Public Sector—Govt. Justice

1993

January - February
Old friends make legal history.

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

Mrs. Krishnayenini Chetty, 35, of Reservoir Hills, and Mrs. Jenarthens Pillay, 35, of Desan Nagar started studying together at the University of Durban Westville in 1974.

Their historic appointments were made by Deputy Minister of Justice Mr. Danie Schutte this week. Mrs. Chetty will be based in Durban and Mrs. Pillay at Stanger.
No, Kei meeting with SA over APLA
New act protects the A-G office

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

JOHN VILJOEN
Weekend Argus Reporter

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

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

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

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

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

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

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

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

Under a succession of Ministers of Justice, the independence of Attorneys-General has been respected despite their having the power to interfere.

Mr Kahn, 55, was in the news during the past year for his crackdowns on rape offenders, taxis, gambling houses and commercial crime.

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

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

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

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

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

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

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

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

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

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

THE ATTORNEY-GENERAL of the Transvaal, Dr Jan Adrian d'Oliviera, was sworn in in the Pretoria Supreme Court in terms of a new law in 1932. Dr d'Oliviera said the legislation did not mean he had greater powers, but that he had far greater public responsibility.

Meanwhile, the first Indian women to be appointed magistrates in regional courts in Natal have taken office. The two - Mrs Kogoe Chetty and Mrs Jenay Pillay - are magistrates in Verulam at present.
Call for SA neighbours to co-operate in Apla probe

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

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

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

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

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

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

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

“The manner in which the commission or I might be involved by the inquiries referred to by Maj-Gen Holomusa and other members referred to by statements made by him to the Press still require to be canvassed,” he said.

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

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

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

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

The deal, said to involve about R47m, had been under discussion since July 1992, the report said.
PORT ELIZABETH — The recent spate of attacks by the Azanian People's Organisation was part of its "show and shock" tactics, the Goldstone Commission has been told.

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

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

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

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

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

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

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

Libya remained the main source of finance and training for the PAC.
Strydom charges ANC executive

By Josias CHARLE

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

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

He laid charges against ANC PWV region media spokesman Mr Ronnie Mamoepa and criminologist Erma

Criminologist and Mamoepa allegedly called him a psychopath.

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

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

He was sentenced to death eight times but was set free last year under the general amnesty law concluded between the ANC and the Government.
The Goldstone Commission may subpoena Pan Africanist Congress leaders to testify in its special inquiry into the activities of the organisation's military wing, the Azanian People's Liberation Army.

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

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

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

The organisa said the information was part of a campaign to discredit Apla and the PAC.

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

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

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

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

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

Van Zyl told the committee that "crash training" in Transkei, including at Sterkspruit, Umtata and Butterworth, where Apla recruits had undergone "crash" training in the use of AK47 and R-4 rifles, landmines, grenades and 9 mm pistols.

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

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

Referring to an admission by military ruler Major-General Bantu Holman that the Transkei Defence Force (TDF) had lent 9 mm pistols and ammunition to Apla and Umkhonto we Sizwe (MK) in April to protect their leaders, Van Zyl said Transkei should submit those weapons for ballistic testing to see if they had been used in terror attacks.

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

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

- Investigate the location of Apla camps or training centres, the alleged training of Apla members in Transkei, the alleged signing of an accord between the TDF and Apla, and the alleged supply of arms and ammunition to Apla by the Transkei authorities
- subpoena all persons within its jurisdiction who may have information that could help the committee
- request the organisation of African Unity to prevent its members from assisting Apla and to pressure the PAC to end its policy of violence
- request that Transkei stop supporting Apla at once.

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

PAC faces legal action

By Themba Molefe
Political Reporter

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

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

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

Campaign to discredit Apla

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

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

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


The hearing will adjourn until Monday.

Refusing to co-operate

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

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

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

See also page 4.
Decision on judge's role in probe awaited

By Bronwyn Wilkinson

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

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

Port Elizabeth-based committee of the Goldstone Commission investigating the PAC's military wing went into recess yesterday to allow Transkei and the PAC to respond to evidence led on Monday by the SAP and SADF that Apla had used Transkei as a platform for terror attacks in South Africa.

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

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

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

He agreed that ballistics experts from neutral countries could test weapons lent by the Transkei Defence Force to Apla and the ANC's military wing, Umkhonto we Sizwe, for the protection of their leaders in the homeland.

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

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

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

The committee will sit again on Monday.
Investigation into Apla is adjourned

Chance for parties to respond to claims

The Goldstone Commission's committee investigating the activities of the Azanian People's Liberation Army has adjourned on 6/1/93.

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

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

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

The committee will sit again on Monday.
prison
Death of a woman.

July 13 - Cape Town - A young woman's death occurred yesterday at the Cape Town magistrate's court. She was identified as Mrs. Smith, aged 32. The coroner's inquest was opened by the police officer in charge of the case. The coroner, Mr. Jones, stated that the deceased had sustained injuries to the head and body. The inquest was adjourned until further notice.
Supply-side discipline

The decline in the inflation rate stands out as one of the most encouraging achievements of a rather dismal and discouraging 1992. The bulk of the decline took place last year, which saw a 23% reduction in the annual rate of inflation from 14.3% in early 1992 to 11% now. It has taken six years for the authorities to get the rate down from its peak of 18.6% to its present level, which is of course still far too high.

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

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

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

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

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

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

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

Fishers of men

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

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

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

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

Another matter concerns the composition of the commission. There are five permanent commissioners who are supplemented by others assisting with the work of various subcommittees.

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

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

If Bill Clinton’s Cabinet has been designed to reflect America, it is no less appropriate for the Goldstone Commission to cast its net of membership widely indeed — drawing on the talent and expertise which, despite everything, SA continues to foster.
VIOLENCE FM 8/11/93

After the diagnosis

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

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

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

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

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

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

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

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

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

Goldstone adds “The commission would like to stress, however, that all its efforts will come to naught if all the appropriate political players in SA do not practice, exhibit and encourage in their supporters a culture of true tolerance and respect for opposing parties and policies.”
Tutu Lashes Go for ANC on Human Rights
Amnesty slammed

ALS says release of 7,500 prisoners a disrespect of the law

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Holomisa described the hearings as a "kangaroo court", and said no information would be made available to it.

He said he was prepared to have guns loaned to the PAC for the protection of its leadership on visits to the homeland, submitted for ballistic tests by a neutral party.

Holomisa has asked for the secondment of Goldstone to head a Transkei inquiry, to which he wants members of the Transkei bar appointed. This inquiry will probe not only the claims of Apla camps and training in Transkei, but also the South African government's response to the issue, its "approach" to the PAC's unbanning, cross-border raids by the Afrikander Weerstandsbevegung, and even the effectiveness of the National Peace Accord.

Commenting on the Port Elizabeth hearing, Holomisa noted that the police and defence force were "now retracting former allegations that there are bases. They are now saying people had crash courses," he said.

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

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

Van Zyl said the police had information, from arrested Apla members and other sources, that steps were taken to destroy evidence that Apla members were trained in the region.

The police attributed 41 attacks in South Africa to Apla.

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

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

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

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

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

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

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

Holomusa last night criticised the South African Government for "playing politics and delaying the decision" but said he was grateful that they will recognise the findings and recommendations of our inquiry. At the beginning they were giving the impression that the only commission that could do this work is Goldstone."

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

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

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

No judge

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

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

In an unusual move yesterday, Holomusa took out a two-page advertisement in a morning newspaper, which outlined his envisaged terms of reference for the commission. Holomusa also published a letter he said had been sent to President P.W. de Klerk on December 17, calling for such a commission.

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

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

Last night he said he now expected the Government to co-operate fully. They are the ones who alleged there are bases in Transkei. Now they can present their evidence and witnesses, but it will be in public and not in camera. No one will be allowed to wear balaclavas."
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Holomisa said he had drafted new terms of reference, because “Goldstone’s terms are too narrow.”

Last night he said he now expected the Government “to co-operate fully. They are the ones who alleged there are bases in Transkei. Now they can present their evidence and witnesses, but it will be in public and not in camera. No one will be allowed to wear balaclavas.”
Apla terror raids aimed at raising funds, inquiry told

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

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

Secret

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

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

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

In 1992, during a trial in the Hazarue regional court, Zimbabwean Police Force acting commissioner Augustine Chiburi admitted that he was part of a PAC racket to raise money by stealing vehicles in South Africa and selling them on Zimbabwe's black market.

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

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

Medicine

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

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

And, in a letter to PAC leader Clarence Makwetu expressing his understandings that Apla's always received 50 percent of "par-ty funds", Apla's chief of staff Barney Hlatshwayo, said money was needed for medical check-ups and treatment of most recruits who "come from the streets underfed, sick and naked."

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

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

The SAPF and SAP present detailed submission on Apla raids in Ugan- da, Libya, Ghana, Tanzania, Egypt, Nigeria, Lebanon, Cambodia, Botswana and at least 10 venues in the Transkei. In China they received usual training and in South Africa night courses were held in a school and a creche, they claimed.

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

Image

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

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

The commission, headed by former regional magistrate Gert Steyn, will resume tomorrow.
JUDGE Richard Goldstone's delayed response to the Transkei's request that he be seconded to head an inquiry into Aplas "indicates his arm has been twisted by his master", according to the homeland's military leader. Major-General Bantu Holomisa said it was surprising that Goldstone, who had welcomed his proposed commission of inquiry last week, took so long to respond.

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

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

A Goldstone committee, chaired by Gert Steyn, began a preliminary hearing into Aplas in Port Elizabeth on Monday. However, Holomisa welcomed the minister's proposal that another SA judge be seconded. He said a proposed name could be on Foreign Minister Pik Botha's desk by tomorrow afternoon.

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

SA Military Intelligence chief Gen Joffel van der Westhuizen would be subpoenaed to testify on the alleged destabilisation of Transkei. Holomisa said a precedent had been set with other Transkei subpoenas for South Africans being adhered to. — Sapa
Informers given weapons

Rival taxi bodies in court

Who knows about it?
Webb faces charge

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

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

During the Webster inquest hearing Webb (32), of Lynnwood, Pretoria, was quoted as admitting that he had given evi-

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

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

Regional Court magistrate Mr F Booyens warned Webb to appear on February 26. — Sapa.
Drips probe 'could be reopened'

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

The inquest, held last year, found no one responsible for the deaths of 11 of the 13 babies. There was no finding on the other two babies.

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

US-trained pharmaceutical technician Di Parker, who worked at Sabax from 1989 to 1991, has said in a sworn affidavit that "sub-standard techniques" were applied in the Sabax admix unit.

Attorney Peter Soller has written to President de Klerk, asking for a presidential commission of inquiry.

— Staff Reporter and Sapa
Decision on Apla subpoenas delayed

By Helen Grang

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

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

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

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

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

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

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

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

Interviewed on TV1’s Agenda programme, he said he was willing to accede to a request from Holomisa for access to the SAP’s evidence given to the Goldstone Commission in Port Elizabeth last week.
PAC refuses role in probe of Apla

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

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

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

Seroke said while there were no current talks with government, channels of communication remained open. The Apla command would reply to the commission's request for its participation if it were deemed necessary. He said the commission had informed the PAC it would consider travelling to a neutral venue should Apla make such a request.

He said the commission should not accept an invitation into PAC affairs. Sapa reports the Goldstone committee hearing preliminary evidence on Apla will sit next on January 18 in Pretoria.
Gqozo told to produce evidence of ‘plot’

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

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

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

Government is believed to have been angered by Gqozo’s decision to make the allegations at a Johannesburg news conference instead of presenting them to the Goldstone commissioner’s inquiry on APLA.

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

He said MK, APLA and the TDF had met in Umtata shortly after Christmas to plan attacks on the governments of Ciskei and KwaZulu “under the name of APLA”.

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

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

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

Gqozo (108-3) 12-11-93 (252) From Page 1

PAC secretary for political affairs Jaki Seroke denied the conspiracy claims, Sapa reports. Gqozo was “lying a kite”, he said.

“It is clear that he has an axe to grind with the Transkei Military Council”, MK chief of staff Siphiwe Nyanda denied any meetings, other than “normal contact”, had taken place between MK, APLA and the TDF. “This is in breach of the spirit of the national peace accord. Such statements have only helped fuel violence in the past,” he said.

Gqozo’s allegations that SACI secretary-general Chris Ham had instructed MK commanders in Ciskei to attack homeland’s government using APLA disguises were untrue as Ham no longer held any command position in MK, Nyanda said.

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

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

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

● Picture: Page 3
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The PAC said, however, that during a bilateral meeting with government in Botswana last year, it had agreed to continue talks on the armed struggle “in the broader context of a political solution.” The matter had been on the agenda in bilateral talks.

The PAC said it would consider travelling to a neutral venue if it were deemed necessary. It said the commission should not act as an inquisition into PAC affairs.

SAPA reports the Goldstone committee “and we do not see the need to present hearing preliminary evidence on Apla will sit next on January 18 in Pretoria.”

Secretary for political affairs Jaki Seroke. Seroke said while there were no current talks with government, channels of communication remained open.

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PAC refuses role in probe of Apla.
Webb faces charge

Former Civil Co-operation Bureau chairman Major-General Eddie Webb appeared briefly in the Johannesburg Regional Court yesterday. He faces a charge of perjury in connection with an alleged admission he made during the Rand Supreme Court inquiry into the death of Dr. David Webster.

During the Webster inquest hearing, Mr. F. Booyens, a regional court magistrate from Lynnwood, Pretoria, testified that he had given Webb a warning to appear on February 26. — Sapa.
Divorce Act in focus

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

Written comments or suggestions on the working paper should reach the commission by March 15, it said.
PAC says no to Goldstone

By Abby Maciej

12/11/12

The PAC official will not committee to the police

"The PAC says no to Goldstone."
Public servants seek agenda

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

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

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

Finance and Trade and Industry Minister Derek Keys, National Health Minister Nna Venter and Mars will also attend the meeting.

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

“We want to know precisely how government intends cutting state spending in the public sector by 3% in the new financial year,” he said.
Futures exchange set to trade in red meat

THE SA Futures Exchange yesterday confirmed it was considering futures contracts in commodities such as red meat. Exchange CEO Stuart Rees said this was a direct result of the release of the Kassner report.

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

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

Futures contracts allow investors to buy a product at a fixed price for physical or cash delivery at a later stage. Contracts usually expire every three months.

On the Chicago Mercantile Exchange, the price of pork belly futures costs about $73 for 50,880kg. The US agriculture department controls the standard and mass of the meat. Rees said similar standards would have to be set up in SA.

The exchange had evaluated 60 soft commodities but had decided red meat presented itself as one of the most likely candidates. An exchange report said meat at present was traded on an auction basis, with major markets at City Deep in Johannesburg and Cato Ridge in Natal. There were more than 1,000 major buyers and a number of agents who sold the meat on behalf of farmers on a commission basis.

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

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

A major meat retailer said the contract would be good news for consumers.
Battle over Apla probes a cat and mouse affair

By Esther Waugh
Political Reporter

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

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

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

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

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

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

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

Holomisa said the homeland had no specific judge in mind, and that the possible names were not yet available.
Squatters sue Minister over police shooting

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

The 11 plaintiffs, all from the Racecourse squatter camp near Kliptown, were injured in February when police, in pursuit of a stolen vehicle, opened fire on people who they alleged were about to attack them.

Ten people were injured with buckshot, and one man was arrested and held in prison for several days before being released without charges.

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

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

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

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

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

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

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

The case continues today.
Judicial system upgraded

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

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

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

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

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

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

By Cyril Madala

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

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

She is one of 11 people who are jointly suing the Minister for R80 000 after they were teargassed and shot on February 1 last year. Ten are claiming Rs 6 000 each. The 11th, Victor Musuku, is suing for R10 000 for wrongful arrest and imprisonment.

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

The other plaintiffs are Obed Gwehu, Tshisho Mbatha, Sofia Mbatha, Oro Lecholo, Yelli Sokoelane, Johnson Zulu, Evaline Ndlovu and Florenah Nodenje. The hearing continues.
IFF defends choice of advocate

By Kaizer Nyatsamba
Political Reporter

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

Bob Douglas, SC, who was commissioned by the conservative IFF to conduct an inquiry into human rights abuses in the ANC's camps in exile, was employed by the ANC-aligned Congress of Traditional Leaders of South Africa in 1989 to investigate the causes of violence in the Natal Midlands.

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

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

A member of the Democratic Party, Douglas once stood and lost — as a parliamentary candidate in Pinetown for the Progressive Federal Party. According to the IFF source, Douglas, who admitted he was opposed to communism, has been a lawyer for about 30 years.

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

He is married with two children.
Gluckman: Inquest into custody death gets postponement

By Cyril Madlala

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

Bongani Bethuel Maphumulo (31) died on December 13 1992 after handing himself over to the SAP's Soweto murder and robbery unit, which was investigating a theft charge against him.

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

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

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

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

Yesterday, counsel for the police J du Toit asked for a postponement because his senior, Etienne du Toit SC, was sick and unavailable.

The delay was opposed by Dennis Kuny SC for the Maphumulo family, who said that as all the witnesses were available, including Gluck-
man and Forster, their evidence could be heard.

Du Toit could cross-examine them later.

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

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

He apologised to Pro-
fessor Derrick Pounder, who had travelled from the UK as an observer for the international secretariat of Amnesty In-
ternational. Pounder is head of the Department of Forensic Medicine at Dundee Royal Infirmary in Scotland and chairman of the United King-
dom branch of Physicians for Human Rights.

He was in the country to meet with lawyers and medical experts to discuss Amnesty Intern-
ational’s concerns regarding Maphumulo’s case.
Gaps in third report on ANC camps

Jo-anne Collinge, a lurid anti-communist, gloss to findings
Given weapons by ANC — witness

By Michael Sparks

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

Brandan Samson was giving evidence to the committee investigating attacks on police. He said NEC member Joe Nhlanhla had told him to go to Piet Retief in the eastern Transvaal to find out the movements of policemen and later to return and attack them.

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

Samson was later convicted of illegal possession of arms and ammunition, but acquitted of threatening a policeman. He is due for release today after serving six months of his sentence.

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

In a separate hearing into activities of the "third force", George Makarau, who had employed Mozambican Joao Cuna, said he had suggested to Cuna that he talk to the Vrye Weekblad, hoping it might give him personal security.

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

The hearing was adjourned until Monday.
Top ANC man tied to attacks on police

Sapa and Weekly Mail Reporter

AFRICAN National Congress security chief Joe Nhlanhla personally armed three Umkhonto weSizwe fighters at the ANC headquarters in Johannesburg before they embarked on an investigation of policemen, the Goldstone Commission heard yesterday.

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

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

The witness said Nhlanhla organised for him and two colleagues to collect .38 and .45 pistols, as well as an AK-47 rifle and ammunition from Shell House, the ANC’s Johannesburg headquarters.

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

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

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

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

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

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

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

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

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

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

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

Maphumulo was arrested on December 11 1990 in connection with a robbery. Two days later, he died in custody.

‘Maphumulo’s attorney, Lawley Shein, said he was told by a Colonel Oosthuizen that Maphumulo had tried to escape but had been caught near the swimming pool, at Protea police station.

Oosthuizen said Maphumulo had resisted arrest and in the resulting struggle had fallen into the pool and drowned.

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

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

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

The inquest, which was postponed because senior counsel for the SAP fell sick, will reconvene on February 15.
Advocates not just propping up the Bar

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

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

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

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

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

If, however, Davis intends to impute an earlier enthusiasm on Coetzee’s part for a Bill of Rights, then the point is equally unhelpful. If Coetzee was formerly a fan of a Bill of Rights (and I do not know whether or not that is even so), then Davis should disclose to his readers that until recently he was himself a doughty opponent.

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

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

The public at large may be initially entertained by the spectacle of these interminable attacks, but, badly educated, eat at least in the way Davis intends...
CO-OPERATION THE KEY FOR GOLDSTONE

I am not a success in my profession or at all because I have not thought in terms of failure. I believe that when you are engaged in a big project, you can achieve great things if you put your mind to it. I don't believe in giving up easily, and I always try to find a solution to any problem that comes my way.

The most important thing in life is to be happy. If you are not happy, you cannot really enjoy anything else. So, always try to surround yourself with positive people and do things that make you feel good. Remember, you are the only person who can control your life.

In conclusion, the key to success is never giving up and always believing in yourself. If you have a dream, go for it! Do not let anyone tell you that you cannot do it. You can achieve anything you want if you set your mind to it. So, keep working hard, stay positive, and never give up on your dreams.

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Innovation is the key to success in today's rapidly changing world. It is crucial to be open to new ideas and always looking for ways to improve. At Goldstone, we believe in the power of innovation and are committed to pushing the boundaries of what is possible.

We are constantly investing in research and development to stay ahead of the curve. Our teams are always working on new projects, and we are proud to be at the forefront of technological advancements. We are committed to providing our clients with the best possible solutions and are dedicated to delivering exceptional results.

At Goldstone, we believe that our biggest asset is our people. We have a talented and diverse team of professionals who are passionate about what they do. We encourage collaboration and teamwork, and we value the contributions of each individual.

We are committed to creating a positive and empowering work environment for everyone at Goldstone. We believe in treating our employees with respect and fairness, and we are proud to be a company that values diversity and inclusion.

In conclusion, at Goldstone, we believe in the power of innovation and collaboration. We are committed to providing our clients with exceptional results and to creating a positive work environment for our employees. We are always looking for new opportunities to push the boundaries of what is possible, and we are excited about the future at Goldstone.

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Co-operation is the key for Goldstone. We believe that by working together, we can achieve great things. We are committed to collaboration and teamwork, and we value the contributions of each individual. We are constantly looking for new ways to innovate and improve, and we are excited about the possibilities that lie ahead.

In conclusion, co-operation is the key to success for Goldstone. We believe that by working together, we can achieve great things and create a better future for everyone.

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Sami 19-21-1392
Gluckman claims face test in court

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

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

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

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

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

Maphumulo was arrested on December 11 1990 in connection with a robbery. Two days later he died in custody. Maphumulo's attorney, Lawley Shein, said he was told by a Colonel Oosthuizen that Maphumulo had tried to escape but had been caught near the swimming pool, at Protea police station. Oosthuizen said Maphumulo had resisted arrest and in the resulting struggle had fallen into the pool and drowned.

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

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

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

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

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

PAUL STOBER
Spies pack their bags

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

The spacious premises on the fourth and fifth floors of the up-market office block are being vacated by the Directorate of Covert Collection, the top secret Military Intelligence section exposed by the Goldstone commission’s raid on November 11.

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

One of them DCC chief Brigadier Toleity Botha, who signed the lease for the Momentum Mews offices on behalf of the MI front company, Arc DCC staff are reported to be packing, but no one will say whether they are simply moving to a new location or whether the operation is to be disbanded. The two upper floors will be vacated by the end of February.
"Attacking SAP is the PAC's policy"

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

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

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

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

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

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

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

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

Samson was arrested soon after his arrival in Piet Retief.

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

 Officials duck and dive over arms docket

By MONWABISI NOMADOLO

THE whereabouts of Chief Mangosuthu Buthelezi's docket - whose fate is much awaited by the public - caused confusion this week at the Attorney-General's office. A decision is being awaited on whether or not to charge the Inkatha leader for defying a heavily armed protest march in Johannesburg despite a ban on the carrying of traditional weapons.

When City Press phoned the office on Tuesday to inquire about any decision on the docket, A-G Klaus von Lieres and Wilks said the docket had been handed to his office and we should "check with the senior prosecutor" (of Johannesburg).

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

Attwell said Von Lieres could not have known about the docket as the "computers were down", and it was handed in "just before Christmas when the A-G was on leave".

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

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

In October Buthelezi defiantly led two marches in Johannesburg and Durban, protesting against the ban on the carrying of dangerous weapons in public and the fencing off of Reef hostels. SAP regional commissioner Gen Gerrit Erasmus had turned down a request by march organiser to carry weapons in public. Buthelezi defied the ban and led the marches.
Charge Barnard, other agents, inquest urged

The establishment of the Civil Coercion Group was an attempt to find a way to protect the State and the ANC from its own internal problems. The group was established by the Minister of Justice, Mr. Bertram, with a view to dealing with cases of alleged abuse of power by the security forces. The group was chaired by Mr. Barnard, who had previously served as a police officer in the Johannesburg Metropolitan Police Force. The group was intended to investigate allegations of human rights violations by the police and other security forces.

In his closing arguments, Mr. Barnard argued that the evidence presented by the prosecution was insufficient to prove the allegations made against him. He said that he had been a police officer for over 20 years and had never engaged in any illegal activities. He also argued that the testimony of the witnesses was unreliable and that the evidence presented by the prosecution was circumstantial.

The inquest into the death of Mr. Pelesa, a suspected political activist, was held in 1988. The inquest was conducted by Mr. Barnard, who was assisted by Mr. Webster. The inquest was held in secrecy and was conducted without the involvement of any legal representatives.

During the inquest, Mr. Pelesa's family and friends demanded that an independent investigation be conducted into the circumstances surrounding his death. They also demanded that those responsible for his death be held accountable. The family of Mr. Pelesa was granted permission to view the inquest proceedings, but the proceedings were held in secret.

The inquest was conducted in a climate of fear and intimidation. The family of Mr. Pelesa was repeatedly threatened and intimidated. They were also denied access to the inquest proceedings.

The inquest concluded that Mr. Pelesa had died as a result of his own actions. The inquest found that Mr. Pelesa had been plotting to assassinate the chief of the South African Police Force. The inquest also found that Mr. Pelesa had been involved in the assassination of a police officer.

The inquest was widely criticized for its lack of transparency and fairness. The family of Mr. Pelesa and their legal representatives were unable to access the inquest proceedings and were denied the right to cross-examine witnesses.

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

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

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

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

 THERE WAS MORE THAN ENOUGH EVIDENCE to justify a finding that former CCB agent Ferdi Barnard killed Dr David Webster, senior counsel argued in the Rand Supreme Court yesterday.

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

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

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

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

- He had been identified in court as the murderer by a witness. The identification had been spontaneous and immediate.
- Barnard's handler, Lafren Luitingh, had testified that Barnard admitted to him that he had killed Webster in order to impress senior CCB officials.
- Evidence by former Military Intelligence Chief General Witkop Badenhorst that he had been informed of a rumour that Barnard was involved corroborated Luitingh's evidence.
- Evidence had also been given by witnesses that Barnard had access to a sawn-off double-barrelled shotgun.

"It is our submission that a strong prima facie case has been established against Ferdi Barnard," Bertelsmann said.

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

He named Luitingh and General Badenhorst, who had deliberately attempted to mislead both the commission and the inquest and CCB's managing director Colonel Joe Verster and "XJ3" chairman General Eddie Webb.

The hearing continues. - Sapa
Five youths in court over doctor's death

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

Dr Stephan Walter (29) was shot dead in Diepkloof, Soweto, in September last year while driving on the M1 North highway close to Baragwanath. The youths, all aged 16, also face a charge of attempted robbery with aggravating circumstances, two charges of unlawful possession of firearms and one charge of unlawful possession of ammunition.

Dr Walter was shot in the head in his car in Diepkloof.

They had previously pleaded not guilty.

The State alleges that two youths approached Walter when he stopped at the traffic light, while the others waited nearby. They shot him in the head after trying to open the door of his car.
A Policeman tells of attacks on members

Cop claims top ANC leaders were out to discredit SAP.

Injured in 87 attacks between January and December last year. Police arrested 276 and charged 102 in connection with these attacks.

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

He said police uniforms and weapons were sometimes used during attacks to generate an atmosphere of hatred and mistrust against the police.

The PAC and its military wing Apal are also responsible for attacks, Cilliers said. He said there were 255 members in 21 self-defence units in Sharpeville, Sebokeng and Boipatong. Seven of the members were also cadres in the ANC’s armed wing, Umkhonto we Sizwe. The hearing continues - Sowetan Correspondent
Court orders arrest, family's lawyer quits

By Cyril Madala

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

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

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

When the hearing began, Richard Spoor, for the family, objected to the presence of police witnesses in the court room while those for the family waited outside.

The policemen were asked to leave 26/11/92.

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

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

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

The hearing was adjourned to March 15.
Barnard liable, inquest told

By Susan Smuts

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

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

Lutunghe’s evidence was supported by Verster and CCB information officer Derrick Louw (an alias), both of whom told the court Lutunghe had told them of the confession before the start of the 1989 Harris Commission on alleged death squads.

Wessels asked the judge to reject the evidence of former Military Intelligence chief General Witkop/Badenhorst and the SAP’s General Krappies Engelbrecht who conducted an internal inquiry after Webster’s death.

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

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

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

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

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

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

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

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

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

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

He said Verster, Lutunghe and Louw had conspired to make Barnard the “fall guy.”

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

A man claiming to be a Goldmine Commission informer testified yesterday that he had been promised $10,000 to "mess up" and kill policemen if he went to Pretoria to monitor the committee meeting. He said ANC national had ordered him to Pretoria.

However, Mr. Nkomo, Liberal leader in S. Africa, was last night arrested in Pretoria for alleged impending attacks on police. He said ANC national had been promised $10,000 to "mess up" and kill policemen.

The hearing continues today.
Killers still

NEWS Murder of anti-apartheid activist

Cover up is alleged

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

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

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

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

Contradicted each other

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

Badenhorst had also deliberately lied to the inquest when he said Barnard had never been employed by Military Intelligence. It later came to light after a raid by the Goldstone Commission on an MI office that Barnard had been in its employ in 1991 and Badenhorst had been behind his employment.

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

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

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

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

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

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

Barnard himself has repeatedly denied that he made any confession.

Du Plessis said it was clear from the evidence that Webb or Verster had started the rumors after Barnard disclosed the existence of the CCB during his detention under section 29 of the Internal Security Act.

Barnard blew the lid off the CCB and made a number of false allegations about the unit after he was detained in November 1989 in connection with the murder of Swapo lawyer Anton Laubscher.

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

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

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

Lutunghe then submitted, later developed into a full-blown confession by Barnard which was the account he gave when confronted by his cousin, Adv Martin Lutunghe, during the Harms commission inquiry.

This explained why neither Badenhorst, SAP Gen Krappies Engelbrecht nor Verster had mentioned Lutunghe's version of a confession until the current inquest.

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

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

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

Argument continues today.

Green belt needs its own authority, says Midrand

Midrand has broken ranks with five other town councils wanting to incorporate "green belt" land north-west of Johannesburg into their municipalities.

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

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

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

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

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

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

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

Schools hit by gang's protest

KATHRYN STRACHAN

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

DET Johannesburg director of education provision management, Mr Peter Malebane, said the group — acting in the name of the Congress of South African Students (Coss) — had moved from school to school in the area intimidating principals and department heads.

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

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

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

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

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

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

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

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

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

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

On the eve of President-elect Bill Clinton’s inauguration, which he has been invited to attend by the Congressional Black Caucus, the ANC president had kind words for outgoing President George Bush.

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

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

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

Mandela himself stressed the ANC’s need for “resources” to help it mount an effective election campaign against the highly “organised and experienced” NP.

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

Lawyer quits as witness is arrested

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

Richard Spoor, representing the family of Vuyani Mabaza, resigned after magistrate C G de Lange ordered the arrest of a witness for perjury.

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

De Lange expressed irritation at the “pettiness going on here”.

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

De Lange accused Gwebu of lying, and warned him about committing perjury. Spoor said he was obstructed by the prosecution’s allegation.

The magistrate ordered the arrest of Gwebu for perjury. Spoor withdrew from the inquest and De Lange postponed it to March 15.

Mabaza, 22, an ANC Youth League publicity officer and Nkokwana unionist, was shot dead in Diepkloof. Police claimed he was shot after firing at police.

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

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

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

The JBC, reacting to reports of a Supreme Court judge being on the Broederbond executive, said it was fundamental to the administration of justice that judicial officers not only be impartial but be seen to be impartial. Otherwise confidence in the judiciary and, ultimately, the administration of justice would be undermined. — Sap752)
It's business as usual in the House (for now)

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

With 1999 being the critical year of constitutional change, the media spotlight will shift from graceful Cape Town to Johannesburg, leaving MPs the less enviable job of rubberstamping amendment Bills — mostly uncontroversial — largely left over from last year.

Pioneers

If all goes well on the political front, however, Parliament's grandest gesture will be in passing legislation for the first laws to become into law by June.

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

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

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

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

Predictably, the conservative farmers' community, organised by the SA Agricultural Union, is opposing the new labour code.

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

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

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

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

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

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

The Department of Correctional Services will be tabling the Corrections Services Amendment Bill, designed to cover the loophole which saw the notorious Lucky Manzana escape from prison as a political prisoner.

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

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

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

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

Civilians

The Department of Law and Order will table the Police Amendment Bill to replace the Police Act.

The objective is to provide for the employment of civilians. This new development is aimed at exchanging ranked police officers in management/administrative posts with civilians, freeing policemen to fulfil normal duties.

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

The committee proposed deregulation of the marketing and control boards and the curtailing of extensive powers currently afforded to the boards and the Minister of Agriculture.
THE inquiry into the 1985 murders of Eastern Cape political activists Mr Matthew Gomwe, Mr Fort Calata, Mr Sparrow Mkonto and Mr Sicelo Mkhululzis to be reopened in the Port Elizabeth Supreme Court on March 1.

The four were murdered near Bluewater outside Port Elizabeth while driving to a political meeting.
HA! Bill, the new chief

WASHINGTON - Bill Clinton took

new responsibilities in a world

WHERE THE PLAIN TASTE IS MORE

WORTHWHILE. 

Clinton is now

Indian

Minister of Defence in the US

Administration.

New US President of the World

NATO

The NATO Minister of Defence,

Bill Clinton, has been

appointed to lead the NATO

Defence Council, which is

responsible for the nuclear

strategy of the alliance.

Clinton's appointment

comes at a time when the

NATO is facing increased

pressure from Russia and

other countries in the

former Soviet Union.

Clinton's experience in

international relations and

security policy is expected

to be beneficial in these

circumstances.

The new NATO

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Clinton's appointment

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Minister must pay R23,000 to couple

By Cyril Madlala

A prominent couple in Johannesburg's art circles are suing the Minister of Law and Order for R23,000 for alleged assault, wrongful arrest and detention. Sculptor David Rossouw and his wife Kristine — former manageress of the Johannesburg Art Gallery shop — are claiming R6,000 and R17,000 respectively from the Minister in the Johannesburg Magistrate's Court.

Mr. Rossouw's father is seeking a further R435 for damage caused to his vehicle which was used by the couple.

The couple, who were not married at the time, claim that in December 1992 they were stopped in Berea by SA Police members who broke the windscreen of their vehicle by hitting it with an unknown object. Rossouw was allegedly "pulled, pushed and shoved" by the policemen who pointed a 'fire-arm' at him. He was later detained at the Hillbrow Police Station.

P-Both, for the Minister, told the court yesterday that the police would testify that Rossouw was driving recklessly and that when they attempted to arrest him he resisted. They then used force, as was reasonably necessary, to effect the arrest, but Mrs. Rossouw tried to prevent them from doing so.

The police admit that the couple were arrested without a warrant and detained at Hillbrow police station. They deny that this was unlawful. The case continues today.
Webster inquest
‘mother of all lies’

21/1/93

By Susan Smuts

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

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

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

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

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

Du Plessis said Barnard had exposed the CCB while in detention in 1989 and had falsely implicated his former handler, Lairos Lutingh, of being involved in Webster’s murder.

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

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

He asked the judge to reject evidence by three sets of “lying witnesses”. These were members of the CCB inner circle, eyewitness Cornelius du Plessis, who identified Barnard as the murderer, and Barnard’s former employer, Willie Smit, and members of the Smuts family.

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

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

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


Goniwe inquest to reopen in March

By Kaizer Nyatsumba
Political Reporter 21/1/93.

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

The judicial probe, to be chaired by eastern Cape Judge-President N W Zietsman, was ordered by President F W de Klerk in May last year after sensational disclosures of an alleged "death warrant" signal sent from the SADF's Eastern Cape Command to the State Security Council on June 7, 1985, calling for the UDF activists to be "permanently removed from society as a matter of urgency".

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

The bodies of Goniwe, Fort Calata, Sparrow Mokoito and Siselo Mhlahlihla were found in the veed along an eastern Cape roadside on June 29 — three weeks after the signal was allegedly sent.

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

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

ANDREA WEISS, Health Reporter

A DOCTOR in a remote community comes across an accident and finds several teenagers seriously injured and bleeds profusely.

She knows that 25 percent of the teenage population is HIV positive and she will be at small but real risk of getting AIDS if she treats the injured without gloves.

Should she drive for help or roll up her sleeves and pitch in?

This is one of the legal and ethical medical dilemmas which has come under the spotlight at the Society of University Teachers of Law Congress in Stellenbosch.

In a paper on the medical practitioner's duty towards people with AIDS, Professor DJ McQuaid-Mason of Natal University said "as a general rule, there was no onus on a doctor to treat a patient who was not his patient except in emergencies."

But even in emergencies, if one accepted the principle that a doctor did not have to imperil his own life to save that of another, he would not be obliged to treat the patient if he could not protect himself.

In a paper on euthanasia, Professor Jerold Taits of the University of Durban-Westville pointed out that a "Living Will" had no legal standing in South Africa.

This is a document drafted by supporters of voluntary euthanasia saying they should not be kept alive if there was no hope of recovery.

But Professor Taits pointed out that such a document was not a will and did not have power of attorney.

"At best it can be regarded as a written directive having no force of law," he said.
Poison: Killer Jailed for 15 Years

The Kiwis' x 100 - pears
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The Kiwis' x 100 - pears
The Kiwis' x 100 - pears
Farmer’s body found in pigsty; two go on trial

By Anna Louw
East Rand Bureau

A farmworker and the son of a domestic servant yesterday pleaded not guilty in the Springs Circuit Court to murdering a sickly 65-year-old Devon farmer, whose blood-splattered body was found in a pig sty feeding trough.

George Nogqala (30) and John Mahlangu (19) appeared before Mr Justice JF Myburgh and two assessors.

They also pleaded not guilty to robbery with aggravating circumstances as well as illegal possession of a firearm and ammunition.

The trial is related to the death of Johan Godfried van der Merwe on his farm in the Devon district on September 17 1991.

A neighbouring farmer, Johannes Green, said he went to feed his cattle which were on Van der Merwe’s farm two days before the incident.

Van der Merwe told him that he had hired Nogqala.

Green said that on the Tuesday morning he telephoned Van der Merwe but there was no reply. When there was still no answer at 5pm he drove to the farm to investigate.

He saw Van der Merwe’s bunch of keys on the inside of the kitchen door which was locked. Green said he knocked and called out but there was no answer, he looked outside but found nothing.

He and another farmer met Van der Merwe’s wife Maria on the farm road.

They told her they suspected trouble at the house and requested her to get the police.

The two men went to the house, found it unlocked and in disarray.

A search for Van der Merwe continued until late that night and resumed in the morning.

Green said he found clothing which belonged to Nogqala, whom he said was missing.

Warrant Officer Petrus Fourie said he arrived at the farmhouse at 5am that morning.

The farmer’s wife showed him drops of blood on some rocks and at the gate of the fowirun.

After a search the policeman said he found Van der Merwe’s body in a feeding trough concealed under a pile of rocks and old tyres in the corner of the pigsty.

He said the farmer’s hands were bound with wire and handcuffs with a SAP serial number engraved on them.

Van der Merwe’s feet were also tied with wire.

The hearing continues.
Lawyers berate Broeders

A SERVING Supreme Court judge's membership of a secret organisation such as the Afrikaner Broedersbond was improper and incomparable with the proper administration of justice, the Johannesburg Bar Council said yesterday.

The council, in a statement, expressed concern about recent media reports that a Natal judge was on the executive council of the Broedersbond.

The Broedersbond is a secret society which pursues objectives essentially political in nature. Accordingly, membership thereof by a serving judge is improper and incompatible with the proper administration of justice," council chairman Wim Trengove SC said.

He said it was fundamental to the administration of justice that judicial officers not only be impartial, but that they be perceived by the public to be impartial.

"Any derogation from an unqualified public perception of impartiality will undermine confidence in the judiciary and will ultimately undermine the administration of justice itself," Trengove said.

It had long been recognised that the holding of judicial office was incompatible with membership of a political party or any other organisation with essentially political objectives.

The public would inevitably, rightly or wrongly, perceive a judicial officer who was a member of such an organisation, as committed to the furtherance of the objectives of the organisation to the detriment of its judicial duty of impartiality, Trengove said.

DP to focus on domestic workers

THE DP has set out to inform domestic workers in Johannesburg's north-eastern suburbs of their civil, political and employment rights.

DP MP Tony Leon said yesterday the Houghton branch was holding a meeting for domestic workers on Saturday.

He said organisers also sought to prepare domesticies for the coming elections.

"We have arranged for a voter education play to be staged, which is a highly professional and entertaining drama staged by the Matla Trust," Leon said.

The meeting will be held at the Norwood Primary School at 3pm.

ANC's election campaign shifts into first gear

LLOYD COUTTS

THE ANC's election campaign moved into first gear yesterday when its Witwatersrand regional executive committee announced plans to adopt a three-phase programme of action for a "mass-driven" election campaign.

ANC PWV region secretary-general Paul Mashatile said the campaign would be discussed and adopted at a general council in Mayfair, Johannesburg, on Saturday and Sunday.

The first phase would include the mobilisation of campaigners and consolidation of the ANC/SACP/Cosatu alliance, the mass democratic movement and the patriotic front, said Mashatile.

Phase two would include door-to-door campaigning, marches and house meetings aimed at recruitment and dissemination of information on ANC policy.

The third phase would mark the transition from the preparatory stage to a "votes for all" campaign, encompassing subregional and regional conferences, rallies and public meetings focusing on unemployment, education, housing and health.

Throughout the phases the ANC PWV would redouble its efforts to create and consolidate peace initiatives in the region.

"Central to these meetings will be the issue of the climate of free political activity, political tolerance and peaceful coexistence of different organisations," said Mashatile.

The successful adoption and implementation of this programme should ensure the broadest possible support for democratic forces led by the ANC and its allies to bring an end to more than 30 years of minority rule and usher in an everlasting peace and democracy for all South Africans," he said.

Thirty-three outstanding resolutions from an annual regional conference last year, including resolutions on the Peace Accord, socio-economic issues, self-defence units, VAT and food prices, the restructuring of the SABC, affirmative action relating to women and education would also be discussed, Mashatile said.

Council settles hostel dispute

WILSON ZWANE

CONFRONTATION between hostel residents from Thokoza, on the East Rand, and the local town council was avoided this week when agreement on the occupation of the newly renovated Thokoza 1 hostel was reached.

The hostel recently underwent a R6m upgrade, Sapa reports.

The agreement was reached on Tuesday by the TPA, the council and the hostel residents' committee.

In terms of the agreement, those who had vacated the hostel during its upgrading should reoccupy it and undertake to bear its running costs.

In a joint statement the parties said a joint management committee - comprising representatives of the hostel residents, the council and the TPA - had been formed to manage the hostel's finances.

The committee would manage the hostel independently of the council and the TPA. It will decide on the date for reoccupation of the hostel and on new rentals.

Tensions between the hostel residents and the municipality arose recently when the council barred residents from occupying the hostel until they had undertaken - in writing - to pay a 50% increase in rent.

Residents, who had paid R15 a month before they vacated the hostel, refused and threatened to gain entry to the hostel by force.
Ombudsman tackles 2 000 complaints in his first year

PRETORIA — SA’s ombudsman, after a year in office, has opened up more than 2 000 files on specific complaints.

According to the Association of Law Societies journal De Rebus, Judge P J van der Walt’s office receives 30 to 40 phone calls a day from complainants.

Complaints range from rezoning and ecological matters to the state of roads, financial wrangles — including complaints from married women about not receiving housing subsidies — to workers’ compensation cases and political detainees.

De Rebus says, however, that there are still several shortcomings in the Act governing the ombudsman. These include limitations on the types of matters he can investigate and his appointment by the President and not by Parliament.

There was a need to separate the ombudsman’s office from the public service. In terms of the Ombudsman Act of 1991, Van der Walt’s title was changed from advocate-general to ombudsman and his powers and functions extended.

The society believes government departments, public servants and others were learning valuable lessons on accountability and the fact that they could be called to account for their actions.

De Rebus is concerned that a section in the Act which empowers individuals to voice grievances still requires that such complaints should result from someone being unlawfully enriched or disadvantaged.

This probably resulted from the institution’s painstaking slow evolution from an advocate-general’s office, which was established to deal with issues such as the Information scandal.

De Rebus says there is no shortage of such issues in SA and the disclosures about fraud and maladministration in the homelands were good examples. But there should also be scope for complaints about other issues.

ANC-DP joint working group put on hold

CAPE TOWN — The ANC and the DP failed yesterday to reach agreement on launching a joint working group to promote free and fair elections in the western Cape.

At a meeting yesterday the ANC backed off, for the time being at least, from an earlier commitment to set up a formal structure with the DP to monitor the volatile political situation in the region and promote a culture of tolerance.

Yesterday’s meeting between delegations led by ANC regional secretary Tony Yengeni and DP regional chairman Jasper Walsh was arranged to discuss the proposed joint working group.

However, the ANC said the idea would first have to be canvassed with its rank-and-file membership and use should be made of peace accord structures to deal with crises as they arose.

Renamo weapons dispute resolved

MAPUTO — Renamo government and the UN had “amicably resolved” a dispute over a list of weapons Renamo had to give UN peacekeepers, a UN spokesman said yesterday.

The row flared up at a joint Ceasefire Commission meeting on Monday, where Renamo claimed it was unable to supply a detailed list of the weapons and ammunition its units would take to 20 assembly points where its fighters are to be garrisoned prior to demobilisation.

The reluctance to provide lists fed suspicion that Renamo might try to cache arms ready for use should the rebels dispute future general election results.

It was agreed on Tuesday that Renamo would provide aggregate lists of all weaponry it possessed, without breaking the list down for each assembly point.

UN supervisors would check all weapons arriving at the assembly points against Renamo’s total tally.

The peace accord’s implementation is three months behind and it seems impossible to maintain the scheduled October 1993 date for Mozambique’s first multiparty elections — Sapa-AFP.
Evidence implicating ex-CCB man is lies

THE inquest into the death of Wits
academic David Webster had been the
"mother of all lies and lies", former
CCB operative Ferdi Barnard's attor-
ney Piet du Plessis said in the Rand
Supreme Court yesterday.

Making final submissions before
Judge M Stegmann, Du Plessis said
unreliable and contradictory evidence
implicating Barnard as a key suspect,
from witnesses who all had their own
agendas and motives, had not estab-
lished a prima facie case against his
client.

He said evidence that Barnard had
confessed to his former handler Lafras
Lutshing days after the shooting,
should be rejected as false.

It was clear, he argued, that mem-
bers of the CCB's inner circle — which
included MD Joe Verster, Lutshing and
Derek Louw — had committed un-
authorised criminal acts which they
feared would be discovered after Bar-
nard disclosed the existence of the co-
vert unit in November 1989.

Barnard disclosed the existence of
the CCB in a statement made while he
was in detention under Section 29 of the
Internal Security Act.

In the statement Barnard falsely al-
leged that Lutshing could have been
responsible for Webster's murder. He
also made a number of other false
allegations about members of the "in-
ner circle".

It was then that the "inner circle"
began an extensive disinformation
campaign against Barnard, Du Plessis
said.

Verster's counsel J Wessels and the
Webster family's counsel E Berts-
man have submitted that the evidence
established a prima facie case against
Barnard.

However, counsel for the SADF ar-
gued that no case had been established.

Stegmann said he would deliver his
findings tomorrow.

Defence committee proposal

MULTIPARTY policy control of the
armed forces in SA during the transi-
tional phase should be vested in a de-
cence committee representing parties
across the spectrum.

And a military ombudsman should
be appointed who was initially ac-
countable to the interim legislature,
the Institute for Defence Policy pro-
posed yesterday.

In addition, the establishment of a
council of defence, a joint armed forces
military council and an advisory com-
mittee on race relations and civic edu-
cation were some of the changes in
SA's military structure recommended
by the institute.

The institute's proposals were not a
blueprint on defence matters but
should be viewed as subjects for wider
discussion ahead of the resumption of
multiparty talks, institute director
Jakkie Cilliers said at a media briefing
at Midrand yesterday.

The institute proposals are con-
tained in the latest issue of its publi-
cation, SA Defence Review, which focus-
es on the concept and role of SA's
armed forces and political control of
defence in a democratic SA.

The institute is financially supported
by the German Hans Seidel Founda-
tion, Gencor Development Trust and
the Anglo American and De Beers
Chairman's Fund.

The essence of the proposals was a
concept for armed forces based on the
rule of law and on respect for human
rights as enshrined in a future constitu-
tion and bill of rights, the institute said.

Some of the proposals had already
been discussed and agreed on in prin-
ciple by various groupings at Codesa,
Cilliers said.

Cilliers said the proposed council
defence was a key element and should
be established as soon as possible
through multilateral talks.
Police deny assault on sculptor
By Cyril Mdindala

A policeman denied in the Johannesburg Magistrate's Court yesterday that police assaulted Kempton sculptor David Rossouw when he was arrested in December 1989, and said Rossouw's wife had assaulted a policeman.

Rossouw and his wife Kristine are claiming R8 000 and R15 000 respectively from the Minister of Law and Order for alleged assault, wrongful arrest and detention.

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

The Rossouws claim that in December 1989 they were stopped in Berea by SAP members who broke the windscreen of their vehicle.

Rossouw was allegedly "pulled, pushed and shoved" by the policemen. One allegedly pointed a firearm at him.

They were later detained at Hillbrow police station where, his wife was charged with assault and for swearing at a policeman.

Sergeant Andrew Marambos told magistrate C van Niekerk that Rossouw had been driving so recklessly that there would have been a collision if the police vehicle had not swerved.

He said he identified himself as a policeman. The Rossouws deny he did this.

He told the court that there was a strong smell of dagga when he approached their vehicle, but when it was searched none was found.

He admitted that he was carrying his firearm, but said he had not drawn it.

Rossouw had resisted when he tried to arrest him "Reasonable" force, including wrestling him to the ground, was then used.

Marambos said Kristine Rossouw was very abusive, and tried to prevent Rossouw's arrest. She had slapped a policeman and was then arrested.

The police deny that the couple's arrest and detention was unlawful.

The case continues today.
Row over Broeder judge

By Brendan Templeton

Mr Justice W.H. Booysen’s membership of the secret Broederbond organisation is causing growing concern in legal circles.

The Johannesburg Bar Council (JBC) and Lawyers for Human Rights (LHR) yesterday said his membership was incompatible with the judiciary’s interests.

The Star disclosed last week that the Natal Supreme Court judge is an executive council member of the Broederbond.

The JBC, said judges had an obligation to be impartial and to ensure they were perceived as impartial.

"The Afrikaner Broederbond is a secret society which pursues objectives which are essentially political in nature. Accordingly, membership thereof by a serving judge is improper and incompatible with the proper administration of justice," the JBC said.

LHR director Brian Carram said Mr Justice Booysen would have to resign from the Broederbond.
MK-APla plot to kill policemen, probe told

By Peter Davies

The Star Friday January 22 1993
Two State witnesses in a murder case against an AWB member yesterday told the Vereeniging Regional Court the accused had intimidated them.

John Franklin Owens (44), appeared before Magistrate LP Virtue on a charge of murdering Jim Simini Gumbo in November 1991. It is alleged that Owens had tied Gumbo to a pole and severely beat him. Gumbo was also allegedly savaged by a dog.

Owens, of Tedderfield Smallholdings near Eikenhof, has not yet pleaded to the charge and was released on bail of R200 during an earlier court appearance.

Owens's son, Franklin Henry Owens (23), told the court that his father had tried to get in touch with him. He wanted his son to know that he was aware that his son and his father were going to testify against him.

Another State witness, Joseph Kunene, told the court that Owens was "bothering" him. He said the accused and other whites had followed him last week.

Defence counsel Advocate Gerrie Meyer argued that his client had not even been aware that Kunene would be a witness. When asked where his home was, Kunene said that he was afraid that Owens would "assault and molest" him.
DP calls on judge to tell all

THE Democratic Party has called on Natal judge Mr Justice W H Booyzen to reveal if he is an executive member of the Broederbond.

DP justice spokesman Mr Tony Leon said that if, as had been reported, Mr Booyzen was a member he should either resign from the Broederbond or from the bench.

A Johannesburg newspaper claimed yesterday that Mr Justice Booyzen was a serving member of the executive of the Broederbond, the organisation which has shaped National Party thinking over the years.

Mr Justice Booyzen should be allowed an opportunity to clarify his position, Mr Leon said.

Mr Leon said the Johannesburg Bar Council had confirmed that a serving judge's membership of a secret, essentially political, organisation such as the Broederbond was improper and incompatible with the job.
ANC slams illegal arms

ANC said yesterday the carrying of illegal arms and ammunition by its members was contrary to its code of conduct which prescribed disciplined behaviour.

The organisation was responding to the conviction this week of its northern Natal administrator Bongani Msomi for the possession of illegal arms and ammunition.

The ANC said in a statement it did not condone such acts by its members.

"Our code of conduct specifies that our members should be disciplined and must not bring the name of the ANC into disrepute," the organisation said adding that no arms had been issued to members since the armed struggle was suspended in 1994.

It stressed that before its members were condemned for possessing weapons illegally, their circumstances should be known. Emphasis was "notorious for the killings and harassment of ANC members".

The ANC however encouraged its members, who felt their lives were in danger, to apply for licences to carry firearms. "Since discretion in such matters is in the hands of the police, there have been few positive responses."

The proliferation of arms, however, was of concern and needed to be combated, the ANC said.

DP calls for judge to quit

NATAL Judge WH Booyser should resign either his judicial office or his executive position in the Afrikaner Broederbond, if his membership of the organisation was confirmed, DP justice spokesman Tony Leon said yesterday.

Leon was reacting to recent reports that Booyser was a serving member of the Broederbond.

The Johannesburg Bar Council said in a statement on Wednesday that a serving Supreme Court judge's membership of a secret organisation such as the Broederbond was improper and incompatible with the administration of justice.

The Bar Council statement did not identify the judge referred to, but Booyser has been named in news reports.

Leon said Booyser should be allowed to clarify his position. "Should his executive membership of the Broederbond be confirmed, the interests of justice suggest he should resign either his executive position and active membership of the Broederbond, or his judicial office."

Comment: Page 10
Trust's work won't stop after inquest

As CCB members threaten to defend their reputations by revealing damaging evidence, the David Webster Trust says it will continue its work after the inquest.

By JACQUIE GOLDING

A letter states: "... unless the Webster inquest degenerates like the Harms Commission, where justice is a farce/joke, CCB members hold the right to protect themselves in the following ways:

● Giving evidence concerning the orders handed to them to destroy files and documents.
● Providing information pertaining to various orders and the release of funds in order to keep members of the Harms Commission in line..."

... "There are further threats that the CCB will offer information concerning top-secret operations known only to South African Police General Balsie Smit and other senior members of the police.

CCB sources say they are also in possession of information which will implicate former Defence Minister Magnus Malan in CCB operations that resulted in violence and numerous deaths.

Malan is now minister of forestry and water affairs.

The letters say the CCB has been "left in the lurch" by the South African Defence Force and its members have been forced to "exercise their rights outside the court and away from the public eye".

"This letter must not be seen as a threat," read the letter in Afrikaans, "but as an emergency call (nododracht) from those who have been loyal to their commanders and instructors.

"It (the letter) must be read as a statement from people who refuse to be further manipulated to protect other entities... especially since those entities, because of unprofessional behaviour, are responsible for the problems of the nation."
Security agents on edge, warns Barnard

JOHN PERLMAN
Chief Reporter

FERDI Barnard, former operative of the CvaL Co-operation Bureau and "prime suspect" in the inquest on the death of David Webster, yesterday said he would not be applying for immunity because he did not believe he had done anything wrong, but warned of dissatisfaction among the country's intelligence operatives.

Speaking at a press conference after the inquest, Barnard said there was "no doubt in my mind that any intelligence operative, even at the low level" would be able to give high-ranking officials in Government, the police and the military "a lot of discomfort."

**Low morale**

Barnard said such operatives had information "which could relate to a number of matters, including murder."

He said the Government would be well advised to "keep them happy."

He said morale was low at the moment because "people are being fired overnight I have information about generals in the SAP and the defence force who are working with the ANC to sell us out."

Barnard insisted he had been made a scapegoat in the Webster hearing and said further investigations should look "in the direction of criminal elements" as Webster was thought to have uncovered details of an ivory smuggling racket. He said he felt "sorry" for Webster's girlfriend, Maggie Friedman. "I don't think she did anything to deserve what she's been going through, just like I haven't done anything to deserve what I have been going through."

Barnard said he would be celebrating his "acquittal" with a "couple of friends in the intelligence community. We'll talk about old times and the old South Africa which we enjoyed very much."

*TO PAGE 2.*
Visit vengeance for the camps
Prime suspect given benefit of doubt

Open inquest in Webster probe

Academics murder

Prime suspect given benefit of doubt

The inquest will not be

This inquest will not be

Michael Sheehan yesterday

as he delivered an open inquest

Prime suspect given benefit of doubt

See this article for more information.

Prime suspect given benefit of doubt

Open inquest in Webster probe

Academics murder

Prime suspect given benefit of doubt

The inquest will not be
He said, "In my judgment, Ferdi Barnard is at this stage entitled to the benefit of the doubt."

Disappointed

Stegmann stressed that his decision was not final or binding. "For the present, the truth has not been brought to light," he said.

Maggie Friedman, Webster's girlfriend, said she was "a bit disappointed by the finding, but not surprised. But I am not prepared to say this is the end of it. Nobody has been found guilty but nobody has been found innocent either. There has not been a final binding decision."

"We will have to take it forward in whatever way we will have to look at the judgment first, especially the legal aspects," she said.

Stegmann began his 4½-hour judgment by ruling on precisely what standard of proof the inquest would have to apply in reaching its findings. Contrary to the submission by Webster's family's lawyer that the court had only to find that a case existed "on the balance of probability", Stegmann ruled that the evidence had to be "beyond reasonable doubt."

Stegmann said that although a veil of secrecy had been thrown around the security organs of the State, there was no basis for suspecting the involvement of Military Intelligence, the security police or the State Security Council in the murder. And while suspicion had come to rest on the CCB, neither the organisation as a whole nor the agents in its domestic branch, Region Six, had been shown to have planned or executed the murder.

Scapegoat

Barnard had claimed he had been made a scapegoat after CCB managing director Colonel Joe Verster had been inculpated by former CCB chairman General Eddie Webb. In his turn, Verster claimed the CCB was being made a scapegoat for all crimes committed by the security forces, and had been "thrown to the wolves" by his superiors in the SADF.

One of the most serious allegations against Barnard came from his former handler Latras Luitingh, who claimed Barnard had boasted only days after Webster's murder that he was the killer. Luitingh had denied this to the 1990 Harms Commission into alleged police death squads.

Luitingh's claims had "switched around like a weathercock", Stegmann said. He was a disinformation expert who was accustomed to falsehood, the judge said.

Stegmann said he had had difficulty in assessing the contradictory evidence by members of the CCB "inner circle". He said he could not tell whether the conflict was between truth and falsehood or different levels of falsehood. The "inner circle", made up of Luitingh, Verster and CCB information officer

FROM PAGE 1.

Derrick Louw (an alias), were skilled not only at lying but in the corroboration of their falsehoods, the judge said.

"There was no reason to accept their evidence above that of former military intelligence chief General Witkop Badenhorst and the SAP's General Krappies Engelbrecht, who conducted an internal inquiry after the murder.

Wim Wessels, who appeared for the trio, had incriminated the generals of being involved in the investigation.

Verster had contradicted himself, and his evidence had to be treated with caution, the judge found.

He said he could not rely on the evidence by other witnesses who implicated Barnard, as their evidence was contradictory. "They exculpated Barnard's former employer Willem Smidt's mother, and eyewitness Cornelius du Plessis.

The judge found there was also no evidence to prove Webster's murder had been authorised by the CCB. Without the missing project files which disappeared during the Harms Commission, it could not be proved it had targeted the Wits anthropologist. The diary of CCB administrator Wouter Basson (also known as Christo Brits) made no reference to the assassination, and it was unlikely the murder could have been planned without Basson's knowledge, the judge said.

He rejected an argument by Eberhardt Bertelsmann, appearing for the Webster Trust, that CCB officers had incited their "subordinates" to murder.

Stegmann said the investigation into Webster's death would continue. Friedman said she believed the inquest "as a whole had got a lot into the open, exposed things and put pressure on the State. The frustration of the Harms Commission was that this stuff couldn't be heard and aired."

"At least people now know the details of the allegations," Friedman said. "And I believe that the inquests into the deaths of Anton Lubowski and Matthew Gormwe will be held in a different atmosphere. This inquest has set a standard for greater openness."
Racist remarks fly as AWB accused prepare for trial

By Dan Dlamini

RACIAL animosity again reared its ugly head in the Free State, but this time in a court of law, as AWB members openly insulted blacks and cried to be heard from the court room.

The incident occurred this week at the Welkom Regional Court where six AWB members - Roelf J. Fourie, 19; Guillame C. Louie, 39; Rudi G Rossman, 23; Andries C Odendaal, 32; Roelf J Jordaan, 30, and Cornius Strydom, 26 - appeared on charges of housebreaking and theft of R14 000 worth of weapons and ammunition from the SADF armoury in Welkom.

Before the hearing commenced, AWB members occupied most of the seats in the small courtroom and refused to make way for some blacks who wished to attend the proceedings, despite pleas from the prosecutor, Dawid Appelwyn, who was cursed by the blacks during the gathering.

Comments such as "kafferboeters," and "herdie kaffirs meet her stoor, kaffer stoor het niks met hulle te was nie" (kaffirs must scram or get out of here. This case has nothing to do with them), were heard at Appelwyn and the black audience.

The tense situation was defused by Regional Court Magistrate Andre Greeenewald who decreed that AWB members should make way for other people, following Appelwyn's application.

Earlier, Welkom's local magistrate K Seaman had to put up notices prohibiting the public from entering the court premises carrying firearms.

Witnesses told City Press that AWB members, who attended the bail application hearing on Sunday night, entered the court building with firearms and AWB flags, despite the notices.

Five of the six accused were granted R3 000 bail each except for Odendaal whose application was successfully opposed by the State.

Their bail release follows their successful Supreme Court interdict against the police for holding them under Section 29 of the Internal Security Act.

In opposing Odendaal's bail application, Appelwyn said it was unlikely that Odendaal - who is linked with the bombings of Cosatu House in Pretoria in 1991 and the Verwoerd and Krugersdorp Post Offices last year - would stand trial.

The prosecutor said Odendaal had skipped his R3 500 bail on two occasions and there was no guarantee that he would stand trial this time.

Appelwyn added that should the court decide to grant him bail, it should be set at R15 000, after Odendaal and the AWB Legal Fund was prepared to pay R10 000 for his bail.

Forced

In his defence Odendaal said he was not part of the planning of the arms theft and had been forced to take part in the operation.

Odendaal, who confirmed that during the break-in at the SADF he wore a black uniform normally used by the "Ystangarde", the armed wing of the AWB, denied that he was a member of the AWB armed wing. He said he was an ordinary member.

Regarding the bombing of Cosatu House and the two post offices, Odendaal told the court that he had an equal share in that crime.

He told the court that his trial was scheduled for March 8 and that he had applied for indemnity.

In turning down his bail application the magistrate said he was convinced that Odendaal, who was charged to conspire crimes with a political motive, would not stand trial.

The six men will appear in court on March 2 with bail conditions stipulating no communication with State witnesses.

Their lawyers, however, strongly objected to the bail conditions, saying the State must name its witnesses so that the accused can identify them.
Change in law foils Webster inquiry

By CATHY STAGG

A RECENT change in the law was the reason an inquest judge failed to make a finding on murdered Wit's academic and anti-apartheid campaigner Dr David Webster.

Summing up at the end of the marathon inquest, Mr Justice MS Stegmann said his finding had turned on two words — prima facie — which were introduced into the Inquest Act on April 3, 1992.

Before then, legal counsel appearing at the inquest agreed, it had been necessary for the presiding officer to have proof "on balance of probabilities" to make a finding that someone was responsible for causing an unnatural death. The attorney-general could then decide whether to prosecute.

But the new wording changed this — and counsel for the parties represented at the Webster inquest debated vigorously on how it should be interpreted.

Mr Eberhardt Bertelsmann, SC, who appeared for the late Dr David Webster's family, argued that the introduction of "prima facie" meant that the standard of proof was reduced to less than a balance of probabilities, which is the test for civil trials.

But Mr Jan Steiner, the Cape Town State Advocate, said the new phrase upset the test to the same one applied to a criminal trial beyond reasonable doubt.

Justice Stegmann decided that Mr van Vuuren's argument was correct.

If the judge had chosen to apply the broader test, his judgment indicated, then the suspicions voiced during the hearing would have led to a different result.

However, Justice Stegmann stressed that his lack of a finding on who caused Dr Webster's death did not mean that the investigation was over.

The instructing attorney for the Webster family, Mr Greg Nott, said yesterday he would discuss the outcome with his client before a decision was taken on whether the matter would be taken on review.

Commenting on the new development, Mr Jules Browde, SC, national chairman of the Lawyers for Human Rights, said "it would be surprising if the requirement at an inquest was proof beyond reasonable doubt. An inquest is merely to establish if there is sufficient evidence to warrant a prosecution arising from an unlawful death. To make a finding beyond reasonable doubt would seem to supplant the need for a trial."
I was the Webster fall guy, alleges Barnard

By DESMOND BLOW
CONVICTED murderer Ferdi Barnard said this week he was the "perfect fall guy" to take the rap for the murder of Dr David Webster for the Civil Cooperation Bureau.

He also lashed out at State President FW de Klerk for shaming the Homemanship Act through the President's Council.

"He has done that to save people in high places, including Foreign Affairs. I have seen documents," he told City Press after Judge Michael Stegmann found that the seven-week inquest into the death of Webster failed to establish who was responsible for his murder.

Barnard told the inquest he did not feel threatened that someone in high places would "try to take me out!"

"I know I have inside many powerful enemies but they must remember that I am not isolated. Everybody is in security looks after one another. Those of us who have been betrayed have taken precautions. It will not be easy to take me out, but if something happens to any of us, certain evidence will become available," he said.

Stegmann ruled that so many lies were told during the inquest by members of the CCB, who were trained, skilled and accomplished deceivers, that he was unable to ascertain who was responsible for the Witwatersrand murder.

He said that despite allegations that Barnard was the one he should be given the "benefit of the doubt at this stage!"

Barnard said that certain members of the CCB had plotted to keep the murderer in order to protect themselves.

"It was only at a late hour after General Edie Webb had fingered the CCB, that some of them turned on me. They claimed that I had done the killing without orders so that I could ingratiate myself with them.

"But not all the CCB members were against me. Some of the best people I have ever known were members of the CCB, and they would stand by me in any situation. They are still friends of mine, but Joe Verster and Derek Low - I don't know who he really is or where he comes from - invented lies about me, and my To Page 2

Barnard is given benefit of doubt

From Page 1

handler Lafras Lutingh and I had a personality clash from day one.

"The judge" rightly found that Lutingh switched around like a weathercock. He denied to the Harms Commission that he knew anything to do with the murder, but he told Judge Stegmann that he had boasted to him - only days after Webster's death - that I had killed him.

Asking why he thought friends like the Snaids had agreed to give evidence against him, he said he had no idea.

"Some people couldn't take the strain. Willie Smit contacted me a couple of days ago through a third party. He claimed he was intimidated by threats to make a statement against me, but I refused to see him and said he had anything to say he must put it in writing.

"Barnard also attacked the government, saying it had betrayed its operatives. "They are busy with a witchhunt against us and it is not going to stop here."

"I have good information that MK has warned the government if they don't take the sting out of the intelligence community they are going back to the bush to fight again."

"The morale of the security forces is very low at this stage. I have information that a certain general in the defence force has gone the ANC way."

Barnard said he did not believe that Webster was a threat to the government and did not warrant being killed.

He also expressed sympathy for Webster's girlfriend, Maggie Friedman.

"She is so small and frail. I really felt for her," he said.

Maggie Friedman said she was disappointed by the verdict, but not surprised.

She was pleased, however, that certain revelations had been made and felt it was not the end.

"There is the Geniwe inquest and in time the truth must come out," she said.
Inquest fails to identify Webster’s killer

THE inquest into the 1989 assassination of Davidson Webster ended in the Rand Supreme Court on Friday with Judge M Stegmann finding that the available evidence had failed to establish the identity of the murderer.

He emphasised, however, that although the inquest had not established who was responsible for Webster’s murder, his findings were not final and the police docket would remain open.

Stegmann said the seven weeks of evidence presented at the inquest had not established that Webster’s murder was planned and executed by the now disbanded CCB.

He said it was unclear whether there had been a conspiracy to murder Webster, but there was no evidence to prove that it had been a CCB project.

The evidence had also failed to prove beyond reasonable doubt that the prime suspect, former CCB operative Perdi Barnard, was responsible for the murder “Barnard, at this stage, is entitled to the benefit of the doubt,” the judge said.

Stegmann also held there was no evidence of military intelligence involvement in the murder.

Stegmann said he was unable to rely on the contradictory evidence implicating Barnard, which was given by former CCB members, Barnard’s former employer Willie Smit and a witness, Corrie du Plessis.

Barnard’s former handler Laffras Lutshngi testified that several days after the murder Barnard had confessed to him.

CCB MD Joe Verster and operative Derek Louw also gave evidence implicating Barnard.

Barnard repeatedly denied that he was responsible for the murder or that he had made such a confession to anyone.

Judge Stegmann described the CCB witnesses as people trained and skilled in the art of deception.

“They are, to put it bluntly, professional liars.”

The truth about the murder, he said, lay deeply buried.

“I doubt any of the versions given reveals the whole truth.”

Referring to the contradictory evidence given by members of the CCB’s inner circle, Stegmann said it was quite possible that the court had been presented with conflicting falsehoods.

Verster’s evidence had been characterised by “a calculated ambivalence”, said the judge.
JOHANNESBURG —
The Patients Rights Organisation of SA (Prosa) has strongly condemned any legislation that gives medical service suppliers the right to make decisions for patients.

Their protest follows moves to allow big business and medical aids to run health maintenance organisations, which would enter into contracts with hospitals and pharmacies and employ their own practitioners.

The Medical Schemes Amendment Act is expected to be approved by Parliament in February or early March this year — Sapa.
ANC has ‘right to reopen inquests’

Call for independent inquiry

By Mzimasi Ngudle

The African National Congress reserved the right to reopen all inquests into political assassinations when it came to power, ANC PWV region chairman and national executive member Mr Tokyo Sexwale has said.

Opening an ANC PWV regional council meeting, Sexwale said he was surprised at Mr Justice Michael Stegmann’s finding in the inquest into the death of Dr David Webster.

Sexwale said the inquest into the 1985 death of Mr Matthew Goniwe and three other Eastern Cape activists, Mr Fort Calata, Mr Sparrow Mkhonto and Mr Hector Mbeki, may follow the same trend.

Sexwale echoed the words of Azanian People’s Organisation (Azapo) publicity secretary Dr Gomolemo Mokae, who said:

‘Charade’

Mokae said no structure instituted by the current regime could objectively investigate the circumstances of the death of opponents of the regime.

‘What we say is that the inquest was a charade,’ he said.

In the same vein the Pan African Congress said the inquest had made it clear that “the question of an independent judiciary is a sham”.

‘Inquests into the death of Steve Biko and many others demonstrate this very well,’ PAC secretary for political affairs Mr Jaki Strobe said.

At the close of the seven-week inquest, Mr Justice Stegmann said no proof beyond a reasonable doubt had been established that prime suspect and fired Civil Co-operation Bureau agent Ferdi Barnard had been responsible for Webster’s murder.

Stegmann said that although a veil of secrecy had been thrown around the security organs of the State, there was no basis for suspecting the involvement of Military Intelligence, the security policy or the State Security Council in the murder.
DP calls for SABC unbundling

DP MEDIA spokesman Peter Soal yesterday called for the unbundling of the SABC.

In a statement, he said the corporation was monolithic in its structure and "all-embracing in its network of contacts and influence throughout SA".

"Entrepeneurs from all sections of the community must be given the opportunity to operate radio and television stations."

He said the monopoly the SABC operated in, in the form of three TV stations and many radio stations, should be reconsidered.

Soal said the new board should act as fast as possible on the proposed new SABC board "and act in a manner which will not be seen to serve its own narrow interests".

He said the recent speculation regarding the matter in which the new board was to be appointed highlighted public concern about the matter and underlined the need for government to consult widely and quickly on the issue.

"I have no doubt that while the new board must be politically neutral, in that its members must not be office bearers of any political party or organisation, the selection process must include politicians and citizens from all walks of life."

He said that for the board to enjoy the confidence of all people, it must represent the broad spectrum of SA society.

Inquest fails to identify Webster's killer

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He emphasised, however, that although the inquest had not established who was responsible for Webster's murder, his finding was not final and the police docket would remain open.

Stegmann said the seven weeks of evidence presented at the inquest had not established that Webster's murder was planned and executed by the now disbanded CCB.

He said it was clear there had been a conspiracy to murder Webster, but there was no evidence to prove it had been a CCB project.

The evidence had also failed to prove beyond reasonable doubt that the prime suspect, former CCB operative Ferdi Barnard, was responsible for the murder. "Barnard, at this stage, is entitled to the benefit of the doubt," the judge said.

Stegmann also held there was no evidence of military intelligence involvement in the murder.

Stegmann said he was unable to rely on the contradictory evidence implicating Barnard, which was given by former CCB members, Barnard's former employer Willie Smit and a witness, Corrie du Plessis.

Barnard's former handler Luifras Luitingh testified that several days after the murder Barnard had confessed to him.

CCB MD Joe Verster and operative Derrick Louw also gave evidence implicating Barnard.

He said it was important that it ensures all SABC broadcasts be as unbiased and impartial as possible.

"It would be grossly unfair and totally unacceptable for a political party or organisation to be put at an advantage over its opponents because it has influence or contacts in the SABC newsroom."

"The authorities and corrupt practices of the old SA must not be carried forward into the new," he said.

Last week the CP said appointing judges to select new SABC board members would be no guarantee that the new board would be objective and independent.

Sapa reports that CP broadcasting spokesman Pieter Mulder said it was deplorable whether there was any sense in parties such as the CP or Inkatha discussing the selection process for a new SABC board with Home Affairs Minister Louis Penaar. It appeared from reports that the CP's fears about government/ANC collusion on the matter were justified, he said.

The CP had warned that, after Cope's failure, the SAP, SADF and broadcasting would become targets of negotiation strategy, and this was what had happened.

Bernard repeatedly denied that he was responsible for the murder or that he had made such a confession to anyone.

Judge Stegmann described the CCB witnesses as people trained and skilled in the art of deception. "They are, to put it bluntly, professional liars."

The truth about the murder, he said, lay deeply buried.

"I doubt any of the versions given reveal the whole truth."

Referring to the contradictory evidence given by members of the CCB's inner circle, Stegmann said it was quite possible that the court had been presented with conflicting falsehoods.

Verster's evidence had been characterised by "a calculated ambivalence", said the judge.

Susan Russell
Security firm to testify on attack at station

By Helen Grange
Pretoria Bureau

Private security company Springbok Patrols has been called to testify today at the Goldstone Commission concerning its guards' actions during an attack on train commuters at Soweto's Mmabatho train station on November 23.

The attack, in which two people died and 26 were injured, took place just as an afternoon rush-hour train pulled into the station. The perpetrators—a group of men waiting on the platform—opened fire on commuters as they disembarked, according to a police report.

At the time, there were only three Springbok Patrols guards at the station, and in the chaos several shots were fired by them, their company has confirmed.

Two of the guards, giving evidence before a committee of the Goldstone Commission yesterday, said they had come on the scene only after the shooting had begun. No policemen were there.

Zola Mathuka (25) said he had shot and killed two men. One had come towards him with a panga. The other was trying to scale a fence to escape.

He had shot to kill. After the first man was shot in the stomach, he fell backwards "giving his last kick." Mathuka said he had "blown the other one's brains out" after first firing a warning shot.

However, a report afterwards from Springbok Patrols group managing director Mike Bartmann, based on the guards' stories, mentions no mention was made of Mathuka killing two men.

The report said only that a man wielding an axe was shot by Mathuka, but that the man continued running and "disappeared." The other two guards had fired only warning shots.

Commissioner Gert Steyn said he wished to hear evidence on this from Bartmann today.

He also wanted evidence on a contradiction between the two guards' testimony that they were unable to identify any of the attackers and the company's statement that the guards had identified two of them in Hillbrow Hospital soon after the attack.

Police last week released four suspects held in connection with the attack after an identity parade. The Springbok Patrols guards were unable to identify any of the suspects.
Judge upholds magistrate’s bail ruling

THREE men who were to stand trial in the Johannesburg Regional Court next month on charges relating to attacks on and explosions at the Meadowlands Hostel in Soweto, were refused bail by a Rand Supreme Court judge yesterday.

Johannes Xiba, 24, Petrus Buthelezi, 23, and Johannes Matee, 32, were refused bail by a Johannesburg magistrate.

In that application, police opposed bail on the grounds that Xiba, Buthelezi and Matee had been identified as participants in attacks on the Meadowlands Hostel.

The police, who alleged that Xiba, and Buthelezi had received military training in Tanzania, said there were a number of witnesses who feared the three would disappear if they were let out on bail.

According to the police, Matee had been a supervisor at Dantex Explosives and there were witnesses who would testify they had received military and explosives training from him.

Upholding the magistrate’s decision to refuse bail, the judge said he could find no misdirection or incorrect conclusions on the part of the magistrate.

Although he did not completely agree with the reasons given by the magistrate for refusing Matee bail, the judge said he was unable to find that the decision had been wrong.

Kriel releases names of police reporting officers

PRETORIA — Ten “police reporting officers” who will deal with allegations of police misconduct have been appointed by Law and Order Minister Hermus Kriel, in line with the national peace accord.

The SAP said in a statement yesterday that complaints of police misconduct would be referred to a police reporting officer for investigation.

In terms of the accord, the Association of Law Societies and General Council of the Bar submitted to Kriel the names of three candidates for each region, from which he could make appointments.

The 10 officers are:

Western Cape — Christoffel Pauw, a former prosecutor and advocate with the office of the attorney-general, now in private practice.
Northern Cape — Mark Fletcher, an attorney in private practice.
Free State — Johannes Roets, a legal practitioner with 43 years experience at the Justice Department.
Eastern Cape — Henning Liebenberg, an advocate well known in legal circles in the region.
KwaZulu-Natal — John Melville, an advocate who formerly served in the Justice Department and has a wide experience of official and private enterprise.
Eastern Transvaal — Jan Marais, a highly qualified legal practitioner well known in the area.
Northern and Far Northern Transvaal — Prof P van Warmelo, appointed senior advocate a few years ago in recognition of his academic achievements.
Witwatersrand — J Munnik, an advocate who has wide legal experience in local and overseas practices.
Soweto — Kgomato Moroka, a Supreme Court advocate and a woman with wide legal experience.
Western Transvaal — Andries Husamen, a former magistrate with the Justice Department — Sapa.
Verster to help Trust find killer

Former Civil Co-operation Bureau managing director Colonel Joe Verster says he has decided to give the David Webster Trust his "wholeshearted" co-operation in trying to find the murderer of the anti-apartheid activist.

In an interview after the Webster inquest ended with an open finding, Verster was clearly smirking at being described by Mr Justice Stegmann as a professional liar.

He told The Star: "I haven't co-operated with the trust before, but now I will. I will try to find minutes of meetings, agendas, whatever they need to help solve this case.

"Until it is solved, it suits certain people to continue to smear me and the CCB."

Verster told the inquest that he knew that former CCB operative Ferdi Barnard had "confessed" to the killing of Webster to his former handler, Lafras Lutingh.

He claimed the continuing "campaign" by SADF generals and those close to the SAP was part of a conspiracy to force him to seek an amnesty.
I was shot by guards, says train commuter

By Helen Grange
Pretoria Bureau

A survivor of a train attack in Soweto in November told a Goldstone Commission committee yesterday he had been shot by a Springbok Patrols security guard as he scaled a fence.

Mr "C" (his name may not be published), a 25-year-old hostel dweller, told the committee he had been slashed at with a panga moments earlier as he tried to get off a train at Mlambankuzi station on November 25.

The attack, in which two people were killed and 36 injured, was perpetrated by a group of men who opened fire from the platform, according to the police.

Describing his ordeal, Mr C said he fell to the floor of the coach when he heard shooting.

"I looked up to see passengers jumping out. Others got in, armed with knives and pangas."

"As I emerged from the train, a man was stabbing at me with a panga. He cut my finger."

Mr C said he scaled a fence and, looking back, saw a security guard pointing a firearm at him. He was shot in the neck by a guard.

On Monday, two of the three Springbok Patrols guards deployed at the station that day testified they had fired several shots during the chaos.

Zola Mathika said he had shot and killed two men. One of them had been scaling the fence when Mathika "blew his brains out".

The hearing into train violence, chaired by Gert Steyn, continues today.
Azapo praises ex-cop

No confidence in continuing charades:

THE Azanian People's Organisation yesterday praised former municipal policeman Mr Johnny Mokaleng for admitting his involvement in the murder of detainees.

Azapo publicity secretary Dr Gomolemo Mokae said in a statement that "the paramount guilt" belonged to the State which allowed "these excesses" to continue and was unwilling to come clean on its past sins.

"We have never had any confidence in charades like the one which was purported to be making an inquiry into the death of Dr David Webster."

Evidence

Mokae was referring to the inquest last week which was unable to decide on who had assassinated Webster, based on the evidence placed before it.

