

COMMISSION OF INQUIRY INTO CERTAIN ORGANIZATIONS

APPOINTMENT OF COMMISSION

An account was given on pages 52-4 of last year's *Survey* of the appointment of a Parliamentary Select Committee to investigate the objects, activities, and financing of four organizations and their subordinate bodies, the conversion of this Committee into a Commission of Inquiry, and the terms of reference of the Commission. The membership was increased to ten Members of Parliament, six from the National Party and four from the United Party, the chairman being Mr. A. L. Schlebusch (N.P.).

The organizations to be investigated were the University Christian Movement (which subsequently disbanded), the National Union of S.A. Students (Nusas), the Christian Institute of Southern Africa, and S.A. Institute of Race Relations. The Commission was instructed to inquire into and report on:

- (a) the objects, organization, and financing of the four organizations and any related organizations, bodies, committees, or groups of persons;
- (b) the activities of the organizations, bodies, committees, or groups of persons and the direct or indirect results of those activities;
- (c) the activities of persons in or in connection with the organizations, bodies, committees, or groups of persons and the direct or indirect results of those activities;
- (d) any related matter which came to the notice of the Commission and which in its view called for inquiry;
- (e) to make recommendations if, in view of the Commission's findings, it appeared necessary to do so.

It was decided, in terms of enabling sections of the Commissions Act,¹ that the sittings of the Commission should be held in camera, and that the full evidence would not be published. If a witness so requested, his identity would not be disclosed. No information about the proceedings might be divulged by witnesses or other persons present during the inquiry.

The effect was that representatives and members of the organizations under investigation were unaware of evidence given by others relating to them or their organizations. They were unable to cross-examine witnesses or to refute any allegations that may have been made without their knowledge. Nor could they lead

¹ No. 8/1947 as amended.

their own evidence or call their own witnesses. The participation by counsel was limited to advising clients as to their legal rights. Its terms of reference empowered the Commission to inquire into the personal beliefs and conduct of anyone in any way connected with the organizations under investigation.

RECOMMENDED ESTABLISHMENT OF A PERMANENT INTERNAL SECURITY COMMISSION

On 27 February the Prime Minister tabled in the Assembly two interim reports by the Commission, both of which had been approved unanimously by the members of this body.

It was recommended, in one of the reports, that a permanent, bi-party, statutory Parliamentary Commission be established on Internal Security, to continue the work begun by the existing Commission in respect of "organizations which exist already and which may from time to time come to light". It would consist of six Members of Parliament appointed by the State President, and would be linked to the Department of the Prime Minister. Its powers of investigation and rules of procedure would be similar to those of the existing Commission. The new body would have a mandate to investigate matters affecting internal security which were referred to it by the State President. Existing and proposed legislation and administrative action in the field of internal security should be referred to it for investigation and report.

Legislation to establish such a Commission would be introduced during the current Session, the Prime Minister said.² He announced later, however,³ that for various reasons this legislation would be held over until 1974.

In the meanwhile Mr. Harry Schwarz, leader of the United Party in the Transvaal, had pointed out⁴ that this Party was not bound by the recommendations of its representatives on the Commission. "Care must be taken that machinery is not created for undesirable and unjustifiable witch-hunts", he said.

In a circular issued during March by the United Party's Division of Information and Research it was stated that if the creation of a standing committee on internal security could lead to a review of all security legislation, and an end to bannings without trial, it would be worth considering. But the United Party could not support such a commission if it were to usurp the functions of the police or of the courts.

INTERIM REPORT ON NUSAS

As mentioned in last year's *Survey*, during 1972 the Schlebusch Commission heard evidence concerning the National Union of S.A. Students from representatives of the Bureau of State Security

² Hansard 4 col. 1486.

³ *Rand Daily Mail*, 30 May.

⁴ *Star*, 21 March.

and other people, besides issuing subpoenas to a number of members of Nusas to appear for questioning. (Nusas had indicated that it would not submit evidence or documents unless forced to do so by law.)

In a further interim report, tabled at the same time as the first, the Commission unanimously recommended that no action should be taken against Nusas as a body, but that it had been decided "in a spirit of urgency" to name eight people as members of a group which, in a way that endangered internal security, had manoeuvred Nusas on to its present road. Their continued involvement in student politics was considered to be "extremely undesirable".

