He has testified that he

shot into the house — which was in darkness — through a window.

Van Zyl suggested to Ndwalane that "the only way" the victims could have been shot "so accurately" was if there had been enough light for the attackers to see where and what they were shooting.

Ndwalane said yesterday that he did not recall hearing any sounds coming from the house before, during or after the shooting.

Referring to medical evidence that several victims would have taken some time to die after the injuries were inflicted, the judge said he found this to be "incredible".

Ndwalane was challenged during cross-examination on a number of differences between his latest testimony and his statement to a magistrate when he made his first court appearance.

The hearing continues



Woman breaks down at Trust Feed trial

252

Sowetan 18/3/92

A WITNESS in the Trust Feed trial yesterday broke down in tears when she told the Supreme Court, Maritzburg, what she found at the house in which 11 people were massacred

Mrs Gertrude Mgwaba, who was called as a defence witness, told the court she had gone to the house the night before with a friend to join the people taking part in the funeral vigil there

Although there was singing in the house, no one opened when they knocked. After while they decided the people were not going to open for them and left

Mgwaba said she and her friend, a Mrs Mkhize, spent the night at Mkhize's sister's home nearby

During the night, just as she was falling asleep, she heard explosive sounds from the direction of the house where the funeral vigil was taking place

The next day she went to the house when she heard a woman screaming

Mgwaba was at first overcome with emotion when trying to tell the court what she found at the scene

After drinking some water and wiping away tears she

said she was able to see through the open door into the house where the bodies of dead people lay

She also told the court that a number of houses were burned in Trust Feed that night

Her own house had been damaged and her property taken during the previous day while she was away at Seven Oaks selling goods. Her son had been detained by the police

Questioned by Mr Justice Wilson, she said she left Trust Feed that day, driven out, as many other people were, by the events of that night

Mgwaba was called as a witness for Mr Thabo Sikhosana, one of seven policemen charged with 11 counts of murder and eight counts of attempted murder arising from the massacre on December 3 1988

Also appearing before Mr Justice Wilson are Captain Jacobus van den Heever, Captain Brian Mitchell, Sergeant Neville Rose, special sergeant Mr Dumsane Ndwane, and special constables Mr Kehla Ngubane and Mr Marshall Khambule

All seven have pleaded not guilty to the charges

Judgment reserved on bigger chambers

B.10am 18/3/92 (252)

THE Public Works Department has agreed to enlarge judges' chambers in the new Pretoria Supreme Court building after several judges refused to move into what they described as "pigeon-holes", unsuited to their requirements and status.

The larger chambers were welcomed, but sources said judges remained critical of the new chambers' lack of aesthetic appeal. Some of the features proposed for the chambers, such as bookshelves, small windows and pokey en-suite toilets, were below the standard of chambers of certain senior magistrates. These have adjoining

STEPHANE BOTHMA

robing rooms and, in some cases, kitchenettes.

Architects had specified the features of the chambers, but no final decision had been taken, a department spokesman said.

The decision by the Public Works Department to build fewer, larger chambers followed two weeks of high-level discussions with the Justice Department.

Public Works Department spokesman Bea Whittaker said each of the five floors housing judges would now consist of six

chambers instead of eight, with the average room measuring 36m².

Responding to an earlier complaint by judges that the general appearance of the court building was disappointing, the department said alterations to the design of the roof and facade of the building were made to curtail state expenditure and the cost of the project (about R54m) was cut by about R1,5m.

It was proud of the way it had managed to compromise between a building befitting the status of a Supreme Court and one which was cost-effective.

Trust Feed accused tells of threat to life

STAR 18/3/92 (252)

Own Correspondent

MARITZBURG — Former special sergeant Dumisane Ndwalane told the Supreme Court yesterday that some time after taking part in the Trust Feed massacre of 11 people, an officer, Captain Jacobus van den Heever, threatened to shoot and kill him for refusing to go into hiding.

He also told of an incident when he was attacked by two people who looked like policemen he knew Constable Willem de Wet and a Constable Steenkamp. They fired at him, but he escaped with an injured leg after he struck a rock when he fell.

Later he came to be-

lieve this attack had been carried out in error as he had heard that Constable de Wet had told other special constables he had thought at the time he was chasing someone else.

Mr Ndwalane, with Captain van den Heever and five other policemen — Captain Brian Mitchell, Sergeant Neville Rose and special constables Kehla Ngubane, Marshall Khambule and Thabo Sikhosana — is appearing before Mr Justice Wilson charged with 11 counts of murder and eight of attempted murder arising out of the attack on a house in Trust Feed on December 3 1988.

All the accused have pleaded not guilty.

Mr Ndwalane said the threat on his life by Captain van den Heever was made at Mpumalanga, on

an occasion when the officer and Sergeant Rose had arrived in a BMW.

Previously, Sergeant Rose had come to visit him several times and had kept urging him to go into hiding, saying the situation was bad.

On this occasion Captain van den Heever had said the "only thing he was going to do, because I did not listen, was he was going to shoot and kill me", he said.

Mr Ndwalane told the court the reason he and the others had decided not to go into hiding was because they believed it was not necessary since, in taking part in the attack, they had only followed the instructions of Captain Mitchell, station commander at New Hanover, who had told them terrorists were inside the house.

The hearing continues

Arson killed children, says analyst

STAR 18/3/92

By Bronwyn Wilkinson

An independent investigation into the fire which gutted Pretoria's Elim Church and killed eight street children last week has contradicted police claims that the fire was not started deliberately, the children's guardian said yesterday.

Jeremy Kruger, director of the Youth Initiative Project, which housed the 22 children in the building, claimed police were covering up.

Police forensic reports on Monday ruled out arson, saying white men seen in the area before the fire started were "streakers who had nothing to do with the blaze".

But Mr Kruger said an independent analyst checked the building before it was demolished. "He concluded for six or seven reasons that the fire was caused by arson."

Ombudsman's allocation (252)

SA's ombudsman has been allocated R695 000 for the 1992/3 financial year. Most of this, R460 000, is for personnel, with R55 000 for professional special services and the rest for administration.

The position was created last year for investigations to expose irregular use of state funds. Former advocate-general Judge P J van der Walt was appointed the first ombudsman. *Bloem 19/3/92*

Death sentence for right-wing bomber

^{Bloed Street, 20/3/92}
PRETORIA — Former right-wing hunger striker Loed van Schalkwyk was sentenced to death yesterday for the murder of a Durban computer consultant in 1990

He was also sentenced in the Pretoria Supreme Court to 12 years imprisonment for malicious damage to property, as well as 10 years for attempted murder

Van Schalkwyk, 54, is to appeal against the death sentence

The case stems from a blast at a taxi rank in Bloed Street, Pretoria, in August 1990, and a parcel bomb explosion that

killed Nicholas James Cruise in Durban.

Judge D J Curiewis said the court noted the crimes had a political aim, but said the murder had been committed by a coward and Cruise had been killed in a cold-blooded and sly manner

Van Schalkwyk and two co-accused, Henry Martin and Adrian Maritz, embarked on a hunger strike last year in an attempt to gain indemnity from charges arising from the two explosions

The three jumped bail, but Van Schalkwyk was rearrested. His two co-accused fled to the UK — Sapa

I was urged to hide — accused policeman

STAR 20/3/92 (252)

MARITZBURG — Special constable Dumisane Roy Ndwalane was questioned closely yesterday on his testimony that he had been told to go into hiding by another accused, Sergeant Neville Rose, after 11 people had been killed at Trust Feed in 1988.

Under cross-examination by counsel for Sergeant Rose, Mr Ndwalane said although Sergeant Rose had said the special policemen involved in the attack should hide, he felt they had not done anything wrong, and that they were being victimised.

Asked by Mr Justice Wilson if he thought Captain Brian Mitchell, another accused, was getting away with it, Mr Ndwalane agreed this was what he had thought.

Initially he had thought only Captain

Mitchell was involved in the matter, but he later realised Sergeant Rose and Captain Jacobus van den Heever were too.

He said, however, that if the special policemen had gone into hiding, it could be said they had carried out the attack without instructions from anyone.

He felt that if they were arrested, Sergeant Rose should have been arrested as well, as he had contributed to the planning of the attack.

Mr Ndwalane is one of seven policemen on trial for 11 charges of murder and eight of attempted murder following the December 1988 attack on a house in Trust Feed. All the accused have pleaded not guilty to the charges.

The trial continues today — Sapa.

Belanghebbendes word hierby versoek om skriftelike vertoe in verband met die saak by die Nywerheidshof in te dien. Sodanige vertoe, in drievoud, moet binne drie weke na die datum van publikasie hiervan by die Griffier, Nywerheidshof, Privaat Sak X54312, Durban, 4000, ingedien word.

J. H. KRUGER,

Griffier

(20 Maart 1992)

KENNISGEWING 260 VAN 1992

SAKEPRAKTYKEKOMITEE

WET OP SKADELIKE SAKEPRAKTYKE, 1988

Ingevolge die bepalings van artikel 8 (4) van die Wet op Skadelike Sakepraktyke, 1988 (Wet No 71 van 1988), word hiermee vir algemene inligting bekendgemaak dat die Sakepraktykekomitee van voorneme is om kragtens artikel 8 (1) (a) van gemelde Wet ondersoek in te stel na die sakepraktyk wat toegepas word deur Exclusive Collections BK, mnr D J Bloomfield en enige werknemer of agent van bogenoemde.

Enigiemand kan binne 'n tydperk van veertien (14) dae vanaf die datum van hierdie kennisgewing skriftelike vertoe aangaande hierdie ondersoek rig aan:

Die Sekretaris, Sakepraktykekomitee, Privaatsak X84, Pretoria, 0001 [Verw H101/20/10/72 (91).]

(20 Maart 1992)

KENNISGEWING 261 VAN 1992

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 vir algemene inligting, in die Bylae hiervan, bekend die name van persone—

(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 verstrekt 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

Interested parties are hereby invited to submit written representations to the Industrial Court in regard to the matter. Such representations must be lodged with the Registrar, Industrial Court, Private Bag X54312, Durban, 4000, in triplicate within three weeks after the date of publication hereof.

J. H. KRUGER,

Registrar.

(20 March 1992)

NOTICE 260 OF 1992

BUSINESS PRACTICES COMMITTEE

HARMFUL BUSINESS PRACTICES ACT, 1988

In terms of the provisions of section 8 (4) of the Harmful Business Practices Act, 1988 (Act No. 71 of 1988), it is hereby made known for general information that the Business Practices Committee proposes to institute an investigation in terms of section 8 (1) (a) of the said Act into the business practices carried on by Exclusive Collections CC, Mr. D. J. Bloomfield and any employee or agent of the above.

Any person may, within a period of fourteen (14) days from the date of this notice, make written representation regarding this investigation to:

The Secretary, Business Practices Committee, Private Bag X84, Pretoria, 0001. [Ref H101/20/10/72(91).]

(20 March 1992)

NOTICE 261 OF 1992

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 makes known for general information, in the Schedule hereto, the names of persons—

(a) who are members of the African National Congress or 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.

BYLAE • SCHEDULE

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Van Surname	Volle voorname Full christian names	Geboortedatum Date of birth
Apleni	Andile	1962-12-01
Baartman	Albert	1967-07-05
Batsallwang	Eric	1942-10-18
Camagu	Zuko	1961-05-31
Dukazana	Mzumkhulu Honest	1961-02-01
Hala	Mzimasi	1961-02-15
Mabaso	Nkosimathi Sylvester	1962-02-02
Maboa	Henry Jola	1952-05-21
Mafatshe	Saki Sello	1945-04-01
Makhabane	Joseph Leutsoa	1957-11-04
Mathambo	Christopher Themba	1950-02-27
Metsing	Ezekiel Morethebe R	1959
Mokoena	Archibald Romeo Mbuso	1963-10-10
Mpasa	Fondi	1930-01-01
Mqwati	Mfana Martin	1957-05-05
Mseleni	Thobile Wiggett	1952-06-11
Ndidi	Jonathan Siphon	1966-12-13
Ndlebe	Armstrong Vuyani	1970-01-27
Ngira	Bhekisisa	1965-11-22
Nhlapho	Meshack	1957-12-05
Nhlapo	Siphon James	1945-08-25
Simelane	Prudence N	1971-12-28
Sithole	Mdudzi Cecil	1955-12-16
Tshabalala	L. Taimothy Msondeki	1966-01-09
Tshepang	Peter Mika	1959-12-28
Twala	Cyril Keita Dumsani	1962-06-09
Tyolweni	Mpumelelo Eric	1969-12-06
Zwane	Dingaan Aaron	1966-12-16

(20 Maart 1992)/(20 March 1992)

KENNISGEWING 262 VAN 1992

ADMINISTRASIE: VOLKSRAAD

DEPARTEMENT VAN LANDBOU-
ONTWIKKELING

KENNISGEWING VAN VERGADERING VAN SKULDEISERS KRAGTENS ARTIKEL 22 (1) VAN DIE WET OP LANDBOUKREDIET, 1966

Hierby word 'n vergadering van ondergenoemde applikant en sy skuldeisers op die plek en datum hieronder genoem, belê, met die doel om skuldeisers in staat te stel om hul vorderings teen die applikant te bewys en 'n skikkingsvoorstel van die Landboukredietraad te oorweeg.

J. H. SMIT,

Direkteur, Direktoraat Finansiële Bystand,
Departement van Landbou-ontwikkeling.

NOTICE 262 OF 1992

ADMINISTRATION: HOUSE OF ASSEMBLY

DEPARTMENT OF AGRICULTURAL
DEVELOPMENT

NOTICE OF MEETING OF CREDITORS IN TERMS OF SECTION 22 (1) OF THE AGRICULTURAL CREDIT ACT, 1966

A meeting of the undermentioned applicant and his creditors is hereby convened at the place and date mentioned hereunder for the purpose of enabling creditors to prove their claims against the applicant and of considering a proposal for a compromise by the Agricultural Credit Board.

J. H. SMIT,

Director Directorate Financial Assistance,
Department of Agricultural Development.

Aansoek van Application by	Plek van byeenkoms Place of meeting	Datum en tyd Date and time
Benjamin Petrus van Niekerk (Id 380228 5067 001), van die plaas/of the farm, Nootgedacht, Posbus/P O Box 762, Vryheid, 3100	Kantoor van die Landdros/Magistrate's Office, Vryheid	21 April 1992 om/at 11 00

(20 Maart 1992)/(20 March 1992)

BAROMETER

252

accused in regional and district magistrates courts last year were represented by lawyers according to Justice Minister Kobie Coetsee. w/mca 2013-26/3/12
He said 683 441 were not represented.

JUSTICE (252)
ONLY 11.9 percent of the 776 082 people
w/mca 2013-26/3/12

Cop let off as witness clams up

By DAN DHLAMINI

TWO members of the Welverdiend Unrest Unit have been acquitted on separate charges of attempted murder and assault.

The first to be let off the hook was constable JS Oosthuizen — who faced a charge of common assault. *CIPRESS*

The complainant in the case, Johannes Molefe, who seemed not to be conversant with court procedure, refused to answer questions posed by Oosthuizen's lawyer.

Molefe insisted that the lawyer was not there when Oosthuizen assaulted him and it was Oosthuizen who was to cross examine him.

The magistrate dismissed the case.

In another case involving Constable James Moremi, a member of the same unit, a Carletonville Regional Court magistrate found that he had acted in self defence and acquitted him.

Moremi was charged with attempting to murder William Faltein by shooting at him.

Another three, all members of the riot unit — Petrus Matolo, Joseph Lebakeng, and Ephraime "Bully" Nkosi — are all facing charges of assault with intent to do grievous bodily harm. They will again appear in court on a later date.

Their appearance is a result of an in-depth investigation conducted by senior police officers following a series of allegations of attempted murder, torture and assault last year at the Welverdiend Police Station.

por
Nov
hoar

CONTRARY to police reports, an independent team of fire experts appointed by Lawyers for Human Rights (LHR) has concluded that the fire that gutted Elim Church in Sunnyside, killing eight kids, was arson.

LHR executive director Brian Currin said at a press conference there was a suspected cover-up by Sunnyside police in the case.

Earlier police said experts ruled out arson. But after Dr David Klatzow and two other experts from the Pretoria Fire Station combed the area for clues, they concluded there was "deliberate human intervention".

They also found that the fire had spread with great speed throughout the building.

It was burning simultaneously on all floors, with the possible exception of the top floor.

Several burn patterns throughout the building indicated liquid fire accelerants and human intervention in igniting the fire.

Currin said police statements taken from street kids sleeping outside the church confirming there was a slight explosion when the fire started were not in the docket.

The fire followed allegations that a drunk policeman who either fell or was thrown out of the second floor of the building allegedly vowed to come back.

An eyewitness, Abel Molokoane of Mamelodi, alleged that the policeman had gone into the building with a bottle of something that looked like brandy.

He said the man had allegedly insulted and beaten the kids inside the church. Then he fell, or was thrown, from the second floor.

Currin said there was something interesting about the case concerning the police story that he did not wish to disclose at this stage.