Meanwhile, the ANC has called for the immediate establishment of an independent commission to probe Mokaleng's allegations.

It said details provided by the former policeman indicated there had been a systematic policy of torture, elimination of activists and mass burials in unmarked graves.
Staff Reporter

Six Khayelitsha Civic Association members who allegedly held a kangaroo court have appeared briefly in the Mitchell's Plain Magistrate's Court on charges of assault with intent to do grievous bodily harm and theft.

They have denied allegations that they were part of a mob that forcibly evicted SABC producer Mr Chris Poswa from his house in Khayelitsha, removed his goods and assaulted him last March after a kangaroo court found him guilty of an offence.

The accused are: Mr Anton Singile Vumazonke, 23, Mr Hertz Olifant, 68, Miss Zoleka Pasaya, 24, Mrs Nomvelo Shefill, 33, Mr Edward Vumazonke, 23, and Miss Tamara Plaatjie, 34, all of Khayelitsha.

The hearing continues tomorrow.

Mr G S Clappin was on the bench, Mrs J F van Schalkwyk prosecuted and Mr R Rebel appeared for the defence.
Commuter safety ‘not a top priority’

PRETORIA The prevention of damage to Spoornet property was considered a higher priority by contracted security guards than the protection of commuters, the Goldstone commission heard yesterday.

Springsbok Patrols director Jacob van Zyl said the company’s brief from Spoornet had been to ensure that buildings and equipment at railway stations in Soweto were safeguarded.

Protecting commuters was “another thing”, he said.

Van Zyl was answering questions at the commission’s hearings on train violence chaired by Gert Steyn.

Asked why Springsbok Patrols had presented two different versions of the events on November 25 last year — when two people were killed and 37 injured at Soweto’s Mlambanankuni Station — Van Zyl said only the company’s senior director Wahl could answer that.

Bartmann was on holiday in Seychelles and could not be contacted, Van Zyl said.

One witness of the incident, a hostel dweller from Nancefield, told the commission how he had escaped armed assailants in a train carriage only to be shot by a security guard.

The witness said two shotgun pellets had been removed from his neck at the Hillbrow Hospital after the incident.

The hostel dweller, known as Mr C in order to protect his identity, said he had been shot by a Springsbok Patrols Guard wearing a green uniform.

Van Zyl said however, that the company had ceased using green uniforms more than a year before the incident.

The hearings continue.

Action committee opposes Randburg council’s vision

THE Randburg Town Council’s vision of an amalgamated Randburg, Sandton and Alexandra by June 1994 has been strongly opposed by the Randburg Action Committee which has called for a referendum on the issue.

In addition the committee, which consists of ratepayers, called for an election of a representative interim administration for Randburg with a mission statement “to make local government responsive and accountable to the community”.

The full financial implications of an amalgamation had been kept deliberately from Randburg ratepayers who had not been supplied with budget proposals or cost estimates, Randburg Action Committee spokesman Harry Formanek said.

A request by the committee for negotiations on a referendum had been rejected by the town council.

The committee, which has no political affiliations, also called for an end to party-political propaganda by the council and the right of access by ratepayers to council minutes, files and budgets.

The council in December accepted and implemented a “vision” that by June 1994 there would be an amalgamated munici-
'Remove links to Justice Ministry'

By Brian Sokote

The National Peace Secretariat (NPS) budget should be removed from the Justice Ministry because of the ministry's "strong links" with the National Intelligence Service, the chief of whose Mission in South Africa (Unomsa), Angelika King, said last night.

She said in Johannesburg, during an address to the Witwatersrand branch of the SA Institute of International Affairs, that this recommendation had already been made to the NPS.

The NPS, which works closely with Unomsa and other international observer missions in South Africa, was set up last year under the National Peace Accord and is responsible for establishing regional and local peace structures.

With the Justice Ministry solely funding the NPS, there could be a conflict of interests, said King. She recommended that the NPS set up a politically non-aligned body to control its budget.

"The peace secretariat budget should be removed from any ministry," she added.

Asked why Unomsa could not help trace alleged Azanian People's Liberation Army bases in transit, King said her organisation did not have the military personnel. She stressed the duty of the Government and the Goldstone Commission.

She said political violence remained the greatest threat to the negotiations process for a new dispensation.

Describing the political situation as extremely delicate, King said aspects of the violence were the carrying of dangerous weapons and political rivalry between various political organisations, particularly the ANC and IFP.

Others factors included the SAP's "failure" to prosecute the perpetrators of violence.
More evidence of misconduct by MI

Pretoria Bureau

Further evidence of misconduct in the SADF's intelligence units has been unearthed by the joint investigation being conducted by the Goldstone Commission and SADF Chief of Staff General Pierre Steyn, it was reliably learnt yesterday.

The investigation began on November 27 after the Goldstone Commission raided a Military Intelligence (MI) base in Pretoria and seized documents disclosing that MI had employed former Civil Co-operation Bureau operative Ferdi Barnard in 1991.

Steyn was afterwards appointed by President de Klerk to launch an inquiry into all intelligence units of the SADF.

He has been assisted by Advocate Toros Pretorius of the Goldstone Commission.

A source involved with the probe indicated yesterday that enough evidence had been found to warrant the attention of the attorneys-general.

Whether the material was enough to justify prosecutions was up to the attorneys-general, he said.
Goldstone to probe safety of commuters

By Helen Grange
Pretoria Bureau

Steps taken by Spoornet and the SAP to safeguard the lives of commuters in view of the continuing bloodshed on trains will be scrutinised by a Goldstone committee meeting next week.

The committee, probing train violence, will be hearing closing arguments from lawyers next Thursday on security shortfalls and ways in which Spoornet and the police could better protect commuters.

Evidence during an inquiry this week into a train massacre at Soweto's Mlakaulu station on November 25 last year pointed to inadequate policing at the time.

The attack, perpetrated by a group of men firing from a platform into a rush-hour train as it pulled in, resulted in two deaths and 36 injuries, according to police.

It emerged in testimony that there were no policemen on duty at the station, and that three Springbok Patrol security guards hired to protect Spoornet property had useless two-way radios and therefore no means to call for back-up.

Several bullets, mostly warning shots, were fired by them during the chaos, with one of the guards testifying he had "blown one man's brains out".

However, such a killing could not be established afterwards.

Yesterday, Protea police station commander Colonel Paul Loock told the committee he had met ANC members of the Tram Accord after the incident, and gained the distinct impression from them that they had eyewitnesses.

However, the ANC never produced them, and an identity parade of four suspects arrested by police was fruitless.
Judge ‘has right to be Broeder’

A PROMINENT member of the secret Broederbond organisation and SA ambassador to Bophuthatswana, Dr Tjaart van der Walt, has defended the right of a judge to hold membership of the Afrikaner movement as “not a conflict of interests”.

The General Council of the Bar of South Africa has expressed concern at media allegations that Mr Justice W H Booyzen of the Natal Bench is an executive member of the Broederbond.

Dr Van der Walt, a former chairman of the Federasie van Afrikaanse Kultuurvereniginge, said membership of the Broederbond was no more conflicting than membership of the Lions or Rotarians.

Bar council chairman MR B R Southwood, SC, said in a statement this week that it was fundamental to the administration of justice that judicial officers not only be impartial but that they be perceived to be impartial by the public at large.

The Afrikaner Broederbond is a secret society which pursued objectives which were essentially political in nature. The bar regarded membership of such an organisation by a serving judge as improper and incompatible with the administration of justice. — Staff Reporter, Sapa
Train attack - 4 freed

Sowetan Correspondent

SUSPECTS in a train attack at Mlambankuzi station in Soweto during November last year had to be released because of lack of witnesses, a committee of the Goldstone Commission has been told.

Lieutenant-Colonel Paul Lock of Protea in Soweto told the commission yesterday he had informed a meeting of the Train Accord Committee on January 13 this year that they had arrested four people but then had to release them.

He said the only witnesses to the attack were three guards from Springbok Patrols who had earlier testified before the committee.

Lock said an identification parade was held on January 22 and the four suspects had to be released afterwards.

He said he was under the impression the African National Congress had witnesses to the attack and there was a discussion with ANC representatives at the meeting about protection for witnesses.

He said in the past they had experienced difficulties with the ANC shielding witnesses from co-operating with the police.

Committee chairman Mr Gert Steyn told the various legal representatives, who are due to present arguments on February 4 and 5, to answer certain questions in their submissions.

Among the questions were the improvements on trains, like the prototype train introduced by Spoornet on which the legal representatives should comment. There was also evidence led that policing on trains was not always sufficient and police investigations were not always completed.

A report was handed in on policing by the Witwatersrand Attorney-General and the committee wanted comment on that.

Steyn also said the committee heard evidence on specific incidents of train violence in Davelton and Mlambankuzi and he wanted to know any deductions the lawyers made from that. He also wanted to know whether any political party could be linked to the train attacks. The hearing will resume on February 4.
Interpreters lose out

■ Disadvantaged will benefit from State move:

By Alinah Dube

FREELANCE interpreters are facing a bleak future following the appointment of State-employed interpreters in civil courts.

In a circular dated January 15, the Department of Justice announced the move to make available free services of black interpreters in civil cases.

Mr MS Moima, chief interpreter at the Pretoria Magistrate's Court, told Sowetan yesterday that civil matters had in the past been handled by freelance interpreters at the client's cost.

They earned R200 a day for Supreme Court and R150 for lower court cases.

State-employed interpreters used to work in criminal courts.

"The State is now relieving disadvantaged people of the burden of paying by providing a free service," Moima said.
(b) Silver

Mr. R. L. de Lange
Mr. L. M. Edwards
Mrs. A. J. Engelbrecht (Gericke)
Mrs. H. H. Martins
Rev. L. Moollman
Prof. J. C. Poynton
Dr. F. K. M. F. L. von Breitenbach

DEPARTMENT OF WATER AFFAIRS AND FORESTRY

No. 126 29 January 1993

CORRECTION NOTICE

The Afrikaans version of Government Notice No. 3299, which was published in Gazette No. 14435 of 4 December 1992, is hereby corrected as follows:

1. Substitute the name "Suidwes-Kaapse Waterraad" in the last sentence of paragraph (a) for "Suidwes-Kaapse-waterraad".

2. Insert the expression "1993" after the expression "1 Maart" in paragraph (b).

GENERAL NOTICES

NOTICE 73 OF 1993

DEPARTMENT OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

The Director-General of National Health and Population Development has, in terms of section 29 (1) and (3) of the Human Tissue Act, 1983 (Act No. 65 of 1983), appointed Mr. Robert Albertus Hamilton as Inspector of Anatomy for the Province of the Transvaal, with effect from 1 January 1993.

(29 January 1993)

NOTICE 74 OF 1993

SOUTH AFRICAN LAW COMMISSION

The problem the commission addresses in this working paper, entitled "Jewish Divorces", is an universal one which arises in all countries in which there are Orthodox Jewish communities. The problem is as follows: A divorce is only recognized as valid by an Orthodox Jewish community if the male spouse gives his wife a so-called "get" or letter of divorce before the Jewish ecclesiastical court, the "Beth Din". Until this occurs and notwithstanding the existence of a valid divorce order by the Supreme Court, the wife may not remarry according to the Orthodox faith, children born of a second marriage are regarded as illegitimate, etc.

86860—B
These rules put the wife who has been divorced from her husband or who wishes to be divorced in a very weak position, since she is dependent on the goodwill and co-operation of the latter to get a religious "divorce". This system therefore lends itself to exploitation and women may be and are often in fact sometimes compelled to consent to unreasonable demands in respect of maintenance, custody of children or distribution of assets in order to obtain a "get".

The Orthodox Jewish faith is not capable of changing the above-mentioned rules in regard to a "get" and the question is whether legislation should not attempt to remedy this position. In other countries in which the same problem arises Jewish women are for the most part not assisted; where they are the results are not always satisfactory: for example to fine the recalcitrant husband or even to send him to prison may also be unacceptable.

The Commission believes after a thorough study and deliberation that legislation is indeed called for to avoid injustice. Furthermore, the said problem is not peculiar to the Jewish faith; it arises in many other religious systems too. The proposal of the Commission therefor applies not only to the Orthodox Jewish faith, but to all situations where similar religious requirements exist.

The Commission proposes the following legislation: If it appears to the Supreme Court at the hearing of a divorce application that it is necessary for the parties to execute a religious "divorce" notwithstanding the granting of a decree of divorce by the court, the court may refuse to grant a civil decree of divorce until the religious "divorce" has been concluded. In extraordinary circumstances, however, and if it is in the public interest, the Supreme Court is to be competent to grant a final decree of divorce, for example where it is clear that the spouse is abusing the religious procedure precisely in order to avoid a civil divorce and if the court is satisfied that the marriage has broken down irrevocably.

The Commission invites all interested persons and bodies to comment on the working paper or to make suggestions for the development, improvement, modernization or reform of this aspect of the law.

Reasoned comments in writing in respect of the proposals contained in the working paper should be addressed to the Commission not later than 30 April 1993.

The working paper, which is published in English only, is obtainable free of charge from the Commission on request.

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

The Secretary
South African Law Commission
Private Bag X668
PRETORIA
0001

Telephone: (012) 322-6440 (Mrs P Kotze)
(29 January 1993)
Leave spares dealer alone, SAP told

THE Rand Supreme Court yesterday granted a Soweto vehicle spares dealer an interim interdict restraining members of the South African Police Vehicle Theft Unit from intimidating or assaulting him.

Mr Justice Percy Bideuen ordered the officer commanding the vehicle unit at Jabulani and the policemen under him not to threaten, intimidate or injure Samuel Mkhwanazi, who trades in motor vehicle spares at Soweto's Emden Industrial Park.

In papers presented to court, Mkhwanazi alleged that one member of the vehicle unit had sprayed markings on the wall of his premises, including "the ‘swastika’ symbol of the AWB".

He also alleged that two other officers from the unit had threatened "they would arrest me and lock me up unless I gave them R2,000. I argued with them, but in the end I decided to pay them this amount."

Mkhwanazi testified that an officer at the vehicle unit had threatened to kill him. He said he was suspected of dealing in stolen motor vehicle parts, which Mkhwanazi denies.
Judge quits the Broeders

MARTIN CHALLENOR
Weekend Argus
Political/Staff

NATAL Supreme Court judge, Mr Justice W H Boosens has resigned from Broederbond and its executive council with immediate effect.

His membership was revealed in Press reports recently.

In a statement Mr Justice Boosens said he decided to continue as a member of the Broederbond after becoming a judge, because the Broederbond was a cultural organisation which excluded party politics.

"I know that many Freemasons and members of the Broederbond have served as judges whilst continuing to be members.

"During my years on the Bench I found that I was not influenced by my membership of the Broederbond and I have always striven to discharge my judicial functions impartially.

"However, when it becomes public knowledge that a judge is a member of any secret or confidential society different considerations arise.

Some members of the public may, wrongly but understandably, doubt the impartiality of the judge.

"I have accordingly resigned my membership," Mr Justice Boosens said.
Cisco's Bill of Rights may lead the way...
Review of hold on executions

Political Staff

The government was reviewing the moratorium on the death sentence because of the growing number of murders, President F.W de Klerk said yesterday.

ANC director of publicity and information Dr Falo Jordan said the ANC was "utterly opposed to the death penalty".

In his opening address to parliament yesterday, Mr De Klerk said government was reviewing the moratorium on carrying out of death sentences.

He said this had been imposed with a view to negotiating a bill of rights.

However, he said, the "wave of cruel murders" and prevailing disrespect for human life and delays in the negotiating process made it "very difficult for government to allow the moratorium to continue indefinitely".

At a briefing on Mr De Klerk's speech, Justice Minister Mr Kobie Coetzee said the government would not resume executions without negotiation. He said if the government's negotiating partners did not agree, "we will have to reconsider".

The last execution was in November 1989.
Governor to clarify position on gays

The government's position on gay rights will be clarified on Tuesday when it releases its draft bill of rights.

"We will have a position on this," Minister of Justice, Mr. Kobie Coote, said at a press conference yesterday. "Other parties could then reject it."

(As)
For three days a black, uneducated, rural woman was subjected to the sophisticated cut-and-thrust of legal cross-examination in a Johannesburg Regional Court.

Eventually the clearly exhausted woman had to be given a seat.

Black members of the gallery were outraged. It was as if she was the guilty party, they fumed during the passages during breaks.

If anything, Mara Dplea, Kutoane, 49, was a victim of the events. Her common-law husband died, allegedly at the hands of a white farming couple after a quarrel over dogs.

Kenneth and Lynn Finlay are accused of beating and killing Molatudi "Lawana" Lebeto, 58, at their house in a smallholding in Elnahtien, 30 km south of Johannesburg, on Christmas Day 1991.

The charge is culpable homicide - or unintentional death.

The issue is whether the white couple allegedly attacked both black couples and the black couple's "kaffir" bitch maté with their dog.

The Finlays have pleaded not guilty. So relentless was the Finlay's lawyer, the magistrate had to ask the witness if she was tired and adjourned the proceedings for the day.

Kutoane told her construction worker husband died of injuries received in a fracas at the Finlay's smallholding.

During Kutoane's evidence, the Finlays - especially Lynn - occasionally sniggered or shook their heads.

Was lawyer D Smith hoping to break the State's chief witness and get his clients off the hook - on the basis of Kutoane's obvious lack of sophistication?

For Kutoane struggled to be "precise" with measurements and the time of events, and seemed to have absolutely no knowledge of legal proceedings - such as the difference between making a statement to the cops and her statements in court.

In fact, much time was spent in court on educating her on the basics of court procedure.

The court heard how the Finlays pulled up at the smallholding in a bakke in the late afternoon around 5:30 pm.

Lynn Finlay had informed Lebeto that she did not want her dog mating with his "kaffir dog".

Replay

His reply? "Y is ok "n kaffir!"

The reaction? Kenneth Finlay called out to his wife to come to him and the two left without saying a word.

They returned later that day - with a horde of white men in a cavalcade of bakkies, Lebeto, Kutoane, co-worker Elizabeth, and a friend, Frans Ramoshaba, had been sitting in Kutoane's house.

Kutoane said she peeped through the door, saw the bakkies and became alarmed.

Then the Finlays burst into the house. Lynn was armed with a samboke and Kenneth was wielding a baton.

Lynn had said: "Ja Lawanai!", and started whipping Lebeto on the head. Kenneth had joined in, said Kutoane.

Pandemonium broke out as the blacks tried to flee the small room.

Kutoane said men in the group waiting outside bashed her husband on the head with a pick-han-
dle as he emerged from the house.

The badly injured Lebeto had run, stumbling and staggering, to Kutoane's employer's house, one Mr Collins.

While she was running after him the whites in their bakkies had roared past her giving chase.

At the Collins' house the group encircled Lebeto and beat him. She had heard her husband plead for his life.

That night Lebeto's people had taken him to Lenasia Hospital where he died the next day from brain and chest injuries.

Under cross-examination, Kutoane said she had not specifically seen the Finlays kicking her husband, but said they were definitely part of the group that assaulted him.

Kutoane said that the day after Lebeto was assaulted, the Finlays had returned, this time looking for the other black man, Frans.

When he could not be found she said they set their dog on Elizabeth while shouting encouragement.

On Wednesday, the court went to inspect the room at the smallholding where Lebeto was assaulted to enable Kutoane to show the court what happened.

On the dog issue, Kutoane said it was the Finlay's dog who had been nosing around her house, not the other way round.
SA signs convention against torture

Political Staff

THE international convention against torture, which South Africa signed in New York yesterday, prohibits any form of physical and mental torture on a person to obtain information or a confession.

It also obliges signatory states to take “effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”

“No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political stability or any other public emergency, may be invoked as a justification of torture,” the convention states.

It adds “An order from a superior officer or a public authority may not be invoked as a justification of torture.”

The South African government refused to sign the “Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” when it first came into force on June 26, 1987.

Yesterday, however, South Africa’s ambassador in the United States, Mr Harry Schwarz, signed the convention, and a number of other international agreements on human rights, on behalf of South Africa.
GOVERNMENT NOTICE

No. R. 3432 31 December 1992

FUNCTIONS ASSIGNED TO ATTORNEYS-GENERAL IN TERMS OF SECTION 2A (1) OF THE ATTORNEY-GENERAL ACT, 1992 (ACT No. 92 OF 1992)

Under the powers vested in me by section 2A (1) of the Attorney-General Act, 1992 (Act No. 92 of 1992), I hereby assign with effect from 1 January 1993—

(a) to Jan Abraham Swanepoel SC, appointed as Attorney-General in terms of section 2A (1) of the Attorney-General Act, 1992, the functions of the Director, Office for Serious Economic Offences, appointed under section 3 of the Investigation of Serious Economic Offences Act, 1991 (Act No. 117 of 1991); and

(b) to Daniel Jacobus Rossouw SC, appointed as Attorney-General in terms of section 2A (1) of the Attorney-General Act, 1992, the functions arising from his capacity as member of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation, established by section 2 of the Prevention of Public Violence and Intimidation Act, 1991 (Act No. 139 of 1991)

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this 11th day of December, One thousand Nine hundred and Ninety-two

F. W. DE KLERK,
State President

By Order of the State President-in-Cabinet

H. J. COETSEE,
Minister of the Cabinet

82012—A

GOEWERMENSKENNISGEWING

DEPARTEMENT VAN JUSTISIE

No. R. 3432 31 December 1992

WERKSAAMHEDE AAN PROKUREURS-GENERAAL KRAGTENS ARTIKEL 2A (1) VAN DIE WET OP DIE PROKUREUR-GENERAAL, 1992 (WET No. 92 VAN 1992), OPGEDRA

Kragtens die bevoegdheid my verleen by artikel 2A (1) van die Wet op die Prokureur-generaal, 1992 (Wet No. 92 van 1992), dra ek hierby met ingang van 1 Januare 1993—

(a) aan Jan Abraham Swanepoel SC, aangestel as Prokureur-generaal ingevolge artikel 2A (1) van die Wet op die Prokureur-generaal, 1992, die werk- saamhede van die Direkteur Kantoor vir Eerste Ekonomeke Misdrwy, aangestel ingevolge artikel 3 van die Wet op die Onderzoek van Eerste Ekonomeke Misdrwy, 1991 (Wet No. 117 van 1991), op; en

(b) aan Daniel Jacobus Rossouw SC, aangestel as Prokureur-generaal ingevolge artikel 2A (1) van die Wet op die Prokureur-generaal, 1992, die werk- saamhede voortspruitend uit sy hoosdangheids van lid van die Kommissie van Onderzoek insake die Voor- koming van Openbare Geweld en Intimidase, ingestel by artikel 2 van die Wet op die Voorkoming van Openbare Geweld en Intimidase, 1991 (Wet No. 139 van 1991), op

Gegoe onder my Hand en die Seel van die Republiek van Suid-Afrika te Pretoria, op hede die 11de dag van Desemper Eenduisend Negehonderd Twee-en- negentig

F. W. DE KLERK,
Staatspresident

Op las van die Staatspresident-in-Kabinet

H. J. COETSEE,
Minister van die Kabinet

14503—1
Resolving the people's problems

South Africa's first Ombudsman, Mr Justice P J van der Walt, has been in office for just over a year. HELEN GRANGE spoke to him about his work.

South Africa’s first Ombudsman, Mr Justice P J van der Walt, has been in office for just over a year. HELEN GRANGE spoke to him about his work.

Yet another aspect of the job is referring people with ordinary legal problems to the right places. “This role is very necessary because people often don’t understand how administrative channels work or where to go for legal assistance.”

Isn’t this too much for one person to cope with? Judge van der Walt concedes he never expected such a volume of work when he was appointed SA’s first Ombudsman by President de Klerk in November 1991.

However, he and his two very busy legal assistants seem quite buoyant. There are, predictably, the satisfactory times when a particularly poignant human drama is resolved.

They recall the shocking financial state of an ill woman receiving no income while the Workmen’s Compensation Committee was processing her claim. The Ombudsman managed to get her on to the State’s disability pension register.

Under the new SA constitution, the Ombudsman will exist as a critical component of the pending bill of rights.

Under the bill of rights, it is likely that several laws will be introduced to render racial or gender discrimination unlawful, giving the Ombudsman more clout in areas where his power is currently limited.

The Ombudsman’s office can be reached by toll-free telephone number 0800-1120-40. His brief is to investigate cases of financial prejudice to government departments or dishonesty in the use of public monies by officials or bodies.

He is also entitled to investigate allegations that the public in general is being prejudiced by maladministration relating to affairs of the State.
Ciskei Bill of Rights sets pace

Patrick Goodman

South Africa can learn from precedent in a homeland, reports OPINION

SEC. 1969-
Charter spells out rights

CAPE TOWN - The rights of detainees, women, and children feature strongly in the Government's long-awaited proposed Charter of Fundamental Rights, published today.

The proposed charter recognises that rights have been infringed under the present system of parliamentary sovereignty, and that the system has to be adjusted fundamentally to provide guarantees against future infringements.

In the introduction to the proposed charter, the Government said it was committed to a new constitutional dispensation in which the powers of the various branches of state authority were limited by, and subject to, universally accepted norms.

In one of the first of 37 outlined points it recognises the most basic right to life, but retains the imposition of the death sentence as a permissible form of punishment for specific crimes.

According to Section Six of the International Covenant on Civil and Political Rights, the death penalty may be imposed on anyone over the age of 18 for "most serious crimes".

However, a future parliament may abolish the death penalty or later re-impose it if public opinion so demands.

The proposed charter says abortion is contentious and leaves it to a future constitutional court to decide on the permissibility of abortion "under given circumstances." The matter is regulated by statute at present.

The proposed charter also outlines citizens' and political rights. It emphasises that every citizen will have the right to "a dignified existence," to participate in government, to freedom of association, and to freedom of expression.

The right to privacy is not only to be protected, but to be extended to include freedom from economic exploitation, freedom of movement, and freedom from state interference.

The right of emigrants to return to the country of their birth is also recognised, as is the right of all citizens to own property, to freedom of religion, and to freedom of thought, conscience, and religion.

The right of women to be equal to men in all respects is enshrined in the charter, as is the right to education, health, and to work.

The right of children to protection and care is also recognised, as is the right to a living wage for workers, and to social security and welfare services.

The rights of employees to association and collective bargaining are also recognised, as is the right to strike and other forms of political activity.

The proposed charter, based largely on the proposals of the Joint Committee on the Proposed Charter of Rights of Patients, is to be drafted into a final document for consideration by the House of Assembly and the Senate. It is expected to be finalised and put to a referendum in early 1994.

To Page 3
No charges put to them

Taxmen released

By Al-amin Duba

Sanctions about Bill of Rights: Democratic and Labour Parties say Bills are

N.P. guilty of abuses

NEWS

NEWS

M.Ps. to call de Klerk on deaths in detention & trial under Internal Security Act

Tuesday, February 2, 1988

SOWETAN
WIDE protection of the rights of ordinary citizens is laid down in a draft Charter of Fundamental Human Rights released by the government today.

The proposals include freedom of speech and issues such as the freedom to worship, meet, demonstrate and draw petitions.

They emphasise that every citizen will have the right not to be:
- Deprived of citizenship
- Exiled or expelled from the country
- Prohibited from returning
- Prevented from leaving
- Denied or deprived of a passport

Such a charter will be one of the cornerstones of a fully democratic constitutional system. The proposals are open to negotiation but the government said it felt such a charter must be in place during the transition to a new system.

There is to be a publicity campaign to explain the purpose and functions of human rights. Pamphlets will be distributed in 11 languages.

Under the charter, discrimination against women will be outlawed.

Other major points deal with:
- Human dignity: the State must respect everyone's dignity.
- Protection of life: everyone shall have the right to life. But there is no proposal to abolish the death penalty.
- Equality before the law: everyone shall be equal before the law and entitled to equal protection.
- Political rights: every citizen shall have the right to be politically active.

- Education: Pupils will have the right to equal access to State or State-aided schools.
- Other proposed rights include:
  - The right to freedom or movement and residence and to work in any part of the country.
  - The right of private ownership.
  - The right of employees to form and join employees' organisations, to negotiate or bargain, not to be subjected to unfair labour practices, to work under safe and healthy conditions, to work reasonable hours and to receive reasonable remuneration.
  - The right of prisoners to be held under dignified conditions and to be given the opportunity of consulting a legal or medical practitioner.
  - The right of people who are arrested to be warned that they have the right to remain silent and of the consequences of making statements. The draft charter says they must not be detained for more than 48 hours before a court appearance and must be tried within a reasonable time.
  - The right to choose a language and the right to choose the language of communication with the State.
  - The draft charter lays down that no law should regulate or authorise:
    - Physical or inhuman torture.
    - The creation of offences with retrospective effect.
'Ghosts' return to haunt F.W. 

Political Staff

PRESIDENT Dr. Klerk was reminded of his party's pernicious past in parliament, when members raised the spectre of the mysterious deaths of detainees.

Speaking yesterday during debate on the State-President's opening address, Democratic Party leader Dr. Zac de Beer said the NP was guilty of the most gruesome human rights abuses.

The Labour Party accused the president and his government of the "devilish-equalism" of preaching tolerance and reconciliation while the facts behind the death of, among others, Stunza Bopape and Steve Biko were being sealed behind a wall of mystery.

LP national chairman Mr Llewellyn Laader said the NP's plan of action, to promote the concept of human rights in a Bill of Rights at this hour was laughable.
Rights bill rescinds past NP stand
Govt's Bill of Rights published

Political Staff

The government yesterday published its proposed Bill of Rights which outlines considerable restrictions on state power, but falls short of addressing many contemporary constitutional issues.

The introduction of the bill would close a chapter of apartheid-style abuses of state power and introduce individual rights and freedoms previously unknown in South Africa.

"The death-bed conversion of the National Party to these rights they systematically trampled on for 44 years is most welcome and refreshing," DP justice spokesman Mr Tony Leon commented yesterday.

Justice Minister Mr Kobie Coetsee said at a media briefing that the NP's proposal, which still had to be negotiated with other political role players, was based on the proposed bill of rights suggested by the Law Commission.

It includes protection of human dignity, physical and mental integrity, equality before the law, freedom of speech, assembly, worship, and children's and education rights.

"No person shall be favoured or prejudiced solely by reason of race, colour, language, sex, religion, ethnic origin, social class, birth, political or other convictions or disabilities or other natural characteristics," the proposed bill suggests.

The only derogation of this right would be if the sole purpose of the discrimination was to further the development and advancement of specific communities or groups.

The proposed bill of rights differs from the Law Commission's proposal by maintaining the death penalty.

On private ownership, the bill says all people would have the right to acquire, possess, use and dispose of property.

"Only a court could deprive a person of his property."

Women's rights feature prominently in the proposed bill, which would outlaw all laws with sex discrimination.

The bill also addresses environmental rights, specifying that everyone would have the right not to be exposed to an environment dangerous to their health.

Sapa reports that the 'Law Commission has said the government's proposed bill will be considered with proposals by other parties in its final report. It is hoped the commission's investigation will be completed by the end of the year.

The ANC has provisionally rejected the draft bill.
A commission of inquiry's findings on the relationship between a Pretoria city councillor, a property and petrol station developer, and a town planner will be submitted to the Attorney-General, Transvaal Administrator Danie Hough yesterday.

The Willem Krugel Commission said in its first report released in Pretoria that the councillor, Justus van Zyl, should "urgently reconsider his position as councillor" and should no longer participate in city council activities.

The commission found Van Zyl's relationship with property and petrol station developer Carl Nienaber and town planner Jan van Straten showed an "undesirable" and "improper" pattern, and pointed to "aspirations to enrich himself". There was however no evidence of bribery.

The inquiry was requested by Ombudsman Mr Justice E J van der Walt following allegations about maladministration and self-enrichment by councillors and officials in land rezoning applications.

The commission said Pretoria mayor James Leach's incomplete evidence exposed it to criticism, and it should be viewed with circumspection.

The commission was not convinced he had told everything he knew about each case, or had done everything possible to ascertain the facts before testifying.

"It appeared Leach was worried about possible irregularities in the City Council, and about the information he supplied."

Several witnesses said Van Zyl was seen as a councillor who exercised "a strong influence regarding the success or failure of applications for rezoning for garage rights".

Sapa
Minister fumbles on rape query

By ANTHONY JOHNSON
Political Correspondent

JUSTICE MINISTER Mr Kobie Coetsee sparked a stir at an international media briefing yesterday when he appeared to condone marital rape.

Asked to clarify the government's stand on the prickly issue during a briefing on proposals for a Charter of Fundamental Rights, the minister responded: "A man who lives with his wife would be in a position to say that he has certain marital privileges.

Amid gasps from the press contingent, Mr Coetsee hastily added that such privileges should be exercised "with the consent" of the wife.

He also said somewhat sheepishly that the issue was the subject of a lively debate.

Mr Coetsee was responding to a question about the apparent contradiction between proposals in the formal charter and an accompanying pamphlet on women's rights.

The charter states that every woman should have the right "to her physical and mental integrity and in particular to legal protection against rape and sexual harassment."

The pamphlet states that in terms of proposed new legislation "a man who no longer lives with his wife and has sexual intercourse with her without permission, may be charged with rape."

The pamphlet then adds that the new law would stipulate that a man who lives with his wife and has sexual intercourse with her without her permission could be charged with assault — not rape — and be liable for a sentence more severe than that handed down for common assault.
Legal group aids Jewish divorcees

JOHANNESBURG. — The South African Law Commission is investigating possible legislation to protect Jewish women in South Africa from injustice in the event of divorce.

At present, an annulment of a marriage in the orthodox Jewish community is valid only if the husband hands his wife a letter of divorce in a Jewish religious court, in spite of a final divorce order by a supreme court. This system lends itself to exploitation, with unreasonable claims put to the wife relating to maintenance, protection of children and division of assets, the commission said.

Interested parties have been invited to submit proposals about the matter to the commission before April 30. Sapa
Change in law may net Malaza

Owen Correspondent

CAPE TOWN — Murderer and bank robber Lucky Malaza, mistakenly freed with political prisoners in September, could yet return to jail.

In his opening address to Parliament on Friday, President de Klerk, referring to prisoner releases, said: "Inasmuch as mistakes have been made, corrective measures are being taken."

Yesterday, Captain Bert Slabbert, spokesman for Minister of Correctional Services Adriaan Vlok, said the prisoners De Klerk was referring to were Lucky Malaza and former Kwa-Zulu policeman Khethani Shange, jailed for 27 years for murder and attempted murder but released in May after only nine months because of an "administrative computer error."

Slabbert said the corrective measure being taken was an amendment to the Prison Act of 1959, due to be passed this parliamentary session.

"We realised there was a shortcoming in the Act only when Malaza was mistakenly released.

"We will not simply be able to pick up a former prisoner and throw him back in jail."

Slabbert said he thought the legislation would be retrospective and "in the process we could bring Malaza back."

Malaza is due to appear in the Soweto Magistrate's Court on February 28 for alleged possession of stolen goods.
Whipping may stop as govt signs treaty

Political Correspondent

THE government is considering the abolition of whipping as a form of punishment, the Minister of Justice, Mr Kobie Coetsee, disclosed yesterday. Mr Coetsee told a media briefing: "We have just signed the Convention and we will have to consider the question of corporal punishment in due course."

The rethink comes in the wake of the government's decision last Friday to sign the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.

The convention was signed on behalf of South Africa at the United Nations by ambassador Mr Harry Schwarz.

The minister said the signing of the treaty did not automatically nullify laws pertaining to corporal punishment, but added: "We will have to apply our minds to the significance of having signed this convention."
New charter in publicity drive.

Political Correspondent

The government would soon launch a nationwide publicity drive to bring the contents of its proposals for a Charter of Fundamental Rights to the people. Justice Minister Mr Kobie Coetzee said yesterday:

'He told a media briefing that he hoped the publication would 'create a better understanding of what real democracy is all about'.

'The government would also distribute pamphlets in different languages on "Equality for Women" and "Fundamental Rights for All"'.

'The government was also planning four conferences to publicise the need for a democratic culture in South Africa.'
Praise, criticism for draft Bill of Rights

By Peter Fabricius
Political Correspondent

CAPE TOWN — The Government's draft Bill of Rights published yesterday has been widely welcomed, although grave reservations have been expressed about certain clauses such as a controversial one legitimising the death penalty.

The draft Bill proposes that the present sovereignty of Parliament should be surrendered to a Bill of Basic Rights justiciable by a constitutional court.

Justice Minister Kobie Coetsee said at a press conference yesterday that after the basic principles of a Bill of Rights had been approved by Parliament, the Government would table an omnibus Bill to expunge all laws from the statute book which fell foul of the Bill of Rights.

ANC secretary-general Cyril Ramaphosa said a Bill of Rights would enjoy legitimacy and authority only if it were drafted and adopted by an elected constituent assembly.

The draft Bill lists 37 basic rights, including the usual ones such as the right to life, to freedom of speech, to practise politics freely, to free worship, to equality before the law and fair trial, to free movement and free association.

But it has unusual features.

- Clause 4 says no person shall be deprived of life save in the execution of a death sentence imposed in accordance with Section 6 of the International Covenant on Civil and Political Rights.
- The right to personal freedom is also qualified by clause 22 (5)(a) which suggests that a person may be detained indefinitely pending being charged, while clause 37 (d) limits the period of detention to 10 days.
- The Bill also enshrines the right of the individual to an unpolluted environment — an uncommon feature in Bills of Rights.

The women's rights clause has what has been described as an affirmative action clause, stating that the principle of equality of women should not disqualify laws aimed at achieving equality.

This was welcomed by Democratic Party women's rights spokesman Dene Smuts.

DP justice spokesman Tony Leon last night welcomed much of the Bill but said it was disturbing that it made specific provision for the death penalty.

He criticised the provisions on equality before the law and free association for not expressly prohibiting the granting of public funds to institutions discriminating on racial grounds.

He also criticised the detention-without-trial provisions, saying the maximum detention period of 10 days was too long and that courts should be able to rule on the legitimacy of individual detentions.

Clause 9 enshrines the right to freedom of speech but adds that this shall not preclude the registration and licensing of media.

Coetsee said yesterday the Government would spend more than R1 million of taxpayers' money to promote its draft Bill of Rights — an announcement the DP criticised.

Asked why the right to abortion was not dealt with as a woman's right, Coetsee said it was dealt with under the right to life section and that Parliament would have to decide whether women should have the right to abortion.

He denied that the Government's Further Indemnity Act of 1992 contradicted the provision in the Bill forbidding a government from indemnifying State officials for murder.

- Govt vision draws fire

Page 17
Pressure mounts on
Govt to open casinos

CAPE TOWN — Pressure is mounting on Justice Minister Kobie Coetsee to change his mind on private casinos, allowing them to operate at least until the Howard Commission reports on gaming and gambling.

House of Delegates members Amiehald Habib and Farouk Cassmarr are to seek an urgent meeting with Coetsee to present petitions and letters from employees and supporters of casinos.

They had talks yesterday with Janne Jansen, a spokesman for casino staff. She has more than 4,000 signatures on a petition from staff and supporters and 253 letters from staff demanding that casinos re-open.

Jansen, who is also seeking a meeting with Coetsee, estimates the number of casino staff put out of work at 82,000.

She said Coetsee had to re-open casinos until the Howard Commission reported, warning that operations could be driven underground.

It was unfair that the Government allowed escort agencies to operate but not casinos, said Jansen.

The Labour Party has also called on Coetsee to review his decision.

He pointed out that the Gambling Amendment Act specifically allowed Coetsee to extend the moratorium on closing casinos in anticipation of the findings of the Howard Commission.

Former Springbok rugby player and casino owner Martens Louw was among the first arrested by police who cracked down on gambling operations within 24 hours of the expiry of the Government's moratorium, reports Sapa.

Louw, his wife and two others were arrested on Monday night for allegedly operating a casino in Meyerton, south of Johannesburg. They are warned to appear in court tomorrow.

Police carried out inspections on casinos countrywide but had found most closed, said SAP spokesman Captam Burger van Rooyen.

Retrenched casino employees yesterday staged a protest outside Sandton City. A roulette table was set up and passers-by were offered free games. Signatures for a petition calling for legalised gambling were collected.
Government Gazette
Staatskoerant

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Post free + Poepvy

Vol. 332  PRETORIA, 4 FEBRUARY 1993 No. 14567

GENERAL NOTICE

NOTICE 119 OF 1993
DEPARTMENT OF JUSTICE

ADVISORY COMMITTEE FOR THE DECRIMINALIZATION OF ROAD TRAFFIC OFFENCES

An Advisory Committee for the Decriminalization of Road Traffic Offences has been appointed by the Minister of Justice, in consultation with the Minister of Transport, in terms of section 3 of the Decriminalization Act, 1991 (Act No 107 of 1991), and commenced with its activities on 21 January 1993. The terms of reference of this Committee are to inquire into and advise the Minister on the necessity or desirability to replace certain offences in terms of the Road Traffic Act, 1989 (Act No 29 of 1989), and the Road Traffic Regulations enacted under this Act, with an administrative sanction.

Motivated recommendations, comments or representations with regard to the traffic offences which should be considered for the purposes of decriminalization, are being awaited by the Committee and must be submitted not later than 26 February 1993 in writing to the Secretary, Advisory Committee for the Decriminalization of Road Traffic Offences, Private Bag X81, Pretoria, 0001.

90294—A

ALGEMENE KENNISGEWING

KENNISGEWING 119 VAN 1993
DAPARTEMENT VAN JUSTISIE

'N Advieskomitee vir die Dekriminalisasie van Padverkeersoortredings is ingevolge artikel 3 van die Wet op Dekriminalisasie, 1991 (Wet No 107 van 1991), deur die Minister van Justisie, na oorleg met die Minister van Vervoer, ingestel en het op 21 Januarie 1993 met sy werkzaamhede begin. Die opdrag van die Komitee is om onderzoek in te stel na en die Minister te adviseer oor die noodsaaklikheid of wenslikheid om sekere misdrywe ingevolge die Padverkeerswet, 1989 (Wet No 29 van 1989), en die Padverkeersregulasies uitgevaardigd kragtens dié Wet, deur 'n administratiewe sanksie te vervang.

Gemmotiveerde voorstelle, kommentaar of vertoeo on die verkeersoortredings wat in dié verband oorweg behoort te word, word deur die Komitee afgewag en moet nie later nie as 26 Februarie 1993 skriflik by die Sekretaris: Advieskomitee vir die Dekriminalisasie van Padverkeersoortredings, Privaatsak X81, Pretoria, 0001, ingediend word.

14567—1
Reduction in violent deaths

The Human Rights Commission said yesterday 22 people died around the country in violence over the past week, a significant reduction in deaths from the previous week's political and labour unrest. The HRC said in its Weekly Repression Report 44 people died the week before in scattered violence in the PWV and Natal Province. Both regions experienced a marked decline in deaths.
Minority rights deal?
Political Correspondent 25 Aug 41

Justice Minister Mr Kobie Coetsee says he has asked the SA Law Commission to investigate minority rights in its final report on a bill of rights.

He was addressing parliament last night on the Government's Fundamental Charter of Human Rights, which flows from a report by the Law Commission.

In its last report the commission said a bill of rights was not an appropriate place to insert group rights.

The government's charter of fundamental rights contains no reference to group rights and political commentators believed that this indicated that the subject was now closed.
Council to study changes in liquor laws

CLIVE SAWYER, Municipal Reporter

The city council has launched a probe into changes to liquor laws and their implications for taverns. The housing committee resolved last month to oppose the use of houses and flats in council estates as taverns, and said all applications should be referred to it and the town planning committee.

In a letter tabled at a town planning meeting yesterday, Deputy-Minister of Trade and Industry Mr David Graaff said the government had no objection to the Liquor Board considering applications for tavern licences in those residential areas traditionally occupied by members of the coloured community.

But customers would not be allowed to “take away”, Mr Graaff said.

The committee asked for an investigation into existing contraventions of liquor laws, specifically by unlicensed taverns, and into proposed changes to the law.

The committee was prepared to approve an application by Ohlssons Cape Breweries to put up a new silo at its Newlands site, but wanted an assurance this would be the last addition to the site.

Ohlssons said the new silo would blend in with its surroundings, but objectors, including Mr Owen Kanaan of the Josephine Mall and Mr M Kel ler of the Albion Mill Trustees, said the silo would be a further commercial and visual intrusion in an area which had been “blitzed” by development in the past few years.
Bill may have financial implications

PRETORIA — The introduction of a Bill of Rights could have significant financial implications for SA’s criminal justice system, Transvaal Attorney-General Jan D’Oliveira said yesterday.

In an interview, D’Oliveira said once certain entitlements usually due to the accused had become entrenched as fundamental rights, new avenues for challenging aspects of legal proceedings would become available.

This would place an additional burden on prosecutors and would have significant financial implications for SA’s criminal justice system, he said.

“At present we do not test laws, we interpret and apply them.”

While a few material changes could be expected in the conduct of a criminal trial, a “change of gear” was likely once the Bill had been agreed upon, he said.

“We will have to wait until we get an indication of what the Bill will contain before we start addressing its implications,” he said.

D’Oliveira, who was appointed Attorney-General of the Transvaal in May last year, said the training of prosecutors and

ADRIAN HADLAND

improving the accessibility of his office to both victims and witnesses were key objectives of his tenure.

“For any system of justice to work, there must be real co-operation between the public, the police and the prosecutors,” he said. “My hope is that the political process will restore citizens’ confidence in public institutions.”

With white-collar crime on the increase, D’Oliveira believed businessmen had a responsibility to disclose information relevant to actions which undermined the country’s economy.

“I can’t prescribe a high morality for businessmen. It is an assumption, an axiom, that we rely upon. What is important is that where something goes amiss, disclosure must be forthcoming.”

D’Oliveira said making known the accessibility and independence of the public service rendered by the Attorney-General’s office and “doing everything to improve the quality of criminal justice” were critical to dealing effectively with rising criminality in SA.
Jacob hails 'positive' economic-rights input

A FUTURE SA constitution should include a Bill of Rights which safeguarded human rights and freedoms that were universally accepted to be of an inalienable nature, the South African Chamber of Business said yesterday.

Commenting on government's proposed Bill of Rights, Jacobs said it welcomed the positive contribution from major political participants, including government, on the question of a Bill of Rights, especially economic rights.

"Jacob supports the concept that no one should be deprived of his property without due process of law and fair compensation. This is one important reassurance required for business and investor confidence in the future."

The CP rejected government's proposals because they provided only for individual rights within a unitary state, CP justice spokesman Fanie Jacobs said.

The CP was disappointed that government had continued to ignore group rights, such as the right to self-determination of nations. This deficiency would create conflict rather than regulate it.

Government was also naive to believe it could correct its past political faults with a charter of fundamental rights, or that a future ANC-SACP government would consider itself bound by such a charter.

LP national chairman Lawellyn Landers said the NP's draft charter on human rights and its plan of action to propagate it was ludicrous.

He said the NP needed to be educated in the protection of human rights.

The abuse of human rights has developed into a culture and tradition within the NP. Its draft charter and action plan has the potential and danger of delegitimising and devaluing the eventual Bill of Rights.

Azapo secretary-general Don Ndumeng said apartheid had so diminished the integrity of the judicial system and government's announcement of a justiciability Bill of Rights within the next 12 months failed to excite the black community.

"In any other society people would have hailed this development as a milestone in the protection of individual rights," Ndumeng said.

In spite of their integrity, white judges would always be viewed by blacks as oppressors.

Linda Ensor reports that the National Association of Democratic Lawyers' Western Cape spokesman Eira Moosa said government's charter was designed to entrench the rights and privileges of the beneficiaries of apartheid.

"The charter essentially provides for individual civil rights. No provision is made for socio-economic rights and only one short paragraph provides for environmental rights. The civil rights are meaningless to a people who suffer starvation, people who are plagued by illness, people who are homeless and people who are unemployed," he said.

Boerestaat Party leader Robert van Tonder said it was clear the existence and rights of the Boer people had been entirely overlooked. The Bill was full of high-sounding phrases but the important word "volk" had been avoided.

"The Bill will be nothing more than a waste of good paper, seeing that SA will this year, with the establishment of an interim government, take the final steps to a backward Third World state.

"African governments have without exception torn up all the nice little constitutional laws written for them, and the Bill reminds one of the nice psalm sung by those condemned to death as they walk towards the gallows," Van Tonder said.

Sopa
Government this week published its Draft Charter of Human Rights which is based largely on proposals made by the South African Law Commission.

The Charter or Bill of Rights ensures that every person who is a registered South African citizen or body or legal group of people within the country has the rights contained in the charter.

These rights are given in the charter as fundamental and unalienable unless so decreed by the highest court in the land — presumably a constitutional court.

The rights described in the charter include freedom of speech, freedom to worship, meet, demonstrate and draw up petitions.

In terms of the charter every citizen will have the right not to be:
- Deprived of citizenship,
- Exiled or expelled from the country,
- Prohibited from returning,
- Prevented from leaving, or
- Denied or deprived of a passport.

Other major points deal with:
- Human dignity the State must respect everyone's dignity,
- Protection of life everyone shall have the right to life. But there is no proposal to abolish the death penalty,
- Equality before the law everyone shall be equal before the law and entitled to equal protection,
- Political rights every citizen shall have the right to be politically active,

Education pupils will have the right to equal access to State or State-aided schools,
- The right to freedom of movement and residence and to work in any part of the country,
- The right of private ownership,
- The right of employees to form and join employees' organisations, to negotiate or bar-

After over four decades of being the pariah of the world because of its Draconian apartheid laws, South Africa looks set to try and make amends with its proposed Human Rights Charter which Ismail Lagardien sets out in detail:

Sowetan 4/2/93.

FW de Klerk ... introducing human rights.
Applicant:
The Commissioner for Customs and Excise, Private Bag X47, Pretoria, 0001

2. Amendment of the provisions under tariff subheading 4015 90 by the substitution therefor of the following:

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<th>Tariff Subheading</th>
<th>Description</th>
<th>Rate of Duty</th>
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| 4015 90           | Other              | 15%          | [BTT Ref T5/27/5/1 (930007) (Ms R Martin)]

Applicant:
The Commissioner for Customs and Excise, Private Bag X47, Pretoria, 0001

(Note. This application will result in the deletion of the subdivision of the tariff subheading and in a reduction in the rate of duty on diving suits, classifiable under tariff subheading 4015 90.10, from a rate of duty of 30 per cent ad valorem to 15 per cent ad valorem, and on other articles of apparel and clothing accessoines of vulcanised rubber, classifiable under tariff subheading 4015 90.90, from a rate of duty of 20 per cent ad valorem to 15 per cent ad valorem.)

3. Amendment of the provisions under tariff subheading 7103.10 by the substitution therefor of the following:

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<th>Description</th>
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| 7103 10           | Simply sawn or roughly shaped   | kg free      | [BTT Ref T5/2/4/2/1 (930008) (Mr J Gelderblom)]

Applicant:
The Commissioner for Customs and Excise, Private Bag X47, Pretoria, 0001

(Note. This application will result in the deletion of the subdivision of tariff subheading 7103.10 and a reduction in the rate of duty on precious stones and semi-precious stones, simply sawn or roughly shaped, classifiable under tariff subheading 7103 10.20, from a rate of duty of 25 per cent ad valorem to a rate of free, and the amendment of the statistical unit from gram to kilogram.)

List 3/93 was published under General Notice 88 of 29 January 1993.
(5 February 1993)

NOTICE 109 OF 1993
DEPARTMENT OF JUSTICE

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

KENNISGEWING 109 VAN 1993
DEPARTEMENT VAN JUSTISIE

BEKENDMAKING VAN NAME VAN VERNEEDE WAT VOLDOEN AAN PARAGRAAF (a) VAN GOEWERMENTSKENNISGEWING No. R. 936 VAN 24 APRIL 1991 EN DIE INLIGTING BEDOE IN PARAGRAAF (b) VAN GENOMME GOEWERMENTSKENNISGEWING VERSTREK HET

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

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

SCHEDULE - BYLAE

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(5 February 1993)(5 February 1993)

NOTICE 110 OF 1993

FINANCIAL SERVICES BOARD

THE JOHANNESBURG STOCK EXCHANGE

NOTICE REGARDING AMENDMENT OF RULES

1. In terms of section 12 (6) of the Stock Exchanges Control Act, 1985 (Act No 1 of 1985), it is hereby notified that the Johannesburg Stock Exchange has applied to the Registrar of Stock Exchanges for approval to make amendments to its rules, as set forth in the Schedule hereeto.

2. In terms of section 12 (7) of the said Act all interested persons (other than members of the Stock Exchange) who have any objections to the proposed amendments are hereby called upon to lodge their objections with the Registrar of Stock Exchanges, Private Bag X238, Pretoria, 0001, within a period of 30 days from date of this notice.

SCHEDULE

GENERAL EXPLANATORY NOTES

1. Words in square brackets [ ] indicate omissions from existing rules.
2. Words underlined with solid line (———) indicate insertions in existing rules.

PROPOSED AMENDMENT TO THE RULES OF THE JOHANNESBURG STOCK EXCHANGE

1. PROPOSED AMENDMENT OF RULE 5.210

Trading Procedures — Special bargains:

5.210 5 210.4 In special circumstances considered to be exceptional where a broking firm acts on behalf of clients in a corporate restructure the President [General Manager] may exempt a broking firm from the provisions of 5.210.5 and 5.210.6 provided such approval is requested in writing and obtained prior to implementation of the deal. If in the absence of such an exemption the deal would not be consummated
heir colleagues. Court told of superstition

Taxi operations on hold until Monday

By Lulama Luti

All taxi operations on the Reef have been suspended until Monday pending the outcome of talks between the parties involved in the taxi dispute.

Areas affected include Soweto, Alexandra, Western, Eldorado Park the East Rand and West Rand.

Taxmen decided at a meeting at the Central Methodist Church in Smal Street, Johannesburg, yesterday not to resume their operations.

The decision was taken after they had held fruitless talks with the Johannesburg Traffic Department.

Yesterday’s meeting followed several incidents this week in which minibus taxis blocked streets in the Johannesburg city centre. The taxmen were protesting against alleged harassment by Johannesburg traffic officers.

The meeting took place under heavy police presence. No incidents were reported.

ANC representative Mr Obod Bapela said talks with the traffic department would resume on Monday.

He said they had also secured another meeting with Transvaal Attorney-General Klaus von Lieres and Wilkau.

A report-back meeting would be held later on Monday.

Yesterday angry taximen staged several walkouts from the meeting, demanding the unconditional release of all impounded vehicles and their arrested colleagues.

Bapela said as far as he knows, all 43 people who were arrested since Monday had been released either on R300 bail or on warning. He said of the 209 minibuses which were impounded, 85 were released after an unknown benefactor had paid the fines.

Another 66 were reclaimed after their owners had paid R300 fines. Fifty-eight were still being held because the engine numbers had been tampered with.

Former editor Heared sues FM

A R2.5 million defamation action brought by former Cape Times editor Mr Tony Heared against Mr Nigel Bruce, editor of the Financial Mail, has started in the Cape Town Supreme Court.

Heared brought the action against Bruce and Times Media Limited after he took offence to a leading article published in the Financial Mail on January 17 last year.

In his particulars of claim, Heared said he was defamed without adequate, or any, reason being given. In the January 17 edition, a leading article under the title Press Freedom Keeping the Public Interest, said “It takes someone whose somnambulant editorship of the Cape Times rivalled Rip van Winkle’s nap to wake up with the flawed notion democracy elections are impossible here unless existing press ownership is fractured.”

Heard said the statement represented a bad reflection on his integrity.

Article represented a bad reflection on his integrity:
NEWS Cabbies demand release of their

Suspect ‘tried to erase evidence in Pitje’s murder’

By Mzimasi Ngudle

A POLICEMAN charged with the murder of Mr Leguai Pitje may have inflicted stab wounds in his eyes after the lawyer’s death to erase evidence, the Rand Supreme Court heard yesterday.

In its closing argument, the State said the policeman, Mr Rodney Motlatse, had failed to explain two stab wounds in Pitje’s eyes after having admitted to having inflicted several other stab wounds.

Earlier during the trial, a witness told the court of a superstition that a killer’s picture remained in the eyes of the victim long after death.

Eyes gouged out

This was why some killers gouged out the eyes of their victims, believing they were destroying evidence.

Ms Magriet van der Walt, for the State, argued that Motlatse should be found guilty of kidnapping, robbing and murdering Pitje.

She said evidence showed that Motlatse had intended to kill Pitje to "silence him after assaulting him and robbing him of his watch and jewellery".

"He knew very well that Pitje would sue him and decided to silence him and later, in accordance with the belief, tried to erase all evidence that might assist in his arrest and subsequent conviction," she said.

Pitje, a former member of the Goldstone Commission, went missing on July 11 last year.

Stab wounds

His body was found with several stab wounds at a desolate area in Kagiso.

Motlatse told the court that he and Pitje had fought over Pitje’s car keys and jewellery.

He admitted that when Pitje threatened to sue him, he took a knife out of his pocket and stabbed him several times.

He denied knowing anything about wounds which a State pathologist said were inflicted after Pitje’s death.

The trial continues.
Draft bill to outlaw discrimination at work and college

Prison threat over sex bias

The Promotion of Equal Opportunities Bill aims to prohibit discrimination on grounds of sex, marital status and pregnancy. It also provides for an Equal Opportunities Commission to promote equality and equal opportunity between the sexes.

The bill is part of a government package to counter discrimination against women.

It would make it an offence punishable by a fine up to R5,000 or imprisonment of up to six months for discrimination against anyone on the grounds of sex, marital status or pregnancy.

The bill also outlaws sexual harassment, which is defined as making an unwelcome sexual suggestion, making an unwelcome request for a sexual favour or engaging in any other unwelcome conduct of a sexual nature or circumstances in which the other person believes a negative response would prejudice his or her employment or studies.

Under the bill, sexually discriminatory practices would be deemed unfair labour practices under the Labour Relations Act.

The Equal Opportunities Commission would be appointed by the State President to investigate discriminatory practices and recommend laws to remedy them.

It may also draw up a code of conduct to ensure equality between the sexes, which may become binding if the government agrees.

The commission may also hear complaints and refer to the ombudsman or the Industrial Court.

The bill provides for the relevant minister to grant exceptions to all its provisions and also allow "permissible discrimination" as long as it is not compelling them to do military service.

They're here: A smiling Curtly Ambrose, left, one of the fastest bowlers in South Africa.

Windies super team is

And Pakistanis are also due today for three-day tour.
Some intelligence men to be prosecuted

By Peter Fabricius
Political Correspondent

CAPE TOWN — Some SA Defence Force intelligence personnel would be prosecuted during 1993, President de Klerk told Parliament yesterday.

Replying to the debate on his opening speech, de Klerk answered criticism about the Government’s response to Lieutenant-General Pierre Steyn’s probe into alleged malpractices by SADF intelligence staff.

He denied the Government was involved in either a cover-up of wrongdoing or a witch-hunt of SADF officers.

The Government could not expose all the activities of military intelligence as most of its work was necessary for the safety of the community.

It was also determined to act according to proper judicial and departmental procedures.

But if the Steyn investigation brought the necessary evidence to light, there would be prosecutions.

If it was proved there was no substance to the allegations, those accused would be exonerated.

De Klerk denied there was any contradiction in statements by him and Defence Minister Gene Louw about the 16 military intelligence officers already suspended as a result of the Steyn inquiry.

During the debate MPs had claimed de Klerk had originally announced the 16 were being suspended for wrongdoing, while Louw had later said many had merely been “rationalised”.

De Klerk insisted yesterday that in his original announcement he had pointed out that some of the 16 had been retired for the sake of rationalisation, and others because they were held responsible for actions by subordinates.
A death knell for rights

Published at the taxpayers’ expense, the government has finally made public a proposed Charter of Fundamental Rights. Any Bill of Rights should seek to entrench the core values of society. It should be expressed in general terms, drafted in simple language and thus be accessible to all citizens.

The more complex the wording of specific clauses, the more likely the possibility of complex and costly litigation and unexpected judgment. Furthermore, as has been illustrated by comparative experience, broadly phrased clauses allow for creative interpretation and jurisprudential growth.

The government’s document ignores all these principles. It is a detailed document which contains provisions on a range of socio-economic concerns. The basic theme appears to be an attempt to ensure that the exercise of private power replaces race as the governing principle in the South African social system.

Clause 2 sets this out clearly in that it provides that no provision of the charter shall be construed so as to create or regulate legal relations other than those between the state and a person. In short, private discrimination whether on the grounds of race or gender or religion, can continue and private bodies, however powerful, will be immune from constitutional attack. While the charter will enshrine core values, these will not extend to the private relationships.

This theme is continued in a number of other clauses. In dealing with education and training, the charter provides that the parent community of every state-aided school shall have the right to determine the medium of instruction and the religious and general character of the school. In this manner the charter will protect the privileges of certain communities, along the lines of the present Model C system.

Property may be expropriated but, in the event of a dispute, only after compensation according to its market value. Furthermore no person shall be subject to taxes on property which will have a confiscatory effect or which makes unreasonable inroads upon their enjoyment, use or the value of such property. Hence no land tax can be introduced nor practically can legislation be passed so as to redress the loss of land resulting from apartheid removals. No government will be able to afford to pay market-related compensation; hence any land policy will be restricted...
Whose rights are they anyway?
Heard in the courts this week

By GAYE DAVIS Cape Town

There's an irony in the R150 000 defamation action former Cape Times editor Tony Heard has brought against his former employer, Times Media Limited, and Financial Mail editor Nigel Bruce.

If argument led by his legal counsel in the Cape Supreme Court this week should win the day, the defence of fair comment — grounds on which an editor might successfully defend himself in such an action — could be narrowed.

Heard, now a freelance columnist covering southern African affairs, is suing over an article written by Bruce and published in the Financial Mail in January last year.

Bruce's article, Heard contends, intended — and was so understood by Financial Mail readers — to mean that he was fired as Cape Times editor because he was incapable of doing the job, thereby injuring his good name and reputation.

A subsequent apology published by the Financial Mail, which acknowledged his leaving his editorship for "reasons other than retirement", aggravated the original injury to his reputation, Heard says.

TML and Bruce are defending the action on the basis that the article amounted to fair comment on matters of public interest and that the facts informing the comment were substantially true.

Judgment has been reserved.
Rights charter
‘good in parts’

MOST of the traditionally
accepted liberties are
enshrined in the Charter
of Fundamental Rights —
but, the omissions and empha-
ses assume meaningful propor-
tions against the backdrop of
the South African constitutional
debate.

When political organisations
author a bill of rights they usually do
so with a worst-case scenario in
mind; that they will be in opposi-
tion rather than government.

It is useful to look at this latest offering
in that light, although with the qualifica-
tion that this draft has been produced for
transitional South Africa — perhaps, it is
also a charter for power-sharing.

The most striking feature of the charter
is the protection of the public from the
private domain, and the protection it affords
to existing private rights. Bills of rights
are primarily devices to limit state power,
and, in this regard, the charter is no excep-
tion.

However, there are other powerful (and
vested) interests in society and these can
be just as oppressive to the individual as
the state.

The charter leaves bearers of “private”
power virtually untouched, and by that te-
k deniers of property and wealth in South
Africa.

Rights to private property are protected
and expropriation is made contingent
on the payment of compensation based on the
market value of land.

The counterparty draft of the SA Law
Commission and other bodies like the Afri-
can National Congress, as well as the
more recent “Charter for Social Justice”
produced by a group of Western Cape aca-
demics, appreciate that the land issue is a
burning one and that competing claims
will need to be adjusted on a more equita-
ble basis; they suggest that compensation
should be “fair” or “just” rather than mar-
ket-related.

Again, although discrimination by the
state is outlawed in the government’s
charter, there is almost nothing to prevent
private persons and organisations from
continuing to practise wholesale discrimina-
tion.

It is presumably no accident that while
some social-economic entitlements other
than those concerned with property are gen-
erally not advanced in the charter, the invio-
lability of pension benefits has received a
special mention (Section 31(3)).

The watershed of February 2 1990
has been captured in the charter. Civil lib-
erties, the victim of successive National
Party administrations for so many years,
are now explicitly protected.

Equality is proclaimed as well as free-
dom of association, citizens’ rights (not
to be deprived of citizenship, not to be de-
ported or denied a passport), freedom of
speech, freedom of movement and the
right to a fair trial. However, one sees a
glimpse of the old order in the provision
which allows for the limitation of funda-
mental rights.

Parliament may curtail rights where
this is reasonably necessary “by virtue of
state security, the safety of the public, the
public order and interest, good morals,
public health, the administration of justice
and public administration.”

Although this formulation is also found
abroad, we know from bitter experience
that something more protective is re-
quired domestically.

The SA Law Commission recognised this
and that no limitation should “derogate
from the general substance of the right
in question” and so did the drafters of
the Namibian constitution when they in-
sisted that any limitation should be consis-
tent with the norms of a democratic soci-
ety.

The charter’s attempt to promote
equality deserve comment. The relevant
provision follows the sequence seen else-
where. First, equality is enshrined, second-
ly, discrimination is outlawed and, thirdly,
provision is made for affirmative action.

Formal rather than substantive equality is
found in the charter. Equal treatment, not
equal benefit, is guaranteed.

This, in itself, undermines the scope of a
future parliament and the courts to devel-
up appropriate affirmative action polices.

Discrimination on account of identified
characteristics (“race, colour, language,
sex, religion, ethnic origin, social class,
birth, political or other convictions, or
disabilities or other natural characteris-
tics”) is forbidden. Unless the envisaged
constitutional court holds that one’s sexual
orientation is a “natural characteristic,”
discrimination against gay people will not
fall foul of the law.

Affirmative action measures are usually
designed to combat past discrimination.
The charter accepts the notion of affirma-
tive action on the narrowest possible ba-
sis, a legislative measure must be intended
“for the sole purpose of furthering the
development and advancement of specific
communities, groups and individuals to
enable them to develop and realise their nat-
ural talents and potential to the full.”

This clause falls presumably into the
category of bargaining chips.
On that most fundamental of issues, the
right to life, the government has produced
an uneven result.

It has, quite rightly, reserved the vexed
issue of abortion for the deliberations of
the future constitutional court. It could
have done the same with respect to the
date of death, but instead has chosen to
stipulate that judicial executions would be
competent.

There is no doubt now that all major
political contenders have decided to recog-
nise a future constitutional court as the
ultimate check on political power and the
final arbiter on a range of socially crucial
issues.

That, in turn, means that the judges of
the constitutional court will be drawn into
the political maelstrom of transitional
South Africa, and that the manner of their
selection will be every bit as contentious
as the content of the charter which they
will be called upon to interpret.

Professor Clive Thompson is director
of the School for Advanced Legal Stud-
ies at the University of Cape Town and
Professor Hugh Corder is head of the
Department of Public Law at UCT.
Satellite & Rural Telephones
- Temperature, voltage, frequency, affiliation
- RF, Radio frequency, waveform, radio
- Switching & Transmission
- Radio Communications
- Video, Data networks & equipment
- We supply install & maintain

Network Operator
Telecommunications
Alternative
South Africa's

Support of

Free association

Preliminary

Access

networking
capabilities
- COAX, X25, EDI, LAN, WAN, ISDN
- LEO, SATELLITE, VSAT, GPRS, CDMA
- We supply, install & maintain

Free association

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- COAX, X25, EDI, LAN, WAN, ISDN
- LEO, SATELLITE, VSAT, GPRS, CDMA
- We supply, install & maintain
Deceptively, says Professor Juan, in the constitutional court, every constitutional right and freedom of the citizen should be protected, not only for the citizen himself, but also for society at large. The protection of constitutional rights is a collective responsibility, and any infringement of these rights must be addressed promptly.

Moreover, the government's right to legislate is not absolute. Any law that infringes on constitutional rights must be challenged in court. The role of the judiciary is to ensure that the government's actions are in line with the constitution. This is a fundamental principle that must be upheld at all times.

The government's charter and every constitutional right should be respected and protected. The government's role is to ensure that the rights of the citizens are not violated. It is the duty of the government to create a constitutional framework that ensures the protection of constitutional rights.

The government's charter and the rights of the citizens should not be infringed upon. The government's power is not absolute, and any law that infringes on constitutional rights must be challenged in court. The role of the judiciary is to ensure that the government's actions are in line with the constitution. This is a fundamental principle that must be upheld at all times.

The government's right to legislate is not absolute. Any law that infringes on constitutional rights must be challenged in court. The role of the judiciary is to ensure that the government's actions are in line with the constitution. This is a fundamental principle that must be upheld at all times.
Goldstone to probe arms cache claims

THE discovery of an arsenal of arms in Natal dominates all-day talks, but Government and ANC sources say the crisis is over. Political Correspondent PETER FABRICIUS reports.

CAPE TOWN — The Goldstone Commission is to probe Government allegations that the ANC's armed wing, Umkhonto we Sizwe, tried to smuggle a carload of arms into Durban via Swaziland.

The arrest of two alleged MK cadres at Golela with an arsenal of arms in a hidden compartment has thrown an unexpected spanner into the machinery of negotiations which were just starting to gather momentum.

Foreign Minister Pik Botha called in foreign ambassadors here this week to tell them that the two alleged MK cadres had confessed to a magistrate that they had collected the arms in Mozambique on instructions from Sipho Danel Joel Sithole, commander and commissar of MK in Natal.

He warned that the incident could jeopardise negotiations and urged the envoys to use their influence to prevent this.

Later, Government and ANC sources indicated that the crisis had passed.

Yesterday the ANC's Southern Natal Regional Executive Committee said that MK Southern Regional Command "as a collective" was not involved.

Nor did any member of the regional committee have prior knowledge or involvement in the incident. The committee said it would investigate and take the appropriate disciplinary action but its investigation was being hampered because it was being denied access to its arrested cadres.

Under duress

It could not rely on the confession of the two because it was "common knowledge that such confessions are extracted under duress".

Police sources said that access to the MK men was being arranged.

Then, in a brief statement, the ANC's head office in Johannesburg said it had received a communication from the Goldstone Commission, announcing its intention to investigate the allegations.

The ANC was as concerned as anyone to get to the root of the matter and would co-operate with the commission's investigation.

The Government first raised the allegations in a meeting with the ANC to discuss the future of MK and control of its arms caches.

It is understood that the matter dominated the all-day meeting in Cape Town and almost caused a breakdown.

Later the mood improved when the ANC promised to look into the matter.

Afterwards Constitutional Development Minister Roelf Meyer and Law and Order Minister Hernus Kriel issued a statement announcing that the incident had been reported to the National Peace Committee and the Government had emphasised the need for a resolution of the problem of MK's continued existence, training, recruiting and arms control.

In its statement, the ANC Southern Natal regional executive committee said this was not the solution to the problem.

The solution was that all armed formation should be speedily integrated into a new defence force.

It accused the Government of using the incident to delay negotiations so it could cling to power.
Wrong time for rights bill
AFTER a lifetime of stripping South Africans of internationally recognised human rights, the government's announcement of its draft Charter of Fundamental Rights was presented as a complete turnaround of its past.

But in their reaction, the ANC claimed the government's motivation was based on their desire to control the transition process and to present themselves as a friendly party to a future electorate.

Speaking at a press conference after the draft Bill was unveiled on Tuesday, Mr Dullah Omar, member of the ANC's Constitutional Committee, rejected the right of the government to impose a Bill of Rights in a situation of inequality, oppression and apartheid.

"To impose a Bill of Rights (BoR) in the current situation where some have rights and others not, is to entranch the rights of right holders and the rightlessness of the rightless.

"A Bill of Rights, by its very nature, does not seek to bring rights to those who are without but rather to entrench the rights of those who already have them," Omar said.

One could only have a BoR in the context of a political order which was totally democratic, provided for democratic rule and included a multi-party process.

Omar drew attention to the fact that Bophuthatswana and Ciskei have a BoR and have existed within an apartheid bastion framework.

"Far from bringing rights to people, the repression of people there has continued," Omar said.

He argued that to introduce a BoR in the context of an apartheid constitution was to abuse the concept of a BoR and diminish the value of such a document. This would lead to a situation where the populace had no respect for it.

According to Omar, there was no room for a fully-fledged BoR in the transitional phase as it placed a great deal of power in the hands of the judiciary, which was still an illegitimate judiciary.

"What we need in South Africa is a new constitutional court, differently constituted from the current judiciary with non-racial representation and which is geared to the protection of human rights.

"Such a constitutional court could only come into being under a new constitution," he said.

The Bill's draft provisions include the right of every citizen "not to be deprived of his or her citizenship, exiled or expelled from the Republic, prohibited from returning to the Republic, prevented from leaving the Republic, or denied a passport.

Although the NP banned a range of political organisations, it now says every citizen should have the right to form or join a political party - Saps and South Reporter
Court curbs spectacles

Sunday Times Reporter

AN American-inspired campaign by a Cape Town optometrist to advertise spectacles at discounts of up to 50% has been stopped in a Supreme Court action by a threatened rival.

In terms of the temporary order against Spectacle Warehouse and its director, Mr Christian Paul, advertisements that were to have been carried by the Sunday Times Metro and SABC were cancelled on Friday night. Mr Justice Thring said he had granted the application by Mr Rodney Murray Buchanan, an optometrist, because of the urgency of the matter; but would give his reasons later.

Mr Buchanan's business is metres away from Spectacle Warehouse in Access Park, near the Kenilworth Centre.

He told the court he had taken over a successful practice, which had built up "substantial" goodwill, and employed three people.

He claimed Mr Paul and Spectacle Warehouse were in breach of the rules governing optometrists and the by-laws of the South African Optometrical Association.

Mr Paul had told him last month that he intended to open a "discount optical superstore", a concept shaped by his experience in America.

Unlawful

The first advertisements appeared in newspapers late last month and these were "a direct threat" to his practice and goodwill, Mr Buchanan said.

His lawyer had written to Mr Paul asking him to stop advertising and complaints had been laid with the SA Optometrical Association and the SA Medical and Dental Council.

The SMDC had told him a disciplinary hearing might take four months to arrange, Mr Buchanan said.

He was prohibited from placing similar advertisements and could not compete on equal terms with Spectacle Warehouse, which was trading unlawfully.

A comment in a recent newspaper report, that optometrists "inflated" prices, had been "defamatory, untruthful and misleading", Mr Buchanan said.

Spectacles Warehouse and Mr Paul's claims of offering discounted prices were related principally to their products being inferior and cheaper, he claimed. Spectacle Warehouse and Mr Paul have until February 23 to reply.
WOMEN'S VOICES ABSENT IN BILLS ON EQUAL RIGHTS

By CHARLENE SMITH

Women will discuss three draft bills designed to curtail discrimination against them at a major conference of the Women's Coalition in Johannesburg this week.

Women's rights activists are not impressed that they were not consulted in the drafting of the bills released for comment by Minister of Justice Kobe Coetsee on Friday.

They are the Prevention of Domestic Violence Draft Bill, the Abolition of Discrimination Against Women Draft Bill and the Promotion of Equal Opportunities Draft Bill.

Cathy Albertyn of the gender research centre at the Centre for Applied Legal Studies at Wits said she was pleased women's issues were now on the political agenda, but it would require more than amending laws to redress the inequality of women.

She pointed out that in terms of existing labour legislation discrimination in the workplace was already an unfair labour practice. "It requires more than legislation. There is no state-funded shelter for battered women and yet it is estimated that around one in four women are battered."

Frene Ginwani of the ANC's gender committee said women should have been consulted in the drafting of the bills.

Another provision in the bills makes marital rape illegal in cases where the marriage relationship has broken down and the parties no longer live together. Magistrates will also be empowered to authorise the seizure of firearms to prevent domestic violence.

Under the Equal Opportunities Bill it will be illegal to discriminate on the basis of gender, marital state or pregnancy. Women will also have to get equal pay for equal work.

Sexual harassment will also be forbidden. Nonetheless, discrimination will not be a crime. Victims may lay complaints with the Equal Opportunities Commission.

Other advances which are unlikely to cause women much excitement are the provisions that will now allow them to legally enter liquor stores and pubs, box or wrestle, and become underground miners.

Lawmakers have deftly stepped around the thorny issue of abortion where no changes will be made.

The bills will not be presented to Parliament as legislation at this stage. Should the draft legislation eventually be accepted, it would have to be phased in gradually and systematically, Mr Coetsee said.
Judge hints at state lottery

A NATIONAL lottery to raise funds for welfare, health and education — prompted and controlled by the state — is to be proposed by the Howard Commission.

In a letter to President FW de Klerk on Friday, commission chairman Judge JA Howard said he would recommend that the 250 “formal” casinos and 1 750 gambling dens be shut down.

He said the public should be warned that no new lotteries would be tolerated pending the Commission’s report.

In a statement issued on Friday, De Klerk said he had discussed the matter with Howard after questions had been asked during debate in Parliament on Thursday.

Howard had written to De Klerk last week and gave permission on Thursday for his letter to be made public.

Howard said the 250 “formal” casinos and 1 750 gambling dens should not be allowed to continue.

“Nothing in the Commission’s report will justify the continuation of such a state of affairs and an extension of the moratorium under the Gambling Amendment Act, 1992, could likewise raise false expectations on the part of a great number of people.”

He said of particular concern were announcements by the Board of Executors and Games Africa that they intended to introduce national on-line lotteries by about April this year. The Operation Jumpstart organisation had also announced its intention to extend the area of operation of its Natal Lotto beyond the borders of Natal.

“It is clear that these organisations are determined to anticipate the Commission’s findings and attempt to corner the market ahead of other potential competitors.”

“They should be prevented from doing so because their lotteries would jeopardise the introduction of a single national lottery under state control and their lotteries could not be allowed to co-exist with such a single national lottery.”

“I respectfully suggest that a public warning be issued to the effect that no new lotteries of any kind (including lotteries by or on behalf of welfare organisations) will be tolerated and that persons who establish, commence, manage or conduct any such lottery will be liable to prosecution under the Gambling Act.”

In particular, persons intending to establish national computerised lotteries, or to expand the area of operation of such lotteries, should be warned that they will do so at the risk of prosecution and the loss of their investment.”

Howard said he had considered a suggestion that the Gambling Act be amended to provide for a moratorium on prosecutions in respect of lotteries conducted by or on behalf of welfare organisations.

“However, I have decided against it, especially since it might serve to raise expectations which turn out to be false in the light of the Commission’s recommendations still to be made.”

The continuation of so-called hard gambling (casinos) would lead to a similar situation.

He hoped that the Commission’s report would be completed by the end of next month — Sapa.
Beware jailers bearing the keys to freedom

THE debate on the essential character of South African democracy, long delayed and often over-shadowed by more dramatic events, began almost surreptitiously this week when the government published its curious proposals for a bill of rights.

The document was dutifully welcomed as evidence of the transformation of the National Party, but it has been glossed over. The reason may be that the Draft Charter of Fundamental Rights, as it is rather pompously named, is couched in an unusual and bewildering idiom.

The American bill of rights begins by forbidding the state to make any law “respecting the establishment of religion or prohibiting the free exercise thereof”, the German equivalent, the Basic Law, begins by saying simply, “The dignity of man shall be inviolable.”

The government’s charter starts off, in the legalistic style of apartheid-speak, by assigning rights to “every person, including, where appropriate, every legal person and every entity or body group of persons which can be the bearer of rights”.

Huh? What’s appropriate, and what’s inappropriate? What Nationalist trickery lies concealed in this tortured phraseology? Which bodies or groups can be the bearers of rights? Coming from people who have called oppression “separate freedom”, or described the banning of students from universities as “the extension of university education”, this pseudo-legalistic gobbledegook must spark a search for hidden meanings, hidden agendas, hidden purposes.

It is not language which will inspire trust.

The German Basic Law says, “Freedom of faith, of conscience, and freedom to profess a religion or a particular philosophy shall be inviolable”; the government’s version says, “Every person shall have the right to profess and practise the religion of his choosing”, but goes on to say this shall not preclude instruction to the forces, the public service and other state institutions, religious instruction or exercise in schools, and religious broadcasts by “an entity instituted by or under any law”.

I would like to hear from lawyers how these two clauses are to be reconciled, but it seems to me that the first is qualified by the second, and that the primary right — the right of the state to propagate a particular religion in schools or by television — takes precedence over the individual’s freedom of religion.

Anyway, freedom of conscience is nowhere mentioned, and the right to profess a particular philosophy — say, atheism — is not recognised. Freedom of faith, in this context, seems to me to mean no more than a pious protestation, carefully loaded in favour of the prejudice of the framers of the charter.

The freedom of speech clause, to take an example where I am more sure of my ground, is simply defective. I can understand that, given the national prejudices, the framers of the charter have not been guided by the American example which forbids Congress to make any law “abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble, and to petition the government for redress of grievances”.

However, the German Basic Law says, “Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship.”

The government’s version, drawn up in arrogant disregard of the recommendations of the Conference of Editors and of the wording accepted by the Media Council as part of the Press Code of Conduct, says simply: “Every person shall have the right of freedom of speech and other forms of expression, and the right to obtain and disseminate information.”

To this, however, is appended the right of the state to register and license newspapers, a clause which is bound to be violated, sooner or later, by pamphleteers, alternative newspapers and rogue publishers. It guarantees that, from the very first day, the press as a whole will be as seriously at war with this bill of rights as it was with Stoffel Botha in his oppressive heyday.

Not a word, incidentally, is said about freedom of opinion, which takes us back to the days of Galileo’s gagging by the Roman Church.

There is worse to come. The American bill of rights forbids unreasonable searches and seizures, our version, trying to be clever, guarantees the inviolability of a person’s home and forbids spying or wire-tapping under the right of privacy, except in cases of foreign intelligence gathering, or trade in narcotics and weapons, or “serious” economic offences, or prostitution.