This small group of activists, it was stated, were being influenced by people outside the organization and outside South Africa. They were intensely active politically, and did not support any of the existing political parties. They were trying to bring about change which would result in a replacement of the existing order in South Africa.

Fewer than five per cent of students at English-language universities actively associated themselves with the activities of Nusas. However, from time to time the leaders created situations to activate the broad student body emotionally.

Nusas received moral and financial support from foreign individuals, organizations, political parties, and governments, the Commission stated. It tried to conceal the origin of certain overseas funds, but information indicated that most of its projects and political activities depended largely on foreign funds. In order to obtain this financial aid, Nusas presented itself as favourably as possible, while presenting South Africa in the worst possible light.

With one exception, all the top leaders of Nusas lived together during 1972 in two houses which were described in evidence as "communes".

Until the present, Nusas had remained within the law. At a congress in Grahamstown held towards the end of 1972, however, a resolution had been adopted by majority vote which indicated that, in certain circumstances, the organization would break the law. This resolution was to the effect that, in the event of the removal (by the Government) of the fundamental and lawful right of the National Union to meet together to discuss and decide on issues, and to take what, prior to the removal, was lawful action, Nusas would ignore such removal and take the consequences of such a stand. The hope was expressed that the law would remain "such that we can continue to operate within it", and it was stated that any action taken by students would be expressly and intentionally peaceful.

The Commission considered, however, that incitement to illegal action could lead to student violence.

It stated that the Nusas leaders opposed, not only the present

Government, but also the entire existing order in South Africa, including the capitalistic system, existing moral norms, and forms of authority. They rejected even liberalism as an objective, and forecast a confrontation between the white and the black population groups.

EVENTS FOLLOWING THE RELEASE OF THIS REPORT

Parliamentary debate

When he tabled this report by the Schlebusch Commission on 27 February, the Prime Minister said⁵ that the Minister of Justice had considered the cases of the eight persons named by the Commission,⁶ and concluded that they fell within the purview of the provisions of the Suppression of Communism Act. Consequently, orders of restriction would be served on all eight, effective immediately, in the interests of the country and of students and of parents who sent their children to universities.

Mr. S. J. Marais Steyn (then a leading member of the United Party⁷) said⁸ that the Opposition members of the Commission stood by the factual report that was before the Government. They could substantiate that the activists who were abusing the organization of Nusas were doing things which were dangerous to the public safety and which might tend to subvert good order in South Africa. But the Opposition members were unhappy that action was to be taken against them under the Suppression of Communism Act. Nowhere did the Commission find that the activists had been motivated by any intention of furthering the aims of communism. The United Party believed that the evidence before the Commission should have been referred to the Attorney-General for consideration and possible action. If, on the other hand, the law of South Africa was such that people could not be found guilty of crimes when they were endangering the safety of the State, legislation should be introduced to cover the situation, clearly defining the crimes with which it was meant to deal, and giving accused persons the opportunity of defending themselves before the courts. Sir De Villiers Graaff emphasised that his party was totally opposed to arbitrary bannings without recourse to the courts of law.

Mr. A. L. Schlebusch stated⁹ that when urgent action was necessary to protect internal security, there was at present no other available method than the imposition of restrictions under the Suppression of Communism Act. It was not relevant whether the persons concerned were communists: what had to be considered

⁵ Assembly Hansard 4 col. 1490.

⁶ Their names are given in a subsequent chapter.

⁷ As mentioned earlier, he subsequently crossed the floor, joining the National Party.

⁸ Hansard 4 cols. 1509-13.

⁹ Cols. 1567-73.

objectively was whether their actions furthered the aims of communism. Mr. Schlebusch invited the Opposition to co-operate in exploring whether a better method of dealing with such persons could not be found.

"Counter-report" by Nusas

Nusas issued a "counter-report", rebutting certain allegations that had been made by the Commission. *Inter alia*, it denied that the organization was dominated by a small "clique". Policies, it stated, were decided upon in a democratic way by majority vote among representatives of universities who attended annual congresses. The leaders were bound to carry out the decisions thus made.

The Commission had sought to show that "changing the existing structure" and "revolution" were the same. It had failed to note that, time and time again, Nusas had reiterated its condemnation of violence. Nusas, it was declared, had never been dictated to or influenced by persons overseas, as the Commission had alleged, nor had it ever been supported by any foreign government. It had never presented a different policy overseas from that which had been expounded locally.