Police had said the policeman had gone to the building to make a dagga arrest.

On Monday Currin met with Brigadier Wilhelm Blignaut, the investigating officer, after the case was removed from the Sunnyside police.

Demolished

He said Blignaut had assured him on Monday that the police had concluded that arson was ruled out and the building was to be demolished.

Currin said after threatening court action to halt the demolition, the senior policeman then agreed that he (Currin) could bring an independent expert. During the LHR-appointed team's work at the site, a police forensic team suddenly joined them.

"It seems they went there with a mission of disproving that arson was involved, from what I heard during conversations," he said.

Currin said the police expert, by his own admission, was a chemist specialising in forensic tests and said he could not look into fire patterns.

Culprits

Commenting on the tragic event, Currin said. "There is no doubt in my mind whatsoever that if eight white children had died in a fire of that nature, the building would have been cordoned off. There would have been a long list of experts - the best in the country - to find the culprits."

Six of the dead children - Charlie Aphane, Enoch Mabunda, Seuntjie Mnisi, Magowa Mokou, Eric Napho and David Mokoena - were buried yesterday while James Makwinda and Jacob Sibande will be buried today.

Church death horror WAS arson - experts

FIRE SPARKS

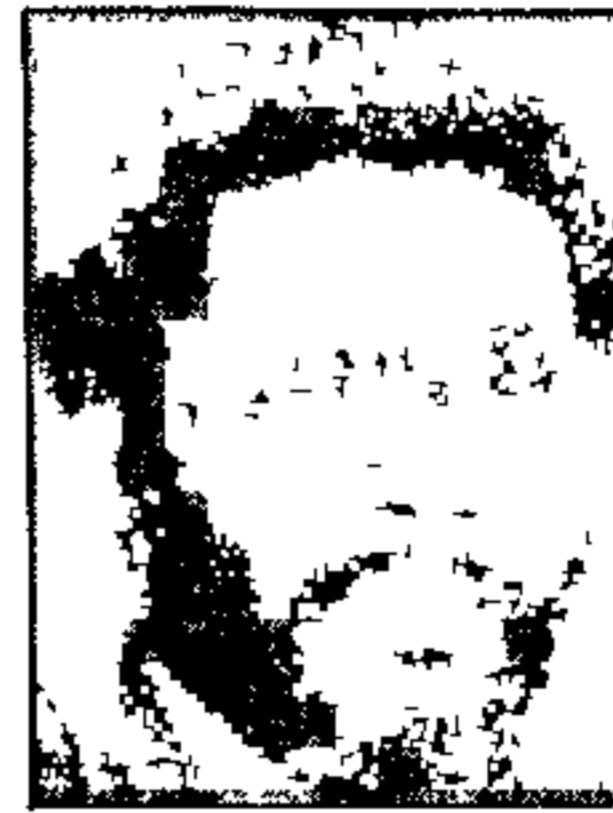
BY MONWABISI NOMADLO
22/3/92
(252)

QUESTIONS

More pain for the poor as the money squeeze tightens

CIPRESS 22/3/92

This week's Budget, which has been described as a social conscience Budget in some financial circles, spells hardships for blacks, says MZAMO NXUMALO, Johannesburg manager of a prominent tax firm.



THE bad news in this year's Budget is the increase in the price of petrol and diesel. That means

transport costs go up - making it more expensive to get goods on the shelves and more pricey for the shopper.

Food items that were zero-rated from September 1991 will become subject to VAT as from April 1 - another attack on the pocket of the poor.

The petrol price increase is 8 cents a litre on the coast and 9 cents on the Reef. Diesel goes up 6 cents a litre.

Less money

Fares for taxis, buses and trains will also increase. This is a very worrying development if one takes into account the inflation rate of 16,2 percent. Food prices in January 1992 were 26,2 percent higher than they were in January 1991. These percentages were quoted by Finance Minister Barend du Plessis in his Budget Speech this week.

The increase in prices results in the general populace having less money to save. The Minister said in the 1980s savings were 24,7 percent of the Gross Domestic Product - which is the value of goods and services produced each year in the country.

This percentage had fallen to 18,8 percent in 1991. This means more people are dependent on fewer income-earners, who in turn have less net cash because of increasing prices. Poverty is on the rise.

Value Added Tax (VAT) remains at 10 percent. However, basic food items that were zero-rated from September 1991 will become subject to VAT as from April 1.

These food items are: samp, mealie, rice, whole mealies for human consumption, dry beans, lentils, fresh milk, canned pilchards and powdered milk. This will obviously result in an increase in the price of food.

There is also Excise Duty, which one way or the other will affect blacks. This is a tax included in the price of certain products. On beer the increase is 8 percent - 4,8 cents a litre.

On spirits there has also been an 8 percent increase resulting in price rise of 37,7 cents a 750 ml bottle. The

duty on cigarettes is now 2 cents more for 10 cigarettes. Pipe tobacco is taxed 10 cents more a kilogram.

Cooldrinks and mineral waters will be taxed at 2 cents more a litre.

On sorghum beer and sorghum beer powder there will be an excise duty increase of one cent a litre and five cents a kilogram respectively.

A few changes have been made to the taxation of individuals. Take, for instance, married women.

The maximum rate of tax for a married woman has been increased from 38 percent to 40 percent at taxable income of R50 000, instead of R40 000 as before. This is effective from March 1 this year.

The new tax rebates are: married persons R2 225, unmarried persons R1 950; married women R900 and persons over 65 years old R2 500.

Tax rates have been changed so persons in the lower tax brackets will save some tax. The levels of income at which various persons start paying tax have been raised.

Tax rates

- Married persons under 63 years pay tax at income above R12 501 a year
- Persons 63 years to 64 years start paying tax at above R13 132 a year
- Persons over 65 years pay tax when income exceeds R24 881 a year
- Unmarried persons under 63 years pay tax at R10 715 a year
- Between 63 and 64 years they pay tax at R11 286 a year
- Over 65 years they pay tax income of above R21 429 a year
- Married women under 65 years pay tax at R5 264 a year
- Over 65 years they pay tax at income of above R17 292 a year

Housing is another area which the Budget tried to tackle.

Houses and flats up to R50 000 will not have transfer duty if they are sold between individuals who are not registered vendors for VAT.

The Budget provides for an amount of R2 153-million for housing projects.

No transfer duty will be payable on the purchase of unimproved land for dwelling purposes if the value is not more than R20 000. All the provisions regarding transfer duty apply as from March 19, 1992.

C/PRESS
22/3/92

Ndzeku, Sealy charges dropped

By DAN DHLAMINI

THE charge of intimidation against Carletonville ANC branch leader and an official of the Informal Board of Inquiry into Informal Repression (IBIIR) has been dropped after six months.

The ANC's Dan Ndzeku and IBIIR's Sally Sealy, whose involvement in the investigations conducted by senior police officers led to the suspension and arrest of 11 members of the Welverdiend Unrest Unit, could not believe it when Carletonville Regional Magistrate PS Janse van Vuuren told them the Attorney-General had declined to prosecute.

The two were charged with intimidating the much feared constable Ephraime "Fente" Rampete on September 24 last

year at the Carletonville Magistrate's Court. (252)

They had been released on bail of R500 each. One of the bail conditions was that they should not come within 500 m of the Carletonville Police Station and the Magistrate's Court, except on their trial date.

Khutsong residents hailed the withdrawal, saying they hoped most of the cases involving their missing children would now be brought to light.

Ndzeku and Sealy said the charge against them had been fabricated to scare them off the Welverdiend police probe and to divert public attention from the alleged police brutality.

The pair vowed to work even harder to get those implicated in the alleged tortures brought to book

'Prominent role for courts under new constitution'

252

S/Times (em) 22/3/92

By EVELYN HOLTZHAUSEN

GOVERNMENT officials, including Cabinet Ministers, allegedly guilty of corruption or maladministration, could be forced to explain themselves in court if proposals in a paper on administrative justice are adopted in a new constitution for South Africa

The paper also argues that because judges, magistrates and other public servants will have to fulfil a substantially different role in the future they will be required to undergo a process of re-training

The study, "Empowerment and Accountability (Towards administrative justice in a future South Africa)", was written by constitutional expert Hugh Corder, Professor of Public Law at the University of Cape Town after his research into South African and British Commonwealth Administrative Law systems

Prof Corder said National Party Cabinet Ministers have in the past "treated with disdain" calls for their resignation and there has been no effective judicial process to bring them to book

He cited as examples former Minister of Police, Mr Jimmy Kruger who was "left cold" by Black Consciousness leader Steve Biko's death in detention, former Minister of Defence, General Magnus Malan who held political responsibility for the alleged Civil Co-Operation Bureau "hit squads", and former Minister of Police, Mr Adriaan Vlok who refused to resign over accusations of police collusion in township violence and the funding of Inkatha Freedom Party political rallies

Exceptions

A new constitution, said Prof Corder, should enable anyone whose interests are detrimentally affected by any state official who exceeds his powers, to challenge him in court

"Unless Parliament is prepared to intervene to give itself and/or the courts a greater measure of control over executive action, bureaucrats and Ministers will come to believe they are beyond the law

"In the absence of such parliamentary intervention,



HUGH CORDER
Constitutional expert

it is up to the courts to develop the procedural requirements to meet the challenge of changing power relations"

South African judges have, with a few prominent exceptions, failed to adapt the law to challenge the executive action of Cabinet Ministers and bureaucrats, said Prof Corder

The Supreme Court should become the interpreter of the constitution. But this will place the judiciary, and specially the judges of the proposed Constitutional Court, in a very powerful position

"At present there is woefully little by way of ideas and debate on future judicial policy as regards the power of constitutional review, a function which is substantially different from any which the present judiciary discharges."

Prof Corder said because judges of the Supreme Court will have greater power, including overtly political power, to interpret the constitution, the secret method of appointing judges will have to give way to one which involves something like a Judicial Appointments Advisory Commission, as is done in many Commonwealth countries

"If most of the present judges are to continue in office they will have to be prepared to undergo a large degree of re-learning of the law and their constitutional role and be prepared to be assisted by those knowledgeable in the field such as foreign judges who have worked in similar systems and legal academics"

Prof Corder suggests that a Bill of Rights should do no more than protect a right to review administrative action but that Parliament must provide for at least the

following mechanisms of regulating the power of executive Government

- a Director of Administrative Accountability with ombudsman-like powers of investigation,

- a statutorily-defined liberalised notion of standing to sue,

- an extension of the grounds for a judicial review of administrative action,

- an amendment to the rules of the Supreme Court to facilitate the flexible, expeditious and skilled handling of applications for judicial review of administrative action,

- the establishment of administrative appeal tribunals,

- the drafting and promulgation of a binding code of principles for "proper" administrative decision making,

- the establishment of an Administrative Review Council,

- continuing education programmes for all public servants "to acquaint them with the new ethos, procedures and responsibilities and

- a public awareness programme to inform all South Africans of their rights

"Executive accountability needs to become part of public consciousness," said Prof Corder

Effective

"Lawyers need urgently to address these issues and make concrete and realistic proposals to achieve a greater degree of administrative justice

"The main parties to any future constitutional negotiations need to think seriously about these issues and let the public know what their intentions are

"A well-oiled, effective body of Administrative Law needs to act as a pair of scissors to cut through unnecessary red tape, and hold government officials, bureaucrats and petty officialdom to account, through the courts, for their actions

"Whatever form the constitutional proposals emanating from Codesa take, they will have to address the empowerment and accountability of the executive, guidance to judges in exercising power to review the constitutionality of laws, official action and the method and appointment of the judiciary"

LAWYERS FOR HUMAN RIGHTS

S/Times 22/3/92

~~CODESA~~

252

We the undersigned express our support for a negotiated resolution to our country's problems. However, we wish to register our disappointment at the lack of adequate participation of women at CODESA.

One of the basic principles to which participants have committed themselves in the DECLARATION OF INTENT is the rejection of gender discrimination and a commitment to establish a non-sexist SA.

Notwithstanding that the parties signed the DECLARATION, it is clear that they did not act in accordance with this commitment when they composed their delegations to the Working Groups.

The Management Committee was requested by CODESA 1 to address the issue of participation by women. The Management Committee should now inform the public of what they have done in this regard.

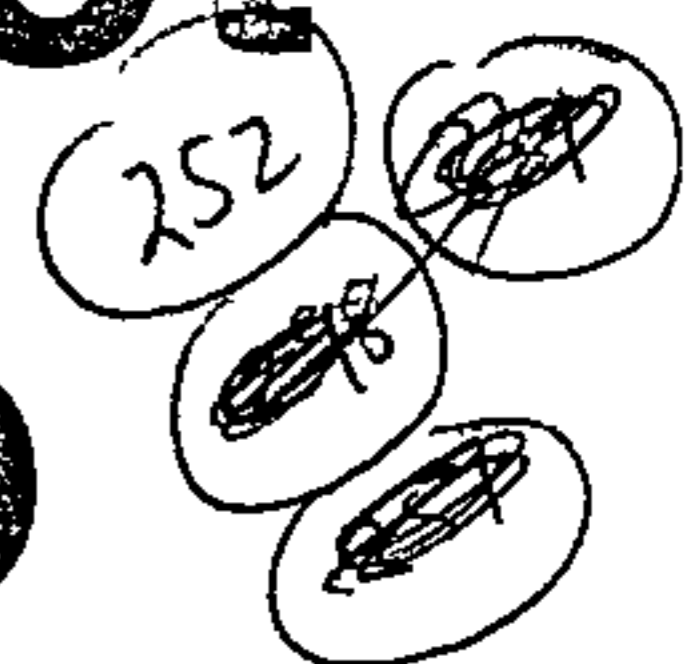
We therefore call on CODESA management to take action by introducing a gender advisory committee as part of CODESA. This committee could advise the working groups on the gender implications of their terms of reference and comment on their recommendations.

BLACK SASH
ANC WOMENS LEAGUE
SUZANNE VOS, Inkatha Freedom Party
Dr S J SAUNDERS, Vice-Chancellor, UCT
Prof R W CHARLTON, Vice-Chancellor, WITS
Prof J V LEATT, Vice-Chancellor and Principal,
University of Natal, Durban
Prof JAKES GERWEL, Rector, University of the
Western Cape
Prof MIKE DE VRIES, University of Stellenbosch
Prof FLIP SMIT, Rector of University of Pretoria
Prof CAS VAN VUUREN, Rector of UNISA
SCHOOL OF LAW
HOWARD COLLEGE, University of Natal, Durban
CENTRE FOR HUMAN RIGHTS STUDIES.
University of Pretoria

THE CENTRE FOR APPLIED LEGAL STUDIES,
WITS
THE COMMUNITY LAW CENTRE, University of
the Western Cape
THE CENTRE FOR WOMENS STUDIES,
UNISA
THE FEMINIST STUDY GROUP, University of
Stellenbosch
CO-ORDINATED ACTION FOR BATTERED
WOMEN
WOMENS LEGAL STATUS COMMITTEE
WOMENS LOBBY
PEOPLE OPPOSING WOMENS ABUSE
LAWYERS FOR HUMAN RIGHTS

Lawyers suspect police cover-up

Sowetan 23/3/92



LAWYERS for Human Rights said at the weekend they suspected a cover-up in police investigations into a Pretoria church fire which claimed the lives of eight children.

LHR executive director Mr Brian Currin told a Press conference on Friday that, contrary to the police version that arson was not the cause of the fire, their independent investigation had found otherwise

The children were burnt to death in the Elm Church, Sunnyside, east of Pretoria, early on March 12 and the church building was completely destroyed

Following police conclusions that no arson was

suspected, LHR appointed a forensic expert who, assisted by two experts from the Sunnyside Fire Brigade, searched the building for clues

In their investigations, the three established that the pattern of the fire suggested it was caused deliberately

Currin said he was concerned about a "clear police cover-up"

"What I find disconcerting is a different approach by authorities in the administration of justice to black and white incidents

"There is no doubt that if eight white children had died there would be a long

list of experts - the best in the country - and assurances from the police that they would turn every brick of the building to get to the bottom of the fire and bring the culprits to book," he said

Northern Transvaal police spokesman Colonel Frank Alton yesterday emphatically denied there was any cover-up by the police

"A premature statement by the investigating officer based on a preliminary forensic report did not originally exclude arson as the possible cause of the fire. Continued investigations have indicated that arson cannot be summarily ruled

out," he said

Currin said it was surprising that after the police's subsequent conclusion that there was no arson and a directive had been issued for the demolition of the church, the police forensic team decided to join the LHR's appointees in their work.

The LHR's forensic team also found that the fire spread with "extraordinary rapidity" through the building, far too quickly for a normal fire to spread,

The fire was burning simultaneously on all the floors, with the possible exception of the top floor where there appeared to be normal fire spread,

The fire burned for between 20 to 30 minutes as

indicated by the amount of charring which was remarkably even throughout different parts of the building.