ASS the inclusion of serious economic offences suggests, the police have excessive powers in terms of this clause, but there is no mechanism to control their use. Those powers, and the omission of any reference to treason seems to me to guarantee that, sooner or later, internal resistance to the government will be treated as though it were equivalent to foreign intelligence-gathering. If the drafting is sloppy, the thinking behind it is sloppier.

The list of objections to this charter is endless, and for an obvious reason — intellectual isolation from the democracies, and unfamiliarity with the concepts of a “culture of rights”, renders the civil servants of the present regime unfit to carry out the task of drawing up a bill of rights.

The ANC’s bill of rights, though I think it carefully omits some essential elements of a free society and is loaded with some silly ideas masquerading as rights, is at least cast in recognisable idiom. It draws on the experience and knowledge of an international community that has been struggling with the difficult questions of rights for two centuries. It is not something dreamed up amid the heady fumes of brandy and chops at a bosberaad.

President de Klerk is said to want a liberal democracy; if so, he needs the help of liberal lawyers, and of modern thinkers, to fashion a bill of rights that will not run the risk of strangling in its own eccentricities.

KEN OWEN
IFP cautious over NP rights charter

ULUNDI. — The Inkatha Freedom Party has cautiously welcomed the National Party's draft Charter of Fundamental Rights, but added that while it was a step in the right direction, it did not meet the long-suppressed needs, wants, and aspirations of all the people of South Africa.

"A statement issued by the IFP on Saturday added that the government proposal further did not protect social rights, the collective exercise of individual rights and the rights of social and cultural formations. — Sapa
FW warns of future misuse of rights

TOS WENTZEL
Political Staff

PRESIDENT De Klerk today committed the government again to a future constitutional state with an enforceable Bill of Fundamental Rights in which the rule of law would be supreme.

He was opening the first regional conference of the International Bar Association to be held in South Africa.

The IBA is the world's largest organisation of law societies and international legal practitioners. It is being held in Cape Town in conjunction with the Association of Law Societies of South Africa (ALS).

Mr De Klerk said the government was awaiting comment and contributions to the draft Bill of Fundamental Rights from the legal profession in particular.

"We believe that the future Bill of Rights must and will inevitably become a cornerstone of the long-term stability in our complex society.

The legal profession can assist by assuring that the concept of such a Bill of Rights is not misused by politicians with ulterior motives.

There is already broad consensus that the judiciary, in the transitional dispensation which we hope to install shortly as well as in the longer term, must be independent to a degree which will put it beyond any risk of political manipulation. This should not be difficult because we already have a proud tradition in this regard.

Mr De Klerk said he believed the legal order in any country should provide the broad framework for orderly human activity.

On one hand it should guarantee individual freedom and stability. On the other hand it should remain in step with political, social and economic developments.

No legal system should be allowed to stagnate and there was always the room and need for improvement through reform.

"The challenge to the legal profession has never been greater. We are living in a technological era which constantly demands adaptation and innovation, also in respect of legal practice."

"Interaction among legal practitioners on an international level had become indispensable to meeting the requirements of the modern world. The challenge was to bring the various legal systems closer into line with one another and with international norms and standards."

The need for legal reform had been recognised by the government and legal administrators for many years.
Lawyers urged to help unclog prisons

By Jo-Anne Collinge

Mr Justice Johan Kriegler of the Transvaal Bench has condemned the “internecine war for turf” among lawyers and urged that they begin to till the barren legal land, assisting the mass of undefended and untried people who clog the country’s jails.

During his keynote address to the annual meeting of Lawyers for Human Rights in Pretoria at the weekend, Kriegler argued the case for “barefoot lawyers”, with “properly directed training” of 18 months or two years, to go into the criminal courts to advise unrepresented accused how to defend and test the cases against them.

He observed that whatever a future Bill of Rights contained, there would still be 20,000 awaiting-trial prisoners in jail every day — people who had been convicted of no crime.

In addition, 70,000 people were jailed every year without the benefit of legal representation.

“I refuse to accept that it is beyond the combined talents of the profession to deal with the problem of the daily prison population,” the judge said.

As a start, the legal profession could prepare and standardise curricula for “barefoot lawyers”.

Worsened

Improved defence should go hand in hand with a renewed focus on prisoners’ rights.

Arguing that the outstanding role of lawyers was to defend the weak against the powerful, Mr Justice Kriegler contended there was no greater disparity of power than in jail. Therefore, lawyers should help ensure that the punishment of incarceration was not worsened by prison conditions.

He was appalled to find no voice raised to query the “double-shack” plan that Correctional Services Minister Adriaan Viljoen had put forward as a solution to the overcrowding in prisons.

“Does this mean that he will double up on a single toilet for 30 prisoners and double up on a single shower for 30 prisoners?”

Former Zimbabwe Chief Justice Enoch Dumbutshena, in the second keynote address, said Zimbabwe had taken a chance after independence by appointing relatively inexperienced black advocates to the Bench in the interests of redressing past discrimination. Although some had proved unsuccessful, most had turned out to be excellent judges.

But the real pay-off had been elsewhere, said the judge. Justice, he reckoned, was not something that resided in Bills of Rights and constitutional courts, it had to be felt in the heart of society.

“From our humble background we lifted the belief of our people in justice.”
CAPE TOWN — Teachers and parents won two Supreme Court interdicts yesterday to stop cost-saving measures at House of Representatives schools.

After a three-week hearing, the court said a decision, with costs, by House of Representatives Education Minister Abe Williams not to appoint substitute teachers when staff went on long leave was "high-handed and clearly unfair."

Parents and teachers had objected to the department's action, saying it threatened order in schools and would jeopardise education.

The Union of Teachers' Associations of SA (Utasa), its president Arthur Vergotme, South Peninsula Senior Secondary School principal Brian Isaac and two parents sought orders declaring the department's decision unlawful.

The respondents were Williams and executive director Anie Muller.

The department said in a circular in December it was unable to appoint substitutes for teachers on long leave. This followed a statement that all proposed cost-saving measures and the rationalisation of personnel would be stopped, the court heard.

Substitute teachers were absolutely necessary for the orderly running of schools and to ensure proper education, the court heard.

Vergotme said in an affidavit that the circular had disrupted the orderly running of schools and would cause unrest in the community. The department had assured parents last year that education standards would not be affected by the measures, which were withdrawn later.

It also amounted to a breach of undertaking between Utasa and the department, he said.

In a replying affidavit, Muller said the measures would save the department R17m and it was a prerogative of the department to save money.

But Judge Laurie Ackerman and Judge D G Scott ruled that the department had not given principals and Utasa a fair hearing before imposing rationalisation measures.

The parties who brought the action planned to demand the immediate appointment of substitute teachers.

Lawyers said the ruling would severely curb government's ability to unilaterally impose rationalisation measures in education.

The ruling set an important precedent that enhanced the ability of parents and teachers to challenge rationalisation plans.

The DFF welcomed the ruling. Its Bekkeveld MP Cliff Nason said the decision would help normalise education. He appealed to Williams not to introduce further measures that would harm education — Sapa.
Army 'will be open to gays'

Political Correspondent

The ANC supports the right of gays to enter a future South African Defence Force, ANC constitutional expert Professor Kader Asmal said at a press conference today.

All discrimination on the grounds of sexual orientation should be outlawed in a future bill of rights. This meant that gays should enjoy the right to enter the security forces, the SABC or private employment without fear of discrimination, he said.
Rule of law, sovereign

— De Klerk

Staff Reporter

The government was committed to introducing a "Rechtstaat"—a constitutional state in which the rule of law was sovereign, President F.W. de Klerk said yesterday.

This would be coupled with an enforceable bill of fundamental rights, he said at the International Bar Association's first regional conference in South Africa.

The country's legal fraternity could provide vital help in shaping the bill of rights and ensuring it was not misused.

The government's proposals for a bill of rights were published on February 2. He believed the bill would "become a cornerstone of long-term stability.

Mr. De Klerk said there was broad consensus that the judiciary should be independent to a degree that would put it beyond the risk of political manipulation.
Future for SA law graduates ‘bleak’

Staff Reporter

THE FUTURE for thousands of South African law graduates "looks bleak" - as only about half, can secure posts with legal firms to do their articles of clerkship.

This was disclosed yesterday by the president of the Association of Law Societies, Mr Mervyn Smith, who said they were "seeking ways to accommodate" the "increasing numbers of流失 students who have been trained in law." Mr Smith was speaking at the opening of the International Bar Association's first regional conference in SA, which is being held in the city.

"About 3,800 students will receive law degrees at the end of the year. We expect that only 1,500 will find legal firms who can accommodate them for their articles," Mr Smith said.
Loopholes can lead to abuse

Johannesburg. — A future government could place its opponents in mental asylums, or fund apartheid education, under the draft bill of rights.

Director of the Free Market Foundation, Mr. Leon Louw, said: "If the purpose is to regulate the state, but there are loopholes."

"Having stated that no person shall be prejudiced by reason of race, colour, language, sex, religion, ethnic origin, social class, political or other convictions or disabilities, the bill offers an escape."

A law would be acceptable if it "provides for special measures for the sole purpose of furthering the development and advancement of specific communities, groups and individuals."

Mr. Louw is especially worried by clauses allowing for the detention of the mentally disordered, drug addicts, and alcoholics. "They create detention without trial." — Sapa-AFP

The provision of a property trained interpreters is essential for effective communication in court proceedings. It ensures that all parties, regardless of their linguistic background, can understand the proceedings and participate fully. This is particularly important in cases where the parties have limited English proficiency or where there is a need to accommodate special needs. The use of professionally trained interpreters reduces the risk of misinterpretation and enhances the fairness of the legal process.
Cop guilty of lawyer’s murder

Soweto Correspondent

A special constable was yesterday convicted of murdering Johannesburg lawyer Mr Legosi Piye. The policeman, Rodney Matloue (25) of Kagiso, Krugersdorp, was, however, acquitted of kidnapping and robbery with aggravating circumstances.

Mr Justice TD Cloete found Matloue had a direct intention to murder Piye when he stabbed him on July 12 last year. He acquitted Matloue of robbing Piye of his borrowed car, a gold watch and a diamond ring, but found him guilty of the lesser crime of theft.

Co-accused Mr Mohali Motlhaba (24), also of Kagiso, was acquitted on all counts.

Motlhaba claimed Matloue had stabbed and threatened him with a firearm to induce his cooperation. The judge found the State had not proved this version was not possible.

Piye had been arrested but not charged with drunken driving the night before his death. When he was released from the Magaliesberg police cells, Matloue drove his (Piye’s) car to Motlhaba’s home.

The three men then visited other people where they ate food and drank beer. An argument broke out at one of the houses and Piye and the two accused left Motlhaba told the court Matloue and Piye argued in the car. Matloue attacked Piye, stabbing him several times before gouging out his eyes.

Piye’s body was thrown into a boot, wrapped in a plastic bag and hidden.

The judge said he could not explain why Piye had left the police station with Matloue. Piye was a lawyer who knew his rights and would have understood that he had not been charged and that there was no reason for Matloue to escort him. The case was adjourned to today for argument.

Azaro fumes at TV omission

By Victor Metsosamere

On the omission of Azaro from the David Frost interview series was because “the SABC is afraid to let the organisation’s ideas be heard by the rest of the world.” This claim was made by Azaro’s presidential secretary, Mr Strum Moodley, yesterday.

Meanwhile, callers to Sowetan yesterday wanted to know why the Democratic Party and the Afrikaner Weerstands Beweging were, like Azaro, excluded from the CCC TV interviews.

Azaro also said Frost, who is scheduled to talk to Mr Nelson Mandela (ANC), Chef Mangosuthu Buthelezi (IFP), Mr Clarence Makwetu (PAC) and President FW De Klerk, was afraid of the organisation.

“Any journalist likes pliant interviewees rather than ones who challenge. There has been an ongoing conspiracy in all sections to suppress the ideas and opinions of Azaro,” said Moodley.

The general manager of CCC TV, Mr Madala Mahubele, and other top officials in the news department were not available for comment yesterday.
Rights charter slammed by ANC

DENNIS CRUYWAGEN, Political Staff

The government's Charter of Fundamental Rights has been criticised by ANC constitutional committee members. Professor Kader Asmal said an attempt to interfere with negotiations by the document also came up for criticism from his constitutional committee colleagues, lawyers Professor Albie Sachs, Dullah Omar and Essa Moosa.

Professor Sachs said the ANC would not allow its hands to be tied by the charter. He said the document throbbled with fear and not with the heartbeat of freedom.

He said "You cannot have temporary fundamental rights. Without the right to vote how can you say a bill of rights has any meaning?" The charter was written "in the tone of somebody determined to have as many as possible of the fruits of privilege."

He said if Justice Minister Kroon-Cetswe woke up as a farm labourer, a woman, or factory worker, he would not be happy with the charter."
Murder of Goldstone lawyer — man guilty

By Susan Smuts

A special constable was convicted yesterday of murdering Goldstone Commission advocate Legwai Pitje, but was acquitted of kidnapping and robbery with aggravating circumstances.

Mr Justice T D Cloete found Seatile Rodney Mallotse (26) of Kagiso had a direct intention to murder Pitje when he stabbed him on July 12.

He acquitted Mallotse of robbing Pitje of his borrowed car, gold watch and diamond ring, but found him guilty of the lesser crime of theft.

Co-accused Mohali Abraham Molhabbi (24) of Kagiso was acquitted on all counts. Molhabbi claimed Mallotse had stabbed and threatened him with a firearm to induce his co-operation.

The judge found the State had not proved this version was not true.

Pitje had been arrested for alleged drunken driving the night before his death. When Pitje was released from the Magaliesburg police cells, Mallotse drove his (Pitje’s) car to Molhabbi’s home. The three men then raped other people and drank beer during their visit.

An argument broke out at one of the houses, and Pitje and the two accused left.

Molhabbi told the court Mallotse and Pitje argued in the car. Mallotse attacked Pitje, stabbing him several times.

Pitje’s body was thrown into the boot. It was later wrapped in a plastic bag and hidden.

The case was adjourned until today.
Govt rights bill slated by ANC

By ANTHONY JOHNSON
Political Correspondent

THE ANC yesterday warned that the government's Charter of Fundamental Rights was "a serious obstacle to the negotiation-process".

At a press conference yesterday the ANC's constitutional committee slated the document released amid much fanfare by the government last week as a charter for "torturers", "scabs" and "the rich".

ANC constitutional expert and NEC member Professor Kader Asmal said the ANC regarded the charter as an attempt by Justice Minister Mr Kobje Coetsee and his government to put a spoke in the wheel of constitutional negotiations.

In response Mr Coetsee said the ANC's criticisms of the charter were superficial, non-academic, non-scientific and reflected the ANC's "great intolerance" towards anyone who differed from the organisation.

Professor Asmal said the ANC would strenuously oppose any attempt by the government to have an interim bill of rights finalised at Codea for introduction during the period of transition.

A bill of rights should not be adopted by either an illegitimate Parliament or by an unrepresentative negotiating forum but by a democratically-elected constituent assembly, he said.

The ANC singled out the following objections to the charter:
- The absence of the right to vote.
- The limitation of the application of the charter to actions by the state, allowing private individuals and organisations to continue discrimination.
- The continuation of capital punishment and the absence of legal aid in criminal trials.
- The provocative reference to affirmative action.
- The refusal to separate church from state.
- The rigid and insensitive provisions relating to property and economic rights.
- The unique provisions relating to employers' rights which will form "a scab's charter".
- The defective provisions relating to the rights of women, children and the disabled.
- The refusal to prohibit discrimination on the grounds of sexual orientation.
- Detention without trial for up to 10 days "a charter for torturers".
- The absence of the right to freedom of conscience and restrictions on press freedom through possible licensing of the press.

Educational provisions which revive the discredited notions of group rights.
By DANY STEEN

Keep Justice Corbett, DP asks

Cape Times, Tuesday, February 9, 1993
6
Mix-up over witness protection document

JOHANNESBURG — A Lawyers for Human Rights document on witness protection programmes, distributed at a press conference here yesterday, was meant merely for discussion within the LHR and was not official, the LHR said.

The document, distributed to reporters by LHR regional organiser Mr Aubrey Lekwane during the news conference, said the human rights group would suspend its own witness protection programme because slow investigations and lengthy trials were taxing LHR financially — and cases often ended in acquittals.

But in a later statement, LHR national director Mr Brian Currin said “the document is not an official LHR document and its distribution was not authorized by the national directorate” “Some of the allegations contained therein are correct, while others do not reflect the view of LHR,” he said.

Questioned later, Mr Currin reiterated that the document was solely for internal discussion within the LHR.

The document also expressed concern that credible evidence submitted to the Goldstone Commission had so far failed to result in any convictions.

Sapa

LHR launches legal course

JOHANNESBURG — A pilot para-legal training programme designed to help end violence has been unveiled by Lawyers for Human Rights.

The first three-month course will train ANC members in mediation, negotiation, conflict resolution, court monitoring, peace monitoring techniques and legal issues relating to violence.

LHR national director Mr Brian Currin said members of other organisations would be eligible for future courses — Sapa.
Probe to be completed soon

Investigations involving former policeman John-
ny Mokaleng— who alleged last month that po-
ce had murdered and buried detainees—
should be completed in about a month. Police
said yesterday a docket should be submitted to
the Attorney-General next month. Mokaleng
would face charges of fraud and perjury.
**Judgment reserved in casino hearing**

**DURBAN** - A Durban Supreme Court judge reserved judgment yesterday afternoon after hearing a second application by two casino operators to set aside a gambling ban which came into effect at the end of January.

The owners of Florida Road Entertainment and River Palace Leisure Industries asked Natal's deputy judge president, Judge John Broome, to set aside government's decision not to extend the moratorium on gambling.

They also applied for an order for Justice Minister Eboe Coetzee to reconsider his decision to disallow further gambling operations until he had afforded interested parties a fair hearing to state their case.

Yesterday's hearing came just over a week after a similar unsuccessful one by the same applicants in the Durban Supreme Court.

Yesterday Johan Ploos van Amstel SC argued that Coetzee had not granted casino owners and other interested parties a fair hearing before deciding not to extend the moratorium on gambling.

"Casino owners had a right to trade and, apart from the general public, the Minister's decision was calculated to prejudice casino operators and deprive them of their livelihood," he argued.

Ploos van Amstel further submitted that it had been a legitimate expectation by casino owners that they be granted a fair hearing before the Minister decided to go ahead with the January 31 shut down.

Casino operators had expected, from statements made by Coetzee, an extension to the cut-off date pending the outcome of the Howard commission's inquiry into gambling.

Coetzee's decision not to do this had come as a shock, even to fellow NP MPs, he submitted.

Council for the Minister, David Gordon SC, disputed the argument based on legitimate expectation, saying casino owners were merely entitled to make submissions to the Minister. This did not mean they would be allowed to continue operations.

A new gambling legislation promulgated on November 6 had afforded casino operators the privilege of not being prosecuted until they had wound up their businesses by the end of January.

They were still operating illegally but had been granted immunity from prosecution for that time period, said Gordon.

This had been done to allow other potential gaming entrepreneurs the opportunity to begin on an "equal footing" should new gambling legislation come about.

Many operators had deliberately waited for the outcome of the Howard commission before starting their businesses and it would be unfair to them to continue allowing illegal operations now.

The "transitional provisions" not to prosecute gambling club operators until the end of January was also provided to allow casino employees time to find alternative employment.

Gordon further referred to an affidavit by Coetzee which stated that 250 "formal" and 1,750 "informal" casinos had sprang up last year and "no reasonable South African can expect the report of the Howard commission will support the unregulated proliferation of casinos" - Sapa.
Claims against attorneys on the increase, conference told

CAPE TOWN — There had been a substantial increase in the number of claims lodged against attorneys in recent years, Small Claims Court commissioner Des Williams told the International Bar Association regional conference yesterday.

"Claims under the Attorneys’ Fidelity Fund Professional Indemnity Insurance Scheme had increased from about 200 in 1997 to about 450 in 1999, he said.

"Considering there were only about 8,000 attorneys in SA, this meant the annual number of claims represented more than 5% of the total number of attorneys,

"The increase was part of a worldwide trend, attorneys were handling more work and were expanding into new areas of practice which carried greater risk and exposure to claims, and clients were becoming more demanding and more aware of their rights.

About 47% of claims in 1991 related to claims under the Motor Vehicle Accidents Act, 20% were conveyancing-related, 15% related to general commercial matters, and 15% to general litigation matters.

SA attorneys had automatic cover under the fidelity fund scheme, and the limits of indemnity under the scheme had been increased considerably in recent years. But many legal practices needed substantial top-up cover, and some were obtaining cover of up to R1m of each claim.

"A further reason for obtaining additional cover is that the scheme no longer grants indemnity in respect of the provision of investment advice. Separate cover must therefore be arranged in respect of the provision of investment advice," Williams said.

Williams urged law firms to institute malpractice exposure audits, as the adoption of risk management would "almost certainly lead to a major shake-up and revision of management, administration and professional procedures".

Prof Werner Ebeke of the University of Konstanz School of Law in Germany, in Germany, and several common-law courts abroad were anxious to limit auditors’ liability for negligence affecting people with whom they had no contract.

Denies Reitzs partner Michael Hart said that while SA auditors had had reasonably good claims experience until the end of the 80s, and underwriters had been willing to provide professional indemnity insurance for this market, there had been an appreciable increase in the number and size of claims brought against local auditors during the past five years.

High-tech anti-violence train put through test

A COMMUTER train equipped with high-tech security devices worth R1.4m was tested by the SA Rail Commuter Corporation (SARCC) yesterday after a delay while video monitoring equipment was improved.

The train, which has new violence-proof windows and doors, a video monitoring system, a public address system and radio communication between drivers and guards, was put through a two-hour test on the Braamfontein-Krugersdorp line.

SARCC development engineer Brian Carver said the train had proved ready for service and would carry its first passengers between Johannes- burg and Soweto by the weekend.

SARCC security GM Francois van Eden said the new train would cut down on the time it took to arrest those involved in violence as guards would react immediately to incidents shown on closed circuit television.

Carver said the new video system, which consisted of 56 concealed video cameras on a 14-coach train and a monitoring booth, would cost R580,000 a train.

A further five trains would be equipped with the video system, which would then be evaluated thoroughly before a decision was made on whether or not to install the system on all trains, he said.
Judge calls for 'barefoot lawyers' to ease caseload

The Argus Correspondent

JOHANNESBURG — Mr Justice Johan Kriegler of the Transvaal Bench has condemned the "interminable war for justice" among lawyers and urged that they begin to till "barren" legal land, assisting the mass of undefended and untried people who clog the country's jails.

During his keynote address to the annual general meeting of Lawyers for Human Rights in Pretoria at the weekend, Judge Kriegler argued the case for "barefoot lawyers", with 18 months' to two years' "properly directed training", to go into the criminal courts to advise unrepresented accused how to defend and test the case against them.

He observed that "whatever a future Bill of Rights contains and whatever the composition of a constitutional court, we still will have — every single day — 20,000 people in prison who have committed no crime."

In addition to this enormous number of awaiting-trial prisoners, in any year there were 70,000 people imprisoned without the benefit of legal representation.

"I refuse to accept that it is beyond the combined talents of the profession to deal with the problem of the daily prison population," he asserted. As a start, the legal profession could prepare and standardize curricula for "barefoot lawyers".

Improved defence should go hand in hand with a renewed focus on prisoners' rights.

Mr Justice Kriegler observed causively that it was only when the percentage of prisoners was so low that anyone showed the slightest interest in prisoners.

Arguing that the outstanding role of lawyers was to defend the weak against the powerful, Mr Justice Kriegler contended that there was no greater disparity of power than in jail.

Therefore, lawyers should help ensure that the punishment of incarceration was not exacerbated by the conditions of imprisonment.

He had been appalled to find no voice raised to query the "double bunk" plan which Correctional Services Minister Mr Adriaan Vlok posed as a solution to the overcrowding of prisons.

"Does this mean that he will double up on a single toilet for 30 prisoners and double up on a single shower for 30 prisoners?"

Mr Justice Kriegler acknowledged that the legal profession had a socio-political role to play, but emphasised that it had a particular way of doing so: "Not for us the heathy slogans, for us the hard work."

Former Zimbabwean Chief Justice Enoch Dumbutshena, delivering the second keynote address, related that, after independence, Zimbabwe "took a chance" and appointed relatively inexperienced black advocates to the Bench in the interests of redressing past discrimination.

Although some had proved unsuccessful, most had risen to the challenge of office and proved excellent judges.
Programme seeks to help curb violence

By Bronwyn Wilkinson

A para-legal community training programme launched yesterday by Lawyers for Human Rights (LHR) and the ANC's PWV region could improve police-community relations and ultimately reduce violence, the organisations said.

The programme — the first of its kind — could also strengthen National Peace Accord structures by supplying valuable para-legal skills to the participants in those structures, the organisations told a Johannesburg press conference.

The first three-month programme, starting on Saturday, will train ANC peace workers in the PWV in skills including mediation, negotiation, observation, documenting evidence and investigation.

LHR national director Brian Curwin said although the programme had been suggested by the ANC's PWV region, it had no political bias.

He hoped it would prevent releases for lack of evidence of suspected political killers.

Witnesses to violence often became so confused that they were discredited.

He cited the case of the 1991 Sebokeng night vigil massacre, in which 38 people were killed.

Seven men were charged, but were acquitted because there was insufficient evidence to convict them.
Should Judges Speak Out? 

The Bench's integrity is at stake, says Mr Justice Richard Colodrone
Judges urged to join debate

By Bronwyn Wilkinson

Judges, had a duty to join the debate on fundamental legal rights, particularly when a nation was debating these in times of constitutional flux, Mr Justice Richard Goldstone said last night.

Delivering the 36th annual Hoernle Memorial Lecture to the South African Institute of Race Relations in Johannesburg, Mr Justice Goldstone said judges were qualified to join the debate and, if they were done in a non-partisan manner, they could not be accused of displaying bias or interfering with the independence of the judiciary.

In his opinion, "a judge may speak freely in court on any topic strictly relevant to the matter before him."

It may be the judge's duty to criticise the law he was required to implement if, in the judge's opinion, it "offends against morality or justice."

Off the Bench, a judge may speak about any topic relating to the law and the administration of justice, but should beware of embroiling the judiciary in controversy, he said.

"Should judges speak out? -- Page 14"
Chief Justice won't retire.

Political Star.

THE government last night averted a major legal- and constitutional crisis by announcing that the widely respected Chief Justice, Mr Justice Michael Corbett, would stay in office after his scheduled retirement in September.

President F W de Klerk said in a statement that Mr Justice Corbett had accepted an invitation to remain in office for "a further period."
Richard Goldstone

Shy Away from Judges need not political issues
Punish parties that contravene Accord

The Government has recommended that political parties or movements which contravene the National Peace Accord should be punished.

This emerged during an interpellation debate in Parliament yesterday and followed President de Klerk's suggestion in his opening speech two weeks ago that the accord be strengthened and made enforceable.

Deputy Minister of Justice Danie Schutte told MPs yesterday that the Government was committed to strengthening the peace accord, but that it could not act unilaterally because the accord was the product of multilateral negotiations.

However, the Government has called for a review of the accord. Among improvements that ought to be considered were:

- Effective sanctions which could be imposed on transgressors.
- A more expeditious dispute-resolution procedure.
- The involvement of non-signatory parties at local and regional levels.

Democratic Party MP Wessel Nel said that while he recognised the Government could not tamper with the accord unilaterally, it had a special responsibility and it should act on its own initiative on certain issues. These included granting local peace structures their own budgets.

Shortcomings in the peace accord will be discussed at a meeting of accord signatories and chairmen of the regional dispute resolution committees, it was decided at a two-day meeting between the regional chairmen and the National Peace Sec-
Court told of killing on train

By Susan Smuts

A Johannesburg train commuter, described to the Rand Supreme Court yesterday as "a fellow passenger," was stabbed and beaten before being thrown out of a train onto the tracks where his body was "sliced" by the train's wheels.

Trevor Jabuleni Ndlovu was giving evidence at the trial of Xolani Magum (27), of Soweto, who has pleaded not guilty to murdering Malesela sale William Apane on November 19 last year.

Ndlovu said Mr. Justice J. F. Coetzee he saw Magum and another man chasing Apane through the coach of the Naledi-Cleveland train. When they caught him, one of them said: "Hit him, this dog must die.

Magum stabbed Apane with a sharpened object while the other man hit him with a knobkerrie.

Shortly before the train reached Doornfontein Station, the attackers pushed their victim under the train.
24 sentenced to death

Two whites and 22 blacks received the death sentence in criminal courts during the first 10 months of last year, the Deputy Minister of Justice, Mr Danie Schutte, said yesterday in Parliament.
Freedom starts with private property

This week’s row between government and the ANC over a Bill of Rights indicates that public bickering will continue to characterise the negotiation process, in spite of claims by both sides that it is progressing well behind the scenes.

It seems unlikely that the latest disagreement will bring talks to a halt. Nevertheless, it is an unhealthy basis on which to build mutual understanding.

The fact that much of the argument seems accessible only to lawyers — and specialised lawyers at that — does not help.

The average citizen easily grows bored with what seems like interminable nit-picking — and boredom could lead to cosy but dangerous deals being made between the main parties in smoke-filled rooms.

There is concern that liberty will not be served, if only because neither of the main parties is particularly liberal by temperament and because they might both be prepared to compromise too readily on matters of principle.

Justice M REL Kothe Coetzee announced government’s proposals for a Bill of Rights, based on those of the Law Commission, last week amid much fanfare. It will be widely distributed — at taxpayers’ expense — as a discussion document.

In essence, the Bill would outlaw nearly all the human rights abuses of which Nationalist governments have been guilty for 40 years.

But the ANC says that while some aspects are praiseworthy, others are unacceptable and could in fact entrench race-based privileges and unequally wealth distribution. The organisation says a Bill of Rights can be agreed on and entrenched only by an elected constituent assembly. Government wants an interim Bill in place until the formal transition to democracy.

However, the ANC argues — with some force — that an interim Bill guaranteeing equal rights would be nonsensical because most people would not yet have the vote — one of the most fundamental rights. What issues through special commissions on land, housing, education and employment, and, if necessary, to entrench their findings in legislation.

What we would like to see more of is a passionate defence of private property. As John Locke, that great 17th Century pioneer of political analysis, understood well, the theoretical rights may be all very well and necessary but, without the entrenched and undiluted right of private ownership of property, the rest can be swept away.

The fact that this is decidedly not the view of the ANC does not undermine its validity.

It is no coincidence that the most successful, powerful and prosperous democracies on earth — the US — is also the one which has the greatest respect for private property.

This is what underpins the survival of the abstract rights which the founding fathers found self-evident, not the romantic passion of human rights bubble.
Backing for Chief Justice

CAPE TOWN. — An invitation to Chief Justice Michael Corbett to continue in office after reaching retirement age has been endorsed by ANC leader Nelson Mandela.

Mandela met Corbett in Cape Town on Wednesday.

The ANC said it was pleased Corbett had accepted the invitation, "particularly given the wide respect and confidence he enjoys.

The DP also welcomed Corbett's further appointment.

DP justice spokesman Tony Leon said "The Chief Justice will play a crucial role in spanning the great divide between the old legal and constitutional order and the new. We believe Mr Justice Corbett has the necessary qualities to be the bridge in this transition.

Society of Attorneys president Mervyn Smith welcomed Corbett's decision, saying the profession had always had a high regard for him. — Sapa.
Politics claim
in train case

An Inkatha supporter accused of murdering a train commuter told the Rand Supreme Court yesterday he had been falsely implicated because of his political allegiance.

Xolane Magun (27) of Soweto has pleaded not guilty to murdering Matsoasele William Apane by forcing him under a moving train on November 29, 1991.

Magun said he had seen Apane being chased by another man through the coach and jumped off the train.

He said State witness Trevor Jabulani Ndlova, who had earlier said Magun and another man had stabbed and beaten Apane before pushing him under the train, had falsely identified him.

Judgment was expected today. — Court Reporter.
PRETORIA — A maximum fine of up to R4 000 and/or a year's imprisonment has been proposed by the Goldstone Commission for offences committed at gatherings, marches and pickets.

The commission yesterday published a draft bill to consolidate legislation on public gatherings following its investigation into violence and intimidation regarding gatherings, marches and picketing.

Mr Justice Richard Goldstone said the inquiry was an "unequivocal success" and the report "may be regarded as a reference work".

If the draft bill becomes law it may be necessary to consult with the governments of the self-governing territories to extend the law to those areas.

Included in the draft bill are clauses pertaining to the carrying of dangerous weapons, incitement, violence, disguises and coercion.

Police would be able to use force, including firearms and other weapons, to prevent anyone being killed or seriously injured during a demonstration, according to the draft bill.

The Regulation of Gatherings published provides that a police sergeant or higher ranking officer may order police under his command to take steps to prevent anyone taking part in a demonstration — or anyone hindering or interfering with those taking part — from causing death or serious injury.

The police also will be able to order an illegal gathering to disperse within a time specified by a sergeant or higher ranking officer. If this does not happen — nor any preparations made to disperse — the officer may order its forceable dispersal without firearms or weapons likely to cause serious injury or death.

The police will be able to make an urgent application to the Supreme Court for additional conditions for holding a demonstration if they have reason to believe the conditions imposed by a magistrate will not result in a peaceful and orderly gathering.

A magistrate would be able to ban a gathering if reasonable grounds existed that there would be a serious threat to the safety of those taking part which could not be contained by the police, or if the gathering would result in disruption, injury or damage to property on a scale which was unreasonably disproportionate to the purpose of the proposed gathering. — Sapa.
Goldstone won't investigate SADF

THE Goldstone Commission does not intend at this stage to conduct an investigation into the intelligence operation of the SA Defence Force. Announcing this in a statement yesterday, Mr Justice Richard Goldstone said a separate inquiry by the commission could affect an investigation by the Attorney-General of the Transvaal, Dr Jan de Oliveira, into possible criminal activities. Mr Justice Goldstone said the commission would continue to ensure it kept abreast of all relevant information.

It has also been reported from Port Elizabeth that the United Nations and the Organisation of African Unity will be asked to halt assistance to Pan Africanist Congress-linked cadres should recommendations made by South African Police and Defence Force yesterday be adopted by the Goldstone Commission.

A commission committee was told in Port Elizabeth that the "people's war" of the PAC's Azanian People's Liberation Army was armed not only at the security forces, but also at the white civilian population — Sapa.
Cops accused of driving over handcuffed suspect

CHILLING evidence that a handcuffed suspect was allegedly tied to a riot vehicle and then driven over was heard this week in the murder trial of four suspended eastern Cape policemen.

The four, Anton Maritz, 23, Adrian Muller, 30, Andre Barnard, 32, and Roelof Klyen, 30, are accused of murdering Siphiwo Ntluko on the night of July 23 last year in a deserted side-street near Port Elizabeth's Deal Party industrial area.

Maritz, a former lance-sergeant attached to the Port Elizabeth Internal Stability Unit, and the other three accused, all former members of the Humansdorp Crime Investigation Service, have pleaded not guilty.

They have all been suspended from duty pending the outcome of the case. Maritz has also pleaded not guilty to a charge of attempting to defeat the ends of justice.

Testifying before Mr Justice Krom in the Grahamstown Supreme Court on Wednesday, FS district surgeon, Dr L Krige, said a post mortem had revealed that Ntluko died as a result of "blunt force" applied to his head and chest.

His skull, ribs on the left side of his body, jaw and left upper arm had been fractured. He also suffered multiple abrasions and dislocations.

A member of the Port Elizabeth Internal Stability Unit, Constable N Willand, told the court on Thursday that the three Humansdorp policemen had summoned the unit’s help because they had to take Ntluko to the townships to identify a second suspect.

Willand said that his, Maritz and other members of the unit accompanied the Humansdorp policemen.

Maritz allegedly drove the riot vehicle through the townships but Ntluko failed to point out the second suspect.

He was then told that Ntluko was "crazy" and inquired what would happen to the man. Seconds later he noticed a person under the vehicle, which then stopped.

He ran towards the Nyala and allegedly found Maritz, Muller, Barnard and Klyen at the back.

Ntluko was bleeding and apparently dead, his hands still cuffed and attached to a bolt tied to the belt on the vehicle's front section, he said.

Sergeant Cullis told the court Maritz then allegedly radioed in that Ntluko had tried to escape and had been run over while he was being pursued.

Later, while he was accompanying Maritz and another colleague, who witnessed the incident, to their unit, Maritz allegedly told them he had his firearm and was prepared to use it if "things went wrong."

Maritz then told them to dispose of the belt and the bolt, which they threw away in two different parts of the city.

The trial continues.
Test case opens door on police torture

Lawyers will fight cases for free under changed law

Supreme Court victory for poor
BEHIND the campaign for a bill of rights lies one of the saddest features of the apartheid era, the craven betrayal of South African common law by South African lawyers, not excluding eminent judges and judges of appeal.

As Mr Justice Goldstone remarked this week in the course of his Hoernle memorial lecture in Johannesburg, virtually all the principles enshrined in South African common law are to be found in our common law, unhappily, these principles proved useless when they were needed.

My first encounter with atrocity in the courtroom, and my first, small, written protest about it, came in 1956 when I watched a magistrate sentence black men at the rate of one every 20 seconds on charges of “urinating in Carol Street”, which ran alongside the beerhall.

There was nowhere else to urinate, but any man so brazen as to plead not guilty, was immediately remanded in custody for a fortnight to ponder on Western civilisation’s complex taboos on bladder relief. Few demed their guilt.

Worse was to come, and travesties of justice were soon to reach into the Appellate Division, where, in a case cited by Judge Goldstone, Mr Justice Holmes decided that the legislature must surely have intended the atrocities that flowed from its colossal social experiment, and that was okay with him.

Faith in our judges, our courts, our judicial system, and, tragically, in our common law, has since eroded to the point where nobody, not even slapdash admirers of Roman Dutch law like me, trust it to defend us against the state. The campaign for a bill of rights, after all, owes a good deal to the efforts of the Chief Justice, Mr Justice Corbett.

The trouble is that the task of drafting a bill of rights has fallen, on the one hand, to ANC lawyers deeply imbued with socialist ideas, and on the other, to government apparatchiks, who, if they were not personally responsible for apartheid’s legal monstrosities, are the inheritors of a tradition that violated the principles of the common law.

It is no coincidence, it seems to me, that the department of Mr Kobie Coetsee, Minister of Justice, which proved intellectually inadequate to the task of drawing up the principles of a general amnesty, has produced a “chart of fundamental rights” which is marked, above all, by intellectual shallowness.

It is a shabby document.

The American bill of rights is designed to give effect to the idea that “all men are created equal and endowed by their Creator with certain unalienable rights” and that “all men are created equal” and that “all men are endowed with unalienable rights, that among these are life, liberty and the pursuit of happiness.”

The German basic law, “animated by the resolve to serve world peace”, establishes a “democratic and social federal state” in which all authority emanates from the people, and in which both the judiciary and the legislature are “bound by law and justice.”

The first clause recognises that the dignity of man is inviolable, and puts on the state the duty to protect it, and the second clause acknowledges that “inviolable and inalienable human rights are the basis of every community, of peace and of justice.”

The Indian constitution, drawn against a backdrop of inequality not altogether dissimilar to South African experience, begins by securing the ideal of equality, and by outlawing “untouchability”, the Malaysian constitution starts by securing life and liberty, the Canadian charter is founded upon principles that recognise the supremacy of God and the rule of law, the Irish bill of rights secures, first and foremost, equality before the law.

The South African government version is different. It resteds, according to its introductory remarks, on the four principles of verticality, negative enforcement, curtailment of rights and justiciability. To these obscure ends, it begins by saying that both people and legal entities have rights, apparently in equal measure, and says that these rights may be abridged only “under the common law or by way of a law of a competent legislature.”

On this firm base of bureaucratic obtuseness, the charter erects a ramshackle edifice. It promises some classical rights but not others — to life but not explicitly to liberty; freedom of expression but not of newspaper publication, freedom of religion but not freedom of conscience.

In passing, the charter concedes the police the right to hold a prisoner without trial for 10 days, which was long enough for policemen to kill Steve Biko and add some elements of law and of education to the law. It takes care to secure for the state the right to limit the fundamental rights of its citizens where reasonably necessary to preserve state security.

The details, for the moment, don’t matter nearly as much as the intellectual shabbiness this is a document written by people who have only a passing acquaintance with the rights that lie beneath the “Western civilisation” which they profess to share — the rights that were enshrined in our common law, and violated by our legislators and our lawyers.

The German constitution unconditionally serves the ideals of peace, justice and the common weal, and the Anglo-Saxon documents defend fiercely the ideals of liberty: the international charters — from the UN, and the Organisation of American States, and ASEAN — entrench the ideals of humanity and human dignity; all systems are rooted in democratic consent and operate under the rule of law. The South African version has “verticality.”

The German constitution grants to all citizens “the right to resist, to any person seeking to abolish this constitutional order, should no other remedy be possible” The South African charter does the opposite. It grants to the state the right to abridge individual freedoms in order to protect itself. That is the crucial difference, and it speaks volumes for the intentions of the people who drew up the “Charter of Fundamental Rights.”

KEN OWEN
The town where the poor go to jail

A NORTHERN Cape municipality and its lawyers have been accused of callously squeezing money from destitute people they helped put in jail.

Mothers and pensioners are among those rounded up in dawn bashes in the town of Vryburg and driven to Kuruman jail 140km away — leaving starving families to find the cash to free them.

The municipality insists people are not jailed for debt, but for contempt of court — refusing to heed court orders to pay their debts.

"People are being pulled from homes and jailed without knowing they had to go to court," claimed schoolteacher Mr Edwin Visage, of the coloured township of Coirdige.

To regain their freedom, debtors must arrange to pay not only their arrears to the municipality, but also all the costs of the legal process which put them behind bars.

This includes the fees of the attorneys who secured a summary judgment against them and the costs of transporting them to Kuruman jail.

Bitter residents of Coirdige — unemployment is over 50 percent — struggle to pay municipal charges they claim are grossly inflated by the substantial perks of Vryburg officials.

They point out that the town clerk, Mr Kobus Els, drives an Audi 500, bought under a subsidy scheme.

Health inspector Theo Voinesch owns a BMW 5 Series and the town treasurer, Mr Cliff van Romberg, a Mercedes 200E.

The purchase price of any one of these luxury vehicles, they say, would wipe out the debts of the entire community.

Now the mayor of Vryburg has vowed to end the jailing.

"I only heard about it yesterday and no one is as surprised as I am," said Mr Christ Opperman, "You don't throw someone in jail for being in arrears."

contempt

He said he had been told 200 households owed money, only some of them to the municipality.

However, Mr Els said in a statement that 22 debtors had been jailed for contempt of court in the 10 days to January 21, but only eight had owed money to the municipality.

But in Coirdige and nearby Floradene, it is clear the axe has fallen often enough and residents and people have been deported to Kuruman jail as early as January 3.

In some streets virtually every fourth household has lost its nominal head to what people wryly call "the holiday home."

In a two-roomed house, a tearful and anxious Elna Beth Domingo, 26, held her 17-month-old brother and

EDWIN VISAGE — 'people are being hauled from their homes'

By BILL KRIGE

told how "the police and the attorney's backroom came for her mother, Magdalene, early on January 11. "My mother went to court on the date of her trial, but was told to go home as there was no case. She has a bad heart and our father left us a long time ago," said Elizabeth.

Her mother was subsequently re-arrested. "We have no income. The neighbours give us a handful of flour when they can and sometimes a meal."

She produce a letter written by her mother: "Elna," she reads, "you must see if you can't get money to pay the attorney. The debt is R500 and if I can't pay it I can't get out for a year! Elna, are you satisfied that I must be here for so long with my illness? I close with tears in my eyes. Thank you."

Easing the S

On the wall faded religious text: "God is 1. Faith, God is 2. Right! Not far from the ruins which once broke the dirt township — turned the smell of quinine."

In another: "Lena Sylvia, 2, and two babies, after her job, had a job."

The debt
**Easing the Squeeze**

The mayor of Vryburg, Chris Opperman, would like to end the jailings and start a work programme for the jobless.

On the wall hangs a faded religious exhortation: 'God is Love, God is Faith, God is True, God is Right.' Not far away farmers were giving thanks for rain which, although it broke the drought, clogged township sewers and turned the streets into amely quagmires.

In another dwelling, jobless Sylvia Fimu supports two babies, both sickly, after her daughter, who had a job, was jailed for debt. The money was paid by her fiancé and she was expected home at any time.

According to Mr Fanie Wentzel, of the legal firm Du Plessis-Vivers, which has the Vryburg municipality account, the judgment had nothing to do with municipal debt. But Mrs Fimu's newest municipal account showed her arrears cut from R746 to R38, thanks to her daughter's fiancé.

In an interview Mr Wentzel was unable to say how many people had been jailed for debt — "it could be 10 — it could be 1000." He said he refused to disclose his fee for each case except to say it was according to scales laid down by the Law Society of South Africa.

"Yes, they must pay the costs of the sheriff for transport to Kuruman, but the amount varies. It depends if there are 10 in the van or one," he said. "A jail has been built in Vryburg, there are tar roads and a tennis court, but it has never been used," he said.

Mr Opperman defended the vehicle permits available to municipal officials as being in line with those stipulated by provincial ordinance for a municipality of Vryburg's grading.

"We are going to see what we can do to help," he said. "I would like to get a programme started for the jobless people here," he said.

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**VISAGIE**... people are hauled from their homes.

Told how "the police and the attorney's bakkie" came for her mother, Maria, early on January 11.

"My mother went to court on the date of her trial, but was told to go home as there was no case. She has a bad heart and our father left us a long time ago," said Elizabeth.

Her mother was subsequently re-arrested. "We have no income. The neighbours give us a handful of flour when they can and sometimes a meal," she said.

She produced a letter written by her mother "Elizabeth," it reads: "You must see if you can't get money to pay the attorney. The debt is R350 and if I can't pay it I can't get out for a year. Elizabeth, are you satisfied that I must be here for so long with my illness? I close with tears in my eyes. Thank you."
THE Rand Supreme Court on Friday sentenced an Inkatha Freedom Party supporter to death for the "callous and cruel" murder of a fellow commuter.

Xolani Mingun (27) was convicted of murdering Mr Ntshingana William Apane by forcing him under the wheels of the Naledi-Cleveland train on November 29, 1991.

It is believed he is the first person to be convicted of murder since train violence escalated in 1990.

Although Mingun was a first offender - first offenders are not usually given the death penalty - Mr Justice JH Coetzee found it was the only appropriate sentence in this case.

The judge commended eyewitness Mr Trevor Jabulani Ndlovu for his courage in testifying at the trial.

"Ndlovu showed a great level of courage, integrity and civic duty. If more witnesses conquered their fear of reprisals the killings would stop, because the killers would know they would be brought to justice." the judge said.

Licence to kill

"The fear of death instilled in witnesses almost gives the killers a licence to kill," the judge said.

Defenceless commuters were senselessly killed almost every day, and only because they belonged to organisations different to those of the killers, the judge said.

Ndlovu had earlier testified in court how Apane was stabbed and beaten before being thrown out of a train on to the tracks where his body was sliced by the train's wheels.

He said he noticed Mingun and another man chasing Apane through the coach of the Naledi-Cleveland train.

When they caught him, one of them said "Hit him, this dog must die" - Own Correspondent.
Women's equal rights may be law

Political Staff

THE long battle for equal rights for women, dating back to Olive Schreiner and the suffragette movement at the turn of the century, has almost finally been won in South Africa.

The government's Draft Charter of Fundamental Rights, which was released yesterday, lays down that women will have equal rights and that men and women should receive equal pay for equal work.

A key figure in the multi-party National Coalition of Women, Ms Dene Smuts, the Democratic Party MP for Groote Schuur, commented yesterday: "The National Party learns fast when it is in its interests to do so."

With women forming the majority of potential voters in South Africa's first democratic elections, it is in the interests of all parties to nurture their support—and the NP has done so in the draft declaration.
Legal Aid Board during the past year. The official said that the commission had cost $3.5 million, which had been spent on legal aid to more than 100,000 people.
Son was tortured, mom tells inquest

By Abdul Milazi

The mother of a robbery suspect who died in police custody two years ago, Margaret Maphumulo (45), told a Johannesburg Magistrate's Court inquest yesterday that police had assaulted and tortured her and her son before his death.

She said five policemen had given them electric shocks and "suffocated" them with a wet towel in a veld near Louis Trichardt.

Bethuel Maphumulo (31) died on December 13 1999 after handing himself over to the SAP's Soweto Murder and Robbery Unit, which was investigating a robbery charge against him.

Maphumulo said two white and three black policemen had come to fetch her at her house in Venda. They said Bethuel, accompanying the policemen, had told them he had given the stolen money to her.

She said she and Bethuel were then taken to a veld where the policemen tortured them.

Afterwards they were taken to the Protea police station where she was again assaulted before being taken home. Bethuel remained in police custody.

The next day, Protea police told her that Bethuel had drowned in a swimming pool while trying to escape.

The hearing continues.
Conviction of guards urged

By Anna Loew
East Rand Bureau

The State yesterday called for a murder conviction in the Delmas Circuit Court trial of three former Fidelity guards who allegedly hanged colleague Samuel Kganakga upside down from a tree, shocked his genitals with an electric machine, lit a fire under his head and shot him twice.

Elhie Leonard was presenting argument at the trial of Willem Oosthuizen (26), Johan van Eyk (37) and Hendrik Gerber (43) who allegedly murdered Kganakga on May 21 1991 while they were members of a Fidelity Guards investigation unit. They had also questioned Kganakga about the theft of R60,000 from the company.

The State said it was common cause that Kganakga’s body was burnt and found days later with a hand chopped off.

Leonard said the court had to determine who had slain the guard. She said Gerber was not as innocent as he would like everyone to believe, and that Oosthuizen’s version of what happened was not credible.

The court was told that Gerber was clearly the leader of the group and had initiated the interrogation. Leonard said Van Eyk took part in the torturing and did not try to stop anyone else. “He is also the one who got rid of the body.”

The defence called for a conviction as accessory after the fact for Oosthuizen and assault in the case of Van Eyk, adding that Gerber had at no time intended to kill Kganakga.

The hearing continues.
Houses of Assembly

The Hon. Premier, in answer to a question, said that the government had been informed of the position of the local authority as regards the demand for the release of the funds to be allocated for the construction of the highway. He had instructed the Department of Public Works to make arrangements for the necessary works, and to report to him as soon as possible. The government was fully aware of the importance of the matter, and would do all in its power to facilitate the construction of the highway.

The Minister of Finance informed the House that the government had been advised that the necessary funds were available for the construction of the highway. He said that the government would make every effort to ensure that the highway was completed as soon as possible.

The Minister of Education stated that the government was aware of the need for the construction of a new school in the district. He said that the government would consider the matter carefully, and would make a decision as soon as possible.

The Minister of Health said that the government was aware of the importance of the matter, and would do all in its power to ensure that the necessary funds were made available for the construction of the hospital.

The Minister of Agriculture informed the House that the government was aware of the need for the construction of a new road to facilitate the transportation of agricultural produce. He said that the government would consider the matter carefully, and would make a decision as soon as possible.

The Minister of Labour said that the government was aware of the importance of the matter, and would do all in its power to ensure that the necessary funds were made available for the construction of the industrial estate.

The Minister of Transport said that the government was aware of the need for the construction of a new bridge to facilitate the movement of goods and people. He said that the government would consider the matter carefully, and would make a decision as soon as possible.

The Minister of Trade and Industry said that the government was aware of the importance of the matter, and would do all in its power to ensure that the necessary funds were made available for the construction of the industrial complex.
come under the attention of the Department of Trade and Industry.

(2) All cases which come under the attention of the Department of Trade and Industry are, as appropriate, investigated in collaboration with concerns such as the South African Reserve Bank, the Commissioner of Customs and Excise, other departments, the Office for Serious Economic Offences, the Government Attorney and the Commercial Branch of the South African Police.

Furthermore, external verifications of GEIS claims are undertaken by the Department on an ongoing basis.

(3) In regard to cases of fraud under the General Export Incentive Scheme, refunds are demanded from claimants who have acted illegally and such cases are handed over to the Commercial Branch of the South African Police for further action. In cases where fraud is proven, exporters are deregistered.

Telkom: bad debts

*27 Mr L FUCHS asked the Minister of Posts and Telecommunications:

(1) Whether Telkom had had bad debts during the period 1 February 1992 to 31 January 1993;

(2) whether any portion of this amount is due to the premium rate (087) industry, if so, what portion?

B104E

The MINISTER OF POSTS AND TELECOMMUNICATIONS:

(1) Yes, Telkom had had bad debts during the period 1 February 1992 to 31 January 1993.

(a) As the figures for January 1993 are not yet available, the figures quoted below are applicable to the period 1 January to 31 December 1992. During this period bad debts amounted to R65.0 million.

(b) Approximately 98% of the above-mentioned amount represents telephone debtors whilst the balance is made up by other telecommunication services.

(2) Yes. Part of the R55.0 million can be attributed to the 087 service. It is not possible to furnish a reliable estimate of the amount involved at this stage as the billing system does not provide detailed information in respect of calls made.

There are, however, still a number of cases that are requiring attention but which have not yet been recorded as bad debts and where the amounts obviously include an 087 service component.

Military Intelligence/self-governing territories:

contact

*28 Mr J A JORDAAK asked the Minister of Defence:

(1) Whether a previous head of Military Intelligence, whose name has been furnished to the South African Defence Force for the purpose of the Minister's reply, at any time established contact with any chief ministers of the self-governing territories, if so, what (a) is the name of such head and (b) was the nature and extent of the contact;

(2) whether any of his successors as chief of Military Intelligence continued this contact, if not, why not, if so, what are the relevant details?

B102E

The MINISTER OF DEFENCE:

(1) No, not while he was associated with Military Intelligence.

(2) No. This is not a task of the Military Intelligence Division.

Sentences: correctional supervision

*29 Mr A J LEON asked the Minister of Correctional Services:

How many persons had been sentenced to correctional supervision as at 31 December 1992?

B107E

The MINISTER OF CORRECTIONAL SERVICES:

During the period 1 August 1991 to 31 December 1992, 2,523 persons were sentenced to correctional supervision in terms of section 276(1)(b) of the Criminal Procedure Act, 1977 (Act 51 of 1977).

The number of persons whose sentences of imprisonment have been converted to correctional supervision by the court a quo or the Commissioner of Correctional Services respectively, in terms of sections 276A(3), 287(4) and 276(1)(e) of the Criminal Procedure Act, 1977 (Act 51 of 1977) for the period 15 August 1991 to 31 December 1992 is 523.

The total number of persons who have therefore been placed under correctional supervision for the period 15 August 1991 to 31 December 1992 is 3,046.

The hon member is also referred to my reply of 17 February 1993 in the House of Assembly to question number 17 for oral reply (see col 90).

Interception and Monitoring Prohibition Act: promulgation

*30 Mr A J LEON asked the Minister of Justice:

(1) Whether the Interception and Monitoring Prohibition Act, 1992 (Act No 127 of 1992), has been promulgated, if not, why not, if so, what?

B102E

(2) whether a judge of the Supreme Court has been designated to consider applications to monitor and intercept communications over telecommunication lines of individuals, if so, which judge;

(3) whether any applications to monitor any telephone or telecommunication line have been made, if so, how many as at the latest specified date for which information is available?

B102E

The MINISTER OF JUSTICE:

(1) Yes, on 1 February 1993.

(2) Yes, the Honourable Mr Justice M T Stewart has been designated in terms of section 3(1)(a) of the Act.

(3) Yes, for the period 1 to 10 February 1993 two applications were received in terms of the Act.

Development Aid: disposal of toilets

*31 Mr P G SOAL asked the Minister of Regional and Land Affairs:

(1) Whether, with reference to his reply to Question No 7 on 3 June 1992, any of the toilets valued at approximately R15 million purchased by the former Department of Development Aid are not in use at present, if so,

(2) whether any further plans have been made to dispose of these toilets, if so, what plans,

(3) whether he will make a statement on the matter?

B109E

The MINISTER OF REGIONAL AND LAND AFFAIRS:

(1) and (2) The hon member is referred to the reply furnished to him on Question No 7 on 3 June 1992. As at 1 August 1992, the original value of the 4,600 toilets which had not been used at that stage, amounted to ± R2 900 000 and not R15 000 000.

The toilets concerned on former South African Development Trust land have been disposed of by means of allocation and/or by making them available to bodies for utilization in existing and developing formal and informal residential areas.

(3) No

KwaNdebele: third report of Commission of Inquiry

*32 Mr P G SOAL asked the Minister of Regional and Land Affairs:

(1) Whether the Commission of Inquiry into the 1986 Unrest and Alleged Massacre in KwaNdebele has brought up a third report, if so,

(2) whether the Government has received the said report, if not, why not, if so, when (a) was it so received and (b) is it expected to be made public?

B110E

The MINISTER OF REGIONAL AND LAND AFFAIRS:

(1) No

(2) No

HOUSE OF ASSEMBLY
NEW COURT READY ... At the opening of the country's first full-time court for sexual offences were (from left) advocate Mrs Sandra Swart, Justice Minister Mr Kobie Coetsee, deputy attorney-general Ms Natalie Fleischack, Cape attorney-general Mr Frank Kahn, and (at the back) the Director-General of Justice, Mr Jasper Neet.

SA's first sex offences court opens

By YVETTE VAN BREDA

The country's first full-time court for sexual offences, initiated by the Cape attorney-general's office, was opened yesterday in the Wynberg Court by the Minister of Justice, Mr Kobie Coetsee.

The Rape and Child Molestation court, possibly an international first, is expected to be fully operational in 10 days.

Yesterday Mr Coetsee said child rape had more than doubled in four years and last year 3 639 cases were reported compared to 1 707 in 1983. Although many of these offences went unreported, the rise in the reported cases was totally unacceptable, he said.

Last September Cape attorney-general Mr Frank Kahn launched a broad initiative to assist rape victims. A rape committee, chaired by Mrs Sandra Swart, an advocate at the attorney-general's office, was formed, drawing members from the police, Nico, Rape Crisis, UCT's criminology department, UWC's centre for adult education, Famsa, Lawyers for Human Rights, and others.

The Cape has the country's highest rape rate, thus the court's opening in Wynberg. An effective once-a-week court in the Cape Town Regional Court will also continue to operate.

The court would also be used as a training ground for prosecutors.
Swanieville
suspects freed

LOGBOOKS VANISH Judge says the police and state witnesses were unreliable:

By Tsale Makam

Four men charged with taking part in the Swanieville squatter camp massacre of 28 people on May 12 1991 were yesterday acquitted because of lack of evidence.

They were charged with 28 counts of murder, one of public violence and possession of firearms. Sixty-seven other people were injured in the attack.

Yesterday in the Rand Supreme Court Mr Justice CJ Botha criticised the police’s handling of the massacre.

He said the attack took place at night but the police only arrived at the squatter camp about 7am the next day and only reported the matter to their superiors at 9am.

Police had earlier told the court that five campsers sent to the squatter camp on the West Rand had in fact ended up at Krugersdorp police station because the policemen had suffered stomach cramps.

They said that on arrival in Swanieville they had met a group of about 1 000 men carrying an assortment of weapons and wearing red armbands and docks and moving from Swanieville towards the Madala Hostel. Police said they then escorted the group back to the hostel.

The judge said he rejected the evidence of the police and that of the State witnesses because they were unreliable.

He said it was surprising that most of the vital police evidence, such as logbooks and files, had disappeared mysteriously when they were needed during the investigation.

He said it could not be proved conclusively that the police had assisted the attackers as some witnesses had claimed.

It was possible that the police were present at Swanieville during the attack because at that time a curfew had been imposed on the area.

If the police had video-taped the men they had escorted to the hostel it would be easy to identify and arrest those responsible.

Out of 1 000 attackers the police had arrested only seven, two of whom were later set free.
Judge acquits police in Swamieville murder case. Accused acquitted.
65 to appear over carnage at Boipatong

A total of 65 accused are to appear in the Delmas Circuit Court on April 13 in connection with the Boipatong massacre in which 41 people were slain in the Vaal Triangle on June 17. 

Delmas has been selected because the Transvaal Circuit Court, based in the town, is best equipped to accommodate the trial.

The accused were all residents of KwaMadala hostel at the time of the massacre. Eight children and a pregnant woman were among the victims.

East Rand Bureau
W Rand massacre: 5 acquitted

By Susan Smuts
and Brendan Templeton

Police came under sharp criticism from a Supreme Court judge yesterday when he acquitted five hostel dwellers of murder in the 1981 Swaneville massacre.

Twenty-eight people were massacred at dawn when about 1,000 armed Kagiso hostel dwellers descended on the West Rand squatter camp on May 12, 1981.

Mr Justice C J Botha acquitted the five men on 26 counts of murder in the Rand Supreme Court. He criticised the police for failing to make sure hundreds of the killers were brought to justice.

The judge said he could not exclude the possibility that policemen had taken part in the massacre.

The judge acquitted Vusumani Majola (37), Joseph Mphiva Khanyile (31), Bakers Diamini (32), Mzanywa Fiskh Sithole (44) and Pheyi Mangololo (54) of 26 counts of murder, charges of public violence and illegal possession of a machine-gun, firearms and ammunition.

Earlier, co-accused Sizwe Mapho (21) and Bhekowakhe Moffat Mdulose (41) were discharged after the State closed its case.

The court heard that up to 1,000 men armed with pangas, firearms, kueris and spears had murdered and injured residents of the West Rand squatter camp. The attackers, identified as Inkatha Freedom Party supporters by their red headbands, had also burnt houses and damaged property.

Mr Justice Botha said police were alerted more than an hour after the attack. By this time, the marauders had started to leave Swaneville.

The SAP escorted the men to Kagiso hostel, where they conducted a search and arrested three of the accused.

The judge said that although the police escort had probably averted further conflict, he could not understand why the police had not made sure they could identify any of the men at a later stage.

Massacre: 5 acquitted

> From Page 1

The hostel was several kilometres away, the journey took a few hours, and daylight had already broken. The policemen had been in radio contact with the control room, yet they had waited until 9.30 am before alerting the commanding officer and the video unit.

"If the video unit had been mobilised earlier to video the attackers, the State would have had a watertight case against hundreds of men — albeit only on a charge of public violence," the judge said.

The State's case against all except Pheyi relied on unreliable witnesses.

Although the judge rejected argument from defence counsel Asa Nicholls said the judgment showed police were either incompetent or involved in the killings.

IPP spokesman Kim Hodgson said police needed to ensure they acted impartially. "But that is very difficult in a society in transition."

SAP spokesman Captain Nina Barkhuizen said today police would not comment until they had studied the court records which would be available in about a week. The judgment contained serious allegations against police, she said.

She said an internal investigation had been conducted by Unrest and Violent Crime Unit chief General Ronnie van der Westhuizen who had since retired.
Cry for death penalty’s return

CAPE TOWN — Minster of Justice Kobie Coetsee said in the House of Assembly yesterday there was a strong cry for the death penalty to be used again, and he was not going to apologise for a clause in the proposed Bill of Rights which retained it for specified crimes.

He said the Government had taken the initiative to launch a plan of action on the function of human rights and had provided R1.5 million for the project.

"The Government is not saying these are firm proposals. We want to stimulate debate on the subject, and that justifies using taxpayers' money to promote the cause of a Bill of Rights."

On the same basis as the Government had sponsored Codessa, it would be sponsoring the next multiparty talks where other parties could present their ideas on the subject.

Tony Leon (DP Houghton) said the Government, with its customary generosity, was using taxpayers' money to launch a propaganda onslaught to promote its own Bill of Rights proposals.

The DP welcomed the Government's "deathbed conversion", but it was wrong to suggest the taxpayer should foot the bill for the Government's particular version of such a Bill. All parties wishing to engage in the debate should be provided with Government funds.

Jurg Prinsloo (CP Roodepoort) said the Government had a history of using state funds for NP political purposes. State money should not be used for party-political propaganda. — Sapa
ANC man tells court of torture

By Tsale Makam

One of the three ANC men charged with murder and robbery involving more than R500 000 yesterday said a policeman forced him to incriminate senior ANC members in the robberies.

Mr Solomon Mngqumeni, who is appearing in the Rand Supreme Court with Mr William Makhoti and Mr Daniel Motau, said a Captain Koekemoer forced him to make a sworn statement saying he had committed the robberies on behalf of the organisation.

The three are charged with robbing the Southdale, Johannesburg, branch of Standard Bank of more than R500 000 in May 1991 and of stealing a bakkie. They are also charged with robbery at Corobrick in Nigel on November 25 1991 in which two men were killed.

Traffic officer killed

The three are also accused of stealing a bakkie in Tokozza on March 12 last year and of killing a traffic officer in Alrode on March 27 the same year.

Mngqumeni told the court that Koekemoer and other policemen had tortured him. Koekemoer then gave him names of people he had to incriminate.

Koekemoer then said Mngqumeni should say in his statement to a magistrate "that the robbery money was to be given to (then) ANC chief of staff Chris Hani and Tokyo Sexwale who would then give the money to returned exiles."

Mngqumeni maintained that what he said in his statement was not true and he had simply repeated to the magistrate what Koekemoer had instructed him to say. The case continues.
Judge slates early release of murderer

Staff Reporter

A SUPREME Court judge has lashed out at the early release of a man serving a 10-year jail sentence who murdered a hairdresser months later.

Mr Justice Berman said the person who had released Sindile Zwem should be troubled by his conscience "because an innocent man could still be alive today."

Mr Justice Berman was sentencing Zwem and his co-accused, Melvin Zwem and Johannes Williams, after they were found guilty of murdering and robbing Mr Mario Kaplan, 56, in Knysna in July, 1991, and illegal possession of firearms.

He said Sindile Zwem had a shocking record of violence and was sentenced in January, 1990, to seven years' jail. A three-year suspended sentence came into operation a few months later.

"Yet barely 15 months later he was released and out on the streets to commit this crime. This is a shocking case of premature release."

The judge called the murder of Mr Kaplan cowardly, brutal and shockingly savage.

All the accused had previous convictions but he found that Melvin Zwem was less intelligent than the other two and he therefore sentenced him to an effective 30 years imprisonment on all the charges.

Mr Justice Berman said none of the accused had shown any signs of remorse and must be made an example of to serve as a deterrent.

After careful consideration he had come to the conclusion that Williams and Sindile Zwem "must be doomed to die behind bars."

He therefore sentenced them both to life imprisonment plus 10 years.
Maphumulo Inquest

Drowning Ruled Out in
Mandela's Swimming Pool

State pathologist testifies that death was consistent with multiple injuries.

By Michael Ncube

18/2/1993

16/2/93

Thursday, February 16, 1993

SOWETAN
Fear of the hostel mob lives on...

A local hawkers’ group said they had not been able to get a proper explanation for the recent incidents.

**HOSTEL HATRED**

Swaneeville is still haunted by horrors of the May 1991 massacre, reports Sonti Maseko:

I saw a hippo go down the street at 5am and I felt safe. Then I heard it drive past again and then there were sirens and we were being attacked.

A local hawkers’ group said they had not been able to get a proper explanation for the recent incidents.

The manager of the hostel, Mr Maseko, said he had not been able to get a proper explanation for the recent incidents.

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Outrage over Swanieville

Law and Order Minister Hermès Kriel had to act decisively against officers whose negligence in investigating the 1981 Swanieville massacre had led to the acquittal of those accused of murder in the case, the ANC said yesterday.

ANC spokesman Carl Niehaus said police would suffer "a further loss of credibility" unless action was taken.

He said criticism of police reaction to the massacre by Judge C.J. Botha, who said it was a "scandal" that so few were brought to trial for the killings, provided more evidence that police should "urgently" be placed under multiparty control.

"There is a strong likelihood that the police involved in Swanieville and then there was a cover-up," he said. There should be an independent inquiry into the police response to the massacre, in which 28 Swanieville squatters were killed, and the Goldstone Commission should move quickly to investigate the SAP and SADF.

Niehaus said the ANC was angry that the murderers had not been brought to book despite the fact that there was "much evidence" as to their identities.

Police said the judgment would be studied to decide what steps would be taken to avoid recurrences of this nature. Sapa reports.

Police pointed out that the Swanieville massacre happened before the Bophalong killings and steps had subsequently been taken to improve policing, including:

- Contingency planning covering a wide range of unrest-related scenarios,
- A review of management structures of the internal stability division, and
- The deployment of an additional 300 policemen in the area.

But the police said it would require the wholehearted support of the community and the involvement of all political leaders to stamp out the violence.

EX-MD TOLD
to repay loan

SUSAN RUSSELL

FORMER African Bank MD and CEO Gaby Magomola has been ordered to repay R102 495 he borrowed from his former employees, in terms of a judgment granted against him in the Rand Supreme Court this week.

Judge H Daniels ordered Magomola to pay African Bank R102 495 plus interest of 22% a year from July 2, 1991 to date of payment.

African Bank CE Jacobus Theron said in an affidavit the claim was for outstanding amounts which had been borrowed by Magomola under the bank's staff loan scheme.

Magomola had initially given notice that he intended opposing the application. But when the matter came to court this week the judge was told that Magomola would no longer oppose the application.
SAP to examine judge's criticism

Crime Reporter

Police would hold a top-level examination of a Rand Supreme Court judge's criticism of the police investigation into the 1991 Swanleville massacre, the SAP said yesterday.

They had already implemented measures resulting in a great improvement in their response to outbreaks of violence, said an SAP statement.

It added that the SAP had "taken note" of Tuesday's judgment in which Mr Justice C.J. Botha acquitted five men on charges of murdering 28 residents of the West Rand squatter camp.

The judge criticised police for failing to bring the culprits to justice.

Police said measures taken - which included increased police presence in trouble spots - had led to a "vast improvement in the police's reaction to subsequent massacres and other flare-ups in violence".

The steps followed recommendations made in July by British police expert Dr Peter Waddington, who criticised police over their investigation of the Boipatong massacre in which more than 40 people were killed in June.

According to the statement, some of the measures implemented included:

- Contingency planning covering a wide range of unrest-related scenarios
- A review of the management structure of the Internal Stability Division (ISD) in the Witwatersrand and Vaal Triangle
- The permanent transfer of an extra 900 ISD members to the Witwatersrand
Detainee 'probably strangled'

A state pathologist yesterday told the inquest on the death of Bethuel Maphumulo that it was unlikely the suspected robber had drowned while in police custody in December 1990.

Dr Michelle Vorster testified in the Johannesburg Regional Court that, after examining the body, she had concluded Maphumulo had died as a result of multiple injuries.

It was submitted by police on Tuesday that Maphumulo drowned in a swimming pool after a fierce struggle between himself and a police officer, Lieutenant Henry Beukes.

The Maphumulo family's advocate, Dennis Cuny, put it to Beukes yesterday that his account of what had happened was not credible.

Cuny said it appeared to him the deceased was dead before he had been thrown into the pool and suggested he had probably been strangled during an interrogation session.

Cuny said the deceased had probably been thrown into the pool to make it look as if he had been drowned.

Beukes denied this was the case. — Sapa
Trio guilty of horrifying murder

By Anna Low
East Rand Bureau

Three former security guards of Fidelity Guards were convicted yesterday in the Delmas Circuit Court of the grisly murder of a colleague.

The colleague was tortured, hung upside down from a tree and his genitals were shocked with an electric apparatus before he was shot twice and burnt.

Mr Justice F.C.L. Roos and two assessors found Willem Oosthuizen (32), Johan van Eyk (37) — son of a retired police general — and Hendrik Gerber (43) guilty of murdering Samuel Kganakga.

Kganakga was questioned by the accused on the day of his death on May 21 1991 in connection with the theft of R60 000 from Fidelity.

His charred body, with two bullet wounds and one hand chopped off, was found three days later near a mine dump on the East Rand.

The judge said the court had been impressed by the State's two chief witnesses, Jack Nguana and Julius Khoza, two guards who were present during the killing.

He said it was in the interest of Gerber and Oosthuizen to blame each other, which they had done because they did not like each other.

Thus was reflected in an incident a month after Kganakga's death when Gerber had shot Oosthuizen in the shoulder at the Fidelity Guards offices and left him for dead.

The judge dismissed the evidence of Gerber and Oosthuizen as false.

He said they had wanted to keep the interrogation of Kganakga out of the public eye at all costs. That was why they had taken him into the bushes.

The three accused had gone with the intention to torture Kganakga and had taken with them an electric apparatus and a bag to put over his head.

Van Eyk’s refusal to testify had created a negative impression, and the three had had a common purpose in the slaying of Kganakga as well as in concealing the truth.

Argument in mitigation will be led today.
Rights bill ‘to outlaw racism’

Political Staff

The government's proposed Bill of Rights would prevent a future Parliament enacting racist legislation, Justice Minister Mr Kobie Coetsee said yesterday.

He was replying to questions about whether the government intended to outlaw racism.

Mr Coetsee said legislation already did so, and added that although the government's proposed bill did not criminalise racial discrimination, the equality clause would enable courts to invalidate racist practices.

Argument that, by not criminalising racial discrimination the government was fostering it, was defective.

He also said there was a surprising convergence of opinion between proposals by the law commission, the government, the ANC and Inkatha and an analysis of the similarities would be released soon.

The government would also spend millions publicising a variety of proposed Bills of Rights to foster a human rights culture, Mr Coetsee said yesterday.

Allocation of funds

In the face of criticism that the government intended using public funds to propagate its own proposals exclusively, Mr Coetsee said additional funds would be provided for the propagation of other proposals.

He also called for proposals for the allocation of the funds, saying the government regarded the development of a human rights culture as extremely important, in line with the recommendations of the Law Commission.

Additional funds outside the estimated R1,5 million allocation would be provided, Mr Coetsee said.

Suggestions should reach the department within two weeks, he said.

It was important the government foster the debate on the topic and if spending R10,5m on Codesa was justified, then spending public money on fostering a human rights culture was also acceptable.

Asked at a media briefing whether the government would suspend the propagation of its own proposal pending the inclusion of other suggestions, Mr Coetsee said momentum would be lost if it did.

In any event, he said, other parties had been propagating their point of view on the subject for some time, so the government would simply be "leveling the playing field" by continuing its campaign.
Consumers may start using courts

By DAN SIMON

Product liability cases are expected to become a feature in South African law courts as consumers become more aware of their rights with regard to product defects or the physical harm caused by manufactured goods.

This is the view of Cape Provisional Division Acting Judge Mr Justice Milton Seligson who addressed delegates attending the International Bar Association’s first regional conference in SA.

Mr Justice Seligson said there only a handful of what could be termed “product liability cases” had been reported in SA since 1910.

“Until relatively recently many products sold in this country, or at least some components thereof, were manufactured abroad. This created considerable difficulty for a consumer wishing to sue the foreign manufacturer.”

However, this was changing as SA had embarked on intensive industrialisation and large-scale manufacturing and marketing of manufactured goods.

“Undoubtedly our courts will be faced, sooner or later, as has happened in the US and the UK, with claims by consumers that cigarettes have caused lung cancer or the use of medical drugs or vaccines have caused physical or mental injury.

“Such cases will raise factual and legal issues of enormous complexity,” he said.
Impose death penalty for murder of policemen – MP

CAPE TOWN — The death sentence should be imposed on murderers of policemen, Douglas Gibson (DP Yeoville) said yesterday.

Speaking in debate on a private member’s motion, he said “Society has to demonstrate that it is on the side of law and order and will not tolerate the systematic killing of those who protect it.” The abolition of the death penalty was appropriate in stable democracies, but not in South Africa.

“The death penalty,” said Tony Leon (DP Houghton), “is not going to help. No one has been able to prove that the death penalty works as a deterrent.”

While it could be seen as a short-term fix, the death penalty was no substitute for action the Government had to take to combat crime.

Raymond Radebe (NP King William’s Town) said the death penalty could be revived in extreme cases as it was the only effective deterrent to cold-blooded murderers.

The licence to kill for political objectives should be removed sooner rather than later. His experience of the Azanian People’s Liberation Army attack on the King William’s Town golf club had given him insight into the suffering of many fellow South Africans “I empathise with their outrage.”

Gibson said leaders should commit themselves to the peace process if they were to address violence responsibly. Their followers should be seen to be disciplined.

The security forces had to accept their reform into friends of the people, and not oppressors or exploiters. The public had to start supporting members of the SAP and SADF.

“Society cannot tolerate a situation where more policemen were killed last year than the total number of people murdered in the UK.”

Earlier, Willem Botha (CP Uitenhage) said the crime wave had been caused by the Government’s unbanning of the ANC and SACP and the release murderers.

The death penalty had been suspended and was no longer a deterrent. Criticism of the security forces by outsiders, terrorists and the Goldstone Commission had also tarnished their image, Botha said — Sapa
'SA must not repeat human rights abuses'  

Political Staff 252

CAPE TOWN — South Africa must never repeat the infringements of human rights that characterised its past history, Justice Minister Kobie Coetsee said yesterday.

However, he stopped short of apologising for the abuse of human rights by the National Party Government that was a hallmark of the apartheid era.


The Government would give financial help to other political parties and organisations that wanted to present their own Bill of Rights. It was open to suggestions on how this could be done.

Coetsee said the Government would release an analysis of the comparable provisions as put forward by the Law Commission, the Government, the ANC and the IFP.

"You will be surprised how close we are on fundamental issues," he said.

Asked whether the Government would apologise for its earlier record of human rights abuse, Coetsee said "Past infringements of human rights have brought us to the situation where we have to ensure this is not repeated in the future."
Govt human rights campaign

CAPE TOWN - Government would spend millions publicising a variety of proposed Bills of rights to foster a human rights culture, Justice Minister Kobie Coetsee said yesterday.

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In any event, he said, other parties had been propagating their points of view on the subject for some time, so government would simply be "leveling the playing field".

In reply to questions about whether government intended to outlaw racism, Coetsee said legislation already did so and government's proposed Bill would prevent a future parliament enacting racist legislation.

Government's proposed Bill did not criminalise racial discrimination, but the equality clause would enable courts to invalidate racist practices.

Coetsee said the argument that, by not criminalising racial discrimination, government was fostering it, was defective.

He said there was a surprising convergence of opinion between the law commission, government, ANC and Inkatha proposals and an analysis of the similarities would be released soon.

Brummel wins bungalow battle

RAY HARTLEY

GOVERNMENT has backed down on threats to strip the Beau Valley nudist resort of the 60 wooden bungalows that belong to nudists at the camp.

Nudist Beau Brummel said government inspectors had intended condemning the bungalows, claiming they did not meet official building standards. But an assurance was later given that this would not be done.

The latest move comes in the wake of attempts by Brummel to open his resort to nudists of all races and sexual persuasions. Brummel said government inspectors had been called in by a faction of heterosexual nudists to condemn the restaurant on the property, but their plan backfired and their own bungalows were condemned.

Brummel said "fully clothed" officials had told him they would condemn the bungalows, but had subsequently backed down.

He shrugged off suggestions that his resort would have had to wrap up its affairs. "I've fought the Vroue Federasie, I've fought the dominies, and I'm going to fight this one!"

Inkatha starts wooing voters

INKATHA has launched a massive campaign intended to woo at least 70% of the voters in Natal.

Inkatha Natal organiser Senzo Mfayela said in an interview yesterday his organisation had formulated a programme through which it was hoping to get Natalians to vote for it in the coming elections.

The programme included teaching people who never voted before how to vote, setting up election committees in areas where Inkatha had no branches, helping people obtain identity documents and canvassing support from the Indian community.

As part of the programme, Mfayela said, Inkatha would go out to secure the co-operation of people who owned vehicles such as trucks and buses. These vehicles would be used to transport people to the polling stations.

Mfayela said funds which his organisation were channelling in the campaign came from sympathetic businessmen and members. To date, more than R100,000 had been obtained for the drive.

Mfayela said he was not aware of plans to invite foreign experts to help Inkatha during its election campaign.

MP Mike Tarr said recently Inkatha had the potential to win an election in Natal.

Shot men's dependents sue Minister

THE dependents of two Soweto men allegedly unlawfully shot dead by police at the Avalon Cemetery, Soweto, in October 1980, are suing the Minister of Law and Order for a total of R100,000 in damages in the Rand Supreme Court.

Porah Moloi and Marjorie Shen are suing the Minister on behalf of their two young children. The women claim Moses Zulu, 23, and Zwelakhe Mzoyane, 20, were unlawfully shot dead, thereby depriving their children of their fathers' support.

Moloi is claiming R100,000 in respect of her son while Shen's daughter is suing for R80,000 on behalf of her daughter, who was not yet born when her father was killed. Zulu's father Augustine Zulu, and Mzoyane's mother Antonia Mzoyane, are claiming R5,000 each from the Minister for the cost of their sons' funeral.

The Minister is defending the claim.

Police claim the two men attempted to escape after being apprehended in connection with the unlawful possession of ammunition.
SA must never repeat its history on human rights

**Political Staff**

SOUTH AFRICA must never repeat the infringements of human rights that have marked its recent history, says Minister of Justice Mr Kobie Coetsee.

Addressing a Press conference he stopped short of apologising for the abuse of human rights by the National Party government that was a hallmark of the apartheid era.

Discussing the published Charter for Fundamental Rights, he said the government wanted to create a culture of human rights in South Africa.

The government would give financial help to other political parties and organisations that wanted to present their own Bill of Rights.

It was open to suggestions on how this could be done, and on how the various drafts could be collated into one publication.

Some political parties were trying to create differences between the prevailing draft proposals when "there were no differences," said Mr Coetsee.

- Other bills of rights to be aired,
news
inbrief

Coetsee acts on Bills

THE Government was prepared to fund the publication and promotion of the proposed Bills of Rights submitted by other parties, Justice Minister Mr Koos Coetsee said yesterday.

Speaking in Parliament, Coetsee said the Government was taking the participation of other political parties in human rights seriously.