It had been stated by the Commission that Nusas leaders did not support any existing political party, but worked for drastic change in the existing order. In fact, at least nine Nusas executives and national council members had either been employed full-time by the Progressive Party, or had been closely associated with it.

A full explanation was given of a financial transaction which the Commission had considered to be suspicious.

Nusas submitted that the banning orders on the eight leaders had been imposed because of the Commission's failure to find any evidence which could stand the test of a court of law.

Further banning orders, and protests

It was announced on 2 March that eight leading members of the (black) S.A. Students' Organization (Saso) and the Black People's Convention had been placed under orders of restriction. (These organizations had not been under investigation by the Commission.)

In a statement made on the same day,¹⁰ Sir De Villiers Graaff called for united protest against the banning orders, demanding that the people concerned be brought immediately before courts of law instead. The bannings, he continued, had again demonstrated the Government's contempt for the rule of law.

Forceful statements of protest were issued by a large number

¹⁰ *Sunday Express*, 4 March, and circular issued by the United Party's Division of Information and Research.

of organizations, including the Institute of Race Relations,¹¹ and at the English-language universities. Students and others strongly criticised the United Party for having served on the Commission, and deprecated the fact that the members who did serve had not issued a minority report. They should have known, it was argued, that the report submitted would lead to banning orders. Sections of the Press repeatedly urged the U.P. to withdraw from the Commission.

DECISION BY MEMBERS OF THE CHRISTIAN INSTITUTE AND THE S.A. COUNCIL OF CHURCHES

During the weekend of 2-4 March, the pending investigation of the Christian Institute of Southern Africa was discussed by its Board of Management, a large majority of the members of which were present. A number of board and executive staff members stated that they could not in conscience participate in the proceedings of the Commission of Inquiry.

After discussion a resolution was passed by 17 votes, with four abstentions, its terms being communicated to the Commission.¹² These were:

- (a) "that the recent action taken against student leaders by way of arbitrary banning orders confirms our initial impression that the thinking behind the appointment of the Parliamentary Select Committee is calculated to permit punitive measures being taken under the guise of democratic procedure;
- (b) "that we reaffirm our conviction that the investigation of any organization should be undertaken through a judicial commission which can ensure impartiality, the right of defence to accusations made, the right to face one's accusers, and the upholding of the due process of law;
- (c) "that we fully support those of the board and staff executive who decide that in conscience they cannot co-operate with a Commission of Inquiry which they consider by its constitution and mandate to be a denial of the democratic process and judicial procedure;
- (d) "that, while we confidently affirm that we have nothing to hide, we also affirm that there is much to preserve by way of our Christian heritage of fairness and the evidencing of justice, which such a Parliamentary Commission palpably erodes".

A number of the leading members decided to refuse to give evidence if called upon so to do. Others reserved judgment. (The penalties for refusal are up to R100, or six months.)

When the Commission was first appointed, the S.A. Council of Churches offered to give evidence on behalf of the organizations to be investigated.

¹¹ See *Race Relations News*, March.

¹² *Sunday Times*, 11 March; *Star*, 13 March.

At a meeting of the executive of the Council on 7 and 8 March, however, a statement was issued calling on the Government to revoke the restriction orders served on the Nusas and Saso leaders in favour of the normal process of law, as only in that way could the innocence or guilt of these persons concerned be established. It was claimed that the decision to ban the leaders unwittingly furthered the aims of communism, as it did not allow political idealism to operate openly within existing structures, but created a spirit of bitter frustration and eventually drove people to acts of political desperation.¹³ The secretary of the Commission of Inquiry was informed that, in the light of this statement, the Council's offer to give evidence was withdrawn.

DECISIONS BY THE INSTITUTE OF RACE RELATIONS

Resolution of the General Purposes Committee

As mentioned in last year's *Survey*, when the Prime Minister announced during February 1972 that a Select Committee was to be appointed to investigate the affairs of the four organizations, all of these organizations except the UCM sent telegrams to the Prime Minister urging that, if the Government wished their activities to be examined, a Judicial Commission be constituted rather than a Select Committee of Parliamentarians. Nevertheless, when these representations were rejected, the executive committee of the Institute of Race Relations decided that the Institute, as an organization, would give evidence. A delegation was nominated to do so.