The fire pattern on the front door strongly indicated a liquid accelerant burning on the right-hand side of the door,

The soot-stained lintels gave credence to the spread of the fire. Seven of the children were buried separately at the weekend

Those who were buried on Saturday and Sunday were Charlie Aphane, Enoch Mabunda, Seuntje Mnisi, James Makwinda, Jacob Sibande, Magoa Makou and Eric Napho

The eighth, David Mokoena, will be buried in Garankuwa this week



Prof slates decision to execute 17 killers

Sowetan 23/3/92

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ABOLITIONIST law professor Jan H van Rooyen yesterday condemned the Justice Department's decision to hang 17 convicted murderers, saying the action showed contempt for Codesa

Van Rooyen noted that some signatories, especially the African National Congress, had included an abolitionist clause in their Bill of Rights proposals.

"The Government is jumping the gun and plans to do, in the face of these negotiations, a unilateral act with irreversible consequences," he said

A statement from Van Rooyen, who is

Pretoria co-chairman of the Society for the Abolition of the Death Penalty in SA, said it was cynical for the Government to do this within a week of the landslide referendum vote for democratic reform

"It is totally insensitive to 'justice', in the sense that we all know that we'll have a Bill of Rights and a constitutional court within a year or two and that the validity of our death sentence will be decided upon there," the statement said

Van Rooyen said he would be campaigning to alter the Government's decision - Sapa

Sparks denies unity move

Sowetan 23/3/92

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ALLEGATIONS that Sandton had secretly decided to merge with Randburg and Alexandra were emphatically denied at the weekend by Mr Allister Sparks, chairman of the council's Section 59 committee

Making his first public statement since being appointed to head the investigative body formed to recommend Sandton's role in future Central Witwatersrand Metropolitan Witwatersrand Chamber negotiations, he said "My committee's report will

be debated at tonight's full council meeting

"Sandton will be the last of the relevant councils to decide on its attitude to regional and local government proposals put forward by the CWMC in December," he added

The Section 59 recommendations will include suggestions for Sandton's role in negotiations on CWMC proposals released in December

ity person

Govt decides 17 Death Row prisoners will hang

Uproar Over executions

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STAR 23/3/92

Political Staff

Executions are to be resumed in South Africa and 17 Death Row prisoners are to be hanged, the Ministry of Justice announced last night — but none of the 310 people on Death Row know who is going to die, said Lawyers for Human Rights today.

Andries Nel of LHR said in Pretoria "None of the prisoners has received notices of execution yet — this is going to cause a panic on Death Row"

A human rights outcry from death penalty abolitionists erupted within hours of the Justice Ministry statement, and President de Klerk is to be asked to intervene.

Veteran abolitionist Peter Soal MP said he would approach Mr de Klerk today or tomorrow, urging that the executions be delayed until capital punishment had been discussed at the Convention for a Democratic South Africa (Codesa)

Mr Soal, who has for 10 years campaigned in Parliament for the scrapping of the death penalty, noted that

the principle had to be negotiated at Codesa because it would be dealt with in a Bill of rights

"The Government is now jumping the gun after acting so admirably on the issue," he said "It is up for discussion at Codesa. These people have been on Death Row for years, so what does a few more months matter?"

"The ANC said today it voices the strongest protest possible at the announcement by the Ministry of Justice that 17 prisoners have completed all judicial processes and could be hanged

"This state of affairs is ill-considered and unacceptable"

able South Africa is in a period of transition and intense debate about the future, including discussion on a Bill of rights

"To announce, so soon after the referendum where white South Africa voted for the peace process, that executions could take place is to fly in the face of the spirit of reconciliation the ANC is striving to achieve"

"We repeat our firm opposition to the death penalty, and insist that there should be no resumption of hangings"

The Justice Ministry made the announcement in a lengthy statement on the

progress of the Panel for the Reconsideration of Sentences of Certain Persons Sentenced to Death

The Ministry said in the statement that in view of the reforms of 1990, cases had taken a "longer time than previously to reach the Appellate Division", but the new process was now fully in operation and all cases were being dealt with "expeditiously"

"It has been decided not to commute the sentences of a number of convicted persons in respect of the most extreme cases (17) and in respect of these cases the law will take its normal course,"

the Ministry said
The panel was formed after the mandatory imposition of the death penalty was abolished by the Criminal Law Amendment Act in July 1990, following the reform announcements made by President de Klerk in February 1990.

The panel was established so that people who were sentenced to death before the new act came into power could have their sentences reviewed with the new provisions taken into account

Nineteen Death Row prisoners have had their death sentences commuted, the Justice statement said — 10

to life imprisonment, and nine to between 20 and 40 years

The last execution took place in November 1989
Two legal experts said the new move was in contempt of the negotiation process at Codesa since capital punishment was on the negotiation agenda

Professor Jan van Rooyen of the Society for the Abolition of the Death Penalty in South Africa said the resumption of hangings could have "irreversible consequences"

Sapa reports that Professor

● To Page 3

Death Row executions to go ahead

STAR 23/3/92
● From Page 1

Professor van Rooyen said some signatories, especially the ANC, had included an abolitionist clause in their Bill of rights proposals

"The Government is jumping the gun and plans, in the face of these negotiations, to do a unilateral act with irreversible consequences," he said

"It is totally insensitive to justice, in the sense that we all know we will have a Bill of rights and a constitutional court within a year or two, and that the validity of our death sentence will be decided upon there"

The Dean of Wits University Law School, Professor Etienne Murenik, said the Government was "breaking faith" with many who voted for peace and a return to the international community

LHR condemned the step, with national chairman Jules Browde saying it was "very retrogressive"

LHR director Brian Curran said the Government had demonstrated its "utter contempt" for both the negotiations process and those who took part in last week's referendum

National director of the Legal Resources Centre, Arthur Chaskalson, said "It is a terrible step backwards"

Condemning the move, patron of the Society for the Abolition of the Death Penalty, Sheena Duncan said "We had thought that South Africa had come in line with those nations identified by Amnesty International as being nations where the death penalty has not been repealed but where in fact no executions take place"

Minister pays out R55 000

Soweto 23/3/92

A SOWETO woman who was shot in the eye and the shoulder by stray bullets fired by police in 1989 has been given R55 000 damages by the Minister of Law and Order. Mrs Rachel Sekete (53) filed a lawsuit against the Minister through the Legal Resource Centre after she lost the sight of her left eye.

Numbness

The bullet had also resulted in numbness of her jaw. Sekete who appeared unexcited about the amount she received said she was relieved that the Minister had settled. "Although I had expected more, this was the best my lawyers could do," Sekete said. "I am, therefore, going to

invest it in my children's education."

Mr Trevor Bailey, who represented Sekete in the case, said his client had received a fair amount compared to what was paid out in such cases.

"The Minister denied liability but settled the matter out of court," said Bailey.

Sekete, who is employed as a seamstress by a clothing factory, said her work had been affected because of poor health. She could still feel the bullet which was embedded in her left shoulder.

She sustained her injuries on November 16 when police fired shots from a helicopter at suspected car thieves during a chase in Soweto.

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Storm as hanging reintroduced

The Argus Correspondent
JOHANNESBURG — Executions are to resume and 17 Death Row prisoners are to be hanged, the Ministry of Justice has announced

The decision has provoked a storm of condemnation

Two legal experts said the move was in contempt of Codesa since capital punishment was on the agenda

The Justice Ministry made the announcement in a lengthy statement on the progress of the "panel for the reconsideration of sentences of certain persons sentenced to death"

The statement said that in view of the reforms of 1990, cases had taken a "longer time than previously to reach the Appellate Division", but the new process was now fully in operation and all cases were being dealt with "expeditiously"

"It has been decided not to commute the sentences of a number of convicted persons in respect of the most extreme cases (17) and in respect of these cases

the law will take its normal course," the ministry said.

The panel was formed after the mandatory imposition of the death penalty was abolished by the Criminal Law Amendment Act in July 1990.

The panel was established so that people sentenced to death before the new Act came into power could have their sentences reviewed with the new provisions taken into account

A spokesman for the ministry said last night there was "no time-schedule" for the executions but that they would not take place simultaneously. All avenues of reprieve for these prisoners had been exhausted, he said

There are 310 people on Death Row. The last execution took place in November 1989

Professor Jan van Rooyen of the Society for the Abolition of the Death Penalty said the resumption of hangings could have "irreversible consequences"

Sapa reports that Professor Van Rooyen said some signatories, especially the ANC, had included an abolitionist clause in their Bill of Rights proposals

ARG 23/3/92

The government is jumping the gun and plans, in the face of these negotiations, a unilateral act with irreversible consequences," he said

"It is totally insensitive. We all know we will have a Bill of Rights and a constitutional court within a year or two, and that the validity of the death sentence will be decided upon there"

The dean of the Wits University law school, Professor Etienne Murenik, said that the government was breaking faith with many who voted for peace and a return to the international community in the referendum

Lawyers for Human Rights (LHR) national chairman Mr Jules Browde said it was "very retrogressive"

Director Mr Brian Currin said LHR condemned in the strongest possible terms the step which must have been planned prior to asking for the Yes vote in the referendum which Mr De Klerk hailed as the "real birthday of the new South Africa"

"If this is the first birthday present, we dread to see what's coming next," Mr Currin said

Executions to be resumed

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CF 23/3/92

JOHANNESBURG — Seventeen criminals are to be hanged in what will be the first executions in South Africa in over two years

"A decision has been taken that the death penalty will be carried out on the 17," Justice Ministry spokesman Mr Werner Krull said in a telephone interview yesterday

All appeals procedures, including clemency pleas to President F W de Klerk, had been exhausted and the executions would be carried out "in due course"

Mr Krull said he had no information on the race of those to be hanged "but you can safely assume from the composition of people on death row that there are a mixture of races among the 17"

There were 310 people on death row in Pretoria

There have been no hangings in South Africa since November 1989, partly as a result of legal reforms, implemented by President De Klerk in July 1990

Abolitionists

The reforms abolished the mandatory death sentence for murder without extenuating circumstances, giving judges discretion in sentencing, and for the first time gave condemned persons an automatic right of appeal

In addition appeal procedures were strengthened and lengthened

It was not known whether any of the 17 facing execution were

convicted of crimes linked to political violence

Death penalty abolitionists yesterday vowed to prevent the executions

"We will do everything in our power to stop this," said Mr Brian Currin, director of Lawyers for Human Rights "It is a disgrace if they carry this out"

Professor Jan van Rooyen of the Society for the Abolition of the Death Penalty in South Africa said the decision showed government "contempt" for the political negotiation process

"The government plans a unilateral act with irreversible consequences in the face of these negotiations," he said — Sapa-
Reuter

New evidence in Alex killings

Sowetan 24/3/92
THE discovery of an AK-47 rifle at the Alexandra Hostel was a breakthrough in the police investigation into the fatal shooting of 13 people at a vigil in the township on March 27 last year, the Rand Supreme Court was told yesterday

Constable Peter Bothma was testifying before Mr Justice H Daniels in a trial-within-a-trial to determine the admissibility of a statement made by one of the accused, Mr Christopher Mbatha

Bothma said the weapon find was a breakthrough for the SA Police. Further weapon finds and five arrests followed, he added.

Mbatha's defence counsel told the court he had no knowledge of the AK-47 rifle and would argue the rifle might have been brought into the hostel by police or by another dweller.

The five accused are members and supporters of the Inkatha Freedom Party. They face 13 charges of murder and 17 charges of attempted murder as well as one count of housebreaking.

The State has alleged that at the funeral vigil of Mrs Jane Ramokgole on March 27 last year, the five men sprayed mourners with a volley of bullets from an automatic rifle, leaving 13 dead and scores of others injured.

They are Mr Gibson Mbatha (28), Mr Derick Majozi (21), Mr Mbatha (30), Mr Petrus Buthelezi (31) and Mr John Zakwe (56)—all of Alexandra —
Sapa

Commission asked to probe death

Sowetan 24/3/92

Sowetan Correspondent

THE Goldstone Commission has been asked to interview one of the survivors of the grenade blast in which a member of both the SACP and the ANC was killed.

Mr Saul Tsotetsi family attorney, Ms Caroline Heaton Nichols, said her firm had requested this intervention because police had refused them direct access to Mr John Nhlapo, whom they regarded as a vital witness

Tsotetsi and two other men, Mr Elias Motloun and Mr Alfred Yika, were killed in the blast near Tsotetsi's Sebokeng house in the early hours of Sunday morning

Mr Enoch Kharye and Nhlapo were injured and admitted to hospital

The PWV branches of the ANC and SACP, and Cosatu's Western Transvaal region, yesterday said they regarded the death as an assassination

"Saul's death brings to seven the number of anti-apartheid activists killed in a space of three weeks in the Vaal complex

"A clear pattern of orchestrated attacks by unknown death squads who continue to elude the police continues to emerge," they said

Evidence gathered from various sources pointed to a five-person attack on Tsotetsi as he approached his home, the statement said

Police have accused the ANC of interfering with a potential witness, Mr Dan Dlamini. The ANC has charged that the police have arrested at least one witness

Both parties deny the actions they are accused of

Police spokesman Colonel Dave Bruce said an ANC probe was not welcome

"There is only one police force and only that force is entitled to investigate this case," he said

But if the Goldstone Commission were to intervene "we would welcome it," Bruce said

Interference is making task difficult, says SAP

B1 Day 24/3/92
 CAPE TOWN — The SAP's task in combating the taxi war had been made difficult by the interference of the Joint Forum on Policing, the Maitland Stability Unit's Lt-Col Philipus Nel told the Goldstone Commission yesterday

The commission is investigating the nature and causes of, and possible solutions for, the violence stemming from the taxi war. The parties to the conflict — the taxi associations Webta and Lagunya — committed themselves to a peaceful settlement at the weekend.

The forum was established by a range of organisations including the DP, Black Sash, Unrest Monitoring Group and the ANC to monitor the role of the security forces in violence in the Cape.

Nel claimed the forum had openly sided with one of the groups involved in the conflict. "Members of this organisation, who in all probability, have not undergone any training in the prevention and combating of unrest violence, prescribe to members on the scene how they should behave. If the members do not behave to their full satisfaction, the members are even threatened that their actions would be brought to the attention of the Goldstone Commission."

But forum spokesman Rachel Brown yesterday denied these allegations as "absolute nonsense". She said the forum had been responsible for the SAP appointing a special team to

investigate allegations made against the police and had worked closely with this team at one stage.

Nel said the deployment of the Stability Unit to search taxis for weapons from mid-November 1991 had been enormously successful and violence had waned. The unit was withdrawn from December and no further violence occurred until February when it was again redeployed in Nyanga and Khayelitsha.

He said the taxi conflict had led to many deaths, widespread damage to taxis and other property and the use of unlicensed and stolen firearms by the warring groups.

He attributed the conflict to the inflow of taxis from the Transkei and Ciskei which had led to stiff competition. This was exacerbated by a lack of proper facilities at taxi ranks, unwillingness of members of the different organisations to reach agreement, or when agreement was reached to get it endorsed at ground level and the permit system.

Nel said proper facilities should be established in each local authority area, a uniform permit system must be applied, the two taxi associations should amalgamate and there should be stronger law enforcement by local authorities. There was a lack of co-operation from the two associations which were not prepared to negotiate with the SAP at scenes of violence or potential violence.

LINDA ENSOR

Electricity cuts set off stonings

B1 Day 24/3/92
 ADRIAN HADLAND

BURNING barricades were erected and vehicles stoned in troubled Ennerdale township south of Johannesburg yesterday as council workers, protected by police, cut residents' electricity cables.

A local development committee spokesman said three committee vehicles were stoned by angry residents while "illegal electricity supply wires" were being severed.

He said the committee, which is part of the House of Delegates' Development Board, would begin disconnecting the supplies of residents who had outstanding account arrears within the next few days.

Civic association chairman Farouk Jardine said a meeting last week between his association and the committee had resolved to take no action until further talks.

The committee had agreed to write off electricity arrears and were in the process of seeking funding for the proposal, Jardine said.

The arrears total about R10m.

Jardine said the association had suggested an interim flat rate be paid while problems were sorted out, but this had been rejected by the committee. "There is widespread dissatisfaction because the people are not happy with why the rates are so high for the services provided," he said.

Meanwhile, the Johannesburg City Council will meet the Noordgesig Civic Association today in an attempt to resolve the recent rent and service payments crisis.

... company has an estimated 10% share

Death penalty (252) a negotiation issue

ALAN FINE and STEPHANE BOTHMA

THE future of the death penalty in SA was a matter for negotiation, Justice Minister Kobie Coetsee said yesterday.

He was speaking after the outcry which followed the Justice Department announcement on Sunday that the death sentences of 17 prisoners had not been commuted following the exhaustion of legal procedures. *B/Pay 24/3/92*

Speaking during a break in proceedings at Codesa, Coetsee said he believed the matter would be best dealt with in a bill of rights or in an Act of Parliament. "That is why I am in a hurry to raise this matter in negotiations," he said.

He added that an execution required that proper notice be served on the individual, and that no prisoners had received such notice. Asked whether he envisaged any executions taking place in the foreseeable future, Coetsee said "No hangings will be sprung on anyone."