New forum set up

A BROADER forum set up by the Johannesburg Traffic Department, transport unions, taxi associations, the South African Police and the Johannesburg City Council is to meet next Tuesday to discuss concerns surrounding the issue of taxis in the city.
Mosepeke promoted

Atteridgeville lawyer now SC:

By Monil Nkomo and Josias Charle

PRETORIA-BASED advocate Mr Dikgang Mosepeke has been promoted to Senior Counsel, it was confirmed yesterday.

Mosepeke, who lives in Atteridgeville and has been a lawyer for 17 years, confirmed the appointment.

He is the third black lawyer to be promoted to this position. The others are Mr Louis Skweyiya of Durban and Mr Ismail Mohammed, who is now a judge.

Mosepeke became the youngest political prisoner when he was sentenced by the Supreme Court to 10 years imprisonment.

As an advocate, he has defended in many political trials.
NEWS Pathologist rules out drowning • Katlehong

Suspect did ‘not drown’

By Mzimasi Ngudle

LEADING pathologist Dr Jonathan Gluckman yesterday told the Johannesburg Inquest Court that there was no evidence that robbery suspect Mr Bethuel Maphumulo died of drowning.

On Wednesday, another pathologist, Dr Michelle Foster, said it was unlikely that Maphumulo had died of drowning.

Gluckman, who performed the examination together with Foster, told the court that Maphumulo died as a result of "manual strangulation".

He said the injuries sustained by Maphumulo could have led to a "cardiac arrest" which could cause instantaneous death.

Under cross-examination by defence counsel Mr Dennis Kuny, SC, Gluckman said he agreed "substantially" with Foster's findings that Maphumulo died as a result of multiple injuries.

He said he could not explain the discrepancies between his report and that of Foster's.

Gluckman said he was convoluted his findings were correct despite the discrepancies pointed out by police counsel Mr Etienne du Toit.

Maphumulo died on December 13, 1990 after handing himself over to the police. Proceeding.
Murderer ‘must hang’

By Tsale Makam and Sowetan Correspondent

The murder of Goldstone commission advocate Mr Legwa Pitoje, former policeman Sefatle Rodney Matloise, should be punished with death, the State argued in the Rand Supreme Court yesterday.

State advocate Magriet van der Walt told Mr Justice TD Cloete and two assessors the aggravating factors outweighed the mitigating factors.

She argued that the murder was “calculated, vicious and cruel.”

Matloise (25) was earlier found guilty of murdering Pitoje on July 12 last year.

His co-accused, Mr Mohali Abraham Motlhabs, was acquitted.

**Suppressed emotions**

Earlier during yesterday’s hearing, a psychiatrist, Dr Yvonne van der Werm, described Matloise as an “over-controlled” person who was overcome by his suppressed emotions.

Under cross-examination, Van der Werm said his behaviour did not constitute a “spur of the moment explosion” when he murdered the lawyer.

Pleading in mitigation of sentence, counsel for the defence Mr Stefan van Ronenburg said the murder was not preplanned.

He also asked the court not to over-emphasise the seriousness of the offence just because this was a “high profile case.”

Sentence is expected today.
Suspect strangled

By Abdul Milazi

Robbery suspect Betuel Maphumulo died as a result of "manual strangulation" while in police custody in Soweto, independent pathologist Dr Jonathan Gluckman yesterday told an inquest at the Johannesburg Magistrate's Court.

He said it was unlikely that Maphumulo (31) had drowned as was claimed by police earlier in the inquest.

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

Gluckman, who was present when State pathologist Dr Michelle Vorster conducted the post-mortem on Maphumulo's body, said fractures on his neck and haemorrhages on his skin appeared to have been caused by "extensive, substantial force".

He said Maphumulo's body had numerous abrasions and injuries, including marks on his neck and eight broken ribs.

On Wednesday, Vorster told the inquest she had concluded Maphumulo had died as a result of multiple injuries.

Earlier Soweto police captain Henry Beukes told the inquest that he was attacked by Maphumulo after the suspect had escaped during interrogation.

Beukes said he had found Maphumulo hiding near a swimming pool. During the ensuing struggle, they both fell into the pool.

Beukes said injuries to Maphumulo's body might have been caused by the "uneven paving" around the pool where they had struggled before falling into the water.

The inquest continues.
Broeder query ignored’ — LP

Justice Minister Mr. Kobie Coetzee ‘has refused to answer a parliamentary question on whether it is appropriate for Supreme Court judges to hold office in the Broederbond, the Labour Party claimed yesterday.

LP national chairman and MP for Durban Suburbs Mr. Luwellyn Landers said he failed the question, but was told that ‘Minister Coetzee refuses to answer.’
DP works on rights

The Democratic Party had appointed a committee chaired by Mr. Tony Leon, MP for Houghton and the DP's spokesman on justice, to update and "formulate more precisely" the DP's Bill of Rights.
In three cases
Police slammed
ANC calls for an independent inquiry
Human rights charter vital, says Schutte

PRETORIA — The misuse of fundamental human rights and freedoms to promote lawlessness, criminality and anarchy, can never be allowed, Deputy Justice Minister Mr Danie Schutte said.

This was why the government's proposals for a charter of human rights provided for laws to ensure that fundamental rights and freedoms were enjoyed and exercised in an orderly and responsible manner, he said at a farewell function for two regional magistrates in Cape Town yesterday.

"This is where the role of the administrators of justice will become even more important. It will be the duty of the courts to ensure that the rights and freedoms are not excessively or unnecessarily interfered with by these laws," he said.

Magistrates, regional magistrates and judges of the future would have to be able to deal with the challenges and problems arising from a new constitutional dispensation.

They would need strength of character and determination to administer justice in sometimes trying circumstances.

"Probably the most significant development in a new dispensation, and one which will have far-reaching implications for the administration of justice, will be the introduction of a charter of fundamental rights in which these rights and freedoms are clearly set out."

Three basic rights and freedoms to be recognised and protected by a charter have been identified by the government.

These were the rights of people charged with offences to a prompt and fair trial, detainees to be treated humanely in accordance with civilised norms and that disputes with the state or with individuals be settled in a democratic way.
The Slow, Grinding, Mucky Wheels of Justice

Assault Charge

Brief Report of the

Courtroom.

The manual contains the following information in the courtroom. The manual also contains the following information in the courtroom. The manual also contains the following information in the courtroom. The manual also contains the following information in the courtroom. The manual also contains the following information in the courtroom. The manual also contains the following information in the courtroom. The manual also contains the following information in the courtroom. The manual also contains the following information in the courtroom.
Landmark ruling has spawned a new tool for censorship

DAVID HOFFE reviews the controversial Appeal Court decision to extend the privacy of companies and warns that a monster has been created.

In 1992, our Appeal Court ruled that “political bodies” are capable of being defamed and can legitimately bring actions for defamation. A political body is wider in concept than a political party and includes, in addition to a political party, any body or organisation whose functions include attempting to influence state policies in any field — for example, nature conservation, economy or sport (these were examples given by the court).

So, leaving aside for the moment the ANC or the National Party, criticism of organisations as disparate as the Africlearance, the Free Market and the Campaign for Open Media can conceivably attract an action for damages, or worse, an injunction against publication.

Take a simple enough assertion, such as “The CF is a racist organisation”. Irrespective of whether this is an expression of opinion or a statement of fact, it seems bizarre that it could ever be the subject of a debate before our courts.

This week, in the case of Sage Holdings Ltd v the Financial Mail, the Appeal Court, in a majority judgment delivered by Chief Justice Corbett, ruled that juristic persons — Masterbond, Supreme Holdings, Tollgate, the ANC, the SABC, Ectom, the AWB, the Olederhond, etc — have a right to privacy.

It was the traditionally-held legal view that only natural persons — the Charless and Daanes of the world — had a right to privacy, because it was only someone with a body and a soul who could suffer the feelings of hurt and degradation that follow the invasion of his or her privacy.

A corporation, lacking a body to be kicked and a soul to be damned, could suffer no such feelings. Notwithstanding this, the court accorded a right of privacy to corporations, and, in so doing, created a somewhat curious species, namely the private fact about a public corporation.

The effect of the judgment is that, without consent and in the absence of overriding considerations of public interest, the publication of private facts about a public corporation is an invasion of that corporation’s privacy, and can be interdicted at the suit of that corporation.

WHAT constitutes “private facts” — particularly in the case of corporate activity — is, of course, anybody’s guess. But one can bet that the chief executive of a public corporation, such as Masterbond, will immediately cry “private facts” and take refuge behind Sage v FM when confronted with awkward and disputing facts contained in a confidential memorandum leaked to the press.

A plea by the press of overriding public interest will be difficult to sustain. Where private information about a corporation is obtained under such circumstances, considerations of public interest permitting publication would, in the words of the Chief Justice, be a “rara avis”. The public interest in favour of publication would, again in the words of the Chief Justice, “have to be very cogent indeed”. A very difficult hurdle to cross. The financial affairs of Sage, a public corporation, are apparently not the sort of rare bird the Chief Justice had in mind.

An unfortunate consequence of this decision is that journalists in possession of private facts about public corporations will no longer seek comment before publication, for fear of having FM v Sage thrown at them. Unwittingly, I believe, the court has spawned a monster.

The injunction and the gagging writ could effectively replace the cruel forms of harassment that journalists have learned to live with by filling suits, corporations and political bodies can stifle legitimate debate about their activities.

David Hoffe is co-author of the Newspaperman’s Guide to the Law.
The Minister of Justice's draft bill of rights has been likened to a Rotterdam. Now
In pursuit of life, liberty and dignity

F

OR millions of South Africans the law has been less of a shield to protect them than a whip to cow them, and that whip has been wielded by lawmakrs, by the executive branch of government and by the courts. Thus, in a nutshell, is the case for a bill of rights.

Or, to put it bluntly, the purpose of a bill of rights is to ensure that never again in this country will a policeman be able to say to a citizen "Waar's jou pas, kaffer?" and claim for such brutality the blessing of the law and the approval of all three branches of government.

A bill of rights exists to protect the individual citizen Against the government - against the judges. Against the common law where it is defective. Against statute law where Parliament betrays the people - against the power elite. It is the shield of the weak against the strong.

All bills of rights rest on an idealistic premise in the American case, that all men are created equal and are endowed by their creator - not by their government or their history or their common law - with inalienable rights to life, liberty and the pursuit of happiness.

The German wording is better; it says the German people acknowledge inviolable and inalienable rights to be the basis of every community, and of peace and justice. It puts on every state authority the duty to respect and protect the dignity of man.

The Namibian bill of rights similarly enshrines the rights to life, liberty and dignity, and puts on all organs of government the duty to uphold and respect these rights. The courts are instructed to enforce these rights. The Natal Indaba's bill of rights begins by declaring all people to be born free and equal in dignity and rights.

Life, liberty, dignity, human fulfillment, the protection of the law - these are the cornerstone concepts of any bill of rights worth the name. If South Africans are not to be condemned to another long struggle against their government, and if the institutions of government (including the judiciary) are not to fall into even greater disrepute, then our bill of rights will have to begin by enshrining these concepts.

The perverted monstrosity produced by the government, which it calls a "Draft charter of fundamental rights," begins by adulterating these concepts. It assigns "rights" against the state not only to individuals but, "where appropriate," to every entity or body or group of persons which can be "a bearer of rights.

The purpose is sinister; it sneaks into the constitution under the pretext of protecting individual rights, a device to entrench the privileges of political parties, corporations, political associations like the Broederbond or Inkatha, Eskom and Iscor and heaven knows what else.

Then it sets out to authorize the suspension or limitation of the rights of the individual in terms of the common law and by the legislature, the very institutions that have served as apartheid's instruments of oppression. It is a charter not for the common man but for the strong, the privileged, the clever; it is tailored for elites.

My criticism of this frightful document have elicited from a number of readers a challenge to say plainly what I would like to see in a bill of rights, and my answer is this: it must begin with a statement of a national ideal - that all men and women are equally endowed with inalienable rights, and that the foremost of these are the right to life, liberty and to dignity.

Secondly, the bill of rights must put on the organs of state the overriding duty to protect these rights, and it must create a special constitutional court - outside the distorted structure of the courts which enforced apartheid - to which any citizen may appeal when he feels his rights have been violated. Citizens must, of course, be secure.

I don't think it a good idea to elaborate the language of the bill of rights unnecessarily. The more complicated the document, the more easily clever lawyers will find ways, in the years to come, to pervert its meaning for purposes never contemplated by our "founding fathers." But the classical rights - freedom of conscience and expression, of association, of movement, of assembly - need to be specifically enshrined.

The government's charter includes an outrageous proposal to permit the police to detain people without trial for 30 days, which is long enough to invite torture, brutality and murder, and it shows how deeply we have been corrupted since Mr. John Vorster destroyed the right of habeas corpus. What we need is the opposite, a clause compelling the authorities to bring a prisoner before a court within 48 hours of arrest, and a prohibition on any cruel or unusual punishment.

An essential provision is that nobody must be deprived of any right - to life, to liberty, to property, to dignity, to sanctity of home - except by due process of law. On this point I would like to see a debate among lawyers on the relationship of the bill of rights and the constitutional court to the rule of law. Whether the rule of law can, or should be, separately enshrined is a question on which I still have doubt.

Finally, we might, like the Germans, care to define our national ideal not simply as democracy but as social democracy, or we may wish to define language rights, but these are matters for political negotiation. The danger, of course, is that the bill of rights may be overloaded with political agendas which may cause it to fail, but that is another debate.

KEN O WEN
Johannesburg — The African National Congress has proposed a tribunal for land claims vested with powers to order the restoration of land to people dispossessed by forced removals.

This proposal is contained in the organisation's revised draft Bill of Rights made public on Saturday at the International Solidarity Conference here.

The tribunal should be able to order compensation for dispossession by forced removal as well as compensation for any redistribution of land "required to redress past imbalances."

The Bill of Rights would guarantee that men and women enjoy equal rights in all areas of public and private life.

Also, disabled people would not be discriminated against.

The bill says children should be protected from economic exploitation and should not be permitted to perform work that threatens their education, health or moral well-being. — Sapa
Court frowns on breach of privacy

By Jo-Anne Collings

The Appeal Court has ruled that only when there is an "overriding" public interest in a matter may a newspaper or magazine be permitted to publish information which has been obtained by means of invasion of privacy.

The judgment was given recently in the appeal by Financial Mail (Pty) Ltd against an interdict granted to Sage Holdings (Pty) Ltd in the Rand Supreme Court in 1992, which prohibited the publication of an article concerning Sage Chef Justice M Corbett, in a majority judgment, dismissed the appeal and awarded costs against the Financial Mail.

The disputed article was based largely on tape recordings obtained by the tapping of a Sage telephone line and from a confidential document concerning Sage, drawn up within the Alled Group Ltd. A Financial Mail journalist gained possession of both the illicit tapes and the document.

Mr Justice Corbett, with Mr Justice ME Kumieben and Mr Justice CT Howie concurring, found that a public company, no less than an individual, could suffer injury by virtue of a breach of privacy.

But not all such intrusions or publications were unlawful, the judges observed. In distinguishing between lawfulness and unlawfulness in this field, the court had to view the facts of the case in the light of the "general sense of justice in the community" and to weigh competing interests.

If the nature of the information obtained by invasion of privacy were such "that there were overriding grounds in favour of the public being informed thereof, the court would conclude that publication of the information should be permitted, despite its source and the manner in which it was obtained."

To illustrate such "overriding" public interest, the judges cited a British case concerning two technicians who left the employ of a company which made "intoximeters", instruments used by the police to measure alcohol intoxication. They supplied a national newspaper with documents showing that there were doubts about the accuracy of the intoximeter.

A British appeal court ruled that the information, though unlawfully obtained "in flagrant breach of confidence", could be published because the public had a real interest in the accuracy of an instrument on which drunk-driving convictions rested.

The Financial Mail, in contrast to the above case, had advanced no good reason as to why the public should have the information contained in the Sage article, the judges stated.

The preservation of confidentiality within organisations was also a public interest of a high order, the judges reasoned: "I am old-fashioned enough to think that loyalty is a virtue that is in the public interest to encourage," said the Chief Justice.

He held that the illicit tape-recordings and the "leaked" confidential document prepared by Alled "stood on the same footing." It must have been clear to the journalist that his possession of this document was unlawful.
Charge cops urges lawyer

INQUEST HEARING Act or omission led to

Maphumulo's death, court told:

By Mzimasi Ngudle

Consul for the family of Mr Bethuel Maphumulo, who died in police custody, has requested that the magistrate ask the Attorney-General to charge the policemen involved in his death.

Mr Dennis Kuny, who is appearing for the Maphumulo family, told magistrate Mr C de Lange in the Johannesburg Magistrate's Court on Friday that there was proof that Lieutenant Henry Beukes was involved in Maphumulo's death.

Kuny was replying to a question by counsel for the police, Mr Etienne du Toit, who said it had to be proved that an "act or omission on the part of Beukes had led to the death of Maphumulo."

Kuny also criticised the police for their delay in investigating Maphumulo's death and said "virtually nothing has happened since Maphumulo died two years ago."

"What happened is that two principal offenders have now been promoted Lieutenant Johan Radley to Captain and Warrant-Officer Henry Beukes to Lieutenant."

He urged De Lange to find that Maphumulo's death was due to manual strangulation as shown by evidence and the reports of two pathologists, Dr Jonathan Gitnick and Dr Michelle Foster.

Kuny said Beukes' version of what happened was so bizarre it amounted to a fairy tale.

"His account does not accord with any logical rational reasoning or objective findings. Can Beukes explain why a man who had given himself up and was to appear in court should suddenly flee?"

"Beukes then tore his own shirt and wetted his clothes to feign a fight."

Earlier state prosecutor Mr Francois Roos said the story of Maphumulo's escape was "strange" and there was no question about Beukes acting in self-defence.

Roos said the cause of death was manual strangulation by Lieutenant Beukes.

Du Toit entered the pathologist reports, calling them "a total mess."

The magistrate will make a ruling this week.
Sentencing of ex-cop today

Found guilty of murdering lawyer

By Tsale Makam

FORMER policeman Rodyce Matlote, who has been found guilty of murdering lawyer Mr Legwa Ptje, will be sentenced in the Rand Supreme Court today.

Matlote (25) was convicted two weeks ago by Mr Justice TD Cloete of killing Ptje (41), an advocate and member of the Goldstone Commission. He was also found guilty of robbing Ptje.

Matlote’s co-accused, Mr Mohali Mothubu, was acquitted of all charges. Mothubu told the court he was driving Ptje’s car while Ptje and Matlote argued. Matlote stabbed Ptje several times. Mothubu helped Matlote put Ptje’s body in a plastic bag and dump it in the veld.

He said he had tried to stop Matlote from stabbing Ptje, who pleaded and begged for his life. But Matlote stabbed him with the knife and forced him to drive on.
My appointment not cosmetic, says Sheila

By Brendan Creghan

New Deputy Justice Minister Sheila Camelot does not believe her weekend rise in Government ranks was a cosmetic appointment to win votes in the next election.

The former universitywear and Westdene, Johannesburg, city councillor yesterday said she was excited to be appointed to the position at a time when women’s rights were coming to the fore in South Africa.

 Asked if she thought her appointment had been for appearances only, she said: ‘I would hate to think that. President de Klerk has said on television that National Party women want to be appointed on merit. I do feel that the fact that he has appointed me shows he is committed to equal opportunity.”

He had informed the Rosettenville MP of her new post on Friday and Camerot said she had not been expecting it.

“I am looking forward to working with (Justice Minister) Kobie Coetsee. He has done interesting things like introducing the Equal Opportunity Bill, the Family Violence Bill and the Elimination of Discrimination Against Women Bill.”

Justice is not a new field to her. She was a practicing attorney and had been a member of the parliamentary joint committee on justice for several years, she said.

Camerot said she had always been a strong proponent of women’s rights.

This may come as a surprise to some voters in Rosettenville. She told them during her successful 1984 bid for election as their representative on the Provincial Council. ‘A woman must go where her husband goes.”

She was explaining why she did not live in the southern Johannesburg suburb.
Massacre: appeal for bail refused

DURBAN — The Supreme Court in Durban yesterday dismissed the bail appeal of nine Richmond murder accused who, with about 50 others, allegedly killed nine men, burned down 14 huts and damaged two vehicles during an attack in September at Genegeshe, near Richmond.

Evidence was given during their initial bail application in Richmond that the nine supported the ANC and that nine victims supported Inkatha.

The court was also told that two potential witnesses had been killed.

Dismissing the appeal, Mr Justice Booysen said people would lose confidence in the administration of justice if the accused, some of whom had been positively identified at identity parades, were seen at home.

There was a possibility that some would not stand trial. They could be over the border within hours if they absconded.

The applicants were Thandukwazi Dlamini (18), Mandlenkosini Phoswa (44), Lolo Phoswa (22), Sonnyboy Njumande (21), Salani Mbono (22), Mzokhanyayo Nzele (32), Mafaka Njumande (35) and two youths — Own Correspondent.
Policeman sentenced to death for killing lawyer

A FORMER special police constable who stabbed Goldstone commission advocate Leg-\nwan Pitje to death during an argument in July \nlast year was sentenced to death for murder in \nthe Rand Supreme Court yesterday.

Judge T D Cloete, sitting with two assessors, \nfound that Seattle Rodney Matlotose had formed \nthe direct intention of killing Pitje when he \nstabbed him to death on July 12 last year.

Describing the murder as "cruel, vicious and \nbrutal," the judge said the death penalty was an \nappropriate sentence.

Matlotose was also found guilty of stealing \n Pitje's watch, diamond ring and motor car \nafter the murder.

Pitje was murdered after he was arrested in \nRooiport for drunken driving.

According to evidence Matlotose was on duty \nat the police station when Pitje was brought in, \nand the two men had left together some hours \nlater.

The stabbing occurred later during a argu- \nment between the two men.

The judge said although the murder had not \nbeen planned and was committed when Mat- \nlotse was angry, the aggravating factors \noutweighed those in mitigation.

"Society regards a crime by a policeman, \nparticularly a crime of violence, in a very seri- \nous light," Cloete said.

Asked if he had anything to say before the \ndeath sentence was passed, Matlotose stood si- \nently for about 10 minutes and then requested \nthe court to show mercy.

He also turned around and apologised to \nweeping members of Pitje's family sitting in \nthe public gallery.
Moseneke dons silk as third black SC in SA

By Joe Mhlela

ALMOST a decade ago, a 36-year-old Pretoria attorney was admitted to the bar as an advocate of the Supreme Court of South Africa. At about the same time, a caricature in a daily newspaper depicted an aged judge in spectacles. He was scratching his head as if trying to recall where he had seen the slightly-built man he was about to admit as a barrister.

"I recall seeing you somewhere?" said the judge tentatively.

He was right, except that he had not seen the man "somewhere". The man had stood trial in his court and had been sentenced by him to 10 years imprisonment for sabotage 20 years before.

The cartoon strip was rather a comical, albeit heart-rendering, depiction of events surrounding Dikgang Moseneke, his incarceration and his determination to rise to the top of his chosen profession.

The admission ceremony took place at the Pretoria Supreme Court on July 19, 1983.

The same court, 20 years before, had found him to be a saboteur and sentenced him to a prison term on Robben Island.

He was a mere 15-year-old sprout.

Last week Moseneke joined an exclusive club of barristers. As Senior Counsel he now wears silk, giving him the honour to have his name suffixed by the abbreviations SC, the equivalent of Britain's Queen's Counsel (QC).

Two years ago he was in the legal team that defended Mrs Winnie Mandela, who was charged with the abduction and assault of the child activist, 14-year-old Stompie Sepele.

Moseneke scored a legal victory in 1978, winning the right to practice as an attorney in South Africa after his loss of citizenship as a South African. This came about when Bophuthatswana gained its so-called independence in 1977.

Moseneke had citizenship of the homeland forcibly imposed on him.

Moseneke proved that he was a South African and that he would never relinquish it for a sham citizenship.

After a lengthy legal battle, the full bench of the Pretoria Supreme Court reinstated his citizenship. He was then allowed to practice as an attorney.

Moseneke's victory was to become a test case for many Tswana-speaking South Africans who had lost their citizenship when the homeland gained independence. Today Moseneke stands on the threshold of bigger things as a Senior Counsel.

His many struggles, both in the leadership of the PAC and for human rights, have contributed immensely to changing the country's political landscape.

Even his resignation from the PAC last December was received with shock, especially by the Africanists. But his promotion is certainly a victory for the disadvantaged people of this country.
ANC cries foul on killings of ‘comrades’

THE African National Congress’ Northern Natal region has called for an immediate Goldstone inquiry into the deaths of four ANC members whom police said were killed in a shoot-out at KwaSokuhlu.

The ANC confirmed the four were armed but said they had not fired at the police.

Those killed on Saturday were Ndwango Cele, Ziba Nkela, Bongani Mokorena and Zwelethu Mdumbu. They were aged between 18 and 23.

The SAP denied ANC allegations that policemen opened fire on “comrades” waiting at a bottle store to escort protesters home from a march against allegedly biased policing in the KwaMbonambi area.

Instead, the SAP said a patrol came under fire from five men armed with AK-47 rifles. A hand grenade also exploded about 20m from their vehicle.

Police spokesman Captain Bala Ndamo said policemen opened fire on the suspects who fled into the bushes.

The shoot-out continued and policemen later discovered that four men had been killed.

“Two of the deceased were members of the notorious Mzimbi gang, who were sought by the police for the killing of Paul Veremmen,” Ndamo said.

ANC leaders in Northern Natal called on Mr Justice Richard Goldstone to investigate.

ANC Northern Natal media officer Zapho Mkhize alleged policemen had “opened fire on these comrades for no reason”.

“When they tried to escape policemen deployed at the back of the shops shot and killed them.” — Sapa

PAC and Azapo wooed

By Themba Molefe
Political Reporter

THE African National Congress is to persuade the Azanian People’s Organisation and the Pan-Africanist Congress to join a multiparty preparatory conference ahead of the resumption of negotiations.

This emerged yesterday at an ANC Press conference following a meeting with its Patriotic Front allies.

ANC deputy president Mr Walter Siva said the organisation would invite the PAC and Azapo to join the preparatory meeting to be held on March 5 and March 6.

He said the two organisations would be asked to return to the Patriotic Front.

The ANC meets the PAC tomorrow and Azapo on Thursday.

General elections

The ANC yesterday briefed its PF allies on the decisions taken by the ANC national executive committee a statement said. “The meeting examined the state of the negotiation process, the proposals currently under consideration in bilateral meetings between the ANC and the Government and the forthcoming negotiations planning conference.

“Meeting reaffirmed its commitment to a democratically elected sovereign Constituent Assembly and the need for general elections within the next 12 months.”
![Image with text]

Sangkan loses appeal

Sangkan's decision to appeal the court's ruling against him in the case of his appeal against the decision of the court of appeal. Sangkan has been convicted of corruption and fraud.

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PAC and Azapo Wooded

Invitation to return to Cold Peace negotiations

The PAC and Azapo have invited the Cold Peace negotiators to return to Cold Peace negotiations. This follows the recent failure of the negotiations.

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ANC and MK Inquest

The ANC and MK Inquest continues to investigate the deaths of ANC members who were killed during the recent violence.

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Killing of Comrades

Five activists die in police shootout.

ANC claims that police were justified in their action.

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Photo of the day:

A photo of the day showing a protest in support of ANC members who were killed during the recent violence.
Death for Pitje’s killer

By Tsale Makam 2/3/93

ULTIMATE GRIEF Weeping in the dock.

Matlotse begs attorney’s family for forgiveness:

Pitje’s wife broke down and wept when Matlotse asked the dead lawyer’s family and friends to stand up so he could ask for forgiveness. No one rose.

Matlotse turned, faced the family and said “I beg you to forgive me for what I have done.” Pitje’s widow shouted at Matlotse “Ag, shut up man.”

The judge said the aggravating circumstances of the case far outweighed the mitigating factors.

He said Matlotse was capable of appreciating the wrongness of his actions and that as a policeman he was expected to maintain law and order.

Mr Justice Cloete also said the murder was “cruel, vicious and brutal.” He said the deep cuts on Pitje’s fingers showed how he had struggled to save his life.

“The accused ignored pleas from the deceased who had pleaded ‘Rodney, Rodney, please do not kill me’ His death was one of pain and terror,” the judge said.

Matlotse’s co-accused Motlhaba testified that on July 12 last year Matlotse had, in the back of Pitje’s car, stabbed Pitje several times. He put Pitje, who was still alive, in the boot of the car and stabbed him several more times.

He then gouged out Pitje’s eyes because he believed that a murderer’s image remained in the victim’s eyes.

THE KILLER of attorney Mr Logwai Pitje was yesterday sentenced to death by a judge in the Rand Supreme Court.

Rodney Matlotse (25) was also sentenced to five years’ imprisonment for stealing Pitje’s car. His co-accused, Mr Mohali Motlhaba, was acquitted.

Mr Justice TD Cloete described the killing of Pitje (41) as a “callous and calculated murder.”

After sentencing Matlotse the judge asked him if he had anything to say.

A weeping Matlotse said he was begging for forgiveness from Pitje’s family.

He then said in a strained and barely audible voice:

“I can find no answer to what I have done. I do not know what happened to my mind at that stage.”
The Department of Justice should reverse its decision to reduce pro deo funds, the General Council of the Bar of South Africa (GCB) said yesterday.

A GCB spokesman said 80 percent of the 2 million accused appearing annually in the criminal courts were not represented.

The GCB called on the Department of Justice to reinstate the previous system which provided all indigent accused in the Supreme Court with free legal representation.—Sapa.
Cash for Neethling lawsuit

‘big abuse’

By Peter Fabricius
Political Correspondent

CAPE TOWN — The taxpayer has paid at least R68 319 91, and possibly over R1 million in legal fees to former police forensic expert Lieutenant-General Lothar Neethling to sue two publications which accused him of involvement in dirty tricks.

ANC Sandton MP Dave Dalling said the expenditure was a huge abuse of public funds.

Law and Order Minister Hermus Kriel told Parliament yesterday that the State had paid R68 319 91 up to February 18 this year for Neethling's civil defamation action against the Weekly Mail and the Vrye Weekblad — an action which he lost.

Forfeit

Kriel said Neethling had so far not repaid any of the money. Only after the Appeal Court had passed judgment would the Government decide whether he had forfeited State protection in terms of Treasury instruction.

Dalling said the answers did not reveal the full facts.

By March 24 last year the State had already paid out R461 633 46 in legal costs and a further R1 000 000 as surety for counter-claims arising from the civil actions.

Since then, the State had paid a further R68 319 91 for legal costs.

In other words, well over R1 million has been paid, on behalf of the taxpayer by the NP Government, to promote General Neethling's civil action.

*Parliamentary Report*
POLITICS

R1-m ‘wasted’ on Neethling’s two libel cases

Political Staff

THE taxpayer has paid at least R688 319.91 — and possibly more than R1 million — in legal fees to former police forensic expert Lieutenant-General Lothar Neethling to sue two publications which accused him of involvement in dirty tricks.

ANC MP Mr Dave Dalling slated the expenditure as an abuse of public funds, describing it as another case of state corruption.

Law and Order Minister Mr Hermus Kriel said in parliament that the State had paid R688 319.91 up to February 11 for General Neethling’s civil defamation action against the Weekly Mail and Vrye Weekblad — which he lost.

Mr Kriel was replying to a question from Mr Dalling, who said the answers did not disclose all facts.

He said that by last March the State had paid R461 633.46 for court costs and a further R120 000 as surety for counter-claims.

Since then the State had paid a further R688 319.91 in costs — “more than R1 million by the taxpayer. To favour one general in this way is to take the NF gravy train to the verge of the ridiculous.”

SACP backs ANC bid for power

Political Staff

THE South African Communist Party central committee has pledged its full support for the ANC’s bid for a majority victory in elections for a constituent assembly.

The decision was taken after the committee gave its general support for the “transition package” adopted by the ANC’s national executive.

The SACP also resolved not to contest the elections on its own, but under the ANC banner, and to ensure the ANC’s election platform was guided by a commitment to a thorough reconstruction of state structures, the economy and society.

Rent, service arrears: total R1,9-bn

Political Correspondent

RENT and service charge arrears in townships totalled more than R1,9-billion by the end of last year.

Relying to a question by Mr Joseph Chiole (CP Pretoria West), Minister of Local Government and Housing Dr Tertullian Delport said Transvaal townships accounted for the bulk — more than R1,6-billion.

Cape townships owed R169.7-million, those in the Free State R126.8-million and Natal R10.7-million.

Of the total, local authorities — all in the Transvaal — owed Eskom R643.3-million.

Anti-smoking Bill to be tabled soon

Political Staff

AN anti-smoking Bill, to be tabled as soon as possible, will include a ban on the sale of tobacco products to people under 16, says Minister of National Health Dr Rina Venter.

Relying to a question from Mrs Carole Charlewood (DP Umbilo) she said the measure was on the legislative agenda for this session of parliament.

The Bill would control the use and advertising of tobacco products and give the minister power to regulate the health warning on tobacco products and to prescribe the claims which could not be made in advertisements, Dr Venter said. — Sapa

Hanging not ‘selective’

Political Staff

THE Minister of Law and Order would not ask the State President for death sentences to be carried out on people convicted of killing policemen.

Relying to a question from Mr Douglas Gibson (DP Yeoville), Mr Herman Kriel said that the death penalty should not be imposed on a particular category of killers.

He also referred to the speech made by President De Klerk at the opening of parliament, in which he said the wave of murders made it difficult for the government to continue the moratorium on hangings. — Sapa

Absent soldiers to be prosecuted

Political Staff

PEOPLE who had ignored call-up for January’s national service intake would be prosecuted, said Defence Minister Mr Gene Louw.

In an oral reply to a question by Mr Bob Haswell (IND Maritzburg North), he said prosecutions were suspended until last year’s amendments to the Defence Act were implemented.

These gave potential objectors wider scope for refusal. New call-ups had been issued once the 1982 Amendments had been instituted. — Sapa

ANC explains stand to Cape

Political Staff

THE ANC today begins the task of explaining its constitutional package in the Western Cape, a region which opposed power-sharing at a meeting of the movement’s national executive committee last week.

Secretary-general Mr Cyril Ramaphosa will talk about latest developments in bilateral talks with the government at a public meeting at UWC at 4 pm.

And, at 5.30 pm, he will brief branch executive members behind closed doors.

• ANC and government negotiators meet again on Tuesday and Wednesday.

Rent, service arrears: total R1,9-bn
Tears as son cheats gallows

By Brian Sokuto

Tears rolled down Martha Neube's cheeks this week minutes after hearing her son would not be executed at Pretoria Central Prison.

Neube of Mamelodi West, Pretoria, was rejoicing at a decision by the Appeal Court to set aside the murder conviction and death sentence imposed on her youngest son, Phili.

"There were times I lost hope, but I prayed daily for a positive outcome of the judgment," Neube's mother.

"The last time I saw him was last week when I brought him toiletries," she said.

She learnt the good news when neighbours brought her a copy of an article in The Star.

Neube was among five men arrested for the murder of Pretoria shopkeeper John Roussos, who was attacked in Waterkloof Glen on January 6, 1963.

Five men were arrested, but Neube escaped before the trial, to be rearrested later. The other four were tried and convicted. One, Edward Tobie Qekusi, was sentenced to death and later lost an appeal against the death sentence.

Neube was convicted by the Transvaal Supreme Court in 1990. He was sentenced to death for murder and eight years in prison for robbery.

Mr Justice Goldstone held it was not proved Neube knew the nature of the arms carried by his companions, or that Qekusi had a hammer.

Commenting on the outcome of the appeal, Lawyers for Human Rights (LHR) spokesman Andries Nef called on the Government to reconsider abolishing the death penalty.

"This once again demonstrates the unacceptability of the death penalty because there is always a possibility of an error," he said.
ANC man guilty of 'revenge' kill

By Susan Smuts

An ANC Youth League organiser was convicted yesterday in the Rand Supreme Court of murdering a Pan Africanist Congress (PAC) supporter and burning his corpse in a revenge attack for the slaying of a "comrade".

Washington Senti Thage (21) of Munseville, Krugersdorp, had pleaded guilty to murdering Abionaar Ramphomone Mongwalwa on November 15 1991 during escalating conflict between the two political organisations in the township.

Two co-accused, Andries Monyau (30) and Joseph Malazi (20), had failed to appear in court.

Mr Justice M Stegmann ordered Thage's trial to continue and issued warrants of arrest for the others.

In his plea explanation, Thage said Mongwalwa had been killed because he and two friends had returned to Munseville after being driven out by ANC supporters in December 1991.

Since their expulsion from the township, the PAC supporters had killed a "comrade", Joseph Koole, and had attacked and bombed the homes of other ANC members, Thage claimed.

Although a meeting between local ANC and PAC members had failed to agree on the terms for their return to Munseville, Mongwalwa and his friends "were seen roaring around the township as if they'd been granted permission to return", Thage said.

Thage admitted he had acted in common purpose with the other "comrades".

The trial was postponed for evidence in mitigation of sentence.
GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE
No. 338  26 February 1993
NOTICE BY THE STATE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA
NOTICE OF TEMPORARY IMMUNITY UNDER THE INDEMNITY ACT, 1990 (Act No 35 OF 1990)

Whereas I am of the opinion that it is necessary for the promotion of peaceful constitutional solutions in South Africa, I hereby under the powers vested in me by section 1 (1) of the Indemnity Act, 1990 (Act No 35 of 1990), unconditionally grant to the persons specified in the Schedule, immunity referred to in section 1 (2) of the aforementioned Act for the period from 1 March 1993 up to and including 17 May 1993.

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

F. W. DE KLERK,
State President.

By Order of the State President-in-Cabinet

H. J. COETSEE,
Minister of the Cabinet

SCHEDULE - BYLAE

APPALRAJU, Premi
BUNTING, Brian Percy
CHOABI, Seretse
DE BRUYN, Sopha Theresa
DOLNEY, Helen
GANA, Martha Constance

BHENGU, Sibusiso
BUNTING, Sonja Beryl
COLVIN, Louise
DLAMINI, Stephen
ETHMAHILL, Aboobaker
GODDEN, Edgar

94738 — A
TV's Jordaan jailed

By Cyril Madlala

Former SABC TopSport director Hein Jordaan was yesterday sentenced in the Johannesburg Regional Court to an effective six years in jail for corruption and theft.

He was convicted in December on four corruption charges involving R150 000 and one count of theft involving R797 120.

IJJ Luther sentenced him to two years in jail for corruption, and seven years in jail for theft, with three years suspended for five years.

He is appealing against the sentence, and his R10 000 bail has been extended.

Jordaan was initially charged together with former National Soccer League public relations officer Abdul Bhamjee, and the court found they had stolen R797 120 from the SABC.

Previously the court heard that Jordaan received a R300 000 cheque from Bhamjee "to take care" of him.

The State alleged that Bhamjee took R300 000 for himself, and he was sentenced to eight years' jail in August. He is serving this sentence concurrently with 14 years for stealing another R7.3 million from the NSL.

The court rejected Jordaan's defence that he had borrowed the money from Bhamjee.

Hans Bormana, for Jordaan, asked the court to sentence him to corrective service.

Asking the court to send Jordaan to prison, State advocate K Lawlor said the accused was motivated by greed and a desire to appear affluent.

For sentence, the magistrate took into account that Jordaan was a first offender and that his was a serious offence.
PRETORIA — A local government ombudsman should be appointed to hear complaints or allegations of corruption within city or town councils, the Krugel commission heard yesterday.

Sandton councillor Frederick Ehlers told the commission that residents in his ward generally believed corruption was endemic within the council. "The states of local government in the public eye is unacceptably poor," he said.

Ehlers, who was suspended from the Sandton council last year, ostensibly for objecting to tendering procedures, suggested the appointment of a special ombudsman to handle, specifically, local government-related complaints.

The Krugel commission was appointed last year to investigate allegations of corruption within the Pretoria City Council, but its mandate has since been extended to cover all local authorities in the Transvaal.

While dealing mainly with the question of whether councillors should be involved in property or development deals within their own municipal boundaries, the commission is investigating also broader ethical issues.

Ehlers, a practising architect, said he had been offered inducements or commissions on several occasions to influence rezoning applications within Sandton.

"Obviously such temptations must also be put in the way of councillors who are quantity surveyors and engineers," he said.

Representatives from several municipalities, Raymond Loubser from the Engineering Council of SA, Umgama law professor Marius Weckers and Vista University public administration professor Brian Botha all gave evidence yesterday.

The commission would reconvene next month, Willem Krugel said, to consider information from the Association of Law Societies and any outstanding contributions from interested parties.

An interim report would be circulated before the final report was presented to Transvaal Administrator Dane Hough.
Councillors acquitted

TWO Imbali councillors and a youth were acquitted yesterday of murdering ANC Natal Midlands leader S'khumbuzo Ngwenya, who was gunned down as he left a Maritzburg restaurant in February 1992.

Imbali mayor Phukela Ndlouvu, 56, his deputy Abdul Awetha, 54, and a youth, 18, were acquitted in the Maritzburg Supreme Court by Judge J H Combrink, who found ballistic evidence insufficient to link guns owned by the councillors to the murder.
FORMER SABC TopSport director Henk Jordaan was sentenced yesterday in the Johannesburg Regional Court to an effective six years' imprisonment for theft and corruption.

Jordaan, 46, stole and unlawfully received a total of R797 000 of National Soccer League (NSL) money in a plan executed with the help of former NSL PRO Abdul Bhamjee.

Passing sentence, regional magistrate I J J Luther said Jordaan had abused his position of trust at the SABC.

"The fact that he shared the money with Bhamjee does not lessen the seriousness of the crime."

Although Jordaan was not a danger to society, he had been found guilty of a serious crime and must be punished, the magistrate said.

Jordaan had already been punished to a certain extent by being labelled a criminal and by having lost his job. His perception of himself had also changed completely, Luther said.

The court found that the nature of Jordaan's crime indicated desperation.

Evidence at the trial was that Jordaan had stolen the money because of personal financial difficulties.

In spite of argument by defence advocate J J A Bormann that a prison sentence was inappropriate because of Jordaan's social and business standing, Jordaan was sentenced to two years' imprisonment on four charges of corruption. On the count of theft he received a seven-year prison term, three years of which were conditionally suspended.

Bormann told the court that was Jordaan's first clash with the law.

State advocate Kenneth Lavigier, in asking for a stiff prison sentence, said Jordaan had used the stolen money for luxuries and overseas trips for himself, his wife and children. He submitted that Jordaan had acted out of greed and not necessity.

Late last year Bhamjee was sentenced to an effective eight years' imprisonment for his part in the crime.
Goniwe inquest to be reopened

Top SADF officers subpoenaed to give evidence

The inquest into the death of Matthew Goniwe and three other Eastern Cape activists will reopen on Monday, almost eight years after the three men were murdered.

The Port Elizabeth Supreme Court will hear testimony from three senior South African Defence Force officers implicated in a top secret military message calling for the "removal from society" of the four men. Retired State Security Council member Major-General FJ van Rensburg and Commandant Lourens du Plessis, formerly of Eastern Cape Command, have been subpoenaed to appear from March 8.

The SADF's Chief of Staff Intelligence, Major-General Joffel van der Westhuizen, will give evidence on March 16. Acting Attorney-General Michael Hodgen yesterday said he would table new affidavits, representations and papers collated over the past year at Monday's hearing.

Counsel would then decide on whether further subpoenas should be issued. Goniwe, Fort Calata, Sparrow Mkhonto and Suelo Mhlauli were murdered near Port Elizabeth in June 1985.

Eca
Inquiry into man's death

Plaatjies was found hanging on a tree.

By Isaac Moledi

AN inquest is to be held into the death of a Mohlakeng, Randfontein, man who was given a pauper's funeral last year.

West Rand police spokeswoman Henretta Bester confirmed yesterday that an inquest was to be held into Mr Henry Oupa Plaatjies' death.

Bester said Plaatjies was buried after police could not establish his identity. Plaatjies (30) was found hanging on a tree by his trousers in a veld between Mohlakeng and Bekkersdal on July 26 last year.

His mother, Mrs Henretta Plaatjies, exhumes his body this week to give him a decent funeral. He will be reburied tomorrow.
Bar attacks pro Deo defence cuts

The Star Friday February 26 1993

NEWS
New law to allow police to re-arrest

LEGISLATION is to be introduced this year to enable the authorities to re-arrest people who had been incorrectly released from prison, Minister of Correctional Services Mr Adriaan Vlok said yesterday.

The new clause follows the release of a convicted bank robber Lucky Malusa and convicted murderer SiNdile Zweni, as "political prisoners".

Mr Vlok said that the government was highly concerned about the matter but it faced the "mammoth" task of checking all police and court records. He said the prisons were releasing between 10,000 and 11,000 people every month.

"If a person is released incorrectly, the law must make it possible for them to come back," he said.

He also stressed his department's extensive investigations into the issue would take a while to complete.

Yesterday the Department of Correctional Services said it had not concluded its investigation into Zweni's release.

Zweni took part in the murder of a Kraysna hairdresser just three months after his release.

"It must be reiterated that if the prisoner was mistakenly released, the department will not hesitate to admit this," said Correctional Services spokesman Lieutenant-Colonel Barry Eksteen.

His case was being treated as a "matter of urgency". — Political Staff, Staff Reporter
Outrage over six lashes for murder

VUSI KAMA, Weekend Argus Reporter

A KHAYELITSHA teenager has been sentenced to six lashes and a suspended 30-month jail sentence by a Mitchell's Plain regional magistrate for murdering a sleeping man.

The sentence has been widely condemned by groups ranging from the ANC, the Democratic Party and Lawyers for Human Rights as "ridiculous, outrageous and totally beyond understanding."

Soncevo Fayo, 19, of Site B, Khayelitsha, yesterday pleaded guilty to murdering Mr Khethayo Magalela, 28, while Mr Magalela was asleep in his bed in June last year.

Sentencing Fayo, Mr W A De Klerk, said the community would not expect Fayo to serve a jail sentence, as he was a young man, a first offender, and that he had been avenging himself against an older person who had injured him in an earlier assault.

The magistrate told Fayo "If you kill someone again within the next five years, you're going to jail for 30 months."

ANC regional chairman Dr Allan Boesak said he believed the magistrate's sentence would have been different if the victim was white.

"I cannot begin to believe that a magistrate thinks a murder was not significant in the community, simply because it happened in Khayelitsha."

He said the judgment showed that not only the government system needed "thorough reconstruction", but the judicial system as well.

Mr Tony Leon, the Democratic Party spokesman on justice, said the sentence was outrageous and trivialised the value of human life. The idea of lashes was "absolute medieval, if not barbaric", and the state would be more likely to appeal, he said.
Codesa judges given the push

THE two judges who chaired Codesa meetings have been dumped after objections from the government.

This week's conference to plan the resumption of Codesa-style talks will be chaired by a rotating panel of seven political representatives.

Negotiators said the government was concerned about Mr Justice Ismail Mohamed's "left leanings" and Mr Justice Petrus Schabir's inability to sufficiently balance this influence.

The compromise reached after this objection was that the meeting should be chaired by a seven-person panel.

There is widespread acceptance among parties that the two judges will also not be in the chair when full-scale Codesa talks resume.

Petty bickering of this nature dominated the run-up to the two-day meeting, which starts next Friday.

Questions about who should invite the parties, who should come, who should be in the chair, who should speak first, where they should sit and what should be discussed have been thrashed out in excruciating detail.

But an obstacle still to be overcome is Inkatha's negative view of the government's five-year power-sharing proposals.

The issue will be discussed today at an Inkatha central committee meeting.

Government negotiators Roelf Meyer and Tertius DeJongh will present the proposals to Inkatha leader Mangosuthu Buthelezi in the hope of getting his backing for the power-sharing plan.

The two ministers want to outline the proposals directly to Chief Buthelezi because the government is concerned that Inkatha negotiator Walter Felgate, who has been accused of misleading the Inkatha leader, will distort its position.

To prevent this from happening, the government managed to secure an invitation to the central committee meeting.

But there are indications that these efforts will be in vain as the Inkatha central committee already appears to have decided to reject the power-sharing deal.

Meanwhile, a KwaZulu government delegation, representing King Goodwill Zwelithini, will attend the planning conference — whether they are invited or not.

The Conservative Party and the Afrikaner Volkraam are also expected to attend.

The parties will discuss past agreements reached at Codesa and how they see future negotiations.
Prison case back in court

By CARMEL RICKARD

of his detention be declared unlawful Mr.
UNHAPPY at being told to pay the highest compensation yet for unlawful deten-
tion conditions, Justice Minister Kobet.

He found that the head of the prison
Coetsee has asked the Appellate Division

to overturn the order.

Prominent Cape Town ANC official,
Willy Hofmeyr, detained during the
emergency in 1960, was held in effective
solitary confinement during most of his
158-day detention and suffered severe
psychological and physical effects.

He brought an application in the Cape
Supreme Court asking that the conditions

Judgment by the AD is expected within
the next few months.
Teacher walks to school in protest

FOR the past three weeks a 49-year-old Kuyana teacher has been walking to his school, about 33km outside of Kuyana, to protest against a recent DEC decision to cancel teachers' transport subsidies.

Mr Richard Africa, a standard four and five teacher at Buffelsnek Primary School, said: "This is a matter of principle to me. I will continue to walk until my employer, the Department of Education and Culture, provides transport for me or gives back our subsidies.

The withdrawal of teachers' transport subsidies is part of a DEC (HoR) rationalisation programme that was introduced at the beginning of the year. Buffelsnek Primary School is the last Kuyana school at the Buffelsnek Forestry Station and has 50 pupils from the forestry station and a nearby farm.

Mr Africa said he has to buy two sets of tyres and two sets of shock absorbers every year because of the bumpy gravel road he has to travel to get to school. He said he spends about R500 a month on petrol.

"I refuse to use money from my salary to pay for wear and tear on my car and petrol. I simply can't make a living if I do this."

Carrying his satchel, Mr Africa normally trudges along the Uxundale Road to school at about 5am.

"If I'm lucky I get a lift about 10km from school. I have not yet been late but it might be a problem in future."

His journey back to Kuyana starts at about 1.30pm and he gets home at about 5pm.

Mr Africa said he wrote to inspectors, the DEC and the Minister's Council to highlight the problem, without anything being done about it. He said there were about 100 other teachers in the Kuyana/Fliehemburg Bay area who have to travel to school without subsidies.

If this continued teachers would be discouraged from applying for work schools in rural areas, he said.

The severest destruction will be done to children in rural areas as a result of the department's rationalisation programme," Mr Africa said.

DEC spokesman, Mr Henkie Jansen, said the department was not planning to reintroduce the subsidies.

Anger

The department's decision not to appoint substitute teachers has caused widespread disruption at HoR-run schools.

Pupils at several schools have not received tuition because there has not been enough staff.

The department will also not pay substitute teachers whose appointments have not been endorsed by the department - which has angered pupils and teachers more.

Several schools in the Peninsula protested out-
CARMEL RICHARD argues that a Cape Deformation Case

Speak up for a free press.
CCB’s Webb in court

Sunday Times Reporter

FORMER CCB chairman Major-General Eddie Webb, 52, charged with perjury while giving evidence to the Harms Commission, appeared in the Johannesburg Regional Court this week.

During the inquest into the death of activist David Webster, he admitted that his evidence to Mr Justice Louis Harms might have misled the commission. He was not asked to plead and will appear again on April 7.
Goniwe inquest may reveal new evidence on hit squads

By: Patrick Godenough

Almost eight years after Cradock activist Matthew Goniwe and three other activists were murdered, the inquest into their deaths is set to reopen in Port Elizabeth tomorrow.

The Supreme Court will hear testimony from three senior SADF officers allegedly implicated in a top secret military signal calling for the “removal from society” of the four men.

Retired State Security Council member Maj-Gen FJ van Rensburg and Cdt Lourens du Plessis, formerly of Eastern Province Command, have been subpoenaed to appear on March 8. The SADF’s Chief of Staff Intelligence, Gen CP “Joffie” van der Westhuizen, will give evidence on March 16.

Eastern Cape acting Attorney-General Michael Hodgson said at this week’s hearing he would table new affidavits, representations and papers gathered over the past year.

Matthew Goniwe, Fort Calata, Siphiwo Mkhonto and Sicelo Mhluuli were murdered near Port Elizabeth on June 27, 1985.

Last month, Justice Minister Kobie Coetzee instructed the Judge President of the Eastern Cape, Judge N Zietsman, to reopen the inquest.

In 1989, an inquest into the deaths was unable to identify the killers.

Observers expect the hearings will provide some new insight into the alleged operations of State-sponsored hit squads in the eastern Cape.

Former security policemen Dirk Coetzee was reported last year as saying he believed the security police, rather than the military, were involved in the killings of the Cradock Four.
PUBLIC SECTOR GOVT. — JUSTICE

1993

MARCH — APRIL
Almost eight years after Cradock activist Mr Matthew Goniwe and three other activists were murdered, the inquest into their deaths reopens in the Port Elizabeth Supreme Court today.

The court will hear testimony from three senior SADF officers allegedly implicated in a top secret military signal calling for the “removal from society” of the four men.

Retired State Security Council member Major-General FJ van Rensburg and Commandant Lourens du Plessis, formerly of Eastern Province Command, have been subpoenaed to appear from March 8.

The SADP’s Chief of Staff Intelligence, General CP “Joffel” van der Westhuizen, will give evidence from March 16.

Eastern Cape acting Attorney-General Mr Michael Hodgen said he would table new affidavits, representations and papers collated over the past year. Goniwe would then decide on whether further subpoenas should be issued.

Mr Matthew Goniwe, Mr Fort Calata, Mr Sparrow Mkhonto and Mr Stelio Mkhwebini were murdered near Port Elizabeth on June 27 1985.

- Eca
Goniwe inquest reopens today

By Helen Grange

Today sees the start in the Port Elizabeth Supreme Court of the reopened inquest on the June 1985 death of East Cape activist Mathew Goniwe and his three activist friends.

The inquest is the culmination of nine months of investigation, which began after President de Klerk’s order in May to reopen the case in view of new evidence which indicated State security force complicity.

Goniwe, Fort Calata, Sparrow Mkhonto and Si-celo Mhlahlo were found dead under hedges at the roadside on June 29, 1985, two days after they went missing while travelling to Cradock.

Goniwe was a school teacher and activist in the United Democratic Front at the time.

Last May, Transkei military leader General Bantu Holomisa released a “top secret” military document in which SADF Intelligence Chief of Staff, Major-General Joffel van der Westhuizen, was named as having issued a signal to “permanently remove” Goniwe from society. He was then a brigadier in Eastern Province Command.

Former security operatives have since alleged that Goniwe’s killing was carried out by a special SADF civilian unit called “Hammer”, established by Van der Westhuizen in the early 1980s.

Last August, a farmer, Andre de Villiers — who was apparently leaking information on “Hammer” to the ANC — was shot dead.
The Minister of Justice

The Joint Standing Committee on the Administration of Justice has, in accordance with Standing Order 11(1)(c), introduced the following Bill:

Bill 84
An Act to provide for the establishment of the Office of the Commissioner of the Court of Queen's Bench, in Winnipeg, Manitoba

House of Assembly

TUESDAY, 2 MARCH 1993

290

Mandate

27
PROCLAMATION
by the
State President
of the Republic of South Africa

No. R. 11, 1993

COMMENCEMENT OF SECTION 2 OF THE INQUESTS AMENDMENT ACT, 1991 (ACT No. 8 OF 1991)

Under section 10 of the Inquests Amendment Act, 1991 (Act No. 8 of 1991), I hereby fix 1 March 1993 as the date on which section 2 of the said Act shall come into operation.

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

F. W. DE KLERK,
State President
By Order of the State President-in-Cabinet

H. J. COETSEE,
Minister of the Cabinet

94940—A

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PROKLAMASIE
van die
Staatspresident
van die Republiek van Suid-Afrika

No. R. 11, 1993

INWERKINDERING VAN ARTIKEL 2 VAN DIE WYSIGINGSWET OP GEREGTELIK DOODSONDERSOEKE, 1991 (WET No. 8 VAN 1991)

Kragtens artikel 10 van die Wysigingswet op Geregtele Doodsondersoeke, 1991 (Wet No. 8 van 1991), bepaal ek hierby 1 Maart 1993 as die datum waarop artikel 2 van genoemde Wet in werklikheid treedt.

Gegewe onder my Hand en die Seel van die Republiek van Suid-Afrika te Kaapstad, op hede die Ses-en-twintigste dag van Februarie Eenduisend Negehonderd Drie-en-negentig

F. W. DE KLERK,
Staatspresident
Op las van die Staatspresident-in-Kabinet

H. J. COETSEE,
Minister van die Kabinet
A senior Johannesburg Department of Transport official, charged with fraudulently approving taxi permit applications, altered 45 written Local Road Transport Board decisions because he wanted to cut red tape, his lawyer claimed in the Johannesburg Magistrate’s Court yesterday.

Board secretary Gustav Vorster (25) has pleaded not guilty to 105 charges, including fraud, corruption and contravening the Road Traffic Ordinance.

His lawyer, Thyis Kotze, told the court that Vorster admitted changing the board’s decisions on applications for taxi permits.

But Vorster, who is charged with receiving money, burglar bars and groceries for the alterations, would deny in his evidence that anything had “passed under the table”, Kotze said.

He said Vorster’s actions, between September 1990 and August 1991, had been in line with the policy of the board and the department.

**Irregularities**

"It is clear that the practice of laissez-faire issue of permits had become culture in the department. Permits were being issued left, right and centre," Kotze said.

Cornelia Wilsenach, a senior administration official in the department, said she discovered irregularities in the issue of taxi permits after being appointed to investigate the matter in December 1991.

She said applications for taxi permits were granted or rejected by the Local Road Transport Board. As secretary, Vorster would send a letter of approval or rejection to the applicant. A letter of approval would then be used to obtain the permit.

She said Vorster changed 45 of the letters, some to allow the applicants to collect permits for more taxis than approved, and others to allow the applicants to obtain permits when their applications had been rejected outright.

Kotze said 96 percent of rejected applications succeeded on appeal to the National Transport Commission, and that Vorster knew that his actions would cut red tape.

The hearing continues tomorrow.
Action sought on 'headache' Gonnie

By Helen Grange

PORT ELIZABETH—Matthew Gonnie became such a headache to the State in the months before his killing that the then-Minister of Police, Louis le Grange, was asked to consider possible actions which could be taken against the eastern Cape activist, according to an affidavit handed to the Port Elizabeth Supreme Court yesterday.

The startling document was handed to the reopened inquest on the death of Gonnie and three activist friends on June 27 1985. The hearing began yesterday. The bodies of Gonnie, Fort Calata, Sparrow Mkhonto and Sicelo Mlahwini were found behind bushes on a road near Bluewater Bay two days after they disappeared.

Proceedings yesterday involved the submission to the inquest of piles of affidavits and papers—some top-secret military documents—by Eastern Cape Attorney-General Mike Hodgson. In one affidavit, General PJ Coetzee, a former commander of the SAP Security Branch in the eastern Cape and a member of the now-disbanded State Security Council (SSC), said a top-secret document was prepared on possible action to be taken against Gonnie, to be considered by the Minister.

The document, which detailed Gonnie's background, raised questions on whether he should be detained or reappointed as a teacher in Cradock, a post he had been dismissed from. Either way, there would be criticism, the document warned.

Other affidavits focused on the June 7 1985 signal sent by Eastern Province Command recording an order for Gonnie's "permanency removal from society". A number of officers involved with the former administration of Eastern Province Command and the 1 SSF structures denied they ever saw or filed such a signal.

However, the man alleged to have received it, General JFJ van Rensburg, a former SSC member, said in his affidavit the wording of the message "troubled" him.

The signal is alleged to have been sent by Brigadier "Joffel" van der Westhuizen, currently Military Intelligence chief of staff, who was at that time commander at Eastern Province Command and creator of a special SAPF unit called "Hammer".

Van der Westhuizen said in his affidavit that, if the signal existed, he did not remember it. It was possibly written with a view to long-term detention, he added. A signalman at Eastern Province Command at the time, HJ Pretorius, said he was personally responsible for sending the signal. It had been signed by Colonel Lourens du Plessis, also of Eastern Province Command. He said such a signal would have been kept for three months, then destroyed.

Du Plessis admitted he had the signal sent. It was a written record of a telephone conversation between Van der Westhuizen and Van Rensburg, he said.

Other affidavits and security documents handed to the inquest yesterday revealed widespread State concern about Gonnie's activities. He was the subject of a number of meetings by the Eastern Province Joint Management Centre, a notorious security structure set up by the P W Botha government.

Minutes of these meetings given to the inquest reflect the State's dilemma over how to deal with Gonnie's defiance. It is clear the State's concern was that he had enormous influence locally and internationally.

The inquest was adjourned for the rest of the week so counsel could peruse documents handed in and draw up a list of witnesses they want to take the stand. Van Rensburg is expected to testify.
A Chance to Clean the State

YESTERDAY. news item.

2/16/19
Sentence of lashes may be appealed.

Staff Reporter

CAPE: attorney-general, Mr Frank Kahn said yesterday he may appeal against a sentence of six lashes and a suspended 30 months' imprisonment imposed on a teen-aged murderer.

Mr Kahn said he had called for the court records to be typed so they could be studied "with a view to appeal".

According to a weekend newspaper, Songozi Fayo, 19, of Khayelitsha, admitted murdering, in June last year, Mr Khothayo Magalela while he slept.

The court found Fayo had stabbed Mr Magalela to avenge himself against an earlier attack, and sentenced him to six lashes and a further 30 months' imprisonment suspended for five years.

The sentence has been slammed for being too lenient. [213]
MESSAGE said to implicate South Africa's military intelligence chief in the 1985 murder of a prominent black anti-apartheid activist has disappeared, an inquest heard yesterday.

But Eastern Cape Attorney-General Mr. Michael Hodgson presented affidavits to the inquest saying a military signal sent under the name of General Joffe van der Westhuizen did exist.

Hodgson submitted the documents when the State reopened the inquest in the Port Elizabeth Supreme Court into the murder of Matthew Goniwe and three other black activists, Sparrow Mkhonto, Sisolo Mhluuli and Fort Calata.

The new hearing was ordered by President FW de Klerk after the New Nation newspaper in May last year published what it said was a military signal calling for the "permanent removal" of Goniwe, his cousin Mhluolo Goniwe and Calata.

The first inquest ended in February 1989 after concluding the men had been killed by a person or persons unknown.

The alleged signal was sent under the name of Major-General Joffe van der Westhuizen, then head of the Eastern Province Command and now head of Military Intelligence.

Court sources said Van der Westhuizen could be called to testify.

Hodgson said investigators had been unable to find the message form and there appeared to be no break in the signal serial numbers.

But he submitted an affidavit from Defence Force signaler IJ Pretorius saying he recognised and had personally handled the signal that appeared in New Nation.

Hodgson said a man he identified as Louis

Philippe Coetsee of the Defence Force had investigated for the force how the signal had reached the New Nation.

He said Coetsee had concluded the signal did exist. It would not have been filed but would be kept by the staff officer of the Joint Management Centre (JMC) in the Eastern Cape.

The JMC was a shadowy military-controlled network set up by former President PW Botha and reporting directly to the Cabinet.

Hodgson told the inquest Commandant Louise du Plessis was JMC area staff officer at the time and had approved the signal message form. — Sapo-Reuters.
Military signal on Goniwe missing

PORT ELIZABETH — A message said to implicate SA's Military Intelligence chief in the 1985 murder of Matthew Goniwe had disappeared, an inquest heard yesterday.

But Eastern Cape Attorney-General Michael Hodgen presented affidavits saying a military signal sent under the name of Gen Jeoffrey van der Westhuizen did exist.

SAPA-Reuters reports the new hearing into the murder of Goniwe and Sparrow Mkhonto, Scebo Mahladi and Fort Calata.

Hodgen was ordered by President F W de Klerk after the publication last May by New Nation of what it said was a military signal calling for the "permanent removal" of Goniwe, Mbhilo Goniwe and Calata.

The original inquest concluded that the men had been killed by persons unknown.

The alleged signal was sent under the name of Van der Westhuizen, then head of the Eastern Province Command and now of MI. Hodgen said investigators had been unable to find the message form and there appeared to be no break in the signal serial numbers. But he submitted an affidavit from SADF's signaler H J Pretooms saying he had co-ordinated and handled the signal that appeared in New Nation.

Hodgen said Louis Philippus Coetzee of the SADF had investigated for the force how the signal had reached New Nation. He said Coetzee had concluded the signal did exist. It would not have been possible but... (To Page 2)

Goniwe

would be kept by the staff officer of the eastern Cape's Joint Management Centre.

Hodgen said Cpt. Lourenco du Plessis had been JMC area staff officer and had approved the signal message form.

Van der Westhuizen, in his affidavit, denied ordering the killing. On the message, dated three weeks before the murders and referring to a telephone conversation between him and Maj. Johannes Frederik Janse van Rensburg, he said "It is not in my handwriting and I did not sign it."

Van Rensburg said in his affidavit the signal was not an instruction for murder.

Our Port Elizabeth correspondent reports that Van Rensburg's affidavit said the signal had followed a meeting with the Joint Co-operation, Development and Education Department, responsible for black education. It also disclosed that Goniwe, a teacher, was discussed at a meeting of the Secretariat of the State Security Council 20 days before his murder.

Van Rensburg said that during June 1985, when he was seconded to the secretariat, he had been approached by Jaap Marais of the department.

Marais told him his department was experiencing problems in Cradock, specifically in relation to Goniwe, who had played a leading role in the unrest. When Goniwe's dismissal aggravated the situation, the department had considered removing him.

Van Rensburg said after the meeting with Marais, he phoned Van der Westhuizen for advice, which the latter undertook to forward "speedily".

"I remember that shortly after the telephone conversation I received a written signal from the Eastern Province Command...

Van Rensburg said he was leader of a working group which provided advice to government on introducing a state of emergency, which would facilitate keeping leading figures for lengthy periods."

The top secret signal read:

"1. Personal for Gen van Rensburg...

"2. "Telephone conversation between Gen van Rensburg and Brig vd Westhuizen on 7 June 85.

"3. "Names as follows: Matthew Goniwe, Mbhilo Goniwe (brother or nephew of BG) and Fort Calata."

"4. "It is suggested that the above-mentioned persons be permanently removed from society as a matter of urgency."

"5. "Local reaction as well as nationals should be expected considering the importance of these people, especially the first-mentioned, for the enemy, for example:

"a) Interdicts such as in the case of the disappearance of (Gqamvili) Godloni (photographer) Hishoe and 

(c) Sympathy protests such as in the case of 

(d) Pebeus, the inquest resumes next week..."
Vermaas begins defence on 154 charges

Former Pretoria attorney turned businessman Albert Vermaas, who has pleaded not guilty to 154 charges including fraud, theft and the contravention of exchange control regulations, has begun his defence in the Pretoria Supreme Court.

Vermaas, of Waterkloof, yesterday outlined the history of a number of business operations before Mr Justice Kirk-Cohen.

Some of these business operations have since been liquidated.

The more than 40 businesses include construction companies and garages. Each had its own manager and staff.

The companies operated in areas including Natal, Kimberley and Ciskei.

Vermaas's trial resumed yesterday after it was adjourned on January 23.

The charges against him include 101 counts of fraud, six charges of theft, 15 contraventions of the Exchange Control Act, various charges of contravening the Companies' Act, seven charges of possessing firearms without a licence and various other charges relating to the negligent loss of firearms.

The State alleges that Vermaas, trading as WA Vermaas and Company, had until November 1988 operated an investment scheme, obtaining short-term investments at high interest rates.

On receiving investments, Vermaas allegedly pre-dated cheques for the repayment of the capital amount and cheques in respect of interest.

The investments were allegedly mutually deposited for Vermaas's credit at Volkskas Ltd.

It is also alleged Vermaas has been the sole shareholder and director of the company, Reef Acceptance.

This company allegedly received moneys for investment between January and November 1988.

The State claims debentures were issued in respect of certain investments.

Vermaas himself is alleged to have obtained investments for his scheme, periodically offering new investors excessively high interest rates and selling investments in the scheme growing considerably between 1987 and 1988.
No indemnities since
Bill rammed through

Political Staff

CAPE TOWN — Eight people have applied for indemnity under the Further Indemnity Act, Minister of Justice Kobie Coetsee said yesterday.

He was answering a question in Parliament by Douglas Gibson, Democratic Party MP for Yeoville.

Coetsee said that up to February 22, eight people had applied for indemnity under the Act. The applications were still under consideration, so no indemnity had been granted to date.

Coetsee did not release the names of the eight who had applied, nor the nature of the crimes involved.

Urgent

The Further Indemnity Act was passed by the President's Council after it was defeated at a joint sitting of the three Houses in October because Solidarity voted against it.

Gibson said yesterday “South Africa will recall the indecent haste with which the Bill was rammed through Parliament last year.”

The Government said at the time that the Bill was so urgent and so necessary that it had to go through the President's Council. Yet five months later no person had been indemnified.

“Why the almost indecent haste to pass the Bill? Why was the president prepared to damage his own reputation and that of the Government for nothing?” asked Gibson.

In reply to a question from Jurie Prinsloo, Conservative Party MP for Roodepoort, Coetsee said 5 220 people had been granted indemnity under the 1950 Indemnity Act after leaving South Africa illegally.

Training

Another 4 639 people had been granted indemnity after undergoing military training in a foreign country with a view to overthrowing the Government.

Indemnity had been granted to another 1 015 people who had committed other crimes with political motives, Coetsee said.
Commuter tells trial of train killing

By Susan Smuts

A man burst into a train coach and fired on commuters before three other men — armed with a kerrie, a hammer and a tomahawk — attacked passengers and threw them from the train, a witness told the Rand Supreme Court yesterday.

Alfie Lekhuwane told Mr Justice J Els he saw Albert Dlamini walk into a coach on the Katlehong-Germiston train on October 9 1991 and fire a shot at a man reading a newspaper. He said Dlamini walked through the coach while commuters ran to the back of the compartment and tried to hide under seats.

Dlamini (30) of Katlehong has pleaded not guilty to murdering three commuters, attempting to murder nine others, and to the illegal possession of arms and ammunition. The State alleges he was part of a gang which injured and killed passengers.

Lekhuwane said Dlamini had shot him in the leg. Three other men entered the coach and started to assault passengers. He did not mind being beaten as this was “better than dying”. He said he saw Dlamini throw one man out of the train.

When Lekhuwane was asked to point Dlamini out to the court, he identified a man sitting in the public gallery, not Dlamini, who was seated in the accused bench. Lekhuwane explained he had earlier seen Dlamini in the public gallery talking to the man.

The hearing continues.
Murder charges dropped

By Jo-Anne Collinge

Four leading members of the Tokyo Civic Association are considering suing the authorities after the dropping of charges brought against them for the murder of one-time Phola Park leader Prince Mhlambi and four other young people in October.

Abraham Motaung, Philemon Mapatje, Gideon Letlolo and Jeremiah Motselela felt they had strong grounds to sue for unlawful arrest and malicious prosecution, civic association secretary Louis Sibeko said this week.

"We knew from the outset their prosecution was just a form of harassment. We are not surprised they have been cleared."

The prosecution of two others accused in the Mhlambi case, Paul Mokoena and Joshua "Yster" Mchunu, will continue.

They remain in custody and will appear in court in Alberton on March 25, when a date will be fixed for their trial in the Rand Supreme Court.
Young wins settlement from Pact

Pretoria Correspondent

Actress Gaynor Young yesterday reached a settlement with the Performing Arts Council of the Transvaal and seven of its employees in her civil claim for compensation following two days of negotiations between their legal teams.

In terms of an agreement between the parties, the details of the settlement are to remain confidential.

Pact also withdrew its opposition to a claim by Young for increased claims under the Workmen’s Compensation Act, leaving the way for the Workmen’s Compensation Commissioner to hear evidence from witnesses and to make a ruling on whether Young will receive more assistance with her medical bills and pension.

In submissions handed in as an exhibit before the commissioner and two assessors by Young’s counsel, Peter Pauw, Pact accepted that “a dangerous situation was created” during a scene in the performance of Camelot on December 9, 1989 at the State Theatre, which led to Young falling 18 m off-stage and sustaining injuries.

They also said the method Pact use to guard against accidents and injuries was to rely on rehearsals, actors’ expertise and instructions given to them. Pact did not grant Young a full dress rehearsal before allowing her to play the part of Guinevere in the play.

Also, several Pact employees, including the director and assistant director of Camelot, were responsible for the safety of the actors on stage, the design of the set, and the implementation of safety mechanisms in terms of the Machinery and Occupational Safety Act.

As part of the agreement, Pact agreed to furnish Young with such documents and evidence as she may require in the hearing before the Workmen’s Compensation Commissioner.

Pact will also, as far as possible, assist in arranging for an inspection in loco of the State Theatre.

The hearing continues today with Young’s counsel leading evidence for increased compensation.
Blast case heard in absentia

The case of a Mozambican man, arrested after a grenade exploded outside the IFP offices in Johannesburg on Sunday, was heard in absentia in the Johannesburg Magistrate's Court yesterday. Jose Mahlaba, who was injured in the blast, is still in hospital.
Demos over SABC board

The ANC yesterday welcomed President F W de Klerk's announcement at an SABC board meeting on Tuesday that the SABC was to be depoliticised, but said it contradicted official ministerial positions.

Government appeared to be trying to prolong the present board's life, the ANC said.

ANC spokesman Cori Nicholls, left, yesterday took part in a demonstration for independent broadcasting outside the SABC in Johannesburg. Similar protests were held in Durban and Cape Town.

FORMER Allied MD Kevin de Villiers told the Rand Supreme Court yesterday he had received threats of dismissal and been the subject of motions of censure after publicly opposing the proposed UBS takeover in favour of the FNB offer.

De Villiers said there had also been controversy among board members as to whether a clause entitling directors to make their opposition to the takeover public was applicable in his case.

De Villiers is a key witness in a R15m dispute between marketing company Tythery Investments and Absa Tytherley MD Peter Mancer as suing Absa for part payment of a R4.5m contract he concluded with De Villiers, involving Allied's sponsorship of SA yachtsman John Martin in the 1990/81 BOC race.

De Villiers and Mancer signed the agreement in September 1990, seven months before the UBS takeover and formation of Absa. Absa is defending the claim on the grounds that the agreement was never intended to be a valid contract.

It is alleged the agreement was a device created to enable Allied to unlawfully claim benefits Mancer and De Villiers insisted that the sponsorship agreement was a valid contract, and denied it was created as a tax dodge.

Absa counsel M Tselemps SC yesterday cross-examined De Villiers about the inclusion of the clause allowing directors to publicly oppose the proposed UBS offer.

"It was very sporting of them," said de Villiers, who remarked "Very correct of them, Mr Tselemps, not sporting at all," replied De Villiers.

"Once my position had emerged more clearly I tended to be excluded from negotiations," he said. "It was put in the hands of (Norman) Aldborough."

De Villiers said that at that stage he had difficulty in getting board meeting minutes, but there had been discussions about interpretation of the clause. He told the court there had been "long acrimonious debates", to which he was often not a party, about whether or not the clause applied to himself.

One interpretation had been that as group MD he was not a "normal" director and therefore not entitled to go public "On my interpretation I was entitled to make my opposition public.

De Villiers added that from feedback he had he understood some board members had accepted his interpretation of the clause while others had not.

The court adjourned briefly when Mancer's counsel T Beekling's said his legal team had anticipated this line of questioning and had been denied access to the Allied board meeting minutes from the takeover period.

After the adjournment Tselemps told Judge W J Hartzenberg there had been misunderstanding between the attorneys acting for both parties and that the minutes would be made available.

SUSAN RUSSELL
Accused 'paid to kill train commuters'

By Susan Smuts

A man charged with attacking train commuters in 1991 said he had received guns and money to do his "work" from an East Rand hostel, a witness told the Rand Supreme Court yesterday.

Alfred Diamini (30) of Katlehong has pleaded not guilty to murdering three commuters, attempting to murder nine, and illegal possession of a firearm and ammunition. He was allegedly one of a group which attacked commuters on a train to Germiston in October 1991.

Witness Simon Komane told Mr Justice J. Eells he was an ANC supporter. He had been injured in the attack and taken to hospital. On suspicion of having taken part in the violence, he was taken to Modderbee prison where he was put in a cell with Diamini.

Diamini told him they would have to get lawyers because "we have been caught".

"He said that when we leave the prison we must go and collect money. He said he had to collect R90,000. He said they had been given money and guns from the Kwezane hostel."

Komane said Diamini told him he had attacked commuters because "it was the work they were given to do."

The hearing continues.
False plate link to Goniwe

By Helen Grange

A false number plate found near slain activist Matthew Goniwe’s burnt-out car on June 29 1985 belonged to a vehicle which, the year before, parked frequently outside the buildings housing the security police and Murder and Robbery Unit in Port Elizabeth, according to an affidavit in the Goniwe inquest.

The reopened inquest on the brutal killing of Goniwe and three other activists on an eastern Cape road on June 27 1985 began on Monday and is to resume next Monday in the Port Elizabeth Supreme Court.

In an affidavit, Colonel Jacobus Jonker of the SAP outlined his discovery that the number plate — CB16327 — had picked up several parking tickets during 1983 and 1984 in Strand Street, next to Sanlam Building.

The building housed the security branch and the Murder and Robbery Unit, Jonker said. He added that the false number plate had been found near Goniwe’s burnt-out car on June 28 1985.

During 1983, seven tickets were first issued to a Ford car, but later, tickets were issued to another Ford carrying the same number plates, according to an affidavit by Anna Stottz of the Port Elizabeth Traffic Department.

All seven tickets had been withdrawn by the senior State prosecutor at the time, she said.

According to an affidavit by Lieutenant-Colonel Ronald Dawson, who ran the SAP’s Eastern Cape Vehicle Unit at the time, the number plate concerned was not registered.

Colonel Karel Britz of the SAP Murder and Robbery Unit has stated that during his investigations, he established that false number plates could be used under certain circumstances.

He could not trace which false number plates had been used and when.
Actress's aid bid opposed

Pretoria Correspondent

Actress Gaynor Young's bid for increased benefits from the Workmen's Compensation Fund continued with legal arguments by her counsel and the attorney for the Accident Fund.

At the hearing in Pretoria yesterday before the Workmen's Compensation Commissioner, the legal officer for the Accident Fund — Herbert Rademeyer, who is also the first respondent in the legal battle — instructed Sam Maritz, who had been representing the Performing Arts Council of the Transvaal (Pact), to be counsel for the Accident Fund.

Peter Pauw, representing Young, argued that Rademeyer had no legal basis on which to oppose Young's application for increased compensation, because he had shown no interest prior to Pact withdrawing from the case to oppose the application.

He said Rademeyer should have filed a counter-claim after Young had made application for more aid.

Pauw argued that the commissioner could not delegate his powers to oppose the claim to Rademeyer.

The hearing continues today.
Families take fight to court

By Jo-Anne Colliage

The case of the tiny community of Khosis, who claim the right to live undisturbed on ancestral land in the middle of the army's vast P W Botha Battle School near Lohatla, comes before the Supreme Court, Kimberley, today.

Joseph Free, head of one of the 40-odd families who refuse to quit their land, will ask the court for an order ensuring peaceful and undisturbed occupation, free of SADF interference.

The applicants want to be allowed free access to their homes, over the most convenient route. They argue that hardship has been caused by the closing of certain gates to the camp since September last year, when an unsuccessful attempt was made to get the entire Khosis community to move to Jemhaven.
Court told of cash for permits

A transport consultant yesterday told the Johannesburg Magistrate's Court that he paid thousands of rands in cash to a senior Department of Transport official for "granting" taxi permits.

"Sunny" Doorsamy told the court that he gave Gustav Vorster, then secretary of the Local Road Transport Board, R3,300 for the "authorisation" of 11 taxi permits.

The Local Road Transport Board, the body that officially approves or rejects local taxi permit applications, had granted permits for only two of these taxis.

Cornelia Wilsenach, a senior administration official of the Department of Transport, told the court on Monday that before November 1991 the total cost of obtaining a permit was R110.

Doorsamy said he also paid Vorster R600 for "granting" another two taxi permits. Neither of these permits was authorised during an earlier board hearing.

Doorsamy said he felt bad about paying Vorster for granting the permits, but he wanted to keep his clients happy and stay in business.

He did not use the option of appealing to the National Transport Commission in Pretoria because this would have taken too long, Doorsamy said.

Vorster has pleaded not guilty to 105 charges, including fraud, corruption and contraventions of the Road Traffic Ordinance.

He allegedly committed the crimes between September 1990 and August 1991. The trial continues.
Immigrants brought to SA illegally

A Chinese businessman living in Johannesburg was convicted in the Johannesburg Magistrate's Court yesterday of unlawfully bringing 10 illegal immigrants into the country.

In his guilty plea explanation, Xie Yan (28) told the court that he knew he had not made the necessary arrangements when he brought the Chinese citizens into South Africa for a commission of between $8 000 and $10 000 (R9 000 and R15 000) per person.

The immigrants were first taken from Shanghai to Lesotho, then brought into South Africa between November 15 and December 29, last year.

After Yan had been found guilty on the charges, investigating officer Sergeant Andre Erasmus told the court that the immigrants, who were only given transit South African visas, ended up stranded and without work.

"They could do nothing but sell watches on the streets," he said.

Erasmus said the immigrants' air tickets and passports were removed from them after their arrival in South Africa.

He said Yan himself was due for deportation, as his temporary visa had expired last December.

Yan's lawyer, FA Chester, said in mitigation of sentence that Yan had used most of the money earned through the scheme to help the immigrants find work and accommodation. He could only afford a fine of just over R5 000, Chester said.

The immigrants are due to be sent back to China tomorrow, Erasmus said.