The Institute's General Purposes Committee met on 15 March, shortly after the student leaders had been banned. (This committee is composed almost entirely of members of the Executive Committee who are able to attend monthly meetings, which are held in Johannesburg.) By 17 votes to 2, the G.P.C. passed the following resolution:¹⁴

1. "After studying the interim report of the Commission of Inquiry into Nusas, the S.A. Institute of Race Relations remains convinced that its original attitude as expressed in its telegram to the Prime Minister was correct, namely that the rules of procedure followed by a Parliamentary committee or commission of enquiry make it a totally unsuitable vehicle for a task of this nature and that a judicial commission should have been appointed.
2. "The Institute is strongly opposed to "urgent action" being recommended on the basis of evidence given in secret, untested by cross-examination, against people not told of the precise nature of the charges against them.

¹³ *Star*, 27 March.

¹⁴ R.R. 38/1973.

3. "The Institute is gravely concerned that people have as a result of banning orders been condemned without due process of law. It again strongly urges Parliament and the Government to observe generally recognized procedures under the rule of law.
4. "However, as its affairs will bear full examination, the Institute as a body will not refuse to give evidence if required to do so before the Commission. If any members of its Executive Committee or of its staff who are called upon to appear before the Commission feel unable to do so for reasons of conscience, their decision will be respected.
5. "The Institute urges that if the Commission is to continue with its work, it should sit in public and that witnesses be given the right of leading their own evidence and of testing any evidence given against them by cross-examination either themselves or through counsel. It very specifically asks, too, that all the evidence given in the enquiry be made public. It also supports the plea made by a number of witnesses that, in the interests of justice, they be allowed to disclose what transpired when they appeared before the Commission."

Repercussions within the Institute

The two members who disagreed with the General Purposes Committee's resolution did so on the ground that the bannings had introduced a new factor in the situation, and that the Institute as a body should, in consequence, rescind its decision to give evidence voluntarily if called upon to do so. Both members thereupon resigned from the Institute's Executive Committee. A third member resigned later. One of these persons resigned, too, from the Institute itself.

Some members pressed for more radical action, considering that the Institute should refuse to give any evidence, and that the G.P.C. should have offered support, rather than respect, for persons who, for reasons of conscience, might decide to refuse to testify, even if subpoenaed. (Several prominent members had announced publicly that this would be their decision.)

The Director called a meeting of the Institute's senior staff at head office to discuss the issue. Thereafter, a statement was issued reading, "While fully respecting those of our colleagues and the members of the Executive Committee who will feel constrained to give evidence . . . nine of the twelve senior staff at head office have decided to refuse to testify if called."

By majority vote, four of the Institute's five regional committees dissociated themselves from the resolution of the G.P.C., calling, *inter alia*, on the Institute to refuse to co-operate voluntarily with the Commission. It was requested that a special meeting of the Institute's Council (the governing body) be convened to de-

cide upon the Institute's course of action. The required number of members signed a formal requisition.

Resolution of the Institute's Council

The special Council meeting was held on 16 May. Just under half of the members (who are scattered throughout South Africa and in other countries) were able to be present. After debating the various points of view outlined above, the Council passed a "compromise" resolution,¹⁵ as follows:

1. "After studying the three interim reports" of the Commission of Inquiry into Certain Organisations, the South African Institute of Race Relations remains convinced that its original attitude as expressed in its telegram to the Prime Minister was correct, namely that the rules of procedure followed by a Parliamentary committee or commission of enquiry make it a totally unsuitable vehicle for a task of this nature and that a judicial commission should have been appointed.
2. "The Institute is strongly opposed to any action being recommended on the basis of evidence given in secret, untested by cross-examination, against people not told of the precise nature of the charges against them.
3. "The Institute as a law-abiding body is gravely concerned that people have as a result of banning orders been condemned without due process of law. It again strongly urges Parliament and the Government to observe generally recognised procedures under the rule of law.
4. "The Institute also objects strongly to the totalitarian concept of security implicitly adopted by the Commission in terms of which almost all a man's beliefs, opinions and actions (including the most personal and private of his beliefs and conduct) are deemed relevant to state security.
5. "Council resolves that the Institute as a body, as it is lawfully entitled to do, will henceforth cease to co-operate voluntarily with the Commission of Inquiry into Certain Organisations and accordingly withdraws the delegation which was nominated by the South African Institute of Race Relations to appear before the Commission on behalf of the Institute.
6. "Council recognises that this resolution is in no way binding on members or affiliated organisations or servants of the Institute who decide or refuse to testify before the Commission. Council acknowledges the right of a person to make a personal decision as to whether he will give evidence or not.
7. "Council hereby instructs the Director, in whose custody all the documents of the Institute are placed, not to produce any

¹⁵ R.R. 77/1973.