The Justice Department said at the weekend that the 17 had exhausted all avenues of appeal. At the same time, it said 19 death row prisoners had had their sentences commuted. Announcements are expected this week commuting the sentences of more prisoners.

After an outcry in human rights circles and requests for clarity on the fate of the 17, the Justice Ministry said "In view of inquiries and speculation, it is again stressed that in terms of SA law, no executions take place before the persons concerned have officially been notified. No such notices have been served in respect of the 17 persons referred to in the media." The only decision taken was not to commute their death penalties.

● Comment: Page 6

By Jo-Anne Collinge

Goldstone inquiry urged to quiz Vaal

STAR 24/3/92

252



The Goldstone Commission has been asked to interview one of the survivors of the grenade blast which claimed the life of Saul Tsotetsi, a church worker and branch executive member of the ANC and SA Communist Party in the Vaal area.

The family's attorney, Carole Heaton-Nichols, said her firm had requested this intervention because police had refused the Tsotetsis' legal representatives direct access to John Nhlapo, whom they regard as a

vital witness. Mr Tsotetsi and two other men, Elias Motloung and Alfred Yika, were killed in the blast in the early hours of Sunday morning near Mr Tsotetsi's house in Sebokeng. Enoch Khaeye and Mr Nhlapo were hurt and admitted to hospital.

The PWV branches of the ANC and SACP, and Cosatu's western Transvaal region, made it plain yesterday that they regarded the death as an assassination.

They stated "Saul's death brings to seven the number of anti-apartheid activists killed in a space of three weeks in the Vaal complex. "A clear pattern of orchestrated attacks by unknown

death squads who continue to elude the police continues to emerge." Evidence gathered from various sources pointed to a five-person attack on Mr Tsotetsi as he approached his home, the ANC/SACP/Cosatu statement read "In the ensuing struggle a hand grenade exploded."

Since the killing, police have accused the ANC of interfering with potential witness Dan Dlamini.

The ANC grouping has charged that the police have arrested at least one witness. Both parties deny the actions they are accused of.

Police spokesman Lieutenant-Colonel Dave Bruce made it clear that an ANC probe was not welcome.

"There is only one police force and only that force is entitled to investigate this case." But if the Goldstone Commission were to intervene "we would welcome it".

Ms Heaton-Nichols and Bavumile Vilakazi, of the ANC's PWV executive, said Mr Tsotetsi had spoken on Friday and Saturday of his fear of assassination. In his role as a church

fieldworker he had been investigating various leads on political violence.

The organisations strongly disputed an alleged police comment, carried in a Johannesburg morning newspaper, that the death was a case of suicide.

The grenade apparently went off while in Mr Tsotetsi's hands. Colonel Bruce also described

the conclusion of suicide as "absolute nonsense".

He said police were keeping their options open and conducting an inquiry in terms of the Inquest Act. As far as he knew, no murder docket had been opened.

Mr Tsotetsi, a two-time Robben Islander, was due to lead the ANC delegation to the launch of the Vanderbijlpark Dispute Resolution Committee today. Until hours before his death he had been partying with political associates in the wake of the ANC's Sharpeville rally.

Blast survivor

Sixteen more prisoners on Death Row reprieved

Political Staff

(252)

STAR

24/3/92

CAPE TOWN — Sixteen more prisoners on Death Row have been reprieved, the Justice Ministry announced today.

This brings to 35 the total of death penalty prisoners who have had their sentences commuted in terms of new legal criteria which automatically divert such cases to the Appellate Division or, if necessary, the State President for possible clemency.

Seventeen prisoners have so far been refused pardons. The Justice Ministry has refused to identify them, but has let it be known that their executions are not imminent.

This means 275 prisoners remain on Death Row at Pretoria Central Prison.

"As legal processes are finalised, further announcements will be made," said a

Ministry spokesman, commenting on when the next batch of reprieves or pardons would be announced.

Those announced today were A Generals (30 years in addition to other sentences), E Hanana (30 years), M S Mavela (25 years), J T Ledula (20 years), I Tsotesi (15 years), M Z Mncube (life), S D Mabine (life), J N Masango (30 years), B Maseko (life), M E Nondula (life), M Z Mnune (life), J N Mosuwe (25 years), S Phungula (25 years), N L Zibonda (25 years), P Dlemnyango (30 years) and A Ngidi (life).

Peter Soal MP, a death penalty abolitionist who formally asked President de Klerk yesterday to delay any executions until Codesa had negotiated the issue of capital punishment, welcomed the latest reprieves.

"Obviously the cases are being treated on merit," he said "I'm not suggesting you

must release criminals on to the streets willy-nilly . . . I'm not being soft on criminals, but you can't justify killing anybody"

It is understood delegates to Codesa yesterday raised with Justice Minister Kobie Coetsee the question of 17 people facing the gallows in the light of recent newspaper reports.

Mr Coetsee told reporters the future of the death penalty was a matter for negotiation, which he was anxious to get started.

Mr Coetsee said no consensus on the issue had been reached by Codesa's working group, and executions would be discussed again next week.

He said it would be "presumptuous" to say the 17 prisoners would be executed. They had not been served notices of their execution, and the process to execute them had not been activated

Calls against executions

(252)

CT 24/3/92

Own Correspondent

JOHANNESBURG — The government's announcement that 17 Death Row prisoners faced execution was slammed yesterday by political and human rights organisations as ill-considered and abhorrent.

They are demanding that no executions take place until the matter is negotiated at Codesa, where it is expected to be dealt with in a Bill of Rights.

The Department of Justice yesterday stated that the executions were not imminent and none of the 17 men had been notified of their date of execution.

Appeal

The announcement by Justice Minister Mr Kobie Coetsee on Sunday that South Africa could end a two-year period of no executions dominated yesterday's round of Codesa, with delegates arguing the resumption would adversely affect national negotiations.

Sixteen of the 19 delegates to Codesa's Working Group 1 — dealing with free political activity — appealed to the government to suspend all executions in the transitional period.

ANC negotiator Mr Mohammed Valli Moosa said the government had displayed not only callousness but also utter contempt for the negotiations.

LATEST

16 more on Death Row reprieved

ARC 24/3/92 (252)

Political Staff

SIXTEEN more prisoners on Death Row have been reprieved, the Ministry of Justice announced today.

This brings to 35 the number of prisoners previously facing the death penalty who have had their sentences commuted in terms of new legal criteria that automatically divert their cases to the Appellate Division or, if necessary, the State President, for possible clemency.

Seventeen prisoners have so far been refused pardons. They have not been identified, but their executions are not considered imminent.

This means 275 prisoners remain on Death Row at Pretoria Central Prison.

"As legal processes are finalised, further reprieves or pardons will be announced," a ministry spokesman said.

Those announced today were: A Generals (30 years in addition to other sentences); E Hanana (30 years); M S Mavela (25 years); J T Ledula (20 years); I Tsotesi (15 years); M Z Mncube (life); S D Mabine (life); J N Masango (30 years); B Maseko (life); M E Nondula (life); M Z Maune (life); J N Mosuwe (25 years); S Phungula (25 years); N L Zibonda (25 years); P Dlemnyango (30 years); and A Ngidi (life).

Mr Peter Soal MP, a death penalty abolitionist who formally asked President De Klerk yesterday to delay executions until Codesa had negotiated capital punishment, welcomed the latest reprieves.

"Obviously the cases are being treated on merit," he said.

35 death sentences commuted but...

17 people to hang

252

Sowetan
24/3/92

THE moratorium on executions has been lifted and 17 criminals on Death Row will be hanged as early as next month.

This decision was apparently taken by the Cabinet after increasing brutality of violent crimes over the past two years, during which 310 people had been waiting in uncertainty on Death Row

The government denied last night that the executions would take place "soon"

The Government has also commuted the death sentences of 35 people

President FW de Klerk announced during his opening of Parliament speech on February 2 1990 that all executions would be suspended pending a review of the legal process pertaining to the death penalty

The mandatory imposition of the death penalty was abolished and convicted people were granted automatic right of appeal

Effectively no person could be executed before the case had received the attention of the Appellate Division, and it had confirmed the imposition of the death penalty, and the State President in consultation with

By ISMAIL LAGARDIEN
Political Correspondent

the Cabinet, had decided not to commute the sentence

If the Appellate Division did confirm the imposition of the death penalty on the case in question, and the convicted person had not petitioned the State President within 21 days, an advocate would be appointed to do the petitioning

With the imminent execution of the 17, the Ministry of Justice yesterday explained that they were "the most extreme" cases

The names of the 19 people whose death sentences were commuted (and the alternate sentences) are DS Mlumbi (life) MG Khuzwayo (life) GJ Harper (20 years) MZ Mole (30 years) SE Nyide (25 years) LC Luthuli (25 years) JB Bhengu (25 years) MG Salie (life) J Grootboom (life) D van Wyk (life) T Khumalo (25 years) J Letshabu (life) D Mareletsı (life) J Melato (life), SW Malongisa (30 years) D Sıqeza (30 years) E Tabethe (25 years) I Machasa (40 years) and J Morton (life)

Activist's death sentence is commuted

Anxiety disorder saves man from the gallows

Sowetan 25/3/92 (252)

THE Appeal Court has substituted imprisonment of 25 years each for the double death sentence imposed on a Mbekweni political activist for two murders committed on a Paarl farm in 1986

The court ordered that the two sentences imposed on Philman Gqibile Maxam are to be concurrent with each other and with his sentence of 10 years for housebreaking

Maxam was convicted by the judge-president of the Cape Supreme Court, Mr Justice G G A Munnik, on December 11 1990. The conviction related to the murders of a domestic servant, Miss Rholian Anne Foster, and a gardener, Mr John Geysler,

who were shot on the farm on April 15 1986

After the trial judge weighed both the aggravatory and mitigatory factors, he imposed the death sentence for each murder after he held that this was the only proper sentence

According to a confession made to a magistrate after Maxam's arrest in July 1989, he had gone with a gang from Mbekweni township to the farm

He testified in his defence that the group had gone to the farm in response to a "widely disseminated instruction by the president of the then banned African National Congress" to look for fire-

arms to use in confrontation with the police

He was the only member of the gang who was armed

Apart from Maxam's account of his possession of the pistol, the trial court rejected his evidence and held that, while the finding of firearms would have been a "bonus", the burglary had been aimed at goods and valuables in general

Justified

On Monday Mr Justice Howie (acting judge of appeal) held that the trial court was justified to find that Maxam was the leader of the gang. Not only was he about five years old than the others, but evi-

dence given in mitigation depicted him as a prominent member in the Mbekweni community

It was common cause that Maxam was a leading political activist in Mbekweni, which township had been racked by serious political unrest for some months before the crimes were committed

Mr Justice Howie said that, although the crimes were of exceptional seriousness, the seriousness of a case as a whole - assessed by way of the comparative evaluation of the aggravating and mitigating factors - was reduced to a material extent by Maxam's anxiety disorder

When that conclusion was considered with other

aspects of the character evidence, it seemed to the judge that it could not be said that the death sentence was the only appropriate sentence

Maxam's clean record, stable employment history and sound personal qualities pointed to favourable prospects of his reformation. That, in turn, made it inappropriate to impose life imprisonment

All the purposes of sentence would be achieved by the imposition of a very long term of imprisonment on each count

Mr Justice E M Grosskopf and Mr Justice Smalberger concurred - *South African Press Association*

Lifers could stay in jail until death

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CT 25/3/92

Own Correspondent

JOHANNESBURG — Death Row prisoners whose sentences were commuted to life in prison would probably remain in jail for the rest of their natural lives, the Department of Justice said yesterday.

Justice spokesman Mr Werner Krull gave the assurance as his department announced that the death sentences of 16 more prisoners had been commuted, bringing the number since Monday to 35.

The death sentences of 15 of the prisoners were commuted to life imprisonment and those of the remaining 20 to terms ranging from 15 to 40 years.

Mr Krull said a person serving a life sentence would be released only in exceptional circumstances after his case had been before the Release Advisory Board, chaired by a judge.

An example of an exceptional circumstance was if the prisoner had a terminal illness and was not expected to live much longer, Mr Krull said.

However, Death Row prisoners whose sentences were commuted to definite periods of imprisonment would be entitled to the same qualifications for early release as other prisoners, the Department of Correctional Services said.

Correctional Services spokesman Colonel Danie Immelman said the prisoners could be released early under remission of sentence or on parole.

He said a number of factors would be taken into account including the nature and severity of the crime and whether the prisoner's release would be in the public's interest.

Justice Department spokesmen said 33 of the prisoners whose sentences were commuted had been sentenced to death for murders, but were unable to elaborate on the crimes.

Hangings: DP calls ⁽²⁵²⁾ for clarity

MARTIN CHALLENGOR
Political Staff ARG 25/3/72

THE Minister of Justice, Mr Kobie Coetsee, has been called on to make a clear policy statement on hangings.

Mr Mahmoud Rajab, Democratic Party member of the House of Delegates for Springfield and the DP's deputy spokesman on justice, said confusion had resulted from reports that the Ministry of Justice was going ahead with the execution of 17 prisoners.

Mr Rajab said "While it is important for Codesa to reach agreement on the vexed issue, the DP believes a clear policy statement by the Minister of Justice is essential."



Mr Mervyn Smith

Law society head elected

Staff Reporter (252)

ATTORNEY Mr Mervyn Smith has been elected president of the Association of Law Societies for the current year.

He joined what is now the legal firm of Munde Schapiro and Smith in Bellville in 1960 and has been senior partner for the past 10 years.

He has been a member of the council of the Law Society of the Cape of Good Hope since 1978 and was president from 1986 to 1988.

He is also an honorary life member of the Tygerberg Attorneys Association.

ARC 25/3/92

Death knell sounds for the Karoo's medieval hierarchy

STRA 25/3/92

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KIMBERLEY — The resounding "yes" vote in last week's referendum was a leap into modernity for most of white South Africa, but in the semi-desert of the Karoo, society remains structured along the lines of Europe in the Middle Ages.

In an attempt to drag white landowners into the 20th century, lawyers in the Kimberley Supreme Court initiated civil proceedings yesterday against Andries Wiese, a sheep

farmer, on behalf of his former employee, Willem Voster. It was the first time a labourer has taken a farmer to court.

Mr Voster's advocate said he would seek to reveal the "feudal" attitudes that led his client to claim R90 000 from Mr Wiese for "severe assault" and "severe loss of dignity".

The incident in question, as Mr Voster described it, took place on the night of October 8 1990, when he backed his boss's tractor out of a shed and unwittingly ran over and killed his brother. The next morning Mr Wiese drove to Mr Voster's house, ordered him into his vehicle, took him deep into the

veld and then proceeded to beat him for more than an hour with a thick rope.

The next day Mr Voster went to the police, who told him there was "bugger all" they could do. There the matter would have rested, if it had not been for the persistence of a Dutch social worker called

Margriet Knaap.

"It would be wrong to say that this sort of thing was typical in the Karoo. It is a way of life," said Ms Knaap yesterday. "You see a farm labourer is a tool, an implement, not a human being. You could transplant the Middle Ages here — or the Russia of the Tsars —

and you would see no difference."

Mr Voster's family has worked for the Wieses, who own 12 adjoining farms, since the 19th century. One of 15 brothers and sisters, he remembers that his father worked for Mr Wiese's father, Hendrick He

also remembers the time when Hendrick sat on him, punched him repeatedly in the face and would have killed him had Mrs Wiese not intervened. "They hit us all the time," said Mr Voster yesterday. "It's commonplace."

If Mr Voster wins his case, others may find the courage to stand up and, as in the rest of "the new South Africa", replace the age of divine right with the rule of earthly law — The Independent News Service

Umkhonto pair on Death Row granted clemency

By Jo-Anne Collinge 252

The only members of Umkhonto we Sizwe remaining on Death Row, Mthetheleli Mncube and Mzondeleli Nondula, have been granted clemency and their sentences commuted to life imprisonment.

The pair, who are among 35 condemned prisoners, reprieved in the last two days, were sentenced to death in 1988 in the "Messina" trial.

Nondula was found guilty of the deaths of six members of the De Nysschen and Van Eck families, who were killed in a northern Transvaal landmine explosion in December 1985. Mncube's death sentences arose from the landmine death of a commercial driver and his killing of two policemen while escaping from custody.

Attorney Peter Harris said the commuting of his clients' sentences opened the way for a

fresh application for their release as political prisoners in terms of the Pretoria Minute.

Two other Death Row inmates, regarded by the Human Rights Commission as political prisoners, have had their sentences commuted. They are Israel Machasa of Tumahole, sentenced for the killing of a municipal policeman, and Mbokeli Mavela, convicted for killing a white construction worker in a Uitenhage township. This reduces to nine the HRC's list of "politicals" on Death Row.

The Star spoke to Mncube's mother, Winifred Mzondwasi Mncube, minutes after she had heard the news from lawyers. Her declaration of "I'm very excited" was unnecessary; her voice rang over the wires.

Mrs Mncube still hoped that her son and Nondula would be freed in terms of the Pretoria Minute.