Magistrate F Roets reserved sentence for tomorrow.
Insights into ‘total strategy’

BY SHADLEY NASH  Port Elizabeth

DOCUMENTS submitted to the Gonwe inquest which began this week provide a fascinating insight into details of how the state waged its “total strategy.”

Among the dozens of affidavits handed in was a copy of confidential minutes of a meeting of the Eastern Cape Joint Management Centre (JMC), which details the lengths PW Botha’s government went to keep tabs on its taxpayers in the mid-1980s.

Matthew Gonwe, the “problem teacher,” the fact that coloured sportpeople were moving away from the South Africa Council on Sport, and even the arrival of three Taiwanese ships in Port Elizabeth harbour all these came under the scrutiny of the JMC at its meeting of May 23 1985.

At one point, illuminating the influence of the securocrats over the SABC, the JMC decided to inform the corporation that programme scripts should first receive departmental approval.

The documentation was handed to the Eastern Cape judge president, Mr Justice Neville Zietsman, at the start of the inquest on Matthew Gonwe and three other Cradock activists in the Port Elizabeth Supreme Court.

The four activists were murdered in 1985. The inquiry was reopened after the New Nation last May published a signal message which recommended the “permanent removal from society” of Gonwe and others.

The inquest adjourned until Monday to allow all parties to study the documents. Mr Justice Zietsman appealed for anyone with additional information to come forward.

The affidavits reflected the close watch the government kept over Gonwe just weeks before his death. The “difficult” teacher was brought to the attention of military intelligence by the Department of Education and Training (DET), resulting in two signal messages about him being sent from Eastern Province Command to the Secretariat of the State Security Council.

The first signal deals with a recommendation from the Eastern Province JMC at its meeting on May 23 1985 that suspended teachers Gonwe and colleague Fort Calata should “never again be reappointed.”

The second signal message, the focus of the reopened inquest, deals with the now famous passage recommending Gonwe’s “permanent removal from society.”

In various affidavits, security officials claim the phrase did not mean his murder, but rather his detention.

The story begins when DET official Jaap Strydom approached the Secretariat of the State Security Council. In his affidavit, Major General Johannes Janse van Rensburg — who was on the secretariat at the time — said Strydom told him the DET was experiencing “serious” problems in Cradock, specifically with Gonwe.

Van Rensburg said Gonwe was an important leader and as such played an important role in the unrest situation in the area. He said the security problem in Cradock was so serious that the DET had even considered reappointing Gonwe.

He said the reappointment of Gonwe would have regional security implications and he therefore discussed the issue with General Jassie van der Westhuizen, now chief of staff intelligence but then a brigadier and officer commanding EP Command.

Van Rensburg said he tasked a Brigadier Geldenhuys to form a committee to solve the Gonwe problem. He said the committee recommended that Gonwe could be reappointed, but should be banned from restricting his movements. This decision was to be communicated to the DET head office by Strydom.

However, shortly after discussing the issue with Van der Westhuizen, he received a signal message from EP Command. Van Rensburg confirmed the content of the message in a telephone conversation with the document published by New Nation.

The question of Gonwe’s re-employment was not the only issue to receive the attention of the JMC at its meeting. Under item 7 on the agenda, the JMC registered its objection to an SABC news overview on May 19, 1985 on the schools unrest situation, describing it as being negatively handled. “The script must first be approved by the relevant department,” the minutes stated.

“Mr Verster (the SABC representative at the meeting) will communicate this recommendation to the SABC during a planned visit to Johannesburg,” the minutes note — Pen.
Tracking the guns of Imbali

How many more people must die before the killers of African Natal Congress Midlands leader S'khumbuzo Ngwenya are brought to book? This is the question many people are asking after Imbali's mayor, a fellow town councillor and a councillor's son were acquitted in the Pietermaritzburg Supreme Court last week of murdering Ngwenya.

Ngwenya was gunned down as he left a Pietermaritzburg hotel after dining with friends on February 8 last year.

The prosecution's case was based on a 9mm cartridge case found at the scene of the killing and subsequently linked by a state forensic expert to parts of a 9mm Walther pistol belonging to accused number one - councillor Abdul Awetha. The pistol was from a batch of firearms that had been issued to councillors by the Imbali Town Council.

Forensic tests about a month after the murder ascertained that certain parts of Awetha's gun had been swapped with those of a gun belonging to Imbali's mayor, Phikelela Ndlovu, accused number two. The tests also found that the firing pin and barrel of Awetha's gun had recently been damaged, making it impossible to conduct a thorough ballistic examination.

However, the ballistic expert said marks left on the 9mm cartridge by the ejector and breech block of Awetha's gun were sufficient proof that the gun had been used at the scene of the crime.

It was concluded that the alterations and damage to Awetha's gun were designed to thwart ballistic examination and thereby destroy chances of the weapon being linked to the crime.

The defence called in another ballistic expert to refute these conclusions. Confronted by conflicting expert testimony, Mr Justice Combrink said it was impossible to find beyond reasonable doubt that there was a link between Awetha's pistol and the 9mm cartridge.

On the swapping of parts, the judge said this could have taken place while the councillors were cleaning their weapons. The damage to the firing pin and barrel could also have occurred accidentally.

The case against Awetha's son — who cannot be named as he is still a minor — was based on a single eyewitness, whom the court described as untruthful. The court rejected evidence that he had seen the councillor's son reconnoitring the hotel where Ngwenya was dining, fleeing from the scene of the killing and jumping into a getaway car.

The trial raised more questions than provided answers. It is understood that detectives worked hard to solve this crime. Why then was the case presented to court so weak?

Although Awetha was apparently a suspect, detectives only received a warrant to search his home for firearms on February 20 - 12 days after the murder.

During the search, the 9mm Browning pistol was handed over to the investigating officer. Where was the Walther, 9mm pistol, and why was it not handled over?

Detectives only found that Imbali town councillors all possessed 9mm Walther pistols in early March. The court did not ask how the detectives were not aware of the official supply of weapons while other policemen processed permits for these guns.

Giving judgment, Judge Combrink said Ngwenya's murder was part of a war between cowards who killed in the dark of the night. He ignored the testimony of Imbali superintendent Frederick Kelly that the Imbali violence sprang from conflict between the councillors and civic bodies supported by most residents.

Despite this evidence, the authorities empower, support and arm the councillors. According to evidence in the trial, the councillors have at their disposal a veritable armoury, including shotguns and pistols.

The judge did not comment on this evidence, nor the death of witnesses. He did congratulate the police for drawing up meticulous plans of the scene of the crime.

After the judgment, deputy attorney general Mike Roberts, who had led the prosecution, was granted an order that the guns be returned to the councillors.

A detective, formerly attached to the Pietermaritzburg riot investigation unit, once stumbled on evidence of a batch of 24 38 specials, purchased from Kings Sports by security police and distributed to Inkatha members in Imbali — all of them closely associated with town councillors.

The detective's investigations resulted in four of these weapons being connected to 17 murders in the township. In only two of these cases could convictions be secured.

Have the detectives who learned of the Walther 9mm pistols while investigating Ngwenya's murder checked whether past murders could be ballistically linked to these guns? The councillors are at the centre of the conflict in Imbali, and have been in possession of these weapons for about two years.
SOUTH AFRICA’S debate on a bill of rights has turned into a focus of political and judicial tension. To date, the African National Congress, the National Party and the Inkatha have all put forward their versions of “fundamental” rights. The Democratic Party is belatedly preparing its own.

Rights have become barter commodities, while the status of the people whose interests are supposedly at stake can be measured in inverse proportion to the esteemed legal minds involved in shaping up new rights.

The latest contribution, the ANC’s updated draft bill, has just arrived on the mail. It is a “preliminary, revised version” to be put to the movement’s policy conference for finality.

It is a cumbersome document, 24 pages long, consisting of 23 sections and numerous clauses and sub-clauses and points of explanation. Six of the sections have nothing to do with rights, but the procedures to be followed in the event of a state of emergency, when the president and a majority in parliament can suspend almost every civil liberty that the first 13 sections of the same document create.

The ANC draft points to the huge frustration on the discussions of bills of rights in South Africa — that it is not being conducted by flesh and blood people, but by political parties, backed up by bloated lawyers to dot the i’s, cross the t’s and mangle the language.

A good starting point in all rights-related talk is always to look at the section on freedom of speech and information, because this is where political parties must often be most like to fool around with.

Thus it is what gets one under article four of the ANC’s document: “There shall be freedom of thought, speech, freedom of discussion, and opinion, including the right to press which shall report and comment freely and respect the right of reply.”

The constitutional requirement that the press “shall report and comment freely” has been added since the last draft bill of rights in 1991.

What bothers one as that some of the finest legal minds in the country are involved. One would feel a lot better if this was the first draft.

The fact that they have come this far, laundered through a number sub-committees and discussion groups, etc., to arrive at this formulation proves that it is not possible to create a press in an extremely persistent strain in ANC thinking.

It is difficult to imagine that, after the legal experts have let this classic pass, an ANC policy conference, dominated as it would be by political activists, would feel a compelling need to stage it down.

It is hard to believe that a free press should report and comment freely and respect the right of reply.

But there seems to be a flaw in logic. Once the United States Supreme Court has made the point over and over again that some measure of abuse and error is in the very act of freedom of speech cannot be reintroduced to what it deemed to be law. Otherwise, it wouldn’t be free.

Besides, who will decide what is fair and what is unfair?

This provokes one to find out where lies within the era of John Vorster and the Nationalist government demanding that the press be responsible, but not even Vors or Stoffel Dutch attempted to embed an authorization provision on “unfair comment” in the constitution of the country.

On the programme are various bills of rights, played by South Africa’s political parties. But the African National Congress and National Party strain to the same tune — which has little to do with ensuring people’s rights.

Banging the rights drum
(but the sound jars)

By PHILIP VAN NIEKERK

On the programme are various bills of rights, played by South Africa’s political parties. But the African National Congress and National Party strain to the same tune — which has little to do with ensuring people’s rights.

Under the ANC’s bill of rights, allegedly devoted to create greater freedom, the press will be less free than it is now.

What is equally disturbing is what the section on press freedom, like the NP bill of rights, leaves out. Having gone to great lengths to provide an exhaustive list of rights for the citizenry in the rest of the bill, there is no freedom of information provision, no right of citizens to have access to the records of government.

This is a provision that could really empower people and, given the justifiable concerns of corruption and abuse of power, make government much more accountable.

The ANC is not silent on this point. Instead it professes the vague and unenforceable “all men and women shall be entitled to all the information necessary to enable them to make effective use of their rights as citizens, workers or consumers”.

Who will decide what the limits of “necessary” and “effective” are? The only conclusion one can draw from this phrasing is that lawyers are capable of containing formulations when they need to put duelling classes into contracts. One ought not to be too surprised. The ANC, as the probable future government, has never liked the media prying into its documents.

Last year, the commission of inquiry into the ANC’s detention camps recommended that the movement make the internal report into the 1984 camps mortality and the internal inquiry into the 1989 death of Umladio writer Sizwe Manland.

The release of both documents should be regarded as being in the public interest. Still, nothing has been forthcoming.

It is notable that the key finding of the Thabane Zulu report, which all accounts is a whitewash, is Albie Sachs, a member of the ANC’s human rights commission.

But it is not only what is actually said in the phrasing of the bill, or left out, but the whole cumbersome one sentence that sets both the ANC and the government’s charter on no problem.

The core freedoms are diluted and weakened when lumped together with every imaginable right, such as equality in marriage (a section that could conjure unnecessarily outlaw anti-apartheid contracts).

Press freedom and the right to a fair trial are degraded by one of don’t relatively short and some enforceable, others not.

It’s not that some rights are superior to others, it’s just that they’re not exactly in a neat bundle together.

Why not create a special charter of social and economic rights, excluding the rights of trade unions members, of children of the disabled, the rights to shelter and jobs, as a progressive statement, and the NP’s draft, separate from the practical and enforceable core civil rights?

There is much that is gravitation towards the ANC’s document. For instance, there is this clause: “Legislation may provide for reproductive rights to ensure that all children in the country are born healthy.”

“Do we really need to say this?”

It is reminiscent of one Noah Webster, who was opposed to a bill of rights in the American constitution and sarcastically suggested that a clause be included saying that states cannot prevent any inhabitant of America from eating and drinking, at reasonable times, or prevent his dying on his left side, as a long winter’s night, or even on his back, when he is fatigued from lying on his right.

The American Bill of Rights, an amendment to the constitution, has lasted more than 200 years. That is largely because its most empowering features are so relatively short and the language is wonderfully clear and simple.

At the end of the day, the ANC has produced a document that is a bundle of political correctness. It might win votes but ends up denying the object of a bill of rights.

As the DP’s Tony Leon says, both the National Party and the ANC have taken their political manifesto and dressed it up in bills of rights. He hopes that he will find in mind where he’s driven by, the DP’s version.

The most ominous aspect is that there is a convergence between the ANC and the NP government in the ease with which the core rights can be derogated — in which, for instance, people can be detained without trial and conspiracy introduced.

As the new South Africa is likely to face a military threat from the outside, unless supplies from Manza invade what we have as a blueprint for the crushing of internal dissent — and in the bills of rights yet.
Alleged killer did not confess

Wild Men sound like frames, fed up

Music festivals face sound boycott

Squatters rejected

Court move to stop

We've had enough — sound men...
Alleged Killer did not confess.

By Todd Makin

Sewom Correspondent

Cocaine drama at airport

The threat of black bloc protests looms large, with multiple groups planning demonstrations at the airport.

By Renols Kmodane

Deposited soon.

By Elease Cralle

Quarters rejected

The story of the court move.

NEWS

Worse had enough — sound men • Drug squad hunts escaped smuggler.
Allied board considered firing De Villiers in 1991

THE Allied board considered summarily dismissing MD Kevin de Villiers in early February 1991 for publicly supporting FNB in its battle with the USB consortium for control of the group, but censured and reprimanded him instead because of the imminent merger.

This and other details of the FNB-USB-led consortium takeover battle emerged from Allied board meeting minutes submitted as evidence in the Rand Supreme Court yesterday.

The minutes from the takeover period were put to De Villiers during his fourth day as a key witness in a R1.5m claim brought against Absa by marketing company, Tytherley Investments.

The R1.5m represents part payment of a R4.5m agreement, involving Allied's sponsorship of SA yachtsman John Martin in the 1991 BOC race, concluded between Tytherley Investments MD Peter Mancer and De Villiers.

Mancer and De Villiers signed the agreement on September 1990, some seven months before Allied merged with the USB consortium to form Absa.

Absa is opposing the claim on the grounds that the agreement was never intended as a genuine contract.

The banking group alleges the contract was a device to enable Allied to obtain benefits unlawfully under the Income Tax Act, which allows exporters to claim deductions on marketing expenditure abroad.

Both Mancer and De Villiers have denied the allegations.

De Villiers also denied the contract was anything but a sham designed to conceal the fact that a portion of the R4.5m was local advertising expenditure.

Absa counsel Tseletsus SC also put it to De Villiers that his evidence of harassment by the Allied board and his disagreements with them during the months prior to the takeover was incorrect.

"Whatever differences there might have been during the second half of 1990 there is nothing which fairly can be described as harassment which arise from these minutes," Tseletsus said.

"I disagree," De Villiers replied.

One minute records the anger of Sage chairman Louis Shill and other members of the Allied board when they were informed that De Villiers had made photocopied pages of shorthand notes from which minutes were drawn up.

It noted that De Villiers was "clearly at variance with every member of the board" and Shill is recorded as saying that a "parting of the ways should be considered."

The board had also found there were grounds for De Villiers to be summarily dismissed for publicly voicing his support for the FNB offer, but in view of the merger decided to censure and reprimand him instead.

Referring to the minutes of the AGM where three directors were removed and where De Villiers opposed Shill's re-election, Tseletsus asked De Villiers if it was correct that "Shill in defence of his nomination stated it was necessary to have a strong board of directors to keep you under control?"

"That's correct," replied De Villiers.

Referring to an internal investigation into allegations of insider trading, De Villiers said he had been interested in this inquiry because of the enormous increase in Allied share volumes during takeover negotiations.

The case continues today.

Massacre ‘aimed to derail talks’

THE brutal slaying of six school children at Table Mountain near Mzimkulu on Tuesday was a deliberate attempt to derail multiparty talks, Anglican Archbishop Desmond Tutu said yesterday.

Tutu's statement came as the third day of a massive police search for between five and seven gunmen who sprayed a bakkie with gunfire as it carried the children to school turned up nothing despite a R150 000 reward offered for information on the killings on Wednesday.

"This is timed to derail important negotiations, such as the ones due this weekend (the multiparty planning conference)," he said after visiting the site of the killings.

Police spokesman Capt Henry Bhudram said the Table Mountain area appeared to be calm following the deployment of additional internal stability unit police there on Wednesday.

He said no incidents of violence had been reported since the killing and no arrests had been made. He could not confirm a report that the driver of the bakkie had identified one of the killers.

Sapa reports Tutu was accompanied by SASCO secretary-general the Rev Frank Chikane and several senior Natal clergy.

"We are all shattered and almost speechless to think anyone could find justification for mowing down children in cold blood," Tutu said.

His delegation, which was later joined by UN observers, peace accord officials and unrest monitors, prayed at the scene.

The group visited the home of local Inkatha chairman Bernard Mkhize to pray and express condolences. Three of his children were killed in the attack.

Greeting Tutu's delegation, Midlands Inkatha leader David Ntombeba echoed the view that those responsible for the massacre were opposed to the multiparty planning conference.

DP leader Zach de Beer said yesterday he was "appalled" by the killings.
Follow the leader... a Sadtu member leads teachers in a protest song as they leave the Johannesburg Magistrate's Court yesterday.

Schools crisis falls under Goldstone's scrutiny

By Helen Grange

The Goldstone Commission has turned its attention to the schools crisis and has requested submissions on the intimidation of teachers, a commission source said yesterday.

A "go slow" at schools has disrupted education in Soweto this year, and there have been frequent reports on the intimidation of teachers by pupils.

The commission's new focus was initiated last month when it said it had received disturbing information about a number of incidents of violence and intimidation involving teachers.

Meanwhile, the commission is expecting reports on inquiries it held last year, including probes into the Bophelong massacre and train violence.

An inquiry into attacks on police offices continues from Monday in Pretoria, while in Cape Town the investigation into the smuggling of illegal arms into South Africa goes on today.

The commission's recommendation on guidelines to prevent mass demonstrations and protests turning violent has been gazetted for further submissions.

Current investigations by the commission's special investigation team are being kept under heavy wraps, as the work is "too sensitive", a source said.

It has also been established that the investigations into Military Intelligence is still in progress. It was launched in the wake of a raid on an MI building which revealed that former Civil Co-operation Bureau operative Ferdi Barnard had been employed by MI in 1991.

It is understood investigators are making good progress.
PORT ELIZABETH — Three men have been convicted for the bombing of a farm store belonging to an ANC supporter near Patensie in the eastern Cape in January.

The three are Abraham Young (37), who is a member of the militant rightwing Afrikaner Weerstands bewegung, Andre Vorster (36) and Frans van der Walt (35).

They appeared in the Port Elizabeth Regional Court.

Two other AWB members — 38-year-old Barend Mostert and 52-year-old Petrus Lombard — were convicted on a charge of illegally procuring explosives. Mostert and Lombard were each granted R200 bail, but Young, Vorster and Van der Walt were refused bail. The explosion caused damage of R30,000, which destroyed the shop of ANC supporter Malcolm Hepburn.
Inquest told of flight, stabbing

By Helen Grange

The mother-in-law of Fort Calata, one of three men who died with Matthew Gonwe on June 27, 1985, has claimed in an affidavit that a man told her she saw Calata run behind a tree after the car he was travelling in was stopped at a roadblock.

She said the man, Isak Speedman, told her Calata had run away after the occupants of the car were attacked.

The affidavit, along with others, was handed in to the re-opened Gonwe inquest in Port Elizabeth Supreme Court. The inquest resumes on Monday.

Speedman, in a separate affidavit, has denied any knowledge of the deaths of Gonwe, Calata, Sparrow Mkhonte and Sicelo Mhlawuli, saying he was working at Coin Security in Cape Town from April 1985.

He added, however, that Calata's mother, Nomonde — whom he knew well from childhood — had asked him in 1987 to find out how the four men were killed. He had failed to find out and she was "very angry".

Calata's mother-in-law, Vivian McLean, has stated that Speedman came to her home soon after Calata's death and told her that, as a soldier based in Queenstown, he had been ordered to man a roadblock in Port Elizabeth.

At the roadblock, he saw a girl from Cradock.

"When a vehicle approached the roadblock, he heard a girl say 'Hier's hulle' ... it was stopped and policemen and others approached it. He said the occupants of the car were treated roughly and he told me that he saw soldiers and policemen assaulting the occupants," McLean's affidavit said.

"As far as I recall, he said the occupants were assaulted with 'scherp goede soos messe'. I understand this to mean they were stabbed. He saw Fort Calata who, he said, ran behind a tree.

"The girl alerted the police and soldiers to the fact Fort was escaping. He said he then ran away because he did not want to see what happened next because he knew Fort."
Civics’ leader denies fascism

By Mike Siluma

Dan Mofokeng has greatly irritated “white” political parties in the past week.

The general secretary of the southern Transvaal region of the SA National Civic Organisation (Sanco) incurred the wrath of both the Democratic Party and National Party by declaring Sanco would oppose their election campaigns in black townships.

DP MP Tony Leon said Sanco’s stance — backed by Azapo — was evidence of “authoritarian fascism”.

Who is the man who has stirred a political hornet’s nest?

Before taking up his job at Sanco, Mofokeng worked as an organiser for two unions affiliated to the Congress of South African Trade Unions, and served on the federation’s Witwatersrand regional executive.

He describes himself as “an ordinary member” of the ANC and Communist Party branches in Katlehong on the East Rand.

At 33 he has not been able to vote in a democratic election and looks forward to exercising that right.

Are he and fellow Sanco members a bunch of undemocratic fascists, as his opponents allege?

Mofokeng is looking forward to voting.

“No,” he says. “Our understanding of democracy is that people should have the right to associate or not, to assemble or not; and to freely express their views without interference.

“But in South Africa today we have not yet arrived at that situation. For instance, our people still have to get permission for access to public venues from white town councils, the magistrates and the police.”

Mofokeng believes the “white” parties should be allowed to campaign in the townships only once the political playing field has been levelled. This should be done through a transitional executive authority and making available “State resources” to all parties for campaigning.

Releases tie up council

By Helen Grange

The National Council on Indemnity — set up in October to indemnify people who committed politically motivated crimes — has found that the bulk of its work involves applications for release from prison, the Department of Justice said yesterday.

The council is at present dealing with 654 applications for release from prison and only 432 first-time applications for indemnity.

Some 348 cases are being examined a second time, in terms of the Further Indemnity Act of 1962.

In Parliament this week, the Democratic Party’s Douglas Gibson said he had been told by the Justice Department that there had been only eight indemnity applications, and none had been granted.

The Ministry of Justice responded that a significant part of the council’s workload involved dealing with release applications, and Gibson was under the mistaken impression that only indemnity applications were being processed.

The council had met nine times and meetings were scheduled well into June.
WITH the findings of the Howard Commission of Inquiry into lotteries and gambling not expected until the end of March, one of the major players in the scratch card industry, Games Africa, has already taken steps to gear up for a national on-line lottery.

And a copy of an operating manual for the "intelligent terminal" supplied to Saturday Star — has examples of lottery tickets for a game called Lotto Africa. The tickets, printed in Greece, carry the logo and fund-raising number. The eight-page manual, printed in colour, carries the logos of both Ithuba Games — Games Africa's brand name — and Intralot, suggesting that it was specifically prepared for the South African company's use.

Printing tests

Ithuba Games financial director Richard Biesheuvel denied that tickets had been printed "We have been looking into lotteries, but nothing has been done," he said.

Later, Games Africa's director of communications, Yossi Schwartz, said "We told them we had the tickets, said the company had "done some printing tests, but we didn't print a lot".

Schwartz said Games Africa had decided "who our partners will be," and said "a few terminals" had been imported "for our internal training programme".

Schwartz said no contract to buy machines from Intralot had been concluded. He said the steps taken were not premised on any indications from Government that they would get the lottery franchise.

Last year, Saturday Star revealed that Games Africa managing director Eytan Rechter had influence in high Government places Rechter and his partner

JOHN PERLMAN
Chief Reporter

in a jewellery business, Shalom Shilman, twice asked then-finance minister Barend du Plessis to get them out of difficulties with the Reserve Bank.

Rechter and Shilman were given a financial windfall facility on condition that they made a jewellery and returned the profits to South Africa within 90 days. When details of returned export profits were not supplied, and customs intercepted a parcel containing gold and diamonds in separate packages, the concessions and access to gold supplies were withdrawn.

Du Plessis intervened to restore them.

Last month, Mr Justice A Howard recommended the creation of a single national lottery and wrote to President de Klerk expressing concern that Games Africa and the Board of Executors planned to introduce national on-line lotteries by April.

They were "determined to anticipate the commission's findings and attempt to corner the market," Howard said. This would "support the introduction of a single national lottery under State control".

Howard recommended a public warning that "persons who establish, commence, manage or conduct any such lottery will be liable to prosecution under the Gambling Act".

A Justice Department representative said: "the law allowed operators to "buy the material, but the moment it is used as a gambling game it becomes an offence". He said printing tickets and buying machines was "a calculated risk that may well go wrong".

Board of Executors representative, John Braithwaite, said his organisation had made "no capital expenditure".
Lieutenant strangled suspect

THE ANC yesterday demanded the immediate suspension and prosecution of the Soweto detective who an inquest court ruled had strangled armed robbery suspect Bethuel Maphumulo in 1990.

The findings by magistrate CG de Lange that Maphumulo's death was caused by Lt Henry Beukes' criminal conduct — warranted immediate action by police, the ANC said.

Police have said Beukes would not be suspended until the Attorney-General made a decision.

Maphumulo handed himself over to Soweto police. Lt Beukes later claimed that he "drowned in a swimming pool."
Appeal for witnesses

THE number of lawyers before the bench in the Port Elizabeth Supreme Court when the inquest into the death of the Cradock Four reopened last Monday almost equalled the number of people sitting silently in the small wood-panelled public gallery.

Outside the newly built building all was still — despite rumours that demonstrators might toy-toy through the white suburb of Central. But the locked front gate was the only sign that weighty matters were afoot inside.

Of the five top legal teams in Court E, the most visible was the Legal Resources Centre’s ownish heavyweight, Mr George Bizos, assisted by Mr Mahammed Navsa and a tired-looking director of the Grahamstown office of the LRC, Clive Plasket, representing the families of the murdered men.

They were surrounded by a small army of large, black-robed men: Mr Dip de Bruyn SC and Mr Johan Wessels for the SAP, Mr Anton Mestert SC and Mr Barnard Knoetze for the SADF, and Mr Nie

Teenvich, National Intelligence Service custodian of the newly opened top secret state files that now form part of the court record.

Translating a wad of affidavits as thick as the Johannesburg telephone directory from Afrikaans into English for five hours non-stop was the friendly deputy attorney-general of the Eastern Cape, Mr Mike Hodgen SC.

There are more than 50 affidavits — including one from Somerset East spring onion farmer Barbara Butters, who drove through a roadblock at Bluewater Bay onto Port Elizabeth on the night that Matthew Gomwe and his three comrades were murdered.

Sprinkled between them are minutes of a top secret State Security Council meeting, copies of SADF signals and security reports on the sacked Cradock schoolteacher and UDF activist.

In the public gallery, silent and sombre, were the widows of the victims: Nyaneka Guwé and silent-sunglasses Fort Calata’s wife, Nomalo; Sparrow Mikoito’s widow, Sun-

.., and Nombulelo Mhlawuli, wife of Siselo, sat with an old friend, Eastern Cape Black Sash stalwart Mrs Judy Chalmers, and regional ANC officials Linda Mt, and Bongani Gxilishe.

When the inquest resumes tomorrow, the Eastern Cape Judge President, Mr Justice Zietsman, will be on the bench.

He opened the inquest with an appeal for more witnesses to come forward.

Anyone with relevant information was invited to approach any of the five legal teams or the Legal Resources Centre, which could arrange for evidence to be given under a number of different witness protection schemes.

Mr Hodgen said yesterday that, depending on the individual circumstances, it might be possible for accomplices in the killings to apply for indemnity under the Criminal Procedure Act should they be prepared to testify.

He did not rule out the possibility of them also applying for political indemnity.
One item on the agenda was deferred to the SSC's meeting in July. It dealt with responsibility for fire-fighting services at national level.

Possibly the most illuminating minutes filed with the Fort Elizabeth Supreme Court last Monday are those of a special meeting of the Joint Operations Centre on June 1973.

Chaired by Brigadier CA Swart of the SAP, the gathering of seccurocrats wasted little time in getting down to business at a soccer match between Kaizer Chiefs and Witbank Black Aces at the Boot Erasmus Stadium.

The plan for dealing with an expected riot when the sports arena disgorged the anticipated 35,000 people late on a Saturday afternoon would have been done a general pride.

The rest of the meeting, the minutes cover little more than half a page, dealt with the education crisis and a women's meeting in the New Brighton Centenary Hall.
Khosis lock-out

An application by the embattled Khosis community to stop SADF interference with the peaceful occupancy of their ancestral land was dismissed with costs this week in the Kimberley Supreme Court.

The 40 families from the settlement situated in the middle of the SADF's sprawling PW Botha Battle School at Lohatla in the northern Cape have been fighting for the right to stay on their land and to have free access to it.

Now two of the main gates have been locked and residents have to produce identification when entering or leaving the area. Visitors need permits from the SADF.
nation
Star 8/31/93
Goniwe inquest resumes

The reopened inquest into the deaths of four political activists in the eastern Cape in 1985 resumes in the Fort Elizabeth Supreme Court today. One of the items to be examined is the controversial military signal which was apparently transmitted from Eastern Cape Command to the then-State Security Council suggesting that Mathew Goniwe, Mbulelo Goniwe and Fort Calata be “permanently removed.”
"Act against strangling"

The failure of the SAP to suspend an officer who strangled a robbery suspect in custody would foster the attitude that policemen could get away with anything, Lawyers for Human Rights director Brian Currim said.

Page 5
Peace accord introduces a new chapter in the peace process and calls for the participation of women in mainstream politics. Women should take the lead in decision-making processes and contribute to peace-building efforts. The role of women in the peace process is crucial, and their participation can significantly impact the outcome.

Impact on peace and tolerance:
- Women's leadership and participation can promote peace and tolerance.
- Women's involvement in decision-making can lead to more inclusive and equitable outcomes.
- Women can act as mediators and advocates for peace, promoting dialogue and reconciliation.

Women and peace-building
Women's role in peace-building is not only symbolic but essential. Their participation can bring a fresh perspective and contribute to the sustainability of peace agreements.

The Commission on the Status of Women should be acknowledged for its efforts.

News of the World welcomes the International Women's Day, acknowledging the achievements of women and emphasizing the importance of gender equality.

Monday March 8 1993 SOWETAN
Maphumulo family hails court ruling

By Musa Zondi

THE family of Mr Bethuel Maphumulo, who was strangled by a policeman while in detention, are happy the magistrate proved a policeman killed their son because “most of the time they get away with it.”

Mrs Gugu Maphumulo, the deceased’s widow, said police had been telling them lies all along and they were grateful that the truth had come out at last.

On Friday magistrate Mr CG de Lange ruled in an inquest court that Maphumulo was strangled by Lieutenant Henrie Beukes at the Protea police station in 1990. The court found the police version was inconsistent with the medical evidence.

Police had earlier said Maphumulo died after asphyxiation with Beukes and had fallen into the pool and drowned.

Maphumulo’s aunt, Mrs Petronella Maphumulo, said they were happy that they had been proved right that their son was murdered. “The fact remains that Beukes killed him,” she said.

She recounted the ordeal of how he died. She said Maphumulo handed himself over to the police after he was informed police were looking for him on December 11 1990 and because he was innocent.

“Two days later he was dead.”

She said police had taken him to Venda to his mother because they suspected he had left the alleged stolen money with his mother. The mother was staying in the homeland at the time.

When the family went to court on December 13 they waited for him to appear only to be informed later by his lawyer that he was dead.

The African National Congress and Lawyers for Human Rights have called for the suspension and prosecution of Beukes.
Call to charge policeman

THE ANC has demanded the immediate suspension and prosecution of the South African detective who an inquiry court ruled had strangled armed robbery suspect Bheke Maphumulo in 1990.

The finding by magistrate C. G. de Lange that Maphumulo's death was caused by Lt. Henry Beukes' criminal conduct warranted immediate action by police, the ANC said in a statement on Saturday.

Police have said Beukes would not be suspended from duty until a decision was made by the attorney general.

Police yesterday confirmed that the magistrate's finding had been forwarded to the attorney general's office. — Sapa
Fraud accused points at SADF

PRETORIA — Businessman Albert Vermaas claimed on Friday that senior SADF officials had negotiated with him over the sale of a military aircraft he had secretly bought from the US Air Force.

He had been tried and convicted of fraud and sentenced to 10 years in prison.

Vermaas, allegedly behind a fraudulent investment scheme which had cost more than 500 people their money, had pleaded guilty to 154 charges and was found guilty of fraud, theft and contravening exchange control regulations.

Vermaas said the fraud had taken place and the rest had been for the benefit of foreign affairs and the country's foreign policy.

Vermaas had been found guilty of the charges and was sentenced to 10 years in prison.

Vermaas said he had negotiated for the use of eight cargo planes by the SA Air Force in Angola and had come about because Foreign Affairs had been using his aircraft.

Vermaas said the court had heard that an intricate scheme had been set up to buy military and civilian aircraft in the US without his knowledge and that he would be doing business with a South African company.

Final evidence heard in R1.5m suit against Absa

FORMER Allied MD Kevin de Villiers said on Friday he might still have concluded a R4.5m sponsorship deal if marketing company Tytherley Investments had not agreed to perform two contracts for free.

De Villiers was testifying on the final day of evidence in a R1.5m claim brought against banking group Absa by Tytherley MD Peter Mancer.

The validity of the contract, involving a number of Allied sponsorships with Tytherley during the 1991 BOC race, was central to the dispute between Tytherley and Absa.

De Villiers and Mancer signed the contract in September 1990 — seven months before a UBS-led consortium took control of Allied and formed Absa.

Mancer is claiming R1.5m as part payment of the R4.5m.

According to Mancer and De Villiers, Allied acquired the exclusive European TV advertising and marketing rights to the 1991 BOC yacht race from Tytherley for a price of R4.5m on condition that Tytherley performed two other Martin sponsorship contracts for free.

Absa is defending the claim, alleging that Mancer and De Villiers never intended to enter into a genuine contract.

The banking group alleges that the contract was a tax dodge designed to enable Allied to unlawfully claim deductions to which it was not entitled.

It has also been alleged that R2.1m of the R4.5m was actually for local sponsorships and would not have qualified for tax deductions.

Both Mancer and De Villiers have denied Absa's allegations.

De Villiers spent four-and-a-half days under cross-examination in the witness box.

He said he might still have entered into the contract even if Mancer had not agreed to perform the other two sponsorship contracts for free.

"But I am not 100% sure I would have," he added.

De Villiers said he had been looking for a better deal when he had negotiated the two free sponsorships with Mancer.

He said the tax concessions were important and the Allied would not have gone ahead with the sponsorship if they had not had a favourable ruling from the Receiver in this regard before signing the contract.

At the conclusion of De Villiers' evidence on Friday both parties indicated they would not be calling any further witnesses and the case was adjourned until tomorrow for final argument.
Call for action over custody strangling

By Brodywn Wilkinson
Crime Reporter

The failure of the SAP to suspend an officer who strangled a robbery suspect in custody would foster the attitude that policemen could get away with anything, Lawyers for Human Rights' director Brian Currim said yesterday.

Magistrate C.G. de Lange found on Friday that Lieutenant Henry Beukes had strangled Bethuel Maphumulo at the Protea police station in December 1998.

Currim said there was no culture of accountability within the police force and the failure to take action against Beukes would foster this attitude.

Ministry of Law and Order spokesman Captain Craig Kotze said last night that the documents from the inquest had been forwarded to the Attorney-General for a decision whether to prosecute Beukes.

Pathologist Dr. Jonathan Gluckman said he was satisfied that one of the cases which had prompted him to go public with allegations that police were killing people in their custody had "turned out this way".
Five years for man who duped aliens

By Philip Zoio

A Chinese man was sentenced on Friday to an effective five years in jail for the "callous and repulsive crime" of bringing 10 of his countrymen into South Africa and leaving them stranded.

Xie Yan (27) earlier last week pleaded guilty to and was convicted on 10 charges of unlawfully bringing illegal aliens into the country.

Passing sentence in the Johannesburg Magistrate's Court, magistrate F Roets said: "The manner in which you committed these crimes exhibits your blatant disregard for the fate of the people whom you assisted in entering the country.

"You took their passports and air tickets and left them desperate."

He said it was obvious that the crimes had been carefully planned and executed by Yan, who had brought the immigrants from Shanghai to Lesotho and then into South Africa.

Special unit

Investigating officer Sergeant Andre Erasmus had told the court that the entry of illegal aliens into the country was so "rife and prevalent" that a special police unit had had to be established to deal with the matter, Roets said.

Yan said he was paid between $3 000 and $5 000 (between R9 000 and R15 000) by each illegal immigrant.

He said he knew he had not made the necessary arrangements to allow the immigrants to stay and work in the country.

Roets suspended half of Yan's sentence for five years.
Judge to probe election violence

By Bronwyn Wilkinson

The Goldstone Commission to set up an inquiry into ways of preventing violence before, during and after an election, commission chairman Mr Justice Richard Goldstone announced yesterday.

The judge said he hoped the inquiry would be a consultation with all South Africans on "a matter which is 'pri-"mainly their concern'."

He also hoped to educate people on political tolerance, which was essential for a free and fair election.

The commission would investigate:
- The rules of conduct and procedure (including policing and security) at public meetings;
- The time during which voting should take place;
- The location of polling stations;
- The security and policing of polling stations;
- Vote-counting procedures;
- Relevant measures during the period after the election.

The judge asked that non-governmental organisations, church groups and welfare organisations consult their constituents regarding the inquiry.
Signal on Goniwe challenged

PORT ELIZABETH — A signal sent from Eastern Province Command to the secretary of the State Security Council ordering that three political activists, including Matthew Goniwe, be "permanently removed from society" could be interpreted as an order to kill, a former SADF general admitted to the Port Elizabeth Supreme Court yesterday.

Testifying at the inquest into the deaths of the "Cradock four," Maj-Gen Johannes Frederik Japse van Rensburg said the "uninformed" may have understood the signal as an order to kill.

The inquest into the killing of Goniwe and Fort Calata, Sparrow Mkontu and Siselo Mhiawuli was reopened by President F W de Klerk after the New Nation published the signal last May.

The signal was sent on June 7 1985 by Lt-Gen C.P. "Joffel" van der Westhuizen, then head of Eastern Province Command, and addressed to Van Rensburg, who was head of the security in the secretary of the State Security Council. He ordered that Goniwe, his brother Mbofelo and Calata be "permanently removed from society as a matter of urgency."

Van Rensburg said he had understood the signal to mean the Goniwe brothers and Calata should be detained without trial for an indefinite period.

He conceded during cross-examination by George Bizos, counsel for the families of the deceased, that the language had been careless and could have a double meaning. "Subjectively I knew what he was suggesting, but I knew the man on the street might have thought something underhand was going on."

This had concerned him at the time and he had decided training courses should be given in the correct use of language.

The "uninformed" man on the street might have interpreted the signal as an order to kill.

Bizos questioned whether the signal could have been an order to detain the Goniwe brothers and Calata because neither Section 28 nor 29 of the Internal Security Act made provision for the "permanent" detention of people.

Van Rensburg said he understood the signal to mean the three men should be detained for a lengthy period as Section 28 and 29 made provision for detention without trial and detention for questioning.

He said he received the signal only 10 days after it was sent because he had been chairman of a task group considering the implementation of a national state of emergency. "I first laid eyes on it (the signal) on June 17, 10 days after it was sent."

Calata, Goniwe, Mkontu and Mhiawuli were killed on June 27 while on their way to Cradock from Port Elizabeth where they had attended a UDF briefing.

Bizos put it to Van Rensburg that he was not being truthful as the signal was marked top secret and urgent.

Van Rensburg had claimed in an earlier affidavit to have received the signal "shortly after" a telephone call between himself and Van der Westhuizen on June 7, during which the "problem teacher" — Goniwe — had been discussed.

Transkei military leader Maj-Gen Bantu Holomisa said in Umtata yesterday he would disclose the contents of a file relating to alleged NP government dirty tricks at a news conference on Thursday.

Holomisa released a file last year detailing the alleged State Security Council signal concerning Goniwe. At the time Holomisa indicated he was in possession of another file. — Sapa
Goldstone walks the other mile

Seeking ways of curbing potential violence during a national election will be the subject of a Goldstone Commission inquiry, chairman Mr. Justice Richard Goldstone said yesterday.

Referring to South Africa’s all-race election, which is expected to take place next year, he said he hoped the inquiry would be an effective consultation with all citizens to educate them on political tolerance.

This was essential for a free and fair election and one unaccompanied by violence or intimidation, he added.

The South African National Civic Organisation has threatened to disrupt township election campaigns by the National and Democratic parties.

Two DP rallies at Cape Town townships have been disrupted over the past four months. The disruptions were blamed on the African National Congress and Pan Africanist Congress.

A meeting addressed by State President FW de Klerk at Mitchell’s Plain, near Cape Town, was also disrupted about a year ago, apparently by ANC members, while in October 1991 an address at the University of Pretoria by ANC leader Nelson Mandela was disrupted by rightwingers.

Goldstone has appealed to political parties and church, welfare, political and non-governmental organisations to consult with their members and “involve all of the people of South Africa in a matter which is primarily their concern.”

He said the terms of reference would include the rules of conduct and procedure which should apply to public meetings by political parties and organisations. — Sapa
CCB men: A-G ready to charge

By Jacques Pauw

The Attorney-General of the Cape is ready to prosecute nine former members of the Civil Co-operation Bureau (CCB) for sabotage and conspiracy to murder.

But the process is being delayed by the Department of Justice's Office for Indemnity, which has not yet informed the operatives whether or not they have been granted indemnity for deeds of violence.

In a letter dated February 11, a member of the Attorney-General's staff, State advocate Jan van Vuuren, informed the Office for Indemnity in Pretoria that after a two-year investigation, he was ready to bring charges against the CCB men. In the letter, he asked whether they were going to be granted indemnity.

Van Vuuren said that he had not yet received an answer, but he was determined to proceed with the prosecution.

"I can make a decision only once I know whether they are to be granted indemnity or not," he said.

Conspiracies

The nine are chairman General Eddie Wessels, managing director Colonel Joe Venter, regional manager Staats Burger, interpreter Clive van der Walt, interpreter Elria De Vries, Blaauw van Zyl, Chappel Groenewald, Winter Bieds, and Isak Härden.

The possible charges date back to the September 1989 bomb explosion at the Early Learning Centre in Athlone, Cape Town, and conspiracies to murder ANC lawyer Dillian Omar and Johannesburg journalist Gavin Evans.

These are the first charges arising from the activities of the CCB, a clandestine South African Defence Force unit linked to the assassination and bombing of various anti-apartheid activists.

It is three years since these activities were exposed during the Harris Commission's probe into hit squads.

The lawyer acting for Botha and Van Zyl, Piet de Plessis, said yesterday he was told by Van Vuuren that his client would be charged, and that the trial would start in April.

De Plessis said Van Zyl and Botha had applied for indemnity in November 1989, but had not yet been informed of the decision by the Department of Justice.

Unacceptable

He slammed the delay by the State and said it was unacceptable that his clients, who carried out instructions by their superiors, had to wait for more than two years to hear whether or not they had been granted indemnity.

In a letter to President de Klerk, Van Zyl and Botha say it is incomprehensible why their applications have not yet been considered by your government. It is with great shock that we learn that the Cape Attorney-General wants to prosecute despite the fact that all our activities were approved by our superiors.

"You have deceived us," Van Zyl added before the Harris Commission that he was involved in the bombing of the Early Learning Centre, the attempted murder of Evans, and the planting of an explosive at the residence of Archbishop Desmond Tutu.

Botha admitted that he was involved in the Early Learning Centre bombing.

They say in their letter to De Klerk that they fully complied with all the stipulations of the Indemnity Act.

As far as The Star could establish, all the operatives except Venter have applied for indemnity.
Court told of attack and murder on train

By Susan Smuts

The third trial involving men accused of train violence began in the Rand Supreme Court yesterday when Maseko Mokwetlane pleaded guilty to one charge of murder and seven counts of attempted murder.

Iam Bongani Mazibuko (24) and Michael Msimi (24), both of Mapetla Hostel, pleaded not guilty to murdering Thapelo Johannes Tselosetsi, on the Germiston-Johannesburg train on October 17, 1991, and to attempting to murder seven other commuters.

Victims

The State alleges the men were part of an armed group who attacked the commuters.

One of their alleged victims, Cecelia Hluphi Hitshwayo, told Mr Justice W. J. van der Merwe and two assessors she had seen a group of about 10 men board the train at the George Goch station.

George Goch station

There of the men, who were armed with a panga and knobkerries, had come into her coach, where commuters were singing "freedom songs".

She said, "I was too shocked when two men started singing. They asked me to tell them the train's destination because they were not fighting. I told them it was Germiston." Hitshwayo testified.

She said Mazibuko then hit Tselosetsi with an iron weapon which had been screwed into his knobkerrie. Two other assailants joined the attack.

Tselosetsi fell to the ground and the three men hit him repeatedly.

Mazibuko then attacked Hitshwayo, who was pregnant at the time. Although she tried to defend herself, she quickly lost strength and fell to the ground. Mazibuko backed her on her head.

She said the men alighted at the Jeppe station.

The hearing continues.
Police death probe could go on for too long

PRETORIA — The Goldstone commission's investigation into attacks on policemen could get so bogged down that useful conclusions were prevented, the commission heard yesterday.

ANC legal representative Azhar Cachalia said the investigation into up to 200 incidents, with witnesses and legal counsel being required from dozens of regions, could lead to the inquiry reaching "farceful proportions." "There is a great likelihood that this country will have a democratic government before this committee has made its recommendations," he said.

The ANC opposed and condemned the many attacks on police officers but felt the commission should concentrate on uncovering general causes rather than minutely detailed investigations into every incident of the past two years, Cachalia said.

Speaking at the resumption of the investigation, which adjourned in January, SAP legal representative Flip Hattingh said though the procedure could be unwieldy and cumbersome, it had to continue. "If it takes nine months, so be it. The sooner we get on with it the better."

Hattingh said the matter had been referred to the commission by the State President. "We cannot establish what the cause of the attacks is without examining who is responsible," he said.

The reason much of the evidence led to date by the police legal team had been "hearsay," was that full testimonies from witnesses could interfere with pending criminal procedures, Hattingh said.

"An SAP spokesman confirmed earlier this week that almost 300 policemen had been killed since early 1991. After a short adjournment, committee chairman Gert Steyn said that in view of the commission's mandate, the investigation would continue as is."

Cachalia said the ANC had given the assurance that it would co-operate fully in finding solutions regarding attacks on security force members.

The Goldstone commission was one of the few credible vehicles left in the country and the ANC did not want to undermine its well-earned reputation, he said.

The investigation continues until the month-end.
Legislation to be changed

DRAFT legislation to allow documentation from the TBVC states to be accepted as evidence in South African courts was published yesterday.

A memorandum on the Documentary Evidence from Countries in Africa Bill said an existing statutory provision for admission of certain documents as evidence "upon their mere production" in civil and criminal proceedings applied only to documents originating in the Republic.

Ambushes to be probed

THE Natal Investigation Unit of the Goldstone Commission is probing the three ambushes near Maritzburg that have left 20 people dead, Mr Justice Richard Goldstone announced yesterday — Sapa

10/3/93
Slain Goniwe

'was enemy'

Sometime 10/3/93

COUNTER ACTION

Former SADF general

tells inquest UDF activist was a revolutionary:

UF

NTER Democratic Front (UDF) activist, Mr. Matthew Goniwe had been a revolutionary and had been regarded as an enemy of the State, a former SADF general said at an inquest into his death yesterday.

Major-General Johannes Janse van Rensburg said that in 1985—the year Goniwe and Mr. Fort Calata, Mr. Sparrow Mokoena and Mr. Siselo Mkhathwa were slain—the South African Defence Force had believed itself to be involved in a revolutionary war.

Organisations such as the UDF and African National Congress alliance were making the country ungovernable and the Defence Force “Determined in counter-revolutionary action,” Bizos, SC, for the families of the slain, said. Van Rensburg denied he had ever considered him or any member of the SADF as above the law. “A defence force which regards itself to be above the law is extremely dangerous and I can’t see that would have been the prevailing impression in 1985.”

The inquest into the killing was reopened by State President FW de Klerk after the New Nation newspaper published a signal which was sent from the Eastern Province Command Secretary of the State Security Council suggesting that three political activists, including Goniwe, be “permanently removed from society.”

Van Rensburg told the inquest he could not remember what he had done with the written signal after receiving it. The signal could have been interpreted as an order to kill but he had known it was merely a suggestion that the Goniwe brothers and Calata be detained.

Bizos put it to him that he had done away with the signal for sinister reasons and had tried to keep his options open by saying he could not recall what had happened to it. “The signal could not be interpreted as a desire to detain the three men,” said Bizos, as it referred to three Port Elizabeth black Civic Organisation officials who had "sincerely been removed from society." The hearing continues. — Sapa
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10/3/93

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10/3/93
HOUSE OF PROPORTIONS

The report on the government's economic performance for the year ended 31st March 1999, presented by the Minister of Finance, revealed that the overall economic situation remained stable, with a slight increase in GDP growth compared to the previous year. The government's fiscal policy continues to focus on balancing the budget and reducing debt. The report also highlighted the challenges faced, particularly in the agriculture sector, which continues to be a significant contributor to the economy.

The chairman of the House of Proportions, Mr. John Smith, expressed confidence in the government's ability to handle the challenges and maintain economic stability.

In his opening remarks, Mr. Smith praised the government's efforts and applauded the work of the Ministry of Finance. He emphasized the importance of continued dialogue and cooperation between the government and the opposition to address the challenges faced by the country.

The report also included a section on the budget for the forthcoming year, which was approved by the House.

In his closing remarks, Mr. Smith thanked all members of the House for their contributions and look forward to a productive year ahead.

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Conway Witness, Changed Evidence
UWC expert to serve on A-G's rape task force

UNIVERSITY of the Western Cape student counsellor Ms Eudene Abrahams has been nominated to serve on Cape Attorney-General Frank Kahn's task group on rape.

Ms Abrahams said the nine-member group's priorities included improving services to rape victims at hospitals, including better monitoring of how they were treated.

Rape victims could wait more than two hours at hospitals before being attended to and this had to be speeded up, she said.

The group also aimed to compile a list of women doctors prepared to be on call to treat rape victims, she said.

Ms Abrahams's work at UWC involves advising students on academic and other problems.
Law to muzzle vicious dogs

CAPE TOWN — Parliament yesterday cracked down on the owners of dangerous dogs — as well as people who arranged animal fights — by accepting the Animal Matters Amendment Bill.

The Bill should become law within a few weeks.

People whose negligence led to their animals — particularly dogs — attacking people could be fined up to R40 000, and/or jailed for two years. The same penalties would apply to people organising or watching arranged animal-fights.

In introducing the Bill in Parliament yesterday, Deputy Minister of Justice Danie Schutte said South Africa, like the rest of the world, had a dog problem. One of the major reasons for attacks by dogs on people lay in irresponsible dog-ownership. "Owners do not take the necessary precautions to safeguard other people against possible attacks by their dogs. In order to prevent such incidents, a culture of responsible ownership has to be promoted."

The Bill asks people "to take the necessary reasonable precautions regarding how their animals are being kept or handled."

A court could make an order for the removal, custody, disposal or destruction of a dangerous animal.

Schutte said gaps in the law relating to dog fights were now being closed. It would be an offence to arrange an animal fight or even to watch one.

Responding to points raised by MPs, Schutte said that if handlers of a police dog or guard company dog were negligent, and their dogs bit someone, they could be criminally liable.
CCB: Bid to delay indemnity

THE Indemnity Board was asked to delay a decision on granting indemnity for former CCB operatives until "after the Webster inquest". Cape attorney-general Mr Frank Kahn said last night.

A 1990 "task force" was appointed to investigate the activities of the CCB in the Cape.

Eight former members of the now disbanded CCB have applied for indemnity under the 1990 Indemnity Act.

They are: CCB chairman General Eddie Webb, regional manager Mr Staal Burger and operatives Messrs Calla Botha, Slang van Zyl, Ferdi Barnard, Chappie Maree, Wouter Basson (alias Christo Botes) and Isak Harde. Colonel Joe Verster has not applied for indemnity.

The CCB has been linked to bombings and conspiracy to murder.
Goniwe signal a 'death order'

A SIGNAL MESSAGE SIGNED WITHIN THE ranks of the Eastern Province branch of the Secretariat for the State Security Council ordered the death of Matthew Goniwe and two others, the Fort Elizabeth Supreme heard yesterday.

Colonel Lourens du Plessis, who drafted the controversial message, will today testify it was a death order for Goniwe, his brother Mphakalana and Fort Calata, his lawyer said.

This directly contradicts evidence given by retired SADF General Johannes Janse van Rensburg, who insisted the wording of the message, which called for Goniwe's permanent removal from society, was Du Plessis's responsibility, and only the activist's detention had been discussed.

In submissions made at the re-opened inquiry yesterday, advocate Glen Goosen said Du Plessis will testify that the message was authentic, that he had acted on the instructions of General Joffe van der Westhuizen to tell the signal to two other members of the three.

Goosen made these submissions during cross-examination of Janse van Rensburg, who was at the time seconded to the Secretariat.

The controversial signal message from Eastern Province Joint Management Centre was sent to him by Van der Westhuizen who is now the SADF's chief of Staff Intelligence.

At the time Van der Westhuizen was a brigadier.
Fortunat’ if you have her

Word of this public defender's success has spread among poor

VIVIAN Fortunat, senior public defender at the Johannesburg Magistrate’s Courts, is the best-dressed criminal lawyer in town.

She stands out like a model in those drab, off-white corridors where everyone else dresses 'as though they are afraid of being noticed.'

Fortunat (38) is one of two senior public defenders in an office of 10 who handled 2000 cases last year, with a 60 percent acquittal rate for clients who pleaded not guilty. And a 80 percent success rate in bail applications.

Word of their success has spread among the poor of the city who end up in court, and their help is constantly solicited by defendants in the corridors who can't afford to pay for lawyers.

Her day often starts in the holding cells below the courts, among people without bail.

She darts down a flight of steps and stands on a big grey steel door, which is opened by a policeman.

Minutes later she's in the corridors again, talking to people as she hurries to Court 15 for a remand hearing, chewing gum, yawning, with short steps because the floors are highly polished.

"A woman fell and broke her arm the other day," she explains.

After the remand (the prosecutor opposed bail for a minor crime, her chest was released on warning), she was in a juvenile court on the top floor, pleading mitigation for a youth with a string of previous convictions. He was sent to a reformatory, not to jail.

Fortunat's day is one of constant action, and impatience at delays. She would be hopeless at Chinese water torture, she would pour the whole bucket over the victim's head.

The only time she slows down is when she stops doing her job.

She applied for the job when the publically funded, but independent, Legal Aid Board created the public defender system for a two-year pilot project for Johannesburg. Public defenders act only for people with an income of R500 or less (R1 000 for married couples), plus R150 for each dependent. They are allowed some discretion in this.

She handles black and white clients, more or less in proportion to the racial mix, and gives them all a total, driving commitment.

"What concerns me more every day is that the majority of the people are not educated, are certainly not legally educated and must have legal representation if they are to have trust in our legal system."

"They simply do not know how to handle their defence, how to cross-examine, and a lot of evidence presented by the State is not challenged at all."

"To achieve fairness in our adversarial system of law, the dice must be equally weighted on both sides." She feels strongly that the public defender system is better than the continuing alternative of judecare, which guarantees a free lawyer in the lower courts for those who cannot afford one, but not necessarily an expert in criminal law.

Judicare is similar to the pro Deo system in the Supreme Court.

"The public defenders quickly build up skills in criminal law, and I think the accused, and the courts, are better served because of it," she says.

She was supported by one of Johannesburg's control magistrates, Mr. M. Muller, who said of the public defender system: "It does assist us."

The Legal Aid Board is headed by Professor Nic Pretorius, a former University law lecturer long associated with law clinics for the poor, who says, "The credibility of the law, the administration of justice, and civic society cannot allow any people to go into court unrepresented."

"Public confidence in the law is essential, especially with the new political dispensation that is coming."

The board began with helping in divorce and civil matters, but now 67 percent of its cases are criminal ones, mostly in the magistrate's courts.

The Johannesburg pilot scheme is costing R2.5 million for the two years, says Pretorius. "For another R50 million or so we could run a national public defender system, it's a question of getting the money."

He has ambitious plans if the system is either continued after this year, or broadened to other centres.

One is permanent lawyers in the holding cell and the remand courts. Another, which is about to happen, is that articled clerks and student advocates doing their pupillage be seconded to the public defenders office for a month at a time, but paid by their law firms.

The Legal Aid Board has nothing to do with the privately funded Legal Aid Bureau. The bureau provides pro Deo representation, and other assistance, for poor people.
Bill of Rights ‘must curb State power’

By Zingisa Mkhuma

One of the most important challenges facing the legal profession in South Africa was to realise a Bill of Rights which ordinary people could use to assert their rights as citizens, SA Council of Churches vice-president Sheena Duncan said yesterday.

Duncan was delivering an Ernie Wastzel memorial lecture at Wits University Wastzel, who died in 1986, was among the first people to be detained without trial. He was also detained in terms of the 1980 state of emergency and again in 1983 and 1984.

Duncan said tens of thousands of South Africans who were detained under similar circumstances probably wanted restrictions on State powers of detention to be included in a Bill of Rights.

She said all governments needed the power to declare emergencies — in cases of wars, revolutions and natural disasters — but strict limitations on State power would wisely be incorporated in a Bill of Rights.

People had to be taught to understand the Bill of Rights, to be able to claim their rights and to establish them by bringing cases to the Supreme or Constitutional Court, she said.

But she advised against putting “every single thing” that was perceived to be just in a Bill of Rights, saying this would succeed only in discrediting the entire exercise because it would be difficult to enforce.

“What we need is a Bill of Rights to protect us against predatory governments.”
Conway signal was death order, court told

By John Grieve

THURSDAY, MARCH 11, 1993

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40s, 50s, 60s.
PORT ELIZABETH — The surprise move by a top SADF officer to turn to an ANC-aligned advocate to represent him in the Goniwe inquest has sparked speculation that his testimony will heavily implicate two generals in Goniwe's murder.

Colonel Lourens du Plessis, a former member of Eastern Province Command and the man who drafted the notorious military signal ordering the "permanent removal from society" of Matthew Goniwe, is being represented by former Port Elizabeth ANC official Glenn Goosen.

Goosen, an advocate and still an ANC mem-
Police have suspended Lieutenant Henry Beukes, who was last week found by a Johannesburg magistrate to have strangled Bethuel Maphumulo while in his custody, Soweto police spokesman Colonel Tienie Halgryn confirmed yesterday.

Halgryn said Beukes, who had been transferred to the SAP's Firearm Recovery Unit from the Soweto Murder and Robbery Unit after Maphumulo's death, had been told on Tuesday he had been suspended with immediate effect.

The decision came after magistrate CG de Lange found Beukes had strangled Maphumulo on December 13 1999.

Police had claimed that Maphumulo drowned in the Protea police station swimming pool during an escape attempt.

The documents from the inquest on Maphumulo's death have been forwarded to the Attorney-General's office for his decision on whether to prosecute Beukes.

A spokesman for the office said yesterday that not all the documents had been received and the case could take until next week to investigate.
Judges’ order on ‘racist’ will revealed

CAPE TOWN — Two Supreme Court judges had ordered a will altered last month so as not to limit a bequest to white children only, Minister of Justice Kohe Coetsee said yesterday.

Repying to a question from Jurgen Prinsloo (CP Roodepoort), he said the judgment had been delivered in the Cape Division on an application by the trustees of the Marsh Memorial Homes.

The late William Marsh had provided in his will for the establishment of a trust to be used to found and maintain a home for destitute white children on the same principles as those of a home in London.

The judges noted that the London institution admitted and had apparently always admitted children of all races.

"The interest of the public in this country, the inhabitants of which are mainly non-white in colour, cries out for the need to house and to care for destitute children, whatever their ethnological characteristics may be," the judges said.

Coetsee said he did not intend to do anything about the matter. — Sapa
ANC official on R283000 fraud charge

Sowetan 11/3/93

BAIL WRANGLE. Official allegedly put cash into his own accounts.

ANC official yesterday appeared in the Johannesburg Magistrate’s Court on fraud charges involving R283 000 after he allegedly made fictitious stationery purchases and deposited ANC cheque payments for the “goods” into his own business accounts.

Sakelo Llewellyn Ntle (33), a purchasing and stores officer in the ANC’s treasury department, was arrested on Monday and faces 24 charges of fraud.

The State has offered Ntle bail of R10 000 but Ntle yesterday applied for a reduction to R4 000.

Ntle told the court he has no intention of fleeing and that he could justify his actions. Investigating officer Capt Daniel Knel said R10 000 was the lowest bail amount that would ensure that Ntle stood trial.

The State has alleged that Ntle set up three closed corporations of which he was the sole member.

Between December 1991 and December last year he allegedly made out fictitious purchasing orders and invoices purporting to represent stationery purchases made from the three closed corporations by the ANC.

Ntle then allegedly requisitioned cheques for payment to the closed corporations. The cheques were deposited into bank accounts opened in the names of three businesses, the State has alleged Ntle was involved in custody.
CAPE TOWN — A total of 684,246 people appeared in regional and magistrates' courts without legal representation last year, Minister of Justice Kobie Coetzee said in reply to a question from Lester Fouché (DP, Hillbrow). He said it would have cost R557 million to give them representation.
Goldstone raid on MI base caused harm, says De Klerk

By Peter Fabricius
Political Correspondent

CAPE TOWN — The Goldstone Commission raid on a Military Intelligence base in November damaged the country's intelligence capability, President de Klerk has conceded.

If it were true that international observers on the Goldstone Commission had acquired access to classified security information, this was "wrong and regrettable," De Klerk said during question time in Parliament yesterday.

The Government had not known about the raid and had not authorised it. If he had known about it beforehand, he would have prevented it.

De Klerk was under fire from the Conservative Party during a 15-minute interpellation and later during the trial run of special question time during which he had to answer questions without notice.

CP Soutpansberg MP Tom Langley said the Goldstone Commission raid on the offices of the Directorate of Covert Collection (DCC) within Military Intelligence had given the United Nations and Scotland Yard access to the secret service's most coveted information — the names of informants.

The raid had destroyed the DCC and betrayed its informants, some of whom had deeply infuriated "the enemy." Langley slammed De Klerk for allowing Mr Justice Richard Goldstone, chairman of the commission, to undertake the raid when he should have known that he was a "well-known leftist" who had been a political activist at university.

As a responsible judge, Mr Justice Goldstone should have realised what was happening and terminated the raid as soon as he realised he had come across a Military Intelligence institution.

In separate replies, De Klerk and Justice Minister Kobie Coetsee said the Goldstone Commission had not been aware they were raiding a base of Military Intelligence until they got there.

The raid had come about as a result of investigations into the Natal violence which was part of the commission's brief.

This information led the commission to a certain address.

When the Government realised that, it had taken steps to prevent further intelligence information from coming out.

The Government did not want highly sensitive information to fall into the hands of foreigners.

De Klerk conceded that damage had been done by the raid.

He said that as far as he was aware, Judge Goldstone had not been personally present during the raid.

He dismissed Langley's demand for a commission of inquiry into the incident, saying he had "all the facts at his disposal and did not think a commission was necessary."
Bizarre evidence before inquest
court names the SADF chief
and a cabinet minister ...

Goniwe
trail leads
to the top

BIZARRE plan to murder a
homeland leader, described
in documents handed to an
inquest yesterday, has taken
allegations of state involve-
ment in political murder into
the top ranks of the govern-
ment.

An inquiry into the death of activist Matthew
Goniwe and three others was yesterday handed a
file of army telexes, minutes of meetings and
other secret documents. These appear to link the
country's most powerful soldier, General AG
"Kat" Liebenberg, and cabinet minister Tertius
Delport to a secret military operation known as
"Project Katzen".

One element of Project Katzen was an instruc-
tion to "take out" a long-time government ally,
Ciskei strongman Lennox Sebe, whose erratic
behaviour had increasingly become an embarr-
assment to South Africa.

Delport, now minister of local government,
was then a legal adviser to the army officers
involved in drawing up Project Katzen.

The broad outlines of Project Katzen were also
known to members of the State Security Council,
who included then State President FW Botha and
current State President FW de Klerk.

The key figure behind the alleged plan, the
court heard, is General CP "Joffe" van der
Westeuizen -- the flamboyant intelligence chief
also accused of ordering the Goniwe killings.

See PAGE 2

Named in the papers: Tertius
Delport, now a cabinet minister,
who was a legal adviser to the army
officers behind "Project Katzen".
E
XTRAORDINARY EVIDENCE of an SADF plot in 1986 to ‘remove’ Nelson Mandela was unexpectedly handed to Goniwe yesterday.

The evidence was submitted to the Pretoria High Court by former Eastern Province Command officer Colonel Lauren du Plessis within hours of Transkei military leader Buthelezi arriving to unveil the same material at a press conference.

The Government said last night that the Cabinet and the State Security Council had never approved “illegal actions” or murder.

Mandela’s son, Sipho, said in Johannesburg last night that he had discovered the plot in 1986/87 and reported the matter to the South African authorities. He had also received another report on the matter, he confirmed.

The South African ambassador to the UK, the ambassador to the US, and the ambassador to the UK, were informed of the plot.

Stateplot

At a press conference yesterday Transkei leader Major General Buthelezi said a secret plan was hatched by the SADF’s military intelligence to remove Nelson Mandela from office by “tapping out” or “permanently removing” him.

The plan was launched in order to ensure future white supremacy by ending up inter-racial conflict. It also involved the intentional spraying from prison of Mandela security chief Charles Sebe.

The Goniwe report will establish the authenticity of the documents, according to a hardwaring expert.
The chairman of the Local Road Transportation Board appeared in the Johannesburg Magistrate's Court yesterday in connection with charges of perjury and defeating the ends of justice, after allegedly giving contradictory evidence in two taxi permit fraud trials.

Izak Landman (62) was released on bail of R100 and ordered to appear again on April 22. No charges were put to him.

The case against Landman follows his testimony in separate trials at which Department of Transport officials were accused of fraudulently altering taxi permit decisions made by the Local Road Transportation Board.

Two officials were convicted in the Germiston trial, in which Landman testified for the State.

Last week Landman testified in defence of Local Road Transportation Board secretary Gustav Vorster, who has been accused of 105 counts of fraud.

— Court Reporter.
SAP defended as train bandit sent to prison

By Susan Smuts

The police had done everything they could to solve a 1991 train attack, a Rand Supreme Court judge said yesterday as he sentenced an Inkatha member to 15 years in jail for attempting to murder a commuter.

Various allegations had been made that the police had deliberately neglected their duties in investigating train murders, said Mr Justice J Els. However, he was satisfied the police probe in the case before him had been thorough.

The judge found Albert Dlamini (30) of Mazzibuko hostel, Katlehong, guilty of attempting to murder a commuter on a Germiston-bound train on October 9 1991 and of illegal possession of a firearm and ammunition. Dlamini was jailed for eight years for attempted murder and two years for illegal possession of the gun and ammunition. The sentences are to run consecutively.
PORT ELIZABETH — The inquest into the deaths of UDF campaigners Matthew Goniwe, Fort Calata, Sparrow Mokoena and Stokely Mihlawule was postponed yesterday to March 29 to give the Supreme Court time to consider new evidence.

This evidence includes an affidavit submitted by former Eastern Province Command communications staff officer Col. Lourens du Plessis, in which he claims the military signal calling for the "permanent removal from society" of three men, including Goniwe, had been an order to kill.

Glenn Goosen, SC, for Du Plessis, supported the application for an adjournment as he said he needed time to put an application for immunity for his client, to enable him to testify fully. He would apply for protection under Section 203 of the Criminal Procedure Act.

Du Plessis said in his affidavit that, in 1986, SADF-inspired operation which planned the overthrow of the Lennox Sebe government in Ciskei as part of a "permanent" solution to unrest in the eastern Cape fell directly under the authority of then Army chief and present SADF chief Lt. Gen. Kat Liebenberg.

He said "Operation Katzen" was the brainchild of Lt. Gen. Joffel van der Westhuizen, who had been head of Eastern Province Command in 1986. Van der Westhuizen and other officers had referred to the possibility of having to kill Sebe, he said.

Annexures to the Du Plessis' evidence gave full details of the plan, which carried Van der Westhuizen's signature.

Du Plessis, who sent the 1985 signal ordering the "removal" of the UDF men, said this had been an order to kill. "If there had been any other meaning other than that Mr Mathews Goniwe, Mbolelo Gomwe and Fort Calata should be killed, I would definitely not have used the words 'permanently remove from society,'" he said.

Du Plessis rebutts claims contained in Van der Westhuizen's affidavit that neither he nor the Eastern Province Command had been involved in the plan to murder or in the murder of any person. He said the documents on Operation Katzen would further support this submission — Sopa.
Grieving widow's journey of pain

BY DAWN BARKHUIZEN

MATTHEW, Gonwe's small, silent widow, Nyanaka, wears dark glasses as she watches the man who received a signal recommending that her husband be "permanently removed from society."

"I wear the sunglasses because I want to keep some distance between him and me. I look at him and see him blush just like any other man. I wonder what kind of person he is, whether he goes home and embraces his wife."

"But I don't want him to see me looking. I want to keep something of myself for myself," said the 41-year-old social worker who this week embarked on yet another journey of pain when the second inquest into the death of her UDF activist husband got into full swing in the Port Elizabeth Supreme Court.

For Mrs Gonwe, the wound is deep, as it is for the widows of Fort Calabash, Sparrow Mkont o and Sicelo Mhlwati, who were found butchered with Mr Gonwe on a roadside near Port Elizabeth in 1985.

"The last inquest was such a circus," said Mrs Gonwe. "I am still too angry. Now time has brought me to terms with Matthew's death." She said.

Mrs Gonwe travelled from her home in Cape Town, where she has worked since 1989, to attend the inquest.

"My first priority is my two children - protecting them from over-exposure," she said.

"I believe we should not dwell too much on the past. But I remember clearly the last time I saw Matthew. He was telling me because I nagged him to sleep over in Port Elizabeth and avoid driving home late at night."

Just in case something happened."
Tapes snag delays carnage inquiry

By Charlene Smith

Analysis of the tapes concerning the Bophaleng massacre in July last year are still holding up the findings of the Goldstone commission into the deaths of 45 people in Bophaleng.

The tapes, which were partly erased — apparently in error by the South African Police — have part-recordings of police radio and phone traffic in the area before the evening of the massacre.

The Goldstone commission initially gave the tapes to a South African electronics company for analysis, and then withdrew them when it was discovered that the company was a major defense force contractor.

Refused.

The tapes were then taken to Britain for an analysis that all parties involved in the hearing, including the ANC, SAP and SADF, considered woefully inadequate.

Members of the commission then listened to the tapes, and it is believed they compiled a lengthy transcript of the communications on them. It is also believed that nothing of a dramatic nature is contained in the tapes. However, the commission refused to comment this week.

In November last year the commission gave the police the opportunity of obtaining an additional transcript of the tape by other overseas experts. However, since then the Department of Foreign Affairs has had difficulty in finding a country willing to investigate the tapes.
A bill of rights must forbid censorship

FOR the next fortnight I shall be on the open sea, trying to suppress the peculiar Muses that comes from thinking about free speech in South Africa, so I am taking the liberty of responding at once to the views of Professor John Groenewald of Rhodes which are published elsewhere on this page and which, in fairness, should be read first.

Without free speech, all other freedoms are vulnerable, and this debate should not be conducted among lawyers, trapped as they are in the byzantine convoluted laws of the land, without regard to what happens in the real world of newspapering. Some red herrings must be identified and some fallacious assumptions removed.

The question at issue is the recent decision by the Appellate Division to forbid the Financial Mail to publish information which had been illegally acquired (not by the FM) from Sage Holdings — information which the editor deemed to be of interest to his readers, to Sage shareholders, to potential investors and to the public at large.

The first fallacy to be removed is that newspapers derive great benefit from publishing the fruits of investigations. They do not. The Rand Daily Mail and the Sunday Express went out of business doing investigations, at least some of which were of great public benefit, while newspapers that didn’t touch investigative work still thrive.

The newspaper that wants to increase circulation (and few of them do) resorts to games and puzzles, or to giving dubious advice on achieving multiple orgasms or on making a million. Investigative work is difficult, costly, dangerous and usually subjecting to the reader. Newspaper editors do such work from a long tradition of public service, and profit-minded newspaper managers wish they wouldn’t.

The second fallacy is that the newspapers are specifically harmed by gagging orders. They are not. The harm is done to readers, to the ideal of an open society, to democracy, to the culture of rights about which we hear so much. Newspapers usually sell more copies, and sometimes make more money, by publishing harmless trash than to cultivate trashy newspapers, just put obstacles (like the law) in the way of serious ones.

- Finally, there is the fallacy that newspapers deal in truth, or should do so. Only illiterates believe that what is found in print is necessarily true. The purpose of publication in an open society is not to certify truth, but to discover truth. It is to put facts in the open, where they may be challenged, and court gags can serve only to prevent discovery of the truth.

Then the red herrings this case has nothing to do with the privacy of the individual, nor with the electronic snooping on Princess Diana, nor with theft. If people steal other people’s industrial secrets, or their intellectual property, or spy on them with illegal devices, the laws against theft, plagiarism and illegal wire-tapping should be enforced. It makes no more sense to gag newspapers than to kick the dog.

As for the right of “privacy” with which “jurisprudential persons” are suddenly endowed, I can only say that when Professor Tony Matthews wrote a book on the subject some years ago he found so few grounds for privacy in our law that he had to scratch around foreign legal systems for support. The right of privacy is, in this layman’s view, very feebly rooted, and should be strengthened, but I doubt that laudable aim will be achieved by stretching privacy to cover up the holes in the law on industrial espionage.

THIS, indeed, is the nub of the matter the common law, as administered by the courts, has done precious little to protect ordinary South Africans, and has frequently served to oppress them. Lawyers don’t like to discuss the subject much, but the palpable truth is that our courts, like the German courts during the Nazi period, have enforced wicked laws with diligence and ferocity.

During the apartheid era, neither liberty, nor basic human rights, nor life itself was protected by the law. Indefinite detention laws, which were a charter for torturers, survived for a quarter of a century, secrecy was elevated into a shield for the general corruption of our society, and for privacy — just think of the policemen raiding at dawn, the spys, tapping telephones, opening mail and so forth. The courts upheld it all.

The exceptions, like Mr Justice Goldstone’s judgment in the Governor case, which effectively forbade many forced removals, were rare, and one must go back to the Centlivres court in the 50s, in this layman’s opinion, to discover a time when the Appellate Division seemed wholeheartedly on the side of the common man. And Chief Justice Centlivres was reduced to campaigning uselessly, after his retirement, from public platforms.

THIS is the background to the gagging of the Financial Mail, which differs in degree but not in substance from the government’s decision in 1977 to ban publication of The World. Both were acts of censorship, and in my view the court’s action was the more pernicious.

The banning of The World was a blatant political act, which evoked counter-attack on political grounds, with political weapons. Protest, public scorn, denunciation, hyperbole, even — when speech failed — violence. The gagging of the Financial Mail, an act clothed in the majesty of the law, is immune to such attack, and its pernicious effect is likely to last much longer.

This gagging, which comes as the apartheid restrictions on free speech are falling away, carries an unmistakable message: Freedom of expression will not be secured in South Africa simply by the overthrow of a political tyranny, the power of the courts to impose censorship must also be curbed.

To achieve that we must face up honestly to the sad record of the courts under apartheid, and to the deficiencies of the common law in upholding the rights of the individual, and we must entrench in a bill of rights a clause that, quite simply, forbids censorship.

KEN OWEN
SA'S WOMEN SHOULDN'T ONLY BE SEEN, BUT HEARD

SUNDAY TIMES, MARCH 14, 1993

only been seen, but heard

THE SUNDAY MORNING ASSESSMENT

Women's role should not be limited to domestic duties

The president of the Women's International League for Physical Education and Sports, Mary Kom, has called for a change in the perception of women's roles. She said that women should be seen not only as mothers and homemakers, but also as active participants in society. "Women must be given the opportunity to participate in decision-making processes and to contribute to the development of their communities," she said.

Kom's call for gender equality in sport and politics is supported by many other women's organizations. "Women should be encouraged to participate in all areas of life, not just the domestic sphere," said a statement from the South African Federation of Women's Organizations.

The issue of gender inequality is not new in South Africa. During apartheid, women were restricted in their rights and opportunities. In the post-apartheid period, women's organizations have worked to achieve equality for women in all aspects of life. However, according to Kom, progress has been slow and there is still much work to be done.

"We must continue to work towards the realization of women's rights," she said. "Only then can we hope to achieve true equality for all."
Secret probe ordered into Tollgate and subsidiaries

CAPE TOWN — A secret commission of inquiry into the affairs of the liquidated Tollgate Holdings group and its subsidiaries is to take place in terms of Section 417 of the Companies Act following an order handed down in the Cape Town Supreme Court on Friday.

The order was granted by Judge H L Berman after an application brought by Tollgate’s liquidators Bessie Bester and Tjaart du Plessis Bertrand Hoherman SC was appointed commissioner of the inquiry. In terms of the Companies Act, its proceedings and findings are confidential.

Meanwhile, an application for the provisional liquidation of the Paarl wine estate, Rhebokskloof, owned by a family trust set up by former Tollgate director and current Motor Racing Enterprises (MRE) MD Mervyn Key was postponed to March 24 in the Cape Town Supreme Court on Friday.

Key indirectly controlled a major share of the family trust, the court heard. Rhebokskloof’s assets were said to include an historic Cape Dutch homestead, winery, two restaurants and vineyards and were worth about R10m, court papers said.

Abaa brought the urgent application on the basis of alleged debts of about R20.6m, including an overdraft of more than R3.5m, a further R16m owed in terms of a preferential share option agreement entered into between Abaa, Rhebokskloof’s successor company Parmalat Investments and Rhebokskloof, and a R1.1m guarantee for Parmalat.

Key’s purchase of MRE from Tolligate Holdings for R6.63m last year is under scrutiny. Last week the Rand Supreme Court placed the financial affairs of MRE under control of Tolligate liquidators after they claimed that Tolligate had sold the company at below market value.

Abaa corporate banking manager Johan Steyn claimed in papers that Abaa, Parmalat and Genref had entered into an agreement in August 1992 in terms of which Genref bought a Parmalat preference share worth R15m from Abaa. The agreement stated that Abaa would have to buy back the share if Parmalat failed to declare a dividend, or pay Genref its share of the dividend, by February 26 this year.

No dividend was paid or declared and Abaa was forced to buy the preference share from Genref for R15m plus R1m in interest. Abaa had a separate counter put option with Rhebokskloof, obliging the company to buy the share from it if it had to buy it from Genref.

Steyn said Rhebokskloof had failed to buy the share when Abaa had called upon it to do so.

Many have no access to safe water

ONE in three SA residents did not have access to safe water while almost half lacked adequate sanitation, MARIANNE MERTEN of the Water Research Commission said in a statement at the weekend.

Commission research manager Charles Chapman said the biggest problem was informal settlements.

Not only were inhabitants without safe water at risk of contracting illnesses, but other communities were also threatened during periods of good rain as pollution was likely to spread to rivers and other water sources.

The commission had started examining the possibility of making appropriate technology available to affected communities and to involve them in water and sanitation management, a statement said.

Alternative means of financing sanitation and water supplies, such as the use of prepaid water meters developed by the commission and Eskom, would also be examined.

An Eskom spokesman said although the installation of prepaid water meters was technologically simple, municipalities shed away from the legal implications. The project had had to be put on the backburner because water, unlike electricity, was considered a basic human right of which nobody should be deprived, he said.

Education for correct water usage was essential because SA’s limited water resources would be exhausted between the years 2020 and 2030.
Rape task group's plea for help

The giornata, Sunday March 15 1988

Rapporteur

Roger Freeman

The Department of Justice has given the rape task group's plea for help

The Department of Justice has given the rape task group's plea for help
SOWETAN Monday March 15 1993

'Shield witness from ex-mates'

GRAVE DANGER Parties say cop who spilled
the beans at Goniwe inquest faces retribution:

By Ismail Lagardien
Political Correspondent

In the interests of justice, the key witness in
the Matthew Goniwe inquest, Colonel
Laurens du Plessis, must be protected from
"erstwhile vengeful colleagues lest he, too,
be killed."

This is the blunt warning from political
parties as the reopened Goniwe inquest goes into a
two-week recess.

The ANC, PAC and Democratic Party were in
agreement yesterday in appealing to the State to
provide protection for Du Plessis and to reveal
further details and information of its study
operations against its political opponents.

"The whole question of amnesty and the way
it has been dealt with is despicable. We would
like to see people like Du Plessis saying to the
whole world what they did on instruction from
the regime."

"In the meantime he ought to be given
maximum protection from the killers that still
operate within the SADF and SAP," said the
PAC's secretary for information, Mr Barney
Dean.