¹⁶ As described later, a third interim report was issued during April.

of the Institute's documents unless subpoenaed so to do by the Commission.

8. "In the event of members of staff of the Institute being penalised for refusing to testify before the Commission after being subpoenaed, no change in their status within the Institute, by reason of that fact, shall be made until the next full Council meeting."

THIRD INTERIM REPORT OF THE COMMISSION

It was announced during March¹⁷ that the Management committee of the Wilgespruit Fellowship Centre would support those members of the committee and of the staff who felt in conscience that they could not testify before the Schlebusch Commission. (Twenty-two members had stated that they would refuse to give evidence.)

This Centre, situated near Roodepoort, is owned by a trust, with the S.A. Council of Churches as the trustees. A management committee exercises the executive authority.

A third interim report of the Commission of Inquiry, tabled by the Prime Minister in the Assembly on 25 April, dealt with the activities of the Wilgespruit Centre. When presenting the report,¹⁸ the Prime Minister gave the S.A. Council of Churches "an opportunity of, say, three weeks" to clear up "the nest of iniquity" at the Centre. If the churches did not take action, he warned, the Government would have no option but to do so. Mr. Vorster gave the S.A. Council of Churches the benefit of the doubt that it did not know what was transpiring at the Centre.

Three leading office-bearers of the Council of Churches immediately sought an interview with the Prime Minister, which was granted on 27 April. They asked whether the time-limit set could be extended in order to allow the churches to deal with the matter in their own way. Mr. Vorster indicated that he was prepared to reconsider his stipulation if the churches gave serious consideration to the Personal Responsibility and Organizational Development Programme (PROD) (which included sensitivity training) that was being conducted at the Centre as one of the four main programmes there (the others being ecumenical work, an urban and industrial mission programme, and a domestic workers' project). After consultations following this interview, it was announced that all PROD programmes would be suspended immediately.

A committee consisting of members nominated by the Council of Churches and representatives of the Wilgespruit management committee was set up to investigate the activities at the Centre. It was headed by Mr. Dendy Young, a former Chief Justice of

¹⁷ *Rand Daily Mail*, 28 March.

¹⁸ *Assembly Hansard* 11 col. 5086.

Botswana and a former judge of the High Court of Rhodesia. A general invitation was issued to anyone who could provide information, favourable or unfavourable. Their evidence would be heard in public unless they otherwise wished.

The report of this committee was published during July. It exonerated the Wilgespruit Centre and its staff from the main allegations that had been made by the Schlebusch Commission.

The Commission found, for example, that the Centre was working towards radical social and political change in South Africa. By drawing prominent young people from various organizations into its PROD programme, the Centre had served as a training ground for leaders of organizations that played a part in the broader political field. Sensitivity training, which was included in the programme, was being used to brainwash students. Nusas had employed the staff of Wilgespruit in its leadership training programme. This sensitivity training could be dangerous in unqualified hands, especially to people who were not psychologically well-balanced. Many of the participants came hoping to receive help in their personal problems.

The Dendy Young committee agreed that Wilgespruit was working towards social change, but stated that it was striving for peaceful and positive action to bring about a just order of society. It considered that the rôle of the church could not be seen as a mere refuge from or comforter in social injustice. There was no evidence that sensitivity training was being misused in the training of young people, nor of political brainwashing. The training was designed as an educational method for normal adults, and not as a therapeutic procedure for people with psychological problems. Participants were adequately screened to exclude anyone undergoing psychiatric treatment. The trainers were sufficiently qualified and equipped to conduct the groups: no evidence had been given of a psychological breakdown following participation in the training.

It was pointed out that since 1970 Nusas had not used sensitivity training as part of its leadership programme.

The committee recommended that the PROD programme be restarted, but that it should in future restrict its activities to Christian, educational, and social service groups. Various safeguards were suggested to ensure that trainers in organizations using this method were adequately equipped.