Death penalty a weighty matter prior to new constitution

(252)

JO-ANNE COLLINGE considers whether legal reforms offer the Government protection against fire from the abolitionist camp and how much has really changed since 1990

STAR 25/3/92

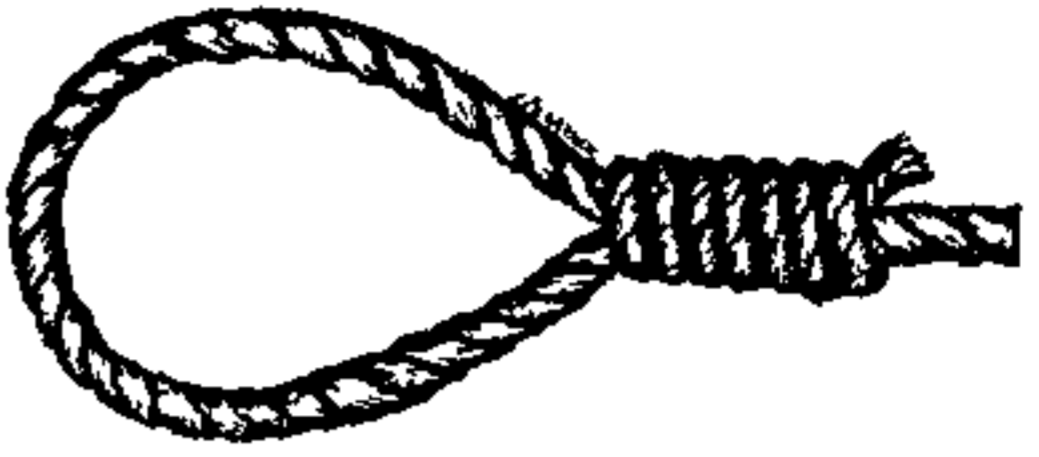
TOWARDS the end of 1989, as the campaign against capital punishment swelled, the Government announced a moratorium on executions pending reform of the law.

In effect, this suspension of executions is unbroken — but the Ministry of Justice has given notice that 17 condemned prisoners have reached the end of the legal line and "the law will (eventually) take its course".

The promised changes to the law were effected in mid-1990. They did not include the outlawing of the death sentence. So the implication is that the 17 are liable to hang — unless political pressure secures an undertaking from the present Government that all executions will be stayed until a new constitution is in effect.

Do the 1990 reforms provide the Government with any meaningful protection from the abolitionist lobby? How much has really changed since the moratorium started?

At the outset a distinction has to be made between the



"moral" and "legalistic" abolitionist camps. The former will never be content with anything less than the scrapping of the death sentence.

The latter will argue that, if perfect justice could be achieved in administering the death penalty, it might be defensible. So, how much closer to perfect has the system got?

The thrust of reform was the amendment of the Criminal Procedure Act in mid-1990.

This attempted to address the question of error, principally in increasing the number of checks and balances.

● It guaranteed an automatic right of appeal to all those sentenced to death.

● It instituted review procedures even where condemned prisoners chose not to exercise the right of appeal.

The amendment also accorded judges a discretion in imposing the death sentence, whereas previously death had been mandatory for murder in cases where the defence was unable to establish extenuating circumstances.

The new law was brought into effect in such a way that longstanding Death Row prisoners, who had been refused the right of appeal under the old law or whose appeals had

failed, could take advantage of the new provisions.

For some, this was a dramatic turn. Take Mamuthi Mankete, whose appeal was finally handled by Lawyers for Human Rights (LHR).

After being convicted of murder and sentenced to hang, Mankete was refused leave to appeal by the trial court. He petitioned the Chief Justice for the right to appeal, but failed. When the new scheme came in, his case went before a review panel which looked at it in the light of the new law. Still the death sentence remained.

Eventually, his case was brought before the Appeal Court, which set aside the death penalty and substituted a 15-year sentence. In addition, the court found that LHR's argument that their client had been incorrectly convicted was probably correct. So it referred the case to the State President for

consideration for clemency.

LHR staffer Andries Nel said indications were that Mankete would soon be a free man — after three tortuous years on Death Row.

The point about the Mankete case is that the change in the law helped. But it is arguable that changing his lawyer was even more important. This much was suggested by one of the appeal judges, who commented that the Chief Justice could hardly be blamed for refusing an earlier appeal as the original petition had been so poorly prepared.

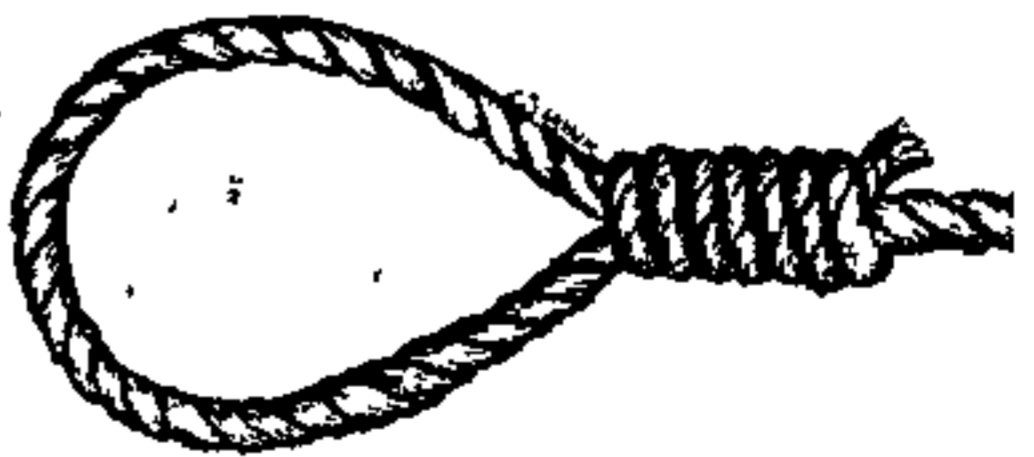
The failure of prominent lawyers to give the 1990 amendment anything more than a lukewarm welcome ran along the lines that it left a lot to luck and money — the luck of drawing a judge who was averse to imposing the death sentence, and the resources to secure good legal counsel and expert

testimony in order to take advantage of the broader definition of mitigating circumstances.

Mr Justice D J Curlews of the Transvaal Bench — who can by no means be mistaken for an abolitionist — acknowledged that only an ignorant or a person with little regard for the truth would deny that judicial attitudes towards the death penalty played a material role in imposing that sentence or refraining.

The constraints of adequate legal defence for the poor remain essentially unchanged. Until very recently, unless there was a political element, most persons accused of capital crimes had to depend on *pro deo* representation organised by the Bar.

Counsel secured under this scheme were not assisted by attorneys, payment for counsel alone was poor and there was



no money available for extra research or the expenses of expert witnesses. A Black Sash study revealed that in funded political trials, 90 percent of cases went on for over a month while most *pro deo* trials were concluded within four days.

Only last year the Appeal Court ruled against setting a rule that legal representation

should be mandatory for accused facing complex charges which carried a high penalty.

University of the Witwatersrand Dean of Law Etienne Murenik's comment when the reform Bill was published spoke loudly of one fact that "mortal error" was always possible and that it could not be contented.

Yet, he observed, the law "stops very short of enacting the logical consequence, which is the abolition of capital punishment".

That this solution is likely to be very seriously weighed in the constitution-making process is highlighted by Sheena Duncan, a patron of the Society for the Abolition of the Death Penalty, who observes that both the latest SA Law Commission report and the ANC draft bill of rights support the right to life as an unqualified entitlement.

Raised in this context, the usual furious debate on the death of the death penalty is likely to take a back seat. □



ANC cadre Mthetheleli Mncube's parents, George and Winnie, are angry over the commuting of his sentence to life term. Pic MBUZENI ZULU

Parents demand:

FREE THEM

Southern 25/3/92
THE parents of ANC cadre Mthetheleli Zephania Mncube greeted his Death Row reprieve yesterday with little glee.

Mncube and another ANC cadre Mzondeleli Euclid Nondula were among 16 Death Row prisoners who were granted a reprieve yesterday and given alternative sentences ranging from 15 years to life imprisonment

Nondula (30) and Mncube (31), were sentenced to death for landmine blasts in Messina in 1988

Their sentences have now been commuted

By ISMAIL LAGARDIEN and THEMBA MOLEFE

252
to life imprisonment

Yesterday's announcement brings to 35 the total number of death penalty prisoners who have had their sentences commuted

Reacting to her son's reprieve, Mrs Winnie Mncube said it was not enough for him to be removed from Death Row

"Why should my son spend his whole life in jail for being an ANC soldier while its leaders are free and talking to the Gov-

To page 2

P.T.O

Neethling case has cost State a packet

(252) ~~252~~ STAR 25/3/92

The State had already paid more than R500 000 in legal costs and surety for counter-claims in respect of the defamation action brought by police forensics chief Lieutenant-General Lothar Neethling against the Vrye Weekblad and Weekly Mail, Minister of Law and Order Hernus Kriel said yesterday.

Replying in the House of Assembly to a written question by Dave Dalling (DP Sandton), he said further provisional costs to the State were expected to be about R233 000.

General Neethling had undertaken to repay all costs for which the State accepted responsibility if the State attorney found that he had forfeited protection in terms of

Treasury instructions.

He had also ceded to the State any claim to legal costs which might be made in his favour by the court.

Should his appeal against the Supreme Court judgment in favour of the two newspapers be upheld, General Neethling would pay attorney-client costs to the State from his compensation.

Mr Kriel said it was "of the utmost importance" to the SAP that its integrity be protected at all times.

If the integrity of a key member of the force was affected, all possible assistance, including financial aid, had to be provided to him to clarify the matter through the courts. — Sapa

Case against hangings

Sowetan 25/3/92 (252)
TWO spokesmen of the Lawyers for Human Rights argued the case for the abolition of capital punishment with *Sowetan*/Radio Metro Talkback Show callers last night

Following the Government's announcement that 17 Death Row prisoners would be executed, Mr Andries Nel and Mrs Paula McBride said capital punishment was a barbaric and an outdated act.

Executions, they said, were usually preceded by unsatisfactory legal representations during trials, racial bias and the insensitivity of judges

They said many people on Death Row did not un-

derstand why they were there in the first place

Their views were supported by most of the callers, though others raised objections

Sandy from Durban said the death penalty was contrary to the Scriptures

"One of the 10 Commandments say 'Thou shall not kill

"By executing a murderer you are committing

the same crime," she said
Pat from Cape Town, supported a moratorium on executions until a new constitution was drawn up

"When a new government takes over it must know human life is sacred," he said

Spy from Durban said those convicted of violent crimes must be given lengthy sentences

Marcel from Eldorado Park supported the death sentence. He objected to taxpayers maintaining hardened criminals

Isaac from Hillbrow said violence had reached frightening proportions. He said only capital punishment could deter it.



Court told of constable's terror

Own Correspondent 

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STAR 25/3/92

DURBAN — Former special constable Marshall Khambule told the Supreme Court in Maritzburg yesterday he had been "terribly frightened" taking part in the attack on house TF83 in Trust Feed where 11 people were shot dead.

It was because of this fear that he decided to open fire "to defend himself".

Mr Khambule, who was giving evidence in his defence before Mr Justice Wilson, is the last of the seven policemen on trial to testify.

In his evidence on the attack in the early hours of December 3 1988, he said he and the three other special policemen had been taken to the house by Captain Brian Mitchell, station commander at the New Hanover police station.

They had walked to within about 20 metres of the house — there was light coming from inside — where Captain Mitchell repeated what he had told them earlier that this was the house with the terrorists and that they were to surround it and attack it. They were to pick up their spent cartridges afterwards. He and Thabo Sikhosana went to the front of the house. The other three went to the back

He was leaning against the wall next to the window and heard Mr Sikhosana knock at the door. He heard a man's voice ask "Who is there?"

Mr Sikhosana had responded that it was the police. Immediately the lights inside went out and he heard two gunshots.

He said the shots had sounded as if they might have come from inside the house. He saw the curtain move and he fired.

He said he had been terribly frightened at the time. Playing on his mind was having met during the morning before an injured man who had told them a handgrenade had been thrown into his house.

Also, they had met Constable Willem de Wet who had warned them that the situation was bad and that they should be careful.

And when Captain Mitchell had woken them he was in an angry mood as if something serious had taken place and he had told them about the presence of terrorists.

"With all this on my mind, I was so terribly frightened that I believed the only way I would survive was by the mercy of God," Mr Khambule said. "Then I realised to defend myself I should shoot."

He fired several shots through the window.

A few days after the attack, when he read in a newspaper that the dead people killed had included women and a child as young as four, he had been "spiritually upset".

Also appearing before Mr Justice Wilson charged with 11 counts of murder and eight of attempted murder are: Captain Jacobus van den Heever, Captain Mitchell, Sergeant Neville Rose, Special Sergeant Dumisane Ndwalane and Special Constables Kelia Ngubane and Thabo Sikhosana.

All seven men have pleaded not guilty to the charges. The hearing continues.

'Terror campaign' to be investigated

By Peter Fabricius
Political Correspondent

The Goldstone Commission on political violence is to meet urgently on Friday to ask the IFP to verify allegations it made yesterday that the ANC/South African Communist Party alliance is about to launch a terror campaign against the IFP on the Reef.

The IFP's Transvaal leadership would have to provide the commission with information about its allegations, Mr Justice Goldstone, chairman of the Commission Regarding the Prevention of Public Violence and Intimidation, said yesterday.

He appealed to the public, and especially the IFP, not to act on the unsubstantiated rumours in the meantime.

Attacks on Zulu-speakers and hostel dwellers would increase from today, IFP chairman Dr Frank Mdlalose said yesterday.

Addressing a press conference at Codesa, he claimed the IFP had information that "certain people" were collecting guns which had been stockpiled in their "tens of thousands" in the eastern Transvaal and on the East and West Rand.

He said the IFP believed the guns would be used against Zulu-speakers and Zulu hostel dwellers.

Dr Mdlalose and Dr Ben Ngubane, an IFP central committee member and KwaZulu's Minister of Health, alleged that violence had increased since SACP general-secretary Chris Hanu addressed a rally in Empangeni recently.

"We can't go on at great speed at Codesa if our leaders are killed," said Dr Ngubane. It was the duty of the State to pro-

tect all citizens, but because of the nature of the attacks, police were unable to protect everybody. It was therefore the duty of the Government to disband the ANC's military wing, Umkhonto we Sizwe, he added.

Contacted by The Star, Mr Hanu denied the allegations. He said there had been violence in the Empangeni area before he addressed the rally.

He said he had been prevented from entering the township by armed IFP members, and that the violence in the area was directed against ANC and Cosatu members.

● The PAC announced yesterday that it would embark on a campaign aimed at ending the slaughter on Reef trains.

National campaigns committee chairman Ntsudeni Madzunya said the programme entailed a boycott of trains and a national work stayaway.

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Train ~~252~~ attacks: three in court

Sowetan 26/3/92

THREE inmates of Soweto's Merafe Hostel yesterday appeared in the Johannesburg Magistrate's Court in connection with two attacks on Johannesburg trains in which 10 people were injured last Thursday

Mr Icam Mazibuko (24), Mr Michael Mnguni (26) and Mr Phineas Tshabalala (24), were arrested on Monday on charges of attempted murder

They were remanded in custody until March 31, when a formal bail application is expected to be made

A senior Inkatha Freedom Party member, Mr Anthony Lamula, was questioned by police yesterday and later released

About 200 Merafe Hostel dwellers spent the day outside the court yesterday apparently to show support for the three alleged attackers - Sowetan Reporter

Bill of rights may end death penalty debate

Sowetan 26/3/92

252

TOWARDS the end of 1989, as the campaign against capital punishment swelled, the Government announced a moratorium on executions pending reform of the law.

In effect, this suspension of executions is unbroken - but the Ministry of Justice has given notice that 17 condemned prisoners have reached the end of the legal line and "the law will (eventually) take its course".

The promised changes to the law were effected in mid-1990. They did not include the outlawing of the death sentence. So the implication is that the 17 are liable to hang - unless political pressure secures an undertaking from the present Government that all executions will be stayed until a new constitution is in effect.

Do the 1990 reforms provide the Government with any meaningful protection from the abolitionist lobby? How much has really changed since the moratorium started?

At the outset a distinction has to be made between the "moral" and "legalistic" abolitionist camps. The former will never be content with anything less than the scrapping of the death sentence.

The latter would argue that, if perfect justice could be achieved in administering the death penalty, it might be defensible. So how much closer to perfect has the system got?

The thrust of reform was the amendment of the Criminal Procedure Act in mid-1990. This attempted to address the question of error, principally in increasing the number of checks and balances in the judicial process. It guaranteed an automatic right of appeal to all those sentenced to death.

It instituted review procedures even where condemned prisoners chose not to exercise the right of appeal.

The amendment also accorded judges a discretion in imposing the death sentence, whereas previously

Do legal reforms offer the Government protection against fire from the abolitionist camp over the death penalty? A Sowetan correspondent reports



Sheena Duncan is a patron for the Abolition of the Death Penalty

death had been mandatory for murder in cases where the defence was unable to establish extenuating circumstances.