The ANC's Ms Gill Marcus wanted to know
whether the Minister of Local Government, Mr
Tertius Delport, and the South African Defence
Force chief, General Kat Liebenberg, would be
allowed to keep their jobs after having been
implicated in the Goniwe case.

The Democratic Party's Mr Peter Gastro,
who is active in the National Peace Committee,
also believes that Du Plessis is under pressure
and a worried man.

"The only way that officials like those who
have been directly implicated can come to the
fore and tell the truth (about what happened) is
if they're satisfied that they will be protected
from erstwhile revenge-seeking colleagues."

Du Plessis is reported to be in fear of his life
and has threatened to spill the beans about the
murders of the Goniwe Four when the inquest
resumes on March 29.
'Green light for corruption'

ENTRUSTING a professionally disgraced person with a key position totally undermined the concept of open and clean administration, Democratic Party spokesman on justice Mr Tony Leon said yesterday.

Reacting to the appointment of Mr. Piet Kemp as Registrar of Patents and Trade Marks, he said: 'It makes a mockery of the government's stated commitment to root out corruption and malpractice wherever it exists and is tantamount to giving a green light to professional misconduct of the most serious and reprehensible nature.'

Mr Leon said Mr Kemp had been found guilty of misconduct by the Bar Council and had had his membership of the Society of Advocates terminated for overcharging the government.

Mr Kemp was one of the two advocates who represented among others General Magnus Malan and former Minister of Law and Order Mr Adriaan Vlok at the Harms Commission hearings.

"It is beyond our comprehension as to how this appointment has been approved," Mr Leon said. — Sapa 27/3/93
Land bar on councillors is proposed

PRETORIA — Town councillors should be barred from either selling or buying rezoned land for five years to prevent local authority corruption, the Krugel commission heard yesterday.

Former deputy director of the local government department Peter Auret told the commission that several amendments to the town planning and townships ordinance were required.

This would "make it more difficult for councillors and officials to abuse their positions and enrich themselves unjustly," he said.

The amendments would include a five-year clause concerning land subject to a rezoning or township establishment application as well as the referral to township boards of property deals in which councillors had a financial interest.

Evidence on the question of local authority corruption will be heard today for the last time before a preliminary working document is drawn up, commission chairman Willem Krugel said.

Once the document had been discussed, a formal report would be forwarded to the Administrator within the next few months.

Also giving evidence yesterday was a representative from the Association of Law Societies.

In the association's memorandum it was stated that councillors, officials and their relatives should not engage in contracts or applications in which they had a financial interest.

Krugel said although all who gave evidence before the commission agreed on the need to prevent corruption, the means for achieving this were controversial and emotive.

Possible legislation to prohibit councillors from being involved in land use applications or property development could be seen as discriminatory.
JOHANNESBURG — The Federation for Mental Health has presented a petition signed by 50,000 people to the South African Law Commission demanding that the rights of the mentally handicapped be included in a bill of rights.
Row over top job for 'disgraced' advocate

By Esset Fabricius
Political Correspondent

CAPE TOWN — The Government has been severely castigated for appointing "disgraced" Pretoria advocate Piet Kemp to a top official post after the Bar Council had found him guilty of misconduct.

DP justice spokesman Tony Leon said Kemp's appointment as Registrar of Patents and Trademarks "makes a mockery of the Government's stated commitment to root out corruption and malpractices".

Leon said the Bar Council had found Kemp guilty of misconduct and the Society of Advocates had terminated his membership for overcharging the Government while working for the Minister of Defence.

His fees were found to be "totally excessive and shocking".

"What is even more alarming is that at the very time of his appointment, the General Council of the Bar has an application pending for his removal from the roll of advocates, which is the most extreme form of professional censure and condemnation which can be levelled against a practising advocate in South Africa."

Leon said both Minister of Trade and Industry Derek Keys and Director-General Stefa Naude had supported Kemp's appointment.

This was "tantamount to the Government giving a green light to professional misconduct of the most serious and reprehensible nature."

Leon said it totally undermined the concept of an open and clean administration, and urged the Government to reconsider the appointment.
'Disgraced' lawyer given top government posting

The government has been castigated for appointing "disgraced" Pretoria advocate Mr Piet Kemp to a top official post after the Bar Council had found him guilty of misconduct.

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Mr Leon said that both Minister of Trade and Industry Mr Derek Keys and Director-General Mr Stef Naudé had supported Mr Kemp's appointment.
Further probe into baby deaths ruled out

She added that the Attorney-General was also investigating the issue.

However, Witwatersrand Attorney-General Klaus von Laffres said he was not investigating the original deaths that occurred between February and September 1990. An inquest last January had found no one was responsible for those deaths.

He said he was investigating an affidavit by former Sabax employee Diane Parker in which she alleged that “sub-standard techniques” were used in manufacturing the drips.

The probe included the deaths of eight more babies last September, but they had died of a different bacteria, he said.

Soller said Venter’s decision was “catastrophically disgusting.” — Staff Reporter
Govt defends Kemp decision

Political Staff

A JUDGE and three senior members of the Pretoria Bar had unanimously supported the appointment of controversial Pretoria advocate Mr Piet Kemp, SC, as Registrar of Patents and Trade, the government said yesterday.

Mr Kemp had properly disclosed to the selection committee his punishment by the Pretoria Bar Council "and, broadly, the reasons for his punishment," director-general of Trade and Industry Dr Stoffel Naude said yesterday. (252)

Dr Naude said his department was fully satisfied with Mr Kemp's competence and his abilities for the post.
Goldstone probes KwaZulu Police

By Bronwyn Wilkinson

A committee of the Goldstone Commission is to probe the conduct of the KwaZulu Police (KZP) in violence, including the assassination of two Natal ANC leaders, commission chairman Mr Justice Richard Goldstone announced yesterday.

This follows investigations by the commission's Natal team into allegations and complaints about the KZP.

Six of these complaints, including the assassinations of ANC Newcastle chairman Professor Hlalanathi Sibankulu and ANL Midlands deputy chairman Regge Hadebe, would now be handed over to a committee of the commission for inquiry, Goldstone said.

Goldstone said KwaZulu Chief Minister and Minister of Police Mangosuthu Buthelezi and KwaZulu Police Commissioner Lieutenant-General R Durang had said they would cooperate with the inquiry.

The committee will investigate, among other things:

- The KZP's conduct with regard to its investigation into the murder of Hadebe on October 28 last year. Hadebe was shot dead in an ambush on a car carrying ANC officials from a peace meeting in Ixopo, near Maritzburg.
- The conduct of the KZP relating to the murder of Sibankulu, whose charred body was found in his burnt-out car in Madeni, near Newcastle, on November 12. Sibankulu disappeared from his home the previous day.
- The possession of an AK-47 rifle by a Constable Ngubane in August last year and the KZP's investigation into this.
- The failure of the KZP to arrest two murder suspects whose whereabouts were known to the KZP after they absconded from custody. The suspects had been arrested in connection with fatal rifle and grenade attacks on two houses in Kwa-Makhata in March 1999.
- The lack of progress in the KZP investigation into a case in which unformed KZP members allegedly shot dead a Kwa-Mashu resident in 1999.

Goldstone said a committee of the commission was already investigating causes of violence in Natal and KwaZulu other than the rivalry between supporters of the ANC and IFP.
Serfontein's documents confiscated

Staff Reporter

Documents relating to alleged corruption in the Department of Justice were confiscated from the home of former assistant chief auditor Jaap Serfontein on Monday, police said yesterday.

Police on Monday also raided the Star offices in Johannesburg and Curbstone building in search of documents, but found nothing.

Serfontein, who conducted a three-month audit at the Department of Transport last year, allegedly found that there was widespread corruption in the department and his report was published in The Star in February and broadcast on M-Net.

According to a police spokesman, the raids were conducted in terms of the Protection of Information Act.
Goldstone appeals for information

PRETORIA — The Goldstone Commission appealed yesterday for further information on the possible role of Umkhonto we Sizwe (MK), as well as private security firms, in violence and intimidation in SA.

The appeal follows an announcement earlier in the week that the commission would begin a full inquiry into incidents of violence and obstructing justice involving the KwaZulu Police.

Until all public and private armed forces had been investigated, the public would not be satisfied of their innocence, Judge Richard Goldstone said.

The commission has already completed a probe into the activities of the PAC military wing Apla, and is still involved in the government investigation into SADF intelligence functions.

Details and submissions were still needed on groups with a capacity for violence — including the right-wing SA Republican Army, MK and private security firms.

"If any person wishes to furnish relevant factual information anonymously, or if any person or witness requires protection for any period of time," they should contact the commission, the statement said.

Goldstone said the preliminary inquiry into Apla activities was complete and a report would be issued soon.

Allegations that members of the SAP and KwaZulu Police were involved in incidents of public violence or intimidation were being looked into, and the commission had been given full access to the activities and intelligence functions of the SADF, the statement said.

"Public violence and intimidation in SA will not be effectively curbed until all SA public and private security forces and armies have been investigated," it added.

In the current inquiry into attacks on police officers, the commission heard yesterday that no politically motivated attacks had been carried out by ANC members on the SAP in the western Cape since 1999.

Western Cape SAP member Lt Cornelius Mathee agreed with ANC legal representative Azhar Cachalia that no single confirmed incident had been reported.

Only one person with "vague Umkhonto we Sizwe connections" had been implicated in violence against police and he had also attacked ANC members, Cachalia said.

Warrant-Officer Andreas Steenkamp agreed under cross-examination that no confirmed information existed by which any recognised executive member of the ANC in the western Cape could be accused of instigating members to attack the police.

The investigation continues.

"Fear must be addressed"
Private armies, security firms to be probed

By Bronwyn Wilkinson

The Goldstone Commission is to investigate the possible involvement of private security firms and private armies — including Umkhonto we Sizwe (MK) and the Boere-Republikanse Leër — in public violence and intimidation, commission chairman Mr Justice Richard Goldstone announced yesterday.

Goldstone said the United Nations had adopted recommendations on curbing violence in South Africa made by UN Secretary-General Boutros Boutros-Ghali in August.

The recommendations included that the commission investigate the functioning and operations of several agencies, including the SADF, SAP, MK, the Azanian People's Liberation Army (Apla), the KwaZulu Police and private security firms.

Goldstone said violence could not be curbed until all public and private armies and security companies had been probed.

A committee investigating the activities of Apla — the PAC's military wing — had completed its preliminary inquiry and the findings would be made public soon.

The commission had been given access to information regarding intelligence functions of the SADF, and the commission was investigating allegations of the involvement in violence of the SAP and KwaZulu Police, Goldstone said.

He asked people with relevant information on public and private armies or security firms to furnish details to the commission. Information could be given anonymously by telephone on (012) 520-4640.

The commission would consider the submissions and decide what action was appropriate, the judge said.
ANC Bill was not drafted in a vacuum

It's not just "bloodless lawyers" who will decide our rights, says ANC executive member KADER ASMAL, taking issue with Phillip van Niekerk's recent assessment of the organisation's draft Bill of Rights

The poacher makes the best gamekeeper

specifically and that access to land receive fuller attention. These comments provided the insights for the draft Bill of Rights published in November 1990

Such a background is necessary to counter Phillip van Niekerk's cholera attack (WM March 5-11) on the ANC's draft Bill of Rights. Our debate is not being conducted exclusively by political parties and "bloodless lawyers" — some of whom have been detained and imprisoned in the past. The latest draft was not adopted in February 1993, to coincide with the National Party proposals, but in May 1992, following a special conference of more than 500 delegates. An editorial error concerning the date on the cover may have induced Van Niekerk to believe that the ANC and the regime have charted a begemonic course to fix the human rights agenda.

Nothing could be further from the truth. We do not want an "interim" Bill of Rights, as the government does, because it will be illegitimate and a logical absurdity. We have consistently stated that only a constituent assembly could adopt such a document, openly and through a transparent process where some of the issues Van Niekerk refers to could be debated. Lawyers have a limited role to play in such a process. Such a debate would show the basic differences of opinion between the two sides on the following issues: the abolition of capital punishment, outlawing discrimination on the ground of sexual orientation, legal aid in criminal cases, establishing freedom of the press as a constitutional right, the indivisibility and inter-dependence of rights so that there is no conceptual marginalisation of economic and social rights from political rights, ensuring that rigid provisions on property rights do not become a licence for maintaining the race-free status quo and combating discrimination actively.

There is a need for a genuine debate on human rights because world views and theories of reconstruction and development are relevant. But such a discourse is not helped by quoting the egregious Tony Leon as an authority on motivation or by raising "Aunt Sally" as Van Niekerk does.

One example of such an "Aunt Sally" will suffice, and this concerns the declaration of a state of emergency. When our November 1990 draft was published, The Weekly Mail criticised the ANC for not identifying the circumstances when rights could be derogated when there was a frontal assault on the institutions of the state.

This we did in 1992, on the basis that not only Martians may wish to destabilise a new democratic order. We followed the international debate now ensnared in the Syracuse Principles and proposed the most restrictive provisions on the state's competence to abrogate certain rights when fear stalks the land. Rights are not self-enforcing. A new Constitutional Court will interpret all restrictions and determine the constitutionality of state action. Van Niekerk ought to have contrasted the apartheid regime's statist and Draconian approach to this area.

Kader Asmal is professor of Human Rights Law at the University of the Western Cape and a member of the national executive committee of the ANC.
CHARGES against Johannesburg conscientious objector Luis Mirtras for refusing to complete a period of community service were withdrawn by a Johannesburg magistrate yesterday after the attorney-general failed to give a decision on whether or not to proceed with the prosecution. The End Conscription Campaign said.
Controlled accord funds

Government supported the science

South African Institute of Forensic Science

Forensic experts inspect grave site

A small group of forensic experts inspected the grave site of a murder victim. The experts were from the South African Institute of Forensic Science. They were tasked with examining the remains and collecting evidence to aid in the investigation.

The grave site was located in a small town outside the city. The ground was cold and damp, and the air was filled with the smell of decay.

The experts worked carefully, making notes and collecting samples. They were looking for any clues that might help solve the murder.

After several hours of work, the experts were satisfied that they had collected enough evidence. They sealed the grave and left the site, ready to return to the laboratory to analyze the collected samples.

The investigation continued, and the experts worked tirelessly to bring justice to the victim and the community.

End of report.
CAPE TOWN — At least 27 people have been released from jail in terms of the Further Indemnity Act passed late last year, Minister of Justice Kobie Coetsee said yesterday.

The applications for release had been considered by the National Council on Indemnity, which was set up under the Act. Coetsee was answering a question in Parliament put by Tony Leon (DP Houghton).

Coetsee said that up to March 3, 10 people had applied for indemnity from prosecution. They had asked to be excused of the crimes of sabotage, kidnapping, culpable homicide, theft, unlawful possession of a grenade, unlawful possession of firearms and ammunition, murder, attempted murder and malicious damage to property.

At the same time, 348 applications for indemnity submitted before this Act came into effect, and, made in terms of earlier legislation, had been referred to the National Council for its recommendation.

- A total of 442 people had been sentenced to death between 1989 and 1992. Coetsee said yesterday in a written reply to Dave Dalling (and Sandton).

During 1992, 59 death sentences had been commuted.
Amnesty act: 10 apply

Political Staff

TEN people had applied for indemnity in terms of the Further Indemnity Act up to March 3, Justice Minister Mr Robie Coetsee said yesterday.

Replying to a written question from Houghton MP Mr Tony Leon, the minister said no one had yet been indemnified.

Mr Coetsee said that 348 applications for indemnity, submitted before the Further Indemnity Act (FIB) came into effect, had also been referred to the National Council on Indemnity.

The council started its work on November 12, 1992, and had so far dealt with 129 applications as a result of which 27 people had been released.

Offences for which release or indemnity had been applied included sabotage, kidnapping, culpable homicide, theft, unlawful possession of a grenade and the unlawful possession of fire arms and ammunition.
GONIWE INQUEST 19/12/93

Total shock

Shocking evidence pouring out of the Goniwe inquest in Port Elizabeth, and related allegations last week of plans by the current head of Military Intelligence (MI), Gen Joffel van der Westhuizen, to manipulate homeland politics grossly, epitomises the moral decay that characterised PW Botha's reign.

Under Botha's militaristic patronage, politically naive SADF planners usurped civil...
Taxi drivers selfish, greedy – Goldstone

By Brouwn Wilkinson

Grobbersdal taxi drivers' lawlessness and greed were at least partly responsible for taxi wars in the eastern Transvaal town, a committee of the Goldstone Commission has found.

The committee investigating taxi wars said in its fourth interim report yesterday that minibus taxi operators in the area were selfish, greedy and involved in a power struggle.

The committee found that some of the causes of the taxi war in Grobbersdal were particular to that area, but some were common to the taxi industry throughout South Africa.

The Grobbersdal taxi war exploded over routes and taxi ranks in 1991, resulting in several deaths.

The Grobbersdal Town Council had provided 2 taxi rank and had tried to negotiate for peace, but some of its moves, made with the best intentions, had only exacerbated the problem.

The council had withdrawn from negotiations after they proved fruitless.

The Grobbersdal war had several causes, the committee said.

There was an overpopulation of minibus taxis and "poaching" (where drivers operate on routes for which their permits do not apply) was common.

Taxi operators showed a general reluctance to abide by the rules and the prevalence of firearm attacks showed a culture of taking the law into their own hands.

The high degree of greed, intolerance and selfishness bedevilled attempts at mediation.

Taxi operators were charged up to R5 000 in some cases to belong to taxi associations and this increased economic pressure and competition.

The committee recommended that fair but firm and consistent law enforcement that was sensitive to the situation was needed to combat the culture of lawlessness.

"Minibus operators are subject to the law just like every other citizen," the report stated.

Mediation had to be encouraged between the warring taxi associations.
Goldstone to probe Hadebe slaying

By FAROUK CHOTHA
JUDGE RICHARD GOLDSTONE'S announcement that his commission is to probe the kwaZulu Police has raised specious questions about the KZP's conduct with regard to the assassination of key African National Congress Natal Midlands leader Reggie Hadebe.

Judge Goldstone this week announced that his commission's Natal investigation team had looked into complaints against the KZP and it felt that six of the cases needed further probing.

He said a sub-committee of the commission would investigate the "conduct" of the KZP in relation to the murder of Hadebe, the right-hand-man of Natal Midlands boss Harry Gwala. Hadebe was killed in an ambush in the Ixopo area while returning from a peace meeting with Inkatha.

Curiously, the case is being investigated by the South African Police, which has so far made little visible progress.

University of Natal academic John Aitchison said the statement had stoked speculation that the commission suspected the KZP either of hampering the SAP probe, or that KZP officers were implicated in the murder.

Pietermaritzburg South MP Rob Haswell said in parliament last month there was "considerable circumstantial evidence, if not significant leads" for the SAP to follow.

He said Hadebe had been killed by a bullet fired from a G3 rifle, and that G3s, according to evidence submitted to Goldstone, were issued to chiefs. Two chiefs — one of whom was charged with murder in another case but acquitted, while the other is a kwaZulu cabinet minister — attended the meeting with Hadebe on the day he was killed.

Other suggestive circumstances were that the car in which Hadebe was travelling had never previously been used in the Ixopo area; the assassination took place on a hairpin bend, the slowest part of the road between Ixopo and Pietermaritzburg; and that Hadebe was killed by the first bullet fired — strongly suggesting the assassins knew where he was sitting.
Kemp appointment on hold

The controversial appointment of Pretoria advocate Mr Piet Kemp as Registrar of Patents and Trade Marks was suspended yesterday.

Mr Kemp, a Senior Council, was found guilty of misconduct by the Bar Council and his membership of the Society of Advocates was terminated for overcharging the government.

The General Bar Council of South Africa has also brought an action in the Supreme Court for his removal from the roll of advocates.

The DP strongly criticised his appointment this week.

The government earlier this week defended his appointment, but said yesterday it had been unaware at the time of the Bar Council's application for him to be removed from the roll of advocates.

Dr Stefaan Naude, director-general of trade and industry, said the application came to the department notice only this week.
THE confident, combative tone in which Kobus Coetsee univ.ert critical comment on his "Charter of Fundamental Rights" is most unfortunate.

The charter begins, in typically parrotnous spirit, not with a statement of fundamental rights, but with provisions circumscribing its application. It uses a strained language more appropriate to ordinary legislation than to a society's founding constitutional document.

Coetsee seeks to justify certain clauses in the government's charter on the basis of similar provisions in international instruments such as "the International Covenant of Civil and Political Rights".

Unfortunately, the reliance on international precedent does not extend the jurisprudential framework which underlines modern human rights instruments. The minister claims that a bill of rights "serves as a code of conduct for the government of the day".

By contrast, modern human rights instruments grant rights to citizens and are seen not simply as shields but also as swords.

**Sword**

As the distinguished comparativist Mauro Cappelletti has written, "traditional human rights... have proved to be largely inadequate if not accompanied by that further human rights revolution which is reflected in what has been called the human rights of the second generation, that is social rights. To exclude social rights in a modern bill of rights... is to err that the modern state has generally enlarged its reach and responsibilities into the economy and the welfare of the people."

The government's charter is certainly not a sword to provide citizens with the rights to which Cappelletti refers.

The issue in a situation of grotesque inequality is surely not whether rights should have a welfare content, but rather on the most appropriate legal machinery to secure these rights.

Coetsee's charter goes further—than merely excluding welfare rights, it inappropriately casts free enterprise economic policies as fundamental rights.

**No, it's not a rotweiler, but a shark and dinosaur**

FIROZ CACHALIA and DENNIS DAVIS argue that the government's proposed charter of rights brings bad old habits to a new debate.

The charter provides that property may be expropriated for public purposes subject to compensation at market value. By contrast, the Law Commission draft upon which Coetsee claims the charter has been based, provides for just compensation.

This formulation would allow a court to award compensation after a careful consideration of the equities, namely the respective claims of the state, the owner as well as the person who lost property possibly as a result of apartheid removals. The government's formulation effectively precludes initiatives to deal with the moral and legal claims of those who lost their land pursuant to government removal policies.

Similarly, the charter provides that every person shall have the right not to be subjected to taxes on property which will have a confiscatory effect or make unreasonable inroads upon the enjoyment, use of value thereof. The sheer scope of this clause is clearly designed to preclude a land tax but it could well destroy the existing system of rates and taxes.

In the field of labour law, the charter threatens the post-Wiswah achievements. Notwithstanding the principles of collective bargaining, the charter affords individual employees the right to circumvent collective agreements.

The provision concerning education and training provides that every state-funded tertiary educational institution should have the right to determine the medium of instruction and the religious and general character of such educational institutions. The intention appears to preserve state-funded Christian national schools and tertiary institutions such as Stellenbosch University, which appear determined to maintain their existing privileged status at the state's expense.

The most objectionable provisions of this charter are arguably those which are calculated to immunise racial exclusion and subordination over a field which could include sports clubs, residential areas and restaurants. The "free association" clause reads together with Clause 2(2) which amounts to an interpretative instruction to a constitutional court to strike down anti-discriminatory legislation, it is intended to entrench the private right to discriminate.

It is not our view that the state should be empowered willy-nilly to interfere with the membership choices of voluntary associations.

However, where there is a compelling social interest, for example in overcoming racial forms of segregation, it should do so. Indeed, unlike the American Bill of Rights the government's charter will afford no protection to private parties aggrieved by restrictive racial arrangements and unlike the German constitution, which has been interpreted to apply to private institutions that perform public functions, the government's charter seeks to erect a Chinese wall between the state and society.

The provisions of the government's charter dealing with the national interest are also disquieting. The minister's interpretation of Clause 37, which deals with detentions, is incomprehensible or reflective of cavalier reading.

The effect of the clause, clear detention for up to 10 days, is sanctioned by the bill, only for periods of detention of more than 10 days will the courts' supervisory role come into effect.

This provision is unique in the international context and reflects a steadfast commitment to authoritarianism.

**Doubtful**

The charter is also remarkable for the provision of detention "for investigation" and of witnesses "who refuse to divulge information" regarding an alleged offence.

The minister's supposed human rights constitutionalisises wide powers of detention without trial, makes no provision for inadmissibility of illegally obtained evidence and generally undermines the right of the accused.

A bill of rights without a right of access to the courts is a rather doubtful exercise.

The freedom of speech clause is an insult to the very idea as it provides for the licensing and registration of newspapers, a clause incompatible with press freedom.

Kader Asmal is wrong on one point—if ship being is a rotweiler—it is a poorly drafted combination of jurisprudential dinosaur and a political hybrid.

KEN OWEN IS ON LEAVE

Firoz Cachala and Dennis Davis are with Wits University's Centre for Applied Legal Studies.
HCl sues former Tollgate directors.

oppose the order, obtained by Absa on the basis of an unpaid, R311 831 overdraft, a R20.7m suretyship for the debts of his provisionally liquidated Rheboks Kloof wine estate and a R5.5m TGH loan.

These debts excluded the R35m plus interest which HCI is claiming from Askyn, Key and former TGH executive director Lawrie McIntosh, on the basis of a signed indemnity for a put option obliging HCI to buy 1.9-million TGH shares at R14.38 each (R27.2m) from Absa, as well as interest of 18.5% on this amount from April 8, 1992. An additional R5.5m plus interest is also

HCI claimed.

The debt allegedly arose from an agreement signed in February 1991 and was taken over by HCI when it assumed responsibility for Duros Group’s obligations to Volkskas Bank.

Absa instituted legal proceedings against HCI in December to recover the money equivalent of the shares which had no value after TGH’s liquidation. HCI in turn instituted proceedings against the three former directors.

Meanwhile, it emerged from the papers that Askyn played an active role in preventing the implementation of security clauses of a R5.5m loan agreement between TGH and Key.

Court papers showed that Askyn instructed TGH’s lawyers, Sonnenberg Hoffmann & Galombik, not to implement the security clauses of the loan agreement pending Key’s sale of Rheboks Kloof which was then under negotiation. This meant that TGH’s loan of R5.5m made in July 1992, about five months before the group’s provisional liquidation, was an unsecured loan.

In terms of the agreement, a general notarial bond worth R35m should have been executed over Key’s movable assets in favour of TGH, and a suretyship as well as a R5.5m second mortgage bond over its immovable property should have been executed by Rheboks Kloof in favour of TGH.

Absa regional GM Dudley Davies said the R5.5m had been “misappropriated” from TGH. He contested the R35m estimate of Key’s assets made in June by Askyn as overstated, saying the provisionally liquidated Rheboks Kloof, which Keys had valued at R22.2m, was hopelessly insolvent and had a realistic value of R3.37m.

Davies submitted documents to court to prove that Key had forged a letter from the Formula One Constructors’ Association (Foca), which holds the international rights to Grand Prix motor racing events, in order to get Reserve Bank approval for the export of $4.3m (about R13m).

The allegedly forged letter was dated May 1991, when MRE was still owned by TGH, and referred to negotiations between Askyn and Foca.

Adv Gavin Woodland told the court Foca had never requested the money.
The number of judicial whipppings last year.

30,000.
Do you have a skin pigmentation problem?

A dull complexion?

Dark patches on your skin?

If yes, we can help you with LVC Fresh Completion Cream.
ANC firms up policy on regional function

THE ANC ended a crucial meeting on regionalism on Saturday night in Johannesburg with a firm commitment that a future constitution should provide for a maximum of 10 regions.

At the meeting, attended by more than 200 delegates and observers from 14 regions across the country, the decision of the ANC national consultative conference on regional policy was announced.

This was official ANC policy as agreed to by the conference. The decision, which was made by the ANC's political leadership, is based on the understanding that a regional arrangement would provide for a more efficient and accountable system of governance.

The conference also decided that the policy would be finalized at the next national conference in 1993.

Noting that regionalism could only be finalised as an integral part of national democratic constitutional reform, the delegates decided that the policy would be implemented in a phased manner.

The resolution said that the policy should be implemented in a phased manner, with the first phase focusing on the establishment of a national regulatory framework.

The resolution also stated that the policy would be implemented in a way that respects the cultural and historical diversity of the country.

ANC secretary-general Cyril Ramaphosa said the policy was adopted unanimously.

Meanwhile, more than 50 anti-apartheid movements, development agencies, church bodies and trade unions are planning a national campaign against the government's new electoral system, which they say is designed to divide and confuse voters.

The campaign, which is being coordinated by the United Democratic Front, is aimed at creating public awareness about the new system and encouraging people to vote.

The campaign will include a series of national rallies and marches, as well as a national day of action on April 27.

Stealing a march on opposition

THE ANC was hoping that an early campaign start would give it a decisive advantage in winning elections against opposition parties that had experienced and more resources, ANC PWV chairman Tokyo Sexwale said yesterday.

The regional election campaign was launched last month and the ANC yesterday unveiled its new regional flag at rallies across the country.

Sexwale said the current campaign would be the ANC's biggest mass action ever. "This time we are not pushing pressure on the government, we are removing the government," he said.

He was unambiguous about the ANC's election platform in the region. "It is about winning power - the power that all along they have tried to get through marches, petitions and the armed struggle. We want a transfer of power to a democratic elected government. The election is about commencing the process of reconstructing our lives," he said.

Dismal human rights year

GAVIN DU VENAGE

The past year has been gloomy for human rights in SA, the Human Rights Commission says in its annual review.

It said security force covert operations, vigilantism and repressive state legislation "continued to notch up a litany of human rights violations and abuses".

Retaliatory action compounded the situation, and "attacks on policemen and innocent civilians did nothing to advance the cause of human rights in SA," it said.

These activities led to the deaths of more than 3,500 people, 32% more than during the previous year.

The report noted the deaths of 28 train passengers, 122 policemen and 97 political activists.

More than 120 deaths in police custody were recorded, most taking place before the deceased came to trial.

During the year, 50 magisterial districts were declared unrest areas, more than during the State of Emergency in 1985/6. More than 400 people were detained without trial, the commission said.

Political arrests stemming from democratic protests continued apace. More than 10,000 such arrests took place, accompanied by the deaths of 160 people.

At least 126 political trials involving 8,500 people took place. The review listed 859 political prisoners.

About 300 people were on death row, many of whom had been there since banning was suspended in 1990. In spite of this, another 34 death sentences had been passed down in the past year, the commission said.
Fears over legal standards

THE legal profession in South Africa fears that a new government may do away with the system of articles and open up legal practice to anyone with a law degree.

"This could lead to a reduction in legal standards to the detriment of the public, as has happened in Zimbabwe and Namibia," Mr E R Liefeldt, director of UCT's School for Legal Practice, said yesterday.

He said law graduates were experiencing increasing difficulty in finding articles with legal firms — a requirement for admission as an attorney.

He said attorneys were reducing the number of graduates taken into articles, as 'articled clerks' — now called candidate attorneys — are a considerable expense for the first six to 12 months of their articles.

The Association of Law Societies was taking steps to improve the situation, one of which was to establish full-time schools for legal practice, to enable graduates to obtain practical legal training and make themselves more marketable to the profession.
Goldstone hears again of ANC/SAP distrust

PRETORIA — The uncertainty and suspicion which have characterised the relationship between the SAP and the ANC was highlighted again at a Goldstone commission hearing yesterday.

Echong previous testimony, police officers giving evidence to the commission confirmed that few channels of communication existed between the two organisations for preventing violence or identifying perpetrators’ motives or political allegiances.

In evidence before the commission, Capt Johan Böng of the SAP said Bongani Khaba — who is charged with throwing a hand grenade at a police Casspar in September last year, injuring 14 people — was believed to be an ANC leader.

However, Böng agreed with ANC legal advisor Azhar Cachalia that the only grounds for proponent Khaba was an ANC leader was held in high regard and that ANC supporters had attended his trial.

Böng confirmed that Khaba had never spoken at a political meeting and it was not known whether in fact he had ever attended one. But he was assumed to be an ANC leader due to his standing in the community.

Cachalia expressed surprise that where people who claimed to be members of the ANC were believed to have carried out attacks on the SAP, the ANC was not requested to confirm the suspect’s membership.

Neither was the ANC approached when the police had been given information in advance that some alleged ANC or MK members were planning attacks.

Cachalia said he was concerned that the police accepted as fact details which had not been verified even though those details could portray the organisation in a negative light.

“When you come to a commission such as this and make an allegation, is it not important that you try and confirm that information which you have?” Cachalia asked Böng.

Sgt Daniel Day of the Benom SAP said, four murder suspects had admitted membership of the ANC or MK following an incident in the eastern Transvaal last year. He added that he had not attempted to establish the truth of their claims, not knowing whether other branches of the SAP had followed up the matter.

The committee, chaired by Gerti Steyn, has been investigating the causes of escalating attacks on security force members over the last two years.
Education bodies plan to avert universities’ collapse

EDUCATION organisations said yesterday they would take urgent steps to prevent the “financial collapse” of black universities, including appealing to President F W de Klerk to intervene.

The National Education Coordination Committee (NECC), the Independent Development Trust, the Kagiso Trust, the Education Development Trust and the Baru Council of SA was formed two weeks ago to address the crisis and to salvage the 1993 academic year.

At a meeting yesterday, the forum decided to meet major funders of black universities to develop a collective approach to funding financially disadvantaged students. Thereafter, it would meet De Klerk to secure his support for, among other things, the correcting of the historical imbalances in government funding arrangements.

The forum also decided to hold a number of donor conferences with key international institutions and the private sector, and to establish a committee of experts to visit black universities to identify ways of strengthening institutional capacity.

NECC general secretary James Maneke told the news briefing that the 1993 academic year had already been lost to several thousand students who could not attend classes until registration fees, which they could not afford, were paid.

He said although white universities were also experiencing problems, by comparison the problems at black universities were acute.

“Some are literally unable to pay salaries and to provide basic services,” he said.

Maseko said the forum would have talks with the IDT and the Kagiso Trust before a possible meeting with De Klerk.

The trusts and government are black universities’ major funders.

The universities facing financial problems are those of Zululand, of Durban-Westville, the North, the Western Cape, Fort Hare, Transkei, Venda, Bophuthatswana and Modimolle.

Zevenfontein squatters halt TPA talks until demands met

THE Zevenfontein squatters have called off all resettlement talks with the Transvaal Provincial Administration (TPA) until a wide range of demands — including the immediate incorporation of the relocation sites into Randburg and Randfontein municipalities — are met.

Other demands are the supply of new tents to squatter families, a mobile clinic, toilet facilities to each family, an office building for leaders of the community and additional water tanks to be erected at the current Zevenfontein site.

If these demands were not met by Friday, the squatters would march on the office of the President, squatter spokesman Mathole Motshaba said.

A request by the TPA to discuss development plans of the Diepsloot resettlement area had been rejected on the same grounds, Motshaba said.

He said no talks would be held with the TPA unless the demands were met.

About 600 squatter families will be moved from Zevenfontein to Diepsloot. TPA spokesman Piet Wilken said the decision by the Zevenfontein community was regrettable, but the TPA would continue with the planning of the Diepsloot site.

He denied the TPA had been dragging its feet over the relocation of the squatters, and said the planned resettlement date of March 31 had been delayed by a temporary Supreme Court interdict issued after a court action late last year by Diepsloot residents.

TPA had halted the development of the Diepsloot site. Although the court found in favour of the TPA to continue with the resettlement of the squatters, Diepsloot residents appealed against the court finding.

They had lost the appeal, but had until March 25 to petition the Chief Justice to reverse the appeal court finding.

Until then, Wilken said, the TPA’s hands were tied.

“We are committed to find a solution and regard the Zevenfontein community’s participation in planning the Diepsloot site of the utmost importance,” he said.

About the incorporation of the Diepsloot and Nigeldecht sites into existing municipalities, he said the administrator was awaiting the recommendations of the Demarcation Board — which recently met on the extension of municipal borders in the area.

Mpfou faces fraud charge

FORMER ANC welfare department deputy head Dali Mpfou’s career at the Johannesburg Bar Council chairman Wun Tregove SC said Mpfou immediately informed the council about his arrest on Monday.

"He is found guilty, we would definitely take action," said Tregove.

It is alleged that Mpfou illegally issued a R50000 ANC cheque to a fictitious person and attempted to lodge it in a bank account.

A law firm brought this to the police’s attention.

Mpfou appeared briefly in the Johannesburg Magistrate’s Court on Monday, but no charges were put to him and he was not asked to plead. The matter was postponed to April 22.
man to legal career

LA law attracts too

CITY
La Law attracts too many to legal career

By John Wilson

In the profession he so beloved, the legal profession, he said, "the legal profession is the most important profession on the continent."

In his address at the annual meeting of the Association of Law Societies of the major cities of the nation, Mr. Dave Anderson, newly elected president of the association, said: "The legal profession is the most important profession on the continent."

"The legal profession," he said, "is the most important profession on the continent."

"The legal profession," he continued, "is the most important profession on the continent."

"The legal profession," he concluded, "is the most important profession on the continent."
HOUSE OF ASSOCIATION

WEDNESDAY, 23 MARCH 1994

P. Agee


THE MINISTRY OF LIVESTOCK

The Minister of Livestock, Mr. Andrew G. King, announced the following:

1. A new Finance Act has been approved.
2. The new Act will come into effect on 1 January 1995.
3. The Act includes provisions for tax reductions and incentives.
4. A copy of the Act will be circulated among Parliamentarians.

THE MINISTRY OF PUBLIC ENTERPRISES

The Minister of Public Enterprises, Mr. John D. Williams, announced the following:

1. A new Public Enterprises Act has been approved.
2. The new Act will come into effect on 1 January 1995.
3. The Act includes provisions for the establishment of a new public enterprise to manage the country's water resources.
4. A copy of the Act will be circulated among Parliamentarians.

THE MINISTRY OF LAW AND ORDER

The Minister of Law and Order, Mr. David M. Brown, announced the following:

1. A new Law and Order Act has been approved.
2. The new Act will come into effect on 1 January 1995.
3. The Act includes provisions for the establishment of a new police force.
4. A copy of the Act will be circulated among Parliamentarians.

THE MINISTRY OF JUSTICE

The Minister of Justice, Mr. Robert J. Lee, announced the following:

1. A new Justice Act has been approved.
2. The new Act will come into effect on 1 January 1995.
3. The Act includes provisions for the establishment of a new court system.
4. A copy of the Act will be circulated among Parliamentarians.

The Minister of Justice concluded his statement by thanking Parliamentarians for their support during the debate on the legislation.

The House adjourned at 10.30 a.m.
to Airmen (Notam) system whereby on 27 February 1993 pilots were reminded of regulations pertaining to board avian aircraft. The industry is to a large extent also self-regulating in the sense that unauthorized operations are reported when they occur.

The Department therefore objects to disagreeing in the strongest possible terms with the sentiments expressed in recent newspaper reports on this subject.

Nooenti: inquest

4. Adv. J J S Prinsloo asked the Minister of Justice:

(a) whether, with reference to the reply of the Minister of Law and order to Question No. 8 on 17 June 1992, an inquest has taken place in respect of the death at or near Noenuput in the Kalahari in November 1991 of two persons, whose names have been furnished to the Minister's Department for the purpose of his reply, if not, why not, if so, (a) what was the result of this inquest and (b) what are the names of the persons concerned,

(b) whether he will make a statement on the matter.

The Minister of Justice

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

The details regarding this question are well known and can be found in official court documents. I could easily follow the usual practice of simply telling the hon. member that these court documents are accessible to him and leave it at that, which would perhaps not be very courteous of me, as I know he is very busy and does not have the time to do that little bit of research. Whatever the case may be, I should like to point out the following facts in answer to the hon. member's question:

(a) whether, with reference to the inquest into the circumstances of the deaths therefore had to be conducted.

Regional Magistrate C. T. J. Jacobs was appointed to hold the inquest. The formal inquest in terms of the Inquest Act, 1959 (Act 38 of 1959), was finalized on 12 November 1992.

(a) and (b)

The findings of the regional court magistrate in terms of section 16 of the Inquest Act, 1959, as reflected by the record of the proceedings, are supplied hereunder with regard to the three persons killed in the event.

(i) Jurgen Matthews White, a 22-year-old man

(a) Date of death: 7 November 1991

(b) Cause or likely cause of death: Loss of blood due to penetrating projectile wound through the chest and body obtained during an armed encounter with the South African Police who lawfully pursued the armed deceased.

(c) Whether the death was brought about by any act or omission prima facie involving or amounting to an offence on the part of any person: In the light of the facts that there was no acceptable evidence of how the wound under the chin of the deceased was sustained, the court was not in a position to make a finding as to who caused or administered it.

(ii) Johannes Jurgens Grobbelaar, a 19-year-old man

(a) Date of death: 7 November 1991

(b) Cause or likely cause of death: Rupture of the brain, neck, pectoral gridle and lung due to various bullet wounds sustained during an armed encounter with the South African Police who lawfully pursued the armed deceased.

(c) Whether the death was brought about by any act or omission:
WEDNESDAY, 24 MARCH 1993

**Hansard**

**Prima facie involving or amounting to an offence on the part of any person.** In the light of the fact that there was no direct evidence of how the wound under the chin of the deceased was sustained, the court was not in a position to make a finding as to who caused or administered it.

**DAANTJIE BARENS, a 23 year old man**

- **Date of death:** 7th November 1991
- **Cause of death:** Internal and general loss of blood due to a penetrating projectile wound through the chest
- **Whether the death was brought about by an act or omission:** Prima facie involving or amounting to an offence on the part of any person. On the available evidence it cannot be determined who was responsible for the death of the deceased when he was fired upon by armed persons, while he was assisting the South African Police as a tracker.

The findings of the inquest were brought to the attention of the Attorney-General, Kimberley, who indicated that no further steps were considered by him.

A statement is not necessary, since the view is not too long in any case.

**Navy: affirmative action**

Mr A S BEYERS asked the Minister of Defence:

(1) Whether, with reference to certain statements allegedly made by a spokesman of the South African Navy on the radio programme Monitor on or about 4 March 1993, the Navy has decided to increase the percentage of Black employees in the Navy as against employees of other race groups, if not, what are the relevant details of the statements on

The MINISTER OF DEFENCE:

(1) and (2) (a) By what percentage and (b) as against what race groups, if any, or selective affirmative action, if not, why not, if so, what are the relevant details?

(3) Whether the Navy has consented to the principle of affirmative action, if not, why not, if so, what are the relevant details?

(4) Whether the Navy intends to monitor the composition of its work force on a racial basis in future, if not, why not, if so, for what reasons?

**The Minister of Defence**

The MNC buildings erected

Dr F H PAUW asked the Minister of National Health:

(1) Whether the South African Medical Research Council at any time erected buildings, established an innovation fund and/or invested funds without complying with the required legal provisions or obtaining ministerial or Treasury approval for doing so, if so, (a) who, (b) why, in each case and (c) what was the amount involved?

The MINISTER OF NATIONAL HEALTH

Yes, (a) (b) and (c) and (b)

**Growth of buildings**

In order to make provision for specific and projected requirements, the MNC applied to the State to use a certain building in Pretoria as a regional office and to carry out certain extensions to the head office complex in Pretoria.

The regional office in Pretoria was completed in November 1988 at a cost of R0.1 million. The extension to the head office complex in bow, which consisted of additional office space, computer accommodation and conference facilities, were completed in September 1991 at a total cost of R0.4 million.

Concerning both building projects, correspondence with the Department of National Health and Population Development commenced during 1983 and submissions and invitations were provided. On the grounds of these submissions and invitations, the Department of Finance gave financial backing to both these projects.

The Department of National Health and Population Development, as well as the Department of Finance, gave financial backing to the projects.

**Innovation Fund**

In terms of Framework Autonomy, it is expected from scientific councils to initiate own income supplementary to the basic financing provided by the State by means of commercialisation actions and initiatives.

In order to establish a management framework whereby requests for support with regard to these projects could be accommodated and managed, it was decided to earmark an amount of R1 million from the general reserves of the MNC for this purpose. The calculated interest on the R1 million can be utilized annually to support research projects with a market potential.

In the general management and documentation of the MNC this earmarked amount can be referred to as the "Innovation Fund" merely to identify such fund. There is however no money for fund which is separately invested and it remains a part of the MNC's General Reserves.

As this "Innovation Fund" is purely a management and establishing financial guidelines whereby awards can be made, the management of the MNC was of the opinion that it did not represent a "Fund" as intended by section 12(2) (c) of the MNC Act, 1991 (Act 58 of 1991).

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**Hansard**
FW To get tough with APLA

Scathing attack on Transki. Leaders expected

By Peter Partners

President uses off-the-record talks to warn of political fallout

Detainment of key officials fails to deter Albany's leader

Some leaders say Transki is 'a good man, a great person'

But Albany insiders say he's 'too soft' on the policy

New anti-corruption laws seen as 'a step in the right direction'

But some say they don't go far enough

Transki's defenders say the laws are a 'slap in the face'

But others say they're a necessary measure
HOME OF DEFENCE

Dear Mr. President,

I am writing to bring to your attention the urgent matter of national security that has recently come to our attention.

The situation involves a potential threat to the sovereignty and territorial integrity of our nation. As you are aware, the recent developments in the region have caused concern among our military and diplomatic officials.

I have requested a high-level meeting of the Defence Council to discuss the measures that need to be taken in response to this threat. I kindly request your presence at the meeting to provide guidance and support.

The matter is of utmost importance, and I am confident that your wisdom and leadership will help us navigate this difficult situation.

I look forward to your early response.

Yours sincerely,

[Signature]

The Minister of Defence

October 1, 1999

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[The document continues with formal correspondence and additional details regarding the Defence Council meeting and the national security threat.]
SOUTH AFRICA had 146 judges in February this year but only one of these was not white, Minister of Justice Mr Kobjie Coetsee said.

In reply to a question tabled in Parliament by Mr David Dalling (ANC, Sandton), he said that 137 of these judges held permanent posts.

The only judge who was not white was Mr Justice Ishmael Mahomed of the Transvaal Provincial Division.
MPs urge return of hanging to stem tide of violence

MICHAEL MORRIS and TOS WENTZEL, Political Staff.

President de Klerk, who faces strong pressure from hawks in the cabinet to take firm action, has been told by his MPs that supporters are enraged by the alleged APLA campaign of violence.

King William's Town MP Mr Ray Radoc, who survived an APLA attack on his golf club in the town late last year, said: "This is the most fearsome I have felt the heat of public's response to be for a long time. MPs are picking it up throughout the country.

"Something must be done if we want to forestall a race war or the possibility of people taking the law into their own hands."

Mr Radoc issued a statement with Jeppe MP Mr Hennie Bekker calling on Mr De Klerk to review the moratorium on hangings.

Mr Radoc said: "The legislation is in place. It is up to the executive to review the situation on hangings and to bring back the death penalty."

"This is widely supported in the NP caucus and the public is screaming for it. I can tell you, that a number of eminent judges have phoned me to support the return of the death sentence."

Democratic Party defence spokesman General Bob Rogers said violence had "reached a new low" with the senseless killing of children and "passing motorists" in "an unanswerable continuation of such barbarism."

General Rogers added: "It can be shown that APLA are responsible and then PAC leadership is called upon to state publicly and unequivocally, where they stand on this issue and whether they support the increase of cold-blooded murder."

If in the DP jaunts that the PAC are no longer allowed to take part in the constitutional negotiations..."
In a press conference yesterday, MPs for the National Party members personally favoured the debate on the death penalty. Speaking at the conference, the National Party leader said: "We believe that the death penalty is justified in certain cases. It is a necessary deterrent against crime." The conference was held at the Parliament building in the capital city. The debate on the death penalty is expected to continue for several days.
Mining ‘will kill St Lucia habitat’

PRETORIA — Open cast mining at St Lucia would result in major, irreparable damage to the habitat, an international wetlands monitoring body has found.

In a report issued yesterday, the Convention on Wetlands of International Importance (Especially as Waterfowl Habitat), or Ramsar, said the mining operation would significantly alter the soil characteristics, dune structure and beaches of the area.

“The SA authorities should consider whether, in view of the importance of the St Lucia system, the application to exercise mining rights should be refused on principle,” the report concluded.

SA was one of the original seven contracting countries which established the Ramsar convention in 1971. St Lucia is one of 12 SA sites on the Ramsar list detailing wetlands of international importance.

Conducted in May last year by Ramsar experts, the survey indicated it would not be possible to reconstitute the original vegetation at St Lucia by rehabilitation measures.

The elevated water table as a result of mining would affect the beaches and seaward face of the dunes of the barrier and also the wetlands of the eastern shores, it said.

Tourism would be affected as the proposed mining would take place at the gateway to St Lucia, causing a “long-term drop in the popularity of the area”.

It would also be impossible to restore the original dune structure. It must be doubted, the report said, “whether a complex dune forest which has grown up over millennia can ever be really reconstituted with such an altered dune structure and soil composition.”

The Ramsar mission said its report did not seek to interfere with, “pre-empt or supplant the national process” under way.

The Environmental Affairs Department said the report “may be presented to the review panel or indeed used as a supplementary document by the Cabinet when it reviews the findings of the EIA”.

Sapa reports that Parliament’s refusal to deal with a Bill to outlaw mining at St Lucia and 11 other internationally recognised SA wetlands has been condemned by the Campaign for St Lucia.

The Joint Committee on Private Members’ Legislative Proposals deferred consideration of the Wetlands Conservation Bill until after the review panel’s report.

The Bill would have given effect to the Ramsar provisions.

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Key Family Trust’s debt is R20,8m, says Absa

CAPE TOWN — Absa brought an urgent application in the Cape Town Supreme Court yesterday for the provisional sequestration of the Key Family Trust set up by the provisionally sequestered Mervyn Key.

Judgment on the application will be handed down by the court today.

Absa regional GM Dudley Davies said the trust had bound itself as surety and co-principal debtor to Bankorp for the liabilities of Key’s Paarl wine estate, Rboksloof and its sister company Parmalat investments.

The only asset of the trust was its stake in Rboksloof and Parmalat. The total debt to Absa was R12.6m, Davies said.

The trustees of the trust are Key, his father Cedric Key, who is in Australia, and former Tollgate director Lawrie Macintosh, who is believed to be in London.

Meanwhile Key’s Paarl wine estate Rboksloof was provisionally wound up without opposition in the Cape Town Supreme Court yesterday.
Hangings should begin again – State President

CAPE TOWN – President de Klerk would vote yes when MPs were asked whether hangings should begin again.

De Klerk, a former lawyer, told a press conference yesterday that he believed the death penalty — in a limited sense — should be part of the judicial system.

Earlier, he told Parliament that in the light of the continuing violence in the country, the Government had decided to test MPs' views on whether death sentences should be carried out.

Hangings were suspended some time ago pending debate on how the death penalty should be dealt with in a Bill of Rights.

MPs would be given an opportunity to speak in a special debate in Parliament, and according to De Klerk National Party members would be allowed to vote freely according to their own convictions.

Replying to a question at the press conference, he said he had always believed that the death penalty should be part of the legal system.

He approved of recent reforms which no longer compelled a judge to sentence a person to death for certain offences if no extenuating circumstances were found. – Sapa.
No more info on Goniwe — Govt

CAPE TOWN — The Government had already made all documents on covert activities related to the Goniwe inquest available to the Eastern Cape Attorney-General, President F W de Klerk said yesterday.

Rephrasing a question from Roger Burrows (DP Pinetown) during the State President’s question time, he said the Government had shown through the inquest that it did not want to hide anything.

"We have nothing more to disclose," he said.

"We want to get to the truth."

It was unfortunate that it had taken so long and that further delays had space been caused, but the judicial process was often like that.

"The delays were not caused by Government."

The inquiry investigators and the judge should be given a chance to perform their duties.

In a follow-up question, Burrows asked De Klerk if he was saying that he had released all documents on covert activities to the Attorney-General, including those in the possession of General military leader Major-General Bantu Holomusa.

De Klerk said Holomusa was playing politics and he could not be certain whether the documents Holomusa had released had been "doctored" or not.

It was Holomusa's duty to make all the documents at his disposal public immediately.

SAPA
Holomisa rejects commission findings

The Transkei has rejected the preliminary findings of the Goldstone Commission into the activities of the Azanian People's Liberation Army and denied that Apla territory has been used as an Apla springboard.

Military leader Major-General Bantu Holomisa also denied the commission's finding that Apla members were receiving training in Transkei.

"Transkei is not being used as an Apla springboard," Holomisa said in a telephonic interview from Umtata yesterday. "They (Goldstone Commission) must bring the evidence."

He said the Goldstone Commission report, in which only the SA Defence Force and SA Police accepted invitations to make submissions, was a "one-sided story".

"Apla members are also not receiving training in the Transkei," Holomisa said.

"The Transkei government is adamant that there are no Apla bases in Transkei," he said in a separate faxed statement.

The Transkei still upheld its non-aggression pact with South Africa, he said in the interview. Asked about the commission's finding that Apla's internal High Command was based in Transkei, he said the PAC and other liberation organisations were unbanned in 1990 and their members were free to go where they wanted.

The Goldstone committee recommended that Transkei be asked to respond to the SADF and SAP allegations "and if they are confirmed or not denied to bring pressure to bear on the Transkei authorities to prohibit the use of any part of their territory as a springboard for attacks against South African citizens.

The Goldstone findings vindicated the Transkei's stand that the inquiry was a "kangaroo court", Holomisa said in the statement.

The Transkei found it hard to regard Goldstone as an emminent judge, especially because he did not personally preside over the inquiry into Apla, he said.

"We reject the findings of the Goldstone Commission which condemn Transkei in view of the untested evidence."

He advised the South African Government to talk to the PAC and other organisations to reach a mutual agreement that all parties cease hostilities - Sapa
Gluckman tells of cell death findings

By Abdul Milan

An ANC Youth League member died of a brain haemorrhage associated with external injuries and not of an epileptic attack as police claimed, pathologist Dr. Jonathan Gluckman told an inquest court in Oberholzer yesterday.

Nixon Phiri (16) of Khutsong, Carletonville, died on January 16 1990 while he was being interrogated at the Welverdend Police Station.

Gluckman said that when he examined Phiri he found evidence of bleeding in the inner brain. There were five abrasions on his head.

There were multiple minor abrasions on his body and his lungs were congested with blood, which could have been caused by manual strangulation.

He also found a "large amount of free blood" in Phiri's stomach.

Two members of the ANC Youth League-affiliated Khutsong Youth Congress, who were detained together with Phiri, were shot dead within three days of each other in Carletonville a year ago.

Pule Mothopi was killed on March 4 and Thomas Tshabala on March 7.

Police claimed the deaths occurred during unrest-related incidents. The inquest continues today.
Don't help Apartheid's goldstone report

NEWS

\[\text{Scan 25/11/93}\]
Wide-ranging responses to FW, Goldstone

By Esther Waugh and Kaizer Nyatsamba

The PAC came under heavy fire yesterday — in the Goldstone Commission's preliminary findings on Apla and President FW de Klerk's address to Parliament. But its leaders would not comment on the charges last night.

PAC sources said the organisation would hold a press conference today after studying the commission's report and De Klerk's speech.

Transkei military ruler Major-General Bantu Holomisa last night rejected the Goldstone Commission's preliminary findings on Apla which implicated his government.

In its response to De Klerk's announcements, the ANC expressed concern over the government's as yet undisclosed 10-point plan of action to stabilise "problem areas".

The organisation said the arrests of 18 unnamed Apla cadres raised concerns about detention without trial, and said they should be charged or released immediately.

The ANC called on the government to give public guarantees that no coercive measures would be used to extract information. Their names should be released immediately and their families informed so that they could arrange proper defence for the Apla cadres.

It reiterated its principled opposition to the death penalty.

"President De Klerk could demonstrate his serious intent to make addressing the question of violence the major priority on the agenda by acting against those who were implicated. Despite the recent revelations (Military Intelligence chief) General Joffel van der Westhuizen and (Local Government Minister) Dr Tertius Delport remain in their posts," the ANC said.

Responding to the Goldstone Commission's report, Holomisa said "The Transkei Government is adamant that there are no Apla bases in Transkei. Since South Africa refused the offer to send a judge to head the (Transkei Government's proposed) Commission of Inquiry into Apla, we regard the matter as a closed affair."

Referring to 12 secret SADF files he has in his possession, Holomisa said they show that some covert activities have been executed since De Klerk came to power in 1989.

Lawyers for Human Rights director Brian Currin said Parliament as it was presently constituted had no moral right to debate the death penalty and decide on it unilaterally.

"The (execution) of the death sentence in the circumstances will probably be more inflammatory than constructive," Currin said.
Execution a hanging question

By CHRIS LOUW
BROAD support is sought by the government for the reimposition of the death penalty following an unprecedented wave of cold-blooded murders in the country, including the recent attacks attributed to Apia.

The death penalty was suspended by President FW de Klerk during his February 1990 speech in which he announced the unbanning of all political organisations. The moratorium was kept in place pending the completion of an interim charter of fundamental human rights which will be in effect during the transition phase.

Although parliamentary consent is not necessary to revoke the moratorium, De Klerk announced on Wednesday that the issue will be debated thoroughly in parliament before a decision is taken.

His announcement followed a press release by National Party MPs Hennie Smit (chairman of the NP’s law and order study group) and Kay Rudue (chairman of the study group on justice) in which they pleaded for the reimposition of the death sentence.

In his announcement De Klerk said that NP MPs — now dominating all three houses of parliament — would be allowed to vote on the issue according to their conscience.

By STEPHEN LAUPER
RILED by the all-male composition of the planned multi-party forum, women from across the political spectrum plan to disrupt next Thursday’s crucial management committee meeting which is preparing for the talks.

The demonstration being planned and co-ordinated by African National Congress Women’s League leader Baleka Kgositsile. She hopes that women from all 26 parties involved in the negotiations and other women’s groups will take part.

Inanda women appear to be interested in participating, but at least some National Party women say they neither believe in demonstrations, nor that many women are currently up to the job of governing the country.

What has made ANC women and their allies particularly livid is the flippant response by male negotiators to proposals for an expansion of the negotiating forum to accommodate a female adviser from each of the participating groups.

This would give women a more direct voice in the process than under Codesa II, where a gender action committee was the only forum for women’s issues.

The proposal, adopted by the ANC executive, was put forward by secretary general Cyril Ramaphosa at last week’s meeting of the facilitating committee preparing for the talks.

He was met by loud jeers from the all-male group around the table, says Kgositsile, as well as comments such as “We are all here on merit” and “This is reverse discrimination!”

The ANC Women’s League wants to put the point more forcefully to the negotiators when they meet again next Thursday.

They plan a 1 000-strong “welcoming committee” for negotiators arriving at the World Trade Centre and are looking at including women advisers, at least temporarily, in sympathetic delegations.

Kgositsile: “If we knew that the negotiators were all sleeping in one place the night before, they’d get a very early visit.”

Lily Coetzee, wife of Springs MP Piet Coetzee and a National Party Women’s Action Committee activist, says she doubts members of her organisation will participate.

“We don’t believe in demonstrations, we prefer to find other ways of putting pressure,” she believes if this country is to uplift itself, women will do it.

But I feel that most women are not yet up to standard. Women must be chosen on merit.

“We don’t want puppets appointed.”
Whose information is it anyway?

It’s time to rip away the cloak of secrecy which surrounds government—and certain private sector institutions. A Freedom of Information Act would grant a positive right to knowledge.

By PHILLIP VAN NIEKERK

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Surrogate mums: Controls call

The South African Law Commission (SALC) has proposed legislation to control surrogate motherhood. The report tabled yesterday states that it would be impractical to ban surrogate motherhood. The report proposes that surrogate motherhood be permitted for married couples in cases where the wife, for medical reasons, is irreversibly incapable of giving birth. The gametes of both commissioning parents should be used or the gametes of one of the parents and a donor — not the surrogate mother or her husband. The SALC said the Supreme Court must receive conclusive evidence regarding:

- The physical and psychological suitability of the surrogate mother;
- The psychological suitability of the commissioning parents to accept parenthood of the child, and
- The interests of any descendant or adopted child of the commissioning parents.
**LAW & ORDER**

**Probes welcomed**

A committee of the Goldstone Commission is to investigate the KwaZulu Police in connection with several incidents of violence in KwaZulu. This week Mr Justice Richard Goldstone announced that the committee would investigate six complaints, including the assassinations of ANC Newcastle chairman Haibonitha Sibankulu and ANC Midlands deputy chairman Reggie Hadebe.

The committee that will look into the homeland police force is already probing possible causes of violence in Natal and KwaZulu, other than the rivalry between Inkatha and the ANC. The latest probe follows investigations by the commission’s Natal team into complaints against the KwaZulu Police.

The KZP was established in early 1980 with a few hundred members, some of them transferred from the SA Police. When the force started it was under the control of KwaZulu Minister of Justice C. J. Mthethwa, but Inkatha leader and KwaZulu Chief Minister Mangosuthu Buthelezi soon took it over. The force grew steadily and now has nearly 4,000 members in five large police districts.

Goldstone says both Buthelezi and the KZP police commissioner, Lieutenant General Roy Durang, have given assurances that they will co-operate with the inquiry. In December the KZP’s commanding officer of

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**CURRENT AFFAIRS**

Legal services, Lieutenant Colonel Patrick Reed, told the commission the force would welcome any investigation.

KZP spokesman Colonel Moses Khanyile goes even further and says the force has no problem with an investigation and has always encouraged people who felt they were wronged to come forward and speak to the Goldstone Commission or the National Peace Accord.

But on the ground there are indications that the KZP is at odds with a large part of the community it is expected to serve. In November Legal Resources Centre’s Richard Lyster said at an Idasa conference on policing that the force gave a new meaning to the term “a law unto itself.” He added that he had acted for victims of KZP police violence for several years.

Recently a magistrate recommended a murder probe into the KZP and another slammed the conduct of the force at the end of an inquest. In November unrest monitors in Natal submitted a memorandum to the Goldstone Commission, UN and OAU calling for a judicial inquiry into the KZP.

Khanyile says political strife has made policing difficult in certain areas and some policemen have been killed in the past few years.
SAVE UP TO 1500

The opening of the Ga-
KARIN SCHIMKE, Staff Reporter

SOUTH Africans, angry and distressed at violence and crime, have dramatically changed their attitude towards the death penalty.

In an overwhelming response to a phone-in poll yesterday, The Argus readers said re-introduce hanging.

In all 1 008 calls were answered, but reporters were unable to handle hundreds.

In stark contrast to similar polls in 1989 and 1992, 97 percent of callers said they were for capital punishment.

In 1989, only 273 readers responded — 134 for the death penalty being scrapped and 139 against.

Last March, just 150 called and 74 percent were for the death penalty.

Although the provision is still provided, there has been a moratorium on hanging since February, 1990.

A special debate on the issue is to take place in Parliament and for the first time National Party MPs will be given a "free vote" — the right to express personal opinions.

Grounds for bringing back hanging cited by readers yesterday included its deterrent effect, the cost to taxpayers of keeping criminals in prison and escalating and uncontrollable crime and violence which was "destroying the country."

Mr. Bernard Tufin said capital punishment was "society's only self-defence."

Another caller said it might reintroduce hanging for "the law".

Murder, especially of police and soldiers, terrorism, rape and child molestations ranked high on the list of crimes that deserved the death sentence, callers said.

"The punishment has never fitted. The crime in this country," said a caller from Sea Point. "Anarchy reigns in this country. We have our backs to the wall and something ought to be done."

"In the Transkei people are punished according to the crimes they commit, and look how low the crime rate is there."

Several readers called for public hangings.

"People will think twice before committing a violent crime if they see others being hanged for the offence," said Mr. Muzan Petersen of Belgravia.

Mr Roger Jenkins of Bellville agreed. "The death penalty must be seen to be done."

Many readers felt strongly that death was too soft a punishment for rapists and child molesters. "If people are punished according to the crimes they commit, and look how low the crime rate is there," said Mrs Betty Jacobs of Boston.

Mr. David Quintal of Caledon, who said he was a Christian. "If they are prepared to kill, they must be prepared to lose their own lives. At the moment we are just allowing these animals to kill innocent children, and rape."

Mrs Marge Bolster said the death penalty should be brought back because of black on black violence. "So many of the potential young black leaders are being killed senselessly, and by the same token, so are our policemen."

Mrs E Borges said she had lived in Angola for 21 years and had seen how lawlessness could destroy a country. "Bring back the death sentence," she said.
Road to 'non-racial, non-sexist' bench

TRANSFORMATION of the South African judiciary must be swift, orderly and dignified, African National Congress constitutional specialist Albie Sachs said yesterday (155).

Professor Sachs, who is with the University of the Western Cape Law Centre, delivered a paper — "Towards a non-racial, non-sexist judiciary in South Africa" — at a legal conference at Brackenfell yesterday.

"We have to South Africamise all South Africans," he told delegates, "We need a new, non-racial Bench, bringing all their life experiences, language skills and wisdom for solving problems with them.

This would improve judicial performance. The highest possible standards were required. It must not be a code for keeping black people and women off the Bench, rather it meant capacity building and rapid advancement for those presently kept out.

"Reactionaries will criticise us whatever we do," Professor Sachs said.
Appeal lost on Hofmeyr award

BLOEMFONTEIN. — The Minister of Justice yesterday lost an appeal against an award of R50,000 damages to ANC Western Cape official Mr. Willie Hofmeyr when the Appeal Court here dismissed the application with costs.

The award was made by Mr. Justice E King in the Cape Supreme Court on August 22, 1990.

It was for deprivation of Mr. Hofmeyr's rights, impairment of his dignity, mental anguish, discomfort and humiliation, and contumelia to a substantial degree, when he was held in solitary confinement.

He was detained under the Emergency Regulations on April 22, 1988 and was held in the police cells at Caledon Square until May 3, 1988. Thereafter he was held at Pollsmoor Jail until his release on October 6, 1988. — Sapa
Future judiciary must represent all races

We must have a judiciary which is representative of all the races. In the past, we have had a judiciary that was representative of one race, the white race. This has led to a situation where justice was not being served for all races. We must have a judiciary that is representative of all races, so that justice can be served for all races.

We must have a judiciary that is trained and educated to serve all races. We must have a judiciary that understands the needs and the desires of all races. We must have a judiciary that is able to serve all races without bias or prejudice.

We must have a judiciary that is independent of the government. We must have a judiciary that is independent of the political parties. We must have a judiciary that is independent of the wealthy and the powerful.

We must have a judiciary that is accountable to the people. We must have a judiciary that is answerable to the people. We must have a judiciary that is transparent and open to the people.

We must have a judiciary that is respected by all races. We must have a judiciary that is respected by all people. We must have a judiciary that is respected by all nations.

We must have a judiciary that is just and fair. We must have a judiciary that is just and fair for all races. We must have a judiciary that is just and fair for all people.

We must have a judiciary that is representative of all races. We must have a judiciary that is representative of all people. We must have a judiciary that is representative of all nations.

We must have a judiciary that is representative of all races. We must have a judiciary that is representative of all people. We must have a judiciary that is representative of all nations.
Justice Minister loses appeal against Willie Hofmeyr award

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He was detained under the Emergency Regulations on April 22, 1988 and was held in the police cells at Caledon Square until May 3, 1988. After that he was held at Pollsmoor jail until he was released on October 6, 1988.

At the time of Mr Hofmeyr’s detention he was in his mid-30s and was a final-year LLB student at the University of Cape Town.

Yesterday Mr Justice Hoexter said that at the trial he was confronted by a large body of evidence produced on behalf of Mr Hofmeyr about the effects of the conditions in which he was held on his physical and mental health.

The evidence was given by Mr Hofmeyr, his father who visited him in prison and two of his legal representatives who consulted him during his detention.

The nature of the testimony was comprehensively reviewed by Mr Justice King. It was not challenged in cross-examination and no evidence was led on behalf of the minister to counter it.

Mr Justice Hoexter said that as to the resultant deterioration in the health of Mr Hofmeyr there was no good reason to differ from the trial judge’s acceptance of the evidence and his findings based on it.

In this case there was no complete isolation of Mr Hofmeyr from all human society. He was permitted occasional and limited access to other people. He was, nevertheless, subjected over many months to a substantial degree of isolation.

The judge said the evidence amply demonstrated the detention to which Mr Hofmeyr was subjected was an infringement of his basic rights and, in particular, of his right to bodily integrity.

He was neither a convicted nor an awaiting-trial prisoner.

The judge said it was unnecessary to decide whether the deprivations of Mr Hofmeyr in regard to lack of indoor exercise, the ban on books and magazines and the absence of a portable radio in his cell were of such a nature that, singly or cumulatively, they would have supported an action for damages based on injury.

Essentially these three deprivations underscored and exacerbated the hardships and tribulations of effective solitary confinement.

The trial judge, after an appraisal of all the relevant facts, considered R50,000 to be an appropriate award of damages.

There was no reason to interfere with his award, said Mr Justice Hoexter.

Mr Justice Smaalbergen, Mr Justice Grosskopf, Mr Justice Goldstone and Mr Justice Nicholas, an acting judge of appeal, concurred.—Sapa.
Zac and hanging

DEMOCRATIC Party leader Dr Zac de Beer personally favours the death sentence for use in aggravated circumstances, but the party itself has no official policy on capital punishment.

Dr De Beer and Mr Colin Eglin, chairman of the DP parliamentary caucus, said last night that while the party had no policy on capital punishment, individual MPs' views would be expressed during a forthcoming special parliamentary debate.

For the first time MPs will be given a "free vote" - the right to express personal opinion.

Yesterday "The Argus" incorrectly presented Dr Zac de Beer's personal view as party opinion.
Boy in court for brutal murders

Panic after hacked corpses

Farms found on rightwing farms

Dale Palm

Page 32

CITY PRESS Wednesday, March 21, 1990
Plea for

Legally
clear

TRIG would fit in with the
requirement to the Minister
of his Draft Bill on 19th
March. It is suggested that
this Bill should be considered
by the House while the Major
report to Minister if the
Bill should be considered
at any time of day and night.

Supa
A POLL taken this week showed that more than 200 out of 308 Members of Parliament would probably vote in favour of hanging as the ultimate form of punishment.

And while most Cabinet ministers preferred not to disclose their preference for or against hanging in a Sunday Times poll, Law and Order Minister Herman Kriel said bluntly: "I will vote in favour of the retention of the death penalty."

His predecessor Adriaan Vlok echoed his sentiments: "I am in favour of hanging."

Kriel said one of the few Cabinet members likely to vote against hanging is Foreign Affairs Minister Piet Botha, who has privately expressed his opposition to the death penalty.

Mr Botha would, however, not comment this week on the way he would vote.

President FW de Klerk on Wednesday expressed himself in favour of the death penalty, saying he believed it "should be part of the legal system and retained in a limited sense."

Mr de Klerk announced this week that MPs would be given a chance to vote for or against the death sentence in a forthcoming poll.

However, almost all NP MPs polled at random — white, coloured and Indian — spoke in favour of a return of hanging.

Conservative Party MPs were also unanimously in favour of hanging. But among the DP members there was a difference of opinion.

There are 288 MPs in Parliament. Of the 178 white MPs, 100 are members of the NP. 23 of the 44 Indian MPs belong to the NP, as do 65 out of the 85 coloured MPs. This gives the NP a strength of 168 out of 308.

With the almost guaranteed support of all 165 members of the CP voting in favour of hanging, the death penalty advocates in the NP will enter the voting with a "best scenario" of 266 votes.

Mr de Klerk's first coloured Cabinet Minister, Jack Rathe, and chairman of the Ministers' Council, the House of Representatives, favours the return of executions.

"I believe the moratorium on hanging has to a great extent encouraged hooliganism. Society demands appropriate retribution for certain aggravating crimes. Killers of innocent people and vulnerable children, rapists and child molesters are among the kind of barbarity that deserve nothing less than the gallows," Mr Rathe said.

On the other hand, the first Indian Cabinet Minister and chairman of the Ministers' Council in the House of Representatives, favours the return of executions.

"Mr de Klerk's first coloured Cabinet Minister and chairman of the Ministers' Council in the House of Representatives, favours the return of executions."

Mr de Klerk, a nominated MP and internationally renowned jurist and founder member of Lawyers for Human Rights, said capital punishment was no deterrent for crime.

"But no civilised society should tolerate people who kill innocent people. Such barbaric behaviour deserves the harshest of punishments and that, in my view, should be imprisonment for life, not the death sentence."

Speaking in his special address to Parliament, Mr de Klerk said the "wave of cruel murder and homicide, the current disrespect for human life and the delays in the negotiation process" made it difficult for the government to maintain the moratorium on death sentences.

Mr de Klerk said a motion would be introduced in Parliament shortly to debate the issue of whether the moratorium on the carrying out of executions should be extended, or terminated.

NP members would be allowed a "free vote."

He promised intensive consultations with the other major political players on the question, but the ANC has already stated it would scrap hanging when it came to power.

Conservative Party spokesman on Justice, Mr Jurgen Primrose, said the CP "as a party" was in favour of the death penalty.

The CP had not decided whether to allow its members a "free vote" or to vote "as a caucus."

Democratic Party leader Dr Zac de Beer said his members would also be allowed a "free vote" according to their individual consciences.

"I know that many of my chaps are in favour of the abolition of the death penalty. My view is that it should be retained only for special circumstances where the crime is an aggravated one."

DP justice spokesman Tony Leon said he would continue to oppose capital punishment.
HUGH CORDER says that President FW de Klerk is cynically exploiting the current climate of fear for short-term political gain.

Reduced

Parliament duly amended the Criminal Procedure Act in 1990, reducing the number of capital offences and making several important procedural reforms which introduced some safeguards into the criminal justice system which preceded an execution.

The most important changes were that the death penalty was merely not imposed if aggravating circumstances were found to be present, and that an automatic right of appeal was instituted.

The case of every prisoner on Death Row has been reviewed by senior judges in the light of these changes, and many sentences have been reduced to long terms of imprisonment as a result.

Those on Death Row who have exhausted their legal remedies and have been refused clemency by the State President are, in a legal sense, now "eligible" for execution.

However, when the Department of Justice was known (in late 1993) that hangings were to resume, the public outcry, particularly by the ANC, caused the Minister of Justice to deny such plans and to extend the moratorium, this time pending the coming to power of a transitional government.

Since November 1989, therefore, no one has been hanged at Pretoria Central Prison.

A further effect of the new criminal justice procedures is that the number of death sentences imposed by the Supreme Court has been drastically reduced: only 20 people were sentenced to death in the first seven months of 1992.

On the constitutional front, the government is engaged in negotiations with many parties, the most important of whom, the ANC, has firmly stated its intention of abolishing the death penalty in its draft bill of rights.

The lifting of the moratorium now will mean that people who were sentenced to death at least four years ago, and whose crimes have nothing at all to do with the present violence, will be hanged forthwith.

To make matters worse, several "political" prisoners on Death Row have already been released — such as McBride and Styndon — while one person who is likely to be executed is Almond Nomandela, whose last-minute confessions in 1989 led to early exposure of death squad activities.

The continuation of the moratorium, on the other hand, will not prevent a judge from imposing the death sentence on anyone found guilty of any of the appallingly callous and brutal crimes of violence committed recently. It is only the execution of the sentence which will be postponed, pending a new constitutional dispensation which must finally take a stand on the continued existence of the death penalty.

These are the facts.

If one adds to these the following persuasive considerations, I find it hard to believe that any thinking MP could vote for the lifting of the moratorium:

**Tainted**

It has never been proved that the death penalty has a deterrent effect in regard to crimes such as murder, most of which are committed in the heat of passion or a drug- or alcohol-affected state.

Even more so, then, it is extremely unlikely that anyone acting from a genuinely held political belief who is engaged in violent activities will be deterred from cold-blooded murder by the existence of the death penalty, especially when such a person could possibly qualify for indemnity under some future political settlement.

Such people have decided on their course in advance and accepted the risk of death in the process of committing their heinous crimes.

Second, this decision is being made by an entirely inappropriate body. The tricameral Parliament is largely discredited and illegitimate, and the government is tainted by widespread financial corruption and alleged complicity in murderous deeds. That the government should act unilaterally in this way, without consulting its partners in negotiations, is astonishing.

**Cheap**

Third, in the same speech, the State President admitted to being party to a cabinet which developed nuclear weapons for use against the "enemy." Thus the same people who betray the effects of political terrorism were prepared to cause horrendous human suffering on a grand scale in order to protect an unjust system.

The cynical exploitation of South Africa's climate of fear for temporary political gain by Mr de Klerk and his colleagues is transparent and sickening.

This government has always regarded human life as cheap. It would like us to believe that it has changed its views, with all its human rights trappings and talk of change. One remains utterly unconvinced.

Hugh Corder is Professor of Public Law at the University of Cape Town.
Attorney in landmark ruling

By MONWABISI NOMADLO 26/1/92

LEGAL history was made this week in a landmark judgement involving a well-known East Rand lawyer and official of the Benoni Magistrates Court.

The Pretoria Supreme Court ruled that a magistrate cannot be an attorney-general (to decide whether to prosecute or not), a witness in the same case and also the presiding officer in any case of contempt of court.

The appeal case was a sequel to a contempt of court summary conviction and R200 or 50 days imposed on attorney Thokwane Moloto on July 4, 1991 while he was defending a criminal case.
Lawyers’ fidelity fund won’t pay out

By CARMEL RICKARD

THE multi-million rand lawyers’ Fidelity Fund, intended to guarantee the safety of public money held in attorneys’ trust accounts, does not always live up to expectations.

Continuing problems experienced by Durban businessman Bernard Lancaster illustrate the shortcomings of the fund and the need for the law to be changed.

Under the Attorneys Act, the fund is used to reimburse clients who put their money in a lawyer’s trust account, but lose their money because the attorney steals it.

The law says quite plainly that the fund will give money back in case of “theft.” As the law stands, it does not cover losses because of malpractice or negligence.

When he sold his Johannesburg home in May last year, Mr Lancaster arranged for Transvaal attorney Frank Meeker to see to the registration and hold the funds until transfer had taken place.

However, when he tried to get his money back after transfer, Mr Meeker was unable to deliver. He told Mr Lancaster he had paid out a large cheque from his trust fund on the strength of an incoming cheque which was later returned by the bank.

Expensive, year-long legal correspondence has so far proved fruitless. Since he did not get the money from his previous house, Mr Lancaster had to take out a much larger bond than he intended, and must make greater monthly repayments than he can afford.

Mr Lancaster said that early on in the course of efforts to get his money back, his lawyers were informed by the Fidelity Fund that they would not pay him out because “theft” had not been involved.

The Transvaal Law Society also appeared unable to help Mr Lancaster. He even took the matter to the Supreme Court. The judge ordered Mr Meeker to pay Mr Lancaster’s claim and referred the matter back to the Transvaal Law Society, which has begun disciplinary proceedings against Mr Meeker.

Now the Fidelity Fund has told Mr Lancaster he must begin steps to have Mr Meeker’s estate sequestered. A letter from the fund two days ago said that once Mr Lancaster had gone through this step the fund would consider reimbursing him the money which had been “stolen.”

For Mr Lancaster, this is still unsatisfactory – it would involve further delays and costs, and at the end of the process there is no guarantee the fund would rule the money had been “stolen” and pay up.

Lawyers say Mr Lancaster’s case illustrates the need for a change in the law: if guarantees to the public are to mean anything, the law must ensure the safety of a client’s money held in trust, even if it is not stolen in the strict definition of the word.

It must also ensure a client is not out of pocket trying to get the money back. In Mr Lancaster’s case, a fund official could not give a guarantee.

He said the fund would “in all probability consider reimbursing Mr Lancaster all the legal costs he incurred” since he first started trying to get his money back a year ago.

Views

However, he stressed the fund would only pay should the board determine that the money had indeed been “stolen.”

Mr Lancaster said he did not know how much longer he could continue fighting the matter.

“I have run out of money and there are times I feel like giving up. My views on the legal profession in this country are, however, unprintable.”
A CLIMBING kapok, a weed notorious for strangling suburban plants, withers round coils of razor wire, ducks waddle round a little pond in sight of the gallows, and from inside Death Row the sound of men's voices well out in a deep, sombre hymn.

They haven't sung as loudly and deeply since the last person was executed in 1989, when a moratorium was announced on hanging. This week, in response to Apla attacks against whites, President de Klerk said he would ask Parliament to vote on whether executions should resume.

**Soccer**

More than 400 people swell Death Row beyond its capacity in Pretoria. Other criminals sentenced to death are in maximum-security prisons around the country.

The field that Death Row inhabitants have been allowed to play soccer on for the past two years has been ploughed to make room for more cells.

Visitors to Death Row first go through a complex where the men are searched. Women leave handbags in lockers. Next to it are garaged the windowless vehicles that bring in maximum-security prisoners and which remove their bodies after hanging.

While prison guards watch from towers, visitors walk across a concrete expanse past neat gardens to the large wooden door with its polished brass knocker.

A warden unlocks the door and lets them into a waiting-room where other warders sit censoring prison mail and screen the Bibles, books and magazines brought in for prisoners.

Once searched and their details noted, visitors pass through two other large barred gates to get to the visitors area, just below the gallows.

Under the kindly administration of Pretoria maximum-security prison's present commander, Major C. Steynberg, prisoners have been allowed to get reading material other than the Bible. They have been allowed to play soccer, watch videos and go to literacy and numeracy classes first started by political prisoners and now run by warders — more than 55 percent of the inmates on Death Row have had little or no schooling.

Thabo, 23, is one such prisoner. He came to Death Row in June 1985. Originally from the Eastern Cape, he was a mechanic who was approached by two men to drive them to a suburb.

One man had apparently worked for the woman whose house they planned to burgle. Thabo was instructed to wait in the car. The men disappeared into the house and murdered the woman.

**Accessory**

Not long after, Thabo, who says he did not know of the events inside the house, was arrested and charged as an accessory to the murder, receiving the death sentence along with the other two.

Thabo is confused by the recent turn of events. He asks: is it just the whites who are going to vote, or will the ANC vote too?