A serious allegation made by the Schlebusch Commission was that highly controversial liturgies had been used at Wilgespruit, which ran counter to accepted values and to the normal conception of religion and religious practice. The Dendy Young committee completely exonerated the Wilgespruit authorities from responsibility for the use of these liturgies. Mr. John Rees, general secretary of the S.A. Council of Churches, stated in the issue of *Kairos* for May that the only instance of their use had been by

the University Christian Movement in 1971, when this organization had been allowed to hold a conference at Wilgespruit. As a direct result, the churches had withdrawn their support of the U.C.M., and this in a large measure contributed to its demise the following year.

A second section of the Dendy Young report dealt with the Wilgespruit Centre as a whole, and its other programmes. It found that these were consonant with the declared aims and objects of the Centre. There may have been times when those in charge had failed to exercise sufficient control, but the occasional absence of full control was neither more nor less than would be found in any voluntary organization.

The main recommendations of the Dendy Young committee were:

- (a) that a summit meeting of member churches of the S.A. Council of Churches and the management committee of the Centre be arranged to work out ways of extending the churches' role in the Centre's activities, and to amend the Centre's constitution, making its aims and objects more explicit and clarifying areas of responsibility;
- (b) that the finance committee of the Council of Churches should act also as finance committee for the centre;
- (c) that an administrator be appointed as soon as possible for the Centre, and that all senior staff appointments be made jointly by the Council of Churches and the management committee of the Centre;
- (d) that the management committee continue to evaluate its activities and programmes from time to time, particularly in the light of its declared object of promoting ecumenical Christianity;
- (e) that new terms and conditions should be drafted for churches, organizations, and groups making use of Wilgespruit's conference and residential facilities.

The Dendy Young committee's report was accepted by the S.A. Council of Churches at its meeting on 2 August.

It was announced during August¹⁹ that the PROD programme, excluding its sensitivity training aspect, would be resumed. Three registered psychiatrists from Britain and the United States were to come to the Centre to train sensitivity instructors and to run courses in counselling, the approach to education, and organization and development.

On 20 September Mr. Eoin O'Leary, the director of the PROD programme, was served with a deportation order by the Department of the Interior (he is not a South African citizen).

At a meeting held on 26 November, the S.A. Council of

¹⁹ *Sunday Express*, 12 August.

Churches noted "the long involvement and commitment of the churches to the work of the Wilgespruit Fellowship Centre" and desired that this continue in the future. The Centre was encouraged to continue its contribution to the educational programmes of the churches. It was decided to amend the constitution of the centre to allow greater participation and involvement by the churches in the affairs of the centre.

A three-man committee was elected to clarify areas of responsibility, make the aims and objects of the centre more explicit, determine proportional representation of the churches on the management committee, and clarify questions of ownership and the powers and duties of the trustees (the S.A.C.C.).

COMMITTEES OF THE COMMISSION

Government Proclamation No. 138 of 6 June provided that the Schlebusch Commission might appoint, from its members, one or more committees to hear evidence and addresses in respect of any particular matter on behalf of the Commission. The Chairman or the Vice-Chairman of the Commission must be a member of such a committee. In terms of Government Notice 980 of the same date, Mr. L. le Grange was appointed as Vice-Chairman.

The Commission then appointed two committees, headed by Mr. A. L. Schlebusch and Mr. Le Grange, to hear evidence, respectively, in regard to the Christian Institute and the Institute of Race Relations. Each committee consisted of five Members of Parliament, three representing the National Party and two representing the United Party.

One of the United Party members, Mr. S. J. Marais Steyn, subsequently resigned from this party, joining the National Party instead. The Prime Minister offered to increase the size of the commission to allow the United Party to nominate another member, but this offer was not accepted.

INVESTIGATION OF THE S.A. INSTITUTE OF RACE RELATIONS

The committee headed by Mr. Le Grange began an investigation of the S.A. Institute of Race Relations as soon as Parliament had been prorogued. The full list of witnesses was not made public. Subpoenas were, however, served on eleven persons, including the Director, Mr. F. J. van Wyk, and the previous Director, Dr. Quintin Whyte. All of these appeared before the committee, but four of them then refused to testify: they were Mrs. I. Kleinschmidt, Mr. Peter Randall, Mr. Clive Nettleton, and Mr. Dudley Horner. All stated that they would have co-operated with an open judicial inquiry. Their refusals to testify were, by majority vote, referred to the Attorney-General. United Party members of the commission had urged that a decision on reference to the Attorney-General be deferred pending the completion of the Commission's report, but this course of action was opposed by the

National Party members. The committee's decision was, again by majority vote, ratified at a meeting of the full commission.