The new law was brought into effect in such a way that longstanding Death Row prisoners, who had been refused the right of appeal under the old law or whose appeals had failed under the old law, could take advantage of the new provisions.

For some this was a dramatic turn. Take Mambuti Mamkela, whose appeal was finally handled by Lawyers for Human Rights.

After being convicted of murder and sentenced to hang, Mamkela was refused leave to appeal by the trial court.

He petitioned the Chief Justice for the right to appeal, but failed. When the new scheme came in, his case went before a review panel which looked at it in the light of the new law.

Still the death sentence remained.

Eventually, his case was brought before the Appeal Court, which set aside the death penalty and substituted a 15 year sentence.

In addition the court found that LHR's argument that their client had been incorrectly convicted was probably correct. So it referred the case to the State President for consideration for clemency.

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The point about the Mamkela case is that the change in the law helped. But it is arguable that changing his lawyer was even more important. This much was suggested by one of the appeal judges who commented that the Chief Justice could hardly be

blamed for refusing an earlier appeal - the petition had been so poorly prepared by his original legal representative.

The failure of prominent lawyers to give the 1990 amendment anything more than lukewarm welcome ran along the lines that it left a lot to luck and money - the luck of drawing a judge who was averse to imposing the death sentence and the resources to secure good legal counsel and expert testimony in order to take advantage of the broader definition of mitigating circumstances.

Mr Justice DJ Curlewis of the Transvaal Bench - who can by no means be mistaken for an abolitionist - acknowledged "only an ignoramus or a person with little regard for the truth would deny that judicial attitudes towards the death penalty" played a material role in imposing that sentence or refraining

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equate legal defence for the poor remain essentially unchanged. Until very recently, unless there was a political element, most persons accused of capital crimes had to depend on Pro Deo representation organised by the Bar.

Counsel secured under this scheme were not assisted by attorneys, payment for counsel alone was poor and there was no money available for extra research or the expenses of expert witnesses.

A Black Sash study revealed that in funded political trials, 90 percent of cases went on for over a month while most Pro Deo trials were concluded within four days.

Not much has changed since then, although the newly instituted public defenders project could, in the long run, spell a more comprehensive defence for those accused of capital offences.

Only last year however, the Appeal Court ruled against setting a rule that legal representation should be mandatory for accused facing complex charges which carried a high penalty.

The court pointed out that the costs of this had not been researched - but were probably considerable - and it could not dictate policy to the Government in respect of legal aid provision.

Wits University dean of law Professor Etienne Murenik's comment when the reform Bill was published was that the extensive checks spoke loudly of one fact that "mortal error" was always possible and that it could not be countenanced.

Yet he observed, the law "stops very short of enacting the logical consequence, which is the abolition of capital punishment."

That this solution is likely to be very seriously weighed in the constitution-making process is highlighted by Mrs Sheena Duncan, a patron of the Society for the Abolition of the Death Penalty, who observes that both the latest report of the South African Law Commission and the ANC draft Bill of Rights support the right to life as an unqualified entitlement.

Raised in this context, the usual furious debate on the death of the death penalty is likely to take a back seat.

Sowetan
Correspondent

FORMER special constable Mr Marshall Khambule told the Supreme Court in Maritzburg he had been "terribly frightened" when taking part in the attack on house TF83 in Trust Feed

Cop was scared during raid

Telling the court of the attack which took place in the early hours of December 3 1988 in which 11 people died, he said he and the three other special policemen had been taken to the house by Captain Brian Mitchell, the station commander at the New Hano-

ver police station. They had walked to within about 20 metres of the house - there was light coming from inside - where Mitchell repeated what he had told them earlier, that this was the house with the terrorists and that they were to surround it and attack it.

He leaned against the wall alongside the window and heard Sikhosana knock at the door. He heard a man's voice ask "Who is there?"

Sikhosana had responded that it was the police. Immediately the lights inside went out and he heard two gunshots.

Questioned later he said the shots had sounded like they might have come from inside the house.

He said he had been terribly frightened at the time. Playing on his mind was having met, during the morning before, an injured man who had told them that a handgrenade had been thrown into his house. Mitchell woke them in an angry mood as if something serious had occurred and he told them about the presence of terrorists. After the attack he and the other three special policemen left the house and went to Mbongwe's store where they again saw Mitchell. The store was burning.

The seven policemen appearing in court have pleaded not guilty to 11 counts of murder and eight of attempted murder.

Khambule, who was giving evidence in his defence, is the last of the seven policemen on trial before Mr Justice Wilson to testify

Sowetan 26/3/92

(252)



Petane to sue state for R1m

CT 26/3/92 (252)

By **RONNIE MORRIS**
Supreme Court Reporter

ANC executive member Mr Mxolisi Petane, discharged in the Supreme Court yesterday on charges of murder and attempted murder, is to sue the state for R1-million in damages for malicious prosecution

He has also instructed his lawyers to have a state witness, Mr Welcome Qonya, prosecuted on a charge of perjury on the grounds that his statement to the police "differed entirely" from his evidence in court, Mr Petane said yesterday

Mr Petane said that at the start of the trial he had refused to plead because he considered the trial an attack on him and the ANC. He had also said then and repeated now that he had been framed

"When the trial started I immediately disclosed that at the precise time these offences were committed I was engaged at the Goodwood Showgrounds writing Unisa exams"

The state persisted with the prosecution. He resented the fact that the prosecutor did not check his alibi and halt the prosecution

"This view has now been vindicated," he said

Mr Petane was arrested in a "melodramatic fashion" at the ANC offices in November last year when more than 10 heavily armed policemen surrounded the office

Mr Petane was then detained and interrogated about the role and func-

Senior ANC man cleared of murder

Supreme Court Reporter

SENIOR ANC member Mr Mxolisi Petane was found not guilty and discharged in the Supreme Court yesterday on charges of murder and attempted murder arising from an incident at the Nyanga taxi rank in October last year.

Mr Justice JJ Fagan refused applications by Sergeant Tutuse Gubeni and Mr Michael Kupiso for their discharge and ruled the prosecution against them should continue because at this stage in the trial there was evidence on which reasonable people could convict them

Referring to earlier evidence for the state, Mr Justice Fagan said one witness, Mr Michael Mashiya, had identified Mr Petane only by his physique.

His evidence had been "very weak" and untrustworthy.

There had also been "numerous material differences" in the evidence of another witness, Mr Welcome Qonya, and a statement to the police.

Mr Qonya's evidence was "totally unreliable" and so little value could be attached to it that no reasonable person could convict Mr Petane, Mr Justice Fagan said.

The trial continues on April 7

tions of various officials and structures of the ANC

"We regard with contempt the repeated attempts of the police to create the impression that the ANC is involved in violent activities in connection with the taxi war, a view they have even tried to put forward at the Goldstone Commission"

They had produced no evidence to this effect

Asked to comment, Captain Attie Laubscher, a police liaison officer, said "We do not comment on court findings. We must first study it before we can comment"

Poll urged on death penalty

THE Democratic Party yesterday urged the government to hold a referendum to test the nation's views on the death penalty.

The DP's deputy justice spokesman, Mr Mahmoud Rajab, said that while Codesa must reach agreement on the death penalty, it was "highly desirable" that the will of the people be ascertained. (252)

● The Association of Law Societies said it was inappropriate to recommence executions when the matter was being considered at a constitutional level.

● Minister of Justice Mr Kobie Coetsee said yesterday no one in South Africa had been sentenced to death for his political beliefs. — Political Correspondent and Sapa. (26/3/92)

Major strides to restore rule of law

Source: Jan 26/3/92
MAJOR strides towards the restoration of the rule of law and an end to whites-only membership of the National Party signified change during the last year, noted the South African Institute of Race Relations annual survey.

The SAIRR said the Internal Security Act, which provided for indefinite detention without trial on the whim of the police, was amended last year to limit detention to 10 days with longer periods requiring authorisation by a judge.

Major discriminatory laws repealed during the period reviewed by the 1991/92 survey included the Group Areas, Land, and Population Registration Acts.

The just-published survey noted that international television cameras watched State President FW de Klerk as he signed the repealing legislation towards the end of June last year.

Not all South Africans applauded De Klerk's liberalising moves, said the survey.

The Conservative Party commented that structures which had existed for 300 years "have been abolished without any proper thought-out new plan for the future".

Lawyers for Human Rights, however, published a report in November listing 22 apartheid laws which, it said, were still on the statute book, among them the 1983 constitution

Laws

The survey reported that change was not limited to the repeal of laws.

In October it was reported that at least a quarter of the delegates at the NP's Cape congress were people previously excluded from membership on the grounds that they had been classified coloured.

A month after that the congress of the NP's Transvaal wing was addressed for the first time by an African delegate.

The SAIRR further reported the cause of civil liberties was promoted in 1991/2 by the SA Law Commission which published a draft Bill of Rights in November with a strong emphasis on individual liberty.

The commission emphasised its belief that group rights could be protected only through individual rights.

However, the introduction of the notion of class action would enable a person to go to court on behalf of a whole group. The Government would be barred from supporting schools or private organisations which discriminated on the grounds of race, noted the survey - *Sapa*.

The naning debate

Ultimate deterrent or terrible backward step? 252

THE almost comforting Biblical ring of eye-for-an-eye justice belies the fierce moral and judicial controversy that surrounds the death penalty. The resumption of executions in South Africa has stirred the debate afresh. Political Correspondent MICHAEL MORRIS reports.

APR 26/3/92

MURDER by the State is how the abolitionists describe death by execution, but, at a time when gratuitous brutality has become a chilling feature of soaring crime, the government feels the ultimate deterrent is worth trying to gain.

As in the abortion debate, the dilemma lies in reconciling morality with pragmatism.

But beyond this, there are serious implications for the negotiation process.

A Bill of Rights entrenching the right to life is foreseen as the principal foundation of the new South Africa, underpinning, eventually, the new constitution.

Yet, some lawyers have argued that the right to life may not be reconcilable with the death penalty, and the government's announcement could be read as a unilateral action that flies in the face of its commitment to negotiate a new civil order in South Africa.

The controversial announcement of the resumption of executions arises from the work of the Panel for the reconsideration of Sentences of Certain Persons Sentenced to Death.

The panel was established after the mandatory imposition of the death penalty was abolished by the Criminal Law Amendment Act in July 1990 which followed the reform announcements by President de Klerk in February 1990.

The panel was intended to review cases of people sentenced to death before the new Act came into effect, and to assess their sentences in terms of new provisions.

With the first executions — 17 people in all — set down for the third week in April, the fate of 275 prisoners on Death Row in Pretoria now depends on the process of review. And the storm of protest that greeted the announcement.

Democratic Party MP Mr Peter Sioal has formally asked President De Klerk to delay executions until Codesa has negotiated capital punishment.

His move followed warnings by two legal experts that the resumption of capital punishment was in contempt of the negotiation process since the death penalty was on the negotiation agenda.

Professor Jan van Rooyen of the Society for the Abolition of the Death Penalty in South Africa responded "The

government is jumping the gun and plans, in the face of these negotiations, to do a unilateral act with irreversible consequences.

"It is totally insensitive to justice, in the sense that we all know we will have a Bill of Rights and a constitutional court within a year or two, and that the validity of our death sentence will be decided upon there."

And the dean of Wits University law school, Professor Etienne Murenik warned that the government was "breaking faith with many who voted for peace and a return to the international community in the referendum last week."

He added "The decision to put 17 people to death will be taken to signify that life counts for very little in this country and that violence is unremarkable. It will also reveal the many countries who consider the end of the death penalty as important a step towards full civilisation as was abolition of slavery."

Others were equally condemnatory. Lawyers for Human Rights said the step was "very retrogressive", the Legal Resource Centre described it as a "terrible step

backwards", the National Association of Democratic Lawyers said it was "horrified" and the Society for the Abolition of the Death Penalty believed it was "appalling".

The government is known to be worried about the public — and international — reaction to the resumption of hangings and might yet modify the policy, but, equally, there is grave concern about the rising level of crime and, particularly, the wanton brutality of so much of the serious crime.

This was a prominent feature of the No-vote assault on the government during the referendum campaign and remains one of the main factors behind the high level of insecurity and uncertainty about the future among so many South Africans.

Ultimately, one would have thought the test of the resumption of executions would have to be a comparison of murder rates, before and after.

But, in a debate that is neither entirely about morality, nor entirely about efficacy, perceptions could possibly count more than statistics.

Politicians face a difficult choice. And a mounting campaign is certain to make it harder.

Let the people decide:
Call for a referendum

THE government should ascertain the will of the people on the question of the death penalty, according to Mr Mahmoud Rajab MP, the Democratic Party's deputy spokesman on justice.

He urged the government to do so by a national referendum.

The death penalty was an emotive issue in a highly diverse society. This appeared to have affected the judiciary as well, with some leading judges against it while others were for it.

While it was important for Codesa to reach agreement on this issue it was also desirable to ascertain the will of the people, Mr Rajab said.



Education department rejects 70 000

B/Days 27/3/92
CAPE TOWN — About 70 000 applications to study at black training colleges were turned down this year — even though white teacher training colleges were half empty.

Education and Training Minister Sam de Beer said yesterday 70 000 applicants were refused admission to colleges falling under his department.

Earlier this week, Education and Culture Minister Piet Marais said although his department's training colleges had a capacity of 10 150, the number of students

Political Staff
 enrolled was 5 471.

This means there are 4 689 empty places at "white" training colleges.

Marais said the number of students at the white training colleges declined from 13 077 in 1986 to 7 934 last year.

De Beer said his department had a maximum number of students who could be enrolled at each college of education, as well as the intake of first-year students.

Interim govt 'the key to ending violence'

B/Days 27/3/92
VIOLENCE would not stop unless SA got an interim government with sovereign power to take charge of the security forces and gain access to government covert operations, SA Council of Churches general secretary the Rev Frank Chikane said last night.

Speaking at the Wits University arts students' graduation ceremony, Chikane said the peace accord could only deal with open organisations, and that it was only the government of

KATHRYN STRACHAN
 the day that could deal with covert operations.

"The apartheid system has created a dangerous and disastrous culture of violence and intolerance among whites and blacks which threatens the negotiations process," he said.

Democratic principles for whites were only upheld within the framework of apartheid.

"For blacks, the system and laws created a situa-

tion where they had to fight for every single right and demand for justice. And for every articulation of their rights, violence was used against them," he said.

Chikane said universities faced a difficult challenge in redressing inequalities as they were called to start from a situation where only 10% of black students who wrote matric in 1991 gained university exemptions.

Special educational and training programmes were needed to turn the tide.

New means of entering legal profession proposed

B/Days 27/3/92
GERALD REILLY (252)
THE Association of Law Societies has proposed new entry routes into the legal profession.

An association spokesman said until now the only route had been that law graduates with B Proc or LLB degrees had to complete two years' articles at an attorney's firm before being admitted to the profession.

The new routes would alleviate the problems many law graduates experienced in obtaining articles of clerkship.

If the proposals were accepted it would mean the traditional system of articles could be shortened, or replaced, by community service at the offices of public defenders, law clinics or similar organisations.

The community service would be aimed at giving graduates wider representation in criminal cases as well as in civil actions. Should this system be introduced, about 600 more people would be able to represent members of the public in court.

It would operate under a legal aid dispensation and could be funded from the existing legal aid budget and a part of the savings the system would bring about. Advantages of the system would be

- Wider representation of accused,
- Fewer people sentenced to jail,
- Big savings for the Correctional Services Department,
- Widespread extension of the legal aid system,
- Enhanced chances of entering the profession, and
- More employment for law graduates and attorneys.

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● Application

Coetzee 'can't testify in SA'

LONDON. — The family of murdered ANC lawyer Mr Griffiths Mxenge has abandoned plans to fly renegade "death squad" policeman Captain Dirk Coetzee to Durban to appear as a witness against the government

Mr Mxenge's family is suing the Ministry of Justice for compensation for his death in 1981. The civil action was due to start in Durban on April 16, but was postponed yesterday because of

President F W de Klerk's failure to respond to an application for temporary immunity from prosecution for Captain Coetzee, who lives in hiding in London.

Mr Louis Skweyiya, lawyer for the Mxenge family, said the immunity order and guarantees for Captain Coetzee's security required Mr De Klerk's approval and his office had indicated six months ago that this would be given in the interests of justice.

252 CT 27/61
"The police and the government know that Captain Coetzee is the key witness. I am concerned that this delay amounts to deliberate obstruction," said Mr Skweyiya.