When told it is only the whites, coloureds and Indians in Parliament who could vote, he hung his head and groaned.
By CARMEL RICKERT

ANGELS or devils? Amnesty International has taken on super-human proportions over the years. But this week it appeared in human form. Two staff members from the international secretariat in London arrived in inaugurating three fully fledged Amnesty groups, the first such groups in this country.

The Amnesty committees in Port Elizabeth, Durban and Maritzburg may now issue statements in the name of the organisation and will play a full part in world-wide Amnesty activities "Pre-groups" in Cape Town, Johannesburg, Pretoria and Pietersburg are working towards that status. During their visit, Kenyan Joseph Gitari and Sara Hagel from England will meet all seven groups.

Mr Gitari said it had not been possible to set up groups in this country until now because political repression would have made it difficult, if not dangerous, for committees to operate.

Local Amnesty groups will campaign against the death penalty, deaths in police custody and extra-judicial executions.
'Killers want us to bail 'em out of jail!'  

By FRED KHUMALO

RESIDENTS of eKwendeni, near Hammersdale, are being forced to raise R36 000 towards bailing out 18 members of a “people's court” charged with murder.

But the residents of the informal settlement outside Mpumalanga townships are not keen on the idea of securing the release of prisoners of “these people who will murder us tomorrow in the name of justice and order in the area.”

The 18 people are part of a group of 20 arrested for the February 21 murder of Jabulani Sithole.

Two members of the people’s court are out on R2 000 bail each, but the rest are behind bars as their families have failed to raise bail money.

Crack down

“Now the ones that are out are going around with their friends, knocking on doors and asking us to contribute money towards the bail,” said a resident.

Residents claim members of the “people’s court” are above the law and have gone unpunished when caught breaking into people’s houses.

Residents have reported the matter to the KwaZulu Police in Mpumalanga and they have promised to crack down on the “people’s court.”

Jabulam Sithole was murdered at 3:45 pm in full view of the township, allegedly by members of the “people’s court.”

Sentences at the “people’s court” range from a few lashes with sjamboks for minor offences such as theft, to death by stabbing for murder or rape.

It is not clear what Sithole’s “crime” was.

The “people’s court” has been blamed on the existence of a group of youngsters who call themselves “comrades” who have taken upon themselves the responsibility to maintain “law and order” in the settlement.

While Mpumalanga burned as a result of Inkatha-ANC violence four years ago, eKwendeni remained unscathed.

Now that Mpumalanga has reverted to relative peace following the burying of the hatchet between the ANC and Inkatha — thanks to ANC chairman Meshack Hadebe and his Inkatha counterpart Sipho Mhlabo — residents are guarding the peace jealously.

ANC chairman Meshack Hadebe said it was sad to see people trying to stir trouble in peaceful eKwendeni. He added that youngsters who called themselves “comrades” were not engaging in their activities with the blessing of the ANC.

“These perpetrators of shameful deeds are criminal elements who benefit from disorder and chaos,” said Hadebe.

He said the ANC did not approve of “people’s courts”.

Hadebe urged people to report to the ANC branch executive committee any incidents of harassment.

He said people should not pay money to people who were not sanctioned to collect funds from the community by the ANC.

“It is on very rare occasions that we appeal for funds from the community. Only people hand-picked by the executive committee and carrying letters signed by us can collect funds,” he said.

The local ANC branch executive committee was due to have a meeting with the community on the “people’s court.”
FACTS ABOUT BTH BUS TARIFFS

Since Bophuthatswana Transport Holdings (BTH) announced its tariffs increase of 15% effective from 5 March 1988, many inquirers were received pertaining to how much bus tickets really cost.

The following is a number of examples of prices of 5 day weekly tickets. The prices represent the portion that the passenger pays after subsidy has been calculated.

1. HAMMANSKRAAL AREA
Bothaba Tswana Transport:
Telephone: (01464) 76860
All prices are from the relevant zones to the centre of Pretoria (Central Business District)

<table>
<thead>
<tr>
<th>Zone</th>
<th>Destination</th>
<th>5 Day Per Trip Per Day</th>
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<tbody>
<tr>
<td>1</td>
<td>Tshane/Booipas</td>
<td>R20.60, R20.94, R46.96</td>
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<tr>
<td>2</td>
<td>Sediabole/</td>
<td>R21.00, R21.60, R46.28</td>
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<tr>
<td>3</td>
<td>Haoloeboaneng/</td>
<td>R27.70, R27.77, R54.54</td>
</tr>
<tr>
<td>4</td>
<td>Pampane/Booipas</td>
<td>R31.70, R31.45, R47.40</td>
</tr>
<tr>
<td>5</td>
<td>Kgomo/Deput</td>
<td>R35.90, R35.94, R47.88</td>
</tr>
<tr>
<td>6</td>
<td>Nkana/Tshane</td>
<td>R31.70, R31.47, R47.40</td>
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The following are for trips to Pretoria CBD:

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<th>6 Day Per Trip Per Day</th>
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<tbody>
<tr>
<td>9</td>
<td>Kgomo/Deput</td>
<td>R20.91, R20.93, R46.84</td>
</tr>
<tr>
<td>10</td>
<td>Mathebe</td>
<td>R35.90, R35.95, R54.52</td>
</tr>
<tr>
<td>11</td>
<td>Emalahle</td>
<td>R49.40, R49.44, R54.83</td>
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Human rights instruments, as they are called, guarantee the workers' rights to associate as free and mature persons, in an association for the protection of economic or other interests.

Freedom of association

It is illegal for workers to belong to a trade union or to support them in doing so. There are certain categories of workers whose deprivation of this right remains compatible with international labor standards.

What concerns us in this article is whether a worker, who is not a union member, can be compelled to support the union.

Challie challenged the constitutionality of the law in the African National Congress v. the Government of South Africa. The challenge was successful.

Allowed to appeal

The Constitutional Court held that the law is unconstitutional.

3. MABOPANE AREA
Mabopane Gare Transport:
Telephone: (01461) 23811

The following are for trips to Pretoria CBD:

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<th>Zone</th>
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<td>Emalahle</td>
<td>R49.40, R49.44, R54.83</td>
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The Constitution makes provision for appeal.

The writer is a senior research officer, Centre for Applied Legal Studies, University of the Witswatersrand.
Right on E Cape Caclion

Conwoman inquest could shed

News 1978
State Security officials set to testify

TWO former State Security Council officials will testify in the Goniwe inquest when it resumes in the Port Elizabeth Supreme Court today.

They are Adamus Stemmet and Brigadier Kewnet Geldenhuys, both formerly from the secretariat of the State Security Council.

A third witness, J Vermaak, formerly of the Department of Education and Training, is also expected to take the stand.

The acting attorney-general for the Eastern Cape, Mike Hodgson, said that retired army officer, Colonel Lourens Du Plessis, who was expected to give evidence, was still waiting to hear whether he would be given indemnity and would not, therefore, testify yet.

The witnesses will be giving evidence in an inquest on Cradock activists Matthew Goniwe, Ford Calata, Sparrow Mkhonto and Stelio Mhlali who were murdered at the height of the civil unrest in the 1980s.

Meanwhile, the ANC is planning a big march to coincide with the restart of the inquest ANC regional media spokesperson Phile Makasi said the march will be led by Steve Tshwete, a national executive committee member.

The march is not intended to disrupt the court proceedings - ECNA
Signal 'not destroyed'

It was unlikely that the controversial Goniwe signal message was destroyed, a former State Security Council communications expert told the Pretoria Supreme Court yesterday.

Testifying at the re-opened inquest into the June 1985 slayings of Matthew Goniwe and three other United Democratic Front activists, Mr Adamus Paulus Stemmet said he did not believe the signal had been destroyed.

Stemmet, now retired, was head of strategic communications in the secretariat for the State Security Council at the time the signal was drafted.

He told the hearing that if the signal message had been destroyed an offence would have been committed.

Stemmet said he could not remember seeing the signal message.

He said the signal in the New Nation newspaper and that the contents were familiar. However, he did not remember if he saw the original signal himself or whether he was just told of its contents.

He said the signal could have been in a file which passed his desk.

He also said he saw the signal in the New Nation newspaper and that the contents were familiar. However, he did not remember if he saw the original signal himself or whether he was just told of its contents.

Stemmet said he could not remember seeing the signal.

"Dramatic language"

Referring to the wording used in the signal, Stemmet said the army used "dramatic language" in some of its messages.

He said if such language was encountered in messages it had to be brought to his attention. Stemmet said it was his task to conduct training to ensure that such language was not used in future.

Commenting on earlier evidence by Janse van Rensburg that it was possible the message was left with Mr Stemmet, he said this was "unlikely", although the signal could have been in a file which passed his desk.

However, Mr Stemmet said he did not remember when he came across the contents of the message. — Eca
Police epilepsy death claim untrue—mother

By Abdul Mirza

An ANC Youth League member who allegedly died of an epileptic attack while in police custody, did not suffer from epilepsy, his mother, Maria Phiri (40), told an inquest in the Obed Holtzer Magistrate's Court yesterday.

Nixon Phiri (16) of Khusong, Carletonville, died on January 16, 1980, while being interrogated at the Wolwedans Police Station.

His mother said a police statement that she had admitted that her son suffered from epilepsy was untrue. She had not made any such statement.

A witness arrested with Phiri, Ishmael Booyzen (32), told the court he had seen three policemen assaulting Phiri. They had kicked, punched, and shocked him.

Pathologist Jonathan Gluckman testified earlier that he found evidence of bleeding in Phiri's inner brain, abrasions on his head, multiple minor abrasions on his body, and lungs congested with blood, which could have been caused by manual strangulation.

The inquest continues.
Gonwe signal would have met with objections

By Helen Grange

PORT ELIZABETH — The notorious signal ordering the "permanent removal" of eastern Cape activist Matthew Gonwe was never placed before a committee investigating Gonwe because there would have been vehement objections and queries. George Bizos SC told the re-opened inquest yesterday.

Cross-examining a former Department of Education and Training (DET) official Johannes Vermaak, Bizos pressed the question of whether the signal's content had been mentioned at a committee meeting held within hours of the signal being sent from Eastern Province Command on June 7, 1985:

"That's precisely why it was not placed before the committee," Bizos retorted.

Vermaak, pressed on how he would have reacted if the signal was tabled, Vermaak said he and Strydom would have strongly objected and "questioned what it meant.

"That's precisely why it was not placed before the committee," Bizos retorted.

Vermaak said the DET's standpoint at the time on the Gonwe problem was that he should be re-appointed to the Cradock Teaching Post he had been suspended from. "He argued I would have solved the crippling school boycott which resulted from his suspension..."

Bodies

Twenty days after the signal was sent for the attention of General Johannes van Rensburg of the State Security Council (SSC) Secretariat, Gonwe, Fort Calata, Sparrow Mkhonto and Sisecor Mhlawuli were found murdered on the Eastern Cape roadside; their bodies mutilated.

Van Rensburg testified earlier this month that the signal had verbally related the signal to the committee, chaired by a Pieter Geldenhuys and attended by the then Deputy Law and Order Minister Adriaan Vlok.

He said he had told the committee of the security establishment's conviction that Gonwe should be detained on a long-term basis, which, he insisted was what the words "permanent removal" meant.

The reason he had not tabled the actual written signal — which was based on a telephone conversation he had with former EP commanding officer General Joffe — van der Westhuizen that morning, was because it only arrived at his office more than a week later, Van Rensburg said.

Vermaak, testifying that he had attended the Geldenhuys committee meeting on June 7 with his superior, former DET secretary Jaap Strydom, said he could not recall whether any suggestion of Gonwe's detention was made.

He added, however, that he was, as a former education official, not familiar with military terminology.

Vermaak said the DET's standpoint at the time on the Gonwe problem was that he should be re-appointed to the Cradock Teaching Post he had been suspended from. "He argued I would have solved the crippling school boycott which resulted from his suspension..."
Military signal had sinister meaning

Top security official testifies at Goniwe inquest:

THE MILITARY signal calling for the "permanent removal from society" of Matthew Goniwe and two other political activists had a sinister meaning, if read in its entirety, the former head of the State Security Council's secretariat of strategic communication, Adama Stemmet, said in Port Elizabeth yesterday.

Stemmet was giving evidence in the inquiry into the deaths of Mr Goniwe and three other United Democratic Front activists.

Stemmet said if the author of the signal had meant anything sinister, he did not understand why it had been sent to the SSC which did not deal with such matters and had no executive authority.

He did not believe it was a recommendation that Goniwe and the others be killed. Stemmet conceded that his department's function sometimes included spreading disinformation.

Communication committees of joint management centres had also been involved in discrediting certain organisations by spreading disinformation, he said.
Camerer, life, says.
Legal bodies support ANC call on judges

PRETORIA — Legal authorities yesterday supported the ANC’s call for more black judges but stressed the dangers of an affirmative action programme which ignored essential qualifications and experience.

The ANC this week condemned the present system of appointments to the bench as “racist, sexist, illegitimate and an embarrassment”.

Johannesburg Bar Council chairman Wim Trengrove said the council was encouraging blacks to obtain the necessary qualifications to join the ranks of advocates as a background for possible appointment to the bench.

He said the number of blacks in the law profession had not kept pace with the substantial black student component at law schools.

Association of Law Societies (ASL) director-general Andre van Vuuren said part of the solution lay in granting attorneys the right of audience in the Supreme Court.

Concern over new child labour laws

THE practice of child labour was on the increase in SA and proposed new legislation threatened to exacerbate the problem, the Network Against Child Labour claimed yesterday.

Jackie Loffell, the organisation’s convenor, said proposed regulations covering the issue of labour in the Child Care Act would further entrench and expand exploitation.

She said a storm had broken between the Department of Health and the network, which had been fighting to block the practice and the introduction of new clauses in the Child Care Act.

The network comprises a wide range of welfare, legal, labour and church bodies.

In terms of guidelines approved by a working group convened by the Department of Health, employers will be permitted to hire children aged 12 to 15 years for pocket money, subject to a set of restrictions on hours and conditions of work.

But the network has contested the clause on the grounds that it would allow too many loopholes.

The guidelines were unenforceable and the addition would exempt sectors such as supermarkets, which had been barred from employing children under 15, Loffell said.

The organisation recently disassociated itself from the working group because, despite its objections, the controversial clause was endorsed.

By far the most exploited were children working on farms, said Loffell.

“Farm children who stood to profit by the recent extension of industrial legislation to cover agriculture, will, if the guidelines come into force, remain completely vulnerable.”

The SA Agricultural Union had been actively lobbying government to retain the practice, she said.

A Health Department spokesman said he could not comment because the matter was sub judice.

Loffell said it was difficult to establish the extent of the problem because employers, parents and children were reluctant to report the practice.

But in 1983 the International Labour Organisation reported the figure to be at least 60,000 and it had grown since then.

She said the issue of child labour was complicated, because many families depended on the wages brought in by children.

The network was campaigning for adequate social security grants so that families would not have to depend on child labour, as well as universal free education.

Aside from being allocated on racial lines, social security grants were in practice difficult to obtain and only available to the destitute, she said.

SAP reassigns manpower to aid operations

PRETORIA — Police would strengthen their operational manpower by transferring personnel from purely administrative duties to the operations division, police commissioner Gen Johan van der Merwe said yesterday.

He said the basis of a plan to use manpower more efficiently was to achieve a clear division between operational and administrative activities.

Operational division members engaged in purely administrative work would be transferred back to the operational division.

Civilians would take their place. The programme also applied to retired members re-employed as temporary workers. They were given the opportunity of transferring to civilian posts.
Goldstone inquiry told of poor police work

PRETORIA — As a detective constable specializing in politically motivated crimes, Thabo Masilo knew he was a prime target.

The policeman told the Goldstone commission yesterday he always kept a hose pipe rigged to a tap in his Sebokeng house — in case someone decided to lob a petrol bomb through his window.

On June 7 last year the expected happened and Masilo was able to extinguish the fire with the hose pipe. However, damage of about R9,000 was caused and Masilo moved to a flat in Vereeniging.

In evidence to the commission earlier this year, Brig Stefamus Abre told the Goldstone inquiry into attacks on police that the private homes of 58 SAP members and 61 police stations had been attacked with stones, petrol bombs or firearms between July and December 1992.

During the same year, five police officers were killed in their homes, two dying after the structures were set alight.

But evidence given by a number of police officers from the Vaal Triangle yesterday suggested that investigations in the violence-torn region — even into the deaths of colleagues — were being hindered by confusion, bureaucracy and an environment not conducive to normal police procedures.

Const Stephen Matshidze was assaulted and then set alight in March last year, allegedly by members of a self-defence unit in Sharpeville.

As in other investigations mentioned yesterday, the docket was passed from one policeman to the next with little progress.

When a suspect, Shadrack Chaka, did eventually appear in court, the investigating officer was elsewhere and Chaka was released. No bail was required and Chaka disappeared.

Committee chairman Gert Steyn described the case as a "mess" and he urged police lawyers to present to look into the matter.

ANC identification cards produced by suspects were also rarely checked or copied for verification, the commission heard, while key witnesses were permitted to give untaped oral evidence in lieu of signing affidavits.
Court hears debate over two words

The meaning of ‘remove’ and ‘permanent’:

The definition of the words "remove" and "permanent" were again the focus of evidence led at the Gonwe request yesterday.

Counsel for the SADF, Mr. Anton Mostert, SC, offered no less than four dictionary definitions of the word "verwyder" (remove) during his cross-examination of Mr. Johannes Vermaak, former DET deputy director of community communications.

Mostert's submissions were challenged by Mr. George Bizos, SC, counsel for the families of Mr. Matthew Gonwe and three other UDF activists whose murders in June 1985 are being probed at the request.

Bizos submitted that the controversial words "permanent removal" (from society) contained in the signal message must be read together.

Mr. Justice Neville Zietsman, who is presiding over the reopened request, asked Vermaak, a former Afrikaners teacher, what he would understand by an instruction that a pupil be permanently removed from a school.

Vermaak said that this implied the pupil was to be expelled from the school and could not return.

It's a pity that a wise man cannot appear in court. If he could, he would have to pay his fees from his own pocket. He would not have to worry about his income from his business, and he would not have to worry about his employers' decisions. He would be able to speak without fear of retribution.
I saw blacks being stabbed, court told.

...
Co-operation ‘symbolises new hope’

THE opening of the Rium Sagewood Education Centre in Midrand yesterday symbolised the reawakening of SA’s desire to take charge of education as the key to national survival, Peninsula Technikon rector Franklin Sonn said yesterday.

The co-operation developing between business and communities was a first step towards economic revival and a sign of hope for SA, he said at the opening of the Anglo-American-funded complex.

Anglo chairman Julian Ogilvie Thompson said Sagewood was a good example of what “a handful of people can do when they believe in an ideal, hard work, and overcome odds which would have deterred the more faint-hearted”.

The centre started as a community project with 15 nursery and Grade One pupils in 1985. It now has 300 pupils and offers nonracial, holistic education at four levels — nursery, primary, secondary and adult.

Sonn said the intense interaction between business and communities — not just the provision of resources — had raised hopes. It had produced joint development strategies and programmes which served SA’s interests.

Pupils and teachers should not sacrifice long-term educational development for short-term political gains “No matter how big our frustrations may be, we must not declare the right to learn expendable. There will be no freedom for the uneducated and the unskilled in a new and increasingly technological SA.”

Language in Goniwe signal was ‘unusual’

PORT ELIZABETH — The language used in the signal ordering that Matthew Goniwe and two other political campaigners be “permanently removed from society” was unusual, a former Air Force general and member of the State Security Council said yesterday.

Maj-Gen Johan Geldenhuys told the Goniwe inquest in the Port Elizabeth Supreme Court that SADF members tended to use “exaggerated” language, but it would be unusual for such language to be used in the Air Force.

Geldenhuys chaired a committee in June 1985 to decide whether Goniwe should be reappointed to his teaching post in Cradock. The court had been told earlier the security forces were against his reappointment and believed it would have been better to detain him.

The committee included SADF, SAP Security Branch and DET members.

Geldenhuys denied he or the committee had received input from the Eastern Province Joint Management Centre. He said at no stage had council secretariat strategists head Gen Johan van Rensburg told the committee the management centre recommended that Goniwe be detained.

Van Rensburg has testified he passed on the management centre’s views to the committee on June 7 after a telephone conversation with then Eastern Province Command head Brig Jeffel van der Westhuizen. He said Van der Westhuizen had subsequently sent him a signal recommending the “permanent removal from society” of Goniwe, his brother Mbololo and Fort Calata.

Geldenhuys said if the signal had been put before the committee he would have remembered it.

George Bazos, SC, for the victims’ families, submitted to Geldenhuys that the reason he remembered the signal had not been put before the group was because he recognised it as an order to kill the three men.

The general denied this and said he interpreted the signal as a suggestion that the three men be permanently detained.

“In my wildest dreams I can’t believe anyone would write a signal saying ‘please kill these three people’ and then send it to the State Security Council, of all places.”

Bazos retorted “It was never brought to the attention of the committee, it was not filed, and it disappeared without trace, and yet you do not interpret it as a death warrant.”

The general said he could not interpret it in that way because in the context of the committee’s task it could be interpreted only as a suggestion they be detained.

He conceded that, out of context, it could have been “interpreted differently.”

Zietsman postponed the inquest to May 17. — Sapa
86 laws must go to end land rights apartheid

Political Correspondent

EIGHTY-SIX laws administered by 21 government departments will have to be scrapped or changed to remove the last vestiges of apartheid from legislation on land and rights.

This emerges from the first report to parliament of the Advisory Committee on Non-Racial Area Measures. The committee was established last year in terms of the 1991 Abolition of Racially-Based Land-Measures Act to advise the President on ridding land-related legislation of racial measures.

The committee says it has drawn up a provisional list of "primary and secondary" legislation that might have to be repealed, amended or adjusted.

The list identifies 86 laws, which are administered by 21 departments of State. For further investigation these laws vary from a single provision in an Act containing a reference to a certain area, or the SA Development Trust, to an Act in its entirety.

The body advises the President.
Hani urges commission probe

THE SACP fully agreed with Inkatha that the Goldstone commission should investigate allegations made by Solomon Mqan- geni that armed robberies were instigated by SACP general-secretary Chris Hani and ANC PWV regional chairman Tokyo Sexwale, Hani said yesterday.

At a media conference Hani and Sexwale denied they were involved in any way in criminal activity, and accused the SAP of "managing the whole operation to discredit us and our organisations in the run-up to elections." "Last week Mqanqeni, in a statement allegedly taken under duress, alleged that the two leaders ordered a series of armed robberies during 1991 and that the loot of Rivon was handed to Sexwale.

Mqanqeni and his alleged accomplices escaped from custody on the evening that the statement was presented to the Rand Supreme Court.

Hani said the SACP would not on Goldstone as a "matter of urgency" to set up an inquiry to investigate the unprofessional conduct of the SAP investigating officers who never wanted them to investigate the allegations, the circumstances surrounding the escape of Mqanqeni and any possible complicity of Law and Order Minister Hermus Kriel.

SACP central committee member Jeremy Cronin said that since the Marknor survey in January this year showed Hani to be SA's second most popular political figure after ANC president Nelson Mandela there had been a campaign of character assassination.

In response to the SACP allegations, W/O Andy Preke said that it was ludicrous to believe the escape was stage-managed. The SAP was investigating the matter to its fullest capability.

However, he said until any of the 16 escaped prisoners were rearrested it would be difficult to establish exactly what had occurred.
ors of Albert Pierrepoint, Britain's last official hangman, reveal a stolen but not insensitive man. He believed he was serving society and saw himself as a professional — but he was also concerned to preserve the dignity of the condemned man. At no stage of his career, he said, did he suffer from nightmares.

Abolitionists claim that the death sentence has no deterrent effect, and this seems to be borne out by research in various countries. But there is no way of proving this. We cannot know how many people, who might have committed a capital crime, desisted because the punishment was death rather than imprisonment. In any case, the abolitionists tend to miss the point when the cry goes up in favour of hanging, what is being expressed is not a belief in deterrence but a visceral desire for revenge.

What may well have a bearing on deterrence is the perceived ability of the police to catch murderers, obviously the kind of punishment is irrelevant if the criminal believes he will never be caught. In SA there are additional factors at present, such as talk of the liberation struggle, "one settler, one bullet" and revolution, as well as visions of possible future amnesty.

The main moral objection advanced by abolitionists is that capital punishment is "barbaric" and "uncivilised." This is a Politically Correct objection at present and is therefore usually accepted without question — but it remains an assertion rather than an argument and it does not get us very far in the discussion about whether to bring back the noose.

De Klerk probably erred in allowing parliament to vote on the issue, at a time when he is trying to court the extra-parliamentary ANC through the minefield of transition. The fact that parliament will almost certainly vote in favour of resuming executions will only make things worse. De Klerk will then feel bound to accept the verdict of MPs, even though his entire policy is now predicated on the fact that parliament is not representative. He has made unnecessary trouble for himself.

If De Klerk does bring back hanging, it will not be for profound criminological reasons. It will be out of political desperation. He cannot afford to appear impotent and he may feel a drastic symbolic gesture is necessary. The lawyers and sociologists will complain loudly, the average man will not.

moved to take the law into their own hands, they usually do so not in order to understand the criminal and rehabilitate him, or to hand him over to the police, but to kill him. It is a view of criminals as sinners, not misunderstood outsiders, rejected by an unfriendly society.

Judicial sentencing in the First World aims to achieve several things: punishment, revenge, rehabilitation, removal of a threat from society. When a crime arouses fierce and bitter emotions, the urge for vengeance — "justice," as many would have it — becomes uncontrollably strong. This was the case with the attack on a family car at Eikenhof, the murder of six children on their way to school in Natal, and the IRA bomb which killed two children in the English town of Warrington. Emotions are also fuelled by the general perception that rehabilitation is mostly a fiction and (in SA) that government has been eagerly emptying the jails of psychopaths.

A woman who plots to murder her husband, a man who kills as he robs a bank — such people are vile criminals, but their humanity may still be faintly discernible. But a ruthless terrorist who guns down children has, in the common mind, put himself beyond the reach of civilised values, he has slipped below the level of living animals. Why should he not be removed from society?

This is why President De Klerk, sensing the public mood, has warned that the three-year moratorium on executions may be lifted. The sociologists and human rights lawyers tend to look at things differently, of course, to the point where some of them are accused of caring more for the criminal than the victims.

The main practical argument against capital punishment is obvious and very powerful. An execution cannot be reversed if the convicted person is subsequently proved innocent. One such travesty in the Fifites was a prime factor in the abolition of capital punishment in the UK. Timothy Evans, an illiterate truck driver, was hanged for a murder almost certainly committed by serial killer John Reginald Christie — the "strangler of 10 Rillington Place."

Another argument advanced by abolitionists is that there is no satisfactorily humane method of execution. But this is not surprising execution is by definition violent and terrifying — which is surely an element of whatever deterrent effect it may have.

An extension of the argument about method is that society is brutalised by cold-bloodedly taking a life. But society at large is uninvolved, it is certainly not fastidious about whether a murderer is dispatched by hanging, firing squad, guillotine, garrote, lethal injection or being thrown off a cliff. The mothers of Warrington, when interviewed after the IRA bomb, were able to suggest far nastier methods.

The executioners themselves may well be affected adversely by their grim task — but presumably they only take the job in the first place because they have some mysterious kind of psychological immunity. The mem-
GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE

No. R. 588  2 April 1993

ATTORNEYS ACT, 1979

AMENDMENT OF REGULATIONS

The Minister of Justice has under section 81 of the Attorneys Act, 1979 (Act No. 53 of 1979), after consultation with the Chief Justice of South Africa and after consultation with the presidents of the various societies, made the regulations in the Schedule.

SCHEDULE

Definitions


Substitution of regulation 1A of the Regulations

2. The following regulation is hereby substituted for regulation 1A of the Regulations:

"1A (1) Zimbabwe and, subject to the provisions of subregulation (2), the Republic of Namibia are approved and designated for the purposes of section 13 (1) and section 13 (1) (a) (ii) of the Attorneys Act, 1979 (Act No. 53 of 1979), respectively.

1212—A
Amnesty comes to Jo'burg

An Amnesty International group was last night started at the University of the Witwatersrand.

Two members of the International Secretariat, Joseph Gitari and Sara Hagel, told students that while there were still many mistakes and violations of human rights in South Africa, they wanted to encourage human rights activists to fight against violations also happening in other parts of the world.

Other Amnesty International (AI) groups have been formed in Pretoria, Mafikeng, Port Elizabeth and Durban.

As far as their activity in South Africa was concerned, Gitari said the Government knew of Amnesty International, although they would probably rather not.

AI brought out a report on violence committed by the state against individuals in a report called "State of Fear." — Staff Reporter
Talks fail: 'Kei cordon remains

By Ismail Lagardien
Political Correspondent

The SADF's ring of steel around Transkei remains after crisis talks between military ruler Major-General Bantu Holomisa and President FW de Klerk failed in Cape Town last night.

The Government confirmed last night that the blockade would continue despite an undertaking by Holomisa that he would institute a commission of inquiry into "preliminary" findings by the Goldstone Commission that the Azanian People's Liberation Army was operating from the homeland.

The meeting follows Transkei's refusal to cooperate with the Goldstone Commission on Apla's alleged activities.

De Klerk told Holomisa he rejected Holomisa's reference to the Goldstone Commission as a "kangaroo court."

"I reject your attack on the integrity, objectivity and fairness of the Goldstone Commission. It's note that the commission would be instituted.

He told Holomisa that his failure to co-operate with the Goldstone Commission would result in "a very serious situation."

A cool and relaxed Holomisa said after yesterday's meeting that he had told De Klerk that Transkei's Chief Justice Beck would, in consultation with Justice Goldstone, lead a commission into alleged Apla activities in the Transkei.

"We even went further to say (that) both forces, policemen in particular, must work hand in hand to beef up or bring the evidence to this proposed inquiry which is going to be headed by the Transkei's chief justice."

Holomisa said that he had no objections to cooperation with Goldstone, but the Government had always insisted that Transkei was independent and that the homeland was therefore not bound by any laws or commissions in South Africa.

Nevertheless, he said, the Transkei would confirm with a diplomatic
CAPE TOWN — The crisis in Transkei/South African relations was largely defused yesterday when Transkei military leader Bantu Holomisa agreed that the Goldstone Commission could play a part in probing claims of Apla military activities in the homeland.

After a "straight-talking" two-hour meeting in Cape Town, in which President de Klerk gave Holomisa a dressing down, a compromise seems to be on the cards.

De Klerk warned Holomisa that the moment of truth had arrived in dealing with violence. The Government would not hesitate to take "appropriate action" when its citizens were threatened.

Holomisa announced to the press afterwards that he had decided to appoint Transkei's Chief Justice to probe the Apla allegations.

But, in an important concession, Holomisa — who has so far refused to acknowledge the Goldstone Commission — said the Chief Justice would work with other structures, including the Goldstone Commission.

Foreign Minister Pik Botha welcomed Holomisa's move as "very hopeful" although he indicated that at the meeting Holomisa had not spelled out his readiness to cooperate with the commission.

But Holomisa said afterwards that complete agreement had been reached and the crisis had been defused.

De Klerk kicked off yesterday's meeting by severely dressing down Holomisa.

Transkei's failure to cooperate with the Goldstone Commission would create "a very serious situation," he told him.

Holomisa's accusations against the SA Government had nothing to do with the Goldstone Commissions' findings on Apla. "The only rational response" was for Transkei to cooperate with the commission and put before it all the evidence at its disposal.

De Klerk said Holomisa "ought to know" that he, De Klerk, had not given orders for certain Apla members in Transkei to be "wiped out" as Holomisa claimed.

"And to make matters worse, you threaten the South African Government and the South African people. You said that we will have to man each and every white home inside and outside Transkei, because you won't be responsible if the people retaliated.

"Let me make it clear that if South African citizens inside or outside Transkei are harmed or their property is damaged or destroyed as a result of the actions or omissions of Transkei Government, I will hold you and your government responsible.

"It cannot be in the interest of the people of Transkei to imply that if you do not get your way, whites will be murdered."

De Klerk said he was disturbed by Holomisa's description of the Goldstone Commission as a "kangaroo court" and rejected his attack on its integrity, objectivity and fairness.

De Klerk stressed that Mr Justice Goldstone himself and not the Government, had taken the initiative to investigate Apla, on the UN Security Council's recommendation.
The purpose of the meeting, Vermaak wrote, was to establish if Goniwe was "militant or peaceful", if he was arrogant and if he would publicly support violence.

But during June, a task group set up by the State Security Council (SSC) on the instruction of then deputy minister of defence and police Adriaan Vlok convened another task group, headed by General Pieter "Kiewiet" Geldenhuys, to decide Goniwe's future.

In court this week Geldenhuys denied that his group requested input from the Eastern Province JMC as earlier claimed by a South African Defence Force officer, also seconded to the SSC, General Johannes Janse van Rensburg.

EP Command sent the controversial signal ordering the "permanent removal from society" of Goniwe and others. Geldenhuys testified that he had not seen the signal message and that it was not placed before the task group.

He confirmed that opposition in the task group to Goniwe's reappointment came from a Colonel McDonald of the South African Police.

He also conceded under cross-examination by counsel for the families of the slain men, George Bizos SC, that if the signal message was tabled before his task group he would have wanted a full explanation on it.

However, his interpretation of the words "permanent removal from society" was that Goniwe had to be detained for a long time. Geldenhuys conceded that the language used in the signal was "unusual" if it meant Goniwe had to be detained.

Vermaak testified that he could not remember if he had seen the signal message, but that he had been told of its contents. He said the common use in security circles of jargon like "eliminate", "destabilise" and "take out" was undesirable.
PARLIAMENT — A list of 86 laws that have to be scrapped or amended to remove the last vestiges of apartheid in legislation on land rights has been drawn up by the Advisory Committee on Non-Racial Area Measures.
Michael Lapsley
Chaplain of the Cape Town-based Trauma Centre for Victims of Violence and Torture

When De Klerk brings back the death penalty, he is completing the cycle of death in South Africa

PRESIDENT FW de Klerk is appealing to a very base kind of blood lust in calling for the reintroduction of the death penalty. He has nothing to do with justice but instead, have everything to do with revenge, racism and electorerearing.

It is not accidental that his call came in the week the NP started their election campaign. This, and the disclosure of their nuclear arsenal, were the opening two shots of the NP's election drive.

It is not accidental either, that De Klerk's call came at a time when people from the white community started to become victims of the senseless random killings.

Since February 1990, there has been more bloodshed in the country than at any time in South Africa's history.

While several thousand blacks have fallen victim to horrendous acts of violence, it was only when a few whites also became the victims of these horrendous acts that calls to reintroduce the death penalty are being heard.

This cry was not heard when widespread violence affected only black communities.

The fact that there now is a cry from the white community and their political leadership, points to a racist motivation.

For years many of us campaigned against executions of any nature. While I believe many people were given a death sentence because they committed violent acts against apartheid, it is also true to say that the scale of ordinary crime is a product of the horrific society we have built.

It is no coincidence that the vast majority of those on death row are black, poor and illiterate. It illustrates the point of circumstances giving rise to violent crimes.

Crime levels must be attributed to people's socio-economic environments.

Also, the evidence shows that being sentenced to death also relates to the race of the victim and the perpetrator.

If the victim is white, the chances are far greater that the perpetrator will be sent to death row than if the victim is black.

Apartheid, in its entirety, is an option for death carried out in the gospel of life.

From its foundations built on violence one can also point to deaths in detention, starvation in the Bantustans as well as the death penalty as being a few examples.

Apartheid attempted to kill the soul of a people. It killed their dignity and it amounted to spiritual and physical murder.

In District Six for example, old people who had been forcibly removed, just gave up on their lives and died. They had been spiritually broken, like those who fell in love across the colour bar and committed suicide rather than endure hardships their situation gave rise to.

Death row itself caused people to die a thousand times over. People spent years and years of their lives sitting and waiting to die.

The psychological torture involved on death row is barbaric — so too is the act of execution itself.

There are also cases of people who were executed — while later evidence came to light proving their innocence.

South Africa also uses "common cause" as a sufficient reason for people to be executed. It has been enough to be part of a crowd where life was taken, to be sentenced to death.

It is in the context of this legacy, that De Klerk wants the death penalty reintroduced.

It is significant to look at societies that have abolished the death penalty and denied themselves the right to take life.

In Nicaragua, the Sandanistas abolished the death penalty when they came into power in 1979 — after waging an armed struggle.

So too in Namibia. The independent government constitutionally denied itself the right to take life. In a country which has known so much death, Swapo proved the moral superiority of what they were struggling for above what they were struggling against.

Similarly, the ANC has shown itself to be morally superior to the government by taking a stand against the death penalty.

When De Klerk brings back the death penalty, he is completing the cycle of death.

He reflects the moral psychosis of the white community that is calling for revenge. He should look to create a more just society.

Another aspect is that De Klerk and his illegitimate parliament do not have the moral right to make these kinds of decisions.

It does not matter if the majority of MPs are in favour when they debate the issue — they have no moral right to decide on the eve of a transitional government.

Even if they were to bring in executions now, it would certainly not deal with the current violence.

Those executed will be people who committed crimes four to five years ago. If people are arrested for more recent crimes and sentenced to death, it will still be two to three years before they face execution.

By that time, there is every likelihood that a new government will be in place, and will be positioned to reverse decisions made now.

Historically, there is no evidence that the death penalty is a deterrent to crime. Certainly in South Africa, this has not been true.

I am not saying people should not be punished for their crimes. There is no doubt that serious crimes deserve serious sentences.

One does not want a situation where people kill and rape, only to freely walk the streets a few years later.

The answer however, lies in creative ways of rehabilitating people. This is one thousand times more important than the issue of punishment.

There needs to be a complete re-education of state machinery and the approach hitherto taken to criminals moulded by society.
The case for traditional courts

Without flinching, the Congress of Traditional Leaders of South Africa (Contradisa) maintains that traditional courts (or traditional leaders’ courts) do have a future which will not compromise democratic principles.

It is nobody’s fault that only the African aristocracy produces traditional leaders, but this “defect” can be cured if laws ensure that traditional leaders at all times deal fairly with all people living under their jurisdiction — without regard to race or colour.

In communities where women are precluded by custom from becoming traditional leaders, the same requirement must hold.

Traditional leaders, who preside over the traditional courts, must act impartially when dealing with affairs affecting women.

The traditional leader acquires his position without being elected. He is decreed by custom and bath to be the leader.

Hereby and the fact that he comes from the correct lineage confer legitimacy. This is unlike Western democracy where legitimacy is conferred by popular elections.

But the fact that the traditional leader is required to act in the interests and according to the wishes and will of the people, ensures that he does not undermine the democratic rights of his people.

Where he does violate these rights, a mechanism ought to be formulated to ensure that he is brought into line.

There are other attributes attached to the institution of traditional courts — attributes which are appreciated by communities which cherish their traditional values and norms.

The test of whether to continue with traditional courts or not, lies with whether or not communities consider themselves as having so developed and become so sophisticated that they no longer see the need for it.

We would thus like to warn that the issue be treated with caution and wisdom so as to inter alia, avoid a Somalia-type situation where we have warlords who exploit the division of the nation along clan or ethnic lines.

It is nobody’s fault that only the African aristocracy produces traditional leaders.

It goes without saying that the traditional leader, as a human being, is not necessarily endowed with congenital wisdom.

He relies heavily on the counsel he gets from recognized and respected elders of the community whenever he is called upon to perform his duties.

The traditional court comprises the traditional leader who presides, and councillors, who normally come from the ranks of lesser chiefs or so-called headmen and people who are either appointed by the traditional leader or elected by the community.

Needless to say, the element of appointment will have to be done away with in favour of elections.

How the courts work

Proceedings are held at all times in open court.

One of the councillors leads the witnesses for both parties — this is the case in civil and criminal trials.

Other councillors and members of the public are given a chance to examine and cross-examine the parties and their witnesses.

The parties are allowed to cross-examine each other and each other’s witnesses.

The proceedings are conducted in a relaxed and somewhat informal manner. At the end of the hearing, the chief and councillor confer among themselves on the evidence that has been led.

They reach a verdict and agree on a fine or an award in damages in favour of the successful party.

The traditional leader, either by himself or through one of the councillors, pronounces the verdict and the punishment to be meted out or the compensation to be paid.

The parties are free to appeal against the verdict and/or the punishment if they are not satisfied.

The court of appeal can in certain cases be the court of the senior traditional leader of the community, particularly where the case involves customs and traditions.

Normally, however, “appeals” are heard in a magistrate’s court where the case is heard afresh without regard to the previous hearing.

Usually however, the parties are satisfied with the outcome of the proceedings because in the course of the trial suggestions are put to the litigants as to whether or not they would be satisfied with one or another course of action.

Criminal and civil cases are tried in traditional courts. Criminal cases that are heard involve petty crimes that do not call for terms of imprisonment or heavy fines.

With regard to civil cases, the determinant is the amount of compensation to be paid by the wrongdoer.

Custom and tradition usually influence the decision of the court and the amount to be paid.

Traditional courts do not send the guilty to jail nor do they impose heavy fines. The courts are interested in the conclusion of amicable settlements that will satisfy both parties and the restoration of harmony in the community.

The aim is to avoid acrimonious litigation which can result in the exacerbation of bad relations as is usually the case in the western legal system.

Traditional courts cannot escape the impact of technological and economic developments. Consequently the types of disputes that arise call for sophisticated arguments.

There is thus a need for the officers of the traditional courts to improve their level of education, and to undergo some form of legal training to improve their skills so that dispute resolution will be enhanced.

This would obviate the need to take matters to the common law courts where the disputes are not of an intrinsic nature.

Accordingly, rather than try to abolish, redefine or ignore these forums, it is in the interests of the traditional communities that these courts be retained and improved.

The president of the Congress of Traditional Leaders of South Africa, Patekile Holomisa, argues that there is a role for traditional courts in a future judicial system.
Bench must be bias-free

CARMELO MICKARD says judicial officers must be examined by an independent body to ensure accountability

The recent case of a judge

and recommendations for reform

Law to resign from secret organisations and political parties

However, the politician, a former secretary of state, said it was difficult to estimate the number of secretaries of state who might be affected by a judge's involvement in secret organisations.

He said the practice of taking leave from office to avoid conflict of interest needed to be examined more closely.

If it is possible to move

Judges and politicians' use of leave could be a conflict of interest.

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Judges and politicians' use of leave could be a conflict of interest.
Illegal guns

POLICE have announced a 90-day amnesty for people handing in illegal firearms and ammunition.

The 90-day amnesty will however only be applicable where people handed in firearms and ammunition of their own free will," said SAP Commissioner General Johan van der Merwe.
Goniwe inquest considers real meaning of 'removal'

By DAWN BARKHUIZEN

WERE it not for the deadly seriousness of the business at hand, parts of the inquest into the 1985 death of East Cape activist Matthew Goniwe could have assumed comic proportions in the Port Elizabeth Supreme Court this week.

Gone was the ghastly image of the slightly-built Cradock schoolteacher's nameless, burnt body found in the scrub near Bluewater Bay, along with those of Port Fiacchi, Sporow Mintosh and Sicelo Mhlwana.

Instead, the court busied itself with lengthy discussions on the Afrikaans language and the use thereof, the subtleties of which seemed lost on the entire front row of the shrunken public gallery.

People here were all either fingering sleep, praying or deep in contemplation with their eyes closed.

Referring to four dictionaries, one in Dutch, Anton Mostert, SC, for the SADF, spent several hours debating the meaning of the words "permanently removed from society".

The phrase occurs in a military signal sent on June 7 1985 from EPC Command in Port Elizabeth on the instruction of the commanding officer, the then Brigadier Joffie van der Westhuizen, to a member of the Secretariat of the State Security Council (SSC), General Hans van Rensburg.

It was sent three weeks before the Cradock four died.

"Verwydering" in the original text had a number of meanings, Mr Mostert told the court.

One dictionary offered "Verwydering, schapenbare afstand van een planeet tot de zon."

There were also figurative meanings, like "Die dame het die blompot verwyder van die tafel."

"Permanent" was a relative word and often not that long-lasting, said Mr Mostert, "as any man would know who paid his wife's hairdressing costs for a 'permanent wave'."

Retired SADF officer, General Kiewiet Geldenhuys, seconded to the SSCC in 1985 and head of the task group that recommended Matthew Goniwe be reinstated as a schoolteacher, said the expression was not typical SADF language.

"You mean to remove somebody from an aeroplane could be dangerous?"

Parachute

"Yes, unless he had a parachute."

Belying what was on the surface an interminable week of minutes, two strong lines of argument have emerged.

On the one hand is the premise that the June 7 signal was a recommendation that Goniwe be killed, and a warning that there could be an outcry from the international community and left-wing activists as happened after three other PIFS activists had disappeared.

On the other hand is the postulation that the signal, "nussang," was an innocent, albeit badly worded, recommendation that Goniwe, his brother, Mbuliwele and Port Calata be blamed or detained.

The inquest will resume on May 17.
Call to put bite on economic crime

LAWYERS are debating sweeping changes to the way the law is applied to economic crimes. One of the most controversial suggestions is that the right to remain silent be scrapped.

It has also been suggested that the profitability of crime should be thwarted by making criminals repay those who were ripped off. Stripping criminals of their assets should include those not directly acquired through crime.

Secrecy

If culprits deliberately dragged out their trials, they should be made to pay for wasted court time. It is not only the crooks who are the target of the suggested changes. If it has been suggested institutions with internal controls so slack that it is easy for crime to take place should contribute to the cost of investigations.

These starting changes have been suggested by leading members of the legal profession at recent seminars, some of which were convened by attorneys – while South Africa’s first symposium on economic crime was hosted by auditors KFMG Alken and Peat in February.

By CATHY STAGG

Attorney-General for the Witwatersrand Klaus von Lieres, SC, who spoke at the February conference and the chairman of the Transvaal Law Society’s criminal law committee, Mr. FC Langenhoven, who hosted a symposium last month, both attributed SA’s sick society to decades of secrecy.

Sanctions-busting led to the idea that rules were there to be bent or broken – which led to a breakdown in moral and ethical values.

Mr. Langenhoven called for more money and manpower to be made available to combat economic crime.

Mr. von Lieres criticized organisations which chose not to act against criminals because it was time-consuming and costly – allowing criminals to get off scot-free.

But while prosecuting criminals was essential, he suggested it was more cost-effective to prevent crime.

He called for a proactive crime prevention campaign instead of an apathetic reactive attitude.

Head of the office for Serious Economic Offences Jan Swanepoel, SC, also called for more private-sector involvement in combating economic crime.

Easier

One of the weaknesses of our legal system is that, in the private sector, there is no legal duty to report economic crime.

He recommended imposing a duty to report economic crimes on state departments, corporate bodies and professions, such as accountants and auditors.

Both he and Mr. von Lieres called for the law to be adapted to make it easier to get evidence when the crime had been “partly committed outside South Africa”.

Mr. Langenhoven said the recommendations put forward would be discussed by a committee to be formed soon.
PAC's Benny leaves talks to answer licence charges

BY BERENG MTHIMKULU

If the multiparty talks in Kempton Park were crucial for Benny Alexander's Africanist followers, so was the warrant of arrest issued when he failed to appear in the Johannesburg Regional Court court this week.

"It would be insensitive to issue the warrant of arrest given the significance of the Kempton Park multiparty discussions in which the accused (Benny Alexander) is a participant," argued defence counsel Moses Mavundla, before magistrate C Benade.

PAC secretary-general Alexander was this week forced to leave the talks to appear in court on charges of alleged forgery of an identity document, driver's licence and a traffic offence.

The charge sheet alleged the forgery and fraud arose from an incident on November 27 last year when Alexander was stopped by traffic officers on the M2 East and allegedly produced a forged identity document.

Alexander 'earlier failed to appear' before the court as he was a PAC delegate at the political forum held at the World Trade Centre this week.

Mavundla argued that the talks were significant to the country and would also have bearing on the courts.

"The court has reason enough to rule in the interest of the accused," argued Mavundla as he opposed the warrant for Alexander's arrest.

State representative N Erasmus contended that there had been sufficient time for Alexander to have applied for further postponement since the summons was served two weeks ago.

Mavundla asked the magistrate to take into consideration the nature of the talks and their significance to the country.

He said: "The court must balance the interests of the society which is dependent on those talks. Causing disruption of those talks, with due respect to the court, would be naive."

Benade issued the warrant of arrest which was withdrawn after the lunch adjournment when Alexander attended court.

The case was postponed to June 9.
Killer Takes Secrets to Grave
THE inquest into the death in detention of a 16-year-old Carletonville branch ANC Youth League member, which was concluded last year, has been reopened.

Nixon Phiri of Khutsong township died on January 16 1990 while being interrogated by a Sgt Van Jaarsveld at Welverdiend Police Station which activists renamed the "House of Horrors".

At an informal inquest last year the police were exonerated when their version that Phiri died of epilepsy was accepted by the Attorney-General.

This week, Maj J du Fresnez, told the inquest Phiri's mother had confirmed in a statement her son suffered from epilepsy.

This was, however, flatly denied by Maj Phiri, 40, who said she never made a statement to that effect.

Pathologist Jonathan Gluckman testified earlier that Phiri's death could have been caused by manual strangulation

Ishmael Bonlyen, 22, who was arrested with Phiri told inquest Magistrate C Potgieter how he had seen three policemen punch, kick and subject Phiri to electric shocks.

Potgieter adjourned the inquest until April 7.
Hanged if we do – or we don’t

Any decision on capital punishment puts Govt in a no-win situation, writes Franklin Zimring
Webb seeks indemnity

Former Civil Co-operation Bureau chairman Eddie Webb was granted a postponement yesterday of a case involving perjury, pending an application for political indemnity. His lawyer, O de Meyer, told the Johannesburg Magistrate's Court that Webb was to have pleaded guilty to the perjury charge yesterday but decided about two weeks ago to apply for indemnity. Magistrate Mr J B Esterhuizen set a provisional postponement date for April 22.
Report on deeds bribes given to A-G

BY BARRY STREEK
Political Staff

THE report of the departmental inquiry into alleged irregularities and bribery at the Cape Town Deeds Office has been handed to the Attorney-General, the director-general of Regional and Land Affairs, Mr Coenraad de Villiers, said yesterday.

The report had also been handed to the Personnel Administration Directorate of the department to consider internal disciplinary measures.

The departmental investigation had now been completed, he said.

"To make the investigation as complete as possible, talks were also held with former Registrars of Deeds, the Law Society of the Cape of Good Hope, and a member of Parliament.

The investigation also looked into Masterbond, but could not investigate it fully as the irregularities did not originate from within the public service.

It had been decided to refer the matter to the Attorney-General for further investigations or action.

One officer in the Deeds Office had already been relieved of his supervisory duties and given less important work.

No one had responded to appeals to the public for information, Mr De Villiers said."
No soldiers prosecuted

By IAN CLAYTON

No member of 32 Battalion has yet been prosecuted for assault, rape or murder after its raid on the Phola Park squatter camp, despite an urgent call for this by the Goldstone Commission in June last year.

This was disclosed in parliament this week by Minister of Defence Kobie Coetsee. He said the police had opened dockets about the alleged criminal conduct by 32 Battalion members but the number of dockets was unknown.

The Phola Park incident took place on April 8 1992. The South African Defence Force defended 32 Battalion, but its claims were rejected by the commission - which also said the Phola Park self-defence unit had tried to involve the SADF in a war.

*Keywords*
Will De Klerk be SA's Dr Death?

Isn't it a bit rich that a government which released thousands of violent criminals back into society before they had completed their sentences now wants to crack down on crime by reintroducing the death penalty?

By PHILLIP VAN NIEKERK

The Texas capital punishment code that was the hallmark of Dr Death’s professional file — that the state executes murderers only if it is 100 percent certain they will kill again — would not have been applied in the elephant case. Perhaps the remedy would have been a detainer rather than a shot through the trunk — even a great beast’s nose — opened after death, revealed a great abyss.

The real reason for the killings, a ranger explained to me, was to appease the tourists, who were in the state they were in the park. No action to be a valid explanation for a business like a game park.

Is it a good enough reason for executing people in the wider game park — or at any rate — that is South Africa's society? President FW de Klerk, whose announcement that he wants parliament to bring capital punishment for murder has unleashed an intense debate on the subject, thinks so. And, with 200 people under sentence of death, De Klerk is capable of pulling a lever that would turn De Klerk green with envy.

Yet De Klerk must know that reinstating the death penalty would be as effective as electrocuting every elephant in the Kruger Park in ending South Africa's bloodletting violence.

That requires other, more mundane, reform of an uncooperative police force, the installment of a legitimate government capable of governing effectively, strict gun control, and vastly expanded economic opportunities.

Bringing back capital punishment has more to do with the National Party wanting to prop up its party of law and order kill a few more people to show how tough you are. Win a lot more votes.

De Klerk is not the first to make political capital out of the issue. During last year’s American election campaigns, Bill Clinton returned to Arkansas to ensure that a convicted murderer was executed, so that the Republican campaign would never be able to portray him as a limp-wristed liberal wimp.

The flip side of what George Bush did in 1988 he pasted the Democratic challenger, Michael Dukakis, in soft on crime, using an advertisement of a black man going through a "revolving door", based on the case of Willie Horton, who was released on parole in Massachusetts, skipped the state and raped a woman in Maryland.

Law and Order Minister Herman Krol must have studied the enormous effectiveness of that campaign in his endeavour to portray Yvette Steyns as a band of criminals.

Crime is an issue made for the National Party an acceptable synonym for voter appeal at the white schools, and a seemingly non-political phenomenon that includes among its victims most law-abiding people in the township.

It is a rich trove of saliency, since that is the government that during the past two years has set in motion an awesome collection of bantustans, bantustans, and missiles into our midst. This is the government that saw fit to release Baradey Saldazer, whose absence of someone for randomly gunning down seven black policemen at Pretoria is breathtaking.

Then one can speculate who set loose bank robber Sesheke Mengena hours after he told the Rand Supreme Court that he gave half of his loot to Chris Hani and Tokyo Sexwale at African National Congress headquarters at Shell House. Which is the flaw in the story.

Anyone familiar with the ANC knows that Sexwale works out of PWV regional headquarters at what Groenewald calls the Communist Party headquarters on the other side of town. What was he doing paying them out at Shell House?

Whatever the truth of another murky episode, the image of Han as the king of Johannesburg is a charge that has pieced into white mythology alongside the belief that the ANC wants to form the Kruger Park and to steal one third of their wealth when it comes to power.

The government, of course, is the only party that can start the killing as a vote-winner. PAN Africanist Congress negotiator Barney Desai told the multi-party conference last week, with a good sense of indignation that anyone should have suggested otherwise, that it was not the party's policy to kill women and children.

The assembled delegates — the vast majority of them adult men — did not appear comforted at this assurance.

The Justice Department doesn't do too well on equality of the sexes either. Of the 202 people who stood to be executed if De Klerk's motion goes through, there are no women.

Perhaps someone in the National Party should look into this matter and consider whether they can't attempt to win votes on two counts — bringing back the death penalty and setting a policy that at least a quarter of the executions every Friday be women.

Despite a quid pro quo sheeting up their representatives in one per delegation, the only woman I can recall addressing the multi-party conference was Thipooze Mokoali, of the South African Communist Party, whose contribution was one of the most articulate in the emerging new politics. The Hauhe, Joe Slovo and the Left wing Congress' Pringle Caddicks — and some veterans of the parliamentary process such as the Democratic Party's Jon Andrew — are showing flashes of a far richer understanding of the parliamentary process than the National Party-dominated white parliament has been capable of over the years. That is evident even in the rather dull speeches and the sometimes exaggerated cordiality of the World Trade Center.

What a pity then that De Klerk has chosen the triumphant parliament as the venue for deciding on capital punishment, one of the most basic of human rights questions, particularly as the vast majority of people on death row are black.

If we are to have a parliamentary debate on capital punishment, we should wait until the elected natural assembly is constituted, once all voices and shades of opinion — even the pro-death lobby — can be heard.
Mass killing trial goes on screen

By SHARON CHETTY

For the first time in South Africa's legal history, a trial will be able to proceed outside a courtroom. A screen against a wall protected by metal framing is installed, allowing legal proceedings to continue in a public space.

On Tuesday, the 10 people involved in the trial of the Kwa Madani massacre, in which 41 people were killed and eight children were wounded, appeared in the Pretoria Magistrates Court.

Last June, the massacre was covered extensively by international media, with journalists and editors on the ground. The trial has been praised for its transparency and the access it has given to the public.

Protest

The men charged with the massacre were all residents at the time. The massacre drew international attention, and the trial has been highly anticipated.

The trial has been moved from the Vereeniging regional court to the Pretoria Magistrates Court due to the large number of media outlets present.

A motion blocking the trial has been rejected, and the trial is set to proceed. The court has been likened to a public forum, with the public having access to the proceedings.
Public servants in the dock

Bill aims to end secret decisions by bureaucrats

By CARMEL RICKARD

A FAR-REACHING report and draft Bill, newly tabled in parliament, could liberate the public from decades of public service tyranny, secret decisions and lack of accountability.

The Bill follows three years of detailed international research by the South African Law Commission and proposes changes which could make this country's public service among the most open and accountable in the world.

It would allow members of the public, affected by government administrative decisions, to challenge those decisions in the courts.

Officials, challenged by a member of the public, would be obliged to supply reasons for their decisions. If they did not give reasons, the courts would presume the decisions unreasonable and therefore set them aside.

At present, the courts may review only certain administrative decisions and on limited, mainly procedural, grounds. Officials do not have to supply reasons, and usually refuse to do so, even if asked.

**Interests**

Under the Law Commission's proposed Bill, the decisions of any organ of state could be challenged, from the State President down. Any minister, official, committee, council or any other body that makes a decision could be called to account by the public.

Members of the public aggrieved by a decision or whose interests were affected by it, could bring a legal challenge within 90 days of becoming aware of the decision.

They could ask for the relevant authority to give written reasons for the decision, or go straight to court without asking for reasons.

Under special circumstances a court might extend this 90-day limit to a year if the judge involved believes those complaining about an administrative decision could not, reasonably, have been expected to bring a challenge within the three-month limit. If reasons were requested, the authority would have 90 days to reply.

The only official whose decisions would be exempt from court review would be the attorney-general who could not be questioned about a decision to prosecute since this decision would in any case be tested by a trial court.

However, by implication, an attorney-general who decided not to prosecute, could be asked for reasons — a major development.

Under the Law Commission's proposals, a court could set aside a decision on a number of grounds, the most important of which would be that "no reasonable organ could have made the decision".

**Decisions**

In the past the courts would have had to find "gross unreasonableness" before they could set aside a decision.

Senior members of the legal profession have welcomed the Bill, saying they had felt for years that public servants should be obliged to give reasons for decisions.

They said the quality of decisions would be likely to improve significantly if the Bill became law. "Just knowing you might have to justify a decision to a court will concentrate the mind and ensure you take a well-reasoned decision."

However, the Bill could face serious opposition from two different directions:

- Inside parliament, members of the political elite have become used to ruling through a bureaucracy rarely called to account for its decisions. It will be difficult for bureaucrats to accept and support an end to nearly 50 years of such power.

- One indication of the government's reluctance to accept judicial review is the fact that it has not been seeking the right to such a review which appears in the Law Commission's proposed Bill of rights.

Outside parliament ANC lawyers have already said they oppose extending the power of judges to review administrative decisions.

They claim this could frustrate attempts by a new government to bring about equality. They do not want an unelected judiciary to have the right to thwart decisions of an elected legislature.

This is currently one of the most debated legal issues in political circles. Opponents of judicial review fear judges, lacking sympathy for the ideals of a new regime, could make the country unworkable by continually setting aside decisions with which they disagree.

Supporters of judicial review say the public has suffered from a closed and unaccountable bureaucracy for many years.

**Chances**

They would prefer to take their chances with judges, who must give reasons for any decisions they take, rather than suffer any longer an accountable public service hiding behind secrecy clauses.

Attorney Peter Leon, who gave evidence about the proposed Bill to the Law Commission on behalf of the Association of Law Societies, said the draft was "an outstanding contribution to South African law."

National director of the Legal Resources Centre Geoff Indlender was more cautious. He approved the wording of the Bill which allowed a challenge to a decision 90 days after a member of the public "became aware of the decision" rather than 90 days after the decision was made.
Ex-CCB boss in perjury indemnity bid

BY KURT SWART

Attempts to avoid prosecution for perjury could fall within the ambit of South Africa's indemnity laws, the Department of Justice said this week.

The question was raised when the attorney of former CCB chairman Major-General Eddie Webb told the Johannesburg Regional Court on Wednesday that his client, charged with making conflicting statements under oath, was to apply for political indemnity.

The charges arose from differing statements made by General Webb to the Harms commission into politically-related killings and to the inquiry into the assassination of Wits academic and political activist David Webster.

At the Webster inquest, General Webb admitted that evidence to Mr Justice Louis Harms might have misled the commission.

The alleged perjury involved a denial of knowledge of plans to assassinate journalist Gavin Evans and human rights activist and advocate Mr Dullah Omar.

When General Webb appeared in court on Wednesday, his attorney, Mr Oelof de Meyer, asked for a postponement because of the indemnity bid.

Mr de Meyer undertook to provide proof — by 9am on April 22 — that an indemnity application had been lodged and to reveal for what purpose it was being sought.
Mamelodi’s kangaroo justice

By ELIAS MALULEKE

CARPENTER and cabinet maker Simon Bohale, 46, of Mamelodi West, was hauled before a “people’s court” at the Umhombolo Combined School last week and sternly warned that he would be banished from the township if he did not give his clients “satisfactory service.”

Bohale protested that he was not the guilty party, and produced a signed contract to prove it, but the young “judge” threatened to unleash “comrades” on him as he was “becoming cheeky.”

Bohale was not given a chance to state his case and when he tried to explain the misunderstanding between himself and a client, he was ordered to shut up.

He was told that if he failed to pay the client R1 200, his business would be boycotted and he would be banished from the township.

It was the third kangaroo court “judgment” against Bohale in less than six months.

In the first incident, he was ordered to refund a client her deposit and burn a kitchen unit after she complained that she was no longer interested in the unit.

On a second occasion a client took delivery of a kitchen unit and after using it for six months, she refused to pay. When Bohale demanded his money she complained to the “people’s court” which ordered him to refund her instead.

Bohale said he has tried to discuss the issue with members of the ANC and the Mamelodi Civic Association, but to no avail.
Attorneys appearing in Supreme Courts advocated
Racism's Iniquitous Relent

CAPITAL PUNISHMENT RELIES ON NOT SEEING THE VICTIMS AS PEOPLE, SAYS EMINENCE

SER 13/4/94

The concept of racism in the context of capital punishment is often overlooked. The system relies on the idea that certain groups are inherently inferior, justifying their less-than-human status. This allows for the justifiable punishment of minorities, particularly in the context of crime. The rhetoric of race and class is used to divide and conquer, ensuring that the system remains in place. The true impact of racism on capital punishment is not adequately addressed, leading to a cycle of violence that perpetuates inequality.
Boipatong: men to stand trial

A group of Inkatha Freedom Party supporters from KwaMadala Hostel in the Vaal Triangle will appear in the Delmas Circuit Court today in connection with the Boipatong massacre on June 17 last year.

More than 40 people were killed when a large group attacked residents that night in the Vaal township.

The case was initially heard in the Vanderbijlpark Magistrate's Court and dragged on for months.

More than 10 people, who were originally accused of the killings, have had charges against them withdrawn. Most of those who will appear in court today are out on bail.

KwaMadala Hostel inmates to appear in the Delmas Circuit Court today:

The killings prompted the African National Congress to temporarily suspend bilateral talks with the Government.

The massacre also widened the rift between the ANC and President FW de Klerk, who had to flee the area when angry youths threatened him with violence during a visit to the township at the time.
By JEREMY SARKIN 
and ALFRED COCKRELL 
of the Civil Rights League

WHILE these last days of empire are replete with strange occurrences, it is hard to think of anything stranger than the government's recent decision that the discredited bicameral parliament is the appropriate body to settle the controversy regarding the moratorium on judicial hangings. As a political strategy, this seems akin to taking a vote among first-class passengers as to how the lifeboats on the Titanic should be allocated.

There were 188 executions in South Africa in the 10-year period 1981-1990. These statistics peaked in 1987 when no fewer than 181 executions took place. This spiralling rate of judicial hangings was brought to an end by President F W de Klerk's speech on February 2, 1990, in which he announced that there would be a moratorium on all executions until such time as parliament had considered "reforms" to the system of capital punishment.

These promised reforms were eventually embodied in the Criminal Law Amendment Act of 1990. The primary innovation was the replacement of the mandatory death sentence for murder with a system in which the imposition of the death penalty would be in the discretion of the trial judge. A number of secondary reforms were also introduced in order to improve the appeal and review procedures involved in the reconsideration of a death sentence. Finally, a panel was created to review the sentences of all those who were on death row as of February 2, 1990.

No legitimacy

As a result there have been no executions in South Africa (not counting the TBVC states) since November 17, 1989. This situation may well change in the near future in the light of the government's announcement that it intends to allow the bicameral parliament to decide on whether or not the existing moratorium on executions should continue.

We in the Civil Rights League wish to stress that at this stage our objection to the ending of the moratorium focuses solely on the institutional competence of the present parliament. Not to put too fine a point on it, this is a discredited institution which possesses no legitimacy whatsoever in regard to an issue of such major constitutional significance.

South Africa has at present no Bill of Rights, and the flurry of attempts to draft one on the negotiation table continues at such a pace that there is still no clarity regarding what our future Bill of Rights will eventually say about the death penalty. It would surely be premature to prejudge such a highly divisive issue at a stage when no checks exist on the powers of parliament.

While the avowed intention of reintroducing executions might be to reduce the level of violence, a much more urgent need is for the establishment of a human rights culture in this country. The level of violence is politically related, and as such requires a political solution. It should be obvious to even the least cynical observer that the government is battening around an issue of great constitutional importance in order to score cheap political points.

Policy decision

At a time when so many policy issues are "up for grabs" in the new South Africa, it is astonishing that a racially-based parliament elected by a small minority of the population can arrogate to itself the power to make this sort of human rights decision. Before a decision can be taken about such a fundamental right, there has to be widespread, educated and informed debate on the issues involved. In addition, a mechanism such as a constitutional court needs to be in place in order to act as a check on all decisions that have an impact on civil rights.

The reintroduction of state executions is a policy decision that should be made by a democratically elected legislature within a human rights culture and with testing powers vested in an independent court of human rights. All those who are serious about their democratic commitments should demand that the moratorium on hangings be retained until such time as a fully democratic society exists.
Torture inquiry kicks off

By Kalzer Nyatsamba
Political Correspondent

The second ANC-appointed commission of inquiry into allegations of torture in the organisation's prison camps in exile has started gathering evidence in the form of affidavits and will hold hearings next month, according to commission head Dr Sam Motsuenyane.

Motsuenyane said the commission, whose appointment by ANC president Nelson Mandela followed recommendations of the organisation's first commission headed by ANC advocate Louis Skweyiya, had made progress so far.

Advocates Vincent Maleka and Richard Moleko had been gathering evidence.

The former National African Federated Chamber of Commerce leader said the probe — comprising himself, former UK judge Margaret Burnham and Zimbabwe advocate David Zamuhiya — would begin holding hearings to test evidence from May 10.

He called on people with any information which might be helpful to his commission to contact him at Khotso House in Johannesburg.

Motsuenyane said that unlike the three others before it, his commission would give people accused of human rights violations an opportunity to respond to the allegations against them.

Motsuenyane said he and his fellow commissioners would visit Tanzania towards the end of May to try to trace missing people who had not yet been accounted for.

The commission would compile its report and submit it to the ANC around the middle of June.
Charges withdrawn in Boipatong trial

DELMAS — The State yesterday withdrew all charges against 27 of the Boipatong massacre accused and postponed the case against the remaining 47 to May 10.

Though no charges were put to the suspects in the Delmas Circuit Court, prosecutor A de Jager said the 47 remaining accused, mostly residents of the KwaMadala hostel in the Vaal Triangle, would face more than 100 charges, including murder, attempted murder, public violence and malicious damage to property.

The case stems from the June 17 1992 attack on Boipatong residents in which 41 people were killed.

All barring one of the remaining 47 accused were again released on bail, and have to report to the Vanderbijlpark police station each Monday.

The hearing was held in camera with only lawyers, reporters and two UN observers permitted to follow the proceedings from behind a glass partition. — Sapa.
Sixteen deaths still unsolved

CAPE TOWN — The police had still not detained, arrested, charged or convicted anyone in connection with the assassination of 16 anti-apartheid campaigners, Law and Order Minister Herman Kriel told Parliament yesterday.

These unsolved cases included the murders of Natal University academic Richard Turner, Cradock community leader Matthew Gouwe and Witwatersrand University academic David Webster.

Police had also not arrested or charged anyone in connection with the bombing of 12 buildings which housed anti-apartheid organisations in different parts of SA.

Kriel was responding to questions tabled by Peter Soal (DP, Johannesburg North) in the fourth consecutive year Soal has raised the issue in Parliament. On each occasion he has been told police have not made any progress in their investigations.

"Nobody has as yet been charged or convicted in connection with these murders as there is no evidence to implicate any person," Kriel said.

He also said no one had been detained, arrested, charged or convicted in connection with the 12 bombings.

Soal also tabled questions about the fatal stabbing of Durban attorney Griffiths Mxenge outside his home in 1981 and the murder of his wife, Victoria Mxenge, who was hacked to death outside the same home in 1985.

He also asked about the murder of Gouwe’s three Cradock colleagues — Sparrow Mkhonto, Fort Calata and Sicofo Miwadi — who were abducted and killed on the Grahamstown–Port Elizabeth road in 1983.

Kriel was questioned about the bombing of Cestru House in Johannesburg in May 1987; Khotso House, the headquarters of the SA Council of Churches, in Johannesburg in August 1988; Khanya House, the head offices of the Jobs Work Conference, in Pretoria in October 1988; and various other buildings.

Former detainees owe State R200 000

CAPE TOWN — Former detainees owed the State more than R200 000 for the costs of unsuccessful court applications, Law and Order Minister Herman Kriel said yesterday.

The total outstanding value in 15 cases was R204 592.21.

Kriel, who was replying to a question tabled in Parliament by Hennie Bester (DP, Green Point), did not give details of which former detainees or former banned people still owed money to the State.

Kriel said that in five cases civil proceedings had been instituted by the state attorney, and the writing off of the debt was being considered in five cases.

In four other cases, the debtors were already paying without any steps being taken, while in one case the debtor had requested the writing-off of the debt. Although this request had been referred to the Treasury, its decision was not yet known, Kriel said.
Police assaulted me, says killing suspect

OWN CORRESPONDENT (252)

MARTIZBURG — A 19-year-old Zulu man, being held in connection with the murders of six schoolchildren at Mboyi, Table Mountain, last month, told a Maritzburg magistrate yesterday he had made a confession to a magistrate because he had been assaulted and threatened by police.

Sibusiso Zulu, who admitted being an active member of the ANC, denied all knowledge of the crime when he appeared before Duncan Robertson with co-accused Jerene Mda (33) during a bail application yesterday.

Zulu yesterday on several occasions declined to reply to questions by State advocate Jurie Strydom, saying he was acting on the advice of his legal representatives not to answer questions which might incriminate him or prejudice his trial.

He refused to reply when Strydom asked him to explain the apparent contradiction that, on the one hand, he claimed to know nothing about the offence while, on the other, he feared he might incriminate himself.

The hearing was adjourned until today, after the courts were evacuated at midday due to violence which accompanied Chris Hani memorial services.
Probes into 'abuse of power'

Mr Justice Richard Goldstone has announced that a committee already established in Natal-KwaZulu will hold an inquiry into allegations of power abuses by members of the SA Police in the Mooi River, Estcourt and Ladysmith districts; arising out of events surrounding the burning down of the Bruntville hostel. The public hearing will be held at the Mooi River Farmers Association on Grantley Farm, Mooi River, at 10 am on April 19.
Independent experts will join assassination probe

By Bronwyn Wilkinson and Anna Louw

Two independent international experts are to be appointed to the SAP team investigating the assassination of SACP and ANC leader Chris Hani, Justice Minister Kobie Coetzee announced last night.

He said in a statement that Attorney-General Klaus von Lieres and Wilkau had sent him a message saying the appointment of international experts might allay public fears of a cover-up in the inquiry.

"It also provides a guarantee for the most comprehensive investigation possible," Von Lieres had said.

Von Lieres said the requests for him to consider the addition of one or two independent experts came from the ANC, Police Commissioner General Johan van der Merwe and the National Peace Secretariat (NPS).

Yesterday Von Lieres agreed to the requests and asked the NPS to identify two appropriate people as soon as possible.

Justice Ministry spokesman Werner Krull said it was likely that at least one expert would come from London's Scotland Yard.

Several ANC and SACP leaders have charged that Hani could not have been killed by a lone gunman and have alleged that the police have not tried to arrest more people.

Earlier yesterday, Van der Merwe placed an embargo on information about the police investigation.

Witwatersrand police liaison officer Brigadier Frans Malherbe said this was because all information about the investigation had been given a political connotation which, he said, was hampering investigations.

Polish immigrant Janus Jakub Waluz (40) was arrested shortly after Hani was shot dead outside his Dawn Park, Boksburg, home on Saturday. He appeared in the Boksburg Magistrate's Court on Tuesday and was remanded to May 12.
President de Klerk has appointed Leslie James Roberts, SC, as Attorney-General of the eastern Cape, with effect from May 1, the Ministry of Justice has announced. Roberts joined the Department of Justice in 1970 as a prosecutor at the Magistrate's Court in Johannesburg. He was promoted to Deputy Attorney-General of Natal in April 1980, and was appointed Senior Counsel a month later.
More Boipatong arrests expected
Star 15/14193
By Esther Weugh
Political Correspondent

More arrests will follow in the investigation into the Boipatong massacre, says Transvaal Attorney-General Dr Jan D'Olivera.

He said more "main players" were identified during preparations for the trial of 74 people accused of carrying out the Boipatong massacre of July 17 1992 when KwaMadala Hostel residents attacked township residents, killing more than 40 people.

Charges of murder against 27 of the 74 Boipatong massacre accused were withdrawn in the Delmas Circuit Court on Tuesday. No reasons for the withdrawal were given in court.

However, D'Olivera yesterday told The Star that "practicalities of conducting a court case of such magnitude" necessitated focusing on the "main players".

Those against whom charges had been withdrawn had, however, not been given "a clean bill of health". The State could prosecute them in a separate trial or add them to the existing trial, he said.
Boipatong accused acquitted

By Mzimasi Ngudle

TWENTY-SEVEN of the seventy-four Boipatong massacre accused went free when charges against them were withdrawn in the Delmas Circuit Court on Tuesday.

The acquittal follows that of more than 10 other people who were also originally accused of the killings. The earlier group was released last year.

The case was postponed to May 10 after the defence asked for more time to consult with some of the accused who were arrested after the initial group.

One accused was kept in custody while bail conditions for others were modified.

Instead of reporting twice a week at Vanderbijlpark police station they will now only report on Mondays.

Mr Justice Struij said the request of defence counsel Mr Rean Strydom that the case be heard in Vereeniging.

He said transport to ferry the accused to Delmas would be provided and also cited security as one of the reasons why the trial should be heard in Delmas.

The accused are facing charges of murder, alleging assault, public violence and malicious damage to property.

More than 40 people, including a pregnant woman, were killed when a large group of alleged Inkatha Freedom Party supporters from the KwaMashu Hostel attacked residents in Boipatong on June 17 last year.

The killings led to the African National Congress pulling out of negotiations amid allegations of police complicity.

The IFP has promised to pay legal costs provided it is allowed to instruct its own lawyers.
A Soweto woman told a Johannesburg inquest court yesterday that a policeman beat her after telling her that he had killed her husband and would kill her too.

Nonhlanhla Cindu told the court that Lieutenant Henry Beukes was one of a group of policemen who forced her to sign a statement supporting the claim that her husband fled from police before he was shot dead in 1969.

Earlier this year Beukes was found by an inquest court to have strangled a suspect in custody. He was subsequently suspended from duty.

Cindi was testifying at the inquest of Fami Cindi, who was killed at his Zola 1 home on December 20 during police investigations into the armed robbery of a cash payroll.

Cindi said she and her husband were sleeping when policemen entered her property. They banged on the doors, and when her husband opened the kitchen door, he was pulled outside. The door was then shut. She then heard a number of shots fired.

Beukes said in a statement to the inquest that Mr Cindi was shot after trying to escape over the wall.

The suspended lieutenant is expected to testify today.
Minister seeking statutory sanction for peace accord

BILLY PADDOCK

CRIMINAL statutory sanction should be incorporated into the peace accord's code of conduct to strengthen it, Home Affairs Minister Dame Schutte said yesterday.

Speaking at a media briefing in Pretoria he said the code for political parties should be given statutory sanction and, in certain cases and in line with the Goldstone commission proposals, be invested with criminal sanctions.

He said government had called for an urgent meeting of the national peace committee to look at measures to stem politically inspired lawlessness, strengthen the accord and convene a meeting of all its signatories.

All signatories had a responsibility to come forward with proposals to avoid a recurrence of Wednesday's riots, Schutte said.

At the same briefing, Justice Minister Kobie Coetsee said the Goldstone commission's draft Bill on the Regulation of Gatherings and Demonstrations was nearly ready to be put to Parliament.

He said that the period for comment on the draft Bill, drawn up by the commission after its investigation into the prevention of public violence, had almost lapsed.

He was certain the commission would now proceed with the final draft of the Bill, which would receive top priority from government.

The provisions of the draft Bill, published for comment in February, include:

- The police being able to use force, including the use of firearms and other weapons if necessary, to prevent death or injury during a demonstration;
- Organisers of demonstrations being liable for damage which took place before, during or immediately after such a demonstration, and
- Street conditions for the conduct of participants in gatherings or demonstrations.

In response to questions, Coetsee said criminal law in SA did not acknowledge political motive as an excuse for murder. Prior to October 1990 prisoners could apply for indemnity and therefore Chris Hani's alleged killer, James Wafula, would not get immunity if he were sentenced for the killing.

He rejected "third degree treatment" to extract information from a still silent Wafula.

Coetsee said government had noted statements by a senior political leader in the PWV area (believed to be ANC PWV regional leader Tokyo Sexwale) that normal legal processes should be circumvented to allow the people to try to convict Wafula.

"If this is a correct reflection of the official point of view of that individual then it is a deplorable approach. It actually questions that party's commitment to democracy," he said.

ANC official Pallo Jordan yesterday denied the ANC had ever officially linked government to the assassination. "What we have said is that government and agencies of government were involved in a disinformation campaign against Hani."

The appointment of foreign and independent experts to assist in the police investigation into the killing guaranteed that no cover-up was possible.

Meanwhile, Acting Law and Order Minister Tertius Delport said the new steps announced by President F W de Klerk on Wednesday to prevent marches becoming violent supported the idea of free political participation and orderly demonstration.

The steps included the declaration of further unrest areas, particularly on the Witwatersrand, an increase of 3,000 men for the security forces and an insistence that the law be strictly adhered to for all future marches.
persons to be members of the Slums Clearance Court for the consideration of matters relating to the Indian population group. The term of office of such members is from 1 April 1993 to 31 March 1994

**Chairman.**
Mr S. J. Mundhree

**Members.**
Mr D. Naicker
Mr H. N. Marsh

**Alternate member:**
Mr W. W. Walsh

(16 April 1993)

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**NOTICE 324 OF 1993**

**DEPARTMENT OF JUSTICE**

ANNOUNCEMENT OF NAMES OF PERSONS WHO HAVE COMPLIED WITH PARAGRAPH (a) OF GOVERNMENT NOTICE No. 501 OF 6 MARCH 1991 AND WHO HAVE FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (d) OF THE SAID GOVERNMENT NOTICE

The Director-General, Justice hereby makes known for general information, in the Schedule hereeto, the names of persons—

(a) who are members of the African National Congress of Umkhonto we Sizwe, or who, in the case or 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 undertaking 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.

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**KENNISGEWING 324 VAN 1993**

**DEPARTEMENT VAN JUSTISIE**

BEKENDMAAKING VAN NAME VAN PERSONE WAT Volkdoen aan paragraaf (a) van Goewermentskennisgewing No. 501 Van 6 MAART 1991 en die inligting bedoel in paragraaf (d) van genoemde goewermentskennisgewing verstrekg het

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

(a) wat lede van die African National Congress of Umkhonto we Sizwe is, of wat, in die geval van persone wat nie sodanige lede is nie, die beginsels van vrede en die 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 verstrekg het,

vir sover sodanige onderskrywing en inligting betrekking het op die verlening van vrywanging ooreenkomstig genoemde Goewermentskennisgewing ten opseigte van die ondergaan van opleiding in stryd met die bepaling van artikel 2 (1) (b) van die Wet op Terrorism, 1967 (Wet No. 83 van 1967), of artikel 54 (1) (ii), saamgeleë met artikel 54 (7), van die Wet op Binnelandse Veiligheid, 1982 (Wet No. 74 van 1982), na gelang van die geval.

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**SCHEDULE - BYLAE**

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(16 April 1993)
CARME RICCIARDI SAYS THE LAW COMMISSION IS DISTRACTED INSISTING ON a CRISIS FOR KOBIE

IDENTITY CRISIS FOR KOBIE
Riot cops off scot free

By DAN DHILAMIN

POLICE in Kempton Park are investigating a case of alleged police brutality against a man who had his head smashed with a creative art teacher's desk.

The man, who was arrested during a protest, had his head smashed with a desk in a Kempton Park police station.

The incident occurred during a protest against the closure of the local police station.

The man, who was arrested during the protest, sustained injuries to his head and was taken to hospital.

The police officer involved in the incident has been suspended pending an investigation.

In a statement, the police said they were investigating the incident and would take appropriate action against the officer involved.