On 17 October, members of the committee of the Commission visited the offices of the Institute of Race Relations to make an informal inspection *in loco*. Students of the University of the Witwatersrand staged a demonstration at the Institute's building.

PROSECUTIONS THAT FOLLOWED

Mrs. I. Kleinschmidt was found guilty of refusing to take the oath or give affirmed evidence when she appeared in the Pretoria Regional Court on 19 September, and was sentenced to a fine of R50 or 25 days. The magistrate said that deliberate acts against the law could not be defended as acts of conscience.

Mrs. Kleinschmidt appealed against this judgment, the appeal being based on a claim that the chairman of the committee, Mr. Louis le Grange, M.P., was not invested with the full powers of the chairman of the commission as meant in the Commissions Act; that he could not, therefore, require a witness to take the oath before him; and that a refusal to do so was, thus, not an offence.

This appeal was dismissed by Mr. Justice Bekker, the Acting Judge President of the Transvaal, and Mr. Justice Claassen. On 28 November they found that there was no ambiguity in the Act, read with the regulations of the commission concerned. The Act did not define the word "chairman". The judges agreed with the submission by the State that the word should be given its ordinary dictionary meaning. They found that Mr. le Grange was the duly appointed chairman of the commission at the time when he required Mrs. Kleinschmidt to testify, and that her refusal amounted to an offence.

Mrs. Kleinschmidt elected to go to jail rather than pay the fine imposed as an alternative. However, an unidentified person paid the fine before she was admitted to prison.

Two officials of the Institute of Race Relations who had refused to testify, Mr. Dudley Horner and Mr. Clive Nettleton, were charged on 17 October. Their case was postponed pending the outcome of Mrs. Kleinschmidt's appeal. It was then again postponed, until 21 January 1974.

INVESTIGATION OF THE CHRISTIAN INSTITUTE OF SOUTHERN AFRICA

An investigation of the Christian Institute was undertaken by the committee headed by Mr. Schlebusch. Again, the full list of witnesses was not published. Of at least ten persons subpoenaed, nine refused to testify: they were Dr. C. F. Beyers Naudé (Director of the Christian Institute), the Rev. Brian Brown, Mrs. D. Cleminshaw, Mr. Horst Kleinschmidt, the Rev. Theo Kotze, the Rev.

Roelf Meyer, the Rev. James Moulder, Mr. Peter Randall, and the Rev. Danie van Zyl.

Dr. Naudé had planned to leave South Africa on 25 September (the day after he refused to testify) to visit churches in Europe which gave financial support to his institute. On arrival at the airport he realized that his passport had expired. When he explained his predicament to officials, he was handed a letter from the Secretary for the Interior, notifying him that the passport had been withdrawn.

Dr. Naudé then enquired whether it would be in order for the Rev. Brian Brown to go overseas in his stead, but was told by the Secretary for the Interior that the passports of all Christian Institute members who had refused to give evidence were to be withdrawn (such action had been taken earlier against Messrs. Randall and Kleinschmidt).

PROSECUTIONS OF MEMBERS OF THE CHRISTIAN INSTITUTE

The Rev. Dr. Naudé, the Rev. Brian Brown, the Rev. Roelf Meyer appeared in the Pretoria Regional Court on 13 November on charges of refusing to take the oath or testify before the Commission. In his evidence, Dr. Naudé described the reasons for the formation of the Christian Institute in 1963,²⁰ and its aim of uniting Christians on an individual basis and making Christianity more of a living force, *inter alia*, promoting co-operation between members of all the various groups in South Africa. It was commonly known, he said, that the Government opposed the policies of this Institute. A Commission of politicians could not, thus, be unprejudiced, he submitted. Moreover, the Commission had deviated from normal legal procedures. There was nothing of importance that the Government did not already know about the organization, which worked openly.

Dr. Naudé was found guilty as charged, and fined R50 (or one month) and was given a three months' conditionally suspended prison sentence. Leave to appeal was granted. The trials of other members of the Christian Institute were postponed until early in 1974.

On 28 November, Dr. Naudé, Mr. Peter Randall, and the Rev. Danie van Zyl were charged under the Suppression of Communism Act for allegedly having published certain statements by the banned former Nusas leader, Mr. Paul Pretorius. The case was to be heard early in 1974.

²⁰ See 1963 Survey, page 6.