He said he had written to the Ministry of Justice seeking a postponement of the case, probably until June, "so we can arrange for Captain Coetzee to give his evidence to a judicial commission in London"

No win, no fee system proposed

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CT 27/3/92

Own Correspondent

JOHANNESBURG — The Association of Law Societies (ALS) has recommended to its members the introduction of a "no win, no fee" system of payment for litigation

The proposal would apply only to claims for damages and would come into effect once the ALS's provincial societies had provided for the system in their rules

Advocates would have to get the permission of their bar councils before accepting briefs under the system

The Association of Law Societies has also proposed new entry routes into the legal profession

An association spokesman said that until now law graduates with B Proc or LIB degrees had to complete two years' articles at a firm of attorneys before being admitted

The new routes would alleviate the problems many law graduates had in obtaining articles,

If the proposals were accepted it

would mean the traditional system of articles could be shortened, or replaced by community service at the offices of public defenders, law clinics or similar organisations

The community service would be aimed at giving graduates wider representation in criminal cases as well as in civil actions. Should this system be introduced, about 600 more people would be able to represent members of the public in court

It would operate under a legal aid dispensation and could be funded from the existing legal aid budget and a part of the savings the system would bring about

"The new approach will lead to enormous savings to the Department of Correctional Services as fewer people will be sent to jail," the ALS spokesman said

Another advantage would be that the Correctional Services Department would no longer have to release prisoners before they had served their full sentence because of overcrowding in prisons

Coetzee 'will not be prosecuted'

B Day 27/3/92

LONDON — Criminal proceedings would not be brought against self-confessed "death squad" operative Capt Dirk Coetzee, the SA Justice Department announced yesterday

The department said Coetzee's legal representative was informed last week the police did not intend instituting legal proceedings against him.

The department was reacting to statements made by Coetzee that he would not return to SA to testify in a court action regarding the murder of ANC lawyer Griffiths Mxenge without indemnity

The department said Coetzee did not require temporary indemnity to return to SA to give evidence in court

"We are consequently at a loss to understand Coetzee's reticence to return to SA unless other reasons exist to explain this," the department said

The family of Mxenge has been forced to abandon an application to fly the renegade Coetzee to Durban to appear as a star witness against government

Coetzee and the Mxenge family's lawyers yesterday accused President F W de Klerk and the Justice Ministry of obstruct-

IAN HOBBS

ing the action

The Mxenge family, which is suing the Justice Ministry for compensation, claims government is ultimately responsible for ordering Mxenge's murder near Durban in 1981, when he was hacked to death by Coetzee's "death squad" of four black policemen

The civil action was due to open in Natal on April 16, but was postponed yesterday because of De Klerk's failure to respond to an application for temporary immunity from prosecution for Coetzee

Louis Skweyiya SC, acting for the family, said the immunity order, and guarantees for Coetzee's security, required De Klerk's approval and his office indicated six months ago this would be given

"Six months later and we are still waiting," said Skweyiya "Without his evidence there can be no action for compensation"

He said he had had to write to Justice seeking a postponement to arrange for Coetzee to give his evidence to a judicial commission in London He regarded this situation as "far from ideal"

'Trust Feed shots were a shock'

STAR 27/3/92

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Ow Correspondent

MRITZBURG — Former special constable at Trust Feed trial accused David Khambule yesterday said a spent cartridge from his shotgun must have been ejected through a window into the house where men, women and children were killed in 1988.

He said he had shot through a window, and denied under cross-examination that he ever entered the house where the massacre took place in the early hours of December 3 1988.

Four special policemen, Mr Khambule, Cyprian Ngubane, Thabo Sikhosana and Roy Ndwalane, and three other policeman, Captain Jacobus van den Heever, Captain Brian Mitchell and Sergeant Neville Rose, are charged with the killings.

The four special policemen have denied entering the house and said they were unaware the victims included women and children. They claim they believed they were attacking terrorists on the instructions of former New Hanover station commander Captain Mitchell.

Mr Khambule was questioned as to why he

had found it important to mention in his testimony that he (Khambule) wore canvas shoes that night. He denied that the reason was that he remembered the evidence of survivors that some of the attackers seen inside the house had worn boots.

Mr Khambule said he and his colleagues did not discuss the shooting and he did not inquire from the others immediately afterwards what they had done. He said he was in a state of shock and stricken with fear.

Even though he had not fired at anybody, the gunshots that went off at the scene had shocked him, he said.

Mr Justice Wilson said he could have understood that Mr Khambule was shocked if he had entered the house and realised that he had been tricked into shooting women and children, and by the sight of dead people inside. "I cannot understand how someone who is trained in the use of shotguns claims that because some 15 shots were fired in his vicinity, he was in a state of shock for the rest of the night."

Mr Khambule replied that not everyone "thinks the same way".

The hearing continues

Coetsee ⁽²⁷⁾ suspends executions

By BARRY STREEK

THE government last night suspended executions until an agreement on an interim bill of rights has been reached.

The move — announced in a statement by the Minister of Justice, Mr Kobie Coetsee — will remove the potentially divisive issue of the death penalty from the Codesa negotiations and defuse international opposition to the decision to resume executions.

Sentences would not be carried out pending the outcome of negotiations on an interim bill of fundamental rights, the minister said.

The government was convinced that its present policy of retaining the death penalty was both morally and legally sound.

It gave proper effect to the duty of the state to safeguard the interests of its citizens.

Mr Coetsee said the courts would continue to apply the law as it stood and pronounce death sentences where appropriate.

The state president would also continue to consider possible reprieves in those cases where the Appellate Division confirmed the death sentence.

The South African Law Commission had proposed the death penalty be depoliticised and be dealt with by a future constitutional court in accordance with legal criteria laid down in a bill of rights.

Since 1991 61 reprieves from the death sentence have been granted.

IFP taken to task over 'ANC terror'

^{South 283-214/92}
THE Inkatha Freedom Party (IFP) was rapped over the knuckles this week in a remarkable statement by the Goldstone Commission of Inquiry regarding the prevention of public violence and intimidation

Issued by Mr Justice RJ Goldstone, chairperson of the commission, the statement responds to Transvaal IFP claims about "underground ANC structures" about to launch a "terror campaign" against Inkatha leaders and residents of Inkatha-supporting hostels

Because of the seriousness of the allegations the Commission will meet urgently on Friday when the

²⁵²⁷
IFP in the Transvaal will be required to disclose the sources of allegations to the commission.

"In the meantime I would appeal to the public and in particular members of the IFP not to act on what are at this time unsubstantiated allegations," said the judge

The alleged plan, according to the IFP, was being "engineered by MK commanders in Soweto".

The judge said: "The IFP statement contains other very serious allegations concerning the 'terror campaign' which I consider not to be in the public interest to repeat"

— Sapa



Executions put on hold

Sowetan

30/3/92

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THE death penalty is to be suspended pending the outcome of discussions in Codesa on an interim Bill of Fundamental Rights.

The Minister of Justice, Mr Kobie Coetsee, announced this dramatic decision on Friday following a week of intense uncertainty and speculation about the fate of prisoners on Death Row

Coetsee seemed to have bowed to public pressure which mounted during the week in response to his disclosure last weekend that executions were to be resumed

Democratic Party MP for Johannesburg North, Mr Peter Soal, specifically appealed to State President FW de Klerk to suspend executions until the whole question of the death penalty had been decided at the Convention for a Democratic South Africa

This has now been done

Coetsee said in a statement opinions about the death

Sowetan Correspondent

penalty differed substantially

Some felt it was a cruel and inhuman punishment while others said it was in extreme cases the community's only effective safeguard against violent crime

The Government was not insensitive to the divergent views and had recently made the death penalty discretionary and had implemented automatic review of death sentences by the Appeal Court

He said that in its interim report on group and individual rights in October 1991, the SA Law Commission proposed that the death penalty be depoliticised

Coetsee said the Government was convinced that retaining the death penalty was morally and legally sound and gave proper effect to the duty of the State to safeguard the interests of all citizens

PRETORIA —The Inkatha Freedom Party was acting on hearsay information when it warned of a massive ANC attack on its members, hostels and leaders

This emerged in Pretoria yesterday at an urgent sitting of the Goldstone Commission of Inquiry into the Prevention of Public Violence and Intimidation

The sitting followed a press conference on Monday when the IFP alleged it had information of a large-scale attack planned on Zulu people in general by the military wing of the ANC, Umkhonto we Sizwe. The IFP also claimed more than

'Huge ANC attack' on Zulus all hearsay, judge told

STAR 28/3/92

40 000 arms were hidden on the Reef for this purpose

Mr Justice Goldstone repeatedly asked people on the stand whether their information had been verified

Musa Myeni, IFP leader in the Transvaal, conceded that the press statement could have been inflammatory and may have had an "alarming and shocking effect", but said his main concern was to warn his people

"It is absolutely impossible to verify such informa-

tion, as gathered by our intelligence people on the ground, within 24 hours," said Myeni

"Although we informed the police, the closeness of the attack dates (March 25 and 26) left us no time to warn people or verify the information"

John Mlangeni, West Rand chairman of the IFP who gave the information to Myeni, said he had been told about the imminent attacks by two cleaning women although he knew only one of

OWN CORRESPONDENT

See 'Alexandra in Focus'

— Pages 10 and 11

their names and did not know where they worked, he had no reason to doubt their information

Mlangeni could not say whether the women had personally overheard the planning of the alleged attacks, or whether they had heard it

second-hand

Concerning the alleged attacks on IFP leaders, Mlangeni said he had received this information from two party members who had been told by a Rustenburg recruiting officer. He could not explain where the Rustenburg man had picked up his information, although this could be checked

Myeni later said he had received similar information from a woman who had heard it from an unidentified policeman

Mr Justice Goldstone then asked him whether the effect would have been different, or less inflammatory, if the press statement had started "According to information from two cleaning women, of whom we only know one name, and information from an unknown man and an unidentified source"

"Yes, your lordship," said Myeni

Siphwe Nyanda, acting MK chief of staff, said he had been personally in-

voiced in investigating the allegations and had not found any truth in them

"The allegations are not true, and I find it strange that a man of Mr Myeni's intelligence would use information he did not verify. Thus is nothing more than political propaganda."

On behalf of MK, he assured the judge that no attacks were planned on the hostels or homes of Zulus or during the Easter weekend, saying he was totally committed to the Peace Accord

Mr Justice Goldstone did not make a finding, saying he would report to the State President

State backtracks on death penalty

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APR 28 13 192

INTENSE political controversy has prompted the government

to back down on the death penalty, suspending all executions pending negotiations on an interim Bill of Rights at Codesa. This could spell the end of the death penalty in South Africa.

The announcement by Minister of Justice Mr Kobie Coetsee last night — less than a week after he announced the resumption of executions — followed intense political pressure in Codesa and parliament, and sharp criticism from the abolitionist lobby.

In a statement, Mr Coetsee insisted the government's policy of retaining the death penalty was both "morally and legally sound" and gave proper effect to the State's duty to safeguard citizens.

These safeguards, he said, should be included in a Bill of Fundamental Rights.

However, in an acknowledgment that is bound to be seen as a political victory for the

MICHAEL MORRIS, Political Staff
and TED MAGILL, Weekend Aigus Reporter

African National Congress, Mr Coetsee added "Setting the issue of the death penalty on the basis of a negotiated Bill of Fundamental Rights is a valid option that should be properly considered."

"In view of the progress that already has been made in obtaining acceptance for the principle of a Bill of Fundamental Rights, the government has deemed it fair, pending the outcome of discussions on a interim Bill of Fundamental Rights which will be applicable in the transition phase, to suspend the execution of death sentences which have not been committed for a reasonable period of time."

The government was "not insensitive to the divergent views on the death penalty" and recognised that, while some felt it was "a cruel and inhuman form of punishment", others believed that in "some extreme

cases" it was an effective deterrent.

Mr Coetsee said the courts would continue to apply the law as it stood and pronounce death sentences where appropriate. The President also would continue to consider reprieves in cases where the Appellate Division confirmed the death sentence, because it would be "grossly unfair" to keep prisoners who may benefit from a reprieve on death row.

"In this process, decisions may be taken in the most extreme cases under the present law not to commute sentences of death.

"However, these sentences will not be carried out pending the outcome of negotiation on an interim Bill of Fundamental Rights."

He said the government wanted to see a "speedy settle-

ment of the future constitutionality of this form of punishment" and urged all parties to join in the discussions on a Bill of Fundamental Rights.

The government's announcement last Sunday prompted swift and vociferous criticism. The ANC, which ultimately wants an unqualified abolition of capital punishment, described the government's announcement as "uncalled for, unnecessary and provocative."

It is understood Mr Coetsee was sharply criticised at Codesa on Monday for what most parties viewed as a unilateral decision that flew in the face of the government's commitment to negotiating a Bill of Rights. Even the Law Commission — appointed to advise the government — has long held the view that capital punishment should be regarded as a constitutional matter. It has suggested the death penalty be retained, but subject to review in a constitutional court.

Govt steps down on executions

STAR 28/3/92 (252)

BRENDAN TEMPLETON and PETER FABRICIUS

THE GOVERNMENT has suspended its decision to reintroduce the death penalty pending the outcome of discussions in Codesa about an interim bill of fundamental rights

Justice Minister Kobie Coetsee made this dramatic decision yesterday — seemingly bowing to public

pressure which mounted during the week in response to his disclosure last weekend that executions were to resume after an effective moratorium that had lasted since November 1989

Abolitionists last night unanimously welcomed the Government's decision and said the next step would be to have executions permanently banned

ANC spokesman Dr Pallo Jordan described the decision as "commendable" but said it was too early to say if this marked a movement away from confrontational politics by the Government

Democratic Party Johannesburg North MP Peter Soal said he was "absolutely delighted" The next step would be to convince Codesa to enter it into a bill of rights

● See "Speak Out" on Page 2

Human Rights Commission (HRC) spokesman Safoora Sadek said her organisation believed life was a fundamental human right and that the death sentence had to be abolished

Coetsee yesterday said the Government was not insensitive to the divergent views on the death penalty and had recently made it discretionary, with automatic review by the Appeal Court. Proposals that the death penalty be dealt with by a future constitutional court was a valid option

The Government was convinced that retaining the death penalty was morally and legally sound and gave proper effect to the duty of the State to safeguard the interests of its citizens

It believed, too, that the safeguard of the death penalty should be in a bill of rights

But it deemed it fair to suspend the execution of death sentences



WHAT A HOMECOMING. Basking South African cricket captain Kepl

Howling cr

"INCREDIBLE, I've never seen anything like it," said South African cricket coach Mike Procter as tens of thousands of Johannesburgers turned out on the streets yesterday to welcome Keplers and his boys back home

The sportsmen were visibly stunned by the outpour of spontaneous goodwill from the people who thronged the city's streets to say "well done" to the nation's heroes

United Cricket Board of South Africa (UCBSA) managing director Ali Bacher, in an interview with the Saturday Star, attributed the turnout to the joy of a united nation

'People's jury' attack claimed

ARG 28/3/92
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VUYO BAVUMA
Weekend Argus Reporter

A KHAYELITSHA man has told how he was punched and kicked by a "jury" in a "people's court" after he refused to pay a R700 fine

Mr Lindekile Diniso of Site B said he was assaulted because he did not recognise the jurisdiction of a "people's court" over his marital affairs

Mr Diniso, 43, was "convicted" of deserting his wife and four children

He claimed the decision was handed down by members of the Western Cape Civic Association branch at a hearing at Ikhuse Primary School, Site B, about 10 days ago

Mr Diniso was summonsed

after he had slapped his wife, Nomantile, on the face during an argument. His wife moved out of his house and went to stay with her family

Before appearing in the "people's court", Mr Diniso's in-laws fined him four cows or R4 000 for, among other things, "lowering the dignity of their child by assaulting her, not following his wife when she left the house and getting a right to take his wife home"

Mr Diniso did not object to the ruling, as this was in line with his own Xhosa traditional norms, and promised to pay the fine

However, then he was summonsed to appear in the "people's court".

He said many people, includ-

ing "girls and boys", sat in desks around the wall while men, some of whom seemed to be recording the proceedings, were in the front row

After listening to several residents' cases, Mr Diniso was called to the "dock" about 7pm

Before he could speak, a man sitting in the front row accused him of being a "skolie" and warned him "not to play any tricks with us". Another asked Mr Diniso where his wife and children were

He said "I said I wouldn't discuss my affairs because there were boys and children in the room. That's against my traditional upbringing"

"I also told them the matter had been dealt with already in correct traditional channels with my in-laws"

Mr Diniso said several men then jumped up and hit him

"After a while, they stopped and one of them said I should pay R700. I refused to accept the fine because I was neither a thief nor a criminal"

"I promised to return on the following day with the money, although I knew wasn't going to do that," he said

Mr Diniso is now living in fear after the "court" this week threatened to evict him from his numbered shack if he did not pay the fine

He has reported the matter to social workers

Mr Wilson Sidina, Civic Organisations of the Western Cape media officer, said he did not believe the people who assaulted Mr Diniso belonged to their organisation

Women pay heavy price as state saves money in plea-bargains

South 2813 - 2/4/92

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Court cases cost a lot of money. In cases like murder or assault the state bears the cost of prosecution while the accused may hire someone to defend them.

If there is the possibility of a very heavy sentence, and the accused cannot afford a lawyer for the defence, the state will appoint a pro Deo defence.

Like any of us, the state will save money if it can. Plea-bargaining is one way to shorten court cases and save money.

A person charged with murder must be tried. This means a long trial, with the state leading evidence to prove beyond a reasonable doubt that the accused had the intention to

kill. Culpable homicide is killing through negligence — and is an alternative judgement for murder. This means that if murder cannot be proved, a person can still be convicted for "culp".