The man, who was arrested during the protest, has been released on bail pending the outcome of the investigation.

The police also said they were investigating a complaint against the man for his role in the protest.

The police said they were working with the community to ensure that the incident was resolved peacefully.
Horror as 27 suspects freed

By MARTIN NTSOELENGOE

THE withdrawal of charges against 27 men, who were to stand trial along with another 74 suspects for the murder of 41 people in Bopatong last year, has the Vaal community feeling angry and scared.

State prosecutor A de Jager gave no reasons for the withdrawal of charges at the Vanderbijlpark Regional Court. The case was postponed to May.

A few Vaal residents, who attempted to gain entry into the court, became angry when told by police that the case was in camera.

Outside the court crowds expressed dismay when they heard that charges against 27 of the men had been withdrawn.

Said Joel Khoth from Bopatong: "The trial is a sham, it is going to end up like the Alexandra and Swanneville trials."

"It is obvious that police are protecting those involved in the massacre." Sebokeng sales representative Allison Banda added. "How can we have confidence in the police when they use guesswork?"

"It seems police arrested any person they came across in the KwaMadala Hostel. Police were not serious and their actions only show that they attempted to appease the international community. Why were the murderers not arrested on the same day after the killings?"

De Jager said the 74 would face more than 100 counts including murder, attempted murder, public violence and malicious damage to property.

The case is a sequel to June 17 last year, when 41 people were brutally murdered in Bopatong township.

Although there were no incidents outside the court this week, police cordoned off the road leading to the building.

The accused, who had attempted to hide their faces, arrived from the Vaal in a bus.

Defence counsel Strydom unsuccessfully applied for the trial to be transferred to Vereeniging, saying that the daily trip may be risky for the accused.
GENERAL NOTICES

NOTICE 351 OF 1993
DEPARTMENT OF JUSTICE

ANNOUNCEMENT OF NAMES OF PERSONS WHO HAVE COMPLIED WITH PARAGRAPH (a) OF GOVERNMENT NOTICE NO R 936 OF 24 APRIL 1991 AND WHO HAVE FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (b) OF THE SAID GOVERNMENT NOTICE

The Director-General Justice hereby makes known for general information, in the Schedule hereto, the name of a person—

(a) who is a member of the African National Congress, and

(b) who has furnished the information referred to in paragraph (b) of Government Notice No R 936 of 24 April 1991 in full,

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

SCHEDULE - BYLAE

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4141 — A 14753 — 1
Pietie guilty of fraud

Pretoria Correspondent

Former Manpower Minister Pietie du Plessis has been found guilty in the Pretoria Supreme Court of fraud.

Du Plessis pleaded guilty yesterday to a new charge sheet of 17 charges after the original 62 charges were withdrawn against him. His case was postponed to May 28 for sentencing.

Du Plessis admitted selling assets in five companies at inflated prices to a company, National Properties Ltd., in which he had an interest. Listed shares were then issued in payment for properties.

Concerning two of the companies, he admitted to contracting to sell shares to National Properties, knowing that he could not deliver them because they had been pledged to financial institutions as security for loans.

Du Plessis's former co-accused, his son Johan and Jan Lombard, will appear today on 62 fraud charges involving about R3 million.

Another former co-accused, Dr. Trudex Obertoheizer, who was found guilty on two charges of fraud in December and sentenced to a fine of R150,000 or 10 years' jail, will appear as a State witness.
Youth corps plan has FW's backing

CAPE TOWN — President PW de Klerk yesterday backed widespread calls for urgent measures to address SA's so-called lost generation of marginalised youth.

Speaking during the State President's Radio address, De Klerk said imaginative steps were needed. Archbishop Desmond Tutu, ANC president Nelson Mandela and other SAPC general secretary Chris Hani said they had made proposals concerning the "lost generation".

Government had instituted a working group to examine the problem, which had already completed important preliminary work, De Klerk said. Government was ready to co-operate with all those able to contribute and would pursue the proposals bilaterally and multilaterally.

The DP welcomed De Klerk's indication that the idea of a peace corps might be taken up by MP Dene Smuts said such a corps could be named after Hani, who had advanced the idea of a peace corps in the days before his death.

De Klerk also said government would ask the national peace committee to organise the holding of a countrywide moment of silence in remembrance of all the victims of violence.

He said government would call for an urgent meeting of the peace accord signatories to discuss the crisis in the country. "De Klerk said Hani's death had plunged the country into crisis and that the radical forces unleashed by the event had placed multi-party negotiations and the economy in the firing line.

He warned that the latest spate of racial killings could spark "a devastating conflict" in the country. He invited all parties inside and outside of Parliament to band together to pull the country "like a piece of burning wood from the fire which threatens it".

Hani's killing had revealed the weaknesses in the system which confronted SA when passions and violence were permitted to determine events, instead of negotiations and reason.

The climate of hope and good expectations that had prevailed two weeks ago had been overshadowed by concern among some and anger among others.

"Emotions which vary from anger to fear, from aggression to despair, are threatening to destroy the hopes of all peace-loving South Africans," De Klerk said.

The tendency to seek the solution to all the country's problems in politics and a new constitutional dispensation was shortsighted, he warned.

Violence is also fanned by the economic and social problems in the society,

He called on all leaders to prevent any further disruption of education and to tackle the issue of unemployment.

Extending a hand to the ANC/Contra/ SACP alliance, he said a solution to the pattern of violence and murders lay within the grasp of the leaders taking part in the negotiating process.

But De Klerk attacked its plan to engage in a six-week mass action campaign, which he said would release "new tension and anger. It would also undermine national and international confidence in the economy and damage the prospects of a better future for hundreds of thousands of South Africans."

There was no need to put pressure on government to proceed rapidly with negotiations or to move quickly towards the establishment of the transitional executive council and the setting of an election date for a constituent assembly.

Government was committed to the process and the target dates were demanded on the dates which had itself already set, he said.

Probe into Chris Hani murder

PRETORIA — The Goldstone commission is to hold a preliminary inquiry in Pretoria into the violence which erupted during and after the Chris Hani mass protest on Wednesday April 14.

The preliminary inquiry will begin at the Sinodine Centre Buildings in Vos- ple Street, Pretoria at 1499 on April 29, commission chairman Judge Richard Goldstone said yesterday.

People with relevant information were requested to submit details in writing to the Secretary of the Commission, Private Bag X288, Pretoria, 0001 not later than noon on April 20. People who wish to remain anonymous or require protection for any period, were asked to phone the secretary at 1212 330-4649.

Goldstone said the commission regretted and condemned the many acts of violence, death, injuries to people, and the damage to property in the aftermath of the assassination of SAPC general secretary Chris Hani.

"Each of these acts was a victory for the perpetrators of the murder and those who support such conduct calculated to derail the peace process."

The Commission called on all South Africans to heed the call of their leaders for disciplined, dignified and peaceful demonstrations.
No indemnity for assassin

CAPE TOWN — President F W de Klerk yesterday specified a new and final cutoff date for criminal indemnity which would bar SAP employee Chris Ham's murderer from escaping liability.

De Klerk told Parliament there was no question that Ham's murderer would be considered for indemnity: Government was "resolutely against indemnity for crimes committed after October 1992.

In terms of the Indemnity Act, the cutoff date for indemnity for political crimes was October 8 1990. The Further Indemnity Act made provision for further indemnity, without specifying a date.

Responding to ANC president Nelson Mandela's speech at Ham's funeral, De Klerk said he was against shifting this date to beyond October 1992 — when the Further Indemnity Act was promulgated. He said Mandela's criticism of the Further Indemnity Act was misplaced, as Mandela's own followers had been for and away the biggest beneficiaries of the Act.

The Act was at no stage intended to offer a licence to kill; it was intended to close the book on SA's violent past, he said.

De Klerk denied Mandela's claim that his first action in response to Ham's death was to call a meeting of the State Security Council. He said his first response was to issue a statement which expressed condolences to the family and friends of Ham and to call for maximum restraint.

De Klerk said he had spoken on the phone to Mandela and had assured him of the full co-operation of government and police.

It was only when it became clear that the ANC planned massive mass action that the State Security Council had met. Only after the ANC failed to control its followers in three cities did he announce further steps to protect the public.

"Did the ANC expect the government to stand idly by and watch with its arms folded while riotous behaviour led to destruction and killing and filled so many of our people with despair?"

Responding to Mandela's call for a date for a democratic election, De Klerk said government was also filled with a sense of urgency regarding the installation of transitional executive councils and a government of national unity.
I, the Speaker

The House of Representatives

[Signature]

[SELECTION]

The Speaker

The House of Representatives

[Signature]
### House of Assembly

**Ministry of Justice**

**The Minister of Justice**

I would like to bring to your attention the following matters:

1. The situation in relation to the implementation of the new justice system in the country.
2. The need for increased funding for the judiciary.
3. The importance of ensuring the rights of defendants are protected.

**The Opposition**

We appreciate your efforts in this regard, but we believe more needs to be done. We call for a
comprehensive review of the current justice system and a clear plan for its improvement.

**The House**

We will take these matters under consideration and discuss them in the next session.

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### Table: Financial Report

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<thead>
<tr>
<th>Department</th>
<th>Budget</th>
<th>Actual</th>
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<tr>
<td>Ministry of Justice</td>
<td>50 million</td>
<td>45 million</td>
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<tr>
<td>Ministry of Finance</td>
<td>40 million</td>
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<tr>
<td>Ministry of Education</td>
<td>30 million</td>
<td>25 million</td>
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**Notes**

- The budget is for the fiscal year 2023-2024.
- Actual figures are from the previous fiscal year.
- The ministry has requested an increase of 10% in the budget for the next fiscal year.

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**The Opposition**

We support the increase in budget for the Ministry of Justice but believe that funds for the Ministry of Finance should also be increased.

**The House**

We will discuss this matter further in the next meeting.

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**Adjourned**

The House is adjourned until Wednesday, 21 April 1999.

Adv T LANGLEY Further arising out of the hon the Minister’s reply, the hon the Minister is wrong, as he was wrong in his reply during the interpellation, when I pointed out to him that the investigation of the Goldstone Commission took place.

The CHAIRMAN OF THE HOUSE: Order! No, I cannot allow the hon member to enter into an argument with the hon the Minister.
The hon member must limit himself to questions.

Adv T LANGLEY Mr Chairman, I am only sketching the background.

He is wrong, as he was wrong when I pointed out to him that the investigation of the Goldstone Commission took place long before Pierre Steyn became involved in the matter. I now ask the hon the Minister again whether that list that he so swiftly read out to me contained an instruction to the Goldstone Commission to investigate the DCC. That is all that I want. Yes or no? [Interjections]

The MINISTER Mr Chairman, the hon member Mr H D K van der Merwe now looks like a cat with seven whiskers as if he has made a great discovery. [Interjections] It is extremely unusual that the hon the State President and I have pointed out that after certain matters had been brought to their attention which led to their moving in on a house where there were no arrests but an investigation was conducted, they ascertained that it was the DCC’s front organisation or another house.

That is what they found immediately thereafter the Goldstone Commission received its instructions in respect of that matter, as defined by the hon the State President, and accepted it as such. That is why it took place afterwards. Beforehand there was no investigation and the matter of the gaining of access.

The hon the State President has expressed his viewpoint on whether the gaining of access was completely desirable or not. That is another question which we can debate. The essence of the hon member’s question, however, what Mr Justice Goldstone is investigating with regard to this matter I have answered him.

Dr W J SNYMAN Mr Chairman, further arising out of the hon the Minister’s reply, I want to ask whether the chronological order of events was not that a statement was first made by the Goldstone Commission and that Gea Steyn became involved afterwards?

The MINISTER Mr Chairman, Mr Justice Goldstone, Adv Pretorius and others gained access to the house which was used as a front for a shelter or whatever, but was really the offices of a front organisation, something that is completely normal in the intelligence world. He made a statement afterwards which was made available to me.

The trail is connected with certain characters who were employed by the DCC. The fact is that that statement was made as a mere statement of fact of what they had found. He did not state in it that he was going to investigate this and that. He only said that he had gained access and had come upon a trail after certain persons reported to him about events in Natal.

He said that he had come upon that situation and that is what had happened.

The events were sensational because everybody then knew that there was such an investigation and that they had come upon a DCC front organisation and not say he would do this and that and the next thing. The conditions and extent of his investigation with regard to intelligence matters were made known afterwards. However, at first he only stated the facts.

Dr W J SNYMAN Mr Chairman, further arising out of the hon the Minister’s reply, I want to know whether it is not the practice that a commission appointed by the State President should report back to its principal and should not make press statements.

The MINISTER Mr Chairman, it is not known for commissions from time to time to make statements as they progress. That is not strange. [Interjections] Whether it was desirable or not could not be debated. Hon members must remember that this is not an ordinary commission. It is a commission that guarantees on its voice and intimidation on a continuing basis. It is desirable for it to publicise its reports in the hon the State President. These reports are made available to all interested parties immediately. However, it is not an ordinary commission in that sense.

We can debate the desirability or not of its having done it [Interjections]. If he had not done it there would have been a news item that there was a movement. Then it would have

been a news item and there would have been no explanation. [Interjections] What he did was to state the facts. [Interjections]

The CHAIRMAN OF THE HOUSE: Order! The customary number of supplementary questions has already been put.

Supreme Court: powers bro administrative review

2 Mr D J DALLING asked the Minister of Justice.

(1) Whether he or his Department has received a report from the South African Law Commission relating to the powers of the Supreme Court in respect of administrative reviews, if not, why not, if so, when,

(2) whether the report will be made public, if not, why not, if so, when,

(3) whether the Government intends taking any steps pursuant to this report, if not, why not; if so, what steps;

(4) whether he will make a statement on the Report on the Legislative Powers of the Supreme Court in respect of administrative review.

The MINISTER OF JUSTICE

Mr Chairman, in view of the length of this reply I would like the privilege of tabling the answer to the question. However, I would like to give a short summary of the answer.

The question relates to administrative law and to whether the views of the South African Law Commission will be translated into legislation. The answer is yes, that is the intention.

Secondly, and this is the gist of the response, we will not be inventing new legislation. The Bill envisages as actually a codification of the existing rules relating and pertaining to administrative law.

Let me explain. Administrative law pertains to the validity of executive actions and decisions. Furthermore, this is now real problems—this is now real problems. We have a recommendation from the South African Law Commission that within a certain time limit the decision-maker must furnish the reasons for the decision. We support that very strongly, and we are getting the State apparatus in line and we will be approaching Parliament for legislation very soon.
HOUSE OF ASSEMBLY

The Minister of Finance [a]

The report of the Committee on the financial statements for the year ended 31 December 2022 has been laid before this House. The report, which has been approved by the Committee on Finance and Economic Development, expresses appreciation to the Ministry of Finance and the Ministry of the Environment for their prompt response to the requests for information.

The report also notes the achievement of the government's targets for the year, including the reduction in the national debt and the increase in the budget for education and healthcare.

The Committee recommends that the House approve the financial statements for the year ended 31 December 2022 as presented.

[Signature]
Minister of Finance

[Date]
Wednesday 21 April 1999

[Note:]
1. The report of the Committee on the financial statements for the year ended 31 December 2022 has been laid before this House.

2. The Committee on Finance and Economic Development has expressed appreciation to the Ministry of Finance and the Ministry of the Environment for their prompt response to the requests for information.

3. The Committee recommends that the House approve the financial statements for the year ended 31 December 2022 as presented.
mine the minimum price is the very issue that I wish to refer to here. The hon member said we should not interfere with the rules of the professional councils or associations he referred to. I think we should emphasise that the professional councils are there to supervise the standard of services and that the standard of services should at all times serve the public's interests. However, these councils should not get involved in the creation of measures for the protection of the professions that are prejudicial to the public.

It has been brought to my attention that the Optometric Association has approved an increase of between 50% and 60% in the price of contact lens material. We shall have to take a serious look at this kind of practice. I think it is important to accept the principle that the interests of the man in the street should come first, but that the supplier of the professional services should also be in a strong position so that he can receive proper compensation for his professional services.

What I object to is the fact that he makes money out of the material, that he supplies, not the professional function that he performs. Here I also refer to certain dispensing doctors. The emphasis should always be on the professional function and not on the materials used to provide specific services.

Mr R M BURROWS Mr Chairmain, it is perhaps appropriate that you, and all the participants in this interpellation, have to use spectacle. It does raise the question, raised in that the fact that you are addressing to hear the hon the Minister say that it is against the spirit of the Competition Board's report that a minimum is being set.

It is also appropriate to refer to last year's twelfth annual report of the Competition Board, in which it states that in accordance with the Van der Westhuizen Schultz case concerning pharmacies is cited as follows:

Apart from restrictions on advertising and price competition, the extent of certain types of restricted competition is alleged in accordance with modern circumstances and technology. Optometrical services are in various respects analogous with those of a pharmacist.

with all the professional boards to see it that we do not resort to protective measures in order to protect the various professions.

"It is important that we compel the professional councils to determine services of a certain standard and that we heed the recommendations of the Competition Board. We are doing that. Therefore, what the hon DP members had so say was not new to us. It was not new either. We have been engaged in this process for the past year. In each discussion that I have had with the various councils, we looked into this matter in order to ensure that any restrictive measures are eliminated as far as possible.

Hon members can rest assured that the Government accepts its responsibility in this regard. One of the principles that we announced two years ago was to make services affordable for the public. This includes all these extensive steps. For example, the deregulation of various laws and quite a number of functions that are being carried out by the professional councils at present.

I am absolutely convinced that, in the first place, we have the interests of the man in the street at heart.

"Mr J H HOON What about the woman in the street?"

"The MINISTER The woman in the street is included in "the man in the street".

I think we should bear in mind that the persons we are referring to as people who underwent advanced technical training. Therefore, we should maintain the necessary balance when looking at these matters. The professional fees that they are entitled to should also be worthy of their profession. [Time expired]

Debate concluded.

QUESTIONS

Hudsons translated version

For oral reply

General Affairs

State President

Question standing over from Wednesday, 31 March 1993, when it was put to the then Minister of the National Intelligence Service as Question No 2 (Ministers)

Golwe: reports of State Security Council

1 Mr E W TRENTE asked the State President:

"Whether, in view of the disclosure of certain secret minutes during the judicial inquiry into the alleged murders of Messrs Matthew Golwe, Fort Calata and others, he will disclose information in respect of the deceased as contained in (a) all internal reports and inputs of certain persons and organizations, particulars of which have been furnished to the Office of the State President for the purpose of his reply, to all sections of the Secretariat of the State Security Council and (b) reports and inputs of that Secretariat to the former National Joint Management System (NIMS) and the State Security Council, if not, why not, if so, what are the relevant details?"

The MINISTER OF JUSTICE (for the State President):

(a) and (b) The Government is prepared to co-operate with the Acting Attorney-General of the Eastern Cape, who is investigating the matter, and to furnish him with any relevant documents relevant to the matter. In this connection, the Government has already made 15 minutes of the State Security Council available to him.

Mr E W TRENTE: Mr Chairmain, amount out of the hon the Minister's reply, may I ask him whether the letter written by Col Van der Westhuizen to the then head of the Defence Force regarding a certain Operation Katten was recovered by the former head of Defence Force, and if so, whether he replied to it? If he did, what was his reply? These are documents which were made available by Dea Holomusa and which appear to be genuine.

The MINISTER Mr Chairmain, let me make it clear that we cannot have an inquest or inquiry alongside the request which is being conducted by Judge President Zietzmann at the moment and which has been postponed until 15 May. We cannot have a parallel inquest or inquiry, or for that matter cross-examination as we are now having...
HOUSE OF ASSEMBLY

2. WHERE W T FEWN—Reginald Hopper

Q: A: 1996

Question arising from Wednesday 1

Answer

The Minister of Justice

Mr W T Feeney: Honble Speaker, I move this
to the Order of the Day for

the adjourned debate on the

Social Housing Legislation, Second Reading, which was

debated on Wednesday 25th May 1999.

This is the final day of debate on the

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Top London cop to probe Hani murder

Churchill-Coleman joins investigations team

LONDON Metropolitan policeman, Commander George Churchill-Coleman, flies in today to join the team investigating the murder of SA Communist Party general secretary Mr Chris Hani.

Churchill-Coleman, former head of Britain's anti-terrorist branch, is one of two foreign experts expected to participate in the probe into Hani's assassination.

Witwatersrand Attorney-General Klaus von Lieres und Wilken said Churchill-Coleman was nominated by the British Government after it was approached for assistance.

A statement by the British Embassy in Cape Town said Churchill-Coleman's nomination had been accepted by all the parties.

The statement said he would be met at Jan Smuts Airport by Dr Antonie Goldblatts, chairman of the National Peace Secretariat.

"The British Government are pleased to have been able to respond to this request (for investigative assistance) from the National Peace Secretariat, and are confident that Commander Churchill-Coleman, who is a police officer with outstanding experience in the field, will be able to make an important contribution to the investigation into this tragic event," the statement said. -- Sapa.
Youth 'not killed by blows'

A State pathologist yesterday disputed independent pathologist Dr. Jonathan Gluckman's findings in the post-mortem of West Rand ANC Youth League member Nixon Phiri (16), who died in police custody two years ago.

Dr. Phillip Kemp told an Oberholzer inquest court that Phiri, of Khatson outside Carletonville, could not have died of brain haemorrhaging associated with external body injuries as was earlier claimed by Gluckman. Kemp said he could not ascertain the cause of death because "there was nothing in the post-mortem which pointed at a specific cause of death."

Phiri died on January 16, 1999, during interrogation while in police custody at Welverdend police station.

Kemp said Phiri had died of unnatural causes but it "certainly" was not through being subjected to physical blows to the head and body.

The inquest was postponed to May 4. Staff Reporter
Nothing to hide in
Hani probe – SAP

By Helen Grange

Every step of the investigation into Chris Hani’s assassination will be closely monitored by the two world-class police experts from Britain and Germany.

Former Scotland Yard anti-terrorist branch head Commander George Churchill-Coleman arrived yesterday and Dr Ralf Kruger, former head of the State Bureau for Criminal Investigation of Baden-Wurttemberg in Stuttgart, arrives tomorrow.

Churchill-Coleman, after snatching a few hours of rest yesterday, was given a comprehensive picture of the current state of investigations, which have unearthed what is believed by police to be a right-wing conspiracy with international links.

Witwatersrand police liaison officer Brigadier Frans Malherbe said at a press conference yesterday that the two officers would monitor SAP investigations.

"They will be in constant contact with the investigation team and will be present at all times," Malherbe said.

He added that the SAP welcomed the foreign monitors as the SAP "has nothing to hide."

The investigators would report any problems they had with the SAP investigation to the Attorney-General, but they would not be making public statements as they would be bound to secrecy, he said.

Churchill-Coleman, currently head of the London Metropolitan Police fraud branch and the longest-serving commander of the anti-terrorist branch, was responsible for co-ordinating anti-terrorist steps throughout Britain.

"I shall be getting down to work immediately," he told reporters on his arrival. He was pleased to be in South Africa, but wished his visit was under different circumstances.

The commander will be assisted by Detective-Inspector Michael Jones of the Metropolitan anti-terrorist branch.

Churchill-Coleman joined the Metropolitan Police in 1960 after serving in the army and Surrey police. A career detective with little academic background, he climbed steadily through the ranks without the assistance of a "fast-track" graduate entry.

He commands strong loyalty from juniors and won a reputation for patient, painstaking evidence-gathering.

Kruger, nominated by the German government to serve on the team, is a former judge, public prosecutor and senior police officer.

He has been one of Germany’s most outstanding criminal investigators, with much experience in fighting extremist and terrorist activities.

Until March last year he was head of the State Bureau for Criminal Investigation of Baden-Wurttemberg in Stuttgart. From 1986 to 1988 Kruger served as head of Badei-Wurttemberg’s State Office for the Protection of the Constitution. In both offices he co-ordinated police investigations against serious crime, weapons transactions and terrorist attacks.

Kruger’s brief is the same as that of Churchill-Coleman.

The ANC’s Matthew Phosa yesterday welcomed the experts’ arrival, saying it was in line with the demands of the ANC alliance that the international community should ensure everything possible was done to “get the murderers (of Hani)”
Two killed: white youth faces charge

Woman’s body buried on farm:

By Abbey Makoe

A 17-year-old white boy appeared in the Koster Magistrate’s Court yesterday in connection with the gruesome murder of two black women in Geyerskraal early this year.

The youth, who may not be named because of the Child Protection Act, appeared before Mr JP Potgieter.

He was remanded into police custody until April 30. He was not asked to plead and no charges were put to him.

His appearance is a sequel to the police discovery on a farm where he worked of the body of a woman murdered and burned.

The youth was also arrested following the discovery of another woman’s body on a rubbish dump.

She was reportedly found with her throat slit. The body was decomposed and partly eaten by a wild animal.

The suspect’s parents were not in court.

Attempts by the prosecutor, Mr J C Kruger, to contact them by telephone failed.

The State indicated it was seeking accommodation for the suspect at a psychiatric institution for observation.
CCB boss in court

Former Civil Co-operation Bureau chairman Eddie Webb yesterday appeared on a perjury charge in the Johannesburg Magistrate's Court, where he submitted documents indicating that he had applied for political indemnity. Magistrate J B Esterhuizen ordered Webb at his last appearance to provide proof of his indemnity application.

Webb's perjury charge follows his evidence at the David Webster inquiry, where he told the Rand Supreme Court that he misled the Harms Commission of Inquiry on the CCB.

The case was postponed to June 23. — Staff Reporter.
Fewer than 20 pc had a lawyer

Fewer than 20 percent of accused who stand trial in district and regional courts have legal representation and more than 100,000 undefended people are sentenced to prison terms every year, according to the 1991 Legal Aid Board report. However, the board managed to help more than 57,000 people in court cases in 1991 — an increase of more than 62 percent over 1990.
Dali Mpofu in court

LAWYER Mr Dalimpofu appeared briefly in the Johannesburg Magistrate's Court yesterday on allegations of fraud involving R50,000. He was not asked to plead and the case was postponed to June 8. He is out on bail.
PORT ELIZABETH - Before dying of Aids an Umkhonto we Sizwe member allegedly admitted shooting Addo businessman Andre De Villiers, the Port Elizabeth Supreme Court heard yesterday.

Testifying in the murder trial of alleged MK member Tamsanqa Mali and his co-accused, Lindile Stemele, Port Elizabeth detective Lieutenant Henry Trytsman said MK member Xolani Ncinane made the admission in a statement after being arrested.

Ncinane, a co-accused in the murder with Mali and Stemele, died of an Aids-related illness before the trial.

De Villiers was gunned down outside his farmhouse near Addo on August 17 last year. He was allegedly giving the ANC information on hit-squad activities.

Mali and Stemele have both pleaded not guilty to the murder charge. They have also pleaded not guilty to two charges of attempting to murder De Villiers' wife Elizabeth and his son Louis, and to a fourth charge of attempted robbery or conspiracy to commit robbery.

Lieutenant Trytsman, a member of the Port Elizabeth Murder and Robbery Unit, told the court that Ncinane's statement was made before those of Mali and Stemele. The statement corroborated those made later by the Mali and Stemele.

Defence counsel Glen Goosen accepted the accuracy of the statements and said he was satisfied that they were made freely and voluntarily.

The statements indicated that Ncinane and another alleged MK member, Kenneth Kabayi, who is being sought by police, had allegedly fired all the shots at the scene of the murder.

The commander of the Port Elizabeth Murder and Robbery Unit, Major Johannes van Heerden, testified that 21 members of his unit had investigated a possible political motive to the murder.

He said this followed a statement by De Villiers' son Louis who had alleged that, before his father died, he had said the incident was a "political set-up", that Dave Mandela was involved, and that ANC member Valence Watson had information to this effect.

Mandela is a Port Elizabeth businessman and a former partner of Andre De Villiers, while Watson is an ANC member and an old family friend. — Pen.
Trade restraint terms untenable, submits Argus

SUSAN RUSSELL

A RESTRAINT of trade agreement between Argus Holdings and subsidiary CTP Ltd (Caxton) did not preclude them from competing for advertising as long as they did so for their own particular type of publication.

This submission was made yesterday by CTP counsel B Levin SC in the Rand Supreme Court during the second day of argument in a dispute between the two associated newspaper publishers.

CTP claims that Argus has breached restraint agreements concluded between them by attempting to poach a share of Caxton’s free “knock-and-drop” and local newspaper markets.

The company is asking the court for an order restraining Argus from publishing free and local newspapers in SA and Namibia.

CTP also wants Argus prohibited from publishing a series of publications called the Southern Star/Focus, the Sandton Star, the Eastern Star/Focus, the Northern Star/Focus and the Western Star/Focus, which were either published separately or inserted into The Star until the dispute arose.

CTP claims these publications are similar to their free and local newspapers published on the Witwatersrand, and violate the restraint agreements.

Argus is opposing the application, arguing that the Focus publications are not free or local newspapers but supplements to The Star.

Argus also contends that the terms of the restraint agreements are so wide as to be unreasonable. The court has been told Argus undertook not to publish the Focus publications pending the outcome of the court case.

Focus publications were also initially available free to the public at CNA outlets until Argus allegedly conceded this violated the restraint agreement, and withdrew them.

Levin said yesterday it was not his client’s case that the restraint agreements precluded Argus from competing for the same pool of advertisers for its own particular product, namely regional newspapers such as The Star.

What it could not do, he submitted, was use the same type of product as Caxton’s to compete for advertisers.

Caxton’s publications did not appeal to the same advertisers as Argus Holdings’ publications did, he submitted.

Levin described Argus’s contention that the publications were supplements because they were inserted into The Star as “self-serving and misleading”.

Argument continues before Judge E Goldstein today.
African Charter collection

A SPECIAL collection of articles, books and other material on the African Charter on Human and Peoples' Rights is being set up at the Centre for Human Rights, based at the University of Pretoria. It is hoped the collection, the only one in the country dealing with this important document, will serve as a resource on the African Charter for law and academic, human rights and community organisations, as well as other non-governmental organisations. Authors of books or articles dealing with the African Charter are welcome to submit copies for inclusion in the special collection.

Contact The Library, African Charter Collection, Centre for Human Rights, University of Pretoria 0002, Phone 012-420-3034; Fax 012-43-3024.
lived in the house for decades and regard the house as the family home.

The regulations governing the townships were designed to give effect to gender identity of property. This means that on the death of a husband, the wife is entitled to a share of the asset. The husband cannot simply dispose of the house.

**A woman's place is in the home**

The case of *Enoch Toho* has had an unexpected but important side effect. As most black marriages have been in a community of property, the judgment will affect most rented township housing. Similar regulations apply to the allocation of land in rural areas. The Toho judgment seems to control at all over the family home. In applying to these situations as well.

The *Toho* case, Judge Michael Stegmann ruled that the tenancy of a council house is an asset in the joint women's rights to housing.
Curbing corruption in the councils

Many thousands of tenants of council houses in townships country-wide have been given new security of tenure, following a test case in the Rand Supreme Court.

The judgment specifies the circumstances under which the lease of a council house can be cancelled, and will help curb the power of corrupt officials.

The case involved Enoch Toho, who was allocated a house in Deerpark, Soweto, during 1978. In April 1989, the Soweto Council cancelled his lease without warning. It allocated the house to his ex-wife who had left the family home some years earlier, and then sold it to her. Suddenly, after living in the house for 11 years, Toho and his family were without a home.

Enoch Toho’s situation was far from unique. About half of the houses in Soweto — more than 5000 — are owned by the local city council. Nationally, the figures are more than 30,000.

In many cases, the people concerned have been forced to live in the house for decades and regard the house as their family home.

The regulations governing the townships were designed to give effect to apartheid policies. However, they had an important benefit for residents because they gave some security of tenure to tenants of council houses.

In 1989 the regulations were repealed by a reform measure, the Constitution of Certain Rights to Leasehold Act. Many councils saw this as giving them the right to cancel tenancies, and allocate the houses to other people. They started doing just that, and soon allegations of corruption were widespread.

The case of Toho was the first in which the supreme court has ruled on whether the councils are entitled to cancel these tenancies.

Judge Michael Stegmann ruled that it was illegal for the council to cancel the tenancy. He said that the council had acted arbitrarily and without proper reasons.

Stegmann also ruled that the council had acted in violation of the right to housing.

A court decision ensures that councils can no longer merely evict tenants — many of whom regard the building as the family home — and allocate the house to another person.

By GEOFF BUDLENDE

The only grounds on which the council could cancel the tenancy is the tenant’s failure to pay the rent. As the council had relied on other grounds in cancelling Toho’s tenancy, the court ruled the council’s actions were invalid.

The consequences of the case are important to the Toho family and many others whose leases are cancelled by a council. But the cases have another even more important long-term result.

In response to the widespread demand of civic associations for the transfer of rental houses to the tenants, the government has announced a “sales discount” scheme. In effect, the scheme will allow most tenants to obtain ownership of their homes for free.

The result is the motive for corruption that has grown. The allocation of a tenancy by the council in practice is to the transfer of a valuable asset, because in time the tenancy will be transformed into ownership of the house. If councils are able to cancel tenancies at will, one can expect this to take place on a large scale.

The judgment in the Toho case makes it clear that councils cannot act in this way. In limiting the grounds on which leases can be cancelled, the judgment will mean security of tenure to the vast number of tenants of black councils.

At the same time, work is proceeding on the “transfer of houses.” This has been a central demand of the Soweto Civic Association. A sub-committee of the Central Witwatersrand Metropolitan Council has worked out proposals dealing with fair legal mechanisms for transfer of ownership of council houses.

The Toho judgment will help ensure that when township houses are transferred to the tenants, it is to the people entitled to them, rather than to those who are in favour with the councils.

Attorney Raymond Tucker and Legal Resources Centre staff appeared for Toho.

Geoff Budlender is the national deputy director of the LRC.
JUDICIAL review in modern South Africa is no longer a matter of arcane interest to public lawyers. Traditionally, administrative lawyers have tried to create a system of legal control over government by analysing when public authorities act beyond their powers.

However, judicial review is a constitutional law issue as commonly with other constitutional policy. Constitutionally sanctioned judicial review, as an entrenched Bill of Rights, takes lawyers and judges into the very heart of policy-making. It is precisely because of this that at the University of Cape Town's recent international conference, the conference of distinguished constitutional lawyers Albie Sachs and Kader Asmal expressed strong reservations about the constitutional propriety of judicial review in a post-apartheid South Africa.

At the gathering of distinguished administrative lawyers, Sachs and Asmal, while professing a classical approach to constitutionalism, voiced disquiet about the appropriateness of the judiciary exercising wide powers to invalidate statutes (or administrative action) under a new constitution. According to Sachs, not only must the issue of judicial review itself be reviewed, but in the South African context, should be seen against the "popular struggle against apartheid".

Taking this populist, non-lawyer, view further, Stihl argues that judges should not be the court of a Bill of Rights, as "judges owe loyalty to the constitution". While critics argue that "judges with doctrinal anointing", Sachs argues that in assessing judicial review, "we have to try to imagine who will be reviewing whom in the future".

Sachs clearly does not believe that, in the context of the ANC's New Deal, judges should be anything but mechanistic instruments of the constitution. In a sense, that is nothing new. Sachs states that "The (ANC's) draft Bill of Rights embodies an attempt to constitutionally freeze government programmes not dissimilar to the New Deal."

Our fear is that judicial review based on knee-jerk activism could make the country as ungovernable under democracy as mass action.

The whole tenor of Sachs' contribution is one in which the courts are seen, not as the disinterested guardians of the constitution, but as potential obstacles to the socio-economic plans of an ANC government elected on a programme of radical social reform.

This is deeply ironic, given the ANC's struggles of the South African judiciary's performance during the era of grand apartheid, where the Appellate Division cynically upheld the policy of forced removals under the Group Areas Act in the 1961 Lock had case as "a colossal social experiment and a long-term policy. It necessarily implies the movement of areas of numbers of people throughout the country".

Sachs' views are, however, neither recent nor unique. They reflect an abiding mistrust of the judiciary. It was after all, the British Labour Party's Nye Bevan who warned the English judiciary on the back of Attlee's Labour landslide over Churchill in 1945 that he would break no "judicial sabotage of Labour lines" introduced to create the welfare state.

This led the English courts into a 15-year era of substantive formalism, what Sir William Wade has described as "judicial blackholing into an extended (administrative law) depression".

Asmal's views are not dissimilar. Claiming that judicial review is, by "immobilising government, lead to the disempowerment of the majority", Asmal remarks, "the new jurisprudence must therefore be based on an economic and social reality which is peculiarly South African — in which the relationship between the individual and the state will have little to do with 19th-century liberal values and much to do with multinationals".

The fact that the modern doctrine of judicial review originated in the 17th century as a counter-judicial effort by the court of King's Bench to restrain the excesses of Star Chamber, does not appear to have occurred to him.

Consistent with his philosophy, the ANC's 1992 draft judicial review clause in its proposed Bill of Rights is essentially formalistic — concerned not with substance, but with procedural irregularity ("irregularity of the processes of authorities (great or unsatis-

sational)"

By contrast, the Law Commission's draft Bill of Rights proposes to entrenched, constitutionally, the right of everyone to judicial review of "any subordinate legislation and any executive act and any administrative act".

Given its authoritarian history, the government, in its proposed Charter of Rights, merely proposes to entrench constitutionally a person's right to natural justice, although unlike the ANC, it also proposes making an authority's reasons for decisions mandatory.

"Quo custodiet custodes ipsos?" (Who will guard the guards themselves?) asked the Roman poet, Juvenal, rhetorically 2,000 years ago. According to Sachs and Asmal, it will not be the judiciary until a new constitution, but parliament. Looking back at our sorry history since 1948, that should give us much cause for concern.

PETER LEON looks at judicial review in the light of a changing constitution.

*Peter Leon is a partner in Weber Wentzel, a past chairman of Lawyers for Human Rights and a former tutor in public law at the universities of Cape Town and Cambridge.
Warning issued as policemen sentenced

By Susan Smith

People in uniform should not misuse their position to undermine the rule of law, a Rand Supreme Court judge said yesterday, sentencing two military policemen for "cruel assault of a helpless victim."

Barend Willems Strydom (22) of Roodepoort was sentenced to 18 months' jail, with six months suspended, for five years, and Johannes Heinrich Willem Maree (27) of Roodepoort was sentenced to 18 months, suspended for five years.

They had assaulted Raymond Nduma at the Doornkop military base on May 10, 1991.

Mr. Justice F. van Schalkwyk found Maree had been influenced by Strydom, his senior, who had instigated the assault.

Nduma's body was found on the veld near the base on May 13, 1991.

The men were earlier acquitted of murder but the judge voiced suspicions of a "cover-up by military personnel."

The accused were bigger men than Nduma, whom they had assaulted for 15 minutes.

Although the men had expressed "reminisce," the judge found they had assaulted Nduma for "pleasure." Their crime, he demanded, "retribution," he said.

The judge refused to allow Strydom's application for leave to appeal against sentence, but extended his bail pending a petition to be submitted to the Chief Justice.
German investigator arrives

GERMAN investigator Dr Ralf Kruger arrived at Jan Smuts Airport yesterday morning to help monitor the investigation into the assassination of SACP general-secretary Chris Hani.

His arrival follows that of British policemen Commander George Churchill-Coleman and an assistant earlier this week.

The three were invited to South Africa by Attorney-General Klaus von Lieres und Wilkau after a request by the ANC alliance, which voiced misgivings about local police impartiality.

The authorities have emphasised that the SAP remains "firmly in control" of the investigation — Sapa.
Massive changes on way for courts

By BARRY STREEK
Political Staff

WIDE-RANGING reforms to court proceedings, including an independent group to appoint magistrates and an inquiry into whether attorneys could appear in the Supreme Court, were announced yesterday by the Minister of Justice, Mr Robie Coetsee.

He also announced a plan for divorces to be heard in both Magistrate's and Supreme Courts, and a trial project to simplify the hearing of commercial disputes with shorter procedures and expert judges.

Announcing these reforms during the debate on his vote in Parliament, he said the creation of an independent Magistrates' Commission would be entrenched in the Magistrates' Bill, which he tabled yesterday.

Mr Coetsee said the Magistrates' Commission would have a Supreme Court judge as chairman.

Salaries

Its members would be two regional court presidents appointed by their peers, two chief magistrates designated by their peers, the Chief Director of Justice College, one attorney and one advocate designated by the professional bodies, two magistrates designated by the Magistrates' Association, and a Department of Justice official.

The commission would ensure the appointment, promotion, transfer and discharge of magistrates, that no improper influencing or victimisation of magistrates took place and compile a code of conduct for magistrates.

The salaries of magistrates would be set in consultation with the commission. Also, magistrates could only be suspended on the commission's recommendation.

Mr Coetsee said a commission of inquiry would be appointed on whether attorneys should be granted the right of audience in the Supreme Court.

He said the 1929 law providing for separate divorce courts for black people would be scrapped.

As it had become clear that the Supreme Court was not necessarily the only court suitable for divorces, provision was being made for a family court in the lower court structure, he said.
R1 million for paralysed cop victim

In the wake of the court case, the court awarded the victim R1 million for his injuries. The court ruled that the police officer was negligent in his duty, leading to the accidental discharge of a firearm, which paralysed the victim.

The victim suffered severe injuries to his spinal cord, resulting in paralysis. The court considered the extent of the injuries and the impact on the victim's quality of life, awarding a substantial amount to cover medical expenses and compensation for lost wages.

The police officer was dismissed from service and faced disciplinary action for his negligence. The case highlights the importance of ensuring the safety and well-being of police officers and the public they serve.

JUSTICE DONE: The court found the police officer guilty of negligence and awarded the victim R1 million for his injuries.
Legal Aid Board faces expensive challenge

A new constitution, encompassing human rights, posed a big challenge to the Legal Aid Board, already battling to meet a record increase in the demand for its services, according to the board's 1991/1992 report.

The report said the Legal Aid Board did not by any means meet the demand for legal aid among the indigent.

"Most South Africans cannot afford such assistance and support, and unless they are assisted in gaining access to legal services, they are forced to forgo the enforcement or protection of their rights."

There was an acute shortage of legal representation in criminal cases, and fewer than 20 percent of the accused standing trial in district and regional courts had been helped by legal representatives.

It was estimated that more than 100 000 undefended accused persons were sentenced to jail each year.

"Also in other fields such as civil cases, labour law and administrative law, the current legal aid dispensation cannot meet the great demand for legal aid," the report said.

A sound legal aid dispensation, giving needy people a high-quality service, was important for the successful implementation of a new constitutional dispensation based on the sovereignty of the law.

Applications granted for criminal cases alone in 1991/92 represented 2 793 applications more than the entire case load the year before.

The upsurge was attributed to the poor economy, cutbacks in other legal aid projects, increased awareness of the board's services, growing crime, improved policing, and the board's increasing legitimacy in the eyes of black South Africans.

The board had been allocated R24 500 000 by the Treasury for 1991/92, but the sharp increase in the demand for its services had led to a further R9 million being appropriated for legal costs.

A projected 124 050 people were expected to be granted legal aid applications in 1992/3, and 176 740 by 1993/7.

The report said 27 436 cases had been closed in the year under review, each costing an average of R74. Legal costs amounting to R1 601 348 had been recovered. — Sapa
Surge in radio stations appears to be imminent

CAPE TOWN — Hundreds of radio stations could take to the air sooner than expected, with a new broadcasting dispensation looking imminent.

Home Affairs Minister Danie Schutte said at the weekend there appeared to be widespread support for negotiations for a new dispensation for electronic broadcasting.

The current parliamentary session could see the introduction of legislation instituting the new system, following its ratification in negotiations.

The proposed new structure would introduce policy guidelines for public and private electronic media.

It is believed the policy guidelines will include stipulations that the electronic media should include a certain amount of local content and adopt an even-handed approach to political matters, which could effectively exclude political parties from owning radio stations.

Schutte denied that the policy stipulation was an infringement of Press freedom, and said the electronic media used a public asset — the airwaves.

The legislation would also introduce a new licensing authority and an independent media commission, which would police the media to ensure it maintained the principles set out in the Act.

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Argus defends ‘area’ inserts

PUBLICATIONS inserted into The Star aimed at advertisers and readers in particular areas of the Witwatersrand were supplements and did not fall within the definition of free or local newspapers, the Rand Supreme Court heard last week.

This submission was made by Argus Holdings counsel D Fine SC in an application brought against the company by one of its subsidiaries, CTP Ltd (Caxton).

CTP is asking the court for an order restraining Argus from publishing free or local newspapers in SA and Namibia which they allege is in breach of restraint agreements between the companies made in 1988 and 1985.

The company is also seeking an order prohibiting Argus from publishing a series of regular “focus” publications aimed at particular areas of the Witwatersrand and inserted into The Star.

CTP allege that the Focus publications are an attempt to by-pass the restraint agreement and encroach on Caxton’s free “knock and drop” market.

Argus opposes the application on the grounds that the disputed publications are not free or local newspapers, but supplements. The company also contends that the restraint agreements are so wide as to be unreasonable.

Fine argued on Friday that the publications in question were an activity that his client would never have forsaken under the restraint agreements because local communities were very important as far as the company was concerned.

He also argued there was a great deal of ambiguity about the definition of regional and local when referring to newspapers.

The Focus publications, he said, covered areas which were in some instances far larger than local regions.

Fine cited the example of one area targeted by a Focus publication which was made up of four areas each of which had its own Caxton publication.

It was submitted that the court had to decide when a newspaper stopped being a regional publication and became local.

“We do not accept that these supplements fall within the term free separate or local newspaper,” Fine told the court.

The application, which was originally due to be argued over one-and-a-half days, was postponed until May 17.
More protection sought for workers

Claire Gebhardt

Workers are at the bottom of the heap when a company goes bust, and the Law Commission is currently looking at ways of protecting them.

Lex Cohen, liquidator Wadsworth & Company, has revealed that millions of rands of wages owing to workers are going down the drain as liquidations soar.

He told delegates to a Credit Guarantee conference last week that 99 percent of firms which "go bust" had already hogged all the assets by notarial bond or cessation, leaving nothing for employees.

Economic fraud has reached such unprecedented levels that it necessitated the Law of Insolvency being reviewed, he said.

"The Law Commission is currently investigating legislation which will protect employees' wages and this might be to the prejudice of both secured and unsecured creditors."

With liquidation "brutal and harsh in terms of unemployment", an alternative form of judicial management, such as the Chapter 11 in the US, should be sought.

A spokesman for the Law Commission has confirmed that the protection of workers is being reviewed.

Employees rank below secured creditors and preferred creditors such as the Receiver of Revenue.

In July 1984, the commission recommended that employees be paid after the cost of sequestration and administration and before the Receiver of Revenue and others.

The proposal has not yet been implemented, but would now form part of a wider investigation.

"Cabinet approval would be needed before new legislation could be passed."
New court to speed up actions

BUSINESS DAY, Monday, April 26, 1993
Death penalty issue 'up to voters'

PRETORIA — Political parties should not tamper with the status quo on the death penalty without ensuring they are acting in accordance with the will of the majority of the population, the latest issue of the SA Bar Journal Consultus says.

The current uncertainty which arose from the suspension of the death penalty was undesirable. The journal said the general public should decide on the continued existence of the penalty and not the political parties or the courts.

If public opinion favoured the retention of the death penalty, this should be reflected in a bill of rights, it said.

The proposed bill of human rights should be worded to place decisions on the continued existence of the penalty outside the jurisdiction of the courts.

Such a decision should rest with the general public and those who were at the receiving end of murderers and robbers and not just with a few judges.

The journal said the death penalty had a strong emotional element because of the horrifying increase in murders and other violent crimes in SA.

It was almost unthinkable therefore that it should be abolished simply because certain politicians or a few judges thought that abolition would be in the interests of the country, it said.

In an editorial, the journal made it clear that it had not taken a definite stand on the death sentence as a form of punishment.

There was a reasonable possibility that in a future SA, the death penalty could be declared unconstitutional, it said.

This was especially so if the country persists with the idea of a constitutional court and if it is largely manned by academics and other legal experts appointed directly to the court, and who would have little or no practical experience in criminal courts.
'Call for judges to ‘throw off shackles’

PRETORIA — The judicial arm of government should shake itself loose from its current isolation and put forward views on matters affecting the administration of justice, says an editorial in the SA Bar journal, Consultus.

The time was ripe for the administration of justice to be separated from the public service and for the establishment of a council of justice, it said.

The question was who should take the initiative, as it was doubtful whether politicians would do so. “Although when it suits them, they like to boast about the independence of the judiciary, in practice they prefer to keep the courts under their thumb and keep them in check so that members of the bench, although apparently independent, will always believe the politicians have the overall say,” the editorial said.

Someone outside the sphere of politics should take the initiative to ensure that when the new constitution was formulated, adequate measures were built in to place the independence of the judicial authority beyond any doubt. The Chief Justice was the obvious person.

It suggested a post of president of the Appeal Court be instituted so the Chief Justice could devote attention to activities outside the court.
3 plead not guilty to killing journalist

By Abbey Makoe

THREE men charged with the murder last Friday of SABC journalist Mr Calvin Thosago pleaded not guilty in the Vereeniging Magistrate's Court yesterday.

Mr James Thobane (25), Mr Ezekiel Tsebe (22) and Mr Lawrence Hlatshwayo (21), all of Sharpeville, appeared before Mrs A. Victor.

Thobane said he was at work when the alleged crime took place.

His co-accused also said they were not at the scene of the crime.

The men were remanded to May 3.

The three applied for bail and Mr Louis Venter, for the State, opposed the application.

Hlatshwayo told the court he had a witness who would support his claim that he was not at the scene of the crime.

However, when asked by the magistrate to give the name and address of the witness, Hlatshwayo said he did not know his name and address.
Palace of Justice revamp in offing

The restoration of the Palace of Justice on Pretoria's Church Square — which has housed the Transvaal Supreme Court in recent years — will begin in July.

The project is expected to take 18 months to two years to complete, says a Public Works department spokesman.

The department says many of the original offices in the building have been converted into courtrooms over the years, but completion of the new Supreme Court building behind the palace in Vermeulen Street this month will satisfy the need for court accommodation.

A major part of the restoration project will involve restoring original office accommodation. However, four courtrooms, including the original three, will be retained.

The department says the project will entail many specialist contracts, including the replacement of stained glass windows and the restoration of mosaic floor. The existing pressed ceiling and the external timber doors and windows will also be replaced and stonework repaired.

The building will have to be completely rewired.
Compensation sum in question

THE Labour Appeal Court will resume a case in July concerning excessive compensation for constructive dismissal granted by the Industrial Court.

The amount granted far exceeded the existing standard maximum of six months' salary laid down by the Industrial Court, a legal source said.

The source said the decision suggested liability for compensation was "open-ended", unlike other countries in which the party found to have committed an unfair labour practice was liable for compensation.

In the UK, in which similar labour jurisdiction exists, maximum compensation is capped and may not exceed £10,000.

The case was taken to the Industrial Court in September 1992 by a warehouse manager who maintained that Amalgamated Beverage Industries (ABI) had forced him to resign under pressure from the Food and Allied Workers' Union.

During his first month of employment, treated as a probationary period in compliance with company policy, the union expressed its unhappiness with his appointment.

This stemmed from an incident at a previous employer, involving a police action during industrial unrest, for which the manager was acquitted on all charges of complicity after arbitration.

The company extended the manager's probationary period by two months with his consent.

During this period the union threatened to embark on national strike action if the manager's employment continued.

As a result, the manager was asked to consider resignation.

The Industrial Court found that the manager had been constructively dismissed and looked at the question of compensation.

In the calculation, predeading officer Arthur de Kock examined the plaintiff's prospects of re-employment as well as his past and future loss of earnings.

He ordered the company to pay R528,738 equivalent to more than six years' salary because the manager was in his early 50s and therefore had diminished chances of finding alternative employment.

The source said ABI would contest the court's finding and the compensation award.

The company was prepared to take the case to the Supreme Court if the Labour Appeal Court ruled against it.
Goldstone tells of a readiness to help

Own Correspondent

CAPE TOWN — There was a growing realisation that a representative government would need support and investments from the international community, Mr. Justice Richard Goldstone said yesterday.

The chairman of the Commission of Inquiry into the Prevention of Public Violence and Disturbances held a press conference in Cape Town, following a private visit to the United States, during which he had meetings with United Nations, the State Department, and with senior members of the US Senate and House of Representatives and the World Bank. The message he was given at all of these meetings was "a readiness to furnish non-partisan assistance for South Africa during transition, and more so when a transitional executive council was in place." Above all, it was the even-handed and non-partisan nature of the offers of support which were so evident and which I believe should be brought to the attention of the South African public," he said.

"Mr. Justice Goldstone also had a private meeting with United Nations Security Council president, Ambassador Markiz of Pakistan." At this meeting and the others the offers of assistance were made in unequivocal and generous terms."
### HOUSE OF ASSOCIATE

- What are your goals?
- What are your concerns?
- How do you see these goals and concerns being addressed?
Fear for farmer’s safety is mounting

MARITZBURG — Fears are mounting for the safety of Camperdown farmer Alex Kalafats, 45, who is believed to have been abducted from his farmhouse by armed attackers early yesterday.

By late yesterday a team of about 50 policemen had combed an area within a 50km radius of the farm but there was no sign of him, nor of his Mercedes-Benz — a cream 1979 300D, registration NC 7889.

Police spokesman Col Willie van den Berg said Kalafats was apparently a karate expert who could have been expected to defend himself.

“We can only assume there were a number of attackers with weapons. We have found no blood in the house at all.”

Van den Berg said there was no sign of a struggle but it was clear from tyre tracks outside the garage that Kalafats arrived home and must have been overpowered before he could get into his house.

“The safe was unlocked and three firearms are missing, as well as a hi-fi set and various other small items,” he said.

In another incident in Natal, a man was shot dead and two children seriously wounded following a hand grenade attack on a house at Patheem, Richmond, early yesterday. Police said several men armed with AK-47s, R4s and shotguns launched an attack on a house in the strife-torn township, raking it with gunfire.

In other incidents, police said a man was shot dead in Ladysmith’s Ezakhoki township in the Natal Midlands on Monday. Police also found the body of a man in Shembe outside Durban on Monday, and another who had been shot on Sunday in nearby Nzwazama.

SAPA reports that police arrested 10 men and found a large cache of firearms and ammunition at Mhlominyama in the Port Shepstone area.

Ray Hartley reports that the Witvaal Valley peace committee officially launched a 24-hour toll-free telephone service to collect information on violence at the opening of its new Braamfontein headquarters yesterday.

The service would provide the committee with information on violence as it occurred, and give callers access to information on how to contact peace officials and the police, committee spokesman said.

Linda Ensor reports that the government-funded social relief fund to assist the victims of violence had already spent R4m to assist about 4,000 families.

Chairman Ben Piek said yesterday about R3,5m was still available for allocation to registered, non-government relief organisations and the fund had also embarked on a campaign to raise private sector funding.

‘Regime’ killed Tambo, says Yengeni

CAPE TOWN — ANC Western Cape head Tony Yengeni led students in the emotive MK song “Kill the Boer” during a bated memorial service for Oliver Tambo at UWC yesterday — and then said the former ANC president had not died of natural causes, but had been killed by the apartheid regime.

Yengeni’s remarks were last night described as “provocative” by government, while the ANC said it was reviewing songs from the past which did not reflect the organisation’s “nonracial policy.”

Yengeni, addressing a capacity-filled hall, also saluted ANC militant hardliners Winnie Mandela and Harry Gwala, the Natal Midlands leader.

He snapped at the ANC leadership, saying it was losing touch with the grassroots.

“We must strengthen our mass-based structures because it is a dangerous mistake to leave your future in hands of leaders of the organisation,” he said.

He said it was wrong to spread the view that Tambo died of natural causes.

“It must be made clear that he was killed by the apartheid system and the De Klerk regime must take responsibility.”

ANC spokesman Ronnie Mamoepa said the ANC was reviewing songs that did not reflect its nonracial policy.

While the song led by Yengeni at UWC was one of the songs sung in the past, there was a need for it and others to be reassessed in the light of ANC policy and the negotiation process, he said.

Government spokesman David Steward said the song was “seriously provocative” and conflicted with the search for a negotiated political settlement.

Yengeni said later the song could not be translated literally.
Youths on murder charge

A 16-YEAR-OLD youth accused of murdering Baragwanath Hospital doctor Stephan Walter claimed yesterday he knew nothing about guns, except seeing them being used on TV.

Giving evidence in camera in the Rand Supreme Court, the youth said he knew from TV that people sometimes died when they were shot.

He said guns did not always go off when pointed at people on the small screen.

He claimed he did not know how a gun was fired.

16-year-old claims he doesn't know how to fire:

The youth and four of his co-accused have pleaded not guilty to murdering Walter on September 28 last year. He claimed the gun went off accidentally during an attempted hijacking in Duvnploof.

The youth, who allegedly fired the fatal shot, said he became frightened when he saw Walter reaching for a gun as he and the other youths tried to open the door.

In his testimony before Mr Justice MC de Klerk, he, however, said Walter held something in his hand. The youth said he thought it might have been a gun.

Walter's alleged gun was not mentioned in a statement made to the police.

The youth blamed the court interpreter for differences between his evidence before the court and his earlier version, saying the interpreter had misunderstood him.
Big aid offers
for reformed
SA, says judge

Goldstone brings message of hope:

THE United Nations, the United States Government and the
World Bank have promised generous and non-partisan aid
for the political transition in South Africa, Goldstone
Commission chairman Mr Justice Richard Goldstone said
yesterday.

Addressing a Press conference in Cape Town following
his visit to the United States, he said the offers of help were
non-prescriptive and reflected the international communi-
ty's wish to ensure the success of South Africa's first
democratic government.

Goldstone said foreign experts could be called in to help
the commission's inquiry into the prevention of violence
and intimidation during South Africa's first nonracial
elections.

During his two-week trip, the judge met members of the
UN Security Council, the UN Special Committee on Apar-
theid as well as senior officials in the US State Department
and World Bank, and legislators in the US Senate and House
of Representatives.

"My strong impression is that there are many good and
positive benefits waiting for South Africa as soon as a
representative and legitimate transitional executive council
is in place, and even more so when we have a government
of national unity."

The powerful US anti-apartheid lobby had substantially
transformed itself into a strong pro-democratic South Af-
rica campaign which supported all South Africans working
for a peaceful and democratic country.

Goldstone said financial aid from the World Bank and the
International Monetary Fund was virtually assured pro-
voked South Africa moved rapidly toward a political settle-
ment. — Sapa.
Police oppose bail move

By Theresa Mowbray

Further investigation Police want

Supreme Court order to extend detention of CP

execute member Cive Dybey-Lewis

We're evidence, the cupboard is still reeked of corruption

We're obviously opposing the application of

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Police Threatened to Kill Son
Elections must be legitimate, judge

CAPE TOWN — All South Africans who want peace should ensure that the first nonracial election is legitimate, Chairman of the Goldstone Commission, Mr Justice Richard Goldstone, said yesterday.

"If the first election is not legitimate, we are in big trouble. Even if there is violence and intimidation, the level should be such that it does not destroy the election's legitimacy," he said in an address to the Cape Town Press Club.

The Commission was going to set up an inquiry into the potential for public violence and intimidation in a national election and would be following the same procedure as its investigation in marches and public gatherings.

It would be an important exercise in democracy and discipline, as submissions would be called for in which members of the public could express opinions on subjects including how meetings should be held and who should do the policing.

It was hoped submissions would also be made by political parties, the SAP, the departments of Justice and Home Affairs and international bodies in South Africa.

"We have asked them to say what they see as their role in the election and what the rules and regulations should be," he said.

The proposed Electoral Commission can then accept or reject these suggestions.

The input would then be examined by a panel of experts.

"We can perform an important service to the Electoral Commission if we can make recommen-

ations which are the result of public debate and consultation."

He said people tended to honour agreements more readily when the agreements were reached after democratic consultation, which had happened in the many peaceful marches and demonstrations that were held after the death of Chris Hani.

He had not received any requests for the Commission to become permanent, which is after the installation of a new government — Sapa.
Young witnesses

JUSTICE Minister Kobie Coetzee told Parliament yesterday that measures aimed at protecting child witnesses-at-ease while giving evidence would be put into operation from July 20. The new measures would allow witnesses under 15 to give evidence in an informal setting outside court.
Mass action to go ahead if
govt fails to meet demands

THE ANC/SACP/Cosatu alliance yesterday said it would press ahead with plans for mass action unless government met its demands by the end of May.

The alliance said it believed its finality had to be reached on an election date, a transitional executive council and joint control of the security forces.

It said if government acted "irresponsibly" and continued to drag its feet beyond May, "a complete review of the negotiations will have to take place".

The organisations added that unless government met their May deadline, a programme of action, which would include a boycott of taxes and national strikes, would be embarked upon.

The first phase had begun with regional actions. These included consumer boycotts, marches, demonstrations and occupations. The far right would be made a special target of regional mass actions, including consumer boycotts, as well as international campaigns against those supporting them abroad.

May Day would launch these regional programmes and alliance speakers would address more than 70 rallies throughout the country.

Our Cape Town correspondent reports that ANC regional chief Tony Yengeni said yesterday that the alliance would include a consumer boycott in its mass action campaign in the western Cape.

Speaking at a May Day rally news conference yesterday he said, "We are still in the process of finalising our mass action plans for the Western Cape but you can rest assure that consumer boycotts figure high on the agenda."

Yengeni did, however, give his assurance that consumer boycott action would not simply be directed at all white-owned businesses. "We will focus on specific areas of business," he said.

Yengeni said the mass action campaign would also be focused at the grass roots level of specific areas of power, such as local government, health services and education crisis.

Our Durban correspondent reports that Natal is bracing for a month-long deluge of marches, rallies and city blockades by the alliance.

No stayaways have been planned yet.

Maritzburg looks set to become the focus of most of the rolling mass action, beginning with a lunchtime memorial service at Market Square in the city at noon today to mark the death of the ANC national chairman Oliver Tambo.

The events of the past three turbulent weeks have given impetus for what the alliance calls "the final push" beginning on Workers' Day.

Frame from Cape Town that President F W de Klerk said a rolling mass action programme was in order as long as it was conducted with great responsibility.

Witnesses corroborated
timber use

MARITZBURG — Two men gave evidence in the Maritzburg Supreme Court yesterday supporting the claim that Nkonyazi massacre accused, Nkayiso Wilfred Ndlou, 20, for the duration of an attack on minibuses that left 10 dead and four wounded.

Ndlou alleged that he took part or was present when the minibuses was ambushed on March 5 allegedly to avenge the killing of Inkatha-affiliated schoolchildren a few days earlier.

He denied evidence by co-accused Mtshungu Absalom Dladi, 23, that he provided the firearms and forced Dladi to take part in the attack.

In evidence before Natal's Judge President Howard, Ndlou said he had been at the home of Bongunkos Ntombe in the company of KwaZulu policeman Michael Mkhiqe, on the day of the incident. Ntombe and Mkhiqe gave evidence supporting his version.

Ndlou alleged that Dladi had arrived at his residence on the evening in question with a shotgun and had asked him to keep it.

Ndlou said he had concealed it behind a wall. Dladi had also indicated a place across the river and had said he had concealed other firearms there, Ndlou said. He later pointed out the spot to police who recovered an AK-47 rifle and an R1 rifle.

Les Roberts, SC, yesterday urged the court to convict Dladi and Ndlou. He described Dladi as a "clearly lying witness" and said the version offered by Ndlou was extremely improbable.

Ntombe and Mkhiqe's evidence should not be relied on as they were clearly "sympathetic" to Ndlou and vague about events.

Judge Howard is expected to deliver judgment in the case today.

Warning on
massacre accused's alibi

Own Correspondent

MARIANNE MERTEN

THE Water Affairs and Forestry Department warned yesterday that at current levels of consump-
tion, SA's natural timber resources would be exhausted within 30 years.

It said about 30% of the population depended on wood as its primary energy source. It projected that from 2,000, about 3,3-milllion tons of firewood would be consumed every year.

For this reason, said Water Affairs and Forestry Minister Jan van Wyk, the department would move from promoting commercial timber growing to rural forestry extension schemes. This shift in emphasis was "a matter of necessity."
Addo killers found guilty

PORT ELIZABETH — An Umhlonolo we Sizwe member and another man were found guilty in the Port Elizabeth Supreme Court yesterday of murdering Addo farmer and businessman Andre de Villiers.

They will be sentenced today. The State has asked for a minimum of 20 years' imprisonment.

De Villiers was gunned down outside his farmhouse on August 17. Shots were also fired at his wife Elizabeth and son Louis.

Umhlonolo member Tamsana Mako, 23, and Lepole Stemele, 19, were convicted on a count of murder, two counts of attempted murder and a charge of attempted robbery.

Judge Van Rensburg said there was nothing in the evidence to suggest that the motive for De Villiers's killing was political.

Sapa reports the court found that another accused, Xolani Ncemane, who died earlier this year of AIDS, and a fourth man, Kenneth Gabayi, had fired the shots that killed De Villiers. Gabayi is still at large.

Murder suspect dies

DURBAN — Police tracking three killers who shot dead a man in his Winklespruit home on Natal's south coast early yesterday came under "heavy fire" from residents in the nearby Umgababa area who thought they were being attacked.

Hearing the exchange of gunfire between police and the three suspects, residents began shooting, forcing police to take cover. In a subsequent shootout with police one of the suspects was killed.

Earlier, Desmond Badenhorst, 24, was shot dead at his home. The suspects stole a hi-fi set, video recorder and some clothes. Some of the items were recovered.

Durban murder and robbery detectives have begun a major manhunt for the remaining suspects.

A search involving 100 policemen and soldiers is also on for Camperdown farmer Alex Kalafatis, 45, whom police believe was abducted from his farmhouse by gunmen early on Tuesday. A R20 000 reward has been offered for information leading to Kalafatis's whereabouts.

A man suspected of murdering farmer's wife Sandra Swanepeel at Letaba near Tzaneen in the northern Transvaal yesterday was shot dead by police while resisting arrest, a police spokesman said. Three other suspects were arrested and two AK-47s and a 9mm Tokarev pistol confiscated.

Swanepeel, 37, was shot dead in her bedroom after her husband Johannes was attacked outside their house.

Sapa reports that six men were remand ed after appearing briefly in the Durban Magistrate's Court yesterday in connection with a gang shooting in which four people died at the weekend. The six, of Mphumulini near Durban, were arrested soon after residents in the Tongaat area were terrorised on Saturday night.

East Rand police have arrested two more suspects in connection with Monday night's Katlehong attack on Worldwide Television News cameraman Sam Mabu.

Police spokesman Maj Ida van Zweel said murder and robbery unit members arrested the two men after Mabu's car was found in Thokoza. Six men were arrested earlier in connection with the incident, in which Mabu was shot five times. All eight suspects are to appear in the Alberton Magistrate's Court today.

In the Border region, a suspect in last Thursday's murder of Det-Sgt Ian Richardson of East London was shot dead by police and a second suspect arrested.

Meanwhile, Cape Town town clerk Graham Lawrence said Khayelitsha's municipal services would be suspended as guarantees of safety for council workers appeared to have been ignored.

Khayelitsha traffic chief Graham Bell and a colleague were injured when their vehicle was stoned by crowds yesterday, and a lorry was set alight.
More attorneys may join bench

CAPE TOWN — It was likely that senior attorneys and legal academics would be eligible for appointment to the bench in the new SA to ensure that judges were drawn from a wider community, Judge Pat Tebbutt of the Cape Supreme Court said yesterday.

Speaking at a Mount Nelson Breakfast Club function, Tebbutt said greater community participation in all facets of the judicial process would be the fundamental principle underlying changes made in the future SA legal system.

There would have to be a greater number of judicial officers of all races and in order to achieve this judges would have to be drawn from a wider cross section of the legal profession, including senior attorneys and academics. Presently there was only one black judge in the Transvaal, one in Bophuthatswana and one in Transkei, and only two black senior counsel in SA.

A corollary of this development would be the abolition of the two branches of the legal profession, namely advocates and attorneys, to create one unified profession.

Greater community participation in the administration of justice could also be achieved by the appointment of more black assessors in criminal cases, though Tebbutt hoped that this would not involve the return of the “undesirable” jury system.

He believed the inevitable incorporation of a Bill of Rights in a new constitution would mean a greater role for the courts in the legislative process.

“It will be the law, as applied by the courts, to test future legislation which may, or may appear to, conflict with such a Bill of Rights.”

In the past the courts had had an interpretative role vis-a-vis legislation rather than the policymaking role played, for example, by the US Supreme Court.

US judges acted as guardians of the Bill of Rights and as adjudicators with the power of judicial review of legislation. Tebbutt thought it likely that in SA the Bill of Rights would be watched over by a special constitutional court, including judges, academics and experts.

Finally, he concluded it likely that the emphasis in sentencing in a new dispensation would be on rehabilitation of offenders rather than retribution.
Changes to involve all in legal system

KARIN SCHIMKE
Staff Reporter

CHANGES in the legal system are imminent and the major difference between the old and the new will be the participation in all facets of the law by all citizens, says a senior Cape Supreme Court judge.

Mr Justice Pat Tebbutt told a breakfast club meeting in Cape Town that one of the most important changes would be the involvement of the courts in the legislative process.

"Instead of legislation being based on the principle of the sovereignty of parliament — with no testing rights by the courts — it will in future be based on the Rule of Law."

The enactment of arbitrary and discriminatory laws would not happen in future.

Mr Justine Tebbutt said it was likely that a bill of rights would be watched over by a special constitutional court.

"The composition of the court is, therefore, most important and I foresee it including not only some of the present judges with special knowledge and expertise in constitutional law, but other people such as academics with similar knowledge and specialisation, and constitutional experts drawn from a cross-section of all racial and political groups."

This system would require what was already becoming a pattern in South African courts — a greater number of judicial officers of all races.

To meet these changes it was likely there would be alterations to the structure of the legal profession.

This would mean the amalgamation of the Bar (advocates) and the Side-Bar (attorneys).

"Indeed, on Saturday Minister of Justice Mr Kobie Coetsee announced that he would be appointing a one-man commission of inquiry into whether attorneys should be granted the right of audience in the Supreme Court."

The topic of the alteration of the present structure was one of great debate in legal circles, he said.

Another change that was already taking place was the reformation and rehabilitation of offenders — preferably in their own communities — rather than prison sentences.

"Judicial officers are encouraged to make greater use of fines, suspended sentences, community service and the form of sentence introduced in 1991 known as correctional supervision."

"In this the offender can be placed under house arrest, can be obliged to perform community service, be monitored by the Department of Correctional Services and be obliged to undergo rehabilitation programmes."

Mr Justice Tebbutt said the central theme for all changes in the legal system was participation by all citizens.
Call to impose death sentence

MARITZBURG — The prosecution has called for the death sentence to be imposed on the killers of the 10 occupants of a minibus taxi which was ambushed in reprisal for the killing of six Inkatha schoolchildren at Table Mountain last month.

Deputy Attorney-General Les Roberts, SC, said this type of violence had to be stopped.

'Earlier Mr Justice Howard convicted IFP supporters Mabhangu, Absolom Dladla (24) and Nhayaico Wilfred Ndlovu (21) of 10 murder and six attempted murder charges,' — Own Correspondent
Demos: strict controls urged by Goldstone

By Charmeela Bhagowar

The Goldstone Commission of Inquiry into the Prevention of Public Violence and Intimidation has called on the Government to institute stricter legislation governing public gatherings and demonstrations.

In a lengthy report submitted to President F W de Klerk yesterday, the commission suggested a draft Bill, dealing with marches, gatherings and pickets, be considered and passed by Parliament.

The commission recommended that mass demonstrations and marches were matters of such urgency that the subject should not be deferred, and legislation — which should also apply to the self-governing states — was desirable even before the completion of the present period of transition.

The report stated that convenors of gatherings or marches should give at least 10 days notice. However, the period could be shortened if all responsible officials agreed.

The report recommended that the exact and complete route be made clear to all officials and local authorities if necessary. Where no local authorities exist the local magistrate should be given details.

It emphasized that the conduct of people attending gatherings was important and no person involved should say things which would incite violence or hatred between racial, cultural and religious groups.

The commission recommended that permission for gatherings be refused if there was reason to believe that participants' lives would be in danger, or that violence could erupt causing widespread chaos and damage.
Institute to aid Goldstone Commission

CAPE TOWN — An institute to monitor public violence, backed by a computer information service, is to be set up under the auspices of the Goldstone Commission.

The Institute for the Study of Public Violence was announced by Mr Justice Richard Goldstone and Norwegian Foreign Minister Johan Jorgen Holst yesterday.

The Norwegian government has granted about R2 million and the services of two computer consultants.

Mr Justice Goldstone said the institute would "play an important role" by helping his commission to operate more efficiently. Holst said after wide consultations, the mission identified a need for a fully comprehensive and well co-ordinated computer-based information system relating to incidents of public violence and intimidation.

The objectives include to collect, analyse and publish information about violence, to provide the Goldstone Commission with a tool to carry out its mandate and to create a credible database. — Sapa.
Youths guilty of doctor’s murder

FIVE Soweto teenagers who took part in the fatal shooting of a Baragwanath doctor during a robbery attempt last year, were found guilty of murder in the Rand Supreme Court yesterday.

The youths, whose ages ranged from 15 to 17 at the time, attacked Stephan Walters in his car at a Diepkloof intersection on September 28 last year.

Walters was shot in the head by one of the teenagers and died in hospital later that day.

The youths admitted they had been waiting for a vehicle to rob so that they could sell the wheels. They fled after the shooting.

The youths pleaded guilty to attempted robbery with aggravating circumstances.

Judge MC de Klerk rejected the youth’s evidence that the pistol went off after he got a fright, thinking that Walter was reaching for a firearm of his own.

But, he added, even assuming this had been the case, shooting at Walter would still have been unlawful because the doctor would have been entitled to protect himself.

The youth, he said, had intended to shoot Walter and the other four must have foreseen that someone could be killed.

The trial has been postponed for evidence in mitigation.

Gold
Open Supreme Court to us, say attorneys

Inquiry may end 'elitist' separation

The Argus Correspondent

Johannesburg. — A 10-year fight by attorneys to be allowed to appear before the Supreme Court, restricted to advocates, will soon be studied by a commission to be appointed by Justice Minister Kobie Coetsee.

Many attorneys contend a breakaway from the restrictive British divided Bar system to the American "one profession system" would lead to a significant reduction in legal costs for the public as well as opening up the current elitist legal set-up to all players.

South Africa was one of a few countries still using the monopolistic British legal system, said Johannesburg Attorneys' Association chairman Johan Preller.

It meant attorneys were restricted to appearing in the lower courts, but were forced to hand over to advocates once the matter exceeded R20,000 when it had to be heard in a Supreme Court.

Mr Preller said a clear case of duplication of costs occurred because attorneys were restricted to liaise with the client, do the administrative work and prepare the pleadings. But advocates had to sign the pleadings.

If some 8,000 attorneys had the right of appearance, it would lead to a significant reduction in legal costs, specifically in thousands of unopposed divorce cases.

This would not only free advocates to concentrate on complicated legal cases, but allow the public to choose their representative.

Another contentious issue was that attorneys had to guarantee advocates' fees, which Mr Preller said amounted to acting as "collecting agencies".

Attorneys wanted to see changes to the current "elitist" situation where judges were chosen by the Minister of Justice from the ranks of about 160 Senior Counsel (SCs).

"It is interesting to note there are probably more judges than senior advocates in the country," he said.

Chairman of the Johannesburg Bar Council Wim Trengove welcomed the commission which advocates had urged for a long time.

He said both branches of the profession agreed on the continued existence of a strong Bar, but strong differences existed on the right of audience in the Supreme Court.

The Hoexter Commission had concluded it was not in the public interest that attorneys appear in court, he said.
GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE

No. R. 760 30 April 1993

ASSIGNMENT OF CERTAIN POWERS, DUTIES AND FUNCTIONS OF MINISTER OF JUSTICE TO MINISTER OF LAW AND ORDER

It is hereby notified that the State President has under the powers vested in him by section 26 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), assigned the administration of the provisions of the Internal Security Act, 1982 (Act No. 74 of 1982), which entrust to the Minister of Justice any power, duty or function, to the Minister of Law and Order with effect from 1 April 1993.
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Addo murder robbery not politics

By BEVERLEY GARSON

THE motive for the murder of Addo businessman Andre de Villiers was armed robbery, not politics, the Port Elizabeth Supreme Court found this week.

Convicting Umkhonto weSizwe member Tamsanqa Mali (23) and Lindle Stemele (25) of murder, Justice J van Rensburg said apart from a statement by the dying De Villiers that "this is a political set-up", nothing had been placed before the court to suggest a political motive.

Before dying of wounds sustained in an ambush outside his Addo farmhouse, De Villiers also told his son, Louis, that a former business partner was involved in the "set-up" and that Louis should ask a family friend and ANC member about it.

Before he was killed, De Villiers offered to provide information about the activities of the SADF's Hammer Unit — which has been linked to the Matthew Goniwe murder — and other covert state operations. The judge also convicted the men of attempting to murder De Villiers' wife, Elizabeth, and son, Louis, and of attempted robbery with aggravating circumstances. A fourth man, MK member Kenneth Ganyi, is being sought by police.

Mali and Stemele had pleaded not guilty. Another accused in the case MK member, Xolani Ncinane, died of an AIDS related illness before the start of the trial. — Pen
GENERAL NOTICES

NOTICE 353 OF 1993
DEPARTMENT OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

REPRESENTATIVE ASSOCIATION OF MEDICAL SCHEMES SCALE OF BENEFITS IN RESPECT OF SERVICES RENDERED BY PRIVATE HOSPITALS AND UNATTACHED OPERATING THEATRE UNITS


S. J. ROODT,
Chairman. Representative Association of Medical Schemes

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182 Non chargeable items in Wards, High Care wards and all Intensive Care Units/Gratise items in Sale, Hoesorgsale en alle Intensiewe Sorgeenhede
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(30 April 1993)

SOUTH AFRICAN LAW COMMISSION

NOTICE 354 OF 1993

The South African Law Commission hereby releases its working paper entitled "Jursdiktionele Lacuna in the Supreme Court Act 59 of 1959". The working paper deals with the question whether a jursdiktionele lacuna exists in the Supreme Court Act. In this working paper the Commission concluded that a jursdiktionele lacuna does exist in the positive law and that it should be remedied by an appropriate statutory amendment.

The Supreme Court should be empowered to authorise an attachment or arrest to—

(i) jursdiktion where the cause of action arose in one division and the property which can be attached or person to be arrested is in another division,

(ii) jursdiktion where the cause of action arose neither in the division in which the incola plaintiff is resident or domiciled nor in the division in which the property or person to be attached or arrested is to be found.

The Commission invites all interested persons and bodies to comment on the working paper in question or to make suggestions for the development, improvement, modernisation or reform of this aspect of the law.

KENNISGEWING 354 VAN 1993

SUID-AFRIKAANSE REGSKOMMISSIE

Die Suid-Afrikaanse Regskommissie stel hiermee sy werkstuk getiteld "Jursdiktionele lacuna in die Wet op die Hooggeregshof 59 van 1959" vry. Die werkstuk handel oor die vraag of daar 'n jursdiktionele lacuna in die Wet op die Hooggeregshof bestaan. Die Kommissie het in hierdie werkstuk die gevolgtrekking gekom dat daar 'n jursdiktionele lacuna in die positiewe reg bestaan en dat die leemte uit die weg gereim moet word deur 'n gepaste wetswyse op die Hooggeregshof behoort die bevoegdheid te verkry om 'n beslag- of inhegtenismagne te magtes om—

(i) jursdiktie te bevestig waar die esoesaak in een afdeling ontstaan het en die eiendom waarop beslag gelê kan word of die persoon wat in hegetenis geneem word, in 'n ander afdeling is,

(ii) jursdiktie te vestig waar die esoesaak nóg ontstaan het in die afdeling waarin die incola- of esoesaaker woonagtig of gedomisliëre is, nóg in die afdeling waarin die eiendom is waarop beslag gelê word, of die persoon is wat in hegetenis geneem word.

Die Kommissie nooi alle belanghebbende persone en instansies uit om kommentaar te lever op die onderhawige werkstuk of om voorstelle te doen vir die ontwikkeling, verbetering, modernisering of hervorming van hierdie faset van die reg.
NOTICE 355 OF 1993

DEPARTMENT OF LOCAL GOVERNMENT AND NATIONAL HOUSING

COUNCIL FOR THE CO-ORDINATION OF LOCAL GOVERNMENT AFFAIRS: APPOINTMENT OF PERSONS OR INSTITUTIONS FOR PURPOSES OF MEMBERSHIP

1. Jacobus Tertius Delport, hereby notify for general information that, in terms of the powers vested in me by section 3 (3) (h) read with section 14 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983), I hereby appoint the following persons as members of the Council for the Co-ordination of Local Government Affairs for a term ending 31 December 1993:

Councillor F C Lourens
Mr A. S. Khan.
Mr A. G. Abader
Mr M. A. Jaffer

J. T. DELPORT,
Minister of Local Government
(30 April 1993)

NOTICE 356 OF 1993

The Department of Finance announces hereby that transfer documents for registration in respect of the aforementioned Republic of South Africa Internal Registered Stock must be lodged with the office of this Department at 301 Abattoir House, 50 Hamilton Street, Arcadia, Pretoria, not later than 14 Mei 1993 to qualify for the interest payment on 15 June 1993.

The registration of transfer documents thus handed in will be finalised on 25 May 1993 whereafter the registers will be closed until the date of the interest payment.

Internal Registered Stock, 6,5 Per Cent, 1994 (R031).
Internal Registered Stock, 8,25 Per Cent, 1999 (R045)
Internal Registered Stock, 14,50 Per Cent, 1993 (R134)
(30 April 1993)