If a person pleads guilty to culpable homicide, that is he or she did not intend to kill his or her victim, it is obviously to the state's financial advantage to accept this plea.

In such a case, the state need only lead evidence for purposes of sentencing. Mostly this evidence is led in mitigation, but theoretically it can also be used for aggravation of sentence.

Unfortunately our prosecutors are heavily burdened with cases, and

unlike a defence lawyer, do not take a special interest in particular cases as happens in "LA Law". The defence will try to get the accused off with as light a sentence as possible, often pleading that he is a working man and must look after his wife and children.

Where a batterer has killed his lover, plea-bargaining works to the advantage of the man. But where a woman has killed her violent husband, her situation will predispose her to a charge of murder.

Until there is greater awareness among lawyers about what life with a batterer means, the law will not show lenience towards women who choose the ultimate escape.

Court ejects rowdy Inkatha supporters

By MARTIN
NTSOELENGOE

ABOUT 200 people, many wearing Inkatha Freedom Party T-shirts, were ordered out of the Johannesburg Magistrate's Court this week because they were causing a disturbance.

It took the interpreter and two court orderlies 45 minutes to get them out, but the group then went to another courtroom, where they were again told to leave.

After the commotion, Icam Bongani Mazibuko, 24, Xolani Michael Mnguni, 26, and Phineas Bonginkosi Tshabalala, 24, who all stay in the Merafe Hostel, finally appeared on a charge of attempted murder following last Thursday's train attacks.

The hearing was postponed to April 24. Their bail application will be heard on March 31. After the court adjourned the ejected spectators toyed in the street.

Terror plot was

'hearsay'

CLIPRESS 29/3/92
'ANC battle' story
came from cop
2 cleaning ladies

By MARTIN NISOELENQOE and Sapa

ALLEGATIONS by the Inkatha Freedom Party that the ANC was plotting a "terror campaign" against its members were all hearsay, the Goldstone Commission heard this week.

The IFP had based the allegations on unverified information received from two cleaning ladies, an unknown man from Rustenburg and an unknown policeman.

This emerged on Friday in a special sitting of the commission charged with the prevention of public violence and intimidation.



MUSA MYENI

The one-day sitting of the commission in Pretoria was called urgently by Justice Goldstone following public allegations by the IFP leadership earlier this week that the ANC/SACP alliance planned to launch a terror campaign against IFP leaders, members and supporters and in particular residents of Inkatha-supporting hostels on the Reef.

IFP Transvaal leader Musa Myeni admitted to the commission he had not verified the information which he had received from the organisation's West Rand chairman John Mlangeni and an IFP member in Alexandra who had heard it from a policeman. The commission may convene again to hear the policeman's version.

According to the information the ANC/SACP was to attack houses belonging to IFP members and supporters, destroy hostels where IFP members lived and attack members travelling by bus from the Transvaal to Natal.

Myeni said his worst fears had been confirmed by reports that ANC Youth League general secretary Rapu Molekane had been arrested in Soweto, allegedly for possessing illegal firearms.

Myeni also told the commission he was further vindicated by the fact residents had marched on Madala hostel in Alexandra, resulting in the injury of 100 people.

ANC deputy commander and acting Umkhonto weSizwe chief of staff Siphwe "Gebuza" Nyanda told the commission that information contained in the IFP press statement was untrue.

Said Nyanda. "It is very strange that a man of Myeni's calibre and intelligence used the information in the way he did."

"The allegations are totally untrue, and amount to incitement."

With regard to the arms and ammunition allegedly found in the possession of Molekane, he said the Pretoria Minute recognised that the ANC had arms caches in the country. "But we are not using these to attack anybody."

He said MK remained committed to the Peace Accord.

Myeni admitted that the effect of the statement could have been inflammatory, but he had only intended it to alert people of possible dangers.

Myeni admitted that he had not alerted IFP President Mangosuthu Buthelezi or IFP Chairman Dr Frank Mdlalose to the fact that the information came from two cleaning ladies, an unknown man from Rustenburg and an unknown policeman.

Justice Goldstone said the commission would report to the State President on the issue as a matter of urgency.

**Witness
Inkatha
Named**

By SHARON CHETTY

A FIVE-MAN delegation of international civil rights lawyers has blamed Inkatha Freedom Party leader Chief Mangosuthu Buthelezi for the escalation of violence in black townships. (252)

The lawyers, from the International Commission of Jurists, yesterday ended a two-week fact-finding mission to SA.

The jurists said they had predicted earlier that Inkatha would continue to lose support unless Chief Buthelezi "asserts his authority and controls the excesses of his supporters, and in particular the war lords".

They recommended that troops armed with metal detectors be deployed on trains to search commuters in an effort to end attacks on commuters, that the Kwazulu police be placed under South African police command and that hostels be searched and hostel dwellers disarmed.



Foreign team targets Buthelezi

CIPRESS 29/3/92

A TEAM of foreign civil rights lawyers, having completed a two-week visit to SA, yesterday blamed Inkatha Freedom Party leader Mangosuthu Buthelezi for much of the escalation of violence in black townships.

The team recommended that the Kwazulu Police be placed under SA Police command.

In its preliminary report on its mission here, the International Commission of Jurists team also said the ANC had stepped up violent attacks since September last year.

"It is clear that it would not be possible to hold free and fair elections on a one-person one-

vote basis today in the parts of SA we have visited," they told a news conference.

"We believe South Africans should consider inviting an international election monitoring team to supervise the run-up to elections, as well as the election process itself."

In the past four weeks more than 300 people have been killed in political violence and government negotiators have called on black politicians to establish peace if constitutional talks are to advance.

The five-man team said the KZP was biased against foes of the IFP and flagrantly joined in

attacks on township residents in strife-torn Natal.

They said they had toured hostels and are "satisfied that many hostels in the Transvaal are today used as Inkatha barracks".

"It is our view that Chief Minister Buthelezi carries a heavy responsibility for the escalation of violence."

But they pointed out that the ANC had resorted to more violence since the first mission of the team in September last year.

The team said violence had increased since last September, but added that the government had shown signs of commitment to ending violence.

The mission said more deaths

in train attacks could have been averted if the authorities had deployed troops months ago as they had done in the past few days.

They urged the government to continue deploying troops on railway stations.

In other proposals, the team said political leaders, especially leaders of the ANC and IFP, should promote the national peace accord on the grassroots level.

Hostels should be searched, inmates disarmed and the compounds replaced by homes for families and unmarried people - Sapa

Justice 'more accessible'

The Argus Correspondent

PRETORIA. — Today sees the implementation of two important changes to the judicial system, the introduction of lay assessors in court cases and the tightening up of maintenance payments

Under the new Magistrate's Courts Amendment Act, lay assessors can be appointed from the community from which the accused comes, ensuring that courts consider factors such as the culture and background of the accused.

Under the new Maintenance Amendment Act, maintenance payments can be paid directly to the beneficiary instead of to a government institution. Courts can also issue orders for lying expenses, arrear maintenance and medical expenses.

The two amended Acts are part of extensive reform initiatives by the Department of Justice in an effort to make the law more accessible to the public.

Short Process Courts and Mediation Courts are to be introduced later this year. The purpose of these courts, said Justice Minister Kobie Coetsee recently, is to try to settle civil matters informally without having to go through expensive court proceedings.

"The presiding officer may be an attorney, an

advocate or a retired magistrate. The State pays part of the cost of the presiding officer and puts the necessary infrastructure at the disposal of litigants," Mr Coetsee said.

Other courts which have already been introduced are mobile and small claims courts, which are in line with a worldwide search for speedier and less costly ways of resolving disputes, Mr Coetsee said.

The moves to bring justice closer to the man in the street have been welcomed by the legal fraternity, although some reservations have been expressed.

Association of Law Societies (ALS) president Mr Ed Southey said he was concerned that access to the profession was hampered by strict rules of entry and restrictions on court appearance.

To this end, the ALS was investigating the possibility of modifying the system of articles to allow people to enter the profession without serving articles or by serving only limited periods of articles.

Discussions had also begun with the Bar on extending rights of audience in the Supreme Court to suitably qualified attorneys, which would cut legal expenses.

Goldstone inquiry stutters, postponed

St. Times (Cm) 29/3/92 (252)

By KURT SWART

THE Goldstone Commission of Inquiry into the Western Cape taxi war, plagued by false starts and delays, stuttered to a halt this week and was postponed for a month.

Legal counsel for the committee, advocate Johan Slabbert, said on Thursday an adjournment was needed for further investigations.

Little progress was made as evidence was heard this week in a long room on the sixth floor of the N G Sinod Centre in Queen Victoria St, Cape Town.

The bland surroundings of the commission's workings are a far cry from the dusty battlefields of Nyanga and Khayelitsha, scenes of vicious fighting involving rival taxi groups, police and township residents during the conflict between the Lagunya Taxi Association and the Western Cape Black Taxi Association (Webta).

Chairing the Goldstone Commission committee is Cape Attorney General Mr Niel Rossouw, who has been seconded to act as commission vice-chairman.

Other members of the committee are Mr Gert Steyn, retired regional court president of the Eastern Cape, advocate Bernard Ngoepe of the Pretoria Bar, Mr Louis van Zyl, senior partner in a Cape Town law firm, and Mr Slabbert.

Witnesses this week were transport systems analyst Mr Paul Mann, general manager of City Tramways, Mr Frans Mayoss, city council public affairs consultant, Ms Helen Zille and Col Phillipus Nel and Capt. Andrew Miller of the SA Police.

Mr Rossouw said on Thursday that the committee would have liked faster progress, "but the very fact that our hearings have been dogged by waiting, adjournments and changes of plans is an indication that we

should exercise more patience"

"The situation is fraught with difficulty and needs careful and sensitive treatment. Consultations with witnesses and the preparation of representations and statements need to be given more time to properly do justice to our terms of reference," said Mr Rossouw, announcing that the hearing would resume on April 21.

This week's evidence centred on possible technical reasons for the "war".

City Tramways general manager Mr Frans Mayoss, whose buses compete with the taxi groups, said deregulation of the industry had been a recipe for conflict.

Ms Zille criticised the Local Road Transportation Board which issues permits to taxi operators.

"Their record of adminis-

trative chaos suggests almost criminal negligence on their part," she said, alleging that the board had fanned Lagunya resentment by favouring Webta drivers in issuing permits.

The board had been unable to produce lists of registered taxi owners or drivers and it kept no waiting lists nor records of unsuccessful applicants, she said.

Police witness Capt Andrew Miller of the Crime Intelligence Service said Lagunya was backed by the ANC and the civic associations while Webta was seen to be supported by the police and the government.

An assertion by Capt Miller that the ANC had taken sides with the intention of securing transport for mass action drew a sharp response from Ms Zille, who said police bias was clear to those monitoring the conflict.

IFP rumours were 'propaganda'

ALLEGATIONS that the ANC and the SA Communist Party planned to assassinate IFP leaders, destroy hostels and kill Zulus was political propaganda and an incitement to murder

Testifying last Friday before the Goldstone commission of inquiry into the prevention of public violence and intimidation, ANC deputy commander and acting Umkhonto we Sizwe chief of staff, Mr Sphiwe Nyanda dismissed the allegations as untrue and unsubstantiated

The urgent sitting in Pretoria was called following allegations by the IFP that the ANC/SACP alliance were planning a terror campaign against its members

Inkatha leader Mr Musa Myeni said he had received this information from West Rand chairman, Mr John Mlangeni. Mlangeni had said he had been told about the alleged imminent attacks by two women cleaners and an

By MONK NKOMO

(Handwritten initials)

Sowetan 30/3/92

unnamed IFP member in Rustenburg

Questioned by Mr Justice Goldstone, both men admitted they did not take any initiative to verify this information. Nyanda said the ANC investigated the allegations and found they were untrue. The ANC had arms caches in the country, but did not intend using them for this purpose in accordance with the provisions of the Pretoria Minute.

Asked by Mr Justice Goldstone to comment on the evidence given by Myeni and Mlangeni, Nyanda said "It is very strange that a man of Myeni's calibre and intelligence could use unsubstantiated information the way he did."

(Handwritten initials)



Case by case exploration of medical law

DOCTOR, PATIENT AND THE LAW, by S A Strauss (J L Van Schaik, R102,27)

AS THE frontiers of modern medicine are extended, more and more complex legal problems present themselves

S A Strauss, law professor at Unisa and a former vice president of the World Association for Medical Law, has explored some of these problems in detail.

His book — a third edition — is not a textbook on medical law but rather a selection of practical legal issues relating to the doctor-patient relationship in many, varied situations

"The involvement of modern medicine with the law has become total. It is recognised that medical science cannot advance unless the legal environment is sympathetic. Yet it is for the law also to define the permissible limits within which

medicine may be practised," he says.

The diverse range of topics covered include abortion, transsexualism, alcohol abuse, drunken driving, professional secrecy over patient records, medical care of prisoners and detainees, anaesthetic mishaps and missing swabs

The book is not "legalese" but contains many interesting examples

In a chapter dealing with professional secrecy, Strauss looks at the position of a doctor who has dealt with a married couple for years and then is suddenly involved in a legal confrontation between them

The wife could be a patient being treated for a serious neurosis, and the doctor would know she is not a good mother. Or the husband might have received treatment for venereal disease he contracted in an adulterous affair. What does the doctor do when required to supply medical information to one spouse about the other? The answers are in the book.

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Ethical issues are also tackled. On malpractice liability, Strauss says the image of the doctor as benevolent father-figure has become, in a patient's eyes, more like that of impersonal super-technician who must be called to account

He says medical malpractice liability is not confined to liability for negligence. It can include liability for "assault" in the form of an operation performed on a patient without the person's informed consent

Few malpractice trials are brought in SA. By comparison, 16 out of every 100 doctors in the US have faced actions by patients. Most of the claims are settled out of court

Strauss says the number of cases seems to be rising but at present SA law has a somewhat protective attitude towards the medical profession

The book is not a light read, but you never know when you might need it

DIANNA GAMES

Self-confessed police hitman Dirk Coetzee 'won't be prosecuted'

Sowetan 30/3/92

Sowetan Correspondent

Mr Dirk Coetzee, self-confessed former police hitman would not be prosecuted if he returned to South Africa, the Department of Justice said on Friday

"Mr Dirk Coetzee's legal representative was informed on March 20 that the South African Police do not intend taking any steps in respect of the institution of criminal proceedings against Coetzee

"His client, therefore, does not require temporary indemnity to return to South Africa in order to give evidence in a court of law

"We are consequently at a loss to understand Coetzee's reticence to return to South Africa, unless other reasons exist to explain this," a Department of Justice spokesman said

Coetzee, former commander of a Vlakplaas death squad with the rank of captain, has agreed to give evidence in a civil case brought by the family of slain Durban lawyer Griffiths Mxenge

He told the Harms Commission in London of his involvement in the Mxenge murder, and two others

Coetzee has said the only guarantee he would accept was an indemnity signed by President FW de Klerk

ANC spokesman Saki Macozoma said "In his circumstances it is reasonable to want something more substantial than a statement by the Department of Justice"

State lawyers are accused of being racist

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[scribble]

Sowetan 31/3/92

By MONK NKOMO

STATE Attorneys have been accused of racism and denying black advocates advancement in the legal profession by only briefing white lawyers in Supreme Court cases.

Several local black advocates, who insisted on anonymity because of their profession's code of conduct, confirmed that only their white colleagues were briefed by respective State Attorneys countrywide.

"The only reason why this is done is to frustrate black advocates and deny them advancement in the legal profession," one advocate said

Investigations revealed that, because black advocates were not being briefed by the State Attorneys, they could not gain enough experience to help them improve and become senior advocates and eventually judges

State Attorneys' offices pay out millions of rand a year to white advocates for services provided in the Supreme Courts, black lawyers said

"This is taxpayers' money and we also deserve a cut of the money," the lawyers said

Sowetan has established that there are about 50 black advocates in South Africa and only three were senior advocates. They include Mr Louis Skweyiya, Mr HE Mall, both from Durban, and Mr Ismael Mahomed, who was appointed a judge last year

Sowetan has also established that there are about 120 judges - only one of them black (Mahomed) - in the

country

Black advocates interviewed the situation in a very serious light and said even in a new South Africa new democratic laws would be interpreted by white judges who would set a precedent which would have to be implemented by black judges

"Blacks are being deprived the right to progress in the legal field by the State Attorneys who only brief white advocates who in turn climb up the ladder faster than their black colleagues and end up being senior or judges because of the vast experience they gather from these briefings," some black advocates said.

A spokesman for the State Attorneys office in Pretoria denied the allegations and said their policy was to try and distribute jobs among all advocates irrespective of colour and "depending on merit, availability and suitability for the case".

Asked if he had at any stage tried to brief a black advocate, the spokesman mentioned the names of two advocates but said they could not secure their services as they were busy at the time

"How can it be by coincidence that blacks are not briefed? The State Attorney's office has a racist tendency to frustrate black advocates," one black lawyer said